

Hamilton Tourism Development Corporation Business Case

Prepared pursuant to Section 6 of Ontario Regulation 599/06 (Municipal Services Corporations) as per section 203(4) of the *Municipal Act*, 2001, S.O. 2001, c.25 as amended.

Background

The Municipal Accommodation Tax (the “MAT”) was developed by the Province of Ontario to grow the economic impact of the tourism industry in Ontario.

Pursuant to Ontario Regulation 435/17: Transient Accommodation Tax, the City of Hamilton must share at least 50 percent of the MAT revenues with a designated, Eligible Tourism Entity (defined as a non-profit organization whose mandate includes the promotion of tourism in the municipality) and must be used for the purpose of tourism promotion. For greater certainty, the expression “promotion of tourism” includes the development of tourism products.

As of 2020, Hamilton does not have the required Eligible Tourism Entity mandated by Ontario Regulation 435/17. Therefore, the City proposes establishing a municipal service corporation, named “Hamilton Tourism Development Corporation” (if such name is available) to serve as the Eligible Tourism Entity in Hamilton.

Ontario Regulation 599/06: Municipal Services Corporations requires the City to prepare a business case study for the proposed municipal service corporation, and to obtain approval of the business case by Council Resolution or by-law. The business case study presented herein fulfills the requirements of Regulation 599/06.

Purpose

The City of Hamilton proposes the incorporation of a non-profit, non-share capital corporation under the *Corporations Act* (Ontario) (the "Corporation") with the City of Hamilton as sole voting member.

This document provides information on the benefits of establishing the Corporation and a governance framework for the proposed Corporation. Specifically, this document:

- a) Sets out the objectives of the Corporation, its mandate, guiding principles, governance structure, budget and funding, accountability and reporting; and
- b) Constitutes the statutorily required business case for the proposed Corporation, prepared pursuant to Section 6 of Ontario Regulation 599/06 (Municipal Services Corporations) as per section 203(4) of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended.

Mandate

The mandate of the Corporation will be the promotion of tourism in Hamilton in alignment with the Hamilton Tourism Strategy. For greater certainty, the expression “promotion of tourism” includes the development of tourism products.

In 2015, City of Hamilton Council endorsed the Tourism Action Plan which outlines the role of the Tourism and Culture Division in facilitating the growth of the tourism industry, and in enhancing the quality of life through tourism. The City of Hamilton Tourism Strategy 2015 to 2020 provided the context and strategic direction for the tourism industry and the tourism activities in Hamilton.

Over the course of 2021, City staff and stakeholders will develop a new five-year Hamilton Tourism Strategy with strategic priorities and implementation and action plans. With the proposed implementation of the Municipal Accommodation Tax in Hamilton in 2022, funding will be accessible to support the new strategy and other tourism related initiatives moving forward.

Benefits of a Tourism Development Corporation

The advantages of the City of Hamilton establishing the Corporation include:

- a) The establishment of a corporation satisfies the Province’s requirement for a non-profit tourism organization to serve as a destination marketing organization and to make use of 50 percent of the MAT revenues;
- b) The Municipal Services Corporation model accountability, corporate responsibility, and reasonable controls through the role of the sole voting member (the City);
- c) Allows for the private and non-profit sectors to share a common vision and direction for Hamilton’s tourism economy and destination marketing; and
- d) City Council, as sole voting member, will be responsible for selecting and electing the Board of Directors, and may establish a governance framework for business plans, expenditures and corporate policies.

In the absence of a destination marketing corporation, the City would have to remit 50 percent of the annual MAT revenues and responsibility for marketing the City as a tourism destination to an external organization or agency, over which the City has no direct control. As no destination marketing organization currently exists in the local market, the City is best positioned to advance this model.

Guiding Principles

The Corporation shall be guided by the following principles which function as guideposts in decision-making throughout the Corporation’s lifecycle irrespective of changes in leadership, goals, strategies and activities.

- a) The Corporation will engage in tourism promotion and tourism product development in Hamilton; and
- b) The Corporation will undertake its work based on objective decision-making process that is accountable and transparent, resulting in city-wide benefits.

Governance Structure and Incorporation

In order to proceed with the establishment of the Corporation, an application must be made to the Province to incorporate a non-share capital corporation in accordance with the *Ontario Corporations Act*. The Corporation will be created by the filing of an application for incorporation by way of letters patent to be drafted by Legal Services that will include the following information:

- Name of the Corporation: Hamilton Tourism Development Corporation
- Address of the Head Office: Tourism and Culture Division, City of Hamilton, 71 Main Street West, Hamilton, ON L8P 4Y5

The Board of Directors will have oversight and key decision-making roles with respect to the operation of the Corporation. Staff will bring a report back to Council in late 2021 with recommendations relating to the Board of Directors composition; corporate by-laws; operating and asset transfer agreements; 2022 budget and other details to bring the organization to a complete stage of operation. In the interim, staff are proposing to appoint the following as the first Directors:

- Jason Thorne, General Manager, Planning and Economic Development Department
- Carrie Brooks-Joiner, Director, Tourism and Culture Division; Planning and Economic Development Department and
- Rick Male, Director Financial Services Taxation and Corporate Controller, Corporate Services Department

For the purpose of incorporating and developing the legally required agreements and policies:

- Objects of the Corporation include the delivery of, and support for, tourism promotion in Hamilton.
- Special Provisions
 - a) The Corporation is limited to providing services to owners or members of the Corporation on behalf of The Corporation of the City of Hamilton in lieu of the municipality providing those services itself.
 - b) Directors shall serve without remuneration, and no Director shall directly or indirectly receive any profit from his or her position as such, provided that a Director may be reimbursed for reasonable expenses incurred in performing his or her duties. A Director shall not be prohibited from receiving compensation for services provided to the Corporation in another capacity.
 - c) Upon the dissolution of the Corporation and after payment of all debts and liabilities, its remaining property shall be distributed or disposed of to The Corporation of the City of Hamilton.

The letters patent and the by-laws of the Corporation will set out the powers of the Corporation, its membership structure and the process for making changes to the Corporation’s by-laws.

Budget and Funding

The creation and management of an annual operating budget will be the responsibility of the Corporation’s Board of Directors and be subject to City Council’s approval. The Corporation will be funded from the proceeds of the MAT revenues.

The nominal cost to establish the proposed Corporation (e.g. cost to incorporate, purchase accounting software, etc.), will be covered through an initial loan from the City to the Corporation, which will be repaid to the City once MAT revenues are accrued by the Corporation. Staff will bring back a recommended loan amount in late 2021 for Council’s consideration.

It is anticipated the MAT, levied at 4 percent, would generate approximately \$2 M in annual new revenue to the City based on accommodation stock and performance prior to the COVID-19 pandemic in 2020. This could grow to \$3 M in the long term if projected new hotels become operational and short-term rentals are licenced and taxed.

With the implementation of the MAT, Council will be asked to approve the establishment of a Reserve Fund to receive the City’s portion of the MAT revenue as noted in Appendix “C” of Report PED20009(a).

The Corporation will enter into an agreement with the City of Hamilton respecting reasonable financial accountability matters in order to ensure that the amount paid to the Corporation are used for the exclusive purposes of promoting tourism, and the agreement may provide for other matters.

Revenues from the MAT Reserve Fund will be transferred to the new Corporation once the legally required agreement between the City and the Corporation is finalized. A 2022 budget for the Corporation will be presented for Council approval during the annual business planning process.

Accountability and Reporting

Typically, an independent Corporation would be required to present the City with a multi-year business plan to support its funding and activities. In this case, the City’s Tourism Strategy and Tourism and Culture Division Business Plan will serve as the guiding documents for the Corporation.

It is anticipated that reporting to City of Hamilton Council by the Corporation would take place at least once a year or as otherwise stipulated in the Corporation’s by-laws.

Summary

The business case for a new corporation mandated to promote tourism, in alignment with the Hamilton Tourism Strategy, is established based on Ontario Regulation 599/06 and

Ontario Regulation 435/17. The Corporation will allow the City to continue to play a leadership role in establishing Hamilton as a tourism destination.