

CANADA – ONTARIO
BUILDING CANADA FUND
COMMUNITIES COMPONENT AGREEMENT
2007 - 2017

This Agreement is made as of **August 26, 2008**

BETWEEN: **HER MAJESTY IN RIGHT OF CANADA**, represented by the Minister of Transport, Infrastructure and Communities (“Canada”),

AND **HER MAJESTY IN RIGHT OF THE PROVINCE OF ONTARIO** (“Province”) represented by the Minister of Energy and Infrastructure

BACKGROUND

WHEREAS the Parties recognize that investments in public infrastructure are fundamental to the quality of life of Canadians and necessary to ensure continued economic growth;

AND WHEREAS Canada, consistent with Advantage Canada, provided a national total of \$33 billion in the Building Canada Plan in the 2007 Budget for infrastructure investments in Canada of which \$8.8 billion was allocated to the Building Canada Fund; the Government of Canada’s new flagship infrastructure program that emphasizes partnerships with municipal, provincial, territorial governments, as well as the private sector;

AND WHEREAS the Government of Ontario’s ReNew Ontario infrastructure plan announced in 2005 commits more than \$30 billion in investments in strengthening Ontario’s economy and Ontario’s communities;

AND WHEREAS Ontario and Canada have signed a Framework Agreement to implement the Building Canada Plan in Ontario;

AND WHEREAS Ontario will fully match Canada’s investments in the Building Canada Fund;

AND WHEREAS investments under the Communities Component of the BCF focus on small to medium scale projects in smaller communities to bring forward small to medium scale priorities to support national, provincial or local objectives;

AND WHEREAS the Communities Component of the BCF supports projects that address local needs;

AND WHEREAS this Agreement is entered into as contemplated under the Framework Agreement;

NOW THEREFORE, Canada and Ontario hereby agree as follows.

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1. INTERPRETATION

1.1. Definitions

A capitalized term has the meaning given to it in this section unless the context clearly dictates otherwise.

“**Agreement**” means this Agreement and all of its schedules.

“**Applicant**” means:

- a) A Local Government or a group of Local Governments that has applied for a contribution in support of a Project under this Agreement. First Nations are eligible if they are part of a group including at least one Local Government; or
- b) A provincial entity, including the province of Ontario, that provides municipal type services to communities pursuant to provincial statute; or
- c) A public sector body that is established by or under provincial statute or by regulation or is wholly owned by a province or Local Government, and that provides municipal-type services in a given area; or
- d) A private sector body, including not-for-profit organizations, whose Application is supported by a resolution of the council of the Local Government where the Project is proposed to be located;

but does not include:

- (i) Local Governments having a population of 100,000 or greater, as determined by Statistics Canada’s Final 2006 Census as of March 31st, 2007;
- (ii) Departments, ministries and agencies of Canada; and
- (iii) Federal or provincial departmental corporations or Crown Corporations, except as expressly set out above.

“**Application**” means a request for funding by an Applicant that meets the requirements of this Agreement.

“**Asset**” means any moveable or non-moveable asset, constructed, rehabilitated, or improved, in whole or in part, with funds contributed by Canada and Ontario under the terms of this Agreement.

“**BCF**” means the Building Canada Fund.

“**BCF Communities Component**” means the Communities Component of the Building Canada Fund.

“Construction Works” means any physical changes to land (above or below ground level) or buildings.

“Contract” means a Contract between a Recipient and a Third Party whereby the latter agrees to contribute a product or service to a Project in return for financial consideration that may be claimed as an Eligible Cost.

“Contribution Agreement” means an agreement between Ontario and a Recipient whereby Ontario agrees to contribute financially to an approved Project.

“Eligible Costs” means project costs eligible for funding in accordance with Schedule B- Eligible and Ineligible Costs.

“Fiscal Year” means the period beginning April 1 of a year and ending March 31 of the following year.

“Framework Agreement” means the Canada-Ontario Infrastructure Framework Agreement made between Ontario and Canada dated July 24, 2008.

“IFC” means the Infrastructure Framework Committee created pursuant to the Framework Agreement.

“Infrastructure” means publicly- or privately-owned capital assets in Ontario for public use or benefit.

“Joint Secretariat” means the Joint Secretariat referred to in Section 4.5.

“Local Government” means the government of a single-tier, lower-tier or upper-tier municipality, established by or under Ontario provincial statute.

“Ministers” means the Federal Ministers and the Provincial Ministers, and includes anyone authorized to act on their behalf.

“National Highway System” means key interprovincial and international corridor routes (the original 1988 NHS routes, the amended September 2004 NHS additions and links to key intermodal facilities and major border crossings that connect to these routes).

“Oversight Committee” means the committee established pursuant to Subsection 4.1, responsible for administering and managing this Agreement.

“Parties” means Canada and Ontario; and **“Party”** means either Canada or Ontario.

“Project” means an Infrastructure project that is the subject of an Application under the BCF Communities Component and that will be situated within the boundaries of a Local Government or that will directly benefit a community with a population of less than 100,000 people, excluding the Infrastructure’s maintenance and operation.

“Recipient” means an Applicant whose Project is approved for funding under this Agreement.

“Third Party” means any person other than a Party to this Agreement or a Recipient,

that participates in the implementation of a Project.

1.2. Entire Agreement

Save for the Framework Agreement, this Agreement supersedes and invalidates all other commitments, representations and warranties relating to the subject matter hereof which may have been made by the Parties either orally or in writing prior to the date hereof and all of which will become null and void from the date this Agreement is signed.

1.3. Schedules

The following schedules are attached to and form part of this Agreement:

Schedule A - Project Review, Assessment and Selection Framework;

Schedule B - Eligible and Ineligible Costs;

Schedule C - Reporting, Audit and Evaluation; and

Schedule D - Information Management.

1.4. Precedence

In the event of a conflict, the part of this Agreement that precedes the signatures of the Parties will take precedence over the Schedules and the Guidelines and in the event of a conflict between this Agreement and the Framework Agreement, the Framework Agreement will prevail.

1.5. Accounting Principles

All accounting terms not otherwise defined herein shall have their usual and customary meanings assigned to them. All calculations will be made and all financial data to be submitted will be prepared, in accordance with the Generally Accepted Accounting Principles (GAAP) in effect in Canada. These will include, without limitation, those principles and standards approved or recommended from time to time by the Canadian Institute of Chartered Accountants or the Public Sector Accounting Board, as applicable, or any successor institute, applied on a consistent basis.

2. PURPOSE

2.1. Purpose of the Agreement

The purpose of this Agreement is to provide a joint framework for the implementation of the Communities Component of the BCF, which is made possible by Canada's contribution, together with Ontario's contribution, as set out in Subsection 3.1.

2.2. Funding Limitations

For a Project to be eligible for funding under this Agreement, the Parties must be satisfied that their contribution is required to enable its implementation, enhance its scope, or accelerate its timing.

2.3. Project Funding

The Parties agree that:

- a) Projects will be assessed for funding in accordance with the criteria outlined in Schedule A - Project Review, Assessment and Selection Framework, and any criteria that may be developed by the Oversight Committee;
- b) The Parties commit to respecting the terms of this Agreement and will not commit funding or announce Projects unilaterally. However, projects may be funded by only one of the Parties if prior written agreement has been received from the other Party; and
- c) If Subsection 2.3 b) is applicable, then the Party choosing to fund the Project agrees that all provisions of Subsection 3.1 b) of this Agreement will apply to their contribution and, further, if the Party choosing to fund the Project is Canada, Canada agrees to enter into the appropriate Contribution Agreement with the Recipient.

2.4. Applications

All applications will be subject to a competitive, application-based process. Application selection criteria are further described in Schedule A - Project Review, Assessment and Selection Framework. Further application selection and evaluation criteria will be developed by the Oversight Committee as described in Section 4.7.

3. FINANCIAL PROVISIONS

3.1. Total contribution

- a) The Parties agree that:
 - (i) The total contribution by Canada will not exceed \$362 million as set out in Section 3.3. Ontario may spend up to 2% of this amount to pay for incremental administrative costs associated with participating in the Oversight Committee and the Joint Secretariat described in Section 4.5 below; and referred to in Schedule B.1. j); and
 - (ii) Ontario will contribute an amount equal to that contributed by Canada.
- b) The Parties agree that, by the end of the Agreement, the federal contribution, from all federal sources, cannot exceed one third (1/3) of the total of the Eligible Costs incurred by all Approved Projects. However, the total federal contribution, from all sources, to a Project may be higher than one third but cannot exceed

one-half (1/2) of its total Eligible Costs, except in the case of Recipients that are private sector bodies, in which case the total contribution to the Project cannot exceed one-quarter (1/4) of its total Eligible Costs.

- c) The cap on the Collaborative Projects category is outlined in Section A1.3 of Schedule A-Project Review and Assessment Framework.

3.2. Appropriations

A payment due by either Party under this Agreement is conditional on a legislated appropriation for the Fiscal Year in which the payment is due. Both Parties undertake to make their best efforts to cause their respective legislatures to enact the appropriation legislation required to carry out this Agreement.

3.3. Allocation

Canada and Ontario commit \$362 million each to the Communities Component over the life of this Agreement. It is the intention of the parties to ensure that their respective expenditures will match within the same fiscal year.

3.4. Fiscal Year Forecasts

Prior to start of the Fiscal Year, the Joint Secretariat, established pursuant to Subsection 4.5 will provide a forecasted cash flow, to the Parties, based upon the approved Projects list and the anticipated results of any call for applications. Updated forecasted cash flows will additionally be presented quarterly.

3.5. Limit on Canada's Aggregate Financial Assistance

Ontario agrees to inform Canada promptly of all financial assistance offered or received in respect of Eligible Costs of a Project. Canada may recover the excess or reduce its contribution towards a Project to respect the funding limits of Eligible Costs, as set out in subsection 3.1 b) above.

3.6. Discrepancies

The Parties agree to promptly correct any discrepancy between the amount payable and the amount paid by Canada or Ontario under this Agreement.

4. OVERSIGHT COMMITTEE

4.1. Establishment

Within 60 days of the signing of this Agreement, the Parties will establish an Oversight Committee to administer and manage this Agreement. The Oversight Committee will report directly to the Parties and will consist of two members appointed by Canada and two members appointed by Ontario. The Parties will notify each other of the appointments in the same timeframe. All members will be selected from each Party's senior officials. The mandate of the Oversight Committee, generally, is to oversee the management and implementation of the elements of this

Agreement. The Oversight Committee will operate until all terms of this Agreement have been fulfilled.

4.2. Co-Chairs

The Oversight Committee will be headed by two co-chairs chosen from its members: one senior official from Infrastructure Canada appointed by the Federal Minister (“Federal Co-chair”), and one appointed by the Provincial Minister (“Provincial Co-chair”). If one Co-chair is absent or unable to act, he or she will be replaced by the other federally-appointed member or the other provincially-appointed member, as the case may be.

4.3. Meetings and Administrative Matters

The Oversight Committee will:

- a) Meet regularly, as agreed by the Co-chairs. Quorum will consist of the two Co-chairs;
- b) Establish rules and procedures with respect to its meetings and those of its sub-committees, including rules for the conduct of meetings and the making of decisions; and
- c) Make presentations to the Infrastructure Framework Committee, to assist in fulfilling its role and mandate as outlined in the Framework Agreement.

4.4. Recommendations and Decisions

All decisions and recommendations of the Oversight Committee must be consensual and recorded in writing.

4.5. Joint Secretariat

The Parties agree to establish a Joint Secretariat to support the Oversight Committee in the administration of this Agreement, including the timely production and sharing of information about Applicants, Projects’ financial cash flows and other information.

4.6. Enhanced Partnership with Municipal Organizations

The Parties agree to draw upon the knowledge and experience of Local Governments, as represented by the Association of Municipalities of Ontario, where appropriate.

In this respect, the roles and responsibilities given to Local Government representatives may include the following:

- sitting as observers on the Oversight Committee, and being invited to comment;
- membership in a sub-committee; and
- Commenting through official consultations on the development of guidelines and annual reporting.

Representatives of Local Governments will not participate in project selection activities.

4.7. Joint Guidelines, Procedures and Forms

The Oversight Committee will develop, in a timely manner, a series of guidelines, procedures and forms necessary that will reflect the joint nature of the Agreement for:

- a) Submitting Applications;
- b) Assessing, ranking and recommending Applications for approval by Ministers, including those made by Applicants with exceptional circumstances or limited fiscal capacity;
- c) Determining the funding provisions, priority focus, schedule and related processes for application intakes;
- d) Entering into and recording Contribution Agreements with Recipients;
- e) Reporting by Recipients on the implementation and evaluation of Projects;
- f) Submitting and processing claims;
- g) Recording of claims and payments;
- h) Handling Project cost increases and decreases, or changes in scope, location or timing;
- i) Providing information and updates of its activities to the IFC; and
- j) Carrying out any other of its duties under this Agreement.

4.8. Joint Application Review Process

The Parties agree to put in place the following joint Application review process.

- a) Applications must be filed online with the Parties, by completing an internet based application form or, in special circumstances by other methods as approved by the Oversight Committee. Municipalities may submit applications in paper format, in exceptional circumstances. In these cases, Ontario will enter the applications into SIMSI at its expense.
- b) After receipt of an application, the Oversight Committee will:
 - (i) advise the Applicant of receipt and of any additional information it requires;
 - (ii) review and rank the Application, against the mandatory screening criteria and the ranking criteria of its category as set out in Schedule A - Project Review and Assessment Framework, and against all other requirements and criteria of this Agreement; and any additional criteria agreed to by the Oversight Committee;

- (iii) note and record what requirements the Project fails to meet; and
- (iv) make a recommendation, with reasons, to the Parties, as to the Application's suitability for funding, and advise them as to any requirement that is not yet met.

4.9. Environmental Assessment Requirement

The Oversight Committee will ensure that no funds are disbursed to a Recipient in respect of a Project until all legislated environmental assessment requirements have been fully met. This does not prevent the Parties from making a funding commitment that is conditional upon meeting those environmental assessment requirements.

4.10. Exceptional Circumstances

Despite any other provision in this Agreement, the Parties may approve, if the Project is located in a rural or isolated area and its circumstances are exceptional, and after taking into account the recommendation of the Oversight Committee, an Application that does not meet the requirements set out in Schedule A - Project Review, Assessment and Selection Framework. The Project must be in keeping with all applicable laws and regulations.

4.11. Changes during the Life of the Project

- a) In this Section, "significant change" includes, in respect of a Project:
 - i. Any material change to its location, scope or timing; or
 - ii. Any other change that would trigger a further environmental assessment; or
 - iii. An increase in its Eligible Costs which, when added to any previous increase, would be greater than either \$50,000 or twenty percent (20%) of the original Eligible Costs of the Project as set out in the initial Contribution Agreement.
- b) A request for an amendment to a Contribution Agreement will be reviewed by the Oversight Committee, and
 - i. In the case of a request for a significant change, it will recommend to the Parties whether to approve it or not; and
 - ii. In the case of another change, it may approve or reject it.

4.12. Incorporation in Agreements and Contracts

- a) The Oversight Committee will ensure that all Contribution Agreements are consistent with this Agreement and incorporate its relevant provisions to the extent possible, including, without limitation, the obligation to maintain the records referred to in Subsection 9.3 c) i. and the provisions of Subsection 11.13 below. The Oversight Committee will also ensure that all Contribution Agreements require all Contracts to be consistent with this Agreement and incorporate its relevant provisions to the extent possible; and

- b) Contribution Agreements will include a provision to the effect that the Recipient will begin its Project within six months of the date of the Contribution Agreement, failing which it may be terminated by Ontario. If a Recipient fails to comply with the provision, Ontario will notify the Oversight Committee, which will recommend a course of action.

4.13. Information Management System

- a) SIMSI

Canada has developed a Shared Information Management System for Infrastructure (SIMSI) to support the delivery of Infrastructure programs by providing online Project registration, approval, monitoring, and reporting capabilities. Costs associated with the implementation, maintenance, access, training and support of the system will be borne by Canada, as well as the costs to interface SIMSI with Ontario's database for this Initiative.

- b) Information Management

The Parties agree to manage the Application and Project information throughout their life cycle as required by Canada's Policy on the Management of Government Information, applicable provincial policies and Schedule D - Information Management. The Parties agree that updated Application and Project information will be managed for the period of time stipulated in the Agreement.

5. PROJECT IMPLEMENTATION

5.1. Enforcement of Contribution Agreements

Ontario agrees to enforce all terms and conditions of Contribution Agreements, save for breaches of the Contribution Agreements that, both Ontario and Canada agree, are minor or inconsequential. Prior to seeking any remedy under a Contribution Agreement, Ontario agrees to advise the Oversight Committee.

5.2. Compliance

The Parties agree to comply with, and Ontario agrees to ensure that the Contribution Agreements require that Recipients and any Third Parties comply with all applicable legislation.

6. CONTRIBUTION AGREEMENT PROCEDURES AND PROVISIONS

6.1. Awarding of Contracts

- a) The Parties agree that the Oversight Committee will develop policies, procedures and requirements concerning the awarding and management of Contracts and their content based on relevant policies and procedures of Ontario;

- b) The Contribution Agreements will require all Contracts to be awarded and managed in accordance with Ontario's relevant policies and procedures, a copy of which will be provided to the Oversight Committee;
- c) The Parties agree that Contracts will be awarded in a way that is transparent, competitive and consistent with the Agreement on Internal Trade, and consistent with value for money principles; and
- d) As necessary, the Oversight Committee will develop further policies and requirements concerning the awarding of contracts and their content.

6.2. Data Gathering and Audits

The Parties agree that all Contribution Agreements will include, and will require all Contracts to include, provisions authorizing the Parties to gather data required under this Agreement, to perform audits and to monitor Projects as they see fit.

6.3. Accounts and Records

Without limiting the generality of other relevant provisions, the Parties agree that Contribution Agreements will require that:

- a) Ontario will require that proper and accurate accounts and records, in respect of this Agreement and Projects including invoices, statements, receipts and vouchers, are kept for at least six (6) years following the termination of this Agreement and or the completion of a Project, respectively, and will, upon reasonable notice, make them available to the Parties for inspection or audit; and
- b) All the Project's records and accounts are available to the Parties and any member of the Oversight Committee, for inspection, at all reasonable times.

6.4. Indemnification

- a) All Contribution Agreements will also include an indemnification clause to the effect that Canada and Ontario, their officers, servants, employees, or agents will be indemnified and saved harmless from and against all claims and demands, loss, costs, damages, actions, suits, or other proceedings by whomsoever brought or prosecuted in any manner based upon, or occasioned by any injury to persons, damage to or loss or destruction of property, economic loss or infringement of rights caused by or arising directly or indirectly from:
 - (i) This Agreement;
 - (ii) The performance of a Contribution Agreement or the breach of any term or condition of it by a Recipient, its officers, servants, employees and agents, or by a third party, and any of its officers, employees, servants or agents;
 - (iii) The ongoing operation, maintenance and repair of the Infrastructure resulting from the Project; or
 - (iv) Any omission or other willful or negligent act of the Recipient, a third party,

their respective employees, officers, servants or agents.

- b) Ontario agrees at all times to indemnify and save harmless Canada, from and against all claims and demands, loss, costs, damages, actions, suits or other proceedings by whomsoever brought or prosecuted in any manner in respect of any matter arising from this Agreement or any Project, except those resulting from the negligence of any officers, servants, employees, or agents of Canada or from any material breach of this Agreement by Canada.
- c) In order to be entitled to indemnification under paragraph (b), Canada agrees to the following terms and conditions:
 - (i) Canada shall give notice to Ontario, with all available particulars, of any proceeding whether actual or threatened, in respect of which indemnity may be sought under this Agreement and of all claims made in it;
 - (ii) upon the written request of Ontario, Canada shall furnish to Ontario copies of all documents and provide any other information relating to the claim(s) that is in the possession or under the control of Canada;
 - (iii) Ontario shall have the right to participate in the negotiation, settlement or defence of the claim(s) and any proceedings relating thereto or appeal thereof; Canada and Ontario will work cooperatively, but Ontario may not settle any action commenced against Canada without the written consent of Canada;
 - (iv) if Ontario is not also a party to the claim, Canada shall consent to any order or leave that may be applied for by Ontario to be added as a party or to be allowed to make representations on its own behalf without being a party;
 - (v) the expenses incurred by Canada in investigating, defending or appealing any claim(s) shall, at Canada's request, be paid by Ontario as may be appropriate to enable Canada to properly investigate, defend or appeal such claims(s), with the understanding that if it is ultimately determined that the Canada is not entitled to be indemnified hereunder, it shall immediately repay such amount(s) so paid, which shall become payable as a debt due to Ontario; and
 - (vi) Ontario's maximum liability to Canada under this indemnity shall be limited in the aggregate to the amount of \$362 million.

6.5. Infrastructure Maintenance and Operation

Ontario agrees that all Contribution Agreements will stipulate that the assets resulting from the Project will be used, maintained and operated for a period of at least one half of the expected life of the asset after the completion of the Project.

6.6. Infrastructure Disposition

Ontario agrees to include the following provisions in its Contribution agreements:

- a) unless otherwise agreed to by the Parties, the Recipient will retain title to, and ownership of, the Infrastructure resulting from the Project for at least ten (10) years after Project completion;
- b) in the event that, at any time within ten (10) years from the date of completion of the Project, the Recipient sells, leases, encumbers or otherwise disposes of, directly or indirectly, any asset constructed, rehabilitated or improved, in whole or in part, with funds contributed by Canada or Ontario under the terms of this Agreement, other than to Canada, Ontario, a Local Government, or a Crown corporation of Ontario, the Recipient hereby undertakes to repay Canada and Ontario, on demand, a proportionate amount of the funds contributed by Canada and Ontario, as follows:

Where Project asset is sold, leased, encumbered or disposed of:	Repayment of contribution (in current dollars)
Within 2 Years after Project completion	100%
Between 2 and 5 Years after Project completion	55%
Between 5 and 10 Years after Project completion	10%
10 Years after Project completion	0%

- c) At any time during the ten (10) years following the date of completion of the Project, each Party agrees to notify the other Party in writing as soon as practicable, of any transaction triggering the above-mentioned repayment of which the Party becomes aware.

6.7. Revenue from Assets

The Parties acknowledge that their contributions to Projects are meant to accrue to the public benefit. Where Ontario becomes aware of any Asset to which Canada has contributed under this Agreement that generates revenues that exceed its costs, including operating costs, AFP or P3 costs and provisions for future life cycle costs, and where the intent of revenue generation was not identified in the application, Ontario will notify Canada in writing within 90 days of the end of a Fiscal Year in which Ontario has recognized that the Asset revenues exceed costs and Canada may request Ontario recover for Canada from the recipient that portion of the excess, which is the same proportion as Canada's contribution to the total cost of the Asset, and pay that to Canada. In the event of such request from Canada,

Ontario's payment to Canada will be limited to that portion of the excess that is the same proportion as Canada's contribution to the total costs of the asset. The funds recovered from the recipient shall only be paid when the funds are recovered. This obligation will apply only to the first ten (10) complete Fiscal Years following the completion date of the Project.

Ontario will require through its Contribution Agreements that the Recipient pay Ontario, upon request, that proportion of excess, that is the same percentage proportion as Canada's and Ontario's contribution was to the total cost of the Asset.

7. CLAIMS AND PAYMENTS

7.1. Payments

Ontario agrees to submit Recipient claims to the Oversight Committee in accordance with Subsection 7.4 of this Agreement and in accordance with any other procedures established by the Oversight Committee. If, in Canada's opinion, the requirements of this Agreement have been complied with, it will promptly pay to Ontario Canada's share of Eligible Costs paid by Recipients.

7.2. Claim Dates

Canada and Ontario will pay their share of Eligible Costs provided that claims are received;

- a) No later than March 31 of the year following the Fiscal Year in which the Eligible Cost was incurred; and
- b) In any event, no later than March 31, 2016.

7.3. Contribution Imbalance

The Parties will ensure that by August 1, 2016, each has paid the same amount in contributions, and will correct any imbalance by October 1, 2016.

7.4. Claim Procedures

Claims submitted by Ontario quarterly, subject to Subsection 7.2, must include the following:

- a) Signature of Ontario's official with delegated signing authority, in respect of this Agreement, as to the accuracy of the information submitted in support of the claim;
- b) Break down of eligible costs claimed;
- c) For each expense, the invoice/contract vendor name and number, the period the expense was incurred, the date paid, and the category of eligible costs in Schedule B: Eligible and Ineligible Costs, to which each expense corresponds; and

- d) Identification of any deferred payment amounts.

8. DISPUTE RESOLUTION

8.1. Dispute Resolution

The Parties agree to keep each other informed of any disagreement or contentious issue, by notifying the Oversight Committee, which will attempt to resolve it.

8.2. Referral

Any disagreement or contentious issue that cannot be resolved by the Oversight Committee will be submitted to the co-chairs of the Infrastructure Framework Committee and then to the Ministers for resolution.

8.3. Applicable Jurisdiction

Any dispute in law regarding this Agreement will be submitted to the appropriate Court of Ontario.

8.4. Waiver

A Party may waive any right under this Agreement only in writing; and any tolerance or indulgence demonstrated by that Party will not constitute waiver of such right. Unless a waiver is executed in writing, that Party will be entitled to seek any remedy that it may have under this Agreement or under the law.

9. REPORTING, AUDIT AND EVALUATION

9.1. Reporting

On-going performance measurement data for the BCF Communities Component will be collected and reported through the annual progress report. In addition, project lifecycle information will be captured through SIMSI and may be used in the production of annual progress reports. Reporting activities will be undertaken in accordance with Schedule C - Reporting, Audit and Evaluation, of this Agreement.

9.2. Annual Financial Statements

Ontario will, in its public accounts, reflect Canada's contribution, in accordance with Ontario's established accounting practices.

9.3. Audit

- a) The Oversight Committee will require that expenditures under this Agreement are audited in accordance with Schedule C – Reporting, Audit and Evaluation;
- b) In addition, any Party, at its own expense, may audit all accounts, records, and claims for reimbursement relating to this Agreement and may undertake reviews

of Ontario's administrative, financial and claim certification processes and procedures to ensure compliance with this Agreement; and

- c) Ontario agrees that the Auditor General of Canada may, at the Auditor General's of Canada's cost, after consultation with Ontario, conduct an inquiry under the authority of Subsection 7.1 (1) of the *Auditor General Act* in relation to the use of funds under the agreement. For the purposes of facilitating such inquiry undertaken by the Auditor General, Ontario shall include the following provisions in all of its Contribution Agreements:
- (i) the Recipient shall be required to appoint Ontario as its agent for the purpose of any inquiry undertaken by the Auditor General of Canada with respect to the use of funds under the Agreement;
 - (ii) the Recipient shall release to Ontario upon request and in a timely manner, for the purpose of releasing to the Auditor General of Canada;
 - all records held by the recipient, or by agents or contractors of the recipient, relating to this Agreement and the use of funds; and;
 - such further information and explanations as the Auditor General, or anyone acting on behalf of the Auditor General may request relating to any part of this Agreement or the use of funds.

Further, Ontario shall provide, upon request and in a timely manner, to the Auditor General or anyone acting on behalf of the Auditor General: all records and further information and explanations released to Ontario by the Recipient, or contractors of the Recipient to Ontario pursuant to i. and ii. above; and such further information and explanations as the Auditor General, or anyone acting on behalf of the Auditor General, may request, that is in Ontario's possession or control, relating to any of this Agreement or the use of the funds.

Nothing in this Agreement is meant to affect or limit the Auditor General of Canada's rights under its enabling legislation, as amended from time to time.

9.4. Evaluation

a) Joint Evaluations - Canada – Ontario

Canada will lead the evaluation activities in collaboration with Ontario who will participate and co-manage the joint formative and summative evaluations at the jurisdictional level and provide information as required to Canada, pursuant to Schedule C - Reporting, Audit and Evaluation.

b) Evaluations by Ontario

If Ontario undertakes a unilateral evaluation, it agrees to consult Canada on the evaluation design, pursuant to Schedule C - Reporting, Audit and Evaluation.

c) Provision of Information

Ontario will provide all relevant data and information that Canada may need for evaluation, pursuant to Schedule C - Reporting, Audit and Evaluation.

10. COMMUNICATIONS

The Parties hereby agree to follow the Communications Protocol as described in Schedule C of the Framework Agreement.

11. MISCELLANEOUS

11.1. Binding Obligations

Each Party declares to the other that the signing and execution of this Agreement was duly and validly authorized, and that each has incurred a legal and valid obligation in accordance with the terms and conditions of the Agreement.

11.2. Beginning and Expiry Dates

This Agreement will be effective when signed by the Parties and will end on March 31, 2017.

11.3. Ultimate Approval Date

Despite any other provision of this Agreement, no Project will be approved after March 31, 2014.

11.4. Survival

The Parties' rights and obligations set out in Sections 9 and 11 and Subsections 3.6, 3.7, 5.1, 6.3, 6.4, 6.6, 6.7, 8.2, 8.3, 8.4 and any other Section, Subsection or Schedule which is required to give effect to the termination or to its consequences will survive the expiry or early termination of this Agreement.

11.5. Governing Law

This Agreement is governed by the laws applicable in Ontario.

11.6. Debts Due to Canada

Any amount owed to Canada under this Agreement will constitute a debt due to Canada, which Ontario will reimburse forthwith, on demand, to Canada.

11.7. No Benefit

No member of the House of Commons, the Senate of Canada or the Legislative Assembly of Ontario will be admitted to any share or part of any Contract made pursuant to this Agreement or to any benefits arising therefrom.

11.8. No Agency

It is understood, recognized and agreed that no provision of this Agreement and no action by the Parties will establish or be deemed to establish a partnership, joint venture, principal-agent relationship, or employer-employee relationship in any way or for any purpose whatsoever between Canada and Ontario or between Canada, Ontario and a Third Party.

11.9. No Authority to Represent

Nothing in this Agreement is to be construed as authorizing one Party to contract for or to incur any obligation on behalf of the other or to act as agent for the other. Nothing in this Agreement is to be construed as authorizing any Recipient or any Third Party to contract for or to incur any obligation on behalf of either Party or to act as agent for either Party. Ontario will take reasonable steps to ensure that all Contribution Agreements contain provisions to that effect.

11.10. Counterpart Signature

This Agreement may be signed in counterpart, and the signed copies will, when attached, constitute an original Agreement.

11.11. Values and Ethics Code

No person governed by the post-employment ethics and conflict of interest guidelines of Canada will derive a direct benefit from this Agreement unless that person complies with the applicable provisions.

11.12. Severability

If for any reason a provision of this Agreement that is not a fundamental term is found to be or becomes invalid or unenforceable, in whole or in part, it will be deemed to be severable and will be deleted from this Agreement, but all the other terms and conditions of this Agreement will continue to be valid and enforceable.

11.13. Lobbyists and Agent Fees

Ontario:

- a) warrants that any person it has hired, for payment, to speak to or correspond with any employee or other person representing Canada on Ontario's behalf, concerning any matter relating to the contribution under this Agreement or any benefit hereunder and who is required to be registered pursuant to the *Lobbying Act*, as amended, is registered pursuant to that Act;

- b) warrants that it has not and nor will it make a payment or other compensation to any legal entity that is contingent upon or is calculated upon the contribution hereunder or negotiating the whole or any part of the terms of this Agreement or the Contribution Agreement; and
- c) shall include a similar warranty from a Recipient, in its Contribution Agreement.

11.14. Amendments to the Agreement

This Agreement may be amended from time to time on written agreement of the Parties.

11.15. Notice

Any notice, information or document provided for under this Agreement will be effectively given if delivered or sent by letter, postage or other charges prepaid. Any notice that is delivered will have been received on delivery; and any notice mailed will be deemed to have been received eight (8) calendar days after being mailed.

Any notice to Canada must be sent to:

Assistant Deputy Minister
Program Operations Branch
Infrastructure Canada
90 Sparks Street
Ottawa ON K1P 5B4

Any notice to Ontario will be addressed to:

Assistant Deputy Minister
Infrastructure Policy and Planning
Ministry of Energy and Infrastructure
7 Queen's Park Crescent
Toronto ON M7A 1Y7

Each Party may change the address that it has stipulated by notifying the other Party in writing of the new address.

SIGNATURES

This Agreement has been executed on behalf of Canada by the Minister of Transport, Infrastructure and Communities, and by the Minister of the Environment, and by the Minister of Municipal Affairs and Housing, and on behalf of Ontario by the Minister of Energy and Infrastructure.

GOVERNMENT OF CANADA

GOVERNMENT OF ONTARIO

Original signed by:

Original signed by:

The Honourable Lawrence Cannon
Minister of Transport, Infrastructure and
Communities

The Honourable George Smitherman
Deputy Premier
Minister of Energy and Infrastructure

The Honourable John Baird
Minister of the Environment

The Honourable Jim Watson
Minister of Municipal Affairs and Housing

SCHEDULE “A”

PROJECT REVIEW, ASSESSMENT AND SELECTION FRAMEWORK

A.1. PROJECT SELECTION CRITERIA

A.1.1 ELIGIBLE PROJECTS

To be eligible for funding, a Project must:

- a) Be submitted by an Applicant that demonstrates that they will be able to operate and maintain the resulting Infrastructure over the long term;
- b) Fall within one of the applicable Project categories hereunder, be consistent with the objectives of the category and directly related to one of its subcategories, meet one or more of the Project outcomes of the category and meet the mandatory Project criteria of the category;
- c) Be ranked in accordance with the ranking matrix to be developed by the Oversight Committee;
- d) Be for the construction, renewal, expansion, upgrade, or material enhancement of Infrastructure, excluding normal maintenance or operation;
- e) Be supported by a business case, to be part of the Application;
- f) Stipulate a construction completion date of no later than March 31, 2016;
- g) Be implemented in communities served by Local Governments with a population of less than 100,000 people, as set out in the Statistics Canada Final 2006 Census as of March 31st 2007;
- h) Be duly authorized or endorsed by, as applicable
 - (i) in the case of a Local Government Applicant, a resolution of its council; or
 - (ii) in the case of a non-governmental, not-for-profit or private sector body Applicant, a resolution of its board of directors and also by a resolution of the Local Government where the Infrastructure is proposed to be located.

In the case of i) and/or ii), the resolution must be submitted with the Application.

- i) Comply with section 9 of the *Ontarians with Disabilities Act, 2001* (Ontario) by as applicable:
 - (i) meeting or exceeding the level of accessibility for persons with disabilities where a Project relates to an existing or proposed building, structure or premises for which the Building Code Act, 1992 (Ontario) and the regulations made under it establish such a level; or

- (ii) providing accessibility for persons with disabilities where the level of accessibility for persons with disabilities is not established under the Building Code Act, 1992 (Ontario) and its regulations, but is nonetheless required pursuant to the screening criteria for the Project category in this Agreement; and
- j) Meet the requirements of all applicable federal legislation and regulations, and all applicable provincial legislation, regulations and plans established by Orders-in-Council (Ontario).

A.1.2 NON-ELIGIBLE PROJECTS

- a) Projects dealing mainly with assets owned by Canada or Ontario are only eligible for funding if, in the opinion of the Oversight Committee, the assets are of a type normally owned or operated by Local Governments for community use and benefit.
- b) Projects where Construction Works have started, prior to approval by Ministers, will not be eligible for funding.

A.1.3 CAP ON COLLABORATIVE PROJECTS CATEGORY

The Parties agree that no more than one percent (1%) of Canada's and Ontario's contribution set out in subsection 3.1 (a) may be applied to projects under the collaborative projects category.

A.2. COMMON CRITERIA REQUIREMENTS FOR THE COMMUNITIES COMPONENT

A.2.1 MANDATORY CRITERIA

Through their application, the proponent must demonstrate the following:

- The Project is supported by a business case that outlines the costs and benefits of the proposed Project. (Please note that the application form will set out information requirements regarding Project costing, ongoing operation and maintenance, engineering, technology, Project management and governance).
- How the Project is consistent with applicable provincial, regional, or municipal plans (e.g., land-use plans, integrated watershed management plan, municipal official plans, Integrated Community Sustainability Plans).
- The Project will meet all applicable legislative, regulatory or environmental assessment requirements, including the requirement for a federal Environmental Assessment process that meets the requirements of the *Canadian Environmental Assessment Act*, which may include specific requirements for aboriginal consultation.
- That the contract award process will be competitive, fair and transparent.
- That major risks related to extreme natural events and/or climate change risks with a potential impact on the Project during construction or once completed have been considered and, where applicable, a mitigation plan developed.

- That infrastructure intended for use by the public ensures appropriate access for persons with disabilities.
- Opportunities regarding a regional service area or other cooperative arrangements, including with First Nations communities, have been considered, as appropriate, in respect of the Project.

A.2.2 ADDITIONAL LEVERAGING CRITERIA

- Newly constructed or materially rehabilitated buildings exceed the energy efficiency requirements of the Model National Energy Code for Buildings or (preferred) will obtain a LEED certification.
- Newly constructed buildings meet the requirements of the Canadian Standards Association Technical Standard Accessible Design for the Built Environment (CAN/CSA B651-04)
- How greenhouse gas emissions impacts through the construction and operation of the infrastructure have been considered and, where applicable, will be reduced.

CATEGORY-SPECIFIC OBJECTIVES FOR THE COMMUNITIES COMPONENT

A.3. A STRONGER ECONOMY

A.3.1 CORE NATIONAL HIGHWAY SYSTEM

Objectives: The BCF Communities Component will promote investments in Canada and Ontario's Core National Highway System:

- To support Canada and Ontario's trade and tourism flow, both inter-provincially and internationally;
- To increase the efficiency and improve the safety and mobility of the transportation system; and
- To support new capacity, improved access to border crossings and multi-modal facilities, and safety and rehabilitation Projects on highways that form part of the Core National Highway System, including bridges.

Rehabilitation Projects must meet the definition of 'rehabilitation' as agreed upon by the Council of Ministers in 2005. Intelligent Transportation Systems Projects also will be eligible.

The sub-categories which are eligible for funding are:

- a) Construction projects on highways (or ferry services) that form part of the Core National Highway System (NHS), including:
 - Additional capacity (e.g. additional lanes, turning lanes, truck lanes, grade separations, interchanges, roundabouts, rest areas, etc.) and new urban bypasses that connect to the Core NHS at both ends;

- Rehabilitation of highway and bridge assets. Projects must meet the definition of 'rehabilitation' as agreed upon by the Council of Ministers in 2005;
- Safety-related improvements; and
- Intelligent Transportation Systems (ITS) projects.

A.3.2 SHORT-SEA SHIPPING

Objectives: The BCF Communities Component will stimulate investments that support short-sea shipping infrastructure:

- To promote Canada and Ontario's competitiveness, trade and quality of life by helping to optimize the use of all transportation modes, and by contributing to the sustainability of the transportation system;
- To help reduce congestion on highways and at border crossings.

Eligible Projects will include investments in new or significantly expanded infrastructure, or the rehabilitation of existing infrastructure, to directly support short-sea shipping capacity and/or new routes (excluding vessels), such as specialized marine terminal intermodal facilities or transshipment (marine to marine) facilities and specialized loading/unloading capitalized equipment required for expansion of short-sea shipping. In addition, the procurement of technology and equipment used to improve the interface between the marine and rail/highways modes or to improve integration within the marine mode will also be eligible under this category.

The sub-categories which are eligible for funding are:

- a) New infrastructure or asset rehabilitation supporting increased short-sea shipping capacity and/or new routes:
 - Specialized marine terminal intermodal facilities or transshipment (marine to marine) facilities;
 - Capitalized equipment for loading/unloading required for expansion of short sea shipping; and
 - Technology and equipment used to improve the interface between the marine mode and the rail/highways modes or to improve integration within the marine mode including Intelligent Transportation Systems (ITS).

Note: For greater clarity, the purchase of vessels, Infrastructure that supports passenger-only ferry services, rehabilitation and maintenance of existing facilities such as wharves and docks, and dredging are not eligible for funding.

A.3.3 SHORTLINE RAILWAYS

Objectives: The BCF Communities Component will encourage investment in shortline railways:

- To promote Canada and Ontario's competitiveness, trade and quality of life by helping to optimize the use of all transportation modes, and by contributing to the sustainability of the transportation system; and

- To help reduce congestion on highways and at border crossings.

Eligible Projects are limited to freight and will include the construction, rehabilitation and/or upgrading of tracks and structures for safe and efficient operations, and the construction of lines by shortline railway companies to allow a railway to serve new customers.

The sub-categories eligible for funding are:

- a) Construction of industrial branch lines to allow a railway to serve a major employer, a group of companies (an industrial park), an intermodal yard, a port, or a marine terminal;
- b) Construction, rehabilitation and/or upgrading of tracks and structures, excluding regular maintenance, to ensure safe travel at speeds deemed acceptable for safe and efficient operations;
- c) Construction, development or improvement of facilities to improve the interchange of goods between modes; et
- d) Procurement of technology and equipment used to improve the interchange of goods between modes.

Note: Shortline operators must offer year round services.

A.3.4 LOCAL AND REGIONAL AIRPORTS

Objectives: The BCF Communities Component will support investments in local and regional airports:

- To promote Canada and Ontario's regional economic development; and
- To improve the efficiency and accessibility of these facilities.

Federally-owned airports and federal assets are not eligible for funding. Funding, on a Project by Project basis, will be allocated as follows:

- For private sector assets, the maximum federal share, from all sources, of the total eligible costs for each Project will be one quarter (25%);
- The Provincial Government contribution will be no less than the Federal Government contribution; and
- For local and/or regional assets, local/regional government interests must furnish at least one third (33.33 percent) of the total project costs.

Projects must be financially supported by provincial or local or regional governments, and generate regional economic benefits and be sustainable on a long-term basis, as demonstrated by a sound business plan. Safety related projects will be eligible under the Airports Capital Assistance Program, and are not eligible under the BCF, unless they are part of a larger project.

The sub-categories eligible for funding are:

- a) Construction projects that enhance airports that are accessible all year-round, through the development, enhancement or rehabilitation of aeronautical and/or non-aeronautical infrastructure:

- Aeronautical infrastructure includes, but is not limited to, runways, taxiways, aprons, hangars, lighting, Nav aids, maintenance sheds, airside mobile equipment and associated shelters, air terminal building, and groundside safety-related; and
- Non-aeronautical infrastructure such as groundside access, inland ports, parking facilities, and commercial and industrial activities.

A.3.5 CONNECTIVITY AND BROADBAND

Objectives: The BCF Communities Component funding in this category will be directed towards Projects designed to:

- Improve the delivery of public services, such as government services, education and health; and
- Improve quality of life, social development, reduce travel requirements, and increase the potential for innovation and economic development by connecting Canadians —particularly in rural and remote communities.

In order to promote competitiveness, funding criteria will require that the Project proponents conduct a commercially and technologically neutral Request for Proposals. In addition, the projects will be required to provide for third-party open access.

The sub-categories which are eligible for funding are:

- a) High-speed backbone.
- b) Point of presence.
- c) Local distribution within communities.
- d) Satellite capacity.

A.3.6 TOURISM

Objectives: The BCF Communities Component funding in this category will be directed towards the construction or improvement of convention centres or exhibition hall-type facilities that:

- Increase the number of visitors to the community, and the length and quality of stay of those visitors; and
- Promote Canada and Ontario as a leading destination for Canadian and international visitors.

Funding criteria will require that proponents of convention centre or exhibition-hall type Projects demonstrate that their projects will have a significant economic and/or regional impact.

The sub-categories which are eligible for funding are:

- a) Convention centres.
- b) Exhibition hall-type facilities

A.4. A CLEANER ENVIRONMENT

The BCF Communities Component will support a cleaner environment through investments in:

A.4.1 WASTEWATER INFRASTRUCTURE

Objectives: The BCF Communities Component will encourage investments in wastewater infrastructure designed to:

- Reduce the negative impacts of municipal wastewater effluent or storm-water effluent on human health and the environment;
- Improve the management of wastewater sludge;
- Improve the management and efficiency of municipal wastewater infrastructure or storm-water Infrastructure, including improvements to the energy efficiency of the Infrastructure; and
- Improve the quality of treated municipal wastewater effluent and storm-water discharged into the environment.

Further, emphasis will be placed on Projects that result in wastewater treated to a higher standard, usually a secondary level of treatment or better. In addition, Projects will have to be supported by other measures that reduce the amount of pollution going into wastewater streams and that improve the management of wastewater infrastructure. Emphasis will also be placed on Projects involving cooperation among two or more municipalities or communities in the management of their water and wastewater infrastructure.

The sub-categories eligible for funding are:

- a) Wastewater collection systems and/or wastewater treatment facilities or systems (which may include grey water reuse);
- b) Separation of combined sewers and/or combined sewer overflow control, including real-time control and system optimization;
- c) Separate storm water collection systems and/or storm water treatment facilities or systems;
- d) Wastewater sludge treatment and management systems; and
- e) Area or regional wastewater treatment systems.

A.4.2 PUBLIC TRANSIT

Objectives: The BCF Communities Component will encourage investments in public transit infrastructure:

- To support transit systems within cities, communities and urban regions to promote mobility and improved travel times, and to reduce urban congestion;
- To construct, improve or restore public transit infrastructure that contributes to economic, environmental and social sustainability in Canada and Ontario's municipalities and communities; and

- Large-scale transit infrastructure expansion Projects will be required to incorporate Transportation Demand Management measures to help build ridership and improve environmental outcomes.

Furthermore, any public transit passenger infrastructure purchased with federal or provincial funding must be accessible for persons with disabilities.

The sub-categories eligible for funding are:

- a) Transit infrastructure, including, but not limited to, rail and bus rapid transit systems, and related facilities;
- b) Buses, rail cars, ferries, para transit vehicles, and other rolling stock and associated infrastructure, for the expansion of services;
- c) Green buses for expansion services and for replacement of existing capacity, including alternative fuel vehicles and diesel-electric hybrid buses;
- d) Intelligent Transport Systems (ITS) including, but not limited to, fare collection, fleet management, transit priority signalling, and real-time traveller information systems at stations and stops; and
- e) Related capital infrastructure including, but not limited to, transit queue-jump lanes, reserved bus lanes, turning lanes or other related enhancements in support of public transit, streetcar/trolley infrastructure, storage and maintenance facilities, security enhancements, and transit passenger terminals.

When undertaken as part of above subcategory improvements, active transportation infrastructure, such as bicycle lanes that connect to transit facilities and bicycle storage and lockers at stations, is eligible.

A.4.3 GREEN ENERGY

Objectives: The BCF Communities Component will stimulate investments in sustainable energy infrastructure that contribute to:

- Increased availability and/or security of Canada and Ontario's clean energy supply;
- Increased availability of renewable energy;
- Improved air quality; and
- Reduced greenhouse gas emissions.

Funding for Projects in this category will be complementary to other initiatives under the Government of Canada's ecoEnergy plan, but will not duplicate them. Projects that feature renewable sources of energy generation, as well as district heating or cooling will be encouraged.

The sub-categories which are eligible for funding are:

- a) Reinforcement and, expansion of existing and construction of new transmission grids to transmit clean electricity;
- b) Hydrogen infrastructure (generation, distribution and storage);
- c) Electric Vehicle Infrastructure (centralized refueling stations).;

- d) Biofuels distribution/storage infrastructure;
- e) Thermal heat/cooling delivery system (i.e. district energy systems) using renewable or combined heat/power (CHP) plants.;
- f) Clean coal facilities;
- g) Renewable Electricity Generation facilities for municipal consumption (e.g., wind energy, solar energy). For renewable electricity generation, projects ordinarily will be less than 1MW, but projects higher than 1MW will be considered on a case by case basis; and
- h) Building energy retrofits, including those for energy conversion, demand management and increased energy efficiency.

A.4.4 SOLID WASTE MANAGEMENT

Objectives: The BCF Communities Component will promote investments in solid-waste processing infrastructure that can reduce the environmental impacts of this waste. As a result, funding criteria will emphasize the diversion of solid waste out of the waste stream as well as measures that support the reduction and management of solid waste.

The sub-categories eligible for funding are:

- a) Solid waste diversion Projects:
 - Recycling.
 - Organics Management.
 - Material Recovery Facilities.
 - Anaerobic digestion.
- b) Solid waste disposal Projects:
 - Thermal processes, including gasification.
 - Landfill gas recovery.

A.5. STRONG AND PROSPEROUS COMMUNITIES

The BCF Communities Component will support investments in:

A.5.1 DRINKING WATER

Objectives: The BCF Communities Component promotes long-term funding for water infrastructure Projects designed to:

- Improve the safety, management, reliability and efficiency of Canada and Ontario's drinking water treatment and distribution systems;
- Increase the number of households with access to safe drinking water that meets or exceeds the Guidelines for Canadian Drinking Water Quality and Ontario's drinking water quality requirements;
- Improve protection and management of drinking water sources; and

- Improve conservation of water.

Funding will focus on the protection of human health. In addition, Projects will have to be supported by other measures that improve the management of sources of drinking water, reduce demand and improve the management of drinking water infrastructure. Emphasis will also be placed on projects involving cooperation among two or more municipalities or communities in the management of their water and wastewater infrastructure.

The sub-categories eligible for funding are:

- a) Drinking water treatment infrastructure, including area or regional treatment systems;
- b) Drinking water distribution systems (may include metering as part of a larger Project).

A.5.2 DISASTER MITIGATION

Objectives: The BCF Communities Component investments will be directed towards Projects that will reduce the vulnerability of a community or public infrastructure to the negative impacts of extreme natural events, including adverse events related to climate change.

Funding will be limited to structural mitigation Projects, but must be supported by appropriate non-structural mitigation measures. In addition, Projects must be supported by appropriate risk assessments that demonstrate the need for the structural mitigation.

The sub-categories which are eligible for funding are:

- a) Construction, modification or reinforcement of structures that protect from, prevent or mitigate potential physical damage resulting from extreme natural events, and impacts or events related to climate change;
- b) Modification, reinforcement or relocation of existing public infrastructure to mitigate the effects of and/or improve resiliency to extreme natural events and impacts or events related to climate change.¹

Note: Construction, modification or reinforcement of structures exclude normal routine, maintenance and operational work (e.g., dredging of sediment, gravel removal, debris traps, etc.).

A.5.3 BROWNFIELD REDEVELOPMENT

Objectives: The BCF Communities Component investments will be directed towards Projects designed to contribute to:

- The removal or neutralization of the negative effects of brownfields on communities and the environment by remediating and redeveloping these properties in a sustainable manner;

¹ Excludes the relocation of whole communities.

- More intense land use within municipalities and communities.

Funding criteria will require that any decontamination or remediation is done as part of a larger public infrastructure redevelopment Project. Projects will also have to be supported by Environmental Site Assessments and remediation action plans, and will include the filling of a Record of Site condition.

The sub-categories which are eligible for funding are:

- a) Remediation or decontamination and redevelopment of a brownfield site within municipal boundaries, where the redevelopment includes:
 - The construction of public infrastructure as identified in the context of any category under the Major Infrastructure Component and the Communities Component of the BCF; and/ or
 - The construction of municipal use public parks and publicly-owned social housing, alone or mixed with a private development component that includes any mix of residential, commercial, institutional or industrial uses.

A.5.4 LOCAL ROADS

Objectives: The BCF Communities Component will support investments in local roads:

- To improve road safety, mobility and sustainability;
- To promote the rehabilitation of bridges, tunnels and other structures;
- To support economic and community development.

Projects must be compatible with municipal Official Plans or other strategies to promote the sustainable development of the municipal area in which they take place.

The sub-categories which are eligible for funding are:

- a) Additional capacity and rehabilitation of roads within a municipal boundary, and high-occupancy and/or transit vehicle lanes, grade separations, interchange structures, bridges, tunnels, intersections, and roundabouts. Projects in areas where Ontario acts as a local government, or where there is a governing entity that is established by Ontario are eligible;
- b) Infrastructure pursuant to compliance with accessibility, such as wheel chair let down;
- c) Intelligent Transportation Systems (ITS);
- d) Active transportation Projects, including sidewalks, bicycle lanes, pedestrian/ bike/ multi-use pathways as a component of a larger Project; and
- e) Rehabilitation of bridges and major elevated or depressed structures (except those on the Core National Highway System which are eligible for rehabilitation under the National Highway System category).

A.5.5 SPORT

Objectives: The BCF Communities Component funding in this category will be directed towards Projects designed to:

- Provide increased opportunities for sport activities that can improve the health of Canadians and strengthen Canadian communities;
- Provide increased opportunities for the development of Canadian athletes and/or the hosting of major amateur athletic events.

Funding criteria will require that proponents of sport infrastructure Projects demonstrate that their Project will have a significant economic and/or regional impact.

The sub-categories eligible for funding are:

- a) Sport infrastructure for community public use (can include training facilities for high performance amateur athletes);
- b) Sport infrastructure in support of major amateur athletic events.

A.5.6 CULTURE

Objectives: The BCF Communities Component funding in this category will be directed towards projects that:

- Support arts and/or designated heritage facilities;
- Help communities express, preserve, develop and promote their culture and/or heritage within Canada and Ontario.

Funding criteria will require proponents of cultural infrastructure Projects to demonstrate that their Project will have a significant economic and/or regional impact.

The sub-categories eligible for funding are:

- a) Museums².
- b) The preservation of designated heritage sites that are duly recognized by³:
 - UNESCO;
 - Canadian government as per the national federal register of historic places; or
 - Ontario or a Local Government.
- c) Provincial, and Local Government-owned libraries and archives.

² A museum is a non-profit making, permanent institution in the service of society and of its development, and open to the public, which acquires, conserves, researches, communicates and exhibits, for purposes of study, education and enjoyment, artifacts related to people and their environment.

³ Excludes private residences and religious sites.

- d) Facilities for the creation, production and/or presentation of the arts.
- e) Infrastructure in support of the creation of a cultural precinct within an urban core.

A.6. COLLABORATIVE PROJECTS

Objectives: The capacity building component will be based on the principles outlined in Section 3.5.3 of the Framework Agreement and relate to the achievement of at least one of the following strategic objectives:

- promote the implementation of holistic approaches to public infrastructure planning and management, and sustainable community planning principles;
- encourage a culture of using integrated life cycle asset management as a decision-making approach;
- promote the integration of demand management in public infrastructure planning and management;
- encourage dissemination of Project results to other Local Governments; and
- support collaborative feasibility studies for specific infrastructure Projects which at the time of the study are not being actively considered for funding under the BCF Communities Component and planning studies on public infrastructure Projects and issues.

SCHEDULE “B”

ELIGIBLE AND INELIGIBLE COSTS

B.1. ELIGIBLE COSTS

Subject to Section B.2, Eligible Costs will be all direct costs which are in the Parties' opinion properly and reasonably incurred and paid by the Recipient for an eligible investment under a contract for goods or services necessary for the implementation of the Project. Eligible Costs also include Ontario's costs related to the administration of this Agreement, as specified in Subsection B.1(i). Eligible Costs will include only the following:

- a) the capital costs of acquiring, constructing or renovating a tangible capital asset, as defined and determined according to generally accepted accounting principles in Canada;
- b) the costs of joint communication activities (press releases, press conferences, translation, etc.) and road signage recognition;
- c) all planning (including plans and specifications) and assessment costs such as the costs of environmental planning, surveying, engineering, architectural supervision, testing and management consulting services, to a maximum of 15% of total eligible costs or 15% of the federal contribution, whichever is less;
- d) the costs of engineering and environmental reviews, including environmental assessments and follow-up programs as defined in the *Canadian Environmental Assessment Act* and the costs of remedial activities, mitigation measures and follow-up identified in any environmental assessment;
- e) the costs of Project-related signage, lighting, Project markings and utility adjustments;
- f) costs of First Nations consultation process;
- g) the costs of developing and implementing innovative techniques for carrying out the Project;
- h) recipient audit and evaluation costs as specified in this Agreement;
- i) other costs that, in the opinion of the Parties, are considered to be direct and necessary for the successful implementation of the Project and have been approved in writing prior to being incurred; and
- j) fifty percent (50%) of the direct incremental expenses incurred by Ontario for the administration of this Agreement and which Canada considers reasonable may be considered eligible costs, up to a maximum of 2%, of the Ontario BCF Communities Component allocation. The proposed eligible costs are as follows:
 - (i) salaries and/or fees of incremental staff hired to manage the program;

- (ii) general administration of the program, including furniture, computer and telephone equipment and such other expenses as may reasonably be incurred in relation to program implementation;
 - (iii) fees of consultants or contractors hired to carry out exceptional technical work or other studies directly related to program;
 - (iv) communications costs; and
 - (v) provincial program audit costs as specified in Schedule C;
- k) for Collaborative Projects (as referred to in Schedule A) the costs of planning, developing, and implementing:
- (i) studies, strategies, or systems related to infrastructure integrated asset management, which may include software acquisition and implementation;
 - (ii) studies, strategies, or systems related to infrastructure demand management;
 - (iii) feasibility studies for specific infrastructure Projects which at the time of the study are not being actively considered for funding under the BCF Communities Component;
 - (iv) training directly related to an eligible subcategory; and
 - (v) provincial long-term infrastructure plans.

These costs may include incremental training, travel, salaries and other employee benefits of employees of the recipient directly engaged in these activities, as well as the costs of adapting methodologies and technologies, software acquisition and implementation, or other costs that are direct and necessary for the successful implementation of a Project and that have been approved in advance, and in writing, by the Oversight Committee.

B.2. INELIGIBLE COSTS

The following costs are ineligible:

- a) costs incurred before approval of the Project, in accordance with the Delegation of Authorities, as indicated in writing to the proponent by the Minister;
- b) costs incurred after the Project completion date;
- c) the cost of developing a business case or proposal for funding;
- d) the cost of purchasing land and associated real estate and other fees;
- e) financing charges and interest payments on loans;

- f) leasing land, buildings, equipment and other facilities;
- g) general repairs and maintenance of a Project work and related structures, unless they are part of a larger capital expansion Project;
- h) services or works normally provided by the Recipient, incurred in the course of implementation of the Project, except those specified as eligible costs;
- i) the cost of any goods and services received through donations or in kind;
- j) employee wages and benefits, overhead costs or other direct or indirect operating, maintenance and administrative costs incurred by the Recipient, and more specifically costs relating to services delivered directly by permanent employees of the Recipient, or of a Crown corporation or corporation owned and controlled by the Recipient except as per Section B.1 j) and k) above or in cases where the Recipient can demonstrate value for money and that the costs are incremental;
- k) provincial sales tax and Goods and Services Tax, for which the recipient is eligible for a rebate, and any other costs eligible for rebates; and
- l) legal fees.

SCHEDULE “C”

REPORTING, AUDIT AND EVALUATION

C.1. REPORTING

C.1.1. ANNUAL PROGRESS REPORT

An annual progress report must be submitted by Ontario to Canada by June 30 of each year. The introduction must provide a general description of the program focusing on major achievements to date.

C.1.2. DETAILED PROGRAM STATUS:

- provide summary information on the program progress with respect to the number, Project category and amendments of both Project applications and approved Projects.
- provide a description of the Oversight Committee's Project screening and ranking process.

C.1.3. ENVIRONMENTAL ISSUES:

- provide an overview of the status of significant unanticipated environmental issues related to approved Projects and the proposed mitigation strategies to deal with these concerns.

C.1.4. BENEFITS:

- provide an update of qualitative and quantitative program benefits (environmental, economic, social, cultural, safety, etc.) along with results or successes achieved during the fiscal year. Ontario will ensure that appropriate data collection processes are in place to enable the capture and reporting of benefits.

C.1.5. FINANCIAL PERFORMANCE:

- explain any variations from the federal notional allocation in this Agreement along with the intended course of action to remedy the situation.

C.1.6. RISK MANAGEMENT:

- indicate any areas of concern on risk factors and proposed mitigation strategies affecting the schedule or the budget of the BCF Communities Component program in Ontario.

- indicate any issues or risk factors that may affect completion of the program or Projects as per original plans.

C.1.7. COMMUNICATION ACTIVITIES COMPLETED DURING THE FISCAL YEAR:

- provide highlights of communication activities of the BCF Communities Component program in Ontario this fiscal year.

C.2. AUDIT

Two types of audits will be carried out;

- RECIPIENT AUDITS
- PROGRAM AUDITS

Both the recipient audits and the program audits will be carried out by accredited auditors in accordance with Generally Accepted Auditing Standards (GAAS).

C.2.1. RECIPIENT AUDITS

C.2.1.1.OBJECTIVES:

The key objectives of the recipient audits are to:

- Determine whether funds were expended for the purposes intended and with due regard to economy, efficiency and effectiveness;
- Determine recipient compliance with the Contribution Agreement; and
- Ensure that program and financial information is complete, accurate and timely, in accordance with the terms and conditions of the Contribution Agreement.

The costs of carrying out these audits, will be equally shared by the Parties, and are recognized as eligible costs in accordance with Schedule B – Eligible and Ineligible Costs, of this Agreement.

C.2.1.2.RECIPIENT AUDIT PLANS

The Oversight Committee is responsible for establishing and overseeing a recipient audit plan, using an agreed upon risk-based assessment approach. Ontario will be responsible for managing and implementing the recipient audit plan, including any required corrective action. Canada will provide a model risk assessment tool for use by the committees.

C.2.1.3.AUDIT DELIVERABLES AND TIMELINES

The frequency of deliverables and timelines of the recipient audits will be agreed to by the Oversight Committee and set forth in individual Contribution Agreements.

C.2.2. PROGRAM AUDITS

C.2.2.1.OBJECTIVES

The key objectives of the program audits are to:

- Assess the overall management of the Program by Ontario;
- Determine whether funds were expended for the purposes intended and with due regard to economy, efficiency and effectiveness, by examining payment approval processes, including the nature and extent of supporting documentation, accuracy of claim information and evidence of proper authorizations and such other due diligence reviews as appropriate;
- Determine program compliance with appropriate legislation and follow-up processes;
- Ensure the program information and monitoring processes and systems are sufficient for the identification, capture, validation and monitoring of contributions to intended benefits; and
- Ensure that prompt and timely corrective action is taken on audit findings and/or recommendations.

The costs of carrying out these audits will be equally shared by the Parties.

C.2.2.2.PROGRAM AUDIT PLANS

The Oversight Committee is responsible for establishing, overseeing, managing and implementing a program audit plan, including any required corrective actions. The Oversight Committee will use an agreed upon risk-based assessment approach. Canada will provide a model risk assessment tool for use by the Oversight Committee.

Audit plans are to be developed based on a risk management approach and must specify:

- the audit objectives to be achieved for the year in question;
- the audit methodology;
- the level of resources (financial and human) to be allocated to provide assurance in the soundness of the management accountability framework;

- a clear understanding with respect to access to working papers by Canada and Ontario; and
- the time frames for audits and public access to audit reports.

In some cases, there may be a requirement for a separate environmental audit to be undertaken. Audits may be posted on relevant websites of the departments/agencies and available under Access to Information legislation.

C.2.2.3.AUDIT DELIVERABLES AND TIMELINES

A program audit will be performed periodically. Depending upon the objectives of the audit, its scope will include both financial and non-financial data. The program audit is to be submitted to the Oversight Committee in accordance with the plan.

Program audit reports will be tabled with the Oversight Committee.

Canada will rely on the audits carried out by the Oversight Committee to provide a national overview of the program.

C.3. EVALUATION

Due to the nature of the program and joint responsibility to demonstrate positive contributions to program outcomes, the evaluations for BCF Communities Component will be performed jointly with Ontario, subject to their agreement. Canada will lead the evaluation activities in collaboration with Ontario representatives who will participate and co-manage the evaluations at the jurisdictional level and provide information as required to Canada. Canada will prepare a national report.

Canada will conduct the joint formative program evaluation for the BCF Communities Component following the fourth year of program operations (2011-2012), in order to provide sufficient time to obtain the assurance that the design and delivery of BCF Communities Component remain within the intended terms and conditions for the program life. The evaluation will use outcomes reporting from all jurisdictions as well as internal audit reports for the communities' component of the BCF.

The joint summative program evaluation for BCF Communities Component will be conducted in fiscal year 2015-2016 and the report will be made available to Treasury Board Secretariat no later than September 2016. The report will be a public document. This evaluation will be used by Canada to harvest lessons learned for future design and delivery of infrastructure programs.

Costs associated with the national joint formative and summative evaluations will be borne by Canada.

Ontario or Local Governments may conduct their own evaluations but should consult Canada on evaluation design to ensure consistency in data collection, benchmarking and performance measurement.

SCHEDULE “D”

INFORMATION MANAGEMENT

This Information Management (IM) Schedule outlines the IM requirements for the BCF Communities Component. The key guiding principle is that Canada, Ontario, Recipients and Applicants, have agreed to work together to manage information in accordance with the federal Policy on the Management of Government Information (MGI) and applicable provincial policies.

Federal government institutions must manage information in a way that protects privacy, supports informed policy and decision making and ensures the provision of high-quality programs, services, and information through a variety of channels and in both official languages.

The MGI Policy is located at the following web site:

http://www.tbs-sct.gc.ca/pubs_pol/ciopubs/TB_GIH/pol

D.1. CANADA

The information collected and managed under this agreement is “Canada Information.” Under the MGI Policy, the Deputy Head of Infrastructure Canada (INFC) is the official responsible for Canada Information. The Chief Information Officer, Information Management and Information Technology, INFC, has been designated as its senior executive accountable for ensuring implementation of MGI and related standards and guidelines. (Canada Information is defined in the next section.)

D.2. SHARED RESPONSIBILITY

The oversight of infrastructure agreements is a shared responsibility. The information collected, created and managed by the Oversight Committee established to oversee the Agreement is what is considered “Canada Information.”

D.3. APPLICANT AND ONTARIO

Information collected, created and managed by Ontario, Recipients or Applicants shared with Canada is also “Canada Information.” The MGI policy does not apply if the information was obtained in confidence. The applicable exemption is described in Section 13.(1)(c) of the *Access to Information Act* of Canada, located at the following web site:

<http://laws.justice.gc.ca/en/A-1/index.html>

D.4. INFORMATION

Information is a valuable asset that Canada must manage as a public trust on behalf of Canadians. Effective information management makes government program and service delivery more efficient. It supports transparency, facilitates cooperation across organizations, and supports informed decision making in government

operations, and preserves historically valuable information.

For BCF Communities Component, the key areas of information collection are as follows:

- Detailed description of Project;
- Project review and selection framework;
- Eligible and ineligible costs;
- Disposal of assets;
- Environmental management;
- Audit and evaluation;
- Performance management (including benefits, and timelines);
- Risk management;
- Financial (claims and payments); and
- Communications management.

D.5. SHARED INFORMATION MANAGEMENT SYSTEM (SIMSI)

Infrastructure Canada has established the Shared Information Management System for Infrastructure (SIMSI) to manage its Program-related information. SIMSI, a secure, user-friendly, bilingual, web-based information management system, assists BCF Communities Component management and stakeholders in managing and tracking the multitude of Projects that are initiated.

D.6. FILE CLASSIFICATION

File classification is a numbering system to ensure Canada Information is organized, stored and managed as a comprehensive record. A specific Project record may contain information at many different locations. It is extremely important to use the same file classification wherever the pertinent information is located. INFC has established a file classification system and will share it with all BCF Communities Component partners.

D.7. REPORTING

Well-organized information will assist BCF Communities Component stakeholders in producing accurate and relevant reports. SIMSI is a powerful oversight tool that has the capacity to manage the Canada information throughout the entire Project lifecycle, from eligibility and selection to Project closeout requirements.

The Oversight Committee is responsible for ensuring that information captured in SIMSI is complete, accurate and up-to-date. Announced BCF Communities

Component Projects will be published on the INFC public website. In addition, summary reports are produced for the benefit of parliamentarians, central agencies (departmental performance reports), research organizations and other interested parties.

Federal and Ontario partners will have access to reports on all their BCF Communities Component information collected in SIMSI. The source of reports is the SIMSI Data Warehouse.

As mentioned in other BCF Communities Component guidelines such as the Audit and Evaluation Guideline, Project information can be used to produce annual audit reports and annual progress reports.

D.8. RETENTION AND DISPOSAL

Ontario and the Recipient must keep all pertinent information a minimum of six years after completion of a Project. Canada information is subject to the MGI Policy and consequently the *Library and Archives Act*. With the assistance of its BCF Communities Component partners, INFC will set up a retention and disposal schedule for Canada Information. It is very likely that some of the information will be transferred to the National Archives at the end of the retention period because of its historical value.