



CITY OF HAMILTON
PUBLIC WORKS
Engineering Serviced Division

TO:	Chair and Members West Harbour Development Sub-Committee
COMMITTEE DATE:	June 5, 2017
SUBJECT/REPORT NO:	Piers 5-7 Public Realm Projects (PW16088a) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Gavin Norman, P. Eng. (905) 546-2424, Extension 4812
SUBMITTED BY:	Susan Jacob, P.Eng. (Acting) Director, Engineering Services Public Works Department
SIGNATURE:	

RECOMMENDATION

That the General Manager of Public Works be authorized and directed to negotiate and execute, on behalf of the City, each with content acceptable to the General Manager of Finance and Corporate Services, and each in a form satisfactory to the City Solicitor:

- (a) The Terms of Reference ("TOR") between the Hamilton Waterfront Trust ("HWT") and the City of Hamilton ("City") for the planning, design and construction of the Piers 5-7 Public Realm Projects (the "Project") substantially on the terms and conditions outlined in the draft TOR attached as Appendix "A" to report PW16088a; and
- (b) Any additional TORs, works agreements, other ancillary agreements and documents for other projects approved by Council that arise out of the Project Management Agreement between the City and the HWT dated January 7, 2015 ("PMA").

EXECUTIVE SUMMARY

The purpose of this report is to seek Council approval to delegate authority to the General Manager of Public Works to negotiate and execute, on the City's behalf, the Terms of Reference (TOR) attached as Appendix "A" and all necessary agreements between the City and Hamilton Waterfront Trust (HWT) for projects approved by Council arising out of the Project Management Agreement dated January 7, 2015 ("PMA").

Alternatives for Consideration – See Page 4

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

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FINANCIAL – STAFFING – LEGAL IMPLICATIONS

- Financial:** The TOR outlines the overall budgets for the Project as well as the management fees to be paid to the HWT.
- Staffing:** In partnership with the HWT, City staff will be delivering the Piers 5-7 sub-projects. The TOR has been structured to optimize staff resources and eliminate duplication of work. For example, although the City's Waterfront Development Office staff will approve the project design, the tendering process and will ultimately accept the final deliverable, the HWT will be overseeing the work on a daily basis with City staff assisting as required.
- Legal:** The City's legal department has been, and will continue to be, involved in the negotiation and drafting of all TORs and other ancillary agreements arising out of the PMA.

HISTORICAL BACKGROUND

Effective January 7, 2015, the City and HWT entered into a Project Management Agreement (PMA) which outlined the terms and conditions under which the City would retain the HWT to manage select City projects along the Hamilton waterfront. The PMA states that all such projects "will be defined in detail, and shall have specific terms and conditions set out in each Project's Terms of Reference and Project Charter". The PMA does not specifically identify the City's signing authority for these Terms of Reference.

At the West Harbour Development Sub-Committee May 5, 2016 meeting, members indicated a desire to advance public realm projects identified in the West Harbour Waterfront Recreation Master Plan ("WHWRMP") located on the Piers 5-7 lands.

In accordance with the Sub-Committee's direction, on June 6, 2016, Council approved General Issues Committee ("GIC") Report 16-015 which directed:

- (a) That support for the West Harbour Waterfront Recreation Master Plan be reaffirmed;
- (b) That staff be directed to consult with the Hamilton Waterfront Trust for development of plans for Piers 5 to 7; and
- (c) That staff be directed to report to the West Harbour Development Sub-Committee with a proposal to increase staffing resources for the Waterfront Development Office so that the West Harbour Waterfront Recreation Master Plan can be implemented.

At the August 4, 2016 West Harbour Development Sub-Committee meeting, staff presented a preliminary plan to expedite the Piers 5-7 public realm projects by utilizing the services and expertise of the HWT through the existing Project Management Agreement dated January 7, 2015 ("PMA"). Staff also identified additional considerations required for successful implementation of the projects, including an operating protocol to facilitate satisfactory project delivery, changes to the 2017 capital

budget, a budget forecast required to expedite the projects, and the need for an intensive public engagement plan.

Subsequently, on September 14, 2016, Council approved GIC Report 16-020 which directed:

- (a) That staff be directed to formalize an operating protocol with the Hamilton Waterfront Trust (HWT), for the planning, design, and implementation of the City of Hamilton's public realm projects on Piers 5 to 7, based on the Terms and Conditions of the existing Project Management Agreement dated January 7, 2015, between the City of Hamilton and the HWT;
- (b) That staff be directed to report back to the next West Harbour Development Sub-committee meeting respecting an operating protocol with the Hamilton Waterfront Trust, as detailed in sub-section (a); and
- (c) That staff be directed to update the 2017 Capital Budget submission and the future budget forecast as required to reflect the accelerated cash-flow requirements of the Piers 5 to 7 and Pier 8 public realm projects.

At its October 11, 2016 meeting, the West Harbour Development Sub-Committee received Information Report PW16088 by which staff updated members on the nature of the public realm works and the proposed arrangement with the HWT.

➤ **Summary of Piers 5-7 Public Realm Project**

The Project includes heavy civil works for reconstruction of the shoreline, boardwalk construction, construction of a commercial village, public space, the re-purposing of existing buildings for public amenity spaces. The Project is comprised of the following sub-projects:

- ❖ Piers 5-7 Marina Shoreline Rehabilitation;
- ❖ Piers 5-7 Boardwalk;
- ❖ Pier 6 Artisan Village; and
- ❖ Pier 7 Commercial Village.

➤ **Overview of the Terms of Reference**

An operating protocol or Terms of Reference ("TOR") has now been negotiated which clarifies roles and responsibilities related to fees, transfer of funds, project approvals, implementation, and public consultation.

In order to enhance project oversight from both an approvals and financial perspective the TOR will also include a project specific works agreement that will focus on technical construction, inspections, acceptance and payments.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

To streamline project delivery, staff is recommending that the General Manager of Public Works be authorized and directed to negotiate and execute, on behalf of the City

of Hamilton, the TOR and any other ancillary agreements and documents all with content acceptable to the General Manager of Finance and Corporate Services, and in a form satisfactory to the City Solicitor.

RELEVANT CONSULTATION

The TOR has been prepared in consultation with staff in Legal Services, Procurement Services and Corporate Financial Planning and Policy Division. Externally, staff collaborated with the Executive Director of the Hamilton Waterfront Trust.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The HWT will deliver and be responsible for the planning, design, construction and contract administration of several projects arising out the PMA including the Piers 5-7 Public Realm Projects.

The existing PMA forms the basis for the City to collaborate with the HWT in delivering the Project. The PMA stipulates that a separate agreement must be concluded for each project but does not identify the signing authority for these agreements. The TOR outlines the necessary additional detail required to clarify the respective roles and responsibilities of the City and the HWT related to transfer of funds, project approvals, implementation, and public consultation.

ALTERNATIVES FOR CONSIDERATION

As indicated, the PMA requires that a Terms of Reference be executed for each project that the City retains the HWT to manage, but does not specifically identify the City's signing authority for these Terms of Reference.

If Council chooses not to delegate the authority to execute these agreements to staff, staff will have to return to Council seeking approval for each agreement even though Council has already approved the project and associated financing. Staff propose that the delegation of the requested signing authority will result in a more efficient process without detracting from Council oversight.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

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APPENDICES AND SCHEDULES ATTACHED

Appendix A: Draft Terms of Reference between the City and the HWT

Appendix B: Works Agreement

Appendix C: Piers 5-7 Public Engagement Plan