

AMENDING AGREEMENT NO.1

THIS AMENDING AGREEMENT is dated for reference the 31st day of March, 2021

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,
represented by the Minister of Environment and Climate Change Strategy
(Responsible for TransLink)

(the "**Province**")

AND:

SOUTH COAST BRITISH COLUMBIA TRANSPORTATION AUTHORITY, a
corporation continued under the *South Coast British Columbia Transportation
Authority Act*, S.B.C. 1998, c. 30

("TransLink")

WHEREAS:

- A. The Province (then represented by the Minister of Municipal Affairs and Housing) and TransLink entered into a Contribution Agreement dated for reference the 26th day of October 2020 (the "**Contribution Agreement**");
- B. On November 26, 2020, by Order In Council No. 602, the Minister of Environment and Climate Change Strategy was charged with the administration of the *South Coast British Columbia Transportation Authority Act*, S.B.C. 1998, c. 30, except for Part 7.1;
- C. Pursuant to the Contribution Agreement, the Province agreed to provide TransLink with the Contribution (as defined therein) comprised equally of federal and provincial funding to provide relief to TransLink from the estimated operational fiscal impacts of COVID-19 during the 2020 and 2021 calendar years, in order to assist TransLink with maintaining transit services during the term of the Contribution Agreement, and to offset TransLink's estimated revenue losses from limited average annual public fare increases to 2.3% through 2024;
- D. TransLink has requested funding (as set out in Schedule "A" attached to this Amending Agreement), and the Province has agreed to provide, additional funding to offset lower than forecast motor fuel tax revenue in the amount of \$16.9 million (the "**Additional Motor Fuel Revenue Contribution**"), which amount is to

fully offset lower than forecast motor fuel tax revenue in 2020 (\$10 million) and to partially offset lower than forecast motor fuel tax revenue in 2021 (\$6.9 million);

- E. To further support the federal 'Safe Restart' program and the 'BC Restart Plan', the Province intends to implement a free transit program across the Province for youth aged 12 and under commencing in the Fall 2021 (the "**Free Transit for Youth 12 and Under Program**");
- F. The Province intends to work with TransLink to develop and enter into a program agreement ("**Program Agreement**") that provides funding to offset the costs to TransLink of implementing the Free Transit for Youth 12 and Under Program within TransLink's Metro Vancouver service area over the long term;
- G. The Parties recognize that significant program development is required to establish a Free Transit for Youth 12 and Under Program within TransLink's Metro Vancouver service area;
- H. To further support the federal 'Safe Restart' program and the 'BC Restart Plan', the Province wishes to make, and TransLink has agreed to accept, a contribution of \$14.9 million by March 31, 2021 (the "**Youth 12 and Under Program Contribution**"), towards defraying some of the anticipated costs to TransLink of developing and implementing a Free Transit for Youth 12 and Under Program starting in 2021;
- I. The Parties acknowledge that the longer-term costs related to TransLink of providing for a Free Transit for Youth 12 and Under Program in TransLink's Metro Vancouver service area have not yet been fully developed. The Parties further acknowledge that the "**Youth 12 and Under Program Contribution**" in this agreement will be recognized as part of the overall funding arrangements for a Free Transit for Youth 12 and Under Program within TransLink's Metro Vancouver service area, as further defined in a Program Agreement; and
- J. The Parties wish to amend the Contribution Agreement to provide that the Additional Motor Fuel Revenue Contribution and the Youth 12 and Under Program Contribution (together, the "**Additional Safe Restart Contribution**") be part of and subject to the terms and conditions applicable to the Contribution.

NOW THEREFORE, in consideration of the premises and covenants and agreements set out in this Amending Agreement and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by the Parties), the Parties agree as follows:

1. Capitalized terms in this Amending Agreement and the Recitals to this Amending Agreement which are not otherwise defined herein have the meaning ascribed to such terms in the Contribution Agreement.

2. The Contribution Agreement is hereby amended as follows:

(a) References in the Contribution Agreement to the Contribution being in the amount of “\$644 million” are replaced with “\$675.8 million”.

(b) To provide for the Additional Motor Fuel Revenue Contribution, references to the “Base Operating Relief” in section 3.01(a) and section 1 of Schedule “1” being in the amount of “\$600 million” are amended to “\$616.9 million”.

(c) To provide for the Youth 12 and Under Program Contribution, a new section 3.01A is added to the Contribution Agreement after section 3.01 and before section 3.02 which reads as follows:

Without limiting section 3.01, the Contribution also consists of a Youth 12 and Under Program Contribution of \$14.9 million as further described in Schedule “1” to this Agreement.

(d) Section 4.01(b) is amended by adding to the beginning of the section the words “except as set out in section 4.01(b.1)”.

(e) A new section 4.01(b.1) is added after section 4.01(b) and before section 4.01(c) as follows:

notwithstanding section 4.01(b), apply the portion of the Contribution comprised of the Youth 12 and Under Program Contribution solely to offset costs of TransLink related to developing the Free Transit for Youth 12 and Under Program and to foregone revenue due to youth 12 and under not paying transit fares and to fund other approved costs of TransLink directly related to developing and implementing the Free Transit for Youth 12 and Under Program in accordance with Schedule “1” to this Agreement;

(f) Section 4 of Schedule “1” is amended by replacing paragraph (a) with the following:

(a) to offset estimated amounts of net funding required over the remaining Term of this Agreement, provided that any such amounts will be allocated first to funding required for the

estimated costs of the Free Transit for Youth 12 and Under Program, if any;

- (g) Section 12 of Schedule “1” is amended by adding the following immediately after paragraph (h):

Free Transit for Youth 12 and Under Program Progress Reports:

Without limiting TransLink’s other reporting requirements, TransLink will provide the Province with quarterly progress reports for the Free Transit for Youth 12 and Under Program in TransLink’s service area commencing August 1st, 2021, which quarterly progress reports will include (i) updates on the development and implementation of the Free Transit for Youth 12 and Under Program in TransLink’s service area (ii) details of TransLink’s expenditures in relation to Free Transit for Youth 12 and Under Program including marketing, outreach, consultation, ridership data, program up take, foregone revenue calculated in a manner and using a methodology mutually agreed to by the Parties, fare evasion, and (iii) detailed usage data of Free Transit for Youth 12 and Under Program fare product(s) commencing as soon as such usage data becomes available.

- (h) Schedule “1” is amended by adding, after section 16 of Schedule “1”, the following new sections under the heading “Free Transit for Youth 12 and Under Program”:

17. TransLink will allocate \$14.9 million of the Contribution (the **“Youth 12 and Under Program Contribution”**) in furtherance of a free transit program for youth aged 12 and under in TransLink’s service area (the **“Free Transit for Youth 12 and Under Program”**). TransLink will use commercially reasonable efforts to achieve the outcomes of the Free Transit for Youth 12 and Under Program set out in Part D of Schedule “3”, and as further defined in a Program Agreement. The Province and TransLink will work together to determine how those outcomes are achieved, in the Program Agreement.
18. The Youth 12 and Under Program Contribution is being provided solely to provide relief from the estimated operational fiscal impacts of providing free fares to children aged 12 and under, including foregone fare revenue, based on the estimates which are set out in Figure 11 in Schedule “3”.
19. TransLink will only apply the Youth 12 and Under Program Contribution towards the estimated costs set out in Figure 11 in

Schedule “3”. TransLink will not allocate the Youth 12 and Under Program Contribution in excess of the amounts set out in Figure 11 in Schedule “3” unless prior notice is given to the Province. For greater certainty, the Province will have no obligation under this Agreement to provide any further funds to TransLink during the Term in respect of “TransLink Costs (Total Estimated)” in Figure 11, unless otherwise agreed to by the Parties.

20. The Parties will work together to finalize and enter into a program agreement (“**Program Agreement**”) on terms mutually agreeable to the Parties pursuant to which the Province intends to provide funding to offset the costs to TransLink of developing and implementing the Free Transit for Youth 12 and Under Program within TransLink’s service area over the longer term. The Parties acknowledge that the Program Agreement is to identify additional operational fiscal impacts to TransLink resulting from the implementation of the Free Transit for Youth 12 and Under Program in TransLink’s service area which are not limited to the estimated costs set out in Figure 11 of Schedule “3”.
 - (i) Schedule “2” is amended by adding TransLink’s letter to Minister Heyman dated February 26, 2021, as set out in Schedule “A” to this Amending Agreement.
 - (j) Schedule “3” is hereby amended by adding a new Part D, comprised of the content set out in Schedule “B” to this Amending Agreement, immediately after Part C.
3. For greater certainty and notwithstanding section 3.02 of the Contribution Agreement, the Province is obligated upon execution of this Amending Agreement to provide the Additional Safe Restart Contribution, and the Province will provide the Additional Safe Restart Contribution to TransLink within 90 days of this Amending Agreement being executed and delivered by both Parties.
4. Section 10.01 of the Contribution Agreement is hereby amended by deleting the following

Strategic Planning and Land Use Division
Ministry of Municipal Affairs and Housing
Box 9847 Station Provincial Government
Victoria, British Columbia
Canada, V8W 9T2
Attention: Executive Director

and replacing it with the following

Transportation Policy & Programs Department
Ministry of Transportation and Infrastructure
Box 9850 Station Provincial Government
Victoria, British Columbia
Canada, V8W 9T5
Attention: Executive Director, TransLink

5. Section 18.01(a) is hereby amended by deleting “Municipal Affairs and Housing,” and the Parties agree that notwithstanding section 3.3 of the MOU the Oversight Steering Committee, including any replacement thereof, will consist of the Chief Executive Officer and Chief Financial Officer of TransLink and the Deputy Ministers of Finance and Transportation and Infrastructure.
6. Section 16.06 of the Contribution Agreement is deleted.

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Schedule "A" to Amending Agreement No. 1



TransLink
400 - 287 Nelson's Court
New Westminster, BC V3L 0E7
Canada
Tel 778.375.7500
translink.ca

South Coast British Columbia
Transportation Authority

February 25, 2021

Via Email (ENV.minister@gov.bc.ca)

Honourable Minister Heyman
Ministry of Environment and Climate Change Strategy
PO Box 9047 Stn Pov Govt
Rm 112, Parliament Buildings
Victoria, BC
V8W 9E2

Dear Minister Heyman,

Thanks to the \$644 million in Safe Restart Agreement funding committed last fall by the Government of British Columbia and the Government of Canada, TransLink has been able to continue to provide transit services throughout the COVID-19 pandemic in support of BC's Restart Plan.

s.13; s.16; s.17

The following table shows that TransLink's actual fuel tax revenue for calendar year 2020 came in \$10M lower than the base case forecast last September, with fuel sales volumes lower and refunds higher than assumed. Key contributing factors to this variance included:

- A greater suppression of driving, resulting from stricter public health prevention measures and higher overall COVID-19 cases than was anticipated in September;
- The relative mix of electric vehicles (EV) within Metro Vancouver in 2020 proved to be higher than first forecast. Each new EV on the road results in about \$300 in lost regional fuel tax revenue per annum otherwise earned by TransLink;
- TransLink's earlier forecast for 2020 was not based on actual trend collections information that became known through later reporting from the Province (vendor reporting occurred later due to COVID-19, while reconciliations by the Province for fuel tax collected on behalf of TransLink occur later in the calendar year as well) .

Fuel Tax Revenue (calendar fiscal year) – (\$millions)	2020	2021	Total
Actual revenue (2020) and current forecast (2021)	\$365	\$371	\$736
Safe Restart Contribution Agreement (Sept 2020 – Base case)	\$375	\$389	\$764
Difference	-\$10	-\$18	-\$28

s.13; s.16; s.17

s.13; s.16

Fuel tax is difficult to forecast accurately at the best of times, but with TransLink's fare revenue forecast trending well below the September 2020 base-case forecast assumed in the Safe Restart Contribution Agreement, it is much harder for TransLink to absorb the fuel tax revenue fluctuations and associated revenue risks. This forecasting analysis has been shared with provincial staff through the ongoing process in our MOU with the Province.

For its part, TransLink was tasked with achieving internal savings of \$74M in 2020 and \$47M in 2021 as part of the Safe Restart Contribution. While the cyber-security incident has pushed back our schedule for finalizing and auditing our 2020 financials into March, we are sharing interim figures with Provincial staff, per the terms of our Agreement. The measures that we have instituted since spring 2020, such as a hiring and merit pay freezes, are now forecast to produce net savings of \$109M in 2020 and \$57M in 2021. In aggregate this is \$46M more than was targeted in the Contribution Agreement. Unfortunately, these measures are more than offset by revenue projection that are \$154M lower than contemplated for the same period.

Should the Government of British Columbia decide to further contribute to TransLink's fuel tax revenues in respect of calendar years 2020 and 2021 losses, it would greatly assist TransLink in continuing to deliver the ongoing transit services and investments consistent with the objectives laid out in our Agreement and MOU.

On behalf of TransLink, I thank you for your consideration of this request. Please do not hesitate to contact me to discuss the above request in further detail.

Best regards,



Tony Gugliotta
Chair, TransLink Board of Directors

Cc,
Kaye Krishna, Deputy Minister, Ministry of Transportation and Infrastructure
Mayor Jonathan X. Cote, Chair Mayors' Council for Regional Transportation
Gigi Chen-Kuo, Interim CEO, TransLink
Geoff Cross, VP Planning and Policy, TransLink

Schedule “B” to Amending Agreement No. 1

Part D: Free Transit for Youth 12 and Under Program

The Free Transit for Youth 12 and Under Program will be developed and implemented with a phased approach beginning with Phase 1 in 2021 that allows for initial implementation on all systems without a fare product, while TransLink works towards full implementation that includes a fare product in 2023. The terms in this schedule B will be further defined in a Program Agreement that will be developed by the Province and TransLink.

Phase 1 (2021): No fare product is required. TransLink will extend the proof of payment exemption for children aged four-years and under to include all youth aged 12 and under on all modes. Implementation will involve youth simply boarding buses or HandyDART, and, while traveling on SkyTrain, Canada Line, SeaBus and West Coast Express would require traveling with a fare-paying individual to pass through fare gates.

Phase 2 (2023): ^{s.13} At this point, youth under 12 may travel unaccompanied across all transit services in the TransLink system for free without the requirement to travel with a fare-paying individual to pass through fare gates.^{s.13}

s.13

Program costs: Program costs set out in Figure 11 below are based on estimates TransLink provided to the Province on February 11, 2021 from TransLink’s Public Engagement/Outreach, Marketing, Transportation Demand Management and Ridership teams and from updated cost estimates TransLink provided to the Province on March 1st, 2021.

The Parties acknowledge that the preliminary estimates in Table 11 are preliminary and may not cover the full program costs. These estimates will be further refined in a Program Agreement between TransLink and the Province for developing and implementing the Free Transit for Youth 12 and Under Program in TransLink’s service area.

s.13; s.17

All foregone revenue estimates are drawn from TransLink’s preliminary estimates which were based upon the Safe Restart medium-case scenario and exclude fare evasion.

s.12; s.13; s.17

Note 2: the cost estimates contained in Figure 11 represent preliminary estimates and are not all-inclusive incremental costs that are directly attributable to implementation of the Program. Full costs and funding for development, implementation and operation of a Free Transit for Youth 12 and Under Program are yet to be determined and subject to agreement by the Parties in a definitive Program Agreement.

Note 3: s.12; s.13; s.17
s.12; s.13; s.17