
Subject: Amending Agreement to the Niagara Region Courts Inter-Municipal Agreement

Report to: Corporate Services Committee

Report date: Wednesday, December 9, 2020

1. That an Amending Agreement to the Niagara Region Courts Inter-Municipal Agreement in a form substantially as set out in Appendix A **BE APPROVED** for purposes of advancing the Vision Zero Program;
2. That the Director of Legal and Court Services **BE AUTHORIZED** to make such revisions to the Amending Agreement as may be deemed necessary and approved by the Acting CAO in response to requests from the local area municipalities in order to finalize the Amending Agreement; provided that the apportionment of costs and revenue remains the same as provided in Appendix A;
3. That the Regional Chair and Regional Clerk **BE AUTHORIZED** to execute the Amending Agreement to the Niagara Region Courts Inter-Municipal Agreement once finalized, subject to approval by all 12 local area municipalities; and
4. That this report and the Amending Agreement attached as Appendix A **BE CIRCULATED** to the 12 local area municipalities and that the 12 local area municipalities **BE REQUESTED** to review and approve the Amending Agreement at the earliest opportunity in order to advance the Vision Zero Program.

Key Facts

- The purpose of this report is to seek Council's approval of the required amendments to the Niagara Region Courts Inter-Municipal agreement (IMA) in support of a financially sustainable Region led Vision Zero Program.
- Vision Zero is a multi-national road traffic safety project that aims to achieve a road network with no fatalities or serious injuries involving road traffic. The Niagara Region's Vision Zero Program will include Automated Speed Enforcement (ASE) and Red Light Cameras (RLC) (the "Program").
- The Program was approved as part of the 2020 budget, contingent on successful negotiations of a revised IMA with the LAMs to address apportionment of revenue and costs of the program.
- Staff received authorization from Council to initiate discussion with the LAMs regarding the required amendments to the IMA, and were directed to report back to Council on the outcome of those discussions in November 2019 (PW 64-2019).

- Guiding principles of improving road safety and equitable financial outcomes were considered during discussions with local area municipal CAO's and treasurers.
- Given the significant upfront financial investment required on the part of the Region for the implementation of the Program, the proposed apportionment of costs and revenue contained in Appendix A (including that the Region receives 100% of the net Program Revenues) is recommended by Staff in order to ensure the financial sustainability of the program.
- The Amending Agreement attached as Appendix A is proposed for a term of five (5) years from the Effective Date and includes an opportunity, at the three (3) year point, to engage in discussions to collectively review available data related to the Program for purposes of considering long-term projections and plans for the Program, including possible sites for future capital investment and any further amendments that may be required to the IMA.
- An amendment to the IMA dated April 26, 2000, requires approval of all 12 local area municipalities and the Region. Recognizing this, it is proposed that the Director of Legal and Court Services, be authorized to make such revisions to the Amending Agreement as may be deemed necessary and approved by the Acting CAO in response to requests from the local area municipalities in order to finalize the Amending Agreement; provided that the apportionment of costs and revenue remains the same as provided in Appendix A.
- In the event that the Amending Agreement is not approved, the Program, based on the current Council approval and Staff assessment of financial viability, would not proceed.

Financial Considerations

Infractions issued under the Program will be processed through Niagara Region Provincial Offences Court which is administered by the Court Services division of the Niagara Region. Under the current revenue sharing methodology prescribed by the IMA, the Region and the 12 local area municipalities (LAMs) share net revenues 50/50. A change to the IMA is being recommended to allow for 100% of the net Vision Zero infraction revenue in excess of courts operating costs to flow to the Niagara Region to fund the Program, as the current revenue sharing methodology provided in the IMA does not result in adequate funding being allocated to the Region to financially sustain the Program.

As part of the 2020 operating budget Council approved a business case for the Program (Appendix B). That business case outlined costs to be incurred for both Court Services

and the Niagara Region (in the transportation and business licensing divisions), in the first full year of operations, of approximately \$4M annually with a break even ticket volume of approximately 32,500 tickets. It is anticipated that the tickets generated from the Program will allow for enough funds to cover both the increased costs in Court Services as well as to cover the costs to implement and operate the program in the first 1 – 3 years.

Table 1 – Three Year Operating Expense Budget Impacts (in millions)

	2021	2022	2023
Niagara Region*	\$ 1.75	\$ 2.32	\$ 2.27
Court Services	1.07	1.69	2.05
Total	\$ 2.82	\$ 4.00	\$ 4.31

*Transportation and Business Licensing

Any Program revenue collected over and above the costs of the Program in Court Services, Niagara Region transportation division, and Niagara Region business licensing division would be invested back into the Program and utilized to further support public road safety in alignment with Provincial Guidelines for the ASE program. According to Provincial Guidelines, any municipal revenue collected under a Municipal ASE program that exceeds the costs of delivering the Municipal ASE program is required to be used to support local public safety and educational initiatives. Based on this guideline, all revenue that exceeds the costs of delivering the Program would be used for future reinvestment into the Program. Reinvestment includes such things as strategically expanding technology, intersection improvements, geometrics, street lighting, signage, pavement markings and pedestrian crossovers, communications and education platforms.

Other

The goal of the Program is to change driver behaviour and to reduce overall speeding on roads within the region. The financial impact of reduced speeding tickets on the LAM revenue distribution is difficult to estimate until trends from the Program are available. Worst case scenario, if no speeding tickets were issued by NRPS annually, the lost Court Services revenue available for distribution is estimated at \$80,000 for all 12 LAMs. In relation to RLC tickets, there are very few red light tickets issued annually by the NRPS. The worst case impact to the distribution to the LAMs if no red light tickets were issued is estimated at \$6,000 for all 12 LAMs.

It is anticipated that the Niagara Regional Police Service will continue to allocate similar resources to policing roads throughout the region and would be able to shift their focus to areas outside of the ASE and RLC areas.

Analysis

Staff received authorization from Council to initiate discussion with the LAMs regarding the required amendments to the IMA, and were directed to report back to Council on the outcome of those discussions in November 2019 (PW 64-2019).

Region staff met initially with LAMs' treasurers and CAOs in March and had follow up discussions with the CAO group in September. The delay in discussions was a result of staff's attention being allocated to pandemic response, with a renewed focus on the initiative in the Fall of this year. Presentations and discussions have centred on program overview, financial implications and proposed amendments to the IMA with guiding principles of improving road safety and equitable financial outcomes.

The implementation of the Program by the Region requires a significant upfront investment, given the costs to be incurred by the Region to implement and operate the Vision Zero Program an amendment is being request to the IMA to allow for 100% of net Vision Zero Program revenues to be transferred to the Region. Vision Zero Program revenues will be used exclusively for the operation and enhancement of the Vision Zero Program.

The original IMA was approved by the 12 local area municipalises and the Niagara Region on April 26, 2000 with revenue sharing arrangement between the Region and the 12 local area municipalities (LAMs), 50% of net revenues are retained by Niagara Region and 50% of net revenues are shared with the LAMs.

Term of Agreement

The proposed term of this Amending Agreement is five (5) years from the Effective Date (being the date the first ticket issued under the Program is filed with the Court) and includes an opportunity, at the three (3) year point, to engage in discussions to collectively review available data related to the Vision Zero Program. The review can include but not be limited to Vision Zero Program Court Costs, charges, gross revenues, technical performance and trends for purposes of considering long-term projections and plans for the Vision Zero Program including possible sites for future capital investment

in the Vision Zero Program and any potential future amendments that may be required to the IMA.

A minimum commitment of three years is being requested to get the Program up and running. This time will allow the Region to ensure there is enough data to assess the Program, to support that it is making a difference to driver behaviour and increasing road safety. There is financial risk initially as there are many unknowns associated with volumes, staffing levels required, timing and collections of infraction revenue. A minimum of three years of 100% of the Vision Zero infraction revenue in excess of Court Services' operating costs is anticipated to be required to cover the Region's investment over those three years.

Revenue Distribution

Given that the charges issued under the Program are processed by Court Services through the Provincial Offences Court, infraction revenue from the Program will flow through Court Services similar to other traffic ticket revenue and will be used firstly to offset the Program Court costs incurred by Court Services. The remaining revenue will flow from Court Services to the Region to be used to fund the capital and operating costs associated with the implementation and operation of the Program.

In the event that the Program gross revenues are less than the Court Costs at the end of any fiscal year, the Region will provide funding to cover the deficit from the Region's share of the net revenue distribution, so that the net revenues distributed to all municipalities, with the exception of the Region, are not negatively impacted by the Program. In subsequent years, any net Program revenues will first be used to repay the Region for previous years' deficit and then used for the operation and reinvestment in the Program.

Reporting Requirement

The revised agreement includes a requirement to report to Regional Council on an annual basis regarding operational costs and technical performance of the Vision Zero Program and the use of the net Vision Zero Program revenues to ensure transparency.

Approval of the Amendment to the Agreement

Similarly, to the original IMA dated April 26th, 2000 each of the 12 LAM Councils and Regional Council would need to approve the execution of the Amending Agreement in order for the revisions to take effect. In the event that the Amending Agreement is not

approved, the Program, based on the current Council approval and Staff assessment of financial viability, would not proceed.

Staff believe that the Program is critical to enhancing road safety for all residents of, and visitors to, the region and accordingly are seeking to advance implementation of the Program in or about March 2021. As a result, it is requested that the Amending Agreement be circulated to the LAMs for their review and approval at the earliest opportunity.

Region Lead

A Region led Program will mean the Region is responsible for the consistent delivery of the Program, stakeholder engagement and fielding questions or concerns from the public related to the Program. The Region will assume the financial risk during implementation of the Program, such as covering the significant upfront financial investment, uncertainty around revenue collection and ensuring there are adequate funds available to offset costs. The Region is a current member of ASE working group and will be able to leverage this relationship during implementation. Initial investments in ASE technology at the outset will be in approved community safety zones on Regional Roads. Regional Roads have larger intersections, higher speeds and volumes, as such the technology will have the largest impact on these roads. Investment will be undertaken strategically based on consultant recommendations to ensure the largest community impact. The goal of this Program is to change driver behaviour throughout the region with a strategic broad lens to implications to all 12 LAMs.

Risks

COVID-19 Implications

Currently as directed by the Province all court matters, with the exception of trials, are occurring remotely by electronic means. As of the writing of the report, in-person court matters will not begin until at least January 25, 2021, and staff are awaiting direction from the Ministry of the Attorney General regarding procedures for trials in-person and remotely. In relation to infraction revenue, the extension of time limitations and the pause on enforcement as a result of Provincial and Judicial Orders has resulted in more than 4000 Part 1 charges sitting on "Fail To Respond" (FTR) dockets awaiting conviction. This pause is scheduled to be lifted on February 26, 2021.

Consideration will have to be given to the possible impacts of COVID-19 pandemic on Court Services ability to conduct high volume of court matters in a remote/virtual court setting.

Administrative Monetary Penalty System

Transportation staff are participating in a working group established by the Ontario Traffic Council related to possible legislation being considered by the Province that would permit municipalities to process vision zero related charges outside of the Provincial Offences Court through an Administrative Monetary Penalty System (AMPS); similar to the way local area municipalities currently deal with parking by-law offences. If the legislation is approved and implemented, charge revenue related to the Program would not flow through the POA courts, and there would be a need to establish and resource an AMPS framework to manage these charges in its place.

Relationship to Council Strategic Priorities

Implementing the Vision Zero Road Safety Program supports the 2019 to 2022 Strategic Plan and aligns with Transportation Master Plan TMP Vision 2041

Regional Council adopted Niagara Region Strategic Plan 2019-2022 with the vision statement of striving to achieve a prosperous, safe and inclusive community that embraces our natural spaces and promotes holistic wellbeing and quality of life. This project will address Niagara Region's commitment to the safe system approach, by recommending extensive, proactive and targeted initiatives, informed by data and aimed at eliminating serious injury and fatalities on Niagara Regional roads.

Alignment to Niagara Region Transportation Master Plan

Niagara Region is undergoing significant change and by 2041 will have grown and evolved on economic, demographic, social and technological fronts. This recommendation will support growth and enhance Niagara globally by promoting an integrated network of roads and highways for the safe movement of people and goods.

This recommendation is part of the implementation of the Vision Zero Road Safety Program and is critical in building a safe and inclusive community. It is a philosophy of significant departure from the traditional approach of road safety by providing a transportation network with safer walking, cycling, and motor vehicle routes.

Other Pertinent Reports

- PW 35-2019 Automated Speed Enforcement – Safer School Zones Act
- PW 36-2019 Red Light Camera
- PW 38-2019 Community Safety Zones
- PW 64-2109 Vision Zero Road Safety Program
- PW 2–2020 Implementation of Automated Speed Enforcement

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Appendices

Appendix A	Niagara Region Courts Inter-Municipal Agreement-Amendment 2
Appendix B	2020 Business Case – Vision Zero Road Safety Program