



# STAFF REPORT ACTION REQUIRED

## Authority to Execute a Letter of Agreement with the Government of Ontario for Ontario Bus Replacement Program Funding

<b>Date:</b>	April 30, 2007
<b>To:</b>	Executive Committee
<b>From:</b>	Deputy City Manager and Chief Financial Officer
<b>Wards:</b>	All
<b>Reference Number:</b>	P:\2007\Internal Services\FP\Ec07015Fp

### SUMMARY

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This report recommends that staff be authorized to execute a transit capital funding Letter of Agreement under the Ontario Bus Replacement Program (OBRP) between the City and the Provincial Government. The Ontario Bus Replacement Program is a provincial Ministry of Transportation program funding the replacement of transit buses. The Ministry created the OBRP in recognition of municipalities' need to replace aging transit buses to support the development of strong communities, increase public transportation reliability, reduce municipal operating costs, and invest in the renewal of transportation systems. As part of the 2007 OBRP agreement between the City and the Province, the Ministry of Transportation will provide up to a maximum of \$16,530,981 in accordance with and subject to the terms set out in the Letter of Agreement and the Guidelines and Requirements, payable after April 1, 2007.

### RECOMMENDATIONS

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The Deputy City Manager and Chief Financial Officer recommends that:

1. the Mayor and the Deputy City Manager and Chief Financial Officer be authorized to execute the Letter of Agreement under the Ontario Bus Replacement Program (OBRP) between the City of Toronto and the Her Majesty the Queen in right of the Province of Ontario, represented by the Minister of Transportation for the Province of Ontario, generally in accordance with the terms set out in Appendix A, and to the satisfaction of the Deputy City Manager and Chief Financial Officer and the City Solicitor.

2. the appropriate officials be authorized and directed to take necessary actions to give effect thereto.

## **FINANCIAL IMPACT**

Once the Ministry of Transportation has received signed copies of the Letter of Agreement, the related authorizing municipal by-law, and certified copies of agreements between the Toronto Transit Commission and the bus manufacturer, the Ministry can, in accordance with the OBRP, make arrangements for the payment of OBRP funding to the City. Funding for 2007 will be \$16,530,981. The funding for this program is assumed in the 2007-2011 Approved Capital Budget.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

## **ISSUE BACKGROUND**

The Ontario Bus Replacement Program replaces an earlier Provincial bus replacement program called the Ontario Transit Vehicle Program.

## **COMMENTS**

The TTC has reviewed the terms and conditions of the Letter of Agreement and the OBRP – 2007 Guidelines and Requirements. The TTC has also provided a certified copy of the contract document agreement executed with Orion Bus Industries (now known as DaimlerChrysler Commercial Buses North America Ltd.) for the delivery of 220 low-floor diesel-electric hybrid city buses in 2007. The contract for a further purchase of Wheel-Trans specialized transit buses has not yet been awarded and the TTC will follow-up with the Province when any further commitments are made for 2007 deliveries. It is expected that this will be the first year of a multi-year program with funding of approximately \$17 million annually.

## **CONTACT**

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## **SIGNATURE**

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Joseph P. Pennachetti  
Deputy City Manager and Chief Financial Officer

## **ATTACHMENTS**

Appendix A: Key Terms and Conditions of the Ontario Bus Replacement Program

## Appendix A

### Key Terms and Conditions of the Ontario Bus Replacement Program

1. The Ontario Ministry of Transportation agrees to provide OBRP funding to the City up to a maximum amount of \$16,530,981 in accordance with and subject to the terms set out in the Letter of Agreement and the Guidelines and Requirements, payable after April 1, 2007, subject to adjustments and the annual appropriation of funds by the Legislative Assembly of Ontario.
2. The funding provided under this Letter of Agreement represents the full extent of the Ministry's and Province's financial contribution under the OBRP and no additional funds will be provided by the Province for such purposes to the Municipality for the year 2007.
3. This agreement is for the year 2007 only.
4. Transit buses only are eligible.
5. To be eligible for OBRP funding for a program year, the City must order, or contribute to an order by a transit operator offering public transportation services on behalf of the municipality, transit buses intended for delivery within that program year.
6. All replacement transit buses must be fully accessible in accordance with the requirements set out in the *Ontarians with Disabilities Act, 2001*.
7. The City must provide the ministry with a year end report indicating the disbursements of OBRP funding, balance of OBRP capital reserve account and a description of the transit buses replaced.
8. The City must agree that in no event whatsoever is the Ministry to be held liable for: 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, persons responsible for controlling access and the like to the municipality's property and 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 the OBRP, including OBRP funding.
9. The City 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 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 the OBRP, including OBRP funding.

10. The City 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.