

**THE AGREEMENT** is effective as of the 22<sup>nd</sup> day of April, 2022

**B E T W E E N :**

**His Majesty the King in right of Ontario  
as represented by the Minister of Economic Development, Job  
Creation and Trade**

**(the “Province”)**

**- and -**

**The Corporation of the City of Port Colborne**

**(the “Recipient”)**

## **BACKGROUND:**

The Province has established the Site Readiness Program (the “**Program**”) to provide funding assistance to eligible industrial property owners to help them complete site preparatory work to attract potential buyers and investment.

The Recipient owns the Site, is a participant in the Program and intends to carry out the Project.

The Province wishes to provide Funds to the Recipient for the Project.

## **CONSIDERATION**

In consideration of the mutual covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Province and the Recipient agree as follows:

### **1.0 INTERPRETATION AND DEFINITIONS**

#### **1.1 Interpretation.** For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;
- (b) words in one gender include all genders;
- (c) the background and the headings do not form part of the Agreement; they

are for reference only and will not affect the interpretation of the Agreement;

- (d) any reference to dollars or currency will be in Canadian dollars and currency; and
- (e) “include”, “includes” and “including” denote that the subsequent list is not exhaustive.

**1.2 Definitions.** In the Agreement, the following terms will have the following meanings:

**“Agreement”** means this agreement entered into between the Province and the Recipient and includes all of the schedules listed in section 29.1, the Minimum Eligibility Requirements, and any amendments made pursuant to Article 31.0.

**“Budget”** means the budget attached to the Agreement as Schedule “B”.

**“Business Day”** means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year’s Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day on which the Province has elected to be closed for business.

**“Change Request Form”** means the form attached as Schedule “H”.

**“Effective Date”** means the date set out at the top of the Agreement.

**“Eligible Costs”** means the costs paid by the Recipient for the purpose of carrying out the Project for which the Province may provide Funds and that are: (a) incurred by the Recipient from and including the Project Start Date to and including the earlier of (i) the Project Completion Date; and (ii) the date of termination of the Agreement; (b) in the sole opinion of the Province, reasonable and necessary for carrying out the Project; and (c) limited to the amounts and cost categories set out in the Budget in Schedule “B” and as more particularly described in Schedule “D”.

**“Event of Default”** has the meaning ascribed to it in section 14.1.

**“Expiry Date”** means six months after the Project Completion Date.

**“Funds”** means the money the Province provides to the Recipient pursuant to the Agreement.

**“Indemnified Parties”** means His Majesty the King in right of Ontario, His ministers, agents, appointees and employees.

**“Intellectual Property”** means any intellectual, industrial or other proprietary right of any type in any form protected or protectable under the laws of Canada, any foreign country, or any political subdivision of any country, including any intellectual property rights protected by legislation (such as legislation governing copyrights, industrial designs, integrated circuit topographies, patents or trademarks) or by common law (such as confidential information and trade secrets); and at any time in the future, with respect to any licence to exercise intellectual property rights, includes any intellectual or industrial property rights protected or protectable at such time under the laws of Canada, any foreign country, or any political subdivision of any country.

**“Materials”** has the meaning ascribed to it in section 9.3(b).

**“Maximum Funds”** means twenty-five thousand dollars (\$25,000.00), which is the maximum amount of the Funds the Province will provide to the Recipient under the Agreement.

**“Minimum Eligibility Requirements”** means the minimum eligibility requirements set out in the Site Readiness Program Guide available at <https://www.forms.ssb.gov.on.ca/mbs/ssb/forms/ssbforms.nsf/FormDetail?OpenForm&ACT=RDR&TAB=PROFILE&SRCH=&ENV=WWE&TIT=on00316&NO=ON00316E> that: the Recipient must meet in order for the Site to be accepted into the Program, are incorporated by reference herein in full, are part of this Agreement, and may be amended by the Province from time to time.

**“Notice”** means any communication given or required to be given pursuant to the Agreement.

**“Notice Period”** means the period of time within which the Recipient is required to remedy an Event of Default pursuant to section 14.3(b), and includes any such period or periods of time by which the Province extends that time in accordance with section 14.4.

**“Parties”** means the Province and the Recipient.

**“Party”** means either the Province or the Recipient.

**“Program”** has the meaning ascribed to it in the preamble to this Agreement.

**“Project”** means the undertaking described in Schedule “A”.

**“Project Completion Date”** means the earlier of: (i) the first anniversary of the Effective Date; and (ii) when the Site is legally transferred or leased to another person, in accordance with the terms and conditions of the Agreement.

**“Project Start Date”** means the date set out below on which the Recipient had its pre-application consultation meeting with the Province: December 22, 2021.

**“Reimbursement Submission”** means the form attached as Schedule “F”.

**“Renewed Compliance with the Minimum Eligibility Requirements Date”** has the meaning ascribed to it in section 5.5(a)(iv).

**“Releasees”** means His Majesty the King in right of Ontario, His ministers, agents, appointees and employees.

**“Reports”** means the reports described in Schedule “C”.

**“Site”** means the property or properties more particularly described in Schedule “E” as may be amended in accordance with Article 31.0.

A visual depiction of the Site is provided in Schedule “I”, which for further clarification is not legally binding and is included for reference purposes only.

**“Site Change Notification Form”** means the form attached as Schedule “G”.

**“Site Information”** has the meaning ascribed to it in section 9.3.

**“Suspension Date – Minimum Eligibility Requirements”** means the date that the Site failed in the sole opinion of the Province to continue to meet the Minimum Eligibility Requirements, as set out in the Notice described in section 5.5(a)(i).

## **2.0 REPRESENTATIONS, WARRANTIES AND COVENANTS**

**2.1 General.** The Recipient represents, warrants, and covenants that:

- (a) it is, and will continue to be, a validly existing legal entity with full power to fulfill its obligations under the Agreement;
- (b) it has, and will continue to have, the experience and expertise necessary to carry out the Project;
- (c) it is in compliance with, and will continue to comply with, all federal and provincial laws and regulations, all municipal by-laws, and any other

orders, rules, and by-laws related to any aspect of the Project, the Funds, or both;

- (d) unless otherwise provided for in the Agreement, any information the Recipient provided to the Province in, or in support of its application to, the Program (including information relating to any Minimum Eligibility Requirements) was true and complete at the time the Recipient provided it and will continue to be true and complete; and
- (e) it is, and shall continue to be, the registered owner of the Site from and including the Effective Date to and including the Project Completion Date.

**2.2 Execution of Agreement.** The Recipient represents and warrants that it has:

- (a) the full power and authority to enter into the Agreement; and
- (b) taken all necessary actions to authorize the execution of the Agreement.

**2.3 Governance.** The Recipient represents, warrants, and covenants that it has, will maintain in writing, and will follow:

- (a) a code of conduct and ethical responsibilities for all persons at all levels of the Recipient's organization;
- (b) procedures to enable the Recipient's ongoing effective functioning;
- (c) decision-making mechanisms for the Recipient;
- (d) procedures to enable the Recipient to manage Funds prudently and effectively;
- (e) procedures to enable the Recipient to complete the Project successfully;
- (f) procedures to enable the Recipient to identify risks to the completion of the Project and strategies to address the identified risks, all in a timely manner;
- (g) procedures to enable the preparation and submission of all Reports required pursuant to Article 8.0; and
- (h) procedures to enable the Recipient to address such other matters as the Recipient considers necessary to enable the Recipient to carry out its obligations under the Agreement.

**2.4 Supporting Proof.** Upon the request of the Province, the Recipient will provide the Province with proof of the matters referred to in this Article 2.0.

### **3.0 TERM OF THE AGREEMENT**

**3.1 Term.** The term of the Agreement will commence on the Effective Date and will expire on the Expiry Date unless terminated earlier pursuant to Article 5.0, Article 12.0, Article 13.0 or Article 14.0.

### **4.0 FUNDS AND CARRYING OUT THE PROJECT**

**4.1 Funds Provided.** Subject to the terms and conditions of the Agreement, the Province will:

- (a) reimburse the Recipient for 50% of Eligible Costs up to the Maximum Funds amount for the purpose of carrying out the Project;
- (b) require electronic copies of invoices of costs incurred and paid relating to Eligible Costs;
- (c) provide the Funds to the Recipient within 60 days after receipt and acceptance by the Province of the Reimbursement Submission submitted by the Recipient in accordance with section 4.7, reimburse the Recipient for those Eligible Costs that the Recipient has incurred and paid from and including the Project Start Date to and including the earlier of (i) the Project Completion Date; and (ii) the date of termination of the Agreement; and
- (d) deposit the Funds into an account designated by the Recipient provided that the account:
  - (i) resides at a Canadian financial institution; and
  - (ii) is in the name of the Recipient.

**4.2 Limitation on Payment of Funds.** Despite section 4.1:

- (a) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides the certificate of insurance or other proof as the Province may request pursuant to section 11.2;
- (b) the Province is not obligated to, and will not, provide any Funds unless, in the Province's sole opinion, the Site has met and continues to meet the Minimum Eligibility Requirements;
- (c) the Province is not obligated to reimburse any Eligible Costs for which a

completed Reimbursement Submission has not been submitted to the Province;

- (d) the Province may adjust the amount of Funds it provides to the Recipient based upon the Province's assessment of the information the Recipient provides to the Province pursuant to section 8.1; and
- (e) if, pursuant to the *Financial Administration Act* (Ontario), the Province does not receive the necessary appropriation from the Ontario Legislature for payment under the Agreement, the Province is not obligated to make any such payment, and, as a consequence, the Province may:
  - (i) reduce the amount of Funds and, in consultation with the Recipient, change the Project; or
  - (ii) terminate the Agreement pursuant to section 13.1.

**4.3 Use of Funds and Carry Out the Project.** The Recipient will do all of the following:

- (a) carry out the Project on or before the Project Completion Date in accordance with the Project description, milestones and timelines table, as more particularly set out in Schedule "A";
- (b) use the Funds only for the purpose of carrying out the Project;
- (c) spend the Funds only for the purpose of paying for Eligible Costs and in accordance with the Budget; and
- (d) not use the Funds to cover any part of any cost that has or will be funded or reimbursed by one or more of any third party, ministry, agency, or organization of the Government of Ontario.

**4.5 Maintaining Minimum Eligibility Requirements.** The Recipient shall continue to meet the Minimum Eligibility Requirements from and including the Project Start Date to and including the Project Completion Date.

**4.6 Maximum Funds.** The Recipient acknowledges that the Funds available to it pursuant to the Agreement will not exceed the Maximum Funds.

**4.7 Reimbursement Submission.** The Recipient shall submit no later than 60 days after the Project Completion Date its Reimbursement Submission.

**4.8 Rebates, Credits, and Refunds.** The Recipient acknowledges that the amount of Funds available to it pursuant to the Agreement is based on the actual costs

to the Recipient to carry out the Project, less any costs (including taxes) for which the Recipient has received, will receive, or is eligible to receive, a rebate, credit, or refund.

**4.9 Availability of the Site for Sale/Lease.** The Recipient agrees to keep the Site available for sale or lease for at least one (1) year following the Project Completion Date, unless the Site is legally transferred or leased to another person.

## **5.0 ELIGIBILITY AND CHANGES TO THE SITE**

**5.1 Minimum Eligibility Requirements.** For greater certainty, the Site must satisfy the Minimum Eligibility Requirements in order to be accepted into the Program.

**5.2 Notification.** The Recipient will promptly notify the Province using the Site Change Notification Form in Schedule “G” to this Agreement of any event, change or circumstance that:

- (a) changes any information relating to the Minimum Eligibility Requirements or that may adversely affect the ability of the Site to continue to meet the Minimum Eligibility Requirements; or
- (b) changes any of the information that the Recipient provided to the Province in support of its application to the Program.

**5.3 Additional Information and Documents.** The Recipient shall provide all additional information and documents required by the Province to evaluate the Site Change Notification Form. The Recipient acknowledges and agrees that acceptance of the proposed change(s) outlined in the Site Change Notification Form is at the sole discretion of the Province and additional due diligence or supporting documentation may be required prior to this acceptance.

**5.4 Effect of Approved Site Change Notification Form.** If the Province approves a Site Change Notification Form, the information about the Site shall be deemed to be updated in the Province’s records as set out in the Site Change Notification Form from the date of the signature of the Province on the Site Change Notification Form. Approval of a Site Change Notification Form does not amend the Agreement and if as a result of the Province’s approval of the Site Change Notification Form, the Agreement needs to be amended, the Parties shall do so in accordance with Article 31.0.

**5.5 Failure to continue to meet Minimum Eligibility Requirements.**



Without limiting sections 5.2 and 5.3:

- (a) In the event that the Site has failed to continue to meet the Minimum Eligibility Requirements,
  - (i) the Province shall promptly send Notice to the Recipient thereof, which Notice shall confirm the Suspension Date – Minimum Eligibility Requirements.
  - (ii) the Recipient shall bring the Site back into compliance with the Minimum Eligibility Requirements within a period of 60 days starting from the date of the Site Change Notification Form notifying the Province of the failure.
  - (iii) if the Recipient cannot bring the Site back into compliance with the Minimum Eligibility Requirements in accordance with section 5.5(a)(ii), the Agreement shall terminate as of the end of the period of time referred to in section 5.5(a)(ii).
  - (iv) if the Recipient receives Notice from the Province that the Site is back in compliance with the Minimum Eligibility Requirements, the Site shall be in compliance as of the effective date set out in such Notice (the “**Renewed Compliance with the Minimum Eligibility Requirements Date**”).
- (b) If the Site fails to continue to meet the Minimum Eligibility Requirements and returns back into compliance with the Minimum Eligibility Requirements in accordance with section 5.5(a)(iv), the Province may, in its sole discretion, pay for the Recipient’s Eligible Costs reasonably incurred and paid from and including the Suspension Date – Minimum Eligibility Requirements to and including the Renewed Compliance with the Minimum Eligibility Requirements Date.
- (c) In the event that the Agreement is terminated in accordance with section 5.5(a)(iii), subject to any action the Province may take pursuant to section 14.2, the Province will pay for the Recipient’s Eligible Costs incurred and paid from and including the Project Start Date to and including the Suspension Date – Minimum Eligibility Requirements, within 60 days after receipt and acceptance by the Province of a Reimbursement Submission therefor, provided that the Recipient submits

the Reimbursement Submission no later than the date that is 60 days after the termination of the Agreement.

## **6.0 RECIPIENT'S ACQUISITION OF GOODS OR SERVICES**

**6.1 Acquisition.** If the Recipient acquires goods, services, or both with the Funds, it will:

- (a) do so through a process that promotes the best value for money; and
- (b) comply with the *Broader Public Sector Accountability Act, 2010* (Ontario), including any procurement directive issued thereunder, to the extent applicable.

## **7.0 CONFLICT OF INTEREST**

**7.1 No Conflict of Interest.** The Recipient will carry out the Project and use the Funds without an actual, potential, or perceived conflict of interest.

**7.2 Conflict of Interest Includes.** For the purposes of this Article, a conflict of interest includes any circumstances where:

- (a) the Recipient; or
- (b) any person who has the capacity to influence the Recipient's decisions, has outside commitments, relationships, or financial interests that could, or could be seen to, interfere with the Recipient's objective, unbiased, and impartial judgment relating to the Project, the use of the Funds, or both.

**7.3 Disclosure to Province.** The Recipient will:

- (a) disclose to the Province, without delay, any situation that a reasonable person would interpret as an actual, potential, or perceived conflict of interest; and
- (b) comply with any terms and conditions that the Province may prescribe as a result of the disclosure.

## **8.0 REPORTS, ACCOUNTING AND REVIEW**

**8.1 Preparation and Submission.** The Recipient will:

- (a) submit to the Province all Reports in accordance with Schedule “C”, or as specified by the Province from time to time;
- (b) submit to the Province (i) at the email address referred to in section 17.1 and (ii) through the Transfer Payment Ontario system, any other reports as may be requested by the Province in accordance with the timelines and content requirements specified by the Province;
- (c) ensure that all Reports and other reports are completed to the satisfaction of the Province; and
- (d) where applicable, ensure that all Reports and other reports are signed on behalf of the Recipient by an authorized signing officer.

**8.2 Record Maintenance.** The Recipient will keep and maintain:

- (a) all financial records (including invoices) relating to the Funds or otherwise to the Project in a manner consistent with generally accepted accounting principles; and
- (b) all non-financial documents and records relating to the Funds or otherwise to the Project.

**8.3 Site Visit.** The Recipient agrees to allow the Province to visit the Site at any time and take photographs or videos, including photographs or videos by drone, upon a minimum of seventy-two hours’ prior Notice to the Recipient.

**8.4 Inspection.** The Province, any authorized representative, or any independent auditor identified by the Province may, at the Province’s expense, upon seventy-two hours’ Notice to the Recipient and during normal business hours, visit and inspect the Site or the Recipient’s premises, and enter upon the Site or the Recipient’s premises to review the progress of the Project and the Recipient’s allocation and expenditure of the Funds and, for these purposes, the Province, any authorized representative, or any independent auditor identified by the Province may take one or more of the following actions:

- (a) inspect and copy the records and documents referred to in section 8.2;
- (b) remove any copies made pursuant to section 8.4(a) from the Recipient’s premises; and
- (c) conduct an audit or investigation of the Recipient in respect of the expenditure of the Funds, the Project, or both.

The Recipient agrees that the Province, its authorized representatives, or any independent auditor identified by the Province, when making visits or inspections of the Site or the Recipient's premises, may take photographs or videos, including photographs or videos by drone.

**8.5 Disclosure.** To assist in respect of the rights provided for in section 8.4, the Recipient will disclose any information requested by the Province, any authorized representatives, or any independent auditor identified by the Province, and will do so in the form requested by the Province, any authorized representative, or any independent auditor identified by the Province, as the case may be.

**8.6 No Control of Records.** No provision of the Agreement will be construed so as to give the Province any control whatsoever over the Recipient's records.

**8.7 Auditor General.** For greater certainty, the Province's rights under this Article are in addition to any rights provided to the Auditor General pursuant to the *Auditor General Act* (Ontario).

## **9.0 COMMUNICATIONS REQUIREMENTS**

**9.1 Acknowledge Support.** Unless otherwise directed by the Province, the Recipient will:

- (a) acknowledge the support of the Province for the Project; and
- (b) ensure that the acknowledgement referred to in section 9.1(a) is in a form and manner as directed by the Province.

**9.2 Publication.** The Recipient will indicate, in any of its Project-related publications, whether written, oral, or visual, that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of the Province.

**9.3 Use of Site Information and License to use Intellectual Property.**

- (a) Without requiring any further consent from the Recipient, the Recipient authorizes the Province, with respect to any communications, information or materials provided by the Recipient to the Province relating to the Project, the Site or the Agreement (the "**Site Information**"), to:
  - (i) copy, use and reproduce the Site Information for use in the Province's inventory of properties until two years after the Expiry Date or the date of termination of the Agreement. If the Recipient

requests that the Province remove the Site from the inventory earlier, the authorization will end on the date of such request and the Recipient agrees that notwithstanding the authorization ending on the date of the request, subject to section 9.4, the Site Information will be removed from the inventory no later than 30 days from the date of such request. If the Site is still in the inventory, the Recipient authorizes the Province to contact the Recipient to refresh the information provided at any time until two years after the Expiry Date or the date of termination of the Agreement. The Recipient acknowledges and agrees that the purpose of the inventory is to enable the Province to promote properties for which an application under the Program has been submitted to potential investors;

- (ii) post the Site Information on-line on the Province's domestic or international websites and social media channels; and
  - (iii) provide the Site Information related to the Site to any third party, including investment leads, potential investors, government officials who work in investment attraction and any other persons that may request the Site Information for a purpose in connection with the Program.
- (b) To the extent that any Intellectual Property of the Recipient or any third party and every other right, title or interest in and to any concepts, techniques, ideas, information and materials, however recorded, including images and data of the Recipient or any third party (collectively "**Materials**") has been provided in whole or in part by the Recipient to the Province, the Recipient grants to the Province a perpetual, world-wide, non-exclusive, irrevocable, transferrable, royalty-free, fully paid up right and license (or sub-license as applicable): (i) to use, modify, reproduce, display and distribute, in any form, those Materials; and (ii) to authorize other persons including agents, contractors or sub-contractors, to do any of the former on behalf of the Province. The Recipient irrevocably waives in favour of the Province all rights of integrity and other moral rights in the Materials of the Recipient, for all time.
- (c) The Recipient represents and warrants that the provision of the Materials shall not infringe or induce the infringement of any third party Intellectual Property rights. The Recipient further represents and warrants that it has

obtained assurances with respect to any Intellectual Property of the Recipient or any third party that any rights of integrity or any other moral rights associated therewith have been waived.

**9.4** In the event that the Province uses any Site Information in its possession in accordance with section 9.3, it will do so on an as-is basis. The Recipient agrees and acknowledges that the Province may change the applicable Site Information promptly in the event of any of the following:

- (a) a Site Change Notification Form is approved by the Province;
- (b) the Site fails to continue to meet the Minimum Eligibility Requirements either on a temporary or permanent basis;
- (c) the Recipient requests that the Province remove the Site from the inventory within two years after the Expiry Date or the date of termination of the Agreement; or
- (d) the Agreement expires or is terminated.

## **10.0 INDEMNITY AND RELEASE**

**10.1 Indemnification.** The Recipient hereby agrees to indemnify and hold harmless the Indemnified Parties from and against any and all liability, loss, costs, damages, and expenses (including legal, expert and consultant fees), causes of action, actions, claims, demands, lawsuits, or other proceedings, by whomever made, sustained, incurred, brought, or prosecuted, in any way arising out of or in connection with (i) the Project, (ii) the Program, (iii) any sale, transfer, lease or other transaction relating to the Site, (iv) any communications in any form related to the Site, (v) the use of the Site Information, or (vi) the Agreement, unless solely caused by the negligence or wilful misconduct of the Indemnified Parties.

**10.2 Recipient's Participation.** The Recipient will, at its expense, to the extent requested by the Province, participate in or conduct the defence of any proceeding against any Indemnified Parties and any negotiations for their settlement.

**10.3 Province's Election.** The Province may elect to participate in or conduct the defence of any proceeding by providing Notice to the Recipient of such election without prejudice to any other rights or remedies of the Province under the Agreement, at law, or in equity. Each Party participating in the defence will do

so by actively participating with the other's counsel.

**10.4 Settlement Authority.** The Recipient will not enter into a settlement of any proceeding against any Indemnified Parties unless the Recipient has obtained the prior written approval of the Province. If the Recipient is requested by the Province to participate in or conduct the defence of any proceeding, the Province will co-operate with and assist the Recipient to the fullest extent possible in the proceeding and any related settlement negotiations, except that:

- (a) The Province's participation in or conduct of the proceedings shall be subject to the Crown's immunities and privileges at law, in equity and under the *Crown Liability and Proceedings Act, 2019*, SO 2019, c 7, Sched 17.
- (b) The Province may refuse to make available to the Recipient information if, in the Province's view, that information is protected by a privilege or immunity of the Crown or if disclosure of the information is prohibited by law.
- (c) The Province shall designate the witnesses that it will make available to the Recipient.

**10.5 Recipient's Co-operation.** If the Province conducts the defence of any proceedings, the Recipient will co-operate with and assist the Province to the fullest extent possible in the proceedings and any related settlement negotiations.

**10.6 Release.** The Recipient:

- (a) on behalf of itself, its successors and assigns, releases and forever discharges the Releasees from any and all actions, causes of action, claims and demands for damages, indemnity, costs, interest and loss or injury of every nature and kind howsoever arising which the Recipient now has, may have had or may hereafter have arising from or in any way related to (i) the Project, (ii) any sale, transfer, lease or other transaction relating to the Site, (iii) the Program, (iv) any communications in any form related to the Site, (v) the use of the Site Information, or (vi) the Agreement;
- (b) agrees not to make any claim or take any proceeding in connection with any of the claims released against any other person or corporation who might claim contribution or indemnity from the Releasees by virtue of the claim or proceeding; and

- (c) understands and agrees that any consideration paid by the Releasees in connection with this release is deemed to be no admission whatever of liability or responsibility on the part of the Releasees and that any such liability or responsibility is denied.

## **11.0 INSURANCE**

**11.1 Recipient's Insurance.** The Recipient represents, warrants, and covenants that it has, and will maintain, at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person carrying out a project similar to the Project would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury, and property damage, to an inclusive limit of not less than two million dollars (\$2,000,000) per occurrence. The policy will include the following:

- (a) the Indemnified Parties as additional insureds with respect to liability arising in the course of performance of the Recipient's obligations under, or otherwise in connection with, the Agreement;
- (b) a cross-liability clause;
- (c) contractual liability coverage; and
- (d) a 30-day written notice of cancellation.

**11.2 Proof of Insurance.** The Recipient will:

- (a) provide to the Province, either:
  - (i) certificates of insurance that confirm the insurance coverage as provided for in section 11.1; or
  - (ii) other proof that confirms the insurance coverage as provided for in section 11.1; and
- (b) upon the request of the Province, provide to the Province a copy of any insurance policy.

## **12.0 TERMINATION ON NOTICE**

**12.1 Termination on Notice.** The Province may terminate the Agreement at any time without liability, penalty, or costs upon giving at least 30 days' Notice to the



Recipient.

**12.2 Consequences of Termination on Notice by the Province.** If the Province terminates the Agreement pursuant to section 12.1, the Province may take one or more of the following actions:

- (a) cancel all further instalments of Funds;
- (b) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and
- (c) determine the reasonable costs for the Recipient to wind down the Project, and do either or both of the following:
  - (i) permit the Recipient to offset such costs against the amount the Recipient owes pursuant to section 12.2(b); and
  - (ii) subject to section 4.6, provide Funds to the Recipient to cover such costs.

### **13.0 TERMINATION WHERE NO APPROPRIATION**

**13.1 Termination Where No Appropriation.** If, as provided for in section 4.2(e), the Province does not receive the necessary appropriation from the Ontario Legislature for any payment the Province is to make pursuant to the Agreement, the Province may terminate the Agreement immediately without liability, penalty, or costs by giving Notice to the Recipient.

**13.2 Consequences of Termination Where No Appropriation.** If the Province terminates the Agreement pursuant to section 13.1, the Province may take one or more of the following actions:

- (a) cancel all further instalments of Funds;
- (b) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and
- (c) determine the reasonable costs for the Recipient to wind down the Project and permit the Recipient to offset such costs against the amount owing pursuant to section 13.2(b).

**13.3 No Additional Funds.** If, pursuant to section 13.2(c), the Province determines that the costs to wind down the Project exceed the Funds remaining in the

possession or under the control of the Recipient, the Province will not provide additional Funds to the Recipient.

#### **14.0 EVENT OF DEFAULT, CORRECTIVE ACTION AND TERMINATION FOR DEFAULT**

**14.1 Events of Default.** Each of the following events will constitute an Event of Default:

- (a) in the opinion of the Province, the Recipient breaches any representation, warranty, covenant or other material term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:
  - (i) carry out the Project;
  - (ii) use or spend Funds;
  - (iii) provide, in accordance with section 8.1, Reports or such other reports as may have been requested pursuant to section 8.1(b); or
  - (iv) deliver a Site Change Notification Form in accordance with section 5.2;
- (b) the Recipient's operations, or its organizational structure, changes such that it no longer meets one or more of the Minimum Eligibility Requirements;
- (c) the Recipient makes an assignment, proposal, compromise, or arrangement for the benefit of creditors, or a creditor makes an application for an order adjudging the Recipient bankrupt, or applies for the appointment of a receiver;
- (d) the Recipient ceases to operate;
- (e) if any representation, warranty or other information, including in any application material, provided by the Recipient to the Province in connection with this Agreement, the Site, or the Project, is or becomes materially untrue in any respect;
- (f) if the Recipient makes any representations regarding the Site that in any way contravenes the terms and conditions of this Agreement;

- (g) an application is made to amend the Official Plan or amend or vary the zoning by-law applicable to the Site to allow for non-industrial uses, including but not limited to, residential, commercial, institutional or recreational uses;
- (h) the changes outlined in the Site Change Notification Form, other than changes that would cause the Site to fail to continue to meet any of the Minimum Eligibility Requirements, are not accepted by the Province in its sole discretion; and
- (i) the Recipient fails to bring the Site back into compliance with the Minimum Eligibility Requirements in accordance with section 5.5(a)(ii) in the sole opinion of the Province.

**14.2 Consequences of Events of Default and Corrective Action.** If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) initiate any action the Province considers necessary in order to facilitate the successful continuation or completion of the Project;
- (b) provide the Recipient with an opportunity to remedy the Event of Default;
- (c) suspend the payment of Funds for such period as the Province determines appropriate;
- (d) reduce the amount of the Funds;
- (e) cancel all further instalments of Funds;
- (f) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient;
- (g) demand from the Recipient the payment of an amount equal to any Funds the Recipient used, but in the sole opinion of the Province did not use in accordance with the Agreement;
- (h) demand from the Recipient the payment of an amount equal to any Funds the Province provided to the Recipient; and
- (i) terminate the Agreement at any time, including immediately, without liability, penalty or costs to the Province upon giving Notice to the

Recipient.

**14.3 Opportunity to Remedy.** If, in accordance with section 14.2(b), the Province provides the Recipient with an opportunity to remedy the Event of Default, the Province will provide Notice to the Recipient of:

- (a) the particulars of the Event of Default; and
- (b) the Notice Period.

**14.4 Recipient not Remediating.** If the Province has provided the Recipient with an opportunity to remedy the Event of Default pursuant to section 14.2(b), and:

- (a) the Recipient does not remedy the Event of Default within the Notice Period;
- (b) it becomes apparent to the Province that the Recipient cannot completely remedy the Event of Default within the Notice Period; or
- (c) the Recipient is not proceeding to remedy the Event of Default in a way that is satisfactory to the Province,

the Province may extend the Notice Period or initiate any one or more of the actions provided for in sections 14.2(a), (c), (d), (e), (f), (g), (h), and (i).

**14.5 When Termination Effective.** Termination under this Article will take effect as provided for in the Notice.

## **15.0 FUNDS UPON EXPIRY**

**15.1 Funds Upon Expiry.** The Recipient will, upon the Expiry Date, pay to the Province any Funds remaining in its possession or under its control.

## **16.0 DEBT DUE AND PAYMENT**

**16.1 Repayment of Overpayment.** If at any time the Province provides Funds in excess of the amount to which the Recipient is entitled under the Agreement, the Province may:

- (a) deduct an amount equal to the excess Funds from any further instalments of Funds; or
- (b) demand that the Recipient pay an amount equal to the excess Funds to

the Province.

**16.2 Debt Due.** If, pursuant to the Agreement:

- (a) the Province demands from the Recipient the payment of any Funds or an amount equal to any Funds; or
- (b) the Recipient owes any Funds or an amount equal to any Funds to the Province, whether or not the Province has demanded their payment,

such Funds or other amount will be deemed to be a debt due and owing to the Province by the Recipient, and the Recipient will pay the amount to the Province immediately, unless the Province directs otherwise.

**16.3 Interest Rate.** The Province may charge the Recipient interest on any money owing by the Recipient at the then current interest rate charged by the Province of Ontario on accounts receivable.

**16.4 Payment of Money to Province.** The Recipient will pay any money owing to the Province by cheque payable to the “Ontario Minister of Finance” and delivered to the Province at the address referred to in section 17.1.

**16.5 Fails to Pay.** Without limiting the application of section 43 of the *Financial Administration Act* (Ontario), if the Recipient fails to pay any amount owing under the Agreement, His Majesty the King in right of Ontario may deduct any unpaid amount from any money payable to the Recipient by His Majesty the King in right of Ontario.

**17.0 NOTICE**

**17.1 Notice in Writing and Addressed.** Notice will be in writing and will be delivered by email, postage-prepaid mail, or personal delivery and will be addressed to the Province and the Recipient respectively as set out below, or as either Party later designates to the other by Notice:

**To the Province:**  
Ministry of Economic  
Development, Job Creation and  
Trade

777 Bay Street, 21<sup>st</sup> Floor  
Toronto, Ontario M5G 2E5  
**Attention:** Site Readiness

**To the Recipient:**  
The Corporation of the City of  
Port Colborne

66 Charlotte Street/Rue  
Port Colborne, ON L3K 3C8  
**Attention:** Bram Cotton, Chief

Program

Administrative Officer

Email:

InvestmentReady@ontario.ca

Email:

Bram.cotton@portcolborne.ca

**17.2 Notice Given.** Notice will be deemed to have been given:

- (a) in the case of postage-prepaid mail, five Business Days after the Notice is mailed; or
- (b) in the case of email or personal delivery, one Business Day after the Notice is delivered.

**17.3 Postal Disruption.** Despite section 17.2(a), in the event of a postal disruption:

- (a) Notice by postage-prepaid mail will not be deemed to be given; and
- (b) the Party giving Notice will provide Notice by email or personal delivery.

## **18.0 CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT**

**18.1 Consent.** When the Province provides its consent pursuant to the Agreement, it may impose any terms and conditions on such consent and the Recipient will comply with such terms and conditions.

## **19.0 SEVERABILITY OF PROVISIONS**

**19.1 Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement will not affect the validity or enforceability of any other provision of the Agreement. Any invalid or unenforceable provision will be deemed to be severed.

## **20.0 WAIVER**

**20.1 Waiver Request.** Either Party may, in accordance with the Notice provision set out in Article 17.0, ask the other Party to waive an obligation under the Agreement.

**20.2 Waiver Applies.** Any waiver a Party grants in response to a request made pursuant to section 20.1 will:

- (a) be valid only if the Party granting the waiver provides it in writing; and
- (b) apply only to the specific obligation referred to in the waiver.

## **21.0 INDEPENDENT PARTIES**

**21.1 Parties Independent.** The Recipient is not an agent, joint venturer, partner, or employee of the Province, and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any actions that could establish or imply such a relationship.

## **22.0 ASSIGNMENT OF AGREEMENT OR FUNDS**

**22.1 No Assignment.** The Recipient will not, without the prior written consent of the Province, assign any of its rights or obligations under the Agreement.

**22.2 Agreement Binding.** All rights and obligations contained in the Agreement will extend to and be binding on the Parties' respective heirs, executors, administrators, successors, and permitted assigns.

## **23.0 GOVERNING LAW**

**23.1 Governing Law.** The Agreement and the rights, obligations, and relations of the Parties will be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with the Agreement will be conducted in the courts of Ontario, which will have exclusive jurisdiction over such proceedings.

## **24.0 FURTHER ASSURANCES**

**24.1 Agreement into Effect.** The Recipient will provide such further assurances as the Province may request from time to time with respect to any matter to which the Agreement pertains, and will otherwise do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

## **25.0 JOINT AND SEVERAL LIABILITY**

**25.1 Joint and Several Liability.** Where the Recipient is comprised of more than one entity, all such entities will be jointly and severally liable to the Province for the

fulfillment of the obligations of the Recipient under the Agreement.

## **26.0 RIGHTS AND REMEDIES CUMULATIVE**

**26.1 Rights and Remedies Cumulative.** The rights and remedies of the Province under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

## **27.0 FAILURE TO COMPLY WITH OTHER AGREEMENTS**

**27.1 Other Agreements.** If the Recipient:

- (a) has failed to comply with any term, condition, or obligation under any other agreement with His Majesty the King in right of Ontario or one of His agencies (a “**Failure**”);
- (b) has been provided with notice of such Failure in accordance with the requirements of such other agreement;
- (c) has, if applicable, failed to rectify such Failure in accordance with the requirements of such other agreement; and
- (d) such Failure is continuing,

the Province may suspend the payment of Funds for such period as the Province determines appropriate.

## **28.0 SURVIVAL**

**28.1 Survival.** The following Articles and sections, and all applicable cross-referenced sections and schedules, will continue in full force and effect for a period of seven years from the date of expiry or termination of the Agreement: Article 1.0 and any other applicable definitions, section 2.1(a), section 4.2(e), 4.6, section 4.9, Article 5.0, section 8.1 (to the extent that the Recipient has not provided the Reports or other reports as may have been requested to the satisfaction of the Province), sections 8.2, 8.4, 8.5, 8.6, 8.7, Article 9.0, Article 10.0, section 12.2, sections 13.2 and 13.3, sections 14.1, 14.2(d), (e), (f), (g), and (h), Article 15.0, Article 16.0, Article 17.0, Article 19.0, Article 20.0, section 22.2, Article 23.0, Article 25.0, Article 26.0, Article 27.0, Article 28.0, Article 29.0, Article 31.0, Article 33.0 and Article 34.0.

## **29.0 ENTIRE AGREEMENT**



**29.1** This Agreement, including:

- Schedule "A" - Project Description and Timelines
- Schedule "B" - Budget
- Schedule "C" - Reports
- Schedule "D" - Eligible Costs
- Schedule "E" - Legal Description of the Site
- Schedule "F" - Reimbursement Submission
- Schedule "G" - Site Change Notification Form
- Schedule "H" - Change Request Form
- Schedule "I" - Visual Depiction of the Site

any amending agreement entered into as provided for below and any document incorporated by reference, constitutes the entire agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.

**29.2 Minimum Eligibility Requirements.** The Recipient acknowledges having read and understood and agrees to be bound by the terms and conditions of the Minimum Eligibility Requirements, as it may be amended from time to time in accordance with section 31.1(c), which is incorporated and made an integral part of this Agreement.

**29.3 Conflict or Inconsistency.** In the event of a conflict or inconsistency between the Agreement without the Minimum Eligibility Requirements and the Minimum Eligibility Requirements, the Agreement without the Minimum Eligibility Requirements will prevail.

**30.0 COUNTERPARTS**

**30.1** The Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

**31.0 AMENDING THE AGREEMENT**

**31.1** The Agreement may only be amended in accordance with the following:

- (a) amendments to the municipal address, legal description or PIN of the Site, or the period of time referred to in section 5.5(a)(ii) shall be made using the Change Request Form, substantially in the form set out in Schedule

“H” of the Agreement. In the event the Province signs the Change Request Form, the Agreement shall be amended accordingly.

- (b) where the Recipient provides an updated Timelines table in Schedule “A” as part of any Report or other report required under section 8.1(b), the existing Timelines table in the Agreement shall be deleted and replaced with the updated Timelines table in the event, and as of the date that, the Province provides its written approval to the Recipient therefor. The Recipient acknowledges and agrees that the Province will not provide its approval for any updated Timelines table containing proposed estimated completion dates that are after the Project Completion Date.
- (c) the Province may unilaterally amend the Minimum Eligibility Requirements and the Agreement shall be amended accordingly. The Recipient agrees and acknowledges that no notice shall be required to be made to the Recipient in the event of any amendments to the Minimum Eligibility Requirements and that no further agreement by the Recipient whether in writing or otherwise is required for the consequent amendments to the Agreement.
- (d) subject to sections 31.1(a), (b) and (c), all other amendments to the Agreement may only be made by written agreement duly executed by the Parties.

## **32.0 ACKNOWLEDGEMENT**

### **32.1** The Recipient acknowledges that:

- (a) by receiving Funds it may become subject to legislation applicable to organizations that receive funding from the Government of Ontario, including the *Broader Public Sector Accountability Act, 2010* (Ontario), the *Public Sector Salary Disclosure Act, 1996* (Ontario), and the *Auditor General Act* (Ontario);
- (b) His Majesty the King in right of Ontario has issued expenses, perquisites, and procurement directives and guidelines pursuant to the *Broader Public Sector Accountability Act, 2010* (Ontario);
- (c) the Funds are:

- (i) to assist the Recipient to carry out the Project and not to provide goods or services to the Province;
  - (ii) funding for the purposes of the *Public Sector Salary Disclosure Act, 1996* (Ontario);
- (d) the Province is not responsible for carrying out the Project; and
- (e) the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

### **33.0 INDEPENDENT LEGAL ADVICE**

**33.1 Independent legal advice.** The Recipient acknowledges that the Province has provided the Recipient with a reasonable opportunity to obtain independent legal advice with respect to the Agreement, and that either: (a) the Recipient has obtained such independent legal advice prior to executing the Agreement, or; (b) the Recipient has willingly chosen not to obtain such advice and to execute the Agreement without having obtained such advice.

### **34.0 OPEN DATA**

**34.1 Open data.** The Recipient agrees that the Province may publicly release the following information, whether in hard copy or in electronic form, on the internet or otherwise: Recipient name, Recipient contact information, Recipient address or general location, amount of Maximum Funds and/or Funds, Project description, including the Timelines table in Schedule “A”, Project results reported by the Recipient, legal description of the Site and Budget.

### **35.0 TIME**

**35.1 Time.** Time is of the essence of this Agreement and no extension or amendment of this Agreement operates as a waiver of this provision.

**- SIGNATURE PAGE FOLLOWS -**

The Parties have executed the Agreement on the dates set out below.

**HIS MAJESTY THE KING IN RIGHT OF ONTARIO  
as represented by the Minister of Economic  
Development, Job Creation and Trade**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name:

Title: Director, Investment Services Branch,  
Trade Policy, Industry and Investment Division

**THE CORPORATION OF THE CITY OF PORT  
COLBORNE**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name:

Title:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name:

Title:

I/We have authority to bind the Recipient.

## SCHEDULE “A”

### PROJECT DESCRIPTION AND TIMELINES

#### Background

The Province implements the Program, which is a discretionary and non-entitlement program with limited funding. The purpose of the Program is to provide financial support to eligible industrial property owners to complete site preparatory work to attract potential investors and site selectors.

#### Project Description

The Recipient is undertaking due diligence reports set out in the Work Plan and table below in an effort to make the Site more attractive for investment. Site Readiness funding will provide the Recipient with the funds to properly delineate the developable area of the Site. Considering the demand and need for Ontario to have more industrial land available for investment, this due diligence work will prepare the Recipient to be more investment ready.

#### Work Plan

The Recipient, as part of the Site Readiness Program, shall carry out due diligence reports in relation to the Site (outlined below) that will be completed by April 22, 2023.

<b>Timelines table</b>		
<b>Due Diligence Report(s)</b>	<b>Description</b>	<b>Estimated Completion Date</b>
Environmental Constraints Analysis (ECA)	Environmental Constraints Analysis to determine the developable area of the site.	Completed
Site Appraisal Report	Appraisal to determine site value.	Completed
Mapping and Surveying	Wetland and set back mapping, surveying and staking needed to complete site plan and ECA and reference plan.	Completed
Site Plan	A conceptual site layout to identify possible building footprint on the site.	Completed
Legal Documents	Legal costs as needed for sale – Legal opinion, drafting Agreement of Purchase and Sale.	April 22, 2023

**SCHEDULE “B”**

**BUDGET**

**Budget Overview**

Breakdown of Eligible Cost Categories <sup>1</sup>	Type of Product <u>and</u> Name of Service Provider	Estimated Eligible Cost per Product (\$)	Estimated Eligible Cost Category Total Cost (\$) (Sum of Previous Column)
<b>Due Diligence Reports</b> (e.g. Drainage Report by ABC Company, or Archaeological Report by DEF Company)	Environmental Constraints Analysis – Landpro Planning and Terrastory Environmental	\$35,000.00	\$45,000.00
	Site Plan for pre-consultation – Upper Canada Consulting	\$10,000.00	
		\$	
<b>Mapping and Surveying</b> (e.g. Land Survey by GHI Company, or Topographical Survey Plan by JKL Company)	Mapping and surveying of wetland– Lanthier & Gilmore Surveying Ltd.	\$10,000.00	\$10,000.00
		\$	
		\$	
<b>Legal Fees</b> (e.g. title search opinion)	Legal Work to prepare for	\$5,000.00	\$5,000.00

by Smith & Jones LLP)	Agreement of Purchase and Sale – Sullivan- Mahoney		
		\$	
		\$	
<b>Other</b> (e.g. Drone Footage by MNO Company, or Aerial Images by PQR Company)	Other – Land severance related process for potential sale	\$6,084.00	\$6,084.00
		\$	
		\$	
<b><u>Total Eligible Costs (Sum of Eligible Costs)</u></b>			<b>\$66,084.00</b>
<b><u>Total Reimbursement (50% of Eligible Costs up to a maximum of \$25,000)</u></b>			<b>\$25,000.00</b>

<sup>1</sup> A list of Eligible Cost categories can be found in Schedule D.

## SCHEDULE “C”

### REPORTS

#### REPORT DETAILS

All reports shall be submitted electronically to [InvestmentReady@ontario.ca](mailto:InvestmentReady@ontario.ca) and through the Transfer Payment Ontario system unless otherwise directed by the Province.

#### REPORTING REQUIREMENTS

Name of Reports	Due Date	Content Requirements
Project Report	On or before 30 days after the Project Completion Date	<p>The Project report shall include the following if applicable:</p> <ul style="list-style-type: none"><li>○ An updated Schedule “A”, with any information in the Timelines table of Schedule “A” updated as necessary;</li><li>○ Copies of completed reports identified in Schedule “A”;</li><li>○ An explanation of any delays or failures to carry out the Project in accordance with the Agreement, and actions that will be taken to address them;</li><li>○ Changes to any information provided in, or in support of the Recipient’s application to, the Program; and</li><li>○ Changes to any information relating to any Minimum Eligibility Requirements already submitted and approved by the Province.</li></ul>



<p>Reimbursement submission</p>	<p>See section 4.7 of the Agreement for the due date of the Reimbursement Submission.</p>	<p>Please refer to the requirements set out in Schedule "F".</p>
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## SCHEDULE “D”

### ELIGIBLE COSTS

Unless otherwise defined herein, all capitalized terms below shall have the meaning set out in the Agreement, including the Minimum Eligibility Requirements.

#### **ELIGIBLE COSTS:**

- Eligible Costs must be directly related to the Project and be actual cash outlays that are incurred and paid by the Recipient to third parties that are documented through paid invoices and proofs of payment acceptable to the Province and are not to exceed fair market value.
- The Recipient shall provide evidence of costs incurred and paid for in accordance with the terms of the Agreement.

**Eligible Costs** include costs of completing a range of Site-related due diligence assessments and documentation prepared by qualified professionals that meet municipal and/or provincial standards for the following services:

- Arborist Report/Tree Survey
- Archaeological Study (Stage 1,2,3 and/or 4)
- Conservation Authority studies/drawings
- Drainage Plan
- Environmental Impact Study (EIS)
- Environmental Site Assessment Phase I, II (ESA)
- Erosion/ Sediment Control Plan
- Geotechnical Study/Slope Stability Study
- Grading Plan
- Groundwater Impact Study
- Heritage Impact Assessment
- Hydrogeological Report
- Hydrological Report
- Natural Heritage Impact Study
- Noise Impact Study
- Pedestrian Level Wind Study
- Planning Rationale Report
- Servicing Options Report
- Soil Management Report
- Species at Risk Assessments/Mitigation Report
- Stormwater Management Report
- Topographic Survey Plan

- Tree Preservation Plan
- Transportation Impact Study
- Utility Plan
- Vibration Study

Additional Eligible Reports: the following list outlines additional Eligible Costs that may be incurred as a result of applying to the Program or completing the Project.

- Mapping (e.g. topographic map, environmental context maps)
- Aerial photograph or video of the Site with parcel boundary clearly shown
- Parcel Register, Title Opinions and Property Index Map
- Plan of Survey
- Legal fees (including contract and fees associated with updating Site description information)
- Surveyor's real property report
- Property assessment/valuation reports

### **INELIGIBLE COSTS**

The Recipient will not be entitled to reimbursement by the Province for any of the following:

- Costs incurred prior to the Project Start Date
- Infrastructure or capital costs related to bringing the Site up to eligibility and property standards, Site preparation, maintenance and property taxes
- Capital costs: infrastructure development, capital expenditures to acquire or enhance assets, software licenses, electronics (computers, fax, machines, digital cameras, etc.), and demonstration aids. Capital costs include the direct costs of acquisition, construction, expansion, modification, conversion, transportation, installation and insurance (during construction) of fixed assets, as well as the cost of licensing and franchising fees.
- Costs incurred by an Ontario ministry, agency or crown corporation
- Travel costs and accommodations incurred by the Recipient, its agent or third-party consultants as a result of the preparation of the application or completion of activities related to the work plan
- Ongoing operational expenses including labour costs, office and overhead expenses e.g., salaries, wages, including those of staff working on the application
- Costs not incurred in the Province of Ontario, except when the only supplier(s) of services are outside of the Province of Ontario with proof and/or prior written approval
- Entertainment expenses, meals or alcoholic beverages
- In-kind contributions
- Costs, including taxes, for which the Recipient has received, will receive or is eligible to receive a rebate, credit or refund

- Consultant fees are ineligible where there is an indication of an employer-employee relationship to be determined by the Province in its sole discretion
- Program management consultant fees
- Miscellaneous: activities for which one or more persons expect to receive compensation in the form of a commission, finder's fee
- Fees associated with municipal planning applications unless required and pre-approved by the Program
- Activities related to remediation of the Site
- Any cost that is not an Eligible Cost

### **STACKING OF FUNDS**

Stacking of Provincial support will be considered on a case by case basis. Stacking of funding from complementary programs may be acceptable to the Province, in its sole discretion, for Eligible Costs that:

- (a) are ineligible costs in such complementary programs; and
- (b) will not be reimbursed by the Province of Ontario under such programs.

## SCHEDULE "E"

### LEGAL DESCRIPTION OF THE SITE

#### **Legal Description**

Please see legal description in the Site's parcel register(s) attached in Appendix 1 to this Schedule "E".

#### **Property Identification Number ("PIN")**

Please see PIN(s) in the Site's parcel register(s) attached in Appendix 1 to this Schedule "E".

#### **Municipal Address**

Municipally known as:

Invertose Drive, Port Colborne ON

#### **Known unregistered encumbrances, encroachments (easements):**

None



## SCHEDULE "F"

### REIMBURSEMENT SUBMISSION

**TO: Site Readiness Program**  
Ministry of Economic Development, Job Creation and Trade  
  
777 Bay Street, 21<sup>st</sup> Floor  
Toronto, Ontario M5G 2E5

**RE: Agreement between His Majesty the King in Right of Ontario as represented by the Minister of Economic Development, Job Creation and Trade (the "Province") and The Corporation of the City of Port Colborne (the "Recipient") effective the 22<sup>nd</sup> day of April, 2022] (the "Agreement")**

Unless otherwise defined herein, all capitalized terms below shall have the meaning set out in the Agreement, including the Minimum Eligibility Requirements.

#### **1 Site Information**

➤ Please attach a copy of Schedule "E" from the executed Agreement.

#### **2 Key Dates**

Project Start Date: December 22<sup>nd</sup>, 2021

Agreement's Effective Date: April 22<sup>nd</sup>, 2022

Project Completion Date: \_\_\_\_\_

#### **3 Program Status**

This Reimbursement Submission applies to one or more of the following types of Eligible Costs:

- Completion of the Project (includes application expenses)
- Maintenance of Minimum Eligibility Requirements

#### **4 Electronic Transfer Payment Registration**

The disbursement made under the Agreement is by direct deposit payment, also known as electronic funds transfers (EFTs). Direct deposit payments provide quick service to recipients. The Recipient will receive an email notification for the direct deposit payment.

The Recipient shall register for EFTs by completing the tables below and attaching a scanned PDF copy of a void cheque/stamped bank letter.

If the Recipient is already receiving payments from the Government of Ontario please provide its assigned supplier number, which can be found in a previous cheque or EFT separate remittance advice details.

Please select the most appropriate statement from the following:

- Option 1: A supplier account has already been established for the Recipient.  
Supplier Account Number: \_\_\_\_\_
- Option 2: It is not known if a supplier account has been established for the Recipient.
- Option 3: The Recipient has never received transfer payments from the Government of Ontario.

If option 2 or 3 was selected, please complete the following tables:

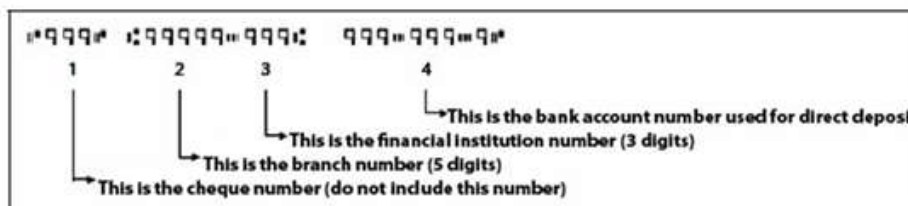
Recipient* Information	
<b>Recipient's Legal Name:</b>	
<b>Trade Name, Division, Branch, Department (if applicable):</b>	
<b>9-Digit CRA Business Number (if applicable):</b>	
<b>Recipient Legal Entity Type (check one):</b>	<input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership* <input type="checkbox"/> Trust <input type="checkbox"/> Other: _____
<b>Address:</b>	
<b>City:</b>	
<b>Province:</b>	
<b>Postal Code:</b>	
<b>Contact Name:</b>	
<b>Contact's Email:</b>	
<b>Business Phone Number:</b>	

\* If the Recipient is a limited partnership, please also include the general partner's information



Financial Institution Information	
Name of Institution:	
Address:	
City:	
Province:	
Postal Code:	
Branch Number*:	
Bank Number*:	
Account Number*:	

\* Please review the information below to locate the requested information:



1. The first three numbers at the bottom of the cheque are the cheque number (do not include these numbers)
2. The next five numbers are the branch number
3. The next three numbers are the financial institution number
4. The remaining numbers are the bank account number used for direct deposit

A scanned PDF copy of a void cheque/stamped bank letter is attached with this Reimbursement Submission.

## 5 Details of Expenses

For a complete description of Eligible Costs and reimbursement rules, refer to the Agreement.

Please ask all service providers to reference details of expenses on all invoices including a reference to the Site (i.e. legal description or municipal address) for which the work is being completed.

## 6 Summary of Eligible Costs Table

Using the information from the itemized expense details listed in the tables above, complete the summarized table below to calculate the grand total for the Reimbursement Submission.

Breakdown of Eligible Cost Categories <sup>1</sup>	Type of Product and Name of Service Provider	Estimated Eligible Cost per Product (\$)	Estimated Eligible Cost Category Total Cost (\$) (Sum of Previous Column)
<b>Due Diligence Reports</b> (e.g. Drainage Report by ABC Company, or Archaeological Report by DEF Company)		\$	\$
		\$	
		\$	
<b>Mapping and Surveying</b> (e.g. Land Survey by GHI Company, or Topographical Survey Plan by JKL Company)		\$	\$
		\$	
		\$	
<b>Legal Fees</b> (e.g. title search opinion by Smith & Jones LLP)		\$	\$
		\$	
		\$	
<b>Other</b> (e.g. Drone Footage by MNO Company, or Aerial Images by PQR Company)		\$	\$
		\$	
		\$	

	<b><u>Total Eligible Costs (Sum of Eligible Costs)</u></b>	\$
	<b><u>Total Reimbursement (50% of Eligible Costs up to a maximum of \$25,000)</u></b>	\$

<sup>1</sup> A list of Eligible Cost categories can be found in Schedule D.

I, \_\_\_\_\_, \_\_\_\_\_ of the Recipient, on  
Name Title  
 behalf of the Recipient, hereby certify that:

1. The information provided in this Reimbursement Submission is complete and accurate.
2. The Recipient acknowledges that the Province has complete discretion over the approval of any Eligible Cost and the acceptance of this Reimbursement Submission.
3. The Recipient agrees to provide additional information and documents as may be required by the Province to evaluate this Reimbursement Submission.
4. The Recipient is in compliance with this Agreement.
5. There is no material change to the Budget.
6. The amount requested in this Reimbursement Submission will be used solely for Eligible Costs.

\_\_\_\_\_  
 Name:  
 Title:

\_\_\_\_\_  
 Date

I have authority to bind the Recipient.

**SCHEDULE “G”  
SITE CHANGE NOTIFICATION FORM**

**TO: Site Readiness Program**  
Ministry of Economic Development, Job Creation and Trade  
  
777 Bay Street, 21<sup>st</sup> Floor  
Toronto, Ontario M5G 2E5

**RE: Agreement between His Majesty the King in Right of Ontario as represented by the Minister of Economic Development, Job Creation and Trade (the “Province”) and The Corporation of the City of Port Colborne (the “Recipient”) effective the 22<sup>nd</sup> day of April, 2022 (the “Agreement”)**

Unless otherwise defined herein, all capitalized terms below shall have the meaning set out in the Agreement.

**1 Purpose**

To provide notification to the Province in accordance with section 5.2 of the Agreement, please follow the instructions outlined in section 2 of this form. If there are any questions or concerns, please email: [InvestmentReady@ontario.ca](mailto:InvestmentReady@ontario.ca).

**2 Instructions**

- The Recipient shall provide the following information:
  - Contact information for the Recipient:
    - Name, Title: \_\_\_\_\_
    - Email address: \_\_\_\_\_
    - Phone Number: \_\_\_\_\_
  - Identification details of the Site identification details:
    - Address of the Site:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
    - Or attach a copy of Schedule “E” of the Agreement
  - Indicate the nature of the change (please check the appropriate box and provide details below):
    - Administrative (i.e. Recipient, agent, change of the Recipient’s municipal address).

Site-specific (i.e. disposition of any interest in the Site, severance, extension of draft plan approval, change of the municipal address or legal description of the Site)

Other

o Description of the change:

o Date when the change will be complete: \_\_\_\_\_

o Attach any documentation necessary to explain the change (i.e. new parcel register, new land survey)

- Program staff will advise of next steps. The Recipient may be required to sign a Change Request Form or an amending agreement to maintain its status in the Program.

### **3 Acknowledgement**

I, \_\_\_\_\_, \_\_\_\_\_ of the Recipient, on  
Name Title

behalf of the Recipient, hereby certify that the information provided in this Site Change Notification Form is complete and accurate. The Recipient further agrees to provide additional information and documents as may be required by the Province to evaluate this Site Change Notification Form.

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Date

I have authority to bind the Recipient.

**4 Approval (to be completed by Program staff)**

The Province hereby approves the requested changes set out in this Site Change Notification Form.

---

Name:

Date:

**SCHEDULE “H”**

**CHANGE REQUEST FORM**

**TO: Site Readiness Program**  
Ministry of Economic Development, Job Creation and Trade  
  
777 Bay Street, 21<sup>st</sup> Floor  
Toronto, Ontario M5G 2E5

**RE: Agreement between His Majesty the King in Right of Ontario as represented by the Minister of Economic Development, Job Creation and Trade (the “Province”) and The Corporation of the City of Port Colborne (the “Recipient”) effective the 22<sup>nd</sup> day of April, 2022 (the “Agreement”)**

Unless otherwise defined herein, all capitalized terms below shall have the meaning set out in the Agreement, including the Minimum Eligibility Requirements.

**Please complete all appropriate sections (to be completed by the Recipient).**

**1. Amendment to Municipal Address**

The municipal address of the Site set out in the section entitled “Municipal Address” in Schedule “E” of the Agreement is hereby deleted in its entirety and replaced with the following:

“Municipally known as:

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**2. Amendment to Legal Description**

The legal description of the Site as set out in the parcel register attached as Appendix 1 of Schedule “E” is hereby replaced with the legal description set out in the parcel register attached as Appendix 1 to this Change Request Form. **[NTD: Program to add Appendix 1 and attach new parcel register]**

**3. Amendment to Property Identification Number (“PIN”)**

The PIN(s) of the Site as set out in the parcel register attached as Appendix 1 of Schedule “E” is hereby replaced with the PIN(s) set out in the parcel register attached as Appendix 1 to this Change Request Form. **[NTD: Program to add Appendix 1 and attach new parcel register]**

**4. Amendment to Site Description**

The Site description set out in the section entitled "Site Description" in Schedule "E" of the Agreement is hereby deleted in its entirety and replaced with the following:

“  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_”

**5. Reasons for requested amendment(s):**

**6. Acknowledgement**

The Recipient hereby requests the aforementioned amendment(s) to the Agreement and certifies that the information provided to support the request is accurate. The Recipient further agrees to provide additional information and documents as may be required by the Province to evaluate this Change Request Form. The Agreement is accordingly amended upon execution of this form by the Recipient and the Province. All other terms and conditions of the Agreement remain in full force and effect.

**THE CORPORATION OF THE CITY OF PORT COLBORNE**

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Date

I/We have authority to bind the Recipient.

**HIS MAJESTY THE KING IN RIGHT OF ONTARIO as represented by the Minister of Economic Development, Job Creation and Trade**

\_\_\_\_\_  
Name:  
Title: Director, Investment Services Branch,  
Trade Policy, Industry and Investment Division

\_\_\_\_\_  
Date



## SCHEDULE "I"

### VISUAL DEPICTION OF THE SITE

The visual depiction of the Site provided below is not legally binding and is included for reference purposes only. For greater certainty, in the event of a conflict or inconsistency between the Site as described in Schedule "E" and the visual depiction of the Site provided below, the Site as described in Schedule "E" will prevail.

