The Corporation of the Municipality of Brockton

By-Law 2021-027

Being a By-Law to Authorize a Memorandum of Understanding with the Corporation of the County of Grey, the Corporation of the Municipality of Grey Highlands, the Municipality of West Grey, and the Corporation of the Town of Hanover for the Operation of the Grey Road 4 Transit Route

Whereas the *Municipal Act, 2001* S.O. 2001, c 25, Section 5(1), as amended, provides that the powers of a municipal corporation are to be exercised by its council;

And Whereas the *Municipal Act, 2001* S.O. 2001, c 25, Section 5(3), as amended, provides that a municipal power, including a municipality's capacity rights, powers and privileges under section 9; shall be exercised by By-Law;

Whereas the Corporation of the Municipality of Brockton entered into an agreement with the County of Grey for the purpose of providing a bus stop transit service within the Municipality of Brockton on September 22, 2020 as per By-Law 2020-097;

Now Therefore the Council of the Corporation of the Municipality of Brockton **Enacts as Follows:**

1.0 That the Corporation of the Municipality of Brockton enters into a Memorandum of Understanding with the Corporation of the County of Grey, the Corporation of the Municipality of Grey Highlands, the Municipality of West Grey, and the Corporation of the Town of Hanover as outlined in Schedule "A" attached hereto and forming part of this By-Law.

2.0 That the Mayor and Clerk are hereby authorized on behalf of the Corporation to execute this agreement as well as any other related documents.

3.0 That this By-Law shall come into effect upon final passage.

4.0 This By-Law may be cited as the "Grey Road 4 Transit Memorandum of Understanding By-Law".

Read, Enacted, Signed and Sealed this 9th day of March, 2021.

_____ _____

Mayor – Chris Peabody Clerk – Fiona Hamilton

MEMORANDUM OF UNDERSTANDING

THIS AGREEMENT made this 5th day of October, 2020, in duplicate between:

The Corporation of the County of Grey

(referred to in this Agreement as "Grey County")

-and-

The Corporation of the Municipality of Grey Highlands

(referred to in this Agreement as "Grey Highlands")

-and-

The Corporation of the Municipality of West Grey

(referred to in this Agreement as "West Grey")

-and-

The Corporation of the Town of Hanover

(referred to in this Agreement as "Hanover")

-and-

The Corporation of the Municipality of Brockton

(referred to in this Agreement as "Brockton")

WHEREAS Grey County Council approved the implementation of a public transportation service between the communities of Flesherton, Durham, Hanover, and Walkerton (the "Grey Road 4 Transit Route");

AND WHEREAS Grey Highlands, West Grey, and Hanover are all lower-tier municipalities within the County of Grey and Brockton is a lower-tier municipality within the County of Bruce;

AND WHEREAS the Parties intend that Grey County has the authority to operate the Grey Road 4 Transit Route, including the delivery of public transportation services, within the geographical area of each respective Party;

AND WHEREAS Grey County intends to operate the Grey Road 4 Transit Route as part of the larger Grey Transit Route, which Grey County operates pursuant to its authority under the Transfer Payment Agreement between Grey County and the Minister of Transportation for the Province of Ontario dated August 29, 2019 (the "County TPA"), the Transfer Payment Agreement between the Corporation of the Township of Southgate and the Minister of Transportation for the Province of Ontario (the "Township TPA"), and the Memorandum of Understanding between Grey County and the Corporation of Southgate dated September 14, 2020;

AND WHEREAS section 19(2) of the *Municipal Act*, 2001, S. O. 2001, c. 25 (the "Act) enables Grey County to provide a municipal service in another municipality if the other municipality has the jurisdiction and has provided consent and section 69(2)(b) of the Act enables a municipality that has the authority to operate a transportation system to enter into an agreement with another to operate the transportation system within all of the municipality;

NOW THEREFORE in consideration of the mutual covenants and agreements below and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1.0 Interpretation

1.1 In this Agreement:

a) "Agreement" means this Memorandum of Understanding, including all future written amendments to this Agreement and all renewals of this Agreement;

b) "Business Day" means a day on which Grey County's administrative office in Owen Sound is open for the conduct of administrative business;

c) "Grey County Council" means the Council of the Corporation of the County of Grey;

d) "Minister" means the Minister of Transportation for the Province of Ontario;

e) "Parties" means the parties to this Agreement, being the Corporation of the County of Grey, the Corporation of the Municipality of Grey Highlands, the Corporation of the Municipality of West Grey, the Corporation of the Town of Hanover, and the Corporation of the Municipality of Brockton, each being a "Party"; and

f) the terms defined in the recitals shall have the same meaning as if repeated here at length.

2.0 Term

2.1 This Agreement shall be effective as of October 5, 2020 up to and including March 31, 2023, unless terminated earlier in accordance with the terms below.

3.0 Grey County Responsibility

3.1 Grey County shall provide the Grey Road 4 Transit Route as part of the Grey Transit Route unified public passenger transportation system. Grey County shall have sole authority over the Grey Road 4 Transit Route, including but not limited to the administration, operation, contracting, costing, and any limitations thereof.

3.2 Grey County will pay all expenses associated with the Grey Road 4 Transit Route.

3.3 Grey County will maintain insurance as required by the County TPA. Grey Highlands, West Grey, Hanover, and Brockton shall be added as additional insureds to Grey County's General Liability policy for this Agreement.

3.4 Grey County shall, upon the request of any Party, initiate consultations with all of the Parties on any matter within this agreement, and each of the Parties shall reasonably participate in those consultations.

4.0 Grey Highlands, West Grey, Hanover, and Brockton Responsibility

4.1 Grey Highlands, West Grey, Hanover, and Brockton each hereby authorize Grey County to implement and operate the Grey Road 4 Transit Route within its respective geographical area.

4.2 Further, this Agreement enables Grey County to operate a transportation system as contemplated under section 19(2) of the Act with respect to Brockton and section 69(2)(b) of the Act with respect to Grey Highlands, West Grey, and Hanover.

4.3 Grey Highlands, West Grey, Hanover, and Brockton each shall provide all authorizations and reasonable assistance necessary to Grey County to implement and operate the Grey Road 4 Transit Route within its respective geographical area.

5.0 Representations and Warranties

5.1 In addition to any other representation and warranty in this Agreement, each Party represents and warrants to each of the other Parties that:

a) it is, and will continue to be, a validly existing legal entity with full power to fulfill its obligations under this Agreement; and

b) it is in compliance with, and will continue to comply with, all requirements of law related to any aspect of this Agreement.

5.2 In addition to any other representation and warranty in this Agreement, Grey Highlands, West Grey, and Hanover, each represent and warrant to Grey County that:

a) it authorizes Grey County to operate the Grey Road 4 Transit Route within its geographical area.

5.3 In addition to any other representation and warranty in this Agreement, Brockton represents and warrants to Grey County that:

a) it authorizes Grey County to operate the Grey Road 4 Transit Route within its geographical area; and

b) it has the jurisdiction to authorize Grey County to operate the Grey Road 4 Transit Route within its geographical area given that it is a lower-tier municipality within the County of Bruce.

6.0 Termination

6.1 Any Party may terminate this Agreement by giving to the other Parties six (6) months' written notice of intention to terminate. If a Party, other than Grey County, has given notice pursuant to this section, Grey County shall consult with the other Parties regarding future service options for the Grey Road 4 Transit Route.

6.2 Grey County may elect to terminate this Agreement immediately by giving notice to the other Parties without liability, penalty, or costs if:

a) either or both of the County TPA or the Township TPA are terminated by the Province; or

b) provincial funding levels with respect to either or both of the County TPA or the Township TPA are reduced; or

c) Grey County cannot meet the service requirements; or

d) Grey County Council decides to cease the operation of the Grey Road 4 Transit Route.

6.3 If either or both of the County TPA or the Township TPA are terminated by the Province, or if provincial funding levels with respect to either or both of the County TPA or the Township TPA are reduced, or if the Grey Transit Route is significantly modified including an adjustment to any service operator engaged by Grey County, and Grey County has elected not to terminate this Agreement according to section 6.2 above (if applicable), the Parties shall review this Agreement and consider any amendments necessary to reflect the change in circumstances.

7.0 General

7.1 Privacy and Confidentiality

a) The Parties will not publish, release, disclose or permit to be published, released or disclosed, private or confidential information supplied to, obtained by, or which comes to their knowledge as a result of the Agreement except as necessary, to enable them to fulfill their obligations under the Agreement, or as required or permitted by law.

b) The Parties acknowledge that any personal information that is provided for the purpose of creating records is given to them in confidence and is protected by privacy legislation.

7.2 Notice

a) Any notices required must be in writing and delivered to the following addresses between 9:00 AM and 4:30 PM Monday to Friday.

For Grey County:

County Clerk
County of Grey Administration Building
595 9th Ave East
Owen Sound, ON N4K 3E3
Fax Number: 519-376-8998
Email: countyclerk@grey.ca

For Grey Highlands:

Raylene Martell
Clerk
Municipality of Grey Highlands
206 Toronto Street South, Unit 1, Markdale, Ontario
Phone: 519-986-2811 ext. 233
Fax. 519-986-3643
Email: MartellR@greyhighlands.ca

For West Grey:

Genevieve Scharback
Clerk
402813 Grey County Road 4
RR2 Durham, ON N0G 1R0
Phone: 519-369-2200
Fax: 519-369-5962
Email: gscharback@westgrey.com

For Hanover:

Brian Tocheri
CAO/Clerk
Hanover Civic Centre
341 10th St,
Hanover, ON N4N 1P5
Fax: 519-364-6456
Email: btocheri@hanover.ca

For Brockton:

Fiona Hamilton
Clerk
100 Scott Street,
P.O. Box 68, Walkerton, ON N0G 2V0

Fax: 519-881-2991
Email: fhamilton@brockton.ca

b) Any notice to be given by any Party to the others shall, in the absence of proof to the contrary, be deemed to have been received by the addressee if:

i) delivered personally on a Business Day, then on the day of delivery, and if delivered personally on a day other than a Business Day, then on the first Business Day following the day of delivery;

ii) sent by prepaid registered post, then on the second Business Day following the registration thereof;

iii) sent by ordinary mail, then on the fifth Business Day following the date on which it was mailed; or

iv) sent by facsimile or email on a Business Day, then on the day of sending, and if sent on a day other than a Business Day, then on the first Business Day following the day of sending, provided that if the sender knows or ought to have known that such transmission was not received or would not be received by its intended recipient, then it shall be deemed not to have been given.

7.3 This Agreement will be governed by and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada. The Parties submit to the exclusive jurisdiction of the courts of Ontario with respect to any matter arising under or related to this Agreement.

7.4 No Party shall be held responsible for any damage or delays as a result of war, invasions, insurrection, demonstrations, or as a result of decisions by civilian or military authorities, fire, flood, strikes and generally as a result of any event that is beyond the reasonable control of the Parties.

7.5 Each of the clauses in this Agreement is distinct and severable. A declaration of invalidity or unenforceability of any clause will not affect the validity or enforceability of the other clauses in this Agreement.

7.6 The division of this Agreement into articles and sections and the insertion of headings are for convenient reference only and are not to affect or be used in the construction or interpretation of this Agreement.

7.7 This Agreement can only be changed by a written document signed by signing authorities for each of the Parties.

7.8 The Parties agree to follow all applicable federal and provincial laws in carrying out the terms of this Agreement.

7.9 Successors and Assigns

a) No Party may assign all or any part of this Agreement voluntarily or involuntarily, whether by merger, consolidation, dissolution, operation of law or any other manner without the written approval of the other Parties.

b) This Agreement benefits and binds the Parties and their respective successors and permitted assigns.

7.10 No Waiver

a) For any Party to release any of its rights under this Agreement, it must be in writing and signed by the Parties.

b) A waiver of a breach of one clause of the Agreement does not apply to any other clause.

c) A failure or delay in enforcing an obligation in the Agreement does not prevent the enforcement of that obligation at a later date.

7.11 Dispute Resolution

a) A dispute between the Parties relating to the interpretation or implementation of this Agreement will be addressed though good faith negotiation, with or without the assistance of a mediator.

b) The Parties agree that in the event that they are not able to reach a resolution of all the matters in dispute after good faith negotiation, then the matters remaining in dispute may be finally determined by arbitration in accordance with the provisions of the *Ontario Arbitrations Act*.

7.12 In the event of the expiration, termination, or suspension of this Agreement for any reason whatsoever, the provisions of this Agreement that by their nature extend beyond the expiration, termination, or suspension of this Agreement will survive and remain in effect until all obligations are satisfied.

7.13 This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, taken together shall constitute one and the same instrument. Counterparts may be transmitted by fax or in electronically scanned form. Parties transmitting by fax or electronically will also deliver the original counterpart to the other parties, but failure to do so does not invalidate this Agreement.

The Parties, intending to be legally bound, have executed this Agreement on the date first written above.

The Corporation of the County of Grey

_____ _____

Selwyn Hicks, Warden Date

_____ _____

Heather Morrison, Clerk Date

The Corporation of the Municipality of Grey Highlands

_____ _____

Paul McQueen, Mayor Date

_____ _____

Raylene Martell, Clerk Date

The Corporation of the Municipality of West Grey

_____ _____

Christine Robinson, Mayor Date

_____ _____

Genevieve Scharback, Clerk Date

The Corporation of the Town of Hanover

_____ _____

Sue Paterson, Mayor Date

_____ _____

Brian Tocheri, CAO/Clerk Date

The Corporation of the Municipality of Brockton

_____	_____
Chris Peabody, Mayor	Date
_____	_____
Fiona Hamilton, Clerk	Date