

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON DECEMBER 16, 2014
FROM:	MARTIN HAYWARD MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER
SUBJECT:	COURT SECURITY PRISONER TRANSPORTATION PROGRAM FUNDING AGREEMENT

RECOMMENDATION

That, on the recommendation of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer, the attached proposed by-law (Appendix "A") **BE INTRODUCED** at the Municipal Council meeting on December 18, 2014 to approve the Ontario Funding Agreement for the Court Security Prisoner Transportation Program between The Corporation of the City of London and Her Majesty the Queen in Right of Ontario; and to authorize the Mayor and Clerk to execute the Agreement.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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- Provincial-Municipal Fiscal and Service Delivery Review
(November 12, 2008 meeting of Board of Control, Agenda Item # 12)
- 2011 - 2015 Operating Budget Targets
(June 9, 2010 meeting of Board of Control, Agenda Item # 14)
- March 20, 2012 - Court Security Prisoner Transportation Program Funding Agreement
<http://sire.london.ca/cache/2/0cqwc155dlae1c24tmcp02u5/3478412012014044539547.PDF>

BACKGROUND

On Friday, October 3, 2008, the Government of Ontario, the Association of Municipalities of Ontario (AMO), and the City of Toronto announced the results of the Provincial-Municipal Fiscal and Service Delivery Review in a ceremony at Queens Park along with the release of a corresponding report entitled "Facing the Future Together". One of the results of this review that impacts a municipality was the gradual upload of court security costs and prisoner transportation costs. The uploading of these costs began in 2012 and is being phased in over seven years up to a maximum of \$125 million province wide by 2018. With the upload commencing in 2012, an agreement covering the allocation of funding for the years 2012- 2014 totalling approximately \$2.9 million was approved and executed.

The City has received the next agreement which sets out the allocation of funding for the next two years under the Court Security Prisoner Transportation (CSPT) Program for the City of London as follows:

Calendar Year	Allocation
2015	\$ 1,934,048
2016	\$ 2,417,559
Total	\$ 4,351,607

Similar to the 2012 agreement, Civic Administration proposed several changes to the Ministry related to amending the agreement to more appropriately reflect the relationship between a municipality and its policing service. The agreement, as presented in Schedule A of the by-law, reflects the amended agreement which is similar to the agreement signed in 2012. Unfortunately, Civic Administration continues to have some reservations with the agreement as it stands, however, the Ministry has made it absolutely clear that no further changes will be made to the

agreement. Furthermore, should the municipality decide not to execute the agreement, funding of approximately \$4.4 million to the city would be lost over the two year term.

Despite amendments made, Civic Administration still has concern with the amended agreement in the following areas:

a) Article 6 – Conflict of Interest

Although the Ministry has amended the original agreement to recognize that the Municipality is not carrying out the program but rather funding the London Police Service who does, the City still has no control over how the London Police Services operates, as such, there is no conflict of interest and in the City’s opinion, the clause is not required to be part of the agreement.

b) Article 7 – Reporting, Accounting, and Review

This article identifies that the City may be required to submit other reports other than what is prescribed to in the agreement under a timeline and with content requirements specified by the Ministry. Without knowing what reporting requirements may be required, the Ministry could require that the municipality submit a report that it may not be able to produce. The City would prefer the Ministry to be more specific with respect to the “other reports” referred to in the agreement.

c) Article 12 – Termination on Notice

Concern was raised that this article contradicts what has been represented by the Province relative to the duration of this upload. Given that this funding has been represented as multi-year funding, not one-time funding. The funding is being relied upon for budget purposes and could create a budget shortfall if the agreement is terminated.

The agreement is for two years, after which time the Ministry of Community Safety and Correctional Services will revisit the funding mechanism in order to reassess the allocation of funds.

Financial Impact

The 2015 proposed budget includes a total of \$1,966,749 related to funding identified as part of the Court Security and Prisoner Transportation Program Agreement. Based on the Province’s funding amount of \$1,934,048, the 2015 budget has over-stated funding by \$32,701 and will be a budget pressure during 2015. The upload of court security and prisoner transportation costs continues to mitigate tax levy increases by approximately 0.1% each year. However, as identified in Article 12 – Termination on Notice of the agreement, “the Ministry may terminate the agreement at any time upon giving at least sixty (60) days’ Notice to the Recipient”. If this upload is terminated, the City would have to cover the shortfall of funding through either an increase in property taxes and/or a reduction in other program expenditures. In addition, depending on the timing of termination, Civic Administration could have to issue a supplementary tax billing if there were insufficient funding available from reserves. At this time, the risk of a supplementary tax billing is extremely low but could increase over the years as the amount of funding to be received from the Ministry increases.

SUMMARY

The upload of court security and prisoner transportation costs to the Province over the coming years will reduce the tax rate impact to the municipal property tax payer. Civic Administration has worked with the Ministry to amend the agreement to more appropriately reflect the relationship between a municipality and its policing service, however, Civic Administration continues to have some reservations with the agreement as presented. At this time, the Ministry has amended the agreement as much as possible and requires the agreement to be executed. Should the municipality not execute the agreement, a cumulative \$4.4 million of funding over a two year period would be forgone by the municipality.

This report was prepared with the assistance of the City Solicitor’s Office.

PREPARED BY:	RECOMMENDED BY:
ANNA LISA BARBON SENIOR FINANCIAL BUSINESS ADMINISTRATOR	MARTIN HAYWARD MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER

Attach.

cc: G. Hopcroft, Director, Intergovernmental and Community Liaison
J. Smout, City Solicitors Office
Brad Duncan, Chief of Police, London Police Service
Kim Darling, Director, Financial Services, London Police Service

APPENDIX 'A'

Bill No.
2014

By-law No. A. -

A By-law to approve the Ontario Funding Agreement for the Court Security Prisoner Transportation Program with Her Majesty the Queen in Right of Ontario as represented by the Minister of Community Safety and Correctional Services; and to authorize the Mayor and City Clerk to execute the Agreement.

WHEREAS subsection 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS subsection 10 of the *Municipal Act, 2001*, as amended provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public, and may pass by-laws respecting same, and respecting economic, social and environmental well-being of the City, and the health, safety and well-being of persons;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The agreement to be entered into between The Corporation of the City of London and Her Majesty the Queen in Right of Ontario, for the provision of the Court Security Prisoner Transportation Program, attached hereto as Schedule 'A' to this By-law, is hereby approved.
2. The Mayor and City Clerk are authorized to execute the Agreement approved under section 1 of this by-law.
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on December 18, 2014.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading – December 18, 2014
Second Reading – December 18, 2014
Third Reading – December 18, 2014