

APPENDIX A

TRANSFER PAYMENT AGREEMENT FOR SAFE RESTART AGREEMENT PHASE 4 FUNDING FOR MUNICIPAL TRANSIT (SRA PHASE 4)

THIS TRANSFER PAYMENT AGREEMENT for Safe Restart Agreement Phase 4 Funding for Municipal Transit (SRA PHASE 4) (the “Agreement”) is effective as of the Effective Date.

B E T W E E N:

His Majesty the King in right of Ontario as represented by the Minister of Transportation for the Province of Ontario

(the “**Province**”)

- and -

Town of Oakville

(the “**Recipient**”)

BACKGROUND:

On December 7, 2022, the Government of Ontario announced that it was partnering with the Government of Canada to provide up to \$505 million in Safe Restart Agreement Phase 4 Funding for Municipal Transit (SRA Phase 4) to municipalities across Ontario.

The funding for SRA Phase 4, which will be provided to the Recipient in accordance with the terms and conditions set out in the Agreement, is intended to provide the Recipient with assistance for the costs and losses relating to the Recipient’s transit systems the Recipient has incurred during the Eligibility Period as a result of the COVID-19 pandemic.

SRA Phase 4 funding builds upon the approximately \$2.15 billion that was delivered to municipalities through the Safe Restart Agreement (SRA) to support Ontario municipal transit systems with COVID-19 pandemic-related financial pressures. SRA funding has been delivered in three phases:

- Phase 1: Over \$700 million flowed to municipalities for COVID-19 related financial impacts between April and September 2020.
- Phase 2: \$590 million flowed to municipalities for COVID-19 related financial impacts between October 2020 and March 2021.
- Phase 3: Up to \$650 million for eligible expenditures between April and December 2021, plus an additional \$127.6 million in Phase 3 top-ups and an additional \$81.7 million in supplementary funding for January 2022 (for Phase 3 only, municipalities were able to request an extension of the eligibility period to December 31, 2022, on a case-by-case basis).

CONSIDERATION:

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

1.0 ENTIRE AGREEMENT

1.1 Schedules to the Agreement. The following schedules form part of the Agreement:

Schedule "A" - General Terms and Conditions

Schedule "B" - Contact Information and Authorized Representatives

Schedule "C" - Eligible Expenditures and Ineligible Expenditures

Schedule "D" - Payment Procedures

1.2 Entire Agreement. The Agreement constitutes the entire agreement between the Parties (as defined in section A1.2 (Definitions)) with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.

2.0 CONFLICT OR INCONSISTENCY

2.1 Conflict or Inconsistency. In the event of a conflict or inconsistency between any of the requirements of:

- (a) Schedule "A" (General Terms and Conditions) and any of the requirements of another schedule or a sub-schedule, Schedule "A" (General Terms and Conditions) will prevail to the extent of the inconsistency;
- (b) a schedule and any of the requirements of a sub-schedule, the schedule will prevail to the extent of the inconsistency; or
- (c) this Agreement and any of the requirements of the Guidelines, this Agreement will prevail.

3.0 COUNTERPARTS

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

3.2 Electronic Execution and Delivery of Agreement.

- (a) The Agreement may:
 - (i) be executed and delivered by scanning the manually signed Agreement as a PDF and delivering it by email to the other Party; or
 - (ii) subject to the Province's prior written consent, be executed and delivered electronically to the other Party.
- (b) The respective electronic signature of the Parties is the legal equivalent of a manual signature.

4.0 AMENDING THE AGREEMENT

- 4.1 **Amending the Agreement.** The Agreement may only be amended by a written agreement.
- 4.2 **Execution of Amending Agreement.** An amending agreement for changes to the Agreement may be duly executed by the representatives of the Parties listed on the signature page below or in Schedule "B" (Contact Information and Authorized Representatives).

5.0 ACKNOWLEDGEMENT

- 5.1 **Acknowledgement.** The Recipient acknowledges that:
 - (a) the Funds are to assist the Recipient with the Financial Impacts due to the COVID-19 pandemic on the Recipient's transit system or the Costs to Support Priority Initiatives and not to provide goods or services to the Province;
 - (b) the Province is not responsible for the Recipient's transit system; and
 - (c) the Province is bound by the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31 (Ontario) and that any information provided to the Province in connection with the Agreement may be subject to disclosure in accordance with that Act.
- 5.2 **Acknowledgement from Province.** The Province acknowledges that the Recipient is bound by the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56 (Ontario) and any information provided to the Recipient in connection with the Agreement may be subject to disclosure in accordance with that Act.

- SIGNATURE PAGE FOLLOWS -

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

**HIS MAJESTY THE KING IN RIGHT OF THE
PROVINCE OF ONTARIO**, represented by the
Minister of Transportation for the Province of Ontario

Date

Name: Caroline Mulroney
Title: Minister

TOWN OF OAKVILLE

Date

Name: Rob Burton
Title: Mayor

I have authority to bind the Recipient.

Date

Name: Nancy Sully
Title: Commissioner of Corporate
Services & Treasurer

I have authority to bind the Recipient.

**SCHEDULE “A”
GENERAL TERMS AND CONDITIONS**

A1.0 INTERPRETATION AND DEFINITIONS

A1.1 **Interpretation.** For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;
- (b) words in one gender include all genders;
- (c) the headings do not form part of the Agreement; they are for reference only and will not affect the interpretation of the Agreement;
- (d) any reference to dollars or currency will be in Canadian dollars and currency; and
- (e) all accounting terms not otherwise defined in the Agreement have their ordinary meanings.

A1.2 **Definitions.** In the Agreement, the following terms will have the following meanings:

“Agreement” means this agreement, entered into between the Province and the Recipient, all of the schedules listed in section 1.1 (Schedules to the Agreement), and any amending agreement entered into pursuant to section 4.1 (Amending the Agreement).

“Authorities” means any government authority, agency, body or department, whether federal, provincial or municipal, having or claiming jurisdiction over the Recipient’s transit system or the Agreement.

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

“Communications Activities” means, but is not limited to, public or media events or ceremonies including key milestone events, news releases, reports, web and social media products or postings, blogs, news conferences, public notices, physical and digital signs, publications, success stories and vignettes, photos, videos, multi-media content, advertising campaigns, awareness campaigns, editorials, multi-media products, and all related communication materials in respect of the Agreement.

“Costs to Support Priority Initiatives” means the operating and capital costs incurred by the Recipient during the Eligibility Period in respect of the Recipient’s municipal transit system that support the priority transit initiatives identified in Schedule “C” subsection C1.1. For clarity, Costs to Support Priority Initiatives are Eligible Expenditures insofar as they are incurred in accordance with Schedule “C”.

“Effective Date” means the date of signature by the last signing Party to the Agreement.

“Eligible Expenditures” means the losses and costs that are eligible for funding by the Province in accordance with Schedule “C” of the Agreement).

“Eligibility Period” means the period starting on February 1, 2022 and ending on December 31, 2022, inclusive.

“Event of Default” has the meaning ascribed to it in section A12.1 (Events of Default).

“Expiry Date” means December 31, 2023.

“Financial Impacts” means the net revenue losses, net operating costs, and capital costs the Recipient has incurred during the Eligibility Period in respect of the Recipient’s municipal transit system as a result of the COVID-19 pandemic. For clarity, Financial Impacts are Eligible Expenditures insofar as they are incurred in accordance with Schedule “C”.

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

“Guideline” or **“Guidelines”** means the “Ministry of Transportation Safe Restart Agreement Phase 4 Municipal Transit Funding Stream Guidelines and Requirements”, as may be amended from time to time, which were distributed to recipients on December 7, 2022, and made available through the Transfer Payment Ontario (TPON) system.

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

“Ineligible Expenditures” means the costs that are ineligible for funding by the Province in accordance with Schedule “C” of the Agreement.

“Loss” means any cause of action, liability, loss, cost, damage, or expense (including legal, expert and consultant fees) that anyone incurs or sustains as a result of or in connection with the Recipient’s transit system or with any other part of the Agreement.

“Maximum Funds” means **\$1,908,647**.

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

“Notice Period” means the period of time within which the Recipient is required to remedy an Event of Default, pursuant to paragraph A12.3(b), and includes any such period or periods of time by which the Province extends that time in accordance with section A12.4 (Recipient not Remediating).

“On-demand Transit” means an alternative form of providing transit, where vehicle routes and schedules are determined by passenger demand typically facilitated through a technology application, unlike fixed route transit where transit service has a predetermined route and schedule.

“Operating Budget” means the Recipient’s 2020 operating budget which has been prepared and adopted by the Recipient as required by section 290(1) of the *Municipal Act, 2001* or a suitable adopted budget from which a baseline can be established to measure COVID-related financial impacts.

“Parties” means the Province and the Recipient.

“Party” means either the Province or the Recipient.

“Proceeding” means any action, claim, demand, lawsuit, or other proceeding that anyone makes, brings or prosecutes as a result of or in connection with the Recipient’s transit system or with any other part of the Agreement.

“Records Review” means any assessment the Province conducts pursuant to section A7.4 (Records Review).

“ Reports ” means the reports described in the Guidelines as well as any additional reports described in this Agreement.

“Requirements of Law” means all applicable requirements, laws, statutes, codes, acts, ordinances, approvals, orders, decrees, injunctions, by-laws, rules, regulations, official plans, permits, licences, authorizations, directions, and agreements with all Authorities.

“SRA Phase 1 Contribution” means the funding for the SRA Phase 1 the Province provided to the Recipient in September and October 2020 in accordance with the Safe Restart Agreement
Public Transit Funding Stream – Phase 1 Guidelines and Requirements

“SRA Phase 3 Contribution” means the funding for the SRA Phase 3 the

Province provided to the Recipient in March 2021 in accordance with the Province's Safe Restart Agreement Public Transit Funding Stream – Phase 2 and Phase 3 Guidelines and Requirements.

A2.0 REPRESENTATIONS, WARRANTIES AND COVENANTS

A2.1 General. The Recipient represents, warrants and covenants that:

- (a) it has, and will continue to have, the experience and expertise necessary to operate its transit system;
- (b) it is in compliance with, and will continue to comply with, all Requirements of Law related to any aspect of the Recipient's transit system;
- (c) if Funds are used for acquired goods or services, or both, these were acquired in compliance with the Recipient's policies and procedures and, to the extent possible under the COVID-19 pandemic unprecedented times, through a process that promotes the best value for the money;
- (d) it is in compliance with, and will continue to comply with, all requirements under the Guidelines;
- (e) it is in compliance with the insurance requirements set out in section A10.1 (Recipient's Insurance);
- (f) any information, including the Reports, the Recipient provided to the Province in support of its request for Funds including, without limitation, information relating to any eligibility requirements, the Recipient's transit system, any Financial Impact, any Costs to Support Priority Initiatives and related timelines was true and complete at the time the Recipient provided the Reports; and
- (g) it will provide any necessary updates to the Province during the Term of the Agreement to ensure that all Reports will continue to be true and complete should any of the information become inaccurate.

A2.2 Execution of Agreement. The Recipient represents and warrants that it has:

- (a) the full power and authority to enter into the Agreement; and
- (b) taken all necessary actions to authorize the execution of the Agreement, including passing a municipal by-law authorizing the Recipient to enter into the Agreement.

A2.3 Governance. The Recipient represents, warrants, and covenants that it has, will maintain in writing, and will follow:

- (a) procedures to enable the Recipient to manage the Funds prudently and effectively;
- (b) procedures to address any identified risks to the Recipient's ability to claim Eligible Expenditures from the Eligibility Period, all in a timely manner; and
- (c) procedures to enable the Recipient to address such other matters as the Recipient considers necessary to carry out its obligations under the Agreement.

A2.4 Supporting Proof. Upon request of the Province and within the timelines set out in the request, the Recipient will provide the Province with proof of the matters referred to in this Article A2.0 (Representations, Warranties and Covenants).

A3.0 TERM OF THE AGREEMENT

A3.1 Term. The term of the Agreement will commence on the Effective Date and will expire on the Expiry Date unless terminated earlier pursuant to Article A11.0 (Termination on Notice) or Article A12.0 (Event of Default, Corrective Action, and Termination for Default) of the Agreement or by the Province in accordance with the Guidelines.

A4.0 FUNDS

A4.1 Funds Provided. The Province will:

- (a) provide the Recipient up to the Maximum Funds for Eligible Expenditures;
- (b) provide the Funds to the Recipient in accordance with the payment procedures in Schedule "D" (Payment Procedures); and
- (c) deposit the Funds into an account designated by the Recipient provided that the account:
 - (i) resides at a Canadian financial institution; and
 - (ii) is in the name of the Recipient.

A4.2 Limitation on Payment of Funds. Despite section A4.1 (Funds Provided):

- (a) in addition to any other limitations under the Agreement on the payment of Funds by the Province, the Province is not obligated to provide any Funds to the Recipient unless the Recipient fulfils the special conditions listed in section A27.1 (Special Conditions); and

- (b) the Province may adjust the amount of Funds it provides to the Recipient based upon the Province's assessment of one or more of the following:
 - (i) the information the Recipient provides to the Province pursuant to this Agreement and the Guidelines; and
 - (ii) the SRA Phase 3 Contribution funding provided to the Recipient exceeds the financial impacts the Recipient incurred, as a result of the COVID-19 pandemic, beginning from April 1, 2021 to December 31, 2021, inclusive.

A4.3 Use of Funds. The Recipient will do all of the following:

- (a) spend the Funds only on Eligible Expenditures; and
- (b) not use the Funds to cover any Eligible Expenditure that has or will be funded or reimbursed by one or more of any third party, including any level of government, or ministry, agency, or organization of the Government of Ontario, other than the Province pursuant to the Agreement.

A4.4 Deduction of SRA Phase 1 Contribution and SRA Phase 3 Contribution, Rebates, Credits and Refunds. Based upon the Reports the Recipient provides to the Province, the Province will provide Funds to the Recipient in an amount based on the actual losses or costs to the Recipient, less any actual losses or costs (including taxes) for which the Recipient has received, will receive, or is eligible to receive SRA Phase 1 Contribution, SRA Phase 3 Contribution, a rebate, credit or refund.

A4.6 Interest. If the Recipient earns any interest on the Funds, the Province may:

- (a) deduct an amount equal to the interest from any further instalments of Funds; or
- (b) demand from the Recipient the payment of an amount equal to the interest.

A5.0 RECIPIENT'S DISPOSAL OF ASSETS

A5.1 Disposal. The Recipient will not, without the Province's prior written consent and prior to the Expiry Date or earlier termination of the Agreement, sell, lease, or otherwise dispose of any asset purchased or created with the Funds.

A6.0 CONFLICT OF INTEREST

A6.1 **No Conflict of Interest.** The Recipient represents and warrants that there is and there will continue to be no conflict of interest in respect of any Eligible Expenditures claimed under the Agreement and that the Recipient will use the Funds without an actual, potential, or perceived conflict of interest.

A6.2 **Conflict of Interest Includes.** For the purposes of this Article A6.0 (Conflict of Interest), a conflict of interest includes any circumstances where:

(a) the Recipient; or

(b) any person who has the capacity to influence the Recipient's decisions,

has outside commitments, relationships, or financial interests that could, or could be seen to, interfere with the Recipient's objective, unbiased, and impartial judgment relating to the Agreement, the use of the Funds, or both.

A6.3 **Disclosure to Province.** The Recipient will:

(a) disclose to the Province, without delay, any situation that a reasonable person would interpret as an actual, potential, or perceived conflict of interest; and

(b) comply with any terms and conditions that the Province may prescribe as a result of the disclosure.

A7.0 REPORTING, ACCOUNTING AND REVIEW

A7.1 **Province Includes.** For the purposes of sections A7.4 (Records Review), A7.5 (Inspection and Removal) and A7.6 (Cooperation), "**Province**" includes any auditor or representative the Province may identify.

A7.2 **Preparation and Submission.** The Recipient represents and warrants:

(a) That it has submitted to the Province:

(i) all Reports in accordance with the requirements as provided for in the Guidelines

(b) That it has ensured that all Reports and other reports are:

(i) accurate to the date of this Agreement;

(ii) completed to the satisfaction of the Province; and

(ii) signed by an authorized signing officer of the Recipient.

- (c) That it will provide to the Province any other reports, in accordance with any timelines and content requirements, that the Province may require from the Recipient prior to the execution of the Agreement and throughout the Term of the Agreement.

A7.3 **Record Maintenance.** The Recipient will keep and maintain for a period of seven years from their creation:

- (a) proper and accurate financial accounts and Records, kept in a manner consistent with generally accepted accounting principles in effect in Canada or with the public sector accounting standards approved or recommended by the Public Sector Accounting Board including, without limitation, its contracts, invoices, statements, receipts, and vouchers and any other evidence of payment relating to the Funds or otherwise to the Eligible Expenditures claimed under the Agreement; and
- (b) all non-financial records and documents relating to the Funds or otherwise to the Eligible Expenditures claimed under the Agreement.

A7.4 **Records Review.** The Province may, at its own expense, upon twenty-four hours' Notice to the Recipient and during normal business hours, enter upon the Recipient's premises to conduct an audit or investigation of the Recipient regarding the Recipient's compliance with the Agreement, including assessing any of the following:

- (a) the truth of any of the Recipient's representations and warranties; and
- (b) the Recipient's allocation and expenditure of the Funds.

A7.5 **Inspection and Removal.** For the purposes of any Records Review, the Province may take one or more of the following actions:

- (a) inspect and copy any records and documents referred to in section A7.3 (Record Maintenance); and
- (b) remove any copies the Province makes pursuant to section A7.5(a).

A7.6 **Cooperation.** To assist the Province in respect of its rights provided for in section A7.5 (Inspection and Removal), the Recipient will cooperate with the Province by:

- (a) ensuring that the Province has access to the records and documents including, without limitation, paid invoices and original receipts, wherever they are located;

- (b) assisting the Province in copying records and documents;
- (c) providing to the Province, in the form the Province specifies, any information the Province identifies; and
- (d) carrying out any other activities the Province requests.

A7.7 **No Control of Records.** No provision of the Agreement will be construed so as to give the Province any control whatsoever over the Recipient's records.

A7.8 **Auditor General.** The Province's rights under Article A7.0 (Reporting, Accounting and Review) are in addition to any rights provided to the Auditor General pursuant to section 9.2 of the *Auditor General Act* (Ontario).

A8.0 COMMUNICATIONS REQUIREMENTS

A8.1 **Acknowledge Support.** Unless the Province directs the Recipient to do otherwise, the Recipient will in each of its Agreement-related publications whether written, oral or visual:

- (a) acknowledge the support of the Province for the Funds provided under the Agreement;
- (b) ensure that any acknowledgement is in a form and manner as the Province directs; and
- (c) indicate that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of the Province.

A8.2 **Request from the Province in Respect of Communications Activities.** The Recipient will, upon Notice from the Province, provide the Province with any information the Province may request in respect of any Communications Activities.

A9.0 INDEMNITY

A9.1 **Indemnification.** The Recipient will indemnify and hold harmless the Indemnified Parties from and against any Loss and any Proceeding, unless solely caused by the negligence or wilful misconduct of the Indemnified Parties.

A10.0 INSURANCE

A10.1 **Recipient's Insurance.** The Recipient is responsible for its own insurance and has been carrying, at its own costs and expense, and requiring the same from its

subcontractors, all the necessary and appropriate insurance that a prudent municipality in similar circumstances would maintain in order to protect itself and the Indemnified Parties and support the Recipient's indemnification set out in section A9.1 (Indemnification). For greater certainty, the Recipient is not covered by the Province of Ontario's insurance program and no protection will be afforded to the Recipient by the Government of Ontario for any Loss or Proceeding that may arise out of the Agreement.

A11.0 TERMINATION ON NOTICE

A11.1 Termination on Notice. The Province may terminate the Agreement at any time without liability, penalty, or costs upon giving at least 30 days' Notice to the Recipient.

A11.2 Consequences of Termination on Notice by the Province. If the Province terminates the Agreement pursuant to section A11.1 (Termination on Notice), the Province may take one or more of the following actions:

- (a) cancel all further instalments of Funds; and
- (b) demand from the Recipient the repayment of any Funds provided to the Recipient in accordance with this Agreement.

A12.0 EVENT OF DEFAULT, CORRECTIVE ACTION, AND TERMINATION FOR DEFAULT

A12.1 Events of Default. It will constitute an Event of Default if, in the opinion of the Province, the Recipient breaches any representation, warranty, covenant, or other material term of the Agreement including, without limitation, failing to do any of the following in accordance with the terms and conditions of the Agreement:

- (a) use or spend any of the Funds or related interest for a purpose other than that contemplated under the Agreement without the prior written consent of the Province;
- (b) provide, in accordance with Article A7.0 (Reporting, Accounting and Review), Reports or such other reports as may have been requested pursuant to paragraph A7.2(b); or
- (c) Provide any necessary update to the Province with respect to the accuracy of the content or information contained and submitted to the Province in any Report provided in accordance with this Agreement or the Guidelines.

A12.2 Consequences of Events of Default and Corrective Action. If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) provide the Recipient with an opportunity to remedy the Event of Default;
- (b) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient;
- (c) demand from the Recipient the payment of an amount equal to any Funds the Recipient used, but did not use in accordance with the Agreement;
- (d) demand from the Recipient the payment of an amount equal to any Funds the Province provided to the Recipient;
- (e) demand from the Recipient the payment of an amount equal to the costs the Province incurred or incurs to enforce its rights under the Agreement, including the costs of any Record Review and the costs it incurs to collect any amounts the Recipient owes to the Province; and
- (f) terminate the Agreement at any time, including immediately, without liability, penalty or costs to the Province upon giving Notice to the Recipient.

A12.3 Opportunity to Remedy. If, in accordance with paragraph A12.2(a), the Province provides the Recipient with an opportunity to remedy the Event of Default, the Province will provide Notice to the Recipient of:

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

A12.4 Recipient not Remediating. If the Province has provided the Recipient with an opportunity to remedy the Event of Default pursuant to paragraph A12.2(a), and:

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

the Province may extend the Notice Period, or initiate any one or more of the actions provided for in paragraph A12.2.

A12.5 When Termination Effective. Termination under this Article A12.0 (Event of Default, Corrective Action, and Termination for Default) will take effect as provided for in the Notice.

A13.0 FUNDS UPON EXPIRY

A13.1 Funds Upon Expiry. The Recipient will, upon expiry of the Agreement, pay to the Province any Funds remaining either in its possession, under its control, or both.

A14.0 DEBT DUE AND PAYMENT

A14.1 Payment of Overpayment. If at any time the Province provides Funds in excess of the amount to which the Recipient is entitled under the Agreement, the Province may:

- (a) demand that the Recipient pay an amount equal to the excess Funds to the Province.

A14.2 Debt Due. If, pursuant to the Agreement:

- (a) the Province demands from the Recipient the payment of any Funds or an amount equal to any Funds; or
- (b) the Recipient owes any Funds, SRA Phase 1 Contribution and SRA Phase 3 Contribution, or an amount equal to any Funds, SRA Phase 1 Contribution, or SRA Phase 3 Contribution to the Province, whether or not the Province has demanded their payment,

such amounts will be deemed to be a debt due and owing to the Province by the Recipient, and the Recipient will pay the amounts to the Province immediately, unless the Province directs otherwise. This paragraph shall be in addition to any rights provided for under paragraph A4.4 above and shall not be construed by either Party as a conflict to said paragraph.

A14.3 Interest Rate. The Province may charge the Recipient interest on any money owing by the Recipient at the then current interest rate charged by the Province of Ontario on accounts receivable.

A14.4 Payment of Money to Province. The Recipient will pay any money owing to the Province by cheque payable to the "Ontario Minister of Finance" and delivered to the Province as provided for in Schedule "B" (Contact Information and Authorized Representatives).

A14.5 Fails to Pay. Without limiting the application of section 43 of the *Financial*

Administration Act (Ontario), if the Recipient fails to pay any amount owing under the Agreement, His Majesty the King in right of Ontario may deduct any unpaid amount from any money payable to the Recipient by His Majesty the King in right of Ontario.

A15.0 NOTICE FOR MATTERS PURSUANT TO THE AGREEMENT.

A15.1 Notice in Writing and Addressed. Any Notice that shall be required to be provided by one Party to the other Party pursuant to the Agreement will be:

- (a) in writing;
- (b) delivered by email, postage-prepaid mail, personal delivery or courier; and
- (c) addressed to the Province and the Recipient as set out in Schedule “B” (Contact Information and Authorized Representatives), or as either Party later designates to the other by Notice.

A15.2 Notice Given. Notice will be deemed to have been given:

- (a) in the case of postage-prepaid mail, five Business Days after the Notice is mailed; and
- (b) in the case of email, personal delivery or courier on the date on which the Notice is delivered.

A15.3 Postal Disruption. Despite paragraph A15.2(a), in the event of a postal disruption:

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

A16.0 CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT

A16.1 Consent. When the Province provides its consent pursuant to the Agreement:

- (a) it will do so by Notice;
- (b) it may attach any terms and conditions to the consent; and
- (c) the Recipient may rely on the consent only if the Recipient complies with any terms and conditions the Province may have attached to the consent.

A17.0 SEVERABILITY OF PROVISIONS

A17.1 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement will not affect the validity or enforceability of any other provision of the Agreement.

A18.0 WAIVER

A18.1 **Waiver Request.** Either Party may, by Notice, ask the other Party to waive an obligation under the Agreement or the Guidelines.

A18.2 **Waiver Applies.** If in response to a request made pursuant to section A18.1 (Waiver Request) a Party consents to a waiver, the waiver will:

- (a) be valid only if the Party that consents to the waiver provides the consent by Notice; and
- (b) apply only to the specific obligation referred to in the waiver.

A19.0 INDEPENDENT PARTIES

A19.1 **Parties Independent.** The Recipient is not an agent, joint venturer, partner, or employee of the Province, and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any actions that could establish or imply such a relationship.

A20.0 ASSIGNMENT OF AGREEMENT OR FUNDS

A20.1 **No Assignment.** The Recipient will not, without the prior written consent of the Province, assign any of its rights or obligations under the Agreement.

A20.2 **Agreement Binding.** All rights and obligations contained in the Agreement will extend to and be binding on:

- (a) the Recipient's successors, and permitted assigns; and
- (b) the successors to His Majesty the King in right of Ontario.

A21.0 GOVERNING LAW

A21.1 **Governing Law.** The Agreement and the rights, obligations and relations of the Parties will be governed by and construed in accordance with the laws of the

Province of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with the Agreement will be conducted in the courts of Ontario, which will have exclusive jurisdiction over such proceedings.

A22.0 FURTHER ASSURANCES

A22.1 Agreement into Effect. The Recipient will:

- (a) provide such further assurances as the Province may request from time to time with respect to any matter to which the Agreement or the Guidelines pertains; and
- (b) do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

A23.0 JOINT AND SEVERAL LIABILITY

A23.1 Joint and Several Liability. Where the Recipient is comprised of more than one entity, all such entities will be jointly and severally liable to the Province for the fulfillment of the obligations of the Recipient under the Agreement.

A24.0 RIGHTS AND REMEDIES CUMULATIVE

A24.1 Rights and Remedies Cumulative. The rights and remedies of the Province under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

A25.0 FAILURE TO COMPLY WITH OTHER AGREEMENTS

A25.1 Other Agreements. If the Recipient:

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

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

A26.0 SURVIVAL

A26.1 Survival. The following Articles, sections and paragraphs, and all applicable cross-referenced Articles, sections, paragraphs, schedules and sub-schedules, will continue in full force and effect for a period of seven years from the date of expiry or termination of the Agreement: Article 1.0 (Entire Agreement), paragraph 3.2(b), Articles 2.0 (Conflict or Inconsistency), 5.0 (Acknowledgment), and A1.0 (Interpretation and Definitions) and any other applicable definitions, paragraph A2.1(a), sections A4.4 (Deduction of SRA Phase 1 Contribution and SRA Phase 3 Contribution, Rebates, Credits and Refunds), A5.1 (Disposal), A7.1 (Province Includes), A7.2 (Preparation and Submission) to the extent that the Recipient has not provided the Reports or other reports as may have been requested to the satisfaction of the Province, A7.3 (Record Maintenance), A7.4 (Records Review), A7.5 (Inspection and Removal), A7.6 (Cooperation), A7.7 (No Control of Records), A7.8 (Auditor General), Articles A8.0 (Communications Requirements) and A9.0 (Indemnity), sections A11.2 (Consequences of Termination on Notice by the Province) and A12.1 (Events of Default), paragraphs A12.2, Articles A13.0 (Funds Upon Expiry), A14.0 (Debt Due and Payment), A15.0 (Notice for Matters Pursuant to the Agreement) and A17.0 (Severability of Provisions), section A20.2 (Agreement Binding), Articles A21.0 (Governing Law), A23.0 (Joint and Several Liability), and A24.0 (Rights and Remedies Cumulative), and this Article A26.0 (Survival).

A27.0 SPECIAL CONDITIONS

A27.1 Special Conditions. The provision of the Funds by the Province to the Recipient under the Agreement is conditional upon,

- (a) on or before the Effective Date , the Recipient providing the Province with:
 - (i) a copy of the by-law(s) and, if applicable, any council resolution(s) authorizing the execution of the Agreement by the Recipient;
 - (ii) the necessary information, including a void cheque or a blank letter, to facilitate an electronic transfer to an interest-bearing account in the name of the Recipient at a Canadian financial institution; and

- END OF GENERAL TERMS AND CONDITIONS -

**SCHEDULE “B”
CONTACT INFORMATION AND AUTHORIZED REPRESENTATIVES**

<p>Contact information for the purposes of Notice to the Province</p>	<p>Address: Strategic Investments Office Ministry of Transportation 777 Bay, 30th Floor Toronto, ON M7A 2J8</p> <p>Attention: Kevin Dowling, Manager, Strategic Investments Office</p> <p>Phone: (416) 859-7912 Email: kevin.dowling@ontario.ca</p>
<p>Contact information for the purposes of Notice to the Recipient</p>	<p>Address: 1225 Trafalgar Road, Oakville, ON L6H 0H3</p> <p>Attention: Nancy Sully</p> <p>Phone: 905-845-6601 ext-6100 Email: nancy.sully@oakville.ca</p>
<p>Contact information for the senior financial official in the Recipient organization (e.g., CFO, CAO) – to respond as required to requests from the Province in respect of the Agreement</p>	<p>Address: 1225 Trafalgar Road, Oakville, ON L6H 0H3</p> <p>Attention: Nancy Sully</p> <p>Phone: 905-845-6601 ext-6100 Email: nancy.sully@oakville.ca</p>
<p>Authorized representative of the Province for the purpose of section 4.2 (Execution of Amending Agreements)</p>	<p>Position: Director Municipal Programs Branch, Ministry of Transportation</p>
<p>Authorized representative of the Recipient for the purpose of section 4.2 (Execution of Amending Agreements)</p>	<p>Position: Commissioner of Corporate Services & Treasurer</p>

SCHEDULE “C”
ELIGIBLE EXPENDITURES AND INELIGIBLE EXPENDITURES

C1.0 ELIGIBLE EXPENDITURES

C1.1 **Scope of Eligible Expenditures.** Eligible Expenditures include, at the Province’s sole discretion, the following losses and costs incurred during the Eligibility Period:

Net Revenue Losses

- (a) The following revenue losses will be considered Eligible Expenditures, which shall be calculated by subtracting the difference between the Operating Budget and actual revenue for the Eligibility Period, minus the non-COVID 19 related revenue changes during the same period:
 - (i) farebox revenue losses;
 - (ii) advertising revenue losses;
 - (iii) parking revenue losses;
 - (iv) contract revenue losses; and
 - (v) any other revenue loss the Recipient incurred as a result of the COVID-19 pandemic that, in the opinion of the Province, is considered eligible.

Operating Costs

- (b) The following operating costs measured against the Operating Budget (i.e., (operating costs amount in the Operating Budget minus the actual operating costs amount during the Eligibility Period) minus the non-COVID-19 pandemic operating costs amount = the eligible operating costs amount) that, in the opinion of the Province, the Recipient properly and reasonably incurred and paid as a result of the COVID-19 pandemic will be considered Eligible Expenditures:
 - (i) costs associated with vehicle cleaning;
 - (ii) costs associated with changes in fuel consumption (e.g., increases due to running additional buses or savings in consumption relating to lower service levels than budgeted, or both);

- (iii) costs associated with vehicle maintenance;
- (iv) costs associated with transit facilities;
- (v) costs resulting from existing contracts with expanded scope/new contracts;
- (vi) employee related costs (i.e., salaries, wages, benefits);
- (vii) costs for employee personal protection equipment (e.g., face masks, gloves, sanitizer);
- (viii) costs for signage and other means of communications related to the COVID-19 pandemic (e.g., social distance guidance); and
- (ix) any other operating cost the Recipient incurred as a result of the COVID-19 pandemic that, in the opinion of the Province, is considered eligible.

Capital Costs

- (c) The following capital costs that, in the opinion of the Province, the Recipient properly and reasonably incurred and paid as a result of the COVID-19 pandemic, will be considered Eligible Expenditures:
 - (i) costs associated with installing driver protection barriers and other protection measures for transit drivers;
 - (ii) costs associated with providing passenger protection equipment and other passenger safety measures; and
 - (iii) any other capital cost the Recipient incurred as a result of the COVID-19 pandemic that, in the opinion of the Province, is considered eligible.

Priority Transit Initiatives

- (d) The following operating and capital costs incurred and paid that support priority transit initiatives:
 - (i) Up to 50% of the total costs for initiatives that support a long-term vision for regional fare and service integration;
 - (ii) Up to 50% of the total costs for On-Demand Transit studies and pilot initiatives; and
 Up to 50% of the total costs for expenses to support the transformation of transit structures/governance between neighbouring municipal governments, where the Province has been engaged in discussions.

C2.0 INELIGIBLE EXPENDITURES

C2.1 Scope of Ineligible Expenditures. Unless a cost or a loss is considered an Eligible Expenditure pursuant to section C1.1 (Scope of Eligible Expenditures), such cost or loss will be considered an Ineligible Expenditure. Without limitation, the following costs and loss will be considered Ineligible Expenditures:

- (a) costs incurred outside of the Eligibility Period;
- (b) costs not paid prior to having been submitted to the Province for payment;
- (c) Recipient's staff, including permanent and seasonal, salaries and travel costs unless otherwise indicated in paragraph (b)(vi) of section C1.1 (Scope of Eligible Expenditures);
- (d) legal, audit, or interest fees;
- (e) any operating or capital cost that, in the opinion of the Province, the Recipient could not have properly and reasonably incurred or paid, or both, during the Eligibility Period and as a result of the COVID-19 pandemic (i.e., excess purchases or stockpiling);
- (f) any loss that, in the opinion of the Province, the Recipient could not have properly and reasonably incurred during the Eligibility Period and as a result of the COVID-19 pandemic;
- (g) refundable Harmonized Sales Tax or other refundable expenses; and
- (h) any other cost which is not specifically listed as an Eligible Expenditure under section C1.1 (Scope of Eligible Expenditure) and which, in the opinion of the Province, is considered ineligible.

SCHEDULE “D” PAYMENT PROCEDURES

D1.0 PAYMENT PROCEDURES

- D1.1 **Submission of Claim for Payment and Required Documentation.** In order to receive payment, the Recipient will have submitted all Reports, including, without limitation, its claim for payment, together with the supporting documentation set out in the Guidelines in accordance with the timelines required therein, or at a later date if, the Province consents to a later date in its sole and absolute discretion.
- D1.2 **Claim Payments.** Subject to the terms and conditions set out in the Agreement and the Guidelines and if due and owing under the Agreement, the Province will use its reasonable efforts to make the payment to the Recipient for the claim submitted pursuant to section D1.1 (Submission of Claim for Payment and Required Documentation) within 90 business days from the date the claim is approved and accepted by the Province.
- D1.3 **No Interest.** The Province will under no circumstances be liable for interest for failure to make a payment within the time limit provided for in section D1.2 (Claim Payments).
- D1.4 **No Obligation to Pay.** For greater clarity and without limitation to any other right of the Province, the Province will have no obligation to pay a claim if it does not meet the terms and conditions of the Agreement including, without limitation, or if the claim is missing any of the required supporting documentation, Reports or such documentation and Reports are not in accordance with the Guidelines or the Agreement, or both.
- D1.5. **Lump Sum Payment.** In accordance with the foregoing, all payment of the Funds to be provided by the Province to the Recipient pursuant to the Agreement shall be made in a single lump sum payment, as calculated in accordance with the terms in the Agreement and the Guidelines, up to the Maximum Funds.