

DATE: October 4, 2006

TO: Mayor Scott Young and Councillors

FROM: Francis Cheung, P. Eng.,
Director of Engineering and Operations

SUBJECT: **Coast Meridian Overpass Project's
Major Capital Program Funding Agreement with the
Greater Vancouver Transportation Authority**

RECOMMENDATIONS:

That the Mayor and the Corporate Officer be authorized to execute the Major Road Network (MRN) Major Capital Program Funding Agreement with the Greater Vancouver Transportation Authority for the Coast Meridian Overpass Project.

BACKGROUND & COMMENTS:

On September 21, 2005, the Greater Vancouver Transportation Authority's (TransLink) Board of Directors approved the Specific Project Approval to contribute \$60 million towards the Coast Meridian Overpass project (Project). In order to formalize the funding contribution, the City will need to enter into a Major Road Network (MRN) Major Capital Program Funding Agreement with TransLink. The following outlines the key provisions in each agreement.

Major Capital Program Funding Agreement

1. The contribution ceiling is \$60 million less Deducted Costs.
2. Deducted Costs include:
 - a. Legal costs incurred by TransLink in supporting the City's application to the Canadian Transportation Agency for an order granting the City authority to construct the Project over the CPR's rail yard and properties; and
 - b. Funding from federal and provincial governments and/or their agencies for the Project, but only to the extent such funding exceeds estimated project cost less \$60 million less \$20 million. For example:

Scenario No. 1

<u>Description</u>	<u>Amount</u>
Assuming funding federal and/or provincial government and/or their agencies	\$15 million
Assuming Estimated Project Cost	\$100 million
Less \$60 million	(\$60 million)
Less \$20 million	(\$20 million)
Total	\$20 million

As the funding from federal and/or provincial government and/or their agencies of \$15 million is less than \$20 million, there will be no deduction to TransLink's funding other than legal costs incurred for the CTA application. The City would be able to keep the \$15 million funding.

Scenario No. 2

<u>Description</u>	<u>Amount</u>
Assuming funding federal and/or provincial government and/or their agencies	\$25 million
Assuming Estimated Project Cost	\$100 million
Less \$60 million	(\$60 million)
Less \$20 million	(\$20 million)
Total	\$20 million

As the funding from federal and/or provincial government and/or their agencies of \$25 million is more than \$20 million, the Deducted Costs would be \$5 million. Therefore, TransLink's contribution would be \$55 million less the legal costs incurred for the CTA application.

3. Prior to the completion of the Project, City Staff will recommend to Council that the City Traffic Bylaw be amended to designate Coast Meridian Road as a truck route, effective no later than the date of opening.
4. Once the City of Port Coquitlam formally designates Coast Meridian Road as a Truck Route, TransLink Staff will recommend to the TransLink Board of Directors that Coast Meridian Road from Kingsway Avenue to Victoria Drive including Coast Meridian Overpass and Broadway Street from Kingsway Avenue to Mary Hill Bypass be formally designated under the GVTA Act as part of the Major road Network. Based on the current TransLink's annual funding for Operating, Maintenance and Rehabilitation for MRN road, TransLink will contribute approximately \$255,600 annually for this purpose.
5. The City will undertake and complete the Project by December 31, 2010 or such later date as requested by the City and agreed to in writing by TransLink.

6. TransLink has initially indicated that progress payments are to be made on 60% of eligible costs on a quarterly basis; however, there are discussions underway between TransLink and City staff regarding monthly progress payments.
7. TransLink will hold back an amount equal to the Contribution Ceiling less \$6 million and TransLink will release the final payment of \$6 million within 30 days after completion of the Project and receipt of all of the documentation.
8. TransLink will not charge Interest During Construction (IDC) for the Project.
9. The City would be required to maintain insurance during the term of the Agreement and for ongoing operation, maintenance and rehabilitation of the infrastructure; and to operate, maintain and rehabilitate the infrastructure for the duration of its design life (50 years). Under s. 175 of the *Community Charter*, the City cannot lawfully enter into an agreement under which it assumes liabilities of a capital nature, that has a term of more than five (5) years, without the approval of the electors which can be obtained by alternative approval process (AAP). A separate Report to Council to seek approval to proceed with the AAP has been approved by Council for implementation.
10. If the City does not obtain the approval of electors on or before December 31, 2007, this Agreement will terminate on December 31, 2007.
11. This Agreement may be terminated by either party upon 30 days' written notice to the other party if the City does not obtain the authority (whether by written consent of CPR, order of the CTA, or court order) by December 31, 2007 to construct, operate, maintain and rehabilitate the overpass over CPR's rail yard and properties.
12. If the Project is not completed by the City within 10 years of the date of this Agreement, the City will reimburse TransLink for all payments made by TransLink to the City under this Agreement.

The execution of this agreement will formalize and secure the funding contribution from TransLink for the Coast Meridian Overpass Project. It will also support our CTA application, as this will demonstrate that there is a firm commitment from TransLink to provide \$60 million less deducted cost towards the Project.


for

Prepared by Francis Cheung, P. Eng., Director of Engineering and Operations

Attachments: 1. Draft Major Road Network (MRN) Major Capital Program Funding Agreement

MRN Major Capital Program

AGREEMENT

Coast Meridian Overpass

DRAFT

Agreement No. 0528-1601

THIS AGREEMENT made the _____ day of _____, 2006.

BETWEEN:

Greater Vancouver Transportation Authority, having an office at 1600 - 4720 Kingsway, Burnaby, BC, V5H 4N2

("TransLink")

OF THE FIRST PART

AND:

City of Port Coquitlam, having an office at 2580 Shaughnessy Street, Port Coquitlam, BC V3C 2A8

(the "Municipality")

OF THE SECOND PART

The parties hereby agree as follows:

1.0 Definitions

1.1 In this Agreement, the following terms will have the following meanings:

"Deducted Costs" will have the meaning set out in Schedule "A";

"Contribution Ceiling" will mean \$60 million less Deducted Costs;

"Eligible Costs" will have the meaning set out in Schedule "A";

"GVTA Act" will mean the BC *Greater Vancouver Transportation Authority Act*;

"Major Road Network" will have the meaning set out in the GVTA Act;

"Project" will mean the Coast Meridian Overpass Project, as described in Schedule "B";

"Property Costs" will mean any Eligible Costs that are real property acquisition costs; and

“Work” will mean everything to be provided and performed by the Municipality in relation to the Project.

2.0 GVTA Act

2.1 The Municipality acknowledges that TransLink may, by bylaw, establish standards for all or any part of the major road network (MRN), including the Project, in accordance with the GVTA Act.

2.2 Prior to completion of the Project, the Municipality staff will recommend to City Council to amend applicable bylaws to formally designate Coast Meridian Road as a truck route, to be effective no later than the date on which the Project is open to the public.

2.3 ~~Prior to completion of the Project~~ Once the Municipality has formally designated Coast Meridian Road as a truck route, TransLink staff will recommend to the TransLink Board of Directors that Coast Meridian Road from Kingsway Avenue to Victoria Drive (including Coast Meridian Overpass) and Broadway Street from Kingsway Avenue to the Mary Hill Bypass be formally designated under s. 18 of the GVTA Act as part of the Major Road Network.

3.0 Project

3.1 The Municipality represents and warrants that:

3.1.1 it has the capacity and authority to enter into this Agreement;

3.1.2 this Agreement is valid and binding on the Municipality;

3.1.3 it has, or will retain, the skills and experience necessary to carry out the Project; and

3.1.4 it has developed and approved the Project requirements and budget set out in Schedule “B” in a professional, competent and diligent manner.

3.2 The Municipality will undertake and complete the Project, or will cause its contractor to undertake and complete the Project, at the Municipality’s expense:

3.2.1 in accordance with the requirements set out in Schedule “B” for the Project;

3.2.2 by December 31, 2010 or such later date as requested by the Municipality and agreed to in writing by TransLink, acting reasonably;

3.2.3 in a professional, competent, timely and diligent manner, in accordance with acceptable industry standards; and

3.2.4 in compliance with all applicable laws, statutes, regulations, by-laws, and directions of all governmental and statutory authorities issued under lawful authority.

- 3.3 The Project will be considered complete when:
- 3.3.1 the Work is ready for use, or is being used, for its intended purpose; and
- 3.3.2 the total value of all incomplete, defective and deficient Work does not exceed 3% of the Project design and construction budget set out in Schedule "B".
- 3.4 Any requests from the Municipality for a change in the Project scope of work, an increase in the Project design and construction budget, or an extension to the deadline for completion stipulated in s. 3.2.2, must be submitted in writing to TransLink's Manager, Roads and Bridges. No changes in the scope of work, Project design and construction budget, or deadline for completion will be effective unless and until approved in writing by TransLink, acting reasonably.
- 3.5 The Municipality confirms that:
- 3.5.1 the Municipality has developed and approved the Project requirements and Project design and construction budget set out in Schedule "B";
- 3.5.2 the Municipality will be responsible for completing the Project in accordance with this Agreement, even if the Project costs exceeds the Project design and construction budget;
- 3.5.3 notwithstanding anything contained in this Agreement, TransLink will not be responsible in any way for:
- 3.5.3.1 any deficiency or defect in the Project design, specifications, requirements and budget;
- 3.5.3.2 any deficiency or defect in the Work or completion of the Project;
- 3.5.3.3 any costs incurred by the Municipality in relation to the Project, if the Municipality fails to obtain the approval of electors or waive such requirement by December 31, 2007~~6~~, or if the Municipality, its contractor or subcontractor fails to obtain any necessary statutory or regulatory approvals in relation to the Project; or
- 3.5.3.4 any costs of completing the Project in excess of the Contribution Ceiling.
- 3.6 TransLink may advertise or promote its participation in the Project at any time. TransLink's participation in the Project may be advertised or promoted in any media format including, without limitation, print, radio and television advertisement and electronic advertising on the World Wide Web.
- 3.7 TransLink will provide the Municipality with one or more temporary road signs indicating that the Project is funded by TransLink, supported by TransLink, or any other similar message. The Municipality will install these signs at appropriate locations related

- to the Project (as reasonably requested by TransLink) and maintain them until completion of the Project.
- 3.8 The Municipality will not make a public announcement concerning the Project without the prior consent of TransLink, such consent not to be unreasonably withheld or delayed. The Municipality will contact TransLink's Roads and Bridges department staff when preparing press releases, preparing for the release of any public information, or organizing public events, to ensure that TransLink has an opportunity to provide input prior to the release of information. The Municipality will, in all its publications, news releases, public communications and presentations regarding the Project, acknowledge TransLink's role in funding the Project. The Municipality will provide TransLink Roads and Bridges staff with milestone information that may be used to promote the Project and the MRN Major Capital Program.
- 3.9 The Municipality will provide TransLink, through Roads and Bridges department staff, with at least 14 days' notice of any proposed public announcement or ceremony related to the Project. This s. 3.9 will not apply to routine public notices regarding construction-related road closures.
- 3.10 Prior to receipt of final payment, the Municipality will purchase and install, upon completion of the Project, and where feasible, a plaque or permanent sign bearing an appropriate inscription recognizing TransLink and its contribution to the Project. The cost of the plaque or permanent sign will be an Eligible Cost under this Agreement.
- 3.11 The Municipality will provide TransLink with a detailed Project schedule, setting out all milestone dates, by no later than December 31, 2007.
- 3.12 The Municipality will provide quarterly progress reports to TransLink, in a format reasonably requested by TransLink, regarding the status of the Project. Without limiting the foregoing, the progress reports will be detailed and contain the following:
- 3.12.1 Details on Project work completed to date;
 - 3.12.2 An up-to-date project schedule, showing dates on which milestones have been achieved and projected dates for future milestones;
 - 3.12.3 A brief description of Project work planned for the next three months;
 - 3.12.4 An up-to-date summary of the Project design and construction budget, actual Project costs and actual Eligible Costs; and
 - 3.12.5 A description of any significant difficulties encountered, any anticipated claims for extra Project costs, or any other actual or anticipated deviations from Project design, Project design and construction budget, schedule, or other plans.
- 3.13 The parties will establish a Steering Committee, composed of one senior representative from the Municipality and one senior representative from TransLink, and agree in writing on the Steering Committee's terms of reference. The Municipality will obtain Steering

Committee approval for key Project decisions as required in the terms of reference set out in Schedule "C".

4.0 TransLink Contribution

4.1 Notwithstanding any other provision of this Agreement, TransLink will not be obligated to reimburse the Municipality for any Eligible Costs or other costs associated with the Project in excess of the Contribution Ceiling.

4.2 For the Project, TransLink will reimburse the Municipality, for actual Eligible Costs incurred in connection with the Project, up to an amount equal to the Contribution Ceiling less \$6 million, in the following manner:

4.2.1 After the Municipality obtains the approval of electors (to the extent it may be required under the *BC Community Charter*) or waives such requirement in writing, and every three months thereafter, the Municipality may submit a written progress payment request to TransLink for 60% of Eligible Costs incurred since the last progress payment request. The Municipality will provide the following supporting documentation with each request:

4.2.1.1 Quarterly reports as set out in s. 3.12;

4.2.1.2 Receipts or other supporting documentation evidencing payment by the Municipality of Eligible Costs;

4.2.1.3 Summary of Eligible Cost amounts paid;

4.2.1.4 Description of what the Eligible Cost payments covered;

4.2.1.5 Summary of payments made to date by other contributing parties;

4.2.1.6 Summary of outstanding payments requested from other contributing parties; and

4.2.1.7 any other documentation reasonably requested by TransLink to support the request.

4.2.2 If:

4.2.2.1 The Municipality is not in breach of the Agreement; and

4.2.2.2 TransLink is satisfied with the documentation provided under s. 4.2.1;

TransLink will make the progress payment requested under s. 4.2.1 within 30 days.

- 4.3 TransLink will release the final payment of \$6 million within 30 days after completion of the Project (as defined in s. 3.3) and receipt of all of the documentation required under s. 4.2 and the following:
- 4.3.1 a written certificate, executed by the Municipality's Director of Engineering and Operations, that the Project has been completed in accordance with s. 3.2 and 3.3, and meets or exceeds engineering specifications and standards set out in Schedule "B", if any, and those engineering specifications and standards established by the Municipality for the Project or for similar projects;
- 4.3.2 a Project cost statement, certified by the Municipality's Chief Financial Officer, which must include the total amount of Eligible Costs, the total amount of provincial and federal contributions to the Project (if any), and the following statement:
- "I certify that the Eligible Costs as stated have been incurred by the Municipality, are attributable to this Project, are correct, meet the definition set out in Agreement No.0528-1601, and are net of the Municipal GST rebate";* and
- 4.3.3 a Project close-out report, prepared by the owner's engineer for the Municipality, which sets out recommendations for the operation, maintenance, and future rehabilitation of the Project.
- 4.4 The Project design and construction budget specified in Schedule "B" will be inclusive of all applicable taxes.
- 4.5 All Eligible Costs submitted to TransLink for reimbursement must be submitted with supporting documentation. Any undocumented costs will not be reimbursed by TransLink.
- 5.0 Records, Audit and Inspection**
- 5.1 The Municipality will maintain accurate and complete records in relation to all Project costs, including, without limitation, supporting documentation for all Eligible Costs and other expenditures related to the Project, from the date of this Agreement until three years after the completion of the Project.
- 5.2 TransLink will have the right to enter upon the Municipality's premises for the purpose of auditing Project costs at any time during normal business hours. Without limiting the generality of the foregoing, TransLink will have the right to inspect and copy any records relating to Project costs, including any supporting documentation.
- 5.3 TransLink will have the right to enter upon the Project site, for the purpose of conducting a physical inspection of Project work, at any time during normal business hours.

6.0 Indemnity and Release

6.1 The Municipality will indemnify and save harmless TransLink, its subsidiaries, and their directors, officers, employees and agents, (collectively the "Indemnified Parties") from and against any and all losses, claims, complaints (including, without limitation, complaints pursuant to human rights legislation), damages, actions, causes of action, fines, penalties, costs and expenses (including, without limitation, actual legal fees and disbursements) the Indemnified Parties may sustain, incur, suffer or be put to any time, either before or after the expiration or termination of this Agreement, arising out of, or in connection with the Project or the Work, including, without limitation:

- 6.1.1 any breach of this Agreement or anything done or omitted to be done, whether negligently or otherwise, by the Municipality or any councillor, officer, employee, agent, contractor or subcontractor of the Municipality pursuant to this Agreement;
- 6.1.2 the design, engineering, construction, operation, maintenance or rehabilitation of the Project, whether negligent or otherwise;
- 6.1.3 any contravention or alleged contravention of applicable laws, statutes, regulations, by-laws, or directions of governmental or statutory authorities issued under lawful authority, including, without limitation, those related to the environment, environmental protection and contaminated sites;
- 6.1.4 the use and occupation of the Project lands, whether negligent or otherwise; or
- 6.1.5 any Steering Committee participation, review, inspection, audit, approval, acceptance or payment by TransLink in relation to the design, engineering, construction, operation, maintenance or rehabilitation of the Project or the Work;

whether or not such losses, claims, complaints, damages, actions, causes of action, fines, penalties, costs or expenses relate to the acts or omissions, whether negligent or otherwise, of the Indemnified Parties.

- 6.2 In addition to the foregoing, and notwithstanding any other term or provision herein contained, the Municipality, for and on behalf of itself, its councillors, officers, employees, agents, contractors and subcontractors, hereby unconditionally, absolutely and irrevocably releases and forever discharges the Indemnified Parties from any and all losses, liabilities or damages, at law or in equity and whether direct, indirect or consequential, which relate to, arise out of, or are in any way connected with the design, engineering, construction, operation, maintenance or rehabilitation of the Project or the Work, whether caused by, or arising through the negligence of the Indemnified Parties.
- 6.3 The Municipality acknowledges that the indemnity under s. 6.1 and the release under s. 6.2 will not be affected in any way by the provisions of s. 2.

7.0 Insurance

- 7.1 The Municipality will, at its own expense, provide and maintain insurance with insurers licensed in British Columbia with coverage of a type and in amounts, that any similar business, acting reasonably, would procure for a project of the scope, size and exposure of this Project, during the term of this Agreement and for any subsequent ongoing operation and maintenance and rehabilitation of the resulting infrastructure.
- 7.2 The Municipality shall require and ensure that each contractor and sub-contractor involved in the Project maintains insurance comparable to those required in s. 7.1.

8.0 Operation, Maintenance and Rehabilitation

- 8.1 The parties confirm that, once the Project is completed, the Municipality will, at its cost, operate, maintain and rehabilitate the Work, for the duration of its design life, in good condition and in good working order as part of its public works maintenance program.
- 8.2 The Municipality will ensure that the Work is operated, maintained and rehabilitated in compliance with all applicable laws, statues, regulations, by-laws, and directions of all governmental and statutory authorities issued under lawful authority, including, without limitation, any standards established by TransLink for the Work under the GVTA Act.

9.0 Default, Remedies and Termination

- 9.1 The parties' obligations under this Agreement are subject to the Municipality obtaining the approval of the electors, to the extent it may be required under the *Community Charter*. The parties acknowledge that this condition precedent is inserted for the Municipality's benefit only and may be waived at any time prior to ~~December 31, 2006?~~ December 31, 2007 by written notice to TransLink. If the Municipality does not waive or declare this condition precedent satisfied by written notice from the Municipality to TransLink on or before December 31, 2007~~December 31, 2006?~~, this Agreement will terminate on December 31, 2007~~December 31, 2006?~~.
- 9.2 This Agreement may be terminated by either party upon 30 days' written notice to the other party if:
- 9.2.1 the Municipality does not obtain, by December 31, 2007, the authority (whether by written consent of Canadian Pacific Railway Company ("CPR"), an order of the Canadian Transportation Agency, or ~~an court order of a court of competent jurisdiction~~), by ~~Port Coquitlam to insert date~~, to construct, operate, maintain and rehabilitate the Project over CPR's railyard and properties [insert definition]; or
- 9.2.2 the Municipality is precluded from, ~~prevented from, or restricted in~~ constructing, operating, maintaining or rehabilitating the Project over the CPR's railyard and properties.

Upon termination of this Agreement under this s. 9.2, the Municipality will reimburse TransLink for any Property Costs that have been paid by TransLink to the Municipality but will be permitted to retain all other Eligible Costs that have been funded by TransLink up to the date of termination.

- 9.3 If TransLink alleges the Municipality to be in default hereunder and gives written notice thereof stipulating the default, and if such default continues for more than 30 days after the delivery of such written notice, and the Municipality has not cured the default or resolved the allegation, TransLink may remedy the Municipality's default and the Municipality will reimburse TransLink for all costs incurred by TransLink in remedying the Municipality's default.
- 9.4 If TransLink alleges the Municipality to be in material default hereunder and gives written notice thereof stipulating the material default, and if such default continues for more than 30 days after the delivery of such written notice, and the Municipality has not cured the default or resolved the allegation, TransLink may terminate this Agreement effective forthwith on the giving of further notice.
- 9.5 If:
- 9.5.1 this Agreement is terminated for any reason other than default by TransLink;
 - 9.5.2 the Project is abandoned by the Municipality for any reason; or
 - 9.5.3 the Project is not completed by the Municipality within 10 years of the date of this Agreement;

the Municipality will reimburse TransLink for all payments made by TransLink to the Municipality under this Agreement. Notwithstanding the foregoing, this s. 9.5 will not apply to termination of this Agreement under s. 9.2.

- 9.6 TransLink will be entitled to recover monies owing to TransLink under this Agreement by way of deduction from any amount that may be due or payable by TransLink to the Municipality, including Major Road Network (MRN) operation, maintenance and rehabilitation funding, MRN minor capital funding, or MRN major capital funding, transit road-related infrastructure program funding, and bicycle infrastructure capital cost sharing funding.
- 9.7 ~~TransLink~~ Either party may from time to time resort to any or all of the rights and remedies available to it, either by any provision of the Agreement or by statute or the general law, all of which rights and remedies are intended to be cumulative and not alternative. The express provisions hereunder are not to be interpreted as excluding any other rights or remedies available to ~~TransLink~~ either party by statute or the general law.

10.0 Dispute Resolution

- 10.1 Any dispute or controversy occurring between the parties hereto relating to the

interpretation or implementation of any of the provisions of this Agreement will be resolved by arbitration, conducted by one arbitrator. The parties will agree on the arbitrator or, failing agreement, the arbitrator will be appointed in accordance with the rules of the British Columbia International Commercial Arbitration Centre and the British Columbia *Commercial Arbitration Act*.

11.0 General

- 11.1 All notices, demands, claims or other communications required or permitted hereunder will be in writing and may be delivered prepaid, sent by facsimile or sent by prepaid first class mail. Any notice delivered will be deemed to have been given or received at the time of delivery to the address of the recipient as set out below. Any notice delivered by facsimile will be deemed to be delivered on the next day following the date of transmission thereof. Any notice mailed as aforesaid will be deemed to have been given and received on the fourth day following the date of its mailing. Any notice will be addressed as follows:

To: TransLink
1600 – 4720 Kingsway
Burnaby, BC, V5H 4N2
Attention: Manager, Roads and Bridges
Facsimile No.: (604) 453-4600

To: City of Port Coquitlam
2580 Shaughnessy Street
Port Coquitlam, BC V3C 2A8
Attention: Director of Engineering and Operations
Facsimile No.: (604) 927-5407

- 11.2 This Agreement will be governed by and construed in accordance with the laws of British Columbia and the laws of Canada. The parties consent to the exclusive jurisdiction of the courts of the Province of British Columbia.
- 11.3 If any terms, covenant, or condition contained in this Agreement or the application thereof to any person or circumstance will to any extent be invalid or unenforceable, the remainder of this Agreement or the application of that term, covenant, or condition to persons or circumstances, other than those concerning which it is held invalid or unenforceable, will not be affected thereby and each term, covenant, and condition of this Agreement will be separately valid and enforceable to the fullest extent permitted by law.
- 11.4 Time will be of the essence under this Agreement.
- 11.5 The provisions contained in this Agreement and in the Progress Payment Letter constitute the entire agreement between the parties and supersede all previous communications,

representations, expectations, understandings and agreements, whether written or unwritten, between the parties with respect to the subject matter of this Agreement.

- 11.6 The Municipality may not assign this Agreement without the prior written consent of TransLink, such consent not to be unreasonably withheld.

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11.7 Each of the parties will at all times, from time to time and upon reasonable request, do, execute and deliver all further assurances, acts and documents for the purpose of evidencing and giving full force and effect to the covenants, agreements and provisions in this Agreement.

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IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first above written.

GREATER VANCOUVER TRANSPORTATION AUTHORITY

(Authorized Signatory)

Name, Title (Please print)

CITY OF PORT COQUITLAM

(Authorized Signatory)

Name, Title (Please print)

(Authorized Signatory)

Name, Title (Please print)

Schedule "A"

Eligible Costs will mean all reasonable direct capital costs, which would usually be capitalized in the financial records of the Municipality, where such costs are properly and reasonably incurred and paid solely and specifically in relation to the Project.

The following are examples of costs that will be eligible for reimbursement, provided that they fall within the definition set out in the immediately preceding paragraph:

- relocation of existing utilities, if required to facilitate the Project;
- surveying;
- traffic control during construction;
- installation of new traffic control devices, only where appropriate warrants are met;
- environmental protection and/or compensation works required by agencies other than the Municipality, or as agreed in writing by TransLink's Manager of Roads and Bridges;
- archaeological protection and/or compensation works required by agencies other than the Municipality, or as agreed in writing by TransLink's Manager of Roads and Bridges;
- basic landscaping (e.g., seeding);
- reasonable lease or rental fees, for equipment, tools, furnishings, fittings, office trailers or similar items, for the duration of the construction of the Project;
- permit fees charges by agencies other than the Municipality;
- insurance costs incurred by the Contractor and passed on to the Municipality as a Project cost;
- taxes paid in relation to eligible costs, net of any rebate for which the Municipality is eligible;
- restoration of existing features and infrastructure disrupted by construction of the Project (e.g., basic landscaping, driveway pavement, curbs);
- materials testing to prove suitability of soils or structural elements, or contamination levels;
- consultant's fees and disbursements for engineering, environmental design, construction monitoring, inspection and testing, project management and contract administration;
- purchase and installation of a plaque or permanent sign acknowledging the involvement of TransLink in the Project; and
- any other project-related costs for which TransLink agrees in writing to reimburse the Municipality.

Notwithstanding the above, the following are examples of costs that will not be eligible for reimbursement under this agreement:

- costs incurred prior to "Specific Project Approval" (not Approval in Principle) of the Project by the TransLink Board, unless otherwise agreed to and confirmed in writing by TransLink's Manager of Roads and Bridges;
- costs incurred after the completion of construction, as defined in s. 3.3 of the Agreement;
- insurance costs incurred by the Municipality, other than costs incurred by the Contractor;
- work that is the responsibility of other governments, owners or agencies;
- the Municipality's staff (other than construction labour) time or expenses, whether directly or indirectly related to the Project;

- the Municipality’s overhead (e.g., charges for computer usage, cell phones, long distance);
- public process or consultation;
- utility relocations, unless specifically required to facilitate the Project;
- utility upgrading or new construction, unless specifically required to facilitate the Project;
- purchase of any equipment, tools, furnishings, fittings, office trailers or other such items that will be retained for use after completion of the Project;
- gifts in kind;
- permit fees or any other fees for service levied by the Municipality;
- public art, enhanced landscaping, or other non-standard forms of “beautification”;
- landscape design;
- legal and auditing or accounting fees incurred by the Municipality in relation to the Project;
- operation, maintenance, monitoring or rehabilitation of assets following completion of construction; and
- costs associated with remedying any Project defect or deficiency or any breach by the Municipality under this Agreement.

“Deducted Costs” will mean:

- Legal costs incurred by TransLink in supporting the Municipality’s application to the Canadian Transportation Agency for an order granting the Municipality authority to construct the Project over the Canadian Pacific Railway’s railyard and properties; and
- funding from federal ~~and~~ provincial governments ~~and/or~~ their agencies or the Canadian Pacific Railway or its affiliates for the Project, but only to the extent such funding exceeds the following:

[Project design and construction budget] less [\$80 million]

For example, if the Project design and construction budget is \$100 million, funding from federal and provincial governments and/or their agencies will only constitute a Deducted Cost if, and to the extent, such funding exceeds \$20 million.

Schedule "B"

[under review by Port Coquitlam]

The City of Port Coquitlam will design and construct the Coast Meridian Overpass Project, the scope of which includes the following:

- a new, grade-separated crossing of the Canadian Pacific Railway (CPR) yard (referred to as "Coast Meridian Overpass", or CMOP) with four, 3.5 m wide lanes connecting Coast Meridian Road north of the CPR yard to Broadway Street south of the yard;
- a new, five-lane road (referred to as "Coast Meridian Connector") terminating at a new signalized intersection at Coast Meridian Road just north of the overpass;
- relocation of the existing signalized intersection on Lougheed Highway at Coast Meridian Road to the new Coast Meridian Connector just west of the overpass;
- widening of Coast Meridian Road from the existing two lanes to four lanes from north of Riverwood Gate through to the overpass;
- sidewalks on (1) both sides of Coast Meridian Road north of the Coast Meridian Connector (2) one side of Coast Meridian Road through to the overpass, and (3) south side of Kingway Avenue from _____ to _____;
- widening of Kingway Avenue between McLean Avenue and Broadway Street to four lanes;
- realignment of the intersection of McLean Avenue with Kingsway Avenue, including removal of northbound left-turn movements (due to proximity of intersection to Broadway Street at Kingsway Avenue);
- a 2.0 m wide sidewalk for pedestrians on one side of the overpass, with railings of appropriate height for cyclists on either side (i.e., minimum 1.4 m high), continuous from an existing sidewalk along Coast Meridian Road north of the overpass to Kingsway Avenue at Broadway Street south of the overpass;
- dedicated, 1.8 m wide on-street bike lanes on both sides of the overpass and on Coast Meridian Road from the overpass to Riverwood Gate;
- a 0.6 m (base width) concrete median barrier separating opposing directions of traffic on the overpass, with minimum 0.6 m 'shy distance' on either side (i.e., from edge of barrier to outside edge of lane);
- street lighting on all new and/or realigned roads, including the overpass;
- minimum vertical clearance of 5.0 m above roads (e.g, Lougheed Hwy) and 7.01 m (or as otherwise required by CPR) above top of rail tracks, with provision for expansion of Lougheed Highway under the overpass from the existing four lanes to six lanes in future;
- and
- acquisition of properties required to facilitate the project; ~~and~~
- ~~reference to work required to satisfy CP operational requirements can Port Coquitlam supply suggested language?]~~

Note: The widening of Broadway Street from two lanes to four lanes, with a two-way left turn lane will be completed by the City as part of a separate reconstruction project.

Transit services along all roadways will be considered and provision of appropriate stop locations will be included in the design

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The Project design and construction budget (as of September 2006), based on the conceptual design outlined in the **Coast Meridian Overpass Project Design Brief** (Draft No. 2, September 13, 2005), is summarized below

<u>Description</u>	<u>Estimated Cost</u> (millions)
Engineering and Project Management	\$11.6
Property Acquisition	\$10.4
Construction – Overpass Structure	\$45.9
Construction – All other	\$17.4
Management Reserve	\$4.3
Escalation	\$9.1
Total (Year 2008 dollars)	\$98.7

As of the date of execution of this Agreement, the expected funding contributions are:

<u>Agency</u>	<u>Amount</u> (millions)
TransLink	\$60 – Deducted Costs
City of Port Coquitlam	\$98.7 – (\$60 – Deducted Costs)
Total (Year 2008 dollars)	\$98.7

{TransLink to insert Project design and construction budget and funding sources—total to match}

SCHEDULE "C"

Steering Committee Terms of Reference

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Coast Meridian Overpass Steering Committee Terms of Reference

Purpose

The primary purposes of the Steering Committee are:

- senior-level project oversight;
- due diligence on expenditure of project funds; and
- forum for discussion and dissemination of project information.

Steering Committee Membership and Meeting Attendance

The project Steering Committee shall be formed of two voting members, who are senior staff representative of the major funding partners, i.e., City of Port Coquitlam (the City) and Greater Vancouver Transportation Authority (TransLink). An alternate shall be designated for each representative.

Alternates will be welcome to attend all Steering Committee meetings. The (full-time) Project Manager/Director, once appointed, shall also attend all Steering Committee meetings to provide regular project updates.

Steering Committee Responsibilities

The Steering Committee shall be responsible for the overall direction of the project. Approval of both Committee members shall be required for key decisions, including:

- project delivery method;
- appointment of Project Manager/Director;
- retention of Owner's Engineer and other key project team members;
- acceptance of conceptual design;
- approval to proceed to Request for Proposal or Request for Tender stage;
- approval to award contract for construction or design/construction; and
- subsequent approval of material changes to project scope, schedule or budget.

The Steering Committee shall not be responsible:

- day-to-day direction of the project;
- approval of agreements between the City and other stakeholders (e.g., CP Rail, property owners);
- securing approvals required from agencies other than those directly represented by Committee members (e.g., CP Rail, environmental agencies, first nations, special interest groups);
- approval of preliminary and/or detailed design; or
- payment of any consultants and/or contractors providing services on the project.

Dispute Resolution

The funding agreement between the City and TransLink will specify a dispute resolution process to be invoked in the event that the Steering Committee cannot make a unanimous decision on any area of its responsibility.

Meeting Schedule and Documentation

During key decisions stages, the Steering Committee shall meet at the request of either of its members, or once per month as a minimum. During design/construction of the project, the Steering Committee shall meet the request of either of its members, or once per quarter as a minimum. The Project Manager/Director shall be responsible for setting up meetings, including preparing agenda and meeting notes, or if not available, either of the Steering Committee members may do so, as mutually agreed.

Coast Meridian Overpass Project

