

NO: **R024**

COUNCIL DATE: **February 10, 2020**

---

## REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **February 7, 2020**

FROM: **General Manager, Corporate Services**

FILE: **3900-01**

SUBJECT: **Transportation Network Services (Ride-Hailing)**

---

## RECOMMENDATION

The Corporate Services Department recommends that Council:

1. Receive this report for information; and
2. Instruct staff to work with neighbouring municipalities to create an Inter-Municipal Business License (“IMBL”) related to Transportation Network Services (“TNS”), otherwise known as ride-hailing (Option 1 as detailed in this report);
3. Support the January 30, 2020 Mayors Council position calling for a level playing field between TNS Services and the Taxi Cab Industry through the following actions:
  - a) Urge municipalities within Region 1 to harmonize existing municipal fees on taxicabs with the fees proposed in the IMBL for ride-hailing; and
  - b) Urge the Province and Passenger Transportation Board to level the playing field between taxis and TNSs by reviewing taxi boundaries, fleet caps and insurance requirements, and ensuring that a solid mechanism is put in place to subsidize those approved TNS vehicles or taxis that provide adequate accessible services for customers who rely on mobility devices such as wheelchairs and scooters.

## INTENT

The purpose of this report is to apprise Council of the three options provided by the PTB with respect to accommodating TNS operations in the City and to obtain Council’s direction for staff to proceed with one of the three options provided to municipalities by the PTB as outlined in this report.

## BACKGROUND

In fall 2018, the Provincial government passed the *Passenger Transportation Amendment Act* permitting ride-hailing companies to apply to the PTB to enter the BC market.

In August 2019, the PTB implemented new regulations and licensing processes to accommodate TNS in BC. TNS is the generic name given to ride hailing services, commonly provided in many

cities globally by companies such as Uber or Lyft. Accordingly, a suite of amendments to the *Passenger Transportation Act*, *Motor Vehicle Act*, and other legislation (the “regulations”) came into effect on September 16, 2019. These amendments provide the legislative basis for introducing TNS. The regulations provide sole authority to the PTB to consider and approve TNS applications and to set operating areas, fleet sizes, rates and data requirements as conditions of a TNS license. In addition, the PTB requires TNS companies to work with municipalities in their operating areas to ensure compliance with local bylaws

With the new regulations, the PTB created 5 large regional boundaries in BC for TNS companies including:

- Region 1: Lower Mainland/Whistler: including Metro Vancouver, Fraser Valley, Squamish-Lillooet;
- Region 2: Capital Regional District: excluding the Gulf Islands;
- Region 3: Vancouver Island: excluding the Capital Regional District;
- Region 4: Okanagan-Kootenay-Boundary-Cariboo: including the Central Okanagan; North Okanagan, Kootenay Boundary, Shuswap Cariboo, Thompson-Nicola and Columbia; and
- Region 5: B.C. North Central and all other regions of B.C.

In September 2019, the PTB allowed TNS companies to apply to the Province for a license to begin offering ride hailing services in early 2020. Subsequently, municipalities began to develop their own municipal business licensing schemes. However, at the December 12, 2019 Mayors’ Council, direction was provided to TransLink to facilitate the development of an interim Inter-Municipal Business License by January 30, 2020. Accordingly, staff from all municipalities in Region 1 were invited to participate in developing the IMBL. Staff from the City of Surrey has been participating in this group. A two-phased approach is being considered to implement an IMBL; Phase One requires that an Interim IMBL be considered by each municipal Council for adoption by February/March 2020; and Phase Two reflects a move towards a permanent IMBL by December 31, 2020.

## DISCUSSION

### **Municipal Options for Business Licensing TNS Operations**

The Ministry of Transportation and Infrastructure (“MoTI”) and the PTB have mandated that municipalities have 3 options to choose from with respect to accommodating TNS:

1. Work with neighbouring municipalities to create an IMBL; or
2. Establish their own municipal business license requirement, independent of neighbouring municipalities; or
3. Decide not to establish a business license requirement for TNSs. Explicitly exempt TNSs or choose not to enforce TNS services within the municipality.

Each of these options are outlined below:

**Option 1: Creation of an IMBL (RECOMMENDED OPTION)**

An IMBL allows TNS companies to operate across participating municipalities with the purchase of one IMBL. It is formed through a common bylaw enacted by each participating municipality. As reflected earlier in this report, a two-phased approach is being considered to implement an IMBL; Phase One requires that an Interim IMBL be considered by each municipal Council for adoption by February/March, 2020; and Phase Two reflects a move towards a permanent IMBL by December 31, 2020.

The IMBL working group has developed an “interim” intermunicipal business license option for the region for presentation to each respective council (within Region 1). The City of Vancouver has volunteered to act as the singular licensing body for TNS companies for an undetermined interim period.

The intermunicipal business license approach is an interim option which provides local municipalities the opportunity to gather data, review industry impact and negotiate a path forward with more information.

The City of Vancouver will disperse fees and data to other municipalities on behalf of Region 1:

- The City of Vancouver will license each company, i.e. Uber, Lyft, etc. at \$155 per company and \$150 per vehicle (all cost recovery)
- Fees will be dispersed by the City of Vancouver to each Region 1 municipality based on pick-ups within each respective municipality (based on the data)

The City of Vancouver will retain a portion of the licensing fees to offset their administrative costs. At this time, the percentage of the fee that Vancouver will retain is not known. Vancouver officials have advised that once they are operational they will have a better understanding of the level of effort required. Accordingly, Vancouver will provide member municipalities their fee requirements at a later date. Given that the IMBL is interim in nature, should member municipalities not be satisfied with Vancouver’s fee requirements, they may choose to opt out of the IMBL group after the fee structure is announced (or at any time).

If the interim process is deemed unsuccessful, IMBL Region 1 municipalities will be required to determine a viable alternative approach to licensing.

Staff’s understanding from TransLink is that, should the process fail where there is no cohesion amongst Region 1 municipalities, then the Province will step in and take control of managing the entire system (and retain associated revenues).

## **Option 2 and Option 3**

Alternatively, Council may choose one of the following options:

### **Option 2: Municipalities Establish their own municipal business license requirement, independent of neighbouring municipalities.**

The City can proceed with developing and implementing a local business license option which would require TNS operators to apply and maintain licensing in Surrey. This approach allows for more specialized requirements; for example, requirements related to zero emissions vehicles, accessible vehicles or pricing models.

In contrast, the IMBL model tends towards broader common goals across Region 1 municipal boundaries in order to maintain participation across a wide range of needs for TNS vehicles. This same reasoning should be applied by the PTB as it pertains to the Taxi Cab industry as this would help level the playing field as was requested by the January 30, 2020 Mayors Council. The PTB would continue to retain their authority to approve operators, vehicles and drivers irrespective of the City's licensing approach.

The risk associated with a patchwork of business licensing regulations in the region is that the Province could determine that the independent licensing process results in a barrier to entry for the industry. Should this occur the Province could remove TNS and/or all Passenger Directed Vehicles (such as taxis) from within the City's regulatory authority.

Notwithstanding the above, should Council approve an interim IMBL approach at this time, and it is later deemed that it would be more advantageous for the City to establish its own municipal business licensing requirements, this option can be revisited at a that time. In an effort to mitigate any risks associated with establishing an independent municipal business license requirement, it is suggested that local municipalities work collaboratively to develop a uniform approach to licensing.

### **Option 3: Decide not to establish a business license requirement for TNSs. Explicitly exempt TNSs or choose not to enforce TNS services within the municipality.**

As regulating business is a municipal authority, the City can choose to permit TNS to operate under provincial regulations without requiring local licensing. This model does not provide the City with any data related to the road use aspects of TNS and limits Surrey's influence with respect to problematic operators or drivers. Neither does it provide us with any revenue associated with offsetting the cost of the business operating on our roads.

## **January 30, 2020 Mayors' Council Meeting**

At the January 30, 2020 Mayors' Council on Regional Transportation meeting, the draft interim IMBL and framework was endorsed by the Mayors' Council (Option 1). In addition, member municipalities expressed concerns in the process that the PTB and the Province undertook when implementing ride-sharing without consulting with municipalities, as well as the lack of a level playing field with the taxi industry. The main theme was that the Mayor's desire is to ensure that the public have many transportation options while ensuring there is no destabilising of the taxi industry.

To this end, the following was approved nearly unanimously by the January 30, 2020 Mayors Council:

1. Request a meeting with the PTB Chair to report on their response to matters of mutual interest;
2. Endorse the principles and framework for establishing and administering an interim Inter-Municipal Business Licence (IMBL);
3. Urge municipalities within Region 1 to adopt the associated interim IMBL bylaw as quickly as possible;
4. Urge municipalities within Region 1 to harmonize existing municipal fees on taxicabs with the fees proposed in the IMBL for ride-hailing; and
5. Urge the Province and Passenger Transportation Board to level the playing field between taxis and TNSs by reviewing taxi boundaries, fleet caps and insurance requirements, and ensuring that a solid mechanism is put in place to subsidize those approved TNS vehicles or taxis that provide adequate accessible services for customers who rely on mobility devices such as wheelchairs and scooters.

### **LITIGATION WITH UBER**

On January 23, 2020, MoTI and the PTB made an unexpected announcement that TNS companies UBER and Lyft have been granted licenses (by the PTB) to operate in Region 1 which encompasses all municipalities from Whistler to Hope, including Surrey. This announcement came as a surprise to Metro Vancouver municipalities that have been working towards a draft IMBL bylaw to be presented to each respective municipal Council for consideration by March 31, 2020.

On January 24, 2020 it was discovered that UBER had initiated TNS services in Surrey (Lyft has not initiated any TNS service in the City). UBER was asked to suspend their services. It was explained to the UBER representatives that while the PTB has authorized ride sharing in the Lower Mainland, and municipalities do not have the authority to ban the industry, municipalities do retain the authority to require that any business wishing to operate must first have a business license. Municipalities retain the authority to enforce their respective Business License Bylaws against anyone conducting business without a valid license.

It was further explained to UBER that the City of Surrey (at the staff level) has been participating in good faith with all Region 1 municipalities towards the development of a IMBL framework (bylaw) as directed by the Dec 12, 2019 Mayors Council and that our respective municipal councils must make its decision on the bylaw in the coming months.

It is reasonable for the City to not allow ride hailing in the City for a limited period of time to afford Council a reasonable opportunity to consider amendments to the Business License Bylaw and/or to consider how Council wishes to proceed with regulating the industry as per the above. Until then, staff will not issue licenses to a ride-hailing company. Any ride-hailing company that operates within Surrey without a business license may be fined.

UBER advised that they would not suspend their services. As a result, staff issued warnings to UBER drivers during for a 2-day period (January 25<sup>th</sup> and 26<sup>th</sup>, 2020). On Tuesday January 28, 2020 staff commenced with issuing UBER drivers violation tickets at \$500 per offense. In addition, UBER Canada Inc. was issued a \$500 fine for each day of operation.

As a result, UBER initiated litigation against the City via a Notice of Application for an urgent injunction to compel the City, via the courts, to cease its enforcement actions. A court hearing date was set for February 5, 2020. Subsequently, on February 7, 2020 the BC Supreme Court ruled in favour of UBER. Accordingly, the City will stop its enforcement actions and continue on its efforts to ensure that UBER obtains the required business license as directed by Council.

### **Next Steps**

Based on the option that Council endorses as per this report, staff will subsequently bring forward the required bylaw at the March 9, 2020 Council for consideration.

### **Legal and Legislative Services Review**

The City's Legal Services Division has reviewed this report and have no concerns.

### **SUSTAINABILITY CONSIDERATIONS**

The recommendations of this report support the objectives of the City's Sustainability Charter 2.0. In particular, this work relates to the Sustainability Charter 2.0 theme of Infrastructure. Specifically, ride-hailing supports the following Desired Outcome ("DO"):

- Transportation DO11: An integrated and multi-modal transportation network offers affordable, convenient, accessible and safe transportation choices within the community and to regional destinations.

### **CONCLUSION**

BC municipalities have been provided three options by the PTB to accommodate TNS, as outlined in this report. Staff from the City of Surrey have been participating in the IMBL Working Group since its inception in August 2019. Accordingly, staff recommend that Council direct staff to move forward with Option 1 and work with neighbouring municipalities to create an IMBL.

Rob Costanzo  
General Manager, Corporate Services