

THE CORPORATION OF THE TOWNSHIP OF MCGARRY

BY-LAW NO. 2018-06

**BEING A BY-LAW TO ENTER INTO AN AGREEMENT WITH HER MAJESTY
THE QUEEN OF ONTARIO AS REPRESENTED BY THE MINISTER OF
AGRICULTURE, FOOD RURAL AFFAIRS.**

**WHEREAS the Corporation of the Township of McGarry enters into an agreement
with the Ontario Community Infrastructure Fund Top-Up Application Process;**

AND WHEREAS the Council of the Township of McGarry enacts as follows:

1. THAT Council approves of entering into an agreement with the Province of Ontario;
2. THAT the agreement shall be attached to and form Schedule "A" to this By-Law;
3. THAT Mayor Clermont Lapointe and Clerk Treasurer Sylvie Côté be and are hereby authorized to execute the agreement on behalf of the Township of McGarry.

BY-LAW READ A FIRST AND SECOND TIME ON FEBRUARY 20, 2018

BY-LAW READ A THIRD AND FINALLY PASSED FEBRUARY 20, 2018

THE CORPORATION OF THE TOWNSHIP OF MCGARRY


MAYOR


CLERK-TREASURER

**ONTARIO COMMUNITY INFRASTRUCTURE FUND – APPLICATION-BASED
COMPONENT AGREEMENT (2017 TOP-UP INTAKE)****BETWEEN:**

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

(the "Province")

– and –

The Corporation of the Township of McGarry
(CRA# 130088172)

(the "Recipient")

BACKGROUND

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

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

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

CONSIDERATION

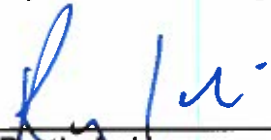
In consideration of the mutual covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is expressly acknowledged, the Parties agree as follows:

1.0 ENTIRE AGREEMENT**1.1 This Agreement, including:**

Schedule "A" – General Terms And Conditions,
Schedule "B" – Additional Terms And Conditions,
Schedule "C" – Operational Requirements Under The Agreement,
Schedule "D" – Project Description,

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

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




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

March 27, 2018
Date

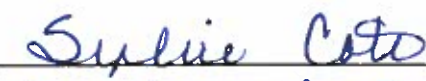
I have the authority to bind the Province pursuant to delegated authority.

THE CORPORATION OF THE TOWNSHIP OF MCGARRY

AFFIX CORPORATE
SEAL

Signature: 

Name: CLERMONT LAPOINTE
Title: MAYOR
Date: Feb 21/2018

Signature: 

Name: SYLVIE CÔTÉ
Title: CLERK TREASURER
Date: Feb. 21, 2018

I/We have the authority to bind the Recipient.

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

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

"Conflict Of Interest" includes any circumstances where:

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

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

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

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

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

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

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

"FAA" means the *Financial Administration Act*.

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

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

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

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

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

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

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

ARTICLE A2
EFFECTIVE DATE AND DURATION OF AGREEMENT

- A2.1 *Effective Date Of Agreement.*** This Agreement will take effect on the Effective Date.
- A2.2 *Expiration Date Of Agreement.*** This Agreement will expire on the Expiration Date.

ARTICLE A3
REPRESENTATIONS, WARRANTIES AND COVENANTS

- A3.1 *General.*** The Recipient represents, warrants and covenants that:
- (a) It is, and will continue to be for the Term of this Agreement, a validly existing legal entity with full power to fulfill its obligations under this Agreement;
 - (b) It has, and will continue to have for the Term of this Agreement, the experience and expertise necessary to carry out the Project;
 - (c) It has the financial resources necessary to carry out the Project and is not indebted to any person to the extent that that indebtedness would undermine the Recipient's ability to complete the Project;
 - (d) It is in compliance with all Requirements of Law and will remain in compliance with all Requirements of Law related to any aspect of the Project, the Funds or both for the Term of this Agreement;
 - (e) Unless otherwise provided for in this Agreement, any information the Recipient provided to the Province in support of its request for Funds, including any information relating to any eligibility requirements, was true and complete at the time the Recipient provided it; and
 - (f) the Project is owned by the Recipient.
- A3.2 *Execution Of Agreement.*** The Recipient represents and warrants that it has:
- (a) The full power and authority to enter into this Agreement; and
 - (b) Taken all necessary actions to authorize the execution of this Agreement.
- A3.3 *Governance.*** The Recipient represents, warrants and covenants that it has, and will maintain, in writing for the Term of this Agreement:
- (a) A code of conduct and ethical responsibilities for all persons at all levels of the Recipient's organization;
 - (b) Procedures to ensure the ongoing effective functioning of the Recipient;
 - (c) Decision-making mechanisms for the Recipient;
 - (d) Procedures to enable the Recipient to manage the Funds prudently and effectively;
 - (e) Procedures to enable the Recipient to successfully complete the Project;
 - (f) Procedures to enable the Recipient to, in a timely manner, identify risks to the completion of the Project and develop strategies to address those risks;
 - (g) Procedures to enable the preparation and delivery of all Reports required under this Agreement; and
 - (h) Procedures to enable the Recipient to deal with such other matters as the Recipient considers necessary to ensure that the Recipient carries out its obligations under this Agreement.
- A3.4 *Approvals, Licenses And Permits.*** The Recipient represents, warrants and covenants that it has or will apply for any approval, license, permit or similar authorization necessary to carry out the Project. The Recipient further acknowledges and agrees that the entering into this

with the Reports it has received, and not before thirty (30) days after the Expiration Date; and

- (e) If, in the opinion of the Minister of Agriculture, Food and Rural Affairs, the Province does not receive the necessary appropriation from the Ontario Legislature for any payment under this Agreement, the Province is not obligated to make any such payment, and, as a consequence, the Province may:
 - (i) Reduce the amount of Funds and, in consultation with the Recipient, change the Project without liability, penalty or costs; or
 - (ii) Terminate the Agreement pursuant to section A15.1 of Schedule "A" of this Agreement.

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

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

A4.4 Interest Bearing Account. If the Province provides Funds to the Recipient before the Recipient needs such Funds to pay Eligible Costs, the Recipient will place the Funds in an interest-bearing account in the name of the Recipient at a Canadian financial institution. The Recipient will hold the Funds plus any Interest Earned thereon in trust for the Province until the Recipient needs the Funds to pay Eligible Costs. The Province may take the following action with respect to any Interest Earned:

- (a) Deduct an amount equal to the Interest Earned from the Funds; or
- (b) Demand from the Recipient the repayment of an amount equal to the Interest Earned.

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

A4.6 Maximum Funds. The Recipient acknowledges and agrees that the Funds available to it pursuant to this Agreement will not exceed the Maximum Funds.

A4.7 Project Financing. The Recipient acknowledges and agrees that:

- (a) It is solely responsible for funding any Ineligible Costs, and all costs to complete the Project in excess of the Funds;
- (b) Other than the Funds, the Project may not be funded by amounts received under any other application-based funding program put in place by the Province.

A4.8 No Changes To The Project. The Recipient will not make any changes to the Project without the prior written consent of the Province.

A4.9 Project Completion. The Project will achieve Substantial Completion by the Project Completion Date.

**ARTICLE A5
ABORIGINAL CONSULTATION**

A5.1 Provision Of Funds Dependent Upon The Province Meeting Its Duty To Consult Obligations. The Recipient acknowledges and agrees that the provision of any Funds is strictly

- A6.3 Contracts.** The Recipient will ensure that all Contracts:
- (a) Are consistent with this Agreement;
 - (b) Do not conflict with this Agreement;
 - (c) Incorporate the relevant provisions of this Agreement to the fullest extent possible;
 - (d) Require that any parties to those Contracts comply with all Requirements of Law; and
 - (e) Authorize the Province to perform audits of the parties to those Contracts in relation to the Project or any Funds provided to those parties.
- A6.4 Use Of Consultants.** The Province recognizes and acknowledges that the Recipient may engage one or more Consultants for the purposes of carrying out the Project. The Recipient will have sole responsibility for hiring and terminating the employment of said Consultants. The Recipient further acknowledges and agrees that the Recipient will be responsible for all acts and actions of the Recipient's Consultants and that all such acts and actions will be treated as acts and actions of the Recipient for the purposes of this Agreement.
- A6.5 Trade Agreements.** If the Recipient is subject to any provincial or federal trade agreements to which the Province is a party, the Recipient will comply with the applicable requirements of such trade agreements. In particular, and without limitation, if the Recipient is subject to Annex 502.4 of the *Agreement on Internal Trade*, the Recipient will comply with all applicable requirements of Annex 502.4. In the event of any conflict between any requirement under Annex 502.4 and a requirement under this Article 6 of the Agreement, Annex 502.4 will apply and prevail to the extent of that conflict.
- A6.6 Costs Of Contracts Not Awarded In Compliance With This Article May Be Deemed Ineligible.** If the Province determines that the Recipient has awarded a Contract in a manner that is not in compliance with any requirement set out under this Article 6 of Schedule "A" of the Agreement, the Province may without liability, penalty or costs deem the costs associated with the Contract as being ineligible and will have no obligation to pay those costs.
- A6.7 Disposal Of Assets.** The Recipient will not, without the Province's prior written consent, sell, lease, encumber or otherwise dispose of any asset purchased, rehabilitated or built with the Funds or for which Funds were provided for a period of five (5) years after the Expiration Date or Project Completion Date whichever is earlier.

ARTICLE A7 CONFLICT OF INTEREST

- A7.1 No Conflict Of Interest.** The Recipient will ensure that any Person associated with the Project in whatever capacity carries out the administration of any Funds in all its aspects without an actual, potential or perceived Conflict Of Interest.
- A7.2 Disclosure To The Province:** The Recipient will:
- (a) Disclose to the Province, without delay, any situation that a reasonable person would interpret as an actual, potential or perceived Conflict Of Interest; and
 - (b) Comply with any directions that the Province may provide upon receiving such disclosure.

**ARTICLE A9
COMMUNICATIONS**

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

**ARTICLE A10
ADDITIONAL PROVISIONS**

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

**ARTICLE A11
DISCLOSURE OF INFORMATION PROVIDED TO THE PROVINCE**

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

**ARTICLE A12
INDEMNITY, LIMITATION OF LIABILITY AND DUTY TO DEFEND**

- A12.1 Indemnification.** The Recipient hereby agrees to indemnify and hold harmless the Indemnified Parties from and against any and all direct or indirect liability, loss, costs, damages and expenses (including legal, expert and consultant fees), causes of action, actions, claims, demands, lawsuits or other proceedings, by whomever made, sustained, incurred, brought or prosecuted, in any way arising out of or in connection with the Project or otherwise in connection with this Agreement, unless solely caused by the gross negligence or wilful misconduct of the Province.
- A12.2 Exclusion Of Liability.** The Recipient acknowledges and agrees that in no event will the Province be liable for any general, compensatory, incidental, special or consequential damages, or any loss of use, revenue or profit by the Recipient or the Recipient's officers, servants, employees and agents arising out of or in any way related to this Agreement.
- A12.3 Recipient's Participation.** The Recipient will, at its expense, to the extent requested by the Province, participate in or conduct the defence of any proceeding against any Indemnified Parties and any negotiations for their settlement.

and any claim for a lien made pursuant to the *Construction Lien Act* and for any and all liability, damages to property and injury to persons (including death)) that may be brought against the Indemnified Parties as a result of this Agreement.

ARTICLE A14 TERMINATION ON NOTICE

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

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

- (a) Direct that the Recipient does not incur any costs for the Project without the Province's prior written consent;
- (b) Cancel any further payment of the Funds;
- (c) Demand the repayment of any Funds provided, plus any Interest Earned thereon, remaining in the possession or under the control of the Recipient; and
- (d) Determine the reasonable costs for the Recipient to wind down the Project, and do either or both of the following:
 - (i) Permit the Recipient to offset such costs against any amount owing pursuant to section 14.2(c) of this Schedule "A"; and/or
 - (ii) Subject to section A4.2(e) of Schedule "A" of this Agreement, provide Funds to the Recipient to cover such costs.

ARTICLE A15 TERMINATION WHERE NO APPROPRIATION

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

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

- (a) Cancel any further payment of Funds;
- (b) Demand the repayment of any Funds, plus any Interest Earned thereon, remaining in the possession or under the control of the Recipient; and
- (c) Determine the reasonable costs for the Recipient to wind down the Project and permit the Recipient to offset such costs against the amount owing pursuant to section 15.2(b) of this Schedule "A".

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

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

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

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

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

ARTICLE A17 LOBBYISTS AND AGENT FEES

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

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

ARTICLE A18 FUNDS UPON EXPIRY

A18.1 Funds Upon Expiry. The Recipient will, upon the expiry of the Agreement, return to the Province any Funds that were provided but not applied against Eligible Costs plus any Interest Earned thereon.

ARTICLE A19 REPAYMENT

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

- (a) Deduct an amount equal to the excess Funds plus any Interest Earned thereon from any Funds that have not yet been provided; or
- (b) Demand that the Recipient pay an amount equal to the excess Funds plus any Interest Earned thereon to the Province.

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

- (a) The Province demands the payment of any Funds provided plus Interest Earned from the Recipient; or

**ARTICLE A21
CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT**

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

**ARTICLE A22
SEVERABILITY OF PROVISIONS**

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

**ARTICLE A23
WAIVER**

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

**ARTICLE A24
INDEPENDENT PARTIES**

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

**ARTICLE A25
ASSIGNMENT OF AGREEMENT OR FUNDS**

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

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

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

ARTICLE A32 SURVIVAL

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

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

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

SCHEDULE "C"
OPERATIONAL REQUIREMENTS UNDER THE AGREEMENT

- C1 *Effective Date.*** The Effective Date of this Agreement is the date in which the Province signs the Agreement.
- C2 *Expiration Date.*** The Expiration Date means March 31, 2021, unless this Agreement is terminated earlier, in which it means the date of termination.
- C3 *Project Completion Date.*** Project Completion Date means December 31, 2019. For clarity this means that Substantial Completion must have occurred.
- C4 *Insurance Amount.*** The amount of insurance the Recipient will have for the purposes of section A13.1 of Schedule "A" of this Agreement no less than two million dollars (\$2,000,000.00).
- C5 *Providing Notice.*** All Reports and Notices under this Agreement will be submitted to the appropriate Party at the address listed below:

TO THE PROVINCE	TO THE RECIPIENT
Ministry of Agriculture, Food and Rural Affairs Rural Programs Branch 1 Stone Road West, 4NW Guelph, Ontario N1G 4Y2 Attention: Manager, Infrastructure Renewal Programs Fax: 519-826-3398 Email: OCIFApps@ontario.ca	The Corporation of the Township of McGarry PO Box 99, 27 Webster Street Virginiatown, ON P0K 1X0 Attention: Sylvie Cote Fax: (705) 634-2700 Email: treasure@ntl.sympatico.ca

or any other person identified by either Party in writing.

[REST OF PAGE INTENTIONALLY LEFT BLANK – SCHEDULE "D" FOLLOWS]

SCHEDULE "E" ELIGIBLE AND INELIGIBLE COSTS

E1 Eligible Costs. Subject to the terms and conditions of this Agreement and section E2 of this Schedule "E" of this Agreement, Eligible Costs shall only include all direct and incremental costs that are necessary for carrying out the Project and are in the Province's sole and absolute discretion, properly and reasonably incurred and paid to Arm's Length vendors as evidenced by invoices, receipts or other records that are acceptable to the Province.

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

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

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

- (a) Costs incurred not in accordance with section A6.1 of Schedule "A" of this Agreement;
- (b) Costs incurred prior to June 21, 2017 or after the Project Completion Date;
- (c) Costs associated with the acquisition or leasing of:
 - (i) Land,
 - (ii) Buildings,
 - (iii) Equipment,
 - (iv) Other facilities, and
 - (v) Obtaining easements, including the costs or expenses for surveys, and includes real estate fees and other related costs;
- (d) Costs associated with moveable/transitory assets (e.g. portable generators, etc.) or rolling stock (e.g. trucks, graders, etc.);
- (e) Costs related to recreational trails;

**SCHEDULE "F"
FINANCIAL INFORMATION**

- F1 *Maximum Funds.*** Maximum Funds means an amount up to One Million Eight Hundred Ninety Six Thousand Eight Hundred Seventy Eight Dollars (\$1,896,878).
- F2 *Holdback.*** The Province may withhold up to ten (10) percent from each payment of Funds the Province makes to the Recipient under this Agreement as a Holdback.
- F3 *Provision Of Funds.*** The Province will provide the Funds to the Recipient, subject to the terms and conditions of the Agreement, based on the following payment schedule:

Project Milestone Payment	Recipient Expected Date*	No Later Than
Milestone 1: Agreement Execution	March 9, 2018	March 9, 2018
Milestone 2: Submission and Acceptance of Revised Budget Report, Construction Contract Award Report, and Progress Report (submitted within fifteen (15) Business Days of a council resolution awarding 70% of the Project costs)	July 3, 2018	June 28, 2019
Milestone 3: Submission and Acceptance of Final Report (should be submitted no later than sixty (60) Business Days of the Project Completion Date)	January 29, 2020	February 14, 2020

*Recipient Expected Date is the date supplied by the Recipient in their Project application as when the required documentation will be submitted. If there is a variance between the date noted in Recipient Expected Date and the actual date the milestone documentation will be submitted by the Recipient, Notice must be provided as soon as possible to the Province.

SCHEDULE "G"

ABORIGINAL CONSULTATION REQUIREMENTS

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

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

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

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

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

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

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

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

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

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

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

G6.1 Notices In Relation To Schedule. All notices to the Province pertaining to this Schedule shall be in writing and shall be given sent to the person identified under section C5 of Schedule "C" of this Agreement.

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Recipient will provide the opportunity for the Province to participate and will recognize the funding provided by the Province.

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

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

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

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

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