

**City of Port Colborne
Council Meeting Agenda**

Date: Tuesday, February 28, 2023
Time: 6:30 pm
Location: Council Chambers, 3rd Floor, City Hall
66 Charlotte Street, Port Colborne

Pages

1. Call to Order
2. National Anthem
3. Land Acknowledgment
4. Proclamations
5. Adoption of Agenda
6. Disclosures of Interest
7. Approval of Minutes
 - 7.1 Regular Meeting of Council-February 14, 2023 1
8. Staff Reports
 - 8.1 2023 Nickel Beach Parking and Related Operations, 2023-32 16
 - 8.2 Strategic Priorities Infrastructure Fund – Transfer Payment Agreement, 2023-28 25
 - 8.3 Dedicate Portion of Borden Avenue as a Public Highway -(Part 4 of Plan 59R-17542), 2023-25 82
 - 8.4 Municipal Modernization Program - Amending Agreements, 2023-33 87
 - 8.5 Grants for non-profits, 2023-36 104
 - 8.6 Property Tax Collection History for the Year Ending 2022 and Next Steps, 2023-19 108

9.	Correspondence Items	
9.1	Township of Ashfield-Colborne-Wawanosh, Re Future Accuracy of the Permanent Register of Electors	113
10.	Presentations	
11.	Delegations	
	In order to speak at a Council meeting, individuals must register no later than 12 noon on the date of the scheduled meeting. To register, complete the online application at www.portcolborne.ca/delegation , email deputyclerk@portcolborne.ca or phone 905-835-2900, ext. 115.	
12.	Mayor's Report	
13.	Regional Councillor's Report	
14.	Staff Remarks	
15.	Councillors' Remarks	
16.	Consideration of Items Requiring Separate Discussion	
17.	Motions	
18.	Notice of Motions	
19.	Minutes of Boards & Committees	
19.1	Port Colborne Historical and Marine Museum Board Meeting Minutes, January 17, 2023	114
19.2	Port Colborne Library Board Meeting Minutes, January 11, 2023	120
19.3	Social Determinants of Health Advisory Committee - Everyone Matters Minutes, September 8, 2022	127
20.	Recommendations Arising from Boards and Committees	
20.1	Memorandum- 2022-2026 Appointments to the Downtown Port Colborne Business Improvement Area (BIA) Board of Management	132
20.2	Memorandum-2022-2026 Appointments to the Main Street Port Colborne Business Improvement Area (BIA) Board of Management	137

21. By-laws

21.1	By-law to Authorize Entering into an Agreement with the Province of Ontario for the Strategic Priorities Infrastructure Fund	142
21.2	By-law to Authorize the Dedication of Part 4 Plan 59R-17452 as a Public Highway	195
21.3	By-law to Authorize Entering into Transfer Payment Amending Agreements with the Ontario Municipal Modernization Program	196
21.4	By-law to Adopt, Ratify and Confirm the Proceedings of the Council of The Corporation of the City of Port Colborne	209

22. Confidential Items

Confidential reports will be distributed under separate cover. Items may require a closed meeting in accordance with the Municipal Act, 2001.

22.1	Minutes of the closed session portion of the October 11, November 15, November 23, November 29, December 01 and December 12, 2022 Council Meetings	
22.2	Minutes of the closed session portion of the January 10, February 07, and February 14, 2023 Council Meetings	
22.3	Corporate Services Department – Human Resources Report 2023-04, personal matters about an identifiable individual, including municipal or local board employees and labour relations or employee negotiations	

23. Procedural Motions

24. Information items

25. Adjournment

City of Port Colborne
Council Meeting Minutes

Date: Tuesday, February 14, 2023
Time: 6:30 pm
Location: Council Chambers, 3rd Floor, City Hall
66 Charlotte Street, Port Colborne

Members Present: M. Aquilina, Councillor
M. Bagu, Councillor
E. Beauregard, Councillor
R. Bodner, Councillor
G. Bruno, Councillor
F. Danch, Councillor
D. Elliott, Councillor
T. Hoyle, Councillor
W. Steele, Mayor (presiding officer)

Staff Present: B. Boles, Director of Corporate Services/Treasurer
N. Rubli, Acting City Clerk
S. Shypowskyj, Director of Public Works
S. Tufail, Acting Deputy Clerk (minutes)

1. Call to Order

Mayor Steele called the meeting to order at 6:35 p.m.

2. National Anthem

3. Land Acknowledgment

4. Proclamations

4.1 Doctor's with a Heart Day - February 15, 2023

Moved by Councillor R. Bodner
Seconded by Councillor T. Hoyle

That February 15, 2023 be proclaimed as "Doctor's with a Heart Day" in the City of Port Colborne.

Carried

4.2 Heritage Week - February 20th-26th, 2023

Moved by Councillor R. Bodner
Seconded by Councillor T. Hoyle

That February 20 - 26, 2023 be proclaimed as "Heritage Week" in the City of Port Colborne.

Carried

5. Adoption of Agenda

Moved by Councillor F. Danch
Seconded by Councillor E. Beauregard

That the agenda dated February 14, 2023 be confirmed, as amended.

Carried

6. Disclosures of Interest

7. Approval of Minutes

7.1 Regular Meeting of Council- January 24, 2023

Moved by Councillor G. Bruno
Seconded by Councillor M. Bagu

That the minutes of the regular meeting of Council, held on January 24, 2023, be approved as presented.

Carried

8. Staff Reports

Moved by Councillor E. Beauregard
Seconded by Councillor M. Aquilina

That items 8.1 to 8.4 be approved, and the recommendations contained therein be adopted.

Carried

8.1 Telecommunications Facility Siting Agreement – NWIC Inc., 2023-07

That Chief Administrative Officer-Economic Development and Tourism Division report 2023-07 be received;

That Council approve a lease agreement between the City of Port Colborne and NWIC regarding telecommunications equipment being located at the Port Colborne Grain Terminal;

That the Mayor and Acting City Clerk be authorized to execute the Agreement and By-law.

8.2 2022 Audit Plan, 2023-18

That Corporate Services Department Report 2023-18 be received for information.

That Corporate Services Department Report 2023-18, be received for information.

8.3 Administrative Monetary Tier Penalty System, 2023-11

That Community Safety and Enforcement Department Report 2023-11 be received; and

That Council approve the proposed Administrative Monetary Tier Penalty system; and;

That By-law 5228/134/08, being a By-law to Regulate the Management of a System of Sewer Works and Drainage Works in the City of Port Colborne be amended to allow for penalties under the Administrative Monetary System;

That By-law 6902/50/21, being a By-law to Establish a System for Administrative Penalties be amended to include an Administrative Monetary Tier Penalty System and to include fines for Sewer Use By-law 5228/134/08.

8.4 Biederman Municipal Drain, 2023-16

That Public Works Department Report 2023-16 be received; and

That Staff be directed to advance the Biederman Municipal Drain Engineer's Report to a 'Meeting to Consider', under Section 41, Chapter D.17 of the *Drainage Act*.

9. Correspondence Items

Moved by Councillor E. Beauregard
Seconded by Councillor M. Aquilina

That items 9.1 and 9.6 be received for information.

Carried

- 9.1 Niagara Region - 2023 Budget - Water and Wastewater Operating Budget, Rate Setting and Requisition**
- 9.2 Niagara Region - 2023 Budget - Waste Management Services Operating Budget and Rate Requisition**
- 9.3 Ministry of Natural Resources and Forestry - Legislative and Regulation Changes Affecting Conservation Authorities**
- 9.4 Municipal Property Assessment Corporation (MPAC) - 2022 Municipal Partnership Report**
- 9.5 Municipal Property Assessment Corporation (MPAC) - Farm Forestry Exemption**
- 9.6 City of Thunder Bay - Bill 42 Gender Affirming Healthcare Act**
- 10. Presentations**
 - 10.1 Award of Excellence presented by the Department of Museum and Culture, City of Port Colborne**

Mayor Steele and the Director of Museum and Culture presented an Award of Excellence to Bonnie Johnston for her outstanding commitment to the preservation of heritage.
- 11. Delegations**
- 12. Mayor's Report**

A copy of the Mayor's Report is attached.
- 13. Regional Councillor's Report**
- 14. Staff Remarks**
 - 14.1 Community Engagement Survey (Long)**

The Manager of Strategic Initiatives informed that a community survey to obtain resident feedback to assist in the development of the 2023-2026

Strategic Plan is available on the City's website and through the City's social media pages.

14.2 Workshop (Bram)

The Economic Development Officer advised that the Economic Development Department in partnership with Niagara Falls small Business Enterprise Center and Venture Niagara will be hosting a free workshop for businesses on February 16, 2023 from 10 a.m-1p.m at the L.R. Wilson Heritage Research Archives.

14.3 Staffing Update (Boles)

The Acting CAO provided a staffing update in the Corporate Communications Division and welcomed Jasmine Peazel-Graham as the new Manager of Communications.

15. Councillors' Remarks

15.1 Sherkston Community Centre (Aquilina)

Councillor Aquilina advised Council on various events hosted by the Sherkston Community Centre and encouraged residents to attend.

15.2 Bearss Drain (Aquilina)

In response to Councillor's Aquilina's request for a meeting on the Bearss Drain, the Director of Public Works advised that a meeting will be scheduled in the Council Chambers for the owners within the watershed of the Bearss Drain at the end of March 2023.

15.3 SportsFest (Beauregard)

Councillor Beauregard informed Council that he attended SportsFest and congratulated everyone that participated in the event.

15.4 King Street and Main Street Intersection (Bruno)

In response to Councillor Bruno's inquiry, the Manager of Water/Wastewater informed that a watermain break has occurred at the King Street and Main Street intersection and the repair has been scheduled and a notification will be provided for any road closures.

15.5 Speeding on Killaly Street East and Durham Street (Hoyle)

Councillor Hoyle informed that he has received complaints from residents regarding speeding on Killaly Street East and Durham Street and requested that a speed radar be put in place.

15.6 Port Colborne-Wainfleet Chamber Of Commerce (Hoyle)

Councillor informed that Port Colborne-Wainfleet Chamber Of Commerce will be sponsoring various events this year and encouraged residents to attend.

15.7 Wave Frenzy Girls Hockey Tournament (Hoyle)

Councillor Hoyle informed Council that the Wave Frenzy Girls Hockey Tournament will be held Family Day weekend at the Vale Centre and encouraged everyone to go watch.

15.8 Tree Clearing between Silver Bay Rd. and Cedar Bay Rd. (Bodner)

In response to Councillor Bodner's inquiry regarding tree clearing, the Director of Public Works provided an overview of the brushing and ditching being completed along Friendship Trail as part of the beautification of the trails.

15.9 Sherkston Community Centre-Annual Chili Cook Off (Bodner)

Councillor Bodner provided details regarding the Annual Chili Cook Off hosted by the Sherkston Community Centre on Sunday March 12, 2023.

16. Consideration of Items Requiring Separate Discussion

16.1 Waterfront Centre – Project Update, 2023-03

The Manager of Strategic Initiatives and the Tourism Coordinator provided a presentation and responded to questions received from Council.

Moved by Councillor G. Bruno
Seconded by Councillor D. Elliott

That Chief Administrative Officer-Economic Development and Tourism Division report 2023-03 be received; and

That the Mayor and Acting City Clerk be authorized to execute an amended agreement with the Federal Development Agency for Southern Ontario (FedDev Ontario) to receive a one-year extension for the Canada Community Revitalization Fund (CCRF); and

That the Mayor and Acting City Clerk be authorized to execute any further amendments to the Canada Community Revitalization Fund agreement.

Carried

16.2 Neff Street Watermain Construction Agreement, 2023-20

Moved by Councillor G. Bruno
Seconded by Councillor D. Elliott

That Development and Legislative Services – Planning Division Report 2023-20 be received; and,

That the City's portion of the watermain construction be funded from the water reserve; and

That the Mayor and Clerk be authorized to sign and execute a watermain construction agreement between the City and Grandstone Living Inc. attached as Appendix A for the replacement of the eastern limit of the Neff Street watermain; and,

That the By-law authorizing entering into the agreement with Grandstone Living Inc. be approved.

Carried

16.3 Transfer Payment Agreement - Ministry of Economic Development, Job Creation and Trade - Site Readiness Program, 2023-26

Moved by Councillor G. Bruno
Seconded by Councillor M. Aquilina

That Chief Administrative Officer-Economic Development and Tourism Division report 2023-26 be received; and

That the Mayor and Clerk be authorized to sign and execute a funding agreement for the Site Readiness Program with His Majesty the King in right of Ontario, as represented by the Minister of Economic Development, Job, Creation and Trade; and

That the By-law authorizing entering into the agreement be approved.

Carried

16.4 Integrity Commissioner Agreement Renewal, 2023-23

Moved by Councillor F. Danch
Seconded by Councillor D. Elliott

That Development and Legislative Services – Clerk's Division Report 2023-23 be received; and

That Council appoints Edward T. McDermott of ADR Chambers Inc. as the Integrity Commissioner for the Corporation of the City of Port Colborne, for a four-year term expiring February 25, 2027; and

That the Mayor and Acting City Clerk be authorized to execute an amended agreement with ADR Chambers Inc. for the purpose of providing services of an Integrity Commissioner; and

That the By-law authorizing entering into the agreement with ADR Chambers Inc be approved.

Carried

16.5 Niagara Region - Approval of the Niagara Official Plan

Moved by Councillor M. Aquilina

Seconded by Councillor R. Bodner

That the resolution received from the Niagara Region - Approval of the Niagara Official Plan be received for information.

Carried

16.6 Niagara Region - Approval of 2023 Interim Levy Dates and Amounts

Moved by Councillor G. Bruno

Seconded by Councillor F. Danch

That the correspondence from the Niagara Region regarding the Approval of 2023 Interim Levy Dates and Amounts be received.

Carried

16.7 County of Huron - Call to Action: Review of the Cannabis Act

Moved by Councillor R. Bodner

Seconded by Councillor T. Hoyle

That the correspondence from the County of Huron regarding Call to Action: Review of the Cannabis Act to be supported.

Carried

16.8 Town of Petrolia - School Board Elections

Moved by Councillor R. Bodner
Seconded by Councillor M. Bagu

That correspondence from the Town of Petrolia regarding the School Board Elections, be supported.

Carried

17. Motions

18. Notice of Motions

19. Minutes of Boards & Committees

20. By-laws

Moved by Councillor E. Beauregard
Seconded by Councillor M. Aquilina

That items 20.1 and 20.8 be enacted and passed.

Carried

20.1 By-law to authorize an Agreement between The Corporation of the City of Port Colborne and NWIC Inc.

20.2 By-law to authorize entering into a Watermain Construction Agreement between The Corporation of the City of Port Colborne and Grandstone Living Inc

20.3 By-law to Authorize Entering into an Agreement with the Provincial Government's Industrial Site Readiness Grant Program

20.4 By-law to Amend By-law No. 6902/50/21, Being a By-law to Establish a System for Administrative Penalties for Non-Parking Offences within The City of Port Colborne

20.5 By-law to Amend By-law No. 5228/134/08, Being a By-law to Regulate the Management of a System of Sewer Works and Drainage Works in the City of Port Colborne

20.6 By-law to authorize entering into an agreement with ADR Chambers Inc. to provide for Integrity Commissioner Services

20.7 By-Law to appoint members to the Committee of Adjustment

20.8 By-law to Adopt, Ratify and Confirm the Proceedings of the Council of The Corporation of the City of Port Colborne

21. Confidential Items

Moved by Councillor D. Elliott

Seconded by Councillor R. Bodner

That Council reconvene into closed session in order to address items 21.1 to 21.3.

Carried

21.1 Chief Administrative Office Report 2023-21, Potential Disposition of City Owned Land

21.2 Chief Administrative Office Report 2023-12, Pending Acquisition of Land by the Municipality

21.3 Chief Administrative Office Report 2023-22, Potential Disposition of City Owned Land

22. Procedural Motions

23. Information items

24. Adjournment

Council reconvened into Closed Session at approximately 8:32 p.m.

Council reconvened into Open Session at approximately 9:33 p.m.

Mayor Steele adjourned the meeting at approximately 9:35 p.m.

William C. Steele, Mayor

Nicole Rubli, Acting City Clerk

Mayor's Report

Tuesday, February 14, 2023



Healthcare in Port Colborne

If you can believe it, we're already half-way through February and it's been a busy few weeks since we were last together. There continues to be lots happening in the community including some changes to hospital and healthcare services in Port Colborne and our surrounding areas.

As we all know, healthcare across our province is experiencing a transformation and we're already starting to see the effects of some of these changes. I know Niagara Health is working hard to deliver the safest and most effective healthcare for residents *across* Niagara. We are working closely with them, other municipalities in the region and elected officials at the provincial level to make certain that the residents of Port Colborne continue to have access to safe, quality healthcare services.

You may have seen in the media that Niagara Health is planning to make some changes to their healthcare delivery model and some of these are coming as soon as later this month. This will include a modification to the services offered in Welland, which is the closest full hospital and emergency department to Port Colborne.

As of February 27, the Welland hospital will not offer any operating room or surgical procedures outside of the regular business hours of 8 a.m. to 4 p.m. All patients with urgent surgical needs that come in on evenings and weekends will need to go to the St. Catharines or Niagara Falls hospitals for treatment.

I strongly believe that it's very important for our residents to continue to have easy access to a full emergency department with intensive care and surgical units running at full capacity.

Senior staff and I have attended several meetings recently with the Mayors of Welland, Wainfleet and Fort Erie, and with elected members of Provincial Parliament – MPP Jeff Burch, MPP Wayne Gates and MPP Sam Oosterhoff. I also have an upcoming meeting with the Ontario Minister of Health, Sylvia Jones and will continue working on behalf of our community to ensure these vital hospital services are not lost.

That said, at this time, the Port Colborne Urgent Care Centre will remain open for all non-emergency treatment for injuries or illness like sprains or strains and minor cuts or burns. I understand that our Urgent Care Centre will remain open until the new South Niagara hospital opens, sometime in 2028.

This planned closure means that we need to do everything we can to ensure services in Welland continue at full capacity so our residents can access them as needed.

This is an important issue and as such, it's vital that we focus on the facts and don't spend any time on rhetoric or spreading misinformation.

Last year, the Port Colborne Urgent Care Centre had almost 17,000 visits and the Fort Erie Urgent Care Centre had more than 13,000 visits – combined these 30,000 visits need to be accommodated somewhere. Residents of South Niagara have come to rely on our Urgent Care Centres, and we cannot lose this resource.

In addition to continuing to meet with elected officials to discuss this matter, we will continue working to bring more community-based healthcare resources to Port Colborne. Since 2019, we have worked with healthcare providers to bring in services

such as Pathstone Mental Health, Hospice Niagara and other similar community health agencies. We have also worked with the province to bring in new physicians through regional physician recruitment efforts. We're beginning to see more mobile health services as well, including things such as the mobile dental clinic and mobile mammograms. We will continue pursuing these community-based services for our community.

There will be more to come on this issue, and I am committed to making sure everyone continues to be updated and well informed since it is so important to our residents and our community.

Bank of Montreal

Some sad news for Bank of Montreal customers in Port Colborne. Our local BMO branch on West Side Road will be closing soon. This is tough news for members of our community who rely on this branch. The nearest BMO branch will now be located at the Seaway Mall in Welland.

SportsFest

Now for some happier and fun news. We celebrated SportsFest last weekend, after a few years hiatus. Many of the activities reported record attendance, and we had a great weekend full of sports and activities for all ages and interests. Proceeds from various events were donated to the Port Colborne Fire & Emergency Services Fire Prevention Program, Light of Day Foundation, and Special Olympics Ontario.

I always enjoy SportsFest and had a great time participating in the Mayor's Cup Invitational Hockey Tournament. This year Port Frontenac won in the A Division, Pelham won in the B Division, Niagara Region won in the C Division and Haldimand won in the D Division.

We also welcomed 9 new members into the Port Colborne Sports Wall of Fame, and this event was also very well supported. You can see the new plaques on the wall along the walking track next time you're at Vale Health & Wellness Centre.

The Polar Plunge raised more than \$15,000 for Special Olympics Ontario. About 40 plungers participated this year. For those who didn't get an opportunity to donate but still want to contribute to the Special Olympics, the Polar Plunge donation page will remain open for a few more days.

As always, we are grateful for the support of the community groups and local businesses that help bring SportsFest to life.

10th Anniversary of the Vale Health & Wellness Centre

Another highlight from the weekend was the celebration of the 10th anniversary of the Vale Health & Wellness Centre. The event was very well-attended, and it was great to welcome MP Vance Badawey and many other familiar faces to mark the anniversary. We enjoyed live music, food, interactive games for kids and a series of highlights from the past decade. The Vale Health and Wellness Centre is a hub of Port Colborne and offers something for everyone – it's fully accessible for sport, recreation, health, wellness, entertainment, commerce and more. If you weren't able to join in on the celebration this weekend, I encourage you to stop in soon.

Port Colborne Operatic Society

Congratulations to the cast and crew of the Port Colborne Operatic Society, who on Saturday evening opened their 76th production, Roger and Hammerstein's Cinderella.

Founded in 1945, the Operatic Society devotes months of effort and energy into every production. The musical this year was staged in Centennial Auditorium in Welland, as the theatre at Lakeshore Catholic High School was not refurbished in time.

We're all so proud of all the volunteer members of the Operatic Society for their commitment to the arts, and for their support of young people pursuing careers in the arts.

Subject: 2023 Nickel Beach Parking and Related Operations

To: Council

From: Corporate Services Department

Report Number: 2023-32

Meeting Date: February 28, 2023

Recommendation:

That Corporate Services Department Report 2023-32 be received; and

That Council approve the changes in beach rates proposed in Appendix B and for Staff to proceed with the construction of new off-beach parking options at Nickel Beach as laid out in Appendix B; and

That Council approve a budget of \$1,300,000 to be funded from the infrastructure reserve to complete the Nickel Beach Parking Lot project and

That the updated Schedule G of the User Fees and Charges By-law be included in a future amendment to By-law 7047/84/22.

Purpose:

This report seeks Council approval to change beach rates to accommodate proposed off-beach parking options at Nickel Beach.

Background:

Residents of Port Colborne and visitors have been parking on and enjoying Nickel Beach since the advent of the automobile.

The Ministry of the Environment, Cemetery and Parks (MECP) has cited the Fowler's Toad as an endangered species in Ontario necessitating immediate changes to parking at Nickel Beach.

Staff are working with external legal counsel and an environmental subject matter expert. This report and the related recommendation are the result of that consultation.

Discussion:

In response of the MECF necessitating immediate changes to parking at Nickel Beach this report recommends new off-beach parking lots to be built, expanded, and/or developed near Nickel Beach.

Parking Lot Construction (Appendix A)

The need for the new off-beach parking lots is due to the fact there are no other alternative parking options at Nickel Beach.

The Public Works (PW) team has identified the timeline for construction is extremely tight and requires Council to approve moving forward with the project at the February 28th council meeting in order to meet the construction window.

The proposed lot locations are attached as Appendix A. Currently, it is estimated that the proposed parking lots will have approximately 260 spaces. This number is a fair comparison to the 200-car limit imposed last year through Council. The additional spaces are required to offset lower priced off-beach parking options proposed in Appendix A while maintaining Nickel Beach as a self-sustaining entity. Additional financial discussion can be found in the Financial Implications section below.

Salient risks to the project and potential mitigation measures include:

- The timeline: This project will have to move extremely fast (see comments under internal consultation below).
- Timely completion of engineering drawings (these have been sourced to an external engineering firm) to satisfy external agencies' requirements.
- Agreement with Vale to access and use plan Lot D on refinery grounds (Staff appreciates the engagement of Vale to date on this subject).
- Agreement with respective agencies and the Joint Accessibility Committee that all accessible parking spots can be located in Lot C instead of some in each.
- The brush located at the parking locations is removed prior to March 15. Public works is prepared to begin removing brush immediately should this report be approved.
- There is a property with a house beside Lot A (Appendix A). The City is currently reaching out to the homeowner. The picture attached in Appendix A does identify potential encroachment issues onto City property. Staff highlight a potential purchase of the property would be recommended should an opportunity arise.

General comments on construction:

- Lots A and C will be gravel parking lots. Lot A will require considerable gravel to be trucked in. PW is working on defining that amount at the time of writing this report.

- Lot B will be parallel along the road.
- Lot D is an already paved lot on Vale's property. Main considerations include an alternative entrance with secure fencing in order to avoid disruption of Vale operations. As identified above, discussions with Vale are on-going.
- Lot A requires the most work as a result of the removal brush, the neighbouring property, and a requirement for a culvert to allow for already present.

Once the parking lot construction is complete, fees and changes to payment methods to access the beach will need to be updated accordingly.

Beach Rates (Appendix B)

First and foremost, Staff recommend the PORTicipate Pass program giving residents free access to the beach will remain in Lots A, B, and C. Staff recommend that there will continue to be no pre-registration required for City residents. However, parking spaces in these lots will be on a first come/first served basis.

In terms of pricing for Nickel Beach visitors, Staff are recommending a parking charge and no gate fee. Staff recognize Bay Beach in Fort Erie does have a two-step model, however their access point is less isolated and their visitors will not be undergoing the significant changes that Nickel Beach visitors will be.

Recommended pricing for the lots are attached in Appendix B. Comments, considerations, and recommendations with respect to the pricing model are as follows:

- Maintain peak and off-peak parking rates but expand the definition of peak to include Fridays.
- For simplicity, price lots based on location and the ability to book in advance to guarantee a parking spot. The proposed pricing model is similar to the discount pricing offered to Niagara Region residents last year.
- For consistency, maintain Lots A, B, and C with the same fees. Lot D will have different fees based on proximity, and the ability to book in advance. Staff identify Lot B may have the potential for a further differentiated pricing model in the future.

Beach Payment Options

In addition to setting rates, the method to which payments are received also needs to be reconsidered. In the past two years visitors have had to pre-register and/or book through the City's website using AudienceView software. This method has greatly streamlined beach operations and removed much of the congestion along Welland St and Lake Rd when the beach opens each morning. It also removed all cash handling from the operation.

In the new pricing model (attached as Appendix B), only Nickel Beach Lot D, Lot C – accessible lot (as required), and the lot at Centennial-Cedar Bay are recommended to

be booked in advance using AudienceView. Nickel Beach Lots, A, B, and C will be operated through Honk Mobile like the public boat launch by Sugarloaf Marina.

Staff identify Nickel Beach Lots A, B, and C lend themselves to Honk Mobile, recognizing:

- Honk Mobile is growing in usage across the Niagara Region and has been used in the City of Port Colborne for several years.
- In the last two years visitors were required to electronically book beach access.
- Pay machines have proven to be extremely temperamental, costly, and break down as experienced multiple times at Sugarloaf Marina in the past.
- The same 'book in advance option' of the last two years will be available in Lot D and Lot C when accessibility is required as a substitute method to book parking.
- Staffing Nickel Beach Lots A, B, and C to control access will be time consuming and costly. Historically there was only one entrance and exit. This plan introduces multiple options. As a result, Staff are reviewing options to reduce the number of beach staff, and allocate budget funds to the by-law division for another seasonal by-law enforcement officer.

Nickel Beach Area

It is anticipated that moving parking up Lake Road may find some visitors looking to "beat the system" and park on Lake Rd, Welland St, Fares, Rodney, etc. In the initial years of the COVID-19 pandemic, parking backed up to these streets and caused notable concern among residents.

Staff recommend introducing resident only parking in this area that would require the use of a PORTicipate pass during beach season to distinguish between residents and visitors. A parking model similar to this is used in many beach communities. Funding for signage is included in the parking lot construction budget. Specifics on signage will accompany an updated parking by-law to include the parking lots and related to changes in parking proposed in this report with fines for infractions.

Internal Consultations:

This project is a cross departmental project. Departments being consulted and supporting this project include Recreation, Public Works, Community Safety (By-law) Legislative Services (Planning), and Corporate Services. The City's Joint Accessibility Committee is also being consulted.

Staff thank the Niagara Region and Niagara Peninsula Conservation Authority (NPCA) for meeting with City staff to move this project forward.

Financial Implications:

Financial implications resulting from topics in this report include changes to beach rates and parking lot construction costs.

Beach Rates (Appendix B)

The proposed beach parking rates identified in Appendix B are revised from those presented during the 2023 budget as a result of the new off-beach parking requirements.

In establishing these rates, the following was taken into consideration:

- The PORTicipate Pass (residents only) program will remain FREE in parking Lots A, B, and C at Nickel Beach and the lot at Centennial-Cedar Bay.
- Beach operational costs (no net change from the 2023 approved budget).
- Comparator fees at Bay Beach in Fort Erie.
- Goal to achieve operational simplicity.
- Options for customers around proximity to the beach and the ability to obtain a guaranteed parking spot (Nickel Beach and Centennial-Cedar Bay by maintaining the ability to book ahead as provided during the last two beach seasons).
- Uncertainty of supply/demand implications.

The fees proposed are forecasted to achieve the 2023 revenue budget of \$428,000, subject to the following assumptions:

- July 1 to September 4 – 50% occupancy from Monday to Thursday (excluding holidays) and 90% occupancy Friday to Sunday (including holidays).
- May 19 to June 30 and September weekends after September 4 – 20% occupancy from Monday to Thursday (excluding holidays) and 40% occupancy Friday to Sunday (including holidays).
- Weather is assumed to lead to closures or decreased demand and deter occupancy 20% of the days above.
- HST and booking system administrative fees will be in addition to the fees in Appendix A.
- Outside of the dates noted above, parking is free in Lots A and C and parking is closed in Lots D and Lot B before the Vale entrance off Lake Road.
- A budget of zero is maintained for production permits, beach fines, and parking fines.

An update to the parking lot by-law to accommodate parking and surrounding street parking fines will occur at a later date.

Parking Lot Construction Costs

The proposed budget for the new off-beach parking options is \$1,300,000. This includes new 'no parking' and 'local parking only' signage for the area surrounding the Nickel Beach area.

Staff identify that the beach operations have successfully transitioned to a self-sustaining entity in recent years. The change to off-beach parking will be significant for users. It is not clear what impact off-beach parking will have on visitor attendance to Nickel Beach. For this reason, and at the present time, this project cost is not forecasted to be paid through beach parking or access fees. Should visitor attendance be stronger than forecasted and a surplus in the beach operations is realized, that surplus will be available to offset project costs.

It is recommended the proposed budget of \$1,300,000 be funded from the infrastructure reserve. The estimated infrastructure reserve will be approximately \$2,200,000 after accommodating this funding requirement and the previously approved repairs to the Vale Health and Wellness Centre roof (approved January 24, 2023).

The proposed budget above does not include the potential acquisition of any property at this time.

Specifics on signage denoted above will accompany the parking by-law update to accommodate parking and surrounding street parking fines.

Public Engagement:

The new off-beach parking at Nickel Beach is new and continues to evolve. Should this report be approved, Staff will be utilizing social media and other communications mediums to inform the public.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Service and Simplicity - Quality and Innovative Delivery of Customer Services
 - Attracting Business Investment and Tourists to Port Colborne
 - City-Wide Investments in Infrastructure and Recreational/Cultural Spaces
 - Value: Financial Management to Achieve Financial Sustainability
-

Conclusion:

That Council approve the changes in beach rates proposed in Appendix B and for Staff to proceed with the construction of new off-beach parking options at Nickel Beach.

Staff highlight the timeline for developing the proposed off-beach parking options is extremely tight and the planning continues to evolve. Staff identify there may be a need to come back to Council for additional approvals regarding construction and/or beach operations. The short timeline to beach opening may even necessitate the use of special meetings of Council to keep the project moving.

Appendices: (If none delete section)

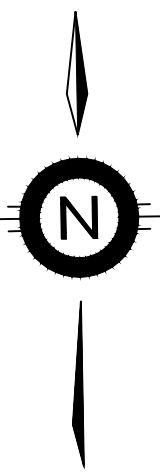
- a. Proposed Layout of Parking Lots A to D
- b. Beach Rates

Respectfully submitted,

Bryan Boles, CPA, CA, MBA
Director of Corporate Services/Treasurer
(905) 835-2900 Ext. 105
Bryan.Boles@portcolborne.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.



LOT A - CITY OWNED PARCEL
LOT B - PARALLEL PARKING FOR 200m
LOT C - ACCESSIBLE PARKING LOT
LOT D - VALE PARKING LOT

**MEN AND WOMEN'S WASHROOMS,
SEA-CANS, AND STAFF TRAILER**

NICKEL BEACH PROPOSED PARKING PLAN

0	ISSUED FOR DRAFT REVIEW	YYYY-MM-DD	XXX
NO.	REVISION	DATE	INIT.

NOTES/LEGEND	

DRAFTING	MP
DESIGN	MP
CHECKED BY	XXX
APPROVED BY	XXX

**THE CITY OF PORT COLBORNE
PARKING LAYOUT**

PLAN VIEW

CONSULTANT FILE No.	N/A
DATE	2022/02/14
SCALE	N/A
REF. No.	#
DWG No.	D-01
REV.	0



2023 BEACH RATES

Nickel Beach

Daily Parking Rates Lot A-C

(Lot C will have an Advance Sales option and will utilize Lot D pricing when doing so)

Weekday (Monday – Thursday)..... \$20.00

Weekend + Holidays (Friday – Sunday) \$30.00

Daily Parking Rates Lot D (Advance Sales)

Weekday (Monday – Thursday).....\$40.00

Weekend + Holidays (Friday - Sunday) \$50.00

Season Pass*

PORTicipate Pass (Residents Only).....FREE

Visitor Pass (Monday through Thursday excluding holidays)\$100.00

* Nickel Beach Lots A through C and the Centennial-Cedar Bay parking lot. Subject to availability. No guarantee of a parking spot.

Public Restricted Production Permits

Half Day Permit (4/- hours).....\$4,000.00

Full Day Permit (4/+ hours).....\$7,000.00

Centennial-Cedar Bay Beach

Daily Parking Rates (Advance Sales)

Weekday (Monday – Thursday).....\$20.00

Weekend + Holidays (Friday - Sunday) ... \$30.00

Additional Notes

The fees above are subject to HST and any process fees of third-party technology used to facilitate the related transactions.

Subject: Strategic Priorities Infrastructure Fund – Transfer Payment Agreement

To: Council

From: Office of the Chief Administrative Officer

Report Number: 2023-28

Meeting Date: February 28, 2023

Recommendation:

That Chief Administrative Officer – Economic Development and Tourism Services Division Report 2023-28 be received; and

That the Mayor and Acting City Clerk be authorized to execute an agreement with His Majesty the King in right of the Province of Ontario, as represented by the Minister of Infrastructure, for the Strategic Priorities Infrastructure Fund; and

That the By-law to authorize entering into the agreement be approved.

Purpose:

This report seeks to inform Council of the City's successful application to the Strategic Priorities Infrastructure Fund for \$827,712.38 and requests that Council authorize the Mayor and Acting City Clerk to execute the by-law and funding agreement.

Background:

In early March 2022, staff in the Economic Development and Tourism Services (EDTS) Division received email correspondence through the Director of Public Works and Director of Corporate Services about an opportunity to submit a project to the Sport and Community Renewal sub-stream of the Province of Ontario's Strategic Priorities Infrastructure Fund (SPIF). The submitted project, at a total cost of \$1,128,750, focuses on Port Colborne's waterfront cluster, consisting of Nickel Beach and West Street.

Ontario's Minister of Infrastructure, Kinga Surma, issued a letter to the City on April 11, 2022, to confirm approval of 73.33% or \$827,712.38 in funding support. A transfer

payment agreement (TPA) was received on February 7, 2023 after Ministry staff completed their review regarding obligations to consult with Indigenous communities and conduct an archaeological assessment.

Discussion:

This contribution from Ontario's Ministry of Infrastructure will enhance Port Colborne's waterfront cluster and renew two strategic areas of importance.

- A. Nickel Beach – Improve visitor and staff experiences by adding a portable unit that will give both groups access to washrooms and changerooms, and provide staff with an indoor space for performing administrative work and first aid services. This unit is to be located near the entrance of the beach, where access for maintenance and servicing is best. Being portable, it can be removed in the winter and either stored or re-deployed to another area of the city.
- B. West Street – Replace the existing wood planking along the water's edge with concrete in order to create a long-term solution that eliminates tripping hazards and safety issues. The project is to also include the addition of streetscaping elements that will support the vibrancy of the downtown by transforming the street into a more people-focused environment for residents, businesses, and tourists to enjoy.

The above-described components of the project must be substantially complete on or before March 31, 2027. The TPA officially expires on March 31, 2028.

Internal Consultations:

Staff in the EDTS Division consulted with the Director of Public Works, Director of Corporate Services, and the Manager of Recreation regarding the project proposed in the SPIF application.

Financial Implications:

The funding obtained through the SPIF supports the Nickel Beach and West Street projects as denoted above. These projects were updated in the 2023 Capital Budget (Appendix C) to reflect this anticipated funding.

The projects are broken down into four specific projects as follows:

Project Number	Project Name	SPIF	Other Donation/Grant	Levy	Total
22-BE-B82	Nickel Beach (Washrooms and First Aid)	417,981	152,019	-	570,000
22C-PW-B41	Promenade Improvements (Wood plank replacement)	183,325	-	66,675	250,000
22C-PW-R23	West St Streetscaping	178,741	69,250	189,159	437,150
22C-PW-R24	Wayfinding	47,665	23,270	59,065	130,000
		827,712	244,539	314,899	1,387,150

Public Engagement:

Under the Crown's and the Province's duty to consult based on the project's potential to adversely impact Aboriginal or treaty rights, the City retained a consultant to prepare a two-stage archaeological assessment of West Street. Since the project area lies within the traditional and treaty territories of the Mississaugas of the Credit First Nation (MCFN) as well as the traditional territory of the Attawandaron (Neutral), the process of conducting the archaeological assessment and providing comments on the report's results involved engagement with the MCFN and the Haudenosaunee Development Institute.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillars of the strategic plan:

- Attracting Business Investment and Tourists to Port Colborne
- City-Wide Investments in Infrastructure and Recreational/Cultural Spaces

Conclusion:

A successful application to the Sport and Community Renewal sub-stream of the Province's Strategic Priorities Infrastructure Fund will see the City of Port Colborne receive \$827,712.38. The project focuses on the waterfront cluster of Nickel Beach and

West Street, and it will deliver enhancements that renew the experiential quality of these two important public spaces.

Appendices:

- a. Transfer Payment Agreement for the Strategic Priorities Infrastructure Fund
- b. By-law to authorize TPA for the Strategic Priorities Infrastructure Fund

Respectfully submitted,

Greg Higginbotham
Tourism & Strategic Projects Coordinator
905-835-2900 x505
greg.higginbotham@portcolborne.ca

Gary Long
Manager of Strategic Initiatives
905-835-2900 x502
gary.long@portcolborne.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.

**TRANSFER PAYMENT AGREEMENT
FOR THE STRATEGIC PRIORITIES INFRASTRUCTURE FUND**

THIS TRANSFER PAYMENT AGREEMENT for a Strategic Priorities Infrastructure Fund Project (the “Agreement”) is effective as of the Effective Date.

B E T W E E N:

**His Majesty the King in right of the Province of Ontario,
as represented by the Minister of Infrastructure**

(the “**Province**”)

- and -

The Corporation of the City of Port Colborne

(CRA# 106984107)

(the “**Recipient**”)

BACKGROUND

The Government of Ontario created the Strategic Priorities Infrastructure Fund to support, in part, large-scale new builds and expansions of community, culture and recreation infrastructure.

The Recipient is eligible to receive funding under the Strategic Priorities Infrastructure Fund.

CONSIDERATION

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

1.0 ENTIRE AGREEMENT

1.1 Schedules to the Agreement. The following schedules form part of the Agreement:

Schedule “A” - General Terms and Conditions

Schedule “B” - Specific Information

Schedule “C” - Project Description, Financial Information, 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” - Indigenous 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.

2.0 CONFLICT OR INCONSISTENCY

- 2.1 **Conflict or Inconsistency.** In the event of a conflict or inconsistency between the provisions of:

- (a) the main body of the Agreement and the provisions of a schedule, the provisions of the main body of the Agreement will prevail to the extent of the conflict or inconsistency;
- (b) Schedule “A” (General Terms and Conditions) and the provisions of another schedule, the provisions of Schedule “A” (General Terms and Conditions) will prevail to the extent of the conflict or inconsistency.

3.0 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. Counterparts may be executed either in original or other electronic form and the Parties shall adopt any signatures received via e-mail as original signatures of the Parties.

4.0 AMENDING THE AGREEMENT

- 4.1 **Amending the Agreement.** The Agreement may only be amended by a further written agreement duly executed by the authorized representatives of the Parties.

5.0 ACKNOWLEDGEMENT

- 5.1 **Acknowledgement from Recipient.** The Recipient acknowledges that:

- (a) by receiving Funds it may become 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);
- (b) His Majesty the King in right of Ontario has issued expenses, perquisites, and procurement directives and guidelines pursuant to the *Broader Public Sector Accountability Act, 2010* (Ontario);
- (c) the Funds are:
 - i. to assist the Recipient to carry out the Project and not to provide goods or services to the Province;
 - ii. funding for the purposes of the *Public Sector Salary Disclosure Act, 1996* (Ontario);
- (d) the Province is not responsible for carrying out the Project;
- (e) the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province in connection with the Agreement may be subject to disclosure in accordance with that Act; and
- (f) pursuant to the *Financial Administration Act* (Ontario), any payment of Funds is subject to an appropriation from the Ontario Legislature; if the Province does not receive the necessary appropriation, the Province is not obligated to make any such payment and the Province:
 - (i) will terminate the Agreement immediately without liability, penalty, or costs, by giving Notice to the Recipient;
 - (ii) will cancel further instalments of Funds;
 - (iii) will demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and
 - (iv) may determine the reasonable costs for the Recipient to wind down the Project and permit the Recipient to offset such costs against the amount owing pursuant to section 5.1(f)(iii).

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 any Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

[SIGNATURE PAGE FOLLOWS]

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

**HIS MAJESTY THE KING IN RIGHT OF ONTARIO as
represented by the Minister of Infrastructure**

<hr/> Date	<hr/> p.p. Jill Vienneau, Assistant Deputy Minister The Honourable Kinga Surma Minister of Infrastructure
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AFFIX CORPORATE SEAL	THE CORPORATION OF THE CITY OF PORT COLBORNE
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<hr/> Date	<hr/> Name: Title: I have authority to bind the Recipient.
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<hr/> Date	<hr/> Name: Title: I have authority to bind the Recipient.
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[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 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) “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:

“Agreement” means this agreement entered into between the Province and the Recipient, all of the schedules listed in section 1.1, and any amending agreement entered into pursuant to section 4.1.

“Approval Date” means the date on which the Province has approved the Project identified in Schedule “C” (Project Description, Financial Information, and Project Standards).

“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.

“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 statutory or other holiday on which the Province is not open for business.

“Committee” refers to a Committee established pursuant to section A.28.1 (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 laws, 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.

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

“Event of Default” has the meaning ascribed to it in section A.13.1 (Events of Default).

“Expiry Date” means the expiry date set out in Schedule “B” (Specific Information).

“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 Expiry Date, whichever is first.

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

“Holdback” has the meaning as set out in section A.4.12 (Retention of Contribution).

“Indemnified Parties” means His Majesty the King in right of Ontario, and includes His ministers, agents, appointees and employees.

“Indigenous Communities” has the meaning ascribed to it in section I.1.1 (Definitions).

“Indigenous Consultation Record” has the meaning ascribed to it in section I.1.1 (Definitions).

“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 in section A.4.4 (Interest-Bearing Account), 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.

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

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

“Parties” means the Province and the Recipient.

“Party” means either the Province or the Recipient.

“Percentage of Provincial Support” has the meaning ascribed to it in section C.2.2.

“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 that anyone makes, brings, or prosecutes as a result of or in connection with the Project or with any other part of the Agreement.

“Project” means the undertaking described in Schedule “C” (Project Description, Financial Information, 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.13.3 (b), and includes any such period or periods of time by which the Province extends that time in accordance with section A.13.4 (Recipient Not Remediating).

“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.

“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 Eligible Expenditures” has the meaning ascribed to it in section C.2.1.

A.2.0 REPRESENTATIONS, WARRANTIES, AND COVENANTS

A.2.1 General. The Recipient represents, warrants, and covenants that:

- (a) it is, and will continue to be, a validly existing legal entity with full power to fulfill its obligations under the Agreement;
- (b) it has, and will continue to have, the experience and expertise necessary to carry out the Project;
- (c) 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;
- (d) 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.

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, including passing a municipal by-law or band council resolution authorizing the Recipient to enter into the Agreement.

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

- (a) a code of conduct and ethical responsibilities for all persons at all levels of the Recipient's organization;
- (b) procedures to enable the Recipient's ongoing effective functioning;
- (c) decision-making mechanisms for the Recipient;
- (d) procedures to enable the Recipient to manage Funds prudently and effectively;
- (e) procedures to enable the Recipient to complete the Project successfully;
- (f) 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;
- (g) procedures to enable the preparation and submission of all Reports required pursuant to Article A.7.0; and
- (h) 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 Expiry Date unless terminated earlier pursuant to section 5.1(f), Article A.12.0 (Termination on Notice) or Article A.13.0 (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 Schedule “J” (Requests for Payment and Payment Procedures); and
- (c) deposit the Funds into an account the Recipient designates, provided that the account:
 - (i) resides at a Canadian financial institution; and
 - (ii) is 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.30.1 (Special Conditions); and
 - (ii) any Funds to the Recipient until the Province is satisfied with the progress of the Project;
- (b) the Province may adjust the amount of Funds it provides to the Recipient in any Funding Year 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) the Province is not obligated to provide any Funds to the Recipient until it is satisfied that its duty to consult with Indigenous Communities and, if applicable, duty to accommodate any Indigenous Communities, have been met.

A.4.3 Use of Funds and Carry Out the Project. The Recipient will 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 that are necessary to carry out the Project on and after the Approval Date; and
- (d) 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.

- A.4.4 **Interest-Bearing Account.** If the Province provides Funds 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.
- 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 from the Funds; or
 - (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; and
 - (b) if the total contribution from all provincial sources in respect of the Project exceeds 73.3% of Total Eligible Expenditures, the Province may recover the excess from the Recipient or reduce the amount of Funds it provides to the Recipient 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 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.13.4 (Recipient Not Remediating).

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 a maximum of 10% of the Funds in respect of the Project (“**Holdback**”) up until the following conditions have been met:

- (a) the Recipient has fulfilled all of its obligations under the Agreement for the Project; and
- (b) the Parties have jointly carried out a final reconciliation, as set out in J.6.0 (Final Reconciliation and Adjustments), and made any adjustments required in the circumstances.

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

A.5.1 Acquisition. If the Recipient acquires goods, services, or both with the Funds, it will:

- (a) do so through a process that is fair, transparent, competitive, and consistent with value for money principles, or in a manner otherwise acceptable to the Province; and
- (b) comply with the *Broader Public Sector Accountability Act, 2010* (Ontario), including any procurement directive issued thereunder, to the extent applicable.

A.5.2 Non-Compliance with Acquisition Requirements. If the Province 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 may consent to the provision of exemptions from competitive awarding of Contracts on a case-by-case basis, in its

sole and absolute discretion, if the Recipient provides a written request indicating the business case rationale for the exemption, in advance of the Contract being awarded.

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 any authorized representative or independent auditor identified by the Province, and the Auditor General of Ontario 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 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 Includes. For the purpose of sections A.7.4 (Records Review), A.7.5 (Inspection and Removal) and A.7.6 (Cooperation), “Province” includes any auditor or representative that the Province may identify.

A.7.2 Preparation and Submission. The Recipient will:

- (a) submit to the Province at the address referred to in section A.16.1 (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 for a period of seven years after the Expiry Date:

- (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 may, at its own expense, 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 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;
- (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); and
- (b) remove any copies the Province makes pursuant to section A.7.5(a).

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 any control whatsoever over the Recipient's records.

A.7.8 Auditor General. 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 9.1 of the *Auditor General Act* (Ontario).

- A.7.9 **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.7.10 **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.7.11 **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 INDIGENOUS CONSULTATION

- A.9.1 **Indigenous Consultation Protocol.** The Parties agree to be bound by the terms and conditions of the Indigenous Consultation Protocol provided for in Schedule “I” (Indigenous Consultation Protocol).
- A.9.2 **Legal Duty to Consult.** Until the Province is satisfied that any legal duty to consult and, where appropriate, to accommodate Indigenous Communities 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) the Province has no obligation to pay any Eligible Expenditures that are capital costs, as determined by the Province; and, for any Project requiring consultation, the Province must be satisfied that:
 - (i) Indigenous 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 Indigenous 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 the Province may deem appropriate.

A.9.3 Archaeological Assessments. The Recipient will undertake archaeological assessments on the sites upon which the Project will occur where ground disturbance is proposed.

A.10.0 INDEMNIFY

A.10.1 Indemnify. The Recipient will indemnify and hold harmless the Indemnified Parties from and against any Loss and any Proceeding, unless solely caused by the negligence or wilful misconduct of the Indemnified Parties.

A.10.2 Recipient's Participation. The Recipient will, at its expense, to the extent requested by the Province participate in or conduct the defence of any Proceedings against any of the Indemnified Parties and any negotiations for their settlement.

A.10.3 Province's Election. The Province may elect to participate in, or conduct the defence of, any Proceeding by providing Notice to the Recipient of such election, without prejudice to any other rights or remedies of the Province under the Agreement, at law or in equity. If the Province or the Recipient, as applicable, participates in the defence, it will do so by actively participating with the other's counsel.

A.10.4 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 prior written approval or a waiver of this requirement. If the Recipient is requested by the Province to participate in or conduct the defence of any Proceeding, the Province will cooperate with and assist the Recipient to the fullest extent possible in the Proceeding and any related settlement negotiations.

A.10.5 Recipient's Cooperation. If the Province conducts the defence of any Proceeding, the Recipient will cooperate with and assist the Province to the fullest extent possible in the Proceeding and any related settlement negotiations.

A.11.0 INSURANCE

A.11.1 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, which commercial general liability insurance policy will include the following:

- (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.11.2 Proof of Insurance. The Recipient will:

- (a) provide to the Province, either:
 - (i) annually, certificates of insurance that confirm the insurance coverage as provided in section A.11.1 (Recipient's Insurance); or
 - (ii) other proof that confirms the insurance coverage as provided for in section A.11.1 (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.12.0 TERMINATION ON NOTICE

A.12.1 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.12.2 Consequences of Termination on Notice by the Province. If the Province terminates the Agreement pursuant to section A.12.1 (Termination on Notice), the Province may take one or more of the following actions:

- (a) direct the Recipient not to incur any costs for the Project without the Province's prior written consent;
- (b) cancel further instalments of Funds;
- (c) demand from the Recipient the payment of any Funds plus Interest Earned remaining in the possession or under the control of the Recipient; and
- (d) determine the reasonable costs for the Recipient to wind down the Project and do either or both of the following:

- (i) permit the Recipient to offset such costs against the amount the Recipient owes pursuant to paragraph A.12.2(c); and
- (ii) subject to paragraph A.4.1(a), provide Funds to the Recipient to cover such costs.

A.13.0 EVENT OF DEFAULT, CORRECTIVE ACTION, AND TERMINATION FOR DEFAULT

A.13.1 Events of Default. Each of the following events will constitute an Event of Default:

- (a) in the opinion of the Province, the Recipient breaches any representation, warranty, covenant, or other material term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:
 - (i) carry out the Project;
 - (ii) use or spend Funds; or
 - (iii) provide, in accordance with section A.7.2 (Preparation and Submission), Reports or such other reports as the Province may have requested pursuant to paragraph A.7.2(b);
- (b) the Recipient's operations, its financial condition, or 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;
- (c) 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;
- (d) the Recipient ceases to operate.

A.13.2 Consequences of Events of Default and Corrective Action. If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) initiate any action the Province considers necessary in order to facilitate the successful continuation or completion of the Project;
- (b) provide the Recipient with an opportunity to remedy the Event of Default;
- (c) suspend the payment of Funds for such 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 remaining in the possession or under the control of the Recipient plus Interest Earned;
- (g) demand from the Recipient the payment of an amount equal to any Funds the Recipient used plus Interest Earned, 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 plus Interest Earned;
- (i) demand from the Recipient the payment of 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) upon giving Notice to the Recipient, terminate the Agreement at any time, including immediately, without liability, penalty, or costs to the Province.

A.13.3 Opportunity to Remedy. If, pursuant to section A.13.2(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.13.4 Recipient Not Remediating. If the Province provides the Recipient with an opportunity to remedy the Event of Default pursuant to paragraph A.13.2(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 sections A.13.2(a), (c), (d), (e), (f), (g), (h), (i) and (j).

A.13.5 When Termination Effective. Termination under this Article A.13.0 (Event of Default,

Corrective Action, and Termination for Default) will take effect as provided for in the Notice.

A.14.0 FUNDS UPON EXPIRY

A.14.1 **Funds Upon Expiry.** Upon expiry of the Agreement, the Recipient will pay to the Province any Funds plus Interest Earned remaining in its possession, under its control, or both.

A.15.0 DEBT DUE AND PAYMENT

A.15.1 **Payment of Overpayment.** If at any time the Province provides Funds in excess of the amount to which the Recipient is entitled under the Agreement, the Province may:

- (a) deduct an amount equal to the excess Funds plus 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 Interest Earned.

A.15.2 **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 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.15.3 **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.15.4 **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).

A.15.5 **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, His Majesty the King in right of Ontario may deduct any unpaid amount from any money payable to the Recipient by His Majesty the King in right of Ontario.

A.16.0 NOTICE

A.16.1 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.16.2 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.16.3 Postal Disruption. Despite paragraph A.16.2(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.17.0 CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT

A.17.1 Consent. When the Province 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 may have attached to the consent.

A.18.0 SEVERABILITY OF PROVISIONS

A.18.1 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.19.0 WAIVER

A.19.1 **Waiver Request.** Either Party may, by Notice, ask the other Party to waive an obligation under the Agreement.

A.19.2 **Waiver Applies.** If in response to a request made pursuant to section A.19.1 (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.20.0 INDEPENDENT PARTIES

A.20.1 **Parties Independent.** The Recipient is not an agent, joint venturer, partner, or employee of the Province, and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any actions that could establish or imply such a relationship.

A.20.2 **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 to act as an agent for the Province. 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.21.0 ASSIGNMENT OF AGREEMENT OR FUNDS

A.21.1 **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.21.2 **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 His Majesty the King in right of Ontario.

A.22.0 GOVERNING LAW

A.22.1 **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.23.0 FURTHER ASSURANCES

A.23.1 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.24.0 JOINT AND SEVERAL LIABILITY

A.24.1 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.25.0 RIGHTS AND REMEDIES CUMULATIVE & JOINT AUTHORSHIP

A.25.1 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.25.2 Joint Authorship Of Agreement. The Parties will be considered joint authors of this Agreement and no provision herein will be interpreted against one Party by the other Party because of authorship. No Party will seek to avoid a provision herein because of its authorship through recourse to a third-party, court, tribunal or arbitrator.

A.26.0 FAILURE TO COMPLY WITH OTHER AGREEMENTS

A.26.1 Other Agreements. If the Recipient:

- (a) has failed to comply with any term, condition, or obligation under any other agreement with His Majesty the King in right of Ontario or one of His 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 may suspend the payment of Funds for such period as the Province determines appropriate and may deduct amounts owing as a result of such Failure from the Funds owing under this Agreement.

A.27.0 ENVIRONMENTAL REQUIREMENTS AND ASSESSMENTS

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

- (a) no form of site preparation, removal of vegetation or construction shall 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 it is satisfied that all applicable environmental assessment legislation that is or may come into force during the term of the Agreement has been met and continues to be met.

A.28.0 COMMITTEE

A.28.1 Establishment of Committee. The Province may, at its sole discretion, require the establishment of a committee to oversee the Agreement (the "Committee").

A.28.2 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.28.1 (Establishment of Committee).

A.29.0 DISPUTE RESOLUTION

A.29.1 Contentious Issues. The Parties will keep each other informed of any issues that could be contentious.

A.29.2 Examination by the Committee and Parties. If a contentious issue arises and a Committee has been established under section A.28.1 (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.29.3 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.29.4 **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.29.5 **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.29.6 **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.30.0 SPECIAL CONDITIONS

- A.30.1 **Special Conditions.** The Province's funding under the Agreement is conditional upon,
- (a) on or before the Effective Date, the Recipient having provided 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.11.2 (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, the Recipient having provided 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 (Environmental Requirements), and has obtained all necessary approvals and permits;
 - b. the Recipient has met any requirements under Article A.9.0 (Indigenous Consultation) that may apply to the Project; and

- c. the Recipient has title to and ownership of any real property necessary for the completion of the Project.
- (c) the Recipient having submitted, in a format and with such content as may be requested by the Province, to the Province, at the address referred to in section A.16.1 (Notice in Writing and Addressed), an asset management planning questionnaire on or before the Effective Date, and, thereafter, on or before February 1 in each of the years 2024 and 2025, unless the Project has reached Substantial Completion before such date.
- (d) on or before December 31, 2022, the Recipient having submitted to the Province, at the address referred to in section A.16.1 (Notice in Writing and Addressed):
 - (i) a weblink to the publicly available website where the Recipient's strategic asset management policy has been posted, pursuant to Ontario Regulation 588/17 (Asset Management Planning for Municipal Infrastructure), as may be amended from time to time.
 - (ii) a weblink to the publicly available website where the Recipient's asset management plan has been posted, pursuant to Ontario Regulation 588/17 (Asset Management Planning for Municipal Infrastructure), as may be amended from time to time.

For greater certainty, if the Province provides any Funds to the Recipient before the conditions set out in this Article A.30.0 (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.13.2 (Consequences of Event of Default and Corrective Action).

A.31.0 SURVIVAL

A.31.1 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), A.1.0 (Interpretation and Definitions) and any other applicable definitions, paragraphs A.2.1(a), 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 Includes), 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), A.7.9 (Evaluation), A.7.10 (Calculations), Articles A.8.0 (Communications Requirements), A.10.0 (Indemnify), sections A.12.2 (Consequences of Termination on Notice by the Province), A.13.1 (Events of Default), paragraphs A.13.2(d), (e), (f), (g), (h) and (i), A.14.0 (Funds Upon Expiry), A.15.0 (Debt Due and Payment), A.16.0 (Notice), and A.18.0 (Severability of Provisions), section A.21.2 (Agreement Binding), and Articles A.22.0 (Governing Law), A.24.0 (Joint and Several Liability), A.25.0 (Rights and Remedies Cumulative), A.27.0 (Environmental Requirements and Assessments), A.30.0 (Special Conditions) and A.31.0 (Survival).

[SCHEDULE “B” (SPECIFIC INFORMATION) FOLLOWS]

**SCHEDULE “B”
SPECIFIC INFORMATION**

B.1.0 EXPIRY DATE

B.1.1 Expiry Date. The Expiry Date is March 31, 2028.

B.2.0 MAXIMUM FUNDS

B.2.1 Maximum Funds. Maximum Funds means \$ 827,712.38, rounded to two decimal places.

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	<p>Address: Ministry of Infrastructure Infrastructure Program Delivery Branch 777 Bay Street, Floor 4, Suite 425 Toronto, Ontario, M7A 2J3</p> <p>Attention: Manager, Program Delivery Unit</p> <p>Email: ICIPculture@ontario.ca</p>
Contact information for the purposes of Notice to the Recipient	<p>Address: The City of Port Colborne 66 Charlotte Street/Rue Port Colborne, Ontario, L3K 3C8</p> <p>Attention: Gary Long, Manager of Strategic Initiatives</p> <p>Email: gary.long@portcolborne.ca</p>

[SCHEDULE “C” (PROJECT DESCRIPTION, FINANCIAL INFORMATION, AND PROJECT STANDARDS) FOLLOWS]

SCHEDULE “C”

PROJECT DESCRIPTION, FINANCIAL INFORMATION, AND PROJECT STANDARDS

C.1.0 PROJECT DESCRIPTION

This project, Enhancing Port Colborne's Core Waterfront Cluster, will enhance Port Colborne's core waterfront cluster by completing the following activities/work:

- Improve experiences of visiting Nickel Beach by purchasing an all-in-one mobile trailer unit complete with space for washrooms, first-aid and administrative work, as well as ramps for people of all abilities;
- Enhance the recreational and cultural characteristics of West Street by repairing the promenade and installing signage as well as various streetscaping elements;
- The existing wood planking along the promenade has met its life span and is now causing safety concerns as the wood panels break free from their framing and cause tripping hazards along the main walkway on West Street. This activity will entail replacing the wood planking with concrete in order to create a long-term solution.
- The project components of streetscaping on West Street will include but are not limited to new and updated wayfinding signage and interpretative boards, new walkways and outdoor lighting for improved accessibility and safety, and landscaping features, amenities, and furnishings.

C.2.0 FINANCIAL INFORMATION

C.2.1 Total Eligible Expenditures. “Total Eligible Expenditures” means \$1,128,750.00, rounded to two decimal places.

C.2.2 Percentage of Provincial Support. “Percentage of Provincial Support” means 73.33%, rounded to two decimal places.

C.3.0 TIMELINES

C.3.1 Approval Date. Approval Date means March 6, 2022.

C.4.0 PROJECT STANDARDS

C.4.1 Energy and Accessibility 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, AND PROJECT STANDARDS

- C.5.1 Province's Consent.** Any change to the Project will require the Province's prior written 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 may require to the satisfaction of the Province.

[SCHEDULE "D" (REPORTS) FOLLOWS]

SCHEDULE “D” REPORTS

D.1.0 REPORTS

D.1.1 Reports. The Recipient shall submit the Reports set out in Article D.2.0 (Reporting Requirements) to the Province in a format and with such content requirements as may be specified by the Province, and in accordance with the timelines set out in Article D.2.0 (Reporting Requirements) in respect of the Project.

D.2.0 REPORTING REQUIREMENTS

D.2.1 Reporting Requirements. The Recipient will submit to the Province the following Reports:

- (a) on or before the Effective Date, an Initial Report that will include:
 - i. the Recipient's forecast of the timelines and costs (expenditure forecast) to the completion of the Project;
 - ii. the sources of Recipient funds; and
 - iii. other pertinent information regarding the Project.
- (b) for the period from the Effective Date to the date the Project is Substantially Completed, semi-annual Progress Reports to be submitted on or before dates to be prescribed by the Province that will include, without limitation and at the sole discretion of the Province, the following information in respect of the Project:
 - i. The Province's and the Recipient's respective forecasted contributions to the Project by Funding Year;
 - ii. the construction start date and the construction end date (forecasted and actual where applicable);
 - iii. the percentage of the Project that has been completed;
 - iv. risks and mitigation strategies;
 - v. confirmation that the Project is on track to achieve expected results; and
 - vi. confirmation that all required signage for the Project has been installed.
- (c) within 60 Business Days of Substantial Completion, a Final Report that will include:

- i. a summary of the Project's final timelines, costs, and outcomes; and
- ii. if requested by the Province, a declaration of Substantial Completion and a declaration of completion.

D.2.2 Attestation. The Recipient will include in each Report an attestation that confirms that the information in the Report is accurate.

D.3.0 INDIGENOUS CONSULTATION RECORD

D.3.1 Inclusion of Indigenous Consultation Record. The Recipient will include an updated Indigenous Consultation Record, if consultation with any Indigenous Community is required, in a format and in accordance with timelines to be provided by the Province.

D.4.0 COMPLIANCE AUDIT(S)

D.4.1 Compliance Audit(s). Without limiting the generality of section A.7.4 (Records Review), if requested by the Province, the Recipient will, at its own expense, retain an independent third-party auditor to conduct one or more compliance audits of the Recipient. 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. The audit will assess the Recipient's compliance with the terms of the Agreement and will address, 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.

D.4.2 **Submission of Compliance Audit(s).** The Recipient will submit a copy of the report for the compliance audit carried out in accordance with section D.4.1 (Compliance Audit(s)) to the Province within 30 days of the report's completion.

**[Schedule "E" (ELIGIBLE EXPENDITURES AND INELIGIBLE EXPENDITURES)
FOLLOWS]**

SCHEDULE “E”

ELIGIBLE EXPENDITURES AND INELIGIBLE EXPENDITURES

E.1.0 ELIGIBLE EXPENDITURES

E.1.1 Scope of Eligible Expenditures. Eligible Expenditures are the direct costs that are, in the Province’s sole and absolute discretion, properly and reasonably incurred and paid to an arm’s length party. Eligible Expenditures only include the following costs:

- (a) costs incurred on or after the Approval Date and paid on or before March 31, 2027;
- (b) all costs considered by the Province to be directly necessary for the successful completion of the Project, which may include, unless excluded under Article E.2.0 (Ineligible Expenditures), acquisition, planning, environmental assessment, design and engineering, project management, material, construction or renovation costs;
- (c) costs evidenced by invoices, receipts or other records that are satisfactory to the Province, in its sole and absolute discretion;
- (d) 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.
- (e) any other cost that is determined by the Province, in its sole and absolute discretion, to be an Eligible Expenditure.

E.2.0 INELIGIBLE EXPENDITURES

E.2.1 Scope of Ineligible Expenditures. Unless a cost is considered an Eligible Expenditure pursuant to section E.1.1 (Scope of Eligible Expenditures), such cost will be considered an Ineligible Expenditure. Without limitation, the following costs are Ineligible Expenditures:

- (a) Costs incurred prior to the Approval Date;
- (b) Costs incurred and paid after March 31, 2027;
- (c) All expenditures related to Contracts awarded or executed prior to the 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) Costs that have not been submitted for reimbursement on or before the date that is 60 Business Days following Substantial Completion of the Project;
- (j) Capital costs, including site preparation and construction costs, until the Province has confirmed in writing that Indigenous consultation obligations have been fully met and continue to be fully met, if applicable;
- (k) Costs related to any component of the Project other than its approved scope;
- (l) Real estate fees and related costs;
- (m) Costs incurred for the general operation, repair and regularly scheduled maintenance of the Project;
- (n) Services or works normally provided by the Recipient, incurred in the course of implementation of the Project, except those specified as Eligible Expenditures;
- (o) Expenditures related to any goods and services which are received through donations or in-kind contributions;
- (p) 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;
- (q) Unreasonable meal, hospitality or incidental costs or expenses of any Third Party;
- (r) 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;
- (s) Taxes of any kind;
- (t) Costs of relocating entire communities;
- (u) 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";

- (v) Any amounts incurred or paid by the Recipient to an entity that is not at arm's length from the Recipient;
- (w) Costs incurred contrary to Article A.5.0 (Recipient's Acquisition of Goods or Services, and Disposal of Assets) of Schedule "A" (General Terms and Conditions) of this Agreement;
- (x) Costs, charges, penalties or fees incurred or paid by the Recipient in the process of having a cost determined to be an Ineligible Expenditure.
- (y) 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;
- (z) Legal fees, financing charges and loan interest payments, including those related to easements (e.g., surveys);
- (aa) 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;
- (bb) 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 PROGRAM EVALUATIONS

- F.1.1 Recipient’s Participation in Project and Program Evaluations.** The Recipient understands that the Province may ask the Recipient to participate in one or more evaluations in respect of the Project 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 for any evaluation.
- F.1.2 Results of Project and Program Evaluations.** The result of any evaluation carried under section F.1.1 (Recipient’s Participation in Project and Program 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 that are not operational in nature, and that are collaboratively developed and approved by 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 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 public.** Communications Activities undertaken through this communications protocol should ensure that the public is 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 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 prior to being carried out.

G.3.5 **Costs of Communication Activities.** With the exception of advertising campaigns outlined in Article G.9.0 (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 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.
- G.4.3 **Recognition of the Province’s Contributions.** All Joint Communications material must be approved by the Province and will recognize the Province’s contribution received in respect of the Project.
- G.4.4 **Notice and Timing.** The Recipient and the Province 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.
- G.4.5 **Participation and Representatives.** The Party requesting a Joint Communications will provide the opportunity for the other Party 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.** The Province has an obligation to communicate in English and French. Communications products related to events must be bilingual in many instances. In such cases, the Province will provide the translation services and final approval on products.

G.5.0 INDIVIDUAL COMMUNICATIONS

- G.5.1 **The Province’s Obligations.** Notwithstanding Article G.4.0 (Joint Communications), the Parties agree that the Province has the right to communicate information to 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 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.

- 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 the Province.
- G.5.4 **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 the Province's 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 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.

G.7.0 MEDIA RELATIONS

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

G.8.0 SIGNAGE

- G.8.1 **Recognition of Funding Contribution.** The Parties agree that 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 the Province the Recipient will produce and install a sign to recognize the funding contributed by the Province at the Project site in accordance with the Province's current respective signage guidelines. 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 contribution; and
 - (b) prior to installing the marker, seek the prior written approval of the Province 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 the Province's contribution 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 the Province's 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, or as otherwise agreed upon.

G.9.0 ADVERTISING CAMPAIGNS

- G.9.1 **Notice of Advertising Campaigns.** Recognizing that advertising can be an effective means of communicating with the public, the Recipient agrees that the Province may, at its 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, the Province will inform 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 Expiry 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 the Province, or a municipal or regional government established by or under provincial statute, the Province may require the Recipient to reimburse the Province for any Funds received for the Project

[SCHEDULE “I” (INDIGENOUS CONSULTATION PROTOCOL) FOLLOWS]

SCHEDULE “I” INDIGENOUS CONSULTATION PROTOCOL

I.1.0 DEFINITIONS

I.1.1 **Definitions.** For the purposes of this Schedule “I” (Indigenous Consultation Protocol):

“**Indigenous Communities**” include First Nation, Métis, and Inuit communities or peoples of Canada.

“**Indigenous Consultation Plan**” means the Indigenous Consultation Plan described in section I.2.1 (Development of Plan).

“**Indigenous Consultation Record**” means a document that records and describes, as the Province may require, the consultation activities carried out during the Project and the results of that consultation.

I.2.0 INDIGENOUS CONSULTATION PLAN

I.2.1 **Development of Plan.** The Province, based on the scope and nature of the Project, may require the Recipient, in consultation with the Province, to develop and comply with an Indigenous consultation plan (“Indigenous Consultation Plan”).

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

- (a) the Province may delegate certain procedural aspects of the consultation to the Recipient; and
- (b) the Province will provide the Recipient with an initial list of the Indigenous Communities the Recipient will consult with.

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 Indigenous Consultation Plan is required, the Recipient will, within the timelines provided in the Notice, provide the Province with a copy of the Indigenous Consultation Plan.

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

I.3.0 INDIGENOUS CONSULTATION RECORD

I.3.1 **Requirements for Indigenous Consultation Record.** If consultation with an Indigenous Community is required, the Recipient will maintain an Indigenous 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 Indigenous 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 Indigenous Communities regarding the Project;
- (b) of the outcomes of any archaeological assessments undertaken on the sites upon which the Project will occur; or
- (c) of any Indigenous archaeological resources that are discovered in relation to the Project,

and the Recipient agrees that the Province may direct the Recipient to take such actions as the Province may require. The Recipient will comply with the Province'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 as the Province 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.7.0 (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 (Procedures for Requests for Payment for Eligible Expenditures) of this Schedule “J” 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 to the Province in a diligent and timely manner.

J.3.0 PROCEDURES FOR REQUESTS FOR PAYMENT FOR ELIGIBLE EXPENDITURES

J.3.1 **Timing, Reports and Documents.** The Recipient will submit a request for payment for Eligible Expenditures in respect of the Project to the Province no more than quarterly and no less than twice a year, unless an alternative request for payment schedule has been requested in advance by the Recipient and the Province has agreed to the request in writing, if costs have been incurred, and, if the Province so requested pursuant to paragraph K.4.1(f), after review by the Committee. If no costs have been incurred within the previous six months, the Recipient will notify the Province that no claim is being submitted for that period. The Recipient agrees to submit, for each of the circumstances listed below, the following reports and documents:

(a) for each request for payment, including the Final Payment:

- i. a report in a format prescribed by the Province;
- ii. a detailed breakdown of invoices that are being claimed for reimbursement;
- iii. copies of invoices and associated documentation that may be required to validate the eligibility of expenditures, including but not limited to proof of payment;

- iv. an attestation by an authorized representative in a format acceptable to the Province that confirms that the Eligible Expenditures claimed in the request for payment have been paid and incurred in accordance with the terms and conditions of the Agreement;
 - v. such other information as the Province may request.
- (b) for each request for Final Payment, a Final Report, acceptable to the Province; and
- (c) such other information as the Province may request.

J.4.0 PAYMENTS

- 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 Eligible Expenditures up to the Maximum Funds. Claims will be reimbursed based on the Percentage of Provincial 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:
- (a) the conditions set out in paragraph A.4.2(c) of Schedule “A”;
 - (b) the special conditions listed in section A.30.1 (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 on or before the date that is 60 Business Days following Substantial Completion.
- J.5.2 No Obligation for Payment.** The Province will have no obligation to make any

payment for a request for payment submitted after the date that is 60 Business Days following Substantial Completion.

J.6.0 FINAL RECONCILIATION AND ADJUSTMENTS

J.6.1 **Final Reconciliation and Adjustments.** For the Project, following the submission of the Final Report and any other requested Reports, the Province may 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.** The Province may hold back funding in accordance with section A.4.12 (Retention of Contribution).

J.7.0 FINAL PAYMENT

J.7.1 **Final Payment.** Subject to paragraph 5.1(f), the Province will pay to the Recipient the remainder of its contribution under the Agreement, including the Holdback, after all of the conditions under section A.4.12 (Retention of Contribution) of Schedule “A” (General Terms and Conditions) 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.28.1 (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 Expiry 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.

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).

The Corporation of the City of Port Colborne

By-law No. _____

Being a By-law to Authorize Entering into an Agreement with the Province of Ontario, as represented by the Minister of Infrastructure, for the Strategic Priorities Infrastructure Fund

Whereas at its meeting of February 28, 2023, the Council of The Corporation of the City of Port Colborne ("Council") approved the recommendations of Office of the Chief Administrative Officer Report 2023-28, Subject: Strategic Priorities Infrastructure Fund – Transfer Payment Agreement; and

Whereas Council is desirous of entering into an Agreement with the Province of Ontario, as represented by the Minister of Infrastructure; and

Whereas the *Municipal Act*, 2001 S.O. 2001, c.25, as amended, confers broad authority on municipalities to enter into such agreements;

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

1. That The Corporation of the City of Port Colborne enters into a Transfer Payment Agreement with His Majesty the King in right of the Province of Ontario, as represented by the Minister of Infrastructure, for the Strategic Priorities Infrastructure Fund;
2. That the Mayor and the Acting City Clerk be and are hereby authorized and directed to sign the said agreement, attached hereto as Schedule "A", together with any documents necessary to complete the conditions of the said agreement, and the Acting City Clerk is hereby authorized to affix the Corporate Seal thereto.

Enacted and passed this 28th day of February, 2023.

William C. Steele
Mayor

Nicole Rubli
Acting City Clerk

**Subject: Dedicate Portion of Borden Avenue as a Public Highway -
(Part 4 of Plan 59R-17542)**

To: Council

From: Office of the Chief Administrative Officer

Report Number: 2023-25

Meeting Date: February 28, 2023

Recommendation:

That Chief Administrative Officer- Economic Development and Tourism Division Report 2023-25 be received; and

That a By-law to dedicate a portion of Borden Avenue Road Allowance, legally described as Part 4, Plan 59R-17542, as a public highway, be brought forward; and

That the Mayor and Acting City Clerk be authorized to sign and execute the By-law and related documents to dedicate the Borden Avenue Road Allowance as a public highway.

Purpose:

The purpose of this report is to seek Council support to have a portion of the Borden Avenue Road Allowance dedicated as a public highway in order for the owners of Part 2 and 3 on 59R-17542, Kenneth and Wendy Busch, to have legal access to their property.

Background:

The Economic Development and Tourism Services Division (EDTS) has undertaken a review of City-owned property to identify potential surplus lands that could be made available to support development opportunities and expand the City's tax base. Infill development creates additional assessment on the City's tax roll and adds users to the water and wastewater system to help improve efficiency. Staff have applied this rationale when analyzing sites for potential disposition. The Borden Avenue Road Allowance was one such property.

The Borden Avenue Road Allowance was closed with a Stop Up and Close By-law approved by Council on March 15, 2022 (Report 2022-55) and declared surplus on June 14, 2022, (Report 2022-120). A new reference plan was completed to facilitate the disposition of three parcels to two purchasers. The disposition of the Borden Avenue Road Allowance was conveyed in three parts on February 3, 2023, through By-law 7028/65/22 (City land fronting on Knoll Street) and 6990/28/22 (City land fronting on Steele Street).

Discussion:

Currently the owners who purchased City land on the Steele Street side of the Borden Avenue Road Allowance do not have proper legal access to Part 2 and 3 of 59R-17542 because Borden Avenue was fully closed as a public highway. Part 4 was created so the sidewalk on Steele Street would stay in City ownership. The impact is that it prevents legal access to Part 2 and 3 which was conveyed by the City to Kenneth and Wendy Busch.

The City Solicitor, and the Solicitor representing the purchasers of Part 2 and 3 of Plan 59R-17542, agreed that having Part 4 of 59R-17542 dedicated as a public highway would be the best manner to provide the purchasers with legal access to their property.

City staff, and the City Solicitor, are recommending that Council approve the by-law to dedicate Part 4, Plan 59R-17542, as a public highway to rectify the access issue.

Financial Implications:

There are no financial implications to this report and recommendation.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillars of the strategic plan:

- Attracting Business Investment and Tourists to Port Colborne
 - Governance: Communications, Engagement, and Decision-Making
-

Conclusion:

The Borden Avenue Road Allowance was closed with a Stop Up and Close By-law with Report 2022-55. The City sold two infill parcels on Borden Avenue in early February 2023 and this was comprised of three parts on one reference plan 59R-17542, Part 4, was created for the City to retain ownership of the sidewalk on Steele Street. However,

to allow the property owners to legally access Part 2 and 3, Part 4 on 59R-17542 will need to be dedicated as a public highway. This is the recommendation of the City Solicitor to rectify this issue and a by-law is required.

Appendices:

- a. Reference Plan 59R-17542
- b. By-law

Respectfully submitted,

Bram Cotton
Economic Development Officer
(905) 835-2900 Ex 504
Bram.Cotton@portcolborne.ca

Gary Long
Manager of Strategic Initiatives
(905) 835-2900 Ex.502
Gary.Long@portcolborne.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.

The Corporation of the City of Port Colborne

By-law No. _____

Being a By-law to Authorize the Dedication of Part 4 Plan 59R-17452 as a Public Highway

Whereas at its meeting of February 28th, 2023, the Council of The Corporation of the City of Port Colborne (Council) approved the recommendations of Chief Administrative Officer Report 2023-25, Subject: Dedicate a portion of Borden Avenue as a Public Highway, Part 4, Plan 59R-17542; and

Whereas Section 27(1) of the *Municipal Act*, 2001, provides that, except as otherwise provided in the Act, a municipality may pass by-laws in respect of a highway only if it has jurisdiction over the highway; and

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

1. That a portion of the Borden Avenue Road Allowance, legally described as Part 4, Plan 59R-17542, be dedicated as a public highway;
2. That the Mayor, the Acting City Clerk be and are hereby authorized to execute any documents that may be required for the purpose of carrying out the intent of this by-law and the Acting City Clerk is dully authorized to affix the Corporate Seal thereto.
3. That the City Solicitor be and is hereby directed to prepare and register all such documents in the proper Land Registry Office to dedicate a portion of Borden Avenue Road Allowance as a public highway.
4. This by-law shall take effect on the day that a certified copy of the by-law is registered in the proper land registry office.

Enacted and passed this 28th day of February, 2023.

William C. Steele
Mayor

Nicole Rubli
Acting City Clerk

Subject: Municipal Modernization Program - Amending Agreements

To: Council

From: Office of the Chief Administrative Officer

Report Number: 2023-33

Meeting Date: February 28, 2023

Recommendation:

That Office of the Chief Administrative Officer Economic Development and Tourism Division report 2023-33 be received; and

That Council approve the Amending Agreements between the City of Port Colborne and the provincial government for funding from the Municipal Modernization Program, attached as Appendices A to D;

That a by-law to enter into Amending Agreements be approved; and

That the Mayor and Acting City Clerk be authorized to sign the by-law and the Amending Agreements.

Purpose:

The purpose of this report is to have Council approve Amending Agreements with the Province of Ontario for funding received for four projects through intake three of the Municipal Modernization Program, and to request that Council authorize the Mayor and Acting City Clerk to sign the Amending Agreements.

Background:

The Province created the Municipal Modernization Program (MMP) in 2019 to provide municipalities with funding to modernize services and processes and find cost savings and efficiencies in their operating budgets. The province committed \$125 million in funding over four years. The City of Port Colborne was successful in securing funding from intakes one, two, and three. Intake three, which was announced in August 2021, included two streams:

1. The “implementation stream” provided provincial cost-sharing for municipalities to undertake projects that increase municipal efficiency and effectiveness.
2. The “review stream” provided funding for municipalities to undertake expenditure reviews with the goal of finding efficiencies and lowering costs in the longer term.

In the fall of 2021, staff submitted eight applications to the third intake of the MMP for both the implementation and review streams. The province approved six applications. These applications were for capital projects and corporate priorities planned in 2022, and they addressed the MMP priorities of digital modernization and service integration.

The Province provided funding for the following projects:

Project	Provincial Contribution	City Contribution	Total Project
Telecommunications System Modernization	\$59,530	\$32,055	\$91,585
Fire/Emergency Services Digitization and Records Management	\$59,530	\$32,055	\$91,585
Digitizing Public Works Permit Process	\$16,536	\$8,905	\$25,440
Route Patrol Software	\$9,922	\$5,343	\$15,265
Departmental Organization Review	\$45,792	\$ -	\$45,792
Human Resources Management and Information Systems Review	\$76,320	\$ -	\$76,320

Staff report 2022-31, which included the Transfer Payment Agreements between the City and the Province for each project, was approved at the February 22, 2022, Council meeting.

Discussion:

At the Rural Ontario Municipal Association (ROMA) conference on January 25, 2023, Municipal Affairs Minister Steve Clark announced that the deadline for municipalities to complete and report on all approved implementation stream projects was being extended from February 28, 2023, to December 1, 2023. This timeline change requires an amendment to the Transfer Payment Agreements approved by Council on February 22, 2022. The Province has sent four Amending Agreements to the City for Council approval and signing by the Mayor and Acting City Clerk.

Final reports for the review stream projects were due on January 31, 2023, and these were completed by City staff and filed with the Ministry of Municipal Affairs and Housing.

Internal Consultations:

The MMP applications were a collaborative effort between Economic Development and Tourism Services, Information Technology, Corporate Services, Human Resources, Fire and Community Safety, and Planning and Development.

Financial Implications:

There are no financial implications associated with this report.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillars of the strategic plan:

- Service and Simplicity - Quality and Innovative Delivery of Customer Services
 - Value: Financial Management to Achieve Financial Sustainability
 - Governance: Communications, Engagement, and Decision-Making
-

Conclusion:

The City of Port Colborne was successful in securing funding for six projects from intake three of the Province's Municipal Modernization Program (MMP): four from the implementation stream and two from the review stream. Municipal Affairs Minister Steve Clark announced at the end of January that there is an extension for municipalities to submit their final reports for implementation stream projects. This extension, changed from February 28, 2023 to December 1, 2023, requires that Amending Agreements between the City and provincial government be signed for each of the four implementation stream projects.

Appendices:

- a. Amending Agreement - Telecommunications System Modernization
- b. Amending Agreement - Fire and Emergency Services Digitization and Records Management Implementation
- c. Amending Agreement - Digitizing Public Works Permit Process

- d. Amending Agreement - Route Patrol Software
- e. Draft By-law

Respectfully submitted,

Gary Long
Manager of Strategic Initiatives
905-835-2900 x.502
Gary.Long@portcolbone.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.

ONTARIO TRANSFER PAYMENT AMENDING AGREEMENT

This Amending Agreement No.1 effective as of the day of , 2023.

B E T W E E N :

**His Majesty the King in right of Ontario
as represented by the Minister of Municipal Affairs and
Housing**

(the “**Province**”)

- and -

Corporation of the City of Port Colborne

(the “**Recipient**”)

BACKGROUND

1. The Province and the Recipient entered into an agreement effective as of March 4, 2022 (the “**Agreement**”) for the City of Port Colborne Telecommunications System Modernization Project.
2. Pursuant to section 4.1 of Agreement, the Parties wish to amend the Agreement in the manner set out in this Amending Agreement No.1.

IN CONSIDERATION of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

3. All references to “Her Majesty the Queen in right of Ontario” are replaced with “His Majesty the King in the right of Ontario”.
4. Capitalized terms used but not defined in this Amending Agreement No.1 (the “Amending Agreement No.1”) have the meanings ascribed to them in the Agreement.
5. Section 1.2 of the Agreement is deleted in its entirety and replaced by the following:

“Entire Agreement. The Agreement and Amending Agreement No. 1 constitute the entire agreement between the Parties with respect to the subject contained in the Agreement and supersedes all prior oral or written representations and agreements.”

6. Schedule “B” (Project Specific Information and Additional Provisions) of the Agreement is amended by deleting “March 31, 2024” in the 2nd row and 2nd column of the chart and replacing it with “March 31, 2025”.
7. Schedule “D” (Budget) of the Agreement is amended by deleting the 2nd row and 1st column of the chart in its entirety and replacing it with:

“Reimbursement of up to 65% of Project costs incurred between August 16, 2021 to the earlier of December 1, 2023 or the submission of the Final Report Back”.
8. Schedule “F” (Reports) of the Agreement is amended by:
 - (a) Deleting “February 28, 2023” in the 3rd row and 2nd column of the chart and replacing it with “December 1, 2023”;
 - (b) Deleting “February 28, 2024” in the 4th row and 2nd column of the chart and replacing it with “December 2, 2024”; and
 - (c) Deleting “February 28, 2023” in the first paragraph under the subheading “2. Final Report Back” and replacing it with “December 1, 2023”.
9. Amending Agreement No.1 shall be effective as of the date set out at the top of the Amending Agreement No.1.
10. Except for the amendments provided for in Amending Agreement No.1, all provisions in the Agreement shall remain in full force and effect.

- SIGNATURE PAGE FOLLOWS -

The Parties have executed this Amending Agreement No.1 on the dates set out below.

**HIS MAJESTY THE KING IN RIGHT OF ONTARIO
as represented by Minister of Municipal Affairs
and Housing**

Date

Name: The Honourable Steve Clark
Title: Minister of Municipal Affairs and Housing

Corporation of the City of Port Colborne

Date

Name:
Title:
I have authority to bind the Recipient.

Date

Name:
Title:
I have authority to bind the Recipient.

ONTARIO TRANSFER PAYMENT AMENDING AGREEMENT

This Amending Agreement No.1 effective as of the day of , 2023.

B E T W E E N :

**His Majesty the King in right of Ontario
as represented by the Minister of Municipal Affairs and
Housing**

(the “Province”)

- and -

Corporation of the City of Port Colborne

(the “Recipient”)

BACKGROUND

1. The Province and the Recipient entered into an agreement effective as of March 4, 2022 (the “**Agreement**”) for the City of Port Colborne Modern and Digital Fire and Emergency Records Management Implementation Project.
2. Pursuant to section 4.1 of Agreement, the Parties wish to amend the Agreement in the manner set out in this Amending Agreement No.1.

IN CONSIDERATION of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

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**HIS MAJESTY THE KING IN RIGHT OF ONTARIO
as represented by Minister of Municipal Affairs
and Housing**

Date

Name: The Honourable Steve Clark
Title: Minister of Municipal Affairs and Housing

Corporation of the City of Port Colborne

Date

Name:
Title:
I have authority to bind the Recipient.

Date

Name:
Title:
I have authority to bind the Recipient.

ONTARIO TRANSFER PAYMENT AMENDING AGREEMENT

This Amending Agreement No.1 effective as of the day of , 2023.

B E T W E E N :

**His Majesty the King in right of Ontario
as represented by the Minister of Municipal Affairs and
Housing**

(the “Province”)

- and -

Corporation of the City of Port Colborne

(the “Recipient”)

BACKGROUND

1. The Province and the Recipient entered into an agreement effective as of March 4, 2022 (the “**Agreement**”) for the City of Port Colborne Digitizing Public Works Permit Process Modernization Project.
2. Pursuant to section 4.1 of Agreement, the Parties wish to amend the Agreement in the manner set out in this Amending Agreement No.1.

IN CONSIDERATION of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

3. All references to “Her Majesty the Queen in right of Ontario” are replaced with “His Majesty the King in the right of Ontario”.
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**HIS MAJESTY THE KING IN RIGHT OF ONTARIO
as represented by Minister of Municipal Affairs
and Housing**

Date

Name: The Honourable Steve Clark
Title: Minister of Municipal Affairs and Housing

Corporation of the City of Port Colborne

Date

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Title:
I have authority to bind the Recipient.

Date

Name:
Title:
I have authority to bind the Recipient.

ONTARIO TRANSFER PAYMENT AMENDING AGREEMENT

This Amending Agreement No.1 effective as of the day of , 2023.

B E T W E E N :

**His Majesty the King in right of Ontario
as represented by the Minister of Municipal Affairs and
Housing**

(the “Province”)

- and -

Corporation of the City of Port Colborne

(the “Recipient”)

BACKGROUND

1. The Province and the Recipient entered into an agreement effective as of March 4, 2022 (the “**Agreement**”) for the City of Port Colborne Route Patrol Software Solution Project.
2. Pursuant to section 4.1 of Agreement, the Parties wish to amend the Agreement in the manner set out in this Amending Agreement No.1.

IN CONSIDERATION of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

3. All references to “Her Majesty the Queen in right of Ontario” are replaced with “His Majesty the King in the right of Ontario”.
4. Capitalized terms used but not defined in this Amending Agreement No.1 (the “Amending Agreement No.1”) have the meanings ascribed to them in the Agreement.
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9. Amending Agreement No.1 shall be effective as of the date set out at the top of the Amending Agreement No.1.
10. Except for the amendments provided for in Amending Agreement No.1, all provisions in the Agreement shall remain in full force and effect.

- SIGNATURE PAGE FOLLOWS -

The Parties have executed this Amending Agreement No.1 on the dates set out below.

**HIS MAJESTY THE KING IN RIGHT OF ONTARIO
as represented by Minister of Municipal Affairs
and Housing**

Date

Name: The Honourable Steve Clark
Title: Minister of Municipal Affairs and Housing

Corporation of the City of Port Colborne

Date

Name:
Title:
I have authority to bind the Recipient.

Date

Name:
Title:
I have authority to bind the Recipient.

The Corporation of the City of Port Colborne

By-law No. _____

Being a By-law to Authorize Entering into Transfer Payment Amending
Agreements with the Ontario Municipal Modernization Program

Whereas at its meeting of February 28, 2023, the Council of The Corporation of the City of Port Colborne (Council) approved the recommendations of CAO office –Report No. 2023-33, Subject: Municipal Modernization Program - Amending Agreements; and

Whereas Council is desirous of entering into Amending Agreements with the provincial government hereby represented by the Minister of Municipal Affairs and Housing; and

Whereas the *Municipal Act*, 2001 S.O. 2001, c.25, as amended, confers broad authority on municipalities to enter into such agreements;

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

1. That The Corporation of the City of Port Colborne enters into Amending Agreements with the provincial government for the Ontario Municipal Modernization Program hereby represented by the Minister of Municipal Affairs and Housing for funding for: Telecommunications System Modernization; Fire and Emergency Services Digitization and Records Management Implementation; Digitizing Public Works Permit Process; and Route Patrol Software.
2. That the Mayor and the Acting City Clerk be and they are hereby authorized and directed to sign the said agreements, attached hereto as Schedule “A”, together with any documents necessary to complete the conditions of the said agreements or any other phase for the Minister of Municipal Affairs and Housing, and the Acting City Clerk is hereby authorized to affix the Corporate Seal thereto.

Enacted and passed this 28th day of February, 2023.

William C. Steele
Mayor

Nicole Rubli
Acting City Clerk



Subject: Grants for non-profits

To: Council

From: Office of the Chief Administrative Officer

Report Number: 2023-36

Meeting Date: February 28, 2023

Recommendation:

That Chief Administrative Officer Report 2023-36 be received; and

That the following grants for non-profits totalling \$25,360.71 be approved for the first allocation of 2023;

Pathstone	\$2,500
Women's Place	\$2,600
Community Living Port Colborne Wainfleet	\$2,500
United Way Niagara	\$3,000
Port Colborne Feline Initiative	\$2,200
Port Colborne Optimist Club	\$4,000
Dewitt Carter Grade 7/8 Class	\$2,000
Downtown BIA	\$1,200
Port Colborne Operatic Society	\$2,800
Friends of Port Colborne Lighthouse	\$2560.71

Purpose:

To seek council approval for the 2023 first allocation of grants to non-profit groups.

Background:

In 2015, Council passed By-law 6317/143/15 establishing a Grant Policy Committee whose purpose is to oversee the distribution of grants to non-profit organizations.

In accordance with the Grant Policy, applications are received twice a year – January 31 and June 30. Applications are reviewed by the Committee and recommendations are brought forward to Council for final approval.

Discussion:

On January 31, 2023, 10 applications for funding were received. Grant allocation committee members were provided with copies of the applications for review. A meeting was held Feb. 9, 2023.

The following recommendations were made by the committee:

That grant requests for a total of \$25,360.71 be approved for the first allocation of grants for 2023 as follows:

\$2,500 for Pathstone to help furnish River House, opening Spring 2023 at 102 River Rd., Welland, serving south Niagara youth with mental health services.

\$2,600 for Women's Place to help provide meals and services to women fleeing domestic violence.

\$2,500 to Community Living Port Colborne Wainfleet for van rental to transport children.

\$3,000 to United Way for 300 basic hygiene kits.

\$2,200 for Port Colborne Feline Initiative to help spay and neuter abandoned cats.

\$4,000 to Port Colborne Optimist Club to help cover costs of civic events.

\$2,000 to Grade 7/8 class of DeWitt Carter School for pollinator garden.

\$1,200 to Downtown BIA to help cover marketing/promotion costs.

\$2,800 to Port Colborne Operatic Society to help fund storage unit.

\$2,560.71 to Friends of Port Colborne Lighthouse for replacement equipment to repair and maintain vessels.

Internal Consultations:

Not applicable.

Financial Implications:

Available funds of \$48,004.40, including \$2,699.00 carried over from 2022, this leaves \$22,643.69 for the second allocation of requests in 2023.

Public Engagement:

The availability of the grant was made public on the City website, in the City newsletter, on the Port Colborne Facebook page, and in the Mayor's Report to council.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- City-Wide Investments in Infrastructure and Recreational/Cultural Spaces
 - Value: Financial Management to Achieve Financial Sustainability
 - People: Supporting and Investing in Human Capital
 - Governance: Communications, Engagement, and Decision-Making
-

Conclusion:

After careful, critical consideration and decision of the Grant Committee members, staff recommends Council approve the 2023 first allocation of grants to applicants.

Respectfully submitted,

Gail Todd
Executive Administrative Assistant
Staff Liaison to the Grant Committee
gail.todd@portcolborne.ca
905-835-2900 x301

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.

Subject: Property Tax Collection History for the Year Ending 2022 and Next Steps

To: Council

From: Corporate Services Department

Report Number: 2023-19

Meeting Date: February 28, 2023

Recommendation:

That Corporate Services Department – Financial Services Report 2023-19 be received;
and

That the Director of Corporate Services/Treasurer be directed to proceed with normal tax collection processes, including moving forward and beginning the process that could lead to a tax sale for properties that have not paid for three years, in accordance with the steps outlined in page 4 of this report.

Purpose:

This report seeks approval to move forward with a collection plan, including property tax sale, on properties with long-standing outstanding receivable balances.

Background:

The City of Port Colborne (the “City”) levies property taxes annually through a four-installment model. Property taxes are based on approved budgetary requirements that are identified in the budget process as the annual levy. The property tax bill may also include penalty and interest and other charges related to a property that have otherwise not been collected. Examples might include water, wastewater, storm sewer, Business Improvement Area, and/or items such as unpaid City invoices.

The City operates in a multi-tier municipal system with the City being the “lower-tier” and the Niagara Region being the “upper-tier”. In this model the City also bills property owners the Niagara Region levy and any levy set by the Province of Ontario for Education purposes. The model includes the City paying the Niagara Region and the

Province of Ontario their full levy in quarterly installments regardless of actual collection experience. Recognizing the City pays the Niagara Region and the Province of Ontario their portion upfront, the City keeps all penalty and interest charged on outstanding property tax balances.

Collection risk is generally considered low on property tax balances as the Municipal Act, under Part XI, provides for a municipality to implement a tax sale on a property in conjunction with Ontario Regulation 181/03. A standing practice of municipalities is to begin the process to move toward a potential tax sale after three years of outstanding taxes.

The City has historically maintained the following collection procedures:

- Regular billings are sent that also outline any arrears balance outstanding;
- Notices are sent after missed due dates;
- Special notice to Property Owners in October/November letting them know if the account is approaching three years in arrears and providing a final timeline for repayment;
- In addition to the above, the City's Supervisor, Revenue and Tax Clerk makes phone calls and sends emails to maintain contact with Property Owners and to develop payment plans;
- In mid/late January the City's Supervisor, Revenue and Tax Clerk makes final calls and if no collection progress has been made on properties with an excess of three years of tax arrears, the City has historically moved forward with a registration process on those properties.

The City monitors and implements collection procedures in order to:

- Protect property owners from allowing their balances to grow too high;
- Ensure there is an incentive to pay property taxes so as not to disadvantage those that do pay their property taxes;
- Provide funding and related cashflow to fulfill the direction of Council;
- Fulfill the City's stewardship responsibility with the Niagara Region and Province of Ontario.

Discussion:

The City's collection rate over the past 5 years has been approximately 98.5%.

At December 31, 2022 (Comparative December 31, 2021), the City's outstanding property tax accounts receivable balances were as follows:

Billing Related to	At December 31, 2022	At December 31, 2021
2022	\$2,028,000	N/A
2021	655,000	\$1,736,000

2020	158,000	932,000
2019<=	102,000	1,489,000
Total	\$2,943,000	\$4,157,000
One Developer		(\$1,468,800)
	\$2,943,000	\$2,688,200

The City's financial reporting system does not break out the Niagara Region and/or Province of Ontario portion. It is possible the system was designed this way given the fact collection risk, as identified above, is generally considered low given the ability to implement a tax sale.

In the event the City could not collect the property taxes outstanding on a property, the uncollected amount could be shared. In 2022, the residential bill was apportioned as 52% City; 37% Niagara Region; 11% Province of Ontario.

The year over year decrease of \$1,214,000 (\$4,157,000 - \$2,943,000) can be attributed primarily to a developer as identified in the table as "One Developer" paying the outstanding tax balance on twenty-seven properties.

A reconciliation of properties with a balance of three years and over, in dollars and numbers, between 2021 and 2022 is as follows:

	City		One Developer	
	# Properties	\$	# Properties	\$
2021 Ending	38	592,138	27	1,468,806
Removed from list	(33)	(384,052)	(27)	(1,468,806)
New taxes and interest		35,256		
	5	243,342	0	0
Added to List	30	340,998		
2022 Ending	35	584,340	0	0

As depicted in the table above, 33 properties cleared up all outstanding balances. As denoted below, the tax collection process that may result in a tax sale occurring can take over one year to complete. In 2023, Council can expect some tax balances that remain outstanding from the "2020 Ending" list to move to the final stage of the property tax collection process, being tax sale, over the next year.

In making this recommendation, staff highlight the following:

- In any given year the City regularly faces 60-100 properties that would meet the three-year property tax outstanding test. This represents approximately 0.7% of properties. This figure stays fairly constant from year to year as many of the

owners are repetitive in their delinquency. At the end of 2022, the City sits at the lower end of that range.

- These properties continue to be taxed and to incur penalty and interest.
- The process for these properties, as outlined above, will take at least one year prior to a tax sale occurring. Historically during this time, the number of properties that have actually been required to move forward to tax sale has been reduced to two (2016), one (2017), two (2018), zero (2019), four (2020), zero (2021), and zero (2022).

Staff recommends the City move forward with the 30 new properties and continue with the 5 properties identified above as follows:

- The City's Supervisor, Revenue and Tax Clerk will begin with a letter and collection call(s) to collect at a minimum the third-year arrears, plus all outstanding penalty and interest.
- Accounts that have not seen improvement as identified in the bullet above will be sent to the City's contractor, Realtax, to begin the process of tax registration.
- Realtax will begin the tax registration process and the City will assess a fee per property. Once this fee is added and this process begins a property owner is required to pay all outstanding amounts to avert the tax sale, partial payments can not be accepted.
- Over the course of 12-14 months after initial registration, the owner has the ability to redeem the property by paying the amount due in full.
- Once full registration time has passed and, if the balance has not been received, the City will prepare to take the property to tax sale. The Property Owner can redeem if all amounts owing, including Realtax fees, are paid to the City.
- If the owner does not avert the tax sale by paying all outstanding amounts, Realtax will conduct the tax sale by listing the property for a minimum bid of all amounts owing to the City.

Internal Consultations:

N/A.

Financial Implications:

Staff identify the City's taxpayers continue to be diligent and consistent in their payment of property taxes. As identified above, the year over year outstanding balance has reduced.

Historically the risk of non-payment has been low. Staff continues to assess that risk as low provided Council moves forward as recommended in this report. In the event this process is delayed the potential of non-payment increases as the balance increases.

Public Engagement:

The City's Supervisor, Revenue and Tax Clerk, through the procedures described in this report, has communicated with and attempted to collect on the outstanding balances of the property owners.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Value: Financial Management to Achieve Financial Sustainability
 - Governance: Communications, Engagement, and Decision-Making
-

Conclusion:

Staff recommend moving forward with the recommended actions identified in this report to limit the financial risk of non-payment.

Respectfully submitted,

Adam Pigeau
Manager, Financial Services/Deputy Treasurer
905-835-2900 Ext. 101
adam.pigeau@portcolborne.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.



82133 Council Line, R.R. #5
Goderich, Ontario N7A 3Y2

PHONE: 519-524-4669

FAX: 519-524-1951

E-MAIL: clerk@acwtownship.ca

The Honourable Steve Clark, Minister of Municipal Affairs and Housing

February 22, 2023

Re: Future Accuracy of the Permanent Register of Electors

Dear Minister,

Please be advised that at the February 21st meeting, the Council of the Township of Ashfield-Colborne-Wawanosh adopted the following resolution,

Moved by Anita Snobelen

Seconded by Evan Hickey

WHEREAS concerns surrounding the accuracy of the Voters' List has been highlighted in elections past and inaccuracies continue to plague municipal elections;

AND WHEREAS the Chief Electoral Officer for the Province of Ontario now has the responsibility to prepare and maintain a Permanent Register of Electors, under the Elections Act, for future municipal elections;

AND WHEREAS an accurate Permanent Register of Electors is paramount in upholding the integrity of democratic government;

AND WHEREAS an accurate Permanent Register of Electors could increase voter turnout statistics and possibly contribute to positive voter apathy;

NOW THEREFORE BE IT RESOLVED THAT the Council of the Township of Ashfield-Colborne-Wawanosh requests that the Province of Ontario, through Elections Ontario and the Chief Electoral Officer utilize any resources available to produce the highest quality Permanent Register of Electors;

AND FURTHER THAT this resolution be circulated to the Minister of Municipal Affairs and Housing, Elections Ontario, MPP Lisa Thompson and Ontario Municipal Councils for their support.

Carried

Sincerely,

Florence Witherspoon
Municipal Clerk

cc. Greg Essensa, Chief Electoral Officer for Ontario, Huron-Bruce MPP Lisa Thompson, and
Ontario Municipal Councils



The Annual General Meeting of the Board of Management of the Port Colborne Historical and Marine Museum was held January 17, 2023, at 7:00 p.m. in the L.R. Wilson Heritage Research Archives Hall.

Present: Terry Huffman, Claudia Brema, John Maloney, Brian Heaslip, Bonnie Schneider, Arlene Lessard, Luke Brazeau, Cheryl MacMillan, Gary Hoyle, Councillor Eric Beauregard, Stephanie Powell Baswick, Michelle Mason, Katelynn Best, Meghan Chamberlain

Regrets: Bert Murphy, Jeff Piniak, Margaret Tanaszi

In accordance with the Museum Board's Procedural Policy, Terry Huffman led the nominations and elections for the Executive and Committee Chairs. Positions were voted on by a show of hands. The outcome of the election is as follows:

Executive:

Chair – Terry Huffman

Vice Chair – Arlene Lessard

Finance Chair – Bonnie Schneider

Secretary – Vacant

Committee Chair:

Membership – Claudia Brema

Building & Property – Brian Heaslip

Accession – Terry Huffman

Program – John Maloney

Fundraising – Claudia Brema

Policy – Cheryl MacMillan

Heritage – Councillor Eric Beauregard

Auxiliary Liaison – Cheryl MacMillan (Acting)

Friends of Roselawn Liaison – Arlene Lessard

Members of Committees:

Membership – John Maloney

Building & Property – Terry Huffman, Jeff Piniak, Margaret Tanaszi, John Maloney, Bert Murphy, Gary Hoyle

Accession – Jeff Piniak, John Maloney, Gary Hoyle, Bert Murphy, Claudia Brema, Luke Brazeau

Program – Cheryl MacMillan, Arlene Lessard



Port Colborne Historical & Marine
MUSEUM
...more than a museum!

Fundraising – Terry Huffman, Cheryl MacMillan
Policy – Margaret Tanaszi, Eric Beauregard, Arlene Lessard
Heritage – Gary Hoyle, John Maloney, Cheryl MacMillan, Luke Brazeau

Director Stephanie Powell Baswick welcomed new Board of Management member Luke Brazeau and returning Councillor Eric Beauregard.

Minutes:

Moved by: Cheryl MacMillan

Seconded by: Gary Hoyle

To: Approve the minutes of the Board of Management from November 15, 2022

Business Arising:

Cheryl MacMillan reported that Bonnie Johnston will receive the first Museum of Department and Culture Award of Excellence on February 14, 2023, at the Town Council meeting.

Correspondence:

Read during the Director's Report.

Council Report:

No report.

Curator's Report:

Michelle Mason reported that a meeting that Niagara College has partnered with the Niagara Regional Police Service and local City Councillors to look at how to improve the quality of life in various Niagara Communities. Michelle has met with students who will be working on a Community Policing Group Class Project.



Michelle also reported that the Grand Old Christmas Festival was a record-breaking success with 2134 visitors.

Councillor Eric Beauregard asked if any current projects or discussions have been made for security on Arabella's Tea Room and the Cultural Block. Michelle responded that meetings have been made with the Constable Jason McKnight previously to discuss security precautions.

Auxiliary Report:

Cheryl MacMillan reported that Shopper's Week 2022 did very well and that Arabella's first season back since 2019 was a great success. Arabella's Tea Room will open again on June 1, 2023.

Friends of Roselawn Centre Report:

Arlene Lessard reported that the 2022 Christmas Maker's Market had received a good reception. Eighty percent of vendors were in attendance, despite the snowstorm, along with approximately 100 visitors. Arlene thanked Museum staff for their support during the event.

In addition, Arlene alerted the Board of Management that the Friends of Roselawn Centre will be meeting on January 26, 2022, to plan events for 2023.

Finance Committee:

No report.

Membership Committee:

No report.



Building and Property Committee:

Brian Heaslip reported that funding is available for repairs to the Museum south facing staircase. Brian also reported that the committee's working crew will be meeting every Thursday and are currently assisting on a collection conservation project at the Roselawn Centre.

Programme Committee:

John Maloney commended Museum staff for their efforts in making the Grand Old Christmas Festival a success.

Fundraising Committee:

Claudia Brema reported that a meeting was held on January 17, 2023, to discuss upcoming fundraising projects.

Terry Huffman reported an update on the 'Music at Roselawn' fundraising project. Terry reported the project is now in it's third phase which will entail coordinating dates with the Friends of Roselawn Centre and finding funding for event equipment.

Bonnie Schneider suggests that the committee reach out to local businesses such as Funeral Homes who may be able to provide tents for the event. Councillor Eric Beauregard also suggests contacting the City's communication team to promote the event.

Policy Committee:

No report.

Accession Committee:

Terry Huffman and Katelynn Best report that the next accession committee meeting date will be announced soon.



Heritage Committee:

Councillor Eric Beauregard reports that committee meetings will be scheduled regularly in the coming year. Also, a consultation report will be provided at the next meeting about the recent assessment to Firelane 1.

Director's Report:

Stephanie Powell Baswick reported she received partnership requests from the Community for initiatives at Roselawn Centre. Firstly, Sheila Maracle from the Indigenous Education team at the District School Board of Niagara (DSBN) has inquired to hold a drum making workshop for Indigenous Secondary School students from Niagara at the Roselawn Centre during Heritage Week 2023. Secondly, Donna Abbott has approached the Roselawn Centre and Friends of Roselawn Centre to partner for her annual International Women's Day event at the Roselawn Centre in March.

Stephanie will be participating in upcoming meetings concerning cruise ship tourism and working to include the Museum into their itinerary.

Lastly, Stephanie reported that summer student work applications are in the process of being written and that grants will prioritize digitization/photographing the collection.

New Business:

Michelle Mason reported an email from Mike Audette concerning a stone plaque in King George Memorial Park. The current stone needed to be replaced and they are looking for guidance on the style of marker. Michelle referred this consideration to be handled by the Heritage Committee.

Michelle Mason also reported that Brian Wyatts from the City's Parks department has white pine planks available from the Christmas storm. Brian Heaslip is interested in receiving the planks on behalf of the Building and Property Committee.



Port Colborne Historical & Marine
MUSEUM
...more than a museum!

Stephanie Powell Baswick requested a consensus be reached on the two items of correspondence for partnership proposals outlined in her Director's Report.

Moved by: Terry Huffman

Seconded by: Brian Heaslip

To: Approve the proposals by Sheila Maracle and Donna Abbott for upcoming partnerships at the Roselawn Centre.

Motion carried.

Terry Huffman encouraged members to sign up for committees they were interested in.

Cheryl MacMillan motioned to adjourn.

Port Colborne Public Library Board

INAUGURAL MEETING MINUTES

The first regular meeting of the Port Colborne Public Library Board

Date: Wednesday, January 11, 2023
Time: 6:15 p.m.
Location: L.R. Wilson Heritage Archives
286 King Street, Port Colborne; and,
Virtual attendance via Microsoft Teams

Members Present: Michael Cooper, Chair
Bryan Ingram, Vice-Chair
Mark Bagu, Councillor
Brian Beck
Margaret Booth
Harmony Cooper
Angie Desmarais (attended via Microsoft Teams)
Cheryl MacMillan
Emmy Tanini

Staff Present: Scott Luey, Chief Executive Officer
Susan Therrien, Director of Library Services (Board Secretary)
Rachel Tkachuk, Librarian

Regrets: Bryan Boles, Board Treasurer

INTRODUCTORY BOARD ORIENTATION

The Board orientation session began at approximately 6:17 p.m. The session included:

- Welcome and introductions
- A presentation on Library Board Roles and Responsibilities (S. Therrien, Director of Library Services)

The orientation session ended at approximately 7:06 p.m.

Orientation will continue at the February 2023 meeting with a session conducted by the the City Clerk and Deputy Clerk.

INAUGURAL MEETING: ELECTIONS

1. Call to Order

Scott Luey, CEO, called the meeting to order at approximately 7:09 p.m and presided over the election of the Chair.

2. Election of the Chair

The CEO called for nominations for the position of Board Chair.

Cheryl MacMillan nominated Harmony Cooper. Harmony Cooper declined the nomination.

Harmony Cooper nominated Michael Cooper. Michael Cooper accepted the nomination.

Margaret Booth nominated Cheryl MacMillan. Cheryl MacMillan declined the nomination.

Margaret Booth nominated Angie Desmarais. Angie Desmarais declined the nomination.

There being no further nominations, the CEO declared nominations closed.

The CEO declared Michael Cooper duly elected by acclamation to the position of Chair for the term of the Board, 2022-2026.

Michael Cooper assumed the chair.

3. Election of Vice-Chair

Michael Cooper, Chair, called for nominations for the position of Vice-Chair.

Harmony Cooper nominated Bryan Ingram. Bryan Ingram accepted the nomination.

There being no further nominations, the Chair declared nominations closed.

Port Colborne Public Library Board

The Chair declared Bryan Ingram duly elected by acclamation to the position of Vice-Chair for the term of the Board, 2022-2026.

4. Voting Delegate to the Federation of Ontario Public Libraries (FOPL)

Voting delegates to the Federation of Ontario Public Libraries are Michael Cooper, Chair, and Susan Therrien, Director of Library Services, for the term of the Board, 2022-2026.

5. Trustee Representative to the Ontario Library Service (OLS) Trustees Council

Cheryl MacMillan will represent the Board at the OLS Trustees Council meetings for the term of the Board, 2022-2026.

6. Chair's Remarks

The Chair welcomed the Board to the new term and expressed his enthusiasm to work with everyone to continue providing excellent library services for the community. The Chair commented on the successes of the 2018- 2022 Board, and the productive relationship that the Board continues to enjoy with City Council and staff.

BUSINESS OF THE FIRST REGULAR MEETING OF 2023

1. Call to Order

The Chair called the meeting to order to conduct its regular business at approximately 7:21 p.m.

2. Land Acknowledgement

3. Declaration of Conflict of Interest

4. Adoption of the Agenda

Port Colborne Public Library Board

Motion 2023-001

Moved by C. MacMillan

Seconded by H. Cooper

That the agenda dated November 2, 2022 be **ADOPTED**, as circulated.

Carried.

5. Approval of Minutes

Motion 2023-002

Moved by H. Cooper

Seconded by B. Ingram

That the minutes of the regular meeting dated November 2, 2022 be **APPROVED**, as circulated.

Carried.

6. Business Arising from the Minutes

No business arising.

7. Consent Items

7.1. Circulation Reports

- October 2022 Circulation Report
- November 2022 LiNC Transits Report
- December 2022 LiNC Transits Report
- 2022 4th Quarter LiNC Transits Report
- 2022 Transits: Comparison
- 2022 Transits: Summary

7.2. Financial Statement

- 2022 Library Operating Budget as of January 4, 2023
- 2022 Library Facility Operating Budget as of January 4, 2023

7.3. Public Relations Report

Librarian R. Tkachuk reported on programming and activities in November and December 2022.

7.4. Media Items

- Port Colborne Public Library Digital Newsletter, January 2023
- City Hall News, December 2022/January 2023

Motion 2023-003

Moved by B. Beck

Seconded by B. Ingram

That consent items 7.1 to 7.4 be **RECEIVED** for information purposes.

Carried.

8. Discussion Items

8.1. 2023 Meeting Dates (S. Therrien)

The Board reviewed the 2023 meeting schedule.

8.2. Legacy Document (S. Therrien)

Moved to the next meeting.

8.3. Board Cycle and 2023-2027 Strategic Plan (S. Therrien)

8.3.1. Four-Year Board Governance Cycle

The Board reviewed the upcoming four-year cycle recommended by Ontario Library Service.

8.3.2. Working Plan: 2023-2027 Strategic Plan

The Board reviewed the planning document for the four-year strategic plan outlining actions for staff to accomplish year-by-year to

Port Colborne Public Library Board

achieve the Board's strategic goals.

8.3.3. 2022 Capital Projects (S. Therrien)

a. Connectivity and Phones Solutions Project

Installation and networking were completed October 13, 2022. Final equipment setup and the phones projects are estimated to be completed in February 2023. Funding for the phones is covered under the Municipal Modernization Program.

b. Window Seal Remediation Project

The project was completed on October 28, 2022.

c. Accessible Doors: King Street Entrance and Auditorium

The Director applied for an Enabling Accessibility Fund grant to help cover the cost of the accessible doors project. Eligible funding is \$18,042.67. If funding is received, the project cannot start until March 1, 2023.

d. King Street Sign Replacement

The project is in progress and is estimated to be completed in January 2023.

e. Generator

The project will be completed in January 2023.

8.3.4. 2023 Capital Projects (S. Therrien)

The Director reported on the 2023 capital projects approved by Council. None of the 2023 capital projects have been started. The Director will work with City staff to complete the projects.

Port Colborne Public Library Board

9. Decision Items

9.1. Policy Review Schedule

The Board reviewed the policy review schedule. The schedule identifies policies required by legislation and policies to review in 2023.

10. Other Business

Michael Cooper, Board Chair, brought forward a recommendation that the Board review the library's hours of operations.

11. Notices of Motion

12. Date of the Next Meeting

The next meeting will be held Wednesday, March 1, 2023, at 6:00 p.m. at the L.R. Wilson Heritage Archives. Virtual attendance is available via Microsoft Teams.

13. Adjournment

Motion: 2023-004

Moved by B. Ingram

Seconded by C. MacMillan

That the meeting be adjourned at approximately 8:00 p.m.

Carried.

Michael Cooper
Board Chair
February 1, 2023

Susan Therrien
Director of Library Services
Board Secretary
February 1, 2023



MINUTES

Social Determinants of Health Advisory Committee – Everyone Matters

Thursday, Sept. 8, 2022 1 p.m. VIA MS Teams

Attendees:

Co-Chair Lori Kleinsmith, Bridges CHC
Co-Chair Angie Desmarais, Councillor
Sherry Hanson, Manager, Municipal Law Enforcement
Jay McKnight, Niagara Regional Police
Phil Licskai, Niagara Regional Police
Jeffrey Sinclair, Community Services, Niagara Region
Judy Cassan, Bridges CHC
Tara McKendrick, Canadian Mental Health Association
Kaitlyn Kerridge, Health promoter, Niagara Region

Guests:

Kim Simons, Anchors Away
Rob Salewytch, GO

Regrets:

Christine Clark-Lafleur, Port Cares
Aidan Johnson, Niagara Community Legal Clinic
Bill Steele, Mayor
Scott Luey, Chief Administrative Officer
Taralea McLean, Bridge CHC
Susan Therrien, Director of Library Services

Minutes

Gail Todd, EA to Mayor and CAO

Call to Order

Co-Chair Lori Kleinsmith called the meeting to order at 1 p.m.

Approval of the Agenda

Moved by J. McKnight
Seconded by A. Desmarais

That the agenda for the Sept. 9, 2022 meeting of the Social Determinants of Health Advisory Committee – Everyone Matters be approved.
CARRIED.

Approval of the April 7, 2022 minutes

Moved by S. Hansen
Seconded by T. McKendrick
That the minutes for the April 7, 2022 meeting of the Social Determinants of Health Advisory Committee – Everyone Matters be approved.
CARRIED.

Business Arising

Lodging bylaw – Scott Luey

Deferred to November (or next) meeting.

City of Port Colborne Affordable Housing Strategy and Action Plan – Scott Luey, Gary Long
Report to be presented to Port Colborne City Council Sept. 13. (report attached)

Transportation – NRT on demand – Rob Salewytch, manager transit services, GO
Implementation, Niagara Region Public Works

(Full report deck attached.)

As a resident of Port Colborne, Rob proud to see shared-ride on-demand service underway and growing, with more success stories than missteps in innovative service. Software from US company because it's the best in the world, allows complete turnkey operation. Because it's a pilot project, nothing in stone, lots of opportunities to learn and grow.

OnDemand runs 7am to 10pm Monday to Saturday. Not on holidays yet; coming. Busiest time 2 to 5pm. Pick-ups and drop-offs to be within 100m of caller's residence, but it's actually been door-to-door.

All vehicles are branded mini-vans, can carry bicycles, 40 per cent are wheelchair accessible, but wheelchairs are less than one per cent of ridership. R

Regarding complaints of "not being able to get a ride:" a large number of ridership makes requests but cancels within five to 50 minutes of pick-up; relying on "on-demand" rather than booking ahead. 90 per cent of users are on the app; Port Colborne a little

higher percentage of calls by telephone rather than app. All rides can be booked by old-school telephone, for those without smart phones or home computers/internet.

There is no on-board pay currently, and drivers visually validate passes. Will be harmonizing services across Niagara; ApplePay and GooglePay in 2023. The free transit app is a worldwide app: one day we'll be able to book passes for transit all over Niagara, Ontario, Canada, the world.

Lori thanked Rob for presentation.

Angie asked where riders direct complaints.

Rob responded: reach out to service provider; there is a toll-free number.

New Business

Request from Steven Soos for Declaration of Emergency Re: Mental Health

Consensus that there is not a mental health emergency, per se, that numbers do not illustrate an emergency, and without any proposed action or advocacy behind the request, a declaration is of no consequence.

P. Licskai reported from January to Sept. 2021 there were 96 non-apprehendable mental health calls; 33 calls which resulted in apprehensions. Similar numbers in same period 2022. Not seeing an increase in mental health calls.

J. Sinclair said Niagara does not see skyrocketing homelessness and encampments as in other municipalities.

T. McKendrick said, yes there are concerns, which people read in newspaper and on social media, but there is so much advocacy, so much good work going on, which are not covered in the press and online. People focus on the crisis, not the many programs in place, action tables, Niagara Ontario Health Team, none of which get the attention of the negative pieces. Yes, there is need for expanded cost-effective prevention programs, and maintenance of hospital and emergency resources; current government focused on hospitals and long-term care, not so much on mental health.

L. Kleinsmith asked if anyone supported/recommended the declaration of emergency. No hands raised.

Moving on.

Update on presentation by Ian de Jong, "post pandemic approach to homelessness." – Angie

Angie expressed how impressed she was with presentation, recommended everyone read it, follow-up.

Judy asked how statistics were gathered in Port Colborne, that situations here not like other places.

J. Sinclair said numbers in Port are similar and comparable to statistics around the region.

Angie Desmarais noted city council needs to be aware of homelessness services, that there was lots of work being done elsewhere, but not here.

Update on quarterly homelessness services newsletter – A. Desmarais

Angie highly praised and recommended reading the Housing and Homelessness newsletter on Niagara Region website.

Update on Housing Homeless action plan – J. Sinclair

Jeff thanked Angie for the plug on the newsletter, just released.

Updated committee on Housing Master Plan. Affordable housing targets: 479 new units per year for the next 25 years. There is enough land.

Niagara Regional Housing manages co-operative, non-profit and profit some properties are rebuilds, for example on Hawkins Avenue in Niagara Falls, where eight units were converted into housing for 76.

There is a new incentive program to support housing through the Niagara Prosperity Initiative, with \$1million to kickstart the Port Cares project.

Judy asked how to determine “affordable” housing. J. Sinclair explained housing should cost 30 per cent of household income before tax; the lowest 60 per cent of income earners need affordable housing. Region insists 20 per cent of all new housing needs to be affordable. Always looking for partnerships in master plan. One site if Port Colborne will see 54 units.

Plans for seasonal shelters are underway. There are 15 clients to date. Homeless prevention programs prioritize youth, with more mobile services, with attention to smaller communities so all is not focused on largest cities Niagara Falls and St. Catharines. Keep in mind the difference between homeless prevention and poverty issues.

The Niagara Assertive Street Outreach is doing amazing work seven days a week, to 11pm. A simple call to 211 prompts the NASO to respond.

<https://www.niagararegion.ca/housing-homelessness/assertive-street-outreach.aspx>

Calls about “renovictions” are constant; need for more legal services, greater access and sooner.

Update on Bill 164

Angie is concerned there is no overriding municipal bylaw to protect residents of “supportive living.” Hoped the committee could take some action.

Sherry Hansen said there are efforts to capture those places within bylaws regarding dwellings, but not retirement homes/residences which are regional or provincial.

Lori agreed that no action can be taken until we see what’s coming from Region or province, and perhaps tweak the recommendations to include private “supportive living.”

Angie suggested directing concerns for supportive living residents by going directly to provincial Ministry as local MPP is in opposition; governments in power not likely to pass legislation suggested by opposition.

Community updates

None.

Lori requested all members complete the Niagara Region five-year poverty reduction strategy online survey.

<https://www.niagararegion.ca/projects/poverty-reduction-strategy/default.aspx>

Public information session to be held in Port Colborne Oct. 3; members encouraged to attend.

Next meeting

Thursday, Nov. 3, virtual.

Adjournment

The meeting adjourned 3:10 p.m.

(We learned 30 minutes into the meeting HRH Queen Elizabeth II died)

Memorandum

To: City Council
From: Nicole Rubli, Acting City Clerk
Date: February 22, 2023
Re: Downtown BIA Board Appointments

Recommendation:

That Council appoint the following members to the Downtown BIA for a term ending November 14, 2026, or until their successors are appointed:

- Jesse Bole
- Norbert Gieger
- Taylor Mynlieff
- Morgan Adams
- Ed Cleveland
- Rosemari Poisson
- Larry Beverly
- Anna Maria Crognale
- Harry Hamilton

Discussion:

The purpose of this report is to obtain Council approval regarding appointments to the Downtown Port Colborne Business Improvement Area (BIA) Board of Management.

The Terms of Reference for the Downtown BIA stipulate the Board shall be composed of a minimum of seven (7) members and a maximum of ten (10) members and one member appointed by the municipality.

The *Municipal Act, 2001* stipulates members will be selected by a vote of the membership of the improvement area and appointed by the municipality and that the term of the members of the Board of Management is the same as the term of the Council that appointed them or until their successors are appointed.

At the December 13, 2022 Council meeting, Council appointed Councillor Elliott to the Downtown BIA.

At the January 26, 2023 Downtown Port Colborne BIA Annual General Meeting the following motion was passed:

Appoint the following to a four-year term of office – Jesse Bole, Norbert Gieger, Taylor Mynlieff, Morgan Adams, Ed Cleveland, Rosemari Poisson, Larry Beverly, Anna Maria Crognale, and Harry Hamilton

Staff recommend that Council approves the Downtown BIA's selection for Board of Director members. All appointments are at the discretion of Council. Council may choose not to approve the appointment.

Respectfully submitted,



Nicole Rubli
Acting City Clerk
905-835-2900 ext. 106
nicole.rubli@portcolborne.ca

Appendices:

- a. Draft Downtown BIA AGM Minutes – January 26, 2023



**2022 Downtown Port Colborne BIA
Annual General Meeting (AGM)
Thursday, January 26, 2023 – 7:00 PM
In Person
92 Port Cares Administration Building Board Room
DRAFT MINUTES**

Attendance: Jesse Boles, Taylor Mynlieff, Ed Cleveland, Norbert Gieger, Rosemari Poisson, Morgan Adams and Anna Maria Crognale.

Staff: Mary-Lou Ambrose-Little.

Regrets: **Larry Beverly**, Michelle Benest-Tanner, Sarah English, Councillor Mark Bagu, and Harry Hamilton.

Guests: Nicole Rubli, Olga Loeffen, Rick Hall, and Christina Szymanis.

Jesse Boles, Chair welcome everyone to the meeting and announced that there is a quorum.

Call to order

The meeting was called to order at 7:16 PM.

Declaration of pecuniary interest

None.

Approval of the 2022 AGM agenda

Motion: "to approve the agenda. Motion by: Taylor Mynlieff; Seconded by: Rosemary Poisson
Carried

Approval of the 2021 AGM minutes

Motion: "to approve the minutes of the 2021 AGM." Motion by: Rosemari Poisson; Seconded by: Taylor Mynlieff. Carried

Business arising

None

2023 Budget Proposal

Taylor Mynlieff presented the 2023 budget and highlighted what had been determined at the recent board meetings. The addition of grant money and the success of the farmers market has allowed the board to provide the opportunity to complete more beautification, art, and winter events.

The bank accounts will be merged into one to save costs as the audit was costing more. Market MOU has been renewed for three years. The tax levy is \$75,000; the Revenue: is \$158,500; the are Expenditures: \$150,500 Profit/Loss: \$8,000. A copy of the 2023 Budget is attached.

Motion: "to approve the minutes of the 2020 AGM." Motion by; Rosemari Poisson. Seconded by: Ed Cleveland. Carried.

Reports

Treasurer's Report

Taylor Mynlieff reported that 2022 has been a successful year with lots of great projects. The separate market account will be merged with the main account to save dollars on the audit.

Chair's Report

Jesse Boles commented that 2022 has been a very successful year as changes were made in the Covid years. The success of the farmers' market has contributed to more business and foot traffic downtown. The City has renewed the MOU for 2023 to 2025, a three-year term. Grant writing has allowed the BIA to take on more beautification initiatives and enhance downtown events. The string lights will be installed shortly as Weinman Electric can provide the necessary safety features and has the proper equipment to install them. The mural, with safety lighting and street art, has been received well in the community. The selfie frame and tree lighting were also great additions to the winter season. The market shed was installed at the market square in October which allows market and event equipment to be stored safely. Projects to complete include coal hatches, sidewalk art, painting the shed, umbrella alley, and more murals.

Jesse thanked everyone for their support and hard work this year to keep moving forward.

Staff Report

Refer to the attached report for complete details. 2022 was another very successful year with the Farmers' Market, Harvest Festival, and Winter Wonderland events as an enhanced Christmas selection. Many of the merchant events such as FaLaLa, the Christmas Open House, and Moonlight Madness. Special thanks to Sarah English who has done a very nice job of improving social media, branding the look, and continues to work on the new website to reflect today's vision.

Mary-Lou thanked Sarah English for her work in developing the new website and branding other social media.

Motion to: "accept all reports in the block." Motion by: Ed Cleveland Seconded by: Norbert Gieger. Carried

Election of the Board of Management (Directors)

A slate of directors was presented as follows: Jesse Boles, Norbert Gieger, Taylor Mynlieff, Morgan Adams, Ed Cleveland, Rosemari Poisson, Larry Beverly, Anna Maria Crognale, and Harry Hamilton.

"Any other nominations" was called 3x and no other nominations were brought forward.

Motion to "appoint the following to the Downtown BIA for a four-year term of office - Jesse Boles, Norbert Gieger, Taylor Mynlieff, Morgan Adams, Ed Cleveland, Rosemari Poisson, Larry Beverly, Anna Maria Crognale, and Harry Hamilton

Motion by Rosemari Poisson; Seconded by, Taylor Mynlieff. Carried.

Other Business

Clerk Nicole Rubli will work with staff to develop a procedural option for hybrid virtual/in-person meetings. It has been strongly recommended that both BIA's work in partnership with Economic Development and the Environmental Committees.

Appointment of the Auditors

Motion to: "appoint Grant Thornton L.L.P., as the BIA's auditors for 2023." Motion by: Jesse Boles; Seconded by: Taylor Mynlieff. Carried

Adjournment

Motion to: "adjourn the meeting." Motion by: Taylor Mynlieff; Seconded by: Jesse Boles. Carried.

Adjourned at 8:08 PM

All present were invited to stay for a Special Board Meeting to discuss some items which need to be dealt with.

NEXT MEETING**Regular Board Meeting**

To be discussed at the Special Meeting, following this meeting

Memorandum

To: City Council
From: Nicole Rubli, Acting City Clerk
Date: February 22, 2023
Re: Main Street BIA Board Appointments

Recommendation:

That Council appoint the following members to the Main Street BIA for a term ending November 14, 2026 or until their successors are appointed:

- Nicki Lumsden
- Saima Hossain
- Natalie Torner
- Kim Danch
- Jacquie Vezeau

Discussion:

The purpose of this memo is to obtain Council approval regarding appointments to the Main Street Port Colborne Business Improvement Area (BIA) Board of Management.

The Terms of Reference for the Main Street BIA stipulates the Board shall be composed of seven members, and one member appointed by the municipality.

The *Municipal Act, 2001* stipulates members will be selected by a vote of the membership of the improvement area and appointed by the municipality and that the term of the members of the Board of Management is the same as the term of the Council that appointed them or until their successors are appointed.

At the December 13, 2022 Council meeting, Council appointed Councillor Danch to the Main Street BIA.

At the November 15, 2022 Main Street BIA Annual General Meeting the following motion was passed:

*The Main Street BIA elects the following members as presented: Nicki Lumsden Chair
Saima Hossain Vice Chair, Natalie Torner – Secretary, Kim Danch - Treasurer
Jacquie Vezeau - Member at Large*

The Main Street BIA will look at selecting one more member at their next regular meeting to meet the composition as defined in the Terms of Reference.

Staff recommend that Council approve the Main Street BIA's selection for Board of Director members. All appointments are at the discretion of Council. Council may choose not to approve the appointment.

Respectfully submitted,



Nicole Rubli
Acting City Clerk
905-835-2900 ext. 106
nicole.rubli@portcolborne.ca

Appendices:

- a. Main Street AGM Minutes – November 15, 2022

AGM MEETING MINUTES

ANNUAL GENERAL MEETING OF THE MAIN STREET BIA

DATE: TUESDAY NOVEMBER 15, 2022

TIME: 6:00 P.M. TO 8:00 P.M.

LOCATION: BAMBI'S BISTRO - 273 Main Street West, Port Colborne

ATTENDEES: Nicki Lumsden, Saima Hossain, Frank Danch, Carey Benvenuti, Natale Torner, Kim Danch, Jacquie Vezeau, Olga Loeffen, Paula Campbell, Kyla Pennie, Kate Ostryhon-Lumsden

Agenda Item	Discussion	MOTIONS
Call to Order & Welcome	Chair Lumsden	The meeting was called to order at 6:30 by Chair Nicki Lumsden
Approval of Agenda	N. Lumsden	MOTION: The agenda for the Annual General Meeting of the Main Street BIA on November 15, 2022 be adopted as circulated. Moved by: Frank Danch Seconded by : Kim Danch All in favour MOTION CARRIED
Approval of the Minutes from the October 26, 2022 Regular Meeting	N. Lumsden	MOTION: The minutes for the regular meeting of the Main Street BIA on October 26,, 2022 be adopted as circulated. Moved by: Kim Danch Seconded by : Frank Danch All in favour MOTION CARRIED
Disclosure of Conflict of Information	No conflicts of interest disclosed	
Annual Activity and Financial Report	Treasurer Dance provided an overview on the expenditures of the BIA.	
Audited Financial Statement	Treasurer Danch presented the audited financials as provided by Grant Thornton statements for 2021. Grant Thornton is selected by the CItY as Auditor.	Motion: The Main Street BIA accepts the audited financial statements as presented by the auditor.Grant Thornton. Moved by: Frank Danch Seconded by : Nicki Lumsden All in favour: Motion Carried

Proposed Budget for 2022/2023 Year	Treasurer Danch presented the proposed 2022 Budget. The following changes were noted: Saw horse race and Taste of Port Colborne were removed as items from the statement of Financial activities. The item "EVENTS" was added.	Motion: The Main Street BIA accepts the proposed budget with discussed changes Moved by: Frank Danch Seconded by : Nicki Lumsden All in favour: Motion Carried
Election of Board Management	Our committee for the 2022/25 Term is: Nicki Lumsden Chair Saima Hossain Vice Chair Natale Torner - Secretary Kim Danch - Treasurer Jacquie Vezeau - Member at Large	Motion 7: The Main Street BIA elects the following members as presented: Nicki Lumsden Chair Saima Hossain Vice Chair Natale Torner - Secretary Kim Danch - Treasurer Jacquie Vezeau - Member at Large Moved by: Frank Danch Seconded by: Kim Danch All in favour: Motion carried
Councilor Report	Councilor Danch provided an update on the silhouettes. Discussion took place about having the shapes voted on by the community in order to encourage community buy in.	
Chair Report	Chair Lumsden provided an update on the Main Street Mingle happening December 2, 2022 from 5:00 Pm to 8:00 PM. The Mingle is aligned with Christmas weekend in Port Colborne with Moonlight Madness happening in Downtown BIA, the parade on Saturday, and the museum event the same weekend. The City has proposed the City, Downtown BIA, and the Main Street BIA contribute towards a staff position to support the BIAs. The position would be held	

	currently by Olga Loeffen. The City had requested \$8000. The BIA has \$4000 earmarked for public relations. The BIA could use those funds as the staff position could focus on public relations and social media marketing.	
Strategic Direction	Chair Lumsden will schedule a meeting with Bram Cotton the economic development officer to explore the addition of parking spaces on Main Street. The BIA instructed Chair Lumsden,	
Adjournment		MOTION: The BIA Committee adjourns the Annual General Meeting Moved by: Frank Danch Seconded by: Kim Danch All in favour: MOTION CARRIED

The Corporation of the City of Port Colborne

By-law No. _____

Being a By-law to Authorize Entering into an Agreement with the Province of Ontario, as represented by the Minister of Infrastructure, for the Strategic Priorities Infrastructure Fund

Whereas at its meeting of February 28, 2023, the Council of The Corporation of the City of Port Colborne ("Council") approved the recommendations of Office of the Chief Administrative Officer Report 2023-28, Subject: Strategic Priorities Infrastructure Fund – Transfer Payment Agreement; and

Whereas Council is desirous of entering into an Agreement with the Province of Ontario, as represented by the Minister of Infrastructure; and

Whereas the *Municipal Act*, 2001 S.O. 2001, c.25, as amended, confers broad authority on municipalities to enter into such agreements;

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

1. That the Corporation of the City of Port Colborne enters into a Transfer Payment Agreement with His Majesty the King in right of the Province of Ontario, as represented by the Minister of Infrastructure, for the Strategic Priorities Infrastructure Fund;
2. That the Mayor and the Acting City Clerk be and are hereby authorized and directed to sign the said agreement, attached hereto as Schedule "A", together with any documents necessary to complete the conditions of the said agreement, and the Acting City Clerk is hereby authorized to affix the Corporate Seal thereto.

Enacted and passed this 28th day of February, 2023.

William C. Steele
Mayor

Nicole Rubli
Acting City Clerk

**TRANSFER PAYMENT AGREEMENT
FOR THE STRATEGIC PRIORITIES INFRASTRUCTURE FUND**

THIS TRANSFER PAYMENT AGREEMENT for a Strategic Priorities Infrastructure Fund Project (the “Agreement”) is effective as of the Effective Date.

B E T W E E N:

**His Majesty the King in right of the Province of Ontario,
as represented by the Minister of Infrastructure**

(the “**Province**”)

- and -

The Corporation of the City of Port Colborne

(CRA# 106984107)

(the “**Recipient**”)

BACKGROUND

The Government of Ontario created the Strategic Priorities Infrastructure Fund to support, in part, large-scale new builds and expansions of community, culture and recreation infrastructure.

The Recipient is eligible to receive funding under the Strategic Priorities Infrastructure Fund.

CONSIDERATION

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

1.0 ENTIRE AGREEMENT

1.1 Schedules to the Agreement. The following schedules form part of the Agreement:

Schedule “A” - General Terms and Conditions

Schedule “B” - Specific Information

Schedule “C” - Project Description, Financial Information, 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” - Indigenous 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.

2.0 CONFLICT OR INCONSISTENCY

- 2.1 **Conflict or Inconsistency.** In the event of a conflict or inconsistency between the provisions of:

- (a) the main body of the Agreement and the provisions of a schedule, the provisions of the main body of the Agreement will prevail to the extent of the conflict or inconsistency;
- (b) Schedule “A” (General Terms and Conditions) and the provisions of another schedule, the provisions of Schedule “A” (General Terms and Conditions) will prevail to the extent of the conflict or inconsistency.

3.0 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. Counterparts may be executed either in original or other electronic form and the Parties shall adopt any signatures received via e-mail as original signatures of the Parties.

4.0 AMENDING THE AGREEMENT

- 4.1 **Amending the Agreement.** The Agreement may only be amended by a further written agreement duly executed by the authorized representatives of the Parties.

5.0 ACKNOWLEDGEMENT

- 5.1 **Acknowledgement from Recipient.** The Recipient acknowledges that:

- (a) by receiving Funds it may become 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);
- (b) His Majesty the King in right of Ontario has issued expenses, perquisites, and procurement directives and guidelines pursuant to the *Broader Public Sector Accountability Act, 2010* (Ontario);
- (c) the Funds are:
 - i. to assist the Recipient to carry out the Project and not to provide goods or services to the Province;
 - ii. funding for the purposes of the *Public Sector Salary Disclosure Act, 1996* (Ontario);
- (d) the Province is not responsible for carrying out the Project;
- (e) the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province in connection with the Agreement may be subject to disclosure in accordance with that Act; and
- (f) pursuant to the *Financial Administration Act* (Ontario), any payment of Funds is subject to an appropriation from the Ontario Legislature; if the Province does not receive the necessary appropriation, the Province is not obligated to make any such payment and the Province:
 - (i) will terminate the Agreement immediately without liability, penalty, or costs, by giving Notice to the Recipient;
 - (ii) will cancel further instalments of Funds;
 - (iii) will demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and
 - (iv) may determine the reasonable costs for the Recipient to wind down the Project and permit the Recipient to offset such costs against the amount owing pursuant to section 5.1(f)(iii).

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 any Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

[SIGNATURE PAGE FOLLOWS]

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

**HIS MAJESTY THE KING IN RIGHT OF ONTARIO as
represented by the Minister of Infrastructure**

Date

p.p. Jill Vienneau, Assistant Deputy Minister
The Honourable Kinga Surma
Minister of Infrastructure

AFFIX
CORPORATE
SEAL

THE CORPORATION OF THE CITY OF PORT COLBORNE

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 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) “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:

“Agreement” means this agreement entered into between the Province and the Recipient, all of the schedules listed in section 1.1, and any amending agreement entered into pursuant to section 4.1.

“Approval Date” means the date on which the Province has approved the Project identified in Schedule “C” (Project Description, Financial Information, and Project Standards).

“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.

“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 statutory or other holiday on which the Province is not open for business.

“Committee” refers to a Committee established pursuant to section A.28.1 (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 laws, 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.

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

“Event of Default” has the meaning ascribed to it in section A.13.1 (Events of Default).

“Expiry Date” means the expiry date set out in Schedule “B” (Specific Information).

“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 Expiry Date, whichever is first.

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

“Holdback” has the meaning as set out in section A.4.12 (Retention of Contribution).

“Indemnified Parties” means His Majesty the King in right of Ontario, and includes His ministers, agents, appointees and employees.

“Indigenous Communities” has the meaning ascribed to it in section I.1.1 (Definitions).

“Indigenous Consultation Record” has the meaning ascribed to it in section I.1.1 (Definitions).

“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 in section A.4.4 (Interest-Bearing Account), 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.

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

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

“Parties” means the Province and the Recipient.

“Party” means either the Province or the Recipient.

“Percentage of Provincial Support” has the meaning ascribed to it in section C.2.2.

“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 that anyone makes, brings, or prosecutes as a result of or in connection with the Project or with any other part of the Agreement.

“Project” means the undertaking described in Schedule “C” (Project Description, Financial Information, 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.13.3 (b), and includes any such period or periods of time by which the Province extends that time in accordance with section A.13.4 (Recipient Not Remediating).

“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.

“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 Eligible Expenditures” has the meaning ascribed to it in section C.2.1.

A.2.0 REPRESENTATIONS, WARRANTIES, AND COVENANTS

A.2.1 General. The Recipient represents, warrants, and covenants that:

- (a) it is, and will continue to be, a validly existing legal entity with full power to fulfill its obligations under the Agreement;
- (b) it has, and will continue to have, the experience and expertise necessary to carry out the Project;
- (c) 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;
- (d) 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.

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, including passing a municipal by-law or band council resolution authorizing the Recipient to enter into the Agreement.

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

- (a) a code of conduct and ethical responsibilities for all persons at all levels of the Recipient's organization;
- (b) procedures to enable the Recipient's ongoing effective functioning;
- (c) decision-making mechanisms for the Recipient;
- (d) procedures to enable the Recipient to manage Funds prudently and effectively;
- (e) procedures to enable the Recipient to complete the Project successfully;
- (f) 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;
- (g) procedures to enable the preparation and submission of all Reports required pursuant to Article A.7.0; and
- (h) 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 Expiry Date unless terminated earlier pursuant to section 5.1(f), Article A.12.0 (Termination on Notice) or Article A.13.0 (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 Schedule “J” (Requests for Payment and Payment Procedures); and
- (c) deposit the Funds into an account the Recipient designates, provided that the account:
 - (i) resides at a Canadian financial institution; and
 - (ii) is 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.30.1 (Special Conditions); and
 - (ii) any Funds to the Recipient until the Province is satisfied with the progress of the Project;
- (b) the Province may adjust the amount of Funds it provides to the Recipient in any Funding Year 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) the Province is not obligated to provide any Funds to the Recipient until it is satisfied that its duty to consult with Indigenous Communities and, if applicable, duty to accommodate any Indigenous Communities, have been met.

A.4.3 Use of Funds and Carry Out the Project. The Recipient will 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 that are necessary to carry out the Project on and after the Approval Date; and
- (d) 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.

- A.4.4 **Interest-Bearing Account.** If the Province provides Funds 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.
- 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 from the Funds; or
 - (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; and
 - (b) if the total contribution from all provincial sources in respect of the Project exceeds 73.3% of Total Eligible Expenditures, the Province may recover the excess from the Recipient or reduce the amount of Funds it provides to the Recipient 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 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.13.4 (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 a maximum of 10% of the Funds in respect of the Project (“**Holdback**”) up until the following conditions have been met:

- (a) the Recipient has fulfilled all of its obligations under the Agreement for the Project; and
- (b) the Parties have jointly carried out a final reconciliation, as set out in J.6.0 (Final Reconciliation and Adjustments), and made any adjustments required in the circumstances.

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

A.5.1 Acquisition. If the Recipient acquires goods, services, or both with the Funds, it will:

- (a) do so through a process that is fair, transparent, competitive, and consistent with value for money principles, or in a manner otherwise acceptable to the Province; and
- (b) comply with the *Broader Public Sector Accountability Act, 2010* (Ontario), including any procurement directive issued thereunder, to the extent applicable.

A.5.2 Non-Compliance with Acquisition Requirements. If the Province 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 may consent to the provision of exemptions from competitive awarding of Contracts on a case-by-case basis, in its

sole and absolute discretion, if the Recipient provides a written request indicating the business case rationale for the exemption, in advance of the Contract being awarded.

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 any authorized representative or independent auditor identified by the Province, and the Auditor General of Ontario 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 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 Includes. For the purpose of sections A.7.4 (Records Review), A.7.5 (Inspection and Removal) and A.7.6 (Cooperation), “Province” includes any auditor or representative that the Province may identify.

A.7.2 Preparation and Submission. The Recipient will:

- (a) submit to the Province at the address referred to in section A.16.1 (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 for a period of seven years after the Expiry Date:

- (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 may, at its own expense, 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 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;
- (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); and
- (b) remove any copies the Province makes pursuant to section A.7.5(a).

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 any control whatsoever over the Recipient's records.

A.7.8 Auditor General. 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 9.1 of the *Auditor General Act* (Ontario).

- A.7.9 **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.7.10 **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.7.11 **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 INDIGENOUS CONSULTATION

- A.9.1 **Indigenous Consultation Protocol.** The Parties agree to be bound by the terms and conditions of the Indigenous Consultation Protocol provided for in Schedule “I” (Indigenous Consultation Protocol).
- A.9.2 **Legal Duty to Consult.** Until the Province is satisfied that any legal duty to consult and, where appropriate, to accommodate Indigenous Communities 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) the Province has no obligation to pay any Eligible Expenditures that are capital costs, as determined by the Province; and, for any Project requiring consultation, the Province must be satisfied that:
 - (i) Indigenous 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 Indigenous 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 the Province may deem appropriate.

A.9.3 Archaeological Assessments. The Recipient will undertake archaeological assessments on the sites upon which the Project will occur where ground disturbance is proposed.

A.10.0 INDEMNIFY

A.10.1 Indemnify. The Recipient will indemnify and hold harmless the Indemnified Parties from and against any Loss and any Proceeding, unless solely caused by the negligence or wilful misconduct of the Indemnified Parties.

A.10.2 Recipient's Participation. The Recipient will, at its expense, to the extent requested by the Province participate in or conduct the defence of any Proceedings against any of the Indemnified Parties and any negotiations for their settlement.

A.10.3 Province's Election. The Province may elect to participate in, or conduct the defence of, any Proceeding by providing Notice to the Recipient of such election, without prejudice to any other rights or remedies of the Province under the Agreement, at law or in equity. If the Province or the Recipient, as applicable, participates in the defence, it will do so by actively participating with the other's counsel.

A.10.4 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 prior written approval or a waiver of this requirement. If the Recipient is requested by the Province to participate in or conduct the defence of any Proceeding, the Province will cooperate with and assist the Recipient to the fullest extent possible in the Proceeding and any related settlement negotiations.

A.10.5 Recipient's Cooperation. If the Province conducts the defence of any Proceeding, the Recipient will cooperate with and assist the Province to the fullest extent possible in the Proceeding and any related settlement negotiations.

A.11.0 INSURANCE

A.11.1 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, which commercial general liability insurance policy will include the following:

- (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.11.2 Proof of Insurance. The Recipient will:

- (a) provide to the Province, either:
 - (i) annually, certificates of insurance that confirm the insurance coverage as provided in section A.11.1 (Recipient's Insurance); or
 - (ii) other proof that confirms the insurance coverage as provided for in section A.11.1 (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.12.0 TERMINATION ON NOTICE

A.12.1 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.12.2 Consequences of Termination on Notice by the Province. If the Province terminates the Agreement pursuant to section A.12.1 (Termination on Notice), the Province may take one or more of the following actions:

- (a) direct the Recipient not to incur any costs for the Project without the Province's prior written consent;
- (b) cancel further instalments of Funds;
- (c) demand from the Recipient the payment of any Funds plus Interest Earned remaining in the possession or under the control of the Recipient; and
- (d) determine the reasonable costs for the Recipient to wind down the Project and do either or both of the following:

- (i) permit the Recipient to offset such costs against the amount the Recipient owes pursuant to paragraph A.12.2(c); and
- (ii) subject to paragraph A.4.1(a), provide Funds to the Recipient to cover such costs.

A.13.0 EVENT OF DEFAULT, CORRECTIVE ACTION, AND TERMINATION FOR DEFAULT

A.13.1 Events of Default. Each of the following events will constitute an Event of Default:

- (a) in the opinion of the Province, the Recipient breaches any representation, warranty, covenant, or other material term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:
 - (i) carry out the Project;
 - (ii) use or spend Funds; or
 - (iii) provide, in accordance with section A.7.2 (Preparation and Submission), Reports or such other reports as the Province may have requested pursuant to paragraph A.7.2(b);
- (b) the Recipient's operations, its financial condition, or 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;
- (c) 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;
- (d) the Recipient ceases to operate.

A.13.2 Consequences of Events of Default and Corrective Action. If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) initiate any action the Province considers necessary in order to facilitate the successful continuation or completion of the Project;
- (b) provide the Recipient with an opportunity to remedy the Event of Default;
- (c) suspend the payment of Funds for such 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 remaining in the possession or under the control of the Recipient plus Interest Earned;
- (g) demand from the Recipient the payment of an amount equal to any Funds the Recipient used plus Interest Earned, 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 plus Interest Earned;
- (i) demand from the Recipient the payment of 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) upon giving Notice to the Recipient, terminate the Agreement at any time, including immediately, without liability, penalty, or costs to the Province.

A.13.3 Opportunity to Remedy. If, pursuant to section A.13.2(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.13.4 Recipient Not Remediating. If the Province provides the Recipient with an opportunity to remedy the Event of Default pursuant to paragraph A.13.2(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 sections A.13.2(a), (c), (d), (e), (f), (g), (h), (i) and (j).

A.13.5 When Termination Effective. Termination under this Article A.13.0 (Event of Default,

Corrective Action, and Termination for Default) will take effect as provided for in the Notice.

A.14.0 FUNDS UPON EXPIRY

A.14.1 **Funds Upon Expiry.** Upon expiry of the Agreement, the Recipient will pay to the Province any Funds plus Interest Earned remaining in its possession, under its control, or both.

A.15.0 DEBT DUE AND PAYMENT

A.15.1 **Payment of Overpayment.** If at any time the Province provides Funds in excess of the amount to which the Recipient is entitled under the Agreement, the Province may:

- (a) deduct an amount equal to the excess Funds plus 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 Interest Earned.

A.15.2 **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 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.15.3 **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.15.4 **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).

A.15.5 **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, His Majesty the King in right of Ontario may deduct any unpaid amount from any money payable to the Recipient by His Majesty the King in right of Ontario.

A.16.0 NOTICE

A.16.1 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.16.2 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.16.3 Postal Disruption. Despite paragraph A.16.2(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.17.0 CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT

A.17.1 Consent. When the Province 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 may have attached to the consent.

A.18.0 SEVERABILITY OF PROVISIONS

A.18.1 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.19.0 WAIVER

A.19.1 **Waiver Request.** Either Party may, by Notice, ask the other Party to waive an obligation under the Agreement.

A.19.2 **Waiver Applies.** If in response to a request made pursuant to section A.19.1 (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.20.0 INDEPENDENT PARTIES

A.20.1 **Parties Independent.** The Recipient is not an agent, joint venturer, partner, or employee of the Province, and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any actions that could establish or imply such a relationship.

A.20.2 **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 to act as an agent for the Province. 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.21.0 ASSIGNMENT OF AGREEMENT OR FUNDS

A.21.1 **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.21.2 **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 His Majesty the King in right of Ontario.

A.22.0 GOVERNING LAW

A.22.1 **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.23.0 FURTHER ASSURANCES

A.23.1 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.24.0 JOINT AND SEVERAL LIABILITY

A.24.1 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.25.0 RIGHTS AND REMEDIES CUMULATIVE & JOINT AUTHORSHIP

A.25.1 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.25.2 Joint Authorship Of Agreement. The Parties will be considered joint authors of this Agreement and no provision herein will be interpreted against one Party by the other Party because of authorship. No Party will seek to avoid a provision herein because of its authorship through recourse to a third-party, court, tribunal or arbitrator.

A.26.0 FAILURE TO COMPLY WITH OTHER AGREEMENTS

A.26.1 Other Agreements. If the Recipient:

- (a) has failed to comply with any term, condition, or obligation under any other agreement with His Majesty the King in right of Ontario or one of His 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 may suspend the payment of Funds for such period as the Province determines appropriate and may deduct amounts owing as a result of such Failure from the Funds owing under this Agreement.

A.27.0 ENVIRONMENTAL REQUIREMENTS AND ASSESSMENTS

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

- (a) no form of site preparation, removal of vegetation or construction shall 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 it is satisfied that all applicable environmental assessment legislation that is or may come into force during the term of the Agreement has been met and continues to be met.

A.28.0 COMMITTEE

A.28.1 Establishment of Committee. The Province may, at its sole discretion, require the establishment of a committee to oversee the Agreement (the "Committee").

A.28.2 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.28.1 (Establishment of Committee).

A.29.0 DISPUTE RESOLUTION

A.29.1 Contentious Issues. The Parties will keep each other informed of any issues that could be contentious.

A.29.2 Examination by the Committee and Parties. If a contentious issue arises and a Committee has been established under section A.28.1 (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.29.3 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.29.4 **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.29.5 **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.29.6 **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.30.0 SPECIAL CONDITIONS

A.30.1 **Special Conditions.** The Province's funding under the Agreement is conditional upon,

- (a) on or before the Effective Date, the Recipient having provided 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.11.2 (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, the Recipient having provided 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 (Environmental Requirements), and has obtained all necessary approvals and permits;
 - b. the Recipient has met any requirements under Article A.9.0 (Indigenous Consultation) that may apply to the Project; and

- c. the Recipient has title to and ownership of any real property necessary for the completion of the Project.
- (c) the Recipient having submitted, in a format and with such content as may be requested by the Province, to the Province, at the address referred to in section A.16.1 (Notice in Writing and Addressed), an asset management planning questionnaire on or before the Effective Date, and, thereafter, on or before February 1 in each of the years 2024 and 2025, unless the Project has reached Substantial Completion before such date.
- (d) on or before December 31, 2022, the Recipient having submitted to the Province, at the address referred to in section A.16.1 (Notice in Writing and Addressed):
 - (i) a weblink to the publicly available website where the Recipient's strategic asset management policy has been posted, pursuant to Ontario Regulation 588/17 (Asset Management Planning for Municipal Infrastructure), as may be amended from time to time.
 - (ii) a weblink to the publicly available website where the Recipient's asset management plan has been posted, pursuant to Ontario Regulation 588/17 (Asset Management Planning for Municipal Infrastructure), as may be amended from time to time.

For greater certainty, if the Province provides any Funds to the Recipient before the conditions set out in this Article A.30.0 (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.13.2 (Consequences of Event of Default and Corrective Action).

A.31.0 SURVIVAL

A.31.1 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), A.1.0 (Interpretation and Definitions) and any other applicable definitions, paragraphs A.2.1(a), 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 Includes), 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), A.7.9 (Evaluation), A.7.10 (Calculations), Articles A.8.0 (Communications Requirements), A.10.0 (Indemnify), sections A.12.2 (Consequences of Termination on Notice by the Province), A.13.1 (Events of Default), paragraphs A.13.2(d), (e), (f), (g), (h) and (i), A.14.0 (Funds Upon Expiry), A.15.0 (Debt Due and Payment), A.16.0 (Notice), and A.18.0 (Severability of Provisions), section A.21.2 (Agreement Binding), and Articles A.22.0 (Governing Law), A.24.0 (Joint and Several Liability), A.25.0 (Rights and Remedies Cumulative), A.27.0 (Environmental Requirements and Assessments), A.30.0 (Special Conditions) and A.31.0 (Survival).

[SCHEDULE “B” (SPECIFIC INFORMATION) FOLLOWS]

**SCHEDULE “B”
SPECIFIC INFORMATION**

B.1.0 EXPIRY DATE

B.1.1 Expiry Date. The Expiry Date is March 31, 2028.

B.2.0 MAXIMUM FUNDS

B.2.1 Maximum Funds. Maximum Funds means \$ 827,712.38, rounded to two decimal places.

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	<p>Address: Ministry of Infrastructure Infrastructure Program Delivery Branch 777 Bay Street, Floor 4, Suite 425 Toronto, Ontario, M7A 2J3</p> <p>Attention: Manager, Program Delivery Unit</p> <p>Email: ICIPculture@ontario.ca</p>
Contact information for the purposes of Notice to the Recipient	<p>Address: The City of Port Colborne 66 Charlotte Street/Rue Port Colborne, Ontario, L3K 3C8</p> <p>Attention: Gary Long, Manager of Strategic Initiatives</p> <p>Email: gary.long@portcolborne.ca</p>

[SCHEDULE “C” (PROJECT DESCRIPTION, FINANCIAL INFORMATION, AND PROJECT STANDARDS) FOLLOWS]

SCHEDULE “C”

PROJECT DESCRIPTION, FINANCIAL INFORMATION, AND PROJECT STANDARDS

C.1.0 PROJECT DESCRIPTION

This project, Enhancing Port Colborne's Core Waterfront Cluster, will enhance Port Colborne's core waterfront cluster by completing the following activities/work:

- Improve experiences of visiting Nickel Beach by purchasing an all-in-one mobile trailer unit complete with space for washrooms, first-aid and administrative work, as well as ramps for people of all abilities;
- Enhance the recreational and cultural characteristics of West Street by repairing the promenade and installing signage as well as various streetscaping elements;
- The existing wood planking along the promenade has met its life span and is now causing safety concerns as the wood panels break free from their framing and cause tripping hazards along the main walkway on West Street. This activity will entail replacing the wood planking with concrete in order to create a long-term solution.
- The project components of streetscaping on West Street will include but are not limited to new and updated wayfinding signage and interpretative boards, new walkways and outdoor lighting for improved accessibility and safety, and landscaping features, amenities, and furnishings.

C.2.0 FINANCIAL INFORMATION

C.2.1 Total Eligible Expenditures. “Total Eligible Expenditures” means \$1,128,750.00, rounded to two decimal places.

C.2.2 Percentage of Provincial Support. “Percentage of Provincial Support” means 73.33%, rounded to two decimal places.

C.3.0 TIMELINES

C.3.1 Approval Date. Approval Date means March 6, 2022.

C.4.0 PROJECT STANDARDS

C.4.1 Energy and Accessibility 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, AND PROJECT STANDARDS

- C.5.1 Province's Consent.** Any change to the Project will require the Province's prior written 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 may require to the satisfaction of the Province.

[SCHEDULE "D" (REPORTS) FOLLOWS]

SCHEDULE “D” REPORTS

D.1.0 REPORTS

D.1.1 Reports. The Recipient shall submit the Reports set out in Article D.2.0 (Reporting Requirements) to the Province in a format and with such content requirements as may be specified by the Province, and in accordance with the timelines set out in Article D.2.0 (Reporting Requirements) in respect of the Project.

D.2.0 REPORTING REQUIREMENTS

D.2.1 Reporting Requirements. The Recipient will submit to the Province the following Reports:

- (a) on or before the Effective Date, an Initial Report that will include:
 - i. the Recipient's forecast of the timelines and costs (expenditure forecast) to the completion of the Project;
 - ii. the sources of Recipient funds; and
 - iii. other pertinent information regarding the Project.
- (b) for the period from the Effective Date to the date the Project is Substantially Completed, semi-annual Progress Reports to be submitted on or before dates to be prescribed by the Province that will include, without limitation and at the sole discretion of the Province, the following information in respect of the Project:
 - i. The Province's and the Recipient's respective forecasted contributions to the Project by Funding Year;
 - ii. the construction start date and the construction end date (forecasted and actual where applicable);
 - iii. the percentage of the Project that has been completed;
 - iv. risks and mitigation strategies;
 - v. confirmation that the Project is on track to achieve expected results; and
 - vi. confirmation that all required signage for the Project has been installed.
- (c) within 60 Business Days of Substantial Completion, a Final Report that will include:

- i. a summary of the Project's final timelines, costs, and outcomes; and
- ii. if requested by the Province, a declaration of Substantial Completion and a declaration of completion.

D.2.2 Attestation. The Recipient will include in each Report an attestation that confirms that the information in the Report is accurate.

D.3.0 INDIGENOUS CONSULTATION RECORD

D.3.1 Inclusion of Indigenous Consultation Record. The Recipient will include an updated Indigenous Consultation Record, if consultation with any Indigenous Community is required, in a format and in accordance with timelines to be provided by the Province.

D.4.0 COMPLIANCE AUDIT(S)

D.4.1 Compliance Audit(s). Without limiting the generality of section A.7.4 (Records Review), if requested by the Province, the Recipient will, at its own expense, retain an independent third-party auditor to conduct one or more compliance audits of the Recipient. 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. The audit will assess the Recipient's compliance with the terms of the Agreement and will address, 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.

D.4.2 **Submission of Compliance Audit(s).** The Recipient will submit a copy of the report for the compliance audit carried out in accordance with section D.4.1 (Compliance Audit(s)) to the Province within 30 days of the report's completion.

**[Schedule "E" (ELIGIBLE EXPENDITURES AND INELIGIBLE EXPENDITURES)
FOLLOWS]**

SCHEDULE “E”

ELIGIBLE EXPENDITURES AND INELIGIBLE EXPENDITURES

E.1.0 ELIGIBLE EXPENDITURES

E.1.1 Scope of Eligible Expenditures. Eligible Expenditures are the direct costs that are, in the Province’s sole and absolute discretion, properly and reasonably incurred and paid to an arm’s length party. Eligible Expenditures only include the following costs:

- (a) costs incurred on or after the Approval Date and paid on or before March 31, 2027;
- (b) all costs considered by the Province to be directly necessary for the successful completion of the Project, which may include, unless excluded under Article E.2.0 (Ineligible Expenditures), acquisition, planning, environmental assessment, design and engineering, project management, material, construction or renovation costs;
- (c) costs evidenced by invoices, receipts or other records that are satisfactory to the Province, in its sole and absolute discretion;
- (d) 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.
- (e) any other cost that is determined by the Province, in its sole and absolute discretion, to be an Eligible Expenditure.

E.2.0 INELIGIBLE EXPENDITURES

E.2.1 Scope of Ineligible Expenditures. Unless a cost is considered an Eligible Expenditure pursuant to section E.1.1 (Scope of Eligible Expenditures), such cost will be considered an Ineligible Expenditure. Without limitation, the following costs are Ineligible Expenditures:

- (a) Costs incurred prior to the Approval Date;
- (b) Costs incurred and paid after March 31, 2027;
- (c) All expenditures related to Contracts awarded or executed prior to the 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) Costs that have not been submitted for reimbursement on or before the date that is 60 Business Days following Substantial Completion of the Project;
- (j) Capital costs, including site preparation and construction costs, until the Province has confirmed in writing that Indigenous consultation obligations have been fully met and continue to be fully met, if applicable;
- (k) Costs related to any component of the Project other than its approved scope;
- (l) Real estate fees and related costs;
- (m) Costs incurred for the general operation, repair and regularly scheduled maintenance of the Project;
- (n) Services or works normally provided by the Recipient, incurred in the course of implementation of the Project, except those specified as Eligible Expenditures;
- (o) Expenditures related to any goods and services which are received through donations or in-kind contributions;
- (p) 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;
- (q) Unreasonable meal, hospitality or incidental costs or expenses of any Third Party;
- (r) 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;
- (s) Taxes of any kind;
- (t) Costs of relocating entire communities;
- (u) 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";

- (v) Any amounts incurred or paid by the Recipient to an entity that is not at arm's length from the Recipient;
- (w) Costs incurred contrary to Article A.5.0 (Recipient's Acquisition of Goods or Services, and Disposal of Assets) of Schedule "A" (General Terms and Conditions) of this Agreement;
- (x) Costs, charges, penalties or fees incurred or paid by the Recipient in the process of having a cost determined to be an Ineligible Expenditure.
- (y) 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;
- (z) Legal fees, financing charges and loan interest payments, including those related to easements (e.g., surveys);
- (aa) 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;
- (bb) 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 PROGRAM EVALUATIONS

- F.1.1 Recipient’s Participation in Project and Program Evaluations.** The Recipient understands that the Province may ask the Recipient to participate in one or more evaluations in respect of the Project 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 for any evaluation.
- F.1.2 Results of Project and Program Evaluations.** The result of any evaluation carried under section F.1.1 (Recipient’s Participation in Project and Program 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 that are not operational in nature, and that are collaboratively developed and approved by 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 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 public.** Communications Activities undertaken through this communications protocol should ensure that the public is 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 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 prior to being carried out.

G.3.5 **Costs of Communication Activities.** With the exception of advertising campaigns outlined in Article G.9.0 (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 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.
- G.4.3 **Recognition of the Province’s Contributions.** All Joint Communications material must be approved by the Province and will recognize the Province’s contribution received in respect of the Project.
- G.4.4 **Notice and Timing.** The Recipient and the Province 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.
- G.4.5 **Participation and Representatives.** The Party requesting a Joint Communications will provide the opportunity for the other Party 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.** The Province has an obligation to communicate in English and French. Communications products related to events must be bilingual in many instances. In such cases, the Province will provide the translation services and final approval on products.

G.5.0 INDIVIDUAL COMMUNICATIONS

- G.5.1 **The Province’s Obligations.** Notwithstanding Article G.4.0 (Joint Communications), the Parties agree that the Province has the right to communicate information to 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 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.

- 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 the Province.
- G.5.4 **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 the Province's 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 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.

G.7.0 MEDIA RELATIONS

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

G.8.0 SIGNAGE

- G.8.1 **Recognition of Funding Contribution.** The Parties agree that 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 the Province the Recipient will produce and install a sign to recognize the funding contributed by the Province at the Project site in accordance with the Province's current respective signage guidelines. 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 contribution; and
 - (b) prior to installing the marker, seek the prior written approval of the Province 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 the Province's contribution 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 the Province's 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, or as otherwise agreed upon.

G.9.0 ADVERTISING CAMPAIGNS

- G.9.1 **Notice of Advertising Campaigns.** Recognizing that advertising can be an effective means of communicating with the public, the Recipient agrees that the Province may, at its 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, the Province will inform 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 Expiry 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 the Province, or a municipal or regional government established by or under provincial statute, the Province may require the Recipient to reimburse the Province for any Funds received for the Project

[SCHEDULE “I” (INDIGENOUS CONSULTATION PROTOCOL) FOLLOWS]

SCHEDULE “I” INDIGENOUS CONSULTATION PROTOCOL

I.1.0 DEFINITIONS

I.1.1 **Definitions.** For the purposes of this Schedule “I” (Indigenous Consultation Protocol):

“**Indigenous Communities**” include First Nation, Métis, and Inuit communities or peoples of Canada.

“**Indigenous Consultation Plan**” means the Indigenous Consultation Plan described in section I.2.1 (Development of Plan).

“**Indigenous Consultation Record**” means a document that records and describes, as the Province may require, the consultation activities carried out during the Project and the results of that consultation.

I.2.0 INDIGENOUS CONSULTATION PLAN

I.2.1 **Development of Plan.** The Province, based on the scope and nature of the Project, may require the Recipient, in consultation with the Province, to develop and comply with an Indigenous consultation plan (“Indigenous Consultation Plan”).

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

- (a) the Province may delegate certain procedural aspects of the consultation to the Recipient; and
- (b) the Province will provide the Recipient with an initial list of the Indigenous Communities the Recipient will consult with.

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 Indigenous Consultation Plan is required, the Recipient will, within the timelines provided in the Notice, provide the Province with a copy of the Indigenous Consultation Plan.

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

I.3.0 INDIGENOUS CONSULTATION RECORD

I.3.1 **Requirements for Indigenous Consultation Record.** If consultation with an Indigenous Community is required, the Recipient will maintain an Indigenous 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 Indigenous 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 Indigenous Communities regarding the Project;
- (b) of the outcomes of any archaeological assessments undertaken on the sites upon which the Project will occur; or
- (c) of any Indigenous archaeological resources that are discovered in relation to the Project,

and the Recipient agrees that the Province may direct the Recipient to take such actions as the Province may require. The Recipient will comply with the Province'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 as the Province 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.7.0 (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 (Procedures for Requests for Payment for Eligible Expenditures) of this Schedule “J” 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 to the Province in a diligent and timely manner.

J.3.0 PROCEDURES FOR REQUESTS FOR PAYMENT FOR ELIGIBLE EXPENDITURES

J.3.1 **Timing, Reports and Documents.** The Recipient will submit a request for payment for Eligible Expenditures in respect of the Project to the Province no more than quarterly and no less than twice a year, unless an alternative request for payment schedule has been requested in advance by the Recipient and the Province has agreed to the request in writing, if costs have been incurred, and, if the Province so requested pursuant to paragraph K.4.1(f), after review by the Committee. If no costs have been incurred within the previous six months, the Recipient will notify the Province that no claim is being submitted for that period. The Recipient agrees to submit, for each of the circumstances listed below, the following reports and documents:

(a) for each request for payment, including the Final Payment:

- i. a report in a format prescribed by the Province;
- ii. a detailed breakdown of invoices that are being claimed for reimbursement;
- iii. copies of invoices and associated documentation that may be required to validate the eligibility of expenditures, including but not limited to proof of payment;

- iv. an attestation by an authorized representative in a format acceptable to the Province that confirms that the Eligible Expenditures claimed in the request for payment have been paid and incurred in accordance with the terms and conditions of the Agreement;
 - v. such other information as the Province may request.
- (b) for each request for Final Payment, a Final Report, acceptable to the Province; and
- (c) such other information as the Province may request.

J.4.0 PAYMENTS

- 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 Eligible Expenditures up to the Maximum Funds. Claims will be reimbursed based on the Percentage of Provincial 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:
- (a) the conditions set out in paragraph A.4.2(c) of Schedule “A”;
 - (b) the special conditions listed in section A.30.1 (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 on or before the date that is 60 Business Days following Substantial Completion.
- J.5.2 **No Obligation for Payment.** The Province will have no obligation to make any

payment for a request for payment submitted after the date that is 60 Business Days following Substantial Completion.

J.6.0 FINAL RECONCILIATION AND ADJUSTMENTS

J.6.1 **Final Reconciliation and Adjustments.** For the Project, following the submission of the Final Report and any other requested Reports, the Province may 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.** The Province may hold back funding in accordance with section A.4.12 (Retention of Contribution).

J.7.0 FINAL PAYMENT

J.7.1 **Final Payment.** Subject to paragraph 5.1(f), the Province will pay to the Recipient the remainder of its contribution under the Agreement, including the Holdback, after all of the conditions under section A.4.12 (Retention of Contribution) of Schedule “A” (General Terms and Conditions) 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.28.1 (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 Expiry 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.

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).

The Corporation of the City of Port Colborne

By-law No. _____

Being a By-law to Authorize the Dedication of Part 4 Plan 59R-17452 as a Public Highway

Whereas at its meeting of February 28th, 2023, the Council of The Corporation of the City of Port Colborne (Council) approved the recommendations of Chief Administrative Officer Report 2023-25, Subject: Dedicate a portion of Borden Avenue as a Public Highway, Part 4, Plan 59R-17542; and

Whereas Section 27(1) of the *Municipal Act*, 2001, provides that, except as otherwise provided in the Act, a municipality may pass by-laws in respect of a highway only if it has jurisdiction over the highway; and

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

1. That a portion of the Borden Avenue Road Allowance, legally described as Part 4, Plan 59R-17542, be dedicated as a public highway;
2. That the Mayor, the Acting City Clerk be and are hereby authorized to execute any documents that may be required for the purpose of carrying out the intent of this by-law and the Acting City Clerk is dully authorized to affix the Corporate Seal thereto.
3. That the City Solicitor be and is hereby directed to prepare and register all such documents in the proper Land Registry Office to dedicate a portion of Borden Avenue Road Allowance as a public highway.
4. This by-law shall take effect on the day that a certified copy of the by-law is registered in the proper land registry office.

Enacted and passed this 28th day of February, 2023.

William C. Steele
Mayor

Nicole Rubli
Acting City Clerk

The Corporation of the City of Port Colborne

By-law No. _____

Being a By-law to Authorize Entering into Transfer Payment Amending
Agreements with the Ontario Municipal Modernization Program

Whereas at its meeting of February 28, 2023, the Council of The Corporation of the City of Port Colborne (Council) approved the recommendations of CAO office –Report No. 2023-33, Subject: Municipal Modernization Program - Amending Agreements; and

Whereas Council is desirous of entering into Amending Agreements with the provincial government hereby represented by the Minister of Municipal Affairs and Housing; and

Whereas the *Municipal Act*, 2001 S.O. 2001, c.25, as amended, confers broad authority on municipalities to enter into such agreements;

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

1. That The Corporation of the City of Port Colborne enters into Amending Agreements with the provincial government for the Ontario Municipal Modernization Program hereby represented by the Minister of Municipal Affairs and Housing for funding for: Telecommunications System Modernization; Fire and Emergency Services Digitization and Records Management Implementation; Digitizing Public Works Permit Process; and Route Patrol Software.
2. That the Mayor and the Acting City Clerk be and they are hereby authorized and directed to sign the said agreements, attached hereto as Schedule “A”, together with any documents necessary to complete the conditions of the said agreements or any other phase for the Minister of Municipal Affairs and Housing, and the Acting City Clerk is hereby authorized to affix the Corporate Seal thereto.

Enacted and passed this 28th day of February, 2023.

William C. Steele
Mayor

Nicole Rubli
Acting City Clerk

ONTARIO TRANSFER PAYMENT AMENDING AGREEMENT

This Amending Agreement No.1 effective as of the day of , 2023.

B E T W E E N :

**His Majesty the King in right of Ontario
as represented by the Minister of Municipal Affairs and
Housing**

(the “**Province**”)

- and -

Corporation of the City of Port Colborne

(the “**Recipient**”)

BACKGROUND

1. The Province and the Recipient entered into an agreement effective as of March 4, 2022 (the “**Agreement**”) for the City of Port Colborne Telecommunications System Modernization Project.
2. Pursuant to section 4.1 of Agreement, the Parties wish to amend the Agreement in the manner set out in this Amending Agreement No.1.

IN CONSIDERATION of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

3. All references to “Her Majesty the Queen in right of Ontario” are replaced with “His Majesty the King in the right of Ontario”.
4. Capitalized terms used but not defined in this Amending Agreement No.1 (the “Amending Agreement No.1”) have the meanings ascribed to them in the Agreement.
5. Section 1.2 of the Agreement is deleted in its entirety and replaced by the following:

“Entire Agreement. The Agreement and Amending Agreement No. 1 constitute the entire agreement between the Parties with respect to the subject contained in the Agreement and supersedes all prior oral or written representations and agreements.”

6. Schedule “B” (Project Specific Information and Additional Provisions) of the Agreement is amended by deleting “March 31, 2024” in the 2nd row and 2nd column of the chart and replacing it with “March 31, 2025”.
7. Schedule “D” (Budget) of the Agreement is amended by deleting the 2nd row and 1st column of the chart in its entirety and replacing it with:

“Reimbursement of up to 65% of Project costs incurred between August 16, 2021 to the earlier of December 1, 2023 or the submission of the Final Report Back”.
8. Schedule “F” (Reports) of the Agreement is amended by:
 - (a) Deleting “February 28, 2023” in the 3rd row and 2nd column of the chart and replacing it with “December 1, 2023”;
 - (b) Deleting “February 28, 2024” in the 4th row and 2nd column of the chart and replacing it with “December 2, 2024”; and
 - (c) Deleting “February 28, 2023” in the first paragraph under the subheading “2. Final Report Back” and replacing it with “December 1, 2023”.
9. Amending Agreement No.1 shall be effective as of the date set out at the top of the Amending Agreement No.1.
10. Except for the amendments provided for in Amending Agreement No.1, all provisions in the Agreement shall remain in full force and effect.

- SIGNATURE PAGE FOLLOWS -

The Parties have executed this Amending Agreement No.1 on the dates set out below.

**HIS MAJESTY THE KING IN RIGHT OF ONTARIO
as represented by Minister of Municipal Affairs
and Housing**

Date

Name: The Honourable Steve Clark
Title: Minister of Municipal Affairs and Housing

Corporation of the City of Port Colborne

Date

Name:
Title:
I have authority to bind the Recipient.

Date

Name:
Title:
I have authority to bind the Recipient.

ONTARIO TRANSFER PAYMENT AMENDING AGREEMENT

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as represented by the Minister of Municipal Affairs and
Housing**

(the “**Province**”)

- and -

Corporation of the City of Port Colborne

(the “**Recipient**”)

BACKGROUND

1. The Province and the Recipient entered into an agreement effective as of March 4, 2022 (the “**Agreement**”) for the City of Port Colborne Modern and Digital Fire and Emergency Records Management Implementation Project.
2. Pursuant to section 4.1 of Agreement, the Parties wish to amend the Agreement in the manner set out in this Amending Agreement No.1.

IN CONSIDERATION of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

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and Housing**

Date

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Title: Minister of Municipal Affairs and Housing

Corporation of the City of Port Colborne

Date

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Title:
I have authority to bind the Recipient.

Date

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Title:
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as represented by the Minister of Municipal Affairs and
Housing**

(the “**Province**”)

- and -

Corporation of the City of Port Colborne

(the “**Recipient**”)

BACKGROUND

1. The Province and the Recipient entered into an agreement effective as of March 4, 2022 (the “**Agreement**”) for the City of Port Colborne Digitizing Public Works Permit Process Modernization Project.
2. Pursuant to section 4.1 of Agreement, the Parties wish to amend the Agreement in the manner set out in this Amending Agreement No.1.

IN CONSIDERATION of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

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Corporation of the City of Port Colborne

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- and -

Corporation of the City of Port Colborne

(the “**Recipient**”)

BACKGROUND

1. The Province and the Recipient entered into an agreement effective as of March 4, 2022 (the “**Agreement**”) for the City of Port Colborne Route Patrol Software Solution Project.
2. Pursuant to section 4.1 of Agreement, the Parties wish to amend the Agreement in the manner set out in this Amending Agreement No.1.

IN CONSIDERATION of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

3. All references to “Her Majesty the Queen in right of Ontario” are replaced with “His Majesty the King in the right of Ontario”.
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Title: Minister of Municipal Affairs and Housing

Corporation of the City of Port Colborne

Date

Name:
Title:
I have authority to bind the Recipient.

Date

Name:
Title:
I have authority to bind the Recipient.

The Corporation of the City of Port Colborne

By-Law No.

Being a by-law to adopt, ratify and confirm
the proceedings of the Council of The
Corporation of the City of Port Colborne at
its Regular Meeting of February 28, 2023

Whereas Section 5(1) of the *Municipal Act, 2001*, provides that the powers of a municipality shall be exercised by its council; and

Whereas Section 5(3) of the *Municipal Act, 2001*, provides that a municipal power, including a municipality's capacity rights, powers and privileges under section 9, shall be exercised by by-law unless the municipality is specifically authorized to do otherwise; and

Whereas it is deemed expedient that the proceedings of the Council of The Corporation of the City of Port Colborne be confirmed and adopted by by-law;

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

1. Every action of the Council of The Corporation of the City of Port Colborne taken at its Regular Meeting of February 28, 2023 upon which a vote was taken and passed whether a resolution, recommendations, adoption by reference, or other means, is hereby enacted as a by-law of the City to take effect upon the passing hereof; and further
2. That the Mayor and Clerk are authorized to execute any documents required on behalf of the City and affix the corporate seal of the City and the Mayor and Clerk, and such other persons as the action directs, are authorized and directed to take the necessary steps to implement the action.

Enacted and passed this 28th day of February, 2023.

William C. Steele
Mayor

Nicole Rubli
Acting City Clerk