



City of Hamilton

AUDIT, FINANCE AND ADMINISTRATION COMMITTEE REVISED

Meeting #: 23-012
Date: August 17, 2023
Time: 9:30 a.m.
Location: Council Chambers
Hamilton City Hall
71 Main Street West

Tamara Bates, Legislative Coordinator (905) 546-2424 ext. 4102

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 July 13, 2023

5. COMMUNICATIONS

5.1 Dan Misutka, DLA Piper (Canada) LLP, respecting Property Tax Arrears - Scenic Trails Ltd.

Recommendation: To be received

*5.2 Michelle Diplock, West End Home Builders' Association. respecting Requesting the City of Hamilton enable the Transference of Letters of Credit to Surety Bonds

Recommendation: Be received and referred to consideration of Item 9.1

6. DELEGATION REQUESTS

6.1 Hafeez Hussain, respecting Improving Service Standards and Transparency with the General Public at the City Clerk Office (for a future meeting)

- *6.2 Michelle Diplock, West End Home Builders' Association, respecting a user fee model to allow for the transference of existing Letters of Credit to Surety Bonds (for today's meeting)

7. DELEGATIONS

8. STAFF PRESENTATIONS

9. CONSENT ITEMS

- 9.1 Development Agreement Surety Bonds (FCS21056(a)) (City Wide) (Outstanding Business List Item) - REVISED
- 9.2 2023 First Quarter Emergency and Non-competitive Procurements Report - FCS (City Wide) (FCS23019)
- 9.3 2023 First Quarter Non-compliance with the Procurement Policy Report – FCS (City Wide) (FCS23020)
- 9.4 2023 First Quarter Request for Tenders and Proposals Report – FCS (City Wide) (FCS23021)
- 9.5 Roads Value for Money Audit and Roads Quality Assurance Supplementary Audit Report (PW22007(a)) (City Wide) (Outstanding Business List Item)

10. DISCUSSION ITEMS

- 10.1 Delegated Authority By-law Amendment: Appeals (FCS23089) (City Wide)
- 10.2 Low Income Seniors Utility Rebate Program (FCS23045(a)) (City Wide) (Outstanding Business List Item)
- 10.3 Request to Extend Banking Services Agreement (City Wide) (FCS23036(a)) (Outstanding Business List Item)

11. MOTIONS

12. NOTICES OF MOTION

13. GENERAL INFORMATION / OTHER BUSINESS

- 13.1 Amendments to the Outstanding Business List
 - a. Items Considered Completed and to be Removed

- a. Pending Staff Reports on the Feedback Received from the Advisory Committees on the new Code of Conduct (in effect May 1, 2023) and the Procedural Handbook for Citizen Appointees to City of Hamilton Local Boards

Item on the OBL: 23-B

Addressed on the March 27, 2023 and May 25, 2023

Governance Review Sub-Committee Agendas

- b. Development Agreement Surety Bonds (FCS21056 / LS21021) (City Wide)

Item on OBL: 21-G

Addressed as Item 9.1 on today's agenda

- c. Roads Value for Money Audit (AUD21006) (City Wide)

Item on OBL: 21-J

Addressed as Item 9.5 on today's agenda

- d. Roads Value for Money Audit - Roads Quality Assurance Supplementary Audit Report (AUD21006(a)) (City Wide)

Item on OBL: 22-H

Addressed as Item 9.5 on today's agenda

- e. Hamilton Water and Wastewater Customer Assistance Programs (FCS23045) (City Wide)

Item on OBL: 23-I

Addressed as Item 10.2 on today's agenda

- f. Request to Extend Banking Services Agreement (FCS23036) (City Wide)

Item on OBL: 23-E

Addressed as Item 10.3 on today's agenda

14. PRIVATE AND CONFIDENTIAL

14.1 Closed Minutes - July 13, 2023

Pursuant to Section 9.3, Sub-section (d) of the City's Procedural By-law 21-021, as amended, and Section 239(2), Sub-section (d) of the Ontario Municipal Act, 2001, as amended, as the subject matter pertains to labour relations or employee negotiations

15. ADJOURNMENT

Members of the public can contact the Clerk's Office to acquire the documents considered at this meeting, in an alternative format.



**AUDIT, FINANCE AND ADMINISTRATION COMMITTEE
MINUTES 23-011
9:30 a.m.
July 13, 2023
Council Chambers
Hamilton City Hall**

Present: Councillors C. Kroetsch (Chair), J. Beattie, B. Clark, M. Spadafora
M. Tadeson, A. Wilson, and M. Wilson

**Absent with
Regrets:** Councillor Hwang – City Business

THE FOLLOWING ITEMS WERE REFERRED TO COUNCIL FOR CONSIDERATION:

1. Update on the Hamilton Anti-Racism Resource Centre CM20007(d) (Item 8.1)

(Clark/Spadafora)

- (a) That a one-time payment of \$75,000.00 from Tax Stabilization Fund #110046 be provided to the Hamilton Anti-Racism Resource Centre for the period of December 2023 – April 2024.
- (b) That the Hamilton Anti-Racism Resource Centre (HARRC), through the Executive Director, be requested to provide their 5-year operational and sustainability plan to the City of Hamilton ahead of the 2024 budget process identifying the role that the City will play to support their sustainability for the future.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
YES - CHAIR - Ward 2 Councillor Cameron Kroetsch
ABSENT - Ward 4 Councillor Tammy Hwang
YES - Ward 9 Councillor Brad Clark
YES - Ward 10 Councillor Jeff Beattie
YES - Ward 11 Councillor Mark Tadeson
ABSENT - Ward 13 Councillor Alex Wilson
YES - Ward 14 Councillor Mike Spadafora

2. Tax and Rate Operating Budgets Variance Report as at April 30, 2023 – Budget Control Policy Transfers (FCS23063) (City Wide) (Item 8.2)

(Tadeson/Spadafora)

- (a) That the Tax Operating Budgets Variance Report, as at April 30, 2023, attached as Appendices “A”, to Report FCS23063, be received;
- (b) That the Rate Operating Budgets Variance Report, as at April 30, 2023, attached as Appendices “B”, to Report FCS23063, be received;
- (c) That, in accordance with the “Budgeted Complement Control Policy”, the 2023 complement transfer from one department / division to another or a change in complement type, with no impact on the levy, as outlined in Appendix “C” to Report FCS23063, be approved;
- (d) That, in accordance with the “Budget Control Policy”, the 2023 budget transfers from one department / division to another with no impact on the property tax levy, as outlined in Appendix “D” to Report FCS23063, be approved;
- (e) That, in accordance with the “Budgeted Complement Control Policy”, the extensions of temporary positions with 24-month terms or greater, with no impact on the levy, as outlined in Appendix “E” to Report FCS23063, be approved.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
YES - CHAIR - Ward 2 Councillor Cameron Kroetsch
ABSENT - Ward 4 Councillor Tammy Hwang
YES - Ward 9 Councillor Brad Clark
YES - Ward 10 Councillor Jeff Beattie
YES - Ward 11 Councillor Mark Tadeson
ABSENT - Ward 13 Councillor Alex Wilson
YES - Ward 14 Councillor Mike Spadafora

3. Consent Items (Item 9.1 and Added Item 9.2)

(Spadafora/Tadeson)

That the following Reports, be received:

- (a) Professional and Consultant Services Roster 2022-2024 (PW23045/PED23130/FCS23079) (City Wide) (Item 9.1)
- (b) Standards and Approved Products Committee Report (PW21071(a)) (City Wide) (Added Item 9.2)

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
YES - CHAIR - Ward 2 Councillor Cameron Kroetsch
ABSENT - Ward 4 Councillor Tammy Hwang
YES - Ward 9 Councillor Brad Clark
YES - Ward 10 Councillor Jeff Beattie
YES - Ward 11 Councillor Mark Tadeson
ABSENT - Ward 13 Councillor Alex Wilson
YES - Ward 14 Councillor Mike Spadafora

4. Halton Water Supply Amending Agreement (PW23050) (City Wide) (Item 10.1)

(Spadafora/Tadeson)

- (a) That the Mayor and Clerk be authorized and directed to execute an agreement to amend the Water Supply Agreement between The Regional Municipality of Halton and the City of Hamilton dated November 17, 2011, and amended June 24, 2021, in the form attached as Appendix "A" to Report PW23050;
- (b) That the General Manager, Public Works, or designate, be authorized to execute any number of future amendments to the amended Water Supply Agreement, provided that any such amendments relate to matters of operation or technical capacity, and they are in a form that is satisfactory to the Director of Legal Services;
- (c) That the General Manager, Public Works, or designate, be authorized to execute any other documents that are ancillary to the agreements authorized in recommendations (a) and (b).

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
YES - CHAIR - Ward 2 Councillor Cameron Kroetsch
ABSENT - Ward 4 Councillor Tammy Hwang
YES - Ward 9 Councillor Brad Clark
YES - Ward 10 Councillor Jeff Beattie
YES - Ward 11 Councillor Mark Tadeson
ABSENT - Ward 13 Councillor Alex Wilson
YES - Ward 14 Councillor Mike Spadafora

5. Fraud, Waste, and Whistleblower Semi-Annual Update (AUD23009) (City Wide) (Item 10.2)

(Spadafora/Tadeson)

- (a) That the Fraud, Waste and Whistleblower Semi-Annual Update be received.

- (b) That the creation of one Full Time Equivalent (FTE) employee for a Senior Auditor be referred to the 2024 Operating Budget.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
YES - CHAIR - Ward 2 Councillor Cameron Kroetsch
ABSENT - Ward 4 Councillor Tammy Hwang
YES - Ward 9 Councillor Brad Clark
YES - Ward 10 Councillor Jeff Beattie
YES - Ward 11 Councillor Mark Tadeson
ABSENT - Ward 13 Councillor Alex Wilson
YES - Ward 14 Councillor Mike Spadafora

6. Governance Review Sub-Committee Report 23-003 (July 5, 2023) (Item 10.3)

(Tadeson/Beattie)

(a) Consistent Quorum Requirements for Council and Committees – Revised (Item 11.2)

WHEREAS, staff were directed by Council on June 7, 2023, to prepare the necessary amendments to By-law 21-021, A By-law to Govern the Proceedings of Council and Committees of Council, the 'Procedural By-law' to amend the quorum requirement for Committees to be the same as for Council, for the Governance Review Sub-Committee's consideration;

WHEREAS, the City's Procedural By-law 21-021, as amended, states that quorum of Council be a majority, as per Section 237(1) of the Ontario Municipal Act, 2001, as amended;

WHEREAS, the City's Procedural By-law 21-021, as amended, states that quorum of Committees be half of the Committee's membership; and

WHEREAS, for consistency purposes, having the same quorum requirements for Council and for Committees would be practical;

THEREFORE, BE IT RESOLVED:

1. That staff be directed to prepare a by-law to amend the City's Procedural Bylaw 21-021, as amended, to amend Section 5.4 (1) to require that a majority be present:

5.4 Quorum

- (1) The quorum for all Committees shall be a majority (as defined in the Procedural By-Law 21-021, e.g. if membership is 5, quorum is 3) of the membership.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
YES - CHAIR - Ward 2 Councillor Cameron Kroetsch
ABSENT - Ward 4 Councillor Tammy Hwang
YES - Ward 9 Councillor Brad Clark
YES - Ward 10 Councillor Jeff Beattie
YES - Ward 11 Councillor Mark Tadeson
ABSENT - Ward 13 Councillor Alex Wilson
YES - Ward 14 Councillor Mike Spadafora

7. Procurement Organizational Design Changes (FCS23082) (City Wide) (Item 14.1)

(Tadeson/Beattie)

- (a) That the direction provided to staff in closed session, be approved; and
- (b) That Report FCS23082, respecting Procurement Organizational Changes in the Corporate Services Department, be released publicly following approval by Council.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
ABSENT - CHAIR - Ward 2 Councillor Cameron Kroetsch
ABSENT - Ward 4 Councillor Tammy Hwang
YES - Ward 9 Councillor Brad Clark
YES - Ward 10 Councillor Jeff Beattie
YES - Ward 11 Councillor Mark Tadeson
YES - Ward 13 Councillor Alex Wilson
YES - Ward 14 Councillor Mike Spadafora

FOR INFORMATION:

(a) CHANGES TO THE AGENDA (Item 2)

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

9. CONSENT ITEMS

9.2 Standards and Approved Products Committee Report
(PW21071(a)) (City Wide)

(Spadafora/Tadeson)

That the agenda for the July 13, 2023 Audit, Finance and Administration Committee meeting, be approved, as amended.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
YES - CHAIR - Ward 2 Councillor Cameron Kroetsch
ABSENT - Ward 4 Councillor Tammy Hwang
YES - Ward 9 Councillor Brad Clark
YES - Ward 10 Councillor Jeff Beattie
YES - Ward 11 Councillor Mark Tadeson
ABSENT - Ward 13 Councillor Alex Wilson
YES - Ward 14 Councillor Mike Spadafora

(b) DECLARATIONS OF INTEREST (Item 3)

Councillor M. Wilson declared a non-disqualifying interest respecting Item 8.2, Update on the Hamilton Anti-Racism Resource Centre (CM20007(d)), as her husband is the President and Chief Executive Officer of Hamilton Community Foundation (HCF) and HCF is a funding partner of the Hamilton Anti-Racism Resource Centre.

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

(i) June 15, 2023 (Item 4.1)

(Spadafora/Tadeson)

That the Minutes of the June 15, 2023 meeting of the Audit, Finance and Administration Committee, be approved, as presented.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
YES - CHAIR - Ward 2 Councillor Cameron Kroetsch
ABSENT - Ward 4 Councillor Tammy Hwang
YES - Ward 9 Councillor Brad Clark
YES - Ward 10 Councillor Jeff Beattie
YES - Ward 11 Councillor Mark Tadeson
ABSENT - Ward 13 Councillor Alex Wilson
YES - Ward 14 Councillor Mike Spadafora

(d) STAFF PRESENTATIONS / PRESENTATIONS (Item 8)

(i) Update on the Hamilton Anti-Racism Resource Centre CM20007(d) (Item 8.1)

Morgan Stahl, Director of Government Relations and Community Engagement, and Lyndon George, Executive Director, Hamilton Anti-Racism Resource Centre, addressed Committee respecting an Update on the Hamilton Anti-Racism Resource Centre, with the aid of a presentation.

(Tadeson/Spadafora)

That the presentation from Morgan Stahl, Director of Government Relations and Community Engagement, and Lyndon George, Executive Director, Hamilton Anti-Racism Resource Centre, respecting an Update on the Hamilton Anti-Racism Resource Centre, be received.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
YES - CHAIR - Ward 2 Councillor Cameron Kroetsch
ABSENT - Ward 4 Councillor Tammy Hwang
YES - Ward 9 Councillor Brad Clark
YES - Ward 10 Councillor Jeff Beattie
YES - Ward 11 Councillor Mark Tadeson
ABSENT - Ward 13 Councillor Alex Wilson
YES - Ward 14 Councillor Mike Spadafora

For further disposition of this matter, refer to Item 1.

(ii) Tax and Rate Operating Budgets Variance Report as at April 30, 2023 – Budget Control Policy Transfers (FCS23063) (City Wide) (Item 8.2)

Mike Zegarac, General Manager, Finance and Corporate Services, addressed Committee respecting the Tax and Rate Operating Budgets Variance Report as at April 30, 2023 – Budget Control Policy Transfers, with the aid of a presentation.

(Spadafora/Beattie)

That the presentation from Mike Zegarac, General Manager, Finance and Corporate Services, respecting the Tax and Rate Operating Budgets Variance Report as at April 30, 2023 – Budget Control Policy Transfers, be received.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
YES - CHAIR - Ward 2 Councillor Cameron Kroetsch
ABSENT - Ward 4 Councillor Tammy Hwang
YES - Ward 9 Councillor Brad Clark
YES - Ward 10 Councillor Jeff Beattie
YES - Ward 11 Councillor Mark Tadeson
ABSENT - Ward 13 Councillor Alex Wilson
YES - Ward 14 Councillor Mike Spadafora

For further disposition of this matter, refer to Item 2.

(e) **MOTIONS (Item 11)**

(i) **Review of the City of Hamilton Volunteer Advisory Committees (Item 11.1)**

1. **(M. Wilson/Kroetsch)**

WHEREAS, the City of Hamilton is dedicated to advancing and articulating City decision-making efforts by ensuring the process by which participants are provided information and are engaged is meaningful, clear, convenient, and accessible to all residents;

WHEREAS, the City of Hamilton supports community engagement as it empowers individuals and groups to give them a voice and a platform to express their opinions, concerns, and ideas, which encourages active participation, enabling community members an opportunity to shape the decisions that affect them directly;

WHEREAS, engagement in the community fosters a sense of ownership and responsibility, leading to increased community pride and motivation to work towards common goals and provides policy makers and elected officials with meaningful feedback that can inform decision making;

WHEREAS, Community engagement promotes collaboration and cooperation among stakeholders, including residents, local businesses, community-based organizations, multiple levels of government and non-profits, thereby, bringing people together and facilitating the exchange of knowledge, resources, and expertise, leading to innovative solutions and shared idea generation;

WHEREAS, the Advisory Committee for Persons with Disabilities and the Hamilton Municipal Heritage Committee are Sub-Committees of Council and are required by Provincial legislation, they are outside the scope of this proposed review;

WHEREAS, the City of Hamilton is currently creating a robust public engagement policy and administrative framework; and

WHEREAS, enhancing engagement throughout civic participation processes can inherently support high-level Term of Council Priorities including (1) Equity, Diversity and Inclusion; and (2) Trust and Confidence in City Government;

THEREFORE, BE IT RESOLVED:

- (a) That the City of Hamilton pause all Volunteer Advisory Committees, with the exception of the Climate Change Advisory Committee, for which recruitment for the current Council term is underway, and the Hamilton Veterans

Committee, so they can continue to plan the 2023 Remembrance Day Service; and

- (b) That City Manager's Office and Corporate Services staff be directed to report back to the Audit, Finance and Administration Committee with recommendations on the following:
 - (i) best practices that prioritizes resident engagement including access to, understanding of and participation in community engagement;
 - (ii) review and provide recommendations to Council as informed by existing partnerships with local community-based organizations and networks to help shape and advise decision-making efforts on City initiatives, programs, services, policies, and by-laws;
 - (iii) existing community-based engagement methods inclusive of the Volunteer Advisory Committees to fulfil the priorities of Council aligned with the Term of Council priorities 2022 – 2026; and
 - (iv) a resource list of local equity-deserving groups doing community and grassroots organizing that can be contacted for engagement and feedback on City Wide processes and policies.

2. (Kroetsch/M. Wilson)

- (a) That, prior to the City of Hamilton pausing all Volunteer Advisory Committees, the Staff Liaisons be requested to convene a meeting of each Advisory Committee before September 30, 2023, with the exception of the Climate Change Advisory Committee, for which recruitment for the current Council term is underway, and the Hamilton Veterans Committee, so they can continue to plan the 2023 Remembrance Day Service, to ensure that there are no time-sensitive or critical workplan items that each Advisory Committee wishes to complete or which the Advisory Committee would like to formally hand off to relevant City staff to ensure completion or continuity; and
- (b) That any Advisory Committee who identifies pending workplan items, be permitted to complete those items prior to their Advisory Committee meetings being paused.

Result: Motion CARRIED by a vote of 6 to 1, as follows:

YES - Ward 1 Councillor Maureen Wilson

YES - CHAIR - Ward 2 Councillor Cameron Kroetsch

ABSENT - Ward 4 Councillor Tammy Hwang
NO - Ward 9 Councillor Brad Clark
YES - Ward 10 Councillor Jeff Beattie
YES - Ward 11 Councillor Mark Tadeson
ABSENT - Ward 13 Councillor Alex Wilson
YES - Ward 14 Councillor Mike Spadafora

3. (Beattie/Kroetsch)

- (a) That the motion respecting the Review of the City of Hamilton Volunteer Advisory Committees (below), be deferred to the September 7, 2023 meeting of the Audit, Finance and Administration Committee; and,

Review of the City of Hamilton Volunteer Advisory Committees

WHEREAS, the City of Hamilton is dedicated to advancing and articulating City decision-making efforts by ensuring the process by which participants are provided information and are engaged is meaningful, clear, convenient, and accessible to all residents;

WHEREAS, the City of Hamilton supports community engagement as it empowers individuals and groups to give them a voice and a platform to express their opinions, concerns, and ideas, which encourages active participation, enabling community members an opportunity to shape the decisions that affect them directly;

WHEREAS, engagement in the community fosters a sense of ownership and responsibility, leading to increased community pride and motivation to work towards common goals and provides policy makers and elected officials with meaningful feedback that can inform decision making;

WHEREAS, Community engagement promotes collaboration and cooperation among stakeholders, including residents, local businesses, community-based organizations, multiple levels of government and non-profits, thereby, bringing people together and facilitating the exchange of knowledge, resources, and expertise, leading to innovative solutions and shared idea generation;

WHEREAS, the Advisory Committee for Persons with Disabilities and the Hamilton Municipal Heritage Committee are Sub-Committees of Council and are

required by Provincial legislation, they are outside the scope of this proposed review;

WHEREAS, the City of Hamilton is currently creating a robust public engagement policy and administrative framework; and

WHEREAS, enhancing engagement throughout civic participation processes can inherently support high-level Term of Council Priorities including (1) Equity, Diversity and Inclusion; and (2) Trust and Confidence in City Government;

THEREFORE, BE IT RESOLVED:

- (a) That the City of Hamilton pause all Volunteer Advisory Committees, with the exception of the Climate Change Advisory Committee, for which recruitment for the current Council term is underway, and the Hamilton Veterans Committee, so they can continue to plan the 2023 Remembrance Day Service; and
- (b) That City Manager's Office and Corporate Services staff be directed to report back to the Audit, Finance and Administration Committee with recommendations on the following:
 - (i) best practices that prioritizes resident engagement including access to, understanding of and participation in community engagement;
 - (ii) review and provide recommendations to Council as informed by existing partnerships with local community-based organizations and networks to help shape and advise decision-making efforts on City initiatives, programs, services, policies, and by-laws;
 - (iii) existing community-based engagement methods inclusive of the Volunteer Advisory Committees to fulfil the priorities of Council aligned with the Term of Council priorities 2022 – 2026; and
 - (iv) a resource list of local equity-deserving groups doing community and grassroots organizing that can be contacted for engagement and feedback on City Wide processes and policies.

- (b) That staff be directed to prepare a report for the Audit, Finance and Administration Committee's consideration at the September 7, 2023 meeting respecting the expected duration of the proposed pause of the Volunteer Advisory Committees, the expected scope of and deliverables for the proposed review of the Volunteer Advisory Committees.

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

YES - Ward 1 Councillor Maureen Wilson
YES - CHAIR - Ward 2 Councillor Cameron Kroetsch
ABSENT - Ward 4 Councillor Tammy Hwang
YES - Ward 9 Councillor Brad Clark
YES - Ward 10 Councillor Jeff Beattie
YES - Ward 11 Councillor Mark Tadeson
YES - Ward 13 Councillor Alex Wilson
YES - Ward 14 Councillor Mike Spadafora

(f) GENERAL INFORMATION / OTHER BUSINESS (Item 13)

(i) Amendments to the Outstanding Business List (Item 13.1)

(A. Wilson/Clark)

That the following amendments to the Outstanding Business List, be approved:

1. Items to be Added

- (a) Grightmire Arena Lessons Learned Audit (AUD22004) (City Wide)
Item on OBL: 22-C
Removed in error on the February 2, 2023 agenda.

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

YES - Ward 1 Councillor Maureen Wilson
YES - CHAIR - Ward 2 Councillor Cameron Kroetsch
ABSENT - Ward 4 Councillor Tammy Hwang
YES - Ward 9 Councillor Brad Clark
YES - Ward 10 Councillor Jeff Beattie
YES - Ward 11 Councillor Mark Tadeson
YES - Ward 13 Councillor Alex Wilson
YES - Ward 14 Councillor Mike Spadafora

(g) PRIVATE AND CONFIDENTIAL (Item 14)

(i) (Spadafora/Tadeson)

That the Audit, Finance and Administration Committee move into Closed Session respecting Item 14.1, pursuant to Section 9.3, Sub-section (d) of the City's Procedural By-law 21-021, as amended, and Section 239(2),

Sub-section (d) of the *Ontario Municipal Act, 2001*, as amended, as the subject matter pertains to labour relations or employee negotiations.

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

YES - Ward 1 Councillor Maureen Wilson
YES - CHAIR - Ward 2 Councillor Cameron Kroetsch
ABSENT - Ward 4 Councillor Tammy Hwang
YES - Ward 9 Councillor Brad Clark
YES - Ward 10 Councillor Jeff Beattie
YES - Ward 11 Councillor Mark Tadeson
YES - Ward 13 Councillor Alex Wilson
YES - Ward 14 Councillor Mike Spadafora

Councillor Kroetsch relinquished the Chair to Councillor Spadafora for the remainder of the meeting.

(ii) Procurement Organizational Design Changes (FCS23082) (City Wide) (Item 14.1)

For disposition of this matter, refer to Item 7.

(h) ADJOURNMENT (Item 15)

(Tadeson/Beattie)

That, there being no further business, the Audit, Finance and Administration Committee, be adjourned at 12:58 p.m.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
ABSENT - CHAIR - Ward 2 Councillor Cameron Kroetsch
ABSENT - Ward 4 Councillor Tammy Hwang
YES - Ward 9 Councillor Brad Clark
YES - Ward 10 Councillor Jeff Beattie
YES - Ward 11 Councillor Mark Tadeson
YES - Ward 13 Councillor Alex Wilson
YES - ACTING CHAIR Ward 14 Councillor Mike Spadafora

Respectfully submitted,

Councillor Cameron Kroetsch, Chair
Audit, Finance and Administration
Committee

Councillor Mike Spadafora, Acting
Chair
Audit, Finance and Administration
Committee

Tamara Bates
Legislative Coordinator
Office of the City Clerk



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July 11, 2023

FILE NUMBER: 112529-00001

VIA EMAIL (CLERK@HAMILTON.CA)

Chair and Members
 Audit and Finance Administration Committee
 Hamilton City Hall
 71 Main Street West
 Hamilton, ON L8P 4Y5

Dear Sirs/Mesdames:

**Re: Property Tax Arrears - Scenic Trails Ltd.
 1 Redfern Avenue, Hamilton, ON ("Property")
 Roll No. 2518-081-081-0417-60000**

Introduction

We are writing to request a waiver of penalties and interest assessed to Scenic Trails Ltd. ("**Scenic**") in relation to property tax assessed on the condominium property at the municipal address of 1 Redfern Avenue, Hamilton, ON, for the taxation year ("**Taxation Year**") beginning on January 1, 2021.

Pursuant to the Assessment Scenic was assessed and billed for the full amount of property tax on the Property despite the fact that it no longer had an ownership interest in any of the individual condominium units at the Property for most of the Taxation Year. All such units were sold to individuals in April, May and June of 2021. However, contrary to Scenic's reasonable expectations that property tax would be adjusted to apportion appropriate amounts to individual condominium unit owners, no amount of the tax was adjusted and penalties and interest were subsequently assessed to Scenic in respect of unpaid amounts.

The circumstances are manifestly unfair and Scenic requests that the Audit and Finance Committee ("**Committee**") exercise its discretion to waive interest and penalties related to the Assessment.

Background

By letter dated November 15, 2021, Scenic's legal counsel advised the city of Hamilton ("**City**") Tax Department that it had registered a condominium at the municipal address of the Property on April 10, 2021, creating 145 individual condominium units and that ownership of all of the condominium units was transferred to individual owners in the months of April, May and June of 2021.

As a result of conversations and correspondence between legal counsel and employees with the City Tax Department, Scenic reasonably believed that property tax assessed would be adjusted to re-apportion



appropriate amounts of the tax assessed to Scenic to the individual condominium unit owners. Such conversations took place between City Municipal Services Centre and Scenic's legal counsel throughout 2021. It was clear from those conversations that Scenic's concerns about re-apportioning the property tax bills to individual owners was shared by other developers, and was an issue being considered by the City. City officials mentioned the possibility of having internal legal counsel review the matter.

Scenic's expectations that the City would re-apportion amounts of tax to individual unit owners was also based on its years of experience as a condominium developer in the city of Hamilton. Scenic's specific experience was that the City has made such adjustments in the past for other condominium projects that it developed. Therefore, its expectations were reasonable. Scenic did not believe there was a need to appeal the Assessment and did not adjust for proportionate tax assessed on closing the sales of the condominium units to individual owners, as it's experience was that those amounts would be re-apportioned by the City.

Ultimately Scenic's representatives met with City officials to discuss the Assessment in April 2023. At that meeting the City advised Scenic that it was required to collect tax as assessed by the Municipal Property Assessment Corporation ("**MPAC**") without the City charging proportionate amounts to new condominium unit owners. Scenic committed to collect individual condominium owners' share of property tax assessed under the Assessment. Through those efforts Scenic has paid down \$490,541.19 to date.

As noted this was contrary to Scenic's specific experience. However, in the April, 2023 meeting City officials suggested that the City was now bound by a change in MPAC administrative policy. City officials provided Scenic with a copy of a letter from MPAC dated April 18, 2019 describing a change in the process by which MPAC would issue Property Assessment Change Notices ("**PACN**"), going forward.

In particular, MPAC advised that it would issue all PACNs to condominium developers for units that are occupied before the condominium declaration is registered, to reflect current ownership at the time of assessment. Once the condominium declaration was registered, individual units would be created and assigned an assessment roll number. When the units were occupied MPAC would then issue a PACN notice to each unit owner.

MPAC advised that its update was to comply with legislation to issue a PACN to the *owner* of the land, as established in a recent Assessment Review Board decision.¹ It also advised that municipalities would issue property tax bills based on the new occupancies and assessments.

In the past, MPAC relied upon the occupancy date provided by developers as a reasonable guide to ascertain when new construction became assessable to the ultimate unit owners. However, this sometimes resulted in unit owners being assessed property tax for dates that they did not yet own the property.

MPAC pointed out that the *Condominium Act, 1988*² permitted owners to collect occupancy fees for units occupied prior to registration of the condominium development.

¹ In the decision of *Sabourin v. MPAC*, File No: WR 153192, ("**Sabourin**") issued on June 26, 2018, the Assessment Review Board confirmed that unit owners who occupied a condominium under a license to occupy the unit before they became owners, were not assessable for the period of time before they became owners even though the land itself was assessable at the time that they first occupied the unit.

² SO 1998, c 19



Discussion

Before sending the invoice to Scenic that related to the Assessment, the City did not explain how the change in MPAC policy would lead to its own procedural changes. In fact, the MPAC administrative policy does not prevent the City from adjusting proportionate amounts of property tax to individual condominium owners in the taxation year that ownership is transferred to them. There is no doubt that under the Assessment Scenic was incorrectly assessed for tax on condominium units for the periods of time in the Taxation Year that Scenic had no ownership interest in those units. This conclusion flows from the legislation and from the *Sabourin* decision that is cited as the basis for MPAC's policy change. Therefore, apportioning tax to actual unit owners would seem to be most consistent with the law and MPAC's new administrative policy.

The *Sabourin* decision is based on a plain reading of the *Assessment Act*.³ The assessments under appeal in that case were not assessable against the Sabourins for the period of time that they were not yet the owners of their unit, even though the land itself was assessable on the date that the Sabourins occupied the unit. Therefore, the Assessment Review Board held that that assessments issued in that case were incorrect because they covered parts of the taxation year where ownership had not yet transferred to the Sabourins.

Similarly, in the present case the Assessment is incorrect because it covers periods of the Taxation Year in which Scenic is *no longer* the owner of condominium units.

Moreover section 80 of the *Condominium Act* does not assist in our case. Section 80(2) of the Act provides that if a purchaser of a condominium unit assumes interim occupancy the purchaser can be charged a monthly occupancy fee which can include an amount reasonably estimated on a monthly basis for municipal taxes attributable to the unit. However, interim occupancy ends at the time of transfer of ownership of the condominium unit to the purchaser.

In fact the change in MPAC administrative policy and the *Sabourin* decision both support the conclusion that in our case the Property should have been reassessed, based on updated property tax rolls that reflected new ownership of the condominium units as of April, May and June of 2021.

Scenic understood that in certain cases involving condominium developments tax rolls will not always reflect actual unit ownership for the entire taxation year in which a condominium is registered at a property. Scenic's historical experience was that administrative practice will often adjust property tax bills to account for changes in ownership. The City has never considered itself unable to make such adjustments because of the manner in which MPAC issued an assessment. Therefore, Scenic has ended up liable to the City for amounts of tax that for periods in 2021 that it no longer had an ownership interest in any of the individual condominium units at the Property.

There is also another issue arising from the Assessment that has unfairly impacted Scenic. For at least one of condominium units at the Property MPAC has, in subsequent taxation years, adjusted the fair market value of individual condominium unit because it was later discovered that MPAC had recorded excessive square footage for this unit. For taxation years after 2021 property tax assessments have reflected fair market value that are based on the correct square footage of the units. However, for 2021 Scenic is without recourse to petition for an adjustment of property tax to reflect the accurate fair market value of those same unit.

³ RSO 1990, c A.31



As noted, Scenic has committed to collection of outstanding tax amounts from the owners of the units to pay down the amounts assessed under the Assessment. It is endeavouring to do so at its own expense as quickly as possible and is directing amounts collected to the City to pay down remaining property tax liability for the Property.

Conclusion

In the present circumstances Scenic is collecting significant amounts of property tax that it was incorrectly assessed because the ownership of the condominium units was transferred in the Taxation Year. It is also without recourse to seek corrections of excessive fair market value relied upon by MPAC for portions of the Assessment. As a result of reasonably believing that the bills from the City for amounts owing under the Assessment would be adjusted to apportion appropriate amounts of tax to new condominium units owners, penalties and interest arose on unpaid amounts.

It is particularly unfair that Scenic should be liable to pay penalties and interest on the property tax assessed under the Assessment. The City is benefitting from recovery of amounts in excess of the amounts it would have collected if the Assessment been correctly issued to all owners of the Property in the Taxation Year. These circumstances support the Committee's exercise of discretion to waive penalties and interest on amounts owing under the Assessment.

Thank you for your consideration of this request.

Sincerely,
DLA Piper (Canada) LLP
Per:

A handwritten signature in black ink, appearing to read 'Dan Misutka', written over a light grey background.

Dan Misutka
DM7619:lvb



West End Home Builders' Association
1112 Rymal Road East, Hamilton
Serving members in Hamilton and Halton Region

August 16, 2023

To: Members of Hamilton's Audit Finance and Administration Committee

WE HBA Letter Requesting the City of Hamilton enable the Transference of Letters of Credit to Surety Bonds

The West End Home Builders' Association appreciates the work City of Hamilton has done to adopt modern pay on demand Surety Bonds as part of Hamilton's Mayor's Task Force on Economic Recovery. We believe this policy tool has been instrumental to ensuring Hamilton builders and developers can continue to deliver more housing supply for our growing population despite ongoing economic uncertainty. **We are writing to Committee to request that direction be provided for Staff to report back on the feasibility of implementing a user fee model for the transference of Letters of Credit to Surety Bonds.**

The City's 2021 adoption of Surety Bonds in lieu of Letters of Credit was a pivotal moment for the industry and has significantly increased our members' ability to reinvest capital in the Hamilton area. Historically, when the City only accepted Letters of Credit, a developer was required to collateralize that credit, dollar for dollar against the value of the municipal works to be provided. Often this meant developers could only afford to finance one housing project at a time because of these letter of credit requirements. Now, through the City's enablement of Surety Bonds, developers have greater liquidity, while the City retains the assurance that the necessary site improvements will be made by the developer. In this way, Surety Bonds provide the required security while not tying up capital that can be used for investment in additional development projects.

This has been significantly successful since 2021, enabling our members to finance multiple Hamilton projects at one time. However, for development agreements that were signed prior to 2021 and the City's adoption of Surety Bonds, there is no ability for developers to transfer their existing Letters of Credit to Surety Bonds, although other jurisdictions provide this service. This means in some cases there is more than \$1 million dollars in available funds that are tied up and unable to be reinvested in additional housing projects. This has an outsized impact on our local builders and developers and impacts the industry's ability to deliver on the City of Hamilton's home building objectives. On projects where there is a significant amount of capital tied up, we believe there to be significant benefit to the City in terms of delivering additional homes for Hamiltonians. **WE HBA therefore requests Committee provide direction for Staff to report back on the feasibility of implementing a user fee model for the transference of Letters of Credit to Surety Bonds.** We believe our members would be willing to fund this service should the costs be reasonable.

Sincerely,

Michelle Diplock, RPP, MCIP, MPI
Manager of Planning and Government Relations
West End Home Builders' Association

Bates, Tamara

Subject: FW: Webform submission from: Request to Speak to a Committee of Council

From: City of Hamilton <hello@hamilton.ca>

Sent: July 17, 2023 12:57 PM

To: clerk@hamilton.ca

Subject: Webform submission from: Request to Speak to a Committee of Council

Submitted on Mon, 07/17/2023 - 12:56

Submitted by: Anonymous

Submitted values are:

Committee Requested

Committee

Audit, Finance & Administration Committee

Will you be delegating in-person or virtually?

Virtually

Will you be delegating via a pre-recorded video?

No

Requestor Information

Requestor Information

Hafeez Hussain

Etobicoke , ON.

Preferred Pronoun

he/him

Reason(s) for delegation request

Council Delegation Request - Improving Service Standards and Transparency with the General Public at the City Clerk Office

As council has passed a resolution of having City Hall and Transparency in Municipal Government as top priority, I would like to bring to the attention of the audit, finance and administration committee the reduencies of no digital tools to submit Privacy and Access to Information Request Intakes to the city, service level standards to ensure the City Clerk office keeps its SLA, and ensuring that the City Clerk Office is always transparent to citizens when it comes to submitting privacy complaints and access to records requests. Also, there is no formal policy passed by City Council for residents to submit fee wavers due to financial hardships or impact from City Staff which is required to obtain a record.

Focus needs to be putting the taxpayer/resident at the centre of everything and ensuring that taxpayers see value for money for what our property taxes roll is paying for administrative and corporate services functions at the City of Hamilton.

Will you be requesting funds from the City?

No

Will you be submitting a formal presentation?

Yes

Bates, Tamara

Subject: FW: Webform submission from: Request to Speak to a Committee of Council

Submitted on Tue, 08/15/2023 - 21:12

Submitted by: Anonymous

Submitted values are:

Committee Requested

Committee
Audit, Finance & Administration Committee

Will you be delegating in-person or virtually?
In-person

Will you be delegating via a pre-recorded video?
No

Requestor Information

Requestor Information
Michelle Diplock
West End Home Builders' Association
1112 Rymal Road E
Hamilton, Ontario. L8W 3N7
michelle@westendhba.ca

Preferred Pronoun
she/her


Reason(s) for delegation request
To speak in support of Committee directing staff to develop a user fee model to allow for the transference of existing Letters of Credit to Surety Bonds at the August 17th meeting. Agenda item 9.1 Development Agreement Surety Bonds (FCS21056(a)) (City Wide) (Outstanding Business List Item) - REVISED.

Will you be requesting funds from the City?
No

Will you be submitting a formal presentation?
No



INFORMATION REPORT

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	August 17, 2023
SUBJECT/REPORT NO:	Development Agreement Surety Bonds (FCS21056(a)) (City Wide) - REVISED (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Janeen Peters (905) 546-2424 Ext. 2132 Lindsay Gillies (905) 546-2424 Ext. 5491
SUBMITTED BY:	Kirk Weaver Acting Director, Financial Planning, Administration and Policy Corporate Services Department
SIGNATURE:	

COUNCIL DIRECTION

Staff was directed, through Report FCS21056 / LS21021, Development Agreement Surety Bonds, approved at the June 3, 2021 meeting of the Audit, Finance and Administration Committee, to bring forward a report which summarizes the uptake and any challenges encountered with Surety Bonds within 24 months of accepting the first Surety bond under the Development Agreement Surety Bond Policy.

INFORMATION

The General Issues Committee, through its meeting on December 9, 2020, received as Item 8.1, a presentation and report from the Mayor's Task Force on Economic Recovery. The presentation included a request to review the use of surety bonds as financial security for development projects to secure municipal agreements. Audit, Finance and Administration Committee at its meeting on June 3, 2021, through Report FCS21056/ LS21021, approved a Development Agreement Surety Bond Policy and requested staff to bring a report back to committee after 24 months of accepting the first Surety Bond.

Prior to June 2021, the City of Hamilton accepted letters of credit and / or certified funds as security for development agreements.

**SUBJECT: Development Agreement Surety Bonds (FCS21056(a)) (City Wide) -
Page 2 of 5**

A letter of credit is a financial contract between a bank, a bank's customer and a beneficiary (the "City"). Letters of credit are held by the City as a safeguard against in-progress construction works and enable the beneficiary to draw funds on-demand, should the agreed upon works not be completed to standard. Once the works are complete and inspected, the letter of credit is released.

A surety bond is a bond from a surety provider which guarantees the assumption of responsibility for payment of security in the event of default of a Development Agreement by the developer. Surety bonds and their terms evolved over time and are now highly flexible. The City has the ability to dictate acceptable language for surety bonds. Through Report FCS21056 / LS21021, the City's template surety bond language ensures that the bonds accepted by the City function as an on-demand instrument, similar to a letter of credit. Refer to Appendix "A", Report FCS21056 / LS21021, for more information on the analysis and conclusion for accepting surety bonds as an acceptable form of security.

In response to the direction from Council, staff is presenting Report FCS21056(a) for information purposes on the uptake of surety bonds.

- As of June 30, 2023, the City of Hamilton holds a total of 22 surety bonds from four providers since accepting its first surety bond on August 17, 2021.
- The aggregate value of all surety bonds, accepted as of June 30, 2023, totals \$13,919,312 with a current value of \$11,084,000 after reduction requests have been processed. The reduction request process has been working effectively without challenges.
- Six surety bonds were accepted in 2021, 15 in 2022 and one year to date in 2023.

To date, none of the surety bonds accepted have been fully discharged, nor have any of the principals defaulted under the related Development Agreement.

For additional insight, Chart 1 shows the number of surety bonds held by the City based on the type of development agreement and Chart 2, the aggregate value (in dollars) of the total number of surety bonds held. The minimum original value of a surety bond accepted was \$15,000, the maximum was \$3,091,855.32 and the median value is \$207,000.

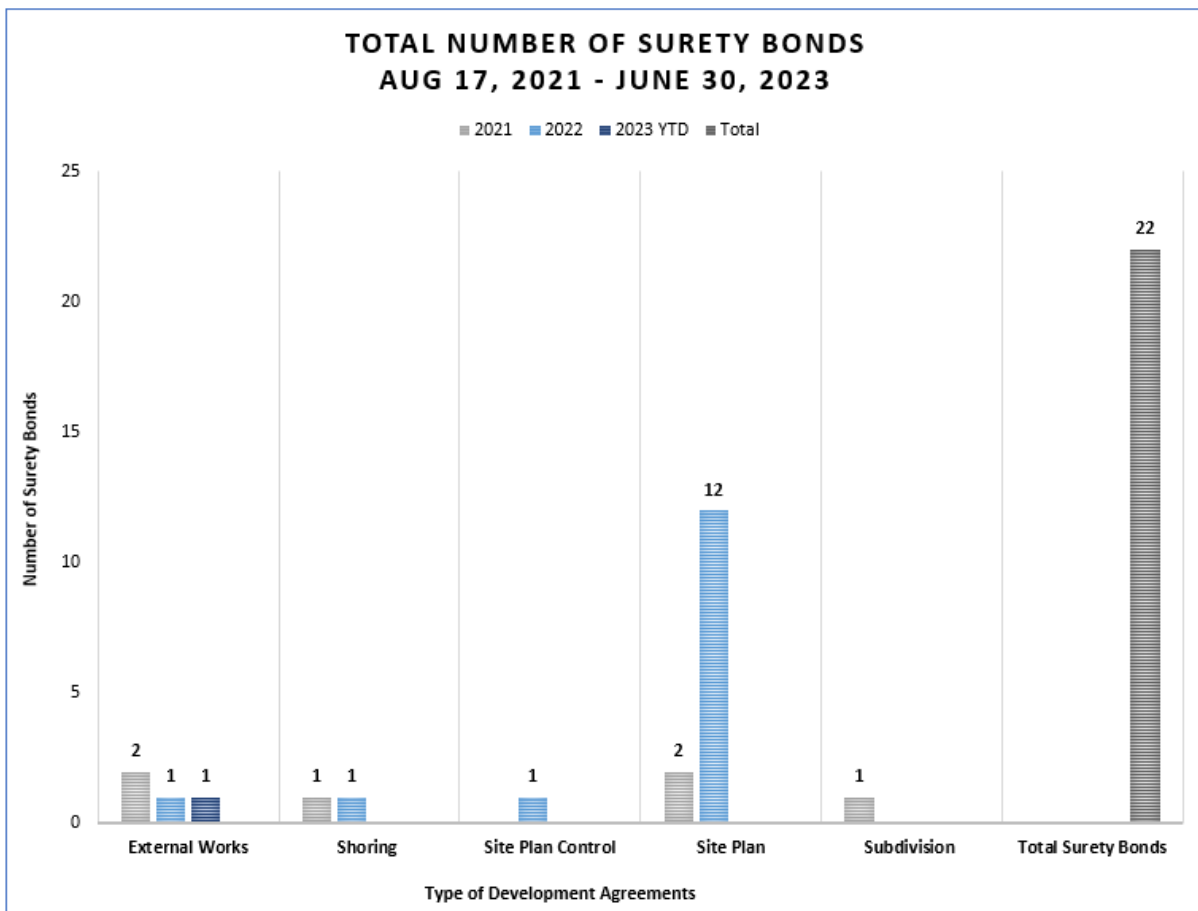
OUR Vision: To be the best place to raise a child and age successfully.

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: Development Agreement Surety Bonds (FCS21056(a)) (City Wide) -
Page 3 of 5**

Chart 1
Total Number of Surety Bonds Held by
the City from August 17, 2021 – June 30, 2023



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

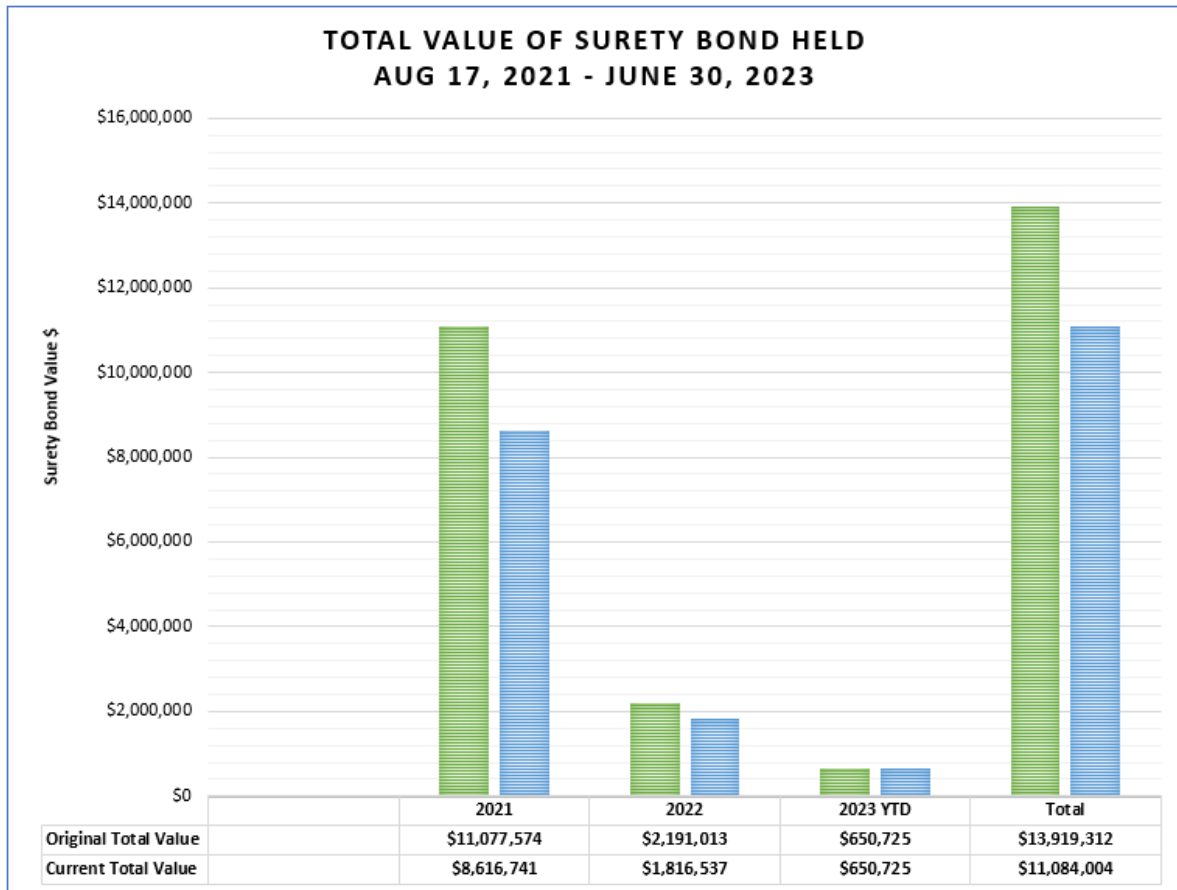
OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

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**SUBJECT: Development Agreement Surety Bonds (FCS21056(a)) (City Wide) -
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Chart 2

Total Value of Surety Bonds held by
the City from August 17, 2021 – June 30, 2023



Since the City of Hamilton started accepting surety bonds, one issue that has regularly come up is developers with existing development security in the form of letters of credit, inquiring about the possibility of switching their existing security to surety bonds. In response to these requests, staff consulted with both internal and external stakeholders to assess the feasibility and risk of allowing securities provided prior to the City adopting the Surety Bond Policy, the option to replace their letters of credit with surety bonds.

Staff engaged in conversations with RAISE Underwriting, T. John's Consulting Group, City of Pickering and City of Niagara Falls in addition to the Legal and Risk Management Services Division.

While the City of Pickering and City of Niagara Falls have permitted older securities to be replaced by surety bonds, a review with the City's legal team determined that such a practice in the City of Hamilton would require:

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**SUBJECT: Development Agreement Surety Bonds (FCS21056(a)) (City Wide) -
Page 5 of 5**

- An individual assessment of each request which would require varying action based on the specifics of the originating development agreement, which do not provide for a surety bond as an acceptable form of security.
- Amendments or rewriting of the originating development agreement to permit a surety bond as an acceptable form of security. This would require staff resources to be directed away from existing work plans in the Financial Planning, Administration and Policy and Legal and Risk Management Services, Divisions of the Corporate Services Department and staff who are processing new development applications from the Planning and Economic Development Department.
- All parties to the original agreement must continue to own the lands, are available to amend the original agreement and any affected third parties, such as mortgagees and guarantors, must be willing and available to give consent.
- Fees associated with editing registrations on title, where applicable.

Accordingly, while staff has considered the option to permit securities provided prior to the adoption of the Surety Bond Policy to be replaced with surety bonds, there would be significant constraints on staff time without a notable benefit to the City and, therefore, staff is not recommending any change to the current practice. Should Council wish to pursue this option, direction could be provided for staff to report back on the feasibility of implementing a user fee model for this service.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report FCS21056(a) – Development Agreement Surety Bonds
(FCS21056 / LS21021)

JP/LG/dt



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Planning, Administration and Policy Division
and
Legal and Risk Management Services Division

TO:	Mayor and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	June 3, 2021
SUBJECT/REPORT NO:	Development Agreement Surety Bonds (FCS21056 / LS21021) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Ailish Brooke (905) 546-2424 Ext. 2132 Lindsay Gillies (905) 546-2424 Ext. 5491 Larry Tansley (905) 546-2424 Ext. 3588
SUBMITTED BY:	Brian McMullen Director, Financial Planning, Administration and Policy Corporate Services Department
SIGNATURE:	
SUBMITTED BY:	Michael Kyne Acting City Solicitor Legal and Risk Management Services
SIGNATURE:	

RECOMMENDATIONS

- (a) That Development Agreement Surety Bond Policy FPAP-DA-001 and accompanied Development Agreement Surety Bond Language Template, substantially in the form attached as Appendix "A" to Report FCS21056 / LS21021, be adopted;
- (b) That staff be directed to update the language used in the Development Agreement templates to permit surety bonds as an acceptable form of security;

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

**SUBJECT: Development Agreement Surety Bonds (FCS21056 / LS21021)
(City Wide) – Page 2 of 9**

- (c) That staff be directed to bring forward a report to the Audit, Finance and Administration Committee which summarizes the uptake and any challenges encountered with Surety Bonds within 24 months of accepting the first Surety bond under the Development Agreement Surety Bond Policy;
- (d) That “report back to the Audit, Finance and Administration Committee on the potential for the use of surety bonds as financial security for development projects” be identified as complete and removed from the Audit, Finance and Administration Committee Outstanding Business List.

EXECUTIVE SUMMARY

The General Issues Committee, through its meeting on December 9, 2020, received as Item 8.1, a presentation and report from the Mayor’s Task Force on Economic Recovery. Several motions were put forward related to the presentation, one of which directed:

“That Finance and Legal staff be directed to report back to the Audit, Finance and Administration Committee on the potential use of surety bonds as financial security for development projects to secure municipal agreements.”

The purpose of Report FCS21056 / LS21021 is to provide the report back from that direction.

Through the Mayor’s Task Force on Economic Recovery and discussion through the City’s Development Industry Liaison Group, staff understands that the request to consider the use of surety bonds was brought forward by the development community to provide more options and flexibility to developers. Permitting the use of surety bonds would provide a method of security that would not restrict a developer’s capital the same way that a letter of credit or cash security does. In turn, this proposed tool could potentially enable developers to use their capital more efficiently than is possible with the currently accepted forms of security.

The use of surety bonds in Ontario municipalities is limited. The limited use appears to be connected to the challenges that were experienced with previous forms of performance development bonds. Previous performance development bonds required municipalities to meet a burden of proof when accessing funds. Although the frequency of drawing on development securities is low, the administrative burden and risk of not meeting the arbitrary burden of proof was too much for municipalities to tolerate and the use of performance development bonds ceased in favour of letters of credit.

The City of Hamilton currently accepts letters of credit and / or certified funds as security for development agreements.

**SUBJECT: Development Agreement Surety Bonds (FCS21056 / LS21021)
(City Wide) – Page 3 of 9**

A surety bond is a bond from a surety provider which guarantees the assumption of responsibility for payment of security in the event of default of a Development Agreement by the developer. Surety bonds and their terms have evolved over time and are now highly flexible. The City has the ability to dictate acceptable language for surety bonds. Therefore, the comments and comparisons of surety bonds and letters of credit in Report FCS21056 / LS21021 are based on the proposed surety bond language in Appendix "A" to Report FCS21056 / LS21021 which is supported by the City Solicitor. The language in Appendix "A" to Report FCS21056 / LS21021, specifically section 3, ensures that surety bonds function on-demand and for all intents and purposes, function like a letter of credit despite being procured and structured in a different manner.

Staff has outlined the benefits of surety bonds for both the City and the development community in Figure 1 and Appendix "B" to Report FCS21056 / LS21021. A comparison of surety bonds and letters of credits has been provided in Figure 3 of Report FCS21056 / LS21021.

Staff is recommending that Council approve the use of surety bonds as an acceptable form of security for development agreements.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: There are no additional costs that the City will incur related to accepting surety bonds.

Staffing: The administrative process for surety bonds will mirror what is currently used for letters of credit and, therefore, no additional staffing is required.

Legal: Demand worded bonds are an insurance instrument and, therefore, are significantly different than letters of credit. Insurers, for instance, have traditionally availed themselves of the right to defend claims and to refuse to pay in circumstances where a dispute might exist, opposing claims in court, if necessary. Banks, on the other hand, traditionally pay claims in relation to letters of credit without any inquiry into the underlying merits between the parties and this reflects the fact that the letters of credit originated as a payment arrangement where absolute certainty of payment was a commercial necessity.

**SUBJECT: Development Agreement Surety Bonds (FCS21056 / LS21021)
(City Wide) – Page 4 of 9**

While these traditional differences between banks and insurers persist, staff has prepared a standard form of demand worded bond which includes words that eliminate the ability of the bond issuer to oppose payment where a claim has been filed by the City. If this standard form bond is the form issued by the bond issuer, the risk of refusal by the bond issuer will be minimized and possibly eliminated entirely so that the two varieties of instrument will be as close to one another as possible. In our case, this has been done by creating a document that provides a general rule that a claim for payment will not be resisted, followed by examples of that general principle in operation.

HISTORICAL BACKGROUND

Previous performance development bonds required municipalities to meet a burden of proof when accessing funds. Although the frequency of drawing on development securities is low, the administrative burden and risk of not meeting the arbitrary burden of proof was too much for municipalities to tolerate and the use of performance development bonds ceased in favour of letters of credit. The new iteration of bonds being proposed are substantially different from the previous performance development bonds and a new analysis is warranted.

The General Issues Committee, through its meeting on December 9, 2020, received as Item 8.1, a presentation and report from the Mayor's Task Force on Economic Recovery. Several motions were put forward related to the presentation, one of which directed:

“That Finance and Legal staff be directed to report back to the Audit, Finance and Administration Committee on the potential use of surety bonds as financial security for development projects to secure municipal agreements.”

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The City will need to adopt a Policy which establishes minimum requirements related to accepting Surety bonds. The recommended Policy is attached as Appendix “A” to Report FCS21056 / LS21021.

The City of Hamilton's Letter of Credit policy (FCS02016) outlines the requirements for letters of credit and was used in the creation of the proposed Policy.

**SUBJECT: Development Agreement Surety Bonds (FCS21056 / LS21021)
(City Wide) – Page 5 of 9**

RELEVANT CONSULTATION

Staff has consulted internally with divisional staff representatives from the Planning and Economic Development Department and externally with other municipalities and surety providers as outlined below.

Surety Providers

- Cowan Insurance Group
- Marsh
- Masters Insurance

Development Community

- Development Industry Liaison Group
- T Johns Consulting
- Urban Solutions
- Branthaven Development

Municipalities

- Association of Municipalities of Ontario (AMO)
- City of Calgary
- City of Guelph
- Town of Innisfil
- Municipality of Leamington
- City of London
- Township of Norwich
- City of Pickering
- Corporation of the City of Sault Ste. Marie
- City of St. Thomas
- City of Woodstock

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

Staff's recommendation to accept surety bonds as an acceptable form of security for development agreements was formed after:

- Identification of request
- Clarification of needs through one-on-one discussions with the developers advocating for these bonds
- Participation in learning opportunities, such as webinars
- Identification of concerns from staff and other municipalities
- Research into if / how each concern has been or can be addressed

**SUBJECT: Development Agreement Surety Bonds (FCS21056 / LS21021)
 (City Wide) – Page 6 of 9**

- One-on-one discussions with members of the surety bond industry
- Leveraging lessons learned from other municipalities that have approved the use of surety bonds
- Confirming with the developers advocating for the bonds to confirm what is being recommended through Report FCS21056 / LS21021 meets the needs of the developers while protecting the City

Appendix “A” to Report FCS21056 / LS21021 is the recommended Development Agreement Surety Bond Policy. The Policy outlines the terms and language that staff recommends for surety bonds. A surety bond is a bond from a surety provider which guarantees the assumption of responsibility for payment of security in the event of default of a Development Agreement by the developer. Any developer who would like to post a bond with the City would need to be able to provide the bond within the scope of this Policy.

Staff has prepared Figure 1 to highlight some key benefits of surety bonds to both the City and the development community. Each of the benefits is further explored in Appendix “B” to Report FCS21056 / LS21021.

**Figure 1
 Benefits of Surety Bonds as Security**

City of Hamilton	Development Community
<ul style="list-style-type: none"> • Liquid • Responsive • Customized • Prequalification requirement • Improves performance • Promotes growth 	<ul style="list-style-type: none"> • Off-balance sheet security • Access to unproductive cash • Greater credit availability

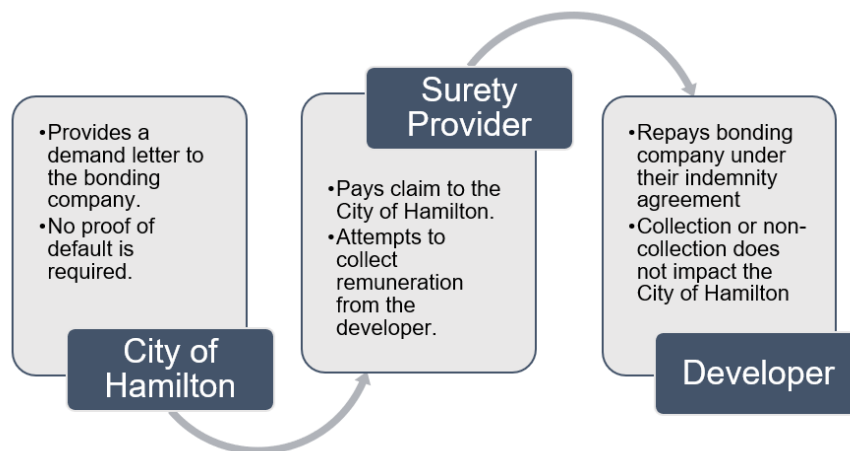
The most common concern that staff heard throughout researching surety bonds was a concern that payment would not be disbursed or that the municipality would need to spend extended amounts of time proving default prior to accessing funds through a surety bond. The surety industry has also heard those concerns and have adapted bonds accordingly. The bond language presented in Appendix “A” to Report FCS21056 / LS21021 ensures that the City, in its absolute and sole discretion, can determine that the developer is in default and the payment will be made within 10 business days.

**SUBJECT: Development Agreement Surety Bonds (FCS21056 / LS21021)
 (City Wide) – Page 7 of 9**

Municipalities, such as The City of Calgary, who were early adopters of surety bonds, have worked with the surety providers to develop language that is truly on-demand and does not leave room for negotiation of payment. If a demand is made for payment, the surety provider is obligated to make the payment without question. Figure 2 provides a brief illustration of this process.

Appendix “C” to Report FCS21056 / LS21021 lists some of the concerns that were raised through the research and consultation process, as well as, responses to those concerns.

**Figure 2
 Process to access funds from a Surety Bond**



Surety providers are subject to oversight by the Office of Superintendent Financial Institutions (OSFI) and staff recommends, through the Surety Bond Policy attached as Appendix “A” to Report FCS21056 / LS21021, that in order for the City to accept a bond, the company must have a minimum credit rating of “A-“ or higher as assessed by S&P or an equivalent rating from Dominion Bond Rating Service Limited (“A”), Fitch Ratings (“A-“) or Moody’s Investors Services Inc.(A3).

Risk mitigation was at the forefront of staff’s mind throughout the review, consultation and policy development process. The terms recommended through Appendix “A” of Report FCS21056 / LS21021 for Development Agreement Surety Bonds reflect those found in the City’s Letter of Credit Policy. The language in the bond template utilizes on-demand language from Form 5 of the *Construction Act*.

Figure 3 provides a comparison of letters of credit with the type of surety bond recommended by staff in Report FCS21056 / LS21021.

**SUBJECT: Development Agreement Surety Bonds (FCS21056 / LS21021)
 (City Wide) – Page 8 of 9**

**Figure 3
 Surety Bond vs Letter of Credit**

Features	Surety Bond	Letter of Credit
Issued by	Licensed insurance company	Banking institution
Collateral	Unsecured	Secured
Provider has assessed ability of developer to complete the development project	Yes	No
Provider has an interest in having the security released (project completed)	Yes	No
Borrowing ability of developer	Unchanged	Decreased
Restriction of capital	Non-restrictive	Restrictive
Payable “on-demand”	Yes	Yes
Administrative burden	Same	Same
Length of time to access funds	10 business days (can be set by municipality)	Upon written demand
Automatic renewal provisions	Yes	Yes
Ability to make multiple demands	Yes	Yes
Notice required to cancel instrument	90 days	1 month

Staff is recommending the full implementation of the Development Agreement Surety Bond Policy FPAP-DA-001, attached as Appendix “A” to Report FCS21056 / LS21021 with a report due back within 24 months, rather than a pilot. In order to obtain a Development Agreement surety bond, a developer must be vetted by the surety provider which includes a review of pro-forma financials and past successes / failures. This means that not all developers will be able to acquire surety bonds and those that can will have been heavily scrutinized from a risk perspective. The volume of surety bonds is expected to be low due to the involved and lengthy process required to obtain a surety bond.

**SUBJECT: Development Agreement Surety Bonds (FCS21056 / LS21021)
(City Wide) – Page 9 of 9**

Should Recommendation (a) be accepted, the City's Development Agreement templates will need to be updated to include language permitting the use of surety bonds pursuant to Recommendation (c). In order for a bond to be accepted, the related Development Agreement will need to authorize use of a surety bond as security. Existing Development Agreements will not be permitted to substitute a surety bond for an existing security without amendment of the original agreement.

ALTERNATIVES FOR CONSIDERATION

None

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.

Built Environment and Infrastructure

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

Our People and Performance

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

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to FCS21056 / LS21021 – Development Agreement Surety Bond Policy and Development Agreement Surety Bond Template

Appendix "B" to Report FCS21056 / LS21021 – Benefits of Surety Bonds as Security

Appendix "C" to Report FCS21056 / LS21021 – Concerns Related to Surety Bonds

AB/LG/LT/dt



INFORMATION REPORT

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	August 17, 2023
SUBJECT/REPORT NO:	2023 First Quarter Emergency and Non-competitive Procurements Report (FCS23019) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Sherri Ward (905) 546-2424 Ext. 3988
SUBMITTED BY:	Shelley Hesmer Acting Director, Financial Services and Taxation & Corporate Controller Corporate Services Department
SIGNATURE:	

COUNCIL DIRECTION

Council has directed Procurement to report on the use of Sections 4.10 and 4.11 of the Procurement Policy on a quarterly basis.

INFORMATION

This Report is issued quarterly in accordance with the Procurement Policy. The report details the procurement of goods and/or services during emergency situations and those detailed in Section 4.11 – Non-competitive Procurements for the first quarter of 2023.

The Policy for Non-competitive Procurements is used in defined circumstances where it is justified that the policies for the general acquisition process could not be followed. The “Emergency Procurement/Non-competitive Procurement Form” is completed by the Client Department and approved by the General Manager.

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SUBJECT: 2023 First Quarter Emergency and Non-competitive Procurements Report (FCS23019) (City Wide) - Page 2 of 4

During the first quarter of 2023, there were 92 purchases totalling \$6,398,228.40 (Canadian dollars) and \$27,685.00 (US dollars), which were processed using an approved Policy 10 or 11. These are summarized in Appendix "A" to Report FCS23019.

The breakdown are as follows:

- 14 purchases totalling \$1,383,220.36 (Canadian dollars) were issued under Policy 10, as "Emergency" purchases, whereby goods and services were acquired by the most expedient and economical means. The following purchase represents the largest dollar amount in this category:
 - Purchase Order 101647 for \$412,907.50 was issued to Torglaze Building Restoration Ltd. for emergency structural concrete repair work at City Hall Wishbone on the south side of the facility. As a result of a structural condition assessment completed by JP Samuel & Associates Inc., it was determined that access to the entrance structure be restricted and repair to structural elements and areas identified be completed immediately to avoid catastrophic structural damage and safety hazards. This was communicated to Council in a Communication Update (EFFM22-02), dated December 6, 2022.
- 8 purchases totalling \$734,184.42 (Canadian dollars) represent short-term "Extensions" of current contracts which have expired, and unforeseeable circumstances have caused a delay in awarding a new contract. The following purchases represent the largest dollar amounts in this category:
 - Purchase Order 99011 for \$249,999.00 was issued to PVS Contractors Inc. to extend contract number C11-30-18 for the supply of utility locating services for buried water and sewer underground infrastructure. Legislative changes on April 1, 2023 to the Ontario Underground Infrastructure Notification Systems Act required C11-30-18 to end in advance of the original contract expiry date and a Request for Tenders be issued to include the new legislation. However, unforeseen staff vacancies delayed the new Request for Tenders. This extension was required to continue the required services under the contract and provide enough time to complete the procurement process and award a new contract.
 - Purchase Order 101266 for \$175,000.00 was issued to 1419718 Ontario Incorporated o/a Marble Renewal Niagara to extend contract C11-70-17 for the supply of marble, terrazzo and polished concrete floor cleaning, maintenance, and restoration services. This extension was required to continue the required services under the contract and provide enough time to complete the procurement process and award a new contract.

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SUBJECT: 2023 First Quarter Emergency and Non-competitive Procurements Report (FCS23019) (City Wide) - Page 3 of 4

- 2 purchases totalling \$165,816.00 (Canadian dollars) were identified as “Short Supply” purchases whereby a vendor was recommended because it was more cost effective or beneficial to the City. The following purchase represents the largest dollar amount in this category:
 - Purchase Order 101567 for \$146,376.00 was issued to Olin Canada ULC for the supply and delivery of ammunition for Hamilton Police Services (HPS). HPS attempted to secure bidders through a competitive Request for Tenders process, however, were unsuccessful in securing bids due to the war in Ukraine causing ammunition production to be diverted to overseas. Ammunition vendors had less allocation to supply and were not bidding as a result.
- 68 purchases totalling \$4,115,007.62 (Canadian dollars) and \$27,685.00 (US dollars) were identified as “Single Source” purchases whereby a vendor was recommended because it was more cost-effective or beneficial to the City. The following purchases represent the largest dollar amounts in this category:
 - Purchase Order 101724 for \$225,000.00 was issued to Teknion Ltd. to extend the City’s contract for the supply and delivery of case goods and systems furniture. This extension was required to continue the required services under the contract and provide enough time to complete the procurement process and award a new contract.
 - Purchase Order 99589 for \$220,000.00 was issued to Niwasa Kendaaswin Teg to undertake the leadership role overseeing farm operations for the McQuesten Urban Farm. Funding for this purchase was approved by Council on March 30, 2022 (22-007) per report CES17011(c) McQuesten Urban Farm - Transfer of Leadership.
 - Purchase Order 101562 for \$219,555.00 was issued to Streetlight Data Inc. for the provision of a transportation data analytics tool to support transportation studies for road safety, operational analysis, development reviews and long-range planning studies where data will be shared across multiple City of Hamilton divisions.
 - Purchase Order 101241 for \$200,000.00 was issued to Pacific Safety Products Inc. for the supply and delivery of body armour panels and carriers for Hamilton Police Services (HPS). The single source was required to allow for enough time for HPS to complete the procurement process and award a new contract.
 - Purchase Order 101949 for \$199,500.00 was issued to Future Health Services Inc. for remote patient monitoring hardware and software services. These hardware and software subscription services allowed patients to monitor their

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SUBJECT: 2023 First Quarter Emergency and Non-competitive Procurements Report (FCS23019) (City Wide) - Page 4 of 4

medical conditions from the comfort of their own home. Previously, remote patient monitoring research was funded by a grant from Canada Health Infoway in 2014 whereby Future Health Services provided the hardware and software at no cost. This funding concluded in 2019. At the onset of the pandemic Hamilton Paramedic Services (HPS) continued the use of remote patient monitoring to reduce impacts on the healthcare system. The platform is now an established system whereby both HPS employees and the patients are familiar with the use of the hardware and software. To transition to a new vendor or system at this time would involve a steep learning curve for both HPS and patients. In addition, transfer of patient data to a new system would be time consuming. HPS will seek Council approval to continue to engage the vendor for these services into the future.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report FCS23019 – 2023 First Quarter Emergency and Non-Competitive Procurements Report.

SW/dw

2023 First Quarter Emergency and Non-competitive Procurement Report

PO No.	Type	Amount	Supplier	Division	Ward No.
City Manager's Office					
91690	EXTN	\$3,125.00	Whistleblower Security Inc.	Office of Auditor General	All Wards
101802	SGLE	\$18,800.00	Kristine Fletcher	Office of Auditor General	All Wards
100454	SGLE	\$22,000.00	Optimus SBR Inc.	Human Resources	All Wards
86461	SGLE	\$23,500.00	10134864 Canada Corp o/a Mobistream/Mobistream Solutions	Human Resources	All Wards
101873	SGLE	\$28,820.00	Metroline Research Group Inc.	Office of Auditor General	All Wards
101174	SGLE	\$79,169.00	Docusign, Inc.	Digital, Innovation & Strategic Partnerships	All Wards
City Wide					
NO PO	EXTN	\$11,000.00	Canadian Linen and Uniform Service Co.	City Wide Corporate Contract	All Wards
89975	EXTN	\$43,560.42	Barton Automotive Parts Company Inc.	City Wide Corporate Contract	All Wards
Corporate Services					
101414	SGLE	\$12,000.00	KPMG LLP	Financial Planning, Administration & Policy	Ward 2
101408	SGLE	\$15,000.00	Accessibil-It Inc.	Financial Planning, Administration & Policy	All Wards
101369	SGLE	\$30,000.00	Consortech Solutions Inc.	Information Technology	All Wards
101521	SGLE	\$144,000.00	Stewart Solutions Inc.	Customer Service & POA	All Wards
Healthy and Safe Communities					
101706	SGLE	\$6,000.00	Red Hill Toyota	Hamilton Fire Department	All Wards
101497	SGLE	\$18,500.00	435898 Ontario Ltd. o/a A & A Exhaust Systems	Hamilton Fire Department	All Wards
101790	SGLE	\$25,000.00	Ontario Coalition for Better Child Care - Child Care Education Ontario Inc.	Children's & Community Services	All Wards
101833	SGLE	\$25,000.00	Northern Channels Corp.	Lodges	Ward 7 & 13
101862	SGLE	\$26,500.00	Lancaster Medical Group Corp.	Recreation	All Wards
101675	SGLE	\$31,900.00	Centre for Addiction & Mental Health	Medical Officer of Health	All Wards
101730	SGLE	\$35,000.00	Colcamex Resources Inc.	Medical Officer of Health	All Wards
101958	SGLE	\$37,350.75	Firetech Manufacturing Ltd.	Hamilton Paramedic Services	All Wards
101920	SGLE	\$40,000.00	Hamilton Health Sciences Corp.	Hamilton Paramedic Services	All Wards
101278	SGLE	\$67,000.00	Qurtoba Trading Corp. o/a Rosa Auto Sales	Hamilton Paramedic Services	All Wards
101795	EMER	\$71,710.26	Priestly Demolition Inc.	Hamilton Fire Department	All Wards
101837	SGLE	\$84,000.00	Red Hill Toyota	Hamilton Fire Department	All Wards
98928	SGLE	\$90,000.00	Global Spectrum Facility Management	Medical Officer of Health	Ward 7
101538	SGLE	\$96,384.00	The Aids Network	Medical Officer of Health	All Wards
101785	SGLE	\$102,600.00	Hedgerow Software Ltd.	Medical Officer of Health	All Wards
101229	EMER	\$137,000.00	Dependable Emergency Vehicles div. of Dependable Truck & Tank Ltd.	Hamilton Fire Department	All Wards
101846	SGLE	\$145,000.00	Empower Strategy Group	Children's & Community Services	All Wards
101899	EXTN	\$175,000.00	Henry Schein Canada Inc.	Medical Officer of Health	All Wards
101949	SGLE	\$199,500.00	Future Health Services Inc.	Hamilton Paramedic Services	All Wards
99589	SGLE	\$220,000.00	Niwasa Kendaaswin Teg	Housing Services	Ward 4
Library					

2023 First Quarter Emergency and Non-competitive Procurement Report


PO No.	Type	Amount	Supplier	Division	Ward No.
99978	SGLE	\$2.50	Mccallum Sather Architects Inc.	Hamilton Public Library Board	Ward 9
Planning and Economic Development					
100824	SGLE	\$1,650.57	Servicemaster Contract Services dba Dougord Ltd.	Transportation Planning & Parking	Ward 2
101575	SGLE	\$3,685.00 (USD)	Axis Office Furniture	Tourism & Culture	Ward 2
100094	SGLE	\$10,000.00 (USD)	Project For Public Spaces Inc.	Economic Development	Ward 2
101849	SGLE	\$10,000.00	Deloitte LLP	Economic Development	All Wards
101742	SGLE	\$11,500.00	Mohawk College Enterprise	Economic Development	All Wards
101395	SGLE	\$22,000.00	Two Row Architect	Economic Development	Ward 3
101409	SGLE	\$30,550.00	Concept Fiatlux Inc.	Tourism & Culture	Ward 2
96374	SGLE	\$34,787.89	Architecture Evoq Inc.	Tourism & Culture	Ward 12
101490	EMER	\$39,813.75	918877 Ontario Inc. o/a Servicemaster Restore of Hamilton	Building Division	Ward 3
101594	SGLE	\$46,979.84	Hunter Exposition	Tourism & Culture	Ward 2
101574	SGLE	\$47,000.00	East Mountain Animal Hospital	Licensing & By-Law Services	All Wards
101576	EMER	\$56,005.00	Dynamic Energy Services Inc.	Transportation Planning & Parking	Ward 2
101475	SGLE	\$160,000.00	GH3 Inc.	Economic Development	Ward 2
101562	SGLE	\$219,555.00	Streetlight Data Inc.	Transportation Planning & Parking	All Wards
Police					
97674	EXTN	\$1,500.00	Canadian Linen and Uniform Service Corp.	Police Services Board	All Wards
101339	SGLE	\$10,000.00	Panasonic Canada Inc.	Police Services Board	All Wards
101914	SGLE	\$14,000.00 (USD)	Skopenow Inc.	Police Services Board	All Wards
101568	SHRT	\$19,440.00	Lloyd Libke Law Enforcement Sales Inc.	Police Services Board	All Wards
101344	SGLE	\$20,000.00	Intergraph Canada ULC. dba Hexagon PPM	Police Services Board	All Wards
101600	SGLE	\$20,000.00	2112247 Ontario Ltd. o/a Canadian Ammunition Disposal Service	Police Services Board	All Wards
96659	EXTN	\$75,000.00	Hamilton Cleaners	Police Services Board	All Wards
101567	SHRT	\$146,376.00	Olin Canada ULC	Police Services Board	All Wards
101241	SGLE	\$200,000.00	Pacific Safety Products Inc.	Police Services Board	All Wards
Public Works					
101252	SGLE	\$6,500.00	Municipal Media Inc.	Waste Management	All Wards
99501	SGLE	\$8,575.68	Metro Freightliner Hamilton Inc.	Transportation	All Wards
101303	EMER	\$13,494.36	GIP Paving Inc.	Transportation	Ward 2
101296	SGLE	\$13,899.00	Noratek Solutions Inc.	Environmental Services	All Wards
101591	SGLE	\$19,065.00	Transcat Canada Inc.	Hamilton Water	Ward 4
101797	SGLE	\$20,000.00	City View Bus Sales & Service Ltd.	Transportation	All Wards
101720	EMER	\$21,368.14	Binbrook Plumbing & Heating (1997) Ltd.	Corporate Facilities & Energy Management	Ward 5
101602	SGLE	\$25,000.00	Amaco Equipment Inc. div. of Amaco Construction Equipment Inc.	Transportation	All Wards
101945	SGLE	\$29,505.00	True North Safety Group Inc.	Transportation	All Wards
101603	SGLE	\$29,725.00	Joe Johnson Equipment Inc.	Waste Management	Ward 2

2023 First Quarter Emergency and Non-competitive Procurement Report

PO No.	Type	Amount	Supplier	Division	Ward No.
101739	SGLE	\$30,000.00	Toromont Industries Ltd. cob Cimco Refrigeration	Transportation	All Wards
101340	SGLE	\$30,833.20	The Look Company	Corporate Facilities & Energy Management	Ward 3
101228	EMER	\$40,865.00	ACG-Envirocan Inc.	Hamilton Water	Ward 1
94715	SGLE	\$43,955.35	Dillon Consulting Ltd.	Environmental Services	Ward 8
101800	SGLE	\$45,000.00	Jupiter Energy Advisors Inc.	Corporate Facilities & Energy Management	All Wards
94582	SGLE	\$47,222.00	WSP E&I Canada Ltd.	Hamilton Water	Ward 6
101831	SGLE	\$49,665.00	Avensys Solutions Inc.	Hamilton Water	All Wards
101380	SGLE	\$60,000.00	Halton Region Conservation Authority	Hamilton Water	All Wards
101627	SGLE	\$65,655.00	Exp Services Inc.	Engineering Services	Ward 11
101331	EMER	\$70,892.38	Torbear Contracting Inc.	Hamilton Water	Ward 15
101705	EMER	\$89,575.25	Compass Mechanical Group Ltd.	Corporate Facilities & Energy Management	Ward 5
101508	EMER	\$90,000.00	Lowell Security Inc. o/a Sword Security	Corporate Facilities & Energy Management	Ward 3
101522	EMER	\$98,980.00	Belko Contracting (Brantford) Inc.	Waste Management	Ward 5
101649	SGLE	\$100,000.00	ATS Traffic Ltd.	Transportation	All Wards
101584	EMER	\$114,935.00	R V Anderson Associates Ltd.	Hamilton Water	Ward 15
101510	SGLE	\$115,421.00	Stantec Consulting Ltd.	Engineering Services	Ward 2
101852	SGLE	\$120,000.00	CSI Leasing Canada Ltd.	Corporate Facilities & Energy Management	Ward 3
101407	EMER	\$125,673.72	Sutherland-Schultz Ltd.	Hamilton Water	Ward 1
101214	SGLE	\$129,117.84	Nexgen Municipal Inc.	Corporate Asset Management	All Wards
101509	SGLE	\$134,578.00	Stantec Consulting Ltd.	Engineering Services	Ward 2
101872	SGLE	\$150,000.00	Universal Cleaners	Corporate Facilities & Energy Management	Ward 3
101956	SGLE	\$159,241.00	Watech Services Inc.	Hamilton Water	Ward 4
101266	EXTN	\$175,000.00	1419718 Ontario Incorporated o/a Marble Renewal Niagara	Corporate Facilities & Energy Management	All Wards
101724	SGLE	\$225,000.00	Teknion Ltd.	Corporate Facilities & Energy Management	All Wards
99011	EXTN	\$249,999.00	PVS Contractors Inc.	Hamilton Water	All Wards
101647	EMER	\$412,907.50	Torglaze Building Restoration Ltd.	Corporate Facilities & Energy Management	Ward 2



INFORMATION REPORT

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	August 17, 2023
SUBJECT/REPORT NO:	2023 First Quarter Non-compliance with the Procurement Policy Report (FCS23020) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Sherri Ward (905) 546-2424 Ext. 3988
SUBMITTED BY:	Shelley Hesmer Acting Director, Financial Services and Taxation & Corporate Controller Corporate Services Department
SIGNATURE:	

COUNCIL DIRECTION

Procurement Policy, Section 4.19, Item (3) requires a quarterly report be prepared and presented to Council to report the use of all Procurement Policy Non-Compliance Forms.

INFORMATION

This Report is issued quarterly in accordance with the Procurement Policy. This report details the use of all Procurement Policy Non-Compliance Forms for the first quarter of 2023.

Procurements that are non-compliant with the Procurement Policy can be identified at any time during the procurement process. Procurements are deemed to be non-compliant with the Procurement Policy when the applicable Policy (Policies) and published procedure(s) are not followed. Under Policy 19, the General Manager is responsible for reviewing each incident and determines the appropriate level of disciplinary action to be taken.

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SUBJECT: 2023 First Quarter Non-compliance with the Procurement Policy Report (FCS23020) (City Wide) - Page 2 of 2

During the first quarter of 2023, there were six (6) instances relating to the use of Policy 19, totalling \$307,078.33. The instances are summarized in Appendix "A" to Report FCS23020.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report FCS23020 – 2023 First Quarter Non-compliance with the Procurement Policy Report

SW/dw

2023 First Quarter Non-compliance with the Procurement Policy Report

PO No.	Amount	Name	Division	Ward	Comments
Corporate Services					
NO PO	\$300.34	The Source	City Council Office	Ward 5	<u>Description of Goods/Services:</u> Airpods Pro 2 (wireless earphones) <u>Rational for non-compliance:</u> Employees are required to process requests for IT related equipment through IT for review and approval. This purchase was not submitted to IT for review/approval.
NO PO	\$277.99	Costco Wholesale	City Council Office	Ward 5	<u>Description of Goods/Services:</u> Apple Airpods (wireless earphones) <u>Rational for non-compliance:</u> Employees are required to process requests for IT related equipment through IT for review and approval. This purchase was not submitted to IT for review/approval.
Healthy & Safe Communities					
101949	\$168,000.00	Future Health Services Inc.	Hamilton Paramedic Services	All Wards	<u>Description of Goods/Services:</u> Remote patient monitoring hardware and software utilized as part of the Hamilton Paramedic Service Mobile Integrated Health team to empower patients with chronic and complex medical conditions to monitor their conditions from the comfort of their home. <u>Rational for non-compliance:</u> The purchase of the remote patient monitoring hardware and software required GM approval to proceed with a Policy 11 - Non-competitive procurement which was not obtained.
Planning & Economic Development					
101532	\$50,000.00	Rethink Streets Inc.	Transportation Planning & Parking	Ward 2	<u>Description of Goods/Services:</u> Development of street designs for selected streets in downtown Hamilton to provide guidance to developers in areas under current and future redevelopment. <u>Rational for non-compliance:</u> These services required approval of a Policy 11 - Non-competitive procurement which was not obtained.
Public Works					

PO No.	Amount	Name	Division	Ward	Comments
101479	\$60,000.00	Alternate Solutions Inc.	Corporate Asset Management	All Wards	<p><u>Description of Goods/Services:</u> Purchase of fuel station software and hardware maintenance to replace old and obsolete equipment.</p> <p><u>Rational for non-compliance:</u> Upgrades of computer hardware and software do not fall under Schedule B - Exemptions of the Procurement By-law.</p> <p>GM approval to proceed with a Policy 11 - Non-competitive procurement was not obtained prior to completing the work. Per the Procurement Policy, the client department shall obtain the approval of their GM for non-competitive procurements prior to City staff entering into any discussions with any vendor regarding the purchase of the good/service.</p>
101782	\$28,500.00	Abilitech Solutions Inc.	Transit	All Wards	<p><u>Description of Goods/Services:</u> Vibration study of HSR buses.</p> <p><u>Rational for non-compliance:</u> The services procured under low dollar exceeded the dollar threshold of \$9,999.99 allowed under Policy #5.1 - Low Dollar Value Procurements. Approval of a Policy 11 - Non-competitive procurement was required for these services which was not obtained.</p>



INFORMATION REPORT

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	August 17, 2023
SUBJECT/REPORT NO:	2023 First Quarter Request for Tenders and Proposals Report (FCS23021) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Sherri Ward (905) 546-2424 Ext. 3988
SUBMITTED BY:	Shelley Hesmer Acting Director, Financial Services and Taxation & Corporate Controller Corporate Services Department
SIGNATURE:	

COUNCIL DIRECTION

Procurement Policy, Section 4.2 – Approval Authority, Item (6) requires a quarterly status report for Request for Tenders and Request for Proposals be prepared and presented to Council.

INFORMATION

This Report provides an update on the status of active Request for Tenders and Request for Proposals and Cooperative Procurements for the first quarter of 2023.

Request for Tenders and Request for Proposals have been issued and awarded in accordance with the City of Hamilton Procurement Policy. Those items with a status of “Under Review” will remain on the Report until such time an award is made. Request for Tenders and Request for Proposals listed under the “Cooperative Procurements” section were entered into by the City of Hamilton (City) via a cooperative procurement in accordance with the City’s Procurement Policy, Section 4.12 – Cooperative Procurements.

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**SUBJECT: 2023 First Quarter Request for Tenders and Proposals Report
(FCS23021) (City Wide) - Page 2 of 2**

Appendix "A" to Report FCS23021 details all Request for Tenders and Request for Proposals documents issued by the City or entered by the City through a cooperative procurement. Award information is current as of March 31, 2023.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report FCS23021 – 2023 First Quarter Request for Tenders and Proposals Report

SW/dw

CITY OF HAMILTON
 Summary of Tenders and Proposals Issued January 1, 2023 – March 31, 2023

Contracts Awarded

Contract Reference	Contract Title	Closing Date (mm/dd/yyyy)	Vendor	Term	Award Amount	Ward
C3-03-22	Proposal for Supply & Installation of a Parking Access & Revenue Control System (PARCS)	05/04/2022	Precise ParkLink Inc.	5 year term & 2 – 1 year renewal terms	\$ 455,896.00	Ward 2
C11-47-22	Proposal for Prime Consultant Services for the Low Voltage Electrical Upgrades at the Woodward Avenue Water Treatment Plant	07/20/2022	R.V. Anderson Associates Ltd.	Project Specific	\$ 784,890.00	Ward 4
C3-08-22	Proposal for Visioning & Designing New Interpretive Visitor Experiences for the Hamilton Children's Museum	09/16/2022	2113801 Ontario Inc. o/a HofK	Project Specific	\$ 250,000.00	Ward 3
C11-61-22	Proposal for Audio Visual Specialist for Livestreaming of Council & Sub-Committee Meetings & Equipment Support at Hamilton City Hall	09/16/2022	MacLean Media Systems Inc.	1 year term & 4 – 1 year renewal terms	\$ 894,521.00	Ward 2

Contracts Awarded

Contract Reference	Contract Title	Closing Date (mm/dd/yyyy)	Vendor	Term	Award Amount	Ward
C11-72-22	Proposal for Prime Consultant Services Required for the Pre-Treatment Isolation Valves & Raw Water Control Valve Flowmeter at the Woodward Avenue Water Treatment Plant	10/13/2022	AECOM Canada Ltd.	Project Specific	\$ 560,186.00	Ward 4
C11-79-22	Tender for Triaxle Hauling for Snow Removal	10/14/2022	6204881 Canada Inc. o/a AM Haulage 775686 Ontario Inc. Stonecast Contracting Ltd. Cardi Construction Ltd. Gord Cooper Trucking Inc.	2 year term	Unit Price	All Wards
C13-10-22	Proposal for Contractor Required for the Rehabilitation of the Kenilworth Trunk Watermain <i>This award was approved by Council on February 22, 2023 PW Committee Report 23-002 (Report No. PW23010)</i>	10/19/2022	Clearway Construction Inc.	Project Specific	\$ 5,090,699.89	Ward 4

Contracts Awarded

Contract Reference	Contract Title	Closing Date (mm/dd/yyyy)	Vendor	Term	Award Amount	Ward
C13-40-22	Proposal for Supply & Installation of Commercial In Duct Air Treatment Systems in Various City of Hamilton Buildings	10/20/2022	Nerva Energy Group Inc.	Project Specific	\$ 142,978.00	Ward 4, 7, 9, 10, 12, 13
*C12-09-22	Revenue Generating Tender for the Removal of Scrap Metals at Various City Owned Locations	10/21/2023	Vic's Group Inc.	1 year term & 4 – 1 year renewal terms	\$ 99,578.00 (revenue)	All Wards
C1-03-22	Proposal for Equity, Diversity & Inclusion e-Learning & Experiential Training Series for City Staff	11/02/2022	Ernst & Young LLP	Project Specific	\$ 260,000.00	All Wards
C11-74-22	Tender for Supply & Delivery of One (1) Single Axle Dump Truck & One (1) Tandem Axle Dump Truck	11/09/2022	Metro Freightliner Hamilton Inc.	Project Specific	\$ 408,263.00	All Wards
C11-68-22	Proposal for Glass, Mirror & Window Repair Services for City of Hamilton & CityHousing Hamilton	11/15/2022	A City Window Repair Co. Ltd.	1 year term & 4 – 1 year renewal terms	\$ 684,375.00	All Wards

Contracts Awarded

Contract Reference	Contract Title	Closing Date (mm/dd/yyyy)	Vendor	Term	Award Amount	Ward
C15-01-22 P	Tender for Mountain Brow Trail Initiative #4	11/17/2022	Stonecast Contracting Ltd.	Project Specific	\$ 589,610.00	Ward 14
C13-45-22	Tender for General Contractor Required for the Removal & Replacement of Existing Play Structure at Father Sean O'Sullivan Memorial Park	11/18/2022	Three Seasons Landscape Group Inc.	Project Specific	\$ 213,479.50	Ward 5
C15-76-22 TR	Tender for Post & Sign Installation	11/23/2022	ATS Traffic Ltd.	Project Specific	\$ 558,764.88	All Wards
C13-48-22	Tender for Lighting Upgrade at 330 Wentworth Street Operations	11/25/2022	2619360 Ontario Inc. o/a K.B. Electric	Project Specific	\$ 133,687.32	Ward 3
C15-42-22 TR	Tender for Construction of New Traffic Control & Transportation Infrastructure	11/25/2022	Associated Paving & Materials Ltd.	Project Specific	\$ 697,058.00	Wards 1, 3, 5, 10

Contracts Awarded

Contract Reference	Contract Title	Closing Date (mm/dd/yyyy)	Vendor	Term	Award Amount	Ward
C13-12-22	Tender for Prequalified Contractor Required for the Real Time Control Implementation – Phase 2	11/30/2022	Clearway Construction Inc.	Project Specific	\$ 5,899,012.00	All Wards
C11-96-22	Tender for Supply & Delivery of Large Caliper Trees	12/13/2022	Dutchmaster Nurseries Ltd. Rockwood Forest Nurseries Sloan Nursery & Christmas Trees Neil Vanderurk Holdings Inc. (NVK) Uxbridge Nurseries Ltd. Kobes Nurseries Inc. Braun Nursery V. Kraus Nurseries Ltd.	Project Specific	\$520,201.00 \$22,860.00 \$4,380.00 \$101,437.50 \$163,987.00 \$51,350.00 \$53,752.00 \$32,717.00	All Wards

Contracts Awarded

Contract Reference	Contract Title	Closing Date (mm/dd/yyyy)	Vendor	Term	Award Amount	Ward
C11-99-22	Tender for Supply & Delivery of One Gallon & Two Gallon Container Trees	12/13/2022	Dutchmaster Nurseries Ltd. St. Williams Nursery & Ecology Centre Neil Vanderurk Holdings Inc. (NVK) Hortico Inc.	Project Specific	\$11,675.00 \$24,620.90 \$12,258.00 \$14,311.00	All Wards
C13-47-22	Tender for Prequalified Contractor for Metal Roof Retrofit Project at Emergency Medical Services Station #30 at 489 Victoria Avenue North in Hamilton	12/15/2022	Triumph Roofing & Sheet Metal Inc.	Project Specific	\$ 802,000.00	Ward 3
C11-81-22	Proposal for Prime Consultant Services for the Woodward Avenue Wastewater Treatment Plant Primary Clarifiers (Galleries 1- 8) & Scum Building Upgrades	12/19/2022	Hatch Ltd.	Project Specific	\$ 3,206,247.00	Ward 4

Contracts Awarded

Contract Reference	Contract Title	Closing Date (mm/dd/yyyy)	Vendor	Term	Award Amount	Ward
C11-88-22	Tender for Supply & Delivery of Single & Tandem Axle Cab & Chassis with Combination Dump Bodies of Various Configurations as & when Required	12/20/2022	Kirby International Trucks Ltd. Metro Freightliner Hamilton Inc. Viking Cives Ltd.	1 year term & 4 – 1 year renewal terms	Section 1 - Cab & Chassis: \$13,241,272.35 Section 1 - Cab & Chassis: \$13,818,975 Section 2 - Combination Dump/Spreader Body: \$11,769,617.32	All Wards
C13-57-22	Tender for the Wentworth Operations Centre Uninterruptible Power Supply (UPS) Replacement	12/20/2022	Procon Constructors Inc.	Project Specific	\$ 51,600.00	Ward 3
C15-68-22 W	Tender for Large Valve Replacements at Fennel Avenue & Upper Ottawa	12/20/2022	DESO Construction Ltd.	Project Specific	\$ 1,896,955.00	Ward 7

Contracts Awarded

Contract Reference	Contract Title	Closing Date (mm/dd/yyyy)	Vendor	Term	Award Amount	Ward
C11-77-22	Tender for Supply & Delivery of Culvert Pipes & Couplers	12/21/2022	Hubb-Cap Ltd.	1 year term & 2 – 1 year renewal term	\$ 357,192.48	All Wards
C13-51-22	Tender for General Contractor Required for Bullocks Corners Park Tennis Court Reconstruction	12/21/2022	Burlington Paving Company Ltd.	Project Specific	\$ 255,336.88	Ward 13
C13-58-22	Tender for Glanbrook Town Hall Heating, Ventilation & Air Conditioning (HVAC) Unit Replacement	12/22/2022	Black & McDonald Ltd.	Project Specific	\$ 133,833.00	Ward 11
C11-100-22	Tender for Supply & Delivery of Vehicle Mounted Aerial & Crane Device Inspections & Repairs	01/05/2023	Rocwin Sales & Service Ltd.	1 year term & 4 – 1 year renewal terms	\$ 433,343.51	All Wards
C11-104-22	Tender for Roll-Off Waste Bin Services Required for Various Locations in the City of Hamilton	01/10/2023	YORK1 Waste Solutions Ltd.	1 year term & 3 – 1 year renewal terms	\$ 256,600.00	All Wards

Contracts Awarded

Contract Reference	Contract Title	Closing Date (mm/dd/yyyy)	Vendor	Term	Award Amount	Ward
C15-18-22 M	Tender for Installation of Roadside Protection Devices & Fencing as Required	01/11/2023	Royal Fence Ltd.	1 year term & 2 – 1 year renewal terms	\$ 8,964,825.00	All Wards
C13-52-22	Tender for LED Lighting Upgrade at Dundas Town Hall & Fire Station 5	01/12/2023	Energy Network Services Inc.	Project Specific	\$ 130,711.20	Ward 6 & 13
C15-34-22 HW	Tender for Mountain Park Avenue Reconstruction	01/16/2023	Mastercrete Construction Inc.	Project Specific	\$ 2,124,974.70	Ward 7
C11-91-22	Tender for Catch Basin Cleaning Services Required for the City of Hamilton	01/17/2023	Flow Kleen Technology Ltd.	1 year term & 4 – 1 year renewal terms	\$ 731,630.00	All Wards
C11-106-22	Tender for Supply & Delivery of Electrical Service Panels for Traffic Operations	01/19/2023	Innovative Traffic Solutions Inc.	1 year term & 1 – 1 year renewal term	\$ 257,380.00	All Wards

Contracts Awarded

Contract Reference	Contract Title	Closing Date (mm/dd/yyyy)	Vendor	Term	Award Amount	Ward
C5-01-22	Proposal for Supply & Delivery of Pharmaceutical Services for Macassa & Wentworth Lodge	01/20/2023	CareRx Corp.	1 year term & 4 – 1 year renewal terms	\$ 0.00 (Costs are paid directly by the Ministry of Health)	Wards 7 & 13
C13-03-23	Tender for Contractor Required to Construct a Pathway between Tiffany Hills Park & Tiffany Hills Elementary School	01/23/2023	Three Seasons Landscape Group Inc.	Project Specific	\$ 169,900.00	Ward 12
C15-71-22 H	Tender for Kenilworth Avenue Rockfall Drapery Mesh Installation	01/23/2023	Premier North Ltd.	Project Specific	\$ 833,542.00	Wards 3,4,6
C13-46-22	Tender for Contractor Required for Phase 1 & Phase 2 of Metal Roof Replacement at Mohawk 4 Ice Centre	01/24/2023	Triumph Roofing & Sheet Metal Inc.	Project Specific	\$ 3,916,000.00	Ward 6
C15-74-22 TR	Tender for Installation of Traffic Signal Railway Interconnects	01/24/2023	TM3 Inc.	Project Specific	\$ 278,200.17	All Wards

Contracts Awarded

Contract Reference	Contract Title	Closing Date (mm/dd/yyyy)	Vendor	Term	Award Amount	Ward
C13-06-22	Proposal for Condition Assessment of Large Diameter Pre-Stressed Concrete Cylinder Pipe (PCCP) & Metallic Watermains in the City of Hamilton	01/25/2023	Pure Technologies Ltd.	1 year term & 4 – 1 year renewal terms	\$ 1,298,348.00	All Wards
C13-60-22	Tender for Roof Top Units (RTUs) Replacement at Fire Prevention Administration Building & Fire Station 4	01/27/2023	Superior Air Systems Ltd.	Project Specific	\$ 347,900.00	Ward 2 & 7
C15-19-23 BR	Tender for Rehabilitation of Bridge 105 Book Road West & Bridge 050 Third Road East	02/06/2023	Anthony's Excavating Central Inc.	Project Specific	\$ 626,431.62	Ward 9 & 12
C13-53-22	Tender for Prequalified Contractor for City Hall Garage Repairs at 71 Main Street West in Hamilton	02/08/2023	SST Group of Construction Companies Ltd.	Project Specific	\$ 1,245,630.40	Ward 2

Contracts Awarded

Contract Reference	Contract Title	Closing Date (mm/dd/yyyy)	Vendor	Term	Award Amount	Ward
C9-09-22	Tender for the Upgrade of Boiler Units at 2825 King Street East Police Station 20	02/13/2023	JTS Mechanical Systems Inc.	Project Specific	\$ 197,472.00	Ward 5
C11-08-23	Tender for Installation of Large Caliper Trees in Soft Surface Areas	02/17/2023	MDK Contracting Inc. Rodsan Landscaping & Services Ltd. The Gordon Company	1 year term & 4 – 1 year renewal terms	\$162,500.00 \$152,920.00 \$165,000.00	All Wards
C11-02-23	Tender for the Supply & Delivery of New & Rebuilt Hydraulic & Air Cylinders	02/21/2023	Stoney Creek Hydraulics Inc.	1 year term & 4 – 1 year renewal terms	\$ 261,940.83	All Wards
C12-01-23	Tender for Uniform Rental & Cleaning for Maintenance Employees	02/23/2023	Canadian Linen & Uniform Service Corp.	3 year term & 2 – 1 year renewal terms	\$ 319,956.65	All Wards

Contracts Awarded

Contract Reference	Contract Title	Closing Date (mm/dd/yyyy)	Vendor	Term	Award Amount	Ward
C15-28-23 HW	Tender for Marion Ave Watermain Replacement & Road Reconstruction	03/06/2023	Wesroc Construction Ltd.	Project Specific	\$ 3,037,204.15	Ward 1
C13-01-23	Tender for Prequalified Contractor for Roof Replacement at Binbrook Memorial Hall at 2600 Regional Road 56 in Hamilton	03/09/2023	Proteck Roofing & Sheet Metal Inc.	Project Specific	\$ 300,011.00	Ward 11
C13-04-23	Tender for Prequalified Contractor Required for Roof Replacement at J.L. Grightmire Arena	03/09/2023	Triumph Roofing & Sheet Metal Inc.	Project Specific	\$ 1,328,800.00	Ward 13
C11-09-23	Tender for Irrigation Maintenance Services Required at Various Locations throughout the City of Hamilton	03/13/2023	1953530 Ontario Ltd. o/a Clintar Landscape Management 2448588 Ontario Inc.	1 year term & 4 - 1 year renewal terms	Section 1: \$95,950.00 Section 2: \$143,700.00	All Wards

*Contract C12-09-22 Revenue Generating Tender for the Removal of Scrap Metals at Various City Owned Locations was awarded November 7, 2022, however, was incorrectly reported as 'Closed and Under Review' in the 2022 Fourth Quarter Request for Tenders and Proposals Report (FCS22048(c)). C12-09-22 is stated within this report to capture the award information and correct the input error from the previous report.

Contracts Cancelled

Contract Reference	Contract Title	Closing Date (mm/dd/yyyy)	Reason for Cancellation	Ward
C5-09-22	Proposal for Consultant to Coordinate the Development of a Multi-year Plan to Build Safer Communities	10/13/2022	One proposal was received but did not meet the benchmark of the Request for Proposals. A Policy # 11 – Non-competitive Procurement was approved to single source these consulting services.	All Wards
C12-15-22	Proposal for Supply, Delivery, and Installation of Case Good Furniture	11/30/2022	All proponents were disqualified. Reissued and awarded under C12-13-23.	All Wards
C11-11-23	Tender for Contractors Required for Utility Locating Services	02/28/2023	All bids received were over budget. A Policy # 11 – Non-competitive Procurement contract extension was approved for C11-30-18 until 09/21/2024. A new Request for Tenders to be issued in Q2 of 2024.	All Wards

Contracts Pending Award

Contract Reference	Contract Title	Closing Date (mm/dd/yyyy)	Contract Status	Ward
C11-37-21	Proposal for Supply and Delivery of Waste Activated Sludge Thickening Polymer	01/31/2022	Closed & Under Review	All Wards
C11-60-22	Proposal for Prime Consultant Services for the Lynden (FDL01) Well Upgrade & Other Minor Upgrades to the Lynden (HD05B) Station	10/25/2022	Closed & Under Review	Ward 12
C11-66-22	Proposal for Prime Consultant Services Required for a New Fire & Police Station Located in Waterdown	11/23/2022	Closed & Under Review	Ward 15
C11-46-22	Proposal for Supply & Installation of a Computer-Aided Dispatch / Automatic Vehicle Location (CAD/AVL) System	01/24/2023	Closed & Under Review	All Wards
C11-65-22	Tender for Supply & Delivery of Two-Wheel Drive (2WD) & All-Wheel Drive (AWD) Sport Utility Vehicles (SUV's)	02/02/2023	Closed & Under Review	All Wards
C11-12-23	Tender for the Supply & Delivery of Mowers with Various Configurations	02/07/2023	Closed & Under Review	All Wards

Contracts Pending Award

Contract Reference	Contract Title	Closing Date (mm/dd/yyyy)	Contract Status	Ward
C13-02-23 Phase One	Proposal for General Contractor Required for Construction of Hamilton Transit Maintenance & Storage Facility	02/23/2023	Closed & Under Review	Ward 3
C11-10-23	Proposal for Incident Management System for Corporate Security	02/24/2023	Closed & Under Review	All Wards
C11-14-23	Tender for the Supply & Delivery of Utility Vehicles of Various Configurations as & when Required	02/28/2023	Closed & Under Review	All Wards
C11-23-23	Tender for Rural Roadside Mowing Services – District West	02/28/2023	Closed & Under Review	Wards 12, 13, 15
C11-16-23	Proposal for Prime Consultant Services for the Diesel Fuel Tank Upgrades at 30 Outstations	03/01/2023	Closed & Under Review	Ward 4
C15-20-23 BRHW	Tender for Bridge 296 Governors Road Rehabilitation	03/02/2023	Closed & Under Review	Ward 5

Contracts Pending Award

Contract Reference	Contract Title	Closing Date (mm/dd/yyyy)	Contract Status	Ward
C11-06-23	Tender for Watering Services Required for Newly Installed Trees	03/06/2023	Closed & Under Review	All Wards
C12-02-23	Tender for Translation, Interpretation & ASL Interpretation Services	03/06/2023	Closed & Under Review	All Wards
C15-22-23 M	Tender for Annual Concrete Repairs for Districts North & South	03/13/2023	Closed & Under Review	Wards 1,3,4,6,7,8, 14
C5-02-23	Tender for School Bus Rentals with Drivers for Recreation Programs	03/14/2023	Closed & Under Review	All Wards
C11-22-23	Tender for Urban Mowing Services	03/14/2023	Closed & Under Review	All Wards
C15-17-23 M	Tender for Lincoln Alexander Parkway Sign Replacements	03/14/2023	Closed & Under Review	All Wards

Contracts Pending Award

Contract Reference	Contract Title	Closing Date (mm/dd/yyyy)	Contract Status	Ward
C11-01-23	Tender for Rural Roadside Mowing Services - Wards 5, 6, 9, 10, 11, 12 & 14	03/15/2023	Closed & Under Review	Wards 5, 6, 9, 10, 11, 12 & 14
C13-56-22	Tender for Prequalified Contractor Required for the Garner Road (HD018) Water Pumping Station Upgrades	03/15/2023	Closed & Under Review	Ward 12
C18-08-23	Tender for Contractor Required for Balcony Repairs at 185 Jackson Street East, Hamilton for CityHousing Hamilton	03/16/2023	Closed & Under Review	Ward 2
C15-82-22 P	Tender for Victoria Park Improvements - Spray Pad & Sun Shelter	03/17/2023	Closed & Under Review	Ward 1
C11-24-23	Tender for Service Provider Required to Perform Traffic Count Studies	03/20/2023	Closed & Under Review	All Wards
C13-12-23	Tender for General Contractor Required for the Removal & Replacement of Existing Play Structure at Glanbrook Hills Park	03/20/2023	Closed & Under Review	Ward 11

Contracts Pending Award

Contract Reference	Contract Title	Closing Date (mm/dd/yyyy)	Contract Status	Ward
C15-02-23 HS	Tender for Dewitt Road, Highway 8 to Barton Street Reconstruction	03/21/2023	Closed & Under Review	Ward 10
C15-35-23 M	Tender for Annual Concrete Repairs for Districts East & West	03/21/2023	Closed & Under Review	Wards 5,9,10,11,12,13 &15
C15-39-23 M	Tender for Transit Pad Installations & Replacements	03/22/2023	Closed & Under Review	All Wards
C15-38-23 M	Tender for Mountable Curb Installations	03/23/2023	Closed & Under Review	Wards 5,6,7,8,14
C12-03-23	Proposal for Supply, Delivery & Installation of Casegoods Furniture	03/24/2023	Closed & Under Review	All Wards
C11-32-23	Tender for Supply & Distribution of Rain Barrels – Online Sale to City of Hamilton Residents	03/30/2023	Closed & Under Review	All Wards

Contracts Pending Award

Contract Reference	Contract Title	Closing Date (mm/dd/yyyy)	Contract Status	Ward
C18-07-23	Tender for Contractor for Replacement of Interior Sanitary Piping at 191 Main Street West in Hamilton for CityHousing Hamilton	03/30/2023	Closed & Under Review	Ward 2
C12-04-23	Tender for Supply & Delivery of Soil & Seed	03/31/2023	Closed & Under Review	All Wards
C13-07-23	Tender for Contractor Required for Demolition of R.L. Hyslop School, 20 Lake Ave S, Stoney Creek, Ontario	03/31/2023	Closed & Under Review	Ward 5
C15-33-23 M	Tender for Lincoln M Alexander Parkway Asphalt Repairs & Various Locations of Road Resurfacing	04/03/2023	Not closed as of April 1, 2023	All Wards
C13-08-23	Tender for Stormwater Management Facility (Pond) Dredging & Associated Works at Various Locations within the City of Hamilton	04/04/2023	Not closed as of April 1, 2023	All Wards
C15-24-23 HSW	Tender for Jones Street - Road Reconstruction, Watermain Replacement, & Storm Sewer Installation	04/04/2023	Not closed as of April 1, 2023	Ward 1

Contracts Pending Award

Contract Reference	Contract Title	Closing Date (mm/dd/yyyy)	Contract Status	Ward
C13-13-23	Tender for General Contractor Required for Removal & Replacement of Perimeter Fencing at Glanbrook Cemetery & Fairgrounds Community Park	04/05/2023	Not closed as of April 1, 2023	Ward 11
C13-14-23	Tender for Removal & Installation of Traffic Signal Electrical Infrastructure	04/06/2023	Not closed as of April 1, 2023	All Wards
C11-36-23	Tender for Supply & Delivery of Catch Basin Frames, Grates & Covers	04/11/2023	Not closed as of April 1, 2023	All Wards
C13-09-23	Tender for Contractor Required for Traffic Operations Centre Roof Replacement at 1375 Upper Ottawa Street, Hamilton	04/11/2023	Not closed as of April 1, 2023	Ward 6
C13-42-23	Tender for Prequalified Contractor Required for the Calvin (HC011) Wastewater Pumping Station Upgrades	04/11/2023	Not closed as of April 1, 2023	Ward 12
C15-51-23 H	Quotation for Claremont Access Phase Two Steel Wall #3 & #4 Removal	04/11/2023	Not closed as of April 1, 2023	Ward 8

Contracts Pending Award

Contract Reference	Contract Title	Closing Date (mm/dd/yyyy)	Contract Status	Ward
C12-05-23	Tender for the Supply & Delivery of Various Fleet Parts	04/12/2023	Not closed as of April 1, 2023	All Wards
C11-19-23	Proposal for Prime Consultant Services Required for the Rockcliffe (DC015) Wastewater Pumping Station Upgrades	04/13/2023	Not closed as of April 1, 2023	Ward 15
C5-01-23	Tender for Biomedical Waste Collection & Disposal	04/18/2023	Not closed as of April 1, 2023	All Wards
C18-10-23	Proposal for the Supply, Installation & Maintenance of Pay-For-Use Laundry Equipment, Related Card Dispensing & Card Loading Devices	04/20/2023	Not closed as of April 1, 2023	All Wards
C11-15-23	Tender for Supply & Delivery of Aggregates	04/21/2023	Not closed as of April 1, 2023	All Wards
C9-01-23	Tender for Vehicle Maintenance & Repair Services Required for the Hamilton Police Services (HPS) Fleet	04/25/2023	Not closed as of April 1, 2023	All Wards

Contracts Pending Award




Contract Reference	Contract Title	Closing Date (mm/dd/yyyy)	Contract Status	Ward
C1-01-23	Proposal for Employee & Family Assistance Program for City Employees	05/01/2023	Not closed as of April 1, 2023	All Wards
C11-26-23	Tender for Supply & Delivery of Dual Stream Side Load Packers	05/02/2023	Not closed as of April 1, 2023	All Wards
C2-03-23	Proposal for Acquisition of Utility Billing Software Solution including Integration, Maintenance & Support Services	05/12/2023	Not closed as of April 1, 2023	All Wards
C11-29-23	Proposal for Prime Consultant Services Required for the Woodward Avenue Wastewater Treatment Plant (WWTP) Phase 2 Expansion & North Secondary Treatment Plant Rehabilitation	05/26/2023	Not closed as of April 1, 2023	Ward 4

Cooperative Procurements

City Contract Reference	Contract Title	Cooperative Group	Effective Date (mm/dd/yyyy)	Vendor	Term	Estimated City Spend	Ward
C17-09-22	Personal Computing Devices & Services - Agreement # 14952	The Minister of Government & Consumer Services	12/01/2022	Compucom Canada Co.	3 year term & 2 – 1 year renewal terms	\$101,606.28	All Wards
C17-01-23	Vehicle Acquisitions & Up-Fitting – OSS # 00634452	Ontario Shared Services	02/09/2023	Mohawk Ford Sales (1996) Ltd.	5 year term & 2 – 1 year renewal terms	\$630,000.00	All Wards



INFORMATION REPORT

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	August 17, 2023
SUBJECT/REPORT NO:	Roads Value for Money Audit and Roads Quality Assurance Supplementary Audit Report (PW22007(a)) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Janelle Trant (905) 546-2424 Ext. 2556
SUBMITTED BY: SIGNATURE:	Jackie Kennedy Director, Engineering Services Public Works Department 
SUBMITTED BY: SIGNATURE:	Carolyn Ryall Director, Transportation Division Public Works Department 
SUBMITTED BY: SIGNATURE:	Pat Leishman Director, Corporate Asset Management Public Works Department 

COUNCIL DIRECTION

On July 9, 2021, Council directed the General Manager, Public Works to implement the Management Responses contained within the Roads Value for Money Audit (AUD21006) and report back to Audit, Finance and Administration Committee in six months, and again by December 2022, on the nature and status of actions taken. On

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: Roads Value for Money Audit and Roads Quality Assurance
Supplementary Audit Report (PW22007(a)) (City Wide) (Outstanding
Business List) – Page 2 of 3**

February 17, 2022, staff provided a status update to Audit, Finance and Administration Committee (PW22007).

On August 12, 2022, Council directed the General Manager, Public Works to implement the Management Responses contained within the Roads Value for Money – Roads Quality Assurance Supplementary Audit Report (AUD21006(a)) and report back to Audit, Finance and Administration Committee by August 2023 on the nature and status of actions taken.

The purpose of Report PW22007(a) is to provide Audit, Finance and Administration Committee with a status report on these two audits, and the 30 total recommendations, as directed.

INFORMATION

The Roads Value for Money Audit (AUD21006) assessed the management of the City of Hamilton's (City) road assets to identify opportunities for improved economy, efficiency and effectiveness. The Office of the City Auditor made 25 recommendations to improve value for money in service delivery, strengthen controls, and improve vendor management. Management agreed with 23 recommendations and disagreed with two recommendations. Management provided responses for implementation, with completion anticipated by 2024.

The Roads Value for Money - Quality Assurance Supplementary Audit (AUD21006(a)) was focused on completing some additional, targeted work in the area of quality assurance. The Office of the City Auditor made five recommendations. Management agreed with all five recommendations, and provided responses for implementation, with completion anticipated by 2024.

An implementation plan for the 30 total audit recommendations has been developed and work is underway in completing the action items. A summary of the progress to date on the 30 audit recommendations is attached to Report PW22007(a) as Appendix "A". Recommendations 1-25 are from AUD21006, and Recommendations 26-30 are from AUD21006(a). The Office of the City Auditor has not validated the information contained in Appendix "A" to Report PW22007(a).

To date, we have completed more than 16 individual initiatives and procedures and have completed seven of the 30 recommendations. Completion of all initiatives is expected by the end of 2024. Additional details are provided in Appendix "A" to Report PW22007(a).

A subsequent report will be provided to the Audit, Finance and Administration Committee by December 2024 which will include a further status update on the

**SUBJECT: Roads Value for Money Audit and Roads Quality Assurance
Supplementary Audit Report (PW22007(a)) (City Wide) (Outstanding
Business List) – Page 3 of 3**

progress implementing the recommendations from the Roads Value for Money Audit (AUD21006) and Roads Quality Assurance Supplementary Audit (AUD21006(a)).






APPENDICES AND SCHEDULES ATTACHED






Appendix “A” to Report PW22007(a) – Roads Value for Money Audit and Roads Quality Assurance Supplementary Audit Report Deliverables







PUBLIC WORKS







ROADS VALUE FOR MONEY AUDIT & ROADS QUALITY ASSURANCE SUPPLEMENTARY AUDIT DELIVERABLES







Completion Status Legend:










-  Ongoing/ On Target
-  Progressing but delayed
-  Incomplete
-  Not started / Pending
-  Complete










Recom. No.	Audit Recommendation	Agree / Disagree	Management Response	Expected Completion Date	Completion Status	Status Update	
						Q3 2023 (PW22007(a))	Q1 2022 (PW22007)
1	We recommend that the processes and methodologies for tracking and reporting the infrastructure gap be improved in order to provide more reliable information and effective support for decision making (Appendix A to Report AUD21006, para. 46).	Agreed	It is imperative that the infrastructure gap be transparent, repeatable and generated from a tested methodology that uses solid data and clear goals. A new methodology will be developed that will encompass all these requirements in order to provide effective support for decision making. This new methodology will be in alignment corporately via the new role of Director Corporate Asset Management.	Complete		<ul style="list-style-type: none"> • Guide to Asset Management Plans completed in Q1 2022 (Appendix "A" to Report PW22037) • A consistent process now exists for the development of asset management plans following the FCM (Federation of Canadian Municipalities) and IPWEA (Institute of Public Works Engineering Australasia) methodology. • Subscription to NAMS+ (National Asset Management System) toolset supports the IPWEA methodology and is being used in development of the Asset Management Plans. Governance exists in the tracking and reporting of the infrastructure gap through the Corporate Asset Management Office. • Core Asset Management Plans, including Transportation, completed in Q2 2022 (PW22048) 	<p>Starting benchmarking review.</p> <p>The NAMS+ (National Asset Management System) toolset with associated SOP will be utilized, which applies a consistent methodology.</p> <p>This approach will be incorporated into the new Enterprise Asset Management (EAM) system for continuity.</p>
2	We recommend that State of the Infrastructure (SOTI) Reports be developed into a more effective tool for reporting the state of road assets using a streamlined, consistent process with clearer evidence-based metrics (Appendix A to Report AUD21006, para. 53).	Agreed	The State of the Infrastructure Report has proven to be a helpful summary of current inventory and condition information of assets when it was initiated decades ago. The use of a letter grade in a SOTI report is being retired, as all assets will have data driven metrics in the future. All asset reporting will be evidence based and through future Asset Management Plan (AMP) updates under O Reg. 588/17.	Complete		<ul style="list-style-type: none"> • Core Asset Management Plans, including Transportation, completed in Q2 2022 (PW22048) 	<p>Effective Nov 18, 2021, the Core AMP has transferred to the Corporate Asset Management (CAM) Team.</p> <p>The IPWEA (Institute of Public Works Engineering Australasia) methodology will be used to finalize the asset management plan, ensuring a consistent process with evidence-based metrics.</p>
3	We recommend that future asset management plans incorporate a more robust approach for levels of service and risk management (Appendix A to Report AUD21006, para. 71).	Agreed	Management has been gathering data to define current levels of service for approval at Council level. Preliminary concepts were presented to GIC November 27, 2020, refer to File 2021 GIC Tax Capital Budget Presentation FCS20101, Slide 11. Council determined level of service, including risk assessment, will be developed in the Asset Management Plan under O.Reg.588/17. As part of Public Works's approach to continuous improvement in our asset management program, more robust processes for levels of service and risk management are in development. These revised processes will be in alignment with ISO 55000 for Asset Management and ISO 31000 for Risk Management.	Complete		<ul style="list-style-type: none"> • COH-P-031-001 Risk Management procedure completed in Q1 2023. • COH-P-039-002 Levels of Service procedure completed in Q2 2023. 	<p>Standard Operating Procedure (SOP) PW-P-039-001 Public Works Procedure for Performance Measurement is being updated to reflect language for Levels of Service (LOS).</p> <p>A SOP for a new risk process is currently in process which utilizes a scoring tool assessment and mitigates risks.</p>
4	We recommend that the Roads Program develop a strategic plan to address its improvement opportunities, and to map out strategies for achieving long term sustainability and implementing key performance measures (Appendix A to Report AUD21006, para. 71).	Agreed	Many elements of a Roads Program Strategic Plan exist or are in development, through the balance of 2021 into Q4 2022 these will be pulled together to form a comprehensive Transportation Operational Plan.	Revised Completion: Q4 2023 Original AUD21006 Completion: Q4 2022		<ul style="list-style-type: none"> • Core Asset Management Plans, including Transportation, completed in Q2 2022 (PW22048) • Transportation Operational Plan development underway. 	<p>Transportation System Operational Steering Committee and Working Group has been established.</p> <p>Transportation Operational Plan development underway.</p>
5	We recommend that performance measures be developed to assist in tracking and monitoring of the long-term sustainability of road assets (Appendix A to Report AUD21006, para. 79).	Agreed	Similar to responses to Recommendations 1 and 3 Management has been gathering data and establishing a framework to define current levels of service for approval at Council level. The City specific deterioration model that has been loaded into our Decision Support System (IRISS). Management will update the IRISS system with additional data (see Recommendation 9 response) that will assist in tracking road asset performance. This will be part of a continuous improvement process. Performance measures specific to long-term sustainability will also be developed. Examples include the asset renewal funding ratio (proposed renewal budget for the next 10 years / forecast renewal costs for next 10 years), and the medium term forecast costs/proposed budget (over 10 years of the planning period). Providing sustainable services from infrastructure requires the management of service levels, risks, forecast outlays and financing to achieve a financial indicator of approximately 1.0 for the first years of the Asset Management Plan and ideally over the 10-year life of the Long-Term Financial Plan. This new methodology will be in alignment corporately via the new role of Director Corporate Asset Management.	Revised Completion: Q3 2023 Original AUD21006 Completion: Q2 2022		<ul style="list-style-type: none"> • Core Asset Management Plans, including Transportation, completed in Q2 2022 (PW22048) • Pavement Data Management Review consultant assignment underway to review the City's framework for pavement data management. As part of this assignment, pavement preservation alternatives are being reviewed. 	<p>Update the existing Infrastructure report. Benchmark on how other municipalities are calculating condition assessments.</p> <p>Review and define and review how the OCI is calculated and utilized for various roadway classifications.</p>

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6	We recommend that road asset management develop strategies and plans to deploy more proactive management of road assets with greater emphasis on preservation (Appendix A to Report AUD21006, para. 89).	Agreed	We will develop an operational plan for preservation activities of roadway pavement assets.	Revised Completion: Q4 2023 Original AUD21006 Completion: Q2 2022		<ul style="list-style-type: none"> Core Asset Management Plans, including Transportation, completed in Q2 2022 (PW22048) Transportation Operational Plan development underway. Pavement Data Management Review consultant assignment underway to review the City's framework for pavement data management. As part of this assignment, pavement preservation alternatives are being reviewed. 	Roster consultant assignment pending which includes an examination of preservation management. Preliminarily identified to be completed in Q3 of 2022 based on draft consultant proposal.
7	We recommend that senior management consider having the function of road asset management become a separately positioned and overseen function to ensure it has the independence and perspective necessary to develop an effective, objective approach to asset management (Appendix A to Report AUD21006, para. 90).	Agreed	Pursuant to an internal review and in consultation with the City Manager and the General Manager of Corporate Services and Finance in 2020, a dedicated corporate asset management portfolio has been initiated with a Director recently being recruited. An inventory will be undertaken in 2021 to determine roles and responsibilities as part of the implementation of the Corporate Asset Management office through which clear accountabilities will be established relative to asset management versus the managing of assets.	Complete		<ul style="list-style-type: none"> Corporate Asset Management Steering Committee Terms of Reference and City of Hamilton Corporate Asset Management Governance Strategy completed in Q1 2023. 	Corporate Asset Management Steering Committee established. Governance document drafted and expected released by Q1 2022.
8	We recommend that Roads management systematically track the accuracy of predicted life cycle costs in order to inform, improve and amend pavement deterioration forecasts, treatment timing, cost estimation, and to help identify anomalies (Appendix A to Report AUD21006, para. 92).	Agreed	Management has updated our Decision Support System with more current condition data. These reviews will continue in cycles as we gather additional condition data. In the mid-term (next 3 years), the new Enterprise Asset Management System currently being implemented will allow for the tracking of the accuracy of predicted life cycle in order to improve and amend pavement deterioration forecasts with associated timing, cost and the identification of anomalies. This new system will be instrumental in improving the way life cycle costing is managed in the corporate asset management program	Q4 2024		<ul style="list-style-type: none"> Enterprise processes to be built by Q4 2023. As divisions come online they will be integrated into the new system. 	<p>Reviewing how we are capturing activities in Hansen.</p> <p>Review EAM process maps for gap analysis on what we have and what we need.</p>
9	We recommend that Management report road pavement condition in a consistent manner across its different reporting mechanisms and collect pavement condition data on a more frequent basis (Appendix A to Report AUD21006, para. 100).	Agreed	Management has adjusted the use of the previous SOTI reports and pavement condition is scheduled to be collected in the 2022 budget and that will provide the City a 3-year cycle. The evolution of roads data collection over the last 20 years reveals the way the data is collected has developed over time as technologies emerge. There are strong correlations in automated systems and as we collect more information in the future that will create consistent data sets that can be analyzed over time. A standard operating procedure will be developed for the collection of pavement condition data.	Revised Completion: Q3 2023 Original AUD21006 Completion: Q1 2022		<ul style="list-style-type: none"> Pavement Inspection Survey procedure development underway. 	SOP to be developed
10	We recommend that Roads management consider expanding the composition of its overall condition index to include a measure representative of a pavement's structural adequacy (Appendix A to Report AUD21006, para. 136).	Agreed	In recent projects Engineering Services has enhanced its pavement structure analysis to develop a more robust pavement design. On a network basis, such investigations will continue to be utilized as we gather data on our roads. However, to acquire an inventory of all 6000+ lane kilometers of road base composition will be a significant undertaking.	Revised Completion: Q3 2023 Original AUD21006 Completion: Q1 2022		<ul style="list-style-type: none"> Pavement Inspection Survey procedure development underway. Pavement Design Criteria (previously referred to as Pavement Design Guidelines) consultant assignment underway. 	<p>SOP to be developed</p> <p>Engineering Services will pursue other innovative data gathering techniques (FWD, LWD, Ground Penetrating Radar, Electromagnetic Scans and other methods) to provide insight into the overall road composition. This will develop a more detailed database over time and will be coordinated with the developed of a Pavement Design Guideline that will incorporate preengineering investigations for project.</p>
11	We recommend that Roads management introduce measures to improve its system of oversight to ensure that contractors will be held rigorously to account for substandard performance and to ensure quality deficiencies are compensated for and/or corrected appropriately (Appendix A to Report AUD21006, para. 145).	Agreed	In 2018 the Construction Group began the implementation of an adjustment sheet. It is a modification from MTO's End Result Specification (ERS) spreadsheet that applies a payment reduction to the Asphalt Item. This reduction is based on the conformance to the mix design. A review of the current methodology to hold contractors accountable will be undertaken to ensure that substandard performance and quality deficiencies are compensated for and/or corrected appropriately.	Revised Completion: Q3 2023 Original AUD21006 Completion: Q4 2022		<ul style="list-style-type: none"> Pavement Materials Quality Assurance procedure for linear construction projects within the right of way led by Engineering Services and Transportation Division development underway. 	<p>SOP to be developed.</p> <p>Key performance indicators will be developed and reported on through the State of the Transportation System annual report that will include pavement quality performance metrics and corrective actions related to substandard pavement quality.</p>

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12	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 (Appendix A to Report AUD21006, para. 166).	Agreed	For contractor performance and tracking we have developed a holistic contractor performance summary report. Since 2018 Engineering Services has tracked material performance against each contract contractor, mix design and have taken over 900 samples and tested over 5,500 parameters. Asphalt quality has risen in that timeframe. Engineering Services is continuing to enhance its specifications while addressing contractor performance. 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. The Enterprise Asset Management system currently being implemented has the ability to formally track and evaluate vendor performance in conjunction with vendor information found in PeopleSoft. The system considers previous performance as part of the overall evaluation. Implementation is expected in the next 3 years.	Revised Completion: Q4 2024 Original AUD21006 Completion: Q4 2022		<ul style="list-style-type: none"> A Vendor Performance Project Manager has been hired to begin the process of developing and implementing a corporate vendor performance evaluation tool to be used in all contracts. Enterprise processes related to vendor performance to be built by Q4 2024. 	<p>SOP to be developed</p> <p>EAM implementation plan to be released in early 2022.</p> <p>Procurement is developing a corporate vendor performance evaluation tool to be used in all contracts. Significant consultation is required with both internal and external stakeholders</p>
13	We recommend that quality assurance and acceptance testing procedures and criteria be strengthened, including those for asphalt mixes, asphalt cement and recycled asphalt pavement materials (RAP), in order to ensure the risk of poorly performing asphalt is minimized (Appendix A to Report AUD21006, para. 169, 182).	Agreed	We have reviewed asphalt cement testing processes and have also retained a consultant to develop a Pavement Design Guideline that will take a holistic approach when designing pavements. The Pavement Design Guideline includes a review of RAP in order to Develop parameters for types of acceptable RAP and utilization guidelines based on type of roadway.	Revised Completion: Q3 2023 Original AUD21006 Completion: Q2 2022		<ul style="list-style-type: none"> Pavement Materials Quality Assurance procedure for linear construction projects within the right of way led by Engineering Services and Transportation development underway. Pavement Design Criteria consultant assignment underway. 	<p>SOP to be developed</p> <p>Pavement Design Guideline to be completed</p>
14	We recommend that Management consider providing more resource support for quality assurance functions and processes to ensure they are robust and work as intended (Appendix A to Report AUD21006, para. 181).	Agreed	Management agrees with the observation regarding our QA function resourcing. As part of our review on the audit recommendations we will be developing options to support this function. This is likely to form part of the 2022 budget request to Council.	Complete		<ul style="list-style-type: none"> Business case for one additional Project Manager, Quality Assurance, approved through the 2023 budget in Q1 2023 (Report FCS23007(a)). Work processes related to quality assurance being developed (e.g., Recommendation 13, 29) Position planned to be filled. 	<p>New Manager Materials & Specifications was hired in fall 2021.</p> <p>Roles, responsibilities, and additional staffing to be determined in 2022.</p>
15	We recommend that the design function continue to move away from boilerplate design and embrace AASHTO 93 and MEPDG in a systematic way by developing a design guide, associated procedures, and training, and by considering the merits of establishing such knowledge requirements and expertise in relevant position descriptions (Appendix A to Report AUD21006, para. 184).	Agreed	Management notes this change will take a few years to complete, as our asphalt design cycle begins to evolve, starting with our programming phase. Management has undertaken a review to develop a program for pavement designs. Phase 1 due Q1 2022– Design review. Future phases including training and systems to be developed in 2022.	Revised Completion: Q3 2023 Original AUD21006 Completion: Q4 2022		<ul style="list-style-type: none"> Pavement Design Criteria consultant assignment underway. 	<p>SOP to be developed</p> <p>Pavement Design Guideline to be completed</p>
16	We recommend that a review be undertaken of the adequacy of the City's current degradation fee in compensating the City for the lost value and accelerated deterioration of infrastructure as a result of road cuts (Appendix A to Report AUD21006, para. 205).	Agreed	Hamilton has been a leader in this area however we agree more can be done and will undertake continuous improvement work in 2021, due date in 2022.	Revised Completion: Q3 2023 Original AUD21006 Completion: Q4 2022		<ul style="list-style-type: none"> Industry best practices scan (benchmarking) of pavement degradation fees completed in 2022, memo documenting results to be finalized. Results of best practices scan support maintaining current pavement degradation fees. 	<p>Best practices review being undertaken to determine if any adjustments are required.</p> <p>Will undertake an industry best practices review, assess City's data along with field investigation to quantify the loss in service life and develop recommendations on how to address the findings and any potential adjustments in current degradation fees.</p>
17	We recommend that Roads management strengthen its policies to ensure that contractors are incented to complete warranty deficiencies on a timely basis (Appendix A to Report AUD21006, para. 231).	Agreed	Our contracts have a two-year maintenance period and require performance and, labour and materials bonds. The performance bond includes the warranty period to address the correction of deficiencies. Engineering Services will review the current practices and policies to complete warranty deficiencies on a timely basis. Additionally, the Enterprise Asset Management system currently being implemented contains a warranty module that will assist with the tracking of warranty requirements, timing and reporting of instances where issues have been identified. Implementation is expected in the next 3 years.	Revised Completion: Q4 2023 Original AUD21006 Completion: Q1 2022		<ul style="list-style-type: none"> PW-P-026-004 Management of Asset Transfer procedure completed in Q3 2022. Engineering Services is reviewing current contract documents regarding warranties for opportunities to update/strengthen language about completing warranty deficiencies in a timely manner. Enterprise processes to be built by Q4 2023. As divisions come online they will be integrated into the new system. 	<p>Management of Asset Transfer SOP has been drafted and will be finalized.</p>

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18	We recommend that Engineering Services provide information to, and involve Transportation Operations and Maintenance in warranty repairs so they will be alert to potential issues and are given a voice in the adequacy and timeliness with which contractors address deficiencies (Appendix A to Report AUD21006, para. 239).	Agreed	Public Works have been developing a policy to formalize the project hand over procedures between Engineering Services and Transportation Operations and Maintenance. This policy can be extended to all construction projects within the City including development related works. A formal Standard Operating Procedure related to asset handover from construction will be developed by Q4 of 2021. The Enterprise Asset Management system currently being implemented contains a warranty module that will assist with the tracking of warranty requirements, timing and reporting of instances where issues have been identified. This information will be available to staff in both Engineering Services and Transportation Operations and Maintenance. Implementation is expected in the next 3 years.	Revised Completion: Q4 2023 Original AUD21006 Completion: Q4 2021		<ul style="list-style-type: none"> PW-P-026-004 Management of Asset Transfer procedure completed in Q3 2022. Enterprise processes to be built by Q4 2023. As divisions come online they will be integrated into the new system. 	<p>Management of Asset Transfer SOP has been drafted and will be finalized.</p> <p>EAM implementation plan to be released in early 2022.</p>
19	We recommend that all potholes including MMS, non-MMS and those reported by members of the public be subject to tracked and reported remediation time standards (Appendix A to Report AUD21006, para. 241).	Agreed	A procedure and timeline for managing the repair of potholes that are both inside and are outside the scope of the requirements outlined in the Minimum Maintenance Standards (O. Reg 366/18) was developed. Pothole Repair Management Procedure PW-TOM-RM-P-026-003 was approved in May 2021.	Complete		<ul style="list-style-type: none"> PW-TOM-RM-P-026-003 Pothole Repair Management Procedure completed in Q2 2021. This procedure was replaced by PW-TOM-RM-P-026-012 in August 2022. 	SOP completed and implemented in Q2 2021
20	We recommend that Roads management explore opportunities for deploying the systematic use of preservation management in optimizing the condition and sustainability of City roads (Appendix A to Report AUD21006, para. 249).	Agreed	The preservation program will be expanded through the development of an Asphalt Mill and Pave Program, Preventative Asphalt Road Maintenance Program and a Roadway Crack Sealing through the Capital Budget process.	Revised Completion: Q3 2023 Original AUD21006 Completion: Q1 2022		<ul style="list-style-type: none"> Roadway Crack Sealing Update completed in Q1 2022 (PW22012) Pavement Data Management Review consultant assignment underway to review the City's framework for pavement data management. As part of this assignment, pavement preservation alternatives are being reviewed. 	<p>Working group established for preservation.</p> <p>Roadway Crack Sealing update to be brought forward to Council.</p> <p>See item No. 6 above regarding roster consultant assignment.</p>
21	We recommend that as part of its procurement procedures roads management monitor the bidding process for red flags that may suggest irregularities have taken place and investigate if necessary (Appendix A to Report AUD21006, para. 258).	Disagreed Originally Action Pending	Roads management is not permitted to be involved in a competitive procurement bidding process until such time as a contract has been awarded or the procurement process has been cancelled. Participating in manner in the competitive process would be viewed as a perceived or apparent conflict of interest. Procurement is responsible for monitoring the bidding process for red flags however, until bids have been formally submitted, there is no way to determine if any "red flags" are present. Procurement staff would be willing to discuss with Office of the City Auditor any mechanisms to recognize any "red flags" should they occur. Should the Office of the City Auditor recommend that Road management perform some bid monitoring, Roads management would need to be advised specifically of those expectations and if there are any limitations or risks associated with doing so.	Revised Completion: To be confirmed. Original AUD21006 Completion: Not Applicable.		<ul style="list-style-type: none"> Action pending additional staff resources 	Public Works staff and Procurement met with Audit in Q1 2022 to discuss the recommendation and management response. Based on these discussions, further exploration will be undertaken to develop a process to monitor and identify irregularities.
22	We recommend that when dealing with specialized road work that can only be performed by a limited number of contractors, management work with Procurement to look for other contractors to make the process more competitive (Appendix A to Report AUD21006, para. 262).	Disagreed Originally Action Pending	Procurement uses "bids&tenders.ca" as its bidding procurement platform for posting the City's competitive procurement information. This website is widely used by various industries including Municipalities, Education, Health Care, Utility and Engineering and Construction across Ontario and Canada to facilitate an opening bidding process. While other procurement platforms exist, utilizing more than one platform would be redundant and would also create the possibility of inconsistencies between the sites. Online bidding platforms have been in use for a number of years and any vendor looking to submit bids to governmental agencies should be well versed in searching these platforms for opportunities. There are also several tutorials available for any vendor looking to start entering this competitive online market.	Revised Completion: To be confirmed. Original AUD21006 Completion: Not Applicable.		<ul style="list-style-type: none"> Action pending additional staff resources 	<p>Public Works staff and Procurement met with Audit in Q1 2022 to discuss the recommendation and management response.</p> <p>There are 2 types of road work that fall into this situation: Bonded Wearing Course and Surface treatment. Procurement are aware that there are a limited number of vendors who bid on these jobs because of the "type" of the specialized equipment required for the work.</p> <p>Procurement will be performing a market scan of other municipalities within Canada to determine if other qualified contractors are present to perform this work. Procurement recognizes that a vendor's location from which it operates may not be in close proximity to the work site and therefore this may be a key contributing factor to receiving a limited number of bids.</p>
23	We recommend that in the future, Roads management ensure change orders are approved in writing before work is performed and are sufficiently detailed to allow for subsequent review, validation and cost control (Appendix A to Report AUD21006, para. 264).	Agreed	We will review and adjust change order procedures in consultation with Finance and Administration to ensure correct protocols are being followed. Subsequent to this review the appropriate procedures will be developed by quality management staff and hosted in the Quality Resource Center.	Revised Completion: Q3 2023 Original AUD21006 Completion: Q2 2022		<ul style="list-style-type: none"> Review of current change order process completed. Change order procedure for linear construction projects development underway. 	Review of current change order process is underway. SOP to be developed to established roles and responsibilities for process.

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24	We recommend that Management institute sufficient oversight and segregation of duties to ensure procurements undertaken through the roster method meet the requirements (Appendix A to Report AUD21006, para. 271).	Agreed	Segregation of roles in managing roster programs has been transitioned to the Manager level to ensure that correct oversight is undertaken.	Complete		• Completed in Q3 2022.	CRO office met with the Roster Chairs. ToR will be updated to include: <i>(In order to ensure separation of work and appropriate management oversight, roster captains shall not be a divisional director or above, in any acting or permanent capacity.)</i>
				Revised Completion: Q1 2024		• The action above will be captured in the next Policy revision due by Q1 2024.	Procurement will be reviewing and updating the Procurement Policy to ensure assignment and approval compliance across the organization.
25	We recommend that Roads management work with Finance to ensure proper invoicing for contractor services takes place in accordance with the Construction Act, that progress payment documentation is adequate, that under/overspent budgeted finds are appropriately accounted for, and transfers approved, and that controllership over these funds is sound (Appendix A to Report AUD21006, para. 280).	Agreed	To resolve Office of the City Auditor's recommendation Management in partnership with Finance and Administration will be aligning Engineering Services with the existing prompt payment processes in order to ensure proper invoicing per the Construction Act and progress payment documentation is occurring for contractor services.	Complete		• Completed in Q1 2022.	Engineering Services is implementing Construction Act Prompt Payment Procedure (COH-P-020-001)
			Further, Management will ensure controllership of capital funds through the involvement and oversight of Finance and Administration. Roles and responsibilities of the capital function will be reviewed by the Financial, Planning, Administration and Policy division	Revised Completion: Q4 2024 <i>Original AUD21006 Completion: Q3/Q4 2021</i>		• Procedure to be developed by Finance in conjunction with Public Works staff. • Departmental review of roles and responsibilities for finance-related items to be completed.	Complete an overall departmental review of roles & responsibilities for finance related items.
			As part of the Enterprise Asset Management System Project, Public Works in partnership with Finance and other applicable stakeholders are undergoing a review of business processes/procedures that will ultimately transform the current way of doing business and includes project management and governance/controllership principles/frameworks. The project is underway and will be implemented over the next three years. Public Works has committed to updating Council on an annual basis on the status of the project.	Q4 2024		• Enterprise processes to be built by Q4 2023. As divisions come online they will be integrated into the new system. Engineering Services will be online by Q4 of 2024.	As part of the EAM implementation an overall departmental review roles & responsibilities for finance related, including capital process.
26	That consideration be given to increasing the inspection levels by designing and adopting a risk-based approach for weight validation processes or the use of all-inclusive lump sums and square meter payments	Agree	Develop a SOP for enhanced risk-based inspection to ensure verification of weight-based materials, including alternative processes of payment.	Revised Completion: Q3 2023 <i>Original AUD21006 Completion: Q4 2022</i>		• Verification of weight-based materials procedure development underway.	Not applicable.
			Develop a business case to increase inspection FTE's for the 2023 budget cycle.	Complete		• Business case for one additional Contract Inspector and two additional Contract Inspector Co-op students approved through the 2023 budget process in Q1 2023 (Report FCS23007(a)). • Work processes related to Inspection being developed (e.g., Recommendation 26, 27, 28). • Positions planned to be filled.	Not applicable.
27	That the resources, training, and oversight in place be evaluated to ensure that weight validation, inspection and payment processes are adequately resourced to ensure compliance to the process	Agree	Assess and update Inspector Daily Diary requirements and Contract Inspectors Guidelines (Red Book) for potential improvements including defining roles and responsibilities for inspections and oversight.	Revised Completion: Q4 2023 <i>Original AUD21006(a) Completion: Q1 2023</i>		• Review of current Contractor Inspector's Field Manual (Red Book) for potential improvements underway.	Not applicable.
			Provide retraining to all inspection and project management staff for processes related to weight validation and payment processes.	Revised Completion: Q4 2023 <i>Original AUD21006(a) Completion: Q1 2023</i>		• Training for processes related to weight validation and payment processes will be delivered to Project Management and Inspection staff after the associated procedure has been finalized.	Not Applicable.


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28	That the quality and comprehensiveness of construction project documentation is improved (including recordkeeping in the Inspectors' Daily Diaries) by implementing relevant guidelines and/or standard operating procedures	Agree	Assess and update Inspector Daily Diary requirements and Contract Inspectors Guidelines (Red Book) for potential improvements.	Revised Completion: Q4 2023 Original AUD21006(a) Completion: Q1 2023		• Review of current Contractor Inspector's Field Manual (Red Book) for potential improvements underway.	Not applicable.
			Provide retraining to all inspection and project management staff for processes related to Construction Project documentation.	Revised Completion: Q3 2023 Original AUD21006(a) Completion: Q1 2023		• Training for processes related to Construction Project Documentation planned for Q3 2023.	Not applicable.
			Develop a SOP for review of Construction Project documentation by management.	Complete		• PW-EG-CNS-P-001-001 Review of Construction Project Documentation by Management procedure completed in Q2 2023.	Not applicable.
			Implement EAM for Inspectors' Daily Diaries and investigate potential use of EAM for the management of Construction Project documentation.	Revised Completion: Q4 2024 Original AUD21006(a) Completion: Q2 2024		• Enterprise processes to be built by Q4 2023. As divisions come online they will be integrated into the new system. Engineering Services will be online by Q4 of 2024.	Not applicable.
29	That quality assurance guidelines and standard operating procedures, including plant inspections and Petrographic Testing for premium asphalt aggregates, be risk-based and be formally documented and adhered to. Risks to be considered should include: financial and safety risks (including roadway traffic volume related risks)	Agree	Quality Assurance Pavement Material Testing SOP to be developed in coordination with AUD21006 – Road Value for Money Audit response item #11 & 13.	Revised Completion: Q3 2023 Original AUD21006(a) Completion: Q4 2022		• Pavement Materials Quality Assurance procedure for linear construction projects within the right of way led by Engineering Services and Transportation development underway.	Not applicable.
			Develop SOP specifically for Plant Inspections.	Complete		• PW-EG-CNS-C-027-001 Asphalt Plant Inspection checklist completed in Q2 2023.	Not applicable.
			Develop Quality Assurance Manual to develop guidelines that consider financial and safety risks.	Q4 2023		• Preparing terms of reference.	Not applicable.
30	That consideration be given to expanding the quality assurance function during peak construction periods of the year in order adequately manage the risks associated with the construction activities	Agree	Complete a review and risk observation regarding the quality assurance function resourcing in coordination with AUD21006 – Road Value for Money Audit response item #14.	Complete		• Resource review completed in Q2 2022. Through this review the need for one additional Project Manager, Quality Assurance was identified.	Not applicable.
			Develop business case to increase quality assurance FTE's for the 2023 budget cycle.	Complete		• Business case for one additional Project Manager, Quality Assurance, approved through the 2023 budget in Q1 2023 (Report FCS23007(a)). • Work processes related to quality assurance being developed (e.g., Recommendation 13, 29) • Position planned to be filled.	Not applicable.

Links to previous reports:

- (1) [Roads Value for Money Audit \(AUD21006\)](#)
- (2) [Roads Value for Money Audit: Management Update \(PW22007\)](#)
- (3) [Roads Value for Money Audit - Roads Quality Assurance Supplementary Audit Report \(AUD21006\(a\)\)](#)



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Services and Taxation Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	August 17, 2023
SUBJECT/REPORT NO:	Delegated Authority By-law Amendment: Appeals (FCS23089) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Maria Di Santo (905) 546-2424 Ext. 5254 David Janaszek (905) 546-2424 Ext. 4546
SUBMITTED BY:	Shelley Hesmer Acting Director, Financial Services, Taxation and Corporate Controller Corporate Services Department
SIGNATURE:	

RECOMMENDATION

- (a) That By-law for the “Delegation of Authority to the Treasurer and Deputy Treasurers for Taxation Proceedings” being a By-law to Repeal and Replace By-law No 13-064 “Delegation of Authority to the Treasurer and Deputy Treasurers for Assessment Appeals” as identified in Appendix A to report FCS23089 “Delegated Authority By-law Amendment: Appeals” be approved.

EXECUTIVE SUMMARY

To protect the assessment base and mitigate municipal property tax revenue losses, City of Hamilton Council approved the active participation in property assessment proceedings. With the active participation now in its second year, staff have a better understanding of the different proceedings through which property assessments and taxes can be contested. As a result, and out of an abundance of caution, staff are recommending the current by-law No 13-064 “Delegation of Authority to the Treasurer and Deputy Treasurers for Assessment Appeals”, which gives staff the authority to commence, maintain and settle proceedings on behalf of the City of Hamilton (City), be

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SUBJECT: Delegated Authority By-law Amendment: Appeals (FCS23089) (City Wide) - Page 2 of 3

repealed and replaced with a new by-law that encompasses all legal proceedings related to property assessment and taxation.

The replacement By-law simply expands the definition of a “proceeding” to encompass more than just section 40 of the *Assessment Act*, and section 11.1 of the *Payment-in-Lieu-of-Taxes Act*. The revised definition of “proceedings” includes any court or tribunal proceeding related to property assessment, taxation or the collection of taxes commenced under the *Assessment Act*, *Municipal Act* or the *Payment-in-Lieu-of-Taxes Act* (Canada). The replacement by-law, as proposed, meets the overall intent of the required delegated authority and ensures staff can continue their role in Council’s directive in the preservation of the assessment roll and mitigation of municipal property tax losses. Under the replacement By-law, staff are still required to report annually to Council/Committee.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: N/A

HISTORICAL BACKGROUND

The original By-law 13-064 “Delegation of Authority to the Treasurer and Deputy Treasurers for Assessment Appeals”, was passed in March 2013. At the time, the By-law was required to allow staff to appeal the assessment for Flamboro Downs, and as such, specifically referenced section 40 of the *Assessment Act*, being the appropriate section under which the City was filing the appeal. The City was ultimately successful in its appeal of Flamboro Downs and has continued to rely on By-law 13-064 from time to time, when required.

Due to the continued significant property tax revenue losses experienced each year, Council subsequently approved “Criteria for Participation in Assessment Appeals (FCS20063(a))” in December 2020, laying out the framework on how and when the City will actively participate in appeals. Having By-law 13-064 in place, has facilitated in providing the required delegated authority to be able to participate in these appeals and meet the Assessment Review Board’s strict timelines. In the absence of By-law 13-064, staff would be required to seek Council approval for each appeal, thereby making the process inefficient and difficult to adhere to the Assessment Review Board’s timelines.

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SUBJECT: Delegated Authority By-law Amendment: Appeals (FCS23089) (City Wide) - Page 3 of 3

The City of Hamilton fully participated in appeals beginning in 2022. As identified in staff report "Use of External Services for Tax Assessment & Appeals (FCS20005(b)) / (LS21047(a)),” the active participation in assessment appeals was very successful in its first year, resulting in the mitigation of \$8.9M (or 91%) of the potential municipal tax loss being sought by appellants. As participation in appeals was relatively new for the City, staff now have a better appreciation of the different proceedings by which a property assessment can be contested. Staff are recommending the amendment of the By-law to capture all potential proceedings (not just appeals under section 40 of the Assessment Act) in order to continue to participate in appeals effectively.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The amended By-law ensures the City continues to have the required delegated authority for active participation in appeals and maintains the mandatory annual reporting to Council/Committee.

RELEVANT CONSULTATION

Taxation staff worked with Legal Services to amend the By-law and ensure it is in keeping with City Council’s direction to mitigate municipal tax losses through staff’s active participation in appeals.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The amended By-law, as recommended, allows staff to continue to participate in appeals in an effective and efficient manner. In the absence of the By-law, staff would need to seek Council approval for each assessment or taxation related proceeding in which the City was engaged. Due to the Assessment Review Board’s strict timelines and the ongoing negotiations between parties in the appeal, this would not be feasible. The delegated authority would ensure staff are able to continue Council’s direction, as identified in staff report “Criteria for Participation in Assessment Appeals (FCS20063(a))”. On an annual basis, staff will continue to provide an update to Committee/Council identifying the outcome of all appeals in which staff have exercised this delegated authority.

ALTERNATIVES FOR CONSIDERATION

N/A

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Delegated Authority By-law Amendment: Appeals (FCS23089)

Authority:

Bill No. ###

CITY OF HAMILTON

BY-LAW NO. 23-###

Delegation of Authority to the Treasurer and Deputy Treasurers for Taxation Proceedings

A By-law to Repeal and Replace By-law No 13-064, being a By-Law for the Delegation of authority to the Treasurer and Deputy Treasurers for Assessment Appeals

WHEREAS sections 8, 9 and 10 of the *Municipal Act, 2001* authorize the City of Hamilton to pass by-laws necessary or desirable for municipal purposes and, in particular, paragraph 3 of subsection 10(2) authorizes by-laws respecting the financial management of the municipality;

AND WHEREAS section 40 of the *Assessment Act* authorizes a municipality to appeal to the Assessment Review Board:

(a) on the basis that:

- (i) the current value of the person's land or another person's land is incorrect;
- (ii) the person or another person was wrongly placed on or omitted from the assessment roll;
- (iii) the person or another person was wrongly placed on or omitted from the roll in respect of school support;
- (iv) the classification of the person's land or another person's land is incorrect;
- (v) for land, portions of which are in different classes of real property, the determination of the share of the value of the land that is attributable to each class is incorrect; or

(b) on such other basis as the Minister may prescribe.

AND WHEREAS a taxing authority may make an application to review to the Payments-in-Lieu-of- Taxes Dispute Advisory Panel, established under s. 11.1 of the *Payment-in-Lieu-of-Taxes Act* (Canada), if the taxing authority is in disagreement with a Payment-in-Lieu-of-Taxes it has received;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. In this By-law, "proceedings" means any court or tribunal proceeding related to municipal taxation including without limitation: property assessment, taxation, or the collection of taxes commenced under the *Assessment Act*, *Municipal Act* or the *Payment-in-Lieu-of-Taxes Act (Canada)*,
2. The Treasurer and the Deputy Treasurers are delegated the authority to commence, maintain and settle proceedings on behalf of the City of Hamilton, subject to such direction as may be given by Council or the appropriate Standing Committee of the City of Hamilton from time to time.
3. The Treasurer's and the Deputy Treasurers' authority to commence, maintain and settle proceedings includes but is not limited to the authority to:
 - (a) initiate proceedings or participate in proceedings initiated by another party;
 - (b) negotiate and execute Minutes of Settlement; and
 - (c) withdraw from proceedings.
4. The Treasurer and the Deputy Treasurers shall use the most efficient combination of staff and external resources, as required, when exercising their delegated authority under this By-law, and, in so doing, may make further delegations.
5. The Treasurer's and the Deputy Treasurers' exercise of their delegated authority under this By-law shall be reported to Council or the appropriate Standing Committee of the City of Hamilton at least once in a calendar year.
6. This By-Law comes into force on the date of its passing.

Deleted: proceedings related to:¶

¶
an appeal to the Assessment Review Board under section 40 of the *Assessment Act* including a review or appeal of an Assessment Review Board decision; or¶

¶
an application to review to the Payments-in-Lieu-of-Taxes Dispute Advisory Panel established under s. 11.1 of the *Payment-in-Lieu-of-Taxes Act (Canada)* including a review or appeal of a Payments-in-Lieu-of-Taxes Dispute Advisory Panel decision.¶

PASSED this day of 2023.

Authority:

Bill No. ###

CITY OF HAMILTON

BY-LAW NO. 23-###

Delegation of Authority to the Treasurer and Deputy Treasurers for Taxation Proceedings

A By-law to Repeal and Replace By-law No 13-064, being a By-Law for the Delegation of authority to the Treasurer and Deputy Treasurers for Assessment Appeals

WHEREAS sections 8, 9 and 10 of the *Municipal Act, 2001* authorize the City of Hamilton to pass by-laws necessary or desirable for municipal purposes and, in particular, paragraph 3 of subsection 10(2) authorizes by-laws respecting the financial management of the municipality;

AND WHEREAS section 40 of the *Assessment Act* authorizes a municipality to appeal to the Assessment Review Board:

(a) on the basis that:

- (i) the current value of the person's land or another person's land is incorrect;
- (ii) the person or another person was wrongly placed on or omitted from the assessment roll;
- (iii) the person or another person was wrongly placed on or omitted from the roll in respect of school support;
- (iv) the classification of the person's land or another person's land is incorrect;
- (v) for land, portions of which are in different classes of real property, the determination of the share of the value of the land that is attributable to each class is incorrect; or

(b) on such other basis as the Minister may prescribe.

AND WHEREAS a taxing authority may make an application to review to the Payments-in-Lieu-of- Taxes Dispute Advisory Panel, established under s. 11.1 of the *Payment-in-Lieu-of-Taxes Act* (Canada), if the taxing authority is in disagreement with a Payment-in-Lieu-of-Taxes it has received;

Appendix "A" to Report FCS23089
Page 4 of 4


NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. In this By-law, "proceedings" means any court or tribunal proceeding related to municipal taxation including without limitation: property assessment, taxation, or the collection of taxes commenced under the *Assessment Act*, *Municipal Act* or the *Payment-in-Lieu-of-Taxes Act* (Canada).
2. The Treasurer and the Deputy Treasurers are delegated the authority to commence, maintain and settle proceedings on behalf of the City of Hamilton, subject to such direction as may be given by Council or the appropriate Standing Committee of the City of Hamilton from time to time.
3. The Treasurer's and the Deputy Treasurers' authority to commence, maintain and settle proceedings includes but is not limited to the authority to:
 - (a) initiate proceedings or participate in proceedings initiated by another party;
 - (b) negotiate and execute Minutes of Settlement; and
 - (c) withdraw from proceedings.
4. The Treasurer and the Deputy Treasurers shall use the most efficient combination of staff and external resources, as required, when exercising their delegated authority under this By-law, and, in so doing, may make further delegations.
5. The Treasurer's and the Deputy Treasurers' exercise of their delegated authority under this By-law shall be reported to Council or the appropriate Standing Committee of the City of Hamilton at least once in a calendar year.
6. This By-Law comes into force on the date of its passing.

PASSED this day of 2023.



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

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	August 17, 2023
SUBJECT/REPORT NO:	Low Income Seniors Utility Rebate Program (FCS23045(a)) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Katie Black (905) 546-2424 Ext. 6415 John Savoia (905) 546-2424 Ext. 7298
SUBMITTED BY:	Kirk Weaver Acting Director, Financial Planning, Administration and Policy Corporate Services Department
SIGNATURE:	

RECOMMENDATIONS

- (a) That the Low Income Seniors Utility Rebate Program as outlined in Appendix "A" of Report FCS23045(a) be approved;
- (b) That funding previously allocated to the Housing Stability Benefit be reallocated to fund the new Low Income Seniors Utility Rebate Program in the 2024 Rate Supported Budget;
- (c) That staff be directed to report back on options to expand the eligibility criteria of the Low Income Seniors Utility Rebate Program beyond seniors upon assuming Utility Billing responsibilities from Alectra;
- (d) That the subject matter respecting a potential water and wastewater rebate program for low income persons, be identified as complete and removed from the Audit, Finance and Administration Committee Outstanding Business List.

EXECUTIVE SUMMARY

At its meeting of June 7, 2023, Council approved the following motion:

**SUBJECT: Low Income Seniors Utility Rebate Program (FCS23045(a))
(City Wide) – Page 2 of 7**

“That staff report back in Q3 2023 to the Audit, Finance and Administration Committee regarding a Water and Wastewater Rebate Program for Low Income Persons”.

The purpose of Report FCS23045(a) is to seek Council’s support to implement a Low Income Seniors Utility Rebate Program (Program) that would be effective in 2024.

Staff has previously advised Council that there is evidence that ratepayers’ ability to pay current water and wastewater / storm billings has become more challenging in recent years (refer to Report FCS23045). Per the City’s Arrears Policy, unpaid water and wastewater / storm arrears that remain unpaid 60 days past the invoice due date are transferred to the property’s tax roll.

From 2017 to 2022, the number of unpaid arrears tax roll transfers has essentially doubled with approximately 20,000 transfers in 2022. With respect to transferred arrears amounts, about \$2.3 M was transferred in 2017 and \$4.4 M in 2022 (over 90% increase in arrears transfer value versus 25% increase in rates). The increase in arrears transfers since 2017 is most concerning as approximately 90% of arrears transfers are related to residential accounts.

Combined water and wastewater / storm rates are forecast to increase by an average of 10% annually between 2024 to 2032, compared to an annual average increase of 4.7% over the past decade. Consequently, the 2023 average residential annual bill of \$877.30 will more than double to \$2,070.85 by 2032 raising concerns that affordability will become an even greater challenge for Hamilton residents.

As income level increases are not keeping pace with market increases, the increased water and wastewater / storm rates will greatly impact a low-income household’s ability to cover this forecasted increased expense. This could put additional burden on families forced to make a choice between paying rent, utilities, purchasing food or other daily expenses on a limited income.

Hamilton does offer several universally available programs and policies that assist Hamilton residents’ affordability with respect to water and wastewater related expenditures (for details refer to the Report FCS23045). However, the City does not currently offer targeted assistance to assist with water and wastewater / storm utility costs.

The Rate supported budget has historically allocated \$500 K intended for water and wastewater arrears assistance that would be provided under the Housing Stability Benefit in the Housing Services operating budget. For several reasons, the Rate supported allocation has been utilized to provide electric and natural gas utility arrears assistance rather than water / wastewater utility arrears assistance.

**SUBJECT: Low Income Seniors Utility Rebate Program (FCS23045(a))
(City Wide) – Page 3 of 7**

User fee principles support the notion that water and wastewater / storm fees should fund only related program expenditures. Therefore, the historical budget allocation to the Housing Stability Benefit program is being recommended to be repurposed to implement the new Program.

Several Ontario municipalities offer water and wastewater subsidy programs for low and / or fixed income residential customers to assist with affordability challenges. The recommended Program, as outlined in Appendix “A” of Report FCS23045(a), if approved, would be effective in 2024 and is designed to assist Hamilton low-income seniors better manage their bill payments. For 2024, should the approved, in principle, combined rate increase of 10.04% be confirmed by Council during the 2024 Rate Supported Budget process, qualified Program applicants would receive \$145 in assistance.

Staff will provide recommendations for Program amendments during the 2025 Rate Supported budget process including the impact of the stormwater fee implementation (September 2025) and potentially broadening the program to include other qualified low income and / or fixed income residents who currently do not qualify for the property tax rebate.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Recommendation (b) to Report FCS23045, directs \$500 K of funding previously allocated to the Housing Stability Benefit to be reallocated to fund the new Low Income Seniors Utility Rebate Program in the 2024 Rate Supported Budget.

Housing Services will identify funding requirements to provide electric and natural gas utilities arrears assistance in the 2024 Tax Supported Budget.

Staffing: The new Program will be delivered within current staffing levels of the Taxation and Financial Planning, Administration and Policy divisions of Corporate Services.

Legal: N/A

HISTORICAL BACKGROUND

Staff has previously advised Council that there is evidence that ratepayers’ ability to pay current water and wastewater / storm billings has become more challenging in recent years (refer to Report FCS23045). Per the City’s Arrears Policy, unpaid water and wastewater / storm arrears that remain unpaid 60 days past the invoice due date are transferred to the property’s tax roll.

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**SUBJECT: Low Income Seniors Utility Rebate Program (FCS23045(a))
(City Wide) – Page 4 of 7**

From 2017 to 2022, the number of unpaid arrears tax roll transfers has essentially doubled with approximately 20,000 transfers in 2022. With respect to transferred arrears amounts, about \$2.3 M was transferred in 2017 and \$4.4 M in 2022 (over 90% increase in arrears transfer value versus 25% increase in rates). The increase in arrears transfers since 2017 is most concerning as approximately 90% of arrears transfers are related to residential accounts.

The Consumer Price Index rose 6.8% on an annual average basis in 2022 and the increased cost of living has further exacerbated the affordability challenges experienced by residents. There has been a sharp increase in arrears transfers in Q1 and Q2 of 2023 versus the first half of 2022. The number of arrears transfers has increased by 18% and the associated arrears transfer amount has increased by nearly 23% while the approved combined rate increase for 2023 is 6.49%.

Combined water and wastewater / storm rates are forecast to increase by an average of 10% annually between 2024 to 2032, compared to an annual average increase of 4.7% over the past decade. Consequently, the 2023 average residential annual bill of \$877.30 will more than double to \$2,070.85 by 2032 raising concerns that affordability will become an even greater challenge for Hamilton residents.

As income level increases are not keeping pace with market increases, the increased water and wastewater / storm rates will greatly impact a low-income household's ability to cover this forecasted increased expense. This could put additional burden on families forced to make a choice between paying rent, utilities, purchasing food or other daily expenses on a limited income.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

N/A

RELEVANT CONSULTATION

Public Works – Hamilton Water Division and Healthy and Safe Communities – Housing Services Division have been consulted regarding the recommendations in Report FCS23045(a).

ANALYSIS AND RATIONALE FOR RECOMMENDATIONS

As previously noted, the Rate supported budget has historically allocated \$500 K intended for water and wastewater / storm arrears assistance that would be provided under the Housing Stability Fund. However, the Rate supported allocation has been utilized to provide primarily electric and natural gas utility arrears assistance and not towards water and wastewater arrears.

**SUBJECT: Low Income Seniors Utility Rebate Program (FCS23045(a))
(City Wide) – Page 5 of 7**

Arrears' payment assistance provided under the Housing Stability Fund is related to unpaid arrears resulting in service disconnection that may be undertaken by electric and natural gas utilities. Typically, such collection action would not be undertaken until several months of arrears have accumulated. It should be noted, that per Ontario Energy Board directives, electric and natural gas utilities are not allowed to disconnect service during the heating season of November to May.

Per the City's Water and Wastewater / Storm Arrears Policy, unpaid water and wastewater / storm arrears that remain unpaid 60 days past the invoice due date are transferred to the property's tax roll. Hence, the arrears payment assistance provided under the Housing Stability Fund would not be associated with water and wastewater / storm arrears as service disconnection is not a collection activity allowed under the City's Arrears Policy.

Often the arrears payment assistance provided under the Housing Stability Fund is related to residential tenants and not necessarily for property owners. Electric and natural gas utility companies permit bills to be in the name of tenants who are responsible for payment. The *Municipal Act* permits the City to add the unpaid water bills to the property owner's tax roll, even if it is a rental and the owner does not live there so that property owners must pay any outstanding water fees. Furthermore, all residential water and wastewater / storm accounts established after June 2018, must be billed in the name of the property owner(s).

User fee principles support the notion that water, and wastewater / storm fees should fund only related program expenditures. Therefore, the historical budget allocation of \$500 K to the Housing Stability Fund Program is recommended to be repurposed for a rebate program that would directly benefit water and wastewater / storm ratepayers.

Several Ontario municipalities offer water and wastewater subsidy programs for low and / or fixed income residential customers to assist with affordability challenges. The subsidy programs are often based on property tax rebate / subsidy programs to reduce administration costs. In some cases (for example, Mississauga and Thunder Bay), one application form is submitted to request both the property tax and water related rebates so that qualifying for the property tax rebate automatically qualifies the applicant for the water related rebate provided the property has an active metered water account.

As the City will not assume utility billing responsibility from Alectra until Q1 / Q2 2025, there currently does not exist an internal utility billing section. As such, in order to provide a targeted financial assistance as soon as 2024, staff has reviewed existing tax rebate programs with the intent to essentially "piggyback" on an income tested tax rebate program to deliver financial assistance to address payment challenges with increasing utility bills.

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**SUBJECT: Low Income Seniors Utility Rebate Program (FCS23045(a))
(City Wide) – Page 6 of 7**

The City currently offers a Seniors (65+) Tax Rebate Program where a residential property owner may be eligible for a \$223 property tax credit (2023 rebate amount) if all of the following qualifications are met:

- Owner and / or spouse are at least 65 years of age prior to January 1, 2023 (born 1957 or earlier).
- Combined income (applicant and spouse) is \$41,800 or less as indicated on line 15000 (Total Income) of Canada Revenue Agency's 2022 Notice of Assessment(s), adjusted for income splitting, if applicable. If you have elected for pension income splitting, please submit form T1032 (Joint Election to Split Pension Income).
- Owner and / or spouse occupy the residential property as their principal residence.
- Owner and / or spouse have owned the residential property for at least one year preceding the application date.
- The assessed value of the residential property must be at or below \$500,600.
- Prior year property taxes are paid in full.

Given that the transition for the City to assume utility billing responsibilities from Alectra will not occur until 2025 and the desire to help address payment of water utility bills as soon as possible, staff is recommending those property accounts that have qualified for the Seniors Tax Rebate Program and are verified as connected to the City's municipal water and / or wastewater system, be automatically qualified to receive payments from the new Low Income Seniors Utility Rebate Program (Program).

Staff has analyzed the listing of properties that have qualified in 2023 for the Seniors (65+) Tax Rebate Program and determined:

- just over 2,600 taxation accounts received the seniors tax rebate
- approximately 18% are condominium units
- all, but a handful of the properties, are connected to the City's water and / or wastewater system

Staff has reviewed other municipal assistance programs and recommends that the annual rebate amount provided by the new Program be calculated at approximately 15% of the average residential water annual combined water, wastewater and storm bill (assumes annual water consumption of 200m³). For example, in 2024, the approved, in principle, combined rate increase is 10.04% and if confirmed by Council, would result in the average annual residential consumer's bill increasing to approximately \$965. Therefore, the new Program would provide \$145 in financial assistance to qualified accounts.

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**SUBJECT: Low Income Seniors Utility Rebate Program (FCS23045(a))
(City Wide) – Page 7 of 7**

It is recommended that the annual utility rebate be provided as a credit to qualified applicants on their property tax for ease of administration. The rebate will be clearly identified as the Low Income Seniors Utility Rebate to assist with payment of water and wastewater / storm costs. The recommendation of providing the utility rebate on the qualified applicant's tax bill is based on two factors:

- As the City will not be assuming utility billing responsibility until sometime in 2025, applying the rebate to water accounts currently billed by Alectra Utilities in 2024 is not feasible;
- For many multi-unit condominium properties, the water account is in the name of the condominium as the property's water consumption may be measured by a single meter so that individual condominium units are not individually metered. Condominium unit owners pay for their water consumption via their condominium fees.

In anticipation of the implementation of a dedicated stormwater fee in September 2025, staff will review the Program to account for the new fee when determining the Program rebate amount for 2025. Additionally, staff will review Program eligibility criteria with respect to the requirement of being connected to the City's water and / or wastewater systems as stormwater fees will be applicable to properties not connected to these municipal systems. Staff will provide recommendations for Program amendments during the 2025 Rate Supported budget process including the impact of the stormwater fee implementation (September 2025) and potentially broadening the program to include other qualified low income and / or fixed income residents who currently do not qualify for the property tax rebate.

ALTERNATIVES FOR CONSIDERATION

N/A

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report FCS23045(a) – Low Income Seniors Utility Rebate Program

KB/JS/dt

POLICY TITLE: Low Income Seniors Utility Rebate Program

POLICY NO: PP-016

LAST REVISION DATE: N/A

EFFECTIVE DATE: January 1, 2024

MANAGER REVIEWED: Kirk Weaver

TO BE REVIEWED: September 2025

MAINTENANCE RESPONSIBILITY: Financial Planning, Administration and Policy Division

I GENERAL

The City of Hamilton will provide a rebate, funded by the rate supported budget, to help offset the cost of water, wastewater and stormwater charges assessed pursuant to the Water and Wastewater / Storm Fees and Charges, as amended on an annual basis, to eligible properties only.

II POLICY

PURPOSE

The purpose of this Policy is to outline the Low Income Seniors Utility Rebate Program, including eligibility criteria and program administration.

This Policy applies to the following eligible properties in the City of Hamilton:

- Single Residential Properties or Condominiums that are owned and occupied by an individual who is in receipt of the City’s Seniors Tax Rebate and where the property is connected to the City’s water and/or wastewater systems.

DEFINITIONS

For the purposes of this Policy:

“Condominium Unit” means one residential unit within a multi-unit condominium property.

“Seniors Tax Rebate” means the City of Hamilton’s “Seniors (65+) Tax Rebate.”

“Single Residential Property” means a property that contains just one residential unit (i.e. detached, semi-detached and linked homes and freehold townhomes).

“Low Income Seniors Utility Rebate” means a City grant provided as financial assistance to pay water, wastewater and/or stormwater charges payable by a person.

ADMINISTRATION

This Policy is administered by the Taxation Section with support from the Financial Planning, Administration and Policy Division both of the Corporate Services Department.

The Low Income Seniors Utility Rebate will be processed on an annual basis as a credit amount on tax bills to assist Hamilton low-income seniors better manage their bill payments for applicable water, wastewater and stormwater charges.

ELIGIBILITY CRITERIA

Eligibility for the Low Income Seniors Utility Rebate is strictly limited to Single Residential Properties or Condominium Units owned and occupied by individuals who are in receipt of the Seniors Tax Rebate as approved by Council. The Low Income Seniors Utility Rebate will be cancelled where the owner of a Single Residential Property or Condominium Unit is no longer in receipt of the Seniors Tax Rebate or the Low Income Seniors Utility Rebate Program is terminated by Council.

2023 SENIORS TAX REBATE (Amended annually by Council)

The City currently offers a Seniors Tax Rebate Program where a residential property owner may be eligible for a \$223 property tax credit (2023 rebate amount) if all of the following qualifications are met:

- Owner and / or spouse are at least 65 years of age prior to January 1, 2023 (born 1957 or earlier).
- Combined income (applicant and spouse) is \$41,800 or less as indicated on line 15000 (Total Income) of Canada Revenue Agency's 2022 Notice of Assessment(s), adjusted for income splitting, if applicable. If you have elected for pension income splitting, please submit form T1032 (Joint Election to Split Pension Income).
- Owner and / or spouse occupy the residential property as their principal residence.
- Owner and / or spouse have owned the residential property for at least one year preceding the application date.
- The assessed value of the residential property must be at or below \$500,600.
- Prior year property taxes are paid in full.

ADMINISTRATIVE PROCESS

Seniors Tax Rebate Application

Property owners may apply at any time during the year up until and including the last day of February of the following year. Owners are encouraged to apply as soon as they receive their prior year Notice of Assessment(s) from the Canada Revenue Agency.

Enrollment

Enrollment in the Low Income Seniors Utility Rebate will be included as part of the application for a Seniors Tax Rebate. Applicants in receipt of the Seniors Tax Rebate will automatically qualify for the Low Income Seniors Utility Rebate. An application is required only for first time applicants. The Low Income Seniors Utility Rebate will typically be applied each June as a credit to the qualified applicant's tax bill.


Low Income Seniors Utility Rebate Amount

The Low Income Seniors Utility Rebate Program will be calculated at approximately 15% of the average residential water annual combined water, wastewater and storm bill (assumes annual water consumption of 200m³).

For example, in 2024, the approved, in principle, combined rate increase is 10.04% and if confirmed by Council, would result in the average annual residential consumer's bill increasing to approximately \$965. Therefore, the Low Income Seniors Utility Rebate Program would provide \$145 in financial assistance to qualified accounts.



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Services and Taxation Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	August 17, 2023
SUBJECT/REPORT NO:	Request to Extend Banking Services Agreement (FCS23036(a)) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Nikki Freeman (905) 546-2424 Ext. 3020
SUBMITTED BY:	Shelley Hesmer Acting Director, Financial Services, Taxation & Corporate Controller Corporate Services Department
SIGNATURE:	

RECOMMENDATION

- (a) That Council approve the single source procurement, pursuant to Procurement Policy #11 – Non-competitive Procurements, for a five-year contract extension to Contract C12-01-11 for Professional Banking Services, and that the General Manager, Finance and Corporate Services Department be authorized to execute an amendment(s) to the City of Hamilton's existing agreement and any ancillary documents required to give effect thereto with Royal Bank of Canada (RBC), in a form satisfactory to the City Solicitor.
- (b) The purpose of this report is to update Council on the actions taken by staff to address this outstanding item. As a result of this report, the item representing the request to extend the banking services agreement will be considered complete and removed from the Audit, Finance and Administration Committee outstanding business list.

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EXECUTIVE SUMMARY

RBC has provided the City of Hamilton (City) with banking services since it was awarded the contract in May 2001 in report FCS01047. Council approved an extension to the contract with RBC in June 2006 in report FCS06065. A Request for Proposal (RFP) for banking services for the City was then issued in 2011. The contract was awarded to RBC. The term of the agreement was for five years with an option to renew for an additional five-year period. The City exercised the option to renew for the additional five-year term. Financial Services staff then brought Report FCS21027 to Council on April 14, 2021, to seek authority to negotiate a one to two-year contract extension which was approved. Financial Services staff negotiated a one-year agreement with an option to extend one additional year, extending the contract from October 1, 2021 to September 30, 2023.

On March 29, 2023, the General Manager of Finance and Corporate Services, or their designate was authorized by Council to enter negotiations with RBC to provide professional banking services for the City for a period of no less than three years. The purpose of Report FCS23036(a) is to provide Committee and Council with the results of those negotiations and obtain Council approval to extend contract C12-01-11 with RBC for an additional five years. This contract extension will ensure that RBC continues to provide banking services to the City while City staff, in parallel, develop and issue a formal competitive procurement process for banking services.

City staff have expressed their satisfaction with the level of service being provided. RBC annual fees and deposit interest rates have remained competitive. The City has built controls and processes with RBC which address our complex banking reporting needs. Should a new banking service provider be awarded the new contract after the issuance of an RFP, City staff across many departments must work closely with the new provider. This will include items such as; establishing new bank accounts, banking procedures, create new banking reports, build or develop new interface software, establish on-line banking processes, test and order new cheques, make changes with the armoured car service, train staff on new processes and systems, ensure all old banking details given out to customers are updated, and old deposit books are collected, as well as, new ones be delivered. Day to day reporting, including all fraud prevention requirements, would need to be rebuilt in the event a new service provider comes on board. Risks and costs associated with transitioning services to another banking institution can be significant.

The RFP process is labour intense with significant staff time required. In order to draft the RFP, staff from all City departments and Boards must document their banking requirements to be included in the RFP, as well as, develop the evaluation criteria. Once the RFP is issued and the proposals are received, an evaluation must be done by the evaluation team. If a new service provider is successful, staff must work to open

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new bank accounts. Staff will monitor and maintain RBC and new bank accounts in parallel for a minimum of 6 months. Staff time is required to change the general ledger structure and monitor these accounts for unusual or fraudulent activity. Communication is required to customers and vendors regarding the change in service provider. There would also be IT requirements and IT assistance required with implementation and reporting.

Alternatives for Consideration – See Page 5

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: A five-year contract extension for professional banking services was negotiated with RBC. The contract covers the period of October 1, 2023 to September 30, 2028 with annual compensation and cash management fees of \$109,800. Previous annual compensation and cash management fees incurred for the October 1, 2022 to September 30, 2023 period was \$150,000. This represents an annual reduction in fees of \$40,200.

A deposit interest rate of Royal Bank Prime less 1.725% was negotiated. This is an improved rate over our current deposit interest rate of Royal Bank Prime less 1.81%. As of July 12, 2023, the Royal Bank Prime is 7.20%. This translates to a negotiated five-year deposit interest rate for the City of 5.475% subject to changes to Royal Bank Prime. In the event of a significant change in the market, RBC has authority to change the interest rate through discussions with Financial Services.

Staffing: There are no associated staffing implications.

Legal: Contract agreement with the bank would have to be reviewed and approved by the City Solicitor.

HISTORICAL BACKGROUND

RBC has provided the City with banking services since it was awarded the contract in May 2001 in report FCS01047. Council approved an extension to the contract with RBC in June 2006 in report FCS06065. Report FCS10018 authorized the issuance of a RFP for banking services for a term of ten years. Staff issued the RFP for banking services in February 2011 and staff evaluated two proposals received from RBC and Scotiabank between April and July 2011. Council awarded the contract to RBC in October 2011 in report FCS11084. The term of the contract was to expire September 30, 2021. Council approved an extension to the contract with RBC in April 2021 in report FCS21027. On March 29, 2023, Council approved Report FCS23036, directing staff to negotiate an extension to Contract C12-01-11 for professional banking services for the City for a

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period of no less than three years with RBC and the results of these negotiations are included in this report.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Report FCS23036(a) is in accordance with the City of Hamilton's Procurement Policy and associated By-Law 22-255 as amended, Procurement Policy #5 – "Determining the Procurement Policy, Section 4.5(5). As per the Procurement Policy, staff is required to seek Council direction on the type of procurement process to be followed for the acquisition of the Good and/or Service where there is an incumbent vendor on a City Corporate contract which is of a highly sensitive nature, due to the risk associated with financial loss, confidentiality or the handling of sensitive information.

RELEVANT CONSULTATION

Consultations with relevant City Investment staff and Procurement staff took place.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

City staff is satisfied with the services provided by RBC. Staff recognize the importance of formally procuring for these services over the next five years to be as fair and transparent as possible. Staff is mindful that the issuance of a RFP for banking services and the potential changing of a banking service provider will have a significant impact on City operations and will affect all departments and physical locations. Software had to be interfaced with the bank and, in some cases, the City is utilizing bank supplied software and reporting. Since the bank is intricately tied to the financial controls of the City especially as it relates to cash handling, deposits, investments and disbursements, staff require no less than three years in order to develop and award a new contract and potentially transition banking services to a new vendor.

Some of the services currently provided by RBC include:

- Day-to-day bank account services and digital cash management solutions including RBC Payee Match (fraud prevention solutions) and RBC Express (online solutions)
- Ontario Works client direct bank deposits
- Payroll direct bank deposits for City staff
- Preauthorized payment services for our long-term care facilities and property tax
- Cheque Pro remote deposit capabilities
- On-line tax filing
- Wire payments
- Electronic funds transfer (EFT) for vendor payments

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Through the negotiations, RBC provided the City with annual fees and deposit interest rates for both a three-year extension and a five-year extension. The result of the negotiations is that RBC was willing to provide the City more favourable annual fees and deposit interest rate for the five-year consideration rather than the 3-year consideration. Therefore, staff is recommending that City extend the current contract for an additional five years, allowing RBC to provide the banking services required to the City while also allowing City staff, in parallel, to develop and issue a formal competitive procurement process for banking services. Should a new banking service provider be awarded the new contract, City staff must work closely with the new provider. This will include establishing new bank accounts, banking procedures, create new banking reports, build or develop new interface software, establish on-line banking processes, test and order new cheques, make changes with the armoured car service, train staff on new processes and systems, ensure all old banking details given out to customers are updated, and old deposit books are collected, as well as, new ones be delivered. During transition to a new service provider, bank accounts would need to run in parallel. Staff has only 24 hours to report potential fraudulent claims and duplicate accounts could increase the risks associated with fraud. Furthermore, City staff, as well as customers including Ontario Works clientele, would need to be re-educated on process changes.

ALTERNATIVES FOR CONSIDERATION

Council may direct staff to execute a three-year contract extension with RBC rather than the recommended five-year contract extension. The three-year extension would cover the period of October 1, 2023 to September 30, 2026 with annual compensation and cash management fees of \$150,000 and a deposit interest rate of Royal Bank Prime less 1.76%. The deposit interest rate for the three-year extension is not as favourable as compared to the five-year extension.

Analysis performed by Financial Services staff calculates higher projected annual investment income with a five-year term, in addition to lower annual fees compared to that of the three-year term. This information is summarized below, assuming an average monthly bank balance of \$430M which is impacted by collections, timing of payables and the overall investment strategy:

	Current	3-year Term	5-year Term
Current RBC Prime Rate	7.20%	7.20%	7.20%
RBC Interest Rate Adjustment	-1.81%	-1.76%	-1.725%
City Bank Interest Rate	5.390%	5.440%	5.475%
Estimated Annual Investment Income	\$ 23,177,000	\$ 23,392,000	\$ 23,542,500
Annual Bank Fees	<u>150,000</u>	<u>150,000</u>	<u>109,800</u>
Estimated Net Annual Earnings	<u>\$ 23,027,000</u>	<u>\$ 23,242,000</u>	<u>\$ 23,432,700</u>

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- Comparing the current annual fees and deposit interest rate to those negotiated for a three-year term, annual earnings are projected to be higher by \$215,000.
- Comparing the current annual fees and deposit interest rate to those negotiated for a five-year term, annual earnings are projected to be higher by \$405,700.
- Earnings are projected to be higher for a five-year extension compared to a three-year extension by \$190,700 annually when comparing the annual fees and deposit interest rates negotiated.

A three-year extension to Contract C12-01-11 with RBC will allow proper staff time to effectively and securely issue as well as implement the RFP.

APPENDICES AND SCHEDULES ATTACHED

None.

NF/dw