

THIS AMENDING AGREEMENT made in duplicate this _____ day of _____, 2010.

BETWEEN:

THE ASSOCIATION OF MUNICIPALITIES OF ONTARIO
(referred to herein as "AMO")

-and-

THE CORPORATION OF THE TOWN OF MARKHAM
(referred to herein as the "Recipient")

WHEREAS Canada, Ontario and Ontario municipalities, as represented by AMO and Toronto entered into an Agreement for the Transfer of Federal Gas Tax Revenues Under the New Deal for Cities and Communities on June 17, 2005 (amended on June 20, 2007) (the "Canada-Ontario-AMO-Toronto Agreement"), whereby AMO agreed to administer funds on behalf of Ontario municipalities made available pursuant to the Canada-Ontario-AMO-Toronto Agreement on behalf of Canada;

WHEREAS the Canada-Ontario-AMO-Toronto Agreement outlines a framework for the transfer of funds to Ontario municipalities, represented by AMO and Toronto with stable, reliable and predictable funding for environmentally sustainable infrastructure purposes;

WHEREAS Canada, Ontario and Ontario municipalities, represented by AMO and Toronto have amended the Canada-Ontario-AMO-Toronto Agreement on September 3, 2008, in order to confirm municipalities' Gas Tax Fund allocations to 2014;

AND WHEREAS AMO and the Recipient have previously entered into a Municipal Funding Agreement for the Transfer of Federal Gas Tax Revenues Under the New Deal for Cities and Communities;

NOW THEREFORE this Amending Agreement witnesseth that:

1. The preamble forms an integral part of this Amending Agreement.
2. Terms not defined in this Amending Agreement have the meanings assigned in the Municipal Funding Agreement For the Transfer of Federal Gas Tax Revenues Under The New Deal for Cities and Communities.

a. *Audit Statement* definition is deleted and replaced as follows:

"Audit Statement" means a written audit statement to be prepared and delivered to AMO as set out in section 7.1h hereto.

- b. *End of Funds* definition is deleted and replaced as follows:

“End of Funds” means March 31, 2014.

- c. *Infrastructure Program* definition is deleted and replaced as follows:

“Infrastructure Program” means *Canada’s* infrastructure programs in existence at the time of the execution of this *Agreement*.

- d. *Large Municipalities* definition is deleted and replaced as follows:

“Large Municipalities” means those Municipalities with a 2006 National Census data population of 500,000 or more including the Regional Municipalities of Durham, Peel and York and the Cities of Hamilton, Mississauga and Ottawa.

- e. *Treasurer* definition is added:

“Treasurer” means a municipal treasurer as defined in subsection 286(1) of the *Municipal Act, 2001* (Ontario).

- f. *Treasurer’s Certificate* definition is added:

“Treasurer’s Certificate” means a written statement by the *Treasurer* to be prepared and delivered to *AMO* as set out in section 7.1i hereto and in the form identified in Schedule H attached.

3. Section 2.1 is deleted and replaced as follows:

2.1. **Term.** Subject to any extension or termination of this *Agreement* or the survival of any of the provisions of this *Agreement* pursuant to the provisions contained herein, this *Agreement* shall be in effect from the date set out on the first page of this *Agreement*, up to and including March 31, 2015.

4. Section 3.1c is deleted and replaced as follows:

c. ensure that there is no reduction in capital funding provided by Municipalities for *Municipal Infrastructure*.

5. Section 3.1d is deleted and replaced as follows:

d. In the case of *Recipients* that are *Municipalities* in excess of 100,000 in population, ensure that over the period of January 1, 2010 to March 31, 2014 the *Recipient’s* capital spending on *Municipal Infrastructure* shall not fall below its *Base Amount*; and,

6. Section 3.1e is added:

- e. ensure any of its contracts for the supply of services or materials to implement its responsibilities under this *Agreement* shall be awarded in a way that is transparent, competitive, consistent with value for money principles and pursuant to its adopted procurement policy.
7. Section 4.2 is deleted and replaced as follows:
4.2. **Exception.** For *Large Municipalities*, the list of eligible categories shall consist of no more than two (2) of the categories in Section 4.1 a. to f.
8. Section 5.4 is deleted and replaced as follows:
5.4. **Retention of Receipts.** The *Recipient* shall retain all evidence (such as invoices, receipts, etc.) of payments related to *Eligible Costs* and such supporting documentation must be available to Canada when requested and maintained by the *Recipient* for audit purposes in accordance with the municipal records retention by-law.
9. Section 6.7 is deleted and replaced as follows:
6.7. **Expenditure of Funds.** The *Recipient* shall expend all *Funds* by December 31, 2016.
10. Section 6.8 is deleted and replaced as follows:
6.8. **GST and HST.** The use of *Funds* is based on the net amount of goods and services tax or harmonized sales tax to be paid by the *Recipient* pursuant to the Excise Tax Act (Canada) net of any applicable rebates.
11. Section 7.1h is deleted and replaced as follows:
h. an annual *Audit Statement*, if *Funds* were applied to *Eligible Costs* incurred for *Eligible Projects* in respect of the previous *Municipal Fiscal Year*. An annual *Audit Statement* is to be prepared by the *Recipient's* auditor in accordance with section 5815 of the Canadian Institute of Chartered Accountants Handbook – Special Reports — Audit Reports on Compliance With Agreements, Statutes and Regulations, providing assurance that the terms of the *Agreement* have been adhered to and *Funds* received by the *Recipient* have been spent in accordance with the *Agreement*;
12. Section 7.1i is added:
i. a *Treasurer's Certificate*, if *Funds* were not applied to *Eligible Costs* incurred for *Eligible Projects* in respect of the previous *Municipal Fiscal Year*. A *Treasurer's Certificate* is to be prepared by the *Recipient's Treasurer*, providing assurance that activity related to sections 6.4, 6.5, and 11 has been conducted within the terms and conditions of the *Agreement*.
13. Section 7.2 is deleted and replaced as follows:
7.2. **Outcomes Report.** The *Recipient* shall account in writing for outcomes

achieved as a result of the Funds through an *Outcomes Report* to be submitted to AMO upon completion of an *Eligible Project* and to be made available publicly in manner consistent with financial reporting under the *Municipal Act, 2001* S.O. 2001 c.25 by March 31st of the following *Municipal Fiscal Year*.

- a. The *Recipient's Outcomes Report* shall report in writing on the cumulative investments made, in a manner to be provided by AMO, including information on the degree to which these investments have actually contributed to the objectives of cleaner air, cleaner water and reduced greenhouse gas emissions.

14. Section 9.2 is deleted and replaced as follows:

9.2. **Separate Records.** The *Recipient* shall maintain separate records and documentation for the *Funds* and keep all records including invoices, statements, receipts and vouchers in respect of *Eligible Projects* that *Funds* are paid in respect of in accordance with the municipal records retention by-law. Upon reasonable notice, the *Recipient* shall submit all records and documentation relating to the *Funds* to Canada for inspection or audit.

15. Notwithstanding the date of execution of this Amendment Agreement, the provisions of this Amending Agreement are in effect as of January 1, 2010 and continue in effect for the duration of the term of the Municipal Funding Agreement For the Transfer of Federal Gas Tax Revenues Under The New Deal for Cities and Communities.

16. Section 14.3 is deleted and replaced as follows:

14.3. **Addresses for Notice.** Further to Section 14.1 of this *Agreement*, notice can be given at the following addresses:

- a. If to AMO:

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

Telephone: 416-971-9856
Facsimile: 416-971-6191
Email: gastax@amo.on.ca

b. If to the Recipient:

Joel Lustig
Treasurer / Director, Financial & Client Services
Town of Markham
101 Town Centre Blvd.
Markham, ON L3R 9W3

Telephone: (905) 475-4715 x4715
Facsimile: (905) 479-7762
Email: jlustig@markham.ca

17. Section 15.4 is deleted and replaced with the following:
15.4 **Survival.** The following schedules, sections and provisions of this agreement shall survive the expiration or early termination hereof: Sections 5, 6.7, 7, 9.3, 10.4, 10.5, 11, 12.3, 15.7, and Schedule G.
18. Section 16.1, Schedule A is amended as attached.
19. Section 16.1, Schedule H is added as attached.
20. Except as amended herein, the provisions of the Municipal Funding Agreement For the Transfer of Federal Gas Tax Revenues Under The New Deal for Cities and Communities remain in full force and effect.

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

RECIPIENT'S NAME: **THE CORPORATION OF THE TOWN OF MARKHAM**
By:

ffix
orporate
eal

Name:
Title:

Date

Name:
Title:

Date

THE ASSOCIATION OF MUNICIPALITIES OF ONTARIO
By:

ffix
orporate
eal

Title: Executive Director

Date

In the presence of:

Witness

Title: Director of Administration
 and Business Development

Date

**SCHEDULE A
SCHEDULE OF FUND PAYMENTS**

RECIPIENT'S NAME: The Corporation of the Town of Markham

The following represents the minimum Funds and schedule of payments over the life of this Amending Agreement.

Year	Schedule of Fund Payments	
	July 15th	November 15th
2010	\$4,011,875.89	\$4,011,875.89
2011	\$4,011,875.89	\$4,011,875.89
2012	\$4,011,875.89	\$4,011,875.89
2013	\$4,011,875.89	\$4,011,875.89

**SCHEDULE H
TREASURER'S CERTIFICATE**

To the Association of Municipalities of Ontario

As the *Treasurer* of the Corporation of <INSERT MUNICIPAL NAME>, I acknowledge that for the 20__ *Municipal Fiscal Year*, there were no *Eligible Costs* incurred for *Eligible Projects* under the *Agreement*.

I confirm that the Corporation of <INSERT MUNICIPAL NAME> received its Federal Gas Tax allocation for the 20__ *Municipal Fiscal Year* within the terms and conditions specified in section 6.4 of the *Agreement*.

I also confirm that the carry-over of unexpended *Funds* followed the terms and conditions of section 6.5 of the *Agreement*. Specifically, the interest earned on unspent funds has been calculated on a reasonable basis, the interest was calculated on a similar basis as other reserve and reserve funds, and that the interest rate used is comparable to the one used for other reserve funds which are required to earn interest.

I also confirm that the title to *Municipal Infrastructure* resulting from *Eligible Projects* is retained by the Corporation of <INSERT MUNICIPAL NAME> as specified under section 11.1 of the *Agreement*.

As the duly appointed *Treasurer* of the Corporation of <INSERT MUNICIPAL NAME> I hereby certify that, as at December 31, 20__, activity related to the Municipal Funding Agreement for the Transfer of Federal Gas Tax Revenues Under the New Deal for Cities and Communities dated <INSERT DATE ON MFA> between the Association of Municipalities of Ontario and the <INSERT MUNICIPAL NAME>, has been conducted within the terms and conditions set out in the *Agreement*.

Name:

Title:

<INSERT MUNICIPAL NAME>

Date