

<b>TO:</b>	<b>CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON DECEMBER 13, 2016</b>
<b>FROM:</b>	<b>MARTIN HAYWARD MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER</b>
<b>SUBJECT:</b>	<b>COURT SECURITY AND PRISONER TRANSPORTATION PROGRAM TRANSFER PAYMENT AGREEMENT</b>

<b>RECOMMENDATION</b>
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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 19, 2016 to approve the Ontario Transfer Payment Agreement for the Court Security and 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.

<b>PREVIOUS REPORTS PERTINENT TO THIS MATTER</b>
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- Provincial-Municipal Fiscal and Service Delivery Review  
(November 12, 2008 meeting of Board of Control, Agenda Item #12)
- Court Security Prisoner Transportation Program Funding Agreement  
(March 20, 2012 meeting of Public Safety Committee, Agenda Item #2)
- Court Security Prisoner Transportation Program Funding Agreement  
(December 16, 2014 meeting of Corporate Services Committee, Agenda Item #7)

<b>BACKGROUND</b>
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On 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 municipalities 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, two agreements covering the allocation of funding for the years 2012-2014 and subsequently 2015-2016 totalling approximately \$7.3 million were 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 and Prisoner Transportation (CSPT) Program for the City of London as follows:

Calendar Year	Allocation
2017	\$ 2,739,087
2018	\$ 3,195,601
<b>Total</b>	<b>\$ 5,934,688</b>

As with the 2014 agreement, Civic Administration proposed several changes to the Ministry to amend the agreement to more appropriately reflect the relationship between the Corporation of the City of London and the London Police Service, the organization responsible for the provision of these services. The agreement, as presented in Schedule 1 of the by-law, reflects the amended agreement which contains similar provisions as the agreement signed in 2014. Unfortunately,

Civic Administration continues to have some reservations with the agreement as it stands, however the Ministry has made it clear that they are unwilling to consider any further changes to their standard form agreement. Furthermore, should the municipality decide not to execute the agreement, funding of approximately \$5.9 million would be lost over the two year term.

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

a) Article A4.2 – Limitation on Payment of Funds

The agreement indicates that the Province is not obligated to provide instalments of the funding until it is satisfied with the progress of the project. The “project” for the purposes of this agreement is simply the provision of funds from the Corporation to the London Police Service, so it is not clear what would signify satisfactory progress for this provision. In the City’s opinion, this clause is not required to be part of the agreement.

b) Article A6.0 – Conflict of Interest

Although the Ministry has amended the 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, this clause is not required to be part of the agreement.

c) Article A7.0 – Reporting, Accounting, and Review

This article identifies that the City may be required to submit other reports other than what is prescribed 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.

d) Article A12.0 – Termination on Notice

Concern was raised that this article contradicts what has been represented by the Province relative to the duration of this upload. This funding has been represented as multi-year funding and is being relied upon for budget purposes. If the agreement were to be terminated by the Province in accordance with this article, a budget shortfall would result.

**Financial Impact**

The 2017 budget (developed prior to the receipt of this agreement) includes an estimated \$2,900,000 of Provincial funding through the Court Security and Prisoner Transportation Program Transfer Payment Agreement. Based on the actual funding amount of \$2,739,087, the 2017 budget has been over-stated by \$160,913 and will be a budget pressure during 2017. The upload of court security and prisoner transportation costs mitigates tax levy increases by approximately 0.5% in 2017. However, as identified in Article A12.1 – Termination on Notice, “the Province may terminate this Agreement at any time without liability, penalty, or costs upon giving at least 30 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.

<b>SUMMARY</b>
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The continued upload of court security and prisoner transportation costs to the Province continues to 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 the Corporation of the City of London and the London Police 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 they are willing and require the agreement to be executed. Should the City not execute the agreement, a cumulative \$5.9 million of funding over a two year period would be lost by the municipality.

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

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

Attach.

- cc:     A. Thompson, Manager, Government and External Relations  
          J. Smout, City Solicitors Office  
          John Pare, Chief of Police, London Police Service  
          Kim Darling, Director, Financial Services, London Police Service

## APPENDIX 'A'

Bill No.  
2016

By-law No. A. -

A By-law to approve the Ontario Transfer Payment Agreement for the Court Security and 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 funding for the Court Security and Prisoner Transportation Program, attached hereto as Schedule '1' 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 19, 2016.

Matt Brown  
Mayor

Catharine Saunders  
City Clerk

First Reading – December 19, 2016  
Second Reading – December 19, 2016  
Third Reading – December 19, 2016