



Sept 17, 2018

PRIVATE AND CONFIDENTIAL

Bruce County

Address and Postal Code

Attention: TBD

Re: Transportation Demand Management Program – Collaboration Agreement

Dear TBD:

SustainMobility wishes to collaborate with the Bruce County (the "**City**"), to assist with the development of a transportation demand management ("**TDM**") program (the "**Project**"). The Project is intended to provide opportunities for residents of Region 4, South East Ontario Region as more particularly set out in the map in **Schedule A** attached hereto (the "**Location**") to engage in initiatives promoting the reduction of single occupancy vehicle travel through carpooling, walking, cycling, and public transit usage.

In consideration of the mutual covenants and agreements contained in this letter agreement (the "**Agreement**"), and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, SustainMobility and the City (collectively, the "**Parties**" and each, a "**Party**") agree as follows:

1. Purpose and Expected Results.

- (a) The purpose of this Agreement is: (a) to collaborate with and enable the City, by providing SustainMobility's expertise and tools, to develop the Project in the Location; and (b) to enable SustainMobility to achieve its objective of developing a province-wide network of organizations operating in accordance with its Model (as defined herein).
- (b) SustainMobility expects to: (a) develop a customized carpooling tool for the City through SustainMobility's TDM program model to promote the reduction of single-occupancy vehicle travel (the "**Model**"); (b) assist in enhancing the brand value of Commute Ontario locally and provincially; and (c) develop the business case of the Project for sustaining the services (collectively, the "**Project Objectives**").
- (c) The City acknowledges its rights under this Agreement are non-exclusive and SustainMobility has and intends to enter into similar arrangements to the Project with other municipalities and cities to develop the Model across Ontario (the "**Other Projects**").

2. **Term.** This Agreement shall commence on the date that this Agreement is signed by the City and shall expire on April 30, 2021 (the "**Term**"), unless terminated earlier in accordance with Section 13. The Parties shall enter into good faith discussions at least one hundred eighty (180) days prior to the expiry of the Term regarding the renewal of the Agreement on new terms and conditions to be agreed to between the Parties.
3. **Financial Considerations.** SustainMobility has received a grant from the Ontario Trillium Foundation (the "**Grant**") which will be used to fully fund the Project and SustainMobility's obligations under this Agreement during the Term. The City acknowledges that the Grant will only be used in accordance with the terms and conditions thereof and shall also be used to fund the Other Projects. Any additional requests from the City not contemplated by this Agreement may be subject to additional fees as determined by SustainMobility, acting reasonably.
4. **Project Responsibilities.**
 - (a) SustainMobility. SustainMobility will:
 - (i) provide the programs and tools for the Project as set out in **Schedule B** attached hereto;
 - (ii) obtain the necessary rights and licenses to the information technology in connection with the program and tools which are to be provided by Pathway Intelligence;
 - (iii) assist with the development and customization of the Project for the City's particular requirements;
 - (iv) provide technical and administrative support to the City in connection with the operation of the Project;
 - (v) provide the City with marketing materials and outreach support in respect of the promotion of the Project to potential organizations;
 - (vi) manage the Grant funds and maintain accurate books and records; and
 - (vii) ensure it has the appropriate staff, resources, and expertise to implement the Project.
 - (b) The City. The City will:
 - (i) promote and raise awareness of the Project in the Location, including, but not limited to, encouraging potential organizations to participate in the Project;
 - (ii) promote the Project on its website including displaying the Project Logo (as defined herein);
 - (iii) collect and maintain accurate data in respect of the Project including results to help develop a business case to continue the Project after expiration of the Term; and

- (iv) engage in, and provide reasonable assistance with, the development of the business case for the Project.

5. Steering Committee.

- (a) Establishment and Purpose. To assist with the continuous improvement of the Project and to consistently expand the Project Objectives province-wide, a steering committee will be established (the "**Steering Committee**") with an advisory purpose for members to provide recommendations and suggestions on the improvement and development of the Project and Other Projects.
- (b) Member Composition. The Steering Committee will comprise of the Executive Director of SustainMobility, the City, and the other participating municipalities may each appoint one (1) member for its Project and the Other Projects, respectively. Participation in the Steering Committee is optional and voluntary.
- (c) Discussions and Decisions. For greater certainty, the Steering Committee is intended to facilitate open discussions and ideas on the improvement of the Project and Other Projects between all parties. SustainMobility reserves the right to make any final decisions on the Project to ensure it is in compliance with the Project Objectives and the Grant requirements.

- 6. Advertising and Publicity.** Each Party may reference the existence of this Agreement, the title of the Project, and identify the Parties to this Agreement. SustainMobility hereby grants to City a non-exclusive, non-transferable, non-sublicensable, royalty-free, limited license to use the Commute Ontario logo ("**Project Logo**") for use in connection with the promotion of the Project. The City hereby grants to SustainMobility a non-exclusive, non-transferable, non-sublicensable, royalty-free, limited license to use the City's trademarks and trade names as set out in **Schedule C** attached hereto solely for the use and promotion of the Project. Except as otherwise provided herein or required by applicable law, no Party shall use, or authorize others to use, the name, symbols or marks of any of the other Parties in any publication, news release, promotion, advertisement, or other public announcement, whether written or oral, without the prior written approval of the relevant Party.

- 7. Intellectual Property.** Each Party retains all right, title, and interest in and to its intellectual property existing prior to the Project, including any trademarks or tradenames.

8. Confidentiality.

- (a) "**Confidential Information**" means any and all information disclosed by a Party (a "**Disclosing Party**") to the other Party (a "**Recipient Party**") under this Agreement in any form whatsoever that is marked as "confidential" or that such Disclosing Party has indicated in writing at any time to be confidential, but does not include information which: (a) is or becomes available to the public other than as a result, directly or indirectly, of a breach of this Agreement by the Recipient Party; (b) at the time of disclosure was already known to the Recipient Party, or is independently developed by the Recipient Party without reference to or use of information disclosed by the Disclosing Party; or (c) is lawfully made available to the Recipient Party on a non-confidential basis prior to its disclosure.

- (b) The Recipient Party shall not use the Confidential Information (or any personal information that may be received pursuant to this Agreement) at any time for any purpose other than for or in connection with the Project, or derive any benefit therefrom, and shall not disclose any of the Confidential Information to any person other than its directors, officers, employees, and representatives which are actively and directly participating in, and need to know the Confidential Information for or in connection with, the Project. The Recipient Party shall keep all of the Confidential Information confidential, protect it with reasonable safeguards and strictly limit and control copies thereof. The Recipient Party shall promptly notify the Disclosing Party of all loss, unauthorized use, and disclosure of the Confidential Information, and take steps to prevent further loss, use, or disclosure. If the Recipient Party is required by law to disclose any of the Confidential Information, the City shall provide the Disclosing Party with prompt written notice and cooperate with the Disclosing Party before making any disclosure.
9. **Disclaimer.** SustainMobility represents and warrants it has the necessary rights and licenses to provide the program and tools for the Project. The City acknowledges that the program and tools used in connection with the Project are understood to be provided "as is". SustainMobility makes no representation, warranty, condition, or other promise of any kind, express, implied, statutory, or otherwise in respect of the material or program tools, including as to its merchantability or fitness for a particular purpose.
10. **Indemnity.** Each Party shall indemnify and hold harmless the other Party, and its directors, officers, employees, representatives, contractors, and agents (collectively, "**Representatives**") from and against any losses, claims, damages, liability, expenses, and costs to the extent such loss, claim, damages, liability, expense, or costs results from any act, omission, or negligence of such Party or its Representatives.
11. **Limitation of Liability.** Each Party assumes all liability for damages that might arise from its own acts or omissions. A Party shall not be liable to another Party for any loss, cost, claim, or demand (including any third party claims), except to the extent caused by a Party's own negligence or willful misconduct. Neither Party will be liable, in any circumstance, for any special, consequential, indirect, incidental, exemplary, or punitive damages or loss of profit, whether in contract, tort or otherwise resulting from any cause of action whatsoever, whether or not advised of such possibility of the foregoing.
12. **Insurance.** During the Term, the SustainMobility shall, at its sole expense, procure and maintain all necessary insurance coverage required for its operation of the Project, in an aggregate amount of at least Two Million Dollars (\$2,000,000) on a per occurrence basis.
13. **Termination.** This Agreement may terminate:
- (a) at the expiration of the Term;
 - (b) by the mutual written agreement of the Parties; or
 - (c) by either Party with 90 days prior written notice of termination to the other Party.
14. **Notice.** Any notice, direction, or other communication (a "**notice**") required or permitted to be given to a Party shall be in writing and shall be sufficiently given if delivered personally, mailed,

or transmitted by email to the address set forth below. Either Party may change its address by notifying the other Party of the change of address in writing. A notice shall be deemed to have been received: (a) if delivered personally, upon receipt; (b) if mailed, on the third business day after the date-stamped time of mailing, or (c) if emailed, on the first business day after the date such email is transmitted.

In the case of SustainMobility, at:

SustainMobility
4080 Confederation Parkway, Suite 202
Mississauga ON

Attention: Glenn Gumulka, Executive Director
Email: ggumulka@sustainmobility.ca

In the case of the City, at:

Corporation of Bruce County
Mailing address and postal code

Attention: TBD
Email: TBD

15. General/Miscellaneous.

- (a) Entire Agreement; Survival. This Agreement contains the entire agreement between the Parties, with respect to the matters covered herein, and supersedes any discussions, representations or prior or contemporaneous agreements, discussions, or representations, whether written or oral. Any amendment, alteration, or modification of this Agreement must be evidenced by a written instrument duly executed by both Parties. Sections 7, 8, 9, 10, and 11 and all other provisions of this Agreement which, by their nature, are meant to survive termination of this Agreement shall survive termination of this Agreement in perpetuity.
- (b) Relationship of the Parties. Nothing contained in this Agreement should be construed to create or imply any joint venture, partnership, principal-agent, trust, or employment relationship between the Parties, and a Party may not make, or allow to be made, any representation that any such relationship exists between the Parties. A Party shall not have the authority to act for, or to incur any obligation on behalf of, the other Party, except as expressly provided for in this Agreement.
- (c) Severability. Any provision in this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

- (d) Assignment; Enurement. Neither this Agreement nor any obligation contained herein may be assigned by either Party without the prior written consent of the other Party. This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.
- (e) Compliance with Laws. Each Party acknowledges and agrees that it shall at all times comply with all applicable laws.
- (f) Further Assurances. Each of SustainMobility and the City shall promptly do, execute, deliver, or cause to be done, executed, or delivered all further acts, documents and matters in connection with this Agreement and the Project that the other Party may reasonably require.
- (g) Governing Law. This Agreement shall be governed by, and interpreted and enforced in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- (h) Counterparts. This Agreement may be executed in counterparts each of which so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument.

We look forward to working with you! Please confirm your acceptance of the above terms and conditions by signing and returning a copy of this Agreement to the undersigned.

Yours truly,

SUSTAINMOBILITY

Glenn Gumulka
Executive Director

AGREED AND ACCEPTED this XX day of Month, 2018.

[MUNICIPALITY]

By: _____

Name
Title

(I have authority to bind the corporation)

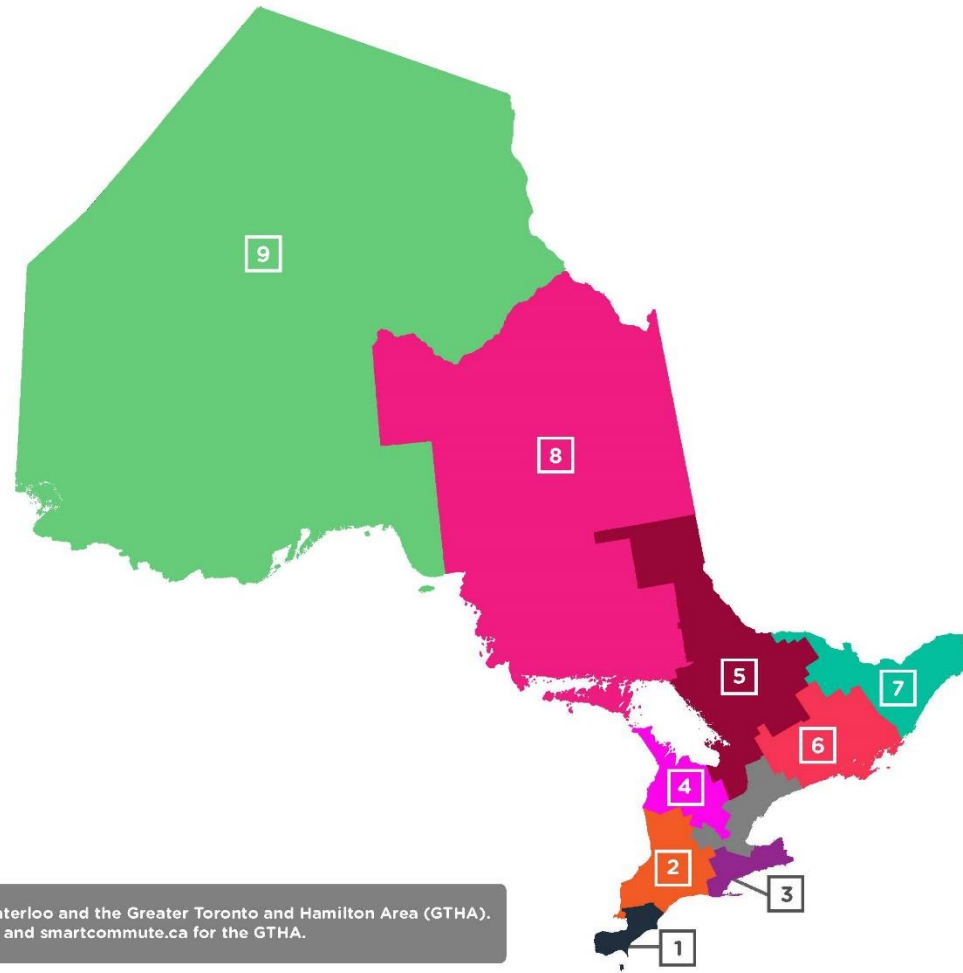
SCHEDULE A

MAP OF PROPOSED SERVICE AREA



Legend

- 1. South
- 2. London Region
- 3. Niagara
- 4. South East
- 5. Central
- 6. South Central
- 7. East
- 8. North East
- 9. North West



* Commute Ontario is not available in the Region of Waterloo and the Greater Toronto and Hamilton Area (GTHA). Please visit gotravelwise.ca for the Region of Waterloo and smartcommute.ca for the GTHA.

SCHEDULE B

PROJECT PROGRAM AND TOOLS

In connection with the Project, SustainMobility will provide the City and participating organizations with the following programs and tools:

1. Access to the Commute Ontario Information Portal

Description: The Commute Ontario Portal is the gateway to all programs and services associated with the Project. Organizations will be granted administrative access to the portal. Through the portal, organizations can download all relevant files and marketing materials required to support the Project. Employees of organizations can access the portal to find links and information to campaigns, resources, tools and other materials associated with the Project. Organization pages on the portal may be branded with an organization's logo/trademark along with the logos of any supporting municipalities or funding agencies.

2. Regional Ride-Matching Tool

Description: Organizations will have a network on the online ride-matching tool that allows commuters to plan routes, find and share rides with colleagues, and measure the impact of their travel choices. Employees can choose to search for matches within their organization only, or within the greater pool of participants from within their region. Organizations will have administrative access to their network on the Project platform.

3. Active Switch Program

Description: Organizations will have a corporate account on the Active Switch online program. Active Switch allows users to track their active travel behaviour and monitor the impact of active travel on their health and the environment. Organizations will have administrative access to the corporate account which may be branded with a corporate logo/trademark along with the logos of any supporting municipalities or funding agencies.

4. Emergency Ride Home Program

Description: The Emergency Ride Home Program provides a reimbursement (up to \$75 maximum per ride) to employees at participating organizations to cover commuting expenses related to a personal emergency on a day when the employee used a sustainable travel mode to get to work. Claims for Emergency Ride Home can be made using forms located on the Commute Ontario Portal. All claims are subject to rules and conditions as stated in the Emergency Ride Home Terms and Conditions.

5. Marketing Programs

Description: Through the Commute Ontario Portal, organizations will have access to a variety of electronic marketing and communications materials to assist them in promoting the Project to their employees. Marketing campaigns will include:

- Carpooling campaign
- Cycling campaign
- Walktober campaign
- Monthly rewards program

SCHEDULE C

TRADEMARK AND TRADENAMES

