

TORONTO STAFF REPORT

March 23, 2006

To: Policy and Finance Committee
From: Deputy City Manager and Chief Financial Officer
Subject: Renewal of Provincial Gas Tax Agreement

Purpose:

To obtain authority to enter into a renewal agreement with the Province of Ontario for Provincial gas tax funding for the 2005/2006 year, and annually thereafter as necessary, in order to permit the flow of funds to resume at a current rate of \$30.0 million per quarter.

Financial Implications and Impact Statement:

Under the Province's gas tax program, agreements must be executed each year to maintain eligibility for the funds. The last agreement expired September 30, 2005 and the new agreement has only recently been received by the City. The City receives gas tax on a quarterly basis. Lack of an executed agreement is interrupting the flow of funds for the 2005/2006 contract period, at a rate of \$30.0 million per quarter. Accordingly, it is recommended that the City execute the agreement immediately.

Under the previous agreement the City was entitled to \$81.25 million for the 12 month period from October 2004 through September 2005. The Province announced on February 3rd 2006 the City's entitlement for the October 2005 – September 2006 as \$120.1 million. This compares with a preliminary City staff estimate of \$122 million.

The funding attributable to the City's fiscal years is \$90.9 million in 2005 and is currently estimated to be \$130.1 million for 2006, after consideration of the final increase in funding rate in the fourth quarter of 2006.

Recommendations:

It is recommended that:

- (1) the Mayor, Deputy City Manager and Chief Financial Officer and Clerk be authorized to execute the standard Letter of Agreement between the City and Her Majesty the Queen in Right of Ontario for funding under the Dedicated Gas Tax Funds for Public Transportation Program for:
 - (a) the period October 1, 2005 – September 30, 2006; and,

- (b) each subsequent year, if necessary, provided the nature of the agreement and/or guidelines for eligibility are not altered in a material way; and
- (2) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Background:

At its meeting of November 30, December 1 and 2, 2004, Council adopted Policy and Finance Committee Report No. 9, Clause No. 5 entitled “Toronto Transit Commission Funding Agreements” which authorized the execution of a Letter of Agreement under the Provincial Dedicated Gas Tax Funds for Public Transportation Program for funding for the period October 1, 2004 – September 30, 2005. For the City to continue to receive funding under the current program, an agreement must be executed for the period October 1, 2005 – September 30, 2006, and annually thereafter.

Comments:

City Share of Provincial Gas Tax Funds:

The Province of Ontario announced as part of its 2004/05 budget that it would commit two cents/litre of provincial gas tax revenues to fund public transportation systems throughout the province beginning in 2004. The two cents per litre is to be phased-in over a three year period beginning with one cent per litre effective October 2004, and a further ½ cent per litre in each of October 2005 and 2006.

To date, the City has received \$20.3 million in 2004 and \$61.0 million in 2005 for a total of \$81.3 million representing the initial 1¢ share of provincial gas tax under the program for the October 2004 – September 2005 period. On February 3, 2006 the Province announced the City entitlement for the one year period ending September 2006 as \$120.1 million. The table below reflects City staff’s estimate of the phased funding amounts through 2007.

City Allocation of Provincial Gas Tax Revenues (\$ millions)

<u>Agreement</u>	<u>2004</u>	<u>2005</u>	<u>2006 *</u>	<u>2007 *</u>	<u>Total</u>
2004/05 (1.0¢)	20.3	61.0			81.3
2005/06 (1.5¢)		30.0	90.1		120.1
2006/07 (2.0¢)			40.0	120.1	160.1
2007/08 (2.0¢)				<u>40.0</u>	
Total	20.3	91.0	130.1	160.1	

* Figures for 2006/07 and 2007/08 agreement periods are extrapolated from the 2005/06 guidelines and may change slightly based on updates to the City share of Ontario population and ridership, and total shared Provincial gas tax revenues. Toronto’s share declined from 52.08% in 2004/05 to 51.75% in 2005/06. Total shared Provincial gas tax revenues declined from \$234 million in 2004/05 to \$232 million in 2005/06.

Eligibility Requirements for All Dedicated Gas Tax Funds Received in 2006 and Beyond:

The Province has provided updated 'eligibility' requirements, a summary of which are included in Appendix 1. A continuing core requirement of the Province's gas tax program is to maintain a level of ridership-growth spending above a prescribed baseline defined as average spending (capital & operating), before offsetting fare revenue, for the period 2001-2003. Also, for the GTA and Hamilton, there is a continuing requirement for each municipality to be current in its funding support for the GO Transit capital growth program.

Notable changes compared with the previous requirements include:

- (i) the baseline expenditure level will be inflated each year by 2%;
- (ii) transit security and passenger safety have been listed as eligible capital expenditures;
- (iii) in 2006 up to 70% of gas tax funds may be spent on operating expenditures that support ridership growth, declining to 50% in 2007; and
- (iv) gas tax revenues are permitted to fund a reduction or deferred increase in fares once within any three-year period (i.e. 2005-2007).

These guidelines are applicable to the City's 2006 budget year and are considered to be consistent with the City's 2006 budget assumptions. The guidelines may be amended at the discretion of the Minister or when reissued for the subsequent period.

Impact of the 2006/2007 Provincial Budget - March 23, 2006:

Incorporated in the 2006/2007 Provincial Budget are implied changes to the Gas Tax Agreement Guidelines that would increase municipal flexibility to allocate the funds between transit operating and capital budgets. There is no impact of these changes on the City's 2006 budget assumptions, however they will improve flexibility for future transit operating budgets.

Conclusions:

City Council authorized at its meeting of November 30, December 1 and 2, 2004 the execution of a Letter of Agreement under the Provincial Dedicated Gas Tax Funds for Public Transportation Program for funding over the period October 1, 2004 – September 30, 2005. Adoption of this report will authorize execution of the annual Letter of Agreement for the October 1 2005 – September 30 2006 period and subsequent periods.

The City receives gas tax on a quarterly basis. Lack of an executed agreement is interrupting the flow of funds for the 2005/2006 contract period, at a rate of \$30.0 million per quarter. Accordingly, it is recommended that the City execute the agreement immediately. In so doing, the City will be eligible to receive an estimated \$130 million in funding in 2006 after consideration of the final increase in funding rate to 2¢ in the fourth quarter of 2006, in keeping with the City's 2006 budget assumptions.

Contact:

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Joseph P. Pennachetti
Deputy City Manager and Chief Financial Officer

List of Attachments:

Appendix 1 – Provincial Gas Tax Letter of Agreement – Key Eligibility Requirements
Appendix 2 – Dedicated Gas Tax Funds for Public Transportation Program 2005/2006
Guidelines and Requirements
Appendix 3 – Letter of Agreement from Ministry of Transportation to Mayor David Miller

Appendix 1

Provincial Gas Tax Letter of Agreement – Key Eligibility Requirements

2004 Eligibility Requirements (no change):

- (i) the municipality must use dedicated gas tax funds received exclusively for public transit;
- (ii) municipalities not currently providing public transportation will be eligible subject to a municipal by-law indicating their intent to do so;
- (iii) gas tax revenues must be kept in a dedicated gas tax funds reserve account and remain the property of the Ministry pending payment of such costs for eligible expenditures; and
- (iv) interest earned must accrue on any carryover funds at the appropriate Chums One rate for an equivalent term.

2005 Eligibility Requirements (no change):

- (i) must give priority to increased capital expenditures and then increased operating expenditures that support increased ridership;
- (ii) municipalities that have already developed a Ridership Growth Plan and an Asset Management Plan should submit these plans in 2005 as par of the reporting requirements.
 - Development of the ridership Growth Plan and an Asset Management Plan will be considered as an eligible expenditure.

Eligibility Requirements 2006 and beyond: (updated)

- (i) increased capital expenditures or increased operating expenditures that promote increased ridership, which must be incremental to baseline “municipal own account spending” on transit. (Above a baseline public transportation expenditure level which will equal the average “municipal own account spending on transit” for the years 2001 to 2003 and will include a rate of 2% per year for inflation);
- (ii) in 2006, up to 70% of gas tax funds may be spent on operating expenditures that support ridership growth;
- (iii) beginning in 2007, eligible gas tax expenditures will be limited to a maximum of 50% to be spent on operating expenditures that support ridership growth;
- (iv) gas tax revenues are permitted to fund a reduction or deferred increase in fares once within any three-year period (i.e. 2005-2007).

- (v) in 2006, for municipalities that provide only specialized transit, transit strategies that may not initially result in ridership growth but will provide increased accessibility can be considered as eligible expenditures if discussed and approved in writing by MTO prior to implementation.
- (vi) A Ridership Growth Plan and an Asset Management Plan will be required from municipalities by March 31, 2006 as a basis for receiving any future dedicated gas tax funds. Development of the Ridership Growth Plan and an Asset Management Plan will be considered an eligible expenditure.

Specific Criteria for Toronto, GTA Regions and Hamilton for 2006 and beyond:

- (i) develop Ridership Growth Plans that are aligned with the Province's transportation strategies and plans for the GTA;
- (ii) participate in the GTA Farecard project, and be in good financial standing;
- (iii) where municipalities are required to provide one-third of capital expansion costs for GO Transit expansion, demonstrate that these payments are current prior to the release by the Province of dedicated gas tax funds.



Appendix 2

**Ministry of
Transportation**

**Dedicated Gas Tax Funds For
Public Transportation Program
2005/2006 Guidelines and Requirements**

Issued February 2006

MTO/Urban & Rural Infrastructure Policy Branch

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DEDICATED GAS TAX FUNDS FOR PUBLIC TRANSPORTATION PROGRAM

2005 GUIDELINES & REQUIREMENTS

1. DEFINITIONS

When used in these guidelines and requirements, the words set out below that import the singular include the plural and vice versa:

“Asset Management Plan” means a long range plan developed by the municipality or transit operator to manage the capital assets used in providing its public transportation services.

“dedicated gas tax funds” means the funds provided by the Ministry strictly towards eligible expenditures, in the opinion of the Minister, directly related to the provision of public transportation services.

“dedicated gas tax funds reserve account” means an interest bearing account set up by a municipality to keep dedicated gas tax funds separate and apart from either municipal or any other funds, or both, for use strictly towards public transportation related eligible expenditures.

“GTA Fare System” means the public transportation fare collection system between GTA municipalities to support more seamless use by public transportation customers and the collection of public transportation fares.

“guidelines and requirements” means these guidelines and requirements entitled “Dedicated Gas Tax Funds for Public Transportation Program – 2004 Guidelines and Requirements”, including Appendix A to these guidelines and requirements.

“host municipality” means a host municipality as defined in Section 7.

“Ministry” and “Minister” respectively means the Ministry of Transportation who is responsible for the administration of the Dedicated Gas Tax Funds for Public Transportation Program and the Minister responsible for the Ministry.

“municipal own account spending on public transportation” means the funds a municipality contributes towards public transportation expenditures. These amounts include municipal contributions towards operating costs, passenger fare revenue, public transportation capital costs, and local public donations. Capital costs should not include municipal capital reserve account contributions but the actual amount of municipal capital funds expended.

“program” means the Dedicated Gas Tax Funds for Public Transportation Program set up by the Ministry to provide municipalities with dedicated gas tax funds subject to and in accordance with these guidelines and requirements.

“public transportation” means any service for which a fare is charged for transporting the public by vehicles operated by or on behalf of a municipality or local board as defined in the *Municipal Affairs Act*, or under an agreement between a municipality and a person, firm or corporation and includes special transportation facilities for the physically disabled, but does not include transportation by special purpose facilities such as school buses or ambulances.

“public transportation vehicle” refers to a street car, bus or trolley bus used for public transportation.

“rapid transit vehicle” refers to subway car or light rail car used for public transportation.

“Ridership Growth Plan” means a plan developed by the municipality to increase public transportation ridership that include target markets (e.g. Colleges/Universities) and other municipal policies (e.g. land use and parking policies) that support public transportation ridership growth.

“transit vehicle” means either a public transportation vehicle or rapid transit vehicle.

2. INTRODUCTION

The province has a vision for a stronger Ontario built around strong communities, a vibrant economy and healthier, more liveable cities with increased access to public transportation, reduced commute times and cleaner air for all Ontarians.

By providing a portion of the gas tax for public transportation, the province will assist municipalities become more self-sustaining in that regard.

As of October 2004, the province provided 1 cent/litre of gas tax funds towards 83 public transit systems representing 110 municipalities. This amount will now increase to 1.5 cents/litre as of October 2005 and 2 cents/litre in October 2006. When fully implemented, the program will generate about \$312 million per year for public transportation, which will be subject to change based on annual sales of gasoline.

The program is an important element of the ongoing relationship between the province and Ontario municipalities. Municipalities receiving dedicated gas tax funds must meet the requirements set out in these guidelines and requirements.

3. ALLOCATION METHODOLOGY AND PROCESS

Based on the consultation with municipalities, public transportation operators and stakeholders, the province recognizes the varying needs of public transportation within Ontario municipalities including those related to large established public transportation systems and communities with different growth rates and levels of public transportation service. Consistent with the above, an allocation formula based on a combination of ridership and population has been established by the province. This formula balances the needs of large established public transportation systems, the growth needs of rapidly growing municipalities, and the needs of smaller municipalities that provide public transportation services.

The province is implementing an allocation based on 70% transit ridership and 30% municipal population. This means that when fully implemented 70% of about \$312 million (about \$218 million) will be distributed to municipalities on the basis of their public transportation ridership levels. Thirty percent (30%) of about \$312 million (about \$94 million) will be distributed on the basis of population levels. Public transportation ridership will include the totals of both conventional and specialized public transportation services.

2004 ridership numbers have been used in this calculation from the 2004 Ontario Urban Transit Fact Book, which is collected and produced annually by the Canadian Urban Transit Association (CUTA) on behalf of the ministry. Where 2004 CUTA ridership data was not available, data has been directly provided to the ministry by the municipality. Population data for 2004 has been provided by the Ministry of Finance based on estimates derived from 2001 Statistics Canada figures.

Both ridership and population figures will be updated and revised annually for use in the calculation of dedicated gas tax funds.

Dedicated gas tax funds provided to each municipality in 2005/2006 are not to exceed 75% of "municipal own account spending on public transportation" based on 2004 municipal public transportation spending data as provided in the CUTA fact book. Any amounts of moneys dedicated for but that remain undistributed through the program shall be re-allocated by the province in support of increasing public transportation ridership.

The Minister will advise each municipality, on an annual basis, as to the amount of dedicated gas tax funds it is eligible to receive. The Minister, will send a letter of agreement to be signed by the head of municipal council and chief financial officer of the municipality to each municipality that provides public transportation services. The letter of agreement will set out the terms and obligations, upon which the dedicated gas tax funds will be released to the municipality and by which the municipality will have to agree to be bound. The province will undertake an annual review of the dedicated gas tax allocation methodology and eligibility requirements to ensure these funds support the desired outcome of increased public transportation ridership. Municipal public transportation spending will also be reviewed on an annual basis to determine if the limits of the dedicated gas tax funds need to be applied where the gas tax allocation may exceed 75% of "municipal own account spending on public transportation"

4. GENERAL ELIGIBILITY REQUIREMENTS

The purpose for providing dedicated gas tax funds to Ontario municipalities are to ensure that local public transportation services continue and increase overall ridership through the expansion of public transportation capital infrastructure and levels of service. To be eligible to receive dedicated gas tax funds a municipality must contribute financially towards their public transportation service.

Beginning in 2005, only municipalities that have submitted their 2004 annual data survey to the Canadian Urban Transit Association (CUTA) will be eligible to receive dedicated gas tax funds.

Municipalities that are not currently providing public transportation, but decide to begin providing such services will be eligible for funding, subject to the provision of a municipal by-law indicating their intent to provide public transit services. Notification of their intent to provide public transportation services and a specific commitment to annual funding support will be required prior to October 1, 2006 when the gas tax funds allocation for each municipality will be revised. After the new system has been implemented, dedicated gas tax funding will be then available beginning the last quarter of 2006 and into 2007.

A municipality receiving dedicated gas tax funds must ensure that all funds received are used exclusively towards the provision of public transportation service. Gas tax funds cannot be used to offset expenditures of other municipal departments such as welfare or social services.

Each municipality will be required to develop a Ridership Growth Plan and Asset Management Plan that sets out how the municipality is planning on using dedicated gas tax funds. These plans need to ensure that the achievement of municipal public transportation accessibility objectives are met according to local accessibility plans developed by all municipalities in response to the *Ontarians With Disabilities Act* (ODA). Any transit vehicles purchased using gas tax funds must be fully accessible.

Municipalities will be required to provide an annual report of their spending on public transportation services it offers. Reporting templates for 2005 are attached and have been developed in consultation with municipal public transportation stakeholders. The Ministry may withhold payment of dedicated gas tax funds until reporting requirements are met.

Starting in 2005, gas tax revenues support increased municipal public transportation expenditures and not to reduce or replace current levels of municipal public transportation funding. Eligibility requirements for use of dedicated gas tax funds are being implemented in a progressive fashion recognizing the time required to develop and implement public transportation ridership growth strategies.

Dedicated gas tax funds, including all interest earned, must be kept in a dedicated gas tax funds reserve account and remain the property of the Ministry pending payment of such costs for eligible expenditures. Funds deposited in the dedicated gas tax funds reserve account must be used only towards eligible public transportation expenditures.

Interest on funds deposited in a dedicated gas tax funds reserve account must accrue on any carryover funds at the appropriate Chums One rate for an equivalent term. The interest must

also be reported annually as set out in Appendix A and can only be applied towards eligible public transportation expenditures.

(a) Eligibility Requirements for All Dedicated Gas Tax Funds Received in 2005

- In 2005 municipalities must give priority to increased capital expenditures and then increased operating expenditures that support increased ridership.
- Municipalities that have already developed a Ridership Growth Plan and an Asset Management Plan should submit these plans in 2005 as part of the reporting requirements.
 - Development of the Ridership Growth Plan and an Asset Management Plan will be considered as an eligible expenditure.

(b) Eligibility Requirements for All Dedicated Gas Tax Funds Received in 2006 and Beyond

- Starting in 2006, dedicated gas tax funds will be required to be spent on:
 - Increased capital expenditures or increased operating expenditures that promote increased ridership, which must be incremental to baseline “municipal own account spending” on transit. (Above a baseline public transportation expenditure level which will equal the average “municipal own account spending on transit” for the years 2001 to 2003 and will include a rate of 2% per year for inflation).
 - Increased capital expenditures that provide improvements to transit security and passenger safety.
- In 2006, up to 70% of gas tax funds may be spent on operating expenditures that support ridership growth (except where municipalities have no transit capital assets).
- **Beginning in 2007, eligible gas tax expenditures will be limited to a maximum of 50%** to be spent on operating expenditures that support ridership growth (except where municipalities have no transit capital assets).
- A deferral or fare reduction may be undertaken, as a strategy but financial support using gas tax revenues will only be eligible once within any three-year period. (i.e.2005-2007)
- In 2006, for municipalities that provide only specialized transit, transit strategies that may not initially result in ridership growth but will provide increased accessibility can be considered as eligible expenditures if discussed and approved in writing by MTO prior to implementation.
- A Ridership Growth Plan and an Asset Management Plan will be required from municipalities and have to be submitted by March 31, of 2006 as a basis for receiving any future dedicated gas tax funds.

- Development of the Ridership Growth Plan and an Asset Management Plan will be considered as an eligible expenditure.

(d) For GTA Municipalities: Regions of Durham, Halton, Peel Region, York, and Cities of Hamilton and Toronto

From 2006 forward, these municipalities will be required to:

- Develop Ridership Growth Plans that are aligned with the province's transportation strategies and plans for the GTA.
- Participate in the GTA Farecard project and as a participant will be required to be in good financial standing.
- Where municipalities are required to provide one-third of capital expansion costs for GO Transit expansion, demonstrate that these payments are current prior to the release of dedicated gas tax funds.

The eligibility requirements for dedicated gas tax funds will be determined in accordance with applicable Ministry policies and guidelines, which may change from time to time. The eligibility for any dedicated gas tax funds is at the sole discretion of the Ministry. A municipality should consider consulting with Ministry staff when in doubt as to whether dedicated gas tax funds will be available prior to making expenditures or commitments involving the use of such funds.

5. ACCOUNTABILITY AND REPORTING REQUIREMENTS

Municipalities will be accountable to use dedicated gas tax funds to achieve increased public transportation ridership. Municipalities will be required to report prior to March 31, 2006 on how dedicated gas tax funds were spent during 2005 and thereafter on an annual basis.

Where municipalities have already developed ridership growth and asset management plans these plans should be submitted as part of the reporting requirements.

Each municipality will be required to develop a Ridership Growth Plan and an Asset Management Plan by March 31, 2006 as a requirement for receiving future dedicated gas tax funds.

Appendix A contains the reporting forms required for submission prior to March 31, 2006. Reporting requirements using standardized reporting forms for 2005 have been developed in consultation with municipal public transportation stakeholders. Guides to preparing Ridership Growth Plans and Transit Asset Management Plans are provided in Appendix B and have also been developed in consultation with municipal transit stakeholders including the Ontario Community Transportation Association (OCTA) and the Canadian Urban Transit Association (CUTA).

6. COMMUNICATIONS

Municipalities will be required to provide and implement dedicated gas tax funding communication and recognition events to be developed as part of their marketing and public event plans that should be included and support their Ridership Growth Plan. Details regarding dedicated gas tax funding recognition requirements are under development and will be provided to municipalities.

7. PAYMENT OF DEDICATED GAS TAX FUNDS

Payment of dedicated gas tax funds will be made based on the annual calculation by the Ministry of the allocation formula based on a combination of 70% ridership and 30% population.

Funds provided to each municipality in 2005/2006 are not to exceed 75% of “municipal own account spending on public transportation” based on 2004 municipal public transportation spending data as provided in the CUTA fact book. Any amounts of moneys dedicated for but that remain undistributed through the program shall be re-allocated by the province in support of increasing public transportation ridership.

Payment of dedicated gas tax funds to a municipality will only be made after receipt of a letter of agreement, provided by the Ministry to the municipality, signed by the head of the municipal council and chief financial officer, and a copy of a municipal by-law permitting the municipality to enter into the letter of agreement. Any amount provided to the municipality under the program will be subject to adjustment as set out under section 8. In addition, any amount provided by the Ministry to a municipality will have to be used by the municipality exclusively for public transportation purposes and in accordance with eligibility and annual reporting requirements.

If a municipality has an agreement with another municipality to provide public transportation services on behalf of both municipalities (the “host municipality”), dedicated gas tax funds will be flowed either to the host municipality or to each municipality that contributes financially towards the operation of the public transportation services. Prior to payment of dedicated gas tax funds being made by the Ministry, all the municipalities that contribute financial assistance towards the operation of the public transportation services provided by the host municipality will be required to provide to the Ministry with copies of the municipal by-laws and legal agreement clearly indicating which municipality will be receiving dedicated gas tax funds from the Ministry for the public transportation services provided by the host municipality. In the case where the host municipality and the other municipality wish to receive individual payments they will be required to provide to the Ministry an individual breakdown of 2004 ridership by municipality as well as their individual financial contribution towards the public transportation services provided.

The Ministry will provide payment of annual gas tax funds on a quarterly basis. In addition, the payment of any dedicated gas tax funds is subject to annual appropriations of such funds by the Legislative Assembly of Ontario. Municipalities will be advised on an annual basis as to the amount of dedicated gas tax funds available for that year.

8. ADJUSTMENT, WITHHOLDING AND REPAYMENT OF DEDICATED GAS TAX FUNDS

If, in the opinion of the Ministry, a municipality fails to comply with any of the requirements set out in these guidelines and requirements, uses any of the dedicated gas tax funds for a purpose not authorized without the prior written consent of the Ministry, provides erroneous or misleading information or fails to provide information to the Ministry for any reason whatsoever (“unacceptable conduct”), including any related interest, will become immediately due and payable by the municipality.

Any money due by a municipality in relation to the dedicated gas tax funds is a debt due to the Crown of the Province of Ontario under the *Financial Administration Act*, R.S.O. 1990, c. F.12, as amended, (“FAA”) and, in addition to any remedy the Crown may have under the FAA, the Ministry may decide to withhold or adjust the amount of any current or future dedicated gas tax funding that may be provided to the municipality in an amount equal to such debt or have the amount of such debt deducted from financial assistance payable on any other project(s) of the municipality under any other initiative in which the province is involved (either current or future).

Any decision made by the Minister regarding dedicated gas tax funds is final.

9. RECORDS AND AUDIT

A municipality receiving dedicated gas tax funds for public transportation must maintain separate records and documentation for funding received for a minimum of seven (7) years after the final settlement of accounts, i.e. once payment of dedicated gas tax funds has been made to the municipality and all requirements under these guidelines and requirements have been met.

Upon request by the Ministry, the municipality must submit documentation, including all evidence of payment, relating to public transit expenditures to which such funds apply.

The Ministry will begin audits of recipient municipalities in 2006. This may require the assistance of an external auditor, retained and paid for by the municipality, to carry out an audit of the records referred to above. If so, a municipality must upon request provide the name of an accredited external auditor acceptable to the Ministry. The municipality must ensure that the auditor who conducts the audit provides a copy of the audit report to the Ministry for its consideration at the same time as the audit report is provided to the municipality. All municipalities receiving dedicated gas tax funds are subject to audit. Upon recommendation from the external audit report the ministry may provide an adjustment to future quarterly gas tax payments or request the municipality to adjust funds within their dedicated gas tax funds reserve account.

10. LIABILITIES AND INDEMNITIES

A municipality receiving dedicated gas tax funds is responsible, in whole and in part, for anything that may arise directly or indirectly, in relation to the transit expenditures to which such funds apply. The Ministry's involvement in relation to the program is for the sole purpose of, and is limited to, the provision of the dedicated gas tax funds. As such, as a condition of receiving dedicated gas tax funds, a municipality must warrant and agree that under no circumstances will the municipality enter into any contract or commitment in the name of or on behalf of the Ministry, and the municipality must acknowledge that it is not through the Ontario Gas Tax Program or otherwise, granted any right or authority to assume or create any obligation or responsibility, expressed or implied, on behalf of or in the name of the Ministry or to bind the Ministry in any manner whatsoever.

Furthermore, a municipality receiving dedicated gas tax funds must understand and agree that in no event whatsoever is the Ministry to be held liable for any bodily injury, death or property damage to the municipality, its employees, agents, contractors, persons responsible for controlling access and the like to the municipality's property or for any claim, demand or action by any third party against the municipality, its employees, agents, contractors or anyone responsible for controlling access and the like to the municipality's property, and without restricting the generality of the foregoing any users (including any member of the public, whether paying or not paying and/or using or being in any way on the municipality's property with or without the permission of the municipality or any body in a position of authority; this includes any trespasser or the like), arising out of or in any way related to funding received under the program.

The Ministry will not be liable for any incidental, indirect, special or consequential damages or any loss of use, revenue or profit the municipality, its employees, agents or contractors suffers, arising out of or in any way related to funding received under the program.

A municipality receiving dedicated gas tax funds must agree to indemnify the Ministry and hold harmless Her Majesty the Queen in right of Ontario, Her directors, officers, employees and agents, from and against all suits, judgements, claims, demands, expenses, actions, causes of action and losses, including, without limitation, reasonable legal expenses and any claim other claims and for any and all liability for damages to property and injury to persons (including death), howsoever caused, as a result of any claim, demand or action arising out of or in any way related to funding received under the program.

A municipality receiving dedicated gas tax funds must acquire, provide and maintain, at its own expense, appropriate insurance in order to protect itself and the Ministry and support the indemnification, as set out above, provided to the Ministry.

11. WHERE TO APPLY AND REQUEST OR PROVIDE INFORMATION

Any questions regarding the program are to be directed to the Ministry Transit Policy & Programs Office at phone (416) 235-4204 or fax (416) 235-4180.

Reporting requirement forms or information to be provided to the Ministry under these guidelines and requirements must be provided by personal delivery or mailed by first class registered mail, prepaid postage, or by transmittal by facsimile at the following address:

**Ministry of Transportation
Transit Policy & Programs Office
3rd Floor, Building C
1201 Wilson Avenue
Downsview, ON
M3M 1J8**

Ministry of
Transportation

Office of the Minister

Ferguson Block, 3rd Floor
77 Wellesley St. West
Toronto Ontario
M7A 1Z8
416 327-9200
www.mto.gov.on.ca

Ministère des
Transports

Bureau du ministre

Édifice Ferguson, 3^e étage
77, rue Wellesley ouest
Toronto (Ontario)
M7A 1Z8
416 327-9200
www.mto.gov.on.ca

Appendix 3



His Worship David Miller
Mayor
The City of Toronto
City Hall, 2nd Floor, 100 Queen Street West
Toronto, ON
M5H 2N2

Dear Mayor Miller:

RE: Letter of Agreement between Her Majesty the Queen in right of the Province of Ontario, represented by the Minister of Transportation for the Province of Ontario (the “Ministry”) and the City of Toronto (the “Municipality”) Related to Funding Provided by the Province of Ontario (the “Province”) to the Municipality under the Dedicated Gas Tax Funds for Public Transportation Program (this “Letter of Agreement”)

This Letter of Agreement sets out the terms and conditions for the use of dedicated gas tax funds by municipalities for public transportation.

As the Province desires to increase public transportation ridership to support the development of strong communities, the Ministry has created the Dedicated Gas Tax Funds for Public Transportation Program (the “program”) under which and over time two (2) cents of the existing provincial gas tax will be provided to municipalities for public transportation expenditures.

Any funding to the Municipality by the Ministry will be provided in accordance with the terms and conditions set out in this Letter of Agreement and the Dedicated Gas Tax Funds for Public Transportation Program – 2005/2006 Guidelines and Requirements (the “guidelines and requirements”).

In consideration of the mutual covenants and agreements contained in this Letter of Agreement and the guidelines and requirements, which have been reviewed and are understood by the Municipality and are hereby incorporated by reference, the Ministry and the Municipality covenant and agree as follows:

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Appendix 3

- 1 To support increased public transportation ridership in the Municipality, and in recognition of the Municipality's need for predictable and sustainable funding to support investments in the renewal and expansion of public transportation systems, the Ministry agrees to provide funding to the Municipality under the program in the amount of \$120,068,009 in accordance with and subject to the terms set out in this Letter of Agreement and the guidelines and requirements, with \$60,034,004 payable on receipt of this signed letter of agreement and related authorizing municipal by-law, and quarterly payments thereafter beginning in May, 2006.
2. Despite Section 1, the Municipality understands and agrees that any amount payable under this Letter of Agreement may be subject, in the Minister's opinion to adjustment to reflect final gas tax receipts and any other adjustments as set out in the guidelines and requirements.
3. If the Municipality is involved with other municipalities in jointly providing public transportation services, and the other municipalities have agreed to the Municipality collecting the dedicated gas tax funds on their behalf, the Municipality agrees that it shall provide, in compliance with the requirements set out in the guidelines and requirements, the applicable by-laws and legal agreement to the Ministry prior to the payment of any dedicated gas tax funds by the Ministry under this Letter of Agreement.
- 4 The Municipality agrees that the funds received under this Letter of Agreement are to be deposited by the Municipality in a dedicated gas tax funds reserve account, and are to be used only in accordance with the guidelines and requirements.
- 5 The Municipality agrees that it will adhere to the reporting and accountability measures set out in the guidelines and requirements, and shall provide all requested documents to the Ministry.
- 6 The Municipality understands and agrees that the funding provided under this Letter of Agreement represents the full extent of the Ministry's and Province's financial contribution under this Program and that no additional funds will be provided by either the Ministry or the Province for such purposes to the Municipality for the years 2005/2006.
- 7 The Municipality hereby consents to the execution by the Ministry of this Letter of Agreement by means of an electronic signature.

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Appendix 3

If the Municipality is satisfied with and accepts the terms and conditions of this Letter of Agreement, please secure the required signatures for the four enclosed copies of this Letter of Agreement and return two fully signed copies to the Transit Policy and Programs Office, 2nd Floor, Building B, 1201 Wilson Avenue, Downsview, ON, M3M 1J8 for the Ministry records.

Once the Ministry has received the signed copies together with a copy of the authorizing municipal by-law(s), the Ministry will make arrangements for the payment of the dedicated provincial gas tax funds to the Municipality.

Yours sincerely,



Harinder S. Takhar
Minister of Transportation

I have read and understand the terms of this Letter of Agreement, as set out above, and by signing below I am signifying the Municipality's consent to be bound by these terms.

The Corporation of the City of Toronto

Per: _____ Date: _____
Mayor

Per: _____ Date: _____
Chief Financial Officer/Treasurer