

**MEMORANDUM OF AGREEMENT**

**BETWEEN**

**ALBERTA TRANSPORTATION**

**AND**

**Insert APPLICANT NAME**

**FOR THE GREENTRIP PROJECT**

**Insert PROJECT NAME**

**MEMORANDUM OF AGREEMENT made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2014.**

**BETWEEN:**

**HER MAJESTY THE QUEEN**, in right of Alberta,  
as represented by the Minister of Transportation  
(the “Minister”)

-and-

**APPLICANT NAME**,

in the Province of Alberta (the “Applicant”)

**WHEREAS**, the Minister has introduced the Green Transit Incentives Program (hereafter “GreenTRIP”) to support the provincial public transportation initiatives that contribute towards environmental benefits such as increased use of public transit, reduction of roadway congestion, green house gas emission reductions, and other socio-economic benefits; and

**WHEREAS**, the Applicant has proposed the **(PROJECT NAME)**, (the “Project”); and

**WHEREAS**, the Minister has concurred that this Project is beneficial to both the Applicant and the intent of the provincial initiative; and

**WHEREAS**, under the *Government Organization Act R.S.A. 2000 Chapter G-10, section 13*, and the Regulations passed pursuant to the Act, the Minister may enter into Agreements with the Applicant to share the costs for public transit projects;

**WHEREAS** the Minister has agreed to contribute funds to share the Project costs with the Applicant up to a maximum of **(FUNDING AMOUNT)**, being two-thirds of the estimated eligible costs incurred by the Applicant required for the Project under GreenTRIP, upon the terms and conditions contained herein;

**WHEREAS** these funds are to be used by the Applicant as the Minister’s portion of the eligible expenditures incurred on the Project as approved by the Applicant (Council) and accepted by the Minister; and

**WHEREAS** the Applicant has agreed to accept these funds upon the terms and conditions contained herein;

**NOW THEREFORE** in consideration of the mutual terms and conditions hereinafter specified, the Minister and the Applicant agree as follows:

1. The recitals and Appendices to this Agreement shall form an integral part of this Agreement.
2. The Minister agrees to provide a cost-sharing grant of **SIXTY-SIX AND TWO-THIRDS PERCENT (66 <sup>2</sup>/<sub>3</sub>%)** of the eligible project costs of up to a maximum amount of **(WRITTEN OUT VALUE (\$\$\$\$\$\$))**.
3. In the event that sixty-six and two-thirds percent (66 <sup>2</sup>/<sub>3</sub>%) of the eligible costs associated with the Project exceed the maximum amount indicated in Section 2, the Applicant shall be fully responsible for the additional costs, and there will be no additional shared costs from the Minister in the case of cost overruns.
4. These funds shall be administered in accordance with the submission Procedure and Guidelines for GreenTRIP (the “Guidelines”), including all submission and reporting procedures.
5. The Applicant shall perform the activities related to the submitted Project proposal, which generally consists of **(BRIEF PROJECT DESCRIPTION)** and is further explained in Appendix “A”.
  - a) **(PROVINCIAL STIPULATIONS AS APPLICABLE)**.
  - b) **(PROVINCIAL STIPULATIONS AS APPLICABLE)**.
  - c) **(PROVINCIAL STIPULATIONS AS APPLICABLE)**.
6. The Applicant will comply with all applicable laws and regulations in the performance of the Project activities.
7. The Minister shall provide payments to the Applicant generally in accordance with the progress of the Project, and eligible cost shared expenditures by the Applicant subject to the terms and conditions contained in this Agreement and the program Guidelines.

Where the provincial share of the GreenTRIP funding for an approved project is not able to be provided in a timely manner, the Applicant may request departmental approval to borrow funds to account for the deferred provincial share. Where the borrowing is approved, the interest on the borrowed funds may be included as an eligible project cost and reported on a progress claim and/or expenditure summary. The maximum borrowed may not exceed the amount of the deferred provincial grant payments.

8. The Applicant agrees that payments under this contribution Agreement are subject to the following:
  - a) the appropriation of funds by the Legislature sufficient to provide the funding under this Agreement, the sufficiency of which shall be determined at the sole discretion of the Minister;
  - b) the allocation of the funding shall be set at the sole discretion of the Minister; and
  - c) proof of progress on the Project; and

- d) timely submission of progress claims and Project status reports in accordance with the Guidelines.
9. The Applicant accepts the funds granted conditionally by the Minister on the following additional terms and conditions:
- a) the Applicant shall maintain a separate accounting of all monies received from the Minister under this Agreement equivalent to the monies being deposited in an interest bearing account separate from all other monies of the Applicant;
  - b) the Applicant may invest the funds provided, or unutilized portions thereof, in accordance with the Acts and Regulations applicable to the Applicant;
  - c) the Applicant shall determine “income earned” on the advanced or unexpended funds as described in the Guidelines and deducted from the total eligible project cost before determining the sharable cost under this agreement;
  - d) the Applicant shall maintain adequate financial records relating to the payments advanced under this Agreement and shall keep proper books, accounts, and records of the cost of the materials, services or resources funded under this Agreement, in accordance with generally accepted accounting principles, and have them available at all times during the term of this Agreement and for a period of three (3) years after completion of the project;
  - e) during the term and for three (3) years after the completion of the project or after expiry of this Agreement, whichever is latest, the Applicant shall produce on demand to any representation of the Minister any of the books accounts and records referred to above and shall permit such representative to examine and audit these books, accounts and records and take copies and extracts of them;
  - f) the Applicant shall submit an annual summary of expenditures in a format as specified in the Guidelines.
10. The Applicant shall use the funds paid to it under this Agreement only for the purposes and expenditures of the Project as described in Appendix “A”, and the Applicant shall not use the funds for any other purpose or vary the budget allocation without the prior written consent of the Minister’s Representative.
11. The Applicant agrees it is not entitled to claim compensation for its costs, expenses, inconvenience or time expended in relation to the administration of the funds advanced conditionally under this Agreement nor in respect to this Agreement.
12. The Applicant acknowledges that this Agreement and all reports and other records submitted to the Minister will be subject to the access and disclosure provisions of the Freedom of Information and Protection of Privacy Act.
13. Subject to any applicable laws, the Applicant shall allow the Minister access to or provide copies to the Minister of any data or information acquired, collected or produced under this Agreement.

14. The Applicant shall provide the Minister with:
  - a) financial statements of the Project which may take the form of the annual report as written for the Applicant;
  - b) a description of projects, services and accomplishments that indicate what was actually supported by the payments advanced under this Agreement; and,
  - c) a description of the accomplishments made relative to the goals as identified in the GreenTRIP program.
15. The Applicant must submit the final accounting for the project as outlined in the Guidelines within six (6) months of completion of the project.

Following the submission of the Applicant's final accounting for the project, the remaining funds up to the lesser of the maximum provincial share eligible or the maximum grant amount in Section 3 will be provided to the Applicant. This amount will be provided within 3 months of submission of the accepted final accounting, subject to provincial budget availability.

16. The Applicant shall retain title to, and ownership of, the Project assets, and operate the project for at least ten (10) years after Project completion. If, at any time within ten (10) years from the date of completion of the Project, the Applicant sells, leases, encumbers or otherwise disposes of, directly or indirectly, any asset purchased, constructed, rehabilitated or improved, in whole or in part, with funds contributed under the terms of this Memorandum of Agreement, other than to Alberta or a Crown corporation of Alberta, the Applicant shall repay Alberta on demand, a proportionate amount of the funds contributed under this Memorandum of Agreement, as follows:
  - a) Within 2 Years after Project completion – 100% of funds contributed;
  - b) Between 2 and 5 Years after Project completion – 55% of funds contributed; or
  - c) Between 5 and 10 Years after Project completion – 10% of funds contributed.
17. The Applicant agrees to provide to the Minister, on an annual basis, the continuing benefits and comparison to stated project benefits originally developed for this project, for a period of ten (10) years after completion of the project.
18. The Applicant agrees to participate in public communications activities, including public announcements, official project openings, the placement of project cost-sharing signs, project or recognition plaques, or other such activities as requested by the Minister.
19. If this Agreement is renewed within ninety (90) days after the expiry date set out in Section 20 of this Agreement, any part or portion of the funds paid by the Minister to the Applicant under this Agreement that has not been expended, or which cannot be reasonably attributed to the Project, shall be carried forward together with all interest in the account to the next fiscal year or be re-assigned to other provincial funding programs at the discretion of the Minister.

20. The latest completion date for work undertaken under this agreement shall be December 31, 20XX. Any conditional funds, including income earned, that are unexpended by March 31, 20XX shall be returned to the Minister of Finance by June 30, 20XX or be re-assigned to other provincial funding programs at the sole discretion of the Minister.
21. All Projects receiving funding from the Minister under GreenTRIP shall be undertaken fully in accordance with the *Highways Development and Protection Act, R.S.A. 2004, Chapter H-8.5*, and the Regulations passed pursuant to the Act, including any amendments to both which may be made from time to time, and in accordance with the Guidelines as may be amended by the Minister from time to time.
22. All work on the project shall be carried out in accordance with the rules, regulations, trade agreements and laws governing such works and in accordance with the best general practice, and in a manner acceptable to the Minister. This includes, but is not limited to, the *Agreement on Internal Trade (AIT)*, the *Trade, Investment and Labour Mobility Agreement (TILMA)*, and the *New West Partnership Trade Agreement (NWPTA)*.
23. In the event the Applicant breaches any provision of this Agreement, the Applicant must repay all or a portion of the payments advanced to the Applicant by the Minister under this Agreement.
24. The Applicant shall indemnify and save harmless the Minister, the Minister's agents and employees, from and against all actions, claims and demands arising directly or indirectly from the preparation for or implementation of the Project, whether or not the damage arose as a result of the actions or omissions of third parties.
25. The Applicant shall allow the Minister and/or his agents, including but not limited to, the Auditor General of Alberta and representatives of Alberta Transportation, access to the following:
  - a) Project site;
  - b) any engineering drawings or documents;
  - c) any books of accounts relating to expenditures claimed under this agreement;
  - d) and any other such project related documents as deemed necessary by the Minister in performing an audit of the projects undertaken under this agreement.
26. All Project related documents shall be kept by the Applicant for a minimum of three (3) years following completion of the project.
27. The parties shall give this Agreement a fair and reasonable interpretation and, when required, negotiate with fairness and candor any modifications or alteration thereof for the purpose of carrying out the intent of this Agreement and/or rectifying any omission in any of these provisions.
28. Any notice, demand, or other document required or permitted to be given under the terms of this Agreement, shall be sufficiently given to the party to whom it is addressed, if delivered or forwarded by registered mail to:

To the Minister of Transportation at:

XXX Legislature Building  
10800 – 97 Avenue  
Edmonton, Alberta  
T5K 2B6

Concurrently with a copy to:

Department Contact  
Alberta Transportation  
4999-98 Avenue  
Edmonton, Alberta T6B 2X3

or to the Applicant at:

Attention:  
The Mayor  
Applicant's Address

Concurrently with a copy to:

Applicant Contact  
Applicant's Address

29. The Applicant shall not be an agent of the Minister for any purpose and have no authority to bind the Minister in any manner.
30. The Minister and the Applicant shall both:
  - a) ensure that their employees comply with the provisions of this Agreement; and
  - b) contract with their agents to comply with this Agreement.
31. Each party will perform the acts, execute and deliver the writings, do all such things and give the assurances necessary to give full effect to this Agreement.
32. The Applicant shall not assign, transfer or dispose of this Agreement or any of the rights and privileges conferred hereby without first obtaining the written consent of the Minister, such consent not to be unreasonably withheld.
33. The rights, remedies and privileges of the Minister under this Agreement are cumulative and any one or more may be exercised.

34. No waiver of any breach of a covenant or provision of this Agreement shall take effect or be binding upon a party unless it is expressed in writing. A waiver by a party of any breach shall not limit or affect that party's rights with respect to any other or future breach.
35. The parties shall not change this Agreement except by mutual consent and by written agreement.
36. This Agreement shall be interpreted and applied according to the laws in force, in the Province of Alberta.
37. In this Agreement, words in the singular include the plural and words in the plural include the singular.
38. This Agreement may be executed in any number of counterparts, each of which when executed and delivered is an original but all of which taken together shall constitute one and the same instrument. This Agreement may be executed and delivered by fax transmission sent to any party hereto or their counsel.
39. This Agreement shall endure to the benefit of and be binding to the parties hereto and their successors and assigns.
40. This Agreement embodies the entire agreement between the Minister and the Applicant. The parties shall not be bound by or liable for any statement, representation, promise, inducement, or understanding of any kind or nature not set forth herein. No additional changes, amendments, or modifications of any of the terms or conditions of this Agreement shall be valid unless in writing and signed by both parties.



IN WITNESS WHEREOF this Agreement has been duly executed by the parties hereto as of the date first above written.

**SIGNED ON BEHALF OF  
ALBERTA TRANSPORTATION**

**SIGNED ON BEHALF OF APPLICANT**  
as represented by **the Mayor:**

\_\_\_\_\_  
*Authorized Department Official*

\_\_\_\_\_  
*His Worship*

\_\_\_\_\_  
*Witness*

\_\_\_\_\_  
*City Clerk (seal)*

\_\_\_\_\_  
*Date signed*

\_\_\_\_\_  
*Date signed*

DRAFT

## APPENDIX “A”

The following is a list of the primary items to be undertaken under this project funding agreement.

The list is deemed to include all related items necessary for the purchase, design, construction and commissioning of projects approved under the terms of this agreement, subject to the conditions as outlined in the *GreenTRIP Submission Procedures and Guidelines*.

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### NOTES:

1. Functional and operational planning is not eligible
2. Commercial or non-transit related components are not eligible