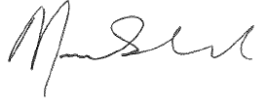





**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Economic Development Division**

<b>TO:</b>	Chair and Members Airport Subcommittee
<b>COMMITTEE DATE:</b>	July 27, 2022
<b>SUBJECT/REPORT NO:</b>	Potential Development and Expansion at John C. Munro Hamilton International Airport (CYHM, YHM) (PED22180) (Ward 11)
<b>WARD(S) AFFECTED:</b>	Ward 11
<b>PREPARED BY:</b>	David McCullagh (905) 546-2424 Ext. 1647
<b>SUBMITTED BY:</b>	Norm Schleeahn Director, Economic Development Planning and Economic Development Department
<b>SIGNATURE:</b>	
<b>SUBMITTED BY:</b>	Raymond Kessler Chief Corporate Real Estate Officer Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That staff be directed to author and provide letters of acknowledgment, as may be requested, from the City of Hamilton, as Head Landlord, towards any considered Sublease Agreement to be entered into by Hamilton International Airport Limited (Landlord), as a wholly owned subsidiary of TradePort International Corporation established to enter into such agreements, and a proposed tenant, respecting any contemplated construction and/or expansion to facilities located on John C. Munro Hamilton International Airport lands as leased by the City of Hamilton to TradePort International Corporation, as deemed appropriate and signed by the General Manager of Planning and Economic Development Department or designate;
- (b) That staff be directed to negotiate and enter into any requisite Non-Disturbance Agreement between the City of Hamilton, Hamilton International Airport Limited and any proposed tenant towards facilitating the construction and/or expansion of any new and existing facility located on John C. Munro Hamilton International

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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.

Airport lands, based substantially on such contemplated Sublease to be entered into between Hamilton International Airport Limited, as a wholly owned subsidiary of TradePort International Corporation established to enter into such agreements, and a potential tenant, and on such terms and conditions deemed appropriate by the General Manager of Planning and Economic Development Department;

- (c) That staff be directed to recover all costs related to any requested Non-Disturbance Agreement, including real estate and legal costs of \$2,500 plus applicable HST from Hamilton International Airport Limited and credited to Dept. ID Account No. 45408-812036 (Real Estate – Admin Recovery);
- (d) That the City Solicitor be authorized and directed to complete any requisite agreements including Non-Disturbance Agreements arising from a provided letter of acknowledgement that may be issued by the City of Hamilton towards any considered Sublease Agreement between Hamilton International Airport Limited and proposed tenant, on behalf of the City of Hamilton in order to facilitate the construction and/or expansion of any new or existing facility located on the John C. Munro International Airport lands, including paying any necessary expenses, amending the dates, due diligence and amending and waiving such other terms and conditions as deemed reasonable;
- (e) That the General Manager, Planning and Economic Development be authorized and directed to execute any requisite Non-Disturbance Agreement and all associated and necessary documents respecting a contemplated Sublease between Hamilton International Airport Limited and proposed tenancy, and all such documents to be in a form satisfactory to the City Solicitor.

## **EXECUTIVE SUMMARY**

This Report seeks approval towards providing periodic acknowledgement to any considered Sublease Agreement brought forward by Hamilton International Airport Limited, as a wholly owned subsidiary of TradePort International Corporation established to enter into such agreements, and a then named potential tenant; and the entering into any requisite Non-Disturbance Agreement with these parties to any Sublease Agreement, to facilitate any then contemplated construction and/or expansion of any new and existing facility on the John C. Munro Hamilton International Airport lands.

## **Alternatives for Consideration – N/A**

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

Financial: N/A

Staffing: N/A

Legal: Legal Services will be required to assist in the preparation of the necessary documents and agreements required towards the acknowledgment of any considered Sublease Agreements and requisite completion of any associated Non-Disturbance Agreement.

## **HISTORICAL BACKGROUND**

The Regional Municipality of Hamilton-Wentworth (Region) leased the then Hamilton International Airport (HIA) from Transport Canada in 1987. Then by way of an Agreement dated July 19, 1996, the Region entered into a 40-year Sublease Agreement with TradePort International Corporation (TIC) which, later in December 1996, ownership of the HIA was transferred from Transport Canada to the Region, was deemed a Lease Agreement also referred to in this Report as the Airport Head Lease.

Hamilton International Airport Limited is a wholly-owned subsidiary of TIC, which had been established by TIC to enter into agreements regarding the use and occupancy by other occupants of the John C. Munro Hamilton International Airport and has the power and authority to bind TIC in respect of the subject matter contained in this Report.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

City Council, at its meeting of November 24, 2004, adopted the City's Portfolio Management Strategy Plan, which established a formalized process to be consistently applied across all areas of the City to guide the management of the City's real property.

## **RELEVANT CONSULTATION**

- Corporate Services Department, Legal and Risk Management Services Division;
- Economic Development Division, Planning and Economic Development Department.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

Pursuant to Subsection 18.01.07 of the Airport Head Lease, nothing precludes TIC from entering into a transaction which consists of both: (i) a sublease of any part of a building (being any existing facility, any new facility, any other building, improvement or structure now or later located on the airport lands) reasonably required for the construction of a building thereon to an occupant for the purpose of constructing such building to be

subleased; and (ii) that a sub-sublease back of that building erected thereon to the Tenant for the same term less one day as the term of that sublease.

Further in the Airport Head Lease, pursuant to Subsection 18.09.01, if the TIC is not in default, the City, shall, upon request made by TIC to the City, enter into a Non-Disturbance Agreement with a potential occupant of any part of the airport lands to be subleased by TIC in the ordinary course of airport operations and that a potential occupant agrees to attorn to the City and perform all of its obligations under a Sublease Agreement such as contemplated in this Report, upon expiry or early termination of the Airport Head Lease.

To effect a term for that beyond the Airport Head Lease that is contained in any considered Sublease Agreement, an agreement with the City as a party is required and is documented through a Non-Disturbance Agreement, pursuant to Subsection 18.09.01 of the Airport Head Lease.

With the recent business development in and around the John C. Munro Hamilton International Airport lands and foreseeable continuation of this same business growth, it is anticipated that requests for Sublease acknowledgement and associated Non-Disturbance Agreements will be a regular item of the Airport Head Lease administration. The Recommendations of this Report respecting the acknowledgement of any considered Sublease Agreement presented to the City by TIC for consideration and associated request by TIC towards entering into a Non-Disturbance Agreement to facilitate any construction and/or expansion of any new and existing facility on the John C. Munro Hamilton International Airport lands are consistent for the ongoing administration of Subsection 18.09.01 of the Airport Head Lease.

Regular update reporting to the Airport Subcommittee will be made by City staff in respect of any Sublease acknowledgements and associated Non-Disturbance Agreements that have been moved forward pursuant to the Recommendations of this Report.

## **ALTERNATIVES FOR CONSIDERATION**

**N/A**

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

### **Economic Prosperity and Growth**

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

### **Built Environment and Infrastructure**

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

### **Culture and Diversity**

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

### **APPENDICES AND SCHEDULES ATTACHED**

**N/A**

DM:jd