



The Regional Municipality of Durham

Finance & Administration Committee Agenda

Council Chambers
Regional Headquarters Building
605 Rossland Road East, Whitby

Tuesday, June 14, 2022

9:30 AM

Please note: In an effort to help mitigate the spread of COVID-19 and to comply with public health measures, this meeting will be held in a hybrid meeting format with electronic and limited in-person participation. It is encouraged that members of the public [view the Committee meeting](#) via live streaming, instead of attending the meeting in-person. If in-person attendance is required, arrangements must be made by emailing clerks@durham.ca prior to the meeting date. Individuals are required to complete passive screening prior to entering Regional Headquarters and must wear a mask or face covering while on the premises.

1. Roll Call

2. Declarations of Interest

3. Adoption of Minutes

A) Finance & Administration Committee meeting – May 10, 2022 Pages 4 - 9

4. Statutory Public Meetings

There are no statutory public meetings

5. Delegations

5.1 Lorraine Sunstrum-Mann, Chief Executive Officer, Grandview Kids re: Update on the Progress of the Building of the New Grandview Kids Headquarters

5.2 Adam Campbell, re: Water Billing Dispute

- 5.3 Rob Messervey, Vice-Chair, and Patrick Bunting, Fundraising Chair, Healthy Lake Scugog Steering Committee, re: the Lake Scugog Enhancement Project Update and Next Steps

6. Presentations

There are no presentations

7. Administration

7.1 Correspondence

- A) Correspondence from the Town of Ajax re: Resolution passed at their Council meeting held on February 28, 2022, in support of Bill C-229, the Banning Symbols of Hate Act

**Pulled from March 4, 2022 Council Information Package
by Councillor Collier**

10 - 11

Recommendation: Motion to endorse

- B) Correspondence from the Town of Ajax re: Resolution passed at their Council meeting held on February 28, 2022, in support of the NCCM Anti-Islamophobia Municipal Recommendations

**Pulled from March 4, 2022 Council Information Package
by Councillor Collier**

12 - 13

Recommendation: Motion to endorse

7.2 Reports

- A) Durham Region's Membership in the Coalition of Inclusive Municipalities (2022-A-16) 14 - 19
- B) Council Remuneration By-law (2022-A-17) 20 - 29
- C) Community Member Appointment to the Durham Regional Police Services Board (2022-A-18) 30 - 37
- D) Appointment of an Integrity Commissioner for the Region of Durham (2022-A-19) 38 - 45
- E) Municipal Ombudsman (2022-A-20) 46 - 49
- F) Transfer of Part III and IX Prosecutions from the Province of Ontario, Ministry of the Attorney General (MAG) to the Regional Municipality of Durham (2022-A-21) 50 - 139

8. Finance

8.1 Correspondence

8.2 Reports

- | | |
|--|-----------|
| A) Final Recommendations Regarding the New Regional Transit Development Charge Bylaw (2022-F-15) | 140 - 169 |
| B) E-Mission Zero - DRT Fleet Electrification Plan (2022-F-16) | 170 - 186 |
| C) The Issuance of Debentures on Behalf of the City of Pickering, the City of Oshawa, the Municipality of Clarington and The Regional Municipality of Durham (2022-F-17) | 187 - 191 |
| D) Additional Community Investment Grant Funding for Grandview Children's Centre (2022-F-18) | 192 - 196 |

9. Advisory Committee Resolutions

There are no advisory committee resolutions to be considered

10. Confidential Matters

There are no confidential matters to be considered

11. Other Business

12. Date of Next Meeting

Tuesday, September 13, 2022 at 9:30 AM

13. Adjournment

Notice regarding collection, use and disclosure of personal information:

Written information (either paper or electronic) that you send to Durham Regional Council or Committees, including home address, phone numbers and email addresses, will become part of the public record. This also includes oral submissions at meetings. If you have any questions about the collection of information, please contact the Regional Clerk/Director of Legislative Services.

If this information is required in an accessible format, please contact 1-800-372-1102 ext. 2097.

The Regional Municipality of Durham

MINUTES

FINANCE & ADMINISTRATION COMMITTEE

Tuesday, May 10, 2022

A regular meeting of the Finance & Administration Committee was held on Tuesday, May 10, 2022 in the Council Chambers, Regional Headquarters Building, 605 Rossland Road East, Whitby, Ontario at 9:30 AM. Electronic participation was offered for this meeting.

1. Roll Call

Present: Councillor Foster, Chair
Councillor Collier, Vice-Chair
Councillor Ashe
Councillor Drew
Councillor Leahy
Councillor Mulcahy
Councillor Nicholson
Regional Chair Henry
***all members of Committee, with the exception of Chair Foster, participated electronically**

Also
Present: Councillor Smith

Staff
Present: D. Beaton, Commissioner of Corporate Services
N. Taylor, Commissioner of Finance
K. Chakravarthy, Chief Information Officer, Corporate Services - IT
J. Demanuele, Acting Commissioner of Works
T. Fraser, Committee Clerk, Corporate Services – Legislative Services
A. Harras, Regional Clerk/Director of Legislative Services
A. Hector-Alexander, Director, Diversity, Equity and Inclusion
W. Holmes, General Manager, DRT
J. Hunt, Regional Solicitor/Director of Legal Services, Corporate Services – Legal
R. Inacio, Systems Support Specialist, Corporate Services - IT
N. Pincombe, Director, Business Planning & Budgets
M. Simpson, Director, Risk Management, Economic Studies and Procurement
L. Fleury, Legislative Officer and Deputy Clerk Pro Tem, Corporate Services – Legislative Services

2. Declarations of Interest

There were no declarations of interest made.

3. Adoption of Minutes

Moved by Councillor Mulcahy, Seconded by Councillor Drew,
(43) That the minutes of the regular Finance & Administration Committee
meeting held on Tuesday, April 12, 2022, be adopted.

CARRIED

Councillor Collier noted that he was not present for the April 12, 2022 meeting and advised that he had pulled two items of correspondence from the Council Information Package (CIP) which were included on the Agenda and were received for information at the meeting. He asked if the items could still be considered for endorsement. Chair Foster advised that Councillor Collier could bring the items forward for consideration at the June 14, 2022 meeting.

4. Statutory Public Meetings

There were no statutory public meetings.

5. Delegations

There were no delegations.

6. Presentations

6.1 Kalyan Chakravarthy, Chief Information Officer, re: Technology & Cybersecurity Risk Program

K. Chakravarthy, Chief Information Officer, provided a presentation with respect to the Technology and Cybersecurity Risk Program. Highlights of the presentation included:

- Background
- Purpose and Scope
- Outcomes for the Program
- Program Outline
- Phase 1
- Phase 1 Estimates – Cost/Effort
- Phase 2
- Phase 2 Estimates – Cost/Effort
- Phase 3
- Phase 3 Estimates – Cost/Effort

Staff responded to questions with respect to cyber security insurance; frequency of reporting for the Technology and Cyber Risk Program; and the Region's knowledge base.

N. Taylor advised that the Region, in conjunction with the area municipalities, is looking at a cyber partnership and considering cyber insurance options.

7. Administration

7.1 Correspondence

There were no communications to consider.

7.2 Reports

A) Appointment of New Members to the Durham Accessibility Advisory Committee (AAC) (2022-A-13)

Report #2022-A-13 from E. Baxter-Trahair, Chief Administrative Officer, was received.

Moved by Councillor Mulcahy, Seconded by Councillor Ashe,
(44) That we recommend to Council:

That the following people be appointed to the Durham Accessibility Advisory Committee:

Mr. Wayne Henshall – Community member; and

Ms. Lorrie Houston – Agency member.
CARRIED

B) Delegation of Signing Authority to the Regional Chair and Chief Administrative Officer for Execution of Labour Relations/Employee Negotiations during Lame Duck Period (2022-A-14)

Report #2022-A-14 from D. Beaton, Commissioner of Corporate Services, was received. Staff responded to questions with respect to whether the Chair, or Mayors, can execute agreements during a "lame duck" period.

Moved by Councillor Ashe, Seconded by Regional Chair Henry,
(45) That we recommend to Council:

That the Regional Chair and Chief Administrative Officer be authorized to execute ratified negotiation agreements for potentially up to three collective bargaining units during the Lame Duck Period of Council provided that the terms of such agreements do not deviate from existing approved direction.

CARRIED

8. Finance

8.1 Correspondence

- A) Correspondence from the Town of Georgina, re: Resolution passed at their Council meeting held on March 2, 2022, in support of Federal funding for a Lake Simcoe Restoration Fund
-

Moved by Councillor Drew, Seconded by Councillor Mulcahy,
(46) That we recommend to Council:

That the correspondence from the Town of Georgina, re: Resolution passed at their Council meeting held on March 2, 2022, in support of Federal funding for a Lake Simcoe Restoration Fund, be endorsed.

CARRIED

8.2 Reports

- A) Modernization of the 9-1-1 Agreement with the Region of Durham, User Agencies and the Area Municipalities and Introduction of a Service Agreement between the Region of Durham and the Durham Region Police Services Board (2022-F-12)

Report #2022-F-12 from N. Taylor, Commissioner of Finance, was received.

Moved by Councillor Leahy, Seconded by Regional Chair Henry,
(47) That we recommend to Council:

That the legacy 9-1-1 agreement be replaced and a new service agreement be established while maintaining Regional Council's responsibility for the 9-1-1 Emergency System with Durham Regional Police Services to continue to provide the 9-1-1 operations through the following actions:

- A) The draft modernized system agreement be circulated to the Area Municipal CAOs by the Regional CAO for their input and presentation to their Councils for execution as users of the 9-1-1 system through the fire services and the Regional CAO be authorized to negotiate the final language of the agreement, while maintaining the intent as outlined in Report #2022-F-12 of the Commissioner of Finance;
- B) The Regional CAO be authorized to negotiate with the Durham Regional Police Services (DRPS) CAO to finalize the new service agreement and present to the DRPS Board for execution, while maintaining the intent as outlined in Report #2022-F-12 of the Commissioner of Finance; and
- C) The Regional Chair and Clerk be authorized to execute the modernized system agreement between the Region, the Durham Regional Police Services Board and the Area Municipalities, and a new service agreement between the Region and the Durham Regional Police Services Board, in a form satisfactory to the Regional Treasurer and Solicitor.

CARRIED

B) Sole Source Purchase for Supplemental Washroom Facilities to Support Daily Operations (2022-F-13)

Report #2022-F-13 from N. Taylor, Commissioner of Finance, was received.

Moved by Councillor Nicholson, Seconded by Regional Chair Henry,
(48) That we recommend to Council:

That a sole source agreement extension with K. J. Camper's Ltd. (also known as Classy Potties To Go) for portable washroom facilities, extending the term of the contract from January 1, 2022 to August 31, 2022 at a total estimated cost of up to \$175,000, to be funded from the approved 2022 Durham Region Transit Business Plans and Budget, be approved and the Commissioner of Finance be authorized to execute any necessary related agreements.

CARRIED

C) Your Monthly Pass Incentives for the 2022/23 Secondary School Term (2022-F-14)

Report #2022-F-14 from N. Taylor, Commissioner of Finance, was received.

Moved by Councillor Collier, Seconded by Councillor Drew,
(49) That we recommend to Council:

A) That an extension of the Y10 Youth Loyalty Pass for the 2022-23 academic year at a monthly cost of \$76.05, providing a savings of \$174.50 for the ten-month school year, be approved;

B) That the pilot bulk monthly youth pass program available to school boards and their school board transportation consortium within Durham Region, be revised providing a graduated fare discount based on the total number of monthly youth passes collectively purchased by a school board and/or their respective transportation consortium, be extended to the 2022/23 school term (September 2022 through June 2023);

C) That the graduated discount rate for the pilot bulk monthly youth pass program as shown below, for school boards and their transportation consortium, be approved effective for the 2022/23 academic year;

Less than 126 monthly passes	Youth rate or 20 percent discount on standard fare (\$93.50)
126-250 monthly passes	25% discount on standard fare (\$87.75)
More than 250 monthly passes	35% discount on standard fare (\$76.05); and

- D) That further revisions to the Y10 Youth Loyalty Pass and pilot bulk monthly youth pass program be considered during the 2023 Strategic Issues and Financial Forecast and DRT Business Plan and Budget processes.

CARRIED

9. Advisory Committee Resolutions

There were no advisory committee resolutions to be considered.

10. Confidential Matters

There were no confidential matters to be considered.

11. Other Business

There was no other business to be considered.

12. Date of Next Meeting

The next regularly scheduled Finance & Administration Committee meeting will be held on Tuesday, June 14, 2022 at 9:30 AM in Council Chambers, Regional Headquarters Building, 605 Rossland Road East, Whitby.

13. Adjournment

Moved by Regional Chair Henry, Seconded by Councillor Mulcahy,
(50) That the meeting be adjourned.

CARRIED

The meeting adjourned at 10:06 AM

Respectfully submitted,

A. Foster, Chair

L. Fleury, Legislative Officer



The Rt. Hon. Justin Trudeau
Prime Minister of Canada
Office of the Prime Minister
80 Wellington Street
Ottawa, ON K1A 0A2
justin.trudeau@parl.gc.ca

 Corporate Services Department Legislative Services Division	
Date & Time Received:	March 02, 2022 1:27 pm
Original To:	CIP
Copies To:	
Take Appropriate Action	<input type="checkbox"/> File <input type="checkbox"/>
Notes/Comments:	

Sent by E-Mail

March 1, 2022

Re: Support for Bill C-229, the Banning Symbols of Hate Act

The following resolution was passed by Ajax Town Council at its meeting held on February 28, 2022:

WHEREAS the use of hate symbols is on the rise in Canada, most recently seen at the convoy protests in downtown Ottawa. These overt displays of hate, violence, and intimidation destabilize the inclusive fabric of our community and have no place in our country;

AND WHEREAS the Town of Ajax recognizes the discrimination and systemic hatred, violence, and injustices experienced by underrepresented communities who are targeted because of their identity (e.g. racialized, persons of colour, religious beliefs, sexual orientation, gender, unidentifiable/identifiable disabilities, etc.);

AND WHEREAS Section 319 of the Criminal Code makes it an offence to publicly incite or willfully promote hatred, and private member’s Bill C-229 would amend Section 319 to address growing violence and hatred within Canadian communities by banning symbols, emblems, flags and uniforms used to promote or incite hatred and violence, such as the Nazi swastika and the Ku Klux Klan’s insignia;

AND WHEREAS Bill C-229 is an opportunity to make all Canadians feel safer in the communities that they live;

NOW THEREFORE BE IT RESOLVED THAT:

1. Ajax Council endorses Bill C-229, an Act to Amend the Criminal Code (banning symbols of hate); and
2. A copy of this resolution be forwarded to the Right Honourable Justin Trudeau, Prime Minister of Canada, the Honourable Mark Holland, MP for Ajax, Federal Leaders of the Opposition, Peter Julian, MP for New Westminster – Burnaby and C-229 bill sponsor, the Ajax Provincial Constituency Office, the Regional Municipality of Durham and lower-tier municipalities in Durham Region, and the Ontario Big City Mayors.

If you require further information please contact me at 905-619-2529 ext. 3342 or alexander.harras@ajax.ca.

Sincerely,

A handwritten signature in blue ink, appearing to be 'AH' with a long horizontal stroke extending to the right.

Alexander Harras
Manager of Legislative Services/Deputy Clerk

Copy: Mayor S. Collier
Councillor A. Khan
Hon. Mark Holland, MP for Ajax
Federal Leaders of the Opposition
Peter Julian, MP for New Westminster – Burnaby and Bill C-229 sponsor
Ajax Provincial Constituency Office
Region of Durham
All Durham Region municipalities
Ontario's Big City Mayors



Mayor Jeff Lehman, Chair
Ontario's Big City Mayors
info@ontariobigcitymayors.ca

Sent by E-Mail

March 1, 2022

 Corporate Services Department Legislative Services Division	
Date & Time Received:	March 02, 2022 1:30 pm
Original To:	CIP
Copies To:	
Take Appropriate Action	<input type="checkbox"/> File <input type="checkbox"/>
Notes/Comments:	

Re: Support of the NCCM Anti-Islamophobia Municipal Recommendations

The following resolution was passed by Ajax Town Council at its meeting held on February 28, 2022:

WHEREAS in 2019 the Province of Quebec enacted Bill 21 (an act respecting the laicity of the state) which prohibits public servants from wearing religious symbols in the exercise of their public service functions, including turbans, hijabs, yarmulke, the cross, and many others;

AND WHEREAS the Town of Ajax has a racialized majority of 56% and strives to create more positive spaces, policies and programming to help celebrate diversity, inclusion and equality regardless of a person's race, ancestry, place of origin, colour, ethnic origin, disability, citizenship, creed, sex, sexual orientation, gender identity, age, marital status, religion, literacy, language and/or socioeconomic status, etc.;

AND WHEREAS Bill 21 is a divisive law that perpetuates exclusion, discrimination, and class division by increasing systematic barriers to employment;

AND WHEREAS the National Council of Canadian Muslims (NCCM) presented the following recommendations for municipalities at the 2021 National Summit on Islamophobia:

1. Pass municipal street harassment bylaws that are proportional and constitutional, such as the approach now being adopted in Edmonton after an NCCM initiative. Bylaws should also address clearly hateful verbal assaults and give authorities the ability to ticket and fine when necessary.
2. Municipalities provide dedicated funding for local community-based anti-Islamophobia initiatives.
3. Mayors should build Anti-Islamophobia Advisory Councils/Circles while ensuring that there is appropriate representation of diverse local Muslim communities.
4. Municipalities dedicate specific funding for anti-Islamophobia public awareness campaigns.
5. Invest in celebrating the history of local Canadian Muslims and initiatives through a concrete program that brings these figures and names to the forefront of local-level recognition. Municipalities should fund events and spaces where their accomplishments are celebrated in a way that clearly shows that Muslims have made real contributions to Canadian society and are far from the violent caricatures that constantly make the news.

6. Redirect funding towards alternative measures to policing in municipal budgets.
7. Develop models for training young Muslim leaders for the future such as the Youth Fellowship program in Toronto;

AND WHEREAS on January 26, 2022, City of Brampton Council endorsed a motion for consideration by the Federation of Canadian Municipalities (FCM) Board that the FCM:

1. condemns hate and racism in all its forms, including Islamophobia;
2. endorses the municipal recommendations to address Islamophobia advanced by the NCCM;
3. recommends that members also endorse the NCCM's recommendations within one calendar year; and
4. calls on the federal government to consult municipalities in the process of establishing an Office of the Special Representative to address Islamophobia;

NOW THEREFORE BE IT RESOLVED THAT:

1. Ajax Council endorse the municipal recommendations as prepared by the NCCM for the National Summit on Islamophobia;
2. Ajax Council requests the FCM to enact the anti-Islamophobia recommendations proposed by Brampton Council; and
3. That a copy of this Resolution be sent to the Ontario Big City Mayors, the Honourable Mark Holland, MP for Ajax, the Ajax Provincial Constituency Office, the Regional Municipality of Durham and lower-tier municipalities in Durham Region, the City of Brampton, and the NCCM.

If you require further information please contact me at 905-619-2529 ext. 3342 or alexander.harras@ajax.ca.

Sincerely,



Alexander Harras
Manager of Legislative Services/Deputy Clerk

Copy: Regional Councillor S. Lee
Councillor A. Khan
Hon. Mark Holland, MP for Ajax
Ajax Provincial Constituency Office
Region of Durham
All Durham Region municipalities
City of Brampton
National Council of Canadian Muslims



The Regional Municipality of Durham Report

To: Finance and Administration Committee
From: Chief Administrative Officer
Report: # 2022-A-16
Date: June 14, 2022

Subject:

Durham Region's Membership in the Coalition of Inclusive Municipalities

Recommendations:

That the Finance and Administration Committee recommends to Regional Council:

- A) That Durham Region become a member of the Canadian Commission for the United Nations Educational, Scientific and Cultural Organization (CCUNESCO)'s Coalition of Inclusive Municipalities;
 - B) That the Declaration to Join the Coalition of Inclusive Municipalities, included as Attachment #1, be approved and signed by Regional Chair John Henry at a signing ceremony; and
 - C) That in accordance with CCUNESCO's requirements, the Regional Chair be selected as the "elected official focal point" and the Director of the Diversity, Equity and Inclusion Division be selected as the "municipal staff focal point", both to act as reconciliation, diversity, equity, and inclusion advocates.
-

Report:

1. Purpose

- 1.1 The purpose of this report is to seek approval for Durham Region to become a member of CCUNESCO's Coalition of Inclusive Communities (Coalition).

2. Background

- 2.1 Durham Region is committed to ensuring that all residents feel valued and experience a strong sense of belonging. As the demographics of the Region continue to evolve, strengthening the Region's diversity and inclusion strategies remains a priority.

- 2.2 CCUNESCO's Coalition is a network of municipalities and regions seeking to improve their policies against racism, discrimination, exclusion and intolerance. This network promotes inclusion and diversity by providing a platform to broaden and strengthen human rights.
- 2.3 Current Coalition members within the Region include the City of Oshawa, the Township of Scugog, the Township of Uxbridge, and most recently, the Municipality of Clarington.

3. Previous Reports and Decisions Aligned with this Activity

- 3.1 Report [#2021-A-8](#), Durham Region Anti-Racism Taskforce Terms of Reference provides the structure for this Taskforce to undertake activities that identify, challenge and reduce barriers and advance racial equity.
- 3.2 Report [#2021-COW-29](#), Durham Region Community Safety and Well-Being (CSWB) Plan –The Plan creates a foundational human services plan and framework to ensure that residents feel safe and that their needs for education, health care, food, housing, income as well as social and cultural expression are met.

4. Joining CCUNESCO's Coalition of Inclusive Municipalities

- 4.1 A Declaration to Join the Coalition of Inclusive Municipalities has been drafted and is included as Attachment #1 to this report. The declaration was designed by CCUNESCO and adapted for the Region.
- 4.2 By signing the Declaration, the Region will endorse the Coalition's Common Commitments set out below which align with the Region's overall mandate:

Public interest

1. Increasing vigilance against systemic and individual discrimination
2. Monitoring discrimination in the municipality and taking action to address it
3. Supporting individuals who experience discrimination
4. Providing police services that are exemplary institutions for fighting discrimination

Human rights

5. Providing equal opportunities as a municipal employer, service provider, and contractor
6. Supporting measures that promote equity in the labour market
7. Challenging discrimination and promoting diversity and equal opportunities in housing

Diversity

8. Involving citizens by giving them a voice in anti-racism initiatives and

decision-making

9. Challenging discrimination and promoting diversity and equal opportunities in education and other forms of learning

10. Promoting the respect, knowledge, and appreciation of cultural diversity and the inclusion of Indigenous and racialized communities in the cultural fabric of the municipality

4.3 Benefits of joining this Coalition include:

a. Increasing trust between the Region and communities by demonstrating the Region's commitment to improving diversity, equity, inclusion and promoting reconciliation

b. Strengthening partnerships with, and having access to, other Coalition members for the purposes of showcasing progress, and sharing information, best practices, tools and resources

c. Leveraging the credibility and structure of this national human rights campaign to improve anti-discrimination initiatives the Region undertakes

4.4 The CAO's office will notify CCUNESCO that the Regional Chair is the "elected staff focal point" and the Director of the Diversity, Equity and Inclusion Division is the "municipal staff focal point".

4.5 As the "municipal staff focal point" the Director of the Diversity, Equity and Inclusion Division will be tasked with providing annual updates to CCUNESCO regarding our initiatives, policies and programs that advance diversity, equity, inclusion, employment, housing service delivery and reconciliation.

4.6 It is recommended that the Declaration to join the Coalition be signed in June to align with Pride Month, National Indigenous History Month, World Refugee Day and National Indigenous Peoples Day, all taking place in the month of June.

5. Relationship to Strategic Plan

5.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:

- Goal 2: Community Vitality: To foster an exceptional quality of life with services that contribute to strong neighborhoods, vibrant and diverse communities, and influence our safety and well-being.
- Goal 4: Social Investment: To ensure a range of programs, services and supports are available and accessible to those in need, so that no individual is left behind.

6. Conclusion

- 6.1 Joining the Coalition aligns with the Region’s commitment to fostering a strong and inclusive region. It is recommended that the Region be approved to join the Coalition and that the Declaration be approved and signed in June by Regional Chair John Henry.
- 6.2 For additional information, contact: Allison Hector-Alexander, Director Diversity, Equity, and Inclusion at 905-668-7711, extension 3893.

7. Attachments

Attachment #1: Declaration to Join the Coalition of Inclusive Municipalities

Respectfully submitted,

Original signed by

Elaine C. Baxter-Trahair
Chief Administrative Officer



The Coalition of Inclusive Municipalities is endorsed by

Declaration to Join the Coalition of Inclusive Municipalities

Given that:

1. The Canadian Commission for UNESCO (United Nations Educational, Scientific and Cultural Organization) is calling on regions and municipalities to join a Coalition of Inclusive Municipalities and to be part of UNESCO's international Coalition launched in 2004; and
2. The Federation of Canadian Municipalities (FCM) endorses the Call for a Coalition of Inclusive Municipalities and encourages its members to join; and

Whereas:

3. Municipal governments in Canada, along with other levels of government, have responsibilities under Canada's *Charter of Rights and Freedoms* as well as federal, provincial and territorial human rights codes, and therefore have an important role to play in combating racism and discrimination and fostering equality and respect for all citizens;

Be it resolved that:

4. The **Regional Municipality of Durham** (the Region) agrees to join the Coalition of Inclusive Municipalities and, in joining the Coalition, endorses the Common Commitments set out in Appendix A, and agrees to develop or adapt its own unique Plan of Action accordingly.
5. These Common Commitments and the Region's unique Plan of Action will be an integral part of the Region's vision, strategies and policies.
6. In developing or adapting and implementing its own unique Plan of Action toward progressive realization of the Common Commitments, the Region will cooperate with other organizations and jurisdictions, including other levels of government, Indigenous peoples, public and private sector institutions, and civil society organizations, all of whom have responsibilities in the area of human rights.
7. The Region will set its priorities, actions and timelines and allocate resources according to its unique circumstances, and within its means and jurisdiction. The Region will exchange its expertise and share best practices with other municipalities involved in the Coalition and will report publicly on an annual basis on actions undertaken toward the realization of these Common Commitments.

The Regional Municipality of Durham



John Henry, Regional Chair and CEO

Appendix A

The ten Common Commitments of UNESCO's Coalition of Municipalities are:

Public interest

1. Increasing vigilance against systemic and individual discrimination
2. Monitoring discrimination in the municipality and taking action to address it
3. Supporting individuals who experience discrimination
4. Providing police services that are exemplary institutions for fighting discrimination

Human rights

5. Providing equal opportunities as a municipal employer, service provider, and contractor
6. Supporting measures that promote equity in the labour market
7. Challenging discrimination and promoting diversity and equal opportunities in housing

Diversity

8. Involving citizens by giving them a voice in anti-racism initiatives and decision-making
9. Challenging discrimination and promoting diversity and equal opportunities in education and other forms of learning
10. Promoting the respect, knowledge, and appreciation of cultural diversity and the inclusion of Indigenous and racialized communities in the cultural fabric of the municipality

If this information is required in an accessible format, please contact 1-800-372-1102 ext. 2126



The Regional Municipality of Durham Report

To: Finance and Administration Committee
From: Commissioner of Corporate Services
Report: #2022-A-17
Date: June 14, 2022

Subject:

Council Remuneration By-law

Recommendation:

That the Finance and Administration Committee recommends to Regional Council:

That By-law 08-2004, as amended, be repealed, and replaced with a new by-law to provide for the annual remuneration and benefits for Regional Council generally in the form attached to this report.

Report:

1. Purpose

- 1.1 The purpose of this report is to authorize the repeal of the existing Council Remuneration By-law #08-2004, as amended, and replace it with an updated Remuneration By-law.

2. Background

- 2.1 By-law 08-2004 was enacted on February 11, 2004, to provide for annual remuneration and benefits to members of Regional Council. It was amended by By-law 01-2005 on January 19, 2005, to allow for joint services agreements between the Area Municipalities and the Region, wherein the Region reimburses the Area Municipality for the cost of providing Councillors with remuneration and benefits. There have been no updates made to the by-law since then.
- 2.2 By-law 08-2004 allowed for general increases to Councillors annual remuneration in-line with the increases awarded to the Management Group, with a one-year delay. It also allowed for additional compensation of \$6,000 per annum to the Chairs of the Region's Standing Committees and those members appointed to the Police Services Board. Report [#2021-DRT-23](#) and By-law 27-2021 extended the additional compensation to the Chair of the Transit Executive Committee. Further it ensured that compensation practices for members of Council remain at the 75th percentile of the Council approved comparator group and that such changes be made as necessary, every two years.
- 2.3 By-law 08-2004 also allows for prorated payments during an election year based on the end/beginning of the term of Council. Previously the term of Council ended when a successor was appointed or elected and began on December 1st in an election year. The Municipal Election Act has been amended so that the term of Council now ends on November 14th in an election year and the new term begins on November 15th; this change is reflected in the proposed by-law attached.

3. Previous Reports and Decisions

- 3.1 Report [#2004-A-05\(1\)](#) Councillor's and Management/Exempt Compensation
- 3.2 Reports [#2004-A-66\(16\)](#) and [#2004-A-69\(17\)](#) Councillor Single Stream Payer Arrangement

4. Relationship to Strategic Plan

- 4.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:
 - a. Goal 5: Service Excellence. Objective: To provide exceptional value to Durham taxpayers through responsive, effective and fiscally sustainable service delivery.
 - 5.3 Demonstrate commitment to continuous quality improvement and communicating results.

5. Conclusion

- 5.1 By-law 08-2004 is outdated and no longer accurately reflects the annual remuneration being paid to members of Regional Council. The by-law also does not reflect the changes to the term of Council in the Municipal Election Act, Section 6.
- 5.2 The proposed updated by-law included as Attachment #1 to this report incorporates housekeeping changes, updates to reflect current remuneration values and provides for legislative changes to the term of Council. The proposed by-law retains the principles of the original by-law, including that compensation practices for members of Council remain at the 75th percentile of the Council approved comparator group.
- 5.3 This report has been reviewed by the Finance Department, Corporate Services – Human Resources, and Corporate Services – Legal Services.

6. Attachments

Attachment #1: Proposed Council Remuneration By-law

Prepared by: Leigh Fleury, Legislative Officer and Deputy Clerk Pro Tem, at 905-668-7711, extension 2020.

Respectfully submitted,

Original signed by

Don Beaton, BCom, M.P.A.
Commissioner of Corporate Services

Recommended for Presentation to Committee

Original signed by

Elaine C. Baxter-Trahair
Chief Administrative Officer

By-law Number **-2022

of The Regional Municipality of Durham

Being a by-law to provide for the determining, fixing and paying of annual, other remuneration and benefits to the Chair, members of the Regional Council and to each Chair of the other Standing Committees, Transit Executive Committee and members of the Police Services Board.

Now therefore, the Council of The Regional Municipality of Durham hereby enacts as follows:

1. There shall be paid to every member of the Regional Council of the Regional Municipality of Durham, except its Chair, the following annual amounts in respect of their office: (a) the sum of \$58,275 per annum up to and including March 31, 2022; and (b) thereafter such annual amount payable shall be increased by the same percentage as the general increase awarded to the Management Group of the Regional Municipality of Durham with a one year delay.
2. Notwithstanding any other provision herein contained, for those Councilors who are members of Council of a Municipality which has confirmed by by-law its willingness to enter into a joint services agreement with the Region for the harmonization of Councilor's remuneration and benefits between the Region and the Municipality, the Region shall reimburse the Municipality for the cost of providing said Councilors with the remuneration and benefits which are provided for herein. Such reimbursement shall release the Region from any obligation to directly provide said Councilors with any compensation or benefits otherwise provided for herein.
3. The Clerk and the Chair are authorized from time to time to execute a joint services agreement generally in the form attached hereto as Appendix "A" with each Municipality, which has confirmed by by-law its willingness to enter into such an agreement, for the harmonization and single stream payment of Councilor's remuneration and benefits between the Region and the Municipality as provided for in paragraph 2.
4. There shall be paid to the Chair of the Regional Council of the Regional Municipality of Durham, the following annual amounts in respect of their office: (a) the sum of \$199,170 per annum up to and including March 31, 2022, and (b) thereafter such annual amount payable shall be increased by the same percentage as the general increase awarded to the Management Group of the Regional Municipality of Durham with a one year delay.
5. There shall be paid to each Chair of the Standing Committees, Transit Executive Committee and those members of Regional Council who are appointed to the Police Services Board, in addition to the sums payable under any other paragraph of this by-law, in respect of their office the sum of \$6,000.00 per annum.

6. Notwithstanding paragraphs 1, 4 and 5, in any election year the outgoing members of Regional Council and the Chair, for the period commencing November 1st and ending on November 14th shall receive $\frac{1}{2}$ of $\frac{1}{12}$ of the applicable annual amount referred to in paragraphs 1, 4 or 5. The appointed or elected successor members of Regional Council and the Chair shall receive for the period between November 15th and November 30th, $\frac{1}{2}$ of $\frac{1}{12}$ of the applicable annual amount referred to in paragraphs 1, 4 or 5, and for the period between December 1st and December 31st, $\frac{1}{12}$ of the applicable annual amount referred to in paragraphs 1, 4 or 5.
7. In addition, the Region will provide to each member of Regional Council, including the Chair, either of the following:
 - a. for any member who is enrolled, but not in receipt of a pension from the Ontario Municipal Employees' Retirement System (OMERS), the employer's contributions shall be paid for the compensation payable under paragraphs 1, 4, 5 and 6 of this by-law; or
 - b. for any member who is not enrolled in OMERS, in lieu of a pension plan, an amount equal to 9% of the compensation payable under paragraphs 1, 4, 5 and 6 of this by-law or such other amount as represents the employer's contributions referred to in sub-paragraph a.
8. Corporate Services – Human Resources is directed and empowered to ensure that compensation practices for members of Council remain at the 75th percentile of the Council approved comparator group, and further, be authorized to make such changes as are necessary every 2 years.
9. Members of Regional Council, including the Chair, shall be paid for expenses incurred in the normal performance of their duties in accordance with Council approved policies governing same in force from time to time.
10. Members of Regional Council, including the Chair, shall be provided with the same insured benefits program for extended health benefits and dental coverage provided to the Management Group of the Regional Municipality of Durham together with a \$75,000 minimum basic life insurance benefit for Council members and two times the annual remuneration for the Regional Chair as determined under paragraph 1 and 4 respectively of this by-law.
11. Any member of Regional Council, including the Chair, who is beyond the age of 65, shall have the benefits referred to in paragraph 10 continue until such time as they are no longer a member of Regional Council.
12. Any member of Regional Council, including the Chair, who has at least 15 years service shall, upon leaving office, continue to receive extended health benefits and dental coverage until the age of 65, on the same terms as retired management employees of the Regional Municipality of Durham. This coverage ceases on the last day of the month in which the Regional Councillor turns 65 years of age.
13. If necessary, reference shall be made to Report 2004-A-5(1) regarding Councillors' and Management/Exempt Compensation, dated February 4, 2004 and the policies, practices and interpretation governing Regional employees to assist in the interpretation and implementation of the matters provided for in this by-law.

14. By-law Number 08-2004, as amended, is hereby repealed.

15. This by-law shall come into force and take effect on the 1st day of xxx, 2022.

This By-law Read and Passed on the -----th day of -----, 2022.

J. Henry, Regional Chair and CEO

A. Harras, Regional Clerk

DRAFT

Appendix "A"

THIS AGREEMENT made this _____ day of _____, 20xx

B E T W E E N :

THE REGIONAL MUNICIPALITY OF DURHAM

(the "Region")

- and -

(the "Municipality")

WHEREAS this agreement is being entered into pursuant to section 20 of the *Municipal Act, 2001*, S.O. 2001, c.25 (the "Act") to provide for joint services in respect of the administration of remuneration for members of Regional Council;

AND WHEREAS by the Adoption of Report No. 2004-A-05(1) of the Finance and Administration Committee, Regional Council at its meeting held on February 11, 2004 authorized an arrangement for the harmonization of Councillors' salaries between the Region and the Municipality in order to provide for a single stream payment of remuneration to members of Regional Council by the Municipality;

AND WHEREAS the Municipality, by By-Law No. _____ passed on _____ has confirmed that it is prepared to enter into a joint services agreement with the Region;

NOW THEREFORE the parties agree as follows:

APPLICATION

1. This Agreement shall be applicable to all members of Regional Council who are members of Council for the Municipality, including the Mayor

DUTIES

2. The Region shall:
 - a. establish the rate of remuneration in respect of all members of Regional Council, which may be amended from time to time (hereafter referred to as "Regional Remuneration");
 - b. reimburse the Municipality for the costs of the Regional Remuneration, including any increases to benefit expenses on a pro rata basis attributable to Regional Remuneration. Such funds shall be remitted in accordance with the terms set out in Schedule "A" attached hereto.
 - c. reimburse the Municipality for the cost of providing a health spending account to its Regional Councillors in lieu of their being entitled to receive the applicable insured benefits otherwise offered to Regional Councillors by the Region. The Region's obligation to reimburse the Municipality for a health spending account for each Regional Councillor shall be capped at the amount set forth in Schedule "A" attached hereto.

- d. continue to administer and/or adjudicate any long term disability benefit claim in respect of the Municipality's Regional Councillors, and shall reimburse the Municipality as appropriate. Any such claim shall be based upon the Regional remuneration net of the reimbursement for the health spending account referenced in paragraph 2(c).
3. The Municipality shall:
 - a. implement all measures necessary to administer the Regional Remuneration and health spending account in accordance with the terms of this agreement and Schedule "A" attached hereto.
 - b. invoice the Region for the direct costs of the Regional Remuneration and the health spending account.
 4. This Agreement shall be administered by the Municipality solely on a direct cost recovery basis and there shall be no additional administrative costs charged to the Region arising from the administration of Regional Remuneration and the health spending account by the Municipality.

TERM OF AGREEMENT

5. This Agreement shall be in force effective January 1, 2005. Either party hereto may terminate this Agreement by providing at least sixty (60) days written notice to the other party.

INDEMNITY

6. The Municipality agrees to indemnify and save harmless the Region from and against any and all costs, claims, demands, suits, actions and judgments made, brought or recovered against the Region resulting from any act or omission by the Municipality, its employees or agents, in connection with the provision of services pursuant to this Agreement including, without limitation, any proceeding or claim resulting from a failure to deduct or remit any required statutory deduction in connection with the Regional Remuneration and or the health spending account.

BINDING EFFECT

7. This Agreement shall enure to the benefit of and be binding upon the parties and their respective successors, administrators and assigns.

SCHEDULE

8. Schedule "A" as attached forms an integral part of this Agreement and is binding upon the parties.

AMENDMENTS

9. This Agreement and Schedule “A” hereto may be amended from time to time upon the mutual written agreement of each party or their respective successors or permitted assigns.

IN WITNESS WHEREOF the parties hereto have hereunto affixed their respective seals under the hands of their proper signing officers duly authorized in that behalf.

THE REGIONAL MUNICIPALITY OF DURHAM

Per: _____

John Henry, Regional Chair

Per: _____

A. Harras, Regional Clerk

[MUNICIPALITY]

Per: _____

Per: _____

DRAFT

Schedule "A"

JOINT SERVICES AGREEMENT

to provide for remuneration to members of Regional Council pursuant to s.20 of the Municipality Act, 2001, S.O. 2001, c.25

1. The rates for Regional Remuneration and health spending account referenced in paragraph 2 of the Agreement shall be:
 - Regional Councillor Remuneration \$ 58,275 - effective April 1, 2020
(amended from time to time)
 - Additional Regional Remuneration \$ 6,000 - effective January 1, 2005
as Chair of Regional Standing
Committee or member of Police
Services Board
 - Maximum annual reimbursement \$ 2,000 - effective January 1, 2005
for health spending account
2. Regional Remuneration and health spending account rates will be amended from time to time as established by Regional Council and/or the Commissioner of Human Resources of the Region, and this Schedule shall be amended accordingly.
3. Regional Remuneration shall be deemed to include any entitlement to severance remuneration that a member of Regional Council may be entitled to from time to time pursuant to the by-laws of the Region.
4. The reimbursement in respect of increased benefits expenses referenced in paragraph 2(b) of the Agreement includes employer's share of premiums for Canada Pension Plan, OMERS contributions and all other statutory and discretionary benefits incurred by the Municipality that are directly attributable to Regional Remuneration provided that such reimbursement shall be undertaken on a pro rata basis.
5. The Municipality will invoice the Region quarterly for the recovery of Regional Remuneration, health spending account and related benefit expenses.



The Regional Municipality of Durham Report

To: Finance & Administration Committee
From: Commissioner of Corporate Services
Report: #2022-A-18
Date: June 14, 2022

Subject:

Community Member Appointment to the Durham Regional Police Services Board

Recommendation:

That the Finance & Administration Committee recommends to Regional Council:

- A) That the proposed Durham Regional Police Services Board Community Member Appointment Recruitment and Selection Policy included as Attachment #1 to this report be approved; and
 - B) That the term of appointment for the current community member on the Durham Regional Police Services Board be extended to no later than the date that a new community member is appointed by Regional Council.
-

Report:

1. Purpose

- 1.1 The first purpose of this report is to respond to the amendment presented at the April 27, 2022 Regional Council meeting to add a term limit of two terms for the community member appointed by Regional Council.
- 1.2 The second purpose of this report is to establish a policy for the appointment of a community member to the Durham Regional Police Services Board and to extend the term of appointment for the current community member on the Durham Regional Police Services Board to no later than the date that a new community member is appointed by Regional Council.

2. Previous Reports and Decisions

- 2.1 Report [#2022-A-8](#) was presented to Regional Council on April 27, 2022 and was referred back to staff along with an amending motion to add a term limit of two terms for the community member appointed by Regional Council.
- 2.2 Report [#2018-COW-104](#) was approved by Regional Council on June 13, 2018, to initiate the process for the selection of a community member for appointment to the Durham Regional Police Services Board by Regional Council for the 2018-2022 term of Regional Council.
- 2.3 On January 30, 2019, Regional Council considered Report [#2019-A-4](#) and passed By-law #05-2019 to appoint Karen Fisher as a community member to serve on the Regional Municipality of Durham Police Services Board for the term of the presently constituted Regional Council or until her successor is appointed.

3. Proposed Amendment to Add a Term Limit for Community Member Appointment

- 3.1 At the April 27, 2022 Regional Council meeting, an amendment was proposed by Councillors Joe Neal and John Neal to add a term limit of two terms for the community member appointed by Regional Council.
- 3.2 If Regional Council wishes to add a term limit of two consecutive terms for the community member appointed by Regional Council, a motion to amend the policy would be required to add a new Section 5.2 to the proposed Durham Regional Police Services Board Community Member Appointment Recruitment and Selection Policy (Attachment #1) as follows:
 - 5.2 A community member is eligible for appointment to a maximum of two consecutive terms of Regional Council, up to a maximum of 8 years.
- 3.3 The term limit would only apply to the community member appointed by Regional Council and would not apply to community members appointed by the Lieutenant Governor in Council. Further, if Council were to appoint a community member who previously served as an appointee by the Lieutenant Governor in Council, the terms served as the appointee of the Lieutenant Governor in Council would not count towards the term limit as Regional Council's appointed community member. Similarly, a community member appointed by Regional Council that has reached their term limit could still be appointed by the Lieutenant Governor in Council, as the Region cannot apply restrictions to such appointments.

4. Durham Regional Police Services Board

- 4.1 The Durham Regional Police Services Board is a seven-member board made up of the following:
- a. The head of the municipal council or, if the head chooses not to be a member of the board, another member of the council appointed by resolution of the council.
 - b. Two members of the council appointed by resolution of the council.
 - c. One person appointed by resolution of the council, who is neither a member of the council nor an employee of the municipality; and
 - d. Three persons appointed by the Lieutenant Governor in Council.
- 4.2 The appointment of members of Council to the Durham Regional Police Services Board for the 2022-2026 term of Regional Council will take place at the first meeting of Regional Council after the municipal elections.
- 4.3 Provincial board members are appointed by the Lieutenant Governor, by Order in Council. Information regarding Ontario Government Appointees is available on the Public Appointments Secretariat website.

5. Community Member Appointment

- 5.1 In 1997, Bill 105, the Police Services Amendment Act 1997, provided for a community member appointment to the Durham Regional Police Services Board and, at that time, the Ministry of the Solicitor General and Correctional Services, Policing Services Division, offered the following guidelines:
- a. An advertisement be placed in local newspapers seeking a community member to serve on the Police Services Board, which would provide the Selection Committee with applications for review; and
 - b. Candidates undergo an interview conducted by a panel to determine their understanding of the role of the Police Services Board in the community, especially as it relates to the aspect of civilian governance of a police service.
- 5.2 The guidelines outlined in Section 4.1 have been followed by Regional Council for appointing a community member to the Durham Regional Police Services Board since 1997.
- 5.3 Subsection 27(13) of the Police Services Act, 1990, states “A judge, a justice of the peace, a police officer and a person who practices criminal law as a defence counsel may not be a member of a board”.
- 5.4 Members of Police Services Boards must also comply with Ontario Regulation 421/97: Members of Police Services Board – Code of Conduct.

- 5.5 On average, approximately 20 hours per month are required to carry out the duties. In addition to the regular monthly board meetings, there are training sessions, zone meetings, conferences and sub-committee meetings to attend.
- 5.6 Remuneration is paid to the community member at the same rate paid to the Provincial appointees. The amount of remuneration for 2021 was \$12,074 per annum.

6. Proposed Recruitment and Selection Policy

- 6.1 The purpose of establishing a policy is to provide information about the Region's processes for citizen members who are interested in applying to serve as the community member to the Durham Regional Police Services Board and to provide a guide for Council members and Regional staff. The proposed policy incorporates the process previously followed by Regional Council for appointing a community member to the Durham Regional Police Services Board.
- 6.2 The process to be followed for the appointment of a new community member to the Durham Regional Police Services Board includes:
- a. The Regional Clerk placing an advertisement within each area municipality and on the Regional website seeking individuals interested in serving as the community member on the Durham Regional Police Services Board.
 - b. Applicants completing and submitting an application form to the Regional Clerk outlining their qualifications and experience.
 - c. Corporate Services – Legislative Services preparing a list of applications received.
 - d. A Selection Committee comprised of the Regional Chair and the Chairs of the Standing Committees, or Vice-Chair in the absence of the Standing Committee Chair, as selected at the first meeting of Regional Council of each new term, reviewing applications received; and
 - e. The Selection Committee short listing candidates, conducting interviews, and recommending a candidate for appointment as the community member on the Durham Regional Police Services Board.
- 6.3 To be eligible for appointment, individuals must be at least 18 years of age and be a resident of the Regional Municipality of Durham.
- 6.4 In nominating a community member, preference shall be given to individuals with:
- a. an interest in and commitment to public safety and responsible police governance
 - b. an understanding of the role of a police services board
 - c. senior executive or board of director experience
 - d. administrative and budgetary experience
 - e. previous community and professional involvement
 - f. availability to attend meetings
 - g. a flexible schedule to meet time commitments of the position

6.5 The term of office shall correspond with the term of Regional Council that appointed the member, or until their successor is appointed.

6.6 Remuneration shall be paid to the community member at the same rate paid to the Provincial appointees.

7. Relationship to Strategic Plan

7.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:

- a. Goal 5: Service Excellence. Objective: To provide exceptional value to Durham taxpayers through responsive, effective and fiscally sustainable service delivery.
 - 5.1 Optimize resources and partnerships to deliver exceptional quality services and value
 - 5.3 Demonstrate commitment to continuous quality improvement and communicating results

8. Conclusion

8.1 It is recommended that the proposed Durham Regional Police Services Board Community Member Appointment Recruitment and Selection Policy included as Attachment #1 to this report be approved.

8.2 Subject to approval of the proposed policy, Corporate Services – Legislative Services will initiate the process for the selection of a community member to the Durham Regional Police Services Board and an advertisement will be placed in newspapers within each of the Area Municipalities in September 2022.

8.3 The Durham Regional Police Services Board meets monthly and meeting dates for 2023 will be determined in September 2022. It is recommended that the term of appointment for the current community member on the Durham Regional Police Services Board be extended to no later than the date that a new community member is appointed.

8.4 For additional information, contact: Cheryl Bandel, Deputy Clerk, at 905-668-7711, extension 2005.

9. Attachments

Attachment #1: Proposed Durham Regional Police Services Board Community Member Appointment Recruitment and Selection Policy

Respectfully submitted,

Original signed by

Don Beaton, BCom, M.P.A.
Commissioner of Corporate Services

Recommended for Presentation to Committee

Original signed by

Elaine C. Baxter-Trahair
Chief Administrative Officer



Durham Regional Police Services Board Community Member Appointment Recruitment and Selection Policy

April 2022

1. Authority

- 1.1 Subsection 27(9) of the Police Services Act, R.S.O 1990, provides that the Police Services Board shall consist of one person appointed by resolution of Council, who is neither a member of the Council nor an employee of the municipality.

2. Recruitment Process

- 2.1 Prior to the start of each new term of Regional Council, the Regional Clerk will place an advertisement within each area municipality and on the Regional website seeking individuals interested in serving as the community member on the Durham Regional Police Services Board.
- 2.2 The Regional Clerk will prepare an application form to be completed by individuals interested in serving as the community member on the Durham Regional Police Services Board.
- 2.3 Interested individuals will be required to complete and submit an application form to the Regional Clerk.
- 2.4 Corporate Services – Legislative Services will prepare a list of applications received.

3. Selection Process

- 3.1 Applications shall be reviewed by a Selection Committee comprised of the Regional Chair and the Chairs of the Standing Committees, or Vice-Chair in the absence of the Standing Committee Chair, as selected at the first meeting of Regional Council of each new term.
- 3.2 Corporate Services – Legislative Services will provide administrative, procedural and other support services to the Selection Committee.
- 3.3 Corporate Services – Legislative Services will review all applications received and identify any applicants that are ineligible for appointment either because they do not meet the eligibility criteria or because their application is late.
- 3.4 The Selection Committee is responsible for short listing candidates, conducting interviews of applicants, and recommending a candidate for appointment as the community member on the Durham Regional Police Services Board.

- 3.5 In nominating a community member, preference shall be given to individuals with:
- a. an interest in and commitment to public safety and responsible police governance
 - b. an understanding of the role of a police services board
 - c. senior executive or board of director experience
 - d. administrative and budgetary experience
 - e. previous community and professional involvement
 - f. availability to attend meetings
 - g. a flexible schedule to meet time commitments of the position
- 3.6 The Selection Committee shall submit a report to Regional Council recommending a candidate for appointment as the community member on the Durham Regional Police Services Board within 4 months of the start of each new term of Regional Council.
- 3.7 Selection Committee members shall return all applications and related confidential material in their possession (including any lists of applicants) to the Regional Clerk once Regional Council approves the appointment.

4. Eligibility Requirements

- 4.1 Individuals must be at least 18 years of age and be a resident of the Regional Municipality of Durham.
- 4.2 In accordance with the Police Services Act, a judge, a justice of the peace, a police officer and a person who practises criminal law as a defence counsel, are not eligible for appointment as a community member to the Durham Regional Police Services Board.
- 4.3 Members of Regional Council and Regional staff are not eligible for appointment as a community member to the Durham Regional Police Services Board.

5. Term of Office

- 5.1 The term of office shall correspond with the term of Regional Council that appointed the member, or until their successor is appointed.

6. Remuneration

- 6.1 Remuneration shall be paid to the community member at the same rate paid to the Provincial appointees.



The Regional Municipality of Durham Report

To: Finance and Administration Committee
From: Commissioner of Corporate Services
Report: #2022-A-19
Date: June 14, 2022

Subject:

Appointment of an Integrity Commissioner for the Region of Durham

Recommendation:

That the Finance and Administration Committee recommends to Regional Council:

- A) That By-law 11-2019 be repealed and replaced with a By-law generally in the form included as Attachment #1 to this Report, to confirm the appointment of Principles Integrity as the provider of Integrity Commissioner services for the Regional Municipality of Durham; and
 - B) The initial term of contract for the Integrity Commissioner shall be for the 2022-2026 term of Regional Council with the option to renew for an additional Council term.
-

Report:

1. Purpose

- 1.1 The purpose of this report is to appoint Principles Integrity to provide Integrity Commissioner services for the Regional Municipality of Durham.

2. Background

- 2.1 Previously the Region undertook an RFP process for the selection of an Integrity Commissioner. On September 21, 2016, RFP 1042A-2016 was formally issued to receive proposals for the Integrity Commissioner services. The RFP closed on October 20, 2016.
- 2.2 Encompassed within the Integrity Commissioner RFP was a cooperative purchasing arrangement under which the local area municipalities could choose to appoint the selected respondent, within the term of the contract, for the same terms and conditions including the price.
- 2.3 Three proposals were received and deemed compliant. The proposals were evaluated by a team with representatives from Corporate Services - Legal Services, the Regional Clerk and overseen by the Purchasing Section of the Finance Department.
- 2.4 On December 14, 2016 Report [#2016-COW-75](#) was considered and Regional Council approved By-law 58-2016 to appoint Guy W. Giorno as the Integrity Commissioner for the Regional Municipality of Durham for a term beginning on January 1, 2017 and terminating at the end of the current term of Council (November 14, 2022).
- 2.5 To accommodate for changes to integrity commissioner services by virtue of the passage of Bill 68, the Modernizing Ontario's Municipal Legislation Act, 2017, the original agreement with Mr. Giorno was amended as of March 1, 2019, to include additional services including the provision of advice to members of Council. By-law 11-2019 adopting these amendments was approved by Council.
- 2.6 The current Integrity Commissioner contract expires at the end of the term of Council, November 14, 2022, therefore it was necessary to conduct a selection process to ensure that Integrity Commissioner services are in place for the next term of Council.

3. Selection Process

- 3.1 In accordance with the Region's Consultant and Professional Services Contracting Procedure, where the project or annual value of a consulting or professional service assignment is expected to be less than \$100,000, the initiating department shall obtain three proposals, where possible, and evaluate the submissions based on price and quality-based criteria. The highest scoring proposal shall be selected, and a consulting agreement shall be prepared based on established procedures and executed by the Director, in this case the Regional Clerk. Based on the previous level of complaints and inquiries, the annual value for Integrity Commissioner services is expected to be less than \$100,000.
- 3.2 Invitations to enter into a consulting and professional services contract with the Region were sent to six individuals/firms. Three proposals were received and evaluated by a team from Corporate Services – Legal Services and Corporate Services – Legislative Services. Respondents also participated in presentation and interview sessions which were evaluated by the same team, with the addition of the Clerks from Oshawa, Pickering and Whitby.

4. Previous Reports and Decisions

- 4.1 [#2016-COW-75](#) Bill 8 – Public Sector and MPP Accountability and Transparency Act, 2014: Appointment of Regional Integrity Commissioner

5. Legislative Parameters

- 5.1 Under the Municipal Act, 2001, Council has the authority to appoint an Integrity Commissioner. The Legislative Services division of Corporate Services, under the direction of the Regional Clerk, serves as the Region's liaison to accountability officials including the Integrity Commissioner. The Integrity Commissioner is an independent officer who reports directly to Council and whose powers and duties are set out in the Municipal Act, 2001.

- 5.2 The Integrity Commissioner shall have the following responsibilities outlined under section 223.3 of the Municipal Act:
- a. The application of the code of conduct for members of council and the code of conduct for members of local boards.
 - b. The application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards.
 - c. The application of sections 5, 5.1 and 5.2 of the Municipal Conflict of Interest Act to members of council and of local boards.
 - d. Requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member.
 - e. Requests from members of council and of local boards for advice respecting their obligations under a procedure, rule, or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of members.
 - f. Requests from members of council and of local boards for advice respecting their obligations under the Municipal Conflict of Interest Act.
 - g. The provision of educational information to members of council, members of local boards, the municipality, and the public about the municipality's codes of conduct for members of council and members of local boards and about the Municipal Conflict of Interest Act.
- 5.3 The Integrity Commissioner may recommend that Regional Council impose penalties in accordance with the Municipal Act, 2001 if in the opinion of the Regional Integrity Commissioner, a Member of Council has contravened the Code of Conduct.

6. Area Municipal Considerations

- 6.1 As with the previous Integrity Commissioner contract, a "piggyback" clause was included so that the Area Municipalities can avail themselves of the contract should they wish to. As such, Clerks from various area municipalities were involved in the interview process for the Integrity Commissioner.

7. Relationship to Strategic Plan

7.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:

- a. Goal 5: Service Excellence. Objective: To provide exceptional value to Durham taxpayers through responsive, effective and fiscally sustainable service delivery.
 - 5.3 Demonstrate commitment to continuous quality improvement and communicating results

8. Conclusion

8.1 Following an evaluation of the proposals submitted and a presentation/interview component, an agreement will be entered into with Principles Integrity for Integrity Commissioner services for the Regional Municipality of Durham, subject to appointment by Regional Council.

9. Attachments

Attachment #1: Proposed By-law to appoint Integrity Commissioner

Prepared by: Leigh Fleury, Legislative Officer and Deputy Clerk Pro Tem, at 905-668-7711, extension 2020.

Respectfully submitted,

Original signed by

Don Beaton, BCom, M.P.A.
Commissioner of Corporate Services

Recommended for Presentation to Committee

Original signed by

Elaine C. Baxter-Trahair
Chief Administrative Officer

By-law Number xx-2022
of The Regional Municipality of Durham

Being a by-law to confirm the appointment of xxxxxx as the Integrity Commissioner for the Regional Municipality of Durham (Regional Integrity Commissioner).

Whereas pursuant to Part V.1 of the Municipal Act 2001 S.O. c. 25 a municipality is authorized to appoint an Integrity Commissioner who reports to Council and who is responsible for performing in an independent manner the functions assigned by the municipality;

Now therefore, the Council of The Regional Municipality of Durham hereby enacts as follows:

1. That the agreement with xxxxxxxx as the Regional Integrity Commissioner provide the following roles and provide the following services:

Role:

The role of the Regional Integrity Commissioner is:

1. The application of the Code of Conduct for Members of Council and for members of local boards
2. The application of any procedures, rules and policies of the Region and local boards governing the ethical behavior of Members of Council and local boards.
3. The application of sections 5, 5.1 and 5.2 of the Municipal Conflict of Interest Act to Members of Council and local boards.
4. Respond to requests from Members of Council and of local boards for advice respecting their obligations under the Code of Conduct applicable to the member.
5. Respond to requests from Members of Council and of local boards for advice respecting their obligations under a procedure, rule or policy of the Region or of a local board, governing the ethical behaviour of members.
6. Respond to requests from Members of Council and of local boards for advice respecting their obligations under the Municipal Conflict of Interest Act.
7. Provide educational information to Members of Council and local boards.

Duties

The Regional Integrity Commissioner shall cause to perform, in an independent manner, the functions of an Integrity Commissioner pursuant to Part V.1 of the Municipal Act, 2001 with respect to the application of the Code of Conduct for Members of Council of the Regional Municipality of Durham, including any legislation, procedures, rules and policies of the Region of Durham governing the ethical behaviour of the Members of Council. The mandate of the Regional Integrity Commissioner will include:

1. Provisions of advice and education upon request by a Member of Council or by Council as a whole, regarding ethical obligations and responsibilities under their Code of Conduct, and any other legislation, rules or policies governing their ethical behaviour; and

2. Receiving, assessing and investigating where appropriate, complaints made by Council, a member of Council, a member of staff, or a member of the public respecting an alleged breach of the Code of Conduct for the Members of Council of the Regional Municipality of Durham through the provisions of the Code of Conduct and the Complaints Protocol.
3. Receiving, assessing and conducting an inquiry, where appropriate, with respect to requests for inquiry made by an elector or a person demonstrably acting in the public interest concerning an alleged contravention of section 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act.
4. Giving advice on policy issues and the workings of the Regional Integrity Commissioner's office.
5. All advice being provided in writing in accordance to the requirements of s. 223.3(2.2)

Reporting to Council

1. The Regional Integrity Commissioner will report directly to Regional Council with a report containing the results of investigations and one annual report summarizing the year's activities, observations and any resulting general recommendations.
2. The Integrity Commissioner may recommend that Regional Council impose penalties in accordance with the Municipal Act, 2001 if in the opinion of the Regional Integrity Commissioner, a Member of Council has contravened the Code of Conduct.

Other General Provisions

1. That should the Regional Integrity Commissioner conduct an investigation or provide any other service, it shall do so in accordance with the terms and conditions of the Agreement executed between it and the Regional Municipality of Durham and shall adhere to all applicable laws, applicable statutes and established Regional policies.
2. That any local municipality within the geographic region of the Regional Municipality of Durham desirous to retain the Regional Integrity Commissioner to provide Integrity Commissioner services for their municipality that they may execute the Agreement with the Regional Municipality of Durham and shall pay the Regional Integrity Commissioner for services in accordance to their hourly fee in accordance to the terms of the Agreement provided they have obtained the required approvals to do so.
3. That should the Regional Municipality of Durham or any local municipality desire any further services from the Regional Integrity Commissioner outside what is outlined in this by-law, the Regional Integrity Commissioner may oblige in providing such other services, so long as the respective Council of the municipality requesting such other service has passed a resolution through their respective Council to authorize the Regional Integrity Commissioner to provide such other service. If authorized to do so, the Regional Integrity Commissioner will charge their hourly fee in accordance to the Agreement for such other services to the municipality requesting such other services.
4. That all services provided by the Integrity Commissioner conform to all the statutory requirements of s. 223.3 to 223.8 of the Municipal Act S.O., 2001.

That By-law #11-2019 be repealed effective November 14, 2022.

This By-law Read and Passed on the xx day of June, 2022, effective as of November 15, 2022.

J. Henry, Regional Chair and CEO

A. Harras, Regional Clerk

DRAFT



The Regional Municipality of Durham Report

To: Finance and Administration Committee
From: Commissioner of Corporate Services
Report: #2022-A-20
Date: June 14, 2022

Subject:

Municipal Ombudsman

Recommendation:

That the Finance and Administration Committee recommends to Regional Council:

- A) That By-law 32-2016 appointing an Ombudsman for The Regional Municipality of Durham, be repealed, effective November 14, 2022; and
 - B) That the Region utilize the services of the Provincial Ombudsman once the current contract for Ombudsman Services has expired as of November 14, 2022.
-

Report:

1. Purpose

- 1.1 The purpose of this report is to repeal By-law 32-2016 appointing ADR Chambers as the Ombudsman for the Regional Municipality of Durham, effective as of the end of this term of Council (November 14, 2022); and to recommend leveraging the capacity and expertise of the Provincial Ombudsman's office going forward.

2. Background

- 2.1 Previously the Region undertook an RFP process for the selection of an Ombudsman. On May 2, 2016, RFP 1014-2016 was formally issued to receive proposals for Ombudsman services. The RFP closed on May 24, 2016.
- 2.2 On June 29, 2016, Report [#2016-A-19](#) was considered and Regional Council approved By-law 32-2016 to appoint ADR Chambers as the Ombudsman for the Regional Municipality of Durham for a term beginning on July 1, 2016 and terminating at the end of the current term of Council (November 14, 2022).
- 2.3 The current Ombudsman contract expires at the end of the term of Council; therefore, it is necessary to determine how the Region will ensure the provision of Ombudsman services going forward.

3. Discussion

- 3.1 The Ombudsman's Office reviews complaints brought by members of the public about the Municipality of Durham. They work with the Region to investigate and resolve complaints as part of the local complaint mechanisms. If a complainant is dissatisfied with the provision of services, a decision or recommendation made by the Region in the administration of municipal services, and the complainant has gone through the Region's internal complaint system and is not satisfied with the outcome, they may escalate their complaint to the Ombuds Office. The Ombuds Office investigates complaints with a view to resolving them either by agreement among the parties, or by issuing a report with analysis and conclusions, including any recommendations.
- 3.2 The current contract with ADR Chambers includes a \$12,000 annual retainer, along with a \$250 per hour fee for investigative services. Since 2016 the Region has spent \$87,243.99 with ADR Chambers over the course of the contract to-date.
- 3.3 In accordance with the Municipal Act, municipalities may exercise their powers under the Act to appoint their own municipal ombudsman; if they do not, then the Provincial Ombudsman's Office acts as the Ombudsman for the municipality.
- 3.4 The Provincial Ombudsman's Office oversees and investigates more than 1,000 provincial government and broader public sector bodies, such as provincial ministries, Crown corporations, tribunals, agencies, boards and commissions, and municipalities, universities, and school boards. The Ombudsman has created dedicated units of specialized staff to answer questions, address concerns, conduct investigations, and review complaints.

- 3.5 Under the Region's Delegated Authority By-law 29-2020, the Commissioner of Corporate Services has the authority to implement any procedural and policy change as is necessary to give effect to the implementation and appointment of a municipal ombudsman for the Region. In February 2019, the Regional Clerk was designated as the head of the municipality, under the Ombudsman Act, through Report [#2019-A-8](#).
- 3.6 At this time, the Commissioner of Corporate Services and Regional Clerk are recommending that the Region utilize the services of the Provincial Ombudsman beginning in the new term of Council, rather than appointing a new Ombudsman for the Region once the current contract has expired at the end of this term.
- 3.7 The Provincial Ombudsman's Office has the capacity and expertise to provide services to the Region, and there is no additional cost to utilize their services. The requirement to appoint an Ombudsman for municipalities was introduced in 2016; since that time, the Provincial Ombudsman's Office has demonstrated itself to provide timely service to municipalities and their constituents, and an objective approach to reviewing complaints received in relation to municipal operations.

4. Previous Reports and Decisions

- 4.1 Report [#2016-A-19](#) Award of Request for Proposals (RFP) 1014-2016, FOR Municipal Ombudsman Services for the Region of Durham and Eight Area Municipalities

5. Relationship to Strategic Plan

- 5.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:
- a. Goal 5: Service Excellence. Objective: To provide exceptional value to Durham taxpayers through responsive, effective and fiscally sustainable service delivery.
- 5.3 Demonstrate commitment to continuous quality improvement and communicating results

6. Conclusion

- 6.1 It is being recommended that By-law 32-2016 appointing ADR Chambers as the Ombudsman for The Regional Municipality of Durham be repealed effective November 14, 2022.
- 6.2 Additionally, it is being recommended that the Region utilize the services of the Provincial Ombudsman, rather than appointing a new Ombudsman for the Region once the current contract has expired.
- 6.3 For additional information, contact: Alexander Harras, Regional Clerk/Director of Legislative Services, at 905-668-7711, extension 2100.

Prepared by: Leigh Fleury, Legislative Officer and Deputy Clerk Pro Tem, at 905-668-7711, extension 2020.

Respectfully submitted,

Original signed by Jason Hunt, Acting for

Don Beaton, BCom, M.P.A.
Commissioner of Corporate Services

Recommended for Presentation to Committee

Original signed by

Elaine C. Baxter-Trahair
Chief Administrative Officer

If this information is required in an accessible format, please contact 1-800-372-1102 ext. 2126



The Regional Municipality of Durham Information Report

To: Finance and Administration Committee
From: Commissioner of Corporate Services
Report: 2022-A-21
Date: June 14, 2022

Subject:

Transfer of Part III and IX Prosecutions from the Province of Ontario, Ministry of the Attorney General (MAG) to the Regional Municipality of Durham.

Recommendation:

That Finance and Administration Committee recommends to Regional Council:

- A) That staff be authorized to negotiate the timing with the Province of Ontario, Ministry of the Attorney General (MAG), for the transfer of responsibility for prosecutions of Part III and Part IX charges to the Regional Municipality of Durham (the Region).
- B) That the full-time staffing complement of the Corporate Services Department – Legal Services, POA Prosecution division be increased by the addition of 3 Prosecutors and 2 Prosecution Assistants, at an estimated cost of \$201,500 for 2022 (annualized - \$602,600), commencing September 2022 plus initial one-time set-up costs of approximately \$20,350, to be financed from savings within the Corporate Services – Legal Services 2022 Business Plans and Budgets.
- C) That the Regional Chair and the Regional Clerk be authorized to execute the Interim Transfer Agreement in substantially the form attached as Attachment #1 and any final Transfer Agreement.
- D) That the Regional Solicitor be authorized to execute any accompanying Memoranda of Understanding, any required Local Side Agreement(s), or amendments thereto, and any other documentation required to implement the transfer of the prosecution of Part III and Part IX charges from MAG to the Region.

Report:**1. Purpose**

- 1.1 The purpose of this report is to brief members of Council on the pending transfer of the prosecution of the Part III and Part IX charges from the Province of Ontario, Ministry of the Attorney General (MAG) to the Region, the financial and operational requirements associated therewith, and to obtain authorization for staff to negotiate with MAG for this purpose and authorize the execution of the Interim Transfer Agreement (Attachment #1), the execution of a final Transfer Agreement and associated documentation and agreements.

2. Background

- 2.1 The Province of Ontario historically prosecuted all matters laid under Parts I, III and IX of the Provincial Offences Act (POA).
- 2.2 Part I charges are usually proceeded by way of an Offence Notice with a set fine and total payable. Part 1 charges have a maximum fine of \$1,000 under the Highway Traffic Act, an example would be a seat belt or a Hand-Held Device charge. Both would be Part 1 offences with a set fine and total payable on the face of the ticket. The maximum fine for a charge proceeded by way of a Part 1 Certificate under the Highway Traffic Act is \$1,000. The accused would have the option of paying the total payable on the face of the ticket, requesting an Early Resolution meeting with a Prosecutor, requesting a trial, or doing nothing, this last decision would result in the Certificate being reviewed by the Clerk of the Court, if the ticket was proper on it's face, a conviction would be entered.
- 2.3 Part III charges proceed by way of summons and require a court appearance by the accused or their representative. If a conviction is entered on the charge, sentencing could result in fines in the thousands of dollars, a term of incarceration, or both. For example, a charge for Driving while under Suspension for unpaid fines could result in a fine of up to \$5,000 or to imprisonment for a term of not more than six months, or both. If the accused and/or their representative fail to appear in court, the trial may proceed in their absence, a bench summons may be issued to command the attendance of the accused, or a bench warrant may be issued for the arrest of the accused.
- 2.4 Part IX of the POA deals with Orders on Application Under Statutes, which is a proceeding commenced by way of a statement for example, the Dog Owner's Liability Act (DOLA).
- 2.5 In December 2000 the prosecution of Part I POA charges was transferred from the Province of Ontario to the Region. It was at that time the Region established the Prosecution Services office.

- 2.6 A Memorandum of Understanding (MOU) was signed on November 20, 2000, between the Region and the Ministry of the Attorney General, and the Region began prosecuting Part I POA offences December 4, 2000.
- 2.7 The Region currently has a Local Side Agreement (LSA) with the local Crown Attorney to implement the 2000 MOU. This agreement deals with matters such as the transfer of accounts receivable at the time of the transfer to the Region, the provision of court facilities, access to those facilities, and assets. It is anticipated that either a new LSA or an amendment to the present LSA will be required for the prosecution of Part III and Part IX charges.
- 2.8 When the Part I transfer occurred in 2000, the Province of Ontario retained the prosecution of the Part III and Part IX charges as these were the more serious charges, they included fatalities, serious personal injury, and larger prosecutions where the available monetary penalty exceeded what was available under Part I of the Act. The prosecution of these more serious charges is now ready for transfer to the municipal partner to streamline the prosecutions and make it easier for the members of the public to deal with only one prosecution office.
- 2.9 From 2017-2021 the yearly average number of Part III charges laid by the OPP and DRPS collectively is 4,805. For the pre-pandemic years of 2017-2019, the collective yearly charge totals average out to 5,269, the number of motor vehicle collisions resulting in a fatality or serious personal injury, averages 20-24 charges per year.
- 2.10 The Prosecution office will require a minimum of 3 additional permanent full-time Prosecutors and 2 additional permanent full-time Prosecution Assistants to be able to meet operational needs at this time. Additional prosecution resources may be required as the Region adjusts to the volume and pace of these matters; accordingly, and if required, prosecution resources may be brought in on a contract basis until such time as permanent staffing is approved.
- 2.11 Part III Prosecutions have already been transferred to the following municipalities: County of Hastings, County of Elgin, County of Prince Edward, the City of Temiskaming Shores, and the City of Kingston.
- 2.12 Discussions and negotiations continue with the Ministry of the Attorney General with respect to this transfer. An update on the status of these negotiations is found in the Confidential attachment to this Report.

3. Financial Implications

- 3.1 The Region's POA Court Services Program within the Legal Services Division of the Corporate Services Department currently receives all revenues from any fines associated with Part III matters. As such there is no additional revenue associated with this transfer. It is primarily a download of Prosecution services from the Province to the Region.
- 3.2 The transfer will eliminate the hourly fee of \$109 per hour for in-court Part III provincial prosecution services which the Region is currently charged and remits to the Province of Ontario, in the budgeted amount of \$80,000 per year. The Region does not pay for any "out of court" work conducted by the Provincial Prosecutor. This would include file preparation, resolution meetings with defendants and trial preparation. The Crown Attorney's office for the Region of Durham currently uses two full-time equivalents for the Provincial Prosecutor position, Assistant Crown Attorneys, and articling students (equivalent of two additional full-time positions) and one full-time equivalent to perform Prosecution Assistant support for the Part III and Part IX matters.
- 3.3 It is recommended the staff complement of the of the Corporate Services Department– Legal Services, POA Prosecution division be increased by the addition of 3 permanent full-time Prosecutors and 2 permanent full-time Prosecution Assistants, at an estimated cost of \$201,500 for 2022 (annualized - \$602,600). It is anticipated that the staff would begin employment in September 2022 and there would be one-time ancillary costs in 2022 for equipment and capital of approximately \$20,350 and savings of \$26,700 in provincial prosecution costs (annualized savings - \$80,000).
- 3.4 The annual net cost of this transfer of prosecution responsibilities is approximately \$522,600 with no additional associated revenues. The additional net cost for 2022 of approximately \$195,150 will be financed from the 2022 approved Corporate Services – Legal Services Business Plans and Budget.

4. Conclusion

- 4.1 That Council approve moving ahead with the transfer of the Part III and Part IX matters, and that the Regional Chair and the Regional Clerk be authorized to sign the Interim Transfer Agreement and any final Transfer Agreement and that the Regional Solicitor be authorized to sign any other required documentation, agreements, and memoranda of understanding.

5. Attachments

Attachment #1: Draft Transfer Agreement

Attachment #2: Letter from the Crown Attorney's office

Attachment #3: Original MOU from the Part I Transfer in 2000

Attachment #4: Current Local Side Agreement

Attachment #5: **Confidential** Memo from Regional Solicitor re: Part III Provincial Table Update. Under separate cover.

Respectfully submitted,

Original signed by

Don Beaton, BCom, M.P.A.
Commissioner of Corporate Services

Recommended for Presentation to Committee

Original signed by

Elaine C. Baxter-Trahair
Chief Administrative Officer

**PARTS III AND IX OF PROVINCIAL OFFENCES ACT
(ONTARIO)
INTERIM TRANSFER AGREEMENT**

- between -

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO
as represented by the Attorney General**

- and -

CORPORATION OF THE [Municipality]

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**PARTS III AND IX OF PROVINCIAL OFFENCES ACT (ONTARIO) INTERIM
TRANSFER AGREEMENT**

**THIS PARTS III AND IX OF PROVINCIAL OFFENCES ACT (ONTARIO) INTERIM
TRANSFER AGREEMENT (“Agreement”)** is made on the ____ day of _____,
20__,

BETWEEN:

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO
AS REPRESENTED BY THE ATTORNEY GENERAL**

(the “**Attorney General**”)

-and-

CORPORATION OF THE

(the “**Municipal Partner**”)

WHEREAS, pursuant to the *Streamlining of Administration of Provincial Offences Act*, 1997, S.O. 1998, c.4, (Bill 108), the Attorney General and the Municipalities, as defined below, may enter into an agreement authorizing such municipalities, in general, to conduct court administration and court support functions under the POA, as defined below, and prosecutions of matters commenced under Parts I and II of the POA;

AND WHEREAS, the Attorney General and the Municipalities entered into memorandum of understandings and local side agreements whereby the Attorney General transferred to such municipalities, in general, court administration and court support functions under the POA and prosecutions of matters commenced under Parts I and II of the POA;

AND WHEREAS, such transfer was documented between the Attorney General and the Municipal Partner in the MOU, as defined below, and the LSA, as defined below;

AND WHEREAS, pursuant to the *Stronger, Fair Ontario Act (Budget Measures)*, 2017, S.O. c.34, Sched. 35, s.12, the Attorney General and the Municipalities may enter into an agreement authorizing such municipalities, in general, to conduct prosecutions commenced under the POA;

AND WHEREAS, the Attorney General, as part of its transfer project, intends to request amendments to the memorandum of understandings and the local side agreements in accordance with such documents from the Municipalities in order to

transfer certain prosecutions commenced under Parts III and IX of the POA prosecuted by the Criminal Law Division of the Ministry of the Attorney General to such municipalities;

AND WHEREAS, the Attorney General, as part of an interim transfer project, would like to transfer the prosecutions commenced under Parts III and IX of the POA prosecuted by the Criminal Law Division of the Ministry of the Attorney General to the Municipal Partner and the Municipal Partner, as a participant in such project, wishes to accept such transfer;

NOW THEREFORE, in consideration of the mutual covenants and obligations contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged by the parties, the Attorney General and the Municipal Partner covenant and agree as follows:

ARTICLE I – INTERPRETATION

1.1 Definitions. The following terms shall have the meanings ascribed to them below unless there is something in the context inconsistent therewith:

- (a) **“Agreement”** means this agreement, including all of the schedules, attached hereto, and all amendments made hereto in accordance with the provisions hereof as the same may be amended, restated and/or supplemented from time to time;
- (b) **“Attorney General”** means Her Majesty the Queen in right of Ontario as represented by the Attorney General;
- (c) **“Crown”** means Her Majesty the Queen in right of Ontario;
- (d) **“Crown Prosecution Manual”** means the document located at www.ontario.ca/document/crown-prosecution-manual, as amended from time to time;
- (e) **“Effective Date”** means **[insert]**;
- (f) **“Expiry Date”** means two (2) years from the Effective Date;
- (g) **“Indemnified Parties”** means each of the following and their directors, officers, advisors, agents, appointees and employees: the Crown and the members of the Executive Council of Ontario;
- (h) **“Losses”** means liabilities, costs, damages, and expenses (including legal, expert, and consulting fees);
- (i) **“LSA”** means a local side agreement between the Attorney General and the Municipal Partner with an effective date of **[insert]**;
- (j) **“MOU”** means a memorandum of understanding between the Attorney General and the Municipal Partner dated on the execution date by the Attorney General of **[insert]**;

- (k) “**Municipalities**” means, collectively, all of the municipalities of the Province of Ontario who have entered into a memorandum of understanding and a local side agreement for purposes of the transfer of, in general, court administration and court support functions under the POA and prosecutions of matters commenced under Parts I and II of the POA;
 - (l) “**Municipal Partner**” means Corporation of the
 - (m) “**POA**” means the *Provincial Offences Act* (Ontario);
 - (n) “**Proceedings**” mean any action, claim, demand, lawsuit, or other proceeding;
 - (o) “**Term**” means the period commencing on the Effective Date and ending on Expiry Date unless the Term is extended or otherwise terminated pursuant to this Agreement;
 - (p) “**Transfer Agreement**” means, collectively, the MOU and the LSA;
 - (q) “**Transferred Property**” means any and all property relating to the Transferred Prosecutions including, but not limited to, systems, records, data, information, and materials in the possession or control of, or owned by, the Municipal Partner unless such property has been purchased by the Municipal Partner and has not been agreed to be transferred to the Attorney General;
 - (r) “**Transferred Prosecutions**” has the meaning ascribed to it in Section 2.2(a) hereof; and
 - (s) “**WSIA**” means the *Workplace Safety and Insurance Act, 1997* (Ontario).
- 1.2 Currency.** Any reference to currency is to Canadian currency and any amount disbursed, paid, or calculated is to be disbursed, paid or calculated in Canadian currency.
- 1.3 Statute and Regulation.** Any reference to a statute is to such statute and to the regulations made pursuant to such statute as such statute and regulations may at any time be amended or modified and in effect and to any statute or regulations that may be passed that have the effect of supplementing or superseding such statute or regulations.
- 1.4 Singular/Plural and Gender Terms.** Each definition in this Agreement using a singular capitalized term or other word or phrase also shall apply to the plural form and such term, word or phrase and vice versa, and all references to the masculine gender shall include reference to the feminine or neuter gender, and vice versa, in each case as the context may permit or require.
- 1.5 Pronouns.** Each use in this Agreement of neuter pronoun shall be deemed to include the masculine and feminine variations thereof and vice versa and a singular pronoun shall be deemed to include a reference to the plural variation thereof, and vice versa, in each case and the context may permit or require.

- 1.6 **Sections and Other Headings**. The section and other headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.
- 1.7 **Paramountcy**. The parties hereto agree that this Agreement shall be read, to the extent possible, as an addition to and not to derogate from the Transfer Agreement and shall only supersede the specific terms and conditions of the Transfer Agreement to the extent of a conflict or an inconsistency in the circumstances. All other terms and conditions of the Transfer Agreement shall remain in full force and effect, unaffected and unaltered by this Agreement.

ARTICLE II –INTERIM TRANSFER OF PARTS III AND IX OF THE POA

- 2.1 **General**. The parties hereto acknowledge and agree that this Agreement shall only apply to the prosecutions prosecuted by the Criminal Law Division of the Ministry of the Attorney General under Parts III and IX of the POA.
- 2.2 **Parts III and IX of the POA Interim Transfer**. On the Effective Date, the Attorney General shall:
- (a) transfer to the Municipal Partner and the Municipal Partner shall accept the following:
 - (i) the prosecutions of matters designated as contraventions under the *Contraventions Act* (Canada) and commenced under Parts III and IX of the POA;
 - (ii) prosecution of proceedings commenced under Parts III and IX of the POA;
 - (iii) the conduct of appeals of proceedings commenced under Parts III and IX of the POA where the Attorney General transferred the prosecution of the proceeding to the Municipal Partner,but such transfer excludes the following:
 - (iv) the prosecution of matters under Parts III and IX of the POA as against a Young Person, as defined under Part VI of the POA;
 - (v) any matter under Parts III and IX of the POA where criminal proceedings have also been commenced arising out of the same circumstances;
 - (vi) any proceeding under *Christopher's Law (Sex Offender Registry), 2000* (Ontario);
 - (vii) any proceeding stated in the Crown Prosecution Manual, as amended from time to time, being retained by the Attorney General;
 - (viii) any and all:

- (A) applications for leave to the Court of Appeal; and
 - (B) appeals to the Court of Appeal,
- for matters with respect to Parts III and IX of the POA, which have been prosecuted by the Attorney General at trial;
- (ix) any and all appeals to the Ontario Court of Justice where:
 - (A) the appeal hearing is scheduled to begin within sixty (60) days after the Effective Date;
 - (B) the appeal hearing began before the Effective Date; or
 - (C) the Attorney General is an appellant in a matter in which it has prosecuted such matter at trial,
 for matters with respect to Parts III and IX of the POA; and
 - (x) any and all Part IX of the POA proceedings where:
 - (A) the hearing is scheduled to begin within sixty (60) days after the Effective Date; or
 - (B) the hearing began before the Effective Date; but the order or disposition is not complete,

(collectively, the “**Transferred Prosecutions**”); and

(b) deliver to the Municipal Partner:

- (i) a list of the Transferred Prosecutions;
- (ii) the original records and files of the Transferred Prosecutions; and
- (iii) a list of all open files that will be retained by the Attorney General.

2.3 Right to Intervene. Notwithstanding anything else in this Agreement, the Attorney General maintains the right to intervene in any of the Transferred Prosecutions and shall be responsible for any and all costs from such intervention.

ARTICLE III – COSTS

3.1 Costs. The Municipal Partner shall not remit to the Minister of Finance any amount owing pursuant to Section 165(5)(c) of the POA for costs incurred by the Attorney General for matters under Sections 2.2(a)(iv) to (x) hereof; and (b) Sections 173(2)1 and 173(2)2 of the POA.

ARTICLE IV – COVENANTS

4.1 **The Municipal Partner’s Covenants**. The Municipal Partner covenants and agrees, at all times during the Term, that it shall:

- (a) provide full and timely disclosure to defendants in accordance with the law;
- (b) make efforts to advise the family members and other interested parties of significant developments throughout the proceedings in cases that involve a fatality in accordance with the Crown Prosecution Manual;
- (c) only proceed to prosecute a charge where there is a reasonable prospect of conviction and it is in the public interest to do so in accordance with the Crown Prosecution Manual;
- (d) screen all private prosecutions for reasonable prospect of conviction and, when necessary, assume the conduct of the proceedings in order to ensure that they are pursued in the interests of the administration of justice; and
- (e) maintain a reporting protocol to notify the Crown Attorney and the Attorney General of any matter that appears likely to raise a substantive legal issue at trial or appeal, including:
 - (i) an application for judicial review or prerogative writ sought in relation to a prosecution transferred;
 - (ii) any thing that may affect the administration, constitutional validity, or enforceability of a statute or regulation;
 - (iii) any matter where there could be a substantial public interest in its outcome including, but not limited to, where leave to appeal to the Court of Appeal has been granted; and
 - (iv) the anticipated withdrawal or stay of any matter involving a death while using a vehicle, a motorized snow vehicle, or an off-road vehicle under a provincial act;
- (f) as required by the Attorney General, make reasonable efforts to provide workspace for the Attorney General;
- (g) upon request, grant access to its available courtroom technology for such time as required by the Attorney General;
- (h) once informed, adhere to any and all of the Attorney General’s intervention policies with respect to the Transferred Prosecutions;
- (i) adhere to all applicable laws;
- (j) provide, at a minimum, the same services and level of service delivery as were provided by the Attorney General with respect to the Transferred Prosecutions; and
- (k) as expeditiously as possible, bring to the attention of the Attorney General any and all matters that may be significant or contentious including, but not limited

to, alleged prosecutorial impropriety, misconduct, and constitutional challenges.

4.2 The Attorney General's Covenants. The Attorney General covenants and agrees, at all times during the Term, that it shall:

- (a) as required by the Municipal Partner, make reasonable efforts to provide workspace for the Municipal Partner; and
- (b) upon request, grant access to its available courtroom technology for such time as required by the Municipal Partner.

ARTICLE V – INDEMNITY AND INSURANCE

5.1 Indemnity from the Municipal Partner. The Municipal Partner shall indemnify and hold harmless the Indemnified Parties from and against all Losses and Proceedings, by whomever made, sustained, incurred, brought or prosecuted, arising out of, or in connection with anything done or omitted to be done by the Municipal Partner or the Municipal Partner's personnel in the course of the performance of the Municipal Partner's obligations under this Agreement or otherwise in connection with this Agreement.

5.2 Municipal Partner's Insurance. The Municipal Partner hereby agrees to put in effect and maintain insurance for the Term, at its own cost and expense, with insurers having a secure A.M. Best rating of B + or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person in the business of the Municipal Partner would maintain including, but not limited to, the following:

- (a) commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury and property damage, to an inclusive limit of not less than Five Million Dollars (\$5,000,000) per occurrence, Five Million Dollars (\$5,000,000) products and completed operations aggregate. The policy is to include the following:
 - (i) the Indemnified Parties as additional insureds with respect to liability arising in the course of performance of the Municipal Partner's obligations under, or otherwise in connection with, this Agreement;
 - (ii) contractual liability coverage;
 - (iii) cross-liability clause;
 - (iv) employers liability coverage (or compliance with the section below entitled "Proof of WSIA Coverage" is required);

- (v) thirty (30) day written notice of cancellation, termination or material change;
 - (vi) tenants legal liability coverage (if applicable and with applicable sub-limits); and
- (b) errors & omissions liability insurance, insuring liability for errors and omissions in the performance or failure to perform the services contemplated in this Agreement, in the amount of not less than Five Million Dollars (\$5,000,000) per claim and in the annual aggregate.

5.3 Proof of Insurance. The Municipal Partner shall provide the Attorney General with certificates of insurance, or other proof as may be requested by the Attorney General, that confirms the insurance coverage as provided for in Section 5.2, hereof and renewal replacements on or before the expiry of any such insurance. Upon the request of the Attorney General, a copy of each insurance policy shall be made available to it. The Municipal Partner shall ensure that each of its subcontractors obtains all the necessary and appropriate insurance that a prudent person in the business of the subcontractor would maintain and that the Indemnified Parties are named as additional insureds with respect to any liability arising in the course of performance of the subcontractor's obligations under the subcontract for the provision of the Transferred Prosecutions.

5.4 Proof of WSIA Coverage. If the Municipal Partner is subject to the WSIA, it shall submit a valid clearance certificate of WSIA coverage to the Attorney General prior to the execution of this Agreement by the Attorney General. In addition, the Municipal Partner shall, from time to time at the request of the Attorney General, provide additional WSIA clearance certificates. The Municipal Partner covenants and agrees to pay when due, and to ensure that each of its subcontractors pays when due, all amounts required to be paid by it or its subcontractors, from time to time during the Term, under the WSIA, failing which the Attorney General shall have the right, in addition to and not in substitution for any other right it may have pursuant to this Agreement or otherwise at law or in equity, to pay to the Workplace Safety and Insurance Board any amount due pursuant to the WSIA and unpaid by the Municipal Partner or its subcontractors and to deduct such amount from any amount due and owing from time to time to the Municipal Partner pursuant to this Agreement together with all costs incurred by the Attorney General in connection therewith.

5.5 Municipal Partner Participation in Proceedings. The Municipal Partner shall, at its expense, to the extent requested by the Attorney General, participate in or conduct the defence of any Proceeding against any Indemnified Parties referred to in this Article and any negotiations for their settlement. The Attorney General may elect to participate in or conduct the defence of any such Proceeding by notifying the Municipal Partner in writing of such election without prejudice to any other rights or remedies of the Attorney General under this Agreement, Agreement, at law or in equity. Each party participating in the defence shall do so by actively participating

with the other's counsel. The Municipal Partner shall not enter into any settlement unless it has obtained the prior written approval of the Attorney General. If the Municipal Partner is requested by the Attorney General to participate in or conduct the defence of any such Proceeding, the Attorney General agrees to co-operate with and assist the Municipal Partner to the fullest extent possible in the Proceedings and any related settlement negotiations. If the Attorney General conducts the defence of any such Proceedings, the Municipal Partner agrees to co-operate with and assist the Attorney General to the fullest extent possible in the Proceedings and any related settlement negotiations.

- 5.6 Indemnity from the Attorney General.** Save and except for the indemnification by Ontario in favour of the Municipal Partner as provided for in section 15.2 of the MOU, the wording, scope, effect, and consequence of which shall apply, *mutatis mutandis*, to the provisions and obligations within this Agreement, including but not limited to, those in relation to the Transferred Prosecutions as contemplated hereunder, any express or implied reference in any other document (including subcontracts) as related to the Transferred Prosecutions as contemplated hereunder or to the Attorney General providing any other indemnity or other form of indebtedness or contingent liability that would otherwise directly or indirectly increase the indebtedness or contingent liabilities of the Crown, whether at the time of execution of this Agreement or at any time during its Term, shall be void and of no legal effect.

ARTICLE VI – TERMINATION AND EXPIRY

- 6.1 Termination for Cause.** The Attorney General may immediately terminate this Agreement upon giving notice to the Municipal Partner where there is a breach of this Agreement and such right of termination is in addition to all other rights of termination available at law, or events of termination by operation of law.
- 6.2 Dispute Resolution by Rectification Notice.** Subject to the above section, where the Municipal Partner fails to comply with any of its obligations under this Agreement, the Attorney General may issue a rectification notice to the Municipal Partner setting out the manner and timeframe for rectification. Within seven (7) business days of receipt of that notice, the Municipal Partner shall either: (a) comply with that rectification notice; or (b) provide a rectification plan satisfactory to the Attorney General. If the Municipal Partner fails to either comply with that rectification notice or provide a satisfactory rectification plan, the Attorney General may immediately terminate this Agreement. Where the Municipal Partner has been given a prior rectification notice, the same subsequent type of non-compliance by the Municipal Partner shall allow the Attorney General to immediately terminate this Agreement.
- 6.3 Termination on Notice.** The Attorney General reserves the right to terminate this Agreement, without cause, upon ninety (90) days prior notice to the Municipal Partner.

- 6.4 Municipal Partner's Obligations on Termination.** On termination of this Agreement, the Municipal Partner shall, in addition to its other obligations under this Agreement and the applicable laws:
- (a) at the request of the Attorney General, complete the Transferred Prosecutions that are set for sixty (60) days after the termination of this Agreement;
 - (b) provide access and transfer ownership, to the Attorney General, of the Transferred Property;
 - (c) provide the Attorney General with a report detailing a list of the Transferred Prosecutions that are being transferred to the Attorney General;
 - (d) execute such documentation as may be required by the Attorney General to give effect to the termination of this Agreement;
 - (e) comply with any other instructions provided by the Attorney General, including but not limited to, instructions for facilitating the transfer of its obligations to another person;
 - (f) keep the Attorney General informed of any and all matters that are necessary for the Attorney General to ensure the effective ongoing administration of justice during the termination period; and
 - (g) carry out a financial accounting and shall pay to Attorney General any monies owing to the Attorney General, including the Ministry of Finance.
- 6.5 Termination in Addition to Other Rights.** The express rights of termination in this Agreement are in addition to and shall in no way limit any rights or remedies of the Attorney General under this Agreement, at law or in equity.
- 6.6 Attorney General's Rights and Remedies and Municipal Partner's Obligations Not Limited to Agreement.** The express rights and remedies of the Attorney General and obligations of the Municipal Partner set out in this Agreement are in addition to and shall not limit any other rights and remedies available to the Attorney General, or any other obligations of the Municipal Partner at law or in equity.
- 6.7 Municipal Partner's Rights on Termination.** On termination of this Agreement, the Attorney General shall permit the Municipal Partner access to the Transferred Property including, the right to make and keep copies of documents; provided that, the Municipal Partner is named or otherwise becomes a party to any legal proceedings, or is placed on notice that it will be named as a party to a legal proceedings, arising from or in connection with the performance by the Municipal Partner of the Transferred Prosecutions.
- 6.8 Expiry of Agreement.** This Agreement shall expire on the Expiry Date.
- 6.9 Municipal Partner's Responsibility on Expiry.** On the Expiry Date, the Municipal Partner shall, in addition to its other obligations under this Agreement and the applicable laws:

- (a) at the request of the Attorney General, complete the Transferred Prosecutions that are set for sixty (60) days after the Expiry Date;
- (b) provide access and transfer ownership, to the Attorney General, of the Transferred Property;
- (c) provide the Attorney General with a report detailing a list of the Transferred Prosecutions that are being transferred to the Attorney General;
- (d) execute such documentation as may be required by the Attorney General to give effect to the expiry of this Agreement;
- (e) comply with any other instructions provided by the Attorney General, including but not limited to, instructions for facilitating the transfer of its obligations to another person;
- (f) keep the Attorney General informed of any and all matters that are necessary for the Attorney General to ensure the effective ongoing administration of justice; and
- (g) carry out a financial accounting and shall pay to Attorney General any monies owing to the Attorney General, including the Ministry of Finance.

ARTICLE VII – NOTICE

7.1 Notices. Any demand, approval, consent, notice or communication to be made or given hereunder shall be in writing and may be made or given by personal delivery, courier or mailed by first class registered mail, prepaid postage or by facsimile transmission, or other verifiable electronic means of communication addressed to the respective parties as follows:

- (a) To the Attorney General:

Ministry of Attorney General
Criminal Law Division
720 Bay St., 9th Floor
Toronto, ON M7A 2S9

Attention: Tammy Browes-Bugden, Director, Strategic Operations and Management Centre (SOMC)

Telephone No.: 416-305-2916
E-mail: Tammy.Browes-Bugden@ontario.ca

- (b) To the Municipal Partner:

Corporation of the
[insert]

Attention: [insert]

Telephone No.: [insert]

E-mail: [insert]

or to such other address or facsimile number as any party may from time to time designate in accordance with this Section. Any communication made by personal delivery or by courier shall be conclusively deemed to have been given and received on the day of actual delivery thereof or if such day is not a Business Day, on the first (1st) Business Day thereafter. Any communication made or given by facsimile on a Business Day before 4:00 p.m. shall be conclusively deemed to have been given and received on such Business Day and otherwise shall be conclusively deemed to have been given and received on the first (1st) Business Day following the transmittal thereof. Any communication that is mailed shall be conclusively deemed to have been given and received on the fifth (5th) Business Day following the date of mailing but if, at the time of mailing or within five (5) Business Days thereafter, there is or occurs a labour dispute or other event that might reasonably be expected to disrupt delivery of documents by mail, any communication shall be delivered or transmitted by any other means provided for in this Section.

ARTICLE VIII – MISCELLANEOUS

- 8.1 Entire Agreement.** This Agreement, including all documents contemplated hereby, constitutes the entire agreement between the parties with respect to the subject matter and supersedes all prior negotiations, undertakings, representations and understandings. No agreement purporting to amend or modify this Agreement or any document or paper relating thereto or connected herewith is valid and binding unless it is in writing and signed and accepted in writing by the Attorney General and the Municipal Partner.
- 8.2 Assignment.** The Municipal Partner may not assign this Agreement or any of the benefits or obligations hereunder to any person, without the prior written consent of the Attorney General. The Attorney General will have the right at any time to assign this Agreement and any of its rights and obligations hereunder to any person.
- 8.3 Waiver.** The failure or delay by a party in exercising any right or privilege with respect to the non-compliance with any provisions of this Agreement, and any course of action on the part of such party, shall not operate as a waiver of any rights of the party unless made in writing by such party. Any waiver by a party shall be effective only in the specific instance and for the purpose for which it is given and shall not constitute a waiver of any other rights and remedies of such party with respect to any other or future non-compliance.

- 8.4 Severability.** Each provision of this Agreement is intended to be severable. If any provision hereof is illegal or invalid, such illegality or invalidity shall not affect the validity of the remainder hereof.
- 8.5 Further Assurances.** Each party will at any time and from time to time, upon the request of the other party, execute and deliver such further documents and do such further acts and things as the other party may reasonably request in order to evidence, carry out and give full effect to the terms, conditions, intent, and meaning of this Agreement.
- 8.6 Enurement.** This Agreement shall enure to the benefit of and be binding upon the parties and their successors and their permitted assigns.
- 8.7 Survival.** Sections 5.1, 5.5, 6.4, 6.9, and 8.7 shall survive any termination, expiration, or cancellation of this Agreement.
- 8.8 Counterparts and Execution by Facsimile and Electronic Mail.** This Agreement may be executed in one or more counterparts each of which when so executed shall be deemed to be an original and such counterparts together shall constitute but one and the same instrument. Delivery of an executed copy of a signature page to this Agreement by facsimile transmission or electronic mail shall be effective as delivery of a manually executed copy of this Agreement and each party hereto undertakes to provide each other party hereto with a copy of this Agreement bearing original signatures forthwith upon demand.
- 8.9 Non-Agent.** The Municipal Partner shall have no power or authority to bind the Attorney General or to assume or create any obligation or responsibility, express or implied, on behalf of the Attorney General. The Municipal Partner shall not hold itself out as an agent, partner, or employee of the Attorney General. Nothing in this Agreement shall have the effect of creating an employment, partnership or agency relationship between the Attorney General and the Municipal Partner or constitute an appointment under the *Public Service of Ontario Act, 2006*, (Ontario).
- 8.10 Confidentiality.** The parties acknowledge that personal information, as defined under the *Freedom of Information and Protection of Privacy Act* (Ontario) and the *Municipal Freedom of Information and Protection of Privacy Act* (Ontario), will be disclosed and exchanged between the parties hereto and that such disclosure and exchange is authorized under the such acts.
- 8.11 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

[The remainder of this page is intentionally left blank; Signature page to follow.]

IN WITNESS HEREOF, each of the parties hereto has caused this Agreement to be executed as of the date first written above.

**HER MAJESTY THE QUEEN IN RIGHT OF
ONTARIO AS REPRESENTED BY THE
ATTORNEY GENERAL**

Susan Kyle,
Assistant Deputy Attorney General,
Criminal Law Division

CORPORATION OF THE

Name:
Title

Name:
Title

I/We have the authority to bind the corporation.

Ministry of the Attorney General

Crown Attorney's Office
Regional Municipality of Durham

150 Bond St. E, 3rd Floor
Oshawa, ON L1G 0A2

Tel.: 905 743-2700

Email :

VirtualCrownOshawa@Ontario.ca

Ministère du Procureur général

Procureur de la Couronne
Municipalité régionale de Durham

150 rue Bond E., 3e étage
Oshawa, ON L1G 0A2

Tél. : 905 743-2700

Courriel :

VirtualCrownOshawa@Ontario.ca



11 May 2022

Ms. Trish Best
Manager, Prosecution Services
Corporate Services – Legal Services
The Regional Municipality of Durham
605 Rossland Road East
Whitby, Ontario L1N 0B7

Dear Ms. Best,

Re: Proposed Transfer of Part III Prosecutions for the Provincial Offences Act

Recently, the Regional Municipality of Durham and the Durham Region Crown Attorney's Office began discussions regarding the transfer of most Part III *Provincial Offences Act* prosecutions to the Region. If fruitful, the transfer could possibly occur in July 2022. The purpose of this correspondence is to provide you with a snapshot of the approximate volume of our Part III prosecutions and the staff (prosecutors and business professionals) working on these cases.

Between 2015 and 2019, our office received, on average, approximately 5,740 Part III charges each year. During that time, on average, we disposed of approximately 5,946 cases each year. On average, 2,451 cases were disposed before trial each year, 2,565 were disposed on the trial date without a trial and 930 cases were disposed of on the trial date with a trial.

We currently rely upon two (2) full-time *per diem* POA Prosecutors. In addition, we rely on our articling students and Assistant Crowns to complete the remainder of the work. I estimate that the Assistant Crowns and articling students provide the equivalent of an addition two (2) full-time positions for POA prosecutions, focusing on complex litigation and cases involving serious bodily harm and fatalities. The lawyers, paralegals and students are supported by one (1) Legal Administrative Secretary (L.A.S.). Her full-time duties involve vetting files, providing disclosure, managing correspondence and trial preparation.

Cases involving complex legal issues and offences involving serious personal injury or death are currently assigned to assistant Crown Attorneys from the outset. Right now we have forty active cases involving deaths or serious personal injuries which are assigned to assistant Crown Attorneys. Post-transfer, most such cases would be prosecuted by your office.

Thank you, once again, for our ongoing dialogue regarding the transfer of Part III Prosecutions from our office to the Regional Municipality of Durham. Should you have any questions regarding this letter or Part III prosecutions generally, please do not hesitate to contact me by email at Michael.R.Newell@ontario.ca Alternatively, my phone number at the office is (905) 743-2780. My cell phone number is (905) 431-2179.

Yours very truly,

A handwritten signature in cursive script that reads "Michael Newell". The signature is written in black ink on a light-colored background.

Michael Newell
Deputy Crown Attorney
Durham Region Crown Attorney's Office

c.c.: Greg O'Driscoll, Crown Attorney; Deanna Barnes, Operations Manager

MEMORANDUM OF UNDERSTANDING

- between -

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO
as represented as the Attorney General**

- and -

THE REGIONAL MUNICIPALITY OF DURHAM

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MEMORANDUM OF UNDERSTANDING

BETWEEN:

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, as
represented by the Attorney General**

(herein referred to as "the Attorney General")

OF THE FIRST PART

- and -

THE REGIONAL MUNICIPALITY OF DURHAM

(herein referred to as "the Municipal Partner")

OF THE SECOND PART

WHEREAS the Attorney General recognizes that under the *Streamlining of Administration of Provincial Offences Act*, 1997, S.O. 1998, c.4, (Bill 108) future improvements in service delivery to the public for local justice matters can best be achieved in partnership with local governments;

AND WHEREAS the Attorney General has invited the Municipal Partner into the provincial court system as a justice partner;

AND WHEREAS the Municipal Partner has demonstrated its commitment to engage in full partnership with the Attorney General to assume justice responsibilities under the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended (hereinafter "*the Act*");

AND WHEREAS the Attorney General has the power under the *Act* to enter into an agreement authorizing the Municipal Partner to perform all courts administration and court support functions under the *Act* and prosecutions of matters commenced under Parts I and II of the *Act*;

AND WHEREAS the Attorney General continues to be responsible for the integrity of the administration of justice, the Attorney General will enter into a Memorandum of Understanding (which shall contain the same terms and conditions as this Memorandum of Understanding) with every Municipal Partner;

NOW THEREFORE in consideration of the mutual covenants set forth below, the Attorney General and the Municipal Partner agree as follows:

1.0 GENERAL

- Parts of the transfer agreement 1.1 The Memorandum of Understanding and its Schedules (referred to collectively as the "MOU"), the Local Side Agreement (referred to as the "LSA"), and any amendments to any of these executed by the Attorney General and the Municipal Partner shall form a document to be known as the Transfer Agreement.
- Court service area 1.2 The obligations of the Municipal Partner pursuant to the Transfer Agreement relate to the functions transferred under the Transfer Agreement in the court service area described in Schedule 5 of the MOU.
- Transfer components 1.3 The Attorney General transfers, under the Transfer Agreement, the following functions to the Municipal Partner;
- 1.3.1 the courts administration and court support functions, including the functions of the clerk of the court, for proceedings commenced under Parts I, II and III of the *Act* carried out by the Attorney General prior to the transfer, excluding some court administration and all court support functions on appeals of these matters;
 - 1.3.2 the prosecution of proceedings commenced under Part I of the *Act* carried out by the Attorney General prior to the transfer, except those excluded by paragraphs 1.4 and 1.5 of the MOU or by the LSA;
 - 1.3.3 the prosecution of any other proceedings commenced under Part I of the *Act*, subsequently transferred to the Municipal Partner;
 - 1.3.4 the prosecution of proceedings commenced under Part II of the *Act*, carried out by the Attorney General prior to the transfer;
 - 1.3.5 the prosecution of matters designated as contraventions under the *Contraventions Act* (Canada) and commenced under Part I of the *Act*, except those excluded by paragraph 1.4 or 1.5 of the MOU or by the LSA;
 - 1.3.6 the conduct of appeals of proceedings commenced under Parts I and II of the *Act* where the Attorney General transferred the prosecution of the proceeding to the Municipal Partner under the Transfer Agreement; and,

1.3.7 Notwithstanding paragraph 1.3.6, where the Attorney General files an appeal in relation to a matter commenced under Part I of the Act the Attorney General shall conduct the prosecution of the appeal.

Exception court
administration and
court support

1.4 Notwithstanding anything else in the Transfer Agreement, court administration and court support functions relating to proceedings commenced under the Act shall not be transferred in respect of proceedings where any of the following conditions exist:

1.4.1 the proceeding is against a young person as defined in Part VI of the Act;

1.4.2 criminal proceedings have also been commenced in relation to the same circumstances; or

1.4.3 the defendant who is charged with a criminal offence pleads guilty to a substituted provincial offence or a substituted offence that has been designated as a contravention under the *Contraventions Act* (Canada).

Exception
Prosecutions

1.5 Notwithstanding anything else in the Transfer Agreement, the conduct of the prosecution carried out by the Attorney General prior to the transfer for the following matters shall not be transferred to the Municipal Partner:

1.5.1 prosecution of proceedings commenced under Part I of the Act described in paragraph 1.4 of the MOU or as set out in the LSA;

1.5.2 prosecution of proceedings commenced under Part I of the Act where a proceeding has also been commenced under Part III of the Act in relation to the same circumstances;

1.5.3 prosecution of proceedings commenced under Part III of the Act, but the Municipal Partner shall continue to prosecute offences under municipal by-laws, the Fire Code, the Building Code and any other matters for which the Municipal Partner was responsible before the Transfer Agreement comes into effect, including any new requirements under the *Fire Protection and Prevention Act*, 1997, S.O. 1997 c.4;

1.5.4 prosecution of offences designated as contraventions under the *Contraventions Act* (Canada) and that are commenced under Part III of the *Act*, that do not relate to the unlawful standing, stopping or parking of a motor vehicle.

Exception parking contraventions

1.6 Notwithstanding anything else in the Transfer Agreement, offences that relate to the unlawful standing, stopping or parking of a motor vehicle and designated as contraventions under the *Contraventions Act* (Canada) and commenced under Part II or Part III of the *Act* shall be administered and prosecuted in accordance with any agreement made under sections 65.2 and 65.3 of the *Contraventions Act* (Canada).

Other ministry right to intervene

1.7 Notwithstanding anything else in this Transfer Agreement, where the Attorney General transfers to the Municipal Partner the prosecution of proceedings that were, prior to the transfer, carried out by the Attorney General, on behalf of another Ministry other than the Ministry of the Attorney General, the Attorney General shall retain the right to intervene, on behalf of such other Ministry, in a proceeding and conduct the prosecution, and where necessary an appeal, and the cost of any such prosecution and appeal shall be borne by that Ministry.

No agency

1.8 Employees, agents, contractors, members of council and officers of the Municipal Partner shall not be deemed to be employees, agents or officials of Ontario.

Attorney General right to intervene

1.9 Nothing in the Transfer Agreement affects the Attorney General's right to intervene in a proceeding. Where the Attorney General develops an intervention policy with respect to particular proceedings under the *Act*, the Municipal Partner acknowledges that once it is informed, it will adhere to the policy.

Contents of MOU

1.10 The MOU sets out standards for the conduct of prosecutions, for the administration of the courts and for the provision of court support services, and sanctions for failure to meet the standards, in accordance with subsections 162(3) and 162(4) of the *Act*.

Effective date

1.11 This MOU shall take effect from the date on which the Local Side Agreement is signed by or on behalf of the Attorney General after having been signed by the Municipal Partner and shall remain in effect unless suspended, terminated or revoked, regardless of whether there is a change in the person of the Attorney General or in the council or councils of the Municipal Partner.

Goal: modern, efficient justice system

1.12 The Attorney General and the Municipal Partner shall work together to improve services to the public with the goal of putting in place the most modern, efficient and effective justice system attainable.

- | | | |
|---|------------|---|
| Municipal partner accountability | 1.13 | In fulfilling its responsibilities under the Transfer Agreement, the Municipal Partner is accountable to the public who are receiving court services, its serviced municipalities, other municipal partners, Ontario and the Government of Canada. |
| No discrimination | 1.14 | In fulfilling its responsibilities under the Transfer Agreement, the Municipal Partner shall ensure that there is no discrimination under the <i>Human Rights Code</i> , R.S.O. 1990, c.H.19, and that there is no discrimination in the performance of functions under the Transfer Agreement on the basis of place of residence. |
| No impact on powers and duties of judiciary | 1.15 | Nothing in the Transfer Agreement shall be taken to affect the powers, duties and appointment of the judiciary, including the powers, duties and appointment of justices of the peace pursuant to the <i>Justices of the Peace Act</i> , R.S.O. 1990, c.J.4, the powers and duties of the Associate Chief Judge - Co-ordinator of Justices of the Peace or of the Chief Judge of the Ontario Court - (Provincial Division). |
| No alteration to enforcement | 1.16 | Nothing in the Transfer Agreement shall be construed so as to alter the roles and functions of police services and other law enforcement agencies, as otherwise required by law. |
| | 2.0 | PRINCIPLES OF TRANSFER: INTEGRITY OF THE ADMINISTRATION OF JUSTICE, JUDICIAL INDEPENDENCE AND FAIR HEARING |
| Guiding principles | 2.1 | In fulfilling their roles and responsibilities under the Transfer Agreement, the parties recognize and shall respect and adhere to the following guiding principles: |
| Judicial independence | 2.1.1 | The independence of the judiciary shall be preserved. |
| Public confidence in justice system | 2.1.2 | The confidence of the public in the justice system must be maintained through every effort by all parties. To this end, open access to the system and a fair and timely process must be assured. |
| Fairness and natural justice | 2.1.3 | The fundamental tenets of procedural fairness and natural justice shall be affirmed and upheld. |
| Separation of prosecution and police | 2.1.4 | The separation of the prosecutorial function and the policing function shall be assured. |

Attorney General's responsibility

2.1.5 The Attorney General will continue to be responsible for the integrity of the administration of justice in Ontario, pursuant to the *Ministry of the Attorney General Act*, R.S.O. 1990, c. M.17.

French language services

2.1.6 The officially bilingual court system in Ontario, as prescribed by the *Courts of Justice Act*, R.S.O. 1990, c. C.43, continues, including the provision of a prosecutor who speaks French and English when a bilingual trial is requested on a charge that is covered by the Transfer Agreement. In areas that are or become designated under the *French Language Services Act*, R.S.O. 1990, c. F.32, out-of-court services in French must be provided at the same levels as are provided by the Attorney General.

No political intervention

2.1.7 The entire justice process, from the laying of charges through to final disposition of appeals, shall continue to operate independently and free from political intervention.

3.0 DEFINITIONS

3.1 In the Transfer Agreement the following terms, words and phrases shall have the following meaning, except where the context clearly indicates otherwise:

Court service area

3.1.1 "Court Service Area" means the geographic area as described in Schedule 5 of the MOU, in which the transferred court services and prosecution services are provided;

Exit audit

3.1.2 "Exit Audit" means an audit conducted by the Attorney General and an independent auditor prior to the date that the Municipal Partner begins performing the functions transferred to it under the Transfer Agreement. The scope of the exit audit shall be determined by the Attorney General in consultation with the Municipal Partner. The results of the audit shall be provided to the Municipal Partner within a reasonable time of its completion.

Fiscal year

3.1.3 "Fiscal Year" means the 12 month period for which the financial statements of the Municipal Partner are prepared in accordance with the *Municipal Act*, R.S.O. 1990, c.M. 45;

Interim Audit

3.1.4 "Interim Audit" refers to the first phase of the Exit Audit conducted by or on behalf of the Attorney General prior to the signing of the Local Side Agreement.

Intermunicipal service agreement	3.1.5 "Intermunicipal Service Agreement" means an agreement between the Municipal Partner and one or more serviced municipalities as referred to in paragraph 5.3.5 of the MOU;
Local side agreement	3.1.6 "Local Side Agreement" or "LSA" means an agreement executed between the Attorney General and the Municipal Partner dealing with matters specific to the court service area, or that are not provided for in the MOU or in law;
Municipal partner	3.1.7 "Municipal Partner" means the municipality or municipalities or other organizations that have entered into the Transfer Agreement with the Attorney General.
Ontario	3.1.8 "Ontario" includes the Ministry of the Attorney General and other Ministries of the Government of Ontario;
Review committee	3.1.9 "Review Committee" means a provincial committee established pursuant to section 172 of the Act, whose composition and functions are determined by regulation made under clause 174 (c) of the Act; and as further specified in the MOU;
Serviced municipality	3.1.10 "Serviced Municipality" means a municipality or other organization for which court administration, court support or prosecution services transferred under this Transfer Agreement are provided by the Municipal Partner in the court service area as described in Schedule 5 of the MOU;
Streamlining phase	3.1.11 "Streamlining Phase" means the period of time beginning on the day after the last day of the Transition Phase; and
Transition phase	3.1.12 "Transition Phase" means the period of time beginning on the date that the first Transfer Agreement pursuant to subsection 162(1) of the Act is signed to the date that is six months following the date on which the last Transfer Agreement is signed, thereby completing the transfer of functions in all court service areas.
Notice re: phase dates	3.2 For the purpose of the definitions of "Streamlining Phase" and "Transition Phase", the Attorney General shall notify the Municipal Partner of the respective dates once they are ascertained.

4.0 INTERPRETATION

- Interpretation re: principles 4.1 The Transfer Agreement shall be interpreted in such a way as to give effect to the Principles set out in paragraph 2.0 of the MOU.
- Conflicts between LSA and MOU 4.2 In the event of any conflict between the provisions of the LSA and the provisions of the MOU including its schedules, the provisions of the MOU shall prevail.
- Conflict between transfer agreement and law 4.3 The Transfer Agreement shall not affect, modify or interfere with the rights, duties and responsibilities of the Attorney General or the Municipal Partner at law. If there is a conflict between one or more of the provisions of the Transfer Agreement and the laws of Ontario or of Canada, the law shall prevail and the conflicting provision shall be of no force or effect. Where the Transfer Agreement provides for a higher standard than the minimum standard provided by law, this shall not be deemed to be a conflict for the purpose of this provision.
- Severability of clauses 4.4 If any one or more of the provisions of the Transfer Agreement is held by a court of competent jurisdiction to be voidable or *ultra vires*, the provision or provisions shall be severed from the Transfer Agreement. The rest of the Transfer Agreement shall continue in force according to its terms and conditions and, provided that the context allows, its provisions shall be interpreted in the same way as they would have been had the severance not taken place.
- Amendments incorporated 4.5 The Transfer Agreement may be amended at any time during the term of the Agreement, following the process set out in paragraph 12.0. The amendment must be made in writing and executed by both parties. Any such amendment or amendments shall be deemed to be incorporated into and become part of the Transfer Agreement.
- Deemed amendment where legislation has changed 4.6 The Transfer Agreement shall, if necessary, be deemed to have been amended to accord with any changes to the *Act*, the regulations made thereunder; the *Contraventions Act*, (Canada) and the regulations and schedules made thereunder; and any other legislation and regulations that have an impact on the Transfer Agreement.
- Marginal notes - no effect 4.7 Marginal notes beside the paragraphs shall have no legal effect, and shall not be considered in construing the Transfer Agreement.

5.0 ROLES AND RESPONSIBILITIES OF THE PARTIES

5.1 The Attorney General is responsible for:

Policy/legislative reviews

5.1.1 conducting policy and legislative reviews of the *Act* and the regulations made under it;

Advising of legislative and policy changes

5.1.2 advising the Municipal Partner in a timely manner of legislative or government policy changes that have an impact on the Transfer Agreement;

Proposing legislative amendments

5.1.3 proposing amendments to the *Act* before the Legislature or making or amending regulations;

Monitoring

5.1.4 monitoring the performance of the Municipal Partner's responsibilities under the Transfer Agreement, to ensure all standards are met;

Sanctions

5.1.5 imposing sanctions set out in this MOU where the Municipal Partner does not meet the standards referred to in paragraph 5.1.4;

Review committee

5.1.6 establishing a Review Committee prior to the end of the Transition Phase, whose composition and functions shall be determined by regulation made pursuant to the authority in clause 174(c) of the *Act*;

Transition training

5.1.7 determining the training needs to facilitate the transfer of functions under the Transfer Agreement, such training to be provided and funded by Ontario; and,

Exit audit

5.1.8 the performance of an exit audit, such audit to be funded by Ontario.

Delegation by the Attorney General

5.2 The Attorney General may delegate any powers, duties or responsibilities under the Transfer Agreement to any government official or employee except a decision pursuant to section 171 of the *Act*.

5.3 The Municipal Partner shall:

Performance of duties under transfer agreement

5.3.1 carry out its duties and obligations in accordance with the terms and conditions of the Transfer Agreement, and in particular the Principles set out in paragraph 2.0 of the MOU, and in accordance with the *Act* and all other relevant legislation and regulations;

Same range and level of service delivery as Attorney General

5.3.2 provide, at minimum, the same services and level of service delivery as were provided by the Attorney General before the transfer. Where there is a variance between the services and the level of service identified in the interim audit and the standards set out in this MOU and its schedules, the manner in which this variance will be addressed will be set out in the LSA.

French language services continue

5.3.3 continue to provide out-of-court services in the French language, where those services were provided by the Attorney General before the transfer, in areas designated under the *French Language Services Act*, R.S.O. 1990, c. F.32, including introducing such services if part or all of the court service area becomes designated under that Act after the effective date of the Transfer Agreement;

Bilingual prosecutor

5.3.4 provide a prosecutor who speaks French and English when a bilingual trial is requested on a charge that is covered by the Transfer Agreement;

Intermunicipal service agreement

5.3.5 maintain an intermunicipal service agreement with all serviced municipalities which includes obligations and arrangements regarding court administration, court support, prosecutions, reporting, revenue-sharing and local dispute resolution;

Perform duties re: serviced municipalities

5.3.6 carry out its duties and obligations to serviced municipalities as specified in the Transfer Agreement and in the intermunicipal service agreement;

Operations process review

5.3.7 participate in a review of the operations process during the streamlining phase;

Consult re: changes in procedure or processes

5.3.8 consult with the Attorney General, and such other interested parties as the Attorney General may direct, with regard to changes in procedural guidelines; prosecutorial, court administration or court support processes; and changes to case management procedures and court master plans, it being understood that any changes to case management procedures and court master plans are subject to the approval of the judiciary;

Establish complaints process

5.3.9 establish and maintain a process for dealing with complaints to ensure expeditious and effective resolution of day-to-day issues by the Municipal Partner at the local level.

Reporting contentious matters

5.3.10 ensure that matters that may be significant or contentious including, but not limited to, alleged prosecutorial impropriety or misconduct or constitutional challenges are brought to the attention of the Attorney General as expeditiously as possible.

Privacy and confidentiality guidelines

5.3.11 if not already established, develop guidelines to be used by elected officials and employees for the protection of privacy and confidentiality of personal information;

Conflict of interest guidelines

5.3.12 if not already established, develop conflict of interest guidelines to be used by elected officials and employees in accordance with the principles, responsibilities and standards set out in the Transfer Agreement, and shall file the conflict of interest guidelines with the Attorney General;

Single source purchase of forms

5.3.13 purchase sequentially numbered charge and service related documents and other court related forms as required from a single source, as approved by the Attorney General, in accordance with paragraph 6.0 of Schedule 2; and

Enforcement

5.3.14 collect and enforce fines authorized under subsections 165(1) and (2) of the Act in accordance with the Act, related regulations and any other enforcement proceedings authorized by law.

Municipal partner agreement with third party

5.4 The Municipal Partner may enter into an agreement with a third party in accordance with paragraph 9.0 of Schedule 2 of the MOU, with the Attorney General's consent.

Third party - same standards as municipal partner

5.5 An agreement between the Municipal Partner and a third party for the performance of any function under the Transfer Agreement shall include a provision which deems the third party to be the Municipal Partner's agent at all times and binds it to the Transfer Agreement's provisions.

Municipal partner to follow general policy

5.6 Where the Municipal Partner enters into an agreement for the acquisition of services relating to its obligations under the Transfer Agreement, the Municipal Partner shall follow generally accepted procedures or its existing policy and procedures relating to the acquisition of services, provided such procedures meet the minimum requirements set out in Schedule 2, paragraph 9.0 of the MOU.

6.0 REVENUES AND COSTS

- Authority to collect and enforce fine payments 6.1 The Municipal Partner has the authority to collect fines, fees, costs and surcharges and enforce their payment, pursuant to subsections 165(1) and (2) of the *Act*. Collection, enforcement and disbursement of revenue are to be carried out as specified in the Transfer Agreement, the Municipal Partner's intermunicipal service agreement and relevant legislation and regulations.
- Monies to be separated and identified 6.2 All monies received by the Municipal Partner in respect of fines, surcharges and fees pursuant to paragraph 6.1 of the MOU are to be separated and clearly identified in the books of the Municipal Partner and are subject to audit in accordance with paragraph 9.0 of the MOU.
- Separate trust account 6.3 All monies received by the Municipal Partner in respect of fines, surcharges and fees that are payable to Ontario pursuant to subsection 165(5) of the *Act*, are to be separated and clearly identified in the books of the Municipal Partner and are subject to audit in accordance with paragraph 9.0 of the MOU. All such monies owing shall be remitted to Ontario in a timely manner.
- Payment of Attorney General costs 6.4 The Municipal Partner shall remit to the Minister of Finance, in a timely manner, any amounts owing pursuant to clause 165(5)(c) of the *Act*, for costs incurred by the Attorney General for adjudication and prosecution and for monitoring and enforcing the Transfer Agreement. The method for calculating the amounts owing to the Minister of Finance shall be specified in the LSA.
- Net revenue division 6.5 Revenues, net of amounts calculated and remitted in accordance with subsections 165(5) and (6) of the *Act*, shall be retained by the Municipal Partner. The net revenue, including revenue from fines under the Fire Code under the *Fire Protection and Prevention Act*, 1997, S.O. 1997 c.4, may be divided between the Municipal Partner and serviced municipalities in accordance with their intermunicipal service agreement, any relevant legislation, regulation and municipal by-laws. The Municipal Partner shall remit any monies owing to serviced municipalities and to other municipal partners, in a timely manner.
- Fines imposed before transfer 6.6 In accordance with clauses 166(a) & (b) of the *Act*, the Municipal Partner may collect, enforce and retain fines that were imposed before the Transfer Agreement was executed.

7.0 ACCESS AND OWNERSHIP

Access to information, records, etc.

7.1 Subject to the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, Ontario shall permit the Municipal Partner to have access to such information, data and records, including software data and the relevant information contained therein, as the Municipal Partner may require to carry out its obligations under the Transfer Agreement. Ontario shall at all times retain ownership rights to the data, information, operating systems and software.

No warranty re: information

7.2 Ontario shall use reasonable efforts to ensure that the information to which the Municipal Partner will have access is reliable and accurate, but does not guarantee the accuracy or completeness of such information.

Use of data

7.3 The Municipal Partner shall not sell or otherwise provide to any other person or organization any of the data or information to which it is permitted access pursuant to the Transfer Agreement, or extract from the information or data, or create from the information or data, lists of personal or other information for any purpose other than for the purpose of its obligations under the Transfer Agreement.

Transfer of assets

7.4 The Attorney General may, in accordance with Ontario's policies, transfer to the Municipal Partner such premises, vehicles, furniture and equipment presently owned or used by Ontario in the carrying out of court services, as may be agreed upon by the parties and as specified in the LSA.

Attorney General's efforts re: municipal partner's assumption of contracts

7.5 The Attorney General shall use reasonable efforts to assist the Municipal Partner in assuming contracts and in obtaining rights to licences and leases currently held or entered into by Ontario.

8.0 ACCOUNTING REQUIREMENTS

Detailed accounts and records

8.1 The Municipal Partner shall, during the term of the Transfer Agreement and for four years following the termination, expiry or revocation of the Transfer Agreement, maintain detailed and accurate accounts, records, books and data of all financial transactions undertaken by it pursuant to the Transfer Agreement, prepared in accordance with generally accepted accounting principles (GAAP).

Adequate financial controls

8.2 The Municipal Partner shall ensure that there are adequate financial controls in place at the premises of the Municipal Partner, and for greater certainty, shall use its best efforts to

ensure the protection of the accuracy, completeness and auditability of all financial data, the segregation of responsibilities in the accounting function, and shall institute adequate management controls.

Semi-annual reports to Attorney General

8.3 The Municipal Partner shall maintain accurate accounting and reconciliation records for each court location in its court service area, including data on the amount of revenue collected and the amount outstanding and shall, within two months after the end of the preceding 6 month period, or as otherwise directed by the Attorney General, prepare and submit semi-annual reports to the Attorney General.

Annual report

8.4 The Municipal Partner shall on or before March 31 in each year during the term of the Transfer Agreement and in the year following its termination, expiry or revocation, prepare and submit to the Attorney General an Annual Report for the previous fiscal year on the performance of its obligations under the Transfer Agreement.

Form of reports

8.5 Reports prepared by the Municipal Partner may be submitted in electronic or paper form or both, as determined by the Attorney General.

9.0 AUDIT REQUIREMENTS

Annual financial audit

9.1 Each year during which the Transfer Agreement is in effect, the Municipal Partner shall, at its own cost, have prepared and submitted to the Attorney General and the Ministry of Finance annual audited financial statements for its fiscal year, together with the requisite supporting schedules, certified by an independent public accounting firm. The certification shall state that the firm has examined the accounts, records, books and data relating to the transactions undertaken by the Municipal Partner pursuant to the Transfer Agreement, in accordance with generally accepted auditing standards and shall express an opinion that they are fairly presented in accordance with the provisions of the Transfer Agreement.

If third party or serviced municipality performs municipal partner function-audit required

9.2 Where the Municipal Partner enters into an agreement with a third party, or a Serviced Municipality, to perform any of its functions pursuant to the Transfer Agreement, the Municipal Partner shall at its own cost have prepared and submitted to the Attorney General and the Ministry of Finance, annual audited financial statements for the Municipal Partner's fiscal year, together with the requisite supporting schedules, certified by an independent public accounting firm. The certification shall state that the firm has examined the accounts, records, books and

data relating to the transactions undertaken by the third party or Serviced Municipality pursuant to its agreement and the Transfer Agreement in accordance with generally accepted auditing standards, and shall express an opinion that they are fairly presented in accordance with the provisions of both agreements.

- Discretionary audit** 9.3 The Attorney General may in its discretion and at any time cause an audit to be made of the Municipal Partner's accounts, records, books and data related to transactions undertaken by the Municipal Partner pursuant to the Transfer Agreement and for this purpose the Attorney General or its agents may enter onto the premises of the Municipal Partner or its assignees, with reasonable notice, and the Municipal Partner and its assignees shall co-operate fully. The Attorney General shall provide the results of the audit to the Municipal Partner within a reasonable time of its completion.
- Management process audit** 9.4 The Attorney General or its agents may at any time undertake or require to be undertaken a management process audit related to the obligations of the Municipal Partner under the Transfer Agreement, and for this purpose the Attorney General or its agents may enter onto the premises of the Municipal Partner or its assignees, with reasonable notice, and the Municipal Partner and its assignees shall co-operate fully. The Attorney General shall provide the results of the audit to the Municipal Partner within a reasonable time of its completion.
- Municipal partner's own audit** 9.5 Where the Municipal Partner carries out any audit in relation to its obligations under the Transfer Agreement, it shall provide the results to the Attorney General within a reasonable time of its completion.
- Business hours access to records, etc. by Attorney General** 9.6 For the purpose of ensuring performance of the terms and conditions of the Transfer Agreement, the Attorney General or its agents shall during regular business hours have direct and unrestricted access to all books, records, files, manuals, systems, and any other pertinent documentation, papers, things and property belonging to, or in use by, and to all persons employed by the Municipal Partner, or its assignees associated with or related to the Transfer Agreement, except such as may be sealed under statute or by order of a court.
- Provincial auditor** 9.7 The accounts, records, books and data related to transactions undertaken by the Municipal Partner pursuant to the Transfer Agreement may be audited by the Provincial Auditor.
- Audit expenses** 9.8 The Municipal Partner shall bear all costs and expenses for audits under paragraphs 9.1, 9.2 and 9.5, and where audits performed under paragraphs 9.3 or 9.4 report a material breach of any standard or requirement under the Transfer Agreement.

10.0 OPERATIONAL REPORTING REQUIREMENTS

Reporting rationale

10.1 The purpose of the reporting requirements under the Transfer Agreement is to facilitate effective operational planning, performance measurement, early identification and early-stage resolution of issues, and the sharing of best practices.

Accurate statistical data

10.2 The Municipal Partner shall use its best efforts to ensure the accuracy and availability of the following data for each court location in its court service area for functions transferred under the Transfer Agreement:

10.2.1 number of charges received, by case number and statute, subdivided into Parts I, II and III of the *Act*;

10.2.2 number of charges disposed and their dispositions;

10.2.3 number of charges sentenced with sentence types;

10.2.4 number of trial requests, including requests for French trials;

10.2.5 courtroom utilization by person type and session type;

10.2.6 average time from service date to trial;

10.2.7 number of appeals and their dispositions;

10.2.8 number of charges pending, with future court date;

10.2.9 incidence of error in data transmission to provincial ministries;

10.2.10 changes to court master plans;

10.2.11 number of charges received with or without completion date; and

10.2.12 any other data necessary to meet the reporting requirements.

Municipal partner to ensure that data is available

10.3 The Municipal Partner shall ensure that the information referred to in paragraph 10.2 is available as required by the judiciary, the Crown Attorney, the staff of the Ministry of the Attorney General and the staff of the Government of Canada.

Accurate operational data

10.4 The Municipal Partner shall keep an accurate record of the incidence and manner of resolution of the following:

10.4.1 disputes and complaints and their source, including any matter that proceeds through the dispute resolution process set out in paragraph 13.0 of the MOU;

10.4.2 conflicts of interest;

10.4.3 breaches of ethics or law in the performance of functions under the Transfer Agreement; and

10.4.4 financial or administrative irregularities.

Reports quarterly

10.5 The Municipal Partner shall prepare and submit to the Attorney General quarterly reports in relation to matters referred to in paragraph 10.4 of the MOU.

Report on significant matter forthwith

10.6 If a matter referred to in paragraph 10.4 of the MOU may affect the proper administration of a statute, or is a matter that can reasonably be expected to attract substantial public interest, the Municipal Partner shall advise the Attorney General forthwith.

Requested reports

10.7 Notwithstanding anything else in the Transfer Agreement, the Attorney General may at any time request any kind of report from the Municipal Partner, and the Municipal Partner shall use its best efforts to comply with the request in a timely manner.

Form of reports

10.8 Reports prepared by the Municipal Partner may be submitted in electronic or paper form or both, as determined by the Attorney General.

11.0 CONFIDENTIALITY

Personal information exchange

11.1 The Transfer Agreement requires that personal information be exchanged between Ontario and the Municipal Partner.

Exchange of information between parties

11.2 An agreement between:

11.2.1 a Municipal Partner and a serviced municipality;

11.2.2 a Municipal Partner and a third party;

11.2.3 Ontario and a third party; or

11.2.4 any of the parties

may require that personal information be exchanged between the parties.

FOIPOP Acts' application

11.3 The disclosure and the exchange of information referred to in paragraphs 11.1 and 11.2 of the MOU are authorized by subsection 42(e) of the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, and by subsection 32(e) of the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56.

12.0 AMENDMENTS TO THE MOU

Request to amend

12.1 Either party may at any time make a written request to amend the terms and conditions of the MOU.

Reason for the request

12.2 Any request to amend shall set out the reasons for the request and shall include any explanatory or supporting documents.

Notice to municipal partners

12.3 Where the Attorney General makes a request to amend the terms and conditions of the MOU or where the Municipal Partner and the Attorney General agree to the Municipal Partner's requested amendment, the Attorney General shall notify all municipal partners in writing of the requested amendment.

Written response

12.4 Any Municipal Partner may respond to the notice of a request for an amendment by providing a written response to the Attorney General within 30 days of receiving a copy of the notice of the request to amend. Where a Municipal Partner fails to respond within the 30 day period, it will be deemed not to oppose the amendment.

Agreement to amend

12.5 Where the Attorney General and all municipal Partners agree to amend the MOU, the amendment shall be made in writing and shall form part of the Transfer Agreement.

Dispute re: amendment

12.6 Where the Attorney General and the Municipal Partner, including any Municipal Partner who receives notice under paragraph 12.3, disagree with the requested amendment and the issue can not be resolved, the Attorney General or any Municipal Partner may invoke the dispute resolution mechanism set out in paragraph 13.0 of the MOU.

13.0 DISPUTE RESOLUTION

Principle

13.1 The parties agree to foster and participate in a co-operative approach to the resolution of disputes arising under the Transfer Agreement. The parties also agree that all reasonable efforts will be made to resolve disputes informally and amicably at an early stage at the local level.

Scope	13.2	In the event that a dispute arises between the Attorney General and the Municipal Partner with respect to the terms and conditions of the Transfer Agreement, the parties to this Transfer Agreement agree to use the mechanism set out in this paragraph to resolve the dispute.
Exception - judiciary	13.3	The provisions of this paragraph do not apply to issues relating to the judiciary.
Mediation to be considered	13.4	Where the parties to this Transfer Agreement are unable to resolve a dispute without the assistance of a neutral third party, the parties shall consider using the services of a mediator to facilitate resolution of the dispute.
Role of mediator	13.5	Where the parties to this Transfer Agreement agree to use the services of a mediator, the parties shall jointly select the mediator and the cost of the mediator's services shall be shared equally by the parties. The mediator shall inquire into the issues in dispute and shall attempt to assist the parties in resolving the dispute. All information exchanged during the mediation process shall be for the purpose of resolving the issues in dispute, and therefore shall be treated as confidential.
Referral to review committee	13.6	Whether or not a mediation has taken place, if the parties to this Transfer Agreement are unable to resolve the dispute, the matter may be referred by either party, in writing, to the Review Committee for recommendations, with written notice to the other party.
Review committee - referring party	13.7	A party referring a dispute to the Review Committee, shall identify the issues in dispute and shall provide the Review Committee with any supporting material upon which the party intends to rely.
Review committee - responding party	13.8	The responding party shall provide the Review Committee and the referring party with a written response, and any supporting material upon which it intends to rely, within 30 days of receiving notice that the matter has been referred to the Review Committee.
Recommendation of review committee	13.9	The Review Committee may recommend to the parties how the matter ought to be resolved, and shall provide the parties with a reasonable amount of time to implement the recommendations.
Failure to Implement Recommendations	13.10	Where the Municipal Partner fails to implement a recommendation of the Review Committee within the time period set by the Review Committee, the Review Committee may invoke the compliance provisions set out in paragraph 1.0 of Schedule 3 of the MOU.

Court remedy preserved

13.11 Nothing in the Transfer Agreement precludes a party to the Transfer Agreement from submitting a dispute to a court of competent jurisdiction.

14.0 LIMITATION OF LIABILITY

No liability for municipal partner, employees, etc.

14.1 Ontario shall not be liable or responsible in any way for any injury or damages whether physical or economic, direct or consequential, of any kind (including death) that may be suffered or sustained by the Municipal Partner, or any member of council, officer, employee, agent, contractor, member of the judiciary, accused person, police officer or any other person who may be in, or in the vicinity of, a courtroom or court office administered by the Municipal Partner, or for any loss or theft of, or damage or injury to, any property belonging to the Municipal Partner or members of council, officers, employees, agents, contractors, members of the judiciary, accused persons, police officers or any other person, while such property is in, or in the vicinity of, a courtroom or court facility administered by the Municipal Partner.

15.0 INDEMNIFICATION

Municipal partner to indemnify Ontario for its action, etc. re: transfer.

15.1 The Municipal Partner shall indemnify and save harmless Ontario, its officers, employees, agents and contractors, from all manner of claims, losses, costs, expenses, actions or proceedings of any kind or nature whatsoever based on, occasioned by or attributable to anything done or omitted to be done by the Municipal Partner or by its members of council, officers, employees, agents or contractors in connection with the Transfer Agreement, or with the performance of the Municipal Partner's obligations under the Transfer Agreement.

Ontario to indemnify Municipal Partner for its actions, etc. re: transfer

15.2 Ontario shall indemnify and save harmless the Municipal Partner, its members of council, officers, employees, agents and contractors, from all manner of claims, losses, costs, expenses, actions or proceedings of any kind or nature whatsoever based on, occasioned by or attributable to anything done or omitted to be done by Ontario or by its officers, employees, agents or contractors in connection with the Transfer Agreement, or with the performance of Ontario's obligations under the Transfer Agreement.

16.0 INSURANCE

Claims against Municipal Partner

16.1 The Municipal Partner shall protect itself from and against all claims that might arise from anything done, purported to be done or omitted to be done under the Transfer Agreement by the

Municipal Partner, its members of council, officers, employees, agents or contractors.

Comprehensive
general liability
insurance policy

16.2 For the purpose of paragraph 16.1 of the MOU, and without restricting the generality of that paragraph, the Municipal Partner shall, at its own expense, maintain in full force and effect during the term of the Transfer Agreement, a policy of comprehensive general liability insurance, in form and substance acceptable to Ontario and written by a responsible carrier or carriers acceptable to Ontario, providing coverage for a limit of not less than five million dollars (\$5,000,000.00) per occurrence for any cause of action, demand or claim with respect to personal injury (including death) or property damage, including loss of use thereof, and for any cause of action, demand or claim arising out of or occurring in connection with the obligations of the Municipal Partner under the Transfer Agreement, including, but not limited to, a cause of action, demand or claim with respect to defamation; false arrest, detention, imprisonment; malicious prosecution; contravention of rights guaranteed under the *Canadian Charter of Rights and Freedoms*; and errors and omissions insurance.

Required clauses
for policy

16.3 The policy of insurance referred to in paragraph 16.2 of the MOU shall include the following terms:

16.3.1 a clause adding Her Majesty the Queen in Right of Ontario as represented by the Attorney General, its officers, employees, agents and contractors as additional named insureds;

16.3.2 a cross-liability insurance clause endorsement acceptable to Ontario;

16.3.3 a clause requiring the insurer to provide 30 days' prior written notice to Ontario in the manner set forth in the policy in the event of the termination, expiry, variation or non-renewal of the policy;

16.3.4 a clause providing that the protection for Ontario under the policy will not be affected in any way by any act or omission of the Municipal Partner, its members of council, officers, employees, agents or contractors; and

16.3.5 a clause including liability arising out of contract or agreement.

Proof of insurance

16.4 The Municipal Partner shall, immediately upon request, provide Ontario with proof of the insurance coverage in the form of a certificate, and a copy of the relevant portion or portions of the policy that incorporate the terms and clauses set out in paragraph 16.3 of the MOU.

17.0 TERMINATION WITH OR WITHOUT CAUSE

Termination without cause

17.1 Either party may terminate the Transfer Agreement without cause by giving nine months' express written notice to the other party.

Termination with cause

17.2 Either party may terminate the Transfer Agreement with cause by giving one month's express written notice to the other party.

17.3 Where termination notice is given:

Transfer of intellectual and other property during termination period

17.3.1 the Municipal Partner shall provide to the Attorney General unfettered access to any property requested by the Attorney General including, but not limited to, systems, records, data, information and material in the possession or control of, or owned by, the Municipal Partner as may be required to ensure the continued effective administration of justice;

Property rights on termination

17.3.2 all rights in the property described in paragraph 17.3.1 of the MOU transferred by Ontario to the Municipal Partner, and any records, data, information and material accumulated during the performance of the Transfer Agreement shall vest in and become the property of Ontario, and the Municipal Partner shall immediately transfer such property to the Attorney General; and

Termination plan

17.3.3 the Municipal Partner shall either cease or continue to perform functions under the Transfer Agreement during the notice period in accordance with a termination plan approved by the Attorney General.

Access to transferred property

17.4 Notwithstanding paragraph 17.3.2;

17.4.1 the Municipal Partner shall be entitled to access all transferred property, including the right to make and keep copies of documents, where the Municipal Partner is named or otherwise becomes a party to any legal proceedings, or is put on notice that it will be named as a party in legal proceedings, arising from or in connection with the performance by the Municipal Partner of its functions under the Transfer Agreement; and

17.4.2 property shall not include property purchased by the Municipal Partner from the Attorney General or a third party unless otherwise agreed to by the parties.

- Components of termination plan** 17.5 The termination plan referred to in paragraph 17.3.3 of the MOU may include provisions for the transfer of any courts administration, court support or prosecution functions from the Municipal Partner to any replacement or alternative Municipal Partner or other entity, named by the Attorney General.
- Duty to inform** 17.6 The Municipal Partner shall keep the Attorney General informed of all matters that are necessary for the Attorney General to ensure the effective ongoing administration of justice during the termination period.
- Appointment of a manager** 17.7 In the event of termination, the Attorney General may appoint a person to manage the termination for the purpose of ensuring the continued effective administration of justice.
- Reconciliation of finances** 17.8 On termination, the Municipal Partner shall carry out a financial accounting and shall pay to Ontario any monies owing to Ontario including the Ministry of Finance.
- Rights of Attorney General** 17.9 The rights of the Attorney General under this paragraph are in addition to and do not derogate from any other rights and remedies of the Attorney General under the *Act* or the Transfer Agreement or otherwise at law.

18.0 RIGHT OF ASSIGNMENT

- Attorney General's consent required** 18.1 The Municipal Partner has no right to assign, sublease, subcontract, transfer, cede, offer for sale, deal or offer to deal in or with the Transfer Agreement, or any rights or obligations hereunder, in whole or in part (the foregoing collectively called an "assignment") unless the Attorney General has given or is deemed to have given consent to such assignment. The Municipal Partner shall ensure that any assignee undertaking any of the Municipal Partner's obligations to Ontario shall be bound by the terms and conditions of the Transfer Agreement. The Municipal Partner shall not be released of its obligations to Ontario by reason of the assignment, and the Municipal Partner shall be deemed to be liable for any breaches of the Transfer Agreement, or of any legislation or regulations, by the assignee.

19.0 COMMUNICATION BETWEEN THE PARTIES

- Method of service** 19.1 Unless otherwise directed by the Attorney General, any written communication shall be given by personal service, by facsimile transmission or electronic mail, or by prepaid first class mail. If personally served or transmitted by facsimile or electronic mail, a communication shall be deemed to be validly given to and received by the addressee on the date of such service or

transmission. A transmission completed after 4:30 p.m. shall be deemed to have been delivered on the next business day. A communication sent by prepaid first class mail shall be deemed to be validly given to and received by the addressee on the fifth business day after the day on which it was mailed in Canada.

Municipal partner's address

19.2 The Municipal Partner's address and facsimile number for communications are:

**Brian J. Roy
Regional Solicitor
Regional Municipality of Durham
605 Rossland Road East
Whitby, ON L1N 6A3
Fax: (905) 668-4752**

Attorney General's address

19.3 The Attorney General's address and facsimile number for communications are:

**Ministry of the Attorney General
720 Bay Street, 2nd Floor
Toronto, Ontario M5G 2K1
Attention: Assistant Deputy Attorney General
Court Services Division
FAX: (416) 326-2592**

Change of address

19.4 When either party changes its address, phone or facsimile number, it shall give written notice forthwith to all other parties.

Attorney General contact person

19.5 The Attorney General shall designate a person and an alternate who will be the primary contacts for all issues and communications related to the Transfer Agreement.

Municipal Partner contact person

19.6 The Municipal Partner shall designate a person and an alternate who will be the primary contacts for all issues and communications related to the Transfer Agreement.

Change of contacts

19.7 Each of the parties shall keep the other informed of the names of its contact person and alternate person.

20.0 WAIVER OF BREACH

Waiver of breach

Any breach of any provision of the Transfer Agreement may be waived in whole or in part by a party without prejudice to that party's rights in the event of the breach of any other provision of the Transfer Agreement. A waiver shall be binding on the waiving party only if it is in writing. The waiver of any breach of any provision of the Transfer Agreement shall not be taken or held to be a waiver of any further breach of the same provision or any breach of any other provision.

21.0 SURVIVAL

Survival

21.1 The provisions of paragraphs 4.6, 7.1, 7.3, 8.0, 9.0, 11.0, 14.0, 15.0, 16.0, 17.3 to 17.9, 21.0 and Schedule 2, paragraphs 2.10, 3.1, 3.2, 3.3 shall survive the suspension, termination, revocation or expiry of the Transfer Agreement.

22.0 SCHEDULES

Schedules

22.1 The following Schedules are attached to this agreement and shall form a part of this Memorandum of Understanding:

Schedule 1: Prosecutorial Standards

Schedule 2: Operational Standards

Schedule 3: Compliance and Performance Measures

Schedule 4: Existing Contracts

Schedule 5: Court Service Area

IN WITNESS WHEREOF the parties hereto have executed this Memorandum of Understanding.

DATED AT Whitby THIS 20th DAY OF NOVEMBER 2000.

**THE REGIONAL MUNICIPALITY
OF DURHAM**

{Corporate Seal}



Roger Anderson, Regional Chair

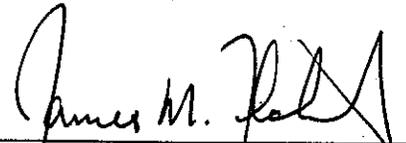


P.M. Madill, Regional Clerk

DATED AT Whitby THIS 24th DAY OF November 2000.

**HER MAJESTY THE QUEEN IN
RIGHT OF ONTARIO**, as represented
by the Attorney General

Witness



Attorney General

SCHEDULE 1

PROSECUTORIAL STANDARDS

**SCHEDULE I
STANDARDS FOR PROSECUTIONS BY MUNICIPALITIES**

1.0 Scope

Adherence to standards

1.1 Where the Municipal Partner conducts prosecutions transferred to the Municipal Partner by the Attorney General under the Transfer Agreement, the Municipal Partner shall adhere to the standards set out in this schedule.

2.0 Standards

Principles

2.1 The Municipal Partner shall ensure that prosecutions transferred in accordance with the Transfer Agreement are conducted in a manner consistent with the following principles:

2.1.1 prosecutorial independence;

2.1.2 fairness and impartiality;

2.1.3 competence and integrity; and

2.1.4 timeliness of prosecutions.

Prosecutorial independence

2.2 The Municipal Partner shall ensure that any of its prosecutors acting under the Transfer Agreement who are not lawyers are supervised by or report to the city solicitor or another lawyer designated for this purpose and that its reporting relationships are structured so that the prosecutors' exercise of discretion is not influenced by any person or body, including:

2.2.1 members of council;

2.2.2 policing and other enforcement agencies; and

2.2.3 municipal financial officers.

2.3 The Municipal Partner shall be responsible for:

Impartial prosecution

2.3.1 ensuring that any prosecution policies are applied impartially;

Fair appeals policy

2.3.2 ensuring that a fair and reasonable appeals policy is in place and is applied consistently;

Notification of witnesses

2.3.3 notifying prosecution witnesses of dates and times of hearings in accordance with legislative requirements;

Prosecutorial discretion

2.3.4 permitting prosecutors to exercise their discretion in a fair and impartial manner, free from influence or bias;

Municipal partner to educate its prosecutors

2.3.5 taking appropriate steps to educate and inform its prosecutors of any policies set out by the Municipal Partner, Ontario or the Government of Canada which apply to the prosecution of proceedings commenced under the Act; and

Disclosure to defendants

2.3.6 ensuring provision of full and timely disclosure to defendants upon request.

Prosecutors' oath

2.4 All municipal prosecutors engaging in prosecutions under the Transfer Agreement shall swear the following oath or affirmation before the Regional Senior Judge, or, where the Regional Senior Judge is unavailable, a judge of the Ontario Court (Provincial Division), and the oath or affirmation shall be a term of employment:

Oath:

I swear (or affirm) that I will truly and faithfully, according to the best of my skill and ability, execute the duties, powers and trusts of a prosecutor, as an officer of the Court, without favour or affection to any party, so help me God (omit last four words in an affirmation).

I also swear (or affirm) that I will faithfully discharge my duties as a prosecutor, and will comply with the laws of Canada and Ontario, and except as I may be legally authorized or required, I will not disclose or give to any person any information or document that comes to my knowledge or possession by reason of my being a prosecutor, so help me God (omit last four words in an affirmation).

Conflict of interest rules

2.5 In addition to the conflict of interest rules set out in paragraph 8.0 of Schedule 2.0, and any conflict of interest rules that may be imposed by the Municipal Partner, the Municipal Partner shall also ensure that the following apply to prosecutors acting under the terms of the Transfer Agreement:

Not an enforcement officer

2.5.1 A person employed as a prosecutor shall not also be employed as an enforcement officer.

Not a Municipal politician within past 12 months

2.5.2 A prosecutor shall not hold or have held a municipal political office within the preceding 12 months.

Avoid conflict

2.5.3 A prosecutor shall not be placed or place him or herself in a position where the integrity of the administration of justice could be compromised.

Disclosure of conflict

2.5.4 A prosecutor shall disclose any actual or reasonably perceived conflict as soon as possible to the Municipal Partner.

Not to act for defendants

2.5.5 A prosecutor shall not, personally or through any partner in the practice of law, act or be directly or indirectly involved as counsel or solicitor for any person, in respect of any offence charged against the person under the laws in force in Ontario, unless it relates to his/her own case, except where the LSA provides otherwise.

Disclosure of charges

2.5.6 Where a prosecutor is charged with an offence under the *Criminal Code* of Canada or any other federal statute or regulation that is dealt with under the *Criminal Code* of Canada, such charge shall be disclosed forthwith to the Municipal Partner by the prosecutor. Where a prosecutor is charged with an offence under other federal statutes or regulations thereunder or a provincial statute or regulation thereunder and where continuing to perform his or her duties may erode public confidence in the administration of justice, the charge shall be disclosed to the Municipal Partner by the prosecutor. The Municipal Partner shall determine if any actual or perceived conflict exists and, if so, the Municipal Partner shall take appropriate action to address the conflict.

Municipal partner responsible to set procedure

2.6 The Municipal Partner shall establish and follow a procedure that ensures a prosecutor does not act in any matter where a conflict of interest has been identified, until the conflict no longer exists.

- Municipal partner to ensure competent prosecutions** 2.7 The Municipal Partner shall ensure that its prosecutors are competent in relation to the following factors;
- Knowledge of the law** 2.7.1 knowledge of the current law, including the *Act*, related statutes and regulations, the *Canadian Charter of Rights and Freedoms* and any common law relevant to the conduct of prosecutions;
- Knowledge of the procedure** 2.7.2 knowledge of the rules of court and legal procedures, as amended from time to time;
- Professionalism** 2.7.3 ability to treat members of the judiciary and other persons involved in the court process with professional courtesy; and
- Addressing complaints** 2.7.4 ability to address complaints promptly and effectively.
- Municipal partner to train and educate prosecutors** 2.8 To ensure that municipal prosecutors' knowledge and skills are adequate and current, the Municipal Partner shall be responsible for and bear the cost of the ongoing training and education of its prosecutors.
- Direction not to appear** 2.9 The Director of Crown Operations, on the advice of the Crown Attorney and after consulting with the supervising solicitor, may direct that the prosecutor not appear in court where, in the opinion of the Director of Crown Operations, public confidence in the administration of justice is or may be eroded through the continued appearance of the prosecutor in the courts.
- Prosecutorial policies** 2.10 The Municipal Partner shall ensure cooperation with local Crown Attorneys and shall ensure compliance with provincial directives and policies that are made known by Ontario. The Municipal Partner may establish its own prosecutorial policies, provided that its policies are consistent with provincial policies and not contrary to law.
- Reporting protocol for significant cases** 2.11 In addition to any legislative requirements and any provincial prosecutorial directive or policy made known to the Municipal Partner, the Municipal Partner shall maintain a reporting protocol

to notify the local Crown Attorney and the Attorney General of any matter that appears likely to raise a substantive legal issue at trial or appeal, including;

Judicial review

2.11.1 an application for judicial review or prerogative writ sought in relation to a prosecution transferred under paragraph 1.3 of this MOU;

Constitutional issue

2.11.2 anything that may affect the administration, constitutional validity, or enforceability of a statute or regulation; and

Substantial public interest

2.11.3 any matter where there could be a substantial public interest in its outcome.

Report to federal prosecutor

2.12 The reporting protocol referred to in paragraph 2.11 of this Schedule shall also include a provision that the regional federal prosecutor shall be notified with respect to offences designated as contraventions under the *Contraventions Act* (Canada).

Report to other provincial ministries

2.13 The reporting protocol referred to in paragraph 2.11 of this Schedule shall also include a provision that where the matter relates to a statute or regulation for which a provincial Ministry other than the Ministry of the Attorney General is responsible, the Legal Services Branch of that Ministry shall be notified.

SCHEDULE 2

OPERATIONAL STANDARDS

**SCHEDULE 2
OPERATIONAL STANDARDS**

- | | | |
|---|------------|---|
| | 1.0 | Scope |
| Municipal partner's obligations | 1.1 | Where the Municipal Partner performs court administration and court support functions transferred to the Municipal Partner under the Transfer Agreement, the Municipal Partner shall maintain the standards set out in this schedule and shall meet all legislative and regulatory requirements with respect to proceedings under the <i>Act</i> . |
| | 2.0 | Processes & Proceedings |
| Efficiency of proceedings | 2.1 | The Municipal Partner shall provide for and accommodate the efficient processing of all court proceedings. |
| Service to enforcement agencies continues | 2.2 | The Municipal Partner shall continue to provide the existing services and level of service to enforcement agencies, including: <ul style="list-style-type: none">2.2.1 consulting enforcement agencies about witness availability before scheduling trials;2.2.2 distributing ticket sets and other forms to enforcement agencies; and2.2.3 providing copies of First Attendance Notices, Notices of Intention to Appear, Certificates of Offence, Fail to Respond (FTR) lists, Notices of Appeal, and other documents containing disposition information, as required. |
| Effective service | 2.3 | The Municipal Partner shall respond effectively to all enquiries and shall provide prompt and efficient service in person and by phone. |
| Proceedings open to public | 2.4 | Subject to any statutory limitations, all proceedings under the <i>Act</i> shall be open to the public, unless otherwise ordered by the judiciary in a particular proceeding. |
| Language services | 2.5 | The Municipal Partner shall continue to provide the language services required by the <i>Courts of Justice Act</i> , R.S.O. 1990, c. C.43, including the following services: |

- | | | |
|--|-------|---|
| Qualified interpreters | 2.5.1 | The Municipal Partner shall supply and pay for qualified interpreters for witnesses and defendants upon their request. |
| Document translation | 2.5.2 | The Municipal Partner shall ensure that documents are translated, upon request by the defendants, or if necessary for administrative purposes. |
| Witness fees | 2.6 | The Municipal Partner shall ensure that witnesses are paid the amounts to which they are entitled as prescribed by regulation. |
| Clerical court support services | 2.7 | The Municipal Partner shall ensure that clerical court support services are provided to the judiciary at least at the level provided by the Attorney General prior to the transfer. |
| Accuracy of court record | 2.8 | The Municipal Partner shall ensure the accuracy of the court record for all matters transferred under the Transfer Agreement, including: <ul style="list-style-type: none"> 2.8.1 the recording of all proceedings taken before the judiciary; 2.8.2 the preparation and certification of transcripts of proceedings; and 2.8.3 the maintenance, retention and release of records and information relevant to the court proceedings, including tapes, transcripts, files, documents and exhibits or any other data in paper or electronic form in accordance with the record retention schedules contained in paragraph 2.10 of this Schedule and with legislative requirements. |
| Preparation and delivery of court documents | 2.9 | The Municipal Partner shall ensure the accurate and timely preparation and delivery of court-related documents required to carry out a judicial order relating to: <ul style="list-style-type: none"> 2.9.1 the attendance of a person at a hearing; 2.9.2 the arrest, detention or release of a person; |

2.9.3 the commencement, processing and disposition of a proceeding; and

2.9.4 the imposition of a sentence, or other consequence of conviction.

Record retention periods

2.10 The following mandatory record retention periods shall apply once a matter has been completed:

2.10.1 for all proceedings commenced under Parts I and III of the Act, the calendar year of the date of judgment plus 2 additional years, except where there has been an accident or a charge of careless driving, the calendar year of the judgment plus 7 additional years;

2.10.2 for all proceedings commenced under Part II of the Act, the calendar year of the date of judgment plus 2 additional years; and

2.10.3 any other record retention requirements prescribed by law.

Universal access to fine payment

2.11 The Municipal Partner shall continue to permit the public to pay fines imposed on convictions for offences covered by this Transfer Agreement in any court service area.

Secure collection of fines

2.12 Fine revenues shall be collected in a secure manner, in accordance with generally accepted accounting principles, to ensure proper accountability and to meet the audit requirements set out in paragraph 9.0 of the MOU.

Ongoing training and education

2.13 The Municipal Partner shall be responsible for and bear the cost of ongoing training and education of persons performing functions under the Transfer Agreement.

- 3.0 Records & Information**
- Secure storage of records and information** 3.1 To preserve the integrity of court records and data for all processes and proceedings under the Act, all files, tapes, transcripts, papers, documents, exhibits and any other court process information, whether in electronic, mechanical, physical or other form, shall be stored in a secure manner.
- Accurate and secure exchange of information** 3.2 The Municipal Partner shall ensure that the exchange or sharing of information, electronically or otherwise, is done in a secure manner to preserve the accuracy and security of the data.
- Continued access to information** 3.3 The Municipal Partner shall continue the current practice of providing information and access to information relating to the disposition of cases, fine payments and defaults, and other court related matters to all relevant provincial Ministries, enforcement agencies and others who have access on the effective date of transfer.
- Accuracy of provincial offences database** 3.4 The Municipal Partner shall ensure the accuracy of the provincial offences database by entering the following information in a timely and accurate manner:
- 3.4.1 the charges received;
 - 3.4.2 the status of the charge;
 - 3.4.3 the charge dispositions;
 - 3.4.4 the fine payments; and
 - 3.4.5 the imposition and removal of sanctions.
- Charges for court services** 3.5 The Municipal Partner may charge a fee for photocopies, certification of copies, transcripts and any other service provided and charged for by the Ministry of the Attorney General, in accordance with the *Administration of Justice Act*, R.S.O. 1990, c.A.6.
- 4.0 Technology**
- Common integrated technology system** 4.1 The Attorney General and the Municipal Partner acknowledge that the use of a common integrated technology system is necessary to ensure accurate and timely access to information

and will facilitate the sharing of information among justice partners.

Use of ICON and replacement of ICON

- 4.2 The Municipal Partner shall use the ICON system or its replacement during the Transition Phase. A system to replace ICON will be developed by the Integrated Justice Project of the Ministry of the Attorney General and the Ministry of the Solicitor General and Correctional Services. This system will take into account the requirements of the Municipal Partner in carrying out its obligations under the Transfer Agreement, and of Ontario. This system will be offered to the municipal partners for a fee.

Must meet technology standards

- 4.3 Where a Municipal Partner chooses to use a system other than that provided by the Attorney General after the Transition Phase, the system will meet the requirements of paragraph 4.4 of this Schedule.

Technology standards

- 4.4 Any system used by the Municipal Partner must meet the technology standards, case flow management and information sharing requirements as directed by the Attorney General, including the development of a common application environment, and the system must be "Year 2000" compliant.

5.0 Ministry of Transportation Protocols

Information to be transmitted to MTO

- 5.1 The Municipal Partner shall transmit to the Ministry of Transportation (MTO) information relating to the following:
- 5.1.1 orders and directions to suspend or reinstate drivers' licenses;
 - 5.1.2 orders and directions to deny or reinstate plate permits; and
 - 5.1.3 convictions, in accordance with subsection 210(1) of the *Highway Traffic Act*, R.S.O. 1990, c.H.8.

- Electronic transmissions** 5.2 Orders transmitted to MTO shall be transmitted electronically, in a standardized format prescribed by MTO and in the consolidated "one window" template that is provided for by ICON and the Defaulted Fines Control Center, or by any other agent doing similar work as directed by the Attorney General.
- Complete and accurate data** 5.3 The information referred to in paragraph 5.1 of this Schedule must be complete and accurate, and submitted to MTO in a timely manner, in accordance with all statutory and regulatory requirements, including the *Highway Traffic Act*, R.S.O. 1990, c. H.8.
- Access to information by MTO** 5.4 The Municipal Partner shall ensure that MTO will continue to have access to information relating to the status and disposition of cases.
- Municipal partner's representative** 5.5 The Municipal Partner shall designate a representative to work with MTO to resolve data transmission issues.
- 6.0 Tickets and Other Court Forms**
- Sequentially numbered tickets** 6.1 The Municipal Partner shall purchase all provincial offences tickets from a single source as approved by the Attorney General. Provincial offences tickets must be sequentially numbered with an ICON, or its replacement system, location number.
- Purchase of court forms from a single source** 6.2 The Municipal Partner shall purchase all charging and service related documents, and other court forms and documents prescribed by regulation, and other standard forms used by the Attorney General prior to the transfer, from a single source as approved by the Attorney General.
- 7.0 Facilities**
- Court facilities easily accessible** 7.1 The court facilities shall be easily accessible to the public and all other interested parties and, without limiting the generality of the foregoing, shall:
- Transit** 7.1.1 be accessible by public transit or private vehicle;

Parking	7.1.2	where parking is available, provide sufficient parking areas to accommodate the court's caseload;
Signage	7.1.3	be clearly identified as a court facility and shall have signs to identify the location of court offices and courtrooms; and
Barrier free access	7.1.4	provide barrier-free access into and within the court facilities, including courtrooms, meeting rooms, washrooms, and parking areas.
Facilities standards	7.2	The Municipal Partner shall maintain the following minimum standards for court facilities:
Separate Areas	7.2.1	Public areas shall be separate from the court administration offices and the prosecutors' offices, all of which shall be separate from the areas designated for the judiciary.
Offices for the judiciary	7.2.2	The judiciary shall continue to have chambers which are private and secure and sufficiently equipped to permit the performance of their judicial responsibilities. The judiciary shall also continue to have separate and secure access to parking areas, to the court building, and to the courtroom(s) and other rooms in which proceedings take place.
Court staff offices	7.2.3	Courts administration and court support staff shall have secure office areas that contain the furniture, equipment, technology and supplies necessary for them to be able to perform their responsibilities under the Transfer Agreement.
Prosecutor's offices	7.2.4	Prosecutorial staff shall have secure office areas that contain the furniture, equipment, technology, and supplies necessary for them to be able to perform their responsibilities under the Transfer Agreement.
First - Attendance meeting rooms	7.2.5	If the facility is used for a first attendance process, the meeting room(s) shall be separate from the room(s) in which the court proceedings take place.
Secure areas for persons in custody	7.2.6	A secure area shall be available for persons in custody.

Consultation
before renovation

7.2.7 Before making substantial renovations to an existing court facility, or when preparing plans for a new facility, the Municipal Partner shall consult with all groups that may be affected by the change, including the judiciary, enforcement agencies, prosecution agencies, the Ontario Realty Corporation, the Ministry of the Attorney General's Court Services Division and its Facilities Branch.

Variances from
facilities standards

7.3 Notwithstanding paragraphs 7.1 and 7.2 of this Schedule, and subject to paragraph 7.4 of this Schedule, where the Interim Audit reveals that a particular standard is not met, the variance may be permitted where:

7.3.2 the Municipal Partner occupies facilities used by the Ministry of the Attorney General that do not meet the standards; or

7.3.3 the costs required of the Municipal Partner to modify the existing facilities are more reasonably spread over one or more fiscal years.

Manner to address
variances

7.4 Where the Interim Audit reveals that the minimum standards for court facilities are not being met, the parties shall identify, in the LSA, any variance and the manner in which such variance shall be addressed.

8.0 Conflict of Interest

8.1 The Municipal Partner shall ensure that all employees and other persons performing duties under the Transfer Agreement shall, in addition to any of the Municipal Partner's guidelines, abide by the following rules:

Report improper
influence

8.1.1 An employee or other person performing duties under the Transfer Agreement shall report any attempt at improper influence or interference, financial, political or otherwise, to the Municipal Partner and to the local Crown Attorney. No action shall be taken against the employee or other person for making any such report in good faith.

Employee must report charge

8.1.2 Where an employee or other person performing duties under the Transfer Agreement has been charged with an offence created under a federal statute or regulation or a provincial statute or regulation, and where continuing to perform his or her duties may erode public confidence in the administration of justice, the charge shall be disclosed to the Municipal Partner by the employee or other person. Upon notification, the Municipal Partner shall determine if any actual or perceived conflict of interest exists, and if so, shall take appropriate action to address the conflict.

8.1.3 All persons performing functions under the Transfer Agreement, except Municipal Prosecutors who shall swear the oath set out in paragraph 2.4 of Schedule 1, shall swear the following oath or affirmation before a Commissioner for Taking Affidavits, and the oath or affirmation shall be a term of employment:

I swear (or affirm) that I will faithfully discharge my duties, and will observe and comply with the laws of Canada and Ontario, and except as I may be legally authorized or required, I will not disclose or give to any person any information or document that comes to my knowledge or possession by reason of my employment, so help me God (omit last four words in an affirmation).

9.0 Contracting Out

9.1 Where the Municipal Partner proposes the contracting out of services relating to the performance of its obligations under the Transfer Agreement the following conditions shall be satisfied:

Existing municipal policy

9.1.1 The Municipal Partner shall follow generally accepted procedures or its existing policy and procedures relating to the acquisition of services.

Attorney General's right to withdraw consent

9.1.2 The Municipal Partner shall ensure that the documents provide that where it is alleged that the Municipal Partner or its contractor has breached any term, condition or standard in the Transfer Agreement, the Attorney General has the right to withhold or withdraw its consent.

- Conflict of Interest** 9.1.3 Documents shall include a provision requiring the prospective contractor to disclose any real or perceived conflict of interest.
- Performance standards** 9.1.4 The contract shall provide that the person or organization performing the contract will perform the work to the same standard as required of the Municipal Partner under the Transfer Agreement and the Municipal Partner shall take whatever steps are necessary to ensure that applicable standards are met.
- Definite term of contract** 9.1.5 The contract shall be for a definite term and may be subject to renewal as long as the applicable standards under the Transfer Agreement are being met.
- Process for complaints** 9.1.6 The Municipal Partner shall ensure that there is an effective process in place to deal with complaints against the contractor and the Municipal Partner shall respond to such complaints directly.
- Confidentiality standards** 9.1.7 The contract shall contain a provision requiring the contractor to adhere to the same confidentiality standards as those required of the Municipal Partner.
- Perform all aspects of contract** 9.1.8 Persons providing services pursuant to such a contract must perform all aspects of the contract to ensure consistency and continuity in the administration of justice.
- Contingency plan** 9.1.9 The Municipal Partner shall ensure that an effective contingency plan is in place to address any situation where the contractor or its employees fail to comply with any term, condition or standard of the Transfer Agreement.
- Attorney General's deemed consent** 9.2 The consent of the Attorney General required for the contracting out of services under the Transfer Agreement shall be deemed to have been given where the process followed by the Municipal Partner has met the conditions set out in paragraph 9.1 of this Schedule and, where a regulation has been made pursuant to section 174 of the Act, the criteria prescribed by the regulations have also been met.

SCHEDULE 3

COMPLIANCE AND PERFORMANCE MEASURES

**SCHEDULE 3
COMPLIANCE AND PERFORMANCE MEASURES**

1.0 Compliance

Principle

1.1 The provisions set out in this schedule are intended to provide the Attorney General with an effective means to ensure compliance with the Transfer Agreement to preserve the integrity of the administration of justice.

Sanctions for Non-compliance

1.2 Where the Review Committee determines that there has been a breach of a term or condition of the Transfer Agreement following the dispute resolution process set out in paragraph 13.0 of the MOU, the Review Committee shall advise the parties of the nature of the breach, and may take one or more of the following measures:

1.2.1 The Review Committee may order that the parties continue to work together to achieve compliance or resolution of the issue.

1.2.2 The Review Committee may issue a written caution against continued non-compliance with the Transfer Agreement.

1.2.3 Where previous attempts have failed to result in compliance by the Municipal Partner, the Review Committee may recommend to the Attorney General that an audit, pursuant to paragraph 9.0 of the MOU, be undertaken.

1.2.4 Where previous attempts have failed to result in compliance by the Municipal Partner, the Review Committee may recommend to the Attorney General that a person be appointed to superintend the Municipal Partner's performance. Where the Attorney General accepts such recommendation, the Attorney General shall provide written notice to the Municipal Partner, advising of the following:

1.2.4.1 the identity of the appointee;

1.2.4.2 the purpose and duration of the appointment;
and

1.2.4.3 whether the Municipal Partner will be responsible for the costs of the appointment.

- 1.2.5 Where previous attempts have failed to result in compliance by the Municipal Partner, the Review Committee may recommend to the Attorney General that financial penalties be assessed against the Municipal Partner.
- 1.2.6 Where previous attempts have failed to result in compliance by the Municipal Partner, the Review Committee may recommend to the Attorney General that an order be issued, pursuant to subsection 171(1) of the Act, directing the Municipal Partner to comply within a specified time.
- 1.2.7 Where previous attempts have failed to result in compliance by the Municipal Partner, the Review Committee may recommend to the Attorney General that the performance of a specific function or functions under the Transfer Agreement be assumed by or reassigned to someone other than the Municipal Partner, at the Municipal Partner's own expense.
- 1.2.8 Where the Municipal Partner fails to comply with the order issued pursuant to paragraph 1.2.6 of this Schedule, the Review Committee may recommend to the Attorney General that the Transfer Agreement be suspended or revoked, pursuant to subsection 171(2) of the Act.

2.0 Performance Measures

Rationale for performance measures

- 2.1 The parties acknowledge that performance measures will assist the parties in meeting the standards set out in the Transfer Agreement and will provide the Attorney General with a management tool to assess the Municipal Partner's progress towards achieving stated goals and promote accountability.

Best practices

- 2.2 The Municipal Partner and the Attorney General agree to exchange best practices with other Municipal Partners to promote efficiency, consistency and compliance with the Transfer Agreement, and to assist in identifying and developing methods of improving service delivery.

SCHEDULE 4

EXISTING CONTRACTS

SCHEDULE 4

EXISTING CONTRACTS

- Purpose** 1.1 The purpose of this Schedule is to set out current contracted obligations relating to functions under the Transfer Agreement that are managed by Ontario.
- Central contracts** 2.1 Ontario currently has two such contracts.
- Forms and ticket contracts** 2.1.1 Management Board Secretariat has a sub-contract with its Vendor of Record for the purchase of sequentially numbered charging and service documents. The current sub-contract commenced in 1996 and is for a period of 7 years (5 years and 2 one year renewals).
- Printing and mailing of notices contract** 2.1.2 Xebec Imaging Services is a centrally managed contract for the printing and mailing of Notices of Fine and Due Date. Costs are based on the number of pieces produced per year. The contract, which expired on December 31, 1998, was renewed, and, unless sooner terminated or extended under its provisions, expires December 31, 2000. The term of the contract may be extended for two separate one-year periods to December 31, 2002, on the same terms and conditions by mutual agreement. The Municipal Partner shall reimburse the Ministry in relation to functions governed by the Transfer Agreement, from the effective date of transfer through December 31, 2000 and the Municipal Partner may at its option negotiate any further renewals.
- 3.1 In addition to the contracts referred to in paragraph 2.1, Management Board Secretariat has contracts with private collection agencies for the collection of outstanding fines imposed before January 1, 1998, which contracts are due to expire on September 30, 2000. The Municipal Partner will not assume these contracts, but will be bound by them in that it will not be permitted to enter into separate contracts with these or other collection agencies in respect of outstanding fines imposed before January 1, 1998, until on or after October 1, 2000.

However, the Municipal Partner may use any method authorized by relevant legislation or regulation for the collection of fines imposed on or after January 1, 1998.

Other contracts

3.2 Various contracts are held by local court offices for the purposes of data input, technology maintenance, and courier and armored car services. These contracts cover services for the Ontario Court (Provincial Division) and the Ontario Court (General Division). The Municipal Partner may assume these contracts as they relate to functions under the Transfer Agreement, as of the effective date of transfer.

SCHEDULE 5

COURT SERVICE AREA

**SCHEDULE 5
COURT SERVICE AREA**

The boundaries of the Court Service Area, which are set out in the attached map, include the following municipalities and First Nation Reserves:

The Regional Municipality of Durham
Town of Ajax
Township of Brock
Municipality of Clarington
City of Oshawa
City of Pickering
Township of Scugog
Township of Uxbridge
Town of Whitby

First Nation Reserves:

Mississaugas of Scugog Island

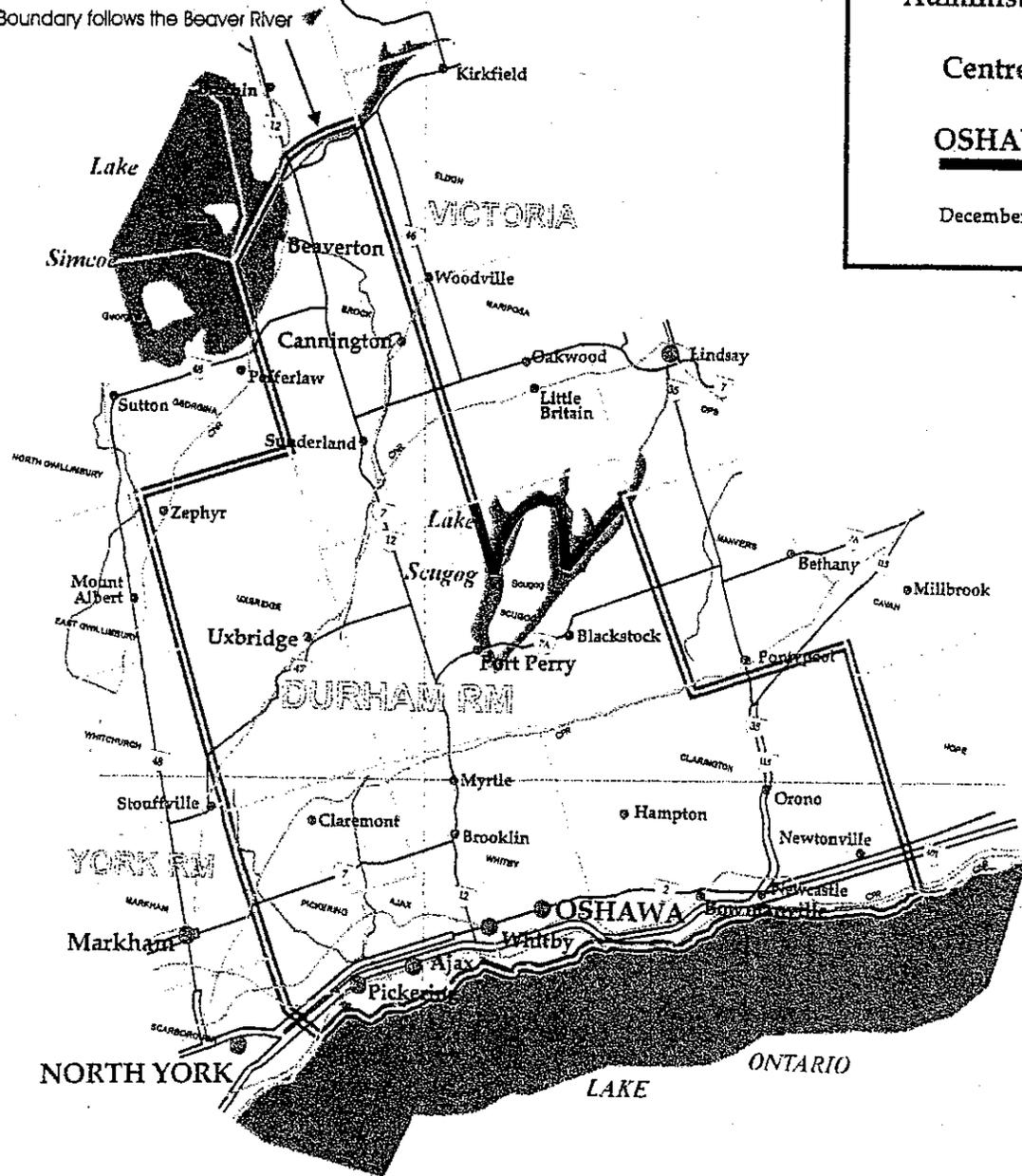
**Court Profile of
Provincial Offences
Administration**

Centre in

OSHAWA

December 1997

Boundary follows the Beaver River



Original source of this data is National Oceanic and Atmospheric Administration, 1995. Topographic Base of Ontario from United Kingdom of the Province of Ontario, Ontario Geographic Survey (OGS) Data Set 25.

LOCAL SIDE AGREEMENT

- b e t w e e n -

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO
as represented by the Attorney General

- a n d -

THE REGIONAL MUNICIPALITY OF DURHAM

LOCAL SIDE AGREEMENT

B E T W E E N:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO,
as represented by the Attorney General
(herein referred to as the "Attorney General")

OF THE FIRST PART

- and -

THE REGIONAL MUNICIPALITY OF DURHAM
(herein referred to as the "Municipal Partner")

OF THE SECOND PART

WHEREAS the Attorney General has entered into a Memorandum of Understanding (the "MOU") pursuant to the *Streamlining of Administration of the Provincial Offences Act, 1998*, S.O. 1998, c.4, (Bill 108) (the "Act"), with respect to the transfer of *Provincial Offences Act* ("POA") functions to the Municipal Partner;

AND WHEREAS the MOU contains terms and conditions that apply to every Municipal Partner;

AND WHEREAS the Attorney General and the Municipal Partner recognize that there are certain terms and conditions that are specific to a Court Service Area;

AND WHEREAS the MOU contemplates that the Attorney General and the Municipal Partner will execute a Local Side Agreement (the "LSA") setting out those terms and conditions;

NOW THEREFORE in consideration of mutual covenants set forth below, the Attorney General and the Municipal Partner agree as follows:

1.0 DEFINITIONS

1.1 In this LSA,

- (a) "Court Service Area" means the Court Service Area as defined in Schedule 5 of the MOU;
- (b) "Effective Date" means the date on which this LSA is signed by or on behalf of the Attorney General after having been signed by the Municipal Partner;
- (c) "Implementation Date" means the date on which the responsibility for POA functions is assumed by the Municipal Partner;
- (d) "Exit Audit" means the Exit Audit as defined in the MOU;
- (e) "Transition Phase" means the Transition Phase as defined in the MOU; and
- (f) "Transfer Agreement" means the MOU, the LSA, their respective schedules and any amendments.

2.0 GENERAL

- 2.1 The obligations of the Municipal Partner pursuant to this LSA relate to the functions transferred to the Municipal Partner in the Court Service Area described in Schedule 5 of the MOU.
- 2.2 This LSA shall take effect on the Effective Date and shall remain in effect unless suspended, terminated or revoked, regardless of whether there is a change in the person of the Attorney General or in the council or councils of the Municipal Partner.
- 2.3 Schedule 1 and Schedule 2 attached is incorporated into and shall form part of the LSA.
- 2.4 If any one or more of the provisions of the LSA is held by a court of competent jurisdiction to be voidable or *ultra vires*, the provision or provisions shall be severed and the LSA shall continue in full force and effect according to its terms and conditions and, provided that the context allows, its provisions shall be interpreted in the same way as they would have been had the severance not taken place.
- 2.5 The LSA may be amended at any time during the term of the Transfer Agreement, in accordance with the process set out in paragraph 12.0 herein. The amendment shall be made in writing and executed by all parties. Any such amendment or amendments shall be deemed to be incorporated into and become part of the LSA.

2.6 In the event of any conflict between the provisions of the LSA and the provisions of the MOU, the provisions of the MOU shall prevail.

3.0 FACILITY ARRANGEMENTS

3.1 The parties acknowledge that, as of the date of execution of the LSA,

- (a) the Ontario Realty Corporation ("ORC") leases space on behalf of the Attorney General at 242 King Street, Oshawa for Justice of the Peace intake court and administration of POA and other matters;
- (b) ORC leases space on behalf of the Attorney General at 701 Rossland Road, Whitby, for the use of courtrooms and Justice of the Peace offices for POA and other matters;
- (c) ORC leases space on behalf of the Attorney General at 132 Church Street, Bowmanville for the purposes of satellite court operations ("Satellite Court") for POA and other matters.

3.2 Notwithstanding paragraph 3.1 of this LSA, for the purposes of the Municipal Partner's obligations under the Transfer Agreement:

- (a) the space at 242 King Street, Oshawa, used by the Attorney General prior to Implementation Date for POA and other matters, will not be available to the Municipal Partner for its use;
- (b) the Municipal Partner shall provide Justice of the Peace intake court and administration of POA matters at 701 Rossland Road, Ground Floor Whitby;
- (c) the Municipal Partner shall enter into a lease directly with the landlord for the premises at 701 Rossland Road East, Second Floor, Whitby, for the use of courtrooms and Justice of the Peace offices for POA matters;
- (d) ORC or its agent shall enter into an agreement with the Municipal Partner for space at 701 Rossland Road, Second Floor, Whitby, for the use of courtrooms, interview rooms, judicial offices, and other uses, by the Attorney General for POA and other matters at such rents as are set out in the agreement. The agreement is conditional upon the Municipal Partner obtaining the landlord's consent.
- (e) the Municipal Partner shall attempt to enter into an agreement directly with the landlord for the use of the courtroom at the Satellite Court, for POA matters, for the period of time and such rents as are set out in the agreement.

4.0 ASSET ARRANGEMENTS

- 4.1 The Municipal Partner shall install a telephone system for the ground floor and second floor at 701 Rossland Road East and the Municipal Partner shall grant the Attorney General access to the telephone system for Justices of the Peace. The Municipal Partner and the Attorney General shall enter into a cost sharing agreement regarding use of the telephone system.
- 4.2 In accordance with paragraph 7.4 of the MOU, the Attorney General shall transfer to the Municipal Partner on the Implementation Date, all rights, title and interest in the courtroom furniture set out in Schedule 1 to this LSA, free of encumbrances, at not cost to the Municipal Partner.

5.0 REVENUE AND FINANCIAL ARRANGEMENTS

- 5.1 Schedule 2, which contains a summary of 1998 revenues, deductions, expenses and advances, is attached to this LSA and forms part thereof.
- 5.2 After completion of the Exit Audit, the Municipal Partner shall receive approximately \$1,031,713.00 which sum is an estimate only of the revenue collected for the period from January 1, 1998 through December 31, 1998 inclusive, less eligible deductions, expenses and advances. The estimated sum is subject to adjustment based on the results of the Exit Audit.
- 5.3 The Municipal Partner shall receive, after the Implementation Date, the fine revenue collected from January 1, 1999 to the Implementation Date, less eligible deductions and expenses, which sum is subject to adjustment to take into account the results of an Audit and a final reconciliation. The Attorney General shall request the delivery of such fine revenue as expeditiously as possible.
- 5.4 If the Municipal Partner or a serviced municipality is charged, convicted and fined under the POA, the Municipal Partner shall forthwith disclose the fine to the Attorney General and shall forthwith pay the fine to the Minister of Finance.
- 5.5 The Attorney General shall submit to the Municipal Partner, in a timely manner, invoices for services rendered in accordance with clause 165 (5)(c) of the POA.
- 5.6 Adjudication expenditures shall be paid by the Municipal Partner at the rate of \$160.00 per hour (which calculation is based on the total cost of providing adjudication) multiplied by the number of scheduled court hours spent on POA matters, as recorded on the ICON system. The parties acknowledge that the hourly rate for adjudication is subject to any increase in costs paid by the Attorney General for the provision of adjudication, on a cost recovery basis.
- 5.7 Part III prosecution expenditures incurred by the Ministry of the Attorney General, shall be paid by the Municipal Partner at the rate of \$90.00 per court hour (which calculation is based on the total cost for providing such services).

- 5.8 The Attorney General shall recover from the Municipal Partner, on a cost recovery basis relating only to the Court Service Area covered by this LSA, all ICON expenditures for POA transaction charges and programming requirements and all expenditures for postage and distribution of fine notices related to POA matters.
- 5.9 The parties acknowledge that the Attorney General is entitled, pursuant to clause 165 (5)(c) of the POA and the terms and conditions of the Transfer Agreement, to recover costs incurred in monitoring and enforcing the performance of the Transfer Agreement after the Implementation Date, but as of the Effective Date, these costs have yet to be ascertained.
- 5.10 The rates for recoverable adjudication, prosecution, monitoring and enforcement expenditures shall be subject to annual review by the Attorney General and may be adjusted at the sole discretion of the Attorney General, on a cost recovery basis.
- 5.11 The Attorney General shall transfer to the Municipal Partner, on the Implementation Date, all outstanding accounts receivable for the Court Service Area covered by this LSA to the Implementation Date. The accounts receivable up to March 31, 2000 are estimated at \$17,053,344.12 and are subject to any necessary adjustments. The amount of the accounts receivable after March 31, 2000 to the Implementation Date will be provided within ninety (90) days of the Implementation Date.
- 5.12 Notwithstanding paragraph 5.11 of this LSA, the parties acknowledge that the transfer of these accounts receivable is subject to paragraph 3.1 of Schedule 4 of the MOU.

6.0 RECORDS TRANSFER

- 6.1 The Attorney General shall provide the Municipal Partner, on the Implementation Date, with the following:
- (a) a list of all files and records to be transferred to the Municipal Partner, together with the actual files and records;
 - (b) a list of all 1998 charges with fines paid and a list of all 1999 charges with fines paid to the Implementation Date;
 - (c) a list of cases purged after January 1, 1998 to the Implementation Date, after the purge on ICON is complete;
 - (d) a list of charges with unpaid fines at Central Collection Services (CCS) as of the Implementation Date;

- (e) a list of charges with a completion date 90 days prior to the Implementation Date that have been converted to the transfer court ID number; and
- (f) a list of all charges with a future court date.

6.2 The Attorney General shall provide to the Municipal Partner all available manuals necessary for the proper administration of the courts, including the Municipal Manager Manual, the ICON Operations Manual and the Prosecutor Training Manual, when completed.

6.3 The Attorney General shall provide to the Municipal Partner a list, current as of the Implementation Date, showing the names of court translators.

7.0 PART I PROSECUTIONS EXEMPT FROM TRANSFER

7.1 In accordance with paragraph 1.3.2 of the MOU, the prosecutions commenced under Part I of the POA conducted prior to the Implementation Date by a ministry, other than the Ministry of the Attorney General, or agency responsible for the offence creating statute, regulation or other enactment, shall continue to be conducted by the responsible ministry or agency, at its own expense.

8.0 CONTRACT PROSECUTORIAL EMPLOYEES

8.1 Further to Schedule 1, paragraph 2.5.5 of the MOU, the parties acknowledge that the Municipal Partner may contract out prosecutorial services to persons who personally, or through a partner in the practice of law, act as agent, counsel or solicitor for persons charged under the POA. The Municipal Partner agrees that where prosecution services are contracted out, the Prosecutor shall not address any matter for which he or she appears as agent, counsel or solicitor, on the same day that he or she appears as Prosecutor.

9.0 TECHNOLOGY ARRANGEMENTS

9.1 The Municipal Partner shall bear the costs of acquiring and using the Government of Ontario network data telecommunication services if the services are required by the Municipal Partner to implement the transfer and more particularly to enable the Municipal Partner to access the ICON system. Such services shall be acquired by the Municipal Partner through the Attorney General and the costs for such services shall be a one-time installation charge and applicable monthly fees.

9.2 The Municipal Partner shall acquire the MS SNA Gateway solution to enable the Municipal Partner to access the ICON system through the municipal network. The Attorney General shall provide, at no cost to the Municipal Partner, the DLL

user software and the Municipal Partner shall be responsible for the costs, including material and labour costs, associated with the operation, maintenance and support of the hardware and the software required for the SNA Gateway solution.

- 9.3 The Attorney General shall not be liable for any injury or damages, whether physical or economic, attributable to the installation or use by the Municipal Partner of any hardware or software used by the Municipal Partner in accordance with paragraph 9.1 and 9.2 above.

10.0 YEAR 2000 READINESS

- 10.1 For the purposes of paragraph 4.0 of Schedule 2 of the MOU, the Attorney General states that the ICON system has been converted to comply with the Ontario government's definition of Year 2000 readiness.

The Ontario government's definition of Year 2000 readiness contains the following requirements:

- no value of current date will cause any interruption in the operation of or change in the functionality of the system or any misrepresentation of the information;
- date-based processing must behave consistently for dates prior to, during and after the Year 2000;
- the century in any date must be specified explicitly or by unambiguous algorithms or reference rules; and
- Year 2000 is recognized as a leap year.

11.0 AUDIT

- 11.1 The Exit Audit to be conducted on behalf of the Attorney General as required by the MOU, may not have been completed as of the Effective Date. If incomplete, the Exit Audit shall be completed as expeditiously as possible and the Attorney General shall present the Municipal Partner with a copy of the audit report within one week of its receipt by the Attorney General.
- 11.2 The execution of this LSA shall not be deemed to be an acceptance by either of the parties of the content of the audit. Any issue arising with respect to the results of the audit may be resolved in accordance with the dispute resolution mechanism set out in paragraph 13.0 of the MOU.
- 11.3 The Municipal Partner's auditors may review the Exit Audit report and provide comments to the Municipal Partner and the Attorney General for consideration.

12.0 AMENDMENTS TO THE LSA

12.1 Either party may at any time make a written request to the other to amend the terms and conditions of the LSA.

12.2 Any request to amend the LSA shall set out the reason or reasons for the request and shall include any explanatory or supporting documents.

12.3 The recipient of the notice of a request to amend shall respond to the notice in writing within thirty (30) days.

12.4 Where the Attorney General and the Municipal Partner agree to amend the LSA, the amendment shall be made in writing and shall be incorporated into and form part of the Transfer Agreement.

12.5 Where the Attorney General and the Municipal Partner are unable to agree on the requested amendment, either party may invoke the dispute resolution provisions set out in paragraph 13.0 of the MOU.

13.0 TERMINATION OF THE LSA

13.1 The term of this agreement shall be concurrent with the term of the MOU and in the event that the MOU is terminated in accordance with the provisions of the MOU or is revoked in accordance with subsection 171(2) of the Act, this LSA shall be terminated accordingly.

IN WITNESS WHEREOF the parties hereto have executed this Local Side Agreement.

DATED AT Whitby, this 20th day of November, 2000.

THE REGIONAL MUNICIPALITY OF DURHAM

{Corporate Seal}



Roger Anderson, Regional Chair

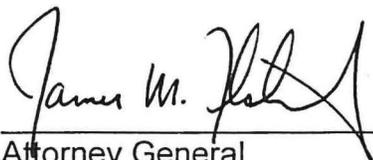


P.M. Madill, Regional Clerk

DATED AT Toronto, this 24th day of November, 2000.

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO,
as represented by the Attorney General**

Witness



Attorney General

SCHEDULE 1

ASSETS

Courtroom #1

1 clock
1 universal desk mic (paging device)
1 court officer desk
1 court officer chair
4 tables (crown, defence, clerk, monitor)
5 grey plastic desk top pads
1 calendar
1 grey dias chair
1 bible
6 grey arm chairs
1 clerk/monitor chair
1 exhibit supply box

Chambers – R. Harris

1 desk wood
1 grey high back chair
1 side table
1 credenza
2 rose coloured chairs
1 computer table

Side Hall

19 mini blinds on windows

Courtroom #2

1 clock
1 universal desk mic (paging device)
1 desk (court officer)
4 tables (crown, defence, clerk, monitor)
5 grey plastic desk top pads
1 calendar
1 grey dias chair
1 bible
7 grey arm chairs
2 grey clerk/monitor chair
1 exhibit supply box

Chambers – B. Brown

1 desk wood
1 grey high back chair
2 side table
1 credenza
2 green corduroy armchairs
1 striped velour chair
1 striped velour sofa
1 bookcase – glass doors

Rear Hall

1 wooden bookcase containing
revised statutes
1 grey metal tape cabinet
2 metal desks

Staff Area

1 coat rack
1 small bar fridge
1 microwave oven
1 vinyl couch table combination
1 metal desk
1 clock
1 toaster
3 red arm chairs
1 beige chair
1 first aid kit
1 fire extinguisher

Crown #1

2 credenzas
2 chairs

Public Waiting Area

1 fire extinguisher
1 garbage pail
bench seating
1 combination door lock
4 mini blinds on windows

Consulting Room

1 metal desk
2 chairs
1 credenza

Crown #2

1 credenza
2 side chairs

SCHEDULE 2

NET REVENUE CALCULATION
(To be confirmed by Exit Audit)
Durham Region

Gross POA Revenue **4,517,228**
(January 1, 1998 to December 31, 1998)

Deductions:

Victim Fine Surcharge	601,102
Dedicated Fines	13,888
Subtotal	614,990

Gross Revenue net of deductions **3,902,238**

Expenses:

Prosecutions under Part 1	190,812
Adjudication and Part 3	
Prosecutions	359,616
Administration	550,761
Facilities	111,836
Subtotal	1,213,025

Net Revenue **2,689,213**

Less: Advances **1,657,500**

Total Owing **1,031,713**
=====



The Regional Municipality of Durham Report

To: Finance and Administration Committee
 From: Commissioner of Finance
 Report: #2022-F-15
 Date: June 14, 2022

Subject:

Final Recommendations Regarding the New Regional Transit Development Charge By-law

Recommendation:

That the Finance and Administration Committee recommends to Regional Council:

- A) That pursuant to Section 10(1) of the Development Charges Act, 1997, the Regional Transit Development Charges Background Study dated April 12, 2022 be adopted;
- B) That the adoption of the underlying capital forecast included in the Regional Transit Development Charge Background Study provide indication of Regional Council’s intention to ensure that such an increase in need for services will be met as required under paragraph 3 of Section 5(1) of the Development Charges Act, 1997 and Section 3 of Ontario Regulation 82/98;
- C) That the Regional Transit Residential Development Charge by unit type, as indicated in the following table, be imposed on a uniform Region-wide basis, effective July 1, 2022 as follows:

Recommended Regional Transit Residential Development Charge Rates Per Dwelling Unit Effective July 1, 2022

Service Category	Single / Semi-Detached (\$)	Medium Density Multiple (\$)	Apartments: 2 Bedrooms and Larger (\$)	Apartments: 1 Bedroom and Smaller (\$)
Regional Transit	2,184	1,720	1,221	750

- D) That the Regional Transit Non-Residential Development Charge of \$0.99 per square foot for commercial, industrial, and institutional development, be imposed on a uniform Region-wide basis effective July 1, 2022;
 - E) That the Development Charge policies for Regional Transit Development Charges, as contained in the proposed By-law provided in Attachment #1, be approved for implementation on July 1, 2022;
 - F) That the Local Services Policy for Transit Services, as provided in Attachment #2, be adopted effective July 1, 2022;
 - G) That, pursuant to Section 12(3) of the Development Charges Act, 1997 that requires Regional Council to determine whether a further public meeting is necessary when changes are made to a proposed development charges by-law following a public meeting, Regional Council resolve that a further public meeting is not necessary as no changes have been made to the Region's proposed development charges by-law following the public meeting on April 27, 2022;
 - H) That the Regional Solicitor be instructed to prepare the requisite Regional Transit Development Charge By-law for presentation to Regional Council and passage;
 - I) That the Regional Solicitor be instructed to revise future development agreements and any by-law(s) relating thereto to reflect any changes required to implement the foregoing recommendations and that any such revised by-law(s) be presented to Council for passage;
 - J) That the Treasurer be instructed to prepare the requisite Regional Development Charges pamphlet and related materials pursuant to the Development Charges Act, 1997; and
 - K) That the Regional Clerk be instructed to follow the notification provisions pursuant to the Development Charges Act, 1997.
-

Report:**1. Purpose**

- 1.1 The purpose of this report is to provide final recommendations regarding a new proposed Regional Transit Development Charge (DC) By-law, which is intended to replace the existing Regional Transit DC By-law #81-2017 effective July 1, 2022. These final recommendations are based on the information contained in the Regional Transit DC Background Study dated April 12, 2022.

2. Background

- 2.1 The current Regional Transit DC By-law (#81-2017) is set to expire on December 31, 2022. Regional Council directed staff, through Report #2022-F-2, to proceed

with the public process required to have a new Regional Transit DC By-law in place by July 1, 2022.

- 2.2 On April 27, 2022, a public meeting was held during the regularly scheduled meeting of Regional Council to discuss the new Regional Transit DC Background Study and proposed By-law. The purpose of the public meeting was to fulfill the statutory requirement set out in the Development Charges Act, 1997 (DCA) and to solicit feedback from the public.
- 2.3 The Regional Transit DC Background Study and proposed By-law was made available to Regional Council and the public (free of charge from the Regional Clerk) beginning on April 12, 2022 as indicated in the public notices placed in the Toronto Star on March 19 and 27, 2022 and in the local Metroland newspapers throughout the Region over the period of March 24 to April 7, 2022. The study and proposed by-law were also posted on the Region's website.

3. Previous Reports and Decisions

- 3.1 Regional Council approved Report #2021-F-23 which provided staff authorization to undertake the renewal of the Regional Transit DC By-law.
- 3.2 Regional Council subsequently approved Report #2022-F-2 which provided staff with the authorization to proceed with the public process required to renew the Regional Transit DC By-law.
- 3.3 An overview of both the key proposed changes and the public process required to implement a new Regional Transit DC By-law was provided in Report #2022-F-11.

4. Highlights of Final Recommendations

- 4.1 There are no recommended changes to the proposed Regional Transit DC Background Study and By-law released on April 12, 2022 and presented during the public meeting on April 27, 2022.
- 4.2 The new Regional Transit DC Background Study includes a ten-year capital infrastructure program of \$271.5 million, of which \$145.9 million is recoverable through development charges. The capital program includes several key infrastructure investments, including a new bus storage facility and several new terminals and transit hubs. With the anticipated extension of the Lakeshore East GO rail line to Bowmanville, DRT will also be installing new DRT terminals or hubs at the four new GO station stops in Durham.
- 4.3 The recommended new Regional Transit DC rates are provided in Table 1 below and were derived using the prescribed methodology within the DCA. These recommended rates are to take effect on July 1, 2022 and are to be indexed annually, starting in July 2023.

Table 1
Proposed Regional Transit Development Charges

	Current Rate (July 1, 2021)	Proposed Rate (\$2022)	Increase
Single/Semi-detached	\$1,275	\$2,184	\$909
Medium Density Multiple	\$1,026	\$1,720	\$694
Apartment – two bedroom and larger	\$741	\$1,221	\$480
Apartment – one bedroom and smaller	\$480	\$750	\$270
Non-residential (per sq. ft.)	\$0.61	\$0.99	\$0.38

- 4.4 As outlined in Report #2022-INFO-41, Regional development charges for all services, with the exception of Regional transit, will be subject to annual indexing as of July 1, 2022. Given the Statistics Canada Non-residential Building Construction Price Index for the Toronto Census Metropolitan Area resulted in an indexing rate of 17.3 per cent (with the exception of GO Transit which is limited to a maximum 3.0 per cent indexing), the Region's current residential DC per single or semi-detached unit will increase from \$35,050 to \$41,001 (an increase of \$5,951). The new proposed rate for transit services will further increase the total residential DC per single or semi-detached unit by \$688 to \$41,689, effective July 1, 2022 (Table 2).

Table 2
Impact on Regional Residential Development Charges
(for a single / semi-detached unit)

	Current Rate (July 1, 2021)	Indexed Rate (July 1, 2022)	Indexed + Proposed Transit Rate	Increase
Water Supply	\$10,522	\$12,342	\$12,342	-
Sanitary Sewer	10,241	12,013	12,013	-
Regional Roads	10,332	12,119	12,119	-
GO Transit	790	814	814	-
Police	798	936	936	-
Paramedic Services	210	246	246	-
Long Term Care	266	312	312	-
Health and Social Services	137	161	161	-
Housing Services	479	562	562	-
Regional Transit	1,275	1,496	2,184	688
Total	\$35,050	\$41,001	\$41,689	\$688

- 4.5 The DC rates for non-residential developments will also be subject to the 17.3 per cent indexing on July 1, 2022. The proposed new transit rate will further increase all non-residential DC rates by \$0.26 on July 1, 2022 (Table 3).

Table 3
Impact on Regional Non-residential Development Charges
(per sq. ft.)

	Current Rate (July 1, 2021)	Indexed Rate (July 1, 2022)	Indexed + Proposed Transit Rate	Increase
Commercial	\$20.61	\$24.19	\$24.45	\$0.26
Industrial	11.11	13.04	13.30	0.26
Institutional	10.73	12.60	12.86	0.26

- 4.6 As per the Region's current practice, the proposed residential and non-residential transit DC rates are recommended to be applied uniformly across the Region. Section 10 (2) of the DCA requires Council to consider an area rating of service, or the use of more than one development charge by-law to reflect different needs for services in different areas. The Regional Transit DC Background Study provides several reasons for maintaining a uniform rate, including the economies of scale inherent in a uniform rating system, the potential equity issues of providing an area rating, and the fact that a uniform rating reflects an integrated service that provides access to transit to all residents.
- 4.7 The new Regional Transit DC Background Study also includes a Local Service Policy for Transit Services. This new policy includes the provision that "transit stops located internal to or abutting a development are a local service and a direct responsibility of the developer to emplace or fund as a condition of development approval". Transit stops that fall within this provision will now be 100 per cent funded by the developer.
- 4.8 The proposed Regional Transit DC By-law recommends including stacked townhomes in the definition of "apartment building". This would lower the Regional transit DC rate applied to stacked townhomes as they would now be charged the two-bedroom apartment rate as opposed to the medium density rate currently being imposed. This change is recommended as evidence suggests that the average number of persons per unit for stacked townhomes more closely aligns with two-bedroom apartments than to medium density townhomes. This trend will be monitored and other Regional DC by-laws may be updated to reflect this change as they come up for renewal.

5. Public Input

- 5.1 Opportunity for public comment on the Regional Transit DC Background Study and proposed By-law was provided during the public meeting held on April 27, 2022. The public was also able to submit written feedback to the Region by 5:00pm on June 3, 2022. The Region did not receive any verbal comment during the public meeting nor any written feedback by the June 3 deadline.
- 5.2 Regional staff had distributed correspondence to the Durham and Greater Toronto Area Chapters of BILD, the Durham Region Homebuilders Association, and the various Chambers of Commerce/Boards of Trade within the region advising of the proposed by-law and offering to meet and discuss. Regional staff did receive some requests for copies of the background study, but no requests were made for meetings or further discussion.

6. Further Considerations by Regional Council Per DCA, 1997 - Formal Consideration of Need for Further Public Meeting

- 6.1 If the proposed by-law is changed as a result of comments received at the public meeting or through written correspondence, Regional Council is required, under the provisions of the DCA, to consider whether a further public meeting is required. An additional public meeting would require public notice to be provided at least twenty days prior to such public meeting.
- 6.2 Given that the Region did not receive any comments on the proposed by-law and the final recommendations are consistent with the Regional Transit DC Background Study and proposed By-law released to the public on April 12, 2022, a further public meeting will not be required if the recommendations in this report are accepted and no further changes are made.

7. Direction to Regional Staff

- 7.1 Direction from Regional Council is required for the Regional Solicitor, Regional Clerk and Regional Treasurer to complete the various administrative tasks needed to implement the recommended Regional Transit DC By-law. These tasks include the production and distribution of a DC pamphlet, as well as the necessary public notification provisions.

8. Relationship to Strategic Plan

- 8.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:
- a. Ensuring the Region's Transit DC By-law is in conformity with the DCA, supporting Goal 5 (Service Excellence).

9. Conclusion

- 9.1 It is recommended that the proposed Regional Transit DC By-law be approved as provided within the Regional Transit DC Background Study.
- 9.2 This report has been reviewed by staff from Durham Region Transit, as well as the Planning & Economic Development, Works and Corporate Services - Legal departments, who all concur with the recommendations.

10. Attachments

- Attachment #1: Recommended Regional Transit DC By-law
- Attachment #2: Local Service Policy

Respectfully submitted,

Original Signed By _____

N. Taylor, BBA, CPA, CA
Commissioner of Finance

Recommended for Presentation to Committee

Original Signed By _____

Elaine C. Baxter-Trahair
Chief Administrative Officer



The Regional Municipality of Durham

Transit Development Charges By-law

By-law Number XX-2022

July 2022

BY-LAW NUMBER XX-2022

OF

THE REGIONAL MUNICIPALITY OF DURHAM

being a by-law regarding development charges for transit services

WHEREAS section 2(1) of the *Development Charges Act, 1997*, provides that council of a municipality may by by-law impose development charges against land to pay for increased capital costs required because of increased needs for services arising from development of the area to which the by-law applies if the development requires one or more of the approvals identified in section 2(2) of the *Development Charges Act, 1997*;

AND WHEREAS a development charge background study has been completed in support of the imposition of development charges;

AND WHEREAS the Council of The Regional Municipality of Durham has given notice and held a public meeting on April 27, 2022, in accordance with section 12(1) of the *Development Charges Act, 1997*;

AND WHEREAS the Council of The Regional Municipality of Durham has permitted any person who attended the public meeting to make representations in respect of the proposed development charges;

NOW THEREFORE THE COUNCIL OF THE REGIONAL MUNICIPALITY OF DURHAM HEREBY ENACTS AS FOLLOWS:

PART I

INTERPRETATION

Definitions

1. In this By-law,
 - a. "Act" means the *Development Charges Act, 1997*, or a successor statute;
 - b. "agricultural use" means lands, buildings or structures, excluding any portion thereof used as a dwelling unit or for a commercial use, used or designed or intended for use for the purpose of a *bona fide* farming operation including, but not limited to, animal husbandry, dairying, livestock, fallow, field crops, removal of sod, forestry, fruit farming, greenhouses, horticulture, market gardening, pasturage, poultry keeping, and equestrian facilities;

- c. “air-supported structure” means a structure consisting of a pliable membrane that achieves and maintains its shape and is supported by internal air pressure;
- d. “apartment building” means a residential building, or the residential portion of a mixed-use building, consisting of more than 3 dwelling units, which dwelling units have a common entrance to grade but does not include a triplex, semi-detached duplex, semi-detached triplex, townhouse. Despite the foregoing, an “apartment building” includes “stacked townhouses”;
- e. “apartment” means a dwelling unit in an apartment building or a single storey dwelling unit located within or above a residential garage or a commercial use;
- f. “area municipality” means a lower-tier municipality that forms part of the Region;
- g. “bedroom” means a habitable room, including a den, study, loft, or other similar area, but does not include a living room, a dining room, a bathroom or a kitchen;
- h. “building or structure” means a permanent enclosed structure and includes an air-supported structure;
- i. “commercial use” means land, buildings or structures used, or designed or intended for use for either or both of office and retail uses as defined in this by-law;
- j. “Council” means the Council of the Regional Municipality of Durham;
- k. “development” includes redevelopment;
- l. “development charges” means charges in regard to transit services imposed pursuant to this By-law in accordance with the Act;
- m. “duplex” means a building comprising, by horizontal division, two dwelling units;
- n. “dwelling unit” means a room or suite of rooms used, or designed or intended for use by one person or persons living together, in which culinary and sanitary facilities are provided for the exclusive use of such person or persons;
- o. “existing industrial building” means a building used for or in connection with,
 - i. manufacturing, producing, processing, storing or distributing something,

- ii. research or development in connection with manufacturing, producing or processing something,
- iii. retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed, if the retail sales are at the site where the manufacturing, production or processing takes place,
- iv. office or administrative purposes, if they are,
 - 1. carried out with respect to manufacturing, producing, processing, storage or distributing of something, and
 - 2. in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution;
- p. “farm building” means a building or structure used, in connection with a bona fide agricultural use and includes barns, silos, and similar structures, and includes a dwelling located on the same lot as the agricultural use or on a lot directly abutting the agricultural use, which is used exclusively for the housing of temporary or seasonal persons employed exclusively for the farming of that agricultural use, but otherwise excludes a building or structure used, or designed or intended for use for residential or commercial uses;
- q. “garden suite” means a one-unit detached, temporary residential structure containing bathroom and kitchen facilities that is ancillary to an existing residential structure and that is designed to be portable;
- r. “gross floor area” means (except for the purposes of sections 8 and 12), in the case of a non-residential building or structure or the non-residential portion of a mixed-use building or structure, the aggregate of the areas of each floor, whether above or below grade, measured between the exterior faces of the exterior walls of the building or structure or pliable membrane in the case of an air supported structure, or from the centre line of a common wall separating a non-residential and a residential use, and, for the purposes of this definition, the non-residential portion of a mixed-use building is deemed to include one-half of any area common to the residential and non-residential portions of such mixed-use building or structure;
- s. “housing services use”/ “housing services” means social housing which is rental housing provided by Durham Region Local Housing Corporation (DRLHC) or by a non-profit housing provider that receives ongoing subsidy from the Region of Durham and Affordable Housing which are

rental units provided by private or non-profit housing providers that receive capital funding through a federal and / or provincial government affordable housing program;

- t. “institutional development”, for the purposes of section 16(a) of the by-law, means development of a building or structure intended for use,
 - i. as a long-term care home within the meaning of subsection 2 (1) of the Long-Term Care Homes Act, 2007;
 - ii. as a retirement home within the meaning of subsection 2 (1) of the Retirement Homes Act, 2010;
 - iii. by any of the following post-secondary institutions for the objects of the institution:
 - 1. a university in Ontario that receives direct, regular and ongoing operating funding from the Government of Ontario,
 - 2. a college or university federated or affiliated with a university described in subclause (i), or
 - 3. an Indigenous Institute prescribed for the purposes of section 6 of the Indigenous Institutes Act, 2017;
 - iv. as a memorial home, clubhouse or athletic grounds by an Ontario branch of the Royal Canadian Legion; or
 - v. as a hospice to provide end of life care.
- u. “local board” means a local board as defined in the *Municipal Affairs Act*, other than a board defined in subsection 1(1) of the *Education Act*;
- v. “medium density multiples” includes plexes, townhouses, , and all other residential uses that are not included in the definition of “apartment building”, “apartment”, “garden suites”, “mobile homes”, “retirement residence units”, “single detached”, “single detached dwelling” or “semi-detached dwelling”;
- w. “mixed-use” means land, buildings or structures used, or designed or intended for use, for a combination of non-residential and residential uses;
- x. “mobile home” means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent or temporary residence for one or more persons, but does not include a travel trailer or tent trailer or trailer otherwise designed;

- y. non-profit housing development, for the purpose of section 16(b) means development of a building or structure intended for use as residential premises by,
 - i. a corporation without share capital to which the Corporations Act applies, that is in good standing under that Act and whose primary object is to provide housing;
 - ii. a corporation without share capital to which the Canada Not-for-profit Corporations Act applies, that is in good standing under that Act and whose primary object is to provide housing; or
 - iii. a non-profit housing co-operative that is in good standing under the Co-operative Corporations Act.
- z. “non-residential use” means lands, buildings or structures or portions thereof used, or designed or intended for use for other than residential use;
- aa. “office use” means lands, buildings or structures used or designed or intended for use for the practice of a profession, the carrying on of a business or occupation or the conduct of a non-profit organization and, for greater certainty, but without in any way limiting the generality of the foregoing, shall include but not be limited to the office of a physician, lawyer, dentist, architect, engineer, accountant, real estate or insurance agency, insurance company, veterinarian, surveyor, appraiser, financial institution, consumer loan company, employment agency, advertising agency, consulting firm, business service, investment company, security broker, mortgage company, medical clinic, contractor, builder, land developer;
- bb. “place of worship” means a building or structure or part thereof that is used primarily for worship and is exempt from taxation as a place of worship under the Assessment Act;
- cc. “plex” means a duplex, a semi-detached duplex, a triplex or a semi-detached triplex;
- dd. “Region” means the Regional Municipality of Durham;
- ee. “rental housing” for the purpose of section 16(a) of the by-law, means development of a building or structure with four or more dwelling units all of which are intended for use as rented residential premises;
- ff. “residential use” means lands, buildings or structures used, or designed or intended for use as a home or residence of one or more individuals, and shall include, but is not limited to, a single detached dwelling, a semi-

detached dwelling, a townhouse, a plex, a stacked townhouse, an apartment, an apartment building, a mobile home, a retirement residence and a residential dwelling unit accessory to a non-residential use;

- gg. “retail use” means lands, buildings or structures used or designed or intended for use for the sale or rental or offer for sale or rental of goods or services for consumption or use and, for greater certainty, but without in any way limiting the generality of the foregoing, shall include, but not be limited to, food stores, pharmacies, clothing stores, furniture stores, department stores, sporting goods stores, appliance stores, garden centres, automotive dealers, automotive repair shops, gasoline service stations, government owned retail facilities, private daycare, private schools, private lodging, private recreational facilities, sports clubs, golf courses, skiing facilities, race tracks, gambling operations, medical clinics, funeral homes, motels, hotels, rooming houses, restaurants, theatres, facilities for motion picture, audio and video production and distribution, sound recording services, self-storage facilities and secure document storage;
- hh. “retirement residence” means a residential building or the residential portion of a mixed-use building which provides accommodation for persons of retirement age, where common facilities for the preparation and consumption of food are provided for the residents of the building, and where each unit or living accommodation has separate sanitary facilities, less than full culinary facilities and a separate entrance from a common hall;
- ii. “retirement residence unit” means a unit within a retirement residence;
- jj. “rooming house” means a detached building or structure which comprises rooms that are rented for lodging and where the rooms do not have both culinary and sanitary facilities for the exclusive use of individual occupants;
- kk. “semi-detached duplex” means one of a pair of attached duplexes, each duplex divided vertically from the other by a party wall;
- ll. “semi-detached dwelling” means a building divided vertically (above or below ground) into and comprising 2 dwelling units;
- mm. “semi-detached triplex” means one of a pair of triplexes divided vertically one from the other by a party wall;
- nn. “service” means the service designated in section 6 of this by-law;
- oo. “single detached dwelling” and “single detached” means a building comprising 1 dwelling unit;

- pp. “stacked townhouse” means a building, other than a plex, townhouse or apartment building, containing at least 3 dwelling units; each dwelling unit separated from the other vertically and/or horizontally and each dwelling unit having a separate entrance to grade;
 - qq. “townhouse” means a building, other than a plex, stacked townhouse or apartment building, containing at least 3 dwelling units, each dwelling unit separated vertically from the other by a party wall and each dwelling unit having a separate entrance to grade;
 - rr. “triplex” means a building comprising 3 dwelling units.
2. In this by-law where reference is made to a statute or a section of a statute such reference is also deemed to be a reference to any successor statute or section.

PART II

APPLICATION OF BY-LAW — RULES

Circumstances Where Development Charges are Payable

3. (1) Development charges shall be payable in the amounts set out in sections 7 and 10 of this by-law where:
- a. the lands are located in the area described in subsection 4(1); and
 - b. the development of the lands requires any of the approvals set out in subsection 5(1).

Area to Which By-law Applies

4. (1) Subject to subsection 4(2), this by-law applies to all lands in the Region.
- (2) This by-law shall not apply to lands that are owned by and used for the purposes of:
- a. the Region or a local board thereof;
 - b. a board as defined in subsection 1(1) of the *Education Act*; and
 - c. an area municipality or a local board thereof in the Region.

Approvals for Development

5. (1) Development charges shall be imposed upon all lands, buildings or structures that are developed for residential or non-residential uses if the development requires,
 - a. the passing of a zoning by-law or of an amendment thereto under section 34 of the *Planning Act*;
 - b. the approval of a minor variance under section 45 of the *Planning Act*;
 - c. a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
 - d. the approval of a plan of subdivision under section 51 of the *Planning Act*;
 - e. a consent under section 53 of the *Planning Act*;
 - f. the approval of a description under section 9 of the *Condominium Act*; or
 - g. the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure.
- (2) No more than one development charge for the service designated in section 6 shall be imposed on land to which this by-law applies even though two or more of the actions described in subsection 5(1) are required before the land can be developed.
- (3) Notwithstanding subsection 5(2), if two or more of the actions described in subsection 5(1) occur at different times, additional development charges shall be imposed, if the subsequent action has the effect of increasing the need for services.

Designation of Services

6. (1) The category of service for which development charges are imposed under this by-law is transit.
- (2) The components of the service designated in subsection 6(1) are described on Schedule "A".
- (3) It is hereby declared by Council that all development of land within the area to which this By-law applies will increase the need for services.
- (4) The development charges under this By-law applicable to a development shall apply without regard to the services required or used by a particular development.

Amount of Development Charges

Residential

7. (1) The development charges described in Schedule “B” to this by-law shall be imposed upon residential uses of lands, buildings or structures, including a dwelling unit accessory to a non-residential use and, in the case of a mixed use building or structure, upon the residential uses in the mixed use building or structure, according to the type of residential unit.

Exemptions

8. (1) For the purpose of section 8, “gross floor area” means the total floor area, measured between the outside of exterior walls or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of all floors above the average level of finished ground adjoining the building at its exterior walls.

(2) Development charges shall not be imposed in respect to:

- a. the issuance of a building permit not resulting in the creation of an additional dwelling unit;
- b. the enlargement of an existing dwelling unit;
- c. the creation of additional dwelling units in accordance with the following table:

Description of Class of Existing Residential Buildings	Maximum Number of Additional Dwelling Units	Restrictions
Existing single detached residential buildings, each of which contains a single dwelling unit, that are not attached to other buildings.	Two	The total gross floor area of the additional dwelling unit or units must be less than or equal to the gross floor area of the dwelling unit already in the building.
Existing semi-detached or row residential buildings, each of which contains a single dwelling unit, that have one or two vertical walls, but no other parts, attached to other buildings.	One	The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the dwelling unit already in the building.

Existing rental residential buildings, each of which contains four or more dwelling units.	Greater of one and 1% of the existing units in the building	None
An existing residential building not in another class of residential building described in this table.	One	The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the smallest dwelling unit already in the building.

d. the creation of a second dwelling unit in accordance with the following table:

Description of Class of Proposed New Residential Buildings	Restrictions
Proposed new residential detached buildings that would not be attached to other buildings and that are permitted to contain a second dwelling unit, that being either of the two dwelling units, if the units have the same gross floor area, or the smaller of the dwelling units.	<p>The proposed new detached dwelling must only contain two dwelling units.</p> <p>The proposed new detached dwelling must be located on a parcel of land on which no other detached dwelling, semi-detached dwelling or row dwelling would be located.</p>
Proposed new semi-detached or row residential buildings that would have one or two vertical walls, but no other parts, attached to other buildings and that are permitted to contain a second dwelling unit, that being either of the two dwelling units, if the units have the same gross floor area, or the smaller of the dwelling units.	<p>The proposed new semi-detached dwelling or row dwelling must only contain two dwelling units.</p> <p>The proposed new semi-detached dwelling or row dwelling must be located on a parcel of land on which no other detached dwelling, semi-detached dwelling or row dwelling would be located.</p>
Proposed new residential buildings that would be ancillary to a proposed new detached dwelling, semi-detached dwelling or row dwelling and that are permitted to contain a single dwelling unit.	<p>The proposed new detached dwelling, semi-detached dwelling or row dwelling, to which the proposed new residential building would be ancillary, must only contain one dwelling unit.</p> <p>The gross floor area of the dwelling unit in the proposed new residential building must be equal to or less than the gross floor area of the detached dwelling, semi-detached dwelling or row dwelling to which the proposed new residential building is ancillary.</p>

Retirement Residence Unit

9. The development charges imposed on a retirement residence unit under section 7 shall be payable at the rate applicable to an apartment of one bedroom and smaller.

Non-Residential Uses

10. The development charges described in Schedule "C" to this by-law shall be imposed upon non-residential uses of lands, buildings or structures, and, in the case of a mixed use building or structure, upon the non-residential uses in the mixed use building or structure, according to the gross floor area of the non-residential use.

Exemptions

11. (1) Notwithstanding section 10 of this by-law, development charges shall not be imposed upon non-residential development if the development does not have the effect of creating gross floor area of non-residential development or of increasing existing gross floor area of non-residential development.

(2) Notwithstanding the provision of this by-law, development charges shall not be imposed in regard to:
 - a. agricultural uses and farm buildings;
 - b. places of worship;
 - c. public hospitals receiving aid under *the Public Hospitals Act* R.S.O. 1990, c. P.40, excluding such buildings or structures or parts thereof used, designed or intended for use primarily for or in connection with a commercial purpose;
 - d. any part of a building or structure used for the parking of motor vehicles, excluding parking spaces for display of motor vehicles for sale or lease or parking spaces associated with the servicing of motor vehicles;
 - e. free standing roof-like structures and canopies that do not have exterior walls;
 - f. Land vested in or leased to a university that receives regular and ongoing operating funds from the government for the purposes of post-secondary education, but only if the lands are occupied and used by the university.

Exemption for Enlargement of Existing Industrial Building

12. (1) Despite any other provisions of this by-law, if a development includes the enlargement of the gross floor area of an existing industrial building, the amount of the development charge that is payable in respect of the enlargement shall be calculated as follows:
 - a. if the gross floor area is enlarged by fifty percent or less, the amount of the development charge in respect of the enlargement is zero;

- b. if the gross floor area is enlarged by more than fifty percent the amount of the development charge in respect of the enlargement is the amount of the development charge that would otherwise be payable multiplied by the fraction determined as follows:
 - (i) determine the amount by which the enlargement exceeds fifty percent of the gross floor area before the enlargement; and
 - (ii) divide the amount determined under paragraph (i) by the amount of the enlargement.
- (2) For the purposes of subsection 12(1) the following provisions apply:
- a. the gross floor area of an existing industrial building shall be calculated as it existed as of July 1, 2022;
 - b. subject to 12(2)(c) below, the enlargement need not be an attached addition or expansion of an existing industrial building, but rather may be a new standalone structure, provided it is located on the same parcel of land as the existing industrial building;
 - c. in the event that the enlargement is in the form of a standalone building or structure located on the same parcel of land as per 12(2)(b) above, prior to the issuance of a building permit for the standalone building or structure, the owner shall be required to enter into an agreement with the Region under section 27 of the Act respecting the timing and calculation of payment of development charges, notice of which the owner shall register on the title to the lands at its sole cost and expense with the intention that the provisions shall bind and run with title to the lands. Such agreement will require that in the event that the lands upon which any standalone building or structure is located are the subject of an application for consent under section 53 of the Planning Act; or for which a by-law is passed under subsection 50(7) of the Planning Act, within 10 years of building permit issuance for such standalone building or structure, that the development charges that would have otherwise been payable for such standalone building or structure, shall become due and payable.
- (3) In this section “gross floor area” means the total floor area, measured between the outside of exterior walls or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of all floors above the average level of finished ground adjoining the building at its exterior walls.

Reduction of Development Charges For Redevelopment

13. (1) Despite any other provision of this by-law, where, as a result of the redevelopment of land, a building or structure existing on the land within ten years prior to the date of payment of development charges in regard to such redevelopment was, or is to be demolished, in whole or in part, or converted from one principal use to another, in order to facilitate the redevelopment, the development charges otherwise payable with respect to such redevelopment shall be reduced by the following amounts:
 - a. in the case of a residential building or structure, the amount of the reduction in the applicable development charges will equal the applicable development charges under section 7 of this by-law that would have been chargeable on the type of dwelling units demolished or to be demolished or converted to another use; and
 - b. in the case of a non-residential building or structure, the amount of the reduction in the applicable development charges will equal the applicable development charges under section 10 of this by-law that would have been chargeable on the gross floor area of the non-residential building or structure that was demolished or to be demolished or converted to another use;
 - c. in the case of a non-residential building or structure that would have been exempt from the payment of development charges under the current Regional Development Charge By-law, the amount of the reduction in the applicable development charge will equal the applicable development charge under section 10 of this by-law that, had the building or structure not been exempt, could have been chargeable on the gross floor area of the non-residential building or structure that was demolished or to be demolished or converted to another use; and
 - d. in the case of a mixed-use building or structure, the amount of the reduction in the applicable development charges will equal the applicable development charges under sections 7 or 10 of this by-law that would have been chargeable either upon the type of dwelling units or the gross floor area of non-residential use in the mixed-use building or structure that is being demolished or to be demolished or converted to another use;
 - i. provided that such amounts shall not exceed, in total, the amount of the development charges otherwise payable with respect to the redevelopment.
- (2) The ten year period referred to in subsection 13(1) of this by-law shall be calculated from the date of the issuance of the first demolition permit.
- (3) Development charges shall not be reduced under this section where the building or structure that is to be demolished or has been demolished or

converted from one principal use to another was, or would have been, exempt from development charges under this by-law.

- (4) The onus is on the applicant to produce evidence to the satisfaction of the Region, acting reasonably, which establishes that the applicant is entitled to the reduction in the payment of development charges claimed under this section.

PART III ADMINISTRATION

Timing of Payment of Development Charges

14. Development charges, determined in accordance with section 17 and adjusted in accordance with section 19 of this by-law, are payable in full on the date on which a building permit is issued with respect to each dwelling unit, building or structure.
15. Notwithstanding section 14, Council, from time to time, and at any time, may enter into agreements in accordance with section 27 of the Act which provide for all or any part of a development charge to be paid before or after it would otherwise be payable.

Payment by Services

16. Notwithstanding section 14, where development charges become payable after January 1, 2020 for development of:
 - a. rental housing that is not non-profit housing development and institutional development, development charges shall be paid in equal annual instalments beginning on the earlier of the date of issuance of a permit under the Building Code Act, 1992 authorizing occupation of the building and the date the building is first occupied, and continuing on the following five anniversaries of that date;
 - b. non-profit housing development, development charges shall be paid in equal annual instalments beginning on the earlier of the date of issuance of a permit under the Building Code Act, 1992 authorizing occupation of the building and the date the building is first occupied, and continuing on the following twenty anniversaries of that date;

Determining Amount Payable

17. The development charges payable will be the development charge shown in the applicable Schedules to this by-law to be payable, with indexing under section 19, and, where applicable, with interest under section 22 of this by-law as of
- a. for those developments to which section 16 applies,
 - i. for applications filed after December 31, 2019 the day an application for an approval of development in a site plan control area under subsection 41(4) of the Planning Act was made, provided the first building permit is issued within two years of the date that application was approved;
 - ii. if clause (i) does not apply, for applications filed after December 31, 2019, the day an application for an amendment to a by-law passed under section 34 of the Planning Act was made, provided the first building permit is issued within two years of the date that amendment comes into force and effect; or
 - iii. if neither clause (i) nor clause (ii) applies, the day the development charge would be payable in accordance with section 14 of this by-law; and
 - b. for those developments to which section 16 does not apply,
 - i. for applications filed after December 31, 2019, the day an application for an approval of development in a site plan control area under subsection 41(4) of the Planning Act was made, provided the date the development charge is payable is within two years of the date that application was approved;
 - ii. if clause (i) does not apply, for applications filed after December 31, 2019, the day an application for an amendment to a by-law passed under section 34 of the Planning Act was made, provided the date the development charge is payable is within two years of the date that amendment comes into force and effect; or
 - iii. if neither clause (i) nor clause (ii) applies, the day the development charge would be payable in accordance with section 14 of this by-law.

Front-Ending Agreements

18. Council, from time to time, and at any time, may enter into front-ending agreements in accordance with the Act.

Indexing

19. Development charges imposed pursuant to this by-law shall be adjusted annually, without amendment to this by-law, as of the 1st day of July, 2023, and on each successive July 1st date in accordance with the Statistics Canada Quarterly, *Construction Price Statistics*, catalogue number 62-007, for the most recently available annual period ending March 31.

Schedules

20. The following schedules to this by-law form an integral part thereof:
- i. Schedule “A” — Components of Service Designated in section 6
 - ii. Schedule “B” — Residential Development Charges
 - iii. Schedule “C” — Non-Residential Development Charges

Date By-law in Force

21. This by-law shall come into force on July 1, 2022.

Installment Interest

22. Development charges payable by instalment pursuant to section 16 of this by-law shall bear interest in accordance with the Region of Durham Development Charge Interest Rate Policy, as amended from time to time.

Date By-law Expires

23. This by-law will expire five years from the date it comes into force, unless it is repealed at an earlier date by a subsequent by-law.

Registration

24. A certified copy of this by-law may be registered on title to any land to which this by-law applies.

Severability

25. In the event any provision, or part thereof, of this by-law is found by a court of competent jurisdiction to be *ultra vires*, such provision, or part thereof, shall be deemed to be severed, and the remaining portion of such provision and all other provisions of this by-law shall remain in full force and effect.

Short Title

26. This By-law may be cited as the Regional Municipality of Durham Transit Development Charges By-law, 2022.

BY-LAW read and passed this X day of X 2022

Original signed by: John Henry, Regional Chair & CEO

Original signed by: Cheryl Bandel, Acting Regional Clerk

SCHEDULE "A"

**DESIGNATED REGIONAL SERVICE AND
SERVICE COMPONENTS THEREUNDER**

CATEGORY OF REGIONAL SERVICE SERVICE COMPONENTS

Transit	<ul style="list-style-type: none">• PULSE, Conventional and specialized buses and non-revenue vehicles expansion and related equipment (e.g. fareboxes, radio's, Presto, etc.)• New facilities, transfer hubs, terminals, lands, buildings and related equipment• Transit stops (e.g. hard surface pads and shelters)• System improvements• Studies
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SCHEDULE "B"

**RESIDENTIAL DEVELOPMENT CHARGES EFFECTIVE
JULY 1, 2022 — \$ PER DWELLING UNIT BY TYPE**

APARTMENTS

SERVICE CATEGORY	SINGLE DETACHED & SEMI- DETACHED DWELLINGS	MEDIUM DENSITY MULTIPLES	TWO BEDROOMS & LARGER	ONE BEDROOM & SMALLER
Regional Transit	\$2,184	\$1,720	\$1,221	\$750

NOTE: The development charges described above shall be adjusted annually pursuant to section 19 of this By-law.

SCHEDULE "C"

**NON-RESIDENTIAL USE DEVELOPMENT CHARGES
EFFECTIVE JULY 1, 2022
\$ PER SQUARE FOOT OF GROSS FLOOR AREA**

SERVICE CATEGORY	Non-Residential Use
Regional Transit	\$0.99

NOTE: The development charges described above shall be adjusted annually pursuant to section 19 of this By-law.

Local Service Policy

Definitions

“Abutting service” shall include a service either existing or proposed, that is either located on a road allowance outside the limit of a development but abuts the development or located on a road allowance within the limit of a development but abuts other lands outside the development.

“External service” shall include a service, either existing or proposed, that is located outside the limit of a development but shall not include abutting service.

“Internal service” shall include a service, either existing or proposed, that is located within the limit of a development but shall not include an abutting service.

“Regional road” shall be a road and related appurtenances that form part of the road system under the jurisdiction and control of the Regional Municipality of Durham and designed in accordance with Regional standards, which may include B.R.T. corridors, transit priority measures (e.g. queue jump lanes, transit signal priority), transit lanes and lay-bys.

Oversizing/External/Abutting Services

Regional Road-related improvements required to service Regional transit will be applied in keeping with the Region’s existing version of the Cost Sharing Policy for Regional Services, subject to the following amendments:

- a) The definition of “Regional road” is expanded to include the words “, which may include B.R.T. corridors, transit priority measures (e.g. queue jump lanes, transit signal priority), transit lanes and lay-bys”, as shown in the above definition.
- b) Oversizing/External/Abutting Services

The Region cost shares (with funding largely from development charge revenue) the portion of those services which are sized or located so as to benefit lands beyond the proposed development. These include: services which are oversized beyond the minimum size required by the development or the minimum size permitted by the Regional Design Guidelines, whichever is larger; services which are external to, or not required by the development; and services which abut the development and provide direct service to adjacent lands.

The developer funds the minimum size of services required for the subject development, or the Regional Design Guideline minimum size, whichever is larger, in the case of internal, external or abutting service oversizing.

Transit stop-related improvements (pads, shelters, signs, etc.) required to Service Regional Transit are subject to the following policies:

- a) transit stops located internal to or abutting a development are a local service and a direct responsibility of the developer to emplace or fund as a condition of development approval.
- b) transit stops external to a development and benefiting lands beyond the proposed development are a Regional funding responsibility and will be funded by D.C. to the extent permitted under the D.C.A.
- c) upgrades to existing transit stops are a Regional funding responsibility and will be funded by D.C. to the extent permitted under the D.C.A.



The Regional Municipality of Durham Report

To: Finance and Administration Committee
From: Commissioner of Finance
Report: #2022-F-16
Date: June 14, 2022

Subject:

E-Mission Zero – DRT Fleet Electrification Plan

Recommendations:

The Finance and Administration Committee recommends to Regional Council:

That Durham Region Transit's Fleet Electrification Plan be received for information and referred to Durham Region Transit's long-term servicing and financing strategy to be presented to Committee and Council in advance of the 2023 Business Plans and Budget.

Report:

1. Purpose

- 1.1 This report provides an overview of key findings and pathway options developed from the Durham Region Transit (DRT) fleet and facilities feasibility study, aimed at reducing greenhouse gas (GHG) emissions and aligning with the Region's Corporate Climate Change Action Plan (CCAP) and 2020-2024 Strategic Plan.
- 1.2 The report outlines the proposed DRT zero emission fleet transition plan (25-year horizon), and anticipated capital and operating impacts for the fleet and infrastructure, that will be considered as part of the DRT long-term servicing and financing strategy currently underway.

2. Background

- 2.1 In 2019, the Durham Community Energy Plan (DCEP) found that transportation is responsible for more energy use, costs, and GHG emissions than any other source.

- 2.2 In March 2021, Council approved the [Corporate Climate Change Action Plan \(CCAP\)](#) with targets to reduce corporate GHG emissions by 100 per cent by 2045. This includes the transition of corporate fleets, such as public transit vehicles, to low carbon alternatives. Furthermore, the 2022 Annual Corporate Climate Change Action Plan reported that Transit accounted for 10 per cent of the Region's total corporate GHG emissions in 2020.
- 2.3 In July 2021, DRT retained HDR Inc. through a competitive procurement process to conduct a feasibility study and develop a zero-emissions fleet transition plan. The results of this study are described in this report, identifying a multi-year zero emission bus (ZEB) fleet transition, infrastructure requirements, and anticipated financial impacts.
- 2.4 In August 2021 the Region launched the E-Mission Durham program focused on creating a cleaner, low-carbon future by supporting and empowering Durham residents in making the transition to lower and zero emission vehicles. As part of these efforts, E-Mission Zero is DRT's commitment to adopt zero emission vehicles in its fleet to help reduce overall GHG emissions from the transportation sector in Durham.

3. Previous Reports and Decisions

- 3.1 In November 2019, Regional Council approved the purchase of up to eight (8) electric buses and associated charging infrastructure for a total of \$10.1 million using one-time allotted Canada Community-Building funds (previously known as Federal Gas Tax funds ([Report #2019-COW-31](#))). This pilot allows for the assessment of battery electric bus and charging technology, including its performance in local conditions to inform the long-term fleet transition and deployment.
- 3.2 In September 2021, the Transit Executive Committee received the E-Mission Zero – Towards Zero Emission Public Transit in Durham Region ([Report #2021-DRT-21](#)) which provided an overview of DRT's commitment to transition to zero GHG emissions by advancing a coordinated suite of initiatives supporting the assessment and deployment of clean technologies aimed at reducing GHG emissions from public transit in Durham.
- 3.3 In November 2021, the Region approved the proposed strategy to implement DRT's Electric Bus and Charging Infrastructure Demonstration Pilot ([Report #2021-DRT-28](#) and [Report #2021-F-30](#)) including approving an additional \$2.0 million from one-time Canada Community-Building funds to increase the total

approved financing to \$2.9 million for the supply of electric bus charging equipment from Oshawa Power and Utilities Corporation and \$0.1 million in one-time Canada Community-Building funds to finance the design and construction of facility upgrades to be performed by eCamion necessary to implement integrated charging and energy storage equipment.

- 3.4 In February 2022, Regional Council received the 2021 Annual Corporate Climate Change Action Plan Update ([Report #2022-COW-3](#)), which included an update on DRT's 2020 GHG inventory and the short-term reduction forecast

4. Feasibility Study and Transition Plan

Feasibility Study

- 4.1 Prior to developing the transition plan for DRT, staff worked with HDR Inc. to complete a feasibility study, consisting of an industry scan of zero emissions vehicles (ZEVs), reviewing commercial availability and the supply chain network including available fuel sources and suppliers in Canada. Additionally, this work included a data modelling exercise based on current service operations and a review of DRT's existing fleet and depots to define requirements for the transition to a zero emissions fleet.
- 4.2 The scope of work focused on transitioning the fleet to ZEVs, defined by Transport Canada as vehicles with the potential to produce no tailpipe emissions, such as battery-electric (BEV), plug-in hybrid-electric (PHEV) and fuel cell electric vehicles (FCEVs). Federal government financing and funding programs (described further below in Section 6) are also currently structured to support the transition to ZEVs.
- 4.3 The key findings from this feasibility study are described below
- (a) Battery electric buses (BEBs) are a favourable option in North America because the technology is efficient in converting energy to power, more developed, readily available, requires less infrastructure upgrades and is relatively cost effective compared to other ZEV options. BEBs also contain fewer mechanical parts, which typically results in lower long-term maintenance costs than diesel and hydrogen fuel cell buses (FCEBs).
 - (b) Electricity is used to directly charge batteries in BEBs and comes mostly from the electrical grid and other off-board electrical power sources, which in Ontario can come from nuclear, hydroelectric, biomass, natural gas, solar and wind energy. In Ontario, there is a well-established and reliable supply

for electricity from generation to transmission and distribution (suppliers of electricity).

- (c) In 2021 about 92 per cent of electricity generated in Ontario was produced from zero-carbon sources: 58 per cent from nuclear, 24 per cent from hydroelectric generation, 8 per cent from wind, and 1 per cent each from solar and biomass/geothermal. The remaining 8 per cent is primarily from natural gas and petroleum-based sources.¹
- (d) Hydrogen is less readily available in Canada, but the technology is rapidly evolving and should continue to be monitored over the period of DRT's transition plan. The provincial government recently developed a hydrogen strategy to develop the hydrogen economy, so progress may be made in the coming years.
- (e) Hydrogen, based on its inputs and production process, can yield carbon intensive to low carbon hydrogen gas². When hydrogen is produced in its cleanest form ("green" hydrogen), this fuel needs to be produced at mass volumes to be the same price or less expensive than diesel or Compressed Natural Gas (CNG).
- (f) The data modelling exercise HDR completed on DRT service operations resulted in classifying the existing fleet based on the difficulty of transition due to the range requirements for specific routes. Additionally, the average bus replacement ratios³ (electric bus: diesel bus) based on existing service was determined to be 1.39 for Conventional service and 1.48 for Pulse service.
- (g) Review of the average and maximum daily mileage from DRT operated demand-responsive and non-revenue vehicles determined that these

1 IESO 2021 Year in Review [2021 Year in Review \(ieso.ca\)](https://www.ieso.ca)

2 Hydrogen is typically classified as Grey Hydrogen, Blue Hydrogen and Green Hydrogen based on emissions generated during production. Grey Hydrogen is the most common form of Hydrogen, created from fossil fuels, releasing carbon dioxide which is not captured. Blue Hydrogen uses the same process as Grey but the carbon is captured and stored but comes with added technical challenges and increased cost. Green Hydrogen is the production of hydrogen through electrolysis, powered by renewable energy sources such as wind or solar

3 Average bus replacement ratios derived by taking the ratio between the fleet requirement of the business-as-usual scenario and the fleet requirement of the BEB conversion scenario from the modelling exercise based on 2021 service.

vehicles can be replaced on a one-to-one basis using existing battery electric vehicles in the market.

- (h) Infrastructure upgrades, depot retrofits, and energy systems are required at the DRT depots in Ajax and Oshawa to support the transition to zero emission buses, including charging, storage and maintenance.
- (i) Potential en-route charging⁴ locations were also identified to support range requirements and maintain service hours for the difficult to transition replacement and future expansion buses.

4.4 Based on the feasibility assessment, battery electric technology was the recommended zero emissions propulsion system for DRT's fleet. However, given rapid advancements in zero emission technologies, staff will continue to assess the commercial availability and technical feasibility of battery electric buses and hydrogen fuel cell vehicles, and associated fueling infrastructure, at key phases of the transition plan.

Transition Plan

- 4.5 The fleet transition plan is a year-over-year acquisition plan (up to 25 years) for the phased implementation of battery electric vehicles, charging equipment and infrastructure that aims to meet Durham Region's strategic goals and priorities, along with DRT's operational requirements.
- 4.6 Key objectives and requirements include achieving practical levels of annual GHG emissions reductions (in alignment with the approved CCAP targets⁵) with consideration for commercial and technical feasibility – including infrastructure upgrades, depot retrofits, bus retirement schedules, service constraints, projected growth and future service, and available funding opportunities.
- 4.7 The transition plan considers the replacement of the entire Region owned fleet, including expansion vehicles and charging equipment required to support them. Additionally, infrastructure upgrades required at the existing DRT owned depots have been considered.

⁴ En-route charging is typically the application of fast high-power charging, placed at strategic locations along a route, typically at the end points or terminals, increasing the available range of the bus in between charges.

⁵ The CCAP targets as approved in March 2021 is 20% below 2019 GHG emissions level by 2025, 40% below 2019 GHG emissions level by 2030 and 100% below 2019 GHG emissions level by 2045.

4.8 The transition plan includes the assessment and development of pathway options for implementation based on transition timeline targets. Each pathway option includes an economic analysis (described further in Section 8 – Financial Summary) and an assessment of the operational requirements. The pathway options include:

(a) Pathway Option 1 – Standard, complete transition by 2044: An acquisition plan that uses the CCAP GHG emissions reductions targets as the baseline, whereby DRT would begin a gradual transition⁶ to electric buses starting in 2023 and purchase only electric buses starting in 2031. The expected fleet composition and projected GHG emissions reductions are depicted below.

Figure 1: Fleet Composition Forecast & Related GHG Emissions (Pathway Option 1)

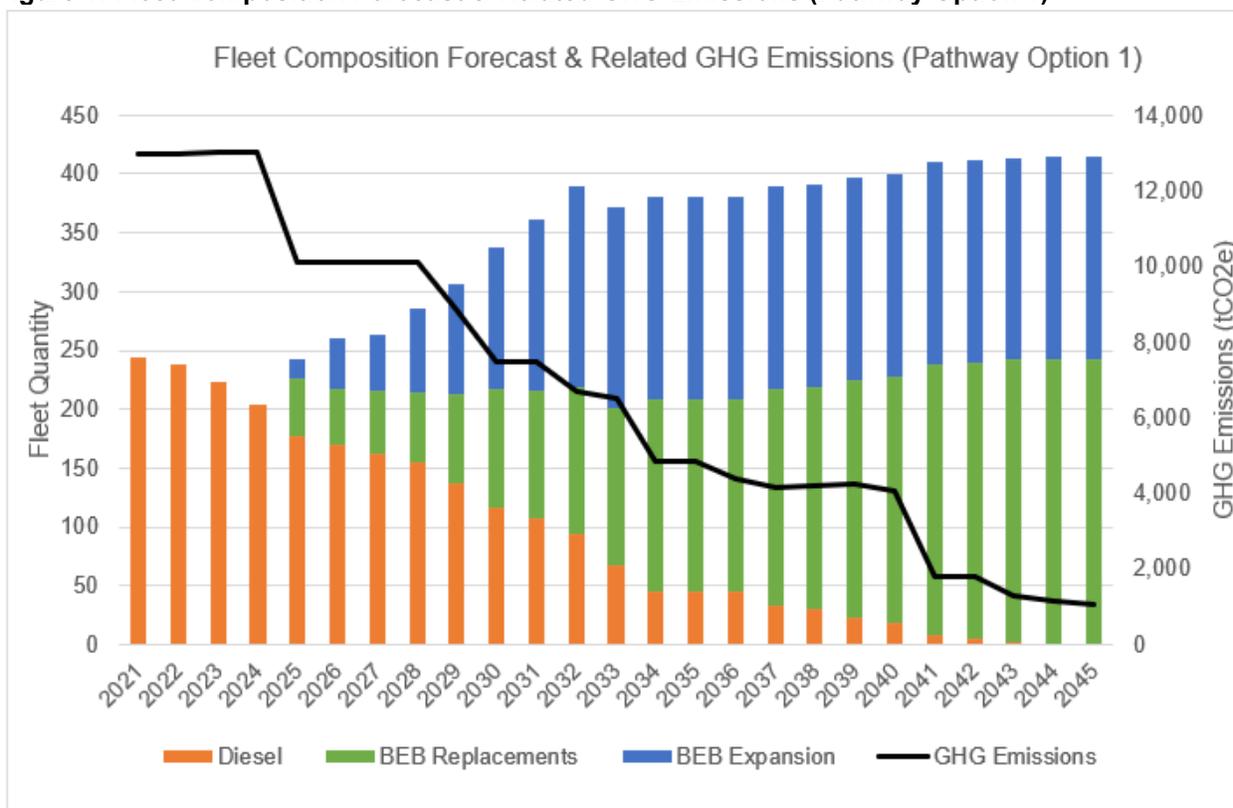


Table 1: DRT GHG Reduction Forecast⁷ (Pathway Option 1)

⁶ The transition describes the budget year for the buses, with a lead-time of two years for bus delivery

⁷ The GHG forecast includes emissions from buses and depots. Based on today’s technology, the electric buses are equipped with a diesel auxiliary heater to support range requirements, which results in some emissions. Additionally, the depot emissions account for indirect emissions from the generation of electricity consumed

	Baseline Actual 2019	Forecast 2030	Forecast 2045
Annual GHG Emissions (t CO ₂ e)	21,925	7,459	1,074
% Reduction	N/A	66%	95%

(b) Pathway Option 2 (Recommended to TEC (Report [2022-DRT-10](#))) – Accelerated, complete transition by 2037: An acquisition plan that aims to exceed the CCAP GHG emissions reductions target, whereby DRT would begin an accelerated transition to electric buses, purchasing only electric buses starting in 2024. The expected fleet composition and projected GHG emissions reductions are depicted below.

Figure 2: Fleet Composition Forecast & Related GHG Emissions (Pathway Option 2)

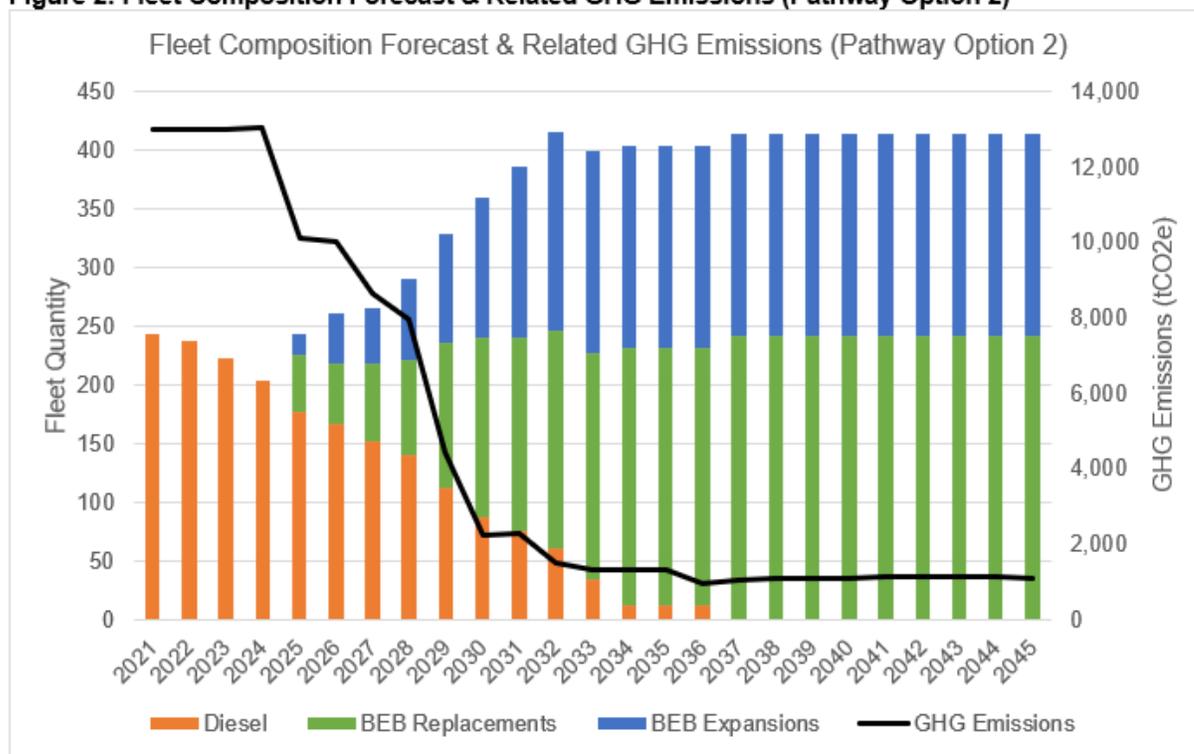


Table 2: DRT GHG Reduction Forecast (Pathway Option 2)

	Baseline Actual 2019	Forecast 2030	Forecast 2045
Annual GHG Emissions (t CO ₂ e)	21,925	2,232	1,074
% Reduction	N/A	90%	95%

- 4.9 Based on the assessment, Pathway Option 2 was recommended to TEC ([Report 2022-DRT-10](#)) as the preferred option. Pathway Option 2 presents an opportunity for the Region to demonstrate strong leadership in reducing total GHG emissions from the DRT fleet by an additional 53,141 tonnes CO_{2e} over 25 years compared to Pathway Option 1 (equivalent to avoiding nearly 2.5 years of GHG emissions at 2019 baseline levels). In addition to exceeding the GHG emission reduction targets established in CCAP, Pathway Option 2 will also enable DRT to maximize available federal funding opportunities in the short term to support an accelerated transition timeline.
- 4.10 Under this model, DRT would undertake the following steps:
- (a) Beginning in 2023, replace some retiring diesel buses with BEBs and all expansion buses⁸ will be purchased as BEBs. DRT may elect to replace the retiring diesel buses with hybrid-electric buses in 2023, but starting in 2024 all retiring buses will be replaced with BEBs to achieve complete electrification of the fleet by 2037.
 - (b) Beginning in 2023, replace all demand responsive and non-revenue vehicles with battery electric vehicles.
 - (c) Depot transition and infrastructure upgrades strategy:
 - The Oshawa depot will be the primary focus for the first phase of the transition, preparing the depot for an all-electric fleet by 2033, with infrastructure upgrades and depot retrofits to occur between 2023 and 2025.
 - The Ajax depot will receive limited electric buses in the first phase of the transition, with a continuous transition to electric buses in the second phase starting in 2026, preparing the depot for an all-electric fleet by 2037.
 - The new transit operations and maintenance depot at 2400 Thornton Rd., Oshawa (expected to be commissioned in 2026) will be designed and built to support any relocated buses and expansion ZEBs.
 - HDR and DRT have consulted with both OPUC and Elexicon (local distribution service providers in the Region), to review and assess the grid capacity to support the estimated electricity demand and energy

⁸ The expansion electric bus quantities are a rough estimation based on the modelled average ratio data from 2021 service applied against the 2022 Transit Development Charge Background Study expansion quantities. The quantities are not based on where and how service is expected to operate in the future with electric buses

consumption during the transition period. Preliminary review led to positive feedback, however, a detailed assessment of site services and infrastructure upgrades will be completed following the approval of the transition plan.

(d) The charging strategy employed will include both depot-based overnight charging and en-route charging:

- Overhead-mounted conductive pantograph chargers will be the primary design solution at the DRT depots. Staff will continue to assess charging options based on business requirements and technical feasibility for installation at the depots.
- En-route chargers are proposed to be located at the Oshawa Centre Terminal, Harmony Terminal, Oshawa GO station, Centennial Circle (Toronto), Pickering Town Centre, and Ajax GO Station. Some en-route charging locations will be required earlier than others based on the pace of the bus fleet transition, with the earliest installation required in 2027. These early installations may include Oshawa Centre Terminal, Harmony Terminal, Oshawa GO station, and Centennial Circle (Toronto).
- Staff will assess options on the procurement approach for infrastructure upgrades and energy services by considering best value in total cost of ownership and operational efficiencies. It is highly recommended that DRT focus on operating the buses and will investigate options to outsource the delivery of infrastructure upgrades and operations and maintenance of charging infrastructure.

(e) With current Federal financing and funding opportunities available until 2026, this pathway allows the Region to maximize opportunities to reduce the expected cost pressures of the transition for the Region (see Section 6 below).

(f) DRT will continue to assess the commercial availability, cost and feasibility of battery electric buses (based on future range capabilities) and hydrogen fuel cell buses or other technologies currently in development, as potential options to replace the more difficult to transition routes.

- The first evaluation will occur in 2025, based on technology maturity, the supply chain network, technical and economic feasibility of the technology and fuel supply, with recurring checkpoints thereafter.

- If hydrogen fuel technology and the fuel supply chain (production, distribution, storage and dispensing) has advanced by this time, Phase II expansion for the 2400 Thornton Road, Oshawa facility may be designed to include provisioning for hydrogen fuel cell storage and maintenance.
- 4.11 The transition plan also includes BEB transition for the demand response and non-revenue fleet. As noted above, analysis of the mileage data of these vehicle types showed that these vehicles can be converted on a one-to-one basis. Therefore, transition of those type of vehicles follows the same requirement and expansion schedule as those for diesel vehicles.

5. Financial Summary

- 5.1 An analysis has been completed by HDR Inc, with input from DRT and Finance Department staff, to identify the estimated capital and operating impacts for the two transition options. This modelling exercise includes both the Fleet and Facility infrastructure, and was developed using 2021 dollars, a nominal discount rate of 8 per cent and an inflation rate of 3 per cent. Both options were compared to the business-as-usual (BAU) case, which includes the continued purchase of diesel and/or gas vehicles.
- 5.2 The total capital and operating costs for each pathway option has been provided in nominal dollars for a 24-year window, from 2022 to 2045. The analysis shows a total nominal cost increase of \$276 million (6.9 per cent) for Option 1 over business-as-usual (BAU) and a total nominal cost increase of \$312 million (7.8 per cent) for Option 2 over BAU. The cost increases in the Pathway Options relative to the BAU are driven by increased capital costs associated with electric vehicles (factoring in the increased bus replacement ratios from 4.3 (f)), charging equipment and other related electrification infrastructure.

Table 3: Pathway Options Cost Analysis vs Business As Usual (Cumulative Nominal Dollars)

Description		Cumulative Nominal (\$000's)		
		Business as Usual	Pathway Option 1	Pathway Option 2
Capital Costs	Fleet Purchase	\$513,592	\$781,821	\$804,145
	Charging Equipment (including en-route stations)	-	\$103,742	\$103,668
	Infrastructure Upgrades ⁹	-	\$14,401	\$14,401
Incremental capital impact over BAU		-	\$386,372	\$408,621
Operating Costs	Operations ¹⁰	\$2,192,079	\$2,575,269	\$2,652,104
	Bus Maintenance ¹¹	\$824,661	\$423,641	\$381,504
	Fuel ¹²	\$491,941	\$101,566	\$54,141
	Electricity ¹³	-	\$173,773	\$197,684
	Charging Equipment Maintenance	-	\$124,202	\$126,253
Operating savings over BAU		-	(\$110,230)	(\$96,996)
Total		\$4,022,273	\$4,298,417	\$4,333,900
Total Difference over BAU		-	\$276,144	\$311,627
Per cent (%) Difference over BAU		-	6.87	7.75

Columns may not add due to rounding

- 5.3 As described in 4.8 (a), if DRT elects to replace any remaining diesel buses with hybrid-electric buses in 2023, the total incremental capital cost is expected to be \$4.8 million and approximately \$675,000 in operating savings to be realized annually.¹⁴

9 Includes upgrades required on-site such as transformers, distribution equipment, electrical, structural and mechanical upgrades to the depot. Only considers retrofit upgrades to the existing DRT owned depots at Oshawa and Ajax. It does not include the facility build and infrastructure costs associated with 2400 Thornton Road. Additionally, utility service upgrades, storage and back-up generation have not been considered in this analysis.

10 Operations costs are related to additional operator hours required to provide service based on the increased quantity of vehicles.

11 Diesel bus maintenance costs includes mid-life refurbishment costs. The refurbishment costs for battery electric buses (primarily battery replacement) have been considered through extended warranty, reflected in the purchase price of the bus.

12 Diesel fuel pricing is based on estimated wholesale pricing. Future prices are escalated and include applicable taxes include projected federal carbon taxes

13 Electricity pricing is assumed based on the IESO Class B customer rates for Global Adjustment. Future price and global adjustments are inflated based on the consumer price index from Statistics Canada. It does not factor in potential reduction in costs due to system/facility wide demand management with eligibility for Class A customer rates under the IESO's Industrial Conservation Initiative (ICI) program.

14 The financial numbers are based on 15 hybrid-electric buses, with input variables based on DRT provided inputs for diesel buses and industry data for hybrid buses, in 2021 dollars. The operating savings are based on estimated maintenance and fuel savings, considering an average of 70,000 km's annually

5.4 Additionally, a net present value (NPV) analysis has been completed for the BAU scenario and the two transition options. The analysis discounts future costs back to present value terms using the effective real discount rate of 4.9 per cent. The NPV of capital and operational costs in Option 1 is \$124 million (5.8 per cent) greater than the BAU and Option 2 is \$147 million (6.9 per cent) greater than the BAU. The increased costs of the Pathway Options come from the greater upfront capital investments, which are discounted less than the future operational cost savings.

Table 4: Recommended Pathway Option vs Business As Usual (Net Present Value Analysis)

1.2 Description		NPV (\$000's)		
		Business as Usual	Pathway Option 1	Pathway Option 2
Capital Costs	Fleet Purchase	\$309,473	\$480,072	\$497,341
	Charging Equipment (including en-route stations)	-	\$64,975	\$66,951
	Infrastructure Upgrades	-	\$13,040	\$13,040
Incremental capital impact over BAU		-	\$248,614	\$267,859
Residual Value of Capital in 2045¹⁵		(\$50,102)	(\$83,022)	(\$82,930)
Operating Costs	Operations	\$1,174,181	\$1,331,682	\$1,372,048
	Bus Maintenance	\$441,388	\$243,579	\$219,103
	Fuel	\$265,008	\$73,590	\$46,237
	Electricity	-	\$80,872	\$94,447
	Charging Equipment Maintenance	-	\$59,231	\$60,236
Operating savings over BAU		-	(\$91,623)	(\$88,500)
Total		\$2,139,948	\$2,264,019	\$2,286,474
Total Difference over BAU		-	\$124,071	\$146,531
Per cent (%) Difference over BAU		-	5.80	6.85

Columns may not add due to rounding

5.5 Based on the data from Table 3 and 4, there are financial pressures resulting from the recommended option, however this is primarily attributed to the increased capital costs for the buses, charging equipment and infrastructure upgrades.

¹⁵ A residual value was included to capture the benefit of the remaining useful life of buses at the end of the study period. While the residual value is not a realized financial impact, it does capture the benefit of deferring future capital replacement needs.

- 5.6 The cost estimates have been compiled using currently available information and reasonable assumptions, but many unknowns and risks related to the costing remain due to the new and evolving nature of zero emission vehicles, infrastructure, as well as fuel and energy pricing. As electric vehicle implementations are undertaken in Durham and elsewhere, staff anticipate ongoing learning regarding asset performance and lifecycle costs.
- 5.7 There are also potential opportunities to reduce the financial impact of the transition, based on the current climate, technology maturity and operational efficiencies.
- 5.8 There are Federal debenture financing and grant funding opportunities to help off-set a portion of the incremental capital costs of the transition. Staff will continue to work diligently with its Federal counterparts to secure financing and funding following the approval of this Plan.
- (a) As demand for electric buses increases and the technology matures, it is anticipated that some reduction in bus pricing may be realized. Reduction in component pricing, such as the lithium-ion batteries offers the greatest opportunity for price reduction.
 - (b) As previously described, the financial analysis assumes that the average bus replacement ratio is applied to all future expansion buses. As such, based on technology maturity and operational efficiencies with bus deployment and service, opportunities exist to reduce the required BEB quantities and non-revenue time, leading to a reduced capital and operating impact
 - (c) The analysis has conservatively assumed that electricity costing would be subject to typical distributor level costs and commodity charges including Global Adjustment (GA) costs as applicable to Class B customers. The IESO allows for participation in the Industrial Conservation Initiative (ICI) program for accounts generally over 1 megawatt (MW) in average demand per month which provides an alternative method for allocating GA costs at the billing level. Assuming continuation of the ICI program into the future, the additional loads at DRT depots would be expected to push the accounts into ICI Class A eligibility, which, subject to coordination with facility operations, may be able to allow for greater Regional coordination of demand curtailment and conservation initiatives to lower relative GA costs overall.
 - (d) A future assessment of extending the bus life to 15 years based on the technical feasibility could lead to an increase in operating savings over the bus life cycle

- 5.9 The long-term service and financing strategy will consider the phasing and financing of this electrification plan within the broader context of Transit's comprehensive capital and operating pressures over the next 10 years. This long-term service and financing strategy will be presented to Council in advance of the 2023 Business Plans and Budget.

6. Financing and Funding Opportunities

- 6.1 To reduce the short-term capital pressures and impacts, staff have been actively working on opportunities that are available through Federal Agencies including the Canada Infrastructure Bank (CIB) for partial bus debenture financing and Infrastructure Canada for Zero Emission Transit Fund (ZETF) grant funding.
- 6.2 Canada Infrastructure Bank (CIB)
- (a) The Canada Infrastructure Bank (CIB) has committed to invest \$1.5 billion across Canada in zero emission buses through its three-year Growth Plan. The CIB is offering a low interest debt financing program, for a portion of electric vehicle costs. These funds complement Infrastructure Canada's grant funding for zero emission buses.
 - (b) The Region is working towards entering into a Memorandum of Understanding (MOU) with the CIB to continue discussions for low interest debenture financing support towards a portion of the capital acquisition costs of battery electric buses.
- 6.3 Infrastructure Canada – Zero Emissions Transit Fund (ZETF)
- (a) Infrastructure Canada has launched a \$2.75 billion Zero Emission Transit Fund – a five-year national program that offers support to public transit and school bus operators across Canada towards the purchase of zero emission public transit and school buses and associated infrastructure. The fund also delivers on the Federal government's commitment to help purchase 5,000 zero emission buses over the next five years.
 - (b) The Zero Emission Transit Fund will help remove key barriers impeding the deployment of zero emission buses by providing funding for planning, as well as the procurement of buses and ancillary infrastructure required to support zero emission buses.
 - (c) Following the submission of an expression of interest, Durham Region has been invited to participate in Phase II of the program and submit an application for capital grant financing.

- Infrastructure Canada has encouraged staff to complete discussions with the CIB and finalize potential low interest debenture financing for a portion of the cost of the battery electric buses prior to submitting an application for the ZETF.
 - The maximum grant contribution is up to fifty per cent of the total eligible costs.
 - Staff to continue discussions, while aiming to submit an application by the fourth quarter of 2022.
- 6.4 Natural Resources Canada (NRCan) continues to accept proposals for funding under the Zero Emissions Vehicle Infrastructure Program (ZEVIP), through which the Region has been successful in securing funding to support the implementation of dozens of EV chargers across the Region to support public charging, workplace and light-duty fleet charging. A new request-for-proposals (RFP) process has been announced and NRCan is accepting applications for funding for all charging applications, including to support the charging of light, medium and heavy-duty fleet vehicles. Staff will continue to review eligibility for this stream (proposals due August 2022) and future streams of ZEVIP funding for opportunities to assist with transition plan implementation.
- 6.5 Staff will continue to seek other financing and funding opportunities to reduce pressures and support this transition plan, and collaborate with transit industry associations as part of government advocacy efforts.
- 6.6 In addition, the potential for using Development Charge (DC) financing will also be explored. Staff will further examine the grant funding, growth related needs, timing and capital costs of the electric buses to determine if an amendment to the Transit DC By-law may be necessary
- 7. Additional Operational Considerations**
- 7.1 The transition to zero emission vehicles adds another layer of complexity to service planning and scheduling where bus range, charging time and equipment availability will need to be incorporated into bus planning and scheduling activities.
- 7.2 Software and control systems will play a critical role in the transition, enabling bus and equipment to be integrated into the existing system for maximum operational efficiencies.

- 7.3 Staff will work closely with the Works – Facilities department to plan for and support the depot retrofits and infrastructure upgrades required to enable this transition. These upgrades will require detailed planning and phasing of work, since the depots are active Operational sites.
- 7.4 The transition to electrification also requires different skills set, with new training programs and resources that ensure staff are prepared to maintain high voltage equipment.

8. Relationship to Strategic Plan

- 8.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:

(a) Environmental Sustainability

- Goal 1.1 - Accelerate the adoption of green technologies and clean energy solutions through strategic partnerships and investment
- Goal 1.4 - Demonstrate leadership in sustainability and addressing climate change

(a) Economic Prosperity

- Goal 3.4 - Capitalize on Durham's strengths in key economic sectors to attract high-quality jobs

9. Next Steps

- 9.1 The following are the next steps in this process:

- (a) Prepare the long-term service and financing strategy which considers the phasing and financing of the fleet transition plan as part of DRT's overall service strategy for presentation to Council in advance of the 2023 Business Plans and Budget
- (b) Execute an MOU with the CIB and complete due diligence on the CIB's financing framework, with the objective to return to Council to seek approval on a credit agreement in early 2023
- (c) Complete further assessments with HDR to prepare deliverables that will support the capital project submission to Infrastructure Canada as part of the ZETF program
- (d) Explore and evaluate joint procurement and partnership opportunities to acquire electric buses, charging equipment and supporting infrastructure to achieve best value for the Region

(e) Prepare for Phase II planning studies to support the fleet electrification plan on the following:

- Service planning and scheduling process
- Detailed depot planning and design for charging equipment and infrastructure

9.2 A similar report was brought forward to the June 8, 2022 Transit Executive Committee for endorsement of the Transition Pathway Option 2 and referral to the long-term servicing and financing strategy to be presented to Committee and Council in advance of the 2023 Business Plans and Budget. The detailed DRT Fleet Feasibility Study and Transition Plan Summary can be founded as an attachment the E-Mission Zero – DRT Fleet Electrification Plan ([Report 2022-DRT-10](#))

Respectfully submitted,

Original Signed By

Nancy Taylor, BBA, CPA, CA
Commissioner of Finance

Recommended for Presentation to Committee

Original Signed By

Elaine Baxter-Trahair
Chief Administrative Officer



The Regional Municipality of Durham Report

To: Finance and Administration Committee
 From: Commissioner of Finance
 Report: #2022-F-17
 Date: June 14, 2022

Subject:

The Issuance of Debentures on Behalf of the City of Pickering, the City of Oshawa, the Municipality of Clarington and The Regional Municipality of Durham

Recommendations:

The Finance and Administration Committee recommends to Regional Council:

- A) That the Commissioner of Finance be authorized to issue external debentures, in a total principal amount not to exceed \$57,875,000 on behalf of the City of Pickering, the Municipality of Clarington and The Regional Municipality of Durham (“Region”) over various terms, as set out below, with such terms not to exceed 20 years and at an average net yield not to exceed 5.00 per cent relating to the financing requirements as indicated below:

	<u>Amount</u>	<u>Term</u>
	(Not to Exceed)	(Not to Exceed)
City of Pickering		
Chestnut Hill Developments Recreation Complex Generator Replacement	\$1,200,000	10 Years
Purchase of Land for the Construction of 401 Overpass	\$4,373,000	20 Years
Subtotal City of Pickering	\$5,573,000	
	<u>Amount</u>	<u>Term</u>
	(Not to Exceed)	(Not to Exceed)
Municipality of Clarington		
Newcastle and Orono Arena Improvements	\$6,402,000	10 Years
South Bowmanville Recreation Centre	\$20,000,000	20 Years
Subtotal Municipality of Clarington	\$26,402,000	
	<u>Amount</u>	<u>Term</u>
	(Not to Exceed)	(Not to Exceed)
Region		
Courtice Trunk Sanitary Sewer	\$25,900,000	15 Years
Subtotal Region	\$25,900,000	
TOTAL EXTERNAL DEBENTURE REQUIREMENTS	\$57,875,000	

- B) That authorization be given to issue an internal debenture for and on behalf of the City of Oshawa in an amount of \$700,000 on the basis that the City of Oshawa will purchase the Oshawa Debenture using reserve funds of the City of Oshawa as requested by the City;

- C) That the Commissioner of Finance be authorized to amend the proposed terms and conditions of the external debenture issue as deemed necessary by the Fiscal Agents in order to successfully market the issue to prospective investors on the basis that the Region may purchase all or part of the debentures; and
- D) That the Region be authorized to issue the external debentures through CDS Clearing and Depository Services Inc.'s "Book Entry Only" system.

Report:

1. Purpose

- 1.1 The purpose of this report is to seek authority to issue external and internal debentures on behalf of the City of Pickering, the City of Oshawa, the Municipality of Clarington and the Region.

2. Background

- 2.1 The recommendations to issue external and internal debentures by the Region totalling \$58,575,000 are brought forward at this time in response to requests for funding from the City of Pickering, the City of Oshawa, the Municipality of Clarington and the Region related to various capital works. To meet the financing needs of the Region and lower-tier municipalities, it is anticipated that the Region will go to market with these debenture requests and issue the debentures in early Summer 2022.
- 2.2 Long-term municipal debenture yield rates remain relatively favourable compared to historical rates with the prospect of long-term interest rates continuing to increase over 2022 and 2023.

3. Borrowing Requirements of the Lower-tier Municipalities

- 3.1 As outlined in the recommendations above, the collective principal borrowing requirements of the City of Pickering, the City of Oshawa and the Municipality of Clarington for the proposed debenture issue is an amount not to exceed \$32,675,000 (of that amount \$31,975,000 will relate to the external debentures and \$700,000 will relate to the internal debentures).

3.2 City of Pickering

- A) The City of Pickering has requested that the Region issue external debentures on its behalf for the following projects:

<u>Capital Project</u>	<u>Amount</u> <u>(Not to Exceed)</u>	<u>Term</u> <u>(Not to Exceed)</u>
Chestnut Hill Developments Recreation Complex Generator Replacement	\$1,200,000	10 Years
Purchase of Land for the Construction of 401 Overpass	\$4,373,000	20 Years
Subtotal City of Pickering	<u>\$5,573,000</u>	

3.3 Municipality of Clarington

- A) The Municipality of Clarington has requested that the Region issue external debentures on its behalf for the following projects:

Municipality of Clarington

<u>Capital Project</u>	<u>Amount</u> (Not to Exceed)	<u>Term</u> (Not to Exceed)
Newcastle and Orono Arena Improvements	\$6,402,000	10 Years
South Bowmanville Recreation Centre	\$20,000,000	20 Years
Subtotal Municipality of Clarington	<u>\$26,402,000</u>	

3.4 City of Oshawa

- A) The City of Oshawa has requested the Region to issue an internal debenture with a term of 10 years to be purchased using the City's reserve funds for the following project:

<u>Capital Project</u>	<u>Amount</u> (Not to Exceed)	<u>Term</u> (Not to Exceed)
Remove and Replace Fuel Storage Tanks at the Oshawa Executive Airport	\$700,000	10 Years
Subtotal City of Oshawa	<u>\$700,000</u>	

4. Borrowing Requirements of the Region

- 4.1 The Region proposes to issue external debentures in an amount not to exceed \$25,900,000 in the Canadian debt capital markets for a term not to exceed 10 years for the following project:

<u>Capital Project</u>	<u>Amount</u> (Not to Exceed)	<u>Term</u> (Not to Exceed)
Courtice Trunk Sanitary Sewer	\$25,900,000	15 Years
Subtotal Region	<u>\$25,900,000</u>	

5. External Services Required

- 5.1 The following external services are essential to complete the proposed external debenture transaction:

5.2 Fiscal Agents:

- A) Over the past 30 years, CIBC World Markets Inc. and RBC Dominion Securities Inc. have acted as the Region's Fiscal Agents ("Fiscal Agents"). In this role, the Fiscal Agents have provided advice to Regional staff on an on-going basis and have successfully marketed the Region's debenture issues.
- B) Based on the Region's past practice of rotating the lead manager between the two agents, RBC Dominion Securities Inc. will act in this role for the external debenture issue.

5.3 Fiscal Solicitor:

- A) WeirFoulds LLP will provide legal advice for the debenture issues as the Fiscal

Solicitor and will authenticate the debentures.

- B) WeirFoulds LLP has a sound reputation in providing fiscal solicitor services in respect of debentures issued by all of the GTA Regions.

5.4 CDS Clearing and Depository Services Inc.:

- A) CDS Clearing and Depository Services Inc. (CDS) is owned by TMX Group Inc. and has processed previous external debenture issues for the Region through its “Book Entry Only” (BEO) system, providing electronic records for the debenture issues. This means physical definitive debenture certificates issued to debenture holders are not required to market the external issue.

6. Annual Repayment Limits

- 6.1 In accordance with Section 4 of Ontario Regulation 403/02 (Debt and Financial Obligation Limits Regulation), the Regional Treasurer and the Fiscal Solicitor will ensure that the Long-Term Debt/Financial Obligation limits for the City of Pickering, the City of Oshawa, the Municipality of Clarington and the Region were calculated and were not exceeded by the approval of the capital works which are to be financed through the issuance of the proposed debentures. They will confirm that approval by the Ontario Land Tribunal was not required for the financing of these projects through the Region’s debenture issues described in this report.

7. Conclusion

- 7.1 The recommendations contained in this report effectively authorize staff to proceed with the issuance of the internal and external debentures to meet the financing requirements of the Region and the lower-tier municipalities referred to in this report.
- 7.2 Staff will seek the advice of the Fiscal Agents regarding the most opportune time to issue debentures and will advise Finance and Administration Committee and Regional Council of the final terms and conditions of the external debenture issue upon its sale in the Canadian debt capital markets.
- 7.3 The related by-laws for the proposed borrowings will be presented to Regional Council later in early Summer 2022.

Respectfully submitted,

Original Signed By

Nancy Taylor, BBA, CPA, CA
Commissioner of Finance/Treasurer

Recommended for Presentation to Committee

Original Signed By

Elaine C. Baxter-Trahair
Chief Administrative Officer



The Regional Municipality of Durham Report

To: Finance and Administration Committee
From: Commissioner of Finance
Report: #2022-F-18
Date: June 14, 2022

Subject:

Additional Community Investment Grant Funding for Grandview Children's Centre

Recommendation:

That the Finance and Administration Committee recommend to Regional Council:

1. That additional Community Investment Grant funding of \$1.5 million be approved for Grandview Children's Centre, increasing the Region's total Community Investment Grant funding from the previously approved \$5.035 million to \$6.535 million, to account for the significant cost escalations associated with the capital construction of the new Children's Treatment Centre; and
2. That the Regional Chair and Regional Clerk be authorized to execute the funding agreement.

Report:

1. Purpose

The purpose of this report is to seek Regional Council approval for an additional \$1.5 million in Community Investment Grant funding to Grandview Children's Centre. This additional funding will increase the Regional contribution toward the new Grandview Children's Treatment Centre from the previously approved \$5.035 million to \$6.535 million.

2. Background

- 2.1 The Durham Region Community Investment Grant Policy was approved by Regional Council on October 23, 2019. The policy clarifies that the Region will continue to consider Community Investment Grant funding for capital infrastructure projects related to healthcare and post-secondary education

institutions.

- 2.2 All requests for capital infrastructure funding are evaluated using a business case approach, which involves the following components:

Regional Community Investment Funding Business Case Components

- Demonstrate alignment with Regional strategic priorities;
- Clearly defined desired project outcomes, including Region-wide benefits;
- Analysis of alternative options capable of generating desired outcomes;
- Sound technical, economic, financial, and cost-benefit assumptions;
- Detailed review of available financing and long-term financial implications; and,
- Assessment of potential risks.

- 2.3 In addition to demonstrating alignment with the business case components, healthcare institutions are required to conform to a specific funding formula. The following conditions must be met for healthcare institutions to receive capital project funding through the Region's Community Investment Grant Policy:

- The need for Provincial project approval;
- The commitment of at least 70 per cent Provincial funding of total project costs at the time of request. This relates to all capital projects, excluding capital equipment;
- The proposed financing must include donations raised from the community;
- Region's contribution representing 25 per cent of the community component or a maximum of 7.5 per cent of the total project cost;
- Funds will only be provided for long-term capital assets;
- Must provide proof of project benefits to residents of the entire Region; and,
- Approval of funding subject to a Regional Community Investment Funding Business Case.

3. Previous Reports and Decisions

- 3.1 Regional Council previously approved a \$5.035 million Community Investment Grant to Grandview Children's Centre, for the capital construction of the new Children's Treatment Centre, through the 2021 Business Plans and Budgets report #2021-F-5.
- 3.2 Information on the inflationary pressures causing significant cost escalations on capital construction projects was outlined in report 2022-INFO-18.

4. Grandview Children's Centre

- 4.1 Grandview Children's Centre is a not-for-profit Children's Treatment Centre that provides specialized programs, outpatient clinical treatment, and support to children and youth with physical, communication and developmental needs. Grandview has been serving the residents of Durham Region since 1953 and has

become a leading Children's Treatment Centre in Ontario.

- 4.2 Grandview currently operates seven locations across Durham Region to accommodate the increasing demand for services. Grandview's original location in Oshawa was designed to accommodate 400 children with special needs; however, annual demand for services and supports now surpasses 20,000 children, youth and their families.
- 4.3 In order to accommodate the increasing demand for service, the provincial government has approved the construction of a new 106,000 sq. ft. Grandview Children's Treatment Centre facility in Ajax. The facility will support an integrated mix of rehabilitation, habilitation, child development, clinical, medical, education and research activities.
- 4.4 The new facility is scheduled to begin construction in September 2022, with construction expected to be completed in the Spring of 2024.

5. Funding Request

- 5.1 As part of the 2021 Regional Business Plans and Budgets, Grandview had requested a \$5.035 million Community Investment Grant to support the capital construction of their new 106,000 sq ft Children's Treatment Centre. This request was subsequently approved by Regional Council.
- 5.2 This initial request was made prior to the closing of the Request for Proposal (RFP) and was based on a project cost estimate of \$67 million. This estimate included only those costs eligible for funding under the Region's Community Investment Grant program.
- 5.3 The RFP process has since concluded, with final capital construction costs significantly exceeding the original estimate. These significant price increases are the result of the inflationary pressures being felt across the entire construction industry. These inflationary pressures have increased the final project cost to approximately \$111 million (net of HST rebate), with eligible costs under the Region's Community Investment Grant program totalling \$99.3 million.
- 5.4 In consideration of these cost escalations, the Provincial government has proportionally increased its financial contribution to nearly \$80 million. The Federal government has maintained its original funding commitment of \$17.5 million, leaving approximately \$13.5 million to be funded by Grandview.
- 5.5 Grandview launched a fundraising campaign in 2018 to raise the funds necessary to meet the Grandview contribution. Since the launch of the campaign, Grandview has raised nearly \$12 million (inclusive of the Region's original \$5.035 million commitment) towards the capital construction of the new facility. This leaves Grandview with an approximately \$1.5 million funding gap.
- 5.6 An additional commitment of \$1.5 million from the Region would close the funding

gap and will increase the Region's total funding commitment to \$6.535 million. The \$6.535 million represents approximately 6.6 per cent of the \$99.3 million total eligible project cost, which is less than the maximum 7.5 per cent allowable under the Region's Community Investment Grant program.

6. Financial Implications

- 6.1 Funding for this request would be drawn from the Durham Region Healthcare Institution Reserve Fund and will be subject to the submission of detailed final cost estimates.
- 6.2 As of April 30, 2022, the Durham Region Healthcare Institution Reserve Fund had an uncommitted balance of approximately \$25.8 million. This balance accounts for the original \$5.035 million contribution approval for Grandview. An additional \$1.5 million contribution would reduce the uncommitted balance to approximately \$24.3 million.
- 6.3 This uncommitted balance does not account for the up to \$37.5 million contribution approved for the Bowmanville Hospital redevelopment, which will utilize the balance of the reserve fund and require escalating annual contributions. As Council is aware, there is anticipated to be significant pressure for continued financial support to a number of hospital projects. These projects will be experiencing the same inflationary cost pressures as recent Regional projects, as well as Grandview as noted. Future reports will be provided to Council in preparation for the 2023 Business Plans and Budget process. Any new requests of any type will have to be severely restricted going forward should the priority of hospital development remain.
- 6.4 Funds will be distributed based on the completion of specific project milestones. The milestones and payment arrangements will be agreed upon and included in a detailed funding agreement between the Region and Grandview Children's Centre.
- 6.5 The funding agreement will include details on the following terms and conditions:
 - Total amount of funding to be provided
 - Milestones to be achieved
 - Amount and timing of payment after milestone completion
 - Annual project reporting
 - Conditions under which payment will be withheld or cancelled
 - Recognition of funding from the Region of Durham

7. Relationship to Strategic Plan

- 7.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:
 - a. Influence the social determinants of health to improve outcomes for

- vulnerable populations
- b. Support a high quality of life for all through human services delivery
- c. Expand access to existing life stabilization programs

8. Conclusion

- 8.1 It is recommended that an additional \$1.5 million in Community Investment Grant funding, to Grandview Children's Centre, be approved to account for the significant cost escalations associated with the construction of the new Children's Treatment Centre in Ajax. Significant cost escalations are being felt throughout the construction industry and are not unique to the Grandview project.
- 8.2 An additional funding commitment of \$1.5 million will bring the Region's total funding commitment for the new Children's Treatment Centre to \$6.535 million.

Respectfully submitted,

Original Signed By

Nancy Taylor, BBA, CPA, CA
Commissioner of Finance

Recommended for Presentation to Committee

Original Signed By

Elaine C. Baxter-Trahair
Chief Administrative Officer