

CANADA – NEW BRUNSWICK

NEW BUILDING CANADA FUND

SMALL COMMUNITIES FUND

FUNDING AGREEMENT

2014-2015 to 2023-2024

Amendment No. 1

This Amendment 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, 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”.

BACKGROUND

WHEREAS Canada and New Brunswick entered into an Agreement dated the 3rd day of November, 2014, setting out the rights, obligations and requirements with respect to contributions under the Small Communities Fund Agreement (the " Agreement") for the payment to New Brunswick of \$39,363,723 dollars for the years 2014-2015 to 2023-2024;

AND WHEREAS Canada and New Brunswick both agree to amend the Agreement to add five new categories of eligible projects, to modify the eligible costs and to specify the project submission deadline from New Brunswick;

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

1. Section 3.1 Commitments by Canada - Subsection b) is repealed and replaced by the following:

The maximum federal funding to 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 roads infrastructure, provincially-owned disaster mitigation infrastructure and public transit infrastructure Projects will not exceed one-half (50%) of the total Eligible Expenditures for a Project.

2. Section 5.1 Project Identification and Approval - Subsection b) is repealed and replaced by the following:

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 totally allocated but no later than March 31, 2018.

3. Schedule B – Eligible Project Categories, is repealed and replaced by the following:

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.

Highways and Roads Infrastructure

New construction, additional capacity, rehabilitation, or safety-related improvements on highways and major roads, including bridges and tunnels that are:

- Part of the National Highway System (including core, feeder and northern categories);
- Highways and roads that carry freight and/or passenger traffic of any traffic volume;
- Road/rail grade separations on one of the above highways or major roads; or
- Intelligent transportation systems that are compliant with the National Intelligent Transportation Systems Architecture and the Border Information Flow Architecture, in support of highways and roads infrastructure.

Notes:

- a. Rehabilitation projects must meet the definition of 'rehabilitation' as agreed upon by the Council of Ministers.*
- b. Projects under this category could include active transportation infrastructure (e.g. sidewalks, bicycle lanes, pedestrian/bike/multi-use pathways) components as 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;
- Intelligent Transportation Systems (ITS) in support of public transit services that are compliant with the ITS Architecture for Canada; or
- Active transportation infrastructure (e.g. sidewalks, bicycle lanes, pedestrian/bike/multi-use pathways).

Disaster Mitigation Infrastructure

- Construction, modification, reinforcement or relocation of 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.

Note:

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 and towers;
- Local distribution within communities;
- Microwave towers; or
- Satellite capacity.

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.

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;
- Thermal heat/cooling delivery system 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; or
- The construction of affordable housing.

Local and Regional Airport Infrastructure

New construction, additional capacity, rehabilitation, or safety-related improvements to aeronautical and/or non-aeronautical infrastructure:

- 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 airside safety-related Infrastructure;
- Non-aeronautical Infrastructure such as groundside access, and parking facilities; or
- Intelligent transportation systems in support of local and regional airports.

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

Short Line Rail Infrastructure

New construction, additional capacity, or rehabilitation of rail Infrastructure that services freight, including:

- Tracks, structures and grade separations;
- Facilities to improve the interchange of goods between modes;
- Safety-related improvements; or
- Capitalized equipment for loading/unloading required for expansion of short line rail.

Notes:

- a. Short line rail is typically defined as a 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.*
- b. Class I railroads and their subsidiaries are not eligible recipients*

Short Sea Shipping Infrastructure

New construction, additional capacity, and rehabilitation of the following capitalized and fixed port infrastructure built on or adjacent to port lands that increases short sea shipping capacity, including:

- Wharves and associated Infrastructure;
- Intermodal facilities, multi-modal or transfer facilities;
- Intelligent Transportation Systems in support of short sea shipping;
- Access road infrastructure that provides the main vehicular land access to one of the above wharves, facilities, or associated infrastructure; or
- Capitalized and fixed equipment for loading/unloading required for expansion of short sea shipping.

Passenger Ferries Services Infrastructure

New construction, additional capacity, and rehabilitation of the following capitalized and fixed passenger ferry infrastructure, including:

- Wharves and associated infrastructure;
- Passenger terminals;
- Access road infrastructure that provides the main vehicular access to the passenger ferry terminal;
- Vessel purchase and/or conversion, including retrofitting vessels to other alternative fuels (e.g. vessel retrofit to dual-fuel propulsion systems); or
- Intelligent transportation systems in support of ferry services.

Notes:

- a. Maintenance and operating costs for regular fleet, and existing passenger ferry terminals, as well as maintenance activities including dredging, are not eligible for funding.*
- b. Projects under this category could include capital dredging as a part of the overall project.*

Culture Infrastructure

- New construction, expansion, or rehabilitation of museums¹, libraries or archives.
- New construction, expansion, or rehabilitation of facilities for the creation, production and/or presentation of the arts.
- The preservation or rehabilitation of designated heritage sites² that are recognized by:
 - UNESCO.
 - The Canadian government as per the national federal register of historic places.
 - A provincial, territorial or local government.
- Provincial, territorial or local government-owned infrastructure that supports the creation of a cultural precinct within a community.

Notes:

¹ *A museum is a not for profit, permanent institution in the service of society and of its development, and open to the public, which acquires, conserves, researches, communicates and exhibits, for purposes of study, education and enjoyment, artifacts related to people, their ideas and achievements, or the natural environment.*

² *Excludes private residences and religious sites.*

Recreation Infrastructure

New construction, additional capacity or rehabilitation of publicly-owned, multi-use:

- Amateur sport or recreational facilities (including training facilities for high performance amateur athletes);
- Parks, recreational trails, and paths; or
- Community centres.

Tourism Infrastructure

New construction, additional capacity or rehabilitation of:

- Zoos and aquaria;
- Visitor centres, tourism bureaus, and interpretive centres;
- Scenic parkways;
- Marinas and cruise ship terminals; or
- Other public use facilities.

Note:

For-profit private sector assets, private residences and religious sites are not eligible for funding.

Civic Assets and Municipal Buildings

Rehabilitation, expansion, or preservation of existing municipally or provincially - owned buildings or public spaces³ in order to repurpose these facilities for public use or benefit⁴.

Notes

³ *Public spaces are defined as any public gathering area that has the primary objective of promoting social interaction or a sense of community.*

⁴ *Excluding medical facilities and schools and scholastic facilities.*

C.1. Eligible Expenditures

Eligible expenditures will be all direct and necessary expenditures incurred and paid by an eligible recipient or ultimate recipient towards an eligible project, associated with acquiring, planning, designing, constructing or renovating a tangible capital asset, as defined by Generally Accepted Accounting Principles (GAAP). This also specifically includes the following:

- a) Expenditures directly associated with joint federal communication activities and with federal project signage.
- b) The incremental costs of the eligible or ultimate recipient's employees or leasing of equipment may be included as eligible expenditures under the following conditions:
 - The recipient is able to demonstrate that it is not economically feasible to tender a contract;
 - The employee or equipment is engaged directly in respect of the work that would have been the subject of the contract; and
 - The arrangement is approved in advance and in writing by Canada for PTIC-NRP and the province or territory for PTIC-SCF.
- c) Costs of Aboriginal consultation, and where appropriate, accommodation.

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.

C.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 except for equipment directly related to the construction of the project;
- 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 Ultimate Recipients, and more specifically expenditures related to planning, engineering, architecture, supervision, management and other activities normally carried out by staff except in accordance with subsections C.1 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.

4. All other terms and conditions of the Agreement remain in full force and in effect.
5. This Amendment No. 1 may be signed in counterpart, and the signed copies will, when attached, constitute an original and fully executed Agreement.
6. Each party hereby confirms that upon execution, this document will be fully enforceable.

IN WITNESS WHEREOF this Amendment No. 1 has been executed on behalf of **Canada** by an officer duly authorized by the Minister of Infrastructure, Communities and Intergovernmental Affairs and on behalf of New Brunswick, by an officer duly authorized on its behalf.

GOVERNMENT OF CANADA

GOVERNMENT OF NEW BRUNSWICK

Marc Fortin
Assistant Deputy Minister
Program Operations
Infrastructure Canada

The Honourable Donald Arseneault
Minister Responsible for the Regional
Development Corporation

Date

Date

The Honourable Serge Rousselle
Minister of Environment and Local
Government

Date