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**Subject:** Moving Transit Forward in Niagara: Creation of a Consolidated Transit Commission

**Report to:** Regional Council

**Report date:** Thursday, November 25, 2021

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## **Recommendations**

1. That Regional Council **ENACT** a By-law pursuant to section 189 of the *Municipal Act, 2001*, and substantially in the form attached as Appendix 1 of Report PW 55-2021, to provide The Regional Municipality of Niagara with the exclusive authority to establish, operate and maintain an intra-municipal passenger transportation system for the Region (having previously received inter-municipal authority), and such By-law, if adopted, to come into force and effect on January 1, 2023, provided that:
  - 1.1. a majority of the councils of the local area municipalities pass resolutions consenting to the By-law; and,
  - 1.2. the total number of electors in the local municipalities that have passed resolutions in support of the By-law form a majority of all electors in the Region of Niagara as established in the revised list of electors for the municipal election held in the year 2018.
2. That, subject to the adoption of the aforementioned By-law, a copy of the By-law and Report PW 55-2021 **BE FORWARDED** to the clerks of the 12 local area municipalities with a request that their councils consider adopting the following resolution and advise the Regional Clerk of the results of that consideration, no later than January 31, 2022:

*“That the Council of (name of municipality) consents to the passage of By-law No. 96-2021 of The Regional Municipality of Niagara, being a by-law to provide Niagara Region with the exclusive authority to establish, operate and maintain a consolidated passenger transportation system for the Niagara Region ”*
3. That subject to the adoption of the aforementioned By-law, the Chief Administrative Officer and General Manager of the future Transit Commission **BE AUTHORIZED** to negotiate municipal asset transfer agreements with the City of Niagara Falls, City of

St. Catharines, and City of Welland, on the basis of the principles in Appendix 3 and in a form satisfactory to the Director, Legal and Court Services.

4. That subject to the adoption of the aforementioned By-law, the Chief Administrative Officer **BE DIRECTED** to report back to Regional Council early in 2022 on the creation of a Regional Transit Commission, as described in this report and the attached appendices, and recommending the roles and responsibilities of the Commission.

### Key Facts

- The purpose of this report is to seek Regional Council authority to create a single, consolidated transit system, that would formally integrate all existing Regional and local transit systems, and that will bring dramatic benefits to the residents of Niagara:
  - Creating a single branded system that can take riders anywhere in the Region, for a single fare, that will break down jurisdictional barriers and connect communities;
  - Leveraging and supporting GO rail and bus expansion;
  - Developing and supporting the economy, job retention, and creating and driving tourism;
  - Being environmentally sustainable and reducing traffic congestion;
  - Supporting accessibility; and
  - Providing better value and service to the taxpayers of Niagara.
- Regional Council approval to move forward with consolidation represents the first step in a required triple-majority process that will be followed by seeking similar authorization from each of Niagara's twelve municipalities, as set out in section 189 of the Municipal Act, 2001.
- Should triple-majority be achieved, the new Transit Commission will be created and would begin operation on January 1, 2023.
- The Linking Niagara Transit Committee (LNTC) has endorsed the proposed governance model for the consolidation of transit (September 29, 2021),

comprised of a comprehensive financial, Board composition, and service strategies.

- These combined strategies for the new Transit Commission reflect extensive consultation, including: two rounds of consultation with local municipalities, as well as engagement with interested parties from across Niagara and the public.
  - The recommended strategies reflect the consensus recommendation of the Governance Steering Committee (GSC), balancing the input and feedback received from all parties. The City of Welland has identified ongoing concerns, which are discussed in the companion memorandum to this report.
- Now is the opportunity to take the final step towards the establishment of a consolidated system. Only through a single Commission model – a single decision making authority for transit – can the benefits of these next steps be realized.

## **Financial Considerations**

Should triple-majority approval be achieved, the financial strategy outlined in this report and in further detail in [LNTC-C 3-2021](#) proposes the Region upload the Municipal levy funding of the baseline local transit service net expenditure to the Regional levy, using the combined 2020 transit budgets at \$27.8M and estimated to be \$29.4M in 2023.

The upload to the new Transit Commission will occur in a single year 2023, following which the Regional Council approved budget of the Commission will be apportioned to each of the LAMs using twelve Special Levies, one for each municipality. All existing Niagara Region Transit (NRT) service costs transferred to the Commission will continue to be allocated to the Special Levy based on municipal share of Regional assessment and the local transit service costs will be allocated to the Special Levy based on service hours. Tax bills will show a separate LAM regional transit levy so this is clear for all property owners. An insert in the tax bill will explain to property owners that the Special Levy is not an additional charge, but instead reflects the upload of responsibility for transit, and the tax space associated with the cost of transit also moves to the Region.

The 2023 estimated baseline operating budget of the new Transit Commission will represent a 7.3% increase to the Regional budget resulting from the local transit service costs being shifted from LAMs to the Commission budget; to be levied by the Region. This increase is expected to be offset by equal and concurrent reductions to municipal

budgets to minimize the property taxpayer impact from transit consolidation. In addition, the establishment of a new transit capital reserve, requires an additional 0.5% (\$2.2M) increase to the 2023 Regional budget.

Note that all financial modeling is estimated based on 2020 budgets and would be adjusted prior to 2023 to reflect most recent financials, including final asset inventories and debt to be assumed by the Commission. Future growth and service strategies are subject to future budget approvals and will directly impact the proportion of costs a municipality is apportioned.

## **Analysis**

### Moving Transit Forward

The vision for a single regional transit agency for Niagara is a long-standing one, with a significant series of previous milestones having been achieved dating back well more than a decade.

Recent milestones include the formation of the inter-municipal transit working group (IMTWG) in 2015, the Niagara Transit Service Delivery and Governance Strategy Report (*Dillon Report*, 2017), unanimous triple majority approval in 2017 granting the Region legal jurisdiction to move NRT from a pilot to permanent operation – along with unanimous municipal approval to proceed to develop a new governance system for a consolidated transit system for all of Niagara, the establishment of LNTC, the 2017 MOU between Niagara's four major transit properties that endorsed a consolidated transit system in principle, and the completion of the Niagara Transit Governance Study (NTGS) in 2020.

LNTC has now developed and endorsed the final recommended governance proposal, comprised of the financial, Board composition, and service strategies as outlined in this report, and supported the initiation of the required triple-majority approval process.

Now is the opportunity to take that final step towards the establishment of that consolidated system, one that is anticipated to bring dramatic benefits to the residents of Niagara by:

- ✓ Creating **one unified transit system** for Niagara.
- ✓ Breaking down barriers and **connecting communities**, ensuring all residents in Niagara have access to transit.
- ✓ **Expanding and enhancing service** – with new, longer, and consistent operating hours.
- ✓ **Connecting to GO Transit** as service is expanded and enhanced in the near future.
- ✓ **Supporting business and economic development** by connecting employers with new customers and employees with new opportunities.
- ✓ **Driving Tourism** by connecting people to all the destinations and activities that Niagara has to offer.
- ✓ Connecting **Seniors** to their community – to access services, see family and friends, and maintain independence.
- ✓ Establishing **one single fare** that takes you anywhere in the Region, with a new payment system.
- ✓ Being **innovative**, using new methods to serve communities like on-demand transit.
- ✓ Having **one schedule**, with one website and one app to help you plan your trip.
- ✓ Creating a more **accessible and equitable** system by ensuring all residents have similar access to service.
- ✓ Supporting the **environment** by reducing greenhouse gas emissions and support future moves to a zero-emission fleet.
- ✓ Ensuring that **Students and Youth** can get to school, participate in extra-curricular activities, or access a job.
- ✓ Ensuring it is **funded fairly**, with residents only paying for the service they receive directly.
- ✓ Delivering **better value for the taxpayer** through the more efficient delivery of service and eliminating duplication.
- ✓ Providing access to **Health Care**, and improving social determinants of health.
- ✓ Ensuring **maximization of capital** resources.
- ✓ Ensuring consistent, reliable and **accessible infrastructure** which enables all riders to equitably access transit.

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It is only through the move to one consolidated agency these outcomes can be achieved.

Significant work has been done to improve, integrate, and coordinate the existing systems in Niagara, and consolidation will mean a larger and combined resource pool, which will support efficiencies that cannot be otherwise achieved as separate entities duplicating efforts, and which will then be reinvested into the network to enhance service.

Operational integration under the current status quo can only go so far before decisions require political authority to make meaningful change – which creates inconsistencies, inequity, and disconnected operations. Only through a single Commission model – a single decision making authority for transit – can the benefits of these next steps be realized. Whether aligned fare policies (i.e. single fare), fare exemptions (i.e. Niagara-wide low income pass), single unified system branding on fare technology or fleet, addressing inconsistent service hours, or an ongoing lack of consistency in capital improvements – these benefits can only be achieved with a single governance model to ensure the consistency, reliability and frequency transit riders expect can be realized.

Under the status quo, if one Council is not aligned for investments, the system is out of sync. This is what has led to the inconsistencies that plague today's system. The IMTWG has made incredible strides to harmonize as much as possible, but obvious gaps and confusion to those using the system prevail.

### *Building Niagara*

A move to a consolidated Region-wide transit agency is critical for ensuring that Niagara remains a competitive destination for people and businesses, and is able to retain those already here.

Regional transit systems have been established in a number of peer jurisdictions previously: Waterloo, Durham and York Regions in terms of bringing together local transit systems to a combined Region wide system for example, as well as those de-facto Region-wide systems established through municipal amalgamations such as in Hamilton.

These jurisdictions have all seen significant growth not only in transit ridership, driven by both the consolidation and expanded investment into the transit network, but also in terms of the associated benefits from transit such as business development and the expansion of their post-secondary institutions.

Niagara Region is experiencing significant and rapid growth. People and businesses coming to Niagara are often relocating from areas such as the GTA with existing transit systems, and accordingly are bringing with them the expectation that a robust transit system will be in place in their new home.

The move to a consolidated transit system will address this expectation - ensuring that Niagara is able to not only meet and support the growth that is already in place but to continue to meet it in the future, including an projected 19% increase in population and 16% growth in employment by 2031 (2019 Municipal Growth Plan). This growth will come from many areas, including: recent trends of relocation from the GTA, newcomers to Canada, the expansion of GO transit to Niagara, as well as the growth of institutions such as Brock University, Niagara College, and new facilities such as the Niagara South Hospital.

Establishing a consolidated transit system is critical to meeting the evolving needs of existing residents, as well as ensuring that Niagara remains an attractive and competitive place to attract new growth.

#### Creating a Consolidated Transit System - Triple Majority Approval

Creating authority for one consolidated transit system in Niagara will require triple-majority approval of a by-law to transfer to the Region the legislative authority to operate intra-municipal transit service in Niagara (the Region having received inter-municipal authority previously in 2017).

Triple majority support consists of:

- A majority of all votes on upper-tier council [Regional Council];
- A majority of all the lower-tier [LAM] councils passing resolutions consenting to the by-law; and
- The total number of electors in the lower-tier [LAM] municipalities that have passed resolutions consenting to the by-law form a majority of the electors in the upper-tier municipality.

This report is the first step in this process and the represents the Regional approval to move forward into a consolidated system. Should the recommendations of this report be adopted, each of Niagara's LAMs will then be asked to subsequently consider the by-law through the remainder of 2021.

Should triple-majority be achieved, an approximate one-year period would be required to establish the new Transit Commission and to prepare for the assumption of day-to-day operations on January 1, 2023. In the interim, the existing transit systems would continue to operate and deliver service while the Region will take steps to ensure a smooth transition. As outlined in the Municipal Transfer Agreement term sheet (Appendix 3), no additional changes in operation or new assets would be on-boarded after June 30, 2022 in order to provide a 'steady-state' for the final period prior to operations turnover. Changes made between 2021 and June 30, 2022 will alter the previously estimated special levies for each municipality.

The [Transition Plan of the NTGS](#) outlines the major milestones required to establish the Commission during this one-year period, with further discussion later in this report regarding some of the immediate next steps should triple-majority be achieved.

#### Final Governance, Service Standards, and Financial Strategies

The creation of a regional transit municipal service board to serve as the new Transit Commission, Board composition for the Commission, service standards, and financial strategies comprise the governance proposal for the new Transit Commission, outlining how the new agency would be established and the terms and conditions in which it will ultimately function.

These strategies have been summarized in the sections below, with reference provided to previous reports that provide additional detail where applicable.

#### *Extensive Consultation*

The aforementioned strategies were developed and articulated originally as part of the NTGS consultants study, as well as through the work of both local and Regional staff such as the Area CAOs and Treasurers. Since that time, they have been refined through significant engagement and consultation, including:

- **Two Rounds of Municipal Consultation** – Local municipal Councils reviewed the initial proposed strategy and provided feedback on both the original NTGS recommendations and associated financial model; followed by a second opportunity for further feedback based on the revised strategies developed by the GSC in response to the first round of engagement. The proposal was presented to Council of all local municipalities in public session providing an opportunity for members of council and the public to provide input. Significant change occurred



from the initial proposal to the subsequent revised strategies. This was a direct result of the municipal feedback.

A companion memorandum (CL-C 86-2021) has been prepared that outlines the outstanding discussion points raised by the City of Welland and how these items were acknowledged, weighed, considered and responded to throughout the current process.

- **Interested Party Consultation** - Following the LAM discussions, a series of workshops were conducted with interested parties from across Niagara, representing organizations or demographics who either rely on transit or with a mandate that is closely related to transit. Example attendees included members of environmental and accessibility advisory committees, local business leaders and Chambers of Commerce, institutional administrators, and other advocates.

The purpose of these sessions was to ensure that these groups had the latest information regarding the consideration of a consolidated transit system, and had an opportunity to provide feedback prior to the finalization of the proposal.

These sessions were organized thematically, covering a wide variety of topics such as the environment, seniors, youth, business and tourism, post-secondary institutions, diversity and inclusiveness, libraries, health services, and accessibility.

- **Public Consultation** – in September 2021, a website was launched ([movingtransitforward.ca](http://movingtransitforward.ca)) that provided an overview of the proposal for a consolidated transit system, as well as details on the core strategies of the governance model. A survey asked for feedback from the public on the proposed models:

A total of 2,251 individuals took the survey. Respondents included representation from all Niagara municipalities, representing a mix of both transit and non-transit users (38% monthly or more frequent, 44 % non-transit users). Consistent support was expressed for all three of the governance strategies, with 'support' or 'strong support' being indicated by:

- 79% of respondents for the financial strategy;
- 82% of respondents for the Board composition structure; and

- 85% of respondents for the services standards strategy.

The details results of the public consultation survey are including in Appendix 2.

### *Board Composition Strategy*

The LNTC has endorsed and recommends the creation of a 15-member elected Transitional Commission Board, to be comprised of either Regional or local councillors, supported by a 20-member Public Advisory Committee as shown in Figure 1 below.

The Region would be represented by the Regional Chair or the CAO (or their delegate) as ex-officio attendees to ensure that answers to questions concerning Regional operations and matters that impact the Region related to the Commission can be responded to for the Board in a timely way.

*Figure 1 - GSC Recommended Board Structure*

Transitional Transit Commission Board	Public Advisory Committee
<p><b>(15) Total Elected Official Representatives</b></p> <ul style="list-style-type: none"> <li>• (3) St. Catharines</li> <li>• (2) Niagara Falls</li> <li>• (1) Welland</li> <li>• (1) Fort Erie</li> <li>• (1) Grimsby</li> <li>• (1) Lincoln</li> <li>• (1) Niagara-on-the-Lake</li> <li>• (1) Pelham</li> <li>• (1) Port Colborne</li> <li>• (1) Thorold</li> <li>• (1) Wainfleet</li> <li>• (1) West Lincoln</li> </ul>	<p><b>(20) Total Public Interested Party Representatives</b></p> <ul style="list-style-type: none"> <li>• (12) Niagara Residents (one per Municipality)</li> <li>• (2) Members representing Accessibility Advisory Committees or other Accessibility Stakeholders</li> <li>• (2) Post-Secondary Representatives (1 student union representative from Brock University and 1 from Niagara College)</li> <li>• (1) Member representing Niagara's Chambers of Commerce</li> <li>• (1) Senior Issues Stakeholder</li> <li>• (1) Youth Issues Stakeholder</li> <li>• (1) Transit Commission General Manager (ex-Officio)</li> </ul>
<p><i>Members recommended by local Councils; appointed by Regional Council.</i></p>	<p><i>Resident members recommended by local Councils; all members appointed by the Transit Commission Board.</i></p>

In the development of this recommendation, the GSC considered feedback from all 12 municipalities regarding the overall size, elected composition, and share of representation of the Transitional 15-member Commission Board.

This recommendation balances that input: ensuring that all local municipalities have direct representation during the transition period, providing additional representation to municipalities on the basis of ridership, while respecting the total size of the Board.

The mandate of the Transitional Board will end with the establishment of a future permanent Board structure that will coincide with next municipal election cycle (2026) after the creation of the Commission.

This will be preceded by an external third party review of the Transitional Board structure and governance that will revisit and make recommendations regarding the total Board size, and representation. The Municipal Transfer Agreements discussed later in this report include a specific requirement that this external review, examining alternative Board structures, takes place.

The GSC has maintained the position that the establishment of a hybrid governing model (councillors and independent experts) remains a preferred outcome for the future permanent Board structure and should be strongly considered during this review. Recent recommendations made as part of the Collingwood Judicial Inquiry suggest that the boards of municipally owned corporations should be composed of directors with a variety of experiences and backgrounds, skills and qualifications. These recommendations apply equally to municipal service boards.

### *Service Standards Strategy*

Developed by the transit leaders in Niagara, the Service Standards Strategy, provided as [Appendix 5](#) to *LNTC-C 3-2021*, outlines a three-phased approach to the standardization and enhancement of transit service across Niagara to achieve consistent, equitable access to transit for all Niagara residents and communities:

*Figure 2 - Niagara Service Standards Strategy Overview*



- **Phase 1 – Standardized Operating Hours Across Niagara** – a move to one set of consistent operating hours to ensure all residents in Niagara have the same level of availability of transit in their community and the ability to make consistent connections across Niagara. Proposed hours are 6 a.m. to midnight (Monday to Saturday), and 7 a.m. to 9 p.m. (Sundays and Holidays). This would represent over 45,000 new annual service hours across Niagara to create this equity and availability in each municipality.
- **Phase 2 – Combine Specialized and Demand-Responsive Services** - combining specialized transit (accessible or Para-transit) with other existing demand-responsive (on-demand) services. The combination of specialized and demand-responsive transit into one combined service delivery model offers an opportunity to both improve the service residents receive, while more efficiently deploying the resources available to the Commission.
- **Phase 3 – Network Review and Growth** - undertaking a detailed network review study that would look for future opportunities to expand and enhance Niagara's transit footprint and significantly grow ridership in the long-term.

The new Transit Commission will also evaluate the performance of its services on a continual basis – starting right from its creation and in parallel with this strategy. At a minimum, there will be an annual performance review of required changes and service

enhancements, which may include evaluation of route performance, ridership, new housing/commercial development, customer feedback, and opportunities to implement existing expansion priorities such as those identified in municipal transit and transportation master plans, in keeping with industry best practices.

### *Financial Strategy*

The recommended financial strategy proposes that all LAM transit service budgets be uploaded to the Commission in the 2023 budget year, as well as the Region's existing transit budget to be consolidated by the Commission and to be assessed to the LAMs by way of special levies to be approved annually by the Region as part of the budget process:

- The 2023 estimated Commission baseline service budget will require a 7.3% increase due to the transfer of local transit costs to the Regional budget with expected equal and concurrent reductions to municipal budgets therefore minimizing the net residential impact.
- Service levels are different in each municipality; therefore, the Region proposes that twelve Special Levies be adopted in 2023. Each Special Levy will allocate 65% of 2023 net transit costs based on service hours, with all current existing NRT services continuing to be allocated to the Special Levy based on local share of Region-wide assessment.

The full Financial Strategy is described in the Financial Considerations section of [LNTC-C 3-2021](#) and associated Appendices [1](#), [2](#), [3](#) and [4](#).

Over the course of 2022 it will also be necessary for all municipalities to review and make any necessary adjustments to Fees and Charges by-laws, Development Charges By-laws and other related administrative by-laws to ensure a smooth transition effective on January 1, 2023. A further report will be required to address these matters. Also, matters related to insurance coverage will need to be addressed.

### Creating the Commission – Next Steps

Should triple-majority be achieved, an approximate one year transition period would commence during which the Commission would be established in advance of the assumption of day-to-day operations on January 1, 2023. The [NTGS](#) identified a total of five phases of transition (Approval, Commission Establishment, Commission Setup,

Service Launch, Enhancement), with *Phase 2 – Commission Establishment* and *Phase 3 – Commission Setup* intended to be achieved during this one year period before the assumption of operations.

Significant work and resources will be required to achieve the transition of operational responsibility on January 1, 2023. This will including the establishment of the Commission as a Municipal Services Board, appointment of the Commission Board, the completion of the Municipal Transfer Agreements, and the transfer of staff and assets. Each of these tasks will require significant coordination between Regional staff, municipal staff, and Commission staff when in place, with additional resources and support to be sought through external consulting assignments to be funded as part of the previously identified transition costs.

The purpose of this section is to provide an overview of some of the major activities of this transition period, including where future decisions of Regional Council will be sought.

#### *Legal Establishment of the Commission as a Municipal Services Board*

Following triple-majority, work will be required to formally establish the Transit Commission as a Municipal Services Board of the Region, through section 196 to 198 of the *Municipal Act*, 2001 (the “Act”).

A transit commission established under the *Act* is subordinate to Regional Council, unlike an independent board, like the Police Services Board or Board of Health, which are created under different legislation. At the same time, it is a body corporate, and so is independent from the Region in its day-to-day operations.

Regional Council will determine the roles and responsibilities of the Commission, governance structure including the board structure and membership as well as determine if committees are needed. Regional Council will also determine the budgetary process, financial management, transfer of assets and reporting structure of the transit commission. Policies respecting the sale or disposition of land, hiring of employees and procurement of goods and services are mandatory under s. 270(2) of the Act. The Commission would normally establish its own procedure by-law, policies respecting employees, procurement, asset management and board compensation however for efficiency could consider leveraging Regional services and policies. It would also appoint its own Auditor. The role of the Region’s auditor in providing oversight will need to be determined as well. To note, the entities consolidated

financially with the Niagara Region being Court Services, Niagara Regional Housing and Niagara Regional Police all leverage the Region's auditors which creates significant efficiency and cost savings.

As a "local board" the *Municipal Freedom of Information and Protection of Privacy Act* will apply to the transit commission and it will require a Code of Conduct. Its budget will be approved by Regional Council as part of the annual budget approval process. What if any corporate support services will be provided by the Region also needs to be considered (and may the subject of a future agreement between the Region and the Commission, similar to the "shared services" agreement in place between the Region and NRH for example).

The proposed organization of the new Transit Commission will be accomplished through the passage of a by-law by Regional Council at a future date that will create the Board and formalize aspects of the Board composition strategy such as the number of Commission Board representatives and eligibility of persons to hold office as Board members.

That by-law will further establish the relationship between the Commission and the Region, including their financial and reporting relationship. Transitional reports to implement these operational or structural components of the new Commission would be brought to Regional Council as needed during the transition period (2022). Terms of Reference for both the Commission Board and Public Advisory Committee will also be developed and brought forward for Council approval.

### *Municipal Transfer Agreements*

A series of agreements will be required with each of Niagara Falls, St. Catharines, and Welland regarding the manner in which the existing assets used to deliver transit in Niagara would transfer to the new Transit Commission. These Municipal Transfer Agreements (MTAs) will also include principles for the transfer of personnel, guarantees regarding the minimum levels of service to be provided in municipalities in the future, and formalize the requirement that the governance review takes place.

A recommendation of this report is that the CAO, and the General Manager of the new Transit Commission once appointed, be authorized to negotiate these agreements, on the basis of the terms that are outlined in Appendix 3.



The principles outlined in this term sheet represent the consensus recommendations of the CAO GSC reflecting discussion, comments, and input received throughout the multi-year initiative to consolidate transit. The term sheets further include schedules that identify the assets that are to be transferred, as well as the current debt financing to be assumed by the Region as part of the financial strategy.

## **WEGO**

Contained within the MTAs are principles related to the exclusion of WEGO from the initial consolidation of transit in Niagara. This approach has been taken as WEGO is delivered by the Niagara Parks Commission, a Provincial Crown agency, in partnership with the City of Niagara Falls. As such there are a series of pre-existing agreements regarding the operation of the system and the maintenance facility (paid for in part through Provincial funding) that would make consolidation of WEGO with the wider system challenging as part of the initial triple-majority exercise. WEGO also provides a specific a tourism-focused service that is unique from the other public transit systems in Niagara.

It is therefore anticipated that in the early days of the Commission that WEGO service will continue to be delivered as a partnership between the City of Niagara Falls and the Niagara Parks Commission. Accordingly, the WEGO fleet and the WEGO transit facility will remain with the City of Niagara Falls and not be transferred to the Commission.

Transit operators currently employed by the City of Niagara Falls in the joint delivery of Niagara Falls Transit and contracted WEGO routes will transfer to the Commission, with the Commission and the City of Niagara Falls entering into a service agreement, on the basis of an hourly fee, for the provision of operators to deliver the continued contracted City of Niagara Falls WEGO routes.

The initial exclusion of WEGO from consolidation does not preclude its future integration once the Commission has been fully established and/or as existing agreements between the Niagara Parks Commission and the City of Niagara Falls come to term. It also does not preclude agreements being entered into related to WEGO concerning operations in Niagara Falls, at any time.

## ***Appointment of the Commission Board and Public Advisory Committee***

Following the legal establishment of the Commission as a Municipal Services Board, the process to appoint members to the Transitional Commission Board and Public Advisory

Committee will commence. As outlined within the Board composition strategy, each municipality will be asked to forward to Regional Council a recommendation for both an elected representative on the Commission Board and a public or citizen representative for the Advisory Committee. Skills matrices and evaluation criteria will be developed for the other public members of the Advisory Committee, with an application process following the existing Regional process for appointment to advisory boards and committees.

The final approval for appointing members to both the Commission Board and the Public Advisory Committee will rest with Regional Council, reflecting the role of the Commission as an agency of the Region.

#### *Recruitment of General Manager and Transition of Staff*

An open competition will be held for the position of General Manager of the new Commission, anticipated to be supported through the use of an executive search consultant. The appointment of a General Manager would subsequently be ratified by the Commission Board once established.

The General Manager, along with a working group led by the Regional Treasurer/Commissioner Corporate Services, will finalize the organizational structure and complement of the new Commission for Regional Council approval. The preliminary organizational structure included in the NTGS will serve as the starting point for this discussion.

An external HR consultant vendor will be sought to support the transition of existing employees to the new Commission, and provide additional capacity to Regional staff to facilitate tasks such as the finalization of the organizational structure, development of job descriptions, and other human resources and labour relations components.

Appendix 4 outlines a high level overview of a series of Human Resources and Labour Relations considerations that are applicable to the transfer of staff to the new organization.

Consistent with these requirements and as outlined within the MTA Term Sheet, all full-time and part-time unionized employees employed by the existing transit entities as of June 30, 2022 will automatically transfer to the Commission.

Non-unionized employees will either be directly offered a position with the new Commission where there is anticipated to be a substantially similar role established, or have the opportunity to apply for new roles within the Commission. Any municipal corporate support personnel (i.e. those whose full time role with a municipality includes transit work as a portion of their duties) will remain with the municipality. Any municipal non-union staff who are not offered a position with the new Commission will remain the responsibility of the municipality.

The integration of the three existing Amalgamated Transit Union (ATUs) Locals will take place in through negotiation and in accordance with the defined provincial process as outlined under the *Public Sector Labour Relations Transition Act, 1997* and by the Ontario Labour Relations Board.

## **Alternatives Reviewed**

The NTGS considered a series of alternative governance models for the consolidated transit system, including that of a partial Commission or Regional Division. The Full Commission was recommended on the basis of the level of independence and anticipated benefits arising from a defined budget envelope being set by Regional Council. Additional detail regarding the evaluation of the alternative governance models is contained within the final NTGS report, which was presented as [Appendix 2](#) to *LNTC-C 4-2020*.

Numerous alternative financial models, Board compositions, and service enhancement timelines have been considered throughout the process: both originally within the NTGS and as input and feedback has been received by municipalities. These considerations have included:

- 11 different alternative Special Levy financial models, including ones that considered divisions between conventional and on-demand systems, in addition to the single General Levy originally proposed;
- Alternative Commission Board structures including those that maintained a smaller total Board size; that included public members to retain a hybrid model; that grouped smaller LAMs into rotating seats; and
- Both shorter and longer timelines for the implementation of service enhancements and the external network review.

The original guiding principles of 'Customer Driven', 'Unconventional Solutions', 'Integrated', 'Economically Responsible', and 'Fair' were used throughout to evaluate alternatives. The final strategies and governance model represent the consensus recommendation of the GSC.

### **Relationship to Council Strategic Priorities**

The proposed consolidation of transit services across Niagara into a consolidated transit entity directly aligns with the Council Strategic Priority: Responsible Growth and Infrastructure Planning (Objective 3.1) through advancing regional transit and facilitating the movement of people and goods.

### **Other Pertinent Reports**

LNTC-C 5-2021	Niagara Transit Governance – Phase 2 Consultation Results and Triple-Majority Initiation
LNTC-C 3-2021	Niagara Transit Governance - Revised Strategies Reflecting Phase 1 Municipal Consultation
LNTC-C 2-2021	Niagara Transit Governance – Governance Steering Committee Update
LNTC-C 1-2021	Niagara Transit Governance – Detailed Phase 1 Consultation Summary
PW-9 2021	Niagara Transit Governance Study – Niagara Region Considerations
LNTC-C 6-2020	Councillor Information Request – Niagara Transit Governance – Local Area Municipality Engagement
LNTC-C 4-2020	Niagara Region Transit Governance Study
CAO 8-2017	Niagara Region's Transit Service Delivery and Governance Strategy
LNTC-C 21-2018	Inter-Municipal Transit (IMT) Service Implementation Strategy

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Ron Tripp, P.Eng.  
Chief Administrative Officer

This report was prepared in significant consultation with Scott Fraser, Transportation Lead GO Implementation, Heather Talbot, Financial & Special Projects Consultant – Financial Management and Planning; the Governance Steering Committee comprised of the CAOs from all thirteen (13) municipalities across Niagara; and reviewed by; Matt Robinson, Director, GO Implementation Office; Helen Chamberlain, Director, Financial Management & Planning/Deputy Treasurer; Todd Harrison, Commissioner of Corporate Services/Treasurer.

## **Appendices**

Appendix 1	Draft By-law No. 96-2021 of the Regional Municipality of Niagara
Appendix 2	Online Resident Survey Results – Moving Transit Forward
Appendix 3	Municipal Transfer Agreements – Summary Term Sheet
Appendix 4	External Legal Overview: Regional Transit Integration: Labour Relations and Employment Processes and Implications

Bill No.

Authorization Reference:  
Minute Item 5.1

## THE REGIONAL MUNICIPALITY OF NIAGARA

## BY-LAW NO. &lt;&gt;

A BY-LAW TO ESTABLISH, OPERATE AND MAINTAIN A  
CONSOLIDATED PASSENGER TRANSPORTATION SYSTEM FOR THE  
REGIONAL MUNICIPALITY OF NIAGARA

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WHEREAS Niagara Region Council deems it expedient and beneficial to address transit issues in Niagara Region;

WHEREAS the Linking Niagara Transit Committee was established to lead the development of a consolidated governance model, as well as the harmonization and integration of operational and policy regimes of the existing transit properties;

WHEREAS the Inter-municipal Transit Working Group was established to gather information and provide guidance on operational matters related to the transition to a consolidated transit system;

WHEREAS Niagara's four (4) major transit operators entered into a Memorandum of Understanding in 2017 that, in principle, endorsed the creation of a consolidated transit system;

WHEREAS all local area municipalities have been consulted on and provided input regarding the results of the Niagara Transit Governance Study, associated financial strategy, and the subsequently revised models reflecting initial feedback;

WHEREAS the Linking Niagara Transit Committee has endorsed the Commission governance model, Niagara Service Standards Strategy and associated twelve (12) special levy financial strategy as the models under which consolidation should take place as identified in Regional Reports LNTC-C 5-2021 and PW 55-2021;

WHEREAS Niagara Region obtained triple-majority authority in 2017 to establish, operate and maintain an inter-municipal passenger transportation system in Niagara Region and enacted By-law No. 2017-21 on March 23, 2017, which came into effect on June 1, 2017, in this regard;

WHEREAS under this new consolidated system, Niagara Region would plan and operate both intra-municipal and inter-municipal transit routes, including specialized and demand-responsive transit services, throughout Niagara Region creating one unified transit system;

WHEREAS existing transit assets would transfer to the Commission on the basis of Municipal Transfer Agreements, to be negotiated and entered into with the major transit operators substantially on the basis of the terms outlined in Appendix 3 to PW 55-2021;

WHEREAS Section 11 of the Municipal Act, 2001, Ch. 25, as amended, grants exclusive jurisdiction over the operation of transit services to lower-tier municipalities in Niagara Region; and

WHEREAS Section 189 of the Municipal Act, 2001, Ch. 25, as amended, provides an upper-tier municipality with the ability to pass a by-law for the transfer of all or part of a lower-tier power to the upper-tier municipality, subject to certain rules regarding consideration and approval by the lower-tier municipalities.

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. That the authority to establish, operate and maintain a consolidated passenger transportation system for Niagara Region be transferred to The Regional Municipality of Niagara;
2. That steps to transfer jurisdiction and related assets essential to operating a consolidated passenger transportation system to The Regional Municipality of Niagara begin immediately after the following requirements have been met:
  - a. A majority of the councils of the lower-tier municipalities forming part of Niagara Region have passed resolutions consenting to the by-law;
  - b. The total number of electors in the lower-tier municipalities that have passed resolutions consenting to the by-law form a majority of all electors in the Region of Niagara as established in the revised list of electors for the municipal election held in the year 2018.
3. That in this by-law, the term “consolidated passenger transportation system” shall mean a single, unified public transportation services system operating within or between any two or more of the twelve (12) lower-tier municipalities which comprise the Region of Niagara;
4. That The Regional Municipality of Niagara does hereby assume from all lower-tier municipalities comprising the Region of Niagara, those parts of the lower-tier power and related assets essential to provide public transportation systems, other than highways, necessary to own and operate a consolidated passenger transportation system as contemplated by this by-law;

5. That Sections 1 and 2 of the by-law shall come into force and effect on the day the requirements of Section 189 of the Municipal Act 2001, Ch. 25, as amended, are met;
6. That Section 4 of this by-law respecting the transfer of assets and operations to the new transit commission does not come into effect until January 1, 2023. For clarity, the lower-tier municipalities that operate public transportation systems will continue to do so until these operations transition to The Regional Municipality of Niagara on January 1, 2023.

THE REGIONAL MUNICIPALITY OF NIAGARA

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James Bradley, Regional Chair

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Ann-Marie Norio, Regional Clerk

Passed: <date>



## **Appendix 2**

### **Online Resident Survey Results – Moving Transit Forward**

#### **Introduction**

In order to gauge wider community feedback on the proposed model for consolidation, a brief online survey was created and administered as part of the overall communications strategy.

The Moving Transit Forward survey was hosted online through a dedicated project website, available at [www.MovingTransitForward.ca](http://www.MovingTransitForward.ca), as well as through municipal public engagement platforms such as BangTheTable. The survey was live from Sept. 21 – Oct. 1, 2021, and was open to all Niagara residents.

#### **Brief Analysis**

The survey gathered feedback from over 2,000 individuals from across Niagara. Approximately 56 per cent of respondents identified as regular transit users, which aligns with a general understanding of the ridership base in Niagara.

Geographically, the makeup of respondents by municipality proportionally reflects the population breakdown in Niagara, with more respondents from larger municipalities, and fewer from smaller municipalities.

Overall the survey results show strong approval among Niagara residents for each of the three main components of the proposed transit model, with the Governance Structure, Service Level Standards, and Financial Model all receiving approval levels of 79 per cent or higher.

Through the open-ended comment box, residents shared further feedback regarding the model and transit in general. Common themes included a need to move forward with the proposal as quickly as possible, and concerns that consolidation may negatively impact transit services or taxes in the respondent's own local municipality.

#### **Methodology**

Being an online, voluntary and self-identifying survey, the results present an anecdotal picture of residents' views on the proposed model for consolidated transit. This was not a scientific survey, and results should not be viewed as statistically valid. However, previous research conducted by the Region has shown our online survey results tend to be consistent with residents views.

Respondents were asked to identify where they lived, how often they used transit, and if they approved of or opposed the proposed Governance Structure, Financial Model and Service Standards Strategy. Residents were educated on the basics of the proposal through information and videos on the website, as well as a brief explanation within the survey itself.

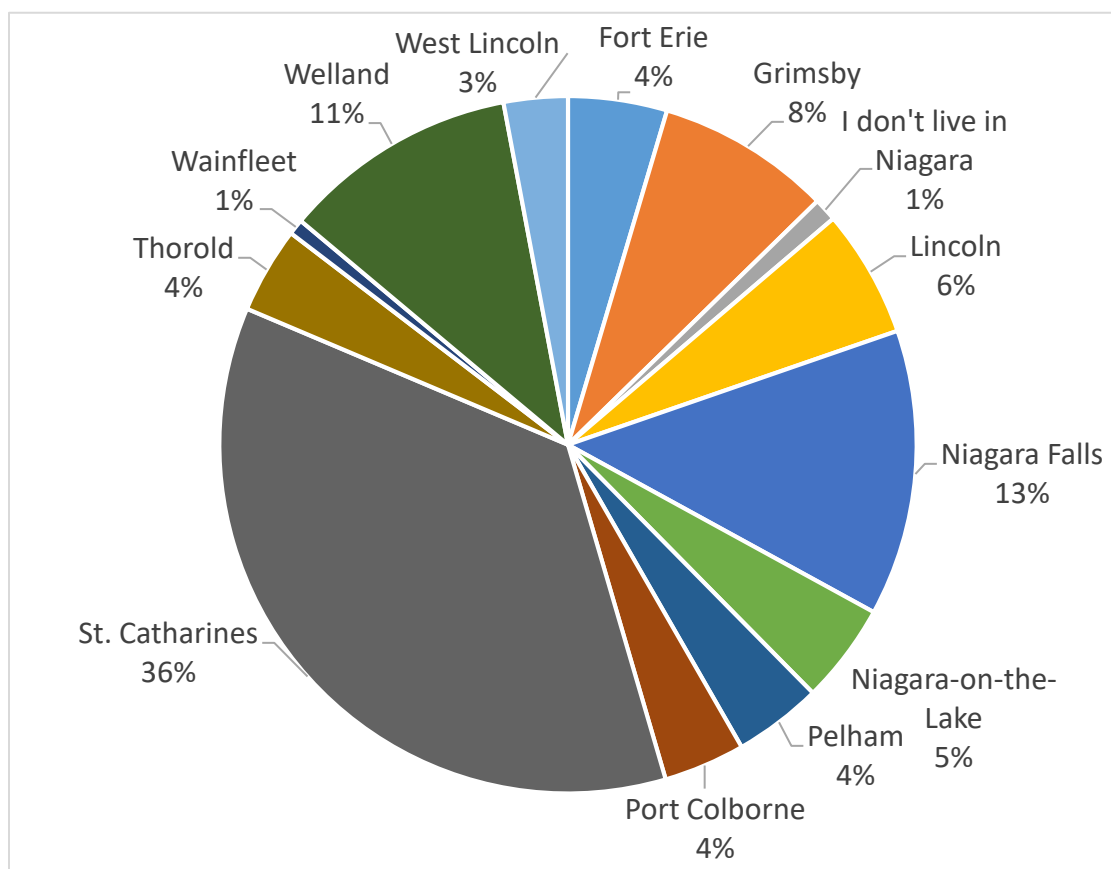
Respondents were also given the opportunity to add any additional comments about public transit in Niagara, and were invited to share their email address to be kept up-to-date as the project continues.

### **Number of respondents**

A total of 2,251 individuals took the survey. Of those, 1,772 answered all questions in the survey, while the remainder only answered some. 789 respondents submitted comments through the survey, and 527 wished to receive further updates via email.

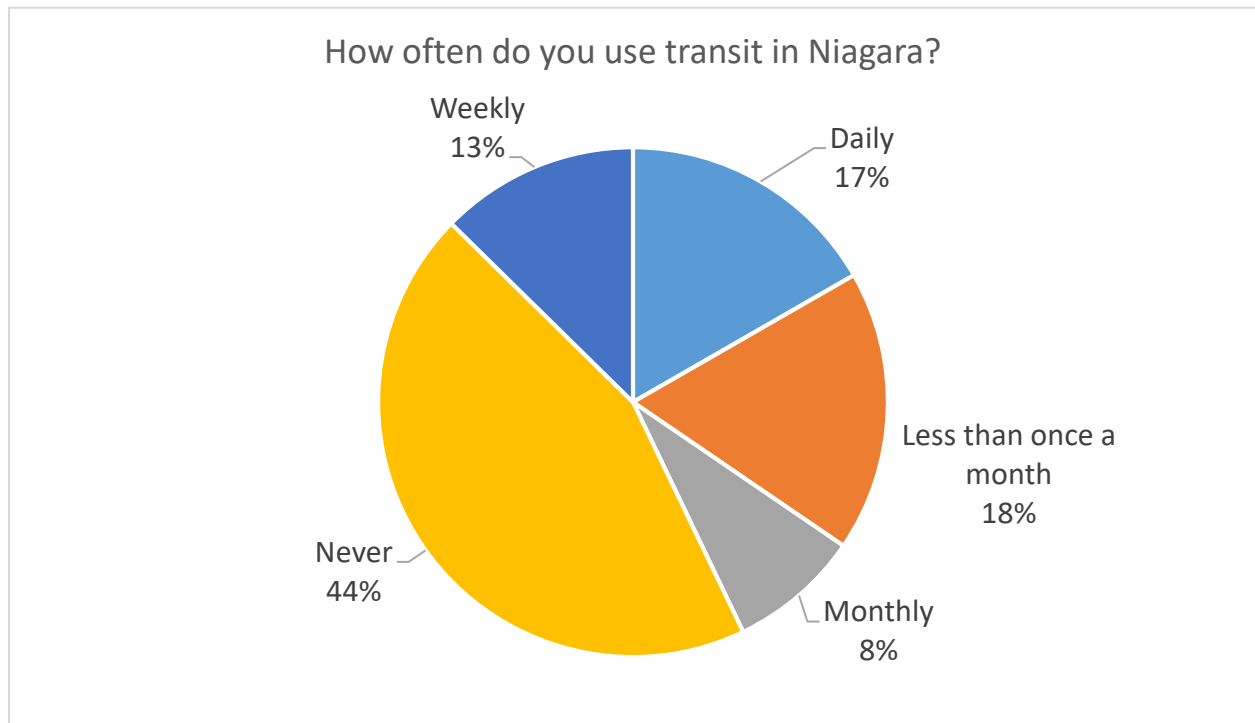
## Survey questions and responses

### 1. Which municipality do you live in?

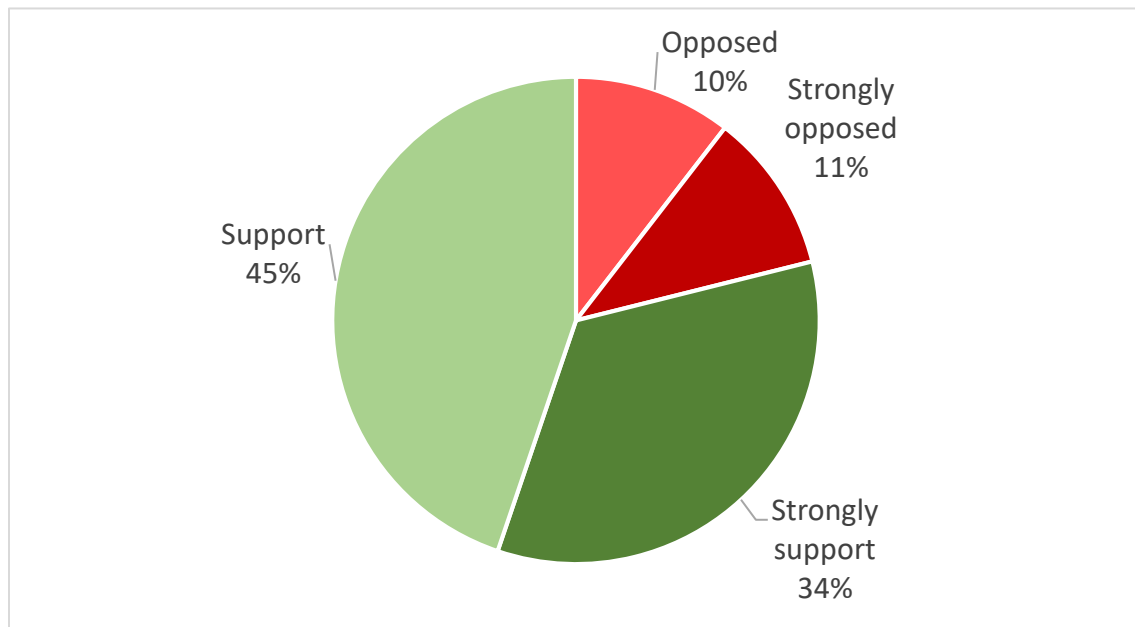


Local area municipality	Number of respondents
Fort Erie	102
Grimsby	180
I don't live in Niagara	24
Lincoln	132
Niagara Falls	295
Niagara-on-the-Lake	103
Pelham	91
Port Colborne	84
St. Catharines	798
Thorold	89
Wainfleet	16
Welland	243
West Lincoln	66

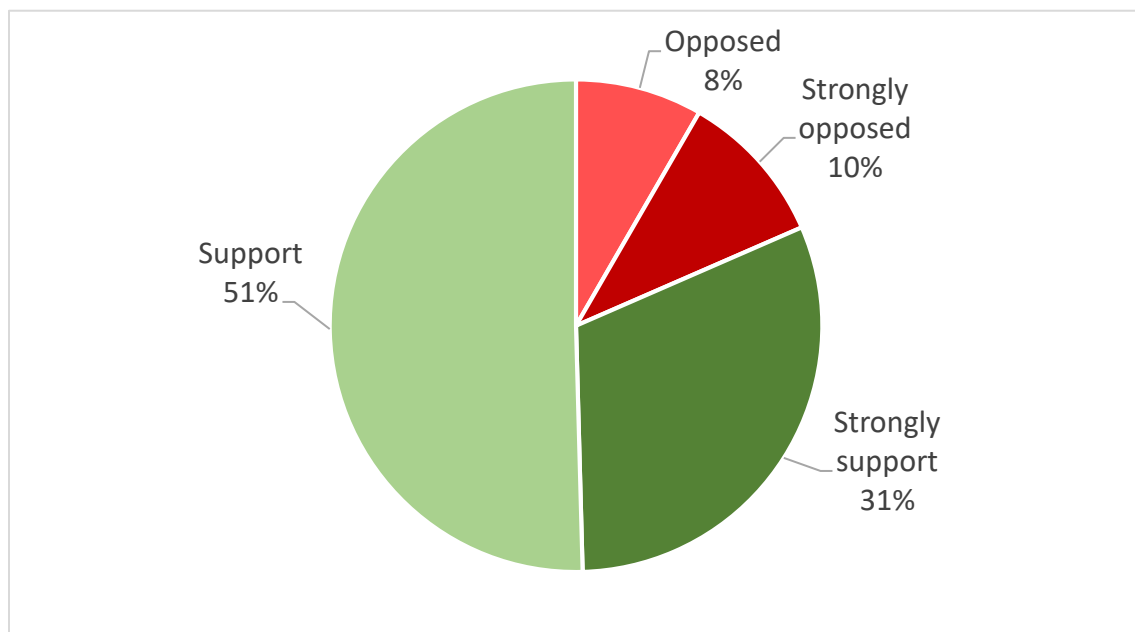
## 2. How often do you use transit in Niagara?



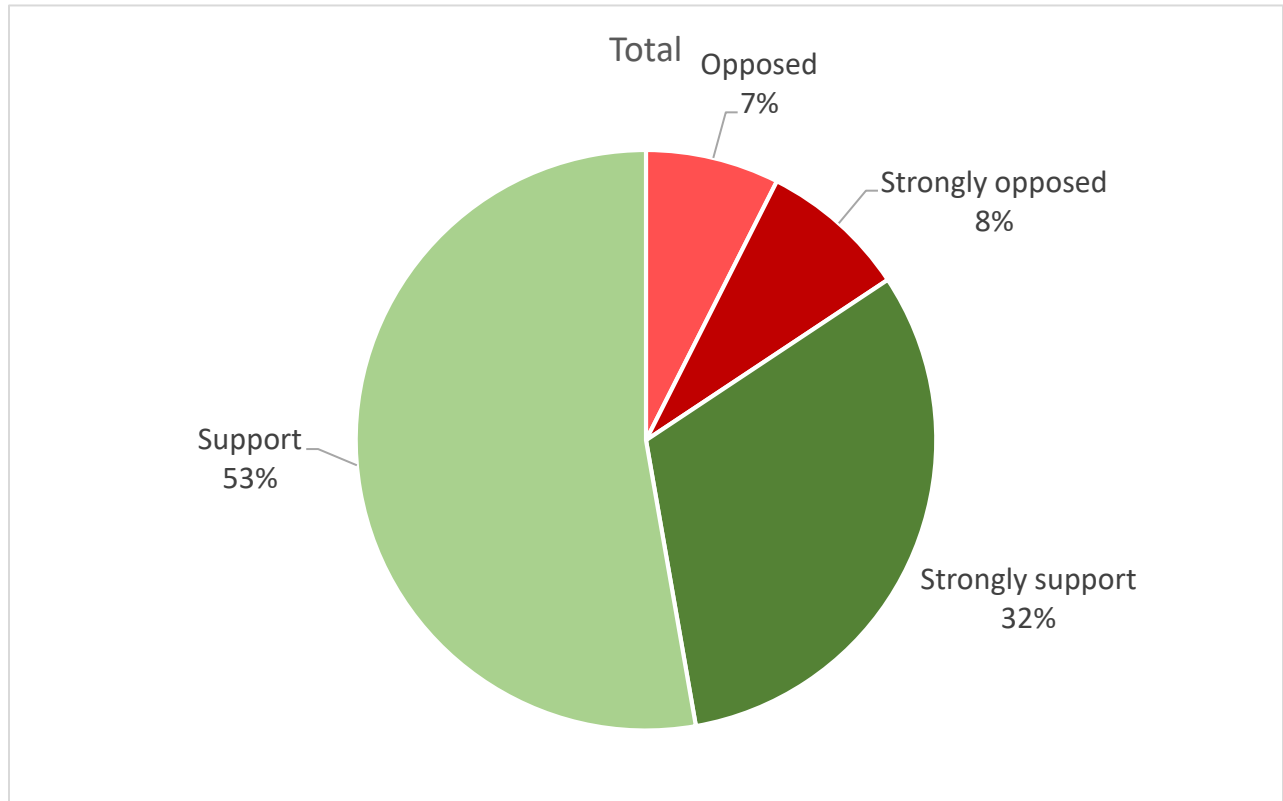
**3. What is your level of support / opposition for the proposed financial strategy?**



**4. What is your level of support / opposition for the proposed governance structure?**



## 5. What is your level of support / opposition for the Service Standards Strategy?



## 6. Open-ended comments

Residents shared a variety of comments about the proposed model, future service needs, and transit in general. Some of the more prominent themes among the comments included:

- Many respondents emphasized that any future service change must include expanded service hours, especially on Sundays and later into the evening
- A strong feeling that transit consolidation needs to happen as soon as possible, and is already long overdue
- Residents in smaller municipalities were concerned that they would have to shoulder the costs of service in larger urban municipalities. Conversely, residents in large municipalities like St. Catharines were worried that consolidation would result in a lower level of service in their community.

- Many respondents want to ensure that the future service particularly meets the needs of individuals with disabilities, seniors, and others who are unable to drive
- Respondents wish to see transit riders and Niagara residents strongly represented in the proposed governance model. Others, however, felt that there were too many representatives proposed.
- Respondents emphasized that the consolidated service must link effectively with the GO network in order to effectively link Niagara with the rest of the GTHA.
- Many respondents were supportive of the proposal, but did not want to see any cost increases to the taxpayer
- Respondents saw an opportunity for the model to incorporate green technology and environmentally friendly practices, emphasizing the positive effect such a system could have toward protecting Niagara's natural environment

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### **Appendix 3 – Summary Term Sheet Municipal Transfer Agreements**

The following is the proposed package of terms for the Municipal Transfer Agreements, which will guide the transfer of existing transit assets and personnel to the newly formed Transit Commission, subject to triple-majority approval, and to be negotiated individually between The Regional Municipality of Niagara and the City of Niagara Falls, City of St. Catharines, and City of Welland respectively.

The principles outlined in this term sheet represent the consensus recommendations of the CAO Governance Steering Committee, reflecting discussion, comments, and input received throughout the multi-year initiative to consolidate transit.

Note that all financial modeling was estimated based on 2020 budgets, assets, and debt levels. The final Financial Strategy will be adjusted prior to 2023 to reflect new assets and debt incurred and will be based on budget levels no less than 2020 operating budgets. Schedule A and B to this term sheet reflect the most recent estimates by municipalities - asset inventories and debt to be assumed by the Commission will be updated and finalized as part of the completion of the full Municipal Transfer Agreements.

#### **Asset Transfer**

- 1) Existing local transit assets, including but not limited to bus fleet, service vehicles, service equipment, and transit service facilities purchased or acquired prior to June 30, 2022 will transfer to the Transit Commission at no cost or, for the exclusive use of transit service delivery, in accordance with the Cummings Principle (the transfer of assets from one municipality to another at no additional compensation, because the municipal taxpayer has already paid for them).
  - a) Land on which transit service facilities reside will be retained by the local municipality, and the Region will conduct a Phase 2 environmental assessment.
  - b) Payment-in-lieu of taxes will be provided by the Commission to the local municipality, where applicable.
  - c) Transit service facilities with shared-use municipal components will transfer to the Commission, and be subject to an agreement to lease back at a nominal rate to the municipality those areas of the facility used for non-transit purposes.
  - d) Should the Commission no longer require a transferred asset to exclusively deliver transit services, the ownership of that asset will be transferred back to the original municipality.



- 2) The Commission will commit that existing fleet vehicles delivering local service within a municipality will continue to be utilized exclusively within that municipality for the remainder of their existing service life.
- 3) Local municipalities will make available to the Commission for inspection and condition assessment all transit assets prior to transfer, and will share all related documents related to the assets including information respecting insurance claims. The Commission will be under no obligation to assume assets deemed, at its discretion, to not be in suitable condition for transfer or to not be required to meet the future operational requirements of the Commission. The schedule of assets, specifically the asset count and with the corresponding cost to be transferred by each municipality is included as Schedule A to this document.
- 4) Any ongoing or in-progress capital improvement or acquisition projects will remain the responsibility of the municipality until completed and the asset transferred to Commission only upon completion at zero cost.
- 5) Local municipalities will disclose any agreements entered into related to transit operations in whole or in part, and that will extend beyond December 31, 2022. Copies will be provided to the Region.

### **Personnel Transfer**

- 6) All current full-time, part-time, and union permanent staff, employed directly and fully in transit by local municipalities and hired prior to June 30, 2022, will transfer to the Commission.
- 7) Non-unionized employees will either be directly offered a position with the new Commission where there is anticipated to be a substantially similar role established, or have the opportunity to apply for new roles within the Commission. Where a non-unionized employee does not ultimately transfer to the Commission, they will remain employees of the Municipality in accordance with the *Public Sector Labour Relations Transition Act, 1997*.
- 8) Those employees whose full-time role with a municipality supports transit work as a only portion of their duties (i.e. corporate support personnel not fully employed in transit) will remain with the municipality.
- 9) The integration of the three existing Amalgamated Transit Unions (ATUs) will take place in accordance with the defined provincial process as outlined under the *Public Sector Labour Relations Transition Act, 1997* and by the Ontario Labour Relations Board.

## **Transit Operations**

- 10) The Commission will assume full and exclusive operational responsibility for the delivery of transit on January 1, 2023.
- 11) The Commission will commit to maintain existing local service levels in each municipality, defined as a minimum of the budgeted 2020 local service hours, for a minimum of 7 years or unless otherwise consented to by the municipality.
- 12) The Commission will seek to establish a single common fare as identified in the financial model.
- 13) Municipalities will support the Commission in the placement of on-road transit infrastructure such as transit stops and shelters as required by facilitating their location.

## **WEGO**

- 14) Niagara Region or the Transit Commission will negotiate and enter into an agreement with the Niagara Parks Commission and City of Niagara Falls such that authority for the delivery of the WEGO transit service will remain with the Niagara Parks Commission, in partnership with the City of Niagara Falls.
- 15) WEGO fleet and the WEGO transit facility will remain with the City of Niagara Falls and not be transferred to the Commission, unless otherwise agreed to by the parties as part of any future assumption of WEGO operations by the Commission.
- 16) The Niagara Parks Commission and City of Niagara Falls will continue to provide WEGO service for those routes currently delivered by each agency.
  - a) Transit operators currently employed by the Niagara Parks Commission in the delivery of WEGO service will not transfer to the Commission.
  - b) Transit operators currently employed by the City of Niagara Falls in the joint delivery of Niagara Falls Transit and contracted WEGO routes will transfer to the Commission.
  - c) The Commission and the City of Niagara Falls will enter into a service agreement, on the basis of an hourly fee, for the provision of operators to deliver the continued contracted City of Niagara Falls WEGO routes.

## **Transitional Period**

- 17) A transitional 'steady-state' period will commence on July 1, 2022, beyond which municipalities will commit to make no additional operational, capital, or personnel changes beyond those previously budgeted, unless otherwise agreed to by the Commission, acting reasonably. This will include:

- a) The continued delivery of transit operations through December 31, 2022, including the maintenance of service levels in place as of June 30, 2022;
  - b) The assumption of additional or unplanned capital expenditures;
  - c) The undertaking of additional debt unless otherwise agreed to and may be subject to a different Municipal allocation than outlined in the Financial Strategy;
  - d) The onboarding of additional non-union or unionized staff; and
  - e) Continued adherence to asset management plans and the state-of-good repair of assets to be transferred to the Commission.
- 18) Assets, personnel, or debt acquired, on-boarded, or assumed by a municipality during this transition period will not transfer to the Commission, unless otherwise agreed to by the parties and the Region of Niagara.

## **Budgets**

- 19) The transit budget associated with the transfer of local operating costs to the Region's twelve special levy model may be offset by equal and concurrent reductions to local Municipal budgets and levies to minimize the residential taxpayer impact from transit consolidation where possible.
- 20) Previously approved intergovernmental funding allocations for capital improvements related to transit will continue to be directed to the identified approved projects and initiatives within the original receiving municipality, until such time as the funding program commitments are satisfactorily met. . This includes any obligation referenced in paragraph 4.
- 21) Debt previously undertaken by municipalities to fund the purchase of transit assets will transfer to the Commission in accordance with Schedule B to this document.
- 22) Any financial assets or liabilities at December 31, 2022 will be accrued by the municipality in accordance with Public Sector Accounting Standards, and other than reserves and debt will remain the responsibility of the municipality at transition.
- 23) The assumption of any costs, operating contracts and debt by the Commission as at the transition date are subject to audit by the Region at the Region's discretion to confirm compliance with transition terms and obligations assumed by the Commission as at January 1, 2023.
- 24) Municipalities will be responsible to maintain and fund all 2022 operating costs from their 2022 transit operating budgets, inclusive of staff costs, until the Commission establishes its first budget in 2023.

- 25) Municipalities will provide an accurate record of claims history for a period of five (5) years before June, 2022 to assist the Commission in obtaining liability insurance coverage.

### **Commission Governance**

- 26) The Commission must undertake a full governance review by an external third party and report back to Regional Council for decision by 2025. The implementation of the future permanent Board structure will coincide with the 2026 municipal election.
- 27) The Commission will obtain Officers and Director's and all other insurance coverage as soon as it is established.
- 28) The Commission will obtain Officers and Director's and commercial general liability insurance coverage as soon as it is established and all other insurance coverage required for the operation of a transit commission before January 1, 2023. The Commission is authorized to obtain competitive bids by reaching out to the insurers that currently provide coverage to the existing transit operations instead of issuing a Request for Proposals.
- 29) The Commission will appoint a General Manager to oversee the transition and who will report to the Commission Board.

### **Existing Agreements and Documentation**

- 30) Existing agreements between municipal transit agencies and senior levels of government or third-party suppliers or contractors will transfer or be assigned subject to the provision of paragraph 22, to the Commission, subject to the specific requirements of those contracts. Where agreements cannot be assigned or transferred to the Commission, the originating municipality will retain responsibility, subject to adjustment at a later date.
- 31) Responsibility for existing legal claims or legal liabilities, or those initiated or founded in allegations related to the operations by the municipalities prior to the transfer of operational responsibility to the Commission on January 1, 2023 will remain with the municipalities.
- 32) Municipalities will provide and transfer applicable documentation, operating procedures, maintenance records, employee records or other materials necessary for the transition to the Commission.

### **Negotiation of Agreements and Dispute Resolution**

- 33) The parties commit to the negotiation of the full municipal transfer agreements by no later than March 31, 2022.

34)Where direct discussion between the Region and municipalities does not satisfactorily resolve any issues, an independent mediator and/or arbitrator will be required to provide dispute resolution services, including binding decisions where agreement cannot be otherwise achieved between the parties. Costs for mediation or arbitration will be split between the Region and municipality.

### **Schedules**

Schedule A – Municipal Assets for Transfer

Schedule B – Municipal Debt for Transfer

### Schedule A – Municipal Assets for Transfer

Schedule A and B to this term sheet reflect current estimates - asset inventories and debt to be assumed by the Commission will be updated and finalized as part of the completion of the full Municipal Transfer Agreements.

Asset Category	Vehicle Count (Conventional & Specialized)	Acquisition Price	Accumulated Amortization	Current Net Book Value	Useful Life
<b>Niagara Region</b>					
Bus	30	\$14,245,039	\$2,267,951	\$11,977,088	10
<b>St. Catharines</b>					
Bus	91	\$46,362,278	\$26,987,076	\$19,375,202	12
Service Trucks	20	\$1,420,081	\$892,997	\$527,084	6
Land*		\$1,182,244	\$712,282	\$469,962	16
Facilities		\$11,475,701	\$3,987,557	\$7,488,144	22
Equipment		\$5,136,651	\$2,791,006	\$2,345,645	13
Technology		\$6,524,206	\$3,529,598	\$2,994,608	7
Sub-Total		\$72,101,162	\$38,900,517	\$33,200,645	
<b>Niagara Falls</b>					
Bus	47	\$24,135,770	\$15,423,652	\$8,712,118	12
Service Trucks	11	\$364,599	\$261,191	\$103,408	6
Land*		\$2,202,049	\$498,047	\$1,696,315	32
Facilities		\$21,832,585	\$3,724,925	\$18,107,660	24
Equipment		\$2,946,597	\$1,808,621	\$1,137,976	13
Technology		\$5,445,750	\$3,661,905	\$1,783,845	7
Sub-Total		\$56,927,350	\$25,378,341	\$31,541,321	

Asset Category	Vehicle Count (Conventional & Specialized)	Acquisition Price	Accumulated Amortization	Current Net Book Value	Useful Life
<b>Welland</b>					
Bus	22	\$7,438,333	\$2,563,944	\$4,874,389	12
Service Trucks	7	\$239,417	\$181,198	\$58,220	6
Land*		-	-	-	0
Facilities		\$4,329,238	\$2,089,308	\$2,239,930	21
Equipment		\$990,578	\$492,992	\$497,586	6
Technology		\$1,317,243	\$532,850	\$784,393	7
<b>Sub-Total</b>		<b>\$14,314,809</b>	<b>\$5,860,291</b>	<b>\$8,454,518</b>	

\* In accordance with the principles outlined above, land will not transfer to the Commission and will remain with the original municipality.

## Schedule B – Municipal Debt for Transfer

Balances as of December 31st, 2020\*

	Debt year ending	Average Annual Debt Payment**	Long Term Debt	By-law Reference
Niagara Region Transit	2029	\$1,334,694	\$10,752,991	2019-59
St. Catharines Transit	2024/ 2027	\$73,824	\$481,635	2017-53, 2019-59
Niagara Falls Transit		\$0	\$0	
Welland Transit	2029	\$146,108	\$1,171,493	2012-73, 2017-51, 2019-14
Niagara-on-the-Lake				
Port Colborne				
Pelham				
Thorold				
Fort Erie				
Grimsby				
Lincoln				
West Lincoln				
Wainfleet				
		<b>\$2,019,804</b>	<b>\$17,803,923</b>	

\*Final debt figures for transfer will be established as part of the negotiation of the full Municipal Transfer Agreements. The Region will not be required to transfer any debt above those totals identified in Schedule 'B' above unless otherwise agreed to and may be subject to a different Municipal allocation than outlined in the Financial Strategy.

\*\*Includes principal and interest



*Prepared for the Regional Municipality of Niagara  
(to be shared with Regional CAOs)  
by Rae Christen Jeffries LLP  
Privileged and Confidential*

## **Regional Transit Integration: Labour Relations and Employment Processes and Implications**

### **Overview**

You have asked us to provide a high level overview of how the amalgamation of three existing transit operations into one new entity might take place from a labour and employment perspective and to also highlight any potential issues, risks, or concerns.

We have had a chance to review the relevant law, legislation, and predecessor collective agreements but have not been provided with any employment contracts for review.

This overview is provided for the Regional Municipality of Niagara. We recommend that each of the existing transit units obtain individual legal advice regarding many of the issues raised below.

### **Factual Background**

St. Catharines Transit Commission, Niagara Falls Transit, and Welland Transit are the three main transit units in the Niagara Region. St. Catharines Transit Commission is a stand alone entity and Niagara Falls Transit and Welland Transit are departments in their respective municipalities.

The Region is considering amalgamating these three entities, in addition to inclusion of the remaining nine municipalities without established unionized transit services, into one new Transit Commission.

Each of the three entities has unionized and non-union employees. The unionized employees at each entity are represented by three separate locals of the Amalgamated Transit Union (“ATU”), under three separate collective agreements, each with different terms and conditions of employment. St. Catharines Transit Commission is the largest entity, with more employees than the other two entities combined.

Each of the three collective agreements contemplates amalgamations, mergers, and/or successor rights. That said, these clauses add very little in terms of new obligations (on top of any obligations arising from statute and the common law). One requires 30 days’ notice; one requires that the predecessor employer make every reasonable effort to protect the interests of the bargaining unit employees. In general, the clauses reiterate the state of the law: that the new Transit Commission must recognize the predecessor collective agreements and the ATU’s bargaining rights.

Lastly, we understand that the WEGO service will stay with Niagara Falls Transit, with the operators either maintaining their employment with Niagara Falls Transit or having their employment transferred to the new Transit Commission but still working on the WEGO service.

### **The Amalgamation Itself: How Does it Occur from An Employment/Labour Relations Perspective**

The new Transit Commission will need to pick an Amalgamation Date that will serve as the start date for the employees who are offered employment at the new Transit Commission.

### *Non-Union Employees*

Non-union positions at the new Transit Commission may be filled with new external hires or with employees from the predecessor entities, or a combination of both. This can be determined through job competitions involving only external candidates, only predecessor entity candidates, or a combination of both. Or, the new Transit Commission can simply appoint/make an offer to an existing predecessor entity employee without a competition.

Typically, the majority of non-union employees in the new Transit Commission would come from the ranks of the predecessor entities in order to maintain knowledge transfer and to reduce severance costs, but there is no legal requirement for the new Transit Commission to retain any non-union employee.

Non-union employees from the predecessor entities who are offered employment at the new Transit Commission (either following a competition or without one) should be given two letters simultaneously, ideally at least eight weeks prior to the Amalgamation Date: the first letter is from their existing employer terminating their employment as of the Amalgamation Date, and it should refer to and enclose a second letter from the new Transit Commission offering employment as of the Amalgamation Date. The second letter should indicate the new job title (if any), any changes in terms and conditions of employment, and how the prior employment at the transit unit will be treated at the new Transit Commission for the purpose of various entitlements such as vacation and future termination of employment. This second letter may also include transitional information regarding issues such as pension, vacation, lieu time etc.

Employees from the predecessor entities should be given significant time (at least two weeks) to accept or reject this offer of employment in writing. Those who reject the offer of employment will be the responsibility of the relevant existing transit unit (unless otherwise agreed), but it likely can be successfully argued that they have failed to mitigate their damages and their entitlement is limited to their *Employment Standards Act, 2000* ("ESA") entitlements (this may be affected by any applicable language in any employment contract). Most employees tend to accept offers of this nature as long as the employee is provided with substantially the same terms and conditions of employment.

Some non-union employees from the predecessor entities may not be offered employment with the new Transit Commission. The termination of employment or reassignment of these employees would be the responsibility of the existing transit unit (unless otherwise agreed) and their entitlements would depend on any applicable contractual language and/or the common law.

### *Unionized Employees*

As a basic principle, the new Transit Commission will inherit the existing Union(s) and collective agreements of the predecessor entities. While it need not retain all the unionized employees if it needs fewer employees than the combined existing complement (employees could be, for example, laid off by the predecessor entities prior to the amalgamation), it will be required to fill its complement of unionized employees with the existing unionized employees (i.e. it cannot hire externally for unionized positions unless it has already inherited all the existing unionized employees).

As soon as possible prior to the Amalgamation Date, the employees and the ATU Locals should be informed in writing of the Amalgamation Date and that the employment of the unionized employees who

are employed with the predecessor entity on the Amalgamation date will be transferred to the new Transit Commission. In order to avoid or narrow potential litigation either at arbitration or the Ontario Labour Relations Board ("OLRB") (likely under the *Public Sector Labour Relations Transition Act, 1997* ("PSLRTA")), negotiations should commence as soon as possible with the ATU Locals regarding:

- Whether all the employees will transfer and, if not, what options will be provided to any non-transferring employees.
- What the appropriate bargaining unit will be (the new Transit Commission should take the position that all employees should be in one bargaining unit, but the details at the edges of that unit will require negotiation).
- Who will represent the employees in the new bargaining unit (presumably one of the existing ATU Locals).
- What the terms and conditions of employment will be in the short term, prior to the negotiation of a new collective agreement (the collective agreements flow through, but items such as the grievance procedure and layoffs/recall are typically immediately harmonized – the parties could agree to something like the Composite Agreement that exists under the *PSLRTA*).
- Any immediate transition issues such as treatment of seniority.

In a situation such as this, where there is one Union (albeit with multiple Locals), it is possible (and perhaps even likely) that all of the above could be negotiated without the need for any litigation or OLRB application. However, if such negotiations are not fully successful, one of the Local Unions or the new Transit Commission could make an Application to the OLRB to resolve outstanding issues.

#### **Primary Issues, Risks, Costs, Concerns**

1. **Timing:** There are potentially significant cost savings and labour relations goodwill to be gained by providing significant notice of the Amalgamation Date to the employees and the Unions. Two months would be a minimum (to deal with *ESA* notice issues), but up to 12 months would be ideal in order to allow time for discussions/negotiations to narrow issues in dispute and make the transition as seamless as possible.
2. **Logistics:** There are many different logistical issues related to the new Transit Commission obtaining employees that will have to be considered and planned for, so they are in place by the Amalgamation Date, including but not limited to, setting up payroll, benefits, and pension, training, assignment of work, determining reporting structures, etc.
3. **Terminations of Employment (non-union):** Each non-union employee from a predecessor entity who is not offered employment will be entitled to pay in lieu of notice either at common law or in accordance with an employment contract (if valid).
4. **Layoffs (unionized employees):** Each unionized employee who is not offered employment will need to be laid off in accordance with the terms of the applicable collective agreement.
5. **Recognition of Service/Seniority:** For both union and non-union employees, there are costs associated with prior service whether they be ongoing (vacation) or potential (future termination).

6. Reconciling Seniority (unionized employees): There will be three separate seniority lists that need to be amalgamated.
7. Reconciling/Harmonizing Terms and Conditions of Employment (unionized employees): There will be three different wage grids, vacation entitlements, public holiday entitlements, benefits, pension, etc. All of this will need to be reconciled in a first post-transition collective agreement. This will potentially be costly.
8. WEGO: The exact nature of the arrangement regarding WEGO should be determined as soon as possible as it could result in complications regarding the status of the Niagara Falls Transit collective agreement and the employees operating the WEGO service.
9. Litigation: There may be litigation (arbitration or OLRB, or both) regarding any of the above union issues if they cannot be all agreed upon. For the non-union employees, there could be litigation over any of the terminations of employment.

October 5, 2021.

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 2021-96

A BY-LAW TO ESTABLISH, OPERATE AND MAINTAIN A  
CONSOLIDATED PASSENGER TRANSPORTATION SYSTEM FOR THE  
REGIONAL MUNICIPALITY OF NIAGARA

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WHEREAS Niagara Region Council deems it expedient and beneficial to address transit issues in Niagara Region;

WHEREAS the Linking Niagara Transit Committee was established to lead the development of a consolidated governance model, as well as the harmonization and integration of operational and policy regimes of the existing transit properties;

WHEREAS the Inter-municipal Transit Working Group was established to gather information and provide guidance on operational matters related to the transition to a consolidated transit system;

WHEREAS Niagara's four (4) major transit operators entered into a Memorandum of Understanding in 2017 that, in principle, endorsed the creation of a consolidated transit system;

WHEREAS all local area municipalities have been consulted on and provided input regarding the results of the Niagara Transit Governance Study, associated financial strategy, and the subsequently revised models reflecting initial feedback;

WHEREAS the Linking Niagara Transit Committee has endorsed the Commission governance model, Niagara Service Standards Strategy and associated twelve (12) special levy financial strategy as the models under which consolidation should take place as identified in Regional Reports LNTC-C 5-2021 and PW 55-2021;

WHEREAS Niagara Region obtained triple-majority authority in 2017 to establish, operate and maintain an inter-municipal passenger transportation system in Niagara Region and enacted By-law No. 2017-21 on March 23, 2017, which came into effect on June 1, 2017, in this regard;

WHEREAS under this new consolidated system, Niagara Region would plan and operate both intra-municipal and inter-municipal transit routes, including specialized and demand-responsive transit services, throughout Niagara Region creating one unified transit system;

WHEREAS existing transit assets would transfer to the Commission on the basis of Municipal Transfer Agreements, to be negotiated and entered into with the major transit operators substantially on the basis of the terms outlined in Appendix 3 to PW 55-2021;

WHEREAS Section 11 of the Municipal Act, 2001, Ch. 25, as amended, grants exclusive jurisdiction over the operation of transit services to lower-tier municipalities in Niagara Region; and

WHEREAS Section 189 of the Municipal Act, 2001, Ch. 25, as amended, provides an upper-tier municipality with the ability to pass a by-law for the transfer of all or part of a lower-tier power to the upper-tier municipality, subject to certain rules regarding consideration and approval by the lower-tier municipalities.

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. That the authority to establish, operate and maintain a consolidated passenger transportation system for Niagara Region be transferred to The Regional Municipality of Niagara;
2. That steps to transfer jurisdiction and related assets essential to operating a consolidated passenger transportation system to The Regional Municipality of Niagara begin immediately after the following requirements have been met:
  - a. A majority of the councils of the lower-tier municipalities forming part of Niagara Region have passed resolutions consenting to the by-law;
  - b. The total number of electors in the lower-tier municipalities that have passed resolutions consenting to the by-law form a majority of all electors in the Region of Niagara as established in the revised list of electors for the municipal election held in the year 2018.
3. That in this by-law, the term "consolidated passenger transportation system" shall mean a single, unified public transportation services system operating within or between any two or more of the twelve (12) lower-tier municipalities which comprise the Region of Niagara;
4. That The Regional Municipality of Niagara does hereby assume from all lower-tier municipalities comprising the Region of Niagara, those parts of the lower-tier power and related assets essential to provide public transportation systems, other than highways, necessary to own and operate a consolidated passenger transportation system as contemplated by this by-law;

5. That Sections 1 and 2 of the by-law shall come into force and effect on the day the requirements of Section 189 of the Municipal Act 2001, Ch. 25, as amended, are met;
6. That Section 4 of this by-law respecting the transfer of assets and operations to the new transit commission does not come into effect until January 1, 2023. For clarity, the lower-tier municipalities that operate public transportation systems will continue to do so until these operations transition to The Regional Municipality of Niagara on January 1, 2023.

THE REGIONAL MUNICIPALITY OF NIAGARA

  
\_\_\_\_\_  
James Bradley, Regional Chair

  
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Ann-Marie Norio, Regional Clerk

Passed: November 25, 2021