

STAFF REPORT



TO Corporate Administration, Finance and Enterprise Committee

SERVICE AREA Finance & Enterprise

DATE December 3, 2013

SUBJECT Metrolinx Contribution Agreement

REPORT NUMBER FIN-13-49

EXECUTIVE SUMMARY

PURPOSE OF REPORT

- To provide a history of the Metrolinx (GO Transit) train service expansion into the City of Guelph and the Provincial requirement for Guelph to contribute to the cost of this expansion
- To obtain Council approval to execute the Metrolinx Contribution Agreement that outlines the City of Guelph's proportionate contribution towards the extension of the GO train infrastructure from Georgetown, through Guelph to Kitchener-Waterloo.

KEY FINDINGS

In November 2010 the Government of Ontario announced that GO train service would be extended through Guelph to Kitchener-Waterloo and that the approximate cost of the expansion would be \$18 million. It was the expectation of the Ontario Government that the benefiting municipalities would contribute to the cost of this expansion and Guelph's apportionment has now been set at \$3.15 million. This contribution is a non-negotiable requirement as set by the Province but the contribution agreement does allow for flexibility in the payment terms.

In addition to the initial contribution towards the expansion of the train service, the City will be required to contribute towards future on-going capital expansion costs of the GO train infrastructure similar to the arrangements already in place with participating municipalities including Durham, York, Peel and Halton. At this time the City has not been notified of any additional contributions that will be required.

FINANCIAL IMPLICATIONS

The City will contribute \$3.15 million to Metrolinx in full on or before March 31, 2016 or such other date that is agreed to by the parties.

The agreement allows for this \$3.15 million to be payable as a monetary or in-kind payment. The City has begun investigating the option of transferring

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surplus properties to Metrolinx as partial payment towards this commitment.

The Province is also willing to consider other in-kind services as payment (eg winter maintenance and ticket agent activities) to also offset the \$3.15 million owed.

Any remaining amount would be paid via monetary contribution and this would be included as part of the annual capital budget. The City has included an allocation of \$150,000 in the proposed 2014 capital budget in order to build the funds required to satisfy this commitment.

ACTION REQUIRED

That the Mayor and Clerk be authorized to execute the Metrolinx Contribution Agreement as described in report FIN-13-49; and

That Staff be directed to contribute at least \$150,000 annually into a reserve fund towards satisfying this commitment.

RECOMMENDATION

That the Mayor and Clerk be authorized to execute the Metrolinx Contribution Agreement as described in report FIN-13-49; and

That Staff be directed to contribute at least \$150,000 annually into a reserve fund towards satisfying this commitment.

BACKGROUND

In November 2010 the Government of Ontario announced that GO train service would be extended through Guelph to Kitchener-Waterloo and that the approximate cost of the expansion would be \$18 million. It was the expectation of the Ontario Government that the benefiting municipalities would contribute to the cost of this expansion and Guelph's apportionment has now been set at \$3.15 million. This contribution is a non-negotiable requirement as set by the Province but the contribution agreement does allow for flexibility in the payment terms.

Prior to the announcement of the corridor extension, the City had already committed to significant investment totalling \$16.4 million for the Guelph Transit Terminal, the Wyndham bridge replacement and other related road works as part of the Infrastructure Stimulus Fund (ISF) project package (Council Resolution #20 – April 27, 2009). This City construction activity was scheduled to occur in the same time frame and on the same assets that Metrolinx would require to expand as part of their corridor expansion project. As a result, Metrolinx worked with the City to use the contractors already on-site in an attempt to streamline and create efficiencies for both the City and the Province in otherwise over-lapping projects.

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The City approved ISF projects included the replacement of the Wyndham Bridge (due to age), the construction of the Transit Terminal and providing the new road infrastructure to accommodate the bus traffic in that area. The Provincial project work that was initiated by Metrolinx included significant design enhancements to the Wyndham Bridge in order to accommodate expanded pedestrian platforms, stairs on the north and south side of the bridge and an elevator. Additionally Metrolinx built a pedestrian tunnel that runs under the tracks from the station to the south side of the tracks to their newly completed "Kiss and Ride" passenger pick-up and drop-off facility.

The GO train service in Guelph actually commenced in late December 2011 on temporary infrastructure. Metrolinx has now substantially completed the infrastructure work within the extended corridor and expects all construction in Guelph to be finalized in late 2013 or early 2014.

REPORT

The City of Guelph is required by the Provincial Government to contribute towards the GO train extension and they have now set Guelph's proportionate share at \$3.15 million. Staff from both the City and Metrolinx have been working together to draft an agreement that includes suitable payment terms for both parties.

The City feels that the terms of the agreement are reasonable and include favourable language to allow for negotiation on the timing of the payments and that in-kind payment will be allowable. The City will be investigating the option of transferring surplus properties to Metrolinx as partial payment of this commitment. The ultimate decision of any asset transfer would come back before Council for approval. Additionally, the Province is also willing to consider other in-kind services as payment (eg winter maintenance and ticket agent activities) to offset the \$3.15 million owed.

The contribution agreement also states that the City will be responsible for future capital contributions to the GO train corridor and that these will be assessed consistently with the other participating municipalities. Currently, the City has not been notified of any such additional contributions.

Concurrently with the submission of this report, staff have brought forward a by-law authorizing the Mayor and Clerk to execute the Metrolinx Contribution Agreement.

CORPORATE STRATEGIC PLAN

- 3.1 Ensure a well designed, safe, inclusive, appealing and sustainable City
- 3.2 Be economically viable, resilient, diverse and attractive for business

DEPARTMENTAL CONSULTATION

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Engineering, Downtown Renewal and Legal departments have all been partners in the drafting of the contribution agreement.

FINANCIAL IMPLICATIONS

The City will contribute \$3.15 million to Metrolinx in full on or before March 31, 2016 or such other date that is agreed to by the parties.

The agreement allows for this \$3.15 million to be payable as a monetary or in-kind payment. The City has begun investigating the option of transferring surplus properties to Metrolinx as partial payment towards this commitment.

Any remaining amount would be paid via monetary contribution and this would be included as part of the annual capital budget. The City has included an allocation of \$150,000 in the proposed 2014 capital budget in order to build the funds required to satisfy this commitment.

COMMUNICATIONS

None required.

ATTACHMENTS

ATT-A Draft Metrolinx Contribution Agreement

"original signed by Tara Baker"

Report Author

Tara Baker
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"original signed by Al Horsman"

Recommended By

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CONTRIBUTION AGREEMENT

THIS CONTRIBUTION AGREEMENT (the “Agreement”) dated the ____ of March, 2013

B E T W E E N:

THE CORPORATION OF THE CITY OF GUELPH
 (“City of Guelph”)

Of the First Part

- AND -

METROLINX
 (“Metrolinx”)

Of the Second Part

RECITALS:

- A. In November, 2010, the Government of Ontario announced that GO train service would be extended through Guelph to Kitchener-Waterloo by the end of 2011.
- B. In order to facilitate the expansion of GO train service, Metrolinx completed various infrastructure improvements for a total cost of approximately \$18 million.
- C. The Government of Ontario expects that municipalities who benefit from the extensions of GO train service contribute to the costs of the extension.
- D. The Cities of Toronto and Hamilton and the Regional Municipalities of Durham, York, Peel and Halton currently contribute to the GO capital expansion budget.
- E. Metrolinx and City of Guelph staff have discussed the parameters of the City of Guelph’s expected contribution, and the City of Guelph has agreed to contribute a total of \$3.15 million, in consideration of the benefits received by the City of Guelph.
- F. The terms and conditions for the City of Guelph’s contribution are set out in this Contribution Agreement.

NOW THEREFORE, in witness of the mutual covenants contained herein and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged and agreed), Metrolinx and the City of Guelph (the “Parties”) agree as follows:

1. TERM

- (a) This Agreement will be effective as of the date set out above and, subject to early termination or extension by agreement of the Parties, shall continue in full force

and effect until the Contribution Amount has been paid in full by the City of Guelph, pursuant to the terms and conditions of this Agreement.

- (b) The Parties will notify each other of any changes in the law or otherwise, which will impact their ability to plan or carry out their responsibilities under this framework.

2. CONTRIBUTION

- (a) The City of Guelph agrees, subject to the terms and conditions of this Agreement, to reimburse Metrolinx the amount of \$3.15M (the "Contribution Amount"), in consideration of and as a contribution towards the approximate \$18M in total capital costs incurred by Metrolinx to extend GO train service to Kitchener-Waterloo. The contribution referred to in this section consists of \$2.5M towards the Guelph Station costs and \$0.65M towards the cost of the Kitchener layover facility. Metrolinx agrees that the City of Guelph will not be required to pay any amount in addition to the \$3.15M as its contribution for the extended GO service even if the costs for the Guelph Station and the Kitchener layover facility are higher than anticipated.
- (b) The Contribution Amount shall be payable as monetary or in-kind payments by the City of Guelph pursuant to a payment schedule mutually agreed by the Parties or otherwise as agreed by the Metrolinx and the City of Guelph from time to time, provided that the Contribution Amount shall be paid to Metrolinx in full on or before March 31, 2016 or as otherwise agreed by the parties in writing.
- (c) Subject to Section 2(d), Metrolinx shall from time to time issue invoices for payment of all or any portion of the Contribution Amount, as determined with reference to the payment schedule or otherwise as agreed by Metrolinx and the City of Guelph. Payment of any invoices issued by Metrolinx shall be made by the City of Guelph within thirty (30) days' of receipt thereof.
- (d) In-kind contributions for which credit may be afforded shall be agreed by the Parties and may include (but are not limited to) the provision of goods or services, or the sale or transfer of title to or an interest in property (real, tangible or intangible) by the City of Guelph to Metrolinx. The value of any in-kind payment shall be as set out in the agreement or contract governing the provision of such goods or services, or the sale or transfer of such property and shall, to the extent of the credit applied to the Contribution Amount, satisfy any of Metrolinx' payment obligations for the in-kind goods or services or property transfer..
- (e) After March 31, 2016 or such other date agreed to by the parties, if the Contribution Amount has not been paid in full, Metrolinx shall have the right to charge interest on any outstanding amount of the Contribution Amount, at the rate established under Section 10 of the *Financial Administration Act* (the "FAA").

2. The Parties agree that any further contributions by the City of Guelph to GO Transit's ongoing capital costs, and the terms and conditions under which such contribution shall be made, shall be consistent with other participating municipalities.GENERAL

- (a) This Agreement sets forth the entire agreement between the Parties concerning the subject matter hereof. Except as expressly set out in this Agreement, no prior document, negotiation, provision, undertaking or agreement in relation to the subject matter of the Agreement has legal effect.
- (b) This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Ontario.
- (c) A communications plan shall be jointly agreed upon by Metrolinx and the City of Guelph before any information regarding the terms of this Agreement is made public.
- (d) No provision of this Agreement and no action by the Parties will establish or be deemed to establish a partnership, joint venture, principal-agent relationship or employer-employee relationship in any way or for any purpose whatsoever between Metrolinx and the City of Guelph.
- (e) This Agreement may be amended from time to time as mutually agreed in writing by the Parties.
- (f) The failure of any party to insist in any one instance upon the strict performance by any other Party of its obligations hereunder shall not constitute a waiver or relinquishment of any such obligations as to any other instances and the same shall continue in full force and effect.
- (g) Time shall in all respects be of the essence of this Agreement.
- (h) This Agreement may be executed by the Parties in separate counterparts each of which when so executed and delivered shall be deemed to be an original, and all such counterparts together shall constitute one and the same instrument.

IN WITNESS WHEREOF the Parties hereto have executed this Agreement as of the date set forth above.

**THE CORPORATION OF THE CITY OF
GUELPH**

Per: _____
Name:
Title:

METROLINX

Per: _____
Name:
Title: