



PUBLIC WORKS COMMITTEE

REPORT 12-011

9:30 a.m.

Monday, October 15, 2012

Council Chambers

Hamilton City Hall

71 Main Street West

Present: Councillors B. McHattie (Chair), L. Ferguson (Vice-Chair)
Councillors, R. Pasuta, R. Powers, C. Collins, S. Duvall,
T. Jackson, T. Whitehead

Also Present: Councillor J. Farr

THE PUBLIC WORKS COMMITTEE PRESENTS REPORT 12-011 AND RESPECTFULLY RECOMMENDS:

1. Intersection Control List (PW12001(e))(Wards 2, 3, 7 & 11) (Item 5.2)

That the appropriate By-law be presented to Council to provide traffic control as follows:

Intersection		Stop Direction		Class	Location / Comments / Petition	Ward	
Street 1	Street 2	Existing	Requested				
(a)	Chartwell Circle	Chartwell Circle	N/C	SB	A	S. of LINC, E. of Up. James	7
(b)	Dunsmure Rd.	Balsam Ave. S.	NB & SB	EB & WB	A	W. of Gage Ave., N. of Main St.	3
(c)	Dunsmure Rd.	Barnsdale Ave. N.	NB & SB	EB & WB	A	E. of Sherman Av., N. of Main St.	3
(d)	Caroline St. N.	Market St.	EB & WB	NB	B	W. of Bay St., N. of King St.	2
(e)	Bromley Rd.	East 16 th St.	NB & SB	EB & WB	A	W. of Upper Went., S. of Mohawk	7
(f)	Bromley Rd.	Seven Oaks Dr.	NB & SB	EB & WB	A	W. of Upper Went., S. of Mohawk	7
(g)	Thomson Ct.	Burkholder Dr.	N/C	NB	A	W. of Upper Went., S. of Mohawk	7
(h)	Helga Ct.	Burkholder Dr.	N/C	NB	A	W. of Upper Went., S. of Mohawk	7
(i)	Yager Dr.	Binhaven Blvd.	N/C	WB	B	S. of Binbrook Rd., W. of Hwy. 56	11
(j)	McAllistar Dr.	Binhaven Blvd.	N/C	WB	B	S. of Binbrook Rd., W. of Hwy. 56	11
(k)	McAllistar Dr.	Cook St.	N/C	EB	A	S. of Binbrook Rd., W. of Hwy. 56	11
(l)	Cook St.	Yager Dr.	N/C	SB	A	S. of Binbrook Rd., W. of Hwy. 56	11
(m)	ODonnel Dr.	Whitwell Way	N/C	NB	B	S. of Binbrook Rd., W. of Hwy. 56	11

2. Permanent Closure and Sale of a Portion of Public Unassumed Alley Abutting 2 Thorndale Street North, Hamilton (PW12070) (Ward 1) (Item 6.1)

- (a) That a portion of the public unassumed alley abutting the south side of 2 Thorndale Street North, Hamilton, be permanently closed and transferred to the owner of 2 Thorndale Street North, Hamilton, as shown on Appendix A, attached to Report PW12-011, subject to the following conditions:
 - (i) That the applicant makes an application to the Ontario Superior Court of Justice, under Section 88 of the Registry Act, R.S.O. 1990, for an order to permanently close and purchase the subject lands;
 - (ii) That the General Manager, Public Works or his designate sign the appropriate documentation confirming that no public funds have been expended on the lands to be closed;
 - (iii) That the documentation regarding the application to the Ontario Superior Court of Justice be prepared by the applicant, to the satisfaction of the City Solicitor;
 - (iv) That the applicant register a reference plan under the Registry Act and that said plan be prepared by an Ontario Land Surveyor to the satisfaction of the Manager, Surveys and Technical Services Section and that the applicant deposit a reproducible copy of said plan with the Manager, Surveys and Technical Services Section;
- (b) That provided the application to the Ontario Superior Court of Justice to permanently close the lands is approved:
 - (i) That the City Solicitor be authorized and directed to prepare the by-law to permanently close the highway;
 - (ii) That the appropriate by-law be introduced and enacted by Council;
 - (iii) That the Economic Development and Real Estate Division of the Planning and Economic Development Department be authorized and directed to sell this closed highway in accordance with the Procedural By-law for the Sale of Land, By-law No. 04-299 for one dollar;
 - (iv) That the City Solicitor be authorized and directed to register a certified copy of the by-law permanently closing the highway in the proper land registry office, upon confirmation from the Public Works Department that all applicable fees and costs associated with the application have been paid by the applicant;

- (v) That the by-law permanently closing the highway does not take effect until a certified copy of the by-law is registered in the proper land registry office;
- (vi) That the Public Works Department publish a notice pursuant of the City's intention to pass the by-law pursuant to City of Hamilton By-law 04-299 being a By-law to Establish Procedures, including the Giving of Notice to the Public, Governing the Sale of Land Owned by the City of Hamilton.

3. Proposed Permanent Closure and Sale of a Portion of the Road Allowance of Limeridge Road East, Hamilton (PW12071) (Ward 7) (Item 6.2)

That the application of The Cadillac Fairview Corporation Limited to permanently close and purchase a portion of the road allowance of Limeridge Road East, Hamilton, as shown on Appendix B, attached to Report 12-011, be approved, subject to the following conditions:

- (a) That the City Solicitor be authorized and directed to prepare a by-law to permanently close the highway;
- (b) That the appropriate by-law be introduced and enacted by Council;
- (c)
 - (i) That the Economic Development and Real Estate Division of the Planning and Economic Development Department be authorized and directed to sell this closed highway to The Cadillac Fairview Corporation Limited in accordance with the Procedural By-law for the Sale of Land, By-law No. 04-299 at fair market value;
 - (ii) That Planning & Economic Development staff be directed to report to the Planning Committee respecting the sale cost, site plan and possible legal implications prior to the sale.
- (d) That the City Solicitor be authorized and directed to register a certified copy of the by-law permanently closing the highway in the proper land registry office, upon confirmation from the Public Works Department that all applicable fees and costs associated with the application have been paid by the applicant;
- (e) That the by-law permanently closing the highway does not take effect until a certified copy of the by-law is registered in the proper land registry office;
- (f) That the Public Works Department publish a notice pursuant of the City's intention to pass the by-law pursuant to City of Hamilton By-law 04-299 being a By-law to Establish Procedures, including the Giving of Notice to the Public, Governing the Sale of Land Owned by the City of Hamilton.

4. Permanent Closure and Sale of a Portion of Public Unassumed Alleyway Abutting 1430 Main Street East, Hamilton (PW12080) (Ward 4) (Item 6.3)

- (a) That a portion of the public unassumed alleyway abutting the south side of 1430 Main Street East, Hamilton, as shown on Appendix C, attached to Report 12-011 (the "Subject Lands"), be permanently closed and transferred to the owner of 1430 Main Street East, Hamilton, subject to the following conditions:
- (i) That the applicant bring an application to the Ontario Superior Court of Justice, under Section 88 of the Registry Act, R.S.O. 1990, for an order to permanently close and purchase the Subject Lands;
 - (ii) That the General Manager, Public Works or his designate sign the appropriate documentation confirming that no public funds have been expended on the Subject Lands;
 - (iii) That the documentation regarding the application to the Ontario Superior Court of Justice be prepared by the applicant, to the satisfaction of the City Solicitor;
 - (iv) That the applicant register a reference plan pursuant to the Registry Act and that said plan be prepared by an Ontario Land Surveyor to the satisfaction of the Manager, Surveys and Technical Services Section and that the applicant deposit a reproducible copy of said plan with the Manager, Surveys and Technical Services Section;
- (b) That provided the application to the Ontario Superior Court of Justice to permanently close the Subject Lands is approved:
- (i) That the City Solicitor be authorized and directed to prepare the by-law to permanently close the Subject Lands;
 - (ii) That the appropriate by-law be introduced and enacted by Council;
 - (iii) That the Economic Development and Real Estate Division of the Planning and Economic Development Department be authorized and directed to sell the closed Subject Lands in accordance with the Procedural By-law for the Sale of Land, By-law No. 04-299 for fair market value;
 - (iv) That the City Solicitor be authorized and directed to register a certified copy of the by-law permanently closing the Subject Lands in the proper land registry office, upon confirmation from the Public Works Department that all applicable fees and costs associated with the application have been paid by the applicant;

- (v) That the by-law permanently closing the Subject Lands does not take effect until a certified copy of the by-law is registered in the proper land registry office;
- (vi) That the Public Works Department publish notice of the City's intention to pass the by-law pursuant to City of Hamilton By-law 04-299 being a By-law to Establish Procedures, including the Giving of Notice to the Public, Governing the Sale of Land Owned by the City of Hamilton.

5. Transit Fare Parity, AODA Integrated Standard (PW03128e) (City Wide) (Item 7.1)

- (a) That the General Manager of Public Works be directed to implement a Fare Parity policy respecting the Conventional Transit (HSR) and Specialized Transit (ATS/DARTS) programs effective January 1, 2013, in accordance with the Transportation Standards regulations made under the *Accessibility for Ontarians with Disabilities Act, 2005*;
- (b) That the Voluntary Pay Policy for persons using Personal Mobility Devices (PMD), including 4-point canes, walkers, scooters and wheelchairs, on the HSR and free fare for CNIB cardholders be eliminated effective January 1, 2013;
- (c)
 - (i) That a Senior Monthly Bus Pass, equivalent to 10% of the Senior Annual Pass and a Senior single ride equivalent to the Student Ticket fare be introduced on PRESTO only (anticipated to occur in 2013);
 - (ii) That the brochure "For Safety's Sake: Safe Travel Tips For HSR's Senior Customers", which will include the notice of the senior bus fare rates, be circulated widely;
- (d) That staff be directed to pursue implementation of a PRESTO solution on the ATS service in coordination with Metrolinx;
- (e) That a comprehensive public Communications Plan, as outlined in Appendix D to Report 12-011, be developed and implemented;
- (f) That the current paper media accepted on HSR also be accepted on DARTS and outstanding DARTS tickets be refunded from the HSR Ticket Float Account #23109 – 006100.

6. Standard of Care Requirements - Safe Drinking Water Act - (PW12074/LS12026) (City Wide) (Item 8.1)

That Report PW12074/LS12026 respecting Standard of Care Requirements - Safe Drinking Water Act, be received.

7. Village Green Park Spray Pad - License and Funding Agreements with Ancaster Rotary Clubs (PW12077) - (Ward 12) (Item 8.2)

- (a) That the Ancaster Rotary Clubs proposal to construct a spray pad at Village Green Park by entering into a agreement with Ancaster Rotary Clubs be endorsed, where Ancaster Rotary (AM Club) agrees to fund \$250,000 of the anticipated \$400,000 cost with the \$150,000 City contribution, including commitments to date balance being funded through existing capital program 4401056020 Village Green Park;
- (b) That staff be directed to prepare, with Ancaster Rotary (AM Club) any necessary documentation, in a form satisfactory to the City Solicitor and the General Manager of Public Works, prior to the construction of the spray pad;
- (c) That the Mayor and the City Clerk be authorized and directed to execute an Agreement with the Ancaster Rotary Club for the construction of a new splash pad at the Village Green Park in Ancaster in accordance with the key terms and conditions set out in Appendix E attached to Report 12-011 and any further agreements or documents as may be required to give effect to the foregoing, in a form satisfactory to the City Solicitor

8. Winter Control Program - Review of Service Levels for Urban Residential Class Three Roadways (Plowing Activation) (PW12078) (City Wide) (Item 8.3)

That Report PW12078 respecting Winter Control Program - Review of Service Levels for Urban Residential Class Three Roadways (Plowing Activation), be received.

9. Winter Control Program Activation Process and Pilot Programs (PW12079) (City Wide) (Item 8.4)

That Report PW12079 respecting Winter Control Program Activation Process and Pilot Programs, be received.

10. Road Claim Trends (PW12081) (City Wide) (Item 8.5)

That Report PW12081 respecting Road Claim Trends, be received.

11. Hamilton Utilities Corporation Joint Advisory Committee- Report 12-001 (Item 8.6)

Hamilton Community Energy (HCE)

- (a) That Hamilton Community Energy (HCE) be directed to begin a technical review of servicing and operations at the former Wentworth County Courthouse located at 50 Main Street East and make a formal proposal to the appropriate standing committee of Council;
- (b) That the City and Hamilton Community Energy (HCE) develop a joint business plan/study for transferring the City's district cooling plant, operations and management to HCE and that the study be jointly funded by HCE and the City (the City's portion from the City's Energy Reserve Fund);
- (c) That the cost of all technical studies be borne by Hamilton Community Energy (HCE);
- (d) That the City and Hamilton Utilities Corporation/Hamilton Community Energy continue to work with key stakeholders for the expansion of district energy.

12. Part-time flashing school zone speed limit on Cannon Street East abutting Queen Mary School (Item 9.1)

- (a) That a part-time flashing school zone speed limit be implemented on Cannon Street abutting Queen Mary School, 1292 Cannon Street East;
- (b) That funding of approximately \$17,000 for the associated costs of purchasing and installing the flashing beacon equipment and signs be charged to Account Ward 4 Capital Reinvestment Reserve;
- (c) That the \$2,000 annual cost to operate and maintain the school zone flashers under the Traffic Operations current operating budget (dept ID 466045), be referred to the 2013 Budget process;
- (d) That the appropriate amending by-law be passed.

13. Priority Bus Shelter installations King Street and Justine Avenue (Item 9.2)

- (a) That staff be directed to place priority upon the installation of bus shelters at King Street and Justine Avenue and the adjacent location on Justine Avenue and King Street in 2013.
- (b) That the bus shelter installations estimated at approximately \$10,000, be funded from the Ward 4 area derived funding.

FOR THE INFORMATION OF COUNCIL:

(a) CHANGES TO THE AGENDA (Item 1)

The Committee Clerk advised that there were no changes to the agenda.

The October 15, 2012 Public Works Committee Agenda was approved, as presented.

(b) DECLARATIONS OF INTEREST (Item 2)

None

(c) MINUTES (Item 3)

(i) September 17, 2012 (Item 3.1)

The Minutes of the September 17, 2012 Public Works Committee were approved as presented.

(d) DELEGATION REQUESTS (Item 4)

(i) Ken Philips, CAO, and John Vice, Chair, of Conservation Halton, respecting a Watershed update (Item 4.1)

The Delegation Request by Ken Philips, CAO, and John Vice, Chair, of Conservation Halton, respecting a Watershed update was approved.

(ii) Katie Stiel, of Environment Hamilton, respecting sewer and stormwater drainage along Red Hill and Davis Creek (Item 4.2)

The Delegation Request by Katie Stiel, of Environment Hamilton, respecting sewer and stormwater drainage along Red Hill and Davis Creek, was approved.

(e) CONSENT ITEMS (Item 5)

(i) Minutes of Various Sub-Committee (FOR INFORMATION PURPOSES ONLY) (Item 5.1)

The following Advisory and Sub-committee Minutes were received for information:

5.1.1 Hamilton Cycling Committee

(a) June 6, 2012

(b) July 4, 2012

5.1.2 Glanbrook Landfill Coordinating Committee – August 27, 2012

5.1.3 Clean City Liaison Committee – July 27, 2012

5.1.4 Solid Waste Management Master Plan Steering Committee –
June 12, 2012

(f) PUBLIC HEARINGS/DELEGATIONS (Item 6)

(i) Permanent Closure and Sale of a Portion of Public Unassumed Alley Abutting 2 Thorndale Street North, Hamilton (PW12070) (Ward 1) (Item 6.1)

Chair McHattie indicated that notice of the proposed closure and public meeting was advertised in the Spectator on Friday October 5, 2012. He indicated that one member of the Public has submitted correspondence to the Committee for their consideration. Chair McHattie asked if there were any members of the public in attendance who wished to speak to the proposed closure and sale. No one came forward.

The staff presentation respecting Permanent Closure and Sale of a Portion of Public Unassumed Alley Abutting 2 Thorndale Street North, Hamilton, was waived.

(a) Correspondence from Paul William Watkins in favour of the proposed closure and sale (Item 6.1.1)

The correspondence from Paul Watkins in support of the Permanent Closure and Sale of a Portion of Public Unassumed Alley Abutting 2 Thorndale Street North, Hamilton, was received.

For disposition on this matter refer to Item 2.

(ii) Proposed Permanent Closure and Sale of a Portion of the Road Allowance of Limeridge Road East, Hamilton (PW12071) (Ward 7)(Item 6.2)

Chair McHattie indicated that notice of the proposed closure and public meeting was advertised in the Spectator on Friday October 5, 2012. He indicated that one member of the Public who has registered to speak to this item and invited staff to present prior to hearing from the public.

Adam Sweedland, Supervisor Operations Support, addressed the Committee with the aid of a Power Point Presentation. A copy of the presentation has been included in the official record.

The staff presentation respecting Proposed Permanent Closure and Sale of a Portion of the Road Allowance of Limeridge Road East, Hamilton, was received.

(a) Mr. Josh Thomson VP, Development for The Cadillac Fairview Corporation Limited to speak in favour of the proposed closure and sale (Item 6.2.1)

Chair McHattie invited Mr. Thomson to address the Committee respecting the proposed closure and sale.

Mr. Thomson addressed the Committee in support of the closure and sale. He discussed the future plans to develop the area and keeping the pedestrian and bike path in place. He discussed that they want to create a free-standing retail building in the location and make parking on site or in the adjacent lot which is currently under used. He indicated that maintaining access to the plaza is built into their plans in the future although because the site plan is not yet done, the actual design of that access is not finished.

Chair McHattie asked if there were any other members of the public in attendance who wished to speak to the proposed closure and sale. No one came forward.

The public presentation respecting Proposed Permanent Closure and Sale of a Portion of the Road Allowance of Limeridge Road East, Hamilton, was received.

On a Motion a sub-section (c)(ii) was added to read as follows:

(c)(ii) That Planning & Economic Development staff be directed to Report to the Planning Committee respecting the sale cost, site plan and possible legal implications prior to the sale.

The Motion CARRIED on the following Recorded votes:

Yeas:	B. McHattie, C. Collins, S. Merulla, S. Duvall L. Ferguson, T. Jackson, R. Pasuta, R. Powers
Total:	8
Nays:	T. Whitehead
Total:	1

The Main Motion as Amended CARRIED on the following Recorded votes:

Yeas:	B. McHattie, C. Collins, S. Merulla, S. Duvall L. Ferguson, T. Jackson, R. Pasuta, R. Powers
Total:	8
Nays:	T. Whitehead
Total:	1

For disposition on this matter refer to Item 3.

(iii) Permanent Closure and Sale of a Portion of Public Unassumed Alleyway Abutting 1430 Main Street East, Hamilton (PW12080) (Ward 4) (Item 6.3)

Chair McHattie indicated that notice of the proposed closure and public meeting was advertised in the Spectator on Friday October 5, 2012. He indicated that no members of the Public have registered to speak to this item. Chair McHattie asked if there were any members of the public in attendance who wished to speak to the proposed closure and sale. No one came forward.

The staff presentation respecting the Permanent Closure and Sale of a Portion of Public Unassumed Alleyway Abutting 1430 Main Street East, Hamilton, was waived.

For disposition on this matter refer to Item 4.

(iv) Delegation by Michelle Martin and Lisa Schumph of the Lawson Ministries respecting the Community Access to Transportation Project (Item 6.4)

Michelle Martin and Lisa Schumph of the Lawson Ministries addressed Committee with the aid of a Power Point Presentation and handout. Copies of the presentation and handout have been included in the official record.

The presentation by Michelle Martin and Lisa Schumph of the Lawson Ministries respecting the Community Access to Transportation Project, was received.

(g) PRESENTATIONS (Item 7)

(i) Transit Fare Parity, AODA Integrated Standard (PW03128e) (City Wide) (Item 7.1)

Nancy Purser, Manager, Transit Support Services, addressed the Committee with the aid of a Power Point Presentation. A copy of the presentation has been included in the official record.

Committee members requested that staff provide further details on the number of DARTS trips done to transport individuals to access provincial funded programs, such as dialysis.

Councillor Powers indicated that he would redistribute to Council members the Association of Municipalities of Ontario's position paper upon the implementation of the AODA.

The presentation respecting the Transit Fare Parity, AODA Integrated Standard, was received.

For disposition on this matter refer to item 5.

(h) DISCUSSION ITEMS (Item 9)

(i) Village Green Park Spray Pad - License and Funding Agreements with Ancaster Rotary Clubs (PW12077) - (Ward 12) (Item 8.2)

The recommendations of Report PW12077 were deleted in their entirety and replaced with the following:

- (a) That the Ancaster Rotary Clubs proposal to construct a spray pad at Village Green Park by entering into a agreement with Ancaster Rotary Clubs be endorsed, where Ancaster Rotary (AM Club) agrees to fund \$250,000 of the anticipated \$400,000 cost with the \$150,000 City contribution, including commitments to date balance being funded through existing capital program 4401056020 Village Green Park;
- (b) That staff be directed to prepare, with Ancaster Rotary (AM Club) any necessary documentation, in a form satisfactory to the City Solicitor and the General Manager of Public Works, prior to the construction of the spray pad;

(c) That the Mayor and the City Clerk be authorized and directed to execute an Agreement with the Ancaster Rotary Club for the construction of a new splash pad at the Village Green Park in Ancaster in accordance with the key terms and conditions set out in Appendix "C" attached to Report PW12077 and any further agreements or documents as may be required to give effect to the foregoing, in a form satisfactory to the City Solicitor

(ii) Winter Control Program - Review of Service Levels for Urban Residential Class Three Roadways (Plowing Activation) (PW12078) (City Wide) (Item 8.3)

On a Motion staff were directed to review the winter control program service levels to identify any opportunities to optimize program value relative to urban class three roadways and provide a report with recommendations to the Public Works Committee.

(iii) Winter Control Program Activation Process and Pilot Programs (PW12079) (City Wide) (Item 8.4)

On a Motion staff were directed to investigate the feasibility of moving side-streets and crescents activation levels from 10 centimeters to 8 centimeters and report back to the Public Works Committee.

(iv) Road Claim Trends (PW12081) (City Wide) (Item 8.5)

On a Motion staff were directed to report to the Public Works Committee respecting Road Claim Trends on an annual basis.

(i) MOTIONS (Item 9)

(i) Part-time flashing school zone speed limit on Cannon Street East abutting Queen Mary School (Item 9.1)

For disposition on this matter refer to Item 12.

**(ii) Priority Bus Shelter installations King Street and Justine Avenue
(Item 9.2)**

On a Motion Staff were directed to report to the Public Works Committee respecting bus shelter installations and include in this report: a priority list of bus shelter installations, the cost of maintenance on existing shelters, funding options for wider implementation of new installations, and processes for members of the public to bring forward potential locations for new bus shelter installations.

On a Motion the following was added as sub-section (b)

- (b) That the bus shelter installations estimated at approximately \$10,000, be funded from the Ward 4 area derived funding.

For disposition on this matter refer to Item 13.

(j) NOTICES OF MOTION (Item 10)

Councillor Whitehead introduced the following Notice of Motion

(i) King Street West Parking Pilot

Whereas, a lane restriction has been in place for over a year on the North side of King street West between Caroline and Queen Streets due to construction and a lane restriction barrier on the South Side of King Street West; and

Whereas there has been no indication on when the construction and barriers of the South side of King Street are expected to be removed; and

Whereas, the King Street West Business Improvement Area merchants have expressed concerns about the impact of losing their customer parking between 4 p.m. to 6 p.m.; and

Whereas, the King Street West BIA have requested that the parking restrictions from 4 p.m. to 6 p.m. be removed.

Therefore be it resolved that staff be directed to conduct a pilot project on King Street West between Caroline and Queen Streets that lifts the current prohibition from 4 p.m. to 6 p.m. in this area and monitor the impacts that this change has on traffic.

(k) GENERAL INFORMATION

(i) Outstanding Business List (Item 11.1)

(a) Items Requiring Approval for Removal:

The following Items were removed from the Outstanding Business List:

- (i) Item G - Changes to the *Safe Drinking Water Act*: New Data and Recent Developments
- (ii) Item E - Winter Control Program - Review of Service Level for Urban Residential Class Three Roadways
- (iii) Item L - Monthly Seniors Bus Pass (SAC Report 12-001)

(b) Items Requiring Revised Due Dates

The following Due Date was amended:

- (i) Item I - Region of Halton Discussions for Processing of Source Separated Organics
Current Due Date: October 15, 2012
Proposed Due Date: Q1 2013

(l) ADJOURNMENT

There being no further business, the Public Works Committee adjourned at 12:47 p.m.

Respectfully submitted,

Councillor B. McHattie, Chair
Public Works Committee

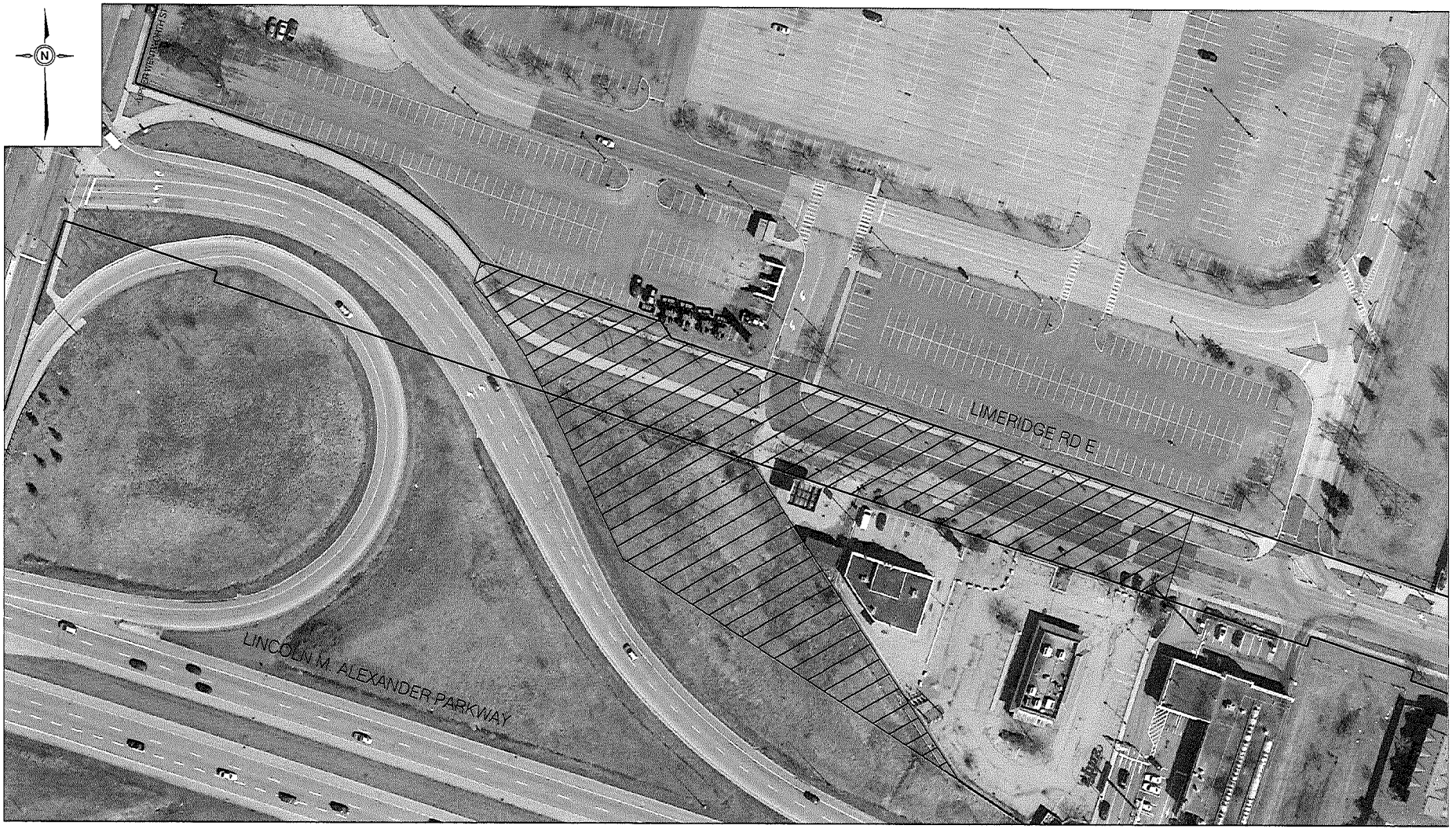
Andy Grozelle
Legislative Co-ordinator
Office of the City Clerk



PROPOSED CLOSURE OF
UNASSUMED ALLEY ABUTTING
2 THORNDALE STREET

Surveys & Technical Services
Public Works Department

NTS
12-12-2011
Sketch By: MM

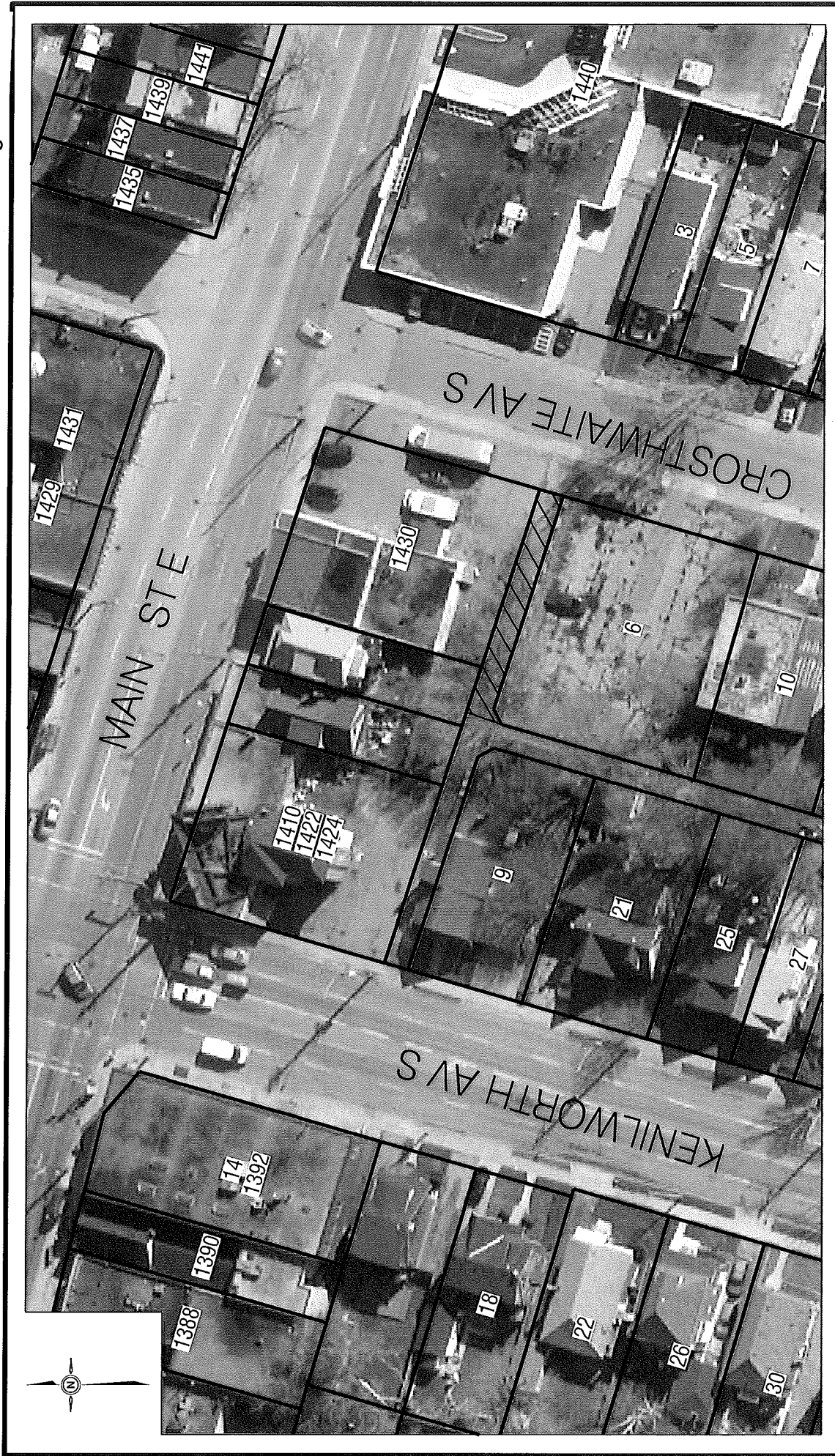


Hamilton

Sketch of Proposed Road Closure
Limeridge Road, Hamilton

Surveys & Technical Services
Public Works Department

SCALE 1:500
06-05-2012
Sketch By: MM



PROPOSED CLOSURE OF UNASSUMED ALLEY AT 1430 MAIN STREET EAST



Hamilton

Surveys & Technical Services
Public Works Department

NTS
01-19-2012
Sketch By: MM

COMMUNICATIONS PLAN

Transit Fare Parity - Communication Plan Hamilton Street Railway

Background

Promote and educate customers on the different types of fare media available for both HSR and ATS services, and highlight changes to those structures and policies in a timely manner.

Update in the Quarterly Brochure "Bus News" - 10,000 issues printed and also available online.

Community Message on each bus - Small panel behind Operator announcing HSR related events and policies.

Newspaper Ads - Place informative messages in the Hamilton Spectator in the "At Your Service" section and also in the Community Papers (Mountain News, Dundas Star News etc.)

Update and Publish a new Ticket and Pass Vendor Brochure - List of vendor locations along with the various types of fare media, the costs and restrictions/qualifications to use each type of media. This is also available online.

Update and Publish a new "For Seniors' Sake" Brochure - Information specifically for those who fall into the senior category of our fare policy. This is also available online.

Media Release - Request a media release from Public Works to the media outlets regarding these new policies and changes.

FUNDING AGREEMENT

THIS AGREEMENT made as of the day of October, 2012.

B E T W E E N :

CITY OF HAMILTON
(hereinafter called the "City")

OF THE FIRST PART

– and –

ROTARY CLUB OF ANCASTER MORNING
(hereinafter called the "Rotary")

OF THE SECOND PART

Collectively hereinafter called the "Parties"

WHEREAS the City has requested funding in the amount of \$250,000.00 from the Rotary to assist with the construction of a Village Green Spray Pad at 300 Wilson St East, Ancaster, L9G 2B9, including design and tendering, as well as servicing to the spray pad at Village Green Park (the "Project") more particularly described in Schedule "A" attached hereto;

AND WHEREAS the Project has been approved by the Council of the City of Hamilton, as part of Ontario Recreation Facilities and Sport Field Provision Plan, under the Capital Budget Program in the amount of up to \$150,000.00;

AND WHEREAS the Council for the City of Hamilton, at its meeting on approved Item TBD of the Public Works Report TBD and agreed to support and approve the Rotary to provide funding for the Village Green Spray Pad to the City of up to \$250,000.00 (The Rotary Club will be contributing \$ 250,000 made up of materials, electrical work for the site, fundraised money from donors, other in-kind donations and money from the Ontario Trillium Foundation) upon certain terms and conditions hereinafter described;

NOW THEREFORE IN CONSIDERATION of the covenants and agreements herein, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1 – DEFINITIONS & INTERPRETATION

1.1 In this Agreement and in any schedules that may form part of this Agreement, unless there is something in the subject matter or context inconsistent therewith or defined elsewhere in this Agreement, the following terms and expressions have the following meanings:

- 1.1.1 "Agreement" means this Agreement and any schedules attached hereto;
- 1.1.2 "Applicable Laws" means all public laws, statutes, regulations, transactions, codes, acts, orders, by-laws, rules, judgments, decrees, treaties, Governmental Consents, notices, protocols, binding policies and guidelines, and requirements of all Governmental Authorities, which now or hereafter, may be applicable to and enforceable against the City or its obligations under this Agreement or any part thereof, including those relating to employment, zoning, building, life/safety, environment and health, and includes, where appropriate, any interpretation of a rule, statute, regulation, order, decree, treaty or other requirement having the force of law by any person having jurisdiction over it, or charged with its administration or interpretation.
- 1.1.3 "Asset" means any fixed or other asset constructed, rehabilitated or improved, in whole or in part, with funds contributed in accordance with the terms of this Agreement;
- 1.1.4 "Audit Report" means a financial audit report of the Project prepared by a duly qualified licensed auditor authorized to act in Ontario in accordance with this Agreement;
- 1.1.5 "Authorized Engineer" means a professional engineer licensed to practice in Ontario, hired and paid by the City for the purposes of the Solemn Declaration of Substantial Completion;
- 1.1.6 "Business Day" means a day other than a Saturday, Sunday, statutory holidays, or statutory vacation day that is observed by the City of Hamilton.
- 1.1.7 "City" means the City of Hamilton as created by the *City of Hamilton Act*, S.O. 2001, c.14.
- 1.1.8 "Rotary" means the Rotary Club of Ancaster Morning, which is an organization that takes an active interest in the civic, commercial, social and moral welfare of the community and takes an active interest in international projects, which are mandated by Rotary International.
- 1.1.9 "City Funds" means the funds made available to the City by the City in accordance with the terms of this Agreement;

1.1.10 "Contract" means an agreement between the City and a Third Party whereby the latter agrees to supply a product or service to the Project in return for financial consideration.

1.1.11 "Council" means the Council of the City of Hamilton.

1.1.12 "Event of Default" has the meaning ascribed to it in Article 6 hereof.

1.1.13 "Third Party" means any person or legal entity, other than a Party, who participates in the Project.

1.2 The following schedules are attached and form an integral part of this Agreement:

1.2.1 Schedule "A" – Licensed Area – Description, Locations, Map and Illustrations

1.2.2 Schedule "B" – Municipal Policies and Policy Requirements

1.2.3 Schedule "C" – Reporting Requirements

1.2.4 Schedule "D" – Schedule and Time of Acceptable Usage

1.2.5 Schedule "E" – List of Items, labour and monies donated by the Rotary Club

1.2.6 Schedule "F" – List of inscribed donor items and materials approved by the City of Hamilton

ARTICLE 2 - TERM

2.1 This Agreement shall commence and be effective as of the 1st day of October, 2012 ("Commencement Date") and shall expire on the 1st day of October, 2017, unless terminated earlier under the terms of this Agreement.

2.2 Notwithstanding Article 2.1, the Parties' rights and obligations, which by their nature extend beyond the expiration or termination of this Agreement, will survive any expiration or termination of this Agreement.

ARTICLE 3 – PURPOSE

3.1 The purpose of this Agreement is to provide funding to the Project. By funding this Project, the Rotary and the City would ensure that sufficient funds are available to allow the City to commence the project by April 1, 2013 at the earliest and complete the Project before the deadline of November 30, 2014.

3.2 The Parties acknowledge and agree that the Rotary's role in the Project is limited to making a financial contribution (through materials and money) and contributing electrical work for the site to the Project and that the Rotary will

have no other involvement in the Project or its subsequent operation. Notwithstanding any reporting obligation set out in this Agreement, the Rotary is neither a decision maker nor an advisor to the Project.

ARTICLE 4 – FUNDING PROVISIONS

- 4.1 Provided the City is not in default of any of the terms and conditions herein for which the Rotary has not provided written consent, and subject to the terms and conditions of this Agreement, the Rotary agrees to grant to the City, for the Project, an amount not exceeding the lesser of the following:
 - 4.1.1 a maximum amount of Two Hundred and Fifty Thousand (\$250,000.00) Canadian Dollars;
- 4.2 The Rotary may only reduce or terminate any payment under this Agreement in the event the City is in default under the terms of this Funding Agreement and Council, at a duly constituted meeting, passes a resolution or by-law requiring the reduction or termination of any payment which would otherwise become due under this Agreement and, in such event, the Rotary will not be liable for any direct, indirect, consequential, exemplary or punitive damages, regardless of the form of action, arising from any such reduction or termination of funding.
- 4.3 If, at any time during the term of this Agreement, the City deems that it will be unable to complete the construction of the Project without committing funds above and beyond the funding available for the Project, the City shall immediately inform the Rotary thereof. After having so informed the Rotary, the City shall provide a summary of its proposed remedial measures. If the Rotary, in its sole opinion, is not satisfied with the proposed remedial measures, the Rotary may terminate or suspend the payment of Funds until such time as the Rotary is satisfied with the remedial measures being taken by the City.

ARTICLE 5 – USE OF FUNDS

- 5.1 The City agrees that Funds may be used only for costs that it incurs for the Project.
- 5.2 Under the terms of this Agreement, the City must incur all costs by November 30, 2014. For greater certainty the City shall be deemed to have "incurred costs upon such date that the City issues a purchase order and/or executes a building contract with any one or more of the City's building contractors or suppliers from time to time during the allowable period prescribed herein. The Rotary will confirm such costs if

work is completed by November 30, 2014 and final invoicing is received as set out in Article 7.6.

ARTICLE 6 – DEFAULT AND REMEDIES

- 6.1 The City may make a declaration of default if the Rotary:
- 6.1.1 The Rotary has not completed the Project under the terms and conditions of this Agreement.
 - 6.1.2 The Rotary has submitted false or misleading information to the City, or made a false or misleading representation or statement, with the exception of an error in good faith, which it will be incumbent upon the Rotary to demonstrate to the City's satisfaction.
 - 6.1.3 The Rotary has not complied with an obligation, condition, undertaking or term of this Agreement.
 - 6.1.4 The Rotary has neglected or failed to meet its obligation to pay to the City any amount due when it becomes due under this Agreement.
 - 6.1.5 The Rotary is adjudged insolvent or bankrupt, applies for the benefit of any law relating to bankruptcy and insolvent debtors, or goes into receivership or bankruptcy.
 - 6.1.6 The Rotary is liquidated or dissolved.

The City will not declare that a default has occurred under Sections 6.1.1 to 6.1.7 unless it has given written notice to the Rotary of the condition or occurrence which, in the City's sole opinion, constitutes an Event of Default, and the Rotary is unable or unwilling, within thirty (30) days of receipt of the notice, to correct the condition or Event of Default or to demonstrate to the City's satisfaction, that it has taken such steps as are necessary to correct the condition and gives the City notice of this remedy.

- 6.2 If the City has declared the Rotary to be in default, the City may exercise one or more of the following remedies:
- 6.2.1 Suspend its obligation to pay, or to continue to pay the costs, including any obligation to pay any amount due prior to the date of suspension, if it is related to the Event of Default;

- 6.2.2 Terminate any obligation to pay, or to continue to pay the Eligible Costs, including any obligation to pay any amount due prior to the date of termination, if it is related to the Event of Default; and
- 6.2.3 Require the Rotary to reimburse the City all or part of the Funds received by the Rotary.

ARTICLE 7 – CLAIMS AND PAYMENTS

- 7.1 Payments will be made on the basis of costs. Costs will be defined by low bidder during a fair and open tender process administered by the City according to City's Procurement Policies. Any savings from cost estimates during design will not be realized until project completion. In-kind donations are addressed in Schedule E and the implementation of the donation will be considered as "payment" from the Rotary to the City.
- 7.2 Where there is a dispute over an amount owed by either party, the Parties agree to meet and resolve the issue in a timely manner, reasonably and in good faith.

ARTICLE 8 – REPRESENTATIONS AND WARRANTIES OF THE ROTARY

- 8.1 The Rotary expressly acknowledges, agrees and warrants as follows:
 - 8.1.1 The Rotary is a legal, organized and subsisting not-for-profit registered charity corporation duly incorporated without share capital in the Province of Ontario with its head office in Ancaster, in the City of Hamilton with all requisite powers, capacities, licences and permissions under its governing legislation and the other laws applicable to it, and under any instruments or by-laws under which it was organized, to carry on the activities in which the Rotary is engaged, enter into and exercise its rights and perform and comply with its obligations under this Agreement, and that all actions conditions and things have been done, taken or fulfilled with respect thereto, that are required by law, contract or otherwise.
 - 8.1.2 The Rotary and its officers, employees and servants are each fully qualified to carry out the operations and activities associated with the Rotary and perform the terms of this Agreement and hold all requisite licences, permits and other authorizations required by law with respect thereto.
 - 8.1.3 The Rotary is not prohibited or restricted from entering into any of the obligations assumed, liabilities imposed or restrictions accepted by

the Rotary under this Agreement by any agreement, constating document, constitution, legislation, statute, act, regulation, order or otherwise.

- 8.1.4 To the best of the Rotary's information and belief and after making diligent inquiries, the Rotary is not aware of any material facts and circumstances having a bearing upon its ability to perform or comply with its obligations under this Agreement.

ARTICLE 9 – CITY'S COVENANTS

- 9.1 Without limiting or restricting in any way any other responsibilities or obligations of the City in this Agreement, the City covenants with the Rotary and agrees to:
- 9.1.1 undertake the Project in accordance with the terms and conditions of this Agreement and all the terms of applicable legislation;
 - 9.1.2 shall execute the funding agreement to the satisfaction of the City Solicitor, the General Manager of Public Works of the City Of Hamilton and to that of the Ancaster Rotary (AM Club);
 - 9.1.3 monitor the progress of the Project at all times;
 - 9.1.4 submit duly attested claims, Progress Reports and an Audit Report in accordance with this Agreement; and
 - 9.1.5 ensure that all provisions and Schedules of this Agreement are complied with at all times.

ARTICLE 10 – RESPONSIBILITY

- 10.1 **Progress Reports.** The City must provide the Rotary with attested quarterly Progress Reports, a description to the Rotary's satisfaction of the progress made in implementing the Project, and include the following information:
- 10.1.1 The progress of the Project against the milestones, including actual construction start date, dates of tenders and other significant Project implementation steps.
 - 10.1.2 In addition to the quarterly Progress Reports, the City shall meet with the Rotary on an as needed basis.

ARTICLE 11 – AUDIT AND EVALUATION

- 11.1 The Parties agree that auditing and reporting activities will be undertaken in accordance with this Agreement.
- 11.1.1 An Audit Report will be required in accordance with this Agreement.
- 11.1.2 The Rotary may conduct, at its expense, a compliance audit of the Project.
- 11.1.3 The City agrees to allow representatives of the Rotary access to its facilities and to Project sites upon request to make ad hoc site visits given that the Rotary representatives are equipped with proper protective equipment. The Rotary representatives shall not give site direction to contractors or subcontractors at anytime.
- 11.1.4 If, at any time, any discrepancy is identified between the amounts paid by the Rotary and the amounts actually payable under this Agreement, the appropriate adjustments shall be promptly made between the Parties. If there has been an overpayment by the Rotary the amount of the overpayment shall constitute a debt due to the Rotary and may be so recovered.

ARTICLE 12 – INSURANCE AND INDEMNITY

- 12.1 Rotary agrees to obtain and maintain in force throughout the duration of this Agreement, Commercial General Liability Insurance having an inclusive limit of not less than \$2,000,000 per occurrence and endorsed to include the City Of Hamilton as additional insured.
- 12.2 Rotary shall defend and indemnify the City against, and hold City harmless from, any and all claims, actions, suits, proceedings, costs, expenses, damages and liabilities, including reasonable attorney's fees and costs: arising from any breach by Rotary of any provisions of this Agreement.
- 12.3 The City shall defend and indemnify the Rotary against, and hold the Rotary harmless from, any and all claims, actions, suits, proceedings, costs, expenses, damages and liabilities, including reasonable attorney's fees and costs: arising from any breach by the City of any provisions of this Agreement.

ARTICLE 13 – GENERAL PROVISIONS

- 13.1 The City covenants that it will execute or cause to be made, done or executed, all further and lawful acts, deeds, things, devices, conveyances and assurances whatsoever for effecting the purposes and intent of this

Agreement as the Rotary shall reasonably advise or request.

- 13.2 The Rotary may provide materials inscribed with Rotary donor names to be placed in and around the Spray Pad subject to the City's Design Standards and the City's final approval as to the size, shape, content and location of the inscribed materials.
- 13.3 The Rotary may install a Rotary Club Logo on the Spray Pad subject to the City's Design Standards and the City's final approval of the size, shape, content and location of the Logo.
- 13.4 No party shall have exclusive access to the Spray Pad. At all times, it shall be available for use by the general public.
- 13.5 The City's tendering process shall commence in the winter of 2012/2013 and the Project shall at all times follow the City's Procurement Policy, similar guidelines, by-laws and rules. All Rotary in-kind donations must be submitted and approved by the City, in compliance with Procurement Policy 11, by no later than January 15, 2013 to ensure that all in-kind donations will be incorporated into the Procurement process. Rotary may be granted a two-week extension to the submission deadline of January 15, 2013 with written approval by the City.
- 13.6 Notice to be given shall, save as otherwise specifically provided, be in writing addressed to the party for whom it is intended and shall not be deemed received until actual receipt by the other party except if sent by telex or facsimile, in which case it shall be deemed received on the business day next following the date of transmission. The mailing, telex and facsimile addresses of the parties shall be:

(a) As to the Rotary:

Rotary Club of Ancaster Morning
23 Galley Road
Ancaster, ON L9G 4S8
Attention: Marty Schure, Treasurer
Fax: 905-648-8578

(b) As to City:

City of Hamilton
320 - 77 James Street North
Hamilton, ON L8R 2K3
Attention: Cynthia Graham
Fax: (905) 546-4435

or any other mailing, telex or facsimile addresses as the parties from time to time may notify the other.

- 13.7 This Agreement and all other Security to be delivered in connection with this Agreement shall be governed by and construed in accordance with the applicable laws of the Province of Ontario and of Canada.
- 13.8 This Agreement shall be binding on and enure to the benefit of the City, the Rotary and their respective successors and assigns, except that the either party shall not, without the prior written consent of the other party, assign any rights or obligations with respect to this Agreement.
- 13.9 Any provision of this Agreement, which is or becomes prohibited or unenforceable in any jurisdiction shall not invalidate or impair the remaining provisions of this Agreement which shall be deemed severable from the prohibited or unenforceable provision and any prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable that provision in any other jurisdiction.
- 13.10 No amendment, supplement or waiver of any provision of this Agreement, nor any consent to any departure by the City, shall in any event be effective unless it shall be in writing and duly authorized by the Council for the City and even then the waiver or consent shall be effective only in the specific instance for the specific purpose for which it has been given.
- 13.11 No waiver or act or omission of the Rotary shall extend to or be taken in any manner whatsoever to affect any subsequent event of default or breach by the City of any provision of this Agreement or the results or the rights resulting from it.
- 13.12 Time shall be of the essence of this Agreement.
- 13.13 This Agreement shall remain in full force and effect until the payment and performance in full of all of the City's obligations under this Agreement.
- 13.14 This Agreement constitutes the entire agreement between the parties, cancels, and supersedes any prior agreements, undertakings, declarations, representations, or letters of understanding, written or verbal in respect of it.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK – EXECUTION PAGE
FOLLOWS]**

IN WITNESS WHEREOF the parties hereto have hereunto affixed their corporate seals attested to by the hands of their respective proper signing officers in that behalf duly authorized.

CITY OF HAMILTON

Signed for and on behalf of the City by:

Signed _____
Name: R. Bratina
Title: Mayor

c/s

Date _____

Signed _____
Name: R. Caterini
Title: City Clerk

c/s

Date _____

ROTARY CLUB OF ANCASTER MORNING

Signed for and on behalf of the Rotary by:

Signed _____
Name: Marty Schure
Title: Treasurer

c/s

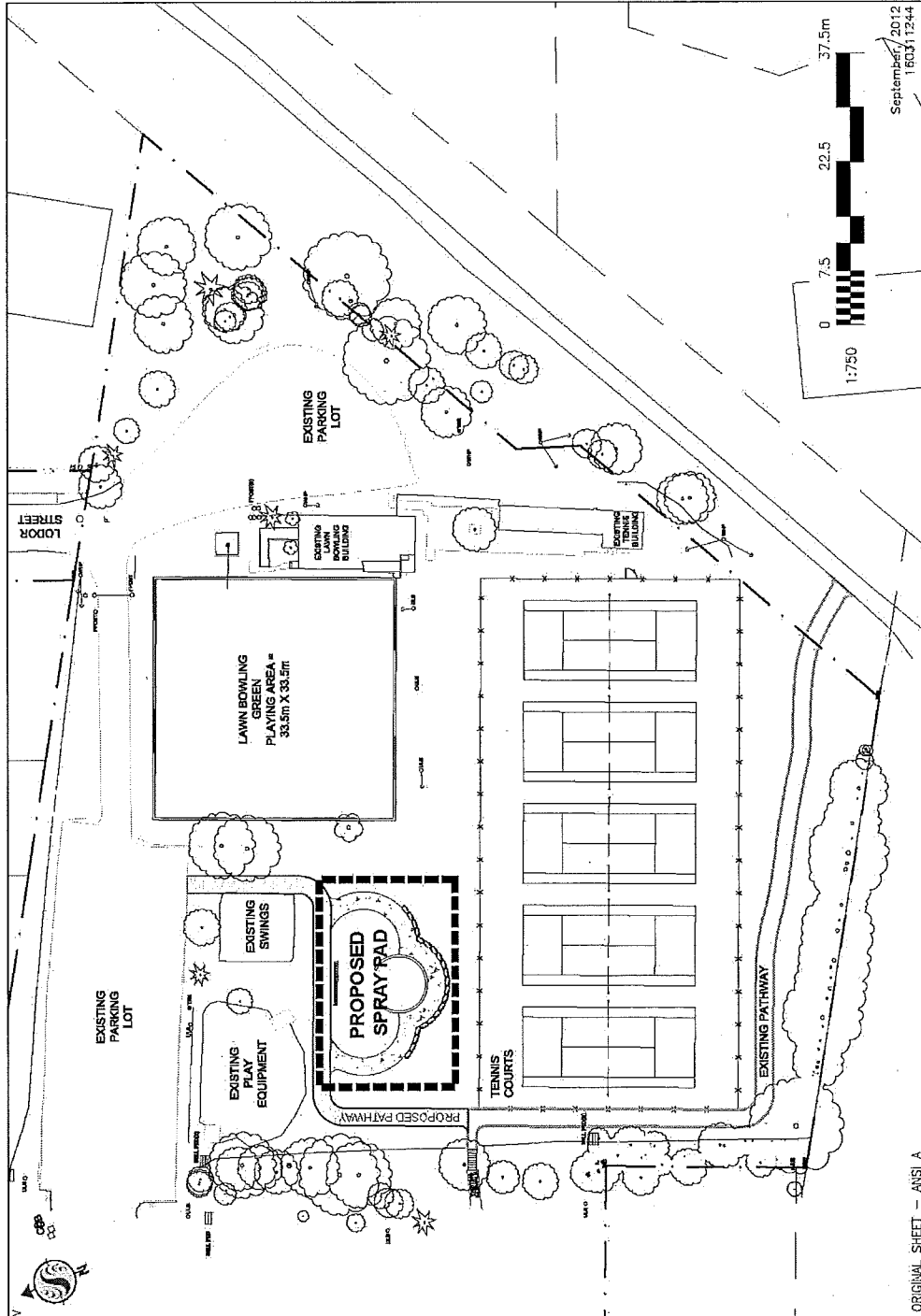
Date _____

"I have the authority to bind the Corporation"

Authorized by Item _____ of the Public Works Report adopted by the Council of the City of Hamilton on the day of _____, 2012. File Number: _____

Schedule "A" – Licensed Area – Description, Locations, Map and Illustrations

Village Green Park Master Plan



Schedule B – Municipal Policies and Policy Requirements

1. City of Hamilton By-Law No. 01-219: To Manage and Regulate Municipal Parks
2. City-owned spray pads are operational approximately June 30th to September 1st. All spray pads are programmed by timer to operate from 10:00 a.m. to 8:00 p.m.

Schedule C – Reporting Requirements

TO BE DETERMINED

Schedule D – Schedule and Times of Acceptable Usage

City-owned spray pads are operational approximately June 30th to September 1st.
All spray pads are programmed by timer to operate from 10:00 a.m. to 8:00 p.m.

Schedule E – List of Items donated by the Rotary Club

TO BE DETERMINED

**Schedule F – List of inscribed donor items and materials approved by the
City of Hamilton**

TO BE DETERMINED