

TORONTO TRANSIT COMMISSION REPORT NO.

MEETING DATE: September 27, 2012

SUBJECT: Provincial Funding Agreement for Light Rail Vehicles

ACTION ITEM

RECOMMENDATION

It is recommended that the Commission authorize the Chief Executive Officer to finalize negotiations and execute any and all necessary agreements, on behalf of the TTC, with the Province of Ontario and the City of Toronto, to receive funding from the Province of up to \$417 million for the purpose of funding up to one-third of the cost of the purchase of Light Rail Vehicles (LRVs) by the TTC pursuant to its agreement with Bombardier Transportation Canada Inc., all on such terms and conditions generally as set out in this report and as are satisfactory and in a form acceptable to the Commission's General Counsel.

FUNDING

The subject of this report involves approval to execute any agreement or agreements with the Province for up to one-third funding (maximum of \$417 million) towards the purchase of 204 Light Rail Vehicle in accordance with the TTC's contract with Bombardier Transportation Canada Inc., dated June 30th, 2009, as amended the LRV project is included in the TTC's 2012 – 2016 Capital Program, which was approved by the Commission on December 14, 2011 and by Council on January 17, 2012. Funding for the project is included under Program 4.18 Purchase of Light Rail Vehicles.

BACKGROUND

In June 2009, the Province announced \$417 million in funding to support the purchase of light rail vehicles for the Toronto Transit Commission's (TTC) fleet replacement program. The Province, City of Toronto and TTC staff are now finalizing negotiations on the funding agreement which will allow the Province to contribute towards the cost of the new LRVs. This report recommends that the Commission authorize the CEO to finalize negotiations and enter into any necessary agreements with the Province and the City of Toronto.

DISCUSSION

On June 19, 2009, the Province of Ontario announced its commitment to up to \$417 million in economic stimulus funding through a contribution of up to one third of the costs towards the TTC's purchase of 204 LRVs from Bombardier Transportation Canada Inc. The Federal government advised that it would not be contributing economic stimulus funding towards the purchase of the LRVs. The priority of acquiring these state-of-the-art accessible vehicles resulted in the Commission agreeing to defer \$417 million in capital projects beyond the year 2018. As a result the LRV project was fully funded with a 1/3 share from each of the Province and the City, and through the TTC's deferral of debt funded projects, the City then agreed to increase its debt funding for the additional 1/3 required. At its meeting of June 26, 2009 City Council approved \$834 million in debt funding to finance the remaining cost of the \$1.251 billion project.

Through the end of 2011, the TTC has spent \$264.6 million on the LRV project with the 1/3 provincial funding portion amounting to \$87.5 million. The balance of the LRV contract is planned to be spent between 2012 and 2018 supported by one-third funding from the Province.

TTC and City of Toronto staff have been working with the Ministry of Transportation to finalize a funding agreement for the provincial contribution to the TTC's LRV project. The terms and conditions of the draft agreement include:

- TTC's participation in the PRESTO system (At the Commission's meeting of May 1st, 2012 the Commission approved the general principles for an agreement with Metrolinx relating to the TTC's participation in the PRESTO system and delegated authority to the CEO to continue to finalize and execute any and all necessary agreements);
- adherence to agreed upon Project timelines;
- use of the funds only for eligible costs as defined in the Agreement,
- insurance requirements;
- reporting and audit requirements;
- process for reimbursement of pro-rated portion of funds if LRVs are disposed of to non-government entities within 25 years;
- joint and several liability of the City of Toronto and the TTC for their respective obligations under the agreement;
- City of Toronto and TTC indemnification of the Ministry;
- the establishment of an oversight committee that will include representatives from the City, TTC and Ministry of Transportation, the mandate of which is to oversee the management of the agreement and to serve as a dispute resolution function for the parties involved;
- similar to other funding agreements, the roles and responsibilities of the parties are outlined; and the agreement identifies the Ministry's role as a financial contributor to the Project.

To enter into the agreement, the City of Toronto and TTC each must respectively represent and warrant that all necessary authorities have been obtained to execute the agreement with the Province, including passing a by-law or resolution. A similar report has being taken forward to City Council (July 11 and 12, 2012 Council Meeting).

JUSTIFICATION

This report seeks approval to delegate authority to the CEO to negotiate and execute any and all agreements necessary in order to permit the Province to contribute up to \$417 million towards the overall costs of the LRV project.

July 31, 2012
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