



**General Issues Committee
REPORT 12-003
9:30 a.m.
Wednesday, February 1, 2012
Council Chambers
Hamilton City Hall
71 Main Street West**

Present: Deputy Mayor T. Whitehead (Chair)
Councillors B. Clark, C. Collins, S. Duvall, J. Farr,
L. Ferguson, B. McHattie, S. Merulla, B. Morelli, T. Jackson,
B. Johnson, J. Partridge, M. Pearson, R. Powers

Absent with Regrets: Mayor B. Bratina – City Business
Councillor R. Pasuta – Personal Business

Also Present: C. Murray, City Manager
R. Rossini, General Manager, Finance and Corporate
Services
G. Davis, General Manager, Public Works
M. Hazell, A/General Manager, Planning and Economic
Development
J. A. Priel, General Manager, Community Services
Dr. E. Richardson, Medical Officer of Health
H. Hale Tomasik, Executive Director, Human Resources
P. Barkwell, City Solicitor
C. Biggs, Co-ordinator, Committee Services/Council/Budgets
C. Newman, Legislative Co-ordinator

**THE GENERAL ISSUES COMMITTEE PRESENTS REPORT 12-003 AND
RESPECTFULLY RECOMMENDS:**

**1. Court Security Prisoner Transportation Program Funding Agreement
(FCS12021) (City Wide) (Added as Item 5.1)**

That the Mayor and City Clerk be authorized and directed to execute the necessary agreement with the Province of Ontario, attached as Appendix "A" to General Issues Committee Report 12-003, to provide the City its approved allocation under the Court Security Prisoner Transportation Program administered through the Ministry of Community Safety and Correctional Services.

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**2. Report 12-001 of the Advisory Committee for Persons with Disabilities
– January 10, 2012 (Item 8.1)**

That Report 12-001 from the Advisory Committee for Persons with Disabilities, be received.

**3. Report 12-001 of the Non-Union Compensation Sub-Committee
– January 23, 2012 (Item 8.2)**

**(i) Review of Employment Policies for Political Staff (HUR11014)
(City Wide)**

That Report HUR11014 respecting Review of Employment Policies for Political Staff, be received.

(ii) Salary Administration Policy/Job Evaluation Policy

That amended Salary Administration Policy attached as Appendix “B” to General Issues Committee Report 12-003 be approved.

FOR THE INFORMATION OF COUNCIL:

(a) CHANGES TO THE AGENDA (Item 1)

The Clerk advised of the following changes:

ADDED CONSENT ITEM

- (i) Court Security Prisoner Transportation Program Funding Agreement (FCS12021) (City Wide) (Added as Item 5.1)

ADDED PRIVATE AND CONFIDENTIAL

- (ii) City of Hamilton ats Bre-Ex Limited (LS10005(a)) (City Wide) (Added as Item 12.2)
- (iii) Recent Communications from the Ombudsman’s Office (Added as Item 12.3)

On a motion the agenda was approved, as amended.

(b) DECLARATIONS OF INTEREST (Item 2)

None

(c) APPROVAL OF PREVIOUS MINUTES (Item 3)

On a motion the Minutes of the January 9, 2012 meeting of the General Issues Committee were approved as presented.

(d) DELEGATION REQUESTS (Item 4)

Request from Tammy Flores, on behalf of Stop the 407 ETR's Abuse of Power respecting billing issues (Item 4.1)

On a motion the delegation request from Tammy Flores, on behalf of Stop the 407 ETR's Abuse of Power respecting billing issues, was received.

(e) CONSENT ITEMS (Item 5)**(i) Count Security Prisoner Transportation Program Funding Agreement (FCS12021) (City Wide) (Added as Item 5.1)**

On a motion the deliberation on Report FCS12021 respecting Count Security Prisoner Transportation Program Funding Agreement, were deferred to the end of the agenda.

(f) PUBLIC HEARINGS/DELEGATIONS (Item 6)**(i) Roger Cameron, Winston Morrison, Joe Rhodes, Amirah Hassan, on behalf of the Committee Against Racism, to present the final report on the Anti-racism symposium (Item 6.1)**

Mr. Cameron, Mr. Morrison and Mr. Rhodes made a presentation before Committee on behalf of the Committee Against Racism, to present the final report on the Anti-racism symposium. Their comments included but were not limited to the following:

The presenters discussed the accomplishments of the Committee Against Racism, and the future initiatives of the Committee. The presenters also discussed the 2010 Anti-Racism Symposium which was focused around the theme of Anti-Racism Strategies for Hamilton. The presenters provided recommendations to the Committee with respect to Racial Equality Training for the City of Hamilton.

The Committee asked questions of the presenters. Comments included but were not limited to the following:

The Committee asked questions regarding the recommendations put forward by the presenters, and sought clarity with respect to some of the recommendations that were suggested. The Committee thanked the presenters for their contribution to today's meeting.

The Committee was distributed with the power point presentation, a copy of which has been retained for the public record. The presentation is also available for viewing on the City of Hamilton website.

On a motion the presentation from Roger Cameron, Winston Morrison, and Joe Rhodes on behalf of the Committee Against Racism, to present the final report on the Anti-racism symposium, was received.

On a motion staff was directed to report back to the General Issues Committee respecting the recommendations put forth by the members of the Committee Against Racism, which read as follows:

- (a) That Council direct the Access & Equity Office to release a report that details the number of total staff, Councillors, senior managers, and managers who has completed the Racial Equality training;
- (b) That Council request on behalf of CAR, a copy of Hamilton Police Service's Equity Policy;
- (c) That all Councillors and their staff take Racial Equity training within one year of taking office;
- (d) That Council approve the formation of an Access and Equity Standing Committee of Council;
- (e) That Council direct Senior managers, included Human Resources, to develop and implement a plan of action with the outcome of making the City's workforce more reflective of the City's diverse population;
- (f) That Council direct Human Resources to actively consult with CAR in the recruitment, hiring, promotion and retention process and that they report back regarding outcomes and updates every 6 months to CAR;
- (g) That Council approve the City's website to be translated into multiple languages to increase access to diverse communities, similar to the Cities of Mississauga and Toronto;
- (h) That Council approve a feasibility study regarding the establishment of a resources centre that includes partners and will

have a staffed telephone line, including anti-racism resources, education, and training for the community;

- (i) That Council direct the Access and Equity office to work in collaboration with the CAR on the development of a public awareness campaign that will focus on the impact of racism, how to address it, as well as the purpose of the resource centre and help telephone line.

(ii) David Stephens respecting Relocation of Brian Timmis Stadium (Item 6.2)

Mr. Stephens was not in attendance. The Clerk indicated that Mr. Stephens' approved delegation request has appeared on two Committee agendas, and he has not appeared on both occasions. Under the Procedural By-law, the Clerk indicated that Mr. Stephens' approval to speak before Committee has expired, and will have to reapply if he still wishes to speak before Committee.

(g) PRESENTATION

- (i) Auditor General Model (CM11006) (City Wide) (Item 7.1(a))**
- (ii) Implementation of the Hybrid Auditor General Model (AUD11028) (City Wide) (Item 7.1(b))**

Art Zuidema, Director, Corporate Initiatives, gave a presentation to Committee respecting two reports, the first respecting the Auditor General Model and the other respecting the Implementation of the Hybrid Auditor General Model, with the assistance of a power point presentation. His comments included but were not limited to the following:

- Tasks and functions of the Auditor General model as well as the Hybrid Auditor General Model.
- Jurisdictional overview of what other Canadian municipalities have done to meet their audit needs.

Committee asked questions of Mr. Zuidema. Comments included but were not limited to the following:

Committee expressed concern with respect to the following:

- The request for new employee and the specific tasks that they would perform,
- The funding source of the new Auditor General position and subsequent staff.

- A requirement for Council to receive yearly updates as the three year pilot program moves along.
- The reporting structure of the Auditor General's position with the City's reporting structure.
- If savings are found where the funds will be directed.

The Committee was distributed with the power point presentation, a copy of which has been retained for the public record. The presentation is also available for viewing on the City of Hamilton website.

On a motion Reports CM11006 respecting Auditor General Model and AUD11028 respecting the Implementation of the Hybrid Auditor General Model were referred back to staff for further review and to address the concerns raised by the Committee.

(h) OTHER BUSINESS

(i) Outstanding Business List

On a motion the revised due dates for the following items were approved:

- (i) Hamilton Waterfront Priorities
Due Date: December 12, 2011
Revised Due Date: March 21, 2012

(i) PRIVATE & CONFIDENTIAL

(i) Closed Session Minutes – January 9, 2012 (Item 12.1)

- (aa) On a motion the Closed Session Minutes of the January 9, 2012 General Issues Committee were approved, as presented;
- (bb) On a motion these Minutes are to remain confidential and restricted from public disclosure in accordance with the exemptions provided in the Municipal Freedom of Information and Protection of Privacy Act.

The Committee discussed the need to go in to closed session regarding Items 12.2 and 12.3.

On a motion Report LS10005(a) City of Hamilton ats Bre-Ex Limited and Recent Communications from the Ombudsman's Office, was referred to the City Manager and the City Solicitor to discuss the confidentiality of the documents, and to have staff report back to the General Issues Committee within the next 48 hours.

- (ii) City of Hamilton ats Bre-Ex Limited (LS10005(a)) (City Wide) (Item 12.2)**
- (iii) Recent Communications from the Ombudsman's Office (Item 12.3)**

There being no further business, the Committee adjourned at 1:30 p.m.

Respectfully submitted

Councillor T. Whitehead
Deputy Mayor

Carolyn Biggs, Co-ordinator
Committee Services/Council/Budgets
February 1, 2012

THE AGREEMENT effective as of the 1st day of January, 2012.

B E T W E E N:

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO as
represented by the Minister of Community Safety and
Correctional Services**

(the "Ministry")

- and -

**City of Hamilton
(the "Recipient")**

WHEREAS:

- A.** The Ministry has established the Court Security Prisoner Transportation (CSPT) Program (the "Program") to assist municipalities in offsetting their costs of providing CSPT services in their jurisdictions;

AND WHEREAS:

- B.** The Recipient is a municipality which provides security for court premises during hours of court operations and security of persons attending court; and transports prisoners and custodial minors (i.e., persons between twelve and seventeen years of age) between correctional institutions, custodial facilities and court locations for the purposes of court attendance;
- C.** Funding will be provided based on the municipality's relative share of the total provincial court security-related costs, as confirmed in the 2010 Court Security Information Survey.

NOW THEREFORE in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Parties agree as follows:

ARTICLE 1 -- INTERPRETATION AND DEFINITIONS

1.1 *Interpretation.* For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;

- (b) words in one gender include all genders;
- (c) the background and the headings do not form part of the Agreement; they are for reference only and shall not affect the interpretation of the Agreement;
- (d) any reference to dollars or currency shall be to Canadian dollars and currency; and
- (e) “include”, “includes” and “including” shall not denote an exhaustive list.

1.2 **Definitions.** In the Agreement, the following terms shall have the following meanings:

“Agreement” means this agreement entered into between the Ministry and the Recipient and includes all of the schedules listed in section 28.1 and any amending agreement entered into pursuant to section 34.2.

“BPSAA” means the *Broader Public Sector Accountability Act, 2010* (Ontario), including any directives issued pursuant to that Act.

“Court Security and Prisoner Transportation Services” means the services and activities eligible for funding, as set out in Schedule “B”.

“Expiry Date” means December 31, 2014.

“Effective Date” means the date set out at the top of the Agreement.

“Event of Default” has the meaning ascribed to it in section 14.1.

“Force Majeure” has the meaning ascribed to it in Article 26.

“Funding Period” means: the period commencing on the Effective Date and ending on the Expiry Date.

“Funding Year” means any of Funding Years 1, 2 or 3.

“Funding Year 1” means January 1, 2012 through December 31, 2012.

“Funding Year 2” means January 1, 2013 through December 31, 2013.

“Funding Year 3” means January 1, 2014 through December 31, 2014.

“**Funds**” means the money the Ministry provides to the Recipient pursuant to the Agreement.

“**Indemnified Parties**” means her Majesty the Queen in right of Ontario, her ministers, agents, appointees and employees.

“**Maximum Funds**” means \$704,948.37 for Funding Year 1, \$1,409,896.74 for Funding Year 2 and \$2,114,845.11 for Funding Year 3.

“**Notice**” means any communication given or required to be given pursuant to the Agreement.

“**Notice Period**” means the period of time within which the Recipient is required to remedy an Event of Default, and includes any such period or periods of time by which the Ministry considers it reasonable to extend that time.

“**Parties**” means the Ministry and the Recipient and “**Party**” means either one of them.

“**Project**” means the undertaking described in Schedule “A”.

“**Project Completion Date**” means the date for completion of the Project, as set out in section 3.1.

“**Report**” means the report described in Schedule “C”.

“**Timelines**” means the dates and times set out in Schedule “A”.

ARTICLE 2 -- REPRESENTATIONS, WARRANTIES AND COVENANTS

2.1 **General.** The Recipient represents, warrants and covenants that:

- (a) it is a validly existing legal entity with full power to fulfill its obligations under the Agreement;
- (b) it has the experience and expertise necessary to carry out the Project;
and
- (c) unless otherwise provided for in the Agreement, any information the Recipient provided to the Ministry in support of its request for funds was true and complete at the time the Recipient provided it.

- 2.2 **Execution of Agreement.** The Recipient represents and warrants that:
- (a) it has the full power and authority to enter into the Agreement; and
 - (b) it has taken all necessary actions to authorize the execution of the Agreement.
- 2.3 **Governance.** The Recipient represents, warrants and covenants that upon execution and for the period during which the Agreement is in effect, it:
- (a) a code of conduct and ethical responsibilities for all persons at all levels of the Recipient's organization;
 - (b) procedures to ensure the ongoing effective functioning of the Recipient;
 - (c) decision-making mechanisms;
 - (d) procedures to provide for the prudent and effective management of the Funds;
 - (e) procedures to enable the successful completion of the Project;
 - (f) procedures to enable the timely identification of risks to the completion of the Project and strategies to address the identified risks;
 - (g) procedures to enable the preparation and delivery of all Reports required pursuant to Article 7; and
 - (h) procedures to deal with such other matters as the Recipient considers necessary to ensure that the Recipient carries out its obligations under the Agreement.
- 2.4 **Supporting Documentation.** Upon request, the Recipient shall provide the Ministry with proof of the matters referred to in this Article 2.

ARTICLE 3 -- TERM OF THE AGREEMENT

- 3.1 **Term.** The term of the Agreement shall commence on the Effective Date and shall expire on the Expiry Date of December 31 2014, unless terminated earlier pursuant to Articles 12, 13 or 14.

ARTICLE 4 -- FUNDS AND CARRYING OUT THE PROJECT

4.1 **Funds Provided.** The Ministry shall:

- (a) provide the Recipient Funds up to the Maximum Funds for the purpose of carrying out the Project;
- (b) provide the Funds directly to the Recipient through transfer payments in accordance with the payment schedule attached to the Agreement as Schedule "A"; and
- (c) deposit the Funds into an account designated by the Recipient provided that the account:
 - (i) resides at a Canadian financial institution; and
 - (ii) is in the name of the Recipient.

4.2 **Limitation on Payment of Funds.** Despite section 4.1:

- (a) the Ministry is not obligated to provide any Funds to the Recipient until the Recipient provides the insurance certificate or other proof as provided for in section 11.2;
- (b) the Ministry is not obligated to provide Funds until it is satisfied with the Financial Reports;
- (c) the Ministry may adjust the amount of Funds it provides to the Recipient in any Funding Year based upon the Ministry's assessment of the information provided by the Recipient pursuant to section 7.1; and
- (d) if the Recipient identifies that the Funds for the Funding Year are not expected to be used for the funding purposes, the Ministry may reallocate the Funds to other municipalities; and
- (e) if, pursuant to the provisions of the Financial Administration Act (Ontario), the Ministry does not receive the necessary appropriation from the Ontario Legislature for payment under the Agreement, the Ministry is not obligated to make any such payment, and, as a consequence, the Ministry may:
 - (i) reduce the amount of the Funds and, in consultation with the Recipient, change the Project; or

(ii) terminate the Agreement pursuant to section 13.1.

4.3 **Use of Funds and Project.** The Recipient shall:

(a) carry out the Project:

(i) in accordance with the terms and conditions of the Agreement;
and

(ii) in compliance with all federal and provincial laws and regulations, all municipal by-laws, and any other orders, rules and by-laws related to any aspect of the Project;

(b) use the Funds only for the purpose of carrying out the Project.

4.4 **No Changes.** The Recipient shall not make any changes to the Project, the Timelines and/or the Funds without the prior written consent of the Ministry.

4.5 **Interest Bearing Account.** If the Ministry provides Funds to the Recipient prior to the Recipient's immediate need for the Funds, the Recipient shall place the Funds in an interest bearing account in the name of the Recipient at a Canadian financial institution.

4.6 **Interest.** If the Recipient earns any interest on the Funds:

(a) the Ministry may deduct an amount equal to the interest from any further instalments of Funds; or

(b) the Recipient shall pay an amount equal to the interest to the Ministry as directed by the Ministry.

4.7 **Maximum Funds.** The Recipient acknowledges that the Funds available to it pursuant to the Agreement shall not exceed the Maximum Funds.

4.8 **Rebates, Credits and Refunds.** The Recipient acknowledges that the amount of Funds available to it pursuant to the Agreement is based on the actual costs to the Recipient, less any costs (including taxes) for which the Recipient has received, will receive, or is eligible to receive, a rebate, credit or refund.

ARTICLE 5 -- ACQUISITION OF GOODS AND SERVICES

- 5.1 **Acquisition.** Subject to section 31.1, if the Recipient acquires supplies, equipment or services with the Funds, it shall do so through a process that promotes the best value for money.

ARTICLE 6 -- CONFLICT OF INTEREST

- 6.1 **No Conflict of Interest.** The Recipient shall carry out the Project and use the Funds without an actual, potential or perceived conflict of interest.
- 6.2 **Conflict of Interest Includes.** For the purposes of this Article, a conflict of interest includes any circumstances where:
- (a) the Recipient; or
 - (b) any person who has the capacity to influence the Recipient's decisions,

has outside commitments, relationships or financial interests that could, or could be seen to, interfere with the Recipient's objective, unbiased and impartial judgment relating to the Project and the use of the Funds.

- 6.3 **Disclosure to Ministry.** The Recipient shall:
- (a) disclose to the Ministry, without delay, any situation that a reasonable person would interpret as either an actual, potential or perceived conflict of interest; and
 - (b) comply with any terms and conditions that the Ministry may prescribe as a result of the disclosure.

ARTICLE 7 -- REPORTING, ACCOUNTING AND REVIEW

- 7.1 **Preparation and Submission.** The Recipient shall:
- (a) submit to the Ministry at the address provided in section 18.1, Reports, as set out in Schedule C, in accordance with the Timelines and requirements set out in Schedule A.
 - (b) submit to the Ministry at the address provided in section 18.1, any other reports as may be requested by the Ministry in accordance with the Timelines and content requirements specified by the Ministry;

- (c) ensure that all Reports and other reports are completed to the satisfaction of the Ministry; and
- (d) ensure that all Reports and other reports are signed on behalf of the Recipient by an authorized signing officer.

7.2 **Record Maintenance.** The Recipient shall keep and maintain:

- (a) all financial records (including invoices) relating to the Funds or otherwise to the Project in a manner consistent with generally accepted accounting principles; and
- (b) all non-financial documents and records relating to the Funds or otherwise to the Project.

7.3 **Inspection.** The Ministry, its authorized representatives or an independent auditor identified by the Ministry may, at its own expense, upon twenty-four hours' Notice to the Recipient and during normal business hours, enter upon the Recipient's premises to review the progress of the Project and the Recipient's expenditure of the Funds and, for these purposes, the Ministry, its authorized representatives or an independent auditor identified by the Ministry may:

- (a) inspect and copy the records and documents referred to in section 7.2; and
- (b) conduct an audit or investigation of the Recipient in respect of the expenditure of the Funds and/or the Project.

7.4 **Disclosure.** To assist in respect of the rights set out in section 7.3, the Recipient shall disclose any information requested by the Ministry, its authorized representatives or an independent auditor identified by the Ministry, and shall do so in a form requested by the Ministry, its authorized representatives or an independent auditor identified by the Ministry, as the case may be.

7.5 **No Control of Records.** No provision of the Agreement shall be construed so as to give the Ministry any control whatsoever over the Recipient's records.

7.6 **Auditor General.** For greater certainty, the Ministry's rights under this Article are in addition to any rights provided to the Auditor General pursuant to section 9.1 of the *Auditor General Act* (Ontario).

ARTICLE 8 – CREDIT AND PUBLICITY

- 8.1 **Acknowledge Support.** Unless otherwise directed by the Ministry, the Recipient shall, in a form approved by the Ministry, acknowledge the support of the Ministry in any publication of any kind, written or oral, relating to the Project, including for greater certainty, press releases, published reports, radio and television programs and public meetings, using the following standard:

“This Project has been made possible by a grant from the Ministry of Community Safety and Correctional Services.”

- 8.2 **Prior Written Approval.** The Recipient agrees to obtain prior written approval from the Ministry before using any Government of Ontario or Ministry logo or symbol in any communications including press releases, published reports, television programs, public or private meetings, or in any other type of promotional material, relating to the Project or this Agreement.
- 8.3 **Publication.** The Recipient shall indicate, in any of its publications, of any kind, relating to the Project, that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of the Ministry.

ARTICLE 9 -- FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY

- 9.1 **FIPPA.** The Recipient acknowledges that the Ministry is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Ministry in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

ARTICLE 10 -- INDEMNITY

- 10.1 **Indemnification.** The Recipient hereby agrees to indemnify and hold harmless the Indemnified Parties from and against any and all liability, loss, costs, damages and expenses (including legal, expert and consultant fees), causes of action, actions, claims, demands, lawsuits or other proceedings, by whomever made, sustained, incurred, brought or prosecuted, in any way arising out of or in connection with the Project or otherwise in connection with the Agreement, unless solely caused by the negligence or wilful misconduct of the Ministry.

ARTICLE 11 -- INSURANCE

- 11.1 ***Recipient's Insurance.*** The Recipient represents and warrants that it has, and shall maintain for the term of the Agreement, at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person carrying out a project similar to the Project would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury and property damage, to an inclusive limit of not less than five million dollars (\$5,000,000) per occurrence. The policy shall include the following:
- (a) the Indemnified Parties as additional insureds with respect to liability arising in the course of performance of the Recipient's obligations under, or otherwise in connection with, the Agreement;
 - (b) a cross-liability clause;
 - (c) contractual liability coverage; and
 - (d) a 30 day written notice of cancellation, termination or material change.
- 11.2 ***Proof of Insurance.*** The Recipient shall provide the Ministry with certificates of insurance, or other proof as may be requested by the Ministry, that confirms the insurance coverage as provided for in section 11.1. Upon the request of the Ministry, the Recipient shall make available to the Ministry a copy of each insurance policy.

ARTICLE 12 -- TERMINATION ON NOTICE

- 12.1 ***Termination on Notice.*** The Ministry may terminate the Agreement at any time upon giving at least sixty (60) days Notice to the Recipient.
- 12.2 ***Consequences of Termination on Notice by the Ministry.*** If the Ministry terminates the Agreement pursuant to section 12.1, the Ministry may:
- (a) cancel all further instalments of Funds;
 - (b) demand the repayment of any Funds remaining in the possession or under the control of the Recipient; and/or

- (c) determine the reasonable costs for the Recipient to wind down the Project, and:
 - (i) permit the Recipient to offset the costs determined pursuant to section 12.2(c), against the amount owing pursuant to section 12.2(b); and/or
 - (ii) subject to section 4.7, provide Funds to the Recipient to cover the costs determined pursuant to section 12.2(c).

ARTICLE 13 -- TERMINATION WHERE NO APPROPRIATION

- 13.1 **Termination Where No Appropriation.** If, as provided for in section 4.2(d), the Ministry does not receive the necessary appropriation from the Ontario Legislature for any payment the Ministry is to make pursuant to the Agreement, the Ministry may terminate the Agreement immediately by giving Notice to the Recipient.
- 13.2 **Consequences of Termination Where No Appropriation.** If the Ministry terminates the Agreement pursuant to section 13.1, the Ministry may:
- (a) cancel all further instalments of Funds;
 - (b) demand the repayment of any Funds remaining in the possession or under the control of the Recipient; and/or
 - (c) determine the reasonable costs for the Recipient to wind down the Project and permit the Recipient to offset such costs against the amount owing pursuant to section 13.2(b).
- 13.3 **No Additional Funds.** For purposes of clarity, if the costs determined pursuant to section 13.2(c) exceed the Funds remaining in the possession or under the control of the Recipient, the Ministry shall not provide additional Funds to the Recipient.

ARTICLE 14 -- EVENT OF DEFAULT, CORRECTIVE ACTION AND TERMINATION FOR DEFAULT

- 14.1 **Events of Default.** Each of the following events shall constitute an Event of Default:

- (a) in the opinion of the Ministry, the Recipient breaches any representation, warranty, covenant or other material term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:
 - (i) carry out the Project;
 - (ii) use or spend Funds; and/or
 - (iii) provide, in accordance with section 7.1, Reports or such other reports as may have been requested pursuant to section 7.1(b);
- (b) the Recipient's operations, or its organizational structure, changes such that it no longer meets one or more of the applicable eligibility requirements of the program under which the Ministry provides the Funds;
- (c) the Recipient makes an assignment, proposal, compromise, or arrangement for the benefit of creditors, or is petitioned into bankruptcy, or files for the appointment of a receiver;
- (d) the Recipient ceases to operate; and
- (e) an event of Force Majeure that continues for a period of 60 days or more.

14.2 ***Consequences of Events of Default and Corrective Action.*** If an Event of Default occurs, the Ministry may, at any time, take one or more of the following actions:

- (a) initiate any action the Ministry considers necessary in order to facilitate the successful continuation or completion of the Project;
- (b) provide the Recipient with an opportunity to remedy the Event of Default;
- (c) suspend the payment of Funds for such period as the Ministry determines appropriate;
- (d) reduce the amount of the Funds;
- (e) cancel all further installments of Funds;

- (f) demand the repayment of any Funds remaining in the possession or under the control of the Recipient;
- (g) demand the repayment of an amount equal to any Funds the Recipient used, but did not use in accordance with the Agreement;
- (h) demand the repayment of an amount equal to any Funds the Ministry provided to the Recipient; and/or
- (i) terminate the Agreement at any time, including immediately, upon giving Notice to the Recipient.

14.3 ***Opportunity to Remedy.*** If, in accordance with section 14.2(b), the Ministry provides the Recipient with an opportunity to remedy the Event of Default, the Ministry shall provide Notice to the Recipient of:

- (a) the particulars of the Event of Default; and
- (b) the Notice Period.

14.4 ***Recipient not Remediating.*** If the Ministry has provided the Recipient with an opportunity to remedy the Event of Default pursuant to section 14.2(b), and:

- (a) the Recipient does not remedy the Event of Default within the Notice Period;
- (b) it becomes apparent to the Ministry that the Recipient cannot completely remedy the Event of Default within the Notice Period; or
- (c) the Recipient is not proceeding to remedy the Event of Default in a way that is satisfactory to the Ministry,

the Ministry may extend the Notice Period, or initiate any one or more of the actions provided for in sections 14.2(a), (c), (d), (e), (f), (g), (h) and (i).

14.5 ***When Termination Effective.*** Termination under this Article shall take effect as set out in the Notice.

ARTICLE 15 -- FUNDS AT THE END OF A FUNDING YEAR

15.1 ***Funds at the End of a Funding Year.*** Without limiting any rights of the Ministry under Article 14, if the Recipient has not spent all of the Funds allocated for the Funding Year, the Ministry may:

- (a) demand the return of the unspent Funds; or
- (b) adjust the amount of any further instalments of Funds accordingly.

ARTICLE 16 -- FUNDS UPON EXPIRY

- 16.1 ***Funds upon Expiry.*** The Recipient shall, upon expiry of the Agreement, return to the Ministry any Funds remaining in its possession or under its control.

ARTICLE 17 -- REPAYMENT

- 17.1 ***Debt Due.*** If:

- (a) the Ministry demands the payment of any Funds or any other money from the Recipient; or
- (b) the Recipient owes any Funds or any other money to the Ministry, whether or not their return or repayment has been demanded by the Ministry,

such Funds or other money shall be deemed to be a debt due and owing to the Ministry by the Recipient, and the Recipient shall pay or return the amount to the Ministry immediately, unless the Ministry directs otherwise.

- 17.2 ***Interest Rate.*** The Ministry may charge the Recipient interest on any money owing by the Recipient at the then current interest rate charged by the Province of Ontario on accounts receivable.
- 17.3 ***Payment of Money to Ministry.*** The Recipient shall pay any money owing to the Ministry by cheque payable to the "Ontario Minister of Finance" and mailed to the Ministry at the address provided in section 18.1.

ARTICLE 18 -- NOTICE

- 18.1 **Notice in Writing.** Notices and communications shall be in writing and shall be delivered by email, postage-prepaid mail, personal delivery or fax, and shall be addressed to the Ministry Contact and the Recipient, respectively, as set out below, or as either Party later designates to the other by Notice:

<p>To the Ministry:</p> <p>External Relations Branch Public Safety Division Ministry of Community Safety and Correctional Services 12th Floor, 25 Grosvenor Street Toronto ON M7A 2H3</p> <p>Attention: Mr. Oscar Mosquera Manager, Program Development Section</p> <p>Fax: 416-314-3092 E-mail: Oscar.Mosquera@ontario.ca</p>	<p>To the Recipient:</p> <p>City of Hamilton Hamilton City Hall 71 Main Street West Hamilton ON L8P 4Y5</p> <p>Attention: Mr. Chris Murray City Manager (Acting)</p> <p>Fax: 905-546-2095 Email: cmurray@hamilton.ca</p>
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- 18.2 **Notice Given.** Notice shall be deemed to have been received:
- (a) in the case of postage-prepaid mail, seven days after a Party mails the Notice; or
 - (b) in the case of email, personal delivery or fax, at the time the other Party receives the Notice.
- 18.3 **Postal Disruption.** Despite section 18.2(a), in the event of a postal disruption:
- (a) Notice by postage-prepaid mail shall not be deemed to be received; and
 - (b) the Party giving Notice shall provide Notice by email, personal delivery or by fax.

ARTICLE 19 -- CONSENT BY MINISTRY

- 19.1 **Consent.** The Ministry may impose any terms and/or conditions on any consent the Ministry may grant pursuant to the Agreement.

ARTICLE 20 -- SEVERABILITY OF PROVISIONS

- 20.1 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement shall not affect the validity or enforceability of any other provision of the Agreement. Any invalid or unenforceable provision shall be deemed to be severed.

ARTICLE 21 -- WAIVER

- 21.1 **Waivers in Writing.** If a Party fails to comply with any term of the Agreement, that Party may only rely on a waiver of the other Party if the other Party has provided a written waiver in accordance with the Notice provisions in Article 18. Any waiver must refer to a specific failure to comply and shall not have the effect of waiving any subsequent failures to comply.

ARTICLE 22 -- INDEPENDENT PARTIES

- 22.1 **Parties Independent.** The Recipient acknowledges that it is not an agent, joint venturer, partner or employee of the Ministry, and the Recipient shall not take any actions that could establish or imply such a relationship.

ARTICLE 23 -- ASSIGNMENT OF AGREEMENT OR FUNDS

- 23.1 **No Assignment.** The Recipient shall not assign any part of the Agreement or the Funds without the prior written consent of the Ministry.
- 23.2 **Agreement to Extend.** All rights and obligations contained in the Agreement shall extend to and be binding on the Parties' respective heirs, executors, administrators, successors and permitted assigns.

ARTICLE 24 -- GOVERNING LAW

- 24.1 **Governing Law.** The Agreement and the rights, obligations and relations of the Parties shall be governed by and construed in accordance with the laws of the Ministry of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with the Agreement shall be conducted in Ontario.

- 24.2 **BPSAA.** For the purposes of clarity, if the Recipient is subject to the BPSAA and there is a conflict between any of the requirements of the Agreement and the requirements of the BPSAA, the BPSAA shall prevail.

ARTICLE 25 -- FURTHER ASSURANCES

- 25.1 **Agreement into Effect.** The Recipient shall do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

ARTICLE 26 -- CIRCUMSTANCES BEYOND THE CONTROL OF EITHER PARTY

- 26.1 **Force Majeure.** Subject to section 26.3, Force Majeure means an event that:

- (a) is beyond the reasonable control of a Party; and
- (b) makes a Party's performance of its obligations under the Agreement impossible, or so impracticable as reasonably to be considered impossible in the circumstances.

- 26.2 **Force Majeure Includes.** Force Majeure includes:

- (a) infectious diseases, war, riots and civil disorder;
- (b) storm, flood, earthquake and other severely adverse weather conditions;
- (c) lawful act by a public authority; and
- (d) strikes, lockouts and other labour actions,

if such events meet the test set out in section 26.1.

- 26.3 **Force Majeure Shall Not Include.** Force Majeure shall not include:

- (a) any event that is caused by the negligence or intentional action of a Party or such Party's agents or employees; or
- (b) any event that a diligent Party could reasonably have been expected to:
 - (i) take into account at the time of the execution of the Agreement; and

- (ii) avoid or overcome in the carrying out of its obligations under the Agreement.

26.4 ***Failure to Fulfil Obligations.*** Subject to section 14.1(e), the failure of either Party to fulfil any of its obligations under the Agreement shall not be considered to be a breach of, or Event of Default under, the Agreement to the extent that such failure to fulfill the obligation arose from an event of Force Majeure, if the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of the Agreement.

ARTICLE 27 -- SURVIVAL

27.1 ***Survival.*** The provisions in Article 1, any other applicable definitions, sections 4.6(b), 7.1 (to the extent that the Recipient has not provided the Reports, respecting the Reports required after the Funding Period in accordance with the Due Dates set out in Schedule A, or other reports as may be requested by the Ministry to the satisfaction of the Ministry), 7.2, 7.3, 7.4, 7.5, 7.6, Articles 8 and 10, sections 12.2, 13.2, 13.3, 14.1, 14.2(d), (e), (f), (g) and (h), Articles 16, 17, 18, 20, 24, 27, 28, 29, 30, 31 and 32, 33 and 34, 35 Schedule A, and all applicable cross-referenced provisions and schedules shall continue in full force and effect for a period of seven years from the date of expiry or termination of the Agreement.

ARTICLE 28 -- SCHEDULES

28.1 ***Schedules.*** The Agreement includes the following schedules:

- (a) Schedule "A" – Terms of Reference;
- (b) Schedule "B" – Court Security and Prisoner Transportation Services and Activities Eligible for Funding
- (c) Schedule "C" – Annual Financial Report;

ARTICLE 29 -- FURTHER FUNDS

29.1 ***Further Funds.*** It is agreed and understood that the provision of the Funds in no way commits or obligates the Ministry to provide other or additional payments now or in the future.

ARTICLE 30 -- INSPECTION

- 30.1 **Inspection.** The Ministry reserves the right to inspect any aspect of the Project at any time.

ARTICLE 31 -- MANAGEMENT BOARD/TREASURY BOARD APPROVAL

- 31.1 **Management Board Approval.** This Agreement may be subject to approval by the Management Board/Treasury Board Secretariat of the Government of Ontario.

ARTICLE 32 -- JOINT AND SEVERAL LIABILITY

- 32.1 **Joint and Several Liability.** Where the Recipient is comprised of more than one entity, all such entities shall be jointly and severally liable to the Ministry for the fulfillment of the obligations of the Recipient under the Agreement.

ARTICLE 33 -- RIGHTS AND REMEDIES CUMULATIVE

- 33.1 **Rights and Remedies Cumulative.** The rights and remedies of the Ministry under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

ARTICLE 34 -- ENTIRE AGREEMENT

- 34.1 **Entire Agreement.** The Agreement constitutes the entire agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.
- 34.2 **Modification of Agreement.** The Agreement may only be amended by a written agreement duly executed by the Parties.

Article 35 -- FAILURE TO COMPLY WITH OTHER AGREEMENTS

- 35.1 **Other Agreements.** If the Recipient:
- (a) has failed to comply (a "Failure") with any term, condition or obligation under any other agreement with Her Majesty the Queen in right of Ontario or a Crown agency;

- (b) has been provided with notice of such Failure in accordance with the requirements of such other agreement;
- (c) has, if applicable, failed to rectify such Failure in accordance with the requirements of such other agreement; and
- (d) such Failure is continuing,

the Ministry may suspend the payment of Funds for such period as the Ministry determines appropriate.

THE PARTIES HAVE EXECUTED THE AGREEMENT ON THE DATES SET OUT BELOW.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO as represented by the Minister of Community Safety and Correctional Services

per:

Date

Authorized Signatory for the Ministry
Name:
Position:

City of Hamilton
per:

Date

Authorized Signatory for the Recipient
Name:
Position:

Witness

Print Witness Name

SCHEDULE "A"

TERMS OF REFERENCE

1) PROJECT DESCRIPTION

The Ministry has established the Program to provide Funds to assist municipalities in offsetting their costs of providing CSPT services in their jurisdictions.

Funding will be provided based on each municipality's relative share of the total provincial court security-related costs, as confirmed in the 2010 Court Security Information Survey.

The Recipient will provide security of persons taking part in or attending court proceedings, and provide security of the premises during the hours that judges and members of the public are normally present. Further, the Recipient will transport prisoners and custodial minors (i.e., 12-17 years old) between correctional institutions and/or custodial facilities and court locations for the purposes of attending trial;

2) PAYMENT AND REPORTING SCHEDULE

Funding Year 1 – January 1, 2012 to December 31, 2012:

- A. First instalment: \$176,237.09 will be paid on receipt of the executed Agreement.
- B. Second instalment: \$528,711.28 will be paid to the Recipient in April, by the end of the month.

Funding Year 2 – January 1, 2013 to December 31, 2013:

- A. First instalment: \$352,474.19 will be paid to the Recipient in January, by the end of the month.
- B. Second instalment: \$1,057,422.55 will be paid to the Recipient following the Ministry's approval of Schedule C for Funding Year 1 – which must be received by the Ministry by **April 15, 2013**.

Funding Year 3 – January 1, 2014 to December 31, 2014:

- A. First instalment: \$528,711.28 will be paid to the Recipient in January, by the end of the month.
- B. Second instalment: \$1,586,133.83 will be paid to the Recipient following the Ministry's approval of Schedule C for Funding Year 2 – which must be received by the Ministry by April 15, 2014.
- C. The Recipient must submit Schedule C for Funding Year 3 to the Ministry by April 15, 2015.

SCHEDULE "B"

CSPT SERVICES AND ACTIVITIES ELIGIBLE FOR FUNDING

A. COURT SECURITY includes:

1. Facility Perimeter Security
Costs associated with external and/or internal police presence during regular or non-regular hours to secure the perimeter of the facility, to respond to a specific threat or for high-profile matters.
2. Courtroom Security
Costs associated with the presence of police staff in the courtroom to ensure the safety and security of the proceedings and attendees.
3. General Courthouse Security Presence
Costs associated with the use of screening stations staffed by police services to screen all public visitors to the courthouse, including the use of magnetometers and x-ray machines, and police staff assigned to perform roving patrols of the court facility.
4. Prisoner Movement in Courthouse
Costs associated with monitoring the movement of prisoners between holding cells and other areas within the courthouse.
5. Prisoner Guarding in Holding Cells
Costs associated with guarding and monitoring of prisoners brought to court for trial and held in courthouse holding cells (where applicable).
6. Prisoner Feeding
Costs associated with the provision of meals to prisoners required while in the custody of local police services for the purpose of attending court.

B. PRISONER TRANSPORTATION includes:

1. Prisoner Transport
Costs associated with the movement of prisoners between correctional institutions and court locations for the purposes of attending trial.
2. Prisoner Transport - Youth
Costs associated with the movement of custodial minors (i.e. 12-17 years old) between correctional and/or custodial facilities and court locations for the purposes of attending trial.

***PRISONER includes:** Persons being held in custody as a result of provincial or federal offence proceedings, including persons under immigration detention.

C. TRAINING, EQUIPMENT AND RECRUITING includes:

1. Training that is relevant to court security and prisoner transportation only.
2. Equipment that is unique to the member's deployment within court security and prisoner transportation and does not include equipment that would be utilized if the member was deployed in any other capacity within the police service.
3. Recruiting that is relevant to the staffing of court security and prisoner transportation only. Costs may include advertising for applicants, physical fitness and/or psychological testing, applicant screening, interviews or any other related human resources expense.

COURT SECURITY AND PRISONER TRANSPORTATION do NOT include:

1. Court Administration

Costs associated with performing court administrative duties including the scheduling of staff for daily deployment, the service of legal documents, the preparation/maintenance of Crown Brief materials, the entry of data into court information systems, preparing or swearing/affirming legal documentation, scheduling of court appearances or other duties of a related nature.

SCHEDULE "C"**ANNUAL FINANCIAL REPORT**

REPORTING MUNICIPALITY:			
CONTACT INFORMATION:			
Salutation:	First Name:	Last Name:	Title:
Tel:	Ext:	Fax:	Email:
Address:			
City:		Postal Code:	
LOCAL POLICE SERVICE:			
Name of Municipal or Regional Police Service or OPP Detachment:			
ANNUAL EXPENDITURE SUMMARY:			
PLEASE REVIEW THE ATTACHED GUIDELINES BEFORE COMPLETING THE FOLLOWING SECTION. THE GUIDELINES WILL PROVIDE DETAILS ON SERVICES AND ACTIVITIES ELIGIBLE FOR FUNDING.			
Funding Year _ Allocation (January 1, 201_ to December 31, 201_):			
COURT SECURITY COSTS			
a) Total gross annual court security costs:			
b) Total annual payments provided to other municipalities for court security:			
c) Total annual payments received from other municipalities for court security:			
d) Total annual payments received from other funding sources for court security:			
e) Total net annual court security costs (a + b - c - d):			
PRISONER TRANSPORTATION COSTS			
f) Total gross annual prisoner transportation costs:			
g) Total annual payments provided to other municipalities for prisoner transportation:			
h) Total annual payments received from other municipalities for prisoner transportation:			
i) Total annual payments received from other funding sources for prisoner transportation:			
j) Total net annual prisoner transportation costs (f + g - h - i):			
Total Net Annual Court Security and Prisoner Transportation Costs (e + j):			
Variance (Allocation - Total Net Annual Costs):			
SIGNATURE OF AUTHORIZED OFFICIAL:			
<i>I, hereby certify that the information provided in the Annual Financial Report is true and correct and is in agreement with the books and records of the municipality and its consolidated entities.</i>			
Title:		Print Name:	
Signature:		Date:	

Non Union Compensation		Appendix "B" to Item 3 of General Issues Committee Report 12-001
Sub-Committee		Page 1 of 7
Policy No: HR-23-09		Council Approved:

Salary Administration Policy (amended)

POLICY STATEMENT	<p>An employee's salary may be increased, decreased or salary protected as a result of:</p> <ul style="list-style-type: none"> • a general economic adjustment; • a progressive step increase based on a performance appraisal rating of equal to or higher than effective performance; • staffing changes (for new employees, reclassifications, promotions, promotions to management positions, lateral transfers); • transfer to another position; • a temporary transfer to another position on an acting or career development basis, or a secondment to a special project; • a job evaluation; • a market rate adjustment; • a supervisory differential adjustment; or • an adjustment to reflect the assignment of duties and responsibilities in addition to the employee's regular position
PURPOSE	<p>This policy identifies the terms and conditions under which salary changes may be enacted for the purposes of Salary Plan Placement (new employees, reclassifications, promotions, promotions to management positions and lateral transfers); Market Rates, Acting Pay, Additional Temporary Duties and Salary Protection as well as outlining how salaries are processed under these conditions.</p>
SCOPE	<p>This policy applies to all permanent, temporary or contract full-time employees of the City of Hamilton who have successfully completed their probationary period, including administrative support to elected officials. This policy excludes unionized employees.</p>
DEFINITIONS	<p>The following terms referenced in this Policy are defined as:</p>
Salary Plan Placement	<p>The City of Hamilton recognizes that staffing changes within the organization may affect an employee's compensation. Actions taken with the Salary Plan Placement Policy vary depending on the reason for the movement. Five situations typically occur – hiring of new employees, job reclassifications, promotions, promotions to management positions and lateral transfers within the same salary/wage grade.</p>
Market Rates	<p>The Employer may establish a job rate that is different from that established through the job evaluation plan in response to market conditions or other factors such as "hot skills". Such rates must be substantiated by difficulty recruiting employees, difficulty retaining staff or a skills shortage of a particular skill set in the local market and/or employment market research.</p>
Acting Pay	<p>When an employee temporarily assumes a substantial portion of the responsibilities of a higher position, and is no longer responsible for their own normal duties, the employee is considered to be in an acting capacity.</p>
Temporary Additional Duties	<p>Salary premiums for additional responsibilities are based on the following criteria:</p> <ul style="list-style-type: none"> • the temporary responsibilities are generally for a period of one to six months duration; • the employee is responsible for specific projects; and • the employee is required to demonstrate additional skill, effort, responsibility or working conditions over and above their current responsibilities



Salary Protection

An employee will be salary protected if changes in the job content result in a lower evaluation and salary grade for a job. This means that the employee(s) will continue to receive the same salary for the period of time set out in the Salary Protection section of the Salary Administration Policy.

PRINCIPLES

- The following principles apply to this Policy:
1. Market Rates - Market rates will be reviewed annually to ensure they continue to be justified.
 2. Expansion of salary range beyond job rate (**up to a maximum of 8%**) to be used for compensation premiums for additional temporary duties and/or special projects.
 3. Retired or terminated employees are not entitled to retroactive adjustments for job evaluation reclassifications unless the employee was an active employee at the time of the job evaluation decision and/or Council approval of rate changes.
 4. If an employee is within five years of eligibility for a planned retirement that meets OMERS eligibility requirements, the employee would be entitled to either the salary protection provisions at their current hourly rate or for such longer period that the employee would need to ensure no negative impact on their best five years of income for pension eligibility.

TERMS & CONDITIONS

Salary Plan Placement

New Employees

New employees are placed in the appropriate salary grade for their position, based on demonstrated skills, knowledge and experience.

Placement in the salary grade must reflect the current market conditions, and ensure adequate compensation for the skills, knowledge and experience the employee brings to the City.

Reclassification

Where changes in skill, effort, working conditions or responsibility result in a change in rating, the employee is moved to a different salary grade and their compensation is adjusted accordingly.

Adjustment to pay due to reclassification can be applied retroactively for a maximum of six months effective from the date that Human Resources receives the job evaluation documentation completely signed off by all parties. Employees that are considered 'active employees' and are in receipt of a pay cheque at the time of the reclassification will be entitled to retroactive adjustments.

RECLASSIFICATION PAY ADJUSTMENTS TABLE		
Position is	New Salary grade is	Employee is
Rated higher	Higher	placed at the minimum rate of the new salary grade or placed at a rate that gives a maximum of a five percent increase above current salary, whichever is greater
Rated lower	Lower but is within the higher salary grade	placed in the new salary grade at current salary if current salary falls within the new salary range, otherwise placed at rate at the top of the range
Rated lower	Lower and is	placed in the salary grade according to



below the higher salary grade	the formula in the Salary Protection Table.
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SALARY PROTECTION TABLE		
Position	Maintain previous salary for	After Adjustment Period
Below Director	three weeks per year of service	place at the highest rate in the lower salary grade to minimize financial impact
Director and above	four weeks per year of service	place at the highest rate in the lower salary grade to minimize financial impact

Any employee who requires salary protection due to his/her job being reclassified and is within a planned retirement that meets OMERS eligibility requirements, would be entitled to either salary protection (red circling) provisions at their current hourly rate or for such longer period that the employee would need to ensure no negative impact on their best five years of income for pension eligibility. These employees may continue to be salary protected (red circled) to minimize the financial impact on their pension income if within five years of eligibility, as per OMERS eligibility requirements. Thereafter, the employees' salary will be reduced to the maximum of the salary grade should the employee choose not to retire at the conclusion of the five year timeline. Salary protected (red circled) employees are not entitled to annual increases; their salary is protected up to the maximum of 5 years. Employees should notify their Compensation Specialist to ensure that the employee meets eligibility.

Salary progression increase dates do not change on reclassification.

Promotions

Employees promoted to a higher salary grade are placed in a rate within the new salary grade that allows a **maximum of eight per cent increase** in salary over their previous permanent salary grade or moves to the minimum rate of the new salary grade.

All promotional increases are calculated on an employee's annual salary except where the employee's bi-weekly hours are reduced as a result of the promotion. In these cases, the promotional increase is calculated on the employee's bi-weekly rate.

Promotions to Management Positions

Salary determination for employees promoted to management positions considers the salary levels of the employee's direct subordinates. Non-union management employees are placed in a rate within the salary grade that allows up to 10 per cent above the closest union subordinate, without going over the maximum rate for the grade to maintain appropriate compression differentials.

Placement in the grade cannot be above the maximum of the salary grade determined through internal equity.

Progressive salary increase dates change to reflect the effective date of the promotion. Employees promoted to the City Manager or General Manager/Executive Director positions will have a salary progression increase date of January 1.

Employees who are within three months of receiving a progressive salary increase in their former positions will have this considered in the calculation of the promotion increase.



Employee Move To Lower Salary Grade

Where an employee moves to a management position that has a lower salary grade than the employee's current position, the employee is placed in the lower salary grade:

- at the rate within the salary range that provides the minimum financial impact when the lower salary grade overlaps the higher salary grade
- at the highest rate in the lower salary grade when the lower salary grade does not overlap the higher salary grade,

Lateral Transfers

Employees who move positions laterally maintain the rate of their previous position.

Salary Progression increase dates do not change to reflect the effective date of the transfer.

Performance assessments are based on a combination of the new position and the former position, where appropriate.

Compression Rates

The employer shall maintain a 10% wage differential between the top rate of the closest unionized subordinate and the top rate of the non-union management employee. These situations are reviewed annually or as required on a case by case basis and adjusted as a result of any rate or organizational changes.

Issues of salary compression between non-union positions are reviewed on a case-by-case basis. The employer may implement a 5% differential in these circumstances. Consideration may be given where an employee has had a previous acting assignment that enhanced his/her skill sets. Consideration will be given to the experience of the subordinates as well as the promoted employee in determining if compression pay is required.

Market Rates

Market rates will be established after discussions with Human Resources to determine justification based on defined market rate criteria for a minimum of one year by communicating to the employee that he/she will receive the base internal equity rate for the job in addition to a market adjustment that will be paid through additional duty pay. The market rate adjustment will be reviewed annually to determine if the market adjustment should continue for another year or if same is no longer required due to external market conditions. The additional duty pay will be discontinued if the market adjustment is no longer required and the employee will continue to receive the internal equity rate.

Notification to discontinue existing market rates no longer required due to external market conditions will be based on the following criteria:

- positions below the Director level - three weeks notice for each year the market premium was paid
- Director level and above - four weeks notice for each year the market premium was paid

Acting Pay

Acting Pay is remuneration for a period of time that an employee is actually performing the essential core duties of a position in a higher salary grade. Acting pay is not automatic and must be initiated by the Department Director and approved by Human Resources.



To qualify for acting pay, the temporary assignment must be for at least 30 days.

Employees in acting positions are placed in the salary grade for the higher position that allows a **maximum eight percent increase** over their current salary.

Temporary assignments for less than six months duration may be filled at the discretion of management. Temporary assignments for longer than six months are normally filled by a job competition or through an Expression of Interest procedure. If the acting assignment is one year in duration or longer, the position must be posted corporately. In extenuating circumstances, the requirement for a job competition may be waived, but this requires the approval of the appropriate General Manager and the Executive Director, Human Resources or designate.

An employee in an acting capacity may be appointed to fill the position on a permanent basis during the acting period without a formal job posting only if the acting position was filled through a formal job competition consistent with the corporate standard and the employee has performance appraisal ratings of equal to or greater than effective performance.

Temporary Additional Duties

The City of Hamilton views temporary additional duties of higher responsibilities as a means to provide employees with opportunities for development and growth in the workplace, as well as allowing the City to find short-term solutions to operational challenges. This policy is not intended to cover routine vacation relief.

Assignment on a shared basis to a group of employees must be considered before assigning temporary additional duty pay to just one employee.

Temporary additional duties are based on the following criteria:

- Duration is generally for a period of a minimum of one month up to a maximum of six months
- The employee is responsible for specific projects
- Not merely increase in workload
- Requirement for additional skill, effort, responsibility or working conditions than in current responsibilities
- Consultation with Human Resources on the plan for temporary additional duties

An appropriate business case must be made and approved by the Executive Director, Human Resources or designate, for extensions beyond six months for temporary additional duty pay due to extenuating circumstances.

Employees with temporary assignments meeting these criteria receive a **salary premium of eight per cent** over their current base salary for the duration of the temporary assignment. A temporary assignment is expected to be temporary. If additional responsibilities continue beyond the project period, or are expected to continue indefinitely, the position is submitted for review under the non-union job evaluation plan.

Salary Protection

An employee is salary protected at the rate of pay in effect when the salary protection is applied. When salary protected, the employee's rate of pay is frozen, the employee is not entitled to any across the board increases e.g. cost of living adjustments.



Employees who apply for and are awarded a lower-valued position are not salary protected but will be placed in the new lower salary grade to provide the minimum financial impact. . Salary protection does not apply to compression rates.

Employees holding downgraded positions or placed in lower-valued positions are entitled to salary protection when:

- no opportunity exists to move the employee to an equal or higher salary within the lower grade for the lower-valued position
- the salary grade of the new lower-valued position does not cross over the existing higher salary grade.

Employees are placed in the new lower salary grade according to the following table:

SALARY PROTECTION TABLE		
Position	Maintain previous salary for	After Adjustment Period
Below Director	Three weeks per year of service to a maximum of 18 months, or until such time as the salary protection is no longer necessary	place at the highest rate in the lower salary grade to minimize financial impact
Director and above	Four weeks per year of service to a maximum of 18 months, or until such time as the salary protection is no longer necessary	place at the highest rate in the lower salary grade to minimize financial impact

Pending Retirement Salary Protection (Red Circling)

Employees within five years of a planned retirement that meet OMERS eligibility requirements, who would be eligible for salary protection, are red circled at their current rate of pay, to minimize financial impact.


These employees are red circled until one of the following occurs:

- the new lower salary grade crosses the current higher salary grade (catches up to the salary protected rate)
- five years have elapsed from the salary protection notice
- the employee retires

RESPONSIBILITIES

Operating departments are responsible for consulting with Human Resources and fulfilling the responsibilities detailed in this Policy to:

- ensure promotional, acting pay and temporary additional duty pay formulas are calculated correctly.
- ensure reporting and discussion of compression issues as required.
- ensure receipt of advice and guidance in matters relating to starting salaries, performance matters, eligibility for removal of status and/or reassignment or re-evaluation.
- ensure a development plan is developed between the Supervisor and the employee in unique situations where the employee falls short of the job qualifications.
- ensure market rates are justified for specific job(s).
- ensure salary protection timelines are calculated correctly and appropriate notification is provided by Human Resources to the employee(s).

Non Union Compensation	 Hamilton	Appendix “B” to Item 3 of General Issues Committee Report 12-001
Sub-Committee		Page 7 of 7
Policy No: HR-23-09		Council Approved:
		Human Resources is responsible for administering the salary administration processes.
COMPLIANCE	Failure to comply with this Policy and its associated Procedures will result in the employee(s) not being compensated fairly and appropriately.	
RELATED DOCUMENTS	The following related documents are referenced in this Policy: 1. Employment Standards Act. 2. OMERS Legislation.	
HISTORY	This policy was approved by Council – 2002-02-13 Policy was revised on Council’s direction – 2011-06-23 The revised policy was approved by Council – 2011-00-00	