

CANADA
ONTARIO
THE ASSOCIATION OF MUNICIPALITIES OF
ONTARIO
and THE CITY OF TORONTO



**AGREEMENT FOR THE TRANSFER OF FEDERAL GAS
TAX REVENUES UNDER
THE NEW DEAL FOR CITIES AND COMMUNITIES**

This Agreement made as of June 17, 2005

BETWEEN: HER MAJESTY IN RIGHT OF CANADA, (“Canada”) represented by the Minister of State (Infrastructure and Communities) (“Federal Minister”)

AND: HER MAJESTY IN RIGHT OF THE PROVINCE OF ONTARIO, (“Ontario”) represented by the Minister of Municipal Affairs and Housing (“Provincial Minister”)

AND: THE ASSOCIATION OF MUNICIPALITIES OF ONTARIO (“AMO”) represented by the President

AND: THE CITY OF TORONTO (“Toronto”) represented by His Worship the Mayor of Toronto

PREAMBLE

WHEREAS Canada, Ontario and Ontario municipalities, as represented by AMO and Toronto, wish to cooperate in making a transformative difference in the sustainability and future prosperity of cities and communities in Ontario for Canada’s future.

WHEREAS Canada's New Deal for Cities and Communities will: engage governments, stakeholders and the citizens of Canada in purposeful partnerships; foster vibrant, creative, prosperous and sustainable cities and communities across Canada; and enable all Canadians to achieve a higher quality of life and standard of living.

WHEREAS the Government of Canada's Budget 2005 outlined an intent to provide provinces and territories an amount equivalent to a portion of the federal excise tax on gasoline ("Gas Tax Funding").

WHEREAS this Agreement includes the specific provisions on the Gas Tax for Environmentally Sustainable Municipal Infrastructure to primarily support environmental sustainability objectives under Canada's New Deal for Cities and Communities.

WHEREAS Canada, Ontario and Ontario municipalities, as represented by AMO and Toronto, have agreed to cooperate in the future on shared objectives under the New Deal for Cities and Communities which is based on a long-term vision of sustainability and which integrates four interdependent dimensions: economic, environmental, social and cultural. Canada, Ontario and Ontario municipalities may enter into separate agreements, including possible bilateral and trilateral agreements, to support sustainability objectives, including economic, environmental, social and cultural sustainability.

WHEREAS Canada, Ontario and Ontario municipalities, as represented by AMO and Toronto, recognize that all governments must work together collaboratively and in harmony to ensure that investments in communities are strategic, purposeful and forward-looking.

WHEREAS Canada, Ontario and Ontario municipalities, as represented by AMO and Toronto, agree that open communication with the public will best serve the right of Canadians to transparency, public accountability, and full information about the benefits of New Deal investments in communities.

WHEREAS Ontario recognizes that Ontario municipalities are accountable, mature governments that can ably represent the needs of their residents and can work with the Government of Canada to determine the best way to use federal gas tax revenues.

WHEREAS the Association of Municipalities of Ontario is a legally incorporated entity under the *Corporations Act* (Ontario) representing and acting in the interest of municipal government in Ontario.

WHEREAS Toronto is an incorporated municipality in Ontario established by provincial statute.

AND WHEREAS Ontario has legislative authority over Ontario's Unincorporated Areas and is best placed to assist Canada in the delivery of the Gas Tax Funds to Unincorporated Areas.

THEREFORE the Parties agree as follows:

1. PRINCIPLES

The Parties agree to the following joint principles as governing their actions with respect to this Agreement. These joint principles reflect both federal principles and principles agreed to on November 12, 2004, by all provincial and territorial ministers responsible for local government.

Principle 1 – Respect for jurisdiction: Canada, Ontario, AMO and Toronto will respect the roles of all governments. Furthermore, the Parties recognize the merit of full and meaningful partnerships across all governments to support the New Deal.

Principle 2 – A flexible approach: In recognition of the diversity of Canadian provinces and territories, regions, cities and communities, the Parties agree that the framework for the delivery of gas tax funding in Ontario will reflect the diversity of Ontario municipal governments, including Upper and Lower tier Municipalities, where they exist, and Unincorporated Areas.

Principle 3 – Equity: Canada is committed to treating provinces, territories, municipal governments and Unincorporated Areas equitably.

Principle 4 – Focus on long-term solutions: The Parties recognize the value of ongoing collaboration to address the needs of Canadian municipalities.

Principle 5 – Transparency: The Parties commit to an open and transparent governance process for the purposes of implementing this agreement.

Principle 6 – Regular reporting to Canadians: Where possible, existing mechanisms will be used to report on outcomes achieved with federal gas tax funds. The Government of Canada may also create a new publication to report to Canadians on the New Deal.

2. INTERPRETATION

a) Definitions

“Agreement” means this Canada – Ontario – AMO – Toronto agreement for the Transfer of Federal Gas tax Revenue under the New Deal for Cities and Communities.

“Annual Expenditure Report” means the annual report to be prepared and delivered by AMO to Canada, more particularly described in Schedule D.

“Audit Report” means an audit report prepared for AMO by a licensed auditor, more particularly described in Schedule D.

“Base Amount” means the total municipally-funded capital spending on Municipal Infrastructure by Eligible Recipients in the period January 1st, 2000 to December 31st, 2004.

“Capacity Building Projects” means projects and activities that strengthen the ability of Municipalities to develop and implement integrated community sustainability plans, as more particularly described in Schedule A.

“Capital Investment Plan” means a document, such as a capital plan, created through a public process, with approval from locally elected officials, providing a detailed understanding of anticipated investments into tangible capital assets that are considered “priorities”, along with a rationale.

“Environmentally Sustainable Municipal Infrastructure (ESMI) Projects” means Municipal Infrastructure projects that:

- (i) improve the quality of the environment and contribute to reduced greenhouse gas emissions, clean water, or clean air; and
- (ii) fall within the category of projects described in Schedule A hereto or, in the case of Unincorporated Areas, the category of projects described in Schedule H;

“Eligible Costs” means those costs described in Schedule B, incurred in respect of Eligible Projects.

“Eligible Projects” means Capacity Building Projects and ESMI Projects.

“Eligible Recipient” means:

- (i) a Municipality or its duly authorized agent (including its wholly owned corporation);
- (ii) a non-municipal entity, on the condition that the Municipality where the proposed Eligible Project would be housed has indicated support for the Eligible Project through a formal resolution of the Municipal council. A non-municipal entity includes:
 - for-profit organizations;
 - non-governmental organizations; or
 - not-for-profit organizations.

Federal and provincial entities in the form of departments, corporations and agencies are not eligible recipients.

“Eligible Recipient Requirement” means those requirements described in Schedule C hereto.

“Federal Minister” means the Minister of State (Infrastructure and Communities).

“Fiscal year” means the period beginning April 1 of a year and ending March 31 of the following year.

“Funding Agreement” means an agreement made between AMO and an Eligible Recipient pursuant to which Funds are paid to the Eligible Recipient.

“Funds” means the funds made available pursuant to this Agreement and includes any interest earned on the said Funds.

“GTF” means the Gas Tax Fund Transfer Payment Program, pursuant to which this Agreement is entered into.

“Infrastructure Programs” means Canada’s infrastructure programs in existence at the time of the execution of this Agreement including: The Canada Strategic Infrastructure Fund, The Border Infrastructure Fund, The Municipal Rural Infrastructure Fund and The Infrastructure Canada Program.

“Integrated Community Sustainability Plan” means a long-term plan, developed in consultation with community members, that provides direction for the community to realize sustainability objectives, including environmental, culture, social and economic objectives, as defined in Schedule G.

“Large Municipalities” means those municipalities identified in Schedule A.

“Local Roads Board” means a board as defined under the *Local Roads Boards Act*, RSO 1990, c.L27

“Lower-tier Municipality” means a municipality that forms part of an upper-tier Municipality for municipal purposes, as defined under the *Municipal Act, 2001* S.O. 2001 c.25.

“Municipal Infrastructure” means tangible capital assets in Ontario primarily for public use or benefit owned by an Eligible Recipient.

“Municipality” and **“municipalities”** means every municipality as defined under the *Municipal Act, 2001* S.O. 2001 c.25

“New Deal” and **“New Deal for Cities and Communities”** refers to the federal initiative to enhance Government of Canada commitments to advancing local sustainability in four major dimensions: economic, environmental, social and cultural.

“Outcomes Report” means the report to be delivered by AMO to Canada and made available to the public, which reports on the outputs and outcomes of the use of the Funds, using the Indicators, more particularly set out in Schedule E.

“Parties” means Canada, Ontario, the AMO and Toronto.

“Provincial Minister” means the Minister of Municipal Affairs and Housing.

“SIMSI” means Infrastructure Canada’s Shared Information Management System for Infrastructure.

“Third Party” means any person, other than a party to this Agreement that participates in the implementation of an Eligible Project.

“Unincorporated Areas” means territory within Ontario without municipal organisation.

“Upper Tier Municipality” means a Municipality of which two or more Lower-tier municipalities form part for municipal purposes, as defined under the *Municipal Act, 2001* S.O. 2001 c.25.

b) Entire Agreement

- i) This Agreement supersedes and invalidates all other commitments, representations and warranties relating to the subject matter hereof which the Parties may have made either orally or in writing prior to the date hereof,

and all of which will become null and void from the date this Agreement is signed.

- ii) Obligations imposed by this Agreement on each of the Parties are several and not joint such that, for example, each party is responsible for its own defaults and not for the defaults of other Parties.

c) Schedules

The following schedules are attached to form part of this Agreement:

- Schedule A –Description of Eligible Project Categories
- Schedule B – Eligible Costs
- Schedule C – Eligible Recipient Requirements
- Schedule D – Audit, Reporting and Evaluation
- Schedule E – Outcome Indicators
- Schedule F – Communications Protocol
- Schedule G – Integrated Community Sustainability Plans
- Schedule H – Unincorporated Areas

d) Precedence

In the event of a conflict, the part of this Agreement that precedes the signature of the Parties will take precedence over the Schedules.

e) Accounting Principles

All accounting terms not otherwise defined herein have the meanings assigned to them; all calculations will be made and all financial data to be submitted will be prepared in accordance with generally accepted accounting principles (GAAP) in effect in Canada and in Ontario. GAAP will include, without limitation, those principles approved or recommended from time to time by the Canadian Institute of Chartered Accountants or any successor institute, applied on a consistent basis.

3. PURPOSE OF AGREEMENT

The purpose of this Agreement is to:

- a. provide a framework for the transfer of the Funds for the benefit of Ontario communities for investment in environmentally sustainable infrastructure (PART I);
- b. identify the specific roles and responsibilities of the Parties (PART II); and
- c. confirm the Parties' commitment to future co-operation under a New Deal for Cities and Communities, based upon shared objectives, and which may result in agreements that become parallel to this agreement or appended as separate schedules (PART III).

PART I – GAS TAX FRAMEWORK

1. GAS TAX PURPOSE / OUTCOMES

a) Purpose

Gas Tax Funding will provide Ontario communities with a source of stable, predictable and long-term funding towards Environmentally Sustainable Municipal Infrastructure to help them address their infrastructure needs and meet sustainability objectives. Gas Tax Funding is incremental to federal, provincial and municipal infrastructure funding available to Municipalities and the 100% GST rebate available to all Municipalities.

Gas Tax Funding will be used for investments in:

- i) Environmentally Sustainable Municipal Infrastructure (ESMI) Projects
- ii) Capacity Building Projects.

b) Outcomes

Gas Tax Funds will support the following environmental objectives:

- Reduced Greenhouse Gas (GHG) emissions
- Cleaner water
- Cleaner air

2. CONTRIBUTION PROVISIONS

a) Allocation

Canada's total contribution for the benefit of Eligible Recipients and Unincorporated Areas in Ontario is as follows:

Fiscal year	Canada's Contribution: Gas Tax Funding
2005-2006	\$223.9 million
2006-2007	\$223.9 million
2007-2008	\$298.5 million
2008-2009	\$373.1 million
2009-2010	\$746.2 million
TOTAL	\$1865.5 million

b) Payment

Provided there is no default under the terms of this Agreement, Canada's contribution to AMO, Toronto and to Ontario for the benefit of Unincorporated

Areas, as set out above, will be paid as set out below, in equal semi-annual payments as follows:

1. The first payment will be made not later than July 1st of each Fiscal Year set out above.
2. The second payment will be made not later than November 1st of each Fiscal Year.

c) Appropriations

A payment due by Canada hereunder is conditional on a legislated appropriation for the GTF and Funds for the Fiscal Year in which the payment is due.

No payment will be made under this Agreement that is inconsistent with C-43 *Budget Implementation Act 2005* until Parliament has approved appropriations specific to Gas Tax Funding.

3. ALLOCATION AND DELIVERY MECHANISM

a) Allocation

Canada, AMO and Toronto agree that the allocation of Funds to all Ontario Municipalities will be based upon population, using 2001 National Census data made available by Statistics Canada, and that:

- i) the formula for allocation to Ontario Municipalities, excluding Toronto, via AMO, is as detailed in Part II, Section 2 c) of this Agreement; and
- ii) the specific allocation to Toronto is as detailed in Part II, section 3 of this Agreement.

Canada is also providing \$5.8 million over 5 years for the benefit of Ontario's Unincorporated Areas as detailed in Part II, section 1 of this Agreement.

b) Delivery Mechanism

Funds will be delivered to Eligible Recipients and Local Roads Boards via three complementary mechanisms:

- i) Canada's contribution to Municipalities, excluding Toronto, will be transferred directly to the AMO semi-annually for delivery to Municipalities, as detailed in Part II, section 2 of this Agreement.
- ii) Canada's contribution to Toronto will be transferred directly to Toronto semi-annually as detailed in Part II, section 3 of this Agreement.
- iii) Canada's contribution for the benefit of Unincorporated Areas will be transferred to Ontario which will then transfer Canada's contribution via Ontario's *Consolidated Revenue Fund Special (CRF) Purposes Account*

for Unincorporated Roads to eligible projects of Local Roads Boards as detailed in Part II, section 1 of this Agreement.

4. COMMITTEES

Upon execution of this Agreement, Canada, AMO and Toronto will promptly establish an Oversight Committee, consisting of two representatives from the Government of Canada, two representatives from AMO and two representatives from Toronto, which shall manage the implementation of the Agreement, save any portion of the Agreement that deals with Unincorporated Areas, in accordance with the respective roles and responsibilities of the Parties.

Ontario will appoint two individuals as advisors to the Oversight Committee who will assist in implementing Ontario's commitments under Part II, 1(b) and may advise the Committee on matters that are within Ontario's mandate.

Canada and Ontario will establish a separate committee, the Canada-Ontario committee, composed of 2 representatives of Canada and 3 representatives of Ontario to address issues that may arise in the administration of this Agreement in respect of the Unincorporated Areas.

PART II – ROLES AND RESPONSIBILITIES OF THE PARTIES

1. CANADA – ONTARIO

Canada and Ontario recognize that Gas Tax Funding is consistent with and contributes to Ontario's framework for comprehensive, integrated and long-term planning that supports and integrates the principles of strong communities, a clean and healthy environment and economic growth.

a) Canada's Commitments

Canada agrees that it:

- i) will honour any existing contribution agreement with Ontario in respect of Infrastructure Programs, in accordance with its terms.
- ii) will ensure that the funding under this Agreement provides additional revenues for Municipalities and Unincorporated Areas rather than displacing other federal infrastructure funding; and that it intends to renew and extend into the future, the Canada Strategic Infrastructure Fund, Municipal Rural Infrastructure Fund and Border Infrastructure Fund as they expire.
- iii) will work together with Ontario and Ontario Municipalities to examine other proposals regarding the New Deal.
- iv) will provide, in addition to the Funds set out in Part I, Section 2, Gas Tax Funding to First Nations on-reserve communities in Ontario to address their infrastructure needs.

- v) will transfer the amounts listed below to Ontario for the benefit of Unincorporated Areas for capital investments in public roads, more particularly described in Schedule H. Canada will provide 2005-2006 and 2006-2007 funds immediately upon execution of this Agreement.

Fiscal year	Allocation
2005-2006	\$696,000
2006-2007	\$696,000
2007-2008	\$928,000
2008-2009	\$1,161,000
2009-2010	\$2,321,000
5-Year Total	\$5,802,000

b) Ontario's Commitments

Ontario will ensure the long-term sustainability of Ontario's communities, through its comprehensive framework, including:

- i) land-use planning system and recent planning reforms, including the:
- Provincial Policy Statement, which supports the protection of Ontario's environment, promotes energy conservation, encourages settlement patterns which minimize negative impacts to air quality and climate change, supports long-term planning for alternative and renewable energy sources, discourages urban sprawl and supports public transit, promotes the development of more affordable housing and supports and protects rural areas; and
 - *Greenbelt Act, 2005*, S.O. 2005 c.1 which provides the authority to establish a Greenbelt Area and Greenbelt Plan to protect greenspace and contain urban sprawl in the Greater Golden Horseshoe region. The Greenbelt initiative has added one million acres of land to those areas already protected by the Oak Ridges Moraine Conservation Plan and Niagara Escarpment Plan to create a 1.8 million acre Greenbelt, the greenbelt was developed recognizing the need to strike a balance between protecting environmentally sensitive and agricultural lands and meeting the needs of growing communities.
- ii) Ontario's commitment to long-term strategic planning for growth through the:
- *Places to Grow Act*, which provides the legal framework necessary to develop a growth plan for any area of the province; and
 - Greater Golden Horseshoe Growth Plan, which will create stronger, more liveable communities, enhance the economy and

protect the natural environment of the fastest growing region of the country.

- iii) initiatives to protect and provide safe drinking water in Ontario, including existing and proposed legislation and regulations to support safe drinking water, source water protection and the full cost recovery of water and sewer services.
- iv) provincial gas tax program which, by providing Municipalities with a portion of the gas tax for public transportation, assists Municipalities in increasing their transit ridership; increasing the level of accessibility to public transit; supporting reduced commute times and cleaner air; reducing congestion; and assisting municipalities in becoming more self sustaining.
- v) Ontario's requirement that all municipalities prepare annual financial statements in accordance with the principles of the Public Sector Accounting Board, pursuant to Ontario Regulation 277/02.
- vi) The Rural Plan and the Northern Prosperity Plan, which include a vision and initiatives to support up-to-date and well-maintained infrastructure in northern and rural communities.

Ontario will build on these actions by committing to:

- i) ensure that Gas Tax Funding is incremental to provincial infrastructure funding available to Municipalities and to Unincorporated Areas.
- ii) not reduce, eliminate or claw back any Gas Tax Funding to Municipalities and Unincorporated Areas;
- iii) enable Ontario municipalities, through AMO, and enable Toronto to work directly with Canada to determine the best way to use federal gas tax revenues;
- iv) work with the AMO and Toronto to facilitate, where required, the implementation of the reporting, audit and evaluation frameworks as outlined in Part II, Sections 2 and 3;
- v) share information with Canada to assist the design and implementation of the GTF;
- vi) facilitate municipal reporting on the use of the Funds through existing reporting processes;
- vii) engage in an annual review of priorities with Canada.

Ontario also commits to administering the portion of the Funds dedicated to Ontario's Unincorporated Areas as follows:

- i) ensure the Funds are invested solely in eligible categories and projects described in Schedule H.
- ii) adhere to the provisions in Schedule H

- iii) ensure that the Funds allocated to Unincorporated Areas will not be used to reduce approved provincial contributions to Local Roads Boards in any given fiscal year.

Delivery Mechanism and Use of Funds

In order to achieve the Gas Tax Fund objectives while reaching the greatest number of residents in Unincorporated Areas and given that accurate population data for Unincorporated Areas is not available, as per Canada's direction, Ontario will distribute the Funds allocated to the Unincorporated Areas based on the kilometres of public roads managed for roads projects of Local Roads Boards.

In co-operation with the Local Roads Boards, Ontario will administer the Funds allocated to the Unincorporated Areas pursuant to Schedule H. Schedules A through G do not apply to Unincorporated Areas and Local Roads Boards.

Ontario will deposit the Funds allocated to the Unincorporated Areas into its *Consolidated Revenue Fund Special (CRF) Purposes Account for Unincorporated Roads* for projects of the Local Roads Boards.

Ontario will consult with Local Roads Boards to determine which eligible projects will be undertaken, and Ontario will engage contractors to fulfill the project work. Projects are local priorities and are part of an annually devised list of required capital road improvements.

Ontario will administer the Funds allocated to the Unincorporated Areas with existing resources and not be reimbursed for administration costs. Canada will authorize the use of funds to pay for the cost incurred by Ontario to carry out the annual financial audit required under this agreement.

Unexpended Funds allocated to the Unincorporated Areas may be carried over to subsequent years, until expiry of this Agreement. Any interest earned on the Funds will be applied only to eligible costs on eligible projects, as described in Schedule H.

Reporting

Commencing in 2008, Ontario, as administrator for the portion of funds for the benefit of Unincorporated Areas, will prepare and deliver to Canada no later than September 30th of each year, in respect of the prior Fiscal year, an annual report, detailing:

- the amounts received from Canada under this Agreement
- the amounts paid for eligible projects, as described in Schedule H, in aggregate

- listing each Local Road Board, the eligible project selected by each LRB, individual project values, amount spent to date for each project by Fiscal year, any amounts held at year end including interest to pay for Eligible Projects
- factual data, as determined by Ontario, on each eligible project in order for Canada to assess environmental outcomes

Audits

An audit report will be prepared by an external auditor for Ontario that provides an opinion as to whether all of the information contained in the annual expenditure report is complete and accurate. The audit report shall also provide an opinion as to whether the eligible projects met the requirements outlined in Schedule H.

Ontario agrees to ensure that proper and accurate accounts and records, including invoices, statements, receipts and vouchers in respect of all eligible projects described in Schedule H that receive Funds, are kept for at least three (3) years after termination of this Agreement and will, upon reasonable notice, make them available to Canada for inspection or audit.

Evaluation

No later than June 30, 2009, at its cost, Canada will complete a national evaluation of the program, incorporating Ontario's feedback on the administration of the Funds to Unincorporated Areas. Canada will share a draft of this national evaluation with Ontario, prior to its completion

No role

Except for Ontario's role in administering the Funds to Unincorporated Areas, Ontario will have no role in the allocation formula for the Funds, the disbursement of Funds to Municipalities, reporting, audit or evaluation provisions or any adjudication of disputes between Canada and the other Parties to this Agreement

Agreement to share information

Ontario will share with Canada the results of any compliance or performance audit that they may carry out with respect to Municipal Infrastructure that examines the use of the Funds to a significant extent.

2. CANADA – ASSOCIATION OF MUNICIPALITIES OF ONTARIO

a) Canada's Commitments

Canada agrees that it will:

- i) work together with AMO to examine other proposals regarding the New Deal.

encourage inter-Municipal and Municipal – First Nations reserve collaborations on eligible projects;

- ii) provided that AMO is not in default under this Agreement, transfer the following amounts to AMO for the benefit of Ontario Municipalities, excluding Toronto, semi-annually as follows:

Fiscal year	Canada's Contribution to Ontario Municipalities via AMO
2005-2006	\$174.3
2006-2007	\$ 174.3
2007-2008	\$ 232.4
2008-2009	\$ 290.5
2009-2010	\$ 581.0
TOTAL	\$1,452.6

b) AMO commitments

AMO agrees that it will:

- i) carry out an administrative and coordinating role, including aggregate reporting, with respect to the delivery of Funds for the benefit of all Ontario's Municipalities, whether or not they are members of AMO, excluding the Funds paid directly by Canada to Toronto;
- ii) require Municipalities, as a prerequisite to receiving payments of Funds, to agree to comply, pursuant to a Funding Agreement, with all requirements and conditions set out in Schedule A, Schedule B, Schedule C and Schedule F;
- iii) include the Eligible Recipient requirements in all Funding Agreements and enforce all terms and conditions of funding agreements in a diligent and timely manner and seek remedies from non-compliant Eligible Recipients.

c) Allocation, Delivery Mechanism and Use of Funds

AMO will allocate Canada's contribution in Part II, Section 2 a) above to Municipalities, excluding Toronto, on a per capita basis with allocations made on a 50:50 basis to Upper and Lower tier Municipalities, where they exist.

AMO will disburse funds directly to Municipalities, excluding Toronto, provided a Funding Agreement between AMO and the Municipality has been signed, through which the Municipality will agree to comply with all requirements and conditions set out in Schedule A, Schedule B, Schedule C and Schedule F and

any other requirements needed to implement the terms and conditions of Part II Section 2 of this Agreement and the Funding Agreement between AMO and the Eligible Recipient.

Municipalities will be permitted to carry over unexpended Funds into subsequent years in reserve accounts. Any interest earned on Funds by the municipality may only be applied to Eligible Costs on Eligible Projects or to the administration costs related to the implementation of the Funding Agreement.

AMO agrees it will deposit Funds into a separate account, pending payment to Municipalities in accordance with the terms of this Agreement.

AMO agrees to pay Funds to Eligible Recipients solely for Eligible Projects identified in Schedule A and solely in respect of Eligible Costs identified in Schedule B.

AMO agrees that if Funds advanced by AMO to Eligible Recipients are not paid by the Eligible Recipient in respect of Eligible Costs within 3 years after the end of the year in which the advance payment was received, AMO shall consult with the Eligible Recipient and may elect to withhold further payment of Funds to the Eligible Recipient.

d) Administration Costs

Funds may be used by AMO to pay the administrative costs incurred by the AMO in the delivery of the Funds or in fulfilling the requirements set out in this section provided that AMO submits, in advance, for review and acceptance by Canada, a business case justifying such use of Funds.

e) Limit on Canada's Financial Commitments

Eligible Recipients may use Funds to pay up to 100% of Eligible Costs of an Eligible Project. However, if an Eligible Recipient is receiving money under an Infrastructure Program in respect of an Eligible Project to which the Eligible Recipient wishes to apply Funds, the maximum federal contribution limitation set out in any Infrastructure Program contribution agreement made in respect of that Eligible Project shall continue to apply.

f) Disposal of Eligible Projects

To the extent that AMO receives a repayment of all or a portion of a contribution pursuant to the operation of Paragraph 13 of Schedule C, AMO shall immediately pay the said amount to Canada.

g) Contracting

AMO agrees that any of its contracts for the supply of services or materials to implement its responsibilities under this Agreement will be awarded in a way that is transparent, competitive, and consistent with value for money principles.

h) Reporting

AMO will:

- i) prepare and deliver to Canada no later than September 30 of each year, in respect of the prior Fiscal Year, an Annual Expenditure Report;
- ii) make best efforts to provide an interim un-audited version of the Annual Expenditure Report by June 30th of each Fiscal Year;
- iii) prepare, publish and disseminate to the public, by no later than September 30th, 2009, the Outcomes Report which will report on results achieved over the first three years of the agreement.

AMO will require Eligible Recipients, excluding Toronto, to commit to:

- i) accounting for the Funds which they receive and expenditures on an annual basis through an annual reporting document which will be developed by AMO, in consultation with Ontario municipalities, Ontario and Canada, and will be made publicly available.
- ii) accounting for outcomes achieved as a result of Gas Tax Funding through an Outcomes Report, to be made available publicly.

i) Audits

AMO will prepare and deliver to Canada an Audit Report along with the Annual Expenditure Report, as outlined in Schedule D.

An audited statement of Funding and Expenditures, prepared by each Eligible Recipient will provide assurance that the terms of the agreement have been adhered to and Funds received by the Municipality have been spent in accordance with eligibility criteria.

AMO agrees to ensure and to require, as a condition of each Funding Agreement, that proper and accurate accounts and records, including invoices, statements, receipts and vouchers in respect of all Eligible Projects that Funds are paid in respect of, are kept for at least three (3) years after termination of this Agreement and will, upon reasonable notice, make them available or require the applicable Municipality to make them available to Canada for inspection or audit.

Canada may request, upon written notification, and AMO agrees to complete and provide to Canada an audit of any one or more individual Eligible Projects, as may be requested by Canada.

Compliance Audit: The Federal Minister or the Auditor General of Canada may undertake, at his or her own cost, an audit of AMO to be carried out by such person as the Federal Minister or the Auditor General of Canada may appoint to ensure compliance with this Funding Agreement. AMO will cooperate and provide access to the appropriate records to conduct such an audit. The Federal Minister or the Auditor General of Canada may share a copy of the resulting

report with AMO and agrees to discuss any concerns raised in the audit with AMO.

Performance Audit: The Federal Minister or the Auditor General of Canada may, after consultation with AMO, choose to conduct his or her own performance (value-for-money) audit, to be carried out by such a person as the Federal Minister or the Auditor General of Canada may appoint, at his or her own cost. AMO will cooperate and provide access to the appropriate records to conduct such an audit. The Federal Minister or the Auditor General of Canada may share a copy of the resulting report with AMO and agrees to discuss any concerns raised in the performance audit with AMO.

j) Evaluation

No later than March 31, 2009, Canada and AMO shall complete a joint evaluation of the program set out in this Agreement as it pertains to AMO and Municipalities, excluding Toronto, the results of which will be made public. Canada and AMO shall seek the input of Municipalities, or representatives thereof, as the Parties deem appropriate.

At a minimum, the evaluation will address the issues related to achievement of the objectives of this Agreement, the use of funding, the effectiveness of the funding approach described in this Agreement, and the effectiveness of the communications protocol.

Canada and AMO agree to cooperate with respect to the above noted evaluation and will collaborate on the design of the evaluation framework.

In addition to the foregoing, no later than June 30, 2009, Canada will, at its cost, complete a national evaluation, incorporating the results of the joint bilateral evaluations described above. Canada will share the results of this national evaluation with AMO, prior to its completion.

3. CANADA – CITY OF TORONTO

a) Canada's Commitments

Canada agrees that it will:

- i) honour any existing contribution agreement with City of Toronto in respect of Infrastructure, in accordance with its terms;
- ii) ensure, subject to Part II, 3(i), that funding under this agreement provides additional revenues for the City of Toronto rather than displacing other federal infrastructure funding and that it intends to renew and extend into the future, the Canada Strategic Infrastructure Fund and Border Infrastructure Fund as they expire;
- iii) work together with Toronto to examine other proposals regarding the New Deal;

iv) transfer, provided that Toronto is not in default under this Agreement, to Toronto its allocation of Funds semi- annually as follows:

Fiscal year	Canada's Contribution to City of Toronto
2005-2006	\$48.9
2006-2007	\$ 48.9
2007-2008	\$ 65.2
2008-2009	\$ 81.4
2009-2010	\$ 162.9
TOTAL	\$407.3

b) City of Toronto commitments

The City of Toronto agrees to:

- i) ensure that the Funds will result in net incremental capital spending by Toronto for its Municipal Infrastructure;
- ii) invest the Funds solely in respect of Eligible Projects related to public transit and only in respect of Eligible Costs as outlined in Schedule B, for example:
 - 1. Rapid Transit: tangible capital assets and rolling stock (includes light rail, heavy rail additions, subways, ferries, transit stations, park and ride facilities, grade separated bus lanes and rail lines);
 - 2. Transit Buses: bus rolling stock, transit bus stations;
 - 3. Intelligent Transport System (ITS) and Transit Priority Capital Investments;
 - 4. ITS technologies to improve transit priority signalling, passenger and traffic information and transit operations;
 - 5. Capital investments, such as transit queue-jumpers and High Occupancy Vehicle (HOV) lanes;
 - 6. Para transit: rolling stock, fixed capital assets and systems
 - 7. Related capital infrastructure: bus loading bays, road rehabilitation for bus-only lanes;
 - 8. Active transportation infrastructure (e.g., bike lanes).
- iii) adhere to the Communication Protocol as set out in Schedule F.

c) Applicable Schedules

Schedule B, Schedule F and Schedule G are applicable to Canada-Toronto commitments under this Agreement.

d) Payment

Provided there is no default under the terms of this Agreement and Toronto City Council has ratified this Agreement, Canada's annual contribution to Toronto, as set out above, will be paid in equal semi-annual payments as follows:

- i) The first payment will be made not later than July 1st of each Fiscal Year set out above.
- ii) The second payment will be made not later than November 1st of each Fiscal Year.

A payment due by Canada hereunder is conditional on a legislated appropriation for the GTF and Funds for the Fiscal Year in which the payment is due.

No payment will be made under this Agreement that is inconsistent with C-43 *Budget Implementation Act 2005* until Parliament has approved appropriations specific to Gas Tax Funding.

e) Reporting

Toronto will prepare and deliver to Canada no later than September 30th of each year, in respect of the prior fiscal year, an audited annual expenditure report, detailing:

- the amounts received from Canada under this Agreement
- the amounts paid for Eligible Projects
- listing of all Eligible Projects, indicating location, amount and identity of all sources of funding, nature of the investment and expected outcomes
- any amounts held at year end, including interest, to pay for Eligible Projects
- in narrative form, the progress Toronto has made in meeting its commitments and contributions under this Agreement.

Toronto will prepare, publish and make available to the public, by no later than September 30th 2009, an outcomes report which will report on clean air outcomes and public transit outputs achieved over the first three years of the agreement.

Toronto will make best efforts to provide an interim, un-audited version of the annual expenditure report in respect of the prior Fiscal Year by June 30th, of each Fiscal Year.

f) Audits

An audit report, prepared by an external auditor for Toronto that provides an opinion as to whether all of the information contained in the annual expenditure report is complete and accurate and whether Toronto has complied with all the material provisions of this Agreement will accompany each annual expenditure report.

Toronto agrees to ensure that proper and accurate accounts and records, including invoices, statements, receipts and vouchers in respect of all Eligible Projects that receive Funds, are kept for at least three (3) years after termination of this Agreement and will, upon reasonable notice, make them available to Canada for inspection or audit.

Canada may request and Toronto agrees to complete and provide to Canada an audit of any one or more individual Eligible Projects, as may be requested by Canada.

Toronto will share with Canada the results of any compliance or performance audit that they may carry out beyond the audit report that examines the use of Funds to a specific extent.

g) Evaluation

No later than March 31, 2009, Canada and Toronto shall complete a joint evaluation of the program set out in this Agreement, the results of which will be made public.

At a minimum, the evaluation will address the issues related to achievement of the objectives of this Agreement, the use of funding, the effectiveness of the funding approach described in this Agreement, and the effectiveness of the communications protocol.

Canada and Toronto agree to cooperate with respect to the above noted evaluation, the costs of which to be shared by Canada and Toronto. Canada and Toronto will collaborate on the design of the evaluation framework.

In addition to the foregoing, no later than June 30, 2009, Canada will, at its cost, complete a national evaluation, incorporating the results of the evaluations described above. Canada will share the results of this national evaluation with Toronto, prior to its completion.

h) Toronto's Further Commitments

Toronto agrees to:

1. complete, prior to the end of the fourth year of this Agreement, a Capital Investment Plan;
2. over the life of the Agreement, develop or enhance an Integrated Community Sustainability Plan, as set out in Schedule G.
3. adopt and use, prior to March 31, 2010, the accounting rules of the Public Sector Accounting Board, in accordance with provincial regulations.
4. ensure that over the period of April 1, 2005, to March 31, 2010, its capital spending on Municipal Infrastructure will not fall below its Base Amount.

5. permit Canada reasonable access to all records relating to all Eligible Projects that have received Funds.
6. be responsible for its complete, diligent and timely implementation and completion of the Eligible Project, net of any Funds received.
7. acknowledge that Funds may be held back if Toronto is in default under this Agreement.
8. comply with all legislated environmental assessment requirements and confirms that no Funds will be committed to an Eligible Project until all environmental assessment requirements have been satisfied.
9. implement all mitigation measures identified in any environmental assessment of the Eligible Project.
10. invest such Funds in accordance with Ontario law and in accordance with Toronto's investment policy.
 - (a) Retain title to, and ownership of, the Municipal Infrastructure resulting from the Eligible Project for at least ten (10) years after Eligible Project completion.
 - (b) if, at any time within ten (10) years from the date of completion of the Eligible Project, Toronto sells, leases, encumbers or otherwise disposes of, directly or indirectly, any asset constructed, rehabilitated or improved, in whole or in part, with Funds contributed by Canada under the terms of this Agreement, other than to Canada, Toronto shall repay Canada on demand, a proportionate amount of the Funds contributed by Canada, as follows:

Where Eligible Project asset is sold, leased, encumbered or disposed of:	Repayment of contribution (in current dollars)
Within 2 Years after Eligible Project completion	100%
Between 2 and 5 Years after Eligible Project completion	55%
Between 5 and 10 Years after Eligible Project completion	10%

- (c) Toronto agrees to advise Canada in writing 120 days in advance and at any time during the ten (10) years following the completion of an Eligible Project if any asset constructed, rehabilitated, or improved in whole or in part with Funds is sold, discharged or alienated in any way other than to Canada.
11. award and manage all contracts for the supply of services and/or material to the Eligible Project ("Contracts") in accordance with Toronto's relevant policies and procedures and award Contracts in a manner that is transparent, competitive, and consistent with value-for-money principles.

i) Stacking

- (i) Toronto acknowledges that it may use Funds to pay up to 100% of Eligible Costs of an Eligible Project. However, to the extent Toronto is receiving money under an Infrastructure Program in respect of an Eligible Project to which Toronto wishes to apply Funds, the maximum federal contribution limitation set out in any Infrastructure Program contribution agreement made in respect of that Eligible Project shall continue to apply.
- (ii) Toronto will inform Canada of any other federal financial assistance offered or received in respect of Eligible Costs of an Eligible Project.

j) Use of Funds

Toronto will be permitted to carry over unexpended Funds into subsequent years in a separate reserve account. Any interest earned on Funds by Toronto may only be applied to Eligible Costs on Eligible Projects.

Toronto agrees to expend all Funds received under this Agreement by the termination date of the Agreement.

k) Ratification

This Agreement is being executed on behalf of Toronto by the Mayor thereof, to be ratified as required by Toronto City Council.

l) Administration Costs

All administration costs of Toronto in respect of the implementation and management of this Agreement shall be for the account of Toronto.

PART III – AREAS FOR FURTHER CO-OPERATION

Strong Communities Committee

The Parties agree to work together to examine various means to building strong, local communities. To that end, upon execution of this Agreement, the Parties shall promptly establish a Strong Communities Committee to be co-chaired by four members:

- a) one of whom is to be appointed by the Federal Minister, and designated as Federal Co-Chairperson,
- b) one of whom is to be appointed by the Provincial Minister, and designated as Provincial Co-Chairperson
- c) one of whom is to be a senior official from AMO, and designated as AMO co-chairperson
- d) one of whom is to be appointed by the Mayor of Toronto and designated as Toronto Co-chairperson

The Committee shall explore shared objectives under the New Deal for Cities and Communities. Canada, Ontario, AMO, Toronto and other Municipalities may enter into separate bilateral or multilateral agreements, to support a long-term vision of sustainability.

Any financial provisions for these other agreements will be negotiated separately and will not be funded from federal gas tax revenue.

As a first priority, the Committee will work to develop a framework by which municipalities can participate in discussions on national issues most important to them, as suggested in the Government of Canada's Budget 2005 and the Premier's communication to the Prime Minister of March 3, 2004.

AMO

Canada, Ontario and AMO agree to work in partnership toward the development of a tripartite framework agreement referred to in Schedule C of the Ontario Memorandum of Understanding with the Association of Municipalities of Ontario.

City of Toronto

Canada, Ontario and Toronto agree to work in partnership toward development of a tripartite framework agreement to address issues that could benefit from the coordinated actions of the three governments.

PART IV – ADDITIONAL PROVISIONS

1. DISPUTE RESOLUTION, DEFAULT, REMEDIES AND INDEMNITY

a) Dispute resolution

The Parties shall keep each other informed of any disagreement or contentious issue by notifying the Oversight Committee or the Canada-Ontario Committee, as applicable, which shall attempt to resolve it.

Any disagreement or contentious issue that cannot be resolved will be submitted to the Federal Minister for resolution.

b) Events of Default

1. Canada may declare that an event of default has occurred if Ontario, AMO or Toronto has:

- A) Not complied with any condition, undertaking or material term in the Agreement;

Canada will not declare that an event of default has occurred unless it has consulted with Ontario, AMO or Toronto, as appropriate, and given notice of the occurrence, which in Canada's opinion constitutes an event of default.

2. Canada may declare that an event of default has occurred if AMO has:
 - A) Failed to deliver an Annual Expenditure Report, Audit Report or the Outcomes Report, when required;
 - B) Delivered an Annual Expenditure Report or Audit Report that disclosed non-compliance by either AMO or an Eligible Recipient.
3. Canada may declare that an event of default has occurred if Toronto has:
 - A) Failed to deliver an annual expenditure report, audit report or the outcomes report described in Part II, Section 3 e), f) and g), when required;
 - B) Delivered an annual expenditure report or audit report that disclosed non-compliance by Toronto.
4. Canada will not declare that an event of default has occurred unless it has consulted with Ontario, AMO or Toronto, as appropriate, and given notice of the occurrence, which in Canada's opinion constitutes an event of default.
5. Ontario, AMO or Toronto within 30 days of receipt of the notice, either correct the condition or event or demonstrate, to the satisfaction of Canada, that it has taken such steps as are necessary to correct the condition.

c) Remedies

If Canada declares that an event of default has occurred, after 30 days of declaration, it may immediately exercise one or more of the following remedies:

1. In the case of default under subsection 1 A) above, terminate or suspend its obligation to pay Funds. If Canada suspends payment it may pay suspended funds if Canada is satisfied that the default has been cured;
2. In the case of any other default, suspend its obligation to pay Funds related to the event of default pending Canada's satisfaction that the default has been cured.

d) Indemnity

AMO and Toronto (individually, an "Indemnifier") agree at all times to indemnify and save harmless Canada its officers, servants, employees or agents, from and against all claims and demands, loss, costs, damages, actions, suits or other proceedings by whomsoever brought or prosecuted in any manner based upon, or occasioned by any injury to persons, damage to or loss or destruction of property, economic loss or infringement of rights caused by or arising directly or indirectly from:

- i. In the case of Toronto, all Toronto's Eligible Projects and in the case of AMO, all other Eligible Projects;
- ii. the performance of this Agreement or the breach of any term or condition of this Agreement by the Indemnifier, its officers, employees and agents, or by a third party, its officers, employees, or agents;
- iii. in the case of AMO, the performance of a Funding Agreement or the breach of any term or condition of a Funding Agreement by an Eligible Recipient, its officers, employees and agents, or by a third party, its officers, employees, or agents
- iv. the design, construction, operation, maintenance and repair of any part of, in the case of Toronto, Toronto's Eligible Project and in the case of AMO, all other Eligible Projects; and
- v. any omission or other wilful or negligent act of the Indemnifier or, in the case of AMO, an Eligible Recipient or third party and their respective employees, officers, or agents;

except to the extent to which such claims and demands, losses, costs, damages, actions, suits, or other proceedings relate to the act or negligence of an officer, employee, or agent of Canada in the performance of his or her duties.

2. TERM OF AGREEMENT AND RENEWAL

a) Term

This Agreement shall commence on June 17, 2005 and shall expire on March 31, 2015. Any Party may terminate this Agreement on 2 years written notice.

b) Review

Following the completion of the evaluation described in Part II, sections 2(j) and 3 (g), the Parties may elect to amend the Agreement, as appropriate.

3. COMMUNICATIONS

The Parties hereby agree to follow the terms of the Communications Protocol as outlined in Schedule F and H, as applicable.

4. MISCELLANEOUS

a) Binding Obligations

Each Party declares to the other that the signing and execution of this Agreement was duly and validly authorized, and that each has incurred a legal and valid obligation in accordance with the terms and conditions of the Agreement.

b) Survival

The Parties' rights and obligations, set out in Section 3, Part II, 1 b) and 2 f), h), i), j), and 3 e), f), g), h) Schedule H, Part IV 1 c), d), 3, 4 d) of this Agreement, will survive the expiry or early termination of this Agreement.

c) Governing law

This Agreement is governed by the laws applicable in Ontario.

d) Debts Due to Canada

Any amount owed to Canada under this Agreement will constitute a debt due to Canada, which Ontario, AMO or Toronto will reimburse forthwith, on demand, to Canada.

e) No Benefit

No member of the House of Commons, the Senate of Canada, the Legislature of the Province of Ontario, AMO Board of Directors or Toronto City Council will be admitted to any share or part of any Contract made pursuant to this Agreement or to any benefit arising therefrom.

f) No Agency

It is understood, recognized and agreed that no provision of this Agreement and no action by the Parties will establish or be deemed to establish a partnership, joint venture, principal-agent relationship, or employer-employee relationship in any way or for any purpose whatsoever between Canada and Ontario or between Canada, Ontario, AMO, Toronto and a Third Party.

g) No Authority to Represent

Nothing in this Agreement is to be construed as authorizing one Party to contract for or to incur any obligation on behalf of the other or to act as agent for the other. Nothing in this Agreement is to be construed as authorizing any Recipient or any Third Party to contract for or to incur any obligation on behalf of either Party or to act as agent for either Party and AMO will take reasonable steps to ensure that all Funding Agreements contain provisions to that effect.

h) Counterpart Signature

This Agreement may be signed in counterpart, and the signed copies will, when attached, constitute an original Agreement.

i) Values and Ethics Code

No person governed by the post-employment, ethics and conflict of interest guidelines of Canada will derive a direct benefit from this Agreement unless that person complies with the applicable provisions.

j) Severability

If for any reason a provision of this Agreement that is not a fundamental term is found to be or becomes invalid or unenforceable, in whole or in part, it will be deemed to be severable and will be deleted from this Agreement, but all the other terms and conditions of this Agreement will continue to be valid and enforceable.

k) Waiver

A Party may waive any right under this Agreement only in writing; and any tolerance or indulgence demonstrated by that Party will not constitute waiver of such right. Unless a waiver is executed in writing, that Party will be entitled to seek any remedy that it may have under this Agreement or under the law.

l) Lobbyists and Agent Fees

Ontario warrants that any person who lobbies or has lobbied on its behalf to obtain funding, or any benefit under this Agreement, and who is subject to the *Lobbyists Registration Act (Canada)*, is registered accordingly. Furthermore Ontario warrants that no remuneration based on a percentage of Canada's contribution will be paid to a lobbyist.

m) Amendments to the Agreement

If Canada concludes an agreement for similar purposes with any other province or territory of Canada, and that agreement taken as a whole is materially different from this Agreement, Ontario, AMO or Toronto may ask Canada to agree to amend this Agreement so that, taken as a whole, it affords similar treatment to Ontario as the other agreement affords to the other province or territory.

Additionally, this Agreement may be amended from time to time on written agreement of the signatories. Amendments to Parts 1,3 and 4 will require agreement of all signatories; Amendments to Part 2 will require agreement of Canada and the other signatory, as applicable.

n) Notice

Any notice, information or document provided for under this Agreement will be effectively given if delivered or sent by letter, postage or other charges prepaid, or by facsimile or email. Any notice that is delivered will have been received on delivery; and any notice mailed will be deemed to have been received eight (8) calendar days after being mailed.

Any notice to Canada must be sent to:

Assistant Deputy Minister, Cities and Communities
Infrastructure Canada
90 Sparks Street
Ottawa, ON
K1P 5B4

Facsimile: 613-952-4978
Email: laroche.yazmine@infc.gc.ca

Notice to Ontario will be addressed to:

Assistant Deputy Minister, Local Government and Planning Policy Planning
Division
Ministry of Municipal Affairs and Housing
777 Bay Street - 13th Floor
Toronto, ON
M5G 2E5

Facsimile: 416-585-6434
Email: dana.richardson@ontario.ca

Notice to AMO will be addressed to:

Executive Director
Association of Municipalities of Ontario
200 University Avenue, Suite 801
Toronto ON
M5H 3C6

Facsimile: 416-971-6191
Email: pvanini@amo.on.ca

Notice to City of Toronto will be addressed to:

City Manager
City of Toronto
City Manager's Office
100 Queen Street West
City Hall, 11th Floor, East Tower
Toronto, ON M5H 2N2

Facsimile: 416-392-1827
email: SHoy@toronto.ca

Each Party may change the address that it has stipulated by notifying in writing the other Party of the new address.

SIGNATURES

IN THE PRESENCE OF:

GOVERNMENT OF CANADA

WITNESS

Minister of State for
Infrastructure and Communities

IN THE PRESENCE OF:

GOVERNMENT OF ONTARIO

WITNESS

Minister of Municipal Affairs and Housing

IN THE PRESENCE OF:

**ASSOCIATION OF MUNICIPALITIES OF
ONTARIO**

WITNESS

President

IN THE PRESENCE OF:

CITY OF TORONTO

WITNESS

Mayor

SCHEDULE A – Eligible Categories

1. ESMI Projects include the following:

a) Public transit, e.g.:

- i. Rapid Transit: tangible capital assets and rolling stock (includes light rail, heavy rail additions, subways, ferries, transit stations, park and ride facilities, grade separated bus lanes and rail lines);
- ii. Transit Buses: bus rolling stock, transit bus stations;
- iii. Intelligent Transport System (ITS) and Transit Priority Capital Investments;
- iv. ITS technologies to improve transit priority signalling, passenger and traffic information and transit operations;
- v. Capital investments, such as transit queue-jumpers and High Occupancy Vehicle (HOV) lanes
- vi. Para transit: rolling stock, fixed capital assets and systems
- vii. Related capital infrastructure: bus loading bays, road rehabilitation for bus-only lanes.
- viii. Active transportation infrastructure (e.g., bike lanes).

b) Water, e.g.:

Drinking water supply; drinking water purification and treatment systems; drinking water distribution systems; water metering systems.

c) Wastewater, e.g.:

Wastewater systems including sanitary and combined sewer systems; and separate storm water systems.

d) Solid waste, e.g.:

Waste diversion; material recovery facilities; organics management; collection depots; waste disposal landfills; thermal treatment and landfill gas recuperation.

e) Community Energy Systems, e.g.:

- i. Cogeneration or combined heat and power projects (where heat and power are produced through a single process);
- ii. District heating and cooling projects where heat (or cooling) is distributed to more than one building.

f) Local roads, bridges and tunnels, active transportation infrastructure (e.g., bike lanes) that enhance sustainability outcomes.

2. For the purposes of this Agreement, Large Municipalities will be defined as all Municipalities with a population of 500,000 or more. For Large Municipalities, the list of eligible categories will consist of no more than two (2) of categories a) to f) listed above.

Large municipalities include: Durham Region, Peel Region, York Region, the City of Mississauga and the City of Ottawa.

3. Capacity Building includes the following activities:

- i. Collaboration: building partnerships and strategic alliances; participation; and consultation and outreach;
- ii. Knowledge: use of new technology; research; and monitoring and evaluation;
- iii. Integration: planning, policy development and implementation (e.g., environmental management systems, life cycle assessment).

SCHEDULE B – Eligible Costs

Eligible Costs

1. Project Costs

Eligible costs, as specified in each funding agreement, will be all direct costs which are, in Canada's opinion, properly and reasonably incurred and paid by an Eligible Recipient for under a contract for goods and services necessary for the implementation of an Eligible Project. Eligible costs may include only the following:

- a) the capital costs of acquiring, constructing, renovating or rehabilitating a tangible capital asset and any debt financing charges related thereto;
- b) the fees paid to professionals, technical personnel, consultants and contractors specifically engaged to undertake the surveying, design, engineering, manufacturing or construction of a project infrastructure asset and related facilities and structures;
- c) the costs of environmental assessments, monitoring, and follow-up programs as required by the *Canadian Environmental Assessment Act*; or a provincial equivalent;
- d) the costs related to strengthening the ability of municipalities to enhance or develop Integrated Community Sustainability Plans.

1.1 Employee and Equipment Costs

In the case of Eligible Recipients that are remote municipalities, the out-of-pocket costs (not overhead) related to employees or equipment may be included in its eligible costs under the following conditions:

- a) the Eligible Recipient has determined that it is not economically feasible to tender a contract;
- b) employees or equipment are employed directly in respect of the work that would have been the subject of the contract; and
- c) the arrangement is approved in advance and in writing by the Oversight Committee.

1.2 Administration Costs

That portion of Funds representing interest earned may be used to pay for administration costs.

Ineligible Costs

Costs related to the following items are ineligible costs:

- a) Eligible Project costs incurred before April 1st, 2005;
- b) services or works that are normally provided by the Eligible Recipient or a related party;

- c) salaries and other employment benefits of any employees of the Eligible Recipient or related party except as indicated in sections 1.1;
- d) an Eligible Recipient's overhead costs, its direct or indirect operating or administrative costs, and more specifically its costs related to planning, engineering, architecture, supervision, management and other activities normally carried out by its applicant's staff;
- e) costs of feasibility and planning studies for individual Eligible Projects;
- f) taxes for which the municipality is eligible for a tax rebate and all other costs eligible for rebates;
- g) costs of land or any interest therein, and related costs;
- h) cost of leasing of equipment by the municipality except for as indicated in section 1.1 above;
- i) routine repair and maintenance costs;
- j) legal fees;
- k) administrative costs incurred by the municipality as a result of implementing a funding agreement, subject to 1.2 above; and
- l) audit and evaluation costs.

SCHEDULE C – Eligible Recipient Requirements

Eligible Recipients shall:

1. Complete, prior to the end of the fourth year of this Agreement, a Capital Investment Plan;
2. Over the life of the Agreement, the Eligible Recipient will develop or enhance an Integrated Community Sustainability Plan, either by itself or as part of some higher level of agglomeration, as discussed in Schedule G.
3. Prior to March 31, 2010, adopt and use the accounting rules of the Public Sector Accounting Board, in accordance with provincial regulations.
4. Ensure that the Funds will result in net incremental capital spending on Municipal Infrastructure.
5. Ensure that there is no reduction in capital funding provided by municipalities for Municipal Infrastructure. In the case of Eligible Recipients that are Municipalities in excess of 100,000 in population, ensure that over the period of April 1, 2005 to March 31, 2010 the Municipality's capital spending on Municipal Infrastructure will not fall below its Base Amount.
6. Permit Canada reasonable access to all records relating to all Eligible Projects that have received Funds.
7. Be responsible for the complete, diligent and timely implementation and completion of the Eligible Project, net of any Funds received.
8. Acknowledge that funds may be held back if the Eligible Recipient is in default under the Funding Agreement.
9. Comply, as necessary, with the Communications protocol set out in Schedule F.
10. Comply with all legislated environmental assessment requirements and agree that no funds will be committed to an Eligible Project until all environmental assessment requirements have been satisfied.
11. Implement all mitigation measures identified in any environmental assessment of the Eligible Project.
12. Invest such funds in accordance with Ontario law and in accordance with the municipality's investment policy.
13. Expend all Funds by the termination of the Agreement.
- 14.(a) Retain title to, and ownership of, the Municipal Infrastructure resulting from the Eligible Project for at least ten (10) years after Project completion.
 - (b) If, at any time within ten (10) years from the date of completion of the Eligible Project, the Eligible Recipient sells, leases, encumbers or otherwise disposes of, directly or indirectly, any asset constructed, rehabilitated or improved, in

whole or in part, with funds contributed by Canada under the terms of this Agreement, other than to Canada, Ontario, a municipality, or a Crown corporation of Ontario that is the latter's agent for the purpose of implementing this agreement, the Eligible Recipient shall repay Canada on demand, a proportionate amount of the funds contributed by Canada, as follows:

Where Eligible Project asset is sold, leased, encumbered or disposed of:	Repayment of contribution (in current dollars)
Within 2 Years after Eligible Project completion	100%
Between 2 and 5 Years after Eligible Project completion	55%
Between 5 and 10 Years after Eligible Project completion	10%

- (c) advise Canada in writing 120 days in advance and at any time during the ten (10) years following the completion of an Eligible Project if any asset constructed, rehabilitated, or improved in whole or in part with Funds is sold, discharged or alienated in any way other than to Canada.
15. Award and manage all contracts for the supply of services and/or material to the Eligible Project ("Contracts") in accordance with the Eligible Recipient's relevant policies and procedures and award Contracts in a manner that is transparent, competitive, and consistent with value-for-money principles.
16. Acknowledge that it shall use Funds to pay up to 100% of Eligible Costs of an Eligible Project. However, to the extent an Eligible Recipient is receiving money under an Infrastructure Program in respect of an Eligible Project to which the Eligible Recipient wishes to apply Funds, the maximum federal contribution limitation set out in any Infrastructure Program contribution agreement made in respect of that Eligible Project shall continue to apply.
17. Indemnify and save harmless Canada and AMO, their officers, servants, employees, or agents from and against all claims and demands, losses, costs, damages, actions, suits, or other proceedings by whomsoever brought or prosecuted in any manner based upon, or occasioned by any injury to persons, damage to or loss or destruction of property, economic loss or infringement of rights caused by or arising directly or indirectly from:
- i. all Eligible Projects;
 - ii. the performance of this Agreement or the breach of any term or condition of this Agreement by the Parties, its officers, employees and agents or by a third party, and any of its officer, employees, servants or agents;
 - iii. the performance of a Funding Agreement or the breach of any term or condition of the Funding Agreement by the Parties, its officers, employees and agents or by a third party, and any of its officer, employees, servants or agents;
 - iv. the design, construction, operation, maintenance and repair of any part of an Eligible Project; and

- v. any omission or other wilful or negligent act of the Parties or Eligible Recipient or third party and their respective employees, officers, servants or agents.

18. If they intend to invest in the category of local roads and bridges, submit to AMO prior to spending the Funds the appropriate documentation on the impact of such investments on sustainability outcomes in a format approved by the Oversight Committee.

SCHEDULE D – Reporting and Audits

1. Reporting

1.1 Annual Expenditure Report

1.1.1 The Annual Expenditure Report will report on:

- the amounts received from Canada under this Agreement
- the amounts paid to Municipalities
- the amounts received from Canada for future payments to Municipalities
- amounts paid by Municipalities in aggregate for Eligible Projects
- amounts held at year end by Municipalities in aggregate, including interest, to pay for Eligible Projects

1.1.2 The Annual Expenditure Report will also indicate in a narrative the progress that the Party has made in meeting its commitments and contributions.

1.1.3 The Annual Expenditure Report will also include a listing of all Eligible Projects that have been funded, indicating the location, investment category, amount of federal contribution, nature of the investment and expected outcomes, as identified in Schedule E. If SIMSI is used to provide project information, there is no need to provide above information in the Annual Report.

1.1.4 In the case of Eligible Recipients with a year end other than March 31, and with prior approval of AMO, the Annual Expenditure Report may include information in respect of Eligible Projects related to that Eligible Recipient to the year end of that Eligible Recipient.

1.2 Outcomes Report

The Outcomes Report will report on:

- the cumulative investments made, including information on the degree to which these investments have actually contributed to the objectives of cleaner air, cleaner water and reduced GHG emissions;

2. Audit Report

2.1 The Audit Report will provide an opinion as to whether all of the information contained in the Annual Expenditure Report is complete and accurate and whether the Party has complied with all material provisions of this Agreement.

2.2 AMO will share with Canada the results of any compliance or performance audit that they may carry out beyond the Audit Report that examines the use of Funds to a significant extent.

SCHEDULE E – Outcome Indicators

The impact of the use of the Funds will be measured through a set of core indicators, to be developed by the Oversight Committee and linked to the following outcomes and outputs:

Outcomes:

- a) Cleaner Air: *[DETERMINE INDICATOR]*
- b) Cleaner Water: *[DETERMINE INDICATOR]*
- c) Lower GHGs: *[DETERMINE INDICATOR]*

Outputs:

- a) Community Energy Systems: *[DETERMINE INDICATOR]*
- b) Public Transit Infrastructure: *[DETERMINE INDICATOR]*
- c) Water Infrastructure: *[DETERMINE INDICATOR]*
- d) Wastewater Infrastructure: *[DETERMINE INDICATOR]*
- e) Changes in effluent quality *[DETERMINE INDICATOR]*
- f) Solid waste: *[DETERMINE INDICATOR]*
- g) Local Roads and Bridges: *[DETERMINE INDICATOR]*
- h) Capacity Building: *[DETERMINE INDICATOR]*

SCHEDULE F – Communications Protocol

The Parties agree that Canadians have a right to transparency and public accountability, which is best served by full information about the benefits of the New Deal for Cities and Communities.

This communications protocol establishes the principles and practices that will guide all announcements and events related to this Agreement, funding to municipalities under this Agreement and the New Deal. Communications activities may include, without limitation, major public events or announcements, or communications products such as speeches, press releases, websites, advertising, promotional material or signage.

The Parties agree that:

1. A public event will mark the signing of this Agreement. This event will be developed by communications officials from Canada, Ontario, AMO and Toronto and will provide for municipal involvement and media participation.
2. In addition to joint communications activities, Canada, Ontario, AMO and Toronto may include messaging in their own communications products and activities, around their commitment to the New Deal and other initiatives and investments in cities and communities.

The Government of Canada agrees that:

1. It will make periodic announcements, through public events, press releases and/or other mechanisms, of the transfer of federal gas tax revenues to AMO and Toronto.
2. It will make regular announcements, on a city or regional basis, of projects that have benefited from federal gas tax investments. Key milestones may be marked by public events, press releases and/or other mechanisms.
3. It will report regularly to the public on the outcomes of the investments entered into under this Agreement, including through the Treasury Board Secretariat Canada's Annual Performance Report, and through the National Evaluation.

AMO and Toronto agree that:

1. All communications referring to projects funded under this Agreement will clearly acknowledge the contributions made by Canada.
2. All communications materials referring to the sharing of federal gas tax revenues with municipalities will recognize that this initiative forms part of the New Deal through the use of the Canada wordmark and of a tagline.
3. They will report regularly to the public on the outcomes of the investments entered into under this Agreement, including through the Outcomes Reports described in this Agreement.

AMO agrees that:

Funding Agreements with Municipalities will include the provisions included in this Protocol, particularly that:

- a) All communications by the Municipality referring to projects funded under this Agreement will clearly recognize Canada's investments.
- b) Municipalities will ensure permanent signage at the location of projects receiving investments under this Agreement, prominently identifying the Government of Canada's investment and including the Canada wordmark. Where there is no fixed location for signage, such as a transit vehicle, a prominent marker will recognize the Government of Canada's contribution. All signage/plaques will be located in such a way as to be clearly visible to users, visitors and/or passersby.

General:

1. The timing of public events shall be sufficient to allow for all orders of government to plan their involvement. Each Party shall provide a minimum of 21 days notice of an event or announcement.
2. Unless otherwise arranged, the Parties shall each pay their own costs associated with their communications activities.
3. The Parties agree that they and Eligible Recipients will each receive appropriate recognition in joint communications materials.
4. Joint communications material and signage will reflect Government of Canada communications policy, including the *Official Languages Act*, and federal-provincial/territorial identity graphics guidelines.

Assessment:

Communication results will be assessed as part of the evaluation process.

SCHEDULE G – Integrated Community Sustainability Plans

Municipal governments in Ontario operate with a sophisticated and comprehensive statutory and regulatory framework and are accountable to their residents for all aspects of municipal policy making, including operations and capital investment activities.

Ontario has demonstrated its leadership in sustainability planning through its well-established land-use planning and initiatives to protect the environment and provide safe drinking water in Ontario.

Municipal governments, through their Official Plans, under the *Ontario Planning Act*, strive to reflect environmental objectives which are implemented through their municipal planning decisions, Municipal capital plans, strategic plans and sustainability plans. As such, municipalities have demonstrated their commitment to sustainability.

The purpose of the integrated community sustainability plan is to enhance or build upon existing planning instruments and processes.

Over the life of the Agreement, municipalities will be required to demonstrate through its existing planning instruments and processes or through the creation of new planning document that the municipality has:

- a co-ordinated approach to community sustainability (e.g., linkages of various plans, planning and financial tools that contribute to sustainability objectives)
- reflected and integrated social, cultural, environmental and economic sustainability objectives in community planning
- collaborated with other municipalities where appropriate to achieve sustainability objectives
- engaged residents in determining a long-term vision for the municipality.

SCHEDULE H – Unincorporated Areas

Eligible Categories

The Funds allocated to the Unincorporated Areas will focus on/be limited to capital investments in public roads. Eligible projects include granular lifts, granular stockpiles, culvert replacements, brushing/clearing, ditching, road realignments, resurfacing, and safety improvements.

Eligible Costs

Project Costs

Eligible costs, as provided for in this Agreement will be all direct costs which are, in Canada's opinion, properly and reasonably incurred and paid for by Ontario, on behalf of a Local Roads Board, under a contract for goods and services necessary for the implementation of an eligible project described above. Eligible costs include only the following:

- a) the capital costs of the eligible project listed above;
- b) the fees paid to professionals, technical personnel, consultants and contractors specifically engaged to undertake the surveying, design, engineering, manufacturing or construction of the project asset and related facilities and structures;

Ineligible Costs

Costs related to the following items are ineligible costs:

- a) Costs incurred before April 1st, 2005;
- b) services or works that are normally provided by the Local Roads Boards;
- c) salaries and other employment benefits of any employees of the Local Road Board
- d) overhead costs, its direct or indirect operating or administrative costs, and more specifically costs related to planning, engineering, architecture, supervision, management and other activities normally carried out by the Local Roads Boards;
- e) costs of land or any interest therein, and related costs;
- f) cost of leasing of equipment
- g) routine repair and maintenance costs;
- h) legal fees;
- i) administrative costs.

Use of Funds

Canada will authorize the use of funds to pay for the cost incurred by Ontario to carry out the annual financial audit required under this agreement.

Requirements in Unincorporated Areas

Ontario, as administrator for the delivery of the portion of the Funds for the benefit of Unincorporated Areas, shall:

1. Ensure the Funds are invested solely in respect of projects related to capital investments in public roads for the benefit of Unincorporated Areas and only in respect of the eligible costs described above.
2. Permit Canada reasonable access to all records relating to all projects that have received Funds.
3. Be responsible for the complete, diligent and timely implementation and completion of the project, net of any Funds received.
4. Comply with all appropriate provincial environmental assessment requirements and agree that no funds will be committed to an Eligible Project until all environmental assessment requirements have been satisfied.
5. Implement all mitigation measures identified in any environmental assessment of the Eligible Project.
6. Invest such funds in accordance with Ontario law.
7. Expend all Funds by the termination of the Agreement.
8. (a) Retain title to, and ownership of, the Infrastructure resulting from the Project for at least ten (10) years after project completion.

b. If, at any time within ten (10) years from the date of completion of the project, Ontario sells, leases, encumbers or otherwise disposes of, directly or indirectly, any asset constructed, rehabilitated or improved, in whole or in part, with funds contributed by Canada under the terms of this Agreement, other than to Canada, Ontario, a municipality, or a Crown corporation of Ontario that is the latter's agent for the purpose of implementing this agreement, Ontario shall repay Canada on demand, a proportionate amount of the funds contributed by Canada, as follows:

Where Eligible Project asset is sold, leased, encumbered or disposed of:	Repayment of contribution (in current dollars)
Within 2 Years after Eligible Project completion	100%
Between 2 and 5 Years after Eligible Project completion	55%

Between 5 and 10 Years after Eligible Project completion	10%
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- c) advise Canada in writing 120 days in advance and at any time during the ten (10) years following the completion of an Eligible Project if any asset constructed, rehabilitated, or improved in whole or in part with Funds is sold, discharged or alienated in any way other than to Canada.
9. Award and manage all contracts for the supply of services and/or material to the project (“Contracts”) in accordance with Ontario’s relevant policies and procedures.
 10. Acknowledge that it shall use Funds to pay up to 100% of Eligible Costs of an Eligible Project. However, to the extent a Local Roads Board receiving money under an Infrastructure Program in respect of an Eligible Project to which the Local Roads Board wishes to apply Funds, the maximum federal contribution limitation set out in any Infrastructure Program contribution agreement made in respect of that Eligible Project shall continue to apply.

11. Communications

Canada and Ontario agree that Canadians have a right to transparency and public accountability, which is best served by full information about the benefits of the Funds made available to Unincorporated Areas under this Agreement. This section establishes the principles and practices that will guide communications related to the Gas Tax Funding for Unincorporated Areas of Ontario. Communications activities may include, without limitation, public events or announcements, or communications products such as speeches, press releases, websites, advertising, promotional material or signage.

Canada and Ontario agree that:

1. A communication activity will mark the signing of the amendment to the Agreement for Unincorporated Areas. Communications officials from Canada in consultation with Ontario will develop this activity.
2. In addition to joint communications activities, Canada and Ontario may include messaging in their own communications products and activities around their commitment to this initiative.

Canada agrees that:

1. It reserves the right to make periodic announcements of the transfer of federal gas tax revenues to Ontario's Unincorporated Areas.
2. It will report regularly to the public on the outcomes of the investments entered into under this Agreement, including through the Treasury Board Secretariat Canada’s Annual Performance Report, and through the National Evaluation.

Ontario agrees that:

1. All communications referring to the sharing of the federal gas tax revenues with Local Roads Boards will clearly acknowledge the contributions made by Canada.
2. Local Roads Boards receiving funding will be encouraged to communicate with their residents about the federal gas tax funding received, and the project(s) funded as a result.

General:

1. It is not a requirement that Local Roads Boards undertake a media event to raise citizen awareness of the Gas Tax Funding of the projects being funded. However, the timing of any public or media event shall be sufficient to allow the parties to plan their involvement. Each Party shall provide a minimum of 21 days' notice of an event or announcement.
2. Unless otherwise arranged, the Parties shall each pay their own costs associated with their communications activities.
3. The Parties agree that they and Local Roads Boards will each receive appropriate recognition in joint communications materials.
4. Joint communications material and any signage will reflect Government of Canada communications policy, including the *Official Languages Act*, and federal-provincial/territorial identity graphics guidelines.
5. Communication results will be assessed as part of the evaluation process.