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DATE: June 24, 2009

REPORT TITLE: **ONTARIO BUS REPLACEMENT PROGRAM FUNDING ALLOCATION**

FROM: Norma Trim, Chief Financial Officer and Commissioner of Corporate Services

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### **RECOMMENDATION**

That the Regional Chair and the Chief Financial Officer and Commissioner of Corporate Services be authorized to execute the Letter of Agreement between the Province of Ontario and the Regional Municipality of Peel related to funding provided by the Province to the Region under the Ontario Bus Replacement Program (OBRP) in the attached as Appendix I to the report of the Chief Financial Officer and Treasurer and Commissioner of Corporate Services, dated July 24, 2009, titled "Ontario Bus Replacement Program Funding Allocation" for 2009;

And further, that staff be authorized to utilize the existing dedicated Ontario Bus Replacement Program Reserve Fund ROO31 into which the OBRP funds are to be deposited, withdrawn, and used for eligible OBRP expenditures, in accordance with Council Resolution 2007-688 and By-law Number 43-2007;

And further, that the necessary by-law be presented to Regional Council for enactment, authorizing the execution of a Letter of Agreement related to funding under the OBRP dedicated Reserve Fund.

### **REPORT HIGHLIGHTS**

- On June 19, 2009 the province announced the roll out for the 2009 OBRP.
- The Ministry of Transportation will provide funds under certain conditions toward the capital costs of replacing transit buses. This program applies only to replacement of existing assets and not costs of expansion.
- As a continuation of the program initiated in 2007, the Region of Peel's allocation for financial year 2009 is \$256,837. Regional Council is required to enact a by-law for each year's allocation authorizing the execution of the letter of agreement with the Province of Ontario.
- The allocation for future years will be an annual ceiling based on the fleet replacement plan as it evolves from year to year.
- Funds received are obligated to be deposited into an interest bearing capital Reserve Fund and must be used to fund the annual capital bus replacement program.

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## ONTARIO BUS REPLACEMENT PROGRAM FUNDING ALLOCATION

### DISCUSSION

#### 1. Background

In March 2006, the Province of Ontario announced the introduction of a multi-year capital funding program, the Ontario Bus Replacement Program (OBRP) starting in 2007. This program replaces the former Ontario Transit Vehicle Program (OTVP), which the Province ended in the 2006 Provincial Budget.

In March 2007, as the initial year of the OBRP, the Province announced the OBRP allocations and program guidelines and requirements. The total annual provincial funding for the Bus Replacement Program is capped at a maximum of \$50 million. Specialized transit services such as TransHelp qualify for this funding, along with conventional, fixed route services, with each municipality's allocation capped to a specific amount.

On May 31, 2007, Regional Council adopted Resolution 2007-688 and enacted By-law 43-2007 for the creation of the dedicated reserve fund ROO31 Ontario Bus Replacement Program for the purpose of depositing, withdrawing, and using funds for the eligible OBRP expenditures.

The funding available for each municipality is allocated by the Ministry each year, limited to the municipality's allocation amount only after receipt and approval of all required documentation which includes, a transit bus inventory and a five-year capital plan for transit bus replacement and any other information the Ministry may require. For specialized transit services such as TransHelp, the annual OBRP funding will be capped at 33.3 per cent of the forecasted transit bus replacement costs.

#### 2. Proposed Direction

As the next step, the Region is now required to formally request this allocation to ensure payment of funds, by signing a Letter of Agreement from the Ministry, providing the related authorizing by-law and a copy of a binding agreement between the Region of Peel and a manufacturer of transit buses for the purchase of such transit buses to be delivered in 2009.

### FINANCIAL IMPLICATIONS

Under the guidelines and requirements, municipalities must agree that the funds received will be deposited in an interest bearing capital reserve fund account.

The OBRP funding must be used only towards progress or final payments of eligible transit buses costs. The 2009 funding allocation is \$256,837 which will be used to fund the annual capital bus replacement program.

Peel's allocation for future years will be an annual ceiling based on the review and approval of the Region's five year specialized transit bus replacement capital plan as it evolves from year to year, and other required documents as listed in the guidelines and requirements. On an annual basis a formal application will be required by July 15<sup>th</sup> of each year, preceding the program year for which OBRP funding is requested.

### CONCLUSION

The Capital Bus Replacement Program is a vital component of TransHelp's service delivery. The Region of Peel is continuously advocating for more support from other levels of

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**ONTARIO BUS REPLACEMENT PROGRAM FUNDING ALLOCATION**

governments to assist municipalities in delivering public transportation services. With the commitment from the provincial government, the OBRP will assist Peel in meeting the Region's transportation needs. The letter of agreement for the OBRP funds requires Regional Council to pass a by-law authorizing the Regional Chair and the Chief Financial Officer and Commissioner of Corporate Services to execute the agreement. The enactment of the by-law for the receipt of the grant monies will enable the Region to receive funds from the Province and will comply with the requirements of the Region's Financial Control By-law.



Norma Trim  
Chief Financial Officer  
and Commissioner of Corporate Services

**Approved for Submission:**



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D. Szwarc, Chief Administrative Officer

*For further information regarding this report, please contact  
Maureen VanRavens at extension 6850 or via email at [maureen.vanravens@peelregion.ca](mailto:maureen.vanravens@peelregion.ca)*

*Authored By: Jim Alpous*

- c. Legislative Services  
Manager, Financial Support Unit (FSU)

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<sup>e</sup> étage  
77, rue Wellesley ouest  
Toronto (Ontario)  
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June 19, 2009

Mr. Emil Kolb  
Chair  
The Regional Municipality of Peel  
10 Peel Centre Drive  
Brampton, Ontario  
L6T 4B9

Dear Chair Kolb:

**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 Regional Municipality of Peel (the "Municipality") Related to Funding Provided to the Municipality under the Ontario Bus Replacement Program (this "Letter of Agreement")**

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This Letter of Agreement is in response to the application received from the Municipality for funding under the Ontario Bus Replacement Program (the "OBRP").

The Ministry has now completed its review of the application and wishes, subject to the terms and conditions set out below, to provide the Municipality with funding for the replacement of ageing transit buses in support of strong communities, increased public transportation reliability, reduction of municipal operating costs, and investment in the renewal of transportation systems.

Funding from the Ministry to the Municipality under the OBRP (the "OBRP funding") will be provided in accordance with the terms and conditions set out in this Letter of Agreement and the OBRP 2009 Guidelines and Requirements (the "Guidelines and Requirements"), including compliance with the Province's Canadian Content for Transit Vehicle Procurement Policy.

In consideration of the mutual covenants and agreements contained in this Letter of Agreement and the Guidelines and Requirements, which the Municipality has reviewed and understands and which are hereby incorporated by reference, and other good and valuable consideration (the receipt of which is hereby acknowledged), the Ministry and the Municipality covenant and agree as follows:

1. In accordance with and subject to the terms and conditions set out in this Letter of Agreement and the Guidelines and Requirements, the Ministry agrees to provide OBRP funding to the Municipality up to, unless the Ministry otherwise agrees upon in writing, a maximum amount of \$256,837.00.
2. The OBRP funding to be provided under section 1 is subject to the Municipality having provided the Ministry with the required number of copies of this Letter of Agreement signed by the Municipality, certified copies of the authorizing municipal by-law(s) and a binding agreement between the Municipality or a transit operator, as applicable, and a manufacturer of transit buses for the purchase of such transit buses to be delivered in 2009 and, where applicable, a binding operating agreement between the Municipality and a transit operator.
3. Despite Section 1, the Municipality understands and agrees that any amount payable under this Letter of Agreement may be subject, at the sole discretion of the Ministry, to adjustment for consistency with the agreements described in Section 2, and any other adjustments as set out in the Guidelines and Requirements, including those related to annual appropriations of funds by the Legislative Assembly of Ontario.
4. Unless terminated earlier in accordance with the terms and conditions set out in this Letter of Agreement or extended at the Ministry's option and with the consent of the Municipality, the term of this Letter of Agreement shall commence on the effective date, which shall be the last date it is signed by one of the representatives from the Municipality, and shall expire on March 31, 2010.
5. The Ministry may terminate this Letter of Agreement at any time, without cause, upon giving at least sixty (60) days written notice to the Municipality. If the Ministry terminates this Letter of Agreement without cause, it may: a) cancel all further OBRP funding payments; and b) determine the Municipality's reasonable costs to terminate any binding agreement between the Municipality and a transit operator or a manufacturer of transit buses acquired under the OBRP, and permit the Municipality to offset these costs against the OBRP funds remaining in the possession or under the control of the Municipality.
6. If the Ministry fails to receive the necessary appropriation from the Legislature for the OBRP, the Ministry, in addition to any adjustments it may make under section 3, may terminate this Letter of Agreement immediately by giving notice to the Municipality. In such instance, the Ministry shall have the same rights as those set out in paragraphs 5 a and b.
7. This Letter of Agreement constitutes the entire Agreement between the Ministry and the Municipality with respect to the subject matter contained in this Letter of Agreement, and supersedes all prior oral or written representations and agreements.
8. Any changes to this Letter of Agreement shall be by written amendment signed by the Ministry and the Municipality.

- 9. Any provisions, which, by their nature are intended to survive the termination or expiration of this Letter of Agreement, shall survive its termination or expiration, including the Municipality's indemnification obligations.
- 10. The Municipality hereby consents to the execution by the Ministry of this Letter of Agreement by means of an electronic signature.

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 and dated copies to:

Ministry of Transportation  
 Division Services and Program Management Office  
 27<sup>th</sup> Floor, Suite # 2702  
 777 Bay Street  
 Toronto, Ontario  
 M7A 2J8

Once the Ministry has received the signed and dated copies of this Letter of Agreement and related certified copies of the authorizing municipal by-law(s), and agreements set out in Section 2, the Ministry may, in accordance with the OBRP, make arrangements for the payment of OBRP funding to the Municipality.

Yours sincerely,



Jim Bradley  
 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 that the Municipality has consented to be bound by these terms.

Per: \_\_\_\_\_ Date: \_\_\_\_\_  
 Head of Council

Per: \_\_\_\_\_ Date: \_\_\_\_\_  
 Clerk or Authorized Delegate