

TRANSPORTATION PLANNING
URBAN TRANSPORTATION SHOWCASE PROGRAM
GTA & HAMILTON SMART COMMUTE INITIATIVE
APPENDIX II

SMART COMMUTE INITIATIVE

MEMORANDUM OF UNDERSTANDING

DATED as of the 22nd day of May , 2004

BETWEEN:

The Regional Municipality of Durham ("Durham Region")

The Regional Municipality of Halton ("Halton Region")

The Regional Municipality of Peel ("Peel Region")

The Regional Municipality of York ("York Region")

City of Toronto ("Toronto")

City of Hamilton ("Hamilton")

Town of Markham ("Markham")

Corporation of City of Mississauga ("Mississauga")

Town of Newmarket ("Newmarket")

Town of Richmond Hill ("Richmond Hill")

-and-

City of Vaughan ("Vaughan")

BACKGROUND:

- A. The participating municipalities have developed a plan for a program they call the Smart Commute Initiative;
- B. The primary objective of the Smart Commute Initiative is to develop and implement an array of strategies to manage the demand for automobile travel in the Greater Toronto and Hamilton area to maximize the efficiency of transportation systems and minimize adverse effects on the environment;
- C. The Smart Commute Initiative is one of the proposals selected by Transport Canada under its Urban Transportation Showcase Program, which is part of Canada's *Action Plan 2000 on Climate Change*; and

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- D. The participating municipalities are entering into this binding Memorandum of Understanding to set out the arrangements agreed upon between them for implementation of the Smart Commute Initiative.

THEREFORE, in accordance with the principles set out above, the parties hereby agree as follows:

1. DEFINITIONS AND SCHEDULES

1.1 Definitions

In this Memorandum of Understanding, unless the context requires otherwise,

- (a) **"Advisory Committee"** means the committee of stakeholders' representatives to be formed pursuant to this MOU to provide advice on the Initiative;
- (b) **"Cash Contributions"** has the meaning given to it in section 10.2;
- (c) **"Effective Date"** means the date written at the top of this MOU;
- (d) **"Executive Director"** means the individual to be hired to be the lead "staff" person for the Initiative;
- (e) **"Federal Government"** means Her Majesty the Queen in right of Canada as represented by the Minister of Transportation;
- (f) **"Funding Agreement"** means the agreement entered into between York Region and the Federal Government dated May 22, 2004 to obtain funding for the Initiative;
- (g) **"GT&HA"** means the geographic area comprised of the City of Toronto, the Regions of Durham, Halton, Peel and York, and the City of Hamilton;
- (h) **"GT&HA Wide Costs"** means the cost of developing and delivering GT&HA wide programs delivered by the whole group of Participating Municipalities;
- (i) **"In Kind Contributions"** has the meaning given to it in section 10.2;
- (j) **"Initiative"** means the undertaking described in section 2.1;
- (k) **"Initiative Costs"** means the costs reasonably incurred for the purposes of implementing the Initiative, which costs are described in Schedule 3;
- (l) **"Initiative Staff"** has the meaning given to it in section 5.4;
- (m) **"Intellectual Property"** means all trademarks, trade names, copyrights and other forms of industrial and intellectual property protected by law;
- (n) **"MOU"** means this memorandum of understanding, including schedules, as it may be amended from time to time;
- (o) **"Matching Contributions"** has the meaning given to it in section 10.2;

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- (p) **"Participating Municipalities"** means the parties to this MOU and any additional municipalities that join the SCA in the future pursuant to section 14.1;
- (q) **"Prime"** means the variable interest rate per year declared from time to time by York Region's bank to be its prime rate for Canadian dollar loans made by that bank in Canada; York Region's bank refers to the bank used by York Region for its main banking services at the time of calculation of interest;
- (r) **"Program Manager"** means the individual hired to manage Initiative projects;
- (s) **"Regions"** means Durham Region, Halton Region, Peel Region and York Region;
- (t) **"Share"** means the share of Initiative costs for which each of the four Regions, Toronto and Hamilton is responsible, and is expressed as a percentage;
- (u) **"Showcase Program"** means the Federal Government's Urban Transportation Showcase Program;
- (v) **"SCA"** means the Participating Municipalities working together as an informal association called the Smart Commute Association to undertake the Initiative;
- (w) **"Steering Committee"** means the committee established by the Participating Municipalities to oversee the Initiative;
- (x) **"TDM"** has the meaning given to it in section 3.1;
- (y) **"TMA Costs"** means the costs of establishing or expanding, and operating a TMA;
- (z) **"TMAs"** has the meaning given to it in subsection 4.1(b);
- (aa) **"Technical Committee"** means the committee to be established to provide ongoing technical support for the Initiative; and
- (bb) **"Term"** means the term of this MOU described in subsection 15.8 as it may be extended by agreement between the Participating Municipalities.

1.2 Schedules

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

Schedule 1 – Diagram of Governance Structure

Schedule 2 – Cost Shares

Schedule 3 – Initiative Costs

Schedule 4 – 2004 Committed Funding

Schedule 5 – Participating Municipalities' Addresses and Fax Numbers.

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2. PROJECT DESCRIPTION

2.1 Smart Commute Initiative

The Smart Commute Initiative (the "Initiative") is a joint undertaking by the Participating Municipalities to manage the demand for automobile trips in the GT&HA in an effort to alleviate the growing problems of traffic congestion and deteriorating air quality that result from increased automobile traffic. The Initiative involves the SCA and a network of TMAs.

2.2 Main Objectives

The main objectives of the Initiative are to:

- (a) Increase the average vehicle occupancy rate;
- (b) Promote greater use of non-motorized travel by encouraging cycling and pedestrian trips;
- (c) Encourage off-peak travel to reduce congestion; and
- (d) Reduce average trip frequencies and distances, and eliminate some trips altogether in order to:
 - (i) reduce greenhouse gas and other emissions;
 - (ii) reduce the severity and duration of traffic congestion; and
 - (iii) enhance accessibility and mobility options.

3. TRANSPORTATION DEMAND MANAGEMENT

3.1 Array of Strategies

Transportation Demand Management ("TDM") is a strategy or an array of strategies to manage the demand for automobile use and reduce the proportion of automobile trips made in peak periods. TDM potentially is a valuable tool in addressing both travel requirements associated with population and employment growth in the GT&HA, and specific objectives such as improving air quality.

3.2 Components of TDM

- (a) The core components include carpools, employer vanpools, transit use, bicycling, walking and telecommuting.
- (b) The support components may include:
 - (i) Regional marketing and education campaigns to encourage development and implementation of innovative strategies to maximize efficient use of transportation systems, and participation in TDM programs;
 - (ii) Car sharing;
 - (iii) Guaranteed ride home programs;

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- (iv) Incentives;
- (v) Subsidies;
- (vi) Parking management; and
- (vii) Being mindful of the need to manage the demand on transportation systems when planning new development or redevelopment.

4. TWO-TIERED TDM ORGANIZATIONAL STRUCTURE

4.1 Multi-Level Involvement

- (a) To be effective, TDM must involve regional and local governments, educational institutions, businesses, business organizations and others, and must include a variety of TDM strategies delivered at varying scales. The goal is to develop and deliver a co-ordinated regional and local TDM program.
- (b) The Initiative contemplates an integrated two-tier organizational structure and an integrated two-tier approach to service delivery. The SCA is the upper tier; transportation management associations ("TMAs") are the lower tier. There must be good communication and co-operation between the two tiers. The parties contemplate that up to ten TMAs may be developed or expanded as part of the Initiative.

4.2 Joint Undertaking

- (a) The parties have agreed to undertake the Initiative as a joint undertaking pursuant to s. 20 of *Municipal Act, 2001*. They anticipate that other municipalities may join in the undertaking in the future. The SCA is the name given to the association of municipalities working together on the Initiative. It is not a separate legal entity.
- (b) The governance structure of the SCA is shown in the diagram attached as Schedule 1. The SCA will have a Steering Committee, an Advisory Committee and a Technical Committee, as well as an Executive Director, a program manager and other staff, all as described in s. 5.4 and Articles 6, 7 and 8. Each committee or working group shall continue to exist and operate for as long as necessary to meet the requirements of this MOU, or until the parties to the MOU agree that the committee no longer is required.

4.3 TMAs

- (a) TMAs are local networks of employers, developers and others who promote transportation choices and offer TDM services. The establishment of TMAs allows local stakeholders to tailor TDM measures to their specific area needs. The legal structure of TMAs will vary (for example, some may be corporations and some may be informal associations), but all TMAs shall be not for profit entities. Over time the TMAs may become entirely independent of the Initiative, with public and private groups being responsible for implementation of TDM measures within the communities they serve.
- (c) TMAs will not at any time be agents of the SCA or the Participating Municipalities.

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5. ROLE OF SMART COMMUTE ASSOCIATION AND TMAs

5.1 Smart Commute Association

The role of the SCA is to oversee completion of the Initiative, which was one of the successful proposals under the Showcase Program. The SCA shall act as the central co-ordinating body to oversee the allocation of resources and the development and implementation of TDM programs and services in the GT&HA. It shall be responsible for regional marketing and educational campaigns, providing support to local efforts to establish a network of TMAs across the GT&HA under the Smart Commute brand name, and providing support for the delivery of these TDM measures at the regional and local levels. These activities might include:

- (a) Centralizing service development, and ensuring regional co-ordination;
- (b) Helping to facilitate the forging of partnerships between public and private organizations at regional and local levels;
- (c) Co-ordinating and supporting efforts to form TMAs;
- (d) Arranging for or co-ordinating the hiring of a contract operator and the development of a customer service toll free number and a web-based application for the delivery of ride-matching programs, guaranteed ride-home programs and similar programs throughout the GT&HA;
- (e) Undertaking or co-ordinating marketing and promotional activities such as creating a common branding for services, developing a commuter service package, and developing incentive programs;
- (f) Holding or arranging for educational activities such as GT&HA-wide forums and workshops, and commuter clinics for employers, planners, developers and residents;
- (g) Conducting or arranging for the conducting of feasibility analyses for TMAs and providing on-going support for TMAs;
- (h) Advancing funds to TMAs, where appropriate;
- (i) Conducting research into TDM best practices and developing program modules;
- (j) Implementing a rigorous tracking and evaluation component at both the local and regional levels to measure and assess the effectiveness of TDM at both the local and regional levels; and
- (k) Enhancing the knowledge base of TDM measures in Canada, and working to constantly improve TDM in the GT&HA.

5.2 Satisfying Federal Government Requirements

The SCA shall be responsible for ensuring that the Participating Municipalities meet all of the Federal Government's requirements in connection with the Showcase Program, including all reporting and evaluation requirements.

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5.3 Committees

The SCA shall have three committees, namely, the Steering Committee, the Advisory Committee and the Technical Committee. The committees are described in Articles 6, 7 and 8. These committees will continue to exist for as long as the SCA exists, unless the Participating Municipalities decide to restructure them. The parties acknowledge that individual members of these committees may change over time.

5.4 Initiative Staff

A number of staff persons are needed to work on the Initiative, including an Executive Director, who will be the lead "staff" person for the Initiative, a program manager, and up to three additional people. Technically, York Region will be the employer of these staff persons (the "Initiative "staff"), as more particularly described in section 9.1. The Steering Committee, in consultation with the Technical Committee, will determine the number of employees needed, job descriptions, required qualifications, and the manner of selection of employees.

5.5 TMAs

The role of TMAs will vary because they are to be responsive to the needs of the communities they serve, but it is anticipated that TMAs will carry on activities such as the following

- (a) Developing and/or co-ordinating local initiatives;
- (c) Delivering and promoting branding and customer service at local or neighbourhood levels;
- (d) Doing private sector outreach, including site audits and workplace surveys;
- (e) Performing an educational function, which might include conducting local events in support of a GT&HA wide menu of commuter options;
- (f) Delivering incentive programs within member businesses;
- (g) Developing parking management strategies;
- (h) Liaising with staff of the SCA;
- (i) Advocating for area service needs;
- (j) Communicating with local municipalities on transportation needs and TDM strategies;
- (k) Co-ordinating the sharing of information and ideas among local employers, property managers, commuters and others within their areas;
- (l) Fund-raising for development and implementation of local TDM measures, including developing proposals for generating local funding for transportation improvements;
- (m) Sharing information with government agencies about transportation needs and concerns; and
- (n) Providing feedback on the effectiveness of measures implemented.

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6. STEERING COMMITTEE

6.1 Role

The Steering Committee shall provide overall direction for the Initiative, and manage or supervise the management of the Initiative. Its specific responsibilities are described in section 6.6.

6.2 Members

The Steering Committee will be made up of senior staff from the Participating Municipalities. Each Participating Municipality shall appoint one senior staff person as its member on the Steering Committee, and one alternate. Each municipality may change its member or alternate on written notice to the other municipalities, with a copy to the Executive Director. Steering Committee members shall elect a chair and vice-chair of the Steering Committee on an annual basis.

6.3 Making Decisions

- (a) Generally, decisions of the Steering Committee will be made by consensus. However, if there are situations where a formal vote is required to reach a resolution, the following rules will apply:
 - (i) A total of six votes can be cast by the Steering Committee members.
 - (ii) The City of Toronto and the City of Hamilton will be entitled to one vote each, and each of Durham Region, Halton Region, Peel Region and York Region in conjunction with their local municipalities will be entitled to one vote each.
 - (iii) Where a Region has one or more local municipalities that are Participating Municipalities, agreement is required between the Region and the Participating Municipalities as to how the single vote is to be cast. This process may be addressed as part of a separate memorandum of understanding between a Region and the participating local municipalities within that Region.
 - (iv) In the event of a tied vote, the chair of the Steering Committee, or the vice-chair if the chair is absent, shall cast an additional vote.
- (b) If a Participating Municipality is not up-to-date in making its payments, its member will not be permitted to vote, or to participate in the determination of how its Region will vote, or otherwise participate in the decision-making process, as the case may be, until the Participating Municipality brings its payments up to date.
- (c) Each Participating Municipality agrees to use all reasonable efforts to put its member in the position of being able to make prompt decisions on matters within the Steering Committee's mandate. This might involve each Participating Municipality delegating authority to its member to make decisions and vote on matters that come before the Steering Committee, on and subject to certain terms and conditions. Those conditions might include conformity with an approved business plan and approved budget for the Initiative, or prior consultation with the Participating Municipality's executive lead on the project.
- (d) Each Participating Municipality shall determine the scope of authority delegated to its member on the Steering Committee, and it shall be the responsibility of each designated representative to seek authority and direction from his or her Council as required.

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6.5 Attendance

- (a) Each Participating Municipality shall use reasonable efforts to see that its member personally attends all Steering Committee meetings, but where attendance by a member is not possible, the designated alternate from that municipality may attend the meeting and participate in discussions and in the making of decisions.
- (b) A member is entitled, where he or she thinks it is appropriate, to bring other staff from his or her municipality to provide information to the Steering Committee, or to listen to the discussions, but the other staff will not be permitted to participate in the making of decisions.

6.6 Responsibilities

The Steering Committee's responsibilities shall include the following:

- (a) Review and approve a proposed business plan and budget for each year, subject to any approvals that may be required from the Participating Municipalities;
- (b) In conjunction with representatives of TMAs, approach or designate individual members or others to approach major employers, educational institutions and others to seek participation in the Initiative;
- (c) Generally oversee the activities of the Executive Director, the Program Manager and other Initiative staff as well as the activities of staff of Participating Municipalities who are "seconded" to the Initiative as "in kind" contributions;
- (d) Provide expertise and broad direction on smart commute programming, and provide support for the formations of TMAs;
- (e) Prepare or oversee the preparation of an annual report;
- (f) Appoint individuals to serve on the Advisory Committee and the Technical Committee; the procedure for selecting individuals to serve on the Advisory Committee is described in s. 7.2;
- (g) Co-ordinate the efforts of the Participating Municipalities in organizing major communication events;
- (h) Select the individual to be hired as Executive Director;
- (i) Liaise on a regular basis with the Executive Director, Program Manager, Advisory Committee and Technical Committee;
- (j) Provide information to and report as directed to the Participating Municipalities;
- (k) Review and monitor the obligations imposed on the SCA, and York Region as its representative, in dealings with the Federal Government, and use all reasonable efforts to ensure that York Region and the other parties satisfy their obligations under the Showcase Program and under any funding or other agreement with the Federal Government in connection with the Initiative;
- (l) Determine the type of reporting or accountability required of TMAs, and make all reasonable efforts to ensure that TMAs meet those requirements;

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- (m) Liaise with the SCA's auditors regarding the preparation of financial statements for the Initiative each year; and
- (n) Carry out any other duties, powers and functions that are specified as Steering Committee duties elsewhere in this MOU.

6.7 Procedures

The Steering Committee shall establish procedures for its meetings and meetings of its subcommittees, if any.

7. ADVISORY COMMITTEE

7.1 Role

The role of the Advisory Committee is to provide a broad range of expertise and guidance to the Steering Committee and the Executive Director, and includes:

- (a) Consulting with Steering Committee members, the Executive Director, other staff working on the Initiative, and others on various issues regarding the Initiative;
- (b) Providing general feedback, information and input to the Steering Committee; and
- (c) Assisting with employer recruitment, transit service initiatives, and program module development.

7.2 Members

- (a) The Advisory Committee shall be made up of the chairs of the boards of each of the TMAs, and representatives of organizations that are key stakeholders in sustainable transportation, such as transit authorities or agencies, non-governmental organizations, and private businesses.
- (b) The Steering Committee shall determine the appropriate method for recruiting and selecting Advisory Committee members. This might include advertising, inviting key stakeholders to recommend members, or extending invitations to experienced and interested individuals. The Steering Committee will select the members and make the appointments.

7.3 Initiative Staff as a Resource

Initiative "staff" shall attend Advisory Committee meetings, and will be the primary resource group for the Advisory Committee.

7.4 Procedures

The Steering Committee shall establish rules and procedures for the Advisory Committee meetings. The Advisory Committee shall establish or co-ordinate the establishment of rules and procedures for meetings of any subcommittees the Advisory Committee may establish.

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7.5 Not Acting on Behalf of Municipalities

Neither the Advisory Committee nor any of its members shall hold itself out as acting on behalf of the SCA or the Participating Municipalities or any of them.

8. TECHNICAL COMMITTEE

8.1 Role

The Technical Committee will be involved in the day-to-day administration and delivery of TDM initiatives and will provide on-going technical input and support to the work programs of the SCA and the TMAs. The Technical Committee's responsibilities will include evaluating applications for proposed TMAs and providing advice or making recommendations on various TDM matters to the Steering Committee. The Technical Committee, among other things, shall:

- (a) make recommendations regarding projects and programs for consideration by Steering Committee;
- (b) evaluate applications for proposed TMAs;
- (c) make decisions regarding the implementation of projects and activities contemplated under business plans and approved budgets; and
- (d) establish or recommend to the Steering Committee criteria for TMA development, and a method or approach to evaluating the progress or outcome of programs and initiatives.

8.2 Members

- (a) The Executive Director, the Executive Directors of the TMAs, and technical staff from the Participating Municipalities will be the members of the Technical Committee. The Executive Director will chair the committee.
- (b) The Participating Municipalities' staff representatives will be technical staff involved in the day-to-day administration and delivery of TDM initiatives. Each Participating Municipality shall have one representative. If a representative is unable to attend a Technical Committee meeting, someone else may go in his or her place, and Participating Municipalities are permitted to replace their members. However, all Participating Municipalities agree that it is desirable to have continuity in membership and attendance.

8.3 Procedures

The Steering Committee shall establish procedures for the Technical Committee meetings. The Technical Committee shall establish or co-ordinate the establishment of rules and procedures with respect to meetings of its subcommittees, if any.

9. ROLE OF YORK REGION

9.1 Employer of Record

- (a) York Region has agreed to hire individuals to work exclusively on the Initiative, and to be the employer of record of those individuals. Unless the parties otherwise agree, these individuals are

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to be hired on a contract basis. The salary and benefits ("employment costs") for these employees shall be as agreed upon by the Steering Committee. The employment costs and any costs for advertising positions shall be included in the Initiative Costs and shared among the Participating Municipalities. Although this MOU may sometimes refer to staff of the SCA, York Region will be the actual employer of these individuals.

- (b) Notwithstanding ss.(a), if the SCA at any time during the Term is replaced by a municipal corporation or another separate legal entity, the Participating Municipalities anticipate that that entity would become the employer.
- (c) Any municipal staff seconded to the Initiative on a full or part-time basis will continue to be employees of their respective municipalities and will be regarded as representing in-kind contributions from those sponsoring municipalities.

9.2 Role of York Region as Recipient of Funding

- (a) York Region, on behalf of itself and the other parties to this MOU, has agreed to be the recipient of funding under the Showcase Program, to enter into any necessary agreement with the Federal Government, and to execute any other necessary documents relating to the program and the funding. The funds shall be used only for the purposes permitted under and in the manner provided for in this MOU.
- (b) York Region shall provide copies of the proposed funding agreement and any other documents governing use of the funds and participation in the Showcase Program to the other Participating Municipalities.
- (c) If York Region incurs any costs or liability as a result of being the party to the Funding Agreement and the recipient of the funds, then as between the Regions, Toronto and Hamilton, those municipalities, including York Region, shall be severally responsible for the costs or liability, unless the liability or costs are incurred as a result of any negligence or wilful act or omission on the part of York Region. It will be up to each Region to make arrangements with its local Participating Municipalities as to how those municipalities will share any costs or liability so imposed on the Region.

9.3 Public Face

Notwithstanding that York Region will be the recipient of record of funds advanced by the Federal Government for the Initiative, all communications, public dealings and public relations shall indicate that the Initiative is a joint undertaking by the Participating Municipalities.

10. CONTRIBUTIONS BY PARTICIPATING MUNICIPALITIES

10.1 Municipal Staff Resources

Each Participating Municipality agrees to provide municipal staff resources (over and above any secondments) to support the Initiative, including representatives on the Steering Committee and the Technical Committee.

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10.2 Matching Contributions

Under the Showcase Program, the SCA is required to make contributions to the Initiative, both for GT&HA-wide activities and for activities at the TMA level, to match the Federal Government's contributions. These contributions might be made in cash ("Cash Contributions") or in kind ("In Kind Contributions"), and are called "Matching Contributions" in this MOU. In Kind Contributions might include time dedicated to the Initiative by staff from Participating Municipalities, the provision of office space, equipment and facilities for the Initiative, and other services and matters that the Steering Committee determines, and the Federal Government agrees, are contributions in kind. Representatives of the SCA shall make arrangements with representatives of the Federal Government regarding the nature and the value to be attributed to the Matching Contributions.

10.3 GT&HA Wide Costs

The parties agree to share the responsibility for matching the contributions made by the Federal Government towards GT&HA Wide Costs as follows:

- (a) York Region, Peel Region, Halton Region, Durham Region, Toronto and Hamilton, as among themselves, agree that each of them shall be responsible for paying or otherwise satisfying its Share, as shown on Schedule 2, of Matching Contributions for GT&HA Wide Costs. The parties acknowledge that the Shares have been determined on the basis of the population of each of those upper-tier municipalities or cities relative to the aggregate population of the GT&HA, expressed as a percentage. The Regions, Toronto and Hamilton shall make cash contributions according to their Shares. The distribution of In Kind Contributions will be more flexible and will reflect the different opportunities that each municipality has to make such contributions.
- (b) Each Region and its local Participating Municipalities shall decide on how to share responsibility for the Region paying or otherwise satisfying its share of the Matching Contributions for GT&HA Wide Costs. This sharing of responsibility is not covered in this MOU; it is a matter between each Region and its local Participating Municipalities.

10.4 TMA Costs

- (a) The Federal Government has agreed to fund 1/3 of the TMA Costs for up to nine new TMAs and for the expansion of the Black Creek Regional TMA. The parties anticipate that the Showcase Program funds will be paid to the Regions, Toronto and Hamilton based on the number of TMAs being established (or in the case of the Black Creek Regional TMA, expanded) in each of those municipalities. Accordingly, the amount of Showcase Program funds that each of the Regions, Toronto and Hamilton will receive from the Federal Government for TMA Costs will depend on the number of TMAs established or expanded in that Region or city.
- (b) The parties anticipate that another 1/3 of the TMA Costs (in this article called the "Municipal Share") will be funded, through Cash Contributions or In Kind Contributions, by the Participating Municipalities.
- (c) The parties anticipate that the remaining costs will be covered by the private sector (through membership fees or otherwise), and possibly also by contributions from the Provincial government.

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10.5 Sharing of TMA Costs

- (a) It is anticipated that one TMA will be established in each of Halton Region, Durham Region and Hamilton, two TMAs will be established in each of York Region, Toronto and Peel Region, and the Black Creek Regional TMA shared by Toronto and York Region will be expanded, but this is an estimate only.
- (b) Each of the Regions and Toronto and Hamilton, as between themselves, shall be responsible for the 1/3 Municipal Share of TMA Costs for each TMA established or expanded in its region or city that receives funding under the Showcase Program. York Region and Toronto shall share the 1/3 Municipal Share of the TMA Costs of operating the Black Creek Regional TMA.
- (d) Internally, each of York Region, Peel Region, Durham Region and Halton Region and its local Participating Municipalities shall agree among themselves on how the 1/3 cost paid by the Region will be shared among them.

10.6 Modifications

Nothing in this MOU prevents the parties from modifying the distribution of federal funds; local program elements or other factors that may make a different distribution appropriate. Any decision to modify the distribution funds must be made by the Steering Committee.

10.7 Committed 2004 Funding

- (a) Each of York Region, Peel Region, Durham Region, Halton Region, Toronto and Hamilton confirms that it has the authority to make a contribution to the Initiative for the 2004 calendar year in the amount set out beside its name on Schedule 4. Each of those municipalities agrees to advance funds in its committed amount as its share of 2004 Initiative Costs to York Region within 35 days after receipt of a request for payment from the Executive Director or the chair of the Steering Committee or his or her representative. The parties agree that funds may be requested in incremental amounts if that is what the SCA determines is appropriate. The division of funding between a Region and its participating local municipalities will be defined through one or more separate memoranda of understanding between these parties, but under this MOU responsibility for payment is ultimately the Region's.
- (b) Each of Markham, Mississauga, Newmarket, Richmond Hill and Vaughan confirms that it has the authority to participate in the Initiative, and recognizes that it will be required to make contributions, in kind or otherwise, for the Initiative as contemplated in this MOU.

10.8 Business Plans and Budgets

Each year during the term of this MOU, the Executive Director (or if the Executive Director has not been hired, the chair of the Steering Committee), with support from the Technical Committee, shall prepare a business plan and an associated budget for the Initiative for approval by the Steering Committee. The Steering Committee's role in reviewing and approving business plans and budget described in subsection 6.6 (a).

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10.9 Funding for Future Years

The Participating Municipalities acknowledge that the Initiative is a three-year undertaking. Financial contributions in future years are subject to annual budget allocations by Participating Municipalities, but each Participating Municipality recognizes that it is expected to make contributions in 2005 and 2006. Each Participating Municipality agrees to use all reasonable efforts to honour its commitment to provide funding and/or make other contributions required of it for 2005 and 2006.

10.10 Payments

Each Participating Municipality agrees to make interim payments to York Region, as funding co-ordinator, as an advance towards its Share of Initiative Costs based on reasonable estimates made by the Executive Director and approved by Steering Committee. Adjustments will be made later based on actual costs. York Region agrees to set up a separate bank account for the Initiative. The Steering Committee shall agree on signing authority and other account particulars.

10.11 Interest on Arrears

If any amounts due by one or more of the Participating Municipalities under this MOU are not paid when due, interest shall accrue on those amounts at Prime plus 3%

11. PROJECT IMPLEMENTATION

11.1 Carrying Out Responsibilities

The SCA and each of the Participating Municipalities shall use all reasonable efforts to complete all activities that the SCA and the Participating Municipalities are responsible to carry out under this MOU and under any agreements or other documents relating to the Showcase Program.

11.2 Other Agreements

- (a) The Participating Municipalities acknowledge that the SCA, at least in its present form, is not a separate legal entity and has no authority to enter into contracts. It is for this reason that York Region has agreed to be the employer of Initiative "staff", and to enter into the funding agreement with the Federal Government.
- (b) If there is a need to enter into one or more other agreements, and York Region or another Participating Municipality (in this section, the "Signatory") agrees to enter into the agreement or agreements on behalf of the SCA, the provisions described in this section shall apply.
- (c) Staff from all Participating Municipalities shall have an opportunity to review the proposed agreement; the Steering Committee must approve entering into the agreement in accordance with the provisions of s. 6.3; and the Regions and Toronto and Hamilton, as between themselves, shall share responsibility for making any payments to be made on behalf of the SCA under the agreement, and for fulfilling the Signatory's other obligations under the agreement. Further, the Regions, Toronto and Hamilton agree to be severally responsible for any costs or liabilities incurred by the Signatory under the agreement, except for costs and other liabilities that arise out of a negligent act or omission on the part of the Signatory.

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11.3 Policies and Procedures

The Steering Committee shall address any policy or procedural issues, including procurement issues, that may be raised by a Participating Municipality or its representatives.

12. REPORTING AND INSPECTIONS

12.1 Accounts and Records

- (a) The SCA shall maintain detailed accounts and records of contributions made and expenses incurred in connection with the Initiative. The SCA, upon reasonable notice, shall ensure that such accounts and records are made available to authorized representatives of the Showcase Program or authorized representatives of any Participating Municipality for inspection.
- (b) Accounts and records shall be maintained by the SCA for a period of at least three years after the final settlement of accounts with respect to any undertaking, or any longer period that may be required under the Contribution Agreement.

12.2 Audits

Each Participant may audit, at its own expense, the expenditures incurred under this MOU.

12.3 Project Reporting

The Steering Committee, with assistance from the Technical Committee, shall provide all Participating Municipalities with annual reports and/or project reports, or both, indicating which undertakings have been completed, the benefits achieved, and the costs incurred relating to each undertaking. The reports shall include any other information requested by the Participating Municipalities.

13. LIABILITY AND INSURANCE

13.1 Insurance

The Participating Municipalities agree to work together to make appropriate arrangements for insurance coverage for the Initiative.

13.2 Several Obligations

Except as otherwise provided, all obligations of the Participating Municipalities under this MOU shall be several. Each Participating Municipality shall be responsible for its own obligations, costs and payments under this MOU and for its share of general obligations, costs and payments under this MOU but in any case shall not be responsible for liability or costs incurred as a result of any negligence or wilful act or omission on the part of York Region.

13.3 York Region

If York Region, as the representative of the SCA in dealings with the Federal Government or as employer of record of "employees" of the SCA pursuant to this MOU, is liable under any claim or proceeding

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brought relating to the Initiative and not covered by or in excess of any insurance obtained or maintained pursuant to this MOU, the Participating Municipalities shall pay their respective Shares of such amount but only to the extent of their respective obligations and in any case not for any liability or costs incurred as a result of any negligence or wilful act or omission on the part of York Region.

14. ADDITIONAL PARTICIPANTS AND ABILITY TO WITHDRAW

14.1 Municipalities Outside GT & HA Joining the Initiative

- (a) If a municipality outside the GT & HA, other than another lower-tier municipality within the Regions, wishes to join the SCA in the future, and the Steering Committee agrees that this would be appropriate, that municipality ("Joining Municipality") will be permitted to join, provided that the Joining Municipality:
 - (i) provides an undertaking in favour of or enters into an agreement or binding memorandum of understanding with the Participating Municipalities agreeing to perform all of the obligations of a Participating Municipality under this MOU from and after the date it joins the SCA; and
 - (ii) pays an amount determined by the Steering Committee as its fair share of the start-up costs for the Initiative.
- (b) Once the Joining Municipality has satisfied those requirements, it will become a Participating Municipality. The Executive Director or his designate shall prepare a new Schedule 2 setting out the recalculated shares which will apply from and after the date the Joining Municipality joins in the Initiative. This process will be repeated each time a municipality other than another lower-tier municipality within the Regions joins in the Initiative.
- (c) The members of the Steering Committee shall develop an approach for determining the amount to be paid by a Joining Municipality as its contribution towards start-up costs when it joins the SCA, and the form of undertaking or other document to be signed by a Joining Municipality when it joins the SCA. All amounts paid by additional municipalities as their contributions towards start-up costs shall be paid into a bank account established for the Initiative.

14.2 Other Lower-Tier Municipalities Within the Regions Joining the Initiative

- (a) If another lower-tier municipality within one of the Regions wishes to join the SCA in the future, that municipality ("Joining L-T Municipality") will be permitted to join provided that its Region advises the SCA and the other Participating Municipalities that: (i) the Joining L-T Municipality has made arrangements with the Region and the other lower-tier Participating Municipalities in the Region, satisfactory to all of them, for the Joining L-T Municipality's participation in the Initiative; and (ii) there is an agreement or memorandum of understanding in place between the Region, the lower-tier municipalities within the Region that already are Participating Municipalities and the Joining Municipality in which the Joining L-T Municipality agrees, among other things, to use all reasonable efforts to ensure that its members on the Steering Committee, and its members, if any, on the Technical Committee will attend meetings regularly, and will be in a position to participate on the committee or committees.
- (b) Once these requirements have been satisfied, the Joining L-T Municipality will become a Participating Municipality.

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14.3 Ability to Withdraw

- (a) Each Participating Municipality agrees that it is making a commitment to the Initiative and to the other Participating Municipalities to participate in the Initiative for three years. However, if a Participating Municipality is not able to make its contributions and participate in the Initiative throughout the entire term, it may withdraw effective as of the last day of a calendar year, provided that it has given the other Participating Municipalities not less than three months' prior written notice of its intention to withdraw, and that it is up-to-date in all payments to be made by it under this MOU to the end of that calendar year.
- (b) If a Participating Municipality other than a lower-tier municipality within one of the Regions withdraws, the Executive Director or his designate shall prepare a new Schedule 2 setting out the recalculated shares, which recalculated shares will apply from and after the effective date the municipality withdraws from the SCA.

15. GENERAL

15.1 Signatories to this MOU

- (a) Although five lower-tier municipalities have been named as parties to this MOU, it may be that some of these lower-tier municipalities will decide not be signatories to this MOU. The parties to this MOU have agreed that it is up to the lower-tier municipalities to decide whether or not to sign the MOU.
- (b) The main focus of this MOU is to set out the arrangements agreed upon between the Regions, Toronto and Hamilton regarding (i) their commitments, financial and otherwise, to the Initiative, and (ii) the manner in which decisions will be made as between them.
- (c) The expectation, however, is that lower-tier Participating Municipalities will play a significant role in the Initiative. Within each Region, the Region and its local Participating Municipalities will enter into an agreement or a memorandum of understanding that sets out the manner in which the local municipalities will participate in the decision-making processes and make contributions to the Initiative. Some of these agreements or memoranda of understanding may be in place already. The arrangements may vary from Region to Region, and they are arrangements between the Region and its local Participating Municipalities only.
- (d) The parties have agreed that it will be up to each lower-tier Participating Municipality to decide whether or not it will sign this MOU. However, if a lower-tier Participating Municipality does not sign this MOU, then before that lower-tier municipality will be permitted to appoint members to the Steering Committee or Technical Committee, its Region must confirm in writing to the SCA and the other Participating Municipalities that there is an agreement or memorandum of understanding in place between the Region and that Participating Municipality in which the Participating Municipality agrees to use all reasonable efforts to ensure that its members on the Steering Committee and its members, if any, on the Technical Committee will attend meetings regularly, and will be in a position to participate on the committee or committees.

15.2 Different Governance Structure

The parties may decide that in the long term it would be appropriate to establish a corporation, municipal service board or other governance structure to carry on the Initiative. In that case, the parties agree to

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work together to obtain any regulation or other legal authority that may be required to establish a different governance structure and to establish and organize that structure.

15.3 SCA Staff

The parties agree that if:

- (a) There is a new governance structure;
- (b) That structure has authority to be an employer, and
- (c) The Steering Committee determines that the SCA "staff" should become staff of the permanent governance structure,

the parties shall take the appropriate steps to have those "staff" persons become employees of the new governance structure.

15.4 Notices

Any demand or notice made or given under this MOU shall be in writing and delivered, mailed by prepaid registered mail, or sent by facsimile transmission to the party or parties, at the addresses or facsimile numbers set out in Schedule 5, or at such other addresses or facsimile numbers as the parties may designate from time to time in writing. The demand or notice, if it is delivered or sent by facsimile transmission, will be deemed to have been received on the date of delivery or facsimile transmission if delivered or transmitted during regular business hours on a day the recipient normally is open for business, and otherwise on the next business day. The demand or notice, if mailed, will be deemed to have been received on the day following three clear business days after the day of mailing in the absence of any strike or other interruption in postal service.

15.5 Interpretation

- (a) Words in the singular include the plural, and words in the plural include the singular, as the context requires.
- (b) This MOU sets out the entire agreement and understanding between the parties concerning the subject matter of this MOU.

15.6 Binding MOU

This MOU is binding on the parties.

15.7 Applicable Laws

The SCA and each of the parties shall comply with all applicable laws in carrying out their activities relating to the Initiative.

15.8 Term

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The term of this MOU ends on, March 31, 2007, unless terminated earlier by agreement between the parties. The parties may agree in writing to extend the term.

15.9 Intellectual Property

If the SCA has or develops any Intellectual Property, the Participating Municipalities shall address who should be the owner of that Intellectual Property, and take steps to protect Intellectual Property rights.

15.10 No Agency

Nothing in this MOU is to be construed as authorizing any one of the Participating Municipalities to contract for or incur any obligation on behalf of or to act as agent for one or more of the other Participating Municipalities.

15.11 No Bonussing

The Initiative shall not grant bonuses in aid of any manufacturing business or other industrial or commercial enterprise.

15.12 Charitable Receipts

If the Steering Committee so requests, the Participating Municipalities agree to work together:

- (a) to investigate ways to issue charitable receipts under the *Income Tax Act* for donations to the SCA or to one or more of the Participating Municipalities for purposes of the Initiative, and
- (b) to issue receipts for those donations if it is feasible and practical to do so.

The parties acknowledge that Participating Municipalities may require Council authority to accept donations and forward those donations to the SCA, and to issue charitable receipts.

15.13 Survival

The obligations of a party contained in this MOU survive expiry of the term, and shall continue in full force and effect for the benefit of each of the other parties.

15.14 Further Assurances

The parties agree to execute and deliver such further documents and assurances or do such other things as reasonably may be required from time to time by one or more of the Participating Municipalities to give effect to this MOU. The parties agree to work together in a spirit of co-operation to make the Initiative work.

15.15 Counterparts

This MOU may be executed in two or more counterparts that together shall constitute one and the same MOU. This MOU shall not be binding upon any party until it has been executed by each of the parties and delivered to all other parties.

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IN WITNESS WHEREOF the parties hereto have executed this Agreement by affixing their corporate seals under the hands of their respective officers duly authorized on their behalf.

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THE REGIONAL MUNICIPALITY OF DURHAM

By: _____

By: _____

Name: Roger Anderson

Name: P.M. Madill

Title: Regional Chair

Title: Regional Clerk

I/We have authority to bind the corporation

THE REGIONAL MUNICIPALITY OF HALTON

By: _____

By: _____

Name: Joyce Savoline

Name: Tina Agnello

Title: Regional Chair

Title: Regional Clerk

I/We have authority to bind the corporation

THE REGIONAL MUNICIPALITY OF PEEL

By: _____

By: _____

Name: Nick Tunnacliffe

Name: Tom AppaRao

Title: Commissioner of Planning

Title: Director, Transportation Planning

I/We have authority to bind the corporation

THE REGIONAL MUNICIPALITY OF YORK

By: _____

By: _____

Name: Bill Fisch

Name: Denis Kelly

Title: Regional Chair and CEO

Title: Regional Clerk

I/We have authority to bind the corporation

CITY OF TORONTO

By: _____

By: _____

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Name: Ulli S. Watkiss

Name: Joseph P. Pennachetti

Title: City Clerk

Title: CFO & Treasurer

I/We have authority to bind the corporation

CITY OF HAMILTON

By: _____

By: _____

Name: Larry Di Ianni

Name: Kevin Christenson

Title: Mayor

Title: City Clerk

I/We have authority to bind the corporation

TOWN OF MARKHAM

By: _____

By: _____

Name: Donald Cousins

Name: Sheila Birrell

Title: Mayor

Title: Town Clerk

I/We have authority to bind the corporation

CORPORATION OF CITY OF MISSISSAUGA

By: _____

By: _____

Name: Martin Powell, P.Eng

Name: Crystal Greer

Title: Commissioner Transportation and
Works Department

Title: Director, Legislative Services & City Clerk

I/We have authority to bind the corporation

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TOWN OF NEWMARKET

By: _____

By: _____

Name: Tom Taylor

Name: Anita Moore, AMCT

Title: Mayor

Title: Town Clerk

I/We have authority to bind the corporation

TOWN OF RICHMOND HILL

By: _____

By: _____

Name: William F. Bell

Name: Robert Prowse

Title: Mayor

Title: Town Clerk

I/We have authority to bind the corporation

CITY OF VAUGHAN

By: _____

By: _____

Name: Michael DiBiase

Name:

Title: Mayor

Title:

I/We have authority to bind the corporation

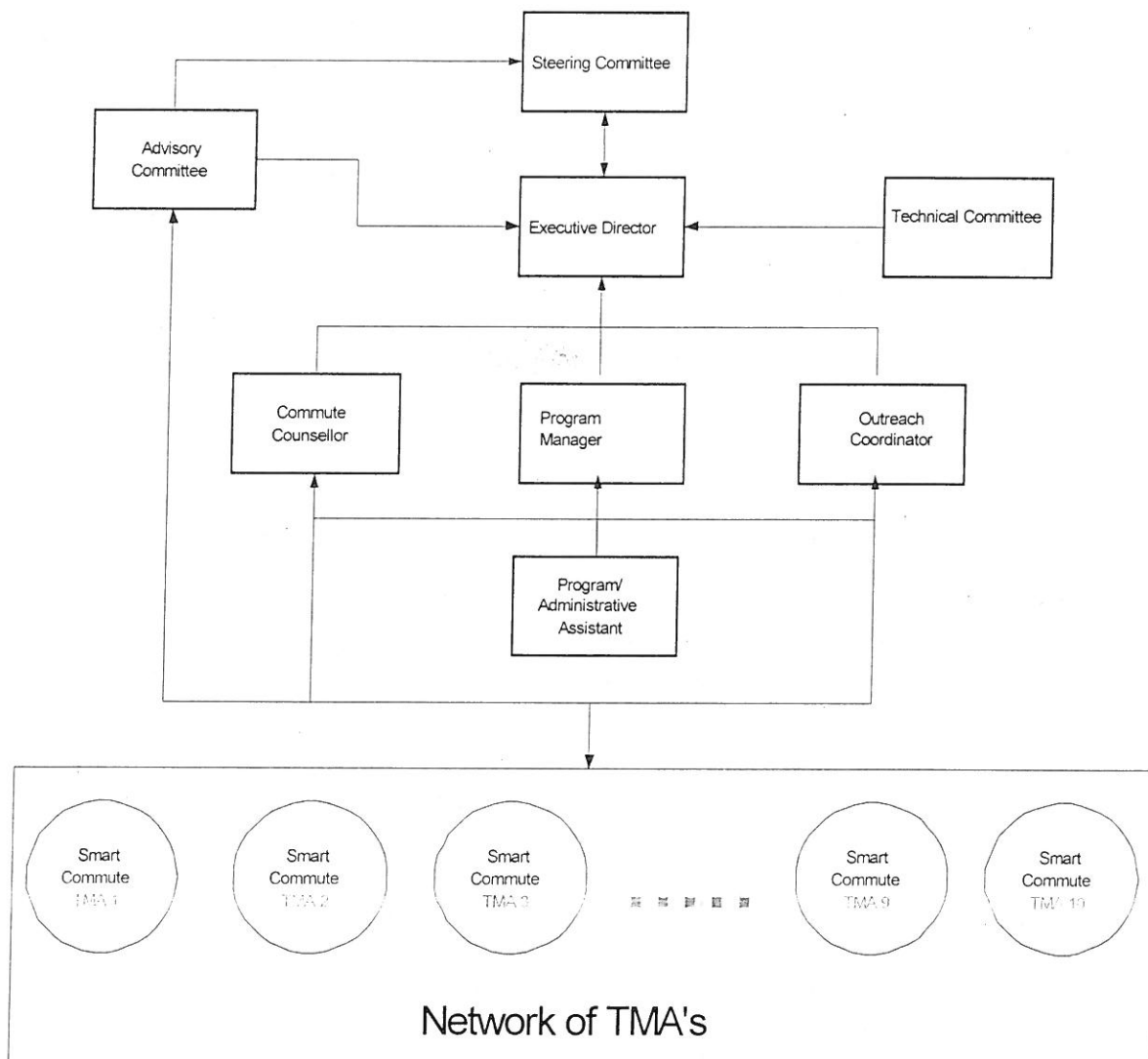
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SMART COMMUTE INITIATIVE
MEMORANDUM OF UNDERSTANDING

SCHEDULES

SCHEDULE 1 – GOVERNANCE STRUCTURE

Smart Commute Association



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SCHEDULE 2 – COST SHARES FOR SCA (NON-TMA) PROGRAMS

REGION/MUNCIPALITY	SHARE OF SCA PROGRAM
	CASH COSTS (based on % of GTA-AH population)
City of Toronto	44.6%
Peel Region	17.7%
York Region	13.1%
Durham Region	9.1%
City of Hamilton	8.8%
Halton Region	6.7%

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SCHEDULE 3 – INITIATIVE COSTS

ACTIVITIES	TOTAL PROGRAM COSTS	TOTAL MUNICIPAL CONTRIBUTION
Organization of Smart Commute Association	1,530,800	521,800
GTAH-wide Baseline and Ongoing Surveys	298,500	238,500
Marketing, Education and Outreach	197,160	115,660
Acquire and maintain ride-matching program	200,000	-
Develop and maintain emergency-ride-home program	12,000	-
Develop/Implement program modules (vanpool, carsharing, shuttle, bike, pedestrian)	1,187,000	282,450
Assessment and Development of TMA	447,300	249,300
TMA operation	4,080,000	1,530,000
Total	7,952,760	2,937,710

- Costs may be subject to change given program funding needs

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SCHEDULE 4 – 2004 COMMITTED FUNDING

MUNICIPALITY	CASH	IN-KIND(*)
Durham Region	7,957.95	34,556
Halton Region	5,859.15	69,113
City of Hamilton	27,200.00	33,451
Peel Region	25,878.65	133,791
City of Toronto	89,202.70	145,313
York Region	91,655.95	147,591
TOTALS	247,754.40	563,815

- In-kind costs may vary depending on program needs.

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SCHEDULE 5 – PARTICIPATING MUNICIPALITIES ADDRESSES AND FAX NUMBERS

Regional Municipality of Durham
Planning Department
Box 623
1615 Dundas St. E.
4th Floor, Lang Tower, West Building
Whitby, ON L1N 6A3
Attention: A. L. Georgieff
Commissioner of Planning
Facsimile: (905) 436-6612

Regional Municipality of Halton
Planning and Transportation Services
1151 Bronte Road
Oakville, Ontario
L6M 3L1
Phone: 905-825-6000
Toll free: 1-866-442-5866
Fax: 905-825-8822

Regional Municipality of Peel
Planning Department
10 Peel Centre Dr.
Brampton, ON
L6T 4B9
Fax: 905-791-7920

Regional Municipality of York
Transportation and Works Department
17250 Yonge Street
Newmarket, ON L3Y 6Z1
Fax: 905-895-0191

City of Toronto
Urban Development Services
Metro Hall
55 John St. 22nd Floor
Toronto, Ontario
M5V 3C6
Fax: 416-392-3821

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City of Hamilton
Capital and Implementation Planning Division
Public Works Department
77 James Street North, Suite 320
Hamilton, Ontario L8R 2K3
Attn: Mary Lou Tanner, MCIP, RPP
Manager, Strategic and Environmental Planning
Ph: 905 546-2424 ext. 5101
Fax: 905 546-4435

Town of Markham
Engineering Department
101 Town Centre Boulevard
Markham, ON L3R 9W3
Fax: 905-479-7773

Corporation of City of Mississauga
Transportation and Works Department
City of Mississauga
3484 Semenyk Court
Mississauga, Ontario
L5C 4R1
Attn: Martin Powell, P.Eng
Commissioner
Ph: 905-896-5112
Fax: 905-896-5504

Town of Newmarket
Public Works and Environmental Services
395 Mulock Drive
P.O. Box 328
Newmarket, ON L3Y 4X7
Fax: 905-953-5138

Town of Richmond Hill
Engineering Department
Box 300, 225 East Beaver Creek Road
Richmond Hill, ON L4C 4Y5
Fax: 905-771-2405

City of Vaughan
Engineering Department 2141
Major Mackenzie Drive
Vaughan, ON L6A 1T1
Fax: 905-832-6145