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| <b>TO:</b>      | <b>CHAIR AND MEMBERS<br/>PUBLIC SAFETY COMMITTEE<br/>MEETING ON MARCH 20, 2012</b> |
| <b>FROM:</b>    | <b>MARTIN HAYWARD<br/>CITY TREASURER, CHIEF FINANCIAL OFFICER</b>                  |
| <b>SUBJECT:</b> | <b>COURT SECURITY PRISONER TRANSPORTATION PROGRAM<br/>FUNDING AGREEMENT</b>        |

**RECOMMENDATION**

That the attached proposed by-law (Appendix "A") **BE INTRODUCED** at the Municipal Council meeting on March 20, 2012 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**

- 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)

**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 City currently provides London Police Services approximately \$3.5 million annually to cover the costs of this service before taking into consideration this upload. This uploading of these costs begins in 2012 and will be phased in by an equal amount over seven years up to a maximum of \$125 million at maturity by 2018. With this upload commencing in 2012, Civic Administration received an agreement in mid-December for execution. Subject to the agreement being finalized, the agreement set out the allocation of funding for each of the first three years under the Court Security Prisoner Transportation (CSPT) Program for the City of London as follows:

| <b>Calendar Year</b> | <b>Allocation</b>   |
|----------------------|---------------------|
| 2012*                | \$ 491,687          |
| 2013                 | \$ 983,374          |
| 2014                 | \$ 1,475,062        |
| <b>Total</b>         | <b>\$ 2,950,124</b> |

\*Note: The 2012 Council Approved London Police Services Budget accounts for the 2012 allocation.

Upon receipt of this agreement, Civic Administration reviewed it as presented and expressed some reservations to the Ministry. Over the next two months, Civic Administration and the Ministry went back and forth, working through and 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. 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 by the end of March, funding of \$2.95 million to the city would be lost by the end of 2014.

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.

It should be noted that a majority of municipalities have already signed the agreement, and the remaining municipalities are currently in the process of signing the agreement. In following up with the Ministry, they have indicated that the amended agreement as presented in Schedule A to the By-Law, by far, includes the most amendments made by the Ministry for a municipality in comparison to other agreements that were or are in the process of being signed by other municipalities.

The agreement is for three 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 2012 Municipal Council approved budget takes into account the \$491,687 of funding identified as part of the Court Security and Prisoner Transportation Program Agreement. The upload of court security and prisoner transportation costs helped reduce the increase in the municipal tax levy by approximately 0.1% and assisted in the City achieving a 0% tax levy increase from rates in 2012. Based on the schedule provided, the funding identified in 2013 and 2014 will help to further mitigate 2013 and 2014 tax levy increases from rates by 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 reduced the tax rate impact to the municipal property tax payer. The funding to be provided as outlined in the agreement helped reduce the 2012 property tax levy increase from rates by 0.1%. This has allowed the City to achieve a second straight property tax freeze from rates. However, Civic Administration does have some reservations with the agreement as presented. Since receiving the agreement, Civic Administration has worked with the Ministry to amend the agreement to more appropriately reflect the relationship between a municipality and its policing service. At this time, the Ministry has amended the agreement as much as possible, and

requires the agreement to be executed by the end of March. Should the municipality not execute the agreement, a cumulative \$2.9 million of funding over a three year period would be forgone by the municipality.

This report was prepared with the assistance of the City Solicitor's Office and City Clerk's Office.

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| <b>Prepared By:</b>  | <b>Reviewed By:</b>   |
|  |   |
| <b>Ian Collins</b><br>Manager of Financial Planning & Policy     | <b>Larry Palarchio</b><br>Director of Financial Planning & Policy |
| <b>Recommended By:</b>   |   |
|  |   |
| <b>Martin Hayward</b><br>City Treasurer, Chief Financial Officer |   |

cc: Grant 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. xx  
2012

By-law No. xxx

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 March 20, 2012.

Joe Fontana  
Mayor

Catharine Saunders  
City Clerk