



**CITY OF HAMILTON**  
**CORPORATE SERVICES DEPARTMENT**  
**Financial Services and Taxation Division**  
**and**  
**CITY MANAGER'S OFFICE**  
**Human Resources Division**

<b>TO:</b>	Chair and Members Audit, Finance and Administration Committee
<b>COMMITTEE DATE:</b>	June 6, 2019
<b>SUBJECT/REPORT NO:</b>	Proposed Amendments to Fair Wage Policy and Fair Wage Schedule (FCS19035/HUR19008) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Tina Iacoe (905) 546-2424 Ext. 2796 Gord Muise (905) 546-2424 Ext. 2655
<b>SUBMITTED BY:</b>	Rick Male Director, Financial Services and Taxation & Corporate Controller Corporate Services Department
<b>SIGNATURE:</b>	
<b>SUBMITTED BY:</b>	Lora Fontana Executive Director Human Resources
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That the Fair Wage Policy and Fair Wage Schedule, attached as Appendix "A" to Report FCS19035/HUR19008, be approved.

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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.

## **EXECUTIVE SUMMARY**

The current Fair Wage Policy requires that the Fair Wage Policy (“Policy”) and Fair Wage Schedule (“Schedule”) be reviewed every three years and that any proposed amendments to the Policy and Schedule be forwarded to Council for approval.

The Total Hourly Compensation Rates set out in the proposed Schedule reflect 2016 labour trade rates which are to be frozen for a three-year period in accordance with section 13 of the Policy.

### **Alternatives for Consideration – See Page 5**

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

**Financial:** The increase in the Total Hourly Compensation Rates set out in the proposed Schedule will have some inflationary impact on tender prices that the City receives on its construction contracts over \$500,000. The percentage increase in rates from the current Schedule to the proposed Schedule is on average 7.862% higher.

It remains very difficult for staff to determine the estimated dollar increase attributable to the increased rates set out in the proposed Schedule, since it is unknown what contractors actually pay their employees. Some contractors have obligations under Provincial Collective Agreements (PCA) for various trades which require vendors to pay their employees at the rates set out in the PCA. These rates are usually higher than the rates set out in the City’s Fair Wage Schedule, as well as being more current. Other vendors may not have any PCA obligations and therefore are required to pay their employees rates in accordance with the Fair Wage Schedule which are at least 3 years old.

Using the average percentage increase of 7.862%, staff has estimated that the maximum annual incremental cost resulting from the increased rates in the proposed Schedule may be approximately \$6,187,394. This cost is based on several assumptions:

- (a) that the total value of construction contracts over \$500,000 will be consistent with contracts awarded in 2018;
- (b) that all vendors pay rates in accordance with the Fair Wage Schedule and not any higher; and
- (c) that labour represents approximately half of the cost of a construction contract,

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(\$78,700,000 worth of construction in 2018 x 7.862% increase x 0.5 labour costs). Since several the contractors who were awarded Fair Wage applicable contracts in 2018 had PCA obligations, this estimate may be considered as the “worst case scenario”.

Staffing: There are no staffing implications with this Report.

Legal: There are no legal implications with this Report.

## **HISTORICAL BACKGROUND**

The City’s Fair Wage Policy (“Policy”) and Fair Wage Schedule (“Schedule”) were last approved by City Council at its meeting on March 9, 2016 through Report FCS16013/HUR16001 with the following recommendations:

- (a) That the Fair Wage Policy and Fair Wage Schedule, attached as Appendix “A” to Report FCS16013/HUR16001 be approved;
- (b) That the Fair Wage Schedule remains frozen for a three-year period in accordance with section 13 of the Fair Wage Policy and that a report outlining updated rates will be presented to the appropriate standing committee of Council in the first quarter of 2019 for consideration.

The purpose of this Report is to provide the proposed updates to the both the Policy and Schedule and to seek Committee and Council approval for the recommendations set out in this Report.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

The recommendations in this report affect the City’s Fair Wage Policy and Fair Wage Schedule.

## **RELEVANT CONSULTATION**

As per the Policy, the Ad Hoc Fair Wage Committee reconvened and met on March 27, 2019 to provide a forum for consultations and to discuss any issues with the current Policy or Schedule. Attendees to the meeting were representatives from the Labourer’s International Union of North America Local 837 (LIUNA), the Merit OpenShop Contractors Association of Ontario, and the Hamilton and District Heavy Construction Association (HAND). The remaining members of the committee, the Hamilton-Brantford Ontario, Building and Construction Trades Council and the Christian Labour Association of Canada were not present.

The City of Hamilton's Legal Services provided their comments on the both the Report and the Policy, with specific focus on the application of the *Construction Act*.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The following identifies key amendments in the proposed Fair Wage Policy and Fair Wage Schedule:

### **Fair Wage Policy – Overall**

The proposed Policy and Schedule amendments include several housekeeping issues throughout the documents which have not been specifically addressed in this report. These amendments include editing for better clarity and updating all references to the *Construction Act*.

### **Fair Wage Policy Section 6 Contractor and Sub-Contractor Responsibilities**

Section 6 was amended to comply with changes made to the *Construction Act* that came into effect on July 1, 2018 by the Ontario Provincial government.

The current Policy provides the City with the “reserved right to not release part or all of the holdback on a Construction Contract until a statutory declaration confirming that the Contractor and its Sub-Contractors complied with the Policy and Schedule.” With the recent changes to the *Construction Act*, an owner is not able to withhold part or any of the holdback from a contractor therefore, staff needed to amend the language in the current Policy to reflect this change.

The proposed amendment to the Policy allows the City the “reserved right to withhold from the Contractor, a minimum of FIVE THOUSAND DOLLARS (\$5,000.00) from any final payments until the Contractor's sworn statement of compliance is received and deemed to be satisfactory by the City.” This language and the stipulated dollar amount of \$5,000 is consistent with language that is currently included in the City's construction contracts to guard against the contractor's failure to provide similar project submittals, such as close-out documentation, operations and maintenance manuals, as-built drawings and warranty information.

### **Fair Wage Policy Section 10. Consequences of Non-Compliance**

An additional section was added to Section 10 to allow the City to perform its due diligence to determine compliancy by a Contractor or Sub-Contractor who was previously banned for non-compliance to the Policy or Schedule.

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The proposed language allows the City the reserved right to require the Contractor to pay for and submit a licensed Public Accountant assurance report, verifying the previously banned Contractor's or Sub-Contractor's compliance with the Policy and Schedule on at least three City Construction Contracts where:

- (a) the previously banned Contractor is awarded a Construction Contract or is carried as a Sub-Contractor on a Construction Contract; or
- (b) the previously banned Sub-Contractor is awarded a Construction Contract or is carried as a Sub-Contractor on a Construction Contract.

The proposed language also includes that determination of non-compliance with the Policy or Schedule during the five-year period may result in a further ban imposed upon the Contractor or Sub-Contractor by City Council.

**Fair Wage Schedule**

The Schedule was updated to reflect various collective agreements' hourly wage rates from 2014 to 2016. As in previous Reports approved by Council, the hourly rates from three years previous were used as the basis for determining the Total Hourly Compensation rates and are frozen for the following three-year period.

**ALTERNATIVES FOR CONSIDERATION**

The following options were considered but are not being recommended.

**Option A – Eliminate the Fair Wage Policy**

Council could consider eliminating the Policy and allow for a procurement process that relies entirely on competitive wages within the construction industry. Previously in 2012, this option was considered by staff however, due to significant opposition and Committee delegations by the construction industry, Council approved continuing with the Fair Wage Policy and freezing the rates for a three-year term.

**Option B– No Change to the Fair Wage Schedule**

Council could consider not updating the Schedule and keep the current Total Hourly Compensation Rates set for the next three years. By doing so, the Schedule rates could become non-competitive, thereby reducing the effectiveness of the Policy.

The rates in the current Policy are based on the 2014 - 2016 respective PCAs' hourly wage rates. Based on the previous discussions with the Ad Hoc Fair Wage Committee, staff can confirm that freezing the rates for a six-year term would not be supported.

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Should Committee and Council decided to not approve the proposed Schedule and continue with the rates set out in the current Schedule, Committee will need to amend the recommendations set out in this Report, and more specifically the wording in Section 13 *Fair Wage Schedule Update* of the Policy with the appropriate changes.

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

**Community Engagement and Participation**

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

**Our People and Performance**

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

**APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” to Report FCS19035/HUR19008 - 2019 Proposed Fair Wage Policy and Fair Wage Schedule Review and Proposed Amendments.