

Tourism Municipal Services Corporation Business Case

Prepared according 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.

Section 1: Background

The Province of Ontario developed the Municipal Accommodation Tax (the "MAT") as a funding source to support tourism in communities and allow growth in the sector so tourism continues to contribute to economic growth and development across Ontario.

Under Ontario Regulation 435/17 Transient Accommodation Tax, the City of Hamilton (the "City") must share a minimum of 50% of MAT revenues with a designated Eligible Tourism Entity. Eligible Tourism Entity is defined as a non-profit entity whose mandate includes the promotion of tourism in Ontario or in a municipality. For greater certainty:

- The expression "promotion of tourism" provides for the development of tourism products;
- "Transient Accommodation" means accommodation for a continuous period stay of 29 nights or less; this continuous period is not disrupted by the purchase of different rooms, suites, beds or lodging in the same licensed establishment such as a hotel, motel or bed and breakfast.

As of 2021, Hamilton does not have the required Eligible Tourism Entity mandated by Ontario Regulation 435/17. Therefore, the City proposes establishing a tourism Municipal Service Corporation 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 tourism Municipal Service Corporation and obtain approval of the Business Case by Council Resolution. The Business Case Study presented herein fulfills the requirements of Regulation 599/06.

Section 2: Purpose

The City proposes the incorporation of a non-profit, non-share capital Corporation under the *Corporations Act* (Ontario) to be named "Hamilton Tourism Development Corporation" (the "Corporation"), if such name is available at the time of incorporation, with the City 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, funding sources, accountability and reporting; and
- b. Constitutes the statutorily required Business Case for the proposed Corporation, prepared according 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.

Section 3: Mandate

In 2015, City Council endorsed the Tourism Action Plan which outlines the role of the City's Tourism and Culture Division in facilitating the growth of tourism and enhancing quality of life through tourism, operating under the brand "Tourism Hamilton."

The City's Hamilton Tourism Strategy, on the other hand, sets out the strategic direction for the tourism industry, supports the City's Strategic Plan 2016 - 2025, and is in alignment with key municipal policies relating to land-use planning, economic development and culture. Throughout 2021, a new five-year Hamilton Tourism Strategy was developed with priorities, implementation and action plans. Staff will present this strategy for Council's consideration in 2022.

The mandate of the Corporation (serving as the Eligible Tourism Entity in Hamilton) will be the promotion of tourism in alignment with the Hamilton Tourism Strategy (the "Strategy"). With the proposed implementation of the MAT, funding will be accessible to support the Strategy and related tourism initiatives moving forward.

Section 4: Benefits of a Hamilton Tourism Development Corporation

The advantages of the City of establishing the Corporation include:

- a. Satisfying the Province's requirement for a non-profit tourism organization to serve as a destination marketing organization that makes use of a minimum of 50% of the MAT revenues;
- b. Adopting a Municipal Services Corporation model which provides accountability, Corporate responsibility, and reasonable controls through the role of the sole voting member (City); and
- c. Ensuring City Council, as sole voting member, will be responsible for selecting and electing the Board of Directors (which will include Council representatives) that establish the governance framework for business plans, expenditures, and Corporate policies.

In the absence of an Eligible Tourism Entity, the City would have to remit 50% of the annual MAT revenues and responsibility for marketing Hamilton as a tourism destination to an external organization or agency over which the City would have no direct control. As no Eligible Tourism Entity currently exists in the local market, the City is best positioned to advance the work through the Municipal Services Corporation model.

Section 5: Guiding Principles

The following principles shall guide the Corporation. They 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 processes that are accountable and transparent, resulting in City-wide benefits.

Section 6: Governance Structure and Incorporation

To proceed with the establishment of the Corporation, the City must make an application to the Province to incorporate a non-share capital Corporation as per the Ontario Corporations Act. Accordingly, the Corporation will be created by applying for incorporation by way of letters patent to be drafted by the City's Legal Services. The application will include the following information:

- a. Name of the Corporation: Hamilton Tourism Development Corporation (if such name is available on the date of incorporation)
- b. Address of the Head Office: Tourism and Culture Division, City of Hamilton, 71 Main Street West, Hamilton, Ontario, L8P 4Y5
- c. Interim Directors of the Board of Directors

The Board of Directors will have oversight and critical decision-making roles concerning the operation of the Corporation. Staff will bring a report back to Council in 2022 with Recommendations relating to the Board of Directors composition, Corporate By-laws, operating and asset transfer agreements, budget and other details to bring the organization to a complete stage of operation. In the interim, staff are proposing to appoint as the Interim Directors, to incorporate and develop the legally required agreements and policies:

- General Manager, Planning and Economic Development Department
 - Director, Tourism and Culture Division; and
 - Manager of Accounting Services, Financial Services and Taxation Division, Corporate Services Department
- d. Objects of the Corporation include the delivery of, and support for, tourism promotion in Hamilton
 - e. Special Provisions:
 - The Corporation is limited to providing services to members of the Corporation on behalf of The Corporation of the City of Hamilton in place of the municipality providing those services.
 - Directors shall serve without remuneration, and no Director shall directly or indirectly receive any profit from their position as such, provided that a Director may be reimbursed for reasonable expenses incurred in performing their duties. A Director shall not be prohibited from receiving compensation for services provided to the Corporation in another capacity.
 - Upon the dissolution of the Corporation and after payment of all debts and liabilities, the Corporation's 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.

Section 7: Funding, Budget and Collection of MAT Funds

- a. Financial Impact of MAT: It is anticipated the MAT, levied at 4%, would generate approximately \$2 M in annual new revenue to the City (\$1 M per year) and the Corporation (\$1 M per year) based on licensed accommodation stock and performance before the COVID-19 pandemic in 2020 and 2021. This revenue could grow to \$3 M in the long-term if projected new hotels become operational and short-term rentals are licenced and taxed by the City.
- b. City of Hamilton Municipal Accommodation Tax Reserve Fund: With the implementation of the MAT, staff will ask Council to approve the establishment of a Reserve Fund to receive the City's portion of the MAT revenue (Appendix "B" to Report PED20009(b) - City of Hamilton Municipal Accommodation Tax Reserve Fund Policy).
- c. Corporation Annual and Multi-Year Operating Budget: The Corporation will be funded from a minimum of 50% of the proceeds of the MAT revenues. As is the case with the City, the Corporation will develop a Municipal Accommodation Tax Reserve Fund. The creation and management of an annual Operating Budget and multi-year Operating Budget will be the responsibility of the Corporation's Board of Directors. The budget for operating costs may include general administration and office costs of accounting services, audit services, phone, computer software, internet and other contractual and professional services (City tourism services, etc.). The Corporation will report audited financials at its Annual General Meeting.
- d. Loan from the City for Startup Costs: The nominal cost to establish the proposed Corporation such as business registration fee, purchase of accounting software, staff costs to perform financial and/or administrative duties of the Corporation will be funded by the City through a loan to be repaid by the Corporation or once the Corporation generates MAT revenues. Staff will bring back a recommended loan amount in 2022 for Council's consideration.
- e. Agreement: The Corporation will enter into an agreement with the City respecting reasonable financial accountability matters to ensure that amounts paid to the Corporation are used for the sole purposes of promoting tourism and developing tourism products. In addition, the agreement may provide for other matters.
- f. Collection of Funds: Licensed accommodation providers will be responsible for the collection of the MAT tax revenue. They will then remit these collections to The Ontario Restaurant Hotel and Motel Association (ORHMA). The reasonable costs of collecting and administering the MAT would be deducted from the total MAT tax revenue collected by ORHMA (1%) before remittance of MAT revenue to the City. Following receipt of the MAT revenue from ORHMA, the City would remit a minimum of 50% of the remaining MAT revenue to the Tourism MSC pursuant to the requirements of O.Reg 435/17.

Section 8: 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 Hamilton Tourism Strategy will serve as the guiding document for the Corporation.

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

Section 9: 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.

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