

**CITY OF HAMILTON
NOTICE OF MOTION**

General Issues Committee Date: May 20, 2015

MOVED BY COUNCILLOR L FERGUSON.....

Memorandum of Local Amendment – Hamilton-Halton General Contractors Association and the United Brotherhood of Carpenters and Joiners of America, Local 18; and, the Corporation of the City of Hamilton

- (a) That the Memorandum of Local Amendment between the Hamilton-Halton General Contractors Association and the United Brotherhood of Carpenters and Joiners of America, Local 18; and, the Corporation of the City of Hamilton (attached hereto be approved; and,

- (b) That the Mayor and City Clerk be authorized and directed to execute the Memorandum of Local Amendment between the Hamilton-Halton General Contractors Association and the United Brotherhood of Carpenters and Joiners of America, Local 18; and, the Corporation of the City of Hamilton (attached hereto), which has been prepared in a form satisfactory to the City Solicitor.

MEMORANDUM OF LOCAL AMENDMENT

BETWEEN:

**HAMILTON-HALTON GENERAL
CONTRACTORS ASSOCIATION**

(the "Association")

and

**UNITED BROTHERHOOD OF CARPENTERS
AND JOINERS OF AMERICA, LOCAL 18**

(the "Union")

and

THE CORPORATION OF CITY OF HAMILTON

(the "City")

WHEREAS Article 28 of the Carpenters' Provincial Collective Agreement (the "Collective Agreement") between The Carpenters' Employer Bargaining Agency (the "Carpenters EBA") and The Carpenters' District Council of Ontario, United Brotherhood of Carpenters and Joiners of America (the "Carpenters CDC") permit exemption or amendment of particular provisions of said Collective Agreement in a specific geographic area;

AND WHEREAS the Association and the Union have deemed it necessary to enter into this Memorandum of Local Amendment;

NOW THEREFORE the Association and the Union agree as follows with the concurrence of the City:

1. This Memorandum of Local Understanding ("MOLA") shall only apply to the geographic area of the Union as described in Schedule "B" to the Collective Agreement.

2. In accordance with Article 28.08 of the Collective Agreement, this MOLA shall only apply until April 30th 2016.
3. This MOLA shall not rescind, supersede, or operate with prejudice to any other memorandums, arrangements, or applications between some or all of the parties.
4. The parties agree that carpentry work to be performed by the City falling within the ICI sector of the construction industry within the jurisdiction of the Union (“carpentry work”) shall be performed in accordance with the Collective Agreement, Article 4 – Subcontracting, subject to the terms of this MOLA.
5. For purposes of Article 4 – Subcontracting of the Collective Agreement:
 - a. The term ‘employer bound by this Agreement’ shall include:
 - i. an entity that is an employer bound by the Collective Agreement; or,
 - ii. a signatory or non-signatory joint venture of entities, where at least one of the entities actively participating in the joint venture is an employer bound by the Collective Agreement, but is not an employer described in paragraph 5 (b) below;
 - iii. a non-signatory corporation where at least one of the shareholders is an employer bound by the collective agreement who will be responsible for performing the work covered by the collective agreement either directly or through subcontracting arrangements, but is not an employer described in paragraph 5 (b) below.

- b. For the purpose of paragraphs 5 (a) (ii) and (iii) above, an employer bound by the collective agreement shall not include an employer who performs either formwork, drywall, caulking, or resilient flooring representing greater than 50% of its revenue from all contracted works for the 12 month period prior to the applicable bid closing.
 - c. The City may rely on the declaration attached as Schedule A in full satisfaction and compliance with paragraphs 5(a)(ii) and (iii).
 - d. The term 'entity' shall include an affiliation, group, or family of companies.
6. The City will not be required to contract with an 'employer bound by this Agreement' where:
- a. Any project has a consultant's estimate exceeding \$20,000,000; and,
 - b. Less than three 'employers bound by this Agreement' have successfully satisfied the prequalification criteria established by the City for the project.

It is acknowledged that the Union will request a meeting directly with the contractor to review areas of practice and scope of work where the contractor is non-signatory.

7. If the successful bidder is not bound by the Collective Agreement, the City must ensure that the successful bidder either directly employs members of the Union to perform all carpentry work or subcontracts such carpentry work to an employer that is bound to the Collective Agreement.

8. On a project where an employer not bound by the Collective Agreement performs carpentry work in violation of the Collective Agreement and this Memorandum, the Union will notify the City to rectify the problem prior to filing a grievance. The Union will attempt to work with the City to eliminate, correct and/or resolve the problem prior to filing a grievance.

9. This Memorandum shall form part of the Collective Agreement and is applicable to the City and the work specified herein.

10. The Association and the Union agree to monitor and review the terms and conditions of the Memorandum on an ongoing basis to discuss any further or other changes deemed necessary by mutual agreement.

DATED at Hamilton, this ____ day of _____, 2015

HAMILTON-HALTON GENERAL CONTRACTORS ASSOCIATION

Name: _____ Signature: _____

CARPENTERS DISTRICT COUNCIL OF ONTARIO, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA

Name: _____ Signature: _____

CARPENTERS LOCAL 18, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA

Name: _____ Signature: _____

CITY OF HAMILTON

Name: _____ Signature: _____

Name: _____ Signature: _____

SCHEDULE A

DECLARATION OF A SIGNATORY EMPLOYER

WHEREAS Article 28 of the Carpenters' Provincial Collective Agreement (the "Collective Agreement") between The Carpenters' Employer Bargaining Agency and The Carpenters' District Council of Ontario, United Brotherhood of Carpenters and Joiners of America permit exemption or amendment of particular provisions of said Collective Agreement in a specific geographic area;

AND WHEREAS the City of Hamilton, the Hamilton-Halton General Contractors Association, and the United Brotherhood of Carpenters and Joiners of America, Local 18 have entered into a Memorandum of Local Amendment dated _____, 2015 (the "MOLA").

AND WHEREAS the MOLA provides for the City of Hamilton to contract to a signatory or non-signatory joint venture of entities or a corporation, where at least one of the entities participating in the joint venture, or at least one of the shareholders of the corporation, is an employer bound by the Collective Agreement save and except for an employer who performs either formwork, drywall, caulking, or resilient flooring representing greater than 50% of its revenue from all contracted works for the 12 month period prior to the applicable bid closing.

DECLARATION:

I, _____, do solemnly declare that, as of the date of this declaration, I am an authorized signing officer, partner, or sole proprietor of _____, (the "Employer") and as such have authority to bind the Employer. I do further declare that the Employer is a signatory or non-signatory joint venture of entities or a corporation, where at least one of the entities participating in the joint venture, or at least one of the shareholders of the corporation, is an "employer bound to this Agreement" within the meaning of paragraph 5 of the Memorandum of Local Amendment to which this Declaration is attached and that I have personal knowledge of the fact that all revenues from either formwork, drywall, caulking, or resilient flooring do not represent greater than 50% of the Employer's revenue from all contracted works for the 12 month period prior to the _____ bid closing. I make this solemn declaration conscientiously believing it to be true, understanding that it will be relied upon for compliance with the MOLA, and knowing that it is of the same force and effect as if made under oath.

Declared before me this ___ day of _____, 201___, at _____.

Signature of Commissioner or Notary Public

Signature of Declarant