SUBJECT: City of Hamilton/Ministry of Transportation Dedicated Gas Tax Funding Agreement (City Wide) FCS06064

RECOMMENDATION:

(a) That the Mayor and General Manager of Finance & Corporate Services (City Treasurer) be authorized and directed to enter into an Agreement between the City of Hamilton and the Province of Ontario, related to the funding commitment made by the Province of Ontario to the Municipality under the Dedicated Gas Tax Funds For Hamilton’s Public Transportation Program.

(b) That the Mayor and General Manager of Finance and Corporate Services (City Treasurer) be authorized and directed to execute the Letter of Agreement attached as Appendix “A” to Report FCS06064.

(c) That the appropriate by-law, City of Hamilton/Ministry of Transportation Dedicated Gas Tax Funding Agreement By-Law be passed and enacted attached as Appendix “C”.

(d) That a certified copy of this by-law be forwarded to the Ministry of Transportation upon Council approval.

Joseph L. Rinaldo
General Manager
Finance and Corporate Services

EXECUTIVE SUMMARY:
The attached by-law and accompanying agreement, and guidelines and requirements are provided as a condition of the transfer of funding, provided by the Province of Ontario to the City of Hamilton under the dedicated gas tax funds for public transportation program. Under the terms and conditions of the attached agreement, a by-law is required to authorize the Mayor and City Treasurer to sign the “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 and the City of Hamilton related to Funding Provided by the Province of Ontario to the Municipality under the Dedicated Gas Tax Funds for Public Transportation Program”.

Municipalities receiving dedicated gas tax funds must meet the requirements set out in the “2005/06 Guidelines and Requirements”, attached as Appendix “B”. The provincial 2006/07 Budget alters the “2005/06 Guidelines and Requirements” so that all incremental transit operating expenditures will be eligible. Provincial staff have communicated that the Minister of Transportation will be sending out a letter of amendment to all municipalities reflecting the alterations as a consequence of the 2006/07 Budget.

**BACKGROUND:**

The Province of Ontario, under The Dedicated Gas Tax Funds for the Public Transportation Program, has agreed to provide funding in the amount of $8,617,599 to the City of Hamilton, in accordance with and subject to the terms set out in the attached Letter of Agreement and the guidelines and requirements. The Province of Ontario, under the above-noted program will over time provide two (2) cents of the existing provincial gas tax to municipalities to support public transportation.

The above identified level of funding represents the 2005/06 period.

**ANALYSIS/RATIONALE:**

Not Applicable
ALTERNATIVES FOR CONSIDERATION:

There are no alternative considerations.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Ratification of the Agreement results in the City of Hamilton becoming eligible for an estimated $8.6 million in provincial funding in 2006.

POLICIES AFFECTING PROPOSAL:

Letter of Agreement, attached as Appendix A.

RELEVANT CONSULTATION:

Public Works - Transit

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No
Public services and programs are delivered in an equitable manner, coordinated, efficient, effective and easily accessible to all citizens.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
A sustainable transportation network provides many options for people and goods movement; vehicle-dependency is reduced.

Economic Well-Being is enhanced. ☑ Yes ☐ No
The economic base is diversified.

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No
The proposed by-law recognizes the need for additional funding for municipalities from higher levels of government.

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No
His Worship Larry Dilanni  
Mayor  
The City of Hamilton  
City Hall, 71 Main Street West  
Hamilton, ON  
L8P 4Y5

Dear Mayor Dilanni:

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 City of Hamilton (the “Municipality”) Related to Funding Provided by the Province of Ontario (the “Province”) to the Municipality under the Dedicated Gas Tax Funds for Public Transportation Program (this “Letter of Agreement”)

This Letter of Agreement sets out the terms and conditions for the use of dedicated gas tax funds by municipalities for public transportation.

As the Province desires to increase public transportation ridership to support the development of strong communities, the Ministry has created the Dedicated Gas Tax Funds for Public Transportation Program (the “program”) under which and over time two (2) cents of the existing provincial gas tax will be provided to municipalities for public transportation expenditures.

Any funding to the Municipality by the Ministry will be provided in accordance with the terms and conditions set out in this Letter of Agreement and the Dedicated Gas Tax Funds for Public Transportation Program – 2005/2006 Guidelines and Requirements (the “guidelines and requirements”).

In consideration of the mutual covenants and agreements contained in this Letter of Agreement and the guidelines and requirements, which have been reviewed and are understood by the Municipality and are hereby incorporated by reference, the Ministry and the Municipality covenant and agree as follows:

..../2
1. To support increased public transportation ridership in the Municipality, and in recognition of the Municipality's need for predictable and sustainable funding to support investments in the renewal and expansion of public transportation systems, the Ministry agrees to provide funding to the Municipality under the program in the amount of $8,617,599 in accordance with and subject to the terms set out in this Letter of Agreement and the guidelines and requirements, with $4,308,800 payable on receipt of this signed letter of agreement and related authorizing municipal by-law, and quarterly payments thereafter beginning in May, 2006.

2. Despite Section 1, the Municipality understands and agrees that any amount payable under this Letter of Agreement may be subject, in the Minister's opinion, to adjustment to reflect final gas tax receipts and any other adjustments as set out in the guidelines and requirements.

3. If the Municipality is involved with other municipalities in jointly providing public transportation services, and the other municipalities have agreed to the Municipality collecting the dedicated gas tax funds on their behalf, the Municipality agrees that it shall provide, in compliance with the requirements set out in the guidelines and requirements, the applicable by-laws and legal agreement to the Ministry prior to the payment of any dedicated gas tax funds by the Ministry under this Letter of Agreement.

4. The Municipality agrees that the funds received under this Letter of Agreement are to be deposited by the Municipality in a dedicated gas tax funds reserve account, and are to be used only in accordance with the guidelines and requirements.

5. The Municipality agrees that it will adhere to the reporting and accountability measures set out in the guidelines and requirements, and shall provide all requested documents to the Ministry.

6. The Municipality understands and agrees that the funding provided under this Letter of Agreement represents the full extent of the Ministry's and Province's financial contribution under this Program and that no additional funds will be provided by either the Ministry or the Province for such purposes to the Municipality for the years 2005/2006.

7. 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 copies to the Transit Policy and Programs Office, 2nd Floor, Building B, 1201 Wilson Avenue, Downsview, ON, M3M 1J8 for the Ministry records.

Once the Ministry has received the signed copies together with a copy of the authorizing municipal by-law(s), the Ministry will make arrangements for the payment of the dedicated provincial gas tax funds to the Municipality.

Yours sincerely,

Harinder S. Takhar
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 the Municipality’s consent to be bound by these terms.

The Corporation of the City of Hamilton

Per: ______________________ Date: ______________
Mayor

Per: ______________________ Date: ______________
Chief Financial Officer/Treasurer
Dedicated Gas Tax Funds For Public Transportation Program

2005/2006 Guidelines and Requirements

Issued February 2006

MTO/Urban & Rural Infrastructure Policy Branch
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DEDICATED GAS TAX FUNDS FOR PUBLIC TRANSPORTATION PROGRAM

2005 GUIDELINES & REQUIREMENTS

1. DEFINITIONS

When used in these guidelines and requirements, the words set out below that import the singular include the plural and vice versa:

“Asset Management Plan” means a long range plan developed by the municipality or transit operator to manage the capital assets used in providing its public transportation services.

“dedicated gas tax funds” means the funds provided by the Ministry strictly towards eligible expenditures, in the opinion of the Minister, directly related to the provision of public transportation services.

“dedicated gas tax funds reserve account” means an interest bearing account set up by a municipality to keep dedicated gas tax funds separate and apart from either municipal or any other funds, or both, for use strictly towards public transportation related eligible expenditures.

“GTA Fare System” means the public transportation fare collection system between GTA municipalities to support more seamless use by public transportation customers and the collection of public transportation fares.

“guidelines and requirements” means these guidelines and requirements entitled “Dedicated Gas Tax Funds for Public Transportation Program – 2004 Guidelines and Requirements”, including Appendix A to these guidelines and requirements.

“host municipality” means a host municipality as defined in Section 7.

“Ministry” and “Minister” respectively means the Ministry of Transportation who is responsible for the administration of the Dedicated Gas Tax Funds for Public Transportation Program and the Minister responsible for the Ministry.

“municipal own account spending on public transportation” means the funds a municipality contributes towards public transportation expenditures. These amounts include municipal contributions towards operating costs, passenger fare revenue, public transportation capital costs, and local public donations. Capital costs should not include municipal capital reserve account contributions but the actual amount of municipal capital funds expended.

“program” means the Dedicated Gas Tax Funds for Public Transportation Program set up by the Ministry to provide municipalities with dedicated gas tax funds subject to and in accordance with these guidelines and requirements.
“public transportation” means any service for which a fare is charged for transporting the public by vehicles operated by or on behalf of a municipality or local board as defined in the Municipal Affairs Act, or under an agreement between a municipality and a person, firm or corporation and includes special transportation facilities for the physically disabled, but does not include transportation by special purpose facilities such as school buses or ambulances.

“public transportation vehicle” refers to a street car, bus or trolley bus used for public transportation.

“rapid transit vehicle” refers to subway car or light rail car used for public transportation.

“Ridership Growth Plan” means a plan developed by the municipality to increase public transportation ridership that include target markets (e.g. Colleges/Universities) and other municipal policies (e.g. land use and parking policies) that support public transportation ridership growth.

“transit vehicle” means either a public transportation vehicle or rapid transit vehicle.

2. INTRODUCTION

The province has a vision for a stronger Ontario built around strong communities, a vibrant economy and healthier, more liveable cities with increased access to public transportation, reduced commute times and cleaner air for all Ontarians.

By providing a portion of the gas tax for public transportation, the province will assist municipalities become more self-sustaining in that regard.

As of October 2004, the province provided 1 cent/litre of gas tax funds towards 83 public transit systems representing 110 municipalities. This amount will now increase to 1.5 cents/litre as of October 2005 and 2 cents/litre in October 2006. When fully implemented, the program will generate about $312 million per year for public transportation, which will be subject to change based on annual sales of gasoline.

The program is an important element of the ongoing relationship between the province and Ontario municipalities. Municipalities receiving dedicated gas tax funds must meet the requirements set out in these guidelines and requirements.
3. ALLOCATION METHODOLOGY AND PROCESS

Based on the consultation with municipalities, public transportation operators and stakeholders, the province recognizes the varying needs of public transportation within Ontario municipalities including those related to large established public transportation systems and communities with different growth rates and levels of public transportation service. Consistent with the above, an allocation formula based on a combination of ridership and population has been established by the province. This formula balances the needs of large established public transportation systems, the growth needs of rapidly growing municipalities, and the needs of smaller municipalities that provide public transportation services.

The province is implementing an allocation based on 70% transit ridership and 30% municipal population. This means that when fully implemented 70% of about $312 million (about $218 million) will be distributed to municipalities on the basis of their public transportation ridership levels. Thirty percent (30%) of about $312 million (about $94 million) will be distributed on the basis of population levels. Public transportation ridership will include the totals of both conventional and specialized public transportation services.

2004 ridership numbers have been used in this calculation from the 2004 Ontario Urban Transit Fact Book, which is collected and produced annually by the Canadian Urban Transit Association (CUTA) on behalf of the ministry. Where 2004 CUTA ridership data was not available, data has been directly provided to the ministry by the municipality. Population data for 2004 has been provided by the Ministry of Finance based on estimates derived from 2001 Statistics Canada figures.

Both ridership and population figures will be updated and revised annually for use in the calculation of dedicated gas tax funds.

Dedicated gas tax funds provided to each municipality in 2005/2006 are not to exceed 75% of “municipal own account spending on public transportation” based on 2004 municipal public transportation spending data as provided in the CUTA fact book. Any amounts of moneys dedicated for but that remain undistributed through the program shall be re-allocated by the province in support of increasing public transportation ridership.

The Minister will advise each municipality, on an annual basis, as to the amount of dedicated gas tax funds it is eligible to receive. The Minister, will send a letter of agreement to be signed by the head of municipal council and chief financial officer of the municipality to each municipality that provides public transportation services. The letter of agreement will set out the terms and obligations, upon which the dedicated gas tax funds will be released to the municipality and by which the municipality will have to agree to be bound. The province will undertake an annual review of the dedicated gas tax allocation methodology and eligibility requirements to ensure these funds support the desired outcome of increased public transportation ridership. Municipal public transportation spending will also be reviewed on an annual basis to determine if the limits of the dedicated gas tax funds need to be applied where the gas tax allocation may exceed 75% of “municipal own account spending on public transportation”
4. GENERAL ELIGIBILITY REQUIREMENTS

The purpose for providing dedicated gas tax funds to Ontario municipalities are to ensure that local public transportation services continue and increase overall ridership through the expansion of public transportation capital infrastructure and levels of service. To be eligible to receive dedicated gas tax funds a municipality must contribute financially towards their public transportation service.

Beginning in 2005, only municipalities that have submitted their 2004 annual data survey to the Canadian Urban Transit Association (CUTA) will be eligible to receive dedicated gas tax funds.

Municipalities that are not currently providing public transportation, but decide to begin providing such services will be eligible for funding, subject to the provision of a municipal by-law indicating their intent to provide public transit services. Notification of their intent to provide public transportation services and a specific commitment to annual funding support will be required prior to October 1, 2006 when the gas tax funds allocation for each municipality will be revised. After the new system has been implemented, dedicated gas tax funding will be then available beginning the last quarter of 2006 and into 2007.

A municipality receiving dedicated gas tax funds must ensure that all funds received are used exclusively towards the provision of public transportation service. Gas tax funds cannot be used to offset expenditures of other municipal departments such as welfare or social services.

Each municipality will be required to develop a Ridership Growth Plan and Asset Management Plan that sets out how the municipality is planning on using dedicated gas tax funds. These plans need to ensure that the achievement of municipal public transportation accessibility objectives are met according to local accessibility plans developed by all municipalities in response to the Ontarians With Disabilities Act (ODA). Any transit vehicles purchased using gas tax funds must be fully accessible.

Municipalities will be required to provide an annual report of their spending on public transportation services it offers. Reporting templates for 2005 are attached and have been developed in consultation with municipal public transportation stakeholders. The Ministry may withhold payment of dedicated gas tax funds until reporting requirements are met.

Starting in 2005, gas tax revenues support increased municipal public transportation expenditures and not to reduce or replace current levels of municipal public transportation funding. Eligibility requirements for use of dedicated gas tax funds are being implemented in a progressive fashion recognizing the time required to develop and implement public transportation ridership growth strategies.

Dedicated gas tax funds, including all interest earned, must be kept in a dedicated gas tax funds reserve account and remain the property of the Ministry pending payment of such costs for eligible expenditures. Funds deposited in the dedicated gas tax funds reserve account must be used only towards eligible public transportation expenditures.
Interest on funds deposited in a dedicated gas tax funds reserve account must accrue on any carryover funds at the appropriate Chums One rate for an equivalent term. The interest must also be reported annually as set out in Appendix A and can only be applied towards eligible public transportation expenditures.

(a) Eligibility Requirements for All Dedicated Gas Tax Funds Received in 2005

- In 2005 municipalities must give priority to increased capital expenditures and then increased operating expenditures that support increased ridership.

- Municipalities that have already developed a Ridership Growth Plan and an Asset Management Plan should submit these plans in 2005 as part of the reporting requirements.
  - Development of the Ridership Growth Plan and an Asset Management Plan will be considered as an eligible expenditure.

(b) Eligibility Requirements for All Dedicated Gas Tax Funds Received in 2006 and Beyond

- Starting in 2006, dedicated gas tax funds will be required to be spent on:
  - Increased capital expenditures or increased operating expenditures that promote increased ridership, which must be incremental to baseline "municipal own account spending" on transit. (Above a baseline public transportation expenditure level which will equal the average "municipal own account spending on transit" for the years 2001 to 2003 and will include a rate of 2% per year for inflation).
  - Increased capital expenditures that provide improvements to transit security and passenger safety.

- In 2006, up to 70% of gas tax funds may be spent on operating expenditures that support ridership growth (except where municipalities have no transit capital assets).

- Beginning in 2007, eligible gas tax expenditures will be limited to a maximum of 50% to be spent on operating expenditures that support ridership growth (except where municipalities have no transit capital assets).

- A deferral or fare reduction may be undertaken, as a strategy but financial support using gas tax revenues will only be eligible once within any three-year period. (i.e.2005-2007)

- In 2006, for municipalities that provide only specialized transit, transit strategies that may not initially result in ridership growth but will provide increased accessibility can be considered as eligible expenditures if discussed and approved in writing by MTO prior to implementation.
A Ridership Growth Plan and an Asset Management Plan will be required from municipalities and have to be submitted by March 31, of 2006 as a basis for receiving any future dedicated gas tax funds.

- Development of the Ridership Growth Plan and an Asset Management Plan will be considered as an eligible expenditure.

**d)** **For GTA Municipalities: Regions of Durham, Halton, Peel Region, York, and Cities of Hamilton and Toronto**

*From 2006 forward, these municipalities will be required to:*

- Develop Ridership Growth Plans that are aligned with the province’s transportation strategies and plans for the GTA.
- Participate in the GTA Farecard project and as a participant will be required to be in good financial standing.
- Where municipalities are required to provide one-third of capital expansion costs for GO Transit expansion, demonstrate that these payments are current prior to the release of dedicated gas tax funds.

The eligibility requirements for dedicated gas tax funds will be determined in accordance with applicable Ministry policies and guidelines, which may change from time to time. The eligibility for any dedicated gas tax funds is at the sole discretion of the Ministry. A municipality should consider consulting with Ministry staff when in doubt as to whether dedicated gas tax funds will be available prior to making expenditures or commitments involving the use of such funds.

### 5. ACCOUNTABILITY AND REPORTING REQUIREMENTS

Municipalities will be accountable to use dedicated gas tax funds to achieve increased public transportation ridership. Municipalities will be required to report prior to March 31, 2006 on how dedicated gas tax funds were spent during 2005 and thereafter on an annual basis.

Where municipalities have already developed ridership growth and asset management plans these plans should be submitted as part of the reporting requirements.

Each municipality will be required to develop a Ridership Growth Plan and an Asset Management Plan by March 31, 2006 as a requirement for receiving future dedicated gas tax funds.

Appendix A contains the reporting forms required for submission prior to March 31, 2006. Reporting requirements using standardized reporting forms for 2005 have been developed in consultation with municipal public transportation stakeholders. Guides to preparing Ridership Growth Plans and Transit Asset Management Plans are provided in Appendix B and have also been developed in consultation with municipal transit stakeholders including the Ontario Community Transportation Association (OCTA) and the Canadian Urban Transit Association (CUTA).
6. COMMUNICATIONS

Municipalities will be required to provide and implement dedicated gas tax funding communication and recognition events to be developed as part of their marketing and public event plans that should be included and support their Ridership Growth Plan. Details regarding dedicated gas tax funding recognition requirements are under development and will be provided to municipalities.

7. PAYMENT OF DEDICATED GAS TAX FUNDS

Payment of dedicated gas tax funds will be made based on the annual calculation by the Ministry of the allocation formula based on a combination of 70% ridership and 30% population.

Funds provided to each municipality in 2005/2006 are not to exceed 75% of “municipal own account spending on public transportation” based on 2004 municipal public transportation spending data as provided in the CUTA fact book. Any amounts of moneys dedicated for but that remain undistributed through the program shall be re-allocated by the province in support of increasing public transportation ridership.

Payment of dedicated gas tax funds to a municipality will only be made after receipt of a letter of agreement, provided by the Ministry to the municipality, signed by the head of the municipal council and chief financial officer, and a copy of a municipal by-law permitting the municipality to enter into the letter of agreement. Any amount provided to the municipality under the program will be subject to adjustment as set out under section 8. In addition, any amount provided by the Ministry to a municipality will have to be used by the municipality exclusively for public transportation purposes and in accordance with eligibility and annual reporting requirements.

If a municipality has an agreement with another municipality to provide public transportation services on behalf of both municipalities (the “host municipality”), dedicated gas tax funds will be flowed either to the host municipality or to each municipality that contributes financially towards the operation of the public transportation services. Prior to payment of dedicated gas tax funds being made by the Ministry, all the municipalities that contribute financial assistance towards the operation of the public transportation services provided by the host municipality will be required to provide to the Ministry with copies of the municipal by-laws and legal agreement clearly indicating which municipality will be receiving dedicated gas tax funds from the Ministry for the public transportation services provided by the host municipality. In the case where the host municipality and the other municipality wish to receive individual payments they will be required to provide to the Ministry an individual breakdown of 2004 ridership by municipality as well as their individual financial contribution towards the public transportation services provided.
The Ministry will provide payment of annual gas tax funds on a quarterly basis. In addition, the payment of any dedicated gas tax funds is subject to annual appropriations of such funds by the Legislative Assembly of Ontario. Municipalities will be advised on an annual basis as to the amount of dedicated gas tax funds available for that year.

8. ADJUSTMENT, WITHHOLDING AND REPAYMENT OF DEDICATED GAS TAX FUNDS

If, in the opinion of the Ministry, a municipality fails to comply with any of the requirements set out in these guidelines and requirements, uses any of the dedicated gas tax funds for a purpose not authorized without the prior written consent of the Ministry, provides erroneous or misleading information or fails to provide information to the Ministry for any reason whatsoever (“unacceptable conduct”), including any related interest, will become immediately due and payable by the municipality.

Any money due by a municipality in relation to the dedicated gas tax funds is a debt due to the Crown of the Province of Ontario under the Financial Administration Act, R.S.O. 1990, c. F.12, as amended, (“FAA”) and, in addition to any remedy the Crown may have under the FAA, the Ministry may decide to withhold or adjust the amount of any current or future dedicated gas tax funding that may be provided to the municipality in an amount equal to such debt or have the amount of such debt deducted from financial assistance payable on any other project(s) of the municipality under any other initiative in which the province is involved (either current or future).

Any decision made by the Minister regarding dedicated gas tax funds is final.

9. RECORDS AND AUDIT

A municipality receiving dedicated gas tax funds for public transportation must maintain separate records and documentation for funding received for a minimum of seven (7) years after the final settlement of accounts, i.e. once payment of dedicated gas tax funds has been made to the municipality and all requirements under these guidelines and requirements have been met.

Upon request by the Ministry, the municipality must submit documentation, including all evidence of payment, relating to public transit expenditures to which such funds apply.

The Ministry will begin audits of recipient municipalities in 2006. This may require the assistance of an external auditor, retained and paid for by the municipality, to carry out an audit of the records referred to above. If so, a municipality must upon request provide the name of an accredited external auditor acceptable to the Ministry. The municipality must ensure that the auditor who conducts the audit provides a copy of the audit report to the Ministry for its consideration at the same time as the audit report is provided to the municipality. All municipalities receiving dedicated gas tax funds are subject to audit. Upon recommendation from the external audit report the ministry may provide an adjustment to future quarterly gas tax payments or request the municipality to adjust funds within their dedicated gas tax funds reserve account.
10. LIABILITIES AND INDEMNITIES

A municipality receiving dedicated gas tax funds is responsible, in whole and in part, for anything that may arise directly or indirectly, in relation to the transit expenditures to which such funds apply. The Ministry’s involvement in relation to the program is for the sole purpose of, and is limited to, the provision of the dedicated gas tax funds. As such, as a condition of receiving dedicated gas tax funds, a municipality must warrant and agree that under no circumstances will the municipality enter into any contract or commitment in the name of or on behalf of the Ministry, and the municipality must acknowledge that it is not through the Ontario Gas Tax Program or otherwise, granted any right or authority to assume or create any obligation or responsibility, expressed or implied, on behalf of or in the name of the Ministry or to bind the Ministry in any manner whatsoever.

Furthermore, a municipality receiving dedicated gas tax funds must understand and agree that in no event whatsoever is the Ministry to be held liable for any 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 or anyone responsible for controlling access and the like to the municipality’s property, and without restricting the generality of the foregoing any users (including any member of the public, whether paying or not paying and/or using or being in any way on the municipality’s property with or without the permission of the municipality or any body in a position of authority; this includes any trespasser or the like), arising out or in any way related to funding received under the program.

The Ministry will not be liable for 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 funding received under the program.

A municipality receiving dedicated gas tax funds 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 claim 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 funding received under the program.

A municipality receiving dedicated gas tax funds 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.
11. WHERE TO APPLY AND REQUEST OR PROVIDE INFORMATION

Any questions regarding the program are to be directed to the Ministry Transit Policy & Programs Office at phone (416) 235-4204 or fax (416) 235-4180.

Reporting requirement forms or information to be provided to the Ministry under these guidelines and requirements must be provided by personal delivery or mailed by first class registered mail, prepaid postage, or by transmittal by facsimile at the following address:

Ministry of Transportation
Transit Policy & Programs Office
3rd Floor, Building C
1201 Wilson Avenue
Downsview, ON
M3M 1J8
APPENDIX B

GUIDES TO PREPARING RIDERSHIP GROWTH PLANS AND TRANSIT ASSET MANAGEMENT PLANS
CITY OF HAMILTON

BY-LAW NO. __________

To Authorize the Execution of an Agreement between the City of Hamilton and the Ministry of Transportation Related to Funding Provided Under the Dedicated Gas Tax Funds for Public Transportation Program.

WHEREAS The City of Hamilton is entitled to enter into an agreement to provide services under a program established and administered by the Province of Ontario pursuant to Section 22 subsection (1) of the Municipal Act, 2001;

AND WHEREAS the Council of the City of Hamilton deems it advisable to enter into an agreement with Her Majesty the Queen in right of Ontario, as represented by the Minister of Transportation related to funding provided by the Province of Ontario to the Municipality under the Dedicated Gas Tax Funds for Public Transportation Program;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Council hereby authorizes the Mayor and Treasurer to sign an agreement between the City of Hamilton and her Majesty the Queen in right of Ontario, as represented by the Minister of Transportation, pursuant to the terms and conditions set out in as per the attachment hereto and forming part of this bylaw, understanding that the terms and conditions will be amended by the Minister of Transportation to reflect the changes incorporated in the Province of Ontario's 2006/2007 Budget.

2. That this bylaw shall come into effect upon its passing; and

3. That this bylaw may be cited for all purposes as "City of Hamilton/Ministry of Transportation Dedicated Gas Tax for Funding Agreement Bylaw No."
PASSED and ENACTED this day of , 200.

__________________________  _________________________
MAYOR                              CLERK