

**MY MAIN STREET 2.0  
COMMUNITY ACTIVATOR STREAM  
ULTIMATE RECIPIENT FUNDING AGREEMENT**

Made this 28 of August, 2024 (the “Effective Date”)

BETWEEN:

**CANADIAN URBAN INSTITUTE,**

A non-share capital corporation established under the laws of  
Ontario and registered as a charitable organization under the laws  
of Canada, (hereinafter “CUI”)

AND

The Municipality of West Elgin,  
(hereinafter the “Ultimate Recipient”)

**WHEREAS:**

- A. The Federal Economic Development Agency for Southern Ontario (FedDev Ontario Ontario) was created to strengthen southern Ontario's economic capacity for innovation, entrepreneurship and collaboration, and promote the development of a strong and diversified southern Ontario economy;
- B. As part of the Southern Ontario Prosperity Program, the Minister has established the *Community Economic Development and Diversification* (“**CEDD**”) stream to improve productivity, capacity and competitiveness of businesses to increase employment and growth opportunities, as well as enhance the resilience of communities.
- C. CUI has entered into an agreement with FedDev Ontario (the “**FedDev Ontario Agreement**”) for the implementation of the CEDD stream through the My Main Street 2.0 Program (the “**MMS 2.0**”);
- D. The MMS 2.0 will foster the stabilization and revitalization of main streets across southern Ontario. MMS 2.0 will achieve this by offering streamlined direct-to-business supports and complementary programming for community not-for-profit projects that will encourage growth and economic prosperity.
- E. CUI is empowered by the FedDev Ontario Agreement to select qualified recipients for MMS 2.0 funding and to distribute that funding accordingly.

- F. The Ultimate Recipient is a/an Corporation;
- G. The Ultimate Recipient has applied to CUI to participate in MMS 2.0 under the Community Activator Stream and to receive funding for its Eligible Project (as defined herein);
- H. CUI has selected the Ultimate Recipient to be a MMS 2.0 participant and a therefore a recipient of MMS 2.0 funding in support of the Eligible Project;

**NOW THEREFORE**, in consideration of the mutual covenants contained in this agreement (the “**Agreement**”), CUI and the Ultimate Recipient agree as follows:

**1. Purpose of the Agreement**

- 1.1 The purpose of this Agreement is to set out the terms and conditions under which CUI will distribute Eligible Project funding to the Ultimate Recipient, as well as the relationship between CUI and the Ultimate Recipient.

**2. Interpretation**

- 2.1 **Definitions.** In this Agreement, the following terms have the meaning given in this section, unless otherwise specified:

**Agreement** means this funding agreement, including all annexes hereto, as amended, restated or added to from time to time.

**Community Activator Stream** means the My Main Street 2.0 Community Activator program.

**Completion Date** means the Project completion date,

**Control Period** means the period of six (6) years following the period determined herein as the duration of the Agreement.

**FedDev Ontario** means the Federal Economic Development Agency for Southern Ontario.

**FedDev Ontario Agreement** means the agreement between CUI and FedDev Ontario relating to the implementation of the MMS 2.0.

**Fiscal Year** means the Government of Canada’s fiscal year beginning on April 1<sup>st</sup> of a year and ending on March 31<sup>st</sup> of the following year.

**Funds and Funding** mean the funds transferred by CUI to the Ultimate Recipient for the carrying out of the Eligible Project.

**Eligible Costs** means those costs incurred by the Ultimate Recipient which, in the opinion of CUI, are reasonable and required to carry out the Eligible Project.

**Eligible Project** means the Ultimate Recipient's Eligible Project as described in Annex 1 – Statement of Work to this Agreement.

**Eligibility Period** means December 1, 2023 to December 31, 2024.

**Minister** means the Minister responsible for FedDev Ontario, or any one or more of the Minister's representatives.

**MMS 2.0** means programming focused on supporting the recovery from the pandemic across Southern Ontario by revitalizing main streets and facilitating the return of locally owned independent businesses.

### **3. Duration of Agreement**

3.1 This Agreement comes into force on the Effective Date first stated above and will terminate on the date on which the Eligible Project is complete, unless otherwise determined in accordance with the terms of this Agreement.

3.2 **Control Period.** Notwithstanding the provisions of Subsection 3.1 above, during the Control Period, the rights and obligations described in the following sections shall continue beyond the duration of the Agreement:

Subsection 6.8 – Overpayment or non-entitlement  
Section 7 – Reporting, Monitoring, Audit and Evaluation  
Section 9 – Indemnification and Limitation of Liability  
Subsection 11.1(c) – Representations  
Section 13 – Default and Remedies  
Section 14 – Project Assets and Intellectual Property  
Section 15 – General

### **4. Terms of Participation in the MMS 2.0**

4.1 The Ultimate Recipient agrees to act strictly in accordance with the terms of this Agreement with respect to its participation in the MMS 2.0.

4.2 The Ultimate Recipient represents and warrants to CUI that it has the power to enter into this Agreement and to perform its obligations hereunder.

- 4.3 The Ultimate Recipient shall not have the authority to do any act on behalf of CUI or the Agency.
- 4.4 The Ultimate Recipient warrants that it will comply with all federal, provincial, territorial, municipal and other applicable laws governing the Ultimate Recipient or the Eligible Project, or both, including without limitation, statutes, regulations, by-laws, rules, ordinances and decrees. This includes legal requirements and regulations relating to environmental protection and privacy;
- 4.5 The Ultimate Recipient warrants that any assets acquired, constructed, rehabilitated or improved with non-repayable Funds provided under this Agreement will not be sold, subject to lien claims, or otherwise disposed of without prior written approval from CUI for the term of the Agreement;
- 4.6 CUI reserves the right to transfer to any third party all rights, title and interest in this Agreement.

**5. Funding**

- 5.1 Subject to, and in accordance with, the terms and conditions of this Agreement, CUI will distribute to the Ultimate Recipient the following Funds in respect of the Eligible Project:

An amount not exceeding the lesser of:

- (a) One hundred percent (100%) of Eligible Costs of the Project incurred by the Ultimate Recipient; and
  - (b) the total costs anticipated by the Ultimate Recipient's approved budget for the Eligible Project, as detailed in Annex 1 – Statement of Work.
- 5.2 No Funds shall be disbursed under this Agreement unless the Eligible Project meets and continues to meet the requirements of Section 10.

**6. Claims and Payment of Funds**

- 6.1 The Ultimate Recipient shall maintain accounting records that account for the Funding paid to the Ultimate Recipient and the related Eligible Project costs in respect of this Agreement, separate and distinct from any other sources of funding.
- 6.2 **Claims Procedures.** The Ultimate Recipient shall submit claims for reimbursement of Eligible Costs incurred during the Eligibility Period quarterly, in a form satisfactory to CUI and in accordance with the claim schedule in Annex 2 – Costing Memorandum Guideline. Each claim will include the following information:

- (a) an itemized summary by cost category of Eligible Costs incurred substantially in the form prescribed by CUI;
- (b) a certification of the claim by a director, business owner, or officer of the Ultimate Recipient, confirming the accuracy of the claim and all supporting information provided;
- (c) if applicable, a certification by a director, business owner, or officer of the Ultimate Recipient that any environmental mitigation measures that may be set out in this Agreement have been implemented; and
- (d) any other substantiating documentation (including without limitation, any invoice or proof of payment), as may be required by CUI.

6.3 Claims for approved costs incurred during the Eligibility Period must be for goods or services that were received by or performed for the Ultimate Recipient within the Eligibility Period.

6.4 The Ultimate Recipient agrees to submit its claims for Eligible Costs within the timeframe identified in Annex 2 – Costing Memorandum Guideline.

6.5 **Advance Payments.** Where CUI is satisfied and has determined that the Ultimate Recipient's cash flow requirements justify the need for an advance against the Eligible Costs payable under this Agreement, CUI may, at CUI's sole discretion, pay to the Ultimate Recipient an initial advance for claim for Eligible Costs, up to twenty-five percent (25%) of the portion of the Funding allocated to the claim period in which the request is made, subject to the following:

- (i) the Ultimate Recipient submits to CUI's satisfaction, a forecast of cash flow requirements to be incurred during the initial advance period along with any documentation that CUI may reasonably request; and
- (ii) the Ultimate Recipient shall account by way of claim, to the satisfaction of CUI, for the use of any advances within one hundred and twenty (120) days of the beginning of the advance period.

The Ultimate Recipient agrees to spend advances in claim period the advance was made. Failing this, or if the amount of the advance exceeds the amount of Eligible Costs incurred during the previous advance period, CUI may deduct the excess amount and any interest earned by such excess from any other payment under this Agreement.

Where any of the non-entitlement criteria referenced in Subsection 6.8 occur, the Contribution becomes repayable.

## **6.6 Final Claim Procedures.**

- (a) The Ultimate Recipient shall submit a final claim pertaining to the final reimbursement of any Eligible Costs, previously claimed or not, signed by a director, business owner, or officer of the Ultimate Recipient and accompanied by the following, in addition to the requirements set out in Subsection 6.2, in a form satisfactory to CUI in scope and detail:
  - i. a final statement of total Eligible Project costs;
  - ii. a statement of the total government assistance (federal, provincial and municipal assistance) received or requested towards the Eligible Costs;
  - iii. a final report on the Eligible Project; and
  - iv. a final certificate executed by a director, business owner, or officer of the Ultimate Recipient substantially in the form prescribed by CUI.
- (b) The Ultimate Recipient shall submit the final claim for reimbursement of Eligible Costs incurred to the satisfaction of CUI no later than December 31, 2024 or the date the Eligible Project is completed to the satisfaction of CUI, whichever is earlier. CUI shall have no obligation to pay any claims submitted after this date, or after a later date to which CUI may agree in writing.

## **6.7 Payment Procedures.**

- (a) CUI shall review and approve the documentation submitted by the Ultimate Recipient following the receipt of the Ultimate Recipient's claim and in the event of any deficiency in the documentation, it will notify the Ultimate Recipient and the Ultimate Recipient shall immediately take action to address and rectify the deficiency. The Ultimate Recipient agrees to provide requested documentation within 5 businesses days of receiving a request from CUI.
- (b) Subject to the maximum Funding amounts set forth in Subsection 5.1 and all other conditions contained in this Agreement, CUI shall pay to the Ultimate Recipient the Eligible Costs set forth in the Ultimate Recipient's claim, in accordance with CUI's customary practices.
- (c) CUI may request at any time that the Ultimate Recipient provides satisfactory evidence to demonstrate that all Eligible Costs claimed have been paid.
- (d) CUI may require, at CUI's expense, any claim submitted for payment of the Funding be certified by an auditor approved by CUI.

- 6.8 **Overpayment or Non-entitlement.** Where, for any reason, the Ultimate Recipient is not entitled to all or part of the Funding or the amount paid to the Ultimate Recipient exceeds the amount to which the Ultimate Recipient is entitled, the Funding or the amount in excess, as the case may be, shall constitute a debt due to CUI and shall be recovered as such from the Ultimate Recipient. The Ultimate Recipient shall repay CUI within thirty (30) calendar days from the date of CUI's notice, the amount of the Funding disbursed or the amount of the overpayment, as the case may be, together with any interest that may be calculated in accordance with this Agreement.
- 6.9 **Revenue Earned.** If the Ultimate Recipient earns any interest as a consequence of any advance payment of the Funding or earns any revenue from all or part of the activities supported by the Funding, other than that interest or revenue which is used to pay for all or part of the Eligible Costs incurred by the Ultimate Recipient during the Eligible Project, CUI may in CUI's absolute discretion reduce the Funding by all or by such portion of the revenue as deemed appropriate.

## **7. Records, Reporting, Monitoring and Audit**

- 7.1 The parties agree to maintain proper and accurate accounts and records of the Eligible Project for a minimum of 6 years after the date of completion of the Eligible Project.
- 7.2 **Reports.** The Ultimate Recipient agrees to provide CUI with the reports in the form prescribed by CUI and satisfactory to CUI in scope and detail, in order to allow CUI to assess the progress of the Eligible Project. An interim report will be submitted in conjunction with any claim made by the Ultimate Recipient relating to an Advance Payment, and a final report will be submitted in conjunction with the Ultimate Recipient's final claim. Reports will be submitted more specifically on the dates described in the reporting schedule provided by CUI. CUI may reassess the reporting frequency from time to time at CUI's sole discretion and notify the Ultimate Recipient of any changes.
- 7.3 Upon request of the Minister and at no cost to the Minister, the Ultimate Recipient shall promptly elaborate upon any report submitted or provide such additional information as may be requested.
- 7.4 The Minister and CUI may request a copy of any report or publication produced as a result of this Agreement or the Project, whether interim or final, as soon as it becomes available.
- 7.5 The Minister shall have the right, at the Minister's own expense, as and when he determines necessary, to perform audits of the Eligible Project costs and the Ultimate Recipient's books, accounts, records, financial statements and claim certification

processes and procedures, for the purposes of verifying the costs of the Eligible Project, validating claims for reimbursement of Eligible and Supported Costs, ensuring compliance with the terms of this Agreement, and confirming amounts repayable to His Majesty under the provisions of this Agreement.

7.6 The Ultimate Recipient shall, at its own expense and for the duration of the Control Period:

- (a) Preserve and make available for audit and examination by CUI and the Minister proper books, accounts and records of the Eligible Project costs, wherever such books and records may be located, and permit CUI and the Minister to conduct such independent audits and evaluations as CUI's or the Minister's discretion may require;
- (b) upon reasonable notice and after consultation with the Ultimate Recipient, permit CUI and the Minister reasonable access to the Eligible Project site and/or the Ultimate Recipient's premises and documents in order to inspect and assess the progress and results of the Eligible Project and compliance with the terms of this Agreement; and
- (c) supply promptly, on request, such other reports or data in respect of the Eligible Project and its results, as CUI or the Minister may require for purposes of this Agreement and for statistical and/or evaluation purposes.

7.7 The Ultimate Recipient agrees that the Minister, at the Minister's expense, may engage outside firms or individuals, unrelated to the Government of Canada, with the required expertise to evaluate and monitor the Eligible Project and its implementation or review any documents submitted by the Ultimate Recipient. The Ultimate Recipient agrees to provide access to any site, meeting or to any document in relation to the Eligible Project to such firms or individuals.

7.8 **Auditor General of Canada.** The Ultimate Recipient acknowledges that the Auditor General of Canada may, at the Auditor General's cost, after consultation with the Ultimate Recipient, conduct an inquiry under the authority of Subsection 7.1 (1) of the *Auditor General Act* in relation to this Agreement (as a "funding agreement" as defined in Subsection 42 (4) of the *Financial Administration Act*) with respect to the use of funds received. For purposes of any such inquiry undertaken by the Auditor General, the Ultimate Recipient shall provide, upon request and in a timely manner to the Auditor General or anyone acting on behalf of the Auditor General:

- (a) all records held by the Ultimate Recipient or by agents or contractors of the Ultimate Recipient, relating to this Agreement and use of the Funding; and



- (b) such further information and explanations as the Auditor General, or anyone acting on behalf of the Auditor General, may request relating to this Agreement and/or the Contribution.

## **8. Public Communications**

- 8.1 The Ultimate Recipient consents to being contacted directly or publicly featured by CUI and/or the Minister in relation to success stories, announcements, ceremonies and other communications activities.
- 8.2 The Ultimate Recipient acknowledges the federal government's role in the funding provided through the FedDev Ontario Agreement.
- 8.3 The Ultimate Recipient consents to a public announcement of the Eligible Project by or on behalf of the Minister in the form of a news release and/or event, in relation to which:
  - (a) The Minister, through FedDev Ontario and CUI, shall inform the Ultimate Recipient of the date the public announcement is to be made, and the Ultimate Recipient shall maintain the confidentiality of this Agreement until such date; and
  - (b) The Ultimate Recipient will consent to the participation of the Minister or the Minister's representatives at the announcement event of the Eligible Project, and to have the event take place on a day mutually agreed upon by the Ultimate Recipient and the Minister or its representatives.
- 8.4 The Ultimate Recipient agrees to a media/public event upon completion of the Eligible Project with the Minister or the Minister's designated representatives at mutually agreeable venue, time and date. The Ultimate Recipient agrees to display promotional material and/or signage provided by the Agency at the event.
- 8.5 The Ultimate Recipient agrees to comply with instructions provided by CUI to acknowledge the support received from the Government of Canada and FedDev Ontario in its communications, including websites, news releases, promotional materials, social media, success stories, and announcements.
- 8.6 For any public communications activities conducted by CUI at the request of FedDev Ontario under the terms of the FedDev Ontario Agreement, the Ultimate Recipient agrees to provide the Minister with access to the Ultimate Recipient's work site(s), but only insofar as trade secrets or sensitive material, such as intellectual property or proofs of concept that may exist under or be in the patent process, are not divulged.

## **9. Indemnification and Limitation of Liability**

- 9.1 The Ultimate Recipient shall at all times indemnify and save harmless CUI and His Majesty, and their officers, officials, employees and agents, from and against all claims and demands, losses, costs, damages, actions, suits or other proceedings (including, without limitation, those relating to injury to persons, damage to or loss or destruction of property, economic loss or infringement of rights) by whomsoever brought or prosecuted, or threatened to be brought or prosecuted, in any manner based upon or occasioned by any injury to persons, damage to or loss or destruction of property, economic loss or infringement of rights, caused by, or arising directly or indirectly from:
- (a) the Eligible Project, its operation, conduct or any other aspect thereof;
  - (b) the performance or non-performance of this Agreement, or the breach or failure to comply with any term, condition, representation or warranty of this Agreement by the Ultimate Recipient, their officers, employees and agents, or by a third party or its officers, employees, or agents;
  - (c) the design, construction, operation, maintenance and repair of any part of the Eligible Project; and
  - (d) any omission or other wilful or negligent act or delay of the Ultimate Recipient or a third party and their respective employees, officers, or agents, except to the extent to which such claims and demands, losses, costs, damages, actions, suits, or other proceedings relate to the negligent act or omission of an officer, official, employee, or agent of CUI or of His Majesty, in the performance of his or her duties.
- 9.2 CUI shall have no liability under this Agreement, except for payments of the Funding in accordance with and subject to the provisions of this Agreement. Without limiting the generality of the foregoing, CUI shall not be liable for any direct, indirect, special or consequential damages, or damages for loss of revenues or profits of the Ultimate Recipient.
- 9.3 His Majesty, his agents, employees and servants will not be held liable in the event the Ultimate Recipient enters into a loan, a capital or operating lease or other long-term obligation in relation to the Eligible Project for which the Funding is provided.

## **10. Environmental**

- 10.1 The Ultimate Recipient represents and warrants that the Eligible Project is not a “designated project” or a “project” under the applicable federal environmental and impact assessment legislation.

## **11. Representations and Covenants**

11.1 **Representations.** The Ultimate Recipient represents and warrants that:

- (a) it is validly existing and in good standing under the laws of Ontario, and it has the power and authority to carry on its business, to hold its property and to enter into this Agreement. The Ultimate Recipient warrants that it shall remain as such for the duration of this Agreement;
- (b) the execution, delivery and performance of this Agreement have been duly and validly authorized by the necessary corporate actions of the Ultimate Recipient and when executed and delivered by the Ultimate Recipient, this Agreement constitutes a legal, valid and binding obligation of the Ultimate Recipient, enforceable against it in accordance with its terms;
- (c) this Agreement constitutes a legally binding obligation of the Ultimate Recipient, enforceable against it in accordance with its terms, subject as to enforcement of remedies to applicable bankruptcy, insolvency, reorganization and other laws affecting generally the enforcement of the rights of creditors and subject to a court's discretionary authority with respect to the granting of a decree, ordering specific performance or other equitable remedies;
- (d) the execution and delivery of this Agreement and the performance by the Ultimate Recipient of its obligations hereunder will not, with or without the giving of notice or the passage of time or both:
  - (i) violate the provisions of the Ultimate Recipient's by-laws, any other corporate governance document subscribed to by the Ultimate Recipient or any resolution of the Ultimate Recipient;
  - (ii) violate any judgment, decree, order or award of any court, government agency, regulatory authority or arbitrator; or
  - (iii) conflict with or result in the breach or termination of any material term or provision of, or constitute a default under, or cause any acceleration under, any license, permit, concession, franchise, indenture, mortgage, lease, equipment lease, contract, permit, deed of trust or any other instrument or agreement by which it is bound.
- (e) there are no actions, suits, investigations or other proceedings pending or, to the knowledge of the Ultimate Recipient, threatened and there is no order, judgment or decree of any court or governmental agency, which could materially and adversely affect the Ultimate Recipient's ability to carry out the activities contemplated by this Agreement;
- (f) it has obtained or will obtain all necessary licences and permits in

relation to the Project, which satisfy the requirements of all regulating bodies of appropriate jurisdiction;

- (g) it owns or holds sufficient rights in any intellectual property required to carry out the Project;
- (h) the description of the Eligible Project in Annex 1 – Statement of Work is complete and accurate; and
- (i) it is located in Southern Ontario.

11.2 **Covenants.** The Ultimate Recipient covenants and agrees that:

- (a) it shall use the Funding solely and exclusively to support the Eligible Costs of the Eligible Project, and shall carry out the Eligible Project in accordance with the description in Annex 1 – Statement of Work, in a diligent and professional manner, using qualified personnel;
- (b) it shall obtain the prior written consent of CUI before making any material change to any aspect of the Eligible Project or to the management of the Eligible Project or the Ultimate Recipient; and
- (c) it shall acquire and manage all equipment, services and supplies required for the Eligible Project in a manner that ensures the best value for funds expended.

11.3 **Renewal of Representations.** It is a condition precedent to any disbursement under this Agreement that the representations and warranties contained in this Agreement are true at the time of payment and that the Ultimate Recipient is not in default of compliance with any terms of this Agreement.

## 12. **Official Languages**

12.1 The Ultimate Recipient acknowledges and understands that:

- (a) any public acknowledgement of FedDev Ontario's support for the MMS 2.0 must be expressed in both official languages;
- (b) all MMS 2.0 information must be developed and made available in both official languages; and
- (c) all signage related to the MMS 2.0 must be in both official languages.

12.2 The Ultimate Recipient agrees that it will consider the needs of the official language minority community in developing the Eligible Project and related services, acknowledge FedDev Ontario's support for the Eligible Project in English and French, and specifically invite the official language minority

community to participate in the development and implementation of the Eligible Project, if applicable.

### **13. Default and Remedies**

13.1 **Event of Default.** CUI may declare that an Event of Default has occurred if:

- (a) the Ultimate Recipient has failed or neglected to pay CUI any amount due in accordance with this Agreement;
- (b) the Eligible Project is not meeting its objectives or milestones as set out in Annex 1 – Statement of Work, is not completed to CUI’s satisfaction by the Completion Date or the Eligible Project is abandoned in whole or in part;
- (c) the Ultimate Recipient makes a materially false or misleading statement concerning support by His Majesty in any internal and/or public communication, other than in good faith;
- (d) the Ultimate Recipient becomes bankrupt or insolvent, goes into receivership, or takes the benefit of any statute, from time to time in force, relating to bankrupt or insolvent debtors;
- (e) an order is made or the Ultimate Recipient has passed a resolution for the winding up of the Ultimate Recipient, or the Ultimate Recipient is dissolved;
- (f) the Ultimate Recipient has, in the opinion of CUI, ceased to carry on business or has sold, disposed or transferred all or substantially all of its assets;
- (g) the Eligible Project is carried out outside of Southern Ontario, unless an exception is set out in Annex 1 – Statement of Work;
- (h) the Ultimate Recipient has submitted false or misleading information, or has made a false or misleading representation to CUI in this Agreement or in its application for the Funding;
- (i) the Ultimate Recipient has failed to provide, within the required period, documentation to support to CUI’s satisfaction a claim relating to the use of advanced funds;
- (j) the Ultimate Recipient has not, in the opinion of CUI, met or satisfied a term or condition of this Agreement;
- (k) the Ultimate Recipient has not met or satisfied a term or condition

under any other agreement of any kind with CUI;

- (l) the Ultimate Recipient has, in the sole opinion of CUI, committed an act or done anything which might adversely impact CUI's programs, services or reputation;
- (m) the Ultimate Recipient is not eligible or is otherwise not entitled to the Funding; or
- (n) the Ultimate Recipient has not complied with the reporting, monitoring, audit and evaluation requirements, specified in this Agreement.

13.2 **Notice of Breach and Rectification Period.** CUI will not declare that an Event of Default has occurred unless it has given prior written notice to the Ultimate Recipient of the occurrence, which in CUI's opinion constitutes an Event of Default. The Ultimate Recipient shall, within such period of time as CUI may specify in the notice, either correct the condition or event or demonstrate, to the satisfaction of CUI, that it has taken such steps as are necessary to correct the condition, failing which CUI may declare that an Event of Default has occurred. During the period of time specified in the notice, CUI may suspend payment of any claim submitted before or after the date of notice. Notwithstanding any of the foregoing, CUI may declare an Event of Default has occurred without providing prior written notice or a rectification period to the Ultimate Recipient if CUI determines, in its sole discretion, that the nature or extent of the breach justifies an immediate recourse to remedy.

13.3 **Remedies.** If CUI declares that an Event of Default has occurred, CUI may immediately exercise any one or more of the following remedies, in addition to any remedy available at law:

- (a) terminate the Agreement, including any obligation by CUI to make any payment under this Agreement, including any obligation to pay an amount owing prior to such termination;
- (b) suspend any obligation by CUI to make any payment under this Agreement, including any obligation to pay an amount owing prior to such suspension; and
- (c) require the Ultimate Recipient to repay forthwith to CUI all or part of the Funding, and that amount is a debt due to CUI and may be recovered as such.

#### **14. Project Assets and Intellectual Property**

14.1 Title to and ownership of any IP assets the cost of which has been contributed to by Funding under this Agreement shall be determined by CUI in accordance

- CUI's policy on intellectual property, and any applicable Canadian law.
- 14.2 Any physical assets acquired, constructed, rehabilitated or improved with the funds provided under the Contribution will not be sold or otherwise disposed of without prior written approval for the term of the Funding Agreement;

**15. General**

- 15.1 **No Assignment of Agreement.** Neither this Agreement nor any part thereof shall be assigned by the Ultimate Recipient, without the prior written consent of CUI.
- 15.2 **Successors and Assigns.** This Agreement is binding upon the Ultimate Recipient, its successors and permitted assigns.
- 15.3 **Confidentiality.** Subject to the law and this Agreement, the Parties shall keep confidential and shall not disclose the contents of this Agreement or the transactions contemplated hereby, without the consent of all Parties.
- 15.4 **Governing Law.** This Agreement shall be subject to and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
- 15.5 **Dispute Resolution.** If a dispute arises concerning the application or interpretation of this Agreement, the Parties shall attempt to resolve the matter through good faith negotiation, and may, if necessary and the Parties consent in writing, resolve the matter through mediation or by arbitration, by a mutually acceptable mediator or arbitration in accordance with the Commercial Arbitration Code set out in the schedule to the *Commercial Arbitration Act* (Canada), and all regulations made pursuant to that Act.
- 15.6 **No Amendment.** No amendment to this Agreement shall be effective unless it is made in writing and signed by the Parties hereto.
- 15.7 **No Agency.** No provision of this Agreement or action by the Parties will establish or be deemed to establish any partnership, joint venture, principal-agent or employer-employee relationship in any way, or for any purpose, between CUI and the Ultimate Recipient, or between CUI and a third party. The Ultimate Recipient is not in any way authorized to make a promise, agreement or contract and to incur any liability on behalf of CUI, nor shall the Ultimate Recipient make a promise, agreement or contract and incur any liability on behalf of CUI, and shall be solely responsible for any and all payments and deductions, required by the applicable laws.
- 15.8 **No Waiver.** Any tolerance or indulgence demonstrated by one Party to the other, or any partial or limited exercise of rights conferred on a Party, shall not constitute a waiver of rights, and unless expressly waived in writing the Parties shall be entitled to exercise any right and to seek any remedy, available under this Agreement or

otherwise at law. Either Party may, by notice in writing, waive any of its rights under this Agreement.

- 15.9 **Public Dissemination.** All reports and other information that CUI or the Minister collects, manages or has a right to receive or produce in accordance with this Agreement, or that the Ultimate Recipient collects, creates, manages and shares with CUI or the Minister, shall be deemed to be “Canada Information”. The Minister shall have the right, subject to the provisions of the *Access to Information Act*, to release to the public, table before Parliament, or publish by any means, any Canada Information, including such excerpts or summaries of the Canada Information as he may, from time to time, decide to make.
- 15.10 **No conflict of interest.** The Ultimate Recipient and its consultants and any of their respective advisors, partners, directors, officers, shareholders, employees, agents and volunteers shall not engage in any activity where such activity creates a real, apparent or potential conflict of interest in the sole opinion of CUI, with the carrying out of the Eligible Project. For greater certainty, and without limiting the generality of the foregoing, a conflict of interest includes a situation where anyone associated with the Ultimate Recipient owns or has an interest in an organization that is carrying out work related to the Eligible Project.
- 15.11 **Disclose potential conflict of interest.** The Ultimate Recipient shall disclose to CUI without delay any actual or potential situation that may be reasonably interpreted as either a conflict of interest or a potential conflict of interest.
- 15.12 **Severability.** If for any reason a provision of this Agreement that is not a fundamental term of the agreement between the Parties is found to be or becomes invalid or unenforceable, whether in whole or in part, such provision or part thereof declared invalid or unenforceable shall be deemed to be severable and shall be deleted from this Agreement and all remaining terms and conditions of this Agreement will continue to be valid and enforceable.
- 15.13 **Business Information.** Notwithstanding anything else contained in this Agreement, CUI and the Minister shall be given the right to the use of any of the Ultimate Recipient’s publicly available business information about the Eligible Project (e.g. brochures, awareness, packages, etc.).
- 15.14 **Tax.** The Ultimate Recipient acknowledges that financial assistance from government programs may have tax implications for its organization and that advice should be obtained from a qualified tax professional.

## **16. Notice**

- 16.1 Any notice, information or document required under this Agreement shall be effectively given, if delivered or sent by letter or email (postage or other charges prepaid). Any notice that is delivered shall be deemed to have been



received on delivery; any notice sent by email shall be deemed to have been received when sent, any notice that is mailed shall be deemed to have been received eight (8) calendar days after being mailed.

16.2 All notices must be sent to the following addresses:

<b>To CUI</b>	<b>To the Ultimate Recipient</b>
Canadian Urban Institute 30 St. Patrick Street, Suite 500 Toronto, Ontario M5T 3A3 <b>Attention: Mary Rowe</b>	The Municipality of West Elgin 22413 Hoskins Line, West Elgin, Ontario N0L2C0 <b>Attention: Michelle Navackas</b>

16.3 Each of the Parties may change the address, which they have stipulated in this Agreement by notifying in writing the other party of the new address, and such change shall be deemed to take effect fifteen (15) calendar days after receipt of such notice.

**17. Acceptance**


17.1 The Ultimate Recipient agrees that unless CUI receives a duly executed duplicate copy of this Agreement within thirty (30) calendar days of the date of execution by CUI, this Agreement is revocable at the discretion of CUI.

**18. Counterparts and Electronic Signature**

18.1 This Agreement and any amendments may be signed in counterparts and by electronic signature, including PDF and any other electronic copies acceptable to the Parties. Such electronic signature shall be deemed to be an original for the purpose of this Agreement with the same legal effect as an original signature.

**IN WITNESS WHEREOF the Parties hereto have executed this Agreement through the signatures of their authorized representatives below.**

**CANADIAN URBAN INSTITUTE**

Per:  Date: 08/15/2024  
Mary Rowe, CEO  
I have the authority to bind this corporation.

The Municipality of West Elgin

Per: \_\_\_\_\_ Date: \_\_\_\_\_

Magda Badura  
I have the authority to bind this organization.

Per: \_\_\_\_\_ Date: \_\_\_\_\_

Richard Leatham  
I have the authority to bind this organization.

Per: \_\_\_\_\_ Date: \_\_\_\_\_

I have the authority to bind this organization.

Per: \_\_\_\_\_ Date: \_\_\_\_\_

I have the authority to bind this organization.

**SOUTHERN ONTARIO PROSPERITY PROGRAM  
ULTIMATE RECIPIENT AGREEMENT**

**ANNEX 1 – STATEMENT OF WORK**

BETWEEN:

**CANADIAN URBAN INSTITUTE,**  
(hereinafter “CUI”)

AND

The Municipality of West Elgin,  
(hereinafter the “Ultimate Recipient”)

**Eligible Project Description/Purpose/Objective**

**FUNDING AMOUNT APPROVED: \$ 130,000.00**

**PROJECT TITLE:**  
**Roots and Revival**

**APPROVED MMS 2.0 BUDGET:**

Expense Category	Amount
Labour	\$ 0.00
Consultants	\$ 60,000.00
Communications	\$ 26,000.00
Program Costs	\$ 32,800.00
Capital Expenditures	\$ 10,000.00
Measurement & Analytics	\$ 1,200.00
Other	\$ 0.00

**SOUTHERN ONTARIO PROSPERITY PROGRAM  
ULTIMATE RECIPIENT AGREEMENT**

**ANNEX 2 – COSTING MEMORANDUM GUIDELINE  
CANADIAN URBAN INSTITUTE,**

BETWEEN:

**CANADIAN URBAN INSTITUTE,**  
(hereinafter “CUI”)

AND

The Municipality of West Elgin,  
(hereinafter the “Ultimate Recipient”)

**1. General Conditions**

- 1.1 Costs are Eligible Costs for the purposes of this Agreement only if they are, in the opinion of CUI:
- a) directly related to the intent of the Eligible Project;
  - b) reasonable;
  - c) included in Annex 1 – Statement of Work, or are approved at a later date upon a request made to, and approved in the sole discretion of, CUI; and,
  - d) incurred between the Eligibility Date and the Completion Date.
- 1.2 Costs submitted for reimbursement must be net of any refund or eligible tax credits (including HST).
- 1.3 Costs incurred by way of the exercise of an option to purchase or hire are eligible, only if the exercise of the option is at the sole discretion of the Ultimate Recipient and the option has been exercised and the costs incurred between the Eligibility Date and the Completion Date.
- 1.4 The costs of all goods and services acquired from an entity which, in the opinion of CUI, is not at arm’s length from the Ultimate Recipient, shall be valued at the cost which, in the opinion of CUI, represents the fair market value of such goods or services, which cost shall not include any mark up for profit or return on investment.
- 1.5 No cost described in Subsection [1.4](#) above shall be eligible for inclusion in Eligible Costs, unless the Ultimate Recipient causes the supplying entity to maintain proper books, accounts and records of the costs related to the Sub- Project, and to provide CUI and FedDev Ontario access to such books, accounts and records.

**2. Consultants and Contractors**

- 2.1 The direct costs of studies and/or services carried out by a private contractor or consultant are Eligible Costs.
- 2.2 Where a particular contractor or consultant has been specified in the Agreement, and the Ultimate Recipient wishes to proceed with the Eligible Project using another contractor or consultant, prior consultation with CUI is advised to ensure eligibility.
- 2.3 The cost of the services of any consultant that is not, in the opinion of CUI, at arm's length from the Ultimate Recipient, shall not be Eligible Costs.

### **3. Labour Costs**

- 3.1 Labour and benefit costs claimed by the Ultimate Recipient as direct Eligible Costs toward the Eligible Project will include only that time worked directly on the Eligible Project at the payroll rate and excludes indirect time, non-project related time, holidays, vacation, bonuses, paid sickness, etc., except as noted below. Paid overtime, where considered reasonable in the opinion of CUI, may be claimed. Time off in lieu of payment is not eligible. Time claimed will normally be expressed in hours.
- 3.2 The payroll rate is the actual gross pay rate for each employee (normal periodic remuneration before deductions). The payroll rate excludes all premiums (e.g. overtime, payment in lieu of vacation), shift differentials and any reimbursement or benefit conferred in lieu of salaries or wages except those noted below.

Claims relating to the employer's portion of the Ontario Workplace Safety and Insurance Board (WSIB), statutory benefits (e.g., Canada Pension Plan (CPP), Employment Insurance (EI) and vacation) and discretionary benefits (i.e., dental, extended health, disability and life insurance, pension plans, holiday and paid leave) negotiated as part of collective agreements or other salary and benefit packages shall be limited to the lesser of:

- a) actual cost; and
  - b) twenty percent (20%) of the payroll rate of each employee.
- 3.3 Benefits such as car allowances and other benefits beyond those listed above are not eligible.

### **4. Sales Taxes**

- 4.1 Eligible Costs include the amount of the harmonized sales tax (HST), net of any refund or eligible credits due from the Canada Revenue Agency.
- 4.2 In order to have the HST approved as an Eligible Cost on claims, the Ultimate Recipient will be required to provide documentation verifying the organization's status under the relevant tax legislation.

### **5. Ineligible Costs**

- 5.1 For greater certainty, any costs that do not qualify as Eligible Costs in accordance

with section 1 of this Annex, shall be ineligible for inclusion in the Eligible Costs. By way of example only, ineligible costs include, but are not limited to, the following:

- a) costs of land, building or vehicle purchase;
- b) refinancing;
- c) costs of intangible assets such as goodwill, whether capitalized or expensed;
- d) depreciation or amortization expenses;
- e) interest on invested capital, bonds, debentures, or mortgages;
- f) bond discount;
- g) losses on investments, bad debts and any other debts;
- h) fines or penalties;
- i) costs related to litigation;
- j) non-incremental wages;
- k) fees for administrators, including payments to any member or officer of the Ultimate Recipient's Board of Directors;
- l) opportunity costs;
- m) hospitality and entertainment costs;
- n) capital expenditures (e.g. new construction and renovation of existing infrastructure and buildings);
- o) costs of individual membership in a professional body (e.g. professional designations);
- p) and lobbyist fees.

**6. Claim Schedule**

Expense Period	Claim Deadline