GOVERNMENT OF MANITOBA – CITY OF WINNIPEG

TRANSIT FUNDING AGREEMENT

This Agreement made as of _____

BETWEEN: HER MAJESTY IN RIGHT OF THE PROVINCE OF MANITOBA ("Manitoba") represented by the Minister of Local Government

AND

THE CITY OF WINNIPEG ("Winnipeg")

SUMMARY INFORMATION ON THE AGREEMENT AND PROJECT

This is an agreement between Manitoba and Winnipeg for (a) capital funding for a Project, namely the construction of Stage 1 of the Southwest Rapid Transit Corridor between Queen Elizabeth Way at Stradbrook Avenue and Pembina Highway at Jubilee Avenue, including up to four transit stations and provision for active transportation; (b) a contribution to the purchase of 10 Buses for rapid transit and replacement of those Buses every 18 years; and (c) contribution to the Net Operating Costs of Winnipeg Transit's annual operations.

Through this Agreement, the Parties aim to improve the speed and reliability of transit service by allowing transit vehicles to bypass traffic congestion and to provide for a long term operational funding arrangement.

The total capital costs of the Project are estimated at $138 million to which Manitoba is contributing $17.5 million. Winnipeg is providing $30.75 million in capital contributions, including $17.5 million from the 2008 Federal Transit Trust, and $10.5 million from the Public Transit Reserve which is funded by contributions received from the Public Transit Capital Trust and Public Transit Fund. The balance of the Project costs of $89.75 million is expected to be financed by external debt issued by Winnipeg.

In addition to the $17.5 million in capital funding noted above, Manitoba agrees to provide a grant for one-half of Winnipeg Transit's Net Operating Costs, including those Net Operating Costs associated with rapid transit service.

Manitoba also agrees to contribute one-half of the cost of purchasing 10 buses for rapid transit service in 2012 and one–half the purchase cost of 10 replacement Buses in 2030 and every 18 years thereafter.

PREAMBLE

WHEREAS reducing greenhouse gas emissions is essential for the protection of human health and our environment;

AND WHEREAS Manitoba has enacted legislation that requires the Government of Manitoba to meet its Kyoto commitment by 2012 and sets long-term goals for further reductions by 2020 and 2025 across all sectors of Manitoba's economy;

AND WHEREAS Winnipeg provides public transit service in the City of Winnipeg under the name Winnipeg Transit and through *The Municipal Revenue (Grants and Taxation) Act (MANITOBA)* Manitoba has committed to provide a transit operating grant to pay one half of Winnipeg Transit's Net Operating Costs, including rapid transit;

AND WHEREAS the implementation of a rapid transit system in the City of Winnipeg is likely to increase transit ridership, reduce reliance on automobiles and will help to achieve Manitoba's long-term greenhouse gas emissions reduction goals;

AND WHEREAS Winnipeg's Rapid Transit Task Force recommended one-third City/Provincial/Federal cost-sharing of a rapid transit system;

AND WHEREAS Manitoba and Winnipeg wish to embark on a long term strategy to develop rapid transit in the City of Winnipeg as laid out by the Rapid Transit Task Force;

NOW THEREFORE, in accordance with the principles set out above, Winnipeg agrees to construct the Southwest Rapid Transit Corridor – Stage 1, and Manitoba and Winnipeg hereby agree to fund the construction of the Southwest Rapid Transit Corridor – Stage 1, subject to the terms and conditions as set out in this Agreement;

AND FURTHERMORE, Manitoba agrees to provide a grant for one-half of the Net Operating Costs of Winnipeg Transit, including the Net Operating Costs associated with rapid transit services, and to contribute one half the purchase price of 10 Buses for rapid transit in 2012 and one half of the purchase price of 10 replacement Buses every 18 years thereafter, subject to the terms and conditions outlined in this Agreement.

1. INTERPRETATION

1.1 DEFINITIONS

A capitalized term has the meaning given to it in this section.

"Agreement" means this agreement.

"Bus" means a mass transit vehicle as purchased from a manufacturer but excludes items installed in the vehicle after production.

"Capital Funding Agreements" means any and all existing or new capital funding programs which Winnipeg and Manitoba agree to, through which Manitoba commits funding to Winnipeg for capital projects by way of either an

agreement or an agreed to contribution letter outlining any terms and conditions on which that funding is provided (e.g. Manitoba Winnipeg Infrastructure Fund), or both.

"Contract" means an agreement with a Third Party whereby the latter agrees to supply a product or service required to complete the Project in return for financial consideration.

"Eligible Costs" means Project costs eligible for funding by Manitoba under the terms of Schedule A to this Agreement.

"Eligible Net Operating Costs" means costs incurred for the operation of regular and handi-transit service (including costs related to rapid transit service) as outlined in Schedule B to this Agreement.

"Parties" means Manitoba and Winnipeg and **"Party"** means any one of Manitoba or Winnipeg.

"Project" means Stage 1 of the Southwest Rapid Transit Corridor that is more particularly described in sub-paragraph 2.2.

"Third Party" means any person, other than a Party to this Agreement, who participates in the implementation of the Project.

"Transit" and **"Winnipeg Transit"** means the Department of the City of Winnipeg responsible for the operation of transit services.

1.2 ENTIRE AGREEMENT

This Agreement comprises the entire agreement between the Parties. No prior document, negotiation, provision, undertaking or agreement in relation to the subject of the Agreement has legal effect.

1.3 SUMMARY, PREAMBLE AND SCHEDULES

The "Summary Information on the Agreement and Project" and the Preamble form part of this Agreement.

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

a) Schedule A – Eligible and Ineligible Project Costs for the Southwest Rapid Transit Corridor – Stage 1 for the Purposes of the Provincial Capital Contribution;
b) Schedule B – Eligible Net Operating Costs for Winnipeg Transit;
c) Schedule C – Communications Protocol; and
d) Schedule D – Other Tangible Capital Assets

1.4 PRECEDENCE

In the event of a conflict, the main body of this Agreement takes precedence over the Schedules.

1.5 ACCOUNTING PRINCIPLES

Unless otherwise set in this Agreement, either expressly or by necessary implication, all accounting and financial terms used in this Agreement will be interpreted and applied in accordance with generally accepted accounting principles as prescribed by the Canadian Institute of Chartered Accountants.

2. PURPOSE

2.1 PURPOSE OF THIS AGREEMENT

The purpose of this Agreement is to provide a common framework for the implementation of the Project, which is made possible by Manitoba's contribution, as set out in Section 3 and to formalize Manitoba's contribution to the Net Operating Costs of Winnipeg Transit, including those Net Operating Costs associated with rapid transit service.

2.2 DESCRIPTION OF PROJECT

The Project consists of Stage 1 of the Southwest Rapid Transit Corridor. Stage 1 is the construction of a rapid transit corridor between Queen Elizabeth Way at Stradbrook Avenue and Pembina Highway at Jubilee Avenue. It includes an overpass of Osborne Street and an underpass of the CN main line, up to four transit stations, and provision for active transportation.

When complete, the Project will permit rapid transit service to be operated between the University of Winnipeg in the downtown and destinations in the southwest part of the city. Outbound service will operate on-street between the University of Winnipeg and the Graham Mall, then via Graham Mall to Main Street, then via diamond lanes on Main Street to the Southwest Rapid Transit Corridor – Stage 1, and then via the Southwest Rapid Transit Corridor – Stage 1 to Pembina Highway at Jubilee Avenue. The service will then continue on-street on Pembina Highway to various residential, commercial and industrial areas in southwest Winnipeg and to the University of Manitoba.

This Project will significantly improve the speed and reliability of transit service by permitting transit vehicles to bypass traffic congestion.

3. FINANCING, CLAIMS AND PAYMENTS

3.1 PROJECT CAPITAL CONTRIBUTIONS BY MANITOBA TO WINNIPEG

Manitoba agrees to contribute $17.5 million between 2009 and 2012, the expected construction period of the Southwest Rapid Transit Corridor – Stage 1 project, based on annual claims submitted by Winnipeg which are Eligible Costs as set out in Schedule A.

Manitoba and Winnipeg anticipate that payments based on the annual claims to be submitted by Winnipeg will be in the order of $4.375 million per year from January 1, 2009 to December 31, 2012.

3.2 OTHER CAPITAL CONTRIBUTIONS BY MANITOBA TO WINNIPEG

a) Manitoba agrees to contribute one-half of the cost of purchasing 10 Buses for rapid transit service in 2012 and one–half of the cost of purchasing 10 replacement Buses in 2030 and every 18 years thereafter.

   Manitoba, at its sole discretion, is entitled to elect to provide a capital grant (cash contribution) equal to one-half of the cost to purchase these Buses. However, unless Manitoba elects to provide a capital grant (cash contribution) these Buses shall be considered as Other Tangible Capital Assets, the costs of which will be deemed to be an eligible expense as per the terms and conditions outlined in Schedule B. This amount will be determined in consultation with Manitoba in advance of the Bus purchase. Manitoba must provide notice to Winnipeg of its decision concerning the structure of financing prior to September 30, 2011 and every 18 years thereafter.

   The cost to Manitoba to contribute towards the purchase of the Buses in 2012 is estimated to be $2.25 million.

   Unless mutually agreed to in writing in advance by the Parties, these Buses purchased for rapid transit service shall be of the same make, model and type as purchased by Winnipeg each year for the replacement of its transit fleet.

b) In addition, Manitoba agrees to continue to make an annual capital contribution to Winnipeg toward the purchase of Buses, other than the 10 Buses for rapid transit service noted above. This contribution is currently being made by Manitoba through the Building Manitoba Fund in the amount of $3.84 million.

3.3 OPERATING CONTRIBUTIONS BY MANITOBA TO WINNIPEG

Manitoba agrees to provide a grant to fund one-half of the Eligible Net Operating Costs of Winnipeg Transit, being the total Eligible Expenses less the total System-Generated Revenue, as more particularly set out in Schedule B to this Agreement.

For the purpose of making this operating grant for Winnipeg Transit, in any calendar year Manitoba agrees to pay to Winnipeg:

a) Progress payments totalling the amount of the previous year's final grant by December 31st.
b) A payment based on the unaudited financial statements for Winnipeg Transit, that recognizes the actual cost increases for the year, to be submitted by Winnipeg to Manitoba by March 15th.
c) A final payment based on the audit report contained in Winnipeg's Transit Operating Grant application, to be submitted by Winnipeg to Manitoba by June 30th.

3.4 *PROJECT CAPITAL FUNDING BY WINNIPEG*

Winnipeg agrees to be responsible for the complete, diligent and timely construction of the Project, in accordance with the terms of this Agreement, and for payment of the costs thereof. Manitoba acknowledges that, in addition to its contribution as described above, some of the costs may be paid for by Winnipeg with funds provided by the Government of Canada for this purpose.

3.5 *OPERATING FUNDING BY WINNIPEG*

Winnipeg agrees to be responsible for payment in the first instance of all operating costs of Winnipeg Transit.

4. CONTRACT PROCEDURES

4.1 AWARDING OF CONTRACTS

Winnipeg will ensure that all Contracts are awarded and managed in accordance with its applicable policies and procedures. Where Manitoba requests a copy of any Contract. Winnipeg agrees to provide such copies to Manitoba on a confidential basis subject to such conditions as are reasonably necessary to protect the confidential nature of the Contract.

Should Manitoba receive a request under *The Freedom of Information and Protection of Privacy Act,* C.C.S.M. c. F175 to access a Contract provided to it by Winnipeg in accordance with this subsection, Manitoba will provide notice of the request to Winnipeg.

Without limiting the generality of the foregoing, Winnipeg agrees that Contracts will be awarded in a manner that is consistent with the Council-approved Materials Management Policy or successor policies approved by Council and the Agreement on Internal Trade.

4.2 PROJECT CONTRACT PROVISIONS

Except for existing Contracts entered into prior to the signing of this Agreement, Winnipeg will ensure that all Contracts are consistent with the relevant provisions of this Agreement.

More specifically but without limiting the generality of the foregoing, except for existing Contracts entered into prior to the signing of this Agreement, Winnipeg agrees to include in the Contracts, provisions to ensure that:

a) Proper and accurate accounts and records of Third Parties are maintained;
b) All applicable legislation is complied with including particularly all labour, environmental and human rights legislation; and
c) Manitoba, will have free access to the Project sites and to any documentation, including documentation from Third Parties, required by Manitoba for the purpose of audit.

5. PAYMENTS SUBJECT TO APPROPRIATION

Any payment by Manitoba is subject to there being an appropriation by the Legislative Assembly of Manitoba for the year in which the payment is being made.

6. WAIVER

Each of the Parties may waive any of its rights 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.

7. AUDIT AND REPORTING

7.1 RECORD KEEPING

Winnipeg agrees to ensure that proper and accurate accounts and records, including invoices, statements, receipts and vouchers, are kept for at least three (3) years after the completion of the Project and agrees to, upon reasonable notice, make them available to a representative of Manitoba for inspection and audit.

7.2 REPORTING

Winnipeg agrees to submit a report to Manitoba within twelve months of total completion of the Project, in a format agreed to by both Parties, summarizing all expenses and financing details.

7.3 PROJECT AUDITS

Manitoba may, at its expense, audit all accounts, records and claims for reimbursement relating to the Project and may undertake reviews of Winnipeg's administrative, financial and claim certification processes and procedures to ensure compliance with this Agreement. Winnipeg agrees to give Manitoba access to all records and sites, as Manitoba may require, to carry out the audits. Winnipeg agrees to include Manitoba's right to audit as set out in clause 4.2 c) in all future Contracts.

7.4 ANNUAL FINANCIAL STATEMENTS

Winnipeg agrees to reflect Manitoba's contributions in its financial statements.

8. REPRESENTATIONS AND INDEMNITY

8.1 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 that is binding on it in accordance with the terms and conditions of this Agreement.

8.2 INDEMNIFICATION

Winnipeg agrees at all times to undertake the Project in a safe manner, and to take all reasonable steps to mitigate the risk of personal injuries, property damage and infringement of third party rights. Winnipeg agrees to indemnify and save harmless Manitoba, 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:

a) The Project;
b) The performance of this Agreement or the breach of any term or condition of this Agreement by Winnipeg, its officers, employees and agents, or by a Third Party, its officers, employees, or agents;
c) The ongoing operation, maintenance and repair of any part of the Project; and
d) Any omission or other wilful or negligent act of Winnipeg or a 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 Manitoba in the performance of his or her duties.

9. GENERAL

9.1 NO AGENCY

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 Manitoba and Winnipeg or between Manitoba, Winnipeg and a Third Party.

9.2 NO AUTHORITY TO REPRESENT

Nothing in this Agreement is to be construed as authorizing Manitoba, Winnipeg or any Third Party to contract for, or to incur any obligation on behalf of, a Party or to act as agent for a Party.

9.3 ASSIGNMENT AND AMENDMENT

Winnipeg agrees to not transfer or assign its rights or obligations under this Agreement to any person without the prior written consent of Manitoba, which consent will not be unreasonably withheld. If Winnipeg wishes to transfer or assign its rights or obligations under this Agreement to a transit or transportation authority, Manitoba will consent to the assignment subject to the Parties first coming to an agreement on what portion of the net operating costs of the transit or transportation authority will be subject to the 50/50 cost-sharing arrangement. The Parties agree that the goal of an agreement on what portion of the net operating costs of the transit or transportation authority will be subject to the 50/50 cost-sharing arrangement shall be to ensure that, at a minimum, the services that are currently subject to the cost-sharing arrangement will continue to be subject to the cost-sharing arrangement.

This Agreement can only be amended with the consent of the Parties, in writing.

9.4 COUNTERPART SIGNATURE

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

9.5 VALUES AND ETHICS CODE

No person governed by any post-employment, ethics and conflict of interest legislation, guidelines or policies of Manitoba or Winnipeg shall derive a direct benefit from this Agreement unless that person complies with the applicable provisions of the legislation, guideline or policy.

9.6 SEVERABILITY

If for any reason a provision of this Agreement that is not a fundamental term of this Agreement between the Parties 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.

9.7 NOTICE

Any notice or other communication under this Agreement shall be in writing and shall be addressed and personally delivered, sent by prepaid registered mail, or sent by facsimile transmission to the parties as follows:

Any notice to Manitoba will be addressed to:
Assistant Deputy Minister, Provincial – Municipal Support Services Division
Manitoba Local Government
508 – 800 Portage Avenue
Winnipeg, MB R3G 0N4
Facsimile Number: (204) 948-2107

Any notice to Winnipeg will be addressed to:

Director of Winnipeg Transit
City of Winnipeg, Winnipeg Transit Department
2nd Floor – 421 Osborne Street
Winnipeg, MB R3L 2A2
Facsimile Number: (204) 986-6863

Any notice or communication that is:

a. delivered, shall be deemed to have been received on the date of the delivery; or

b. sent by registered mail, shall be deemed to have been received on the third business day following the date of mailing; or

c. sent by facsimile transmission, shall be deemed to have been received on the next business day following the date of transmission.

If mail service is disrupted by labour controversy on or within three (3) business days from the date of mailing, the notice or communication shall be delivered or sent by facsimile transmission.

Either Party may change its own address and other information set out in this section by giving notice in writing to the other party.

9.8 COMPLIANCE WITH LAWS

In carrying out this Agreement, Winnipeg agrees to comply with all applicable laws, regulations and the Agreement on Internal Trade.

10. DISPUTE RESOLUTION

10.1 At the written request by either Party to the other Party, the persons identified in this section (the "**Contract Managers**") shall meet with a view to amicably resolving any dispute or disagreement with respect to any matter in this Agreement, the interpretation thereof, or the performance of the Parties. The Contract Managers shall meet as often as they consider necessary and, subject to subsection 10.4, shall exchange information they consider necessary to discuss and resolve the dispute or disagreement.

10.2 The Contract Managers are defined to be the Director of Municipal Finance and Advisory Services for Manitoba and the Director of Winnipeg Transit for Winnipeg, or their designates.

10.3 If the Contract Managers fail to resolve the dispute within ten (10) business days following the date of first meeting to resolve the dispute or disagreement, then they shall each prepare a written report of the matter and within five (5) business days will deliver copies to the Deputy Minister of Manitoba Local Government for Manitoba and to the Chief Administrative Officer for Winnipeg who shall work together to resolve the dispute or disagreement.

10.4 The Contract Managers shall meet as often as they consider necessary in order to gather and furnish to the other, subject to subsection 10.5, all information with respect to the dispute or disagreement that they believe to be appropriate and necessary to assist in the discussion and resolution of the dispute or disagreement. The designated representatives shall work together to resolve the dispute or disagreement without necessity of any formal proceeding.

10.5 All reasonable requests for information regarding any dispute or disagreement made by one participant of the dispute resolution process to that participant's counterpart in the process, except for any confidential information that is commercial or financial information of a participant that has no relevance to the dispute or disagreement in question shall be honoured in order that each of the Parties may be fully advised of the other's position, provided that the information:

(a) is reasonably related to the dispute or disagreement and this Agreement; and

(b) is not subject to any privilege recognized by law or is not otherwise prohibited by law from being disclosed.

10.6 Except where clearly prevented by a dispute or disagreement that arises under this Agreement, the Parties shall continue performing their respective duties, obligations and responsibilities under this Agreement while the dispute or disagreement is being resolved in accordance with this section unless and until such obligations are lawfully terminated or expire in accordance with the provisions of this Agreement.

11. SPECIAL CONDITIONS

Winnipeg is responsible for obtaining all necessary permits, licenses and authorizations required to complete the Project.

12 COMMUNICATIONS

12.1 The Parties agree to co-operate in the development and implementation of a communications strategy respecting the implementation of this Agreement, consistent with the Communications Protocols set out in Schedule C of this Agreement and any other Agreements through which funding is being provided for the Project. The Parties further agree to support, erect and maintain:

(a) during the course of implementing the Project, a sign or signs consistent with graphics guidelines of the governments providing funding for the Project, specifying that funding for the Project is being provided by these governments; and

(b) where relevant, upon completion of the Project, a permanent sign or plaque to the effect set forth in (a).

12.2 The Parties agree to jointly arrange any public announcements pertaining to the Project, as well as any official ceremony related to the Project in accordance with the Communications Protocol set out in Schedule C and the communications strategy to be developed under subsection 12.1.

SIGNATURES

This Agreement has been executed on behalf of Manitoba by the Minister of Local Government or by his duly authorized delegate and on behalf of Winnipeg by the Mayor and the City Clerk.

HER MAJESTY IN RIGHT OF THE PROVINCE OF MANITOBA

Original Signed By:

_____
Minister of Local Government
Honourable Ron Lemieux

_____
Date

CITY OF WINNIPEG

Original Signed By:

_____	_____
His Worship, Mayor Sam Katz City of Winnipeg	Richard Kachur, City Clerk
_____	_____
Date	Date
Certified as to financial details:	Certified as to form
_____	_____
Chief Financial Officer	Director of Legal Services and City Solicitor
_____	_____
Date	Date

SCHEDULE A – ELIGIBLE AND INELIGIBLE PROJECT COSTS FOR THE SOUTHWEST RAPID TRANSIT CORRIDOR – STAGE 1 FOR THE PURPOSES OF THE PROVINCIAL CAPITAL CONTRIBUTION

A.1 ELIGIBLE PROJECT COSTS

Subject to subsection A.2, Eligible Costs are all necessary direct costs incurred properly and reasonably for the implementation of the Project and invoiced against a contract for goods and services that were necessary for the completion of the Project, and include:

a) Capital costs, as defined and determined according to accounting principles generally recognized, and relating to the acquisition, construction or renovation of a tangible capital asset;

b) The costs of environmental planning, surveying, engineering, architectural, supervision, testing and management consulting services;

c) The costs of engineering and environmental reviews, including environmental assessments and follow-up programs as defined in the *Canadian Environmental Assessment Act*;

d) The costs of remedial activities or mitigation measures and follow-up identified in any environmental assessment;

e) The costs of communication, passenger information systems, signage, lighting and changes to public utilities;

f) The costs of developing and implementing innovative techniques for carrying out the Project as approved in advance by Winnipeg and Manitoba;

g) Loan interest payments;

h) Insurance premiums;

i) Land acquisition, real estate fees and related costs, financing charges;

j) Evaluation and audit costs; and

k) Other costs that, in the opinion of Manitoba, are direct and necessary for the successful implementation of the Project.

A.2 INELIGIBLE PROJECT COSTS

Costs related to the following items are ineligible costs:

a) Costs incurred before October 22, 2008 or after the Project has, in Manitoba's opinion, been completed;

b) Costs incurred in connection with or pursuant to calls for tenders issued before October 22, 2008;

c) Any goods and services costs that are paid by donations or in kind;

d) Provincial sales tax and Goods and Services Tax, for which Winnipeg is eligible for a rebate, and any other costs eligible for rebates;

e) Employee wages and benefits, overhead costs as well as other direct or indirect operating, maintenance and administrative costs incurred by Winnipeg;

f) Services or works normally provided by Winnipeg incurred in the course of implementation of the Project, except those specified as eligible costs;

g) Legal fees; and

h) The cost of general repairs and maintenance.

SCHEDULE B – ELIGIBLE NET OPERATING COSTS FOR WINNIPEG TRANSIT

B.1 ELIGIBLE NET OPERATING COSTS

Subject to subsection B.2, Eligible Net Operating Costs are all eligible expenses incurred for the operation of regular and handi-transit service, including costs related to rapid transit service, less system-generated revenue. Operating expenses associated with the operation of rapid transit, including amortization costs, become eligible expenses as soon as the Project is available for use.

B.2 ELIGIBLE EXPENSES

B.2.1. Eligible expenses include, but are not limited to:

a) Employee wages and benefits;

b) Service costs, including consultants, professional and non-professional services, allocated department costs and general government charges for goods and services that would otherwise be paid by Winnipeg Transit to an external provider;

c) Materials, parts, and supplies, including motive fuels and lubricants, bus parts, and general repairs and maintenance;

d) Assets and purchases, including office equipment, computer hardware, motive and other equipment;

e) Financing charges, including:

e.1) interest and debenture issue costs, except those excluded as an eligible expense by B.2.2 d) below;

e.2) bank service charges;

e.3) provision for bad debts; and

e.4) credit card commissions;

f) Grants, transfers and other expenses, including provincial payroll tax and transfers to other departments for goods / services provided, but excluding property taxes and payments to the City of Winnipeg equivalent to the payment of property taxes, transfers to the bus replacement reserve and transfers to the rapid transit infrastructure reserve;

g) Internal and external recoveries;

h) Amortization cost for the Southwest Rapid Transit Corridor – Stage 1 Project ("eligible amortization cost") which is defined as 65.036% of the total amortization cost, and further defined as follows:

h.1) For the purposes of provincial cost-sharing, the eligible amortization cost shall be calculated on the basis of an asset value not to exceed $138 million, notwithstanding the amount of the final capital cost of the Stage 1 Project, unless otherwise agreed to by the Parties through an amendment to this Agreement;

h.2) In the initial year that the asset is available for use, the equivalent to a full year's eligible amortization cost (as defined in h.1)) will be recognized as an

eligible expense, regardless of the month that the asset becomes available for use; and

h.3) Total sharable amortization costs over the life of the asset are not to exceed $89.75 million unless otherwise agreed to by the Parties through an amendment to this Agreement.

h.4) Subject to the necessary provincial and city approvals being in place, the Parties agree that any amendments to the Agreement entered into as per subsections B.2.1.h.1 and B.2.1.h.3 will be consistent with the intent of the Memorandum of Understanding for the Development of Rapid Transit in Winnipeg whereby the Parties agreed to fund 50 percent of the net operating costs of the rapid transit system and does not preclude an additional capital contribution by the Province.

i) Eligible amortization cost for Other Tangible Capital Assets, subject to the following:

i. 1) This clause (B.2.1.i)) shall be applied prospectively, beginning in Winnipeg's first fiscal year in which this Agreement comes into effect. For previously agreed to Other Tangible Capital Assets identified in Schedule D of this Agreement, eligible amortization costs for these assets will be calculated as an amount not to exceed the annual principal debt charges on those assets.

i. 2) Amortization costs for transit capital projects/programs considered to be recurring or on-going in nature to a maximum of $1 million per project / program annually, as identified in Schedule D of this Agreement. The said amount is to be reviewed by the Parties every three years, beginning in 2013 to adjust for inflationary and operational impacts by the Parties. Adjustments to the said amount will be established in writing by the Parties.

i.3) The eligibility of amortization costs related to transit capital projects, not included in B.2.1.i.1) and B.2.1.i.2) i.e. significant one-time costs must be mutually agreed upon in writing by the Parties.

i.4) For the purposes of the acquisition of Buses for rapid transit service and their replacements, as referenced in paragraph 3.2 a), unless Manitoba agrees to provide a capital grant (cash contribution) towards the purchase of these Buses, then these Buses shall be considered Other Tangible Capital Assets and amortization, interest, and debenture issue costs related to these assets shall be eligible expenses.

i.5) For purposes of this Agreement, Other Tangible Capital Assets will exclude the Southwest Rapid Transit Corridor – Stage 1 Project, and Buses referred to in paragraph 3.2 b) as these items are addressed elsewhere.

B.2.2. The following do not constitute eligible expenses:

a) Property taxes and payments to the City of Winnipeg equivalent to the payment of property taxes;

b) Transfer to bus replacement reserve;

c) Transfer to rapid transit infrastructure reserve; and

d) Amortization, interest and debenture issue costs related to:

d.1) Bus purchases and replacements referred to in paragraph 3.2 b);

d.2) Bus purchases and replacements referred to in paragraph 3.2 a) if Manitoba agrees to provide Winnipeg with a capital grant (cash contribution) towards the purchase of these Buses;

d.3) tangible capital assets funded by the Government of Manitoba through separate, project-specific, Capital Funding Agreements; and,

d.4) that portion of tangible capital assets funded by third parties.

B.3 SYSTEM-GENERATED REVENUES

B.3.1. ***System-Generated Revenues include, but are not limited to;***

a) Fare revenue from passengers;

b) Advertising Revenue;

c) Revenue from chartered bus operation;

d) Interest revenue from Winnipeg Transit's operating fund including interest on sinking funds (excluding interest revenue on sinking fund balance related to the non-eligible portion of bus-related debt and those non-eligible Other Tangible Capital Assets as contemplated under B.2.1.i); and

e) Provincial General Support Grant to offset the Provincial Post Secondary and Education Tax paid by Winnipeg.

f) Revenue generated by interest and administration overheads charged to capital projects (excluding revenue generated related to the non-eligible portion of bus-related debt and those non-eligible Other Tangible Capital Assets as contemplated under B.2.1.i)

B.3.2. The following do not constitute system-generated revenue:

a) Winnipeg's contribution to Winnipeg Transit from the general revenue fund;

b) Manitoba's contribution to Winnipeg Transit under 50/50 funding provided in accordance with s. 9(1.1) of *The Municipal Revenue (Grants and Taxation) Act* as set out in this Agreement;

c) Interest revenue earned within and transfers from transit reserve funds; and

d) Capital grants from Manitoba or other sources.

SCHEDULE C – COMMUNICATIONS PROTOCOL

This communications protocol establishes the principles that will guide the communications activities of Manitoba and Winnipeg. The protocol will be in effect for all announcements and events related to the Southwest Rapid Transit Corridor – Stage 1 Project.

PRINCIPLES

1. To take a consultative approach to communications activities.
2. To respect the communications approaches and requirements of Winnipeg, Manitoba and Canada.
3. To carry out the communications approval process in a reasonable and expedient timeframe.

PRACTICES

1. The Parties agree that all governments providing funding for the Project will receive recognition in all Project-related advertising, promotional and programming materials – regardless of actual financial support.
2. The Parties will ensure that all governments providing funding for the Project will receive the opportunity for representation at events, announcements and news conferences.
3. The Parties must mutually agree on dates for public announcements, news conferences, news releases and other events.
4. All joint communications materials (media advisory, news release, invitation, agenda, MC script, etc.) will be equally representative of and will be shared with each of the Parties for review. Written approval for each Party must be obtained before public release.

When the provincial Minister or Mayor are not available for a news conference, announcement or event, they may be represented by designated Members of the Legislative Assembly of Manitoba and by a City Councillor respectively.

Decisions regarding the appropriateness of staging a news conference or issuing a news release will be determined in consultation with both Parties.

SCHEDULE D – OTHER TANGIBLE CAPITAL ASSETS

The following table is presented for the purposes of determining eligible amortization costs for Other Tangible Capital Assets, as outlined in Schedule B of this Agreement.

The following reflect Previously Agreed to, Recurring or Ongoing, and Significant One-Time capital projects referred to in B.2.1.i.1, B.2.1.i.2 and B.2.1.i.3 respectively of ***Schedule B – Eligible Net Operating Costs for Winnipeg***, as at the time of signing.

Any revisions, additions or amendments to this project listing must be mutually agreed to in writing by the Parties and will amend this Schedule D.

The City of Winnipeg - Transit Services
Classification of Capital Projects

Previously agreed to other tangible capital assets **(Note 1)**	**Recurring or ongoing projects/programs** **(Note 2)**	**Significant one-time cost projects** **(Note 3)**
Bus Radio Replacement 2005 and 2006	Motive Equipment	
Transit Building Replacement/Refurbishment 2007	Innovative Transit 2008 - In Trn Park & Ride and In Trn Signal Priority Trial	
Innovative Transit 2007	Innovative Transit 2009 and forward	
Innovative Transit 2008 - In Trn Priority Feasibility	Transit Security Enhancements 2008 and 2009	
Other projects and programs previously included in 2008 claim		

Note 1: As noted in Schedule B - Eligible Net Operatign Costs for Winnipeg Transit, B.2.1.i.1

Note 2: As noted in Schedule B - Eligible Net Operating Costs for Winnipeg Transit, B.2.1.i.2

Note 3: As noted in Schedule B - Eligible Net Operating Costs for Winnipeg Transit, B.2.1.i.3 and included in Transit's current capital program.