





CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Services and Taxation Division

-and-

CITY MANAGER'S OFFICE
Human Resources Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	May 2, 2024
SUBJECT/REPORT NO:	Proposed Amendments to Fair Wage Policy and Fair Wage Schedule (FCS24008/HUR24002) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Tina Iacoe (905) 546-2424 Ext. 2796
SUBMITTED BY:	Shelley Hesmer, Acting Director Financial Services and Taxation & Corporate Controller Corporate Services Department
SIGNATURE:	
SUBMITTED BY:	Lora Fontana Executive Director, Human Resources
SIGNATURE:	

RECOMMENDATION

- (a) That the Fair Wage Policy and Fair Wage Schedule, attached as Appendix "A" and Appendix "C" to Report FCS24008/HUR24002, be approved;
- (b) That staff be directed to automatically update the Fair Wage Schedule every two years, in a manner consistent with Report FCS24008/HUR24002;
- (c) That staff be directed to report back any updates to the Fair Wage Policy every four years to the Audit, Finance and Administration Committee for consideration; and
- (d) That Outstanding Business Item 23-H be considered complete and removed from the Audit, Finance and Administration Committee Outstanding Business List.

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.

EXECUTIVE SUMMARY

The purpose of this Report is to request Council approval of the updated Fair Wage Policy and Fair Wage Schedule. The review and proposed changes are the result of a coordinated effort with the Ad-Hoc Fair Wage Committee (the “Ad-Hoc Committee”) and includes various revisions throughout the documents to enhance and add clarity to the Policy.

The Total Hourly Compensation Rates listed in Appendix C “Fair Wage Schedule” attached to this Report are based on Wage rates (as defined in the Fair Wage Policy) paid to employees in 2022 as set out in provincially negotiated trade union agreements and provided to the City by the applicable union or association. These Wage rates are then increased by 24 percent (a percentage attributed to Benefits as defined in the Fair Wage Policy) to calculate the Total Hourly Compensation Rate that Contractors are required to pay their Employees at a minimum, for work on a City Construction Contract (as defined in the Fair Wage Policy) over \$500,000 at time of contract award.

Alternatives for Consideration – See Page 9

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The increase in the Total Hourly Compensation Rates set out in the proposed Fair Wage Schedule will have some inflationary impact on tender prices that the City receives on Construction Contracts over \$500,000. The average in Wage rates from the current Fair Wage Schedule (2016 rates) to the proposed Fair Wage Schedule (2022 rates) is on average 19.03% higher.

It remains very difficult for staff to determine the estimated dollar increase attributable to the proposed increased rates set out in Appendix B to this Report since it is unknown what Contractors actually pay their Employees. Some Contractors have obligations under provincially negotiated trade union agreements for various trades which require Contractors to pay their Employees at the rates set out in those agreements. These rates are usually higher than the rates set out in the City’s Fair Wage Schedule and are more current. Other Contractors may not have affiliations with trade associations and therefore would be required to pay their Employees rates in accordance with the Fair Wage Schedule. Since the last Fair Wage Schedule was updated in 2019 (using 2016 rates), the increase from 2016 to 2022 for all the trade classifications is quite considerable:

- *The average hourly Wage set out in the current Fair Wage Schedule is \$28.48. The average hourly Wage set out in the proposed Fair Wage Schedule is \$32.92;

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- Based on the Wages set out in the proposed Fair Wage Schedule, on average Wage rates increase 19.03 percent from 2016 to 2022 per job classification;
- *Maximum dollar increase in Wages from 2016 to 2022 is \$18.67 (Welder Apprentice Term 3);
- *Minimum dollar increase in hourly rate from 2016 to 2022 is approximately \$1.00 (various Apprentice positions);

*this analysis was performed using a direct comparison of job classifications and positions. Any classifications or positions that could not be directly compared were not factored into the analysis.

Using the average percentage increase of 19.03%, staff has estimated that the maximum incremental cost resulting from the increased rates in the proposed Fair Wage Schedule for 2024 may be approximately \$5,173,795. This cost is based on a number of assumptions:

- a) that the total value of Construction Contracts, as defined in the Fair Wage Policy, be consistent with contracts awarded in 2023 at the aggregate amount of \$108,750,286;
- b) that all Contractors and Sub-Contractors pay rates in accordance with the Fair Wage Schedule;
- c) that half the Contractors and Sub-Contractors have obligations under provincially negotiated trade union agreements; and
- d) that labour represents approximately half of the cost of a construction contract.

The \$5,173,795 estimate should be considered as the “worst case scenario”.

Since the onset of COVID-19 pandemic, the labour market for trades has been very competitive and many of the trade associations have negotiated significant cost increases in hourly rates. Therefore, staff do not expect the impact of the proposed Total Hourly Compensation Rates to be as significant as the worst-case scenario since many Contractors and Sub-Contractors who do not have obligations under provincially negotiated trade union agreements may be paying their Employees at or around the 2022 rates in order to retain talent.

Staffing: There are no staffing implications with this Report.

Legal: There are no legal implications with this Report.

HISTORICAL BACKGROUND

The Fair Wage Policy has deep roots within the City of Hamilton, with the first reference being a Board of Control Report from November 1967 which makes mention of inserting a Fair Wage clause into City contracts to stipulate the wages for bricklayers, masons and foremen. The City's first formal Fair Wage Policy was adopted in September 1993 and since then, has undergone numerous updates and improvements. However, the purpose of the City's Fair Wage Policy has not changed and is essentially based on two principles:

- a) to ensure that Contractors and Sub-Contractors pay their employees reasonable wages and benefits for work performed on City of Hamilton construction contracts; and
- b) to create a level playing field in procurement competitions so that no Contractor or Sub-Contractor secures an unfair competitive advantage over other construction employers by paying wages that are below prevailing norms.

The current Fair Wage Policy was scheduled to be updated in late 2022 however, due to staffing resource challenges within the Procurement Division, staff was not able to hold consultative meetings with the Ad-Hoc Committee and update the rates effective for 2023.

On March 29, 2023 Council approved the following motion:

- (a) That Human Resources and Finance and Corporate Services staff be directed to engage in a review of the Fair Wage Policy and any related schedules through stakeholder meetings for report back to the Audit, Finance and Administration Committee by the end of Q3 2023 with recommendations on next steps; based on stakeholder feedback;
- (b) That the following stakeholder groups be included in the consultation: Christian Labour Association Canada; Electrical Construction Association Hamilton; Hamilton Brantford Ontario Building & Construction Trades Council; Golden Horseshoe General Contractors Association; Greater Hamilton & Niagara Construction Association; Hamilton Halton Construction Association; Mechanical Contractors Association Hamilton Niagara; Labourers' International Union of North America; and Merit OpenShop Contributors Association of Ontario;
- (c) That there be two stakeholder meetings, inviting all stakeholders to each, at the beginning of Q3 2023; and

- (d) That members of City Council be permitted to attend the first meeting as guests to hear stakeholder feedback directly, in an observer role only.”

This Report outlines the recommendations stemming from those meetings and the proposed changes to both the Fair Wage Policy and Fair Wage Schedule.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The recommendations within this Report are in accordance with By-Law 20-205, as amended, the City’s Procurement Policy.

RELEVANT CONSULTATION

The Ad-Hoc Fair Wage Committee (the “Ad-Hoc Committee”) met twice in 2023 to discuss the recommended changes to the Fair Wage Policy and Fair Wage Schedule.

On July 31, 2023 the Ad-Hoc Committee met with staff from the Corporate Services Department and Labour Relations Division. Attendees to that meeting were representatives from the Hamilton-Brantford Building Trades Council (HBBT), the Labourer’s International Union of North America Local 837 (LIUNA), the Merit OpenShop Contractors Association of Ontario, the Christian Labour Association of Canada (CLAC), the Electrical Construction Association of Hamilton (ECAH), the Mechanical Contractors Association and the International Brotherhood of Electrical Workers (IBEW) Local 105. In addition to these attendees, five City Council Members also attended as guests to hear stakeholder feedback directly.

The Ad-Hoc Committee reconvened on December 11, 2023 to review the City’s response to the recommendations and the improvements proposed. Attendees to that meeting were representatives from the Hamilton-Brantford Building Trades Council (HBBT), the Labourer’s International Union of North America Local 837 (LIUNA), the Merit OpenShop Contractors Association of Ontario, the Christian Labour Association of Canada (CLAC), the Mechanical Contractors Association and the International Brotherhood of Electrical Workers (IBEW) Local 105.

The Manager of Procurement also consulted with the following municipalities with respect to their current fair wage policy: City of Oshawa, the City of Greater Sudbury, City of Vaughan and the City of Toronto. Significant discussions were held with the City of Toronto’s Manager of the Fair Wage Office to get a full understanding of their operations and the calculations of their applicable total hourly compensation rates.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

The Fair Wage Policy is applicable to all Construction Contracts over \$500,000 at time of award and requires Contractors and Sub-Contractors to pay their Employees (whether the vendor utilizes a unionized or a non-unionized work force), at a minimum the Total

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Hourly Compensation Rates as stated in the Fair Wage Schedule and as set out in Appendix C to this Report.

The Total Hourly Compensation Rates are calculated using:

- a) “Wages” which are base hourly rates set out in the respective collective agreement (a collective agreement between a contractor who is in a contractual relationship with a union that is recognized by the Ontario Labour Relations Board as the bargaining agent for the relevant workers); and
- b) “Benefits” which is a 24% increase over the Wage rate. Benefits include any non-statutory payment to an employee or non-statutory premiums or contributions paid to provide benefits to an employee such as a pension plan, Registered Retirement Savings Plan (RRSP), medical plan bonus, retention pay and vacation.

On July 31, 2023, the Ad-Hoc Committee met to discuss their recommended changes to the City’s Fair Wage Policy and Fair Wage Schedule. A number of recommended changes were brought forward by the Committee for the City’s consideration, some of which are being proposed in this Report.

Appendix A to this Report includes the proposed Fair Wage Policy. Appendix B to this Report includes the proposed Fair Wage Policy – With Changes utilizing yellow highlight to identify the changes, additions and deletions to the policy. Appendix C to this Report includes the proposed Fair Wage Schedule that includes the trade classifications and the applicable Total Hourly Compensation Rates.

The following is a summary of the significant changes that are being proposed:

Fair Wage Policy – Overall

The proposed Fair Wage Policy and Fair Wage Schedule amendments include several housekeeping issues throughout the documents which have not been specifically addressed in this Report. These amendments include editing for better clarity and understanding. In addition to this, the formatting of the Fair Wage Policy has been changed using a templated chart form similar to other City policies.

Fair Wage Policy - Section 2. Purpose of the Fair Wage Policy

Section 2 “Purpose of the Fair Wage Policy” is a new section added to the Policy. This section provides the reader with two principles for which the foundation of the Fair Wage Policy is built upon, that being to:

- a) ensure that Contractors and Sub-Contractors pay their Employees reasonable Wages and Benefits for work performed on City of Hamilton Construction Contracts; and

- b) create a level playing field in procurement competitions so that no Contractor or Sub-Contractor secures an unfair competitive advantage over other construction employers by paying wages that are below prevailing norms.

Fair Wage Policy - Section 4. Definitions

Section 4 was amended to include three new definitions (“Apprentice”, “Landscaping Work” and “Substantial Performance”) as well as to revise two current definitions (“Benefits” and “Construction Contract”). These changes were made to provide clarity and additional information to the reader for interpretation of the Fair Wage Policy.

Fair Wage Policy Section 5. Responsibilities

Section 5.4.6 was amended to allow for the City to “set-off” any amounts owing by the Contractor for not providing a statement of compliance in accordance with the Fair Wage Policy. This amendment allows the City the ability to withhold money from either the current Construction Contract or any other contract between the City and the Contractor, until the Contractor's sworn statement of compliance is received and deemed to be satisfactory by the City.

Fair Wage Policy Section 8. Inspections and Audits

Section 8.1 was amended to include additional wording that clearly outlines the time limitations for the City’s ability to inspect and audit the records of the Contractor or Sub-Contractor.

Fair Wage Policy Section 9. Assurance Reports

Section 9.2 was amended to include additional wording that clearly outlines the time requirements to submit assurance reports to the City by a Contractor or Sub-Contractor.

Fair Wage Policy Section 10. Consequences of Non-Compliance

Similar to section 5.4.6, section 10.1.1 (c) was amended to allow the City to “set-off” any amounts owing by the Contractor for the cost of an inspection or audit.

Section 10.1.2 is a new section added to the Fair Wage Policy. The inclusion of this section specifically states and makes it clear to the reader that where a Sub-Contractor has been found to be non-compliant with the Fair Wage Policy or Fair Wage Schedule, the Contractor shall also be deemed to be non-compliant.

Fair Wage Policy Section 11. Complaints

Section 11.3.1 was amended to include additional wording to further clarify that the City will do its best efforts to not disclose the identity of an Initiator of a complaint.

Fair Wage Policy Section 13. Apprentices

Section 13 is a new section of the Policy regarding Apprentices. It includes the requirement for Apprentices to be properly registered with an approved apprenticeship program in Ontario and sets out the applicable rates to be paid to Apprentices.

Fair Wage Policy Section 14. Fair Wage Schedule and Updates

The current Fair Wage Policy requires:

- a) using a “three-year lag” in the hourly rates used to calculate the Total Hourly Compensation Rates; and
- b) that the Total Hourly Compensation Rates be held for three years following the date of the approval of the Fair Wage Schedule.

Using the current Fair Wage Policy and three-year lag, the Total Hourly Compensation Rates would be calculated using Wages that were applicable in 2021 (three years prior to 2024). The Total Hourly Compensation Rates would then be held and applicable until 2027 (three years after 2024) when the Fair Wage Schedule would be updated again.

Section 14.1 was amended to the following:

- a) utilize a “two-year lag” rather than a three-year lag; and
- b) requires that the Total Hourly Compensation Rates be held for the following two years rather than three years.

With this proposed change, the Total Hourly Compensation Rates would be calculated using Wages that were applicable in 2022 (two years prior to 2024) and the Total Hourly Compensation Rates would then be held and applicable until 2026 (two years after 2024) when the Fair Wage Schedule would be updated again.

This change effectively makes the Fair Wage Schedule and applicable rates to be more current than previously agreed by the Ad-Hoc Committee and approved by Council.

Fair Wage Schedule

The Fair Wage Schedule includes multiple trade classification categories or types of “work” that may be carried out within a Construction Contract. For instance, Road Work, Tunnel Work, Elevator Constructors, Electrical Workers are all trade classifications set out in the Fair Wage Schedule. The proposed Fair Wage Schedule includes three new trade classification categories that were added including Carpenters, Boilermakers and Landscapers. There has also been some changes made to the proposed Fair Wage Schedule, including:

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- a) changes in the sections and description of “work” for trade classifications that were previously associated with the Hamilton and District Heavy Construction Association (HAND). Staff were advised that the HAND recently were accredited with the new Greater Hamilton and Niagara Construction Association’s collective agreement therefore changes were made to reflect that collective agreement;
- b) Apprentice rates have been added in any trade classification where possible; and
- c) the proposed Fair Wage Schedule utilizes trade union or association Wage rates applicable in 2022.

ALTERNATIVES FOR CONSIDERATION

The following options were considered but are not being recommended.

Option A – Eliminate the Fair Wage Policy and Fair Wage Schedule

Council could consider eliminating the Fair Wage Policy and Fair Wage Schedule and allow for a procurement process that relies entirely on competitive wages within the Construction Industry. In this regard, the Ontario Government provides for fair and consistent laws relevant to wages, benefits and other working conditions within various industries, including the construction industry. However, eliminating the City Fair Wage Policy would remove the ability for the City to investigate any complaints and rely on the Ministry of Labour to perform any investigations brought forward. As well, without a Fair Wage Policy, the City could be seen as encouraging Contractors and Sub-Contractors to be extremely competitive with their bid for work, possibly at the expense of paying its Employees below the prevailing norm. For these reasons, this option is not recommended.

Option B– No Change to the Fair Wage Schedule

Council could consider not updating the Fair Wage Schedule and keep the current Total Hourly Compensation Rates set for the next two or three years. By doing so, the Fair Wage Schedule rates would become non-competitive, thereby potentially violating worker rights, as well as applicable labour and wage legislation. Having a fiscally responsible Fair Wage Schedule preserves the City’s objective and the Fair Wage Policy purpose to ensure proper compensation for Employees performing work within the construction industry on behalf of the City of Hamilton. Freezing wage rates beyond the three-year cycle could potentially compromise this objective. As such, this option is not recommended.

Option C– Update the Fair Wage Schedule to Reflect Current Wage Rates

Council could consider updating the Fair Wage Schedule and use the most current respective collective agreements’ hourly wage rates in the calculation of the Total Hourly Compensation Rates. This option is not being recommended at this time for a number of reasons:

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- a) using current respective collective agreements' hourly wage rates could further impact the City's capital budget expenditures for all construction related projects over \$500,000;
- b) using current year rates will be difficult to apply as not all collective agreements applicable to the Fair Wage Policy have been fully ratified and have rates in place for the current year;
- c) the administration of the Fair Wage Policy and the continuous updating of the Fair Wage Schedule will be time consuming for both Procurement and Human Resources staff. Additional staffing resources will be required;
- d) continually updating the Total Hourly Compensation Rates will be difficult for Contractors and Sub-Contractors to keep abreast of. Contractors and Sub-Contractors will be required to verify each time they prepare a bid to determine which Fair Wage Schedule is in effect at the time of bid submission. This may also lead to more instances of non-compliance by both Contractors and Sub-Contractors.

Should Council wish to consider having a Fair Wage Schedule that reflects more current rates, with or without holding those rates applicable for any length of time, Council could direct staff to report back with the feasibility of doing so and the costs associated with this alternative to the Audit, Finance and Administration Committee before the end of 2024.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report FCS24008/HUR24002 - Proposed Fair Wage Policy

Appendix "B" to Report FCS24008/HUR24002 - Proposed Fair Wage Policy – With Changes

Appendix "C" to Report FCS24008/HUR24002 - Proposed Fair Wage Schedule