

**CANADA – CITY OF SAINT JOHN  
DISASTER MITIGATION AND ADAPTATION FUND**

**AGREEMENT FOR SAINT JOHN FLOOD MITIGATION STRATEGY PROJECT**

This Agreement is made as of the date of last signature

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

**AND**

**CITY OF SAINT JOHN**, a body corporate by Royal Charter, as amended from time to time by Acts of the Legislative Assembly of New Brunswick (the “Recipient”), individually referred to as a “Party” and collectively referred to as the “Parties”.

**RECITALS**

WHEREAS the Government of Canada established the \$2 billion Disaster Mitigation and Adaptation Fund in Budget 2017;

WHEREAS, the Minister of Infrastructure and Communities is responsible for the Disaster Mitigation and Adaptation Fund (the “Program”);

WHEREAS the Recipient has submitted to Canada a proposal for the funding of the Saint John Flood Mitigation Strategy Project (“the Project”) which qualifies for support under the Program;

AND WHEREAS the Recipient is responsible to carry out the Project and Canada wishes to provide financial support for the Project and its objectives;

**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 subsection.

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

“**Agreement End Date**” means March 31, 2028.

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

“**Asset Disposal Period**” means the period commencing from the Effective Date and ending twenty (20) years after Project Substantial Completion Date.

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

“**Contract**” means an agreement between the Recipient and a Third Party whereby the latter agrees to supply a product or service to the Project in return for financial consideration.

“**Declaration of Substantial Completion**” means a declaration in the form substantially prescribed in Schedule D (Declaration of Substantial Completion).

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

“**Eligible Expenditures**” means those costs of the Project incurred by the Recipient and eligible for reimbursement by Canada as set out in Schedule A (Eligible and Ineligible Expenditures).

**“Fair Market Value”** means the highest dollar value that the Recipient can get for property in an open and unrestricted market and between a willing buyer and a willing seller who are knowledgeable, informed, and acting independently of each other.

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

**“In-Kind Contributions”** means non-monetary contributions of goods, services or other support provided by the Recipient, or to the Recipient by a third party for the Project, for which Fair Market Value is assigned, but for which no payment occurs.

**“Joint Communications”** means events, news releases and signage that relate to the Agreement and are collaboratively developed and approved by the Parties and are not operational in nature.

**“Natural Infrastructure”** means the use of naturally occurring resources or engineered use of natural resources, to provide adaptation or mitigation services to the gradual and/or sudden impacts of climate change or natural hazards.

**“Oversight Committee”** means the Oversight Committee established pursuant to Section 5 (Oversight Committee).

**“Project”** means the project as described in Schedule B (Project Details).

**“Project Approval Date”** means May 2, 2019 which is the date indicated by Canada in writing to the Recipient following Canada’s approval in principle of the Project.

**“Project Component”** means any of the components of the Project as described in Schedule B2 (Project Components and Cashflow).

**“Program”** means the Disaster Mitigation and Adaptation Fund Program.

**“Substantial Completion Date”** means the date on which the Project can be used for the purpose for which it was intended as described in Schedule B1 (Project Description) and as will be set out in Schedule D (Declaration of Substantial Completion).

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

**“Total Financial Assistance”** means total funding from all sources towards Total Expenditures of the Project, including funding from the Recipient and federal, provincial, territorial, and municipal governments as well as funding from other sources, private financial sources and In-kind contributions.

**“Ultimate Recipient”** means Saint John Energy pursuant to an Ultimate Recipient Agreement with the Recipient.

**“Ultimate Recipient Agreement(s)”** means an agreement between the Recipient and the Ultimate Recipient for the Project prepared in accordance with Section 7 Ultimate Recipient Funding and Agreements.

## **1.2 ENTIRE AGREEMENT**

This Agreement comprises the entire agreement between the Parties in relation to the subject of the Agreement. No prior document, negotiation, provision, undertaking or agreement has legal effect, unless incorporated by reference into this Agreement. No representation or warranty expressed, implied or otherwise, is made by Canada to the Recipient 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 subject to early termination in accordance with this Agreement.

## **1.4 SCHEDULES**

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

Schedule A – Eligible and Ineligible Expenditures

Schedule B – Project Details

Schedule C – Communications Protocol

Schedule D – Declaration of Substantial Completion

## 2. PURPOSE OF AGREEMENT

The purpose of this Agreement is to establish the terms and conditions whereby Canada will provide funding to the Recipient for the Project.

## 3. OBLIGATION OF THE PARTIES

### 3.1 COMMITMENTS BY CANADA

- a) Canada agrees to pay a contribution to the Recipient of not more forty percent (40%) of the total Eligible Expenditures for assets owned by municipalities and non-for-profit organization in provinces but only up to a maximum of eleven million, nine hundred and sixteen thousand and seventy-four dollars (\$11,916,074).
- b) Canada will pay the contribution in accordance with the terms and conditions of this Agreement and the Fiscal Year breakdown in Schedule B2 (Project Components and Cashflow).
- c) The Parties acknowledge that Canada's role in the Project is limited to making a financial contribution to the Recipient for the Project and that Canada will have no involvement in the implementation of the Project or its operation. Canada is neither a decision-maker nor an administrator to the Project.
- d) If Canada's total contribution towards the Project exceeds forty percent (40%) of the Project's total Eligible Expenditures or if the Total Financial Assistance received or due in respect of the total Project costs exceeds one hundred per cent (100%) thereof, Canada may recover the excess from the Recipient or reduce its contribution by an amount equal to the excess.

### 3.2 COMMITMENTS BY THE RECIPIENT

- a) The Recipient will ensure the Project is completed in a diligent and timely manner, as per the Project Details outlined in Schedule B, within the costs and deadlines specified in this Agreement and in accordance with the terms and conditions of this Agreement.
- b) The Recipient will be responsible for all costs of the Project including cost overruns, if any.
- c) The Recipient will be responsible for any and all costs associated with the Project should the Project be withdrawn or cancelled, and the Recipient will repay to Canada any payment received for disallowed costs and all ineligible costs, surpluses, unexpended contributions, and overpayments made under and according to the terms and conditions of this Agreement.
- d) The Recipient will ensure that the greenhouse gas emissions assessment that includes a cost-per-tonne calculation for the Project is completed to Canada's satisfaction and submitted to Canada prior to Canada flowing funds, unless otherwise required by Canada.
- e) The Recipient will report on community employment benefits provided to at least three federal target groups (apprentices - from traditionally disadvantaged communities, Indigenous peoples, women, persons with disabilities, veterans, youth, new Canadians, or small-medium-sized enterprises and social enterprises) and submit to Canada with annual updates until Project completion.
- f) The Recipient will promptly inform Canada of the Total Financial Assistance received or due for the Project.
- g) The Recipient will ensure the ongoing operation, maintenance, and repair of any Asset in relation to the Project, as per appropriate standards, during the Asset Disposal Period.
- h) Canada may request that the Recipient declare to Canada any amounts owing to the federal Crown, under legislation or contribution agreements, which constitute an overdue debt. The Recipient recognizes that any such amount owing is a debt due to the federal Crown and may be set-off by Canada in accordance with Section 19.5 (Set-off by Canada).
- i) The Recipient will inform Canada immediately of any fact or event that will compromise wholly or in part the Project.
- j) The Recipient agrees that material changes to the Project will require Canada's consent, which may be subject to terms and conditions, and a corresponding amendment to the Agreement.

- k) The Recipient will enter into an agreement with the Ultimate Recipient in accordance with this Agreement. Upon request, the Recipient will promptly provide Canada with a copy of the ultimate agreement.

### **3.3 APPROPRIATIONS AND FUNDING LEVELS**

- 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.

### **3.4 FISCAL YEAR BUDGETING**

- a) The amount of the contribution payable by Canada for each Fiscal Year of the Project is set out in Schedule B2 (Project Components and Cashflow).
- b) If the actual amount payable by Canada in respect of any Fiscal Year of the Project is less than the estimated amount in Schedule B2 (Project Components and Cashflow), the Recipient may request that Canada re-allocate the difference between the two amounts to a subsequent Fiscal Year. Subject to Subsection 3.3 (Appropriations and Funding Levels), Canada agrees to make reasonable efforts to accommodate the Recipient's request. The Recipient 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 Project funding is not approved, the amount of Canada's contribution payable pursuant to Subsection 3.1 (Commitments by Canada) may be reduced by the amount of the requested re-allocation. If the contribution payable by Canada pursuant to Subsection 3.1 (Commitments by Canada) is so reduced, the Parties agree to review the effects of such reduction on the overall implementation of the Project and to adjust the terms and conditions of this Agreement as appropriate.

### **3.5 INABILITY TO COMPLETE PROJECT**

If, at any time during the term of this Agreement, one or all of the Parties determine that it will not be possible to complete the Project for any reason, the Party will immediately notify the other Party of that determination and Canada may suspend its funding obligation. The Recipient will, within thirty (30) business days of a request from Canada, provide a summary of the measures that it proposes to remedy the situation. If Canada is not satisfied that the measures proposed will be adequate to remedy the situation, then this will constitute an Event of Default under Section 15 (Default) and Canada may declare a default pursuant to Section 15 (Default).

### **3.6 CONDITIONS PRECEDENT**

- a) Condition

The Recipient agrees that Canada has no obligation to make payments under this Agreement unless and until:

- i. The Recipient completes a greenhouse gas emissions assessment that includes a cost-per-tonne calculation for the Project to Canada's satisfaction and provides it to Canada.
- ii. The Recipient enters into an Ultimate Recipient Agreement with each Ultimate Recipient in accordance with this Agreement.

- b) Remedy

In the event that the Recipient is unable to meet the conditions set out in paragraph 3.6 (a) (Condition), Canada may terminate this Agreement. 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 the termination of this Agreement.

## 4. THE RECIPIENT REPRESENTATIONS AND WARRANTIES

The Recipient represents and warrants to Canada that:

- a) The Recipient has the capacity and authority to enter into and execute this Agreement as duly authorized by resolution of the Common Council of the City of Saint John, Agenda Item #5.2 – MC 2019-266, dated October 21, 2019;
- b) The Recipient has the capacity and authority to carry out the Project;
- c) The Recipient has the requisite power to own the Assets for which it is responsible and the Ultimate Recipient has the requisite power to own the Assets for which it is responsible in accordance with Schedule B (Project Details);
- d) This Agreement constitutes a legally binding obligation of the Recipient, enforceable against it in accordance with its terms and conditions;
- e) All information submitted to Canada as set out in this Agreement is true, accurate, and was prepared in good faith to the best of its ability, skill, and judgment;
- f) Any individual, corporation or organization that the Recipient has hired, for payment, who undertakes to speak to or correspond with any employee or other person representing Canada on the Recipient'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 federal *Lobbying Act*, is registered pursuant to that *Act*;
- g) The Recipient has not and will not make a payment or provide other compensation that is contingent upon or is calculated upon the contribution hereunder or the negotiation of the whole or any part of the terms and conditions of this Agreement to any individual, corporation or organization with which that individual is engaged in doing business with, who is registered pursuant to the federal *Lobbying Act*;
- h) There are no actions, suits, investigations or other proceedings pending or, to the knowledge of the Recipient, threatened and there is no order, judgment or decree of any court or governmental agency which could materially and adversely affect the Recipient's ability to carry out the activities contemplated by this Agreement. The Recipient will inform Canada immediately if any such action or proceedings are threatened or brought during the term of this Agreement.

## 5. OVERSIGHT COMMITTEE

Within sixty (60) business days of the date of the last signature of this Agreement, the Parties will establish an Oversight Committee comprising a federal co-chair and a co-chair from the Recipient. The Oversight Committee will:

- a) Monitor compliance with the terms and conditions of this Agreement;
- b) Monitor the implementation of Schedule C (Communications Protocol);
- c) Monitor the progress of the Project as per described in Section 9 (Reporting);
- d) Ensure that audit plans are carried out as per this Agreement, including but not limited to Section 11 (Audit);
- e) Act as a forum to resolve potential issues and address concerns;
- f) Review and, as necessary, recommend to the Parties amendments to the Agreement; and
- g) Attend to any other function required by this Agreement, or as mutually agreed to by the Parties.

## 6. CONTRACT PROCEDURES

### 6.1 AWARDING OF CONTRACTS

- a) The Recipient will ensure that Contracts will be awarded in a way that is fair, transparent, competitive and consistent with value-for-money principles or in a manner otherwise acceptable to Canada, and if applicable, in accordance with the Canadian Free Trade Agreement and international trade agreements.
- b) If Canada determines that the Recipient has awarded a Contract in a manner that is not in compliance with the foregoing, upon notification to the Recipient, Canada may consider the expenditures associated with the Contract to be ineligible.

## **6.2 CONTRACT PROVISIONS**

The Recipient will ensure that all Contracts are consistent with, and incorporate, the relevant provisions of this Agreement. More specifically but without limiting the generality of the foregoing, the Recipient agrees to include terms and conditions in all Contracts to ensure that:

- a) The Third Party will keep proper and accurate financial accounts and records, including but not limited to its Contracts, invoices, statements, receipts, and vouchers, in respect of the Project for at least six (6) years after the Agreement End Date and that the Recipient has the contractual right to audit them;
- b) All applicable labour, environmental, and human rights legislation is respected; and
- c) Canada, the Auditor General of Canada, and their designated representatives, to the extent permitted by law, will at all times be permitted to inspect the terms and conditions of the Contract and any records and accounts respecting the Project and will have reasonable and timely access to the Project sites and to any documentation relevant for the purpose of audit.

## **7. RECIPIENT AGREEMENT WITH ULTIMATE RECIPIENT**

### **7.1 AWARDING OF FUNDING TO OTHER ENTITIES**

- a) The Recipient will only further distribute funding to an Ultimate Recipient up to a maximum of four million, five hundred and sixty-two thousand, eight hundred and seventy dollars (\$6,844,305.00) for Eligible Expenditures under this Agreement and which are in accordance with the Project.
- b) The Recipient will not receive any payment, product, service or any benefit whatsoever from the Ultimate Recipient in return for the awarding of such funding. If Canada determines that the Recipient has awarded the Ultimate Recipient Agreement in a manner that is not in compliance with the foregoing, upon notification to the Recipient, Canada may consider the expenditures associated with the Ultimate Recipient Agreement to be ineligible.
- c) The Recipient agrees to enforce the Ultimate Recipient Agreement and agrees that no default under such agreement will constitute a defence to any default of the Recipient hereunder.
- d) The Recipient agrees that the failure by the Recipient to include a clause of this Agreement in the Ultimate Recipient Agreement will not constitute a defence to any default of the Recipient hereunder.

### **7.2 CONTENT OF ULTIMATE RECIPIENT AGREEMENT**

- a) The Recipient will ensure that the Ultimate Recipient Agreement is consistent with, and is no less favourable to Canada than, the Agreement and includes the relevant terms and conditions of the Agreement with such reasonable and necessary modifications as the circumstances require.
- b) The Recipient agrees to include, without limitation, in the Ultimate Recipient Agreement the following terms and conditions with such reasonable and necessary modifications as the circumstances require:
  - a. Subsection 3.2a) (Commitment by the Recipient);
  - b. Subsection 3.5 (Inability to Complete Project);
  - c. Paragraph 4 (the Recipient Representations and Warranties);
  - d. Section 6 (Contract Procedures);
  - e. Section 11 (Audit);
  - f. Section 12 (Evaluation);
  - g. Section 13 (Access);
  - h. Section 14 (Communications);
  - i. Section 16 (Default);
  - j. Section 17 (Limitation of Liability and Indemnification);
  - k. Section 18 (Disposal of Assets);
  - l. Section 19 (General);

- m. Schedule B (Project Details)
- n. Schedule C (Communications Protocol)
- o. Any other section of the Agreement which the Recipient deems necessary.

## **8. CLAIMS AND PAYMENTS**

### **8.1 PAYMENT CONDITIONS**

- a) Canada will not pay interest for failing to make a payment under this Agreement.
- b) Canada will not make a payment until the conditions identified in subsection 3.6 (Conditions Precedent) have been met;
- c) Canada will not make a payment for the Project Component requiring land acquisition until the Recipient confirms, to Canada's satisfaction, that the land acquisition has been completed. Canada will not make a payment, other than the first Fiscal Year in which claims are submitted, unless Canada has received and approved reports as required under Section 9 (Reporting) and any audit requirements as required in Section 11 (Audit);
- d) Canada will not pay any claims until the requirements under Section 20 (Environmental Assessment) and Section 21 (Aboriginal Consultations), if applicable, are, in Canada's opinion, satisfied to the extent possible at the date the claim is submitted to Canada.

### **8.2 CLAIMS AND PAYMENTS**

- a) The Recipient will submit claims to Canada covering the Eligible Expenditures, in a form acceptable to Canada. Each claim must include the following:
  - i. an attestation by a senior official designated in writing by the Recipient that the information submitted in support of the claim is accurate and that Eligible Expenditures have been incurred;
  - ii. a breakdown of Eligible Expenditures claimed by Project Component in accordance with Schedule B2 (Project Components and Cashflow);
  - iii. upon request by Canada, any documents in support of Eligible Expenditures claimed.
- b) Canada will make a payment upon review and acceptance of a claim, subject to the terms and conditions of this Agreement.
- c) The Recipient will provide a final claim to Canada no later than twelve months after Project Substantial Completion Date, along with all information required under Subsections 9.2 (Final Report), Section 11 (Audit), and Declaration of Substantial Completion (Schedule D).

### **8.3 DECLARATION OF SUBSTANTIAL COMPLETION**

- a) Prior to executing the Declaration of Substantial Completion, the Recipient will request confirmation from Canada as to whether the Declaration of Completion lists all relevant documents;
- b) The Declaration of Substantial Completion must be signed by an authorized official as deemed acceptable by Canada, and it must list all relevant documents as agreed to by Canada.

### **8.4 PAYMENT DEADLINE**

- a) Canada will not have the obligation to make a payment after March 31st of the year following the Fiscal Year in which the Eligible Expenditures were incurred; and
- b) Canada will make the final payment no later than March 31st, 2028.

### **8.5 RETENTION OF CONTRIBUTION**

Canada will retain up to five percent (5%) of its contribution under this Agreement. Any amount retained by Canada will be released by Canada upon review and acceptance of the final report described under Section 9.2 (Final Report) and the Recipient fulfills all of its obligations under this Agreement.

### **8.6 FINAL ADJUSTMENTS**

Upon Canada's receipt of the final claim, but before issuing the final payment, the Parties will jointly carry out a final reconciliation of all claims and payments in respect of the Project and make any adjustments required in the circumstances.

## **8.7 FINAL PAYMENT**

Canada will make a final payment upon review and acceptance of the final claim, subject to the terms and conditions of this Agreement.

## **9. REPORTING**

### **9.1 PROGRESS REPORT**

- a) The Recipient will submit progress reports to Canada at a timing and frequency determined by Canada but no less than every six months. The progress report will be attested by a senior designated official. The first progress report under this Agreement must cover the period from the Project Approval Date.
- b) Each progress report must include, at a minimum, the following information:
  - i. Project Title
  - ii. cost sharing breakdown, including Canada's contribution funding to the Project by Fiscal Year and any other sources of funding;
  - iii. construction start and end dates (forecast/actual);
  - iv. Project progress for the period;
  - v. an update on Project issues/risks, if any, and mitigation measures;
  - vi. an update on Project alignment to meet results as described in Schedule B, subsection 1.2.; and
  - vii. confirmation of the Project's installed signage, if applicable.
- c) Expected and actual results related to community employment benefits for the Project will be included in a progress report on an annual basis.

### **9.2 FINAL REPORT**

The Recipient will submit a final report to Canada with the final claim for approval no later than twelve (12) months after the Substantial Completion Date. The final report will include:

- a) All information required under paragraph 9.1 (Progress Report), covering the period from the last progress report to the date of submitting the final claim; and
- b) A cumulative summary of the results and the financials for the Project, which will include the following information:
  - i. the Project's completed results compared to the baseline established prior to the start of the Project as listed under Schedule B (Project Details);
  - ii. total expenditures and Eligible Expenditures by source of funding as well as federal contribution by Fiscal Year for the Project;
  - iii. an attestation, signed by a delegated senior official, that the Project has been completed and that federal funding was spent on Eligible Expenditures in accordance with this Agreement;
  - iv. reporting on community employment benefits and demonstrating that all environmental conditions and aboriginal consultation and accommodation requirements have been met;
  - v. confirmation of the Total Financial Assistance in accordance with paragraph 3.2 (f) (Commitments by the Recipient) and Schedule B3 (Total Financial Assistance).

## **10. INFORMATION MANAGEMENT**

The Recipient will use the Infrastructure Recipient Information System (IRIS), or a process designated by Canada, to fulfill the obligations of the Recipient under this Agreement, including Section 9 (Reporting) and any other obligations of the Recipient as requested by Canada.

## **11. AUDIT**

- a) The Recipient agrees to inform Canada of any audit that has been conducted on the use of contribution funding under this Agreement, provide Canada with all relevant



audit reports, and ensure that prompt and timely corrective action is taken in response to any audit findings and recommendations. The Recipient will submit to Canada in writing as soon as possible, but no later than sixty (60) days following receiving it, a report on follow-up actions taken to address recommendations and results of the audit.

- b) Canada may, at its discretion, conduct a Recipient audit related to this Agreement during the term of this Agreement and up to two years after the Agreement End Date, in accordance with the Canadian Auditing Standards and Section 20.2 (Accounting Principles).
- c) The Recipient will ensure proper and accurate financial accounts and records are kept, including but not limited to its Contracts, invoices, statements, receipts, and vouchers in respect to the Project for at least six (6) years after the Agreement End Date.

## **12. EVALUATION**

The Recipient agrees to provide Project-related information to Canada during and following the termination of the Agreement in order for Canada to conduct any evaluation of the performance of the Program. All evaluation results will be made available to the public, subject to all applicable laws and policy requirements.

## **13. ACCESS**

The Recipient will provide Canada and its designated representatives with reasonable and timely access to the Project sites, facilities, and any documentation for the purposes of audit, inspection, monitoring, evaluation, and ensuring compliance with this Agreement.

## **14. COMMUNICATIONS**

### **14.1 COMMUNICATIONS PROTOCOL**

- a) The Parties will comply with Schedule C (Communications Protocol).
- b) The Recipient will acknowledge Canada's contribution in all signage and public communication produced as part of the Project or Agreement, in a manner acceptable to Canada, unless Canada communicates in writing to the Recipient that this acknowledgement is not required.
- c) The Recipient acknowledges that the following may be made publicly available by Canada:
  - i. its name, the amount awarded by Canada, and the general nature of the Project; and
  - ii. any evaluation or audit report and other reviews related to this Agreement.

### **14.2 OFFICIAL LANGUAGES**

- a) The Recipient will ensure that information on the Project is developed and is available in both official languages when intended for the information of, or use by the public.
- b) The Recipient will communicate in such a manner as to address the needs of both official language communities.

## **15. DISPUTE RESOLUTION**

The Parties will keep each other informed of any issue that could be contentious by exchanging information and will, in good faith and reasonably, attempt to resolve potential disputes.

- a) If a contentious issue arises, it will be referred to the Oversight Committee. The Oversight Committee will examine it and, in good faith, attempt to resolve it, within thirty (30) business days from the receipt of notice.
- b) Where the Oversight Committee cannot agree on a resolution, the issue 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 the issue will be suspended, 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 Canada to terminate this Agreement.

## **16. DEFAULT**

### **16.1 EVENTS OF DEFAULT**

The following events constitute Events of Default under this Agreement:

- a) The Recipient has not complied with one or more of the terms and conditions of this Agreement;
- b) The Recipient has not completed the Project in accordance with the terms and conditions of this Agreement;
- c) The Recipient has submitted false or misleading information to Canada or made a false or misleading representation in respect of the Project or in this Agreement, except for an error in good faith, demonstration of which is incumbent on the Recipient, to Canada's satisfaction; or
- d) The Recipient has neglected or failed to pay Canada any amount due in accordance with this Agreement;

### **16.2 DECLARATION OF DEFAULT**

Canada may declare default if:

- a) One or more of the Events of Default occurs.
- b) Canada gave notice to the Recipient of the event which in Canada's opinion constitutes an Event of Default; and
- c) The Recipient has failed, within thirty (30) business days of receipt of the notice, either to remedy the Event of Default or to notify and demonstrate, to the satisfaction of Canada, that it has taken such steps as are necessary to remedy the Event of Default.

### **16.3 REMEDIES ON DEFAULT**

In the event that Canada declares a default under Subsection 16.2 (Declaration of Default), Canada may exercise one or more of the following remedies, without limiting any remedy available to it by law:

- a) Suspend any obligation by Canada to contribute or continue to contribute funding to the Project, including any obligation to pay an amount owing prior to the date of such suspension;
- b) Terminate any obligation of Canada to contribute or continue to contribute funding to the Project, including any obligation to pay any amount owing prior to the date of such termination;
- c) Require the Recipient to reimburse Canada all or part of the contribution paid by Canada to the Recipient;
- d) Terminate this Agreement.

## **17. LIMITATION OF LIABILITY AND INDEMNIFICATION**

### **17.1 DEFINITION OF PERSON**

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

### **17.2 LIMITATION OF LIABILITY**

In no event will Canada, its officers, servants, employees or agents be held liable for any damages in contract, tort (including negligence) or otherwise, for:

- a) Any injury to any Person, including, but not limited to, death, economic loss or infringement of rights;
- b) Any damage to, loss of, or destruction of property of any Person; or
- c) Any obligation of any Person, including, but not limited to, any obligation arising from a loan, capital lease or other long term obligation;

in relation to this Agreement or the Project.

**17.3 INDEMNIFICATION**

The Recipient will at all times indemnify and save harmless Canada, its officers, servants, employees or agents, from and against all actions, claims, demands, losses, costs, damages, suits or other proceedings, whether in contract, tort (including negligence) or otherwise, by whomsoever brought or prosecuted in any manner based upon or occasioned by:

- a) Any injury to any Person, including, but not limited to, death, economic loss or any infringement of rights;
- b) Any damage to or loss or destruction of property of any Person; or
- c) Any obligation of any Person, including, but not limited to, any obligation arising from a loan, capital lease or other long term obligation

in relation to this Agreement or Project, except to the extent to which such actions, claims, demands, losses, costs, damages, suits or other proceedings are caused by the negligence or breach of this Agreement by an officer, servant, employee or agent of Canada in the performance of his or her duties.

**18. DISPOSAL OF ASSETS**

- a) Unless otherwise agreed to by the Parties, the Recipient will retain title to and ownership of the Assets for which it is responsible in accordance with Schedule B (Project Detail), and will ensure that the Ultimate Recipient retains title to and ownership of the Assets for which the Ultimate Recipient is responsible in accordance with Schedule B (Project Details) for the Asset Disposal Period.
- b) Notwithstanding any other provision of this Agreement, the Recipient will preserve, maintain and use any Assets for the purposes of the Project. The Recipient will ensure that Assets are preserved, maintained and used for the purposes of the Project.
- c) The Recipient undertakes to notify Canada in advance in writing at any time within the Asset Disposal Period, if the Recipient or an Ultimate Recipient sells, leases, encumbers or otherwise disposes of, directly or indirectly, any Asset excluding real property acquired with Canada's contribution other than to Canada, the Recipient, a municipal or regional government within the Recipient, or with Canada's consent, and the Recipient will reimburse Canada, at Canada's discretion, in whole or in part, any amount of funds contributed by Canada to the Asset under this Agreement.

**19. GENERAL****19.1 SURVIVAL**

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

**19.2 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) or the Public Sector Accounting Standards (PSAS) in effect in Canada.

**19.3 DEBTS DUE TO THE FEDERAL CROWN**

Any amount owed to Canada under this Agreement by the Recipient will constitute a debt due to the federal Crown, which the Recipient will reimburse Canada forthwith on demand.

**19.4 INTEREST ON DEBTS DUE TO THE FEDERAL CROWN**

Debts due to the federal Crown by the Recipient will accrue interest in accordance with the federal *Interest and Administrative Charges Regulations*.

**19.5 SET-OFF BY CANADA**

Any debt due to the federal Crown by the Recipient may be set-off against any amounts payable by Canada to the Recipient under this Agreement.

**19.6 MEMBERS OF THE HOUSE OF COMMONS AND SENATE**

No member of the House of Commons or the Senate of Canada will be admitted to any share or part of this Agreement, or to any benefit arising from it, that is not otherwise available to the general public. The Recipient will promptly inform Canada should it become aware of the existence of any such situation.

**19.7 CONFLICT OF INTEREST**

No current or former public servant or public office holder to whom any post-employment, ethics and conflict of interest legislation, guidelines, codes or policies of Canada applies will derive direct benefit from this Agreement unless the provision or receipt of such benefits is in compliance with such legislation, guidelines, policies or codes. The Recipient will promptly inform Canada should it become aware of the existence of any such situation. The Recipient will take the necessary action to ensure that any Ultimate Recipient Agreement or Contract between the Recipient and any Third Party contains a provision to that effect.

**19.8 NO AGENCY, PARTNERSHIP, JOINT VENTURE, ETC.**

- a) 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 the Recipient, between Canada and the Ultimate Recipient or between Canada and a Third Party.
- b) The Recipient will not represent itself, including in any agreement with a Third Party or Ultimate Recipient, as a partner, employee or agent of Canada.

**19.9 NO AUTHORITY TO REPRESENT**

Nothing in this Agreement is to be construed as authorizing any person, including Third Parties, to contract for or to incur any obligation on behalf of Canada or to act as an agent for Canada. The Recipient will take the necessary action to ensure that any Contract between the Recipient and any Third Party contains a provision to that effect.

**19.10 ASSIGNMENT**

The Recipient will not transfer or assign its rights or obligations under this Agreement without the prior written consent of Canada. Any attempt by the Recipient to assign any of the rights, duties or obligations of this Agreement without Canada's express written consent is void.

**19.11 COUNTERPART SIGNATURE**

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

**19.12 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.

**19.13 AMENDMENTS**

This Agreement, including its schedules, can only be amended in writing by the Parties.

**19.14 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.

**19.15 NOTICE**

Any notice provided for under this Agreement may be delivered in person, sent by mail addressed to:

for Canada:

ASSISTANT DEPUTY MINISTER  
PROGRAM OPERATIONS BRANCH  
INFRASTRUCTURE CANADA  
1100 - 180 Kent Street  
Ottawa, Ontario

K1P 0B6

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

for the Recipient:

Mr. Jonathan Taylor  
Common Clerk, The City of Saint John  
15 Market Square, City Hall, 9th Floor, P.O. Box 1971  
City of Saint John, New Brunswick E2L 4L1

or such other address or facsimile number or email or addressed to such other person as the Recipient may, from time to time, designate in writing to Canada.

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

**19.16 COMPLIANCE WITH LAWS**

The Recipient will comply with all applicable laws and regulations and all requirements of regulatory bodies having jurisdiction over the subject matter of the Project.

**19.17 GOVERNING LAW**

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

**19.18 SUCCESSORS AND ASSIGNS**

This Agreement is binding upon the Parties and their respective successors and assigns.

**19.19 INTELLECTUAL PROPERTY**

- (a) All intellectual property that arises in the course of the Project will vest in the Recipient or the Ultimate Recipient.
- (b) The Recipient will obtain the necessary authorizations, as needed, for the implementation of the Project, from Third Parties who may own the intellectual property rights or other rights in respect of the Project. Canada will assume no liability in respect of claims from any Third Party in relation to such rights and to the Agreement.

**20. ENVIRONMENTAL AND IMPACT ASSESSMENT**

The Recipient represents and warrants that the Project is not a “designated project” or a “project” under CEAA 2012 or under the *Impact Assessment Act*.

**21. ABORIGINAL CONSULTATION**

Canada has determined that there is a legal duty to consult Aboriginal groups on the Project. The Recipient agrees that no site preparation, vegetation removal, or construction of the Project will occur, and Canada has no obligation to reimburse Eligible Expenditures, until Canada is satisfied that:

- a) Aboriginal groups have been consulted,
- b) A summary of consultation or engagement activities has been provided, including a list of Aboriginal group(s) consulted, concerns and issues raised, and the position(s) of the Aboriginal group(s), and
- c) Accommodation measures, where appropriate, are being implemented by the Recipient and these costs may be considered Eligible Expenditures.

The parties will make efforts to coordinate the consultation and share information.

**SIGNATURES**

This Agreement has been executed on behalf of Her Majesty the Queen in right of Canada by the Minister of Infrastructure and Communities and on behalf of the City of Saint John by the Mayor.

HER MAJESTY THE QUEEN IN RIGHT OF  
CANADA

CITY OF SAINT JOHN

\_\_\_\_\_  
The Honourable Catherine McKenna  
Minister of Infrastructure and Communities

\_\_\_\_\_  
His Worship Don Darling  
Mayor

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DATE

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

### **A.1. ELIGIBLE EXPENDITURES**

- a) Eligible Expenditures will be all direct and necessary expenditures incurred by the Recipient towards the eligible Project that are associated with acquiring, planning, designing, constructing or rehabilitating a tangible capital asset, as defined by the Generally Accepted Accounting Principles (GAAP) or the Public Sector Accounting Standards (PSAS) in effect in Canada. This also specifically includes the following:
- i. Expenditures directly associated with joint federal communication activities and with Project signage, installed in accordance with federal signage guidelines.
  - ii. The incremental costs of the Recipient's employees or leasing of equipment may be included as Eligible Expenditures under the following conditions:
    1. The Recipient is able to demonstrate that it is not economically feasible to tender a contract;
    2. The employee or equipment is engaged directly in respect of the work that would have been the subject of the contract; and
    3. The arrangement is approved in advance and in writing by Canada.
  - iii. Costs of Aboriginal consultations, and where appropriate, accommodation.
- b) All Eligible Expenditures outlined below can be reimbursed to the Recipient only following the Effective Date of the Agreement.
- c) Expenditures associated with greenhouse gas assessments are Eligible Expenditures which may be incurred prior to the Project Approval Date. All other Eligible Expenditures can begin to accrue effective as of the Project Approval Date.

### **A.2 INELIGIBLE EXPENDITURES**

- a) Expenditures incurred before Project Approval Date, except for expenditures associated with greenhouse gas assessments.
- b) Expenditures incurred for cancelled Projects.
- c) Expenditures of relocating entire communities.
- d) Costs associated with the acquisition of land.
- e) Leasing land, buildings and other facilities; leasing equipment other than equipment directly related to the construction of the Project; real estate fees and related costs, unless in accordance with the requirements described in Schedule A.1.a)ii;
- f) Any overhead expenditures, including salaries and other employment benefits of any employees of the recipient, the direct or indirect operating or administrative costs of recipients, and more specifically its costs related to planning, engineering, architecture, supervision, management and other activities normally carried out by its staff, unless in accordance with the requirements described in Schedule A.1.a)ii;
- g) Financing charges, legal fees, and loan interest payments including those related to easements (e.g. surveys).
- h) Any goods and services costs which are received through donations or in-kind.
- i) Provincial sales tax and Goods and Services tax/HST, for which the recipient is eligible for a rebate, and any other costs eligible for rebates.
- j) Expenditures associated with operating expenses and regularly scheduled maintenance work.
- k) Expenditures related to furnishings and non-fixed assets which are not essential for the operation of the Asset/Project.

- l) All capital expenditures and costs, including site preparation and construction costs, until Canada is satisfied that the Environmental Assessment and Aboriginal consultation obligations have been met and continue to be met; and
- m) Expenditures related to all emergency services infrastructure.

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## SCHEDULE B – PROJECT DETAILS

### B1. Project Description:

#### SeaWall Refurbishment:

Reinforcement of the SeaWall is a mitigation measure the City is undertaking to ensure the continued use of prime properties and to enhance the safety of residents in the cultural and economic heart of uptown Saint John. The work will correct the SeaWalls structural deficiencies that are the result of erosion and enhance its resiliency as the City continues to face rising coastal water levels.

Detailed Description:

- Design of the SeaWall refurbishment will include raising the top of the wall to accommodate sea level rise, higher storm surges and higher wave action.

#### Raise or Replace Pumping Stations:

Raising or replacement of pumping stations (nine wastewater pumping stations and one water pumping station) above flood levels will mitigate the risk of damage caused by flooding, assist in providing continued critical services and will help mitigate the risks associated to the environment due to wastewater contamination.

Detailed Description:

- The mitigation of flood risks of the 9 wastewater pumping stations will reduce the likelihood of uncontrolled sewage overflows from these stations to natural watercourses during flood events.

- GHG reduction will be achieved as the pumps and motors specified for the upgraded replacement project will be significantly more efficient than the existing components and therefore will require less power during operation. This upgrade to the pumping stations will result in annual reduction of 491 tonnes of CO<sub>2</sub>.

- Raising or replacement of pumping stations will have a positive effect on the environment as raw sewage releases will be reduced or eliminated therefore reducing environmental contamination.

- The Musquash Water Pumping Station work is an essential source of process water for the local power plant and industrial facilities that require this water to maintain production.

- Specific measures that will be adopted to improve the resilience of the pumping stations to flooding include:

1. Relocate or raise the structure, or vulnerable equipment, above flood elevation.
2. Implement flood warning systems and water level measurement equipment to monitor water levels in advance of peak flood, where applicable.
3. Include backup generator connections within the flood resilient design.
4. Create sewer separation plans to reduce inflow into sanitary sewers.
5. Install flap gates and/or backflow prevention devices on emergency bypass pipes at wastewater pumping stations.

#### Electrical Substations:

The relocation of critical waterfront electrical utility infrastructure is fundamental to the resiliency of the electrical system serving Saint John's core urban neighborhoods. Relocation to a site 12m above the original site and 465m inland is the best option as this will remove 100% of the risk of sea level rise along with the risk of future storm events causing flooding, wave action and salt sprays which could cause disruption of essential electrical services to 25% of the regional workforce. Land will be procured to facilitate the relocation. In addition, transformer oil released in an incident would immediately enter the harbour and the Saint John River. If the event happened in the winter months the 7,500 residents and 1,150 businesses would be displaced for up to 6 months and the freezing water piping in the uptown area would cause substantial damage.

Detailed Description:

- The replacement of two existing electrical substations with a single new electrical substation will increase the reliability for the utility and the City.
- Decommissioning the current substations will remove the last of the asbestos breakers and mercury switches in the distribution system.
- GHG reduction and environmental value is significant. Over 70% reduction in GHG and the removal of over 60,000L of transformer oil from the risk of spilling into the harbour, river and indigenous fishing grounds.
- Existing substation decommissioning on harbour front will free the land up for the City's Waterfront Renewal Plan.
- Specific measures that will be adopted to improve the resilience of the substation to flooding includes:
  1. The substation will be moved to a new site 16m above sea level and 465m from the water front.
  2. All oil filled transformers will have secondary containment of 130% of oil volume.
  3. Real Time Monitoring 24/7 of all critical equipment with warning systems on critical equipment.
  4. Remote operations of substation-ability to operate entire substation remotely by off-site Distribution Control Centre for normal and emergency purposes.
  5. Ability to tie into another local substation for backup.

**B1.1 Project Objective:**

**List of Assets:**

Assets	Applicable Ultimate Recipient Agreement
<b>A – SeaWall</b>	City of Saint John
<b>B – Pumping Stations</b>	
1. Greenhead Road Sanitary Lift Station “C”	City of Saint John
2. Beach Crescent Sanitary Lift Station	City of Saint John
3. Dominion Park Road Sanitary Lift Station “A”	City of Saint John
4. Tippet Drive Sanitary Lift Station	City of Saint John
5. Millidge Avenue Sanitary Lift Station	City of Saint John
6. Kennedy Street Sanitary Lift Station	City of Saint John
7. Kennebecasis Drive Sanitary Lift Station #1	City of Saint John
8. Kennebecasis Drive Sanitary Lift Station #2	City of Saint John
9. Bridge Street Sanitary Lift Station	City of Saint John
10. Musquash Water Pumping Station	City of Saint John
<b>C – Electrical Substations</b>	
1. Union Street Substation at 23 Smythe Street, Saint John, NB	Saint John Energy
2. Crown Street Substation at 159 Elliott Row, Saint John, NB	Saint John Energy
3. New Substation at Paradise Row Property, Saint John, NB	Saint John Energy

The effects of climate change (increased frequency and severity of heavy rainfall and snow melt, sea level rise, increased wind, wave action and salt spray, as well as increased magnitude and frequency of storm surges) have resulted and are projected to further increase the risk of flooding and failure of the infrastructure included as part of this Project (harbour front seawall, 9 wastewater pumping stations, 1 water pumping station and 2 electrical substations).

The Project is intended to mitigate the risk and increase the resiliency of the critical infrastructure. The 3 components listed in this Project have been determined based on vulnerability risk assessment of where the biggest risk is associated with the effects of climate change due to flooding. Based on the infrastructure vulnerability and options available the approach has been determined as either, move to higher ground, provide further protection/barrier from water and any other design requirements to assist in avoiding future damages and keeping the City safe.

**B1.2 Expected Results at Project completion:**

(For the purposes of the following table, the following 3 project components will be referred to by a letter: SeaWall Refurbishment (a); Raise or Replace Pumping Stations (b); New Electrical Substation (c).)

<b>Expected Outputs and immediate Outcome(s)</b>	<b>Indicators</b>	<b>Baseline</b>	<b>Target</b>	<b>Actual Results (info to be included in final report)</b>
Increased structural capacity to adapt to climate change impacts, disasters triggered by natural hazards, and extreme weather events	Number of newly built or improved infrastructure Assets	a) 1 b) 10 c) 2	a) 1 b) 10 c) 1	
	Expected lifecycle of newly built or improved infrastructure Assets (years)	a) 0 years b) 16 years c) 5 years	a) 50 years b) 30 years c) 50-60 years	
	Performance of newly built or improved infrastructure Assets (ex. m3)	a) 5.58m b)(wastewater) - 16 liters/sec (water) - 1540 liters/sec c) 4m above sea level	a) 6.5m b) (wastewater) - 19 liters/sec (water) - 1577 liters/sec c) 16m above sea level	
<b>Expected intermediate Outcome(s)</b>	<b>Indicators</b>	<b>Baseline</b>	<b>Target</b>	<b>Actual Results (info to be included in final report)</b>
Increased ability of communities to adapt and withstand climate change impacts, disasters triggered by natural hazards, and extreme weather events	Percentage of directly affected people by hazard	Greater Than 15%	Less Than 5%	
	Percentage of local economic losses per hazard	Greater than 5%	Less Than 2%	
	Percentage of population without essential services during hazard	Greater than 20%	Less Than 2%	
	Number of missing people/lives lost	Less than 10	Less than 10	
<b>Expected ultimate Outcome(s)</b>	<b>Indicators</b>	<b>Baseline</b>	<b>Target</b>	<b>Actual Results (info to be included in final report)</b>
Increased economic, environmental and social resilience	Long-term savings on socio-economic damages during the Asset life cycle	0	Damages per year: \$5.88 million Year remaining: 30 - 60 years depending on asset. Total minimum savings:\$176.4 million	



<p><b>Minimum Federal Requirements</b></p>	<p>All projects under the DMAF must meet the following federal requirements:</p> <ol style="list-style-type: none"> <li>a) Meeting or exceeding the applicable energy efficiency standards for buildings outlined in the <i>Pan-Canadian Framework (PCF) on Clean Growth and Climate Change</i>.</li> <li>b) Meeting or exceeding the requirement of the highest published accessibility standard in a jurisdiction, defined as the requirements in the Canadian Standards Association Technical Standard Accessible Design for the Built Environment (CAN/CSA B651-12 or newer), in addition to applicable provincial or territorial building codes, and relevant municipal by-laws.</li> </ol>
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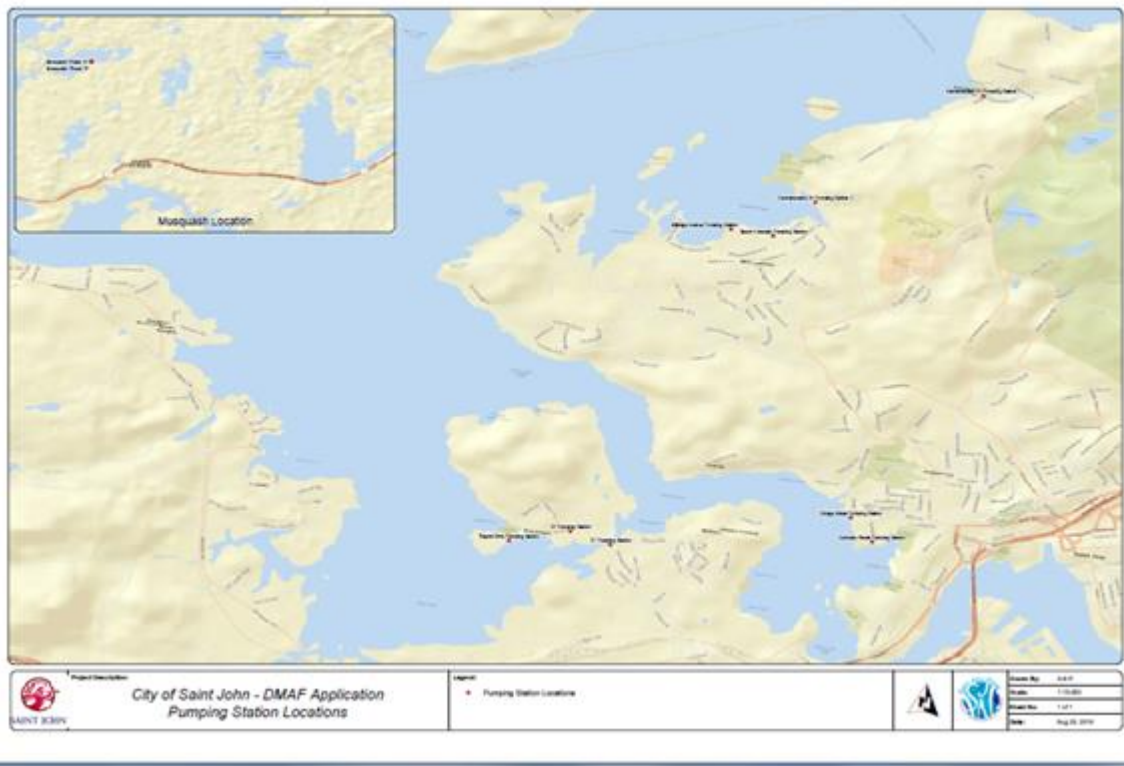
**B1.3 Boundaries:**

**Seawall: (highlighted in yellow)**

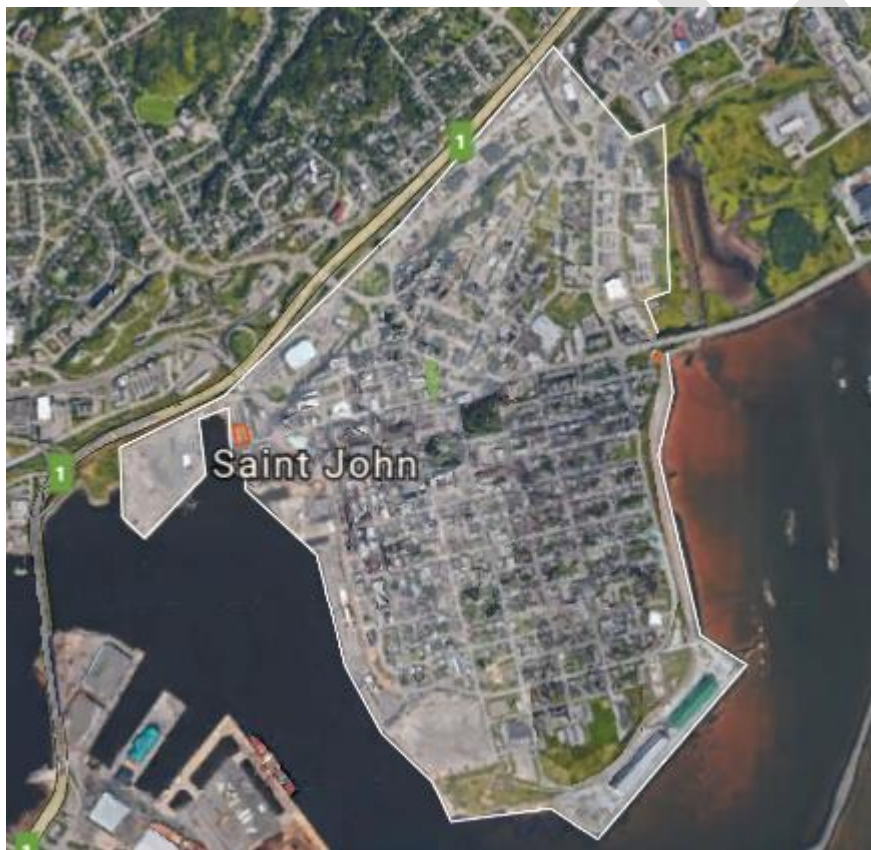


**Pumping Stations**





**Electrical Substations**



Project Component	Midpoint km	Project Component Mid-Points	
		CSRS-UTM-20N Lat/Long	
		Latitude (N)	Longitude (W)
1 (SeaWall)	See below	See below	See below
2 (Pumping Stations)	See below	See below	See below
3 (Electrical Substations)	See below	See below	See below

Note: 45° 14' 39.56" N and 66° 05' 15.58" W to 15° 19' 31.41" N and 66° 04' 51.88" W

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**B2. Project Components and Cashflow**

Project Components	Estimated Expenditures			Forecast							
	Estimated Total Expenditures	Estimated Eligible Expenditures	Estimated Contribution by Canada	Forecast of Estimated Contribution by Canada by Fiscal Year							
2019/20				2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	
Project Cost	\$29,790,184	\$29,790,184	\$11,916,074	\$1,140,718	\$4,590,638	\$4,680,718	\$340,000	\$248,000	\$340,000	\$352,000	\$224,000
<b>Total</b>	\$29,790,184	\$29,790,184	\$11,916,074	\$1,140,718	\$4,590,638	\$4,680,718	\$340,000	\$248,000	\$340,000	\$352,000	\$224,000

**B3. Total Financial Assistance:**

Recipient: \$11,029,805

Ultimate Recipient (Saint John Energy): \$6,844,305

Canada: \$11,916,074

Other contributors: \$0

## **SCHEDULE C – COMMUNICATIONS PROTOCOL**

### **C.1 PURPOSE**

This Communications Protocol outlines the roles and responsibilities of each of the Parties to this Agreement with respect to Communications Activities related to the funded Project.

This Communications Protocol will guide all communications activity planning, development and implementation to ensure clear, consistent and coordinated communications to the Canadian public.

The provisions of this Communications Protocol apply to all Communications Activities related to this Agreement including any Projects funded under this Agreement.

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.

### **C.2 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 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 the funded Project and its benefits.

The Communication Activities undertaken jointly by Canada and the Recipient should recognize the funding of all contributors to the Project.

The Recipient's public acknowledgement of financial assistance received from Canada is a condition of funding under this Agreement.

The Recipient will address any deficiencies and/or corrective actions identified by Canada or by the Oversight Committee.

### **C.3 GOVERNANCE**

The Parties will designate communications contacts and form a communications subcommittee that will be responsible for preparing the Project's communications plan, overseeing its implementation and reporting on its results to the Oversight Committee.

### **C.4 PROGRAM COMMUNICATIONS**

Canada retains the right to meet its obligations to communicate information to Canadians about the Program and the use of funding through its own communications products and activities.

Canada and the Recipient may also include general Program messaging and an overview of this Project as an example in their own communications products and activities. The Party undertaking these activities will recognize the funding of the Parties.

Canada and the Recipient agree that they will not unreasonably restrict the other Party or other funding contributors from using, for their own purposes, public communications products related to the Project that were prepared collectively or individually by the Parties, and if web-based, from linking to them.

Canada and the Recipient will ensure that:

- a) Canada and the Recipient will work together with respect to Joint Communications about the Project.
- b) Joint Communications related to Project funded under this Agreement should not occur without the prior knowledge and agreement of each of the Parties.
- c) All Joint Communications material will be approved by Canada and the Recipient, and will recognize the funding of each of the Parties.



- d) Each of the Parties may request Joint Communications to communicate to Canadians about the progress or completion of Projects. The requestor will provide at least fifteen (15) business days' notice to the other Parties. If the Communications Activity is an event, it will take place at a mutually agreed date and location.
- e) The requestor of the Joint Communications will provide an equal opportunity for the other Parties to participate and choose their own designated representative in the case of an event.
- f) As Canada has an obligation to communicate in English and French, Communications products related to events must be bilingual and include the Canada word mark and the other Party's logo. In such cases, Canada will provide the translation services and final approval of products.
- g) The conduct of all Joint Communications will follow the *Table of Precedence for Canada*.

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

The Recipient agrees to collaborate with Canada on Communications Activities and products including, but not limited to, Project success stories, vignettes, and multi-media products.

### **C.5 INDIVIDUAL COMMUNICATIONS**

The Recipient will ensure that:

- a) Where a website or webpage is created to promote or communicate progress on a funded Project or Projects, it must recognize federal funding through the use of a digital sign or through the use of the Canada wordmark and the following wording, "This project is funded in part by the Government of Canada." The Canada wordmark or digital sign must link to Infrastructure Canada's website, at [www.infrastructure.gc.ca](http://www.infrastructure.gc.ca). The guidelines for how this recognition is to appear and language requirements are published on Infrastructure Canada's website (<http://www.infrastructure.gc.ca/pub/signage-panneaux/intro-eng.html>).
- b) The Recipient will be required to send a minimum of one photograph to each of the Parties of the construction in progress, or of the completed project, for use in social media and other digital individual Communications Activities. Sending the photos will constitute permission to use and transfer of copyright. Photographs are to be sent to [INFC.photos@canada.ca](mailto:INFC.photos@canada.ca) along with the Project name and location.

### **C.6 OPERATIONAL COMMUNICATIONS**

The Recipient is solely responsible for operational communications with respect to the Project, including, but not limited to, calls for tender, construction, and public safety notices.

Operational communications will include the following statement: "This project is funded in part by the Government of Canada". Operational communications as described above are not subject to the federal official languages policy.

Canada and the Recipient will share information promptly with the other Party should significant media inquiries be received or if major stakeholder issues relating to the Project arise.

### **C.7 SIGNAGE**

Unless otherwise agreed upon by Canada, the Recipient will produce and install a sign to recognize contributors' funding at each Project site in accordance with current federal signage guidelines. The sign's design, content, and installation guidelines are provided by Canada (<http://www.infrastructure.gc.ca/pub/signage-panneaux/intro-eng.html>).

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

The Recipient will ensure that signs are installed at the Project site(s) at least one (1) month prior to the start of construction, be visible for the duration of the Project, and

remain in place until one (1) month after construction is completed and the infrastructure is fully operational or opened for public use.

The Recipient will ensure that signs are installed in a prominent and visible location that takes into consideration pedestrian and traffic safety and visibility.

Sign installations shall be reported to Canada as per subsection 9.1 b) (Progress Report).

**C.8 ADVERTISING CAMPAIGNS**

Recognizing that advertising can be an effective means of communicating with the public, Canada and the Recipient may, at their own cost, organize an advertising or public information campaign related to the Program or the funded Project. However, such a campaign must respect the provisions of this Agreement. In the event of such a campaign, each Party agrees to inform the other Party of its intention, no less than twenty-one (21) business days prior to the campaign launch.

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## SCHEDULE D – DECLARATION OF SUBSTANTIAL COMPLETION

In the matter of the Agreement entered into between Her Majesty the Queen in right of Canada, as represented by the Minister of Infrastructure and Communities, and the Recipient, as represented by \_\_\_\_\_ (Name), concerning the Saint John Flood Mitigation Strategy Project.

I, \_\_\_\_\_ (Name), of the City of \_\_\_\_\_,  
Province/Territory of **the Recipient**, declare as follows:

1. I hold the position of \_\_\_\_\_ with **the Recipient** and as such have knowledge of the matters set forth in this declaration and believe this declaration to be true.
  2.
    - a) I have received the following documents for the Saint John Flood Mitigation Strategy Project:
      - i. [LIST NAME OF RELEVANT DOCUMENT(S), E.G. CERTIFICATE OF COMPLETION, CERTIFICATE OF PERFORMANCE, OCCUPANCY PERMIT, ETC.] signed by \_\_\_\_\_ (Name), a \_\_\_\_\_ (Profession, e.g. professional engineer) for the Project.
      - ii. [ADD SAME TEXT AS IN i FOR EACH DOCUMENT]
    - b) Based on the above documents and the representations made to me by the professionals identified in Section 2(a) above, I declare to the best of my knowledge and belief that the Project:
      - i. has been substantially completed, as described in Schedule B1 (Project Description) of the Agreement, dated on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_;
      - ii. was carried out between the dates \_\_\_\_\_ (start date) and \_\_\_\_\_ (Substantial Completion Date).
- [Insert #3, if applicable:]*
3. I have received the following documents and based on these documents and representations made to me by the professionals identified below, I declare to the best of my knowledge and belief that the Project conforms with the [applicable environmental review or assessment e.g., *Impact Assessment Act, 2019*, or Northern Regime]:
    - i. [LIST NAME OF RELEVANT DOCUMENT(S)] signed by \_\_\_\_\_ (Name), an \_\_\_\_\_.
    - ii. [ADD SAME TEXT AS IN i FOR EACH DOCUMENT]
  4. 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/Territory)  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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