



CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Engineering Services Division

TO:	Chair and Members West Harbour Development Sub-Committee
COMMITTEE DATE:	April 13, 2021
SUBJECT/REPORT NO:	Amendment to the Project Management Agreement Between the City of Hamilton and the Hamilton Waterfront Trust (PW19090(a)) (Ward 2)
WARD(S) AFFECTED:	(Ward 2)
PREPARED BY:	Ed English (905) 546-2424 Ext. 5461
SUBMITTED BY:	Gord McGuire Director, Engineering Services Public Works Department
SIGNATURE:	

RECOMMENDATION

That staff are granted the authority to amend the City's Project Management Agreement (PMA) with the Hamilton Waterfront Trust (HWT) to deliver the Piers 5-7 works to reflect the new total project cost of \$23.5M and delegate to the General Manager of Public Works the authority to sign any necessary amendments to the HWT PMA as well as any related ancillary agreements and documents each in a form satisfactory to the City Solicitor.

EXECUTIVE SUMMARY

On September 14, 2016, Council authorized the City to retain the HWT at a cost of approximately \$1.5M as project managers overseeing four projects on Piers 5-7 valued at approximately \$15.5M as outlined in GIC Report 16-020 dated September 7, 2016.

Subsequently, on October 22, 2019, the West Harbour Sub-Committee received Report PW19090 and extended its direction to staff to complete these projects at a cost of approx. \$23.5M and that HWT's fee would remain at approximately \$1.5M.

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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.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

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This report seeks specific authority to amend the City's PMA with the HWT to reflect the new total project cost of \$23.5M and delegate to the General Manager of Public Works the authority to sign any necessary amendments to the HWT PMA as well as any related ancillary agreements and documents each in a form satisfactory to the City Solicitor.

Alternatives for Consideration – See Page 5

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The Terms of Reference (Section 13) contained within the PMA indicate the total fees payable to the HWT will remain at \$1.552M regardless of the change in total cost on the project. Therefore, the fees payable to the HWT are unchanged.

Staffing: City staff will continue, in partnership with the HWT, to be delivering the Piers 5-7 sub- projects. The PMA has been structured to optimize staff resources and eliminate duplication of work. The City's Waterfront Development Office staff will approve the project design, the tendering process and will ultimately accept the final deliverable, while the HWT will be overseeing the work on a daily basis with City staff assisting as required.

Legal: The City's Legal Services Department has been, and will continue to be, involved in the preparation of Terms of Reference, Agreements and Contracts with the HWT, 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:

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- (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

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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.

The West Harbour Development Sub-Committee received Report PW19090 at its October 22, 2019 meeting, and extended its approval:

- (a) That staff be authorized to direct the Hamilton Waterfront Trust to proceed with tenders for 100% of the previously approved Capital works, in the amount of \$13.5M, on Piers 5-7 for the following projects in 2019:
 - (i) Project ID 4411506107 – Piers 5-7 Marina Shoreline Rehab (Approved Budget \$10.2M); and
 - (ii) Project ID 4411606102 – Piers 5-7 Boardwalk (Approved Budget \$3.3M);
- (b) That staff be directed to make necessary modifications to the West Harbour Capital program to re-direct funding allocated to future projects to the Piers 5-7 Public Realm Project with the intent to not increase the overall program budget in years 2020-2022.

Although Council gave approval in 2019 for the increase in spending for the Piers 5-7 Public Realm projects, the City's Legal Services Department is of the opinion that staff did not receive the clear authority to execute a contract with the HWT in excess of \$15.5M

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

None

RELEVANT CONSULTATION

Terms of References, Agreements and Contracts have been prepared in consultation with Legal Services, Procurement and Corporate Financial Planning and Policy.

Externally, staff have collaborated with the Executive Director of the Hamilton Waterfront Trust.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The HWT will continue to 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.

Staff is seeking clear authorization from Council, at Legal Services advice, to enter into and execute contracts in excess of \$15.5M with the HWT. As outlined above, Council has granted approval in 2019 for the increase in spending for the Piers 5-7 Public Realm projects.

ALTERNATIVES FOR CONSIDERATION

If Council chooses not to grant clear authorization for staff to direct the HWT for work beyond the value of \$15.5M, staff will be required to return to Council seeking approval for each contract, even though Council has already approved the project and associated financing, and beyond that, the remainder of the Piers 5-7 Public Realm projects may not be able to be completed.

Staff propose that clear authorization will result in a more efficient process without detracting from Council oversight.

Financial: There are no financial implications associated with this alternative

Staffing: There are no staffing implications associated with this alternative

Legal: There are no legal implications associated with this alternative

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

Built Environment and Infrastructure

Hamilton is supported by state-of-the-art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

APPENDICES AND SCHEDULES ATTACHED

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None.

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