

Request for Decision City Council




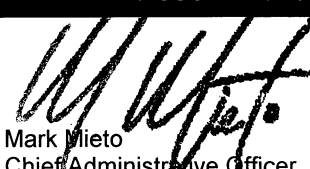
Type of Decision									
Meeting Date	2004-11-10				Report Date	2004-11-04			
Decision Requested	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No	Priority	<input checked="" type="checkbox"/>	High	<input type="checkbox"/>	Low
	Direction Only				Type of Meeting	<input checked="" type="checkbox"/>	Open	<input type="checkbox"/>	Closed

Report Title
ART GALLERY OF SUDBURY / GALERIE D'ART DE SUDBURY REQUEST FOR NOISE EXEMPTION

Policy Implication + Budget Impact	
<input type="checkbox"/>	This report and recommendation(s) have been reviewed by the Finance Division and the funding source has been identified.
<p><u>Policy Implications:</u></p> <p>This report deals with a request by the Art Gallery of Sudbury for relief from the requirements of Chapter 776 (Noise) of the former City of Sudbury Municipal Code.</p> <p><u>Budget Impact:</u></p> <p>There is no financial impact associated with this Request for Decision.</p>	
<input checked="" type="checkbox"/>	Background Attached

Recommendation	
<p>THAT this Council has no objection to the granting of relief to Chapter 776 of the former City of Sudbury Municipal Code (Noise) to the Art Gallery of Sudbury to permit a Town Crier to walk through the downtown of the City of Greater Sudbury with bell ringing and announcing upcoming events at the Art Gallery of Sudbury between the hours of 9:00 a.m. to 5:00 p.m. of each day from Saturday, November 20, 2004 to and including Thursday, December 2, 2004, inclusive;</p> <p>AND FURTHER THAT approval of this exemption be subject to the Art Gallery of Sudbury providing prior notice of this activity to Sudbury Metro Centre.</p>	
<input type="checkbox"/>	Recommendation Continued

Recommended by the General Manager
 Doug Wukosinic General Manager, Corporate Services

Recommended by the C.A.O.
 Mark Mieto Chief Administrative Officer

Date: 2004-11-04

Report Prepared ByThom Mowry
City Clerk**Division Review**Ron Swiddle
Director of Legal/Clerk's Services & City Solicitor**BACKGROUND:****Request:**

The City Clerk's Office has received the attached correspondence, dated November 1, 2004, from the Art Gallery of Sudbury / Galerie d'Art de Sudbury requesting relief from Chapter 776 (Noise) of the former City of Sudbury Municipal Code.

The purpose of the request is to permit a Town Crier to walk through the downtown of Greater Sudbury with bell ringing and announcing upcoming events at the Art Gallery of Sudbury. This activity would occur for approximately 30 minutes each day, between the hours of 9:00 a.m. and 5:00 p.m., starting on Saturday, November 20, 2004 and ending on Thursday, December 2, 2004.

Chapter 776 (Noise), City of Sudbury Municipal Code:

Chapter 776 (Noise) of the former City of Sudbury Municipal Code governs the downtown core of the City of Greater Sudbury. Article 2.3 of Chapter 776 (Noise) provides that: "No person shall create, cause or permit any noise or noises likely to disturb the inhabitants."

Article 2.1 specifically prohibits the ringing of any bell. Article 2.2 prohibits persons from shouting or creating any unusual noise or noises. Finally, Article 2.4 prohibits any person causing any noise or sound of whatsoever nature and kind for the purpose of advertising or for attracting attention to any performance, show, or sale or display of goods, wares or merchandise, where the noise or sound is projected into any street or other public place unless written permission of the Council has first been obtained.

Recommendation for Council's Consideration:

It is recommended that Council approve the request of the Art Gallery of Sudbury subject to the condition that prior notice of the proposed activity be given to Sudbury Metro Centre. This would permit both parties to co-ordinate their activities and allow Sudbury Metro Centre to advise its Membership.

This condition was reviewed (verbally) both with the Art Gallery of Sudbury and the Executive Director of Sudbury Metro Centre. This condition is satisfactory to both parties.

ATTACHMENT



November 1, 2004

Mr. Thom Moyry
City Clerk
City of Greater Sudbury
P.O. Box 5000
Stn. A
Sudbury, ON P3A 5P3

RECEIVED

NOV - 4 2004

CLERK - DEPT. 10

art gallery

of sudbury

galerie d'art

de sudbury

Dear Mr. Moyry:

I am writing to request an exemption for the Art Gallery of Sudbury for the following articles in **Chapter 776 Noise** of the City of Greater Sudbury's By-law.

According to Article 2 sections:

776.2.1 Bells- horns-sounding-prohibited; No person shall ring any bell, blow or sound any horn or cause the same to be rung, blown or sounded

776.2.2 Shouting – noises unusual – prohibited; No person shall shout or create, cause or permit any unusual noise or noises

776.2.4 Advertising – use of noise – unauthorized – prohibited; No person shall cause or permit to be caused any noise or sound of whatsoever nature and kind for the purpose of advertising or for attracting attention to any performance, show or sale or display of goods, wares or merchandise, which noise or sound projects into any street or other public place unless written permission of the Council has first been obtained.

The Art Gallery of Sudbury will be hosting many events during for the holiday season. As a form of marketing and advertising we would like to have a "Town Crier" act as a spokesperson for the gallery. From November 20th to December 2nd, 2004 the "Town Crier" will walk through the downtown ringing a bell and announcing the upcoming events at the Art Gallery of Sudbury for approximately 30 minutes between 9:00 a.m. to 5:00 pm.

The Art Gallery of Sudbury appreciates your consideration on this matter. If you have any questions or concerns please do not hesitate to contact me at (705) 675-4871 Ext. 227 or at lleclair@artsudbury.org.

Best Regards,

Lise Leclair

Marketing & Communications Coordinator

251 John

Sudbury, Ontario

Canada P3E 1P9

TEL 705.675.4871

FAX 705.674.3065

gallery@artsudbury.org

www.artsudbury.org

Request for Decision City Council



Type of Decision

Meeting Date	November 10				Report Date	November 3, 2004			
Decision Requested	<input checked="" type="checkbox"/>	Yes		No	Priority	<input checked="" type="checkbox"/>	High		Low
	Direction Only				Type of	<input checked="" type="checkbox"/>	Open		Closed

Report Title

Provincial Gas Tax - Transit Funding Report

Policy Implication + Budget Impact

☒ This report and recommendation(s) have been reviewed by the Finance Division and the funding source has been identified.

Background Attached

Recommendation

WHEREAS the City of Greater Sudbury is in receipt of Dedicated Gas Tax Funds for Public Transportation; and

WHEREAS the City of Greater Sudbury is required to enter into a Letter of Agreement with the Province of Ontario which Letter of Agreement sets out the terms and conditions for the use of the Dedicated Gas Tax Funds for Public Transportation; and

WHEREAS the Province of Ontario requires that communities which are in receipt of Dedicated Gas Tax Funds for Public Transportation deposit those funds into a Dedicated Gas Tax Funds for Public Transportation Reserve Fund account; and

☒ Recommendation Continued

Recommended by the General Manager


Caroline Hallsworth
General Manager, Citizen and Leisure Services

Recommended by the C.A.O.


Mark Mieto
Chief Administrative Officer

Report Prepared By

Caroline Hallsworth
General Manager, Citizen and Leisure Services

Division Review

RECOMMENDATION CONTINUED

WHEREAS municipalities which are in receipt of Dedicated Gas Tax Funds for Public Transportation are required to submit an Asset Management Plan and Ridership Growth Plan to the Province; and

WHEREAS the expenditures by the City of Greater Sudbury from the Dedicated Gas Tax Funds for Public Transportation Reserve Fund account will be used strictly for eligible expenditures related to public transportation as described in the Letter of Agreement between the Province of Ontario and the City of Greater Sudbury;

NOW THEREFORE BE IT RESOLVED that the City of Greater Sudbury establish a new reserve fund, which fund is to be titled Dedicated Gas Tax Funds for Public Transportation Reserve Fund and which fund will be expended strictly for eligible expenditures related to public transportation as described in the Letter of Agreement and the Dedicated Gas Tax Funds for Public Transportation Program Guidelines and Requirements; and

FURTHER that the Mayor and Chief Financial Officer be authorized to sign the Letter of Agreement between the Province of Ontario, represented by the Minister of Transportation for the Province of Ontario, and the City of Greater Sudbury related to funding provided by the Province of Ontario to the municipality under the Dedicated Gas Tax Funds for Public Transportation Program; and

THAT staff be directed to develop an Asset Management Plan and Ridership Growth Plan and to bring those plans back to Council for approval.

EXECUTIVE SUMMARY

On Friday, October 22, 2004, the Province of Ontario announced the Dedicated Gas Tax Funds for Public Transportation Program which will invest \$680 million in public transit over the next three years. The program is designed to ensure that local public transportation is continued and that overall system ridership is expanded through support of transit capital infrastructure and of new levels of service. Through this program, the City of Greater Sudbury is eligible to receive \$1.35 million through this initiative in 2004/5. Estimates for 2005/6 are \$2.01 million and for 2006/7 are for \$2.69 million. In order to be eligible to receive its first quarter payment, the City of Greater Sudbury is required to pass a Council Resolution and Sign a Letter of Agreement with the Province no later than Monday, November 22, 2004.

BACKGROUND

On Friday, October 22, 2004, the Province of Ontario announced the Dedicated Gas Tax Funds for Public Transportation Program which will invest \$680 million in public transit over the next three years. Municipal allocations are based on a funding formula which balances the needs of large transit systems with those of smaller municipalities by allocating funding on a ratio of 70 percent transit ridership and 30 percent population. The Gas Tax Funds for Public Transportation Program is being phased in, starting with one cent per litre in October 2004, increasing to 1.5 cents per litre in October 2005 and to two cents per litre in October 2006. Through this program, the City of Greater Sudbury is eligible to receive \$1.35 million through this initiative in 2004/5. Estimates for the City of Greater Sudbury's eligibility in 2005/6 are \$2.01 million and for 2006/7 are for \$2.69 million.

The Guidelines and Requirements for the Dedicated Gas Tax Funds for Public Transportation Program define the eligibility, accountability and reporting requirements of the program. A copy is attached.

Municipalities which receive "dedicated gas tax funds must ensure that all funds are used exclusively toward the provision of public transportation service" and further, that gas tax revenues should be used to "support increased municipal public transportation expenditures and not to reduce or replace current levels of municipal public transportation funding". The guidelines direct that in "2005 municipalities must give priority to increased capital expenditures and then increased operating expenditures that support increased ridership". "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" and on "incremental expenditures on public transportation". A further requirement of the program is that the municipality establish a Dedicated Gas Tax Funds for Public Transportation Reserve Fund Account that is to be an "interest bearing account set up by a municipality to keep dedicated gas tax funds separate and apart from either municipal or other funds or both for use strictly towards public transportation related eligible expenditures."

Municipalities which are in receipt of gas tax funding are accountable for using the funding to achieve increased public transportation ridership. Accordingly, it is a requirement of the program that the municipality submit its annual data survey to the Canadian Urban Transportation Association (CUTA) and that the municipality develop an Asset Management Plan and a Ridership Growth Plan by March 2006. CUTA, OCTA (the Ontario Community Transportation Association), AMO and the Ministry of Transportation are currently working to write template documents to assist in the development of these plans. Completion of the Asset Management Plan and the Ridership Growth Plan is considered to be an eligible expense under the program. There are also annual reporting requirements associated with this program.

The Dedicated Gas Tax Funds for Public Transportation Program presents a number of opportunities for Greater Sudbury Transit and allows the City of Greater Sudbury both to address what was previously a critically underfunded capital program and to review transit routes with a view to increasing ridership growth on a sustainable route network.

The Greater Sudbury Transit fleet comprises of 51 buses, which together drive in excess of 3.4 million kilometers annually. Prior to receipt of this funding, the City of Greater Sudbury was allocating just over \$200,000 annually to the Transit Capital Reserve fund. The average cost of a new accessible bus is \$475,000 and the average cost of a bus rebuild is \$75,000. The Greater Sudbury Transit Fleet Capital Plan was developed with a view to replacing every vehicle in the 51 vehicle fleet when that vehicle has

seen between 15 and 20 years of active service, depending on the condition of the bus. Using this model of fleet replacement, \$15.1 million is required between 2005 and 2009 to replace 27 buses, rebuild 17 buses as well as to replace an aging farebox system for which parts are no longer available.

In 2003/2004, Greater Sudbury Transit was able to access the Provincial Ontario Transit Vehicle Program (OTVP) to purchase six new accessible buses, with 1/3 of the purchase price of the vehicles to be funded through OTVP. The OTVP program continues to be available and the Ministry of Transportation has confirmed that "the gas tax funds are over and above current levels of municipal transit spending, with the exception of the first quarter 2004 payment. Where 2005 increased capital expenditures qualify for OTVP funding support, your share of gas tax funding can be used to offset the municipalities share of this increased capital expenditure." For every dollar of gas tax funds that the City spends on eligible capital purchases, that dollar can be further leveraged by \$0.33 through the Ontario Transit Vehicle Program.

Given the current availability of the Ontario Transit Vehicle Program which can be leveraged using the Dedicated Gas Tax Funds for Public Transportation Program, staff is recommending that we move in the direction of focusing on transit fleet renewal in the first year of the program while working to develop a Transit Ridership Growth Plan.

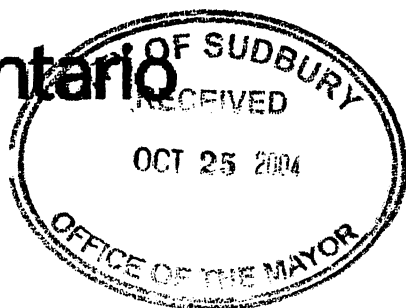
In 2003, Greater Sudbury Transit had 4,217,355 riders on the conventional system, which represents a 4.1% ridership increase over the previous year. The Ridership Growth Plan will allow us to ensure that new transit services can be planned in the framework of a review of our route network, so that Greater Sudbury Transit continues to enjoy solid ridership growth, for which growth we will be accountable. Of the 530 daily weekday departures from the Transit Centre, 233 provide direct service to our post secondary institutions, while all routes provide connections between students and their home communities. As part of the Transit Ridership Growth Plan process, we can review services to students and services for commuter areas, so as to ensure development of a transit service that is responsive to community needs and work with the Accessibility Advisory Committee to bring forward recommendations so that our Handi-Transit service is delivered as a truly parallel service to our conventional route network.

The Ridership Growth Plan will tie back to utilization of the new funding both to offset the costs of new services and to purchase the capital infrastructure necessary to any service enhancements. For example, a new Smart Card based farebox system will allow us to introduce more flexible fare structures and off-peak incentives to ensure that transit remains an economical and attractive alternative for riders. New vehicles would be required to support any new routes added to the route network, as our current fleet is being utilized at capacity. While any new initiatives that support ridership growth would initially be funded through the gas tax program, any future changes to the funding model could impact on the sustainability of new services, possibly eventually shifting those services to the municipal levy as the municipality could be required to assume the operating costs of new services should the funded program change.

The Dedicated Gas Tax Funds for Public Transportation is a program that will enable Greater Sudbury Transit to renew and possibly expand its fleet in support of new ridership initiatives that will ensure that public transportation is an integral part of our healthy community. Entering into the Letter of Agreement with the Province and establishing the appropriate reserve fund and planning documents are first steps in the further development of our public transportation system.



Ontario



**Ministry of
Transportation**

**Dedicated Gas Tax Funds For
Public Transportation Program
2004 Guidelines and Requirements**

Issued October 2004

MTO/Urban & Rural Infrastructure Policy Branch

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DEDICATED GAS TAX FUNDS FOR PUBLIC TRANSPORTATION PROGRAM

2004 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.

“GTA Transportation Strategy” means a Greater Toronto Transportation Strategy developed by the province in consultation with GTA stakeholders for a blueprint for an innovative and integrated transportation system.

“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, total public transportation capital costs, and local public donations.

“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.

“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.

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 funds provided will be 1 cent/litre. That amount will increase to 1.5 cents/litre in 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.

2003 ridership numbers have been used in this initial calculation from the 2003 Ontario Urban Transit Fact Book, which is collected and produced annually by the Canadian Urban Transit Association (CUTA) on behalf of the ministry. Where 2003 CUTA ridership data was not available, data has been directly provided to the ministry by the municipality. Population data for 2003 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 2004/2005 are not to exceed 75% of "municipal own account spending on public transportation" based on 2003 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 will be required prior to October 1, 2005 when the gas tax funds allocation for each municipality will be revised. Dedicated gas tax funding will be then available beginning the last quarter of 2005 and into 2006.

A municipality receiving dedicated gas tax funds must ensure that all funds received are used exclusively towards the provision of public transportation service.

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).

Municipalities will be required to provide an annual report of their spending on public transportation services it offers. Reporting templates for 2005 and 2006 will be provided by the Ministry to municipalities as soon as they are developed in consultation with municipal public transportation stakeholders. The Ministry may withhold payment of dedicated gas tax funds until reporting requirements are met.

Beginning in 2005, gas tax revenues are intended to 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 will be 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 be applied towards eligible public transportation expenditures.

(a) Eligibility Requirements for All Dedicated Gas Tax Funds Received in 2004

- In 2004 the municipality must use dedicated gas tax funds received exclusively for public transportation.

(b) 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.

(c) Eligibility Requirements for All Dedicated Gas Tax Funds Received in 2006

- 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
 - Incremental expenditures on public transportation (above a baseline public transportation expenditure level which will equal the average "municipal own account spending on transit" for the years 2001 to 2003).
- A Ridership Growth Plan and an Asset Management Plan will be required from municipalities and have to be submitted by the end 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

Beginning in 2005, these municipalities will be required to:

- Develop Ridership Growth Plans that are aligned with the GTA Transportation Strategy.
- Demonstrate participation in the GTA Farecard project.
- 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, 2005 on how dedicated gas tax funds were spent during 2004 and thereafter on an annual basis.

Where municipalities have already developed ridership growth and asset management plans these plans should be submitted in 2005 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 form required for submission prior to March 31, 2005. Reporting requirements using standardized reporting forms for 2005 and 2006 will be developed in consultation with municipal public transportation stakeholders and provided to municipalities as part of the October 2005 Ontario Dedicated Gas Tax Funds Allocations. This will include the development of the main elements to be included in a Ridership Growth Plan and an Asset Management Plan.

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 as part of the 2005 Ontario Dedicated Gas Tax Allocation Funds Allocation process.

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 2004/2005 are not to exceed 75% of "municipal own account spending on public transportation" based on 2003 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 2003 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 may require the assistance of an external auditor to carry out an audit of the records referred to above. If so, a municipality must upon request retain and pay for the cost of an 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.

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 A

Dedicated Gas Tax Funds for Public Transportation Program 2004 Reporting Template

The Corporation of the _____ of _____

A. Ontario Dedicated Gas Tax Funds Allocation Summary

1. Dedicated gas tax funds allocated in the fiscal year: 2004	\$
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B. Dedicated Gas Tax Funds Disbursements

2. Conventional public transportation capital costs	\$
3. Conventional public transportation operating costs	\$
4. Specialized public transportation capital costs	\$
5. Specialized public transportation operating costs	\$
Sub-total	\$
6. Amount deposited in dedicated gas tax reserve account	
7. Total disbursements	\$

C. Municipal Transit Expenditures / Source of Funds

	Conventional Public Transportation	Specialized Public Transportation	= Total
8. Total operating expenses	\$	\$	\$
9. Total capital expenses	\$	\$	\$
10. Total public transportation expenditures (8 + 9)	\$	\$	\$
11. Municipal contributions (where more than one, provide municipal names and individual amounts)	\$	\$	\$
	\$	\$	\$
	\$	\$	\$
	\$	\$	\$
	\$	\$	\$
	\$	\$	\$
	\$	\$	\$
12. Provincial contributions	\$	\$	\$
13. Federal contributions	\$	\$	\$
14. Donations / other	\$	\$	\$

Treasurer's declaration

I solemnly declare that the municipality is in compliance, in all material respects, with the Dedicated Gas Tax Funds for Public Transportation Program – 2004 Guidelines and Requirements as of _____, 20 _____

Treasurer