



City of Hamilton

AUDIT, FINANCE AND ADMINISTRATION COMMITTEE REVISED

Meeting #: 22-009

Date: April 21, 2022

Time: 9:30 a.m.

Location: Due to the COVID-19 and the Closure of City Hall (CC)

All electronic meetings can be viewed at:

City's Website:

<https://www.hamilton.ca/council-committee/council-committee-meetings/meetings-and-agendas>

City's YouTube Channel:

<https://www.youtube.com/user/InsideCityofHamilton> or Cable 14

Angela McRae, Legislative Coordinator (905) 546-2424 ext. 5987

1. CEREMONIAL ACTIVITIES

2. APPROVAL OF AGENDA

(Added Items, if applicable, will be noted with *)

3. DECLARATIONS OF INTEREST

4. APPROVAL OF MINUTES OF PREVIOUS MEETING

4.1. April 7, 2022

5. COMMUNICATIONS

6. DELEGATION REQUESTS

7. CONSENT ITEMS

7.1. 50 Charlton Avenue East, Hamilton – Water and Wastewater / Storm Account Debit Adjustment (FCS22023) (Ward 2)

7.2. Various Advisory Committee Minutes:

7.2.a. Immigrant and Refugee Advisory Committee - January 13, 2022

7.2.b. Immigrant and Refugee Advisory Committee Minutes - March 10, 2022

8. PRESENTATIONS

8.1. Hamilton Waterfront Trust - 2020 Annual Briefing by Werner Plessl, Executive Director

8.2. Tax and Rate Operating Budget Variance Report as at December 31, 2021 – Budget Control Policy Transfers (FCS21070(b)) (City Wide)

8.3. J.L. Grightmire Arena Lessons Learned Audit Report, Recommendations, and Management Response

*8.3.a. J.L. Grightmire Arena Lessons Learned Audit - Responses and Actions

9. PUBLIC HEARINGS / DELEGATIONS

10. DISCUSSION ITEMS

10.1. Unbilled Water and Wastewater / Storm Accounts (FCS22029) (City Wide)

10.2. Offsetting Parking Revenue for the City's Business Improvement Areas (PED22074) (Wards 1, 2, 3, 4, 7, 12 and 13)

10.3. Standardization of Microsoft Power Platform Suite of Products for Corporate Information Technology (FCS22036) (City Wide)

10.4. Analysis for Hamilton Waterfront Trust - December 31, 2020 - Audited Financial Statements (FCS22019) (City Wide)

10.5. Request for Sustainability and Financial Viability Audit of Hamilton Waterfront Trust (FCS22038) (City Wide) (Outstanding Business List Item)

10.6. Development Charges Stakeholders Sub-Committee Report 22-002 - April 12, 2022

11. MOTIONS

12. NOTICES OF MOTION

13. GENERAL INFORMATION / OTHER BUSINESS

13.1. Amendments to the Outstanding Business List:

13.1.a. Items Considered Complete and Needing to be Removed:

Correspondence from the Hamilton Waterfront Trust respecting their December 31, 2020 Audited Financial Statements

Added: November 4, 2021 at AF&A - Item 5.1

Removed: April 21, 2022 at AF&A - Item 10.4

OBL Item: 21-O

Correspondence from Trent Jarvis, Hamilton Waterfront Trust, respecting an update to the Audit, Finance and Administration Committee in April or May of 2022

Added: March 24, 2022 at AF&A - Item 5.2

Removed: April 21, 2022 at AF&A - Item 10.5

OBL Item: 22-A

13.1.b. Items Requiring a New Due Date:

Review of Procurement Policies as it relates to Hiring Local Trades

Added: January 18, 2017 at GIC

Original Due Date: Q3 2020

Proposed New Due Date: Q1 2023

OBL Item: G

Implementation and Resources Required re: Corporate Goals and Areas of Focus for Climate Mitigation & Adaptation

Added: December 4, 2019 at GIC

Original Due Date: Q4 2021

Proposed New Due Date: Q3 2022

OBL Item: 19-T

Municipal Property Tax Billing Software (FCS20006) (City Wide) (Item 10.2)

Added: February 6, 2020 at AF&A

Original Due Date: Q1 2021

Proposed New Due Date: Q1 2023

OBL Item: 20-A

2020 Property and Liability Insurance Renewal Report (LS20010) (City Wide)

Added: May 13, 2020 at Council

Original Due Date: Q4 2020

Proposed New Due Date: March 2023

OBL Item: 20-C

14. PRIVATE AND CONFIDENTIAL

15. ADJOURNMENT



AUDIT, FINANCE AND ADMINISTRATION COMMITTEE MINUTES 22-008

9:30 a.m.

April 7, 2022

Council Chambers

Hamilton City Hall

Present: Councillors M. Pearson (Chair), B. Clark, L. Ferguson, B. Johnson, R. Powers, A. VanderBeek, and M. Wilson

THE FOLLOWING ITEMS WERE REFERRED TO COUNCIL FOR CONSIDERATION:

- 1. Fraud, Waste and Whistle Blower Semi-Annual Update (AUD22003) (City Wide) (Item 7.2)**

(Ferguson/Wilson)

That Report AUD22003, respecting the Fraud, Waste and Whistle Blower Semi-Annual Update, be received.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES - Ward 13 Councillor Arlene VanderBeek
YES - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
YES - Ward 10 Councillor Maria Pearson
YES - Ward 9 Councillor Brad Clark
YES - Ward 5 Councillor Russ Powers
YES - Ward 1 Councillor Maureen Wilson

- 2. Annual Occupational Injury & Illness Claims Report 2021 (HUR22002) (City Wide) (Item 7.3)**

(Powers/VanderBeek)

That Report HUR22002, respecting the Annual Occupational Injury & Illness Claims Report 2021, be received.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES - Ward 13 Councillor Arlene VanderBeek
YES - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
YES - Ward 10 Councillor Maria Pearson
YES - Ward 9 Councillor Brad Clark
YES - Ward 5 Councillor Russ Powers
YES - Ward 1 Councillor Maureen Wilson

3. Annual Employee Attendance Report 2021 (HUR22003) (City Wide) (Item 7.4)

(Powers/VanderBeek)

That Report HUR22003, respecting the Annual Employee Attendance Report 2021, be received.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

- YES - Ward 13 Councillor Arlene VanderBeek
- YES - Ward 12 Councillor Lloyd Ferguson
- YES - Ward 11 Councillor Brenda Johnson
- YES - Ward 10 Councillor Maria Pearson
- YES - Ward 9 Councillor Brad Clark
- YES - Ward 5 Councillor Russ Powers
- YES - Ward 1 Councillor Maureen Wilson

4. Governance Review Sub-Committee Report 22-001 - March 31, 2022 (Added Item 10.1)

(Powers/Johnson)

(a) APPOINTMENT OF A CHAIR AND VICE-CHAIR (Item 1)

- (i) That Councillor M. Wilson be appointed as Chair of the Governance Review Sub-Committee for the remainder of the 2018-2022 term.
- (ii) That Councillor A. VanderBeek be appointed as Vice-Chair of the Governance Review Sub-Committee for the remainder of the 2018-2022 term.

(b) Verbal Updates to Council (FCS22021 / CM22002) (City Wide) (Outstanding Business List Item) (Item 7.1)

That Report FCS22021 / CM22002, respecting Verbal Updates to Council, be received.

(c) 2023 Committee and Council Meeting Calendar (Item 10.1) (Attached as Appendix "A" to Governance Review Sub-Committee Report 22-001)

That the 2023 Committee and Council Meeting Calendar be approved, as presented.

(d) Review of City of Hamilton's Agencies, Boards, Committees and other Affiliated Entities (LS22016 / FCS22025) (City Wide) (Item 10.2)

- (i) That Confidential Appendix "B" and "C" attached to Report LS22016 / FCS22025 respecting the Review of City of Hamilton's Agencies, Boards, Committees and other Affiliated Entities be approved;

- (ii) That Confidential Appendix “A”, “B” and “C” to Report LS22016 / FCS22025 respecting the Review of City of Hamilton’s Agencies, Boards, Committees and other Affiliated Entities, remain confidential; and
- (iii) That the City Clerk be directed to respond to the Ombudsman on behalf of the City with a list of those entities that the City of Hamilton considers to be ‘council’, ‘committee’ or a ‘local board’ with information contained in Confidential Appendix “B” to Report LS22016 / FCS22025 respecting the Review of City of Hamilton’s Agencies, Boards, Committees and other Affiliated Entities.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

- YES - Ward 13 Councillor Arlene VanderBeek
- YES - Ward 12 Councillor Lloyd Ferguson
- YES - Ward 11 Councillor Brenda Johnson
- YES - Ward 10 Councillor Maria Pearson
- YES - Ward 9 Councillor Brad Clark
- YES - Ward 5 Councillor Russ Powers
- YES - Ward 1 Councillor Maureen Wilson

5. Grightmire Arena Lessons Learned Audit (AUD22004) (City Wide) (Item 14.2)

(VanderBeek/Powers)

- (a) That Report AUD22004 and Confidential Appendices “A” and “B” to Report AUD22004 respecting Grightmire Arena Lessons Learned Audit be received and remain confidential and restricted from public disclosure;
- (b) That Management Responses as detailed in Confidential Appendices “A” and “C” to Report AUD22004 be received;
- (c) That the General Manager of Public Works and the General Manager of Finance and Corporate Services be directed to implement the Management Responses (attached as Confidential Appendices “A” and “C” to Report AUD22004) and report back to the Audit, Finance and Administration Committee **on a quarterly basis** on the nature and status of actions taken in response to the audit report; and,
- (d) That Council waive the right to privilege for paragraphs 112, 135-137, 142, 144-145, 149, 155, 157-158, and 161 in Confidential Appendix “C” to Report AUD22004, respecting J. L. Grightmire Arena Lessons Learned Audit, and that Confidential Appendix “C” to Report AUD22004 be made public as part of the agenda for the April 21, 2022 Audit, Finance and Administration Committee meeting.

Result: Motion, as Amended, CARRIED by a vote of 5 to 0, as follows:

- YES - Ward 13 Councillor Arlene VanderBeek

YES - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
NOT PRESENT - Ward 10 Councillor Maria Pearson
YES - Ward 9 Councillor Brad Clark
YES - Ward 5 Councillor Russ Powers
NOT PRESENT - Ward 1 Councillor Maureen Wilson

6. Appointments to the Women and Gender Equity Committee (Added Item 14.3)

(Johnson/Wilson)

That the appointments to the Women and Gender Equity Committee, for the remainder of the 2018 – 2022 term of Council, be approved and released publicly following approval by Council.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES - Ward 13 Councillor Arlene VanderBeek
YES - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
YES - Ward 10 Councillor Maria Pearson
YES - Ward 9 Councillor Brad Clark
YES - Ward 5 Councillor Russ Powers
YES - Ward 1 Councillor Maureen Wilson

FOR INFORMATION:

(a) CHANGES TO THE AGENDA (Item 2)

The Committee Clerk advised of the following changes to the agenda:

7. CONSENT ITEMS (Item 7)

7.1(k) Committee Against Racism - February 23, 2021
7.1(l) Committee Against Racism - March 23, 2021
7.1(m) Committee Against Racism - May 25, 2021
7.1(n) Committee Against Racism - June 22, 2021
7.1(o) Committee Against Racism - September 21, 2021
7.1(p) Committee Against Racism - January 26, 2022

10. DISCUSSION ITEMS (Item 10)

10.1 Governance Review Sub-Committee Report 22-001 – March 31, 2022

14. PRIVATE AND CONFIDENTIAL (Item 14)

14.3 Appointments to the Hamilton Women and Gender Equity Committee

(VanderBeek/Wilson)

That the agenda for the April 7, 2022 Audit, Finance and Administration Committee meeting be approved, as amended.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES - Ward 13 Councillor Arlene VanderBeek
YES - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
YES - Ward 10 Councillor Maria Pearson
YES - Ward 9 Councillor Brad Clark
YES - Ward 5 Councillor Russ Powers
YES - Ward 1 Councillor Maureen Wilson

(b) DECLARATIONS OF INTEREST (Item 3)

There were no declarations of interest.

(c) APPROVAL OF MINUTES OF PREVIOUS MEETING (Item 4)

(i) March 24, 2022 (Item 4.1)

(Powers/Ferguson)

That the Minutes of the March 24, 2022 meeting of the Audit, Finance and Administration Committee be approved, as presented.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES - Ward 13 Councillor Arlene VanderBeek
YES - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
YES - Ward 10 Councillor Maria Pearson
YES - Ward 9 Councillor Brad Clark
YES - Ward 5 Councillor Russ Powers
YES - Ward 1 Councillor Maureen Wilson

(d) COMMUNICATIONS (Item 5)

(i) Correspondence from Paul Paradis, Ross & McBride LLP, respecting a request for extension of Development Charge Demolition Credits, Hamilton Central Business Park - Formerly 440 Victoria Ave. N. now Studebaker Place and Ferris St. - DCR Holdings Inc. (Item 5.1)

(Ferguson/Johnson)

That the correspondence from Paul Paradis, Ross & McBride LLP, respecting a request for extension of Development Charge Demolition Credits, Hamilton Central Business Park - Formerly 440 Victoria Ave. N. now Studebaker Place and Ferris St. - DCR Holdings Inc., be received and referred to the General Manager of Finance and Corporate Services for a report back to Audit, Finance and Administration Committee.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES - Ward 13 Councillor Arlene VanderBeek
YES - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
YES - Ward 10 Councillor Maria Pearson
YES - Ward 9 Councillor Brad Clark
YES - Ward 5 Councillor Russ Powers
YES - Ward 1 Councillor Maureen Wilson

(ii) Correspondence from Trent Jarvis, Chair, Hamilton Waterfront Trust, respecting his retirement from the Hamilton Waterfront Trust Board of Trustees (Item 5.2)

(Ferguson/Wilson)

That the correspondence from Trent Jarvis, Chair, Hamilton Waterfront Trust, respecting his retirement from the Hamilton Waterfront Trust Board of Trustees, be received.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES - Ward 13 Councillor Arlene VanderBeek
YES - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
YES - Ward 10 Councillor Maria Pearson
YES - Ward 9 Councillor Brad Clark
YES - Ward 5 Councillor Russ Powers
YES - Ward 1 Councillor Maureen Wilson

(e) CONSENT ITEMS (Item 7)

(Johnson/VanderBeek)

That the following Various Advisory Committee Minutes, be received:

- (i) Hamilton Aboriginal Advisory Committee - May 6, 2022 (Item 7.1(a))
- (ii) Hamilton Aboriginal Advisory Committee - June 3, 2021 (Item 7.1(b))
- (iii) Hamilton Aboriginal Advisory Committee - September 2, 2021 (Item 7.1(c))
- (iv) Hamilton Aboriginal Advisory Committee - October 7, 2021 (Item 7.1(d))
- (v) Hamilton Aboriginal Advisory Committee - November 4, 2021 (Item 7.1(e))
- (vi) Hamilton Aboriginal Advisory Committee - December 2, 2021 (Item 7.1(f))
- (vii) Hamilton Aboriginal Advisory Committee - January 6, 2022 (Item 7.1(g))
- (viii) Hamilton Aboriginal Advisory Committee - February 3, 2022 (Item 7.1(h))
- (ix) Committee Against Racism - No Quorum Notes - March 22, 2022 (Item 7.1(i))
- (x) Hamilton Women and Gender Equity Committee - February 24, 2022 (Item 7.1(j))
- (xi) Committee Against Racism - February 23, 2021 (Added Item 7.1(k))
- (xii) Committee Against Racism - March 23, 2021 (Added Item 7.1(l))
- (xiii) Committee Against Racism - May 25, 2021 (Added Item 7.1(m))
- (xiv) Committee Against Racism - June 22, 2021 (Added Item 7.1(n))
- (xv) Committee Against Racism - September 21, 2021 (Added Item 7.1(o))

(xvi) Committee Against Racism - January 26, 2022 (Added Item 7.1(p))

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES - Ward 13 Councillor Arlene VanderBeek
YES - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
YES - Ward 10 Councillor Maria Pearson
YES - Ward 9 Councillor Brad Clark
YES - Ward 5 Councillor Russ Powers
YES - Ward 1 Councillor Maureen Wilson

(f) PRIVATE AND CONFIDENTIAL (Item 14)

Committee determined that discussion of Item 14.1 was not required in Closed Session, so the item was addressed in Open Session, as follows:

(i) Closed Minutes – March 24, 2022 (Item 14.1)

(Powers/Wilson)

- (a) That the Closed Session Minutes of the March 24, 2022 Audit, Finance and Administration Committee meeting, be approved as presented; and,
- (b) That the Closed Session Minutes of the March 24, 2022 Audit, Finance and Administration Committee meeting, remain confidential.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES - Ward 13 Councillor Arlene VanderBeek
YES - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
YES - Ward 10 Councillor Maria Pearson
YES - Ward 9 Councillor Brad Clark
YES - Ward 5 Councillor Russ Powers
YES - Ward 1 Councillor Maureen Wilson

(ii) Grightmire Arena Lessons Learned Audit (AUD22004) (City Wide) (Item 14.2)

(VanderBeek/Wilson)

That Matthew Alter from Cassels be permitted to attend the Closed Session portion of the meeting with respect to Report AUD22004, Grightmire Arena Lessons Learned Audit.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES - Ward 13 Councillor Arlene VanderBeek
YES - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson

YES - Ward 10 Councillor Maria Pearson
YES - Ward 9 Councillor Brad Clark
YES - Ward 5 Councillor Russ Powers
YES - Ward 1 Councillor Maureen Wilson

(Ferguson/Johnson)

That the Committee move into Closed Session respecting Item 14.2 pursuant to Section 9.1, Sub-section (f) of the City's Procedural By-law 21-021, as amended, and Section 239(2), Sub-section (f) of the *Ontario Municipal Act, 2001*, as amended, as the subject matter pertains to advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES - Ward 13 Councillor Arlene VanderBeek
YES - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
YES - Ward 10 Councillor Maria Pearson
YES - Ward 9 Councillor Brad Clark
YES - Ward 5 Councillor Russ Powers
YES - Ward 1 Councillor Maureen Wilson

(ii) Grightmire Arena Lessons Learned Audit (AUD22004) (City Wide) (Item 14.2) (Continued)

For further disposition of this Item, refer to Item 5.

(iii) Appointments to the Women and Gender Equity Committee (Added Item 14.3)

Committee determined that discussion of Item 14.3 was not required in Closed Session, therefore, item was addressed in Open Session.

For further disposition of this Item, Refer to Item 6.

(g) ADJOURNMENT (Item 15)

(Johnson/Clark)

That, there being no further business, the Audit, Finance and Administration Committee, be adjourned at 12:24 p.m.

Result: Motion CARRIED by a vote of 5 to 0, as follows:

YES - Ward 13 Councillor Arlene VanderBeek
YES - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
NOT PRESENT - Ward 10 Councillor Maria Pearson
YES - Ward 9 Councillor Brad Clark
YES - Ward 5 Councillor Russ Powers
NOT PRESENT - Ward 1 Councillor Maureen Wilson

Respectfully submitted,

Councillor Pearson, Chair
Audit, Finance and Administration
Committee

Angela McRae
Legislative Coordinator
Office of the City Clerk



INFORMATION REPORT

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	April 21, 2022
SUBJECT/REPORT NO:	50 Charlton Avenue East, Hamilton – Water and Wastewater / Storm Account Debit Adjustment (FCS22023) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	John Savoia (905) 546-2424 Ext. 7298
SUBMITTED BY:	Brian McMullen Director, Financial Planning, Administration and Policy Corporate Services Department
SIGNATURE:	

COUNCIL DIRECTION

Not Applicable

INFORMATION

The City's Water and Wastewater / Storm Back-billing Policy (Policy) maintains the principle that consumers are to pay for the water and / or wastewater / storm services they utilize, while ensuring that back-bill adjustments are conducted in a fair and reasonable manner. Typically, back-bill adjustments represent charges not previously billed for service that was delivered to the customer during a period before the current billing cycle where the original billings are discovered to be too low (under-billed).

Commonly, customers request to enter into an optional payment arrangement once significant account debit bill adjustments related to an underbilling occurs. Per the City's Water Billing Payment Arrangement Policy, arrangements exceeding \$100 K are referred to the Audit, Finance and Administration (AFA) Committee for approval. Similarly, where a bill adjustment surpasses \$100 K that does not result in a customer request for a payment arrangement the matter is referred to the AFA Committee for information.

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.

SUBJECT: 50 Charlton Avenue East, Hamilton – Water and Wastewater / Storm Account Debit Adjustment (FCS22023) (Ward 2) – Page 2 of 3

As such, Report FCS22023 is provided to advise of a debit bill arrangement for Alectra Utilities (Alectra) account number 6290581300 regarding 50 Charlton Avenue East, Hamilton, the site of St. Joseph's Hospital.

The subject account relates to a 150mm "compound" water meter that measures the consumption of one of three water service lines for 50 Charlton Avenue East. A compound meter is a type of water meter used to accommodate high flow rates, as well as, smaller rates of flow that also need to be accurately measured. Compound meters have two measuring elements (one for low flows and one for high flows) so that two readings are obtained for each billing cycle and commonly referred to as the "high" and "low" sides of the compound meter. It should be noted, that meter readings are generally obtained from remote reading devices (commonly referred to as a touchpad).

On April 18, 2019, as part of the City's proactive water meter maintenance program, the aforementioned 150mm compound water meter was replaced by Hamilton Water's meter contractor, Neptune Technology Group (Neptune). Thereafter, the touch pad used for obtaining the compound meter readings was not functioning. As a result, Alectra was unable to obtain actual reads for this meter and subsequently began issuing bills for this water service line based on water consumption estimates.

The City and Alectra have processes to identify and correct these issues in a timely manner. However, in this case, the account continued to be estimated until July 19, 2021 when the touchpad was repaired. Meter readings obtained from the meter reflected that the account's consumption had been underestimated by nearly 74,000 cubic metres amounting to approximately \$258 K.

Processing field activities and large meter changes between the City and Alectra is a complex manual process and all billing processes are manual once an account falls outside of the regular billing parameters. After the touchpad repair occurred, the account required manual processing that did not occur until February 21, 2022, resulting in no bills having been generated since the touchpad repair.

The total adjustment to the account for under / unbilled water consumption equates to \$343,641.43.

St. Joseph's Hospital has been informed of the billing errors resulting in the debit adjustment to the affected water account and available payment options. The Hospital has advised that it will proceed with a single payment for the total amount of \$343,641.43.

In July 2021, the AFA Committee received Report FCS21061 that outlined significant billing errors similarly arising from a meter replacement involving a compound meter.

SUBJECT: 50 Charlton Avenue East, Hamilton – Water and Wastewater / Storm Account Debit Adjustment (FCS22023) (Ward 2) – Page 3 of 3

Report FCS21061 noted that Hamilton Water would complete the following:

- 1) a review of all compound meters (approximately 560 in active service) to ensure accuracy of meter register head programming and networking of touchpads to identify any further accounts currently being billed incorrectly;
- 2) complete a process review with Neptune and Hamilton Water Meter Operations staff to ensure all processes and workflows represent the complexities of all meter programming specifications;
- 3) complete retraining with staff and Neptune Technology Group installers.

In parallel to the compound meter review, Hamilton Water staff has initiated a thorough review of all industrial and commercial accounts that are being billed on estimated meter readings and actioning them as necessary.

As noted, the account did not bill from July 2021 to February 2022 due to a lengthy delay in required manual processing following the touchpad repair. Alectra has advised, in addition to a processing backlog of meter changes, touchpad repairs and meter access issues experienced during the pandemic, account anomalies have increased causing billing delays. Alectra is adding additional human resources to address the backlog as quickly as possible.

APPENDICES AND SCHEDULES ATTACHED

Not Applicable

JS/dt



Hamilton

Minutes

IMMIGRANT & REFUGEE ADVISORY COMMITTEE

January 13, 2022

6:30pm-8:30pm

Due to the COVID-19 and the Closure of City Hall
All electronic meetings can be viewed at City's YouTube Channel:

<https://www.youtube.com/user/InsideCityofHamilton>

Present: Rami Safi (Chair), Aref Alshaikhahmed, Jennie Hamilton, Khursheed Ahmed, Eisham Abdulkarim

Regrets: Dina Honig (Vice Chair), Dorar Abuzaid, Leslyn Gombakomba, Ammira Ali, Grace Maciak, Councillor Maureen Wilson

Also

Present: Cole Gately – Staff Liaison, Diversity & Inclusion

1. WELCOME & INTRODUCTIONS

R. Safi provided a round of welcome.

2. CEREMONIAL ACTIVITIES (Item 1)

A. Alshaikhahmed provided the Land Acknowledgement

3. APPROVAL OF AGENDA (Item 2)

(J.Hamilton/E. Abdulkarim)

That the Agenda of January 13, 2022 be approved as presented.

CARRIED

4. APPROVAL OF MINUTES OF PREVIOUS MEETING (Item 4)

Minutes of December 9, 2021 (Item 4.1)

(J. Hamilton/K. Ahmed)

That the Minutes of December 9, 2021 be approved, as presented.

CARRIED

5. DISCUSSION ITEMS (Item 10)

i. Business Arising from Previous Minutes (Item 10.1)

Nothing arose

ii. Election of Chair, VC, and Recording Secretary (Item 10.2)

(K. Ahmed/A. Alshaikhahmed)

That the Chair role be filled by J. Hamilton.

CARRIED

(K. Ahmed/A. Alshaikhahmed)

That the Vice Chair role be filled by E. Abdulkarim.

Recording Secretary to be discussed at next meeting.

CARRIED

iii. Action Plan (Item 10.3)

A. Alshaikhahmed developed a first version of the plan in December.

Discussion refined the priorities, and they may change after ascertaining priority areas identified in HIPC's last survey. Staff to ask HIPC for most recent survey results report. The identified priorities, which may change after the HIPC report has been reviewed, are as follows:

1. Housing, homelessness and gentrification
2. English as a 2nd Language services

- a. e.g. understanding LinkedIn and Match
- 3. Financial literacy for newcomers
- 4. Raising awareness of health and mental health services for newcomers

At next meeting, members will discuss the potential merits of purchasing a membership to the Canadian Council of Refugees.

6. ADJOURNMENT (Item 15)

(J. Hamilton/A. Alshaikhahmed)

That the Meeting for the Immigrant and Refugee Committee be adjourned at 7.30pm.

CARRIED



Hamilton

Minutes

IMMIGRANTS & REFUGEES ADVISORY COMMITTEE

March 10, 2022

6:30pm-8:30pm

Due to the COVID-19 and the Closure of City Hall all electronic meetings can be viewed at City's YouTube Channel:

<https://www.youtube.com/user/InsideCityofHamilton>

Present: Jennie Hamilton (Chair), Eisham Abdulkarim (Vice-Chair), Rami Safi, Aref Alshaikhahmed, Dorar Abuzaid, Ammira Ali, Grace Maciak,

Regrets: Dina Honig, Councillor Maureen Wilson

Also

Present: Aine Leadbetter of Elections
Cole Gately – Staff Liaison, Diversity & Inclusion

1. WELCOME & INTRODUCTIONS

J. Hamilton provided a welcome and introductions

2. CEREMONIAL ACTIVITIES (Item 1)

J. Hamilton provided the Land Acknowledgement

3. APPROVAL OF AGENDA (Item 2)

(J.Hamilton/E. Abdulkarim)

That the Agenda of March 10, 2022 be approved as presented.

CARRIED

4. STAFF PRESENTATION (Item 9)

Aine Leadbetter of Elections asked the committee to pass a motion to create an elections working group.

(A. Alshaikhahmed/E. Abdulkarim)

That an Immigrants and Refugees Elections Working Group be established to liaise with Legislative Coordinators to develop and provide input into elections resources, with the following Advisory Committee members as participants:

Dorar Abuzaid
Eisham Abdulkarim
Ammira Ali
Jennie Hamilton
Aref Alshaikhahmed

CARRIED

5. DISCUSSION ITEMS (Item 10)

i. Action Plan (Item 10.3)

a. Membership for the Canadian Council of Refugees

(D. Abuzaid/A. Alshaikhahmed)

That the Immigrant and Refugee Committee purchase a membership to the Canadian Council of Refugees.

CARRIED

b. Additional Focus of the Committee

(A. Alshaikhahmed/D. Abuzaid)

That the Immigrant and Refugee Committee focus on helping immigrants and refugees in Hamilton to gain financial knowledge.

CARRIED

c. Invitation to Financial Expert to Discuss Financial Issues Related to Newcomers to the City of Hamilton

(A. Alshaikhahmed/E. Abdulkarim)

That the Immigrant and Refugee Committee invite a financial expert to talk about financial issues related to newcomers.

CARRIED

6. ADJOURNMENT (Item 15)

(A. Alshaikhahmed/J. Hamilton)

That there being no further business, the Immigrant and Refugee Advisory Committee meeting be adjourned at 8.00pm.

CARRIED

Hamilton Waterfront Trust
Consolidated Financial Statements
For the year ended December 31, 2020

Hamilton Waterfront Trust
Consolidated Financial Statements
For the year ended December 31, 2020

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BDO Canada LLP
360 Oakville Place Drive, Suite 500
Oakville ON L6H 6K8 Canada

Independent Auditor's Report

To the Board of Directors of
Hamilton Waterfront Trust

Opinion

We have audited the consolidated financial statements of Hamilton Waterfront Trust and its subsidiaries (the "Group"), which comprise of the consolidated statement of financial position as at December 31, 2020, and the consolidated statements of operations and changes in net assets and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Group as at December 31, 2020, and its results of operations and cash flows for the year then ended in accordance with Canadian accounting standards for not-for-profit organizations.

Basis for Opinion

We conducted our audit in accordance with Canadian generally accepted auditing standards. Our responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Consolidated Financial Statements* section of our report. We are independent of the Group in accordance with the ethical requirements that are relevant to our audit of the consolidated financial statements in Canada, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Responsibilities of Management and Those Charged with Governance for the Consolidated Financial Statements

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with Canadian accounting standards for not-for-profit organizations, and for such internal control as management determines is necessary to enable the preparation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the consolidated financial statements, management is responsible for assessing the Group's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the Group or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Group's consolidated financial reporting process.

Auditor's Responsibilities for the Audit of the Consolidated Financial Statements

Our objectives are to obtain reasonable assurance about whether the consolidated financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian generally accepted auditing standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these consolidated financial statements.



As part of an audit in accordance with Canadian generally accepted auditing standards, we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the consolidated financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Group's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Group's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the consolidated financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Group to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the consolidated financial statements, including the disclosures, and whether the consolidated financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information of the entities or business activities within the Group to express an opinion on the consolidated financial statements. We are responsible for the direction, supervision and performance of the group audit. We remain solely responsible for our audit opinion.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

BDO Canada LLP

Chartered Professional Accountants, Licensed Public Accountants
Oakville, Ontario
September 28, 2021


Hamilton Waterfront Trust Consolidated Statement of Financial Position


December 31	2020	2019
Assets		
Current		
Cash	\$ 278,786	\$ 472,697
Accounts receivable (Note 2)	185,270	59,775
Inventories and prepaid expenses	28,221	28,221
Current portion of note receivable (Note 5)	166,000	233,000
	658,277	793,693
Capital assets (Note 3)	1,312,804	1,384,156
Note receivable (Note 5)	988,669	1,109,249
	\$ 2,959,750	\$ 3,287,098

Liabilities and Net Assets

Current		
Accounts payable and accrued liabilities	\$ 486,529	\$ 687,047
Current portion of deferred capital contributions (Note 4)	40,273	40,273
	526,802	727,320
Deferred revenue - City of Hamilton	380,049	436,049
Deferred capital contributions (Note 4)	1,131,242	1,171,515
	2,038,093	2,334,884
Net assets	921,657	952,214
	\$ 2,959,750	\$ 3,287,098

On behalf of the Board:


 _____ Director


 _____ Director

Hamilton Waterfront Trust Consolidated Statement of Operations and Changes in Net Assets

For the year ended December 31	2020	2019
Revenue		
Investment income	\$ 2,674	\$ 3,397
City of Hamilton contract and management income	46,602	59,445
Other income	4,669	13,300
Hamiltonian Tour Boat	15,826	36,929
Williams Fresh Cafe	637,677	1,428,213
Hamilton Scoops	74,191	163,488
Kids Fest	-	19,192
Hamilton Trolley	24,407	27,783
Waterfront Grill	24,513	47,167
HWT Centre	5,512	94,007
Outdoor Ice Rink	330,862	319,059
Skate Rental	59,092	136,856
Waterfront Development, City of Hamilton management contract	683,151	374,992
Waterfront Wheels	5,765	12,541
	1,914,941	2,736,369
Expenses		
Advertising and promotion	1,023	664
Bad debts	45,167	67,461
Bank charges	2,427	4,088
Building expenses	765	10,458
Dues and memberships	585	2,570
Equipment expenses	1,631	1,853
Insurance	6,054	5,400
Office expenses	17,533	35,785
Professional fees	50,696	25,812
Salaries and benefits	326,788	274,510
Telephone	8,159	9,348
Travel	990	147
Other expenses	7,891	11,789
Hamiltonian Tour Boat	14,791	34,484
Williams Fresh Cafe	744,636	1,372,964
Hamilton Scoops	58,894	121,669
Kids Fest	-	12,219
Hamilton Trolley	28,959	31,023
Fishing Derby	-	13,026
Waterfront Grill	34,732	51,651
HWT Centre	24,156	50,464
Outdoor Ice Rink	330,766	315,147
Skate Rental	19,337	72,544
Waterfront Development, City of Hamilton management contract	516,942	388,239
Waterfront Wheels	12,151	12,828
	2,255,073	2,926,143
Deficiency of revenue over expenses before amortization and other revenue (expenses)	(340,132)	(189,774)
Other revenue (expenses)		
Amortization of capital assets	(71,352)	(72,761)
Amortization of deferred capital contributions	40,273	40,273
Government assistance (Note 7)	340,654	-
Expenses associated with tenant dispute	-	(759,008)
	309,575	(791,496)
Deficiency of revenue over expenses for the year	(30,557)	(981,270)
Net assets, beginning of year	952,214	1,933,484
Net assets, end of year	\$ 921,657	\$ 952,214

The accompanying notes are an integral part of these consolidated financial statements.

Hamilton Waterfront Trust Consolidated Statement of Cash Flows

For the year ended December 31	2020	2019
Cash flows from operating activities		
Deficiency of revenue over expenses for the year	\$ (30,557)	\$ (981,270)
Adjustments to reconcile deficiency of revenue over expenses to net cash used in operating activities		
Amortization of capital assets	71,352	72,761
Amortization of deferred capital contributions	(40,273)	(40,273)
Changes in non-cash working capital balances		
Accounts receivable	(125,496)	125,290
Accounts payable and accrued liabilities	(200,519)	(94,826)
Deferred revenue	(56,000)	(22,781)
	(381,493)	(941,099)
Cash flows from financing activity		
Repayment of note receivable	187,582	859,900
Decrease in cash during the year	(193,911)	(81,199)
Cash, beginning of year	472,697	553,896
Cash, end of year	\$ 278,786	\$ 472,697

The accompanying notes are an integral part of these consolidated financial statements.

Hamilton Waterfront Trust Notes to Consolidated Financial Statements

December 31, 2020

1. Significant Accounting Policies

Nature of Business

The purpose of the Hamilton Waterfront Trust (the "Organization") is to improve and develop lands around the Hamilton Harbour and to encourage the local community to enjoy the Bay area. Hamilton is a culturally and ethnically diversified mosaic. Therefore, the Organization helps to promote the image of Hamilton to businesses and individuals over a wide radius.

Following a strategic review undertaken by the Board of Directors, it was decided to restructure the Organization to become a not-for-profit organization effective November 21, 2016. As part of the reorganization on that same date, HWT Inc., a wholly-owned subsidiary, was incorporated.

The Organization is incorporated under the Ontario Corporations Act, and now have a continuance under the Canada Not-for-Profit Corporations Act.

The Organization is registered under the Income Tax Act (Canada) (the "Tax Act") and, as such, is exempt from income taxes.

Basis of Accounting and Presentation

The consolidated financial statements of the Organization have been prepared using Canadian accounting standards for not-for-profit organizations.

These consolidated financial statements include the accounts of the Organization and HWT Inc. All significant intercompany transactions and balances have been eliminated.

Revenue Recognition

The Organization follows the deferral method of accounting for contributions.

Unrestricted revenue is recognized when received or receivable if the amount to be received can be reasonably estimated and collection is reasonably assured.

Deferred capital contributions related to capital assets represent the unamortized and unallocated amount of grants received for the purchase of capital assets. The amortization of capital contributions is recorded as revenue in the statement of operations.

The Organization recognizes all other revenue when services are performed or goods are sold, there is no uncertainty as to the customer acceptance, the price to the buyer is fixed or determinable and collection is reasonably assured.

Hamilton Waterfront Trust Notes to Consolidated Financial Statements

December 31, 2020

1. Significant Accounting Policies (Continued)

Capital assets

Capital assets are recorded at cost. Amortization is based on their estimated useful life using the following methods and rates or terms:

Boat	-	15 years straight-line
Building	-	5% declining balance
Computer equipment	-	30% declining balance
Dock	-	5% declining balance
Furniture and equipment	-	20% declining balance
Trolleys	-	15 years straight-line
Leasehold improvements	-	straight-line over the term of the lease

Government Assistance

During the year, the Organization made periodic application for financial assistance under the Canada Emergency Wage Subsidy ("CEWS") program in order to recover certain payroll expenditures. Government assistance received during the year for current expenses is shown as other income. When government assistance is received which relates to expenses of future periods, the amount is deferred and amortized to income as the related expenses are incurred.

Use of Estimates

The preparation of consolidated financial statements in accordance with Canadian accounting standards for not-for-profit organizations requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the consolidated financial statements, and the reported amount of revenue and expenses during the reporting period. Actual results could differ from management's best estimates as additional information becomes available in the future.

Financial Instruments

Financial instruments are recorded at fair value when acquired or issued. Subsequently, financial instruments are reported at cost or amortized cost less impairment, if applicable. Financial assets are tested for impairment when changes in circumstances indicate the asset could be impaired. Transaction costs on the acquisition, sale or issue of financial instruments are charged to the financial instrument for those measured at amortized cost.

2. Accounts Receivable

	<u>2020</u>	<u>2019</u>
Trade accounts receivable	\$ 252,751	\$ 127,236
Impairment allowance	(67,481)	(67,461)
	<u>\$ 185,270</u>	<u>\$ 59,775</u>

Hamilton Waterfront Trust Notes to Consolidated Financial Statements

December 31, 2020

3. Capital Assets

	2020		2019	
	Cost	Accumulated Amortization	Cost	Accumulated Amortization
Boat	\$ 52,156	\$ 45,518	\$ 52,156	\$ 42,042
Building	17,016	8,443	17,016	7,992
Computer equipment	42,844	42,107	42,844	41,755
Dock	15,522	10,155	15,522	8,385
Furniture and equipment	209,092	188,828	209,092	178,989
Trolleys	335,782	214,277	335,782	193,025
Leasehold improvements	2,542,155	1,392,435	2,542,155	1,358,223
	\$ 3,214,567	\$ 1,901,763	\$ 3,214,567	\$ 1,830,411
Net book value		\$ 1,312,804		\$ 1,384,156

4. Deferred Capital Contributions

Restricted capital contributions are amortized on the same basis as the underlying capital assets.

	2020	2019
Balance, beginning of year	\$ 1,211,788	\$ 1,252,061
Less: contributions recognized as revenue	(40,273)	(40,273)
	1,171,515	1,211,788
Less: current portion	(40,273)	(40,273)
Balance, end of year	\$ 1,131,242	\$ 1,171,515

Hamilton Waterfront Trust Notes to Consolidated Financial Statements

December 31, 2020

5. Note Receivable

Effective January 1, 2018, the Organization's lease on the Parks Discovery Centre with the City of Hamilton was terminated. In consideration of the Organization entering into this arrangement, The City of Hamilton agreed to pay an early surrender fee in the form of a note. The note receivable bears interest at 4% per annum and is payable in equal annual instalments of \$166,000 (2019 - \$230,000) inclusive of interest, with final payment made on January 1, 2032.

6. Financial Instrument Risks

Credit Risk

Credit risk is the risk that one party to a financial instrument will cause a financial loss for the other party by failing to discharge an obligation. The Organization is exposed to credit risk resulting from the possibility that a customer or counterparty to a financial instrument defaults on their financial obligations. The Organization's financial instruments that are exposed to concentrations of credit risk relate primarily to its accounts receivable and note receivable balances. This risk has not changed from the prior year.

Liquidity Risk

Liquidity risk is the risk that the Organization encounters difficulty in meeting its obligations associated with financial liabilities. Liquidity risk includes the risk that, as a result of operational liquidity requirements, the Organization will not have sufficient funds to settle a transaction on a due date; will be forced to sell financial assets at a value which is less than what they are worth; or may be unable to settle or recover a financial asset. Liquidity risk arises from the Organization's accounts payable and accrued liabilities. This risk has not changed from the prior year.

7. COVID-19

On March 11, 2020, the World Health Organization declared the outbreak of a novel coronavirus ("COVID-19") as a global pandemic, which continues to spread throughout Canada and around the world. As a direct result of the COVID-19 pandemic, the Organization experienced a reduction in revenue that qualified it for financial assistance from the CEWS government incentive program in the amount of \$320,654. Furthermore, the Organization recognized \$20,000 in financial assistance received as part of the forgivable portion of the Canada Emergency Business Account ("CEBA") loan.

Management is actively monitoring and planning for contingencies in the event that there is continued effect on the financial condition, liquidity, operations, suppliers, sector and workforce of the Organization. During this time, the Organization continues to operate. The Organization is not able to estimate the potential future effects of the COVID-19 outbreak on its operations, financial condition or liquidity at this time.



Hamilton Waterfront Trust

Connecting You to the Water's Edge



Established
2001

Hamilton Waterfront Trust

Connecting You to the Water's Edge



Deed of Trust

signed November 24, 2000

Funding - \$6.3 mil

Revised October 26, 2018 with the
City of Hamilton

Mission Statement


We make it possible for everyone to use and enjoy Hamilton's Waterfront. HWT is a leader in providing developments designed to enhance the waterfront experience and promote easy access to the water's edge within its beautiful surroundings.

We are dedicated to finding new, exciting ways of making it easier for residents and visitors to experience this wonderful part of our city.

**Hamilton Waterfront Trust
Summary of Expenditures**

Capital Projects

Project No.	Project Name	Expenditures
P1	Confederation Park Trail	\$700,000
P2	Hamilton Beach Trail	\$2,130,000
P3	Hamilton Waterfront (West) Trail Extension	\$3,330,000
P4	Windermere Basin Remediation	\$1,140,000
P5	Confederation Park West - Lakeland Centre	\$3,468,000
P6	Hamiltonian Tour Boat - Capital	\$54,000
P7	Art Feature (Pier 8)	\$260,000
P8	Dock Repair (City of Hamilton)	\$44,000
P10	Haida Landscaping	\$48,000
P11	Williams Coffee Pub Expansion (Kiosk)	\$59,000
P12	Williams Coffee Pub Expansion (2006)	\$1,070,000
P13	Hamilton Harbour Queen Capital (2006)	\$720,000
P15	Dubai Award	\$13,500
P16	Pier 8 Trail Expansion (Pier 8)	\$290,000
P17	Kiosk Improvements	\$13,500
P18	Waterfront Trolley Capital	\$255,000
P19	Hamilton Beach Trail (Canal Section)	\$34,300
P22	Waterfront Scoops Capital	\$18,800
P23	CCIW Shoreline	\$98,000
P25	Hamilton Waterfront Art Expressions (Pier 8)	\$11,900
P28	East Harbour Trail	\$45,000
P31	Pier 8 Development (Ice Rink & Commercial Development)	\$4,200,000
P32	Washroom/Warm up Room/Scoops Expansion	\$1,200,000
P34	Waterfront Grill	\$18,000
P41	Skate Rental Concession - Trillium	\$72,600
P43	2013 Waterfront Development	\$847,756
P44	Pier 8 Servicing Study	\$532,308
P46	Bike Rental Concession	\$72,100
P51	Pier 5 - 8 Environmental Investigations & Studies	\$1,871,029
P52	Bayfront Beach Investigations	\$176,441
P55	Pier 5 - 7 Redevelopment - Design & Construction Inspec.	\$1,170,000
P55	Waterfront Art Feature	\$470,000
P57	Pier 5 - 7 Redevelopment - Construction (Phase 1)	\$16,600,000
P59	Pier 5 - 7 Redevelopment - Construction (Phase 2)	\$5,000,000
P60	Pier 5 - 7 Redevelopment - Pedestrian Bridges (design)	\$125,000
	Totals	\$46,158,234

 Ongoing Projects

Waterfront Trails

Hamilton Beach Trail - 2003



- In the spring of 2003, the Hamilton Waterfront Trust and the City of Hamilton completed construction of the 8.5 km **East Hamilton Beach Trail**.
- The Beach Trail connects to a number of trails in Hamilton, such as:
 - Trans Canada Trail
 - Hamilton Waterfront Trail
 - Red Hill Valley Trail
 - Escarpment Rail Trail
 - Hamilton Industrial Trail
- As part of this development, the HWT awarded a commission for public art by Janus, an artist from Eden Mills, Ontario.
- A series of interpretive panels were designed for the trail, highlighting topics such as:
 - The Canal Amusement Park
 - Summer Dreams – The Fresh Air Camp
 - Wind, Waves and Water – Beach Storms

Waterfront Trail Extension - 2004



Waterfront Trails



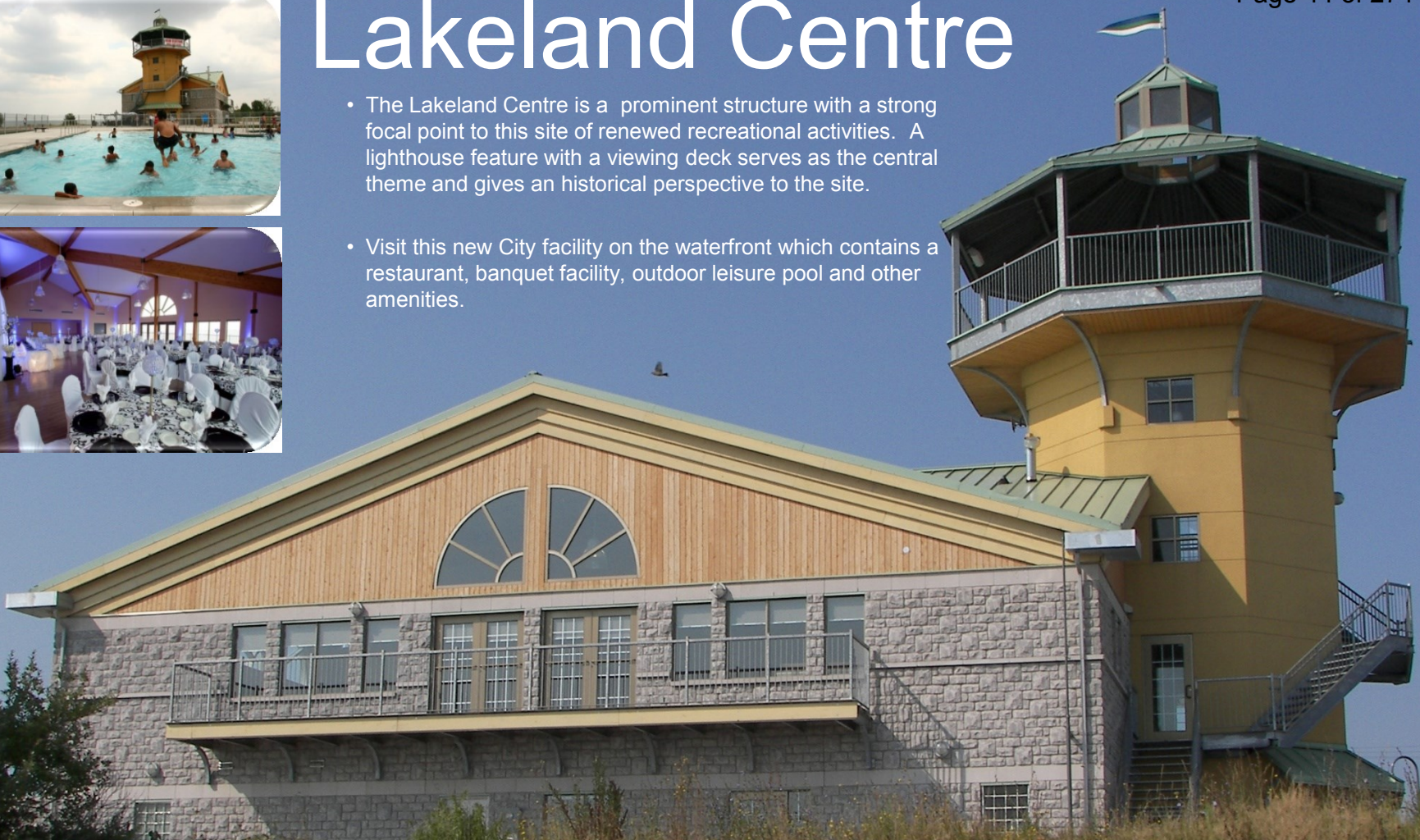
- The **Hamilton Waterfront Trail Extension** is a continuation of the existing Hamilton Waterfront Trail built by the City of Hamilton between Princess Point and Pier 4 Park in 2000.
- The multi-use asphalt paved trail can accommodate walkers, joggers, cyclists, in-line skaters and wheelchair users.
- The trail extension was built to enhance the visual quality of strategic gateways to the City, and establish continuous publicly accessible greenways along the water's edge.



Rafaga Unleashed

Lakeland Centre

- The Lakeland Centre is a prominent structure with a strong focal point to this site of renewed recreational activities. A lighthouse feature with a viewing deck serves as the central theme and gives an historical perspective to the site.
- Visit this new City facility on the waterfront which contains a restaurant, banquet facility, outdoor leisure pool and other amenities.





Windermere Basin

- In 2007 Windermere Basin was restored as an estuarine ecosystem, providing a sanctuary for wildlife and passive recreational use. With improved water quality and habitat regeneration, Windermere Basin is a 'healed' area; a source of community pride; a place where citizens and visitors can witness the ongoing regeneration of the area to a healthier environment.
- Windermere Basin is now a green area in an industrial waterfront. As a unique feature of the eastern gateway to the City of Hamilton, the Basin is an area where people can learn and understand about the area's natural and cultural history. Trails will connect the Basin with other natural and cultural attractions in the surrounding area, thus facilitating public access and linkages across the entire Hamilton Waterfront.



HWT Centre

- In 2010 the Hamilton Waterfront Trust leased the former Discovery Centre and grounds from Parks Canada. The offices of Parks Canada remain in the eastern portion of the building. The City of Hamilton took over ownership of the lands in 2015.
- In 2012 the Hamilton Waterfront Trust sub-leased the west portion of the HWT Centre to 57 At the Bay to construct and operate a restaurant within the HWT Centre. The restaurant lease was terminated in 2017.
- The Hamilton Waterfront Trust continues to rent out 2 meeting rooms (Theatre and Multipurpose Room & Patio) that can accommodate events such as corporate meetings, lectures, birthday parties, anniversaries, etc.



**Restaurant & Bar
2012 - 2017**



HWT Meeting/Event Room Rentals



Hamilton's Waterfront is a Destination for Hamiltonians

Operations

- Hamiltonian Tour Boat
- Williams Fresh Cafe
- Waterfront Scoops
- Waterfront Trolley
- Waterfront Grill
- HWT Centre
- Outdoor Ice Rink Operation
- Skate Rental Concession
- Bike Rental Concession

Events

- Hamilton Harbour Fishing Derby
- Waterfront Brochure
- Hamilton Waterfront Wingfest
- Music on the Waterfront
- Winter Light Display
- Tall Ships Event (2013 & 2017)

Waterfront Food Services



2004

Williams Fresh Café



2007

**Waterfront Scoops
Ice Cream Parlour**

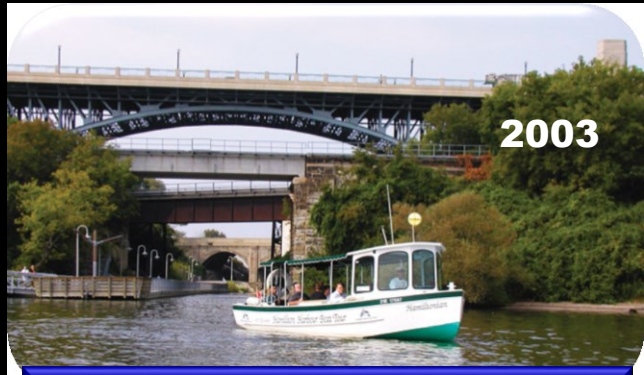


2011



Waterfront Grill





Hamiltonian Tour Boat



Hamilton Harbour Queen



Hamilton Waterfront Trolley

Waterfront Attractions



City of Hamilton Waterfront Outdoor Rink, Skate Rental (ice skates and roller skates) & Warm Up Room



Waterfront Wheels Bike Rental



Events



Wingfest (2008 - 2010)



**Music on the Waterfront
2011 to present**



**Hamilton Harbour
Fishing Derby
2007 to present**



**City of Hamilton
Tall Ships
2013 & 2017**



**Waterfront
Festival of Lights
2013 to present**



**Toronto PanAm Events
2014 & 2015**



Community Outreach Initiatives

Hamilton Waterfront Art Expressions



2010 - present



Learn-to-Skate Program Children & Youth and Adults



Hamilton Waterfront Trust Marine Training Centre



Pier 8 Grounds – Events

- Santa Race
- SuperCrawl
- SalsaSoul Dancing
- Royal Scottish Country Dancers
- Hamilton Firefighters Event
- Rollerskating Evenings with DJ
- Hammer City Roller Girls
- Hamilton International Folk Dancers
- Hamilton Concert Band
- Hamilton Urban Theatre Association
- PanAm Initiative Events
- Numerous private fundraising events



Hamilton Waterfront Trust Operating Season - 2020

<u>Business Unit Operations</u>	<u>2020 Participants</u>	<u>Percentage of 2019</u>
• Hamiltonian	949 passengers	28%
• Williams Fresh Cafe	145,000 customers	45%
• Waterfront Scoops	20,449 cones sold	47%
• Waterfront Trolley	2,828 passengers	34%
• Waterfront Grill	5,576 customers	51%
• Waterfront Skate Rentals	6,075 skates rented	43%
• Waterfront Wheels	224 bike rentals	24%

Activities

• Roller Skating	3,000 (estimated skaters)	9%
• Ice Skating	12,000 (estimated skaters)	15%
• Music on the Waterfront	0 spectators	0%
• Events at Pier 8	0 (estimated spectators)	0%

(Roller Derby, Fishing Derby, Dance Events, etc.)

***Overall visitation to Pier 8 is estimated at 180,000 in 2020
Which is approximately 36% from 2019***

HWT Capital Projects
HWT Contribution to the City of Hamilton

	Project Name	Year	Amount	HWT Contribution		HWT Projects
				Amount	Description	
1	Hamilton Beach Trail - City	2002	\$ 2,130,000	\$ 213,000	10% project management	
2	Hamilton Beach Trail - Confederation Park	2002	\$ 700,000	\$ 420,000	10% pm + \$350K for capital	
3	Hamilton Waterfront Trail Extension	2004	\$ 3,330,000	\$ 1,213,000	10% pm + \$880K for capital	
4	Windemere Basin Land Restoration	2004	\$ 1,200,000	\$ 697,400	10% pm + \$577.4K for capital	
5	Hamiltonian Tour Boat	2004	\$ 54,000			\$ 54,000
6	Lakeland Centre Redevelopment	2005	\$ 3,400,000	\$ 1,340,000	10% pm + \$1,000K for capital	
7	Pier 8 Art Feature	2005	\$ 200,000	\$ 20,000	10% pm	
8	City Dock Repairs	2005	\$ 44,000	\$ 4,400	10% pm	
9	Williams Coffeefe Pub	2005	\$ 1,200,000	\$ 1,200,000		
10	Pier 8 Trail Extension	2005	\$ 290,000	\$ 125,667	10% pm + \$96.6 for capital	
11	Waterfront Trolleys	2005/2006	\$ 255,000			\$ 255,000
12	Hamilton Harbour Queen	2006	\$ 760,000			\$ 760,000
13	Waterfront Scoops	2006	\$ 4,000			\$ 4,000
14	Hamilton Beach Trail at Canal	2006	\$ 29,000	\$ 2,900	10% pm	
15	Student Art Projects	2007	\$ 6,000			\$ 6,000
16	Hamilton West Harbour Recreational Master Plan	2008		\$ 100,000	City approved HWHRMP	
17	Pier 8 Ice Rink & Development	2009/2011	\$ 4,200,000		6% for project management	
18	Waterfront Scoops	2011	\$ 18,800			\$ 18,800
19	Waterfront Grill	2011	\$ 18,000			\$ 18,000
20	Pier 8 Warm-up Room/Washrooms	2012	\$ 1,200,000	\$ 120,000	10% pm	
				\$ 5,456,367		\$ 1,115,800



2020 HWT Operating Results

- **Revenues -- \$ 1,914,941**
 - ❖ **Majority of revenues are from HWT business units**
 - ❖ **\$330,862 from City for Waterfront Rink Operation**
 - ❖ **Percentage of Capital projects from City for project administration (varies year to year)**
- **Expenditures \$ 2,255,073**
- **EBITDA \$ -340,132**
- **Amortization \$ 31,079**
- **Government Assistance \$ 340,654**
- **Deficiency of Revenue over Expenses \$ -30,557**

City of Hamilton – Hamilton Waterfront Trust

- **The HWT under the Deed of Trust provides the City with annual audited financial statements.**
- **The City of Hamilton appoints Board members to the HWT.**
- **The City has operating agreements with the HWT.**
 - i. **Permission to operate the Waterfront Trolley on the trails**
 - ii. **Waterfront Outdoor Ice Rink**
 - iii. **Event based agreements (Winterfest, Tall Ships)**
- **The City/HWT have a Management Agreement for the HWT Services on future City Capital projects on Hamilton's waterfront.**
- **City leases property at 47 and 57 Discovery Drive to the HWT.**



LATE 1980's HAMILTON PORT AUTHORITY



Harbour West Concept Plan



Piers 5, 6 & 7 Redevelopment - Video

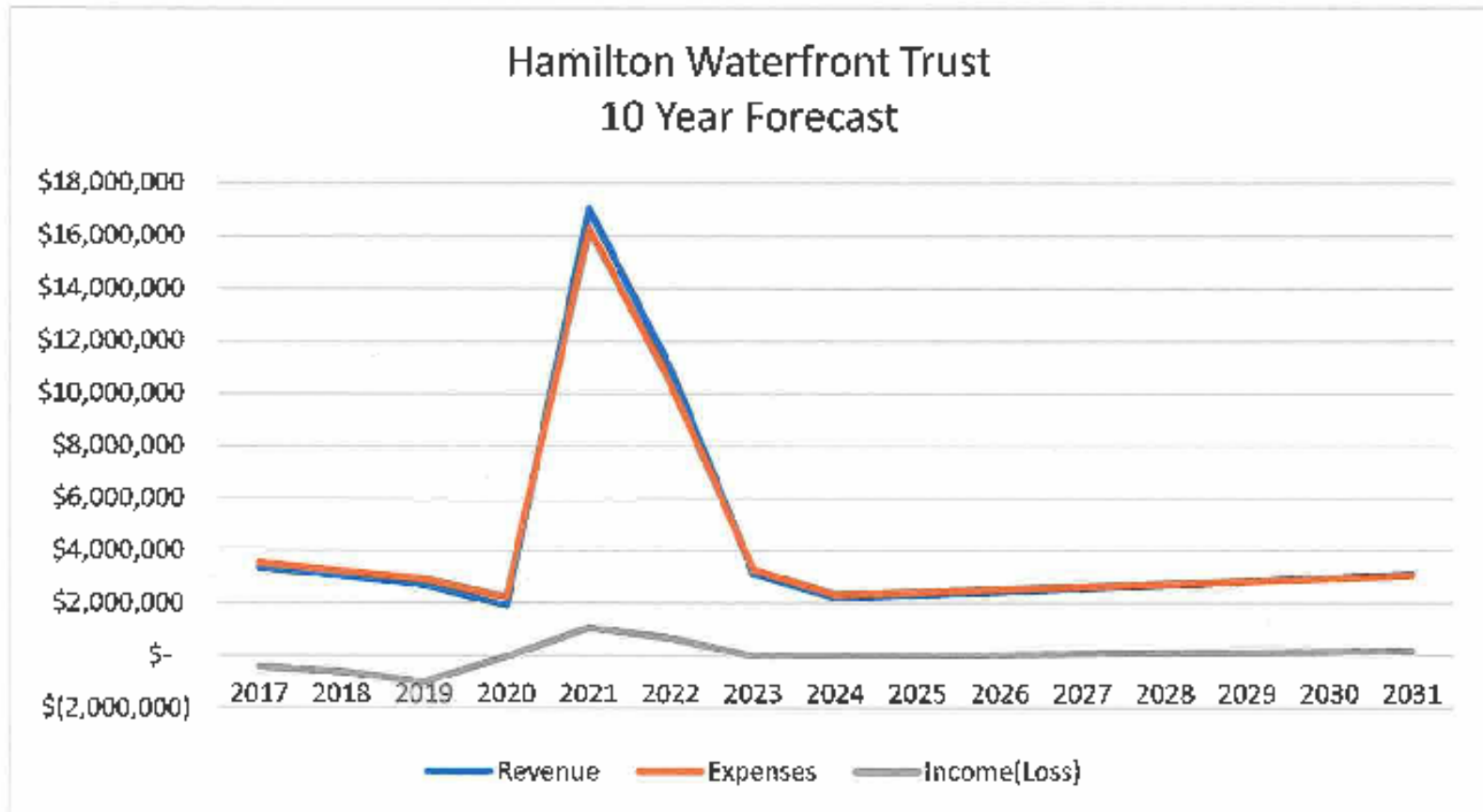




February 2022

Future Capital Works

- 1. Replacement Trolley** - The HWT Fabricated two trolleys primarily with its own forces. The 2 trolleys are diesel powered and have a capacity of 38 people each. The first went into service in 2006 and was taken out of service in 2016 when the demand for its use was lower partially due to the limited access to the waterfront trail. The 2nd trolley went into service in 2007 and continues to operate with a major existing refurbishing of the wood interior in 2019 by Threshold School of Building. This unit needs replacement at an estimated cost of \$300,000.
- 2. Future Waterfront Activity on Pier 6** - HWT staff see an opportunity in 2023 with the public having new and improved access to Piers 4 to 8 for additional amenities to complement the existing amenities provided by the HWT. New amenities could include, paddle board rentals, kayak rentals, other food venues, etc. A preliminary budget amount of \$250,000 should be allocated for this purpose and could include additional funding sources such as Trillium Foundation.
- 3. Expansion of Refrigeration Building** - For many years the HWT was able to store its equipment/vehicles such as: boat, trolleys, bikes, skates, etc. off-site but as the waterfront has been redeveloped, storage space/lands are limited. The most important need is for the expansion the existing refrigeration building with 2 storey addition of some 100 sq ft per floor for operation, storage and customer service. The estimated cost for this expansion is \$450,000.
- 4. Improvements to Public Space** - The existing exterior space between the WFC/Warm up area and the refrigeration building could become an improved public space for gathering and food sales with minor enhancements such as a fire pit, limited covered areas, expanded food services area and other amenities. The cost for such improvements starts at \$160,000.





Established
2001

Hamilton Waterfront Trust

Connecting You to the Water's Edge



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Planning, Administration and Policy Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	April 21, 2022
SUBJECT/REPORT NO:	Tax and Rate Operating Budget Variance Report as at December 31, 2021 – Budget Control Policy Transfers (FCS21070(b)) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Kayla Petrovsky Fleming (905) 546-2424 Ext. 1310 Duncan Robertson (905) 546-2424 Ext. 4744
SUBMITTED BY:	Brian McMullen Director, Financial Planning, Administration and Policy Corporate Services Department
SIGNATURE:	

RECOMMENDATION(S)

- (a) That the Tax and Rate Operating Budget Variance Report as at December 31, 2021 attached as Appendices “A” and “B”, respectively, to Report FCS21070(b) be received;
- (b) That, in accordance with the “Budgeted Complement Control Policy”, the 2021 complement transfers from one department / division to another with no impact on the levy, as outlined in Appendix “C” to Report FCS21070(b), be approved;
- (c) That, in accordance with the “Budget Complement Control Policy”, the 2021 extensions of temporary positions with 24-month terms or greater, with no impact on the levy, as outlined in Appendix “D” to Report FCS21070(b), be approved;
- (d) That, subject to finalization of the 2021 audited financial statements, the disposition of the 2021 year-end operating budget surplus be approved as detailed in Table 1.

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**SUBJECT: Tax and Rate Operating Budget Variance Report as at
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Table 1

DISPOSITION / RECONCILIATION OF YEAR-END SURPLUS/ (DEFICIT)	\$	\$
Corporate Surplus from Tax Supported Operations		\$ 34,326,316
Disposition to/from Self-Supporting Programs & Agencies		\$ (2,670,023)
Add: Police (Transfer from Police Reserve)	\$ 2,015,449	
Less: Library (Transfer to Library Reserve)	\$ (4,702,285)	
Add: Farmers Market (Transfer from Hamilton Farmers Market Reserve)	\$ 16,813	
Balance of Corporate Surplus		\$ 31,656,293
Less: Transfer to Tax Stabilization Reserve		\$ (759,462)
Less: Transfer to fund Hamilton's Home Energy Retrofit Opportunity (HERO) Program Study		\$ (40,000)
Less: Transfer to fund Hamilton Police Services Cannabis Enforcement		\$ (405,255)
Less: Transfer to Unallocated Capital Levy Reserve		\$ (2,000,000)
Less: Transfer to fund shortfall in Development Charge Exemptions		\$ (12,951,576)
Less: Transfer to Election Expense Reserve		\$ (500,000)
Less: Transfer to COVID-19 Emergency Reserve		\$ (15,000,000)
Balance of Tax Supported Operations		\$ -
Corporate Deficit from Rate Supported Operations		\$ (491,206)
Add: Transfer from the Rate Supported Water Reserve		\$ 1,149,056
Less: Transfer to the Rate Supported Wastewater Reserve		\$ (657,849)
Balance of Rate Supported Operations		\$ -

EXECUTIVE SUMMARY

Staff has committed to provide Council with three variance reports for the Tax Supported and Rate Supported Operating Budgets during the fiscal year (Spring / Fall / Year-End). This is the final submission for 2021 based on the operating results as of December 31, 2021 (unaudited). Appendix "A" to Report FCS21070(b) summarizes the Tax Supported Operating Budget year-end variances by department and division while Appendix "B" to Report FCS21070(b) summarizes the year-end variances of the Rate Supported Operating Budget by program.

The Tax Supported and Rate Supported operations ended the year with a positive variance of \$34.3 M and an unfavourable variance of \$0.5 M, respectively. This result is after taking into consideration all anticipated funding from senior levels of government to offset financial pressures from the COVID-19 pandemic response.

Through the Canada – Ontario Safe Restart Agreement (SRA) and the Ontario COVID-19 Recovery Funding for Municipalities Program (CRFMP), funding was provided by senior levels of government to municipalities to address general municipal and transit operating budget pressures related to the COVID-19 pandemic. The Tax Supported Operating Budget Deficit was \$852 K before the SRA / CRFMP funding was applied. A total of \$35.3 M in SRA / CRFMP funding (SRF) was applied in 2021 resulting in a Tax Supported Operating Budget surplus of \$34.3 M. The SRA / CRFMP funding composed of \$8.4 M for Transit and \$26.9 M was utilized across other divisions within the City.

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The \$34.3 M surplus is composed of City Departments / Other \$22.3 M favourable, Boards and Agencies \$3.1 M favourable and Capital Financing \$8.9 M favourable. The surplus in Tax Supported Operating Budget is spread across several departments and is related to gapping surpluses, savings in capital financing, operational changes as a result of the pandemic response and limits on discretionary spending. For the Rate Supported Operating Budget, the deficit is related to unfavourable variances from operating expenditures of \$1.0 M, partially offset by a favourable revenue variance of \$0.5 M after applying SRA / CRFMP funding of \$7.3 M to offset the revenue deficit of \$6.8 M.

Additional details are presented in the Analysis and Rationale for Recommendation(s) section beginning on page 6 of Report FCS21070(b).

The year-end disposition of the consolidated Operating Budget Surplus of \$33.8 M summarized in Table 2 is detailed in Recommendation (d) (Table 1) of Report FCS21070(b).

Table 2

CONSOLIDATED CORPORATE SURPLUS/ (DEFICIT)	\$
Tax Supported Programs	
Police	\$ (2,015,449)
Library	\$ 4,702,285
Capital Financing	\$ 8,983,000
Other Tax Supported Programs	\$ 22,656,480
Total Tax Supported Surplus	\$ 34,326,316
Rate Supported Programs	\$ (491,206)
Consolidated Corporate Surplus/ (Deficit)	\$ 33,835,110

The City of Hamilton has policies, obligations, future requirements and past practices that guide decisions around the disposition of the year-end operating budget surplus. This proposed disposition of the 2021 surplus is highlighted below.

Tax Supported Operating Budget Variances

- Year-end variances for Police, Library and Farmers' Market to be allocated to their own reserves as per their policies.
- Unallocated Capital Levy Reserve #108020. Staff recommends \$2.0 M be transferred to the Unallocated Capital Levy Reserve due to a surplus in 2021 as a result of delays in issuance of debt.

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- Development Charge Exemptions – Staff recommends \$12.9 M be transferred to fund the 2021 shortfall in discretionary tax supported development charge exemptions. Total Development Charge Exemptions, including both Rate and Tax Supported statutory and discretionary exemptions, were \$39.4 M in 2021 as outlined in Appendix “F” to Report FCS21070(b). The total budget for 2021 was \$20.1 M, leaving a funding shortfall of \$19.3 M. The recommended transfer of \$12.9 M funds the 2021 shortfall in tax supported discretionary exemptions. The funding shortfall in discretionary exemptions was primarily driven by non-residential development including industrial rate reductions and agricultural use.
- COVID-19 Emergency Reserve #110053 – \$15 M is recommended to be transferred to the COVID-19 Emergency Reserve for the purposes of funding ongoing pressures related to economic recovery and resumption of services beyond the funding commitments made by senior levels of government to the end of 2022.
- Hamilton’s Home Energy Retrofit Opportunity (HERO) Study – Per the recommendation in Report CM21008 / HSC21016 to General Issues Committee at its meeting at May 19, 2021, \$40,000 will be funded through the 2021 Healthy and Safe Communities – 2021 Air Quality Climate Change operating budget surplus.
- Hamilton Police Services Cannabis Enforcement – Since 2019, the City of Hamilton has received \$1.7 M in funding under the Ontario Cannabis Legalization Implementation Fund. The remaining funds were not sufficient to cover the costs incurred for Cannabis Enforcement by the Hamilton Police Service of \$405,255 in 2021 and will be transferred to Police Reserves.
- Election Expense Reserve #112206 – Per Report FCS20081, a one-time increase of \$350 K to the Election Expense Reserve be used to support the general administration of the 2022 municipal election. Combined with a one-time increase to the same reserve of \$150 K (FCS20081(a)) to support on-line voting initiatives, amounts to a total transfer of \$500 K.
- Tax Stabilization Reserve #110046 – The remainder of the tax supported operating budget surplus of \$759 K to be transferred to the Tax Stabilization Reserve to assist with addressing non-COVID-19 related pressures in 2022 and beyond such as any significant contractual updates or changes in Provincial cost sharing arrangements.

Rate Supported Operating Budget Variance

- The Rate Supported Operating Budget deficit of \$0.5 M is made up of a surplus in wastewater of \$0.6 M and a deficit in water of \$1.1 M. There are separate Rate Supported Reserves for each of the water, wastewater and stormwater programs.

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- Deficit of \$1.1 M from water operations to be offset by a transfer from the Water Reserve (#108015).
- Surplus in wastewater / storm operations of \$0.6 M to be transferred to Wastewater Reserve (#108005).
- The 2022 Rate Supported Budget, approved a rate increase of 4.98%, comprised largely of capital financing requirements. Staff will monitor and report to Council any opportunities to leverage the surplus through any future Federal / Provincial stimulus programs, including those that may arise as a result of the COVID-19 pandemic, or alternatively, reviewing the City's future rate supported debt forecast, as the City approaches the 2023 budget process.

2021 Budget Complement Control

In accordance with the "Budget Control Policy" and "Budgeted Complement Control Policy", staff is submitting two recommended items. The complement transfers, identified in Appendix "C" to Report FCS21070(b), moves budgeted complement from one department / division to another to accurately reflect where the staff complement is allocated within the department / division for the purpose of delivering programs and services at desired levels.

In addition, staff is recommending two items where temporary positions with 24-month terms or greater are being extended as identified in Appendix "D" to Report FCS21070(b) with no impact on the levy.

Alternatives for Consideration – See Page 20

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The financial information is provided in the Analysis and Rationale for Recommendation(s) section of Report FCS21070(b).

Staffing: Staffing implications of Report FCS21070(b) are detailed in Appendix "C", which outlines the 2021 staff complement transfers from one department / division to another with no impact on the levy and Appendix "D" which outlines the extensions of temporary positions with 24-month terms or greater with no impact on the levy.

Legal: Not Applicable

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HISTORICAL BACKGROUND

The COVID-19 pandemic has resulted in many changes affecting human behavior and impacting the world's economic condition. In response, since March of 2020, the City's operations have changed and evolved considerably with facility closures, program cancellations and modification of services provided.

The General Issues Committee received Report FCS20071, "Federal and Provincial Government Municipal Funding Announcements Update", on September 9, 2020 and Report FCS21057, "Multi-Year Outlook" on June 16, 2021 which provided information on the Safe Restart Funds and other government funding announcements.

There have been various other funding announcements, outside of the Social Services Relief Fund and Safe Restart Agreement, to assist municipalities in the delivery of critical programs and services throughout the pandemic. This includes funding from the Ministry of Health for the COVID-19 response and vaccination programs, mental health and addictions funding, enhancements to the Reaching Home Initiative, the CMHC Rapid Housing Initiative, the ICIP – COVID-19 Resilience Infrastructure Stream, as well as, funding for other emergency response and essential services such as paramedics, long-term care and children services.

Staff has committed to provide Council with three variance reports on the Tax and Rate Operating Budget during the fiscal year (Spring / Fall / Final). This is the final submission for 2021 based on the operating results as at December 31, 2021. Council approval is required to allocate year-end surplus / deficit to / from reserves.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Not Applicable

RELEVANT CONSULTATION

Staff in all City of Hamilton departments and boards provided the information in Report FCS21070(b).

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

The following provides an overview of the more significant issues affecting the 2021 Tax and Rate Operating Budget Surpluses. Appendix "A" to Report FCS21070(b) summarizes the Tax Supported Operating Budget year-end variances by department and division and Appendix "B" to Report FCS21070(b) summarizes the Rate Supported Operating Budget results by program.

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Table 3 provides a summary of the departmental results as at December 31, 2021. The Tax Operating Budget surplus is projected at \$34.3 M or approximately 3.6% of the net levy.

Table 3

	2021 Approved Budget	2021 Year-End Actuals	2021 Variance (Actuals vs Budget)	
			\$	%
TAX SUPPORTED				
Planning & Economic Development	30,357	25,867	4,490	14.8%
Healthy and Safe Communities	255,173	248,135	7,038	2.8%
Public Works	266,653	254,198	12,456	4.7%
Legislative	5,164	4,682	482	9.3%
City Manager	13,017	11,901	1,116	8.6%
Corporate Services	37,212	33,118	4,094	11.0%
Corporate Financials / Non Program Revenues	(27,941)	(21,479)	(6,462)	(23.1)%
Hamilton Entertainment Facilities	4,037	4,989	(952)	(23.6)%
TOTAL CITY EXPENDITURES	583,672	561,411	22,261	3.8%
Hamilton Police Services	175,352	177,367	(2,015)	(1.1)%
Library	32,030	27,328	4,702	14.7%
Other Boards & Agencies	16,334	15,939	395	2.4%
City Enrichment Fund	6,088	6,088	0	0.0%
TOTAL BOARDS & AGENCIES	229,804	226,722	3,082	1.3%
CAPITAL FINANCING	140,943	131,960	8,983	6.4%
TOTAL OTHER NON-DEPARTMENTAL	370,747	358,682	12,065	3.3%
TOTAL TAX SUPPORTED	954,419	920,093	34,326	3.6%

Since the onset of the COVID-19 pandemic, there have been numerous announcements from the Federal and Provincial governments regarding funding opportunities to address financial pressures for individuals and organizations. Appendix "E" to Report FCS21070(b) provides a summary of all the net financial pressures from COVID-19 for 2021 and all funding from senior levels of government that were applied to offset the pressures. For 2021, \$92.5 M in COVID-19 related funding was applied (see Appendix E for further details).

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Safe Restart Agreement – Transit

On August 12, 2020, the City received confirmation of \$17.2 M of funding through the “Safe Restart Agreement: Municipal Transit Funding – Phase 1” to support COVID-19 pressures incurred from April 1, 2020 to September 30, 2020 and if unutilized funds remained from Phase 1 period, they were to be applied to the next eligible period to be utilized from October 1, 2020 to March 31 2021. These financial pressures included reduced revenues from farebox, advertising, parking and contracts, as well as, added expenses related to cleaning, new contracts, labour, driver protection, passenger protection and other capital costs.

Total Phase 1 funds utilized under the eligible periods was \$13.8 M. The \$3.4 M of unused Phase 1 funding is expected to be returned to the Province. To date, no request has been made by the Ministry of Transportation (MTO) to return the remaining unused funds. The City of Hamilton was allocated \$21.5 M in Phase 2 funding to cover the period from October 1, 2020 and March 31, 2021, if needed. The funding was not claimed by the Transit Division since there were no further eligible expenditures incurred within that timeframe to be offset by additional funding.

Phase 3 funding was confirmed in a letter from the MTO on March 3, 2021 for the period between April 1, 2021 and December 31, 2021 for a total allocation to the City of \$16.8 M. The City will be required to return any unused funding, including interest, at the end of the eligibility period. The Province may also, at its sole discretion and on a case-by-case basis, grant extensions to the Phase 3 eligibility period for costs incurred after December 31, 2021 to January 1, 2023.

As at December 31, 2021, \$8.3 M was required from the Safe Restart – Transit funding to cover COVID-19 related costs incurred during the year with \$1.6 M from Phase 1 and \$6.7 M from Phase 3, leaving \$10.1 M in funding remaining at the end of 2021. These funds have been authorized by the MTO to be carried forward to be utilized to offset 2022 eligible expenditures.

Safe Restart Agreement – Municipal and COVID-19 Recovery Funding for Municipalities Program

In a letter dated August 12, 2020, the Province advised the City of Hamilton of its Phase 1 funding allocation of \$27.6 M under the Safe Restart Agreement to support the operating costs and pressures related to COVID-19. Based on eligible expenses and lost revenues, the City recognized \$17.4 M in 2020 and carried the remaining \$10.2 M in SRA / CRFMP funding forward to 2021 to address ongoing pressures as a result of the pandemic.

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An additional \$11.7 M was provided to the City under the Phase 2 allocation for the purpose of assisting with COVID-19 operating costs and pressures in 2021 on December 16, 2020. Combined with the unused portion from Phase 1, \$21.9 M of Safe Restart Agreement – Municipal funding is available to December 31, 2021.

Additional to the Safe Restart Agreement, the Province of Ontario announced a \$500 M funding commitment to municipalities under the COVID-19 Recovery Funding for the Municipalities Program. The City of Hamilton's share under this program is \$18.7 M, which can be used to address general municipal COVID-19 costs and pressures in 2021. Remaining funds will be put into a reserve to support potential COVID-19 costs and pressures in 2022.

As at December 31, 2021, the SRA funding has been fully utilized. A total of \$12.4 M has been drawn of the \$18.7 M in CRFMP funding available leaving an eligible amount of \$6.3 M to be carried over to 2022. Remaining funds will be put into a reserve to support potential COVID-19 costs and pressures in 2022.

Social Services Relief Fund

In late March 2020, the Province announced the \$200 M Social Services Relief Fund (SSRF) in response to the ongoing COVID-19 crisis to allow communities to expand a wide range of services and supports for vulnerable populations, based on local need, to better respond to the emergency. The City of Hamilton received an initial \$6.9 M under this program.

On August 12, 2020, the SSRF was expanded by an additional \$362 M as part of the federal-provincial Safe Restart Agreement. Under Phase 2 of the program, the City of Hamilton has received an allocation of \$11.3 M, as well as, an application for an additional \$6.4 M. The SSRF Phase 2 includes an operating component and two new capital components with the objectives of mitigating ongoing risk for vulnerable people, encouraging long-term, housing-based solutions to homelessness post COVID-19 and enhancing rent assistance provided to households in rent arrears due to COVID-19. In accordance with program guidelines and eligibility requirements, \$13.0 M in revenue from the SSRF was recognized in 2020.

On March 10, 2021, the City received a letter from the Ministry of Municipal Affairs and Housing announcing Phase 3 of the SSRF and the City's allocation of \$12.3 M for the period of March 1, 2021 up to December 31, 2021.

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Another letter was received by the City on August 16, 2021 from the Ministry of Municipal Affairs and Housing (MMAH) detailing the fourth and final Phase of the province's SSRF and through Canada-Ontario Community Housing Initiative (COCHI). Under Phase 4 of the SSRF program, the City of Hamilton has received an allocation of \$13.8 M for the 2021 – 2022 fiscal year. Under the COCHI program, the government has also approved the release of up to an additional \$21 M. This funding will support community housing providers across Ontario, including the state of repair of the legacy social housing stock. Under COCHI, the City of Hamilton has received an additional funding allocation in the amount of \$1.0 M to the City of Hamilton for the 2021 - 2022 fiscal year.

Combining Phase 3 and 4 allocations with the carryover amounts from Phases 1 and 2, a total of \$37.7 M for SSRF is available for use in 2021. As at December 31, 2021, \$20.9 M has been leveraged in 2021. Remaining funds will be put into a reserve to support potential COVID-19 costs and pressures to March 31, 2022. In a letter dated March 7, 2022, the MMAH indicated that the SSRF would continue for the period April 1, 2022 to December 31, 2022 with details on the allocation to be provided at a later date.

Tax Supported Operating Budget

Appendix "A" to Report FCS21070(b) summarizes the Tax Supported Operating Budget variances by department and division.

In order to contain costs and associated budget deficits with the COVID-19 pandemic response, the Senior Leadership Team and Council adopted several measures including the suspension of scheduling for part-time casual labour in affected program areas, not hiring the full complement of student and seasonal positions and restrictions on hiring for non-essential positions. As a result, corporate-wide gapping detailed in Table 4 is \$15.1 M, in comparison to the Council approved target of \$4.9 M, resulting in a surplus of \$10.2 M.

Table 4

NET GAPPING BY DEPARTMENT	GAPPING TARGET (\$000's)	2021 ACTUAL GAPPING (\$000's)	VARIANCE (\$000's)
Planning & Economic Development	\$ 853	\$ 3,052	\$ 2,199
Healthy and Safe Communities	\$ 952	\$ 2,923	\$ 1,971
Public Works	\$ 2,202	\$ 6,144	\$ 3,942
Legislative	\$ 84	\$ (233)	\$ (317)
City Manager	\$ 225	\$ 565	\$ 340
Corporate Services	\$ 633	\$ 2,713	\$ 2,080
Consolidated Corporate Savings	\$ 4,950	\$ 15,164	\$ 10,214

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Each department's gapping variance (target versus projection) is detailed in the following sections, along with other departmental highlights.

Planning and Economic Development Department

Planning and Economic Development reported a favourable variance of \$4.5 M. SRA / CRFMP funding of \$4.2 M was applied mainly in the Transportation, Planning and Parking Division to assist with foregone parking revenues due to COVID-19 (\$2.9 M) and in the Licensing and By-Law Services Division to assist in foregone revenues such as animal tag revenue, merchandise sales and surrender fees (\$1.3 M). Without SRA / CRFMP funding, the department reported a surplus of \$0.3 M for the year-end.

The Transportation, Planning and Parking Division had a favourable variance after SRA / CRFMP funding of \$0.8 M. This is due to increased revenues of \$364 K, contractual savings of \$252 K and an unbudgeted Provincial payment of \$143 K for share of the 2021 net loss relating to Ellen Fairclough Building.

Tourism and Culture had a surplus of \$1.8 M as a result of gapping savings and savings in contractual costs from facility closures, cancellations of special events and vacancies related to COVID-19.

A favourable variance of \$0.8 M in the Planning Division is driven by \$1.8 M in excess revenues (\$367 K Zoning Application, \$350 K Site Plan Control, \$309 K Committee of Adjustment, \$255 K Condominium Fees, \$214 K Miscellaneous, \$128 K Plan of Subdivision) and gapping savings of \$438 K. These savings were partly offset by \$1.6 M surplus transfer to Development Fees Stabilization Reserve.

The Licensing and By-Law Services Division had a surplus of \$0.7 M after SRA / CRFMP funding of \$1.3 M was applied. The favourable variance is due to increased revenues of \$367 K, savings related to office relocation (\$44 K), in addition to gapping (\$161 K) and materials and supplies savings (\$104 K).

The remaining divisions have a combined surplus of \$489 K. The majority of this is attributable favourable gapping.

The Planning and Economic Development departmental gapping target, included in the explanations above, is \$0.9 M for the year of 2021. As at December 31, 2021, the actual year-end net gapping amount is \$3.1 M, resulting in favourable gapping of \$2.2 M.

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Healthy and Safe Communities Department

Overall, the Healthy and Safe Communities Department experienced a favourable variance of \$7.0 M after SRA / CRFMP funding of \$12.8 M was applied. Without funding, the overall deficit would be \$5.8 M driven by staff and resourcing costs to meet the demands required for the COVID-19 pandemic response, as well as, additional expense for combatting homelessness and protecting the community's most vulnerable. In addition, Appendix "E" to Report FCS21070(b) reflects other funding, separate from SRA and CRFMP, from senior levels of government of \$57.2 M supporting programs and services delivered by HSC in 2021.

Hamilton Paramedic Service experienced a deficit of \$285 K due to not using the transfer from reserve to fund the 2021 ambulance enhancement and higher than expected costs for ancillary employee related costs. This was partially offset by higher than expected revenues for user fees, and other operating savings. Funding from senior levels government, as reported in Appendix "E" to Report FCS21070(b), of \$3.7 M was required to offset the COVID-19 pandemic response required by the division.

The Hamilton Fire Department had a deficit of \$510 K due to material and supply costs higher than budget as a result of supply chain issues and required vehicle repairs. This is partially offset by a favourable variance due to net gapping.

Public Health Services had a surplus of \$0.6 M as a result of savings in for Racoon Rabies Program, Healthy Baby Healthy Children and Dental Programs. Provincial funding, as reported in Appendix "E" to Report FCS21070(b), of \$26.0 M was required to offset the COVID-19 pandemic response.

Long Term Care Division had a favourable variance of \$333 K due to gapping from vacancies and unfilled shifts due to staffing shortages of \$86 K and unbudgeted provincial funding of \$1.8 M. This was offset by foregone accommodation fee revenue of \$873 K, \$393 K in medical supplies, equipment and computer hardware purchases, and unbudgeted minor capital funding (\$262 K). Funding from senior levels government, as reported in Appendix "E" to Report FCS21070(b), of \$7.7 M was required to offset the COVID-19 pandemic response required by the division.

Recreation had a surplus of \$3.1 M. The operational and maintenance cost savings due to closures of \$0.9 M and savings in employee related costs (\$3.2 M) were slightly offset by increased building costs (\$1.1 M).

The Ontario Works division had a surplus of \$1.9 M. The surplus is due to \$360 K in Ministry funding carried forward from 2020, ministry funding received in 2021 of \$115 K, maximization of subsidies of \$170 K and gapping savings of \$918 K. This was slightly offset by \$260 K for new desks to support return to the office.

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The Children's Services and Neighbourhood Development Division had a surplus of \$1.8 M mostly due to a \$1.2 M surplus because of COVID-19 causing a lower caseload for fee subsidy, savings in redeployment to Public Health of \$270 K, and gapping of \$0.2 M. This was slightly offset by LEAP subsidy loss due to offsetting savings of \$188 K.

Housing Services had a deficit of \$1 K. There was a surplus of \$861 K resulting from the Social Housing prior year reconciliations for revenue rents, \$950 K in Women's Shelter savings, \$1.4 M favourability in Rent supplements and Housing Stability benefits that are underspent due to CERB payments and \$260 K in gapping costs. Per Report HSC20020(d), \$3.2 M was transferred to reserve for Housing Allowance, Capital Grants and Consultation costs. Funding from senior levels government, as reported in Appendix "E" to Report FCS21070(b), of \$31.2 M was required to offset the COVID-19 pandemic response required by the division.

The Healthy and Safe Communities departmental gapping target is \$1.0 M for the 2021 year. The actual year-end gapping amount is \$2.9 M, resulting in a surplus of \$1.9 M.

Public Works Department

Overall, the Public Works department had a surplus of \$12.5 M after SRA / CRFMP funding of \$8.6 M was applied. There were several factors across the divisions that led to the overall surplus.

Energy, Fleet and Facilities (EFF) Division had a surplus of \$0.1 M for the year after SRA / CRFMP funding of \$0.3 M was applied. The deficit is mainly due to \$0.6 M in incremental expenses from enhanced cleaning and PPE, partially offset by Backflow Prevention inspection savings.

Engineering Services had a surplus of \$0.6 M due to Road Cut Administrative Program fees and Permit Revenues along with other user fee revenues collected for various Corridor Management activities administered by this section.

The PW - General Administration division had \$0.2 M deficit due to investigation charges from the Office of the City Auditor.

Environmental Services ended the year with a surplus of \$2.5 M mainly due to savings in park operations resulting from supply chain shortages (\$0.9 M) and gapping savings largely due to staff redeployed to the Hamilton Public Health Vaccination Clinics (\$1.8 M). This is partially offset by incremental forecasted costs for labour, cleaning, PPE and other COVID-19 related expenses to maintain normal operations, resulting in an unfavourable variance of \$0.4 M.

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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.

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Waste Management had a surplus of \$2.5 M. This is mainly the result of increased recycling commodity revenues due to increase in market rates for commodities such as Fibres and Steel of \$2.5 M. There was also an increase in Transfer Station / Community Recycling Centre (TS/CRC) revenues due to increased visits and tonnages (\$1.5 M). Favourable variances in the division were also a result of savings in the Materials Recycling Facility (MRF) contract due to new contract transition costs taking place in January-February 2021 resulting in materials being shipped offsite for processing (\$0.7 M). The Waste Collection Contract had a \$0.8 M deficit. The annual escalation factor was budgeted at 2.00%, however, the actual escalation factor is 2.167%. The main driver for the escalation factor increasing is due to higher than expected natural gas prices. There was also a \$0.4 M deficit in Waste Collections due to fleet maintenance costs.

Transit mitigated its COVID-related deficit of \$8.3 M through Phase 1 utilization of emergency funding of \$1.6 M and Phase 3 utilization of \$6.7 M, resulting in a non-COVID related surplus for the year of \$1.2 M. Gapping savings of \$0.7 M within the division in addition to \$0.8 M in operational savings within the department (printing and reproduction, other fees and services, NGV station maintenance, uniforms and clothing), contributed to the \$1.2 M surplus.

Transportation Operations and Maintenance had a surplus of \$5.7 M after applying SRA / CRFMP funding of \$240 K. The surplus is driven by gapping (\$2.6 M) and the Winter and Summer Season Roads Maintenance Program (\$2.7 M).

The Public Works departmental gapping target, included in the explanations above, was \$2.2 M for the 2021 year. The actual year-end gapping amount is \$6.1 M, resulting in an annual surplus of \$3.9 M.

Legislative

The overall departmental surplus for 2021 was \$482 K. This was the result of savings in conferences, meeting expenses, consulting and contractual expenses and contingency budgets, offset by COVID expenses and corporate gapping targets. In addition, unspent ward office and volunteer committee budgets further drove a favourable variance.

The Legislative departmental gapping target was \$84 K for the year of 2021. The actual year-end gapping amount is -\$233 K, resulting in a deficit of \$317 K.

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City Manager's Office

The City Manager's Office had a favourable variance of \$1.1 M. The majority of this surplus was in the Human Resources Division of \$985 K. The main drivers of the favourable variance were gapping, savings in training, legal and contractual expenditures.

SRA / CRFMP funding of \$230 K was applied to the unfavourable variance in the CMO-Admin division mainly for overtime costs for communications staff due to COVID-19.

The City Manager's Office departmental gapping target, included in the explanations above, was \$0.2 M for the 2021 year. The actual year-end gapping amount is \$0.5 M, resulting in a surplus of \$0.3 M.

Corporate Services Department

Corporate Services finished 2021 with a positive variance of \$4.1 M. This was mainly the result of favourable variances of \$1.4 M in Financial Services, Taxation and Corporate Controller Division, \$2.9 M in the Information Technology Division and \$398 K in Financial Planning, Administration and Policy Division. The variance in Financial Services, Taxation and Corporate Controller Division was due to gapping (\$617 K) and favourable fees collections of \$560 K (tax certificates and tax transfer fees). The variance in Information Technology division is mainly a result of gapping (\$820 K), savings in computer software and hardware (\$1.2 M) and \$588 K in contract savings from Motorola Trunk Radio. The variance in Financial Planning, Administration and Policy Division is primarily due to employee related savings from gapping.

SRA / CRFMP funding of \$671 K was applied to the department, most significantly in the Customer Service, POA and Financial Integration Division (\$204K) in addition to the Information Technology Division (\$411 K) to offset COVID-19 expenditures related to cleaning, PPE, Temp staff, VPN firewall hardware and software, plexiglass, additional laptop computers and retrofitting courtrooms.

The Corporate Services departmental gapping target, included in the explanations above, was \$0.6 M for the 2021 year. The actual year-end gapping amount is \$2.7 M, resulting in a surplus of \$2.1 M.

Corporate Financials / Non-Program Revenues

Corporate Financials / Non-Program Revenues show a \$6.5 M combined unfavourable variance after SRA / CRFMP funding of \$6.8 M was applied. Contributing factors are identified as follows:

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- Non-Program Revenues: Dividends from Hamilton Utilities Corporation and Alectra Dividends were lower than anticipated as a result of COVID-19. SRA / CRFMP funding was applied to offset the \$1.9 M deficit.
- Non-Program Revenues: Shared revenues from the Ontario Lottery and Gaming Corporation were low due to the closure of casinos and racetrack slots by the Province of Ontario. SRA / CRFMP funding was applied to reduce the \$2.6 M deficit.
- Non-Program Revenues: Tax remissions and write-offs resulted in a \$5.2 M deficit based on appeals processed.
- Non-Program Revenues: POA revenues were lower than expected due to 2021 court closures. SRA / CRFMP funding was applied to reduce the deficit from \$1.6 M to \$224 K.
- Non-Program Revenues: The favourable variance of \$1.0 M in Payments in Lieu is due to a higher recovery from Metrolinx than budgeted.
- Non-Program Revenues: Supplementary taxes exceeded budgeted by \$850 K based on Assessment Roll update by MPAC.
- Corporate Pensions, Benefits & Contingency: \$2.0 M deficit primarily from WSIB payments in excess of budget.
- Corporate Initiatives: \$1.9 M deficit for insurance premiums per Report LS21027 approved at GIC meeting on August 9, 2021.

Hamilton Entertainment Facilities (HEF)

HEF had an unfavourable variance of \$952 K after applying \$522 K of SRA / CRFMP funding. This was a result of decreased revenues due to COVID-19.

Capital Financing

Capital financing had an overall positive variance of \$8.9 M as a result of timing differences in cash flow assumptions for completion of capital projects and related delays in the issuance of debt.

Boards and Agencies

Boards and Agencies had a surplus of \$3.1 M after applying \$1.2 M in SRA / CRFMP funding.

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The main surplus is attributable to Library. Library had a favourable variance of \$4.7 M as a result of staffing secondments to assist with vaccine rollout/pandemic response, in addition to vacancies going unfilled (gapping) due to COVID-19 closures and service restrictions.

After applying \$1.0 M in SRA / CRFMP funding, Hamilton Police Service had a deficit of \$2.0 M. At its meeting on March 31, 2022, Hamilton Police Service's Board received its 2021 operating budget variance report in Report 22-023.

The Hamilton Farmers' Market had an unfavourable variance of \$17 K due to revenue shortfall and COVID-19 related expenditures offset by savings in facilities allocations and gapping. SRA / CRFMP funding of \$147 K was used to offset the deficit incurred from additional security and cleaning costs.

The Library surplus is recommended to be transferred to their own reserves, while both the Police and Farmers' Market deficits are recommended to be funded from their own reserves.

Disposition of Tax Supported Operating Budget Surplus

The City of Hamilton has policies, obligations, future requirements and past practice that guide decisions around the disposition of the year-end operating budget surplus. As outlined in Recommendation (b) of Report FCS21070(b), staff recommends that the Tax Supported Operating Budget Surplus of \$34.3 M be distributed to various reserves as per the following paragraphs.

This proposed disposition of the 2021 surplus is highlighted below:

- Year-end variances for Police, Library and Farmers' Market to be allocated to their own reserves as per their policies.
- Unallocated Capital Levy Reserve #108020: Staff recommends \$2.0 M be transferred to the Unallocated Capital Levy Reserve due to a surplus in 2021 as a result of delays in issuance of debt.

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- Development Charge Exemptions: Staff recommends \$12.9 M be transferred to fund the 2021 shortfall in discretionary tax supported development charge exemptions. Total Development Charge Exemptions, including both Rate and Tax Supported statutory and discretionary exemptions, were \$39.4 M in 2021 as outlined in Appendix “F” to Report FCS21070(b). The total budget for 2021 was \$20.1 M, leaving a funding shortfall of \$19.3 M. The recommended transfer of \$12.9 M funds the 2021 shortfall in tax supported discretionary exemptions. The funding shortfall in discretionary exemptions was primarily driven by non-residential development including industrial rate reductions and agricultural use.
- COVID-19 Emergency Reserve #110053: \$15 M is recommended to be transferred to the COVID-19 Emergency Reserve for the purposes of funding ongoing pressures related to economic recovery and resumption of services beyond the funding commitments made by senior levels of government to the end of 2022.
- Hamilton’s Home Energy Retrofit Opportunity (HERO) Study: Per the recommendation in Report CM21008 / HSC21016 to General Issues Committee at its meeting at May 19, 2021, \$40,000 be funded through the 2021 Healthy and Safe Communities - 2021 Air Quality Climate Change operating budget surplus.
- Hamilton Police Services Cannabis Enforcement: Since 2019, the City of Hamilton has received \$1.7 M in funding under the Ontario Cannabis Legalization Implementation Fund. The remaining funds were not sufficient to cover the costs incurred for Cannabis Enforcement by the Hamilton Police Service of \$405,255 in 2021 and will be transferred to Police Reserves.
- Election Expense Reserve #112206: Per report FCS20081, a one-time increase of \$350 K to the Election Expense Reserve be used to support the general administration of the 2022 municipal election. Combined with a one-time increase to the same reserve of \$150 K to support on-line voting initiatives, amounts to a total transfer of \$500 K.
- Tax Stabilization Reserve #110046: The remainder of the tax supported operating budget surplus of \$759 K to be transferred to the Tax Stabilization Reserve to assist with addressing non-COVID-19 related pressures in 2022 and beyond such as any significant contractual updates or changes in Provincial cost sharing arrangements.

Rate Supported Operating Budget

For 2021, the Rate supported operating budget had an unfavourable variance of \$491 K due to unfavourable expenditures of \$1.0 M, and a revenue deficit of \$6.8 M, which has been offset by SRA / CRFMP funding of \$7.3 M.

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Revenues

Overall rate revenues had a deficit of \$6.4 M. Similar to 2020, Residential revenues remains favourable in 2021 with a reduced surplus of \$2.4 M that is likely attributable to residents working and learning from home for a portion of 2021. Offsetting the \$2.4 M favourable variance in Residential use is a deficit in the ICI / Multi-residential sector of -\$10.0 M. In 2020, the favourable surplus in Residential completely offset the unfavourable variance in ICI. The assumption was made that the offset between the two was a result of the pandemic. However, in 2021, ICI has declined even further from 2020's deficit of \$6.4 M. Analysis of the top water users in Hamilton has revealed several large users have declined steadily over the past two years. Staff will continue to monitor the top users' usage and patterns throughout 2022 and possibly revise the 2023 consumption budget, if required. Haldimand water billings ended 2021 with a surplus of \$662 K while water hauler and third party sales had a favourable variance of \$539 K.

Non-rate revenue had an unfavourable variance of \$347 K in Permits and Lease Agreements mainly due to the delay in issuing new construction permits as a result of the COVID-19 pandemic.

Expenditures

Overall program spending for 2021 had an unfavourable variance of \$1.0 M. The driving factors behind this are shown in Table 5.

Table 5

City of Hamilton - Rate Budget Operating Expenditures Variance Drivers	
Expenditure Types	Variance (\$000's)
Contractual and Consulting	(402)
Employee Related Costs	(283)
Agencies & Support Payments	142
Buildings and Grounds	(1,359)
Materials and Supplies	(613)
Capital Financing	1,487
Total Operating Expenditures	(1,028)

Building and Ground had an unfavourable variance of \$1.4 M mainly due to increased utility costs at the Woodward Treatment Plant. Materials and Supplies had an unfavourable variance of \$613 K due to increased chemical costs used in the water and wastewater treatment at the Woodward Plant.

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Contractual and Consulting expenditures had an unfavourable variance of \$402 K largely due to increased spoils testing and disposal to meet new compliance standards, faulty air valve replacement, and emergency work such as Beach Boulevard Storm Water Management and Binbrook Odour Control. Partially offsetting these contractual pressures are savings in Outreach and Education Program due to decreased spending resulting from COVID-19.

Employee Related Costs had an unfavourable variance of \$283 K due to contractual requirements. Agencies and Support Payments had a favourable variance of \$77 K primarily due to savings in Outreach and Education Program due to decreased spending resulting from COVID-19. Reserve and Capital Recoveries had a favourable variance of \$65 K due to additional recoveries from capital to align the nature of work to the appropriate budget.

Lastly, Capital Financing had a positive variance of \$1.7 M due to the timing in the issuance of debt. This positive variance is partially offset by the higher than anticipated reserve transfers of \$220 K.

Appendix “B” to Report FCS21070(b) summarizes the Rate Budget results by program.

Disposition of Rate Supported Operating Budget Surplus:

The City of Hamilton has policies, obligations, future requirements and past practice that guide decisions around the disposition of the year-end operating budget surplus.

Staff recommends that the Rate Supported Operating Budget Net Deficit of \$0.5 M be transferred as follows:

- Deficit of \$1.1 M from water operations proposed to be transferred from the water reserve.
- Surplus of \$0.6 M from wastewater / storm operations to be transferred to wastewater reserve.

ALTERNATIVES FOR CONSIDERATION

Table 1 in the Recommendation(s) section of Report FCS21070(b) identifies the recommended disposition of the surplus / deficit. Council may provide alternative direction to staff for the disposition of the surplus / deficit.

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ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

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 FCS21070(b) – City of Hamilton Tax Operating Budget Variance Report as at December 31, 2021

Appendix “B” to Report FCS21070(b) – City of Hamilton 2021 Combined Water, Wastewater and Storm Operating Budget Macro as at December 31, 2021

Appendix “C” to Report FCS21070(b) – City of Hamilton Budget Amendment Staff Complement Change

Appendix “D” to Report FCS21070(b) – City of Hamilton Budgeted Complement Temporary Extension Schedule

Appendix “E” to Report FCS21070(b) – City of Hamilton Safe Restart Agreement and Recovery Funding for Municipalities Program – December 31, 2021

Appendix “F” to Report FCS21070(b) – City of Hamilton 2021 Development Charges Exemption Summary

KP/DR/dt

CITY OF HAMILTON
TAX OPERATING BUDGET VARIANCE REPORT AS AT DECEMBER 31, 2021
(\$ 000's)

	2021 Approved Budget	2021 Actuals December	2021 Actuals vs Approved Budget		Comments/Explanations
			\$	%	
PLANNING & ECONOMIC DEVELOPMENT					
General Manager	1,055	760	295	27.9%	Favourable variance from Gapping savings of \$244 K, Meeting Expenses \$16 K, Marketing and PR \$10 K, Training and Conferences \$10 K
Transportation, Planning and Parking	1,977	1,215	762	38.5%	Favourable variance of \$762 K attributed to increased revenues of \$364 K (mainly from Site Rental - Movie Shoot, On-Street Parking Fees, Administration Fees, Processing Fees), contractual \$252 K (mainly from contractual services \$147 K due to low Imperial Parking Inc. staffing rates when onboarding early in 2021, and Provincial payment of \$143 K for share of 2021 net loss relating to Ellen Fairclough Building), Material & Supply \$87 K, various other employee related \$81 K. Partially offset by capital expenses \$41 K recovered from operating for HVAC costs at Ellen Fairclough Building
Building	1,112	1,112	(0)	(0.0%)	Increased Building Permits revenues \$3,616 K, partially offset by gapping pressures of \$410 K. Surplus transferred to Building Permit Stabilization Reserve 104050
Economic Development	5,581	5,387	194	3.5%	Favourable variance mainly attributed to gapping net savings of \$109 K, savings of \$138 K in Marketing and Advertising activities due to delays in Marketing Plan and Economic Development Action Plan are offset by reduced Real Estate fees of \$(106) K.
Growth Management	486	476	10	2.1%	\$1.5 M increased revenues (\$1.7 M Sub-processing fees, \$0.8 M Sewer Repair permits) and \$520 K gapping savings are offset by \$(1.8 M) year end surplus transfer to Development Fees Stabilization Reserve 110086 and \$(176) K HIA rent received in 2020 transferred to Airport Marketing Reserve 108043 and Mt. Hope Community Investment Fund
Licensing & By-Law Services	6,801	6,115	686	10.1%	Favourable variance of \$686 K due to increased revenues \$367 K (mainly from Administration Fees \$190 K & Penalties-APS \$180 K), savings in gapping from PY vacancies \$161 K, material & supply \$104 K, savings related to office relocation (Rent, Building Repairs & Hydro offset by Internal Debt Charges) \$44 K, Other Employee Related \$38 K. Partially offset by increased postage in Animal Services \$35 K, Property Work - Maintenance \$32 K
Planning	3,856	3,064	793	20.6%	Overall savings from \$1.8 M excess revenues (\$367 K Zoning Application, \$350 K Site Plan Control, \$309 K Committee of Adjustment, \$255 K Condominium Fees, \$214 K Miscellaneous), contractual \$126 K Plan of subdivision). Net gapping savings of \$438 K and savings in other operational costs contribute to the surplus. Savings partly offset by \$1,605K surplus transfer to Development Fees Stabilization Reserve.
Tourism & Culture	9,489	7,738	1,751	18.5%	Favourable variance of \$171 K mainly attributed from savings in building and ground \$142 K, material and supply \$137 K, contractual \$113 K; Direct Facilities \$56 K; partially offset by gapping \$230 K, reduced capital recoveries \$57 K
TOTAL PLANNING & ECONOMIC DEVELOPMENT	30,357	25,867	4,490	14.8%	
HEALTHY AND SAFE COMMUNITIES					
HSC Administration	2,988	2,962	26	0.9%	\$81 K savings in F&A due to vacancies offset by sick pay, vacation payout, \$12 K savings due to work from home on training, conferences, less professional dues. Offset by a deficit of (\$99 K) due to GM overlap, vacation payout, Consulting fees for GM recruitment, (\$31 K) gapping target, \$70 K offset by less conferences, training and Direct facilities savings, (\$6 K) pressure GM/OW admin cost not covered through OW provincial funding
Children's Services and Neighbourhood Development	11,415	9,600	1,815	15.9%	Favourable variance mostly due to: <ul style="list-style-type: none"> \$1.2 M surplus as a consequence of COVID-19 and there being less of a caseload for fee subsidy \$270 K savings from COVID-19 staff redeployments \$228 K gapping \$86 K utility savings due to short term closure in Blindigen Community Hub \$140 K in savings for support services, contractual, and temp agencies not required due to COVID-19 \$83 K LEAP program costs savings due to COVID-19 (\$188 K) offset by reduction in LEAP revenues due to savings in expenses because of COVID-19.
Ontario Works	12,310	10,408	1,902	15.5%	Favourable variance of \$1.9 M due to: Revenues of \$421 K <ul style="list-style-type: none"> \$360 K Ministry 50% revenue carried forward from 2020 \$170 K Maximizing available 100% subsidies in 2021 \$115 K Ministry 100% revenue received in 2021 related to 2020 (\$224 K) Underspending of 2021 Ministry 50% revenue Avoided Costs due to COVID-19 \$1.0 M Expenses \$471 K <ul style="list-style-type: none"> \$918 K Gapping due to vacant positions, retirements, and the delays in the hiring process combined with recoveries for redeployed staff (\$130 K) Increase in funeral requests (\$260 K) Renovation costs to office space to support return to office work
Housing Services	46,717	46,718	(1)	(0.0%)	Unfavourable variance due to: <ul style="list-style-type: none"> \$1.06 M Housing Stability Benefit due to CERB COVID-19 payments \$950 K Women's Shelter \$861 K Social Housing Provider AIRs \$353 K Rent Supplements and Housing Allowances \$286 K Bus pass expenses \$260 K Gapping due to vacant housing manager position, and COVID-19 admin funding (\$66.4K) Rent Ready Program (\$3.2 M) Transfer to reserve HSC20020(d) for Housing Allowance, Capital Grants, and Consultation costs.
Long Term Care	11,525	11,192	333	2.9%	Favourable variance of \$332 K due to: <ul style="list-style-type: none"> \$86 K in Employee Related Expenses due to staffing shortages, step differentials and gapping due to vacancies offset by LTD increased cohort costs, PSW casual pool, sick, stat and vacation pay \$1.8 M in unbudgeted provincial funding including \$97 K Allied Health, \$1.17 M MOHLTC Global level of care, lower copayment resident rate than budgeted, RN, RPN, PSW Staffing Supplement funding, \$27 K other revenue adjustments including preferred rate increase and Case mix index adjustment. \$114 K increased purchasing rebates and delay of purchases due to COVID-19 priorities. Offset by: <ul style="list-style-type: none"> lost revenues of (\$873 K) in Accommodation Fees for preferred and basic (\$393K) other medical supplies, equipment, computer hardware purchases (\$262K) unbudgeted Minor Capital funding

- () Denotes unfavourable variance.
- Variances include eligible COVID-19 related funding (Safe Restart or Other Streams identified in Appendix F to Report FCS21070(a))

CITY OF HAMILTON
TAX OPERATING BUDGET VARIANCE REPORT AS AT DECEMBER 31, 2021
(\$ 000's)

	2021	2021	2021 Actuals		
	Approved Budget	Actuals December	.vs Approved Budget		
			\$	%	
Recreation	35,320	32,180	3,140	8.9%	<ul style="list-style-type: none"> \$3.27 M - Net Savings due to COVID-19 Impacts - (\$2.82 M) Foregone Revenue, (\$192 K) Incremental Costs & \$8.48 M Gapping & \$5.09 M Other Avoided Costs all offset by Budgeted Contribution from Reserve (\$7.29 M) \$988 K Surplus due to Maintenance Closures (\$1.14M) Increased Building Costs: (\$634 K) Facilities & (\$509 K) Utilities
Hamilton Fire Department	93,288	93,798	(510)	(0.5)%	Unfavourable variance due to material and supply costs higher than budget as a result of supply chain issues, and required vehicle repairs. Partially offset by a favourable variance due to net gapping.
Hamilton Paramedic Service	28,102	28,387	(285)	(1.0)%	Unfavourable variance due to only drawing a portion of the budgeted 2021 enhancement funding from reserve and higher than expected costs for ancillary employee related costs. Offset with higher than expected revenues for user fees, and other operating savings.
Public Health Services	13,508	12,889	619	4.6%	Savings in levy funded programs. <ul style="list-style-type: none"> \$190 K from Raccoon Rabies \$230 K from Saving in Healthy Baby Healthy Children and RMARCH \$120 K savings in Levy dental programs
TOTAL HEALTHY AND SAFE COMMUNITIES	255,173	248,135	7,038	2.8%	
<u>PUBLIC WORKS</u>					
PW-General Administration	635	791	(156)	(24.6)%	The PW-General Administration division has a deficit of (\$156 K) mainly due to: <ul style="list-style-type: none"> Unbudgeted costs related to City Auditor investigation
Energy Fleet and Facilities	13,358	13,210	148	1.1%	The Energy, Fleet & Facilities Management division has a favourable variance of \$148 K mainly due to: Favourable variances largely due to: <ul style="list-style-type: none"> \$636 K (COVID-19) avoided cost at Tim Hortons Field - redeployed staff and lower game costs due to condensed season \$392 K Backflow Prevention inspection costs lower than expected \$205 K savings mainly due to Eastmount School (demolished) and Mountain Secondary (sold) due to operational savings \$159 K fuel inventory price variance Partially offset by unfavourable variances mainly due to: <ul style="list-style-type: none"> (\$561 K) (COVID-19) incremental expenses due enhanced cleaning and PPE (\$303 K) (COVID-19) Mainly driven by unrealized rental revenue and concession revenues at Tim Hortons Field (\$227 K) Vacant space mainly driven by unused commercial facilities (28 James St N.) (\$101 K) Fleet parts obsolete Inventory write-off
Engineering Services	0	(581)	581	0.0%	The Engineering Services division has a surplus of \$581 K mainly due to: <ul style="list-style-type: none"> Road Cut Administrative Program fees and Permit Revenues along with other user fee revenues collected for various Corridor Management activities administered by this section
Environmental Services	43,713	41,256	2,457	5.6%	The Environmental Services Division has a favorable variance of \$2.5 M mainly due to: Favourable variance of \$4.0 M largely due to: <ul style="list-style-type: none"> \$1.8 M Net gapping savings (\$370 K COVID-19 related) largely due to staff redeployment to the Hamilton Public Health Vaccination Clinics . Additional savings resulting from seasonal staff (i.e. Students) not hired per complement due to fewer or unsuccessful applicants and delayed or postponed hiring of other full time positions \$973 K (COVID-19) savings associated with supply chain shortages for Parks operations, Forestry & Horticulture \$350 K revenue increase in Cemetery sales. This is net of any trust income not realized and transfers to cemeteries reserves \$165 K savings relating to vehicle maintenance costs Offset by unfavourable variances of (\$1.5 M) mainly due to: <ul style="list-style-type: none"> (\$397 K) (COVID-19) Incremental costs for labour, cleaning, PPE and other COVID-19 related expenses to keep operations normal (\$192 K) (COVID-19) Incremental costs for the closure of Wild Waterworks (WWW) for the 2021 summer season
Waste Management	44,627	42,147	2,480	5.6%	The Waste Management Division has a favourable variance of \$2.5 M mainly due to: Favourable variance of \$5.9 M largely due to: <ul style="list-style-type: none"> \$2.5 M increased recycling commodity largely due to increase in market rates for commodities such as Fibers, Aluminum and Plastic, partially offset by unrealized revenue for third party recycling revenues due to COVID-19 \$1.5 M increase in TS/CRC revenues due to increased visits and tonnages throughout the year \$144 K savings largely in the Materials Recycling Facility (MRF) contract due to new contract transition costs taking place in January-February 2021 resulting in materials being shipped offsite for processing and due to budget savings as a result of processing less tonnages Unfavourable variance of (\$3.4 M) mainly due to: <ul style="list-style-type: none"> (\$815 K) deficit in waste collection program mainly due to the escalation factor budgeted at 2%, however, the actual escalation factor is 2.167%. (\$400 K) deficit in Waste Collections due to fleet maintenance costs (\$148 K) deficit in the Household Special Waste program resulting from increased contractual costs and reduced subsidy due to program change effective September 1, 2021 (\$100 K) deficit in Glanbrook Landfill operations due to provisional contract item related to flushing of leachate line for wastewater treatment

- () Denotes unfavourable variance.
 - Variances include eligible COVID-19 related funding (Safe Restart or Other Streams identified in Appendix F to Report FCS21070(a))

CITY OF HAMILTON
TAX OPERATING BUDGET VARIANCE REPORT AS AT DECEMBER 31, 2021
 (\$ 000's)

	2021	2021	2021 Actuals		
	Approved Budget	Actuals December	.vs Approved Budget		
			\$	%	
Transit	80,835	79,590	1,245	1.5%	<p>Comments/Explanations</p> <p>The Transit division has a favourable variance of \$1.2 M mainly due to:</p> <p>Favourable variance of \$24.2 M largely due to:</p> <ul style="list-style-type: none"> • \$6.3 M in Safe Restart Funding • \$13.9 M savings due to \$11.5 M (COVID-19) DARTS contract savings due to 68% fewer trips versus budget; \$1.3 M (COVID-19) savings in Taxi Contract due to lower utilization of TransCab and Taxi Scrip programs; \$1.0 M (COVID-19) savings in the PRESTO commissions due to lower ridership. • \$772 K Favourable net gapping of \$7.4M in Salaries/Wages offset by unfavourable Overtime (\$3.0 M), Sick Time (\$2.8 M), unfavourable vacation payouts (\$608 K) and (\$543 K) (COVID-19) costs associated with net impact of COVID-19 related absences. Partially offset by \$302 K in surplus in other payroll related cost, such as salary and benefit reallocation, travel and spread time • \$877 K favourable across multiple areas (printing and reproduction, other fees and services, NGV station maintenance, uniforms and clothing, etc.) • \$272 K net fuel savings comprised of \$853 K (COVID-19) consumption savings offset by (\$581 K) (Non-COVID-19) unfavourable impact due to higher prices for Diesel and Unleaded <p>Partially offset by unfavourable variance of (\$22.9 M) largely due to:</p> <ul style="list-style-type: none"> • (\$20.2 M) (COVID-19) deficit in Fare Revenue as a result of the COVID-19 pandemic lockdowns in the first half of the year resulting in decreased ridership and revenue. • (\$1.0 M) (COVID-19) Due to COVID-19 emergency there has been continued delays experienced in replacing fleet; therefore there has been a need to continue to employ older fleet which is increasing impact on Maintenance costs • (\$449 K) (COVID-19) shortfall in Taxi Scrip and Charter revenue due to lower utilization of Taxi Scrip and cancellation of charters • (\$284 K) (COVID-19) Incremental costs of COVID-19 related protective equipment, costs associated with advertising and promotion planned to encourage and drive returning ridership, additional Bio-Shields for additional installations and repairs as required and Installation of barriers at MacNab Terminal, MicroTransit Pilot costs in Waterdown • (\$244 K) (COVID-19) impacts of additional cleaning and HVAC costs at Transit Facilities • (\$128 K) (COVID-19) impact due to all enhanced bus cleaning due to COVID-19
Transportation Operations & Maintenance	83,486	77,785	5,701	6.8%	<p>The Transportation, Operations & Maintenance division has a surplus of \$5.7 M mainly due to:</p> <p>Favourable variance of \$5.9 M mainly due to:</p> <ul style="list-style-type: none"> • \$2.6 M Net gapping savings due to seasonal staff/students not hired as a result of the COVID-19 hiring delays, staff vacancies attributed to normal staff turnover (retirements, job transfers, seasonal hiring, difficulties recruiting etc.) • \$1.4 M favourable variance in the Summer Season Roads Programs attributed to savings in materials and vehicle expenses • \$1.3 M favourable variance in the Winter Season Roads Program attributed to savings in material and supplies <p>Partially offset by unfavourable variance of (\$240 K):</p> <ul style="list-style-type: none"> • (\$240 K) (COVID-19) Incremental costs associated with our response to the COVID-19 pandemic including labour, cleaning, PPE and other COVID-19 related expenses to maintain operations
TOTAL PUBLIC WORKS	266,653	254,198	12,456	4.7%	
LEGISLATIVE					
Legislative General	(386)	(356)	(30)	7.8%	Savings in conferences, meeting expenses and contingency budgets offset by gapping target, membership fees, Advertising and Escribe costs
Mayors Office	1,189	1,034	155	13.0%	Gapping, unspent consulting, special events, tickets, advertising and conferences - due to COVID-19-related cancellations and restrictions
Volunteer Committee	125	76	49	39.2%	Unspent Committee budgets due to COVID-19-related restrictions
Ward Budgets	4,236	3,928	308	7.3%	Unspent Ward budgets due to office closure and other COVID-19 related cancellations
TOTAL LEGISLATIVE	5,164	4,682	482	9.3%	
CITY MANAGER					
Office of the City Auditor	1,175	1,173	2	0.2%	Gapping due to temp vacancies offset by speciality technical expertise/consulting costs for audits
CMO - Admin	208	225	(17)	(8.2%)	Savings in meetings, travel & conferences offset by vacation carry-over, consulting and contractual costs
Communications and Strategic Initiatives	2,421	2,338	83	3.4%	Gapping and savings in consulting, conferences and training offset by subscriptions
Digital and Innovation Office	202	371	(169)	(83.7%)	Savings in consulting and travel offset by shortfall in revenue targets
Government & Community Relations	848	616	232	27.4%	Savings in contractual costs and gapping due to vacancy offset by temp staffing costs, and consulting costs for HARRC
Human Resources	8,163	7,178	985	12.1%	Savings in corporate training costs, meeting & conferences, legal and med/arb costs, and gapping due to vacancies offset by reduced reserve recoveries
TOTAL CITY MANAGER	13,017	11,901	1,116	8.6%	
CORPORATE SERVICES					
City Clerk's Office	2,972	3,043	(71)	(2.4)%	Sale of Marriage Certificates and Death Certificates better by \$97 K, Postage net costs over budget (\$129 K) due to lower usage and higher cost per transaction, Printing purchase of Store Front over by (\$74 K), Employee Costs over budget by (\$15 K)
Customer Service, POA and Fin'l Integration	5,822	5,588	234	4.0%	Employee Costs favourable by \$657 K, staff savings offset by (\$390 K) repayment of internal debt, (\$171 K) in costs to setup courtrooms for video/internet access, (\$33 K) of COVID-19 costs (OT, medical and cleaning supplies)
Financial Serv, Taxation and Corp Controller	4,083	2,688	1,395	34.2%	\$617 K savings in Employee Costs, \$560 K in favourable fees collections (specifically Tax Certificates \$250 K and Tax Transfer Fee \$220 K), HST and CPP Credits \$66 K, \$53 K in Facilities underspend, savings in Tax Collections Postage, Printing and Advertising \$48 K
Legal Services and Risk Management	3,578	4,321	(743)	(20.8)%	(\$354 K) Due to Legal Recovery change, (\$147 K) for employee related costs, (\$207 K) for Legal Fees/Witness Fees/ Misc. Claims Expenses - for outside counsel (homeless encampment injunction, C. Kroetsch Review), (\$95 K) lower revenue than plan for Admin. Fees, Employee related costs better than plan by \$57 K
Corporate Services - Administration	328	309	19	5.8%	Over spend in Employee Costs (\$8 K), \$14 K in Ham. Renewable Power Recovery, and \$14 K in savings in Consulting and Contractual Services
Financial Planning, Admin & Policy	5,217	4,819	398	7.6%	Staff costs under budget by \$461 K, Security Lending Income better by \$96 K, Contractual Services better by \$70 K, Interest Earned under budget by (\$263 K)
Information Technology	15,212	12,350	2,862	18.8%	\$933 K in saving in Computer Software, \$820 K savings in Employee Costs, \$588 K in contract timing savings from Motorola Trunk Radio, and \$300 K in Computer Hardware Savings
TOTAL CORPORATE SERVICES	37,212	33,118	4,094	11.0%	

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 - Variances include eligible COVID-19 related funding (Safe Restart or Other Streams identified in Appendix F to Report FCS21070(a))

CITY OF HAMILTON
TAX OPERATING BUDGET VARIANCE REPORT AS AT DECEMBER 31, 2021
(\$ 000's)

	2021 Approved Budget	2021 Actuals December	2021 Actuals vs Approved Budget		Comments/Explanations
			\$	%	
CORPORATE FINANCIALS					
Corporate Initiatives	3,797	5,725	(1,928)	(50.8)%	\$1.9 M for insurance premiums per Report LS21027 approved at GIC meeting on August 9, 2021, slightly offset by non investment interest income earned.
Corporate Pensions, Benefits & Contingency	15,654	17,626	(1,972)	(12.6)%	Deficit due to WSIB payments
TOTAL CORPORATE FINANCIALS	19,451	23,351	(3,900)	(20.1)%	
HAMILTON ENTERTAINMENT FACILITIES					
Operating	4,037	4,989	(952)	(23.6)%	Deficit is a result of decreased revenues due to COVID-19.
TOTAL HAMILTON ENTERTAINMENT FACILITIES	4,037	4,989	(952)	(23.6)%	
TOTAL CITY EXPENDITURES	631,064	606,241	24,823	3.9%	
CAPITAL FINANCING					
Debt-Healthy and Safe Communities	3,546	2,239	1,307	36.9%	Capital financing had an overall positive variance of \$8.9 M as a result of timing differences in cash flow assumptions in the Capital Budget.
Debt-Planning & Economic Development	1,563	26	1,537	98.3%	
Debt-Public Works	31,044	30,024	1,020	3.3%	
Debt-Corporate Financials	89,960	84,841	5,119	5.7%	
Infrastructure Renewal Levy	13,429	13,429	0	0.0%	
TOTAL CAPITAL FINANCING	139,542	130,569	8,983	6.4%	
BOARDS & AGENCIES					
Police Services					
Operating	175,352	177,367	(2,015)	(1.1)%	HPS presented the year-end variance amounts and explanations to its Board on March 31, 2022.
Capital Financing	1,235	1,235	0	0.0%	
Total Police Services	176,587	178,602	(2,015)	(1.1)%	
Other Boards & Agencies					
Library	32,030	27,328	4,702	14.7%	Favourable variance as a result of staffing secondments to assist with vaccine rollout/pandemic response, in addition to vacancies going unfilled (gapping) due to COVID-19 closures and service restrictions.
Conservation Authorities	8,460	8,460	0	0.0%	Adjustment for prior year to align the GO Transit payable account to reflect the correct obligation.
GO Transit	0	(300)	300	0.0%	
Hamilton Beach Rescue Unit	132	132	0	0.0%	Budget was based on 2% increase from last year. MPAC decided on a nil increase, attributing to the variance. Savings in Facilities allocations of \$34 K and Gapping savings of \$32 K are offset by increased Security costs due to COVID-19 \$(105) K, additional costs with market stalls modifications due to unfilled stalls \$(41) K, reduced revenues as a result of vacant stalls \$(38) K.
Royal Botanical Gardens	647	647	0	0.0%	
MPAC	6,980	6,868	112	1.6%	
Farmers Market	115	132	(17)	(14.6)%	
Total Other Boards & Agencies	48,364	43,267	5,097	10.5%	
Capital Financing - Other Boards & Agencies	166	166	0	0.0%	
City Enrichment Fund	6,088	6,088	0	0.0%	
TOTAL BOARDS & AGENCIES	231,205	228,123	3,082	1.3%	
TOTAL EXPENDITURES	1,001,811	964,923	36,888	3.7%	
NON PROGRAM REVENUES					
Slot Revenues	(5,200)	(5,200)	(0)	0.0%	The closure of casinos and racetrack slots by the Province of Ontario resulted in lost revenues. Safe Restart Funding was applied to reduce the variance.
Investment Income	(4,100)	(4,100)	0	0.0%	Dividends from Hamilton Utilities Corporation and Alectra were lower than anticipated as a result of COVID-19. Safe Restart Funding was applied to reduce the variance.
Hydro Dividend and Other Interest	(5,281)	(5,256)	(25)	0.5%	
Tax Remissions and Write Offs	9,570	14,720	(5,150)	(53.8)%	Based on appeals processed Higher Recovery from Metrolinx Higher Interest and Penalties Received
Payment In Lieu	(16,400)	(17,416)	1,016	(6.2)%	
Penalties and Interest	(11,000)	(11,957)	957	(8.7)%	
Right of Way	(3,227)	(3,229)	2	(0.1)%	Based on Assessment Roll Update by MPAC Revenue shortfall due to 2021 court closure. Safe Restart Funding was applied to reduce the variance.
Senior Tax Credit	537	524	13	2.4%	
Supplementary Taxes	(9,925)	(10,775)	850	(8.6)%	
POA Revenues	(2,366)	(2,142)	(224)	9.5%	
TOTAL NON PROGRAM REVENUES	(47,392)	(44,830)	(2,562)	5.4%	
TOTAL LEVY REQUIREMENT	954,419	920,093	34,326	3.6%	

- () Denotes unfavourable variance.
- Variances include eligible COVID-19 related funding (Safe Restart or Other Streams identified in Appendix F to Report FCS21070(a))

CITY OF HAMILTON
2021 COMBINED WATER, WASTEWATER AND STORM OPERATING BUDGET MACRO
as at December 31st, 2021

	2020 Approved Budget	2021 Year-end Results as of Dec.31st	2021 Variance \$	2021 Variance %
<u>OPERATING EXPENDITURES:</u>				
Divisional Administration & Support	2,464,490	2,961,442	(496,952)	(20.2%)
Woodward Upgrades	1,735,670	1,879,377	(143,707)	(8.3%)
Customer Service	325,250	283,528	41,722	12.8%
Outreach & Education	1,189,417	857,401	332,016	27.9%
Service Co-ordination	3,660,840	3,373,407	287,433	7.9%
Engineering Systems & Data Collection	1,172,372	777,499	394,873	33.7%
Compliance & Regulations	1,005,054	942,011	63,043	6.3%
Laboratory Services	3,553,884	3,699,497	(145,613)	(4.1%)
Environmental Monitoring & Enforcement	2,215,026	2,239,840	(24,814)	(1.1%)
Water Distribution & Wastewater Collection	22,563,399	22,414,311	149,088	0.7%
Plant Operations	27,373,740	28,909,435	(1,535,695)	(5.6%)
Plant Maintenance	11,577,879	11,036,932	540,947	4.7%
Capital Delivery	2,072,271	2,195,145	(122,874)	(5.9%)
Watershed Management	1,275,560	1,254,352	21,208	1.7%
Infrastructure Planning & System Design	2,799,873	2,597,282	202,591	7.2%
Gapping Target	(1,855,000)	-	(1,855,000)	100.0%
Wastewater Abatement Program	1,192,450	1,281,903	(89,453)	(7.5%)
Alectra Utilities Service Contract	5,712,000	5,743,938	(31,938)	(0.6%)
Corporate & Departmental Support Services	7,242,552	8,046,515	(803,963)	(11.1%)
Utilities Arrears Program	500,320	162,146	338,174	67.6%
Sewer Lateral Management Program	300,000	258,298	41,702	13.9%
Hamilton Harbour Remedial Action Plan	370,964	346,580	24,384	6.6%
Protective Plumbing Program (3P)	752,870	757,321	(4,451)	(0.6%)
Financial Charges	86,020	173,750	(87,730)	(102.0%)
Sub-total	99,286,901	102,191,910	(2,905,009)	(2.9%)
Capital and Reserve Recoveries	(8,635,161)	(9,025,602)	390,441	(4.5%)
Operating Expenditures Sub-Total	90,651,740	93,166,308	(2,514,568)	(2.8%)
<u>Capital and Reserve Impacts on Operating</u>				
<u>Contributions to Capital</u>				
Water Quality Initiatives	50,498,000	50,498,000	-	0.0%
Wastewater	57,237,984	57,237,984	-	0.0%
Stormwater	17,632,679	17,632,679	-	0.0%
Sub-Total Contributions to Capital	125,368,663	125,368,663	-	0.0%
<u>Contributions for DC Exemptions</u>				
Water Quality Initiatives	2,520,000	3,874,739	(1,354,739)	(53.8%)
Wastewater	4,590,000	3,070,571	1,519,429	33.1%
Stormwater	1,890,000	2,054,690	(164,690)	(8.7%)
Sub-Total Contributions for DC Exemptions	9,000,000	9,000,000	-	0.0%
<u>Capital Debt Charges</u>				
Water Quality Initiatives	9,844,773	8,273,665	1,571,108	16.0%
Wastewater	12,534,242	8,079,041	4,455,201	35.5%
Stormwater	2,490,898	3,004,684	(513,786)	(20.6%)
DC Debt Charges Recoveries	(4,335,428)	(531,498)	(3,803,930)	87.7%
Sub-Total Debt Charges	20,534,486	18,825,892	1,708,594	8.3%
Sub-Total Capital Financing	154,903,149	153,194,555	1,708,594	1.1%
Reserve Transfers	-	221,961	(221,961)	0.0%
Sub-Total Capital and Reserve Impacts on Operating	154,903,149	153,416,516	1,486,633	1.0%
TOTAL OPERATING EXPENDITURES	245,554,888	246,582,824	(1,027,936)	(0.4%)

**CITY OF HAMILTON
2021 COMBINED WATER, WASTEWATER AND STORM OPERATING BUDGET MACRO
as at December 31st, 2021**

	2020 Approved Budget	2021 Year-end Results as of Dec.31st	2021 Variance \$	2021 Variance %
REVENUES:				
Rate Revenue				
Residential	107,653,756	110,075,582	2,421,826	2.2%
Industrial/Commercial/Institutional/Multi-res	118,417,217	108,417,375	(9,999,842)	(8.4%)
Haldimand	2,588,952	3,250,506	661,554	25.6%
Halton	269,837	268,437	(1,400)	(0.5%)
Raw Water	128,750	120,522	(8,228)	(6.4%)
Non-Metered	880,000	922,695	42,695	4.9%
Private Fire Lines	1,924,000	1,757,953	(166,047)	(8.6%)
Hauler / 3rd Party Sales	1,400,000	1,939,272	539,272	38.5%
Overstrength Agreements	3,210,510	2,758,102	(452,408)	(14.1%)
Sewer Surcharge Agreements	6,224,456	6,748,400	523,944	8.4%
Sub-Total Utility Rates	242,697,478	236,258,844	(6,438,635)	(2.7%)
Non-Rate Revenue				
Local Improvement Recoveries	275,850	144,892	(130,958)	(47.5%)
Permits / Leases / Agreements	1,065,050	689,973	(375,077)	(35.2%)
Investment Income	450,000	450,000	-	0.0%
General Fees and Recoveries	1,066,510	1,225,352	158,842	14.9%
Sub-Total Non-Rate Revenue	2,857,410	2,510,217	(347,193)	(12.2%)
SRA Funding Opportunity	-	7,322,557	7,322,557	0.0%
TOTAL REVENUES	245,554,888	246,091,618	536,729	0.2%
NET SURPLUS / (DEFICIT)	(0)	(491,206)	(491,206)	

CITY OF HAMILTON BUDGET AMENDMENT STAFF COMPLEMENT CHANGE

STAFF COMPLEMENT CHANGE

Complement Transfer to another division or department ^(1,2)

ITEM #	TRANSFER FROM				TRANSFER TO			
	<u>Department</u>	<u>Division</u>	<u>Position Title (2)</u>	<u>FTE</u>	<u>Department</u>	<u>Division</u>	<u>Position Title (2)</u>	<u>FTE</u>
1.1	Planning & Economic Development	Building	Building Division Assistant	0.50	Corporate Services	Customer Service & POA	Cust Contact Centre Dispatcher	0.50
	Explanation: Transfer is to facilitate the call consolidation for identified services, as identified in the Call Handling report, from Building Services to the Customer Contact Centre.							
1.2	Public Works	Energy, Fleet & Facilities	Vehicle Ops Clerk	1.00	Public Works	Energy, Fleet & Facilities	Vehicle Service Coordinator	1.00
	Explanation: To convert a Vehicle Ops Clerk (JobID 665) grade F to a Vehicle Service Coordinator (JobID 5402) grade J in Fleet Services. Tasks currently being performed by the Fleet Forepersons will be transferred to the new position: scheduling routine preventative schedules services, responding to vendors on results of PM inspections and authorizing additional work as necessary. It will allow Foreman additional time for scheduling and prioritizing work of the internal mechanical staff. The cost differential of \$32K will be offset by savings realized through efficiencies in vehicle scheduling and prioritizing work performed by city staff versus contracting to external vendors and will have a zero net levy impact.							

Note - Complement transfers include the transfer of corresponding budget.

- (1) - All other budgeted complement changes that require Council approval per Budgeted Complement Control Policy must be done through either separate report or the budget process (i.e. Increasing/decreasing budgeted complement).
- (2) - If a position is changing, the impact of the change is within 1 pay band unless specified.

**CITY OF HAMILTON
BUDGETED COMPLEMENT TEMPORARY EXTENSION SCHEDULE**

TEMPORARY POSITION EXTENSIONS

Extensions to temporary positions with terms of 24 months or greater as per the Budgeted Complement Control Policy

ITEM #	TRANSFER FROM				TRANSFER TO			
	<u>Department</u>	<u>Division</u>	<u>Position Title</u>	<u>FTE</u>	<u>Department</u>	<u>Division</u>	<u>Position Title</u>	<u>FTE</u>
1.1	City Manager's Office	Digital & Innovation Office	Sr. Project Manager Digital & Innovation	1.0	City Manager's Office	Digital & Innovation Office	Sr. Project Manager Digital & Innovation	1.0
	Explanation: Employee is expected to be on maternity leave for 12 months of the 24 month contract term. Existing approved funding is available to support the position for the extension. Position will not be back-filled during 12 month maternity leave due to skill set and portfolio knowledge requirements. Request is for an extension of 12 months.							
1.2	Public Works	PW - General Administration	Senior Project Manager	1.00	Public Works	PW - General Administration	Senior Project Manager	1.0
	Explanation: Temporary position with a 24 month term is expiring, requesting approval for additional 24 months extension. The additional costs will be funded by gapping. Zero net levy impact. Request is for an extension of 24 months months.							

City of Hamilton
 Safe Restart Agreement & Recovery Funding for Municipalities Program
 December 31, 2021

Department/Division	Net COVID Related Pressures	COVID Funding Sources					Safe Restart Municipal (SRA) Funding	COVID-19 Recovery Funding for Municipalities Program (CRFMP)	Total Unfunded Pressure
		Social Services Relief Fund	Ministry of Health Funding	Safe Restart Agreement - Transit	Other				
Planning & Economic Development									
Transportation, Planning & Parking	2,956,057					(2,956,057)		-	
Building	2,128					(2,128)		-	
Economic Development	7,636					(7,636)		-	
Licensing & By-Law Services	1,268,872					(1,268,872)		-	
Subtotal Planning & Economic Development	4,234,693	-	-	-	-	(4,234,693)	-	-	
Healthy and Safe Communities									
HSC Administration	78,587					(78,587)		-	
Housing Services	31,333,786	(20,901,281)			(194,296)		(10,238,209)	-	
Macassa - Long Term Care	5,439,560				(4,124,459)		(1,315,101)	-	
Wentworth - Long Term Care	2,312,042				(2,268,616)		(43,426)	-	
Hamilton Fire Department	1,090,600					(1,090,600)		-	
Hamilton Paramedic Service	3,738,300		(3,666,360)				(71,940)	-	
Public Health Services	26,042,666		(26,042,666)					-	
Subtotal Healthy and Safe Communities	70,035,541	(20,901,281)	(29,709,026)	-	(6,587,371)	(1,169,187)	(11,668,676)	-	
Public Works									
Energy Fleet and Facilities	269,671					(269,671)		-	
Engineering Services	3,482					(3,482)		-	
Transit	8,339,952			(8,339,952)				-	
Transportation Operations & Maintenance	240,334					(240,334)		-	
Hamilton Water	7,322,557					(7,322,557)		-	
Subtotal Public Works	16,175,996	-	-	(8,339,952)	-	(7,836,044)	-	-	
City Manager's Office									
CMO Admin	230,046					(230,046)		-	
Subtotal City Manager's Office	230,046	-	-	-	-	(230,046)	-	-	
Corporate Services									
City Clerk's Office	53,171					(53,171)		-	
Customer Service, POA and Financial Integration	203,713					(203,713)		-	
Financial Services, Taxation and Corporate Controller	592					(592)		-	
Legal Services and Risk Management	636					(636)		-	
Financial Planning, Administration & Policy	1,380					(1,380)		-	
Information Technology	411,026					(411,026)		-	
Subtotal Corporate Services	670,518	-	-	-	-	(670,518)	-	-	
Corporate Financials									
COVID19-Emergency Event	887,572					(202,323)	(685,249)	-	
COVID19- EOC Event	12,014						(12,014)	-	
Subtotal Corporate Financials	899,586	-	-	-	-	(202,323)	(697,263)	-	
Hamilton Entertainment Facilities									
Contract Management	522,359					(522,359)		-	
Subtotal Hamilton Entertainment Facilities	522,359	-	-	-	-	(522,359)	-	-	
Boards & Agencies									
Hamilton Police Service	1,028,012					(1,028,012)		-	
Hamilton Farmer's Market	147,187					(147,187)		-	
Subtotal Boards & Agencies	1,175,199	-	-	-	-	(1,175,199)	-	-	
Non-Program Revenues									
Non Program Revenues - POA Levy Contribution	1,417,508					(1,417,508)		-	
Slot Revenues	2,588,631					(2,588,631)		-	
HUC Dividends	1,872,994					(1,872,994)		-	
Subtotal Non-Program Revenues	5,879,133	-	-	-	-	(5,879,133)	-	-	
TOTAL	99,823,071	(20,901,281)	(29,709,026)	(8,339,952)	(6,587,371)	(21,919,502)	(12,365,939)	-	
Less: Hamilton Water (Rate Supported Budget)	(7,322,557)					7,322,557			
TOTAL TAX SUPPORTED OPERATING BUDGET	92,500,514	(20,901,281)	(29,709,026)	(8,339,952)	(6,587,371)	(14,596,945)	(12,365,939)	-	

CITY OF HAMILTON
2021 Development Charges Exemption Summary
One Year History

	2021
DC Exemptions By Area	
Hamilton	\$ 26,541,751
Stoney Creek	777,993
Flamborough	5,493,663
Ancaster	2,885,312
Glanbrook	3,662,240
Dundas	45,942
Total Exemptions By Area	\$ 39,406,901

DC Act Statutory Exemptions	
Residential Intensification	\$ 6,171,774
50% Industrial Expansion - Attached	548,076
Subtotal DC Act Statutory Exemptions	\$ 6,719,850
Council Authorized	
Residential Exemptions	
Affordable Housing	\$ 2,560,538
Farm Help Houses ^[2]	-
Student Residence ^[2]	-
Redevelopment for residential facility	35,305
Laneway House / Garden Suite ^[2]	-
Non-Residential Exemptions	
Industrial rate reduced from max	11,338,578
Stepped non-industrial rates	151,958
Non-industrial expansion	-
Academic	-
Public Hospital ^[2]	-
Agricultural Use	5,002,465
Place of Worship	1,165,862
Parking Structure ^[2]	-
Covered Sports Field ^[2]	-
50% Industrial Expansion - Detached	569,295
Residential & Non-residential Exemptions	
Downtown Hamilton CIPA	8,499,377
Downtown Public Art	4,422
Heritage Building	260,448
Transition Policy	3,098,804
Council Granted	-
ERASE ^[1]	-
Subtotal Council Authorized Exemptions	\$ 32,687,051
Total Exemptions By Development Type	\$ 39,406,901

Funding Source	
Rates	Tax
3,198,891	3,520,959
8,674,937	24,012,114
11,873,828	27,533,073
9,000,000	11,060,538
2,873,828	16,472,535

DC Exemption Funding	
Exemptions funded from Rates Budget	\$ 9,000,000
Exemptions funded from Tax Budget ^[3]	11,060,538
Total DC Exemption Funding	\$ 20,060,538

Net total unfunded Exemptions	\$ 19,346,363
--------------------------------------	----------------------

Unfunded Statutory	3,198,891	3,520,959
Unfunded Discretionary	-	12,951,576

Notes:

[1] ERASE used to be grouped with other exemptions, now funding recovered through the future ERASE grant/future taxes.

[2] These exemptions are no longer in effect.

[3] Exemptions funded from Tax Budget includes exemptions funded from affordable housing funds.

Item 8.2



Hamilton

**TAX AND RATE OPERATING BUDGET
VARIANCE REPORT AS AT
DECEMBER 31, 2021**

FCS21070(b)

Mike Zegarac
General Manager, Finance and Corporate Services

April 21, 2022
Audit, Finance and Administration Committee

AGENDA

1. Summary of Tax and Rate Operating Budget Variances
(Unaudited)
2. Update on COVID-19 Funding
3. Recommendations
 1. Surplus Disposition
 2. Complement and Budget Control Policy

2021 YEAR-END VARIANCE

CONSOLIDATED CORPORATE SURPLUS/ (DEFICIT)	\$
Tax Supported Programs	
Police *	\$ (2,015,449)
Library	\$ 4,702,285
Capital Financing	\$ 8,983,000
Other Tax Supported Programs	\$ 22,656,480
Total Tax Supported Surplus	\$ 34,326,316
Rate Supported Programs	\$ (491,206)
Consolidated Corporate Surplus/ (Deficit)	\$ 33,835,110

* Deficit is exclusive of recreational Cannabis funding offset

2021 YEAR-END VARIANCES (\$000's)

	2021 Approved Budget	2021 Year-End Actuals	2021 Variance (Actuals vs Budget)	
			\$	%
TAX SUPPORTED				
Planning & Economic Development	30,357	25,867	4,490	14.8%
Healthy and Safe Communities	255,173	248,135	7,038	2.8%
Public Works	266,653	254,198	12,456	4.7%
Legislative	5,164	4,682	482	9.3%
City Manager	13,017	11,901	1,116	8.6%
Corporate Services	37,212	33,118	4,094	11.0%
Corporate Financials / Non Program Revenues	(27,941)	(21,479)	(6,462)	(23.1)%
Hamilton Entertainment Facilities	4,037	4,989	(952)	(23.6)%
TOTAL CITY EXPENDITURES	583,672	561,411	22,261	3.8%
Hamilton Police Services	175,352	177,367	(2,015)	(1.1)%
Library	32,030	27,328	4,702	14.7%
Other Boards & Agencies	16,334	15,939	395	2.4%
City Enrichment Fund	6,088	6,088	0	0.0%
TOTAL BOARDS & AGENCIES	229,804	226,722	3,082	1.3%
CAPITAL FINANCING	140,943	131,960	8,983	6.4%
TOTAL OTHER NON-DEPARTMENTAL	370,747	358,682	12,065	3.3%
TOTAL TAX SUPPORTED	954,419	920,093	34,326	3.6%
RATE SUPPORTED	0	491	(491)	100.0%
TOTAL	954,419	920,584	33,835	3.5%

* Without COVID-19 related funding, the year-end variance is a deficit of \$0.8 M

() Denotes unfavourable variance

4

Tax Supported Operating Budget Variance

VARIANCE CHANGES AUG 31st VS. DEC 31st

- Aug 31st Forecast vs. Dec 31st is a surplus of **\$28.6 M** vs. **\$34.3 M** Year-End Surplus
 - Library more favourable due to increase in realized gapping savings from vaccine rollout/pandemic response **\$1.7 M**
 - Environmental Services more favourable due to an increase in savings associated with delayed purchases due to supply shortages (Parks) in addition to gapping savings **\$1.8 M**
 - Tourism and Culture more favourable variance due to increase in gapping savings, in addition to savings in building and ground and materials and supply due to COVID-19 related restrictions and closures. **\$1.6 M**

GAPPING (\$000's)

Net Gapping by Department	Gapping Target (\$000's)	Actual Gapping (\$000's)	Variance (\$000's)
Planning & Economic Development	\$ 853	\$ 3,052	\$ 2,199
Healthy and Safe Communities	\$ 952	\$ 2,923	\$ 1,971
Public Works	\$ 2,202	\$ 6,144	\$ 3,942
Legislative	\$ 84	\$ (233)	\$ (317)
City Manager	\$ 225	\$ 565	\$ 340
Corporate Services	\$ 633	\$ 2,713	\$ 2,080
Consolidated Corporate Savings	\$ 4,950	\$ 15,164	\$ 10,214

DEPARTMENT VARIANCES EXPLANATION SUMMARY

MAIN DRIVERS

Planning and Economic Development:

- **\$4.5 M** surplus *after* Federal & Provincial funding
 - Gapping surplus **\$2.2 M**
 - Planning revenues (higher volume) **\$1.8 M**
 - Transportation, Planning and Parking (increased revenues) **\$0.4 M**
 - Licensing & By-Law (increased revenues) **\$0.4 M**
 - Tourism contractual and materials and gapping **\$1.8 M**
 - COVID-19 financial pressures of **\$4.2 M**, largely attributed to forgone parking revenues, are offset from Safe Restart Agreement funding

DEPARTMENT VARIANCES EXPLANATION SUMMARY

MAIN DRIVERS

Healthy and Safe Communities:

- **\$7.0 M** surplus after Federal & Provincial funding
 - Gapping surplus **\$1.9 M**
 - Housing Services favourable rent supplements and Housing Stability benefits **\$1.4 M**
 - Ministry of Health unbudgeted Long-Term Care subsidies **\$1.8 M**
 - Children's Services and Neighbourhood Development surplus as a result of lower caseload for fee subsidy **\$1.2 M**
 - Recreational savings due to closures **\$0.9 M**
 - Ontario Works savings due to additional subsidy **\$0.6 M**
 - Deficit in Hamilton Fire Department due to material and supplies cost increases due to supply chain issues **\$0.5 M**
 - Total pressures of **\$70 M** related to COVID-19 mitigated through revenues from the Social Services Relief Fund, Ministry of Health, Safe Restart Agreement, Municipal Funding for Municipalities Program and various other funding announcements for social services

DEPARTMENT VARIANCES EXPLANATION SUMMARY

MAIN DRIVERS

Public Works:

- **\$12.5 M** surplus after Federal & Provincial Funding
 - Gapping surplus **\$3.9 M**
 - Winter and Summer Season Roads Maintenance Program **\$2.7 M**
 - Increased recycling commodity revenues **\$2.5 M**
 - Increase in TS/CRC revenues due to increased visits and tonnage **\$1.5 M**
 - Transit fuel savings **\$0.5 M**
 - COVID-19 financial pressures of **\$8.4 M** offset by revenues from the Transit and Municipal Safe Restart Agreement funding. Financial pressures include forgone transit revenues net of DARTS savings, as well as enhanced cleaning for facilities, fleet and parks

DEPARTMENT VARIANCES EXPLANATION SUMMARY

MAIN DRIVERS

Corporate Services:

- **\$4.1 M** surplus after Federal & Provincial funding
 - Gapping surplus **\$2.1 M**
 - Savings in computer hardware and software costs **\$1.2 M**
 - COVID-19 financial pressures of **\$0.7 M** for enhanced cleaning and IT offset by Safe Restart Agreement funding

City Manager's Office:

- **\$1.1 M** surplus after Federal & Provincial funding
 - Gapping surplus **\$0.3 M**
 - Savings in training, legal, and contractual expenditures **\$0.9 M**
 - COVID-19 financial pressures of **\$0.2 M** for additional Communications resources offset by Safe Restart Agreement funding

NON-DEPARTMENTAL VARIANCES EXPLANATION SUMMARY MAIN DRIVERS

Corporate Financials / Non Program Revenues:

- **\$6.5 M** deficit *after* Federal & Provincial funding
 - Tax remissions and write-offs **\$5.2 M**
 - Insurance premiums per Report LS21027 approved at GIC meeting on August 9, 2021 **\$1.9 M**
 - Additional WSIB pressures **\$2.5 M**
 - Higher revenues of **\$2.8 M** (Penalties and interest, Payment in lieu, and supplementary taxes)
 - Unrealized slot revenues of **\$2.6 M**, POA revenues of **\$1.4 M**, and Hydro Dividend shortfall of **\$1.8 M** were funded from the Safe Restart Agreement

DC EXEMPTIONS

	2021	2020	2021 vs 2020
DC Act Statutory Exemptions			
Residential Intensification	\$ 6,171,774	\$ 3,972,243	\$ 2,199,531
50% Industrial Expansion - Attached	548,076	3,564,391	(3,016,315)
Subtotal DC Act Statutory Exemptions	\$ 6,719,850	\$ 7,536,634	\$ (816,784)
Council Authorized			
Residential Exemptions			
Affordable Housing	\$ 2,560,538		\$ 2,560,538
Student Residence ^[2]		489,308	\$ (489,308)
Redevelopment for residential facility	35,305	20,045	\$ 15,261
Laneway House / Garden Suite ^[2]		43,489	\$ (43,489)
Non-Residential Exemptions			
Industrial rate reduced from max	11,338,578	19,057,768	\$ (7,719,190)
Stepped non-industrial rates	151,958	52,844	\$ 99,114
Non-industrial expansion	-	4,843	\$ (4,843)
Agricultural Use	5,002,465	3,161,098	\$ 1,841,367
Place of Worship	1,165,862	750,922	\$ 414,939
50% Industrial Expansion - Detached	569,295		\$ 569,295
Residential & Non-residential Exemptions			
Downtown Hamilton CIPA	8,499,377	8,694,113	\$ (194,736)
Downtown Public Art	4,422		\$ 4,422
Heritage Building	260,448		\$ 260,448
Transition Policy	3,098,804	1,496,304	\$ 1,602,500
Subtotal Council Authorized Exemptions	\$ 32,687,051	\$ 33,770,733	\$ (1,083,682)
Total Exemptions By Development Type	\$ 39,406,901	\$ 41,307,367	\$ (1,900,466)
DC Exemption Funding			
Exemptions funded from Rates Budget	\$ 9,000,000	\$ 8,000,000	\$ 1,000,000
Exemptions funded from Tax Budget ^[3]	11,060,538	8,500,000	2,560,538
Total DC Exemption Funding	\$ 20,060,538	\$ 16,500,000	\$ 3,602,676
Net total unfunded Exemptions	\$ 19,346,363	\$ 24,807,367	\$ (5,503,143)

Rate Supported Operating Budget Variance

2021 RATE OPERATING BUDGET YEAR-END VARIANCE (\$000's)

	2021 Approved Budget	2021 Year-End Actuals	2021 Year-End Variance	
			\$	%
TOTAL EXPENDITURES	245,555	246,583	(1,028)	(0.4%)
TOTAL REVENUES	(245,555)	(246,092)	537	(0.2%)
NET	-	491	(491)	(0.2%)

() Denotes unfavourable variance

15

RATE REVENUES

- Deficit in total rate revenues of **\$6.4 M** offset by SRA / CRFMP funding of \$7.3 M
 - Total deficit in ICI revenues of **\$10.0 M**
 - Residential surplus of **\$2.4 M**
 - Haldimand water billings ended 2021 with a surplus of **\$662 K**
 - Non-rate revenue has an unfavourable variance of **\$347 K** in Permits & Lease Agreements mainly due to the delay in issuing new construction permits as a result of COVID-19

RATE EXPENDITURES

- Overall program spending and capital financing for 2021 had an unfavourable variance of **\$1.0 M**
 - Capital Financing favourable variance due to timing in the issuance of debt **\$1.5 M**
 - Employee related costs had an unfavourable variance **\$283 K**
 - Contractual and contractual expenditures - unfavourable variance largely due to increased soils testing and disposal to meet new compliance standards **\$402 K**
 - Building & Ground - unfavourable variance mainly due to increased utility costs at the Woodward Treatment Plant **\$1.4 M**
 - Materials and supplies - unfavourable variance of **\$613 K** due to increased chemical costs used in the water and wastewater treatment at the Woodward Plant **\$0.1 M**

BOARDS & AGENCIES SURPLUS RECOMMENDATION

DISPOSITION / RECONCILIATION OF YEAR-END SURPLUS/ (DEFICIT)	\$	\$
Corporate Surplus from Tax Supported Operations		\$ 34,326,316
Disposition to/from Self-Supporting Programs & Agencies		\$ (2,670,023)
Add: Police (Transfer from Police Reserve)	\$ 2,015,449	
Less: Library (Transfer to Library Reserve)	\$ (4,702,285)	
Add: Farmers Market (Transfer from Hamilton Farmers Market Reserve)	\$ 16,813	
Balance of Corporate Surplus		\$ 31,656,293

CORPORATE SURPLUS RECOMMENDATION

Balance of Corporate Surplus		\$ 31,656,293
Less: Transfer to Tax Stabilization Reserve		\$ (759,462)
Less: Transfer to fund Hamilton's Home Energy Retrofit Opportunity (HERO) Program Study		\$ (40,000)
Less: Transfer to fund Hamilton Police Services Cannabis Enforcement		\$ (405,255)
Less: Transfer to Unallocated Capital Levy Reserve		\$ (2,000,000)
Less: Transfer to fund shortfall in Development Charge Exemptions		\$ (12,951,576)
Less: Transfer to Election Expense Reserve		\$ (500,000)
Less: Transfer to COVID-19 Emergency Reserve		\$ (15,000,000)
Balance of Tax Supported Operations		\$ -

RATE RECOMMENDATION

DISPOSITION / RECONCILIATION OF YEAR-END SURPLUS/ (DEFICIT)	\$	\$
Corporate Deficit from Rate Supported Operations		\$ (491,206)
Add: Transfer from the Rate Supported Water Reserve		\$ 1,149,056
Less: Transfer to the Rate Supported Wastewater Reserve		\$ (657,849)
Balance of Rate Supported Operations		\$ -

COVID-19 FINANCIAL PRESSURES

2021 COVID FUNDING

Department/Division	Net COVID Related Pressures	COVID Funding Sources						Total Unfunded Pressure
		Social Services Relief Fund	Ministry of Health Funding	Safe Restart Agreement - Transit	Other	Safe Restart Municipal (SRA) Funding	COVID-19 Recovery Funding for Municipalities Program (CRFMP)	
<i>Planning & Economic Development</i>	4,234,693	-	-	-	-	(4,234,693)	-	-
<i>Healthy and Safe Communities</i>	70,035,541	(20,901,281)	(29,709,026)	-	(6,587,371)	(1,169,187)	(11,668,676)	-
<i>Public Works</i>	16,175,996	-	-	(8,339,952)	-	(7,836,044)	-	-
<i>City Manager's Office</i>	230,046	-	-	-	-	(230,046)	-	-
<i>Corporate Services</i>	670,518	-	-	-	-	(670,518)	-	-
<i>Corporate Financials</i>	899,586	-	-	-	-	(202,323)	(697,263)	-
<i>Hamilton Entertainment Facilities</i>	522,359	-	-	-	-	(522,359)	-	-
<i>Boards & Agencies</i>	1,175,199	-	-	-	-	(1,175,199)	-	-
<i>Non-Program Revenues</i>	5,879,133	-	-	-	-	(5,879,133)	-	-
TOTAL	99,823,071	(20,901,281)	(29,709,026)	(8,339,952)	(6,587,371)	(21,919,502)	(12,365,939)	-
Less: Hamilton Water (Rate Supported Budget)	(7,322,557)					7,322,557		
TOTAL TAX SUPPORTED OPERATING BUDGET	92,500,514	(20,901,281)	(29,709,026)	(8,339,952)	(6,587,371)	(14,596,945)	(12,365,939)	-

2022 COVID FUNDING OUTLOOK

		2022 Funding from Senior Levels of Government (\$000,s)				City of Hamilton (\$000's)
Service or Program	Net Financial Impact (\$000's)	Social Services Relief Fund	Ministry of Health	Safe Restart Agreement	Recovery Funding for Municipalities Program	COVID-19 Emergency Reserve
Parking Services	4,700				(1,499)	(3,201)
Housing Services	29,031	(11,301)				(17,730)
Long Term Care	818				(818)	-
Recreation	7,254					(7,254)
Public Health Services	46,158		(46,158)			-
Emergency Response	2,957		(2,957)			-
Transit	6,230			(6,230)		-
Slot Revenues	2,600				(2,600)	-
General Municipal	1,399				(1,399)	-
Total	101,147	(11,301)	(49,115)	(6,230)	(6,316)	(28,186)
COVID-19 Reserve - Balance as of December 31, 2021						20,581
Disposition of 2021 Operating Surplus						15,000
COVID-19 Reserve - Projected Balance as of December 31, 2022						7,395

OTHER RECOMMENDATIONS

- Staff complement transfers (Appendix C)
- Temporary contract extensions (Appendix D)



THANK YOU



Hamilton

Office of the City Auditor

J.L. Grightmire Arena

Lessons Learned Audit Report, Recommendations, and Management Response



April 7, 2022

Office of the City Auditor

Lyn Guo, Senior Auditor

Brigitte Minard, Deputy City Auditor

Charles Brown, City Auditor

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Executive Summary

- 1 In 2016, a Hamilton based consulting firm, Invizij Architects Inc. (the Consultant) was single sourced for the design and architecture portion of the J.L. Grightmire Arena (Grightmire) addition and renovation project (the Project). Invizij was further retained to be the Prime Consultant and Contract Administrator. In August 2017, Century Group Inc (CGI) was contracted to take on the construction work through a competitive Request for Tenders (RFT) process.
- 2 With a fixed contract price of \$5.668 million, the Grightmire Arena project was scheduled to achieve Substantial Performance by September 7, 2018. However, CGI was not able to achieve Substantial Performance of even a reduced scope of work until May 16, 2019. The total cost of the Project eventually reached \$8.4 million, which exceeded the original budget of \$7 million by 20 percent.
- 3 During construction, CGI encountered delays, and the initial Substantial Performance date was missed. On December 21, 2018, three months after the missed date, the City issued CGI a Notice of Default. CGI defended itself and attributed some of the delays to design errors and extreme weather. In the meantime, in response to the Notice of Default, CGI proposed a revised schedule that reset the Substantial Performance date to April 9, 2019. The City accepted the revised schedules and continued working with CGI. However, by April 9, 2019, CGI once again failed to achieve Substantial Performance.
- 4 The delays forced all 2018-19 season hockey games to again be relocated, as they had been in 2017-18. To ensure Grightmire Arena would re-open for 2019-20 season, the City negotiated a transitional agreement with CGI and descoped six items from the Contract. CGI completed their descoped work on May 16, 2019. Grightmire Arena re-opened in September 2019.
- 5 Beginning in 2019, five of CGI's subcontractors filed lawsuits and registered liens against City property, because CGI had failed to pay these subcontractors. In August 2019, CGI also filed a lawsuit and registered a lien of \$3,929,461.91 against the City property. The matter was settled in late 2020 with a confidential settlement agreement. Per the settlement agreement, the terms of the settlement agreement are confidential and cannot be disclosed except as required by law. The Office of the City Auditor is therefore unable to disclose these details publicly.
- 6 Our lessons-learned audit included all stages of the Grightmire Arena project: from pre- RFT to the post settlement considerations. We engaged an external legal consultant, Cassels Brock & Blackwell LLP to provide legal advice on some of the decisions made during the course of the Project and received solicitor client privileged legal advice on these issues. The OCA has reached some of the conclusions of this report, where stated, based on the legal advice received from our independent legal consultant.

- 7 It is our opinion that there was a lack of a risk-based project management strategy and processes in place across the board to manage a high-risk capital project like Grightmire Arena. Grightmire Arena project was high risk due to a few factors, including:
 - highly anticipated among the community,
 - tight project timeline and non-negotiable completion date,
 - contracted to a vendor that had significantly underbid for the Project.

- 8 We also concluded that the Grightmire Arena project was not managed strictly in accordance with the terms and conditions of the Contract. The Contract had provided the City with several rights and remedies to handle deficiencies, schedules and delays aiming to mitigate the risk of contract default. The City did not avail itself of these remedies through the course of the Project, and there was poor contract management throughout its duration. The City's failure to exercise, or fully exercise, its rights under the Contract and its failure to manage the Contract strictly in accordance with its terms and conditions contributed to the delays and issues surrounding completion of the project, and later weakened the City's position in the negotiation of a settlement. In addition, lack of proper Project documentation and official communication on major events and issues with Contractor performance further contributed to the City's problems.

- 9 Use of its Performance Bond as assurance that the City would have the project completed in accordance with the Contract could have been an effective tool available to the City. However, the City's pattern of not exercising its rights nor following processes under the Contract and further failure to take timely action to declare the Contract in default when CGI missed the Substantial Performance date essentially made it unlikely that CGI's surety would step in to complete the Project.

- 10 OCA found that a vendor performance management process is sorely needed to mitigate the circumstances of poor contractor performance. The City, through its current approach, accepts the lowest bid, regardless of the level of risk involved or the previous performance of the contractor. The contractor in this case, was identified as having delivered poorly on a previous project. However, the current approach to procurement is unable to cope with situations where previously poor performers are bidding very low on new contracts. Further, the necessary contract management skills to closely performance monitor and manage a non-performing contractor are spread out amongst existing roles including those of project manager, contract administrator, legal experts and procurement specialists, and are generally insufficient to manage complex, high risk projects.

- 11 OCA found no evidence of any formal agreement for the consultant and contract administrator duties. Thus, the terms and conditions normally contained in such an agreement were absent. The form of contract which was through a Purchase Order for the single-sourced Prime Consultant and Contract Administrator Invizij limited the City's ability to hold the Consultant accountable for any design-related delays or fault in exercising professional due care in some areas of their work. Further, the Consultant being put in the position of wearing the hats of both design architect and contract administrator raises questions about objectivity.
- 12 Much public criticism and negative exposure of the Project was caused, in part, by lack of timely and upfront communication with Council and the public. Instead of open and timely updates on the progress of the Project and related issues that were emerging, the message that the project would be completed on time and on budget was repeated until long after it was in technical default and deficiencies were mounting, and even while the project management team might have had little confidence themselves that the Project would be completed on time.
- 13 In summary, OCA concluded that the level of oversight and timeliness of actions in overseeing the work of the Contractor were insufficient and not commensurate with the level of risk for the project. In our view, causal and contributing factors that resulted in these circumstances were resources that were spread over multiple projects, the lack of a risk management framework, weak processes for managing poorly performing contractors, a shortfall of skills in contract management, and lack of clarity in how the roles and responsibilities for this project (including project management, contract management, contract administration/consultant), and how legal and procurement expertise should be deployed and coordinated.

Grightmire Arena - Lessons Learned Audit Findings



Managing capital projects with a risk management strategy and tactful, forthright communication



Managing project requirements in accordance with the terms and conditions of the contract



Vendor management and procurement policies



Legal support and decisions that could be optimized in the best interest of the City



Effective deployment and oversight of external Consultants

Introduction and Background

Overview

- 14 The Office of City Auditor was requested by City Council to conduct a lessons-learned audit of problems associated with the Grightmire Arena Addition and Renovation project (the Project), with the goal of understanding the causes that led to the failure of the Grightmire project to achieve its intended outcomes and finding out what lessons could be learned to avoid similar pitfalls in future capital projects.
- 15 The renovations of Grightmire Arena had been on the City's capital plan since 2010. In 2013, Invizij Architects Inc. (the Consultant), a Hamilton based architectural consulting firm, was retained for environmental assessment and feasibility study. In 2016, Council approved a budget of \$7 million for the Project. Invizij was single sourced for the design and architect work, and later in the same year was retained to be the Prime Consultant and Contract Administrator for the Project. There was not an agreement signed between the City and Invizij, rather the responsibilities of Invizij as the Prime Consultant and Contract Administrator were defined in a Purchase Order issued in September 2016.
- 16 In July 2017, a Request for Tenders (RFT) for the Grightmire Arena project was released. Century Group Inc. (CGI) submitted the lowest compliant bid among the seven bidders. With a bid price of \$5.688 million, CGI was awarded with Contract C-13-44-17 (the Contract), signed on August 29, 2017.
- 17 CGI commenced the construction work at the end of September 2017. According to the Contract, the construction was scheduled to achieve Substantial Performance by September 7, 2018, in time for the next hockey season. However, CGI was not able to do so by September 7, 2018. According to Project meeting minutes, email communications, staff updates to Council, and comments in some payment certificates, the Substantial Performance date was extended a few times, however such extensions were not official as CGI did not request any of the extensions in accordance with the Contract terms. Emails and meeting minutes discussions did not constitute formal notice/request, nor did comments in the payment certifications.
- 18 By December 7, 2018, a full three months after the Substantial Performance date was missed, the Project was only approximately 80 percent complete. The Project Management team with oversight of the Project asked the Consultant to independently assess and determine whether the City had sufficient grounds to note CGI in default of the Contract.
- 19 On December 19, 2018 the Consultant responded to the Project Management team's request in writing, stating that sufficient grounds did exist to note default, mainly on the basis that CGI:
 - failed to achieve the Substantial Performance on September 7, 2018,
 - failed to rectify deficiencies, particularly items of life and safety that were brought to CGI's attention April 4, 2018,

- failed to provide a Project schedule when requested.
- 20 The City issued CGI Notice of Default and copied CGI's surety Travelers Canada on December 21, 2018.
- 21 On January 7, 2019 CGI responded to the City's Notice of Default. In its response, CGI failed to provide a rectification plan but provided a revised schedule as requested in the Notice of Default. CGI also delivered a rebuttal to many of the defaults enumerated by the Consultant, in most cases disclaiming responsibility, and asserting causes beyond its control including:
- design defects that caused delay
 - as-built drawings for the existing structure were not accurate
 - Change Directives No. 1 and 2 were delayed and impacted the schedule
 - the Consultant had failed to provide a deficiency list, while CGI had prepared its own deficiency list and addressed 75% of the deficiencies at the time of the letter; and
 - a variety of change orders that had impacted the schedule.
- 22 The City responded to CGI's rebuttal. Between January and February staff engaged CGI's subtrades in discussions about the project. The City decided to accept CGI's revised schedule and to continue working with CGI with renewed focus to complete the work. The revised schedule reset the Substantial Performance date to April 9, 2019.
- 23 CGI was not able to keep its commitment and once again failed to achieve the Substantial Performance by April 9, 2019. By May 2019, the City had decided to negotiate to terminate the Contract, which included descoping six items from the Contract that the City itself would complete.
- 24 CGI eventually managed to complete its descoped work and wrapped up the project on May 16, 2019. The project was certified as having achieved Substantial Performance on June 13, 2019. Grightmire Arena re-opened for business in September 2019.

The Cost of the Project

- 25 With an approved budget of \$7 million, and a later detailed cost estimate of \$6.9M, the total cost of the Grightmire Arena project was approximately \$8.4 million, of which \$6.7 million was paid to CGI, and \$1.7 million was provided as additional funding, which was approved in 2019 for completion of the outstanding work after CGI vacated the site. The cost of \$8.4 million does not include the loss of revenue

estimated at \$102,114 from waiving two seasons of user fees for the two hockey teams impacted by the construction delays. The cost was considerably in excess of the original \$7M budget (20%), and 22% over the detailed cost estimate - well beyond the presumed accuracy of the project estimate.

The Request for Tenders (RFT)

- 26 The scope of work for the Grightmire Arena project defined in the RFT included:
- Demolition of existing single-storey and basement level at west end of building with total floor area of approx. 2,907m² (31,292 sq.ft.),
 - Construction of new two-storey addition (with basement) of approx. 3,484m² (37,610 sq.ft.) in same proximity as demolished area including provision of a new elevator with access to all 3 levels,
 - New Basement Level includes: seven change rooms and service space,
 - New Ground Floor Level includes: Public Lobby, Administration space and Concession,
 - New Second-Storey includes: Multi-Purpose Space with view to existing ice surface,
 - Provision of new athletic floor surfacing inside existing arena proper (Provisional Price),
 - Exterior works include construction of new ramp, replacement of existing stairs, new concrete sidewalks, reconstruction of existing parking area (Provisional Price) including storm water management and demountable flood proofing measures,
 - New Mechanical HVAC, plumbing and sprinkler systems for new two-storey addition,
 - New Electrical systems for new two-storey addition.
- 27 The RFT specifically required the tenders to have:
- One price, all inclusive.
 - Bid security of \$500,000 for submission deposit.
 - 50% of base bid price Performance bond and 50% of base bid price Labour Material Payment bond.
 - Substantial Performance date of September 7, 2018.

The Contract

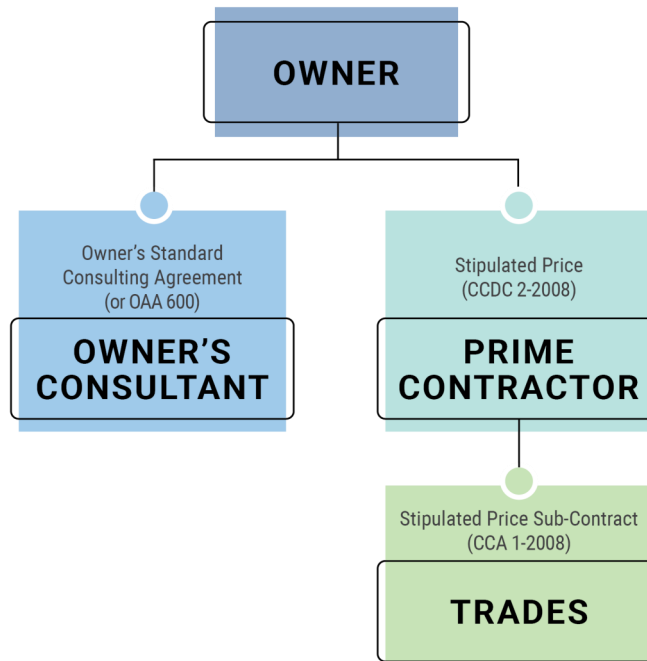
- 28 The contract used for Grightmire Arena project was a CCDC 2 Stipulated Price Contract. The CCDC 2 contract is a standard contract developed by the Canadian Construction Document Committee. The CCDC 2 Stipulated Price Contract form is typically used where an owner of the project has a defined scope of work, a completed issued-for-construction design, and is looking to engage a single contractor to construct and is prepared to pay the contractor a fixed price that includes an undisclosed amount for the contractor’s mark-up for overhead, profit and risk. Such contract also requires that users of the contract be compliant with the high-level administrative requirements and procedures needed for construction projects, including the role and authority of the consultant, procedures for changes in the work, and work by other contractors, insurance requirements, etc.

Figure 1 below illustrates how a CCDC 2 contract works.

Figure 1

DESIGN ▪ BID ▪ BUILD

Build starts after design is finished



The Project Team

- 29 Under the CCDC-2 contract, the project team for the Grightmire Arena project consisted of:
- 1) Owner’s Representatives: The Project Management team from the City to provide oversight.
 - 2) Owner’s Consultant: Invizij (Consultant), responsible for design work and contract administration including evaluating contractor performance under the contract and keeping the Owner informed of progress, quality of work and deficiencies.
 - 3) Prime Contractor: CGI that was responsible for the construction work.

The Project Timeline

- 30 The initial timelines for Grightmire Arena project was set in 2016 as follows:
- Construction tender – March 2017
 - Contract award – April 2017
 - Construction completion – September 2018
- 31 However, the RFT for the Project was not released until July 6, 2017. According to the Project Management team, this was due to delays in some minor site plan approval and permit applications. As a result, all subsequent works were pushed back by 4 months, except for the Substantial Performance date. This delay made the project considerably riskier.

Table 1 below compares the initial timeline vs. actual project milestones of the project.

Table 1 Initial Timeline vs. Actual Project Milestones

Project Milestone	Initial Plan	Actual Milestone	Difference
Tender Document	March 2017	July 6, 2017	4 Months
Contract Signed	April 2017	August 29, 2017	4 Months
Substantial Performance	September 7, 2018	June 13, 2019 (Certified)	9 Months

The Lowest Bid

- 32 In accordance with City of Hamilton Procurement Bylaw Policy # 5.3 Request for Tenders, a contract is awarded to the lowest compliant bid. CGI's base bid of \$5,668,000 was the lowest compliant bid among the seven (one disqualified) bids received. CGI was awarded with Contract C13-44-17 on August 15, 2017. The second lowest bid was \$822,000 higher.
- 33 After receiving notification of being the successful bidder, CGI alleged that they had made an error in their Base Bid Price and that they had not included the price for the Provisional Items of \$425,708, and therefore requested to increase their bid price by the same amount.
- 34 Procurement staff found no error in CGI's submission. In accordance with *RFT 5.11 and 5.12*, CGI had an obligation to either enter the Contract with the price they bid; or withdraw the bid forfeiting the bid security of \$500,000.
- 35 Procurement staff had a meeting with CGI representatives on August 29, 2017. According to the meeting notes, CGI representatives confirmed at the meeting that they would enter into the Contract, and they would complete the Project on time as prescribed and at the price they bid.

Construction Delays

- 36 The 12-month construction work was delayed a few times. By the Contract prescribed Substantial Performance date of September 7, 2018, the project was less than 80% complete. Soon after the construction commenced in September 2017, some residents of Dundas community had observed on a few occasions that there were no workers on site at all for an extended time. Based on the documents we reviewed, one of these occasions was from February 15, 2018 to March 14, 2018 when the Ministry of Labour issued a stop work order due to safety concerns, and due to shoring and excavation not meeting standards. In its later rebuttal responding to the Notice of Default, CGI attributed most of the delays to factors out of its control such as design errors, inaccurate drawings, the number of changes required, found asbestos and extreme weather conditions.
- 37 Pursuant to General Condition GC 3.5.7, CGI was required to apply to the Consultant in writing through a Change Order process to request an extension of Contract Time if there were delays caused by factors out of its control. It was documented in April 2018 meeting minutes and a Consultant General Review Report that CGI had requested to extend the Project schedule by 20 days because of asbestos found on site and weather-related delays. The Consultant prepared a Change Order to request an extension of the Substantial Performance date to Sept. 27, 2018. The request was later refused by the Project Management team on the

basis that CGI did not provide sufficient supporting documents to justify the request. For other delays that CGI claimed was out of their control, there was no evidence that CGI had requested extensions of Contract Time in the manner required per the Contract.

- 38 After the Contract was declared in default, on February 8, 2019, CGI proposed a revised schedule that reset the Substantial Performance date to April 9, 2019, which was accepted by the City. But by April 9, 2019, CGI failed to keep its promise and missed the Substantial Performance date once again.
- 39 There was very little project documentation after January 7, 2019 provided to us for review. As a result, we could not determine what specifically caused the delays in 2019.

Support from Legal Services

- 40 Legal Services was involved in tailoring the Contract to the specific requirements of the Grightmire Arena project in 2017. In late July 2018, when it was obvious the project was falling behind schedule and there had been criticism from media and public, Legal Services was engaged to review the Contract.
- 41 Legal Services continued to provide support to the Project Management team throughout the rest of the Project.

The Contract in Default

- 42 CGI did not achieve Substantial Performance on September 7, 2018, the date prescribed in the Contract.
- 43 CGI also failed to request any extension of Contract Time in writing and follow the Change Order process within 10 days of the delay event pursuant to GC 3.5.7 and GC 6.5.4. From meeting minutes, staff updates to Council, and comments in payment certifications it appeared the Substantial Performance date had been informally agreed to be extended a few times, however we did not find any documentation that spoke to formal extension. In other words, while the extensions of the Substantial Performance Date might have been agreed upon verbally, none was official, which means the Contract was indeed in default as of September 8, 2018.
- 44 On December 7, 2018, three months after the prescribed Substantial Performance date was missed, the City's Consultant was requested to independently assess whether there were grounds for noting default. After the assessment, the Consultant

gave the opinion that the City had sufficient cause to declare the contract in default resulting from poor and/or non-performance of the contractor. On December 21, 2018, the City issued CGI a Notice of Default. CGI was given five business days to cure the default.

- 45 The grounds for noting the default were, but not limited to:
1. CGI's failure to achieve Substantial Performance by September 7, 2018,
 2. CGI's failure to rectify deficiencies, particularly deficiencies that were life-safety items, that were brought to CGI's attention as early as April 4, 2018, and
 3. CGI's failure to have provided schedules when requested.
- 46 In the Notice of Default, City staff requested from CGI a rectification/recovery plan, and to address some default items by way of "a thorough, reliable and verifiable schedule". CGI's surety, Travelers Canada, was put on notice, but no further action was taken to call upon the Performance Bond.
- 47 CGI responded to the Notice of Default on January 7, 2019 and delivered a rebuttal letter to the January 17, 2019 Council meeting, in most cases disclaiming responsibility and asserting causes beyond its control. From CGI's rebuttal and staff response to CGI's rebuttal, we noticed there were disagreements between City staff, the Consultant and CGI as to what staff believed to have been the causal factors – CGI's processes and lack of prompt communication, and what CGI believed to have been causal factors – circumstances beyond their control such as drawings and design issues, changes, weather and site conditions, etc.
- 48 In CGI's response to the Notice of Default, it did not provide a rectification / recovery plan as required by the Notice, and under GC 3.5.2. However, they proposed a revised schedule that reset the Substantial Performance date to April 9, 2019 and total completion by July 5, 2019.
- 49 With uncertainty as to whether CGI would be able to keep its promise, in February 2019 the City decided to accept CGI's proposed schedule and to continue to work with CGI with a renewed focus on the completion of works.

The Interim Ban

- 50 The City established an interim ban of CGI due to the impaired commercial relationship between the City and CGI, for the purpose of preventing CGI from competing and being awarded another City Contract until December 19, 2019. The interim ban was extended to December 31, 2020 and in 2020 it was extended further to become a 10-year long term ban.

Descoped Items and Deficiencies

- 51 By April 9, 2019, the date CGI had scheduled to deliver Substantial Performance on the contract, CGI was not able to meet its obligations. The construction work had only progressed about 8% from January 2019 to April 2019.
- 52 Staff were growing concerned the 2019-2020 hockey season might be impacted. In May 2019 to the City decided to terminate the Contract which included reaching a transitional agreement to descope some of items for the City to complete and to highlight the work CGI needed to focus on.
- 53 With six items descoped from the Contract, CGI eventually wrapped up its involvement in the project on May 16, 2019. The status of Substantial Performance was certified by the Consultant on June 13, 2019. CGI vacated the site on June 21, 2019 in accordance with the Transitional Agreement and the City took control of the premises.

The following table (Table 2) contains each of the descoped items and its value from the Contract with CGI according to the analysis we received:

Table 2 **Descoped Items and Its Value**

Descoped Items	Value
Concrete Floor Sealing	\$16,000
Exterior Ram, Stairs, and Retaining Walls	\$30,000
Flood Protection (Flood Barriers)	\$38,463
Glass balustrades, Interior and Exterior	\$300,568
Landscaping	\$18,800
Sandblasting	\$5,000
Total:	\$408,831

- 54 Maintaining a running deficiency list is integral to effective project management. The Contract did not specifically require or refer to any party to maintain a running deficiency list. In the absence of a formal contract with the Contract Administrator Invizij, no party in the project was formally accountable for identifying and keeping ongoing track of the status of the deficiencies. A deficiency list we reviewed from legal files indicated a total of 839 deficiencies that were identified throughout the Project with \$538,900 in items that were incomplete / not rectified. The number of deficiencies was expanded to 867 items in an independent third-party valuation. The deficiency list we received, even though grouped by category such as Architecture, Mechanical and Electrical, did not record the time each deficiency was identified, who identified the deficiency and when the deficiencies were rectified.

Construction Liens Against the City Premises

- 55 Entering 2019, CGI had failed to pay its subcontractors. As a result, five of CGI subcontractors took legal action and three of them registered liens against the City. In August 2019, CGI also served the City with its own Statement of Claim and further registered a lien of \$3,929,462 against the City’s property.
- 56 In reviewing CGI’s lien claims of \$3,929,462 OCA found that they were not supported by particulars, and more than \$2 million was not accounted for.

Table 3 below are CGI and subcontractors and the claims registered against the City:

Table 3 Century Group Inc. (CGI) and Subcontractor Claims Registered Against the City

Contractor/Subcontractor	Claim Amount
Cambridge Curbs and Sidewalks Ltd.	\$74,123
Century Group Inc.	\$3,929,462
Ekum-Sekum Incorporated	\$72,737
JML Enterprise	\$511,045
Val/Mar Construction Inc.	\$298,949
Skeates Contracting Inc.	\$88,313

The Financial Settlement

- 57 The Office of the City Auditor is unable to publicly share details relating to a financial settlement that was reached between the City of Hamilton and CGI as the terms of the settlement are confidential and cannot be disclosed save and except for any professional advisor or as may be required by law.
- 58 The total cost of the Contract with CGI was \$6,674,250 (exclusive of HST).

The Impact on the Hockey Community

- 59 In May 2019 the Project received additional funding of \$1.669 million from Reserves to complete the work outstanding after CGI vacated the site. Staff directly hired trades and contractors who completed the outstanding work. According to staff records, 20 items were worked on by City staff and their hired subcontractors to open the arena for the 2019-2020 hockey season.
- 60 The initial plan for the Grightmire Arena project was that the 16-month construction would close out in September 2018, so that only the 2017-18 season's hockey games would be relocated. When the substantial completion date was missed in September 2018, Facilities and Recreation staff had to coordinate with other arenas to relocate the games and accommodate hockey teams once again. Public Works senior staff also met with the local Councillor and hockey team leadership to update them on the project and apologized for the delay.
- 61 To mitigate the impact on the hockey teams for their losses such as ice time and expenses to relocate the games, user fees were waived for two seasons for two hockey teams. The estimated waived fee revenue was approximately \$102,114.

Audit Objective

- 62 The objectives of this lessons learned audit was to understand why and how the J.L. Grightmire Arena addition and renovation project experienced significant issues and did not achieve its desired outcomes; and what lessons can be learned for future City capital projects.

Audit Scope

- 63 The scope of the work included all work related to Grightmire Area project since 2016, key individuals that had involvement in managing the project, records, documents, communication, files and reports related to the project.
- 64 We interviewed key individuals that included:
- Staff from Legal Services,
 - Staff from Procurement,
 - Project managers who oversaw the project,
 - Invizij, the consultant who designed and contract administered the project,
 - Local Councillor,
 - Resident from Dundas community who made complaints about the delays.
- 65 We sought expert legal advice and opinion on some of the legal decisions made for the project. We retained Cassels Brock & Blackwell LLP to support us with the contract review to provide us their expert advice and opinions on how the CCDC contract could have been utilized to the best interests of the City; and further on opinions and opportunities that might have been available to the City throughout the project.
- 66 We reviewed the Procurement By-law and policies, tender documents, Council reports (some of them confidential), project documentation and communication records that included:
- Council reports and updates up to May 2021 (including private and confidential documents).
 - Procurement Bylaw No. 20-205 and Policies #1, #4, #5, #8 and #11.
 - Contract C13-44-17 and Tender Documents, as well as the Invizij Scope of Work.
 - Project management documentation that included bi-weekly meeting minutes, field reports, change orders and change directives, and payment certifications.
 - Email communication and documentation that were provided to us.
 - Documentation of the legal dispute and negotiation of the settlement.
- 67 We researched industry literature, best practices and advisories from professional associations such as Canadian Construction Association, and Surety Association of Canada.
- 68 We performed analysis on costs of the project and compared potential financial outcomes of various scenarios. We developed a project activity log and project timelines to understand the cause of issues at different phases of the project.

Detailed Findings

- 69 We categorized our findings in the following themes:
- A. Managing capital projects with a risk management strategy and tactful, forthright communication.
 - B. Managing project requirements in accordance with the terms and conditions of the contract.
 - C. Vendor management and procurement policies.
 - D. Legal support and decisions that could be optimized in the best interest of the City.
 - E. Effective deployment and oversight of external Consultants.

Theme A



This theme includes observations on the risk management strategy that is applied to capital projects, and in particular to managing any project with tight timelines and aggressive completion dates in a way that is strategic and effective, where timely evaluation of risk and upfront communication with Council and the public could make a difference to success.

A1.

Risk Management Strategy

- 70 OCA found there to be a lack of any systematic approach for identifying risks or for developing a risk management strategy to manage this project specifically, or capital projects in general. We did not find any formal assessment of Grightmire risks as part of the City's project management methodology and to subsequently manage the project in accordance with its risk level. That is not to say staff were not aware of any of the risks. Rather the lack of an assessment created a situation of a "perfect storm" that existed but was not recognized for what it was. Our interviews with the project management team indicated that each Project Manager in the Energy, Facilities and Fleet Management (EFFM) Division oversees about 15 projects at any given time, including multiple million-dollar projects. With the number of complex projects on hand, absent the discipline engendered by a risk-based approach, it is hard to imagine how any project manager could stay on top of everything. In our view the lack of formal risk assessment denied the project management team the opportunity to prioritize and deal with the very real risks that were emerging quite early in the process. As a consequence, Grightmire from the outset was destined to be managed in more of a reactive than proactive manner.
- 71 A few factors drove the Grightmire Arena project to high levels of risk. These risk factors include:
- a significant underbid by the contractor
 - unreasonably tight project timeline and non-negotiable completion date

- high public expectations
 - project resource issues
- 72 We noticed staff were aware of some of these risk factors. However, the likelihood the project might fail and potential impacts if it were to fail were not assessed or brought forward. Without a formal approach there was a bias toward inaction or soft action. In other words, there was no strategy in place to manage each risk factor. Staff assigned to the Project continued to oversee multiple projects, while at the same time managing the Grightmire Arena project as best they could. With the limited work hours divided among the projects, staff had to rely on the instincts and experience of other staff assigned to the project team to coordinate and work seamlessly to complete the Project.
- 73 Some of the early warning signals that should have been heeded include the delay in getting the RFT out which removed any room for unforeseen project delays without impacting the all-important deadline of September 2018, the successful proponent's very low bid (relative to other bidders and to the detailed cost estimate), and their acknowledged "mistake" in not including a key portion of the requirements in their costing. Less than a month into the project the contractor failed to furnish the required Project Schedule with its application for first payment, foretelling of the events that would unfold.

A2. Strategically Managing a Project with a Tight Project Timeline and Completion Date

- 74 The timeline of substantial completion of September 7, 2018 was set in the Contract as a requirement. As discussed in the Background section, the Grightmire Arena project did not actually commence at the time originally planned. When the RFT was finally released, it was four months after the planned date of issue. As a result, all project milestones were pushed back correspondingly, **except** for the Substantial Performance date. This squeezed the previously planned 16-month construction period into one of 12 months. Based on our interview with the Consultant, this timeline was described as "possible" if all aspects of the project worked out perfectly. Other commentary we received suggested the new timelines were unlikely to be achieved, however that was not communicated to stakeholders. At the very least, there was no room for unforeseen delays without having a dire impact on delivery to the community of the all-important completion date of September 2018.
- 75 The main consideration behind setting the Substantial Performance date for September 2018 was to meet the requirement of Council and minimize the impact on the hockey community. Missing one season of use from the construction was necessary and could be managed even with delays if the project were to start as soon possible after the hockey season ended. But that movement of the RFT date removed any ability to accommodate unknown factors and exposed the project to very high risk.

- 76 Taking into account the timing of hockey season, it would have been preferable to have either dealt with the site approval issues and permit delays earlier in the process or postponed the commencement of the Project to April 2018, which would have allowed for a longer period of construction time, and would have resulted in losing only the 2018-19 hockey season. It is generally reasonable, responsible and prudent to allow for some buffer time in a construction project, particularly a renovation project such as Grightmire Arena that may be impacted by site conditions not uncovered in the design phase.

A3. Timely and Upfront Communication with Council and Public Could Make a Difference

- 77 Based on our interviews with staff and the Consultant, it appears that their professional experience told them and the Consultant that there was a very high risk that the Project would not be completed in 12 months. However, such risk was not raised to Council. Instead, Council was assured that the Project would be completed as scheduled.
- 78 Dundas hockey community groups were prepared that one hockey season would be interrupted by the construction work. They were frustrated and disappointed that the games had to be relocated for a second season. The delays also cost the City financially, as the City in 2019 offered to waive user fees assessed at \$102,114 for two seasons for two hockey teams that were impacted by the delay.
- 79 Timely and upfront communication with users of Grightmire Arena on the issues and progress of the Project could have won the understanding of the community and helped the users set a reasonable expectation of the timeline of completion. Though difficult, it would also have been prudent to help Council understand the risks of compressing 16-month project into 12 months and kept Council updated in a timely and upfront manner on the issues and progress of the Project.
- 80 The need for more timely and proactive communication of challenges and emerging risks with the project was an issue that repeated itself through the course of the project. In our view the reluctance to bring forward the specific problems that were being experienced, or even recognize them from what was presented, combined with what in risk parlance is termed "overconfidence bias" - that element of human nature that leads one to think something extraordinary will happen in the face of adversity – these were factors in this project. For example, at the end of December the project was 80% complete, with a 5% progress rate from the end of November (75% complete). Yet, as late as August 2018 staff were contemplating but couldn't agree with CGI to an extension of only 3 weeks. It should have been readily apparent there was an almost certain risk of not meeting substantial completion.

Theme B



This theme includes observations on managing the project requirements in accordance with the terms and conditions of the contract taking into consideration the processes in place for project management and contract management including contract default, performance bond, project documentation and communication between the parties.

B1. Project Management and Contract Management

- 81 OCA found that the Contract of the Grightmire Arena project was not managed in accordance with the terms and conditions of the Contract. The contract management of this project was found by the OCA to be weak. In that regard, rights and remedies provided under the Contract were not exercised or fully exercised owing to many factors.
- 82 The Contract itself did contain the necessary provisions to protect the City against Contractor defaults and delays and was appropriate to the task. However, in many cases, issues that arose with the Contractor were not treated with any sense of urgency. This included:

B1.1. Deficiencies

- 83 Deficiencies were addressed in the following Terms and Conditions in the Contract:
- GC 2.4.1 – CGI was required to promptly rectify any deficiencies that were rejected by the Consultant and prioritize same based on the instructions of the City.
 - GC 2.4.3 – the City had the ability to deduct the value of any unrectified deficiencies from payments to CGI.
- 84 The City's Consultant assessment prior to the Notice of Default noted CGI's failure to rectify deficiencies, particularly deficiencies that were life-safety items, and were brought to CGI's attention as early as April 4, 2018.
- 85 However, the City failed to exercise its rights under GC 2.4.3 to deduct the value of these unrectified deficiencies. For deficient items such as fire alarms, exit signage, exit stairs, and fire access routes for emergency vehicles, if not dealt with in a timely fashion, the City might have been liable in case of accident.
- 86 In our review of the payment certificates, liquidated damages were not utilized as a remedy by the City to the fullest extent possible. This remedy was available to the City throughout the course of the Project and did not require CGI's agreement.

B1.2.

Schedule

- 87
- GC 3.5.1 – CGI was required to provide a schedule with its first application for payment.
 - GC 3.5.2 – the City had the ability to require a recovery plan from CGI in the event of a slippage in the schedule.
- 88 The Consultant assessment prior to the Notice of Default noted CGI's failure to have provided schedules when required. CGI did not provide a Project Schedule with its first application for payment on September 30, 2017. In fact, CGI provided the Project Schedule with its 8th payment application on April 30, 2018. The City failed to take action to address the issue in a timely manner and allowed 7 payments to go through without the Project Schedule.
- 89 Further, there was no evidence that CGI had provided a recovery plan for any of the slippage in the schedule; nor did we come across evidence that staff or the Consultant requested a recovery plan. There were milestones that were missed throughout the course of the project. For example, "Parking Area 1" on Drawing A1.1.3 "Construction Area Staging" indicated a required completion date by July 31, 2018. As of at least December 19, 2018 when the Consultant issued his assessment, the "Parking Area 1" had not been completed.

B1.3.

Delays

- 90
- GC 6.5.3 - CGI was barred from making a claim for an extension to the Contract Time unless it provided Notice in Writing **within 10 days** from the commencement of the delay event.
 - GC 13.5 – liquidated damages in the amount of \$1,000/day were payable by CGI to the City for every day that CGI did not achieve Substantial Performance by September 7, 2018
 - GC 13.5.3, the City may deduct liquidated damages from payments to CGI.
- 91 As discussed in the Background section of this report, we did not locate any formal request from CGI for an extension of the Substantial Performance date. Both General Review Report 5 completed on April 4, 2018 by the Consultant after the site visit of April 3, 2018 and Meeting Minutes 13 for a project meeting held on April 4, 2018 discussed "the City had accepted the 20 days extension for weather and designated substance delay" for which the Consultant was directed to prepare a Change Order. However, the request was later refused by City staff on the basis that CGI had not provided sufficient supporting documents for the claim. Without a formal request and approval of time extension that followed the proper process as prescribed in the Contract, legally, the Contract was in default as of September 8, 2018. We were not able to determine why the Consultant would be directed to

prepare a change order if the Contractor had not filed the formal extension request.

- 92 Thus, we concluded the City failed to take prompt and appropriate action to declare the Contract in default on September 8, 2018 and further, it did not exercise its rights under GC 13.5. to apply the \$1,000/day liquidated damages.
- 93 Had the City undertaken a rigorous approach to contract management, including prompt actions to exercise its rights under the Contract, and using the financial penalties that were actionable and which would have encouraged CGI to stay on track, it may have enhanced the City's ability to control the work.

B2. Contract Default and Performance Bond

- 94 The RFT required CGI to carry a 50% of the bid price Performance Bond and a 50% of the bid price of Labour and Material Payment bond. The use of construction surety bonds was not only meant to comply with the requirements of the Construction Act, but also to provide assurance that the City would have a complete project in accordance with the terms and conditions of the original contract, despite a default by the contractor.
- 95 As discussed in B1.3, and pursuant to GC 6.5, any Contract Time extension due to delays caused by factors out of the control of CGI must be requested in writing and through a Change Order process within 10 days of the delay event. CGI failed to request, in writing, for any of the extensions we come across in our review. This essentially means the original Substantial Performance date of September 7, 2018 remained valid and the Contract was in default as of September 8, 2018.
- 96 Staff waited until December 7, 2018, exactly three months after the Contract was technically in default to seek an independent assessment from the Consultant and then declared the Contract in default on December 21, 2018.
- 97 As a result of the City's weak contract management, including the failure to follow, and demand adherence to Contract terms and conditions, using formal, prescribed processes, on a timely basis; and considering the fact that the Notice of Default was issued more than three months after the Contract was in technical default; and that (as CGI's rebuttal pointed out), some of the delays may have been related to design defects and changes, the likelihood CGI's surety Travellers Canada would step in to complete the Project was low.
- 98 Had the City provided timely notice of Default(s), the City's position would certainly have been strengthened and a claim on the Performance Bond may have been feasible and warranted. Overall, OCA concluded that the processes for contract management were not executed rigorously enough to exploit legal protections under the contract.

B3. Project Documentation and Communication

- 99 A contract is a legally binding agreement that defines and governs the rights and duties between or among its parties. When disputes arise, parties must present evidence to support that contract provisions were strictly followed.
- 100 The City failed to sufficiently document some of the Project milestones and important events and conditions in evidence of project status, risks, deficiencies and required remediations which contributed to the City's weakened position in the legal dispute with CGI.
- 101 For example, the substantial performance date was extended, however, there was no documentation or formal notice to CGI regarding this extension. Based on a review of the project files and documents provided to us, the extension of Substantial Performance was not sufficiently supported by staff.
- 102 Also, when the City accepted CGI's proposed revised schedules there was no documentation forthcoming to indicate that the decision was communicated to CGI in an official manner.
- 103 During April or May of 2019, staff negotiated a Transition Agreement with CGI to descope 6 items for the City to work on and also to highlight what CGI needed to focus on. This agreement was not signed by either party.
- 104 Further, we were provided with very few records and documents on the project dealing with events after February 13, 2019. There were no records to demonstrate staff was maintaining diligent and participatory oversight of CGI.
- 105 In our view, such lack of documentation and formal communications tends to weaken the City's position during any legal dispute or negotiation of settlement, and we believe it did so with this project.
- 106 The absence of Project documentation, coupled with the fact key staff who were involved in supporting the project or negotiating the settlement are not available, for various reasons, meant the OCA had very little to review in determining what happened to the Project after February 13, 2019, and how staff worked to arrive at the settlement amount. In particular, we could not understand how the previously unapproved changes became approved.

B4. Strengthen Contract Terms to Better Protect the City

- 107 The Contract itself **did** contain the necessary provisions to protect the City against Contractor defaults and delays, and it was appropriate to the task. There are improvements that could be written into the contract to better protect the City that include:

B4.1. Running Deficiency List

- 108 SC 16 GC 2.4 Defective Work did not specifically require any party of the Contract to maintain a running deficiency list, nor did it clarify that responsibility. It was left to the discretion of each party whether they would maintain a deficiency list. In its rebuttal January 7, 2019 in response to the Notice of Default, CGI alleged the Consultant had failed to provide a deficiency list, while CGI had prepared its own deficiency list and addressed 75% of the deficiencies at the time of the letter.
- 109 We were not able to determine who had maintained the deficiency list we received. We further were not able to determine when life-safety items such as exit stairs and fire separation on the deficiency list were identified, even though we can confirm that the issue of project signage not being erected was discussed at an April 17, 2018 meeting. We did not come across other life-safety items referred to by the Consultant. We also noted the signage not erected was documented in both General Review Reports from April 2018 after Consultant site visits, however, the Consultant did not list it as deficiency, rather, documented it as the site condition.
- 110 The OCA concludes there was not a rigorous process to identify and track deficiencies. In our view, at a minimum, the Prime Consultant should be required by the Contract to maintain one comprehensive running deficiency list that would document when each deficiency was identified and when it was rectified. In the case of life-safety items not rectified, they should be highlighted and pursued aggressively.

B4.2. Liquidated Damages

- 111 GC 13.5.1 expressly states that if the date of Substantial Performance is missed, CGI should pay to the City liquidated damages calculated as \$1,000.00 for each working day that Substantial Performance extends beyond the Substantial Performance Date.
- 112 OCA wanted to determine whether or not the liquidated damages were sufficient to their purpose – to compensate the City for damages caused by delay. We noted, based on the original contract cost and project schedule, that the City was paying

approximately \$22,500 per working day for CGI to perform the Contract work (12 months Contract at \$5.668 million). In comparison, the liquidated damages of \$1,000 a day did not appear to sufficiently compensate the City for the damages, nor would it incent the Contractor to have due regard for the damages caused to the City when confronted with schedule pressures. On further enquiry, OCA was unable to determine the basis for the setting \$1,000 per day as the appropriate amount.

After considering the legal advice received from our independent legal consultant and the terms of the contract, OCA understands that liquidated damages, to be enforceable, are to represent a genuine pre-estimate of damages. Having said that, it is OCA's further understanding that liquidated damages will only be unenforceable if they are so manifestly, grossly one-sided that their enforcement would bring the administration of justice into disrepute.

- 113 Based on the value of the Contract, the significance of the Project to the community, and the current situation with the amount set, OCA concluded the liquidated damages daily amount should be evaluated to justify its current level and/or assessed for the feasibility of raising it higher. In addition, OCA recommends that the City explore additional alternatives for incenting performance with options such as earn-back and penalty/bonus clauses in the contract.

B5. Summary of Issues with Contract Management

- 114 The observations of Sections B1 through B4 collectively indicate that more developed processes and practices are needed for contract management and administration, especially those protocols that are necessarily activated when projects run into difficulties with poor performance and default. The City also needs to develop and deploy greater technical skills in contract management and explore various options for doing so. That should include consideration of splitting off contract management as a separate and independent role from project manager and contract administrator. We are aware of two other municipalities in Southern Ontario that have split these roles to ensure that the contract management function is adequately resourced, focused on contract compliance, and carried out with technical proficiency. This could be achieved through the creation of permanent roles, or contracted resources and/or deployment based on risk considerations. It would be one way of addressing the current problems with lack of formality in the way contract management occurs, which harms the ability of the City to hold contractors to strict requirements and leads to unresolvable issues with them stemming from poor administration and compliance practices.

Theme C



C1.

This theme includes observations on vendor management and procurement, including the bid process and contract award decision making.

Lowest Bid and Contract Award Decision-Making

- 115 The contract for the Grightmire Arena project was awarded to CGI in accordance with Procurement By-law Policy #5.3, because CGI submitted the lowest compliant bid. Price is the one and only factor in making the award decision presuming the bid is judged to be compliant with requirements. Risks based on prior experience with a vendor, or other factors, are not considered; and with low price being the only consideration, the City is vulnerable to accepting bids where the Contractor will be incented to provide low quality or delayed delivery.
- 116 Suffice to say, there are certain risks related to accepting the lowest bid, and the City had exposure to many of them with the Grightmire project, some significant ones being:
- CGI lacked the incentive to get the work done in a timely fashion. By December 2018, the project was 80% complete. From January 2019 to April 2019 the project only progressed by 8%, regardless of the promises CGI made.
 - CGI failed to pay subcontractors, which resulted in five subcontractors taking legal action against CGI and the City, and registered liens against City property.
 - A total of 47 change orders was issued and approved prior to Contract default. Changes, unapproved changes, extras, etc. relating to the settlement are unable to be shared publicly by the Office of the City Auditor as the terms of the settlement are confidential.
 - A total of \$81,000 in overtime costs incurred in an attempt to assist CGI catching up with the schedules was authorized.
 - CGI had difficulty finding subcontractors to work as they in turn awarded lowest bid.
 - A total of 867 deficiencies were identified throughout the project.
 - Grightmire Arena project was 9 months late.
 - Legal dispute with CGI cost the City staff time and resources.
- 117 Further, ironically, the City ended up paying CGI approximately 18% more than what they bid, for less work, and City staff and Council faced increased public scrutiny.
- 118 In our view the City and staff need better tools and training to evaluate and deal with low bid risk.

- 119 One piece of information not considered but nevertheless important to informing the tender evaluation and risk is the pre-tender cost estimate. The "Class A" estimate prepared for the Grightmire Project, indicated that the cost would be approximately \$6.9 million. The lowest bid was \$1.3M below that estimate. Such cost information was not shared with Procurement staff as "it was not part of the processes".
- 120 Another piece of information that can help to inform the evaluation and assessment of risk is to compare the difference between the lowest bid to other bids. In this case the lowest bid was \$822,000 below the next lowest bid, and \$1.2M below the average of the bids.

Table 5 below is a comparison of lowest bid and others:

Table 5 Comparison of Lowest Bid and Others

	Costs/Price	Difference from Lowest Bid	Difference from Lowest Bid in Percentage
Lowest Bid (CGI)	\$5,668,000	-	-
Second Lowest Bid	\$6,490,000	\$822,000	14.5%
Average of 7 Bids	\$6,982,984	\$1,314,984	23.2%
Budget	\$7,000,000	\$1,332,000	23.5%
Pre-tender Class "A" Cost Estimates	\$6,900,000	\$1,232,000	21.7%

- 121 Use of the above information should have raised red flags with the bid and should have prompted investigation of the award. The current approach to these situations, however, is dominated by the thinking that if the City has no specific reason or cause to reject a compliant bid it cannot presume that the bidder will not meet their obligations and reject the bid. The OCA acknowledges there is a conundrum here. However, what the City can do, should do, and should have done better is evaluate the risks the situation presents, and formulate specific actions to mitigate the potential for poor performance by prioritizing the project, shoring up resources, and bringing close monitoring and legal involvement earlier into the process.
- 122 Also to be considered, is that the current system of awarding contracts to the lowest bidder could be improved with the use of pre-qualification that evaluates vendors using various criteria such as vendor experiences, qualifications, capability, and performance, etc. This way a decision is made on a more informed basis than if price is the lone criterion in the evaluation of tenders. Another tool to be considered is the use of a vendor rating system.

123 By having a vendor rating system in place, it is possible to incorporate the vendor's ratings into the bid evaluation process. Ratings for each job that a Contractor completes, when averaged on a three-year rolling basis result in an "overall vendor score". For vendors bidding on future work the City takes account of these scores in the bid evaluations. For example, in some jurisdictions the bid evaluations consist of a score based 70% on price and 30% on the overall vendor score. Therefore, the use of overall vendor score or "rating" as a bid criterion can be effective in that the lowest bidder may be bypassed in favour of an historically better performing contractor. This reduces any tendency for the lowest bidders to cut corners on the quality delivered and addresses the issue of low bid risk.

124 Based on interviews with staff there is not a vendor rating system at the City currently, nor was pre-qualification of vendors performed for the Grightmire Arena project. Although CGI's previous performance on another project with the City was an issue, it was apparently not of any concern to staff as they believed it was not CGI's fault for the over budget and late delivery of the project. However, the comments of staff for the project seemed to tell a different story:

"Long delays and lack of communication/coordination from Century Group at the start of construction and all throughout construction. They could not control their sub contractors, no sense of urgency to try and catch up in their schedule. Close out documents have yet to be received, still working on that and closing out final deficiencies months after the project reached substantial performance. The delays experienced on the project were due to existing conditions/unforeseen issues that needed to be addressed. Understanding this added work extended the construction schedule, it really could have been cut down if proper communication and coordination from the GC were in place. **Overall, I wouldn't recommend this contractor to complete a large-scale project**"

125 Apparently, the performance review of CGI from the previous staff was not read, or not carefully considered, which makes us wonder if the vendor performance review as a control was merely a perfunctory exercise.

C2.

Looking Retrospectively at Procurement

126 After receiving notification of being the successful bidder, CGI alleged that they had made an error in their Base Bid Price and that they had forgotten to include the price for the Provisional Items of \$425,708, and therefore requested to increase their bid price by the same amount.

- 127 However, Procurement staff found no error in CGI's submission. In accordance with *RFT 5.11 and 5.12 Instructions to Bidders* that formed part of the Contract, CGI had an obligation to either enter the Contract with the price they bid; or withdraw the bid forfeiting the bid security of \$500,000.
- 128 After review, the OCA concurred with Procurement's conclusion there were no errors in CGI's submission and that the Base Bid Price of \$5,668,000 had included the Provisional Items. We also agree that the decision to award the Contract to CGI was consistent with the City Procurement By-law Policy #5.3.
- 129 Section 16 of the RFT expresses the City's reserved right to reject any bid, pursuant to the "privilege clause".

16.1 The City may reject a Bid on the following basis:

- 16.1.1 the City may reject any Bid, the lowest Bid or all Bids, may cancel the Request for Tenders or may cancel the Request for Tenders and require the submission of new Bids.
- 16.1.2 any extraordinary or unjustified disparity between the lowest Bid and the other Bids received by the City.

130 At the time there were few options available:

- Rejection under 16.1.2 "extraordinary and unjustified disparity" is admittedly difficult to apply absent guidelines and precedent for its application, and the City has no guidelines.
- Cancelling the RFT as authorized under section 16.1 and re-initiating the RFT process would have likely postponed the commencement of the project to April 2018.
- Taking the second lowest bid would have meant paying \$822,000 more than CGI's bid price. In hindsight that may seem a better option since the City ended up paying CGI \$6,674,250, which was \$184,250 more than the second lowest bid.

131 The only financially feasible option at the time was to accept CGI's commitment to deliver the project at the bid price. However, it meant the risk of the project was very high and the level of contract monitoring and performance oversight needed to be increased significantly. It would have been prudent to have made Council aware that CGI's bid was substantially lower than other bids through an erroneous bid, that risk in the project was very high and keep Council updated on the mitigation strategies, progress and issues with project.

Theme D



This theme includes reliance on our independent legal consultant's view of some of the decisions made and legal opinions provided throughout the Project.

- 132 We engaged an external legal consultant to assist us with our review of the legal position of the City at various points in time and the appropriateness of actions taken in light of issues experienced throughout the Project, and received solicitor client privileged legal advice on these issues. We have separately tabled in a Confidential report, the letter outlining the opinion of the firm. This part of our report summarizes some of the detailed observations it contains, as well as OCA's own observations.
- 133 One finding the OCA made, from a project management perspective, is that City Legal Services was not involved early enough or extensively enough when risks began to appear with the project. Due to the issues we have reported with project documentation and communication, information was lacking that could have helped solidify a more aggressive legal and contract management approach to ensure the project would be successful and the Contractor held to account. Through our observations, OCA is of the view that a greater level of project management and contract management attention and expertise is needed for project matters that develop into serious non-performance.
- 134 OCA's independent legal consultant was engaged to address four general questions:
- 1) Was the construction contract "tight enough" and appropriate for the project?
 - 2) What advice would they have given when the Contractor declared it had erred in its bid pricing and what options were available?
 - 3) What advice would they have given once the Contractor defaulted, and did the City miss opportunities to claim on the performance bond?
 - 4) What opinion do they have of the settlement and what strategies would they have used?

After considering the legal advice received from our independent legal consultant:

- 135 With respect to the **first** question, OCA has concluded that the City used a form of contract that was appropriate and was "suitably modified" in the City's favour and, on balance, contained the necessary provisions to protect the City against Contractor defaults and delays, including the relevant terms and conditions that are in Confidential Appendix "B" to Report AUD22004.
- 136 With respect to the **second** question, OCA has concluded that the City took an appropriate course of action by entering into the Contract. Since the Contractor ultimately confirmed that it would honour its bid, rejecting their bid, although allowable pursuant to a "privilege clause" in the Request for Tender, would not have been without risk, and would have been a radical departure from typical City practice. The City would have had to pay \$822K more in choosing to go with the second lowest bidder, and would have likely prevented the City from recovering the price difference from the bid bond.

- 137 With respect to the **third** and **fourth** questions, OCA has concluded that the City had several available rights and remedies under the Contract, that, through the course of the project, it failed to exercise, or fully exercise, or delayed exercising. These failures appear to have weakened the City's negotiating position and may have also contributed to delays in project completion. With respect to the performance bond, we have concluded that the surety bonding company would not have stepped in to complete the work or make a voluntary payment to the City, had the City advanced a formal claim on the performance bond.
- 138 Based on advice from our special legal counsel OCA identified the following key issues:

D1.

Default

- 139 CGI's defaults under the contract were primarily its delays and failure to achieve Substantial Completion by the prescribed date. The contract required Substantial Completion by September 7, 2018 which was not accomplished. In addition, key milestones were missed, and a variety of deficiencies that were made known to CGI were not rectified, at least by December 2018.
- 140 With each default, the City did not avail itself of the rights and remedies available under the contract. The City did not provide timely, written notice of CGI's defaults, did not withhold payment from CGI and did not apply liquidated damages.
- 141 For example, the City did not issue written notice of default in the summer of 2018, when deficiencies were not rectified, including life-safety items, nor when Substantial Performance was not achieved by September 7, 2018. It did not issue notice when CGI failed to provide the required construction schedule along with its first application for payment September 30, 2017.
- 142 In fact, the City did not receive the required construction schedule until 8 months into the work. Not only did the lack of a construction schedule impinge on the City's ability to monitor and hold to account the contractor, but it was a requirement that time for the Contract Work was "of the essence" meaning it was a fundamental component of Contractor performance. OCA cannot understand why this was not dealt with earlier, and based on the legal advice from our independent legal consultant, OCA concludes that this qualified as a material default for the purposes of giving notice.
- 143 As it happened, the City waited three months after the Substantial Performance Date of September 7 was missed before providing any notice of default, even though most of the defaults then listed would have existed in September 2018.

- 144 In fact, after considering the legal advice received from our independent legal consultant OCA concludes that the City would have been better off had it initiated its default notice in September or earlier. It is crucially important for an owner to provide timely notices in writing, of the defaults and delays if they want to preserve the right to terminate. Proper and timely notice puts pressure on the contractor to either rectify or risk allowing the owner to take corrective measures. It allows the owner to unilaterally control the completion work rather than be forced to enter into an agreement with the contractor (which is what ultimately happened). It also exposes the contractor to the owner's completion costs and provides the owner the right of set-off against the contract price.
- 145 Most of the defaults listed would have existed prior to September 2018.
- While we understand and appreciate that City staff sought advice from Legal Services in August of 2018, based on the legal advice of our independent legal consultant OCA concludes that it would have been prudent for City staff to have sought further advice when the Substantial Performance date of September 7, 2018 was missed.
- 146 OCA believes from discussions with staff that, despite the issues faced with the Contractor, they were predisposed to "working with" the Contractor and resolving issues amicably, believing that would lead to better outcomes. In our view, that strategy was misguided and did not appreciate the high risk in the project. Nor should it have led the staff to ignore the proper administration of the contract in accordance with its laid-out processes. In our view, this approach resulted in the City continuing to "work with" the Contractor long past the point it was feasible and continued even when detrimental to the City's position.

D2. Adherence to Notification Requirements and Extension of Time Requirements

- 147 The Contract was clear that when the Contractor feels that the project has been delayed due to a cause beyond its control (e.g. a delay resulting from the conduct of the Owner or the Consultant, or due to a found site condition or weather), it has an obligation to provide **written notice** pursuant to the Contract provisions. Throughout the course of the Project, CGI did not appear to have sought extensions to the Contract Time through such formal process.
- 148 There did appear to be an informal agreement to extend the date for Substantial Completion to September 28, 2018 for weather reasons and because of asbestos found at the site, however the Consultant-drafted change order was withdrawn when the City was not satisfied by the Consultant's lack of backup.

- 149 According to the Contract, the Contractor was required to provide Notice in Writing within 10 days of discovering any delay event. OCA was not provided or made aware of any such notices. In addition, OCA understands that Ontario courts have found that a contractor's failure to provide appropriate written notice can operate as a bar to the contractor's later claim for a time extension and costs. Although there was evidence of delay discussions in meeting minutes that we were provided, there was very little discussion of what the causes were. After considering the legal advice received from our independent legal consultant OCA concludes that the Project meeting Minutes did not constitute the type of written notice required by the contract.
- 150 Conversely, contractual written notice provisions apply equally to owners. It is, therefore, crucially important for an owner to provide timely notices in writing of the defaults and delays of its contractor if the owner wants to preserve its right to terminate the contract or the contractor's right to continue with the work, in whole or in part.

D3.

Deficiencies

- 151 The Contract provided the City with considerable clout when it came to deficiencies.

Specifically, the Contract included the following terms:

- GC 2.4.1: requires the Contractor to promptly correct defective work that has been rejected by The Consultant.
- GC 2.4.3: permits the City to undertake to rectify the deficiencies itself and back charge the costs of doing so to the Contractor.
- GC 2.4.1.1: requires the City, the Consultant and the CGI to identify deficiencies and have them rectified in a timely matter.
- GC 2.4.1.2: requires the Contractor to prioritize the correction of deficiencies.
- GC 5.2.12: permits the City to withhold payment from the Contractor where there are unrectified deficiencies.

- 152 Review of documents indicated that the City:

1. did not require the Contractor, at least aggressively, to prioritize the correction of the deficiencies.
2. did not undertake to rectify the deficiencies itself and back charge the costs of doing so to the Contractor.
3. did not withhold payment from the Contractor where there were unrectified deficiencies.

153 Part of the problem was there was no evidence that any party was keeping a running deficiency list. In fact, in its January response to the City's default letter of December 2018, CGI cited the lack of a deficiency list.

154 OCA concluded the City should have been more aggressive in moving on the deficiencies and in notifying and keeping track of them.

D4.

Terminating the Contract

155 Following CGI's January 2019 letter responding to the City's notification of default, the City had the option of terminating the Contract. After considering the legal advice received from our independent legal consultant OCA concludes that the City's decision not to terminate the contract was made without a fulsome analysis of the City's contractual rights. Specifically, the City appears to have only considered common law grounds to terminate the Contract and not the City's termination rights under the Contract.

156 The Contract provided the City with two separate grounds to terminate the Contract.

- GC 7.1.6 – Termination for Convenience. This allows the City to terminate the Contract without cause or default. Had the City exercised this option, it would be liable to pay CGI for the work performed to date and reasonable profits for products and construction equipment already purchased but it would not be liable for lost profits on unperformed portions of the work.
- GC 7.1.4.2 – Termination for cause. This allows the City to terminate for cause where the Contractor is noted in default and fails to cure the default.

157 Based on the legal advice of our independent legal consultant:

OCA understands that termination for cause would have afforded the City certain advantages and specific rights and remedies, and if found to have been exercised appropriately, could have avoided liability to CGI for damages. It would have allowed the City to make a claim on CGI's performance bond, to terminate CGI's right to continue work, in whole or in part, to unilaterally remove work, to back-charge CGI the cost of completing said work using its own resources. This would have potentially avoided having to enter into an agreement with CGI over descoping and allowed better control of the timing and completion.

158 OCA also concludes that the City's decision not to terminate the Contract with CGI did not appear to have properly considered the City's available remedies to terminate in accordance with the Contract. The reliance solely on common law termination rights that was provided called for a much higher standard to terminate than the express rights within the Contract.

D5.

Settlement

- 159 We asked our legal consultant to review the settlement with CGI and provide insights as to the amounts and process. The Office of the City Auditor is unable to publicly share details relating to a financial settlement that was reached between the City of Hamilton and CGI as the terms of the settlement are confidential and cannot be disclosed.
- 160 However, we do note that we were unable to obtain sufficient, or indeed, any information on pivotal components of the financial settlement. We could find no evidence that the City performed the necessary due diligence for these pivotal components.

D6.

Section 40 of the *Construction Act*

- 161 Based on the legal advice of our independent legal consultant it appears to OCA that the City did not consider its right under Section 40 of the *Construction Act* to cross examine on the liens. Section 40 of the *Construction Act* would have allowed the City to scrutinize the timing and quantum of liens in support of motions to vacate, reduce or discharge the liens.
- 162 The lien CGI registered against the City premise was for \$3,929,461. Of that, \$1,693,653 was the amount stated to be owed in CGI's Reply and Defense to Counterclaim, leaving the amount of \$2,235,808 that appears not to have been accounted for. This substantial difference between CGI's lien amount and the position in CGI's Reply is perplexing.
- 163 It appears, at face value, that the lien of CGI was exaggerated and therefore, had the matter not settled, CGI could also have been potentially liable for damages for exaggerating its lien, pursuant to Section 35 of the *Construction Act*.

Theme E



This theme considers if there was effective deployment and oversight of external Consultants.

E1.

Consultant Objectivity

- 164 The Consultant for the project was single sourced to be the contract administrator for the Grightmire Arena project. They were also the consultant firm that performed the design work and architectural services for the Project. Putting the architect who designed the project in the position of interpreting and administering the contract, overseeing the work of the Contractor, and potentially approving changes to work, may have its benefits in that the Consultant is intimately familiar with the details of the project. However, it also raises the question of whether the Consultant could be objective when their work was challenged in, for example, a dispute over alleged design flaws that cause delays or impose increased costs on the Contractor. This is particularly so where a project is very risky.
- 165 Through interviews and review of documents provided to us, we noted it was an on-going issue where CGI and the Consultant were having disagreements about some of the designs. In fact, such disagreement was highlighted in CGI's response to the Notice of Default on January 7, 2019. In rebuttal to the defaults enumerated by the Consultant, CGI took the position that there were design issues that resulted in increased costs and which caused and contributed to the delay of the Project.
- 166 While we cannot comment on the merits of CGI's alleged design flaw issues, and one might tend to be skeptical of a Contractor's assertions in these types of situations of dispute, it nevertheless is quite possible that it would be challenging for a consultant hired under such circumstances to maintain their objectivity. While it is not a common practice, some jurisdictions deliberately split the roles of design consultant and contract administrator to avoid these issues. In our opinion, high risk projects like Grightmire might be better served using this approach, and this might be considered a reasonable mitigation for certain projects that are deemed high risk.

E2.

Consultant's Due Professional Care

- 167 The contractual responsibilities of Invizij with the Grightmire Arena project were defined in a Purchase Order (with standard City of Hamilton Purchase order terms) dated September 13, 2016; however, the Purchase Order did not contain the typical terms and conditions expected in an owner-architect agreement. The Consultant was wearing three hats in the Grightmire Arena project: design and architect consultant, Prime Consultant and Contract Administrator, which in our view, gave them responsibilities to exercise due professional care to ensure the Project was

constructed as designed and a shared responsibility to manage the contract in accordance with the terms and conditions.

- 168 In Observation B1, Project Management and Contract Management, we discussed the City's failure to manage the Contract in accordance with the terms and conditions of the Contract. The City's Consultant shared a role in this in:
- Certifying seven payment applications without the project schedule required by the Contract.
 - Not keeping a running deficiency list and aggressively monitoring CGI to rectify deficiencies, particularly with life and safety items mentioned in December 19, 2018 letter that the City may be liable for.
 - Not requesting a recovery plan for schedule slippage such as the parking lot which was due for completion before the Substantial Performance date.
 - The delay of three months in issuing an independent assessment on grounds for noting default after the missed Substantial Performance date.
 - The number of changes required. Changes, unapproved changes, extras, etc. relating to the settlement are unable to be shared publicly by the Office of the City Auditor as the terms of the settlement are confidential.

E3. Consultant's Contractual Responsibilities

- 169 There were no contract specifications governing the relationship between the City and the Consultant for their services to the Grightmire Arena project other than the use of standard City of Hamilton Purchase Order Terms and Conditions. The purchase order, assuming it represented the totality of the contract between the City and the Consultant, was insufficient to properly govern the relationship and hold the Consultant to account. For example, ordinary Purchase Order specifications do not contain the typical terms and conditions one would normally expect to see in an owner-architect agreement such as the OAA (Ontario Architects Association) Form 600, or the RAIC (Royal Architectural Institute of Canada) Document Six.
- 170 We further noted that the roles and responsibilities of the consultant not being clearly defined in a contract was not one single, standalone case. It is the OCA's understanding that one is generally not utilized when retaining architectural consultants in such a contract administration role.
- 171 We acknowledge that the Consultant cannot be held accountable for responsibilities not included in their contract with the City. However, the OCA concludes that the level of the Consultant oversight provided to Grightmire Arena project was not commensurate with the project risks.

- 172 As the Prime Consultant and the Contract Administrator, the Consultant had the responsibility to certify CGI’s payment applications. The most effective way to confirm the status of the project was to verify progress through site visits, with the Consultant completing a General Review Report after each visit to document site condition and what progress was observed.
- 173 The General Review Reports provided to us indicated that the Consultant visited the construction site 17 times from October 3, 2017 to March 28, 2019. More specifically, we observed that the Consultant visited the construction site on average about once every three weeks at the beginning of the Project. Then, starting in January 2018, the frequency of site visit was reduced. On one occasion the time gap between reports were as significant as 11 weeks, which indicated there were no site visits for nearly three months. These large time gaps were when the Project was running into problems.

Below is a timetable where there were no General Review Reports and the issues that arose during the time period.

Table 6 Timetable of No General Review Reports and Issues that Arose

Time Period	Report	Time Gaps	Issues During the Period
January 10, 2018 - April 3, 2018	Report 4 to Report 5	>11 weeks	Ministry stop work order February 15 - March 14.
July 10, 2018 - September 4, 2018	Report 8 to Report 9	>7 weeks	Legal was engaged in reviewing the Contract, increased public criticism, Councillor toured site.

- 174 We understand ultimately, it is the Project Management team’s responsibility to ensure the Consultant delivers to the needs of the Project, however the frequency of visits, in our opinion, did not accord with the need for close monitoring of such a risky project. In our view, the lack of oversight of the Consultant, without a contract, made it problematic to ensure there was consistent pressure being put upon the Contractor for making progress, and removed the means by which the Consultant could be held to account for their role in the non-performance of the Contractor.

Recommendations 175 As a result of the audit of the Grightmire Arena project, we identified opportunities for improvement and made the following 15 recommendations:

#1 Recommendation

176 We recommend that management develop a risk assessment framework and process, and that formal evaluation of risk be conducted as part of the project planning for each capital project. This would inform and identify the project management approach to be taken, resources that should be allocated, as well as the issues and mitigations that need to be tracked and reviewed on an ongoing basis.

Management Response (Energy, Fleet and Facilities Management Division)

177 Agree.

A risk assessment framework and process are planned for development as part of the continued implementation of the Quality Management System (QMS) in Public Works in 2022. The PW QMS team has developed and implemented project management documents (including a PM manual, project charter template, project transition checklist and closing report template) working with a cross-divisional team across the City.

Energy, Fleet and Facilities Management Division (EFFM) has further developed project initiation and close-out checklists, a project budget template and communications plan for capital projects to continually improve project management processes and mitigate risk. EFFM's 2022-2023 initiatives include further development of planning/ design and implementation/ construction phase checklists.

Expected Completion: Q2 2022

#2 Recommendation

178 We recommend that when using a CCDC 2 Stipulated Price contract for construction projects, that the current version be used and that the contract conforms with the changes introduced by recent changes to the *Construction Act*.

Management Response (Procurement Section and Legal and Risk Management Services Division)

179 Agree.

All construction contracts utilized through a procurement process are current with respect to the *Construction Act*. A working group of staff has been tasked with updating supplemental conditions to be used with the new CCDC 2-2020 Stipulated Price contract for implementation in June 2022.

Expected Completion: Q2 2022

#3 Recommendation

180 We recommend that contract management training be provided to project managers to ensure the City's rights under contract are protected and timely remedies can be implemented during the capital project process.

Management Response (Energy, Fleet and Facilities Management Division)

181 Agree.

Contract management training will be provided to Project Managers involved in the planning and delivery of construction projects to ensure the City's rights are protected and timely remedies are implemented. Training will be provided once Legal and Procurement have confirmed delegated authority and available support.

Estimated Completion: Q2 2022

#4 Recommendation

182 We recommend that management consider separating the roles of project management and contract management for capital projects in general, or alternatively with those that reach a pre-determined level of risk.

Management Response

183 Agree with alternative to be implemented.

Current practices will be reviewed with Legal and Procurement to determine the changes necessary related to the roles of project and contract management in general, or when a pre-determined level of risk is reached. As defined by the Office of the City Auditor (OCA), contract management for capital projects (in comparison to contract administration), is strictly concerned with contract delivery/ adherence to the contract terms (i.e., role of a contract compliance specialist). As such, EFFM will review the existing Service Level Agreement (SLA) with Legal Services with regards to the requirement to engage an experienced Legal representative knowledgeable in construction contract law to enforce contract management practices for applicable high-risk projects.

EFFM will undertake a municipal scan to explore models for construction contract management successfully implemented by other municipalities in Ontario for multi-disciplinary construction projects. Understanding that the City is bound by existing Legal and Procurement policies, and have limited ability/ flexibility to change processes, EFFM relies on the subject matter experts in these support divisions/department to provide guidance on contract management practices.

Expected Completion: Q4 2023

#5 Recommendation

184 We recommend that contractor performance for each contract be tracked and formally evaluated using a consistent and robust process, and that the use of contractor ratings from previous performance be considered for implementation as a procurement criterion in order to mitigate the risk of poor results.

Management Response (Procurement Section)

185 Agree.

It is within Procurement's workplan to research and develop a more robust Vendor Performance Program. The context of this program has yet to be determined however, Procurement will investigate the potential to use contractor ratings from previous contract performance as a procurement criterion in order to mitigate the risk of poor results. Procurement also recognizes that significant consultation is required with both internal and external stakeholders in order for this program to be successful.

Energy, Fleet and Facilities Management Division Supplemental Comment

186 In discussions with Procurement, EFFM will participate in this initiative to develop a more robust Vendor Performance Program.

Expected Completion: Q4 2022

#6 Recommendation

187 We recommend that the values used for liquidated damages be reviewed to ensure they adequately compensate the City for the damages of late delivery and daily costs incurred, and to motivate contractors to take prompt action to cure project delays/deficiencies. Where liquidated damages would likely fall short of what is necessary to motivate Contractors to meet schedule requirements, we also would recommend the use of bonus/penalty clauses and earn-backs in the Contract.

Management Response (Legal and Risk Management Services Division with Procurement Section)

188 Agree.

Staff will investigate and pursue best practices including discussion with other municipalities, on the approach to liquidated damages, bonus and penalty provisions pertaining to contractual dealings. Legal Services will aid Procurement in updating the approach to appropriately amending contracts arising from this investigation in order to best protect the City's interests as permitted by these measures.

Further, Procurement staff will engage and consult with client staff to assess consequences and controls in order to ensure appropriate application of the changes involved.

Estimated Completion: Q1 2023

#7 Recommendation (Energy, Fleet and Facilities Management Division)

189 We recommend that project management processes be improved to ensure adequate project documentation is maintained by the City, including delays and deficiencies, ensuring that contract management administrative requirements are strictly adhered to, and formal communications with the contractor are timely, effective and sufficient.

Management Response

190 Agree.

Project management processes will be improved with the planned introduction of a central filing system through the Enterprise Asset Management (EAM) project for all required project documentation, including delays and deficiencies. The EAM project is the medium-term solution to ensure adequate project documentation is always maintained. Implementation is expected by 2025.

The existing EFFM Contract Analyst position along with a new Quality Management Office within EFFM will be redefined to add duties related to quality management and project record retention. A standard operating procedure detailing project management processes will also be introduced related to ensuring contract management and contract administrative requirements are strictly followed for timely and effective contractor communications.

Estimated Completion: Q4 2022 for Quality Management Office and EAM implementation by 2025.

#8 Recommendation

191 We recommend that special contingency procedures and guidelines be developed for enhancing the oversight and contract management practices for projects in difficulty.

Management Response (Energy, Fleet and Facilities Management Division)

192 Agree.

A standard operating procedure will be developed for the management of contingency in order to enhance the oversight and contract management practices for projects in difficulty. This procedure will define roles and responsibilities, as well

as ensure updates for all projects on a routine basis through a project tracker or similar mechanism while incorporating an existing escalation protocol.

Since 2020, EFFM has implemented an escalation protocol through bi-monthly project status updates on significant/major capital projects, which allows senior management to be notified of any project issues.

Estimated Completion: Q4 2022

#9 Recommendation

- 193 We recommend that Public Works implement a process to share critical capital project information such as cost estimates with Procurement to ensure the procurement team has all relevant information for a capital project.

Management Response (Energy, Fleet and Facilities Management Division)

- 194 Agree.

A standard operating procedure will be developed to document the process to share critical capital project information with Procurement to ensure the Procurement team has all relevant information for a capital project e.g. cost estimates tracked in advance of tender issuance. This information could be attached as supporting documentation to the existing project budget template, RFCTA form and Project Charter submitted at the time of tender.

Estimated Completion: Q1 2022

#10 Recommendation

- 195 We recommend that the practice of single sourcing of professional consulting firms be reviewed and be utilized only during exceptional circumstances. Professional consulting services generally should only be retained through a competitive process as outlined in the City of Hamilton's Procurement By-law.

Management Response (Procurement Section)

- 196 Agree.

The City's Procurement Policy sets out the requirements for awarding contracts to

vendors. Staff agree that the most prudent mechanism to select a vendor is through a competitive process. However, where exceptional circumstances exist and a competitive process is not recommended, the appropriate approval to single source must be obtained either by the General Manager or Council.

Expected Completion: Not Applicable.

#11 Recommendation

- 197 We recommend that a standard form of contract be developed and used for the procurement of architectural consulting as well as for contract administration services including terms and conditions specific to each type of service. Furthermore, we recommend contract management techniques be utilized to manage the consultant's performance based on these agreements.

Management Response (Procurement Section)

- 198 Agree.

Procurement has developed and currently utilizes various templated competitive procurement documents for the engagement of contract administration and architectural consulting services.

For those circumstances where architectural or contract administration services are not procured through a competitive process, staff will ensure that a formal contract is to be executed with the vendor prior to any work being carried out. The next revision of the Procurement Policy will be amended to include this requirement.

Expected Completion: Q4 2022

#12 Recommendation

- 199 We recommend that communication with Council regarding projects in difficulty be timely and forthright, and that the risk assessment process (see Recommendation 1) be utilized to bring potentially unfavorable conditions and negative community impact to Council's attention in a proactive manner.

Management Response (Energy, Fleet and Facilities Management Division)

200 Agree.

A standard operating procedure will be developed to document the procedure for timely and forthright communication of projects in difficulty to Council. This procedure will incorporate the output of the risk assessment process to ensure that potentially unfavorable conditions and negative community impact are proactively brought to Council's attention.

Expected Completion: Q4 2022

#13 Recommendation

201 We recommend that the budget for the capital projects portfolio include sufficient funding for necessary corporate services, such as legal, financial, and contract management expertise, in order to ensure that they City's interests are protected during the completion of capital projects.

Management Response (Corporate Services Department)

202 Agree.

Corporate Services Financial Planning, Administration and Policy staff will work with the Corporate Asset Management team and the asset owners to assess the type of costs charged to Capital Projects and assess resources needed to support Capital Projects.

Under the Asset Management framework, staff will develop a definition of the cost of a Capital Asset including a review of operating costs recovered from Capital Projects. Staff will be looking to change our approach for costs that are recovered from Capital Projects, such that, capital projects may only include costs that are directly attributable to a capital project. Therefore, we will be reviewing costs for City project management, City contract management, other City overhead, City financial services, City and external legal services, etc. It is expected that the impact of any change will be assessed, and the pros and cons of alternatives will be provided. (Operating budget, capital financing costs, i.e. transfers to capital, may be needed to offset operating budget capital cost recoveries).

Expected Completion: Q3 2023

#14 Recommendation

203 We recommend that management implement and/or strengthen processes to ensure that when faced with contractor claims for cost increases or time extensions due to alleged design issues, that these alleged design flaws are rigorously and independently evaluated, commensurate with their seriousness. In particular, design flaws that potentially impact safety should be promptly addressed and accountability/liability for actual design flaws is assured.

Management Response (Energy, Fleet and Facilities Management Division)

204 Agree.

The EFFM Capital team through its new Quality Management Office, in collaboration with Legal Services and Procurement will explore means of strengthening current process that is currently governed by both (i) CCDC-2 design-bid-build contract, which defines the role of the Consultant as the contract administrator (i.e., The Consultant will provide administration of the Contract as described in the Contract Documents), and (ii) the Ontario Building Code (OBC), whereby, the capital construction projects delivered by EFFM require building permits in compliance with the OBC, which include a Commitment to General Review signed by the Prime Design Consultant and/or design Engineers to complete construction documentation, field inspections, review of shop drawings and testing reports, and contract administration services to ensure compliance with the design.

Additionally, CCDC-2 also includes mechanisms for conflict resolution. EFFM will review the existing Service Level Agreement (SLA) with Legal Services with regards to the requirement to engage an experienced Legal representative knowledgeable in construction contract law to enforce contract management practices for applicable high-risk projects. This will allow the City to act promptly to enforce our contractual rights going forward in situations where alleged design flaws are raised during the construction phase.

Expected Completion: Q2 2023

#15 Recommendation

205 We recommend that management review its process for approving settlements that exceed a predetermined threshold to ensure appropriate due diligence is being exercised over the proposed settlement amounts. Such process should be designed to provide Council with assurances that proposed settlements of significant cost were being subjected to the necessary scrutiny and validation, and were properly supported.

Management Response

206 Agree.

Management supports reviewing its process to approve settlements to ensure appropriate checks and balances are in place before recommendations are made to Council. Staff will target completion of this review Q3, 2022, in advance of 2023 budget deliberations.

Expected Completion: Q3 2022

Conclusion

- 207 The OCA has brought forward several observations and recommendations to strengthen various aspects of executing capital projects that will enhance the value for money achieved in capital delivery. The City has an opportunity to undertake transformative change in this area.
- 208 The OCA would like to thank Procurement, Legal Services, and Energy, Fleet and Facilities Management staff and other participants for their contributions throughout this project. We look forward to following up with management in the future to see the progress of their action plans and their impact on achieving value for money in service delivery.

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Alternate report formats available upon request



J. L. GRIGHTMIRE ARENA LESSONS LEARNED AUDIT

April 21, 2022

To understand:

- Why and how the Grighthouse Arena addition and renovation project experienced significant issues and did not achieve its desired outcomes.
- What lessons can be learned for future City capital projects.

Overview of Grightmire Arena Project

- Initial budget \$7 million + \$1.669 million additional funding provided later to finish the project.
- Lowest bid of \$5.668 million submitted by CGI in August 2017.
- Substantial performance was expected to be achieved by September 7, 2018. CGI failed to achieve timely completion.
- City negotiated a settlement with CGI and completed unfinished work
- The project was certified substantially complete June 13, 2019 (9 months late).
- Total cost of the project was \$8.4M (20% over original budget and 22% over detailed estimate).

Early Red Flags and Potential Risks

- Winning bid was significantly lower than the next highest bid (\$822K or 14.5%) and the budget (\$1.33M or 23.5%) and detailed cost estimate (\$1.23M or 21.7%).
- Contractor claimed to have erred in their bid price by not including \$425,708 in costs for provisional items.
- The original timeline for the project called for construction start in April however delay in tendering lost 4-5 months. The resulting squeeze into 12 months made for a very ambitious timeline which was described to us as “possible” if all aspects of the project worked out perfectly.
- Contractor had a poor evaluation of its performance on a previous project “Overall, I wouldn’t recommend this contractor to complete a large-scale project”.
- Contractor also failed to deliver the required project schedule upon first payment.

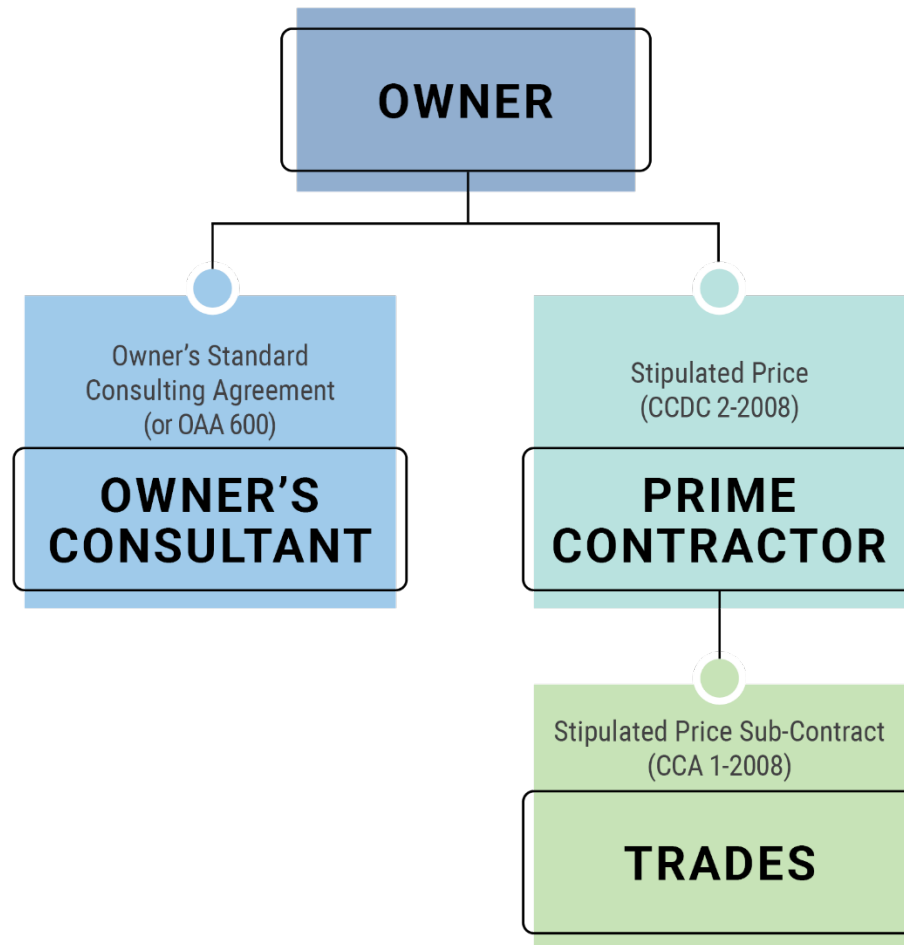
Timetable of the Project

Project Milestone	Initial Plan	Actual Milestone	Late by
Tender Document Release	March 2017	July 6, 2017	4 months
Contract Effective	April 2017	August 29, 2017	4 months
Substantial Performance	September 7, 2018	June 13, 2019 (certified)	9 months

The Participants in the Project

DESIGN ▪ BID ▪ BUILD

Build starts after design is finished



What We Found

General Observations

- The project was not managed strictly in accordance with the contract terms & conditions. Available remedies not used or delayed.
- A strong vendor performance process is lacking – especially with respect to projects in difficulty.
- The project would have benefited from more timely communication to Council of risks and challenges.
- Level of oversight and timeliness of actions was not commensurate with the riskiness of the project.

Causal and Contributing Factors

- Resources that were spread over multiple projects;
- Lack of a risk management framework;
- Weak processes for managing poorly performing contractors, including fulsome use of legal remedies;
- A shortfall of skills in contract management; and
- Lack of clarity in how the roles and responsibilities for this project (including project management, contract management, contract administration/consultant), and how legal and procurement expertise should be deployed and coordinated.

Grighthouse Arena - Lessons Learned Audit Findings



Managing capital projects with a risk management strategy and tactful, forthright communication



Managing project requirements in accordance with the terms and conditions of the contract



Vendor management and procurement policies



Legal support and decisions that could be optimized in the best interest of the City



Effective deployment and oversight of external Consultants



Managing Risk and Communication

- City capital project process needs a systematic approach for identifying risks and developing a risk management strategy.
- One major risk at the outset – loss of 4-5 months because of delay in getting the tender out.
- Squeezed the construction period to 12 months – doable if “things went perfectly”.
- The very high risks were not raised with Council early enough. A formal risk assessment approach prior to project launch could in future facilitate timely and upfront communication.



Project/Contract Management

- Contract management found to be weak – processes in the contract not followed and rights and remedies not exercised or delayed.
- City did not use available remedies to address deficiencies (deducting value of unfinished work and liquidated damages which it could unilaterally do).
- City took no action on Contractor failure to provide a project schedule with its first application for payment (first month). None was provided until April 30, 2018 (nearly 8 months late).
- No evidence of recovery plans.
- City did not insist on Contractor following formal notices of delay.
- City did not take prompt and appropriate action to declare project in default on September 8, 2018 when it clearly was nor did it exercise rights to liquidated damages.



Performance Bond

- Contract included the use of a performance bond.
- Found no evidence Contractor filed formal extension requests for delays or that the City demanded adherence to same.
- Project was technically in default when Substantial Performance not met September 8, 2018 yet the City took no action.
- City took another 3 months before seeking an assessment from the Consultant/Contract Administrator of default.
- Weak contract management, failure to follow and demand adherence to formal contract processes made it unlikely the surety would step in.



Project Documentation/Communication

- Found many instances where important documentation was lacking.
- OCA was provided with very little documentation that would demonstrate expected level of oversight.
- Not a rigorous process to identify and track deficiencies contemporaneously.
- Concluded that the City failed to sufficiently document project milestones, important events and conditions in evidence of project status, risks, deficiencies and required remediations.
- This weakened City's position during its dispute and negotiation with the Contractor.



Liquidated Damages

- Contract expressly states that if date of Substantial Performance is missed, liquidated damages are payable at \$1,000/day.
- City took no action with respect to liquidated damages until termination of the contract.
- OCA looked into the sufficiency of liquidated damages, however no apparent basis for this amount that is evidenced by analysis.
- Project costs were approx. \$22,500/day. Thus \$1,000/day did not appear to sufficiently compensate the City for damages of missed schedule, nor did it incent Contractor to adhere to schedule.
- Technically, liquidated damages are not to be construed as penalties.
- Concluded that the amount set for liquidated damages should be reviewed and that other contract mechanisms be explored that would better align as incentives (bonus/penalty, earnback clauses).



Contract Management Overall

City needs more developed processes and practices for contract management and administration:

- Protocols that can be activated when projects run into difficulty.
- Deployment of greater technical skills in contract management.
- Ensure formal contract mechanisms are adhered to and the way contract management occurs holds contractors to strict requirements.
- Consider splitting off contract management as a separate role from that of project management and contract administration.

Vendor Management



- The Grightmire contract award, as is the case with other capital projects was based on lowest compliant bid.
- Risks such as previously poor performance by a contractor are not considered.
- The successful proponent of Grightmire bid 14.5% under the next highest bidder and 23.5% under budget.
- They also had a poor evaluation from a previous project “Overall I wouldn’t recommend this contractor to complete a large scale project”.
- However, the current approach to procurement is unable to cope with previously poor performers bidding low on new contracts.
- Award practices could be improved by using pre-qualification or also a vendor rating system.
- Vendor rating system uses the accumulated vendor ratings from previous jobs as a scored factor in determining the winning bidder. Reduces the tendency for low bidders to cut corners or earn back profits from change orders.



Looking Retrospectively at the Legal Approach

- OCA took the view that, in the absence of a contract management specialist, City's legal resources need to be experienced and engaged early and often when encountering projects in difficulty or likely to be risky.
- OCA engaged an outside legal firm to assist the City Auditor.
- We asked them to help us address 4 questions or lines of enquiry and then the OCA drew its final conclusions.



Questions for OCA External Legal Consultant

- 1) Was the construction contract “tight enough” and appropriate for the project?
- 2) What advice would they have given when the Contractor declared it had erred in its bid pricing and what options were available?
- 3) What advice would they have given once the Contractor defaulted, and did the City miss opportunities to claim on the performance bond?
- 4) What opinion do they have of the settlement and what strategies would they have used?



OCA Conclusions About the Contract

After considering the legal advice received from our independent legal consultant, OCA has concluded that:

- The City used a form of contract that was appropriate and suitably modified in the City's favour; and
- It contained the necessary provisions to protect the City against Contractor defaults and delays.



OCA Conclusions About the Bid Error

After considering the legal advice received from our independent legal consultant, the OCA has concluded that:

- The Contractor ultimately confirmed it would honour its bid despite the error.
- City could have rejected their bid. But that would not have been without risk and would be a radical departure from City practice.
- Also, if the City chose to go to the 2nd low bidder the cost would have been \$822K more none of which would likely be recoverable from the bid bond.
- OCA concluded the City took the appropriate course of action.



OCA Conclusions About Contract Administration, Default

After considering the legal advice received from our independent legal consultant, the OCA has concluded that:

- Substantial performance was not achieved by the prescribed date as well as key milestones that were missed.
- City did not provide timely, written notice of defaults (e.g., deficiencies, failure to provide construction schedule, SP not achieved).
- Contractor did not follow the prescribed process for notice of delay (some evidence this was informally done).
- City did not require Contractor to prioritize correction of deficiencies, nor did it rectify them itself and back charge or withhold payments.
- No evidence any party was keeping a running deficiency list.
- The City did not avail itself of available rights and remedies or insist that the Contractor follow contract protocols.
- Decision not to terminate under the contract was made without a fulsome analysis of contractual rights.



Settlement – No Evidence of Due Diligence

- OCA is unable to publicly share details of the financial settlement between the City and CGI as the terms of the settlement are confidential.
- We do note that we were unable to obtain sufficient, or indeed, any information of pivotal components of the financial settlement.
- We could find no evidence that the City performed the necessary due diligence for these pivotal components.



- External Consultant/Contract Administrator who oversaw and evaluated the work of the Contractor was also the designer of the project.
- Contractor maintained that there were design issues that resulted in delay and increased costs.
- In such situations there is an inherent conflict of interest that could make it difficult to maintain one's objectivity in evaluating these claims.
- Some jurisdictions split the role of design consultant and contract administrator.
- OCA concluded that splitting these roles for projects anticipated to be high risk may warrant consideration.



- OCA concluded the external consultant shares responsibility in not ensuring contract management due diligence.
- Some issues uncovered include certifying payments without project schedule, no running deficiency list, not aggressively monitoring the Contractor, and lack of a recovery plan.
- OCA found there was no formal agreement with the Consultant other than PO terms and conditions. (This appeared to be a systemic issue).
- Appeared to us the level of monitoring was not very aggressive (infrequent site visits, large time gaps in between) which did not accord with the need for close monitoring of such a risky project.
- Lack of oversight of the Consultant, without a contract, made it problematic to ensure pressure put on Contractor to make progress.

Recommendations

Fifteen recommendations were made to strengthen governance and processes in project management, contract management, vendor management, communications and procurement:

1. Development of a risk assessment framework and process.
2. Use the current version of a CCDC2 Stipulated Price contract.
3. Contract management training.
4. Consider separating the roles of project management, contract administration and contract management.
5. Contractor performance be tracked, formally evaluated and that contractor ratings be considered as a procurement criterion.

Recommendations

6. Review liquidated damages values /consider incentives (use of bonus penalty clauses and earnbacks).
7. Improvements in the project management processes including adequate project documentation, adherence to contract, timely deficiency information and communications.
8. Special contingency procedures and guidelines be developed for projects in difficulty.
9. Public Works implements a process to share critical project information such as cost estimates with Procurement.
10. The practice of single sourcing be reviewed and utilized only during exceptional circumstances.

Recommendations

11. A standard form of contract be developed and used for the procurement of architectural consulting and contract administration services.
12. Communication with Council re: projects in difficulty be timely and forthright and risks proactively brought forward.
13. Budget for capital projects to include sufficient funding for necessary corporate/support services.
14. Management implement or strengthen processes to ensure when faced with contractor claims due to alleged design issues, these are rigorously and independently evaluated.
15. Management review its process for approving settlements that exceed a predetermined threshold to ensure appropriate due diligence is exercised.



QUESTIONS?



RESPONSES & ACTIONS

**GRIGHTMIRE ARENA
LESSONS LEARNED AUDIT AUD22004**

Audit, Finance and Administration Committee

April 21, 2022

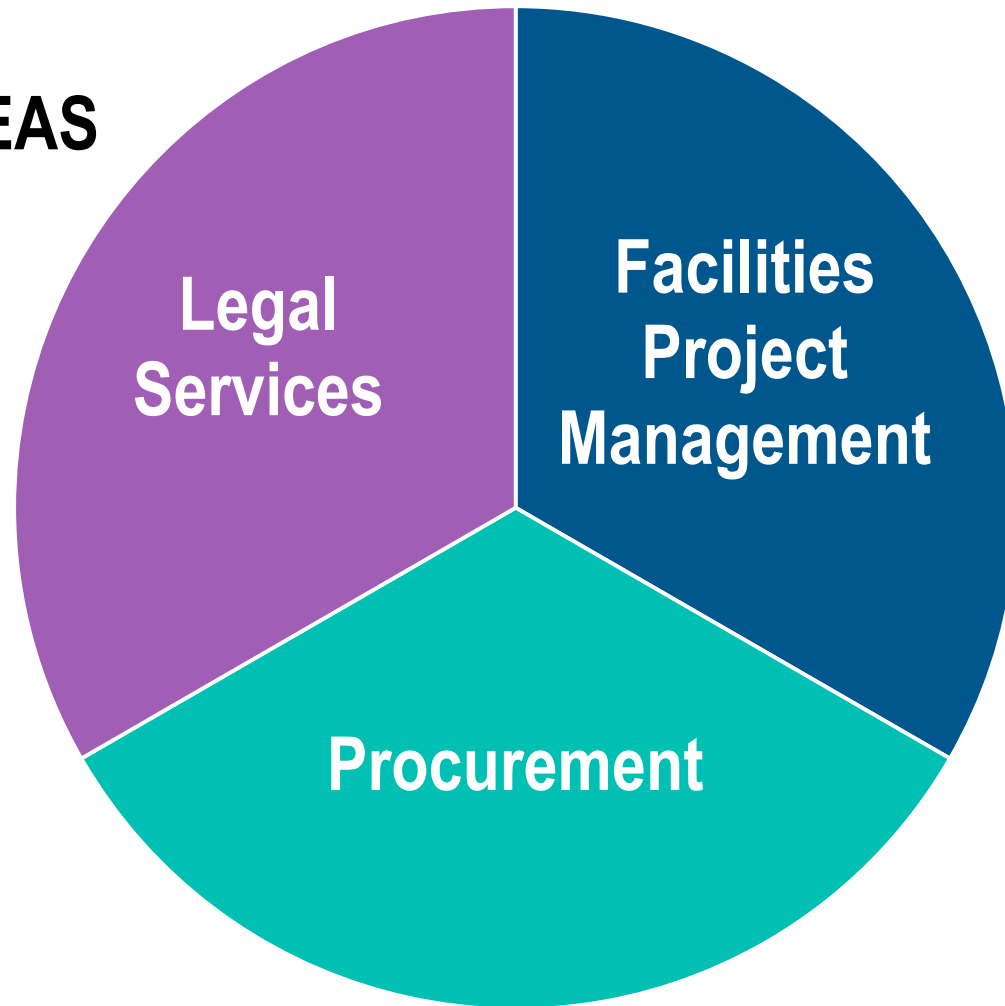
Introduction: Facilities Management – Capital Projects

- Client Department
 - Recreation – Arenas, Recreation & Senior Centres
 - Corporate Facilities (City Hall, POA, MSC)
 - Fire & EMS
 - Public Work's Divisional Clients
 - Hamilton Police Services
 - Libraries
 - City Housing Hamilton
 - Long Term Care Homes
 - Entertainment Facilities

- Metrics – Annually output
 - Deliver approx. 200 capital project annually
 - \$10 Million in Block Funding (Facilities Life Cycle Renewal)
 - \$40-\$45 M (average) on new construction

RESPONSES & ACTIONS

THREE FOCUS AREAS



RESPONSES & ACTIONS

Facilities Project Management

- Public Works Asset Management System (PW QMS)
 - Risk assessment framework & process development
 - Project management documents, including a PM manual, project charter template, project transition checklist and closing report template
- Public Works Enterprise Asset Management (EAM) System
 - Develop policies and procedures for design, construction, operations and maintenance
 - Document Control
- Defined Roles and Responsibilities



Recommendation(s)	What we're doing
<p>#1. <u>EFFM</u> We recommend that management develop a risk assessment framework (RAF) and process and that formal evaluation of risk be conducted as part of the project planning.</p>	<ul style="list-style-type: none"> ✓ EFFM has developed project initiation and close-out checklists, a project budget template and communications plan for capital projects to continually improve project management processes and mitigate risk. (Complete) ☐ EFFM's 2022-2023 initiatives include further development of planning/ design and implementation/ construction phase checklists, as well as a RAF as part of the continued implementation of the PW QMS.
<p>#3. <u>EFFM</u> We recommend that contract management training be provided to project managers.</p>	<ul style="list-style-type: none"> ☐ Contract management training will be provided to Project Managers once Legal and Procurement have confirmed delegated authority and available support. Vendors for this training have been identified

Recommendation(s)	What we're doing
<p>#4. <u>EFFM</u> We recommend that management consider separating the roles of project management and contract management for capital projects.</p>	<ul style="list-style-type: none"> ✓ Current practices will be reviewed with Legal and Procurement to determine the changes necessary related to the roles of project and contract management. <i>(In process)</i> ❑ Review the existing SLA with Legal to engage an experienced Legal representative knowledgeable in construction contract law to enforce contract management practices for applicable high-risk projects. ❑ EFFM will undertake a municipal scan to explore models for construction contract management successfully implemented by other municipalities in Ontario.
<p>#7. <u>EFFM</u> We recommend that project management processes be improved to ensure adequate project documentation is maintained by the City.</p>	<ul style="list-style-type: none"> ✓ The existing EFFM Contract Analyst position along with a new QMO within EFFM will be redefined to add duties related to quality management and project record retention. <i>(In process)</i> ❑ A SOP detailing project management processes will be introduced for timely and effective contractor communications. ❑ Project management processes will be improved with the planned introduction of a central filing system through EAM.

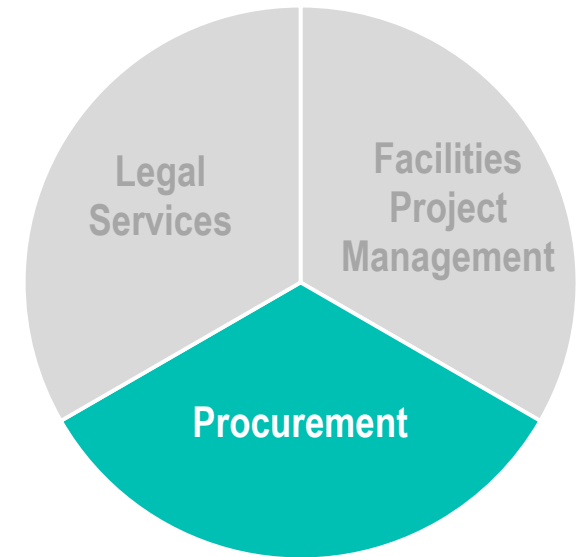
Recommendation(s)	What we're doing
<p>#8. <u>EFFM</u> We recommend that special contingency procedures and guidelines be developed for enhancing the oversight and contract management practices for projects in difficulty.</p>	<ul style="list-style-type: none"> ✓ EFFM has implemented an escalation protocol through bi-monthly project status updates on significant/major capital projects. (Complete) ❑ A SOP will be developed for the management of contingency in order to enhance the oversight and contract management practices for projects in difficulty, including roles and responsibilities, routine project updates and incorporating the existing escalation protocol.
<p>#9. <u>EFFM</u> We recommend that PW implement a process to share critical capital project information such as cost estimates with Procurement.</p>	<ul style="list-style-type: none"> ❑ A SOP will be developed to document the process to share critical capital project information with Procurement, which be attached as supporting documentation to the existing project budget template, RFCTA form and Project Charter submitted at the time of tender.

Recommendation(s)	What we're doing
<p>#12. <u>EFFM</u> We recommend that communication with Council regarding projects in difficulty be timely and forthright.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> A SOP will be developed to document the procedure for timely and forthright communication of projects in difficulty to Council, including incorporation of the output of the risk assessment process.
<p>#14. <u>EFFM</u> We recommend that management implement and/or strengthen processes to ensure that when faced with contractor claims for cost increases or time extensions due to alleged design issues</p>	<ul style="list-style-type: none"> <input type="checkbox"/> EFFM's QMO (in collaboration with Legal Services and Procurement) will explore means of strengthening current process that is currently governed by CCDC-2 and the OBC to ensure compliance with the design. <input type="checkbox"/> CCDC-2 also includes mechanisms for conflict resolution. EFFM will review the SLA with Legal Services with regards to the requirement to engage an experienced Legal representative knowledgeable in construction contract law to enforce contract management practices for applicable high-risk projects.

RESPONSES & ACTIONS

Procurement

- Continue to work on and implement non-traditional delivery models
 - Construction Management contracts (2020-2021)
 - Design-Build procurement (2022 – under development)
 - General Contractor Pre-qualification
- Robust Vendor Performance Program, including a best practices review of contractors bidding evaluation process



RESPONSES & ACTIONS

Legal Services

- Review the existing Service Level Agreement (SLA) with Legal Services with regards to EFFM's requirements
- Engage a legal representative familiar in construction contract law to enforce construction contract management practices for applicable high-risk projects



Recommendation(s)	What we're doing
<p>#2. <u>Procurement, Legal & Risk</u> We recommend that when using a CCDC 2 Stipulated Price contract for construction projects, the current version be used and that the contract conforms with the changes introduced by recent changes to the <i>Construction Act</i>.</p>	<ul style="list-style-type: none"> ✓ All construction contracts utilized through a procurement process are current with respect to the <i>Construction Act</i>. (Complete) ❑ A working group of staff has been tasked with updating supplemental conditions to be used with the new CCDC 2-2020 Stipulated Price contract for implementation in June 2022.
<p>#5. <u>Procurement</u> We recommend that contractor performance for each contract be tracked and formally evaluated using a consistent and robust process, and that the use of contractor ratings from previous performance be considered for implementation as a procurement criterion in order to mitigate the risk of poor results.</p>	<ul style="list-style-type: none"> ❑ Procurement's workplan includes research and development of a more robust Vendor Performance Program, in consultation with internal and external stakeholders. Procurement will investigate the potential to use contractor ratings from previous contract performance.

Recommendation(s)	What we're doing
<p>#6. <u>Legal & Risk with Procurement</u> We recommend that the values used for liquidated damages be reviewed to ensure they adequately compensate the City for the damages of late delivery and daily costs incurred, and to motivate contractors to take prompt action to cure project delays/ deficiencies. Where liquidated damages would likely fall short of what is necessary to motivate Contractors to meet schedule requirements, we also would recommend the use of bonus/penalty clauses and earn-backs in the Contract.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Staff will investigate and pursue best practices including discussion with other municipalities, on the approach to liquidated damages, bonus and penalty provisions pertaining to contractual dealings. <input type="checkbox"/> Legal Services will aid Procurement in updating the approach to appropriately amending contracts arising from this investigation in order to best protect the City's interests as permitted by these measures. <input type="checkbox"/> Further, Procurement staff will engage and consult with client staff to assess consequences and controls in order to ensure appropriate application of the changes involved.

Recommendation(s)	What we're doing
<p>#10. <u>Procurement</u> We recommend that the practice of single sourcing of professional consulting firms be reviewed and be utilized only during exceptional circumstances. Professional consulting services generally should only be retained through a competitive process as outlined in the City of Hamilton's Procurement By-law.</p>	<ul style="list-style-type: none"> ✓ The City's Procurement Policy sets out the requirements for awarding contracts to vendors. Staff agree that the most prudent mechanism to select a vendor is through a competitive process. (Complete) ✓ However, where exceptional circumstances exist and a competitive process is not recommended, the appropriate approval to single source must be obtained either by the General Manager or Council. (Complete)

Recommendation(s)	What we're doing
<p>#11. Procurement We recommend that a standard form of contract be developed and used for the procurement of architectural consulting as well as for contract administration services including terms and conditions specific to each type of service. Furthermore, we recommend contract management techniques be utilized to manage the consultant's performance based on these agreements.</p>	<ul style="list-style-type: none"> ✓ Procurement has developed and currently utilizes various templated competitive procurement documents for the engagement of contract administration and architectural consulting services. (Complete) ☐ For those circumstances where architectural or contract administration services are not procured through a competitive process, staff will ensure that a formal contract is to be executed with the vendor prior to any work being carried out. The next revision of the Procurement Policy will be amended to include this requirement.

PROCESS IMPROVEMENTS (FACILITIES)

“RECAP”

- Project Management (PM) templates developed based on lessons learned:
 - ✓ Project initiation and close-out checklists,
 - ✓ Project budget template
 - ✓ Communications plan
 - ✓ Lesson Learned Process for each large project to mitigate future risk
 - ✓ Project charter template includes:
 - ✓ identification of potential risks (known & unknown), likelihood and impact on budget/ schedule/ scope with mitigation measures identified
 - ✓ Routine project status updates on significant capital projects
 - ✓ Project Tracker to document status of all active projects

Questions



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Planning, Administration and Policy Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	April 21, 2022
SUBJECT/REPORT NO:	Unbilled Water and Wastewater / Storm Accounts (FCS22029) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	John Savoia (905) 546-2424 Ext. 7298
SUBMITTED BY:	Brian McMullen Director, Financial Planning, Administration and Policy Corporate Services Department
SIGNATURE:	

RECOMMENDATION(S)

That the General Manager, Finance and Corporate Services, be authorized to enter into a deferred payment arrangement with a three-month repayment period, pertaining to water and wastewater / storm charges for a total amount of \$109,771.44 regarding Alectra Utilities account number 5812771300 and service address of 95 Barlake Avenue, Hamilton.

EXECUTIVE SUMMARY

The City's water rates have two separate components; firstly, a fixed charge based on the size of the customer's water meter and secondly, consumption / treatment charges based on the amount of water used. As the fixed charge applies even where no metered water has been consumed, all active water accounts should generate a monthly water bill.

Alectra Utilities (Alectra) has recently advised that processing field activities and commercial meter changes between the City and Alectra is a complex manual process and all billing processes are manual once an account falls outside of the regular billing parameters. Consequently, where a manual process is not completed on a timely basis, no water bill will be issued for the affected account i.e. an "unbilled" water account.

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SUBJECT: Unbilled Water and Wastewater / Storm Accounts (FCS22029) (City Wide) – Page 2 of 6

Alectra has completed a review of unbilled water accounts and as of February 28, 2022, indicates approximately 1,500 unbilled accounts greater than 70 days (approximately 0.1% of the total customer base) are:

- 75% residential
- 25% Industrial / Commercial / Institutional (ICI) or multi-residential customer with meter 100mm or larger in size.

It should be noted that the status of unbilled accounts is at a point-in-time and can fluctuate based on billings over time.

While Alectra prioritizes billing larger commercial accounts, due to delays related to backlogs in processing completed meter changes / repairs and manual billing processes, there are several customers with significant unbilled water charges. Specifically, Alectra has determined that there are four significant billing adjustments associated with unbilled water bills amounting to approximately \$445 K in debit adjustments (for details refer to the Historical Background section of Report FCS22029).

In March 2017, Council approved the Water and Wastewater / Storm Billing Payment Arrangement Policy (Policy) which requires that all water and / or wastewater / storm deferred payment arrangements exceeding \$100 K be referred to the Audit, Finance and Administration Committee for approval (for details refer to Report FCS17029).

As such, Report FCS22029 is provided for the recommended authorization of a deferred payment arrangement with a three-month repayment period for Alectra account number 5812771300 regarding 95 Barlake Avenue, Hamilton.

Alectra has committed to implement several corrective actions and controls to enhance its processes and address concerns with unbilled invoices and subsequent back billings (for details refer to the Historical Background section of Report FCS22029).

During March 2022, the number of unbilled accounts greater than 70 days has decreased from approximately 1,500 to 1,267. While the unbilled water volumes are a point in time metric and can fluctuate based on outstanding work orders, Alectra anticipates that it will take approximately four months to reduce the backlog accumulated during the pandemic. To facilitate timely completion of this work, Alectra has invested in additional resources and offered overtime.

Additionally, commencing April 1, 2022, Alectra has committed to providing staff a new monthly unbilled water account listing for Hamilton. This report will provide the number of unbilled accounts (by age), customer type and meter size and will enable Alectra to better identify priority accounts to action.

Alternatives for Consideration – N/A

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SUBJECT: Unbilled Water and Wastewater / Storm Accounts (FCS22029) (City Wide) – Page 3 of 6

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Water and wastewater / storm revenue recovery related to a significant underbilled consumption at 95 Barlake Avenue, Hamilton of approximately \$110 K will be realized in a reasonable timeframe.

Staffing: N/A

Legal: The City's ability to recover water and wastewater / storm revenue is not impaired by entering into a deferred payment arrangement with the customer. In the event a deferred payment instalment becomes delinquent, the outstanding balance would be immediately transferred to the property tax roll. In such circumstances, the fees and charges added to the tax roll will have priority lien status as described under Section 1 of the *Municipal Act, 2001*.

HISTORICAL BACKGROUND

The City's water rates have two separate components; firstly, a fixed charge based on the size of the customer's water meter and secondly, consumption / treatment charges based on the amount of water used. As the fixed charge applies even where no metered water has been consumed, all active water accounts should generate a monthly water bill.

Alectra has recently advised that processing field activities and commercial meter changes between the City and Alectra is a complex manual process and all billing processes are manual once an account falls outside of the regular billing parameters. Consequently, where a manual process is not completed in a timely basis, no water bill will be issued for the affected account i.e. an "unbilled" water account.

Alectra has completed a review of unbilled water accounts and, as of February 28, 2022, indicates approximately 1,500 unbilled accounts greater than 70 days (approximately 0.1% of the total customer base) are:

- 75% residential
- 25% Industrial / Commercial / Institutional (ICI) or multi-residential customer with meter 100mm or larger in size.

It should be noted that the status of unbilled accounts is at a point-in-time and can fluctuate based on billings over time. Unbilled accounts have arisen with the migration of Hamilton's water billing to Alectra's Oracle Customer Care and Billing (CC&B) as of March 1, 2019. The cities of Markham and Vaughan are similarly impacted with unbilled accounts as Alectra provides both municipalities water billing services utilizing CC&B.

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SUBJECT: Unbilled Water and Wastewater / Storm Accounts (FCS22029) (City Wide) – Page 4 of 6

While Alectra prioritizes billing larger commercial accounts, due to delays related to backlogs in processing completed meter changes / repairs and manual billing processes, there are several customers with significant unbilled water charges. Specifically, Alectra has determined that there are four significant billing adjustments associated with unbilled water bills amounting to approximately \$445 K in debit adjustments:

- 711 Concession Street, Hamilton (Account 2006871300), Hamilton Health Sciences is account holder. Following a meter change, account went unbilled for 10 months (April 2021 to February 2022) for a total debit adjustment of \$213,975.29. Customer has indicated full payment will occur prior to March 31, 2022.
- 9322 Dickenson Road East, Mount Hope (Account 5961791300), Warren Pearce Water Haulage is account holder. Following a meter change, account went unbilled for eight months (June 2021 to February 2022) for a total debit adjustment of \$40,064.30. Customer has paid full amount.
- 1 Oriole Crescent, Hamilton (Account 3274871300), CityHousing Hamilton is account holder. Following a meter change, account went unbilled for eight months (June 2021 to February 2022) for a total debit adjustment of \$81,454.44. Customer has paid full amount.
- 95 Barlake Avenue, Hamilton (Account 5812771300), Effort Trust is the account holder. Meter was not set up correctly in Alectra's billing system resulting in the account being unbilled for five months (September 2021 to February 2022) for a total debit adjustment of \$109,771.44. Customer has requested a payment arrangement with a three-month repayment term.

In March 2017, Council approved the Water and Wastewater / Storm Billing Payment Arrangement Policy (Policy) which requires that all water and / or wastewater / storm deferred payment arrangements exceeding \$100 K be referred to the Audit, Finance and Administration Committee for approval (for details refer to Report FCS17029).

As such, Report FCS22029 is provided for the recommended authorization of a deferred payment arrangement with a three-month repayment period for Alectra account number 5812771300 regarding 95 Barlake Avenue, Hamilton.

Alectra has committed to implementing several corrective actions and controls to enhance its processes and address concerns with unbilled invoices and subsequent back billings.

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SUBJECT: Unbilled Water and Wastewater / Storm Accounts (FCS22029) (City Wide) – Page 5 of 6

Investment in People

- Hired an additional temporary manager to ensure adequate focus is placed on water billing through December 2024 when these services transition back to the City.
- Hired additional temporary resources and offered overtime to provide more capacity.
- Prioritize continuous learning, upskilling and training to increase staff's ability to deal with complex billing concerns.
- Assigned a temporary designated team to focus on unbilled water billing and related backlog issues.

Process Changes in Progress

- A new escalation path is planned for the Alectra Contact Centre to allow for the escalation of unbilled water accounts to a designated team for quicker action and resolution.
- Implementation of internal KPIs to monitor the City's in-box and to track manual processes related to meter changes and field activities.
- Revise current water billing reports to highlight risk factors and sensitive accounts to better prioritize work (e.g., introduce the number of days unbilled, meter size and customer name to existing reports).
- Continue to report estimated accounts to the City of Hamilton and implement actions, as directed.
- Review estimating protocols to enhance algorithms when a meter change interrupts the billing cycle.
- Enhance the month-end close process to identify large aging unbilled accounts for greater audit control and visibility.

During March, the number of unbilled greater than 70 days has decreased from approximately 1,500 to 1,267. While the unbilled water volumes are a point-in-time metric and can fluctuate based on outstanding work orders, Alectra anticipates that it will take approximately four months to reduce the backlog accumulated during the pandemic.

Additionally, commencing April 1, 2022, Alectra has committed to providing staff a new monthly unbilled water account listing for Hamilton. This report will provide the number of unbilled accounts (by age), customer type and meter size and will enable Alectra to better identify priority accounts to action.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

As the amount proposed for a deferred payment arrangement exceeds \$100 K, the City's Water and Wastewater / Storm Billing Payment Arrangement Policy is applicable.

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SUBJECT: Unbilled Water and Wastewater / Storm Accounts (FCS22029) (City Wide) – Page 6 of 6

RELEVANT CONSULTATION

Alectra Utilities has provided extensive information related to unbilled water accounts for the preparation of Report FCS22029.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

There have been several significant catch-up or back billed water and / or wastewater / storm billings in the past particularly with large-use customers where deferred payment arrangements have been requested by customers. Deferred interest-free payment arrangements are a reasonable measure to ensure the City recovers water and wastewater revenue without creating undue hardship for customers.

The Policy allows for customers to request to enter into an optional payment arrangement to address water and / or wastewater / storm billings. In this case, Effort Trust has requested to pay the catch-up billings over a three-month period. Effort Trust was not at fault for the unbilled consumption at 95 Barlake Avenue, Hamilton and, as such, staff supports a payment arrangement on an interest-free basis.

ALTERNATIVES FOR CONSIDERATION

N/A

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**Community Engagement and Participation**

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Our People and Performance

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

APPENDICES AND SCHEDULES ATTACHED

N/A

JS/dt

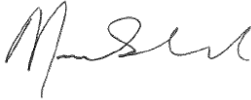

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CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Economic Development Division
and
Transportation Planning and Parking Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	April 21, 2022
SUBJECT/REPORT NO:	Offsetting Parking Revenue for the City's Business Improvement Areas (PED22074) (Wards 1, 2, 3, 4, 7, 12 and 13)
WARD(S) AFFECTED:	Wards 1, 2, 3, 4, 7, 12 and 13
PREPARED BY:	Julia Davis (905) 546-2424 Ext. 2632
SUBMITTED BY:	Norm Schleeahn Director, Economic Development Planning and Economic Development Department
SIGNATURE:	
SUBMITTED BY:	Brian Hollingworth Director, Transportation Planning and Parking Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That each of the City's eleven Business Improvement Areas (BIAs) that participate annually in the Parking Revenue Sharing Program (PRSP) be provided a grant in 2022 that is equal to the amount they received in 2020 through the PRSP, with the exception of the Locke Street BIA which would receive an amount equivalent to their 2019 Parking Revenue Sharing Grant;
- (b) That the total Grant amount of \$124,563.09 be funded from the Economic Development Investment Reserve (Account No. 112221).

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SUBJECT: Offsetting Parking Revenue for the City's Business Improvement Areas (PED22074) (Wards 1, 2, 3, 4, 7, 12 and 13) - Page 2 of 5

EXECUTIVE SUMMARY

The City of Hamilton (the City) is committed to supporting its local Business Improvement Areas (BIAs) as one component of its broader economic recovery planning. The BIAs are established through the coordination and request of the local business community, legislated through the *Municipal Act 2001* and are governed through a Board of Management which is a Local Board. Working in partnership with the BIAs, the City supports through dedicated staff, marketing and promotion, and various funding programs.

The BIAs are primarily self-funded through a levy placed on each commercial property located within a BIA. The City has also historically supplemented this funding through initiatives such as an annual Contribution to Operating Grant Program (\$89,100 per year total) and an annual grant for holiday programming (\$1,000 per BIA), as well as, a special COVID-Recovery Grant in 2021 of \$10,000 per BIA.

Another regular funding source for eleven of the City's BIAs since 2011 has been a Parking Revenue Sharing Program (PRSP) with the Hamilton Municipal Parking System (HMPS) which has consistently provided surplus parking revenues to the eleven participating BIAs each year (10% of HMPS's Prior Year's Net Annual Operating Surplus to a maximum of \$167,280 per year). The BIAs have come to rely on this annual funding to support their core programming including cleanliness, beautification, decorations, promotions, and placemaking initiatives.

Due to COVID-19, the HMPS did not realize a net operating surplus in 2020, for which, in 2021, Council approved recommendations to that each of the City's eleven BIAs who participate annually in the PRSP be provided a grant that was equal to the amount they received in 2020 through the PRSP, with the exception of the Locke Street BIA which would receive an amount equivalent to their 2019 Parking Revenue Sharing Grant.

With the continued impacts of the COVID-19 pandemic, in 2021, the HMPS also did not realize a net operating surplus which it is anticipated will create additional financial burdens on the eleven BIAs that normally participate in the PRSP as the COVID-19 pandemic is still providing hurdles on a daily basis. As a result, staff are recommending that each of the City's eleven BIAs who participate annually in the PRSP be provided a grant in 2022 that is equal to the amount they received in 2020 and 2021 through the PRSP, with the exception of the Locke Street BIA which would receive an amount equivalent to their 2019 Parking Revenue Sharing Grant.

Alternatives for Consideration – See Page 5

SUBJECT: Offsetting Parking Revenue for the City's Business Improvement Areas (PED22074) (Wards 1, 2, 3, 4, 7, 12 and 13) - Page 3 of 5

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The amount of the funding, totalling \$124,563.09, be funded from the Economic Development Investment Reserve (Account No. 112221).

Staffing: There are no associated staffing implications.

Legal: There are no associated legal implications.

HISTORICAL BACKGROUND

Due to the unique circumstances surrounding COVID-19, the BIAs in Hamilton have had to realign their budgets, projects, and priorities to support their memberships. As a component of this, the BIAs have been very reliant on past funding opportunities, one of which being the PRSP, to build their plans for promotion and recovery from the pandemic.

The Policy for Parking Revenue Sharing was approved by Council on September 29, 2010 and has been a significant grant to the eleven participating BIAs every year since. The PRSP with the HMPS which has consistently provided surplus parking revenues to the participating BIAs each year (10% of HMPS's Prior Year's Net Annual Operating Surplus to a maximum of \$167,280 per year).

Due to COVID-19, the HMPS did not realize a net operating surplus in 2021 which, therefore, creates a significant potential funding shortfall for the eleven participating BIAs in 2022. The participating BIAs have come to rely on their share of parking revenues to support their core programming including cleanliness and beautification, decorations, promotions, and placemaking.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

N/A

RELEVANT CONSULTATION

- Ancaster Village BIA;
- Barton Village BIA;
- Concession Street BIA;
- Dundas BIA;
- Downtown Hamilton BIA;
- International Village BIA;
- King West BIA;
- Locke Street BIA;

SUBJECT: Offsetting Parking Revenue for the City's Business Improvement Areas (PED22074) (Wards 1, 2, 3, 4, 7, 12 and 13) - Page 4 of 5

- Main West Esplanade BIA;
- Ottawa Street BIA;
- Westdale Village BIA; and,
- Hamilton Municipal Parking System Staff.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

With the uncertainty and pressures of COVID-19, many planned expenditures and projects within the BIAs have been changed or cancelled for 2022. BIAs are continuing to review their budgets and funding sources as they pivot, and shift plans due to the pandemic.

Understanding the significance of the PRSP to the BIAs staff has been in consultation with the BIAs and the consensus is that they are relying on this funding to be used for 2022 programming and beyond.

To support the eleven BIAs that participate in the PRSP, which include the Ancaster Village, Barton Village, Concession Street, Downtown Dundas, Downtown Hamilton, International Village, King West, Locke Street, Main West Esplanade, Ottawa Street, and Westdale Village BIAs, staff are recommending a one-time grant equivalent to the 2020 allocation they received, other than the Locke Street BIA who it is recommended receive a grant equal to their 2019 allocation. The Locke Street BIA underwent a significant capital infrastructure project involving complete road reconstruction in 2019 which negatively impacted their allocation in 2020 under the PRSP and does not reflect the amounts historically received.

The allocations recommended to each of the BIAs is included in Appendix "A" to Report PED22074.

As per the existing PRSP criteria, this Grant can be spent on eligible expenditures which include:

- Purchase and maintenance of street furniture on the public road allowance (benches, planters, banners, way-finding and parking signage; litter containers etc.);
- Costs for cleaning and maintaining the public road allowance including hiring of individuals;
- Purchase and maintenance of hanging flower baskets;
- Christmas decorations and their maintenance including storage costs;
- Promotion of the Business Improvement Areas and their events;
- Art projects in the public realm;
- Beautification initiatives on streets/parks/pedestrian nodes;
- Free parking initiatives;

SUBJECT: Offsetting Parking Revenue for the City's Business Improvement Areas (PED22074) (Wards 1, 2, 3, 4, 7, 12 and 13) - Page 5 of 5

- Purchase of graffiti products;
- Improvements in municipal parking lots not necessarily within BIA boundaries (machines/meters, signage, lighting, planters etc.);
- Maintenance of gateways on public road allowance not necessarily within BIA boundaries;
- Maintenance of municipal parking lots not necessarily within BIA boundaries; and,
- Special event costs not including the hiring of an events coordinator.

ALTERNATIVES FOR CONSIDERATION

Committee and Council can decide to not allocate the funding recommended in Report PED22074, for the eleven BIAs that would normally benefit from this Program. The budgets of these BIAs would be negatively impacted, and recovery efforts and support programming would have to be decreased or eliminated.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**Community Engagement and Participation**

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED22074 - Business Improvement Areas Parking Revenue Sharing Program Allocations for 2022

JD:jrb

**Appendix “A” to Report PED22074
Page 1 of 1**


**Business Improvement Area Parking Revenue Sharing Program Allocations for
2022**

To support the eleven BIAs that regularly participate in the Parking Revenue Sharing Program, staff are recommending a one-time grant equivalent to the 2020 allocation they received, other than the Locke Street BIA who it is recommended receive a grant equal to their 2019 allocation. The allocations to each participating BIA as per this criteria will be as follows:

BIA Name	2022 Allocation
Ancaster Village	\$5,283.45
Barton Village	\$10,192.27
Concession Street	\$14,271.77
Downtown Dundas	\$24,568.94
Downtown Hamilton	\$11,250.33
International Village	\$12,362.71
King West	\$822.79
Locke Street	\$11,774.03
Main West	\$1,084.64
Ottawa Street	\$16,884.50
Westdale Village	\$16,067.66
Total	\$124,563.09



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Information Technology Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	April 21, 2022
SUBJECT/REPORT NO:	Standardization of Microsoft Power Platform Suite of Products for Corporate Information Technology (FCS22036) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Kathy Nuttall (905) 546-2424 Ext. 4571
SUBMITTED BY:	Maria McChesney Director, Information Technology Corporate Services
SIGNATURE:	

RECOMMENDATION

- (a) That Council approve the standardization of Microsoft Power Platform suite of products manufactured by Microsoft, pursuant to Procurement Policy #14 – Standardization for a period of five years from the date of Council approval;
- (b) That the General Manager, Corporate Services Department be authorized to negotiate, enter into and execute any required Contract and any ancillary documents required to give effect thereto with Microsoft approved retailer, in a form satisfactory to the City Solicitor.

EXECUTIVE SUMMARY

Pursuant to the City's Procurement Policy, Policy #14 - Standardization, Section 4.14, Report FCS22036 seeks to establish the Microsoft Power Platform suite of software as a Corporate Standard for Information Technology. This Standard will be established for a five-year period, at which point, it will be reviewed and brought back to Council.

The Information Technology Division of the Corporate Services Department is responsible for setting Corporate Technology Standards to ensure the City has a computing environment that provides consistent, reliable services to staff which is efficiently and effectively supported.

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SUBJECT: Standardization of Microsoft Power Platform Suite of Products for Corporate Information Technology (FCS22036) (City Wide) - Page 2 of 4

The major benefits of Standardizing software are:

- Simpler administration and operations;
- Investment to date in software licenses and staff training;
- Lower support and testing cost;
- Improved support to business units; and,
- Fewer contracts to prepare and administer.

The Microsoft Power Platform suite of products have the capability to improve citizen interaction, providing a centralized and congruent online experience for citizens, by allowing the citizen to log in to see all their in-progress and completed service requests in one place.

Alternatives for Consideration – See Page 3

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: None

Staffing: None

Legal: None

HISTORICAL BACKGROUND

January to June 2021, the Information Technology Division completed a Power Platform Proof-of Concept project exploring the capabilities of the Microsoft Power Platform suite of products to meet the City's increasing need to provide citizen facing online services in a nimble scalable manner.

The Power Platform Proof-of Concept project concluded that adoption of the Microsoft Power Platform suite of products will reduce the time and effort required to create and maintain online services, both for citizen services and internal workflows which increase departmental productivity. The Microsoft Power Platform suite of products have the capability to improve citizen interaction, providing a centralized and congruent online experience for citizens, by allowing the citizen to log in to see all their in-progress and completed service requests in one place. Further, once a solution is created, the simplicity of the tool allows for non-IT staff to perform some administrative and maintenance functions without IT support.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

By-Law 21-215 Procurement Policy, Policy 4.14, Standardization

The intent of Report FCS22036 is to comply with Procurement Policy # 14 – Standardization, Section 4.14, which requires Council approval for the establishment of a Standard for the Microsoft Power Platform suite of products.

SUBJECT: Standardization of Microsoft Power Platform Suite of Products for Corporate Information Technology (FCS22036) (City Wide) - Page 3 of 4

RELEVANT CONSULTATION

The Procurement section was consulted in the preparation of this report and support the recommendation as presented.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

If adopted as an IT standard for the City, the Microsoft Power Platform suite of products will augment the IT Division's solution catalogue to increase our agility and response for low to medium complexity citizen facing and internal services, processes and workflows. Based on these findings a recommendation was made to adopt Microsoft Power Platform as a City standard for the development of online services.

This standardization will allow Information Technology to specify the required Software in a competitive procurement process to obtain an implementation partner for the development of online City services.

Additionally, since the City currently has a corporate contract with a vendor to provide a Microsoft Enterprise Agreement, the cost of the Microsoft Power Platform suite of products is competitive and firm until May 31, 2024.

ALTERNATIVES FOR CONSIDERATION

1. Council may choose not to set a standard for software technologies which, through a competitive bid process, would result in a mixed environment which would have a negative impact on the Total Cost of Ownership and the infrastructure reliability. This would require additional training for all staff to become familiar with supporting multiple software solutions. Cost would increase as the City would be paying software maintenance on multiple software solutions providing a similar service. This also may result in an excessive number of Policy 11 single source requests being processed to meet the corporate needs. This alternative is not being recommended as it would require a significant financial investment to integrate additional manufacturers into our environment as well as add administrative overhead while adding no value. It would also increase the burden on legal services by having to create and administer multiple contracts for similar services.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

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.

SUBJECT: Standardization of Microsoft Power Platform Suite of Products for Corporate Information Technology (FCS22036) (City Wide) - Page 4 of 4

APPENDICES AND SCHEDULES ATTACHED

N/A

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INFORMATION REPORT

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	April 21, 2022
SUBJECT/REPORT NO:	Analysis for Hamilton Waterfront Trust – December 31, 2020 – Audited Financial Statements (FCS22019) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Kayla Petrovsky Fleming (905) 546-2424 Ext. 1310
SUBMITTED BY:	Brian McMullen Director, Financial Planning, Administration and Policy Corporate Services Department
SIGNATURE:	

COUNCIL DIRECTION

Audit, Finance and Administration Committee, at its meeting on November 4, 2021, directed staff to meet with Hamilton Waterfront Trust Staff and gather information surrounding their 2020 audited financial statements in an effort to provide a summary of the relevant changes and report back to the Audit, Finance and Administration Committee.

INFORMATION

Background

Each year, the financial statements of the Hamilton Waterfront Trust (HWT) are audited by external auditors as prescribed by the Revised Deed of Trust (dated October 1, 2018) between the City of Hamilton and HWT.

According to the Revised Deed of Trust, within 90 days of the end of each fiscal year of the Trust, the Trust shall appear before Council, or an appropriate Committee of the City to present and report on its annual audited Financial Statements.

The 2020 audited financial statements of the HWT were provided to Council through the Audit, Finance and Administration Committee on November 4, 2021.

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**SUBJECT: Analysis for Hamilton Waterfront Trust – December 31, 2020 –
Audited Financial Statements (FCS22019) (City Wide) – Page 2 of 8**

During the November 4th meeting, a motion was put forth that staff be directed to meet with HWT staff and gather information surrounding their 2020 audited financial statements in an effort to provide a summary of the relevant changes and report back to the Audit, Finance and Administration Committee.

The 2019 and 2020 Consolidated Financial Statements for the HWT are prepared in accordance with Canadian generally accepted auditing standards.

Report FCS22019 provides both a balance sheet and income statement analysis for HWT providing commentary, as appropriate, on any material trending between 2019 and 2020.

The consolidated financial statements, for reference, are provided in Appendix “C”.

Discussion and Analysis

The financial position of HWT for 2019 and 2020 is presented in Table 1.

**Table 1
Hamilton Waterfront Trust Consolidated Statement of Financial Position**

December 31	2020	2019	Increase or Decrease during 2020	
			\$	%
Assets				
Current				
Cash	\$ 278,786	\$ 472,697	\$ (193,911)	(41.0%)
Accounts receivable	185,270	59,775	125,495	209.9%
Inventories and prepaid expenses	28,221	28,221	0	0.0%
Current portion of note receivable	166,000	233,000	(67,000)	(28.8%)
	658,277	793,693	(135,416)	(17.1%)
Capital assets	1,312,804	1,384,156	(71,352)	(5.2%)
Note receivable	988,669	1,109,249	(120,580)	(10.9%)
	\$ 2,959,750	\$ 3,287,098	\$ (327,348)	(10.0%)
Liabilities and Net Assets				
Accounts payable and accrued liabilities	\$ 486,529	\$ 687,047	\$ (200,518)	(29.2%)
Current portion of deferred capital contributions	40,273	40,273	0	0.0%
	526,802	727,320	(200,518)	(27.6%)
Deferred revenue - City of Hamilton	380,049	436,049	(56,000)	(12.8%)
Deferred capital contributions	1,131,242	1,171,515	(40,273)	(3.4%)
	2,038,093	2,334,884	(296,791)	(12.7%)
Net assets	921,657	952,214	(30,557)	(3.2%)
	\$ 2,959,750	\$ 3,287,098	\$ (327,348)	(10.0%)

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**SUBJECT: Analysis for Hamilton Waterfront Trust – December 31, 2020 –
Audited Financial Statements (FCS22019) (City Wide) – Page 3 of 8**

Balance Sheet Analysis

Net Worth

HWT's 2020 net worth represented by the net assets position of \$921.7 K has decreased by \$31 K as a result of a deficit in earnings in 2020. Explanations on revenue and expenses contributing to this decrease are explained in the income statement analysis section.

Assets

HWT's total assets in 2020 were \$3.0 M. This represents a decrease of \$327 K over 2019 mainly as a result of decreased cash from paying off current liabilities (Accounts Payable) and as a result of decreased revenues. The note receivable current portion is decreasing as expected.

Liabilities

HWT's total liabilities in 2020 were \$2.0 M. This has decreased from 2019 as deferred capital contributions, deferred revenue and current liabilities all have decreased by a combined \$300 K over 2019.

The comparative financial results of HWT for 2019 and 2020 is presented in Table 2.

**SUBJECT: Analysis for Hamilton Waterfront Trust – December 31, 2020 –
Audited Financial Statements (FCS22019) (City Wide) – Page 4 of 8**

**Table 2
Hamilton Waterfront Trust Consolidated Statement of Operations
and Changes in Net Assets**

For the year ended December 31	2020	2019	Increase or Decrease during 2020	
			\$	%
Revenue				
Investment income	\$ 2,674	\$ 3,397	\$ (723)	(21.3%)
City of Hamilton contract and management income	46,602	59,445	(12,843)	(21.6%)
Other income	4,669	13,300	(8,631)	(64.9%)
Hamiltonian Tour Boat	15,826	36,929	(21,103)	(57.1%)
Williams Fresh Cafe	637,677	1,428,213	(790,536)	(55.4%)
Hamilton Scoops	74,191	163,488	(89,297)	(54.6%)
Kids Fest	-	19,192	-	-
Hamilton Trolley	24,407	27,783	(3,376)	(12.2%)
Waterfront Grill	24,513	47,167	(22,654)	(48.0%)
HW T Centre	5,512	94,007	(88,495)	(94.1%)
Outdoor Ice Rink	330,862	319,059	11,803	3.7%
Skate Rental	59,092	136,856	(77,764)	(56.8%)
Waterfront Development, City of Hamilton management contract	683,151	374,992	308,159	82.2%
Tall Ships	-	-	-	-
Fishing Derby	-	-	-	-
Waterfront Wheels	5,765	12,541	(6,776)	(54.0%)
	1,914,941	2,736,369	(821,428)	(30.0%)
Expenses				
Advertising and promotion	1,023	664	359	54.1%
Bad debts	45,167	67,461	(22,294)	(33.0%)
Bank charges	2,427	4,088	(1,661)	(40.6%)
Building expenses	765	10,458	(9,693)	(92.7%)
Dues and memberships	585	2,570	(1,985)	(77.2%)
Equipment expenses	1,631	1,853	(222)	(12.0%)
Insurance	6,054	5,400	654	12.1%
Office expenses	17,533	35,785	(18,252)	(51.0%)
Professional fees	50,696	25,812	24,884	96.4%
Salaries and benefits	326,788	274,510	52,278	19.0%
Telephone	8,159	9,348	(1,189)	(12.7%)
Travel	990	147	843	573.5%
Other expenses	7,891	11,789	(3,898)	(33.1%)
Hamiltonian Tour Boat	14,791	34,484	(19,693)	(57.1%)
Williams Fresh Cafe	744,636	1,372,964	(628,328)	(45.8%)
Hamilton Scoops	58,894	121,669	(62,775)	(51.6%)
Kids Fest	-	12,219	-	-
Hamilton Trolley	28,959	31,023	(2,064)	(6.7%)
Fishing Derby	-	13,026	-	-
Waterfront Grill	34,732	51,651	(16,919)	(32.8%)
HW T Centre	24,156	50,464	(26,308)	(52.1%)
Outdoor Ice Rink	330,766	315,147	15,619	5.0%
Skate Rental	19,337	72,544	(53,207)	(73.3%)
Waterfront Development, City of Hamilton management contract	516,942	388,239	128,703	33.2%
Tall Ships	-	-	-	-
Waterfront Wheels	12,151	12,828	(677)	(5.3%)
	2,255,073	2,926,143	(671,070)	(22.9%)
Deficiency of revenue over expenses				
before amortization and other revenue (expenses)	(340,132)	(189,774)	(150,358)	79.2%
Other revenue (expenses)	(71,352)	(72,761)	1,409	(1.9%)
Amortization of capital assets				
Amortization of deferred capital contributions	40,273	40,273	0	0.0%
Government assistance	340,654	-	-	-
Gain on Disposal of HWT Centre	-	-	-	-
Property Taxes	-	-	-	-
Expenses associated w with tenant dispute	-	(759,008)	-	-
	309,575	(791,496)	1,101,071	(139.1%)
Excess (Deficiency) of revenue over expenses for the year	(30,557)	(981,270)	950,713	(96.9%)
Net assets, beginning of year	952,214	1,933,484	(981,270)	(50.8%)
Net assets, end of year	\$ 921,657	\$ 952,214	(30,557)	(3.2%)

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**SUBJECT: Analysis for Hamilton Waterfront Trust – December 31, 2020 –
Audited Financial Statements (FCS22019) (City Wide) – Page 5 of 8**

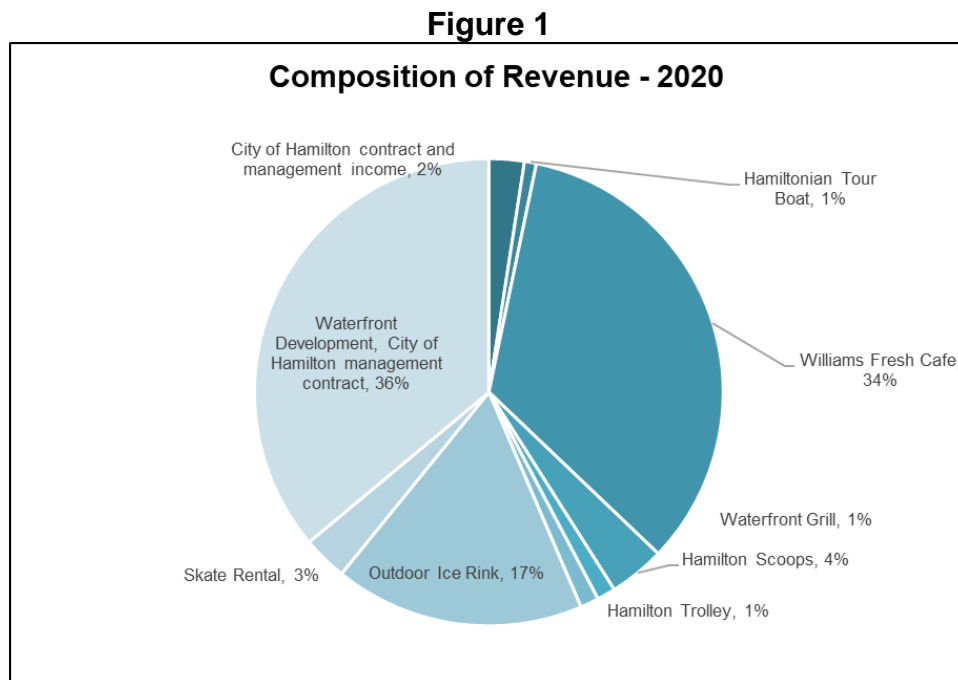
Income Statement Analysis

Net Deficit

HWT's net deficit shown as Deficiency of revenue over expenses in the HWT's financial statement was \$30 K for 2020 which was an improvement of \$950 K against the 2019 result. This change is mainly due to expenses associated with tenant dispute in 2019 and government assistance of \$341 K in 2020.

Revenue

HWT's total revenue for the 2020 year was \$1.9 M. The main composition of revenue is shown in Figure 1.



HWT's revenue saw a decrease of 30% (\$821 K) in 2020, predominately attributable to the Williams Fresh Café revenue decrease of \$790 K.

As a direct result of the COVID-19 pandemic, HWT experienced a reduction in revenue that qualified it for financial assistance from the Canada Emergency Wage Subsidy (CEWS) government incentive program in the amount of \$320 K. Furthermore, the HWT recognized \$20 K in financial assistance received as part of the forgivable portion of the Canada Emergency Business Account ("CEBA") loan. As a result of COVID-19, HWT's revenue sources have experienced significant decreases as compared to previous years.

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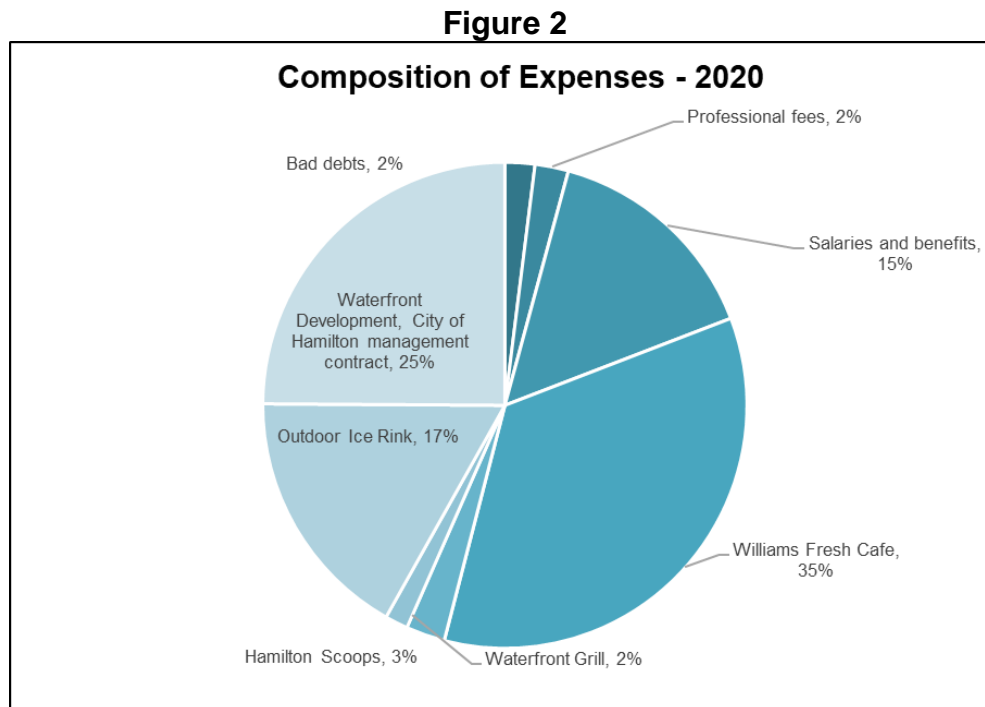
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**SUBJECT: Analysis for Hamilton Waterfront Trust – December 31, 2020 –
Audited Financial Statements (FCS22019) (City Wide) – Page 6 of 8**

Expenses

The HWT's total expenses for the 2020 year were \$2.3 M. This represents a decrease of 23% over 2019.

The main composition of HWT's expenses for 2020 is shown in Figure 2.



In the same way that revenues have decreased as a result of COVID-19, operating expenses have also decreased as a result of closures and slowed operations. The main decrease was \$628 K relating to Williams Fresh Café.

The organization experienced a reduction in revenue as a result of COVID-19 that qualified for financial assistance. Even with this assistance, HWT experienced a deficit for 2020, although an increase in net income over 2019. This decreased net income led to an overall decrease in net assets for 2020. Despite this decrease in net assets, the organization managed to reduce short-term liabilities, which helped to improve its current ratio and liquidity.

Financial Indicators

Table 3 provides some of the HWT's financial indicators.

**SUBJECT: Analysis for Hamilton Waterfront Trust – December 31, 2020 –
Audited Financial Statements (FCS22019) (City Wide) – Page 7 of 8**

**Table 3
Financial Statement Financial Indicator Trending (2020 versus 2019)**

Financial Indicator	HWT	
	\$	Trend
Assets	2,959,750	↓
Current Assets (CA)	658,277	↓
Equity	921,657	↓
Net Income (Loss)	(30,557)	↑
Cash	278,786	↓
Liabilities		
Current Liabilities (CL)	526,802	↓
Non-Current Liabilities	1,511,291	↓
Debt (Borrowings)	0	
Ratios:		
<u>Liquidity Measurement Ratio</u>		
Current Ratio (CA/CL)		
	2020	1.25 ✓
	2019	1.09
<u>Debt Ratio</u>		
Debt to Equity Ratio		
	2020	2.21 X
	2019	2.45
<u>Income</u>		
Gross Margin		
	2020	(17.8%) ↓
	2019	(6.9%)

The definitions for terms used in Table 3 are detailed below.

- Current Assets = Assets that are expected to be sold, consumed, utilized or exhausted through the standard business operations over the next one year.
- Current Liabilities = Debts or obligations that are due within one year or within a normal operating cycle.
- Non-Current = Debts or obligations that are not due within one year or within normal operations.
- Current Ratio is an industry standard liquidity ratio calculated as Current Assets dividing by its Current Liabilities. It measures an entity's ability to pay its short and long-term obligations. A higher current ratio is ideal as this would signify that the assets are higher than the liabilities, indicating an easier ability to pay off obligations.

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**SUBJECT: Analysis for Hamilton Waterfront Trust – December 31, 2020 –
Audited Financial Statements (FCS22019) (City Wide) – Page 8 of 8**

- The Debt Ratio is calculated as total liabilities divided by equity. It is used to evaluate an entity's financial leverage. Total liabilities is used in the ratio calculation. In the case of the Hamilton Waterfront Trust (HWT), though they have no bank borrowings / long-term debt, they have non-current liabilities relating to pension plan obligations that are included. Generally a ratio of over one signifies that the entity is heavily funded by debt.
- Equity is the value of all assets less any liabilities. It is the value left over if an entity would utilize its assets to meet its liability obligations.
- Gross Margin is one of the primary metrics used to evaluate an entity's health and competitiveness. Measured as a percentage, gross margin will tell you how much revenue is being generated per dollar after subtracting expenses.

With respect to assets, the HWT's balance sheet contains both cash and a healthy accounts receivable balance that once collected, will add to its overall liquidity. The current liabilities decreased this year, attributing to the decline in current asset balance. The decreased revenues (mainly COVID-19 related) resulted in decreased net assets. With respect to liabilities, the HWT's Liquidity Current Ratio (Current Assets versus Current Liabilities) is positive at 1.25 (1.25 times the assets versus liabilities) and has improved from 2019 at 1.09. A ratio over 1.0 is considered positive.

Debt to Equity Ratio is also a common measure of financial health. In general, a measure less than 1.0 is considered positive (indicating equity surpasses debt), while a measure over 1.0 is considered poor (more debt than equity). HWT's ratio is 2.21 for 2020, compared to 2.45 for 2019.

The HWT's gross margin is trending negatively as the deficit as a portion of net sales has increased from -6.9% in 2019 to -17.8% in 2020.

With the submission of Report FCS22019 to the standing committee, Item 21-O can be removed from the Outstanding Business List

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report FCS22019 – Hamilton Waterfront Trust Consolidated Statement of Financial Position (2017 to 2020)

Appendix "B" to Report FCS22019 – Hamilton Waterfront Trust Consolidated Statement of Operations and Changes in Net Assets (2017 to 2020)

Appendix "C" to Report FCS22019 – Hamilton Waterfront Trust Consolidated Financial Statements for the Year Ended December 31, 2020

KP/dt

Hamilton Waterfront Trust Consolidated Statement of Financial Position (2017 to 2020)

December 31					Year over Year Change (%)		
	2020	2019	2018	2017	2017-2018	2018-2019	2019-2020
Assets							
Current							
Cash	\$ 278,786	\$ 472,697	\$ 553,896	\$ 220,558	151.1%	(14.7%)	(41.0%)
Accounts receivable	185,270	59,775	185,065	347,246	(46.7%)	(67.7%)	209.9%
Inventories and prepaid expenses	28,221	28,221	28,221	29,942	(5.7%)	0.0%	0.0%
Current portion of note receivable	166,000	233,000	0	0	-	-	(28.8%)
	658,277	793,693	767,182	597,746	28.3%	3.5%	(17.1%)
Capital assets	1,312,804	1,384,156	1,456,917	2,419,936	(39.8%)	(5.0%)	(5.2%)
Note receivable	988,669	1,109,249	2,202,149	0 -		(49.6%)	(10.9%)
	\$ 2,959,750	\$ 3,287,098	\$ 4,426,248	\$ 3,017,682	46.7%	(25.7%)	(10.0%)
Liabilities and Net Assets							
Accounts payable and accrued liabilities	\$ 486,529	\$ 687,047	\$ 781,873	\$ 957,711	(18.4%)	(12.1%)	(29.2%)
Current portion of deferred capital contributions	40,273	40,273	41,742	69,298	(39.8%)	(3.5%)	0.0%
	526,802	727,320	823,615	1,027,009	(19.8%)	(11.7%)	(27.6%)
Deferred revenue - City of Hamilton	380,049	436,049	458,830	444,498	3.2%	(5.0%)	(12.8%)
Deferred capital contributions	1,131,242	1,171,515	1,210,319	2,158,964	(43.9%)	(3.2%)	(3.4%)
	2,038,093	2,334,884	2,492,764	3,630,471	(31.3%)	(6.3%)	(12.7%)
Net assets	921,657	952,214	1,933,484	(612,789)	(415.5%)	(50.8%)	(3.2%)
	\$ 2,959,750	\$ 3,287,098	\$ 4,426,248	\$ 3,017,682	46.7%	(25.7%)	(10.0%)

Hamilton Waterfront Trust Consolidated Statement of Operations and Changes in Net Assets (2017 to 2020)

For the year ended December 31	Year over Year Change (%)						
	2020	2019	2018	2017	2017-2018	2018-2019	2019-2020
Revenue							
Investment income	\$ 2,674	\$ 3,397	\$ 2,015	\$ 14,547	(86.1%)	68.6%	(21.3%)
City of Hamilton contract and management income	46,602	59,445	119,663	103,558	15.6%	(50.3%)	(21.6%)
Other income	4,669	13,300	70,877	37,610	88.5%	(81.2%)	(64.9%)
Hamiltonian Tour Boat	15,826	36,929	35,202	35,199	0.0%	4.9%	(57.1%)
Williams Fresh Cafe	637,677	1,428,213	1,459,362	1,466,079	(0.5%)	(2.1%)	(55.4%)
Hamilton Scoops	74,191	163,488	171,165	167,053	2.5%	(4.5%)	(54.6%)
Kids Fest	-	19,192	0	0	-	-	-
Hamilton Trolley	24,407	27,783	41,372	41,681	(0.7%)	(32.8%)	(12.2%)
Waterfront Grill	24,513	47,167	50,316	60,669	(17.1%)	(6.3%)	(48.0%)
HW T Centre	5,512	94,007	74,701	258,845	(71.1%)	25.8%	(94.1%)
Outdoor Ice Rink	330,862	319,059	307,049	303,450	1.2%	3.9%	3.7%
Skate Rental	59,092	136,856	99,345	90,741	9.5%	37.8%	(56.8%)
Waterfront Development, City of Hamilton management contract	683,151	374,992	605,759	668,624	(9.4%)	(38.1%)	82.2%
Tall Ships	-	-	-	93,070	-	-	-
Fishing Derby	-	-	1,094	2,188	(50.0%)	-	-
Waterfront Wheels	5,765	12,541	13,611	16,510	(17.6%)	(7.9%)	(54.0%)
	1,914,941	2,736,369	3,051,531	3,359,824	(9.2%)	(10.3%)	(30.0%)
Expenses							
Advertising and promotion	1,023	664	43	340	(87.4%)	1444.2%	54.1%
Bad debts	45,167	67,461	-	-	-	-	(33.0%)
Bank charges	2,427	4,088	4,508	10,803	(58.3%)	(9.3%)	(40.6%)
Building expenses	765	10,458	6,001	12,926	(53.6%)	74.3%	(92.7%)
Dues and memberships	585	2,570	1,537	2,124	(27.6%)	67.2%	(77.2%)
Equipment expenses	1,631	1,853	3,766	3,490	7.9%	(50.8%)	(12.0%)
Insurance	6,054	5,400	11,248	9,948	13.1%	(52.0%)	12.1%
Office expenses	17,533	35,785	14,839	15,610	(4.9%)	141.2%	(51.0%)
Professional fees	50,696	25,812	60,182	49,374	21.9%	(57.1%)	96.4%
Salaries and benefits	326,788	274,510	329,008	294,415	11.7%	(16.6%)	19.0%
Telephone	8,159	9,348	9,399	9,066	3.7%	(0.5%)	(12.7%)
Travel	990	147	373	472	(21.0%)	(60.6%)	573.5%
Other expenses	7,891	11,789	29,288	14,230	105.8%	(59.7%)	(33.1%)
Hamiltonian Tour Boat	14,791	34,484	35,274	28,604	23.3%	(2.2%)	(57.1%)
Williams Fresh Cafe	744,636	1,372,964	1,378,293	1,368,048	0.7%	(0.4%)	(45.8%)
Hamilton Scoops	58,894	121,669	151,443	119,685	26.5%	(19.7%)	(51.6%)
Kids Fest	-	12,219	-	-	-	-	-
Hamilton Trolley	28,959	31,023	43,275	47,462	(8.8%)	(28.3%)	(6.7%)
Fishing Derby	-	13,026	13,561	14,389	(5.8%)	(3.9%)	-
Waterfront Grill	34,732	51,651	62,309	68,213	(8.7%)	(17.1%)	(32.8%)
HW T Centre	24,156	50,464	95,839	413,581	(76.8%)	(47.3%)	(52.1%)
Outdoor Ice Rink	330,766	315,147	306,994	303,000	1.3%	2.7%	5.0%
Skate Rental	19,337	72,544	53,516	41,625	28.6%	35.6%	(73.3%)
Waterfront Development, City of Hamilton management contract	516,942	388,239	605,759	668,624	(9.4%)	(35.9%)	33.2%
Tall Ships	-	-	-	64,941	-	-	-
Waterfront Wheels	12,151	12,828	13,446	11,769	14.2%	(4.6%)	(5.3%)
	2,255,073	2,926,143	3,229,901	3,572,739	(9.6%)	(9.4%)	(22.9%)
Deficiency of revenue over expenses							
before amortization and other revenue (expenses)	(340,132)	(189,774)	(178,370)	(212,915)	(16.2%)	6.4%	(79.2%)
Other revenue (expenses)							
Amortization of capital assets	(71,352)	(72,761)	(73,134)	(176,489)	(58.6%)	(0.5%)	1.9%
Amortization of deferred capital contributions	40,273	40,273	41,742	69,298	(39.8%)	(3.5%)	-
Government assistance	340,654	-	-	-	-	-	-
Gain on Disposal of HWT Centre	-	-	2,667,343	-	-	-	-
Property Taxes	-	-	405,421	-	-	-	-
Expenses associated with tenant dispute	-	(759,008)	(316,729)	(292,397)	8.3%	139.6%	-
	309,575	(791,496)	2,724,643	(399,588)	(781.9%)	(129.0%)	139.1%
Excess (Deficiency) of revenue over expenses for the year	(30,557)	(981,270)	2,546,273	(612,503)	(515.7%)	(138.5%)	96.9%
Net assets, beginning of year	952,214	1,933,484	(612,789)	(286)	214161.9%	(415.5%)	(50.8%)
Net assets, end of year	\$ 921,657	\$ 952,214	\$ 1,933,484	\$ (612,789)	(415.5%)	(50.8%)	(3.2%)

Hamilton Waterfront Trust
Consolidated Financial Statements
For the year ended December 31, 2020

Hamilton Waterfront Trust
Consolidated Financial Statements
For the year ended December 31, 2020

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BDO Canada LLP
360 Oakville Place Drive, Suite 500
Oakville ON L6H 6K8 Canada

Independent Auditor's Report

To the Board of Directors of
Hamilton Waterfront Trust

Opinion

We have audited the consolidated financial statements of Hamilton Waterfront Trust and its subsidiaries (the "Group"), which comprise of the consolidated statement of financial position as at December 31, 2020, and the consolidated statements of operations and changes in net assets and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Group as at December 31, 2020, and its results of operations and cash flows for the year then ended in accordance with Canadian accounting standards for not-for-profit organizations.

Basis for Opinion

We conducted our audit in accordance with Canadian generally accepted auditing standards. Our responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Consolidated Financial Statements* section of our report. We are independent of the Group in accordance with the ethical requirements that are relevant to our audit of the consolidated financial statements in Canada, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Responsibilities of Management and Those Charged with Governance for the Consolidated Financial Statements

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with Canadian accounting standards for not-for-profit organizations, and for such internal control as management determines is necessary to enable the preparation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the consolidated financial statements, management is responsible for assessing the Group's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the Group or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Group's consolidated financial reporting process.

Auditor's Responsibilities for the Audit of the Consolidated Financial Statements

Our objectives are to obtain reasonable assurance about whether the consolidated financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian generally accepted auditing standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these consolidated financial statements.



As part of an audit in accordance with Canadian generally accepted auditing standards, we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the consolidated financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Group's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Group's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the consolidated financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Group to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the consolidated financial statements, including the disclosures, and whether the consolidated financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information of the entities or business activities within the Group to express an opinion on the consolidated financial statements. We are responsible for the direction, supervision and performance of the group audit. We remain solely responsible for our audit opinion.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

BDO Canada LLP

Chartered Professional Accountants, Licensed Public Accountants
Oakville, Ontario
September 28, 2021

Hamilton Waterfront Trust Consolidated Statement of Financial Position

December 31	2020	2019
Assets		
Current		
Cash	\$ 278,786	\$ 472,697
Accounts receivable (Note 2)	185,270	59,775
Inventories and prepaid expenses	28,221	28,221
Current portion of note receivable (Note 5)	166,000	233,000
	658,277	793,693
Capital assets (Note 3)	1,312,804	1,384,156
Note receivable (Note 5)	988,669	1,109,249
	\$ 2,959,750	\$ 3,287,098

Liabilities and Net Assets

Current		
Accounts payable and accrued liabilities	\$ 486,529	\$ 687,047
Current portion of deferred capital contributions (Note 4)	40,273	40,273
	526,802	727,320
Deferred revenue - City of Hamilton	380,049	436,049
Deferred capital contributions (Note 4)	1,131,242	1,171,515
	2,038,093	2,334,884
Net assets	921,657	952,214
	\$ 2,959,750	\$ 3,287,098

On behalf of the Board:

Trent Jarvis

Director

Bernie Mueller

Director

Hamilton Waterfront Trust Consolidated Statement of Operations and Changes in Net Assets

For the year ended December 31	2020	2019
Revenue		
Investment income	\$ 2,674	\$ 3,397
City of Hamilton contract and management income	46,602	59,445
Other income	4,669	13,300
Hamiltonian Tour Boat	15,826	36,929
Williams Fresh Cafe	637,677	1,428,213
Hamilton Scoops	74,191	163,488
Kids Fest	-	19,192
Hamilton Trolley	24,407	27,783
Waterfront Grill	24,513	47,167
HWT Centre	5,512	94,007
Outdoor Ice Rink	330,862	319,059
Skate Rental	59,092	136,856
Waterfront Development, City of Hamilton management contract	683,151	374,992
Waterfront Wheels	5,765	12,541
	1,914,941	2,736,369
Expenses		
Advertising and promotion	1,023	664
Bad debts	45,167	67,461
Bank charges	2,427	4,088
Building expenses	765	10,458
Dues and memberships	585	2,570
Equipment expenses	1,631	1,853
Insurance	6,054	5,400
Office expenses	17,533	35,785
Professional fees	50,696	25,812
Salaries and benefits	326,788	274,510
Telephone	8,159	9,348
Travel	990	147
Other expenses	7,891	11,789
Hamiltonian Tour Boat	14,791	34,484
Williams Fresh Cafe	744,636	1,372,964
Hamilton Scoops	58,894	121,669
Kids Fest	-	12,219
Hamilton Trolley	28,959	31,023
Fishing Derby	-	13,026
Waterfront Grill	34,732	51,651
HWT Centre	24,156	50,464
Outdoor Ice Rink	330,766	315,147
Skate Rental	19,337	72,544
Waterfront Development, City of Hamilton management contract	516,942	388,239
Waterfront Wheels	12,151	12,828
	2,255,073	2,926,143
Deficiency of revenue over expenses before amortization and other revenue (expenses)	(340,132)	(189,774)
Other revenue (expenses)		
Amortization of capital assets	(71,352)	(72,761)
Amortization of deferred capital contributions	40,273	40,273
Government assistance (Note 7)	340,654	-
Expenses associated with tenant dispute	-	(759,008)
	309,575	(791,496)
Deficiency of revenue over expenses for the year	(30,557)	(981,270)
Net assets, beginning of year	952,214	1,933,484
Net assets, end of year	\$ 921,657	\$ 952,214

The accompanying notes are an integral part of these consolidated financial statements.

Hamilton Waterfront Trust Consolidated Statement of Cash Flows

For the year ended December 31	2020	2019
Cash flows from operating activities		
Deficiency of revenue over expenses for the year	\$ (30,557)	\$ (981,270)
Adjustments to reconcile deficiency of revenue over expenses to net cash used in operating activities		
Amortization of capital assets	71,352	72,761
Amortization of deferred capital contributions	(40,273)	(40,273)
Changes in non-cash working capital balances		
Accounts receivable	(125,496)	125,290
Accounts payable and accrued liabilities	(200,519)	(94,826)
Deferred revenue	(56,000)	(22,781)
	(381,493)	(941,099)
Cash flows from financing activity		
Repayment of note receivable	187,582	859,900
Decrease in cash during the year	(193,911)	(81,199)
Cash, beginning of year	472,697	553,896
Cash, end of year	\$ 278,786	\$ 472,697

The accompanying notes are an integral part of these consolidated financial statements.

Hamilton Waterfront Trust Notes to Consolidated Financial Statements

December 31, 2020

1. Significant Accounting Policies

Nature of Business

The purpose of the Hamilton Waterfront Trust (the "Organization") is to improve and develop lands around the Hamilton Harbour and to encourage the local community to enjoy the Bay area. Hamilton is a culturally and ethnically diversified mosaic. Therefore, the Organization helps to promote the image of Hamilton to businesses and individuals over a wide radius.

Following a strategic review undertaken by the Board of Directors, it was decided to restructure the Organization to become a not-for-profit organization effective November 21, 2016. As part of the reorganization on that same date, HWT Inc., a wholly-owned subsidiary, was incorporated.

The Organization is incorporated under the Ontario Corporations Act, and now have a continuance under the Canada Not-for-Profit Corporations Act.

The Organization is registered under the Income Tax Act (Canada) (the "Tax Act") and, as such, is exempt from income taxes.

Basis of Accounting and Presentation

The consolidated financial statements of the Organization have been prepared using Canadian accounting standards for not-for-profit organizations.

These consolidated financial statements include the accounts of the Organization and HWT Inc. All significant intercompany transactions and balances have been eliminated.

Revenue Recognition

The Organization follows the deferral method of accounting for contributions.

Unrestricted revenue is recognized when received or receivable if the amount to be received can be reasonably estimated and collection is reasonably assured.

Deferred capital contributions related to capital assets represent the unamortized and unallocated amount of grants received for the purchase of capital assets. The amortization of capital contributions is recorded as revenue in the statement of operations.

The Organization recognizes all other revenue when services are performed or goods are sold, there is no uncertainty as to the customer acceptance, the price to the buyer is fixed or determinable and collection is reasonably assured.

Hamilton Waterfront Trust Notes to Consolidated Financial Statements

December 31, 2020

1. Significant Accounting Policies (Continued)

Capital assets

Capital assets are recorded at cost. Amortization is based on their estimated useful life using the following methods and rates or terms:

Boat	-	15 years straight-line
Building	-	5% declining balance
Computer equipment	-	30% declining balance
Dock	-	5% declining balance
Furniture and equipment	-	20% declining balance
Trolleys	-	15 years straight-line
Leasehold improvements	-	straight-line over the term of the lease

Government Assistance

During the year, the Organization made periodic application for financial assistance under the Canada Emergency Wage Subsidy ("CEWS") program in order to recover certain payroll expenditures. Government assistance received during the year for current expenses is shown as other income. When government assistance is received which relates to expenses of future periods, the amount is deferred and amortized to income as the related expenses are incurred.

Use of Estimates

The preparation of consolidated financial statements in accordance with Canadian accounting standards for not-for-profit organizations requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the consolidated financial statements, and the reported amount of revenue and expenses during the reporting period. Actual results could differ from management's best estimates as additional information becomes available in the future.

Financial Instruments

Financial instruments are recorded at fair value when acquired or issued. Subsequently, financial instruments are reported at cost or amortized cost less impairment, if applicable. Financial assets are tested for impairment when changes in circumstances indicate the asset could be impaired. Transaction costs on the acquisition, sale or issue of financial instruments are charged to the financial instrument for those measured at amortized cost.

2. Accounts Receivable

	2020	2019
Trade accounts receivable	\$ 252,751	\$ 127,236
Impairment allowance	(67,481)	(67,461)
	\$ 185,270	\$ 59,775

Hamilton Waterfront Trust Notes to Consolidated Financial Statements

December 31, 2020

3. Capital Assets

	2020		2019	
	Cost	Accumulated Amortization	Cost	Accumulated Amortization
Boat	\$ 52,156	\$ 45,518	\$ 52,156	\$ 42,042
Building	17,016	8,443	17,016	7,992
Computer equipment	42,844	42,107	42,844	41,755
Dock	15,522	10,155	15,522	8,385
Furniture and equipment	209,092	188,828	209,092	178,989
Trolleys	335,782	214,277	335,782	193,025
Leasehold improvements	2,542,155	1,392,435	2,542,155	1,358,223
	\$ 3,214,567	\$ 1,901,763	\$ 3,214,567	\$ 1,830,411
Net book value		\$ 1,312,804		\$ 1,384,156

4. Deferred Capital Contributions

Restricted capital contributions are amortized on the same basis as the underlying capital assets.

	2020	2019
Balance, beginning of year	\$ 1,211,788	\$ 1,252,061
Less: contributions recognized as revenue	(40,273)	(40,273)
	1,171,515	1,211,788
Less: current portion	(40,273)	(40,273)
Balance, end of year	\$ 1,131,242	\$ 1,171,515

Hamilton Waterfront Trust

Notes to Consolidated Financial Statements

December 31, 2020

5. Note Receivable

Effective January 1, 2018, the Organization's lease on the Parks Discovery Centre with the City of Hamilton was terminated. In consideration of the Organization entering into this arrangement, The City of Hamilton agreed to pay an early surrender fee in the form of a note. The note receivable bears interest at 4% per annum and is payable in equal annual instalments of \$166,000 (2019 - \$230,000) inclusive of interest, with final payment made on January 1, 2032.

6. Financial Instrument Risks

Credit Risk

Credit risk is the risk that one party to a financial instrument will cause a financial loss for the other party by failing to discharge an obligation. The Organization is exposed to credit risk resulting from the possibility that a customer or counterparty to a financial instrument defaults on their financial obligations. The Organization's financial instruments that are exposed to concentrations of credit risk relate primarily to its accounts receivable and note receivable balances. This risk has not changed from the prior year.

Liquidity Risk

Liquidity risk is the risk that the Organization encounters difficulty in meeting its obligations associated with financial liabilities. Liquidity risk includes the risk that, as a result of operational liquidity requirements, the Organization will not have sufficient funds to settle a transaction on a due date; will be forced to sell financial assets at a value which is less than what they are worth; or may be unable to settle or recover a financial asset. Liquidity risk arises from the Organization's accounts payable and accrued liabilities. This risk has not changed from the prior year.

7. COVID-19

On March 11, 2020, the World Health Organization declared the outbreak of a novel coronavirus ("COVID-19") as a global pandemic, which continues to spread throughout Canada and around the world. As a direct result of the COVID-19 pandemic, the Organization experienced a reduction in revenue that qualified it for financial assistance from the CEWS government incentive program in the amount of \$320,654. Furthermore, the Organization recognized \$20,000 in financial assistance received as part of the forgivable portion of the Canada Emergency Business Account ("CEBA") loan.

Management is actively monitoring and planning for contingencies in the event that there is continued effect on the financial condition, liquidity, operations, suppliers, sector and workforce of the Organization. During this time, the Organization continues to operate. The Organization is not able to estimate the potential future effects of the COVID-19 outbreak on its operations, financial condition or liquidity at this time.



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Planning, Administration and Policy Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	April 21, 2022
SUBJECT/REPORT NO:	Request for Sustainability and Financial Viability Audit of Hamilton Waterfront Trust (FCS22038) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Brian McMullen (905) 546-2424 Ext. 4549
SUBMITTED BY:	Brian McMullen Director, Financial Planning, Administration and Policy Corporate Services Department
SIGNATURE:	

RECOMMENDATION(S)

- (a) That the estimated cost of up to \$50,000 for the Sustainability and Financial Viability Audit of Hamilton Waterfront Trust be funded from Tax Stabilization Reserve #110046.
- (b) That the single source procurement, pursuant to Procurement Policy #11 – Non-competitive Procurements, be approved.

EXECUTIVE SUMMARY

Council, at its meeting on March 30, 2022, approved Item 1 of Audit, Finance and Administration Committee Report 22-007 that directed staff to develop a scope of work and report back to the Audit, Finance and Administration Committee on April 21, 2022 on an independent third-party audit review to verify the financial strength of the Hamilton Waterfront Trust on a going forward basis.

Hamilton Waterfront Trust (HWT), initially known as Hamilton Harbour Development Trust, was established through a Trust Deed dated November 24, 2000 between the City and the Hamilton Harbour Commissioners (the Commissioners”) now known as the Hamilton Port Authority (the HPA”).

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.

SUBJECT: Request for Sustainability and Financial Viability Audit of Hamilton Waterfront Trust (FCS22038) (City Wide) – Page 2 of 5

On or about November 24, 2000, the Commissioners transferred to the Trust approximately \$6.3 M for the purposes of land assembly, improvements and development costs relating to Hamilton's West Harbour which funds have long since been invested or expended and the Trust has since developed several alternative revenue sources.

Through the Revised Deed of Trust 2018, HWT shall appear before the Council, or an appropriate Committee of the City, to present and report on the following:

- (a) its annual audited Financial Statements;
- (b) its Strategic and / or Business Plans and any changes thereto;
- (c) its ten (10) year Capital Plan; and
- (d) any changes to its organizational structure.

Appendix "A" to Report FCS22038 contains the scope of work that may include, but is not limited to, the following:

- Preparation of a report that evaluates and assesses the sustainability and financial viability of HWT through:
 - Review of the purpose and objectives of the Hamilton Waterfront Trust (HWT or Trust) in the Revised Deed of Trust and HWT incorporation documents
 - Review of HWT's Strategic Plan, business plans and operational plans
 - Review of HWT's multi-year operational budget, capital budget and related projections and forecasts
 - Review of HWT's cash flow forecasts
 - Review of HWT's historical financial results and trends
 - Review of appropriate HWT internal documents and records
 - Analysis and calculation of financial ratios
- Presentation of the report to City staff
- Presentation of the report at HWT Board meeting and at City of Hamilton Audit, Finance and Administration Committee

Staff is recommending that contractual audit or review services for Sustainability and Financial Viability Audit of Hamilton Waterfront Trust be single sourced through Policy #11 of the City's Procurement Policy (By-law 21-215) to a qualified vendor.

As there is no budget for the contractual, audit or review services of HWT, staff is recommending that the estimated cost of up to \$50,000 for the Sustainability and Financial Viability Audit of Hamilton Waterfront Trust be funded from Tax Stabilization Reserve #110046.

Alternatives for Consideration – See Page 5

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.

SUBJECT: Request for Sustainability and Financial Viability Audit of Hamilton Waterfront Trust (FCS22038) (City Wide) – Page 3 of 5

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

- Financial:** As there is no budget for the contractual, audit or review services of HWT, staff is recommending that the estimated cost of up to \$50,000 for the Sustainability and Financial Viability Audit of Hamilton Waterfront Trust be funded from Tax Stabilization Reserve #110046.
- Staffing:** Staff in the Financial Planning, Administration and Policy Division of the Corporate Services Department will be the lead division for the contract for audit or review services outlined in Report FCS22038.
- Legal:** Staff in Legal and Risk Management Services of the Corporate Services Department may be required to review agreements related to the audit services outlined in Report FCS22038.

HISTORICAL BACKGROUND

Council, at its meeting of September 26, 2018, approved General Issues Committee (GIC) Report 18-019 and Report CM18017 HWT Revised Deed of Trust. The Revised Deed of Trust between HWT and the City of Hamilton which contains language about the purpose, governance structure, accounts and financial statements of the trust and other items.

Here are excerpts from the Revised Deed of Trust.

“PURPOSE OF TRUST

- 5.... The Trust shall receive and stand possessed of the capital and income of the Trust Assets and shall invest and keep the same invested and shall pay out, use and apply all or any part of the Trust Assets from time to time exclusively for the following purposes:
- (a) to promote and facilitate the public s access to, and enjoyment of, Hamilton’s Waterfront as more specifically outlined in its Positioning Statement and its Vision Statement, each as amended from time to time;
 - (b) the improvement and development of the Lands; and
 - (c) to administer Trust Assets, funds and capital gifts from donors for the purposes set out herein.”

SUBJECT: Request for Sustainability and Financial Viability Audit of Hamilton Waterfront Trust (FCS22038) (City Wide) – Page 4 of 5

“ACCOUNTS AND FINANCIAL STATEMENTS

13. The Trustees shall appoint an auditor and shall keep accurate and detailed accounts and records of all receipts, disbursements, investments and transactions relating to the Trust Assets, and shall prepare or cause to be prepared all financial statements required by law to be prepared on behalf of the Trust or with respect to the Trust Assets from time to time.

Without limiting the generality of the foregoing, the Trustees shall prepare and file with each of the City and the Trust and annual financial report accompanied by the auditor's report thereon for the Trust Assets as soon as practicable after the end of the fiscal year of the Trust, and shall also provide to each of the City and Trust such information and material respecting the Trust Assets as either of them may in writing request from time to time.”

Council, at its meeting of November 10, 2021, approved Communications Item d (i) of Audit, Finance and Administration Committee Report 21-019 being Correspondence from the Hamilton Waterfront Trust including their December 31, 2020 Audited Financial Statements.

Council, at its meeting on March 30, 2022, approved Item 1 of Audit, Finance and Administration Committee Report 22-007 that directed staff to develop a scope of work and report back to the Audit, Finance and Administration Committee on April 21, 2022 on an independent third-party audit review to verify the financial strength of the Hamilton Waterfront Trust on a going forward basis.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The Revised Deed of Trust between HWT and the City of Hamilton with an effective date of October 1, 2018 guides the work contemplated in Report FCS22038.

Staff is recommending that contractual audit or review services for Sustainability and Financial Viability Audit of Hamilton Waterfront Trust be single sourced through Policy #11 of the City's Procurement Policy (By-law 21-215) to a qualified vendor. Under the Procurement Policy, General Managers have authority up to but not including \$250,000 for a single source or short supply type purchase because it is more cost effective or beneficial for the City. While the work contemplated in Report FCS22038 is expected to be less than \$250,000, Council approval is not required but has been included.

RELEVANT CONSULTATION

Staff in the Office of the City Auditor were consulted in preparation of Report FCS22038.

SUBJECT: Request for Sustainability and Financial Viability Audit of Hamilton Waterfront Trust (FCS22038) (City Wide) – Page 5 of 5

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

The scope of work for the contract for audit or review services of the Sustainability and Financial Viability of Hamilton Waterfront Trust HWT is contained in Appendix “A” to Report FCS22038.

Staff is recommending the single source procurement, pursuant to Procurement Policy #11 – Non-competitive Procurements, of the services required in Report FCS22038.

As there is no budget for the contractual audit or review services of HWT, staff is recommending that the estimated cost of up to \$50,000 for the Sustainability and Financial Viability Audit of Hamilton Waterfront Trust be funded from Tax Stabilization Reserve #110046.

ALTERNATIVES FOR CONSIDERATION

An alternative to selecting an external vendor for the consulting services for the audit or review of the Sustainability and Financial Viability of Hamilton Waterfront Trust could be that internal City staff perform the work.

Council, at its meeting of September 11, 2019, approved Item 3 of Audit, Finance and Administration Committee Report 19-012 the 2019 to 2022 Workplan for the Office of the City Auditor (OCA) in Report AUD19007 which included a Value for Money audit of the Hamilton Waterfront Trust. Due to other commitments, staff in the OCA have not been able to perform this work. Additional funding in 2022 would be required to perform this work so that postponement of other planned work is not required. If staff in the OCA were to lead this work, the role of external vendor would be reduced.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**Community Engagement and Participation**

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community

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 FCS22038 – Sustainability and Financial Viability Audit of Hamilton Waterfront Trust – Scope of Work

BM/dt

Sustainability and Financial Viability Audit of Hamilton Waterfront Trust Proposed Scope of Work

The scope of work may include, but is not limited to, the following:

- Preparation of a report that evaluates and assesses the sustainability and financial viability of HWT through:
 - Review of the purpose and objectives of the Hamilton Waterfront Trust (HWT or Trust) in the Revised Deed of Trust and HWT incorporation documents
 - Review of HWT's Strategic Plan, business plans and operational plans
 - Review of HWT's multi-year operational budget, capital budget and related projections and forecasts
 - Review of HWT's cash flow forecasts
 - Review of HWT's historical financial results and trends
 - Review of appropriate HWT internal documents and records
 - Analysis and calculation of financial ratios
- Presentation of the report to City Staff
- Presentation of the report at HWT Board meeting and at City of Hamilton Audit, Finance and Administration Committee



DEVELOPMENT CHARGES STAKEHOLDERS SUB-COMMITTEE

REPORT

22-002

April 12, 2022

10:00 a.m.

Room 264

Hamilton City Hall

71 Main Street West

Present: Councillor J.P. Danko (Chair)
P. Szachlewicz (Hamilton Chamber of Commerce) (Vice Chair),
Councillors M. Wilson, J. Farr, M. Pearson, B. Clark
M. Collins-Williams (West End Home Builders Association),
Sean Ferris (Citizen Member)

**Absent With
Regrets:** Councillors B. Johnson - Personal
Councillors T. Whitehead – Personal
C. Henderson (Realtors Association of Hamilton-Burlington),
James Summers (Citizen Member)

THE DEVELOPMENT CHARGES STAKEHOLDERS SUB-COMMITTEE PRESENTS REPORT 22-002 AND RESPECTFULLY RECOMMENDS:

1. **Community Benefits Charges – Engagement and Draft Strategy (FCS22015(a)) (Item 10.1)**
 - (a) That Report FCS22015(a) respecting Community Benefits Charges Budget, be received.
 - (b) That Staff be directed to include an explanation of the variance in Development Charges reductions compared to the Community Benefits Charges, in their to report back to the Audit, Finance and Administration Committee.

FOR INFORMATION:

(a) APPROVAL OF THE AGENDA (Item 2)

The Committee Clerk advised there were no changes to the agenda:

The agenda of the April 12, 2022 meeting was approved, as presented.

(b) DECLARATIONS OF INTEREST (Item 3)

None.

(c) APPROVAL OF MINUTES OF PREVIOUS MEETING (Item 4)

(i) February 28, 2022 (Item 4.1)

The Minutes of the February 28, 2022 meeting, were approved.

(d) DISCUSSION ITEMS (Item 10)

**(i) Community Benefits Charges – Engagement and Draft Strategy
(FCS22015(a)) (City Wide) (Item 10.1)**

Gary Scandlan of Watson & Associates Economists Limited, addressed Committee with the aid of a PowerPoint presentation.

The presentation from Gary Scandlan of Watson & Associates Economists Limited respecting the Community Benefits Charges report, was received.

For disposition of this matter, see Item 1.

(e) ADJOURNMENT (Item 15)

There being no further business, the Development Charges Stakeholders Sub-Committee, adjourned at 11:20 a.m.

Respectfully submitted,

Councillor J.P. Danko, Chair
Development Charges
Stakeholders Sub-Committee

Lisa Kelsey
Legislative Coordinator
Office of the City Clerk