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## **First Amending Agreement to the Local Government Gas Tax Funding Agreement (for Cities)**

This Amending Agreement made at St. John's, in the Province of Newfoundland and Labrador dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2010

### **BETWEEN:**

**HER MAJESTY THE QUEEN**, in right of the Province of Newfoundland and Labrador, as represented by the Minister of Municipal Affairs (the "Province")

### **OF THE FIRST PART**

- and -

{Insert Name of City}, in the Province of Newfoundland and Labrador (the "Local Government")

### **OF THE SECOND PART**

**WHEREAS** Canada and Newfoundland and Labrador have signed the Canada – Newfoundland and Labrador Agreement on the Transfer of Federal Gas Tax Revenues on August 1, 2006; and;

**WHEREAS** Canada and Newfoundland and Labrador have signed the First Amending Agreement on August 6, 2009; and;

**WHEREAS** the Province and the Local Government entered into a Local Government Gas Tax Funding Agreement on {insert date}; and

**WHEREAS** the purpose of the amendment is to confirm the Local Government's allocations to 2014, thereby allowing them to undertake long-term infrastructure planning.

**NOW THEREFORE** the Parties hereby agree as follows:

1. Section 3.1 is deleted and replaced with the following:

3.1.1 The Local Government agrees that Funds provided under this Agreement and income earned will be used only for Eligible Projects identified in Schedule A and solely in respect of Eligible Costs identified in Schedule B.

In order to access funds, the Local Government agrees to submit a Capital Investment Plan that is supported by a Resolution of Council that includes:

- a. summary description of Eligible Projects for which the Eligible Recipient intends to use the Funds;
- b. the Infrastructure investment categories of the Eligible Projects;
- c. the Outcomes and outputs the Eligible Recipient expects will result from the use of Funds and the proposed method the Eligible Recipient will use for measuring the Outcomes;
- d. a general description of how the use of the Funds will contribute to environmental and other sustainability efforts of the Eligible Recipient; and
- e. a rationale as to why these projects are deemed to be priorities.

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- 3.1.2 In 2006 and each year thereafter submit not later than December 31, its annual Local Government budget for the upcoming year.
- 3.1.3 For the fiscal year ended December 31, 2007, and each year thereafter until December 31, 2009, submit, not later than June 30th, the required Audit Report and Annual Expenditure Report for the previous fiscal year as well as any updates required to the Capital Investment Plan. For the fiscal year ended December 31, 2010 and each year thereafter submit, not later than March 31, the required Audit Report and Annual Expenditure Report in a form prescribed by Department of Municipal Affairs for the previous fiscal year as well as any updates required to the Capital Investment Plan.
- 3.1.4 In 2011 and each year thereafter submit, the required Audited Financial Statements in accordance with the *Municipalities Act 1999, City of St. John's Act, City of Corner Brook Act, and the City of Mount Pearl Act.*
- 3.1.5 No later than March 31, 2010 submit an Integrated Community Sustainability Plan and, if required by the Province, an Outcomes Report. Any substantial changes to the Integrated Community Sustainability Plan within the period of the agreement must be submitted to the Department of Municipal Affairs as an information item.
- 3.1.6 Resolve any impediments that might interfere with the Funds being used in respect of eligible costs on eligible projects.
- 3.1.7 The Local Government may spend its allocation of Funds in the year received, accumulate the Funds for use by March 31, 2015 or obtain a loan to a maximum of the Funds less interest, to undertake Eligible Project (s) on the basis that the loan including interest, will be re-paid in full by March 31, 2015.
- 3.1.8 The Local Government acknowledges that the Oversight Committee may redirect the Funds to other Local Governments if the Funds will not be expended or committed to an Eligible Project by the Local Government by March 31, 2009.
- 3.1.9 Infrastructure projects must be completed in accordance with the {Insert name of City's Act}, as amended, or any successor legislation. These projects must be completed using the latest revision of the Municipal Water, Sewer and Road Specifications as published by the Province of Newfoundland and Labrador, Department of Municipal Affairs.
- 3.1.10 Funds can only be used on projects deemed eligible and approved by the Department of Municipal Affairs.

2. Section 3.2 is deleted and replaced with the following:

The Local Government shall ensure the Funds will result in net incremental capital spending on Environmentally Sustainable Municipal Infrastructure or Capacity Building Projects over the period April 1, 2006 to March 31, 2014 by continuing to invest in capital municipal infrastructure projects. The Local Government commits that the Funds will not displace or be used to claw back any capital infrastructure funding that is currently being made available for infrastructure. Funds provided under this Funding Agreement cannot be used as the municipal share or contribution to Provincial or Federal Infrastructure Programs, except for the specific water quality improvements, wastewater quality improvements or regional cooperation initiatives as outline in Schedule H.

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3. Subsection 4.3(g) is deleted and replaced with:

4.3(g) have developed an Integrated Community Sustainability Plan by March 31, 2010, that provides direction to realize sustainability objectives it has for the environmental, cultural, social and economic dimensions of its identity and make them available to the public;

4. Section 4.3 is amended by adding Subsection 4.3 (k) and 4.3 (l):

4.3(k) Each fiscal year, beginning in 2011, one representative of the Local Government's administration and one representative of the Local Government's elected officials must attend at least one designated training session offered by the Department of Municipal Affairs, Professional Municipal Administrators and/or Municipalities Newfoundland and Labrador. The designated sessions will be identified in a circular to each municipality in January of each year.

4.3(l) Infrastructure projects must be completed in accordance with the {Insert name of City's Act}, as amended, or any successor legislation. These projects must be completed using the latest revision of the Municipal Water, Sewer and Road Specifications as published by the Province of Newfoundland and Labrador, Department of Municipal Affairs.

5. Subsection 5.2.1 (a) is deleted and replaced with:

5.2.1(a) prepare and deliver to the Province no later than March 31 of each fiscal year its Annual Audit which will include an Annual Expenditure Report accompanied by certification by the Local Government that it has complied with this Agreement and an Audit Report confirming the Local Government's Auditor's concurrence. The Annual Expenditure Report will be completed in accordance with Schedule D.

6. Section 5.2. is amended by adding:

5.2.1(f) prepare and deliver in 2011 and each year thereafter submit, the required Audited Financial Statements in accordance with the *Municipalities Act 1999*, *City of St. John's Act*, *City of Corner Brook Act*, and the *City of Mount Pearl Act*.

7. Section 9 is added as follows:

9. Survival

The Parties' rights and obligations, set out in Section 5 and subsections 4.3 and 8.4, and Schedule C, will survive the expiry or early termination of this Agreement and any other Section or Schedule which is required to give effect to the termination or to its consequences shall survive the termination or early termination of this Agreement.

8. In Schedule C, Section 1 is appended with the words "except as otherwise specified in Section 3.2 and outlined in Schedule H."

9. Schedule C, Section 4, the word "2010" is deleted and replaced with "2014".

10. In Schedule C, Section 5, the word "2010" is deleted and replaced with "2014".

11. In Schedule C, Section 16 the following words are added thereafter and the period deleted:

"provided that to the extent it is receiving money under an Infrastructure Program in respect of an Eligible Project to which the Eligible Recipient wished to apply Funds, the maximum federal

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contribution limitation set out in any Infrastructure Program contribution agreement made in respect of the Eligible Project shall continue to apply, and Funds paid to the Eligible Recipient shall be deemed to be a federal contribution under the said contribution agreement.

12. In Schedule D, Section 1, Reporting, Annual Expenditure Report, the following words are added at the end:

“ The Annual Expenditure Report will be completed in a form prescribed by the Department of Municipal Affairs.”

13. Schedule G is appended with the following: [Insert funding allocation]

14. Schedule H is added as follows:

**Schedule H: Use of Funds**

1. Municipalities may use their gas tax allocation as the municipal share of a cost-shared infrastructure project in either of the following scenarios:

Scenario A: Improving Drinking Water and Improving Waste Water Quality.

- a. The project is eligible under the “Water” or “Waste Water” Category in Schedule A of the Gas Tax Agreement; and
- b. The project will improve drinking water quality or improve waste water quality; and
- c. The project is applied for after April 1, 2010; and
- d. The municipality receives approval for funding the project under a cost-shared program administered by the Department of Municipal Affairs.

Scenario B: Regional Cooperation Initiatives.

- a. The project is eligible under Schedule A of the Gas Tax Agreement; and
- b. The project is applied for after April 1, 2010; and
- c. The municipality receives approval for funding the project under a cost-shared program administered by the Department of Municipal Affairs; and
- d. Two or more communities are cost sharing through a formal arrangement.

**Please Note: Section 2.2c) of the *Canada – Newfoundland and Labrador Agreement on the Transfer of Federal Gas Tax Revenues* states that Funds cannot be used as the municipal contribution to any Multi Year Capital Works Program project.**

2. The following projects that are considered eligible and ineligible projects include:

A. Eligible Projects

a) Water:

- i. Disinfection Systems: e.g. chlorination, ultra violet
- ii. Water Treatment Systems: e.g. ozone, reverse osmosis, filtration

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- iii. Water intake Systems where water quality improvements are obtained; i.e. infiltration galleries, micro screening

b) Waste Water:

- i. Waste Water Treatment: e.g. primary, secondary or tertiary
- ii. Outfall Improvements where effluent and environmental improvements are achieved

c) Regional Cooperation Initiatives:

- i. Projects where two or more communities are cost sharing through a formal arrangement for integration of water and/or sewer infrastructure; and active transportation infrastructure. All such projects would have to meet the eligibility requirements of the Gas Tax Agreement.
- ii. Projects that are not integrated from a community perspective where two or more communities joining to form a new entity. All such projects would have to meet the eligibility requirements of the Gas Tax Agreement.

**B. In-eligible Projects**

a) Water:

- i. Standard Water Servicing
- ii. Distribution and Transmission Main improvements or replacement
- iii. Basic Infrastructure improvements or replacements such as booster stations, pressure reducing valve stations, valves

b) Waste Water:

- i. Standard Sewer Servicing
- ii. Distribution Line improvements or replacement
- iii. Force main Replacement
- iv. Basic infrastructure improvements or replacements such as lift stations/pumps, manholes, catch basin

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**The Parties have therefore executed this Agreement, each by its duly authorized representative(s), on the respective dates shown below.**

**HER MAJESTY THE QUEEN**

In right of the Province of Newfoundland and Labrador as  
Represented by the Minister of Municipal Affairs

\_\_\_\_\_

Date: \_\_\_\_\_

[Insert Name of City]

As Represented by the Mayor

\_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_