

**NIAGARA TRANSIT COMMISSION
FINAL MEETING AGENDA**

NTC 8-2022

Tuesday, November 8, 2022

3:00 p.m.

Council Chamber

Niagara Region Headquarters, Campbell West

1815 Sir Isaac Brock Way, Thorold, ON

	Pages
1. <u>CALL TO ORDER</u>	
2. <u>LAND ACKNOWLEDGEMENT STATEMENT</u>	
3. <u>ADOPTION OF AGENDA</u>	
4. <u>DISCLOSURES OF PECUNIARY INTEREST</u>	
5. <u>ADOPTION OF MINUTES</u>	
5.1. <u>Niagara Transit Commission Minutes NTC 4-2022 (Regular Meeting)</u> Tuesday, September 6, 2022	1 - 5
5.2. <u>Niagara Transit Commission Minutes NTC 5-2022 (Special Meeting)</u> Tuesday, September 13, 2022	6 - 9
5.3. <u>Niagara Transit Commission Minutes NTC 6-2022 (Special Meeting)</u> Tuesday, September 27, 2022	10 - 13
5.4. <u>Niagara Transit Commission Minutes NTC 7-2022 (Special Meeting)</u> Tuesday, November 1, 2022	14 - 17
<i>All of the above minutes are presented for errors and/or omissions only.</i>	
6. <u>PRESENTATIONS</u>	

7. DELEGATIONS

8. ITEMS FOR CONSIDERATION

8.1. NTC 21-2022 18 - 70

Delegation of Authority to Staff

8.2. NTC 22-2022 71 - 80

Niagara Transit Commission Public Advisory Committee Terms of Reference

8.3. NTC 23-2022 81 - 86

Consideration and Approval of OMERS By-Law

9. CONSENT ITEMS FOR INFORMATION

9.1. NTC-C 4-2022 87

Enactment of By-law Regulating the Use of the Niagara Transit Commission System

9.2. NTC-C 5-2022 88 - 89

Niagara Transit Commission - Special Levy

10. OTHER BUSINESS

11. CLOSED SESSION

11.1. Niagara Transit Commission - Closed Session Minutes

11.1.1. Closed Session Minutes NTC 5-2022, Tuesday, September 13, 2022

11.1.2. Closed Session Minutes NTC 6-2022, Tuesday, September 27, 2022

12. BUSINESS ARISING FROM CLOSED SESSION

13. BY-LAWS

13.1. Bill NTC 2-2022 90 - 96

A By-law Regulating the Use of the Niagara Transit Commission Transit System.

A by-law to authorize participation in the OMERS Primary Pension Plan (“Primary Plan”) and the Retirement Compensation Arrangement for the OMERS Primary Pension Plan (“RCA”), as may be amended from time to time, for employees of the Niagara Transit Commission.

14. NEXT MEETING

The next meeting is to be determined.

15. ADJOURNMENT

If you require any accommodations for a disability in order to attend or participate in meetings or events, please contact the Accessibility Advisor at 905-980-6000 ext. 3252 (office), 289-929-8376 (cellphone) or accessibility@niagararegion.ca (email).

**NIAGARA TRANSIT COMMISSION
MINUTES**

NTC 4-2022

Tuesday, September 6, 2022

Council Chamber/Video Conference

Niagara Region Headquarters, Campbell West

1815 Sir Isaac Brock Way, Thorold, ON

Board Members: Arsenault (Niagara-on-the-Lake) (via Video Conference), D. Cridland (Wainfleet) (via Video Conference), W. Fertich (Vice Chair) (Grimsby), B. Greenwood (Niagara Falls), G. Miller (St. Catharines) (via Video Conference), W. Olson (Pelham), J.D. Pachereva (Lincoln) (via Video Conference), W. Redekop (Fort Erie) (via Video Conference), W. Sendzik (Chair) (St. Catharines), M. Siscoe (St. Catharines) (via Video Conference), L. Van Vliet (Welland), T. Whalen (Thorold)

Ex-officio(Non-Voting) Members: J. Bradley (Regional Chair)

Absent/Regrets: C. Dabrowski (Niagara Falls), A. Desmarais (Port Colborne), W. Reilly (West Lincoln); Ex-officio Members: R. Tripp (Chief Administrative Officer, Niagara Region)

Staff: S. Fraser, Transportation Lead, GO Implementation Office, D. Gibbs, Director, Legal & Court Services, J. Hagar, Human Resources Consultant, Transit, F. Meffe, Director, Human Resources, A.-M. Norio, Regional Clerk, M. Robinson, Director, GO Implementation Office, J. Spratt, Administrative Assistant to the Regional Clerk, C. Stout, General Manager, Niagara Transit Commission, H. Talbot, Financial & Special Projects Consultant (via Video Conference), B. Zvaniga, Commissioner, Public Works

1. CALL TO ORDER

Board Chair Sendzik called the meeting to order at 3:02 p.m.

2. LAND ACKNOWLEDGEMENT STATEMENT

Member Greenwood provided the Land Acknowledgement Statement.

3. ADOPTION OF AGENDA

Moved by W. Olson
Seconded by T. Whalen

That Agenda NTC 4-2022, **BE ADOPTED.**

Carried

4. DISCLOSURES OF PECUNIARY INTEREST

There were no disclosures of pecuniary interest.

5. ADOPTION OF MINUTES

5.1 Niagara Transit Commission Minutes NTC 3-2022

Tuesday, August 2, 2022

Moved by W. Olson
Seconded by T. Whalen

That Minutes NTC 3-2022 being the Open and Closed Session minutes of the Niagara Transit Commission meeting held on Tuesday, August 2, 2022, **BE ADOPTED.**

Carried

6. PRESENTATIONS

There were no presentations.

7. DELEGATIONS

There were no delegations.

8. ITEMS FOR CONSIDERATION

8.1 NTC 14-2022

2022-2023 General Manager's Work Plan

Carla Stout, General Manager, Niagara Transit Commission, provided information regarding the 2022-2023 General Manager's Work Plan.

Topics of the presentation included:

- Workplan Overview
- Getting to Day 1
- Looking Ahead to Year 1 and Beyond

Moved by L. Van Vliet
Seconded by W. Olson

1. That the Niagara Transit Commission Board **ENDORSE** the General Manager's Workplan as presented in NTC-14 2022; and
2. That the General Manager **BE REQUESTED** to provide annual updates on the Workplan to the NTC Board.

Carried

8.2 NTC 15-2022

Motion - City of Welland Representation

Moved by L. Van Vliet
Seconded by W. Fertich

Whereas the Niagara Region has established a Niagara Transit Commission which will integrate the existing local transit systems into a single organization that operates public transit; and

Whereas the current board composition requires one (1) representative from the City of Welland.

NOW THEREFORE BE IT RESOLVED:

1. That the Niagara Transit Commission **AMENDS** the board composition to include two (2) representatives from the City of Welland; and
2. That this resolution **BE SENT** to the City Clerk of Welland to include on the next Council agenda for an appointment to the Niagara Transit Commission.

Moved by T. Whalen
Seconded by W. Redekop

That the motion **BE DEFERRED** until after the municipal election.

Recorded Vote:

Yes (4): Arsenault, Redekop, Van Vliet, Whalen.

No (7): Cridland, Fertich, Greenwood, Miller, Olson, Pachereva, Siscoe.

Defeated

The Board Chair called the vote on the original motion.

Recorded Vote:

Yes (2): Redekop, Van Vliet.

No (9): Arsenault, Cridland, Fertich, Greenwood, Miller, Olson, Pachereva, Siscoe, Whalen.

Defeated

8.3 NTC 16-2022

Niagara Transit Commission Head Office Location

Moved by N. Arsenault

Seconded by W. Fertich

That Report NTC 16-2022, dated September 6, 2022, respecting Niagara Transit Commission Head Office Location, **BE RECEIVED** and the following recommendation **BE APPROVED**:

1. That the Niagara Transit Commission Board **APPROVE** 2012 First Street Louth, St. Catharines, Ontario as the head office for the Niagara Transit Commission.

Carried

9. **CONSENT ITEMS FOR INFORMATION**

9.1 NTC-C 1-2022

Niagara Transit Commission Budget Development Road Map

Moved by L. Van Vliet

Seconded by T. Whalen

That Memorandum NTC-C 1-2022, dated September 6, 2022, respecting Niagara Transit Commission Budget Development Road Map, **BE RECEIVED** for information.

Carried

10. OTHER BUSINESS

10.1 Niagara Transit Commission Board Term

Member Van Vliet requested information regarding the end of the Board term and the appointment of new members. Ann-Marie Norio, Regional Clerk, advised that the local area municipalities would be contacted after the municipal election regarding appointees for the Board for the 2023-2026 term and that these appointments would be made in advance of the end of the term of the current Board on January 31, 2023.

10.2 Transitional Funding

Board members requested additional information regarding transitional funding. Matt Robinson, Director, GO Implementation Office, advised that a review was being done to identify one-time transitional costs and to capitalize on funding opportunities from the Provincial and/or Federal government taking into consideration the identified transitional costs from the Transit Commission Steering Committee and the workplan presented by the General Manager with the understanding these one-time costs would be for 2022 and into 2023.

11. CLOSED SESSION

The Board did not resolve into closed session.

12. BUSINESS ARISING FROM CLOSED SESSION

The Board did not resolve into closed session.

13. NEXT MEETING

The next meeting will be held on Tuesday, September 13, 2022 at 4:00 p.m. in the Council Chamber, Regional Headquarters.

14. ADJOURNMENT

There being no further business, the meeting adjourned at 4:28 p.m.

Walter Sendzik
Chair, Niagara Transit Commission

Ann-Marie Norio
Regional Clerk

**NIAGARA TRANSIT COMMISSION
MINUTES**

NTC 5-2022

Tuesday, September 13, 2022

Council Chamber\Video Conference

Niagara Region Headquarters, Campbell West

1815 Sir Isaac Brock Way, Thorold, ON

Board Members: Arsenault (Niagara-on-the-Lake) (via Video Conference), D. Cridland (Wainfleet), A. Desmarais (Port Colborne) (via Video Conference), W. Fertich (Vice Chair) (Grimsby), B. Greenwood (Niagara Falls), W. Olson (Pelham), J.D. Pachereva (Lincoln) (via Video Conference), W. Reilly (West Lincoln), W. Sendzik (Chair) (St. Catharines), M. Siscoe (St. Catharines), L. Van Vliet (Welland), T. Whalen (Thorold) (via Video Conference)

Ex-officio(Non-Voting) Members: R. Tripp (Chief Administrative Officer, Niagara Region)

Absent/Regrets: C. Dabrowski (Niagara Falls), G. Miller (St. Catharines), W. Redekop (Fort Erie); J. Bradley (Regional Chair) (Ex-officio Member)

Staff: D. Gibbs, Director, Legal & Court Services, J. Hagar, Human Resources Consultant, Transit, T. Harrison, Commissioner\Treasurer, Corporate Services, F. Meffe, Director, Human Resources, A.-M. Norio, Regional Clerk, J. Spratt, Administrative Assistant to the Regional Clerk, C. Stout, General Manager, Niagara Transit Commission, B. Zvaniga, Commissioner, Public Works

1. CALL TO ORDER

Board Chair Sendzik called the meeting to order at 4:01 p.m.

2. ADOPTION OF AGENDA

Moved by M. Siscoe
Seconded by B. Greenwood

That Agenda NTC 5-2022, **BE ADOPTED.**

Carried

3. DISCLOSURES OF PECUNIARY INTEREST

There were no disclosures of pecuniary interest.

4. CLOSED SESSION

Moved by W. Reilly
Seconded by W. Fertich

That this Board **DO NOW MOVE** into closed session to receive information of a confidential nature respecting:

A Matter of personal matters about an identifiable individual, including municipal or local board employees and labour relations or employee negotiations pursuant to s.239(2)(b) and (d) of the Municipal Act – Niagara Transit Commission Organizational Structure

A Matter of a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization pursuant to s.239(2)(i) of the Municipal Act – Niagara Transit Commission Shared Services

Carried

The Board resolved into closed session at 4:03 p.m.

5. BUSINESS ARISING FROM CLOSED SESSION

The Board reconvened in open session at 5:20 p.m. with the following individuals in attendance:

Board Members: Arsenault (Niagara-on-the-Lake) (via Video Conference), D. Cridland (Wainfleet), W. Fertich (Vice Chair) (Grimsby), B. Greenwood (Niagara Falls), G. Miller (St. Catharines) (via Video Conference), W. Olson (Pelham), J.D. Pachereva (Lincoln) (via Video Conference), W. Reilly (West Lincoln), W. Sendzik (Chair) (St. Catharines), M. Siscoe (St. Catharines), L. Van Vliet (Welland), T. Whalen (Thorold) (via Video Conference)

Ex-officio(Non-Voting) R. Tripp (Chief Administrative Officer, Niagara Region)
Members:

Absent/Regrets: C. Dabrowski (Niagara Falls), A. Desmarais (Port Colborne), W. Redekop (Fort Erie); J. Bradley (Regional Chair) (Ex-officio Member)

Staff: D. Gibbs, Director, Legal & Court Services, J. Hagar, Human Resources Consultant, Transit, T. Harrison, Commissioner\Treasurer, Corporate Services, F. Meffe, Director, Human Resources, A.-M. Norio, Regional Clerk, J. Spratt, Administrative Assistant to the Regional Clerk, C. Stout, General Manager, Niagara Transit Commission, B. Zvaniga, Commissioner, Public Works

5.1 Confidential NTC 17-2022

A Matter of personal matters about an identifiable individual, including municipal or local board employees and labour relations or employee negotiations pursuant to s.239(2)(b) and (d) of the Municipal Act – Niagara Transit Commission Organizational Structure

Moved by L. Van Vliet
Seconded by B. Greenwood

That Confidential Report NTC 17-2022, dated September 13, 2022, respecting A Matter of personal matters about an identifiable individual, including municipal or local board employees and labour relations or employee negotiations pursuant to s.239(2)(b) and (d) of the Municipal Act– Niagara Transit Commission Organizational Structure, **BE RECEIVED**; and

That staff **PROCEED** as directed in closed session.

Carried

5.2 Confidential NTC 18-2022

A Matter of a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization pursuant to s.239(2)(i) of the Municipal Act – Niagara Transit Commission Shared Services

Moved by W. Olson
Seconded by M. Siscoe

That Confidential Report NTC 18-2022, dated September 13, 2022, respecting A Matter of a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization pursuant to s.239(2)(i) of the Municipal Act – Niagara Transit Commission Shared Services, **BE RECEIVED** and the recommendation contained therein **BE APPROVED**.

Carried

6. CONSENT ITEMS FOR INFORMATION

6.1 NTC-C 2-2022

Amalgamation Transition Costs – Federal/Provincial Support

Moved by W. Reilly
Seconded by D. Cridland

That Memorandum NTC-C 2-2022, dated September 13, 2022, respecting Amalgamation Transition Costs – Federal/Provincial Support, **BE RECEIVED** for information.

Carried

7. NEXT MEETING

The next meeting will be held on Tuesday, September 27, 2022 at 3:00 p.m. in the Council Chamber, Regional Headquarters.

8. ADJOURNMENT

There being no further business, the meeting adjourned at 5:28 p.m.

Walter Sendzik
Chair, Niagara Transit Commission

Ann-Marie Norio
Regional Clerk

**NIAGARA TRANSIT COMMISSION
MINUTES**

NTC 6-2022

Tuesday, September 27, 2022

Council Chamber/Video Conference

Niagara Region Headquarters, Campbell West

1815 Sir Isaac Brock Way, Thorold, ON

- Board Members: Arsenault (Niagara-on-the-Lake) (via Video Conference), D. Cridland (Wainfleet), A. Desmarais (Port Colborne) (via Video Conference), W. Fertich (Vice Chair) (Grimsby), B. Greenwood (Niagara Falls), G. Miller (St. Catharines) (via Video Conference), W. Olson (Pelham), J.D. Pachereva (Lincoln), W. Redekop (Fort Erie) (via Video Conference), W. Reilly (West Lincoln), W. Sendzik (Chair) (St. Catharines), T. Whalen (Thorold) (via Video Conference)
- Absent/Regrets: C. Dabrowski (Niagara Falls), M. Siscoe (St. Catharines), L. Van Vliet (Welland); Ex-officio Members: J. Bradley (Regional Chair), R. Tripp (Chief Administrative Officer, Niagara Region)
- Staff: H. Chamberlain, Director, Financial Management & Planning/Deputy Treasurer, M. Greenfield, Program Financial Specialist, S. Guglielmi, Technology Support Analyst, J. Hagar, Human Resources Consultant, Transit, T. Harrison, Commissioner/Treasurer, Corporate Services, F. Meffe, Director, Human Resources, A.-M. Norio, Regional Clerk, M. Robinson, Director, GO Implementation Office, C. Stout, General Manager, Niagara Region Transit, H. Talbot, Financial & Special Projects Consultant, N. Wolfe, Director, Construction, Energy & Facilities Management, B. Zvaniga, Commissioner, Public Works

1. CALL TO ORDER

Board Chair Sendzik called the meeting to order at 3:01 p.m.

2. ADOPTION OF AGENDA

Moved by W. Reilly

Seconded by D. Cridland

That Agenda NTC 6-2022, **BE ADOPTED.**

Carried

3. **DISCLOSURES OF PECUNIARY INTEREST**

There were no disclosures of pecuniary interest.

4. **PRESENTATIONS**

4.1 **Niagara Transit Commission Proposed 2023 Budget**

Carla Stout, General Manager, Niagara Transit Commission, provided information respecting the Niagara Transit Commission Proposed 2023 Budget. Topics of the presentation included:

- 2023 Niagara Transit Commission (NTC) Operating Budget and 2023 One-Time Costs
- 2023 Requisition Summary
- 2023 NTC Capital Budget

Board members requested additional information respecting the one-time costs related to employment liabilities. The Chair advised that as this related to personal matters about identifiable individuals, including municipal or local board employees and labour relations or employee negotiations, any additional information would need to be provided in closed session; therefore it was:

Moved by W. Reilly
Seconded by J.D. Pachereva

That this Board **DO NOW MOVE** into closed session for the purposes of receiving information of a confidential nature respecting:

A Matter of personal matters about an identifiable individual, including municipal or local board employees and labour relations or employee negotiations pursuant to s.239(2)(b) and (d) of the Municipal Act – Niagara Transit Commission 2023 Proposed Budget – Employment Liabilities

Carried

5. **CLOSED SESSION**

The Board resolved into closed session at 4:09 p.m.

6. BUSINESS ARISING FROM CLOSED SESSION

The Board reconvened in open session at 4:16 p.m. with the following individuals in attendance:

- Board Members: Arsenault (Niagara-on-the-Lake) (via Video Conference), D. Cridland (Wainfleet), A. Desmarais (Port Colborne) (via Video Conference), W. Fertich (Vice Chair) (Grimsby), B. Greenwood (Niagara Falls), G. Miller (St. Catharines) (via Video Conference), W. Olson (Pelham), J.D. Pachereva (Lincoln), W. Redekop (Fort Erie) (via Video Conference), W. Reilly (West Lincoln), W. Sendzik (Chair) (St. Catharines), T. Whalen (Thorold) (via Video Conference)
- Absent/Regrets: C. Dabrowski (Niagara Falls), M. Siscoe (St. Catharines), L. Van Vliet (Welland); Ex-officio Members: J. Bradley (Regional Chair), R. Tripp (Chief Administrative Officer, Niagara Region)
- Staff: H. Chamberlain, Director, Financial Management & Planning/Deputy Treasurer, S. Guglielmi, Technology Support Analyst, J. Hagar, Human Resources Consultant, Transit, T. Harrison, Commissioner\Treasurer, Corporate Services, F. Meffe, Director, Human Resources, A.-M. Norio, Regional Clerk, C. Stout, General Manager, Niagara Region Transit, B. Zvaniga, Commissioner, Public Works

Moved by J.D. Pachereva
Seconded by W. Fertich

That the confidential information received respecting one-time costs for employment liabilities **BE RECEIVED.**

Carried

Moved by W. Olson
Seconded by T. Whalen

That the presentation respecting the Niagara Transit Commission Proposed 2023 Budget, **BE RECEIVED.**

Carried

Board Member Information Request(s):

Provide information respecting provincial gas tax allocation to the operating budget and the limitations this would have on the capital program.

7. NEXT MEETING

The next meeting will be held on Tuesday, October 4, 2022 at 3:00 p.m. in the Council Chamber, Regional Headquarters.

8. ADJOURNMENT

There being no further business, the meeting adjourned at 4:20 p.m.

Walter Sendzik
Chair, Niagara Transit Commission

Ann-Marie Norio
Regional Clerk

**NIAGARA TRANSIT COMMISSION
MINUTES**

NTC 7-2022

Tuesday, November 1, 2022

Council Chamber\Video Conference

Niagara Region Headquarters, Campbell West

1815 Sir Isaac Brock Way, Thorold, ON

Board Members: N. Arsenault (Niagara-on-the-Lake), D. Cridland (Wainfleet) (via Video Conference), W. Fertich (Vice Chair) (Grimsby), B. Greenwood (Niagara Falls), G. Miller (St. Catharines) (via Video Conference), W. Olson (Pelham), J.D. Pachereva (Lincoln) (via Video Conference); W. Reilly (West Lincoln), W. Sendzik (Chair) (St. Catharines), M. Siscoe (St. Catharines), L. Van Vliet (Welland), T. Whalen (Thorold) (via Video Conference)

Ex-officio(Non-Voting) Members: J. Bradley (Regional Chair)

Absent/Regrets: C. Dabrowski (Niagara Falls), A. Desmarais (Port Colborne), W. Redekop (Fort Erie); Ex-officio Members: R. Tripp (Chief Administrative Officer, Niagara Region)

Staff: H. Chamberlain, Director, Financial Management & Planning/Deputy Treasurer, S. Fraser, Transportation Lead, GO Implementation Office, M. Greenfield, Program Financial Specialist, J. Hagar, Human Resources Consultant, Transit, T. Harrison, Commissioner\Treasurer, Corporate Services, F. Meffe, Director, Human Resources, A.-M. Norio, Regional Clerk, M. Robinson, Director, GO Implementation Office, J. Spratt, Administrative Assistant to the Regional Clerk, C. Stout, General Manager, Niagara Region Transit, H. Talbot, Financial & Special Projects Consultant, B. Zvaniga, Commissioner, Public Works (via Video Conference)

1. CALL TO ORDER

Board Chair Sendzik called the meeting to order at 3:04 p.m.

2. **ADOPTION OF AGENDA**

Moved by N. Arsenault
Seconded by W. Olson

That Agenda NTC 7-2022, **BE ADOPTED.**

Carried

3. **DISCLOSURES OF PECUNIARY INTEREST**

There were no disclosures of pecuniary interest.

4. **ITEMS FOR CONSIDERATION**

4.1 **NTC 20-2022**

2023 Budget and Requisition - Niagara Transit Commission

Carla Stout, General Manager, Niagara Transit Commission, provided information respecting the Niagara Transit Commission 2023 Budget and Requisition including the operating budget, capital budget and special levy.

Moved by W. Reilly
Seconded by M. Siscoe

That Report NTC 20-2022, dated November 1, 2022, respecting 2023 Budget and Requisition – Niagara Transit Commission, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That the 2023 Niagara Transit Commission (NTC) gross operating budget of \$75,975,876 and net budget of \$55,052,950 as per Appendix 1 of Report NTC 20-2022, **BE APPROVED**;
2. That the net budget of \$55,052,950 **BE APPORTIONED** between the local municipalities as per Appendix 2 determined in accordance with the methodology approved in PW 55-2021 and subject to update based on final 2023 current value assessment;
3. That the additional special levy estimate of \$1,931,540 **BE LEVIED** on the municipalities in accordance with Appendix 2 subject to final update in accordance with the Municipal Transfer Agreement (MTA);
4. That the 2023 Niagara Transit Commission budget **BE FORWARDED** to Regional Council Budget Review Committee of the Whole (BRCOTW) on January 19 for approval and subsequent calculation of the Special Levy tax rates for each municipality;

5. That in order to ensure continuity of transit services on January 1, 2023, the General Manager **BE AUTHORIZED** to implement the organizational chart endorsed in Confidential Report NTC 17-2022, which now reflects the Shared Services strategy approved in Confidential Report NTC 18-2022, all of which is accommodated within the \$36,762,584 labour related cost included in the 2023 Operating Budget; and
6. That a copy of this Report **BE CIRCULATED** to the Local Area Municipalities.

Carried

4.2 NTC 19-2022

Investing in Canada Infrastructure Program - Intake 3

Moved by M. Siscoe

Seconded by N. Arsenault

That Report NTC 19-2022, dated November 1, 2022, respecting Investing in Canada Infrastructure Program - Intake 3, **BE RECEIVED** and the following recommendation **BE APPROVED**:

1. That the Niagara Transit Commission (NTC) **ENDORSE** the submission of an Investing in Canada Infrastructure Program (ICIP) funding (Intake 3) application reflecting the conventional fleet replacement requirements outlined in Table 2 in the NTC's 10-Year Capital Forecast (2024-2033).

Carried

5. CONSENT ITEMS FOR INFORMATION

5.1 NTC-C 3-2022

Niagara Transit Commission Interim Board – Remaining Meetings

Board Chair Sendzik noted the importance of appointing an acting Board Chair in the event of a meeting of the Board being required for the period between November 15 until the time the new Board is established and called for nominations for the position of Acting Chair of the Niagara Transit Commission.

Moved by W. Reilly
Seconded by N. Arsenault

That Member Siscoe **BE NOMINATED** as Acting Chair of the Niagara Transit Commission.

Board Chair Sendzik called a second and third time for nominations for the position of Acting Chair. No further nominations were made.

Moved by W. Reilly
Seconded by N. Arsenault

That Correspondence Item NTC-C 3-2022, being a memorandum from C. Stout, General Manager, Niagara Transit Commission, dated November 1, 2022, respecting Niagara Transit Commission Interim Board – Remaining Meetings, **BE RECEIVED**; and

That Member Siscoe **BE APPOINTED** Acting Board Chair for the period from November 15 until January 31, 2023 or the new Board is appointed.

Carried

6. NEXT MEETING

The next meeting will be held on Tuesday, November 8, 2022 at 3:00 p.m. in the Council Chamber, Regional Headquarters.

7. ADJOURNMENT

There being no further business, the meeting adjourned at 5:00 p.m.

Walter Sendzik
Chair, Niagara Transit Commission

Ann-Marie Norio
Regional Clerk

Subject: Delegation of Authority to Staff

Report to: Niagara Transit Commission Board

Report date: Tuesday, November 8, 2022

Recommendations

1. That the Niagara Transit Commission (NTC) Board **APPROVE** the delegation of authority to NTC Staff as identified in Appendix 1 for purchase, document execution and payment release authority, for the acquisition of good and services on behalf of NTC, pursuant to the Region's Procurement By-law No. 02-2016, as amended.
2. That a copy of this report as approved **BE PROVIDED** to The Regional Municipality of Niagara to facilitate advancing the necessary amendment to the Region's Procurement By-law No. 02-2016, as amended, to reflect the approved delegation of authority to NTC staff as identified in Appendix 1.
3. That the General Manager **BE AUTHORIZED** to execute routine operational documents on behalf of the NTC necessary in order to obtain and maintain the required certifications and licensing approvals legally required to own, operate and maintain a municipal transit fleet, including but not limited to Commercial Vehicle Operator's Registration certificates, and provided that any related fees or expenses are within the approved budget.

Key Facts

- The primary purpose of this report is to seek the Board's approval of the proposed delegation of authority to NTC Staff as indicated in Appendix 1 to allow Staff to conduct procurements on behalf of NTC and undertake related steps such as executing contracts and approving payment to vendors.
- In accordance with section 6.1(o) and Schedule B of By-law 2022-38, being A By-law to Establish the Niagara Transit Commission (NTC) as a Municipal Service Board, the NTC is required to comply with the Region's Procurement by-law being By-law No. 02-2016, which governs the acquisition of good and services; and provides a delegation of authority framework for Regional Staff whereby Staff are authorized to take certain steps and make certain decisions related to procurement based on established dollar value thresholds.

- Given that the NTC is a newly established legal entity, and now that the General Manager has been appointed and managerial staff hired for January 1, 2023, a review has been undertaken by the General Manager, in consultation with Region staff, to consider the appropriate structure for purchasing approvals and responsibilities to be assumed by NTC staff, commensurate with the budget for NTC, which is reflected in the proposed chart attached as Appendix 1 recommended for Board approval. Subject to Board approval, this report will be forwarded to the Region to facilitate advancing an amendment to the Procurement By-law accordingly to reflect the approved delegation of authority in the By-law itself.
- In conjunction with establishing the NTC, pursuant to CSD 19-2022, Regional Council appointed the Commissioner of Corporate Services/ Treasurer as an interim signing officer for NTC with delegated authority to execute such documents on behalf of NTC as may be required, such as the Municipal Asset Transfer Agreements and insurance applications, in order to advance transitional activities required to implement regional transit consolidation until such time as NTC appointed its own signing officers and established related document execution policies.
- There is a need for fulsome review, which will be the subject of a future report to the Board, regarding broader policy requirements and recommendations related to execution of documents and delegation of authority for NTC Staff. However in the interim, given that the scope of the authority granted to the Commissioner of Corporate Services/Treasurer was intentionally limited to transitional activities on an interim basis to support NTC getting ready to assume operational responsibility for transit effective January 1, 2023; it would be in order to establish some signing authority for the General Manager on a go-forward basis for routine operational documents necessary in order to obtain and maintain the required certifications and licensing approvals legally required on behalf of the NTC to own, operate and maintain a municipal transit fleet, such as the Commercial Vehicle Operator's Registration certificates.

Financial Considerations

There are no costs associated with the establishment of delegated authorities as recommended. The procurement limits have been developed in concert with Finance staff at the Region and the authorities granted in Appendix 1 are in alignment with the parameters set by the Region's current Procurement By-law, which applies to NTC and

the NTC's budget. The authorities proposed for the NTC align position delegations with that of the Region's authorities however, the limits for each position have been reduced to align more closely with their materiality relative to the NTC budget. Procurements above the dollar threshold and authority proposed for delegation to staff will be brought forward to the Board for approval on an individual basis.

Should the Board not approve this report, as a necessary first step to seeking an amendment to the Region's Procurement by-law, there is risk to operations in that staff will not have the delegated authority to procure, execute contracts and sign agreements that are paramount to the delivery of service after January 1, 2023; meaning that Board approval will be required for each individual action item which will cause delays and operational impacts.

Analysis

The General Manager of the NTC (by virtue of the General Manager Appointment By-law) is designated as a signing officer of the NTC; but in order to have signing authority to execute documents on behalf of and bind the NTC; there is a need for either a resolution, by-law or policy approved by the NTC Board to delegate such authority.

The NTC Board have authority to pass such a resolution, by-law or policy by virtue of Section 6.1(l) of the NTC Establishing By-law 2022-38 which provides that the NTC has the power to *(l) Delegate in writing the exercise of the authority of the NTC delegated to it by Council, to such employees of the Commission as deemed appropriate.*

Pursuant to the NTC Establishing By-law 2022-38 (as per section 6.1(o) and Schedule B) the Region's Procurement By-law applies to the NTC's purchasing activities; however there is a need to update provisions of that by-law to reflect the organizational structure and proposed signing officers for the NTC, including the General Manager. A review has been undertaken by the General Manager, in consultation with Region staff, to consider the appropriate structure for purchasing approvals and responsibilities to be assumed by NTC staff, commensurate with the budget for NTC, which is reflected in the proposed chart attached as Appendix 1 recommended for Board approval. Subject to Board approval, this report will be forwarded to the Region to facilitate Staff advancing an amendment to the Procurement By-law, subject to Regional Council approval, to reflect the approved delegation of authority in the Procurement By-law itself.

In addition to delegated authority related to the acquisition of good and services, there may be other routine documents that would merit consideration for delegated authority

to NTC for operational efficiencies. To that end, a fulsome review will be undertaken of the Region's Execution of Documents by-law and other delegation of authority policies, to identify items to be brought forward to the Board for consideration to establish its own policy in this regard based on the operational needs of the NTC.

In the interim transitional documents such as the Municipal Transfer Agreements and insurance applications (up to December 31, 2022) are able to be executed by the Commissioner of Corporate Services/ Regional Treasurer in accordance with Regional Council approval of CSD 19-2022, as a part of its commitment to support the consolidation of regional transit and in accordance with its responsibilities in that regard as indicated in By-law 2022-38.

As further interim step this report also includes a recommendation seeking Board approval to delegate authority to the General Manager on a go-forward basis to execute routine operational documents necessary in order to obtain and maintain the required certifications and licensing approvals legally required on behalf of the NTC to own, operate and maintain a municipal transit fleet, such as the Commercial Vehicle Operator's Registration certificates; and provided that any related fees or expense are within the approved budget; in order to ensure appropriate authority is in place for the execution of such documents to support the assumption of operational authority for transit by NTC on January 1, 2023.

Alternatives Reviewed

The NTC Board could decline to delegate any authority to Staff which would result in the need to bring every individual item requiring purchasing or signing authority forward to the Board on an individual basis for approval (resulting in operational impacts including delays). Given that the Region's Procurement by-law, which applies to NTC, provides an appropriate governance framework for transparent and competitive acquisition of goods and services, the approval of delegated authority to staff in accordance with Appendix 1 is recommended to allow NTC to leverage the efficiencies and operational benefits in applying the By-law to its purchasing activities.

Other Pertinent Reports

NTC 6-2022 Niagara Transit Commission Procedural By-law and Policy Considerations

Prepared and Recommended by:

Carla Stout, DPA
General Manager
Niagara Transit Commission

Submitted by:

Bruce Zvaniga, P.Eng.
Chair – Transit Commission Steering Committee

This report was reviewed by members of the Transit Commission Steering Committee, which is chaired by the Commissioner of Public Works and is comprised of extensive senior Regional staff (Commissioner and Director levels) and the NTC General Manager.

Appendices

Appendix 1	Procurement Table to amend the By-law for NTC
Appendix 2	Niagara Region Procurement By-law No. 02-2016

Proposed Delegation of Authority to NTC Staff under the Region's Procurement By-law

Method Of Purchasing	Dollar Value	Purchasing Authority*	Document Execution Authority	Payment Release Authority
Low Value (for routine Purchases of low dollar value)	Up to \$10,000	Department Manager	Deputy General Manager	Department Manager
Informal Quotation (obtain, if possible, 3 written quotations for goods and services)	> \$10,000 to \$25,000	Department Manager	Deputy General Manager	Department Manager
Formal Quotation (formal bid solicitation to obtain quotations from at least 3 suppliers)	> \$25,000 to \$100,000	Department Manager	General Manager	Department Manager

Method of Purchasing	Dollar Value	Purchasing Authority*	Document Execution Authority	Payment Release Authority
Request for Tender	> \$100,000 to \$250,000	Deputy General Manager	General Manager	Department Manager
	> \$250,000 to \$1 million	Deputy General Manager, General Manager and Regional Treasurer	General Manager	Department Manager
	> \$1 million	Niagara Transit Commission Board	Regional Clerk and Regional Chair	General Manager

Method Of Purchasing	Dollar Value	Purchasing Authority*	Document Execution Authority	Payment Release Authority
Request for Proposal	> \$10,000 to \$25,000	Department Manager	Deputy General Manager	Department Manager
	> \$25,000 to \$100,000	Department Manager	General Manager	Department Manager
	> \$100,000 to \$250,000	Deputy General Manager	General Manager	Department Manager
	> \$250,000 to \$1 million	Deputy General Manager, General Manager and Regional Treasurer	General Manager	Department Manager
	> \$1 million	Niagara Transit Commission Board	Regional Clerk and Regional Chair	General Manager

Method Of Purchasing	Dollar Value	Purchasing Authority*	Document Execution Authority	Payment Release Authority
Special Circumstance, Single Source and Negotiation	> \$10,000 to \$25,000	Deputy General Manager	Deputy General Manager	Department Manager
	> \$25,000 to \$100,000	Deputy General Manager and General Manager	General Manager	Department Manager
	> \$100,000 to \$250,000	Deputy General Manager and General Manager and Regional Treasurer	General Manager	Department Manager
	\$250,000	Niagara Transit Commission Board	Regional Clerk and Regional Chair	General Manager

* “Purchasing Authority” means those positions listed, and includes any position which is higher in the Corporation’s reporting structure.

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Authorization Reference: PAC-C 3-2015;

As amended by By-law Nos. 2019-06 and 2019-30

CSD 12-2015 Minute Item 5.2

CSC 1-2019; Minute Item 7.6

CL 6-2019: Minutes Item 11.1

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 02-2016

A BY-LAW TO DEFINE THE PROCUREMENT POLICIES AND PROCEDURES FOR THE REGIONAL MUNICIPALITY OF NIAGARA, AND TO REPEAL BY-LAW 95-2014

WHEREAS Section 270(1)(3) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, requires a municipality to adopt policies with respect to its purchasing of goods and services;

AND WHEREAS The Council of The Regional Municipality of Niagara has deemed it desirable to set out its policies with respect to the Purchase or Disposal of Goods and/or Services in this By-law;

Now therefore, The Council of The Regional Municipality of Niagara enacts as follows:

PURPOSES, GOALS AND OBJECTIVES OF THIS BY-LAW

1. The purposes, goals and objectives of this By-law and of each of the methods of Purchasing authorized herein are:
 - (a) to encourage competitive bidding;
 - (b) to ensure objectivity and integrity in the Purchasing process;
 - (c) to ensure fairness between bidders;
 - (d) to maximize savings for taxpayers;
 - (e) to offer a variety of Purchasing methods, and to use the most appropriate method depending on the particular circumstances of the acquisition;
 - (f) to the extent possible, to ensure openness, accountability and transparency while protecting the best interests of the Corporation and the taxpayers of The Regional Municipality of Niagara;
 - (g) to obtain the best value for the Corporation when procuring Goods and/or Services;

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Authorization Reference: PAC-C 3-2015;
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As amended by By-law Nos. 2019-06 and 2019-30

- (h) to avoid real and perceived conflicts between the interests of the Corporation and those of the Corporation's employees and elected officials and to ensure compliance with the Municipal Conflict of Interest Act, R.S.O. 1990, c.M.50, as amended;
- (i) to encourage the Purchase of Goods and/or Services with due regard to the preservation of the natural environment;
- (j) to promote, and incorporate wherever possible in Purchasing activities of the Corporation, the requirements of the Ontarians with Disabilities Act, 2001, S.O. 2001, c. 32, as amended;
- (k) to adhere to the code of ethics of the National Institute of Government Purchasing and the **Supply Chain Management Association** of Canada; and
- (l) to maintain timely and relevant policies and procedures.

DEFINITIONS

2. (a) In this By-law,

“Associate Director” means an employee of the Corporation holding the position of associate director;

“Award” means authorization to proceed with the Purchase, sale or Disposal of Goods and/or Services from or to a chosen Supplier;

“Bid” means an offer or submission from a Supplier in response to a Bid Solicitation which is subject to acceptance or rejection by the Corporation;

“Bid Deposit” means the form of security required by the terms and conditions of Bid Solicitations to guarantee that the successful Supplier enters into a Contract with the Corporation, as required by Section 26 of this By-law;

“Bid Document Form” or “BDF” means a form completed by Departments prior to the onset of a formal bid process which assists them in identifying relevant information such as specifications, provision, plans and supplemental general conditions which are crucial to the Purchase. Procurement utilizes this information as a starting point in the development of the Bid Solicitation and may

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consult with the project manager to clarify details and provide guidance for the purpose of finalizing the Bid Solicitation;

“Bid Solicitation” means a formal request for Bids including an Informal Quotation, Request for Quotation, Request for Pre-Qualification, Request for Tender, Request for Proposal, ***Negotiated Request for Proposal***, or Request for Expression of Interest;

“Bidding System” means the Niagara Region’s online web-based solution for issuing Bid Solicitations and/or receiving online Bids and posting results of Bid Solicitations;

“Budget” means the budget or portion of the budget approved by Council;

“CETA” means the Comprehensive Economic and Trade Agreement, (Chapter Nineteen: Government Procurement) effective September 21, 2017 and as may be updated from time to time;

“CFTA” means the Canadian Free Trade Agreement set out for Government Procurement, (Chapter Five) effective July 1, 2017 and as may be updated from time to time;

“Chair” means the Chair of the Corporation or his or her designate;

“Chief Administrative Officer” or “CAO” means the Chief Administrative Officer of the Corporation, his or her Designate or any successor position thereto;

“Clerk” means the Clerk of the Corporation or his or her designate;

“Commissioner” means the Commissioner of a Department, his or her Designate or any successor position thereto;

“Compliant Bid” means a Bid that meets the terms and conditions of the Bid Solicitation and this By-law;

“Conflict of Interest” means:

a situation or circumstance, real or perceived, which could give a Supplier an unfair advantage during a procurement process or compromise the ability of the Supplier to perform its obligations under its Contract; and/or

a situation where a personal, business or other interest of an elected or appointed official, officer or employee of the Corporation is, or can be reasonably be perceived to be, in conflict with the interests of the Corporation, and includes, but is not limited to:

- (i) the giving or receiving of a direct or indirect personal gain or benefit, or a direct or indirect advantage or privilege, by any person or business that offers Goods and/or Services to the Corporation;
- (ii) a direct or indirect interest in any business that provides Goods and/or Services to the Corporation;
- (iii) a conflict of interest as defined in the Municipal Conflict of Interest Act; or
- (iv) a conflict of interest as defined in the Corporation's Code of Ethics/Conflict of Interest Policy **#C-A-007**, as may be amended;

“Construction” means a construction, reconstruction, demolition, repair or renovation of a building, structure or other engineering or architectural work and includes site preparation, excavation, drilling, soil or seismic investigation, the supply of products and materials and the supply of equipment and machinery incidental to the construction, and the installation and repair of fixtures of a building, structure or other engineering or architectural work;

“Contract” means a binding agreement between two or more parties that creates an obligation to provide or sell goods or perform services;

“Corporation” means The Regional Municipality of Niagara;

“Council” means The Council of The Regional Municipality of Niagara;

“Department” means any Department of the Corporation including any division within a Department;

“Department Commissioner” means the Commissioner of the Department making the Purchase *and for the purposes of this by-law shall include the Medical Officer of Health or their designate or any successor position thereto*;

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“Department Representative” means a position authorized in writing by the CAO or Department Commissioner for the Purchase and Disposal of Goods and/or Services up to the value of their prescribed signing authority ***or their designate*** and which written authorization must be filed with the Director of Procurement and Strategic Acquisitions;

“Designate” means a person authorized in writing to act on behalf of another during his or her absence, which written authorization has been filed with the Director of Procurement and Strategic Acquisitions; only a person holding a position no lower than one level below in the Corporation’s reporting structure may be authorized to act as a Designate;

“Director” means the director of a division within a Department, his or her Designate or any successor position thereto;

“Director of Legal and Court Services” means the Director of Legal and Court Services of the Corporation, his or her Designate or any successor position thereto;

“Disability” or “Disabilities” shall have the same meaning as set out in the Ontarians with Disabilities Act, 2001, or any successor legislation thereto;

“Disposal” means the selling, trading, assignment and/or scrapping of Surplus Assets;

“Fair Market Value” means the price that would be agreed to in an open and unrestricted market between knowledgeable and willing parties dealing at arm’s length who are fully informed and not under any compulsion to transact;

“Fairness Monitor” means an independent third party to observe all or part of a Bid Solicitation process and provide related feedback on fairness issues;

“Formal Bid Process” means the process for receipt of Bids, as outlined in Section 21;

“Goods” means, in relation to procurement, moveable property (including the costs of installing, operating, maintaining or manufacturing such moveable property), including raw materials, products, equipment and other

physical objects of every kind and description whether in solid, liquid, gaseous or electronic form, unless they are procured as part of a general construction contract;

“In House Bid” means a Bid made by one or more employees of the Corporation, which process has been authorized by Council, submitted in response to a Bid Solicitation, where the provision of the Goods and/or Services will be provided by the employees of the Corporation;

“Lobbying” means the advocacy of an interest that is affected, actually or potentially by the Bid Solicitation process or individuals involved in the Bid Solicitation process including seeking to influence the outcome of the Bid Solicitation process or subsequent Award.

“Lowest Compliant Bid” means the Compliant Bid that would provide the Corporation with the desired Goods and/or Services at the lowest cost;

“Manager” means an employee of the Corporation holding the position of manager;

“Negotiated Request for Proposal” or “NRFP” means a non-binding flexible format public request for proposal by the Corporation made in accordance with Section 16 of this by-law, seeking proposals to supply Goods and/or Services which may or may not result in an award by the Corporation;

“Negotiation” means a purchasing method whereby the Corporation may negotiate directly with one or more Suppliers with the intent to award a Contract or extend an existing Contract;

“Pre and Post Award Bid Dispute” means a written objection provided to Procurement and Strategic Acquisitions from a Supplier with respect to a Bid Solicitation giving specific reasons for the objection;

“Procurement and Strategic Acquisitions” means that part of the **Enterprise Resource Management Services** Department and any person with the delegated authority under Section 4. (d) of this By-law, responsible for the Purchase and Disposal of all Goods and/or Services for the Corporation and for the administration of this By-law;

“Professional Services” means those services requiring the skills of professionals for a defined service requirement including but not limited to,

- (i) architects, engineers, designers, surveyors, geoscientists, project managers, financial consultants, auditors, accountants, **lawyers**, and medical professionals such as doctors **and** dentists;
- (ii) firms or individuals having specialized competence in environmental, planning or similar disciplines; and,
- (iii) software consultants and any other persons providing similar services;

“Purchase” means to acquire Goods and Services by purchase, rental, lease or trade, including Construction;

“Purchase Order” means a written confirmation of the Purchase of Goods and/or Services at a specific cost. ;

“Purchase Requisition” means a request for Goods and/or Services for which the Budget has been approved, prepared by a Department and sent to the Procurement and Strategic Acquisitions Division;

“Purchasing” means the process for obtaining Goods and/or Services;

“Quotation” means a binding statement of price, terms of sale and description of Goods and/or Services offered by a Supplier;

“Request for Expression of Interest” or “RFEOI” means a public request made by the Corporation seeking responses from potential Suppliers for the purposes of compiling a list of Suppliers who may be interested in providing Goods and/or Services to the Corporation from time to time. Receipt of an expression of interest by the Corporation does not create any obligation between the potential Supplier and the Corporation, but may be a precondition to qualifying for subsequent Bid Solicitations issued by the Corporation;

“Request for Pre-Qualification” or “RFPQ” means a public request by the Corporation **made in accordance with Section 10 of this by-law** seeking submissions outlining the experience, financial strength, education,

background and significant personnel of potential Suppliers who may, from time to time, qualify to supply Goods and/or Services to the Corporation;

“Request for Proposal” or “RFP” means a public request for proposals by the Corporation made in accordance with Section 16 of this By-law, seeking proposals to supply Goods and/or Services which may or may not result in an Award by the Corporation;

“Request for Quotation” or “RFQ” means a request for Quotations by the Corporation for the provision of Goods and/or Services made in accordance with Section 14 of this By-law;

“Request for Tender” or “RFT” means a public request for Tenders by the Corporation made in accordance with Section 15 of this By-law;

“Services” means intangible products that do not have a physical presence and includes Professional Services. No transfer of possession or ownership takes place when services are sold, and they: (1) cannot be stored or transported; (2) are instantly perishable; and (3) come into existence at the time they are bought and consumed;

“Single Source” means the non-competitive procurement process to acquire Goods and/or Services from a specific supplier even though there may be more than one Supplier capable of delivery of the same Goods and/or Services;

“Sole Source” means there is only one source of the Goods and/or Services that meets the requirements of the Corporation;

“Special Circumstance” means:

- (i) an event that is exceptional or could not be foreseen and is likely to pose a threat to the health, safety or welfare of the public;
- (ii) an event that, unless immediately addressed, is likely to cause significant loss or damage to property;
- (iii) an event that has disrupted any essential service that needs to be re-established without delay; or

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- (iv) an emergency as defined in the Emergency Management **and Civil Protection** Act, R.S.O. 1990, c. E.9, as amended, or any successor legislation thereto;

“Specialized Services” means those services requiring the skills of trades including, but not limited to electrical, mechanical, drywall, painting, HVAC, roofing, plumbing, electronics, and insulation;

“Supplier” means any individual or organization offering Goods and/or Services including but not limited to contractors, consultants, vendors and service organizations;

“Surplus Assets” means Goods, stocks and other assets, which are obsolete, damaged or surplus to that Department’s needs.

“Tender” means a written detailed offer from a Supplier to supply Goods and/or Services to the Corporation;

- (b) Schedules “A” and “B” attached hereto form part of this By-law.

APPLICATION

- 3. (a) The policies and procedures outlined in this By-law, including all of the purposes, goals and objectives of Section 1 hereof, shall be followed for the Purchase of all Goods and/or Services by the Corporation or any of its officers, servants and employees.
- (b) The Methods of Purchasing set out in Sections 10 to 21, and the Reporting Procedures set out in Section 23, shall not apply to the Purchase and Disposal of those Goods and Services outlined in Schedule “A”.
- (c) This provision provides authority for the Purchase of Goods and Services outlined in Schedule “A” as long as the funding is available in the Budget.
- (d) Any Contracts necessary to complete the Purchase of Goods and/or Services outlined in Schedule “A” shall be signed by the appropriate Document Execution Authority for “Single Source” as set out in Schedule “B”, up to the prescribed limits provided that:
 - (i) the Contract has been prepared in a form satisfactory to the Director of Legal and Court Services;

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- (ii) any financial securities and insurance required under the Contract are satisfactory to the Director of Legal and Court Services; and
- (iii) funding is available in the Budget.

RESPONSIBILITIES AND AUTHORITIES

- 4. (a) The Commissioner of **Enterprise Resource Management Services/Treasurer** shall have all the necessary authority to administer this By-law and to carry out his or her duties on behalf of the Corporation.
- (b) Procurement and Strategic Acquisitions is responsible for and shall have the authority to:
 - (i) acquire or dispose of Goods and/or Services;
 - (ii) call, receive, open and review Bids;
 - (iii) establish administrative procedures and policies for the implementation of this By-law;
 - (iv) establish, through consultation with the Director of Legal and Court Services, standards for Bid Solicitations, Purchase Orders, Contracts and other documents;
 - (v) establish, through consultation with the user Department and Director of Legal and Court Services, the terms and conditions of Bid Solicitations;
 - (vi) provide guidelines on procurement policies and procedures and the structure, format and general content of Bid Solicitations;
 - (vii) review proposed Bid Solicitations to ensure clarity, reasonableness and quality and advise staff of suggested improvements;
 - (viii) establish, through consultation with the Director of **Financial Management and Planning**, policies and procedures to support the Corporation's Purchasing Card Policy **#C-F-023**, as may be amended.
 - (ix) act on behalf of the Corporation, the Niagara Regional Police Services Board, and from time to time, other boards and agencies,

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for the purposes of the Purchase or Disposal of Goods and/or Services;

- (x) ensure open, fair and impartial Purchasing processes for Goods and/or Services which could include the services of a Fairness Monitor;
 - (xi) ensure compliance with this By-law and advise the Commissioner of **Enterprise Resource Management** Services/Treasurer when there has been non-compliance. The Commissioner of **Enterprise Resource Management** Services/Treasurer shall take appropriate action to address and correct any non-compliance;
 - (xii) develop co-operative purchasing plans with other units of government or their agencies or public authorities, where deemed beneficial to the Corporation;
 - (xiii) promote the standardization of Goods and/or Services, where such standardization demonstrably supports the purposes, goals and objectives of this By-law; **and**
 - (xiv) **responsible for ensuring that where applicable, all ensuing procurements are compliant with the current and revised values of CETA and CFTA.**
- (c) The Director of Procurement and Strategic Acquisitions, with the written approval of the Commissioner of **Enterprise Resource Management** Services/Treasurer, may delegate to an employee or employees, all or part of the authority in Subsection 4(b) above, which authority may be limited to a particular type of Goods and/or Services.
 - (d) The CAO or Department Commissioner shall appoint in writing, Department Representatives who shall be responsible for the Purchasing of Goods and/or Services and oversight up to the value of their prescribed authority in accordance with Section 4 (e);
 - (e) Department Representatives will also have the following specific responsibilities:
 - (i) ensuring that all Contract terms and conditions comply with the Bid Solicitation;

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- (ii) preparing and approving all specifications and terms of reference in consultation with Procurement and Strategic Acquisitions;
- (iii) managing Contracts to ensure Goods and/or Services are received by the Corporation and comply with Contract terms and conditions;
- (iv) monitoring all Contract expenditures and ensuring that all financial limitations have been complied with and that all accounts are paid within the times set out in the Contract;
- (v) monitoring the performance of Suppliers;
- (vi) standardizing the use of Goods and/or Services, where such standardization demonstrably supports the purposes, goals and objectives of this By-law; and
- (vii) ensuring that all Goods and/or Services Purchased or Disposed have been received and recording receipt in the form prescribed by Procurement and Strategic Acquisitions.

REQUIREMENT FOR APPROVED FUNDS

- 5. (a) Except as provided in Section 17 hereof, the exercise of authority to award a Contract is subject to the identification and availability of sufficient funds in appropriate accounts within the Budget.
- (b) Where Goods and/or Services are routinely purchased or leased on a multi-year basis, the exercise of authority to award a Contract is subject to the following:
 - (i) the identification and availability of sufficient funds in appropriate accounts for the current year within the Budget;
 - (ii) the Goods and/or Services will continue to be required in subsequent years and, in the opinion of the Commissioner of **Enterprise Resource Management** Services/Treasurer, the required funding can reasonably be expected to be made available; and
 - (iii) the Contract includes a provision that the supply of Goods and/or Services in subsequent years is subject to the approval by Council of the Budget estimates to meet the proposed expenditures.

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Authorization Reference: PAC-C 3-2015;
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- (c) The Director of Procurement and Strategic Acquisition, may enter into contractual arrangements on behalf of the Corporation to permit acquisition of goods or services based on per-unit costing basis, without a specific budget and without obligation on the part of the Corporation to purchase specific goods or services until further authorized in accordance with this By-law. This only applies to goods or services that are widely used by the Corporation and the funding is reasonably expected to be available within Department budgets.

TRADE AGREEMENTS

- 6. (a) Purchases by the Corporation may be subject to the provisions of trade agreements, ***including but not limited to CETA and CFTA.***
- (b) Where an applicable trade agreement supersedes and is in conflict with this By-law, the trade agreement shall take precedence.
- (c) Procurement and Strategic Acquisitions shall advise the appropriate Department Commissioner when a Purchase may not conform to an applicable trade agreement as early as possible in the Bid Solicitation process.

ADVERTISING OF BID SOLICITATIONS

- 7. (a) ***Purchases covered under the monetary thresholds of CFTA shall, at a minimum, be advertised on the Bidding System for a minimum of ten (10) calendar days preceding the stated closing date.***
- (b) ***Purchases covered under CETA shall be advertised on the Bidding System for a minimum of twenty-five (25) calendar days preceding the closing date. This requirement may be reduced by Procurement to ten (10) calendar days provided that:***
 - (i) ***a RFPQ has been previously issued for the Purchase; or***
 - (ii) ***a notice of planned procurement has been posted for the Purchase using the Bidding System at least forty (40) calendar days (and not more than twelve (12) months) in advance of the Bid posting.***

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Authorization Reference: PAC-C 3-2015;
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CSC 1-2019; Minute Item 7.6
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- (c) ***The Corporation shall advertise Bids on any designated electronic Canada-wide single point of access as directed by the Government of Canada***
- (d) ***Any person involved in Purchases may advertise Purchases for lesser amounts and/or on alternative platforms in addition to those prescribed in this section if they determine that it is in the Corporation's best interest to do so.***

PURCHASING DOCUMENTATION

- 8. (a) The use of standard Bid documents shall be approved by Procurement and Strategic Acquisitions and/or Legal and Court Services.
- (a) A Bid Solicitation may specify a specific product or brand name to ensure consistency, to minimize risk to the Corporation, or for other valid purposes.
- (b) All changes to standard Bid Solicitations and Contracts shall be reviewed and approved by the Director of Legal and Court Services.
- (c) Before issuance, all Bid Solicitations shall be reviewed by Procurement and Strategic Acquisitions.

METHODS OF PURCHASING

- 9. (a) Any person Purchasing or Disposing Goods and/or Services on behalf of the Corporation shall do so using one of the following methods of Purchasing set out in Sections 10 to 20 ("Methods of Purchasing"). The methods may be utilized individually or in combination with one another, as may be appropriate in the circumstances.
- (b) All Methods of Purchasing, except for the exemptions in Schedule "A" and Low Value Purchases ***as described in Section 12***, shall be conducted through or reviewed by Procurement and Strategic Acquisitions.

REQUEST FOR PRE-QUALIFICATION

- 10. (a) Procurement and Strategic Acquisitions may conduct a Request for Pre-Qualification (RFPQ) to develop a list of Suppliers that may be eligible to submit a Bid on subsequent Bid Solicitations or to develop a roster in accordance with Section 20.

Bill 02-2016

Authorization Reference: PAC-C 3-2015;
CSD 12-2015 Minute Item 5.2
CSC 1-2019; Minute Item 7.6
CL 6-2019: Minutes Item 11.1

As amended by By-law Nos. 2019-06 and 2019-30

- (b) Pre-qualification may be considered in the following circumstances:
 - (i) the work will require substantial project management by the Corporation and could result in substantial cost to the Corporation if the Supplier is not appropriately experienced;
 - (ii) the Goods and/or Services to be purchased must meet national safety standards;
 - (iii) the work involves complex, multi-disciplinary activities, specialized expertise, equipment, materials or financial requirements;
 - (iv) miscellaneous repairs and services as required by the Corporation such as plumbers, electricians, and drywall contractors;
 - (v) there could be substantial impact on the Corporation's operations if the work is not satisfactorily performed the first time; or
 - (vi) any other circumstances deemed appropriate by the Director of Procurement and Strategic Acquisitions.
- (c) An RFPQ shall be provided to the potential Suppliers setting out the criteria for pre-qualification which may include, but are not limited to:
 - (i) experience on similar work (firm and staff assigned);
 - (ii) references provided from other customers for similar work;
 - (iii) verification of applicable licences and certificates;
 - (iv) health and safety policies and staff training; and
 - (v) financial capability
- (d) Supplier submissions will be evaluated and ranked and a short list of pre-qualified Suppliers will be invited to participate in the second step of the two-step Purchasing process, being a Request for Proposal or a Request for Tender.
- (e) An RFPQ is not a legal offer but only an invitation for Suppliers to make offers to the Corporation.

Bill 02-2016

Authorization Reference: PAC-C 3-2015;
CSD 12-2015 Minute Item 5.2
CSC 1-2019; Minute Item 7.6
CL 6-2019: Minutes Item 11.1

As amended by By-law Nos. 2019-06 and 2019-30

- (f) All RFPQs shall be conducted in accordance with submission instructions in the Bid Solicitation and **advertised in accordance with** Section 7 of this By-law.

REQUEST FOR EXPRESSIONS OF INTEREST

11. Procurement and Strategic Acquisitions may conduct a Request for Expression of Interest for the purpose of determining the availability of Suppliers and for the purpose of compiling a list of Suppliers and may be used as a specific pre-condition of any Method of Purchasing utilized by the Corporation. The receipt of an expression of interest by the Corporation does not create any obligation between the potential Supplier and the Corporation.

LOW VALUE PURCHASES

(UP TO \$10,000 EXCLUDING TAXES)

12. Department Representatives are authorized to procure Goods and/or Services up to a total value of \$10,000, excluding taxes. Only purchases that can be demonstrated to have been made at Fair Market Value shall be made. Department Representatives may procure Goods and/or Services through the following means:
- (a) Purchasing Card used in strict accordance with the Purchasing Card Policy as determined by the Commissioner of **Enterprise Resource Management** Services/Treasurer.
 - (b) Purchase Order to the Supplier; or
 - (c) in limited situations direct invoice from the Supplier approved by the Department Representative with authority to approve the Purchase.

INFORMAL QUOTATIONS

(PURCHASES GREATER THAN \$10,000 AND NOT EXCEEDING \$25,000 EXCLUDING TAXES)

13. (a) For purchases with a total value greater than \$10,000 and not exceeding \$25,000, excluding taxes, an Informal Quotation method shall be utilized. If possible, at least three (3) written Quotations shall be solicited, analyzed and the results tabulated by the Department Representative. Quotations received shall be evaluated on price and the criteria outlined in the quotation request to determine the preferred Supplier.

Bill 02-2016

As amended by By-law Nos. 2019-06 and 2019-30

Authorization Reference: PAC-C 3-2015;
CSD 12-2015 Minute Item 5.2
CSC 1-2019; Minute Item 7.6
CL 6-2019: Minutes Item 11.1

- (b) The Purchase Requisition shall be prepared by the Department Representative, for signature and approval in accordance with the Purchasing Authorities set out in Schedule "B".
- (c) A Purchase Order shall be issued by the Department Representative when it has received all necessary approvals and the Department Representative, after due consideration, is satisfied the process and resulting documents comply with the requirements of Section 13 of this By-law and are consistent with the spirit of this By-law as set forth in Section 1 of this By-law.

REQUEST FOR QUOTATION

(PURCHASES GREATER THAN \$25,000 AND NOT EXCEEDING \$100,000 EXCLUDING TAXES)

- 14. (a) For purchases with a total value greater than \$25,000 and not exceeding \$100,000, excluding taxes, a Request for Quotation may be used to Purchase and shall be issued by Procurement and Strategic Acquisitions.
- (b) The Department Commissioner or Department Representative shall provide to Procurement and Strategic Acquisitions **a Bid Document Form which includes** the relevant information such as specifications, provisions, plans and supplemental general conditions for the purchase.
- (c) Procurement and Strategic Acquisitions shall conduct the Bid Solicitation using a list of Suppliers compiled by the Department Representative and Procurement and Strategic Acquisitions.
- (d) If possible, at least three (3) Quotations shall be solicited by Procurement and Strategic Acquisitions, analyzed and the results tabulated.
- (e) All RFQ's shall be conducted by Procurement and Strategic Acquisitions in accordance with Section 21.
- (f) Bids received shall be analyzed and evaluated by the Department Representative and Procurement and Strategic Acquisitions using the criteria outlined in the Bid Solicitation.
- (g) **The Bid results will be reported in accordance with Section 23.**

REQUEST FOR TENDER

Bill 02-2016

As amended by By-law Nos. 2019-06 and 2019-30

Authorization Reference: PAC-C 3-2015;
CSD 12-2015 Minute Item 5.2
CSC 1-2019; Minute Item 7.6
CL 6-2019: Minutes Item 11.1

(PURCHASES GREATER THAN \$100,000 EXCLUDING TAXES)

15. (a) For purchases with a total value greater than \$100,000, excluding taxes, a Request for Tender shall be issued through Procurement and Strategic Acquisitions provided that all of the following conditions apply:
- (i) two (2) or more sources are considered capable of supplying the Goods and/or Services;
 - (ii) the Goods and/or Services are adequately defined to permit the evaluation of Tenders against clearly defined criteria; and
 - (iii) it is intended that the Lowest Compliant Bid will be accepted.
- (b) The Department Commissioner or Department Representative shall provide to Procurement and Strategic Acquisitions **a Bid Document Form which includes** the relevant information such as specifications, provisions, plans and supplemental general conditions for the Purchase.
- (c) All RFTs shall be conducted in accordance with Section 21.
- (d) All RFTs shall be advertised in accordance with Section 7.
- (e) Where an RFPQ has previously been conducted, only pre-qualified Suppliers shall be notified and Bids shall only be accepted from pre-qualified Suppliers.
- (f) **The Bid results will be reported in accordance with Section 23.**
- (g) All Purchases shall be authorized in accordance with the Purchasing Authorities set out in Schedule "B" and all Contracts shall be signed in accordance with the Document Execution Authorities set out in Schedule "B".
- (h) **The Corporation shall publish an Award notice using the Bidding System.**

REQUEST FOR PROPOSAL of NEGOTIATED REQUEST FOR PROPOSAL

(PURCHASES GREATER THAN \$10,000 EXCLUDING TAXES)

Bill 02-2016

As amended by By-law Nos. 2019-06 and 2019-30

Authorization Reference: PAC-C 3-2015;
CSD 12-2015 Minute Item 5.2
CSC 1-2019; Minute Item 7.6
CL 6-2019: Minutes Item 11.1

16. (a) A Request for Proposal or **Negotiated Request for Proposal** shall be issued through Procurement and Strategic Acquisitions where the Method of Purchasing meets one or more of the following criteria:
- (i) the Purchase is required as a result of a particular problem, requirement or objective;
 - (ii) the selection of the Supplier depends more upon the effectiveness of the proposed solution, rather than the price alone;
 - (iii) the precise Goods and/or Services, or the specifications therefor, are not known or are not definable and it is expected that Suppliers will further define them.
- (b) The Department Commissioner or Department Representative shall provide to Procurement and Strategic Acquisitions a **Bid Document Form which includes** the relevant information such as specifications, provisions, plans and supplemental general conditions for the Purchase.
- (c) A Request for Proposal or **Negotiated Request for Proposal** may be reviewed by Regional Council before it is issued where, at the discretion of the CAO and/or the Department Commissioner, the Goods and/or Services to be acquired meet one or more of the following criteria:
- (i) Significant value (i.e., exceeding the CAO's execution authority of \$5 million;
 - (ii) Significant public importance;
 - (iii) Significant complexity or specialization.
- (d) Procurement and Strategic Acquisitions shall conduct the Bid Solicitation **in accordance with Section 21**.
- (e) **All RFPs and NRFPs** shall require Suppliers to submit a Bid in accordance with the instructions contained within the Bid Solicitation.
- (f) All RFPs **and NRFPs** will be evaluated based on the evaluation criteria outlined in the Bid Solicitation by an evaluation team which shall comprise of at least one Department Representative and one representative from Procurement and Strategic Acquisitions **whose role shall be limited to overseeing the evaluation process**.

Bill 02-2016

As amended by By-law Nos. 2019-06 and 2019-30

Authorization Reference: PAC-C 3-2015;
CSD 12-2015 Minute Item 5.2
CSC 1-2019; Minute Item 7.6
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- (g) **All RFPs and NRPFPs** shall be advertised in accordance with Section 7.
- (h) **The Bid results will be reported in accordance with Section 23.**
- (i) All Purchases shall be authorized in accordance with the Purchasing Authorities set out in Schedule "B" and all Contracts shall be signed in accordance with the Document Execution Authorities set out in Schedule "B".
- (j) **The Corporation shall publish an Award notice using the Bidding System.**

SPECIAL CIRCUMSTANCE PURCHASES

17. (a) Purchases that are required to respond to a Special Circumstance shall be authorized in accordance with Schedule "B". All such purchases must be reported to Procurement and Strategic Acquisitions on the following business day.
- (b) Contracts required to effect Special Circumstance purchases shall be signed in accordance with the Document Execution Authorities set out in Schedule "B".
- (c) When a Special Circumstance occurs where compliance with subsection 5(a) of this By-law is not reasonably achievable prior to the acquisition of required Goods or Services, a Contract may notwithstanding subsection 5(a), be awarded , provided that:
- (i) The Commissioner of **Enterprise Resource Management Services/Treasurer**, in addition to all other required Document Execution Authorities otherwise required by this By-law, has consented to the Award;
 - (ii) The Commissioner of **Enterprise Resource Management Services/Treasurer**, as soon as possible in the circumstances proceeds with identifying and approving or seeking approval of the funds required to pay for the **Purchase required to respond to the Special Circumstance.**

SINGLE SOURCE PURCHASES

Bill 02-2016

As amended by By-law Nos. 2019-06 and 2019-30

Authorization Reference: PAC-C 3-2015;
CSD 12-2015 Minute Item 5.2
CSC 1-2019; Minute Item 7.6
CL 6-2019: Minutes Item 11.1

18. (a) Bid Solicitations are not required for Single Source Purchases, provided that any of the following conditions apply:
- (i) the compatibility of a Purchase with existing equipment, product standards, facilities or service is a paramount consideration;
 - (ii) a Good or Service is Purchased for testing or trial use;
 - (iii) there is an absence of competition for technical reasons and the Goods and/or Services can only be supplied by a particular Supplier;
 - (iv) an unforeseeable situation of urgency exists and the Goods and/or Services cannot be obtained in time by means of open procurement procedures;
 - (v) the Corporation has a rental contract with a purchase option and such purchase option is beneficial to the Corporation;
 - (vi) for matters involving security, police matters or confidential issues, in which case a Purchase may be made in a manner that protects the confidentiality of the Supplier or the Corporation;
 - (vii) there are no bids in response to a Bid Solicitation;
 - (viii) a roster for Professional Services has been developed in accordance with Section 20 of this By-law.
- (b) The ***Bid results will be reported*** in accordance with Section 23.
- (c) All Purchases shall be authorized in accordance with the Purchasing Authorities set out in Schedule "B" and all Contracts shall be signed in accordance with the Document Execution Authorities set out in Schedule "B".
- (d) ***Where required by CFTA legislation, the Corporation shall publish Single Source Awards on the Bidding System.***

NEGOTIATION

19. (a) Notwithstanding that Negotiation may be a component of another procurement process, Negotiation may be used for Purchases of Goods and/or Services when any of the following criteria apply:

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Authorization Reference: PAC-C 3-2015;
CSD 12-2015 Minute Item 5.2

As amended by By-law Nos. 2019-06 and 2019-30

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- (i) the required Goods and/or Services are in short supply;
 - (ii) competition is precluded due to the existence of any patent right, copyright, technical secret or control of raw material;
 - (iii) a Sole Source is being recommended;
 - (iv) two (2) or more identical Bids are received;
 - (v) the Lowest Compliant Bid received meeting all specifications exceeds the Budget amount;
 - (vi) the extension of an existing Contract would be more effective;
 - (vii) only one (1) Bid is received in response to a Bid Solicitation;
 - (viii) the Bid Solicitation process has been cancelled without Award;
 - (ix) a roster for Professional Services has been developed in accordance with Section 20 of this By-law;
 - (x) there is Council authorization to do so.
- (b) The ***Bid results will be reported*** in accordance with Section 23.
- (c) All Purchases shall be authorized in accordance with the Purchasing Authorities set out in Schedule "B" and all Contracts shall be signed in accordance with the Document Execution Authorities set out in Schedule "B".

ROSTER FOR PROFESSIONAL OR SPECIALIZED SERVICES

20. (a) An RFPQ or an RFEOI may be conducted for the purpose of developing a roster of qualified Suppliers of Professional or Specialized Services for groups of projects requiring similar and particular expertise. While the use of a roster is strictly optional, the associated RFPQ or RFEOI shall be conducted in accordance with the provisions of this By-law.
- (b) The Department Representative shall provide to Procurement and Strategic Acquisitions ***a Bid Document Form which includes*** the relevant information regarding the Professional Services or Specialized Services and required expertise.

Bill 02-2016

Authorization Reference: PAC-C 3-2015;
As amended by By-law Nos. 2019-06 and 2019-30 CSD 12-2015 Minute Item 5.2
CSC 1-2019; Minute Item 7.6
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- (c) Procurement and Strategic Acquisitions will prepare the RFPQ or RFEOI, inviting interested Suppliers to submit Bids outlining, among other things, their qualifications, availability, recent project experience, key personnel and roles, and sufficient references satisfactory to the Director of Procurement and Strategic Acquisitions for work of a similar nature.
- (d) **All RFPQs and RFEOIs shall be advertised in accordance with Section 7.**
- (e) An evaluation team consisting of members of the requesting Department and Procurement and Strategic Acquisitions shall analyze and evaluate the responses received using the criteria outlined in the RFPQ or RFEOI to select a number of qualified Suppliers of Professional or Specialized Services which shall be placed on a roster.
- (f) On subsequent projects, Suppliers of Professional or Specialized Services may be selected from the roster to submit detailed proposals in response to a Bid Solicitation, in accordance with Sections 12 through 16 of this By-law. The requesting Department shall invite Suppliers on the roster to provide Services, using best efforts to equally distribute opportunities amongst the Suppliers on the roster.
- (g) Alternatively, a Supplier may be selected from the roster to submit a Bid for Professional or Specialized Services in accordance with Section 18 or 19 of this By-law.
- (h) Rosters shall be updated at least once every two (2) years.

FORMAL BID PROCESS

- 21. (a) All Bids (with the exception of Informal Quotations) shall be received by Procurement and Strategic Acquisitions, in accordance with the instructions in the Bid Solicitation, and opened in public at the time and place stated in the Bid Solicitation.
- (b) All Bids received shall be opened and the Suppliers name shall be read aloud and recorded. When the Bid Solicitation is for an RFT, the Bid amounts shall also be read aloud and recorded. Bidders shall be instructed that all information in the public opening is not official until the bid documents can be reviewed and verified.

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Authorization Reference: PAC-C 3-2015;
As amended by By-law Nos. 2019-06 and 2019-30 CSD 12-2015 Minute Item 5.2
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- (c) When only one (1) Bid is received, only the Supplier's name shall be read aloud. The Bid amount shall not be read aloud.

CO-OPERATIVE PURCHASING

- 22. The Commissioner of ***Enterprise Resource Management*** Services/Treasurer may enter into arrangements with any government body, ministry, agency, board, corporation or authority on a co-operative or joint basis for Purchases of Goods and/or Services where there are economic advantages in so doing and, where a co-operative or joint basis Purchase occurs, such Purchases are deemed to comply with this By-law. Co-operative purchasing for reporting purposes shall be considered a Request for Proposal or a Request for Tender based on the process undertaken by the originating agency for Purchasing Authorities.

REPORTING PROCEDURES

- 23. (a) ***Awards in excess of \$25,000 which are issued in accordance with Sections 14, 15, 16 and 20 of this By-law shall be reported to the public by Procurement and Strategic Acquisitions using the Bidding System.***
- (b) ***The Director of Procurement and Strategic Acquisitions shall collect data and report to Council on Government Procurement and the Secretariat statistics as required for Purchases that are subject to the thresholds of CFTA and CETA.***

PRESCRIBED COUNCIL APPROVAL

- 24. Notwithstanding any other provision of this By-Law, the following Awards require Council approval:
 - (a) the recommended Award exceeds the amount budgeted for the Purchase;
 - (b) the authority to Award has not been expressly delegated to staff of the Corporation, and;
 - (c) the recommended Award is not the Lowest Compliant Bid.

DOCUMENT EXECUTION AUTHORITY

- 25. Employees or officers of the Corporation identified in Schedule "B" (Document Execution Authority) shall have the authority to execute Contracts and all other documents necessary to effect the Award or Purchase of Goods and/or Services, up to the prescribed limits, provided that the documents have been prepared in a

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Authorization Reference: PAC-C 3-2015;
As amended by By-law Nos. 2019-06 and 2019-30 CSD 12-2015 Minute Item 5.2
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form satisfactory to the Director of Legal and Court Services and that the Award or Purchase complies with this By-law.

FINANCIAL SECURITIES AND INSURANCE

26. (a) Procurement and Strategic Acquisitions may require that a Bid be accompanied by a Bid Deposit or other similar security to guarantee that the successful Supplier enters into a Contract with the Corporation.
- (b) In addition to the security referred to in Subsection 26(a), the successful Supplier may also be required to provide:
- (i) a Performance Bond to guarantee the performance of the Contract;
 - (ii) a Labour and Materials Bond to guarantee the payment for labour and materials to be supplied in connection with a Contract; and/or
 - (iii) such further security as Procurement and Strategic Acquisitions deems appropriate in the circumstances.
- (c) Prior to the commencement of work, the Supplier shall provide to the Corporation, proof of insurance in accordance with the Bid Solicitation, satisfactory to the Director of Legal and Court Services.
- (d) Failure to comply with all terms and conditions of a Bid Solicitation, including failure to provide proof of insurance as required, shall be just cause for cancellation of the Award.
- (e) Prior to the Corporation issuing payment to a Supplier, the Supplier shall provide a Certificate of Clearance from the Workplace Safety and Insurance Board confirming all premiums or levies have been paid to the Board to date.

BID IRREGULARITIES

27. (a) Procurement and Strategic Acquisitions will maintain procedures to administer Bid irregularities.
- (b) Each Bid Solicitation document issued by the Corporation will outline irregularities with Bid Submissions that may lead to the disqualification of a Bid, or may require corrective action to take place in order to make the Bid compliant. The Bid irregularities and the response that the Corporation

would have to each irregularity may change from time to time. The listing of Bid irregularities and responses in a Bid Solicitation document is not intended to be a comprehensive listing of all irregularities

- (c) The process for administering irregularities arising from Bids shall be in the first instance, in accordance with the provisions of the Bid Solicitation and in the event the Bid Solicitation does not provide a full answer to the irregularity in question, then in accordance with the procedures maintained by Procurement and Strategic Acquisitions.
- (d) Notwithstanding subsection 27(c), Bid Irregularities shall not be handled in a manner that in the opinion of the Director of Legal and Court Services, the legal liability of the prescribed course of action will create a materially more significant risk of legal liability than an alternative method available to the Corporation.

FORM OF CONTRACT

- 28. (a) All Awards shall require the issuance of a Purchase Order.
- (b) An Award may require a formal written agreement in addition to a Purchase Order.
- (c) A Purchase Order may be used alone when the resulting Contract is straightforward and will refer to the Corporation's standard terms and conditions outlined in the Bid Solicitation.
- (d) A formal written agreement satisfactory to the Director of Legal and Court Services shall be used when the resulting Contract is complex or is a result of negotiation.
- (e) It shall be the responsibility of Procurement and Strategic Acquisitions in consultation with the Director of Legal and Court Services to determine if it is in the best interest of the Corporation to establish a formal written agreement with the Supplier.

SUPPLIER PERFORMANCE

- 29. (a) The Department Representative shall monitor and document the performance of Suppliers providing Goods and/or Services to that Department and shall advise Procurement and Strategic Acquisitions in writing when the performance of a Supplier has been unsatisfactory.

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Authorization Reference: PAC-C 3-2015;
As amended by By-law Nos. 2019-06 and 2019-30 CSD 12-2015 Minute Item 5.2
CSC 1-2019; Minute Item 7.6
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- (b) The Corporation may, in its sole discretion, disqualify a Supplier from bidding on any Bid Solicitation or reject a Bid if a Supplier:
 - (i) has, at any time, threatened, commenced or engaged in legal claims or litigation against the Corporation;
 - (ii) is involved in a claim or litigation initiated by the Corporation;
 - (iii) previously provided Goods and/or Services to the Corporation in an unsatisfactory manner;
 - (iv) has failed to satisfy an outstanding debt to the Corporation;
 - (v) has a history of illegitimate, frivolous, unreasonable or invalid claims;
 - (vi) provides incomplete, unrepresentative references, or receives unsatisfactory external and/or internal references in a reference check undertaken by Regional Staff,
 - (vii) has engaged in conduct that leads the Corporation to determine that it would not be in the Corporation's best interests to accept the Bid.

DISPUTE RESOLUTION

- 30. (a) The Corporation encourages competitive bidding and an open, accountable and transparent process for the Purchase of Goods and/or Services.
- (b) To maintain the integrity of the Bid Solicitation process, Suppliers who believe they have been treated unfairly in a Bid Solicitation process shall submit either;
- (c) A Pre-Award Bid Dispute in writing to the Director, Procurement & Strategic Acquisitions, as soon as possible from the time when the basis for the dispute became known to them, and in cases where a bidder or proponent has been declared non-compliant, no later than five (5) business days after the receipt of such notification.

The Director, Procurement & Strategic Acquisitions may delay an award, or any interim stage of a procurement, pending the acknowledgement and resolution of any Pre-Award Bid Dispute.

Bill 02-2016

As amended by By-law Nos. 2019-06 and 2019-30

Authorization Reference: PAC-C 3-2015;
CSD 12-2015 Minute Item 5.2
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The Director, Procurement & Strategic Acquisitions, in consultation with the Director, Legal and Court Services where appropriate, shall conduct a review of the Pre-Award Bid Dispute and determine whether:

- i. To dismiss the Pre-Award Bid Dispute;
- ii. To accept the Pre-Award Bid Dispute and take the appropriate remedial action, including, but not limited to, reinstating the bidder or proponent into the competition or cancelling the call; or
- iii. To have the award made by Regional Council if it is believed that there is a material risk in proceeding with the award.

The bidder will receive a response within ten (10) business days unless a report to Council is required in which case the Bidder will receive a response in thirty (30) business days.

The Director, Procurement & Strategic Acquisitions may adopt and publish such further procedures as are necessary to ensure a timely review and resolution of Pre-Award Bid disputes, or;

- (d) A Post-Award Bid Dispute to an award decision in writing to the Director, Procurement and Strategic Acquisitions no later than ten (10) business days after the date of the award notification, or where a debriefing has been requested, no later than five (5) business days after such debriefing is received. (The bidder will be entitled to a debriefing within sixty (60) calendar days of award.) Any dispute that is not timely received within these timeframes or not received in writing will not receive further consideration. The Director, Procurement and Strategic Acquisitions will review and respond to the dispute within ten (10) business days of receipt.

Any written dispute with a procurement value over \$100,000 that cannot be resolved by the Director, Procurement and Strategic Acquisitions through consultations with the bidder, shall be referred by the Director, Procurement and Strategic Acquisitions to the Commissioner, Enterprise Resource Management Services (ERMS)/Treasurer or their designate(s) for an impartial review, based on the following information:

A Post-Award Bid Dispute would require that the bidder must set out specific detail to the Commissioner, Enterprise Resource Management Services (ERMS)/Treasurer, including;

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Authorization Reference: PAC-C 3-2015;
As amended by By-law Nos. 2019-06 and 2019-30 CSD 12-2015 Minute Item 5.2
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- i. A specific description of each act or omission alleged to have materially breached the procurement process;
- ii. A specific identification of the provision in the solicitation or procurement procedure that is alleged to have been breached;
- iii. A precise statement of the relevant facts;
- iv. An identification of the issues to be resolved;
- v. The bidder's arguments, including any relevant supporting documentation; and
- vi. The bidder's requested remedial action.

The Commissioner, Enterprise Resource Management Services (ERMS)/Treasurer or designate(s), in consultation with the Director, Legal and Court Services, may set up an independent review team to review the Post-Award Bid Dispute and determine whether to;

- i. Dismiss the Post-Award Bid Dispute; or
- ii. Accept the Post-Award Bid Dispute and direct the Director, Procurement & Strategic Acquisitions to take appropriate remedial action, including, but not limited to, rescinding the award and any executed contract, and canceling the procurement. This may also require a report to Council on how best to resolve the Post-Award Bid Dispute depending on the material risk of the situation.

The bidder will receive a response within ten (10) business days unless a report to Council is required in which case the Bidder will receive a response in thirty (30) business days.

The Commissioner, Enterprise Resource Management Services (ERMS)/Treasurer may adopt and publish such further procedures as are necessary to ensure an independent and timely review and resolution of Post-Award Bid Disputes.

LOBBYING RESTRICTIONS

31. (a) Suppliers, their staff members, or anyone involved in preparing a Bid, shall not engage in any form of political or other Lobbying whatsoever or seek to

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As amended by By-law Nos. 2019-06 and 2019-30

Authorization Reference: PAC-C 3-2015;
CSD 12-2015 Minute Item 5.2
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influence the outcome of the Bid Solicitation process or subsequent Award. This restriction extends to all of the Corporation's staff and anyone involved in preparing a Bid Solicitation or participating in a Bid evaluation process, and members of Council.

- (b) The Corporation may reject any Bid by a Supplier that engages in such Lobbying, without further consideration, and may terminate that Supplier's right to continue in the Bid Solicitation process.
- (c) During a Bid Solicitation process, all communications shall be made through Procurement and Strategic Acquisitions. No Supplier or person acting on behalf of a Supplier or group of Suppliers, shall contact any elected official, consultant or any employee of the Corporation to attempt to seek information or to influence the Award.
- (d) Elected officials shall refer any inquiries about a Bid Solicitation process to the Commissioner of **Enterprise Resource Management** Services /Treasurer.

ACCESS TO INFORMATION

- 32. (a) The disclosure of information received relevant to Bid Solicitations or Awards shall be made by the appropriate officers in accordance with the provisions of all relevant privacy legislation including primarily the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56, as amended.
- (b) All Suppliers who contract with the Corporation shall adhere to or exceed the standards set in the Municipal Freedom of Information and Protection of Privacy Act or the Personal Health Information Protection Act, 2004, S.O. 2004, c. 3, Sched. A, or other relevant Ontario or federal privacy legislation or common law as may be passed or amended from time to time, as if they were agents of the Corporation as relates to the confidential and secure treatment, including collection, use, disclosure or retention, of personal (health) information, other confidential information of the Corporation, and all records thereof which they come into contact with in the course of performing Services or providing Goods to the Corporation.

SURPLUS ASSETS

Bill 02-2016

As amended by By-law Nos. 2019-06 and 2019-30

Authorization Reference: PAC-C 3-2015;
CSD 12-2015 Minute Item 5.2
CSC 1-2019; Minute Item 7.6
CL 6-2019: Minutes Item 11.1

33. (a) Directors shall submit to Procurement and Strategic Acquisitions from time to time and upon request, a list of Surplus Assets.
- (b) All Surplus Assets shall first be offered to other Departments within the Corporation.
- (c) All Surplus Assets not required by any Department of the Corporation may then be offered to area municipalities, agencies and charitable organizations within the Niagara region prior to any public Disposal procedure.
- (d) Procurement and Strategic Acquisitions shall have the authority to sell or dispose of all Surplus Assets, by sealed bid, public auction or any other public sale.
- (e) The sale of Surplus Assets shall be made to the highest bidder and in accordance with the provisions of this By-law.
- (f) The respective **capital reserve** shall be credited with the net proceeds, if any, from the Disposal of its Surplus Assets unless otherwise agreed.
- (g) Surplus Assets shall not be sold directly to an employee or to a member of Council, although this does not prohibit any employee or member of Council from purchasing Surplus Assets being sold through a public process.
- (h) Surplus Assets may be donated to non-profit agencies or non-profit institutions for educational or teaching purposes only. Donated items shall not be re-sold. All donated Surplus Assets must be approved by the Department Commissioner.
- (i) On termination of their relationship with Niagara Region, any outgoing employee or regional councillor can request the opportunity to Purchase the business laptop computer provided to them. Such Purchases must be approved by the Commissioner of **Enterprise Resource Management Services/Treasurer** on condition that the computer be at least three years old and the purchaser must pay equal or greater than the market value as determined by the average sale price of similar computers sold over the prior six months through the public auction process or other measure acceptable to the Commissioner of **Enterprise Resource Management Services/Treasurer**.

COMPLIANCE

34. (a) All persons involved in the Purchase or Disposal of Goods and/or Services provided for in this By-law, shall act in a manner consistent with the requirements and objectives of this By-law.
- (b) Purchases may not be divided into two (2) or more parts to avoid the requirements of this By-law.
- (c) Any Goods and/or Services that are obtained in contravention of this By-law will be subject to investigation by the Corporation, following which the Corporation will take the necessary corrective action.
- (d) Any employee of the Corporation who knowingly contravenes this By-law is committing a serious act of misconduct. The Corporation reserves its right to take any action at law against the employee for the misconduct including without limitation, disciplinary action up to and including termination.
- (e) Non-compliant Purchases or obligations entered into for a Good or Service can be completed by the Corporation if deemed appropriate to avoid legal jeopardy and/or undue disruption to program delivery. The Director of Procurement and Strategic **Acquisitions** and the Commissioner of **Enterprise Resource Management** Services/Treasurer are required to approve all non-compliant exceptions and upon such approval being provided, shall be deemed for the purposes of subsection 34(e) to be in compliance with this By-law.

ENVIRONMENTALLY SOUND ACQUISITIONS

35. Departments will endeavour to include specifications in Bid Solicitations that provide for energy efficient products, reusable products and products that contain the maximum level of post-consumer waste and/or recyclable content, without significantly affecting the intended use of the product or service. It is recognized that cost analysis is required in order to ensure that the products are competitively priced.

IN HOUSE BIDS

36. In House Bids may be used for the Purchase of Goods and/or Services where:
- (a) external Suppliers have also been requested to submit Bids; and

Bill 02-2016

As amended by By-law Nos. 2019-06 and 2019-30

Authorization Reference: PAC-C 3-2015;
CSD 12-2015 Minute Item 5.2
CSC 1-2019; Minute Item 7.6
CL 6-2019: Minutes Item 11.1

- (b) Council has approved a format for the development and submission of the In House Bids.

PROVIDING ASSISTANCE

- 37. The CAO has the authority, provided there is no adverse impact upon the operations of the Corporation, to lend, lease, rent or otherwise provide any vehicle, equipment or other goods owned by the Corporation to any federal, provincial or municipal body, ministry, agency, board, corporation or other public authority when such action is reasonably justified due to unforeseen conditions, and shall report such action to Council forthwith.

CONFLICT OF INTEREST

- 38. (a) Personal Purchases shall not be made for any elected or appointed officials, members of a board or commission, or for Corporation officers, employees or their families.
- (b) An employee of the Corporation who has the responsibility for declaring Surplus Assets shall not bid on or personally obtain any goods that he or she has declared as surplus.
- (c) Every elected official, appointed officer, employee of the Corporation or member of an employee's family is expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any Purchase Order or Contract is, or might be awarded, any rebate, gift or money, except:
 - (i) gifts of a very small intrinsic value; or
 - (ii) moderate hospitality during the normal course of business that would not significantly exceed what the Corporation, through the employee's expense account, would likely provide in return and would not be perceived by others as influencing the making of a business decision.
- (d) All elected officials, officers or employees of the Corporation shall declare any Conflicts of Interest to the Commissioner of **Enterprise Resource Management** Services/Treasurer and shall have no involvement in a Bid Solicitation process where a real or perceived Conflict of Interest has been found or deemed to exist, including, but not limited to:

Bill 02-2016

Authorization Reference: PAC-C 3-2015;
As amended by By-law Nos. 2019-06 and 2019-30 CSD 12-2015 Minute Item 5.2
CSC 1-2019; Minute Item 7.6
CL 6-2019: Minutes Item 11.1

- (i) requesting the Goods and/or Services, setting the parameters of the Purchase, evaluating Bids or recommending, deciding or making Awards;
 - (ii) direct contact with those making those Purchasing decisions, both in Procurement and Strategic Acquisitions and the user Department.
- (e) Suppliers shall not be allowed to submit a Bid for any Bid Solicitation in which the Supplier has participated in the preparation of the Bid Solicitation, and any such Bid submitted shall be disqualified.

SEVERABILITY

39. If any Section or Sections of this By-law or parts thereof are found by an adjudicator of competent jurisdiction to be invalid or beyond the power of Council to enact, such Section or Sections or parts thereof shall be deemed to be severable and all other Sections or parts of the By-law shall be deemed to be separate and independent there from and shall continue in full force and effect unless and until similarly found invalid or beyond the power of Council to enact.

BY-LAW REVIEW

40. The Commissioner of ***Enterprise Resource Management*** Services/Treasurer shall review the effectiveness of this By-law at least every five (5) years and report to Council as necessary.

REPEAL

41. (a) That By-law No. 02-2016 of The Regional Municipality of Niagara shall be amended effective on the date that this By-law comes into force.
- (b) That, notwithstanding Subsection 41(a), By-law No. 02-2016, as amended, of The Regional Municipality of Niagara shall continue to apply to all Bid Solicitations commenced before its amendment.

EFFECTIVE BY-LAW DATE

42. This By-law shall come into force and effect on the day upon which it is signed.

THE REGIONAL MUNICIPALITY OF NIAGARA

Original Signed By:

Bill 02-2016

Authorization Reference: PAC-C 3-2015;
As amended by By-law Nos. 2019-06 and 2019-30 CSD 12-2015 Minute Item 5.2
CSC 1-2019; Minute Item 7.6
CL 6-2019: Minutes Item 11.1

Alan Caslin, Regional Chair

Original Signed By:

Ralph Walton, Regional Clerk

Passed: November 12, 2015

Bill 02-2016

As amended by By-law Nos. 2019-06 and 2019-30

Authorization Reference: PAC-C 3-2015;
CSD 12-2015 Minute Item 5.2
CSC 1-2019; Minute Item 7.6
CL 6-2019: Minutes Item 11.1

Schedule "A"

The Purchase of the items in this Schedule "A" shall be made in accordance with Section 3 of this By-law.

1. Petty Cash Purchases and Replenishment
2. Training and Education
 - (a) Conferences, conventions, courses and seminars
 - (b) Magazines, books, periodicals
 - (c) Memberships
 - (d) Staff Development
3. Refundable Councillor and Employees Expenses
 - (a) Advances
 - (b) Meal Allowances
 - (c) Travel and Entertainment
 - (d) Miscellaneous - Non-Travel
4. Employer's General Expenses
 - (a) Payroll Deductions Remittances
 - (b) Medical
 - (c) Licenses (Vehicle, Firearms, etc.)
 - (d) Debenture Payments
 - (e) Insurance Premiums
 - (f) Grants to Agencies
 - (g) Damage Claims
 - (h) Customs Brokerage Fees

Bill 02-2016

As amended by By-law Nos. 2019-06 and 2019-30

Authorization Reference: PAC-C 3-2015;
CSD 12-2015 Minute Item 5.2
CSC 1-2019; Minute Item 7.6
CL 6-2019: Minutes Item 11.1

Schedule "A"

- (i) Tax Remittances
 - (j) Regional charges to and from other government bodies
 - (k) Sinking Fund Payments
 - (l) Payments for employment
 - (m) Postage
5. Professional and Special Services
- (a) Committee Fees
 - (b) Medical and Laboratory Services
 - (c) Fees for professional legal or legal related expert services engaged by Legal and Court Services
 - (d) Payments to Social Service and Health Agencies that are subject to Purchase of Service Agreements, such as child care providers.
 - (e) Medical and Dental fees
 - (f) Funeral and Burial expenses
 - (g) Appraiser Fees
 - (h) Witness fees
 - (i) Honorariums
 - (j) Work payments to Long Term Care Residents
 - (k) Advertising
 - (l) Vouchers for all expenses for Social Service Recipients
6. Banking Services and Charges
7. Utilities (monthly charges)

Bill 02-2016

Authorization Reference: PAC-C 3-2015;
CSD 12-2015 Minute Item 5.2
CSC 1-2019; Minute Item 7.6
CL 6-2019: Minutes Item 11.1

As amended by By-law Nos. 2019-06 and 2019-30

Schedule "A"

- (a) Water and Sewer
 - (b) Hydro
 - (c) Gas
 - (d) Communication Infrastructure Services such as Bell, Cogeco, Rogers, etc.
8. Utilities – Other
- (a) Utility relocations
 - (b) Construction work completed by Railways on property of the Corporation and billed to the Corporation.

Bill 02-2016

As amended by By-law Nos. 2019-06 and 2019-30

Schedule "B"
PROCUREMENT BY-LAW
THE REGIONAL MUNICIPALITY OF NIAGARA
PURCHASING AND EXECUTION AUTHORITY

Method Of Purchasing	Dollar Value	Purchasing Authority*	Document Execution Authority	Payment Release Authority
Low Value (for routine Purchases of low dollar value)	Up to \$10,000	Department Manager	Department Director	Department Manager
Informal Quotation (obtain, if possible, 3 written quotations for goods and services)	> \$10,000 to \$25,000	Department Manager	Department Director	Department Manager
Formal Quotation (formal bid solicitation to obtain quotations from at least 3 suppliers)	> \$25,000 to \$100,000	Department Manager	Department Commissioner	Department Manager

Bill 02-2016

As amended by By-law Nos. 2019-06 and 2019-30

Schedule "B"
PROCUREMENT BY-LAW
THE REGIONAL MUNICIPALITY OF NIAGARA
PURCHASING AND EXECUTION AUTHORITY

Method Of Purchasing	Dollar Value	Purchasing Authority*	Document Execution Authority	Payment Release Authority
Request for Tender	> \$100,000 to \$250,000	Department Director	Department Commissioner	Department Manager
	> \$250,000 to \$1 million	Department Commissioner	Department Commissioner and Commissioner of Enterprise Resource Management Services/Treasurer	Department Manager
	> \$1 million to \$5 million	Department Commissioner, and the Commissioner of Enterprise Resource Management Services/Treasurer and the CAO	CAO	Department Director
	> \$5 million	Council	Regional Clerk and Regional Chair	Department Commissioner

Bill 02-2016

As amended by By-law Nos. 2019-06 and 2019-30

Authorization Reference: PAC-C 3-2015;
 CSD 12-2015 Minute Item 5.2
 CSC 1-2019; Minute Item 7.6
 CL 6-2019: Minutes Item 11.1

Schedule "B"
PROCUREMENT BY-LAW
THE REGIONAL MUNICIPALITY OF NIAGARA
PURCHASING AND EXECUTION AUTHORITY

Method Of Purchasing	Dollar Value	Purchasing Authority*	Document Execution Authority	Payment Release Authority
Request for Proposal	> \$10,000 to \$25,000	Department Manager	Department Director	Department Manager
	> \$25,000 to \$100,000	Department Manager	Department Commissioner	Department Manager
	> \$100,000 to \$250,000	Department Director	Department Commissioner	Department Manager
	> \$250,000 to \$1 million	Department Commissioner	Department Commissioner and Commissioner of Enterprise Resource Management Services/Treasurer	Department Manager
	> \$1 million to \$5 million	Department Commissioner and Commissioner of Enterprise Resource Management Services/Treasurer and the CAO	CAO	Department Director
	> \$5 million	Council	Regional Clerk and Regional Chair	Department Commissioner

Bill 02-2016

As amended by By-law Nos. 2019-06 and 2019-30

Authorization Reference: PAC-C 3-2015;
 CSD 12-2015 Minute Item 5.2
 CSC 1-2019; Minute Item 7.6
 CL 6-2019: Minutes Item 11.1

Schedule "B"
PROCUREMENT BY-LAW
THE REGIONAL MUNICIPALITY OF NIAGARA
PURCHASING AND EXECUTION AUTHORITY

Method Of Purchasing	Dollar Value	Purchasing Authority*	Document Execution Authority	Payment Release Authority
Special Circumstance, Single Source and Negotiation	> \$10,000 to \$25,000	Department Director	Department Director	Department Manager
	> \$25,000 to \$100,000	Department Director and the Manager of Procurement and Department Commissioner	Department Commissioner	Department Manager
	> \$100,000 to \$250,000	Department Director and the Manager of Procurement and Department Commissioner	Department Commissioner and Commissioner of Enterprise Resource Management Services/Treasurer	Department Manager
	>\$250,000 to \$1,000,000	Department Commissioner and the Director of Procurement and Strategic Acquisitions and Commissioner of Enterprise Resource Management Services/Treasurer	Department Commissioner and CAO	Department Director
	>\$1,000,000	Council	Regional Clerk and Regional Chair	Department Commissioner

* "Purchasing Authority" means those positions listed, and includes any position which is higher in the Corporation's reporting structure.

Bill 02-2016

Authorization Reference: PAC-C 3-2015;
CSD 12-2015 Minute Item 5.2
CSC 1-2019; Minute Item 7.6
CL 6-2019: Minutes Item 11.1

As amended by By-law Nos. 2019-06 and 2019-30

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As amended by By-law Nos. 2019-06 and 2019-30

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Subject: Niagara Transit Commission Public Advisory Committee Terms of Reference

Report to: Niagara Transit Commission Board

Report date: **Tuesday, November 8, 2022**

Recommendations

1. That the terms of reference for the Niagara Transit Commission Public Advisory Committee attached as Appendix 1 to Report NTC 22-2022, **BE APPROVED**; and
2. That the Regional Clerk's Office **BE DIRECTED** to advertise for interested parties to serve on the Niagara Transit Commission Public Advisory Committee at the appropriate time.

Key Facts

- The purpose of this report is to seek approval for a terms of reference for the Niagara Transit Public Advisory Committee.
- The establishment of a Public Advisory Committee was set out in the governance model presented as part of the triple majority process for transit amalgamation.
- The terms of reference serve as a guiding document for the Committee and the work it will undertake.

Financial Considerations

The financial implications relating to the establishment of a Public Advisory Committee include the use of administrative resources and staff to facilitate the meetings.

Analysis

At its meeting held on November 25, 2021, Regional Council approved the creation of a consolidated transit commission. On May 26, 2022, Regional Council passed By-law 2022-38 being a by-law to establish the Niagara Transit Commission as a Municipal Service Board.

The By-law includes a provision that an advisory committee be established consisting of community members representing the public across the region including but not limited to accessibility advisory stakeholders, post-secondary students, Niagara's Chamber of Commerce, indigenous representation, seniors, youth and representatives that reflect diversity, equity and inclusion. Members will be chosen for the Committee based on their skills, knowledge, and experience to contribute effectively to the Committee's mandate and goals.

The Public Advisory Committee will report directly to the Niagara Transit Commission Board to support the Commission to provide an affordable, accessible, reliable, safe, and convenient transit system while meeting customers' expectations. The Committee will provide a forum for the public and transit stakeholder groups to identify issues affecting the delivery of transit services in Niagara.

The Public Advisory Committee's purpose will be to provide perspective and input to the Transit Commission Board on:

- The provision of conventional, on demand and specialized transit services in Niagara Region;
- Service levels, operating policies and/or procedures;
- Programs that will create public awareness and educate residents on the benefits of public transit;
- The implementation of Provincial and Federal legislation, policies and guidelines related to public transit;
- Issues and concerns of public transit users.

All recommendations of the Committee will be subject to Board approval.

Alternatives Reviewed

There were no alternatives reviewed as the direction to establish this Committee was provided by Regional Council through By-law 2022-38.

Other Pertinent Reports

PW 55-2021 Moving Transit Forward in Niagara: Creation of a Consolidated
Transit Commission

Prepared by:
Ann-Marie Norio
Regional Clerk

Submitted by:
Carla Stout
General Manager

Appendices

Appendix 1 Niagara Transit Commission Public Advisory Committee Terms of Reference

**NIAGARA TRANSIT COMMISSION PUBLIC ADVISORY
COMMITTEE (NTCPAC)**

TERMS OF REFERENCE

Recommended for Approval by the Niagara Transit Commission on <date>

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1. PREAMBLE

On November 25, 2021, Regional Council approved the creation of a consolidated transit system in Niagara Region to begin operations on January 1, 2023, based on the principles set out in Report PW 55-2021 and endorsed by Council. One of these principles was for the creation of a Public Advisory Committee for the Niagara Transit Commission. By-law 2022-38 being a by-law to establish the Niagara Transit Commission as a Municipal Service Board and includes a provision for the establishment of a Public Advisory Committee.

2. MANDATE

The Niagara Transit Commission Public Advisory Committee is a volunteer advisory committee established by Regional Council on May 26, 2022, and endorsed by the Commission, to support the Commission to provide an affordable, accessible, reliable, safe, and convenient transit system while meeting customers' expectations in accordance with the following Terms of Reference.

3. GOALS/PURPOSE

The Niagara Transit Commission Public Advisory Committee shall provide perspective and input to the Commission on:

- The provision of conventional, on demand and specialized transit services in Niagara Region;
- Service levels, operating policies and/or procedures;
- Programs that will create public awareness and educate residents on the benefits of public transit;
- The implementation of Provincial and Federal legislation, policies and guidelines related to public transit;
- Issues and concerns of public transit users.

4. REPORTING STRUCTURE

The NTCPAC will report to the Niagara Transit Commission Board of Directors.

5. WORK PLAN

The NTCPAC will develop an annual work plan identifying any specific initiatives and activities to be undertaken for recommendation to the Niagara Transit Commission.

6. BUDGET

There shall be no compensation payable to the members of the Committee.

7. **MEMBERSHIP**

7.1 **Composition**

Membership for the NTCPAC shall not exceed a maximum of 20 members.

Membership for the NTCPAC shall include:

- 12 Niagara Residents nominated for appointment by the area municipalities who represent the diversity of transit users and transit interested parties in the community
- 2 members from various community groups representing persons with disabilities or other accessibility interested parties
- 2 Post-Secondary representatives (1 member from Brock University and 1 member from Niagara College)
- 1 member representing the Chambers of Commerce
- 1 member representing the senior sector
- 1 member representing the youth sector
- Transit Commission General Manager (ex-officio member)

The members shall represent the diversity of the Region and broad cross-section of residents, including geographical and gender balance.

All attempts will be made to stay within the guideline composition; however, if the applications received or the qualifications of applicants do not fully address the guideline composition criteria, the most capable and qualified applicants will be recommended for appointment to fulfill the membership composition.

Membership Selection:

The Region will place an advertisement seeking individuals interested in volunteering for appointment to NTCPAC. Interested individuals will be required to submit an application form outlining their interest and qualifications. Members will be chosen for the Committee based on their skills, knowledge, and experience to contribute effectively to the Committee's goals.

Applications from qualified applicants will be forwarded to the respective area municipality with a request that the local Council nominate one representative for appointment. Should a municipality not receive an application for appointment, then the appointment for that municipality will remain vacant unless that Municipal Council receives a subsequent expression of interest and opts to approve an appointment during the term of Council.

In nominating members to NTCPAC, the relevance of the applicant's personal experience with transit and interests relating to the mandate of the NTCPAC will be considered.

7.2 Term

The term of membership shall be four years, concurrent with the Niagara Transit Commission Members' term of office, and the membership shall be approved by the Commission in accordance with membership requirements in this Terms of Reference.

7.3 Privacy

The meetings of the NTCPAC are public. Members should be aware that their names will be in the public realm and a list of membership may be provided when requested. Member information, other than name or municipality, will be kept confidential in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*.

8. ROLES & RESPONSIBILITIES

8.1 Chair & Vice Chair

A Chair and Vice Chair will be elected from amongst the voting Committee members on a biannual basis at the first meeting of the new year to preside over meetings and Committee business. Committee criteria considerations will be used during the selection of the Chair and Vice Chair.

It is the role of the Chair to preside over Committee meetings so that its business can be carried out efficiently and effectively, and to act as a liaison between the Committee and the Niagara Transit Commission.

It is the role of the Vice Chair to preside over Committee meetings in the absence of the Chair and to perform any other duties delegated by the Chair or as assigned by the Committee through a majority vote.

8.2 Committee Members

All NTCPAC members, including the Chair and Vice Chair, have the responsibility to help achieve the NTCPAC's Mandate and Goals/Purposes. Committee members are also responsible for:

- Reviewing meeting materials in advance of the meetings and arrive prepared to provide a broad perspective on the issues under consideration;
- Working diligently to complete assigned activities;
- Participating on working groups, as appropriate;
- Agreeing to describe, process and resolve issues in a professional and respectful manner;
- Providing input to help identify future projects or strategic priorities for future years' work;

- Communicating activities of the Committee to groups represented or those who may have an interest and offer information back to the Committee.

9. WORKING GROUPS

To fulfill its mandate and accomplish its goals, the NTCPAC may establish working groups to deal with specific issues or projects. The working groups will meet, as needed, to review specific issues referred to them by the NTCPAC and otherwise complete their assigned tasks.

Working groups are considered to be time-limited, project specific sub-committees of the NTCPAC in that they are convened to accomplish a specific task (or tasks) in a narrowly defined time period.

Working groups must be comprised of at least four (4) members of the NTCPAC and may include community members and other individuals with relevant knowledge and expertise. Local municipal participation should be sought depending on the nature of the work being undertaken.

Working groups shall be chaired where possible by a voting member of the NTCPAC and shall provide regular updates to the NTCPAC regarding recommendations on assigned projects. Meeting notes of the working group shall be recorded and submitted to the NTCPAC for proper directing through the approval process as may be required. Working groups may meet at a time and place as decided by the members of the working group.

Administrative support shall be provided by a staff representative of the NTCPAC or designate. The appropriate staff representative (or designate) will attend all working group meetings.

10. MEETINGS

NTCPAC may be held at Regional Headquarters or in a virtual format. A meeting schedule will be established at the inaugural NTCPAC meeting taking into account the business needs and schedule of the Commission and in December for the following year. Should a time sensitive matter arise, the NTCPAC may meet at the call of the Chair.

Unless otherwise determined, all NTCPAC meetings shall be open to the public. As an Advisory Committee, the NTCPAC is subject to the Region's Procedural By-law, unless otherwise specified in these Terms of Reference.

A committee member who is unable to attend a meeting, shall forward his/her regrets as soon as possible. Should there not be confirmation of quorum 24 hours prior to the meeting, the meeting may be cancelled.

Quorum is determined by the majority of the members plus one. In the instance when there are vacancies on the NTCPAC, quorum will be determined by the majority of current appointed members plus one.

11. ABSENTEEISM

Members who miss three unauthorized consecutive meetings shall be deemed to have resigned from the Committee and will be notified of this in writing by the Committee Chair.

12. AMENDMENTS TO THE TERMS OF REFERENCE

The Terms of Reference should be reviewed and refined at a minimum of every four years to ensure that they remain current and meaningful.

Proposals to amend the Terms of Reference shall require the approval of a majority of the members present. Proposed amendments to the Terms of Reference shall be submitted to the Niagara Transit Commission for approval.

Subject: Consideration and Approval of OMERS By-Law

Report to: Niagara Transit Commission Board

Report date: **Tuesday, November 8, 2022**

Recommendations

1. That the draft Niagara Transit Commission OMERS By-Law attached as Appendix 1 of Report **BE APPROVED**.

Key Facts

- The purpose of this Report is to seek the Niagara Transit Commission Board's (the "Board") approval of the OMERS By-Law.
- To ensure continuity in OMERS Primary Pension Plan participation, an OMERS By-Law is required.
- The By-Law attached as appendix 1 was drafted in consultation with an OMERS Representative in accordance with their current template, which OMERS has since approved.
- Certain employees of the Niagara Transit Commission on January 1, 2023 will already be members of the OMERS Primary Pension Plan as they have been in employment with the St. Catharines Transit Commission and the Cities of Welland and Niagara Falls immediately prior to January 1, 2023.
- Certain employees of the Niagara Transit Commission on January 1, 2023 will already be members of the OMERS Primary Pension Plan as they have been in employment with the Niagara Region.
- Traditional OMERS employers are those that work in the local municipal government and local municipal boards sectors.
- Establishment of this By-Law ensures continuity with pension benefits for current OMERS enrolled staff and consistent with collective agreements and terms and conditions of employment for non-union employees.
- Enrollment for continuous full time employees (CFT) will remain mandatory.
- Enrollment for employees other than continuous full-time (OTCFT) will remain voluntary and will be administered consistent with the OMERS non full time expansion effective January 1, 2023.

Financial Considerations

There are no anticipated direct financial implications with the approval of the By-Law. This in alignment with the former transit commission budgets on which the 2023 budget has been based.

Analysis

The creation of a consolidated region-wide transit service was accomplished in February 2022 with Council achieving a triple-majority approval of By-Law No. 2021-96. Subsequently, on May 26, 2022 Regional Council passed By-law No. 2022-38, to establish the Niagara Transit Commission as a Municipal Services Board of the Region with the operational authority to provide region-wide amalgamated transit services effective January 1, 2023.

Alternatives Reviewed

There were no other alternatives reviewed.

Other Pertinent Reports

Niagara Region Report CSD 19-2022 – Moving Transit Forward: Establishing the Niagara Transit Commission as a Municipal service board and authorizing the transfer of municipal transit assets to the Commission.

Prepared by:

Kristen Angrilli
Manager, Total Rewards
Niagara Region Human Resources

Recommended by:

Franco Meffe
Director
Niagara Region Human Resources

Submitted by:

Carla Stout
General Manager
Niagara Transit Commission

This report was prepared in consultation with Melanie Steele, Associate Director Financial Reporting and Analysis and Jodie Middleton, Associate Director, Talent Acquisition, Development and Rewards.

Appendices

Appendix 1 Niagara Transit Commission OMERS By-Law

NIAGARA TRANSIT COMMISSION

BY-LAW NO. <>

A BY-LAW TO AUTHORIZE PARTICIPATION IN THE OMERS PRIMARY PENSION PLAN (“PRIMARY PLAN”) AND THE RETIREMENT COMPENSATION ARRANGEMENT FOR THE OMERS PRIMARY PENSION PLAN (“RCA”), AS MAY BE AMENDED FROM TIME TO TIME, FOR EMPLOYEES OF THE NIAGARA TRANSIT COMMISSION.

WHEREAS the Employer was created by Regional By-law 2022-38 on May 26, 2022, and is assuming responsibilities as an employer on January 1, 2023 at which time the commencement of employment of certain employees will begin;

WHEREAS certain employees of the Employer on January 1, 2023 will already be members of the Primary Plan and the RCA as they will be in employment with other participating employers immediately prior to January 1, 2023;

WHEREAS the Employer is eligible to participate in the Primary Plan and the RCA as a local board in accordance with subsection 5(1) of the *Ontario Municipal Employees Retirement System Act, 2006*, as amended from time to time (“OMERS Act, 2006”), in respect of its eligible employees and wishes to do so in accordance with the applicable Primary Plan and RCA documents and applicable legislation;

WHEREAS pursuant to subsection 6(1) of the Primary Plan, an employer who is eligible under the OMERS Act, 2006 to participate in the Primary Plan and the RCA may, by by-law or resolution, participate in the Primary Plan and the RCA and pay to the funds for the Primary Plan and the RCA the total of the employer and member contributions required by the Primary Plan, and has all of the powers necessary and incidental thereto;

NOW THEREFORE the Niagara Transit Commission enacts as follows:

1. That the Employer confirms that it shall participate in the Primary Plan and the RCA in accordance with the terms of the Primary Plan, RCA, and applicable legislation, each as amended from time to time.
2. That the Employer shall participate in the Primary Plan and the RCA in respect of the employees of the St. Catharines Transit Commission, the City of Welland or the City of Niagara Falls (collectively, the “Predecessor Employers”) who were members of the Primary Plan and the RCA on the day immediately preceding the

Effective Date and who become employed by the Employer on the Effective Date.

3. That the Employer shall participate in the Primary Plan and the RCA in respect of each person who is employed by the Employer and who is eligible to be a member of the Primary Plan and the RCA under subsection 5(3) of the OMERS Act, 2006 (“Employee”) as of the Effective Date in accordance with the terms of the Primary Plan, RCA, and applicable legislation, each as amended from time to time.
4. That an employee who was employed on a continuous full-time basis, as defined in subsection 9(1) of the Primary Plan, as amended from time to time, and who commenced employment with a Predecessor Employer before the Effective Date and remains employed with the Employer on the Effective Date (“Existing CFT Employee”) is entitled to become a member of the Primary Plan and the RCA on the first day of the month following the month in which the Existing CFT Employee’s application is received by the OMERS Administration Corporation (“AC”), provided that the AC may, at the request of the Employer, fix an earlier date on which the Existing CFT Employee becomes a member but not before the date on which the Existing CFT Employee became entitled to be a member or the first day of January in the year in which the application is received by the AC, whichever is the later date.
5. Every person who becomes an Employee employed on a continuous full-time basis, as defined in subsection 9(1) of the Primary Plan, as amended from time to time (“CFT Employee”), on or after the Effective Date shall, as a condition of employment, become a member of the Primary Plan and the RCA, or if such person is already a member, resume contributions to the Primary Plan and the RCA on the date so employed.
6. That an Employee who is employed on other than a continuous full-time basis (“OTCFT Employee”) and meets the eligibility criteria in subsection 9(6) of the Primary Plan, as amended from time to time, is entitled to become a member of the Primary Plan and the RCA in accordance with the terms of the Primary Plan, as amended from time to time.

7. That:

(i) the General Manager of the Employer, and

(ii) such persons who hold a senior management position with the Employer, as the General Manager may designate from time to time (collectively with the General Manager, "Senior Management Officials"),

are hereby authorized on behalf of the Employer to take all such action and execute all such documents, certificates and agreements, as they may consider necessary to give effect to the provisions of this By-law and to fulfill the Employer's duties and obligations with respect to the Primary Plan and the RCA.

8. That the Employer further authorizes the General Manager to submit forthwith a certified copy of this By-law to the AC.

9. That this by-law shall come into force and effect on January 1, 2023.

THE NIAGARA TRANSIT COMMISSION

Walter Sendzik, Board Chair

Ann-Marie Norio, Regional Clerk

Passed: <date>

MEMORANDUM

NTC-C 4-2022

Subject: Enactment of By-law Regulating the Use of the Niagara Transit Commission System

Date: November 8, 2022

To: Niagara Transit Commission

From: Carla Stout, General Manager

The purpose of this memorandum is to advise the Board that a By-law Regulating the Use of the Niagara Transit Commission System is included on the agenda for the Board's consideration as Bill 2022-02 (Agenda Item 13.1).

In accordance with section 3.1(c) of By-law 2022-38 (being a By-law to establish the Niagara Transit Commission as a Municipal Services Board), the Board is empowered "to establish such operational by-laws, policies, procedures and guidelines respecting the operation and use of the transit system as deemed appropriate, and subject to the provisions of this by-law and all applicable legislation."

Bill 2022-02 formally establishes the regulations for the use of the Niagara Transit Commission system.

Respectfully submitted and signed by

Carla Stout, DPA
General Manager
Niagara Transit Commission

MEMORANDUM

NTC-C 5-2022

Subject: Niagara Transit Commission – Special Levy

Date: November 8, 2022

To: Niagara Transit Commission Board

From: Carla Stout, General Manager

Further to enquiries from members at the Board’s last meeting of November 1, 2022, the following information is provided to clarify municipal allocations in the 2023 Transit Budget.

Impacts are outlined by municipality below with clarity on any variations as being based on changes to service level, recovery of revenue in the budget from LAMs that used unsustainable funding during the pandemic to allay their budget pressures and/or to identify where LAMs increased their service between the time the triple majority process started and when the 2023 budget was prepared.

The prior financial strategy used the 2020 budget, service hour estimates from 2021 and assessments based on the 2020 tax roll. The following are the main drivers of the transit special levy increase:

- A) Increase due to COVID revenue declines net of 2023 revenue growth \$5,200,000
 - B) Increase for new locally approved service hours \$1,280,000
 - C) Change in service hours and assessment estimates --
- \$6,480,000**

Municipality (amounts in millions)	Total - Prior Triple Majority Financial Strategy	Total - 2023 Draft Budget	Increase / (Decrease)	Main Driver
St. Catharines	\$18,211,560	\$20,550,272	\$2,338,713	A
Niagara Falls	\$12,917,005	\$14,561,963	\$1,644,958	A
Welland	\$4,920,990	\$6,761,099	\$1,840,110	A & B

niagara transit commission

Niagara-on-the-Lake	\$2,012,072	\$2,585,009	\$572,937	B
Fort Erie	\$2,587,604	\$2,875,904	\$288,300	B
Port Colborne	\$1,064,838	\$938,038	\$(126,800)	B & C
Pelham	\$ 1,148,145	\$1,118,510	\$(29,635)	C
Thorold	\$1,725,604	\$1,775,411	\$49,807	C
Grimsby	\$1,727,151	\$1,679,779	\$(47,372)	C
Lincoln	\$1,455,623	\$1,427,442	\$(28,181)	C
West Lincoln	\$540,455	\$530,128	\$(10,327)	C
Wainfleet	\$257,742	\$249,394	\$(8,348)	C
Total	\$48,568,788	\$55,052,950	\$6,484,163	

The new special levy on the tax bill will not necessarily reflect any increase in taxation but rather the segregation of local and regional transit costs removed from the local and regional general levies and identified separately on the tax bill. Therefore the increase in the special levy is largely offset by decreases in the regional and local general levies, but for the following:

- The special levies for Niagara-on-the-lake, Fort Erie, Port Colborne, and Welland, reflect an increase in service hours approved by the their local municipal Councils in 2021/2022 totalling \$1.28M.
- The special levies for St. Catharines, Niagara Falls, and Welland reflect an increase to offset COVID-related decreases in revenue realized and subsidized by Safe Restart Funding and other unsustainable funds by the local municipalities in 2022 totalling \$5.2M.

Respectfully submitted and signed by

Carla Stout, DPA
General Manager

NIAGARA TRANSIT COMMISSION

BY-LAW NO. < >

A BY-LAW REGULATING THE USE OF THE
NIAGARA TRANSIT COMMISSION TRANSIT SYSTEM

WHEREAS the Niagara Transit Commission (NTC) is a municipal service board of The Regional Municipality of Niagara established in accordance with section 196 of the *Municipal Act, 2001* and pursuant to Regional By-law 2022-38 to operate a municipal passenger transportation system on behalf of the Region;

WHEREAS the NTC wishes to pass this by-law for purposes of protecting the integrity of the transit system for all users.

NOW THEREFORE the Niagara Transit Commission enacts as follows:

Definitions

1. In this by-law:

a) 'authorization' or 'authorized' means the written permission from the NTC, received prior to the time the action is to occur;

b) 'bicycle' includes a tricycle and unicycle but does not include a motor assisted bicycle;

c) 'conditions of use' means the information printed on fare media, an identification card, a photo identification card and an electronic fare card and includes but is not limited to information electronically stored or encoded on an electronic fare card;

d) 'fare' means the amount to be paid for travel on the transit system as approved by Regional Council from time to time;

e) 'fare media' means any ticket, pass, transfer or other fare media issued by and acceptable to the NTC, and includes, without limitation, an electronic fare card, any single or multi ride card, a day pass, a monthly pass, a Seniors Pass, a Low Income Pass, a Youth Pass, U pass, support person pass, and includes any identification card or photo identification card issued by or on behalf of the NTC;

f) 'guide dog' or 'service animal' shall have the same meaning as set out in Ontario Regulation 429/07 of the *Accessibility for Ontarians with Disabilities Act, 2005*, S.O. 2005, c. 11, as amended;

g) 'loiter' means to linger without due cause and includes but is not limited to:

(i) idly spending time in or on NTC property without the express purpose of using the transit system;

- (ii) lingering, sauntering or remaining in or on NTC property without due cause; and
 - (iii) failing to board the next available NTC vehicle, where possible, for the intended route;
- h) 'Niagara Specialized Transit' service means that portion of the transit service designed for individuals who cannot use conventional transit some or all of the time based on eligibility requirements;
- i) 'NRT OnDemand' means that portion of the transit service that provides demand responsive, point-to-point service that is booked on an as needed basis by riders using a home phone or a smartphone;
- j) 'NTC property' means all lands, facilities, fare media, structures, shelters, stations, transit station platforms, bus stops, and vehicles owned, leased, licensed, occupied or maintained by the NTC, but does not include a highway as defined in the Municipal Act, 2001;
- k) 'NTC vehicle' means any motorized transportation equipment operated by or on behalf of the NTC and includes but is not limited to buses, specialized transit vehicles and automobiles;
- l) 'peak hours' means 6:30 a.m. to 10:00 a.m. and 3:30 p.m. to 7:00 p.m. local time, Monday through Friday, or any other times as determined by the NTC;
- m) 'proper authority' means:
 - (i) an employee or agent of the NTC wearing a NTC uniform;
 - (ii) an employee or agent of the NTC carrying an identification card issued by the NTC;
 - (iii) a Region of Niagara by-law enforcement officer; or
 - (iv) a Niagara Region Police Services police officer;
- n) 'youth transit pass' means a pass issued to a person aged 13 – 17 or who is a full-time student at a recognized elementary or secondary school located in the Niagara region and based on a valid student identification card issued by the educational institution
- o) 'transit system' and means the transit system, or part thereof, operated by or on behalf of the NTC and includes but is not limited to NTC vehicle, NRT OnDemand and Niagara Specialized Transit services and all NTC property;

- p) 'U-Pass' means a pass issued to a person who is a full-time student at a recognized college or university or other post-secondary institution acceptable to the NTC, and who produces a valid student identification card issued by the educational institution; and
- q) 'WEGO service' means that portion of the transit service delivered by the Niagara Parks Commission and City of Niagara Falls in partnership with the NTC.

Requirement to Pay Fare - Conditions of Use

2. No person shall travel or attempt to travel on a NTC vehicle or enter a fare paid area, or attempt to enter a fare paid area without paying the appropriate fare. When fare disputes arise the NTC vehicle operator will follow the NTC policy of "inform vs enforce"; allow the ride and attempt to arrange re-payment options with the passenger. Escalating farebox disputes should be handled by the on duty NTC supervisor.
- a) Where the amount of the fare charged for passage on the NTC vehicle or entry to a fare paid area is disputed, the passenger shall pay the amount requested by a proper authority.
- b) A passenger who refuses to pay the amount of fare requested by a proper authority will have to make arrangements with supervisory staff in order to secure a ride.
- c) No person shall in any way alter, change, recreate any identification card or fare media issued by or on behalf of the NTC or authorized by the NTC.
- d) No person shall travel or attempt to travel on a NTC vehicle or enter the transit system with any identification card or fare media that has been altered, changed or recreated in any way.
- e) No person other than a youth student shall use a youth student transit pass. No person other than a post-secondary student shall use a U-Pass. Adult passes are to be used by persons 18-64 while Senior passes are for 65 and older.

Fare Media

3. Fare media shall:
- a) be valid for the period as indicated on the fare media, and in accordance with the conditions of use of the fare media and as set out in this by-law.
- b) be valid for the period as indicated on the identification card or photo identification card;
- c) be valid in accordance with the conditions of use of the identification card or photo identification card and as set out in this by-law;

- d) remain the property of the NTC and be subject to confiscation or cancellation, without refund, by a proper authority if the holder of the fare media, identification card or photo identification card:
 - i) causes damage to NTC property; or
 - ii) fails to comply with the conditions of use of the fare media, identification card or photo identification.
 - e) be immediately surrendered for inspection by a proper authority upon request.
4. No person shall sell tickets, transit passes or any other fare medium established from time to time unless the person is an authorized vendor of the NTC.
 5. The NTC shall not be responsible or liable for lost or stolen fare media.

Conduct on Transit System

6. A proper authority may refuse passage on the transit system to:
 - a) a person behaving or appearing to behave in a manner that would interfere with the ordinary enjoyment of persons using the transit system or that may result in harm to themselves or others.
 - b) a person whose conduct or language is or is likely to be objectionable to other passengers;
 - c) a person carrying large bulky items or any sharp object that could endanger or cause a threat to the safety of other passengers or NTC employees or block transit aisles; or
 - d) a person who alters their identity through the use of a disguise intended to obscure or otherwise alter their appearance.
7. No person shall on a transit vehicle:
 - a) enter or leave NTC property except through a designated entrance or exit, as the case may be.
 - b) interfere with the safe operation of a NTC vehicle, or disturb or disrupt the transit vehicle operator;
 - c) place or allow their feet, foot or footwear to be placed or remain on any seat or back cushion, or as to be blocking any part of an aisle on a transit vehicle;
 - d) operate any camera, video recording device, movie camera or any similar device for commercial purposes upon the transit system;

- e) operate any personal radio, recording device, digital music or audio device, musical instrument, or similar device unless the sound is conveyed to that person by an earphone at a sound level that does not disturb other passengers or the vehicle operator;
 - f) ride, hang or stand on any exterior portion of a vehicle or lean out of or project any part of his or her body through any window of a vehicle;
 - g) hold or force a vehicle door open, or hinder or delay the closing of a vehicle door, except in the case of an emergency;
 - h) place himself or herself in a position or perform an action likely to interfere with the operator of a NTC vehicle having proper control of the NTC vehicle or that is likely to obstruct the vision of the operator; or
 - i) bring or attempt to bring in or on NTC property a large object which may inconvenience other passengers or jeopardize the safety of other passengers or NTC employees.
8. Despite Section 7, a person may transport a bicycle on a bus at any time provided that the bus is equipped with a bicycle rack and the person properly secures the bicycle to the rack.
9. The NTC is not responsible or liable for loss of or damage to property of passengers transported on the transit system.
10. No person shall, on any part of the transit system including but not limited to vehicles, unless specifically authorized:
- a) place or erect a sign;
 - b) place any paint or mark;
 - c) interfere in any way with the orderly movement of persons;
 - d) damage, deface or remove NTC property;
 - e) display, offer, distribute or place handbills, signs, notices or any form of written or printed matter;
 - f) sell or attempt to sell any merchandise, article or other thing or solicit members of the public for any purpose;
 - g) roller-skate, in-line skate, bicycle or skate-board in or on NTC property;
 - h) wear roller-skates or in-line skates while in or on NTC property;
 - i) smoke, vape, use or consume any form of tobacco, cannabis, alcohol or drugs;
 - i) possess a firearm, air gun, air rifle, pellet gun, pellet rifle, gas charged gun, gas charged rifle, imitation firearm, an offensive weapon or a prohibited weapon;

k) possess explosives, pyrotechnical material, flammable material, offensive or toxic material, or any other dangerous thing, object or material, with the exception of personal oxygen tanks.

l) cause a disturbance or act contrary to the public peace on NTC property, including but not limited to urinating, expectorating or defecating, except in facilities specifically intended for such actions; using profane, insulting or obscene language or gestures; behaving in an indecent or offensive manner; shining any type of light at an operator of a NTC vehicle or any other passenger; fighting; or otherwise behaving in a manner which would interfere with the ordinary enjoyment of persons using the transit system;

m) beg, solicit or panhandle funds;

n) perform a musical instrument or busk, except with the written approval of a proper authority.

11. No person shall willfully obstruct or interfere with a proper authority in the performance of his or her duties or the exercise of his or her rights, powers and privileges under this by-law.

12. Service animals that accompany passengers with disabilities, including guide dogs, are welcome at all public areas of the NTC system but must be under the care and control of the person they accompany at all times, and must not pose a safety risk to other passengers or to NTC operators.

13. Nothing in this by-law prohibits the posting of signs, official notices and information or the use of any camera, video recording device, movie camera or any similar device on NTC Property by the NTC or anyone authorized by the NTC.

14. No person shall cause or attempt to cause any damage to any transit vehicle or any transit property.

Operations

15. The NTC and its employees and agents are not liable for delays or cancellations of any kind caused by any reason.

16. The NTC and its employees and/or agents shall have the right, whenever operating circumstances require it, to transfer a passenger from one vehicle to another vehicle.

Enforcement

17. Any person who fails to comply with this by-law, or who is otherwise disturbing the peace, forfeits the right to remain in, or on the transit vehicle or transit property and shall, when directed so to do by the proper authority, immediately leave the transit vehicle or other transit property. In default of so doing, a proper authority, may use such force as is reasonably necessary to remove such person or persons from the transit vehicle or other transit property.

18. The provisions of this by-law shall be enforced by a by-law enforcement officer appointed by a proper authority, or by a police officer as defined in Section 2 of the *Police Services Act* (Ontario).

Penalties

19. Any person who contravenes any provision of this by-law is guilty of an offence and

(a) is liable upon conviction to a fine in accordance with the Provincial Offences Act; and

(b) is liable to be served with a trespass order.

20. When a person has been convicted of an offence under this part of the by-law, the Ontario Court (Provincial Division) of the Province of Ontario, or any court of competent jurisdiction thereafter may, in addition to any penalty imposed on the person convicted, issue an Order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the person convicted that is deemed to be directed toward the continuation or repetition of the offence.

Short Title

21. This by-law may be referred to as the "Transit By-law".

Effective Date

22. This by-law shall come into force and take effect on January 1, 2023.

NIAGARA TRANSIT COMMISSION

Walter Sendzik, Chair, Niagara Transit
Commission

Ann-Marie Norio, Regional Clerk

Passed: <date>

NIAGARA TRANSIT COMMISSION

BY-LAW NO. <>

A BY-LAW TO AUTHORIZE PARTICIPATION IN THE OMERS PRIMARY PENSION PLAN (“PRIMARY PLAN”) AND THE RETIREMENT COMPENSATION ARRANGEMENT FOR THE OMERS PRIMARY PENSION PLAN (“RCA”), AS MAY BE AMENDED FROM TIME TO TIME, FOR EMPLOYEES OF THE NIAGARA TRANSIT COMMISSION.

WHEREAS the Employer was created by Regional By-law 2022-38 on May 26, 2022, and is assuming responsibilities as an employer on January 1, 2023 at which time the commencement of employment of certain employees will begin;

WHEREAS certain employees of the Employer on January 1, 2023 will already be members of the Primary Plan and the RCA as they will be in employment with other participating employers immediately prior to January 1, 2023;

WHEREAS the Employer is eligible to participate in the Primary Plan and the RCA as a local board in accordance with subsection 5(1) of the *Ontario Municipal Employees Retirement System Act, 2006*, as amended from time to time (“OMERS Act, 2006”), in respect of its eligible employees and wishes to do so in accordance with the applicable Primary Plan and RCA documents and applicable legislation;

WHEREAS pursuant to subsection 6(1) of the Primary Plan, an employer who is eligible under the OMERS Act, 2006 to participate in the Primary Plan and the RCA may, by by-law or resolution, participate in the Primary Plan and the RCA and pay to the funds for the Primary Plan and the RCA the total of the employer and member contributions required by the Primary Plan, and has all of the powers necessary and incidental thereto;

NOW THEREFORE the Niagara Transit Commission enacts as follows:

1. That the Employer confirms that it shall participate in the Primary Plan and the RCA in accordance with the terms of the Primary Plan, RCA, and applicable legislation, each as amended from time to time.
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Effective Date and who become employed by the Employer on the Effective Date.

3. That the Employer shall participate in the Primary Plan and the RCA in respect of each person who is employed by the Employer and who is eligible to be a member of the Primary Plan and the RCA under subsection 5(3) of the OMERS Act, 2006 (“Employee”) as of the Effective Date in accordance with the terms of the Primary Plan, RCA, and applicable legislation, each as amended from time to time.
4. That an employee who was employed on a continuous full-time basis, as defined in subsection 9(1) of the Primary Plan, as amended from time to time, and who commenced employment with a Predecessor Employer before the Effective Date and remains employed with the Employer on the Effective Date (“Existing CFT Employee”) is entitled to become a member of the Primary Plan and the RCA on the first day of the month following the month in which the Existing CFT Employee’s application is received by the OMERS Administration Corporation (“AC”), provided that the AC may, at the request of the Employer, fix an earlier date on which the Existing CFT Employee becomes a member but not before the date on which the Existing CFT Employee became entitled to be a member or the first day of January in the year in which the application is received by the AC, whichever is the later date.
5. Every person who becomes an Employee employed on a continuous full-time basis, as defined in subsection 9(1) of the Primary Plan, as amended from time to time (“CFT Employee”), on or after the Effective Date shall, as a condition of employment, become a member of the Primary Plan and the RCA, or if such person is already a member, resume contributions to the Primary Plan and the RCA on the date so employed.
6. That an Employee who is employed on other than a continuous full-time basis (“OTCFT Employee”) and meets the eligibility criteria in subsection 9(6) of the Primary Plan, as amended from time to time, is entitled to become a member of the Primary Plan and the RCA in accordance with the terms of the Primary Plan, as amended from time to time.

7. That:

(i) the General Manager of the Employer, and

(ii) such persons who hold a senior management position with the Employer, as the General Manager may designate from time to time (collectively with the General Manager, "Senior Management Officials"),

are hereby authorized on behalf of the Employer to take all such action and execute all such documents, certificates and agreements, as they may consider necessary to give effect to the provisions of this By-law and to fulfill the Employer's duties and obligations with respect to the Primary Plan and the RCA.

8. That the Employer further authorizes the General Manager to submit forthwith a certified copy of this By-law to the AC.

9. That this by-law shall come into force and effect on January 1, 2023.

THE NIAGARA TRANSIT COMMISSION

Walter Sendzik, Board Chair

Ann-Marie Norio, Regional Clerk

Passed: <date>