



**CITY OF HAMILTON**  
**PUBLIC WORKS DEPARTMENT**  
**Transportation Operations and Maintenance Division**

<b>TO:</b>	Chair and Members Public Works Committee
<b>COMMITTEE DATE:</b>	January 13, 2020
<b>SUBJECT/REPORT NO:</b>	Joint Jurisdiction Highway Routine Maintenance and Repair Agreements (PW07089(a)) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Lorraine Hagar (905) 546-2424 Ext. 2159
<b>SUBMITTED BY:</b>	Edward Soldo Director, Transportation Operations & Maintenance Public Works Department
<b>SIGNATURE:</b>	

**RECOMMENDATIONS**

- (a) That the General Manager of Public Works or his designate be authorized and directed to negotiate/renegotiate, enter into, and execute separate Joint Jurisdiction Highway Routine Maintenance and Repair Agreements, and all amendments and ancillary documents, with bordering municipalities (as attached to Report PW07089(a) as Appendices “A” and “B”) for the purpose of the repair and routine maintenance of shared highways, in accordance with the principles contained in this report PW07089(a), all in a form satisfactory to the City Solicitor;
- (b) That the authorization and direction hereby granted to the General Manager of Public Works supersedes and replaces any previous authorization and direction granted by Council with respect to the negotiation and execution of Joint Jurisdiction Highway Routine Maintenance and Repair Agreements with bordering municipalities; and
- (c) That the following By-laws are hereby repealed:
- (i) Flamborough By-law No. 91-114-A, By-law No. 91-29-R, By-law No. 94-05-A, By-law No. 92-17-A;
  - (ii) Ancaster By-law No. 89-64, By-law 1829, By-law No. 84-78, By-law No. 90-79;
  - (iii) Glanbrook By-law No. 528-95, By-law No. 429-90; and
  - (iv) Stoney Creek By-law No. 3860-93.

## **EXECUTIVE SUMMARY**

The *Municipal Act, 2001, S.O. 2001, c.25, s.29* establishes that local municipalities have joint jurisdiction over the highways that form the boundary line between them (commonly referred to as “boundary roads”) and that adjoining municipalities may enter into agreements regarding the maintenance and repair of these shared highways. By entering into such an agreement, the assigned municipality agrees to keep the highway in good repair and is liable for any damages that arise from the failure to keep the highway in repair.

These Joint Jurisdiction Highway Routine Maintenance and Repair Agreements (commonly referred to as “Boundary Road Agreements”) are advantageous to both parties, as they set out and formalize the operational framework addressing maintenance and repair services and standards, the apportionment of work between the jurisdictions, cost sharing, and legal liability.

The majority of the City’s Boundary Road Agreements are currently expired; therefore, staff is seeking Council authority to update and renew the Boundary Road Agreements with bordering municipal counterparts through Report PW07089(a).

## **Alternatives for Consideration – See Page 6**

## **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: There is not expected to be a financial impact relative to the recommendations in this report. A discussion of the costs associated with boundary agreements is included in the analysis section of this report.

Staffing: N/A

Legal: N/A

## **HISTORICAL BACKGROUND**

Prior to amalgamation, there were 18 Boundary Road Agreements in place between the various lower tier municipalities and their adjoining jurisdictions, established under the authority of the former Municipal Act. By 2005, however, all of these pre-amalgamation agreements had expired. From 2005 to early 2007, the City of Hamilton led efforts to negotiate new Boundary Road Agreements with the eight relevant adjoining jurisdictions, specifically:

1. County of Brant;
2. City of Burlington;
3. Region of Halton;

4. Haldimand County;
5. Town of Milton;
6. Township of North Dumfries;
7. Township of Puslinch; and
8. Township of West Lincoln

During this time, staff undertook a comprehensive Boundary Road Agreement review and entered into discussions with their counterparts in the bordering municipalities to clarify road inventory, re-allocate road segment responsibility (either for operational simplicity or to establish a more equitable split between the parties), and mitigate any further concerns.

Staff presented a report to Council on June 18, 2007 (PW07089) that recommended, in addition to other items, that the City be authorized to enter into new Joint Jurisdiction Highway Routine Maintenance and Repair Agreements with the eight relevant bordering municipalities. This report was approved by Council and the recommendations included therein were enacted by By-law No. 07-199. Staff then set out to enter into formal negotiations and execute new agreements with the applicable bordering municipalities.

Staff successfully negotiated and executed agreements with six of the eight relevant local bodies under the previous authority. Negotiations stalled with the two remaining municipalities (Brant and Haldimand counties) and formal agreements were never reached. However, Roadway Maintenance staff continued to maintain the joint jurisdiction highways shared with these two municipalities based on previous agreement provisions and current Minimum Maintenance Standards (MMS).

Currently, the majority of the Boundary Road Agreements that were executed under the authority granted in 2007 have expired. Staff have engaged their counterparts in the eight relevant bordering municipalities with the aim to negotiate and execute new agreements with all adjoining jurisdictions. Public Works and Legal staff have prepared draft agreements based on provisions made in earlier agreements and practical insight gained throughout the term of the previous agreements.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

Boundary Road Agreements comply with the following:

- City of Hamilton Winter Control Service Level Standards TOE01113
- Minimum Maintenance Standards for Municipal Highways Regulation, O. Reg. 366/18
- *Municipal Act, 2001*
- Ontario Structure Inspection Manual (OSIM)

## **RELEVANT CONSULTATION**

The following groups have been consulted with respect to the development of Boundary Road Agreements:

- City of Hamilton Corporate Services: Legal & Risk Management Services, Finance & Administration, and the Office of the City Clerk
- Joint Jurisdiction Local Bodies: County of Brant, City of Burlington, Haldimand County, Region of Halton, Town of Milton, Township of North Dumfries, Township of Puslinch, and Township of West Lincoln

## **ANALYSIS AND RATIONALE FOR RECOMMENDATIONS**

The Boundary Road Agreements, as assessed based on previous road segment allocations and using updated geospatial data, address approximately 164 total road lane kilometres (as attached to Report PW107089(a) as Appendices “A” and “B”). These lane kilometres are subject to change based on negotiations with bordering municipalities. The basic premise of these agreements is that the adjoining jurisdictions negotiate and formalize which segments of the shared highway each party is responsible for, such that each jurisdiction will conduct all maintenance and repair work associated with their assigned segment(s), all year long, and in every respect.

Staff have endeavoured to mitigate potential issues that may arise during negotiations by using the framework and road segment allocations of previous agreements in the proposed agreements, and by further examining such issues as service levels, connecting roads, and financial considerations.

### **(a) Service Levels:**

The majority of the City of Hamilton’s Winter Control Level of Services exceeds Ministry standards and have historically been higher than those delivered by adjoining jurisdictions. In previous discussions with bordering municipalities, this service variation presented a practical problem regarding the shared maintenance of higher class roads. Accordingly, the workload allocations in the proposed agreements remain consistent with the last round of negotiations, as all higher class road segments potentially affected by service level variations are allocated under the City of Hamilton’s responsibility. As such, the City will experience no drop in delivery of service, and motorists will experience no fluctuations in driving conditions created by the proposed Boundary Road Agreement structure. Non-winter routine maintenance and repair of the shared highways, as well as the maintenance and repair of structures along these roadways, will follow the City’s Roadway Maintenance program, as prescribed by the standards set out in the *Minimum Maintenance Standards for Municipal Highways Regulation, O.Reg. 366/18*.

---

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

(b) Connecting Roads:

During the 2007 Boundary Road Agreement discussions, the scope of applicable agreements was expanded to include provisions for the maintenance and repair of “Connecting Roads”. Connecting Roads are those roadways that cross the boundary line, but which are not “shared” in terms of joint jurisdiction, and which for the purpose of operational efficiency are maintained by staff from the bordering municipality into the owning municipality’s jurisdiction. A long-standing practice is for Road Operators to continue to maintain the portion of the highway belonging to the bordering municipality leading up to a turn-around point, with reciprocal arrangements. This practice was identified as a matter to be addressed and formalized within the scope of the applicable Boundary Road Agreements in 2007 and will continue to be incorporated into new agreements.

(b) Financial Considerations:

The intention of Boundary Road Agreements is for there to be equal sharing of the cost of routine maintenance and repair of the joint jurisdiction highway workload. However, variances in workload occur due to operational efficiencies and resource accessibilities. When variances in workload exist, the agreements are structured such that the jurisdiction undertaking the greater share of the workload invoices the other party on an annual basis for each kilometre in excess of 50% of the total workload plus applicable administrative costs. Each variance kilometre is to be charged at an agreed upon Annual Municipal Performance Measurement Program (MPMP) rate and annual increases to this rate are to be applied based on the 12-month rolling Statistics Canada Consumer Price Index for Ontario.

The actual financial impact to the City as a result of these agreements is yet to be determined and will be substantiated through negotiations with bordering municipal counterparts. The cost invoiced by the party taking on more than 50% of the workload depends on the agreed upon workload allocation (i.e. road segment apportionment) and MPMP rates. The City will endeavour to accurately reflect the cost of maintaining shared highways by invoicing based on road surface type. Thus, both “hardtop” and “loosetop” figures from the City of Hamilton’s MPMP will be presented in proposed agreements for each variance road kilometre that the City maintains. Historically, one figure (“hardtop”) has been used in these calculations; however, highways having a “loosetop” surface, such as gravel, necessitate a higher cost to maintain. This change of including two costs per lane kilometre may result in further negotiations in order to even out the costs of maintaining boundary roads. Staff will endeavour to equalize payments and workload as much as is practicable.

To demonstrate possible net financial impact, if the workload allocations of previous agreements were maintained, and by using the two costing figures from current MPMP rates, the City could potentially receive an estimated net annual amount of \$49,700 in the first year of the executed agreements. However, if bordering municipalities are not in agreement of the two figure costing method and the single “hardtop” figure was used, the City may incur an estimated net cost of \$23,400. Through negotiation, including the possible re-assignment of roadway segments, the actual figure may be somewhere in between these two estimates, or an amount closer to a net zero dollar impact.

Any net cost to the City resulting from Joint Jurisdiction Highway Routine Maintenance and Repair Agreements will be funded from the Roadway Maintenance Operating Budget. Staff is seeking Council’s approval to negotiate agreements where the City’s net payment to bordering municipalities will have an upset limit of \$30,000 annually. These outgoing payments do not reflect a new cost to the City, but are accounted for within existing budgets. Any net incoming payments for the City resulting from Joint Jurisdiction Highway Routine Maintenance and Repair Agreements will be credited against the Roadway Maintenance Operating Budget as a cost recovery.

Capital improvement or road construction work falls outside of the scope of the Boundary Road Agreements and requires the prior approval from both municipalities. The cost sharing of such projects will be subsequently determined on a project-by-project basis.

The Boundary Road Agreements are cyclical in nature, as the terms of such agreements normally extend for five to ten years. Staff is recommending that authority be granted to renegotiate and enter into these agreements on a recurring basis, as a regular business activity within the Transportation Operations & Maintenance Division of the Public Works Department.

## **ALTERNATIVES FOR CONSIDERATION**

The alternative is to not enter into new Boundary Road Agreements. This course of action is not recommended, however, as it presents potential operational, financial, and legal concerns including:

- Liability for both parties for all segments of the shared joint jurisdiction highways;
- Uneven workload responsibilities between the parties with no financial recompense;
- Inefficiencies due to duplication of maintenance on road segments by both parties;

---

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

- Negligence due to road segments receiving no maintenance from either party;  
and
- Service level variances for residents of the same jurisdiction.

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Healthy and Safe Communities**

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

### **Built Environment and Infrastructure**

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

### **Our People and Performance**

Hamiltonians have a high level of trust and confidence in their City government.

## **APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” to Report PW07089(a) – Boundary & Connecting Roads Summary Table

Appendix “B” to Report PW07089(a) – City-Wide Boundary & Connecting Roads Map