

## **ANNUAL PROGRAMS FUNDING AGREEMENT**

This Annual Programs Funding Agreement dated for reference the 15<sup>th</sup> day of September 2023, is in effect for the 2023/24 fiscal year period of April 1, 2023 to March 31, 2024.

BETWEEN: **His Majesty the King in Right of the Province of British Columbia**, represented by the Minister of Education and Child Care (the "Ministry")

OF THE FIRST PART

AND: **the Board of Education of School District No. 34 (Abbotsford)** (the "Board")

OF THE SECOND PART.

The parties agree as follows:

### **1. DEFINITIONS**

1.01 In this Agreement, unless the context otherwise requires:

"Agreement" means the Annual Programs Funding Agreement;

"Board" or "Board of Education" means a board of school trustees constituted under the *School Act* [RSBC 1996] c. 412 and any person designated by the Board to act with respect to a provision of this Agreement;

"Business Day" means a day, other than a Saturday or Sunday or Statutory Holiday, on which Provincial government offices are open for normal business in British Columbia;

"Capital Funding Grant" means a funding grant authorized by the Minister of Finance in accordance with section 56.1 of the *Financial Administration Act* [RSBC1996] c. 138;

"Certificate of Approval" means the Certificate of Approval described in paragraph 3.04;

"Eligible Expenditure(s)" means those expenditure(s) areas more particularly described in paragraph 3.01;

"Event of Force Majeure" means invasion, rebellion, hostilities, sabotage, government regulations or controls, acts of God, strikes, lockouts or labour disputes that are a major disabling event or circumstance in relation to the normal operations of the party concerned as a whole that is beyond the reasonable control of the party directly affected and results in a material delay, interruption or failure by such party in carrying out its duties, covenants or obligations under this Agreement;

"Minister" means the Minister of Education and Child Care, and includes the Deputy Minister of Education and Child Care and any person designated by either of them to act with respect to a provision of this Agreement;

"Ministry" means the Ministry of Education and Child Care of the Province of British Columbia;

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"Project" means the project(s) described in paragraph 3.01;

"Schools Protection Program" means the risk management program administered and delivered by the Risk Management Branch of the Ministry of Finance in conjunction with the Ministry of Education and Child Care, and includes the "Schools Protection Program Reference Manual" and all amendments and updates to the program and manual;

"Treasury Board" means the Treasury Board established under the *Financial Administration Act* [RSBC 1996] c. 138.

**2. THIS AGREEMENT**

2.01 The following Schedules are attached to and form an integral part of this Annual Programs Funding Agreement:

- SCHEDULE A -Communications Protocol Agreement on Minor Capital Projects between the Ministry of Education and Child Care (ECC) and School Districts
- SCHEDULE B - Ventilation Improvement Fund (VIF) Terms and Conditions

**3. PROVINCIAL FUNDING CONTRIBUTIONS AND OBLIGATIONS**

3.01 The Ministry will provide capital funding to the Board which is to be used for the purposes of the following Project:

Facility Name	Program Project Description	Amount Funded by Ministry	Next Steps & Timing
Bradner Elementary, Godson Elementary, Ten Broek	SEP - Electrical Upgrades	\$380,000	Proceed to design, tender & construction. To be completed by March 31, 2024.
William A. Fraser Middle School	SEP - Interior Construction Upgrades	\$175,000	Proceed to design, tender & construction. To be completed by March 31, 2024.
Terry Fox Elementary*	SEP - HVAC Upgrades	\$912,032	Proceed to design, tender & construction. To be completed by December 31, 2023.
John Maclure Community School	CNCP - HVAC Upgrades	\$150,000	Proceed to design, tender & construction. To be completed by March 31, 2024.
W J Mouat Secondary	CNCP - HVAC Upgrades	\$200,000	Proceed to design, tender & construction. To be completed by March 31, 2024.

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Rick Hansen Secondary*	CNCP - HVAC Upgrades	\$896,486	Proceed to design, tender & construction. To be completed by December 31, 2023.
Abbotsford Middle, Alexander Elementary, Bakerview Elementary, Centennial Park Elementary, Dormick Park Elementary, Godson Elementary, John Maclure Community School, Ten Broeck Elementary, W J Mouat Secondary	FIP – Kitchen Equipment	\$90,000	<b>Proceed to design, tender &amp; construction. To be completed by March 31, 2024.</b>

*\* Funded in part by Canada through the Ventilation Improvement Fund (VIF). Projects supported through the VIF are bound by Schedule B Ventilation Improvement Fund (VIF) Terms and Conditions.*

*To the extent of any inconsistency between this Agreement and the Ventilation Improvement fund (VIF) Terms and Conditions, Schedule B prevails.*

- 3.02 The Ministry will, in no event, provide more than the amount listed above.
- 3.03 The Ministry will provide the capital funding in paragraph 3.01 in the form of a Capital Funding Grant.
- 3.04 Payment of a Capital Funding Grant is subject to the Ministry issuing a Certificate of Approval for the Project in paragraph 3.01 in accordance with Treasury Board policies and directives and to the following conditions:
- a) in no case may the Board make a draw against funds available under a Certificate of Approval, unless the draw is reimbursement for Eligible Expenditure(s) properly incurred by the Board in connection with the Project;
  - b) the Ministry may modify or withhold a Capital Funding Grant and applicable Certificate of Approval, or any portion thereof, in the event the Board fails to observe, perform and comply with any provision of this Agreement or if, in the opinion of the Ministry, there has been a material change in the Project;
  - c) the Board will comply with all applicable policies and directives of the Treasury Board respecting Capital Funding Grants.
- 3.05 Notwithstanding any other provision of this Agreement, the payment of funds by the Ministry to the Board, pursuant to this Agreement, is subject to the provisions of the

*Financial Administration Act* ("the Act"), which makes that payment obligation subject to:

- a) there being sufficient monies available in an appropriation, as defined in the Act, to enable the Ministry, in any fiscal year or part thereof when any payment of money by the Ministry to the Board falls due pursuant to this Agreement, to make that payment;
- b) Treasury Board, as defined in the Act, not having controlled or limited, pursuant to the Act, expenditure(s) under any appropriation referred to in this subparagraph a).

#### **4. BOARD OBLIGATIONS**

4.01 The Board will:

- a) carry out the Project in a manner that ensures:
  - i) delivery within budget;
  - ii) completion by March 31, 2024;
  - iii) scope details are fully met upon completion;
  - iv) accrued cost-savings realized from completed capital projects as approved in this Agreement are reported to the Ministry and transferred into the school district's Minister-Restricted Capital account, unless otherwise agreed to in writing by the Ministry.
- b) comply with all policies and best practices related to Capital Project Procurement, as documented in the Capital Asset Management Framework and Capital Procurement Checklist published by the Ministry of Finance;
- c) procure the Project in accordance with the Capital Asset Management Framework;
- d) include in any contracts all standard insurance and indemnification clauses required by the Schools Protection Program;
- e) ensure all communication related to the Capital Project conforms to the "Communications Protocol Agreement on Minor Capital Projects between the Ministry of Education and Child Care and School Districts" (provided as Schedule A). Note this protocol may be amended from time to time by the Ministry, with the most current version of the protocol being used.
- f) ensure all projects funded in part by Canada through the VIF adhere to all the terms and criteria outlined in the "*Ventilation Improvement Fund (VIF)*" Terms and Conditions" (provided as Schedule B).

4.02 Provide written notice to the Ministry of Education and Child Care immediately upon completion of each Project. (Note: the Ministry will be following up with school districts

regarding delayed and/or incomplete projects in early January, at which time the Ministry may choose to reallocate associated funds depending on the status of the Project).

- 4.03 At the request of the Ministry, prepare additional reports relating to the Project.
- 4.04 Notify the Ministry immediately, in writing, should any Event of Force Majeure arise that could materially affect the scope, costs or schedule of the Project.
- 4.05 Indemnify and save harmless the Province of British Columbia and its employees and agents from and against any losses, claims, damages, actions, causes of action, costs and expenses that the Province of British Columbia or any of its employees or agents may sustain, incur, suffer or be put to at any time, either before or after this agreement ends, which are based upon, arise out of or occur, directly or indirectly, by reason of, any act or omission by the Board or by any of its agents, employees, officers, directors, or contractors with respect to the Project.
- 4.06 Purchase school buses through the Request for Standing Offer (RFSO) portal available through the Association of School Transportation Services of BC (ASTSBC).
- 4.07 Reserve two (2) percent of the Total Funding amount provided under the Bus Acquisition Program in paragraph 3.01 as fee payment for ASTSBC's administration services. The ASTSBC will invoice the Board once buses have been ordered. This fee is included in the Capital Funding Grant and is not an additional cost to the Board.

## **5. EVENT OF FORCE MAJEURE**

- 5.01 In the Event of Force Majeure:
  - a) the Board will immediately notify the Ministry, in writing, describing the Event of Force Majeure.
  - b) within five (5) Business Days of being notified of the Event of Force Majeure, the Ministry will communicate with the Board to explore what steps are to be taken to mitigate the Event of Force Majeure, determine an appropriate course of action, and establish an estimated cost related to the Event of Force Majeure.
  - c) the course of action must be agreed to by the Ministry and the Board.
  - d) either party may request the assistance of an independent cost consultant appointed by mutual agreement of the parties.
  - e) the Ministry will not approve any expenditure(s) incurred prior to the agreed course of action unless the costs were demonstrably incurred for the preservation of life and/or safety.

## **6. PUBLIC ANNOUNCEMENTS**

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- 6.01 Any public announcement relating to the Project will be in accordance with the “Communications Protocol Agreement on Minor Capital Projects between the Ministry of Education and Child Care and School Districts” (provided as Schedule A).
- 6.02 Projects funded in part by Canada through the VIF adhere to the terms and criteria outlined in the “Ventilation Improvement Fund (VIF) Terms and Conditions” (provided as Schedule B).

**7. NOTICE**

- 7.01 Any notice or communication required or permitted to be given under this Agreement will be in writing and will be considered to have been sufficiently given if delivered by hand or electronic transmission to the physical address or electronic mail address of each party set out below:

- a) if to the Board:

School District No. 34 (Abbotsford)  
2790 Tims St, Abbotsford, BC V2T 4M7  
Attention: Ray Velestuk, Secretary-Treasurer  
Email: ray.velestuk@abbyschools.ca

- b) if to the Ministry:

Ministry of Education and Child Care  
PO Box 9151 Stn Prov Govt, Victoria, BC, V8W 9H1  
Attention: Nathan Whipp  
Email: Nathan.Whipp@gov.bc.ca

- 7.02 Any such notice or communication will be considered to have been received:

- a) if delivered by hand during business hours (and in any event, at or before 4:00pm local time in the place of receipt) on a Business Day, upon receipt by a responsible representative of the receiver, and if not delivered during business hours, upon the commencement of business hours on the next Business Day;
- b) if sent by electronic transmission during business hours (and in any event, at or before 4:00pm local time in the place of receipt) on a Business Day, upon receipt by a responsible representative of the receiver, and if not delivered during business hours, upon the commencement of business hours on the next Business Day, provided that:
- i) the receiving party has, by electronic transmission or by hand delivery, acknowledged to the notifying party that it has received such notice;
  - ii) within twenty-four (24) hours after sending the notice, the notifying party has also sent a copy of such notice to the receiving party by hand delivery.

- 7.03 Delivery by mail will not be considered timely notice under this Agreement.

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7.04 In the event a contact name changes for either the Ministry or for the Board, then parties must be notified within five (5) Business Days.

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IN WITNESS WHEREOF the parties have executed this Agreement, in duplicate, as of the day and year first above written.

SIGNED on behalf of His Majesty the King )  
in Right of the Province of British Columbia )  
by a duly authorized designate of the )  
Minister of Education and Child Care )

\_\_\_\_\_  
Authorized Signatory (For the Minister of Education and  
Child Care)

\_\_\_\_\_  
Name (Print)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date Signed (Month/Day/Year)

SIGNED on behalf of **the Board** )  
**of Education of School District** )  
**No. 34 (Abbotsford)** its duly )  
authorized signatories )

\_\_\_\_\_  
Signatory (Secretary Treasurer)

\_\_\_\_\_  
Name (Print)

\_\_\_\_\_  
Date Signed (Month/Day/Year)



**SCHEDULE A**

**COMMUNICATIONS PROTOCOL AGREEMENT ON MINOR CAPITAL PROJECTS  
BETWEEN THE MINISTRY OF EDUCATION AND CHILD CARE (ECC) AND SCHOOL  
DISTRICTS**

**News Release**

Upon issuance of Capital Plan approvals and funding agreements to school districts, ECC will issue public news releases regarding minor capital projects. School district(s) may be requested to provide a quote from a designated representative for such news releases.

**Signage**

Significant, high-profile minor capital construction projects and/or initiatives approved in the ECC Capital Plan **may** be requested to be identified by signage prominently displayed at the site. ECC will notify a school district(s) if this is the case.

**If requested**, signs must conform to Government of B.C.'s Infrastructure Sign Specifications and be produced by Government Communications and Public Engagement (GCPE) graphics department. In addition to the BC logo, school districts and other funding partners will be identified with their logos on signage. Signs are to be installed as soon as possible after announcement of the project, and amended to include the amount of investment and date of completion after award of the contract and preferably before the start of work. The signs are to remain on the site until the work is completed and after any completion ceremonies where applicable. A digital picture of the sign is to be sent to GCPE after it has been installed. Cost of the sign is to be funded from the approved project budget. School districts are responsible for installing the signs.

The steps from signage design to installation are as follows:

1. Project is announced;
2. GCPE will have their graphics department create a construction sign;
3. GCPE graphics department will create and send the approved file to Kings Printer for print production;
4. Kings Printer will notify GCPE when the sign is ready;
5. GCPE will notify the school district(s) when the sign is ready to be ordered and provide them with the online requisition form: <http://brokerage.qp.gov.bc.ca/submit-print/print-form.aspx>;
6. The school district(s) orders, pays and arranges for the sign to be installed. Signs are to be post mounted in a visible location;
7. School district(s) will notify GCPE when the sign is installed and send photo as confirmation.

**Official Ceremonies**

ECC will notify a school district(s) if an official ceremony **may** be held to commemorate the launch and/or ground-breaking for a project. The parties shall co-operate in the organization ceremonies, and messages and public statements for such events should be mutually agreed upon.

**Plaques**

ECC **may** request the district provide and install (upon completion of significant, high-profile construction projects and/or initiatives), a plaque bearing an appropriate inscription. The design, wording and specifications of such plaques must be approved by ECC. Cost of the plaque is to be funded from the approved project budget.

**SCHEDULE B**

**VENTILATION IMPROVEMENT FUND (VIF) TERMS AND CONDITIONS**

**DEFINITIONS**

1. In this Schedule and its recitals, the following definitions apply:

**“Applicable Laws”** means all laws, statutes, regulations, and bylaws of any governmental authority having the force of law from time to time including those affecting, applicable to or otherwise relating to the Project, the Board or any Third Party;

**"Commencement Date"** means the date identified in Appendix A on which the Project was approved;

**“Completion Date”** means the date identified in Appendix A upon which the Board will complete the Project;

**"Contract"** means a contract between the Board and a Third Party whereby the Third Party agrees to contribute a product or service to the Project in return for financial consideration;

**"Eligible Expenditures"** are those expenditures set out in Section D.1 of Appendix D which represent the categories of Project costs toward which the contributions by Canada are to be used and those Project costs which are eligible for reimbursement through the funding contributions from Canada;

**“Federal Co-Chair”** means the individual appointed by Canada pursuant to section 7 of the IBA-ICIP;

**"IBA-ICIP Staff"** means employees of the Province who are directly involved in the administration of the IBA-ICIP, and includes anyone authorized to act on their behalf;

**"Ineligible Expenditures"** are those expenditures set out in Section D.2 of Appendix D;

**“Local Government Information System” (“LGIS”)** means an online portal and project management tool developed by the Province to support Information Management;

**“Natural Infrastructure”** means the use of naturally occurring resources or the 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 committee(s) established under the authority in section 7 of the IBA-ICIP;

“**Person**” means, without limitation, a person, the Province, a Board, a Third Party, a corporation, or any other legal entity, and their officers, servants, employees or agents;

“**Project**” means the project described in Appendix A;

“**Substantial Completion**” – means, when referring to a Project, that the Project can be used for the purpose for which it was intended; and

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

## **APPENDICES**

2. The Appendices to this Schedule are:

- Appendix A Project Information
- Appendix B Payment Terms and Conditions
- Appendix C Reporting Requirements
- Appendix D Eligible and Ineligible Expenditures

## **OBLIGATIONS OF THE BOARD**

3. The Board agrees to:

- (a) carry out the Project in a diligent and professional manner;
- (b) complete the Project no later than the Completion Date;
- (c) submit its claims for reimbursement of Eligible Expenditures in accordance with the provisions of Appendix B of this Schedule;
- (d) be responsible for any and all costs, expenses and liabilities (other than Eligible Expenditures which are reimbursed in accordance with the terms of this Schedule) including all Ineligible Expenditures, unapproved expenditures, and cost overruns;
- (e) establish and maintain accounting and administrative records which clearly disclose the nature and amounts of the different items of cost pertaining to the Project, including those that are to be used as the basis for the calculation of the claims by the Board for reimbursement of Eligible Expenditures and which shall include the Contracts, invoices, statements, receipts and vouchers in respect of the Project;
- (f) permit the Province, Canada, or any member of the Oversight Committee, for contract monitoring and audit purposes, to inspect at all reasonable times both before and after the Completion Date, any books of account or records (both

- printed and electronic), and any other information reasonably required by the Province or Canada, whether complete or not, that are produced, received or otherwise acquired by the Board as a result of or in connection with this Schedule;
- (g) maintain all such accounts, records and information until March 31, 2034;
  - (h) ensure that all Contracts entered into by the Board with any Third Parties contain the provisions in section 4 below;
  - (i) use LGIS, or another process designated by the Province, to fulfill the obligations of the Board under this Schedule, including but not limited to the following:
    - i. Section 3 (c) above
    - ii. Appendix C (Reporting)
  - (j) if applicable, ensure that the Project meets or exceeds the requirement of the highest published accessibility standard established in the *British Columbia Building Code*; and
  - (k) ensure that the Project meets or exceeds any applicable energy efficiency standards for buildings outlined in the Pan-Canadian Framework on Clean Growth and Climate Change.
4. The Board and any Third Party will comply with all Applicable Laws, including all requirements of, and conditions imposed by, regulatory bodies having jurisdiction over the subject matter of the Project.
  5. The Board is solely responsible for all aspects of the Project, including without limitation, the planning, design, construction, operation, maintenance, worker and public safety, completion and ownership of the infrastructure, and nothing in this Schedule shall be deemed to give the Province interest in, or responsibilities for the Project, unless otherwise expressly provided in this Schedule.
  6. The Board will ensure that the federal contribution is to be used solely for the purpose of defraying the Eligible Expenditures incurred by the Board in carrying out and completing the Project as described in Appendix A.
  7. The Board acknowledges that Eligible Expenditures that have received funding from any other federal or provincial sources may not be reimbursed under this Schedule, and the Board agrees to promptly notify the Province through IBA-ICIP Staff in writing of any and all such funding received.
  8. The Board will not knowingly permit any member of the House of Commons of Canada or the Senate of Canada or the Legislative Assembly of British Columbia to be admitted, directly or indirectly to any share or part of any Contract, Schedule or commission made

pursuant to this Schedule or in relation to the Project or to obtain any benefit arising therefrom.

9. The Board acknowledges and agrees that no action by the Parties or Canada 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 the Board and the Province, the Board and Canada, the Province and a Third Party, or Canada and a Third Party. The Board also acknowledges and agrees that it will not hold itself out as such and will not do any act or thing which might be construed as authorizing any contract or permitting any other liability or obligation to be incurred on behalf of either Canada or the Province.
10. Any requests for changes or variations to the Project, including significant changes, will be made in writing to the Province and will require approval by Canada and the Province.
11. Unless otherwise approved by Canada and the Province, the Board will maintain ongoing operations and will retain title to, and ownership of, infrastructure resulting from the Project for at least five (5) years after Completion Date with the possible exceptions of temporary infrastructure related to pandemic response
12. If at any time within five (5) years from Completion Date, the Board sells, leases, or otherwise disposes of, directly or indirectly, any asset purchased, acquired, constructed, rehabilitated or renovated, in whole or in part, with funds contributed by Canada or the Province under this Schedule, other than to Canada, the Province, a local government or regional government, or otherwise with the consent of Canada and the Province, the Board may be required to reimburse Canada and the Province any funds received for the Project.  
  
The Board will immediately notify the Province in writing if at any time during the five (5) year period following Completion Date any transaction triggering the above-mentioned repayment occurs.
13. The Board will ensure that any Contracts it awards to any Third Party 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 the Province, and if applicable, in accordance with the *Canadian Free Trade Schedule* and international trade Schedules.
14. All Contracts for works associated with the Project will be publicly tendered. If this is not feasible or practicable, the Board must obtain approval from the Province in writing before proceeding with the Contract.

15. The Board acknowledges that the Province reserves the right to review the Board's procurement and tendering policies and practices relating to the Contracts at any time from the date of approval of the Project to three (3) years after the Completion Date.
16. If the Province determines that a Contract is awarded in a manner that is not in compliance with the foregoing, upon notification to the Board, the Province may consider the expenditures associated with the Contract to be ineligible.

#### **OBLIGATIONS OF THE PROVINCE**

17. Provided the Board is in compliance with its obligations under this Schedule, and subject to the terms of this Schedule, the Province will pay the Board the amount and, in the manner, set out in Appendix B of this Schedule.
18. Without prejudice to the generality of section 17, the Province will not have any obligation to make a contribution under section 17 unless the Board has complied with the provisions set out in Appendix B.

#### **COMMUNICATIONS**

19. The Board agrees to comply with the communications protocol set out in Appendix B of the IBA-ICIP which can be found at <https://www2.gov.bc.ca/assets/gov/driving-and-transportation/funding-engagement-permits/grants-funding/investing-in-canada/2018-bc-canada-bilateral-agreement-en.pdf>. The Board acknowledges it has reviewed the communications protocol prior to the execution of this Agreement.
20. The Board agrees to be responsible for all required Project signage.
21. The Board agrees to follow signage guidelines as provided by the Province. Digital signage that complies with the communications protocol set out in Appendix B of the IBA-ICIP will be used in addition or in place of a physical sign in cases where a physical would not be appropriate due to project type, scope, location or duration.
22. The Board acknowledges that the eligibility of expenditures related to communication activities will be subject to Appendix D of this Schedule.

#### **LIMITATION OF LIABILITY**

23. In no event will Canada, the Province, and their 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 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 Schedule or the Project.

#### **INDEMNIFICATION**

24. The Board will, at all times either before or after the expiration or termination of this Schedule, indemnify and save harmless Canada, the Province, and their 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 Schedule or the 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 the Schedule by an officer, servant, employee or agent of Canada or the Province in the performance of his or her duties.

#### **INSURANCE**

25. The Board will, without limiting its obligations or liabilities herein, purchase and maintain insurances with insurers licensed in Canada with coverage of a type, and in amounts, that any similar business, acting reasonably, would procure for a project of the scope, size and exposure of the Project, during the term of this Schedule and for any subsequent ongoing operations and maintenance of the resulting infrastructure.
26. The Board shall require and ensure that each Third Party maintains insurances comparable to those required above.
27. Upon request by the Province, the Board will deliver a certified copy of the policies of insurance applicable under this Schedule. No review or approval of any insurance policy by the Province derogates from or diminishes the Province's rights or the Board's liability under this Schedule.

#### **DEFAULT**

28. Any of the following events will constitute an Event of Default, whether any such event is voluntary, involuntary or results from the operation of law or any judgment or order of any court or administrative or government body:
- (a) the Board fails to comply with any provision of this Schedule;
  - (b) any representation or warranty made by the Board in connection with this Schedule is untrue or incorrect;
  - (c) any information, statement, certificate, report or other document furnished or submitted by or on behalf of the Board pursuant to or as a result of this Schedule is untrue or incorrect;
  - (d) the Board ceases, in the opinion of the Province, to carry on business as a going concern;
  - (e) a change occurs with respect to one or more of the properties, assets, conditions (financial or otherwise), business or operations of the Board which, in the opinion of the Province, materially adversely affects the ability of the Board to fulfill its obligations under this Schedule;
  - (f) an order is made, or a resolution is passed, or a petition is filed for the liquidation or winding up of the Board;
  - (g) the Board becomes insolvent or commits an act of bankruptcy or makes an assignment for the benefit of its creditors or otherwise acknowledges its insolvency; or
  - (h) a bankruptcy petition is filed or presented against the Board, or a proposal under the *Bankruptcy and Insolvency Act* (Canada) is made, or a receiver or receiver-manager of any property of the Board is appointed.

## **TERMINATION**

29. Upon the occurrence of any Event of Default and at any time thereafter the Province may, notwithstanding any other provision of this Schedule, at its sole option, elect to do any one or more of the following:
- (a) terminate this Schedule and request repayment of all or a portion of the funding paid under 3.01 as it relates to VIF projects. in which case the Province's obligation to make any further payment of the money remaining unpaid under this Schedule is terminated;



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- (b) require that the Event of Default be remedied within a time period specified by the Province;
  - (c) suspend any installment of payment due to the Board by the Province while the Event of Default continues;
  - (d) waive the Event of Default; or
  - (e) pursue any other remedy available at law or in equity.
30. If the Province terminates this Schedule under section 29 and requests repayment of all or a portion of the funding paid to the Board under 3.01 as it relates to VIF projects, the Board shall repay the requested amount forthwith to the Province and the Province is discharged of all liability to the Board under this Schedule as it relates to VIF projects.
31. If the Province terminates this Schedule under section 29(a), then such termination may take place on ninety (90) days written notice.
32. The Province may, at its sole option, terminate this Schedule at any time without cause upon one hundred and twenty (120) days written notice to the Board.

**REMEDIES NON-EXCLUSIVE**

33. The rights, powers and remedies conferred on the Province under this Schedule or any statute or law are not intended to be exclusive and each remedy shall be cumulative and in addition to and not in substitution for every other remedy existing or available to the Province.
34. The exercise of any one or more remedies available to the Province will not preclude the simultaneous or later exercise by the Province of any other right, power or remedy.

**APPROPRIATION**

35. Canada's funding contribution under this Schedule is subject to federal appropriations and the Province makes no representation or warranty as to the availability of all or any portion of such funding.

**NO FURTHER OBLIGATIONS**

36. The Board acknowledges that nothing in this Schedule will bind Canada or the Province to provide any financing for any addition or improvement to the Project, or any cost overruns of the Project and that no partnership, joint venture or agency will be created or

will be deemed to be created by this Schedule or any action of the parties under this Schedule.

#### **TERMS APPLICABLE TO CANADA**

37. The Province and the Board acknowledge the financial contribution to the Project by Canada under this Schedule and, in consideration of that contribution and notwithstanding that Canada is not a signatory to this Schedule; the parties agree that the terms of this Schedule applicable to, or with respect to, Canada are for her sole benefit.

#### **JOINT AND SEVERAL OBLIGATIONS**

38. In the event the Board is comprised of more than one entity, then the covenants and obligations of each of such entities with the others will be both joint as well as several.

#### **AMENDMENTS**

39. Unless otherwise specified in this Schedule, this Schedule may be amended only by further written agreement between the parties.

#### **SURVIVAL OF TERMS**

40. Sections 3(f) and (g), 11, 12, 23 and 24, of Schedule B continue in force indefinitely, even after this Schedule ends.

#### **NOTICE**

41. Any written communication from the Board to the Province must be mailed, personally delivered, or electronically transmitted as set out in 7.01 b) of this Agreement.
42. Any written communication from the Province to the Board must be mailed, personally delivered, or electronically transmitted as set out in 7.01 a) of this Agreement.
43. Any written communication from either party will be deemed to have been received by the other party on the tenth business day after mailing in British Columbia or on the date of transmission if emailed.
44. Either party may, from time to time, notify the other party in writing of a change of address and, following the receipt of such notice, the new address will, for the purposes of sections 41 or 42 of this Schedule, be deemed to be the contact information of the party giving notice.

#### **LOBBYISTS AND AGENT FEES**

45. The Board warrants:

- (a) that any person it has hired, for payment, to speak to or correspond with any employee or other person representing Canada or the Province on the Board's behalf, concerning any matter relating to the contribution under this Schedule or any benefit hereunder and who is required to be registered pursuant to either the *Lobbying Act*, R.S.C. 1985, c. 44 (4th Supp.) or the *Lobbyists Transparency Act*, S.B.C. 2001, c. 42, as amended, is registered pursuant to one or both of those acts; and
- (b) it has not and will not make a payment or other compensation to any legal entity that is contingent upon or is calculated upon the contribution hereunder or on negotiating the whole or any part of the terms of this Schedule.

In the event of a breach of subsections (a) or (b), the Province may terminate this Schedule and recover from the Board the full amount of all contributions under this Schedule.

#### **MISCELLANEOUS**

- 46. This Schedule will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable in British Columbia.
- 47. The Appendices to this Schedule are an integral part of this Schedule as if set out at length in the body of this Schedule.
- 48. If any provision of this Schedule or the application to any person or circumstance is invalid or unenforceable to any extent, the remainder of this Schedule and the application of such provision to any other person or circumstance will not be affected or impaired thereby and will be enforceable to the extent permitted by law.
- 49. Nothing in this Schedule operates as a consent, permit, approval or authorization by the Province or any ministry or branch thereof to or for anything related to the Project that, pursuant to Applicable Laws, the Board is required to obtain unless it is expressly stated herein to be such a consent, permit, approval or authorization.
- 50. All disputes arising out of or in connection with this Schedule will be referred to and finally resolved by arbitration pursuant to the *Arbitration Act*, SBC 2020, c.2.
- 51. The Board acknowledges and agrees its rights, benefits and obligations under this Schedule are subject always to the Province's obligations under the IBA-ICIP. To the extent that any right, benefit or obligation conferred by this Schedule contravenes or is inconsistent with the IBA-ICIP, such right, benefit or obligation will be amended or modified so as not to contravene or be inconsistent with the IBA-ICIP.

**Appendix A VIF: PROJECT INFORMATION**

A.1 Project Title: ECC – SD 34 - Rick Hansen Secondary Ventilation Improvements  
Project No. VF0003

and

Project Title: ECC – SD 34 – Terry Fox Elementary Ventilation Improvements  
Project No. VF0004

A.2 The SD34 (Abbotsford) Projects will consist of the following:

A renewal ventilation improvement project that requires the replacement of the chiller. It is required as the chillers in HVAC systems move heat from one area to another. The completed project will increase outdoor air intake.

and

A renewal ventilation improvement project that requires the replacement of the heat pumps and a direct digital controls upgrade. It is required as the direct digital control systems allows for a single control point for the facilities HVAC system. The completed project will increase outdoor air intake.

A.3 The Commencement Date of the Projects is January 15, 2023 which is the date the Projects were approved.

A.4 The Completion Date of the Projects is December 31, 2023. All project works shall be completed by this date. The Projects must also reach Substantial Completion before this date.

**Appendix B VIF: PAYMENT TERMS AND CONDITIONS**

B.1 Payment by the Province of the financial contributions from Canada:

Canada has approved a financial contribution for the Project which will not exceed the lesser of eighty percent (80%) of the total approved Eligible Expenditures of the Project or:

Seven Hundred Seventeen Thousand One Hundred Eighty Nine Dollars and Zero Cents (\$717,189)

and

Seven Hundred Twenty-Nine Thousand Six Hundred Twenty-Six Dollars and Zero Cents (\$729,626)

being the maximum amount (the ‘Total Contribution’) approved to be paid under this Agreement to pay for Eligible Expenditures incurred by the recipient.

Canada’s financial contribution will be paid by the Province to the Board in accordance with the terms and conditions of this Appendix B and this Schedule.

**B.2 Timing of Eligible Expenditures:**

The Province will not make any payment for Eligible Expenditures incurred before the Commencement Date or after the Completion Date.

**B.3 Timing of Claims:**

B.3.1 The Board will be eligible for payment once claims for Eligible Expenditures have been submitted to and approved by the Province. The Board will submit to the Province online claims setting out the amount of Eligible Expenditures actually incurred and paid by the Board to the date of such claims.

B.3.2 The Board will submit a claim to the Province covering Eligible Expenditures that have been incurred and paid on a semi-annual basis at a minimum.

B.3.3 No reimbursement will be paid if a claim is received later than March 31, 2024.

B.3.4 The Province will not reimburse a claim unless the following have been submitted and approved in accordance with Appendix C of this Schedule:

(a) current periodic progress report and/or final report; and

(b) any other additional reporting requirements as required under Appendix C of this Schedule.

B.3.5 Notwithstanding any other provisions of this Schedule, the parties agree the Province is entitled to withhold the final ten percent (10%) of the Total Contribution amount until the Province has received and approved the Final Report required under section C.2 of Appendix C of this Schedule.

**Appendix C VIF: REPORTING REQUIREMENTS**

**C.1 Periodic Progress Reports:**

The Board will submit to the Province through IBA-ICIP Staff on a semi-annual basis and/or upon request by the Province, periodic progress reports ending March 31 and September 30 of each year of the term of this Schedule commencing on the first reporting period following the Commencement Date and ending on the Project Completion Date. Each report will be due on the seventh (7<sup>th</sup>) day of the month

following the end of the reporting period. The periodic progress reports will be in a form established by the Province.

**C.2 Final Report:**

In order to receive final payment when the Project is completed, the Board will submit to the Province through IBA-ICIP Staff a Final Report, in a form established by the Province.

**C.3 Project Audit Report:**

Prior to payment of the final claim for Eligible Expenditures, the Board may also be required to provide, upon request by the Province, a Project audit report from an auditor qualified to conduct an audit of financial statements under the Canadian Auditing Standards, confirming that the Project expenditures have been made in compliance with this Schedule and the IBA-ICIP. If required by the Province, the audit is to be in accordance with the form and reporting standards recommended by the Canadian Institute of Chartered Accountants.

Reports submitted by the Board under this section are for the Province's information and IBA-ICIP guidelines accountability only, and their review by the Province in no way endorses, approves or verifies the findings, technical data, results, quality statements, representations or recommendations therein, and the Board warrants that all information contained in any report is true and correct.

The Board will provide the Province through IBA-ICIP Staff, upon request, all such other information concerning the progress of the Project to completion and payment of Eligible Expenditures, including, but not limited to, Budget Forecast Reports, as may be required by the Province from time to time.

**Appendix D VIF: ELIGIBLE AND INELIGIBLE EXPENDITURES**

**D.1 ELIGIBLE EXPENDITURES**

Excluding those identified under Section D.2 (Ineligible Expenditures), Eligible Expenditures will be all costs considered by the Province to be direct and necessary for the successful implementation of the Project. Eligible Expenditures will include the following:

- a) capital costs, design and planning costs, and costs related to meeting specific Program requirements;
- b) communication related expenses including expenditures for Project related signage;
- c) the incremental costs of the Recipient's employees may be included as Eligible Expenditures under the following conditions:

- i. The Board is able to demonstrate that it is not economically feasible to tender a contract; and
  - ii. The arrangement is approved in advance and in writing by the Province and Canada;
- d) leasing of equipment directly related to the construction of the Project;
- e) costs incurred between the Commencement Date and the Completion Date set out in Appendix A.

## **D.2 INELIGIBLE EXPENDITURES**

The following expenditures are ineligible:

- a) expenditures incurred prior to the Commencement Date;
- b) cost incurred for cancelled projects;
- c) land acquisition;
- d) financing charges, legal fees, and interest payments on loans, including those related to easements (e.g. surveys);
- e) leasing land, buildings and other facilities; leasing equipment except those noted under D.1(d) above; real estate fees and related costs;
- f) furnishings and non-fixed assets which are not essential for the operation of the Asset/Project with the exception of temporary infrastructure and non-fixed assets funded under this Schedule, as approved by the Province.
- g) costs associated with operating expenses and regularly scheduled maintenance work;
- h) the expenditures related to any goods and services which are received through donations or in kind;
- i) any overhead expenditures, including salaries and other employment benefits of any employees of the Board, direct or indirect operating or administrative expenditures of Recipients, and more specifically expenditures related to planning, engineering, architecture, supervision, management and other activities normally carried out by Board staff except in accordance with subsections D.1(c) in the Eligible Expenditures above;
- j) provincial sales tax or goods and services tax for which the Board is eligible for a tax rebate and all other costs eligible for rebates;
- k) permit fees charged by the Board to itself;
- l) costs of relocating entire communities;
- m) costs incurred after December 31, 2023; and
- n) other costs that, in the opinion of the Province, are not considered to be direct and necessary for the successful implementation of a project.

