

CORPORATION OF THE TOWN OF RENFREW
BY-LAW NO. 30-2023

Being a by-law to authorize the execution of a Letter of Agreement between His Majesty the King in Right of the Province of Ontario, represented by the Minister of Transportation for the Province of Ontario, and the Town of Renfrew, related to funding provided by the Province of Ontario to the Town of Renfrew under the Dedicated Gas Tax Funds for Public Transportation Program.

WHEREAS the Corporation of the Town of Renfrew acknowledges the allocation of \$251,124 under the Dedicated Gas Tax Funds for Public Transportation Program for the 2022-23 program year; and

WHEREAS the Corporation of the Town of Renfrew acknowledges the financial participation of the Township of Admaston/Bromley, The Township of Bonnechere Valley, the Township of Greater Madawaska, the Township of Horton, and the Township of Whitewater Region; and

WHEREAS the Corporation of the Town of Renfrew will administer the funds provided in consultation with the aforementioned municipalities; and

WHEREAS the Corporation of the Town of Renfrew has supported the provision of public transportation for the disabled for over 30 years,

NOW THEREFORE the Council of the Corporation of the Town of Renfrew enacts as follows:

- 1) THAT the Corporation of the Town of Renfrew confirms its support of the Dedicated Gas Tax Funds for Public Transportation Program and provides the signed letter of Agreement, appended hereto as Attachment "A"; and
- 2) THAT, the Corporation of the Town of Renfrew will comply with the 2022-23 Guidelines and Requirements as provided by the Ministry of Transportation and appended hereto as Attachment "B", including Appendix "B.1": Reporting Forms, Attachment "C": Canadian Content for Transit Vehicle Procurement Policy all of which shall form part of this By-Law as if fully recited herein; and
- 3) THAT the Mayor and Treasurer be authorized to execute all documents required to administer the Program, and hereby are, authorized to do, or to cause to be done, all such manner of act or thing as may be required to give full force and effect to this By-Law; and
- 4) THAT this By-Law shall come into force and take effect immediately upon the passage thereof.

Read a first and second time this 25th day of April, 2023.

Read a third and final time this 25th day of April, 2023

Tom Sidney, Mayor

Victoria Charbonneau, Clerk

**Ministry of
Transportation**

Office of the Minister

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Toronto ON M7A 1Z8
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February 24, 2023

107-2023-555

Mayor Tom Sidney
Town of Renfrew
127 Raglan Street South
Renfrew ON K7V 1P8

Dear Mayor Sidney:

RE: Dedicated Gas Tax Funds for Public Transportation Program

This Letter of Agreement between the **Town of Renfrew** (the “Municipality”) and His Majesty the King in right of the Province of Ontario, as represented by the Minister of Transportation for the Province of Ontario (the “Ministry”), sets out the terms and conditions for the provision and use of dedicated gas tax funds under the Dedicated Gas Tax Funds for Public Transportation Program (the “Program”). Under the Program, the Province of Ontario provides two cents out of the provincial gas tax to municipalities to improve Ontario’s transportation network and support economic development in communities for public transportation expenditures.

The Ministry intends to provide dedicated gas tax funds to the Municipality in accordance with the terms and conditions set out in this Letter of Agreement and the enclosed Dedicated Gas Tax Funds for Public Transportation Program 2022-23 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 the Municipality has reviewed and understands and are hereby incorporated by reference, and other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Ministry and the Municipality agree as follows:

1. To support local public transportation services in the Municipality, the Ministry agrees to provide funding to the Municipality under the Program to a maximum amount of up to **\$251,124** (“the “Maximum Funds”) in accordance with, and subject to, the terms and conditions set out in this Letter of Agreement and, for greater clarity, the guidelines and requirements.
2. Subject to Section 1, the Ministry will, upon receipt of a fully signed copy of this Letter of Agreement and a copy of the authorizing municipal by-law(s) and, if applicable, resolution(s) for the Municipality to enter into this Letter of Agreement, provide the Municipality with **\$188,343**; and any remaining payment(s) will be provided thereafter.

3. If another municipality authorizes the Municipality to provide local public transportation services on its behalf and authorizes the Municipality to request and receive dedicated gas tax funds for those services also on its behalf, the Municipality will in the by-law(s) and, if applicable, resolution(s) described in Section 2 confirm that the Municipality has the authority to provide those services and request and receive those funds.
4. The Municipality agrees that any amount payable under this Letter of Agreement may be subject, at the Ministry's sole discretion, to any other adjustments as set out in the guidelines and requirements.
5. The Municipality will deposit the funds received under this Letter of Agreement in a dedicated gas tax funds reserve account, and use such funds and any related interest only in accordance with the guidelines and requirements.
6. The Municipality will adhere to the reporting and accountability measures set out in the guidelines and requirements, and will provide all requested documents to the Ministry.
7. The Municipality agrees that the funding provided to the Municipality pursuant to this Letter of Agreement represents the full extent of the financial contribution from the Ministry and the Province of Ontario under the Program for the 2022-23 Program year.
8. The Ministry may terminate this Letter of Agreement at any time, without liability, penalty or costs upon giving at least thirty (30) days written notice to the Municipality. If the Ministry terminates this Letter of Agreement, the Ministry may take one or more of the following actions: (a) cancel all further payments of dedicated gas tax funds; (b) demand the payment of any dedicated gas tax funds remaining in the possession or under the control of the Municipality; and (c) determine the reasonable costs for the Municipality to terminate any binding agreement(s) for the acquisition of eligible public transportation services acquired, or to be acquired, with dedicated gas tax funds provided under this Letter of Agreement, and do either or both of the following: (i) permit the Municipality to offset such costs against the amount the Municipality owes pursuant to paragraph 8(b); and (ii) subject to Section 1, provide the Municipality with funding to cover, in whole or in part, such costs. The funding may be provided only if there is an appropriation for this purpose, and in no event will the funding result in the Maximum Funding exceeding the amount specified under Section 1.
9. Any provisions which by their nature are intended to survive the termination or expiration of this Letter of Agreement including, without limitation, those related to disposition, accountability, records, audit, inspection, reporting, communication, liability, indemnity, and rights and remedies will survive its termination or expiration.
10. This Letter of Agreement may only be amended by a written agreement duly executed by the Ministry and the Municipality.
11. The Municipality agrees that it will not assign any of its rights or obligations, or both, under this Letter of Agreement.

12. The invalidity or unenforceability of any provision of this Letter of Agreement will not affect the validity or enforceability of any other provision of this Letter of Agreement. Any invalid or unenforceable provision will be deemed to be severed.
13. The term of this Letter of Agreement will commence on the date of the last signature of this Letter of Agreement.
14. 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 print and secure the required signatures, and then deliver a fully signed pdf copy to the Ministry at the email account below. Subject to the province's prior written consent, including any terms and conditions the Ministry may attach to the consent, the Municipality may execute and deliver the Letter of Agreement to the Ministry electronically. In addition, all program documents are also to be sent to the following email account:
MTO-PGT@ontario.ca

Sincerely,



Caroline Mulroney
Minister of Transportation

I have read and understand the terms and conditions 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 and conditions.

Municipality

Date

Name (print):
Title (head of council or
authorized delegate):

I have authority to bind the Municipality.

Date:

Name (print):
Title (clerk or authorized delegate):

I have authority to bind the Municipality.



MINISTRY OF TRANSPORTATION

**Dedicated Gas Tax Funds For
Public Transportation Program**

2022-23 Guidelines and Requirements

TABLE OF CONTENTS

1. DEFINITIONS.....	3
2. INTRODUCTION	5
3. GENERAL ELIGIBILITY REQUIREMENTS AND CONDITIONS.....	5
4. GENERAL PROGRAM ALLOCATION METHODOLOGY AND PAYMENT PROCESS	7
o 4.1 General Program Allocation Methodologies	7
o 4.2 Payment Process	8
5. DEDICATED GAS TAX FUNDS RESERVE ACCOUNT AND INTEREST	10
o 5.1 Dedicated Gas Tax Funds Reserve Account	10
o 5.2 Interest	10
6. ACQUISITION OF GOODS OR SERVICES, AND DISPOSAL OF ASSETS	10
7. ADJUSTMENT, WITHHOLDING AND PAYMENT OF DEDICATED GAS TAX FUNDS AND OTHER REMEDIES	11
8. ACCOUNTABILITY, RECORDS, AUDIT AND REPORTING REQUIREMENTS	12
o 8.1 Accountability	12
o 8.2 Records	13
o 8.3 Audit	13
o 8.4 Reporting	13
9. COMMUNICATIONS	14
10. CONFLICT OF INTEREST	15
11. FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT	15
12. LIABILITIES AND INDEMNITIES	15
13. COMPLIANCE WITH THE LAW	16
14. WHERE TO APPLY AND REQUEST OR PROVIDE INFORMATION.....	16
APPENDIX A: VISUAL IDENTITY SIGNAGE REQUIREMENTS	17

DEDICATED GAS TAX FUNDS FOR PUBLIC TRANSPORTATION PROGRAM

2022-23 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:

“Canadian Content Policy” means the Canadian Content for Transit Vehicle Procurement Policy, which the Ministry may amend from time to time.

“dedicated gas tax funds” means the money provided by the Ministry to a municipality to be used strictly towards eligible expenditures that are reasonable, in the opinion of the Ministry, and related directly to the provision of public transportation services, and “dedicated gas tax funding” has the same meaning.

“dedicated gas tax funds reserve account” means an interest bearing account set up by a municipality, under its name and in a Canadian financial institution, where dedicated gas tax funds are deposited and can be tracked separately from any other funds that may be in the account. This does not need to be a separate account, so long as the dedicated gas tax funds can be tracked separately.

“DFPTA” means the *Dedicated Funding for Public Transportation Act, 2013*, S.O. 2013, c. 2, Sched. 3.

“eligible expenditures” means expenditures made by a municipality in direct support of public transportation operating or capital, or both, costs in accordance with Article 3 of these guidelines and requirements.

“guidelines and requirements” means these guidelines and requirements entitled “Dedicated Gas Tax Funds for Public Transportation Program – 2022-23 Guidelines and Requirements”, including Appendices A, B and C to these guidelines and requirements, which the Ministry may amend from time to time.

“host municipality” means a host municipality as described in Section 4.2.

“indemnified parties” means His Majesty the King in right of Ontario, Her ministers, agents, appointees, and employees.

“letter of agreement” means an agreement entered into between the Ministry and a municipality, including a host municipality, that sets out the terms and conditions under which the Ministry agrees to provide dedicated gas tax funds to the municipality, including those under these guidelines and requirements, and any amendments to the letter of agreement.

“losses” means any and all liability, loss, costs, damages or expenses (including legal, expert and consultant fees).

“major refurbishment” means: (a) for a subway car, light rail car, streetcar or trolley bus, the refurbishment where the life cycle is extended for a minimum of six years beyond the designed life cycle set out by the manufacturer; and (b) for a bus thirty feet in length or over, the refurbishment where, when the bus reaches a minimum age of nine years, the life cycle of the bus is extended for a minimum of six years.

“Ministry” and “Minister”, respectively, means the Ministry of Transportation, which is responsible for the administration of the Program and the Minister responsible for the Ministry.

“municipal own spending on public transportation” means the funds, including those received from total operating revenue and local public donations, that a municipality contributes towards public transportation expenditures, including funds it contributes for operating and capital expenditures.

“personnel” includes the advisors, appointees, directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors of a municipality.

“proceeding” means any and all causes of action, actions, claims, demands, lawsuits or other proceedings.

“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 a letter of agreement.

“PRESTO” means the fare payment system for which Metrolinx is responsible.

“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*, R.S.O. 1990, c. M. 46, as amended, or under an agreement between a municipality or local board, and a person, firm or corporation, and includes special transportation facilities for transporting persons with disabilities but does not include transportation by special purpose facilities, such as marine vessels, school buses or ambulances.

“public transportation vehicle” refers to a streetcar, bus, subway car, light rail car, specialized vehicles for transporting persons with disabilities or trolley bus used for public transportation.

“reporting forms” means the form “2022-23 Dedicated Gas Tax Funds for Public Transportation (Gas Tax) Program” to be provided by the Ministry.

“subcontractor” means any contractor of a municipality or any of its subcontractors at any tier of subcontracting.

2. INTRODUCTION

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

As of 2013 and pursuant to the *Dedicated Funding for Public Transportation Act, 2013*, S.O. 2013, c. 2, Sched. 3 (“DFPTA”), a portion, (2 cents per litre), of the provincial gasoline tax revenue is dedicated to the provision of grants to municipalities for public transportation, including those pursuant to the Program. The portion of the gas tax that is dedicated in each fiscal year is an amount determined using a formula set out in the DFPTA.

The 2022-23 Program year runs from April 1, 2022 to March 31, 2023. The new allocation of funding for the Program for 107 public transit systems representing 144 municipalities will amount to approximately \$299.6 million.

In January 2023, the Province committed \$80 million in additional funding to address the impacts of COVID-19 on the Gas Tax Program. The additional funding maintains the funding envelope at the level of the 2021-22 Program year (approximately \$378.6M). This funding will help stabilize 2022-23 program allocations as the Province continues its COVID-19 recovery and transit systems begin to build back their ridership levels.

3. GENERAL ELIGIBILITY REQUIREMENTS AND CONDITIONS

The purpose of the Program is to provide dedicated gas tax funds to Ontario municipalities to support local public transportation services, and to 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 its public transportation services.

For 2022-23, and unless otherwise approved in writing by the Ministry, only municipalities that have submitted their 2021 annual data survey to the Canadian Urban Transit Association (CUTA), and their 2020 Gas Tax reporting forms to the Ministry, will be eligible to receive dedicated gas tax funds.

Subject to the provision of a municipal by-law indicating its intent to provide public transportation services, a municipality that is not currently providing public transportation services, but decides to begin providing such services, may be eligible for funding. Notification of the municipality’s intent to provide public transportation services and specific commitment to annually fund such public transportation services is required. Municipalities are encouraged to contact ministry staff early in their decision making process for providing services. After the new public transportation services have been implemented, and at the Ministry’s sole discretion, dedicated gas tax funding may then be available.

A municipality receiving dedicated gas tax funds must ensure that all funds received and any related interest are used exclusively towards eligible expenditures and, unless otherwise

approved in writing by the Ministry, disbursement of dedicated gas tax funds and any related interest must be net of any rebate, credit or refund, for which the municipality has received, will receive, or is eligible to receive.

All public transportation services and public transportation vehicles must be fully accessible in accordance with the requirements set out under the following statutes and regulations, as may be amended from time to time: the *Accessibility for Ontarians with Disabilities Act, 2005*, S.O. 2005, c. 11 and the *Integrated Accessibility Standards*, O. Reg. 191/11 made under that Act; the *Highway Traffic Act*, R.S.O. 1990, c. H.8 and the *Accessible Vehicles*, R.R.O. 1990, Reg. 629 made under that Act; and the *Public Vehicles Act*, R.S.O. 1990, c. P. 54. In addition to the above, the acquisition of public transportation vehicles must comply with the Canadian Content Policy requirements.

Unless the Ministry otherwise approves in writing, in 2022-23, gas tax revenues and any related interest can only be used to support municipal public transportation expenditures and not to reduce or replace current levels of municipal public transportation funding. External audit and financial reporting costs are not eligible expenditures which the Ministry may reimburse or to which dedicated gas tax funding can be applied.

(a) Requirements for All Dedicated Gas Tax Funds Received in 2022-23 and Beyond

- Dedicated gas tax funds and any related interest must be spent on one or more of the following:
 - Public transportation capital expenditures that promote increased transit ridership;
 - Public transportation operating expenditures;
 - Capital expenditures for the replacement of any public transportation vehicles;
 - Capital expenditures that provide improvements to public transportation security and passenger safety;
 - Expenditures for major refurbishment on any fully accessible, or to be made fully accessible, public transportation vehicle, with the exception of specialized vehicles used for the transportation of persons with disabilities, and
 - Expenditures which enhance connections or access to and from transit (“First Mile/Last Mile” initiatives).
 - Such initiatives must directly support ridership growth.
 - Municipalities are encouraged to consult Ministry staff for guidance or advice on whether a specific initiative would qualify as an eligible expenditure for the purpose of the dedicated gas tax funds.
- For municipalities that provide only specialized transit for persons with disabilities, dedicated gas tax funds can be spent on public transit initiatives that may not initially result in ridership growth but will provide increased accessibility.

(b) Additional Requirements for the following Municipalities: Regions of Durham and York, the Cities of Brampton, Burlington, Hamilton, Mississauga, Ottawa and Toronto, and the Town of Oakville.

Prior to the release of any dedicated gas tax funds, the municipalities listed under (b) above will, in addition to any other requirements in this Article 3, be required to:

- Participate in PRESTO and, as participants, will be required to meet their financial obligations for that system.

(c) Additional Requirements for GTA Municipalities: Regions of Durham, Halton, Peel and York, and Cities of Hamilton and Toronto.

Prior to the release of any dedicated gas tax funds, the municipalities listed under (c) above will, in addition to any other requirements in this Article 3, be required to:

- Demonstrate that they have met their responsibility for the payment of the growth and expansion capital costs of Metrolinx pursuant to the *Amendment to Greater Toronto Services Board By-law No. 40*, O. Reg. 446/04, made under the *Metrolinx Act, 2006*, S.O. 2006, c. 16, as amended.

(d) Additional Requirements for the following Municipalities: Regions of Durham, Peel, Niagara, Waterloo and York, the Cities of Barrie, Brampton, Burlington, Guelph, Hamilton, Mississauga, and Toronto, and the Towns of Caledon, Halton Hills, Milton and Oakville.

- As requested by the Province, participate in an engagement process led by the Province or Metrolinx, or both, to enable regional fare and service integration.
- As requested by the Province, share information and data to support analysis on regional fare and service integration.

The eligibility requirements for dedicated gas tax funds will be determined in accordance with these guidelines and requirements. The eligibility for any dedicated gas tax funds is at the sole discretion of the Ministry. Municipalities should consider consulting with Ministry staff to determine whether a proposed expenditure is an eligible expenditure for the purpose of dedicated gas tax funds.

4. GENERAL PROGRAM ALLOCATION METHODOLOGY AND PAYMENT PROCESS

4.1 General Program Allocation Methodologies

Based on consultation with municipalities, public transportation operators and stakeholders, the Province recognizes the varying needs of public transportation in 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, the Province has established an allocation formula based on a combination of ridership and population. 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. Fully implemented, 70% of \$379.62 million (up to \$265.74 million) may be distributed to municipalities on the basis of their public transportation ridership levels. Thirty percent (30%) of \$379.62 million (up to \$113.89 million) may be distributed on the basis of population levels. Public transportation ridership will include the totals of both conventional and specialized public transportation services.

Both ridership and population figures are updated and revised annually for use in the calculation of dedicated gas tax funds, unless otherwise approved in writing by the Ministry.

CUTA annually collects and reproduces, on behalf of the Ministry, transit ridership data in its Ontario Urban Transit Fact Book and its Ontario Specialized Transit Services Fact Book (the "CUTA Fact Books").

The 2022-23 gas tax allocations were calculated using 2021 population estimates derived from the 2016 census data.

The Gas Tax allocations for the 2022-23 program year have been calculated based on a five-year average for ridership data from the CUTA Fact Books, from 2017 to 2021. Where a municipality has participated in the program for less than five years, the average ridership is calculated over the number of years the municipality has participated from 2017 to 2021.

Dedicated gas tax funds provided to each municipality in 2022-23 are not to exceed 75% of municipal own spending on public transportation. For the 2022-23 Program, municipal own spending was calculated using municipal public transportation spending data set out in the CUTA Fact Books, selecting from the highest contribution of the years 2017 through 2021 for each municipality. The Ministry may re-allocate, in support of increasing public transportation ridership, any amounts of moneys dedicated for but that remains undistributed through the Program.

The Ministry may 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 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 spending on public transportation.

4.2 Payment Process

The Minister will advise each municipality that provides public transportation services of the amount of dedicated gas tax funds it is eligible to receive. The Minister will send a letter of

agreement to each of these municipalities. The letter of agreement will set out the terms and conditions 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 Ministry may, on a quarterly basis (or other basis, as the Ministry may decide from time to time), make payments of dedicated gas tax funds only after receipt of the following documents: i) the letter of agreement, provided by the Ministry to the municipality, signed in accordance with the by-law(s) and, if applicable, the resolution(s) described below; and ii) a scanned copy of the by-law(s) and, if applicable, any resolution(s) authorizing the letter of agreement and naming municipal signing officers for the letter of agreement.

In addition, the Ministry may withhold payment of dedicated gas tax funds until the reporting requirements under Section 8.4 are met.

Any amount of dedicated gas tax funds provided to the municipality under the Program will be subject to the remedies set out under Article 7.

Any dedicated gas tax funds the Ministry provides to a municipality and any related interest, including those kept by the municipality in a dedicated gas tax funds reserve account, will have to be used by the municipality exclusively towards public transportation services and in accordance with the requirements set out in these guidelines and requirements including, without limitation, those related to eligibility and related conditions, acquisition, disposition, accountability, records, audit, reporting, liability, and indemnity requirements.

If a municipality agrees to provide public transportation services (a “host municipality”) for another municipality, the Ministry, at its sole discretion, may only provide the host municipality with dedicated gas tax funds. Prior to the Ministry making any payment of dedicated gas tax funds to the host municipality, the host municipality and the municipality on whose behalf the host municipality is providing transportation services will be required to provide the Ministry with copies of their respective by-law(s) and, if applicable, resolution(s), designating the host municipality as a public transportation service provider for the municipality or authorizing the host municipality to provide public transportation services to the municipality, as applicable. The contributing municipality, on whose behalf the host municipality is providing transportation services, will be required to provide the Ministry with a copy of their by-law(s) and, if applicable, resolution(s), in the year that this arrangement is initiated, and will be required annually to confirm with the Ministry in writing that the arrangement is still in effect. The host municipality will be required to enter into a dedicated gas tax funds letter of agreement with the Ministry and be in compliance with the terms and conditions set out in these guidelines and requirements.

In addition, the host municipality must promptly advise the Ministry of any change in arrangements between the host and contributing municipalities, such as decisions to cease contributions. The Ministry may then, at its sole discretion, make any necessary adjustment to its contribution of dedicated gas tax funds to the host municipality.

5. DEDICATED GAS TAX FUNDS RESERVE ACCOUNT AND INTEREST

5.1 Dedicated Gas Tax Funds Reserve Account

Dedicated gas tax funds must be used only towards the eligible expenditures for public transportation listed under Article 3(a). If the Ministry provides dedicated gas tax funds to a municipality before the municipality's immediate need for the funds, the municipality will be required to keep the funds, and all interest earned on such funds, in a dedicated gas tax funds reserve account. Dedicated gas tax funds received, and any related interest earned on such funds, must be reported annually, using the reporting forms, on a cash basis. At no time should a municipality report a negative reserve account balance.

In the event of a merger, amalgamation of transit systems, or where the transit system in one municipality is taken over by another municipality, and the municipality originally operating the transit system has unused dedicated gas tax reserve funds when it ceases to provide the transit system, the Ministry may, in its sole and absolute discretion, allow for the transfer of unused dedicated gas tax reserve funds to the municipality that is assuming the transit system. Approval must be obtained by the municipality from the Ministry in writing prior to the transfer. Such dedicated gas tax reserve account funds must be deposited in a dedicated gas tax funds reserve account for the municipality assuming the transit system. The Ministry may, in its sole discretion, impose any other requirements appropriate under the circumstances. The municipality/municipalities shall provide the Ministry with written notice of their request, as soon as practicable.

The municipality assuming the transit system must be a Gas Tax Program participant. It must execute a Letter of Agreement with the Ministry, and must remain in compliance with all other terms and conditions set out in these Guidelines. For further clarity, funds may **not** be transferred to a municipality which does not participate in the Gas Tax Program. This shall not be interpreted, however, as preventing a municipality from applying and becoming a participant in the Gas Tax Program in accordance with any requirements in these Guidelines.

If the Ministry for any reason declines to permit the type of transfer described above, the Ministry may demand the payment of any unused dedicated gas tax reserve funds, as a debt owing and due to the Crown, as per Section 7 of these Guidelines.

5.2 Interest

Interest must accrue on funds carried over the course of the Program reporting period in a dedicated gas tax funds reserve account. A municipality must calculate interest on its average annual balance of funds. The interest must also be reported annually, using the reporting forms, and can only be applied towards eligible expenditures.

6. ACQUISITION OF GOODS OR SERVICES, AND DISPOSAL OF ASSETS

If a municipality acquires goods, including supplies, materials, vehicles, equipment or services, or both, with dedicated gas tax funds, it must do so through a process that promotes the best

value (with due regard for economy, efficiency and effectiveness) for the dedicated gas tax funds it spends.

The municipality must report, in writing, to the Ministry any funds accrued from the sale, lease or disposal of assets purchased with dedicated gas tax funds, and return such funds to a dedicated gas tax funds reserve account (see Article 5), with the exception that funds accrued from the sale, lease or disposal of transit buses beyond their useful economic life (12 years for conventional and 5 years for specialized), will not be required to be returned to a dedicated reserve account.

7. ADJUSTMENT, WITHHOLDING AND PAYMENT OF DEDICATED GAS TAX FUNDS AND OTHER REMEDIES

If, in the opinion of the Ministry, a municipality: i) fails to comply with any term, condition or obligation set out in a letter of agreement, including these guidelines and requirements; ii) uses any of the dedicated gas tax funds or any related interest for a purpose not authorized without the prior written consent of the Ministry; iii) provides erroneous or misleading information; iv) fails to provide information, including requested audit information and required reports, to the Ministry for any reason whatsoever; or v) is unable to provide or acquire or has discontinued the provision or acquisition of any service or asset for which dedicated gas tax funds have been provided, or it is not reasonable for the municipality to continue to provide or acquire any service or asset for which such funds have been provided (“event of default”), the Ministry may, unless the Ministry provides the municipality with written notice of an opportunity to remedy the event of default, take one or more of the following actions: i) initiate any action the Ministry considers necessary in order to facilitate the successful provision or acquisition of any service or asset provided or acquired with dedicated gas tax funds; ii) suspend the payment of dedicated gas tax funds for such period as the Ministry determines appropriate; iii) reduce the amount of the dedicated gas tax funds; (iv) cancel further payments of dedicated gas tax funds; (v) demand from the municipality the payment of any dedicated gas tax funds remaining in the possession or under the control of the municipality; (vi) demand from the municipality the payment of an amount equal to any dedicated gas tax funds the municipality used, but did not use in accordance with the letter of agreement; (vii) demand from the municipality the payment of an amount equal to any dedicated gas tax funds the Ministry provided to the municipality; and viii) terminate the letter of agreement at any time, including immediately, without liability, penalty or costs to the Ministry upon giving notice to the municipality.

Where the Ministry gives the municipality an opportunity to remedy an event of default by giving the municipality notice of the particulars of the event of default and the date by which the municipality is required to remedy it, and: i) the municipality does not remedy the event of default by the date specified in the notice; ii) it becomes apparent to the Ministry that the municipality cannot completely remedy the event of default by the date specified in the notice; or iii) the municipality is not proceeding to remedy the event of default in a way that is satisfactory to the Ministry, the Ministry may extend the date by which the municipality is required to remedy the event of default, or initiate any of the remedies for event of default available to it under this Article 7.

Upon termination of the letter of agreement pursuant to this Article 7, the Ministry may take one or more of the actions listed for in the first paragraph to this Article 7. In regards to any demand for payment, the Minister may not demand payment of an aggregate amount greater than the dedicated gas tax funds that were received by the municipality.

Upon the Minister providing a municipality a written demand for payment of dedicated gas tax funds, any related interest, or both, the amount of the demand will be deemed to be a debt due and owing to the Crown of the Province of Ontario and may be recovered as such under applicable law, including, without limitation, the *Financial Administration Act*, R.S.O. 1990, c. F.12, as amended, ("FAA"). 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, or any other funding program, 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 Ministry is involved (either current or future). The Ministry may charge the municipality interest on any money owing by the municipality at the then current rate charged by the Province of Ontario on accounts receivable. The municipality will pay any money owing to the Ministry by cheque payable to the "Ontario Minister of Finance" and delivered to the Ministry as the Ministry may require.

If a municipality: i) has failed to comply with any term, condition or obligation under any other agreement with His Majesty the King in right of Ontario or one of His Agencies (a "failure"); ii) has been provided with notice of such failure in accordance with the requirements of such other agreement; iii) has, if applicable, failed to rectify such failure in accordance with the requirements of such other agreement; and iv) such failure is continuing, the Ministry may suspend the payment of dedicated gas tax funds for such period as the Ministry determines appropriate.

When the Ministry provides its consent pursuant to a letter of agreement, including these guidelines and requirements, it may impose any terms and conditions on such consent and the municipality will comply with such terms and conditions.

If a municipality fails to comply with any term of a letter of agreement, including these guidelines and requirements, the municipality could only rely on a waiver of the Ministry if the waiver was in writing and refers to the specific failure to comply. A waiver will not have the effect of waiving any subsequent failures to comply.

Any decision made by the Minister regarding funding under the Program is final.

8. ACCOUNTABILITY, RECORDS, AUDIT AND REPORTING REQUIREMENTS

8.1 Accountability

A municipality receiving dedicated gas tax funds must use such funds, and any interest earned on such funds, exclusively towards public transportation service eligible expenditures and in accordance with these guidelines and requirements. The municipality will not be allowed to

use dedicated gas tax funds and related interest to offset other municipal expenditures.

The municipality will also be required to provide such further assurances as the Ministry may request from time to time with respect to any matter to which a letter of agreement, including these guidelines and requirements, pertains, and will otherwise do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of these documents to their full extent.

Furthermore, the municipality must ensure any information the municipality provides to the Ministry under the Program is true and complete at the time provided and will continue to be true and complete.

8.2 Records

A municipality receiving dedicated gas tax funds must keep and maintain separate records and documentation related to any dedicated gas tax funds and any related interest, including invoices and any other financially-related documents relating to the provision or acquisition of public transportation services for which dedicated gas tax funds and any related interest have been used. The records and documentation must be kept and maintained in accordance with generally accepted accounting principles. Records containing confidential information must be kept in accordance with all applicable legislation. No provision of these guidelines and requirements shall be construed so as to give the Ministry any control whatsoever over the municipality's records.

8.3 Audit

A municipality receiving dedicated gas tax funds may be subject to audit. The Ministry may, at its sole discretion, audit or have audited by any third party, any records and documentation of the municipality related to any public transportation services provided or acquired with dedicated gas tax funds or any related interest, and such funds. Such audit may require the Ministry, at the municipality's expense (except as provided in the Canadian Content Policy), to retain external auditors. In addition, the Auditor General may, pursuant to the *Auditor General Act*, R.S.O. 1990, c. A. 35, as amended, audit the accounts and records of the municipality relating to any expenditure of dedicated gas tax funds.

To assist in respect of the rights set out above, a municipality will be required to disclose any information requested by the Ministry, its authorized representatives or an independent auditor identified by the Ministry, and will do so in the form requested by the Ministry, its authorized representatives or an independent auditor.

In addition to any adjustments the Ministry may make to dedicated gas tax funding under these guidelines and requirements, the Ministry may, upon recommendation in an audit report, adjust future dedicated gas tax fund payments or other payments the Ministry may make to the municipality under any other program.

8.4 Reporting

Accuracy in the calculation and reporting of municipal transit ridership and dedicated gas tax funds and any related interest is paramount. When calculating ridership, municipalities must use one of the acceptable best practices identified in the 2008 Ontario Ridership Data Collection Review Report, published jointly by CUTA and iTrans Consultants (retained by CUTA).

A municipality will be accountable to use dedicated gas tax funds and any related interest towards public transportation expenditures that meet the Program eligibility requirements. Each municipality will be required to report on how dedicated gas tax funds and any related interest are spent on an annual basis, including the provision of its Canadian Content Policy declaration form(s), in accordance with the Canadian Content Policy, for any public transportation vehicle funded with dedicated gas tax funds. The Canadian Content Policy has been amended effective September 21, 2017 to be aligned with government procurement commitments under the Comprehensive Economic Trade Agreement (CETA) between Canada and the European Union (EU). As of September 21, 2017, municipalities are to comply with the amended policy for all transit procurements.

For the purpose of the above reporting, municipalities will be required to use the reporting forms that have been developed in consultation with municipal public transportation stakeholders, and submit these reporting forms to the Ministry prior to March 31, 2023.

Municipalities are strongly advised to carefully verify all data before submitting their reporting forms, to ensure that all information provided is accurate. Municipalities are also encouraged to contact the Ministry if they require any guidance or assistance in completing these reports.

9. COMMUNICATIONS

Unless the Ministry otherwise approves in writing, a municipality receiving dedicated gas tax funds will be required to acknowledge the support of the Ministry in a form and manner as directed by the Ministry.

A municipality will be required to give a minimum of thirty (30) days written notice to the Ministry regarding any planned local dedicated gas tax funding communication or recognition event, or both. The municipality will also be required to provide the Ministry with detailed information regarding such communication or event, or both.

The Ministry and a municipality receiving dedicated gas tax funds will, at all times, remain independent of each other and will not represent themselves to be the agent, joint venturer, partner or employee of the other. Neither the municipality nor the Ministry will be allowed to make representations or take actions that could establish or imply any apparent relationship of agency, joint venture, partnership or employment. In addition, neither the municipality nor the Ministry will be bound in any manner whatsoever by any agreements, warranties or representations made by any of them to any other person or entity, with respect to any other action of the other.

If the municipality publishes any material of any kind, written or oral, relating to public

transportation services provided or acquired with dedicated gas tax funds, the municipality will indicate in the material that the views expressed in the material are the views of the municipality and do not necessarily reflect those of the Ministry.

A municipality receiving gas tax funding must comply with the requirements for the installation and maintenance of visual identity signage set out in Appendix A.

10. CONFLICT OF INTEREST

A municipality and its subcontractors and any of their respective personnel must use dedicated gas tax funds and provide and acquire services and assets with such funds without an actual, potential, or perceived conflict of interest.

A conflict of interest includes any circumstances where a municipality or any person who has the capacity to influence the municipality's decisions has outside commitments, relationships or financial interests that could, or could be seen to, interfere with the municipality's objective, unbiased, and impartial judgment relating to the provision or acquisition of services or assets provided or acquired with dedicated gas tax funds, the use of such funds, or both.

A municipality will disclose to the Ministry, without delay, any situation that a reasonable person would interpret as an actual, potential, or perceived conflict of interest, and comply with any terms and conditions that the Ministry may prescribe as a result of the disclosure.

11. FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

All applications submitted to the Ministry are subject to the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F. 31, as amended ("FIPPA"). The FIPPA provides every person with a right of access to information in the custody or under the control of the Ministry, subject to a limited set of exemptions.

Municipalities are advised that the names of municipalities receiving dedicated gas tax funds, the amount of funds provided, and the purpose for which dedicated gas tax funds are provided, is information the Ministry makes available to the public.

12. LIABILITIES AND INDEMNITIES

A municipality receiving dedicated gas tax funds must agree that it is responsible for anything that may arise, directly or indirectly, in connection with the Program, including, without limitation, any activity under it such as the provision and acquisition of services and assets with dedicated gas tax funds. The Ministry's involvement under the Program is for the sole purpose of, and is limited to, the provision of dedicated gas tax funds.

Furthermore, a municipality receiving dedicated gas tax funds must agree to indemnify and hold harmless the indemnified parties from and against any and all losses or proceedings, by

whomever made, sustained, incurred, brought, or prosecuted, in any way arising out of, or in connection with anything done or omitted to be done by the municipality or any municipality on behalf of which the municipality receives dedicated gas tax funds, or any of their respective personnel, the Program, any activity under it, or the letter of agreement, unless the loss or proceeding is solely caused by the negligence or willful misconduct of the indemnified parties. A municipality receiving dedicated gas tax funds is responsible for its own insurance and must carry, at its own costs and expense, and require the same from its subcontractors and any municipality on behalf of which it receives dedicated gas tax funds, all the necessary and appropriate insurance that a prudent municipality in similar circumstances would maintain in order to protect itself and the Ministry and support the indemnification, as set out above, provided to the Ministry. For greater certainty, the municipality is not covered by the Province of Ontario's insurance program and no protection will be afforded to the municipality by the Government of Ontario for any losses or proceedings that may arise out of the Program or letter of agreement.

For greater certainty, the rights and remedies of the Ministry under a letter of agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

13. COMPLIANCE WITH THE LAW

A municipality receiving dedicated gas tax funds must comply with all federal and provincial laws and regulations, all municipal by-laws, and any other orders, rules and by-laws related to any aspect of the services or assets provided or acquired with the dedicated gas tax funds and the dedicated gas tax funds.

For greater clarity, by receiving dedicated gas tax funds, a municipality may become subject to legislation applicable to organizations that receive funding from the Government of Ontario, including the *Public Sector Salary Disclosure Act, 1996*, S.O. 1996, c. 1, Sched. A and the *Auditor General Act*, R.S.O. 1990, c. A.35.

14. WHERE TO REQUEST OR PROVIDE INFORMATION

All forms, agreements, supporting documentation as well as any questions regarding the Program are to be directed to the Strategic Investments Office of the Ministry of Transportation at MTO-PGT@ontario.ca.

APPENDIX A: VISUAL IDENTITY SIGNAGE REQUIREMENTS

1. Purpose of Schedule

This Appendix describes the responsibilities and obligations of a municipality receiving dedicated gas tax funds for the installation and maintenance of visual identity signage under the Program.

2. Visual Identity Signage

The municipality will install and maintain the exterior and interior visual identity signage on each public transportation vehicles for which dedicated gas tax funds were provided.

External visual identity signage must be located immediately to the left of the front passenger entrance doors of the vehicle. Internal visual identity signage should be placed on an interior wall in a location and height that will be convenient for passengers to read.

Recognition stickers approximate size — 10" x 3.4".



FINAL

Gas Tax 2022-23

Case No.: 2023-02-1-3-1-ZV-70100

Appendix B.1

Reporting Period: 02/24/2023 to 03/31/2023

Saved: 03/31/2023 10:32

Expand

Validate

Instructions	A - Organization Information	B - Organization Address Information
C - Report Contact Information	D - Financials	E - Conventional Transit
F - Specialized Transit	G - Declaration / Signing	

Instructions

Please refer to the **Dedicated Gas Tax Program Guidelines** for further guidance as you complete the report form.

In addition to a completed and signed version of this form, you must also upload the following to the Transfer Payment Ontario system:
Canadian Content declaration for non-exempt vehicles.

Refer to the program guidelines for relevant details as Canadian Content policies have changed effective September 21, 2017.

A - Organization Information

This section is not editable and displays information from your Transfer Payment Ontario (TPON) registration.

For more information, please visit the **Get Help** section on the website: [Get Funding from the Ontario government](#).

If changes are required in this section of your application, please make them in the [Transfer Payment Ontario](#) system. Once your information is revised, all future downloaded forms will include the updated information.

Organization Name:

The Town of Renfrew

Organization Legal Name:

Corporation of the Town of Renfrew

CRA Business Number:

106984826

B - Organization Address Information

This section is not editable and displays information from your Transfer Payment Ontario (TPON) registration.

For more information, please visit the **Get Help** section on the website: [Get Funding from the Ontario government](#).

If changes are required in this section of your application, please make them in the [Transfer Payment Ontario](#) system. Once your information is revised, all future downloaded forms will include the updated information.

Business Address

Unit Number:

Street Address 1:

127 Raglan Street/Rue South/Sud

Street Address 2:

City/ Town:

Renfrew

Province:

ON

Postal Code:

K7V1P8

Country:

Canada

Mailing Address

Unit Number:

Street Address 1

127 Raglan Street/Rue South/Sud

Street Address 2

City/ Town Renfrew	Province ON
Postal Code K7V1P8	Country Canada

C - Report Contact Information

Please provide the contacts for this project and indicate whether they have signing authority. Please provide contacts for this application.

Applicant (Primary Contact): The person who will serve as the main contact for the project and receive email notifications regarding case submission, reports due, and payments.

Payee: The person who receives email notifications regarding payments.

Signing Authority will be prompted to digitally sign this form in Section G.

		Add	Remove
Salutation:	First Name: *	Last Name: *	
Primary: <input type="checkbox"/>	Role: *	Email Address: *	
Title:	Department:	Phone Number (Work): *	
Phone Number (Mobile):	Signing Authority <input type="checkbox"/>		

D - Financials

Complete the following financial reporting table with **amounts spent in this phase only**.

Category	Description	Total
1. Dedicated Gas Tax Funds Available Summary (to be reported on a cash basis)		
1.1 Dedicated gas tax funds reserve account balance carry forward from 2022		\$0.00
1.2 Dedicated gas tax funds received in calendar year 2022		\$0.00
1.3 Interest earned in 2022		\$0.00
1.4 Total Dedicated Gas Tax Funds Available		\$0.00
2. Dedicated Gas Tax Funds Disbursements in 2022 (to be reported on a cash basis)		
2.1 Conventional Public transportation capital costs (From E - Conventional)		\$0.00
2.2 Conventional Public transportation operating costs (From E - Conventional)		\$0.00
2.3 Specialized Public transportation capital costs (From F - Specialized)		\$0.00
2.4 Specialized Public transportation operating costs (From F - Specialized)		\$0.00
2.5 Total dedicated gas tax funds disbursed in 2022		\$0.00
2.6 Remaining amount of dedicated gas tax funds in gas tax funds reserve account (as of Dec. 31, 2022)		\$0.00
3. Municipal Contributions 2022 (actual, not budgeted, contributions)		
3.1 Conventional public transportation operating contributions (including municipal levy, passenger revenue, other revenues, operating contributions.)		\$0.00
3.2 Conventional public transportation capital contributions (including contributions to capital reserves)		\$0.00

3.3 Specialized public transportation operating contributions (including municipal levy, passenger revenue, other revenues, operating contributions.)		\$0.00
3.4 Specialized public transportation capital contributions (including contributions to capital reserves)		\$0.00
3.5 Total		\$0.00

4. Contributions from other Municipalities (where more than one, provide municipal names and individual amounts)

Name of Contributing Municipality; Please specify if contribution is for Conventional or Specialized		\$0.00
Please add additional contributors if required		\$0.00
Please add additional contributors if required		\$0.00
Please add additional contributors if required		\$0.00
Please add additional contributors if required		\$0.00
Please add additional contributors if required		\$0.00
Please add additional contributors if required		\$0.00

5. Provincial Contributions 2022 (other than gas tax funding i.e. LHIN, OBRP)

Please identify program, and specify if contribution is for Conventional or Specialized		\$0.00
Please identify additional contributions if needed		\$0.00
Please identify additional contributions if needed		\$0.00

6. Federal Contributions 2022

Enter Contributions if applicable		\$0.00
Enter Contributions if applicable		\$0.00

E - Conventional Transit

Attach Canadian Content declaration for non-exempt vehicles. Refer to the program guidelines for relevant details as Canadian Content policies have changed effective September 21, 2017.

A. Summary of 2022 Dedicated Gas Tax Disbursements

Add more lines if applicable by clicking (+)

Describe all 2022 initiatives supported	Objective/Target	Effective Date (mm/dd/yyyy)	Status	2022 Capital Gas Tax Funds Only (\$)	2022 Operating Gas Tax Funds Only (\$)

- +

B. Transit Vehicle(s) Procured with Gas Tax Funds

Add more lines if applicable by clicking (+)

Number of replacement vehicles purchased 2022	Number of expansion vehicles purchased 2022	Exempt from Canadian Content Policy	Non-Exempt from Canadian Content Policy	Description (Year, Manufacturer, length, fuel type)	Total Cost of Vehicle(s) Procured	Total Gas Tax Funds Used for Procurement

- +

F - Specialized Transit

Refer to the program guidelines for relevant details as Canadian Content policies have changed effective September 21, 2017.

A. Summary of 2022 Dedicated Gas Tax Disbursements

Add more lines if applicable by clicking (+)

Describe all 2022 initiatives supported	Objective/Target	Effective Date (mm/dd/yyyy)	Status	2022 Capital Gas Tax Funds Only (\$)	2022 Operating Gas Tax Funds Only (\$)

B. Transit Vehicle(s) Procured with Gas Tax Funds

Add more lines if applicable by clicking (+)

Number of replacement vehicles purchased 2022	Number of expansion vehicles purchased 2022	Description (Year, Manufacturer, length, fuel type)	Total Cost of Vehicle(s) Procured	Total Gas Tax Funds Used for Procurement

G - Declaration / Signing

Declaration / Signing

Government of Ontario institutions are bound by the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.F.31 (<https://www.ontario.ca/laws/statute/90f31>), as amended from time to time. Any information provided in connection with this project may be subject to disclosure in accordance with that Act.

Declaration

The Applicant hereby certifies as follows:

- the information provided in this report is true, correct, and complete in every respect;
- the Applicant is aware that the information contained herein can be used to assess the fulfilment of program requirements and for statistical reporting;
- the Applicant is not in default of the terms and conditions of any grant, loan, or transfer payment agreement with any ministry or agency of the Government of Ontario;
- I am authorized to attest to the statements above under the authority granted to me by my organization.

Please validate your report by clicking the Validate button before submitting the form back to Transfer Payment Ontario.



MINISTRY OF TRANSPORTATION

**Canadian Content for Transit Vehicle Procurement
Policy**

Amended September 21, 2017

TABLE OF CONTENTS

CANADIAN CONTENT FOR TRANSIT VEHICLE PROCUREMENT POLICY

1. DEFINITIONS	3
2. INTRODUCTION	5
3. CALCULATING CANADIAN CONTENT	6
4. CANADIAN CONTENT DECLARATION & CONSENT FORM	6
5. EXEMPTIONS	7
6. WAIVERS	7
7. PROVINCIAL ENFORCEMENT	8
8. MUNICIPAL ENFORCEMENT	8
9. DISCLOSURE, VERIFICATION AND AUDIT	9
10. WHERE TO REQUEST OR PROVIDE INFORMATION	9

Effective Date

The amended Canadian Content for Transit Vehicle Procurement Policy is effective as of September 21, 2017.

CANADIAN CONTENT FOR TRANSIT VEHICLE PROCUREMENT POLICY

1. DEFINITIONS

When used in this document, the words set out below that import the singular include the plural and vice versa:

“Canadian content policy” means this Canadian Content for Transit Vehicle Procurement Policy, as amended from time to time, issued by the Ministry of Transportation.

“component” means any article, subcomponent, material, or supply, whether manufactured or unmanufactured, that is directly incorporated into the transit vehicle.

“dealer” means an agent who distributes transit vehicles on behalf of a manufacturer.

“eligible cost” means the compensation paid by a manufacturer for:

- (a) labour performed in Canada that is directly related to the manufacturing process of transit vehicles;
- (b) work performed in Canada in relation to freight, manuals, special tools, test equipment, or warranties; or
- (c) components, subcomponents and raw materials produced in Canada in respect of transit vehicles or any of the items listed in (b) above.

“engineering” means the application of scientific and technical knowledge to the design, analysis, or construction of a subcomponent, component or transit vehicle.

“entity” means a person, firm, corporation, municipality, local board of a municipality, or transit or transportation commission, or authority, acquiring transit vehicles on behalf of a transit operator.

“freight” means the cost for transportation within Canada or paid to a Canadian carrier, or both, for a) delivering a subcomponent or component to a manufacturer; or b) delivering a transit vehicle to a transit operator or an entity.

“GO Transit” means a division of Metrolinx, established pursuant to the *Metrolinx Act, 2006*, S.O. 2006, c.16.

“irreversible manufacturing process” means a manufacturing process which transforms subcomponents into a component which cannot be separated back into the subcomponents without destroying the subcomponents’ integrity.

“labour” means the compensation paid for work performed by a manufacturer, or a

manufacturer's supplier of subcomponents or components, that is directly related to the manufacturing process of transit vehicles, including project management and engineering, plus any benefits paid or general administration and similar expenses recognized and allowed by Canadian accounting rules.

"manual" means a handbook or guidebook, specific to a transit vehicle, that a manufacturer may provide to a transit operator, or an entity.

"manufacturer" means the manufacturer of a subcomponent, component or transit vehicle acquired, or that may be acquired, by a transit operator or an entity and, as applicable, includes a dealer for such manufacturer.

"manufacturing process" means the application of processes to alter the form or function of components or subcomponents to create a component or a transit vehicle.

"Metrolinx" means the corporation continued pursuant to the *Metrolinx Act, 2006*, S.O. 2006, c.16.

"Ministry" means the Ministry of Transportation.

"project management" means the application of knowledge, skills, tools, and techniques to the manufacturing process, distribution and acquisition of transit vehicles.

"public transportation" means any service for which a fare is charged for transporting the public by transit vehicles operated by or on behalf of a transit operator, or under an agreement between a transit operator and an entity, and includes special transportation facilities for the physically disabled, but does not include transportation by special purpose facilities such as school buses or ambulance.

"special tools" means an engineered tool that a manufacturer may provide to a transit operator or an entity to service a transit vehicle after delivery.

"subcomponent" means a part of a component which cannot be further separated into its constituent parts without destroying its integrity.

"submission" means a response from a manufacturer to a fair, open and transparent procurement process.

"test equipment" means the diagnostic equipment a manufacturer provides to a transit operator or an entity.

"transit operator" means a municipality, Metrolinx or GO Transit.

"transit vehicle" refers to a street car, bus, trolley bus, subway car, light rail car, or passenger locomotive used for public transportation, made up of subcomponents and components, and acquired by a transit operator, or an entity under a contract with a manufacturer and for which

the Province of Ontario may provide, in whole or in part, funding.

“warranty” refers to the promise under a contract between a transit operator, or an entity, and a manufacturer that the material and workmanship of the transit vehicle is defect-free and will perform a specified level of performance over a specified period of time.

2. INTRODUCTION

On March 20, 2008, the Government of Ontario announced that all transit vehicles procured with provincial funding must have at least 25% Canadian content. The Canadian content policy came into effect on September 1, 2008, and is a mandatory requirement for provincial funding of transit vehicles. The objectives of the policy are to promote job retention and creation, foster economic development, protect skilled manufacturing jobs and continue to promote a fair, open and transparent procurement process that ensures value for taxpayers’ dollars.

The Ministry of Transportation conducted extensive stakeholder consultations with municipalities, transit industry manufacturers, suppliers, dealers, as well as its own transit agencies. As a result of the stakeholder consultations, the 25% Canadian content policy includes exemptions and waivers as laid out in this document.

As of June 15, 2017, the Canadian content policy has been amended to comply with required government procurement commitments under the Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union and its Member States. Under the amended Canadian content policy, **25% is the maximum level** of Canadian content that can be required by transit operators and entities for the procurement of transit vehicles with provincial funding. For greater clarity, the province will not be able to increase the required level beyond 25%, nor will transit operators and entities have the discretion to require a higher percentage of Canadian content beyond 25%.

Procurements issued publicly, on or after June 15, 2017, to solicit submissions from manufacturers, must comply with the terms and conditions of the Canadian content policy, as amended in June 2017. Transit vehicle procurements issued publicly, prior to June 15, 2017 are subject to the terms and conditions of the Canadian content policy, as amended in November 2010.

As outlined above, the Ontario government is committed to a transparent, fair and open process for transit vehicle procurement that ensures value for taxpayers’ dollars. The Canadian content policy will apply to the procurement of transit vehicles acquired with funds received from the Province.

3. CALCULATING CANADIAN CONTENT

Under the Canadian content policy, the overall Canadian content of a transit vehicle is calculated as a percentage of the total final costs to the manufacturer, less any applicable taxes.

The Ministry will only consider, as Canadian content, expenditures for eligible costs in respect of transit vehicles for the items listed below and which are directly related to transit vehicles manufacturing process, distribution and acquisition:

- labour;
- subcomponents and components;
- project management;
- engineering;
- manuals;
- special tools;
- test equipment;
- freight; and
- warranty.

In addition, the percentage of Canadian content for expenditures (see above list of items for which expenditures may be considered eligible) related to transit vehicles, components or subcomponents will be calculated as follows:

1. 100% Canadian for a component that has undergone an irreversible manufacturing process in Canada.
2. 100% Canadian for a component that contains 60% or more Canadian content through any combination of expenditures that may be considered eligible, as described above, if such expenditures are made in Canada.
3. The exact Canadian percentage for a component that contains between 0% and 59% Canadian content through any combination of expenditures that may be considered eligible, as described above, if such expenditures are made in Canada.
4. Where a component or subcomponent is procured from a Canadian supplier, a minimum Canadian content of 15% will be assumed, without the requirement of certifying the percentage of Canadian content of the component or subcomponent in a manufacturer's declaration of compliance with the Canadian content policy. Simply handling the component or subcomponent is not sufficient to qualify. The Canadian supplier must provide added value through the procuring, manufacturing or after sales support of the component or subcomponent.

4. CANADIAN CONTENT DECLARATION & CONSENT FORM

Transit operators, and entities, must ensure that each manufacturer demonstrates how it will

comply with the Canadian content policy requirements, and obtain a written declaration from the manufacturer:

- certifying the percentage of Canadian content of the transit vehicles described in the manufacturer's submission, calculated in accordance with this policy; and
- providing the manufacturer's consent to the disclosure, verification and audit of the information forming the basis of the declaration, both before the contract award and, for the successful manufacturer, during and after the term of the contract. (See Part 9 below for additional details regarding disclosure, verification and audit.)

In addition, transit operators, and entities, must ensure that manufacturers provide such progress reports, during the term of the contract, as they or the Ministry or the Auditor General, or any of their designates, may require, and written declarations of ongoing compliance with the Canadian content requirement. As such, 25% is the maximum threshold level of Canadian content that could be required for the procurement of transit vehicles with provincial funding.

Should it appear at any time that a manufacturer might not meet the Canadian content requirement, a transit operator or entity may require the manufacturer to submit a revised plan indicating how it will achieve compliance.

Transit operators, and entities, must ensure that the successful manufacturer demonstrates, upon final delivery of the transit vehicle(s), how it complied with the Canadian content policy requirement, and obtain a written declaration from the manufacturer, certifying the percentage of Canadian content of the transit vehicles, calculated in accordance with this policy.

5. EXEMPTIONS

Through the consultation process, concerns were raised regarding the continued availability of certain types of transit vehicles and the ability to procure transit vehicles in an open and fair and fair procurement process in compliance with the 25% Canadian content requirement.

In consideration of the transit operator's efforts to comply with the *Accessibility for Ontarians with Disabilities Act, 2005*, S.O. 2005, c. 11 and to procure specific transit vehicles to meet their individual strategic requirements to improve transit services, the following five vehicle types will be exempted from the 25% Canadian content requirement:

- specialized transit buses;
- conventional transit buses under 40 feet in length;
- diesel multiple units (DMUs);
- double decker buses; and
- passenger locomotives.

6. WAIVERS

In the event that no Canadian content compliant submissions are received as part of a fair, open and transparent procurement process for non-exempted vehicles, a transit operator may, if the Ministry agrees to appoint a fairness monitor, formally request a waiver to comply with the Canadian content policy from the Ministry by providing:

- a letter from the Chief Administrative Officer or Chief Executive Office to the Deputy Minister of Transportation supporting the request for a waiver;
- a resolution from the transit operator (e.g., municipal Council or Metrolinx Board resolution) requesting a waiver; and
- a detailed report outlining the procurement process that was used.

Upon receipt of the waiver request, the Ministry will have the above-noted documents reviewed by the Ministry-appointed fairness monitor to determine whether a fair, open and transparent procurement process was used. If the procurement process was determined to be fair, open and transparent, the Ministry may waive the requirement for compliance with the Canadian content policy for that specific procurement. The Ministry intends to communicate its decision in writing and within 20 business days upon receipt of the fairness monitor's determination on whether it will provide a waiver. If the Ministry decides that the procurement process is not fair, open and transparent, the transit operator will have to decide to either initiate, or have the entity initiate, a new procurement process or proceed without provincial funding.

7. PROVINCIAL ENFORCEMENT

If, in the opinion of the Ministry, a transit operator, or an entity, fails either to comply with or to ensure manufacturers' compliance with any of the Canadian content policy requirements, the Ministry may avail itself of any remedies it may have under the terms of the program or arrangement under which the transit vehicle may be funded, or any other remedies it may have at law or in equity.

8. MUNICIPAL ENFORCEMENT

Transit operators, and entities procuring transit vehicles on their behalf, are responsible for ensuring the manufacturers' compliance with the Canadian content policy. As such, transit operators and entities are expected to include, in their contract documents, provisions that set out the manufacturers' obligations to comply with the Canadian content policy and remedies should a selected manufacturer default in meeting these obligations. Such remedies may include termination for breach of such requirement. In addition, transit operators and entities may require an indemnity from the selected manufacturer for any liability the transit operator and/or entity might incur in the event of such breach. Transit operators and entities should obtain independent legal advice in order to adequately address related issues.

The Province shall not incur any liability whatsoever, expressed or implied, resulting from a transit operator's or entity's implementation of this Canadian content policy.

9. DISCLOSURE, VERIFICATION AND AUDIT

Transit operators and entities are required to ensure manufacturers from whom they acquire transit vehicles are in compliance with this Canadian content policy. Despite the above, and unless provided otherwise under the terms of a program or arrangement under which provincial funds are provided for a transit vehicle, the Province and/or the Auditor General, or any of their designates, may also perform a verification or compliance audit to ensure manufacturers from whom transit operators and entities procure transit vehicles comply with this Canadian content policy, the costs of which the Province will assume.

10. WHERE TO REQUEST OR PROVIDE INFORMATION

Any questions from transit operators regarding the Canadian content policy are to be directed to the Ministry's Transit Policy Branch at telephone (416) 585-7359.

Any questions from manufacturers regarding the Canadian content policy for a specific transit operators' procurement should be directed to the transit operator, or entity, responsible for the procurement.