

TO:	CHAIR AND MEMBERS FINANCE AND ADMINISTRATION COMMITTEE MEETING ON OCTOBER 19, 2011
FROM:	JEFF FIELDING CITY MANAGER
SUBJECT	AGREEMENT WITH THE PROVINCE OF ONTARIO FOR CREATIVE COMMUNITY PROSPERITY FUNDING TO DEVELOP A CULTURAL PROSPERITY PLAN AND CULTURAL PROFILE / CULTURAL MAPPING PROJECT

RECOMMENDATION

That, on the recommendation of the City Manager, the attached proposed By-Law (Appendix A) **BE INTRODUCED** at the Municipal Council meeting of October 24, 2011:

- a) **TO APPROVE** the agreement with Her Majesty the Queen in Right of Ontario, as represented by the Minister of Tourism and Culture, to obtain Provincial funding of \$100,000 to develop a cultural prosperity plan and cultural profile / cultural mapping project; and,
- b) **TO AUTHORIZE** the Mayor and City Clerk to execute the Agreement in (a) above.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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- Creative City Task Force Report approved by Council June 2005
- Creative City Task Force Update, Creative City Committee, February 3, 2011
- Development of a New Cultural Prosperity Plan, Creative City Committee, April 2011
- Authorization for the Culture Office to Apply for a Matching Grant of \$100,000 from the Province of Ontario Ministry of Tourism and Culture Creative Communities Prosperity Fund, approved by Council May 30, 2011
- Authorization for the Culture Office to initiate a RFP to hire a consultant to assist the Cultural Prosperity Plan Working Group with the Creation of a Cultural Prosperity Plan and Culture Profile, approved by Council May 30, 2011
- Cultural Prosperity Plan Status Report, Creative City Committee, June 29, 2011

BACKGROUND

Municipal Council, at its session held on May 30, 2011 resolved:

That, on the recommendation of the Chief Administrative Officer, the Culture Office BE AUTHORIZED to apply for a matching grant of \$100,000 from the Province of Ontario Ministry of Tourism and Culture Creative Communities Prosperity Fund to assist with the creation of a new Cultural Prosperity Plan and specific categories of Cultural Resource Mapping for the City of London, noting that if successful, the source of the matching funding would be from existing funding of the Creative City Reserve Fund.

The City of London Culture Office applied for a matching grant of \$100,000 from the Province of Ontario Ministry of Tourism and Culture Creative Communities Prosperity Fund on June 6, 2011 to assist with the development of a Cultural Prosperity Plan and Cultural Profile / Cultural Mapping Project. On August 15, 2011, the Culture Office was notified by the Minister of Tourism and Culture Michael Chan that a grant of \$100,000 had been awarded to the City of London from this Fund. The City of London Culture Office will be contributing \$100,000 of existing funding from the Creative City Reserve Fund, as the source of financing for the matching funds. The purpose of this Report is to request that Council approve the standard agreement with Ministry of Tourism and Culture, to obtain this provincial funding for this project. This agreement has been reviewed and approved by Legal and Risk Management.

PLAN OF ACTION TO CREATE A CULTURAL PROSPERITY PLAN & CULTURAL PROFILE

Project Description

The project originated from the need to renew the Creative City Task Force Report, which has been the City of London's Culture Plan since it was approved by Council in 2005. A new comprehensive Cultural Prosperity Plan will integrate culture with current strategic initiatives related to the economic prosperity and cultural vitality of London.

The Plan will include a review of: the attraction and retention of creative talent, cultural stability and vibrancy, the economic impact of culture and the rejuvenation of the cultural corridors of London. Cultural resource mapping of cultural businesses, occupations, cultural worker residences, cultural spaces and facilities and general community resources will identify the cultural assets and needs of our community.

Request for Proposals

Municipal Council, at its session held on May 30, 2011 resolved:

"The Culture Office BE AUTHORIZED to initiate a Request for Proposal to hire a consultant to assist the Cultural Prosperity Plan Working Group with the creation, vision, goals and objectives, strategies and measures for culture in the development of a cultural profile of London and report to the Finance and Administration Committee with a plan of action for the creation of a Cultural Prosperity Plan and Cultural Profile including any applicable sources of financing"

The Creative City Committee Cultural Prosperity Plan Working Group met in June 2011 and determined that due to the different skill sets of consultants required for the work of this project, the Group would like to split the project into the following two Requests for Proposals:

1. RFP 11-38 Consulting Services for the development of the City of London Cultural Prosperity Plan; and,
2. RFP 11-39 Consulting Services for the development of Cultural Profile/Cultural Resource Mapping and Economic Impact Calculation of Culture

The budget for each RFP is a maximum of \$99,999 (matching Ministry and City funds from the Creative City Reserve Fund), which includes travel and accommodation costs.

The consultant for the development of the City of London Cultural Prosperity Plan is expected to provide a detailed cost estimate of the following various components:

- Integration of culture with current economic prosperity initiatives including cultural corridors
- Integration of culture with key cultural sectors
- Development of a Stakeholder (including Council, staff, community and public) Consultation Plan and implementation of an engagement process

The consultant for the development of Cultural Profile/Cultural Resource Mapping and Economic Impact Calculation of Culture is expected to provide a detailed cost estimate of the following components:

- Economic Impact Calculation of Culture, which is reproducible by the City in the future
- Development of the Cultural Profile/Cultural Resource Mapping (Phase 1)
- Development of Additional Culture Profile/Resource Mapping (Phase 2)

Timeline of Activities

The Agreement with the Ministry of Tourism and Culture for the Creative Communities Prosperity Fund covers the period outlined below in the following timeline of activities:

Date	Milestones/Activities	Outputs
September 2011	- Issue RFP to hire consultants for Cultural Mapping and Plan	- RFP Documents
October 2011	- Cultural Mapping RFP Closing Date	- RFP Proposals for Mapping from consultants submitted to City
November 2011	- Cultural Plan RFP Closing Date - Select Consultants for Cultural Mapping and Cultural Plan	- RFP Proposals for Plan from consultants submitted to City - Hire Consultants
December 2011	- Project Commencement for Cultural Mapping and Cultural Plan	- Consultant Work Plans for Cultural Mapping and Cultural Plan
December 2011 – March 2012	- Information Gathering, Research of Cultural Resources, Development of Cultural Profile, Analysis and stakeholder engagement	- Stakeholder Engagement Plan - Mapping, research and analysis of info
March 2012	- Completion of Cultural Mapping Phase 1	- Completion of Cultural Mapping and Database for Phase 1 - Identification of the Economic impact of Culture for London
April 2012	- Prepare mid-term Status Report	- Mid-term Status Report for Cultural Mapping Phase 1 and Cultural Plan submitted to Council and Ministry of Tourism & Culture
May – October 2012	- Development of the draft Cultural Plan	- Draft Cultural Plan
October 2012	- Finalization of the Cultural Plan	- Cultural Plan for London
May 2012 to January 2013 - ongoing	- Research and development of additional categories of cultural resources for Cultural Profile	- Ongoing development of Cultural Profile with other categories of cultural resources - Development of the Culture Profile on the City's website
March 31, 2013	- Project Closure	- Prepare Final Report for CCPF Grant
June 30, 2013	- Submit Final/Post-Project Report to the Ministry of Tourism and Culture	

Selection of Consultants

The consultant proposals for these two RFP's will be evaluated by staff from the City including those from City Manager's Department, the Community Services Department and the Engineering and Planning Department, and may include some members of the Creative City Committee Working Group and/or other resources as required. It is anticipated that the development of the Cultural Prosperity Plan and Cultural Profile/Cultural Resource Mapping and Economic Impact Calculation of Culture will begin in December 2011.

PREPARED BY:	PREPARED BY:
<i>Stephanie Jones</i>	<i>Robin Armistead</i>
STEPHANIE JONES, SPECIALIST CULTURE AND MUNICIPAL POLICY	ROBIN ARMISTEAD, MANAGER CULTURE AND MUNICIPAL POLICY

RECOMMENDED BY:
<i>J. P. Fielding</i>
JEFF FIELDING CITY MANAGER

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Appendix A: By-Law
Schedule 1: Ontario Funding Agreement

Copy: Creative City Committee

APPENDIX "A"

Bill No.
2011

By-law No.

A By-law to approve the Ontario Funding Agreement for the development of a cultural prosperity plan and cultural profile / cultural mapping project with Her Majesty the Queen in Right of Ontario as represented by the Minister of Tourism and Culture Creative Communities Prosperity Fund; and to authorize the Mayor and the City Clerk to execute the Agreement.

WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS section 8 provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to enable it to govern its affairs as it considers appropriate and to enhance its ability to respond to municipal issues;

AND WHEREAS subsection 10(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting: 5. Economic, social and environmental well-being of the municipality; 7. Services and things that the municipality is authorized to provide under subsection (1);

AND WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The agreement to be entered into between The Corporation of the City of London and Her Majesty the Queen in Right of Ontario, for the provision of the Ontario Funding Agreement for the development of a cultural prosperity plan and cultural profile / cultural mapping project attached as Schedule "1" to this By-law, is approved.
2. The Mayor and the City Clerk are authorized to execute the agreement approved under section 1, above.
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on October 24, 2011.

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First reading -
Second reading -
Third reading -

ONTARIO FUNDING AGREEMENT

CREATIVE COMMUNITIES PROSPERITY FUND FILE# 2011-1DD-00181

THIS AGREEMENT made as of September 28, 2011.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO as represented by the Minister
of Tourism and Culture

(the "Province")

- and -

THE CORPORATION OF THE CITY OF LONDON

(the "Recipient")

WHEREAS the Recipient is carrying-out the Project (as defined in Schedule "A");

AND WHEREAS the Province wishes to provide funding to the Recipient for the purpose of assisting with the Project;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which is expressly acknowledged, the parties agree as follows:

This Agreement, including:

- Schedule "A" - General Terms and Conditions
- Schedule "B" - Project Specific Information and Additional Provisions
- Schedule "C" - Project Description and Timelines
- Schedule "D" - Budget
- Schedule "E" - Requirements for use of the Ontario logo and acknowledgment of funding

constitutes the entire agreement between the parties with respect to the subject matter contained in this Agreement and supersedes all prior oral or written representations and agreements. There are no other agreements, understandings, representations, warranties, collateral agreements or conditions affecting this Agreement except as expressed or anticipated in it.

IN WITNESS WHEREOF, the Province and the Recipient have respectively executed and delivered this Agreement as of the date set out above.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO as represented by the Minister of Tourism and Culture

by:

Date

Name: Peter Armstrong
Position: Director, Programs and Services Branch

Authorized Signing Officer

THE CORPORATION OF THE CITY OF LONDON

by:

Date

Name: Joe Fontana
Position: Mayor

by:

Date

Name: Catharine Saunders
Position: City Clerk

We have authority to bind the Recipient

SCHEDULE "A"
GENERAL TERMS AND CONDITIONS

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1.0 Definitions

1.1 When used in this Agreement, the following terms will have the meanings ascribed to them below:

- (a) **"Additional Funding Requirements"** means the requirements referred to in paragraph 3.3(b) and as specified in Schedule "B";
- (b) **"Additional Provisions"** means the terms and conditions referred to in section 10.1 and as specified in Schedule "B";
- (c) **"Agreement"** means this agreement (including the cover and execution pages and all of the schedules) entered into between the Province and the Recipient and any instrument amending this agreement;
- (d) **"Budget"** means the Project budget set out in Schedule "D";
- (e) **"Claims"** means any and all liability, loss, costs, damages and expenses (including legal fees), causes of action, actions, claims, demands, lawsuits or other proceedings;
- (f) **"Expiration Date"** means the date on which this Agreement will expire and is the date set out in Schedule "B";
- (g) **"Fiscal Year"** means:
 - (i) in the case of the first Fiscal Year, the period commencing on the date of this Agreement and ending on first day that is March 31 following the date of this Agreement; and
 - (ii) in the case of Fiscal Years after the first Fiscal Year, the period commencing on the date that is April 1 following the end of the previous Fiscal Year and ending on the following March 31;
- (h) **"Funding"** means the funds provided to the Recipient by the Province pursuant to this Agreement and will be payable in lawful money of Canada;
- (i) **"Maximum Funding"** means the maximum amount of the Funding to be provided as set out in Schedule "B";
- (j) **"Project"** means the project described in Schedule "C".

2.0 Term of Agreement

2.1 The term of this Agreement will commence on the date set out on the first page of this Agreement and will expire on the Expiration Date unless terminated earlier pursuant to Article 16.0, 17.0 or 29.0.

3.0 Funding

3.1 The Province will provide Funding up to the Maximum Funding to the Recipient for the purpose of completing the Project.

3.2 The Province will disburse the Funding according to the schedule provided in Schedule "B".

- 3.3 Despite sections 3.1 and 3.2, the Province:
- (a) may adjust the amount of Funding to be provided to the Recipient in any Fiscal Year based upon the Province's assessment of the reports provided to the Province pursuant to Article 11.0;
 - (b) will not provide any Funding to the Recipient until the insurance requirements described in Article 14.0 have been met and any Additional Funding Requirements have been met; and
 - (c) shall not provide Funding instalments unless it is satisfied with the progress of the Project.

4.0 Project

- 4.1 The Recipient will carry out the Project and will do so in compliance with the description set out in Schedule "C" and all federal, provincial or municipal laws or regulations, or any orders, rules or by-laws related to any aspect of the Project. The Province is not responsible in any way for the carrying out of the Project.
- 4.2 The Recipient will not make any changes to the Project without the prior written consent of the Province.
- 4.3 The Recipient will carry out the Project in accordance with the timelines provided in Schedule "C".
- 4.4 If the Project involves the creation of intellectual property, the Recipient agrees that the Province may from time to time direct the Recipient to grant to one or more third parties a gratuitous, non-commercial license to reproduce all or part of such intellectual property.

5.0 Budget

- 5.1 The Recipient will only use the Funding for the purpose of carrying out the Project and will expend those funds only in accordance with the Budget.
- 5.2 The Recipient will not make any changes to the Budget (including re-allocating any part of the Funding to a different Fiscal Year) without the prior written consent of the Province.
- 5.3 The Recipient shall not use the Funding for any costs, including taxes, for which it has received, will receive, or is eligible to receive, a rebate, credit or refund.

6.0 Holding of Funding

- 6.1 Until it is used in accordance with this Agreement, the Funding will be placed in an account that:
- (a) resides at a Canadian financial institution; and
 - (b) is in the name of the Recipient.
- 6.2 If the Province flows the Funding to the Recipient prior to the Recipient's immediate need for the Funding the Recipient shall place the Funding in an interest bearing account.
- 6.3 If the Recipient earns any interest on the Funding:
- (a) the Province may deduct the interest amount from any further Funding instalments; and/or
 - (b) the Recipient shall pay any interest to the Province as directed by the Province.

7.0 Tendering for Goods and Services and Disposal of Assets

- 7.1 The Recipient will manage the Project wisely and prudently achieving value for money. The Recipient will acquire all supplies, equipment and services, including any advertising-related services, purchased with the Funding through an appropriate competitive process. Where the purchase price exceeds \$5,000, the Recipient will, at a minimum, obtain at least three written quotes unless:
- (a) the expertise the Recipient is purchasing is specialised and is not readily available; or

- (b) it is unreasonable for the Recipient to obtain three (3) written quotes because the Recipient has already researched the market for another similar purchase and knows the market.

7.2 The Recipient will not without the Province's prior written consent sell, lease or otherwise dispose of any assets purchased with the Funding, the purchase price of which exceeds \$1,000.

8.0 Conflict of Interest

8.1 The Recipient will carry out the Project and use the Funding in a manner that no person associated with the Project in any capacity will have a potential or actual conflict of interest.

8.2 For these purposes, a conflict of interest includes a situation in which a person associated with the Project or any member of his or her family is able to benefit financially from his or her involvement in the Project. Nothing in this Article prevents the Recipient from reimbursing its volunteers for their reasonable out of pocket expenses incurred in connection with the Project.

8.3 The Recipient will disclose to the Province without delay any situation that may be reasonably interpreted as either an actual or potential conflict of interest.

9.0 Representations, Warranties and Governance

9.1 The Recipient represents warrants and covenants that:

- (a) it is, and shall continue to be for the term of this Agreement, a validly existing legal entity with full power to fulfill its obligations under this Agreement;
- (b) it has the experience and expertise necessary to carry out the Project; and
- (c) all information (including information relating to any eligibility requirements for Funding) the Recipient provided to the Province in support of its request for funding was true and complete at the time the Recipient provided it, and shall continue to be true and complete for the term of this Agreement, in every respect except as set out to the contrary in this Agreement.

9.2 The Recipient represents and warrants that:

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

9.3 The Recipient represents, warrants and covenants that it has

- (a) established, and shall maintain for the period during which this Agreement is in effect, by-laws or other legally necessary instruments to:
 - (i) establish decision-making mechanisms;
 - (ii) provide for the prudent and effective management of the Funding;
 - (iii) establish procedures to enable the successful completion of the Project; and
 - (iv) establish procedures to enable the preparation and delivery of all reports required pursuant to Article 11.0.

9.4 Upon request, the Recipient shall provide the Province with proof of the matters referred to in this Article.

10.0 Further Conditions

10.1 The Recipient will comply with any Additional Provisions.

10.2 The Recipient acknowledges that the Province may impose further terms and conditions on the use of the Funding which it considers appropriate for the proper expenditure and management of the Funding and the carrying out and completion of the Project.

11.0 Reporting, Accounting and Review

11.1 The Recipient will submit to the Province:

- (a) progress reports as required by Schedule "B";
- (b) a final report upon completion of the Project; and
- (c) such other reports as the Province may require from time to time.

11.2 The Recipient will deliver all reports in a form satisfactory to the Province, and ensure that they are signed on behalf of the Recipient by an authorized signing officer.

11.3 Each report referred to in paragraphs 11.1(a) and (b) will include the following items:

- (a) a complete and original signed copy of the 2011-12 Creative Communities Prosperity Fund Post-Project Report (PPR) form. The PPR form will be sent electronically to the Recipient prior to the project completion date;
- (b) a copy of invoices and receipts of MTC-funded expenses highlighted in Schedule "D";
- (c) an electronic or hard copy of all reports and publications (including news articles), produced as part of the Project;
- (d) a sample of all materials indicating how the Province's support has been acknowledged in accordance with Article 15.0;
- (e) in the case of the final report, an audited financial statement which accounts for the year in which funds were earned or received, if audited statements are normally prepared by the Recipient; otherwise, a review engagement report which accounts for Project revenue and expenditures prepared by an accredited accountant external to the Recipient. The audited financial statement may be submitted separately if it is not available when the final report is due but must be submitted within 120 business days of the Recipient's year end; and
- (f) any other details that may be requested by the Province.

11.4 The Recipient:

- (a) will keep and maintain all financial records, invoices and other financially-related documents relating to the Funding or otherwise to the Project in a manner consistent with generally accepted accounting principles and clerical practices;
- (b) will maintain such records and keep them available for review or investigation by the Province for a period of seven (7) years from the date of the expiry or termination of this Agreement; and
- (c) will maintain all non-financial documents and records relating to the Funding or otherwise to the Project, including any records it receives about the people it serves, in a confidential manner consistent with all applicable law.

11.5 The Province or its authorized representatives may, upon twenty-four (24) hours' notice to the Recipient and during normal business hours:

- (a) enter upon the Recipient's premises to review the status and manner of operation of the Project;
- (b) inspect and copy any financial records, invoices and other financially-related documents in the possession or under the control of the Recipient which relate to the Funding or otherwise to the Project;
- (c) inspect and copy non-financial records in the possession or under the control of the Recipient which relate to the Funding or otherwise to the Project, except that, where such records relate to a third party served by the Project, the Province will obtain the consent of the third person before inspecting or copying such records; and
- (d) conduct a full or partial audit or investigation of the Recipient in respect of the Project.

11.6 The Recipient will cooperate with the Province in respect of the exercise of the Province's rights set out in section 11.5, and the Recipient will provide any information in respect of the Funding or the Project that the Province may reasonably request.

11.7 The purposes for which the Province may exercise its rights under this Article include:

- (a) determining for what items and purposes the Recipient expended the Funding;
- (b) determining whether and to what extent the Recipient expended the Funding with due regard to economy and efficiency; and
- (c) determining whether the Recipient completed the Project effectively and in accordance with the terms of this Agreement.

11.8 For greater clarity, the Province's rights under this Article are in addition to any rights provided to the Auditor General pursuant to Section 9.1 of the *Auditor General Act* (Ontario).

12.0 Limitation of Liability

12.1 The Province, its officers, employees and agents will not be liable to the Recipient, its subcontractors or their respective directors, officers, agents, employees, partners, affiliates, volunteers or independent contractors for Claims howsoever caused that arise out of or are in any way related to the Project or this Agreement.

13.0 Indemnity

13.1 The Recipient will indemnify and hold harmless the Province from and against any and all Claims, by whomever made, sustained, incurred, brought or prosecuted, including for third party bodily injury (including death), personal injury and property damage, in any way based upon, occasioned by or attributable to anything done or omitted to be done by the Recipient, its subcontractors or their respective directors, officers, agents, employees, partners, affiliates, volunteers or independent contractors in the course of carrying out the Project under, or otherwise in connection with, this Agreement. The Recipient further agrees to indemnify and hold harmless the Province for any incidental, indirect, special or consequential damages, or any loss of use, revenue or profit, by any person, entity or organisation, including, without limitation, the Province, claimed or resulting from such Claims.

14.0 Insurance

14.1 The Recipient hereby agrees to put in effect and maintain insurance for the term of this Agreement, 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 insurance that is appropriate for a prudent person in the business of the Recipient would maintain including, but not limited to, the following:

- (a) 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 is to include the following clauses:
 - (i) the Province as an additional insured with respect to liability arising in the course of performance of the Recipient's obligations under, or otherwise in connection with, this Agreement;
 - (ii) cross-liability clause;
 - (iii) contractual liability coverage; and
 - (iv) thirty (30) day written notice of cancellation, termination or material change.

14.2 Before beginning the Project, the Recipient will provide the Province with a valid Certificate of Insurance

that references the Project and confirms the above requirements. The Recipient will provide the Province with a copy of the policy and any renewal replacement certificates as may be necessary.

15.0 Credit

15.1 The Recipient:

- (a) will acknowledge, in a format approved by the Province, the support of the Province in all materials related to the Project in accordance with Schedule "E";
- (b) will advise the Province in writing of any public communication, interview, media event, report or presentation that is expected to refer to the Project and provide the opportunity for the Province to be present where appropriate. The Recipient will provide the Province with a minimum of ten (10) business days prior written notice of such events, or as soon as the Recipient is aware of such events;
- (c) will not make any public announcement, news release, advertising or other form of publicity regarding the Funding until permission to do so is received from the Province; and
- (d) where applicable, will include a statement in any materials related to the Project that the views expressed in such materials are the views of the Recipient and do not necessarily reflect those of the Province.

16.0 Termination for Convenience

16.1 The Province may terminate this Agreement at any time, for any reason, upon giving at least thirty (30) days' notice to the Recipient.

17.0 Termination and Corrective Action

17.1 The Province may terminate this Agreement immediately upon giving notice to the Recipient if:

- (a) in the opinion of the Province:
 - (i) the Recipient has knowingly provided false or misleading information regarding its funding request or in any other communication with the Province;
 - (ii) the Recipient breaches any provision of this Agreement;
 - (iii) the Recipient is unable to complete the Project or is likely to discontinue it; or
 - (iv) it is not reasonable for any reason for the Recipient to complete the Project;
- (b) the nature of the Recipient's business, or its corporate status, changes so that it no longer meets any applicable eligibility requirements under which the Province is providing the Funding;
- (c) the Recipient makes an assignment, proposal, compromise, or arrangement for the benefit of creditors, or is petitioned into bankruptcy, or files for the appointment of a receiver; or
- (d) the Recipient ceases to carry on business.

17.2 If the Province considers that it is appropriate to allow the Recipient the opportunity to remedy a breach of this Agreement, the Province may give the Recipient an opportunity to remedy the breach by giving the Recipient written notice:

- (a) of the particulars of the breach;
- (b) of the period of time within which the Recipient is required to remedy the breach; and
- (c) that the Province will terminate this Agreement:
 - (i) at the end of the notice period provided for in the notice if the Recipient fails to remedy the breach within the time specified in the notice; or

- (ii) prior to the end of the notice period provided for in the notice if it becomes apparent to the Province that the Recipient cannot completely remedy the breach within that time or such further period of time as the Province considers reasonable, or the Recipient is not proceeding to remedy the breach in a way that is satisfactory to the Province.

- 17.3 If the Province has provided the Recipient with an opportunity to remedy the breach, and
- (a) the Recipient does not remedy the breach within the time period specified in the notice;
 - (b) it becomes apparent to the Province that the Recipient cannot completely remedy the breach within the time specified in the notice or such further period of time as the Province considers reasonable; or
 - (c) the Recipient is not proceeding to remedy the breach in a way that is satisfactory to the Province,
- the Province may immediately terminate this Agreement by giving notice of termination to the Recipient.
- 17.4 Despite the Province's right to terminate this Agreement pursuant to section 17.1, the Province may, in addition to and in the alternative to section 17.2, choose not to terminate this Agreement and may take whatever corrective action it considers necessary and appropriate, including suspending Funding for such period as the Province determines, to ensure the successful completion of the Project in accordance with this Agreement.
- 17.5 The effective date of any termination under this Article will be the last day of the notice period, the last day of any subsequent notice period or immediately, which ever applies.

18.0 Funding Upon Termination

- 18.1 Upon termination of this Agreement pursuant to either Article 16.0 or 29.0, the Province may:
- (a) cancel all further Funding instalments; and/or
 - (b) demand the repayment of any Funding (including any interest) remaining in the possession or under the control of the Recipient;

and the Province will determine the Recipient's reasonable costs to terminate the Project (if such action is necessary) and allow the Recipient to set-off such costs against the amount owing by the Recipient to the Province. In no event will the Province be responsible for any amount by which the costs exceed the amount owing.

- 18.2 Upon termination of this Agreement pursuant to Article 17.0, the Province may:
- (a) cancel all further Funding instalments; and/or
 - (b) demand the repayment of the Funding in whole or in part (including any interest), or an amount equal thereto.

19.0 Recipient's Repayment of Funds

- 19.1 If the Province demands the payment by the Recipient of any Funding or interest on the Funding pursuant to this Agreement, the amount demanded 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.

19.2 The Province may charge the Recipient interest on any amount owing by the Recipient at the then current interest rate charged by the province of Ontario on accounts receivable.

19.3 The Recipient will pay the amount demanded by cheque payable to the Minister of Finance, Ontario.

19.4 The Recipient agrees that any part of the Funding which has not been used or accounted for by the Recipient by the time this Agreement expires or is terminated will be used only for the purposes agreed upon by the Province or will be returned to the Province immediately on the written request of the Province.

20.0 Notices

20.1 Any notice or communication required or permitted to be given under this Agreement will be:

(a) in writing;

(b) delivered personally or by pre-paid courier, or sent by email, certified or registered mail or postage pre-paid mail with receipt notification requested; and

(c) addressed to the other party as provided in Schedule "B" or as either party will later designate to the other in writing.

20.2 All notices will be effective:

(a) at the time the delivery is made if the notice is delivered personally, by pre-paid courier or by email; or

(b) three (3) days after the day the notice was deposited in the mail if the notice is sent by certified, registered or postage prepaid mail, unless the day the notice is effective falls on a day when the Province is normally closed for business, in which case the notice will not be effective until the next day that is a day when the Province is normally open for business.

21.0 Severability of Provisions

21.1 The invalidity or unenforceability of any provision of this Agreement will not affect the validity or enforceability of any other provision of this Agreement and any invalid or unenforceable provision will be deemed to be severed.

22.0 Amendment and Waiver

22.1 No amendment of or addition to this Agreement will be valid unless it is in writing and signed by each party.

22.2 A waiver of any failure to comply with any term of this Agreement will be in writing and signed by the party providing the waiver. Any waiver must refer to a specific failure to comply and will not have the effect of waiving any subsequent failures to comply.

23.0 Independent Parties

23.1 The parties are and will at all times remain independent of each other and are not and will not represent themselves to be the agent, joint venturer, partner or employee of the other. No representations will be made or acts taken by either party which could establish or imply any apparent relationship of agency, joint venture, partnership or employment and neither party will be bound in any manner whatsoever by any agreements, warranties or representations made by the other party to any other person nor with respect to any other action of the other party.

24.0 Assignment of Agreement or Funding

- 24.1 The Recipient will not assign this Agreement or the Funding or any part thereof without the prior written consent of the Province, which consent may be unreasonably and arbitrarily withheld.
- 24.2 This Agreement will enure to the benefit of and be binding upon the parties and their respective heirs, executors, administrators, successors and permitted assigns.

25.0 Governing Law

- 25.1 This Agreement and the rights, obligations and relations of the parties to this Agreement will be governed by and construed in accordance with the laws of the province of Ontario. The parties irrevocably attorn and submit to the exclusive jurisdiction of the courts of the province of Ontario and all courts competent to hear appeals therefrom.

26.0 Further Assurances and Consents

- 26.1 The parties agree to do or cause to be done all acts or things necessary to implement and carry into effect this Agreement to its full extent.
- 26.2 The Recipient acknowledges that the Province may impose conditions on any consent it provides pursuant to this Agreement.

27.0 Circumstances Beyond the Control of Either Party

- 27.1 Neither party will be responsible for damage caused by delay or failure to perform under the terms of this Agreement resulting from matters beyond the control of the Province and the Recipient including strike, lockout or any other action arising from a labour dispute, fire, flood, act of God, war, riot or other civil insurrection, lawful act of public authority, or delay or default caused by a common carrier which cannot be reasonably foreseen or provided against.

28.0 Survival

- 28.1 Upon the expiration or termination of this Agreement, the provisions in Articles 6.0 (Holding of Funding), 11.0 (Reporting, Accounting and Review), 12.0 (Limitation of Liability), 13.0 (Indemnity), 15.0 (Credit), 18.0 (Funding upon Termination), 19.0 (Recipient's Repayment of Funds), 28.0 (Survival), 32.0 (FIPPA) and sections 4.4 and 7.2 will survive.

29.0 Appropriation

- 29.1 Despite any other provision of this Agreement, any payment by the Province under this Agreement is subject to there being an appropriation for the Fiscal Year in which the payment is to be made and there being funds available. Furthermore, should the Province's funds be reduced or otherwise become unavailable by non-appropriation by the Legislative Assembly of Ontario, the Province may (1) reduce the amount of the Funding and/or (2) in accordance with section 18.1 terminate this Agreement immediately upon giving notice to the Recipient.

30.0 Interpretative Value of Agreement Documents

- 30.1 In the event of any of conflict or inconsistency between any of the Schedules to this Agreement, Schedule "A" will prevail over any of the other Schedules.
- 30.2 The division of this Agreement into schedules, articles, sections, clauses, paragraphs and the insertion of headings are for the convenience of reference only and will not affect the construction or interpretation of this Agreement.

31.0 Counterparts

31.1 This 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. This Agreement will be considered fully executed when all parties have executed an identical counterpart, notwithstanding that all signatures may not appear on the same counterpart. This Agreement may be executed and delivered by facsimile signatures and will be binding on all parties as if executed by original signature and delivered personally.

32.0 Freedom of Information and Protection of Privacy Act (FIPPA)

32.1 The Recipient acknowledges that the Province is bound by the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.F. 31, as amended from time to time, and that any information provided to the Province in connection with this Agreement is subject to disclosure in accordance with the requirements of that Act.

32.2 The Recipient acknowledges that the Province may make public the name and business address of the Recipient, the amount of the Funding and the purpose for which the Funding has been provided.

33.0 Time of Essence

33.1 Time will be of the essence in all respects. No extension of or waiver pursuant to this Agreement will operate as a waiver of this provision.

34.0 Number and Gender

34.1 This Agreement will be read with all changes in gender or number as required by the context.

35.0 Joint and Several

35.1 Where the Recipient is made up of two or more entities, each such entity will be jointly and severally liable (each completely and individually liable) to the Province for the fulfillment of the obligations of the Recipient under this Agreement.

- END OF GENERAL TERMS AND CONDITIONS -

SCHEDULE "B"
PROJECT SPECIFIC INFORMATION AND ADDITIONAL PROVISIONS

PROJECT SPECIFIC INFORMATION AND ADDITIONAL PROVISIONS	
Maximum Funding	\$100,000
Funding Instalments	<p>I. Subject to subsection 3.3(b) of Schedule "A" of this Agreement, ninety percent (90%) of the maximum funding amount, i.e. \$90,000 upon execution by both parties of the Agreement;</p> <p>II. Ten percent (10%), i.e. \$10,000 will be released upon receipt and acceptance, by the Province, of a satisfactory final report that includes:</p> <ul style="list-style-type: none"> a. A complete and original signed copy of the 2011-12 Creative Communities Prosperity Fund Post-Project Report (PPR) form. The PPR form will be sent electronically to the Recipient prior to the project completion date; b. A copy of invoices and receipts of MTC-funded expenses highlighted in Schedule "D"; c. An electronic or hard copy of all reports and publications (including news articles), produced as part of the Project; d. A sample of all materials indicating how the Province's support has been acknowledged in accordance with Article 15.0; and e. An audited financial statement which accounts for the year in which funds were earned or received, if audited statements are normally prepared by the Recipient; otherwise, a review engagement report which accounts for Project revenue and expenditures prepared by an accredited accountant external to the Recipient. <p>N.B.: The audited financial statement may be submitted separately if it is not available when the final report is due but must be submitted within 120 business days of the Recipient's year end.</p>
Expiration Date	June 30, 2013
Address for notice if to the Province	<p>Michelle V. Jones Culture Programs Advisor Ministry of Tourism and Culture 401 Bay Street, Suite 1700 Toronto, Ontario M7A 0A7 Tel: (416) 314-5171 Email: ccpf-fpcc@ontario.ca</p>
Address for notice if to the Recipient	<p>Catharine Saunders City Clerk Corporation of the City of London 300 Dufferin Avenue, 3rd Floor P.O. Box 5035 London, Ontario N6A 4L9 Tel: (519) 661-2500 ext 4937 Email: csaunder@london.ca</p>
Reporting	<p>As set out in Article 11.0, the City of London shall submit a final report within 90 days following completion of the Project.</p> <p>Final/Post-Project Report Due: June 30, 2013</p>
Additional Funding Requirements	<p>The Province will not provide any Funding to the Recipient until the Recipient has provided:</p> <ul style="list-style-type: none"> a. a municipal by-law authorizing the Municipal Council to enter into this Agreement; and b. a signed completed Application for Electronic Funds Transfer (Direct Deposit) and Remittance Advice Notification for Suppliers (number 33-5098) form.
Additional Provisions	Nil

**SCHEDULE "C"
PROJECT DESCRIPTION
AND TIMELINES**

PROJECT DESCRIPTION

The City of London Cultural Prosperity Plan and Cultural Profile/Resource Mapping

This project will be a renewal of the City of London's 2005 Creative City Task Force Report. A new comprehensive Cultural Prosperity Plan will integrate culture with current strategic initiatives related to the economic prosperity and cultural vitality of London. The plan will include a review of the attraction and retention of creative talent; cultural stability and vibrancy; the economic impact of culture; and the rejuvenation of the cultural corridors of London. A cultural profile/resource mapping of London's cultural assets will identify potential opportunities for further development of culture.

This Agreement covers the period outlined below in the timeline of activities.

TIMELINE OF ACTIVITIES

Date	Milestones/Activities	Outputs
September 2011	- Issue RFP to hire consultants for Cultural Mapping and Plan	- RFP Documents
October 2011	- Cultural Mapping RFP Closing Date	- RFP Proposals for Mapping from consultants submitted to City
November 2011	- Cultural Plan RFP Closing Date - Select Consultants for Cultural Mapping and Cultural Plan	- RFP Proposals for Plan from consultants submitted to City - Hire Consultants
December 2011	- Project Commencement for Cultural Mapping and Cultural Plan	- Consultant Work Plans for Cultural Mapping and Cultural Plan
December 2011 – March 2012	- Information Gathering, Research of Cultural Resources, Development of Cultural Profile, Analysis and stakeholder engagement	- Stakeholder Engagement Plan - Mapping, research and analysis of info
March 2012	- Completion of Cultural Mapping Phase 1	- Completion of Cultural Mapping and Database for Phase 1 - Identification of the Economic impact of Culture for London

April 2012	- Prepare mid-term Status Report	- Mid-term Status Report for Cultural Mapping Phase 1 and Cultural Plan submitted to Council and Ministry of Tourism & Culture
May – October 2012	- Development of the draft Cultural Plan	- Draft Cultural Plan
October 2012	- Finalization of the Cultural Plan	- Cultural Plan for London
May 2012 - January 2013 and ongoing	- Research and development of additional categories of cultural resources for Cultural Profile	- Ongoing development of Cultural Profile with other categories of cultural resources - Development of the Culture Profile on the City's website
March 31, 2013	- Project Closure	- Prepare Final Report for CCPF Grant
June 30, 2013	- Submit Final/Post-Project Report to the Ministry of Tourism and Culture	

SCHEDULE "D"
BUDGET

Revenue	Amount	Confirmed
Cash Contribution from Applicant/Partner Organizations:		
City of London	\$174,605.00	x
Other Government Funding:		
Donated services/materials:		
London Arts Council et al	\$63,370.00	x
Ministry of Tourism and Culture (MTC)	\$100,000.00	x
TOTAL REVENUE	\$337,975.00	

Expenditures*	Budgeted project costs	
*Items highlighted are MTC-funded expenses		
Consultant Fees	\$178,000.00	(\$78,000 is MTC-funded)
Travel & Accommodation for Consultants	\$22,000.00	(\$22,000 is MTC-funded)
Project Management Salaries	\$64,605.00	
GIS Technologist & Equipment	\$10,000.00	
In-kind and other expenses	\$63,370.00	
TOTAL EXPENDITURES	\$337,975.00	

SUMMARY

Revenue	\$337,975.00
Expenditures	\$337,975.00
Surplus/(Deficit)	\$0.00

SCHEDULE "E"
REQUIREMENTS FOR USE OF THE ONTARIO LOGO AND ACKNOWLEDGMENT OF FUNDING

Below are the requirements for use of the Ontario logo and acknowledgment of funding in all print and electronic communications, reports and publications produced in relation to the Project:

- 1). The Ontario logo should be used only as provided. The visual or structural relationship may not be changed in any way.
- 2). In most applications (e.g. business stationery), the Ontario logo appears in a black against a white or light background, e.g.



or, in white against a black or dark background, e.g.



There is no colour version of the logo. Digital files of the Ontario logo, in three formats (eps, tif and jpg) will be provided by the Province.

- 3). When accompanying other corporate logos, the Ontario Logo should be the same size.
- 4). The ministry name should not be used with the Ontario logo. Acknowledgement is of the **Government of Ontario** not the Ministry. The following are the two most common tag lines:
 - Funded by the Government of Ontarioor
 - Funding provided by the Government of Ontario