



STAFF REPORT ACTION REQUIRED

Agreement Approvals Required for Red Light Camera Operations

Date:	December 21, 2012
To:	Public Works and Infrastructure Committee
From:	General Manager, Transportation Services
Wards:	All
Reference Number:	P:\2013\Clusterb\TRA\TMC\pw13001tmc

SUMMARY

This report requests authority to enter into an agreement with Her Majesty the Queen in Right of Ontario, as represented by the Minister of Transportation, for access and use of vehicle registration information required to continue to operate red light camera systems.

This report also requests authority to enter into an agreement with various municipalities for the purpose of both adding The Regional Municipality of York as a partnering municipality to the red light camera processing agreement related to the joint municipal processing centre and making any necessary changes to reflect the new agreement with Her Majesty the Queen in Right of Ontario, as represented by the Minister of Transportation.

RECOMMENDATIONS

The General Manager, Transportation Services recommends that City Council grant:

1. Approval to negotiate, enter into and execute a new agreement with Her Majesty the Queen in Right of Ontario, as represented by the Minister of Transportation (the "MTO"), for the access and use of licence plate registration information on terms and conditions generally as set out in this report and on such other terms and conditions satisfactory to the General Manager of Transportation Services and in a form satisfactory to the City Solicitor; and
2. Approval to negotiate, enter into and execute an agreement to amend the existing agreement between the City of Toronto and The Regional Municipality of Halton

("Halton"), City of Hamilton ("Hamilton"), The Regional Municipality of Waterloo ("Waterloo"), City of Ottawa ("Ottawa"), and The Regional Municipality of Peel ("Peel") for red light camera record processing and for their cost-sharing of the expenses of the joint municipal processing centre and for the purposes of adding The Regional Municipality of York ("York") to the agreement and of making any necessary changes to reflect the new agreement with Her Majesty the Queen in Right of Ontario, as represented by the Minister of Transportation, on terms and conditions generally as set out in this report and on such other terms and conditions satisfactory to the General Manager of Transportation Services and in a form satisfactory to the City Solicitor.

FINANCIAL IMPACT

For the agreement with MTO for access and use of licence plate registration information, funding in the amount of \$35,000 is included in the 2013 Transportation Services Base Operating Budget in account TP0393 - 4515. .

Regarding the joint municipal red light camera processing centre which the City of Toronto operates for all Partnering Municipalities in Ontario, York Region's request to enter into an agreement with the City of Toronto is not included in 2013 Transportation Services Base Operating Budget. The agreement with York for its share of the red light camera processing costs will increase revenue in account TP0393 – 9695 by an estimated \$129,700., in 2013 thereby reducing the City's net cost by the same amount.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information. Actual revenues will be monitored over 2013, incorporating required changes through the 2014 Budget process.

DECISION HISTORY

At its meeting of May 23, 24 and 25, 2006, City Council adopted the recommendations within Clause 18 of Policy and Finance Committee Report No. 4 “Red-Light Camera Operations: Contract Extensions and Request for Proposal 9148-05-5048 for the Supply, Installation, Operation and Maintenance of Red-Light Camera Systems Within the City of Toronto and Other Municipalities Within Ontario”. This report details the functions and services provided by the City of Toronto's Joint Municipal Red Light Camera Processing Centre and the associated cost-sharing agreements with other municipalities which operate red light camera systems.

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060523/pof4rpt/cl018.pdf>

At its meeting of April 28 and 29, 2008, City Council adopted the recommendations within Clause 10 of Public Works and Infrastructure Committee Report No. 14 “Contract and Resource Approval Required for Red-Light Camera Operations”. This report details

the terms of the current red light camera operational agreement with the Ontario Ministry of Transportation.

<http://www.toronto.ca/legdocs/mmis/2008/pw/bgrd/backgroundfile-11860.pdf>

ISSUE BACKGROUND

The City is currently one of six municipalities designated by regulation to operate red-light cameras in the Province of Ontario. In addition to managing its own red light cameras, the City currently operates the joint municipal processing centre on behalf of Hamilton, Ottawa, Peel, Waterloo and Halton (the "Partnering Municipalities").

The red light camera operational agreement between the City and MTO took effect in April 2007 (the "2007 MTO Agreement"). The 2007 MTO Agreement provided the City with the authority to use licence plate registration information for laying red light violation charges and established the City's requirements associated with the operation of red light camera systems. The 2007 MTO Agreement expired in April 2012. However, as there were delays on the part of MTO in preparing the new agreement and in order to provide sufficient time for each partnering municipality to obtain the requisite approvals for a new operating agreement, MTO has continued to provide vehicle registration information under the 2007 MTO Agreement and has advised that it will do so until March 31, 2013.

Consistent with the 2007 MTO Agreement, the new red light camera operational agreement with MTO (the "New Operational Agreement") is for an initial term of 12 months and 4 automatic 12-month extension terms provided neither the MTO nor the City notifies the other in writing that it wishes to terminate the agreement in advance of any renewal. The New Operational Agreement will be back-dated with an effective date of April 1, 2012.

The agreement dated November 20, 2000 that the City has with the Partnering Municipalities for services provided by the joint municipal processing centre and for sharing the cost to operate the joint municipal processing centre remains in effect. However, York has plans to begin operating red light camera systems commencing in 2013 and has requested that the City enter into an agreement with York for services provided by the joint municipal processing centre and for sharing the cost to operate the joint municipal processing centre.

COMMENTS

Red Light Camera Operational Agreement with the MTO

The New Operational Agreement is necessary in order for the City to continue to obtain access to the Provincial motor vehicle registration information and to enable charges to

continue to be laid under the red light camera program. In the event that the City does not enter into the New Operational Agreement on or before March 31, 2013, the City's authority to operate red light camera systems may be terminated by MTO. No agreement would result in the loss of the financial investment made by the City to reduce red-light running.

The terms of the New Operational Agreement are generally the same as those contained in the previous agreement with MTO.

The New Operational Agreement outlines a licensed information and transmission protocol and specifies the responsibilities and requirements of each party. In exchange for licence plate ownership information, the City is required, among other things, to:

- use licence plate registration information through the joint municipal processing centre for the purposes authorized in the agreement;
- maintain staff and system security provisions to protect confidential information;
- comply with privacy laws;
- post signs at red-light camera sites;
- include a red light running component in its public awareness campaign and promotion activities on road safety; report the collision history of monitored sites to the MTO; and
- make fee payments to MTO with respect to the red light camera system to, among other things, reimburse MTO for the City's proportionate share of MTO's costs for the system by means of a cost recovery fee.

The City's proportionate share of MTO's costs has decreased from \$137,000 per year in 2008 to an estimated cost of \$35,000 in 2013. The City's proportionate share of MTO's cost decreases as the proportion of the red light cameras in operation by the partnering municipalities' increases.

Terms of the New Operational Agreement include:

- MTO has the right to amend the licence plate registration information provided to the City and the right to stop providing licence plate registration information to the City at any time;
- the City will be in default if the City, among other things, is in default under any other agreement with MTO relating to access or use of any confidential information;
- in the event of default by the City, MTO can, without notice to the City, terminate the agreement; suspend, cancel, or revoke the City's accounts or privileges under the agreement, or refuse to accept licensed information requests or provide licensed information responses;
- MTO can terminate the agreement at any time, without cause and for any reason, upon 60 days notice to the City;

- the City is responsible for any breaches of the non-disclosure agreement by any of the other partnering municipalities and also when the partnering municipality fails to comply with audit requirements;
- the City must provide the MTO with a very broad indemnity;
- the city must provide the MTO with an annual declaration confirming that staff who have access to and use licence plate registration information complete and sign a security statement related to the use of confidential information and that licence plate registration information is kept secure from unauthorized access;
- MTO has the right to adjust its fees in order to cover all costs to the Province related to Red-Light Camera Systems. and
- MTO does not provide any warranty with respect to the licensed information provided by MTO, MTO denies any liability of any kind on the part of MTO to the City and MTO denies any indemnification by the MTO of the City for any damages, actions, claims, demands, lawsuits, or other proceedings.

Red Light Camera Processing Agreement with the Partnering Municipalities and York

The City has an agreement with the Partnering Municipalities which details the services and functions undertaken by the joint municipal processing centre. The agreement, dated November 20, 2000, details the responsibilities of the Partnering Municipalities and the City, includes liability and indemnity provisions as well as a cost-sharing formula.

The City's joint municipal processing centre reviews all photos, processes evidence, issues tickets for red light running and prepares evidence to be used in court proceedings by City staff and the staff of Partnering Municipalities.

On April 19, 2012, the Council of York resolved to include funding for a red light camera program in their 2013 budget.

The Province of Ontario has amended the Red Light Camera System Evidence Regulation to include York as a designated red light camera municipality, effective January 1, 2013.

York's Commissioner of Transportation and Community Planning has formally requested that the City enter into a Red Light Camera Processing Services and Cost Sharing Agreement with York.

Amendment is now required to the existing agreement with the Partnering Municipalities to reflect the New Operational Agreement and to include York as a participating municipality commencing in 2013 (the "New Participating Municipality Agreement"). The terms of the New Participating Municipality Agreement will be generally the same as those contained in the previous agreement with the Partnering Municipalities, detailing the services provided by the joint municipal processing centre, which include:

- verification of red light camera records;

- obtaining licence plate ownership information;
- preparation of charging documents and notices;
- preparation of evidence to be used in municipal prosecutions; and

Consistent with the previous agreement with the Partnering Municipalities, the New Participating Municipality Agreement will detail the formula used to determine the distribution of cost sharing.

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SIGNATURE

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