

**CITY OF HAMILTON**  
**CITY MANAGER'S OFFICE**  
*Strategic Partnerships and Communications*

<b>TO:</b>	Mayor and Members General Issues Committee
<b>DATE:</b>	June 5, 2019
<b>SUBJECT/REPORT NO:</b>	Downtown Entertainment Assets Operating Agreements (CM18013(a)) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Ryan McHugh (905) 546-2424, Extension 2725
<b>SUBMITTED BY:</b>	John Hertel Director, Strategic Partnerships and Communications City Manager's Office
<b>SIGNATURE:</b>	

Discussion of Confidential Appendix 'G' to Report CM18013(a) in closed session is subject to the following requirement(s) of the City of Hamilton's Procedural By-law and the *Ontario Municipal Act, 2001*:

- ♦ Advice that is subject to solicitor-client privilege, including communications necessary for that purpose;

**RECOMMENDATION**

- (a) That an extension of the existing Management Agreement between the City of Hamilton and Global Spectrum Facility Management, L.P. (Global Spectrum), which is consistent with the terms set out in Appendix "A" to report CM18013(a), be approved;
- (b) That an extension of the existing Facility Operating Agreement between the City of Hamilton, the Hospitality Centre Corporation and Mercanti Banquet & Convention Centre Ltd. (Carmen's Group), which is consistent with the terms set out in set out in Appendix "B" to report CM18013(a), be approved;
- (c) That the Mayor and the City Clerk be authorized and directed to execute any documents, with content acceptable to the City Manager and in a form acceptable to the City Solicitor, required to give effect to an extension to the Management Agreement between the City of Hamilton and Global Spectrum Facility Management, L.P. (Global Spectrum);

- (d) That the Mayor and the City Clerk be authorized and directed to execute any documents, with content acceptable to the City Manager and in a form acceptable to the City Solicitor, required to give effect to an extension to the Facility Operating Agreement between the City of Hamilton, the Hospitality Centre Corporation and Mercanti Banquet & Convention Centre Ltd. (Carmen's Group);

## **EXECUTIVE SUMMARY**

Following a comprehensive RFP process, the operations of the former Hamilton Entertainment and Convention Facilities Inc. (HECFI) properties including the Hamilton Convention Centre, the former Copps Coliseum, and the former Hamilton Place, were awarded by Council to Carmen's Group (convention centre) and Global Spectrum (arena and performance hall) effective March 1, 2013.

The approved Management Agreements included an initial term for Global Spectrum of 5 years, an option for 5 additional years, plus a transition period which was comprised of the remaining 10 months of 2013. The approved Management Agreement for Carmen's Group included an initial term of 5 years, an option for two additional 5 year terms, plus a transition period which was comprised of the remaining 10 months of 2013.

The initial 5 year term was scheduled to expire on December 31, 2018. In February 2018, Carmen's Group made a request to Council to be considered as the potential operator for all 3 venues. As a result, Council approved extensions of the current Management Agreements to the end of June 2019, to provide staff and the two operators the time required to complete a proposal process. Subsequently, Carmen's Group withdrew their request and elected to maintain their strategic focus on their core hospitality business; a joint letter signed by Carmen's Group, Global Spectrum, and Live Nation was sent to Mayor Eisenberger and Members of Council.

Both Global Spectrum and the Carmen's Group have had considerable success given the limitations of the aging facilities in which they operate. In addition to providing the City with combined savings of over \$10M over the first 5 year term, both Global Spectrum and Carmen's Group have been exceptional stewards of the facilities and have been actively involved in the local community.

As a result, staff are seeking Council approval for the following extension terms:

**Global Spectrum:** A 5 year and 6 month extension of Global Spectrum's existing management agreement at the FirstOntario Centre (former Copps Coliseum) and FirstOntario Concert Hall and Studio (former Hamilton Place).

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The first 5 year term achievements resulted in \$5.15M of net financial benefit to the City compared to the benchmark subsidies of the former HECFI operation. The proposed extension looks to build on this success by including the following enhancements:

- 1) A reduction in the annual Management Fee by \$100K;
- 2) An enhanced 'profit sharing' (subsidy reduction) formula that benefits the City. For example, using the 2016, 2017 and 2018 three-year average performance, the City would gain \$156K per year in additional revenues (subsidy reduction);
- 3) Risk mitigation measures where Global Spectrum contributes half of any "incentive income", up to an annual maximum of \$200,000 per year, into a reserve account that would be drawn on in the event of future losses. This would include losses that may arise as a result of LRT construction, and/or the critical failure of major capital components in the facilities that they manage (such as the FirstOntario Centre's brine line).
- 4) An additional upfront capital infusion of \$500K from Global Spectrum;
- 5) An additional capital infusion from food & beverage supplier Compass Group Canada of \$500K up front plus \$50K in year 3.

If the 5 year extension is approved, staff forecast that the operating subsidy for these facilities would be approximately \$6.3M less than the benchmark HECFI subsidy. When the proposed \$1.05M in capital contributions are included, the total net financial benefit of the recommended extension would be \$7.35M greater than the benchmark HECFI subsidy and \$1.7M greater than the initial 5 year term.

**Carmen's Group:** A 5 year and 6 month extension of the Carmen's Group's existing management agreement at the Hamilton Convention Centre.

Based on their anticipated aggressive revenue growth, Carmen's first term contract model included a declining level of City subsidy, and an increasing contribution to the cost of utilities. In the first 5-year term, Carmen's group reduced the City's operating subsidy by \$4,765,500 plus made \$750K in capital improvements, for a total net financial benefit of \$5,515,500 compared to the previous benchmark HECFI subsidy.

Although their revenues fell short of their own internal forecasts, Carmen's Group continued to meet all financial commitments to the City, while adjusting their business model for better future growth opportunities i.e. conventions and trade shows versus weddings. In 2018, the owners of their largest single event (approximately 15% of revenues and margins) built their own facility and moved the event permanently.

The proposed extension includes the following enhancements:

- 1) A reduction in the HECFI baseline operating subsidy of \$5,727,000, compared to a \$4,765,500 reduction in the initial 5-year term;

- 2) An additional capital infusion of \$500K, with \$300K up front and \$50K in each of years 2 through 5;
- 3) An additional 2 sales staff to more aggressively pursue conventions and trade shows;
- 4) An M.O.U. with Global Spectrum to pursue joint venture entertainment opportunities in the Convention Centre;
- 5) Continued leveraging of suppliers for a \$50K community contribution to the Good Shepherd Winter Wonderland event.

In the first 5-year term, Carmen's group reduced the City's operating subsidy by \$4,765,500, plus they made \$750K in capital improvements to the facility for a total net financial benefit of \$5,515,500 to the City. The enhancements outlined in this recommendation would result in a net financial benefit of \$6,227,000 versus the benchmark HECFI subsidy and an additional \$711,500 in net financial benefit versus the initial 5 year term.

## **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** Financial details outlined in Appendix "A" and Appendix "B" of report CM18013(a)

**Staffing:** N/A

**Legal:** Legal Services will play an important role in the preparation of the detailed Management Agreements for both parties.

## **HISTORICAL BACKGROUND**

In 2011, the City of Hamilton underwent the "External Audit Review of HECFI Operations" with the assistance of KPMG. Upon the completion of this exercise in 2013, Council approved the staff recommendations put forward in report CM11013(e) at the February 12, 2013 General Issues Committee. Based on this direction, staff executed the following agreements:

1. The Management Agreement between the City of Hamilton and Global Spectrum Facility Management, L.P. This agreement designated Global Spectrum as the operator of the City-owned FirstOntario Centre (formerly Copps Coliseum) and the FirstOntario Concert Hall (formerly Hamilton Place) for a 5-year term which concludes on December 31, 2018.
2. The Facility Operating Agreement between the City of Hamilton, the Hospitality Centre Corporation and Mercanti Banquet & Convention Centre Ltd. This agreement designated the Carmen's Group as the operator of the City owned

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Hamilton Convention Centre for a 5 year term which concludes on December 31, 2018.

Since both Global Spectrum and the Carmen's Group have had measurable success operating their respective facilities during the first term of their agreements, staff was prepared to recommend exercising both 5 year extensions. However, in February 2018, the Carmen's Group provided the open letter attached as Appendix "C" to report CM18013(a) addressed to the Mayor and Members of Council. The letter concluded with a "Formal request that City Council now examine alternate contract management arrangements regarding the current three entertainment venues including facility redevelopment exploration." This letter was accompanied by a second open letter to the Mayor and Members of Council dated May 11th 2018, which is attached as Appendix "D" to report CM18013(a).

Subsequently, both organizations notified staff that they were prepared to forgo their 5 year extension and submit proposals for:

1. A 5-year extension of the scope of work outlined in their existing management agreements (For Global Spectrum – FirstOntario Centre and FirstOntario Concert Hall, and for the Carmen's Group – The Hamilton Convention Centre);
2. The opportunity to manage all three facilities, which would effectively result in the City terminating one of their existing agreements with either Global Spectrum or the Carmen's Group.

Based on these developments, in a July 9, 2018 GIC report titled "Downtown Entertainment Assets Operating Agreements CM18013 (City Wide)", staff put forward the following recommendation:

- (a) That Council authorize a 6 month extension of the existing Management Agreement between the City of Hamilton and Global Spectrum Facility Management, L.P. (Global Spectrum) which is set to expire on December 31<sup>st</sup> 2018;
- (b) That Council authorize a 6 month extension of the existing Facility Operating Agreement between the City of Hamilton, the Hospitality Centre Corporation and Mercanti Banquet & Convention Centre Ltd. (Carmen's Group) which is set to expire on December 31<sup>st</sup> 2018;
- (c) That the Mayor and the City Manager be authorized to execute the extension of the agreements with Global Spectrum and Carmen's Group outlined in recommendation (a) and (b) of report CM18013;

- (d) That Council direct staff to invite Global Spectrum to submit two proposal(s):
  - (i) A 5 year extension of the existing Management Agreement between the City of Hamilton and Global Spectrum Facility Management, L.P.; and
  - (ii) A second proposal to also include the scope of work outlined in the Facility Operating Agreement between the City of Hamilton, the Hospitality Centre Corporation and Mercanti Banquet & Convention Centre Ltd. (Carmen's Group);
- (e) That Council direct staff to invite Carmen's Group to submit two proposals:
  - (i) A 5 year extension of the existing Facility Operating Agreement between the City of Hamilton, the Hospitality Centre Corporation and Mercanti Banquet & Convention Centre Ltd.; and
  - (ii) A second proposal to also include the scope of work outlined the Management Agreement between the City of Hamilton and Global Spectrum Facility Management, L.P. (Global Spectrum);
- (f) That Council direct staff to evaluate any proposal(s) the City receives as a result of recommendations (c) and (d) of report CM18013 and report back to General Issues Committee with a recommendation on how best to proceed with the management of these entertainment assets;
- (g) That when evaluating any proposal(s) the City receives as a result of recommendations (c) and (d) of report CM18013, staff use the criteria and methodology used by KPMG during HECFI review and outlined in Appendix "A";
- (h) That a contribution to an upset limit of \$100,000 from the Tax Stabilization Reserve (#110046) be used to fund an independent third party review of the staff recommendation set out in item (f) of report CM18013.
- (i) That the City Procurement Policy be followed to the extent the Procurement Section and the Legal Services Division determine the Policy to be applicable in order to maintain a fair process related to the management of the Downtown Entertainment Assets.
- (j) That the City Procurement Policy be waived for the sole purpose of permitting only Global Spectrum and Carmen's Group to participate in the process related to the management of the Downtown Entertainment Assets.

It was staff's opinion that this recommendation would put the City in the position to secure an agreement or agreements, with terms even more favourable than the existing 5 year renewal options that they were prepared to recommend to Council. Upon

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receiving Council approval, staff prepared an RFP that was to be issued to the two proponents. However, before the competitive renewal process was officially initiated, Carmen's, Spectra and Live Nation submitted the joint letter attached as Appendix "E" to report CM18013(a) to the January 23<sup>rd</sup> Council Meeting, which communicated the following:

"Over the course of the past few months, our two organizations and the city have met to explore potential collaborative working arrangements for the operation of the three venues. In the end, we all agree that it is in the best interest of the City of Hamilton, as well as our two organizations, for each of our companies to focus solely on our present operations. Subsequently, our companies would prefer to negotiate multi-year extensions to our current management agreements."

As a result of this development, Council approved the Motion attached as Appendix "F" to report CM18013(a) which direct staff to forgo the competitive renewal process and negotiate 5-year extensions of the existing agreements.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

N/A

**RELEVANT CONSULTATION**

City Manager's Office: Strategic Partnerships and Communications  
Corporate Services: Finance and Administration, Procurement, Legal Services  
Planning and Economic Development: Real Estate  
Public Works: Facilities Management and Capital Projects

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

**Global Spectrum Agreement:**

Global Spectrum is widely regarded as a world leader in hosting and entertainment, partnering with over 300 clients at 400 global properties. Since 2013 the facilities under Global Spectrum's management hold on average 203 events per year, with average annual attendance of 470,000. Under the existing Management Agreement between the City of Hamilton and Global Spectrum, the operating and capital costs associated with the FirstOntario Centre and the FirstOntario Concert Hall are allocated as follows:

Description	Global Spectrum
Capital vs. Operating Costs	The City is responsible for all capital costs while Global Spectrum is responsible for all operating costs.
Utilities	Any utility costs above the 2011 actual utility cost of \$1.2M will be

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	paid by Global Spectrum.
Net Contribution from City	City will cover the first \$1.4M in losses, and Global Spectrum will cover the next \$500k in losses. Additional losses will be covered by the City. If losses are less than \$1.4M, Global Spectrum will retain the first \$450k as their management fee, and additional savings will be split as “incentive income” between the City (70% to the City, 30% to Global Spectrum).

The City of Hamilton has provided Global Spectrum the following operating subsidies over the life of this agreement:

Agreement Year	Subsidy of Operating loss	Subsidy of Utility Cost	Total Net Operating Subsidy
2018	\$950,000	\$1,200,000	\$2,150,000
2017	\$1,300,000	\$1,200,000	\$2,500,000
2016	\$1,400,000	\$1,200,000	\$2,600,000
2015	\$1,400,000	\$1,200,000	\$2,600,000
2014	\$1,400,000	\$1,200,000	\$2,600,000
2013**	\$1,166,667	\$1,000,000	\$2,166,667
<b>Total</b>	<b>\$7,616,667</b>	<b>\$7,000,000</b>	<b>\$14,616,667</b>

Despite providing Global Spectrum operating subsidies of \$14,616,667 since the commencement of the agreement, the City has still realized \$5,150,000 in net financial benefit versus the benchmark subsidies of the former HECFI operation.

If recommendation (a) were to be approved, and the terms outlined in Appendix “A” of report CM18013(a) were to come into effect, staff forecasts the following financial impact from an operating perspective, over the term of the extension:

Agreement Year	Subsidy of Operating loss**	Subsidy of Utility Cost	Total Net Operating Subsidy
2024	\$1,060,667	\$1,200,000	\$2,260,667
2023	\$1,060,667	\$1,200,000	\$2,260,667
2022	\$1,060,667	\$1,200,000	\$2,260,667
2021	\$1,060,667	\$1,200,000	\$2,260,667
2020	\$1,060,667	\$1,200,000	\$2,260,667
2019*	\$623,500	\$600,000	\$1,223,500
<b>Total</b>	<b>\$5,926,833</b>	<b>\$6,600,000</b>	<b>\$12,526,833</b>

\*Half year, as agreement would commence on July 1, 2019

\*\* Assumes 2016, 2017 and 2018 three-year average performance, City would gain \$156K per year in additional revenues (subsidy reduction);



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In addition to projected incremental operating savings of \$1,146,667 versus the previous 5 year term (excluding transition years), the 5 year extension outlined in Appendix “A” to Report CM18013(a), would result in \$1,050,000 in net new capital contributions. \$500,000 of this contribution would be paid to the City by Global Spectrum upon signing the extension and could be spent at the City’s sole discretion. The remaining \$550,000 would be invested by Compass Group Canada (Global Spectrum’s food and beverage provider) and would be used to revamp the existing concession structures to allow for “VIP” and enhanced food service concepts. This investment would not only be an enhancement to the City owned facilities, it would also increase the revenue generation potential of the facilities over the life of the proposed agreement.

Global Spectrum has also agreed to contribute half of any “incentive income”, up to an annual maximum of \$200,000 per year, into a reserve account that would be drawn on in the event of future losses. This would include losses that may arise as a result of LRT construction, and/or the critical failure of major capital components in the facilities that they manage (such as the FirstOntario Centre’s brine line). Given the state of key capital components in the aging facilities in which Global Spectrum operates, staff view this provision as a valuable risk mitigation measure.

Overall, staff forecast that this agreement would provide the City of Hamilton \$1,723,167 in incremental financial benefits versus the previous 5 year agreement, broken down as follows:

Reduction In Operating Subsidy Over Previous Term:	\$1,146,667
Additional Capital Contribution Versus Previous Term (\$1.05m vs \$500k in Term 1)	\$550,000
<b>Total Incremental Financial Benefit of extension:</b>	<b>\$1,696,667</b>

**Carmen’s Group Agreement:**

The Hamilton Convention Centre which has been operated by the Carmen’s Group since 2013, offers traditional convention centre events (conventions and conferences, meeting rooms, trade show exhibitions, banquets) with full food and beverage capabilities. The Carmen’s Group prides themselves “on being one of Hamilton’s largest and most successful hospitality and entertainment brands, with five beloved venues and 400 employees, and a long history of commitment to this community.” The venue hosts thousands of visitors each year from all over the world. In 2017, the Hamilton Convention Centre held 137 events across 206 days, which resulted in an occupancy rate of 67%. Under the existing Management Agreement between the City of Hamilton and Carmen’s Group, the operating and capital costs associated with the Hamilton Convention Centre are allocated as follows:

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<b>Description</b>	<b>Carmen's Group</b>
Capital vs. Operating Costs	The City is responsible for all Capital costs while Carmen's Group is responsible for all Operating Costs (less the annual subsidies indicated below)
Utilities	Carmen's Group is contractually committed to paying the City the following annual utility contribution:  For the 2014 Operating Year: \$105,000; For the 2015 Operating Year: \$115,000; For the 2016 Operating Year: \$135,000; For the 2017 Operating Year: \$145,000; For the 2018 Operating Year: \$165,000;
Net Contribution from City	The City is contractually committed to paying Carmen's Group a subsidy in the following amounts:  For the 2014 Operating Year: \$344,454.00; For the 2015 Operating Year: \$250,000.00; For the 2016 Operating Year: \$200,000.00; For the 2017 Operating Year: \$125,000.00; For the 2018 Operating Year: \$0;

The City of Hamilton has provided Carmen's Group the following operating subsidies over the life of this agreement:

Agreement Year	Subsidy of Operating loss	Less Carmen's Group Utility Contribution	Total Net Operating Subsidy/ (Contribution)
2018	\$0	(\$165,000)	(\$165,000)
2017	\$125,000	(\$145,000)	(\$20,000)
2016	\$200,000	(\$135,000)	\$65,000
2015	\$250,000	(\$115,000)	\$135,000
2014	\$344,000	(\$105,000)	\$239,000
2013**	\$650,000	(\$105,000)	\$545,000
<b>Total</b>	<b>\$1,569,000</b>	<b>(\$770,000)</b>	<b>\$799,000</b>

Despite providing the Carmen's Group operating subsidies of \$799,000 since the commencement of the agreement, the City has still realized \$5,515,500 in net financial benefit versus the benchmark subsidies of the former HECFI operation.

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If recommendation (b) were to be approved, and the terms outlined in Appendix “B” of report CM18013(a) were to come into effect, staff forecast the following operating budget impact over the guaranteed term of the extension:

Agreement Year	Subsidy of Operating loss	Less Carmen’s Group Utility Contribution	Total Net Operating Subsidy/ (Contribution)
2024	\$0	(\$82,500)	(\$82,500)
2023	\$0	(\$65,000)	(\$65,000)
2022	\$0	(\$50,000)	(\$50,000)
2021	\$0	(\$40,000)	(\$40,000)
2020	\$100,000	(\$25,000)	\$75,000
2019*	\$0	\$0	\$0
<b>Total</b>	<b>\$100,000</b>	<b>(\$262,500)</b>	<b>(\$162,500)</b>

\*Half year, as agreement would commence on July 1, 2019

The net impact of this agreement would not only eliminate the requirement for an ongoing operating subsidy, it would also result in a positive net contribution of \$162,500 being made to the City over the life of the guaranteed term.

Overall, if this extension were approved, staff forecast that this agreement would provide the City of Hamilton an incremental \$711,500 in financial benefits versus the previous 5 year agreement, broken down as follows:

Reduction In Operating Subsidy Over Previous Term:	\$961,500
Additional Capital Contribution Versus Previous Term: (Note \$500k vs. \$750k last term)	(\$250,000)
<b>Total Incremental Financial Benefit of Extension:</b>	<b>\$711,500</b>

## **ALTERNATIVES FOR CONSIDERATION**

Please refer to Confidential Appendix “G” to report CM18013(a).

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Community Engagement & 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.

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*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.*

**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.

**Culture and Diversity**

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

**Our People and Performance**

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

**Economic Prosperity and Growth**

**APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” – Overview of Proposed Global Spectrum Agreement

Appendix “B” – Overview of Proposed Carmen’s Group Agreement

Appendix “C” – Carmen’s Group Open Letter - February 2018

Appendix “D” – Carmen’s Group Open Letter - May 2018

Appendix “E” – Carmen’s Group, Global Spectrum and Live Nation Joint Letter – January 2019

Appendix “F” – Council Motion - January 23, 2019

Appendix “G” – Confidential – Alternative for Consideration – Global Spectrum

Appendix “H” – Confidential – Alternative for Consideration – Mercanti Banquet and Convention Centre Ltd.