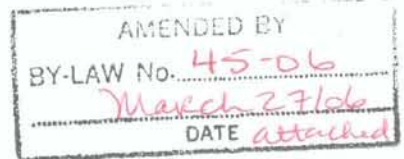




The Municipal Corporation of the Town of Fort Erie

BY-LAW NO. 161-2000



BEING A BY-LAW TO AUTHORIZE THE ENTERING INTO OF AN INTERMUNICIPAL AGREEMENT FOR PROVINCIAL OFFENCES ACT COURT ADMINISTRATION-TRANSFER INITIATIVES (120801)

WHEREAS pursuant to Section 206.1 of the *Municipal Act*, R.S.O. 1990, Chapter M.45 as amended, a municipality has the power to enter into and perform a Part X Agreement of the Provincial Offences Act, and

WHEREAS as part of the local service realignment by the Province of Ontario, the province is downloading the Provincial Offences Act court administration services to municipalities, and

WHEREAS Report No. CAO-19-1-2000 was approved at the Council-in-Committee meeting held August 14, 2000 authorizing staff to incorporate Fort Erie's position in the Intermunicipal Agreement and present the draft by-law to the August 21, 2000 Regular meeting of Council, and further that a copy of the recommendation be forwarded to P. Robson at the Region of Niagara, and further that the Intermunicipal Agreement be amended to include the appropriate wording that "all Fort Erie prosecutions held under the Provincial Offences Act be prosecuted at the Fort Erie Courthouse, and further that the Region cannot transfer ownership of the Courthouse in the event the Region obtains ownership", and

WHEREAS it is deemed necessary and expedient to enter into the Intermunicipal Agreement;

NOW THEREFORE the Municipal Council of The Corporation of the Town of Fort Erie hereby enacts as follows:

1. **THAT** the Niagara Region Courts intermunicipal agreement attached hereto to this By-law as Schedule "A" be and the same is hereby accepted and approved provided that the following Section be inserted therein as Section 23 thereto.

Section 23 Proviso Clause

Notwithstanding any other provision in this agreement to the contrary, all of the parties to this agreement agree that in the event title to the present Fort Erie Court facility is transferred to the agent in trust for all municipalities;

- 23.1 The present Fort Erie Court facility will not be closed and will continue in use as a court facility, unless otherwise approved by the Council of the Town of Fort Erie.

161-2000

BY-LAW NO. 161-2000
PAGE TWO

- 23.2 The agent shall not dispose of the present Fort Erie Court facility to any other person or entity unless the Council of the Town of Fort Erie first consents in writing thereto.
- 23.3 Any and all prosecutions conducted under the *Provincial Offenses Act* emanating from the Town of Fort Erie shall be prosecuted at the present Fort Erie Court facility.
2. **THAT** the Mayor and Clerk be and they are hereby authorized and directed to sign the Niagara Region Courts Intermunicipal Agreement including Section 23 Proviso Clause, attached hereto to this by-law as Schedule "A".

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 21st DAY OF AUGUST, 2000.



MAYOR



CLERK

I, the Clerk, Carolyn J. Kett, of The Corporation of the Town of Fort Erie hereby certify the foregoing to be a true certified copy of By-law No. 161-2000 of the said Town. Given under my hand and the seal of the said Corporation this _____ day of _____, 2000.

NIAGARA REGION COURTS INTERMUNICIPAL AGREEMENT

This Agreement made the 26th day of April, 2000

B E T W E E N :

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 Section 176 under Part X of the Provincial Offences Act (R.S.O. 1990, c.P.33, as amended) (the "POA") authorizes a group of municipalities to enter into an agreement with the Attorney General to perform court administration and court support functions, and to conduct prosecutions under Parts I and II of the POA as well as certain proceedings under the Contraventions Act (Canada);

AND WHEREAS Section 206.1 of the Municipal Act authorizes a joint performance agreement;

AND WHEREAS the parties intend to enter into such an agreement;

AND WHEREAS the parties wish to jointly undertake the Provincial Offences Court administration, support and prosecution functions in Niagara Region by means of a Joint Board of Management of Niagara Region Courts composed of the parties hereto and engaging the Agent to administer the above functions under the guidance of the Joint Board of Management of Niagara Region Courts.

AND WHEREAS Section 206.1 of the Municipal Act (R.S.O. 1990, c.M. 45, as amended) authorizes a municipality to enter into an agreement under Part X of the Provincial Offences Act.

NOW THEREFORE in consideration of the premises, mutual covenants and conditions herein contained, the parties hereto AGREE AS FOLLOWS:

Definitions

In this Agreement, the following words shall have the meanings assigned herein:

"Agent" shall mean the Regional Municipality of Niagara.

"Board" shall mean the Joint Board of Management of the Niagara Region Courts as established by this Agreement.

"Court" shall mean the court facilities presently located in St. Catharines, Niagara Falls, Welland and Fort Erie or such other locations as approved from time to time pursuant to the terms of this Agreement.

"Local Prosecutions" means prosecutions and appeals that are conducted by a Municipality with regard to its own by-laws and includes prosecutions and appeals conducted in relation to the Building and Fire Codes and any other matters that a municipality is authorized by law to prosecute.

"Manager" shall mean the Courts Administration Manager.

"Municipality" shall mean all of the parties to this Agreement.

"Program" shall mean the court administration, support and prosecution services to be provided pursuant to this Agreement.

"Prosecutor" shall mean a person designated by the Agent to carry out responsibilities as defined by Section 4 of this Agreement.

"Transfer Agreement" shall mean the Memorandum of Understanding, a sample of which is attached hereto as Schedule C and forms part of this Agreement, and the Local Side Agreement entered into between the Municipalities and the Attorney General under Part X of the POA, together with amendments thereto.

1. Establishment of the Joint Board of Management of the Niagara Region Courts

- 1.1 A Joint Board of Management is hereby formed for the purposes set forth in this Agreement
- 1.2 The Board shall be called the "Joint Board of Management of the Niagara Region Courts".
- 1.3 The Board shall total seven (7) members, composed of one (1) staff person to be determined by respective municipalities to represent each of the following Municipalities: The Region, Niagara Falls, St. Catharines, and Welland. Further, there will be three (3) appointed from the remaining nine (9) Municipalities on a revolving basis to ensure that each Municipality in this group has one representative for one year in a three year period.
- 1.4 Any member may be removed or replaced at any time by the Municipality on whose behalf the member was appointed.
- 1.5 No person who conducts prosecutions for any Municipality shall be a member of the Board. This restriction does not apply if the conducting of prosecutions is not a normal or significant component of the person's job description or workplace responsibility.
- 1.6 The Board shall elect a Chair and Vice-Chair annually from its members. Each shall serve for a one (1) year term, unless a shorter term is determined by the Board, and may be re-elected to serve for subsequent terms. The person in each position, if not removed or replaced under paragraph 1.4, shall continue in the position until

the meeting next following the end of the one (1) year term or until a successor is appointed.

- 1.7 The Board shall meet at least four (4) times a year and otherwise at the call of the Chair.
- 1.8 A majority of the Board members shall constitute a quorum and all matters (unless provided to the contrary elsewhere in this agreement) shall be decided by a majority vote of the members attending, each of whom shall have one (1) vote including the Chair. In the event of a tie vote, the matter shall be deemed to have been denied or refused.
- 1.9 The agenda for the Board shall be set by the Chair in consultation with the Courts Administration Manager. Any member may add an item to the agenda by notice circulated with the agenda or separately, or by majority vote for all members present.
- 1.10 Notice of meetings shall be provided by faxing the agenda to each member not less than two business days prior to the meeting. Special meetings may be called without notice by a majority vote of all members achieved through a telephone or FAX poll by the Chair, or by the Courts Administration Manager, at the request of the Chair.

2. Roles

- 2.1 The role of the Board is to provide a forum for the Municipalities to coordinate the performance of their obligations in relation to the Transfer Agreement and to provide advice to the Agent in relation to matters specifically provided for in this Agreement and in relation to policy and procedural matters generally regarding the provision of the Program. The role of the Board is also to approve the Program.
- 2.2 The role of the Agent is to undertake the Program to provide court administration, court support and prosecution of offences under the POA on behalf of the Municipalities pursuant to the provisions of this Agreement and to the standards set forth in the Transfer Agreement. The role of the Agent is to implement the Program, consistent with the reporting relationships identified in Schedule A hereto.
- 2.3 In light of the timeliness of entering into this Agreement, the roles of the Board and Agent may be modified, as may be agreed to from time to time and subject to the MOU.

3. General Responsibility of the Agent

The Agent, under the direction of the Board and the provisions of this Agreement, shall:

- i) Perform court administration and court support functions as more particularly described in the Transfer Agreement and this Agreement.
- ii) Provide prosecution services, subject to Section 4.
- iii) Collect all fines arising from the Program
- iv) Distribute the net revenue from fines and other income it may receive to the Municipalities and other agencies or Ministries as provided by this Agreement or as required by Statute.
- v) Maintain adequate and appropriate records and accounts for purposes of audit, for purposes of reporting to and review by the Board and Municipalities, and to meet the requirements of the Transfer Agreement.
- vi) Provide and maintain court facilities and equipment that are adequate and appropriate for the existing needs of the Program, including the operation and management of any existing court facilities transferred to the Municipalities by the Transfer Agreement.
- vii) Plan for expansion of the Program through the provision of court facilities and equipment and court support functions for the Program within Niagara Region.
- viii) Should a plan for expansion of the program be recommended by the Board and approved by the Municipalities under the terms of this Agreement, the Agent shall implement the plan.
- ix) Ensure adequate staff support for the Program in the manner provided for in this Agreement.

4. Municipal Prosecution

- 4.1 The Agent is authorized to provide prosecution services on behalf of each Municipality and for such purposes the Agent and persons it employs or retains to conduct prosecutions are deemed to be agents of the respective Municipality. Such authorization does not include Local Prosecutions or as may be otherwise limited by this agreement.
- 4.2 Notwithstanding the obligation of the Agent to provide prosecution services, any Municipality may, at its expense, use its own staff, agent or counsel to conduct Local Prosecutions, provided that the Municipality adheres to the standards for prosecutions set out in

the Transfer Agreement other than respecting the Conflict of Interest Guidelines as noted in paragraph 12.2 herein.

- 4.3 A Municipality that decides, after execution of this Agreement, to conduct all of its Local Prosecutions, shall inform the Board six (6) months before the effective date.
- 4.4 If a Municipality wishes to conduct a Local Prosecution in relation to a specific matter, it shall so inform the Prosecutor prior to the first appearance held in relation to that matter. The Municipality will respond to any defendant's appeal(s) in such matters and will have the sole right to appeal decisions in relation to such matters.
- 4.5 It shall be the responsibility of the Prosecutor to advise each Municipality of the process respecting each Provincial Offences Act matter relating to that Municipality after each step in the process thereof, including the first appearance, the trial and the notice of appeal, if any, in accordance with the protocol established under paragraph 4.10.
- 4.6 If a Municipality determines that it does not wish to conduct a Local Prosecution, it shall be the responsibility of the Municipality to forward a trial brief in a form and in a time period that is satisfactory to the Prosecutor prior to the first appearance in that regard. The decision thereafter as to whether there is sufficient evidence to proceed and as to the conduct of the prosecution shall be at the discretion of the Prosecutor and the Municipality shall provide such witnesses from its staff as the Prosecutor may reasonably require. The costs of evidence production, including witness costs, shall be borne by the Municipality or enforcement agency, as the case may be.
- 4.7 Any complaints or concerns that may arise in relation to the Agent's prosecutors will be forwarded to the Agent's Solicitor. The Agent's Solicitor shall report any complaints to the Board forthwith.
- 4.8 Any complaints or concerns that may arise in relation to a Municipality's prosecutor will be forwarded to the person designated by the Municipality to receive complaints. The Board shall be advised of all such complaints.
- 4.9 Any report respecting a complaint shall indicate whether or not the complaint was substantiated.
- 4.10 The parties hereto acknowledge that sharing the prosecution function amongst the Agent and the Municipalities may result in

the need for communication between the Prosecutor and the Municipal prosecutors for the purpose of ensuring compliance with the Transfer Agreement and that a uniform prosecution policy evolves in relation to the Program. The parties commit herein to engaging in such communication. The Board shall oversee the development of a protocol for such purposes, including appeals.

5. Accessible Locations for Fine Payments

The parties agree to establish procedures to enable fine payment at various locations throughout Niagara Region, including the respective municipal offices if practicable.

6. POA Pt. II – Parking

Those Municipalities which have not entered into appropriate agreements with the Attorney General respecting local administration of parking matters under Part II of the Provincial Offences Act hereby undertake to negotiate and execute the necessary agreements within 12 months of the execution of this agreement to become "opted-in" municipalities pursuant to the provisions of legislation known as Bill 25 (Chapter 20, Statutes of Ontario, 1992), "An Act to Amend the Provincial Offences Act and the Highway Traffic Act in Relation to Parking Infractions" permitting municipalities to administer their own parking matters and Bill 47 (Chapter 31, Statutes of Ontario, 1993), and "An Act to Amend Certain Acts in respect of the Administration of Justice" allowing municipalities to operate a First Attendance Parking Tag Facility.

Parking matters shall be the responsibility of the respective Municipalities, with the understanding that the court facilities shall be provided as may be determined by the Board.

7. Budget

7.1 The Manager, on behalf of the Agent, shall prepare an annual budget for the Program setting out the estimated operating and capital costs, and projected revenue from fines, fees, applicable grants, subsidies and other revenues. The budget shall be submitted to the Board for approval. Following Board endorsement, the budget shall be submitted to Regional Council for approval.

7.2 Unbudgeted operational and capital expenditures, including leasing of real property, as endorsed by the Board, must be forwarded to Regional Council for approval.

8. Apportionment of Costs and Revenue

- 8.1 The Agent shall be entitled to recover its costs from the gross revenues generated by the transfer of POA administration. Gross revenues shall not include Part II Parking revenues, as otherwise provided for in Section 6 of this Agreement.
- 8.2 The Region shall receive 50% of net revenues.
- 8.3 All Municipalities, with the exception of the Region, shall receive 50% of net revenues, and it shall be distributed on the basis of assessment.
- 8.4 Accounts receivable transferred from the Province shall be distributed, when collected, as outlined above.
- 8.5 The Agent shall be responsible for all costs and expenses of the Program.
- 8.6 The Board shall define an appropriate formula for the allocation of reserves intended to provide for Program costs, and shall incorporate the formula in the budget.
- 8.7 An annual adjustment to the share for each Municipality shall occur no later than December 31st of each year.

9. Administration

- 9.1 The Agent shall provide administrative support services to the Board.
- 9.2 The Agent shall provide the following services for the Program under the guidance of the Board, on behalf of all the Municipalities:
 - i) Human Resources support including:
 - Recruitment
 - Training
 - Recommendation respecting appropriate job descriptions and compensation
 - ii) Property
 - Office space, supplies and equipment, including such computer equipment and facilities as may be required in the Transfer Agreement.
 - Lease negotiation; property acquisition services.
 - Property management support, including any existing court facilities transferred to the Municipalities by the Transfer Agreement.

- iii) Treasury
 - Accounting and bookkeeping
 - Payroll
 - Distribution of revenues and provision of related reports
- iv) Computer and Technology Support
- v) Audit
- vi) Purchasing and Facilities Management services in accordance with the Agent's purchasing and tendering policies and procedures.

9.3 The Chairman of the Board is hereby authorized to execute any documents on behalf of the Board, and the Council of the Agent shall authorize the proper signing officers to execute all documents and agreements.

10. Property

10.1 Title to any land, buildings, equipment, machinery or other chattels or any interest therein to be acquired for purposes of the Program shall be in the name of the Agent, in trust for all Municipalities.

10.2 The Agent shall not dispose of any equipment, machinery or other chattels, nor of any real property, acquired for purposes of the Program, without consent of the Board.

10.3 Proceeds of any disposition, shall be apportioned to the parties in the same proportions as revenues are apportioned under Section 8 in the year preceding such disposition.

11. Staffing

11.1 The Agent, upon the recommendation of the Board, shall recruit a Courts Administration Manager ('Manager').

11.2 The Manager shall have his or her performance reviewed by and hold office pursuant to the policies and practices of the Agent. The Board shall be consulted by the Agent for the purposes of reviewing the performance of the Manager.

11.3 The Manager shall be responsible for overall administration of the functions to be carried out by the Agent pursuant to this agreement and shall serve as Secretary to the Board.

11.4 The Manager shall forthwith prepare a management plan including a proposed administrative structure for endorsement by the Board and approval by Regional Council. The Manager may make any

recommendation he or she believes would be most appropriate and efficient.

- 11.5 Staffing shall be completed pursuant to the administrative structure as finally approved by Regional Council and the Agent shall hire or provide staff for such purposes. For all purposes of an employer/employee relationship, the Agent shall be deemed the employer of the Manager and all staff required for the Program.
- 11.6 The Manager shall prepare a report outlining the POA administration and prosecution activities to the Board a minimum of two (2) times per year. Such reports shall be made available to any of the Municipalities, upon request.

12. Conflict of Interest Guidelines

- 12.1 The Municipalities agree to apply the Conflict of Interest Guidelines attached as Schedule "B" to this Agreement to those functions being transferred to them under the Transfer Agreement.
- 12.2 For purposes of clarification, it is noted that Local Prosecutions, since they are not being transferred, are not subject to the Conflict of Interest Guidelines in Schedule B.

13. Treasury

The Agent, on behalf of the Municipalities and the Board, shall keep full and accurate books of account in which shall be recorded all receipts and disbursements of the Program and shall deposit all monies with respect to the operation of the Program in a special bank account or accounts designated for that purpose and shall render to the Board at meetings thereof, or whenever required, an account of all transactions and of the finance position of the Program.

14. Insurance

The Agent, in consultation with the other parties, will arrange for the issue of policies of insurance to protect assets acquired for purposes of the Program that are in the care, custody and control of the Agent from physical loss or damage and for protecting the Board, the parties hereto and employees undertaking the functions of the Program against legal liability that may result from the activities and operations of the Program and the Board and to ensure that all policies of insurance are endorsed to provide that all parties to this Agreement are named as additional insureds. The

Agent shall also be required to provide public liability coverage in the amount of \$5,000,000.00 minimum.

15. Indemnity

- 15.1 The Agent agrees to indemnify and save harmless all of the other Municipalities from and against all actions, causes of action, losses, liens, damages, suits, judgements, awards, orders, claims, fines, costs and demands whatsoever which may arise either directly or indirectly, by reason of or as a consequence of or in any way related to the Agent's obligations under this Agreement or any action or actions properly taken hereunder.
- 15.2 The other Municipalities agree to indemnify and save harmless the Agent from and against all actions, causes of action, losses, liens, damages, suits, judgements, awards, orders, claims, fines, costs and demands whatsoever which may arise either directly or indirectly, by reason of or as a consequence of or in any way related to the respective Municipalities' obligations under this Agreement or any action or actions properly taken hereunder.

16. Resolution of Disputes

- 16.1 The Municipalities agree to use best efforts to resolve disputes informally and amicably at an early stage.
- 16.2 In the event of any disagreement or dispute between the municipalities concerning the responsibilities under this Intermunicipal Agreement or the agreements with respect to cost recovery or division of revenue, the parties may use the services of a private mediator to facilitate resolution of disagreement or dispute.
- 16.3 The parties may jointly select the mediator and the cost of the mediator's services shall be shared equally by all the parties.
- 16.4 In the event the parties are unable to resolve a disagreement or dispute, the dispute may be submitted to arbitration in accordance with the provisions of the *Arbitration Act*, 1991, S.O. 1991, c.17.
- 16.5 Notwithstanding that a matter has been referred to dispute resolution under the provisions of this Section 16, the Municipalities shall throughout the period of Dispute Resolution endeavour to perform their respective obligations under the terms of this Agreement to the best of their abilities.

17. Term

The term of this Agreement shall be for the duration of the Transfer Agreement.

18. Termination

18.1 No notice to terminate this Agreement or the Transfer Agreement shall be given unless requested by a majority of the Municipalities having a majority of the electors in Niagara Region and by a two-thirds (2/3) vote at Regional Council.

18.2 Upon such request, the provisions of the MOU apply.

18.3 Property disposal resulting from termination shall occur pursuant to Section 10 of this Agreement.

19. Notice

Any notice which is permitted or required pursuant to this Agreement shall be in writing and shall be served personally or by registered mail upon:

Ms. Carolyn Kett
Municipal Clerk
Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, ON L2A 2S6

Ms. Kathryn J. Vout
Municipal Clerk
Town of Grimsby
P.O. Box 159
160 Livingston Avenue
Grimsby, ON L3M 4G3

Mr. Troy McHarg
Town Clerk/Treasurer
Town of Lincoln
4800 South Service Road
Beamsville, ON LOR 1B1

Mr. E. C. Wagg
Municipal Clerk
City of Niagara Falls
4310 Queen Street
Niagara Falls, ON L2E 6X5

Mr. Martin Yamich
Municipal Clerk
Town of Niagara on the Lake
P.O. Box 100
1593 Creek Road
Virgil, ON LOS 1T0

Ms. Cheryl Miclette
Clerk
Town of Pelham
P.O. Box 40020 Pelham Town
Square
Fonthill, ON LOS 1E0

Ms. Janet Beckett
City Clerk
City of Port Colborne
66 Charlotte Street
Port Colborne, ON L3K 3C8

Mr. Ken Todd
City Clerk
City of St. Catharines, Box 3012
St. Catharines, ON L2R 7C2

Mr. John Bice
City Clerk
City of Thorold
P.O. Box 1044
7 Carleton St. South
Thorold, ON L2V 4A7

Mr. Albert Guiler
Clerk/Treasurer
Township of Wainfleet
P.O. Box 40
Wainfleet, ON LOS 1V0
Mr. Rod Hollick
Regional Clerk
Regional Municipality of Niagara
2201 St. Davids Road
P.O. Box 1042
Thorold, ON L2V 4T7

Mr. Craig Stirtzinger
City Clerk
City of Welland
411 East Main Street
Welland, ON L3B 3X4

Mr. Salter Hayden
Clerk
Township of West Lincoln
P.O. Box 400
318 Canborough Street
Smithville, ON LOR 2A0

20. Severability

In the event that any covenant, provision or term of this Agreement should at any time be held by any competent tribunal or court of law having jurisdiction in Ontario to be void or unenforceable, then the Agreement shall not fail, but the covenant, provision or term shall be deemed to be severable from the remainder of this Agreement, which shall otherwise remain in full force and effect.

21. Estoppel

No party or parties shall call into question, directly or indirectly, in any proceedings whatsoever in law or in equity or before any administrative tribunal, the right of the parties or any of them to enter into this Agreement or the enforceability of any term, agreement, provision, covenant and/or condition contained in this Agreement, and this clause may be pleaded as an estoppel as against any such party in any proceedings.

22. Successors and Assigns

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

23. Proviso Clause

Notwithstanding any other provision in this agreement to the contrary, all of the parties to this agreement agree that:

- 23.1 Titles to the present Fort Erie Court facility will be transferred to the agent in trust for all municipalities.
- 23.2 The present Fort Erie Court facility will remain open and in continued use as a court facility.
- 23.3 The agent shall not dispose of the present Fort Erie Court facility to any other person or entity unless the Council of the Town of Fort Erie first consents in writing thereto.
- 23.4 Any and all prosecutions conducted under the *Provincial Offenses Act* emanating from the Town of Fort Erie shall be prosecuted at the present Fort Erie Court facility.

IN WITNESS WHEREOF the parties hereto have executed this Niagara Region Courts Inter-municipal Agreement.

THE CORPORATION OF THE TOWN OF FORT ERIE

Per: _____

Name: WAYNE REDEKOP
 Position: Mayor
 Authorized Signing Officer

Per: _____

Name: Carolyn KETT
 Position: Clerk
 Authorized Signing Officer

DATED AT Fort Erie, THIS 30th DAY OF October, 2000.

THE CORPORATION OF THE TOWN OF LINCOLN

Per: Name: ~~RAY A. KUNKLE~~ S. BRUCE PERUKEPosition: ~~MAYOR~~ ACTING C.A.O.

Authorized Signing Officer

Per: 


Name: TROY MCHARG

Position: CLERK

Authorized Signing Officer

DATED AT LINCOLN, THIS 6th DAY OF JUNE, 2000.CERTIFIED
TRUE COPY
CLERK

THE CORPORATION OF THE CITY OF NIAGARA FALLS

Per: _____

Name: RAY KALLIO
Position: ACTING CITY CLERK
Authorized Signing Officer

Per: _____

Name: MAYOR WAYNE THOMSON
Position: MAYOR
Authorized Signing Officer

DATED AT Niagara Falls, THIS 31st DAY OF May, 2000.

THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE

Per: Art T. Viola

Name: Art T. Viola
Position: Lord Mayor
Authorized Signing Officer

Per: Martin J. Yanich

Name: Martin J. Yanich
Position: Town Clerk
Authorized Signing Officer

DATED AT Niagara-on-the-Lake, THIS 8th DAY OF May, 2000.

Certified A True Copy

Holly David
Deputy Clerk - Town of Niagara-on-the-Lake

THE CORPORATION OF THE TOWN OF PELHAM

Per: G. Cherney

Name: Gordon Cherney

Position: CAO/Director of Financial Services

Authorized Signing Officer

Per: Cheryl Miclette

Name: Cheryl Miclette

Position: Clerk

Authorized Signing Officer

DATED AT Pelham, THIS 16th. DAY OF MAY, 2000.

TOWN OF PELHAM

CERTIFIED A TRUE COPY

Cheryl Miclette
CLERK

THE CORPORATION OF THE CITY OF PORT COLBORNE

Per: 

Name: VANCE M. BADAWEY

Position: MAYOR

Authorized Signing Officer

Per: Janet Beckett

Name: JANET BECKETT

Position: CITY CLERK

Authorized Signing Officer

DATED AT PORT COLBORNE, THIS 10TH DAY OF MAY, 2000.

CITY OF PORT COLBORNE
CERTIFIED TRUE AND CORRECT COPY

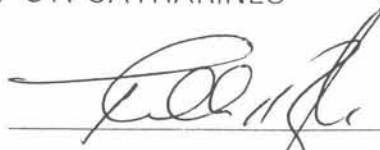
City Clerk

Janet Beckett

05/11/00

THE CORPORATION OF THE CITY OF ST. CATHARINES

Per: _____



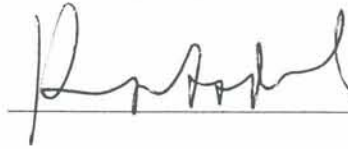
Name: Timothy Risby

Position: Mayor

Authorized Signing Officer



Per: _____



Name:

Position: Kenneth Todd

Authorized Signing Officer Clerk

DATED AT St. Catharines, THIS 10th DAY OF May, 2000.

THE CORPORATION OF THE CITY OF THOROLD

Per: Jim KennyName: TIM KENNYPosition: MAYOR

Authorized Signing Officer

Per: John R. BiceName: JOHN R. BICEPosition: CITY CLERK

Authorized Signing Officer

DATED AT THOROLD, THIS 6th DAY OF JUNE, 2000.

CERTIFIED A TRUE COPY

ON THIS 7th DAY OF JUNE 20 00John R. Bice
CITY CLERK
CORPORATION OF THE CITY OF THOROLD

THE CORPORATION OF THE TOWNSHIP OF WAINFLEET

Per: 

Name: Stan Pettit
Position: Mayor
Authorized Signing Officer

Per: 

Name: Albert C. Guiler
Position: Clerk-Treasurer
Authorized Signing Officer

DATED AT Wainfleet, THIS 25th DAY OF April, 2000.

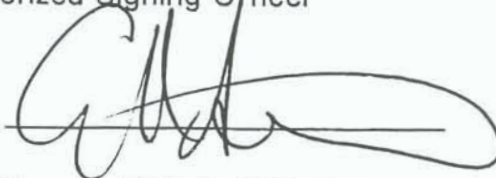
THE CORPORATION OF THE CITY OF WELLAND

Per: _____



Name: JON RICHARD REUTER
Position: MAYOR
Authorized Signing Officer

Per: _____



Name: CRAIG A. STIRTZINGER
Position: CITY CLERK
Authorized Signing Officer

DATED AT Welland, THIS 16th DAY OF May, 2000.

CERTIFIED A TRUE COPY



ASSISTANT Clerk, City of Welland

Date MAY 18 2000

THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN

Per: 

Name:

Position:

Authorized Signing Officer

Per: 

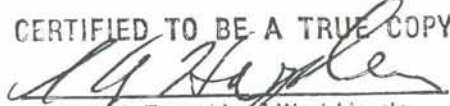
Name:

Position:

Authorized Signing Officer

DATED AT TOWNSHIP OF WEST, THIS 20 DAY OF MAY, 2000.
LINCOLN

CERTIFIED TO BE A TRUE COPY


CLERK, Township of West Lincoln

THE REGIONAL MUNICIPALITY OF NIAGARA

Per: 

Name: Debbie M. Zimmerman

Position: **Regional Chair**

Authorized Signing Officer

APPROVED FOR EXECUTION


LEGAL SERVICESPer: 

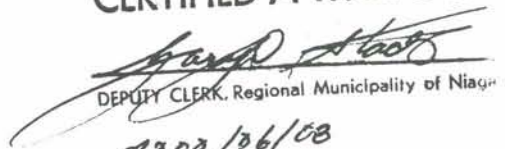
Name: Thomas R. Hollick

Position: **Regional Clerk**

Authorized Signing Officer

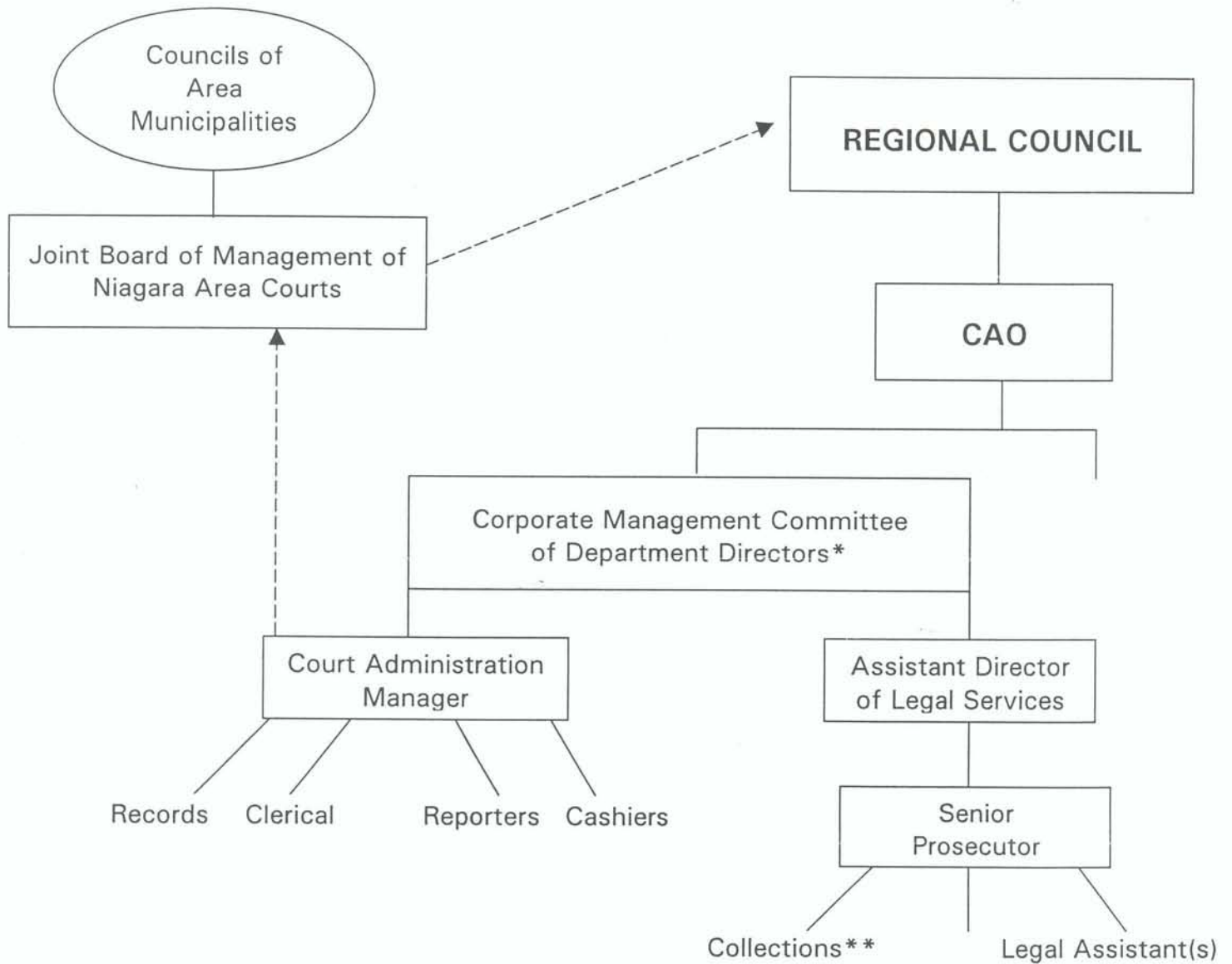
DATED AT THOROLD, THIS 8TH DAY OF JUNE, 2000.

CERTIFIED A TRUE COPY


DEPUTY CLERK, Regional Municipality of Niagara

2000/06/08

SCHEDULE A
REPORTING RELATIONSHIPS



*At the time of this submission, the Regional Municipality of Niagara is considering further Organizational Redesign. Through this effort, reporting relationships at the senior level (as relates to POA) will be aligned to assure the continued separation of POA administration and prosecution.

**Refers to collection of unpaid fines via legal process (eg. lien)

SCHEDULE B

CONFLICT OF INTEREST GUIDELINES ADOPTED IN RELATION TO ADMINISTRATION OF THE PROVINCIAL OFFENCES COURT

WHEREAS the administration of the Provincial Offences Court by the Municipal Partner pursuant to the Transfer Agreement must be conducted in accordance with fundamental principles of justice, which include judicial and prosecutorial independence, fairness, impartiality, competence and integrity;

AND WHEREAS these guidelines shall apply to all elected representatives for the Municipal Partner, and all officials and staff of the Municipal Partner;

THEREFORE The Municipal Partner agrees to implement and adhere to the Conflict of Interest Guidelines as set out below on behalf of our elected representatives and staff for all matters relating to the administration of the Provincial Offences Court in the Court Services Areas of St. Catharines, Niagara and Welland.

SECTION 1.0 – DEFINITIONS

- 1.1 “Administrator” means a person who, in the execution of his or her office or employment is engaged in the administration of court functions, including the performance or supervision of the functions of the clerk of the court, clerk monitor, trial co-ordinator, and office administrative functions;
- 1.2 “Prosecutor” means a person acting on behalf of the municipality pursuant to the Transfer Agreement in prosecution proceedings before the courts under the *Provincial Offences Act* or the *Contraventions Act* (Canada).

SECTION 2.0 – APPLICATION

- 2.1 These guidelines shall apply to all elected representatives, officials and staff of the Municipal Partner, and to persons contracting with the Municipal Partner for the performance of services under the Transfer Agreement.

SECTION 3.0 – OATH OF OFFICE

- 3.1 All staff members involved in the administration functions shall swear or affirm the oath as follows:

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

- 3.2 All Prosecutors engaging in prosecutions under the Transfer Agreement shall swear or affirm the oath as follows:

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

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

SECTION 4.0 – GENERAL GUIDELINES

- 4.1 No person shall attempt to influence or interfere, financially, politically or otherwise with employees or other persons performing duties under the Transfer Agreement.
- 4.2 All persons involved with the administration and prosecution functions of the Provincial Offences Court shall endeavor to carry out such duties in a manner which upholds the integrity of the administration of justice, and no such person shall participate in the making of a decision, or the performance of an act or omission that provides that person with an opportunity to gain a direct or indirect personal advantage, whether financial, political or otherwise.
- 4.3 No person shall disclose information that is gained in the execution of his or her office under the Transfer Agreement and is not available to the general public, or use such information to further or seek to further his or her financial political or person interest.
- 4.4 No person shall accept a fee, gift or personal benefit, except compensation authorized by law, and that is connected directly or

indirectly with the performance of his or her duties under the Transfer Agreement.

SECTION 5.0

- 5.1 An employee or other person performing duties under the Transfer Agreement shall report any attempt to improper influence or interference to the Municipal Partner and to the local Crown Attorney. No action shall be taken against the employee or other person for making any such report in good faith.
- 5.2 An employee or other person performing duties under the Transfer Agreement who is contacted by an elected official with respect to the administration of justice and matters before the court shall immediately disclose such contact to the Municipal Partner to maintain the integrity of the justice system.
- 5.3 Where an employee or other person performing duties under the Transfer Agreement has been charged with an offence created under a federal statute or regulation or a provincial statute or regulation, and where continuing to perform his or her duties may erode public confidence in the administration of justice, the charge shall be disclosed to the Municipal Partner by the employee or other person. Upon notification, the Municipal Partner shall determine if any actual or perceived conflict of interest exists, and if so, shall take appropriate action to address the conflict.
- 5.4 A prosecutor shall disclose any actual or reasonably perceived conflict of interest as soon as possible to the Municipal Partner.
- 5.5 Where a prosecutor is charged with an offence under the Criminal Code of Canada, such charge shall be disclosed forthwith to the Municipal Partner by the Prosecutor. Where a prosecutor is charged with an offence under other federal statutes or regulations thereunder or a provincial statute or regulation thereunder and where continuing to perform his or her duties may erode public confidence in the administration of justice, the charge shall be disclosed to the Municipal Partner by the Prosecutor. The Municipal Partner shall determine if any actual or perceived conflict of interest exists and if so, the Municipal Partner shall take appropriate action to address the conflict.

SECTION 6.0 - PROSECUTION GUIDELINES

- 6.1 Every Prosecutor, in addition to the above, shall adhere to the guidelines contained in this section.

- 6.2 A Prosecutor shall not also be employed as an enforcement officer.
- 6.3 A Prosecutor shall be supervised by and report to the Regional Solicitor or another lawyer designated by the Municipal Partner for this purpose.
- 6.4 A Prosecutor shall not hold or have held a municipal political office within the preceding 12 months.
- 6.5 A Prosecutor shall not be placed or place him or herself in a position where the integrity of the administration of justice could be compromised.
- 6.6 A Prosecutor shall not, personally or through any partner in the practice of law, act or be directly or indirectly involved as counsel or solicitor for any person in respect of any offence charged against the person under the laws in force in Ontario, unless it relates to his or her own case.

SECTION 7.0 – IMPLEMENTATION

- 7.1 All elected representatives of the Municipal Partner shall be provided with a copy of these Guidelines following each municipal election.
- 7.2 These Guidelines shall form part of the training provided to Administrators and Prosecutors by or on behalf of the Municipal Partner, and shall also be provided to all persons contracting with the Municipal Partner to perform services in connection with the administration of justice.
- 7.3 These guidelines shall also form part of the Human Resources orientation for all current and new municipal officials and staff.

SECTION 8.0 – BREACH

- 8.1 As a result of any breach by an elected representative or official or staff member, the Municipal Partner may be in breach of the Memorandum of Understanding with Her Majesty the Queen in right of Ontario as represented by the Attorney General.
- 8.2 Although these are guidelines, the actions which constituted a breach may result in charges under the Criminal Code of Canada, Provincial statute or other disciplinary action.