



PORT COLBORNE

**City of Port Colborne
Council Meeting Agenda**

Date: February 22, 2022
Time: 6:30 pm
Location: Council Chambers, 3rd Floor, City Hall
66 Charlotte Street, Port Colborne

	Pages
1. Call to Order	
2. National Anthem	
3. Land Acknowledgment	
4. Proclamations	
5. Adoption of Agenda	
6. Disclosures of Interest	
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11.	Delegations	
	<p>Due to COVID-19 this meeting will be conducted virtually. Anyone wishing to speak to Council is asked to submit a written delegation that will be circulated to Council prior to the meeting. Written delegations will be accepted until noon the day of the meeting by emailing deputyclerk@portcolborne.ca or submitting a hard copy in the after-hours drop box in front of City Hall, 66 Charlotte Street, Port Colborne. Written delegations accepted after this time will be circulated with the minutes and included as public record.</p>	
12.	Mayor's Report	

13.	Regional Councillor's Report	
14.	Staff Remarks	
15.	Councillors' Remarks	
16.	Consideration of Items Requiring Separate Discussion	
17.	Motions	
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19.	Minutes of Boards & Committees	
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20.	By-laws	
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20.2.	By-law to Adopt Amendment No. 9 to the Official Plan for the City of Port Colborne Respecting 335 Wellington Street	453
20.3.	By-law to Amend Zoning By-law 6575/30/18 Respecting 335 Wellington Street	461
20.4.	By-law to Authorize Entering into Agreements with the Ontario Municipal Modernization Program	463
20.5.	By-law to Authorize Entering into an Administrative Municipal Penalty System Shared Service Agreement	612
20.6.	By-law to Adopt, Ratify and Confirm the Proceedings of the Council of The Corporation of the City of Port Colborne	625

21. Confidential Items

Confidential reports will be distributed under separate cover. Items may require a closed meeting in accordance with the Municipal Act, 2001.

21.1. Minutes of the closed session portion of the February 8, 2022 Council Meeting

21.2. Chief Administrative Office Report 2022-39, Proposed or Pending Acquisition or Disposition of Land

22. Procedural Motions

23. Information items

24. Adjournment



City of Port Colborne Council Meeting Minutes

Date: Tuesday, February 8, 2022
Time: 6:30 pm
Location: Council Chambers, 3rd Floor, City Hall
66 Charlotte Street, Port Colborne

Members Present: M. Bagu, Councillor
E. Beauregard, Councillor
R. Bodner, Councillor
G. Bruno, Councillor
D. Kalailieff, Councillor
W. Steele, Mayor (presiding officer)
H. Wells, Councillor

Member(s) Absent: F. Danch, Councillor
A. Desmarais, Councillor

Staff Present: A. LaPointe, Acting Director of Planning and Development/City Clerk
S. Luey, Chief Administrative Officer
C. Madden, Deputy Clerk (minutes)
B. Boles, Director of Corporate Services/Treasurer
C. Kalimootoo, Director of Public Works
S. Lawson, Fire Chief

1. Call to Order

Mayor Steele called the meeting to order.

2. National Anthem

3. Land Acknowledgment

4. Proclamations

5. Adoption of Agenda

Moved by Councillor E. Beauregard
Seconded by Councillor D. Kalailieff

That the agenda dated February 8, 2022 be confirmed, as circulated.

Carried

6. Disclosures of Interest

7. Approval of Minutes

Moved by Councillor H. Wells
Seconded by Councillor G. Bruno

1. That the minutes of the Regular Meeting of Council held on January 25, 2022, be approved as circulated.
2. That the minutes of the Public Meeting held on January 18, 2022, be approved as circulated.

Carried

7.1 Regular Meeting of Council - January 25, 2022

7.2 Public Meeting - January 18, 2022

8. Staff Reports

Moved by Councillor R. Bodner
Seconded by Councillor M. Bagu

That items 8.1 to 8.4 be approved, and the recommendations contained therein be adopted.

Carried

8.1 Sale of 235-241 Welland Street, 2022-18

That Chief Administrative Office Report 2022-18 be received;

That Council approve entering into an Agreement of Purchase and Sale with 1703217 Ontario Inc. for \$325,000 regarding 235-241 Welland Street;

That the Mayor and Clerk be authorized to sign and execute any and all documents

respecting the sale of these lands; and

That a by-law to authorize entering into an Agreement of Purchase and Sale with 1703217 Ontario Inc. regarding 235-241 Welland Street be brought forward.

8.2 2021 Audit Plan, 2022-26

That Corporate Services Department Report 2022-26, be received for information.

8.3 Clarke Area Inflow and Infiltration Investigation and Reduction Program, 2022-29

That Public Works Department Report 2022-29 be received;

That Council approve the estimated increased price of \$640,000 for the Clarke Area Inflow and Infiltration Investigation and Reduction Program; and

That the additional program costs be funded from the Wastewater Reserve.

8.4 Recommendation Report for a Proposed Communication Tower at 650 Lorraine Road, File D27-11, 2022-24

That Planning and Development Department Report 2022-24 be received;

That Council resolves that it has no adverse comments to the proposed communication tower at 650 Lorraine Road; and

That Innovation, Science and Economic Development Canada and Canacre Ltd. be notified of Council's decision.

9. Correspondence Items

Moved by Councillor R. Bodner

Seconded by Councillor M. Bagu

That items 9.1 to 9.5 be received for information.

Carried

9.1 Niagara Region - Every Other Week Garbage Collection Diversion Impact - Full Year Analysis

9.2 Niagara Region - Niagara Official Plan - Proposed Draft for Consultation

9.3 Town of Bradford West Gwillimbury - Motion Against Quebec's Bill 21

9.4 City of Brantford - Addressing the Revolving Door of Justice - Accountability for Sureties and Swift Justice

9.5 Township of North Dumfries - Resolution Related to Regional Governance Review Report

10. Presentations

11. Delegations

11.1 Ron Baarda and Heather MacDougald - Request for Relief From Minor Variance Fees

Ron Baarda and Heather MacDougald appeared before Council to request a Relief from Minor Variance Fees.

As a result of this delegation no action was taken by Council.

12. Mayor's Report

A copy of the Mayor's Report is attached.

13. Regional Councillor's Report

Regional Councillor Butters provided an update to City Council.

14. Staff Remarks

14.1 Port Colborne Quarries Inc. (LaPointe)

The Director of Planning and Development/City Clerk informed Council that Port Colborne Quarries Inc. has formally withdrawn their 2018 application for a Site Alteration Permit.

15. Councillors' Remarks

15.1 Tax Bills (Bodner)

In response to Councillor Bodner's inquiry on whether tax bills could be paid by cheque, the Director of Corporate Services/Treasurer informed Council that residents could make payment by cheque, made payable to City of Port Colborne. Residents are encouraged to visit the Virtual City Hall website for all tax payment options.

15.2 Vale Health & Wellness Centre (Bagu)

In response to Councillor Bagu's request for an update on the roof water leaks at the Vale Health & Wellness Centre, the Director of Public Works and Director of Corporate Services/Treasurer provided an update of all work completed to date on the roof and advised that a report will come before Council at a future meeting outlining a repair and funding strategy to remediate the water leaks.

15.3 Snow Removal on Sidewalks (Bruno)

Councillor Bruno expressed appreciation towards staff for their continued efforts of snow removal. In response to Councillor Bruno's inquiry on who is responsible to clear pushed snow off sidewalks located along regional roads, the Director of Public Works stated that City staff is clearing these sidewalks and there is ongoing discussion with the Region on this issue.

15.4 Niagara Official Plan Correspondence (Bruno)

Councillor Bruno inquired about letters that were sent to residents regarding the Niagara Region Official Plan's environmentally sensitive lands. Senior Planner, David Schulz provided information to Council and indicated that residents should contact the Region for more information.

16. Consideration of Items Requiring Separate Discussion

16.1 Omer Area Private Property Inflow Inspections, Education and Remediation Services, 2022-23

Moved by Councillor G. Bruno
Seconded by Councillor M. Bagu

That Public Works Department Report 2022-23 be received;

That Council approve awarding RFP 2021-39 Omer Area Private Property Inflow Inspections, Education and Remediation Services to GM BluePlan;

That the additional program costs be funded from the wastewater reserve;
and

That a by-law to enter into an agreement with GM BluePlan be brought forward.

Carried

17. Motions

18. Notice of Motions

19. Minutes of Boards & Committees

Moved by Councillor E. Beauregard
Seconded by Councillor R. Bodner

That item 19.1 be approved, as presented.

Carried

**19.1 Port Colborne Historical & Marine Museum Board Minutes,
November 21, 2021**

20. By-laws

Moved by Councillor G. Bruno
Seconded by Councillor M. Bagu

That items 20.1 to 20.4 be enacted and passed.

Carried

**20.1 By-law to Authorize Entering into an Agreement of Purchase and
Sale with 1703217 Ontario Inc. Regarding 235-241 Welland Street**

**20.2 By-law to Authorize Entering into a Contract Agreement with GM
BluePlan Engineering Limited regarding Project 2021-39, Omer Area
Private Property Inflow Inspections, Education and Remediation
Services**

20.3 By-law to Appoint Nicole Rubli as a Deputy Clerk

**20.4 By-law to Adopt, Ratify and Confirm the Proceedings of the Council
of The Corporation of the City of Port Colborne**

21. Confidential Items

Moved by Councillor H. Wells
Seconded by Councillor D. Kalailieff

That Council do now proceed into closed session in order to address items 21.2
and 21.2.

Carried

**21.1 Minutes of the closed session portion of the January 25, 2022
Council Meeting**

**21.2 Corporate Services Department Report 2022-32, Performance Review
and Goals of the Chief Administrative Officer**

22. Procedural Motions

23. Information items

24. Adjournment

Council moved into Closed Session at approximately 8:55 p.m.

Council reconvened into Open Session at approximately 9:27 p.m.

Mayor Steele adjourned the meeting at approximately 9:28 p.m.

William C. Steele, Mayor

Amber LaPointe, City Clerk



PORT COLBORNE

Mayor's Report

February 8, 2022 Council Meeting

COVID-19 Update

Niagara Region Public Health will be holding a pop-up vaccination in Port Colborne starting tomorrow and running through Friday at the Port Colborne Visitors Centre, 76 Main Street West. It will operate from 9:30 a.m. to 6:30 p.m. You can go online and book an appointment or just walk in.

There will be an additional vaccination clinic on Sunday, February 13th from 10 a.m. to 6:30 p.m. at McKay Public School at the corner of Fielden and Killaly. This is for walk-ins only.

Children 5 and up can get their first or second dose and those 18 and over can get any dose. No health card is required.

Please do your part to keep safe and get your vaccination.

Family Day

On February 21st we will be celebrating Family Day with city hall, our engineering and operations centre, library and museum closed to the public.

At the Vale Health & Wellness Centre we will be hosting a free family skate from 1:30 – 3:30. Proof of vaccination via Ontario's enhanced vaccine certificate with QR coding will be required for access to the building.

We encourage you to get outside and have fun in the snow or just go for a walk. Enjoy the day with your family.

February is Black History Month

In February we celebrate Black History Month and honour Black Canadians whose struggles and achievements have shaped our country.

The Port Colborne Public Library has put together a great selection of books to honour Black History Month. Feel free to walk by their window display to see what's available.

Place a hold by phone by calling 905-834-6512, emailing library@portcolborne.ca, or through your online library account.

The Port Colborne Historical and Marine Museum has also found early connections to Port Colborne for those seeking freedom in Canada.

They were hidden in plain sight on the ships coming into the guard lock at Port Colborne. Helpers had guided those seeking freedom and escaping their enslaved conditions along the Underground Railroad, directing them to ports like Erie and Sandusky along the American shore of Lake Erie.

Among the owners and captains of the vessels on the lakes were some abolitionists. Determined to help those Black freedom seekers, sometimes the abolitionists hid them onboard, but a less suspicious method was simply to add them to the ship's crew list, using fake names. They could board the ship openly, and just had to act their part as crew members as the ships left American shores heading toward Canada.

Recent research has focused on the schooner, Home, and its abolitionist captain, James Nugent, who assisted many to freedom in Canada. Nugent brought the Home into the Welland Canal on many trips and here in Port Colborne, at the guard lock of the Second Welland Canal, a few got off the ship, finding freedom, while others stayed on board until the ship reached St. Catharines.

Although their lives here were not easy, with racism and prejudice still formidable barriers, they were free.

We hope you take the time to learn about Black History Month.

Winter conditions

Over the past 3 weeks the Niagara Region has been blanketed with snow and I would like to put a shout out to staff in our Roads, Parks, By-law, Communications and Customer Service departments for stepping up to keep our roads and sidewalks safe and our residents informed.

Winter isn't over yet and we remind you to ensure your cars are not parked on the street during a snow event and that your sidewalks are kept clear.

Please also remember your neighbour who may need some assistance in clearing snow from their pathways and driveways. We know there are many good neighbours out there and we thank you for helping those in need.

This month also brought some extra cold weather which in turn caused several water main breaks throughout the city. Our water department teams worked through some extremely challenging conditions to ensure these breaks were repaired and clean water was flowing. Thank you to these men and women.

Ontario Marine Strategy

As a part of the provincial governments pre-budget consultations, the City of Port Colborne joined other Ontario cities and towns, and key stakeholder groups including the Chamber of Marine Commerce, in recommending that the province create an Ontario Marine Transportation Strategy and establish an Ontario Marine Secretariat to develop a policy and funding framework.

The Province of Ontario does not have a marine strategy or related funding for cities and towns with ports. Competing for limited federal funds with major city ports including Halifax, Montreal, and Toronto, municipalities like Port Colborne need to maintain port and harbour infrastructure for safety and security; to support recreational and commercial boating traffic; attract investment and tourism; promote waterfront revitalization; and help facilitate marine industrial growth. However, the capital costs to upgrade port and harbour infrastructure is significant, and smaller Ontario communities such as the City of Port Colborne do not have the financial capacity to fund these improvements on their own.

The recommended provincial program should mirror the Quebec government's "Maritime Strategy" created in June 2015, with the goal of "ensuring optimal and responsible use of maritime potential in Quebec". This program, which was established with \$3 billion over five years, provides funding for various initiatives "designed to showcase maritime transportation, tourism, and marine resources".

Having a provincial strategy and capital funding would support marine issues important to the City of Port Colborne including port rehabilitation, flood mitigation and shoreline erosion, waterfront redevelopment and the City's cruise ship initiative, and the economic, tourism, and cultural significance of the city's port as well as the importance of the industrial marine sector. Any marine strategy should also promote more partnerships and integration with rail and road transportation networks as part of a goods movement strategy.

We will await the provincial budget in March.

[Municipal Modernization Grant](#)

The City of Port Colborne will receive \$267,630 from the province's Municipal Modernization Program to implement several projects that improve service delivery and administrative operations.

City staff submitted eight applications to the third intake and were approved for the following six projects:

- telecommunications system modernization;
- fire and emergency services digitization and records management;
- digitizing public works permit process;
- implementing route patrol software;
- departmental organization review; and
- human resources management and information systems review.

The basis for the city's requests to the province came primarily from the results of a service delivery review completed by KPMG in August 2020. This review looked at existing service levels and opportunities to implement best practices from other high-performing jurisdictions.

The city is committed to modernizing our processes and looking for efficiencies wherever possible. The goal is to make interactions with the city simple, and we can accomplish this by upgrading to technologies that will create value for residents and businesses.

We look forward to seeing the results of these upgrades.

Thank you and stay safe.



**Subject: Vision Zero Road Safety Program – Niagara Region Courts
Inter-Municipal Amending Agreement**

To: Council

From: Public Works Department

Report Number: 2022-05

Meeting Date: February 22, 2022

Recommendation:

That Public Works Department Report 2022-05 be received;

That the Amending Agreement to the Niagara Region Courts Inter-Municipal Agreement attached as Appendix A to Public Works Department Report 2022-05 be approved for purposes of advancing the Vision Zero Program;

That the Mayor and Clerk be authorized to execute the Amending Agreement to the Niagara Region Courts Inter-Municipal Agreement.

Purpose:

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.

Background:

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 (the Program) will include Automated Speed Enforcement (ASE) and Red-Light Cameras (RLC). The goal of the Program is to change driver behavior and to reduce overall speeding on roads within the Region.

The Program was approved as part of the Region’s 2020 budget, contingent on successful negotiations of a revised IMA with the local area municipalities (LAMs) to address apportionment of revenue and costs of the program.

Guiding principles of improving road safety and equitable financial outcomes were considered during discussions with local area municipal CAOs and treasurers.

Discussion:

The Niagara Region Courts Inter-Municipal Agreement (IMA) is necessary for the implementation of the Region's Vision Zero Road Safety Program. Staff have attached a copy of the IMA in Appendix A of this report. The IMA requires unanimous approval and execution by all LAMs in order to allow for the launch of the Program, as approved by Regional Council. Staff have reviewed the draft and support the amending agreement to the IMA being proposed by the Region.

Analysis

Regional Staff received authorization from Regional Council to initiate discussions with the LAMs regarding the required amendments to the IMA in November 2019 (PW 64-2019).

Regional staff initially met with LAM Treasurers and CAOs in March 2019; with follow-up discussions with the CAO group in September 2019. 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 2020. Regional presentations and discussions have centered 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, and as such the Amending Agreement provides that the Region shall be permitted to recover its Vision Zero Program Implementation and Operating Costs from the gross Vision Zero Program revenues, prior to distribution of the net Vision Zero Program revenues pursuant to sections 8.2 and 8.3 of the Intermunicipal Agreement.

The original IMA was approved by all 12 local area municipalities and 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; which will apply to net Vision Zero Revenues.

Regional Council has expressed support for an amendment to the IMA that would allow the Region to recover the costs of the Program from gross revenues to ensure it is financially sustainable; and share net revenues 50/50 with the local area municipalities.

Term of Agreement

The proposed term of this Amending Agreement is three years from the Effective Date (being the date the first ticket issued under the Program is filed with the Court) and

includes an opportunity for the parties, on or about two (2) years from the Effective Date, 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.

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 behavior and increasing road safety. There is an initial financial risk 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. Vision Zero related infraction revenue will be segregated and will be used firstly to offset the Program Court costs incurred by Court Services; and then to fund the capital and operating costs associated with the implementation and operation of the Program. Any remaining revenue will be distributed pursuant to sections 8.2 and 8.3 of the IMA.

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 Amending 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

As was the case with the original IMA dated April 26, 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 Regional Council approval and Regional Staff assessment of financial viability, would not proceed.

Regional 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 Q2 2022.

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 traffic 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.

Administrative Monetary Penalty System

Region 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.

Internal Consultations:

This program and Report have been discussed with all LAM CAOs and Treasurers at separate meetings with Region of Niagara staff. Carolyn Ryall, Beth Brens, and Judy MacPherson from the Niagara Region Transportation Services Division will be attending the Council Meeting on February 22, 2022 and their presentation is attached as Appendix H.

Financial Implications:

Financial:

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 revenue sharing methodology prescribed by the IMA, the Region and the 12 local area municipalities (LAMs) share net revenues 50/50; this would include net revenues realized as a result of the Program.

The establishment of the Program will require significant upfront investment and ongoing operating costs, including but not limited to: equipment installation, leasing and maintenance costs, infrastructure upgrades, communication and education. The proposed Amending Agreement would allow the Region to recover the Program Implementation and Operating Costs (as defined in the Amending Agreement) from the gross Vision Zero Program revenues, prior to distribution of the net Vision Zero Program revenues.

As part of the 2020 Regional Operating Budget, Regional 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. The Program has been included in the Court Services 2022 operating budget with an estimated start date of Q2 2022 and revenues equal to expenditures. There is no anticipated net revenue available for distribution in relation to the Program in 2022.

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

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.

Therefore, the Region Transportation Services Division shall use its share of the net Vision Zero Program revenues exclusively for the operation and enhancement of the Vision Zero Program. The Amending Agreement similarly provided that the local area municipalities agree to use their share of the net Vision Zero Program revenues exclusively either: (a) for vision zero road safety projects and initiatives in their own municipality; or (b) to support the Region's operation and enhancement of the Vision Zero Program to be in alignment with Provincial requirements. Further recognizing the Provincial reporting required to be undertaken by the Region regarding the Vision Zero Program and revenue use; the Amending Agreement specifies that the local area municipalities will also provide reporting as necessary to achieve alignment with Provincial reporting requirements established from time to time, and in any case at least annually, as to their use of their share of the net Vision Zero Program revenues.

The goal of the Program is to change driver behavior 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. Staff believe that the worst-case scenario is if no speeding tickets were issued by NRPS annually, the lost 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.

Staffing:

This is a Regional led program with representation and collaboration from City of Port Colborne Public Works staff

Public Engagement:

Niagara Region strives to achieve a prosperous, safe and inclusive community that embraces 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.

Once the Region receives unanimous approvals from all 12 LAMs and Regional Council, the Region plans to launch a communication and education campaign throughout Niagara Region to inform the residents of the Vision Zero Road Safety Program

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Service and Simplicity - Quality and Innovative Delivery of Customer Services
 - City-Wide Investments in Infrastructure and Recreational/Cultural Spaces
 - Value: Financial Management to Achieve Financial Sustainability
 - Governance: Communications, Engagement, and Decision-Making
-

Conclusion:

Staff believe that the Region's Vision Zero Program is critical to enhancing road safety for Port Colborne's residents and as such recommend that Council approve the Niagara Region Courts Inter-Municipal Agreement in order to initiate the program.

Appendices:

- Appendix A Amending Agreement to Niagara Region Court Intermunicipal Agreement for Vision Zero
- Appendix B Vision Zero 2020 Business Case
- Appendix C PW 36-2019 Red Light Camera
- Appendix D PW 38-2019 Community Safety Zones
- Appendix E PW 64-2019 Vision Zero Road Safety Program
- Appendix F PW 35-2019 Automated Speed Enforcement – Safer School Zones Act
- Appendix G Regional Report PW 2-2020 Implementation
- Appendix H Niagara Region Transportation Services Division Vision Zero Road Safety Update Presentation

Respectfully submitted,

Christopher Kalimootoo, BA, P.Eng, PMP, MPA, MBA
Director of Public Works
905-835-2900 ext. 223
Chris.kalimootoo@portcolborne.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.

NIAGARA REGION COURTS INTERMUNICIPAL AGREEMENT- AMENDMENT 2

This Agreement dated the _____ day of _____, 20_____.

BETWEEN:

THE CORPORATION OF THE TOWN OF FORT ERIE
(hereinafter called "Fort Erie")

OF THE FIRST PART

-and-

THE CORPORATION OF THE TOWN OF GRIMSBY
(hereinafter called "Grimsby")

OF THE SECOND PART

-and-

THE CORPORATION OF THE TOWN OF LINCOLN
(hereinafter called "Lincoln")

OF THE THIRD PART

-and-

THE CORPORATION OF THE CITY OF NIAGARA FALLS
(hereinafter called "Niagara Falls")

OF THE FOURTH PART

-and-

THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE
(hereinafter called "Niagara-on-the-Lake")

OF THE FIFTH PART

-and-

THE CORPORATION OF THE TOWN OF PELHAM
(hereinafter called "Pelham")

OF THE SIXTH PART

-and-

THE CORPORATION OF THE CITY OF PORT COLBORNE
(hereinafter called "Port Colborne")

OF THE SEVENTH PART

-and-

THE CORPORATION OF THE CITY OF ST. CATHARINES
(hereinafter called "St. Catharines")

OF THE EIGHTH PART

-and-

THE CORPORATION OF THE CITY OF THOROLD
(hereinafter called "Thorold")

OF THE NINTH PART

-and-

THE CORPORATION OF THE TOWNSHIP OF WAINFLEET
(hereinafter called "Wainfleet")

OF THE TENTH PART

-and-

THE CORPORATION OF THE CITY OF WELLAND
(hereinafter called "Welland")

OF THE ELEVENTH PART

-and-

THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN
(hereinafter called "West Lincoln")

OF THE TWELFTH PART

-and-

THE REGIONAL MUNICIPALITY OF NIAGARA
(hereinafter called "the Region")

OF THE THIRTEENTH PART

WHEREAS, by the Niagara Regional Court Intermunicipal Agreement dated April 26, 2000 (the “Intermunicipal Agreement”), all parties agreed, among other thing things, to appoint the Region as Agent to undertake the court administration, support and prosecution program for the operation of the Provincial Offences Court on behalf of all municipalities;

AND WHEREAS effective November 22, 2005, the Parties amended the Intermunicipal Agreement to update Schedule A entitled “Reporting Relationships”;

AND WHEREAS the Region wishes to proceed with the implementation of the Vision Zero Program, which among other things would include enforcement of the *Highway Traffic Act* through Automated Speed Enforcement and Red Light Camera enforcement for purposes of enhancing traffic safety for the benefit of all visitors to and residents of the region of Niagara;

AND WHEREAS in order for the Region’s implementation of the Vision Zero Program to be financially sustainable, the initial capital and ongoing operating costs to establish and operate the Vision Zero Program would need to be fully supported by the fines received through charges issued under the Vision Zero Program that will be processed through the Court;

AND WHEREAS the Council of the Region have approved the Vision Zero Program subject to an amendment to the Intermunicipal Agreement regarding the apportionment of costs and revenue to ensure that the Vision Zero Program is financially sustainable in the long term;

NOW THEREFORE in consideration of the promises, mutual covenants and conditions contained herein, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. Definitions

In this Amending Agreement:

“Effective Date” means the date upon which the first Certificate of Offence issued pursuant to the *Provincial Offences Act* for a charge under the Vision Zero Program is filed with the Court;

“Vision Zero Program” means the Vision Zero Road Safety Program to be administered by the Region that includes without limitation: enforcement of the *Highway Traffic Act* through Automated Speed Enforcement (ASE), Red Light Camera (RLC) enforcement and such other automated technology-based traffic enforcement tools that may be approved for use by the Province from time to time; infrastructure upgrades such as street lighting, signage and intersection improvements; and, communication and educational programs; all for purposes of enhancing traffic safety for all road users;

“Vision Zero Program Court Costs” means the Court costs and expenses related to administration, prosecution, adjudication of Vision Zero Program charges, including all staffing costs, fees and collection costs incurred by the Agent in processing charges issued under the Vision Zero Program; and,

“Vision Zero Program Implementation and Operating Costs” means the costs incurred by the Region related to initial establishment of the Vision Zero Program approved by the Council of the Region as part of the 2020 Regional budget approval process, being comprised of (a) the capital costs of the installation of 10 RLC units and 4 ASE units; and, (b) the ongoing operating costs and expenses to administer the Vision Zero Program, subject to annual adjustments as may required pursuant to applicable agreements, including but not limited to:

- i. all staffing and training;
- ii. consulting services;
- iii. equipment fees, operation and maintenance;
- iv. fees and charges imposed pursuant to agreements required to be entered into by the Region to implement the Vision Zero Program, including by the Ministry of Transportation and the Joint Processing Centre;
- v. communication and public education; and
- vi. related infrastructure maintenance such as signage, pavement markings and intersection improvements.

2. The parties acknowledge that implementation of the Vision Zero Program by the Region requires significant upfront investment and ongoing operating costs and as such agree that the Region shall be permitted to recover its Vision Zero Program Implementation and Operating Costs from the gross Vision Zero Program revenues, prior to distribution of the net Vision Zero Program revenues pursuant to sections 8.2 and 8.3 of the Intermunicipal Agreement.
3. The Region shall use its share of the net Vision Zero Program revenues exclusively for the operation and enhancement of the Vision Zero Program. The Municipalities shall use their share of the net Vision Zero Program revenues exclusively either: (a) for vision zero road safety projects and initiatives in their own municipality; or (b) to support the Region’s operation and enhancement of the Vision Zero Program. Recognizing the Provincial reporting to be undertaken by the Region regarding the Vision Zero Program and revenue use; the Municipalities shall report to the Region in such form and with such frequency as necessary to achieve alignment with Provincial reporting requirements from time to time, and in any case at least annually, as to their use of their share of the net Vision Zero Program revenues.
4. Regional Staff shall report to the Council of the Region on an annual basis regarding: Vision Zero Program Implementation and Operating Costs; the use of the Region’s share of the net Vision Zero Program revenues; and the technical performance of, and any proposed enhancements to, the Vision Zero Program.

5. The costs of the Program, as defined in the Intermunicipal Agreement, will be adjusted as a part of the annual budget process in accordance with section 7.1 of the Intermunicipal Agreement as necessary to address any change in Vision Zero Program Court Costs required to accommodate the volume of charges processed pursuant to the Vision Zero Program and shall be recovered by the Agent from gross revenues in accordance with section 8.1 of the Intermunicipal Agreement.
6. The Agent will track the Vision Zero Program Court Costs and revenues separately to the extent reasonably possible for inclusion in the annual budget and financial reporting submitted to the Board from time to time, and the report provided to the Council of the Region pursuant to section 4 of this Amending Agreement.
7. In the event that the gross Vision Zero Program revenues are less than the Vision Zero Program 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 pursuant to section 8.2 of the Intermunicipal Agreement, so that the net revenues distributed to all Municipalities, with the exception of the Region, pursuant to section 8.3 of the Intermunicipal Agreement are not negatively impacted by the Vision Zero Program. In subsequent years, any net Vision Zero Program revenues will first be used to repay the Region for previous years' deficit, prior to distribution of the net Vision Zero Program revenues pursuant to sections 8.2 and 8.3 of the Intermunicipal Agreement.
8. The Region agrees to notify the parties in writing of the date that the first Certificate of Offence issued for a charge under the Vision Zero Program is filed with the Court for purposes of confirming the Effective Date of this Amending Agreement.
9. The term of this Amending Agreement will be three (3) years from the Effective Date. The parties agree that on or about two (2) years from the Effective Date they will engage in discussions to collectively review available data related to the Vision Zero Program compiled as of that date, including but not 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 Intermunicipal Agreement.
10. This Amending Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
11. The acceptance of this Amending Agreement may be communicated by facsimile or email transmission reproduction between the Parties, and such reproduction will be binding upon the Parties with the same effect as an executed original of the Amending Agreement.

12. Save and except as modified herein, the provisions of the Intermunicipal Agreement shall remain in full force and effect.

IN WITNESS WHEREOF the parties hereto have executed this Amending Agreement:

Dated at _____, this _____ day of _____, 20____.

THE CORPORATION OF THE TOWN OF FORT ERIE
Per:

Name:
Title:

Name:
Title:

Dated at _____, this _____ day of _____, 20____.

THE CORPORATION OF THE TOWN OF GRIMSBY
Per:

Name:
Title:

Name:
Title:

Dated at _____, this _____ day of _____, 20____.

THE CORPORATION OF THE TOWN OF LINCOLN
Per:

Name:
Title:

Name:
Title:

Dated at _____, this _____ day of _____, 20_____.

THE CORPORATION OF THE CITY OF NIAGARA FALLS
Per:

Name:
Title:

Name:
Title:

Dated at _____, this _____ day of _____, 20_____.

**THE CORPORATION OF THE TOWN OF NIAGARA-ON-
THE-LAKE**
Per:

Name:
Title:

Name:
Title:

Dated at _____, this _____ day of _____, 20_____.

THE CORPORATION OF THE TOWN OF PELHAM
Per:

Name:
Title:

Name:

Title:

Dated at _____, this _____ day of _____, 20_____.

THE CORPORATION OF THE CITY OF PORT COLBORNE

Per:

Name:

Title:

Name:

Title:

Dated at _____, this _____ day of _____, 20_____.

THE CORPORATION OF THE CITY OF ST. CATHARINES

Per:

Name:

Title:

Name:

Title:

Dated at _____, this _____ day of _____, 20_____.

THE CORPORATION OF THE CITY OF THOROLD

Per:

Name:

Title:

Name:

Title:

Dated at _____, this _____ day of _____, 20_____.

**THE CORPORATION OF THE TOWNSHIP OF
WAINFLEET**

Per:

Name:
Title:

Name:
Title:

Dated at _____, this _____ day of _____, 20_____.

THE CORPORATION OF THE CITY OF WELLAND

Per:

Name:
Title:

Name:
Title:

Dated at _____, this _____ day of _____, 20_____.

**THE CORPORATION OF THE TOWNSHIP OF WEST
LINCOLN**

Per:

Name:
Title:

Name:
Title:

Dated at _____, this _____ day of _____, 20_____.

THE REGIONAL MUNICIPALITY OF NIAGARA
Per:

Name:
Title:

Name:
Title:

Vison Zero Road Safety Program - 2020 Operating Budget Business Case

Public Works-Levy - Transportation Planning; Business Licensing; Court Services

Initiative Start Date: January 01, 2020

Reason for Business Case: Operating Project

Description of program change:

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 Vision Zero Road Safety Program strives to eliminate traffic fatalities and serious injuries on Niagara regional roads; while increasing safe, healthy, equitable mobility for all road users.

The implementation of the Vision Zero Road Safety Program will impact the Regional Transportation, Business Licensing and Court Services Operating Budgets, at an estimated annual gross cost, including the mandatory Victim Fine Surcharge paid to the Ministry of the Attorney General, of approximately \$5 – \$5.8 million (\$3.5 million in 2020 for a partial year of operation, dependent upon timing and duration of implementation).

Transportation Services will be responsible for the operation of the Vision Zero program, including monitoring, evaluation and expansion. Budgeted costs include equipment-related costs, ticket processing charges through a Joint Processing Centre (JPC), MTO charges, staffing and other and are estimated at approximately \$2.28 million on an annual basis (\$1.725 million in 2020 for partial year of operation).

Business Licensing will act as the Provincial Offences Officer and will be responsible for the processing the delivery of the tickets between the JPC and Court Services. Annual costs are estimated at approximately \$34,000.

Infractions issued under the Vision Zero Road Safety Program will be processed through Niagara Region Provincial Offences Court which is administered by Court Services. Costs are estimated at \$2.7 – \$3.5 million annually and include the Victim Fine Surcharge, as well as adjudication and court-related costs, ticket processing and staffing costs (\$1.8 million in 2020 for partial year of operation). Costs are expected to increase if ticket volumes increase over time.

The operating costs for the program are conservatively estimated to be fully recovered from fine infraction revenue. However, this is dependant upon the ability of Niagara Region to recover its full operating costs, which would require an amendment to the Niagara Region Courts Inter-municipal Agreement net revenue sharing formula which is currently based on a 50/50 sharing between the Region and the LAMs. Therefore, negotiations with the LAMs are required and have been authorized by Council. Staff will engage the LAMs to review the Niagara Region Courts Inter-Municipal Agreement as it pertains to net revenues from the Vision Zero Road Safety Program to ensure the program is fiscally sustainable to the Region.

It is important to note that the Vision Zero program will not proceed and no costs will be incurred under this program unless an agreement can be reached with the LAMs and the Inter-Municipal Agreement is successfully amended with respect to the sharing of revenues and operational costs, and therefore no net revenue has been included in the 2020 budget.

Niagara Region experiences a high collision fatality rate when compared to other jurisdictions in Southern Ontario. Deployment of Automated Speed Enforcement (ASE) cameras at school zones and community safety zones, reference to the Province of Ontario Safer School Zones Act - 2017, will facilitate the municipal adoption of this technology on roads with speed limits under 80 km/h in school and community safety zones.

Vision Zero Road Safety Program - 2020 Operating Budget Business Case

Red Light Cameras (RLCs) have been operating in the Province since November 2000 and have so far been installed in 7 Ontario municipalities. The RLC program and processes are well established and respected for their consistency and quality. For legal and practical reasons, all components of the program, from the equipment used through to the processing of the violations, are identical for all participating municipalities within Ontario.

RLCs are an effective safety tool since they reduce the incidence of motorists running red lights. Red light running is one of the causes of angle or “t-bone” collisions, the most severe type of collision that often results in serious injuries. A review of Niagara Region’s collision database indicated that there are an average of 60 right-angle collisions at signalized intersections per year. The most reliable statistics currently available suggest that RLCs can reduce the frequency of right-angle collisions by 25%.

Business Reasons for Program Change:

For many years, Niagara Region Staff have been dealing with concerns raised by residents regarding speeding on regional roads. Speeding is a primary crash factor and a leading road safety problem, often contributing to fatal crashes and serving as an aggravating factor in most crashes. A review of Niagara Region’s collision data to-date shows that the total number of collisions are continuously increasing on Niagara regional roads.

A step forward to adopting a Vision Zero Road Safety Plan in Niagara Region; helping to reduce aggressive driving and speeding by enhancing a safe systems approach, and drawing solutions from engineering, enforcement, education, engagement and evaluation. Those solutions focus on 6 emphasis areas of pedestrians, cyclists, motorcyclists, school-aged children, older adults and aggressive and distracted driving.

Supports Council's Strategic Priorities: Businesses and Economic Growth, Healthy and Vibrant Community, Responsible Growth and Infrastructure Planning, Sustainable and Engaging Government

Niagara Region HOW WE GO Transportation Master Plan defined programs and infrastructure improvements required to address transportation and growth needs from today through to 2041. One of the main goals is to provide integrated network of roads and highways for the safe movement of people and goods.

The proposed Vision Zero Road Safety Program is a critical part in building a safe and inclusive community. It is an important mechanism to remove barriers for equity seeking groups by prioritizing vulnerable road users. 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.

Vison Zero Road Safety Program - 2020 Operating Budget Business Case

Staffing Impact:

14 Permanent, Full Time, 1 Student - Non-Union and CUPE 1287

Total Cost of Staffing Position: - 2020 \$933,303, 2021 - \$1,177,839

Staffing Implementation Date: January 01, 2020

The implementation of the Vision Zero program will require additional staffing complement in both Transportation Services and Court Services as detailed below:

Transportation Services - 2 permanent, full-time non-union project manager FTE's and 1 non-union student will be required to implement, monitor and expand the Vision Zero program in future.

Court Services - 12 permanent, full-time FTE's, 1 non-union and 11 unionized CUPE 1287, will be required to manage the significant increase in ticket volumes that will be processed through the Court system with the implementation of the Vision Zero program. The non-union position will be a Prosecution Coordinator position. The unionized positions will consist of 9 Court Clerks and 2 Trial Coordinators.

Vison Zero Road Safety Program - 2020 Operating Budget Business Case

Financial Impact Summary	Current Year Impact		Multi Year Impact	
	2020	2021	2022	Beyond
Gross Expenditures	3,546,591	5,058,960	5,759,125	-
Gross Revenues	(3,546,591)	(5,058,960)	(5,759,125)	-
Net Impact to levy	-	-	-	-
% Change over prior year	0.000%			

Prepared by Division Manager:
 Reviewed by Program Financial Specialist:
 Approved by Director / Commissioner:

Sulaf Al Karawi/ Jackie Foley Brian McMahon/ Sara Mota Carolyn Ryall/ Donna Gibbs/Angelo Apfelbaum
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VISION ZERO ROAD SAFETY PROGRAM

		Total Vision Zero			Red Light Camera (RLC)			Automated Speed Enforcement (ASE)		
		2020	2021	2022	2020	2021	2022	2020	2021	2022
Revenue:										
	Gross Ticket Revenue	\$ 3,546,591	\$ 5,058,960	\$ 5,759,125	\$ 878,977	\$ 1,444,309	\$ 1,052,475	\$ 2,667,615	\$ 3,614,651	\$ 4,706,650
	less: Victim Fine Surcharge expense	(723,710)	(1,057,160)	(1,447,420)	(138,320)	(276,640)	(276,640)	(585,390)	(780,520)	(1,170,780)
	Net Ticket Revenue	\$ 2,822,881	\$ 4,001,800	\$ 4,311,705	\$ 740,657	\$ 1,167,669	\$ 775,835	\$ 2,082,225	\$ 2,834,131	\$ 3,535,870
Expenses:										
Transportation Services	Equipment Costs	\$ 388,292	\$ 714,356	\$ 319,390	\$ 290,978	\$ 581,956	\$ 186,990	\$ 97,314	\$ 132,400	\$ 132,400
	Ticket Processing Costs	601,625	804,250	1,143,250	93,125	126,250	126,250	508,500	678,000	1,017,000
	Staffing	282,899	288,557	294,328	115,098	117,400	119,748	167,801	171,157	174,580
	Other	452,500	475,000	475,000	72,500	95,000	95,000	380,000	380,000	380,000
		1,725,316	2,282,163	2,231,968	571,701	920,606	527,988	1,153,615	1,361,557	1,703,980
Business Licensing	Processing and Delivery Costs	\$ 26,528	\$ 34,089	\$ 34,092	\$ 3,626	\$ 6,193	\$ 6,197	\$ 22,902	\$ 27,896	\$ 27,896
Court Services	Staffing	\$ 650,404	\$ 889,282	\$ 1,178,678	\$ 124,213	\$ 168,637	\$ 169,161	\$ 526,191	\$ 720,645	\$ 1,009,517
	Courtroom Costs	240,300	529,600	532,800	19,700	39,400	39,656	220,600	490,200	493,144
	Ticket Processing Costs	108,000	148,500	216,000	6,750	13,500	13,500	101,250	135,000	202,500
	Other	72,333	118,167	118,167	14,667	19,333	19,333	57,667	98,833	98,833
		1,071,037	1,685,548	2,045,645	165,330	240,870	241,650	905,708	1,444,678	1,803,994
	Total Expenses (excluding Victim Fine Surcharge)	\$ 2,822,881	\$ 4,001,800	\$ 4,311,705	\$ 740,657	\$ 1,167,669	\$ 775,835	\$ 2,082,225	\$ 2,834,131	\$ 3,535,870
Net Revenue (Cost)		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Total Expenses per above (excluding Victim Fine Surcharge)	\$ 2,822,881	\$ 4,001,800	\$ 4,311,705
add: Victim Fine Surcharge Costs	723,710	1,057,160	1,447,420
Total Expenses including Victim Fine Surcharge	\$ 3,546,591	\$ 5,058,960	\$ 5,759,125

\$ 740,657	\$ 1,167,669	\$ 775,835
138,320	276,640	276,640
\$ 878,977	\$ 1,444,309	\$ 1,052,475

\$ 2,082,225	\$ 2,834,131	\$ 3,535,870
585,390	780,520	1,170,780
\$ 2,667,615	\$ 3,614,651	\$ 4,706,650

Subject: Red Light Camera

Report to: Public Works Committee

Report date: Tuesday, July 9, 2019

Recommendations

1. That Report PW 36-2019 **BE RECEIVED** for information.

Key Facts

- Niagara Region Staff are developing a business case to study the feasibility of operating a Red Light Camera (RLC) program throughout Niagara Region.
- Niagara Region Staff will report to Public Works Committee as a component of the Road Safety Plan for Niagara Region on the business case results and final recommendations to operate a RLC system by the end of the 2019 calendar year.
- Collisions involving pedestrians, cyclists or vehicles occur at signalized intersections with a high chance of causing serious injury or death.
- Approximately 20% of reportable collisions on Niagara Regional roads in 2016 and 2017 were angle collisions, with a 1.2% increase in 2018.
- In total, there were 947 collisions at Niagara Regional intersections from 2008 to 2017.
- The Province of Ontario legislated that Municipalities can operate a "Red Light Camera" system since November 2000. The cameras are proven to be an effective means to reduce the incidences of red light infractions making streets safer for all users. Appendix 1 provides further details on red light camera operations and those Municipalities already implementing the program.
- Since the introduction of RLCs, the number of angle collisions have been decreased within those Municipalities that have adopted RLCs (fatality collisions by 40%, Injury collisions by 37%), and the numbers of serious injury for rear-end collisions have decreased by 14% (no record of fatality collisions in rear-end collisions). These benefits also transfer to driver behavior at other intersections that do not have RLCs (a recent study showed a 10.7% reduction in overall collisions and a 22.7% reduction in severe collisions at none-RLC intersections).

Financial Considerations

Funding for this business case will be provided from the 2019 Transportation Services Operating Budget. An RFP will be issued to engage a Consultant to develop a business case for Niagara Region. This will include the associated cost-benefit analysis and setting out the targets, policies, and action plans that will guide Niagara Region in creating safer roads by reducing the number and severity of motor vehicle collisions at intersections.

Future capital and operating costs associated with this program will be considered as part of future budget deliberations by Council.

Analysis

The Province of Ontario introduced the RLC enforcement pilot project for prosecuting red light offenders using photo evidence in 2000. The resulting evaluation study indicated the program was a success and in August 2004, legislation became permanent. Currently, the program is running under Phase 3 which started in 2017 and will be operational through 2021, with an option to join a five (5) year period from 2022 to 2026. Niagara Region will be investigating potential start dates to join the red light camera program and will be bringing this back for consideration in a future report to Council.

Collisions resulting from red light running tend to be more severe than other intersection collisions because they usually involve at least one vehicle travelling at higher speeds. In the most severe collisions, the vehicles hit each other at right angles. The resulting side-impact collisions cause severe injuries, sometimes leading to death.

It can be a challenge, time-consuming and expensive for police enforcement of red light infractions at intersections which add high operational costs to policing and the overall municipal tax burden on residents.

RLCs are a well-established safety enforcement tool in Ontario. The enforcement, along with an education component, have proven to reduce the number of right-angle collisions at intersections.

Based on the business case recommendation, coordination with the Ministry of Transportation and Joint Processing Center, Niagara Regional Staff will report back to the Public Works Committee on options to join, that include safety effectiveness measures, a financial update and cost and revenue potential.

What is Red Light Camera Enforcement?

As a vehicle approaches a red light at or above a set speed, loops immediately in front of the intersection stop bar trigger the red light camera system. Two photographs are

taken; the first photograph shows the red signal and the vehicle positioned at the stop bar before entering an intersection while the second photograph shows the red signal and usually the vehicle positioned in the intersection. Both of the photos are taken of the rear of the vehicle and must clearly show a licence plate.

If the images clearly show a red light violation, then an infraction notice is mailed to the registered owner of the vehicle. Similar to parking tickets, RLC infraction notices are the responsibility of the vehicle owner, no demerit points are involved. It should be noted that vehicles that are in the intersection when the red light comes on are not photographed and are not subject to a RLC violation.

Superimposed on the photograph is identifying information related to the offence to clearly show that the vehicle was moving at the time (i.e., location, time, speed).

The effectiveness of red light cameras can be viewed in terms of reductions in crash frequency, crash severity, and frequency of red light running violations.

Joint Processing Centre (JPC):

Operated by the City of Toronto, the JPC views the photos and requests vehicle plate ownership information from MTO to match the ownership information with photos and form the belief that an offence was committed and issues a ticket. Accordingly, Provincial Offences Officers file charges (certificate of offence with the Court at the designated Municipality).

The City of Toronto chairs the RLC Program Steering Committee that manages and updates agreements between Municipalities; whereas the JPC obtains approval from existing Municipalities for 'new' partners and provides approval in principle to the Municipality and MTO.

Role of the Ministry of Transportation

The Province provides plate registrant information to Municipalities via the JPC and monitors contractual obligations between the Province and participating Municipalities. Operational Agreements include provisions for:

- Site-specific signage advising of camera enforcement;
- Municipally-led public awareness campaigns on red light running;
- Monitoring of safety effectiveness; and,
- Funding all aspects of the program, including reimbursement of Provincial costs.

Role of Municipality

The Municipalities lead and fund the Red Light Camera Program. The program is a partnership between the Provincial Government and Municipalities.

Municipalities must enter into three (3) agreements to operate RLC in their jurisdiction. The Vendor Agreement is to supply, install, operate and maintain camera equipment, and will pay for all equipment, technical and installation costs for the cameras.

The second agreement is the Processing Agreement with the City of Toronto Joint Processing Centre for the operation and cost-sharing of the Processing Centre, which issues offence notices. The last agreement is the Operational Agreement with MTO to provide plate registrant information to the JPC for distribution to Municipalities for prosecution purposes, including certified documents when required at trial.

Over the years, this approach ensures unified and consistent prosecution of offences protecting the overall integrity of the legislative regime.

Financial Implication

The cost to implement a RLC includes the operating cost of the RLC contract, RLC processing fees (City of Toronto), vehicle license information (Province), as well as an education/awareness program. The RLC contract is a fixed fee per location.

A red light camera costs approximately \$30,000 annually which includes the lease, installation and operational costs of each camera (the Vendor cost). There are also additional costs associated with the program such as supporting the Toronto Joint Processing Centre (approximately \$6,000 annually per camera), costs associated with retrieving data from the Ministry of Transportation (approximately \$30,000 per Municipality annually), and other related costs.

Over time, the number of right-angle collisions at the intersections will decrease, which has an associated social cost; however, the fine revenue will also decrease as there is improved compliance with the red lights.

Alternatives For Consideration

Potential alternatives will be provided in a future report to the Public Works Committee once costs and implications are defined through the finalization of the evaluation and administration process.

Relationship to Council Strategic Priorities

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's position globally by ensuring the road network is safe.

This is a critical step forward to adopting Vision Zero Road Safety Plan in Niagara Region, by ensuring safe speed limits, conflict-free street design, and up-to-date driver enforcement to prioritize the safe passage of our most vulnerable populations.

Other Pertinent Reports

None.

Prepared by:

Sulaf Alkarawi, P.Eng.
Associate Director
Transportation Planning
Public Works Department

Recommended by:

Catherine Habermehl
Acting Commissioner
Public Works Department

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Carolyn Ryall, Director Transportation Services, Brian McMahon, Program Financial Specialist and Donna Gibbs, Director Legal and Court Services.

Appendices

Appendix 1	Check sheet: Additional Information and Facts	6-7
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Appendix 1

Check sheet: Additional Information and Facts

1. What is red light running and how do cameras work?

"Red light running" is when a driver enters an intersection after the light has turned red.

Red Light Cameras (RLC) are installed to photograph vehicles that run red lights.

The cameras are in operation 24 hours a day, seven (7) days a week. They are connected to the traffic light (signal) and to sensors that are installed just before the stop bar. The system constantly monitors the traffic light (signal), and the camera takes a picture of any vehicle that does not stop at the red light.

The camera records the:

- Date
- Time of day
- The exact time the car crossed the stop line and the length of time that the red was active
- Vehicle speed
- License plate

The Provincial Offence Officers review these photos, and mail tickets to owners of the vehicles within three (3) weeks from the time of the violation.

2. How do red light cameras increase safety?

Red light cameras are adopted as a safety initiative at intersections to prevent motorists from running red lights.

Red light cameras cause people to slow down as drivers know that a camera is there; which cause a change in driver behavior. This awareness helps to reduce the accidents and injuries at intersections and changes driver behaviour over time.

Red light cameras have demonstrated a reduction of right-angle collisions at intersections.

3. Is red light running a safety problem in Ontario?

- Based on Ontario data, red light running accounts for:
- Approximately 0.80% of all HTA convictions. (2015 Ontario data)
- In 2014, approximately 24% of fatal collisions at municipal intersections with traffic signals (13 of 55 such collisions) were due to red light running. (2014 Ontario collision data).

- The participating RLC municipalities issued a total of 974,276 red light camera offence notices to Ontario plate holders between January 1, 2001, and December 31, 2017.
- The most serious type of collision at a municipal intersection is an angle collision. Results from the Red Light Camera pilot evaluation showed cameras successfully reduced this type of collision by 25%.

4. Which municipalities currently participate in the Red Light Camera Enforcement Program?

- Toronto, Hamilton, Ottawa, London, Peel Region, Waterloo Region, Halton Region, and York Region currently participate in the Red Light Camera Enforcement Program.
- The participating municipalities by the end of 2018 will be utilizing 336 cameras at 331 high-risk intersections:
 - Toronto (149 cameras; 144 intersections),
 - Ottawa (52 cameras; 51 intersections),
 - Hamilton (24 cameras; 24 intersections),
 - Regional Municipality of Peel (28 cameras; 28 intersections),
 - Regional Municipality of Waterloo (16 cameras; 16 intersections),
 - Regional Municipality of Halton (17 cameras; 17 intersections),
 - Regional Municipality of York (40 cameras; 40 intersections),
 - City of London (8 cameras; 8 intersections).

Subject: Community Safety Zones

Report to: Public Works Committee

Report date: Tuesday, July 9, 2019

Recommendations

1. That the designation of Community Safety Zones (CSZs) **BE APPROVED** for:
 - a. Regional Road 81 (York Road) from Queenston Road to Concession 3 Road in the Town of Niagara-on-the-Lake, length of 1.10 km; and
 - b. Regional Road 24 (Victoria Avenue) from Frederick Avenue to Regional Road 81 (King Street) in the Town of Lincoln, length of 1.20 km
2. That the necessary By-law **BE PREPARED** and **PRESENTED** to Regional Council for consideration; and
3. That Regional Staff **REPORT BACK** with potential future CSZ locations by the end of 2019.

Key Facts

- The purpose of this report is to seek Council approval to implement Community Safety Zones (CSZs) at the locations listed above.
- CSZs are sections of roadways where public safety is of a special concern and traffic offences are subject to double the fines.
- The goal of the CSZ programme is to modify driver behaviour and improve safety on certain sections of road, particularly vulnerable road users like children and seniors.
- Among the last five years from 2013 - 2017, 2016 was the highest in the number of pedestrian and cyclist fatalities and injuries on Niagara Regional roads.
- The maximum collision frequency in 2017 was during peak hours, in the weekdays of schools months.
- Recent traffic studies in the proposed school zones show the following percentage of vehicular traffic that exceeds the posted speed limit:

- Regional Road 81, York Road: 56% and 35% during the weekdays, and 74% and 57% during the school hours for east and westbound traffic respectively, and;
- Regional Road 24, Victoria Avenue: 73% and 76% during the weekdays, and 88% and 73% during the school hours for north and southbound traffic respectively.

Financial Considerations

The cost to establish a Community Safety Zone is minimal in terms of signage installation within the limits of each zone. The costs are covered under the approved 2019 Transportation Services Operating budget.

The community education programs and police enforcement resources have already been discussed with the Niagara Regional Police, Strategic Communications and Public Affairs, Legal & Court Services and Public Health Staff.

Analysis

Background

In June 1998, the Province of Ontario passed Bill 26 - to promote public safety through the creation of community safety zones (CSZs). This Bill, and its regulatory changes, are targeted at improving road safety in Ontario. The proposed amendments to the Highway Traffic Act (RSA 1990) allow Municipal Councils to designate CSZs by Municipal by-law along sections of roadway where public safety is of special concern (i.e., around schools, retirement facilities, parks, etc.). Within CSZs, traffic fines will be increased for violations committed at the CSZs (i.e. speeding).

With the passing of Bill 26, Niagara Regional Council has the authority, under section 214.1 of the Highway Traffic Act, to pass by-laws where deemed necessary to ensure the safety of Niagara residents. In establishing CSZs, this will aid in safe communities.

Objective

The objectives of the CSZs are:

- Traffic safety measures to reduce the number or severity of collisions and/or speeding within designated CSZs;
- A traffic management tool to reduce the rate of Highway Traffic Act (HTA) offences committed within CSZs; and,
- To maintain an enforcement program that is achievable within the current financial and human resources available to Niagara Regional Police.

Enforcement

Niagara Regional Police enforcement and their partnership are required for CSZs to be successful. Regional Staff are working with Niagara Regional Police on enforcing the CSZs in the two locations outlined in the report. Niagara Regional Police resourcing will have to be taken into account as the program grows.

Public will be made aware that a traffic violation occurring within a designated CSZ will have consequences. The intent is to ensure that a CSZ is not just another signed regulation that is sporadically enforced. Therefore, Regional Staff will continue to work with Niagara Regional Police on this safety initiative with enforcement strategies throughout Niagara region.

Criteria

No Provincially recommended technical criteria for the establishment of CSZs currently exists, other than locations where public safety is of special concern, such as in the vicinity of schools, day care centres, retirement homes or areas with high collision rates.

Regional Staff continue to review and evaluate strategically potential high priority locations of CSZs with coordination of enforcement with Niagara Regional Police.

Education and enforcement are key factors in the success of this initiative. Therefore, Transportation Services Staff recommended two (2) locations of CSZs to gain first-hand experience, and then based on that experience, future recommendations for additional CSZs will be formulated and brought back to Committee for further consideration.

Site Selection

Site selection includes locations that have safety concerns or complaints near sensitive areas such as schools, retirement homes and daycares.

Staff considered as part of the site selection the following to prioritize locations:

- Number of safety and speeding complaints at location.
- Percentage of students/families walking to/from school.
- Speeding study results and number of violations.

Area Municipalities share Staff's concern about public safety and also wish to implement CSZs on their roads. The Corporation of the Town of Niagara-on-the-Lake requested Niagara Region to implement a Community Safety Plan in St. Davids, specifically the intersection of Four Mile Creek Road and York Road, to address traffic and pedestrian safety issues around St. Davids Public School. Similarly, concerns have been raised over the last few years for the speeding in the neighbourhood of 20 Valley

School, from Niagara Student Transportation Services, residents and Niagara Region Public Health Staff. This area is also a preferred truck route in the Town of Lincoln.

Staff are targeting that the two (2) CSZs, outlined in Table 1, commence Monday, September 16, 2019, (after school returns) to ensure the required communication material and education programs are in place during the first week of the school term.

Staff will conduct studies to evaluate CSZs to determine their effectiveness through data collection. Data collection studies consist of “before” and “after” speed and general regulation compliance surveys.

Table 1
 Community Safety Zone locations on Regional Roads

Road	Section	Municipality	School
RR 81 (York Rd)	Queenston Rd to Concession 3 Rd	Town of Niagara-on-the-Lake	St. Davids Public School
RR 24 (Victoria Ave)	Frederick Ave to RR 81 (King St)	Town of Lincoln	Twenty Valley Public School

All Community Safety Zone designations are in effect 24 hours a day, seven (7) days per week. Location plans showing each location are attached to this report (See Appendices 1 and 2).

Education

To maximize the effectiveness of CSZs, being an unfamiliar new traffic safety management tool in Niagara region, it will be necessary to educate the public on their meaning, what it means to contravene a traffic regulation within such a zone, and how to identify a zone. Research has demonstrated that changes in traffic control and regulations require an extensive public education campaign in order to be effective.

Part of the overall review process, Regional Staff will coordinate with the District School Board of Niagara through Niagara Student Transportation Services and Public Health. Staff to identify potential routes to school and opportunities for safety improvements in an effort to encourage active and safe route to school.

The recommendations gathered from the ongoing public consultations will be taken into consideration as part of the overall school zone safety review process. Each time a CSZ is approved, Niagara Region will undertake the following education efforts:

- Have CSZ information brochures distributed, at least two weeks in advance of implementation, to places of public gathering within the newly designated CSZ.

- Prepare a media release explaining the size and location of the CSZ, the consequences associated with committing a violation in the CSZ, and the Niagara Regional Police's commitment to providing strict enforcement in these areas.
- The Community Relations Branch of the Niagara Regional Police will include CSZs in their presentations and appearances at local functions and assemblies.
- The Strategic Communications and Public Affairs Branch of the Niagara Region will ensure all communications and awareness programs are in place with the residents, and local Councillors to provide appropriate notice in advance of implementation.

Stakeholders Engagement

To establish a consistent uniform, set of designation criteria and a co-ordinated approach to the design and implementation of CSZs within Niagara Region, Staff in Transportation Services will establish a Cross-Niagara CSZ Working Group (CNCSZWG). Invitations will include all the local area Municipalities, Niagara Regional Police, Legal and Court Services, Public Health and District School Board of Niagara.

Relevant Consultation

This report has been written in consultation with Regional Staff from Legal and Court Services, Niagara Regional Police, Strategic Communications and Public Affairs, Public Health and the members of the Niagara Student Transportation Services.

Alternatives Reviewed

The Region has implemented various measures to address safety concerns within school zones, including the use of flashing lights, decreasing speed limits during school hours, monitoring, education and awareness.

Relationship to Council Strategic Priorities

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.

Also, this is a step forward to adopting a Vision Zero Road Safety Plan in Niagara Region; helping to reduce aggressive driving and speeding in areas within Niagara Region that have higher concentrations of school children and families.

Other Pertinent Reports

None.

Prepared by:

Sulaf Alkarawi, P.Eng.
Associate Director
Transportation Planning
Public Works Department

Recommended by:

Catherine Habermehl
Acting Commissioner
Public Works Department

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Carolyn Ryall, Director Transportation Services, Brian McMahon, Program Financial Specialist and Donna Gibbs, Director Legal and Court Services.

Appendices

Appendix 1	Details of Signage and Fines	7
Appendix 2	Map of Location 1 – Regional Road 81 (York Road)	9
Appendix 3	Map of Location 2 – Regional Road 24 (Victoria Avenue)	10

Subject: Vision Zero Road Safety Program

Report to: Public Works Committee

Report date: Tuesday, November 5, 2019

Recommendations

1. That Regional Staff **BE AUTHORIZED** to implement initiatives under the Vision Zero Road Safety Program; including Automated Speed Enforcement (ASE), Red Light Cameras (RLCs), and Community Safety Zones; subject to successful negotiations with the LAMs with respect to the Niagara Region Courts Intermunicipal Agreement
2. That Regional Staff **BE AUTHORIZED** to initiate discussions with the Local Area Municipalities (LAMs) and amend the Niagara Region Courts Intermunicipal Agreement related to the Vision Zero Road Safety Program; and **DIRECTED** to report back to Council on the outcome of those discussions.
3. That the Vision Zero Road Safety Program **BE REFERRED** for consideration as part of the 2020 Budget Process.

Key Facts

- The purpose of the report is to seek Regional Council approval to adopt the Vision Zero Road Safety Program that strives to eliminate traffic fatalities and serious injuries on Niagara regional roads; while increasing safe, healthy, equitable mobility for all road users. An upcoming Niagara Road Safety Annual Report from 2013 – 2018 will be forthcoming in Q1 2020 which supports the need for the Vision Zero Road Safety Program.
- For many years, Niagara Regional Staff have been dealing with concerns raised by residents regarding speeding on Regional roads. Speeding is a primary crash factor and a leading road safety problem, often contributing to fatal crashes and serving as an aggravating factor in most crashes.
- A review of Niagara Region's collision data to-date shows that the total number of collisions are continuously increasing on Niagara regional roads. On average, collisions are increasing by 9 –10% per year.
- 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 implementation of the Vision Zero Road Safety Program will impact Regional Transportation, Business Licensing and Court Services Operating Budgets, which have been estimated at a gross cost of approximately \$5 – \$5.8 million per year dependant upon timing and duration of implementation. The costs are conservatively estimated to be fully recovered from fine infraction revenue, however this is dependant upon the ability of Niagara Region to recover its costs which would require an amendment to the Niagara Region Courts Intermunicipal Agreement net revenue sharing formula which is currently based on a 50/50 sharing between the Region and the LAMs. Therefore, negotiations with the LAMs are required.

Financial Considerations

Infractions issued under the Vision Zero Road Safety Program will be processed through Niagara Region Provincial Offences Court which is administered by Court Services. Under the current revenue sharing arrangement prescribed by the Niagara Region Courts Intermunicipal Agreement 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.

Subject to Council approval, Staff will engage the LAMs to review the Niagara Region Courts Intermunicipal Agreement as it pertains to revenues from the Vision Zero Road Safety Program to ensure the program is fiscally sustainable to the Region. Currently, the revenue sharing formula provided in the Agreement would result in a negative cash flow unless significant increases in the number of tickets issued above the breakeven point noted below are realized.

Staff will report back to Committee/Council after consultation with the LAMs on the Niagara Region Courts Intermunicipal Agreement to ensure the program has long term financial sustainability to Niagara Region. It should be noted that the Vision Zero Road Safety Program will not proceed without an agreed upon formula that provides a positive cash flow to Niagara Region. It would be staff's recommendation that all infraction revenue in excess of all operating costs (Regional and Court Services) be to the benefit of the Region for potential reinvestment in the program, including consideration for local/municipal program elements.

Costs associated with administering the Vision Zero Road Safety Program will be incurred by other Regional departments in addition to Court Services. To obtain an annual break even (cost neutral) point before Intermunicipal cost sharing is considered, the following number of tickets will need to be issued under the program in the next three years:

Table 1 – Break-even Ticket Issuance

	2020	2021	2022
Number of Tickets Issued	31,000	32,500	27,000

This assumes a partial year operation in 2020 of the Vision Zero Road Safety Program (RLCs - six (6) months and ASE - nine (9) months). Subsequent years assume a full year operation of both RLCs and ASE. The field studies conducted in Q3 2019 indicated a number of speeding infractions within School Zones on Regional Roads in excess of 50,000 in support of a net positive cash flow for the Vision Zero Road Safety Program.

Transportation and Business Licensing Costs

Costs associated with administering the Vision Zero Road Safety Program include: equipment, ticket processing (Joint Processing Centre), MTO charges, consulting, staffing (2 FTEs) and administration estimated at approximately \$2.3 million per year. The anticipated cost for the partial 2020 year of operation of the program for Transportation and Business Licensing is \$1.7 million.

Court Services Costs

Costs associated with court administration, including processing tickets, prosecution, adjudication, and collection services associated with the Vision Zero Road Safety Program include: additional staffing (12 FTEs), call in (per diem) prosecutors, ticket processing charges, victim fine surcharges, and adjudication costs estimated at approximately \$2.7 – \$3.5 million per year. The anticipated cost of the partial 2020 year of operation of the program for Court Services is \$1.8 million. Note that the Court Services anticipated costs include a victim fine surcharge, which is a mandatory cost imposed for every ticket issued that is payable to the Province. This expense is anticipated to be between \$1 – \$1.4 million annualized.

The anticipated gross operating expenditure costs of the program from 2020 – 2022 are noted in Table 2 below (including victim fine surcharges). As mentioned previously, 2020 assumes six months of operation for RLCs and nine months of operation for ASE.

Table 2 – Three Year Operating Expense Budget Impacts (in millions)

	2020	2021	2022
Transportation and business licensing	\$ 1.7	\$ 2.3	\$ 2.3
Niagara Region Court Services	1.8	2.7	3.5
Total	\$ 3.5	\$ 5.0	\$ 5.8

Business cases will be included for consideration as part of the 2020 Operating Budget deliberations for Court Services as well as the Transportation and Business Licensing Divisions of Niagara Region on the Vision Zero Road Safety Program initiative.

Once the Region generates a positive cash flow from the Vision Zero Road Safety Program, the intent is to reinvest the Region’s surplus, if any, in the expansion of the

program and/or investment in the infrastructure deficit subject to the annual budget decision of council.

Analysis

With the implementation of the objectives outlined in the approved the Transportation Master Plan (TMP) and in support of Council's 2019 – 2022 Strategic Priorities, this report presents Transportation Services' implementation strategy for the Vision Zero Road Safety Program through the recommendation of a set of extensive, proactive and targeted initiatives, informed by data and aimed at eliminating serious injury and fatalities on Regional roads.

On average, approximately 2,650 collisions are reported annually on Niagara Regional roads between years 2013 – 2018, resulting in approximately 405 collisions annually categorized in fatal (personal and/or property damage). These injuries and deaths affect not only the victims and their families, but also impact healthcare, community, and social services. Many of these collisions can be prevented through strategic and effective road safety initiatives (Vision Zero Road Safety Program) that include: infrastructure planning and design changes; enforcement; and public education.

However, no loss of life as a result of traffic collisions is acceptable under the Vision Zero philosophy. The Vision Zero philosophy is a significant departure from the traditional approach to road safety. This transformative change will take several years to fully establish itself.

The Vision Zero Road Safety Program will draw solutions from the 5Es of engineering, enforcement, education, engagement and evaluation. The plan will focus the solutions on six (6) emphasis areas: pedestrians, cyclists, motorcyclists, school-aged children, older adults and aggressive and distracted driving. The Vision Zero Road Safety Program will focus on a set of the most effective actions including:

Speed management strategy: Higher speeds contribute to higher risk of serious injuries and fatalities by reducing driver reaction time, increasing the vehicle stopping distance, and inflicting more severe blunt force trauma on victims upon impact. The proposed speed management strategy is comprised of six integrated speed reduction tools aimed at mitigating risks associated with high speeds. These include: road design improvements, police partnership, deployment of speed signs, speed limit reductions, automated speed enforcement and public education.

Road design improvements: Geometric modifications to the design of the road are known to be one of the most effective ways of achieving the intended target speed for the context and improving road user behaviour. There will be a greater focus on this safety countermeasure, including integration of safety improvements, road realignments and enhanced road illumination.

Proactively addressing high-risk mid-block crossings: Mid-block crossings are prevalent with pedestrian collisions. Recommendations will be brought forward in staff reports on new traffic signals, pedestrian crossovers (PXOs) and enhanced signage.

Proactively addressing collisions at signalized intersection: angle collisions are high in Niagara Region. The implementation of Red Light Camera as a default safety feature will mitigate traffic fatalities and serious injuries.

Education and engagement plan: The overarching goals of the education and engagement component of the Vision Zero Road Safety Program are to inform and consult with the public, building support for infrastructure improvements, and instituting a shift in social norms and road user behaviour.

Next steps to initiate the work of the Vision Zero Road Safety Program will include: an analysis of statistic data collected on Regional Roads (collision data, speeds, volumes, classifications of vehicles); Regional Council priorities; and input from key road safety stakeholders and partner agencies including, local municipalities, Niagara Region Public Health, Niagara Regional Police, District School Board of Niagara (DSBN), Niagara Catholic District School Board (NCDSB) and Niagara Student Transportation Services.

Strategic Priorities

Alignment to Niagara Region Transportation Master Plan and Council's 2019-2022 Strategic Priorities

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.

Also, this is a step forward to adopting a Vision Zero Road Safety Plan in Niagara Region; helping to reduce aggressive driving and speeding in areas within Niagara Region that have higher concentrations of school children and families.

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

Prepared by:

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Director, Transportation Services
Public Works Department

Recommended and Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer /
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This report was prepared in consultation with Brian McMahon, Program Financial Specialist, Sara Mota, Program Financial Specialist, Dan Ane, Manager Program Financial Support, Sulaf Alkarawi, Associate Director Transportation Planning and reviewed by Donna Gibbs, Director Legal Court Services and Helen Chamberlain, Director Financial Management and Planning / Deputy Treasurer.

Appendices

None.

Subject: Automated Speed Enforcement – Safer School Zones Act

Report to: Public Works Committee

Report date: Tuesday, July 9, 2019

Recommendations

1. That Regional Staff **BE AUTHORIZED** to partner with the Ministry of Transportation, the Ministry of the Attorney General, and other partnering Municipalities in the Ontario Traffic Council's (OTC) Automated Speed Enforcement (ASE) Working Group (WG) to set-up a consistent program for all Municipalities in which to operate ASE technology in Ontario, with a target date of Fall 2019 for Legislative Approval.
2. That Regional Staff **REPORT BACK** to Public Works Committee upon completion of the OTC working group review and RFP findings, on the award terms and conditions for the Province approved Vendor to supply, install, operate and maintain the ASE System throughout Niagara Regional roads, for a five-year period from 2019 to 2023 with the option to extend up to five additional years; including Transportation operating costs.

Key Facts

- Speeding is a primary crash factor and a leading road safety problem, often contributing to one-third of fatal crashes and serving as an aggravating factor in most crashes.
- In 2016, fatal and serious injury collisions on Niagara Regional roads increased by 9.31% over 2015 recorded statistics.
- The statistical analysis of 2016 ranked Niagara Region 20% higher in the number of collisions than similar jurisdictions within Ontario.
- There were approximately 2,648 traffic collisions on Niagara Regional roads in 2017, of which, approximately 17 collisions resulted in traffic fatalities and 324 in serious injuries.
- For many years, Niagara Regional Staff have been dealing with concerns raised by residents regarding speeding; in particular in school zones.
- Bill 65 – Safer School Zones Act, 2017 allows Municipalities, through by-law, to implement and operate technology-based enforcement in community safety zones and school zones on roads under their jurisdiction.

- Automated speed enforcement is complementary to traditional enforcement, focusing on school safety zones and community safety zones.
- The OTC has formed a multi-Municipal working group consisting of Municipalities across Ontario, the Ministry of Transportation Ontario and the Ministry of the Attorney General to develop and cost-share an ASE program for Municipalities throughout the Province.
- By participating in the Working Group Committee, Niagara Regional Staff will have the opportunity to ensure that the needs of Niagara Region will be incorporated in the ASE program and Staff will understand the requirements associated with implementing this new safety tool.

Financial Considerations

Initial funding of this safety initiative will be covered under the approved 2019 Transportation Services Operating Budget for the cost of partnership with the other Municipalities and OTC resources to discuss threshold speeds, site selection criteria, prosecuting issues, legal agreement, communications, joint processing centre requirements, RFP evaluation and other important program details.

Regional Staff will be finalizing and reporting back to the Public Works Committee details of implementation, operation and cost for further consideration. This will be jointly discussed and finalized with Legal and Court Services Staff and introduced as part of that upcoming report.

Analysis

On May 30, 2017, the Ontario Legislature passed Bill 65, the Safer School Zones Act that amended the Ontario Highway Traffic Act (HTA) to, among other things, authorize Municipalities to use ASE technology (known as photo radar) as a tool to address vehicle speed concerns and collision patterns involving speeding.

The Ministry of Transportation is currently preparing the necessary regulations to allow for the implementation of Bill 65. It is anticipated that these changes will be brought forward in Fall 2019, following which municipalities will be able to employ the use of the ASE in community safety and schools zones.

Bill 65 – Safer School Zones Act

Bill 65 amendments to the HTA permits Municipalities to utilize ASE in school zones and in community safety zones where the prescribed rate of speed is less than 80 km/h, and to reduce speed limits on roads with statutory speed limit of 50 km/h by designating areas (by by-law) where speed limits may be lower.

The Ministry of Transportation, in coordination with Ontario Traffic Council, the City of Toronto and 15 other Municipalities is currently developing the necessary regulatory changes to allow for the above.

Ontario Traffic Council (OTC)

The OTC mission statement is “OTC is the voice for enhancing the engineering, education and enforcement sectors of the traffic management sector in Ontario”. As part of their mandate, OTC organized the ASE Working Group that includes to date 15 Municipalities, the Ministry of Transportation and the Ministry of the Attorney General to discuss the development and implementation of ASE. Niagara Regional Staff aim to work in partnership with all parties in the working group to set-up a consistent program for Municipalities in which to operate ASE in Ontario.

A RFP for the supply, installation, operation and maintenance of ASE equipment was issued by the City of Toronto in April 2019. All participating Municipalities will be able to partake in the execution of the ASE contract. This process ensures the same equipment is used throughout the Province with cost savings associated with group purchasing. Similar to the red light camera program, the Ontario Highway Traffic Act would have to be amended to include the specific model of ASE equipment. Municipalities will only use the equipment specified in the Highway Traffic Act.

The ASE WG is also drafting guidelines for the use of temporary and permanent ASE equipment. The guidelines will include recommendations for where ASE should be used, not used and suggestions to help Municipalities optimize the use of the ASE. At this stage, the proposed ASE will be restricted to school zones and community safety zones only. ASE outside those areas are not anticipated at this time.

Provincial Offences Act Court Implications

Speeding infractions are handled by the Municipal Provincial Offences Act Courts pursuant to a Memorandum of Understanding with the Province. In some municipalities there is a concern that Automated Speed Enforcement may overwhelm the court system and that the Province will not be able to supply enough Justices of Peace for trials. This is not anticipated to be the case in Niagara Region.

To facilitate the prosecution of offences, a Joint Processing Centre will be introduced as the best model to ensure consistency and integrity in the operations of ASE. This process would allow Municipalities to share and reduce Municipal operating costs associated with processing infractions. The City of Toronto will establish the Joint Processing Centre for ASE infractions in the Province for all Municipal partners.

Details of Fall 2019 Report to Public Work Committee

To date, nine Municipalities are designated to introduce automated speed enforcement by December 1, 2019, namely, City of Toronto, City of Mississauga, City of Burlington, City of London, City of Brampton, City of Ottawa, Town of Ajax, Regional Municipality of Peel, Regional Municipality of Waterloo, and Regional Municipality of Durham to place 189 automated speed cameras. In total, sixty (60) cameras will be fully operational by December 2019.

With the approval of the Public Works Committee, this will also allow Niagara Region to be a partner of this program.

The Staff report will be prepared to provide an update to the Public Works Committee on:

- Information on how the automated speed enforcement program will be administered and operated throughout the Province
- Financial impact of the program for the proposed 2020 budget
- Results of the Request for Proposal (RFP) 9148-19-0048 for the provision of Automated Speed Enforcement Services in the Province issued by City of Toronto
- Request authority to award the contract to the recommended bidder
- Request authority to enter into operational agreements with Joint Processing Center and Ontario Ministry of Transportation
- Details of communication and education plan

Relevant Consultation

This report has been written in consultation with Staff from Legal and Court Services, Public Health, and the members of the Niagara Student Transportation Services, the Ontario Traffic Council and Steering Committee Automated Speed Enforcement Working Groups.

Alternatives Reviewed

Potential alternatives will be provided in a future report to the Public Works Committee once costs and implications are defined through the finalization of the evaluation and administration process.

Relationship to Council Strategic Priorities

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.

Also, this is a step forward to adopting a Vision Zero Road Safety Plan in Niagara Region; helping to reduce aggressive driving and speeding in areas within Niagara Region that have higher concentrations of school children and families.

Other Pertinent Reports

None.

Prepared by:

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Acting Commissioner
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Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Carolyn Ryall, Director Transportation Services, Brian McMahon, Program Financial Specialist and Donna Gibbs, Director Legal and Court Services.

Subject: Implementation of Automated Speed Enforcement

Report to: Public Works Committee

Report date: Tuesday, March 10, 2020

Recommendations

1. That Regional Council **AUTHORIZE** the use of automated speed enforcement (ASE) technology on Regional roads for a five-year contract term with an option to extend for an additional five (5) years;
2. That the Commissioner of Public Works **BE AUTHORIZED** to negotiate, enter into and execute an operating agreement with Her Majesty the Queen in Right of Ontario, as represented by the Ministry of Transportation (the "MTO") of Ontario for the use of ASE technology by Niagara Region including the access and use of license plate registration information subject to successful negotiations with the LAMs with respect to the Niagara Region Courts Inter-Municipal Agreement;
3. That the Commissioner of Public Works **BE AUTHORIZED** to negotiate, enter into and execute an operating agreement with Redflex Traffic Systems (Canada) Limited to provide ASE service for five (5) years from date of award during the second quarter of 2020 to 2024 in the amount of an upset limit of \$950,000 (including 13% HST) with an option to renew on the sole discretion of the Commissioner of Public Works, and subject to budget approval, for one additional term of five (5) years subject to successful negotiations with the LAMs with respect to the Niagara Region Courts Inter-Municipal Agreement;
4. That the Commissioner of Public Works **BE AUTHORIZED** to negotiate, enter into and execute a partnering agreement with the City of Toronto for processing automated speed infractions at the Joint Processing Center subject to successful negotiations with the LAMs with respect to the Niagara Region Courts Inter-Municipal Agreement; and
5. That following implementation of recommendations 1-4, Regional Staff will review the implementation strategy, including technology assessment, safety and educational evaluation, impacts on the Region's Provincial Offences Courts, countermeasures, and budget and revenue to cover the five (5) year period of 2020-2024 and **REPORT BACK** to Council with an update late 2020.

Key Facts

- The Province enacted ASE Regulation #398/19 under the Highway Traffic Act on December 1, 2019, to enable Ontario Municipalities to administer an ASE program in their jurisdictions. Provincial Guidelines are provided to ensure transparency and for the purpose of promoting road safety while maintaining public trust.
- In July 2019, Regional Council authorized Staff to pursue the potential use of ASE 2019 to improve road safety and influence driver behaviour; please refer to PW 35-2019.
- ASE is the methodology which falls under Vision Zero Road Safety Program that was approved by Regional Council on November 14, 2019; please refer to PW 64-2019.
- The costs associated with the implementation of initiatives under the Vision Safety Program, including ASE, was referred for consideration as part of the 2020 Budget Process in accordance with the recommendations in PW 64-2019. Regional Council approved the associated budget, subject to successful negotiations with the LAMs of the Niagara Region Courts Inter-Municipal Agreement to ensure the program is financially sustainable.
- Niagara Region has one of the highest ratios of fatal collisions per 100,000 population among jurisdictions in Southern Ontario based on the latest Provincial statistics.
- Speeding has a direct impact on the consequences of any crash. Speeding also increases the frequency of crashes as the decision stopping distance increases proportionately with the travel speed.
- ASE systems are an important element in speed management and can be a very effective countermeasure to prevent speeding-related crashes.
- Regional staff propose to operate a combination of mobile and semi-fixed ASE units (quantity of four (4)) in school and community safety zones that were determined with maximum speeding violations during 2019.
- Regional staff will communicate the philosophy and strategy behind the ASE program with Niagara residents and tourists through a communication strategy. ASE is a tool which will enhance the capabilities of traffic law enforcement throughout Niagara region and will supplement, rather than replace, traffic stops by law enforcement officers.

- In order to operate ASE, Niagara Region must execute agreements with the Ministry of Transportation of Ontario (MTO), Redflex Traffic Systems (Canada) Limited and City of Toronto to use automated speed enforcement technology.
- Regional staff have been participating in an inter-municipal working group that was initiated by the Ontario Traffic Council (OTC) in an effort to establish common operating principles for ASE across the Province. Some of the issues under discussion include: i) criteria for site selection; ii) fixed location vs. mobile enforcement; iii) days and hours of operations iv) common definitions of school and community safety zone; v) evaluation of the regime; vi) operating guidelines; and vii) expected impacts to court services.
- Niagara Region designated two Community Safety Zones in September 2019 at:
 - Regional Road 81 (York Road) from Queenston Road to Concession 3 Road in the Town of Niagara-on-the-Lake, St. Davids Public School; and
 - Regional Road 24 (Victoria Avenue) from Frederick Avenue to Regional Road 81 (King Street) in the Town of Lincoln, Twenty Valley Public Schools.
- A staff report is coming forward in Q2 2020 to assign additional community safety zones on Regional roads that can receive ASE deployment.
- Staff have begun discussions with the Local Area Municipalities regarding the Niagara Region Court Inter Municipal Agreement with the first meeting taking place on February 21, 2020 with the Local Area Treasurers. At this meeting a combined presentation with Transportation, Public Works and Finance, Corporate Services did receive general support around the Vision Zero Safety program related to the amendments regarding cost sharing between the Region and Municipalities.

Financial Considerations

In order to successfully implement the ASE program, Transportation and Court Services will require increased capacity and resources based on the projected number of charges expected to be issued with the proposed recommendation of four (4) cameras initially. These cameras will be distributed across Regional schools and Community Safety Zones during 2020. Fine revenue is expected to make the ASE program fully cost recoverable, subject to successful amendment of the Niagara Region Courts Inter-Municipal Agreement with the LAMs.

The most significant costs to operate an Automated Speed Enforcement program include:

1. Cost to design, supply, install, operate and maintain the equipment payable to Redflex Traffic Systems (Canada) Limited: The total estimated Vendor cost for an initial five-year contract term is \$856,000 including 1.76% non-refundable HST to operate four (4) ASE units, a combination of mobile and semi-fixed, that will be rotated in school and Community Safety Zones. The annual operating cost associated with the supply of each ASE unit is estimated to be \$33,100 (including 1.76% non-refundable HST), or \$132,400 total for four units. Costs also include one-time capital costs for camera set-up included in the 2020 capital budget.
2. Cost to access MTO vehicle ownership database, payable to MTO: The Province charges a per-transaction fee every time that their vehicle ownership database is accessed by the Joint Processing Centre. These fees are invoiced directly to the municipality on a quarterly basis. The MTO fee will be approximately \$1.06 per transaction; with the total cost varying depending on the number of charges that are issued.
3. Cost to manage the Joint Processing Centre, payable to the City of Toronto: The City of Toronto will operate an Automated Speed Enforcement – Joint Processing Centre on behalf of all participating municipalities. City of Toronto Processing Centre Staff will review the images from each site and determine whether or not a charge can be laid. The City of Toronto will chargeback each municipality on a cost-recovery basis. The chargeback will include both a portion of fixed costs (for the facility, equipment etc.) and a per-transaction cost. The estimated charge per unit fee will be \$12.50.
4. Niagara Region Court costs: To process, prosecute and collect the fines resulting from charges issued pursuant to ASE. The registered owner of the vehicle can choose one of two options on how to proceed with the ASE ticket:
 - In most cases, the registered owner pays the fine with no contest
 - In other cases, the vehicle owner can choose an “early resolution” dispute process or can also request a trial

Records from other Municipalities operating a Red Light Camera (RLC) program prove that 80% of issued tickets will be paid without contest.

To manage the increased ticket volumes for Court Services when the initiatives are fully operational, 12 permanent, full-time FTEs will be required for the Vision Zero Program as a whole (including both RLC and ASE). This includes one prosecution co-ordinator, nine court clerks, and two trial co-ordinators. The costs associated with additional staffing for the Vision Zero Program have been allocated between both RLC and ASE and are dependent on ticket volume for both initiatives. It is anticipated that more staffing support will be required for ASE due to a higher estimated ticket volume than RLC. For the purposes of the approved business case included in the 2020 budget (see Appendix 4), the cost of nine court clerks and one trial co-ordinator have been allocated to the ASE program. The cost of one trial co-ordinator and one prosecution co-ordinator have been allocated to the RLC program.

5. Transportation Services Division: The Division leads the planning and delivery of the program throughout Niagara Region; including the costs associated with program administration responsibilities, implementation, planning, communications, guidelines, consultant evaluation, coordination, and management with all parties and stakeholders. Staffing costs to manage the program include two permanent full-time project managers and one student for the Vision Zero program as a whole. This would include one project manager and one student to oversee the ASE program and one project manager overseeing the RLC program.
6. Business Licensing Unit: Accepting the delivery of Provincial Offences Tickets from the Toronto Joint Processing Center, verifying that the ticket matches the certificate of control and personal delivery of the package to Niagara Region Court.

A detailed breakdown of the program budget was included in the 2020 Operating Budget and endorsed by Regional Council on December 12, 2019.

See Appendix 4 for the program budget breakdown for the Vision Zero Program (including both the RLC and ASE initiatives) as presented and approved in the 2020 Operating Budget.

It is important to note that the Vision Zero Program will not proceed and no costs will be incurred under this program unless an agreement can be reached with the LAMs and the Inter-Municipal Agreement is successfully amended with respect to the share of revenues and operational costs, and therefore, no net revenue from this program has been included in the 2020 operating budget. The business case was prepared on the assumptions the RLC program would be operational for six months in 2020 and the ASE program would be operational for nine months in 2020. Timing of actual operation

of both the RLC and ASE initiatives is dependent on the timing of the successful negotiation of the Intermunicipal Agreement with the LAMs.

Fines Breakdown

The in court fines for speeding in Ontario are prescribed in Section 128(14) of the Highway Traffic Act are as follows:

Every person who contravenes this section or any by-law or regulation made under this section is guilty of an offence and on conviction is liable, where the rate of speed at which the motor vehicle was driven,

- a) is less than 20 kilometres per hour over the speed limit, to a fine of \$3 for each kilometre per hour that the motor vehicle was driven over the speed limit;
- b) is 20 kilometres per hour or more but less than 30 kilometres per hour over the speed limit, to a fine of \$4.50 for each kilometre per hour that the motor vehicle was driven over the speed limit;
- c) is 30 kilometres per hour or more but less than 50 kilometres per hour over the speed limit, to a fine of \$7 for each kilometre per hour that the motor vehicle was driven over the speed limit; and,

Please note that fines in Community Safety Zones and Construction Zones are doubled.

Analysis

The City of Toronto, on behalf of participating municipalities, awarded Redflex Traffic Systems to provide the service of automated speed enforcement to the province of Ontario

In May 2019, the City of Toronto issued a Request for Proposal No. 9148-19-0048 on behalf of all municipalities for the provision of ASE services. The vendor is required to supply, install, operate, maintain and test new ASE systems at various sites identified by the municipalities.

The City of Toronto awarded the contract to Redflex Traffic Systems (Canada) Limited, the highest scoring proponent identified in the evaluation process that met the requirements as set out in the Request for Proposal. Redflex Traffic Systems will be responsible for the supply, installation, operation, maintenance and decommissioning of

an automated speed enforcement system and maintenance of ASE image processing services.

This process ensures the same equipment is used throughout the Province and provides cost savings associated with group purchasing. Award of this Request for Proposal is a crucial step as the specific model of ASE equipment selected is prescribed in the Highway Traffic Act regulation. Niagara Region's participation aligns with co-operative purchasing provisions set out in Niagara Region's Purchasing Bylaw.

To promote safety in high-risk areas along Regional roads and assess impacts on Court system, Regional Staff propose to operate a combination of mobile and semi-fixed units with specified hours of operations to adhere to Niagara Regional Court capacity

Regional staff propose to operate a combination of mobile and semi-fixed units (quantity of four (4)) on Regional roads, during the second quarter of 2020. This will allow staff to quantify the number of charges and rate at which these charges are disputed. This opportunity will also allow Staff to evaluate the technology and service provided by the Vendor. Staff will report preliminary findings to Council late 2020.

Regional staff will rotate the units among school and community safety zones throughout proposed locations during 2020 with additional locations to be identified for 2021. This scenario allows for maximizing coverage across Niagara region and will help create broader awareness of ASE to familiarize motorists with the technology and the system.

Agreements with Ministry of Transportation Ontario, Redflex Traffic Systems and City of Toronto are required to operate an automated speed enforcement program

To operate an ASE program, Niagara Region is required to enter into necessary agreements with the following:

- Ministry of Transportation Ontario - an operational agreement for the use of automated speed enforcement on Regional roads and access to license plate registry information.
- Redflex Traffic Systems (Canada) Limited - for the supply, installation, operation and maintenance of the ASE units within Niagara Region.

- City of Toronto - for the operation and cost-sharing of the joint processing centre, which issues the Certificate of Offence. The City of Toronto will operate an ASE joint processing centre on behalf of partnering municipalities. The ASE joint processing centre will employ Provincial Offences Officers, designated by the province, to issue charges captured by the cameras, as well as additional support staff for site selection, investigation, contract management and record management. Operating costs for the ASE joint processing centre will be cost-shared by partnering municipalities.

As authorized by Regional Council pursuant to PW 64-2019, and the subsequent budget approval for the Vision Zero Road Safety Initiatives (including ASE), staff are in the process of initiating discussions with the LAMs to pursue an amendment to the Niagara Region Courts Inter-Municipal Agreement, which is a necessary first step in order for the program to be financially sustainable. The implementation of the ASE program, as indicated in the recommendations of this report and PW 64-2019, is subject to the successful completion of negotiations with the LAMs with respect to Niagara Region Courts Inter-Municipal Agreement (which will be the subject of a future report to Council to advise as to the outcome of the discussions and seek approval to execute an amendment to the Inter-Municipal Agreement as necessary).

Site Selection Process

The selection of the specific sites is determined using a data-driven approach which involves a thorough analysis of different components including speed, school type, daily volume, percent of sidewalk, boulevard, playground, parks and recreational centres, the number of students walking or crossing Regional roads, and collision data. The criteria for prioritizing and selecting sites was developed through the ASE Municipal Working Group and incorporated best practices as outlined by the National Highway Traffic Safety Administration's (NHTSA) operational guidelines for Speed Enforcement Camera Systems, and lessons learned from other jurisdictions in North America.

Niagara Region site selection methodology was developed using the above criteria in conjunction with Niagara Region's geographic information system (GIS) data, traffic data, and on-site visits by Regional Staff members. Traffic data such as annual average daily traffic (AADT) counts and proposed infractions of speeding violations were provided by a consultant, Pyramid Traffic Incorporation. The Niagara Student Transportation Services provided an approximate number of students travelling to schools from neighbouring area walking or crossing Regional roads.

Appendix 3 includes site locations for the launch and implementation of Automated Speed Enforcement during 2020 based on the criteria outlined above.

An education campaign will be launched to create safety awareness of automated speed enforcement throughout Niagara Region on Regional roads

Regional staff will create a communication plan utilizing different methods to advertise the use of ASE in school and community safety zones on Regional roads. The communication plan will include the following tactics to effectively reach residents and motorists:

- Ontario Traffic Council- Automated Speed Enforcement communications campaign: that includes a site that will act as a “hub” for individuals looking for more information on ASE in Ontario.
- A 90-day warning period in advance of ASE system activation and each new municipal ASE camera deployment that includes advance warning sign as per below detail.
- Social media posts (Facebook, Twitter, Instagram).
- Website content about the program (niagararegion.ca) supported by Local Area Municipalities websites.
- On-Street Regulatory Signage as per below detail.
- Other tactics to be determined as the plan is developed.

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Local Impact

Regional staff have been in dialogue with a number of the LAMs to understand how they can participate in road safety initiatives including ASE and RLC in their jurisdictions. Niagara Region will launch and lead different road safety regimes as part of Vision Zero Road Safety initiatives and consult with the LAMs on possible future implementation of ASE equipments once the program has been operational and evaluated for performance.

Staff report PW 46-2019 recommended that Staff initiate discussions with the LAMs to pursue an amendment to the Intermunicipal Agreement to ensure financial sustainability for the successful operation and durability of the overall Vision Zero Road Safety Program. This operational model will benefit Niagara Region and Local Area Municipalities by ensuring a holistic approach, minimizing cost and allowing for the collection of revenue to offset operating costs.

More recently, the Province has issued guidelines that provide that Municipal revenue, collected under any Municipal ASE program, that exceeds the cost of delivering ASE program is to be used to support local public safety and educational initiatives. Accordingly, Parliamentary Assistant to the Minister of Transportation will be conducting a 180-day review to ensure the ASE program is operating as intended by meeting the objective of transparently improving road safety while maintaining public trust.

The review will be conducted by a specialized consultant on behalf of participating municipalities. The Hospital for Sick Children has been selected jointly to provide:

1. Feedback on the ASE site selection process across the province;
2. Short and long term ASE effectiveness in reducing vehicle speed and improving road safety; and
3. Feedback throughout two years post implementation and program evaluation as requested by the province.

Relevant Consultation

This report has been written in consultation with staff from Legal and Court Services, and Finance.

In addition, Public Health, School Board and Niagara Regional Police Services all are supportive of moving forward with this initiative and all share the same concerns around road safety as presented in this report.

Alternatives Reviewed

In addition, Regional staff have implemented a number of other supporting safety initiatives throughout Niagara Region:

- Installation of flashing beacons and decreasing speed limits in school zones.
- Enhanced pavement markings and signage.
- "Speed Display Trailer" mobile unit that is prioritized among Regional roads to educate motorist on their speed.
- Implementation of PXOs at different Regional road locations.
- In-service road safety reviews to reduce collision frequency and severity.

Relationship to Council Strategic Priorities

Implementing automated speed enforcement 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 Transportation's Vision Zero Road Safety Program that 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.

Automated Speed Enforcement (ASE) is a modern system designed to work in tandem with other road safety measures, like engineering and education initiatives, to help improve safety for people of all ages by increasing speed compliance, altering driver behaviour and increasing public awareness about the critical need to slow down. The system is applied evenly and consistently to all motorists and is not biased towards or against any sector of the population to ensure equity and prioritizing vulnerable road users.

Other Pertinent Reports

PW 64-2019, Vision Zero Road Safety Program, November 5, 2019

PW 35-2019, Automated Speed Enforcement – Safer School Zones, July 9, 2019

Prepared by:

Sulaf Alkarawi, P.Eng.
Associate Director, Transportation Planning
Public Works Department

Recommended and Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer /
Commissioner Public Works Department

This report was prepared in consultation with Carolyn Ryall, Director Transportation Services, and reviewed by Donna Gibbs, Director Legal and Court Services and Dan Ane, Manager Program Financial Support.

Appendices

Appendix 1 Provincial Guidelines provided by Ministry of Transportation

- Appendix 2 Ontario Regulation 398/19 under Highway Traffic Act
Automated Speed Enforcement
- Appendix 3 Site locations for the launch and implementation of Automated
Speed Enforcement during 2020
- Appendix 4 Vision Zero Road Safety Program Costing

Vision Zero Road Safety Update

Carolyn Ryall, Director, Transportation Services Division

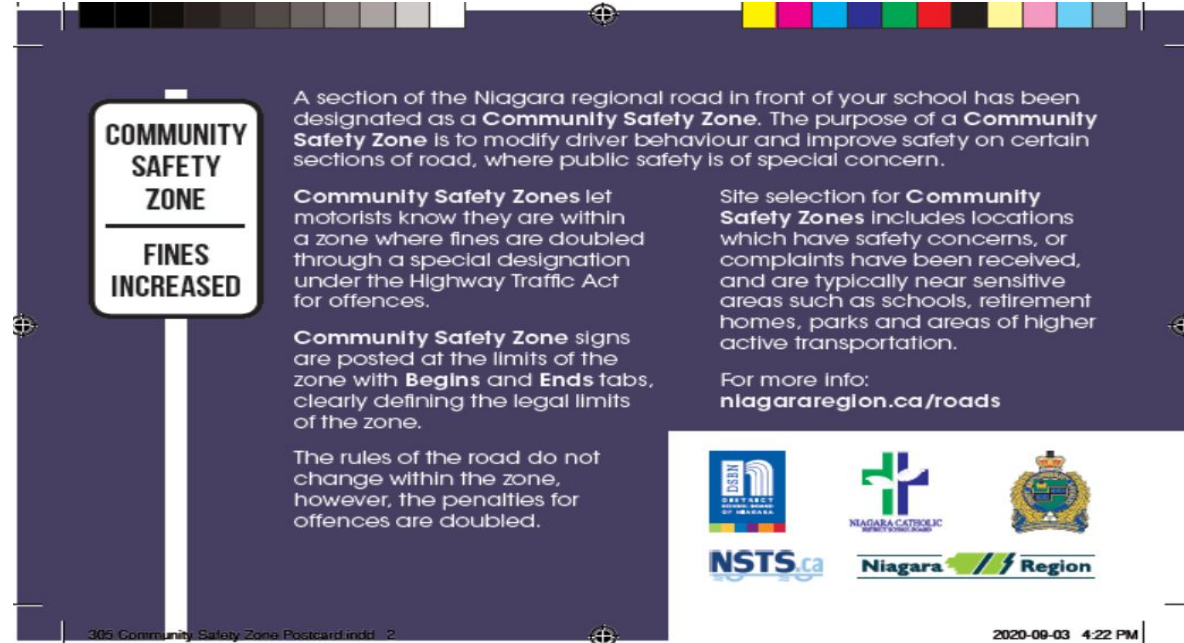
Beth Brens, Acting Associate Director, Financial Reporting and Analysis

Agenda

- Vision Zero Road Safety Program Overview
- Courts Inter-municipal Agreement (IMA)
 - Vision Zero Terms
 - Financial Overview
- Next Steps for Launch

Vision Zero Road Safety Program Overview

Community Safety Zones (CSZs)



- To modify driver behaviour and improve safety on certain sections of road, particularly vulnerable road users like children and seniors

- Implemented at thirteen (13) locations in Niagara Region since September 2019, under Bill 26 - An Act to promote public safety

Automated Speed Enforcement (ASE)

- ASE Launched in December 2019 by the Province
- Four (4) ASE units will be rotated among the thirteen (13) Approved Community Safety Zones
- Revenues collected under any Municipal ASE program are to be used to support local public safety and educational initiatives



Benefits of ASE:

- Increase safety
- Reduce speed
- Positive change in driver behaviour
- Free up police resources
- Increase driver awareness



ASE in Ontario Municipalities

Currently

Municipality	Cameras	Charge Volumes
Toronto	50	280,000
Ottawa	8	90,000
Durham	4	50,000
Brampton	50	30,000
Peel	1	5,000
Hamilton	2	21,000
York	1	15,000
Mississauga	2	15,000
Waterloo	1	5,000
Pickering	2	5,000
London	2	6,000
Total	123	522,000

In process

Municipality	Cameras ordered
Mississauga	15
Ottawa	20
Oakville	14
Hamilton	8

Red Light Camera (RLCs)

- Introduced in the Province in 2000, since then the cameras are proven to reduce right angle collisions by 25%
- The cameras are proven to be an effective means to reduce the incidences of red light infractions making streets safer for all users
- Ten (10) RLCs will be implemented across Niagara Region



Other Vision Zero Initiatives

- Extension of Program:

- Strategically expanding automated enforcement (ASE & RLC)
- Intersection Improvements
- Geometrics/Roads
- Signage and Pavement Markings
- Mid-block Crossings (PXOs)
- Street Lighting
- Complete Street
- Traffic Calming
- Public outreach/education platforms



Proposed Revisions to the Niagara Region Courts Inter-Municipal Agreement (IMA)

Why We are Here Today

- Seeking unanimous support from all 12 LAM Councils for changes to the Niagara Region Courts Inter-Municipal Agreement to:
 - Recognize the Vision Zero Road Safety Initiative
 - To include that the Region will lead the implementation, operation, oversight and ensure legislative compliance of the Vision Zero Initiative as a traffic safety initiative in the Region
 - Allow for funds, net of court program costs, related to the Vision Zero Initiative to cover the upfront and annual investment by the Region for the implementation, operation, oversight, legislative compliance
 - Any revenue above this to be split 50/50 among the Region & LAMs targeting road safety initiatives

Why We are Here Today Cont'd

- Current agreement does not identify Vision Zero
- Current agreement does not contemplate the Province's guidelines for Automated Enforcement
- Risk of Implementation assumed by Region
- Opportunities Underway by Region

Financial Overview

- Total Cost of the Program
- Impact on the Tax Levy
- Risks/Opportunities

Financial Costs – 2020 Operating Business Case

Based on First Full Year of Operation

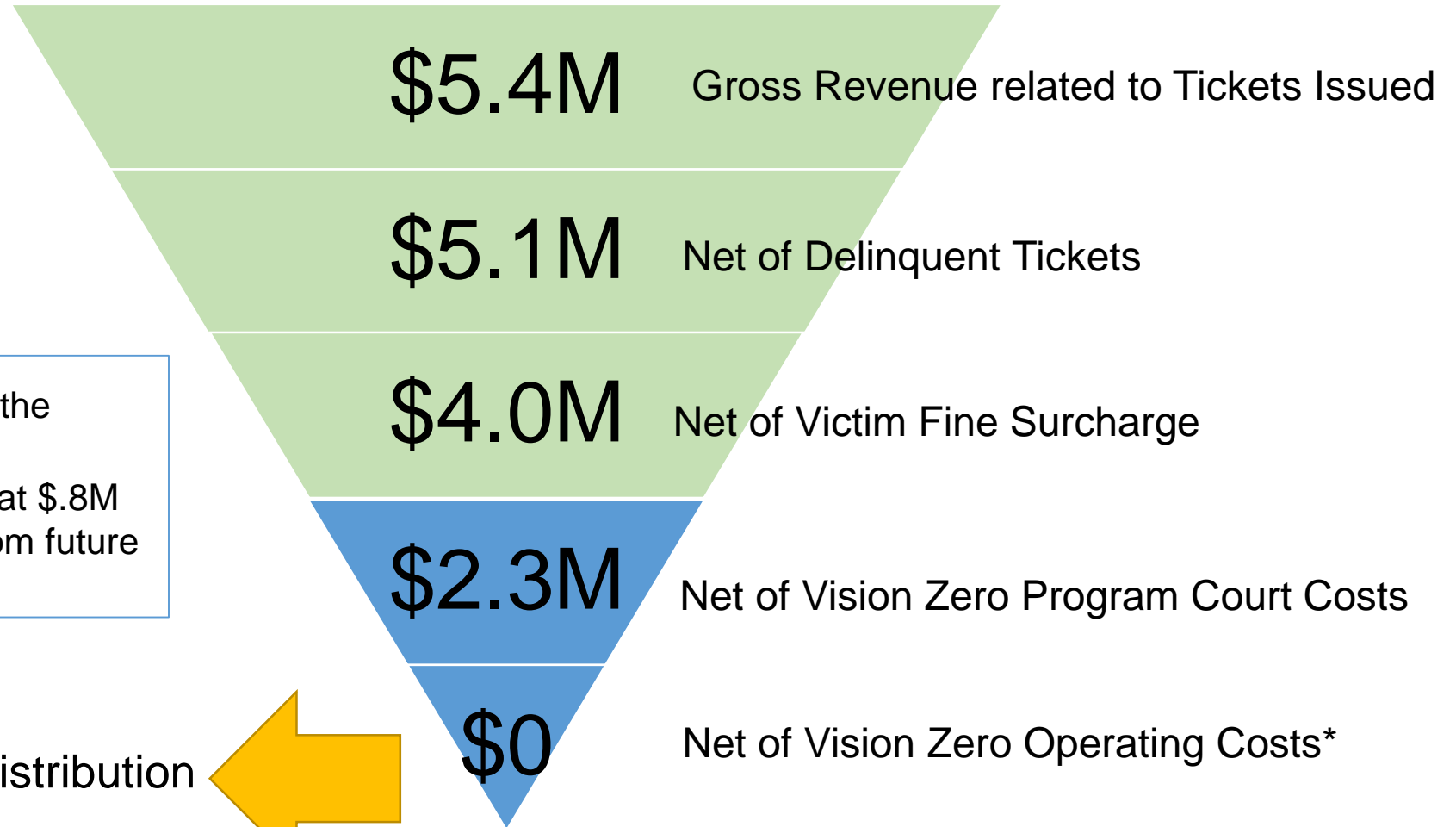
<i>in millions</i>	Estimated Revenue (Expense)
Revenue	5.40
Less: Delinquent Fines	(0.30)
Less: VFS	(1.10)
VZ Revenue	4.00
Less: Courts VZ Program Costs	(1.70)
Net Revenue after Courts VZ Program Costs	2.30
Less: Regional VZ Costs*	(2.30)
Net Revenue	-

*Includes Transportation & Business Licensing

Assumptions	Red Light Cameras	Automated Speed Enforcement	Total
# of Cameras	10	4	14
# of Charges annually to breakeven	5,000	27,507	32,507

Total Costs estimated to be \$4M in the First Full Year of Operations

First Full Year – Operating Breakeven of 32,500 Tickets Issued



*in addition to operating costs the Region estimates Vision Zero implementation (capital) costs at \$.8M which will need to be repaid from future years VZ revenue

No funds remaining for distribution

Risks & Opportunities

- Risks

- Unknowns around number of tickets that will be issued, challenged and/or not paid (requiring collection efforts)
- Court trial time capacity
- If less ticket revenue collected than expenditures incurred
 - Regional funding to be used to offset in year and repaid from future years VZ net revenue prior to future years VZ revenue distribution
 - No impact to LAM non-VZ revenue distribution

- Opportunities

- Improves Road Safety
- Regional staff will phase court services staffing levels based on ticket volume experience
- If more ticket revenue collected than expenditures incurred
 - Net VZ revenue will be distributed based on assessment - 50% to Region/50% to LAMs

Next Steps

- LAM Council Approvals for revisions to Amending IMA
 - December 2021 – January 2022
- Regional Council update on finalized amending IMA (pending approval by all LAMS) – February 2022
- Regional Council update on execution of vendor agreements (pending approval and execution of amending IMA by all LAMS) – February / March 2022
- Go Live – Q2 2022

Questions?



Subject: Pop-Up Patio Review and Recommendations

To: Council

From: Chief Administrative Office

Report Number: 2022-22

Meeting Date: February 8, 2022

Recommendation:

That Chief Administrative Office Report 2022-22 be received;

That the recommendations outlined in Appendix A to Chief Administrative Office Report 2022-22 be approved and adopted as a City policy; and

That Council approve discontinuing Encroachment Application COVID-19 and that patio fees for 2022 be waived.

Purpose:

The purpose of this report is to update Council on the staff review and stakeholder consultation of the Encroachment Application COVID-19 and pop-up patio guidelines and make recommendations for enhancements for 2022 and beyond.

Background:

Report 2019-49, Adopt a Policy for Encroachments on City Property, was passed by Council in April 2019 and directed staff to develop Pop-up Patio Guidelines. These guidelines were to be applied consistently and provide a standard for applications to use City-owned property such as parking stalls and sidewalks.

The encroachment policy has been in use since 2019 and the guidelines since 2020. It was determined that after three years, a fulsome review of any issues, concerns and successes of the program would be undertaken. This review was initiated by Economic Development and Tourism Services staff in November of 2021 after two requests were received from West Street businesses: one for a patio extension into late December and one for a heated patio extension through to April 2022. These requests were approved

by Council as pilot programs.

Discussion:

Staff contacted the Downtown Business Improvement Area (BIA), and local business owners on West Street and Clarence Street and received overwhelming feedback that the Pop-up Patios, permitted through the City's Encroachment By-Law, were very successful. Many businesses indicated that it was an "economic lifeline" during COVID-19 related shutdowns. Going forward, business owners would like to see the program continue on a permanent basis. The experience over the past two years has identified the need for some changes that would enhance and continue to move the program forward for the benefit of local businesses, the vibrancy of the downtown, and the entire community.

The recommended changes to the Pop-up Patio Guidelines are based on feedback received during internal discussion with staff and external consultations with businesses and stakeholders. Key changes and additions to the guidelines are as follows:

- Applications to be received by Economic Development & Tourism Services
- Dates for Pop-up Patios to be expanded from April 1st to November 15th
- Up to three Pop-up patios per block be allowed on West Street
- City can approve up to two parking stalls per business or any size within, such as 1.5 stalls
- Pop-up Patios shall not extend beyond the frontage of the sponsor business without the approval of the City and neighbours must be notified in writing through the application that a patio will extend across the front of their business.
- Recognizing that parking stalls do not always line-up with sponsor businesses and frontage, care will be taken to minimize impacts on encroached businesses.
- The City will approve the placement of the Pop-up Patios in consultation with the encroached businesses. Multiple neighbouring businesses may sponsor a shared platform that spans multiple storefronts.
- The sponsor business agrees that the City will not be responsible for any damage caused by winter control or other City operations and that the sponsor will be responsible for all snow within the sidewalk and the boulevard area being utilized through the encroachment permit.

Pop-up patios allows for a patio to extend their alcohol serving license onto City property. Restaurants will be required to provide an insurance certificate in the amount of \$5,000,000 for Commercial General Liability and Liquor Liability with the City of Port Colborne named as an additional insured. This requirement assists in mitigating risk to the City for alcohol service on City property.

Internal Consultations:

Internal consultations were conducted with By-Law Enforcement, Public Works, Economic Development and Tourism Services, and Ward Councillors. A review of concerns and inquiries received over the past two years was also conducted.

Financial Implications:

There are no financial implications for the approval of the revised guidelines.

Currently, the City's fees for a business to erect a Pop-Up Patio on City property are \$50 for renewals and \$300 for new patios. Within the Downtown CIP area, fees were previously reduced to \$179.

Staff are recommending that patio fees for 2022 be waived to show the City's continued support for small businesses who have been operating in a very challenging economic and retail environment for almost two years.

Public Engagement:

The Economic Development and Tourism Services Division consulted with the Downtown BIA Executive Director, Board Chair, and local business owners on West Street and Clarence Street.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillars of the strategic plan:

- Service and Simplicity - Quality and Innovative Delivery of Customer Services
 - Attracting Business Investment and Tourists to Port Colborne
-

Conclusion:

The Pop-up Patio Guidelines promote vibrant pedestrian-oriented streets within the downtown. The proposed revisions and support for local businesses is in alignment with the 2018-2028 Economic Development Strategic Plan and creating a revitalized downtown, contributing to the growth of a dining, arts, cultural and shopping atmosphere. The proposed revisions provide an opportunity for the City to support the development of local businesses by creating new opportunities for local restaurants and enhancing the utilization of public spaces.

The waiving of patio fees for the 2022 season aligns Port Colborne with other municipalities in the Region and is supportive of the business community affected by the pandemic since March 2020.

Appendices:

- a. Proposed guidelines to be adopted as City Policy

Respectfully submitted,

Bram Cotton
Economic Development Officer
905 835-2900 ext. 504
Bram.Cotton@portcolborne.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.

DESIGN AND OPERATIONAL STANDARDS FOR POP-UP PATIO SPACES

The Applicant or Owner is required to submit detailed plans of the proposed Pop-Up Patio to Economic Development and Tourism Services, which demonstrate compliance with these Design Standards. The applicant will be required to enter into a licensing agreement with the City of Port Colborne, which will set out his/her obligations and conditions of operation.

Pop-up Patio Season will run from **April 1st to November 15th**. First time Pop-up Patio applications must be received by Economic Development and Tourism Services a minimum of 30 business days prior to the anticipated start date. Renewal applications must be submitted a minimum of 20 business days prior to the anticipated start date. Exact start dates are not to be guaranteed and will be based on staff availability, scheduling, and weather.

If the application is approved, the sponsoring business will enter into a licensing agreement with the Corporation of the City of Port Colborne for no more than five (5) years.

DESIGN STANDARDS

1. Location:

- a. To be located on Downtown City streets in locations where there is existing on-street parking. For the purpose of this program, Downtown shall be considered the Downtown District as identified in the Zoning By-law.
- b. Sites should be located at least one parking space away from an intersection or driveway, except where “bump-outs” are found.
- c. Pop-up Patio cannot occupy more than two (2) on-street parking stalls. The City can approve up to two (2) on-street parking stalls and any size there within and the City reserves the right to determine what on-street parking stalls can be used and placement within.
- d. One (1) Pop-up Patio per street per side per block. With the exception of West Street where up to three (3) Pop-up Patio per street per block will be allowed.
- e. Pop-up Patios are not permitted in front of a fire hydrant, in designated loading zones, designated accessible parking spaces, and should not obstruct access to public utilities.
- f. Streets with higher pedestrian volumes and lower average vehicle speeds are preferred. The City will evaluate any candidate site for potential traffic and safety impacts and required site improvements.
- g. Regional roads (includes Highway 58, Highway 3, Main Street, Mellanby Avenue, Killaly Street West) are not eligible under the City’s Pop-up Patio spaces program.
- h. A Pop-up Patio must leave enough space for pedestrians to move around it and any other obstacles such as trees. The minimum distance is 2.43 metres (8 feet) to the nearest pedestrian obstruction (a tree, bike rack, and/or bench).

2. Dimensions:

- a. To have a maximum width of 3.66 metres (12 feet).

- b. There must be an existing 1.53 metre (5 feet) minimum clearance for pedestrian passage between the frontage of the sponsor business and the perimeter parking stall.
- c. There must be a minimum 1.8 metre (6 feet) clearance between the Pop-up Patio and the front of the building if pedestrians are passing on the building side of the Pop-up Patio, unless the existing clearance between the building and the road is less than 1.8 metres (6 feet).
- d. There must be a minimum 2.0 metre (6.5 feet) clearance between the Pop-up Patio and the road if pedestrians are passing on the roadside of the Pop-up Patio.
- e. Shall not extend beyond the frontage of the sponsor business, without the approval of the City and neighbours must be notified in writing during the application process that a patio will extend into front of their business. Recognizing that parking stalls do not always line-up with sponsor businesses and frontage care will be taken to minimize impacts on encroached businesses. The City, will approve the placement and choice of the stalls. Multiple neighbouring businesses may sponsor a shared platform that spans multiple storefronts.

3. Perimeter Barriers:

- a) The platform should be closed on all sides facing the street.
 - i) The platform should be as flush with the walking surface as much is possible.
 - ii) The platform may also be enclosed on the side facing the sidewalk, so long as there is 2.0 metre (6.5 feet) access on the side completely flush to the walking surface.
- b) Perimeter barriers to be a minimum 1.06 m (3.5 feet) to a maximum 1.2 m (4 feet) in height.
- c) Shall generally be open-type construction and maintain clear visual sight lines to the street. Acceptable barriers include planters, railings and cabling which are sturdy and securely anchored to the platform.
- d) Any gates that are installed must open inward onto the patio.

4. Construction:

- a. To be modular construction, to allow for easy installation and removal. To be stored off-site when not in use.
- b. Platforms shall be designed by a licensed architect or engineer, who will confirm that the platform will be sturdy and able to bear a load of at least 100 pounds per square foot (4.8 kilopascals).
- c. The designer shall utilize only high quality, durable and attractive materials, which will substantially enhance the quality and attractiveness of the street.
- d. The platform should be adequately lit to promote safety of pedestrians on sidewalk and Pop-up Patio.
- e. The platform shall be designed so as not to obstruct surface drainage and cannot be installed over catch basins, manholes, or water valves.

- f. Platform to be hard-surfaced.
- g. Platform surface to be level with the adjacent sidewalk.
- h. Platform must be compliant with the Accessibility for Ontarians with Disabilities Act (AODA).

5. Landscaping:

- a. Each platform shall include substantial landscaping. This landscaping will most commonly be provided through wood or metal perimeter planters, but alternative approaches may be considered.
- b. Landscape maximum height shall be 1.2 metres (4 feet).

6. Patio Furniture:

- a. To be contained within the patio area and be easily movable. Benches may, however, be permanently built into the platform.
- b. To be constructed of weather resistant materials. Aerial awnings and umbrellas to be constructed of a flame retardant material.
- c. Aerial awnings and umbrellas shall not project beyond perimeter of patio and shall maintain a vertical clearance of at least 2.1 metres (7 feet) above patio floor.
- d. Except for patio umbrellas and aerial awnings, no overhead structures of any kind are permitted.
- e. Electrical power cords or any other devices that cross the travelled portion of the boulevard (sidewalk) are not permitted.

7. Signage and Advertising:

- a. To be limited to a temporary menu display and on awnings or umbrellas.

OPERATIONAL STANDARDS

1. Usage:

- a) The Pop-up Patio shall appear and be maintained as an open and welcoming public amenity space.
- b) The Pop-up Patio may be installed and operated between April 1st and November 15th each calendar year during the term of the agreement.
 - (i) The City of Port Colborne, at any time, may require the applicant or act itself to remove all or part of the patio, at the applicant's expense.
- c) The space may not be operated later than the hours of operation of the sponsoring business.
- d) Alcohol service or consumption of alcohol is permitted with Alcohol and Gaming Commission of Ontario (AGCO) approval.

e) Smoking is not permitted on any Pop-up Patio, pursuant to the Smoke-Free Ontario Act, and 'no smoking' signage must be posted at the entrance or exit.

f) No outdoor food preparation shall be permitted on a Pop-up Patio.

2. Storage:

a) Seating platforms shall be removed and stored by the sponsoring business when not in use over the winter or during road works.

3. Maintenance:

a) The sponsor business will be responsible for the construction and ongoing maintenance of the seating platform.

b) The sponsoring business will remove or secure all furnishings after business hours and place them out again each morning.

c) The sponsor business will be responsible for washing/sweeping the platform daily, watering all plants, and promptly removing any garbage or graffiti.

d) The sponsor will provide and maintain evidence of at least Five Million Dollars (\$5,000,000.00) in comprehensive liability insurance for property damage, personal injury and public liability on the lands, naming the Corporation of the City of Port Colborne as an additional insured.

e) The sponsor agrees that the City, will not be responsible for any damage caused due to plowing or sanding operations and that the sponsor will be responsible for all snow within the sidewalk and the boulevard area being utilized through the encroachment permit.

4. Pop-Up Patio Agreement:

a) The sponsoring business is required to enter into a license agreement for a term not to exceed five (5) years and may be terminated by the City of Port Colborne upon thirty (30) days written notice.

b) The license agreement with the City of Port Colborne will reflect the Design and Operational Standards, and requires payment of applicable fees (agreement, administrative, and lease costs) as per the City's Consolidated Fees & Charges By-law, provision of necessary liability insurance, maintenance of the premises, and any other matters which the Corporation deems necessary. Failure to comply with these conditions will result in termination of the agreement.



Subject: Short-Term Accommodations

To: Council

From: Planning and Development Department

Report Number: 2022-44

Meeting Date: February 22, 2022

Recommendation:

That Planning and Development Department Report 2022-44 be received;

That the Manager of By-law Services be directed to establish an education campaign for renters, owners, and neighbours of short-term accommodations;

That Council supports the Manager of By-law Services enforcing City by-laws by directly ticketing owners in accordance with the City's by-law Enforcement Policy; and

That the City Clerk be directed to bring forward a recommendation for licensing short-term accommodations that rent two or more units.

Purpose:

The purpose of this report is to provide a recommendation regarding regulating short-term rentals in the City of Port Colborne.

Background:

A short-term accommodation is commonly accepted as a rental of all, or part of a dwelling for less than 28 days and outside of large corporate facilities such as hotels and resorts. These rentals are viewed as bed and breakfasts, cottages, and the renting of a room within a residence. These types of accommodations have increased in popularity in the past decade with rising availability of online platforms such as Airbnb, VRBO, Ontario Cottage Rentals (OCR), and Facebook which allow individuals to easily run a small business.

Many cities have run into problems with these rentals as they are often in residential areas and the property owners are not prepared to handle problem renters in the same

way that a large hotel chain may be able to. Also, these rentals can threaten the stock of rental properties in urban areas. Every municipality has different geographic features and attractions that result in municipalities being affected very differently by short-term accommodations. Many municipalities that have seen negative effects due to the increase in these businesses, or have identified a possible financial gain, have begun to regulate these properties.

Tourism in Port Colborne is located largely along Lake Erie and mostly in the East end of the City in Ward 4. This tourism area is largely seen as a cottage area with many seasonal and vacation homes occupying the fire lanes. The renting of cottages has been a common occurrence for decades with many homeowners subsidizing the financial burden of a second home by renting their property occasionally.

Staff are unaware of the exact number of short-term accommodations in Port Colborne due to the many possible rental platforms available but estimate that there are at least 100, with an additional 100 located within the Sherkston Shores Resort. A large majority of these properties and all of the Sherkston Shores properties operate exclusively in the summer months.

Discussion:

Short-term Accommodations Complaints

Staff have been monitoring inquiries regarding short-term accommodations for several years. Staff have received minimal inquiries and/or complaints about properties.

By-law Services staff coordinated with Niagara Regional Police and Fire Services to collect complaints that may be related to short-term accommodations. The following table shows complaints occurring between June 1 and Labour Day on fire lanes.

By-law			Police			Fire		
Year	Noise Complaints	Fire lanes	Year	Noise Complaints	Fire lanes	Year	Total Calls	Burning complaints on fire lanes
2021	21	0	2021	31	0	2021	77	1
2020	24	0	2020	43	4	2020	102	1
2019	15	1	2019	34	0	2019	65	0

While the data indicates that short-term accommodations are not a noteworthy problem, staff recognize that issues do occur that are not reported. By-law staff are concerned about risks associated with short-term accommodations relating to lack of familiarity with local regulations, lack of respect for surrounding areas, and a lack of water safety awareness.

Challenges with Licensing Short-Term Accommodations

Staff have investigated regulation mechanisms for short-term accommodations and have researched licensing as an option. Many municipalities have begun to regulate these businesses through licensing, and due to the diversity of the municipalities, have seen varying rates of effectiveness.

Staff have discovered a number of challenges with the implementation of a licensing regime and are concerned that licensing will not be effective in solving the common by-law issues that neighbours currently experience.

It appears that a large majority of short-term accommodations operate as respectable cottage rentals and a licensing regime could be seen as punishment to those who follow the rules. The cost of a licence may be prohibitive to those who rent their property for a minimal amount of time to supplement cottage ownership.

It is likely that licensing will not solve the complaints that residents may have since determining what constitutes a short-term accommodation and requiring the owner to obtain a licence can be challenging. Owners rent properties on a wide array of websites, through realtors, newspapers, and word of mouth. Listing the property may not prove that the property is actually being rented. Staff are fearful that the few problem properties will not get a licence and staff will spend a majority of their time ensuring compliance with the licensing model rather than focusing on compliance with current by-laws such as noise, burning, and lot maintenance.

A majority of the short-term accommodations operate within the Sherkston Shores community. The property owner already pays licensing fees as a trailer camp and operates its own security team. Due to these circumstances, staff do not recommend including Sherkston Shores in any proposed licensing regime.

The greatest challenge found by staff is the large cost of implementing a licensing regime to solve the issue of minimal complaints. Currently there are not staff resources available to implement this function. A steep increase in the number of licenses issued would require the hiring of an additional licensing clerk. In addition to administrative staff, a by-law enforcement position would be needed in order to ensure compliance. If a licensing regime is requested by Council a budget request for two additional staff members, including a vehicle, would be required. The licensing function of the City does not currently function as a cost recovery model. Even with a large license fee, the additional staff would mean that the burden of the cost would fall largely on the taxpayer.

Recommendation for Management of Short-Term Accommodations

Through research of short-term accommodations staff have established that the recommended goal is to ensure responsible ownership and to do this without hindering those who are already operating in this manner. While staff do not believe that licensing

is the mechanism that will accomplish this goal, there are recommendations that staff do believe can be implemented to create a positive experience for everyone.

Staff recommend three measures that can be used together to achieve this goal:

- Legal action against property owners
- Implement an education campaign
- Licence multi-unit short-term accommodations

Previously By-law Services staff addressed noise complaints largely through education followed by a Part 1 fine if necessary. The recent implementation of the AMPS Non-Parking System has allowed By-law staff to address complaints through the Noise By-law AMPS fining structure. Staff are recommending that this new system be used to address any noise complaints by ticketing the owner directly. It is believed that ticketing the owner will encourage responsible control of renters in the future. Any unpaid tickets by the owner would be added to the subject property's property tax invoice.

By-law staff recommend that an education campaign be initiated to target renters, owners, and neighbours of short-term accommodations. This campaign would be an aggressive campaign to ensure all involved are aware of their responsibilities as well as their rights as neighbours. Staff would create a webpage with resources for each type of stakeholder and create a social media campaign to spread the word. Paper material would also be created and circulated to targeted areas.

There is a value in the licensing of short-term accommodations where the owner is renting out multiple units. These types of short-term accommodations are more likely to operate as a full business and benefit from a Fire Services inspection. If approved, staff will bring forward this licensing model within the updated business licensing by-law in the Spring.

Internal Consultations:

Planning staff identified the ability to regulate short-term accommodations through the Zoning By-law but noted that this practice is often used in large cities to deter short-term accommodations away from more quiet residential areas. Planning staff do not recommend this method of control in Port Colborne, as the rental properties are largely found along Lake Erie where cottages are located.

Fire Services recognized that because many short-term accommodations do not meet Fire Code requirements, they present an increased safety risk for the renter. A lack of understanding of municipal by-laws, including burning requirements, also poses an increased risk.

Fire Services acknowledges the need to inspect these properties but is aware that current resources may make this practice prohibitive. Staff would like to focus on those

short-term accommodations with multiple rentals as they have been identified as the highest risk.

Financial Implications:

Staff are confident that the recommendation provided can be achieved within the parameters of the approved budget and within current time allocations.

If a full licensing regime is requested a budget approval would be required containing two full-time staff members and a vehicle. Staff estimate this option would have a total budget impact of approximately \$175,000 per year.

Public Engagement:

A survey targeting opinions on business licensing was conducted in 2021. While responses were limited several respondents indicated that they would like to see regulation of short-term accommodations in Port Colborne. Results did not contain any responses from current rental owners.

If the recommendation is approved staff will begin an education campaign in the Spring of 2022 and target renters, owners, and neighbours of short-term accommodations with a goal of gaining compliance from owners and renters as well as empowering neighbours to call the City or the Police as needed.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Service and Simplicity - Quality and Innovative Delivery of Customer Services
 - Attracting Business Investment and Tourists to Port Colborne
 - Governance: Communications, Engagement, and Decision-Making
-

Conclusion:

Staff recommend three measures that can be used together to achieve the goal of responsible ownership: legal action against property owners, implement an education campaign, and licence multi-unit short-term accommodations. Additional licensing is not recommended as the complaints do not appear to warrant the sharp increase in funding required to implement.

Respectfully submitted,

Amber LaPointe
Acting Director of Planning and
Development/City Clerk
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cityclerk@portcolborne.ca

Sherry Hanson
Manager of By-law Services
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Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.



PORT COLBORNE

Subject: Recommendation Report for Official Plan and Zoning By-law Amendments at 335 Wellington Street, File D09-05-21 and D14-17-21

To: Council

From: Planning and Development Department

Report Number: 2022-36

Meeting Date: February 22, 2022

Recommendation:

That Planning and Development Report 2022-36 be received;

That the Official Plan Amendment attached as Appendix A to Planning and Development Report 2022-36 be approved;

That the Zoning By-law Amendment attached as Appendix B to Planning and Development Report 2022-36 be approved; and

That Planning staff be directed to circulate the Notice of Adoption and Passing in accordance with the Planning Act.

Purpose:

The purpose of this report is to provide Council with a recommendation for Official Plan and Zoning By-law Amendment applications initiated by Glenn Wellings of Wellings Planning Consultants Inc. on behalf of the owner 2466602 Ontario Ltd. for the lands known as Part of Lot 20, Lots 21 and 22 on Plan 835 and Lot 1 on Plan 836, on the southeast corner of Wellington Street and Main Street East, formerly in the Township of Humberstone, now in the City of Port Colborne, Regional Municipality of Niagara, municipally known as 335 Wellington Street and/or 125 Main Street East.

Background:

The application for Official Plan Amendment proposes to add a site-specific policy to the Highway Commercial designation to the property to permit a cannabis retail store as

well as add a definition to the Official Plan for “Cannabis Retail Store”. The amendment is required as the current Highway Commercial policies of the Official Plan do not support retail stores as a permitted use.

The application for Zoning By-law Amendment proposes to change the zoning from Highway Commercial (HC) to HC-66, a special provision of the Highway Commercial (HC) zone that will add a Cannabis Retail Store as a permitted use in addition to the uses already permitted in the HC zone. Additionally, the amendment proposes to add a definition to Section 38 of Zoning By-law 6575/30/18 for a “Cannabis Retail Store” as follows:

Cannabis Retail Store: means a store licensed by the Alcohol and Gaming Commission of Ontario for the retail sales of recreational cannabis and cannabis related products.

A Public Meeting was held for this proposal on January 18, 2022. Staff and the applicant presented the application to City Council and were available to answer questions from Council and the public.

Internal Consultations:

Notice of Public Meeting was provided to internal departments and commenting agencies on December 17, 2021. The following comments have been received:

Port Colborne Fire & Emergency Services

“No objection to the proposed zoning change”

Niagara Region

(full comment attached as Appendix C)

“Regional Planning and Development Services are satisfied that the proposed official plan amendment and zoning by-law amendment to permit a retail cannabis store is consistent with the Provincial Policy Statement and conforms to the Growth Plan and Regional Official Plan.

Regional staff notes that in accordance with the policies 14.E.7 and 14.E.8 of the ROP, the Memorandum of Understanding, and By-law No. 2019-73, the reviewed Official Plan Amendment is exempt from Regional Council Approval.

Please send a copy of the staff report and notice of Council’s decision on these applications.”

Public Engagement:

Notice of Public Meeting was circulated via regular mail to property owners within 120m of the subject property on December 17, 2021. Two public notice signs were also posted on the property by December 21, 2021. Finally, notices were posted on the City's website under "Current Applications". The following comment was received from a member of the public:

Louise Tosques-DiLalla

(Full comment attached as Appendix D)

- Does not feel that another cannabis store is necessary in Port Colborne
 - Main Street East does not have enough basic amenities near by
-

Discussion:

City of Port Colborne Official Plan

According to Schedule A: City Wide Land Use, the City of Port Colborne's Official Plan designates the subject property as Highway Commercial Land uses in the Highway Commercial designation shall include, but not be limited to; hotels and motels; automobile sales and service establishments; places of amusement or recreation; restaurants with take-out and/or drive-through facilities; and accessory uses to the aforementioned uses, including a residence for a caretaker.

The proposed Official Plan Amendment proposes to maintain the Highway Commercial designation; however, a site-specific amendment has been requested to alter the specific policies under section 3.8.1 to permit a cannabis retail store as well as add a definition to the Official Plan for "Cannabis Retail Store". The Official Plan Amendment has been attached as Appendix A.

City of Port Colborne Zoning By-law 6575/30/18

The subject parcel is zoned Highway Commercial (HC). The HC zone permits an animal care establishment; brew pub; car wash; convenience store; day care; drive-thru facility; accessory dwelling; food vehicle; hotel; motor vehicle repair garage; motor vehicle sales/rental service centre; motor vehicle gas station; office; personal service business; place of assembly/banquet hall; place of worship; public use; recreation facility; restaurant, fast food, full service, take-out; retail building construction and supply; service commercial; and uses, structures and buildings accessory thereto.

The Zoning By-law Amendment proposes to change the zoning from Highway Commercial (HC) to HC-66, being a special provision of the HC zone. The HC-66 zone is proposed to maintain the current permitted uses under the HC zone, while also

including a “Cannabis Retail Store”. Additionally, the amendment has proposed to include a definition of a “Cannabis Retail Store” as follows:

Cannabis Retail Store: means a store licensed by the Alcohol and Gaming Commission of Ontario for the retail sales of recreational cannabis and cannabis related products.

The Zoning By-law Amendment has been attached as Appendix B.

Adjacent Zoning and Land Use

Northwest High-density residential Zoned: R4	North Gas station Zoned: HC	Northeast Main Street East/Low- density residential Zoned: MU
West Low-density residential Zoned: MU	Subject Property	East Low-density residential Zoned: MU
Southwest Low-density residential Zoned: R2	South Low-density residential Zoned: R2	Southeast Low-density residential Zoned: MU

The building plans can be found within the Planning Justification Report attached as Appendix E.

Analysis

Planning staff have reviewed the Planning Justification Report prepared by Glenn Wellings and offer the following comments and analysis.

Cannabis retail store legislation takes over from the municipality once the Official Plan and Zoning By-law deficiencies have been addressed. Should Council choose to approve this application, the owner will have further work to complete prior to being permitted to operate as a licensed cannabis retailer. Through the Provincial legislation, a review is conducted to ensure a minimum distance buffer from both public and private schools. The onus is on the applicant to demonstrate to the Alcohol and Gaming Commission of Ontario (AGCO) how they meet their legislation. Councillor Wells brought up a question at the public meeting respecting whether the distance from a school is measured from property line to property line or from use to use. Staff’s review of the legislation has found that the distance is measured with “a straight line from the closest point of the school property to the closest point of the proposed retail store”.

While the above does apply to this specific application, it is important to note that a cannabis retail store use, is simply a “retail use” at the root of the Official Plan policies and Zoning provisions.

Further, staff have reviewed the implications of locating a cannabis retail store in this area against the existing and proposed policies of the Official Plan. Staff recognize that this proposed cannabis retail store would be the fourth of its type in the municipality, however it will be the first on the east side of the canal. A canvass of the existing zoning on the east side of the canal suggests that there are under 10 properties that would have the ability to operate a retail store of any kind, not just cannabis. Of these roughly 10 properties, each of them are located in or directly adjacent to the East Waterfront Secondary Plan area. Staff finds that a store in this location will not negatively impact the existing Downtown Commercial area on the east or west side of the canal. A blanket "retail use" would be more of a concern as a larger impact could result to the downtown core, however staff find that the addition of a single, specific "cannabis retail store" use will not contribute to any negative impact.

Planning staff concur with the Mr. Wellings and the Niagara Region that the proposed Official Plan and Zoning By-law amendments are consistent with the Provincial Policy Statement and conform to the Growth Plan and Regional Official Plan.

Financial Implications:

There are no financial implications.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Service and Simplicity - Quality and Innovative Delivery of Customer Services
- People: Supporting and Investing in Human Capital
- Governance: Communications, Engagement, and Decision-Making

Conclusion:

Based on the review of application and applicable Provincial, Regional and City planning policies, Planning staff confirm that the proposal is consistent with the Provincial Policy Statement and conforms to the Growth Plan and Regional Official Plan and represents good planning. Staff recommend that the Official Plan and Zoning By-law Amendments attached as Appendices A and B, respectively, be approved.

Appendices:

- a. Official Plan Amendment
- b. Zoning By-law Amendment
- c. Niagara Region Comment
- d. Public Comment(s)
- e. Planning Justification Report

Respectfully submitted,

David Schulz, BURPI
Senior Planner
(905) 835-2900 x202
david.schulz@portcolborne.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.

The Corporation of the City of Port Colborne

By-law no. _____

Being a by-law to adopt amendment no. 9 to the
Official Plan for the City of Port Colborne

Whereas it is deemed expedient to further amend the Official Plan, heretofore adopted by Council for the City of Port Colborne Planning Area;

Therefore the Council of The Corporation of the City of Port Colborne under Section 17(22) of the Planning Act, hereby enacts as follows:

1. That Official Plan Amendment No. 9 to the Official Plan for the City of Port Colborne Planning Area, consisting of the attached map and explanatory text is hereby adopted.
2. That this By-law shall come into force and take effect on the day of passing thereof.

Enacted and passed this ___ day of _____, 2022.

William C Steele
Mayor

Amber LaPointe
Clerk

**AMENDMENT NO. 9
TO THE
OFFICIAL PLAN
FOR THE
PORT COLBORNE PLANNING AREA**

PREPARED BY:

**CITY OF PORT COLBORNE
DEPARTMENT OF PLANNING & DEVELOPMENT**

January 5, 2022

**AMENDMENT NO. 9
TO THE
OFFICIAL PLAN
FOR THE
PORT COLBORNE PLANNING AREA**

**AMENDMENT NO. 9
TO THE OFFICIAL PLAN
FOR THE
CITY OF PORT COLBORNE**

This Amendment to the Official Plan for the City of Port Colborne, which has been adopted by the Council of the Corporation of the City of Port Colborne, is hereby approved in accordance with Sections 17 and 21 of the Planning Act R.S.O. 1990, c. P.13, as Amendment No. 9 to the Official Plan for the City of Port Colborne.

Date: _____

**AMENDMENT NO. 9 TO THE OFFICIAL PLAN
FOR THE
PORT COLBORNE PLANNING AREA**

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2. Department of Planning and Development Report

STATEMENT OF COMPONENTS

PART A

The Preamble does not constitute part of this Amendment.

PART B

The Amendment, consisting of the following map and text changes, constitutes Amendment No. 9 to the Official Plan for the Port Colborne Planning Area.

Also attached is **PART C** – The Appendices, which do not constitute part of this Amendment. These appendices contain the background data, planning considerations and public involvement associated with this Amendment.

PART A - THE PREAMBLE

Purpose

The purpose of the amendment is to add a site-specific policy associated with the existing “Highway Commercial” designation permitting a “Cannabis Retail Store” on the property known as 335 Wellington Street.

Location

The lands affected by this amendment are legally described as Part of Lot 26, Concession 2 in the City of Port Colborne, Regional Municipality of Niagara, municipally known as 335 Wellington Street.

Basis

The *Planning Act, R.S.O. 1990*, as amended, provides that amendments may be made to the Official Plan. An application has been submitted to introduce a “Cannabis Retail Store” on the subject property. The lands are designated “Highway Commercial”, which does not currently permit retail stores. A site-specific amendment to the Official Plan has been requested to allow for the proposed “Cannabis Retail Store”.

Policies of the Official Plan, the Cannabis Retail Sale Policy Statement, and public input regarding the legal storefront sale of cannabis have been considered in the preparation of this Amendment. It has been determined that site-specific consideration for a “Cannabis Retail Store” on the subject property would be compatible, appropriate, and would be well removed from sensitive land uses.

This Amendment is consistent with the Provincial Policy Statement and conforms to the Growth Plan for the Greater Golden Horseshoe and the Region of Niagara Official Plan.

Concurrently, an amendment to the City’s Zoning By-law 6575/30/18 has been submitted proposing to rezone the lands from the existing Highway Commercial (HC) zone to HC-67, being a site-specific special provision of the Highway Commercial (HC) zone that will permit a “Cannabis Retail Store”.

PART B - THE AMENDMENT

The following constitutes Amendment No. 9 to the Official Plan for the City of Port Colborne under Section 3.8 “Highway Commercial”:

That the lands shown on Schedule A be redesignated from “Highway Commercial” to “Highway Commercial Special”.

In addition to the uses permitted in the Highway Commercial designation, the lands designated Highway Commercial Special, located at 335 Wellington Street, may also be used for a “Cannabis Retail Store”.

A “Cannabis Retail Store” is defined as:

a store licensed by the Alcohol and Gaming Commission of Ontario for the retail sales of recreational cannabis and cannabis related products.

Implementation and Interpretation

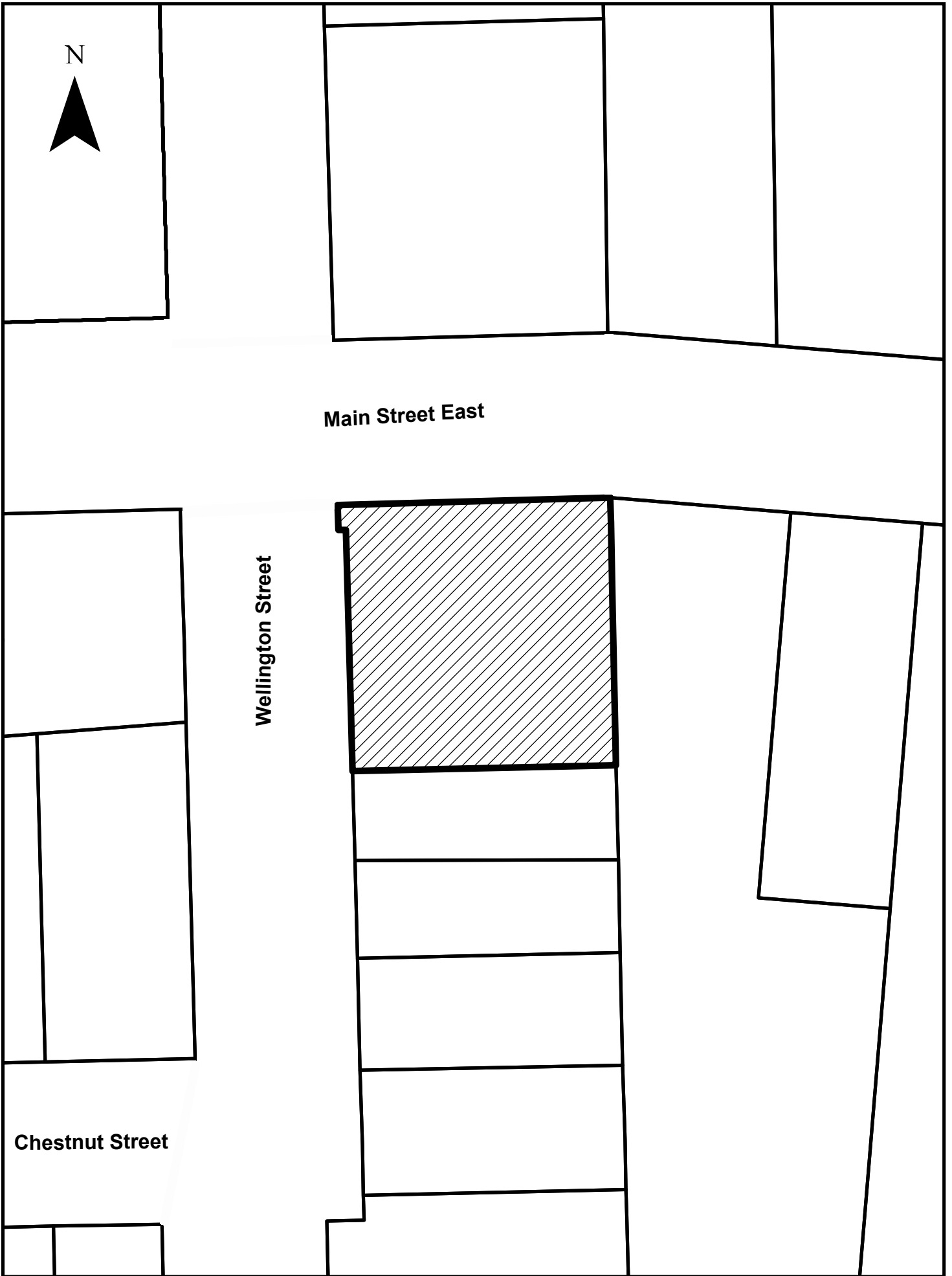
The implementation and interpretation of this amendment shall be in accordance with the respective policies of the Port Colborne Official Plan and an amendment to the City Zoning By-law to rezone the subject lands.

PART C – THE APPENDICES

The following appendices do not constitute part of Amendment No. 9 but are included as information to support the Amendment.

APPENDIX I – Minutes of the Public Meeting

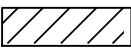
APPENDIX II – Department of Planning & Development Report



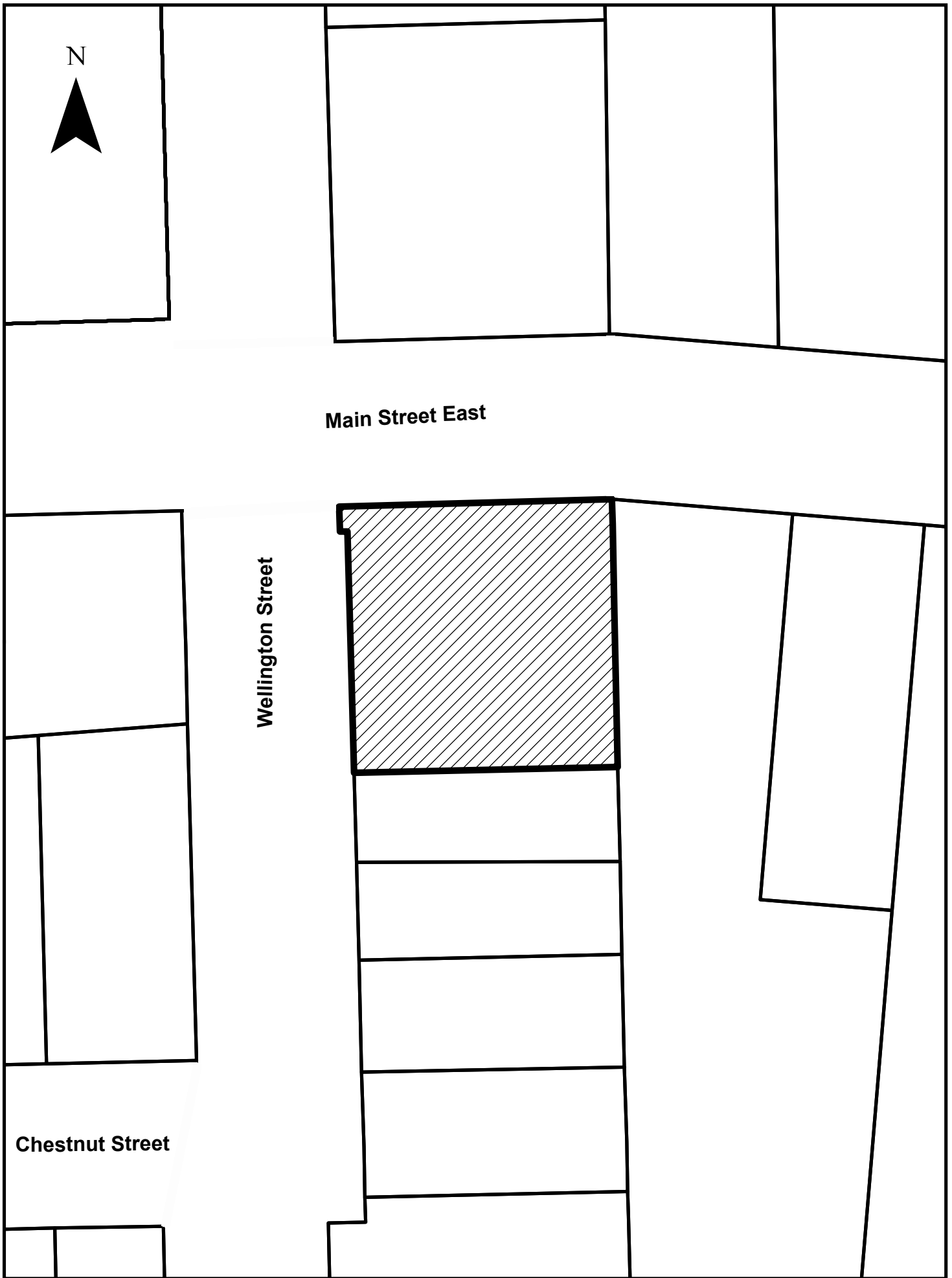
This is Schedule "A" to By-law No _____
 Passed _____, 2022

 Mayor

 Clerk

 - Lands subject to site-specific Official Plan and Zoning By-law Amendment, rezoning the lands from Highway Commercial (HC) to HC-66

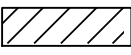
File No. D09-05-21 & D14-17-21
 Drawn by: DS - City of Port Colborne Planning Division
 Not to scale December 2021



This is Schedule "A" to By-law No _____
 Passed _____, 2022

 Mayor

 Clerk

 - Lands subject to site-specific Official Plan and Zoning By-law Amendment, rezoning the lands from Highway Commercial (HC) to HC-66

File No. D09-05-21 & D14-17-21
 Drawn by: DS - City of Port Colborne Planning Division
 Not to scale December 2021

The Corporation of the City of Port Colborne

By-law no. _____

Being a by-law to amend Zoning By-law 6575/30/18 respecting lands legally described as Part of Lot 20, Lots 21 and 22 on Plan 835 and Lot 1 on Plan 836, on the southeast corner of Wellington Street and Main Street East, formerly in the Township of Humberstone, now in the City of Port Colborne, Regional Municipality of Niagara, municipally known as 335 Wellington Street and/or 125 Main Street East.

Whereas By-law 6575/30/18 is a by-law of The Corporation of the City of Port Colborne restricting the use of land and the location and use of buildings and structures; and

Whereas, the Council of The Corporation of the City of Port Colborne desires to amend the said by-law.

Now therefore, and pursuant to the provisions of Section 34 of the *Planning Act, R.S.O. 1990*, The Corporation of the City of Port Colborne enacts as follows:

1. This amendment shall apply to those lands described on Schedule "A" attached to and forming part of this by-law.
2. That the Zoning Map referenced as Schedule "A6" forming part of By-law 6575/30/18 is hereby amended by changing those lands described on Schedule A from Highway Commercial (HC) to HC-66, being a special provision of the Highway Commercial (HC) zone.
3. That Section 37 entitled "Special Provisions" of Zoning By-law 6575/30/18, is hereby further amended by adding the following:

HC-66

In addition to the uses permitted in the Highway Commercial (HC) zone, this land may also be used for a Cannabis Retail Store and uses, buildings and structures accessory thereto.

4. That Section 38 entitled "Definitions" of Zoning By-law 6575/30/18, is hereby further amended by adding the following:

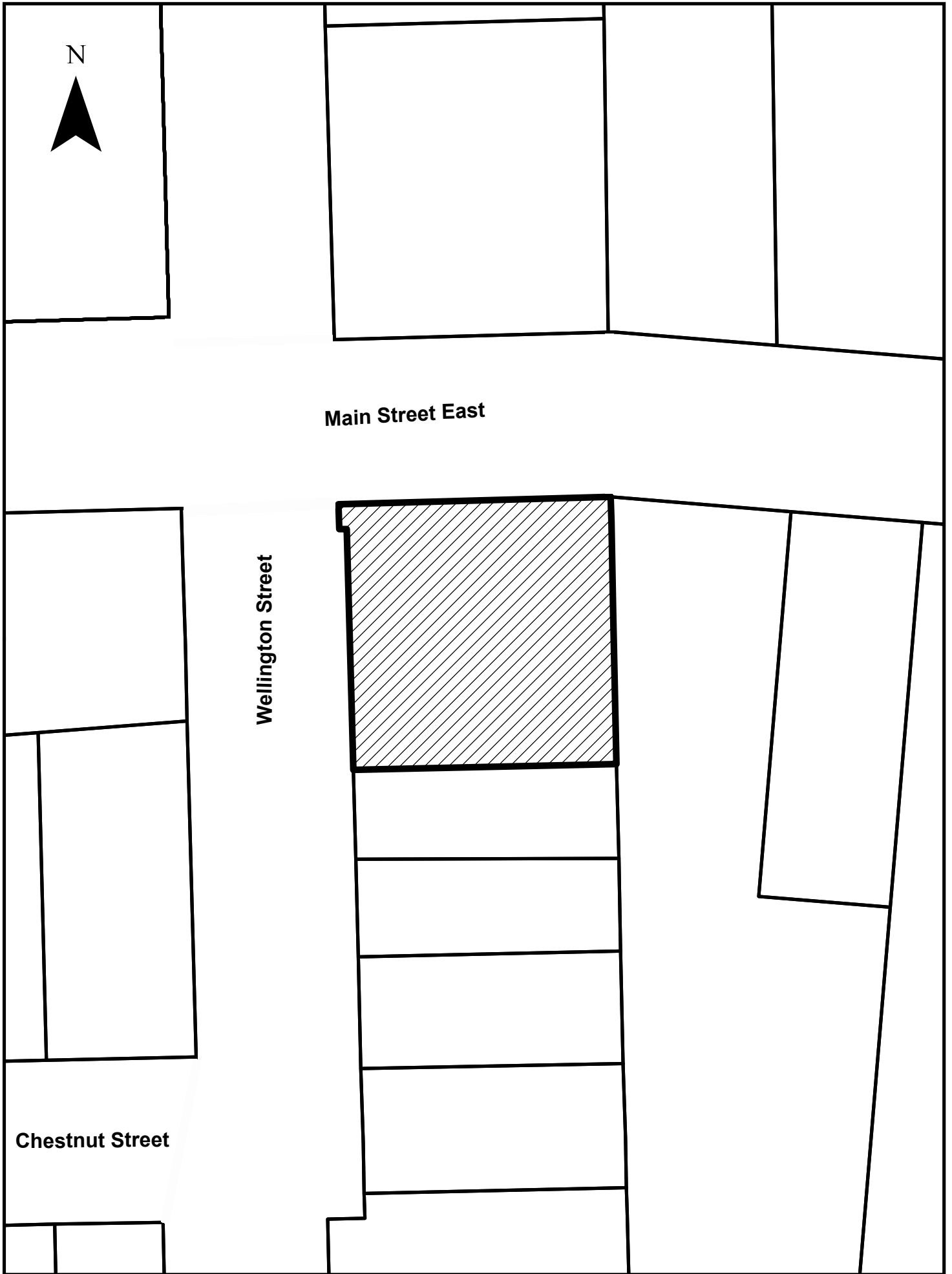
Cannabis Retail Store: means a store licensed by the Alcohol and Gaming Commission of Ontario for the retail sales of recreational cannabis and cannabis related products.

5. That this by-law shall come into force and take effect on the day that it is passed by Council, subject to the provisions of the *Planning Act*.
6. The City Clerk is hereby authorized and directed to proceed with the giving notice of the passing of this by-law, in accordance with the *Planning Act*.

Enacted and passed this day of , 2022.

William C Steele
Mayor

Amber LaPointe
Clerk

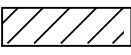


This is Schedule "A" to By-law No _____

Passed _____, 2022

Mayor

Clerk

 - Lands subject to site-specific Zoning By-law Amendment, rezoning the lands from Highway Commercial (HC) to HC-66

File No. D09-05-21 & D14-17-21

Drawn by: DS - City of Port Colborne Planning Division

Not to scale January 2022



Planning and Development Services

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
905-980-6000 Toll-free:1-800-263-7215

Via Email Only

January 18, 2022

File No.: D.10.07.OPA-21-0064
D.18.07.ZA-21-0140

David Schulz
Senior Planner
City of Port Colborne
66 Charlotte Street
Port Colborne, ON L3K 3C8

Dear Mr. Schulz:

**Re: Regional and Provincial Comments
Proposed Official Plan Amendment and Zoning By-law Amendment
City Files: D09-05-21 & D14-17-21.
Owner: 2466602 Ontario Ltd.
Applicant/Agent: Glen Wellings, Wellings Planning Consultants Inc.
335 Wellington Street / 125 Main Street East
City of Port Colborne**

Regional Planning and Development Services staff have reviewed the above-noted official plan amendment and zoning by-law amendment, which proposes to add a site-specific policy to the current Highway Commercial designation in order to permit a cannabis retail store as well as add a definition to the Official Plan for "Cannabis Retail Store". The application also proposes to change the zoning from Highway Commercial ("HC") to HC-67, a special provision of the HC zone that will add a Cannabis Retail Store as a permitted use in addition to the uses already permitted in the HC zone. Additionally, the amendment proposes to add a definition to Section 38 of Zoning By-law 6575/30/18 for a "Cannabis Retail Store" (meaning a store licensed by the Alcohol and Gaming Commission of Ontario for the retail sale of recreational cannabis and cannabis related products).

A pre-consultation meeting for this proposal was held on May 13, 2021, with the applicant, agent, City staff and Regional staff in attendance. Regional staff provide the following comments from a Provincial and Regional perspective to assist the City in their consideration of the application.

Provincial and Regional Policies

The subject lands are located within a Settlement Area under the *Provincial Policy Statement* (“PPS”), designated Delineated Built-Up Area in *A Place to Grow: Growth Plan for the Greater Golden Horseshoe* (“Growth Plan”), and designated Urban Area (Built-Up Area) in the *Regional Official Plan* (“ROP”).

Provincial and Regional policies direct development to take place in urban areas to make efficient use of existing servicing and infrastructure and support the achievement of complete communities. These same policies place an emphasis on intensification and infill to foster a mix of land uses that provide for the diversification of housing options, improved social equity and quality of life, connection to multiple forms of transportation, access to public amenities and institutions, and spaces that are vibrant and resilient in design. A full range of residential and commercial uses are permitted generally within the Urban Area designation, subject to the availability of adequate municipal services and infrastructure and other policies relative to land use compatibility and environmental conservation.

Given that the proposal is for a commercial use within an existing commercial space and subject to the below comments, Regional staff do not have any Provincial or Regional concerns or requirements for the official plan amendment or zoning by-law amendment.

Regional Road Allowance

The subject property is situated at the intersection of Wellington Street and Main Street East (Regional Road 3). Regional Official Plan policy requires that unsignalized Regional intersections within the Urban Area maintain a 6 metre by 6 metre daylighting area. Therefore, Niagara Region will require, as part of any future Site Plan application, that the applicant grant the following gratuitously to the Region:

- A 6 metre by 6 metre daylighting triangle at the corner of Wellington Street and Main Street East (Regional Road 3).

Regional Permit Requirements

Regional staff note that the subject property has frontage along Regional Road 3 (Main Street East). Regional staff acknowledge that the current applications do not propose any new construction or site alterations within the Regional road allowance. However, the applicant should be advised that a Regional Construction Encroachment and/or Entrance Permit would be required prior to any future construction within the Regional road allowance. If needed, permit applications can be made online through the Region’s website using the following link: <http://niagararegion.ca/living/roads/permits/default.aspx>

Conclusion

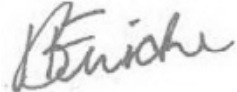
Regional Planning and Development Services are satisfied that the proposed official plan amendment and zoning by-law amendment to permit a retail cannabis store is consistent with the Provincial Policy Statement and conforms to the Growth Plan and Regional Official Plan.

Regional staff notes that in accordance with the policies 14.E.7 and 14.E.8 of the ROP, the Memorandum of Understanding, and By-law No. 2019-73, the reviewed Official Plan Amendment is exempt from Regional Council Approval.

Please send a copy of the staff report and notice of Council's decision on these applications.

If you have any questions related to the above comments, please contact me at Britney.fricke@niagararegion.ca.

Kind regards,



Britney Fricke, MCIP, RPP
Senior Planner

cc: Robert Alguire, C.E.T., Development Approvals Technician, Niagara Region

David Schulz

From: Louise [REDACTED]
Sent: January 8, 2022 1:27 PM
To: David Schulz
Subject: Cannabis Store

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hello Mr.Schulz,

As a new senior resident here in Port Colborne, unsure where to voice my opinion regarding the opening of a Cannabis Store.

Unsure as to whether or not I can attending the meeting.

However I would definitely like to voice my opinion.

It is sad to say, but truly I DO NOT feel another cannabis store is necessary.

Living on Main street east, and as a senior, it is unfortunate, that there is room for Cannabis store, and there are already some around, however there is no room to have a grocery store close by., nor a clinic close by, nor anymore local Port Colborne transit , but room for a Cannabis store , really??. Very disappointing.

However, as a Canadian citizen I feel it is my right to voice my opinion in what surrounds my living area.

Thank-you for your time,

Louise Tosques-DiLalla



Planning Justification Report

Applications to Amend the City of Port Colborne
Official Plan and Zoning By-law 6575/30/18

2466602 Ontario Ltd.
335 Wellington Street
City of Port Colborne

December 2021



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1.0

Introduction

1.0 Introduction

2466602 Ontario Ltd. (“2466602”) is the owner of the lands known as 335 Wellington Street, located in the City of Port Colborne (“City”).

Wellings Planning Consultants Inc. was retained by 2466602 to provide planning advice and to prepare and file applications to amend the City of Port Colborne Official Plan (“PCOP”) and Comprehensive Zoning By-law 6575/30/18 (“ZBL”) to permit a cannabis retail store. This Planning Justification Report has been prepared in support of the applications.

An aerial photograph of a residential neighborhood, showing houses, streets, and trees. The entire image is overlaid with a semi-transparent green filter. The text is centered on the left side of the image.

2.0

Property Description and Surrounding Land Uses

2.0 Property Description and Surrounding Land Uses

The subject lands comprise an approximate 0.1 hectare (0.26 acre) parcel located at the southeast corner of Wellington Street and Main Street East (Highway 3) in the City of Port Colborne. The location of the subject lands is shown on **Schedule 1** to this report.

The site is currently occupied by an existing, newly renovated, building containing a restaurant, four currently vacant ground floor commercial units and three residential units on the second floor. The property is mostly paved, with surface parking along the front and side of the building, and with minimal landscaping. Access to the property is achieved from both Wellington Street and Main Street East. The subject lands are generally flat.

Wellington Street is a local collector road which runs north-south between Killaly Street East and Berkley Avenue. Main Street East runs east-west and is a Provincial Highway (Highway 3) for most of its length, but becomes to a Regional Road after intersecting with Highway 140 just east of the subject lands. The subject property is accessible by public transit, with two bus stops immediate to the property. Downtown Port Colborne is approximately a five-minute drive from the property.

The surrounding area is largely residential, with single-detached dwellings being the dominant built form flanking the subject lands along Wellington Street and Main Street East. Across from the property to the north of Main Street East is a gas station and convenience store. A small-scale recycling centre is located to the west of Wellington Street. A five-storey apartment building is located at the northwest corner of Wellington Street and Main Street East.

An aerial photograph of a residential neighborhood, showing houses, streets, and trees. The entire image is overlaid with a semi-transparent green filter. The text '3.0 Development Proposal' is centered in white.

3.0 Development Proposal

3.0 Development Proposal

2466602 is proposing to amend the PCOP and ZBL to permit a cannabis retail store. Specifically, 2466602 seeks to introduce a cannabis retail store at 335 Wellington Street within one of the vacant ground floor commercial units in the existing building. The proposed use includes a retail space on the ground floor of approximately 40 square metres (400 square feet), with a separate secured storage area in the basement. Site, elevation and floor plans for the proposed use are appended as **Schedule 2** of this report.



4.0

Cannabis Policy and Legislation

4.0 Cannabis Policy and Legislation

In 2018, the federal *Cannabis Act* was passed allowing the production, distribution and sale of recreational cannabis by federal license holders in Canada, so long as they are doing so in a municipality that “opted-in” to the retail sale of cannabis. The Act provides regulations intended to protect public health and safety to allow for the lawful sale of recreational cannabis. Recreational and medical cannabis are controlled and licensed separately, with medical cannabis requiring specific healthcare authorization. The proposed use is for recreational cannabis sales.

The *Cannabis Licence Act, 2018* was passed by the Province under the *Cannabis Act*, and provides further regulations regarding the retail sale of recreational cannabis and standards for cannabis retail stores, such as requirements for surveillance, equipment, storage of goods and records. The Alcohol and Gaming Commission of Ontario has also released a document under the *Cannabis Licence Act*, titled *Registrar’s Standards for Cannabis Retail Stores*, which further details physical requirements for cannabis retail stores such as requirements for entrances and exits, pickup areas, sales floor areas, and storage areas.

2466602 is in the process of becoming licensed and will comply with all requirements and standards for the lawful sale of recreational cannabis within the proposed retail space.

4.1 Cannabis Retail Sales “Opt-In”

In January 2019, Council approved Report 2019-01 to “opt-in” to permitting cannabis retail stores in the City. Beginning December 13, 2018, the City began collecting public input through online and telephone surveys regarding the retail sale of cannabis and whether the City should allow private retail storefronts for the sale of cannabis. On January 2, 2019, an Open House was held to further discuss the matter. The results of the public consultations were as follows:

Online Survey: **1,411 surveys completed**
 71% in favour of opting in
 22% in favour of opting out
 7% in favour of opting out for now

Telephone Survey: **400 interviews completed**
 56% in favour of opting in
 25% in favour of opting out
 19% in favour of opting out for now

**Open House: 45 members of the public attended
38% in favour of opting in - 9 responses
54% in favour of opting out – 13 responses
8% in favour of opting out for now – 2 responses**

It was noted that:

Upon review of the survey results, opting in to allow cannabis retail stores scored the greater percentage than opting out or opting out for now (and opting in at a later date).

The public consultations also collected input regarding concerns from the public with respect to retail cannabis sales. The most significant concerns included safety and security and proximity to sensitive land uses like schools and daycares.

On January 14, 2019, at its Regular Meeting of Committee of the Whole, Council adopted the following recommendation from the Planning and Development Department that:

The Council of the Corporation of the City of Port Colborne “opt-in” to permitting physical cannabis retail stores effective April 2019; and,

That the Cannabis Retail Sale Policy Statement be adopted.

4.2 Cannabis Retail Sale Policy Statement

As part of the Council’s approval of cannabis retail stores in the City, the Cannabis Retail Sale Policy Statement (“Cannabis Statement”) was adopted. The Cannabis Statement provides guidance to:

“help prospective recreational cannabis retailers in their consideration of location of cannabis retail stores in the City of Port Colborne.”

The Cannabis Statement specifies that:

“In order to help ensure public health and safety, protect youth and reduce illegal sales, retail cannabis stores are discouraged where nearby properties are designed to serve youth including public and most private schools. A distance buffer of 150m is required from a cannabis retail store to these uses and will include libraries, parks, and community, mental health or addiction centres.”

The 150 metre setback from schools is also a legislative requirement as per the *Education Act R.S.O. 1990*.

There are no sensitive land uses within 150 metres of the subject property. A map of the subject property showing a 150 metre radius of the surrounding area is shown on **Schedule 3** of this report. There is a YMCA and wellness centre located to the southeast of the property at 550 Elizabeth Street, which is approximately 400 metres away from the subject lands. A park with playing fields is also found adjacent to the southeast of the subject property, however the subject property is not accessible from the playing fields. It is important to note that residential uses are not considered sensitive uses under the Cannabis Statement.

An aerial photograph of a residential neighborhood, showing houses, streets, and trees. The entire image is overlaid with a semi-transparent green filter. The text '5.0' is prominently displayed in the center-left area.

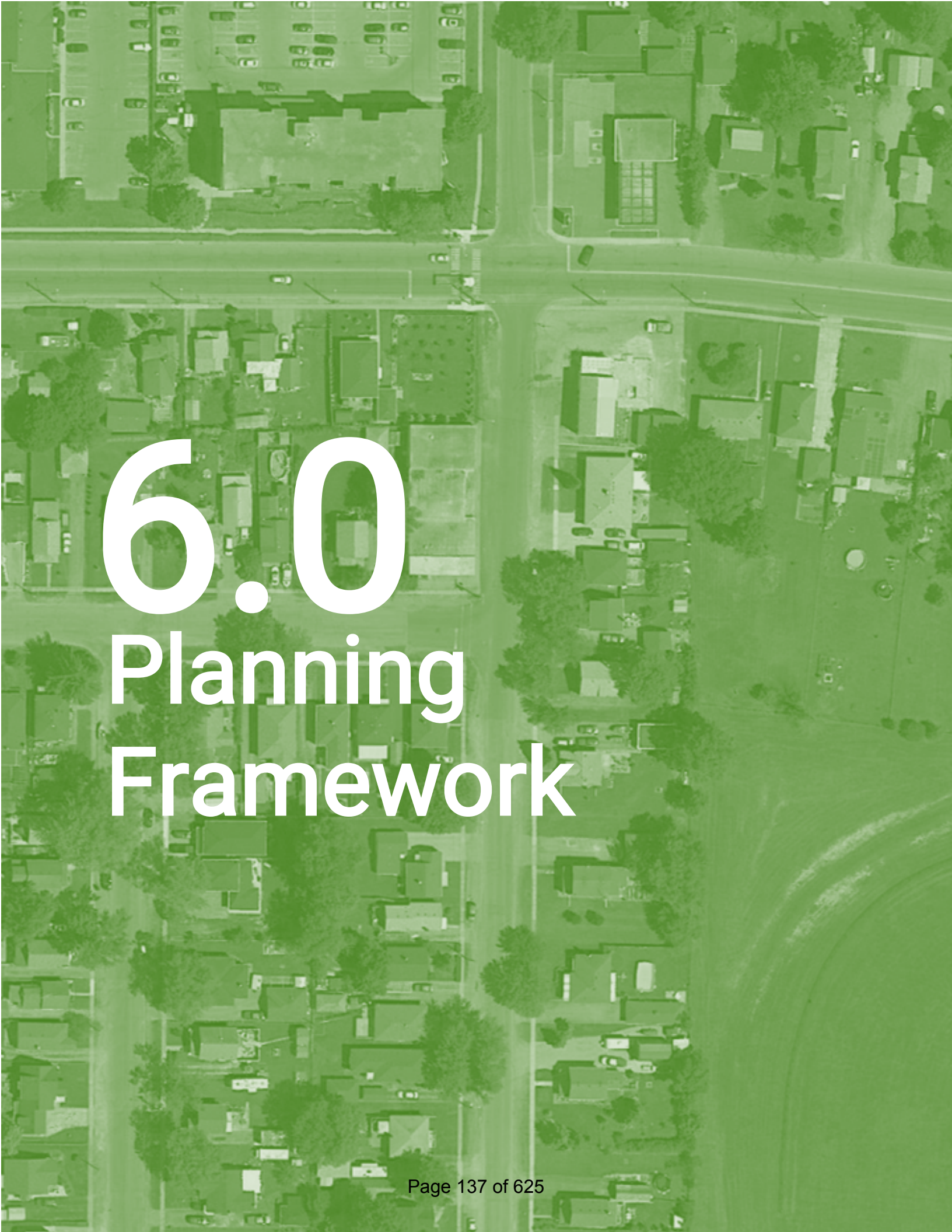
5.0

Pre-consultation

5.0 Pre-consultation

A pre-consultation meeting was held with City staff on May 13, 2021, which Wellings Planning Consultants Inc. did not attend. At the meeting, staff advised that a market evaluation would be required to justify the suitability of this use outside of the downtown core, and that a planning justification report would be required to justify the Official Plan Amendment (“OPA”) and Zoning By-law Amendment (“ZBA”). It was also indicated that the permitted retail use should be limited to a specific use, in this case being a cannabis retail store.

It was noted that the subject property is located outside of the Region’s Core Natural Heritage System, meets the recommended road width requirements as per the Regional Plan, and is serviced by municipal water, sanitary, and storm sewers. There is also existing municipal waste collection available.



6.0

Planning Framework

6.0 Planning Framework

This section provides a review of the applicable planning policies and provisions.

6.1 Provincial Policy Statement (2020)

The current Provincial Policy Statement (“PPS”) came into effect on May 1, 2020. It is a key provincial planning document that lays the foundation for many of the Province’s policies. As required under Section 3 of the *Planning Act*, all land use decisions must “be consistent with” the PPS. The PPS sets a framework for development and the use of land that makes efficient use of land and infrastructure, while avoiding sensitive or significant resources.

Part IV: Vision

Part IV of the PPS sets out the Province’s vision for the wise management of land to meet a full range of current and future needs of residents. Ensuring efficient development patterns that make the best use of land and existing infrastructure while ensuring the health and safety of residents are foundational principles of the PPS. The vision of the PPS establishes that:

“Land use must be carefully managed to accommodate appropriate development to meet the full range of current and future needs, while achieving efficient development patterns and avoiding significant or sensitive resources and areas which may pose a risk to public health and safety.”

By locating within an existing commercial building, the proposed use makes efficient use of land and existing infrastructure. The subject lands are outside of any sensitive areas. The City’s Cannabis Statement has also been considered to ensure that risk to public health and safety is mitigated.

Part V: Policies

Managing and Directing Land Use

Policies under Section 1.1 set out provincial policies for managing and directing land use. Applicable policies include:

1.1.1 Healthy, liveable and safe communities are sustained by:

- a) **promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;**
- b) **accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including**

places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs;

- e) **promoting the integration of land use planning, growth management, transit-supportive development, intensification and infrastructure planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs;**

The proposed use promotes efficient development and land use patterns by utilizing an existing building and available infrastructure. The use would introduce a new commercial use to a mixed-use area and is transit supportive. The property is serviced by Welland Transit, by Port Colborne Community Bus Route 701.

Settlement Areas

Section 1.1.3 of the PPS pertains to Settlement Areas, which are considered “built up areas where development is concentrated, and which have a mix of land uses.” The subject property is within a Settlement Area as defined by the PPS.

Policies that promote wise and efficient use of land within Settlement Areas include:

1.1.3.2 Land use patterns within *settlement areas* shall be based on densities and a mix of land uses which:

- a) **efficiently use land and resources;**
- f) **are transit-supportive, where transit is planned, exists or may be developed.**

The proposed use will efficiently use land and existing infrastructure and is located on an existing transit route with bus stops immediately accessible to the site. Ensuring efficient use of land will also include:

1.1.3.4 Appropriate development standards should be promoted which facilitate *intensification, redevelopment* and compact form, while avoiding or mitigating risks to public health and safety.

Intensification in the PPS is defined as:

“the development of a property, site or area at a higher density than currently exists through:

- c) **the expansion or conversion of existing buildings.”**

The proposed use meets the PPS definition for intensification by converting an existing vacant unit for a retail use. The subject property is located away from sensitive areas to address potential public health and safety concerns.

It is my opinion that the proposal is consistent with the PPS.

6.2 Growth Plan: A Place to Grow (2020)

An updated Growth Plan came into effect on August 28, 2020. The Plan builds on the policies in the PPS and provides policies that promote the efficient growth of the area, including commercial uses, employment, transportation, infrastructure planning and housing.

Guiding Principles

Section 1.2.1 of the Growth Plan addresses guiding principles. The policies of this section regarding how land is developed, resources are managed and protected, and public dollars are invested are based on the following principles:

- **Provide flexibility to capitalize on new economic and employment opportunities as they emerge, while providing certainty for traditional industries, including resource-based sectors.**
- **Provide for different approaches to manage growth that recognize the diversity of communities in the Greater Golden Horseshoe.**

The legal sale of recreational cannabis is an emerging retail sector, thus providing a new economic/employment opportunity. The proposed use contributes to growth management by utilizing existing infrastructure and contributes to satisfying the diverse needs of the community.

Where and How to Grow

Section 2.1 (Context) of the Growth Plan provides context for the wise management of land and growth. Specifically, this section states that:

“It is important to optimize the use of the existing urban land supply as well as the existing building and housing stock to avoid over-designating land for future urban development while also providing flexibility for local decision-makers to respond to housing need and market demand. This Plan's emphasis on optimizing the use of the existing urban land supply represents an *intensification* first approach to development and city-building, one which focuses on making better use of our existing *infrastructure* and public service facilities, and less on continuously expanding the urban area.”

The proposed use will utilize an existing, underutilized building without consuming more urban land.

Section 2.2.1.4. pertaining to complete communities is also relevant and reads as follows:

4. Applying the policies of this Plan will support the achievement of complete communities that:

a) feature a diverse mix of land uses, including residential and employment uses, and convenient access to local stores, services, and public service facilities;

b) improve social equity and overall quality of life, including human health, for people of all ages, abilities, and incomes.

The proposed use will introduce a small-scale retail store in a mixed-use neighbourhood surrounded by residential uses, offering convenient access to those who utilize cannabis for recreational purposes.

Some policies under Section 2.2.5 (Employment) are also relevant to this proposal and read as follows:

3. Retail and office uses will be directed to locations that support active transportation and have existing or planned transit.

15. The retail sector will be supported by promoting compact built form and intensification of retail and service uses and areas and encouraging the integration of those uses with other land uses to support the achievement of complete communities.

The subject property is located in proximity to existing residential uses. The use supports active transportation, and is located on a bus route with stops immediately adjacent to the property. The proposed use also supports the intensification of the subject property by locating within an existing building with four empty available commercial units that are suitable for retail use.

It is my opinion that the proposal conforms to the Growth Plan.

6.3 Niagara Region Official Plan

The subject property is also governed by the policies of the Niagara Region Official Plan (“ROP”). The property is within the “Urban Area Boundary” and situated within the “Built-Up Area” as per Schedule A of the ROP. Growth Management Objectives for the Niagara Region and Urban Areas are listed under Section 4.A.1. Relevant objectives include:

Objective 4.A.1.1 Direct the majority of growth and development to Niagara’s existing Urban Areas.

Objective 4.A.1.2 Direct a significant portion of Niagara’s future growth to the Built-up Area through intensification.

Objective 4.A.1.6 Build compact, mixed use, transit supportive, active transportation friendly communities in the Built-up Area and in Designated Greenfield Areas.

Objective 4.A.1.10 Provide a framework for developing complete communities all across Niagara, including a diverse mix of land uses, a range of local employment

opportunities and housing types, high quality public open spaces, and easy access to local stores and services via automobile, transit and active transportation.

The subject property is located within the existing Urban Area and within the “Built-Up Area”. The use will contribute to intensification of the subject property, and will be compact, transit supportive, and provide local employment opportunities with easy access to the surrounding neighbourhood and the travelling public.

The proposed use also satisfies some of the policies listed under Section 4.G Urban Growth, for achieving the sustainable urban vision for the Region, including:

- **Encouraging mixed and integrated land uses;**
- **Making efficient use of land, resources and infrastructure;**
- **Promoting compact, transit supportive development friendly to active transportation;**
- **Supporting intensification.**

The proposed use encourages a mix and integration of land uses in the subject area, which is predominantly residential, and represents efficient use of land and infrastructure by utilizing an existing building having full municipal services. The subject property is transit supportive and contributes to intensification as defined by the PPS.

Policies pertaining to “Commercial Areas” are covered under Section 3.D of the ROP. Relevant policies under this section include the following:

3.D.2 Municipalities are encouraged to develop policies which carefully balance the supply of commercial space with the demand for commercial goods and services, placing a particular emphasis on commercial retail goods and services.

3.D.8 The Region recognizes neighbourhood commercial activities as an integral part of Niagara’s residential areas.

3.D.10 New commercial development or redevelopment should be assessed in relation to community character and be appropriately located to serve as part of the neighbourhood’s existing or proposed fabric. Assessment in relation to community character could include:

- a) **The scale of the activity;**
- b) **The orientation of the development to adjacent land uses; and,**
- c) **The capacity of the development to operate compatibly with housing.**

3.D.11 Commercial development and redevelopment projects should be designed to be transit and active transportation friendly.

The proposal will introduce one (1) additional commercial use (i.e., cannabis retail store) to an existing commercial property located within the “Built-Up Area”. The proposed use contributes to balancing the supply for the increased demand for cannabis products in recent years. The proposed use is small-scale retail, and the location will serve the surrounding neighbourhood and travelling public without altering the character of the area. There are no major changes proposed to the existing, newly renovated building. The subject property is also transit friendly, with two bus stops immediately accessible to the subject property.

The proposal to allow a cannabis retail store on the subject property conforms to the ROP. Conformity to the ROP was also confirmed at the May 13, 2021 pre-consultation meeting.

6.4 City of Port Colborne Official Plan

The Port Colborne Official Plan (“PCOP”) was approved by the then Ontario Municipal Board on November 25, 2013. The plan sets out long-term goals and objectives for the community and guides how growth and change is managed.

The subject property is located within the Urban Area Boundary and is designated “Highway Commercial” as per Schedule A: City-Wide Land Use in the PCOP. The “Highway Commercial” designation is covered under Section 3.8 of the PCOP.

Criteria Under Section 3.8

Policies for the “Highway Commercial” designation can be found under Section 3.8, which states that:

The predominant uses for lands designated Highway Commercial shall include, but not be limited to; hotels and motels; automobile sales and service establishments; places of amusement or recreation; restaurants with take-out and/or drive-through facilities; and accessory uses to the aforementioned uses, including a residence for a caretaker.

As well, the General Policies under Section 3.8.1 further establish that:

b) Commercial uses that would be more appropriate in the Downtown Commercial areas such as retail stores, banks, medical clinics and professional offices shall not be permitted.

The policies direct that most retail uses shall be directed to the downtown. Thus, an amendment for a site-specific retail use (i.e., cannabis retail store) outside of the Downtown Commercial area is required.

Other relevant policies include the following:

- d) Adequate off-street parking facilities, including consideration for bicycles, are required in well-organized, landscaped and well-illuminated parking areas or structures.**
- e) A minimum number of driveways to the site will be allowed and driveway entrances will be configured for maximum safety.**
- f) At the time the existing residential or commercial development fronting Main Street between the Welland Canal and Elizabeth Street are redeveloped, they should be redeveloped to a higher order of mixed use comprising ground floor commercial integrated with upper storey residential uses, and generally comply with the design guidelines in the Downtown designation.**
- h) New and expanding Highway Commercial uses may be required to submit a Market Study, prepared by a qualified professional, to demonstrate that the proposed commercial floor space is warranted.**

The existing, recently renovated building conforms to these policies. Adequate off-street parking with two separate driveway entrances to the site are existing. The property fronts Main Street East and is located between the Welland Canal to the west and Elizabeth Street (Highway 140) to the east. No additional commercial space is proposed and the proposed use will occupy existing, vacant ground floor commercial space, with residential uses above.

It is my opinion that consideration of an OPA for a site-specific cannabis retail store is reasonable and appropriate. The proposed use is compatible with surrounding land uses. Furthermore, it is a destination type use that is not reliant on pedestrian traffic normally associated with a downtown shopping district. Further, the proposed use is similar in nature and scale to uses already permitted in the Highway Commercial Zone, such as convenience store, as detailed below in Section 6.5. It is my opinion that this specific use is appropriate in a “Highway Commercial” designation.

6.4.1 Market Evaluation

As mentioned above, a market evaluation for the proposed cannabis retail store was requested at the pre-consultation meeting to justify its location outside of the downtown. Revitalization of the downtown core is a stated objective of the Official Plan, and is addressed in the Economic Development Policies found in Section 2.4.6.1 of the PCOP. In keeping with this goal, the majority of retail commercial uses are directed to locate in the downtown as per the following policy:

2.4.6.1 General Commercial

- a) Commercial development will be directed to the following distinct commercial areas:**
 - i) Downtown/West Street;**

- ii) **Main Street;**
- iii) **Two (2) existing shopping centres; and**
- iv) **Portal Village Plaza**

Although not located downtown, the subject lands front onto Main Street East, thus the subject property is considered a distinct commercial area as per this policy.

In our evaluation of the Zoning By-law, we identified that only two (2) zones currently permit stand-alone (non-accessory) retail stores. These are the Commercial Plaza (“CP”) Zone and the Downtown Commercial (“DC”) Zone. There are three existing cannabis retail stores in the City. Two of these are located within the DC Zone within the downtown area: “True North Cannabis”, located at 349 King Street, and “Weedy Point”, located at 230 Main Street West. A third cannabis retail store, “Sessions Cannabis”, is located at 287 West Side Road in a CP Zone. The locations of the existing cannabis retail stores are shown on **Schedule 4** to this report. All of these stores are located on the west side of the canal, and therefore serve a different part of the community than the subject property.

Therefore, the proposed location introduces a cannabis retail store to a part of the City where there is currently not one existing. The proposed site-specific permission in a Highway Commercial Zone will provide a reasonable separation between cannabis retail stores.

The City’s Economic Development Strategic Plan (March 2018) also speaks to the importance of downtown and includes the following guiding principle:

Having a vibrant and unique downtown core is an important aspect of attracting residents, visitors, and a young and talented labour force to the community.

Protecting the downtown and encouraging its function as a primary retail district for the Town is a laudable goal. However, a concentration of retail cannabis locations within the downtown core is not, in my opinion, desirable and may have a negative impact on the downtown by taking up available retail space from other potential retail uses. Additionally, a concentration of cannabis retail locations may detract from the small-town character that the Economic Development Strategy seeks to nurture. Furthermore, the proposed location ensures there are no impacts to sensitive land uses. The proposed retail space is approximately 40 square metres (400 square feet) in area, and small-scale in nature. Specific retail uses of this size are not anticipated to have a market impact.

6.5 Comprehensive Zoning By-law 6575/30/18

The subject lands are presently zoned Highway Commercial (“HC”) under the City’s Comprehensive Zoning By-law 6575/30/18 (“ZBL”). The current zoning permits a range of

service commercial, office and institutional uses. General retail uses are not permitted under the current zoning. A ZBA is required to permit the proposed site-specific retail use.

The current zoning does, however, allow for uses that are similar in nature to the proposed use, such as a “convenience store”, which is defined as:

A retail store where a range of day-to-day items such as newspapers, confections, foodstuffs, sundries and other such household items are sold in small quantities.

The proposed use is a retail store that sells small quantities of specialized products. Other uses that allow retail components are also permitted in the HC Zone, including “hotel”, which is defined as:

a building(s) that provides temporary accommodation to the public for a period not exceeding 28 consecutive days and may include independent cooking facilities and ancillary uses such as but not limited to restaurants, retail and service commercial uses, meeting and convention facilities, banquet facilities, recreation and entertainment facilities and may also include one dwelling unit.

As well, “recreation facility”, which is defined as:

a premises used for participatory and/or spectator-oriented recreation and entertainment use and may include ancillary office, restaurant, retail and service commercial uses.

These definitions support that retail uses are not strictly prohibited and may be appropriate in an HC Zone.

An aerial photograph of a residential neighborhood, showing houses, streets, and trees. The entire image is overlaid with a semi-transparent green filter. The text '7.0 Draft Amendments' is centered in white.

7.0

Draft Amendments

7.0 Draft Amendments

7.1 Draft Official Plan Amendment

Attached as **Schedule 5** to this report is a Draft Official Plan Amendment (“OPA”). The OPA proposes a site-specific amendment to allow a cannabis retail store on the subject property in addition to the existing permitted uses in the “Highway Commercial” designation.

The OPA further proposes a definition for “cannabis retail store.”

7.2 Draft Zoning By-law Amendment

Attached as **Schedule 6** to this report is a Draft Zoning By-law Amendment (“ZBA”). The ZBA proposes a site-specific amendment to allow a cannabis retail store in addition to the existing permitted uses in the HC Zone.

The ZBA further proposes a definition for “cannabis retail store.”



8.0

City Economic Development Strategic Plan

8.0 City Economic Development Strategic Plan

As noted, the policies and provisions contained within the PCOP and the ZBL are intended to direct retail uses to the downtown area. The City's Economic Development Strategic Plan: 2018-2028 ("Economic Plan") provides directives on how the growth in Port Colborne, including its downtown area, should be achieved. This plan specifies the following goals:

Downtown is in need of continued revitalization. Improvements are required but should be made in such a way as to maintain the authentic character, be a year-round commercial area, showcase the canal, and be more pedestrian friendly.

Port Colborne needs to establish a reputation as a charming, small-town community.

A revitalized downtown contributing to the growth of dining, arts, culture, and shopping atmosphere.

As previously noted, there are already two cannabis retail locations within the downtown. Recreational cannabis outlets are legitimate retail uses that are appropriate in the downtown. However, concentrations of this use would not, in my opinion, contribute to "a charming, small-town community".



9.0

Planning Opinion

9.0 Planning Opinion

Based on my review of the pertinent planning documents including current legislation, provincial policies, the ROP, the PCOP, and the ZBL, it is my opinion that the proposed amendments to the PCOP and ZBL to permit a site-specific retail cannabis store is appropriate and represents good planning. A “Highway Commercial” designation is a reasonable and appropriate location for the proposed use.

Legal Considerations

The retail sale of recreational cannabis was legalized by the federal government through the *Cannabis Act* in 2018. The *Cannabis Licence Act, 2018* was also passed in Ontario to provide further standards and regulations for licensing and sale of cannabis. The *Registrar’s Standards for Cannabis Retail Stores* was also released by the Alcohol and Gaming Commission of Ontario to explain regulations for cannabis retail stores. 2466602 is in the process of becoming licensed to lawfully sell recreational cannabis, and regulations under each document have been considered and incorporated into the design and layout of the proposed cannabis retail store.

Public Engagement/Opinion

The public engagement regarding the City’s decision to “opt in” to permitting cannabis retail stores revealed that many residents (approximately 67% of those surveyed) were in favour of the retail sale of cannabis. One of the main concerns identified with the sale of cannabis during the public engagement process was proximity to sensitive land uses such as daycares and schools. Separation from these uses is a requirement of the City’s Cannabis Statement, and is a legislative requirement of the *Education Act R.S.O. 1990*. The subject property is not located near daycares, schools or other identified sensitive land uses apart from the nearby playing fields, which are not accessible from the subject property within a 150 metre area.

Downtown Considerations

The Economic Plan for Downtown Port Colborne identified a vision to establish a reputation of a charming downtown with a dining, arts, culture and shopping atmosphere. A concentration of the same or similar uses is not necessarily desirable (i.e., retail cannabis stores). As well, downtown uses are intended to serve a pedestrian nature, and a cannabis retail store is a destination and not a use that typically serves walk-in traffic.

The Cannabis Statement requires that cannabis stores be located away from land uses designated to serve youth, including schools, libraries, parks and community centres. Currently, some existing uses in and around the downtown may be considered “sensitive” as per the Cannabis Statement, including the Port Colborne Public Library, located at 310 King Street, the EarlyOn Child and Family Centre located at 92 Charlotte Street, and the Anchors Away Support Services Inc. community centre located at 59 Clarence Street. Under Section 23 of the ZBL, the Downtown Commercial (DC) Zone also permits other “sensitive” uses such as day care, medical clinic and social service facility. The majority of uses permitted in the HC Zone are not

considered sensitive. Directing this use away from the downtown ensures the cannabis retail store is well removed from existing and future sensitive uses.

335 Wellington Street Considerations

Currently, there are existing commercial and residential uses on the subject property, with a restaurant in one of the units of the existing building, and three residential units on the second floor. The surrounding uses are mainly residential, with some mixed-use properties nearby, including a gas station and convenience store and a small-scale recycling facility, which are not considered sensitive uses. All sensitive land uses in proximity to the site, including a park with playing fields and a YMCA, are well separated from the subject property. The cannabis retail store would serve the surrounding community and the travelling public on a busy, transit supportive road without concerns for public health and safety.

Compatibility


The cannabis retail store is compatible with the existing restaurant and residential uses on the property, and with surrounding land uses. It will not require exterior alteration to the existing building, with the exception of signage. Currently, the existing building is compatible in scale and character to the surrounding area. The existing building is 2 storeys in height, which is consistent with the surrounding single-detached dwellings that are between 1 to 2 storeys high. Setbacks from both Wellington Street and Main Street East are consistent with those of the surrounding residences. As well, no issues with shadows, or general built form will result from the proposed use, as it will be located in an existing unit. The residential uses on the second storey will be maintained, contributing to the compatibility of the subject property with surrounding residential uses.

Compatibility is also measured based on criteria such as safety, noise, odour and traffic generated from the proposed use. In accordance with the aforementioned *Registrar's Standards for Cannabis Retail Stores* from the Alcohol and Gaming Commission of Ontario, physical design measures to ensure safety including security cameras, lighting, and secure storage areas are requirements for retail cannabis stores. According to Section 2.0 – Physical Store Requirements:

Cameras and lighting must be positioned to clearly capture 24 hour coverage of the interior of the premises and immediately outside the premises, including the:

- a. **Entrances and exits, including where IDs are checked.**
- b. **Pick up area(s) for cannabis purchased online or by telephone.**
- c. **Point of sale area(s).**
- d. **Receiving area(s).**
- e. **Sales floor area(s).**
- f. **Cannabis storage area(s).**

2466602 will incorporate all listed measures to ensure the safety of the surrounding neighbourhood is maintained and compatibility with the adjacent residential area is achieved. As well, the store must comply with legislative restrictions for permissible hours of operation. The cannabis retail store is not expected to generate any more noise than existing neighborhood retail uses (i.e., the gas station across the street) and the security measures listed above will further serve to reduce potential noise or nuisance. Odour is also not expected to cause concerns as appropriate packaging and storage of goods will be maintained. As well, while consumption of recreational cannabis is legally permitted in many public spaces including sidewalks and parks, consumption on site is not anticipated and no seating areas or designated smoking areas will be provided. Little traffic is expected from the proposed small-scale use. As well, there is adequate parking available on the subject property, and the property is also transit accessible. The cannabis retail store will serve the surrounding community without causing nuisance or altering the neighbourhood character, and will contribute to the mix of uses in the area.



10.0

Conclusions


10.0 Conclusions

Based on my review of the pertinent legislation, planning documents and other applicable plans and policies, it is my opinion that the proposed OPA and ZBA to allow a site-specific cannabis retail store in a Highway Commercial designation and zone, outside of the downtown area, is appropriate, compatible and represent good planning.

A summary of my planning opinion is as follows:

1. The proposal is consistent with the PPS and conforms to the Growth Plan and the ROP.
2. The proposal represents an efficient use of land and existing infrastructure on an existing transit route. The proposal also contributes to the mix of land uses in the area and a complete community.
3. The proposed use is appropriate, compatible, and well separated from sensitive land uses.
4. There are currently no cannabis retail stores located east of the canal. The proposed location will serve a different market area and, in my opinion, will not have a negative market impact on the City's commercial hierarchy.
5. There is adequate existing services for water, sanitary, storm and waste collection for the subject property. The proposal will not require additional services or expansion of existing infrastructure (e.g., road widening).

Yours truly,
WELLINGS PLANNING CONSULTANTS INC.



Glenn J. Wellings, MCIP, RPP





PROJECT:
335 Wellington St.
 Port Colborne, Ontario

PROJECT No:
2021/24
 DATE:
November 2021
 SCALE:
1:5500

Wellings Planning Consultants Inc.
 513 Locust Street, Unit B - Burlington, Ontario
 t - 905-681-1769 e - Glenn@WellingsPlanning.ca

Site Location Map

SCHEDULE 1



LEGEND:

 SUBJECT PROPERTY  150m RADIUS

PROJECT:
335 Wellington St.
Port Colborne, Ontario

PROJECT No:
2021/24

DATE:
November 2021

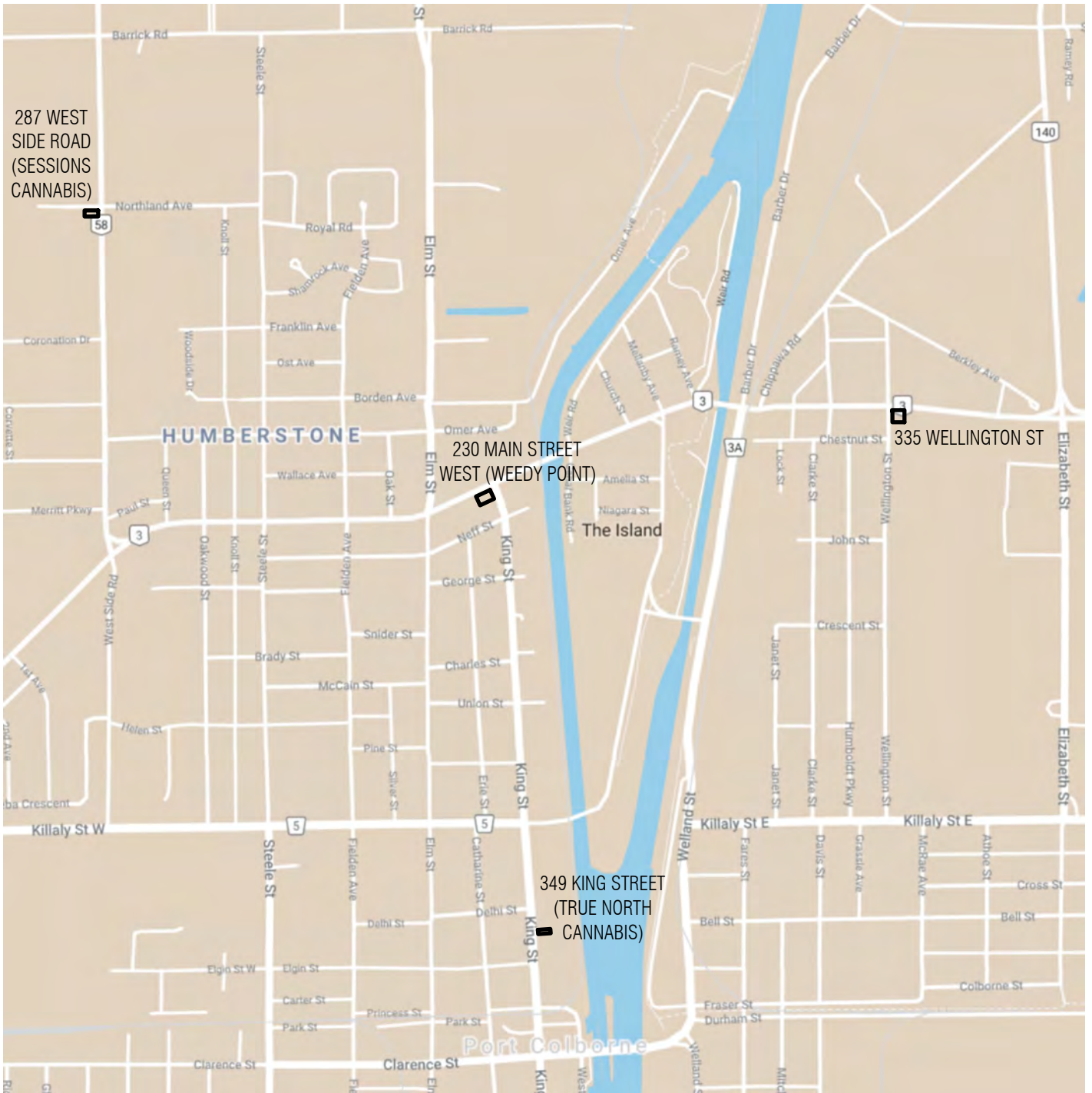
SCALE:
1:1800

Wellings Planning Consultants Inc.

513 Locust Street, Unit B - Burlington, Ontario
t - 905-681-1769 e - Glenn@WellingsPlanning.ca

Subject Property with 150 Metre Radius

SCHEDULE 3



PROJECT:
335 Wellington St.
Port Colborne, Ontario

PROJECT No:
2021/24

DATE:
November 2021

SCALE:
1:1800

Wellings Planning Consultants Inc.

513 Locust Street, Unit B - Burlington, Ontario
t - 905-681-1769 e - Glenn@WellingsPlanning.ca

SCHEDULE 4

Cannabis Retailers in the City of Port Colborne

THE CORPORATION OF THE CITY OF PORT COLBORNE

BY-LAW NO. _____

Being a by-law to adopt amendment No. XXX to the
Official Plan for the City of Port Colborne.

Whereas it is deemed expedient to further amend the Official Plan, heretofore adopted by Council for the City of Port Colborne Planning Area;

Now therefore the Council of the Corporation of the City of Port Colborne under Section 17(22) of the *Planning Act*, hereby enacts as follows:

1. That Official Plan Amendment No. XXX to the Official Plan for the City of Port Colborne Planning Area, consisting of the attached map and explanatory text is hereby adopted.
2. That this By-law shall come into force and effect on the day of passing thereof.

Enacted and passed this _____ day of _____, 2022.

William C Steele
Mayor

Amber LaPointe
City Clerk

**AMENDMENT NO. XXX TO THE OFFICIAL PLAN
FOR THE PORT COLBORNE PLANNING AREA**

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STATEMENT OF COMPONENTS

PART A

The Preamble does not constitute part of this Amendment.

PART B

The Amendment, constitutes Amendment No. XXX to the Official Plan for the Port Colborne Planning Area.

Also attached is **PART C** – The Appendices

PART A – THE PREAMBLE

Purpose

The purpose of the amendment is to add a site-specific policy associated with the existing “Highway Commercial” designation permitting a “Cannabis Retail Store” on the property known as 335 Wellington Street.

Location

The lands affected by this amendment are legally described as Part of Lot 26, Concession 2 in the City of Port Colborne, Regional Municipality of Niagara, municipally known as 335 Wellington Street.

Basis

The *Planning Act, R.S.O. 1990*, as amended, provides that amendments may be made to the Official Plan. An application has been submitted to introduce a “Cannabis Retail Store” on the subject property. The lands are designated “Highway Commercial”, which does not currently permit retail stores. A site-specific amendment to the Official Plan has been requested to allow for the proposed “Cannabis Retail Store”.

Policies of the Official Plan, the Cannabis Retail Sale Policy Statement, and public input regarding the legal storefront sale of cannabis have been considered in the preparation of this Amendment. It has been determined that site-specific consideration for a “Cannabis Retail Store” on the subject property would be compatible and appropriate, and would be well removed from sensitive land uses.

This Amendment is consistent with the Provincial Policy Statement, and conforms to the Growth Plan for the Greater Golden Horseshoe and the Region of Niagara Official Plan.

PART B – THE AMENDMENT

The following constitutes Amendment No. XXX to the Official Plan for the City of Port Colborne under Section 3.8 “Highway Commercial”:

That the lands shown on Appendix I be redesignated from “Highway Commercial” to “Highway Commercial Special”.

In addition to the uses permitted in the Highway Commercial designation, the lands designated Highway Commercial Special, located at 335 Wellington Street, may also be used for a “Cannabis Retail Store”.

A “Cannabis Retail Store” is defined as:

a store licensed by the Alcohol and Gaming Commission of Ontario for the retail sales of recreational cannabis and cannabis related products.

IMPLEMENTATION AND INTERPRETATION

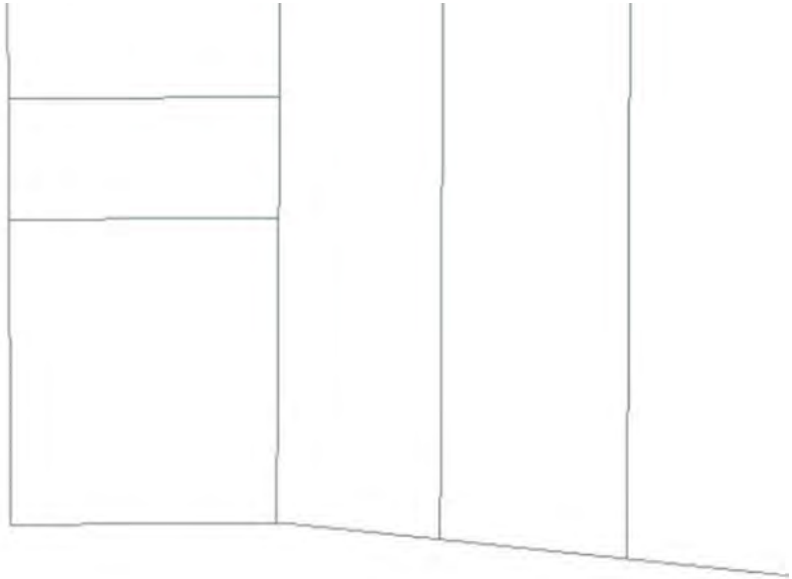
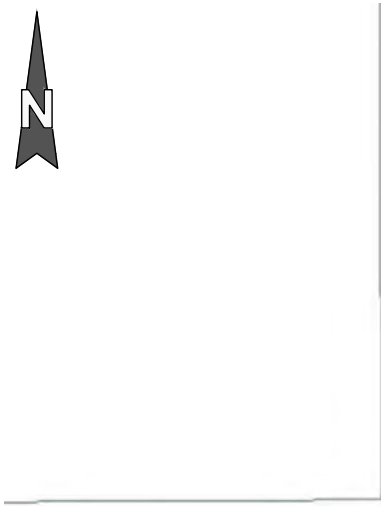
The implementation and interpretation of this amendment shall be in accordance with the respective policies of the Port Colborne Official Plan.

PART C – THE APPENDICES

The following appendices do not constitute part of Amendment No. XXX but are included as information to support the Amendment.

Appendix I – Location of Subject Lands.

Appendix I
OPA No. _____
City of Port Colborne



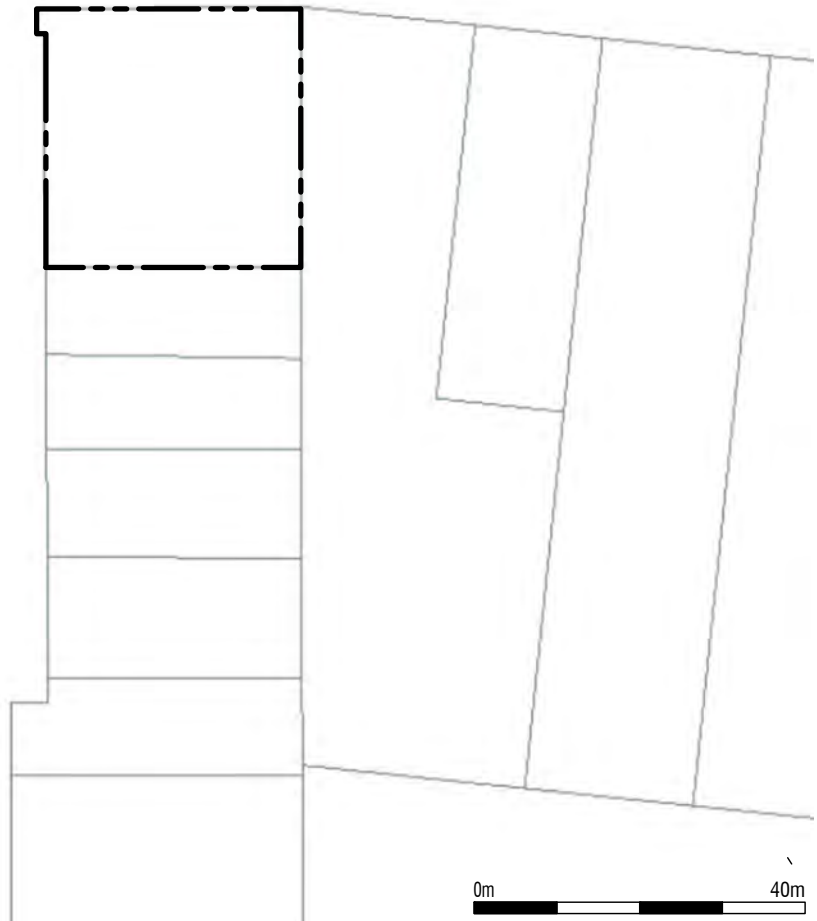
MAIN STREET EAST



CHESTNUT STREET



WELLINGTON STREET



0m 40m

This is a Appendix 1
To OPA No. _____ Passed
This ___ Day of ___, 2022



Lands to be Redesignated from
"Highway Commercial" to
"Highway Commercial Special"

THE CORPORATION OF THE CITY OF PORT COLBORNE

BY-LAW NO. _____

Being a by-law to amend Zoning By-law 6575/30/18 respecting the lands legally described as Part of Lot 26, Concession 2 in the City of Port Colborne, Regional Municipality of Niagara, municipally known as 335 Wellington Street.

Whereas By-law 6575/30/18 is a by-law of The Corporation of the City of Port Colborne restricting the use of lands and the location and use of buildings and structures.

Whereas, the Council of the Corporation of the City of Port Colborne desires to amend the said by-law.

Now, therefore, and pursuant to the provisions of Section 34 of the *Planning Act, R.S.O. 1990*, The Corporation of the City of Port Colborne enacts as follows:

1. This amendment shall apply to those lands described on Schedule "A" attached to and forming part of this by-law.
2. The zoning of the lands is changed from Highway Commercial ("HC") Zone to Highway Commercial - Special ("HC-XX") to permit a "Cannabis Retail Store".
3. A "Cannabis Retail Store" is defined as:

A store licensed by the Alcohol and Gaming Commission of Ontario for the retail sales of recreational cannabis and cannabis related products.

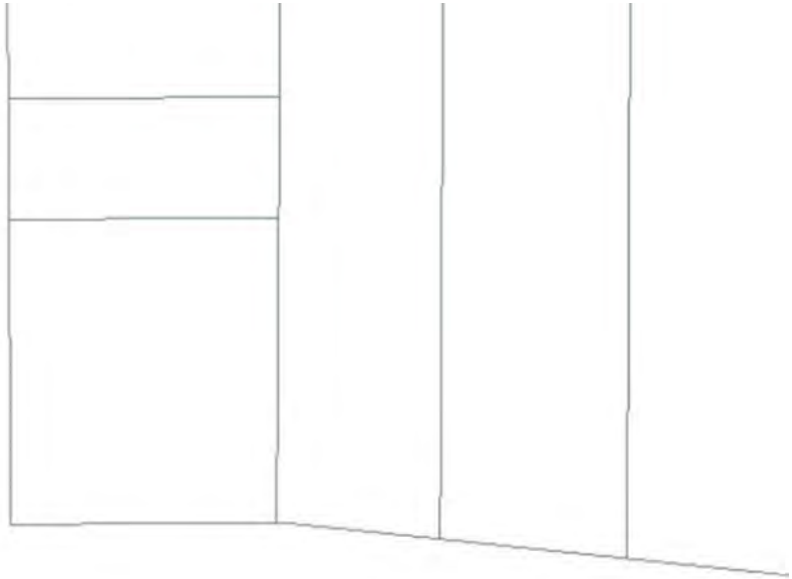
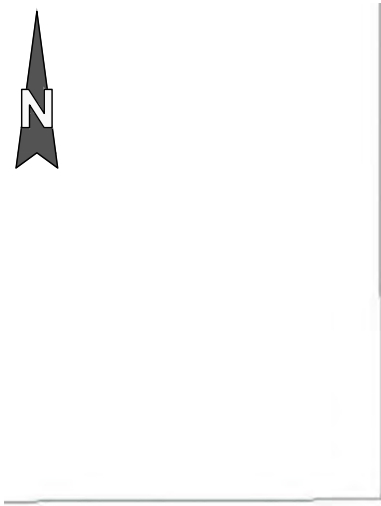
4. That this By-law shall come into force and take effect on the day it is passed by Council, subject to the provisions of *The Planning Act*.
5. The City Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this by-law, in accordance with the *Planning Act*.

Enacted and passed this _____ day of _____, 2022.

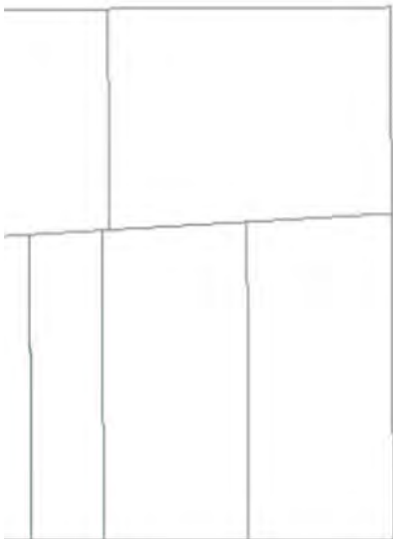
William C Steele
Mayor

Amber LaPointe
Clerk

Schedule "A"
By-Law No. _____
City of Port Colborne



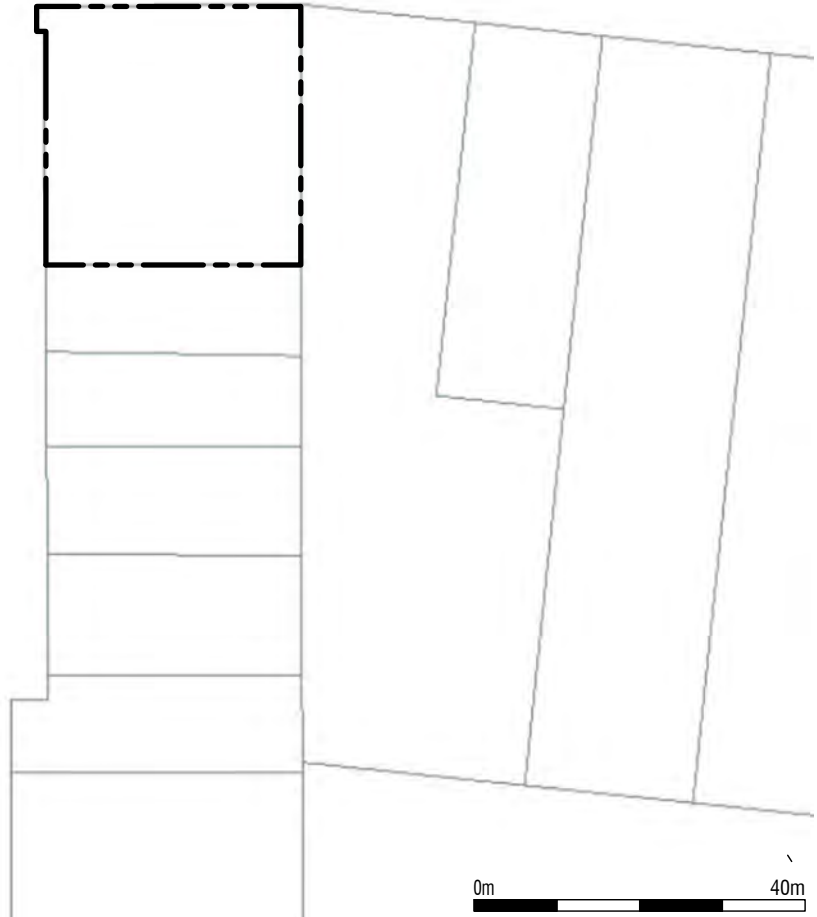
MAIN STREET EAST



CHESTNUT STREET



WELLINGTON STREET



This is a Schedule "A"
To By-Law No. _____ Passed
This ___ Day of ___, 2022



Lands to be Rezoned from
"HC" Zone to "HC-XX" Zone



Wellings
Planning Consultants Inc.



ADDRESS : 513 Locust Street, Unit B
Burlington, Ontario
L7S 1V3

PHONE : (905) 681-1769

EMAIL : glenn@wellingsplanning.ca

WEBSITE : wellingsplanning.ca



Subject: RFP for Affordable Housing Strategy

To: Council

From: Chief Administrative Office

Report Number: 2022-30

Meeting Date: February 22, 2022

Recommendation:

That Chief Administrative Office Report 2022-30 be received for information.

Purpose:

The purpose of this report is to update Council on the process of retaining a consultant to develop an Affordable Housing Strategy and Action Plan.

Background:

Staff report 2019-101 updated Council on the creation of an affordable housing strategy. Council approved funding in the 2020 Capital Budget to retain a consultant. A long-term action plan is needed to improve access to affordable housing that encompasses the entire housing spectrum. The objective of the 10-year (2022-2032) Affordable Housing Strategy and Action Plan is to comprehensively address how and to whom to provide a sufficient range of affordable housing options and opportunities in Port Colborne.

The City does not offer community services, administer shelter services, or act as a housing provider. Rather, it is incumbent upon the City to ensure that planning tools and incentives are made available to support affordable housing and that municipal policy is consistent with regional and provincial direction.

This project is timely given the comprehensive review of the City's Community Improvement Plan (CIP) programs that is currently underway and scheduled for presentation to Council in Q3/Q4 2022. The City's CIP consultant has been asked to provide comments and analysis about adding an affordable housing CIP to the City's current suite of incentive programs.

This project also follows through on a commitment in the City's 2020-2023 Strategic Plan, specifically the action item of developing an affordable housing strategy under the "Attracting Business Investment and Tourism" strategic pillar.

City staff have had preliminary discussions with housing providers and consultants from across Niagara to obtain strategic advice and insights regarding current affordable housing policies and programs. Niagara Regional Council has identified affordable housing as a strategic priority and the Region has development incentives for affordable housing projects. The Region's incentives can complement the policies and incentives that Port Colborne may implement in the future. Moreover, having a Council-approved 10-year (2022-2032) Affordable Housing Strategy and Action Plan will attract private sector investment and facilitate partnerships with non-profit organizations.

Discussion:

Staff from Economic Development and Tourism Services, Planning and Development, and Purchasing developed an RFP, posted it on the City's website and Bidding, and forwarded it to a list of companies that have completed similar projects for other municipalities. A cross-divisional Project Review Team (PRT) was formed to evaluate the proposals and make a recommendation to Council. The timelines for the RFP process was as follows:

- Issue RFP – December 14, 2021
- Deadline for submitting proposals – January 19, 2022
- Complete evaluation of submitted proposals – February 4, 2022

The City received five (5) proposals from the following firms: ISL Engineering and Land Services Ltd.; N. Barry Lyons Consultants Ltd. (NBLC); SHS Consulting; StrategyCorp; and Tim Welch Consulting Inc.

As per the terms of the RFP, all proposals were evaluated using a scoring matrix. A review of fees, enclosed as a separate document along with each proposal, was performed only after scoring all other criteria. Based on the scores and a consensus reached by the PRT, the contract has been awarded to Tim Welch Consulting Inc.

According to the timelines outlined in the consultant's proposal, this project will start in late February and proceed through to a final report and presentation to Council in August. The Project Review Team (PRT) plans to work closely with the consultant throughout the project's entire duration.

Internal Consultations:

Staff from Economic Development and Tourism Services, Planning and Development, and Purchasing (Corporate Services) collaborated on the RFP and a cross-divisional PRT was established to evaluate the submissions.

Financial Implications:

Council approved \$60,000 in the 2020 Capital Budget to retain a consultant to develop an affordable housing strategy. Tim Welch Consulting Inc.'s fee for this project is \$49,840 (exclusive of HST).

Public Engagement:

The consultant will prepare a public engagement plan and obtain input from residents and key stakeholders. City staff will work with the consultant to promote this project through various channels including City news updates, website, social media, and email.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillars of the strategic plan:

- Attracting Business Investment and Tourists to Port Colborne
 - City-Wide Investments in Infrastructure and Recreational/Cultural Spaces
 - Governance: Communications, Engagement, and Decision-Making
-

Conclusion:

There is a shortage of affordable housing in Port Colborne and throughout the Niagara area. Supportive policies and incentive programs are needed to encourage private and non-profit investment to build affordable housing units across the entire housing spectrum. An RFP was developed to retain a consultant to prepare a 10-year (2022-2032) Affordable Housing Strategy and Action Plan. A cross-divisional Project Review Team was formed to evaluate proposal submissions and award the contract to the successful proponent.

The City will not be in the business of building affordable housing units, but it can create supportive policies and incentives that attract private sector investment and

partnerships with non-profit organizations for the construction of new and much-needed affordable housing units in our community.

Appendices:

- a. RFP 2021-43 Affordable Housing RFP

Respectfully submitted,

Gary Long
Manager of Strategic Initiatives
905-835-2900 x502
gary.long@portcolborne.ca

Greg Higginbotham
Tourism Coordinator/Special Projects
905-835-2900 x505
greg.higginbotham@portcolborne.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.



PORT COLBORNE

PROJECT NO. 2021-43
REQUEST FOR PROPOSAL

Affordable Housing Strategy and Action Plan

Mayor: William Steele

CAO: Scott Luey

City Clerk: Amber LaPointe

Closing Date & Time: January 19, 2022

2:00 p.m. local time

Document Release Date: December 14, 2021

Attn: Amber LaPointe, City Clerk

Project No.: 2021-43

Type: Request for Proposal

Title: Affordable Housing Strategy and Action Plan

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Project No.: 2021-43

Type: Request for Proposal

Title: Affordable Housing Strategy and Action Plan

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Project No.: 2021-43

Type: Request for Proposal

Title: Affordable Housing Strategy and Action Plan

DEFINITIONS

The following definitions apply to the interpretation of this document.

1. "ADDENDUM" or "ADDENDA" means a written change, addition, alteration, correction or revision to a bid, proposal or contract document. Addendum/Addenda may be issued following a pre-bid/pre-proposal site meeting or as a result of a specification or work scope change to the solicitation.
2. "AGREEMENT" means a legal document that binds the Corporation of the City of Port Colborne and the Successful Proponent to carry out a project.
3. "AUTHORIZED AGENT" is a representative of the Successful Proponent who has the authority to enter into an agreement to carry out a project.
4. "AWARD" is the acceptance of a Proposal in accordance with this Request for Proposal (RFP).
5. "BUSINESS DAY" means any day from Monday to Friday between the hours of 8:30 a.m. and 4:30 pm, excluding statutory or civic holidays observed by the City of Port Colborne.
6. "CONSULTANT" means the provider of a service who, by virtue of professional expertise or service, is contracted by the City of Port Colborne to carry out a project.
7. "CONTRACT" means a legal document and any attachments that bind the Corporation of the City of Port Colborne and all other parties.
8. "CONTRACT DOCUMENTS" means a form of agreement, together with the standard conditions, specifications and appendices, if any, which constitute the entire understanding between the City and the Successful Proponent regarding the project.
9. "DISCRETIONARY" refers to a requirement that the City of Port Colborne would find valuable and consider desirable for the proposed project. Instructions and specifications that contain words like "may" are discretionary and should be responded to in the proposal indicating they are or are not part of the Proposal.
10. "INSURANCE CERTIFICATE" is a certified document issued by an insurance company licensed to operate by the Government of Canada or the Province of Ontario certifying that the Proponent is insured in accordance with the City's requirements.
11. "MANDATORY" refers to a specification or requirement that the Proponent must include in their Proposal and be capable of performing if they are awarded the contract to carry out the project. Instructions and specifications that are requested by the words "shall" and/or "will" indicate the requirement is mandatory.

Project No.: 2021-43

Type: Request for Proposal

Title: Affordable Housing Strategy and Action Plan

12. "MAY" is used in this document to denote permissive action.
13. "PROPONENT" refers to any legal enterprise making a submission in response to this RFP.
14. "PROPOSAL" is a written offer, received from a person/company in response to an invitation to provide goods and/or services based on a Request for Proposal and the corresponding Terms of Reference.
15. "PROPOSED FEE" means the fee estimated by the Proponent to complete the project.
16. "REQUEST FOR PROPOSAL" (RFP) means the document issued by the City of Port Colborne and used to solicit proposals from Proponents to provide goods, services or construction to the City, where it is not practical and/or possible to prepare precise specifications, or where alternatives to detailed specifications will be considered, which may be subject to further negotiation.
17. "SHALL" and "WILL" are used in this document to denote imperative action.
18. "SUCCESSFUL PROPONENT(S)" means a Proponent(s) whose submission(s) has been accepted by the City.

Project No.: 2021-43

Type: Request for Proposal

Title: Affordable Housing Strategy and Action Plan

1.0 General Background

The Terms of Reference describes the Corporation of the City of Port Colborne's requirements for the consulting services required to provide a sufficient range of affordable housing options and opportunities in Port Colborne.

2.0 Community Background

The City of Port Colborne (2016 population 18,306) is a lower-tier municipality on Lake Erie, at the southern end of the Welland Canal, in the Niagara Region of southern Ontario, Canada. The community was first formed in 1832 and incorporated in 1870 (village) and 1966 (city). In 1970, Niagara Region municipal restructuring added Humberstone Township, which further expanded the city. The City is one of 12 municipalities that constitute the Regional Municipality of Niagara. It shares its boundaries with the Township of Wainfleet to the west, the Town of Fort Erie to the east, and the City of Welland and City of Niagara Falls to the north.

Historically, the City has benefited from its proximity to large population centres in Southern Ontario and the Northeast United States and its strategic location on the Welland Canal and Lake Erie. It is recognized as part of the Niagara Gateway Economic Zone and the province's A Place to Grow plan for the Greater Golden Horseshoe. As one of several Niagara municipalities in a designated Foreign Trade Zone, the City is an important link in the chain of trade between Canada and the United States.

The urban areas of Port Colborne are centred around both (east and west) sides of the Welland Canal and consist of a variety of residential neighbourhoods, a historic downtown core, as well as various commercial and industrial lands. These areas make up less than one-quarter of the municipality's geographic territory. Across its rural expanse, there are active agricultural lands, hamlets, aggregate resource areas, and a handful of estate residential developments.

3.0 Project Objectives & Deliverables**Project Overview**

Intertwined with the City's priorities of economic development and goals for future prosperity is the challenge of bettering community quality of life. To make progress on this front, a long-term action plan is needed to improve access to affordable housing that encompasses the entire housing spectrum. The desired outcome of the action plan will be a future where every person in Port Colborne has access to housing that is not only affordable but also suitable, stable, and safe. The benefits of achieving this vision are projected to lead to improvements in related socio-economic conditions like poverty, employment and income, education, and health.

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The City does not offer community services, administer shelter services, or act as a housing provider. Instead, it is the City's responsibility to ensure that planning tools are made available to support affordable housing and that municipal policy is consistent with regional and provincial direction. Therefore, solutions for addressing affordable housing issues must align with all levels of government in order for them to be effective.

The objective of the 10-year (2022-2032) Affordable Housing Strategy and Action Plan is to comprehensively address how and to whom to provide a sufficient range of affordable housing options and opportunities in Port Colborne.

Project Scope**Review Team**

The Consultant will convene a start-up meeting with the City's Project Review Team (PRT) and hold monthly meetings. As part of these monthly meetings, the Consultant will attend and present information with regard to the ongoing consultation, preparation and presentation of the draft and final Affordable Housing Strategy and Action Plan. The PRT will provide ongoing input as policies and schedules are developed. The PRT may consist of the following City staff members:

- Manager of Strategic Initiatives – Gary Long
- Economic Development Officer – Bram Cotton
- Planning Consultant – Rick Brady
- Tourism Coordinator/Special Projects – Greg Higginbotham

Deliverables

Provide at least one hard copy of all prepared material, electronic versions of all reports, maps, presentations, etc. in the following formats:

- Written Reports (MS Word and PDF)
- Presentations (MS PowerPoint and PDF)

The Consultant will also provide all presentation materials for required meetings, including presentation boards, in advance of these meetings.

Background Information, Collection & Review

The Consultant will prepare the following components:

i. Literature Review

- a. Niagara Official Plan – The Regional Municipality of Niagara (the "Region") receives high level policy direction from the Province and the acts as a service manager for the

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provision of social and affordable housing across 12 municipalities. Although the Region is currently in the process of creating a new Official Plan, updated and consolidated policy reports on housing are to be studied and utilized. These reports will establish the background and regional context for Port Colborne’s affordable housing implementation plan. Once the new Official Plan is approved and released, it should be thoroughly examined for its implications on affordable housing.

- b. Niagara’s 10-Year Housing and Homelessness Action Plan – This plan provides a framework for integrated local planning to address housing affordability, coordination of homelessness and related support services and homelessness prevention. It too should be studied and utilized in order to align Port Colborne’s implementation plan with the actions, outcomes and targets set by the Region.

ii. Needs & Supply Analysis

- a. Analyze economic and demographic data from applicable sources to profile the current and future needs for housing among groups facing the biggest affordability challenges (e.g., multiple-family, couples with children, couples without children, lone-parents, singles, seniors, Indigenous, newcomers and refugees, persons with a disability, persons with a developmental disability, and persons with complex needs) within the Port Colborne population. A focus on income levels (by deciles) relative to monthly housing costs (by type) should be taken.
- b. Analyze current and historical datasets to provide information about the existing housing stock in Port Colborne by type (e.g., ownership, private market rentals, non-profit rentals, emergency, transitional, cooperative, supportive, secondary suites, congregative living, etc.). Research, examine, and synthesize information on the key trends, issues or barriers that have impacted and presently impact the supply of affordable housing in Port Colborne. A full review and analysis of existing City policy (i.e., Official Plan and amendments) with respect to planning and development is expected.
- c. Over a 10-year period, forecast the rate of housing need in relation to regional and provincial population growth trends and calculate the magnitude of the shortfall or oversupply for different housing types. Give consideration to existing and proposed housing developments in Port Colborne.

iii. 10-Year Strategy & Action Plan

The 10-year (2022-2032) Affordable Housing Strategy and Action Plan should ultimately be a tool to guide City Council, staff, local decision-makers, and community stakeholders towards achieving the goal of improving access to affordable housing. It will include, but not be limited to, the following:

- Outline strategies to create housing partnerships with private developers and non-profit community organizations;

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- Present strategies to incentivize the provision of mixed (medium to high) density and mixed-income housing;
- Develop construction priorities and timelines to increase and diversify housing stock (across the entire housing spectrum);
- Recommend proactive measures to maximize the productivity and availability of Port Colborne’s existing housing stock;
- Provide zoning and Official Plan policy recommendations that would allow for the development of different housing types and the flexibility in where such housing is built;
- Set annual housing targets (by number of units) that minimize overall levels of housing need and keep pace with future population growth;
- Identify policy decisions, initiatives, and priorities that are not outlined herein but considered important and necessary to achieve the overall objective; and,
- Outline provincial and federal affordable housing funding programs that should be pursued to support the action plan and any financing strategies.

4.0 Project Management

The agreement for this project will be between the Successful Proponent and the City of Port Colborne. It will be the responsibility of the Successful Proponent to prepare said agreement.

The lead contact person and Project Manager for the City will be Gary Long, Manager of Strategic Initiatives. The Consultant will also assign a lead contact person who bears responsibility for undertaking the project.

Any change in the Successful Proponent’s assigned staff or lead contact person shall be approved by the City’s Project Manager in advance.

No direction impacting the scope of work shall be considered unless it is received in writing and approved by the City’s Project Manager.

5.0 Submission

The Proposal should include items listed hereunder, but also include other considerations based on the Proponent’s understanding of the project. The Proponent is also requested to propose a work plan and timeline that addresses the tasks outlined in this RFP.

Proponents are requested to adhere strictly to the instructions concerning submission. The following policy regarding the submission and opening procedures will be applicable.

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Four copies of the Proposal must be sealed and submitted to the following person by the following date and time:

Amber LaPointe, City Clerk
Second Floor, City Hall
66 Charlotte Street
Port Colborne, ON L3K 3C8

January 19th, 2022 at 2:00 p.m. local time

Proposals received later than the time specified will not be accepted, regardless of the postal seal date. Proposals must be plainly marked to reveal the contents and the submitter's name and address. Proposals received after this time will not be opened and returned to the sender.

Proposals shall be submitted in envelopes with information on the front (Attachment G) as follows:

- Envelope #1 – Proposal including all items listed below under section 6.0. Proposal (including addenda if applicable). An electronic copy of all files included in this envelope can be provided on a USB or memory stick.
- Envelope #2 – Proposal with Summary of Consulting Fees & Disbursements (Attachment B)

If the Proponent needs clarification of the specifications, they should not use envelopes as they will not be opened prior to the evaluation process.

The proposal must be legible, written in ink, or typewritten. Any form of erasure, strikeout or over-writing must be initialed by the Proponent's authorized signing officer.

All unit prices must be clearly indicated, and all extensions written in figures. The Proposal must not be restricted by a statement added to the Proposal Summary, a covering letter or alterations to the Proposal Summary as supplied by the City of Port Colborne, unless otherwise provided herein.

The key contact for inquiries regarding this RFP is as follows, and any inquiries must be submitted by email only.

Gary Long
Manager of Strategic Initiatives
gary.long@portcolborne.ca

All Proponents intending to submit a Proposal are advised to register their intention to the

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above key contact to ensure access to clarifications and addendums.

Proponents may, reasonably in advance of the closing date and time, inquire into and seek clarification of any requirements of this RFP. Inquiries must be directed to the attention of the key contact.

City staff may clarify any aspect of a Proposal submission with the Proponent at any time after the Proposal has been opened. Any such clarification will not alter the Proposal and will not constitute a negotiation or renegotiation of the Proposal. The Corporation of the City of Port Colborne is not required to clarify any part of a Proposal. Any clarification of a Proposal by a Proponent shall not be effective until confirmation has been delivered in writing. No oral interpretations will be effective to modify any provisions of the Proposals.

Any Proponent finding discrepancies or omissions in the RFP documents or having any doubts concerning the meaning or intent of any part thereof should immediately request clarification. Written instructions or explanations will then be sent to all Proponents in the form of Addenda. Any Addendum is the responsibility of the Proponent. The Proponent must ensure that all applicable Addenda are contained in Envelope #1 prior to submission.

It will be the responsibility of the Proponent to clarify any details in question before submitting their Proposal. No inquiries will be taken on the closing date.

The Proponent shall note that all elements which may be listed as provisional shall be included in the price (Attachment B). However, these elements will be used at the City's discretion, pending budget, and no penalty for non-usage shall be applicable.

Proponents will be required to provide pricing on all provisional items. Provisional items will be noted as such.

6.0 Proposal

Submissions are restricted to those consulting firms that can demonstrate qualifications and experience in strategy formulation, in-depth knowledge of affordable housing and completion of a project of this nature within the last 5 years for a municipality or jurisdiction of comparable (or greater) population in Canada.

Consultants shall provide a brief Proposal (maximum 15 pages), not including the covering letter, résumés, company credentials, content page and appendices. Appendices are to be limited to résumés, project lists and corporate information.

The Consultant's Proposal will include:

- At least three (3) letters of reference of similar work experience. Each reference letter submitted shall have varied content in order to illustrate the Proponent's understanding of the various requirements of the Proposal. It shall also include all applicable contact information, as this will be a key component in the qualification of a

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Consultant. Proponents not fulfilling this key component will be scored 0 on Attachment E of the Consultant Evaluation.

- The Consultant’s interest in the project and an understanding of the objective(s) of this project, as well as any relevant local expertise shall be referenced.
- The Consultant’s proposed methodology for carrying out the work.
- A detailed work plan, timeline and weekly project schedule presented in a calendar-style format and based on the fixed schedule provided by the City (Attachment A). The work plan, timeline and schedule will identify all major components of this project and their anticipated start and completion dates, which must coincide with the dates provided by the City. The Consultant will meet all work program commitments, times and completion dates as agreed upon by the City and the Consultant, unless both parties agree to appropriate revisions to the agreement due to unforeseen circumstances. Any overruns in timing or cost, unless otherwise agreed upon, will not be the responsibility of the City of Port Colborne.
- A description of the consulting team, the lead person and the relevant experience and qualifications of each individual, along with an estimate of the percentage of time each team member will dedicate to this project (i.e., the individual’s hours divided by total project hours). Also, the location where the consulting team members reside will also be considered when reviewing local expertise.
- Identification of all sub-consultants, their qualifications and experience, as well as their specific role and commitment (i.e., time and resources) to the project.
- Disclosure of any perceived conflict of interest (Attachment F).
- Project History for the past three years and the current status of these projects as they pertain to the Consultant’s project team members (Attachment H).
- A complete cost breakdown for the project presented in a tabulated format in cumulative hours, with a total upset cost for completion and presentation of the final report. The cost estimate of the Proposal shall be submitted in Envelope #2.
- All reports, plans, drawings, specifications, designs, construction data and documents prepared by the Consultant shall be and remain the property of the City.

7.0 Budget

Proponents shall stipulate a fixed price to perform the project as outlined herein. The price stipulated will be inclusive of all labour, materials, equipment, travel, accommodation, meal, parking and incidental expenses incurred by the respondent in the performance of this project. The contract for this project will be determined by a bid process and will be a fixed

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price contract. Quotes must clearly indicate sales tax as a separate line item.

Proponents are required to provide an outline for the estimated number of consulting days as well as the estimated number of days for each member of the consulting team involved in the project.

A payment fee schedule will be determined with the Consultant dependent on mutually agreed upon milestones. At least 25% of the budget will be withheld until delivery of the final report and corresponding presentation in a form acceptable to the City. The Consultant must submit an invoice to the City outlining items that are being billed for (e.g., hours, travel, etc.). Upon receipt and verification of the invoice, payment will be issued.

The project will be awarded through a competitive process and subject to budget and Council approval as per the City's purchasing policy.

8.0 Project Cost & Man-Hour Estimate

In the Proposal, the Consultant will provide the overall project cost breakdown and include the following:

- Fee schedule of hourly or per diem rates for each member of the consulting team and any sub-consultant(s) (Attachment C).
- A detailed time and cost breakdown of the workload (i.e., by staff and man-hours).
- Disbursement costs, which may include mileage, telephone charges, printing and reproductions, fax charges, courier services, computer services, etc.
- Compliance with the City's insurance requirements as indicated in Attachment D.
- A summary of consulting fees and disbursements as illustrated in Attachment B.

The Consultants shall note that the City of Port Colborne will consider the estimated total consulting service fees for this project as an upset limit based on the work plan and the assumed project duration, and it will not consider extra items unless prior written approval has been obtained.

The Proposal shall warrant that the costs quoted for services in response to the RFP are not in excess of those which would be charged to any other individual or entity for the same services performed.

9.0 Obligations of The Parties

The following items are general obligations of the Consultant and City:

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- Submission of a Proposal does not obligate the City of Port Colborne to acceptance and, as such, the City of Port Colborne reserves the right to accept or reject any Proposal based on technical merit, interpretation of this Request for Proposal, cost effectiveness, timeliness, etc.
- Acceptance of any Proposal will be subject to approval by the Council of City of Port Colborne. The selected Consultant will be required to enter into a written agreement with the City of Port Colborne before commencement of the project. It shall be the responsibility of the Consultant to prepare said agreement.
- All Proposals will be subject to an evaluation process by City staff, which will consider such items as professional expertise, experience and previous project performance (Attachment E).

10.0 Proposal Evaluation

All Proposals will initially be reviewed and assessed based on non-cost criteria. Subsequently, some Proposals may be evaluated further to assess costs before a preferred Proposal is determined. See Attachment E for Evaluation Sheet and 19.0 Evaluation and Selection of Proponents.

11.0 Confidentiality

The City of Port Colborne will treat all bids as confidential. The City will comply with the Municipal Freedom of Information and Protection of Privacy Act, and its retention by-law pursuant to the Municipal Act, in respect of all bids. All reports approved by the Council of the City of Port Colborne will become public information. These reports will not include bid documents. The City will retain all copies of all bids, successful or otherwise, and they will be destroyed in accordance with the City’s Retention By-Law.

12.0 Informal/Incomplete Proposals

Proposals shall be rejected as informal/incomplete for any of the following reasons:

- a) Late
- b) Incorrect Fee/Schedule Breakdown document
- c) Incorrect/Missing envelopes
- d) Incomplete documentation
- e) Missing/Incomplete Addendum
- f) Proposal not signed and/or sealed
- g) Proposal completed in pencil
- h) Erasures, overwriting or strikeouts not initialed
- i) Proposals submitted by fax or email

13.0 Proponent Performance (Litigation)

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The Corporation may, in its sole discretion, reject a Proposal if a Proponent:

- i. Has, at any time, threatened, commenced or engaged in legal claims or litigation against the Corporation of the City of Port Colborne.
- ii. Is involved in a claim or litigation initiated by the Corporation.
- iii. Previously provided goods 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 or unsatisfactory references.
- 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 Proposal.
- viii. Has a conflict of interest or that which may be viewed as a conflict of interest either with or by the Corporation.

Proponent's must sign and submit the Litigation & Conflict of Interest Statement (Attachment F).

14.0 Exclusion

Except as expressly and specifically permitted herein, no Proponent shall have claim for any compensation of any kind whatsoever as a result of participating in this Request for Proposal. By submitting a Proposal, each Proponent shall be deemed to have agreed that it has no claim.

15.0 Negotiations

If all Proposals are over budget, the City reserves the right to negotiate the terms of the contract, including price and scope of work, directly with the Successful Proponent.

Negotiations will identify cost saving opportunities associated with an alternate process of project delivery. If an acceptable agreement cannot be met with the Successful Proponent, the City reserves the right to negotiate an acceptable contract with the next qualified Proponent.

If an agreement cannot be reached that is acceptable to the City, the project will be cancelled without award. The City further reserves the right, in its sole discretion, to cancel the contract at any time without an award being made.

16.0 Terms of Reference

A detailed Proposal with recommendations, as outlined in 3.0 Project Objectives & Deliverables, shall be prepared for submission to the Project Manager and contain:

- Detailed and specific recommendations that can be acted upon by the City.

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- Content that is user-friendly and easily understood yet technical enough for implementation.
- Meeting minutes after each meeting with staff and any other interested parties. These minutes will be responsibility of the Successful Proponent and should be submitted to the City for review and approval within one week of the meeting date.
- Final submission of reports, drawings and presentations in Microsoft Word, Excel PowerPoint and/or PDF. Ownership of both hard copies and digital copies must be transferred to the City upon completion of the project. Metric units are to be used.

The City will prepare all required mapping for the CIP project.

17.0 Acceptance or Rejection of Proposals

The City of Port Colborne reserves the right to discuss any and all Proposals, request additional information from the Consultants and accept or reject any or all Proposals, whichever is in the best interest of the City.

All Proposals will be subject to an evaluation process.

An award will be made to the Successful Proponent, which, in the opinion of the City, is best qualified to meet the City's requirements. The City will not be required to justify its decision to those consulting firms not selected. The City will not be liable for any costs incurred by the consulting firms in the preparation of their Proposals.

The City may, at any time and at any stage of the undertaking, provide the Successful Proponent with written notice suspending or terminating the Consultant's services or any portion thereof.

Upon receipt of such written notice, the Successful Proponent shall perform no further services other than those reasonably necessary to close out the project. In such event, the Successful Proponent shall be paid by the City for all services performed and all disbursements incurred pursuant to this agreement and then remain unpaid as of the

effective date of such termination.

If the City is in default in the performance of any of the City's obligations set forth in this agreement, then the Successful Proponent may, by written notice to the City, require such default be corrected. If, within thirty (30) days of receipt of such notice, such default shall not have been corrected, the Successful Proponent may immediately terminate this agreement. In such event, the Successful Proponent shall be paid by the City for all services performed and all disbursements incurred pursuant to this agreement and then remain unpaid as of the effective date of such termination.

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No activities or services included as part of this RFP may be subcontracted to another organization, firm, or individual without the approval of the City of Port Colborne. Such intent to subcontract should be clearly described in the Proposal and the names of subcontractors/-ed firms must be provided. It is understood that the subcontractor/-ed firm is held responsible for the satisfactory completion of the service or activities included in the subcontract.

Any consortium of companies or agencies submitting a Proposal must certify that each company or agency of the consortium can meet the requirements set forth in the RFP.

18.0 RFP Schedule

RFP Issued	December 14, 2021
Deadline for questions	January 13, 2022
Deadline for staff response to questions	January 14, 2022
Submission of Proposals	January 19, 2022
Staff Review Proposals	January 31, 2022
City Council awards contract	February 22, 2022
Project Start-up	February 23, 2022

Project Schedule

Project performance and completion based upon the following schedule.

ITEM	DUE DATE
Project Start-up	February 23, 2022
Interim Report	TBD
Draft of Final Report Submission to City Staff	TBD
Final Report Submission to City Staff	TBD
Presentation to City Council	TBD

19.0 Evaluation of Proponents

Objectives

The objective of the Evaluation and Selection Process is to identify the Proposal that effectively meets the requirements of this RFP and provides the best value to the City.

The City of Port Colborne has established the following general criteria:

- Demonstrated knowledge of affordable housing, best practices, emerging trends, strategies, policies, funding and program administration;
- Understanding of the objectives of the City of Port Colborne;

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- Proven experience in conducting broad-based community consultations through various formats;
- Proven ability to meet, either in-house or through sub-consultants, the project requirements on schedule and within budget;
- Proven ability to provide creative initiatives and solutions; and,
- Prior experience in completing similar projects.

Evaluation Team

An evaluation committee will evaluate the Proposals. The evaluations will be conducted using pre-determined criteria set out in this RFP. The City reserves the right to have a third party, subject to strict confidentiality obligations, review the Proposals to support and advise the Evaluation Committee as necessary.

Evaluation & Selection Criteria

The Proposal evaluation process will be comprised of the following stages:

- Stage 1: Evaluation of Mandatory Criteria
- Stage 2: Evaluation of Technical Criteria
- Stage 3: Reference Checks of Short-Listed Proponents
- Stage 4: Evaluation of Cost Criteria

Stage 1 - Evaluation of Mandatory Criteria

Proposals that do not meet the mandatory criteria will be rejected without further evaluation.

Stage 2 - Evaluation of Technical Criteria

Subject to the Evaluation Committee’s right to reject an unacceptable Proposal under the mandatory submission criteria, the Committee will evaluate and score each Proposal. Points will be awarded on the basis of the extent to which the requirements of the RFP are satisfied, as well as the merit of the individual Proposal as compared to other Proposals.

Stage 3 - Reference Checks of Short-Listed Proponents

The Evaluation Committee may consult with the references of the short-listed Proponents. Based on the feedback from references, the technical ratings may be adjusted.

Stage 4 - Evaluation of Cost Criteria

Evaluation of cost criteria will be conducted after evaluation of the technical criteria and references checks have been performed.

Additional Information

The Evaluation Committee may, at its discretion, verify and make inquiries with respect to

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references given by a Proponent, and request clarifications or additional information with respect to any Proposal. The Evaluation Committee may make such requests only to selected Proposals and without making the same requests for all Proposals. The Evaluation Committee may consider such clarifications or additional information in evaluating a Proposal.

Selection

The Evaluation Committee will rank the proposals and select the Successful Proponent.

Value-Added Services

Should their consulting firm be awarded the contract, the Successful Proponent will indicate any value-added services or items that can be included or made available to the Corporation and that would not be an additional cost to the Corporation.

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Attachment A - Schedules

The following dates listed are ones that will move this project forward. Should the Consultant wish to alter the schedule, it should be noted below with an explanation for the change in timing. Bear in mind that any change to the schedule may affect the total score.

SCHEDULE	
RFP Closing Date	January 19, 2021
Staff Report to Council and Award of RFP	February 22, 2022
Project Start-up	February 23, 2022
Interim report	TBC
Draft of Final Report Submission to City Staff	TBC
Final Report Submission to City Staff	TBC
Presentation to City Council	TBC

Consultants revised schedule if necessary:

SCHEDULE	
RFP Closing Date	
Staff Report to Council and Award of RFP	
Project Start-up	
Draft Report Submission to City Staff	
Final Report Submission to City Staff	
Presentation to City Council	

Explanation of changes in schedule:

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Attachment B - Summary of Consulting Fees & Disbursements

Excluding HST

Project: _____

Consulting Firm: _____

Professional Liability Insurance: \$_____ Expiry Date: _____

Comprehensive Liability Insurance: \$_____ Expiry Date: _____

Automobile Insurance: \$ _____ Expiry Date: _____

- | | | |
|----|----------------|----------|
| 1. | Consulting | \$ _____ |
| 2. | Disbursements | \$ _____ |
| 3. | Payroll Burden | _____ % |

Total: \$ _____

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Attachment C - Fee Schedule and Cost Breakdown

Fee Schedule and Cost Breakdown (example)

Project:															
Consulting Firm:															
		Labour			Costs								Total	Total Phase	
Activity	Staff				Total Hours	Sub-Consultant	Equip-ment	Inspe-ction	Other	Disbursement					
	Fee Hr.														

Attachment D - Insurance Requirements

The City of Port Colborne's insurance requirements for Consultants are described below. The coverage provided by these policies shall not be changed or amended in any way or cancelled by the Consultant unless approved by the City in writing.

Comprehensive General Liability and Automobile Insurance

The Consultant shall provide the City of Port Colborne with a certified copy of Third-Party Liability in a form satisfactory to the City Solicitor as follows:

- Policy to be written on the comprehensive form including Contractual Liability and Complete Operations with an inclusive limit of not less than two million dollars (\$2,000,000.00) Bodily Injury and Property Damage with a deductible not greater than five thousand dollars (\$5,000.00). The Liability Insurance Policy shall not contain any exclusions of liability for damage, etc., to property, building or land arising from the removal or weakening of support of any property, building or land whether such support be natural or otherwise.
- Standard Automobile Policy on both owned and non-owned vehicles with inclusive limits of not less than two million dollars (\$2,000,000.00) Bodily Injury and Property Damage with a deductible not greater than five thousand dollars (\$5,000.00).
- A "Cross Liability" clause or endorsement.
- An endorsement certifying that the City of Port Colborne is included as an additional named insured.
- An endorsement to the effect that the policy or policies will not be altered, cancelled or allowed to lapse without thirty (30) days prior written notice to the City.
- The Insurance Coverage shall be in the minimum amount of two million dollars (\$2,000,000.00). The Consultant shall provide to the City proof of Professional Liability Insurance carried by the Consultant.

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Attachment E - Consultant Evaluation

	ITEM/FACTOR	WEIGHTING	COMPANY 1 (1 – 10)	WEIGHTED SCORE	COMPANY 2 (1 – 10)	WEIGHTED SCORE
1.	Applicable Technical Expertise and Experience	25				
2.	Project Understanding	20				
3.	Methodology (Work Plan, Innovation, Client Administrative Input, Workload, etc.)	20				
4.	Value Added	5				
5.	Project History	10				
6.	Cost Factor	15				
Sub-Total			Only top 3 scoring proposals will advance to 7.			
7.	Reference Checks	5	If applicable			
Grand Total:						

- **Notes:** Cost score will show maximum (150) for lowest cost and pro-rated proportionally to highest cost (to a value of up to 1.5 times of low cost). No points will be awarded for costs exceeding 1.5 times of low cost.

Attachment F - Litigation & Conflict of Interest Statement

The Corporation may, in its sole discretion, reject a submission if the Proponent:

- i. Has, at any time, threatened, commenced or engaged in legal claims or litigation against the Corporation of the City of Port Colborne.
- ii. Is involved in a claim or litigation initiated by the Corporation.
- iii. Previously provided goods 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 or unsatisfactory references.
- vii. Has engaged in conduct that leads the Corporation to determine that it would not be in the Corporations' best interests to accept the submittal.
- viii. Has a conflict of interest or that which may be viewed as a conflict of interest either with or by the Corporation.

The Proponent, all of the Sub-consultants, and any of their respective advisors, partners, directors, officers, employees, agents, and volunteers shall not engage in any activity or provide any services where such activity or the provision of such services creates a conflict of interest (actually or potentially, in the sole opinion of the Corporation) with the provision of the Work pursuant to the Proposal. The Proponent acknowledges and agrees that a conflict of interest includes the use of Confidential Information where the Corporation has not specifically authorized such use.

The Proponent shall disclose to the Corporation, in writing, without delay any actual or potential situation that may be reasonably interpreted as either a conflict of interest or a potential conflict of interest, including the retention of any Sub-consultant or Supplier that is directly or indirectly affiliated with or related to the Proponent.

The Proponent covenants and agrees that it will not hire or retain the services of any employee or previous employee of the Corporation where to do so constitutes a breach by such employee or previous employee of the employee or previous employee's employment contract or the previous employer's conflict of interest policy, as it may be amended from time to time.

A breach of this Article by the Proponent, any of the Sub-consultants, or any of their respective advisors, partners, directors, officers, employees, agents, and volunteers shall entitle the Corporation to terminate the Proposal, in addition to any other rights and remedies that the Corporation has in the Proposal, in law, or in equity.

(see below)

Project No.: 2021-43

Type: Request for Proposal

Title: Affordable Housing Strategy and Action Plan

Attachment G - Envelope Submission Information

Envelope #1

**Amber LaPointe
City Clerk
City of Port Colborne
66 Charlotte Street
Port Colborne, ON L3K 3C8**

a) PROPOSAL
b) ADDENDUM (if applicable)

**Project No.: 2021-43
RFP – Affordable Housing Strategy & Action Plan**

Closing: January 19, 2022 at 2:00 p.m. local time

Consultant: _____

Envelope #2

**Amber LaPointe
City Clerk
City of Port Colborne
66 Charlotte Street
Port Colborne, ON L3K 3C8**

a) CONSULTING FEES

**Project No.: 2021-43
RFP – Affordable Housing Strategy & Action Plan**

Closing: January 19, 2022 at 2:00 p.m. local time

Consultant: _____

Project No.: 2021-43

Type: Request for Proposal

Title: Affordable Housing Strategy and Action Plan

Attachment H - Project History

The Consultant is required to provide their Project History for the past three years and the current status of these projects as they pertain to each of the Consultant's project team members.

The following information should be listed for each project member and/or each project accordingly:

Project Name

Project Team Member(s)

Project Completion Date

(if project not complete, provide the anticipated completion date)



Subject: Municipal Modernization Program – Funding Update and Transfer Agreements

To: Council

From: Chief Administrative Office

Report Number: 2022-31

Meeting Date: February 22, 2022

Recommendation:

That Chief Administrative Office Report 2022-31 be received;

That Council approve the Transfer Payment Agreements between the City of Port Colborne and the provincial government for funding from the Municipal Modernization Program, attached as Appendices B to G to Chief Administrative Office Report 2022-31;

That a by-law to enter into the Transfer Payment Agreements with the provincial government be brought forward; and

That the 2022 Capital and Related Project Budget be adjusted to fund the projects by repurposing the funds previously budgeted for the Departmental Organization Review and Route Patrol Software which total \$47,000 and \$31,258 from the capital contingency fund.

Purpose:

The purpose of this report is to update Council on the Municipal Modernization Program applications submitted by the City and to have Council authorize the Mayor and City Clerk to sign the Transfer Payment Agreements.

Background:

The Province created the Municipal Modernization Program (MMP) in 2019 to provide municipalities with funding to modernize services and processes and find cost savings and efficiencies in their operating budgets. The province has committed \$125 million in funding over four years. The City of Port Colborne was successful in securing funding

from intakes one and two. Intake three, which was announced in August 2021, included two streams:

1. The “implementation stream” provides provincial cost-sharing for municipalities to undertake projects that increase municipal efficiency and effectiveness.
2. The “review stream” provides funding for municipalities to undertake expenditure reviews with the goal of finding efficiencies and lowering costs in the longer term.

According to the MMP program guidelines, priority was given to projects that address digital modernization, service integration, streamlined development approvals, and shared services/alternative service delivery.

KPMG completed a Service Delivery Review for the City in August 2020. The context for the review is that Port Colborne, along with other municipalities, is dealing with rapid change, growth and development, increased responsibilities, competing priorities, budget constraints, and limited opportunities to grow revenues. KPMG partnered with the University of Toronto to create a new public service delivery framework based on leading best practices and insights from around the world. The framework proposed five different methods to improve service delivery efficiency and effectiveness:

- Modernizing bureaucratic processes
- Reassignment of roles between levels of government
- Digitization
- Devolution
- Alternative financing and procurement

The overall goal of the City’s review was to better understand current service levels and processes, identify opportunities for efficiencies and improvement, and make recommendations for implementation based on best practices from other jurisdictions and emerging trends in service delivery.

Discussion:

In the fall of 2021, staff submitted eight applications to the third intake of the MMP for both the implementation and review streams. The province approved six applications. These applications are for capital projects and corporate priorities planned for 2022, and they address the MMP priorities of digital modernization and service integration.

As per the attached letter from Municipal Affairs Minister Steve Clark, the Province is to provide funding for the following projects:

Project	Provincial Contribution	City Contribution	Total Project
Telecommunications System Modernization	\$59,530	\$32,055	\$91,585
Fire/Emergency Services Digitization and Records Management	\$59,530	\$32,055	\$91,585
Digitizing Public Works Permit Process	\$16,536	\$8,905	\$25,440
Route Patrol Software	\$9,922	\$5,343	\$15,265
Departmental Organization Review	\$45,792	\$ -	\$45,792
Human Resources Management and Information Systems Review	\$76,320	\$ -	\$76,320
Total	\$267,630	\$78,358	\$345,987

Internal Consultations:

Potential MMP intake three projects were discussed by the City's Corporate Leadership Team. The applications were a collaborative effort between Economic Development and Tourism Services, Information Technology, Corporate Services, Human Resources, Fire and Community Safety, and Planning and Development.

Financial Implications:

In order to receive the grants identified in this report, the City will need to contribute \$78,358 as identified above.

Financial Services recommends this balance be funded as follows:

- Repurpose the funds previously budgeted in the 2022 capital and related project budget for the Departmental Organization Review and Route Patrol Software which total \$47,000.
- Transfer the remaining \$31,358 from the previously budgeted 2021 capital contingency fund. This would leave the remaining balance of this contingency fund at approximately \$74,000.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillars of the strategic plan:

- Service and Simplicity - Quality and Innovative Delivery of Customer Services
 - Value: Financial Management to Achieve Financial Sustainability
 - People: Supporting and Investing in Human Capital
 - Governance: Communications, Engagement, and Decision-Making
-

Conclusion:

The City of Port Colborne was successful in securing funding for six projects from intake three of the Municipal Modernization Program (MMP). Through the City's Service Delivery Review and new strategic plan, which includes a key pillar focused on "Service and Simplicity: Quality and Innovative Delivery of Customer Service", City staff are committed to improving service delivery and modernizing processes. As part of a culture of innovation, exploring and implementing different service delivery models remain a strategic focus.

Appendices:

- a. Letter from Municipal Affairs Minister Steve Clark
- b. Transfer Payment Agreement - Telecommunications System Modernization
- c. Transfer Payment Agreement - Fire and Emergency Services Digitization and Records Management Implementation
- d. Transfer Payment Agreement - Digitizing Public Works Permit Process
- e. Transfer Payment Agreement - Route Patrol Software
- f. Transfer Payment Agreement - Departmental Organization Review
- g. Transfer Payment Agreement - Human Resources Management and Information Systems Review
- h. Draft By-law

Respectfully submitted,

Gary Long
Manager of Strategic Initiatives
905-835-2900 x.502
gary.long@portcolborne.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.

**Ministry of
Municipal Affairs
and Housing**

Office of the Minister

777 Bay Street, 17th Floor
Toronto ON M7A 2J3
Tel.: 416 585-7000

**Ministère des
Affaires municipales
et du Logement**

Bureau du ministre

777, rue Bay, 17^e étage
Toronto ON M7A 2J3
Tél. : 416 585-7000



234-2021-5311

January 25, 2022

Your Worship
Mayor Bill Steele
City of Port Colborne

Dear Mayor Steele:

Thank you for your application to the third intake of **the Municipal Modernization Program** and for your commitment to delivering modern, efficient services that are financially sustainable.

Under the third-party review stream, I am pleased to inform you that the Ford government will provide funding of up to:

- \$45,792 towards: City of Port Colborne Departmental Organization Review; and
- \$76,320 City of Port Colborne Human Resources Management and Information Systems Review.

All funding is for the cost of an independent third-party reviewer to deliver a final report with specific and actionable recommendations for cost-savings and efficiencies by January 31, 2023.

Under the implementation project stream, I am pleased to inform you that the Ford government will provide funding of up to:

- \$59,530 towards: City of Port Colborne Telecommunications System Modernization;
- \$59,530 towards: City of Port Colborne Modern and Digital Fire and Emergency Records Management Implementation;
- \$16,536 towards: City of Port Colborne Digitizing Public Works Permit Process Modernization; and
- \$9,922 towards: City of Port Colborne Route Patrol Software Solution.

The provincial funding is for up to 65% of total eligible costs to implement the project and complete a final report that forecasts annual savings and other efficiency outcomes by February 28, 2023.

In 2019, the Ford government launched the MMP to help small and rural municipalities modernize service delivery and identify new ways to be more efficient and effective. The

impacts of the COVID-19 outbreak have made this work more important than ever. The projects approved for funding under the third intake of the Municipal Modernization Program will support municipalities' efforts to conduct service delivery reviews to find efficiencies or implement a range of projects, including developing online systems to improve the local process for approving residential and industrial developments to bring housing and employment-related development on stream faster, or setting up new shared services with neighbouring municipalities.

I understand how important this work will be to your community. To help you get started, an interim payment will be issued following execution of a transfer payment agreement. Ministry staff will forward instructions and a transfer payment agreement for each approved project in the coming days and will work with you to have it finalized. If you have questions, please contact your municipal advisor, or email municipal.programs@ontario.ca.

I would like to offer my congratulations on this funding approval and extend my best wishes as you work to improve service delivery and administrative efficiency in your municipality.

Sincerely,



Steve Clark
Minister

- c. Scott Luey, Chief Administrative Officer
- Bryan Boles, Director of Corporate Services/City Treasurer
- Steve Shypowskyj, Manager of Roads and Parks
- Gary Long, Manager of Strategic Initiatives
- Wesley Adair, Manager of Information Technology
- Brian Kostuk, Supervisor - Water/Wasterwater
- Scott Lawson, Director of Fire and Emergency Services
- Mary Murray, Manager of Human Resources

ONTARIO TRANSFER PAYMENT AGREEMENT

THE AGREEMENT is effective as of the _____ day of _____, 20____

B E T W E E N :

**Her Majesty the Queen in right of Ontario
as represented by the Minister of Municipal Affairs and
Housing**

(the “Province”)

- and -

Corporation of the City of Port Colborne

(the “Recipient”)

CONSIDERATION

In consideration of the mutual covenants and agreements contained in the Agreement and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Province and the Recipient agree as follows:

1.0 ENTIRE AGREEMENT

1.1 **Schedules to the Agreement.** The following schedules form part of the Agreement:

Schedule “A” - General Terms and Conditions
Schedule “B” - Project Specific Information and Additional Provisions
Schedule “C” - Project
Schedule “D” - Budget
Schedule “E” - Payment Plan
Schedule “F” - Reports.

1.2 **Entire Agreement.** The Agreement constitutes the entire agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.

2.0 CONFLICT OR INCONSISTENCY

2.1 **Conflict or Inconsistency.** In the event of a conflict or inconsistency between the Additional Provisions and the provisions in Schedule “A”, the following rules will apply:

- (a) the Parties will interpret any Additional Provisions in so far as possible, in a way that preserves the intention of the Parties as expressed in Schedule “A”; and
- (b) where it is not possible to interpret the Additional Provisions in a way that is consistent with the provisions in Schedule “A”, the Additional Provisions will prevail over the provisions in Schedule “A” to the extent of the inconsistency.

3.0 COUNTERPARTS

3.1 **One and the Same Agreement.** The Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

4.0 AMENDING THE AGREEMENT

4.1 **Amending the Agreement.** The Agreement may only be amended by a written agreement duly executed by the Parties.

5.0 ACKNOWLEDGEMENT

5.1 **Acknowledgement.** The Recipient acknowledges that:

- (a) the Funds are to assist the Recipient to carry out the Project and not to provide goods or services to the Province;
- (b) the Province is not responsible for carrying out the Project; and
- (c) the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

- SIGNATURE PAGE FOLLOWS -

The Parties have executed the Agreement on the dates set out below.

**HER MAJESTY THE QUEEN IN RIGHT OF
ONTARIO as represented by the Minister of
Municipal Affairs and Housing**

Date

Name: The Honourable Steve Clark
Title: Minister of Municipal Affairs and Housing

Corporation of the City of Port Colborne

Date

Name:
Title:

I have authority to bind the Recipient.

Date

Name:
Title:

I have authority to bind the Recipient.

SCHEDULE "A"
GENERAL TERMS AND CONDITIONS

A1.0 INTERPRETATION AND DEFINITIONS

A1.1 **Interpretation.** For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;
- (b) words in one gender include all genders;
- (c) the headings do not form part of the Agreement; they are for reference only and will not affect the interpretation of the Agreement;
- (d) any reference to dollars or currency will be in Canadian dollars and currency; and
- (e) "include", "includes" and "including" denote that the subsequent list is not exhaustive.

A1.2 **Definitions.** In the Agreement, the following terms will have the following meanings:

"Additional Provisions" means the terms and conditions set out in Schedule "B".

"Agreement" means this agreement entered into between the Province and the Recipient, all of the schedules listed in section 1.1, and any amending agreement entered into pursuant to section 4.1.

"Budget" means the budget attached to the Agreement as Schedule "D".

"Business Day" means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day on which the Province has elected to be closed for business.

"Effective Date" means the date set out at the top of the Agreement.

"Event of Default" has the meaning ascribed to it in section A12.1.

"Expiry Date" means the expiry date set out in Schedule "B".

"Funding Year" means:

- (a) in the case of the first Funding Year, the period commencing on the

Effective Date and ending on the following March 31; and

- (b) in the case of Funding Years subsequent to the first Funding Year, the period commencing on April 1 following the end of the previous Funding Year and ending on the following March 31 or the Expiry Date, whichever is first.

“Funds” means the money the Province provides to the Recipient pursuant to the Agreement.

“Indemnified Parties” means Her Majesty the Queen in right of Ontario, and includes Her ministers, agents, appointees, and employees.

“Loss” means any cause of action, liability, loss, cost, damage, or expense (including legal, expert and consultant fees) that anyone incurs or sustains as a result of or in connection with the Project or any other part of the Agreement.

“Maximum Funds” means the maximum set out in Schedule “B”.

“Notice” means any communication given or required to be given pursuant to the Agreement.

“Notice Period” means the period of time within which the Recipient is required to remedy an Event of Default pursuant to section A12.3(b), and includes any such period or periods of time by which the Province extends that time in accordance with section A12.4.

“Parties” means the Province and the Recipient.

“Party” means either the Province or the Recipient.

“Proceeding” means any action, claim, demand, lawsuit, or other proceeding that anyone makes, brings or prosecutes as a result of or in connection with the Project or with any other part of the Agreement.

“Project” means the undertaking described in Schedule “C”.

“Records Review” means any assessment the Province conducts pursuant to section A7.4.

“Reports” means the reports described in Schedule “F”.

A2.0 REPRESENTATIONS, WARRANTIES, AND COVENANTS

A2.1 General. The Recipient represents, warrants, and covenants that:

- (a) it has, and will continue to have, the experience and expertise necessary to carry out the Project;
- (b) it is in compliance with, and will continue to comply with, all federal and provincial laws and regulations, all municipal by-laws, and any other orders, rules, and by-laws related to any aspect of the Project, the Funds, or both; and
- (c) unless otherwise provided for in the Agreement, any information the Recipient provided to the Province in support of its request for funds (including information relating to any eligibility requirements) was true and complete at the time the Recipient provided it and will continue to be true and complete.

A2.2 **Execution of Agreement.** The Recipient represents and warrants that it has:

- (a) the full power and authority to enter into the Agreement; and
- (b) taken all necessary actions to authorize the execution of the Agreement, including passing a municipal by-law authorizing the Recipient to enter into the Agreement.

A2.3 **Governance.** The Recipient represents, warrants, and covenants that it has, will maintain in writing, and will follow:

- (a) procedures to enable the Recipient to manage Funds prudently and effectively;
- (b) procedures to enable the Recipient to complete the Project successfully;
- (c) procedures to enable the Recipient to identify risks to the completion of the Project and strategies to address the identified risks, all in a timely manner;
- (d) procedures to enable the preparation and submission of all Reports required pursuant to Article A7.0; and
- (e) procedures to enable the Recipient to address such other matters as the Recipient considers necessary to enable the Recipient to carry out its obligations under the Agreement.

A2.4 **Supporting Proof.** Upon the request of the Province, the Recipient will provide the Province with proof of the matters referred to in Article A2.0.

A3.0 TERM OF THE AGREEMENT

A3.1 **Term.** The term of the Agreement will commence on the Effective Date and will expire on the Expiry Date unless terminated earlier pursuant to Article A11.0 or Article A12.0.

A4.0 FUNDS AND CARRYING OUT THE PROJECT

A4.1 **Funds Provided.** The Province will:

- (a) provide the Recipient up to the Maximum Funds for the purpose of carrying out the Project;
- (b) provide the Funds to the Recipient in accordance with the payment plan attached to the Agreement as Schedule “E”; and
- (c) deposit the Funds into an account the Recipient designates provided that the account:
 - (i) resides at a Canadian financial institution; and
 - (ii) is in the name of the Recipient.

A4.2 **Limitation on Payment of Funds.** Despite section A4.1:

- (a) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides evidence satisfactory to the Province that the Recipient’s council has authorized the execution of this Agreement by the Recipient by municipal by-law;
- (b) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides the certificates of insurance or other proof as the Province may request pursuant to section A10.2;
- (c) the Province is not obligated to provide instalments of Funds until it is satisfied with the progress of the Project; and
- (d) the Province may adjust the amount of Funds it provides to the Recipient in any Funding Year based upon the Province’s assessment of the information the Recipient provides to the Province pursuant to section A7.2.

A4.3 **Use of Funds and Carry Out the Project.** The Recipient will do all of the following:

- (a) carry out the Project in accordance with the Agreement;

- (b) use the Funds only for the purpose of carrying out the Project;
- (c) spend the Funds only in accordance with the Budget;
- (d) not use the Funds to cover any cost that has or will be funded or reimbursed by one or more of any third party, ministry, agency, or organization of the Government of Ontario.

A4.4 **Interest Bearing Account.** If the Province provides Funds before the Recipient's immediate need for the Funds, the Recipient will place the Funds in an interest bearing account in the name of the Recipient at a Canadian financial institution.

A4.5 **Interest.** If the Recipient earns any interest on the Funds, the Province may do either or both of the following:

- (a) deduct an amount equal to the interest from any further instalments of Funds;
- (b) demand from the Recipient the payment of an amount equal to the interest.

A4.6 **Rebates, Credits, and Refunds.** The Province will calculate Funds based on the actual costs to the Recipient to carry out the Project, less any costs (including taxes) for which the Recipient has received, will receive, or is eligible to receive, a rebate, credit, or refund.

A5.0 RECIPIENT'S ACQUISITION OF GOODS OR SERVICES, AND DISPOSAL OF ASSETS

A5.1 **Acquisition.** If the Recipient acquires goods, services, or both with the Funds, it will do so through a process that promotes the best value for money.

A5.2 **Disposal.** The Recipient will not, without the Province's prior consent, sell, lease, or otherwise dispose of any asset purchased or created with the Funds or for which Funds were provided, the cost of which exceeded the amount as provided for in Schedule "B" at the time of purchase.

A6.0 CONFLICT OF INTEREST

A6.1 **Conflict of Interest Includes.** For the purposes of Article A6.0, a conflict of interest includes any circumstances where:

- (a) the Recipient; or
- (b) any person who has the capacity to influence the Recipient's decisions,

has outside commitments, relationships, or financial interests that could, or could be seen by a reasonable person to, interfere with the Recipient's objective, unbiased, and impartial judgment relating to the Project, the use of the Funds, or both.

A6.2 **No Conflict of Interest.** The Recipient will carry out the Project and use the Funds without an actual, potential, or perceived conflict of interest unless:

- (a) the Recipient:
 - (i) provides Notice to the Province disclosing the details of the actual, potential, or perceived conflict of interest;
 - (ii) requests the consent of the Province to carry out the Project with an actual, potential, or perceived conflict of interest;
- (b) the Province provides its consent to the Recipient carrying out the Project with an actual, potential, or perceived conflict of interest; and
- (c) the Recipient complies with any terms and conditions the Province may prescribe in its consent.

A7.0 **REPORTS, ACCOUNTING, AND REVIEW**

A7.1 **Province Includes.** For the purposes of sections A7.4, A7.5 and A7.6, "**Province**" includes any auditor or representative the Province may identify.

A7.2 **Preparation and Submission.** The Recipient will:

- (a) submit to the Province at the address referred to in section A17.1:
 - (i) all Reports in accordance with the timelines and content requirements as provided for in Schedule "F";
 - (ii) any other reports in accordance with any timelines and content requirements the Province may specify from time to time;
- (b) ensure that all Reports and other reports are:
 - (i) completed to the satisfaction of the Province; and
 - (i) signed by an authorized signing officer of the Recipient.

A7.3 **Record Maintenance.** The Recipient will keep and maintain for a period of seven years from their creation:

- (a) all financial records (including invoices and evidence of payment) relating to the Funds or otherwise to the Project in a manner consistent with either international financial reporting standards or generally accepted accounting principles or any other accounting principles that apply to the Recipient; and
- (b) all non-financial records and documents relating to the Funds or otherwise to the Project.

A7.4 **Records Review.** The Province may, at its own expense, upon twenty-four hours' Notice to the Recipient and during normal business hours enter upon the Recipient's premises to conduct an audit or investigation of the Recipient regarding the Recipient's compliance with the Agreement, including assessing any of the following:

- (a) the truth of any of the Recipient's representations and warranties;
- (b) the progress of the Project;
- (c) the Recipient's allocation and expenditure of the Funds.

A7.5 **Inspection and Removal.** For the purposes of any Records Review, the Province may take one or more of the following actions:

- (a) inspect and copy any records and documents referred to in section A7.3; and
- (b) remove any copies the Province makes pursuant to section A7.5(a).

A7.6 **Cooperation.** To assist the Province in respect of its rights provided for in section A7.5, the Recipient will cooperate with the Province by:

- (a) ensuring that the Province has access to the records and documents wherever they are located;
- (b) assisting the Province to copy records and documents;
- (c) providing to the Province, in the form the Province specifies, any information the Province identifies; and
- (d) carrying out any other activities the Province requests.

A7.7 **No Control of Records.** No provision of the Agreement will be construed so as to give the Province any control whatsoever over the Recipient's records.

A7.8 **Auditor General.** The Province's rights under Article A7.0 are in addition to

any rights provided to the Auditor General pursuant to section 9.2 of the *Auditor General Act* (Ontario).

A8.0 COMMUNICATIONS REQUIREMENTS

A8.1 Acknowledge Support. Unless the Province directs the Recipient to do otherwise, the Recipient will in each of its Project-related publications, whether written, oral, or visual:

- (a) acknowledge the support of the Province for the Project;
- (b) ensure that any acknowledgement is in a form and manner as the Province directs; and
- (c) indicate that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of the Province.

A9.0 INDEMNITY

A9.1 Indemnification. The Recipient will indemnify and hold harmless the Indemnified Parties from and against any Loss and any Proceeding, unless solely caused by the negligence or wilful misconduct of the Indemnified Parties.

A10.0 INSURANCE

A10.1 Recipient's Insurance. The Recipient represents, warrants, and covenants that it has, and will maintain, at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person carrying out a project similar to the Project would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury, and property damage, to an inclusive limit of not less than the amount provided for in Schedule "B" per occurrence, which commercial general liability insurance policy will include the following:

- (a) the Indemnified Parties as additional insureds with respect to liability arising in the course of performance of the Recipient's obligations under, or otherwise in connection with, the Agreement;
- (b) a cross-liability clause;
- (c) contractual liability coverage; and
- (d) a 30-day written notice of cancellation.

A10.2 Proof of Insurance. The Recipient will:

- (a) provide to the Province, either:
 - (i) certificates of insurance that confirm the insurance coverage as provided for in section A10.1; or
 - (ii) other proof that confirms the insurance coverage as provided for in section A10.1; and
- (b) in the event of a Proceeding, and upon the Province's request, the Recipient will provide to the Province a copy of any of the Recipient's insurance policies that relate to the Project or otherwise to the Agreement, or both.

A11.0 TERMINATION ON NOTICE

A11.1 Termination on Notice. The Province may terminate the Agreement at any time without liability, penalty, or costs upon giving 30 days' Notice to the Recipient.

A11.2 Consequences of Termination on Notice by the Province. If the Province terminates the Agreement pursuant to section A11.1, the Province may take one or more of the following actions:

- (a) cancel further instalments of Funds;
- (b) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and
- (c) determine the reasonable costs for the Recipient to wind down the Project, and do either or both of the following:
 - (i) permit the Recipient to offset such costs against the amount the Recipient owes pursuant to section A11.2(b); and
 - (ii) subject to section A4.1(a), provide Funds to the Recipient to cover such costs.

A12.0 EVENT OF DEFAULT, CORRECTIVE ACTION, AND TERMINATION FOR DEFAULT

A12.1 Events of Default. It will constitute an Event of Default if, in the opinion of the Province, the Recipient breaches any representation, warranty, covenant, or other material term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:

- (i) carry out the Project;

- (ii) use or spend Funds; or
- (iii) provide, in accordance with section A7.2, Reports or such other reports as the Province may have requested pursuant to section A7.2(a)(ii).

A12.2 Consequences of Events of Default and Corrective Action. If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) initiate any action the Province considers necessary in order to facilitate the successful continuation or completion of the Project;
- (b) provide the Recipient with an opportunity to remedy the Event of Default;
- (c) suspend the payment of Funds for such period as the Province determines appropriate;
- (d) reduce the amount of the Funds;
- (e) cancel further instalments of Funds;
- (f) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient;
- (g) demand from the Recipient the payment of an amount equal to any Funds the Recipient used, but did not use in accordance with the Agreement;
- (h) demand from the Recipient the payment of an amount equal to any Funds the Province provided to the Recipient;
- (i) demand from the Recipient an amount equal to the costs the Province incurred or incurs to enforce its rights under the Agreement, including the costs of any Record Review and the costs it incurs to collect any amounts the Recipient owes to the Province; and
- (j) terminate the Agreement at any time, including immediately, without liability, penalty or costs to the Province upon giving Notice to the Recipient.

A12.3 Opportunity to Remedy. If, in accordance with section A12.2(b), the Province provides the Recipient with an opportunity to remedy the Event of Default, the Province will give Notice to the Recipient of:

- (a) the particulars of the Event of Default; and

(b) the Notice Period.

A12.4 **Recipient not Remediating.** If the Province provided the Recipient with an opportunity to remedy the Event of Default pursuant to section A12.2(b), and:

- (a) the Recipient does not remedy the Event of Default within the Notice Period;
- (b) it becomes apparent to the Province that the Recipient cannot completely remedy the Event of Default within the Notice Period; or
- (c) the Recipient is not proceeding to remedy the Event of Default in a way that is satisfactory to the Province,

the Province may extend the Notice Period, or initiate any one or more of the actions provided for in sections A12.2(a), (c), (d), (e), (f), (g), (h), and (i).

A12.5 **When Termination Effective.** Termination under Article A12.0 will take effect as provided for in the Notice.

A13.0 FUNDS AT THE END OF A FUNDING YEAR

A13.1 **Funds at the End of a Funding Year.** Without limiting any rights of the Province under Article A12.0, if the Recipient has not spent all of the Funds allocated for the Funding Year as provided for in the Budget, the Province may take one or both of the following actions:

- (a) demand from the Recipient payment of the unspent Funds; and
- (b) adjust the amount of any further instalments of Funds accordingly.

A14.0 FUNDS UPON EXPIRY

A14.1 **Funds Upon Expiry.** The Recipient will, upon expiry of the Agreement, pay to the Province any Funds remaining in its possession, under its control, or both.

A15.0 DEBT DUE AND PAYMENT

A15.1 **Payment of Overpayment.** If at any time the Province provides Funds in excess of the amount to which the Recipient is entitled under the Agreement, the Province may:

- (a) deduct an amount equal to the excess Funds from any further instalments of Funds; or
- (b) demand that the Recipient pay to the Province an amount equal to the

excess Funds.

A15.2 **Debt Due.** If, pursuant to the Agreement:

- (a) the Province demands from the Recipient the payment of any Funds or an amount equal to any Funds; or
- (b) the Recipient owes any Funds or an amount equal to any Funds to the Province, whether or not the Province has demanded their payment,

such amounts will be deemed to be debts due and owing to the Province by the Recipient, and the Recipient will pay the amounts to the Province immediately, unless the Province directs otherwise.

A15.3 **Interest Rate.** The Province may charge the Recipient interest on any money owing to the Province by the Recipient under the Agreement at the then current interest rate charged by the Province of Ontario on accounts receivable.

A15.4 **Payment of Money to Province.** The Recipient will pay any money owing to the Province by cheque payable to the "Ontario Minister of Finance" and delivered to the Province as provided for in Schedule "B".

A15.5 **Fails to Pay.** Without limiting the application of section 43 of the *Financial Administration Act* (Ontario), if the Recipient fails to pay any amount owing under the Agreement, Her Majesty the Queen in right of Ontario may deduct any unpaid amount from any money payable to the Recipient by Her Majesty the Queen in right of Ontario.

A16.0 NOTICE

A16.1 **Notice in Writing and Addressed.** Notice will be:

- (a) in writing;
- (b) delivered by email, postage-prepaid mail, personal delivery, courier or fax; and
- (c) addressed to the Province or the Recipient as set out in Schedule "B", or as either Party later designates to the other by Notice.

A16.2 **Notice Given.** Notice will be deemed to have been given:

- (a) in the case of postage-prepaid mail, five Business Days after the Notice is mailed; or
- (b) in the case of fax, one Business Day after the Notice is delivered; and

- (c) in the case of email, personal delivery or courier on the date on which the Notice is delivered.

A16.3 **Postal Disruption.** Despite section A16.2(a), in the event of a postal disruption:

- (a) Notice by postage-prepaid mail will not be deemed to be given; and
- (b) the Party giving Notice will give Notice by email, personal delivery, courier or fax.

A17.0 CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT

A17.1 **Consent.** When the Province provides its consent pursuant to the Agreement:

- (a) it will do so by Notice;
- (b) it may attach any terms and conditions to the consent; and
- (c) the Recipient may rely on the consent only if the Recipient complies with any terms and conditions the Province may have attached to the consent.

A18.0 SEVERABILITY OF PROVISIONS

A18.1 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement will not affect the validity or enforceability of any other provision of the Agreement.

A19.0 WAIVER

A19.1 **Waiver Request.** Either Party may, by Notice, ask the other Party to waive an obligation under the Agreement.

A19.2 **Waiver Applies.** If in response to a request made pursuant to section A19.1 a Party consents to a waiver, the waiver will:

- (a) be valid only if the Party that consents to the waiver provides the consent by Notice; and
- (b) apply only to the specific obligation referred to in the waiver.

A20.0 INDEPENDENT PARTIES

A20.1 **Parties Independent.** The Recipient is not an agent, joint venturer, partner, or employee of the Province, and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any

actions that could establish or imply such a relationship.

A21.0 ASSIGNMENT OF AGREEMENT OR FUNDS

A21.1 **No Assignment.** The Recipient will not, without the prior written consent of the Province, assign any of its rights or obligations under the Agreement.

A21.2 **Agreement Binding.** All rights and obligations contained in the Agreement will extend to and be binding on:

- (a) the Recipient's successors, and permitted assigns; and
- (b) the successors to Her Majesty the Queen in right of Ontario.

A22.0 GOVERNING LAW

A22.1 **Governing Law.** The Agreement and the rights, obligations, and relations of the Parties will be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with the Agreement will be conducted in the courts of Ontario, which will have exclusive jurisdiction over such proceedings.

A23.0 FURTHER ASSURANCES

A23.1 **Agreement into Effect.** The Recipient will:

- (a) provide such further assurances as the Province may request from time to time with respect to any matter to which the Agreement pertains; and
- (b) do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

A24.0 JOINT AND SEVERAL LIABILITY

A24.1 **Joint and Several Liability.** Where the Recipient comprises of more than one entity, all such entities will be jointly and severally liable to the Province for the fulfillment of the obligations of the Recipient under the Agreement.

A25.0 RIGHTS AND REMEDIES CUMULATIVE

A25.1 **Rights and Remedies Cumulative.** The rights and remedies of the Province under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

A26.0 FAILURE TO COMPLY WITH OTHER AGREEMENTS

A26.1 Other Agreements. If the Recipient:

- (a) has failed to comply with any term, condition, or obligation under any other agreement with Her Majesty the Queen in right of Ontario or one of Her agencies (a “**Failure**”);
- (b) has been provided with notice of such Failure in accordance with the requirements of such other agreement;
- (c) has, if applicable, failed to rectify such Failure in accordance with the requirements of such other agreement; and
- (d) such Failure is continuing,

the Province may suspend the payment of Funds for such period as the Province determines appropriate.

A27.0 SURVIVAL

A27.1 Survival. The following Articles and sections, and all applicable cross-referenced Articles, sections and schedules, will continue in full force and effect for a period of seven years from the date of expiry or termination of the Agreement: Article 1.0, Article 2.0, Article A1.0 and any other applicable definitions, section A2.1(a), sections A4.4, A4.5, A4.6, section A5.2, section A7.1, A7.2 (to the extent that the Recipient has not provided the Reports or other reports as the Province may have requested and to the satisfaction of the Province), sections A7.3, A7.4, A7.5, A7.6, A7.7, A7.8, Article A8.0, Article A9.0, section A11.2, sections A12.1, sections A12.2(d), (e), (f), (g), (h), (i), and (j), Article A13.0, Article A14.0, Article A15.0, Article A16.0, Article A18.0, , section A21.2, Article A22.0, Article A24.0, Article A25.0 and Article A27.0.

- END OF GENERAL TERMS AND CONDITIONS -

SCHEDULE “B”
PROJECT SPECIFIC INFORMATION AND ADDITIONAL PROVISIONS

Maximum Funds	Up to \$59,530
Expiry Date	March 31, 2024
Amount for the purposes of section A5.2 (Disposal) of Schedule “A”	\$5000.00
Insurance	\$ 2,000,000
Contact information for the purposes of Notice to the Province	<p>Position: Brenda Vloet</p> <p>Address: Manager, Municipal Programs and Outreach Unit</p> <p>Fax: 777 Bay Street, Toronto, Ontario M7A 2J3, 16th Floor</p> <p>Email: Brenda.Vloet@ontario.ca</p>
Contact information for the purposes of Notice to the Recipient	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>
Contact information for the senior financial person in the Recipient organization (e.g., CFO, CAO) – to respond as required to requests from the Province related to the Agreement	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>

Additional Provisions:

- B1 Section 4.2 of Schedule “A” is amended by adding the following subsection:**
- (e) The Province is not obligated to provide any Funds to the Recipient that exceed 65% of the incurred project costs.

B2 Section 4.3 of schedule “A” is amended by adding the following subsection:

- (e) not use the Funds for the purpose of paying the Recipient’s regular salary costs.
- (f) not use Funds for the purpose of purchasing land, buildings or vehicles

**SCHEDULE "C"
PROJECT**

Project Title
City of Port Colborne Telecommunications System Modernization
Objectives
The objective of the Project is to implement an enterprise cloud-based phone system with the goal of modernizing service delivery and realizing cost savings and efficiencies.
Description
The Recipient will purchase and implement an enterprise cloud-based phone system and project management services, which will remove the limitations of the current system and will allow the Recipient's staff to access the new system remotely.

SCHEDULE "D"
BUDGET

Item	Amount
Reimbursement of up to 65% of Project costs incurred between August 16, 2021 to the earlier of February 28, 2023 or the submission of the Final Report Back.	Up to \$59,530

SCHEDULE "E"
PAYMENT PLAN

Milestone	Scheduled Payment
<ul style="list-style-type: none"> • Execution of Agreement 	Initial payment of \$41,671 made to Recipient no more than thirty (30) days after the execution of the Agreement.
<ul style="list-style-type: none"> • Submission of one (1) Interim Report Back 	Interim payment made to the Recipient no more than thirty (30) days after the Province's approval of the Interim Report Back for costs incurred and submitted as part of the First Interim Report Back that exceed the initial payment.
<ul style="list-style-type: none"> • Submission of Final Report Back to the Province 	Final payment of up to \$17,859 less any amount paid as part of the interim payment made to the Recipient no more than thirty (30) days after the Province's approval of the Final Report Back.

**SCHEDULE “F”
REPORTS**

Name of Report	Reporting Due Date
1. Interim Report Back	May 30, 2022
2. Final Report Back	February 28, 2023
3. Annual Report Back	February 28, 2024

Report Details

1. Interim Report Back

The Recipient will submit one (1) Interim Report Back to the Province by May 30, 2022, using the reporting template provided by the Province. The Interim Report Backs will include:

- A written description of what the Recipient has completed for the Project to date and what will be completed by the Final Report Back,
- A list of actual costs to carry out the Project paid by the Recipient, with supporting documentation, such as invoices or receipts, showing actual costs incurred.

2. Final Report Back

The Recipient will submit a Final Report Back to the Province once the Project is completed and by February 28, 2023 using the reporting template provided by the Province. The Final Report Back will include:

- A 250-word abstract of the Project and its findings
- A written description of the Project and the forecasted annual savings and other efficiency outcomes for the Recipient,
- The actual costs to carry out the Project that have not been included as part of the Interim Report Back paid by the Recipient with supporting documentation, such as invoices or receipts, showing actual costs incurred.
- A statement indicating an updated estimate of annual cost savings realized through the Project, which will be the performance measure.

3. Annual Report Back

The Recipient will submit an Annual Report Back to the Province using the reporting template provided by the Province. The Annual Report Back will include:

- A statement indicating the actual cost savings and efficiency outcomes from the Project over the course of the year.

ONTARIO TRANSFER PAYMENT AGREEMENT

THE AGREEMENT is effective as of the _____ day of _____, 20____

B E T W E E N :

**Her Majesty the Queen in right of Ontario
as represented by the Minister of Municipal Affairs and
Housing**

(the “Province”)

- and -

Corporation of the City of Port Colborne

(the “Recipient”)

CONSIDERATION

In consideration of the mutual covenants and agreements contained in the Agreement and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Province and the Recipient agree as follows:

1.0 ENTIRE AGREEMENT

1.1 **Schedules to the Agreement.** The following schedules form part of the Agreement:

- Schedule “A” - General Terms and Conditions
- Schedule “B” - Project Specific Information and Additional Provisions
- Schedule “C” - Project
- Schedule “D” - Budget
- Schedule “E” - Payment Plan
- Schedule “F” - Reports.

1.2 **Entire Agreement.** The Agreement constitutes the entire agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.

2.0 CONFLICT OR INCONSISTENCY

2.1 **Conflict or Inconsistency.** In the event of a conflict or inconsistency between the Additional Provisions and the provisions in Schedule “A”, the following rules will apply:

- (a) the Parties will interpret any Additional Provisions in so far as possible, in a way that preserves the intention of the Parties as expressed in Schedule “A”; and
- (b) where it is not possible to interpret the Additional Provisions in a way that is consistent with the provisions in Schedule “A”, the Additional Provisions will prevail over the provisions in Schedule “A” to the extent of the inconsistency.

3.0 COUNTERPARTS

3.1 **One and the Same Agreement.** The Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

4.0 AMENDING THE AGREEMENT

4.1 **Amending the Agreement.** The Agreement may only be amended by a written agreement duly executed by the Parties.

5.0 ACKNOWLEDGEMENT

5.1 **Acknowledgement.** The Recipient acknowledges that:

- (a) the Funds are to assist the Recipient to carry out the Project and not to provide goods or services to the Province;
- (b) the Province is not responsible for carrying out the Project; and
- (c) the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

- SIGNATURE PAGE FOLLOWS -

The Parties have executed the Agreement on the dates set out below.

**HER MAJESTY THE QUEEN IN RIGHT OF
ONTARIO as represented by the Minister of
Municipal Affairs and Housing**

Date

Name: The Honourable Steve Clark
Title: Minister of Municipal Affairs and Housing

Corporation of the City of Port Colborne

Date

Name:
Title:

I have authority to bind the Recipient.

Date

Name:
Title:

I have authority to bind the Recipient.

SCHEDULE "A"
GENERAL TERMS AND CONDITIONS

A1.0 INTERPRETATION AND DEFINITIONS

A1.1 **Interpretation.** For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;
- (b) words in one gender include all genders;
- (c) the headings do not form part of the Agreement; they are for reference only and will not affect the interpretation of the Agreement;
- (d) any reference to dollars or currency will be in Canadian dollars and currency; and
- (e) "include", "includes" and "including" denote that the subsequent list is not exhaustive.

A1.2 **Definitions.** In the Agreement, the following terms will have the following meanings:

"Additional Provisions" means the terms and conditions set out in Schedule "B".

"Agreement" means this agreement entered into between the Province and the Recipient, all of the schedules listed in section 1.1, and any amending agreement entered into pursuant to section 4.1.

"Budget" means the budget attached to the Agreement as Schedule "D".

"Business Day" means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day on which the Province has elected to be closed for business.

"Effective Date" means the date set out at the top of the Agreement.

"Event of Default" has the meaning ascribed to it in section A12.1.

"Expiry Date" means the expiry date set out in Schedule "B".

"Funding Year" means:

- (a) in the case of the first Funding Year, the period commencing on the

Effective Date and ending on the following March 31; and

- (b) in the case of Funding Years subsequent to the first Funding Year, the period commencing on April 1 following the end of the previous Funding Year and ending on the following March 31 or the Expiry Date, whichever is first.

“Funds” means the money the Province provides to the Recipient pursuant to the Agreement.

“Indemnified Parties” means Her Majesty the Queen in right of Ontario, and includes Her ministers, agents, appointees, and employees.

“Loss” means any cause of action, liability, loss, cost, damage, or expense (including legal, expert and consultant fees) that anyone incurs or sustains as a result of or in connection with the Project or any other part of the Agreement.

“Maximum Funds” means the maximum set out in Schedule “B”.

“Notice” means any communication given or required to be given pursuant to the Agreement.

“Notice Period” means the period of time within which the Recipient is required to remedy an Event of Default pursuant to section A12.3(b), and includes any such period or periods of time by which the Province extends that time in accordance with section A12.4.

“Parties” means the Province and the Recipient.

“Party” means either the Province or the Recipient.

“Proceeding” means any action, claim, demand, lawsuit, or other proceeding that anyone makes, brings or prosecutes as a result of or in connection with the Project or with any other part of the Agreement.

“Project” means the undertaking described in Schedule “C”.

“Records Review” means any assessment the Province conducts pursuant to section A7.4.

“Reports” means the reports described in Schedule “F”.

A2.0 REPRESENTATIONS, WARRANTIES, AND COVENANTS

A2.1 General. The Recipient represents, warrants, and covenants that:

- (a) it has, and will continue to have, the experience and expertise necessary to carry out the Project;
- (b) it is in compliance with, and will continue to comply with, all federal and provincial laws and regulations, all municipal by-laws, and any other orders, rules, and by-laws related to any aspect of the Project, the Funds, or both; and
- (c) unless otherwise provided for in the Agreement, any information the Recipient provided to the Province in support of its request for funds (including information relating to any eligibility requirements) was true and complete at the time the Recipient provided it and will continue to be true and complete.

A2.2 **Execution of Agreement.** The Recipient represents and warrants that it has:

- (a) the full power and authority to enter into the Agreement; and
- (b) taken all necessary actions to authorize the execution of the Agreement, including passing a municipal by-law authorizing the Recipient to enter into the Agreement.

A2.3 **Governance.** The Recipient represents, warrants, and covenants that it has, will maintain in writing, and will follow:

- (a) procedures to enable the Recipient to manage Funds prudently and effectively;
- (b) procedures to enable the Recipient to complete the Project successfully;
- (c) procedures to enable the Recipient to identify risks to the completion of the Project and strategies to address the identified risks, all in a timely manner;
- (d) procedures to enable the preparation and submission of all Reports required pursuant to Article A7.0; and
- (e) procedures to enable the Recipient to address such other matters as the Recipient considers necessary to enable the Recipient to carry out its obligations under the Agreement.

A2.4 **Supporting Proof.** Upon the request of the Province, the Recipient will provide the Province with proof of the matters referred to in Article A2.0.

A3.0 TERM OF THE AGREEMENT

A3.1 **Term.** The term of the Agreement will commence on the Effective Date and will expire on the Expiry Date unless terminated earlier pursuant to Article A11.0 or Article A12.0.

A4.0 FUNDS AND CARRYING OUT THE PROJECT

A4.1 **Funds Provided.** The Province will:

- (a) provide the Recipient up to the Maximum Funds for the purpose of carrying out the Project;
- (b) provide the Funds to the Recipient in accordance with the payment plan attached to the Agreement as Schedule “E”; and
- (c) deposit the Funds into an account the Recipient designates provided that the account:
 - (i) resides at a Canadian financial institution; and
 - (ii) is in the name of the Recipient.

A4.2 **Limitation on Payment of Funds.** Despite section A4.1:

- (a) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides evidence satisfactory to the Province that the Recipient’s council has authorized the execution of this Agreement by the Recipient by municipal by-law;
- (b) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides the certificates of insurance or other proof as the Province may request pursuant to section A10.2;
- (c) the Province is not obligated to provide instalments of Funds until it is satisfied with the progress of the Project; and
- (d) the Province may adjust the amount of Funds it provides to the Recipient in any Funding Year based upon the Province’s assessment of the information the Recipient provides to the Province pursuant to section A7.2.

A4.3 **Use of Funds and Carry Out the Project.** The Recipient will do all of the following:

- (a) carry out the Project in accordance with the Agreement;

- (b) use the Funds only for the purpose of carrying out the Project;
- (c) spend the Funds only in accordance with the Budget;
- (d) not use the Funds to cover any cost that has or will be funded or reimbursed by one or more of any third party, ministry, agency, or organization of the Government of Ontario.

A4.4 **Interest Bearing Account.** If the Province provides Funds before the Recipient's immediate need for the Funds, the Recipient will place the Funds in an interest bearing account in the name of the Recipient at a Canadian financial institution.

A4.5 **Interest.** If the Recipient earns any interest on the Funds, the Province may do either or both of the following:

- (a) deduct an amount equal to the interest from any further instalments of Funds;
- (b) demand from the Recipient the payment of an amount equal to the interest.

A4.6 **Rebates, Credits, and Refunds.** The Province will calculate Funds based on the actual costs to the Recipient to carry out the Project, less any costs (including taxes) for which the Recipient has received, will receive, or is eligible to receive, a rebate, credit, or refund.

A5.0 RECIPIENT'S ACQUISITION OF GOODS OR SERVICES, AND DISPOSAL OF ASSETS

A5.1 **Acquisition.** If the Recipient acquires goods, services, or both with the Funds, it will do so through a process that promotes the best value for money.

A5.2 **Disposal.** The Recipient will not, without the Province's prior consent, sell, lease, or otherwise dispose of any asset purchased or created with the Funds or for which Funds were provided, the cost of which exceeded the amount as provided for in Schedule "B" at the time of purchase.

A6.0 CONFLICT OF INTEREST

A6.1 **Conflict of Interest Includes.** For the purposes of Article A6.0, a conflict of interest includes any circumstances where:

- (a) the Recipient; or
- (b) any person who has the capacity to influence the Recipient's decisions,

has outside commitments, relationships, or financial interests that could, or could be seen by a reasonable person to, interfere with the Recipient's objective, unbiased, and impartial judgment relating to the Project, the use of the Funds, or both.

A6.2 **No Conflict of Interest.** The Recipient will carry out the Project and use the Funds without an actual, potential, or perceived conflict of interest unless:

- (a) the Recipient:
 - (i) provides Notice to the Province disclosing the details of the actual, potential, or perceived conflict of interest;
 - (ii) requests the consent of the Province to carry out the Project with an actual, potential, or perceived conflict of interest;
- (b) the Province provides its consent to the Recipient carrying out the Project with an actual, potential, or perceived conflict of interest; and
- (c) the Recipient complies with any terms and conditions the Province may prescribe in its consent.

A7.0 REPORTS, ACCOUNTING, AND REVIEW

A7.1 **Province Includes.** For the purposes of sections A7.4, A7.5 and A7.6, “**Province**” includes any auditor or representative the Province may identify.

A7.2 **Preparation and Submission.** The Recipient will:

- (a) submit to the Province at the address referred to in section A17.1:
 - (i) all Reports in accordance with the timelines and content requirements as provided for in Schedule “F”;
 - (ii) any other reports in accordance with any timelines and content requirements the Province may specify from time to time;
- (b) ensure that all Reports and other reports are:
 - (i) completed to the satisfaction of the Province; and
 - (i) signed by an authorized signing officer of the Recipient.

A7.3 **Record Maintenance.** The Recipient will keep and maintain for a period of seven years from their creation:

- (a) all financial records (including invoices and evidence of payment) relating to the Funds or otherwise to the Project in a manner consistent with either international financial reporting standards or generally accepted accounting principles or any other accounting principles that apply to the Recipient; and
- (b) all non-financial records and documents relating to the Funds or otherwise to the Project.

A7.4 **Records Review.** The Province may, at its own expense, upon twenty-four hours' Notice to the Recipient and during normal business hours enter upon the Recipient's premises to conduct an audit or investigation of the Recipient regarding the Recipient's compliance with the Agreement, including assessing any of the following:

- (a) the truth of any of the Recipient's representations and warranties;
- (b) the progress of the Project;
- (c) the Recipient's allocation and expenditure of the Funds.

A7.5 **Inspection and Removal.** For the purposes of any Records Review, the Province may take one or more of the following actions:

- (a) inspect and copy any records and documents referred to in section A7.3; and
- (b) remove any copies the Province makes pursuant to section A7.5(a).

A7.6 **Cooperation.** To assist the Province in respect of its rights provided for in section A7.5, the Recipient will cooperate with the Province by:

- (a) ensuring that the Province has access to the records and documents wherever they are located;
- (b) assisting the Province to copy records and documents;
- (c) providing to the Province, in the form the Province specifies, any information the Province identifies; and
- (d) carrying out any other activities the Province requests.

A7.7 **No Control of Records.** No provision of the Agreement will be construed so as to give the Province any control whatsoever over the Recipient's records.

A7.8 **Auditor General.** The Province's rights under Article A7.0 are in addition to

any rights provided to the Auditor General pursuant to section 9.2 of the *Auditor General Act* (Ontario).

A8.0 COMMUNICATIONS REQUIREMENTS

A8.1 Acknowledge Support. Unless the Province directs the Recipient to do otherwise, the Recipient will in each of its Project-related publications, whether written, oral, or visual:

- (a) acknowledge the support of the Province for the Project;
- (b) ensure that any acknowledgement is in a form and manner as the Province directs; and
- (c) indicate that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of the Province.

A9.0 INDEMNITY

A9.1 Indemnification. The Recipient will indemnify and hold harmless the Indemnified Parties from and against any Loss and any Proceeding, unless solely caused by the negligence or wilful misconduct of the Indemnified Parties.

A10.0 INSURANCE

A10.1 Recipient's Insurance. The Recipient represents, warrants, and covenants that it has, and will maintain, at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person carrying out a project similar to the Project would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury, and property damage, to an inclusive limit of not less than the amount provided for in Schedule "B" per occurrence, which commercial general liability insurance policy will include the following:

- (a) the Indemnified Parties as additional insureds with respect to liability arising in the course of performance of the Recipient's obligations under, or otherwise in connection with, the Agreement;
- (b) a cross-liability clause;
- (c) contractual liability coverage; and
- (d) a 30-day written notice of cancellation.

A10.2 Proof of Insurance. The Recipient will:

- (a) provide to the Province, either:
 - (i) certificates of insurance that confirm the insurance coverage as provided for in section A10.1; or
 - (ii) other proof that confirms the insurance coverage as provided for in section A10.1; and
- (b) in the event of a Proceeding, and upon the Province's request, the Recipient will provide to the Province a copy of any of the Recipient's insurance policies that relate to the Project or otherwise to the Agreement, or both.

A11.0 TERMINATION ON NOTICE

A11.1 Termination on Notice. The Province may terminate the Agreement at any time without liability, penalty, or costs upon giving 30 days' Notice to the Recipient.

A11.2 Consequences of Termination on Notice by the Province. If the Province terminates the Agreement pursuant to section A11.1, the Province may take one or more of the following actions:

- (a) cancel further instalments of Funds;
- (b) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and
- (c) determine the reasonable costs for the Recipient to wind down the Project, and do either or both of the following:
 - (i) permit the Recipient to offset such costs against the amount the Recipient owes pursuant to section A11.2(b); and
 - (ii) subject to section A4.1(a), provide Funds to the Recipient to cover such costs.

A12.0 EVENT OF DEFAULT, CORRECTIVE ACTION, AND TERMINATION FOR DEFAULT

A12.1 Events of Default. It will constitute an Event of Default if, in the opinion of the Province, the Recipient breaches any representation, warranty, covenant, or other material term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:

- (i) carry out the Project;

- (ii) use or spend Funds; or
- (iii) provide, in accordance with section A7.2, Reports or such other reports as the Province may have requested pursuant to section A7.2(a)(ii).

A12.2 Consequences of Events of Default and Corrective Action. If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) initiate any action the Province considers necessary in order to facilitate the successful continuation or completion of the Project;
- (b) provide the Recipient with an opportunity to remedy the Event of Default;
- (c) suspend the payment of Funds for such period as the Province determines appropriate;
- (d) reduce the amount of the Funds;
- (e) cancel further instalments of Funds;
- (f) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient;
- (g) demand from the Recipient the payment of an amount equal to any Funds the Recipient used, but did not use in accordance with the Agreement;
- (h) demand from the Recipient the payment of an amount equal to any Funds the Province provided to the Recipient;
- (i) demand from the Recipient an amount equal to the costs the Province incurred or incurs to enforce its rights under the Agreement, including the costs of any Record Review and the costs it incurs to collect any amounts the Recipient owes to the Province; and
- (j) terminate the Agreement at any time, including immediately, without liability, penalty or costs to the Province upon giving Notice to the Recipient.

A12.3 Opportunity to Remedy. If, in accordance with section A12.2(b), the Province provides the Recipient with an opportunity to remedy the Event of Default, the Province will give Notice to the Recipient of:

- (a) the particulars of the Event of Default; and

(b) the Notice Period.

A12.4 **Recipient not Remedying.** If the Province provided the Recipient with an opportunity to remedy the Event of Default pursuant to section A12.2(b), and:

- (a) the Recipient does not remedy the Event of Default within the Notice Period;
- (b) it becomes apparent to the Province that the Recipient cannot completely remedy the Event of Default within the Notice Period; or
- (c) the Recipient is not proceeding to remedy the Event of Default in a way that is satisfactory to the Province,

the Province may extend the Notice Period, or initiate any one or more of the actions provided for in sections A12.2(a), (c), (d), (e), (f), (g), (h), and (i).

A12.5 **When Termination Effective.** Termination under Article A12.0 will take effect as provided for in the Notice.

A13.0 FUNDS AT THE END OF A FUNDING YEAR

A13.1 **Funds at the End of a Funding Year.** Without limiting any rights of the Province under Article A12.0, if the Recipient has not spent all of the Funds allocated for the Funding Year as provided for in the Budget, the Province may take one or both of the following actions:

- (a) demand from the Recipient payment of the unspent Funds; and
- (b) adjust the amount of any further instalments of Funds accordingly.

A14.0 FUNDS UPON EXPIRY

A14.1 **Funds Upon Expiry.** The Recipient will, upon expiry of the Agreement, pay to the Province any Funds remaining in its possession, under its control, or both.

A15.0 DEBT DUE AND PAYMENT

A15.1 **Payment of Overpayment.** If at any time the Province provides Funds in excess of the amount to which the Recipient is entitled under the Agreement, the Province may:

- (a) deduct an amount equal to the excess Funds from any further instalments of Funds; or
- (b) demand that the Recipient pay to the Province an amount equal to the

excess Funds.

A15.2 **Debt Due.** If, pursuant to the Agreement:

- (a) the Province demands from the Recipient the payment of any Funds or an amount equal to any Funds; or
- (b) the Recipient owes any Funds or an amount equal to any Funds to the Province, whether or not the Province has demanded their payment,

such amounts will be deemed to be debts due and owing to the Province by the Recipient, and the Recipient will pay the amounts to the Province immediately, unless the Province directs otherwise.

A15.3 **Interest Rate.** The Province may charge the Recipient interest on any money owing to the Province by the Recipient under the Agreement at the then current interest rate charged by the Province of Ontario on accounts receivable.

A15.4 **Payment of Money to Province.** The Recipient will pay any money owing to the Province by cheque payable to the "Ontario Minister of Finance" and delivered to the Province as provided for in Schedule "B".

A15.5 **Fails to Pay.** Without limiting the application of section 43 of the *Financial Administration Act* (Ontario), if the Recipient fails to pay any amount owing under the Agreement, Her Majesty the Queen in right of Ontario may deduct any unpaid amount from any money payable to the Recipient by Her Majesty the Queen in right of Ontario.

A16.0 NOTICE

A16.1 **Notice in Writing and Addressed.** Notice will be:

- (a) in writing;
- (b) delivered by email, postage-prepaid mail, personal delivery, courier or fax; and
- (c) addressed to the Province or the Recipient as set out in Schedule "B", or as either Party later designates to the other by Notice.

A16.2 **Notice Given.** Notice will be deemed to have been given:

- (a) in the case of postage-prepaid mail, five Business Days after the Notice is mailed; or
- (b) in the case of fax, one Business Day after the Notice is delivered; and

- (c) in the case of email, personal delivery or courier on the date on which the Notice is delivered.

A16.3 **Postal Disruption.** Despite section A16.2(a), in the event of a postal disruption:

- (a) Notice by postage-prepaid mail will not be deemed to be given; and
- (b) the Party giving Notice will give Notice by email, personal delivery, courier or fax.

A17.0 CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT

A17.1 **Consent.** When the Province provides its consent pursuant to the Agreement:

- (a) it will do so by Notice;
- (b) it may attach any terms and conditions to the consent; and
- (c) the Recipient may rely on the consent only if the Recipient complies with any terms and conditions the Province may have attached to the consent.

A18.0 SEVERABILITY OF PROVISIONS

A18.1 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement will not affect the validity or enforceability of any other provision of the Agreement.

A19.0 WAIVER

A19.1 **Waiver Request.** Either Party may, by Notice, ask the other Party to waive an obligation under the Agreement.

A19.2 **Waiver Applies.** If in response to a request made pursuant to section A19.1 a Party consents to a waiver, the waiver will:

- (a) be valid only if the Party that consents to the waiver provides the consent by Notice; and
- (b) apply only to the specific obligation referred to in the waiver.

A20.0 INDEPENDENT PARTIES

A20.1 **Parties Independent.** The Recipient is not an agent, joint venturer, partner, or employee of the Province, and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any

actions that could establish or imply such a relationship.

A21.0 ASSIGNMENT OF AGREEMENT OR FUNDS

A21.1 **No Assignment.** The Recipient will not, without the prior written consent of the Province, assign any of its rights or obligations under the Agreement.

A21.2 **Agreement Binding.** All rights and obligations contained in the Agreement will extend to and be binding on:

- (a) the Recipient's successors, and permitted assigns; and
- (b) the successors to Her Majesty the Queen in right of Ontario.

A22.0 GOVERNING LAW

A22.1 **Governing Law.** The Agreement and the rights, obligations, and relations of the Parties will be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with the Agreement will be conducted in the courts of Ontario, which will have exclusive jurisdiction over such proceedings.

A23.0 FURTHER ASSURANCES

A23.1 **Agreement into Effect.** The Recipient will:

- (a) provide such further assurances as the Province may request from time to time with respect to any matter to which the Agreement pertains; and
- (b) do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

A24.0 JOINT AND SEVERAL LIABILITY

A24.1 **Joint and Several Liability.** Where the Recipient comprises of more than one entity, all such entities will be jointly and severally liable to the Province for the fulfillment of the obligations of the Recipient under the Agreement.

A25.0 RIGHTS AND REMEDIES CUMULATIVE

A25.1 **Rights and Remedies Cumulative.** The rights and remedies of the Province under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

A26.0 FAILURE TO COMPLY WITH OTHER AGREEMENTS

A26.1 Other Agreements. If the Recipient:

- (a) has failed to comply with any term, condition, or obligation under any other agreement with Her Majesty the Queen in right of Ontario or one of Her agencies (a “**Failure**”);
- (b) has been provided with notice of such Failure in accordance with the requirements of such other agreement;
- (c) has, if applicable, failed to rectify such Failure in accordance with the requirements of such other agreement; and
- (d) such Failure is continuing,

the Province may suspend the payment of Funds for such period as the Province determines appropriate.

A27.0 SURVIVAL

A27.1 Survival. The following Articles and sections, and all applicable cross-referenced Articles, sections and schedules, will continue in full force and effect for a period of seven years from the date of expiry or termination of the Agreement: Article 1.0, Article 2.0, Article A1.0 and any other applicable definitions, section A2.1(a), sections A4.4, A4.5, A4.6, section A5.2, section A7.1, A7.2 (to the extent that the Recipient has not provided the Reports or other reports as the Province may have requested and to the satisfaction of the Province), sections A7.3, A7.4, A7.5, A7.6, A7.7, A7.8, Article A8.0, Article A9.0, section A11.2, sections A12.1, sections A12.2(d), (e), (f), (g), (h), (i), and (j), Article A13.0, Article A14.0, Article A15.0, Article A16.0, Article A18.0, , section A21.2, Article A22.0, Article A24.0, Article A25.0 and Article A27.0.

- END OF GENERAL TERMS AND CONDITIONS -

SCHEDULE “B”
PROJECT SPECIFIC INFORMATION AND ADDITIONAL PROVISIONS

Maximum Funds	Up to \$59,530
Expiry Date	March 31, 2024
Amount for the purposes of section A5.2 (Disposal) of Schedule “A”	\$5000.00
Insurance	\$ 2,000,000
Contact information for the purposes of Notice to the Province	<p>Position: Brenda Vloet</p> <p>Address: Manager, Municipal Programs and Outreach Unit</p> <p>Fax: 777 Bay Street, Toronto, Ontario M7A 2J3, 16th Floor</p> <p>Email: Brenda.Vloet@ontario.ca</p>
Contact information for the purposes of Notice to the Recipient	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>
Contact information for the senior financial person in the Recipient organization (e.g., CFO, CAO) – to respond as required to requests from the Province related to the Agreement	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>

Additional Provisions:

- B1 Section 4.2 of Schedule “A” is amended by adding the following subsection:**
- (e) The Province is not obligated to provide any Funds to the Recipient that exceed 65% of the incurred project costs.

B2 Section 4.3 of schedule “A” is amended by adding the following subsection:

- (e) not use the Funds for the purpose of paying the Recipient’s regular salary costs.
- (f) not use Funds for the purpose of purchasing land, buildings or vehicles

**SCHEDULE "C"
PROJECT**

Project Title
City of Port Colborne Modern and Digital Fire and Emergency Records Management Implementation
Objectives
The objective of the Project is to implement an emergency management software module with the goal of modernizing service delivery and realizing cost savings and efficiencies.
Description
<p>The Recipite will purchase and implement an emergency management software module that will include the following features:</p> <ul style="list-style-type: none">• Linkage to computer-aided design (CAD);• Creating/customizing reports and forms; and• Creating a training database. <p>As part of the implementation of the module, the Recipient will provide Training for its staff on the new emergency management software module.</p>

SCHEDULE "D"
BUDGET

Item	Amount
Reimbursement of up to 65% of Project costs incurred between August 16, 2021 to the earlier of February 28, 2023 or the submission of the Final Report Back.	Up to \$59,530

SCHEDULE "E"
PAYMENT PLAN

Milestone	Scheduled Payment
<ul style="list-style-type: none"> • Execution of Agreement 	Initial payment of \$41,671 made to Recipient no more than thirty (30) days after the execution of the Agreement.
<ul style="list-style-type: none"> • Submission of one (1) Interim Report Back 	Interim payment made to the Recipient no more than thirty (30) days after the Province's approval of the Interim Report Back for costs incurred and submitted as part of the First Interim Report Back that exceed the initial payment.
<ul style="list-style-type: none"> • Submission of Final Report Back to the Province 	Final payment of up to \$17,859 less any amount paid as part of the interim payment made to the Recipient no more than thirty (30) days after the Province's approval of the Final Report Back.

**SCHEDULE “F”
REPORTS**

Name of Report	Reporting Due Date
1. Interim Report Back	May 30, 2022
2. Final Report Back	February 28, 2023
3. Annual Report Back	February 28, 2024

Report Details

1. Interim Report Back

The Recipient will submit one (1) Interim Report Back to the Province by May 30, 2022, using the reporting template provided by the Province. The Interim Report Backs will include:

- A written description of what the Recipient has completed for the Project to date and what will be completed by the Final Report Back,
- A list of actual costs to carry out the Project paid by the Recipient, with supporting documentation, such as invoices or receipts, showing actual costs incurred.

2. Final Report Back

The Recipient will submit a Final Report Back to the Province once the Project is completed and by February 28, 2023 using the reporting template provided by the Province. The Final Report Back will include:

- A 250-word abstract of the Project and its findings
- A written description of the Project and the forecasted annual savings and other efficiency outcomes for the Recipient,
- The actual costs to carry out the Project that have not been included as part of the Interim Report Back paid by the Recipient with supporting documentation, such as invoices or receipts, showing actual costs incurred.
- A statement indicating an updated estimate of annual cost savings realized through the Project, which will be the performance measure.

3. Annual Report Back

The Recipient will submit an Annual Report Back to the Province using the reporting template provided by the Province. The Annual Report Back will include:

- A statement indicating the actual cost savings and efficiency outcomes from the Project over the course of the year.

ONTARIO TRANSFER PAYMENT AGREEMENT

THE AGREEMENT is effective as of the _____ day of _____, 20____

B E T W E E N :

**Her Majesty the Queen in right of Ontario
as represented by the Minister of Municipal Affairs and
Housing**

(the “Province”)

- and -

Corporation of the City of Port Colborne

(the “Recipient”)

CONSIDERATION

In consideration of the mutual covenants and agreements contained in the Agreement and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Province and the Recipient agree as follows:

1.0 ENTIRE AGREEMENT

1.1 **Schedules to the Agreement.** The following schedules form part of the Agreement:

- Schedule “A” - General Terms and Conditions
- Schedule “B” - Project Specific Information and Additional Provisions
- Schedule “C” - Project
- Schedule “D” - Budget
- Schedule “E” - Payment Plan
- Schedule “F” - Reports.

1.2 **Entire Agreement.** The Agreement constitutes the entire agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.

2.0 CONFLICT OR INCONSISTENCY

2.1 **Conflict or Inconsistency.** In the event of a conflict or inconsistency between the Additional Provisions and the provisions in Schedule “A”, the following rules will apply:

- (a) the Parties will interpret any Additional Provisions in so far as possible, in a way that preserves the intention of the Parties as expressed in Schedule “A”; and
- (b) where it is not possible to interpret the Additional Provisions in a way that is consistent with the provisions in Schedule “A”, the Additional Provisions will prevail over the provisions in Schedule “A” to the extent of the inconsistency.

3.0 COUNTERPARTS

3.1 **One and the Same Agreement.** The Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

4.0 AMENDING THE AGREEMENT

4.1 **Amending the Agreement.** The Agreement may only be amended by a written agreement duly executed by the Parties.

5.0 ACKNOWLEDGEMENT

5.1 **Acknowledgement.** The Recipient acknowledges that:

- (a) the Funds are to assist the Recipient to carry out the Project and not to provide goods or services to the Province;
- (b) the Province is not responsible for carrying out the Project; and
- (c) the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

- SIGNATURE PAGE FOLLOWS -

The Parties have executed the Agreement on the dates set out below.

**HER MAJESTY THE QUEEN IN RIGHT OF
ONTARIO as represented by the Minister of
Municipal Affairs and Housing**

Date

Name: The Honourable Steve Clark
Title: Minister of Municipal Affairs and Housing

Corporation of the City of Port Colborne

Date

Name:
Title:

I have authority to bind the Recipient.

Date

Name:
Title:

I have authority to bind the Recipient.

SCHEDULE "A"
GENERAL TERMS AND CONDITIONS

A1.0 INTERPRETATION AND DEFINITIONS

A1.1 **Interpretation.** For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;
- (b) words in one gender include all genders;
- (c) the headings do not form part of the Agreement; they are for reference only and will not affect the interpretation of the Agreement;
- (d) any reference to dollars or currency will be in Canadian dollars and currency; and
- (e) "include", "includes" and "including" denote that the subsequent list is not exhaustive.

A1.2 **Definitions.** In the Agreement, the following terms will have the following meanings:

"Additional Provisions" means the terms and conditions set out in Schedule "B".

"Agreement" means this agreement entered into between the Province and the Recipient, all of the schedules listed in section 1.1, and any amending agreement entered into pursuant to section 4.1.

"Budget" means the budget attached to the Agreement as Schedule "D".

"Business Day" means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day on which the Province has elected to be closed for business.

"Effective Date" means the date set out at the top of the Agreement.

"Event of Default" has the meaning ascribed to it in section A12.1.

"Expiry Date" means the expiry date set out in Schedule "B".

"Funding Year" means:

- (a) in the case of the first Funding Year, the period commencing on the

Effective Date and ending on the following March 31; and

- (b) in the case of Funding Years subsequent to the first Funding Year, the period commencing on April 1 following the end of the previous Funding Year and ending on the following March 31 or the Expiry Date, whichever is first.

“Funds” means the money the Province provides to the Recipient pursuant to the Agreement.

“Indemnified Parties” means Her Majesty the Queen in right of Ontario, and includes Her ministers, agents, appointees, and employees.

“Loss” means any cause of action, liability, loss, cost, damage, or expense (including legal, expert and consultant fees) that anyone incurs or sustains as a result of or in connection with the Project or any other part of the Agreement.

“Maximum Funds” means the maximum set out in Schedule “B”.

“Notice” means any communication given or required to be given pursuant to the Agreement.

“Notice Period” means the period of time within which the Recipient is required to remedy an Event of Default pursuant to section A12.3(b), and includes any such period or periods of time by which the Province extends that time in accordance with section A12.4.

“Parties” means the Province and the Recipient.

“Party” means either the Province or the Recipient.

“Proceeding” means any action, claim, demand, lawsuit, or other proceeding that anyone makes, brings or prosecutes as a result of or in connection with the Project or with any other part of the Agreement.

“Project” means the undertaking described in Schedule “C”.

“Records Review” means any assessment the Province conducts pursuant to section A7.4.

“Reports” means the reports described in Schedule “F”.

A2.0 REPRESENTATIONS, WARRANTIES, AND COVENANTS

A2.1 General. The Recipient represents, warrants, and covenants that:

- (a) it has, and will continue to have, the experience and expertise necessary to carry out the Project;
- (b) it is in compliance with, and will continue to comply with, all federal and provincial laws and regulations, all municipal by-laws, and any other orders, rules, and by-laws related to any aspect of the Project, the Funds, or both; and
- (c) unless otherwise provided for in the Agreement, any information the Recipient provided to the Province in support of its request for funds (including information relating to any eligibility requirements) was true and complete at the time the Recipient provided it and will continue to be true and complete.

A2.2 **Execution of Agreement.** The Recipient represents and warrants that it has:

- (a) the full power and authority to enter into the Agreement; and
- (b) taken all necessary actions to authorize the execution of the Agreement, including passing a municipal by-law authorizing the Recipient to enter into the Agreement.

A2.3 **Governance.** The Recipient represents, warrants, and covenants that it has, will maintain in writing, and will follow:

- (a) procedures to enable the Recipient to manage Funds prudently and effectively;
- (b) procedures to enable the Recipient to complete the Project successfully;
- (c) procedures to enable the Recipient to identify risks to the completion of the Project and strategies to address the identified risks, all in a timely manner;
- (d) procedures to enable the preparation and submission of all Reports required pursuant to Article A7.0; and
- (e) procedures to enable the Recipient to address such other matters as the Recipient considers necessary to enable the Recipient to carry out its obligations under the Agreement.

A2.4 **Supporting Proof.** Upon the request of the Province, the Recipient will provide the Province with proof of the matters referred to in Article A2.0.

A3.0 TERM OF THE AGREEMENT

A3.1 **Term.** The term of the Agreement will commence on the Effective Date and will expire on the Expiry Date unless terminated earlier pursuant to Article A11.0 or Article A12.0.

A4.0 FUNDS AND CARRYING OUT THE PROJECT

A4.1 **Funds Provided.** The Province will:

- (a) provide the Recipient up to the Maximum Funds for the purpose of carrying out the Project;
- (b) provide the Funds to the Recipient in accordance with the payment plan attached to the Agreement as Schedule “E”; and
- (c) deposit the Funds into an account the Recipient designates provided that the account:
 - (i) resides at a Canadian financial institution; and
 - (ii) is in the name of the Recipient.

A4.2 **Limitation on Payment of Funds.** Despite section A4.1:

- (a) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides evidence satisfactory to the Province that the Recipient’s council has authorized the execution of this Agreement by the Recipient by municipal by-law;
- (b) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides the certificates of insurance or other proof as the Province may request pursuant to section A10.2;
- (c) the Province is not obligated to provide instalments of Funds until it is satisfied with the progress of the Project; and
- (d) the Province may adjust the amount of Funds it provides to the Recipient in any Funding Year based upon the Province’s assessment of the information the Recipient provides to the Province pursuant to section A7.2.

A4.3 **Use of Funds and Carry Out the Project.** The Recipient will do all of the following:

- (a) carry out the Project in accordance with the Agreement;

- (b) use the Funds only for the purpose of carrying out the Project;
- (c) spend the Funds only in accordance with the Budget;
- (d) not use the Funds to cover any cost that has or will be funded or reimbursed by one or more of any third party, ministry, agency, or organization of the Government of Ontario.

A4.4 **Interest Bearing Account.** If the Province provides Funds before the Recipient's immediate need for the Funds, the Recipient will place the Funds in an interest bearing account in the name of the Recipient at a Canadian financial institution.

A4.5 **Interest.** If the Recipient earns any interest on the Funds, the Province may do either or both of the following:

- (a) deduct an amount equal to the interest from any further instalments of Funds;
- (b) demand from the Recipient the payment of an amount equal to the interest.

A4.6 **Rebates, Credits, and Refunds.** The Province will calculate Funds based on the actual costs to the Recipient to carry out the Project, less any costs (including taxes) for which the Recipient has received, will receive, or is eligible to receive, a rebate, credit, or refund.

A5.0 RECIPIENT'S ACQUISITION OF GOODS OR SERVICES, AND DISPOSAL OF ASSETS

A5.1 **Acquisition.** If the Recipient acquires goods, services, or both with the Funds, it will do so through a process that promotes the best value for money.

A5.2 **Disposal.** The Recipient will not, without the Province's prior consent, sell, lease, or otherwise dispose of any asset purchased or created with the Funds or for which Funds were provided, the cost of which exceeded the amount as provided for in Schedule "B" at the time of purchase.

A6.0 CONFLICT OF INTEREST

A6.1 **Conflict of Interest Includes.** For the purposes of Article A6.0, a conflict of interest includes any circumstances where:

- (a) the Recipient; or
- (b) any person who has the capacity to influence the Recipient's decisions,

has outside commitments, relationships, or financial interests that could, or could be seen by a reasonable person to, interfere with the Recipient's objective, unbiased, and impartial judgment relating to the Project, the use of the Funds, or both.

A6.2 **No Conflict of Interest.** The Recipient will carry out the Project and use the Funds without an actual, potential, or perceived conflict of interest unless:

- (a) the Recipient:
 - (i) provides Notice to the Province disclosing the details of the actual, potential, or perceived conflict of interest;
 - (ii) requests the consent of the Province to carry out the Project with an actual, potential, or perceived conflict of interest;
- (b) the Province provides its consent to the Recipient carrying out the Project with an actual, potential, or perceived conflict of interest; and
- (c) the Recipient complies with any terms and conditions the Province may prescribe in its consent.

A7.0 REPORTS, ACCOUNTING, AND REVIEW

A7.1 **Province Includes.** For the purposes of sections A7.4, A7.5 and A7.6, “**Province**” includes any auditor or representative the Province may identify.

A7.2 **Preparation and Submission.** The Recipient will:

- (a) submit to the Province at the address referred to in section A17.1:
 - (i) all Reports in accordance with the timelines and content requirements as provided for in Schedule “F”;
 - (ii) any other reports in accordance with any timelines and content requirements the Province may specify from time to time;
- (b) ensure that all Reports and other reports are:
 - (i) completed to the satisfaction of the Province; and
 - (i) signed by an authorized signing officer of the Recipient.

A7.3 **Record Maintenance.** The Recipient will keep and maintain for a period of seven years from their creation:

- (a) all financial records (including invoices and evidence of payment) relating to the Funds or otherwise to the Project in a manner consistent with either international financial reporting standards or generally accepted accounting principles or any other accounting principles that apply to the Recipient; and
- (b) all non-financial records and documents relating to the Funds or otherwise to the Project.

A7.4 **Records Review.** The Province may, at its own expense, upon twenty-four hours' Notice to the Recipient and during normal business hours enter upon the Recipient's premises to conduct an audit or investigation of the Recipient regarding the Recipient's compliance with the Agreement, including assessing any of the following:

- (a) the truth of any of the Recipient's representations and warranties;
- (b) the progress of the Project;
- (c) the Recipient's allocation and expenditure of the Funds.

A7.5 **Inspection and Removal.** For the purposes of any Records Review, the Province may take one or more of the following actions:

- (a) inspect and copy any records and documents referred to in section A7.3; and
- (b) remove any copies the Province makes pursuant to section A7.5(a).

A7.6 **Cooperation.** To assist the Province in respect of its rights provided for in section A7.5, the Recipient will cooperate with the Province by:

- (a) ensuring that the Province has access to the records and documents wherever they are located;
- (b) assisting the Province to copy records and documents;
- (c) providing to the Province, in the form the Province specifies, any information the Province identifies; and
- (d) carrying out any other activities the Province requests.

A7.7 **No Control of Records.** No provision of the Agreement will be construed so as to give the Province any control whatsoever over the Recipient's records.

A7.8 **Auditor General.** The Province's rights under Article A7.0 are in addition to

any rights provided to the Auditor General pursuant to section 9.2 of the *Auditor General Act* (Ontario).

A8.0 COMMUNICATIONS REQUIREMENTS

A8.1 Acknowledge Support. Unless the Province directs the Recipient to do otherwise, the Recipient will in each of its Project-related publications, whether written, oral, or visual:

- (a) acknowledge the support of the Province for the Project;
- (b) ensure that any acknowledgement is in a form and manner as the Province directs; and
- (c) indicate that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of the Province.

A9.0 INDEMNITY

A9.1 Indemnification. The Recipient will indemnify and hold harmless the Indemnified Parties from and against any Loss and any Proceeding, unless solely caused by the negligence or wilful misconduct of the Indemnified Parties.

A10.0 INSURANCE

A10.1 Recipient's Insurance. The Recipient represents, warrants, and covenants that it has, and will maintain, at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person carrying out a project similar to the Project would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury, and property damage, to an inclusive limit of not less than the amount provided for in Schedule "B" per occurrence, which commercial general liability insurance policy will include the following:

- (a) the Indemnified Parties as additional insureds with respect to liability arising in the course of performance of the Recipient's obligations under, or otherwise in connection with, the Agreement;
- (b) a cross-liability clause;
- (c) contractual liability coverage; and
- (d) a 30-day written notice of cancellation.

A10.2 Proof of Insurance. The Recipient will:

- (a) provide to the Province, either:
 - (i) certificates of insurance that confirm the insurance coverage as provided for in section A10.1; or
 - (ii) other proof that confirms the insurance coverage as provided for in section A10.1; and
- (b) in the event of a Proceeding, and upon the Province's request, the Recipient will provide to the Province a copy of any of the Recipient's insurance policies that relate to the Project or otherwise to the Agreement, or both.

A11.0 TERMINATION ON NOTICE

A11.1 Termination on Notice. The Province may terminate the Agreement at any time without liability, penalty, or costs upon giving 30 days' Notice to the Recipient.

A11.2 Consequences of Termination on Notice by the Province. If the Province terminates the Agreement pursuant to section A11.1, the Province may take one or more of the following actions:

- (a) cancel further instalments of Funds;
- (b) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and
- (c) determine the reasonable costs for the Recipient to wind down the Project, and do either or both of the following:
 - (i) permit the Recipient to offset such costs against the amount the Recipient owes pursuant to section A11.2(b); and
 - (ii) subject to section A4.1(a), provide Funds to the Recipient to cover such costs.

A12.0 EVENT OF DEFAULT, CORRECTIVE ACTION, AND TERMINATION FOR DEFAULT

A12.1 Events of Default. It will constitute an Event of Default if, in the opinion of the Province, the Recipient breaches any representation, warranty, covenant, or other material term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:

- (i) carry out the Project;

- (ii) use or spend Funds; or
- (iii) provide, in accordance with section A7.2, Reports or such other reports as the Province may have requested pursuant to section A7.2(a)(ii).

A12.2 Consequences of Events of Default and Corrective Action. If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) initiate any action the Province considers necessary in order to facilitate the successful continuation or completion of the Project;
- (b) provide the Recipient with an opportunity to remedy the Event of Default;
- (c) suspend the payment of Funds for such period as the Province determines appropriate;
- (d) reduce the amount of the Funds;
- (e) cancel further instalments of Funds;
- (f) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient;
- (g) demand from the Recipient the payment of an amount equal to any Funds the Recipient used, but did not use in accordance with the Agreement;
- (h) demand from the Recipient the payment of an amount equal to any Funds the Province provided to the Recipient;
- (i) demand from the Recipient an amount equal to the costs the Province incurred or incurs to enforce its rights under the Agreement, including the costs of any Record Review and the costs it incurs to collect any amounts the Recipient owes to the Province; and
- (j) terminate the Agreement at any time, including immediately, without liability, penalty or costs to the Province upon giving Notice to the Recipient.

A12.3 Opportunity to Remedy. If, in accordance with section A12.2(b), the Province provides the Recipient with an opportunity to remedy the Event of Default, the Province will give Notice to the Recipient of:

- (a) the particulars of the Event of Default; and

(b) the Notice Period.

A12.4 **Recipient not Remedying.** If the Province provided the Recipient with an opportunity to remedy the Event of Default pursuant to section A12.2(b), and:

- (a) the Recipient does not remedy the Event of Default within the Notice Period;
- (b) it becomes apparent to the Province that the Recipient cannot completely remedy the Event of Default within the Notice Period; or
- (c) the Recipient is not proceeding to remedy the Event of Default in a way that is satisfactory to the Province,

the Province may extend the Notice Period, or initiate any one or more of the actions provided for in sections A12.2(a), (c), (d), (e), (f), (g), (h), and (i).

A12.5 **When Termination Effective.** Termination under Article A12.0 will take effect as provided for in the Notice.

A13.0 FUNDS AT THE END OF A FUNDING YEAR

A13.1 **Funds at the End of a Funding Year.** Without limiting any rights of the Province under Article A12.0, if the Recipient has not spent all of the Funds allocated for the Funding Year as provided for in the Budget, the Province may take one or both of the following actions:

- (a) demand from the Recipient payment of the unspent Funds; and
- (b) adjust the amount of any further instalments of Funds accordingly.

A14.0 FUNDS UPON EXPIRY

A14.1 **Funds Upon Expiry.** The Recipient will, upon expiry of the Agreement, pay to the Province any Funds remaining in its possession, under its control, or both.

A15.0 DEBT DUE AND PAYMENT

A15.1 **Payment of Overpayment.** If at any time the Province provides Funds in excess of the amount to which the Recipient is entitled under the Agreement, the Province may:

- (a) deduct an amount equal to the excess Funds from any further instalments of Funds; or
- (b) demand that the Recipient pay to the Province an amount equal to the

excess Funds.

A15.2 **Debt Due.** If, pursuant to the Agreement:

- (a) the Province demands from the Recipient the payment of any Funds or an amount equal to any Funds; or
- (b) the Recipient owes any Funds or an amount equal to any Funds to the Province, whether or not the Province has demanded their payment,

such amounts will be deemed to be debts due and owing to the Province by the Recipient, and the Recipient will pay the amounts to the Province immediately, unless the Province directs otherwise.

A15.3 **Interest Rate.** The Province may charge the Recipient interest on any money owing to the Province by the Recipient under the Agreement at the then current interest rate charged by the Province of Ontario on accounts receivable.

A15.4 **Payment of Money to Province.** The Recipient will pay any money owing to the Province by cheque payable to the "Ontario Minister of Finance" and delivered to the Province as provided for in Schedule "B".

A15.5 **Fails to Pay.** Without limiting the application of section 43 of the *Financial Administration Act* (Ontario), if the Recipient fails to pay any amount owing under the Agreement, Her Majesty the Queen in right of Ontario may deduct any unpaid amount from any money payable to the Recipient by Her Majesty the Queen in right of Ontario.

A16.0 NOTICE

A16.1 **Notice in Writing and Addressed.** Notice will be:

- (a) in writing;
- (b) delivered by email, postage-prepaid mail, personal delivery, courier or fax; and
- (c) addressed to the Province or the Recipient as set out in Schedule "B", or as either Party later designates to the other by Notice.

A16.2 **Notice Given.** Notice will be deemed to have been given:

- (a) in the case of postage-prepaid mail, five Business Days after the Notice is mailed; or
- (b) in the case of fax, one Business Day after the Notice is delivered; and

- (c) in the case of email, personal delivery or courier on the date on which the Notice is delivered.

A16.3 **Postal Disruption.** Despite section A16.2(a), in the event of a postal disruption:

- (a) Notice by postage-prepaid mail will not be deemed to be given; and
- (b) the Party giving Notice will give Notice by email, personal delivery, courier or fax.

A17.0 CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT

A17.1 **Consent.** When the Province provides its consent pursuant to the Agreement:

- (a) it will do so by Notice;
- (b) it may attach any terms and conditions to the consent; and
- (c) the Recipient may rely on the consent only if the Recipient complies with any terms and conditions the Province may have attached to the consent.

A18.0 SEVERABILITY OF PROVISIONS

A18.1 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement will not affect the validity or enforceability of any other provision of the Agreement.

A19.0 WAIVER

A19.1 **Waiver Request.** Either Party may, by Notice, ask the other Party to waive an obligation under the Agreement.

A19.2 **Waiver Applies.** If in response to a request made pursuant to section A19.1 a Party consents to a waiver, the waiver will:

- (a) be valid only if the Party that consents to the waiver provides the consent by Notice; and
- (b) apply only to the specific obligation referred to in the waiver.

A20.0 INDEPENDENT PARTIES

A20.1 **Parties Independent.** The Recipient is not an agent, joint venturer, partner, or employee of the Province, and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any

actions that could establish or imply such a relationship.

A21.0 ASSIGNMENT OF AGREEMENT OR FUNDS

A21.1 **No Assignment.** The Recipient will not, without the prior written consent of the Province, assign any of its rights or obligations under the Agreement.

A21.2 **Agreement Binding.** All rights and obligations contained in the Agreement will extend to and be binding on:

- (a) the Recipient's successors, and permitted assigns; and
- (b) the successors to Her Majesty the Queen in right of Ontario.

A22.0 GOVERNING LAW

A22.1 **Governing Law.** The Agreement and the rights, obligations, and relations of the Parties will be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with the Agreement will be conducted in the courts of Ontario, which will have exclusive jurisdiction over such proceedings.

A23.0 FURTHER ASSURANCES

A23.1 **Agreement into Effect.** The Recipient will:

- (a) provide such further assurances as the Province may request from time to time with respect to any matter to which the Agreement pertains; and
- (b) do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

A24.0 JOINT AND SEVERAL LIABILITY

A24.1 **Joint and Several Liability.** Where the Recipient comprises of more than one entity, all such entities will be jointly and severally liable to the Province for the fulfillment of the obligations of the Recipient under the Agreement.

A25.0 RIGHTS AND REMEDIES CUMULATIVE

A25.1 **Rights and Remedies Cumulative.** The rights and remedies of the Province under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

A26.0 FAILURE TO COMPLY WITH OTHER AGREEMENTS

A26.1 Other Agreements. If the Recipient:

- (a) has failed to comply with any term, condition, or obligation under any other agreement with Her Majesty the Queen in right of Ontario or one of Her agencies (a “**Failure**”);
- (b) has been provided with notice of such Failure in accordance with the requirements of such other agreement;
- (c) has, if applicable, failed to rectify such Failure in accordance with the requirements of such other agreement; and
- (d) such Failure is continuing,

the Province may suspend the payment of Funds for such period as the Province determines appropriate.

A27.0 SURVIVAL

A27.1 Survival. The following Articles and sections, and all applicable cross-referenced Articles, sections and schedules, will continue in full force and effect for a period of seven years from the date of expiry or termination of the Agreement: Article 1.0, Article 2.0, Article A1.0 and any other applicable definitions, section A2.1(a), sections A4.4, A4.5, A4.6, section A5.2, section A7.1, A7.2 (to the extent that the Recipient has not provided the Reports or other reports as the Province may have requested and to the satisfaction of the Province), sections A7.3, A7.4, A7.5, A7.6, A7.7, A7.8, Article A8.0, Article A9.0, section A11.2, sections A12.1, sections A12.2(d), (e), (f), (g), (h), (i), and (j), Article A13.0, Article A14.0, Article A15.0, Article A16.0, Article A18.0, , section A21.2, Article A22.0, Article A24.0, Article A25.0 and Article A27.0.

- END OF GENERAL TERMS AND CONDITIONS -

SCHEDULE “B”
PROJECT SPECIFIC INFORMATION AND ADDITIONAL PROVISIONS

Maximum Funds	Up to \$16,536
Expiry Date	March 31, 2024
Amount for the purposes of section A5.2 (Disposal) of Schedule “A”	\$5000.00
Insurance	\$ 2,000,000
Contact information for the purposes of Notice to the Province	<p>Position: Brenda Vloet</p> <p>Address: Manager, Municipal Programs and Outreach Unit</p> <p>Fax: 777 Bay Street, Toronto, Ontario M7A 2J3, 16th Floor</p> <p>Email: Brenda.Vloet@ontario.ca</p>
Contact information for the purposes of Notice to the Recipient	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>
Contact information for the senior financial person in the Recipient organization (e.g., CFO, CAO) – to respond as required to requests from the Province related to the Agreement	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>

Additional Provisions:

- B1 Section 4.2 of Schedule “A” is amended by adding the following subsection:**
- (e) The Province is not obligated to provide any Funds to the Recipient that exceed 65% of the incurred project costs.

B2 Section 4.3 of schedule “A” is amended by adding the following subsection:

- (e) not use the Funds for the purpose of paying the Recipient’s regular salary costs.
- (f) not use Funds for the purpose of purchasing land, buildings or vehicles

**SCHEDULE "C"
PROJECT**

Project Title
City of Port Colborne Digitizing Public Works Permit Process Modernization
Objectives
The objective of the Project is to implement an online permit application system with the goal of modernizing service delivery and realizing cost savings and efficiencies.
Description
The Recipient will purchase and implement a public works online permit software module that will support the Recipient's plan of developing digital and open data initiatives.

SCHEDULE "D"
BUDGET

Item	Amount
Reimbursement of up to 65% of Project costs incurred between August 16, 2021 to the earlier of February 28, 2023 or the submission of the Final Report Back.	Up to \$16,536

SCHEDULE "E"
PAYMENT PLAN

Milestone	Scheduled Payment
<ul style="list-style-type: none"> • Execution of Agreement 	Initial payment of \$11,575 made to Recipient no more than thirty (30) days after the execution of the Agreement.
<ul style="list-style-type: none"> • Submission of one (1) Interim Report Back 	Interim payment made to the Recipient no more than thirty (30) days after the Province's approval of the Interim Report Back for costs incurred and submitted as part of the First Interim Report Back that exceed the initial payment.
<ul style="list-style-type: none"> • Submission of Final Report Back to the Province 	Final payment of up to \$4,961 less any amount paid as part of the interim payment made to the Recipient no more than thirty (30) days after the Province's approval of the Final Report Back.

**SCHEDULE “F”
REPORTS**

Name of Report	Reporting Due Date
1. Interim Report Back	May 30, 2022
2. Final Report Back	February 28, 2023
3. Annual Report Back	February 28, 2024

Report Details

1. Interim Report Back

The Recipient will submit one (1) Interim Report Back to the Province by May 30, 2022, using the reporting template provided by the Province. The Interim Report Backs will include:

- A written description of what the Recipient has completed for the Project to date and what will be completed by the Final Report Back,
- A list of actual costs to carry out the Project paid by the Recipient, with supporting documentation, such as invoices or receipts, showing actual costs incurred.

2. Final Report Back

The Recipient will submit a Final Report Back to the Province once the Project is completed and by February 28, 2023 using the reporting template provided by the Province. The Final Report Back will include:

- A 250-word abstract of the Project and its findings
- A written description of the Project and the forecasted annual savings and other efficiency outcomes for the Recipient,
- The actual costs to carry out the Project that have not been included as part of the Interim Report Back paid by the Recipient with supporting documentation, such as invoices or receipts, showing actual costs incurred.
- A statement indicating an updated estimate of annual cost savings realized through the Project, which will be the performance measure.

3. Annual Report Back

The Recipient will submit an Annual Report Back to the Province using the reporting template provided by the Province. The Annual Report Back will include:

- A statement indicating the actual cost savings and efficiency outcomes from the Project over the course of the year.

ONTARIO TRANSFER PAYMENT AGREEMENT

THE AGREEMENT is effective as of the _____ day of _____, 20____

B E T W E E N :

**Her Majesty the Queen in right of Ontario
as represented by the Minister of Municipal Affairs and
Housing**

(the “Province”)

- and -

Corporation of the City of Port Colborne

(the “Recipient”)

CONSIDERATION

In consideration of the mutual covenants and agreements contained in the Agreement and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Province and the Recipient agree as follows:

1.0 ENTIRE AGREEMENT

1.1 **Schedules to the Agreement.** The following schedules form part of the Agreement:

- Schedule “A” - General Terms and Conditions
- Schedule “B” - Project Specific Information and Additional Provisions
- Schedule “C” - Project
- Schedule “D” - Budget
- Schedule “E” - Payment Plan
- Schedule “F” - Reports.

1.2 **Entire Agreement.** The Agreement constitutes the entire agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.

2.0 CONFLICT OR INCONSISTENCY

2.1 **Conflict or Inconsistency.** In the event of a conflict or inconsistency between the Additional Provisions and the provisions in Schedule “A”, the following rules will apply:

- (a) the Parties will interpret any Additional Provisions in so far as possible, in a way that preserves the intention of the Parties as expressed in Schedule “A”; and
- (b) where it is not possible to interpret the Additional Provisions in a way that is consistent with the provisions in Schedule “A”, the Additional Provisions will prevail over the provisions in Schedule “A” to the extent of the inconsistency.

3.0 COUNTERPARTS

3.1 **One and the Same Agreement.** The Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

4.0 AMENDING THE AGREEMENT

4.1 **Amending the Agreement.** The Agreement may only be amended by a written agreement duly executed by the Parties.

5.0 ACKNOWLEDGEMENT

5.1 **Acknowledgement.** The Recipient acknowledges that:

- (a) the Funds are to assist the Recipient to carry out the Project and not to provide goods or services to the Province;
- (b) the Province is not responsible for carrying out the Project; and
- (c) the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

- SIGNATURE PAGE FOLLOWS -

The Parties have executed the Agreement on the dates set out below.

**HER MAJESTY THE QUEEN IN RIGHT OF
ONTARIO as represented by the Minister of
Municipal Affairs and Housing**

Date

Name: The Honourable Steve Clark
Title: Minister of Municipal Affairs and Housing

Corporation of the City of Port Colborne

Date

Name:
Title:

I have authority to bind the Recipient.

Date

Name:
Title:

I have authority to bind the Recipient.

SCHEDULE "A"
GENERAL TERMS AND CONDITIONS

A1.0 INTERPRETATION AND DEFINITIONS

A1.1 **Interpretation.** For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;
- (b) words in one gender include all genders;
- (c) the headings do not form part of the Agreement; they are for reference only and will not affect the interpretation of the Agreement;
- (d) any reference to dollars or currency will be in Canadian dollars and currency; and
- (e) "include", "includes" and "including" denote that the subsequent list is not exhaustive.

A1.2 **Definitions.** In the Agreement, the following terms will have the following meanings:

"Additional Provisions" means the terms and conditions set out in Schedule "B".

"Agreement" means this agreement entered into between the Province and the Recipient, all of the schedules listed in section 1.1, and any amending agreement entered into pursuant to section 4.1.

"Budget" means the budget attached to the Agreement as Schedule "D".

"Business Day" means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day on which the Province has elected to be closed for business.

"Effective Date" means the date set out at the top of the Agreement.

"Event of Default" has the meaning ascribed to it in section A12.1.

"Expiry Date" means the expiry date set out in Schedule "B".

"Funding Year" means:

- (a) in the case of the first Funding Year, the period commencing on the

Effective Date and ending on the following March 31; and

- (b) in the case of Funding Years subsequent to the first Funding Year, the period commencing on April 1 following the end of the previous Funding Year and ending on the following March 31 or the Expiry Date, whichever is first.

“Funds” means the money the Province provides to the Recipient pursuant to the Agreement.

“Indemnified Parties” means Her Majesty the Queen in right of Ontario, and includes Her ministers, agents, appointees, and employees.

“Loss” means any cause of action, liability, loss, cost, damage, or expense (including legal, expert and consultant fees) that anyone incurs or sustains as a result of or in connection with the Project or any other part of the Agreement.

“Maximum Funds” means the maximum set out in Schedule “B”.

“Notice” means any communication given or required to be given pursuant to the Agreement.

“Notice Period” means the period of time within which the Recipient is required to remedy an Event of Default pursuant to section A12.3(b), and includes any such period or periods of time by which the Province extends that time in accordance with section A12.4.

“Parties” means the Province and the Recipient.

“Party” means either the Province or the Recipient.

“Proceeding” means any action, claim, demand, lawsuit, or other proceeding that anyone makes, brings or prosecutes as a result of or in connection with the Project or with any other part of the Agreement.

“Project” means the undertaking described in Schedule “C”.

“Records Review” means any assessment the Province conducts pursuant to section A7.4.

“Reports” means the reports described in Schedule “F”.

A2.0 REPRESENTATIONS, WARRANTIES, AND COVENANTS

A2.1 General. The Recipient represents, warrants, and covenants that:

- (a) it has, and will continue to have, the experience and expertise necessary to carry out the Project;
- (b) it is in compliance with, and will continue to comply with, all federal and provincial laws and regulations, all municipal by-laws, and any other orders, rules, and by-laws related to any aspect of the Project, the Funds, or both; and
- (c) unless otherwise provided for in the Agreement, any information the Recipient provided to the Province in support of its request for funds (including information relating to any eligibility requirements) was true and complete at the time the Recipient provided it and will continue to be true and complete.

A2.2 Execution of Agreement. The Recipient represents and warrants that it has:

- (a) the full power and authority to enter into the Agreement; and
- (b) taken all necessary actions to authorize the execution of the Agreement, including passing a municipal by-law authorizing the Recipient to enter into the Agreement.

A2.3 Governance. The Recipient represents, warrants, and covenants that it has, will maintain in writing, and will follow:

- (a) procedures to enable the Recipient to manage Funds prudently and effectively;
- (b) procedures to enable the Recipient to complete the Project successfully;
- (c) procedures to enable the Recipient to identify risks to the completion of the Project and strategies to address the identified risks, all in a timely manner;
- (d) procedures to enable the preparation and submission of all Reports required pursuant to Article A7.0; and
- (e) procedures to enable the Recipient to address such other matters as the Recipient considers necessary to enable the Recipient to carry out its obligations under the Agreement.

A2.4 Supporting Proof. Upon the request of the Province, the Recipient will provide the Province with proof of the matters referred to in Article A2.0.

A3.0 TERM OF THE AGREEMENT

A3.1 **Term.** The term of the Agreement will commence on the Effective Date and will expire on the Expiry Date unless terminated earlier pursuant to Article A11.0 or Article A12.0.

A4.0 FUNDS AND CARRYING OUT THE PROJECT

A4.1 **Funds Provided.** The Province will:

- (a) provide the Recipient up to the Maximum Funds for the purpose of carrying out the Project;
- (b) provide the Funds to the Recipient in accordance with the payment plan attached to the Agreement as Schedule “E”; and
- (c) deposit the Funds into an account the Recipient designates provided that the account:
 - (i) resides at a Canadian financial institution; and
 - (ii) is in the name of the Recipient.

A4.2 **Limitation on Payment of Funds.** Despite section A4.1:

- (a) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides evidence satisfactory to the Province that the Recipient’s council has authorized the execution of this Agreement by the Recipient by municipal by-law;
- (b) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides the certificates of insurance or other proof as the Province may request pursuant to section A10.2;
- (c) the Province is not obligated to provide instalments of Funds until it is satisfied with the progress of the Project; and
- (d) the Province may adjust the amount of Funds it provides to the Recipient in any Funding Year based upon the Province’s assessment of the information the Recipient provides to the Province pursuant to section A7.2.

A4.3 **Use of Funds and Carry Out the Project.** The Recipient will do all of the following:

- (a) carry out the Project in accordance with the Agreement;

- (b) use the Funds only for the purpose of carrying out the Project;
- (c) spend the Funds only in accordance with the Budget;
- (d) not use the Funds to cover any cost that has or will be funded or reimbursed by one or more of any third party, ministry, agency, or organization of the Government of Ontario.

A4.4 **Interest Bearing Account.** If the Province provides Funds before the Recipient's immediate need for the Funds, the Recipient will place the Funds in an interest bearing account in the name of the Recipient at a Canadian financial institution.

A4.5 **Interest.** If the Recipient earns any interest on the Funds, the Province may do either or both of the following:

- (a) deduct an amount equal to the interest from any further instalments of Funds;
- (b) demand from the Recipient the payment of an amount equal to the interest.

A4.6 **Rebates, Credits, and Refunds.** The Province will calculate Funds based on the actual costs to the Recipient to carry out the Project, less any costs (including taxes) for which the Recipient has received, will receive, or is eligible to receive, a rebate, credit, or refund.

A5.0 RECIPIENT'S ACQUISITION OF GOODS OR SERVICES, AND DISPOSAL OF ASSETS

A5.1 **Acquisition.** If the Recipient acquires goods, services, or both with the Funds, it will do so through a process that promotes the best value for money.

A5.2 **Disposal.** The Recipient will not, without the Province's prior consent, sell, lease, or otherwise dispose of any asset purchased or created with the Funds or for which Funds were provided, the cost of which exceeded the amount as provided for in Schedule "B" at the time of purchase.

A6.0 CONFLICT OF INTEREST

A6.1 **Conflict of Interest Includes.** For the purposes of Article A6.0, a conflict of interest includes any circumstances where:

- (a) the Recipient; or
- (b) any person who has the capacity to influence the Recipient's decisions,

has outside commitments, relationships, or financial interests that could, or could be seen by a reasonable person to, interfere with the Recipient's objective, unbiased, and impartial judgment relating to the Project, the use of the Funds, or both.

A6.2 **No Conflict of Interest.** The Recipient will carry out the Project and use the Funds without an actual, potential, or perceived conflict of interest unless:

- (a) the Recipient:
 - (i) provides Notice to the Province disclosing the details of the actual, potential, or perceived conflict of interest;
 - (ii) requests the consent of the Province to carry out the Project with an actual, potential, or perceived conflict of interest;
- (b) the Province provides its consent to the Recipient carrying out the Project with an actual, potential, or perceived conflict of interest; and
- (c) the Recipient complies with any terms and conditions the Province may prescribe in its consent.

A7.0 **REPORTS, ACCOUNTING, AND REVIEW**

A7.1 **Province Includes.** For the purposes of sections A7.4, A7.5 and A7.6, “**Province**” includes any auditor or representative the Province may identify.

A7.2 **Preparation and Submission.** The Recipient will:

- (a) submit to the Province at the address referred to in section A17.1:
 - (i) all Reports in accordance with the timelines and content requirements as provided for in Schedule “F”;
 - (ii) any other reports in accordance with any timelines and content requirements the Province may specify from time to time;
- (b) ensure that all Reports and other reports are:
 - (i) completed to the satisfaction of the Province; and
 - (i) signed by an authorized signing officer of the Recipient.

A7.3 **Record Maintenance.** The Recipient will keep and maintain for a period of seven years from their creation:

- (a) all financial records (including invoices and evidence of payment) relating to the Funds or otherwise to the Project in a manner consistent with either international financial reporting standards or generally accepted accounting principles or any other accounting principles that apply to the Recipient; and
- (b) all non-financial records and documents relating to the Funds or otherwise to the Project.

A7.4 **Records Review.** The Province may, at its own expense, upon twenty-four hours' Notice to the Recipient and during normal business hours enter upon the Recipient's premises to conduct an audit or investigation of the Recipient regarding the Recipient's compliance with the Agreement, including assessing any of the following:

- (a) the truth of any of the Recipient's representations and warranties;
- (b) the progress of the Project;
- (c) the Recipient's allocation and expenditure of the Funds.

A7.5 **Inspection and Removal.** For the purposes of any Records Review, the Province may take one or more of the following actions:

- (a) inspect and copy any records and documents referred to in section A7.3; and
- (b) remove any copies the Province makes pursuant to section A7.5(a).

A7.6 **Cooperation.** To assist the Province in respect of its rights provided for in section A7.5, the Recipient will cooperate with the Province by:

- (a) ensuring that the Province has access to the records and documents wherever they are located;
- (b) assisting the Province to copy records and documents;
- (c) providing to the Province, in the form the Province specifies, any information the Province identifies; and
- (d) carrying out any other activities the Province requests.

A7.7 **No Control of Records.** No provision of the Agreement will be construed so as to give the Province any control whatsoever over the Recipient's records.

A7.8 **Auditor General.** The Province's rights under Article A7.0 are in addition to

any rights provided to the Auditor General pursuant to section 9.2 of the *Auditor General Act* (Ontario).

A8.0 COMMUNICATIONS REQUIREMENTS

A8.1 Acknowledge Support. Unless the Province directs the Recipient to do otherwise, the Recipient will in each of its Project-related publications, whether written, oral, or visual:

- (a) acknowledge the support of the Province for the Project;
- (b) ensure that any acknowledgement is in a form and manner as the Province directs; and
- (c) indicate that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of the Province.

A9.0 INDEMNITY

A9.1 Indemnification. The Recipient will indemnify and hold harmless the Indemnified Parties from and against any Loss and any Proceeding, unless solely caused by the negligence or wilful misconduct of the Indemnified Parties.

A10.0 INSURANCE

A10.1 Recipient's Insurance. The Recipient represents, warrants, and covenants that it has, and will maintain, at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person carrying out a project similar to the Project would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury, and property damage, to an inclusive limit of not less than the amount provided for in Schedule "B" per occurrence, which commercial general liability insurance policy will include the following:

- (a) the Indemnified Parties as additional insureds with respect to liability arising in the course of performance of the Recipient's obligations under, or otherwise in connection with, the Agreement;
- (b) a cross-liability clause;
- (c) contractual liability coverage; and
- (d) a 30-day written notice of cancellation.

A10.2 Proof of Insurance. The Recipient will:

- (a) provide to the Province, either:
 - (i) certificates of insurance that confirm the insurance coverage as provided for in section A10.1; or
 - (ii) other proof that confirms the insurance coverage as provided for in section A10.1; and
- (b) in the event of a Proceeding, and upon the Province's request, the Recipient will provide to the Province a copy of any of the Recipient's insurance policies that relate to the Project or otherwise to the Agreement, or both.

A11.0 TERMINATION ON NOTICE

A11.1 Termination on Notice. The Province may terminate the Agreement at any time without liability, penalty, or costs upon giving 30 days' Notice to the Recipient.

A11.2 Consequences of Termination on Notice by the Province. If the Province terminates the Agreement pursuant to section A11.1, the Province may take one or more of the following actions:

- (a) cancel further instalments of Funds;
- (b) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and
- (c) determine the reasonable costs for the Recipient to wind down the Project, and do either or both of the following:
 - (i) permit the Recipient to offset such costs against the amount the Recipient owes pursuant to section A11.2(b); and
 - (ii) subject to section A4.1(a), provide Funds to the Recipient to cover such costs.

A12.0 EVENT OF DEFAULT, CORRECTIVE ACTION, AND TERMINATION FOR DEFAULT

A12.1 Events of Default. It will constitute an Event of Default if, in the opinion of the Province, the Recipient breaches any representation, warranty, covenant, or other material term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:

- (i) carry out the Project;

- (ii) use or spend Funds; or
- (iii) provide, in accordance with section A7.2, Reports or such other reports as the Province may have requested pursuant to section A7.2(a)(ii).

A12.2 Consequences of Events of Default and Corrective Action. If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) initiate any action the Province considers necessary in order to facilitate the successful continuation or completion of the Project;
- (b) provide the Recipient with an opportunity to remedy the Event of Default;
- (c) suspend the payment of Funds for such period as the Province determines appropriate;
- (d) reduce the amount of the Funds;
- (e) cancel further instalments of Funds;
- (f) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient;
- (g) demand from the Recipient the payment of an amount equal to any Funds the Recipient used, but did not use in accordance with the Agreement;
- (h) demand from the Recipient the payment of an amount equal to any Funds the Province provided to the Recipient;
- (i) demand from the Recipient an amount equal to the costs the Province incurred or incurs to enforce its rights under the Agreement, including the costs of any Record Review and the costs it incurs to collect any amounts the Recipient owes to the Province; and
- (j) terminate the Agreement at any time, including immediately, without liability, penalty or costs to the Province upon giving Notice to the Recipient.

A12.3 Opportunity to Remedy. If, in accordance with section A12.2(b), the Province provides the Recipient with an opportunity to remedy the Event of Default, the Province will give Notice to the Recipient of:

- (a) the particulars of the Event of Default; and

(b) the Notice Period.

A12.4 **Recipient not Remedying.** If the Province provided the Recipient with an opportunity to remedy the Event of Default pursuant to section A12.2(b), and:

- (a) the Recipient does not remedy the Event of Default within the Notice Period;
- (b) it becomes apparent to the Province that the Recipient cannot completely remedy the Event of Default within the Notice Period; or
- (c) the Recipient is not proceeding to remedy the Event of Default in a way that is satisfactory to the Province,

the Province may extend the Notice Period, or initiate any one or more of the actions provided for in sections A12.2(a), (c), (d), (e), (f), (g), (h), and (i).

A12.5 **When Termination Effective.** Termination under Article A12.0 will take effect as provided for in the Notice.

A13.0 FUNDS AT THE END OF A FUNDING YEAR

A13.1 **Funds at the End of a Funding Year.** Without limiting any rights of the Province under Article A12.0, if the Recipient has not spent all of the Funds allocated for the Funding Year as provided for in the Budget, the Province may take one or both of the following actions:

- (a) demand from the Recipient payment of the unspent Funds; and
- (b) adjust the amount of any further instalments of Funds accordingly.

A14.0 FUNDS UPON EXPIRY

A14.1 **Funds Upon Expiry.** The Recipient will, upon expiry of the Agreement, pay to the Province any Funds remaining in its possession, under its control, or both.

A15.0 DEBT DUE AND PAYMENT

A15.1 **Payment of Overpayment.** If at any time the Province provides Funds in excess of the amount to which the Recipient is entitled under the Agreement, the Province may:

- (a) deduct an amount equal to the excess Funds from any further instalments of Funds; or
- (b) demand that the Recipient pay to the Province an amount equal to the

excess Funds.

A15.2 **Debt Due.** If, pursuant to the Agreement:

- (a) the Province demands from the Recipient the payment of any Funds or an amount equal to any Funds; or
- (b) the Recipient owes any Funds or an amount equal to any Funds to the Province, whether or not the Province has demanded their payment,

such amounts will be deemed to be debts due and owing to the Province by the Recipient, and the Recipient will pay the amounts to the Province immediately, unless the Province directs otherwise.

A15.3 **Interest Rate.** The Province may charge the Recipient interest on any money owing to the Province by the Recipient under the Agreement at the then current interest rate charged by the Province of Ontario on accounts receivable.

A15.4 **Payment of Money to Province.** The Recipient will pay any money owing to the Province by cheque payable to the "Ontario Minister of Finance" and delivered to the Province as provided for in Schedule "B".

A15.5 **Fails to Pay.** Without limiting the application of section 43 of the *Financial Administration Act* (Ontario), if the Recipient fails to pay any amount owing under the Agreement, Her Majesty the Queen in right of Ontario may deduct any unpaid amount from any money payable to the Recipient by Her Majesty the Queen in right of Ontario.

A16.0 NOTICE

A16.1 **Notice in Writing and Addressed.** Notice will be:

- (a) in writing;
- (b) delivered by email, postage-prepaid mail, personal delivery, courier or fax; and
- (c) addressed to the Province or the Recipient as set out in Schedule "B", or as either Party later designates to the other by Notice.

A16.2 **Notice Given.** Notice will be deemed to have been given:

- (a) in the case of postage-prepaid mail, five Business Days after the Notice is mailed; or
- (b) in the case of fax, one Business Day after the Notice is delivered; and

- (c) in the case of email, personal delivery or courier on the date on which the Notice is delivered.

A16.3 **Postal Disruption.** Despite section A16.2(a), in the event of a postal disruption:

- (a) Notice by postage-prepaid mail will not be deemed to be given; and
- (b) the Party giving Notice will give Notice by email, personal delivery, courier or fax.

A17.0 CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT

A17.1 **Consent.** When the Province provides its consent pursuant to the Agreement:

- (a) it will do so by Notice;
- (b) it may attach any terms and conditions to the consent; and
- (c) the Recipient may rely on the consent only if the Recipient complies with any terms and conditions the Province may have attached to the consent.

A18.0 SEVERABILITY OF PROVISIONS

A18.1 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement will not affect the validity or enforceability of any other provision of the Agreement.

A19.0 WAIVER

A19.1 **Waiver Request.** Either Party may, by Notice, ask the other Party to waive an obligation under the Agreement.

A19.2 **Waiver Applies.** If in response to a request made pursuant to section A19.1 a Party consents to a waiver, the waiver will:

- (a) be valid only if the Party that consents to the waiver provides the consent by Notice; and
- (b) apply only to the specific obligation referred to in the waiver.

A20.0 INDEPENDENT PARTIES

A20.1 **Parties Independent.** The Recipient is not an agent, joint venturer, partner, or employee of the Province, and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any

actions that could establish or imply such a relationship.

A21.0 ASSIGNMENT OF AGREEMENT OR FUNDS

A21.1 **No Assignment.** The Recipient will not, without the prior written consent of the Province, assign any of its rights or obligations under the Agreement.

A21.2 **Agreement Binding.** All rights and obligations contained in the Agreement will extend to and be binding on:

- (a) the Recipient's successors, and permitted assigns; and
- (b) the successors to Her Majesty the Queen in right of Ontario.

A22.0 GOVERNING LAW

A22.1 **Governing Law.** The Agreement and the rights, obligations, and relations of the Parties will be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with the Agreement will be conducted in the courts of Ontario, which will have exclusive jurisdiction over such proceedings.

A23.0 FURTHER ASSURANCES

A23.1 **Agreement into Effect.** The Recipient will:

- (a) provide such further assurances as the Province may request from time to time with respect to any matter to which the Agreement pertains; and
- (b) do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

A24.0 JOINT AND SEVERAL LIABILITY

A24.1 **Joint and Several Liability.** Where the Recipient comprises of more than one entity, all such entities will be jointly and severally liable to the Province for the fulfillment of the obligations of the Recipient under the Agreement.

A25.0 RIGHTS AND REMEDIES CUMULATIVE

A25.1 **Rights and Remedies Cumulative.** The rights and remedies of the Province under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

A26.0 FAILURE TO COMPLY WITH OTHER AGREEMENTS

A26.1 Other Agreements. If the Recipient:

- (a) has failed to comply with any term, condition, or obligation under any other agreement with Her Majesty the Queen in right of Ontario or one of Her agencies (a “**Failure**”);
- (b) has been provided with notice of such Failure in accordance with the requirements of such other agreement;
- (c) has, if applicable, failed to rectify such Failure in accordance with the requirements of such other agreement; and
- (d) such Failure is continuing,

the Province may suspend the payment of Funds for such period as the Province determines appropriate.

A27.0 SURVIVAL

A27.1 Survival. The following Articles and sections, and all applicable cross-referenced Articles, sections and schedules, will continue in full force and effect for a period of seven years from the date of expiry or termination of the Agreement: Article 1.0, Article 2.0, Article A1.0 and any other applicable definitions, section A2.1(a), sections A4.4, A4.5, A4.6, section A5.2, section A7.1, A7.2 (to the extent that the Recipient has not provided the Reports or other reports as the Province may have requested and to the satisfaction of the Province), sections A7.3, A7.4, A7.5, A7.6, A7.7, A7.8, Article A8.0, Article A9.0, section A11.2, sections A12.1, sections A12.2(d), (e), (f), (g), (h), (i), and (j), Article A13.0, Article A14.0, Article A15.0, Article A16.0, Article A18.0, , section A21.2, Article A22.0, Article A24.0, Article A25.0 and Article A27.0.

- END OF GENERAL TERMS AND CONDITIONS -

SCHEDULE “B”
PROJECT SPECIFIC INFORMATION AND ADDITIONAL PROVISIONS

Maximum Funds	Up to \$9,922
Expiry Date	March 31, 2024
Amount for the purposes of section A5.2 (Disposal) of Schedule “A”	\$5000.00
Insurance	\$ 2,000,000
Contact information for the purposes of Notice to the Province	<p>Position: Brenda Vloet</p> <p>Address: Manager, Municipal Programs and Outreach Unit</p> <p>Fax: 777 Bay Street, Toronto, Ontario M7A 2J3, 16th Floor</p> <p>Email: Brenda.Vloet@ontario.ca</p>
Contact information for the purposes of Notice to the Recipient	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>
Contact information for the senior financial person in the Recipient organization (e.g., CFO, CAO) – to respond as required to requests from the Province related to the Agreement	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>

Additional Provisions:

- B1 Section 4.2 of Schedule “A” is amended by adding the following subsection:**
- (e) The Province is not obligated to provide any Funds to the Recipient that exceed 65% of the incurred project costs.

B2 Section 4.3 of schedule “A” is amended by adding the following subsection:

- (e) not use the Funds for the purpose of paying the Recipient’s regular salary costs.
- (f) not use Funds for the purpose of purchasing land, buildings or vehicles

SCHEDULE "C"
PROJECT

Project Title
City of Port Colborne Route Patrol Software Solution
Objectives
The objective of the Project is to implement a route tracking software module with the goal of modernizing service delivery and realizing cost savings and efficiencies.
Description
The Recipient will purchase a route tracking software module, create a geographical information system (GIS) database, and procure training services for the Recipient's staff on the use of the implemented software module.

SCHEDULE "D"
BUDGET

Item	Amount
Reimbursement of up to 65% of Project costs incurred between August 16, 2021 to the earlier of February 28, 2023 or the submission of the Final Report Back.	Up to \$9,922

SCHEDULE "E"
PAYMENT PLAN

Milestone	Scheduled Payment
<ul style="list-style-type: none"> • Execution of Agreement 	Initial payment of \$6,945 made to Recipient no more than thirty (30) days after the execution of the Agreement.
<ul style="list-style-type: none"> • Submission of one (1) Interim Report Back 	Interim payment made to the Recipient no more than thirty (30) days after the Province's approval of the Interim Report Back for costs incurred and submitted as part of the First Interim Report Back that exceed the initial payment.
<ul style="list-style-type: none"> • Submission of Final Report Back to the Province 	Final payment of up to \$2,977 less any amount paid as part of the interim payment made to the Recipient no more than thirty (30) days after the Province's approval of the Final Report Back.

**SCHEDULE “F”
REPORTS**

Name of Report	Reporting Due Date
1. Interim Report Back	May 30, 2022
2. Final Report Back	February 28, 2023
3. Annual Report Back	February 28, 2024

Report Details

1. Interim Report Back

The Recipient will submit one (1) Interim Report Back to the Province by May 30, 2022, using the reporting template provided by the Province. The Interim Report Backs will include:

- A written description of what the Recipient has completed for the Project to date and what will be completed by the Final Report Back,
- A list of actual costs to carry out the Project paid by the Recipient, with supporting documentation, such as invoices or receipts, showing actual costs incurred.

2. Final Report Back

The Recipient will submit a Final Report Back to the Province once the Project is completed and by February 28, 2023 using the reporting template provided by the Province. The Final Report Back will include:

- A 250-word abstract of the Project and its findings
- A written description of the Project and the forecasted annual savings and other efficiency outcomes for the Recipient,
- The actual costs to carry out the Project that have not been included as part of the Interim Report Back paid by the Recipient with supporting documentation, such as invoices or receipts, showing actual costs incurred.
- A statement indicating an updated estimate of annual cost savings realized through the Project, which will be the performance measure.

3. Annual Report Back

The Recipient will submit an Annual Report Back to the Province using the reporting template provided by the Province. The Annual Report Back will include:

- A statement indicating the actual cost savings and efficiency outcomes from the Project over the course of the year.

ONTARIO TRANSFER PAYMENT AGREEMENT

THE AGREEMENT is effective as of the _____ day of _____, 20____

B E T W E E N :

**Her Majesty the Queen in right of Ontario
as represented by the Minister of Municipal Affairs and
Housing**

(the “Province”)

- and -

Corporation of the City of Port Colborne

(the “Recipient”)

CONSIDERATION

In consideration of the mutual covenants and agreements contained in the Agreement and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Province and the Recipient agree as follows:

1.0 ENTIRE AGREEMENT

1.1 **Schedules to the Agreement.** The following schedules form part of the Agreement:

- Schedule “A” - General Terms and Conditions
- Schedule “B” - Project Specific Information and Additional Provisions
- Schedule “C” - Project
- Schedule “D” - Budget
- Schedule “E” - Payment Plan
- Schedule “F” - Reports.

1.2 **Entire Agreement.** The Agreement constitutes the entire agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.

2.0 CONFLICT OR INCONSISTENCY

2.1 **Conflict or Inconsistency.** In the event of a conflict or inconsistency between the Additional Provisions and the provisions in Schedule “A”, the following rules will apply:

- (a) the Parties will interpret any Additional Provisions in so far as possible, in a way that preserves the intention of the Parties as expressed in Schedule “A”; and
- (b) where it is not possible to interpret the Additional Provisions in a way that is consistent with the provisions in Schedule “A”, the Additional Provisions will prevail over the provisions in Schedule “A” to the extent of the inconsistency.

3.0 COUNTERPARTS

3.1 **One and the Same Agreement.** The Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

4.0 AMENDING THE AGREEMENT

4.1 **Amending the Agreement.** The Agreement may only be amended by a written agreement duly executed by the Parties.

5.0 ACKNOWLEDGEMENT

5.1 **Acknowledgement.** The Recipient acknowledges that:

- (a) the Funds are to assist the Recipient to carry out the Project and not to provide goods or services to the Province;
- (b) the Province is not responsible for carrying out the Project; and
- (c) the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

- SIGNATURE PAGE FOLLOWS -

The Parties have executed the Agreement on the dates set out below.

**HER MAJESTY THE QUEEN IN RIGHT OF
ONTARIO as represented by the Minister of
Municipal Affairs and Housing**

Date

Name: The Honourable Steve Clark
Title: Minister of Municipal Affairs and Housing

Corporation of the City of Port Colborne

Date

Name:
Title:

I have authority to bind the Recipient.

Date

Name:
Title:

I have authority to bind the Recipient.

SCHEDULE "A"
GENERAL TERMS AND CONDITIONS

A1.0 INTERPRETATION AND DEFINITIONS

A1.1 **Interpretation.** For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;
- (b) words in one gender include all genders;
- (c) the headings do not form part of the Agreement; they are for reference only and will not affect the interpretation of the Agreement;
- (d) any reference to dollars or currency will be in Canadian dollars and currency; and
- (e) "include", "includes" and "including" denote that the subsequent list is not exhaustive.

A1.2 **Definitions.** In the Agreement, the following terms will have the following meanings:

"Additional Provisions" means the terms and conditions set out in Schedule "B".

"Agreement" means this agreement entered into between the Province and the Recipient, all of the schedules listed in section 1.1, and any amending agreement entered into pursuant to section 4.1.

"Budget" means the budget attached to the Agreement as Schedule "D".

"Business Day" means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day on which the Province has elected to be closed for business.

"Effective Date" means the date set out at the top of the Agreement.

"Event of Default" has the meaning ascribed to it in section A12.1.

"Expiry Date" means the expiry date set out in Schedule "B".

"Funding Year" means:

- (a) in the case of the first Funding Year, the period commencing on the

Effective Date and ending on the following March 31; and

- (b) in the case of Funding Years subsequent to the first Funding Year, the period commencing on April 1 following the end of the previous Funding Year and ending on the following March 31 or the Expiry Date, whichever is first.

“Funds” means the money the Province provides to the Recipient pursuant to the Agreement.

“Indemnified Parties” means Her Majesty the Queen in right of Ontario, and includes Her ministers, agents, appointees, and employees.

“Loss” means any cause of action, liability, loss, cost, damage, or expense (including legal, expert and consultant fees) that anyone incurs or sustains as a result of or in connection with the Project or any other part of the Agreement.

“Maximum Funds” means the maximum set out in Schedule “B”.

“Notice” means any communication given or required to be given pursuant to the Agreement.

“Notice Period” means the period of time within which the Recipient is required to remedy an Event of Default pursuant to section A12.3(b), and includes any such period or periods of time by which the Province extends that time in accordance with section A12.4.

“Parties” means the Province and the Recipient.

“Party” means either the Province or the Recipient.

“Proceeding” means any action, claim, demand, lawsuit, or other proceeding that anyone makes, brings or prosecutes as a result of or in connection with the Project or with any other part of the Agreement.

“Project” means the undertaking described in Schedule “C”.

“Records Review” means any assessment the Province conducts pursuant to section A7.4.

“Reports” means the reports described in Schedule “F”.

A2.0 REPRESENTATIONS, WARRANTIES, AND COVENANTS

A2.1 General. The Recipient represents, warrants, and covenants that:

- (a) it has, and will continue to have, the experience and expertise necessary to carry out the Project;
- (b) it is in compliance with, and will continue to comply with, all federal and provincial laws and regulations, all municipal by-laws, and any other orders, rules, and by-laws related to any aspect of the Project, the Funds, or both; and
- (c) unless otherwise provided for in the Agreement, any information the Recipient provided to the Province in support of its request for funds (including information relating to any eligibility requirements) was true and complete at the time the Recipient provided it and will continue to be true and complete.

A2.2 **Execution of Agreement.** The Recipient represents and warrants that it has:

- (a) the full power and authority to enter into the Agreement; and
- (b) taken all necessary actions to authorize the execution of the Agreement, including passing a municipal by-law authorizing the Recipient to enter into the Agreement.

A2.3 **Governance.** The Recipient represents, warrants, and covenants that it has, will maintain in writing, and will follow:

- (a) procedures to enable the Recipient to manage Funds prudently and effectively;
- (b) procedures to enable the Recipient to complete the Project successfully;
- (c) procedures to enable the Recipient to identify risks to the completion of the Project and strategies to address the identified risks, all in a timely manner;
- (d) procedures to enable the preparation and submission of all Reports required pursuant to Article A7.0; and
- (e) procedures to enable the Recipient to address such other matters as the Recipient considers necessary to enable the Recipient to carry out its obligations under the Agreement.

A2.4 **Supporting Proof.** Upon the request of the Province, the Recipient will provide the Province with proof of the matters referred to in Article A2.0.

A3.0 TERM OF THE AGREEMENT

A3.1 **Term.** The term of the Agreement will commence on the Effective Date and will expire on the Expiry Date unless terminated earlier pursuant to Article A11.0 or Article A12.0.

A4.0 FUNDS AND CARRYING OUT THE PROJECT

A4.1 **Funds Provided.** The Province will:

- (a) provide the Recipient up to the Maximum Funds for the purpose of carrying out the Project;
- (b) provide the Funds to the Recipient in accordance with the payment plan attached to the Agreement as Schedule “E”; and
- (c) deposit the Funds into an account the Recipient designates provided that the account:
 - (i) resides at a Canadian financial institution; and
 - (ii) is in the name of the Recipient.

A4.2 **Limitation on Payment of Funds.** Despite section A4.1:

- (a) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides evidence satisfactory to the Province that the Recipient’s council has authorized the execution of this Agreement by the Recipient by municipal by-law;
- (b) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides the certificates of insurance or other proof as the Province may request pursuant to section A10.2;
- (c) the Province is not obligated to provide instalments of Funds until it is satisfied with the progress of the Project; and
- (d) the Province may adjust the amount of Funds it provides to the Recipient in any Funding Year based upon the Province’s assessment of the information the Recipient provides to the Province pursuant to section A7.2.

A4.3 **Use of Funds and Carry Out the Project.** The Recipient will do all of the following:

- (a) carry out the Project in accordance with the Agreement;

- (b) use the Funds only for the purpose of carrying out the Project;
- (c) spend the Funds only in accordance with the Budget;
- (d) not use the Funds to cover any cost that has or will be funded or reimbursed by one or more of any third party, ministry, agency, or organization of the Government of Ontario.

A4.4 **Interest Bearing Account.** If the Province provides Funds before the Recipient's immediate need for the Funds, the Recipient will place the Funds in an interest bearing account in the name of the Recipient at a Canadian financial institution.

A4.5 **Interest.** If the Recipient earns any interest on the Funds, the Province may do either or both of the following:

- (a) deduct an amount equal to the interest from any further instalments of Funds;
- (b) demand from the Recipient the payment of an amount equal to the interest.

A4.6 **Rebates, Credits, and Refunds.** The Province will calculate Funds based on the actual costs to the Recipient to carry out the Project, less any costs (including taxes) for which the Recipient has received, will receive, or is eligible to receive, a rebate, credit, or refund.

A5.0 RECIPIENT'S ACQUISITION OF GOODS OR SERVICES, AND DISPOSAL OF ASSETS

A5.1 **Acquisition.** If the Recipient acquires goods, services, or both with the Funds, it will do so through a process that promotes the best value for money.

A5.2 **Disposal.** The Recipient will not, without the Province's prior consent, sell, lease, or otherwise dispose of any asset purchased or created with the Funds or for which Funds were provided, the cost of which exceeded the amount as provided for in Schedule "B" at the time of purchase.

A6.0 CONFLICT OF INTEREST

A6.1 **Conflict of Interest Includes.** For the purposes of Article A6.0, a conflict of interest includes any circumstances where:

- (a) the Recipient; or
- (b) any person who has the capacity to influence the Recipient's decisions,

has outside commitments, relationships, or financial interests that could, or could be seen by a reasonable person to, interfere with the Recipient's objective, unbiased, and impartial judgment relating to the Project, the use of the Funds, or both.

A6.2 **No Conflict of Interest.** The Recipient will carry out the Project and use the Funds without an actual, potential, or perceived conflict of interest unless:

- (a) the Recipient:
 - (i) provides Notice to the Province disclosing the details of the actual, potential, or perceived conflict of interest;
 - (ii) requests the consent of the Province to carry out the Project with an actual, potential, or perceived conflict of interest;
- (b) the Province provides its consent to the Recipient carrying out the Project with an actual, potential, or perceived conflict of interest; and
- (c) the Recipient complies with any terms and conditions the Province may prescribe in its consent.

A7.0 REPORTS, ACCOUNTING, AND REVIEW

A7.1 **Province Includes.** For the purposes of sections A7.4, A7.5 and A7.6, "**Province**" includes any auditor or representative the Province may identify.

A7.2 **Preparation and Submission.** The Recipient will:

- (a) submit to the Province at the address referred to in section A17.1:
 - (i) all Reports in accordance with the timelines and content requirements as provided for in Schedule "F";
 - (ii) any other reports in accordance with any timelines and content requirements the Province may specify from time to time;
- (b) ensure that all Reports and other reports are:
 - (i) completed to the satisfaction of the Province; and
 - (i) signed by an authorized signing officer of the Recipient.

A7.3 **Record Maintenance.** The Recipient will keep and maintain for a period of seven years from their creation:

- (a) all financial records (including invoices and evidence of payment) relating to the Funds or otherwise to the Project in a manner consistent with either international financial reporting standards or generally accepted accounting principles or any other accounting principles that apply to the Recipient; and
- (b) all non-financial records and documents relating to the Funds or otherwise to the Project.

A7.4 **Records Review.** The Province may, at its own expense, upon twenty-four hours' Notice to the Recipient and during normal business hours enter upon the Recipient's premises to conduct an audit or investigation of the Recipient regarding the Recipient's compliance with the Agreement, including assessing any of the following:

- (a) the truth of any of the Recipient's representations and warranties;
- (b) the progress of the Project;
- (c) the Recipient's allocation and expenditure of the Funds.

A7.5 **Inspection and Removal.** For the purposes of any Records Review, the Province may take one or more of the following actions:

- (a) inspect and copy any records and documents referred to in section A7.3; and
- (b) remove any copies the Province makes pursuant to section A7.5(a).

A7.6 **Cooperation.** To assist the Province in respect of its rights provided for in section A7.5, the Recipient will cooperate with the Province by:

- (a) ensuring that the Province has access to the records and documents wherever they are located;
- (b) assisting the Province to copy records and documents;
- (c) providing to the Province, in the form the Province specifies, any information the Province identifies; and
- (d) carrying out any other activities the Province requests.

A7.7 **No Control of Records.** No provision of the Agreement will be construed so as to give the Province any control whatsoever over the Recipient's records.

A7.8 **Auditor General.** The Province's rights under Article A7.0 are in addition to

any rights provided to the Auditor General pursuant to section 9.2 of the *Auditor General Act* (Ontario).

A8.0 COMMUNICATIONS REQUIREMENTS

A8.1 **Acknowledge Support.** Unless the Province directs the Recipient to do otherwise, the Recipient will in each of its Project-related publications, whether written, oral, or visual:

- (a) acknowledge the support of the Province for the Project;
- (b) ensure that any acknowledgement is in a form and manner as the Province directs; and
- (c) indicate that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of the Province.

A9.0 INDEMNITY

A9.1 **Indemnification.** The Recipient will indemnify and hold harmless the Indemnified Parties from and against any Loss and any Proceeding, unless solely caused by the negligence or wilful misconduct of the Indemnified Parties.

A10.0 INSURANCE

A10.1 **Recipient's Insurance.** The Recipient represents, warrants, and covenants that it has, and will maintain, at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person carrying out a project similar to the Project would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury, and property damage, to an inclusive limit of not less than the amount provided for in Schedule "B" per occurrence, which commercial general liability insurance policy will include the following:

- (a) the Indemnified Parties as additional insureds with respect to liability arising in the course of performance of the Recipient's obligations under, or otherwise in connection with, the Agreement;
- (b) a cross-liability clause;
- (c) contractual liability coverage; and
- (d) a 30-day written notice of cancellation.

A10.2 **Proof of Insurance.** The Recipient will:

- (a) provide to the Province, either:
 - (i) certificates of insurance that confirm the insurance coverage as provided for in section A10.1; or
 - (ii) other proof that confirms the insurance coverage as provided for in section A10.1; and
- (b) in the event of a Proceeding, and upon the Province's request, the Recipient will provide to the Province a copy of any of the Recipient's insurance policies that relate to the Project or otherwise to the Agreement, or both.

A11.0 TERMINATION ON NOTICE

A11.1 Termination on Notice. The Province may terminate the Agreement at any time without liability, penalty, or costs upon giving 30 days' Notice to the Recipient.

A11.2 Consequences of Termination on Notice by the Province. If the Province terminates the Agreement pursuant to section A11.1, the Province may take one or more of the following actions:

- (a) cancel further instalments of Funds;
- (b) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and
- (c) determine the reasonable costs for the Recipient to wind down the Project, and do either or both of the following:
 - (i) permit the Recipient to offset such costs against the amount the Recipient owes pursuant to section A11.2(b); and
 - (ii) subject to section A4.1(a), provide Funds to the Recipient to cover such costs.

A12.0 EVENT OF DEFAULT, CORRECTIVE ACTION, AND TERMINATION FOR DEFAULT

A12.1 Events of Default. It will constitute an Event of Default if, in the opinion of the Province, the Recipient breaches any representation, warranty, covenant, or other material term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:

- (i) carry out the Project;

- (ii) use or spend Funds; or
- (iii) provide, in accordance with section A7.2, Reports or such other reports as the Province may have requested pursuant to section A7.2(a)(ii).

A12.2 **Consequences of Events of Default and Corrective Action.** If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) initiate any action the Province considers necessary in order to facilitate the successful continuation or completion of the Project;
- (b) provide the Recipient with an opportunity to remedy the Event of Default;
- (c) suspend the payment of Funds for such period as the Province determines appropriate;
- (d) reduce the amount of the Funds;
- (e) cancel further instalments of Funds;
- (f) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient;
- (g) demand from the Recipient the payment of an amount equal to any Funds the Recipient used, but did not use in accordance with the Agreement;
- (h) demand from the Recipient the payment of an amount equal to any Funds the Province provided to the Recipient;
- (i) demand from the Recipient an amount equal to the costs the Province incurred or incurs to enforce its rights under the Agreement, including the costs of any Record Review and the costs it incurs to collect any amounts the Recipient owes to the Province; and
- (j) terminate the Agreement at any time, including immediately, without liability, penalty or costs to the Province upon giving Notice to the Recipient.

A12.3 **Opportunity to Remedy.** If, in accordance with section A12.2(b), the Province provides the Recipient with an opportunity to remedy the Event of Default, the Province will give Notice to the Recipient of:

- (a) the particulars of the Event of Default; and

(b) the Notice Period.

A12.4 **Recipient not Remedying.** If the Province provided the Recipient with an opportunity to remedy the Event of Default pursuant to section A12.2(b), and:

- (a) the Recipient does not remedy the Event of Default within the Notice Period;
- (b) it becomes apparent to the Province that the Recipient cannot completely remedy the Event of Default within the Notice Period; or
- (c) the Recipient is not proceeding to remedy the Event of Default in a way that is satisfactory to the Province,

the Province may extend the Notice Period, or initiate any one or more of the actions provided for in sections A12.2(a), (c), (d), (e), (f), (g), (h), and (i).

A12.5 **When Termination Effective.** Termination under Article A12.0 will take effect as provided for in the Notice.

A13.0 FUNDS AT THE END OF A FUNDING YEAR

A13.1 **Funds at the End of a Funding Year.** Without limiting any rights of the Province under Article A12.0, if the Recipient has not spent all of the Funds allocated for the Funding Year as provided for in the Budget, the Province may take one or both of the following actions:

- (a) demand from the Recipient payment of the unspent Funds; and
- (b) adjust the amount of any further instalments of Funds accordingly.

A14.0 FUNDS UPON EXPIRY

A14.1 **Funds Upon Expiry.** The Recipient will, upon expiry of the Agreement, pay to the Province any Funds remaining in its possession, under its control, or both.

A15.0 DEBT DUE AND PAYMENT

A15.1 **Payment of Overpayment.** If at any time the Province provides Funds in excess of the amount to which the Recipient is entitled under the Agreement, the Province may:

- (a) deduct an amount equal to the excess Funds from any further instalments of Funds; or
- (b) demand that the Recipient pay to the Province an amount equal to the

excess Funds.

A15.2 **Debt Due.** If, pursuant to the Agreement:

- (a) the Province demands from the Recipient the payment of any Funds or an amount equal to any Funds; or
- (b) the Recipient owes any Funds or an amount equal to any Funds to the Province, whether or not the Province has demanded their payment,

such amounts will be deemed to be debts due and owing to the Province by the Recipient, and the Recipient will pay the amounts to the Province immediately, unless the Province directs otherwise.

A15.3 **Interest Rate.** The Province may charge the Recipient interest on any money owing to the Province by the Recipient under the Agreement at the then current interest rate charged by the Province of Ontario on accounts receivable.

A15.4 **Payment of Money to Province.** The Recipient will pay any money owing to the Province by cheque payable to the "Ontario Minister of Finance" and delivered to the Province as provided for in Schedule "B".

A15.5 **Fails to Pay.** Without limiting the application of section 43 of the *Financial Administration Act* (Ontario), if the Recipient fails to pay any amount owing under the Agreement, Her Majesty the Queen in right of Ontario may deduct any unpaid amount from any money payable to the Recipient by Her Majesty the Queen in right of Ontario.

A16.0 NOTICE

A16.1 **Notice in Writing and Addressed.** Notice will be:

- (a) in writing;
- (b) delivered by email, postage-prepaid mail, personal delivery, courier or fax; and
- (c) addressed to the Province or the Recipient as set out in Schedule "B", or as either Party later designates to the other by Notice.

A16.2 **Notice Given.** Notice will be deemed to have been given:

- (a) in the case of postage-prepaid mail, five Business Days after the Notice is mailed; or
- (b) in the case of fax, one Business Day after the Notice is delivered; and

- (c) in the case of email, personal delivery or courier on the date on which the Notice is delivered.

A16.3 **Postal Disruption.** Despite section A16.2(a), in the event of a postal disruption:

- (a) Notice by postage-prepaid mail will not be deemed to be given; and
- (b) the Party giving Notice will give Notice by email, personal delivery, courier or fax.

A17.0 CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT

A17.1 **Consent.** When the Province provides its consent pursuant to the Agreement:

- (a) it will do so by Notice;
- (b) it may attach any terms and conditions to the consent; and
- (c) the Recipient may rely on the consent only if the Recipient complies with any terms and conditions the Province may have attached to the consent.

A18.0 SEVERABILITY OF PROVISIONS

A18.1 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement will not affect the validity or enforceability of any other provision of the Agreement.

A19.0 WAIVER

A19.1 **Waiver Request.** Either Party may, by Notice, ask the other Party to waive an obligation under the Agreement.

A19.2 **Waiver Applies.** If in response to a request made pursuant to section A19.1 a Party consents to a waiver, the waiver will:

- (a) be valid only if the Party that consents to the waiver provides the consent by Notice; and
- (b) apply only to the specific obligation referred to in the waiver.

A20.0 INDEPENDENT PARTIES

A20.1 **Parties Independent.** The Recipient is not an agent, joint venturer, partner, or employee of the Province, and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any

actions that could establish or imply such a relationship.

A21.0 ASSIGNMENT OF AGREEMENT OR FUNDS

A21.1 **No Assignment.** The Recipient will not, without the prior written consent of the Province, assign any of its rights or obligations under the Agreement.

A21.2 **Agreement Binding.** All rights and obligations contained in the Agreement will extend to and be binding on:

- (a) the Recipient's successors, and permitted assigns; and
- (b) the successors to Her Majesty the Queen in right of Ontario.

A22.0 GOVERNING LAW

A22.1 **Governing Law.** The Agreement and the rights, obligations, and relations of the Parties will be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with the Agreement will be conducted in the courts of Ontario, which will have exclusive jurisdiction over such proceedings.

A23.0 FURTHER ASSURANCES

A23.1 **Agreement into Effect.** The Recipient will:

- (a) provide such further assurances as the Province may request from time to time with respect to any matter to which the Agreement pertains; and
- (b) do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

A24.0 JOINT AND SEVERAL LIABILITY

A24.1 **Joint and Several Liability.** Where the Recipient comprises of more than one entity, all such entities will be jointly and severally liable to the Province for the fulfillment of the obligations of the Recipient under the Agreement.

A25.0 RIGHTS AND REMEDIES CUMULATIVE

A25.1 **Rights and Remedies Cumulative.** The rights and remedies of the Province under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

A26.0 FAILURE TO COMPLY WITH OTHER AGREEMENTS

A26.1 **Other Agreements.** If the Recipient:

- (a) has failed to comply with any term, condition, or obligation under any other agreement with Her Majesty the Queen in right of Ontario or one of Her agencies (a “**Failure**”);
- (b) has been provided with notice of such Failure in accordance with the requirements of such other agreement;
- (c) has, if applicable, failed to rectify such Failure in accordance with the requirements of such other agreement; and
- (d) such Failure is continuing,

the Province may suspend the payment of Funds for such period as the Province determines appropriate.

A27.0 SURVIVAL

A27.1 **Survival.** The following Articles and sections, and all applicable cross-referenced Articles, sections and schedules, will continue in full force and effect for a period of seven years from the date of expiry or termination of the Agreement: Article 1.0, Article 2.0, Article A1.0 and any other applicable definitions, section A2.1(a), sections A4.4, A4.5, A4.6, section A5.2, section A7.1, A7.2 (to the extent that the Recipient has not provided the Reports or other reports as the Province may have requested and to the satisfaction of the Province), sections A7.3, A7.4, A7.5, A7.6, A7.7, A7.8, Article A8.0, Article A9.0, section A11.2, sections A12.1, sections A12.2(d), (e), (f), (g), (h), (i), and (j), Article A13.0, Article A14.0, Article A15.0, Article A16.0, Article A18.0, , section A21.2, Article A22.0, Article A24.0, Article A25.0 and Article A27.0.

- END OF GENERAL TERMS AND CONDITIONS -

SCHEDULE "B"
PROJECT SPECIFIC INFORMATION AND ADDITIONAL PROVISIONS

Maximum Funds	Up to \$45,792
Expiry Date	March 31, 2023
Amount for the purposes of section A5.2 (Disposal) of Schedule "A"	\$5,000.00
Insurance	\$ 2,000,000
Contact information for the purposes of Notice to the Province	<p>Name: Brenda Vloet</p> <p>Position: Manager, Municipal Programs and Outreach Unit</p> <p>Address: 777 Bay Street, Toronto, Ontario M7A 2J3, 16th Floor</p> <p>Email: Brenda.Vloet@ontario.ca</p>
Contact information for the purposes of Notice to the Recipient	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>
Contact information for the senior financial person in the Recipient organization (e.g., CFO, CAO) – to respond as required to requests from the Province related to the Agreement	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>

Additional Provisions:

B1 Section 4.3 of Schedule "A" is amended by adding the following subsection:

- (e) use the Funds only for the purpose of reimbursement for the actual amount paid to the independent third-party reviewer in accordance with

the Project; and,

- (f) Not use the Funds for the purpose of paying the salaries of the Recipient's employees.

SCHEDULE "C"
PROJECT

Project Title
City of Port Colborne Departmental Organization Review
Objectives
The objective of the Project is to review each of the Recipient's departments with the goal of improving organizational results and alignment with Council and community priorities.
Description
<p>The Recipient will retain an independent third-party reviewer to review each of the Recipient's departments on a rotating basis and make recommendations on the departments' structure, processes, service delivery, and coordination between and within departments. Based on these reviews, the reviewer will identify opportunities for efficiencies in the departments.</p> <p><u>Independent Third-Party Reviewer's Report</u></p> <p>The Recipient will retain the independent third-party reviewer to compile the findings and recommendations in the Independent Third-Party Reviewer's Report.</p> <p>The Recipient will submit the report to the Province and publish the report on the Recipient's publicly accessible website by January 31, 2023.</p> <p>The report will summarize the reviewer's findings and identify specific, actionable recommendations based on the analysis and findings that aim to identify cost savings and improved efficiencies. The report will include detailed explanations and calculations of identified potential quantifiable efficiencies and/or cost savings.</p>

SCHEDULE "D"
BUDGET

Item	Amount
Reimbursement for payments to independent third-party reviewer.	Up to \$45,792

**SCHEDULE "E"
PAYMENT PLAN**

Milestone	Scheduled Payment
<ul style="list-style-type: none"> • Execution of Agreement 	Initial payment of \$32,054 made to Recipient no more than thirty (30) days after the execution of the Agreement
<ul style="list-style-type: none"> • Submission of Interim Progress Report Back to the Province • Publishing of Independent Third-Party Reviewer's Report on the Recipient's publicly accessible website • Submission of Final Report Back to the Province, which includes a copy of the Independent Third-Party Reviewer's Report 	Final payment of up to \$13,738 made to the Recipient no more than thirty (30) days after the Province's approval of the Final Report Back

**SCHEDULE “F”
REPORTS**

Name of Report	Reporting Due Date
1. Interim Progress Report Back	September 19, 2022
2. Final Report Back and Invoices	January 31, 2023

Report Details

1. Interim Progress Report Back

The Recipient will submit an Interim Progress Report Back to the Province by September 19, 2022 using the reporting template provided by the Province. The Interim Progress Report will include:

- A statement indicating whether the Recipient has retained an independent third-party reviewer.

2. Final Report Back and Invoices

The Recipient will submit a Final Report Back to the Province by January 31, 2023 using the reporting template provided by the Province. The Final Report will include:

- A copy of the Independent Third-Party Reviewer’s report,
- A hyperlink to the Independent Third-Party Reviewer's final report on the Recipient's publicly accessible website,
- A 250-word abstract of the Project and its findings,
- The actual amount paid by the Recipient to the independent third-party reviewer in accordance with the Project with supporting documentation, such as invoices or receipts, showing actual costs incurred, and
- A statement indicating the percentage of the total amount of service delivery expenditures reviewed that are identified as potential cost savings in the Independent Third-Party Reviewer's Report, which will be the performance measure for the Project.

ONTARIO TRANSFER PAYMENT AGREEMENT

THE AGREEMENT is effective as of the _____ day of _____, 20____

B E T W E E N :

**Her Majesty the Queen in right of Ontario
as represented by the Minister of Municipal Affairs and
Housing**

(the “Province”)

- and -

Corporation of the City of Port Colborne

(the “Recipient”)

CONSIDERATION

In consideration of the mutual covenants and agreements contained in the Agreement and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Province and the Recipient agree as follows:

1.0 ENTIRE AGREEMENT

1.1 **Schedules to the Agreement.** The following schedules form part of the Agreement:

Schedule “A” - General Terms and Conditions
Schedule “B” - Project Specific Information and Additional Provisions
Schedule “C” - Project
Schedule “D” - Budget
Schedule “E” - Payment Plan
Schedule “F” - Reports.

1.2 **Entire Agreement.** The Agreement constitutes the entire agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.

2.0 CONFLICT OR INCONSISTENCY

2.1 **Conflict or Inconsistency.** In the event of a conflict or inconsistency between the Additional Provisions and the provisions in Schedule “A”, the following rules will apply:

- (a) the Parties will interpret any Additional Provisions in so far as possible, in a way that preserves the intention of the Parties as expressed in Schedule “A”; and
- (b) where it is not possible to interpret the Additional Provisions in a way that is consistent with the provisions in Schedule “A”, the Additional Provisions will prevail over the provisions in Schedule “A” to the extent of the inconsistency.

3.0 COUNTERPARTS

3.1 **One and the Same Agreement.** The Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

4.0 AMENDING THE AGREEMENT

4.1 **Amending the Agreement.** The Agreement may only be amended by a written agreement duly executed by the Parties.

5.0 ACKNOWLEDGEMENT

5.1 **Acknowledgement.** The Recipient acknowledges that:

- (a) the Funds are to assist the Recipient to carry out the Project and not to provide goods or services to the Province;
- (b) the Province is not responsible for carrying out the Project; and
- (c) the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

- SIGNATURE PAGE FOLLOWS -

The Parties have executed the Agreement on the dates set out below.

**HER MAJESTY THE QUEEN IN RIGHT OF
ONTARIO as represented by the Minister of
Municipal Affairs and Housing**

Date

Name: The Honourable Steve Clark
Title: Minister of Municipal Affairs and Housing

Corporation of the City of Port Colborne

Date

Name:
Title:

I have authority to bind the Recipient.

Date

Name:
Title:

I have authority to bind the Recipient.

SCHEDULE "A"
GENERAL TERMS AND CONDITIONS

A1.0 INTERPRETATION AND DEFINITIONS

A1.1 **Interpretation.** For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;
- (b) words in one gender include all genders;
- (c) the headings do not form part of the Agreement; they are for reference only and will not affect the interpretation of the Agreement;
- (d) any reference to dollars or currency will be in Canadian dollars and currency; and
- (e) "include", "includes" and "including" denote that the subsequent list is not exhaustive.

A1.2 **Definitions.** In the Agreement, the following terms will have the following meanings:

"Additional Provisions" means the terms and conditions set out in Schedule "B".

"Agreement" means this agreement entered into between the Province and the Recipient, all of the schedules listed in section 1.1, and any amending agreement entered into pursuant to section 4.1.

"Budget" means the budget attached to the Agreement as Schedule "D".

"Business Day" means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day on which the Province has elected to be closed for business.

"Effective Date" means the date set out at the top of the Agreement.

"Event of Default" has the meaning ascribed to it in section A12.1.

"Expiry Date" means the expiry date set out in Schedule "B".

"Funding Year" means:

- (a) in the case of the first Funding Year, the period commencing on the

Effective Date and ending on the following March 31; and

- (b) in the case of Funding Years subsequent to the first Funding Year, the period commencing on April 1 following the end of the previous Funding Year and ending on the following March 31 or the Expiry Date, whichever is first.

“Funds” means the money the Province provides to the Recipient pursuant to the Agreement.

“Indemnified Parties” means Her Majesty the Queen in right of Ontario, and includes Her ministers, agents, appointees, and employees.

“Loss” means any cause of action, liability, loss, cost, damage, or expense (including legal, expert and consultant fees) that anyone incurs or sustains as a result of or in connection with the Project or any other part of the Agreement.

“Maximum Funds” means the maximum set out in Schedule “B”.

“Notice” means any communication given or required to be given pursuant to the Agreement.

“Notice Period” means the period of time within which the Recipient is required to remedy an Event of Default pursuant to section A12.3(b), and includes any such period or periods of time by which the Province extends that time in accordance with section A12.4.

“Parties” means the Province and the Recipient.

“Party” means either the Province or the Recipient.

“Proceeding” means any action, claim, demand, lawsuit, or other proceeding that anyone makes, brings or prosecutes as a result of or in connection with the Project or with any other part of the Agreement.

“Project” means the undertaking described in Schedule “C”.

“Records Review” means any assessment the Province conducts pursuant to section A7.4.

“Reports” means the reports described in Schedule “F”.

A2.0 REPRESENTATIONS, WARRANTIES, AND COVENANTS

A2.1 General. The Recipient represents, warrants, and covenants that:

- (a) it has, and will continue to have, the experience and expertise necessary to carry out the Project;
- (b) it is in compliance with, and will continue to comply with, all federal and provincial laws and regulations, all municipal by-laws, and any other orders, rules, and by-laws related to any aspect of the Project, the Funds, or both; and
- (c) unless otherwise provided for in the Agreement, any information the Recipient provided to the Province in support of its request for funds (including information relating to any eligibility requirements) was true and complete at the time the Recipient provided it and will continue to be true and complete.

A2.2 **Execution of Agreement.** The Recipient represents and warrants that it has:

- (a) the full power and authority to enter into the Agreement; and
- (b) taken all necessary actions to authorize the execution of the Agreement, including passing a municipal by-law authorizing the Recipient to enter into the Agreement.

A2.3 **Governance.** The Recipient represents, warrants, and covenants that it has, will maintain in writing, and will follow:

- (a) procedures to enable the Recipient to manage Funds prudently and effectively;
- (b) procedures to enable the Recipient to complete the Project successfully;
- (c) procedures to enable the Recipient to identify risks to the completion of the Project and strategies to address the identified risks, all in a timely manner;
- (d) procedures to enable the preparation and submission of all Reports required pursuant to Article A7.0; and
- (e) procedures to enable the Recipient to address such other matters as the Recipient considers necessary to enable the Recipient to carry out its obligations under the Agreement.

A2.4 **Supporting Proof.** Upon the request of the Province, the Recipient will provide the Province with proof of the matters referred to in Article A2.0.

A3.0 TERM OF THE AGREEMENT

A3.1 **Term.** The term of the Agreement will commence on the Effective Date and will expire on the Expiry Date unless terminated earlier pursuant to Article A11.0 or Article A12.0.

A4.0 FUNDS AND CARRYING OUT THE PROJECT

A4.1 **Funds Provided.** The Province will:

- (a) provide the Recipient up to the Maximum Funds for the purpose of carrying out the Project;
- (b) provide the Funds to the Recipient in accordance with the payment plan attached to the Agreement as Schedule “E”; and
- (c) deposit the Funds into an account the Recipient designates provided that the account:
 - (i) resides at a Canadian financial institution; and
 - (ii) is in the name of the Recipient.

A4.2 **Limitation on Payment of Funds.** Despite section A4.1:

- (a) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides evidence satisfactory to the Province that the Recipient’s council has authorized the execution of this Agreement by the Recipient by municipal by-law;
- (b) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides the certificates of insurance or other proof as the Province may request pursuant to section A10.2;
- (c) the Province is not obligated to provide instalments of Funds until it is satisfied with the progress of the Project; and
- (d) the Province may adjust the amount of Funds it provides to the Recipient in any Funding Year based upon the Province’s assessment of the information the Recipient provides to the Province pursuant to section A7.2.

A4.3 **Use of Funds and Carry Out the Project.** The Recipient will do all of the following:

- (a) carry out the Project in accordance with the Agreement;

- (b) use the Funds only for the purpose of carrying out the Project;
- (c) spend the Funds only in accordance with the Budget;
- (d) not use the Funds to cover any cost that has or will be funded or reimbursed by one or more of any third party, ministry, agency, or organization of the Government of Ontario.

A4.4 **Interest Bearing Account.** If the Province provides Funds before the Recipient's immediate need for the Funds, the Recipient will place the Funds in an interest bearing account in the name of the Recipient at a Canadian financial institution.

A4.5 **Interest.** If the Recipient earns any interest on the Funds, the Province may do either or both of the following:

- (a) deduct an amount equal to the interest from any further instalments of Funds;
- (b) demand from the Recipient the payment of an amount equal to the interest.

A4.6 **Rebates, Credits, and Refunds.** The Province will calculate Funds based on the actual costs to the Recipient to carry out the Project, less any costs (including taxes) for which the Recipient has received, will receive, or is eligible to receive, a rebate, credit, or refund.

A5.0 RECIPIENT'S ACQUISITION OF GOODS OR SERVICES, AND DISPOSAL OF ASSETS

A5.1 **Acquisition.** If the Recipient acquires goods, services, or both with the Funds, it will do so through a process that promotes the best value for money.

A5.2 **Disposal.** The Recipient will not, without the Province's prior consent, sell, lease, or otherwise dispose of any asset purchased or created with the Funds or for which Funds were provided, the cost of which exceeded the amount as provided for in Schedule "B" at the time of purchase.

A6.0 CONFLICT OF INTEREST

A6.1 **Conflict of Interest Includes.** For the purposes of Article A6.0, a conflict of interest includes any circumstances where:

- (a) the Recipient; or
- (b) any person who has the capacity to influence the Recipient's decisions,

has outside commitments, relationships, or financial interests that could, or could be seen by a reasonable person to, interfere with the Recipient's objective, unbiased, and impartial judgment relating to the Project, the use of the Funds, or both.

A6.2 **No Conflict of Interest.** The Recipient will carry out the Project and use the Funds without an actual, potential, or perceived conflict of interest unless:

- (a) the Recipient:
 - (i) provides Notice to the Province disclosing the details of the actual, potential, or perceived conflict of interest;
 - (ii) requests the consent of the Province to carry out the Project with an actual, potential, or perceived conflict of interest;
- (b) the Province provides its consent to the Recipient carrying out the Project with an actual, potential, or perceived conflict of interest; and
- (c) the Recipient complies with any terms and conditions the Province may prescribe in its consent.

A7.0 REPORTS, ACCOUNTING, AND REVIEW

A7.1 **Province Includes.** For the purposes of sections A7.4, A7.5 and A7.6, "**Province**" includes any auditor or representative the Province may identify.

A7.2 **Preparation and Submission.** The Recipient will:

- (a) submit to the Province at the address referred to in section A17.1:
 - (i) all Reports in accordance with the timelines and content requirements as provided for in Schedule "F";
 - (ii) any other reports in accordance with any timelines and content requirements the Province may specify from time to time;
- (b) ensure that all Reports and other reports are:
 - (i) completed to the satisfaction of the Province; and
 - (i) signed by an authorized signing officer of the Recipient.

A7.3 **Record Maintenance.** The Recipient will keep and maintain for a period of seven years from their creation:

- (a) all financial records (including invoices and evidence of payment) relating to the Funds or otherwise to the Project in a manner consistent with either international financial reporting standards or generally accepted accounting principles or any other accounting principles that apply to the Recipient; and
- (b) all non-financial records and documents relating to the Funds or otherwise to the Project.

A7.4 **Records Review.** The Province may, at its own expense, upon twenty-four hours' Notice to the Recipient and during normal business hours enter upon the Recipient's premises to conduct an audit or investigation of the Recipient regarding the Recipient's compliance with the Agreement, including assessing any of the following:

- (a) the truth of any of the Recipient's representations and warranties;
- (b) the progress of the Project;
- (c) the Recipient's allocation and expenditure of the Funds.

A7.5 **Inspection and Removal.** For the purposes of any Records Review, the Province may take one or more of the following actions:

- (a) inspect and copy any records and documents referred to in section A7.3; and
- (b) remove any copies the Province makes pursuant to section A7.5(a).

A7.6 **Cooperation.** To assist the Province in respect of its rights provided for in section A7.5, the Recipient will cooperate with the Province by:

- (a) ensuring that the Province has access to the records and documents wherever they are located;
- (b) assisting the Province to copy records and documents;
- (c) providing to the Province, in the form the Province specifies, any information the Province identifies; and
- (d) carrying out any other activities the Province requests.

A7.7 **No Control of Records.** No provision of the Agreement will be construed so as to give the Province any control whatsoever over the Recipient's records.

A7.8 **Auditor General.** The Province's rights under Article A7.0 are in addition to

any rights provided to the Auditor General pursuant to section 9.2 of the *Auditor General Act* (Ontario).

A8.0 COMMUNICATIONS REQUIREMENTS

A8.1 **Acknowledge Support.** Unless the Province directs the Recipient to do otherwise, the Recipient will in each of its Project-related publications, whether written, oral, or visual:

- (a) acknowledge the support of the Province for the Project;
- (b) ensure that any acknowledgement is in a form and manner as the Province directs; and
- (c) indicate that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of the Province.

A9.0 INDEMNITY

A9.1 **Indemnification.** The Recipient will indemnify and hold harmless the Indemnified Parties from and against any Loss and any Proceeding, unless solely caused by the negligence or wilful misconduct of the Indemnified Parties.

A10.0 INSURANCE

A10.1 **Recipient's Insurance.** The Recipient represents, warrants, and covenants that it has, and will maintain, at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person carrying out a project similar to the Project would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury, and property damage, to an inclusive limit of not less than the amount provided for in Schedule "B" per occurrence, which commercial general liability insurance policy will include the following:

- (a) the Indemnified Parties as additional insureds with respect to liability arising in the course of performance of the Recipient's obligations under, or otherwise in connection with, the Agreement;
- (b) a cross-liability clause;
- (c) contractual liability coverage; and
- (d) a 30-day written notice of cancellation.

A10.2 **Proof of Insurance.** The Recipient will:

- (a) provide to the Province, either:
 - (i) certificates of insurance that confirm the insurance coverage as provided for in section A10.1; or
 - (ii) other proof that confirms the insurance coverage as provided for in section A10.1; and
- (b) in the event of a Proceeding, and upon the Province's request, the Recipient will provide to the Province a copy of any of the Recipient's insurance policies that relate to the Project or otherwise to the Agreement, or both.

A11.0 TERMINATION ON NOTICE

A11.1 Termination on Notice. The Province may terminate the Agreement at any time without liability, penalty, or costs upon giving 30 days' Notice to the Recipient.

A11.2 Consequences of Termination on Notice by the Province. If the Province terminates the Agreement pursuant to section A11.1, the Province may take one or more of the following actions:

- (a) cancel further instalments of Funds;
- (b) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and
- (c) determine the reasonable costs for the Recipient to wind down the Project, and do either or both of the following:
 - (i) permit the Recipient to offset such costs against the amount the Recipient owes pursuant to section A11.2(b); and
 - (ii) subject to section A4.1(a), provide Funds to the Recipient to cover such costs.

A12.0 EVENT OF DEFAULT, CORRECTIVE ACTION, AND TERMINATION FOR DEFAULT

A12.1 Events of Default. It will constitute an Event of Default if, in the opinion of the Province, the Recipient breaches any representation, warranty, covenant, or other material term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:

- (i) carry out the Project;

- (ii) use or spend Funds; or
- (iii) provide, in accordance with section A7.2, Reports or such other reports as the Province may have requested pursuant to section A7.2(a)(ii).

A12.2 **Consequences of Events of Default and Corrective Action.** If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) initiate any action the Province considers necessary in order to facilitate the successful continuation or completion of the Project;
- (b) provide the Recipient with an opportunity to remedy the Event of Default;
- (c) suspend the payment of Funds for such period as the Province determines appropriate;
- (d) reduce the amount of the Funds;
- (e) cancel further instalments of Funds;
- (f) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient;
- (g) demand from the Recipient the payment of an amount equal to any Funds the Recipient used, but did not use in accordance with the Agreement;
- (h) demand from the Recipient the payment of an amount equal to any Funds the Province provided to the Recipient;
- (i) demand from the Recipient an amount equal to the costs the Province incurred or incurs to enforce its rights under the Agreement, including the costs of any Record Review and the costs it incurs to collect any amounts the Recipient owes to the Province; and
- (j) terminate the Agreement at any time, including immediately, without liability, penalty or costs to the Province upon giving Notice to the Recipient.

A12.3 **Opportunity to Remedy.** If, in accordance with section A12.2(b), the Province provides the Recipient with an opportunity to remedy the Event of Default, the Province will give Notice to the Recipient of:

- (a) the particulars of the Event of Default; and

(b) the Notice Period.

A12.4 **Recipient not Remediating.** If the Province provided the Recipient with an opportunity to remedy the Event of Default pursuant to section A12.2(b), and:

- (a) the Recipient does not remedy the Event of Default within the Notice Period;
- (b) it becomes apparent to the Province that the Recipient cannot completely remedy the Event of Default within the Notice Period; or
- (c) the Recipient is not proceeding to remedy the Event of Default in a way that is satisfactory to the Province,

the Province may extend the Notice Period, or initiate any one or more of the actions provided for in sections A12.2(a), (c), (d), (e), (f), (g), (h), and (i).

A12.5 **When Termination Effective.** Termination under Article A12.0 will take effect as provided for in the Notice.

A13.0 FUNDS AT THE END OF A FUNDING YEAR

A13.1 **Funds at the End of a Funding Year.** Without limiting any rights of the Province under Article A12.0, if the Recipient has not spent all of the Funds allocated for the Funding Year as provided for in the Budget, the Province may take one or both of the following actions:

- (a) demand from the Recipient payment of the unspent Funds; and
- (b) adjust the amount of any further instalments of Funds accordingly.

A14.0 FUNDS UPON EXPIRY

A14.1 **Funds Upon Expiry.** The Recipient will, upon expiry of the Agreement, pay to the Province any Funds remaining in its possession, under its control, or both.

A15.0 DEBT DUE AND PAYMENT

A15.1 **Payment of Overpayment.** If at any time the Province provides Funds in excess of the amount to which the Recipient is entitled under the Agreement, the Province may:

- (a) deduct an amount equal to the excess Funds from any further instalments of Funds; or
- (b) demand that the Recipient pay to the Province an amount equal to the

excess Funds.

A15.2 **Debt Due.** If, pursuant to the Agreement:

- (a) the Province demands from the Recipient the payment of any Funds or an amount equal to any Funds; or
- (b) the Recipient owes any Funds or an amount equal to any Funds to the Province, whether or not the Province has demanded their payment,

such amounts will be deemed to be debts due and owing to the Province by the Recipient, and the Recipient will pay the amounts to the Province immediately, unless the Province directs otherwise.

A15.3 **Interest Rate.** The Province may charge the Recipient interest on any money owing to the Province by the Recipient under the Agreement at the then current interest rate charged by the Province of Ontario on accounts receivable.

A15.4 **Payment of Money to Province.** The Recipient will pay any money owing to the Province by cheque payable to the "Ontario Minister of Finance" and delivered to the Province as provided for in Schedule "B".

A15.5 **Fails to Pay.** Without limiting the application of section 43 of the *Financial Administration Act* (Ontario), if the Recipient fails to pay any amount owing under the Agreement, Her Majesty the Queen in right of Ontario may deduct any unpaid amount from any money payable to the Recipient by Her Majesty the Queen in right of Ontario.

A16.0 NOTICE

A16.1 **Notice in Writing and Addressed.** Notice will be:

- (a) in writing;
- (b) delivered by email, postage-prepaid mail, personal delivery, courier or fax; and
- (c) addressed to the Province or the Recipient as set out in Schedule "B", or as either Party later designates to the other by Notice.

A16.2 **Notice Given.** Notice will be deemed to have been given:

- (a) in the case of postage-prepaid mail, five Business Days after the Notice is mailed; or
- (b) in the case of fax, one Business Day after the Notice is delivered; and

- (c) in the case of email, personal delivery or courier on the date on which the Notice is delivered.

A16.3 **Postal Disruption.** Despite section A16.2(a), in the event of a postal disruption:

- (a) Notice by postage-prepaid mail will not be deemed to be given; and
- (b) the Party giving Notice will give Notice by email, personal delivery, courier or fax.

A17.0 CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT

A17.1 **Consent.** When the Province provides its consent pursuant to the Agreement:

- (a) it will do so by Notice;
- (b) it may attach any terms and conditions to the consent; and
- (c) the Recipient may rely on the consent only if the Recipient complies with any terms and conditions the Province may have attached to the consent.

A18.0 SEVERABILITY OF PROVISIONS

A18.1 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement will not affect the validity or enforceability of any other provision of the Agreement.

A19.0 WAIVER

A19.1 **Waiver Request.** Either Party may, by Notice, ask the other Party to waive an obligation under the Agreement.

A19.2 **Waiver Applies.** If in response to a request made pursuant to section A19.1 a Party consents to a waiver, the waiver will:

- (a) be valid only if the Party that consents to the waiver provides the consent by Notice; and
- (b) apply only to the specific obligation referred to in the waiver.

A20.0 INDEPENDENT PARTIES

A20.1 **Parties Independent.** The Recipient is not an agent, joint venturer, partner, or employee of the Province, and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any

actions that could establish or imply such a relationship.

A21.0 ASSIGNMENT OF AGREEMENT OR FUNDS

A21.1 **No Assignment.** The Recipient will not, without the prior written consent of the Province, assign any of its rights or obligations under the Agreement.

A21.2 **Agreement Binding.** All rights and obligations contained in the Agreement will extend to and be binding on:

- (a) the Recipient's successors, and permitted assigns; and
- (b) the successors to Her Majesty the Queen in right of Ontario.

A22.0 GOVERNING LAW

A22.1 **Governing Law.** The Agreement and the rights, obligations, and relations of the Parties will be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with the Agreement will be conducted in the courts of Ontario, which will have exclusive jurisdiction over such proceedings.

A23.0 FURTHER ASSURANCES

A23.1 **Agreement into Effect.** The Recipient will:

- (a) provide such further assurances as the Province may request from time to time with respect to any matter to which the Agreement pertains; and
- (b) do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

A24.0 JOINT AND SEVERAL LIABILITY

A24.1 **Joint and Several Liability.** Where the Recipient comprises of more than one entity, all such entities will be jointly and severally liable to the Province for the fulfillment of the obligations of the Recipient under the Agreement.

A25.0 RIGHTS AND REMEDIES CUMULATIVE

A25.1 **Rights and Remedies Cumulative.** The rights and remedies of the Province under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

A26.0 FAILURE TO COMPLY WITH OTHER AGREEMENTS

A26.1 **Other Agreements.** If the Recipient:

- (a) has failed to comply with any term, condition, or obligation under any other agreement with Her Majesty the Queen in right of Ontario or one of Her agencies (a “**Failure**”);
- (b) has been provided with notice of such Failure in accordance with the requirements of such other agreement;
- (c) has, if applicable, failed to rectify such Failure in accordance with the requirements of such other agreement; and
- (d) such Failure is continuing,

the Province may suspend the payment of Funds for such period as the Province determines appropriate.

A27.0 SURVIVAL

A27.1 **Survival.** The following Articles and sections, and all applicable cross-referenced Articles, sections and schedules, will continue in full force and effect for a period of seven years from the date of expiry or termination of the Agreement: Article 1.0, Article 2.0, Article A1.0 and any other applicable definitions, section A2.1(a), sections A4.4, A4.5, A4.6, section A5.2, section A7.1, A7.2 (to the extent that the Recipient has not provided the Reports or other reports as the Province may have requested and to the satisfaction of the Province), sections A7.3, A7.4, A7.5, A7.6, A7.7, A7.8, Article A8.0, Article A9.0, section A11.2, sections A12.1, sections A12.2(d), (e), (f), (g), (h), (i), and (j), Article A13.0, Article A14.0, Article A15.0, Article A16.0, Article A18.0, , section A21.2, Article A22.0, Article A24.0, Article A25.0 and Article A27.0.

- END OF GENERAL TERMS AND CONDITIONS -

SCHEDULE "B"
PROJECT SPECIFIC INFORMATION AND ADDITIONAL PROVISIONS

Maximum Funds	Up to \$76,320
Expiry Date	March 31, 2023
Amount for the purposes of section A5.2 (Disposal) of Schedule "A"	\$5,000.00
Insurance	\$ 2,000,000
Contact information for the purposes of Notice to the Province	<p>Name: Brenda Vloet</p> <p>Position: Manager, Municipal Programs and Outreach Unit</p> <p>Address: 777 Bay Street, Toronto, Ontario M7A 2J3, 16th Floor</p> <p>Email: Brenda.Vloet@ontario.ca</p>
Contact information for the purposes of Notice to the Recipient	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>
Contact information for the senior financial person in the Recipient organization (e.g., CFO, CAO) – to respond as required to requests from the Province related to the Agreement	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>

Additional Provisions:

B1 Section 4.3 of Schedule "A" is amended by adding the following subsection:

- (e) use the Funds only for the purpose of reimbursement for the actual amount paid to the independent third-party reviewer in accordance with

the Project; and,

- (f) Not use the Funds for the purpose of paying the salaries of the Recipient's employees.

**SCHEDULE “C”
PROJECT**

Project Title
City of Port Colborne Human Resources Management and Information Systems Review
Objectives
The objective of the Project is to review the Recipient’s human resources systems and processes to identify opportunities for cost savings and efficiencies.
Description
<p>The Recipient will retain an independent third-party reviewer to review the Recipient’s recruitment, payroll, and attendance management processes. The reviewer will provide recommendations for an Applicant Tracking System (ATS), which will reduce the time to hire, generate a higher quality talent pool, reduce the costs of recruitment, improve the candidate and employee experience, and provide advanced hiring metrics that help with tracking and generating reports. The reviewer will also recommend methods for tracking policy updates, accessing records digitally, disability management and tracking employee information for staff on sick leave.</p> <p><u>Independent Third-Party Reviewer’s Report</u></p> <p>The Recipient will retain the independent third-party reviewer to compile the findings and recommendations in the Independent Third-Party Reviewer’s Report.</p> <p>The Recipient will submit the report to the Province and publish the report on the Recipient’s publicly accessible website by January 31, 2023.</p> <p>The report will summarize the reviewer’s findings and identify specific, actionable recommendations based on the analysis and findings that aim to identify cost savings and improved efficiencies. The report will include detailed explanations and calculations of identified potential quantifiable efficiencies and/or cost savings.</p>

SCHEDULE "D"
BUDGET

Item	Amount
Reimbursement for payments to independent third-party reviewer.	Up to \$76,320

**SCHEDULE "E"
PAYMENT PLAN**

Milestone	Scheduled Payment
<ul style="list-style-type: none"> • Execution of Agreement 	Initial payment of \$53,424 made to Recipient no more than thirty (30) days after the execution of the Agreement
<ul style="list-style-type: none"> • Submission of Interim Progress Report Back to the Province • Publishing of Independent Third-Party Reviewer's Report on the Recipient's publicly accessible website • Submission of Final Report Back to the Province, which includes a copy of the Independent Third-Party Reviewer's Report 	Final payment of up to \$22,896 made to the Recipient no more than thirty (30) days after the Province's approval of the Final Report Back

**SCHEDULE “F”
REPORTS**

Name of Report	Reporting Due Date
1. Interim Progress Report Back	September 19, 2022
2. Final Report Back and Invoices	January 31, 2023

Report Details

1. Interim Progress Report Back

The Recipient will submit an Interim Progress Report Back to the Province by September 19, 2022 using the reporting template provided by the Province. The Interim Progress Report will include:

- A statement indicating whether the Recipient has retained an independent third-party reviewer.

2. Final Report Back and Invoices

The Recipient will submit a Final Report Back to the Province by January 31, 2023 using the reporting template provided by the Province. The Final Report will include:

- A copy of the Independent Third-Party Reviewer’s report,
- A hyperlink to the Independent Third-Party Reviewer's final report on the Recipient's publicly accessible website,
- A 250-word abstract of the Project and its findings,
- The actual amount paid by the Recipient to the independent third-party reviewer in accordance with the Project with supporting documentation, such as invoices or receipts, showing actual costs incurred, and
- A statement indicating the percentage of the total amount of service delivery expenditures reviewed that are identified as potential cost savings in the Independent Third-Party Reviewer's Report, which will be the performance measure for the Project.

The Corporation of the City of Port Colborne

By-law No. _____

Being a By-law to Authorize Entering into Agreements with the Ontario
Municipal Modernization Program

Whereas at its meeting of February 22, 2022, the Council of The Corporation of the City of Port Colborne (Council) approved the recommendations of CAO office –Report No. 2022-31, Subject: Municipal Modernization Program – Funding Update and Transfer Agreements; and

Whereas Council is desirous of entering into Transfer Payment Agreements with the provincial government hereby represented by the Minister of Municipal Affairs and Housing; and

Whereas the *Municipal Act*, 2001 S.O. 2001, c.25, as amended, confers broad authority on municipalities to enter into such agreements;

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

1. That The Corporation of the City of Port Colborne enters into Transfer Payment Agreements with the Ontario Municipal Modernization Program hereby represented by the Minister of Municipal Affairs and Housing Fund for funding for: Telecommunications System Modernization (\$59,530); Fire and Emergency Services Digitization and Records Management Implementation (\$59,530); Digitizing Public Works Permit Process (\$16,536); Route Patrol Software (\$9,922); Departmental Organization Review (\$45,792); and Human Resources Management and Information Systems Review (\$76,320) - Total Funding \$267,730.
2. That the Mayor and the Clerk be and they are hereby authorized and directed to sign the said agreements, attached hereto as Schedule “A”, together with any documents necessary to complete the conditions of the said agreements or any other phase for the Minister of Municipal Affairs and Housing, and the City Clerk is hereby authorized to affix the Corporate Seal thereto.

Enacted and passed this 22nd day of February, 2022.

William C. Steele
Mayor

Amber LaPointe
City Clerk

Subject: Grants for Non-Profits
To: Council
From: Chief Administrative Office

Report Number: 2022-41

Meeting Date: February 22, 2022

Recommendation:

That Chief Administrative Office Report 2022-41 be received; and

That Council approve the community grant requests totalling \$27,751 for the first allocation of community grants for 2022 as follows:

\$3,600	Community Living Port Colborne-Wainfleet
\$1,500	Friends of Roselawn
\$4,500	Niagara Health Foundation
\$13,001	POCOMAR
\$2,150	Port Colborne Feline Initiative
\$3,000	Women's Place of South Niagara Inc.

Purpose:

To seek Council's approval for the 2022 first allocation of grants to non-profit organizations.

Background:

In 2015, Council passed By-law 6317/143/15 establishing a Grant Policy Committee whose purpose is to oversee the distribution of grants to non-profit organizations.

In accordance with the Grant Policy, applications are received twice a year – January 31st and June 30th. Applications are reviewed by the Grant Policy Committee and recommendations are to be brought forward to Council for final approval.

Discussion:

On January 31st, six applications for funding were received. The Grant Policy Committee members were provided with copies of these applications for review and a meeting was held on February 7, 2022. It was noted in reviewing these applications, that several of the organizations had been unable to complete their regular fundraising efforts in 2020 and 2021 due to the COVID-19 pandemic and were reaching out to the City for the first time in many years.

The following recommendation was made by the committee:

That grant requests for a total of \$27,751 be approved for the first allocation of grants for 2022 as follows:

\$3,600 Community Living Port Colborne-Wainfleet for 30 young people to attend a 2-day peer-led conference called TORCH, which is for young people who have intellectual disabilities, that focuses on giftedness, community building and social justice. This will also cover the cost of 2 TORCH facilitators and 2 adult chaperones. Community Living is partnering with Jericho House, a youth leadership, social & ecological justice centre in Wainfleet. If less than 30 young people are registered, their fees will be pro-rated back to the City.

\$1,500 Friends of Roselawn for the purchase of resources to create a permanent, sustainable community arts centre that stimulates and helps coordinate the development of the visual, literary, performing and heritage arts within the local community, with a focus on the heritage arts for the 2022 workshops.

\$4,500 Niagara Health Foundation for the purchase of a bariatric shower chair called the Revive Bariatric Shower Commode. This piece of equipment has been requested by the staff at Port Colborne Hospital to support their capacity to care for patients.

\$13,001 POCOMAR to upgrade and replace their AED, leads, pads and accessories; purchase new lights, a tow line and first aid equipment.

\$2,150 Port Colborne Feline Initiative to ensure 10 cats (5 male and 5 female) are treated under the Trap-Neuter-Vaccinate-Return Program and assistance for 10 cats (5 male and 5 female) under the Spay Neuter Assistance Program which provides a \$30 voucher to families experiencing financial challenges or living on a fixed income to have their cat vaccinated, spayed or neutered.

\$3,000 Women's Place of South Niagara Inc. to provide safe emergency shelter, food and basic needs for women and their children escaping domestic violence, as well as funds to support the 24-hour support line for safety planning and support, including virtual counselling, legal and housing support.

Financial Implications:

Council approved \$36,000 for grants in the 2022 budget and there is also a reserve of \$13,500 from unused funds in 2020 and 2021.

Public Engagement

The public was notified of the availability of grants through the City's website, as well as the December 2021/January 2022 edition of City Hall News.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar of the strategic plan:

- People: Supporting and Investing in Human Capital
-

Conclusion:

With funds available in the 2022 budget, staff are recommending that Council approve the first 2022 allocation of grants as recommended by the Grant Policy Committee.

Respectfully submitted,

Nancy Giles
Executive Administrative Assistant
Staff Liaison to the Grant Policy Committee
905-835-2900 Ext 301
nancy.giles@portcolborne.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.

Subject: Administrative Municipal Penalty System (AMPS) Sharing of Hearing Officer - revised

To: Council

From: Community Safety & Enforcement Department

Report Number: 2022-43

Meeting Date: February 22, 2022

Recommendation:

That Community Safety & Enforcement Department Report 2022-43 be received;

That the Mayor and Clerk be authorized to execute the Administrative Municipal Penalty System Shared Service Agreement for the Appeal Hearing Officer, attached as Appendix A to Community Safety & Enforcement Department Report 2022-43; and

That a by-law to enter into an Administrative Municipal Penalty System Shared Service agreement with the Town of Pelham, The Town of Grimsby, the Town of Lincoln, the City of Niagara Falls, the Town of Niagara-on-the-Lake, the City of St. Catharines, the City of Thorold, the Township of Wainfleet, and the Township of West Lincoln, be brought forward.

Purpose:

To enter into a revised shared services agreement for the services of a Hearing Officer with area municipal partners. The addition of two additional partners, City of Niagara Falls and the Township of West Lincoln.

Background:

Council Report 2022-02 was submitted and approved by Council at its regular Council meeting held on January 25, 2022. The report discussed the Shared Service Agreement with multiple area municipalities.

Discussion:

After the passing of the report, the shared service agreement and by-law, two additional municipalities, the City of Niagara Falls and the Township of West Lincoln, have joined to share the services of the Hearing Officer.

The Shared Service Agreement would be scheduled for three years (2022-2024), with each municipality taking turns to host the Hearings. Each municipality that is party to the agreement will host two or three times within the three-year term.

With the addition of the two municipalities, the City of Port Colborne is scheduled to host one hearing in a three-year period.

Financial Implications:

Financial implications remain the same as previously reported and will be reassessed after the first year to determine if the annual fee will be reduced.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Service and Simplicity - Quality and Innovative Delivery of Customer Services
 - Value: Financial Management to Achieve Financial Sustainability
-

Conclusion:

The Department of Community Safety and Enforcement recommends the updated and revised shared service agreement be approved to provide hearings at minimal cost.

Appendices:

- a. Revised Shared Service Agreement 2022-2024
- b. By-law

Respectfully submitted,

Sherry Hanson
Manager of By-law Services
905-835-2900 ext. 210
Sherry.Hanson@portcolborne.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.

THE CORPORATION OF THE TOWN OF PELHAM
("Pelham")
- and -

THE CORPORATION OF THE TOWN OF GRIMSBY
("Grimsby")
- and -

THE CORPORATION OF THE TOWN OF LINCOLN
("Lincoln")
- and -

THE CORPORATION OF THE CITY OF NIAGARA FALLS
("Niagara Falls")
- and -

THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE
("Niagara-on-the-Lake")
- and -

THE CORPORATION OF THE CITY OF PORT COLBORNE
("Port Colborne")
- and -

THE CORPORATION OF THE CITY OF ST. CATHARINES
("St. Catharines")
- and -

THE CORPORATION OF THE CITY OF THOROLD
("Thorold")
- and -

THE CORPORATION OF THE TOWNSHIP OF WAINFLEET
("Wainfleet")
- and -

THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN
("West Lincoln")

SHARED SERVICES AGREEMENT

WHEREAS section 20 of the *Municipal Act, 2001*, S.O. 2001, c. 25 (“*Municipal Act, 2001*”) provides that a municipality may enter into an agreement with one or more other municipalities to jointly provide, for their joint benefit, any matter which all of the municipalities have the power to provide within their own boundaries; and

WHEREAS section 102.1 of the *Municipal Act, 2001* provides that a municipality may require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with any by-laws respecting the parking, standing or stopping of vehicles; and

WHEREAS Ontario Regulation 333/07 under the *Municipal Act, 2001* (“the Regulation”) provides that a municipality shall not require a person to pay an administrative penalty under section 102.1 of the *Municipal Act, 2001* unless the municipality has met the requirements of the Regulation; and

WHEREAS the Regulation provides that a person who receives a penalty notice shall be given the right to request a review of the administrative penalty by a screening officer appointed by the municipality for that purpose; and

WHEREAS the Regulation provides that a person who receives notice of the decision of the screening officer shall be given the right to a review of the screening officer’s decision by a hearing officer appointed by the municipality for that purpose; and

WHEREAS the municipalities of Pelham, Grimsby, Lincoln, Niagara Falls, Niagara-on-the-Lake, Port Colborne, St. Catharines, Thorold, Wainfleet and West Lincoln (each “a party” and collectively “the parties”) have each established a system of administrative penalties in accordance with section 102.1 of the *Municipal Act, 2001* and the Regulation; and

WHEREAS section 434.1 of the *Municipal Act, 2001* provides that a municipality may require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under the *Municipal Act, 2001*; and

WHEREAS the municipalities of Pelham, Grimsby, Niagara-on-the-Lake, Port Colborne, St. Catharines, Thorold, Wainfleet and West Lincoln have each established a system of administrative penalties in accordance with section 434.1 of the *Municipal Act, 2001* that provide a person who receives a penalty notice with a right to request a review of an administrative penalty by a screening officer appointed by the municipality for that purpose and a right to a review of the screening officer’s decision by a hearing officer appointed by the municipality for that purpose; and

WHEREAS the parties wish to enter into an agreement to jointly provide the services of a hearing officer within their respective municipalities as required by the Regulation and, where applicable, by their respective administrative penalty systems established pursuant to section 434.1 of the *Municipal Act, 2001* and to share the costs incurred in so doing;

NOW THEREFORE in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. TERM

- 1.1. This Agreement comes into effect on the date it is signed by all parties or, in the event that the parties sign this Agreement on different dates in accordance with paragraph 11.8, on the latest date on which it is signed by a party (“the Effective Date”), and shall continue for a period of three (3) years unless it is renewed or amended or terminated in accordance with the provisions herein (“the Term”).
- 1.2. Not less than six (6) months prior to the expiration of the Term, the parties shall each provide written notice to all other parties of their intention to renew this Agreement or to conclude this Agreement at the end of the Term.
- 1.3. Unless a party has given notice of its intention to conclude the Agreement, the parties shall use best efforts in the final six (6) months of the Term to negotiate in good faith and to enter into (i) a renewal of this Agreement for a further period of three (3) years; or (ii) a new Shared Services Agreement on such terms and conditions as may be negotiated at that time.
- 1.4. In the event that one or more parties provides written notice of its intention to conclude the Agreement, the remaining parties shall determine, within sixty (60) days after the notice is delivered, if any or all of them wish to enter into negotiations for a new Shared Services Agreement and shall advise all other remaining parties accordingly.

2. SELECTION OF HEARING OFFICER

- 2.1. The parties shall jointly select a hearing officer to conduct all requested reviews of the decisions of the screening officer(s) appointed by each party (“Appeals”).
- 2.2. Upon their mutual agreement, the parties may select the existing hearing officer of a party or may select a new hearing officer. Once the parties have selected the hearing officer, each party shall pass a by-law to appoint that person as the hearing officer for that party during the Term.

3. ADMINISTRATION OF SHARED SERVICES AGREEMENT

- 3.1. During the Term, Pelham shall provide the following administrative services in relation to this Agreement:
 - i. Coordinate with all parties to ensure the selection and appointment of a hearing officer in accordance with section 2 of this Agreement;
 - ii. Develop and provide to all parties and the hearing officer a schedule for Appeals in accordance with section 5 of this Agreement;
 - iii. Receive and deposit the annual financial contributions of each party pursuant to section 4 of this Agreement;
 - iv. Maintain a record of the number of Appeals received by each party;
 - v. Receive and remit payment for all invoices rendered by the hearing officer;
 - vi. Render invoices to the parties in accordance with section 4 of this Agreement;
 - vii. Provide the parties with an annual accounting of the annual financial contributions of the parties and the invoices rendered by the hearing officer; and

- viii. Provide information about the administration of this Agreement to any party or parties upon request, provided that the number and/or content of such requests do not exceed what Pelham, in its sole discretion, considers to be reasonable.
- 3.2. Pelham shall provide the services in paragraph 3.1 at no cost to the other parties. For greater certainty, Pelham shall not impose any administrative charge or other fee in relation to delivering the services in paragraph 3.1.

4. ANNUAL FINANCIAL CONTRIBUTIONS

- 4.1. Subject to paragraphs 4.4 and 4.5, each of the parties shall make an annual financial contribution during the Term in the amount of seven hundred and fifty dollars (\$750.00), which funds shall be used solely for the payment of invoices rendered by the hearing officer.
- 4.2. Pelham shall render an invoice to each party for the initial financial contribution within thirty (30) days of the Effective Date, which shall be payable within fifteen (15) days. Subject to paragraph 4.4, Pelham shall render an invoice to each party for subsequent annual financial contributions on the anniversary of the Effective Date, which shall be payable within fifteen (15) days.
- 4.3. The parties shall pay all annual financial contributions to Pelham by way of cheque. Pelham shall deposit and retain all annual financial contributions received from the parties in a separate general ledger account designated for that purpose and shall pay all invoices rendered by the hearing officer from that account.
- 4.4. Notwithstanding any other term of this Agreement, the annual financial contribution of each party shall be limited to the amount set out in paragraph 4.1 provided that the party receives no more than twenty (20) Appeals in that year. In the event that a party receives more than twenty (20) Appeals in any year of the Term, it shall make a further financial contribution in the amount of fifty dollars (\$50.00) for each additional Appeal. Pelham shall render an invoice for each additional Appeal received by a party, which shall be payable in accordance with paragraphs 4.2 and 4.3 of this Agreement.
- 4.5. Notwithstanding any other term of this Agreement, if the total amount of the annual financial contributions of the parties exceeds the total amount of the invoices rendered by the hearing officer in any year of the Term, the excess shall be used to reduce, on an equal basis, the amount of subsequent annual financial contributions payable by each party pursuant to paragraph 4.1. Any excess funds remaining at the conclusion or termination of this Agreement shall be refunded to the parties on an equal basis.

5. APPEAL HEARINGS

- 5.1. Subject to paragraphs 5.3 and 6.4, Appeals shall be heard on a bi-monthly basis and shall be hosted by each of the parties (“the Host”) in accordance with the following rotation:
 - i. Grimsby;
 - ii. Lincoln;
 - iii. Niagara Falls;
 - iv. Niagara-on-the-Lake;

- v. Pelham;
 - vi. Port Colborne;
 - vii. St. Catharines;
 - viii. Thorold;
 - ix. West Lincoln; and
 - x. Wainfleet.
- 5.2. Subject to paragraph 5.3 and section 6, Appeals shall be heard during the bi-monthly period in which they are received by a party.
- 5.3. Appeals shall be scheduled for hearing on the third Wednesday of every other month (“the Primary Hearing Date”). A second hearing date shall be scheduled for one (1) week following the Primary Hearing Date (“the Secondary Hearing Date”), other than in the month of December in each year of the Term, when no Secondary Hearing Date shall be scheduled. Where a Secondary Hearing Date is scheduled, it shall be used only where the number of Appeals scheduled for hearing in that bi-monthly period exceeds the number that can be heard on the Primary Hearing Date. In the event that the number of Appeals scheduled for hearing in the month of December in any year of the Term exceeds the number that can be heard on the Primary Hearing Date, the Appeals shall be scheduled for hearing in the order in which they were received by the Host and any Appeals that cannot be heard on the Primary Hearing Date shall be scheduled for hearing in the next bi-monthly period in accordance with section 6.
- 5.4. Subject to such other arrangements as may be made by the parties and/or the hearing officer, which may differ from but shall not be inconsistent with this Agreement, Appeal hearings shall commence at 9:00 a.m. on the Primary Hearing Date and, if applicable, the Secondary Hearing Date. Appeal hearings may be held in person or via Zoom, at the option of the person making the Appeal. All hearings that proceed by Zoom shall be recorded by the Host.
- 5.5. The Host shall provide the following facilities and services for Appeal hearings:
- i. One (1) room of a suitable size and configuration for conducting Appeal hearings, which is equipped with all furniture, equipment and amenities required for Appeal hearings to proceed in person or via Zoom in accordance with this Agreement;
 - ii. One (1) waiting room or breakout room for persons awaiting an Appeal hearing;
 - iii. Such other equipment or supplies as may be requested or required by the hearing officer in relation to the Appeal hearings; and
 - iv. One (1) employee of the Host to assist with Appeal hearings, including but not limited to preparing minutes of the proceedings.
- 5.6. The Host shall provide the facilities and services in paragraph 5.5 at no cost to the other parties. For greater certainty, the Host shall not request, and is not entitled to receive, any payment, reimbursement or compensation for the facilities and services provided in accordance with paragraph 5.5.

- 5.7. The parties acknowledge and agree that any administrative penalties and/or fees that are payable by a person making an Appeal in relation to the Appeal or pursuant to a decision of the hearing officer shall be payable solely to the party to which the Appeal pertains and not to the Host or any other party.

6. PROCEDURE UPON RECEIPT OF AN APPEAL

- 6.1. Subject to paragraph 6.2, a party that receives an Appeal shall immediately notify the Host for the bi-monthly period in which the Appeal was received and shall submit the Appeal to the Host by providing all pertinent materials as soon as possible. The receiving party shall also notify Pelham of the Appeal for the purposes of paragraphs 3.1 and 4.4.
- 6.2. Despite paragraphs 5.2 and 6.1, in the event that a party receives an Appeal less than ten (10) days prior to the Primary Hearing Date for the bi-monthly period in which it was received, the Appeal shall be scheduled for hearing in the next bi-monthly period and shall be submitted to the Host for that bi-monthly period in accordance with paragraph 6.3.
- 6.3. Appeals must be submitted to the Host no less than ten (10) days prior to the Primary Hearing Date. Where an Appeal is submitted to the Host less than ten (10) days prior to the Primary Hearing Date, the Host shall determine if the Secondary Hearing Date was required prior to late submission of the Appeal and, if so, the Host shall schedule the Appeal to be heard on that date. If the Secondary Hearing Date was not otherwise required, the Appeal shall be scheduled for hearing in the next bi-monthly period.
- 6.4. Ten (10) days prior to the Primary Hearing Date, the Host shall review the number of Appeals that have been submitted and shall proceed as follows:
- i. If no Appeals have been submitted, the Host shall take all necessary steps to cancel the Primary Hearing Date and the Secondary Hearing Date and to ensure that no cancellation fees are incurred.
 - ii. If Appeals have been submitted, the Host shall determine whether the Secondary Hearing Date is required. If the Secondary Hearing Date is not required, the Host shall take all necessary steps to cancel it and to ensure that no cancellation fees are incurred. If the Secondary Hearing Date is required, the Host shall prepare a schedule of Appeals to be heard on the Primary Hearing Date and the Secondary Hearing Date and shall provide it to all parties that have submitted Appeals.
 - iii. The Host shall provide all submitted Appeals to the hearing officer.
- 6.5. The party that receives an Appeal shall be responsible for notifying the person making the Appeal of the date on which it will be heard and shall provide the requisite amount of notice in accordance with any applicable by-law(s) of that party.
- 6.6. The Host shall receive Appeals from the parties and shall undertake the activities in paragraphs 6.3 and 6.4 at no cost to the other parties. For greater certainty, the Host shall not request, and is not entitled to receive, any payment or compensation for any activities undertaken in accordance with paragraphs 6.1, 6.3 and 6.4.

- 6.7. Notwithstanding paragraph 6.1, all records and information received by the Host in the course of its activities as the Host shall remain the property of the party providing them and shall not be divulged or produced to any entity other than the hearing officer. At the end of the bi-monthly period in which a party is the Host, it shall return all such records and information to the parties that provided them.
- 6.8. The parties acknowledge that persons making Appeals provide personal and other information as part of the Appeal. The parties agree to obtain such authorizations and/or consents as may be required by law to disclose and provide such information to the Host and the hearing officer, including any authorizations or consents required under applicable privacy legislation.

7. ADMINISTRATIVE MATTERS

- 7.1. Notwithstanding any other term of this Agreement, none of the parties' employees, including those described in paragraph 5.5, shall be employees of any other party and no party or employee shall make representations to the contrary.
- 7.2. Each party undertakes to review the provisions of this Agreement with any appropriate local bargaining units for the purpose of seeking any necessary amendments to any applicable collective agreements to facilitate participation in this Agreement. Each party further undertakes to advise all other parties as soon as practicable if it becomes aware of any impediments or obstacles imposed by applicable collective agreements to the party meeting its obligations under this Agreement.
- 7.3. None of the parties shall be liable for any obligation incurred by any other party except as specified in this Agreement. The parties acknowledge and agree that each party's operations shall remain separate and further acknowledge and agree that each party is solely responsible for its own conduct and for the conduct of its employees.

8. INSURANCE AND INDEMNITY

- 8.1. During the Term, each party shall obtain and maintain in full force and effect a policy of comprehensive general liability insurance with limits of not less than five million dollars (\$5,000,000.00) per occurrence for bodily injury and/or property damage and a policy of errors and omissions insurance with limits of not less than two million dollars (\$2,000,000.00). The policies shall provide for no less than thirty (30) days' notice of cancellation or non-renewal and shall name all other parties as additional insureds but only with respect to this Agreement.
- 8.2. Each of the parties will indemnify and save harmless all other parties and their officers, employees, contractors, agents and officials from any and all claims, actions, causes of action, demands, liabilities, costs or expenses arising from, occasioned by or caused wholly or in part by any failure of that party to comply with the provisions of this Agreement or by any wilful or negligent act or omission of that party or anyone for whom it is in law responsible.

9. AMENDMENT AND TERMINATION

- 9.1. The parties may revise, alter or amend this Agreement only by mutual agreement. If at any time during the Term, the parties deem it necessary or expedient to make any revision, alteration or amendment, they may do so only by way of a written document, signed by the parties, which shall be appended to and form part of this Agreement.

- 9.2. This Agreement shall conclude at the end of the Term unless it is renewed pursuant to paragraph 1.3 or terminated earlier in accordance with paragraphs 9.3 or 9.4.
- 9.3. At any time during the Term, the parties may jointly agree in writing to terminate this Agreement on such terms and conditions as the parties consider appropriate.
- 9.4. Subject to section 10, any party may terminate this Agreement by written notice to all parties where one or more parties commits a material breach of its obligations under this Agreement and fails to remedy the default within thirty (30) days of being required by any non-defaulting party to do so.
- 9.5. Termination of this Agreement is without prejudice to the rights of a party against any other party or parties that may have accrued up to the date of termination.

10. DISPUTE RESOLUTION

- 10.1. In the event that a dispute arises as to the interpretation, application and/or execution of this Agreement, including but not limited to any party's rights or obligations under the Agreement, an allegation of default and/or an allegation of material breach, the party that disputes another party's position or conduct shall immediately provide written notice of the dispute to all parties.
- 10.2. Where a notice of dispute is received in accordance with paragraph 10.1, the parties' Chief Administrative Officers shall attempt to resolve the dispute through negotiation for a period of thirty (30) days from the date on which the notice is delivered. The parties may extend the negotiation period if they agree that a reasonable extension is likely to resolve the dispute.
- 10.3. If a dispute cannot be resolved by the parties through negotiation, the parties shall refer the matter to arbitration by an arbitrator agreed on by the parties. The arbitrator shall direct the arbitration process and determine the dispute. The determination of the arbitrator is final and is binding upon the parties and their respective successors and permitted assigns.
- 10.4. Each party shall bear its own costs associated with the determination of disputes arising under this Agreement, including but not limited to legal costs and arbitration costs.

11. GENERAL

- 11.1. This Agreement constitutes the entire agreement between the parties relating to the matters set out herein. There are no representations, promises, covenants or other terms relating to the subject matter of this Agreement and this Agreement supersedes any prior discussions, understandings or agreements between the parties in relation to its subject matter.
- 11.2. The invalidity or unenforceability of any particular term of this Agreement shall not limit the validity or enforceability of the remaining terms, each of which is distinct and severable from all other terms of this Agreement.
- 11.3. Waiver by a party of any provision of this Agreement in one instance shall not constitute a waiver in any other instance and any such waiver must be made in writing.

- 11.4. Any delay or failure on the part of any party to exercise or enforce any right, power or remedy conferred by this Agreement shall not constitute a waiver of same and shall not operate as a bar to that party exercising or enforcing said right, power or remedy at any subsequent time.
- 11.5. No party shall be considered in default of its obligations under this Agreement to the extent that a delay or failure to perform those obligations is due to an event beyond the control of the parties, including but not limited to fires, floods, acts of God, strikes, riots, war or hostilities, terrorism, lawful acts of public authorities and other events that cannot be reasonably foreseen or provided against.
- 11.6. This Agreement shall enure to the benefit of, and be binding upon, the parties and their respective successors and permitted assigns; however, this Agreement and the parties' associated rights and obligations are not assignable by any party without the prior written consent of all other parties.
- 11.7. This Agreement shall be governed by and construed in accordance with the law of the Province of Ontario and laws of Canada applicable therein.
- 11.8. This Agreement may be signed in counterpart, each of which is an original and all of which together constitute a single document. Counterparts may be executed in original or electronic form and may be exchanged by way of mail or PDF file delivered by email or facsimile transmission.

IN WITNESS WHEREOF the parties have executed this Agreement by their authorized representatives and agree to be bound thereby as of the latest date set out below.

**THE CORPORATION OF THE TOWN OF
PELHAM**

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the Corporation.

Date: _____

THE CORPORATION OF THE TOWN OF GRIMSBY

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the Corporation.

Date: _____

THE CORPORATION OF THE TOWN OF LINCOLN

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the Corporation.

Date: _____

THE CORPORATION OF THE CITY OF NIAGARA FALLS

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the Corporation.

Date: _____

**THE CORPORATION OF THE TOWN OF
NIAGARA-ON-THE-LAKE**

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the Corporation.

Date: _____

**THE CORPORATION OF THE CITY OF PORT
COLBORNE**

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the Corporation.

Date: _____

**THE CORPORATION OF THE CITY OF ST.
CATHARINES**

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the Corporation.

Date: _____

**THE CORPORATION OF THE CITY OF
THOROLD**

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the Corporation.

Date: _____

**THE CORPORATION OF THE TOWNSHIP OF
WEST LINCOLN**

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the Corporation.

Date: _____

**THE CORPORATION OF THE TOWNSHIP OF
WAINFLEET**

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the Corporation.

Date: _____

The Corporation of the City of Port Colborne

By-law No. _____

Being a By-law to Authorize Entering into an Administrative Municipal Penalty System Shared Service Agreement with the Town of Pelham, The Town of Grimsby, the Town of Lincoln, the City of Niagara Falls, the Town of Niagara-on-the-Lake, the City of St. Catharines, the City of Thorold, the Township of Wainfleet, and the Township of West Lincoln.

Whereas at its meeting of February 22, 2022, the Council of The Corporation of the City of Port Colborne (Council) approved the recommendations of the Community Safety and Enforcement Department Report No. 2022-43, Subject: Administrative Municipal Penalty System (AMPS) Sharing of Hearing Officer revised; and

Whereas Council is desirous of entering into an Administrative Municipal Penalty System Shared Service Agreement with the, the Town of Pelham, The Town of Grimsby, the Town of Lincoln, the City of Niagara Falls, the Town of Niagara-on-the-Lake, the City of St. Catharines, the City of Thorold, the Township of Wainfleet, and the Township of West Lincoln for the Appeal Hearing Officer; and

Whereas the *Municipal Act*, 2001 S.O. 2001, c.25, as amended, confers broad authority on municipalities to enter into such agreements;

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

1. That The Corporation of the City of Port Colborne enters into an Administrative Municipal Penalty System Shared Service Agreement with the Town of Pelham, The Town of Grimsby, the Town of Lincoln, the City of Niagara Falls, the Town of Niagara-on-the-Lake, the City of St. Catharines, the City of Thorold, the Township of Wainfleet, and the Township of West Lincoln, for the Appeal Hearing Officer.
2. That the Mayor and City Clerk be and they are hereby authorized and directed to sign the said agreement, attached hereto as Schedule "A", together with any documents necessary to complete the conditions of the said agreement, and the City Clerk is hereby authorized to affix the Corporate Seal thereto.
3. That By-law 6963/01/22, Being a By-law to Authorize Entering into an Administrative Municipal Penalty System Shared Service Agreement with the Town of Pelham, The Town of Grimsby, the Town of Lincoln, the Town of Niagara-on-the-Lake, the City of St. Catharines, the City of Thorold, and the Township of Wainfleet, be repealed.

Enacted and passed this 22nd day of February 2022.

William C. Steele
Mayor

Amber LaPointe
City Clerk



Subject: COVID Update – February 2022

To: Council

From: Chief Administrative Office

Report Number: 2022-42

Meeting Date: February 22, 2022

Recommendation:

That Chief Administrative Office Report 2022-42 be received for information.

Purpose:

This CAO generated report is provided as a follow up to the COVID-19 pandemic update that was provided to City Council on January 25, 2022.

Background:

The City's Emergency Operations Centre (EOC) was activated in response to the COVID-19 pandemic on March 13, 2020, by bringing together the City's Emergency Control Group (ECG). The COVID-19 pandemic continues to affect the nation and the City continues to prepare, respond, and plan recovery from the impacts of the pandemic to the municipality. As described in a previous staff report, the City's response is based on four principles:

- Maintaining essential City services to the community throughout the emergency;
- Continuing to ensure the safety and security of the public and City staff;
- Ensuring the organization remains financially stable throughout COVID-19; and
- Continuing to remain consistent in the City's actions with the actions of other agencies.

In order to respond appropriately to the impacts of the pandemic and adhere to these principles, the City's response has been divided into three phases:

- First phase – initial response and precautions for users and staff
- Second phase – maintaining essential services
- Third phase – recovery and reopening

Recently, the City is in the third phase, recovery and reopening, as staff continued to execute plans that were developed for reopening the City's programs, services, and facilities. More recently, the City has moved back to the second phase – maintaining essential services – as the emergence of the Omicron variant and the associated increase in case numbers has required the City to institute further precautions designed to ensure that there are adequate numbers of City workers to maintain services to the community.

Discussion:

In the time since the last report to Council, there has been little in the way of changes to the operating environment for municipalities as it relates to the COVID pandemic.

The Province has a planned reopening framework that has milestones that are scheduled for February 21 and March 14. These measures include easing of restrictions that affect public gatherings and indoor capacity limits in certain private sector settings. There are some measures that impact City operations such as recreational activities, the City is fully compliant with Provincial regulations as they pertain to municipal operations.

The City is continuing to administer a recovery framework as it pertains to the workplace that governs precautions in place to prevent the spread of COVID among employees at work. It is expected that these precautions will continue to be eased as restrictions ease in the Province as a whole.

At this point, staff intend to cease providing a monthly COVID update to Council unless there are particular impacts on the City's operations. Management will continue to provide a weekly update to staff and Council via email.

Internal Consultations:

The City's Emergency Control Group continues to meet on a regular basis during the pandemic. From time to time, staff from other departments are present at these meetings to discuss reopening of City programs and amenities including recreation facilities and programming, cultural services, and access to City buildings.

Financial Implications:

While the pandemic has had financial impacts on the City in 2020 and 2021, there are no new financial impacts since the most recent report to Council. City staff project a

balanced budget for 2021, a financial report for the fiscal year ended on December 31, 2021, will be presented at a future Council meeting.

The 2022 Budget has been approved by Council and staff expect to end the year in a surplus position despite the continued financial impacts of the COVID pandemic.

Public Engagement:

The City continues to provide high-quality communication to the community by giving frequent updates of City initiatives and sharing information from other agencies such as the Federal government, the Provincial government, and the Region of Niagara and Niagara Region Public Health.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Service and Simplicity - Quality and Innovative Delivery of Customer Services
 - City-Wide Investments in Infrastructure and Recreational/Cultural Spaces
 - Value: Financial Management to Achieve Financial Sustainability
 - People: Supporting and Investing in Human Capital
-

Conclusion:

The City's Emergency Control Group continues to meet during the pandemic to make operational decisions for the City's programs and services in order to maintain essential operations within the community. Staff will continue to report to Council for the duration of the pandemic.

Respectfully submitted,

Scott Luey
Chief Administrative Officer
905-835-2900 ext. 306
Scott.Luey@portcolborne.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.



PORT COLBORNE

Memorandum

To: Members of City Council

From: Social Determinants of Health Advisory Committee – Everyone Matters

Date: February 3, 2022

Re: Recommendation re Early Learning and Child Care Plan

At the February 3, 2022 meeting of the Social Determinants of Health Advisory Committee – Everyone Matters, the following motion was passed:

Moved by L. Kleinsmith

Seconded by B. Steele

That the Social Determinants of Health Advisory Committee – Everyone Matters requests the Port Colborne City Council send a letter to the province asking them to support the Early Learning and Child Care Plan whereby the province would enter into an agreement with the federal government to implement this plan and that the letter be circulated to all Niagara municipalities for support.

CARRIED.

From: Cannabis (HC/SC) <cannabis@hc-sc.gc.ca>
Sent: February 9, 2022 3:28 PM
To: Charlotte Madden <charlotte.madden@portcolborne.ca>
Subject: Health Canada's response to your enquiry: 21-004075-10

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

To Charlotte Madden:

I am writing in response to your correspondence of April 26, 2021, to the Honourable Patty Hajdu, former Minister of Health, concerning the City of Port Colborne's resolution regarding cannabis production sites. I have been asked to reply to you directly. I apologize for the delay in responding.

Thank you for sharing the City of Port Colborne's concerns. I would like to take this opportunity to provide you with some information that may be helpful.

The [Cannabis Act](#) and the [Cannabis Regulations](#) create a strict framework for controlling the production, distribution, sale, and possession of cannabis in Canada.

The attached fact sheet provides some general information about the different forms of cannabis production and may be helpful in understanding the existing legal regime for cannabis production in Canada.

It is important to note that there are differences between the regulatory requirements for the different types of cannabis production authorized by the Cannabis Act and its regulations. For example, commercial cannabis licence applicants (cultivation, processing or sale for medical purposes) must provide a written notice to local authorities – including local government, law enforcement and fire authorities – prior to applying to Health Canada. The notification provision is designed to alert local authorities to the intentions of the applicant, and give them time to apply local by-laws, fire codes, zoning restrictions, and other rules.

Regarding the personal or designated production of cannabis for medical purposes, a similar requirement to notify local government is not required, as this would force a registrant to disclose personal medical information. Similarly, for privacy reasons, Health Canada cannot share information on individuals who access cannabis for medical purposes with municipalities. However, the Department has the authority to disclose this information to law enforcement agencies upon request and in the course of an active investigation. For this reason, Health Canada actively supports law enforcement representatives by providing a dedicated service 24 hours a day and seven days a week to provide this information to assist investigations.

All persons authorized to produce cannabis for medical purposes are only authorized to produce and possess cannabis for their own medical purposes (or for the individual that

they are designated to produce for) and **it is illegal for them to distribute or sell cannabis to anyone else**. The distribution and sale of illegal cannabis is illegal under the Cannabis Act and subject to law enforcement.

As noted in the fact sheet, Health Canada has made it easier for individuals to report a complaint about cannabis, including concerns with cannabis production sites. For future reference, individuals are encouraged to use the [Cannabis Reporting Form](#) available on the Department's website to report concerns, which also helps us review and address concerns in a timely manner.

Municipalities, provinces and territories that gather information regarding individuals or businesses that are operating outside the [Cannabis Act](#) and its regulations are encouraged to submit this information through the cannabis reporting form. All information provided to Health Canada is reviewed and can assist in the decision process for granting or denying a registration or licence as well as in compliance and enforcement actions for registered/licensed locations.

Health Canada's Role

As you may be aware, successive court decisions have established the right of individuals to have reasonable access to cannabis for medical purposes and have emphasized repeatedly that the government may only restrict an individual's access when such action is justified and consistent with the objective of protecting public health and safety. In response to these court decisions, a legal framework was established under the Cannabis Regulations, which Health Canada administers. It allows individuals with a signed medical document from their health care practitioner to access or grow a limited amount of cannabis for medical purposes.

Health Canada takes all complaints seriously and the Department is prepared to act on any evidence received that individuals who are registered to grow a limited amount of cannabis for medical purposes are not respecting the terms and conditions of their registration or the regulatory requirements. If warranted, after further investigation, Health Canada would take appropriate action to correct any potential non-compliance with the Cannabis Regulations.

The Department uses the powers under the Cannabis Regulations – where there is sufficient evidence – to refuse or revoke a registration where public health or public safety issues exist, including the risk of cannabis being diverted to an illicit market. Evidence shared with Health Canada by law enforcement as a result of charges laid following a law enforcement investigation may be helpful. From the coming-into-force of the Cannabis Act, in October 2018, up until December 2021, Health Canada has refused to issue a registration 416 times and has revoked 148 registrations.

As in any regulatory framework, there will be instances where individuals choose to operate outside of the law. Anyone who suspects activity that may violate a law or a by-law, including the Cannabis Act and Criminal Code, should immediately contact their

local law, or municipal by-law, enforcement authority. As noted above, Health Canada actively supports law enforcement representatives by providing a dedicated service 24 hours a day and seven days a week to confirm, when necessary, that specific individuals are authorized to possess or produce a limited amount of cannabis for medical purposes and by providing information, where appropriate to law enforcement and other authorities to assist with active investigations.

In addition to actions outlined above, Health Canada continues to take additional actions to strengthen its oversight and reduce the risk of abuse, using authorities under the Cannabis Regulations, by:

- conducting additional verifications when warranted (e.g., contacting the health care practitioner to confirm the validity of the medical document and to confirm the daily dosage amount; the verification of applications with multi-unit alternate production sites (i.e., not a primary residence);
- refusing or revoking a registration, if it is determined that an applicant has submitted false or misleading information as part of their application, such as a forged medical document;
- proactively sharing information on Health Canada's [website](#) and with provincial and territorial medical licensing bodies (e.g., College of Physicians and Surgeons of Ontario, Collège des médecins du Québec) about the authorizing practices of health care practitioners in their jurisdiction, to inform any action they decide to take, such as investigations;
- enhancing engagements and collaboration with important stakeholders, such as law enforcement and municipalities on the overall medical access regime;
- verifying that there are no more than four registrations at any given production site – the maximum allowed in the regulations – to reduce the risk of large-scale production sites; and,
- conducting inspections of personal registration sites to further verify compliance with the regulations.

Provincial, territorial and municipal roles

It is important to note that different levels of government and law enforcement have roles in maintaining public safety with respect to cannabis. It is the responsibility of municipalities to enforce their by-laws with respect to cannabis production, and law enforcement has the authority to take action against illegal cannabis activity under the Cannabis Act and against those who operate outside of the legal framework.

Health Canada encourages all provinces, territories, and municipalities to use the tools at their disposal to confirm that individuals meet all standards and by-laws. This includes implementing any limitations on zoning, location and nuisances such as noise and lighting that they feel are appropriate in their jurisdictions. Municipalities could require building permits and inspections of electrical work at personal production sites. Please note that it is outside of Health Canada's jurisdiction to enforce provincial or municipal legislation.

Thank you for writing. I hope that my comments are helpful in addressing your concerns.

Should you have any further questions, you may contact the Controlled Substances and Cannabis Branch directly at cannabis@hc-sc.gc.ca, or toll-free at 1-866-337-7705.

Joanne Garrah
Director General
Licensing and Medical Access Directorate
Controlled Substances and Cannabis Branch
Health Canada

COMMERCIAL AND PERSONAL PRODUCTION OF CANNABIS

The *Cannabis Act* and its regulations control the production, distribution, sale, and possession of cannabis in Canada. The following forms of cannabis production are authorized under the Act:

- Commercial cannabis production, which includes a federal licence to cultivate, process and sell cannabis to either the provincial and territorial retail markets, or directly to individuals authorized by their health care practitioner to use cannabis for medical purposes
- Individuals who are authorized to use cannabis for medical purposes by their health care practitioner can register with Health Canada to produce (or have someone produce on their behalf) a limited amount of cannabis for their own medical purposes
- Adults who are 18 years or older can grow up to 4 cannabis plants per residence for personal use from plants and seeds obtained from legal sources

Please see below for information on the first two types of production.

Commercial Cannabis Production

Health Canada issues licences to allow the commercial cultivation, processing and sale of cannabis.

There are stringent controls on the commercial production and sale of cannabis. Before a licence is issued, an application is subject to a rigorous review process, including an assessment of:

- The physical security measures at the site;
- How the applicant will keep records of their activities with cannabis, such as records for tracking sales, product returns and product inventory;
- The processes that will be used for the building and the equipment to help ensure that cannabis meets [quality standards](#) appropriate to its intended use; and
- The security profile of key personnel.

Before submitting an application to Health Canada, an applicant must provide written notice to the local authorities (local government, fire authority and police). This notification alerts local authorities to the intentions of the applicant and provides municipalities with the opportunity to verify compliance with local by-laws, fire codes, and other rules.



The notices must include the following:

- Date each notice was sent or provided;
- Name, title and address of senior official;
- Name of applicant;
- Expected date on which the applicant will submit application to Health Canada;
- The class and subclass of the licence being sought;
- The cannabis related activities that are expected to be conducted; and
- The site address.

In order for Health Canada to review a licence application, the Department requires evidence from the applicant that their site includes a fully built facility that meets the regulatory requirements.

Prior to obtaining a licence under the *Cannabis Act*, applicants intending to cultivate cannabis indoors must also demonstrate to Health Canada that they have an air filtration system to prevent the escape of odours.

Once the licence is issued, Health Canada has a range of compliance and enforcement tools to verify compliance with the *Cannabis Regulations*, including regular inspections. These inspections are conducted to ensure that cannabis is produced, sold, and distributed in accordance with the *Cannabis Regulations*.

A licence holder also has an obligation to comply with all applicable provincial/territorial and municipal laws. It is outside of Health Canada's jurisdiction to enforce provincial or municipal legislation. If there are concerns that a licence holder is in contravention of provincial or municipal legislation, then the appropriate level of government should be contacted.

A list of federally licensed production facilities is available on the [Licensed cultivators, processors and sellers of cannabis under the Cannabis Act](#) page of Health Canada's website.

Cannabis for Medical Purposes

Successive court decisions established the right of individuals to have reasonable access to cannabis for medical purposes.

In response to these court decisions, a legal framework was established that gives Canadians three ways to access cannabis for medical purposes, with the authorization of their health care practitioner:

1. purchase quality-controlled cannabis from a wide variety of federally licensed sellers inspected by Health Canada;
2. produce a limited amount of cannabis for their own medical purposes; or
3. designate someone to produce it for them.

Individuals who use cannabis for medical purposes can also purchase the same cannabis products without an authorization from provincial and territorial cannabis retailers.

Differences between medical and non-medical cannabis

There is no difference between cannabis products that can be purchased for medical or non-medical purposes. All legal cannabis products are produced by federally licensed cannabis processors. The difference between the two lies in how they can be obtained.

While non-medical customers can only purchase cannabis through provincially or territorially authorized retailers (including online stores), individuals with the authorization of their health care practitioner can also register with holders of a sales for medical purposes licence to purchase products directly and have them delivered by mail or courier.

Cannabis products available produced by federally licensed cannabis processors or sold for medical purposes have not been subject to a comprehensive review of safety, efficacy or quality and are not approved therapeutic substances.

To obtain authorization to market drugs with health claims in Canada, drug manufacturers must submit evidence, which includes information on the effectiveness, dosage, route of administration contraindications, side effects, and quality of a drug. If Health Canada concludes that the overall benefits of the drug outweigh its risks, the product will be authorized for sale in Canada and a Drug Identification Number (DIN) will be assigned and subsequently be authorized for sale as an approved therapeutic substance.

Authorization from a Healthcare Practitioner

Individuals must first obtain written authorization from their health care practitioner to apply to Health Canada to produce a limited amount of cannabis for their medical purpose. Health Canada does not play a role in determining whether cannabis is appropriate for a patient. A health care practitioner will make this decision through a discussion with their patient and will indicate the daily amount. The number of plants that an individual is permitted to grow is based on a formula that takes into account both the individual's daily dose and the average yield of a plant under certain growing conditions.

The regulation of health care practitioners and the practice of medicine is the responsibility of provinces and territories, professional colleges or law enforcement, as applicable. Any questions about the conduct of health care practitioners, including nurse practitioners, should be addressed to provincial or territorial professional colleges, which regulate the practice of medicine and nursing.

A number of the provincial and territorial regulatory bodies have developed guidance for their members on authorizing cannabis for medical purposes. In addition, the College of Family

Physicians of Canada (CFPC) has published a guide entitled [Authorizing Dried Cannabis \(Medical Marijuana\) for Chronic Pain or Anxiety: Preliminary Guidance](#).

Health Canada has published a document entitled [Information for Health Care Professionals: Cannabis \(marihuana, marijuana\) and the cannabinoids](#) to help patients and health care practitioners make informed decisions about the benefits and risks of using cannabis for medical purposes, including information on dosage amounts.

Cannabis research is fundamental to understanding the health and safety effects of cannabis use. The Government of Canada and the Canadian Institutes of Health Research are investing in this research, and the results are being shared with national and provincial medical regulatory authorities to help support health care practitioners in their decision-making with respect to cannabis for medical purposes.

Personal and designated production of cannabis for medical purposes

Health Canada reviews all applications to ensure that the regulatory requirements are met, before a registration certificate is issued. The information in an application includes:

- an original medical document which indicates the daily amount of cannabis authorized by a health care practitioner;
- the patient's name and date of birth;
- the residential, production and storage site addresses;
- an indication as to whether the cannabis production will take place indoors or outdoors (i.e., in the case of outdoor production, the proposed site must not be adjacent to a school, playground, daycare or other public space frequented mainly by persons under the age of 18);
- signed declarations that the individual (and, if applicable, the designated producer) will take all necessary measures to ensure the security of cannabis;
- property owner's consent, if production takes place at location other than the individual's ordinary place of residence; and
- confirmation that they have not been convicted of certain relevant offences in the last 10 years.

If these regulatory requirements are not met, Health Canada must refuse to issue a registration. Health Canada may also refuse to issue a registration where the registration is likely to create a risk to public health or public safety.

The number of plants any person may be authorized to grow for their own medical purposes is determined by a formula that takes into account both the daily amount (i.e. dose) of cannabis authorized by the health care practitioner, and the average yield of a plant under normal growing conditions. No person is permitted to grow in excess of the number of plants specified by Health Canada on their registration document.

It is important to note that:

- A registration certificate is valid for a maximum of one year.
- All persons authorized to produce a limited amount of cannabis for medical purposes must abide by the law and operate at all times within the limits set out in their registration.
- Individuals are only authorized to produce and possess cannabis for their own medical purposes (or for the individual they are designated to produce for), and it is illegal for them to sell the cannabis they have produced to anyone else.
- Individuals who do not comply with their registration requirements—or any other relevant legislation—may be subject to compliance and enforcement measures, including referral to law enforcement.
- Individuals are required to comply with all relevant provincial/territorial and municipal laws, including local by-laws about zoning, electrical and fire safety, as well as all related inspection and remediation requirements.

Health Canada has published recommended safety and security considerations for individuals who are producing cannabis for their own medical purposes. The [Information bulletin: safety and security considerations when producing cannabis for your own medical purposes](#) includes information related to production, storage and disposal of cannabis to reduce the risks to health and safety.

Provincial/territorial and local laws and other requirements

Health Canada encourages all provinces/territories and municipalities to use the tools at their disposal to ensure that individuals meet all standards and bylaws, including local by-laws about zoning, noise, and odour. Municipalities could, for example, require building permits and inspections of electrical work in production sites.

Municipalities may also want to refer to the [Municipal Guide to Cannabis Legalization](#) developed by the Federation of Canadian Municipalities, which provides guidance in areas such as odour and other nuisances.

Complaints Related to Cannabis

Complaints or concerns regarding a cannabis site, product, service, accessory, promotion, or other aspects of laws and regulations can be reported to Health Canada using the on-line [Cannabis Reporting Form](#).

When Health Canada receives a complaint regarding an individual registered to grow cannabis for medical purposes, it reviews the complaint to determine if there have been breaches of regulatory requirements.

If non-compliance with the regulations is found, Health Canada has a range of enforcement tools at its disposal, from sending a compliance letter with a reminder of their legal obligations up to and including sending them a notice of intent to cancel their registration.



Illegal Activities with Cannabis

As in any regulatory framework, there will be instances where individuals choose to operate outside of the law. If you suspect that an individual is violating a law, including the *Cannabis Act* and the *Criminal Code*, you should contact your local law or municipal by-law enforcement authority. In the context of an investigation, law enforcement has the ability to enter residences and any production sites. Registered and designated persons should be prepared to show a copy of their Health Canada issued documentation to law enforcement, if requested.

Health Canada supports law enforcement representatives by providing a dedicated service 24 hours a day and seven days a week to confirm the amount of cannabis that specific individuals under investigation are authorized to possess or produce for medical purposes.

In addition, if Health Canada confirms that there is not a registration for personal or designated production at an address provided to the Department, Health Canada will share this information with local law enforcement.

February 7, 2022

DISTRIBUTION LIST

SENT ELECTRONICALLY

20th Annual T. Roy Adams Humanitarian of the Year Award

We are pleased to announce the twentieth year of the T. Roy Adams Humanitarian of the Year Award. The award honours the memory of the late Regional Councillor T. Roy Adams and is presented annually to a current resident of Niagara who best exemplifies his values and dedication to community service; a person who sees volunteerism as an integral part of their life.

Attached is a Nomination Package that includes the eligibility criteria and nomination procedures. Please circulate this to your Municipal Councillors and encourage them to share this information with their colleagues and constituents. The Nomination Package was distributed to Regional Councillors, and has been posted on Niagara Region's website. We request that you place the enclosed award information sheet on your municipal website with a link to www.niagararegion.ca. The deadline for nominations is March 31, 2022, with the presentation of the award to take place at Regional Council in July 2022.

The Nomination Package will also be circulated to volunteer groups via a broadcast e-mail from INCommunities. Any questions or comments should be directed to Kelly Lotimer at 905-980-6000, ext. 3222.

Thank you for your assistance.

Sincerely,



Ann-Marie Norio

Regional Clerk

:js

Enc.

CLK-C 2022-028

T. ROY ADAMS HUMANITARIAN OF THE YEAR AWARD

T. Roy Adams was an eminent Niagaran, well known throughout the Region, Canada, and abroad for his service to God, his country and his fellow citizens.

In 2003, in memory of the late Councillor T. Roy Adams, Niagara Region initiated a memorial award in his name to honour a resident of Niagara who best exemplifies Roy's values and dedication to community service; a person who sees volunteerism as an integral part of their life.

Eligibility Guideline:

- a current resident of Niagara
- evidence that the spirit of volunteerism and community service plays an integral part of the individual's life
- a person whose community service has involved the citizens of Niagara

Nomination Process:

A nominee for the T. Roy Adams Humanitarian Award may be sponsored by:

- an organization, or
- two individuals – a sponsor and one co-sponsor not related to the nominee

The nomination must include the following information:

- the completed Nomination Form
- a detailed description, approximately two pages in length, that highlights the nominee's lifetime of community service and volunteerism (see Evaluation Matrix for criteria)
- an explanation as to why the sponsors feel the nominee deserves to be recognized with this award
- in addition, letters of support may be included

Nominees are eligible for the year in which they are nominated. Active politicians and active regional staff are not eligible. Candidates **will not** be considered posthumously.

Selection Process

A Committee comprised of Regional Councillors, Regional Staff and one member of the community will review the nominations and select the recipient. (see Evaluation Matrix)

The award will be presented at the Regional Council meeting in July. The recipient's name will also be engraved on the commemorative plaque which is displayed in the lobby of the Regional Headquarters Building.

Nomination Form

Nominations can be submitted by e-mail to kelly.lotimer@niagararegion.ca, online at www.niagararegion.ca or mailed to: Regional Clerk, Niagara Region, 1815 Sir Isaac Brock Way, Thorold, Ontario L2V 4T7

Deadline for submitting nominations is March 31, 2022.

More Information or a Nomination Package:

Contact Kelly Lotimer at (905) 980-6000, ext. 3222.

T. Roy Adams Biography



Thomas 'Roy' Adams was born and raised in St. Catharines, the second eldest of 10 children (seven boys and three girls). Born to parents who encouraged their children to serve the Lord, Roy committed his life to service through the Salvation Army. He served as a leader of the youth (Sunday School Teacher, Young People's Sergeant Major, Young People's Band Leader, and Chairman of the Group Committee of the Boy Scouts) and through adult ministries (Songster Leader and Deputy Bandmaster). When not in active leadership, his steady participation in the music ministries exemplified the faithfulness of his purpose.

Roy enlisted in the Lincoln and Welland Regiment in June 1940, served overseas and was honourably discharged in 1945. He remained a member of the Regimental Association, and was Director for 3 years, and President until his death. He also was a member of the Royal Canadian Legion, and enjoyed planning, organizing and arranging charter flights to Holland, as well as annual reunions, for many years.

Roy was employed by Foster Wheeler for more than 20 years in various capacities, including personnel supervisor. In 1972 he joined ARC Industries as workshop director and was then appointed Executive Director of the St. Catharines Association for the Mentally Retarded. He was elected Mayor of the City of St. Catharines in 1976 and served in that capacity for 9 years, and served on Regional Council from 1988 until 2002. During Roy's terms on Regional Council, he was a member of several standing committees, served as Chair of the Community and Health Services Committee for many years, and Chair of the Police Services Board.

Roy was actively involved in many organizations including: the Association of Municipalities of Ontario; the St. Catharines General Hospital Board of Governors; the Niagara District Health Council, Executive Committee; the Niagara Rehabilitation Centre; the St. Catharines Hydro Electric Commission; the St. Catharines South Rotary Club; the Christian Business Men, St. Catharines; President, Canadian Bible Society, St. Catharines; President, Probus Club, St. Catharines and District; Christian Connections; the Lincoln and Welland Regiment Band; the Thorold Reed Band; the Niagara Falls Concert Band; the Port Colborne Band; the Clown Band/Hungry Seven; and the Bandmaster/Director of Holland's Glorie Band.

Roy believed that "every person matters", and had a sincere interest in people, particularly those less fortunate, whether because of disability or misfortune. He was a man respected for his service and dedication to the people of St. Catharines, Niagara Region, and the country.



T. ROY ADAMS HUMANITARIAN OF THE YEAR AWARD 2022 NOMINATION FORM

NOMINEE

Surname: _____ Given Name(s): _____

Phone: _____

Address: _____

SPONSORS

A nominee for the T. Roy Adams Humanitarian of the Year Award may be sponsored by an organization, OR two individuals - a sponsor and a co-sponsor, not related to the nominee. Nominees are eligible for the year in which they are nominated.

ORGANIZATION: _____

Corporate Address: _____

Contact Person: Surname: _____ Given Name: _____

E-mail: _____ Phone: _____

INDIVIDUALS

Sponsor (Contact Person): Surname: _____ Given Name: _____

Address: _____

E-mail: _____ Phone: _____

Co-Sponsor: Surname: _____ Given Name: _____

Address: _____

E-mail: _____ Phone: _____

The nomination must include the following information:

- the completed Nomination Form
- a detailed description, approximately two pages in length, that highlights the nominee's lifetime of community service and volunteerism (see Evaluation Matrix for criteria)
- an explanation as to why the sponsors feel the nominee deserves to be recognized with this award
- in addition, letters of support may be included

All nominations will be kept confidential
The deadline for nominations is March 31, 2022

This information is collected in accordance with the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA) for the purpose of administering the T. Roy Adams Humanitarian of the Year Award. Any questions relating to the collection of personal information may be directed to the Privacy Office, at (905) 980-6000, ext. 3779.

T. ROY ADAMS HUMANITARIAN OF THE YEAR AWARD

EVALUATION MATRIX

Comparative Candidate Evaluation Criteria	Explanation of Criteria	Weight (%)
	The humanitarian service(s) should be considered in the following context:	
Quality of the 'humanitarian' service	Is it truly humanitarian?	20
Scope of Humanitarian Impact	Who does it affect?	16
Personal commitment/ sacrifice (time, cost)	What is the degree of sacrifice/commitment (e.g. time commitment)?	16
Need for the community service	What is the community demand?	14
New, unique initiative/idea	Is it a common/ubiquitous community service?	12
Niagara benefit	Is it region-wide or strictly local?	10
Extent of volunteer/professional capacity	Is it an extension of the nominee's current job (remuneration)?	8
References	What is the relative quality & content of submission through additional support information?	4
Total Weighted Scores:		100



RE: Gypsy Moth Spraying

JANUARY 19, 2022

At its meeting of January 17, 2022, the Council of the Township of Limerick passed a motion in regard to the Gypsy Moth Concentration and Control Measures;

“WHEREAS the Gypsy Moth defoliation in Limerick Township has caused significant damage, with Limerick Township reportedly having the highest concentration of Gypsy moths in Hastings County due to the Rural nature of the Township; and

WHEREAS the reported responses from the public do not present an accurate picture of the devastation as the geographical area is quite large in relation to the low population of Limerick Township;

NOW THEREFORE, BE IT RESOLVED that Council of the Township of Limerick request that the County of Hastings consider the impact of the Gypsy Moth Caterpillars on the rural communities across Ontario, not only through online reporting but also taking into consideration the land mass associated with each municipality. For example, one property owner recently purchased 27,000 acres of land, but was only able to submit 1 report for the entire property.

BE IT FURTHER RESOLVED that the population of seasonal residents not reporting in the area during the off season also be taken into consideration, as there is potential that they are unaware of the reporting process.

BE IT FURTHER RESOLVED that the County of Hastings take the necessary steps to accurately interpret the devastation of the Gypsy Moth Caterpillar by way of geographical consideration along with the online reporting method to ensure accurate and beneficial spraying to combat this problem is undertaken.”

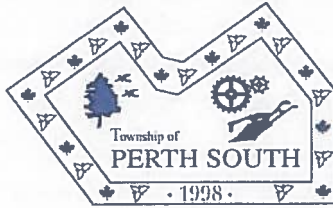
Please reach out to the Township Clerk with any additional questions at 613-474-2863.

Sincerely,

Victoria Tisdale

Victoria Tisdale, Clerk Treasurer
clerk@township.limerick.on.ca
Telephone: 613-474-2863
Fax: 613-474-0478

Nicole Ilcio, Deputy Clerk Treasurer
assistant@township.limerick.on.ca
Telephone: 613-474-2863
Fax: 613-474-0478



Corporation of the Township of Perth South

3191 Road 122
St. Pauls, ON N0K 1V0
Telephone 519-271-0619
Fax 519-271-0647
lscott@perthsouth.ca

February 9, 2022

The Right Honourable Justin Trudeau
Prime Minister of Canada
House of Commons
80 Wellington Street
Ottawa, ON K1A 0A2

The Honourable Doug Ford
Premier of Ontario
Legislative Building
Queen's Park
Toronto, ON M7A 1A1

Re: "Catch and Release" Justice

At the regular meeting of the Township of Perth South Council held on February 1, 2022 the following resolution was passed:

That Council accepts the Community Policing Advisory Committee recommendation that they support the City of Sarnia resolution regarding Catch and Release Justice with the inclusion of the recommendations provided by the Stratford Police Services in their report dated January 19, 2022.

I have attached the letter received from the City of Sarnia as well as the report from the Stratford Police Services for your information.

Your consideration of this matter is respectfully requested.

Regards,


Lizet Scott
Clerk

Cc: Randy Pettapiece, MPP Perth-Wellington
John Nater, MP Perth-Wellington
All Ontario Municipalities



**THE CORPORATION OF THE CITY OF SARNIA
City Clerk's Department**

255 Christina Street N. PO Box 3018
Sarnia ON Canada N7T 7N2
519-332-0330 (phone) 519-332-3995 (fax)
519-332-2664 (TTY)
www.sarnia.ca clerks@sarnia.ca

December 16, 2021

The Right Honourable Justin Trudeau
Prime Minister of Canada
House of Commons
80 Wellington Street
Ottawa, ON K1A 0A2

The Honourable Doug Ford
Premier of Ontario
Legislative Building
Queen's Park
Toronto, ON M7A 1A1

RE: "Catch and Release" Justice

At its meeting held on December 13, 2021, Sarnia City Council adopted the following resolution with respect to "Catch and Release Justice":

That the City of Sarnia send a letter to the Federal and Provincial Governments requesting meaningful improvements to the current state of "catch and release" justice in the Ontario legal system. Police Services across Ontario are exhausting precious time and resources having to manage the repeated arrests of the same offenders, which in turn, is impacting their morale, and ultimately law abiding citizens who are paying the often significant financial and emotional toll of this broken system. This resolution should also be sent to other Municipalities throughout Ontario for their endorsement consideration; and

That the request also be referred to the Sarnia Police Services Board and be presented via AMO delegations for endorsement consideration.

Your consideration of this matter is respectfully requested.

Yours sincerely,

Amy Burkhart
City Clerk

Cc: Bob Bailey, MPP
Marylyn Gladu, MP
All Ontario Municipalities



CHIEF OF POLICE REPORT

DATE: 19 January 2022
TO: Stratford Police Services Board
FROM: Deputy Chief Gerry Foster
RE: "Catch and Release Justice"

BACKGROUND

Council for the City of Sarnia has passed a resolution on December 13, 2021, requesting the Federal and Provincial governments consider making meaningful improvements to the release of offenders. The so-called "Catch and Release Justice" refers to the release of offenders by the courts whereby the offender is re-arrested by police for breaches of the release conditions.

The resolution indicates this approach has a negative impact on police workload, officer morale, and potentially law-abiding citizens.

Locally, council has asked that the matter be discussed at the Police Service Board level and that *"a review of "catch and release justice" in the City of Stratford be referred to the Stratford Police Services Board to outline current challenges."*

Further, council is requesting a resolution with recommended changes be brought back to council for January 24, 2022.

ANALYSIS

On its surface "Catch and Release Justice" is a reference to the increase in offenders being released after being arrested. This term mostly refers to release by the courts although police officers (Officer in Charge) have release authorities similar to that of the court.

In response to the request of council, a review of charges laid for these instances was completed. Approximately 60 more charges were laid in 2021 in comparison to the average of charges from 2018 to 2020. In reviewing the data this increase would represent an approximate 43% increase

Community-Partnerships-Service

To Serve and Protect in Partnership with Our Community

in breach of release condition charges being laid by members of the service. I would caution that the data, while it does show an increase from 2018-2021, could also be indicative of the COVID pandemic whereby the courts (and police) were actively exploring opportunities to keep offenders out of custody, where possible. The result was that more offenders were released on conditions where re-offending in the community could have occurred. Likewise, the stressful nature of the pandemic should not be discounted as a contributing factor on this data.

RECOMMENDATIONS/COMMENTS

- The Stratford Police Service has experienced an increase in repeat offenders being released into the community only to re-offend.
- The impact of the pandemic on the police, justice and corrections system has been challenging to navigate
- More and more offenders are being released into the community on judicial release conditions that are continually breached leading to more arrests, charges, and court appearances.
- The community is frustrated with the lack of accountability on offenders and feel that their safety is being jeopardized.
- Police officers are resorting to “Officer in Charge” releases when offenders should be going to the courts for judicial releases because of workload.
- The court dockets will most likely be cleared of low-level offences resulting in no accountability for offenders
- Victims are feeling re-victimized by the system and losing faith/trust in the system.

Community-Partnerships-Service

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For Council consideration:

That that City of Stratford endorse the Sarnia Catch and Release Justice resolution and add the following:

- The Federal and Provincial Governments recognize the linkage between mental health, addiction, homelessness, and crime.
- That all levels of government acknowledge that catch and release justice contributes to feelings of vulnerability within our communities and increases the cost of policing, social services, and health care in our communities.
- That all levels of government provide continued financial support to enhance funding in communities for Mobile Crisis Rapid Response Teams, Overdose Response Teams, Community Outreach Teams, Emergency Shelter facilities, Education and Awareness Programs, diversion programs, etc. under the umbrella of Community Safety and Well Being.
- That the Federal and Provincial Governments re-imagine a direct accountability framework specific to charges relating to failure to comply with release conditions.
- That consideration be given to provided holistic support to chronic re-offenders experiencing mental health, addiction, and homelessness issues with a multi-disciplinary team under one roof

Yours,

Gerry Foster
Deputy Chief of Police

Community-Partnerships-Service

Niagara Regional Police Service

City of Port Colborne

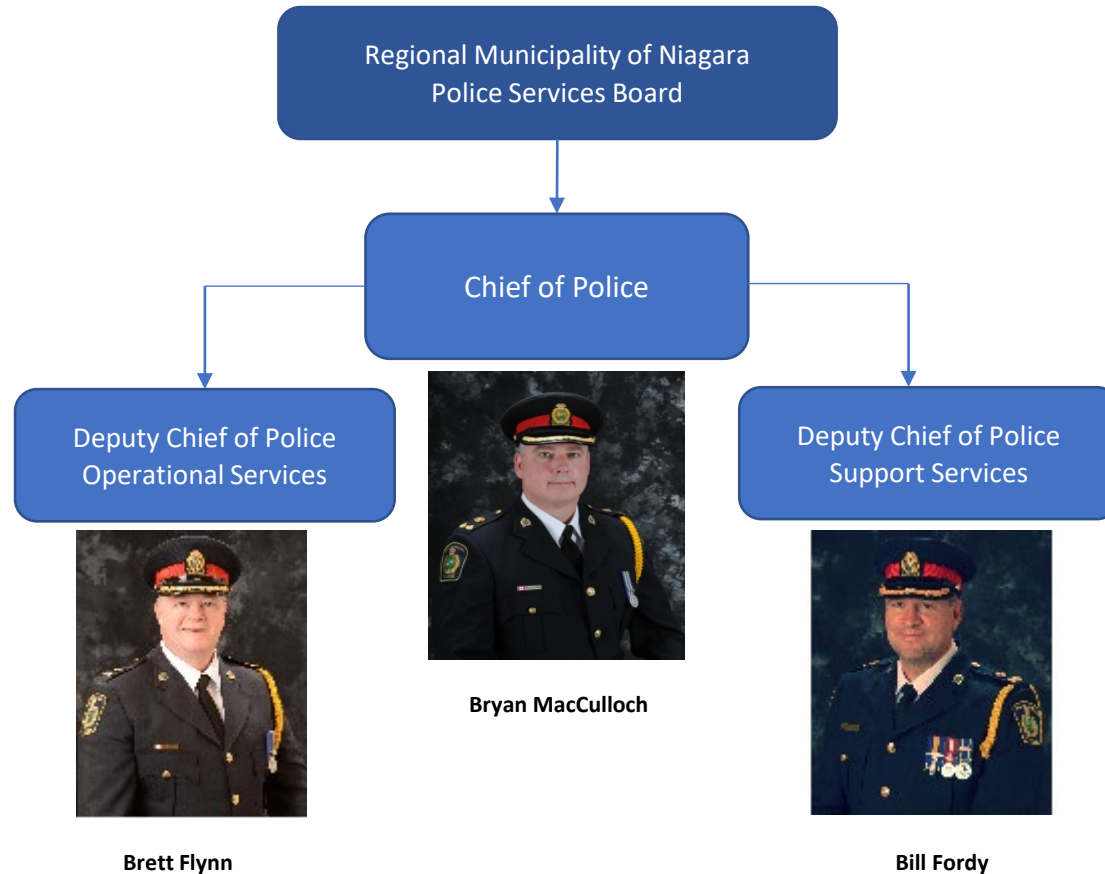
Tuesday February 22, 2022

NRPS – Mission Statement

The Niagara Regional Police Service is dedicated to serving and protecting residents and visitors within the Regional Municipality of Niagara.

In partnership with the community, we shall provide quality policing services with integrity, diligence, and sensitivity.

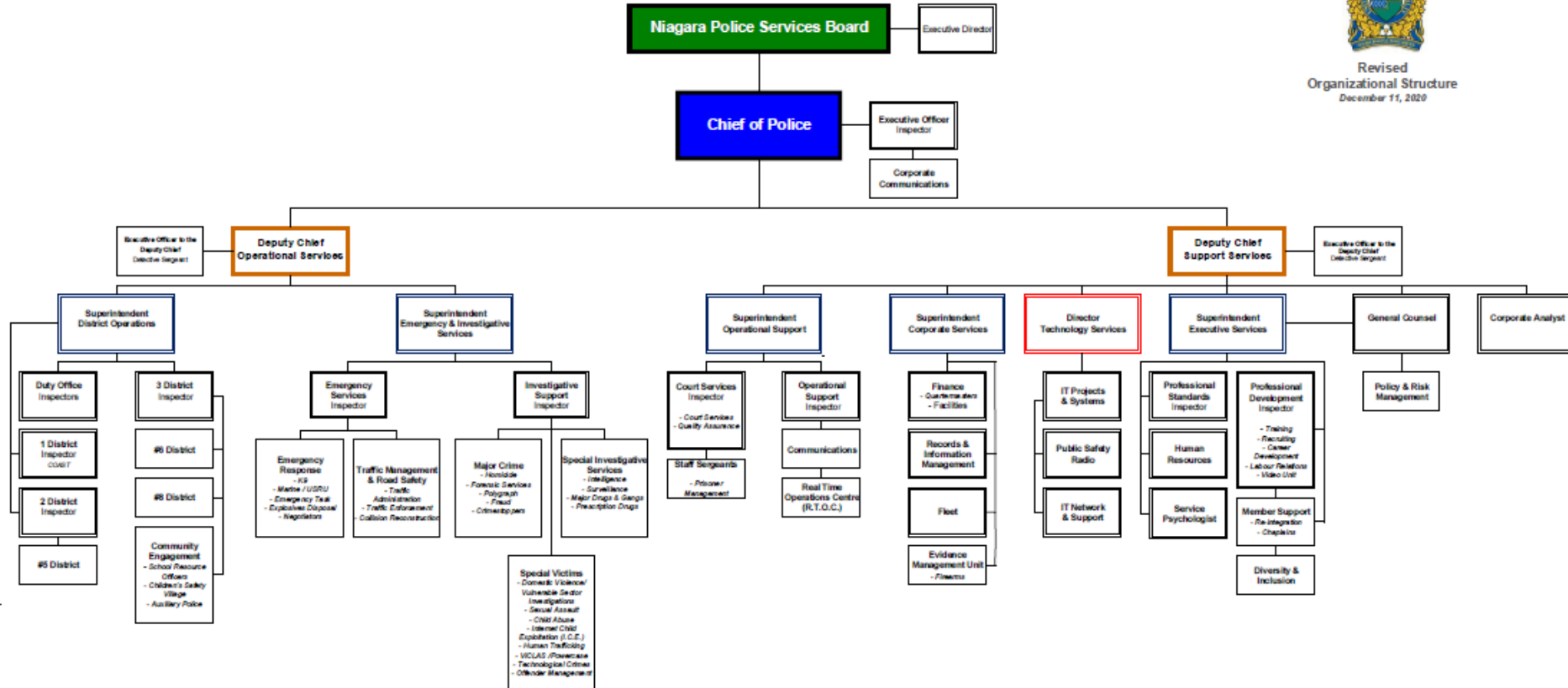
Current Organizational Structure- Command Staff



Current Organizational Structure



Revised
Organizational Structure
December 11, 2020



NRPS Staffing Levels

Chief	1	Civilian Director	1
Deputy Chief	2	Civilian Manager	12
Superintendent	5	Civilian Personnel	313
Inspector	14		
Staff Sergeant	31		
Sergeant	109		
Constable	599		
Recruits in Training	13		
Total Uniform	774	Total Civilian	326

As of January 1, 2022

Police Programs in Niagara

Chief's Office

Chief's Office – Corporate Administration

- Deputy Chief Operations
- Deputy Chief Support Services

Executive Services

- Human Resources
- Labour Relations and Career Development
- Training
- Recruiting
- Equity, Diversity, and Inclusion Unit
- Member Support Unit, Corporate Psychologist
- Professional Standards
- Policy & Risk Management
- Video Unit
- District Crime Analysts
- Mobile Crisis Response Team

District Operations

Duty Office

- 1 District – St. Catharines
- 2 District – Niagara Falls
- 3 District – Welland
- 5 District – Fort Erie
- 6 District – Port Colborne
- 8 District – Grimsby

Emergency Services

- Canine
- Marine
- Underwater Search & Recovery Unit
- Explosives Disposal Unit
- Emergency Task Unit
- V.I.P Operations
- Crisis Negotiators
- Traffic Enforcement Unit
- Traffic Reconstruction Unit

Investigative Services

- Special Investigative Services
- Biker Enforcement Unit
- Mobile Surveillance Unit
- Guns and Gangs Unit
- Homicide / Cold Case Unit
- Forensic Services
- Central Fraud
- Polygraph
- CrimeStoppers
- Domestic Violence
- Sexual Assault Unit
- Human Trafficking Unit
- Child Abuse/Internet Child Exploitation (I.C.E.)
- ViCLAS/Powercase
- Offender Management Unit
- Firearms Unit
- Technological Crimes Unit

Police Programs in Niagara Cont'd

Corporate Services

- Finance
- Corporate Records
- Facilities
- Fleet
- Quartermasters
- Evidence Management Unit

Technology Services

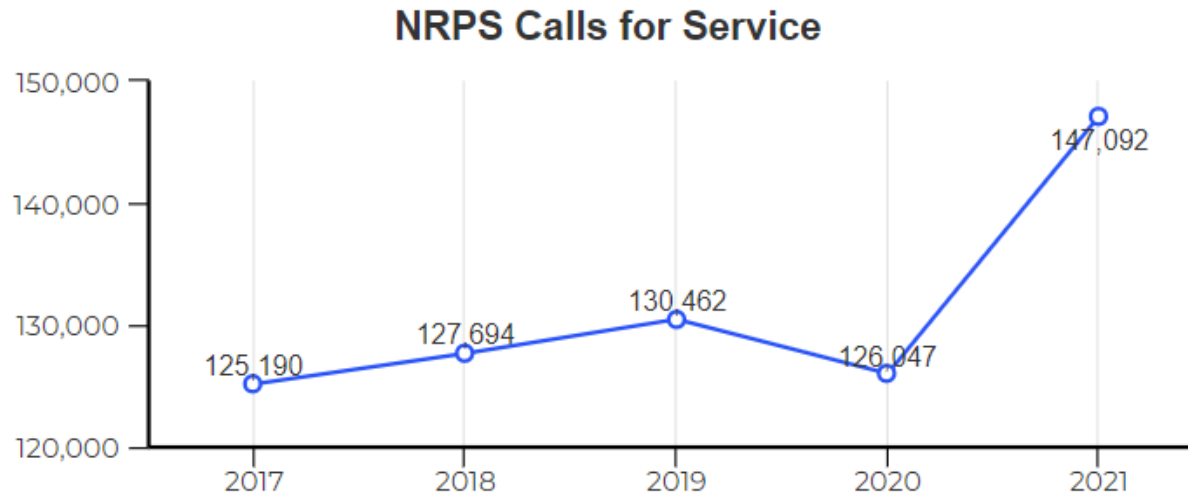
- Client Services and Service Management
- Network Infrastructure – Network Infrastructure
- Network Infrastructure - Telecommunications Services
- Business Systems & Applications
- Operations Systems & Applications

Operational Support

- Court Services & Prisoner Management Unit
- Quality Assurance Unit
- Evidence Management Unit
- Communications Unit
- 911
- RTOC

Statistical Trends

NRPS Calls for Service

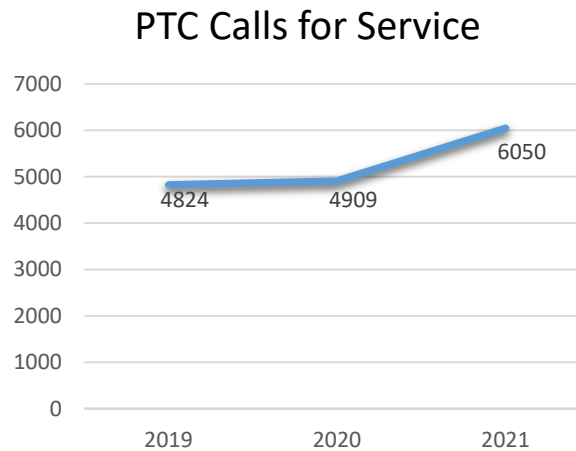


Calls for service in 2021 totaled 147 092, which is 16.7% higher when compared to 2020.

This can be attributed to both increased calls for service in general as well as a return to normal call volume following the early stages of the COVID-19 pandemic

Port Colborne Calls for Service 2019 to 2021

- Calls for Service - 23.24% higher in 2021 than 2020
- Mental Health and Suicide calls 82.17% increase compared to 2019
- Property-related calls (Break & Enter, Theft of Vehicle, Theft from Vehicle) - 63.33% higher in 2021



Port Colborne - Community Oriented Policing

Programs and Initiatives Specific to Our Community:

- Twitter social media site - @6Nrps (764 followers)
- Pro-active Community Engagement and Safety Initiatives (Cottage Checks, Foot Patrols, School Zones, ATV etc.)
- Port-all Situation Table – multi agency team building a safer and healthier community

Questions?

Official Plan Update

City of Port Colborne Council

February 22, 2022

new niagara official plan



OUR NATURAL ENVIRONMENT SYSTEM

Improved mapping of the Region's natural heritage features and water resources



OUR RESPONSE TO CLIMATE CHANGE

Prioritize climate change throughout the plan to achieve sustainable and resilient communities.



OUR HOUSING MIX

Support a diverse range of dwelling types to addresses affordability and market demand.



OUR ECONOMIC COMPETITIVENESS

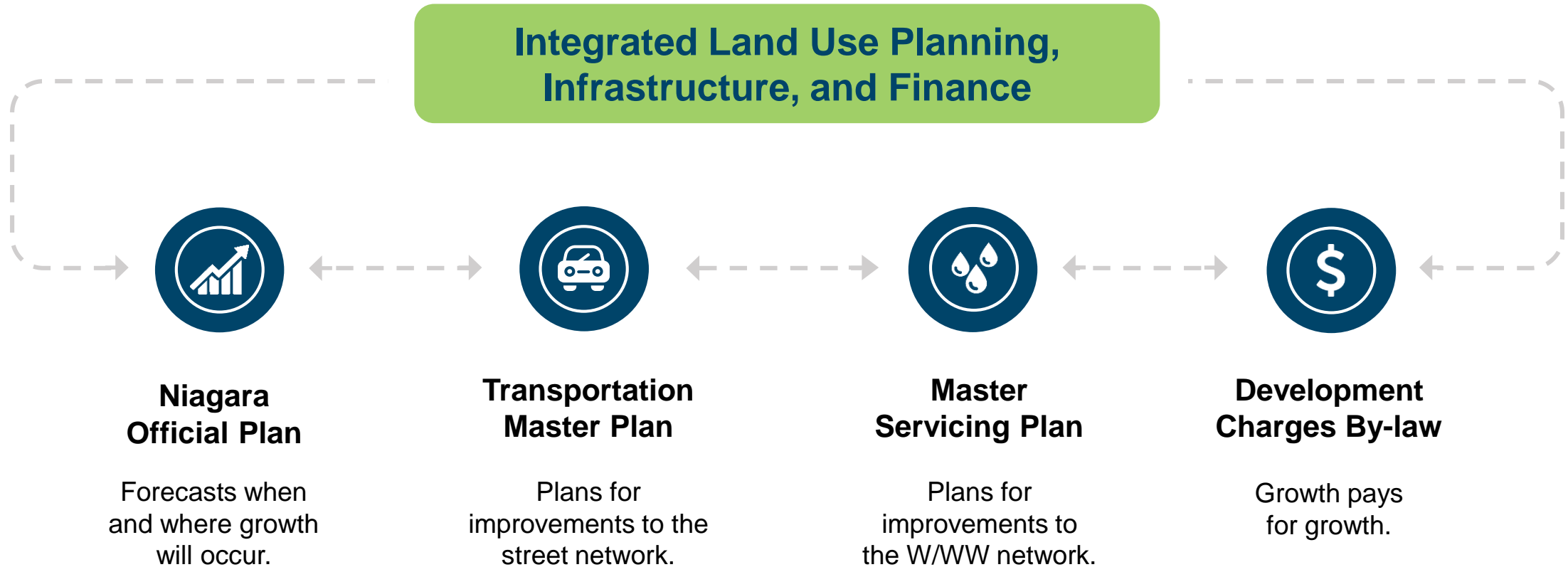
Identified areas that are protected for long-term investment in employment uses.



OUR PLANNING FRAMEWORK

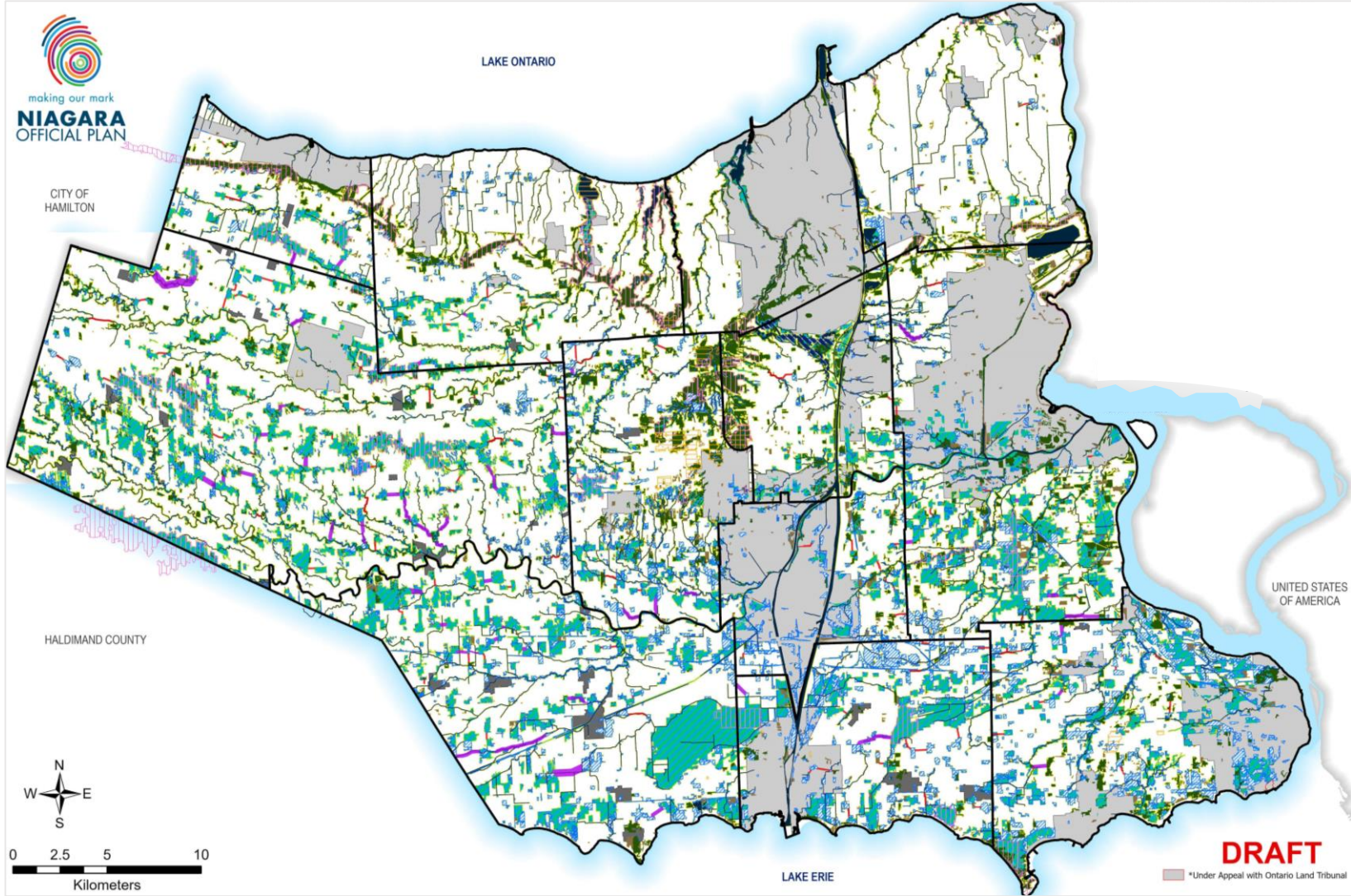
Clearer policies for local implementation and coordination with Regional planning.

niagara 2051 review















official plan purpose





LEGEND

-  Settlement Area
-  Medium and Large Linkages
-  Small Linkages
-  Life Science ANSI
-  Earth Science ANSI
-  Significant Woodlands
-  Other Woodlands
-  Other Wetlands and Non Provincially Significant Wetlands
-  Provincially Significant Wetlands
-  Waterbodies
-  Inland Lakes
-  Mapped Vegetation Protection Zones/Buffers

how we grow

694k

total number of
people in Niagara
by 2051

272k

total number of
jobs in Niagara
by 2051

60%

target for
intensification
growth by 2051

50

density target for
Designated
Greenfield Areas

growth forecast and intensification targets

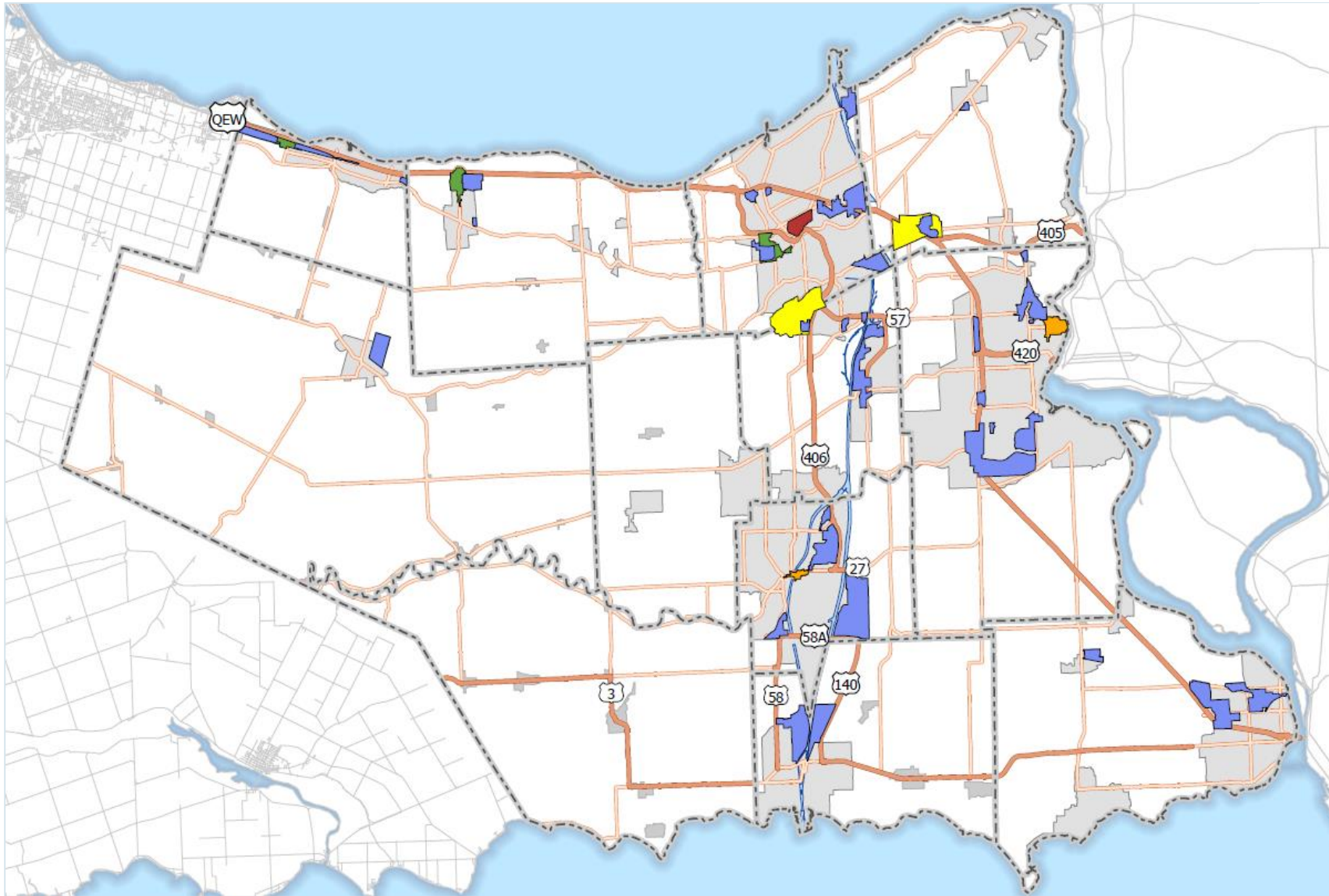
Population and Employment Forecasts by Local Municipality

Municipality	Population	Employment
Fort Erie	48,050	18,430
Grimsby	37,000	14,960
Lincoln	45,660	15,220
Niagara Falls	141,650	58,110
Niagara-on-the-Lake	28,900	17,610
Pelham	28,830	7,140
Port Colborne	23,230	7,550
St. Catharines	171,890	79,350
Thorold	39,690	12,510
Wainfleet	7,730	1,830
Welland	83,000	28,790
West Lincoln	38,370	10,480
Niagara Region	694,000	272,000

Niagara Region Intensification Targets by Local Municipality

Municipality	Units	Rate
Fort Erie	3,680	50%
Grimsby	4,500	98%
Lincoln	8,895	90%
Niagara Falls	10,100	50%
Niagara-on-the-Lake	1,150	25%
Pelham	1,030	25%
Port Colborne	690	30%
St. Catharines	18,780	95%
Thorold	1,610	25%
Wainfleet	0	0%
Welland	10,440	75%
West Lincoln	1,130	13%
Niagara Region	62,005	60%

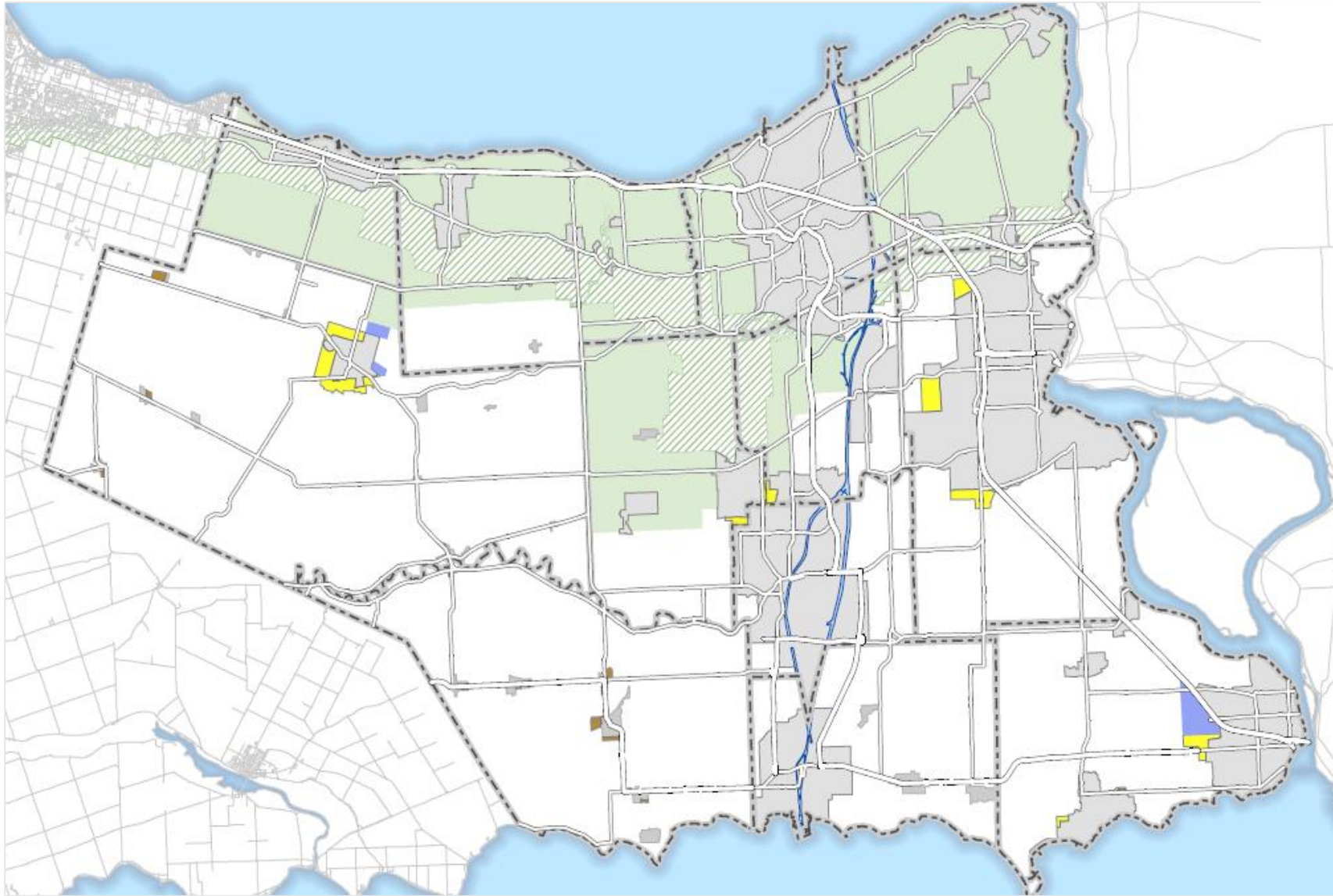
where we grow



LEGEND


- Urban Area
 - Employment Area
 - Rural Settlement Area
 - Rural Area
- Strategic Growth Areas
- Urban Growth Centre
 - District Plan Area
 - Major Transit Station Area
 - Regional Growth Centre

expansion recommendations



LEGEND

- Settlement Area
- Greenbelt Plan
- Niagara Escarpment Plan
- Rural Area
- Community Area Expansion
- Employment Area Expansion
- Rural Settlement Expansion Area



the systems that provide for them



District and Secondary Plans

Neighbourhood level plans that envision the types of land uses to be developed within a specified area and the improvements needed to realize that vision.



Urban Design

Policies and/or guidelines that outline the scale, materials, and standards used for a community's built form, streetscape, and public realm.



Infrastructure Policies

Policies that identify how infrastructure improvements, including transportation and water/wastewater systems and services, will support where and how we grow.



Niagara 2051 Coordination

The new Niagara Official Plan will coordinate with other key infrastructure plans to comprehensively plan for growth.

climate change

Draft policies for new **climate change commitments**:

- Maintain a greenhouse gas inventory
- Establish greenhouse gas reduction targets to work toward the long-term goal of net-zero emissions
- Develop a Regional Greening Initiative to restore and enhance vegetative cover
- Maintain regional climate modeling and projections to inform climate change adaptation initiatives
- Consider climate projections in land use policies, strategies and guidance
- Assess climate change risks and vulnerabilities, and develop a climate change adaptation strategy



climate change policies throughout plan

Policy direction across the Plan supports the transition to **net-zero, climate-resilient communities**.

- Prioritize investments in public transit and active transportation infrastructure.
- Promote the design of compact, mixed-use communities that use land wisely.
- Encourage development in existing urban areas and strategic growth areas.
- Integrate low impact development and green infrastructure into new development.
- Enhance natural features that help to store greenhouse gas emissions.



outcomes



Affordable housing opportunities.



Climate change adaptation and mitigation.



Efficient use of infrastructure.



Investments in public amenities.



Protection of natural and rural systems.



Support for economic development.

official plan timeline

**NOVEMBER and
DECEMBER 2021**

**JANUARY and
FEBRUARY 2022**

**MARCH and
APRIL 2022**

**JUNE
2022**

**JULY
2022**

- Employment Conversions
- SABR
- Natural Environment

- Consolidated Official Plan release
- Consultation sessions and open house
- SABR Comment Deadline

- Statutory Public Meeting
- Assess comments received

- Recommendation report to Council

- Deadline for Provincial approval

consultation dates

February 24

Time: 6:30 – 8:30PM

Virtual Open House:
Draft Consolidated Official
Plan.

March 4

Consultation Period Closes

Spring

Statutory Consultations

moving forward



Area municipal engagement will continue to be a critical component of the Niagara Official Plan's development.



There will be no appeals to the Minister's decision on the Official Plan.



Area Municipal Official Plan and Zoning By-law conformity will be required following approval of the Niagara Official Plan



We will continue to create more streamlined and improved processes for development.



Monitoring program will be put in place to track the Official Plan's targets and objectives.



MINUTES

Social Determinants of Health Advisory Committee – Everyone Matters

Thursday, February 6, 2020 1:00 p.m.,

Committee Room 3, City Hall, 66 Charlotte Street Port Colborne

Attendees:

Co-Chair Lori Kleinsmith, Bridges CHC
Co-Chair Angie Desmarais, Councillor
Rob LaPlante, Niagara Regional Police
Jay McKnight, Niagara Regional Police
Jeffrey Sinclair, Niagara Region
Susan Therrien, Director of Library Services
Travis Morden, Municipal Law Enforcement Officer
Judy Cassan, Bridges CHC
Bill Steele, Mayor
Scott Lawson, Deputy Fire Chief
Tom Cartwright, Fire Chief

Regrets:

Christine Clark-Lafleur, Port Cares
Scott Luey, Chief Administrative Officer
Ryan Pearson, Niagara Community Legal Clinic

Minutes:

Nancy Giles, EA to Mayor and CAO

Co-Chair Angie Desmarais called the meeting to order at 1:03 p.m.

Approval of the Agenda

Moved by Lori Kleinsmith
Seconded by Bill Steele

That the agenda for the February 6, 2020 meeting of the Social Determinants of Health Advisory Committee – Everyone Matters be approved.
CARRIED.

Approval of the November 7, 2019 minutes

Moved by Bill Steele

Seconded by Rob LaPlante

That the minutes for the November 7, 2019 meeting of the Social Determinants of Health Advisory Committee – Everyone Matters be approved.

CARRIED.

Business Arising

Community Safety & Well-Being Plan

Michelle Johnson at Niagara Region was contacted and invited to this meeting. They have decided they are going to meet with the Port-ALL group on March 3, 2020 at 11 a.m. at the Reach Out Centre – there is an open invite to any member of this group to attend. They are also getting ready to launch their survey and Nancy will send out the link once received.

Housing and Homelessness Action Plan Task Force is also being consulted. Jeff Sinclair asked for representation from South Niagara and Christine Clark-Lafleur will be participating.

Lodging by-law

No update – municipalities have it – we will still proceed - there is also a provincial private member's bill proposed.

Need to speak with our CAO for an update.

Angie was at a meeting and speaking with Thorold's Mayor – they are doing a lot of work in this area, especially with student housing.

Affordable Housing

Angie spoke with Dan in Planning – they have decided to wait on this until the City's Strategic Plan is completed – and there is a budget ask for 2020.

Scott has met with Mark Butler and hopefully the Strategic Plan will be coming forward in about a month.

Scott Lawson expressed his concern about damage to a new build in the City by residents. Jeff explained that residents have responsibility for taking care of the unit. Jay – social workers are meeting residents and NRP is working with them on strategies for good tenancy. Need to advocate to the health system to support those with physical and mental issues and having 24/7 help available.

Success rate is 80-85% in the Home for Good and Housing First programs so in a building with 8 units, it is known that 1 tenant could fail.

Niagara Region can also provide some training to our new fire fighter volunteers on how to deal with these individuals with mental health/physical issues. Scott Lawson will contact the Region.

Let's Talk Series

The next talk at the Library is The Niagara Poverty Reduction Network – Housing Supports and Tenant Rights, February 26th at 6:30 p.m. – it is the only evening program. Sessions have been held in St. Catharines and Fort Erie. Our By-law Department will be attending to answer questions.

New Business

Letter from Minister of Children, Community and Social Services re Poverty Reduction Strategy survey

Lori advised that the province is legislated to review their Poverty Reduction Strategy. There is an online survey that has been launched. They are also accepting written submissions. Niagara Region is providing a regional response.

Lori, Angie and the Mayor will prepare a letter to submit. Income related to housing costs, echo language from the Region and inequity in funding formulas

Community Updates

None.

Action Items

- Note to Scott about Lodging By-law
- Letter to Minister of Children, Community and Social Services re Poverty Reduction Strategy survey

Next Meeting

Thursday, April 2, 2020 1 p.m.

Adjournment

The meeting adjourned at 1:40 p.m.

Port Colborne Public Library Board

MINUTES of the First Regular Meeting of 2022

Date: Tuesday, January 11, 2022
Time: 6:15 p.m.
Location: Virtual Meeting held via Microsoft Teams

Members Present: M. Cooper, Chair
B. Ingram, Vice-Chair
M. Bagu, Councillor
B. Beck
V. Catton
H. Cooper
J. Frenette
A. Kennerly
C. MacMillan

Regrets: B. Boles, Board Treasurer

Staff Present: S. Luey, Chief Executive Officer
S. Therrien, Director of Library Services (Board Secretary)

1. Call to Order

The Chair called the meeting to order at approximately 6:17 p.m.

2. Declaration of Conflict of Interest

3. Adoption of the Agenda

Moved by B. Ingram
Seconded by C. MacMillan

That the agenda dated January 11, 2022 be adopted, as circulated.

Carried

4. Approval of Minutes

Moved by J. Frenette
Seconded by B. Beck

That the minutes of the regular meeting dated December 7, 2021 be approved, as circulated.

Carried

5. Business Arising from the Minutes

6. Consent Items

6.1. Circulation Reports

6.1.1. Final 2021 Transit Report

6.2. Financial Statement

- January 6, 2022 – Library Operations
- January 6, 2022 – Facilities

6.3. Public Relations Report

Report submitted by Librarian R. Tkachuk on library programming, e-resources, and social media during December 2021.

6.4. Media Items

6.4.1. Port Colborne Public Library Digital Newsletter, January 2022

Moved by A. Kennerly
Seconded by B. Ingram

That consent items 6.1 to 6.4 be received for information purposes.

Carried

7. Discussion Items

7.1. Meeting Dates (S. Therrien)

Moved by C. MacMillan

Seconded by H. Cooper

- a. That, starting in February 2022, the Port Colborne Public Library Board meetings will be held on the first Wednesday of the month at 6:15 p.m.
- b. That *BL-03: Meetings of the Board* be updated to reflect the change in meeting dates.

Carried

7.2. Board Assembly Meeting Report (C. MacMillan)

Port Colborne Public Library Board Trustee C. MacMillan reported on the Board Assemblies Meeting that she attended in the fall. Board Assemblies Meetings provide library board members with opportunities to share information and hear how other boards are dealing with issues in governing a public library.

7.3. Board Self-Evaluation (M. Cooper)

The Chair reported on the board members' submissions and noted that the current evaluation tool needs more areas for individual input. The Director will work with the Chair to revise the current evaluation form and process.

7.4. Director's Report (S. Therrien)

7.4.1. COVID-19 Update

The library remains open to the public to provide contactless curbside pick-up, in-person browsing, public computer access, print services, and take-and-make crafts. All visitors are actively screened.

Port Colborne Public Library Board

7.4.2. Facilities Update

- All OTF Resilient Communities Fund project installations are on target to be completed by the deadline of March 31, 2022.

7.4.3. 2021 Year in Review

The Board reviewed a report on the events, engagements and projects completed in 2021.

7.4.4. 2022 Planning

The Board reviewed a planning outline for 2022 that included strategic planning, capital projects, and Board succession planning.

8. Decision Items

8.1. Policy Review

8.1.1. 2022 Policy Review Schedule

9. Board Members' Items

10. Notices of Motion

11. Date of the Next Meeting

Wednesday, February 2, 2022 at 6:15 p.m. via Microsoft Teams

12. Adjournment

Moved by C. MacMillan
Seconded by A. Kennerly

That the meeting be adjourned at approximately 7:23 p.m.

Carried.



Port Colborne Public Library Board

Michael Cooper
Board Chair
February 2, 2022

Susan Therrien
Director of Library Services
Board Secretary
February, 2022

July 26, 2021
MEETING OF THE GRANT POLICY COMMITTEE

Minutes of the Grant Policy Committee held on July 26, 2021 at 5:30 p.m. with Chair Kenny and Nancy Giles in Committee Room 3 and other members via MS Teams.

The following Committee Members and Staff were present:

Committee Members	Chairman Bea Kenny Councillor Eric Beauregard via MS Teams Councillor Gary Bruno Brenda Haymes via MS Teams Nancy Giles, Executive Assistant to the Mayor/CAO
-------------------	---

Regrets: Mayor William Steele

CALL TO ORDER:

Chairman Kenny called the meeting to order at 5:33 p.m.

APPROVAL OF THE AGENDA

Moved by B. Haymes
Seconded by G. Bruno

That the agenda as presented be approved.
CARRIED.

APPROVAL OF THE MINUTES OF THE FEBRUARY 18, 2021 MEETING

Moved by G. Bruno
Seconded by B. Haymes

That the minutes of the February 18, 2021 meeting be approved as presented.
CARRIED.

DECLARATIONS OF CONFLICT OF INTEREST

None.

DONATION/SPONSORSHIP APPLICATIONS

The purpose of the meeting was to review the donation/sponsorship applications received from various organizations.

Moved by B. Haymes
Seconded by G. Bruno

That donation/sponsorship requests be approved for a total of \$14,525 for the second allocation for the year 2021 as follows:

79 Lynton Davies Air Cadet Squadron \$4500
Education Foundation of Niagara \$2000
Junior Achievement of Waterloo Region \$1300
United Way Niagara \$6725
CARRIED.

CORRESPONDENCE

Thank you letters from Women's Place of South Niagara; Niagara Health Foundation and Community Living Port Colborne-Wainfleet were received.

Correspondence from the YMCA was received acknowledging that they were unable to complete their Youth Action Program during the 2020/2021 school year and will be continuing the program in the 2021/2022 school year.

OTHER BUSINESS

Moved by G. Bruno
Seconded by B. Haymes

That the application form be amended to include this addition to question 6: How many people will benefit from this?

ADJOURNMENT:

Moved by G. Bruno
Seconded by B. Haymes

That we do now adjourn. Time of adjournment 6:04.

CARRIED.



CHAIRMAN



SECRETARY

The Corporation of the City of Port Colborne

By-law No. _____

Being a By-law to Authorize Entering into an Amending Agreement to the
Niagara Region Courts Inter-Municipal Agreement

Whereas at its meeting of February 22, 2022 the Council of The Corporation of the City of Port Colborne (Council) approved the recommendations of the Public Works Department Report No. 2022-05, Subject: Vision Zero Road Safety Program – Niagara Region Courts Inter-Municipal Amending Agreement; and

Whereas Council is desirous of entering into an Amending Agreement to the Niagara Region Courts Inter-Municipal Agreement with the local area municipalities; and

Whereas the *Municipal Act*, 2001 S.O. 2001, c.25, as amended, confers broad authority on municipalities to enter into such agreements;

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

1. That The Corporation of the City of Port Colborne enters into an Amending Agreement to the Niagara Region Courts Inter-Municipal Agreement with the local area municipalities.
2. That the Mayor and City Clerk be and they are hereby authorized and directed to sign the said agreement, attached hereto as Schedule “A”, together with any documents necessary to complete the conditions of the said agreement, and the City Clerk is hereby authorized to affix the Corporate Seal thereto.

Enacted and passed this 22nd day of February, 2022.

William C. Steele
Mayor

Amber LaPointe
City Clerk

NIAGARA REGION COURTS INTERMUNICIPAL AGREEMENT- AMENDMENT 2

This Agreement dated the _____ day of _____, 20_____.

BETWEEN:

THE CORPORATION OF THE TOWN OF FORT ERIE
(hereinafter called "Fort Erie")

OF THE FIRST PART

-and-

THE CORPORATION OF THE TOWN OF GRIMSBY
(hereinafter called "Grimsby")

OF THE SECOND PART

-and-

THE CORPORATION OF THE TOWN OF LINCOLN
(hereinafter called "Lincoln")

OF THE THIRD PART

-and-

THE CORPORATION OF THE CITY OF NIAGARA FALLS
(hereinafter called "Niagara Falls")

OF THE FOURTH PART

-and-

THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE
(hereinafter called "Niagara-on-the-Lake")

OF THE FIFTH PART

-and-

THE CORPORATION OF THE TOWN OF PELHAM
(hereinafter called "Pelham")

OF THE SIXTH PART

-and-

THE CORPORATION OF THE CITY OF PORT COLBORNE
(hereinafter called "Port Colborne")

OF THE SEVENTH PART

-and-

THE CORPORATION OF THE CITY OF ST. CATHARINES
(hereinafter called "St. Catharines")

OF THE EIGHTH PART

-and-

THE CORPORATION OF THE CITY OF THOROLD
(hereinafter called "Thorold")

OF THE NINTH PART

-and-

THE CORPORATION OF THE TOWNSHIP OF WAINFLEET
(hereinafter called "Wainfleet")

OF THE TENTH PART

-and-

THE CORPORATION OF THE CITY OF WELLAND
(hereinafter called "Welland")

OF THE ELEVENTH PART

-and-

THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN
(hereinafter called "West Lincoln")

OF THE TWELFTH PART

-and-

THE REGIONAL MUNICIPALITY OF NIAGARA
(hereinafter called "the Region")

OF THE THIRTEENTH PART

WHEREAS, by the Niagara Regional Court Intermunicipal Agreement dated April 26, 2000 (the “Intermunicipal Agreement”), all parties agreed, among other thing things, to appoint the Region as Agent to undertake the court administration, support and prosecution program for the operation of the Provincial Offences Court on behalf of all municipalities;

AND WHEREAS effective November 22, 2005, the Parties amended the Intermunicipal Agreement to update Schedule A entitled “Reporting Relationships”;

AND WHEREAS the Region wishes to proceed with the implementation of the Vision Zero Program, which among other things would include enforcement of the *Highway Traffic Act* through Automated Speed Enforcement and Red Light Camera enforcement for purposes of enhancing traffic safety for the benefit of all visitors to and residents of the region of Niagara;

AND WHEREAS in order for the Region’s implementation of the Vision Zero Program to be financially sustainable, the initial capital and ongoing operating costs to establish and operate the Vision Zero Program would need to be fully supported by the fines received through charges issued under the Vision Zero Program that will be processed through the Court;

AND WHEREAS the Council of the Region have approved the Vision Zero Program subject to an amendment to the Intermunicipal Agreement regarding the apportionment of costs and revenue to ensure that the Vision Zero Program is financially sustainable in the long term;

NOW THEREFORE in consideration of the promises, mutual covenants and conditions contained herein, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. Definitions

In this Amending Agreement:

“Effective Date” means the date upon which the first Certificate of Offence issued pursuant to the *Provincial Offences Act* for a charge under the Vision Zero Program is filed with the Court;

“Vision Zero Program” means the Vision Zero Road Safety Program to be administered by the Region that includes without limitation: enforcement of the *Highway Traffic Act* through Automated Speed Enforcement (ASE), Red Light Camera (RLC) enforcement and such other automated technology-based traffic enforcement tools that may be approved for use by the Province from time to time; infrastructure upgrades such as street lighting, signage and intersection improvements; and, communication and educational programs; all for purposes of enhancing traffic safety for all road users;

“Vision Zero Program Court Costs” means the Court costs and expenses related to administration, prosecution, adjudication of Vision Zero Program charges, including all staffing costs, fees and collection costs incurred by the Agent in processing charges issued under the Vision Zero Program; and,

“Vision Zero Program Implementation and Operating Costs” means the costs incurred by the Region related to initial establishment of the Vision Zero Program approved by the Council of the Region as part of the 2020 Regional budget approval process, being comprised of (a) the capital costs of the installation of 10 RLC units and 4 ASE units; and, (b) the ongoing operating costs and expenses to administer the Vision Zero Program, subject to annual adjustments as may required pursuant to applicable agreements, including but not limited to:

- i. all staffing and training;
- ii. consulting services;
- iii. equipment fees, operation and maintenance;
- iv. fees and charges imposed pursuant to agreements required to be entered into by the Region to implement the Vision Zero Program, including by the Ministry of Transportation and the Joint Processing Centre;
- v. communication and public education; and
- vi. related infrastructure maintenance such as signage, pavement markings and intersection improvements.

2. The parties acknowledge that implementation of the Vision Zero Program by the Region requires significant upfront investment and ongoing operating costs and as such agree that the Region shall be permitted to recover its Vision Zero Program Implementation and Operating Costs from the gross Vision Zero Program revenues, prior to distribution of the net Vision Zero Program revenues pursuant to sections 8.2 and 8.3 of the Intermunicipal Agreement.
3. The Region shall use its share of the net Vision Zero Program revenues exclusively for the operation and enhancement of the Vision Zero Program. The Municipalities shall use their share of the net Vision Zero Program revenues exclusively either: (a) for vision zero road safety projects and initiatives in their own municipality; or (b) to support the Region’s operation and enhancement of the Vision Zero Program. Recognizing the Provincial reporting to be undertaken by the Region regarding the Vision Zero Program and revenue use; the Municipalities shall report to the Region in such form and with such frequency as necessary to achieve alignment with Provincial reporting requirements from time to time, and in any case at least annually, as to their use of their share of the net Vision Zero Program revenues.
4. Regional Staff shall report to the Council of the Region on an annual basis regarding: Vision Zero Program Implementation and Operating Costs; the use of the Region’s share of the net Vision Zero Program revenues; and the technical performance of, and any proposed enhancements to, the Vision Zero Program.

5. The costs of the Program, as defined in the Intermunicipal Agreement, will be adjusted as a part of the annual budget process in accordance with section 7.1 of the Intermunicipal Agreement as necessary to address any change in Vision Zero Program Court Costs required to accommodate the volume of charges processed pursuant to the Vision Zero Program and shall be recovered by the Agent from gross revenues in accordance with section 8.1 of the Intermunicipal Agreement.
6. The Agent will track the Vision Zero Program Court Costs and revenues separately to the extent reasonably possible for inclusion in the annual budget and financial reporting submitted to the Board from time to time, and the report provided to the Council of the Region pursuant to section 4 of this Amending Agreement.
7. In the event that the gross Vision Zero Program revenues are less than the Vision Zero Program 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 pursuant to section 8.2 of the Intermunicipal Agreement, so that the net revenues distributed to all Municipalities, with the exception of the Region, pursuant to section 8.3 of the Intermunicipal Agreement are not negatively impacted by the Vision Zero Program. In subsequent years, any net Vision Zero Program revenues will first be used to repay the Region for previous years' deficit, prior to distribution of the net Vision Zero Program revenues pursuant to sections 8.2 and 8.3 of the Intermunicipal Agreement.
8. The Region agrees to notify the parties in writing of the date that the first Certificate of Offence issued for a charge under the Vision Zero Program is filed with the Court for purposes of confirming the Effective Date of this Amending Agreement.
9. The term of this Amending Agreement will be three (3) years from the Effective Date. The parties agree that on or about two (2) years from the Effective Date they will engage in discussions to collectively review available data related to the Vision Zero Program compiled as of that date, including but not 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 Intermunicipal Agreement.
10. This Amending Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
11. The acceptance of this Amending Agreement may be communicated by facsimile or email transmission reproduction between the Parties, and such reproduction will be binding upon the Parties with the same effect as an executed original of the Amending Agreement.

12. Save and except as modified herein, the provisions of the Intermunicipal Agreement shall remain in full force and effect.

IN WITNESS WHEREOF the parties hereto have executed this Amending Agreement:

Dated at _____, this _____ day of _____, 20____.

THE CORPORATION OF THE TOWN OF FORT ERIE
Per:

Name:
Title:

Name:
Title:

Dated at _____, this _____ day of _____, 20____.

THE CORPORATION OF THE TOWN OF GRIMSBY
Per:

Name:
Title:

Name:
Title:

Dated at _____, this _____ day of _____, 20____.

THE CORPORATION OF THE TOWN OF LINCOLN
Per:

Name:
Title:

Name:
Title:

Dated at _____, this _____ day of _____, 20_____.

THE CORPORATION OF THE CITY OF NIAGARA FALLS
Per:

Name:
Title:

Name:
Title:

Dated at _____, this _____ day of _____, 20_____.

**THE CORPORATION OF THE TOWN OF NIAGARA-ON-
THE-LAKE**
Per:

Name:
Title:

Name:
Title:

Dated at _____, this _____ day of _____, 20_____.

THE CORPORATION OF THE TOWN OF PELHAM
Per:

Name:
Title:

Name:

Title:

Dated at _____, this _____ day of _____, 20____.

THE CORPORATION OF THE CITY OF PORT COLBORNE

Per:

Name:

Title:

Name:

Title:

Dated at _____, this _____ day of _____, 20____.

THE CORPORATION OF THE CITY OF ST. CATHARINES

Per:

Name:

Title:

Name:

Title:

Dated at _____, this _____ day of _____, 20____.

THE CORPORATION OF THE CITY OF THOROLD

Per:

Name:

Title:

Name:

Title:

Dated at _____, this _____ day of _____, 20_____.

**THE CORPORATION OF THE TOWNSHIP OF
WAINFLEET**

Per:

Name:
Title:

Name:
Title:

Dated at _____, this _____ day of _____, 20_____.

THE CORPORATION OF THE CITY OF WELLAND

Per:

Name:
Title:

Name:
Title:

Dated at _____, this _____ day of _____, 20_____.

**THE CORPORATION OF THE TOWNSHIP OF WEST
LINCOLN**

Per:

Name:
Title:

Name:
Title:

Dated at _____, this _____ day of _____, 20_____.

THE REGIONAL MUNICIPALITY OF NIAGARA
Per:

Name:
Title:

Name:
Title:

The Corporation of the City of Port Colborne

By-law no. _____

Being a by-law to adopt amendment no. 9 to the
Official Plan for the City of Port Colborne

Whereas it is deemed expedient to further amend the Official Plan, heretofore adopted by Council for the City of Port Colborne Planning Area;

Therefore the Council of The Corporation of the City of Port Colborne under Section 17(22) of the Planning Act, hereby enacts as follows:

1. That Official Plan Amendment No. 9 to the Official Plan for the City of Port Colborne Planning Area, consisting of the attached map and explanatory text is hereby adopted.
2. That this By-law shall come into force and take effect on the day of passing thereof.

Enacted and passed this 22nd day of February, 2022.

William C. Steele
Mayor

Amber LaPointe
City Clerk

**AMENDMENT NO. 9
TO THE
OFFICIAL PLAN
FOR THE
PORT COLBORNE PLANNING AREA**

**PREPARED BY:
CITY OF PORT COLBORNE
DEPARTMENT OF PLANNING & DEVELOPMENT**

January 5, 2022

**AMENDMENT NO. 9
TO THE
OFFICIAL PLAN
FOR THE
PORT COLBORNE PLANNING AREA**

**AMENDMENT NO. 9
TO THE OFFICIAL PLAN
FOR THE
CITY OF PORT COLBORNE**

This Amendment to the Official Plan for the City of Port Colborne, which has been adopted by the Council of the Corporation of the City of Port Colborne, is hereby approved in accordance with Sections 17 and 21 of the Planning Act R.S.O. 1990, c. P.13, as Amendment No. 9 to the Official Plan for the City of Port Colborne.

Date: _____

**AMENDMENT NO. 9 TO THE OFFICIAL PLAN
FOR THE
PORT COLBORNE PLANNING AREA**

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1. Minutes of the Public Meeting

2. Department of Planning and Development Report

STATEMENT OF COMPONENTS

PART A

The Preamble does not constitute part of this Amendment.

PART B

The Amendment, consisting of the following map and text changes, constitutes Amendment No. 9 to the Official Plan for the Port Colborne Planning Area.

Also attached is **PART C** – The Appendices, which do not constitute part of this Amendment. These appendices contain the background data, planning considerations and public involvement associated with this Amendment.

PART A - THE PREAMBLE

Purpose

The purpose of the amendment is to add a site-specific policy associated with the existing “Highway Commercial” designation permitting a “Cannabis Retail Store” on the property known as 335 Wellington Street.

Location

The lands affected by this amendment are legally described as Part of Lot 26, Concession 2 in the City of Port Colborne, Regional Municipality of Niagara, municipally known as 335 Wellington Street.

Basis

The *Planning Act, R.S.O. 1990*, as amended, provides that amendments may be made to the Official Plan. An application has been submitted to introduce a “Cannabis Retail Store” on the subject property. The lands are designated “Highway Commercial”, which does not currently permit retail stores. A site-specific amendment to the Official Plan has been requested to allow for the proposed “Cannabis Retail Store”.

Policies of the Official Plan, the Cannabis Retail Sale Policy Statement, and public input regarding the legal storefront sale of cannabis have been considered in the preparation of this Amendment. It has been determined that site-specific consideration for a “Cannabis Retail Store” on the subject property would be compatible, appropriate, and would be well removed from sensitive land uses.

This Amendment is consistent with the Provincial Policy Statement and conforms to the Growth Plan for the Greater Golden Horseshoe and the Region of Niagara Official Plan.

Concurrently, an amendment to the City’s Zoning By-law 6575/30/18 has been submitted proposing to rezone the lands from the existing Highway Commercial (HC) zone to HC-67, being a site-specific special provision of the Highway Commercial (HC) zone that will permit a “Cannabis Retail Store”.

PART B - THE AMENDMENT

The following constitutes Amendment No. 9 to the Official Plan for the City of Port Colborne under Section 3.8 “Highway Commercial”:

That the lands shown on Schedule A be redesignated from “Highway Commercial” to “Highway Commercial Special”.

In addition to the uses permitted in the Highway Commercial designation, the lands designated Highway Commercial Special, located at 335 Wellington Street, may also be used for a “Cannabis Retail Store”.

A “Cannabis Retail Store” is defined as:

a store licensed by the Alcohol and Gaming Commission of Ontario for the retail sales of recreational cannabis and cannabis related products.

Implementation and Interpretation

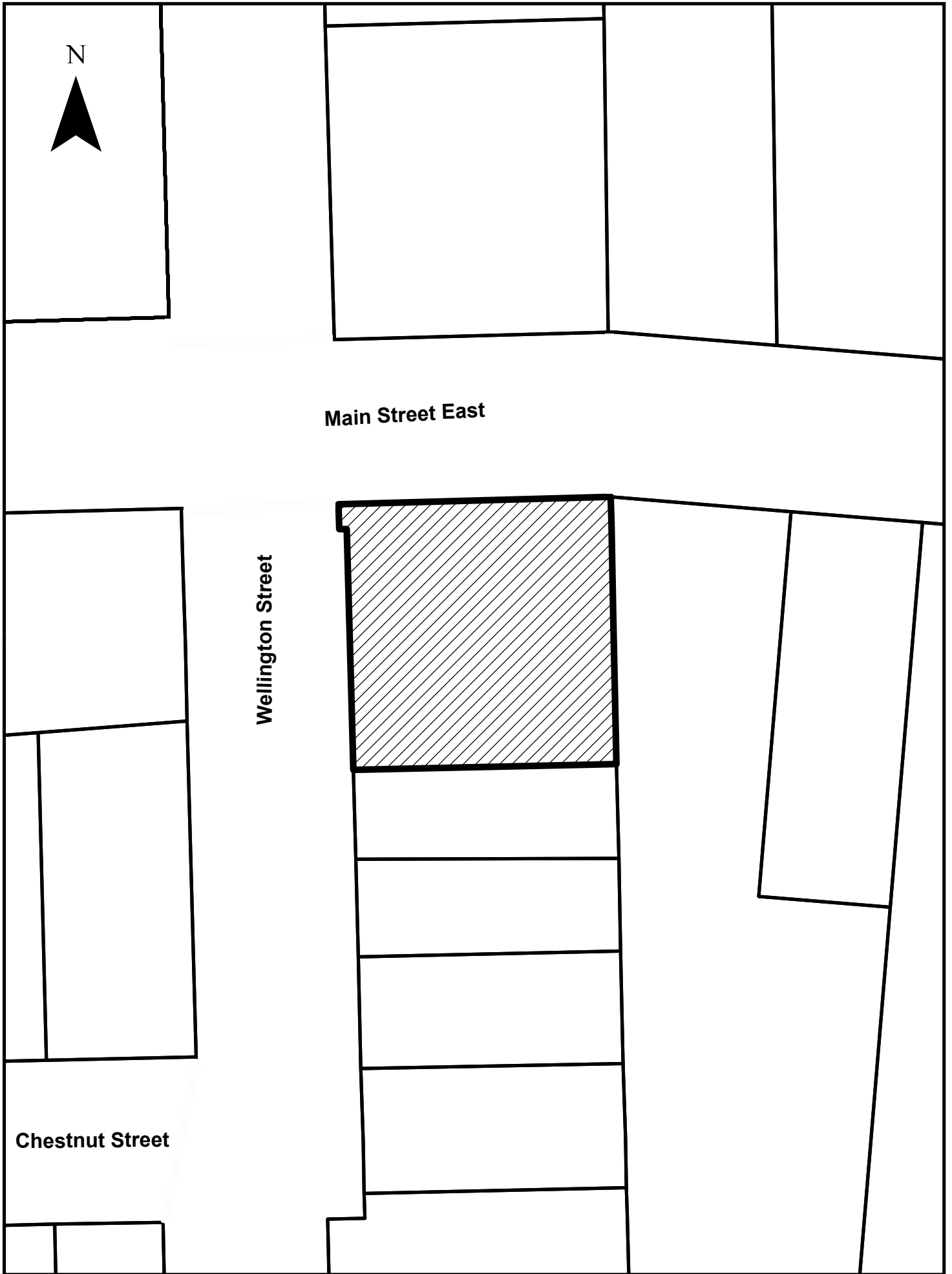
The implementation and interpretation of this amendment shall be in accordance with the respective policies of the Port Colborne Official Plan and an amendment to the City Zoning By-law to rezone the subject lands.

PART C – THE APPENDICES

The following appendices do not constitute part of Amendment No. 9 but are included as information to support the Amendment.

APPENDIX I – Minutes of the Public Meeting

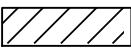
APPENDIX II – Department of Planning & Development Report



This is Schedule "A" to By-law No _____
 Passed _____, 2022

 Mayor

 Clerk

 - Lands subject to site-specific Official Plan and Zoning By-law Amendment, rezoning the lands from Highway Commercial (HC) to HC-66

File No. D09-05-21 & D14-17-21
 Drawn by: DS - City of Port Colborne Planning Division
 Not to scale December 2021

The Corporation of the City of Port Colborne

By-law no. _____

Being a by-law to amend Zoning By-law 6575/30/18 respecting lands legally described as Part of Lot 20, Lots 21 and 22 on Plan 835 and Lot 1 on Plan 836, on the southeast corner of Wellington Street and Main Street East, formerly in the Township of Humberstone, now in the City of Port Colborne, Regional Municipality of Niagara, municipally known as 335 Wellington Street and/or 125 Main Street East.

Whereas By-law 6575/30/18 is a by-law of The Corporation of the City of Port Colborne restricting the use of land and the location and use of buildings and structures; and

Whereas, the Council of The Corporation of the City of Port Colborne desires to amend the said by-law.

Now therefore, and pursuant to the provisions of Section 34 of the *Planning Act, R.S.O. 1990*, The Corporation of the City of Port Colborne enacts as follows:

1. This amendment shall apply to those lands described on Schedule "A" attached to and forming part of this by-law.
2. That the Zoning Map referenced as Schedule "A6" forming part of By-law 6575/30/18 is hereby amended by changing those lands described on Schedule A from Highway Commercial (HC) to HC-66, being a special provision of the Highway Commercial (HC) zone.
3. That Section 37 entitled "Special Provisions" of Zoning By-law 6575/30/18, is hereby further amended by adding the following:

HC-66

In addition to the uses permitted in the Highway Commercial (HC) zone, this land may also be used for a Cannabis Retail Store and uses, buildings and structures accessory thereto.

4. That Section 38 entitled "Definitions" of Zoning By-law 6575/30/18, is hereby further amended by adding the following:

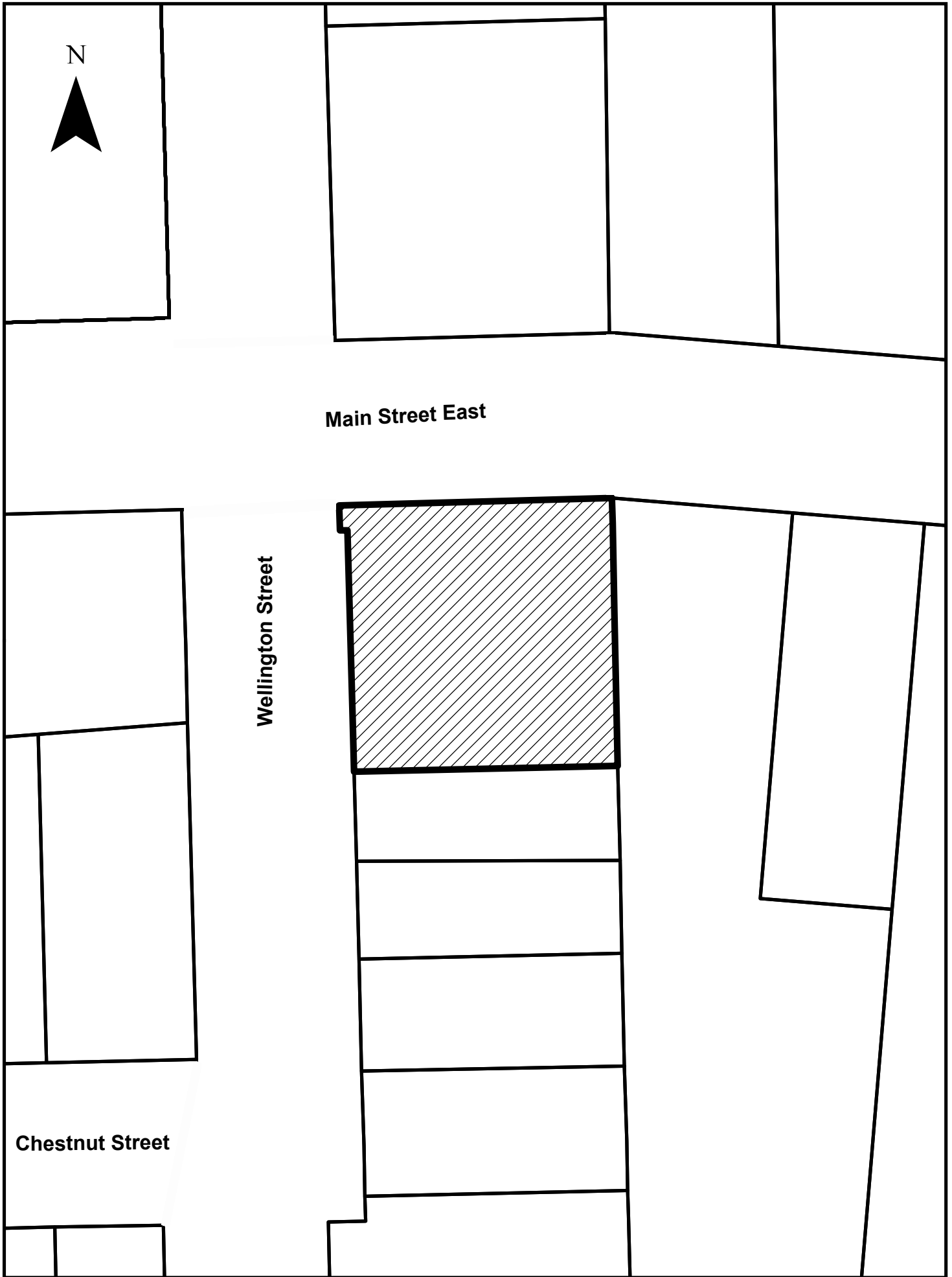
Cannabis Retail Store: means a store licensed by the Alcohol and Gaming Commission of Ontario for the retail sales of recreational cannabis and cannabis related products.

5. That this by-law shall come into force and take effect on the day that it is passed by Council, subject to the provisions of the *Planning Act*.
6. The City Clerk is hereby authorized and directed to proceed with the giving notice of the passing of this by-law, in accordance with the *Planning Act*.

Enacted and passed this 22nd day of February, 2022.

William C. Steele
Mayor

Amber LaPointe
City Clerk



N



Main Street East

Wellington Street

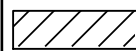
Chestnut Street

This is Schedule "A" to By-law No _____

Passed _____, 2022

Mayor

Clerk



- Lands subject to site-specific Zoning By-law Amendment, rezoning the lands from Highway Commercial (HC) to HC-66

File No. D09-05-21 & D14-17-21

Drawn by: DS - City of Port Colborne Planning Division

Not to scale

January 2022

The Corporation of the City of Port Colborne

By-law No. _____

Being a By-law to Authorize Entering into Agreements with the Ontario
Municipal Modernization Program

Whereas at its meeting of February 22, 2022, the Council of The Corporation of the City of Port Colborne (Council) approved the recommendations of CAO office –Report No. 2022-31, Subject: Municipal Modernization Program – Funding Update and Transfer Agreements; and

Whereas Council is desirous of entering into Transfer Payment Agreements with the provincial government hereby represented by the Minister of Municipal Affairs and Housing; and

Whereas the *Municipal Act*, 2001 S.O. 2001, c.25, as amended, confers broad authority on municipalities to enter into such agreements;

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

1. That The Corporation of the City of Port Colborne enters into Transfer Payment Agreements with the Ontario Municipal Modernization Program hereby represented by the Minister of Municipal Affairs and Housing Fund for funding for: Telecommunications System Modernization (\$59,530); Fire and Emergency Services Digitization and Records Management Implementation (\$59,530); Digitizing Public Works Permit Process (\$16,536); Route Patrol Software (\$9,922); Departmental Organization Review (\$45,792); and Human Resources Management and Information Systems Review (\$76,320) - Total Funding \$267,730.
2. That the Mayor and the Clerk be and they are hereby authorized and directed to sign the said agreements, attached hereto as Schedule “A”, together with any documents necessary to complete the conditions of the said agreements or any other phase for the Minister of Municipal Affairs and Housing, and the City Clerk is hereby authorized to affix the Corporate Seal thereto.

Enacted and passed this 22nd day of February, 2022.

William C. Steele
Mayor

Amber LaPointe
City Clerk

ONTARIO TRANSFER PAYMENT AGREEMENT

THE AGREEMENT is effective as of the _____ day of _____, 20____

B E T W E E N :

**Her Majesty the Queen in right of Ontario
as represented by the Minister of Municipal Affairs and
Housing**

(the “Province”)

- and -

Corporation of the City of Port Colborne

(the “Recipient”)

CONSIDERATION

In consideration of the mutual covenants and agreements contained in the Agreement and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Province and the Recipient agree as follows:

1.0 ENTIRE AGREEMENT

1.1 Schedules to the Agreement. The following schedules form part of the Agreement:

- Schedule “A” - General Terms and Conditions
- Schedule “B” - Project Specific Information and Additional Provisions
- Schedule “C” - Project
- Schedule “D” - Budget
- Schedule “E” - Payment Plan
- Schedule “F” - Reports.

1.2 Entire Agreement. The Agreement constitutes the entire agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.

2.0 CONFLICT OR INCONSISTENCY

2.1 **Conflict or Inconsistency.** In the event of a conflict or inconsistency between the Additional Provisions and the provisions in Schedule “A”, the following rules will apply:

- (a) the Parties will interpret any Additional Provisions in so far as possible, in a way that preserves the intention of the Parties as expressed in Schedule “A”; and
- (b) where it is not possible to interpret the Additional Provisions in a way that is consistent with the provisions in Schedule “A”, the Additional Provisions will prevail over the provisions in Schedule “A” to the extent of the inconsistency.

3.0 COUNTERPARTS

3.1 **One and the Same Agreement.** The Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

4.0 AMENDING THE AGREEMENT

4.1 **Amending the Agreement.** The Agreement may only be amended by a written agreement duly executed by the Parties.

5.0 ACKNOWLEDGEMENT

5.1 **Acknowledgement.** The Recipient acknowledges that:

- (a) the Funds are to assist the Recipient to carry out the Project and not to provide goods or services to the Province;
- (b) the Province is not responsible for carrying out the Project; and
- (c) the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

- SIGNATURE PAGE FOLLOWS -

The Parties have executed the Agreement on the dates set out below.

**HER MAJESTY THE QUEEN IN RIGHT OF
ONTARIO as represented by the Minister of
Municipal Affairs and Housing**

Date

Name: The Honourable Steve Clark
Title: Minister of Municipal Affairs and Housing

Corporation of the City of Port Colborne

Date

Name:
Title:

I have authority to bind the Recipient.

Date

Name:
Title:

I have authority to bind the Recipient.

SCHEDULE "A"
GENERAL TERMS AND CONDITIONS

A1.0 INTERPRETATION AND DEFINITIONS

A1.1 **Interpretation.** For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;
- (b) words in one gender include all genders;
- (c) the headings do not form part of the Agreement; they are for reference only and will not affect the interpretation of the Agreement;
- (d) any reference to dollars or currency will be in Canadian dollars and currency; and
- (e) "include", "includes" and "including" denote that the subsequent list is not exhaustive.

A1.2 **Definitions.** In the Agreement, the following terms will have the following meanings:

"Additional Provisions" means the terms and conditions set out in Schedule "B".

"Agreement" means this agreement entered into between the Province and the Recipient, all of the schedules listed in section 1.1, and any amending agreement entered into pursuant to section 4.1.

"Budget" means the budget attached to the Agreement as Schedule "D".

"Business Day" means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day on which the Province has elected to be closed for business.

"Effective Date" means the date set out at the top of the Agreement.

"Event of Default" has the meaning ascribed to it in section A12.1.

"Expiry Date" means the expiry date set out in Schedule "B".

"Funding Year" means:

- (a) in the case of the first Funding Year, the period commencing on the

Effective Date and ending on the following March 31; and

- (b) in the case of Funding Years subsequent to the first Funding Year, the period commencing on April 1 following the end of the previous Funding Year and ending on the following March 31 or the Expiry Date, whichever is first.

“Funds” means the money the Province provides to the Recipient pursuant to the Agreement.

“Indemnified Parties” means Her Majesty the Queen in right of Ontario, and includes Her ministers, agents, appointees, and employees.

“Loss” means any cause of action, liability, loss, cost, damage, or expense (including legal, expert and consultant fees) that anyone incurs or sustains as a result of or in connection with the Project or any other part of the Agreement.

“Maximum Funds” means the maximum set out in Schedule “B”.

“Notice” means any communication given or required to be given pursuant to the Agreement.

“Notice Period” means the period of time within which the Recipient is required to remedy an Event of Default pursuant to section A12.3(b), and includes any such period or periods of time by which the Province extends that time in accordance with section A12.4.

“Parties” means the Province and the Recipient.

“Party” means either the Province or the Recipient.

“Proceeding” means any action, claim, demand, lawsuit, or other proceeding that anyone makes, brings or prosecutes as a result of or in connection with the Project or with any other part of the Agreement.

“Project” means the undertaking described in Schedule “C”.

“Records Review” means any assessment the Province conducts pursuant to section A7.4.

“Reports” means the reports described in Schedule “F”.

A2.0 REPRESENTATIONS, WARRANTIES, AND COVENANTS

A2.1 General. The Recipient represents, warrants, and covenants that:

- (a) it has, and will continue to have, the experience and expertise necessary to carry out the Project;
- (b) it is in compliance with, and will continue to comply with, all federal and provincial laws and regulations, all municipal by-laws, and any other orders, rules, and by-laws related to any aspect of the Project, the Funds, or both; and
- (c) unless otherwise provided for in the Agreement, any information the Recipient provided to the Province in support of its request for funds (including information relating to any eligibility requirements) was true and complete at the time the Recipient provided it and will continue to be true and complete.

A2.2 **Execution of Agreement.** The Recipient represents and warrants that it has:

- (a) the full power and authority to enter into the Agreement; and
- (b) taken all necessary actions to authorize the execution of the Agreement, including passing a municipal by-law authorizing the Recipient to enter into the Agreement.

A2.3 **Governance.** The Recipient represents, warrants, and covenants that it has, will maintain in writing, and will follow:

- (a) procedures to enable the Recipient to manage Funds prudently and effectively;
- (b) procedures to enable the Recipient to complete the Project successfully;
- (c) procedures to enable the Recipient to identify risks to the completion of the Project and strategies to address the identified risks, all in a timely manner;
- (d) procedures to enable the preparation and submission of all Reports required pursuant to Article A7.0; and
- (e) procedures to enable the Recipient to address such other matters as the Recipient considers necessary to enable the Recipient to carry out its obligations under the Agreement.

A2.4 **Supporting Proof.** Upon the request of the Province, the Recipient will provide the Province with proof of the matters referred to in Article A2.0.

A3.0 TERM OF THE AGREEMENT

A3.1 **Term.** The term of the Agreement will commence on the Effective Date and will expire on the Expiry Date unless terminated earlier pursuant to Article A11.0 or Article A12.0.

A4.0 FUNDS AND CARRYING OUT THE PROJECT

A4.1 **Funds Provided.** The Province will:

- (a) provide the Recipient up to the Maximum Funds for the purpose of carrying out the Project;
- (b) provide the Funds to the Recipient in accordance with the payment plan attached to the Agreement as Schedule “E”; and
- (c) deposit the Funds into an account the Recipient designates provided that the account:
 - (i) resides at a Canadian financial institution; and
 - (ii) is in the name of the Recipient.

A4.2 **Limitation on Payment of Funds.** Despite section A4.1:

- (a) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides evidence satisfactory to the Province that the Recipient’s council has authorized the execution of this Agreement by the Recipient by municipal by-law;
- (b) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides the certificates of insurance or other proof as the Province may request pursuant to section A10.2;
- (c) the Province is not obligated to provide instalments of Funds until it is satisfied with the progress of the Project; and
- (d) the Province may adjust the amount of Funds it provides to the Recipient in any Funding Year based upon the Province’s assessment of the information the Recipient provides to the Province pursuant to section A7.2.

A4.3 **Use of Funds and Carry Out the Project.** The Recipient will do all of the following:

- (a) carry out the Project in accordance with the Agreement;

- (b) use the Funds only for the purpose of carrying out the Project;
- (c) spend the Funds only in accordance with the Budget;
- (d) not use the Funds to cover any cost that has or will be funded or reimbursed by one or more of any third party, ministry, agency, or organization of the Government of Ontario.

A4.4 **Interest Bearing Account.** If the Province provides Funds before the Recipient's immediate need for the Funds, the Recipient will place the Funds in an interest bearing account in the name of the Recipient at a Canadian financial institution.

A4.5 **Interest.** If the Recipient earns any interest on the Funds, the Province may do either or both of the following:

- (a) deduct an amount equal to the interest from any further instalments of Funds;
- (b) demand from the Recipient the payment of an amount equal to the interest.

A4.6 **Rebates, Credits, and Refunds.** The Province will calculate Funds based on the actual costs to the Recipient to carry out the Project, less any costs (including taxes) for which the Recipient has received, will receive, or is eligible to receive, a rebate, credit, or refund.

A5.0 RECIPIENT'S ACQUISITION OF GOODS OR SERVICES, AND DISPOSAL OF ASSETS

A5.1 **Acquisition.** If the Recipient acquires goods, services, or both with the Funds, it will do so through a process that promotes the best value for money.

A5.2 **Disposal.** The Recipient will not, without the Province's prior consent, sell, lease, or otherwise dispose of any asset purchased or created with the Funds or for which Funds were provided, the cost of which exceeded the amount as provided for in Schedule "B" at the time of purchase.

A6.0 CONFLICT OF INTEREST

A6.1 **Conflict of Interest Includes.** For the purposes of Article A6.0, a conflict of interest includes any circumstances where:

- (a) the Recipient; or
- (b) any person who has the capacity to influence the Recipient's decisions,

has outside commitments, relationships, or financial interests that could, or could be seen by a reasonable person to, interfere with the Recipient's objective, unbiased, and impartial judgment relating to the Project, the use of the Funds, or both.

A6.2 **No Conflict of Interest.** The Recipient will carry out the Project and use the Funds without an actual, potential, or perceived conflict of interest unless:

- (a) the Recipient:
 - (i) provides Notice to the Province disclosing the details of the actual, potential, or perceived conflict of interest;
 - (ii) requests the consent of the Province to carry out the Project with an actual, potential, or perceived conflict of interest;
- (b) the Province provides its consent to the Recipient carrying out the Project with an actual, potential, or perceived conflict of interest; and
- (c) the Recipient complies with any terms and conditions the Province may prescribe in its consent.

A7.0 REPORTS, ACCOUNTING, AND REVIEW

A7.1 **Province Includes.** For the purposes of sections A7.4, A7.5 and A7.6, “**Province**” includes any auditor or representative the Province may identify.

A7.2 **Preparation and Submission.** The Recipient will:

- (a) submit to the Province at the address referred to in section A17.1:
 - (i) all Reports in accordance with the timelines and content requirements as provided for in Schedule “F”;
 - (ii) any other reports in accordance with any timelines and content requirements the Province may specify from time to time;
- (b) ensure that all Reports and other reports are:
 - (i) completed to the satisfaction of the Province; and
 - (i) signed by an authorized signing officer of the Recipient.

A7.3 **Record Maintenance.** The Recipient will keep and maintain for a period of seven years from their creation:

- (a) all financial records (including invoices and evidence of payment) relating to the Funds or otherwise to the Project in a manner consistent with either international financial reporting standards or generally accepted accounting principles or any other accounting principles that apply to the Recipient; and
- (b) all non-financial records and documents relating to the Funds or otherwise to the Project.

A7.4 **Records Review.** The Province may, at its own expense, upon twenty-four hours' Notice to the Recipient and during normal business hours enter upon the Recipient's premises to conduct an audit or investigation of the Recipient regarding the Recipient's compliance with the Agreement, including assessing any of the following:

- (a) the truth of any of the Recipient's representations and warranties;
- (b) the progress of the Project;
- (c) the Recipient's allocation and expenditure of the Funds.

A7.5 **Inspection and Removal.** For the purposes of any Records Review, the Province may take one or more of the following actions:

- (a) inspect and copy any records and documents referred to in section A7.3; and
- (b) remove any copies the Province makes pursuant to section A7.5(a).

A7.6 **Cooperation.** To assist the Province in respect of its rights provided for in section A7.5, the Recipient will cooperate with the Province by:

- (a) ensuring that the Province has access to the records and documents wherever they are located;
- (b) assisting the Province to copy records and documents;
- (c) providing to the Province, in the form the Province specifies, any information the Province identifies; and
- (d) carrying out any other activities the Province requests.

A7.7 **No Control of Records.** No provision of the Agreement will be construed so as to give the Province any control whatsoever over the Recipient's records.

A7.8 **Auditor General.** The Province's rights under Article A7.0 are in addition to

any rights provided to the Auditor General pursuant to section 9.2 of the *Auditor General Act* (Ontario).

A8.0 COMMUNICATIONS REQUIREMENTS

A8.1 Acknowledge Support. Unless the Province directs the Recipient to do otherwise, the Recipient will in each of its Project-related publications, whether written, oral, or visual:

- (a) acknowledge the support of the Province for the Project;
- (b) ensure that any acknowledgement is in a form and manner as the Province directs; and
- (c) indicate that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of the Province.

A9.0 INDEMNITY

A9.1 Indemnification. The Recipient will indemnify and hold harmless the Indemnified Parties from and against any Loss and any Proceeding, unless solely caused by the negligence or wilful misconduct of the Indemnified Parties.

A10.0 INSURANCE

A10.1 Recipient's Insurance. The Recipient represents, warrants, and covenants that it has, and will maintain, at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person carrying out a project similar to the Project would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury, and property damage, to an inclusive limit of not less than the amount provided for in Schedule "B" per occurrence, which commercial general liability insurance policy will include the following:

- (a) the Indemnified Parties as additional insureds with respect to liability arising in the course of performance of the Recipient's obligations under, or otherwise in connection with, the Agreement;
- (b) a cross-liability clause;
- (c) contractual liability coverage; and
- (d) a 30-day written notice of cancellation.

A10.2 Proof of Insurance. The Recipient will:

- (a) provide to the Province, either:
 - (i) certificates of insurance that confirm the insurance coverage as provided for in section A10.1; or
 - (ii) other proof that confirms the insurance coverage as provided for in section A10.1; and
- (b) in the event of a Proceeding, and upon the Province's request, the Recipient will provide to the Province a copy of any of the Recipient's insurance policies that relate to the Project or otherwise to the Agreement, or both.

A11.0 TERMINATION ON NOTICE

A11.1 Termination on Notice. The Province may terminate the Agreement at any time without liability, penalty, or costs upon giving 30 days' Notice to the Recipient.

A11.2 Consequences of Termination on Notice by the Province. If the Province terminates the Agreement pursuant to section A11.1, the Province may take one or more of the following actions:

- (a) cancel further instalments of Funds;
- (b) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and
- (c) determine the reasonable costs for the Recipient to wind down the Project, and do either or both of the following:
 - (i) permit the Recipient to offset such costs against the amount the Recipient owes pursuant to section A11.2(b); and
 - (ii) subject to section A4.1(a), provide Funds to the Recipient to cover such costs.

A12.0 EVENT OF DEFAULT, CORRECTIVE ACTION, AND TERMINATION FOR DEFAULT

A12.1 Events of Default. It will constitute an Event of Default if, in the opinion of the Province, the Recipient breaches any representation, warranty, covenant, or other material term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:

- (i) carry out the Project;

- (ii) use or spend Funds; or
- (iii) provide, in accordance with section A7.2, Reports or such other reports as the Province may have requested pursuant to section A7.2(a)(ii).

A12.2 Consequences of Events of Default and Corrective Action. If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) initiate any action the Province considers necessary in order to facilitate the successful continuation or completion of the Project;
- (b) provide the Recipient with an opportunity to remedy the Event of Default;
- (c) suspend the payment of Funds for such period as the Province determines appropriate;
- (d) reduce the amount of the Funds;
- (e) cancel further instalments of Funds;
- (f) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient;
- (g) demand from the Recipient the payment of an amount equal to any Funds the Recipient used, but did not use in accordance with the Agreement;
- (h) demand from the Recipient the payment of an amount equal to any Funds the Province provided to the Recipient;
- (i) demand from the Recipient an amount equal to the costs the Province incurred or incurs to enforce its rights under the Agreement, including the costs of any Record Review and the costs it incurs to collect any amounts the Recipient owes to the Province; and
- (j) terminate the Agreement at any time, including immediately, without liability, penalty or costs to the Province upon giving Notice to the Recipient.

A12.3 Opportunity to Remedy. If, in accordance with section A12.2(b), the Province provides the Recipient with an opportunity to remedy the Event of Default, the Province will give Notice to the Recipient of:

- (a) the particulars of the Event of Default; and

(b) the Notice Period.

A12.4 **Recipient not Remediating.** If the Province provided the Recipient with an opportunity to remedy the Event of Default pursuant to section A12.2(b), and:

- (a) the Recipient does not remedy the Event of Default within the Notice Period;
- (b) it becomes apparent to the Province that the Recipient cannot completely remedy the Event of Default within the Notice Period; or
- (c) the Recipient is not proceeding to remedy the Event of Default in a way that is satisfactory to the Province,

the Province may extend the Notice Period, or initiate any one or more of the actions provided for in sections A12.2(a), (c), (d), (e), (f), (g), (h), and (i).

A12.5 **When Termination Effective.** Termination under Article A12.0 will take effect as provided for in the Notice.

A13.0 FUNDS AT THE END OF A FUNDING YEAR

A13.1 **Funds at the End of a Funding Year.** Without limiting any rights of the Province under Article A12.0, if the Recipient has not spent all of the Funds allocated for the Funding Year as provided for in the Budget, the Province may take one or both of the following actions:

- (a) demand from the Recipient payment of the unspent Funds; and
- (b) adjust the amount of any further instalments of Funds accordingly.

A14.0 FUNDS UPON EXPIRY

A14.1 **Funds Upon Expiry.** The Recipient will, upon expiry of the Agreement, pay to the Province any Funds remaining in its possession, under its control, or both.

A15.0 DEBT DUE AND PAYMENT

A15.1 **Payment of Overpayment.** If at any time the Province provides Funds in excess of the amount to which the Recipient is entitled under the Agreement, the Province may:

- (a) deduct an amount equal to the excess Funds from any further instalments of Funds; or
- (b) demand that the Recipient pay to the Province an amount equal to the

excess Funds.

A15.2 **Debt Due.** If, pursuant to the Agreement:

- (a) the Province demands from the Recipient the payment of any Funds or an amount equal to any Funds; or
- (b) the Recipient owes any Funds or an amount equal to any Funds to the Province, whether or not the Province has demanded their payment,

such amounts will be deemed to be debts due and owing to the Province by the Recipient, and the Recipient will pay the amounts to the Province immediately, unless the Province directs otherwise.

A15.3 **Interest Rate.** The Province may charge the Recipient interest on any money owing to the Province by the Recipient under the Agreement at the then current interest rate charged by the Province of Ontario on accounts receivable.

A15.4 **Payment of Money to Province.** The Recipient will pay any money owing to the Province by cheque payable to the "Ontario Minister of Finance" and delivered to the Province as provided for in Schedule "B".

A15.5 **Fails to Pay.** Without limiting the application of section 43 of the *Financial Administration Act* (Ontario), if the Recipient fails to pay any amount owing under the Agreement, Her Majesty the Queen in right of Ontario may deduct any unpaid amount from any money payable to the Recipient by Her Majesty the Queen in right of Ontario.

A16.0 NOTICE

A16.1 **Notice in Writing and Addressed.** Notice will be:

- (a) in writing;
- (b) delivered by email, postage-prepaid mail, personal delivery, courier or fax; and
- (c) addressed to the Province or the Recipient as set out in Schedule "B", or as either Party later designates to the other by Notice.

A16.2 **Notice Given.** Notice will be deemed to have been given:

- (a) in the case of postage-prepaid mail, five Business Days after the Notice is mailed; or
- (b) in the case of fax, one Business Day after the Notice is delivered; and

- (c) in the case of email, personal delivery or courier on the date on which the Notice is delivered.

A16.3 **Postal Disruption.** Despite section A16.2(a), in the event of a postal disruption:

- (a) Notice by postage-prepaid mail will not be deemed to be given; and
- (b) the Party giving Notice will give Notice by email, personal delivery, courier or fax.

A17.0 CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT

A17.1 **Consent.** When the Province provides its consent pursuant to the Agreement:

- (a) it will do so by Notice;
- (b) it may attach any terms and conditions to the consent; and
- (c) the Recipient may rely on the consent only if the Recipient complies with any terms and conditions the Province may have attached to the consent.

A18.0 SEVERABILITY OF PROVISIONS

A18.1 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement will not affect the validity or enforceability of any other provision of the Agreement.

A19.0 WAIVER

A19.1 **Waiver Request.** Either Party may, by Notice, ask the other Party to waive an obligation under the Agreement.

A19.2 **Waiver Applies.** If in response to a request made pursuant to section A19.1 a Party consents to a waiver, the waiver will:

- (a) be valid only if the Party that consents to the waiver provides the consent by Notice; and
- (b) apply only to the specific obligation referred to in the waiver.

A20.0 INDEPENDENT PARTIES

A20.1 **Parties Independent.** The Recipient is not an agent, joint venturer, partner, or employee of the Province, and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any

actions that could establish or imply such a relationship.

A21.0 ASSIGNMENT OF AGREEMENT OR FUNDS

A21.1 **No Assignment.** The Recipient will not, without the prior written consent of the Province, assign any of its rights or obligations under the Agreement.

A21.2 **Agreement Binding.** All rights and obligations contained in the Agreement will extend to and be binding on:

- (a) the Recipient's successors, and permitted assigns; and
- (b) the successors to Her Majesty the Queen in right of Ontario.

A22.0 GOVERNING LAW

A22.1 **Governing Law.** The Agreement and the rights, obligations, and relations of the Parties will be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with the Agreement will be conducted in the courts of Ontario, which will have exclusive jurisdiction over such proceedings.

A23.0 FURTHER ASSURANCES

A23.1 **Agreement into Effect.** The Recipient will:

- (a) provide such further assurances as the Province may request from time to time with respect to any matter to which the Agreement pertains; and
- (b) do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

A24.0 JOINT AND SEVERAL LIABILITY

A24.1 **Joint and Several Liability.** Where the Recipient comprises of more than one entity, all such entities will be jointly and severally liable to the Province for the fulfillment of the obligations of the Recipient under the Agreement.

A25.0 RIGHTS AND REMEDIES CUMULATIVE

A25.1 **Rights and Remedies Cumulative.** The rights and remedies of the Province under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

A26.0 FAILURE TO COMPLY WITH OTHER AGREEMENTS

A26.1 Other Agreements. If the Recipient:

- (a) has failed to comply with any term, condition, or obligation under any other agreement with Her Majesty the Queen in right of Ontario or one of Her agencies (a “**Failure**”);
- (b) has been provided with notice of such Failure in accordance with the requirements of such other agreement;
- (c) has, if applicable, failed to rectify such Failure in accordance with the requirements of such other agreement; and
- (d) such Failure is continuing,

the Province may suspend the payment of Funds for such period as the Province determines appropriate.

A27.0 SURVIVAL

A27.1 Survival. The following Articles and sections, and all applicable cross-referenced Articles, sections and schedules, will continue in full force and effect for a period of seven years from the date of expiry or termination of the Agreement: Article 1.0, Article 2.0, Article A1.0 and any other applicable definitions, section A2.1(a), sections A4.4, A4.5, A4.6, section A5.2, section A7.1, A7.2 (to the extent that the Recipient has not provided the Reports or other reports as the Province may have requested and to the satisfaction of the Province), sections A7.3, A7.4, A7.5, A7.6, A7.7, A7.8, Article A8.0, Article A9.0, section A11.2, sections A12.1, sections A12.2(d), (e), (f), (g), (h), (i), and (j), Article A13.0, Article A14.0, Article A15.0, Article A16.0, Article A18.0, , section A21.2, Article A22.0, Article A24.0, Article A25.0 and Article A27.0.

- END OF GENERAL TERMS AND CONDITIONS -

SCHEDULE “B”
PROJECT SPECIFIC INFORMATION AND ADDITIONAL PROVISIONS

Maximum Funds	Up to \$59,530
Expiry Date	March 31, 2024
Amount for the purposes of section A5.2 (Disposal) of Schedule “A”	\$5000.00
Insurance	\$ 2,000,000
Contact information for the purposes of Notice to the Province	<p>Position: Brenda Vloet</p> <p>Address: Manager, Municipal Programs and Outreach Unit</p> <p>Fax: 777 Bay Street, Toronto, Ontario M7A 2J3, 16th Floor</p> <p>Email: Brenda.Vloet@ontario.ca</p>
Contact information for the purposes of Notice to the Recipient	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>
Contact information for the senior financial person in the Recipient organization (e.g., CFO, CAO) – to respond as required to requests from the Province related to the Agreement	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>

Additional Provisions:

- B1 Section 4.2 of Schedule “A” is amended by adding the following subsection:**
- (e) The Province is not obligated to provide any Funds to the Recipient that exceed 65% of the incurred project costs.

B2 Section 4.3 of schedule “A” is amended by adding the following subsection:

- (e) not use the Funds for the purpose of paying the Recipient’s regular salary costs.
- (f) not use Funds for the purpose of purchasing land, buildings or vehicles

**SCHEDULE "C"
PROJECT**

Project Title
City of Port Colborne Telecommunications System Modernization
Objectives
The objective of the Project is to implement an enterprise cloud-based phone system with the goal of modernizing service delivery and realizing cost savings and efficiencies.
Description
The Recipient will purchase and implement an enterprise cloud-based phone system and project management services, which will remove the limitations of the current system and will allow the Recipient's staff to access the new system remotely.

SCHEDULE "D"
BUDGET

Item	Amount
Reimbursement of up to 65% of Project costs incurred between August 16, 2021 to the earlier of February 28, 2023 or the submission of the Final Report Back.	Up to \$59,530

SCHEDULE "E"
PAYMENT PLAN

Milestone	Scheduled Payment
<ul style="list-style-type: none"> • Execution of Agreement 	Initial payment of \$41,671 made to Recipient no more than thirty (30) days after the execution of the Agreement.
<ul style="list-style-type: none"> • Submission of one (1) Interim Report Back 	Interim payment made to the Recipient no more than thirty (30) days after the Province's approval of the Interim Report Back for costs incurred and submitted as part of the First Interim Report Back that exceed the initial payment.
<ul style="list-style-type: none"> • Submission of Final Report Back to the Province 	Final payment of up to \$17,859 less any amount paid as part of the interim payment made to the Recipient no more than thirty (30) days after the Province's approval of the Final Report Back.

**SCHEDULE “F”
REPORTS**

Name of Report	Reporting Due Date
1. Interim Report Back	May 30, 2022
2. Final Report Back	February 28, 2023
3. Annual Report Back	February 28, 2024

Report Details

1. Interim Report Back

The Recipient will submit one (1) Interim Report Back to the Province by May 30, 2022, using the reporting template provided by the Province. The Interim Report Backs will include:

- A written description of what the Recipient has completed for the Project to date and what will be completed by the Final Report Back,
- A list of actual costs to carry out the Project paid by the Recipient, with supporting documentation, such as invoices or receipts, showing actual costs incurred.

2. Final Report Back

The Recipient will submit a Final Report Back to the Province once the Project is completed and by February 28, 2023 using the reporting template provided by the Province. The Final Report Back will include:

- A 250-word abstract of the Project and its findings
- A written description of the Project and the forecasted annual savings and other efficiency outcomes for the Recipient,
- The actual costs to carry out the Project that have not been included as part of the Interim Report Back paid by the Recipient with supporting documentation, such as invoices or receipts, showing actual costs incurred.
- A statement indicating an updated estimate of annual cost savings realized through the Project, which will be the performance measure.

3. Annual Report Back

The Recipient will submit an Annual Report Back to the Province using the reporting template provided by the Province. The Annual Report Back will include:

- A statement indicating the actual cost savings and efficiency outcomes from the Project over the course of the year.

ONTARIO TRANSFER PAYMENT AGREEMENT

THE AGREEMENT is effective as of the _____ day of _____, 20____

B E T W E E N :

**Her Majesty the Queen in right of Ontario
as represented by the Minister of Municipal Affairs and
Housing**

(the “Province”)

- and -

Corporation of the City of Port Colborne

(the “Recipient”)

CONSIDERATION

In consideration of the mutual covenants and agreements contained in the Agreement and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Province and the Recipient agree as follows:

1.0 ENTIRE AGREEMENT

1.1 Schedules to the Agreement. The following schedules form part of the Agreement:

- Schedule “A” - General Terms and Conditions
- Schedule “B” - Project Specific Information and Additional Provisions
- Schedule “C” - Project
- Schedule “D” - Budget
- Schedule “E” - Payment Plan
- Schedule “F” - Reports.

1.2 Entire Agreement. The Agreement constitutes the entire agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.

2.0 CONFLICT OR INCONSISTENCY

2.1 **Conflict or Inconsistency.** In the event of a conflict or inconsistency between the Additional Provisions and the provisions in Schedule “A”, the following rules will apply:

- (a) the Parties will interpret any Additional Provisions in so far as possible, in a way that preserves the intention of the Parties as expressed in Schedule “A”; and
- (b) where it is not possible to interpret the Additional Provisions in a way that is consistent with the provisions in Schedule “A”, the Additional Provisions will prevail over the provisions in Schedule “A” to the extent of the inconsistency.

3.0 COUNTERPARTS

3.1 **One and the Same Agreement.** The Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

4.0 AMENDING THE AGREEMENT

4.1 **Amending the Agreement.** The Agreement may only be amended by a written agreement duly executed by the Parties.

5.0 ACKNOWLEDGEMENT

5.1 **Acknowledgement.** The Recipient acknowledges that:

- (a) the Funds are to assist the Recipient to carry out the Project and not to provide goods or services to the Province;
- (b) the Province is not responsible for carrying out the Project; and
- (c) the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

- SIGNATURE PAGE FOLLOWS -

The Parties have executed the Agreement on the dates set out below.

**HER MAJESTY THE QUEEN IN RIGHT OF
ONTARIO as represented by the Minister of
Municipal Affairs and Housing**

Date

Name: The Honourable Steve Clark
Title: Minister of Municipal Affairs and Housing

Corporation of the City of Port Colborne

Date

Name:
Title:

I have authority to bind the Recipient.

Date

Name:
Title:

I have authority to bind the Recipient.

SCHEDULE "A"
GENERAL TERMS AND CONDITIONS

A1.0 INTERPRETATION AND DEFINITIONS

A1.1 **Interpretation.** For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;
- (b) words in one gender include all genders;
- (c) the headings do not form part of the Agreement; they are for reference only and will not affect the interpretation of the Agreement;
- (d) any reference to dollars or currency will be in Canadian dollars and currency; and
- (e) "include", "includes" and "including" denote that the subsequent list is not exhaustive.

A1.2 **Definitions.** In the Agreement, the following terms will have the following meanings:

"Additional Provisions" means the terms and conditions set out in Schedule "B".

"Agreement" means this agreement entered into between the Province and the Recipient, all of the schedules listed in section 1.1, and any amending agreement entered into pursuant to section 4.1.

"Budget" means the budget attached to the Agreement as Schedule "D".

"Business Day" means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day on which the Province has elected to be closed for business.

"Effective Date" means the date set out at the top of the Agreement.

"Event of Default" has the meaning ascribed to it in section A12.1.

"Expiry Date" means the expiry date set out in Schedule "B".

"Funding Year" means:

- (a) in the case of the first Funding Year, the period commencing on the

Effective Date and ending on the following March 31; and

- (b) in the case of Funding Years subsequent to the first Funding Year, the period commencing on April 1 following the end of the previous Funding Year and ending on the following March 31 or the Expiry Date, whichever is first.

“Funds” means the money the Province provides to the Recipient pursuant to the Agreement.

“Indemnified Parties” means Her Majesty the Queen in right of Ontario, and includes Her ministers, agents, appointees, and employees.

“Loss” means any cause of action, liability, loss, cost, damage, or expense (including legal, expert and consultant fees) that anyone incurs or sustains as a result of or in connection with the Project or any other part of the Agreement.

“Maximum Funds” means the maximum set out in Schedule “B”.

“Notice” means any communication given or required to be given pursuant to the Agreement.

“Notice Period” means the period of time within which the Recipient is required to remedy an Event of Default pursuant to section A12.3(b), and includes any such period or periods of time by which the Province extends that time in accordance with section A12.4.

“Parties” means the Province and the Recipient.

“Party” means either the Province or the Recipient.

“Proceeding” means any action, claim, demand, lawsuit, or other proceeding that anyone makes, brings or prosecutes as a result of or in connection with the Project or with any other part of the Agreement.

“Project” means the undertaking described in Schedule “C”.

“Records Review” means any assessment the Province conducts pursuant to section A7.4.

“Reports” means the reports described in Schedule “F”.

A2.0 REPRESENTATIONS, WARRANTIES, AND COVENANTS

A2.1 General. The Recipient represents, warrants, and covenants that:

- (a) it has, and will continue to have, the experience and expertise necessary to carry out the Project;
- (b) it is in compliance with, and will continue to comply with, all federal and provincial laws and regulations, all municipal by-laws, and any other orders, rules, and by-laws related to any aspect of the Project, the Funds, or both; and
- (c) unless otherwise provided for in the Agreement, any information the Recipient provided to the Province in support of its request for funds (including information relating to any eligibility requirements) was true and complete at the time the Recipient provided it and will continue to be true and complete.

A2.2 **Execution of Agreement.** The Recipient represents and warrants that it has:

- (a) the full power and authority to enter into the Agreement; and
- (b) taken all necessary actions to authorize the execution of the Agreement, including passing a municipal by-law authorizing the Recipient to enter into the Agreement.

A2.3 **Governance.** The Recipient represents, warrants, and covenants that it has, will maintain in writing, and will follow:

- (a) procedures to enable the Recipient to manage Funds prudently and effectively;
- (b) procedures to enable the Recipient to complete the Project successfully;
- (c) procedures to enable the Recipient to identify risks to the completion of the Project and strategies to address the identified risks, all in a timely manner;
- (d) procedures to enable the preparation and submission of all Reports required pursuant to Article A7.0; and
- (e) procedures to enable the Recipient to address such other matters as the Recipient considers necessary to enable the Recipient to carry out its obligations under the Agreement.

A2.4 **Supporting Proof.** Upon the request of the Province, the Recipient will provide the Province with proof of the matters referred to in Article A2.0.

A3.0 TERM OF THE AGREEMENT

A3.1 **Term.** The term of the Agreement will commence on the Effective Date and will expire on the Expiry Date unless terminated earlier pursuant to Article A11.0 or Article A12.0.

A4.0 FUNDS AND CARRYING OUT THE PROJECT

A4.1 **Funds Provided.** The Province will:

- (a) provide the Recipient up to the Maximum Funds for the purpose of carrying out the Project;
- (b) provide the Funds to the Recipient in accordance with the payment plan attached to the Agreement as Schedule “E”; and
- (c) deposit the Funds into an account the Recipient designates provided that the account:
 - (i) resides at a Canadian financial institution; and
 - (ii) is in the name of the Recipient.

A4.2 **Limitation on Payment of Funds.** Despite section A4.1:

- (a) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides evidence satisfactory to the Province that the Recipient’s council has authorized the execution of this Agreement by the Recipient by municipal by-law;
- (b) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides the certificates of insurance or other proof as the Province may request pursuant to section A10.2;
- (c) the Province is not obligated to provide instalments of Funds until it is satisfied with the progress of the Project; and
- (d) the Province may adjust the amount of Funds it provides to the Recipient in any Funding Year based upon the Province’s assessment of the information the Recipient provides to the Province pursuant to section A7.2.

A4.3 **Use of Funds and Carry Out the Project.** The Recipient will do all of the following:

- (a) carry out the Project in accordance with the Agreement;

- (b) use the Funds only for the purpose of carrying out the Project;
- (c) spend the Funds only in accordance with the Budget;
- (d) not use the Funds to cover any cost that has or will be funded or reimbursed by one or more of any third party, ministry, agency, or organization of the Government of Ontario.

A4.4 **Interest Bearing Account.** If the Province provides Funds before the Recipient's immediate need for the Funds, the Recipient will place the Funds in an interest bearing account in the name of the Recipient at a Canadian financial institution.

A4.5 **Interest.** If the Recipient earns any interest on the Funds, the Province may do either or both of the following:

- (a) deduct an amount equal to the interest from any further instalments of Funds;
- (b) demand from the Recipient the payment of an amount equal to the interest.

A4.6 **Rebates, Credits, and Refunds.** The Province will calculate Funds based on the actual costs to the Recipient to carry out the Project, less any costs (including taxes) for which the Recipient has received, will receive, or is eligible to receive, a rebate, credit, or refund.

A5.0 RECIPIENT'S ACQUISITION OF GOODS OR SERVICES, AND DISPOSAL OF ASSETS

A5.1 **Acquisition.** If the Recipient acquires goods, services, or both with the Funds, it will do so through a process that promotes the best value for money.

A5.2 **Disposal.** The Recipient will not, without the Province's prior consent, sell, lease, or otherwise dispose of any asset purchased or created with the Funds or for which Funds were provided, the cost of which exceeded the amount as provided for in Schedule "B" at the time of purchase.

A6.0 CONFLICT OF INTEREST

A6.1 **Conflict of Interest Includes.** For the purposes of Article A6.0, a conflict of interest includes any circumstances where:

- (a) the Recipient; or
- (b) any person who has the capacity to influence the Recipient's decisions,

has outside commitments, relationships, or financial interests that could, or could be seen by a reasonable person to, interfere with the Recipient's objective, unbiased, and impartial judgment relating to the Project, the use of the Funds, or both.

A6.2 **No Conflict of Interest.** The Recipient will carry out the Project and use the Funds without an actual, potential, or perceived conflict of interest unless:

- (a) the Recipient:
 - (i) provides Notice to the Province disclosing the details of the actual, potential, or perceived conflict of interest;
 - (ii) requests the consent of the Province to carry out the Project with an actual, potential, or perceived conflict of interest;
- (b) the Province provides its consent to the Recipient carrying out the Project with an actual, potential, or perceived conflict of interest; and
- (c) the Recipient complies with any terms and conditions the Province may prescribe in its consent.

A7.0 **REPORTS, ACCOUNTING, AND REVIEW**

A7.1 **Province Includes.** For the purposes of sections A7.4, A7.5 and A7.6, "**Province**" includes any auditor or representative the Province may identify.

A7.2 **Preparation and Submission.** The Recipient will:

- (a) submit to the Province at the address referred to in section A17.1:
 - (i) all Reports in accordance with the timelines and content requirements as provided for in Schedule "F";
 - (ii) any other reports in accordance with any timelines and content requirements the Province may specify from time to time;
- (b) ensure that all Reports and other reports are:
 - (i) completed to the satisfaction of the Province; and
 - (i) signed by an authorized signing officer of the Recipient.

A7.3 **Record Maintenance.** The Recipient will keep and maintain for a period of seven years from their creation:

- (a) all financial records (including invoices and evidence of payment) relating to the Funds or otherwise to the Project in a manner consistent with either international financial reporting standards or generally accepted accounting principles or any other accounting principles that apply to the Recipient; and
- (b) all non-financial records and documents relating to the Funds or otherwise to the Project.

A7.4 **Records Review.** The Province may, at its own expense, upon twenty-four hours' Notice to the Recipient and during normal business hours enter upon the Recipient's premises to conduct an audit or investigation of the Recipient regarding the Recipient's compliance with the Agreement, including assessing any of the following:

- (a) the truth of any of the Recipient's representations and warranties;
- (b) the progress of the Project;
- (c) the Recipient's allocation and expenditure of the Funds.

A7.5 **Inspection and Removal.** For the purposes of any Records Review, the Province may take one or more of the following actions:

- (a) inspect and copy any records and documents referred to in section A7.3; and
- (b) remove any copies the Province makes pursuant to section A7.5(a).

A7.6 **Cooperation.** To assist the Province in respect of its rights provided for in section A7.5, the Recipient will cooperate with the Province by:

- (a) ensuring that the Province has access to the records and documents wherever they are located;
- (b) assisting the Province to copy records and documents;
- (c) providing to the Province, in the form the Province specifies, any information the Province identifies; and
- (d) carrying out any other activities the Province requests.

A7.7 **No Control of Records.** No provision of the Agreement will be construed so as to give the Province any control whatsoever over the Recipient's records.

A7.8 **Auditor General.** The Province's rights under Article A7.0 are in addition to

any rights provided to the Auditor General pursuant to section 9.2 of the *Auditor General Act* (Ontario).

A8.0 COMMUNICATIONS REQUIREMENTS

A8.1 Acknowledge Support. Unless the Province directs the Recipient to do otherwise, the Recipient will in each of its Project-related publications, whether written, oral, or visual:

- (a) acknowledge the support of the Province for the Project;
- (b) ensure that any acknowledgement is in a form and manner as the Province directs; and
- (c) indicate that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of the Province.

A9.0 INDEMNITY

A9.1 Indemnification. The Recipient will indemnify and hold harmless the Indemnified Parties from and against any Loss and any Proceeding, unless solely caused by the negligence or wilful misconduct of the Indemnified Parties.

A10.0 INSURANCE

A10.1 Recipient's Insurance. The Recipient represents, warrants, and covenants that it has, and will maintain, at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person carrying out a project similar to the Project would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury, and property damage, to an inclusive limit of not less than the amount provided for in Schedule "B" per occurrence, which commercial general liability insurance policy will include the following:

- (a) the Indemnified Parties as additional insureds with respect to liability arising in the course of performance of the Recipient's obligations under, or otherwise in connection with, the Agreement;
- (b) a cross-liability clause;
- (c) contractual liability coverage; and
- (d) a 30-day written notice of cancellation.

A10.2 Proof of Insurance. The Recipient will:

- (a) provide to the Province, either:
 - (i) certificates of insurance that confirm the insurance coverage as provided for in section A10.1; or
 - (ii) other proof that confirms the insurance coverage as provided for in section A10.1; and
- (b) in the event of a Proceeding, and upon the Province's request, the Recipient will provide to the Province a copy of any of the Recipient's insurance policies that relate to the Project or otherwise to the Agreement, or both.

A11.0 TERMINATION ON NOTICE

A11.1 Termination on Notice. The Province may terminate the Agreement at any time without liability, penalty, or costs upon giving 30 days' Notice to the Recipient.

A11.2 Consequences of Termination on Notice by the Province. If the Province terminates the Agreement pursuant to section A11.1, the Province may take one or more of the following actions:

- (a) cancel further instalments of Funds;
- (b) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and
- (c) determine the reasonable costs for the Recipient to wind down the Project, and do either or both of the following:
 - (i) permit the Recipient to offset such costs against the amount the Recipient owes pursuant to section A11.2(b); and
 - (ii) subject to section A4.1(a), provide Funds to the Recipient to cover such costs.

A12.0 EVENT OF DEFAULT, CORRECTIVE ACTION, AND TERMINATION FOR DEFAULT

A12.1 Events of Default. It will constitute an Event of Default if, in the opinion of the Province, the Recipient breaches any representation, warranty, covenant, or other material term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:

- (i) carry out the Project;

- (ii) use or spend Funds; or
- (iii) provide, in accordance with section A7.2, Reports or such other reports as the Province may have requested pursuant to section A7.2(a)(ii).

A12.2 Consequences of Events of Default and Corrective Action. If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) initiate any action the Province considers necessary in order to facilitate the successful continuation or completion of the Project;
- (b) provide the Recipient with an opportunity to remedy the Event of Default;
- (c) suspend the payment of Funds for such period as the Province determines appropriate;
- (d) reduce the amount of the Funds;
- (e) cancel further instalments of Funds;
- (f) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient;
- (g) demand from the Recipient the payment of an amount equal to any Funds the Recipient used, but did not use in accordance with the Agreement;
- (h) demand from the Recipient the payment of an amount equal to any Funds the Province provided to the Recipient;
- (i) demand from the Recipient an amount equal to the costs the Province incurred or incurs to enforce its rights under the Agreement, including the costs of any Record Review and the costs it incurs to collect any amounts the Recipient owes to the Province; and
- (j) terminate the Agreement at any time, including immediately, without liability, penalty or costs to the Province upon giving Notice to the Recipient.

A12.3 Opportunity to Remedy. If, in accordance with section A12.2(b), the Province provides the Recipient with an opportunity to remedy the Event of Default, the Province will give Notice to the Recipient of:

- (a) the particulars of the Event of Default; and

(b) the Notice Period.

A12.4 **Recipient not Remedying.** If the Province provided the Recipient with an opportunity to remedy the Event of Default pursuant to section A12.2(b), and:

- (a) the Recipient does not remedy the Event of Default within the Notice Period;
- (b) it becomes apparent to the Province that the Recipient cannot completely remedy the Event of Default within the Notice Period; or
- (c) the Recipient is not proceeding to remedy the Event of Default in a way that is satisfactory to the Province,

the Province may extend the Notice Period, or initiate any one or more of the actions provided for in sections A12.2(a), (c), (d), (e), (f), (g), (h), and (i).

A12.5 **When Termination Effective.** Termination under Article A12.0 will take effect as provided for in the Notice.

A13.0 FUNDS AT THE END OF A FUNDING YEAR

A13.1 **Funds at the End of a Funding Year.** Without limiting any rights of the Province under Article A12.0, if the Recipient has not spent all of the Funds allocated for the Funding Year as provided for in the Budget, the Province may take one or both of the following actions:

- (a) demand from the Recipient payment of the unspent Funds; and
- (b) adjust the amount of any further instalments of Funds accordingly.

A14.0 FUNDS UPON EXPIRY

A14.1 **Funds Upon Expiry.** The Recipient will, upon expiry of the Agreement, pay to the Province any Funds remaining in its possession, under its control, or both.

A15.0 DEBT DUE AND PAYMENT

A15.1 **Payment of Overpayment.** If at any time the Province provides Funds in excess of the amount to which the Recipient is entitled under the Agreement, the Province may:

- (a) deduct an amount equal to the excess Funds from any further instalments of Funds; or
- (b) demand that the Recipient pay to the Province an amount equal to the

excess Funds.

A15.2 **Debt Due.** If, pursuant to the Agreement:

- (a) the Province demands from the Recipient the payment of any Funds or an amount equal to any Funds; or
- (b) the Recipient owes any Funds or an amount equal to any Funds to the Province, whether or not the Province has demanded their payment,

such amounts will be deemed to be debts due and owing to the Province by the Recipient, and the Recipient will pay the amounts to the Province immediately, unless the Province directs otherwise.

A15.3 **Interest Rate.** The Province may charge the Recipient interest on any money owing to the Province by the Recipient under the Agreement at the then current interest rate charged by the Province of Ontario on accounts receivable.

A15.4 **Payment of Money to Province.** The Recipient will pay any money owing to the Province by cheque payable to the "Ontario Minister of Finance" and delivered to the Province as provided for in Schedule "B".

A15.5 **Fails to Pay.** Without limiting the application of section 43 of the *Financial Administration Act* (Ontario), if the Recipient fails to pay any amount owing under the Agreement, Her Majesty the Queen in right of Ontario may deduct any unpaid amount from any money payable to the Recipient by Her Majesty the Queen in right of Ontario.

A16.0 NOTICE

A16.1 **Notice in Writing and Addressed.** Notice will be:

- (a) in writing;
- (b) delivered by email, postage-prepaid mail, personal delivery, courier or fax; and
- (c) addressed to the Province or the Recipient as set out in Schedule "B", or as either Party later designates to the other by Notice.

A16.2 **Notice Given.** Notice will be deemed to have been given:

- (a) in the case of postage-prepaid mail, five Business Days after the Notice is mailed; or
- (b) in the case of fax, one Business Day after the Notice is delivered; and

- (c) in the case of email, personal delivery or courier on the date on which the Notice is delivered.

A16.3 **Postal Disruption.** Despite section A16.2(a), in the event of a postal disruption:

- (a) Notice by postage-prepaid mail will not be deemed to be given; and
- (b) the Party giving Notice will give Notice by email, personal delivery, courier or fax.

A17.0 CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT

A17.1 **Consent.** When the Province provides its consent pursuant to the Agreement:

- (a) it will do so by Notice;
- (b) it may attach any terms and conditions to the consent; and
- (c) the Recipient may rely on the consent only if the Recipient complies with any terms and conditions the Province may have attached to the consent.

A18.0 SEVERABILITY OF PROVISIONS

A18.1 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement will not affect the validity or enforceability of any other provision of the Agreement.

A19.0 WAIVER

A19.1 **Waiver Request.** Either Party may, by Notice, ask the other Party to waive an obligation under the Agreement.

A19.2 **Waiver Applies.** If in response to a request made pursuant to section A19.1 a Party consents to a waiver, the waiver will:

- (a) be valid only if the Party that consents to the waiver provides the consent by Notice; and
- (b) apply only to the specific obligation referred to in the waiver.

A20.0 INDEPENDENT PARTIES

A20.1 **Parties Independent.** The Recipient is not an agent, joint venturer, partner, or employee of the Province, and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any

actions that could establish or imply such a relationship.

A21.0 ASSIGNMENT OF AGREEMENT OR FUNDS

A21.1 **No Assignment.** The Recipient will not, without the prior written consent of the Province, assign any of its rights or obligations under the Agreement.

A21.2 **Agreement Binding.** All rights and obligations contained in the Agreement will extend to and be binding on:

- (a) the Recipient's successors, and permitted assigns; and
- (b) the successors to Her Majesty the Queen in right of Ontario.

A22.0 GOVERNING LAW

A22.1 **Governing Law.** The Agreement and the rights, obligations, and relations of the Parties will be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with the Agreement will be conducted in the courts of Ontario, which will have exclusive jurisdiction over such proceedings.

A23.0 FURTHER ASSURANCES

A23.1 **Agreement into Effect.** The Recipient will:

- (a) provide such further assurances as the Province may request from time to time with respect to any matter to which the Agreement pertains; and
- (b) do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

A24.0 JOINT AND SEVERAL LIABILITY

A24.1 **Joint and Several Liability.** Where the Recipient comprises of more than one entity, all such entities will be jointly and severally liable to the Province for the fulfillment of the obligations of the Recipient under the Agreement.

A25.0 RIGHTS AND REMEDIES CUMULATIVE

A25.1 **Rights and Remedies Cumulative.** The rights and remedies of the Province under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

A26.0 FAILURE TO COMPLY WITH OTHER AGREEMENTS

A26.1 Other Agreements. If the Recipient:

- (a) has failed to comply with any term, condition, or obligation under any other agreement with Her Majesty the Queen in right of Ontario or one of Her agencies (a “**Failure**”);
- (b) has been provided with notice of such Failure in accordance with the requirements of such other agreement;
- (c) has, if applicable, failed to rectify such Failure in accordance with the requirements of such other agreement; and
- (d) such Failure is continuing,

the Province may suspend the payment of Funds for such period as the Province determines appropriate.

A27.0 SURVIVAL

A27.1 Survival. The following Articles and sections, and all applicable cross-referenced Articles, sections and schedules, will continue in full force and effect for a period of seven years from the date of expiry or termination of the Agreement: Article 1.0, Article 2.0, Article A1.0 and any other applicable definitions, section A2.1(a), sections A4.4, A4.5, A4.6, section A5.2, section A7.1, A7.2 (to the extent that the Recipient has not provided the Reports or other reports as the Province may have requested and to the satisfaction of the Province), sections A7.3, A7.4, A7.5, A7.6, A7.7, A7.8, Article A8.0, Article A9.0, section A11.2, sections A12.1, sections A12.2(d), (e), (f), (g), (h), (i), and (j), Article A13.0, Article A14.0, Article A15.0, Article A16.0, Article A18.0, , section A21.2, Article A22.0, Article A24.0, Article A25.0 and Article A27.0.

- END OF GENERAL TERMS AND CONDITIONS -

SCHEDULE “B”
PROJECT SPECIFIC INFORMATION AND ADDITIONAL PROVISIONS

Maximum Funds	Up to \$59,530
Expiry Date	March 31, 2024
Amount for the purposes of section A5.2 (Disposal) of Schedule “A”	\$5000.00
Insurance	\$ 2,000,000
Contact information for the purposes of Notice to the Province	<p>Position: Brenda Vloet</p> <p>Address: Manager, Municipal Programs and Outreach Unit</p> <p>Fax: 777 Bay Street, Toronto, Ontario M7A 2J3, 16th Floor</p> <p>Email: Brenda.Vloet@ontario.ca</p>
Contact information for the purposes of Notice to the Recipient	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>
Contact information for the senior financial person in the Recipient organization (e.g., CFO, CAO) – to respond as required to requests from the Province related to the Agreement	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>

Additional Provisions:

- B1 Section 4.2 of Schedule “A” is amended by adding the following subsection:**
- (e) The Province is not obligated to provide any Funds to the Recipient that exceed 65% of the incurred project costs.

B2 Section 4.3 of schedule “A” is amended by adding the following subsection:

- (e) not use the Funds for the purpose of paying the Recipient’s regular salary costs.
- (f) not use Funds for the purpose of purchasing land, buildings or vehicles

**SCHEDULE "C"
PROJECT**

Project Title
City of Port Colborne Modern and Digital Fire and Emergency Records Management Implementation
Objectives
The objective of the Project is to implement an emergency management software module with the goal of modernizing service delivery and realizing cost savings and efficiencies.
Description
<p>The Recipite will purchase and implement an emergency management software module that will include the following features:</p> <ul style="list-style-type: none">• Linkage to computer-aided design (CAD);• Creating/customizing reports and forms; and• Creating a training database. <p>As part of the implementation of the module, the Recipient will provide Training for its staff on the new emergency management software module.</p>

SCHEDULE "D"
BUDGET

Item	Amount
Reimbursement of up to 65% of Project costs incurred between August 16, 2021 to the earlier of February 28, 2023 or the submission of the Final Report Back.	Up to \$59,530

SCHEDULE "E"
PAYMENT PLAN

Milestone	Scheduled Payment
<ul style="list-style-type: none"> • Execution of Agreement 	Initial payment of \$41,671 made to Recipient no more than thirty (30) days after the execution of the Agreement.
<ul style="list-style-type: none"> • Submission of one (1) Interim Report Back 	Interim payment made to the Recipient no more than thirty (30) days after the Province's approval of the Interim Report Back for costs incurred and submitted as part of the First Interim Report Back that exceed the initial payment.
<ul style="list-style-type: none"> • Submission of Final Report Back to the Province 	Final payment of up to \$17,859 less any amount paid as part of the interim payment made to the Recipient no more than thirty (30) days after the Province's approval of the Final Report Back.

**SCHEDULE “F”
REPORTS**

Name of Report	Reporting Due Date
1. Interim Report Back	May 30, 2022
2. Final Report Back	February 28, 2023
3. Annual Report Back	February 28, 2024

Report Details

1. Interim Report Back

The Recipient will submit one (1) Interim Report Back to the Province by May 30, 2022, using the reporting template provided by the Province. The Interim Report Backs will include:

- A written description of what the Recipient has completed for the Project to date and what will be completed by the Final Report Back,
- A list of actual costs to carry out the Project paid by the Recipient, with supporting documentation, such as invoices or receipts, showing actual costs incurred.

2. Final Report Back

The Recipient will submit a Final Report Back to the Province once the Project is completed and by February 28, 2023 using the reporting template provided by the Province. The Final Report Back will include:

- A 250-word abstract of the Project and its findings
- A written description of the Project and the forecasted annual savings and other efficiency outcomes for the Recipient,
- The actual costs to carry out the Project that have not been included as part of the Interim Report Back paid by the Recipient with supporting documentation, such as invoices or receipts, showing actual costs incurred.
- A statement indicating an updated estimate of annual cost savings realized through the Project, which will be the performance measure.

3. Annual Report Back

The Recipient will submit an Annual Report Back to the Province using the reporting template provided by the Province. The Annual Report Back will include:

- A statement indicating the actual cost savings and efficiency outcomes from the Project over the course of the year.

ONTARIO TRANSFER PAYMENT AGREEMENT

THE AGREEMENT is effective as of the _____ day of _____, 20____

B E T W E E N :

**Her Majesty the Queen in right of Ontario
as represented by the Minister of Municipal Affairs and
Housing**

(the “Province”)

- and -

Corporation of the City of Port Colborne

(the “Recipient”)

CONSIDERATION

In consideration of the mutual covenants and agreements contained in the Agreement and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Province and the Recipient agree as follows:

1.0 ENTIRE AGREEMENT

1.1 **Schedules to the Agreement.** The following schedules form part of the Agreement:

- Schedule “A” - General Terms and Conditions
- Schedule “B” - Project Specific Information and Additional Provisions
- Schedule “C” - Project
- Schedule “D” - Budget
- Schedule “E” - Payment Plan
- Schedule “F” - Reports.

1.2 **Entire Agreement.** The Agreement constitutes the entire agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.

2.0 CONFLICT OR INCONSISTENCY

2.1 **Conflict or Inconsistency.** In the event of a conflict or inconsistency between the Additional Provisions and the provisions in Schedule “A”, the following rules will apply:

- (a) the Parties will interpret any Additional Provisions in so far as possible, in a way that preserves the intention of the Parties as expressed in Schedule “A”; and
- (b) where it is not possible to interpret the Additional Provisions in a way that is consistent with the provisions in Schedule “A”, the Additional Provisions will prevail over the provisions in Schedule “A” to the extent of the inconsistency.

3.0 COUNTERPARTS

3.1 **One and the Same Agreement.** The Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

4.0 AMENDING THE AGREEMENT

4.1 **Amending the Agreement.** The Agreement may only be amended by a written agreement duly executed by the Parties.

5.0 ACKNOWLEDGEMENT

5.1 **Acknowledgement.** The Recipient acknowledges that:

- (a) the Funds are to assist the Recipient to carry out the Project and not to provide goods or services to the Province;
- (b) the Province is not responsible for carrying out the Project; and
- (c) the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

- SIGNATURE PAGE FOLLOWS -

The Parties have executed the Agreement on the dates set out below.

**HER MAJESTY THE QUEEN IN RIGHT OF
ONTARIO as represented by the Minister of
Municipal Affairs and Housing**

Date

Name: The Honourable Steve Clark
Title: Minister of Municipal Affairs and Housing

Corporation of the City of Port Colborne

Date

Name:
Title:

I have authority to bind the Recipient.

Date

Name:
Title:

I have authority to bind the Recipient.

SCHEDULE "A"
GENERAL TERMS AND CONDITIONS

A1.0 INTERPRETATION AND DEFINITIONS

A1.1 **Interpretation.** For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;
- (b) words in one gender include all genders;
- (c) the headings do not form part of the Agreement; they are for reference only and will not affect the interpretation of the Agreement;
- (d) any reference to dollars or currency will be in Canadian dollars and currency; and
- (e) "include", "includes" and "including" denote that the subsequent list is not exhaustive.

A1.2 **Definitions.** In the Agreement, the following terms will have the following meanings:

"Additional Provisions" means the terms and conditions set out in Schedule "B".

"Agreement" means this agreement entered into between the Province and the Recipient, all of the schedules listed in section 1.1, and any amending agreement entered into pursuant to section 4.1.

"Budget" means the budget attached to the Agreement as Schedule "D".

"Business Day" means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day on which the Province has elected to be closed for business.

"Effective Date" means the date set out at the top of the Agreement.

"Event of Default" has the meaning ascribed to it in section A12.1.

"Expiry Date" means the expiry date set out in Schedule "B".

"Funding Year" means:

- (a) in the case of the first Funding Year, the period commencing on the

Effective Date and ending on the following March 31; and

- (b) in the case of Funding Years subsequent to the first Funding Year, the period commencing on April 1 following the end of the previous Funding Year and ending on the following March 31 or the Expiry Date, whichever is first.

“Funds” means the money the Province provides to the Recipient pursuant to the Agreement.

“Indemnified Parties” means Her Majesty the Queen in right of Ontario, and includes Her ministers, agents, appointees, and employees.

“Loss” means any cause of action, liability, loss, cost, damage, or expense (including legal, expert and consultant fees) that anyone incurs or sustains as a result of or in connection with the Project or any other part of the Agreement.

“Maximum Funds” means the maximum set out in Schedule “B”.

“Notice” means any communication given or required to be given pursuant to the Agreement.

“Notice Period” means the period of time within which the Recipient is required to remedy an Event of Default pursuant to section A12.3(b), and includes any such period or periods of time by which the Province extends that time in accordance with section A12.4.

“Parties” means the Province and the Recipient.

“Party” means either the Province or the Recipient.

“Proceeding” means any action, claim, demand, lawsuit, or other proceeding that anyone makes, brings or prosecutes as a result of or in connection with the Project or with any other part of the Agreement.

“Project” means the undertaking described in Schedule “C”.

“Records Review” means any assessment the Province conducts pursuant to section A7.4.

“Reports” means the reports described in Schedule “F”.

A2.0 REPRESENTATIONS, WARRANTIES, AND COVENANTS

A2.1 General. The Recipient represents, warrants, and covenants that:

- (a) it has, and will continue to have, the experience and expertise necessary to carry out the Project;
- (b) it is in compliance with, and will continue to comply with, all federal and provincial laws and regulations, all municipal by-laws, and any other orders, rules, and by-laws related to any aspect of the Project, the Funds, or both; and
- (c) unless otherwise provided for in the Agreement, any information the Recipient provided to the Province in support of its request for funds (including information relating to any eligibility requirements) was true and complete at the time the Recipient provided it and will continue to be true and complete.

A2.2 **Execution of Agreement.** The Recipient represents and warrants that it has:

- (a) the full power and authority to enter into the Agreement; and
- (b) taken all necessary actions to authorize the execution of the Agreement, including passing a municipal by-law authorizing the Recipient to enter into the Agreement.

A2.3 **Governance.** The Recipient represents, warrants, and covenants that it has, will maintain in writing, and will follow:

- (a) procedures to enable the Recipient to manage Funds prudently and effectively;
- (b) procedures to enable the Recipient to complete the Project successfully;
- (c) procedures to enable the Recipient to identify risks to the completion of the Project and strategies to address the identified risks, all in a timely manner;
- (d) procedures to enable the preparation and submission of all Reports required pursuant to Article A7.0; and
- (e) procedures to enable the Recipient to address such other matters as the Recipient considers necessary to enable the Recipient to carry out its obligations under the Agreement.

A2.4 **Supporting Proof.** Upon the request of the Province, the Recipient will provide the Province with proof of the matters referred to in Article A2.0.

A3.0 TERM OF THE AGREEMENT

A3.1 **Term.** The term of the Agreement will commence on the Effective Date and will expire on the Expiry Date unless terminated earlier pursuant to Article A11.0 or Article A12.0.

A4.0 FUNDS AND CARRYING OUT THE PROJECT

A4.1 **Funds Provided.** The Province will:

- (a) provide the Recipient up to the Maximum Funds for the purpose of carrying out the Project;
- (b) provide the Funds to the Recipient in accordance with the payment plan attached to the Agreement as Schedule “E”; and
- (c) deposit the Funds into an account the Recipient designates provided that the account:
 - (i) resides at a Canadian financial institution; and
 - (ii) is in the name of the Recipient.

A4.2 **Limitation on Payment of Funds.** Despite section A4.1:

- (a) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides evidence satisfactory to the Province that the Recipient’s council has authorized the execution of this Agreement by the Recipient by municipal by-law;
- (b) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides the certificates of insurance or other proof as the Province may request pursuant to section A10.2;
- (c) the Province is not obligated to provide instalments of Funds until it is satisfied with the progress of the Project; and
- (d) the Province may adjust the amount of Funds it provides to the Recipient in any Funding Year based upon the Province’s assessment of the information the Recipient provides to the Province pursuant to section A7.2.

A4.3 **Use of Funds and Carry Out the Project.** The Recipient will do all of the following:

- (a) carry out the Project in accordance with the Agreement;

- (b) use the Funds only for the purpose of carrying out the Project;
- (c) spend the Funds only in accordance with the Budget;
- (d) not use the Funds to cover any cost that has or will be funded or reimbursed by one or more of any third party, ministry, agency, or organization of the Government of Ontario.

A4.4 **Interest Bearing Account.** If the Province provides Funds before the Recipient's immediate need for the Funds, the Recipient will place the Funds in an interest bearing account in the name of the Recipient at a Canadian financial institution.

A4.5 **Interest.** If the Recipient earns any interest on the Funds, the Province may do either or both of the following:

- (a) deduct an amount equal to the interest from any further instalments of Funds;
- (b) demand from the Recipient the payment of an amount equal to the interest.

A4.6 **Rebates, Credits, and Refunds.** The Province will calculate Funds based on the actual costs to the Recipient to carry out the Project, less any costs (including taxes) for which the Recipient has received, will receive, or is eligible to receive, a rebate, credit, or refund.

A5.0 RECIPIENT'S ACQUISITION OF GOODS OR SERVICES, AND DISPOSAL OF ASSETS

A5.1 **Acquisition.** If the Recipient acquires goods, services, or both with the Funds, it will do so through a process that promotes the best value for money.

A5.2 **Disposal.** The Recipient will not, without the Province's prior consent, sell, lease, or otherwise dispose of any asset purchased or created with the Funds or for which Funds were provided, the cost of which exceeded the amount as provided for in Schedule "B" at the time of purchase.

A6.0 CONFLICT OF INTEREST

A6.1 **Conflict of Interest Includes.** For the purposes of Article A6.0, a conflict of interest includes any circumstances where:

- (a) the Recipient; or
- (b) any person who has the capacity to influence the Recipient's decisions,

has outside commitments, relationships, or financial interests that could, or could be seen by a reasonable person to, interfere with the Recipient's objective, unbiased, and impartial judgment relating to the Project, the use of the Funds, or both.

A6.2 **No Conflict of Interest.** The Recipient will carry out the Project and use the Funds without an actual, potential, or perceived conflict of interest unless:

- (a) the Recipient:
 - (i) provides Notice to the Province disclosing the details of the actual, potential, or perceived conflict of interest;
 - (ii) requests the consent of the Province to carry out the Project with an actual, potential, or perceived conflict of interest;
- (b) the Province provides its consent to the Recipient carrying out the Project with an actual, potential, or perceived conflict of interest; and
- (c) the Recipient complies with any terms and conditions the Province may prescribe in its consent.

A7.0 REPORTS, ACCOUNTING, AND REVIEW

A7.1 **Province Includes.** For the purposes of sections A7.4, A7.5 and A7.6, “**Province**” includes any auditor or representative the Province may identify.

A7.2 **Preparation and Submission.** The Recipient will:

- (a) submit to the Province at the address referred to in section A17.1:
 - (i) all Reports in accordance with the timelines and content requirements as provided for in Schedule “F”;
 - (ii) any other reports in accordance with any timelines and content requirements the Province may specify from time to time;
- (b) ensure that all Reports and other reports are:
 - (i) completed to the satisfaction of the Province; and
 - (i) signed by an authorized signing officer of the Recipient.

A7.3 **Record Maintenance.** The Recipient will keep and maintain for a period of seven years from their creation:

- (a) all financial records (including invoices and evidence of payment) relating to the Funds or otherwise to the Project in a manner consistent with either international financial reporting standards or generally accepted accounting principles or any other accounting principles that apply to the Recipient; and
- (b) all non-financial records and documents relating to the Funds or otherwise to the Project.

A7.4 **Records Review.** The Province may, at its own expense, upon twenty-four hours' Notice to the Recipient and during normal business hours enter upon the Recipient's premises to conduct an audit or investigation of the Recipient regarding the Recipient's compliance with the Agreement, including assessing any of the following:

- (a) the truth of any of the Recipient's representations and warranties;
- (b) the progress of the Project;
- (c) the Recipient's allocation and expenditure of the Funds.

A7.5 **Inspection and Removal.** For the purposes of any Records Review, the Province may take one or more of the following actions:

- (a) inspect and copy any records and documents referred to in section A7.3; and
- (b) remove any copies the Province makes pursuant to section A7.5(a).

A7.6 **Cooperation.** To assist the Province in respect of its rights provided for in section A7.5, the Recipient will cooperate with the Province by:

- (a) ensuring that the Province has access to the records and documents wherever they are located;
- (b) assisting the Province to copy records and documents;
- (c) providing to the Province, in the form the Province specifies, any information the Province identifies; and
- (d) carrying out any other activities the Province requests.

A7.7 **No Control of Records.** No provision of the Agreement will be construed so as to give the Province any control whatsoever over the Recipient's records.

A7.8 **Auditor General.** The Province's rights under Article A7.0 are in addition to

any rights provided to the Auditor General pursuant to section 9.2 of the *Auditor General Act* (Ontario).

A8.0 COMMUNICATIONS REQUIREMENTS

A8.1 Acknowledge Support. Unless the Province directs the Recipient to do otherwise, the Recipient will in each of its Project-related publications, whether written, oral, or visual:

- (a) acknowledge the support of the Province for the Project;
- (b) ensure that any acknowledgement is in a form and manner as the Province directs; and
- (c) indicate that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of the Province.

A9.0 INDEMNITY

A9.1 Indemnification. The Recipient will indemnify and hold harmless the Indemnified Parties from and against any Loss and any Proceeding, unless solely caused by the negligence or wilful misconduct of the Indemnified Parties.

A10.0 INSURANCE

A10.1 Recipient's Insurance. The Recipient represents, warrants, and covenants that it has, and will maintain, at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person carrying out a project similar to the Project would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury, and property damage, to an inclusive limit of not less than the amount provided for in Schedule "B" per occurrence, which commercial general liability insurance policy will include the following:

- (a) the Indemnified Parties as additional insureds with respect to liability arising in the course of performance of the Recipient's obligations under, or otherwise in connection with, the Agreement;
- (b) a cross-liability clause;
- (c) contractual liability coverage; and
- (d) a 30-day written notice of cancellation.

A10.2 Proof of Insurance. The Recipient will:

- (a) provide to the Province, either:
 - (i) certificates of insurance that confirm the insurance coverage as provided for in section A10.1; or
 - (ii) other proof that confirms the insurance coverage as provided for in section A10.1; and
- (b) in the event of a Proceeding, and upon the Province's request, the Recipient will provide to the Province a copy of any of the Recipient's insurance policies that relate to the Project or otherwise to the Agreement, or both.

A11.0 TERMINATION ON NOTICE

A11.1 Termination on Notice. The Province may terminate the Agreement at any time without liability, penalty, or costs upon giving 30 days' Notice to the Recipient.

A11.2 Consequences of Termination on Notice by the Province. If the Province terminates the Agreement pursuant to section A11.1, the Province may take one or more of the following actions:

- (a) cancel further instalments of Funds;
- (b) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and
- (c) determine the reasonable costs for the Recipient to wind down the Project, and do either or both of the following:
 - (i) permit the Recipient to offset such costs against the amount the Recipient owes pursuant to section A11.2(b); and
 - (ii) subject to section A4.1(a), provide Funds to the Recipient to cover such costs.

A12.0 EVENT OF DEFAULT, CORRECTIVE ACTION, AND TERMINATION FOR DEFAULT

A12.1 Events of Default. It will constitute an Event of Default if, in the opinion of the Province, the Recipient breaches any representation, warranty, covenant, or other material term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:

- (i) carry out the Project;

- (ii) use or spend Funds; or
- (iii) provide, in accordance with section A7.2, Reports or such other reports as the Province may have requested pursuant to section A7.2(a)(ii).

A12.2 Consequences of Events of Default and Corrective Action. If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) initiate any action the Province considers necessary in order to facilitate the successful continuation or completion of the Project;
- (b) provide the Recipient with an opportunity to remedy the Event of Default;
- (c) suspend the payment of Funds for such period as the Province determines appropriate;
- (d) reduce the amount of the Funds;
- (e) cancel further instalments of Funds;
- (f) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient;
- (g) demand from the Recipient the payment of an amount equal to any Funds the Recipient used, but did not use in accordance with the Agreement;
- (h) demand from the Recipient the payment of an amount equal to any Funds the Province provided to the Recipient;
- (i) demand from the Recipient an amount equal to the costs the Province incurred or incurs to enforce its rights under the Agreement, including the costs of any Record Review and the costs it incurs to collect any amounts the Recipient owes to the Province; and
- (j) terminate the Agreement at any time, including immediately, without liability, penalty or costs to the Province upon giving Notice to the Recipient.

A12.3 Opportunity to Remedy. If, in accordance with section A12.2(b), the Province provides the Recipient with an opportunity to remedy the Event of Default, the Province will give Notice to the Recipient of:

- (a) the particulars of the Event of Default; and

(b) the Notice Period.

A12.4 **Recipient not Remediating.** If the Province provided the Recipient with an opportunity to remedy the Event of Default pursuant to section A12.2(b), and:

- (a) the Recipient does not remedy the Event of Default within the Notice Period;
- (b) it becomes apparent to the Province that the Recipient cannot completely remedy the Event of Default within the Notice Period; or
- (c) the Recipient is not proceeding to remedy the Event of Default in a way that is satisfactory to the Province,

the Province may extend the Notice Period, or initiate any one or more of the actions provided for in sections A12.2(a), (c), (d), (e), (f), (g), (h), and (i).

A12.5 **When Termination Effective.** Termination under Article A12.0 will take effect as provided for in the Notice.

A13.0 FUNDS AT THE END OF A FUNDING YEAR

A13.1 **Funds at the End of a Funding Year.** Without limiting any rights of the Province under Article A12.0, if the Recipient has not spent all of the Funds allocated for the Funding Year as provided for in the Budget, the Province may take one or both of the following actions:

- (a) demand from the Recipient payment of the unspent Funds; and
- (b) adjust the amount of any further instalments of Funds accordingly.

A14.0 FUNDS UPON EXPIRY

A14.1 **Funds Upon Expiry.** The Recipient will, upon expiry of the Agreement, pay to the Province any Funds remaining in its possession, under its control, or both.

A15.0 DEBT DUE AND PAYMENT

A15.1 **Payment of Overpayment.** If at any time the Province provides Funds in excess of the amount to which the Recipient is entitled under the Agreement, the Province may:

- (a) deduct an amount equal to the excess Funds from any further instalments of Funds; or
- (b) demand that the Recipient pay to the Province an amount equal to the

excess Funds.

A15.2 **Debt Due.** If, pursuant to the Agreement:

- (a) the Province demands from the Recipient the payment of any Funds or an amount equal to any Funds; or
- (b) the Recipient owes any Funds or an amount equal to any Funds to the Province, whether or not the Province has demanded their payment,

such amounts will be deemed to be debts due and owing to the Province by the Recipient, and the Recipient will pay the amounts to the Province immediately, unless the Province directs otherwise.

A15.3 **Interest Rate.** The Province may charge the Recipient interest on any money owing to the Province by the Recipient under the Agreement at the then current interest rate charged by the Province of Ontario on accounts receivable.

A15.4 **Payment of Money to Province.** The Recipient will pay any money owing to the Province by cheque payable to the "Ontario Minister of Finance" and delivered to the Province as provided for in Schedule "B".

A15.5 **Fails to Pay.** Without limiting the application of section 43 of the *Financial Administration Act* (Ontario), if the Recipient fails to pay any amount owing under the Agreement, Her Majesty the Queen in right of Ontario may deduct any unpaid amount from any money payable to the Recipient by Her Majesty the Queen in right of Ontario.

A16.0 NOTICE

A16.1 **Notice in Writing and Addressed.** Notice will be:

- (a) in writing;
- (b) delivered by email, postage-prepaid mail, personal delivery, courier or fax; and
- (c) addressed to the Province or the Recipient as set out in Schedule "B", or as either Party later designates to the other by Notice.

A16.2 **Notice Given.** Notice will be deemed to have been given:

- (a) in the case of postage-prepaid mail, five Business Days after the Notice is mailed; or
- (b) in the case of fax, one Business Day after the Notice is delivered; and

- (c) in the case of email, personal delivery or courier on the date on which the Notice is delivered.

A16.3 **Postal Disruption.** Despite section A16.2(a), in the event of a postal disruption:

- (a) Notice by postage-prepaid mail will not be deemed to be given; and
- (b) the Party giving Notice will give Notice by email, personal delivery, courier or fax.

A17.0 CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT

A17.1 **Consent.** When the Province provides its consent pursuant to the Agreement:

- (a) it will do so by Notice;
- (b) it may attach any terms and conditions to the consent; and
- (c) the Recipient may rely on the consent only if the Recipient complies with any terms and conditions the Province may have attached to the consent.

A18.0 SEVERABILITY OF PROVISIONS

A18.1 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement will not affect the validity or enforceability of any other provision of the Agreement.

A19.0 WAIVER

A19.1 **Waiver Request.** Either Party may, by Notice, ask the other Party to waive an obligation under the Agreement.

A19.2 **Waiver Applies.** If in response to a request made pursuant to section A19.1 a Party consents to a waiver, the waiver will:

- (a) be valid only if the Party that consents to the waiver provides the consent by Notice; and
- (b) apply only to the specific obligation referred to in the waiver.

A20.0 INDEPENDENT PARTIES

A20.1 **Parties Independent.** The Recipient is not an agent, joint venturer, partner, or employee of the Province, and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any

actions that could establish or imply such a relationship.

A21.0 ASSIGNMENT OF AGREEMENT OR FUNDS

A21.1 **No Assignment.** The Recipient will not, without the prior written consent of the Province, assign any of its rights or obligations under the Agreement.

A21.2 **Agreement Binding.** All rights and obligations contained in the Agreement will extend to and be binding on:

- (a) the Recipient's successors, and permitted assigns; and
- (b) the successors to Her Majesty the Queen in right of Ontario.

A22.0 GOVERNING LAW

A22.1 **Governing Law.** The Agreement and the rights, obligations, and relations of the Parties will be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with the Agreement will be conducted in the courts of Ontario, which will have exclusive jurisdiction over such proceedings.

A23.0 FURTHER ASSURANCES

A23.1 **Agreement into Effect.** The Recipient will:

- (a) provide such further assurances as the Province may request from time to time with respect to any matter to which the Agreement pertains; and
- (b) do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

A24.0 JOINT AND SEVERAL LIABILITY

A24.1 **Joint and Several Liability.** Where the Recipient comprises of more than one entity, all such entities will be jointly and severally liable to the Province for the fulfillment of the obligations of the Recipient under the Agreement.

A25.0 RIGHTS AND REMEDIES CUMULATIVE

A25.1 **Rights and Remedies Cumulative.** The rights and remedies of the Province under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

A26.0 FAILURE TO COMPLY WITH OTHER AGREEMENTS

A26.1 Other Agreements. If the Recipient:

- (a) has failed to comply with any term, condition, or obligation under any other agreement with Her Majesty the Queen in right of Ontario or one of Her agencies (a “**Failure**”);
- (b) has been provided with notice of such Failure in accordance with the requirements of such other agreement;
- (c) has, if applicable, failed to rectify such Failure in accordance with the requirements of such other agreement; and
- (d) such Failure is continuing,

the Province may suspend the payment of Funds for such period as the Province determines appropriate.

A27.0 SURVIVAL

A27.1 Survival. The following Articles and sections, and all applicable cross-referenced Articles, sections and schedules, will continue in full force and effect for a period of seven years from the date of expiry or termination of the Agreement: Article 1.0, Article 2.0, Article A1.0 and any other applicable definitions, section A2.1(a), sections A4.4, A4.5, A4.6, section A5.2, section A7.1, A7.2 (to the extent that the Recipient has not provided the Reports or other reports as the Province may have requested and to the satisfaction of the Province), sections A7.3, A7.4, A7.5, A7.6, A7.7, A7.8, Article A8.0, Article A9.0, section A11.2, sections A12.1, sections A12.2(d), (e), (f), (g), (h), (i), and (j), Article A13.0, Article A14.0, Article A15.0, Article A16.0, Article A18.0, , section A21.2, Article A22.0, Article A24.0, Article A25.0 and Article A27.0.

- END OF GENERAL TERMS AND CONDITIONS -

SCHEDULE “B”
PROJECT SPECIFIC INFORMATION AND ADDITIONAL PROVISIONS

Maximum Funds	Up to \$16,536
Expiry Date	March 31, 2024
Amount for the purposes of section A5.2 (Disposal) of Schedule “A”	\$5000.00
Insurance	\$ 2,000,000
Contact information for the purposes of Notice to the Province	<p>Position: Brenda Vloet</p> <p>Address: Manager, Municipal Programs and Outreach Unit</p> <p>Fax: 777 Bay Street, Toronto, Ontario M7A 2J3, 16th Floor</p> <p>Email: Brenda.Vloet@ontario.ca</p>
Contact information for the purposes of Notice to the Recipient	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>
Contact information for the senior financial person in the Recipient organization (e.g., CFO, CAO) – to respond as required to requests from the Province related to the Agreement	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>

Additional Provisions:

- B1 Section 4.2 of Schedule “A” is amended by adding the following subsection:**
- (e) The Province is not obligated to provide any Funds to the Recipient that exceed 65% of the incurred project costs.

B2 Section 4.3 of schedule “A” is amended by adding the following subsection:

- (e) not use the Funds for the purpose of paying the Recipient’s regular salary costs.
- (f) not use Funds for the purpose of purchasing land, buildings or vehicles

SCHEDULE "C"
PROJECT

Project Title
City of Port Colborne Digitizing Public Works Permit Process Modernization
Objectives
The objective of the Project is to implement an online permit application system with the goal of modernizing service delivery and realizing cost savings and efficiencies.
Description
The Recipient will purchase and implement a public works online permit software module that will support the Recipient's plan of developing digital and open data initiatives.

SCHEDULE "D"
BUDGET

Item	Amount
Reimbursement of up to 65% of Project costs incurred between August 16, 2021 to the earlier of February 28, 2023 or the submission of the Final Report Back.	Up to \$16,536

SCHEDULE "E"
PAYMENT PLAN

Milestone	Scheduled Payment
<ul style="list-style-type: none"> • Execution of Agreement 	Initial payment of \$11,575 made to Recipient no more than thirty (30) days after the execution of the Agreement.
<ul style="list-style-type: none"> • Submission of one (1) Interim Report Back 	Interim payment made to the Recipient no more than thirty (30) days after the Province's approval of the Interim Report Back for costs incurred and submitted as part of the First Interim Report Back that exceed the initial payment.
<ul style="list-style-type: none"> • Submission of Final Report Back to the Province 	Final payment of up to \$4,961 less any amount paid as part of the interim payment made to the Recipient no more than thirty (30) days after the Province's approval of the Final Report Back.

**SCHEDULE “F”
REPORTS**

Name of Report	Reporting Due Date
1. Interim Report Back	May 30, 2022
2. Final Report Back	February 28, 2023
3. Annual Report Back	February 28, 2024

Report Details

1. Interim Report Back

The Recipient will submit one (1) Interim Report Back to the Province by May 30, 2022, using the reporting template provided by the Province. The Interim Report Backs will include:

- A written description of what the Recipient has completed for the Project to date and what will be completed by the Final Report Back,
- A list of actual costs to carry out the Project paid by the Recipient, with supporting documentation, such as invoices or receipts, showing actual costs incurred.

2. Final Report Back

The Recipient will submit a Final Report Back to the Province once the Project is completed and by February 28, 2023 using the reporting template provided by the Province. The Final Report Back will include:

- A 250-word abstract of the Project and its findings
- A written description of the Project and the forecasted annual savings and other efficiency outcomes for the Recipient,
- The actual costs to carry out the Project that have not been included as part of the Interim Report Back paid by the Recipient with supporting documentation, such as invoices or receipts, showing actual costs incurred.
- A statement indicating an updated estimate of annual cost savings realized through the Project, which will be the performance measure.

3. Annual Report Back

The Recipient will submit an Annual Report Back to the Province using the reporting template provided by the Province. The Annual Report Back will include:

- A statement indicating the actual cost savings and efficiency outcomes from the Project over the course of the year.

ONTARIO TRANSFER PAYMENT AGREEMENT

THE AGREEMENT is effective as of the _____ day of _____, 20____

B E T W E E N :

**Her Majesty the Queen in right of Ontario
as represented by the Minister of Municipal Affairs and
Housing**

(the “Province”)

- and -

Corporation of the City of Port Colborne

(the “Recipient”)

CONSIDERATION

In consideration of the mutual covenants and agreements contained in the Agreement and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Province and the Recipient agree as follows:

1.0 ENTIRE AGREEMENT

1.1 Schedules to the Agreement. The following schedules form part of the Agreement:

- Schedule “A” - General Terms and Conditions
- Schedule “B” - Project Specific Information and Additional Provisions
- Schedule “C” - Project
- Schedule “D” - Budget
- Schedule “E” - Payment Plan
- Schedule “F” - Reports.

1.2 Entire Agreement. The Agreement constitutes the entire agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.

2.0 CONFLICT OR INCONSISTENCY

2.1 **Conflict or Inconsistency.** In the event of a conflict or inconsistency between the Additional Provisions and the provisions in Schedule “A”, the following rules will apply:

- (a) the Parties will interpret any Additional Provisions in so far as possible, in a way that preserves the intention of the Parties as expressed in Schedule “A”; and
- (b) where it is not possible to interpret the Additional Provisions in a way that is consistent with the provisions in Schedule “A”, the Additional Provisions will prevail over the provisions in Schedule “A” to the extent of the inconsistency.

3.0 COUNTERPARTS

3.1 **One and the Same Agreement.** The Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

4.0 AMENDING THE AGREEMENT

4.1 **Amending the Agreement.** The Agreement may only be amended by a written agreement duly executed by the Parties.

5.0 ACKNOWLEDGEMENT

5.1 **Acknowledgement.** The Recipient acknowledges that:

- (a) the Funds are to assist the Recipient to carry out the Project and not to provide goods or services to the Province;
- (b) the Province is not responsible for carrying out the Project; and
- (c) the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

- SIGNATURE PAGE FOLLOWS -

The Parties have executed the Agreement on the dates set out below.

**HER MAJESTY THE QUEEN IN RIGHT OF
ONTARIO as represented by the Minister of
Municipal Affairs and Housing**

Date

Name: The Honourable Steve Clark
Title: Minister of Municipal Affairs and Housing

Corporation of the City of Port Colborne

Date

Name:
Title:

I have authority to bind the Recipient.

Date

Name:
Title:

I have authority to bind the Recipient.

SCHEDULE "A"
GENERAL TERMS AND CONDITIONS

A1.0 INTERPRETATION AND DEFINITIONS

A1.1 **Interpretation.** For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;
- (b) words in one gender include all genders;
- (c) the headings do not form part of the Agreement; they are for reference only and will not affect the interpretation of the Agreement;
- (d) any reference to dollars or currency will be in Canadian dollars and currency; and
- (e) "include", "includes" and "including" denote that the subsequent list is not exhaustive.

A1.2 **Definitions.** In the Agreement, the following terms will have the following meanings:

"Additional Provisions" means the terms and conditions set out in Schedule "B".

"Agreement" means this agreement entered into between the Province and the Recipient, all of the schedules listed in section 1.1, and any amending agreement entered into pursuant to section 4.1.

"Budget" means the budget attached to the Agreement as Schedule "D".

"Business Day" means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day on which the Province has elected to be closed for business.

"Effective Date" means the date set out at the top of the Agreement.

"Event of Default" has the meaning ascribed to it in section A12.1.

"Expiry Date" means the expiry date set out in Schedule "B".

"Funding Year" means:

- (a) in the case of the first Funding Year, the period commencing on the

Effective Date and ending on the following March 31; and

- (b) in the case of Funding Years subsequent to the first Funding Year, the period commencing on April 1 following the end of the previous Funding Year and ending on the following March 31 or the Expiry Date, whichever is first.

“Funds” means the money the Province provides to the Recipient pursuant to the Agreement.

“Indemnified Parties” means Her Majesty the Queen in right of Ontario, and includes Her ministers, agents, appointees, and employees.

“Loss” means any cause of action, liability, loss, cost, damage, or expense (including legal, expert and consultant fees) that anyone incurs or sustains as a result of or in connection with the Project or any other part of the Agreement.

“Maximum Funds” means the maximum set out in Schedule “B”.

“Notice” means any communication given or required to be given pursuant to the Agreement.

“Notice Period” means the period of time within which the Recipient is required to remedy an Event of Default pursuant to section A12.3(b), and includes any such period or periods of time by which the Province extends that time in accordance with section A12.4.

“Parties” means the Province and the Recipient.

“Party” means either the Province or the Recipient.

“Proceeding” means any action, claim, demand, lawsuit, or other proceeding that anyone makes, brings or prosecutes as a result of or in connection with the Project or with any other part of the Agreement.

“Project” means the undertaking described in Schedule “C”.

“Records Review” means any assessment the Province conducts pursuant to section A7.4.

“Reports” means the reports described in Schedule “F”.

A2.0 REPRESENTATIONS, WARRANTIES, AND COVENANTS

A2.1 General. The Recipient represents, warrants, and covenants that:

- (a) it has, and will continue to have, the experience and expertise necessary to carry out the Project;
- (b) it is in compliance with, and will continue to comply with, all federal and provincial laws and regulations, all municipal by-laws, and any other orders, rules, and by-laws related to any aspect of the Project, the Funds, or both; and
- (c) unless otherwise provided for in the Agreement, any information the Recipient provided to the Province in support of its request for funds (including information relating to any eligibility requirements) was true and complete at the time the Recipient provided it and will continue to be true and complete.

A2.2 Execution of Agreement. The Recipient represents and warrants that it has:

- (a) the full power and authority to enter into the Agreement; and
- (b) taken all necessary actions to authorize the execution of the Agreement, including passing a municipal by-law authorizing the Recipient to enter into the Agreement.

A2.3 Governance. The Recipient represents, warrants, and covenants that it has, will maintain in writing, and will follow:

- (a) procedures to enable the Recipient to manage Funds prudently and effectively;
- (b) procedures to enable the Recipient to complete the Project successfully;
- (c) procedures to enable the Recipient to identify risks to the completion of the Project and strategies to address the identified risks, all in a timely manner;
- (d) procedures to enable the preparation and submission of all Reports required pursuant to Article A7.0; and
- (e) procedures to enable the Recipient to address such other matters as the Recipient considers necessary to enable the Recipient to carry out its obligations under the Agreement.

A2.4 Supporting Proof. Upon the request of the Province, the Recipient will provide the Province with proof of the matters referred to in Article A2.0.

A3.0 TERM OF THE AGREEMENT

A3.1 **Term.** The term of the Agreement will commence on the Effective Date and will expire on the Expiry Date unless terminated earlier pursuant to Article A11.0 or Article A12.0.

A4.0 FUNDS AND CARRYING OUT THE PROJECT

A4.1 **Funds Provided.** The Province will:

- (a) provide the Recipient up to the Maximum Funds for the purpose of carrying out the Project;
- (b) provide the Funds to the Recipient in accordance with the payment plan attached to the Agreement as Schedule “E”; and
- (c) deposit the Funds into an account the Recipient designates provided that the account:
 - (i) resides at a Canadian financial institution; and
 - (ii) is in the name of the Recipient.

A4.2 **Limitation on Payment of Funds.** Despite section A4.1:

- (a) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides evidence satisfactory to the Province that the Recipient’s council has authorized the execution of this Agreement by the Recipient by municipal by-law;
- (b) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides the certificates of insurance or other proof as the Province may request pursuant to section A10.2;
- (c) the Province is not obligated to provide instalments of Funds until it is satisfied with the progress of the Project; and
- (d) the Province may adjust the amount of Funds it provides to the Recipient in any Funding Year based upon the Province’s assessment of the information the Recipient provides to the Province pursuant to section A7.2.

A4.3 **Use of Funds and Carry Out the Project.** The Recipient will do all of the following:

- (a) carry out the Project in accordance with the Agreement;

- (b) use the Funds only for the purpose of carrying out the Project;
- (c) spend the Funds only in accordance with the Budget;
- (d) not use the Funds to cover any cost that has or will be funded or reimbursed by one or more of any third party, ministry, agency, or organization of the Government of Ontario.

A4.4 **Interest Bearing Account.** If the Province provides Funds before the Recipient's immediate need for the Funds, the Recipient will place the Funds in an interest bearing account in the name of the Recipient at a Canadian financial institution.

A4.5 **Interest.** If the Recipient earns any interest on the Funds, the Province may do either or both of the following:

- (a) deduct an amount equal to the interest from any further instalments of Funds;
- (b) demand from the Recipient the payment of an amount equal to the interest.

A4.6 **Rebates, Credits, and Refunds.** The Province will calculate Funds based on the actual costs to the Recipient to carry out the Project, less any costs (including taxes) for which the Recipient has received, will receive, or is eligible to receive, a rebate, credit, or refund.

A5.0 RECIPIENT'S ACQUISITION OF GOODS OR SERVICES, AND DISPOSAL OF ASSETS

A5.1 **Acquisition.** If the Recipient acquires goods, services, or both with the Funds, it will do so through a process that promotes the best value for money.

A5.2 **Disposal.** The Recipient will not, without the Province's prior consent, sell, lease, or otherwise dispose of any asset purchased or created with the Funds or for which Funds were provided, the cost of which exceeded the amount as provided for in Schedule "B" at the time of purchase.

A6.0 CONFLICT OF INTEREST

A6.1 **Conflict of Interest Includes.** For the purposes of Article A6.0, a conflict of interest includes any circumstances where:

- (a) the Recipient; or
- (b) any person who has the capacity to influence the Recipient's decisions,

has outside commitments, relationships, or financial interests that could, or could be seen by a reasonable person to, interfere with the Recipient's objective, unbiased, and impartial judgment relating to the Project, the use of the Funds, or both.

A6.2 **No Conflict of Interest.** The Recipient will carry out the Project and use the Funds without an actual, potential, or perceived conflict of interest unless:

- (a) the Recipient:
 - (i) provides Notice to the Province disclosing the details of the actual, potential, or perceived conflict of interest;
 - (ii) requests the consent of the Province to carry out the Project with an actual, potential, or perceived conflict of interest;
- (b) the Province provides its consent to the Recipient carrying out the Project with an actual, potential, or perceived conflict of interest; and
- (c) the Recipient complies with any terms and conditions the Province may prescribe in its consent.

A7.0 REPORTS, ACCOUNTING, AND REVIEW

A7.1 **Province Includes.** For the purposes of sections A7.4, A7.5 and A7.6, “**Province**” includes any auditor or representative the Province may identify.

A7.2 **Preparation and Submission.** The Recipient will:

- (a) submit to the Province at the address referred to in section A17.1:
 - (i) all Reports in accordance with the timelines and content requirements as provided for in Schedule “F”;
 - (ii) any other reports in accordance with any timelines and content requirements the Province may specify from time to time;
- (b) ensure that all Reports and other reports are:
 - (i) completed to the satisfaction of the Province; and
 - (i) signed by an authorized signing officer of the Recipient.

A7.3 **Record Maintenance.** The Recipient will keep and maintain for a period of seven years from their creation:

- (a) all financial records (including invoices and evidence of payment) relating to the Funds or otherwise to the Project in a manner consistent with either international financial reporting standards or generally accepted accounting principles or any other accounting principles that apply to the Recipient; and
- (b) all non-financial records and documents relating to the Funds or otherwise to the Project.

A7.4 **Records Review.** The Province may, at its own expense, upon twenty-four hours' Notice to the Recipient and during normal business hours enter upon the Recipient's premises to conduct an audit or investigation of the Recipient regarding the Recipient's compliance with the Agreement, including assessing any of the following:

- (a) the truth of any of the Recipient's representations and warranties;
- (b) the progress of the Project;
- (c) the Recipient's allocation and expenditure of the Funds.

A7.5 **Inspection and Removal.** For the purposes of any Records Review, the Province may take one or more of the following actions:

- (a) inspect and copy any records and documents referred to in section A7.3; and
- (b) remove any copies the Province makes pursuant to section A7.5(a).

A7.6 **Cooperation.** To assist the Province in respect of its rights provided for in section A7.5, the Recipient will cooperate with the Province by:

- (a) ensuring that the Province has access to the records and documents wherever they are located;
- (b) assisting the Province to copy records and documents;
- (c) providing to the Province, in the form the Province specifies, any information the Province identifies; and
- (d) carrying out any other activities the Province requests.

A7.7 **No Control of Records.** No provision of the Agreement will be construed so as to give the Province any control whatsoever over the Recipient's records.

A7.8 **Auditor General.** The Province's rights under Article A7.0 are in addition to

any rights provided to the Auditor General pursuant to section 9.2 of the *Auditor General Act* (Ontario).

A8.0 COMMUNICATIONS REQUIREMENTS

A8.1 Acknowledge Support. Unless the Province directs the Recipient to do otherwise, the Recipient will in each of its Project-related publications, whether written, oral, or visual:

- (a) acknowledge the support of the Province for the Project;
- (b) ensure that any acknowledgement is in a form and manner as the Province directs; and
- (c) indicate that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of the Province.

A9.0 INDEMNITY

A9.1 Indemnification. The Recipient will indemnify and hold harmless the Indemnified Parties from and against any Loss and any Proceeding, unless solely caused by the negligence or wilful misconduct of the Indemnified Parties.

A10.0 INSURANCE

A10.1 Recipient's Insurance. The Recipient represents, warrants, and covenants that it has, and will maintain, at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person carrying out a project similar to the Project would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury, and property damage, to an inclusive limit of not less than the amount provided for in Schedule "B" per occurrence, which commercial general liability insurance policy will include the following:

- (a) the Indemnified Parties as additional insureds with respect to liability arising in the course of performance of the Recipient's obligations under, or otherwise in connection with, the Agreement;
- (b) a cross-liability clause;
- (c) contractual liability coverage; and
- (d) a 30-day written notice of cancellation.

A10.2 Proof of Insurance. The Recipient will:

- (a) provide to the Province, either:
 - (i) certificates of insurance that confirm the insurance coverage as provided for in section A10.1; or
 - (ii) other proof that confirms the insurance coverage as provided for in section A10.1; and
- (b) in the event of a Proceeding, and upon the Province's request, the Recipient will provide to the Province a copy of any of the Recipient's insurance policies that relate to the Project or otherwise to the Agreement, or both.

A11.0 TERMINATION ON NOTICE

A11.1 Termination on Notice. The Province may terminate the Agreement at any time without liability, penalty, or costs upon giving 30 days' Notice to the Recipient.

A11.2 Consequences of Termination on Notice by the Province. If the Province terminates the Agreement pursuant to section A11.1, the Province may take one or more of the following actions:

- (a) cancel further instalments of Funds;
- (b) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and
- (c) determine the reasonable costs for the Recipient to wind down the Project, and do either or both of the following:
 - (i) permit the Recipient to offset such costs against the amount the Recipient owes pursuant to section A11.2(b); and
 - (ii) subject to section A4.1(a), provide Funds to the Recipient to cover such costs.

A12.0 EVENT OF DEFAULT, CORRECTIVE ACTION, AND TERMINATION FOR DEFAULT

A12.1 Events of Default. It will constitute an Event of Default if, in the opinion of the Province, the Recipient breaches any representation, warranty, covenant, or other material term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:

- (i) carry out the Project;

- (ii) use or spend Funds; or
- (iii) provide, in accordance with section A7.2, Reports or such other reports as the Province may have requested pursuant to section A7.2(a)(ii).

A12.2 Consequences of Events of Default and Corrective Action. If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) initiate any action the Province considers necessary in order to facilitate the successful continuation or completion of the Project;
- (b) provide the Recipient with an opportunity to remedy the Event of Default;
- (c) suspend the payment of Funds for such period as the Province determines appropriate;
- (d) reduce the amount of the Funds;
- (e) cancel further instalments of Funds;
- (f) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient;
- (g) demand from the Recipient the payment of an amount equal to any Funds the Recipient used, but did not use in accordance with the Agreement;
- (h) demand from the Recipient the payment of an amount equal to any Funds the Province provided to the Recipient;
- (i) demand from the Recipient an amount equal to the costs the Province incurred or incurs to enforce its rights under the Agreement, including the costs of any Record Review and the costs it incurs to collect any amounts the Recipient owes to the Province; and
- (j) terminate the Agreement at any time, including immediately, without liability, penalty or costs to the Province upon giving Notice to the Recipient.

A12.3 Opportunity to Remedy. If, in accordance with section A12.2(b), the Province provides the Recipient with an opportunity to remedy the Event of Default, the Province will give Notice to the Recipient of:

- (a) the particulars of the Event of Default; and

(b) the Notice Period.

A12.4 **Recipient not Remedying.** If the Province provided the Recipient with an opportunity to remedy the Event of Default pursuant to section A12.2(b), and:

- (a) the Recipient does not remedy the Event of Default within the Notice Period;
- (b) it becomes apparent to the Province that the Recipient cannot completely remedy the Event of Default within the Notice Period; or
- (c) the Recipient is not proceeding to remedy the Event of Default in a way that is satisfactory to the Province,

the Province may extend the Notice Period, or initiate any one or more of the actions provided for in sections A12.2(a), (c), (d), (e), (f), (g), (h), and (i).

A12.5 **When Termination Effective.** Termination under Article A12.0 will take effect as provided for in the Notice.

A13.0 FUNDS AT THE END OF A FUNDING YEAR

A13.1 **Funds at the End of a Funding Year.** Without limiting any rights of the Province under Article A12.0, if the Recipient has not spent all of the Funds allocated for the Funding Year as provided for in the Budget, the Province may take one or both of the following actions:

- (a) demand from the Recipient payment of the unspent Funds; and
- (b) adjust the amount of any further instalments of Funds accordingly.

A14.0 FUNDS UPON EXPIRY

A14.1 **Funds Upon Expiry.** The Recipient will, upon expiry of the Agreement, pay to the Province any Funds remaining in its possession, under its control, or both.

A15.0 DEBT DUE AND PAYMENT

A15.1 **Payment of Overpayment.** If at any time the Province provides Funds in excess of the amount to which the Recipient is entitled under the Agreement, the Province may:

- (a) deduct an amount equal to the excess Funds from any further instalments of Funds; or
- (b) demand that the Recipient pay to the Province an amount equal to the

excess Funds.

A15.2 **Debt Due.** If, pursuant to the Agreement:

- (a) the Province demands from the Recipient the payment of any Funds or an amount equal to any Funds; or
- (b) the Recipient owes any Funds or an amount equal to any Funds to the Province, whether or not the Province has demanded their payment,

such amounts will be deemed to be debts due and owing to the Province by the Recipient, and the Recipient will pay the amounts to the Province immediately, unless the Province directs otherwise.

A15.3 **Interest Rate.** The Province may charge the Recipient interest on any money owing to the Province by the Recipient under the Agreement at the then current interest rate charged by the Province of Ontario on accounts receivable.

A15.4 **Payment of Money to Province.** The Recipient will pay any money owing to the Province by cheque payable to the "Ontario Minister of Finance" and delivered to the Province as provided for in Schedule "B".

A15.5 **Fails to Pay.** Without limiting the application of section 43 of the *Financial Administration Act* (Ontario), if the Recipient fails to pay any amount owing under the Agreement, Her Majesty the Queen in right of Ontario may deduct any unpaid amount from any money payable to the Recipient by Her Majesty the Queen in right of Ontario.

A16.0 NOTICE

A16.1 **Notice in Writing and Addressed.** Notice will be:

- (a) in writing;
- (b) delivered by email, postage-prepaid mail, personal delivery, courier or fax; and
- (c) addressed to the Province or the Recipient as set out in Schedule "B", or as either Party later designates to the other by Notice.

A16.2 **Notice Given.** Notice will be deemed to have been given:

- (a) in the case of postage-prepaid mail, five Business Days after the Notice is mailed; or
- (b) in the case of fax, one Business Day after the Notice is delivered; and

- (c) in the case of email, personal delivery or courier on the date on which the Notice is delivered.

A16.3 **Postal Disruption.** Despite section A16.2(a), in the event of a postal disruption:

- (a) Notice by postage-prepaid mail will not be deemed to be given; and
- (b) the Party giving Notice will give Notice by email, personal delivery, courier or fax.

A17.0 CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT

A17.1 **Consent.** When the Province provides its consent pursuant to the Agreement:

- (a) it will do so by Notice;
- (b) it may attach any terms and conditions to the consent; and
- (c) the Recipient may rely on the consent only if the Recipient complies with any terms and conditions the Province may have attached to the consent.

A18.0 SEVERABILITY OF PROVISIONS

A18.1 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement will not affect the validity or enforceability of any other provision of the Agreement.

A19.0 WAIVER

A19.1 **Waiver Request.** Either Party may, by Notice, ask the other Party to waive an obligation under the Agreement.

A19.2 **Waiver Applies.** If in response to a request made pursuant to section A19.1 a Party consents to a waiver, the waiver will:

- (a) be valid only if the Party that consents to the waiver provides the consent by Notice; and
- (b) apply only to the specific obligation referred to in the waiver.

A20.0 INDEPENDENT PARTIES

A20.1 **Parties Independent.** The Recipient is not an agent, joint venturer, partner, or employee of the Province, and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any

actions that could establish or imply such a relationship.

A21.0 ASSIGNMENT OF AGREEMENT OR FUNDS

A21.1 **No Assignment.** The Recipient will not, without the prior written consent of the Province, assign any of its rights or obligations under the Agreement.

A21.2 **Agreement Binding.** All rights and obligations contained in the Agreement will extend to and be binding on:

- (a) the Recipient's successors, and permitted assigns; and
- (b) the successors to Her Majesty the Queen in right of Ontario.

A22.0 GOVERNING LAW

A22.1 **Governing Law.** The Agreement and the rights, obligations, and relations of the Parties will be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with the Agreement will be conducted in the courts of Ontario, which will have exclusive jurisdiction over such proceedings.

A23.0 FURTHER ASSURANCES

A23.1 **Agreement into Effect.** The Recipient will:

- (a) provide such further assurances as the Province may request from time to time with respect to any matter to which the Agreement pertains; and
- (b) do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

A24.0 JOINT AND SEVERAL LIABILITY

A24.1 **Joint and Several Liability.** Where the Recipient comprises of more than one entity, all such entities will be jointly and severally liable to the Province for the fulfillment of the obligations of the Recipient under the Agreement.

A25.0 RIGHTS AND REMEDIES CUMULATIVE

A25.1 **Rights and Remedies Cumulative.** The rights and remedies of the Province under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

A26.0 FAILURE TO COMPLY WITH OTHER AGREEMENTS

A26.1 Other Agreements. If the Recipient:

- (a) has failed to comply with any term, condition, or obligation under any other agreement with Her Majesty the Queen in right of Ontario or one of Her agencies (a “**Failure**”);
- (b) has been provided with notice of such Failure in accordance with the requirements of such other agreement;
- (c) has, if applicable, failed to rectify such Failure in accordance with the requirements of such other agreement; and
- (d) such Failure is continuing,

the Province may suspend the payment of Funds for such period as the Province determines appropriate.

A27.0 SURVIVAL

A27.1 Survival. The following Articles and sections, and all applicable cross-referenced Articles, sections and schedules, will continue in full force and effect for a period of seven years from the date of expiry or termination of the Agreement: Article 1.0, Article 2.0, Article A1.0 and any other applicable definitions, section A2.1(a), sections A4.4, A4.5, A4.6, section A5.2, section A7.1, A7.2 (to the extent that the Recipient has not provided the Reports or other reports as the Province may have requested and to the satisfaction of the Province), sections A7.3, A7.4, A7.5, A7.6, A7.7, A7.8, Article A8.0, Article A9.0, section A11.2, sections A12.1, sections A12.2(d), (e), (f), (g), (h), (i), and (j), Article A13.0, Article A14.0, Article A15.0, Article A16.0, Article A18.0, , section A21.2, Article A22.0, Article A24.0, Article A25.0 and Article A27.0.

- END OF GENERAL TERMS AND CONDITIONS -

SCHEDULE “B”
PROJECT SPECIFIC INFORMATION AND ADDITIONAL PROVISIONS

Maximum Funds	Up to \$9,922
Expiry Date	March 31, 2024
Amount for the purposes of section A5.2 (Disposal) of Schedule “A”	\$5000.00
Insurance	\$ 2,000,000
Contact information for the purposes of Notice to the Province	<p>Position: Brenda Vloet</p> <p>Address: Manager, Municipal Programs and Outreach Unit</p> <p>Fax: 777 Bay Street, Toronto, Ontario M7A 2J3, 16th Floor</p> <p>Email: Brenda.Vloet@ontario.ca</p>
Contact information for the purposes of Notice to the Recipient	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>
Contact information for the senior financial person in the Recipient organization (e.g., CFO, CAO) – to respond as required to requests from the Province related to the Agreement	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>

Additional Provisions:

- B1 Section 4.2 of Schedule “A” is amended by adding the following subsection:**
- (e) The Province is not obligated to provide any Funds to the Recipient that exceed 65% of the incurred project costs.

B2 Section 4.3 of schedule “A” is amended by adding the following subsection:

- (e) not use the Funds for the purpose of paying the Recipient’s regular salary costs.
- (f) not use Funds for the purpose of purchasing land, buildings or vehicles

SCHEDULE "C"
PROJECT

Project Title
City of Port Colborne Route Patrol Software Solution
Objectives
The objective of the Project is to implement a route tracking software module with the goal of modernizing service delivery and realizing cost savings and efficiencies.
Description
The Recipient will purchase a route tracking software module, create a geographical information system (GIS) database, and procure training services for the Recipient's staff on the use of the implemented software module.

SCHEDULE "D"
BUDGET

Item	Amount
Reimbursement of up to 65% of Project costs incurred between August 16, 2021 to the earlier of February 28, 2023 or the submission of the Final Report Back.	Up to \$9,922

**SCHEDULE "E"
PAYMENT PLAN**

Milestone	Scheduled Payment
<ul style="list-style-type: none"> • Execution of Agreement 	Initial payment of \$6,945 made to Recipient no more than thirty (30) days after the execution of the Agreement.
<ul style="list-style-type: none"> • Submission of one (1) Interim Report Back 	Interim payment made to the Recipient no more than thirty (30) days after the Province's approval of the Interim Report Back for costs incurred and submitted as part of the First Interim Report Back that exceed the initial payment.
<ul style="list-style-type: none"> • Submission of Final Report Back to the Province 	Final payment of up to \$2,977 less any amount paid as part of the interim payment made to the Recipient no more than thirty (30) days after the Province's approval of the Final Report Back.

**SCHEDULE “F”
REPORTS**

Name of Report	Reporting Due Date
1. Interim Report Back	May 30, 2022
2. Final Report Back	February 28, 2023
3. Annual Report Back	February 28, 2024

Report Details

1. Interim Report Back

The Recipient will submit one (1) Interim Report Back to the Province by May 30, 2022, using the reporting template provided by the Province. The Interim Report Backs will include:

- A written description of what the Recipient has completed for the Project to date and what will be completed by the Final Report Back,
- A list of actual costs to carry out the Project paid by the Recipient, with supporting documentation, such as invoices or receipts, showing actual costs incurred.

2. Final Report Back

The Recipient will submit a Final Report Back to the Province once the Project is completed and by February 28, 2023 using the reporting template provided by the Province. The Final Report Back will include:

- A 250-word abstract of the Project and its findings
- A written description of the Project and the forecasted annual savings and other efficiency outcomes for the Recipient,
- The actual costs to carry out the Project that have not been included as part of the Interim Report Back paid by the Recipient with supporting documentation, such as invoices or receipts, showing actual costs incurred.
- A statement indicating an updated estimate of annual cost savings realized through the Project, which will be the performance measure.

3. Annual Report Back

The Recipient will submit an Annual Report Back to the Province using the reporting template provided by the Province. The Annual Report Back will include:

- A statement indicating the actual cost savings and efficiency outcomes from the Project over the course of the year.

ONTARIO TRANSFER PAYMENT AGREEMENT

THE AGREEMENT is effective as of the _____ day of _____, 20____

B E T W E E N :

**Her Majesty the Queen in right of Ontario
as represented by the Minister of Municipal Affairs and
Housing**

(the “Province”)

- and -

Corporation of the City of Port Colborne

(the “Recipient”)

CONSIDERATION

In consideration of the mutual covenants and agreements contained in the Agreement and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Province and the Recipient agree as follows:

1.0 ENTIRE AGREEMENT

1.1 Schedules to the Agreement. The following schedules form part of the Agreement:

- Schedule “A” - General Terms and Conditions
- Schedule “B” - Project Specific Information and Additional Provisions
- Schedule “C” - Project
- Schedule “D” - Budget
- Schedule “E” - Payment Plan
- Schedule “F” - Reports.

1.2 Entire Agreement. The Agreement constitutes the entire agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.

2.0 CONFLICT OR INCONSISTENCY

2.1 **Conflict or Inconsistency.** In the event of a conflict or inconsistency between the Additional Provisions and the provisions in Schedule “A”, the following rules will apply:

- (a) the Parties will interpret any Additional Provisions in so far as possible, in a way that preserves the intention of the Parties as expressed in Schedule “A”; and
- (b) where it is not possible to interpret the Additional Provisions in a way that is consistent with the provisions in Schedule “A”, the Additional Provisions will prevail over the provisions in Schedule “A” to the extent of the inconsistency.

3.0 COUNTERPARTS

3.1 **One and the Same Agreement.** The Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

4.0 AMENDING THE AGREEMENT

4.1 **Amending the Agreement.** The Agreement may only be amended by a written agreement duly executed by the Parties.

5.0 ACKNOWLEDGEMENT

5.1 **Acknowledgement.** The Recipient acknowledges that:

- (a) the Funds are to assist the Recipient to carry out the Project and not to provide goods or services to the Province;
- (b) the Province is not responsible for carrying out the Project; and
- (c) the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

- SIGNATURE PAGE FOLLOWS -

The Parties have executed the Agreement on the dates set out below.

**HER MAJESTY THE QUEEN IN RIGHT OF
ONTARIO as represented by the Minister of
Municipal Affairs and Housing**

Date

Name: The Honourable Steve Clark
Title: Minister of Municipal Affairs and Housing

Corporation of the City of Port Colborne

Date

Name:
Title:

I have authority to bind the Recipient.

Date

Name:
Title:

I have authority to bind the Recipient.

SCHEDULE "A"
GENERAL TERMS AND CONDITIONS

A1.0 INTERPRETATION AND DEFINITIONS

A1.1 **Interpretation.** For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;
- (b) words in one gender include all genders;
- (c) the headings do not form part of the Agreement; they are for reference only and will not affect the interpretation of the Agreement;
- (d) any reference to dollars or currency will be in Canadian dollars and currency; and
- (e) "include", "includes" and "including" denote that the subsequent list is not exhaustive.

A1.2 **Definitions.** In the Agreement, the following terms will have the following meanings:

"Additional Provisions" means the terms and conditions set out in Schedule "B".

"Agreement" means this agreement entered into between the Province and the Recipient, all of the schedules listed in section 1.1, and any amending agreement entered into pursuant to section 4.1.

"Budget" means the budget attached to the Agreement as Schedule "D".

"Business Day" means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day on which the Province has elected to be closed for business.

"Effective Date" means the date set out at the top of the Agreement.

"Event of Default" has the meaning ascribed to it in section A12.1.

"Expiry Date" means the expiry date set out in Schedule "B".

"Funding Year" means:

- (a) in the case of the first Funding Year, the period commencing on the

Effective Date and ending on the following March 31; and

- (b) in the case of Funding Years subsequent to the first Funding Year, the period commencing on April 1 following the end of the previous Funding Year and ending on the following March 31 or the Expiry Date, whichever is first.

“Funds” means the money the Province provides to the Recipient pursuant to the Agreement.

“Indemnified Parties” means Her Majesty the Queen in right of Ontario, and includes Her ministers, agents, appointees, and employees.

“Loss” means any cause of action, liability, loss, cost, damage, or expense (including legal, expert and consultant fees) that anyone incurs or sustains as a result of or in connection with the Project or any other part of the Agreement.

“Maximum Funds” means the maximum set out in Schedule “B”.

“Notice” means any communication given or required to be given pursuant to the Agreement.

“Notice Period” means the period of time within which the Recipient is required to remedy an Event of Default pursuant to section A12.3(b), and includes any such period or periods of time by which the Province extends that time in accordance with section A12.4.

“Parties” means the Province and the Recipient.

“Party” means either the Province or the Recipient.

“Proceeding” means any action, claim, demand, lawsuit, or other proceeding that anyone makes, brings or prosecutes as a result of or in connection with the Project or with any other part of the Agreement.

“Project” means the undertaking described in Schedule “C”.

“Records Review” means any assessment the Province conducts pursuant to section A7.4.

“Reports” means the reports described in Schedule “F”.

A2.0 REPRESENTATIONS, WARRANTIES, AND COVENANTS

A2.1 General. The Recipient represents, warrants, and covenants that:

- (a) it has, and will continue to have, the experience and expertise necessary to carry out the Project;
- (b) it is in compliance with, and will continue to comply with, all federal and provincial laws and regulations, all municipal by-laws, and any other orders, rules, and by-laws related to any aspect of the Project, the Funds, or both; and
- (c) unless otherwise provided for in the Agreement, any information the Recipient provided to the Province in support of its request for funds (including information relating to any eligibility requirements) was true and complete at the time the Recipient provided it and will continue to be true and complete.

A2.2 **Execution of Agreement.** The Recipient represents and warrants that it has:

- (a) the full power and authority to enter into the Agreement; and
- (b) taken all necessary actions to authorize the execution of the Agreement, including passing a municipal by-law authorizing the Recipient to enter into the Agreement.

A2.3 **Governance.** The Recipient represents, warrants, and covenants that it has, will maintain in writing, and will follow:

- (a) procedures to enable the Recipient to manage Funds prudently and effectively;
- (b) procedures to enable the Recipient to complete the Project successfully;
- (c) procedures to enable the Recipient to identify risks to the completion of the Project and strategies to address the identified risks, all in a timely manner;
- (d) procedures to enable the preparation and submission of all Reports required pursuant to Article A7.0; and
- (e) procedures to enable the Recipient to address such other matters as the Recipient considers necessary to enable the Recipient to carry out its obligations under the Agreement.

A2.4 **Supporting Proof.** Upon the request of the Province, the Recipient will provide the Province with proof of the matters referred to in Article A2.0.

A3.0 TERM OF THE AGREEMENT

A3.1 **Term.** The term of the Agreement will commence on the Effective Date and will expire on the Expiry Date unless terminated earlier pursuant to Article A11.0 or Article A12.0.

A4.0 FUNDS AND CARRYING OUT THE PROJECT

A4.1 **Funds Provided.** The Province will:

- (a) provide the Recipient up to the Maximum Funds for the purpose of carrying out the Project;
- (b) provide the Funds to the Recipient in accordance with the payment plan attached to the Agreement as Schedule “E”; and
- (c) deposit the Funds into an account the Recipient designates provided that the account:
 - (i) resides at a Canadian financial institution; and
 - (ii) is in the name of the Recipient.

A4.2 **Limitation on Payment of Funds.** Despite section A4.1:

- (a) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides evidence satisfactory to the Province that the Recipient’s council has authorized the execution of this Agreement by the Recipient by municipal by-law;
- (b) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides the certificates of insurance or other proof as the Province may request pursuant to section A10.2;
- (c) the Province is not obligated to provide instalments of Funds until it is satisfied with the progress of the Project; and
- (d) the Province may adjust the amount of Funds it provides to the Recipient in any Funding Year based upon the Province’s assessment of the information the Recipient provides to the Province pursuant to section A7.2.

A4.3 **Use of Funds and Carry Out the Project.** The Recipient will do all of the following:

- (a) carry out the Project in accordance with the Agreement;

- (b) use the Funds only for the purpose of carrying out the Project;
- (c) spend the Funds only in accordance with the Budget;
- (d) not use the Funds to cover any cost that has or will be funded or reimbursed by one or more of any third party, ministry, agency, or organization of the Government of Ontario.

A4.4 **Interest Bearing Account.** If the Province provides Funds before the Recipient's immediate need for the Funds, the Recipient will place the Funds in an interest bearing account in the name of the Recipient at a Canadian financial institution.

A4.5 **Interest.** If the Recipient earns any interest on the Funds, the Province may do either or both of the following:

- (a) deduct an amount equal to the interest from any further instalments of Funds;
- (b) demand from the Recipient the payment of an amount equal to the interest.

A4.6 **Rebates, Credits, and Refunds.** The Province will calculate Funds based on the actual costs to the Recipient to carry out the Project, less any costs (including taxes) for which the Recipient has received, will receive, or is eligible to receive, a rebate, credit, or refund.

A5.0 RECIPIENT'S ACQUISITION OF GOODS OR SERVICES, AND DISPOSAL OF ASSETS

A5.1 **Acquisition.** If the Recipient acquires goods, services, or both with the Funds, it will do so through a process that promotes the best value for money.

A5.2 **Disposal.** The Recipient will not, without the Province's prior consent, sell, lease, or otherwise dispose of any asset purchased or created with the Funds or for which Funds were provided, the cost of which exceeded the amount as provided for in Schedule "B" at the time of purchase.

A6.0 CONFLICT OF INTEREST

A6.1 **Conflict of Interest Includes.** For the purposes of Article A6.0, a conflict of interest includes any circumstances where:

- (a) the Recipient; or
- (b) any person who has the capacity to influence the Recipient's decisions,

has outside commitments, relationships, or financial interests that could, or could be seen by a reasonable person to, interfere with the Recipient's objective, unbiased, and impartial judgment relating to the Project, the use of the Funds, or both.

A6.2 **No Conflict of Interest.** The Recipient will carry out the Project and use the Funds without an actual, potential, or perceived conflict of interest unless:

- (a) the Recipient:
 - (i) provides Notice to the Province disclosing the details of the actual, potential, or perceived conflict of interest;
 - (ii) requests the consent of the Province to carry out the Project with an actual, potential, or perceived conflict of interest;
- (b) the Province provides its consent to the Recipient carrying out the Project with an actual, potential, or perceived conflict of interest; and
- (c) the Recipient complies with any terms and conditions the Province may prescribe in its consent.

A7.0 REPORTS, ACCOUNTING, AND REVIEW

A7.1 **Province Includes.** For the purposes of sections A7.4, A7.5 and A7.6, "**Province**" includes any auditor or representative the Province may identify.

A7.2 **Preparation and Submission.** The Recipient will:

- (a) submit to the Province at the address referred to in section A17.1:
 - (i) all Reports in accordance with the timelines and content requirements as provided for in Schedule "F";
 - (ii) any other reports in accordance with any timelines and content requirements the Province may specify from time to time;
- (b) ensure that all Reports and other reports are:
 - (i) completed to the satisfaction of the Province; and
 - (i) signed by an authorized signing officer of the Recipient.

A7.3 **Record Maintenance.** The Recipient will keep and maintain for a period of seven years from their creation:

- (a) all financial records (including invoices and evidence of payment) relating to the Funds or otherwise to the Project in a manner consistent with either international financial reporting standards or generally accepted accounting principles or any other accounting principles that apply to the Recipient; and
- (b) all non-financial records and documents relating to the Funds or otherwise to the Project.

A7.4 **Records Review.** The Province may, at its own expense, upon twenty-four hours' Notice to the Recipient and during normal business hours enter upon the Recipient's premises to conduct an audit or investigation of the Recipient regarding the Recipient's compliance with the Agreement, including assessing any of the following:

- (a) the truth of any of the Recipient's representations and warranties;
- (b) the progress of the Project;
- (c) the Recipient's allocation and expenditure of the Funds.

A7.5 **Inspection and Removal.** For the purposes of any Records Review, the Province may take one or more of the following actions:

- (a) inspect and copy any records and documents referred to in section A7.3; and
- (b) remove any copies the Province makes pursuant to section A7.5(a).

A7.6 **Cooperation.** To assist the Province in respect of its rights provided for in section A7.5, the Recipient will cooperate with the Province by:

- (a) ensuring that the Province has access to the records and documents wherever they are located;
- (b) assisting the Province to copy records and documents;
- (c) providing to the Province, in the form the Province specifies, any information the Province identifies; and
- (d) carrying out any other activities the Province requests.

A7.7 **No Control of Records.** No provision of the Agreement will be construed so as to give the Province any control whatsoever over the Recipient's records.

A7.8 **Auditor General.** The Province's rights under Article A7.0 are in addition to

any rights provided to the Auditor General pursuant to section 9.2 of the *Auditor General Act* (Ontario).

A8.0 COMMUNICATIONS REQUIREMENTS

A8.1 Acknowledge Support. Unless the Province directs the Recipient to do otherwise, the Recipient will in each of its Project-related publications, whether written, oral, or visual:

- (a) acknowledge the support of the Province for the Project;
- (b) ensure that any acknowledgement is in a form and manner as the Province directs; and
- (c) indicate that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of the Province.

A9.0 INDEMNITY

A9.1 Indemnification. The Recipient will indemnify and hold harmless the Indemnified Parties from and against any Loss and any Proceeding, unless solely caused by the negligence or wilful misconduct of the Indemnified Parties.

A10.0 INSURANCE

A10.1 Recipient's Insurance. The Recipient represents, warrants, and covenants that it has, and will maintain, at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person carrying out a project similar to the Project would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury, and property damage, to an inclusive limit of not less than the amount provided for in Schedule "B" per occurrence, which commercial general liability insurance policy will include the following:

- (a) the Indemnified Parties as additional insureds with respect to liability arising in the course of performance of the Recipient's obligations under, or otherwise in connection with, the Agreement;
- (b) a cross-liability clause;
- (c) contractual liability coverage; and
- (d) a 30-day written notice of cancellation.

A10.2 Proof of Insurance. The Recipient will:

- (a) provide to the Province, either:
 - (i) certificates of insurance that confirm the insurance coverage as provided for in section A10.1; or
 - (ii) other proof that confirms the insurance coverage as provided for in section A10.1; and
- (b) in the event of a Proceeding, and upon the Province's request, the Recipient will provide to the Province a copy of any of the Recipient's insurance policies that relate to the Project or otherwise to the Agreement, or both.

A11.0 TERMINATION ON NOTICE

A11.1 Termination on Notice. The Province may terminate the Agreement at any time without liability, penalty, or costs upon giving 30 days' Notice to the Recipient.

A11.2 Consequences of Termination on Notice by the Province. If the Province terminates the Agreement pursuant to section A11.1, the Province may take one or more of the following actions:

- (a) cancel further instalments of Funds;
- (b) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and
- (c) determine the reasonable costs for the Recipient to wind down the Project, and do either or both of the following:
 - (i) permit the Recipient to offset such costs against the amount the Recipient owes pursuant to section A11.2(b); and
 - (ii) subject to section A4.1(a), provide Funds to the Recipient to cover such costs.

A12.0 EVENT OF DEFAULT, CORRECTIVE ACTION, AND TERMINATION FOR DEFAULT

A12.1 Events of Default. It will constitute an Event of Default if, in the opinion of the Province, the Recipient breaches any representation, warranty, covenant, or other material term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:

- (i) carry out the Project;

- (ii) use or spend Funds; or
- (iii) provide, in accordance with section A7.2, Reports or such other reports as the Province may have requested pursuant to section A7.2(a)(ii).

A12.2 **Consequences of Events of Default and Corrective Action.** If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) initiate any action the Province considers necessary in order to facilitate the successful continuation or completion of the Project;
- (b) provide the Recipient with an opportunity to remedy the Event of Default;
- (c) suspend the payment of Funds for such period as the Province determines appropriate;
- (d) reduce the amount of the Funds;
- (e) cancel further instalments of Funds;
- (f) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient;
- (g) demand from the Recipient the payment of an amount equal to any Funds the Recipient used, but did not use in accordance with the Agreement;
- (h) demand from the Recipient the payment of an amount equal to any Funds the Province provided to the Recipient;
- (i) demand from the Recipient an amount equal to the costs the Province incurred or incurs to enforce its rights under the Agreement, including the costs of any Record Review and the costs it incurs to collect any amounts the Recipient owes to the Province; and
- (j) terminate the Agreement at any time, including immediately, without liability, penalty or costs to the Province upon giving Notice to the Recipient.

A12.3 **Opportunity to Remedy.** If, in accordance with section A12.2(b), the Province provides the Recipient with an opportunity to remedy the Event of Default, the Province will give Notice to the Recipient of:

- (a) the particulars of the Event of Default; and

(b) the Notice Period.

A12.4 **Recipient not Remedying.** If the Province provided the Recipient with an opportunity to remedy the Event of Default pursuant to section A12.2(b), and:

- (a) the Recipient does not remedy the Event of Default within the Notice Period;
- (b) it becomes apparent to the Province that the Recipient cannot completely remedy the Event of Default within the Notice Period; or
- (c) the Recipient is not proceeding to remedy the Event of Default in a way that is satisfactory to the Province,

the Province may extend the Notice Period, or initiate any one or more of the actions provided for in sections A12.2(a), (c), (d), (e), (f), (g), (h), and (i).

A12.5 **When Termination Effective.** Termination under Article A12.0 will take effect as provided for in the Notice.

A13.0 FUNDS AT THE END OF A FUNDING YEAR

A13.1 **Funds at the End of a Funding Year.** Without limiting any rights of the Province under Article A12.0, if the Recipient has not spent all of the Funds allocated for the Funding Year as provided for in the Budget, the Province may take one or both of the following actions:

- (a) demand from the Recipient payment of the unspent Funds; and
- (b) adjust the amount of any further instalments of Funds accordingly.

A14.0 FUNDS UPON EXPIRY

A14.1 **Funds Upon Expiry.** The Recipient will, upon expiry of the Agreement, pay to the Province any Funds remaining in its possession, under its control, or both.

A15.0 DEBT DUE AND PAYMENT

A15.1 **Payment of Overpayment.** If at any time the Province provides Funds in excess of the amount to which the Recipient is entitled under the Agreement, the Province may:

- (a) deduct an amount equal to the excess Funds from any further instalments of Funds; or
- (b) demand that the Recipient pay to the Province an amount equal to the

excess Funds.

A15.2 **Debt Due.** If, pursuant to the Agreement:

- (a) the Province demands from the Recipient the payment of any Funds or an amount equal to any Funds; or
- (b) the Recipient owes any Funds or an amount equal to any Funds to the Province, whether or not the Province has demanded their payment,

such amounts will be deemed to be debts due and owing to the Province by the Recipient, and the Recipient will pay the amounts to the Province immediately, unless the Province directs otherwise.

A15.3 **Interest Rate.** The Province may charge the Recipient interest on any money owing to the Province by the Recipient under the Agreement at the then current interest rate charged by the Province of Ontario on accounts receivable.

A15.4 **Payment of Money to Province.** The Recipient will pay any money owing to the Province by cheque payable to the "Ontario Minister of Finance" and delivered to the Province as provided for in Schedule "B".

A15.5 **Fails to Pay.** Without limiting the application of section 43 of the *Financial Administration Act* (Ontario), if the Recipient fails to pay any amount owing under the Agreement, Her Majesty the Queen in right of Ontario may deduct any unpaid amount from any money payable to the Recipient by Her Majesty the Queen in right of Ontario.

A16.0 NOTICE

A16.1 **Notice in Writing and Addressed.** Notice will be:

- (a) in writing;
- (b) delivered by email, postage-prepaid mail, personal delivery, courier or fax; and
- (c) addressed to the Province or the Recipient as set out in Schedule "B", or as either Party later designates to the other by Notice.

A16.2 **Notice Given.** Notice will be deemed to have been given:

- (a) in the case of postage-prepaid mail, five Business Days after the Notice is mailed; or
- (b) in the case of fax, one Business Day after the Notice is delivered; and

- (c) in the case of email, personal delivery or courier on the date on which the Notice is delivered.

A16.3 **Postal Disruption.** Despite section A16.2(a), in the event of a postal disruption:

- (a) Notice by postage-prepaid mail will not be deemed to be given; and
- (b) the Party giving Notice will give Notice by email, personal delivery, courier or fax.

A17.0 CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT

A17.1 **Consent.** When the Province provides its consent pursuant to the Agreement:

- (a) it will do so by Notice;
- (b) it may attach any terms and conditions to the consent; and
- (c) the Recipient may rely on the consent only if the Recipient complies with any terms and conditions the Province may have attached to the consent.

A18.0 SEVERABILITY OF PROVISIONS

A18.1 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement will not affect the validity or enforceability of any other provision of the Agreement.

A19.0 WAIVER

A19.1 **Waiver Request.** Either Party may, by Notice, ask the other Party to waive an obligation under the Agreement.

A19.2 **Waiver Applies.** If in response to a request made pursuant to section A19.1 a Party consents to a waiver, the waiver will:

- (a) be valid only if the Party that consents to the waiver provides the consent by Notice; and
- (b) apply only to the specific obligation referred to in the waiver.

A20.0 INDEPENDENT PARTIES

A20.1 **Parties Independent.** The Recipient is not an agent, joint venturer, partner, or employee of the Province, and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any

actions that could establish or imply such a relationship.

A21.0 ASSIGNMENT OF AGREEMENT OR FUNDS

A21.1 **No Assignment.** The Recipient will not, without the prior written consent of the Province, assign any of its rights or obligations under the Agreement.

A21.2 **Agreement Binding.** All rights and obligations contained in the Agreement will extend to and be binding on:

- (a) the Recipient's successors, and permitted assigns; and
- (b) the successors to Her Majesty the Queen in right of Ontario.

A22.0 GOVERNING LAW

A22.1 **Governing Law.** The Agreement and the rights, obligations, and relations of the Parties will be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with the Agreement will be conducted in the courts of Ontario, which will have exclusive jurisdiction over such proceedings.

A23.0 FURTHER ASSURANCES

A23.1 **Agreement into Effect.** The Recipient will:

- (a) provide such further assurances as the Province may request from time to time with respect to any matter to which the Agreement pertains; and
- (b) do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

A24.0 JOINT AND SEVERAL LIABILITY

A24.1 **Joint and Several Liability.** Where the Recipient comprises of more than one entity, all such entities will be jointly and severally liable to the Province for the fulfillment of the obligations of the Recipient under the Agreement.

A25.0 RIGHTS AND REMEDIES CUMULATIVE

A25.1 **Rights and Remedies Cumulative.** The rights and remedies of the Province under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

A26.0 FAILURE TO COMPLY WITH OTHER AGREEMENTS

A26.1 **Other Agreements.** If the Recipient:

- (a) has failed to comply with any term, condition, or obligation under any other agreement with Her Majesty the Queen in right of Ontario or one of Her agencies (a “**Failure**”);
- (b) has been provided with notice of such Failure in accordance with the requirements of such other agreement;
- (c) has, if applicable, failed to rectify such Failure in accordance with the requirements of such other agreement; and
- (d) such Failure is continuing,

the Province may suspend the payment of Funds for such period as the Province determines appropriate.

A27.0 SURVIVAL

A27.1 **Survival.** The following Articles and sections, and all applicable cross-referenced Articles, sections and schedules, will continue in full force and effect for a period of seven years from the date of expiry or termination of the Agreement: Article 1.0, Article 2.0, Article A1.0 and any other applicable definitions, section A2.1(a), sections A4.4, A4.5, A4.6, section A5.2, section A7.1, A7.2 (to the extent that the Recipient has not provided the Reports or other reports as the Province may have requested and to the satisfaction of the Province), sections A7.3, A7.4, A7.5, A7.6, A7.7, A7.8, Article A8.0, Article A9.0, section A11.2, sections A12.1, sections A12.2(d), (e), (f), (g), (h), (i), and (j), Article A13.0, Article A14.0, Article A15.0, Article A16.0, Article A18.0, , section A21.2, Article A22.0, Article A24.0, Article A25.0 and Article A27.0.

- END OF GENERAL TERMS AND CONDITIONS -

SCHEDULE "B"
PROJECT SPECIFIC INFORMATION AND ADDITIONAL PROVISIONS

Maximum Funds	Up to \$45,792
Expiry Date	March 31, 2023
Amount for the purposes of section A5.2 (Disposal) of Schedule "A"	\$5,000.00
Insurance	\$ 2,000,000
Contact information for the purposes of Notice to the Province	<p>Name: Brenda Vloet</p> <p>Position: Manager, Municipal Programs and Outreach Unit</p> <p>Address: 777 Bay Street, Toronto, Ontario M7A 2J3, 16th Floor</p> <p>Email: Brenda.Vloet@ontario.ca</p>
Contact information for the purposes of Notice to the Recipient	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>
Contact information for the senior financial person in the Recipient organization (e.g., CFO, CAO) – to respond as required to requests from the Province related to the Agreement	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>

Additional Provisions:

B1 Section 4.3 of Schedule "A" is amended by adding the following subsection:

- (e) use the Funds only for the purpose of reimbursement for the actual amount paid to the independent third-party reviewer in accordance with

the Project; and,

- (f) Not use the Funds for the purpose of paying the salaries of the Recipient's employees.

SCHEDULE "C"
PROJECT

Project Title
City of Port Colborne Departmental Organization Review
Objectives
The objective of the Project is to review each of the Recipient's departments with the goal of improving organizational results and alignment with Council and community priorities.
Description
<p>The Recipient will retain an independent third-party reviewer to review each of the Recipient's departments on a rotating basis and make recommendations on the departments' structure, processes, service delivery, and coordination between and within departments. Based on these reviews, the reviewer will identify opportunities for efficiencies in the departments.</p> <p><u>Independent Third-Party Reviewer's Report</u></p> <p>The Recipient will retain the independent third-party reviewer to compile the findings and recommendations in the Independent Third-Party Reviewer's Report.</p> <p>The Recipient will submit the report to the Province and publish the report on the Recipient's publicly accessible website by January 31, 2023.</p> <p>The report will summarize the reviewer's findings and identify specific, actionable recommendations based on the analysis and findings that aim to identify cost savings and improved efficiencies. The report will include detailed explanations and calculations of identified potential quantifiable efficiencies and/or cost savings.</p>

SCHEDULE "D"
BUDGET

Item	Amount
Reimbursement for payments to independent third-party reviewer.	Up to \$45,792

**SCHEDULE "E"
PAYMENT PLAN**

Milestone	Scheduled Payment
<ul style="list-style-type: none"> • Execution of Agreement 	Initial payment of \$32,054 made to Recipient no more than thirty (30) days after the execution of the Agreement
<ul style="list-style-type: none"> • Submission of Interim Progress Report Back to the Province • Publishing of Independent Third-Party Reviewer's Report on the Recipient's publicly accessible website • Submission of Final Report Back to the Province, which includes a copy of the Independent Third-Party Reviewer's Report 	Final payment of up to \$13,738 made to the Recipient no more than thirty (30) days after the Province's approval of the Final Report Back

**SCHEDULE “F”
REPORTS**

Name of Report	Reporting Due Date
1. Interim Progress Report Back	September 19, 2022
2. Final Report Back and Invoices	January 31, 2023

Report Details

1. Interim Progress Report Back

The Recipient will submit an Interim Progress Report Back to the Province by September 19, 2022 using the reporting template provided by the Province. The Interim Progress Report will include:

- A statement indicating whether the Recipient has retained an independent third-party reviewer.

2. Final Report Back and Invoices

The Recipient will submit a Final Report Back to the Province by January 31, 2023 using the reporting template provided by the Province. The Final Report will include:

- A copy of the Independent Third-Party Reviewer’s report,
- A hyperlink to the Independent Third-Party Reviewer's final report on the Recipient's publicly accessible website,
- A 250-word abstract of the Project and its findings,
- The actual amount paid by the Recipient to the independent third-party reviewer in accordance with the Project with supporting documentation, such as invoices or receipts, showing actual costs incurred, and
- A statement indicating the percentage of the total amount of service delivery expenditures reviewed that are identified as potential cost savings in the Independent Third-Party Reviewer's Report, which will be the performance measure for the Project.

ONTARIO TRANSFER PAYMENT AGREEMENT

THE AGREEMENT is effective as of the _____ day of _____, 20____

B E T W E E N :

**Her Majesty the Queen in right of Ontario
as represented by the Minister of Municipal Affairs and
Housing**

(the “Province”)

- and -

Corporation of the City of Port Colborne

(the “Recipient”)

CONSIDERATION

In consideration of the mutual covenants and agreements contained in the Agreement and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Province and the Recipient agree as follows:

1.0 ENTIRE AGREEMENT

1.1 **Schedules to the Agreement.** The following schedules form part of the Agreement:

- Schedule “A” - General Terms and Conditions
- Schedule “B” - Project Specific Information and Additional Provisions
- Schedule “C” - Project
- Schedule “D” - Budget
- Schedule “E” - Payment Plan
- Schedule “F” - Reports.

1.2 **Entire Agreement.** The Agreement constitutes the entire agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.

2.0 CONFLICT OR INCONSISTENCY

2.1 **Conflict or Inconsistency.** In the event of a conflict or inconsistency between the Additional Provisions and the provisions in Schedule “A”, the following rules will apply:

- (a) the Parties will interpret any Additional Provisions in so far as possible, in a way that preserves the intention of the Parties as expressed in Schedule “A”; and
- (b) where it is not possible to interpret the Additional Provisions in a way that is consistent with the provisions in Schedule “A”, the Additional Provisions will prevail over the provisions in Schedule “A” to the extent of the inconsistency.

3.0 COUNTERPARTS

3.1 **One and the Same Agreement.** The Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

4.0 AMENDING THE AGREEMENT

4.1 **Amending the Agreement.** The Agreement may only be amended by a written agreement duly executed by the Parties.

5.0 ACKNOWLEDGEMENT

5.1 **Acknowledgement.** The Recipient acknowledges that:

- (a) the Funds are to assist the Recipient to carry out the Project and not to provide goods or services to the Province;
- (b) the Province is not responsible for carrying out the Project; and
- (c) the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

- SIGNATURE PAGE FOLLOWS -

The Parties have executed the Agreement on the dates set out below.

**HER MAJESTY THE QUEEN IN RIGHT OF
ONTARIO as represented by the Minister of
Municipal Affairs and Housing**

Date

Name: The Honourable Steve Clark
Title: Minister of Municipal Affairs and Housing

Corporation of the City of Port Colborne

Date

Name:
Title:

I have authority to bind the Recipient.

Date

Name:
Title:

I have authority to bind the Recipient.

SCHEDULE "A"
GENERAL TERMS AND CONDITIONS

A1.0 INTERPRETATION AND DEFINITIONS

A1.1 **Interpretation.** For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;
- (b) words in one gender include all genders;
- (c) the headings do not form part of the Agreement; they are for reference only and will not affect the interpretation of the Agreement;
- (d) any reference to dollars or currency will be in Canadian dollars and currency; and
- (e) "include", "includes" and "including" denote that the subsequent list is not exhaustive.

A1.2 **Definitions.** In the Agreement, the following terms will have the following meanings:

"Additional Provisions" means the terms and conditions set out in Schedule "B".

"Agreement" means this agreement entered into between the Province and the Recipient, all of the schedules listed in section 1.1, and any amending agreement entered into pursuant to section 4.1.

"Budget" means the budget attached to the Agreement as Schedule "D".

"Business Day" means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day on which the Province has elected to be closed for business.

"Effective Date" means the date set out at the top of the Agreement.

"Event of Default" has the meaning ascribed to it in section A12.1.

"Expiry Date" means the expiry date set out in Schedule "B".

"Funding Year" means:

- (a) in the case of the first Funding Year, the period commencing on the

Effective Date and ending on the following March 31; and

- (b) in the case of Funding Years subsequent to the first Funding Year, the period commencing on April 1 following the end of the previous Funding Year and ending on the following March 31 or the Expiry Date, whichever is first.

“Funds” means the money the Province provides to the Recipient pursuant to the Agreement.

“Indemnified Parties” means Her Majesty the Queen in right of Ontario, and includes Her ministers, agents, appointees, and employees.

“Loss” means any cause of action, liability, loss, cost, damage, or expense (including legal, expert and consultant fees) that anyone incurs or sustains as a result of or in connection with the Project or any other part of the Agreement.

“Maximum Funds” means the maximum set out in Schedule “B”.

“Notice” means any communication given or required to be given pursuant to the Agreement.

“Notice Period” means the period of time within which the Recipient is required to remedy an Event of Default pursuant to section A12.3(b), and includes any such period or periods of time by which the Province extends that time in accordance with section A12.4.

“Parties” means the Province and the Recipient.

“Party” means either the Province or the Recipient.

“Proceeding” means any action, claim, demand, lawsuit, or other proceeding that anyone makes, brings or prosecutes as a result of or in connection with the Project or with any other part of the Agreement.

“Project” means the undertaking described in Schedule “C”.

“Records Review” means any assessment the Province conducts pursuant to section A7.4.

“Reports” means the reports described in Schedule “F”.

A2.0 REPRESENTATIONS, WARRANTIES, AND COVENANTS

A2.1 General. The Recipient represents, warrants, and covenants that:

- (a) it has, and will continue to have, the experience and expertise necessary to carry out the Project;
- (b) it is in compliance with, and will continue to comply with, all federal and provincial laws and regulations, all municipal by-laws, and any other orders, rules, and by-laws related to any aspect of the Project, the Funds, or both; and
- (c) unless otherwise provided for in the Agreement, any information the Recipient provided to the Province in support of its request for funds (including information relating to any eligibility requirements) was true and complete at the time the Recipient provided it and will continue to be true and complete.

A2.2 **Execution of Agreement.** The Recipient represents and warrants that it has:

- (a) the full power and authority to enter into the Agreement; and
- (b) taken all necessary actions to authorize the execution of the Agreement, including passing a municipal by-law authorizing the Recipient to enter into the Agreement.

A2.3 **Governance.** The Recipient represents, warrants, and covenants that it has, will maintain in writing, and will follow:

- (a) procedures to enable the Recipient to manage Funds prudently and effectively;
- (b) procedures to enable the Recipient to complete the Project successfully;
- (c) procedures to enable the Recipient to identify risks to the completion of the Project and strategies to address the identified risks, all in a timely manner;
- (d) procedures to enable the preparation and submission of all Reports required pursuant to Article A7.0; and
- (e) procedures to enable the Recipient to address such other matters as the Recipient considers necessary to enable the Recipient to carry out its obligations under the Agreement.

A2.4 **Supporting Proof.** Upon the request of the Province, the Recipient will provide the Province with proof of the matters referred to in Article A2.0.

A3.0 TERM OF THE AGREEMENT

A3.1 **Term.** The term of the Agreement will commence on the Effective Date and will expire on the Expiry Date unless terminated earlier pursuant to Article A11.0 or Article A12.0.

A4.0 FUNDS AND CARRYING OUT THE PROJECT

A4.1 **Funds Provided.** The Province will:

- (a) provide the Recipient up to the Maximum Funds for the purpose of carrying out the Project;
- (b) provide the Funds to the Recipient in accordance with the payment plan attached to the Agreement as Schedule “E”; and
- (c) deposit the Funds into an account the Recipient designates provided that the account:
 - (i) resides at a Canadian financial institution; and
 - (ii) is in the name of the Recipient.

A4.2 **Limitation on Payment of Funds.** Despite section A4.1:

- (a) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides evidence satisfactory to the Province that the Recipient’s council has authorized the execution of this Agreement by the Recipient by municipal by-law;
- (b) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides the certificates of insurance or other proof as the Province may request pursuant to section A10.2;
- (c) the Province is not obligated to provide instalments of Funds until it is satisfied with the progress of the Project; and
- (d) the Province may adjust the amount of Funds it provides to the Recipient in any Funding Year based upon the Province’s assessment of the information the Recipient provides to the Province pursuant to section A7.2.

A4.3 **Use of Funds and Carry Out the Project.** The Recipient will do all of the following:

- (a) carry out the Project in accordance with the Agreement;

- (b) use the Funds only for the purpose of carrying out the Project;
- (c) spend the Funds only in accordance with the Budget;
- (d) not use the Funds to cover any cost that has or will be funded or reimbursed by one or more of any third party, ministry, agency, or organization of the Government of Ontario.

A4.4 **Interest Bearing Account.** If the Province provides Funds before the Recipient's immediate need for the Funds, the Recipient will place the Funds in an interest bearing account in the name of the Recipient at a Canadian financial institution.

A4.5 **Interest.** If the Recipient earns any interest on the Funds, the Province may do either or both of the following:

- (a) deduct an amount equal to the interest from any further instalments of Funds;
- (b) demand from the Recipient the payment of an amount equal to the interest.

A4.6 **Rebates, Credits, and Refunds.** The Province will calculate Funds based on the actual costs to the Recipient to carry out the Project, less any costs (including taxes) for which the Recipient has received, will receive, or is eligible to receive, a rebate, credit, or refund.

A5.0 RECIPIENT'S ACQUISITION OF GOODS OR SERVICES, AND DISPOSAL OF ASSETS

A5.1 **Acquisition.** If the Recipient acquires goods, services, or both with the Funds, it will do so through a process that promotes the best value for money.

A5.2 **Disposal.** The Recipient will not, without the Province's prior consent, sell, lease, or otherwise dispose of any asset purchased or created with the Funds or for which Funds were provided, the cost of which exceeded the amount as provided for in Schedule "B" at the time of purchase.

A6.0 CONFLICT OF INTEREST

A6.1 **Conflict of Interest Includes.** For the purposes of Article A6.0, a conflict of interest includes any circumstances where:

- (a) the Recipient; or
- (b) any person who has the capacity to influence the Recipient's decisions,

has outside commitments, relationships, or financial interests that could, or could be seen by a reasonable person to, interfere with the Recipient's objective, unbiased, and impartial judgment relating to the Project, the use of the Funds, or both.

A6.2 **No Conflict of Interest.** The Recipient will carry out the Project and use the Funds without an actual, potential, or perceived conflict of interest unless:

- (a) the Recipient:
 - (i) provides Notice to the Province disclosing the details of the actual, potential, or perceived conflict of interest;
 - (ii) requests the consent of the Province to carry out the Project with an actual, potential, or perceived conflict of interest;
- (b) the Province provides its consent to the Recipient carrying out the Project with an actual, potential, or perceived conflict of interest; and
- (c) the Recipient complies with any terms and conditions the Province may prescribe in its consent.

A7.0 REPORTS, ACCOUNTING, AND REVIEW

A7.1 **Province Includes.** For the purposes of sections A7.4, A7.5 and A7.6, "**Province**" includes any auditor or representative the Province may identify.

A7.2 **Preparation and Submission.** The Recipient will:

- (a) submit to the Province at the address referred to in section A17.1:
 - (i) all Reports in accordance with the timelines and content requirements as provided for in Schedule "F";
 - (ii) any other reports in accordance with any timelines and content requirements the Province may specify from time to time;
- (b) ensure that all Reports and other reports are:
 - (i) completed to the satisfaction of the Province; and
 - (i) signed by an authorized signing officer of the Recipient.

A7.3 **Record Maintenance.** The Recipient will keep and maintain for a period of seven years from their creation:

- (a) all financial records (including invoices and evidence of payment) relating to the Funds or otherwise to the Project in a manner consistent with either international financial reporting standards or generally accepted accounting principles or any other accounting principles that apply to the Recipient; and
- (b) all non-financial records and documents relating to the Funds or otherwise to the Project.

A7.4 **Records Review.** The Province may, at its own expense, upon twenty-four hours' Notice to the Recipient and during normal business hours enter upon the Recipient's premises to conduct an audit or investigation of the Recipient regarding the Recipient's compliance with the Agreement, including assessing any of the following:

- (a) the truth of any of the Recipient's representations and warranties;
- (b) the progress of the Project;
- (c) the Recipient's allocation and expenditure of the Funds.

A7.5 **Inspection and Removal.** For the purposes of any Records Review, the Province may take one or more of the following actions:

- (a) inspect and copy any records and documents referred to in section A7.3; and
- (b) remove any copies the Province makes pursuant to section A7.5(a).

A7.6 **Cooperation.** To assist the Province in respect of its rights provided for in section A7.5, the Recipient will cooperate with the Province by:

- (a) ensuring that the Province has access to the records and documents wherever they are located;
- (b) assisting the Province to copy records and documents;
- (c) providing to the Province, in the form the Province specifies, any information the Province identifies; and
- (d) carrying out any other activities the Province requests.

A7.7 **No Control of Records.** No provision of the Agreement will be construed so as to give the Province any control whatsoever over the Recipient's records.

A7.8 **Auditor General.** The Province's rights under Article A7.0 are in addition to

any rights provided to the Auditor General pursuant to section 9.2 of the *Auditor General Act* (Ontario).

A8.0 COMMUNICATIONS REQUIREMENTS

A8.1 Acknowledge Support. Unless the Province directs the Recipient to do otherwise, the Recipient will in each of its Project-related publications, whether written, oral, or visual:

- (a) acknowledge the support of the Province for the Project;
- (b) ensure that any acknowledgement is in a form and manner as the Province directs; and
- (c) indicate that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of the Province.

A9.0 INDEMNITY

A9.1 Indemnification. The Recipient will indemnify and hold harmless the Indemnified Parties from and against any Loss and any Proceeding, unless solely caused by the negligence or wilful misconduct of the Indemnified Parties.

A10.0 INSURANCE

A10.1 Recipient's Insurance. The Recipient represents, warrants, and covenants that it has, and will maintain, at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person carrying out a project similar to the Project would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury, and property damage, to an inclusive limit of not less than the amount provided for in Schedule "B" per occurrence, which commercial general liability insurance policy will include the following:

- (a) the Indemnified Parties as additional insureds with respect to liability arising in the course of performance of the Recipient's obligations under, or otherwise in connection with, the Agreement;
- (b) a cross-liability clause;
- (c) contractual liability coverage; and
- (d) a 30-day written notice of cancellation.

A10.2 Proof of Insurance. The Recipient will:

- (a) provide to the Province, either:
 - (i) certificates of insurance that confirm the insurance coverage as provided for in section A10.1; or
 - (ii) other proof that confirms the insurance coverage as provided for in section A10.1; and
- (b) in the event of a Proceeding, and upon the Province's request, the Recipient will provide to the Province a copy of any of the Recipient's insurance policies that relate to the Project or otherwise to the Agreement, or both.

A11.0 TERMINATION ON NOTICE

A11.1 Termination on Notice. The Province may terminate the Agreement at any time without liability, penalty, or costs upon giving 30 days' Notice to the Recipient.

A11.2 Consequences of Termination on Notice by the Province. If the Province terminates the Agreement pursuant to section A11.1, the Province may take one or more of the following actions:

- (a) cancel further instalments of Funds;
- (b) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and
- (c) determine the reasonable costs for the Recipient to wind down the Project, and do either or both of the following:
 - (i) permit the Recipient to offset such costs against the amount the Recipient owes pursuant to section A11.2(b); and
 - (ii) subject to section A4.1(a), provide Funds to the Recipient to cover such costs.

A12.0 EVENT OF DEFAULT, CORRECTIVE ACTION, AND TERMINATION FOR DEFAULT

A12.1 Events of Default. It will constitute an Event of Default if, in the opinion of the Province, the Recipient breaches any representation, warranty, covenant, or other material term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:

- (i) carry out the Project;

- (ii) use or spend Funds; or
- (iii) provide, in accordance with section A7.2, Reports or such other reports as the Province may have requested pursuant to section A7.2(a)(ii).

A12.2 **Consequences of Events of Default and Corrective Action.** If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) initiate any action the Province considers necessary in order to facilitate the successful continuation or completion of the Project;
- (b) provide the Recipient with an opportunity to remedy the Event of Default;
- (c) suspend the payment of Funds for such period as the Province determines appropriate;
- (d) reduce the amount of the Funds;
- (e) cancel further instalments of Funds;
- (f) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient;
- (g) demand from the Recipient the payment of an amount equal to any Funds the Recipient used, but did not use in accordance with the Agreement;
- (h) demand from the Recipient the payment of an amount equal to any Funds the Province provided to the Recipient;
- (i) demand from the Recipient an amount equal to the costs the Province incurred or incurs to enforce its rights under the Agreement, including the costs of any Record Review and the costs it incurs to collect any amounts the Recipient owes to the Province; and
- (j) terminate the Agreement at any time, including immediately, without liability, penalty or costs to the Province upon giving Notice to the Recipient.

A12.3 **Opportunity to Remedy.** If, in accordance with section A12.2(b), the Province provides the Recipient with an opportunity to remedy the Event of Default, the Province will give Notice to the Recipient of:

- (a) the particulars of the Event of Default; and

(b) the Notice Period.

A12.4 **Recipient not Remediating.** If the Province provided the Recipient with an opportunity to remedy the Event of Default pursuant to section A12.2(b), and:

- (a) the Recipient does not remedy the Event of Default within the Notice Period;
- (b) it becomes apparent to the Province that the Recipient cannot completely remedy the Event of Default within the Notice Period; or
- (c) the Recipient is not proceeding to remedy the Event of Default in a way that is satisfactory to the Province,

the Province may extend the Notice Period, or initiate any one or more of the actions provided for in sections A12.2(a), (c), (d), (e), (f), (g), (h), and (i).

A12.5 **When Termination Effective.** Termination under Article A12.0 will take effect as provided for in the Notice.

A13.0 FUNDS AT THE END OF A FUNDING YEAR

A13.1 **Funds at the End of a Funding Year.** Without limiting any rights of the Province under Article A12.0, if the Recipient has not spent all of the Funds allocated for the Funding Year as provided for in the Budget, the Province may take one or both of the following actions:

- (a) demand from the Recipient payment of the unspent Funds; and
- (b) adjust the amount of any further instalments of Funds accordingly.

A14.0 FUNDS UPON EXPIRY

A14.1 **Funds Upon Expiry.** The Recipient will, upon expiry of the Agreement, pay to the Province any Funds remaining in its possession, under its control, or both.

A15.0 DEBT DUE AND PAYMENT

A15.1 **Payment of Overpayment.** If at any time the Province provides Funds in excess of the amount to which the Recipient is entitled under the Agreement, the Province may:

- (a) deduct an amount equal to the excess Funds from any further instalments of Funds; or
- (b) demand that the Recipient pay to the Province an amount equal to the

excess Funds.

A15.2 **Debt Due.** If, pursuant to the Agreement:

- (a) the Province demands from the Recipient the payment of any Funds or an amount equal to any Funds; or
- (b) the Recipient owes any Funds or an amount equal to any Funds to the Province, whether or not the Province has demanded their payment,

such amounts will be deemed to be debts due and owing to the Province by the Recipient, and the Recipient will pay the amounts to the Province immediately, unless the Province directs otherwise.

A15.3 **Interest Rate.** The Province may charge the Recipient interest on any money owing to the Province by the Recipient under the Agreement at the then current interest rate charged by the Province of Ontario on accounts receivable.

A15.4 **Payment of Money to Province.** The Recipient will pay any money owing to the Province by cheque payable to the "Ontario Minister of Finance" and delivered to the Province as provided for in Schedule "B".

A15.5 **Fails to Pay.** Without limiting the application of section 43 of the *Financial Administration Act* (Ontario), if the Recipient fails to pay any amount owing under the Agreement, Her Majesty the Queen in right of Ontario may deduct any unpaid amount from any money payable to the Recipient by Her Majesty the Queen in right of Ontario.

A16.0 NOTICE

A16.1 **Notice in Writing and Addressed.** Notice will be:

- (a) in writing;
- (b) delivered by email, postage-prepaid mail, personal delivery, courier or fax; and
- (c) addressed to the Province or the Recipient as set out in Schedule "B", or as either Party later designates to the other by Notice.

A16.2 **Notice Given.** Notice will be deemed to have been given:

- (a) in the case of postage-prepaid mail, five Business Days after the Notice is mailed; or
- (b) in the case of fax, one Business Day after the Notice is delivered; and

- (c) in the case of email, personal delivery or courier on the date on which the Notice is delivered.

A16.3 **Postal Disruption.** Despite section A16.2(a), in the event of a postal disruption:

- (a) Notice by postage-prepaid mail will not be deemed to be given; and
- (b) the Party giving Notice will give Notice by email, personal delivery, courier or fax.

A17.0 CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT

A17.1 **Consent.** When the Province provides its consent pursuant to the Agreement:

- (a) it will do so by Notice;
- (b) it may attach any terms and conditions to the consent; and
- (c) the Recipient may rely on the consent only if the Recipient complies with any terms and conditions the Province may have attached to the consent.

A18.0 SEVERABILITY OF PROVISIONS

A18.1 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement will not affect the validity or enforceability of any other provision of the Agreement.

A19.0 WAIVER

A19.1 **Waiver Request.** Either Party may, by Notice, ask the other Party to waive an obligation under the Agreement.

A19.2 **Waiver Applies.** If in response to a request made pursuant to section A19.1 a Party consents to a waiver, the waiver will:

- (a) be valid only if the Party that consents to the waiver provides the consent by Notice; and
- (b) apply only to the specific obligation referred to in the waiver.

A20.0 INDEPENDENT PARTIES

A20.1 **Parties Independent.** The Recipient is not an agent, joint venturer, partner, or employee of the Province, and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any

actions that could establish or imply such a relationship.

A21.0 ASSIGNMENT OF AGREEMENT OR FUNDS

A21.1 **No Assignment.** The Recipient will not, without the prior written consent of the Province, assign any of its rights or obligations under the Agreement.

A21.2 **Agreement Binding.** All rights and obligations contained in the Agreement will extend to and be binding on:

- (a) the Recipient's successors, and permitted assigns; and
- (b) the successors to Her Majesty the Queen in right of Ontario.

A22.0 GOVERNING LAW

A22.1 **Governing Law.** The Agreement and the rights, obligations, and relations of the Parties will be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with the Agreement will be conducted in the courts of Ontario, which will have exclusive jurisdiction over such proceedings.

A23.0 FURTHER ASSURANCES

A23.1 **Agreement into Effect.** The Recipient will:

- (a) provide such further assurances as the Province may request from time to time with respect to any matter to which the Agreement pertains; and
- (b) do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

A24.0 JOINT AND SEVERAL LIABILITY

A24.1 **Joint and Several Liability.** Where the Recipient comprises of more than one entity, all such entities will be jointly and severally liable to the Province for the fulfillment of the obligations of the Recipient under the Agreement.

A25.0 RIGHTS AND REMEDIES CUMULATIVE

A25.1 **Rights and Remedies Cumulative.** The rights and remedies of the Province under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

A26.0 FAILURE TO COMPLY WITH OTHER AGREEMENTS

A26.1 **Other Agreements.** If the Recipient:

- (a) has failed to comply with any term, condition, or obligation under any other agreement with Her Majesty the Queen in right of Ontario or one of Her agencies (a “**Failure**”);
- (b) has been provided with notice of such Failure in accordance with the requirements of such other agreement;
- (c) has, if applicable, failed to rectify such Failure in accordance with the requirements of such other agreement; and
- (d) such Failure is continuing,

the Province may suspend the payment of Funds for such period as the Province determines appropriate.

A27.0 SURVIVAL

A27.1 **Survival.** The following Articles and sections, and all applicable cross-referenced Articles, sections and schedules, will continue in full force and effect for a period of seven years from the date of expiry or termination of the Agreement: Article 1.0, Article 2.0, Article A1.0 and any other applicable definitions, section A2.1(a), sections A4.4, A4.5, A4.6, section A5.2, section A7.1, A7.2 (to the extent that the Recipient has not provided the Reports or other reports as the Province may have requested and to the satisfaction of the Province), sections A7.3, A7.4, A7.5, A7.6, A7.7, A7.8, Article A8.0, Article A9.0, section A11.2, sections A12.1, sections A12.2(d), (e), (f), (g), (h), (i), and (j), Article A13.0, Article A14.0, Article A15.0, Article A16.0, Article A18.0, , section A21.2, Article A22.0, Article A24.0, Article A25.0 and Article A27.0.

- END OF GENERAL TERMS AND CONDITIONS -

SCHEDULE "B"
PROJECT SPECIFIC INFORMATION AND ADDITIONAL PROVISIONS

Maximum Funds	Up to \$76,320
Expiry Date	March 31, 2023
Amount for the purposes of section A5.2 (Disposal) of Schedule "A"	\$5,000.00
Insurance	\$ 2,000,000
Contact information for the purposes of Notice to the Province	<p>Name: Brenda Vloet</p> <p>Position: Manager, Municipal Programs and Outreach Unit</p> <p>Address: 777 Bay Street, Toronto, Ontario M7A 2J3, 16th Floor</p> <p>Email: Brenda.Vloet@ontario.ca</p>
Contact information for the purposes of Notice to the Recipient	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>
Contact information for the senior financial person in the Recipient organization (e.g., CFO, CAO) – to respond as required to requests from the Province related to the Agreement	<p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>

Additional Provisions:

B1 Section 4.3 of Schedule "A" is amended by adding the following subsection:

- (e) use the Funds only for the purpose of reimbursement for the actual amount paid to the independent third-party reviewer in accordance with

the Project; and,

- (f) Not use the Funds for the purpose of paying the salaries of the Recipient's employees.

**SCHEDULE “C”
PROJECT**

Project Title
City of Port Colborne Human Resources Management and Information Systems Review
Objectives
The objective of the Project is to review the Recipient’s human resources systems and processes to identify opportunities for cost savings and efficiencies.
Description
<p>The Recipient will retain an independent third-party reviewer to review the Recipient’s recruitment, payroll, and attendance management processes. The reviewer will provide recommendations for an Applicant Tracking System (ATS), which will reduce the time to hire, generate a higher quality talent pool, reduce the costs of recruitment, improve the candidate and employee experience, and provide advanced hiring metrics that help with tracking and generating reports. The reviewer will also recommend methods for tracking policy updates, accessing records digitally, disability management and tracking employee information for staff on sick leave.</p> <p><u>Independent Third-Party Reviewer’s Report</u></p> <p>The Recipient will retain the independent third-party reviewer to compile the findings and recommendations in the Independent Third-Party Reviewer’s Report.</p> <p>The Recipient will submit the report to the Province and publish the report on the Recipient’s publicly accessible website by January 31, 2023.</p> <p>The report will summarize the reviewer’s findings and identify specific, actionable recommendations based on the analysis and findings that aim to identify cost savings and improved efficiencies. The report will include detailed explanations and calculations of identified potential quantifiable efficiencies and/or cost savings.</p>

SCHEDULE "D"
BUDGET

Item	Amount
Reimbursement for payments to independent third-party reviewer.	Up to \$76,320

**SCHEDULE "E"
PAYMENT PLAN**

Milestone	Scheduled Payment
<ul style="list-style-type: none"> • Execution of Agreement 	Initial payment of \$53,424 made to Recipient no more than thirty (30) days after the execution of the Agreement
<ul style="list-style-type: none"> • Submission of Interim Progress Report Back to the Province • Publishing of Independent Third-Party Reviewer's Report on the Recipient's publicly accessible website • Submission of Final Report Back to the Province, which includes a copy of the Independent Third-Party Reviewer's Report 	Final payment of up to \$22,896 made to the Recipient no more than thirty (30) days after the Province's approval of the Final Report Back

SCHEDULE "F" REPORTS

Name of Report	Reporting Due Date
1. Interim Progress Report Back	September 19, 2022
2. Final Report Back and Invoices	January 31, 2023

Report Details

1. Interim Progress Report Back

The Recipient will submit an Interim Progress Report Back to the Province by September 19, 2022 using the reporting template provided by the Province. The Interim Progress Report will include:

- A statement indicating whether the Recipient has retained an independent third-party reviewer.

2. Final Report Back and Invoices

The Recipient will submit a Final Report Back to the Province by January 31, 2023 using the reporting template provided by the Province. The Final Report will include:

- A copy of the Independent Third-Party Reviewer's report,
- A hyperlink to the Independent Third-Party Reviewer's final report on the Recipient's publicly accessible website,
- A 250-word abstract of the Project and its findings,
- The actual amount paid by the Recipient to the independent third-party reviewer in accordance with the Project with supporting documentation, such as invoices or receipts, showing actual costs incurred, and
- A statement indicating the percentage of the total amount of service delivery expenditures reviewed that are identified as potential cost savings in the Independent Third-Party Reviewer's Report, which will be the performance measure for the Project.

The Corporation of the City of Port Colborne

By-law No. _____

Being a By-law to Authorize Entering into an Administrative Municipal Penalty System Shared Service Agreement with the Town of Pelham, The Town of Grimsby, the Town of Lincoln, the City of Niagara Falls, the Town of Niagara-on-the-Lake, the City of St. Catharines, the City of Thorold, the Township of Wainfleet, and the Township of West Lincoln.

Whereas at its meeting of February 22, 2022, the Council of The Corporation of the City of Port Colborne (Council) approved the recommendations of the Community Safety and Enforcement Department Report No. 2022-43, Subject: Administrative Municipal Penalty System (AMPS) Sharing of Hearing Officer revised; and

Whereas Council is desirous of entering into an Administrative Municipal Penalty System Shared Service Agreement with the, the Town of Pelham, The Town of Grimsby, the Town of Lincoln, the City of Niagara Falls, the Town of Niagara-on-the-Lake, the City of St. Catharines, the City of Thorold, the Township of Wainfleet, and the Township of West Lincoln for the Appeal Hearing Officer; and

Whereas the *Municipal Act*, 2001 S.O. 2001, c.25, as amended, confers broad authority on municipalities to enter into such agreements;

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

1. That The Corporation of the City of Port Colborne enters into an Administrative Municipal Penalty System Shared Service Agreement with the Town of Pelham, The Town of Grimsby, the Town of Lincoln, the City of Niagara Falls, the Town of Niagara-on-the-Lake, the City of St. Catharines, the City of Thorold, the Township of Wainfleet, and the Township of West Lincoln, for the Appeal Hearing Officer.
2. That the Mayor and City Clerk be and they are hereby authorized and directed to sign the said agreement, attached hereto as Schedule "A", together with any documents necessary to complete the conditions of the said agreement, and the City Clerk is hereby authorized to affix the Corporate Seal thereto.
3. That By-law 6963/01/22, Being a By-law to Authorize Entering into an Administrative Municipal Penalty System Shared Service Agreement with the Town of Pelham, The Town of Grimsby, the Town of Lincoln, the Town of Niagara-on-the-Lake, the City of St. Catharines, the City of Thorold, and the Township of Wainfleet, be repealed.

Enacted and passed this 22nd day of February 2022.

William C. Steele
Mayor

Amber LaPointe
City Clerk

THE CORPORATION OF THE TOWN OF PELHAM
("Pelham")

- and -

THE CORPORATION OF THE TOWN OF GRIMSBY
("Grimsby")

- and -

THE CORPORATION OF THE TOWN OF LINCOLN
("Lincoln")

- and -

THE CORPORATION OF THE CITY OF NIAGARA FALLS
("Niagara Falls")

- and -

THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE
("Niagara-on-the-Lake")

- and -

THE CORPORATION OF THE CITY OF PORT COLBORNE
("Port Colborne")

- and -

THE CORPORATION OF THE CITY OF ST. CATHARINES
("St. Catharines")

- and -

THE CORPORATION OF THE CITY OF THOROLD
("Thorold")

- and -

THE CORPORATION OF THE TOWNSHIP OF WAINFLEET
("Wainfleet")

- and -

THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN
("West Lincoln")

SHARED SERVICES AGREEMENT

WHEREAS section 20 of the *Municipal Act, 2001*, S.O. 2001, c. 25 (“*Municipal Act, 2001*”) provides that a municipality may enter into an agreement with one or more other municipalities to jointly provide, for their joint benefit, any matter which all of the municipalities have the power to provide within their own boundaries; and

WHEREAS section 102.1 of the *Municipal Act, 2001* provides that a municipality may require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with any by-laws respecting the parking, standing or stopping of vehicles; and

WHEREAS Ontario Regulation 333/07 under the *Municipal Act, 2001* (“the Regulation”) provides that a municipality shall not require a person to pay an administrative penalty under section 102.1 of the *Municipal Act, 2001* unless the municipality has met the requirements of the Regulation; and

WHEREAS the Regulation provides that a person who receives a penalty notice shall be given the right to request a review of the administrative penalty by a screening officer appointed by the municipality for that purpose; and

WHEREAS the Regulation provides that a person who receives notice of the decision of the screening officer shall be given the right to a review of the screening officer’s decision by a hearing officer appointed by the municipality for that purpose; and

WHEREAS the municipalities of Pelham, Grimsby, Lincoln, Niagara Falls, Niagara-on-the-Lake, Port Colborne, St. Catharines, Thorold, Wainfleet and West Lincoln (each “a party” and collectively “the parties”) have each established a system of administrative penalties in accordance with section 102.1 of the *Municipal Act, 2001* and the Regulation; and

WHEREAS section 434.1 of the *Municipal Act, 2001* provides that a municipality may require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under the *Municipal Act, 2001*; and

WHEREAS the municipalities of Pelham, Grimsby, Niagara-on-the-Lake, Port Colborne, St. Catharines, Thorold, Wainfleet and West Lincoln have each established a system of administrative penalties in accordance with section 434.1 of the *Municipal Act, 2001* that provide a person who receives a penalty notice with a right to request a review of an administrative penalty by a screening officer appointed by the municipality for that purpose and a right to a review of the screening officer’s decision by a hearing officer appointed by the municipality for that purpose; and

WHEREAS the parties wish to enter into an agreement to jointly provide the services of a hearing officer within their respective municipalities as required by the Regulation and, where applicable, by their respective administrative penalty systems established pursuant to section 434.1 of the *Municipal Act, 2001* and to share the costs incurred in so doing;

NOW THEREFORE in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. TERM

- 1.1. This Agreement comes into effect on the date it is signed by all parties or, in the event that the parties sign this Agreement on different dates in accordance with paragraph 11.8, on the latest date on which it is signed by a party (“the Effective Date”), and shall continue for a period of three (3) years unless it is renewed or amended or terminated in accordance with the provisions herein (“the Term”).
- 1.2. Not less than six (6) months prior to the expiration of the Term, the parties shall each provide written notice to all other parties of their intention to renew this Agreement or to conclude this Agreement at the end of the Term.
- 1.3. Unless a party has given notice of its intention to conclude the Agreement, the parties shall use best efforts in the final six (6) months of the Term to negotiate in good faith and to enter into (i) a renewal of this Agreement for a further period of three (3) years; or (ii) a new Shared Services Agreement on such terms and conditions as may be negotiated at that time.
- 1.4. In the event that one or more parties provides written notice of its intention to conclude the Agreement, the remaining parties shall determine, within sixty (60) days after the notice is delivered, if any or all of them wish to enter into negotiations for a new Shared Services Agreement and shall advise all other remaining parties accordingly.

2. SELECTION OF HEARING OFFICER

- 2.1. The parties shall jointly select a hearing officer to conduct all requested reviews of the decisions of the screening officer(s) appointed by each party (“Appeals”).
- 2.2. Upon their mutual agreement, the parties may select the existing hearing officer of a party or may select a new hearing officer. Once the parties have selected the hearing officer, each party shall pass a by-law to appoint that person as the hearing officer for that party during the Term.

3. ADMINISTRATION OF SHARED SERVICES AGREEMENT

- 3.1. During the Term, Pelham shall provide the following administrative services in relation to this Agreement:
 - i. Coordinate with all parties to ensure the selection and appointment of a hearing officer in accordance with section 2 of this Agreement;
 - ii. Develop and provide to all parties and the hearing officer a schedule for Appeals in accordance with section 5 of this Agreement;
 - iii. Receive and deposit the annual financial contributions of each party pursuant to section 4 of this Agreement;
 - iv. Maintain a record of the number of Appeals received by each party;
 - v. Receive and remit payment for all invoices rendered by the hearing officer;
 - vi. Render invoices to the parties in accordance with section 4 of this Agreement;
 - vii. Provide the parties with an annual accounting of the annual financial contributions of the parties and the invoices rendered by the hearing officer; and

- viii. Provide information about the administration of this Agreement to any party or parties upon request, provided that the number and/or content of such requests do not exceed what Pelham, in its sole discretion, considers to be reasonable.
- 3.2. Pelham shall provide the services in paragraph 3.1 at no cost to the other parties. For greater certainty, Pelham shall not impose any administrative charge or other fee in relation to delivering the services in paragraph 3.1.

4. ANNUAL FINANCIAL CONTRIBUTIONS

- 4.1. Subject to paragraphs 4.4 and 4.5, each of the parties shall make an annual financial contribution during the Term in the amount of seven hundred and fifty dollars (\$750.00), which funds shall be used solely for the payment of invoices rendered by the hearing officer.
- 4.2. Pelham shall render an invoice to each party for the initial financial contribution within thirty (30) days of the Effective Date, which shall be payable within fifteen (15) days. Subject to paragraph 4.4, Pelham shall render an invoice to each party for subsequent annual financial contributions on the anniversary of the Effective Date, which shall be payable within fifteen (15) days.
- 4.3. The parties shall pay all annual financial contributions to Pelham by way of cheque. Pelham shall deposit and retain all annual financial contributions received from the parties in a separate general ledger account designated for that purpose and shall pay all invoices rendered by the hearing officer from that account.
- 4.4. Notwithstanding any other term of this Agreement, the annual financial contribution of each party shall be limited to the amount set out in paragraph 4.1 provided that the party receives no more than twenty (20) Appeals in that year. In the event that a party receives more than twenty (20) Appeals in any year of the Term, it shall make a further financial contribution in the amount of fifty dollars (\$50.00) for each additional Appeal. Pelham shall render an invoice for each additional Appeal received by a party, which shall be payable in accordance with paragraphs 4.2 and 4.3 of this Agreement.
- 4.5. Notwithstanding any other term of this Agreement, if the total amount of the annual financial contributions of the parties exceeds the total amount of the invoices rendered by the hearing officer in any year of the Term, the excess shall be used to reduce, on an equal basis, the amount of subsequent annual financial contributions payable by each party pursuant to paragraph 4.1. Any excess funds remaining at the conclusion or termination of this Agreement shall be refunded to the parties on an equal basis.

5. APPEAL HEARINGS

- 5.1. Subject to paragraphs 5.3 and 6.4, Appeals shall be heard on a bi-monthly basis and shall be hosted by each of the parties (“the Host”) in accordance with the following rotation:
 - i. Grimsby;
 - ii. Lincoln;
 - iii. Niagara Falls;
 - iv. Niagara-on-the-Lake;

- v. Pelham;
 - vi. Port Colborne;
 - vii. St. Catharines;
 - viii. Thorold;
 - ix. West Lincoln; and
 - x. Wainfleet.
- 5.2. Subject to paragraph 5.3 and section 6, Appeals shall be heard during the bi-monthly period in which they are received by a party.
- 5.3. Appeals shall be scheduled for hearing on the third Wednesday of every other month (“the Primary Hearing Date”). A second hearing date shall be scheduled for one (1) week following the Primary Hearing Date (“the Secondary Hearing Date”), other than in the month of December in each year of the Term, when no Secondary Hearing Date shall be scheduled. Where a Secondary Hearing Date is scheduled, it shall be used only where the number of Appeals scheduled for hearing in that bi-monthly period exceeds the number that can be heard on the Primary Hearing Date. In the event that the number of Appeals scheduled for hearing in the month of December in any year of the Term exceeds the number that can be heard on the Primary Hearing Date, the Appeals shall be scheduled for hearing in the order in which they were received by the Host and any Appeals that cannot be heard on the Primary Hearing Date shall be scheduled for hearing in the next bi-monthly period in accordance with section 6.
- 5.4. Subject to such other arrangements as may be made by the parties and/or the hearing officer, which may differ from but shall not be inconsistent with this Agreement, Appeal hearings shall commence at 9:00 a.m. on the Primary Hearing Date and, if applicable, the Secondary Hearing Date. Appeal hearings may be held in person or via Zoom, at the option of the person making the Appeal. All hearings that proceed by Zoom shall be recorded by the Host.
- 5.5. The Host shall provide the following facilities and services for Appeal hearings:
- i. One (1) room of a suitable size and configuration for conducting Appeal hearings, which is equipped with all furniture, equipment and amenities required for Appeal hearings to proceed in person or via Zoom in accordance with this Agreement;
 - ii. One (1) waiting room or breakout room for persons awaiting an Appeal hearing;
 - iii. Such other equipment or supplies as may be requested or required by the hearing officer in relation to the Appeal hearings; and
 - iv. One (1) employee of the Host to assist with Appeal hearings, including but not limited to preparing minutes of the proceedings.
- 5.6. The Host shall provide the facilities and services in paragraph 5.5 at no cost to the other parties. For greater certainty, the Host shall not request, and is not entitled to receive, any payment, reimbursement or compensation for the facilities and services provided in accordance with paragraph 5.5.

- 5.7. The parties acknowledge and agree that any administrative penalties and/or fees that are payable by a person making an Appeal in relation to the Appeal or pursuant to a decision of the hearing officer shall be payable solely to the party to which the Appeal pertains and not to the Host or any other party.

6. PROCEDURE UPON RECEIPT OF AN APPEAL

- 6.1. Subject to paragraph 6.2, a party that receives an Appeal shall immediately notify the Host for the bi-monthly period in which the Appeal was received and shall submit the Appeal to the Host by providing all pertinent materials as soon as possible. The receiving party shall also notify Pelham of the Appeal for the purposes of paragraphs 3.1 and 4.4.
- 6.2. Despite paragraphs 5.2 and 6.1, in the event that a party receives an Appeal less than ten (10) days prior to the Primary Hearing Date for the bi-monthly period in which it was received, the Appeal shall be scheduled for hearing in the next bi-monthly period and shall be submitted to the Host for that bi-monthly period in accordance with paragraph 6.3.
- 6.3. Appeals must be submitted to the Host no less than ten (10) days prior to the Primary Hearing Date. Where an Appeal is submitted to the Host less than ten (10) days prior to the Primary Hearing Date, the Host shall determine if the Secondary Hearing Date was required prior to late submission of the Appeal and, if so, the Host shall schedule the Appeal to be heard on that date. If the Secondary Hearing Date was not otherwise required, the Appeal shall be scheduled for hearing in the next bi-monthly period.
- 6.4. Ten (10) days prior to the Primary Hearing Date, the Host shall review the number of Appeals that have been submitted and shall proceed as follows:
 - i. If no Appeals have been submitted, the Host shall take all necessary steps to cancel the Primary Hearing Date and the Secondary Hearing Date and to ensure that no cancellation fees are incurred.
 - ii. If Appeals have been submitted, the Host shall determine whether the Secondary Hearing Date is required. If the Secondary Hearing Date is not required, the Host shall take all necessary steps to cancel it and to ensure that no cancellation fees are incurred. If the Secondary Hearing Date is required, the Host shall prepare a schedule of Appeals to be heard on the Primary Hearing Date and the Secondary Hearing Date and shall provide it to all parties that have submitted Appeals.
 - iii. The Host shall provide all submitted Appeals to the hearing officer.
- 6.5. The party that receives an Appeal shall be responsible for notifying the person making the Appeal of the date on which it will be heard and shall provide the requisite amount of notice in accordance with any applicable by-law(s) of that party.
- 6.6. The Host shall receive Appeals from the parties and shall undertake the activities in paragraphs 6.3 and 6.4 at no cost to the other parties. For greater certainty, the Host shall not request, and is not entitled to receive, any payment or compensation for any activities undertaken in accordance with paragraphs 6.1, 6.3 and 6.4.

- 6.7. Notwithstanding paragraph 6.1, all records and information received by the Host in the course of its activities as the Host shall remain the property of the party providing them and shall not be divulged or produced to any entity other than the hearing officer. At the end of the bi-monthly period in which a party is the Host, it shall return all such records and information to the parties that provided them.
- 6.8. The parties acknowledge that persons making Appeals provide personal and other information as part of the Appeal. The parties agree to obtain such authorizations and/or consents as may be required by law to disclose and provide such information to the Host and the hearing officer, including any authorizations or consents required under applicable privacy legislation.

7. ADMINISTRATIVE MATTERS

- 7.1. Notwithstanding any other term of this Agreement, none of the parties' employees, including those described in paragraph 5.5, shall be employees of any other party and no party or employee shall make representations to the contrary.
- 7.2. Each party undertakes to review the provisions of this Agreement with any appropriate local bargaining units for the purpose of seeking any necessary amendments to any applicable collective agreements to facilitate participation in this Agreement. Each party further undertakes to advise all other parties as soon as practicable if it becomes aware of any impediments or obstacles imposed by applicable collective agreements to the party meeting its obligations under this Agreement.
- 7.3. None of the parties shall be liable for any obligation incurred by any other party except as specified in this Agreement. The parties acknowledge and agree that each party's operations shall remain separate and further acknowledge and agree that each party is solely responsible for its own conduct and for the conduct of its employees.

8. INSURANCE AND INDEMNITY

- 8.1. During the Term, each party shall obtain and maintain in full force and effect a policy of comprehensive general liability insurance with limits of not less than five million dollars (\$5,000,000.00) per occurrence for bodily injury and/or property damage and a policy of errors and omissions insurance with limits of not less than two million dollars (\$2,000,000.00). The policies shall provide for no less than thirty (30) days' notice of cancellation or non-renewal and shall name all other parties as additional insureds but only with respect to this Agreement.
- 8.2. Each of the parties will indemnify and save harmless all other parties and their officers, employees, contractors, agents and officials from any and all claims, actions, causes of action, demands, liabilities, costs or expenses arising from, occasioned by or caused wholly or in part by any failure of that party to comply with the provisions of this Agreement or by any wilful or negligent act or omission of that party or anyone for whom it is in law responsible.

9. AMENDMENT AND TERMINATION

- 9.1. The parties may revise, alter or amend this Agreement only by mutual agreement. If at any time during the Term, the parties deem it necessary or expedient to make any revision, alteration or amendment, they may do so only by way of a written document, signed by the parties, which shall be appended to and form part of this Agreement.

- 9.2. This Agreement shall conclude at the end of the Term unless it is renewed pursuant to paragraph 1.3 or terminated earlier in accordance with paragraphs 9.3 or 9.4.
- 9.3. At any time during the Term, the parties may jointly agree in writing to terminate this Agreement on such terms and conditions as the parties consider appropriate.
- 9.4. Subject to section 10, any party may terminate this Agreement by written notice to all parties where one or more parties commits a material breach of its obligations under this Agreement and fails to remedy the default within thirty (30) days of being required by any non-defaulting party to do so.
- 9.5. Termination of this Agreement is without prejudice to the rights of a party against any other party or parties that may have accrued up to the date of termination.

10. DISPUTE RESOLUTION

- 10.1. In the event that a dispute arises as to the interpretation, application and/or execution of this Agreement, including but not limited to any party's rights or obligations under the Agreement, an allegation of default and/or an allegation of material breach, the party that disputes another party's position or conduct shall immediately provide written notice of the dispute to all parties.
- 10.2. Where a notice of dispute is received in accordance with paragraph 10.1, the parties' Chief Administrative Officers shall attempt to resolve the dispute through negotiation for a period of thirty (30) days from the date on which the notice is delivered. The parties may extend the negotiation period if they agree that a reasonable extension is likely to resolve the dispute.
- 10.3. If a dispute cannot be resolved by the parties through negotiation, the parties shall refer the matter to arbitration by an arbitrator agreed on by the parties. The arbitrator shall direct the arbitration process and determine the dispute. The determination of the arbitrator is final and is binding upon the parties and their respective successors and permitted assigns.
- 10.4. Each party shall bear its own costs associated with the determination of disputes arising under this Agreement, including but not limited to legal costs and arbitration costs.

11. GENERAL

- 11.1. This Agreement constitutes the entire agreement between the parties relating to the matters set out herein. There are no representations, promises, covenants or other terms relating to the subject matter of this Agreement and this Agreement supersedes any prior discussions, understandings or agreements between the parties in relation to its subject matter.
- 11.2. The invalidity or unenforceability of any particular term of this Agreement shall not limit the validity or enforceability of the remaining terms, each of which is distinct and severable from all other terms of this Agreement.
- 11.3. Waiver by a party of any provision of this Agreement in one instance shall not constitute a waiver in any other instance and any such waiver must be made in writing.

- 11.4. Any delay or failure on the part of any party to exercise or enforce any right, power or remedy conferred by this Agreement shall not constitute a waiver of same and shall not operate as a bar to that party exercising or enforcing said right, power or remedy at any subsequent time.
- 11.5. No party shall be considered in default of its obligations under this Agreement to the extent that a delay or failure to perform those obligations is due to an event beyond the control of the parties, including but not limited to fires, floods, acts of God, strikes, riots, war or hostilities, terrorism, lawful acts of public authorities and other events that cannot be reasonably foreseen or provided against.
- 11.6. This Agreement shall enure to the benefit of, and be binding upon, the parties and their respective successors and permitted assigns; however, this Agreement and the parties' associated rights and obligations are not assignable by any party without the prior written consent of all other parties.
- 11.7. This Agreement shall be governed by and construed in accordance with the law of the Province of Ontario and laws of Canada applicable therein.
- 11.8. This Agreement may be signed in counterpart, each of which is an original and all of which together constitute a single document. Counterparts may be executed in original or electronic form and may be exchanged by way of mail or PDF file delivered by email or facsimile transmission.

IN WITNESS WHEREOF the parties have executed this Agreement by their authorized representatives and agree to be bound thereby as of the latest date set out below.

**THE CORPORATION OF THE TOWN OF
PELHAM**

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the Corporation.

Date: _____

THE CORPORATION OF THE TOWN OF GRIMSBY

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the Corporation.

Date: _____

THE CORPORATION OF THE TOWN OF LINCOLN

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the Corporation.

Date: _____

THE CORPORATION OF THE CITY OF NIAGARA FALLS

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the Corporation.

Date: _____

**THE CORPORATION OF THE TOWN OF
NIAGARA-ON-THE-LAKE**

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the Corporation.

Date: _____

**THE CORPORATION OF THE CITY OF PORT
COLBORNE**

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the Corporation.

Date: _____

**THE CORPORATION OF THE CITY OF ST.
CATHARINES**

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the Corporation.

Date: _____

**THE CORPORATION OF THE CITY OF
THOROLD**

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the Corporation.

Date: _____

**THE CORPORATION OF THE TOWNSHIP OF
WEST LINCOLN**

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the Corporation.

Date: _____

**THE CORPORATION OF THE TOWNSHIP OF
WAINFLEET**

By: _____

Name:

Title:

By: _____

Name:

Title:

I/We have authority to bind the Corporation.

Date: _____

The Corporation of the City of Port Colborne

By-Law No. _____

Being a by-law to adopt, ratify and confirm
the proceedings of the Council of The
Corporation of the City of Port Colborne at
its Regular Meeting of February 22, 2022

Whereas Section 5(1) of the *Municipal Act, 2001*, provides that the powers of a municipality shall be exercised by its council; and

Whereas Section 5(3) of the *Municipal Act, 2001*, provides that a municipal power, including a municipality's capacity rights, powers and privileges under section 9, shall be exercised by by-law unless the municipality is specifically authorized to do otherwise; and

Whereas it is deemed expedient that the proceedings of the Council of The Corporation of the City of Port Colborne be confirmed and adopted by by-law;

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

1. Every action of the Council of The Corporation of the City of Port Colborne taken at its Regular Meeting of February 22, 2022 upon which a vote was taken and passed whether a resolution, recommendations, adoption by reference, or other means, is hereby enacted as a by-law of the City to take effect upon the passing hereof; and further
2. That the Mayor and Clerk are authorized to execute any documents required on behalf of the City and affix the corporate seal of the City and the Mayor and Clerk, and such other persons as the action directs, are authorized and directed to take the necessary steps to implement the action.

Enacted and passed this 22nd day of February, 2022.

William C. Steele
Mayor

Amber LaPointe
City Clerk