



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Planning, Administration and Policy Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	April 21, 2022
SUBJECT/REPORT NO:	Request for Sustainability and Financial Viability Audit of Hamilton Waterfront Trust (FCS22038) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Brian McMullen (905) 546-2424 Ext. 4549
SUBMITTED BY:	Brian McMullen Director, Financial Planning, Administration and Policy Corporate Services Department
SIGNATURE:	

RECOMMENDATION(S)

- (a) That the estimated cost of up to \$50,000 for the Sustainability and Financial Viability Audit of Hamilton Waterfront Trust be funded from Tax Stabilization Reserve #110046.
- (b) That the single source procurement, pursuant to Procurement Policy #11 – Non-competitive Procurements, be approved.

EXECUTIVE SUMMARY

Council, at its meeting on March 30, 2022, approved Item 1 of Audit, Finance and Administration Committee Report 22-007 that directed staff to develop a scope of work and report back to the Audit, Finance and Administration Committee on April 21, 2022 on an independent third-party audit review to verify the financial strength of the Hamilton Waterfront Trust on a going forward basis.

Hamilton Waterfront Trust (HWT), initially known as Hamilton Harbour Development Trust, was established through a Trust Deed dated November 24, 2000 between the City and the Hamilton Harbour Commissioners (the Commissioners”) now known as the Hamilton Port Authority (the HPA”).

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On or about November 24, 2000, the Commissioners transferred to the Trust approximately \$6.3 M for the purposes of land assembly, improvements and development costs relating to Hamilton's West Harbour which funds have long since been invested or expended and the Trust has since developed several alternative revenue sources.

Through the Revised Deed of Trust 2018, HWT shall appear before the Council, or an appropriate Committee of the City, to present and report on the following:

- (a) its annual audited Financial Statements;
- (b) its Strategic and / or Business Plans and any changes thereto;
- (c) its ten (10) year Capital Plan; and
- (d) any changes to its organizational structure.

Appendix "A" to Report FCS22038 contains the scope of work that may include, but is not limited to, the following:

- Preparation of a report that evaluates and assesses the sustainability and financial viability of HWT through:
 - Review of the purpose and objectives of the Hamilton Waterfront Trust (HWT or Trust) in the Revised Deed of Trust and HWT incorporation documents
 - Review of HWT's Strategic Plan, business plans and operational plans
 - Review of HWT's multi-year operational budget, capital budget and related projections and forecasts
 - Review of HWT's cash flow forecasts
 - Review of HWT's historical financial results and trends
 - Review of appropriate HWT internal documents and records
 - Analysis and calculation of financial ratios
- Presentation of the report to City staff
- Presentation of the report at HWT Board meeting and at City of Hamilton Audit, Finance and Administration Committee

Staff is recommending that contractual audit or review services for Sustainability and Financial Viability Audit of Hamilton Waterfront Trust be single sourced through Policy #11 of the City's Procurement Policy (By-law 21-215) to a qualified vendor.

As there is no budget for the contractual, audit or review services of HWT, staff is recommending that the estimated cost of up to \$50,000 for the Sustainability and Financial Viability Audit of Hamilton Waterfront Trust be funded from Tax Stabilization Reserve #110046.

Alternatives for Consideration – See Page 5

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

- Financial:** As there is no budget for the contractual, audit or review services of HWT, staff is recommending that the estimated cost of up to \$50,000 for the Sustainability and Financial Viability Audit of Hamilton Waterfront Trust be funded from Tax Stabilization Reserve #110046.
- Staffing:** Staff in the Financial Planning, Administration and Policy Division of the Corporate Services Department will be the lead division for the contract for audit or review services outlined in Report FCS22038.
- Legal:** Staff in Legal and Risk Management Services of the Corporate Services Department may be required to review agreements related to the audit services outlined in Report FCS22038.

HISTORICAL BACKGROUND

Council, at its meeting of September 26, 2018, approved General Issues Committee (GIC) Report 18-019 and Report CM18017 HWT Revised Deed of Trust. The Revised Deed of Trust between HWT and the City of Hamilton which contains language about the purpose, governance structure, accounts and financial statements of the trust and other items.

Here are excerpts from the Revised Deed of Trust.

“PURPOSE OF TRUST

- 5.... The Trust shall receive and stand possessed of the capital and income of the Trust Assets and shall invest and keep the same invested and shall pay out, use and apply all or any part of the Trust Assets from time to time exclusively for the following purposes:
- (a) to promote and facilitate the public s access to, and enjoyment of, Hamilton’s Waterfront as more specifically outlined in its Positioning Statement and its Vision Statement, each as amended from time to time;
 - (b) the improvement and development of the Lands; and
 - (c) to administer Trust Assets, funds and capital gifts from donors for the purposes set out herein.”

“ACCOUNTS AND FINANCIAL STATEMENTS

13. The Trustees shall appoint an auditor and shall keep accurate and detailed accounts and records of all receipts, disbursements, investments and transactions relating to the Trust Assets, and shall prepare or cause to be prepared all financial statements required by law to be prepared on behalf of the Trust or with respect to the Trust Assets from time to time.

Without limiting the generality of the foregoing, the Trustees shall prepare and file with each of the City and the Trust and annual financial report accompanied by the auditor's report thereon for the Trust Assets as soon as practicable after the end of the fiscal year of the Trust, and shall also provide to each of the City and Trust such information and material respecting the Trust Assets as either of them may in writing request from time to time.”

Council, at its meeting of November 10, 2021, approved Communications Item d (i) of Audit, Finance and Administration Committee Report 21-019 being Correspondence from the Hamilton Waterfront Trust including their December 31, 2020 Audited Financial Statements.

Council, at its meeting on March 30, 2022, approved Item 1 of Audit, Finance and Administration Committee Report 22-007 that directed staff to develop a scope of work and report back to the Audit, Finance and Administration Committee on April 21, 2022 on an independent third-party audit review to verify the financial strength of the Hamilton Waterfront Trust on a going forward basis.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The Revised Deed of Trust between HWT and the City of Hamilton with an effective date of October 1, 2018 guides the work contemplated in Report FCS22038.

Staff is recommending that contractual audit or review services for Sustainability and Financial Viability Audit of Hamilton Waterfront Trust be single sourced through Policy #11 of the City's Procurement Policy (By-law 21-215) to a qualified vendor. Under the Procurement Policy, General Managers have authority up to but not including \$250,000 for a single source or short supply type purchase because it is more cost effective or beneficial for the City. While the work contemplated in Report FCS22038 is expected to be less than \$250,000, Council approval is not required but has been included.

RELEVANT CONSULTATION

Staff in the Office of the City Auditor were consulted in preparation of Report FCS22038.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

The scope of work for the contract for audit or review services of the Sustainability and Financial Viability of Hamilton Waterfront Trust HWT is contained in Appendix “A” to Report FCS22038.

Staff is recommending the single source procurement, pursuant to Procurement Policy #11 – Non-competitive Procurements, of the services required in Report FCS22038.

As there is no budget for the contractual audit or review services of HWT, staff is recommending that the estimated cost of up to \$50,000 for the Sustainability and Financial Viability Audit of Hamilton Waterfront Trust be funded from Tax Stabilization Reserve #110046.

ALTERNATIVES FOR CONSIDERATION

An alternative to selecting an external vendor for the consulting services for the audit or review of the Sustainability and Financial Viability of Hamilton Waterfront Trust could be that internal City staff perform the work.

Council, at its meeting of September 11, 2019, approved Item 3 of Audit, Finance and Administration Committee Report 19-012 the 2019 to 2022 Workplan for the Office of the City Auditor (OCA) in Report AUD19007 which included a Value for Money audit of the Hamilton Waterfront Trust. Due to other commitments, staff in the OCA have not been able to perform this work. Additional funding in 2022 would be required to perform this work so that postponement of other planned work is not required. If staff in the OCA were to lead this work, the role of external vendor would be reduced.

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 FCS22038 – Sustainability and Financial Viability Audit of Hamilton Waterfront Trust – Scope of Work

BM/dt