

2022/23 Annual Programs Funding Agreement for School District No. 68 (Nanaimo-Ladysmith)

ANNUAL PROGRAMS FUNDING AGREEMENT

This amended Annual Programs Funding Agreement dated for reference the 19th day of January 2023, is in effect for the 2022/23 fiscal year period of April 1, 2022 to March 31, 2023

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

OF THE FIRST PART

AND: the Board of Education of School District No. 68 (Nanaimo-Ladysmith) (the "Board")

OF THE SECOND PART.

The parties agree as follows:

1. DEFINITIONS

1.01 In this Agreement, unless the context otherwise requires:

"Agreement" means the Annual Programs Funding Agreement;

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

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

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

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

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

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

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

"Ministry" means the Ministry of Education of the Province of British Columbia;

2022/23 Annual Programs Funding Agreement for School District No. 68 (Nanaimo-Ladysmith)

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

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

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

2. SCHEDULES

2.01 The following Schedule(s) form an integral part of this Annual Programs Funding Agreement:

- A. Communications Protocol Agreement on Minor Capital Projects between the Ministry of Education and School Districts

3. PROVINCIAL FUNDING CONTRIBUTIONS AND OBLIGATIONS

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

Facility Name	Program Project Description	Amount Funded by Ministry	Next Steps & Timing
Ladysmith Intermediate	SEP - HVAC Upgrades	\$350,000	Proceed to design, tender & construction. To be completed by March 31, 2023.
John Barsby Community School	SEP – HVAC Upgrades	\$868,000	Proceed to design, tender & construction. To be completed by March 31, 2023.
John Barsby Community School	CNCP - HVAC Upgrades	\$508,000	Proceed to design, tender & construction. To be completed by March 31, 2023.
Nanaimo District Secondary	CNCP – Energy Upgrades	\$70,900	Proceed to design, tender & construction. To be completed by March 31, 2023.
Cilaire Elementary	PEP - New - Universally Accessible Playground Equipment	\$165,000	Proceed to design, tender & construction. To be completed by March 31, 2023.
Ladysmith Intermediate	SEP – HVAC Upgrades	\$1,218,000	Proceed to design, tender & construction. To be completed by March 31, 2023.

New projects for BUS

Existing Bus Fleet #	New/Replacement Bus Type	Amount Funded by Ministry	Next Steps & Timing
A8680	D (80+RE) with 0 wheelchair space(s)	\$195,084	Proceed to ordering the school bus(es) between March 21, 2022 and June 10, 2022 from the list of approved vendors available through the Bus Standing Offer portal on the ASTSBC website at http://www.astsb.org
A7680	D (80+RE) with 0 wheelchair space(s)	\$195,084	Proceed to ordering the school bus(es) between March 21, 2022 and June 10, 2022 from the list of approved vendors available through the Bus Standing Offer portal on the ASTSBC website at http://www.astsb.org
A2680	D (80+RE) with 0 wheelchair space(s)	\$162,119*	Proceed to ordering the school bus(es) between March 21, 2022 and June 10, 2022 from the list of approved vendors available through the Bus Standing Offer portal on the ASTSBC website at http://www.astsb.org
ADDED	Supplementary school bus funding for 3 (three) electric buses.	\$90,000	Funding applicable to electric bus(es) recently ordered through the Bus Standing Offer portal on the ASTSBC website at http://www.astsb.org

*Emergent request due to bus being written off following an accident. Total amount funded by Ministry reduced by SPP claim value of \$32,965.57.

3.02 The Ministry will, in no event, provide more than the amount listed above.

3.03 The Ministry will provide the capital funding in paragraph 3.01 in the form of a Capital Funding Grant.

- 3.04 Payment of a Capital Funding Grant is subject to the Ministry issuing a Certificate of Approval for the Project in paragraph 3.01 in accordance with Treasury Board policies and directives and to the following conditions:
- a) in no case may the Board make a draw against funds available under a Certificate of Approval, unless the draw is reimbursement for Eligible Expenditure(s) properly incurred by the Board in connection with the Project;
 - b) the Ministry may modify or withhold a Capital Funding Grant and applicable Certificate of Approval, or any portion thereof, in the event the Board fails to observe, perform and comply with any provision of this Agreement or if, in the opinion of the Ministry, there has been a material change in the Project;
 - c) the Board will comply with all applicable policies and directives of the Treasury Board respecting Capital Funding Grants.
- 3.05 Notwithstanding any other provision of this Agreement, the payment of funds by the Ministry to the Board, pursuant to this Agreement, is subject to the provisions of the *Financial Administration Act* ("the Act"), which makes that payment obligation subject to:
- a) there being sufficient monies available in an appropriation, as defined in the Act, to enable the Ministry, in any fiscal year or part thereof when any payment of money by the Ministry to the Board falls due pursuant to this Agreement, to make that payment;
 - b) Treasury Board, as defined in the Act, not having controlled or limited, pursuant to the Act, expenditure(s) under any appropriation referred to in this subparagraph a).

4. BOARD OBLIGATIONS

- 4.01 The Board will:
- a) carry out the Project in a manner that ensures:
 - i) delivery within budget;
 - ii) completion by March 31, 2023;
 - iii) scope details are fully met upon completion;
 - iv) accrued cost-savings realized from completed capital projects as approved in this Agreement are reported to the Ministry and transferred into the school district's Minister-Restricted Capital account, unless otherwise agreed to in writing by the Ministry.
 - b) comply with all policies and best practices related to Capital Project Procurement, as documented in the Capital Asset Management Framework and Capital Procurement Checklist published by the Ministry of Finance;
 - c) procure the Project in accordance with the Capital Asset Management Framework;

- d) include in any contracts all standard insurance and indemnification clauses required by the Schools Protection Program;
 - e) ensure all communication related to the Capital Project conforms to the “Communications Protocol Agreement on Minor Capital Projects between the Ministry of Education and School Districts” (provided as Schedule A). Note this protocol may be amended from time to time by the Ministry, with the most current version of the protocol being used.
- 4.02 Provide written notice to the Ministry of Education immediately upon completion of each Project. (Note: the Ministry will be following up with school districts regarding delayed and/or incomplete projects in early January, at which time the Ministry may choose to reallocate associated funds depending on the status of the Project).
- 4.03 At the request of the Ministry, prepare additional reports relating to the Project.
- 4.04 Notify the Ministry immediately, in writing, should any Event of Force Majeure arise that could materially affect the scope, costs or schedule of the Project.
- 4.05 Indemnify and save harmless the Province of British Columbia and its employees and agents from and against any losses, claims, damages, actions, causes of action, costs and expenses that the Province of British Columbia or any of its employees or agents may sustain, incur, suffer or be put to at any time, either before or after this agreement ends, which are based upon, arise out of or occur, directly or indirectly, by reason of, any act or omission by the Board or by any of its agents, employees, officers, directors, or contractors with respect to the Project.
- 4.06 Purchase school buses through the Request for Standing Offer (RFSO) portal available through the Association of School Transportation Services of BC (ASTSBC).
- 4.07 Reserve two (2) percent of the Total Funding amount provided under the Bus Acquisition Program in paragraph 3.01 as fee payment for ASTSBC’s administration services. The ASTSBC will invoice the Board once buses have been ordered. This fee is included in the Capital Funding Grant and is not an additional cost to the Board.

5. EVENT OF FORCE MAJEURE

- 5.01 In the Event of Force Majeure:
- a) the Board will immediately notify the Ministry, in writing, describing the Event of Force Majeure.
 - b) within five (5) Business Days of being notified of the Event of Force Majeure, the Ministry will communicate with the Board to explore what steps are to be taken to mitigate the Event of Force Majeure, determine an appropriate course of action, and establish an estimated cost related to the Event of Force Majeure.
 - c) the course of action must be agreed to by the Ministry and the Board.
 - d) either party may request the assistance of an independent cost consultant

appointed by mutual agreement of the parties.

- e) the Ministry will not approve any expenditure(s) incurred prior to the agreed course of action unless the costs were demonstrably incurred for the preservation of life and/or safety.

6. PUBLIC ANNOUNCEMENTS

- 6.01 Any public announcement relating to the Project will be in accordance with the “Communications Protocol Agreement on Minor Capital Projects between the Ministry of Education and School Districts” (provided as Schedule A).

7. NOTICE

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

- a) if to the Board:

School District No. 68 (Nanaimo-Ladysmith)
395 Wakesiah Ave, Nanaimo, BC, V9R 3K6
Attention: Mark Walsh, Secretary-Treasurer
Email: mark.walsh@sd68.bc.ca

- b) if to the Ministry:

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

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

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

2022/23 Annual Programs Funding Agreement for School District No. 68 (Nanaimo-Ladysmith)

- ii) within twenty-four (24) hours after sending the notice, the notifying party has also sent a copy of such notice to the receiving party by hand delivery.

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

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

2022/23 Annual Programs Funding Agreement for School District No. 68 (Nanaimo-Ladysmith)

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

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

Authorized Signatory (For the Minister of Education)

Name (Print)

Title

Date Signed (Month/Day/Year)

SIGNED on behalf of **the Board**)
of Education of School District)
No. 68 (Nanaimo-Ladysmith) by its duly)
authorized signatories)

Signatory (Secretary Treasurer)

Name (Print)

Date Signed (Month/Day/Year)

SCHEDULE A

COMMUNICATIONS PROTOCOL AGREEMENT ON MINOR CAPITAL PROJECTS BETWEEN THE MINISTRY OF EDUCATION (EDUC) AND SCHOOL DISTRICTS

News Release

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

Signage

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

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

The steps from signage design to installation are as follows:

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

Official Ceremonies

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

Plaques

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