

**CANADA – NEW BRUNSWICK**

**NEW BUILDING CANADA FUND**

**SMALL COMMUNITIES FUND**

**FUNDING AGREEMENT**

**2014-15 to 2023-24**

This Agreement is made as of the date of last signature

**BETWEEN:** **HER MAJESTY THE QUEEN IN RIGHT OF CANADA**, as represented by the President of the Queen’s Privy Council for Canada, Minister of Infrastructure, Communities and Intergovernmental Affairs (“Canada”)

**AND** **HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF NEW BRUNSWICK**, as represented by the Minister responsible for the Regional Development Corporation and the Minister of Environment and Local Government (“New Brunswick”),

individually referred to as a “Party” and collectively referred to as the “Parties”.

**WHEREAS** the Government of Canada established the New Building Canada Fund (“NBCF”) under the Economic Action Plan 2013, which includes funding of \$14 billion over 10 years as a renewed commitment to infrastructure priorities across Canada;

**AND WHEREAS** the Minister of Infrastructure, Communities and Intergovernmental Affairs is responsible for the program entitled the NBCF a component of which is the Small Communities Fund (“SCF”);

**AND WHEREAS** the NBCF provides \$1 billion over 10 years towards the SCF for projects in smaller communities that address local priorities while contributing to national or regional objectives, and support economic growth, a clean environment and stronger communities;

**NOW THEREFORE**, in accordance with the mutual covenants and agreements herein, the Parties hereby agree as follows:

**1. INTERPRETATION**

**1.1 DEFINITIONS**

In addition to the terms and conditions defined in the recitals and elsewhere in this Agreement, a capitalized term has the meaning given to it in this Section.

“**Agreement**” means this agreement and all schedules, as may be amended from time to time.

“**Agreement End Date**” means March 31, 2024.

“**Asset**” means any real or personal property or immovable or movable asset, acquired, constructed, rehabilitated or improved, in whole or in part, with funds provided by Canada under the terms and conditions of this Agreement.

“**Community**” means an entity of the Local Government pursuant to applicable provincial legislation. That is, having the status of a Local Government pursuant to provincial legislation in New Brunswick.

“**Effective Date**” means the date of last signature of this Agreement.

“**Eligible Project Category**” means a class of capital infrastructure listed in Schedule B (Eligible Project Categories).

“**Eligible Expenditures**” means those costs incurred and paid that are eligible for reimbursement by Canada as set out in Schedule C (Eligible and Ineligible Expenditures) that have been approved as part of a Project approval.

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

**“Local Government”** or **“Local Governments”** means one or more municipality, rural community, regional municipality and any other public authority responsible for delivering local services in New Brunswick, if that authority has been given the said responsibility by statute.

**“Oversight Committee”** means the committee established pursuant to Section 4 (“Oversight Committee”).

**“Progress Report”** means a report submitted in accordance with Schedule F (Reporting).

**“Project”** or **“Projects”** means one or more projects approved by Canada under the SCF which once approved will be incorporated by reference into this Agreement.

**“Project Completion”** means when a Project can be used for the purpose for which it was intended as declared in the Declaration of Completion as set out in Schedule G (Declaration of Completion).

**“Project Completion Date”** means the date as shown on the executed Declaration of Completion as set out in Schedule G (Declaration of Completion).

**“Ultimate Recipient”** means an entity listed below whose Project is situated within, or is for the benefit of a Community with a population of less than one hundred thousand (100,000), as determined by Statistics Canada – Final 2011 Census:

- a) a Local Government established by or under New Brunswick legislation;
- b) a provincial entity or public sector body (e.g., a department, corporation or agency) that provides municipal-type infrastructure services to Communities, established under New Brunswick legislation;
- c) a band council within the meaning of section 2 of the *Indian Act*; or a government or authority established pursuant to a Self-Government Agreement or a Comprehensive Land Claim Agreement between Her Majesty the Queen in right of Canada and an Aboriginal people of Canada, that has been approved, given effect and declared valid by federal legislation;
- d) a private sector body, including for-profit organizations and not-for-profit organizations, whose application is supported by a Local Government referred to above by way of a resolution from the Local Government council.

**“Ultimate Recipient Agreement”** means an agreement between New Brunswick and the Ultimate Recipient under the SCF.

## **1.2 ENTIRE AGREEMENT**

This Agreement comprises the entire agreement between the Parties. No prior document, negotiation, provision, undertaking or agreement in relation to the subject of the Agreement has legal effect, unless incorporated by reference into this Agreement. No representation or warranty express, implied or otherwise, is made by Canada to New Brunswick except as expressly set out in this Agreement.

## **1.3 DURATION OF AGREEMENT**

This Agreement will be effective as of the Effective Date and will terminate on the Agreement End Date.

## **1.4 SCHEDULES**

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

Schedule A – Allocation

Schedule B – Eligible Project Categories

Schedule C – Eligible and Ineligible Expenditures

Schedule D – Project Information

Schedule E – Claim Declaration

Schedule F – Reporting

Schedule G – Declaration of Completion

Schedule H – Communications Protocol

## **2. PURPOSE OF AGREEMENT**

The purpose of this Agreement is to establish the terms and conditions whereby Canada will provide funding to New Brunswick for Projects.

## **3. OBLIGATIONS OF THE PARTIES**

### **3.1 COMMITMENTS BY CANADA**

- a) Canada agrees to provide funding to New Brunswick in a total amount not to exceed Thirty nine million three hundred sixty three thousand seven hundred and twenty three dollars (\$39,363,723) to be paid in accordance with the estimated Fiscal Year breakdown in Schedule A (Allocation) for Eligible Expenditures.
- b) The maximum federal funding for a Project, from all federal sources, will not exceed one third (33.33 %) of the total Eligible Expenditures for that Project. Notwithstanding the foregoing, the maximum federal funding from all sources to provincially-owned highways and major roads, and public transit Projects will not exceed one-half (50%) of the total Eligible Expenditures for a Project.
- c) Notwithstanding subsection 3.1(b) (Commitments by Canada), the maximum federal funding to a Project, from all federal sources will not exceed one quarter (25%) of the total Eligible Expenditures for a Project that is delivered as a public-private partnership or implemented by an Ultimate Recipient that is from the for-profit private sector.
- d) New Brunswick can allocate up to one percent (1%) of Canada's total funding for incremental administration costs incurred in the delivery of the SCF by New Brunswick.
- e) Notwithstanding subsection 3.1(b) (Commitments by Canada), only funding received from the First Nations Infrastructure Fund will be included in the maximum federal funding for Projects advanced by an Ultimate Recipient identified in subsection (c) of the definition of "Ultimate Recipient". All other sources of funds received by that Ultimate Recipient for that Project from Aboriginal Affairs and Northern Development Canada will not count toward the maximum federal funding.
- f) The Parties agree that Canada's role is limited to providing funding to Projects and that Canada will have no involvement in the implementation of any Project or its operation. Canada is neither a decision-maker nor an administrator of a Project.
- g) If Canada concludes an Agreement with respect to the Small Communities Fund for similar purposes with any other province or territory of Canada, and that Agreement taken as a whole is materially different from this Agreement, New Brunswick may ask Canada to agree to amend this Agreement so that, taken as a whole, it affords similar treatment to New Brunswick as the other Agreement affords to the other province or territory. In the event of any such request, Canada and New Brunswick agree to discuss the request and any agreement reached between them to amend this Agreement will be effected in accordance with Section 12.6 Amendments.

## **3.2 COMMITMENTS BY NEW BRUNSWICK**

- a) New Brunswick will provide funding for the Eligible Expenditures of a Project in an amount at least equal to Canada's funding of Eligible Expenditures for that Project.
- b) Unless New Brunswick is the Ultimate Recipient, New Brunswick will enter into an Ultimate Recipient Agreement with each Ultimate Recipient and ensure that Ultimate Recipient Agreements are consistent with but are no less favourable to Canada than the relevant provisions of this Agreement. All such provisions will apply to New Brunswick if it is an Ultimate Recipient.
- c) New Brunswick will ensure that the Ultimate Recipient completes the Project, claims only for Eligible Expenditures in a diligent and timely manner, and is responsible for any unapproved expenditures and cost overruns.

## **3.3 APPROPRIATIONS**

- a) Notwithstanding Canada's obligation to make any payment under this Agreement, this obligation does not arise if, at the time when a payment under this Agreement becomes due, the Parliament of Canada has not passed an appropriation that is sufficient and constitutes lawful authority for making the payment. Canada may reduce or terminate any payment under this Agreement in response to the reduction of appropriations or departmental funding levels in respect of transfer payments, the program under which this Agreement was made or otherwise, as evidenced by any appropriation act or the federal Crown's main or supplementary estimates expenditures. Canada will not be liable for any direct, indirect, consequential, exemplary or punitive damages, regardless of the form of action, whether in contract, tort or otherwise, arising from any such reduction or termination of funding.
- b) Canada acknowledges that any contribution to the Project by New Brunswick is subject to an appropriation by the New Brunswick Legislature.

## **3.4 FISCAL YEAR BUDGETING**

- a) The maximum amount of funding payable by Canada for each Fiscal Year is set out in Schedule A (Allocation);
- b) If the actual amount payable by Canada in respect of any Fiscal Year is less than the estimated amount in Schedule A (Allocation), New Brunswick may request that Canada re-allocate the difference between the two amounts to a subsequent Fiscal Year. Subject to Section 3.3 (Appropriations), Canada agrees to make reasonable efforts to accommodate New Brunswick's request. New Brunswick acknowledges that requests for re-allocation of Project funding will require appropriation adjustments or federal Crown approvals;
- c) In the event that any requested re-allocation of funding is not approved, the amount of Canada's funding payable pursuant to Sections 3.1 (Commitments by Canada) may be reduced by the amount of the requested re-allocation. If the funding payable by Canada pursuant to Section 3.1 (Commitments by Canada) is so reduced, the Parties agree to review the effects of such reduction on the overall implementation of the Projects by the Ultimate Recipients and to adjust the terms and conditions of this Agreement as appropriate.

## **4. OVERSIGHT COMMITTEE**

### **4.1 ESTABLISHMENT**

Within sixty (60) business days of the Effective Date, the Parties will establish an Oversight Committee to monitor the implementation of the Agreement. The Oversight Committee will consist of representatives for each of the Parties.

## **4.2 CO-CHAIRS**

The Oversight Committee will be comprised of four (4) members: two (2) co-chairs, one of whom is to be appointed by Canada and designated as Federal Co-Chair, and one of whom is to be appointed by New Brunswick and designated as the Provincial Co-Chair; and two (2) regular members, one appointed by Canada and one appointed by New Brunswick. Replacement members from either Party may, from time to time, be appointed. The Parties agree to keep each other informed in writing of new appointments.

## **4.3 MANDATE**

The Oversight Committee will:

- a) serve as the principal forum to develop joint management guidelines for this Agreement and address issues arising from the implementation of the guidelines and this Agreement;
- b) the Oversight Committee Co-chairs will examine any issues or disagreements that arise, and will, in good faith and reasonably, attempt to resolve potential disputes;
- c) subject to Section 3.1 (a) (Commitments by Canada), amend Schedule A (Allocation) based on forecasted expenditures for the Fiscal Year; and;
- d) ensure that an outcomes report is prepared periodically on completed Projects and their contribution to economic growth, a clean environment and stronger communities.

## **4.4 TERMS OF REFERENCE**

The Oversight Committee will adopt terms of reference that will, in a manner consistent with this Agreement, at a minimum provide for:

- a) Oversight Committee quorum, roles, duties, procedures, and frequency of meetings;
- b) periodic review and amendment of the terms of reference; and
- c) dissolution of the Oversight Committee once all activities, including audits, reporting, and final adjustments have been completed.

## **4.5 RECOMMENDATIONS AND DECISIONS**

All decisions and recommendations of the Oversight Committee will be unanimous and recorded in writing.

# **5. PROJECT IDENTIFICATION AND IMPLEMENTATION**

## **5.1 PROJECT IDENTIFICATION AND APPROVAL**

- a) New Brunswick will manage the identification and selection of potential projects in accordance with Schedule B (Eligible Project Categories).
- b) New Brunswick will propose potential projects to the Oversight Committee with the information outlined in Schedule D (Project Information) at a minimum of once a year until funds are fully allocated.
- c) The Oversight Committee will recommend approval of projects by Canada.

## **5.2 PROJECT AMENDMENTS**

New Brunswick will be responsible to oversee and administer any Project amendments submitted by Ultimate Recipients in regards to the scope, timing and location of a Project provided that:

- a) any federal funding paid for Eligible Expenditures incurred and paid for a Project will be returned to the New Brunswick allocation should the Project be cancelled; and,
- b) Canada will promptly be informed of any changes to the location of a Project.

### **5.3 DISPOSAL OF ASSETS**

- a) Unless otherwise agreed to by the Parties, New Brunswick will ensure that the Ultimate Recipient will retain title to and ownership of an Asset for five (5) years after the Project Completion Date.
- b) If at any time within five (5) years from the Project Completion Date of a Project, an Ultimate Recipient sells, leases, or otherwise disposes of, directly or indirectly, any Asset purchased, acquired, constructed, rehabilitated or renovated, in whole or in part, under this Agreement, other than to Canada, New Brunswick, a Local Government, or with Canada's consent, the Ultimate Recipient may be required to reimburse Canada, via New Brunswick, any funds received from New Brunswick for the Project.

### **6. ENVIRONMENTAL ASSESSMENT**

Canada's funding for a Project is conditional upon Canada being satisfied that its obligations under the Canadian Environmental Assessment Act, 2012 (CEAA, 2012) are met.

### **7. CLAIMS AND PAYMENTS**

#### **7.1 PAYMENT CONDITIONS**

- a) Canada will, upon review and acceptance of a claim, provide funding under this Agreement provided that a summary claim form and a declaration from an authorized senior financial Official of New Brunswick substantially in the form set out in Schedule E (Claim Declarations) confirming that all expenditures claimed for reimbursement are in accordance with the provisions of this Agreement, is submitted to Canada:
  - i. on a minimum semi-annual basis of the Fiscal Year in which the Eligible Expenditures were incurred and paid and no later than the year following the Fiscal Year in which the Eligible Expenditures were incurred and paid; and;
  - ii. claims must be submitted to Canada by no later than September 30th, 2023.
- b) Canada will not have an obligation to make a payment unless and until Canada has received and is satisfied with Progress Reports in accordance with subsection 8.1 (Progress Reports).

#### **7.2 RETENTION OF CONTRIBUTION**

Canada may retain up to five percent (5%) of its funding under this Agreement. Any amount retained by Canada will be released by Canada when New Brunswick fulfils all of its obligations under this Agreement.

## **8. REPORTING, AUDITS AND EVALUATION**

### **8.1 PROGRESS REPORTS**

Progress Reports will be submitted to Canada on a semi-annual basis in accordance with Schedule F (Reporting).

### **8.2 PROJECT COMPLETION**

New Brunswick will submit to Canada on a semi-annual basis Declarations of Completion in the form set out in Schedule G (Declaration of Completion) executed by an authorized official of New Brunswick for Projects in the Fiscal Year in which a Project is completed.

### **8.3 AUDITS**

- a) The Oversight Committee will be responsible for establishing and overseeing an audit plan.
- b) Canada may, at its discretion, and in consultation with New Brunswick, conduct audits during the term of this Agreement and up to two years after the Agreement End Date. The timing of such audits will be determined in collaboration with New Brunswick and will be carried out by external independent auditors. Any costs associated with the conduct of such audits will be the responsibility of Canada.
- c) Canada agrees to consult with New Brunswick on the findings of any audit before they are made public.
- d) New Brunswick agrees to ensure the prompt and timely corrective action is taken in response of any audit findings and recommendations conducted in accordance with this Agreement.

### **8.4 RECORD KEEPING**

New Brunswick will keep proper and accurate financial accounts and records, including but not limited to its contracts, invoices, statements, receipts, and vouchers in respect of any Project, for at least six (6) years after the Agreement End Date and will provide Canada and its designated representatives with reasonable and timely access to documentation for the purposes of audit, evaluation, and ensuring compliance with this Agreement.

### **8.5 EVALUATION**

Canada will, at its cost, complete periodic evaluations of the NBCF program and its components to review the relevance and performance (i.e. effectiveness, efficiency and economy) of the program. New Brunswick agrees to provide information on program performance and may be asked to participate in the evaluation process. The results of the evaluation will be made publicly available.

## **9. DISPUTE RESOLUTION**

- a) The Parties will keep each other informed of any issue that could be contentious.
- b) If a contentious issue arises, the Oversight Committee will examine and will, in good faith and reasonably, attempt to resolve potential disputes as soon as possible and in any event within thirty (30) business days within receipt of notice of such contentious issue. Where the Oversight Committee cannot agree on a resolution, the matter will be referred to the Parties for resolution. The Parties will provide a decision within ninety (90) business days.
- c) Where the Parties cannot agree on a resolution, the Parties may explore any alternative dispute resolution mechanisms available to them to resolve the issue.
- d) Any payments related to any contentious issue or dispute raised by either Party may be suspended by Canada together with the obligations related to such issue, pending resolution.
- e) The Parties agree that nothing in this section will affect, alter or modify the rights of either Party to terminate this Agreement.

## **10. INDEMNIFICATION**

New Brunswick will at all times indemnify and save harmless Canada, its officers, servants, employees, or agents, from and against all actions, whether in contract, tort or otherwise, claims and demands, losses, costs, damages, 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, in connection with or arising directly or indirectly from this Agreement, an Ultimate Recipient Agreement or a Project, except to the extent to which such actions, claims, demands, losses, costs, damages, suits or other proceedings relate to the negligence or breach of the Agreement by an officer, servant, employee or agent of Canada in the performance of his or her duties.

## **11. COMMUNICATIONS**

The Parties shall comply with the communications protocol set out in Schedule H (Communications Protocol).

## **12. GENERAL**

### **12.1 SURVIVAL**

The Parties' rights and obligations, which by their nature, extend beyond the termination of this Agreement, will survive any termination of this Agreement.

### **12.2 ACCOUNTING PRINCIPLES**

All accounting terms will have the 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.

### **12.3 REPAYABLE CONTRIBUTIONS**

Any funding provided to an Ultimate Recipient that is a private sector body intended to allow the business to generate profits or to increase the value of the business, will be repayable to Canada.

### **12.4 COUNTERPART SIGNATURE**

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

### **12.5 SEVERABILITY**

If for any reason a provision of this Agreement that is not a fundamental term of this Agreement between the Parties is found to be or becomes invalid or unenforceable, in whole or in part, and if both Parties agree, 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.

### **12.6 AMENDMENTS**

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

### **12.7 WAIVER**

A Party may waive any of its rights under this Agreement only in writing. Any tolerance or indulgence demonstrated by the Party will not constitute a waiver.

## **12.8 NOTICE**

- a) Any notice provided for under this Agreement may be delivered in person, sent by mail or facsimile, addressed to:

for Canada:

Assistant Deputy Minister  
Program Operations Branch  
Infrastructure Canada  
180 Kent Street  
Ottawa, Ontario  
K1P 0B6;

or to such other address or facsimile number or addressed to such other person as Canada may, from time to time, designate in writing to New Brunswick; and

for New Brunswick:

Vice President  
Corporate Services Programs  
Regional Development Corporation  
Chancery Place  
P. O. Box 6000  
Fredericton, New Brunswick E3B 5H1  
Facsimile: (506) 453-7988

and

Assistant Deputy Minister  
Corporate Services, Community Funding and Performance Excellence Division  
Environment and Local Government  
P.O. Box 6000  
Fredericton, NB  
E3B 5H1

or such other address or facsimile number or addressed to such other person as New Brunswick, from time to time, designate in writing to Canada.

- b) Such notice will be deemed to have been received, if sent by mail, when receipt is acknowledged by the other Party; by facsimile, when transmitted and receipt is confirmed; and in person, when delivered.

## **12.9 COMPLIANCE WITH LAWS**

New Brunswick will comply with all applicable laws, regulations, all requirements of regulatory bodies having jurisdiction over the subject matter of a Project and any common law obligations to consult with, and where appropriate, accommodate Aboriginal groups.

## **12.10 GOVERNING LAW**

This Agreement is governed by the laws applicable in the Province of New Brunswick.

**SIGNATURES**

This Agreement has been executed on behalf of Her Majesty the Queen in right of Canada by the Minister of Infrastructure, Communities and Intergovernmental Affairs, and on behalf of Her Majesty the Queen in right of the Province of New Brunswick by the Minister Responsible for the Regional Development Corporation and the Minister of Environment and Local Government.

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF NEW BRUNSWICK

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The Honourable Denis Lebel  
Minister of Infrastructure, Communities and Intergovernmental Affairs

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The Honourable Victor Boudreau Minister  
Responsible for the Regional Development Corporation

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Date

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Date

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The Honourable Brian Kenny Minister of  
Environment and Local Government

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Date

## SCHEDULE A – ALLOCATION

Canada's total funding will be allocated in accordance with the estimated Fiscal Year breakdown below:

	Canada
2014-2015	\$0
2015-2016	\$5,000,000
2016-2017	\$5,000,000
2017-2018	\$5,000,000
2018-2019	\$5,000,000
2019-2020	\$5,000,000
2020-2021	\$5,000,000
2021-2022	\$5,000,000
2022-2023	\$3,000,000
2023-2024	\$1,363,723
TOTAL	\$39,363,723

## **SCHEDULE B – ELIGIBLE PROJECT CATEGORIES**

Infrastructure is defined as “publicly or privately owned tangible capital assets in Canada primarily for public use or benefit.” Eligible Projects will be for the acquisition, construction, renewal, rehabilitation or material enhancement of Infrastructure that contributes to economic growth, to a clean environment, and/or stronger communities.

### **Highways and Major Roads Infrastructure**

- Highways and major roads, including bridges and tunnels that are:
  - High capacity roads such as freeways, expressways or major arterials with an Annual Average Daily Traffic count greater than 3000 vehicles;
  - Part of the National Highway System (including core, feeder and northern categories);
  - Highways and roads related to natural resource development opportunities; or,
  - Road/rail grade separation on one of the above highways or major roads.

Rehabilitation projects must meet the definition of ‘rehabilitation’ as agreed upon by the Council of Ministers.

Projects under this category could include: Intelligent Transportation Systems (ITS), and/or active transportation Infrastructure (e.g. sidewalks, bicycle lanes, pedestrian/bike/multi-use pathways) components as a part of the overall project.

### **Public Transit Infrastructure**

- Transit Infrastructure and rolling stock, including but not limited to, bus rapid transit, light rail transit, subways, buses, urban passenger ferries and regional commuter rail;
- Transit facilities and supporting 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; or
- Intelligent Transportation Systems (ITS) in support of public transit services.

### **Disaster Mitigation Infrastructure**

- Public Infrastructure that protects from, prevents, reduces the impact and/or likelihood of, or mitigates the potential damage resulting from natural hazards, including impacts or events related to climate change.

Construction, modification or reinforcement of public Infrastructure excludes normal routine, maintenance and operational work (e.g., dredging of sediment, gravel removal, debris traps, etc.). The relocation of entire communities is also excluded.

### **Connectivity and Broadband Infrastructure**

- High-speed backbone;
- Point of presence;
- Local distribution within communities; or
- Satellite capacity.

In Canada, broadband service refers to download speeds of 1.5 Mbps or greater. In Telecom Regulatory Policy 2011-291, the CRTC established a universal broadband Internet access target download speed of 5 Mbps.

### **Innovation**

- Post-secondary research and development laboratories and centres, and related teaching facilities;
- Office space for the purpose of conducting research and development; or
- Research libraries associated with the research laboratories and centres.

Eligible investments under each sub-category could include installation of underlying connective Infrastructure as necessary (e.g. water/sewer connections, electricity connections, new technologies and implementation of approaches for improved energy efficiency in laboratories, telecommunications Infrastructure).

### **Wastewater Infrastructure**

- Wastewater treatment facilities or systems;
- Wastewater collection systems;
- Separation of combined sewers and/or combined sewers overflow control, including real-time control and system optimization;
- Separate storm water collection systems and/or storm water treatment facilities or systems; or
- Wastewater sludge treatment and management systems.

### **Green Energy Infrastructure**

- Reinforcement, expansion of existing and construction of new transmission grids to transmit clean electricity; including smart grid technologies;
- Renewable Electricity Generation facilities (e.g., wind energy, solar energy, small scale hydro);
- Thermal heat/cooling delivery system (i.e., district energy systems) using renewable or combined heat/power plants;
- Projects for new or material rehabilitation or expansion of carbon transmission and storage Infrastructure;
- Electric Vehicle Infrastructure; or
- Clean coal facilities.

### **Drinking Water Infrastructure**

- Drinking water treatment Infrastructure; or
- Drinking water distribution systems (may include metering as part of a larger project).

### **Solid Waste Management Infrastructure**

- Waste diversion Infrastructure (e.g., recycling, composting, anaerobic digestion, eco-centers); or
- Waste disposal Infrastructure (e.g., thermal processes, landfill gas recovery).

### **Brownfield Remediation and Redevelopment Infrastructure**

- 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 SCF; and/or
  - The construction of municipal use public parks and affordable housing.

### **Local and Regional Airport Infrastructure**

- Aeronautical and/or non-aeronautical Infrastructure in airports that are accessible all year-round:
  - Aeronautical Infrastructure includes, but is not limited to: runways, taxiways, aprons, hangars, lighting, aids to navigation (Nav aids), maintenance sheds, airside mobile equipment and associated shelters, air terminal buildings, and groundside safety-related Infrastructure;
  - Non-aeronautical Infrastructure such as groundside access, inland ports, parking facilities, and commercial and industrial activities.

National Airport System (NAS) and federally owned airports and federal assets are not eligible for funding.

Local and regional airports are defined as those sites having scheduled passenger traffic, not located in the national capital or a provincial/territorial capital and not classified by Transport Canada as an Arctic or remote airport.

Federally-owned airports and federal assets are not eligible for funding.

Safety and security projects that are eligible for funding under Priorities 1 and 2 of Transport Canada's Airports Capital Assistance Program (ACAP) are funded under that program, and are not eligible for funding unless they are part of a larger project.

ACAP priorities 1 and 2 may be described as:

Priority 1: Safety-related airside projects required to accommodate the aircraft providing year-round, regularly scheduled passenger service such as rehabilitation of runways, taxiways, aprons, associated lighting, visual aids, sand storage sheds, utilities to service eligible items, related site preparation costs including directly associated environmental costs, aircraft firefighting equipment and equipment shelters which are necessary to maintain the airport's level of protection as required by regulation.

Priority 2: Heavy airside mobile equipment (safety-related) such as runway snow blowers, runway snowplows, runway sweepers, spreaders, winter friction testing devices, and heavy airside mobile equipment shelters.

### **Shortline Rail Infrastructure**

- New construction, additional capacity, or rehabilitation of rail Infrastructure, including:
  - Industrial branch lines to allow a railway to serve a group of companies, an industrial park, a logistic park, an intermodal yard, a multimodal facility, a port, a transfer facility, or a marine terminal;
  - Tracks and structures, excluding regular or deferred maintenance, to ensure safe travel at speeds deemed acceptable for safe and efficient operations;
  - Facilities to improve the interchange of goods between modes; or
  - Capitalized equipment for loading/unloading required for expansion of short line rail.

Short line rail is typically defined as a Class III railway that provides regional service to a small number of towns or industries and/or serves as a feeder line for one or more larger railroads.

Projects under this category could include Intelligent Transportation Systems (ITS) components as part of the overall project.

### **Short Sea Shipping Infrastructure**

- The following capitalized and fixed port Infrastructure that increases short sea shipping capacity:
  - Wharves and associated Infrastructure;
  - Intermodal facilities, multi-modal or transfer facilities; or
  - Capitalized and fixed equipment for loading/unloading required for expansion of short sea shipping.

Short sea shipping is defined as the movement of cargo by water over relatively short distances, excluding trans-oceanic voyages.

Projects under this category could include Intelligent Transportation Systems (ITS) components as part of the overall project.

The purchase of vessels, Infrastructure that supports passenger-only ferry services, maintenance of existing facilities, as well as maintenance activities including dredging, are not eligible for funding.

## **SCHEDULE C – ELIGIBLE AND INELIGIBLE EXPENDITURES**

### **1. ELIGIBLE EXPENDITURES**

Eligible Expenditures will include only the following:

- a) the capital expenditures for acquiring, constructing, renewing, rehabilitating, materially enhancing or renovating an Asset, as defined and determined according to accounting principles generally accepted in Canada;
- b) expenditures directly associated with joint federal communication activities (press releases, press conferences, translation, etc.) and with project signage recognition set out in Schedule H (Communication Protocol);
- c) all planning (including plans and specifications) and assessment expenditures specified in the Agreement such as the expenditures for environmental planning, surveying, engineering, architectural supervision, testing and management consulting services. Canada will contribute no more than 15% of its funding to these expenditures;
- d) the expenditures for engineering and environmental reviews, including environmental assessments and follow-up programs as defined in the *Canadian Environmental Assessment Act 2012* and the expenditures of remedial activities, mitigation measures and follow-up identified in any environmental assessment;
- e) the expenditures for Project-related signage, lighting, Project markings and utility adjustments;
- f) expenditures for Aboriginal consultation;
- g) recipient audit and evaluation expenditures as specified in the Agreement;
- h) the incremental expenditures of the Ultimate Recipient's employees or leasing of equipment may be included as eligible expenditures under the following conditions:
  - i. The Ultimate Recipient is able to demonstrate that it is not economically feasible to tender a contract;
  - ii. The employee or equipment is engaged directly in respect of the work that would have been the subject of the contract; and
  - iii. The arrangement is approved in advance and in writing by New Brunswick.
- i) leasing of equipment related to the construction of the Project; and,
- j) other expenditures that, in the opinion of Canada, are considered to be direct and necessary for the successful implementation of the Project and have been approved in writing prior to being incurred.

The direct incremental expenses incurred by New Brunswick for the administration of the Agreement may be considered eligible expenditures, up to a maximum of one percent (1%) of the total allocation.

### **2. INELIGIBLE EXPENDITURES**

The following are deemed ineligible expenditures:

- a) expenditures incurred before the approval of the Project by Canada;
- b) expenditures incurred after the Project Completion Date with the exception of expenditures related to audit and evaluation requirements pursuant to the Agreement;
- c) the expenditures related to developing a business case or proposal for funding;
- d) the expenditures related to purchasing land, buildings and associated real estate and other fees;
- e) financing charges and interest payments on loans;
- f) leasing land, buildings, equipment and other facilities;
- g) furnishings and non-fixed assets which are not essential for the operation of the Project.
- h) general repairs and maintenance of a Project and related structures, unless they are part of a larger capital expansion project;
- i) services or works normally provided by the Ultimate Recipient, incurred in the course of implementation of the Project, except those specified as eligible expenditures;

- j) the expenditures related to any goods and services which are received through donations or in kind;
- k) any overhead expenditures, including salaries and other employment benefits of any employees of the Ultimate Recipient, direct or indirect operating or administrative expenditures of an Ultimate Recipient, and more specifically expenditures related to planning, engineering, architecture, supervision, management and other activities normally carried out by staff except in accordance with subsections 1.c) and 1.h) in the Eligible Expenditures above;
- l) taxes for which the Ultimate Recipient is eligible for a tax rebate and all other expenditures eligible for rebates;
- m) for administration of this Agreement administration expenditures involving the salaries and benefits of existing staff and general administration expenditures unrelated to Agreement implementation; and,
- n) legal fees.

## **SCHEDULE D – PROJECT INFORMATION**

New Brunswick will ensure that projects proposed to the Oversight Committee include the following information, attest to its accuracy and validity, and will confirm and attest to project eligibility and viability:

- An identification of the Ultimate Recipient;
- A Project title, location, including confirmation if it is located on federal land, requires Aboriginal consultation and an environmental assessment, and description clearly demonstrating eligibility as per Schedule B – Eligible Projects Categories;
- Total Eligible Expenditures and a breakdown of all funding sources;
- Project timelines, including the estimated start date and Project Completion Date.

## SCHEDULE E – CLAIM DECLARATION

### CLAIM DECLARATION

In the matter of the agreement entered into between Her Majesty the Queen in right of Canada, as represented by the President of the Queen’s Privy Council for Canada, Minister of Infrastructure, Communities and Intergovernmental Affairs (“Canada”) and Her Majesty the Queen in right of the Province of New Brunswick, as represented by the Minister Responsible for the Regional Development Corporation and the Minister of Environment and Local Government (“New Brunswick”), concerning the New Building Canada Fund - Small Communities Fund (the “Agreement”):

I, \_\_\_\_\_(Name), [INSERT TITLE] with New Brunswick, declare as follows:

1. That I hold the position of \_\_\_\_\_ with New Brunswick and as such have knowledge of the matters set forth in this Claim Declaration and believe this Claim Declaration to be true.
2. I am duly authorized by New Brunswick to give this Claim Declaration.
3. I have read and understood the Agreement and the claim by New Brunswick dated the same date as this Claim Declaration, and have knowledge of the business and affairs of New Brunswick and have made such examinations or investigations as are necessary to give this declaration and to ensure that the information contained herein is true and accurate.
4. This declaration is submitted for claim # \_\_\_\_\_ in support of Eligible Expenditures incurred and paid in accordance with Schedule C (Eligible and Ineligible Expenditures) of the Agreement.
5. The information submitted by \_\_\_\_\_ the Ultimate Recipient for the Project in support of the Eligible Expenditures incurred and paid is accurate and complete in all material respects, and is in accordance with the terms of the Agreement.
6. New Brunswick, at the date of this Claim Declaration, has met all terms and conditions of the Agreement that are required to be met by it on or prior to that date.
7. All representations and warranties of the New Brunswick contained in the Agreement are true and accurate in all respects at the date of this Claim Declaration.

Dated, this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
Signature  
[INSERT NAME]

## SCHEDULE F – REPORTING

### PROGRESS REPORT

On a semi-annual basis, New Brunswick will provide to Canada a Progress Report, in a format acceptable to Canada, consisting of the following information:

Municipality Legal Name	Select
Project Unique Identifier	Text
Project Title	Text
Progress Note	Text
Federal Funding (Eligible Expenditures)	Numeric
Provincial Contribution (Eligible Expenditures)	Numeric
Municipal Contribution (Eligible Expenditures)	Numeric
Other Contribution (Eligible Expenditures)	Numeric
Eligible Expenditures Claimed to date	Numeric
Actual Construction Start Date	(YYYY-MM-DD)
Actual Construction End Date	(YYYY-MM-DD)
Environmental Assessment Required?	Yes/No
Aboriginal Consultation Required?	Yes/No

**SCHEDULE G – DECLARATION OF COMPLETION**

In the matter of the agreement entered into between Her Majesty the Queen in right of Canada, as represented by the President of the Queen’s Privy Council for Canada, Minister of Infrastructure, Communities and Intergovernmental Affairs (“Canada”) and Her Majesty the Queen in right of the Province of New Brunswick, as represented by the Minister responsible for the Regional Development Corporation and the Minister of Environment and Local Government (“New Brunswick”), concerning the New Building Canada Fund - Small Communities Fund (the “Agreement”):

I, \_\_\_\_\_(Name), of the City of \_\_\_\_\_,  
Province of \_\_\_\_\_, declare as follows:

I hold the position of \_\_\_\_\_with New Brunswick and as such have knowledge of the matters set forth in this declaration and believe this declaration to be true.

Based on the representations made to me by Insert Ultimate Recipient, the Ultimate Recipient for the Project, I declare to the best of my knowledge and belief that the Project titled X, as approved by Canada on X, X, 20\_\_ under the Agreement has reached Project Completion as defined in the Agreement on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ (Project Completion Date).

All terms and conditions of the Agreement that are required to be met as of the date of this declaration have been met.

Declared at \_\_\_\_\_ (City), in \_\_\_\_\_ (Province)  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(Signature)

## **SCHEDULE H – COMMUNICATIONS PROTOCOL**

### **PURPOSE**

This Communications Protocol outlines the roles and responsibilities of each of the Parties to this Agreement, as well as those of the Ultimate Recipient, with respect to communications activities related to SCF-funded Projects.

This Communications Protocol shall guide all communications activity planning, development and implementation with a view to ensuring efficient, structured, continuous and coordinated communications to the Canadian public.

The provisions of this Communications Protocol shall apply to all communications activities related to any Projects funded through the SCF, or allocations; and any Projects funded under this Agreement. Such communications activities may include, but are not limited to, public or media events, news releases, reports, web and social media products or postings, blogs, project signs, digital signs, publications, success stories and vignettes, photo compilations, videos, advertising campaigns, awareness campaigns, editorials, and multi-media products.

### **1. GUIDING PRINCIPLES**

The Parties recognize the importance of managing the delivery of coherent communications activities based on the principle of transparent and open discussion and collaboration.

Communications activities undertaken through this Communications Protocol should ensure that Canadians are informed of infrastructure investments made to help improve their quality of life and that they receive consistent information about funded Projects and their benefits.

The communications activities undertaken jointly by Canada, New Brunswick and the Ultimate Recipient shall recognize the funding of all Parties to the Projects.

### **2. GOVERNANCE**

The Oversight Committee shall be responsible for monitoring the implementation of this Communications Protocol.

New Brunswick is responsible for communicating the requirements and responsibilities outlined in this Communications Protocol to the Ultimate Recipient and for ensuring their compliance.

New Brunswick shall communicate to Ultimate Recipients any deficiencies and/or corrective actions identified by Canada or by the Oversight Committee.

### **3. DISPUTES, MONITORING AND COMPLIANCE**

The Oversight Committee will monitor the Parties' compliance with this Schedule, and may, at its discretion, advise the Parties of issues and required adjustments. Should there be any disagreement or contentious issues with this Schedule, Section 9 (Dispute Resolution) shall be followed.

### **4. PROGRAM COMMUNICATIONS**

Notwithstanding Section 6 (Media Events and Announcements) for Projects (Communications Protocol), Canada retains the right to meet its obligations to communicate information to Canadians about the SCF and the use of funds through its own communications products and activities.

Canada and New Brunswick may include general program messaging and Project examples in their own communications products and activities. The Party undertaking these activities will provide each Party, and Ultimate Recipient(s) as appropriate, with an opportunity to participate and shall recognize the funding of the Parties.

Canada, New Brunswick and the Ultimate Recipient will not unreasonably restrict the other parties from using, for their own purposes, public communications products related to Projects funded through the SCF and if web-based, from linking to it.

## **5. OPERATIONAL COMMUNICATIONS**

New Brunswick and the Ultimate Recipient are solely responsible for operational communications with respect to Projects, including but not limited to, calls for tender, construction, and public safety notices. Operational communications as described above are not subject to the federal official language policy.

Canada and New Brunswick shall share information promptly with the other Parties should significant media inquiries be received or emerging media or stakeholder issues arise relating to the Project.

## **6. MEDIA EVENTS AND ANNOUNCEMENT FOR PROJECTS**

Media events include, but are not limited to, news conferences, public announcements, official events or ceremonies, and news releases.

Canada, New Brunswick and the Ultimate Recipient will have regular media events about the funding and status of the Projects. Key milestones may be marked by public events, news releases and/or other mechanisms.

Each of the Parties or the Ultimate Recipient may request a media event.

Media events related to the Projects shall not occur without the prior knowledge and agreement of all the Parties and, as appropriate, the Ultimate Recipient.

The requestor of a media event shall provide at least 15 business days' notice to the other Parties of their intention to undertake such an event. The event shall take place at a mutually agreed date and location.

The Party undertaking these activities shall provide the opportunity for the other Parties to participate through a designated representative and shall recognize the funding of all Parties. Each Party shall choose their own designated representative.

The conduct of all joint media events and products shall follow the *Table of Precedence for Canada* as outlined at [www.pch.gc.ca/eng/1359384273319/1359384663213](http://www.pch.gc.ca/eng/1359384273319/1359384663213).

All joint communications material related to media events shall be approved by Canada and recognize the funding of all funding partners (Canada, New Brunswick, Ultimate Recipient and others as appropriate).

All joint communications material shall reflect Canada's policy on official languages and the federal identity program.

## **7. SIGNAGE**

Canada, New Brunswick and the Ultimate Recipient may each have a sign recognizing their funding contribution to the Projects.

Unless otherwise agreed by Canada, New Brunswick or the Ultimate Recipient shall produce and install a federal sign to recognize federal funding at each Project site in accordance with current federal signage guidelines. The federal sign design, content, and installation guidelines will be provided by Canada.

Where the Ultimate Recipient decides to install a permanent plaque or other suitable marker with respect to the Projects, it shall recognize the federal contribution and be approved by Canada.

New Brunswick agrees to inform Canada of federal sign installations.

Federal signage shall be installed at the Project site(s) 30 days prior to the start of construction, be visible for the duration of the Project, and remain in place until thirty (30) days after construction is completed and the infrastructure is fully operational or opened for public use.

Federal signage shall be at least equivalent in size and prominence to Project signage for contributions by other orders of government and be installed in a prominent and visible location that takes into consideration pedestrian and traffic safety and visibility.

#### **8. COMMUNICATIONS COSTS**

The eligibility of expenditures related to communication activities will be subject to Schedule C (Eligible and Ineligible Expenditures).

#### **9. COMMUNICATING SUCCESS STORIES**

New Brunswick agrees to facilitate, as required, communications between Canada and the Ultimate Recipient for the purposes of collaborating on communications activities and products including but not limited to Project success stories, vignettes, and multi-media products.

#### **10. ADVERTISING CAMPAIGNS**

Recognizing that advertising can be an effective means of communicating with the public, Canada and New Brunswick may, at their own cost, organize an advertising or public information campaign related to the SCF or eligible Projects. However, such a campaign shall respect the provisions of this Agreement. In the event of such a campaign, the sponsoring party or Ultimate Recipient shall inform the other parties of its intention no less than 21 working days prior to the campaign launch.