West Parry Sound Recreation and Cultural Centre Joint Municipal Service Board
Agenda – Friday September 10, 2021

Date: September 10, 2021
Time: 11:30 A.M.
Location: via Zoom Video Conference

1. Agenda:

1.1 Additions to Agenda

1.2 Approval of Agenda

That the Agenda for the September 10, 2021 West Parry Sound Recreation and Cultural Centre Joint Municipal Service Board hereby approved as circulated.

1.3 Declaration of Pecuniary Interest

2. Business

2.1 Appointment of Chair & Vice-Chair

Resolution

That the Board does hereby appoint _____as Chair and _____as Vice-Chair.

2.2 Notice of Meeting

Resolution:

Whereas Section 1 i) of the West Parry Sound Recreation and Cultural Centre Joint Municipal Service Board (MSB) Agreement permits waiving the minimum five (5) working days notice for calling of a meeting that is called on an emergency basis; and

Whereas finalization of the MSB Agreement occurred as recently as Thursday September 9, 2021, and

Whereas the deadline to execute the Transfer Payment Agreement for ICIP funds to the Board has been set for September 10th, 2021;

Now Therefore the Municipal Service Board hereby confirms that meeting notice provided on September 8, 2021 is compliant with the emergency notice provisions of the Agreement.

2.3 Contact Information and Signing Authority

Resolution

That the Board require two (2) signatures on all documents and that the following have signing authority on behalf of the Board:

Board Chair or, when unavailable, the Vice Chair; and either the Town of Parry Sound Treasurer or Town of Parry Sound Clerk.

2.4 Facility Operating Name

Resolution:

That the Board hereby approves the operating name of the facility as the "West Parry Sound Recreation and Cultural Centre"

2.5 Transfer Payment Agreement to Accept ICIP Grant

(see attached ICIP agreement)

Resolution:

Whereas the West Parry Sound Recreation and Cultural Centre Joint Municipal Service Board is desirous of establishing a unique recreation and cultural centre/facility which meets the needs and interests of all West Parry Sound communities and encourages healthy lifestyles, social interactions and physical well being through education, recreation, wellness, cultural and athletic activities; and

Whereas the Town of Parry Sound on behalf of the West Parry Sound Area Municipalities, and before the creation of this Board, was approved to submit a joint funding application for an Investing in Canada Infrastructure Program (ICIP) grant for the purpose of constructing the West Parry Sound Recreation and Cultural Centre; and

Whereas a requirement for the transfer of funds from the ICIP grant to the Board requires the execution of an agreement;

Now Therefore the Chair and Vice-Chair of the West Parry Sound Recreation and Cultural Centre Joint Municipal Service Board are hereby authorized to sign on behalf of the Board, the Transfer Payment Agreement for the Investing in Canada Infrastructure Program (ICIP); Community, Culture and Recreation Stream with Her Majesty the Queen in right of Ontario, as represented by the Minister of Infrastructure, substantially in the form attached as Schedule A, and subject to correction of the transferee's name as the West Parry Sound Recreation and Cultural Centre Joint Municipal Service Board, for the transfer of funds to construct the West Parry Sound Recreation and Cultural Centre.

West Parry Recreation and Cultural Centre Board Report & Recommendation

Meeting Date: September 10, 2021

Report Title: Appointment of Chair & Vice-Chair

Submitted by: Clerk

Purpose of Report: To appoint the Chair & Vice-Chair of the Board.

Recommendation:

That the Board does hereby appoint _____as Chair and _____as Vice-Chair.

Background:

The MSB Agreement provides for the appointment of a Chair and Vice-Chair per the following article *1. g) The Chair and Vice-Chair of the Board may be elected for up to 2 years from amongst the Members. Voting for the positions of Chair and Vice-Chair of the Board will take place at the final meeting of the applicable calendar year with the Chair and Vice-Chair taking office effective January 1 of the following applicable year.*

OR

Alternatively, the Board may choose to elect a resident of one of the Municipalities or First Nations as a non-political, non-voting Chair and/or Vice-Chair who is not a Member of any Council. The term of this Chair and/or Vice-Chair may vary in length as determined by the Board from time to time and may extend across electoral terms of Municipal Councils in an effort to provide continuity.

Members may wish to make nominations and appoint the Chair and Vice-Chair for the purposes of the first meeting only or make nominations and appoint for a longer term.

Financial Impact: N/A

West Parry Recreation and Cultural Centre Board Report & Recommendation

Meeting Date: September 10, 2021

Report Title: Notice of Meeting

Submitted by: Clerk

Purpose of Report: To confirm the notice period for the September 10, 2021 meeting notice provided.

Recommendation:

Whereas Section 1 i) of the West Parry Sound Recreation and Cultural Centre Joint Municipal Service Board (MSB) Agreement permits waiving the minimum five (5) working days notice for calling of a meeting that is called on an emergency basis; and

Whereas finalization of the MSB Agreement occurred as recently as Thursday September 9, 2021, and

Whereas the deadline to execute the Transfer Payment Agreement for ICIP funds to the Board has been set for September 10th, 2021;

Now Therefore the Municipal Service Board hereby confirms that meeting notice provided on September 8, 2021 is compliant with the emergency notice provisions of the Agreement.

Background:

As members of the Board are aware the joint grant application for a recreation and culture centre to serve West Parry Sound has been approved. The government has requested that the agreement be executed by September 10, 2021. In recent days a significant amount of effort has been expended to reach that goal. Council meetings to approve the partnership agreement and appoint a representative to the new Board were occurring as recently as Thursday September 9, 2021.

Section 1 i) of the agreement states that regular meetings of the Board will be held at a time and place as determined by the Board. Special meetings may be held, as requested by a majority of the Members, or at the call of the Chair. A minimum of five (5) working days notice shall be provided, unless the meeting has been called on an emergency basis.

As the circumstances noted above were considered an emergency, notice of the September 10, 2021 meeting was provided on September 8, 2021.

Financial Impact: N/A

West Parry Recreation and Cultural Centre Board Report & Recommendation

Meeting Date: September 10, 2021

Report Title: Signing Authority

Submitted by: Steering Committee

Purpose of Report: To obtain Board approval for signing authority.

Recommendation: That the Board require two (2) signatures on all documents and that the following have signing authority on behalf of the Board:

Board Chair or, when unavailable, the Vice Chair; and either the Town of Parry Sound Treasurer or Town of Parry Sound Clerk.

Background: The Board is a newly created organization which will require the execution of documents on a regular basis. Delegating signing authority is necessary in order to conduct the business of the Board in a timely manner. It is recommended that two (2) signatures are required to execute documents on behalf of the Board. A signature of a Board representative and a signature from the administration.

In addition to signing authority the above individuals will be the primary contact for ICIP.

As the Board has no employees the WCPC approved retaining the Town to provide financial and administrative support to the Board. The senior staff at the Town providing that service will, to a large extent be the Town Treasurer, Stephanie Phillips and the Town Clerk, Rebecca Johnson.

Financial Impact: N/A

West Parry Recreation and Cultural Centre Board Report & Recommendation

Meeting Date: September 10, 2021

Report Title: Facility Operating Name

Submitted by: Steering Committee

Purpose of Report: Recommend an Operating Name for the Facility

Recommendation: That the Board hereby approves the operating name of the facility as the “West Parry Sound Recreation and Cultural Centre”

Background:

The legal name per the partnership agreement is West Parry Sound Recreation and Cultural Centre Joint Municipal Service Board. For operating purposes, it is recommended that a shorter name be approved. Initially to create awareness and an identity it will be important for the name to be descriptive of the project. Over time as the facility is known throughout our communities the Board may want to consider a name change.

Financial Impact: N/A

West Parry Recreation and Cultural Centre Board Report & Recommendation

Meeting Date: September 10, 2021

Report Title: Transfer Payment Agreement to accept ICIP Grant

Submitted by: Steering Committee

Purpose of Report: To authorize execution of the Agreement to accept ICIP Grant

Recommendation:

Whereas the West Parry Sound Recreation and Cultural Centre Joint Municipal Service Board is desirous of establishing a unique recreation and cultural centre/facility which meets the needs and interests of all West Parry Sound communities and encourages healthy lifestyles, social interactions and physical well being through education, recreation, wellness, cultural and athletic activities; and

Whereas the Town of Parry Sound on behalf of the West Parry Sound Area Municipalities, and before the creation of this Board, was approved to submit a joint funding application for an Investing in Canada Infrastructure Program (ICIP) grant for the purpose of constructing the West Parry Sound Recreation and Cultural Centre; and

Whereas a requirement for the transfer of funds from the ICIP grant to the Board requires the execution of an agreement;

Now Therefore the Chair and Vice-Chair of the West Parry Sound Recreation and Cultural Centre Joint Municipal Service Board are hereby authorized to sign on behalf of the Board, the Transfer Payment Agreement for the Investing in Canada Infrastructure Program (ICIP); Community, Culture and Recreation Stream with Her Majesty the Queen in right of Ontario, as represented by the Minister of Infrastructure, substantially in the form attached as Schedule A, and subject to correction of the transferee's name as the West Parry Sound Recreation and Cultural Centre Joint Municipal Service Board, for the transfer of funds to construct the West Parry Sound Recreation and Cultural Centre.

Background:

In order to receive the approved ICIP grant funds, a Transfer Payment Agreement must be signed between the Board and the Province of Ontario as identified in the Recommendation. The deadline for signing of the agreement has been established by the Province as September 10th, 2021

Financial Impact:

Total ICIP grant allocation of over $23 million.

TRANSFER PAYMENT AGREEMENT FOR THE INVESTING IN CANADA INFRASTRUCTURE PROGRAM (ICIP): COMMUNITY, CULTURE AND RECREATION STREAM

THIS TRANSFER PAYMENT AGREEMENT for an Investing in Canada Infrastructure Program (ICIP): Community, Culture and Recreation (CCR) Stream Project (the "**Agreement**") is effective as of the Effective Date.

B E T W E E N:

Her Majesty the Queen in right of Ontario,
as represented by the Minister of Infrastructure

("**Ontario**" or the **"Province"**)

- and -

Corporation of the Town of Parry Sound

(CRA#106984735)

(the **"Recipient"**)

BACKGROUND

The Investing in Canada Infrastructure Program ("ICIP") is a federal infrastructure program designed to create long-term economic growth, build inclusive, sustainable and resilient communities, and support a low-carbon economy.

The Government of Canada ("**Canada**") announced, in its *Budget 2016* and *Budget 2017*, over $180 billion for the ICIP to support sustainable and inclusive communities, while driving economic growth.

The Honourable Minister of Infrastructure and Communities and the Honourable Minister of Infrastructure entered into the Canada-Ontario Integrated Bilateral Agreement for the Investing in Canada Infrastructure Program for Canada to provide financial support to the Province.

Under the Bilateral Agreement, Canada agrees, amongst other things, to provide contribution funding to the Province under the Community, Culture and Recreation funding stream of ICIP. This stream supports projects that improve access to and / or quality of community, cultural, and recreation priority infrastructure projects.

Also, under the Bilateral Agreement, Ontario agrees to identify projects and be responsible for the transfer of ICIP and provincial funds to eligible recipients pursuant to transfer payment agreements.

The Recipient has applied to the Province for ICIP funds to assist the Recipient in carrying out a Community, Culture and Recreation stream project.

The Province has submitted to Canada for approval and the Province and Canada have approved, in accordance with the terms and conditions set out in the Bilateral Agreement, the Project as set out in Schedule "C".

The Agreement sets out the terms and conditions upon which ICIP funds, up to the Maximum Funds, will be provided to the Recipient for carrying out the Project.

CONSIDERATION

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

1.0 ENTIRE AGREEMENT

1.1 **Schedules to the Agreement.** The following schedules and their sub-schedules, if any, form part of the Agreement:

Schedule "A" - General Terms and Conditions
Schedule "B" - Specific Information
Schedule "C" - Project Description, Financial Information, Timelines and Project Standards
Schedule "D" - Reports
Schedule "E" - Eligible Expenditures and Ineligible Expenditures
Schedule "F" - Evaluation
Schedule "G" - Communications Protocol
Schedule "H" - Disposal of Assets
Schedule "I" - Aboriginal Consultation Protocol
Schedule "J" - Requests for Payment and Payment Procedures
Schedule "K" - Committee

1.2 **Entire Agreement.** The Agreement constitutes the entire agreement between the Parties in respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements save and except for the Bilateral Agreement, which shall apply in accordance with section Subsection 2.1.

2.0 CONFLICT OR INCONSISTENCY

2.1 **Conflict or Inconsistency.** In the event of a conflict or inconsistency between any of

the requirements of:

(a) the Bilateral Agreement and the Agreement, the Bilateral Agreement will prevail to the extent of the conflict or inconsistency;

(b) the main body of the Agreement and any of the requirements of a schedule or a sub-schedule, the main body of the Agreement will prevail to the extent of the conflict or inconsistency;

(c) Schedule “A” (General Terms and Conditions) and any of the requirements of another schedule or a sub-schedule, Schedule “A” (General Terms and Conditions) will prevail to the extent of the conflict or inconsistency; or

(d) a schedule and any of the requirements of a sub-schedule, the schedule will prevail to the extent of the conflict or inconsistency.

3.0 EXECUTION, DELIVERY AND COUNTERPARTS

3.1 **One and the Same Agreement.** The 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.

3.2 **Electronic Execution and Delivery of Agreement.** The parties agree that the Agreement may be validly executed electronically, and that their respective electronic signature is the legal equivalent of a manual signature. The electronic or manual signature of a party may be evidenced by one of the following means and transmission of the Agreement may be as follows:

(i) a manual signature of an authorized signing representative placed in the respective signature line of the Agreement and the Agreement delivered by facsimile transmission to the other Party;

(ii) a manual signature of an authorized signing representative placed in the respective signature line of the Agreement and the Agreement scanned as a Portable Document Format (PDF) and delivered by email to the other Party;

(iii) a digital signature, including the name of the authorized signing representative typed in the respective signature line of the Agreement, an image of a manual signature or an Adobe signature of an authorized signing representative, or any other digital signature of an authorized signing representative, placed in the respective signature line of the Agreement and the Agreement delivered by email to the other Party; or

(iv) any other means with the other Party’s prior written consent.

4.0 AMENDING THE AGREEMENT AND AGREEMENT REVIEW

4.1 **Amending the Agreement.** The Agreement may only be amended by a written agreement duly executed by the Parties.

4.2 **Agreement Review.** If, pursuant to section 25.10 (Review of Agreement) of the Bilateral Agreement, the Bilateral Agreement is reviewed after three or five years, or both, of the effective date of the Bilateral Agreement, and any changes to the Bilateral Agreement are required as a result, the Parties agree to amend the Agreement as necessary and in a manner that is consistent with such changes.

5.0 ACKNOWLEDGEMENT

5.1 **Acknowledgement from Recipient.** The Recipient acknowledges, in respect of the Project, that:

(a) the Funds are to assist the Recipient to carry out the Project and not to provide goods or services to the Province or Canada;

(b) the Province and Canada are not responsible for carrying out the Project;

(c) the Province's and Canada's role in respect of the Project is limited to making a financial contribution to the Recipient for the Project, and the Province and Canada are not involved in the Project or its operation;

(d) the Province and Canada are neither decision-makers nor administrators in respect of the Project;

(e) the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and 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 that Act;

(f) Canada is bound by the *Access to Information Act* (Canada) and any information provided to Canada by either the Province or the Recipient in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act;

(g) by receiving Funds, the Recipient may be subject to legislation applicable to organizations that receive funding from the Government of Ontario, including the *Broader Public Sector Accountability Act*, 2010 (Ontario), the *Public Sector Salary Disclosure Act*, 1996 (Ontario), and the *Auditor General Act* (Ontario); and

(h) the Recipient has read and understood the Bilateral Agreement.

5.2 **Acknowledgement from Province.** The Province acknowledges that the Recipient may be bound by the *Municipal Freedom of Information and Protection of Privacy Act* (Ontario) and any information provided to the Recipient in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

6.0 CANADA'S RIGHTS AND INFORMATION SHARING WITH CANADA

6.1 **Third Party Beneficiary.** The Recipient agrees that, although the Agreement is between the Province and the Recipient, Canada is, in respect of the rights, covenants, remedies, obligations, indemnities, and benefits (together referred to as "**Rights**") undertaken or given to Canada in the Agreement, a third party beneficiary under the Agreement and is entitled to rely upon and directly enforce those Rights as if Canada were a party to the Agreement.

6.2 **Sharing of Information with the Province and Canada.** The Recipient agrees that, consistent with section 6.1 (Third Party Beneficiary) and for the implementation of the Bilateral Agreement:

(a) the Province or Canada, or both, and in respect of Canada either directly or through the Province, may, upon Notice to the Recipient, request additional information from the Recipient including, without limitation, information for any determination under Article A.27.0 (Environmental Requirements and Assessments) and Article A.28.0 (Aboriginal Consultation);

(b) if the Province or Canada, or both, provide the Recipient with Notice under paragraph 6.2(a), the Recipient will, within the timelines set out in the Notice, deliver the information to either the Province or Canada, or both, as required; and

(c) the Province or Canada, or both, may share any information received from the Recipient pursuant to the Agreement with each other.

[SIGNATURE PAGE FOLLOWS]

The Parties have executed the Agreement on the dates set out below.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, as represented by the Minister of Infrastructure

_____ _____

Date

The Honourable Kinga Surma
Minister of Infrastructure

Corporation of the Town of Parry Sound

AFFIX CORPORATE SEAL (if applicable)

_____ _____

Date

Name:
Title:

I have authority to bind the Recipient.

_____ _____

Date

Name:
Title:

I have authority to bind the Recipient.

[SCHEDULE "A" – GENERAL TERMS AND CONDITIONS FOLLOWS]

SCHEDULE "A"
GENERAL TERMS AND CONDITIONS

A.1.0 INTERPRETATION AND DEFINITIONS

A.1.1 **Interpretation.** For the purposes of interpretation:

(a) words in the singular include the plural and vice-versa;

(b) words in one gender include all genders;

(c) the background and headings do not form part of the Agreement; they are for information and reference 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) "shall" and "will" are used interchangeably in the Agreement and denote the same affirmative and imperative obligation on the applicable Party.

(f) all accounting terms not otherwise defined in the Agreement have their ordinary meanings; and

(g) "include", "includes", and "including" denote that the subsequent list is not exhaustive.

A.1.2 **Definitions.** In the Agreement, the following terms have the following meanings:

"Aboriginal Community" has the meaning ascribed to it in section I.1.1 (Definitions).

"Aboriginal Consultation Record" means the Aboriginal Consultation Record described in section I.3.1 (Requirements for Aboriginal Consultation Record).

"Agreement" means this agreement entered into between the Province and the Recipient, all of the schedules and sub-schedules listed in section 1.1 (Schedules to the Agreement), and any amending agreement entered into pursuant to section 4.1 (Amending the Agreement).

"Asset" means any real or personal property, or immovable or movable asset, acquired, purchased, constructed, rehabilitated, or improved, in whole or in part, with any of the Funds.

"Authorities" means any government authority, agency, body or department having or claiming jurisdiction over the Agreement or the Project, or both.

"Bilateral Agreement" means the Canada-Ontario Integrated Bilateral Agreement for

the Investing in Canada Infrastructure Program entered into between Canada and Her Majesty the Queen in right of Ontario, effective as of March 26, 2018, as amended.

"Business Day" means any working day the Province is open for business, 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 not open for business.

"Canada" means, unless the context requires otherwise, Her Majesty the Queen in right of Canada.

"Canada's Maximum Contribution" means the maximum contribution from Canada as set out in Schedule "C".

"Committee" refers to a Committee established pursuant to section A.29.1 (Establishment of Committee).

"Communications Activities" means, but is not limited to, public or media events or ceremonies including key milestone events, news releases, reports, web and social media products or postings, blogs, news conferences, public notices, physical and digital signs, publications, success stories and vignettes, photos, videos, multi-media content, advertising campaigns, awareness campaigns, editorials, multi-media products, and all related communication materials under the Agreement.

"Contract" means a contract between the Recipient and a Third Party whereby the Third Party agrees to supply goods or services, or both, in respect of the Project in return for financial consideration.

"Effective Date" means the date of signature by the last signing party to the Agreement.

"Eligible Expenditures" means the costs in respect of the Project that the Recipient has incurred and paid and that are eligible for payment under the terms and conditions of the Agreement, and that are further described in Schedule "E" (Eligible Expenditures and Ineligible Expenditures).

"Environmental Laws" means all applicable governmental, regulations, by-laws, orders, rules, policies, or guidelines respecting the protection of the natural environment or the public, and the manufacture, importation, handling, transportation, storage, disposal, and treatment of environmental contaminants and includes, without limitation, the *Environmental Protection Act* (Ontario), *Environmental Assessment Act* (Ontario), *Ontario Water Resources Act* (Ontario), *Canadian Environmental Protection Act, 1999* (Canada), *Canadian Environmental Assessment Act, 2012* (Canada), *Fisheries Act* (Canada), and *the Canadian Navigable Waters Act* (Canada).

"Evaluation" means an evaluation in respect of the Project or the ICIP as described in Article F.1.0 (Project and ICIP Evaluations).

"Event of Default" has the meaning ascribed to it in section A.12.1 (Events of Default).

"Expiration Date" means the expiry date set out in Schedule "B" (Specific Information).

"Federal Approval Date" means the date on which Canada has approved the Project identified in Schedule "C" (Project Description, Financial Information, Timelines, and Project Standards).

"Funding Year" means:

(a) in the case of the first Funding Year, the period commencing on the Effective Date and ending on the following March 31; and

(b) in the case of Funding Years subsequent to the first Funding Year, the period commencing on April 1 following the end of the previous Funding Year and ending on the following March 31 or the Expiration Date, whichever comes first.

"Funds" means the money the Province provides to the Recipient pursuant to the Agreement, and in any event, will not exceed the Maximum Funds.

"Holdback" means the Holdback described in and to be paid in accordance with section A.4.12 (Retention of Contribution) and Article J.7.0 (Holdback).

"ICIP" means the Investing in Canada Infrastructure Program, a federal infrastructure program described in the first paragraph of the "Background" to the Agreement.

"Indemnified Parties" means Her Majesty the Queen in right of Ontario and Her Majesty the Queen in right of Canada, and includes their respective ministers, officers, servants, agents, appointees and employees.

"Ineligible Expenditures" means the costs that are ineligible for payment under the terms and conditions of the Agreement, and that are described in Schedule "E" (Eligible Expenditures and Ineligible Expenditures).

"Interest or 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 A.4.4 of Schedule "A" of this Agreement, and includes any and all interest or other income generated from the Funds.

"Loss" means any cause of action, liability, loss, cost, damage, or expense (including

legal, expert, and consultant fees) that anyone incurs or sustains as a result of or in connection with the Project or any part of the Agreement or the Bilateral Agreement.

"Maximum Funds" means the maximum Funds amount as set out in Schedule "B" (Specific Information).

"Notice" means any communication given or required to be given pursuant to the Agreement.

"Ontario's Maximum Contribution" means the maximum contribution from Ontario as set out in Schedule "C".

"Parties" means the Province and the Recipient.

"Party" means either the Province or the Recipient.

"Person" means, without limitation, a person, the Recipient, a Third Party, a corporation, or any other legal entity, and their officers, servants, employees, or agents.

"Proceeding" means any action, claim, demand, lawsuit, or other proceeding, whether in contract, tort (including negligence), or otherwise, that anyone makes, brings, or prosecutes as a result of or in connection with the Project or any part of the Agreement or the Bilateral Agreement.

"Progress Report" means the Progress Report described in Article D.1.0 (Reporting Requirements).

"Project" means the undertaking described in Schedule "C" (Project Description, Financial Information, Timelines, and Project Standards).

"Records Review" means any assessment the Province conducts pursuant to section A.7.4 (Records Review).

"Remedial Period" means the period of time within which the Recipient is required to remedy an Event of Default, pursuant to paragraph A.12.3 (b), and includes any such period or periods of time by which the Province extends that time in accordance with section A.12.4 (Recipient Not Remedying).

"Reports" means the reports described in Schedule "D" (Reports).

"Requirements of Law" means all applicable requirements, laws, statutes, codes, acts, ordinances, approvals, orders, decrees, injunctions, by-laws, rules, regulations, official plans, permits, licences, authorizations, directions, and agreements with all Authorities, and includes the Environmental Laws.

"Substantial Completion" or **"Substantially Completed"** means that the Project can be used for the purpose for which it was intended and, in any event, no later than March 31, 2027.

"Term" means the period of time described in section A.3.1 (Term).

"Third Party" means any person or legal entity, other than a Party, who participates in the implementation of the Project by means of a Contract.

"Total Financial Assistance" means the total Project funding from all sources including, but not limited to, funding from federal, provincial, territorial, municipal, regional, band council, and Indigenous government sources; private sources; and in-kind contributions.

A.2.0 REPRESENTATIONS, WARRANTIES, AND COVENANTS

A.2.1 **General.** The Recipient represents, warrants, and covenants that, in respect of the Project:

(a) it has, and will continue to have, the experience and expertise necessary to carry out the Project;

(b) it is in compliance with, and will continue to comply with, all Requirements of Law related to any aspect of the Project, the Funds, or both;

(c) unless otherwise provided for in the Agreement, any information the Recipient provided to the Province in support of its request for Funds (including, without limitation, any information relating to any eligibility requirements) was true and complete at the time the Recipient provided it and will continue to be true and complete;

(d) the Project meets and will continue to meet all of the program's eligibility criteria, construction conditions and the Recipient will abide by all of the Province's and Canada's respective requirements set out in the guidelines, including the financial, contractual and reporting requirements;

(e) the Project meets the outcomes of the Community, Culture and Recreation stream, being:

(i) Improved access to and/or increased quality of cultural, recreational and/or community infrastructure for Canadians, including Indigenous peoples and vulnerable populations.

(f) any Funds received have not displaced, and will continue to not displace, the Recipient's own funding and spending on public transit.

A.2.2 **Execution of Agreement.** The Recipient represents and warrants that it has:

(a) the full power and authority to enter into the Agreement; and

(b) taken all necessary actions to authorize the execution of the Agreement, in a manner that is satisfactory to the Province, including passing of municipal by-law or council resolution authorizing the Recipient to enter into the Agreement, where required.

A.2.3 **Governance.** The Recipient represents, warrants, and covenants that it has, will maintain in writing, and will follow:

(a) procedures to enable the Recipient to manage Funds prudently and effectively;

(b) procedures to enable the Recipient to complete the Project successfully;

(c) procedures to enable the Recipient to identify risks to the completion of the Project and strategies to address the identified risks, all in a timely manner;

(d) procedures to enable the preparation and submission of all Reports required pursuant to Article A.7.0 (Reporting, Accounting, and Review); and

(e) procedures to enable the Recipient to address such other matters as the Recipient considers necessary to enable the Recipient to carry out its obligations under the Agreement.

A.2.4 **Supporting Proof.** Upon the request of the Province, the Recipient will provide the Province with proof of the matters referred to in this Article A.2.0 (Representations, Warranties, and Covenants).

A.3.0 TERM OF THE AGREEMENT AND SUBSTANTIAL COMPLETION

A.3.1 **Term.** The term of the Agreement will commence on the Effective Date and will expire on the Expiration Date, unless terminated earlier pursuant to Article A.11.0 (Termination on Notice) or Article A.12.0 (Event of Default, Corrective Action, and Termination for Default).

A.3.2 **Substantial Completion.** The Recipient will ensure that the Project is Substantially Completed on or before March 31, 2027.

A.4.0 FUNDS AND CARRYING OUT THE PROJECT

A.4.1 **Funds Provided.** The Province will:

(a) provide the Recipient funding up to the Maximum Funds for the sole purpose of carrying out the Project;

(b) provide the Funds to the Recipient in accordance with the request for payment and payment procedures provided for in Schedule "J" (Requests for Payment and Payment Procedures); and

(c) deposit the Funds into an account the Recipient designates, provided that the account:

(i) is at a branch of a Canadian financial institution in Ontario; and

(ii) is solely in the name of the Recipient.

A.4.2 **Limitation on Payment of Funds.** Despite section A.4.1 (Funds Provided):

(a) in addition to any other limitation under the Agreement on the payment of Funds, the Province is not obligated to provide:

(i) any Funds to the Recipient until the Recipient fulfils the special conditions listed in section A.31.1 (Special Conditions); and

(ii) any Funds to the Recipient until the Province and Canada are satisfied with the progress of the Project;

(b) the Province, at its sole discretion, may adjust the amount of Funds it provides to the Recipient based upon the Province's assessment of the information the Recipient provides to the Province pursuant to section A.7.2 (Preparation and Submission); and

(c) any payment of Funds is subject to:

(i) the requirements of the *Financial Administration Act* (Ontario), including the availability of an appropriation by the Ontario Legislature that is sufficient and constitutes lawful authority for the payment;

(ii) ministerial funding levels in respect of transfer payments, the program under which the Agreement was made, or otherwise that are sufficient for the payment; and

(iii) Canada's payment of funds to the Province, pursuant to the Bilateral Agreement, that are sufficient for the payment.

The Province, at its sole discretion, may reduce or cancel any amount of Funds or terminate the Agreement in response to a reduction or lack of federal or

provincial government appropriation, ministerial funding levels, or Canada's payment of funds. Notwithstanding Article A.9.0 (Limitation of Liability and Indemnity), the Province will not be liable for any direct, indirect, consequential, exemplary, or punitive damages, regardless of the form of action, whether in contract or in tort (including negligence) or otherwise, arising from any reduction or cancellation of Funds. If any changes to the Agreement, including changes in respect of the Project, are required as a result, the Parties agree to amend the Agreement accordingly.

A.4.3 **Use of Funds and Carry Out the Project.** The Recipient will, in respect of the Project, do all of the following:

(a) carry out the Project in accordance with the Agreement;

(b) use the Funds only for the purpose of carrying out the Project;

(c) spend the Funds only on Eligible Expenditures as described in Schedule "E" (Eligible Expenditures and Ineligible Expenditures);

(d) not use the Funds to cover any Ineligible Expenditure; and

(e) not use the Funds to cover any Eligible Expenditure that has or will be funded or reimbursed by one or more of any third party, or ministry, department, agency, or organization of the Government of Ontario or of the Government of Canada.

A.4.4 **Interest-Bearing Account.** If for any reason, Funds were provided to the Recipient before the Recipient's immediate need for the Funds, the Recipient will place the Funds in an interest-bearing account solely in the name of the Recipient at a branch of a Canadian financial institution in Ontario. The Recipient will hold the Funds plus any Interest Earned in trust for the Province until the Funds are used in accordance with the Agreement.

A.4.5 **Interest.** If the Recipient earns any Interest on the Funds, the Province may do either or both of the following:

(a) deduct an amount equal to the Interest Earned from the remaining Funds, if any;

(b) demand from the Recipient the payment of an amount equal to the Interest Earned.

A.4.6 **Maximum Funds and Recovery of Excesses.** The Recipient acknowledges that:

(a) the Funds available to it pursuant to the Agreement will not exceed the Maximum Funds;

(b) if Canada's total contribution from all federal sources in respect of the Project

exceeds forty percent of Total Eligible Expenditures, the Province may demand the return of the excess from the Recipient and the Recipient shall return the excess forthwith or the Province, at its discretion, may reduce the remaining Funds under the Agreement by an amount equal to the excess;

(c) if the Total Financial Assistance received in respect of the Project exceeds one hundred percent (100%) of Total Eligible Expenditures, the Province, at its sole discretion, may, up to the Maximum Funds, demand the return of the excess from the Recipient and the Recipient shall return the excess forthwith or the Province may reduce the remaining Funds under the Agreement by an amount equal to the excess.

A.4.7 **Disclosure of Other Financial Assistance.** The Recipient will inform the Province promptly of any financial assistance received in respect of the Project.

A.4.8 **Rebates, Credits, and Refunds.** The Province will, in respect of the Project, calculate Funds based on the actual costs to the Recipient to carry out the Project, less any costs (including taxes) for which the Recipient has received, will receive, or is eligible to receive, a rebate, credit, or refund.

A.4.9 **Recipient's Acknowledgement of Responsibility for Project.** The Recipient will, in respect of the Project, assume full responsibility for the Project, including, without limitation:

(a) complete, diligent, and timely Project implementation within the costs and timelines specified in the Agreement and in accordance with all other terms and conditions of the Agreement;

(b) all of the costs of the Project, including, without limitation, unapproved expenditures, Ineligible Expenditures, and cost overruns, if any;

(c) subsequent operation, maintenance, repair, rehabilitation, construction, demolition, or reconstruction, as required and in accordance with industry standards, and any related costs for the full lifecycle of the Project; and

(d) the engineering work being undertaken in accordance with industry standards.

A.4.10 **Increase in Project Costs.** If, at any time during the Term the Recipient determines that it will not be possible to complete the Project unless it expends amounts in excess of all funding available to it (a "**Shortfall**"), the Recipient will immediately notify the Province of that determination. If the Recipient so notifies the Province, it will, within 30 days of a request from the Province, provide a summary of the measures that it proposes to remedy the Shortfall. If the Province is not satisfied that the measures proposed will be adequate to remedy the Shortfall, then the Province may exercise one or more of the remedies available to it pursuant to section A.12.4 (Recipient Not Remedying).

A.4.11 **Recipient's Request for Payment and Payment Procedures.** The Recipient agrees to submit its requests for payment in accordance with the payment procedures provided for in Schedule "J" (Requests for Payment and Payment Procedures).

A.4.12 **Retention of Contribution.** The Province will retain 10% of the Maximum Funds in respect of the Project ("**Holdback**") up until the Recipient has fulfilled all of its obligations under the Agreement for the Project.

A.5.0 RECIPIENT'S ACQUISITION OF GOODS OR SERVICES, CONTRACT PROVISIONS, AND DISPOSAL OF ASSETS

A.5.1 **Acquisition.** The Recipient will ensure that all Contracts are awarded in way that is:

(a) is fair, transparent, competitive, and consistent with value for money principles, or in a manner otherwise acceptable to the Province and Canada; and

(b) if applicable, is in accordance with the Canadian Free Trade Agreement and international agreements.

A.5.2 **Non-Compliance with Acquisition Requirements.** If the Province or Canada determines that a Contract is awarded in a manner that is not in compliance with the requirements in section A.5.1 (Acquisition), upon giving Notice to the Recipient, the Province may consider the expenditures associated with the Contract to be an Ineligible Expenditure.

A.5.3 **Exemptions to Competitive Awarding.** The Province and Canada may consent to the provision of exemptions from competitive awarding of Contracts on a case-by-case basis, in their sole and absolute discretion, if the Recipient:

(a) provides a written request indicating the business case rationale for the exemption, in advance of the Contract being awarded;

(b) attests to:

(i) following value-for-money procurement processes for materials and sub-contracts; and

(ii) following its own policies and procedures.

A.5.4 **Contract Provisions.** The Recipient will ensure that all Contracts are consistent with and incorporate the relevant provisions of the Agreement, including its insurance provisions. More specifically, but without limiting the generality of the foregoing, the Recipient agrees to include provisions in all Contracts to ensure:

(a) that proper and accurate accounts and records are kept and maintained as described in the Agreement including, but not limited to, in paragraph A.7.3(a);

(b) that all applicable Requirements of Law including, without limitation, labour and human rights legislation, are complied with; and

(c) that the Contract secures the respective rights of the Province and Canada, and any authorized representative or independent auditor identified by the Province or Canada, and the Auditor General of Ontario and the Auditor General of Canada to:

(i) inspect and audit the terms of any Contract, record or account in respect of the Project; and

(ii) have free and timely access to the Project sites and facilities, and any records, documentation or information, as contemplated pursuant to section A.7.5 (Inspection and Removal).

A.5.5 **Disposal of Assets.** The Recipient will not, unless in accordance with the terms and conditions set out in Schedule "H" (Disposal of Assets), sell, lease, encumber, or otherwise dispose, directly or indirectly, of any Asset.

A.6.0 CONFLICT OF INTEREST

A.6.1 **Conflict of Interest Includes.** For the purposes of this Article A.6.0 (Conflict of Interest), a conflict of interest includes any circumstances where:

(a) the Recipient or 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 by a reasonable person to interfere with the Recipient's objective, unbiased, and impartial judgment in respect of the Project or the use of the Funds, or both; or

(b) a former public servant or public office holder to whom any post-employment, ethics and conflict of interest legislation, guidelines, codes, or policies of Canada apply will derive a direct benefit from the Agreement, unless the provision or receipt of such benefits complies with such legislation, guidelines, policies, or codes.

A.6.2 **No Conflict of Interest.** The Recipient will carry out the Project and use the Funds without an actual, potential, or perceived conflict of interest unless:

(a) the Recipient:

(i) provides Notice to the Province disclosing the details of the actual, potential,

or perceived conflict of interest; and

(ii) requests the consent of the Province to carry out the Project with an actual, potential, or perceived conflict of interest;

(b) the Province consents in writing to the Recipient carrying out the Project with an actual, potential, or perceived conflict of interest; and

(c) the Recipient complies with any terms and conditions the Province may prescribe in its consent.

A.7.0 REPORTING, ACCOUNTING, AND REVIEW

A.7.1 **Province and Canada Include.** For the purpose of sections A.7.4 (Records Review), A.7.5 (Inspection and Removal) and A.7.6 (Cooperation), "Province" includes Canada and any auditor or representative that the Province or Canada, or both, may identify.

A.7.2 **Preparation and Submission.** The Recipient will:

(a) submit to the Province at the address referred to in section A.15.1 (Notice in Writing and Addressed):

(i) all Reports in accordance with the timelines and content requirements provided for in Schedule "D" (Reports); and

(ii) any other reports in accordance with any timelines and content requirements the Province may specify from time to time; and

(b) ensure that all Reports and other reports are:

(i) completed to the satisfaction of the Province; and

(ii) signed by an authorized signing officer of the Recipient.

A.7.3 **Record Maintenance.** The Recipient will keep and maintain until March 31, 2034 :

(a) proper and accurate financial accounts and records, kept in a manner consistent with generally accepted accounting principles, including but not limited to its contracts, invoices, statements, receipts, and vouchers and any other evidence of payment relating to the Funds or otherwise to the Project; and

(b) all non-financial records and documents relating to the Funds or otherwise to the Project.

A.7.4 **Records Review.** The Province, at its sole discretion and expense, may, upon 24 hours' Notice to the Recipient and during normal business hours, enter upon the Recipient's premises to conduct an audit or investigation of the Recipient or the Project regarding the Recipient's compliance with the Agreement, including assessing any of the following:

(a) the truth of any of the Recipient's representations and warranties;

(b) the progress of the Project; or

(c) the Recipient's allocation and expenditure of the Funds.

A.7.5 **Inspection and Removal.** For the purposes of any Records Review, the Province may take one or more of the following actions:

(a) inspect and copy any records or documents referred to in section A.7.3 (Record Maintenance);

(b) remove any copies the Province makes pursuant to section A.7.5(a); and

(c) share any documents, records and findings with Canada.

A.7.6 **Cooperation.** To assist the Province in respect of its rights provided for in section A.7.5 (Inspection and Removal), the Recipient will cooperate with the Province by:

(a) ensuring that the Province has access to the records and documents wherever they are located;

(b) coordinating access with any Third Party;

(c) assisting the Province to copy the records and documents;

(d) providing to the Province, in the form the Province specifies, any information the Province identifies; and

(e) carrying out any other activities the Province requests.

A.7.7 **No Control of Records.** No provision of the Agreement will be construed so as to give the Province or Canada, or both, any control whatsoever over the Recipient's records.

A.7.8 **Auditor General (Ontario and Canada).** The Province's rights under this Article A.7.0 (Reporting, Accounting, and Review) are in addition to any rights provided to the Auditor General of Ontario pursuant to section 9.2 of the *Auditor General Act* (Ontario)

and to the Auditor General of Canada pursuant to section 7.1 of the *Auditor General Act* (Canada).

A.7.9 **Sharing of Audit Findings and Reports.** The Recipient acknowledges that Canada and the Province may:

(a) inform each other, and any of their respective authorized representatives and auditors, that an audit is being conducted; and

(b) share the findings of any audit or investigation, including any ensuing report, with each other and any of their respective authorized representatives and auditors.

A.7.10 **Evaluation.** The Recipient agrees to participate in any Evaluation and comply with the requirements for such Evaluation that are set out in Schedule "F" (Evaluation).

A.7.11 **Calculations.** The Recipient will make all calculations and prepare all financial data to be submitted in accordance with the generally accepted accounting principles in effect in Canada. These will include, without limitation, those principles and standards approved or recommended from time to time by the Chartered Professional Accountants of Canada or the Public Sector Accounting Board, as applicable, or any successor institute, applied on a consistent basis.

A.7.12 **Adverse Fact or Event.** The Recipient will inform the Province immediately of any fact or event of which it is aware that has or will compromise, wholly or in part, the Project.

A.8.0 COMMUNICATIONS REQUIREMENTS

A.8.1 **Communications Protocol.** The Parties agree to be bound by the terms and conditions of the communications protocol provided for in Schedule "G" (Communications Protocol).

A.9.0 LIMITATION OF LIABILITY AND INDEMNITY

A.9.1 **Province and Canada Limitation of Liability.** In no event will any of the Indemnified Parties be held liable for any damages, including direct, indirect, consequential, exemplary, or punitive damages, regardless of the form of action, whether in contract, tort (including negligence), or otherwise, for:

(a) any injury to any Person, including, but not limited to, death, economic loss, or infringement of rights;

(b) any damage to or loss or destruction of property of, any Person; or

(c) any obligation of any Person, including, but not limited to, any obligation arising from a loan, capital lease, or other long-term obligation

in relation to the Agreement, the Bilateral Agreement, or the Project.

A.9.2 **Indemnification of the Province and Canada.** The Recipient will indemnify and hold harmless the Indemnified Parties from and against any Loss and any Proceeding based upon or occasioned by:

(a) any injury to any Person, including, but not limited to, death, economic loss, or any infringement of rights;

(b) any damage to, or loss or destruction of, property of any Person; or

(c) any obligation of any Person, including, but not limited to, any obligation arising from a loan, capital lease, or other long-term obligation,

except to the extent to which such Loss or Proceeding is caused by the negligence or wilful misconduct of any Indemnified Party in the performance of that Indemnified Party's duties.

A.9.3 **Recipient's Participation.** The Recipient will, at its expense, to the extent requested by the Province or Canada, or both, participate in or conduct the defence of any Proceeding against any of the Indemnified Parties and any negotiations for their settlement.

A.9.4 **Province's Election.** The Province or Canada, or both, 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 the Agreement or of the Province or Canada under the Bilateral Agreement, at law or in equity. If the Province, Canada, or the Recipient, as applicable, participates in the defence, it will do so by actively participating with the other's counsel.

A.9.5 **Settlement Authority.** The Recipient will not enter into a settlement of any Proceeding against any of the Indemnified Parties unless the Recipient has obtained from the Province or Canada, as applicable, prior written approval or a waiver of this requirement. If the Recipient is requested by the Province or Canada to participate in or conduct the defence of any Proceeding, the Province or Canada, as applicable, will cooperate with and assist the Recipient to the fullest extent possible in the Proceeding and any related settlement negotiations.

A.9.6 **Recipient's Cooperation.** If the Province or Canada conducts the defence of any Proceeding, the Recipient will cooperate with and assist the Province or Canada, as applicable, to the fullest extent possible in the Proceeding and any related settlement negotiations.

A.10.0 INSURANCE

A.10.1 **Recipient's Insurance.** The Recipient represents, warrants, and covenants that it has, and will maintain at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the 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 $2,000,000.00 per occurrence, and including products and completed operations coverage with the endorsements identified below:

(a) the Indemnified Parties as additional insureds in respect of liability arising in the course of performance of the Recipient's obligations under, or otherwise in connection with, the Agreement;

(b) a cross-liability clause;

(c) contractual liability coverage; and

(d) a 30-day written notice of cancellation.

A.10.2 **Proof of Insurance.** At the request of the Province from time to time, the Recipient will:

(a) provide to the Province, either:

(i) annually, certificates of insurance that confirm the insurance coverage as provided in section A.10.1 (Recipient's Insurance); or

(ii) other proof that confirms the insurance coverage as provided for in section A.10.1 (Recipient's Insurance); and

(b) at the Province's request, the Recipient will provide to the Province a copy of any of the Recipient's insurance policies that relate to the Project or otherwise to the Agreement or both.

A.11.0 TERMINATION ON NOTICE

A.11.1 **Termination on Notice.** The Province may terminate the Agreement at any time without liability, penalty, or costs upon giving at least 30 days' Notice to the Recipient.

A.11.2 **Consequences of Termination on Notice by the Province.** If the Province terminates the Agreement pursuant to section A.11.1 (Termination on Notice), the

Province may take one or more of the following actions:

(a) Direct the Recipient not to incur any further costs for the Project subsequent to the Notice of termination. If the Recipient fails to comply with such direction and unless with the Province's prior written consent, the Recipient shall be solely responsible for any further costs incurred after such Notice was given;

(b) cancel all further instalments of Funds; and

(c) demand the payment of any Funds plus any Interest Earned remaining in the possession or under the control of the Recipient.

A.12.0 EVENT OF DEFAULT, CORRECTIVE ACTION, AND TERMINATION FOR DEFAULT

A.12.1 **Events of Default.** It will constitute an Event of Default if, in the opinion of the Province, the Recipient breaches any representation, warranty, covenant, or other material term of the Agreement, including:

(a) failing to carry out the Project in whole or in part in accordance with the terms of the Agreement;

(b) failing to use or spend Funds in accordance with the terms of the Agreement;

(c) failing to provide, in accordance with section A.7.2 (Preparation and Submission), Reports or such other reports as the Province may have requested pursuant to the Agreement);

(d) the Recipient's operations, its financial condition, its organizational structure or its control 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 for an order adjudging the Recipient bankrupt, or applies for the appointment of a receiver; or

(f) the Recipient ceases to operate.

A.12.2 **Consequences of Events of Default and Corrective Action.** If an Event of Default occurs, the Province may, at any time, and at its sole discretion, 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 period as the Province determines appropriate;

(d) reduce the amount of the Funds;

(e) cancel all further instalments of Funds;

(f) demand from the Recipient the payment of any Funds plus any Interest Earned remaining in the possession or under the control of the Recipient;

(g) demand from the Recipient the payment of an amount equal to any Funds the Recipient used, but did not use in accordance with the Agreement;

(h) demand from the Recipient the repayment of an amount equal to any Funds the Province provided to the Recipient;

(i) demand from the Recipient an amount equal to the costs the Province incurred or incurs to enforce its rights under the Agreement, including the costs of any Records Review and the costs it incurs to collect any amounts the Recipient owes to the Province; and

(j) terminate the Agreement at any time, including immediately, without liability, penalty, or costs to the Province upon giving Notice to the Recipient.

A.12.3 **Opportunity to Remedy.** If, in accordance with paragraph A.12.2(b), 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 Remedial Period.

A.12.4 **Recipient Not Remedying.** If the Province provided the Recipient with an opportunity to remedy the Event of Default pursuant to paragraph A.12.2(b), and:

(a) the Recipient does not remedy the Event of Default within the Remedial Period;

(b) it becomes apparent to the Province that the Recipient cannot completely remedy the Event of Default within the Remedial 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 Remedial Period or initiate any one or more of the actions provided for in paragraphs A.12.2(a), (c), (d), (e), (f), (g), (h), (i) and (j).

A.12.5 **When Termination Effective.** Termination under this Article A.12.0 (Event of Default, Corrective Action, and Termination for Default) will take effect as provided for in the Notice.

A.13.0 FUNDS UPON EXPIRY

A.13.1 **Funds Upon Expiry.** The Recipient will, upon expiry of the Agreement, pay to the Province any Funds plus Interest Earned remaining in its possession, under its control, or both.

A.14.0 DEBT DUE AND PAYMENT

A.14.1 **Payment of Overpayment.** If at any time the Province provides Funds in excess of the amount the Recipient is entitled to under the Agreement, the Province may:

(a) deduct an amount equal to the excess Funds plus any Interest Earned from any further instalments of Funds; or

(b) demand that the Recipient pay to the Province an amount equal to the excess Funds plus any Interest Earned.

A.14.2 **Debt Due.** If, pursuant to the Agreement:

(a) the Province demands from the Recipient the payment of any Funds, an amount equal to any Funds, or any other amounts owing under the Agreement; or

(b) the Recipient owes to the Province any Funds, an amount equal to any Funds, or any other amounts under the Agreement, whether or not the Province has demanded their payment,

such amounts will be deemed to be debts due and owing to the Province by the Recipient, and the Recipient will pay the amounts to the Province immediately, unless the Province directs otherwise.

A.14.3 **Interest Rate.** The Province may charge the Recipient interest on any money owing to the Province by the Recipient under the Agreement at the then-current interest rate charged by the Province of Ontario on accounts receivable.

A.14.4 **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 set out in Schedule “B” (Specific Information) for the purposes of Notice to the Province.

A.14.5 **Failure to Repay.** Without limiting the application of section 43 of the *Financial Administration Act* (Ontario), if the Recipient fails to pay any amount owing under the 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.

A.15.0 NOTICE

A.15.1 **Notice in Writing and Addressed.** Notice will be:

(a) in writing;

(b) delivered by email, postage-prepaid mail, personal delivery, or courier; and

(c) addressed to the Province and the Recipient as set out in Schedule “B” (Specific Information), or as either Party later designates to the other by Notice.

A.15.2 **Notice Given.** Notice will be deemed to have been given:

(a) in the case of postage-prepaid mail, five Business Days after the Notice is delivered; and

(b) in the case of email, personal delivery, or courier, on the date on which the Notice is delivered.

A.15.3 **Postal Disruption.** Despite paragraph A.15.2(a), in the event of a postal disruption:

(a) Notice by postage-prepaid mail will not be deemed to be given; and

(b) the Party giving Notice will provide Notice by email, personal delivery, or courier.

A.16.0 CONSENT BY PROVINCE OR CANADA AND COMPLIANCE BY RECIPIENT

A.16.1 **Consent.** When the Province or Canada provides its consent pursuant to the Agreement:

(a) it will do so by Notice;

(b) it may attach any terms and conditions to the consent; and

(c) the Recipient may rely on the consent only if the Recipient complies with any terms and conditions the Province or Canada may have attached to the consent.

A.17.0 SEVERABILITY OF PROVISIONS

A.17.1 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement will not affect the validity or enforceability of any other provision of the Agreement.

A.18.0 WAIVER

A.18.1 **Waiver Request.** Either Party may, by Notice, ask the other Party to waive an obligation under the Agreement.

A.18.2 **Waiver Applies.** If in response to a request made pursuant to section A.18.1 (Waiver Request) a Party consents to a waiver, the waiver will:

(a) be valid only if the Party that consents to the waiver provides the consent by Notice; and

(b) apply only to the specific obligation referred to in the waiver.

A.18.3 **Waivers in Writing.** If a Party fails to comply with any term of the 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 A.15.0 (Notice). Any waiver must refer to a specific failure to comply and will not have the effect of waiving any subsequent failures to comply.

A.19.0 INDEPENDENT PARTIES

A.19.1 **Parties Independent.** The Recipient is not an agent, joint venturer, partner, or employee of either the Province or Canada, 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.

A.19.2 **No Authority to Represent.** Nothing in the Agreement is to be construed as authorizing any Person, including a Third Party, to contract for or to incur any obligation on behalf of the Province or Canada, or both, or to act as an agent for the Province or Canada. The Recipient will take the necessary action to ensure that any Contract between the Recipient and a Third Party contains a provision to that effect.

A.20.0 ASSIGNMENT OF AGREEMENT OR FUNDS

A.20.1 **No Assignment.** The Recipient will not, without the prior written consent of the Province, assign any of its rights or obligations under the Agreement.

A.20.2 **Agreement Binding.** All rights and obligations contained in the Agreement will extend

to and be binding on:

(a) the Recipient's successors and permitted assigns; and

(b) the successors to Her Majesty the Queen in right of Ontario.

A.21.0 GOVERNING LAW

A.21.1 **Governing Law.** The 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 the Agreement will be conducted in the courts of Ontario, which will have exclusive jurisdiction over such proceedings.

A.22.0 FURTHER ASSURANCES

A.22.1 **Agreement into Effect.** The Recipient will:

(a) provide such further assurances as the Province may request from time to time in respect to any matter to which the Agreement pertains; and

(b) do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

A.23.0 JOINT AND SEVERAL LIABILITY

A.23.1 **Joint and Several Liability.** Where the Recipient is comprised of more than one entity, each entity will be jointly and severally liable to the Province for the fulfillment of the obligations of the Recipient under the Agreement.

A.24.0 RIGHTS AND REMEDIES CUMULATIVE & JOINT AUTHORSHIP

A.24.1 **Rights and Remedies Cumulative.** The rights and remedies of the Province under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

A.24.2 **Joint Authorship Of Agreement.** Each and every provision of this Agreement shall be construed as though both Parties participated equally in the drafting of same, and any rule of construction that a document shall be construed against the drafting party, including without limitation, the doctrine commonly known as contra proferentem, shall not be applicable to this Agreement. The Parties shall not seek to avoid a provision

herein because of its authorship through recourse to a third-party, court, tribunal or arbitrator.

A.25.0 FAILURE TO COMPLY WITH OTHER AGREEMENTS

A.25.1 **Other Agreements.** If the Recipient:

(a) has failed to comply with any term, condition, or obligation under any other agreement with Her Majesty the Queen in right of Ontario or one of Her agencies (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, at its sole discretion, may suspend the payment of Funds for such period as the Province determines appropriate and may demand immediate repayment or deduct such amounts owing plus any Interest Earned from the remaining Funds, if any, as a result of such Failure.

A.26.0 SURVIVAL

A.26.1 **Survival.** Any rights and obligations of the Parties that, by their nature, extend beyond the termination of the Agreement will continue in full force and effect for a period of seven years from the date of expiry or termination of the Agreement. Surviving provisions include, without limitation, the following Articles, sections and paragraphs, and all applicable cross-referenced Articles, sections, paragraphs, schedules, and sub-schedules: Articles 1.0 (Entire Agreement), 2.0 (Conflict or Inconsistency), 5.1 (Acknowledgement from Recipient), 6.0 (Canada's Rights and Information Sharing with Canada), A.1.0 (Interpretation and Definitions) and any other applicable definitions, A.2.0 (Representations, Warranties, and Covenants), A. 4.1(c), A.4.2(c), sections A.4.4 (Interest-Bearing Account), A.4.5 (Interest), A.4.6 (Maximum Funds and Recovery of Excesses), A.4.8 (Rebates, Credits, and Refunds), A.4.9 (Recipient's Acknowledgement of Responsibility for Project), A.5.5 (Disposal of Assets), A.7.1 (Province and Canada Include), A.7.2 (Preparation and Submission) (to the extent that the Recipient has not provided the Reports or other reports as may have been requested to the satisfaction of the Province), A.7.3 (Record Maintenance), A.7.4 (Records Review), A.7.5 (Inspection and Removal), A.7.6 (Cooperation), A.7.7 (No Control of Records), A.7.8 (Auditor General (Ontario and Canada)), A.7.9 (Sharing of Audit Findings and Reports), A.7.10 (Evaluation), A.7.11 (Calculations), Articles A.8.0 (Communications Requirements), A.9.0 (Limitation of Liability and Indemnity), A.10.1,

for a period extending 90 Business Days beyond the Terms, sections A.11.2 (Consequences of Termination on Notice by the Province), A.12.1 (Events of Default), paragraphs A.12.2(d), (e), (f), (g), (h) and (i), A.13.0 (Funds Upon Expiry), A.14.0 (Debt Due and Payment), A.15.0 (Notice), and A.17.0 (Severability of Provisions), section A.20.2 (Agreement Binding), and Articles A.21.0 (Governing Law), A.23.0 (Joint and Several Liability), A.24.0 (Rights and Remedies Cumulative & Joint Authorship), A.26.0 (Survival), A.27.0 (Environmental Requirements and Assessments), A.28.0 (Aboriginal Consultation), and A.31.0 (Special Conditions).

A.27.0 ENVIRONMENTAL REQUIREMENTS AND ASSESSMENTS

A.27.1 **Federal Environmental Requirements.** Without limitation to the Recipient's obligations to comply with Environmental Laws and for greater clarity:

(a) no site preparation, removal of vegetation or construction will occur in respect of the Project; and

(b) the Province will have no obligation to pay any Eligible Expenditures that are capital costs, as determined by the Province, until Canada is satisfied that federal requirements are met, and continue to be met, under the following:

(i) *Canadian Environmental Assessment Act, 2012*;

(ii) other applicable environmental assessment legislation that is or may come into force during the term of the Agreement; and

(iii) other applicable agreements between Canada and Aboriginal Communities.

A.27.2 **Assessments.** The Recipient will complete the assessments that are further described in Schedule "D" (Reports).

A.28.0 ABORIGINAL CONSULTATION

A.28.1 **Aboriginal Consultation Protocol.** The Parties agree to be bound by the terms and conditions of the Aboriginal Consultation Protocol provided for in Schedule "I" (Aboriginal Consultation Protocol).

A.28.2 **Legal Duty to Consult.** Until Canada and, if applicable, the Province are satisfied that any legal duty to consult and, where appropriate, to accommodate Aboriginal Communities, or any other federal consultation requirement, has been, and continues to be met:

(a) no site preparation, removal of vegetation or construction will occur in respect of the Project; and

(b) despite section A.4.1, the Province has no obligation to pay any Eligible Expenditures that are capital costs, as determined by the Province and Canada; and, for the Project requiring consultation, Canada and, if applicable, the Province must be satisfied that:

(i) Aboriginal Communities have been notified and, if applicable, consulted;

(ii) where consultation has occurred, the Recipient has provided a summary of consultation or engagement activities, including a list of Aboriginal Communities consulted, concerns raised, and how each of the concerns have been addressed or, if not addressed, an explanation as to why not;

(iii) the Recipient is carrying out accommodation measures, where appropriate; and

(iv) any other information has been provided which Canada or the Province, or both, may deem appropriate.

A.28.3 **Funding Conditional upon Meeting Aboriginal Consultation Obligations.** No Funds will be provided to the Recipient under the Agreement unless Canada and, if applicable in the opinion of the Province, the Province are satisfied that their respective obligations have been met in respect of the legal duty to consult and, if applicable, accommodate any Aboriginal Community.

A.29.0 COMMITTEE

A.29.1 **Establishment of Committee.** The Province may, at its sole discretion, require the establishment of a committee to oversee the Agreement (the “Committee”).

A.29.2 **Notice of Establishment of Committee**. Upon Notice from the Province, the Parties will hold an initial meeting to establish, in accordance with Schedule “K” (Committee), the Committee described in section A.29.1 (Establishment of Committee).

A.30.0 DISPUTE RESOLUTION

A.30.1 **Contentious Issues.** The Parties will keep each other informed of any issues that could be contentious.

A.30.2 **Examination by the Committee and Parties.** If a contentious issue arises and a Committee has been established under section A.29.1 (Establishment of Committee), the Parties will refer the contentious issue that may arise to the Committee for examination. In the absence of a Committee, the Parties will examine the contentious issue.

A.30.3 **Potential Dispute Resolution by Committee.** The Committee or the Parties, as the case may be, will attempt, reasonably and in good faith, to resolve disputes as soon as possible and, in any event, within, for the Committee, 30 days, or, for the Parties, 90 days of receiving Notice of a contentious issue.

A.30.4 **Dispute Resolution by the Parties.** If the Committee cannot agree on a resolution, the matter will be referred to the Parties for resolution. The Parties will provide a decision within 60 Business Days of the Notice.

A.30.5 **Alternative Mechanisms for Dispute Resolutions.** Where the Parties cannot agree on a resolution, the Parties may use any alternative dispute resolution mechanisms available to them to resolve the issue.

A.30.6 **Suspension of Payments.** The Province may suspend any payments related to any contentious issue or dispute raised by either Party, together with the obligations related to such issue, pending resolution.

A.31.0 SPECIAL CONDITIONS

A.31.1 **Special Conditions.** The Province's funding under the Agreement is conditional upon,

(a) on or before the Effective Date, the Recipient having provided to the satisfaction of the Province with:

(i) a copy of the by-law(s), council resolution(s) or both or any other necessary instrument applicable to the Recipient authorizing its entry into the Agreement;

(ii) the certificates of insurance or any other proof the Province may request pursuant to section A.10.2 (Proof of Insurance);

(iii) banking information, such as a void cheque or a bank letter, for an interest-bearing account in the name of the Recipient at a Canadian financial institution, into which the Province may transfer funds electronically; and

(iv) any other Reports requested by the Province in the format specified.

(b) prior to submitting a request for payment in respect of the Project under the Agreement if required by the Province,

(i) the Recipient having provided to the satisfaction of the Province with written confirmation that:

a. the Recipient is in compliance with all Environmental Laws, including

the Recipient's obligations under section A.27.1 (Federal Environmental Requirements), and has obtained all necessary approvals and permits;

b. the Recipient has met any requirements under Article A.28.0 (Aboriginal Consultation) that may apply to the Project; and

c. the Recipient has the necessary ownership of any real property required for the completion of the Project; and

(ii) the Recipient having provided to the satisfaction of the Province with any required assessments pursuant to Article A.27.0 (Environmental Requirements and Assessments); and

(c) where the Recipient is a municipality, the Recipient having submitted to the satisfaction of the Province, in a form and at an address supplied by the Province, an asset management self-assessment on or before the Effective Date, and, thereafter annually on or before a date provided by the Province, until the Project reaches Substantial Completion.

For greater certainty, if the Province provides any Funds to the Recipient before the conditions set out in this Article A.31.0 (Special Conditions) have been met, and unless the Province has waived compliance with such condition in writing, the Province may exercise one or more of the remedies available to it pursuant to section A.12.2 (Consequences of Event of Default and Corrective Action).

A.32.0 PARTNERSHIP AGREEMENT

A.32.1 **Partnership Agreement.** Prior to the execution of the Agreement, the Recipient will enter into a partnership agreement with the entity, if any, that is included as a partner in the Recipient's application to the Community, Culture and Recreation (CCR) Stream of ICIP (the **"Partner"**) and will ensure that the partnership agreement addresses at a minimum the following:

(a) The Partner's full legal name, address, location of records, and contact person;

(b) Incorporates by reference all the terms and conditions of this Agreement mutatis mutandis, including a term whereby the Partner agrees to indemnify the Indemnified Parties in a manner consistent with section A.9.2 of Schedule "A" of this Agreement;

(c) Sets out the amount of the respective contributions of the Partner and the Recipient towards the Project, as described in Schedule "C" of this Agreement;

(d) Sets out the administration, management and audit arrangements that the Recipient and Partner will undertake to complete the Project;

(e) Describes the respective roles and responsibilities of the Recipient and the Partner, including financial roles and responsibilities, reporting and accounting obligations, in a manner consistent with this Agreement; and,

(f) Requires the Partner to disclose to the Province if it applies for, will receive or has received other contributions for this Project at any time.

Upon any request by Notice from the Province, the Recipient shall forthwith provide a copy of such partnership agreement to the Province.

A.32.2 **Partnership in Good Standing.** The Recipient shall ensure the Partner's obligations under the partnership agreement is in good standing. Where there is a breach of contract by the Partner under the partnership agreement that relates to the Project, the Province, at its sole discretion, may, by Notice, require the Recipient to recover any loss and/or damage against the Partner, that the Province suffered as a result of the breach, and the Recipient shall forthwith comply with such request.

A32.3 **Province's Remedies.** Nothing herein shall be interpreted as preventing the Province from seeking any remedy available to it under the Agreement, at law, or in equity against the Recipient and/or the Partner as a result of a breach of contract under the partnership agreement that relates to the Project.

END OF GENERAL TERMS AND CONDITIONS

[SCHEDULE "B" – SPECIFIC INFORMATION FOLLOWS]

SCHEDULE "B"
SPECIFIC INFORMATION

B.1.0 EXPIRATION DATE

B.1.1 **Expiration date.** The Expiration Date is **March 31, 2028**.

B.2.0 MAXIMUM FUNDS

B.2.1 **Maximum Funds.** Maximum Funds means the sum of Canada's Maximum Contribution and Ontario's Maximum Contribution.

B.3.0 ADDRESSEES

B.3.1 **Addressees.** All Reports and Notices under the Agreement will be submitted to the Province at the address listed below:

Contact information for the purposes of Notice to the Province	**Address:** Ministry of Infrastructure Infrastructure Program Delivery Branch 777 Bay Street, Floor 4, Suite 425 Toronto, Ontario, M7A 2J3 Attention: Manager, Program Delivery Unit **Email:** ICIPculture@ontario.ca
Contact information for the purposes of Notice to the Recipient	**Position:** Chief Administrative Officer **Address:** 52 Seguin St, Parry Sound, Ontario P2A1B4 **Email:** charris@townofparrysound.com

[SCHEDULE "C" - PROJECT DESCRIPTION, FINANCIAL INFORMATION, TIMELINES AND PROJECT STANDARDS FOLLOWS]

SCHEDULE "C"
PROJECT DESCRIPTION, FINANCIAL INFORMATION, TIMELINES AND PROJECT STANDARDS

C.1.0 PROJECT DESCRIPTION

C.1.1 **Project Description.** The Project, "West Parry Sound Area Recreation and Culture Centre" joint project between 7 Municipalities and 2 First Nations Communities, will:

> This project consists of a joint initiative put forward by the Town of West Parry Sound, the townships of Seguin, McDougall, Carling, Archipelago, McKellar, and Whitestone, and the Shawanaga and Wasauksing First Nation communities. The Town of Parry Sound is the lead applicant for the project which will involve building a new, fully accessible recreation facility, located in Parry Sound, Ontario.
>
> The work will consist of demolishing and removing the existing 10,000 square feet recreational structure which has reached its end of life (built in 1996), and building a new, recreation facility in its place. The new facility will house a gym, a fitness and conditioning centre, a fitness studio, an indoor walking track, various multi-purpose rooms, space for Indigenous programming, and inclusive change rooms.
>
> The facility will also feature a 25 metre, multi-lane lap pool, and a warm water therapy/leisure pool. Work will also include building a parking lot with 200 car capacity, and completing the landscaping and servicing spaces.
>
> The project will increase the quality of indoor recreation, promote inclusivity and encourage healthy, active living for community members from several municipalities and two First Nation communities. The facility will help close the existing service gap in the region whereby residents currently have to complete a 156 kilometer round-trip commute to access indoor recreation and pool facilities.

C.2.0 FINANCIAL INFORMATION

C.2.1 **Total Eligible Expenditures.** Total Eligible Expenditures means **$31,900,767.50** rounded to two decimal places.

C.2.2 **Ontario's Maximum Contribution.** Ontario's Maximum Contribution means **$10,632,525.81**, rounded to two decimal places, towards the Total Eligible Expenditures of the Project.

C.2.3 **Canada's Maximum Contribution.** Canada's Maximum Contribution means **$12,760,307.00**, rounded to two decimal places, towards the Total Eligible Expenditures of the Project.

C.2.4 **Percentage of Provincial Support.** Percentage of Provincial Support means **33.33%,** rounded to two decimal places, towards the Total Eligible Expenditures of the Project.

C.2.5 **Percentage of Federal Support.** Percentage of Federal Support means **40.00%,** rounded to two decimal places, towards the Total Eligible Expenditures of the Project.

C.3.0 TIMELINES

C.3.1 **Federal Approval Date.** Federal approval date means **April 29, 2021**.

C.4.0 PROJECT STANDARDS

C.4.1 **Canada's Requirements for Standards**. In addition to any other standards that the Recipient must meet or exceed for the Project, the Recipient will ensure the Project meets or exceeds the following:

(a) any applicable energy efficiency standards for buildings outlined in Canada's *Pan-Canadian Framework on Clean Growth and Climate Change* provided by Canada at www.canada.ca/en/services/environment/weather/climatechange/pan-canadian-framework.html, or at any other location the Province may provide; and

(b) the accessibility requirements of the highest accessibility standards published in Ontario, in addition to accessibility requirements in applicable provincial building codes and relevant municipal by-laws.

C.5.0 CHANGES TO THE PROJECT DESCRIPTION, FINANCIAL INFORMATION, TIMELINES, AND PROJECT STANDARDS

C.5.1 **Province's and Canada's Consent.** Any change to the Project will require the Province's and Canada's consent. When seeking to make a change in respect of the Project, the Recipient will submit updated Project information and any other information that the Province or Canada, or both, may require to the satisfaction of Canada and the Province.

[SCHEDULE "D" – REPORTS FOLLOWS]

SCHEDULE "D"
REPORTS

D.1.0 REPORTING REQUIREMENTS

D.1.1 **Reports.** The Recipient will submit all Reports to the Province in a manner, format, at such dates and with such content, as may be prescribed by the Province from time to time, at its sole discretion, prior to its required submission by the Province. Without limitation and at the sole discretion of the Province, Reports will include the following:

(a) **Progress Reports.** The Recipient will submit Progress Reports to the Province in a format to be prescribed by the Province. The Recipient will:

(i) submit to the Province, up and until the Final Payment has been made pursuant to Schedule J (Request for Payment and Payment Procedures), Progress Reports in each calendar year on or before:

a. For 2021: September 1
b. For 2022: March 1, September 1
c. For 2023: March 1, September 1
d. For 2024: March 1, September 1

(ii) ensure that each Progress Report will include, without limitation and at the sole discretion of the Province, the following information in respect of the Project:

a. Canada's and the Province's respective forecasted contributions to the Project by Funding Year;
b. the construction start date and the construction end date (forecasted and actual where applicable);
c. the percentage of the Project that has been completed;
d. risks and mitigation strategies;
e. confirmation that the Project is on track to achieve expected results or, if the Project is Substantially Completed, confirmation of actual results; and
f. confirmation that all required signage for the Project has been installed.

(b) **Claim Reports.** Other than for the Final Payment, once per year, the Recipient will submit a request for payment for Eligible Expenditures in respect of the Project to the Province that is in a format to be prescribed by the Province. The request for payment must be submitted by an authorized representative of the Recipient.

Subject to any other information the Province, at its discretion, may require from time to time, a request for payment shall include:

(i) a detailed breakdown of invoices that are being claimed for reimbursement; and
(ii) copies of invoices.

Subject to the prior written consent of the Province, which shall be at the Province's sole and absolute discretion, the Recipient may request in writing the submission of a request for payment on a more frequent basis. Notwithstanding anything to the contrary, such request shall in no circumstance be more frequent than once per quarter.

(c) **Reporting Requirements at Project Substantial Completion**. Within 60 Business Days of reaching Substantial Completion, the Recipient shall submit:
  (i) a declaration of project Substantial Completion;
  (ii) a final Progress Report that includes a summary of the final timelines, costs, and outcomes (how the Project aligns with provincial and federal objectives);
  (iii) a Final Payment request, following the form and requirements set out in D1.1(b);
  (iv) a summary of any Communications Activities made for the Project; and,
  (v) a photograph of the Project

(d) **Other Reports.** Any other reports that the Province so directs on or before such date and with such content as the Province directs.

D.2.0 ABORIGINAL CONSULTATION RECORD

D.2.1 **Inclusion of Aboriginal Consultation Record.** The Recipient will include an updated Aboriginal Consultation Record, if consultation with any Aboriginal Community is required, in its Progress Report.

D.3.0 RISK ASSESSMENT

D.3.1 **Further Details on Risk Assessment.** Upon the Province's written request and within the timelines set out by the Province, the Recipient will provide further details on the risk assessment in respect of the Project.

D.4.0 CLIMATE LENS ASSESSMENTS

D.4.1 **Climate Change Resilience Assessment** The Recipient will submit to Canada, through the Province and in a format acceptable to Canada, a climate change resilience assessment prior to submitting a request for payment for the Project. The climate change resilience assessment will be in accordance with:

(a) the publication titled, Climate Lens - General Guidance, provided by Canada at https://www.infrastructure.gc.ca/pub/other-autre/cl-occ-eng.html, or at any other location the Province may provide; and,
(b) any additional direction the Province may provide.

D.4.2 **Greenhouse Gas Emissions Assessment.** The Recipient will submit to Canada, through the Province and in a format acceptable to Canada, a greenhouse gas emissions assessment prior to submitting a request for payment for the Project. The greenhouse gas emissions assessment will be in accordance with:

(a) the publication titled, Climate Lens – General Guidance, provided by Canada at https://www.infrastructure.gc.ca/pub/other-autre/cl-occ-eng.html, or at any other location the Province may provide; and,
(b) any additional direction the Province may provide.

D.5.0 COMMUNITY EMPLOYMENT BENEFITS REPORTING

D.5.1 **Community Employment Benefits Reporting.** The Recipient will complete community employment benefits reporting for the Project, as described in section D.5.2 (Description of the Community Employment Benefits Reporting), to the satisfaction of Canada and the Province.

D.5.2 **Description of the Community Employment Benefits Reporting.** The Recipient will provide the Province and Canada with such reporting for three or more of the following federal target groups to whom community employments benefits are being provided:

(a) apprentices;

(b) Indigenous peoples;
(c) women;
(d) persons with disabilities;
(e) veterans;
(f) youth;
(g) new Canadians;
(h) small-medium-sized enterprises; and,
(i) social enterprises.

D.5.3 **Reporting on Community Employment Benefits**. The Recipient will submit its reporting on community employment benefits to the Province in its Progress Reports.

D.6.0 COMPLIANCE AUDIT(S)

D.6.1 **Compliance Audit(s).** Without limiting the generality of section A.7.4 (Records Review), if requested by the Province from time to time, which request shall be at the Province's sole discretion, the Recipient, at its own expense, will forthwith retain an independent third party auditor to conduct one or more compliance audits of the Recipient or any Project. The audit will be conducted in accordance with Canadian Generally Accepted Auditing Standards, as adopted by the Canadian Institute of Chartered Accountants, applicable as of the date on which a record is kept or required to be kept under such standards. In addition, the audit will assess the Recipient's compliance with the terms of the Agreement and will address, with respect to each Project, without limitation, the following:

(a) whether the Funds were spent in accordance with the Agreement and with due regard to economy, efficiency, and effectiveness;
(b) the Project's progress or state of completion;
(c) whether the financial information the Recipient provided is complete, accurate, and timely, and in accordance with the Agreement;
(d) whether the Recipient's information and monitoring processes and systems are adequate to identify, capture, validate, and monitor the achievement of intended benefits of the Project;
(e) the overall management and administration of the Project;
(f) recommendations for improvement or redress; and
(g) whether prompt and timely corrective action is taken on prior audit findings.

[SCHEDULE "E" - ELIGIBLE EXPENDITURES AND INELIGIBLE EXPENDITURES FOLLOWS]

SCHEDULE "E"
ELIGIBLE EXPENDITURES AND INELIGIBLE EXPENDITURES

E.1.0 ELIGIBLE EXPENDITURES

E.1.1 Notwithstanding anything to the contrary herein the Agreement, Eligible Expenditures shall only include those direct costs that are considered, in the Province's and Canada's sole and absolute discretion, to be directly necessary for the successful completion of the Project, and must be properly and reasonably incurred and paid to an arm's length party as evidenced by invoices, receipts or other records that are satisfactory to the Province and Canada, in their sole and absolute discretion, and that are associated with the acquisition, planning, environmental assessments, design and engineering, project management, materials and construction or renovation of the Project. Eligible Expenditures exclude costs set out as Ineligible Expenditures in section E.2.1 below, but may include:

(a) The incremental costs of the Recipient's staff or employees provided that:
   (i) The Recipient is able to demonstrate that it is not economically feasible to tender a Contract that ensures the acquisition of the required goods or services at the best value for money; and
   (ii) The arrangement is approved in advance in writing by the Province and Canada.

(b) Any costs that are determined by the Province and Canada, in their sole discretion, to be Eligible Expenditures; and

(c) Notwithstanding section E.2.1(a) of this Schedule, expenditures related to the Project associated with completing climate lens assessments or associated with Aboriginal consultation and engagement activities, if applicable, that were incurred after February 15, 2018.

E.2.0 INELIGIBLE EXPENDITURES

E.2.1 Without limiting the discretion of Province and Canada in section E.1.1, the following costs are Ineligible Expenditures and are therefore ineligible to be paid from the Funds:

(a) Costs incurred prior to the Federal Approval Date;

(b) Costs incurred after March 31, 2027;

(c) All expenditures related to Contracts signed prior to the Federal Approval Date;

(d) Costs incurred for terminated or cancelled Projects;

(e) Costs related to developing a business case or proposal or application for funding;
(f) Costs associated with the acquisition, expropriation or leasing of:
  (i) Land,
  (ii) Buildings, or
  (iii) Other facilities
(g) Costs associated with the acquisition or leasing of equipment other than equipment directly related to the construction, improvement, repair, rehabilitation or reconstruction of the Project where the Province has not provided its prior written approval;
(h) Costs that have not been claimed for reimbursement by March 31st of the year following the year in which the costs were incurred;
(i) Capital costs, including site preparation and construction costs, until Canada and if applicable the Province have confirmed in writing that environmental assessment and Aboriginal consultation obligations have been fully met and continue to be fully met;
(j) Costs related to any component of the Project other than its approved scope;
(k) Real estate fees and related costs;
(l) Costs incurred for the general operation, repair and regularly scheduled maintenance of the Project;
(m) Services or works normally provided by the Recipient, incurred in the course of implementation of the Project, except those specified as Eligible Expenditures;
(n) Expenditures related to any goods and services which are received through donations or in-kind contributions;
(o) Any overhead costs, including salaries and other employment benefits of any employees of the Recipient, its direct or indirect operating or administrative costs, and more specifically its costs related to planning, engineering, architecture, supervision, management and other activities normally carried out by its staff, except in accordance with the list of Eligible Expenditures above;
(p) Unreasonable meal, hospitality or incidental costs or expenses of any Third Party;
(q) Any amount for which the Recipient has received, will receive or is eligible to receive, a rebate, credit or refund, in full or in part;
(r) Taxes of any kind;
(s) Costs of relocating entire communities;
(t) In the Province's sole discretion, the costs of communication activities undertaken by the Recipient that did not conform with the requirements of the Communications Protocol in Schedule "G";

(u) Any amounts incurred or paid by the Recipient to an entity that is not at arm's length from the Recipient, except in accordance with the list of Eligible Expenditures above;
(v) Costs incurred contrary to Article 5 of Schedule "A" (Recipient's Acquisition of Goods or Services, Contract Provisions, and Disposal of Assets) of this Agreement;
(w) The costs, charges, penalties or fees incurred or paid by the Recipient in the process of having a cost determined to be an Ineligible Expenditure.
(x) Costs, charges, penalties or fees incurred or paid by the Recipient that are a result of late or non-payment, rush requests, or contract termination or non-compliance;
(y) Legal fees, financing charges and loan interest payments, including those related to easements (e.g., surveys);
(z) Costs of furnishings and non-fixed assets which are not essential for the operation of the funded Asset or Project, as well as all costs associated with moveable assets or rolling stock; and
(aa) Any other cost which is not specifically listed as an Eligible Expenditure under Article E.1.0 (Eligible Expenditures) and which, in the opinion of the Province, is considered to be ineligible.

[SCHEDULE "F" – EVALUATION FOLLOWS]

SCHEDULE "F"
EVALUATION

F.1.0 PROJECT AND ICIP EVALUATIONS

F.1.1 **Recipient's Participation in Project and ICIP Evaluations**. The Recipient understands that the Province or Canada, or both, may ask the Recipient to participate in one or more evaluation in respect of the Project or the ICIP during and for a period of up to six years after March 31, 2028. The Recipient agrees, if asked and at its own expense, to provide Project-related information to the Province or Canada, or both, for any evaluation.

F.1.2 **Results of Project and ICIP Evaluations.** The result of any evaluation carried under section F.1.1 (Recipient's Participation in Project and ICIP Evaluations) will be made available to the public, subject to all applicable laws and policy requirements.

[SCHEDULE "G" – COMMUNICATIONS PROTOCOL FOLLOWS]

SCHEDULE "G"
COMMUNICATIONS PROTOCOL

G.1.0 DEFINITIONS

G.1.1 **Definitions.** For the purposes of this Schedule "G" (Communications Protocol):

"Joint Communications" means events, news releases, and signage that relate to the Agreement or the Bilateral Agreement, or both, that are not operational in nature, and that are collaboratively developed and approved by,

(a) in the case of the Bilateral Agreement, Canada, the Province and the Recipient; and

(b) in the case of the Agreement, the Province and the Recipient.

G.2.0 PURPOSE

G.2.1 **Purpose.** This communications protocol outlines the roles and responsibilities of each of the Parties to the Agreement in respect of Communications Activities related to the Project.

G.2.2 **Guidance.** This communications protocol will guide all planning, development and implementation of Communications Activities with a view to ensuring efficient, structured, continuous, consistent, and coordinated communications to the Canadian public.

G.2.3 **Application to Communications Activities.** The provisions of this communications protocol apply to all Communications Activities related to the Agreement and the Project.

G.3.0 GUIDING PRINCIPLES

G.3.1 **Information to Canadians.** Communications Activities undertaken through this communications protocol should ensure that Canadians are informed about the Project's benefits, including the ways in which the Project helps improve their quality of life.

G.3.2 **Factors to Consider.** The scale and scope of Communications Activities undertaken for any Project will take into consideration the financial value, scope and duration of the Project and the feasibility of Joint Communications for such Communications Activities.

G.3.3 **Deficiencies and Corrective Actions.** The Province will communicate to the Recipient any deficiencies or corrective actions, or both, identified by the Province, Canada or, as applicable, the Committee.

G.3.4 **Approval of Communications Material.** The announcement or publication of the Project must be approved by the Parties and Canada prior to being carried out.

G.3.5 **Costs of Communication Activities.** With the exception of advertising campaigns outlined in Article G.10.0 (Advertising Campaigns), the costs of Communication Activities and signage will follow the eligibility rules established in Schedule "E" (Eligible Expenditures and Ineligible Expenditures).

G.4.0 JOINT COMMUNICATIONS

G.4.1 **Subject Matter.** The Parties and Canada may have Joint Communications about the funding and status of the Project.

G.4.2 **Prior Knowledge and Agreement.** Joint Communications in respect of the Project should not occur without the prior knowledge and agreement of the Parties and Canada.

G.4.3 **Recognition of the Province's and Canada's Contributions.** All Joint Communications material must be approved by the Province and Canada and will recognize the Province's and Canada's contribution or the Total Financial Assistance, or both, received in respect of the Project.

G.4.4 **Notice and Timing.** The Recipient and the Province, on its own behalf or that of Canada, may request Joint Communications. The Party requesting the Joint Communications will provide at least 15 Business Days' notice to the other Party. If the Communications Activity is an event, it will take place at a date and location mutually agreed to by the Parties and, if applicable, Canada.

G.4.5 **Participation and Representatives.** The Party requesting a Joint Communications will provide the opportunity for the other Party and Canada to choose to participate and, if they do so choose, their own designated representative (in the case of an event).

G.4.6 **English and French.** Canada has an obligation to communicate in English and French. Communications products related to events must be bilingual and include the Canada word mark and the logos of the Parties. In such cases, Canada will provide the translation services and final approval on products.

G.4.7 **Table of Precedence for Canada.** The conduct of all Joint Communications will, as applicable, follow the *Table of Precedence for Canada* provided by Canada at

https://www.canada.ca/en/canadian-heritage/services/protocol-guidelines-special-event/table-precedence-canada.html, or at any other location as the Province may provide.

G.5.0 INDIVIDUAL COMMUNICATIONS

G.5.1 **Canada's Obligations.** Notwithstanding Article G.4.0 (Joint Communications), the Parties agree that Canada or the Province, or both, have the right to communicate information to Canadians and Ontarians about the Agreement and the use of Funds to meet its legislated and regulatory obligations through their respective own Communications Activities.

G.5.2 **Restrictions.** Each Party may include general ICIP messaging and an overview in respect of the Project in their own Communications Activities. The Province and the Recipient will not unreasonably restrict the use of, for their own purposes, Communications Activities related to the Project and, if the communications are web- or social-media based, the ability to link to it. Canada has also agreed, in the Bilateral Agreement, to the above.

G.5.3 **Publication.** The Recipient will indicate, in respect of the Project-related publications, whether written, oral, or visual, that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of Canada and the Province.

G.5.4 **Canada's Recognition in Documents.** In respect of the Project where the deliverable is a document, such as but not limited to plans, reports, studies, strategies, training material, webinars, and workshops, the Recipient will clearly recognize Canada's and the Province's respective financial contribution for the Project.

G.5.5 **Acknowledgement of Support.** Unless the Province directs the Recipient to do otherwise, the Recipient will, in respect of the Project-related publications, whether written, oral, or visual, acknowledge the Province's and Canada's support for the Project.

G.6.0 OPERATIONAL COMMUNICATIONS

G.6.1 **Responsibility of Recipient.** The Recipient is solely responsible for operational communications in respect of the Project, including but not limited to calls for tender, contract awards, and construction and public safety notices. Operational communications as described above are not subject to the *Official Languages Act* of Canada.

G.7.0 MEDIA RELATIONS

G.7.1 **Significant Media Inquiry.** The Province and the Recipient will share information promptly with the other Party and Canada if significant media inquiries are received or emerging media or stakeholder issues arise in respect of a Project or the ICIP.

G.8.0 SIGNAGE

G.8.1 **Recognition of Funding Contribution.** The Parties agree that Canada, the Province and the Recipient may each have signage recognizing their funding contribution in respect of the Project.

G.8.2 **Funding Recognition.** Unless otherwise agreed by Canada or the Province, or both, the Recipient will produce and install a sign to recognize the funding contributed by the Province or Canada, or both, at the Project site in accordance with, as applicable, their current respective signage guidelines. Federal sign design, content, and installation guidelines will be provided by Canada. Provincial sign design, content, and installation guidelines will be provided by the Province.

G.8.3 **Permanent Plaque.** Where the Recipient decides to install a permanent plaque or another suitable marker in respect of the Project, the Recipient will:

(a) on the marker, recognize the Province's and Canada's contributions; and

(b) prior to installing the marker, seek the prior written approval of both Canada and the Province, each respectively, for its content and installation.

G.8.4 **Notice of Sign Installation.** The Recipient will inform the Province of sign installations, including providing the Province with photographs of the sign, once the sign has been installed.

G.8.5 **Timing for Erection of Sign.** If erected, signage recognizing Canada's and the Province's respective contributions will be installed at the Project site(s) 30 days prior to the start of construction, be visible for the duration of the Project, and remain in place until 30 days after construction is completed and the infrastructure is fully operational or opened for public use.

G.8.6 **Size of Sign.** If erected, signage recognizing Canada's and the Province's respective contribution will be at least equivalent in size and prominence to Project signage for contributions by other orders of government and will be installed in a prominent and visible location that takes into consideration pedestrian and traffic safety and visibility.

G.8.7 **Responsibility of Recipient.** The Recipient is responsible for the production and installation of Project signage, and for maintaining the signage in a good state of repair during the Project, or as otherwise agreed upon.

G.9.0 COMMUNICATING WITH RECIPIENT

G.9.1 **Facilitation of Communications.** The Province agrees to facilitate, as required, communications between Canada and the Recipient for Communications Activities.

G.10.0 ADVERTISING CAMPAIGNS

G.10.1 **Notice of Advertising Campaigns.** Recognizing that advertising can be an effective means of communicating with the public, the Recipient agrees that Canada or the Province, or both, may, at their own cost, organize an advertising or public information campaign in respect of the Project or the Agreement. However, such a campaign will respect the provisions of the Agreement. In the event of such a campaign, Canada or the Province will inform each other and the Recipient of its intention no less than 21 Business Days prior to the campaign launch.

[SCHEDULE "H" – DISPOSAL OF ASSETS FOLLOWS]

SCHEDULE "H"
DISPOSAL OF ASSETS

H.1.0 DEFINITIONS

H.1.1 **Definitions.** For the purposes of this Schedule "H" (Disposal of Assets):

"Asset Disposal Period" means the period commencing on the Effective Date and ending five (5) years after the Expiration Date.

H.2.0 DISPOSAL OF ASSETS

H.2.1 **Asset Disposal Period.** Unless otherwise agreed to by the Province, the Recipient will maintain the ongoing operations and retain title to and ownership of any Asset acquired in respect of the Project for the Asset Disposal Period.

H.2.2 **Disposal of Asset and Payment.** If, at any time within the Asset Disposal Period, the Recipient sells, leases, encumbers, or otherwise disposes, directly or indirectly, of any Asset other than to Canada, the Province, or a municipal or regional government established by or under provincial statute, the Province may require the Recipient to reimburse the Province or Canada, via the Province, for any Funds received for the Project.

[SCHEDULE "I" – ABORIGINAL CONSULTATION PROTOCOL FOLLOWS]

SCHEDULE "I"
ABORIGINAL CONSULTATION PROTOCOL

I.1.0 DEFINITIONS

I.1.1 **Definitions.** For the purposes of this Schedule "I" (Aboriginal Consultation Protocol):

"Aboriginal Community", also known as "Aboriginal Group", includes First Nation, Métis, and Inuit communities or peoples of Canada.

"Aboriginal Consultation Plan" means the Aboriginal Consultation Plan described in section I.2.1 (Development of Plan).

I.2.0 ABORIGINAL CONSULTATION PLAN

I.2.1 **Development of Plan.** The Province, based on the scope and nature of the Project or at the request of Canada, may require the Recipient, in consultation with the Province or Canada, or both, to develop and comply with an Aboriginal consultation plan ("Aboriginal Consultation Plan").

I.2.2 **Procedural Aspects of Aboriginal Consultation.** If consultation with Aboriginal Communities is required, the Recipient agrees that:

(a) the Province or Canada, or both, may delegate certain procedural aspects of the consultation to the Recipient; and

(b) the Province or Canada, or both, will provide the Recipient with an initial list of the Aboriginal Communities the Recipient will consult.

I.2.3 **Provision of Plan to Province.** If, pursuant to section I.2.1 (Development of Plan), the Province provides Notice to the Recipient that an Aboriginal Consultation Plan is required, the Recipient will, within the timelines provided in the Notice, provide the Province with a copy of the Aboriginal Consultation Plan.

I.2.4 **Changes to Plan.** The Recipient agrees that the Province or Canada, in the sole discretion of the Province or Canada and from time to time, may require the Recipient to make changes to the Aboriginal Consultation Plan.

I.3.0 ABORIGINAL CONSULTATION RECORD

I.3.1 **Requirements for Aboriginal Consultation Record.** If consultation with an Aboriginal Community is required, the Recipient will maintain an Aboriginal Consultation Record and provide such record to the Province, and any update to it, as part of its reporting to the Province pursuant to section D.3.1 (Inclusion of Aboriginal Consultation Record).

I.4.0 RESPONSIBILITIES OF THE RECIPIENT

I.4.1 **Notification to and Direction from the Province.** The Recipient will immediately notify the Province:

(a) of contact by Aboriginal Communities regarding the Project; or

(b) of any Aboriginal archaeological resources that are discovered in relation to the Project,

and, in either case, the Recipient agrees that the Province or Canada, or both, may direct the Recipient to take such actions as the Province or Canada, or both, may require. The Recipient will comply with the Province's or Canada's direction.

I.4.2 **Direction from the Province and Contracts.** In any Contract, the Recipient will provide for the Recipient's right and ability to respond to direction from the Province or Canada, or both, as the Province or Canada may provide in accordance with section I.4.1 (Notification to and Direction from the Province).

[SCHEDULE "J" – REQUESTS FOR PAYMENT AND PAYMENT PROCEDURES FOLLOWS]

SCHEDULE "J"
REQUESTS FOR PAYMENT AND PAYMENT PROCEDURES

J.1.0 DEFINITION

J.1.1 **Definition.** For the purposes of this Schedule "J" (Requests for Payment and Payment Procedures):

"Final Payment" means the final payment by the Province to the Recipient in respect of the Project as described in and to be paid in accordance with Article J.8.0 (Final Payment).

J.2.0 PROCEDURES AND TIMING FOR REQUESTS FOR PAYMENT

J.2.1 **Procedures.** The procedures provided for in Article J.3.0 of this Schedule "J" (Procedures for Requests for Payment for Eligible Expenditures) will apply to requests for payment that the Recipient submits to the Province under the Agreement.

J.2.2 **Diligent and Timely Manner.** The Recipient will submit its requests for payment for Eligible Expenditures in respect of the Project to the Province in a diligent and timely manner. If no Eligible Expenditures have been incurred in the twelve months preceding the date before which a request for payment is due under D.1.1(b), the Recipient will notify the Province that no claim is being submitted for that period.

J.3.0 PROCEDURES FOR REQUESTS FOR PAYMENT FOR ELIGIBLE EXPENDITURES

J.3.1 **Timing, Reports and Documents.** The Recipient will submit each request for payment for Eligible Expenditures, including the Final Payment request, in respect of the Project to the Province in accordance with, and on the frequency as indicated in Schedule "D" (Reports) and, if the Province so requested pursuant to paragraph K.4.1(f), after review by the Committee.

J.4.0 PAYMENTS OF FUNDS

J.4.1 **Payment by the Province.** Subject to the terms and conditions of the Agreement, upon receipt of a request for payment fully completed in accordance with this Schedule "J" (Requests for Payment and Payment Procedures), the Province will use its reasonable efforts to pay Funds to the Recipient based on the Recipient's incurred and paid Eligible Expenditures up to the Maximum Funds, if due and owing under the terms of the Agreement. Claims will be reimbursed based on the Percentage of Provincial Support and the Percentage of Federal Support as set out in Schedule "C".

J.4.2 For greater certainty and without limitation, before the Province makes a payment to the Recipient, the following terms and conditions of the Agreement must be met, in the opinion of the Province or Canada, or both:

(a) the conditions set out in paragraph A.4.2(c) of Schedule "A";

(b) the special conditions listed in Article A.31.0 of Schedule "A" (Special Conditions);

(c) receipt and acceptance by the Province of all required Reports and other reports, as applicable;

(d) compliance with all applicable audit requirements under the Agreement; and

(e) applicable communications requirements, as set out Schedule "G" (Communications Protocol).

J.4.3 The Province will under no circumstances be liable for interest for failure to make a payment within the time limit provided for in this Article J.4.0 (Payments).

J.5.0 TIME LIMITS FOR REQUESTS FOR PAYMENTS

J.5.1 **Timing.** The Recipient will submit all requests for payment within 60 Business Days of the Project's Substantial Completion, or on or before March 31, 2027, whichever is earlier.

J.5.2 **No Obligation for Payment.** Notwithstanding anything to the contrary herein, the Province will have no obligation to make any payment for a request for payment that is received by the Province after:

(a) 60 Business Days following the Substantial Completion of the project; or,
(b) March 31, 2027

whichever is earlier.

J.6.0 FINAL RECONCILIATION AND ADJUSTMENTS

J.6.1 **Final Reconciliation and Adjustments.** For the Project, following the submission of the final Progress Report and the declaration of Substantial Completion, the Province will carry out a final reconciliation of all requests for payments and payments in respect of the Project and make any adjustments required in the circumstances.

J.7.0 HOLDBACK

J.7.1 **Holdback.** For the Project, the Province may hold back funding in accordance with section A.4.12 (Retention of Contribution).

J.8.0 FINAL PAYMENT

J.8.1 **Final Payment.** Subject to paragraph A.4.2(c) of Schedule “A”, the Province will pay to the Recipient the remainder of the Funds under the Agreement, including the Holdback, after all of the conditions under section A.4.12 of Schedule “A” (Retention of Contribution) have been met.

[SCHEDULE “K” – COMMITTEE FOLLOWS]

SCHEDULE "K"
COMMITTEE

K.1.0 ESTABLISHMENT OF COMMITTEE

K.1.1 **Establishment and Term of Committee.** If the Province requires the establishment of a Committee to oversee the Agreement, pursuant to section A.29.1 (Establishment of Committee), the Parties will, within 60 days of the Province providing Notice, hold an initial meeting to establish the Committee. The Committee's mandate will expire on the Expiration Date of the Agreement.

K.2.0 COMMITTEE MEMBERS, CO-CHAIRS, AND OBSERVERS

K.2.1 **Appointments by the Province.** The Province will appoint two persons as members of the Committee.

K.2.2 **Appointments by the Recipient.** The Recipient will appoint two persons as members of the Committee.

K.2.3 **Chairs of the Committee.** The Committee will be headed by co-chairs chosen from its members, one appointed by the Province and one appointed by the Recipient. If a co-chair is absent or otherwise unable to act, the member of the Committee duly authorized in writing by the Province or the Recipient, as applicable, will replace him or her and will act as co-chair in his or her place.

K.2.4 **Non-committee Member Staff.** The Parties may invite any of their staff to participate in Committee meetings. The Province may invite up to two representatives from Canada to sit as observers on the Committee. For greater certainty, the staff and representative(s) from Canada will not be considered members and will not be allowed to vote.

K.3.0 MEETINGS AND ADMINISTRATIVE MATTERS

K.3.1 **Rules of Committee.** The Committee will:

(a) meet at least two times a year, and at other times at the request of a co-chair; and

(b) keep minutes of meetings approved and signed by the co-chairs as a true record of the Committee meetings.

K.3.2 **Quorum.** A quorum for a meeting of the Committee will exist only when both co-chairs are present.

K.4.0 COMMITTEE MANDATE

K.4.1 **Mandate.** Provided that no action taken by the Committee will conflict with the rights of the Parties under the Agreement, the mandate of the Committee will include, but not be limited to:

(a) monitoring the implementation of the Agreement including, without limitation, the implementation of Schedule “G” (Communications Protocol), for compliance with the terms and conditions of the Agreement;

(b) acting as a forum to resolve potential issues or disputes and address concerns;

(c) reviewing and, as necessary, recommending to the Parties amendments to the Agreement;

(d) approving and ensuring audit plans are carried out as per the Agreement;

(e) establishing sub-committees as needed;

(f) at the request of the Province, reviewing requests for payments; and

(g) attending to any other function required by the Agreement, including monitoring project risk and mitigation measures, or as mutually directed by the Parties.

K.4.2 **Committee Decisions.** Decisions of the Committee will be made as follows:

(a) the co-chairs will be the only voting members on the Committee; and

(b) decisions of the Committee must be unanimous and recorded in writing.

K.5.0 ROLE OF THE RECIPIENT

K.5.1 **Requirements.** The Recipient undertakes to fulfill, in addition to any other requirements provided for in this Schedule “K” (Committee), the following:

(a) establish a fixed location where the Agreement will be managed, and maintain it until the expiry of the Committee’s mandate and, if relocation is required, establish a new location;

(b) prepare and retain, at the location described in paragraph K.5.1(a), and make available to the Committee, all documents needed for the work of the Committee, including payment request forms, approval documents, contracts, and agendas and minutes of meetings of the Committee and its subcommittees;

(c) ensure that any audit required of the Recipient pursuant to the Agreement is carried out and the results are reported to the Committee;

(d) ensure that administrative and financial systems are developed and implemented for the Project and the work of the Committee;

(e) promptly inform the Committee of all proposed changes in respect of the Project; and

(f) provide the Committee, as requested and within the timelines set by the Committee, and to the Committee's satisfaction, project status information related to Schedule "D" (Reports).