



## **GENERAL ISSUES COMMITTEE REPORT 13-019**

**(as amended by City Council on September 25, 2013)**

**9:30 a.m.**

**Wednesday, September 18, 2013**

**Council Chambers**

**Hamilton City Hall**

**71 Main Street West**

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**Present:** Deputy Mayor J. Farr (Chair)  
Mayor R. Bratina  
Councillors C. Collins, S. Duvall, L. Ferguson, B. Johnson,  
S. Merulla, B. Morelli, J. Partridge, M. Pearson, R. Powers,  
T. Whitehead

**Absent with Regrets:** Councillors B. Clark, B. McHattie – City Business  
Councillors T. Jackson, R. Pasuta – Vacation

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### **THE GENERAL ISSUES COMMITTEE PRESENTS REPORT 13-019 AND RESPECTFULLY RECOMMENDS:**

- 1. Hamilton Police Services Board Report PSB 13-048(a) respecting Potential Relocation of Concession Street Community Policing Centre (CPC) (Item 5.1)**

That Hamilton Police Services Board Report PSB13-048(a) respecting “Potential Relocation of Concession Street Community Policing Centre (CPC)” be received.

- 2. Hamilton Police Service Monthly Reports (PSB 13-070 and PSB 13-079) (Item 5.2)**

That Hamilton Police Service Month Reports PSB13-070 and PSB13-079 be received.

- 3. Hamilton Police Service Awards (PSB 13-069) (Item 5.3)**

That Report PSB13-069 respecting “Hamilton Police Service Awards” be received.

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**4. Amended Municipality Contribution Agreement with the Ontario Lottery and Gaming Corporation (FCS12093(a)) (City Wide) (Item 5.4)**

That the Mayor and City Clerk be authorized to sign and execute the Amended and Restated Municipality Contribution Agreement (MCA) between the City of Hamilton (the "Municipality") and the Ontario Lottery and Gaming Corporation (OLG) (attached hereto as Appendix "A").

**5. Request from John McGreal to Place King George Public School on the City's Register of Significant Buildings (Item 4.3)**

That King George Public School be added to the City's Register of Significant Buildings in accordance with the Ontario Heritage Act.

**6. Emergency Management Program and Response (CS13037) (City Wide) (Item 7.1)**

That Report CS13037 respecting "Emergency Management Program and Response" be received.

**7. Analysis of Provincial Upload Savings (Outstanding Business List Item) (FCS13060) (City Wide) (Item 7.2)**

That Report FCS13060 respecting "Analysis of Provincial Upload Savings" be received.

**8. 2014 Tax Budget Preliminary Outlook (FCS13062) (City Wide) (Item 7.3)**

That Report FCS13062 respecting "2014 Tax Budget Preliminary Outlook" be received.

**9. Metrolinx Investment Strategy Update (FCS13002(a)) (City Wide) (Item 8.1)**

That Report FCS13002(a) respecting "Metrolinx Investment Strategy Update" be received.

**10. Chedoke Estate – 1 Balfour Drive, Hamilton (PED13153) (Ward 8) (Item 8.3)**

- (a) That staff be directed to access \$16,000 from the Balfour Estate Trust - Chedoke Reserve #120010 to cover maintenance costs of the Chedoke Estate incurred in 2013;
- (b) That an enhancement, in the amount of \$20,000 to the Tourism and Culture Division's base budget, be referred to the 2014 operating budget process for the maintenance of the Chedoke Estate.

**11. Tactical Urbanism Hamilton Partnership (CM13015/PW13068) (City Wide) (Item 8.4)**

That the City of Hamilton contribute \$15,000 to assist Tactical Urbanism Hamilton with the development of outreach, engagement and communication resources.

**12. Canadian Comedy Foundation for Excellence – 2014-2018 (PED13169) (City Wide) (Item 8.5)**

That Report PED13169 respecting "Canadian Comedy Foundation for Excellence – 2014-2018" be received.

**13. Hamilton Police Service 2014 Budget**

That representatives from the Hamilton Police Service **Staff and Board** be invited to attend the November 26, 2013 meeting of the General Issues Committee to provide preliminary information and commence dialogue with respect to their 2014 budget.

**14. Transfer of Operation of Concession Stands at City-operated Facilities**

That staff report back to the Emergency and Community Services Committee with respect to the status of the direction to staff to investigate the feasibility of transferring the operation of concession stands at City-operated facilities to volunteer organizations and associations.

**15. Alleyway Encroachment – 14 James Street North, Hamilton (PW12059(b))/LS12021(b))**

That Report PW12059(b)/LS12021 respecting Alleyway Encroachment – 14 James Street North, Hamilton be received and the contents remain confidential.

**FOR THE INFORMATION OF COUNCIL:**

**CEREMONIAL ACTIVITIES**

Richard Koroscil, Chair of the 2014 United Way Campaign, addressed the Committee with respect to the 2014 United Way and the need that exists in the community for the programs that are provided by the United Way through its various organizations and community members. He thanked the City of Hamilton for their continued support of the United Way and recognized the efforts of the City's team of employees who volunteer their time toward the campaign.

**(a) CHANGES TO THE AGENDA (Item 1)**

The Committee Clerk advised of the following changes:

**ADDED DELEGATION REQUEST**

- 4.3 Delegation Request from John McGreal to request that King George Public School be placed on the City's Register of Significant Buildings

**ADDED DISCUSSION ITEM**

- 8.5 Canadian Comedy Foundation for Excellence – 2014-2018 (PED13169) (City Wide)

**ADDED NOTICES OF MOTION**

- 10.1 On-Line Survey Audit of Queen Street South and Cannon Street
- 10.2 James Street North Road Closure for Art Crawl – Annually from May to November
- 10.3 Fairness to Hamilton Campaign Sub-Committee – Establishment of Council Priorities

**ADDED PRIVATE & CONFIDENTIAL**

- 12.2 Alleyway Encroachment – 14 James Street North (Ward 2) (PW13059(b)/LS12021(b))  
*Pursuant to Sub-sections 8.1(c), (e) and (f) of the City of Hamilton Procedural By-law and Section 239.2 of the Municipal Act as the subject matter pertains to: (c) a proposed or pending acquisition or disposition of land for City purposes; (e) litigation or potential litigation, including matters before administrative tribunals, affecting the City; and, (f) the receiving of advice that is subject to solicitor client privilege, including communications necessary for that purpose.*

The agenda for the September 18, 2013 meeting of the General Issues Committee was approved as amended.

**(b) DECLARATIONS OF INTEREST (Item 2)**

None

**(c) APPROVAL OF PREVIOUS MINUTES (Item 3.1)**

The Minutes of the General Issues Committee Meeting held on September 5 and 9, 2013 were approved as presented.

**(d) DELEGATION REQUESTS**

- (i) Request from Laura Babcock, Powergroup Communications Inc., “Time for Sign” Campaign, to request a complete gateway study and erect welcome signs on highway entrances to the City by Pan Am Games (Item 4.1)**

The delegation request from Laura Babcock, Powergroup Communications Inc., “Time4Sign” Campaign, was approved and the rules of order were waived in order to allow Ms. Babcock to address the Committee at today’s meeting.

- (ii) Request from Martyn Kendrick, Culture of Peace, UN Affiliate/ UNESCO, to request/suggest that Hamilton build on its reputation as a City exploring sustainability and healthy communities by supporting the establishment of Labyrinth Peace Gardens in neighbourhoods across the region (Item 4.2)**

The delegation request from Martyn Kendrick, Culture of Peace, UN Affiliate/UNESCO, to appear before the Committee was approved.

- (iii) Delegation Request from John McGreal to request that King George Public School be placed on the City’s Register of Significant Buildings (Item 4.3)**

Tim McCabe, General Manager of Planning and Economic Development, clarified for the Committee the process that is in place when a request for a demolition permit is submitted relative to the request made by Mr. McGreal with respect to King George Public School.

See Item 5 for the disposition of this item.

(e) **PUBLIC HEARINGS/DELEGATIONS**

(i) **Laura Babcock, Powergroup Communications Inc., “Time4Sign” Campaign, to request a complete gateway study and erect welcome signs on highway entrances to the City by Pan Am Games (Item 4.1)**

Laura Babcock appeared before the Committee to request that Council complete a signage project that was started eleven years ago, and that “welcome” signs into the City be up before the Pan Am Games in 2015.

Ms. Babcock showed photos of a number of “welcome” signs to various cities throughout the Province which can be viewed on the City’s website. The Committee was also distributed with the “Civic Gateway Design Study” taken from the City’s Planning and Economic Development website.

Ms. Babcock provided a copy of her comments to the Clerk for the public record.

The presentation from Laura Babcock, Powergroup Communications Inc., “Time4Sign” Campaign, to request a complete gateway study and erect welcome signs on highway entrances to the City by Pan Am Games was received.

Following the presentation, the following motion was approved:

**Entrance and/or Gateway Signage – City of Hamilton**

Whereas, the City of Hamilton has completed studies in 2001, 2007 and 2008 to examine the importance of gateways features and signage for the City of Hamilton; and,

Whereas, the City of Hamilton has responsibility over a number of signs it has at major entrances and on rural minor entrances; and,

Whereas, during the 2003 World Cycling Championships and Canadian Golf Open the City of Hamilton did add slogans to signage at major and minor entrances; and,

Whereas, the City of Hamilton will be hosting international soccer as part of the 2015 Pan-American/Para Pan-American Games over a two week span; and,

Whereas, there will be international media present for the 2015 Pan-American/Para Pan-American Games.

Therefore be it resolved:

That the City Manager, in conjunction with Public Works and Planning and Economic Development staff, be directed to report back on both a short- and long-term plan to address entrance and/or gateway signage in an effort to improve the branding and promotion of the City of Hamilton.

**(f) PRESENTATIONS**

**(i) Emergency Management Program and Response (CS13037) (City Wide) (Item 7.1)**

Chief Rob Simonds appeared before the Committee to provide an update on the City's Emergency Management Program and Response and emergency management and efforts made to date. This is the first of two updates and Councillors have been invited to attend a full field exercise on October 3.

Chief Simonds introduced Carla McCracken and Gina Cliffe, the City's Emergency Co-ordinators, and acknowledged their work in the community.

Chief Simonds provided a PowerPoint presentation and spoke to the following:

- Legislation
- Program Support and Evolution
- Planning: Key Plans; link with community partners to co-ordinate planning efforts
- Training and Exercises
- Public Awareness/Education
- Emergency Response and Structure
- Site Resources
- Department Operations Centres in Public Works, Public Health and Community and Emergency Services and staffing resources
- Emergency Operations Centre
- EOC Responsibilities
- City Response
- Action Planning Process
- Policy Group

At the conclusion of his presentation, Chief Simonds recognized the work of all of the staff across the City involved in emergency management activities.

A copy of the PowerPoint presentation is available for viewing on the City of Hamilton website.

The presentation respecting the Emergency Management Program and Response was received.

**(ii) Analysis of Provincial Upload Savings (Outstanding Business List Item) (FCS13060) (City Wide) (Item 7.2)**

Mike Zegarac, Acting General Manager of Corporate Services, provided a PowerPoint presentation to present additional information respecting the difference in variance reporting between the Province and the City, and spoke to the following:

- Provincial-Municipal Fiscal and Service Delivery Review
- Municipal Fiscal Health Indicators
- Upload Timeline
- OMPF/Special Provincial Funding
- Social Services Upload vs. Grant Clawback: 2008-2013
- Upload Savings - \$67.2M Variance
- Upload – Beyond 2013
- Provincially-shared Programs not Uploaded

A copy of the PowerPoint presentation is available for viewing on the City of Hamilton website.

The presentation respecting Analysis of Provincial Upload Savings was received.

**(iii) 2014 Tax Budget Preliminary Outlook (FCS13062) (City Wide) (Item 7.3)**

Mike Zegarac, Acting General Manager of Corporate Services, provided a PowerPoint presentation in the context of what has been achieved during this term of Council in terms of managing the City's tax impact while maintaining service levels and providing incremental funding to enhance program areas.

The purpose of this presentation is to provide a preliminary outlook for the 2014 budget in terms of guidelines, as well as outline the process for the balance of the 2014 budget schedule.

Mr. Zegarac provided a PowerPoint presentation and spoke to the following:



- Historical budgets and tax impacts:
  - Average Residential Tax Impacts 2011-2013
  - City Departments – How did we get there?
  - Annual City-wide Residential Tax Impact
  - Annual City-wide Residential Tax Impacts adjusted for inflation
  - Municipal Comparison
  - Average Tax Impacts
  - 2013 Average Residential Tax Bill
  
- 2014 Tax Budget Preliminary Pressures
  - 2014 Preliminary Pressures/Risks
  - 2014 Preliminary Tax Impact
  - City Departments: Compensation
  - City Departments: Operating Impact of Capital Projects
  - City Departments: Corporate/Other
  - Boards and Agencies
  - Capital
  - Council-Referred Items
  - Highlight of Other Potential Risks
  - Provincial Impacts
  
- 2014 Tax Budget Guidelines
  - 2014 Approved Budget Guidelines
  
- Potential SDR/Other Reductions to Mitigate 2014 Budget
  - Reducing the Residential Tax Impact
  
- 2014 Budget Schedule
  - Reducing the Residential Tax Impact

A copy of the PowerPoint presentation is available for viewing on the City of Hamilton website.

The presentation respecting 2014 Tax Budget Preliminary Outlook was received.

**(g) DISCUSSION ITEMS**

**(i) Future of Hamilton Children’s Museum (PED13152) (Ward 3) (Item 8.2)**

The recommendation contained in Report PED13152 respecting the Future of the Hamilton Children’s Museum was deleted in its entirety and replaced with the following in lieu thereof:

That due to the significant structural issues at the Hamilton Children's Museum, staff be directed to investigate the feasibility of Alternatives 1 and 2 as follows (and as outlined in Report PED13152), and report back to the General Issues Committee:

- (aa) Alternative 1: Move directly to developing a new facility within Gage Park as identified in the Gage Park Master Plan and open a temporary Children's Museum while new facility is under construction
- (bb) Alternative 2: Complete structural repairs to the existing facility and re-open.

**(ii) Chedoke Estate – 1 Balfour Drive, Hamilton (PED13153) (Ward 8) (Item 8.3)**

Staff was directed to work with the Ontario Heritage Trust on a future use of the property and buildings, including a revenue source for property maintenance costs, and report back to the General Issues Committee.

**(iii) Tactical Urbanism Hamilton Partnership (CM13015/PW13068) (City Wide) (Item 8.4)**

Staff was directed to develop an agreement, prior to the release of funds, between the City and the Hamilton/Burlington Society of Architects to establish a collaborative partnership in support of Tactical Urbanism Hamilton, such agreement to be brought back to the General Issues Committee for approval.

**(h) MOTIONS**

**(i) James Street North Road Closure for Art Crawl – Annually from May to November (Item 10.2)**

The appropriate staff was directed to report back to the General Issues Committee on the feasibility of closing James Street North, between King William Street and Barton Street, from 6:00 p.m. to 11:00 p.m. on the second Friday of Each month between May and November for the Art Crawl event(s).

(i) **NOTICES OF MOTION**

(i) **On-Line Survey Audit of Queen Street South and Cannon Street  
(Item 10.1)**

That funds in the amount of \$8,500 be approved from the Ward 2 Area Rating Special Capital Reinvestment Reserve Account No. 108052 to fund an on-line survey audit of Queen Street South and Cannon Street conducted by the Centre of Community Study.

(ii) **James Street North Road Closure for Art Crawl – Annually from May to November (Item 10.2)**

Whereas safety is the primary concern on City streets; and,

Whereas the numbers of people at the monthly Art Crawl event continues to increase due to its popularity and is often attended by many thousands; and,

Whereas the monthly Art Crawls are generic in nature, with no organizer or organizing committee.

Therefore Be It Resolved:

That the appropriate staff report back to the General Issues Committee on the feasibility of closing James Street North, between King William Street and Barton Street, from 6:00 p.m. to 11:00 p.m. on the second Friday of Each month between May and November for the Art Crawl event(s).

The rules of order were waived in order to introduce a motion with respect to James Street North Road Closure for Art Crawl – Annually from May to November.

See Information Item (h)(i) for the disposition of this item.

(iii) **Fairness to Hamilton Campaign Sub-Committee – Establishment of Council Priorities**

Whereas, Mayor R. Bratina, Councillor S. Merulla and the City Manager met with area M.P.s and M.P.P.s in early 2013 to discuss Council's Strategic Priorities; and,

Whereas, Council approved direction for a Government Relations Strategy in February 2013, and have expressed interest in playing a role in conjunction with the Mayor and City Manager; and,

Whereas, Council has expressed its priorities through its current Strategic Plan; and,

Whereas, the Government of Ontario expressed its priorities in a May 2013 Throne Speech; and,

Whereas, the Government of Canada will be expressing its priorities in an October 16, 2013 Throne Speech; and,

Whereas, there is one year left in this Council's mandate, creating a sense of urgency.

Therefore Be It Resolved:

- (a) That a special meeting of the Fairness to Hamilton Committee be called as soon as possible to prepare recommendations on Council priorities in order to engage the Provincial and Federal Governments, and to begin organizing a Hamilton Day at Queen's Park in November 2013, and a plan to join the FCM advocacy days in Ottawa at the end of November 2013;
- (b) That a special General Issues Committee meeting be established to review and finalize the Fairness to Hamilton Committee recommendations, keeping in mind the need to act in November 2013;
- (c) That in order to engage all of Council, that each Councillor be requested to express their interest and expertise in one or more Council priorities to the Mayor and City Manager by October 25, 2013.

**(j) GENERAL INFORMATION/OTHER BUSINESS (Item 11.1)**

**(i) Outstanding Business Items List**

- (aa) The due date for the following items on the Outstanding Business List were revised as follows:

Item J: HPS Forensic Building  
Due Date: Q4 2012  
Revised Due Date: Q4 2013

Item O: Residential Water/Wastewater Warranty Protection Plan  
Due Date: September 18, 2013  
Revised Due Date: Q2 2014

Item II: Provincial Offences Administration Court House P/T  
Temporary Location Options

Due Date: September 18, 2013

Revised Due Date: November 20, 2013

Item JJ: Provincial Offences Administration Court House Long-  
Term Location Option

Due Date: September 18, 2013

Revised Due Date: November 20, 2013

(bb) Items to be removed from Outstanding Business List:

The following items were deemed complete and removed from the  
Outstanding Business List:

Item H: 2012 Ontario Municipal Partnership Fund Allocations

Item C: Ontario Municipal Partnership Fund – Variances  
(2012 Budget Deliberation) (GIC – September 18, 2013)

Item PP: MOA with HWDSB for new school/community centre in  
Pan Am Stadium Precinct (GIC – September 5, 2013)

**(k) PRIVATE & CONFIDENTIAL**

The Committee moved into closed Session at 2:37 p.m. pursuant to Sub-sections (c), (d), (e) and (f) of the City of Hamilton Procedural By-law and Section 239.2 of the Municipal Act as the subject matters pertained to:

(d) labour relations or employee negotiations respecting City of Hamilton and Hamilton Professional Firefighters Association Local 228 Collective Fire Bargaining – Verbal Update (No copy) (Item 12.1)

and

(c) a proposed or pending acquisition or disposition of land for City purposes;  
(e) litigation or potential litigation, including matters before administrative tribunals, affecting the City;

(f) the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose respecting Alleyway Encroachment - 14 James North (PW12059b/LS12021b) (Ward 2) (Item 12.2)

The Committee reconvened in Open Session at 3:00 p.m.

**(i) City of Hamilton and Hamilton Professional Firefighters Association  
Local 228 Collective Fire Bargaining – Verbal Update (Item 12.1)**

No action to be reported.

**(ii) Alleyway Encroachment - 14 James North (PW12059b/LS12021b)  
(Ward 2) (Item 12.2)**

See Item 15 for the disposition of this item.

**(I) ADJOURNMENT**

There being no further business, the Committee adjourned at 3:02 p.m.

Respectfully submitted

Councillor J. Farr  
Deputy Mayor

Councillor S. Duvall  
Acting Deputy Mayor

Carolyn Biggs  
Legislative Co-ordinator  
Office of the City Clerk

**AMENDED AND RESTATED MUNICIPALITY CONTRIBUTION AGREEMENT**

**THIS AMENDED AND RESTATED AGREEMENT** is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**B E T W E E N:**

**ONTARIO LOTTERY AND GAMING CORPORATION**, a statutory corporation established under the *Ontario Lottery and Gaming Corporation Act, 1999* (Ontario) with its head office located at 70 Foster Drive, Suite 800, Sault Ste. Marie, ON P6A 6V2 and its corporate office located at 4120 Yonge Street, Suite 420, Toronto, ON M2P 2B8, facsimile number 416-224-7003

(hereinafter referred to as "**OLG**")

OF THE FIRST PART

- and -

**THE CITY OF HAMILTON**, with its administrative office located at 71 Main Street West, 2nd Floor, Hamilton, ON L8P 4Y5, facsimile number 905-546-2340

(hereinafter referred to as the "**Municipality**")

OF THE SECOND PART

**WHEREAS** OLG has the authority to conduct and manage lottery schemes within the meaning of subsection 207(4) of the *Criminal Code* (Canada) and subject to the *Gaming Control Act, 1992* (Ontario), including Electronic Games and Live Table Games;

**AND WHEREAS** OLG conducts and manages a gaming site at 967 Highway 5 W, RR 6, Dundas, ON L9H 5E2 (the "**Location**");

**AND WHEREAS** the parties entered into a municipality contribution agreement (the "Previous MCA") dated as of April 1, 2013 whereby the parties acknowledged it would be in the public interest for the host Municipality of the Location to have access to funds which may be used, at the discretion of the Mayor and Council, for municipal purposes such as services relating to registering property, transit services and passenger transportation services;

**AND WHEREAS**, as a result of an amendment in the calculation of the Annual Contribution and the implementation of a community recognition program (the "CRP") by the parties, the parties hereto desire to amend and restate the Previous MCA by entering into this amended and restated municipality contribution agreement (the "Agreement");

**NOW THEREFORE** in consideration of the respective covenants and agreements, representations, warranties and indemnities herein contained and other good and valuable consideration (the receipt and sufficiency of which are acknowledged by each party hereto) the parties agree as follows:

## 1. Definitions

As used herein, including the foregoing recitals, the following terms shall have the respective meanings indicated below:

- (a) **“Agreement”** has the meaning set forth in the recitals to this Agreement;
- (b) **“Annual Contribution”** has the meaning set forth in Section 3(a);
- (c) **“Annual Contribution Quarterly Payment”** has the meaning set forth in Section 4(a);
- (d) **“Casino Games”** means Electronic Games, Live Table Games and such other casino games and promotional schemes that are, in each case, conducted and managed by OLG from time to time during the Term at the Location;
- (e) **“CRP”** has the meaning set forth in the recitals to this Agreement;
- (f) **“Effective Date”** means April 1, 2013 or such later date as OLG may specify;
- (g) **“Effective Date of Termination”** has the meaning set forth in Section 2;
- (h) **“Electronic Games”** means all electronic gaming devices, including but not limited to reel-type and video-type slot machines, electronic table games and dealer assisted electronic games, in each case, whether or not a live dealer is present to enable or control game play;
- (i) **“Electronic Games Revenue”** means, for any period, the sum of net revenue generated from Electronic Games at the Location, calculated in accordance with International Financial Reporting Standards or such other Canadian generally accepted accounting principles as OLG adopts from time to time in its sole discretion. For greater certainty, the Electronic Games Revenue will only include net revenue generated from the Electronic Games at the Location and will not include any revenue whatsoever from other products or services provided by OLG at the Location in the Municipality;
- (j) **“Live Table Games”** means games operated by a live dealer at a single gaming table, but excluding Electronic Games;
- (k) **“Live Table Games Revenue”** means, for any period, the sum of net revenue generated from Live Table Games at the Location, if any, calculated in accordance with International Financial Reporting Standards or such other Canadian generally accepted accounting principles as OLG adopts from time to time in its sole discretion. For greater certainty, the Live Table Games Revenue will only include net



revenue generated from the Live Table Games at the Location and will not include any revenue whatsoever from other products or services provided by OLG at the Location in the Municipality;

- (l) “**Location**” has the meaning set forth in the recitals to this Agreement;
- (m) “**Operating Year**” means each period from April 1<sup>st</sup> to March 31<sup>st</sup> inclusive, during the Term, to the end of the Term, except that the first Operating Year shall be the period beginning on the Effective Date and ending on the following March 31<sup>st</sup> and if this Agreement shall be terminated effective on a date other than March 31<sup>st</sup> in any year, then the period from April 1<sup>st</sup> of the calendar year in which such termination occurs (or April 1<sup>st</sup> of the immediately preceding calendar year if the date of termination occurs in January, February or March) to such effective date of termination shall be treated as an Operating Year;
- (n) “**Overpayment**” has the meaning set forth in Section 4(c);
- (o) “**Previous MCA**” has the meaning set forth in the recitals to this Agreement; and
- (p) “**Term**” means the period of time referred to and described in Section 2 hereof.

## 2. Term and Termination

The term of this Agreement (the “**Term**”) will become effective on the Effective Date and will terminate at the earliest of:

- (a) the date on which all Casino Games are no longer conducted and managed by OLG in the Municipality at the Location;
- (b) the date on which any license, permit, approval, consent and/or other permission that may be required for the continued use and operation of the Casino Games at the Location in the Municipality is no longer available, becomes invalid or ceases to have effect;
- (c) the effective date of written notice of termination provided by OLG to the Municipality, which effective date must be specified by OLG in such notice; provided, however, that such effective date shall be at least 30 days following the date of such notice. OLG will endeavour to provide more than 30 days’ notice, and, where not practicable to do so, OLG shall:
  - (i) explain, in said notice, why it is not practicable to do so, subject to any confidentiality concerns, as well as setting out in such notice the length of the time period equal to the difference between: (A) 365 days; and (B) the number of days’ notice actually given by OLG. For greater certainty, such time period shall not exceed 335 days; and
  - (ii) pay to the Municipality, in accordance with the timelines in Section 4, amounts which aggregate OLG’s estimation of the Annual Contribution

Quarterly Payment that OLG would have paid in respect of the time period referred to in subsection 2(c)(i) above had this Agreement not been terminated in accordance with this Section 2(c); and

- (d) the date mutually agreed to in writing between OLG and the Municipality (the “**Effective Date of Termination**”).

### 3. **Payments**

- (a) During the Term and subject to the terms and conditions of this Agreement, the Municipality shall be entitled to receive from OLG in respect of each Operating Year the amount (the “**Annual Contribution**”) equal to the sum of **A + B**, where:

**A** is the aggregate (without duplication) of:

- (i) 5.25% of the Electronic Games Revenue, if any, generated in such Operating Year that is less than or equal to \$65 million; plus
- (ii) 3.00% of the Electronic Games Revenue, if any, generated in such Operating Year, that is more than \$65 million and less than or equal to \$200 million; plus
- (iii) 2.50% of Electronic Games Revenue, if any, generated in such Operating Year, that is more than \$200 million and less than or equal to \$500 million; plus
- (iv) 0.50% of Electronic Games Revenue, if any, generated in such Operating Year, that is more than \$500 million; and

**B** is 4.00% of Live Table Games Revenue, if any, generated during such Operating Year.

- (b) Following the Effective Date, in the event any additional taxes, charges, conditions or requirements are imposed by the Municipality on OLG in respect of the continued operation of the Casino Games at the Location in the Municipality, the Municipality acknowledges and agrees that OLG shall be entitled to amend the calculation of the Annual Contribution in a way that may reduce the Municipality’s entitlement. For greater certainty, the Annual Contribution for the first Operating Year shall be calculated based on Electronic Games Revenue and Live Table Games Revenue generated as of the Effective Date.

### 4. **Timing and Calculation of Payments**

- (a) Subject to Section 4(b), within twenty-one (21) days of the end of each Operating Year quarter during the Term, OLG shall pay to the Municipality the portion of the Annual Contribution (the “**Annual Contribution Quarterly Payment**”) to which the Municipality is entitled for such Operating Year quarter. In calculating the

portion of each Annual Contribution Quarterly Payment derived from Electronic Games, OLG will notionally aggregate all Electronic Games Revenue generated during such Operating Year in order to apply the correct percentage set out in Section 3(a). OLG will provide access to its most current audited consolidated financial statements once such are made public by the Ministry of Finance in public accounts.

For example and by way of illustration only, Exhibit A to this Agreement sets out a sample calculation of the Annual Contribution.

- (b) In the event the Effective Date of Termination of this Agreement occurs on or before the date that is twenty-one (21) days following the end of an Operating Year quarter, OLG shall, within fifteen (15) days of such Effective Date of Termination, pay to the Municipality the Annual Contribution Quarterly Payment to which it is entitled in respect of the period beginning on the first day of the Operating Year quarter in which such termination took place up to and including the Effective Date of Termination.
- (c) At any time and from time to time during an Operating Year and up to the date that is 60 days after the last day of such Operating Year, in the event OLG determines that there has been an overpayment (“**Overpayment**”) by OLG to the Municipality of any Annual Contribution Quarterly Payment in such Operating Year, the Municipality acknowledges and agrees that OLG may deduct and set off the full amount of such Overpayment from future Annual Contribution Quarterly Payment(s) or, if there are insufficient future Annual Contribution Quarterly Payments to fully set off such Overpayment, the Municipality will promptly reimburse OLG for the full amount of such Overpayment (or the remaining amount thereof not already deducted as set-off). OLG will use its commercially reasonable efforts to effect any deduction and set-off pursuant to this Section 4 in a manner that recognizes the Municipality’s desire to realize reasonable continuity in cash flow associated with the Annual Contribution.

## **5. Community Recognition Program**

- (a) During the Term, the parties will collaborate in good faith to design and jointly implement the CRP for the promotion of the positive impact of the Annual Contribution on the Municipality and to promote and communicate to the public decisions made and initiatives taken by the Municipality regarding the deployment or other allocation of the Annual Contribution for municipal purposes.
- (b) It is expected that the CRP will include, at a minimum, one community event during each Operating Year during the Term, discussions and meetings on a regular basis between the appropriate representatives of each party relating to spending, allocation and deployment of the Annual Contribution, the allocation of responsibilities and obligations in respect of the development, operation and/or other activities and initiatives of the CRP, including but not limited to any program management functions to be performed by each party.

- (c) The Municipality will cooperate reasonably with OLG to facilitate messaging and communication of the CRP and its mandate. The Municipality will comply with all reasonable initiatives and requests proposed by OLG to the Municipality from time to time relating to the CRP and its initiatives, including but not limited to branding, marketing and public acknowledgements in respect of funding by OLG.
- (d) The Municipality will ensure that its marketing and advertising materials are not false, misleading or deceptive, do not portray OLG or customers of the Location or the general public in a disparaging manner, and that such marketing and advertising materials are in compliance with the marketing and branding guidelines which OLG communicates to the Municipality from time to time. In the event the Municipality does not comply with OLG's marketing and branding guidelines, OLG may thereafter require the Municipality to submit all proposed advertising and marketing materials in relation to the matters set out herein to OLG for its review and approval not less than 15 business days prior to the expected use or distribution of such materials.

## **6. Amendment and Restatement; Entire Agreement**

This Agreement constitutes the entire agreement between the Municipality and OLG with respect to the matters herein and, without limiting the foregoing, amends and restates in full and supersedes the Previous MCA, with effect as of the date hereof, and all prior agreements and understandings, oral or written, between the parties hereto or their respective representatives with respect thereto. It is hereby confirmed by the parties hereto that all prior actions of the parties made pursuant to the Previous MCA are effective as if made under this Agreement on the date made.

## **7. Further Assurances**

The parties agree to do, or cause to be done, all acts or things and execute all such further documents as may be necessary to implement and carry into effect this Agreement to its full extent.

## **8. Normal Costs of Development**

The parties acknowledge and agree that nothing herein shall operate to fetter any legislative or quasi-judicial jurisdiction of the Municipality, and in particular, it is understood and agreed by the parties that this Agreement does not preclude the Municipality from imposing upon occupants, owners or developers of the property at which the Casino Games are located, normal development related costs (including but not limited to the costs of infrastructure improvements under local or regional jurisdiction) arising from the Casino Games in the same manner and to the same extent as may be imposed by the Municipality on other occupants, owners or developers of land within the Municipality, and further that this Agreement does not preclude the Municipality from imposing such taxes, fees, charges, conditions or other requirements as may be imposed in accordance with applicable law upon owners, occupants, developers, properties or businesses in the Municipality (including, without limitation, realty taxes, development charges, conditions of site plan approval and sewer and water charges).

## **9. No Liability of OLG**

The Municipality acknowledges and agrees that none of OLG and any provincial agency, ministry or crown corporation, nor any of their respective officers, directors, employees, agents or representatives shall be liable to the Municipality for or in respect of any claims (including but not limited to claims based in contract, tort or negligence, active or passive), any cause of action, demands, losses, liabilities or damages whatsoever (including but not limited to consequential, exemplary, special, punitive and indirect damages) arising out of, in respect of, or relating indirectly or directly to this Agreement, the Casino Games, the operation, cessation of operation or malfunction of any systems or equipment, or any injury to or death of any person. Furthermore, the Municipality releases OLG from any and all losses in respect of the foregoing.

## **10. Notice**

Any notice or other communication permitted or required to be given by OLG to the Municipality shall be given by either posting the same by prepaid registered mail or by facsimile addressed to the Municipality at the address or facsimile number, as applicable, appearing in this Agreement or by personal delivery to the Municipality. Any notice or other communication permitted or required to be given by the Municipality to OLG shall be given by either posting the same by prepaid registered mail or by facsimile addressed to OLG at the following address or facsimile number, as applicable: 4120 Yonge Street, Suite 420, Toronto, ON M2P 2B8, facsimile number 416-224-7003. Any notice posted by pre-paid registered mail shall be deemed to have been received on the third business day following such mailing and any notice personally delivered or sent by facsimile shall be deemed to have been received at 5:00 p.m. on the day so delivered or sent by facsimile (if such day is a business day and if such notice is sent prior to 5:00 p.m. on that day, and if not, on the next following business day). During periods of a postal strike or of a general interruption of postal services, any notice shall be given by personal delivery or facsimile hereunder and shall be deemed to have been received on the second business day following posting of the same.

## **11. Relationship of Parties**

OLG acknowledges the Municipality's role as a host municipality of the Casino Games at the Location. The Municipality acknowledges and agrees that the Municipality is not an employee, agent or representative, joint venturer, or partner of OLG, and the Municipality shall not represent itself to others as being authorized to assume, incur or create any obligation of any kind (express or implied) on behalf of (or in the name of) OLG or any other provincial agency, ministry or crown corporation, or purport to bind OLG or any other provincial agency, ministry or crown corporation in any respect. For greater certainty, the Municipality acknowledges that OLG has, and shall have, the sole right to determine, from time to time and at any time, the number and type of Electronic Games operated at the Location.

## **12. Severability**

If any covenant or term herein or the application thereof to any person or entity, or in any circumstance, to any extent is held invalid or unenforceable, the remainder of this Agreement or the application of the term, covenant or condition to any person, event or circumstance, other than those as to which it is held invalid or unenforceable, will not be affected thereby and each term, covenant

and condition shall be valid and enforceable to the fullest extent permitted by law, except that if on the reasonable construction of this Agreement, as a whole, the applicability of the other provisions presumes the validity and enforceability of the particular provision, the other provisions will be deemed also to be invalid or unenforceable.

### **13. Governing Law**

This Agreement shall be interpreted and the rights of the parties shall be governed by and construed in accordance with the laws of the Province of Ontario.

### **14. Attornment**

Each party irrevocably and unconditionally attorns to the exclusive jurisdiction of the courts of the Province of Ontario.

### **15. Recitals**

The recitals to this Agreement form part thereof, and this Agreement is to be construed accordingly.

### **16. Time**

Time shall in all respects be of the essence in this Agreement.

### **17. Counterparts**

This Agreement may be executed in counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same instrument.

### **18. Disclosure**

The parties acknowledge that OLG is a Crown Agency and that it is subject to the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.F.31, as amended, and that the Municipality is subject to the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.M.56, as amended, and that, as a result, each party is required to observe certain legislative obligations with respect to the disclosure or non-disclosure of information, whether to government agencies or ministries, members of the public, or otherwise.

### **19. Modifications**

Excluding an amendment permitted under Sections 3(b) and 4(c), no amendment to this Agreement will be valid or binding unless set forth in writing and duly executed by both of the parties hereto. No waiver of any breach of any provision of this Agreement will be effective or binding unless made in writing and signed by the party providing such waiver, and will be limited to the specific breach being waived.

### **20. Assignment**

No transfer, sale or assignment by the Municipality of this Agreement or the Municipality's rights hereunder is valid without the prior written consent of OLG.

**21. Benefit of the Agreement**

This Agreement will enure to the benefit of and be binding upon the respective successors and permitted assigns of the parties hereto.

**22. Electronic Execution**

Delivery of an executed signature page to this Agreement by any party by electronic transmission will be as effective as delivery of a manually executed copy of this Agreement by such party.

**[Remainder of Page Left Intentionally Blank]**

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement as of the date first written above.

**ONTARIO LOTTERY AND GAMING CORPORATION**

Per: \_\_\_\_\_  
Name: Rod Phillips  
Title: President and Chief  
Executive Officer

I have the authority to bind OLG

**THE CITY OF HAMILTON**

Per: \_\_\_\_\_

Name:  
Title:

c/s

Per: \_\_\_\_\_

Name:  
Title:

I/We have authority to bind the Municipality.



**EXHIBIT A****Calculation of Annual Contribution**

For example and by way of illustration only: if the Electronic Games Revenue and Live Table Games Revenue for an Operating Year is \$650 million and \$100 million respectively and as further described in Table A below, then the applicable Annual Contribution for such Operating Year would be \$19,712,500:

**TABLE A**

	Electronic Games Revenue (in millions)	Live Table Games Revenue (in millions)	Annual Contribution Quarterly Payment (in millions)
Operating Year Quarter No. 1 (March 1 – June 30)	\$100	\$25	$[0.0525 \times \$65] + (0.03 \times \$35) + [0.04 \times \$25]$ = \$5.4625
Operating Year Quarter No. 2 (July 1 – September 30)	\$175	\$22	$[0.03 \times \$100] + (0.025 \times \$75) + [0.04 \times \$22]$ = \$5.755
Operating Year Quarter No. 3 (October 1 – December 31)	\$170	\$23	$[0.025 \times \$170] + [0.04 \times \$23] = \$5.17$
Operating Year Quarter No. 4 (January 1 – March 31)	\$205	\$30	$[0.025 \times \$55] + (0.005 \times \$150) + [0.04 \times \$30]$ = \$3.325
Total	\$650	\$100	\$19.7125