



Committee Report

To:	Warden McQueen and Members of Grey County Council
Committee Date:	May 14, 2020
Subject / Report No:	CAOR-CW-06-20
Title:	Request from SWIFT for Loan Guarantee
Prepared by:	Kim Wingrove, CAO
Reviewed by:	Michael Letourneau and Kevin Weppler
Lower Tier(s) Affected:	County-wide
Status:	Recommendation adopted by Committee as presented per Resolution CW86-20; Endorsed by County Council May 28, 2020 per Resolution CC54-20;

Recommendation

1. That Report CAOR-CW-06-20 Request from SWIFT for Loan Guarantee be received; and
2. That in accordance with Section 25.6 of the Procedural By-law, Council direct the Warden and Clerk to sign the attached non-binding Letter of Intent (LOI) providing SWIFT (Southwestern Integrated Fibre Technology Inc.) with Grey County's intent to guarantee the loan in amount of \$2,929,000 described in the LOI ahead of Council approval; and
3. That a by-law be brought forward for Council's consideration authorizing the Warden and Clerk to execute the guarantee agreement and any other related documentation contemplated by the LOI or otherwise reasonably required in order to provide the guarantee described above provided that the Chief Administrative Officer and the Director of Legal Services – County Solicitor are satisfied that such documents are substantially in compliance with the terms of the LOI and are in a form acceptable to the County.

Executive Summary

The province approved SWIFT Phase 3 projects, of which Grey County is included, on March 5, 2020. An RFP process will be undertaken to identify projects that will provide 50/10 internet service to those areas of the County that are currently [underserved](#).

In 2017, as outlined in report FR-CW-12-17, Grey County has invested \$1.08 million in SWIFT. Of the \$209 million project investment fund, municipal contributions are \$17.6 million, and the private sector, province and federal governments are contributing \$63.7 million.

The province and federal government require SWIFT to upfront all costs and payments to service providers before it can apply for an advance and reimbursement of project costs. SWIFT has moved to secure short-term bridge financing through TD Bank. The 14 municipalities participating in Phase 3 are being asked to guarantee their proportionate share of the total \$27.5 million required. Grey County is responsible for \$2,929,000. SWIFT will remain responsible for all payments to the lender of the loan interest (during the construction period(s)) and the repayment of any amounts borrowed at the maturity of the loans.

Background and Discussion

The Province approved the Southwestern Integrated Fibre Technology Phase 3 Project on March 5, 2020. SWIFT is now able to advance work on fulfilling its mandate and purpose of expediting the availability of hi-speed internet to the underserved areas of South Western Ontario. The eleven projects that SWIFT has committed to under this approval will see \$150,126,848 invested in Brant County, Bruce County, Town of Caledon, Dufferin County, Elgin County, Essex County, Grey County, Huron County, Middlesex County, Niagara Region, Oxford County, Perth County, Simcoe County and Region of Waterloo, with the investment in Grey County to be in excess of \$15 million (significantly more than the \$1.08M that Grey County has invested).

As part of its preparations to ensure that the Phase 3 projects will be completed on time and in accordance with the Small Communities Fund finding window, SWIFT identified the likely need for short-term bridge financing in the amount of \$27.5 million dollars. This is because although the Contribution Agreement (CA) with the province and federal government will ultimately provide SWIFT with all the funding necessary to cover the full costs of these projects, cash flow shortfalls may result from the following timing issues:

1. The Funders (the Governments of Canada and Ontario) will only accept claims for reimbursement from SWIFT once SWIFT has fully paid all invoices to the ISPs (contractors) performing the actual work. It is estimated that once a claim is submitted, it will take 16 plus weeks to receive reimbursement from the Funders.

2. The Funders have placed a requirement for a holdback on the project (amount currently being negotiated). This holdback is only reimbursable once a project has been completed meaning “acceptance paperwork” has been provided to and approved/accepted by the Funders.

SWIFT had previously issued an RFP (during Phase 2 of project) for bridge financing to support the cash flow needs of that phase. The successful proponent, TD Bank, will be utilized to provide the bridge financing for Phase 3 as well.

Although it is unlikely that SWIFT will need to have access to short-term bridge financing before 2021-2022, SWIFT staff and its Board believe it prudent to have the necessary arrangements in place well in advance of awarding any contracts. This is why SWIFT is now seeking the formal agreement from the Councils of Brant County, Bruce County, Town of Caledon, Dufferin County, Elgin County, Essex County, Grey County, Huron County, Middlesex County, Niagara Region, Oxford County, Perth County, Simcoe County and Region of Waterloo, that they are prepared to act as guarantors of the \$27.5 million credit facility SWIFT is seeking.

To this end, SWIFT is asking that each County Council commit to providing a guarantee to a lender in the following amounts:

- Brant County \$872,000
- Bruce County \$2,495,000
- Town of Caledon \$955,000
- Dufferin County \$1,313,000
- Elgin County \$1,119,000
- Essex County \$2,342,000
- Grey County \$2,929,000
- Huron County \$1,321,000
- Middlesex County \$1,942,000
- Niagara Region \$2,439,000
- Oxford County \$1,498,000
- Perth County \$1,013,000
- Simcoe County \$5,114,000
- Region of Waterloo \$2,179,000

Note that these amounts are in proportion to the amounts being provided to each municipality in terms of overall funding. If a single municipality is unable to provide their guarantee, the entire loan will need to be reduced by the amount of that municipality’s guarantee and other options will need to be discussed with the municipality to address the cash flow shortages that will result when executing their projects. Note that if no financing is available, SWIFT will not have the ability to execute the projects in the

given municipality.

SWIFT is requesting that Grey County approve the attached non-binding Letter of Intent (LOI) which provides SWIFT with the municipality's intent to guarantee the loan in amount indicated therein. In order to formalize the guarantees, TD Bank requests that each municipality provide them with the following;

1. A council resolution approving the guarantee,
2. A signed letter of guarantee (form to be provided by TD Bank),
3. A letter from the municipalities legal counsel indicating that the person who has signed 1 and 2 above has the legal authority to do so.

Despite this, no municipalities are being asked to provide any direct financial assistance or contributions towards the financing of these projects. SWIFT will remain responsible for all payments to the lender of the loan interest (during the construction period(s)) and the repayment of any amounts borrowed at the maturity of the loans.

CONCLUSION

SWIFT is a creation of and owned by the Western Ontario Wardens' Caucus, of which the Grey County is a member. The requirement for the loan guarantee SWIFT requires comes from the fact that it is a new corporation without any tangible capital assets (although it does have cash on hand) and that it will continue to not own any TCAs once the projects it is seeking to finance will have been completed. Therefore, a lender has nothing which it can take as collateral in security of the requested loan(s). SWIFT is requesting that the municipalities benefiting from these projects provide guarantees to the lender which will provide this required financing.

Legal and Legislated Requirements

Section 107 of the Municipal Act authorizes the County to guarantee loans, subject only to the requirements of section 106 in respect of "bonusing".

Section 106 is not engaged, since Southwestern Integrated Fibre Technologies Inc. is a not-for-profit corporation whose members are the various municipalities involved in the project, and thus is not a "manufacturing business or other industrial or commercial enterprise" within the meaning of section 106. Legal Services can provide the requested legal opinion for use by the bank's lawyer.

Financial and Resource Implications

The implications to each municipality from providing these requested guarantees are:

1. All contingent guarantees must be reported to the County's banker, credit rating organization and documented in the notes to its financial statements.
2. For financial reporting and municipality-own borrowing purposes, the full amount of the guarantee will be treated as a financial commitment of the municipality until such time as the guarantee is released by the lender. This commitment would only become a liability of the municipality if this borrowing repayment was in default.

In other words, while the guarantee is in effect, any organization or authority assessing the municipality's borrowings, would consider the amount being guaranteed by each as a contingent liability of theirs.

As for the risk of default, which would trigger the need for the municipality to make a direct financial contribution, staff believes this possibility to be negligible. This is because the SWIFT projects are funded directly by the federal and provincial governments and because they have produced back-to-back clauses in their contracts with Internet Service Providers (ISPs) to ensure that any ineligible expenses not covered by the provincial or federal governments are the responsibility of the ISPs themselves.

Based on the County of Grey's Debt Management Policy, the County has at this time the ability to issue additional debt and remain within the County's maximum Annual Debt Repayment limit (including internal borrowing) of 10%, if this commitment were to become a liability of the municipality.

Relevant Consultation

Internal: Director Corporate Services, Kevin Wepler, County Solicitor Michael Letourneau

External: Barry Field SWIFT Executive Director, WOWC CAOs

Appendices and Attachments

[FR-CW-12-17 SWIFT Municipal Capital Agreement](#)

[Letter of Intent - SWIFT Credit Facility](#)