RECOMMENDATION:

(a) That a Licence Agreement with The Compound Inc. for the continued supply and maintenance of certain bike racks in various locations throughout the City be approved;

(b) That the Mayor and City Clerk be authorized and directed to execute, on behalf of the City of Hamilton, the Licence Agreement referred to in recommendation (a) and all necessary associated documents, in a form satisfactory to the City Solicitor.

EXECUTIVE SUMMARY

Bike racks have been provided for many years by Fine Line Signs (FLS) at no cost to the City. Although it is recognized and agreed that bike racks should be part of the 2014 Street Furniture RFP, there is a need to address this particular contract in the interim. As FLS transferred ownership of the bike racks to The Compound Inc. without an appropriate contract being executed, the issue must be addressed in a timely manner. Therefore, an interim agreement that will dovetail with the comprehensive Street Furniture RFP has been prepared. The new agreement will ensure the units are maintained and the City is adequately indemnified, pending the RFP for street furniture.

Alternatives for Consideration - See Page 4
FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: This is a revenue-neutral Licence Agreement as the Bicycle Parking Units (the “Units”) are currently supplied to the City at no cost and the advertising revenue is retained by the contractor. Staff will re-address this issue in the Street Furniture RFP in 2014.

Staffing: N/A

Legal: The recommended Licence Agreement has been developed by Legal Services to provide The Compound Inc. with the necessary permission to occupy the City's road allowance and ensure adequate insurance coverage, as approved by Risk Management Services. It has also been drafted to include enhanced maintenance and design standards.

HISTORICAL BACKGROUND

The former Regional Municipality of Hamilton-Wentworth entered into an Agreement with 829140 Ontario Inc., operating as FLS Advertising Displays (“FLS”) to supply, install and maintain multi-ring Units that bear advertising messages at various high-demand locations throughout the geographical limits of the former Region (now City of Hamilton). The Units are supplied at no cost to the City and the advertising revenue is retained by the contractor. This Agreement expired on December 31, 2002 and was renewed in accordance with the terms thereof for an additional three year term, which additional term expired on December 31, 2005. During recent renegotiation of an additional term with FLS, staff learned that FLS had transferred ownership of the Units to another company, The Compound Inc.

Bike racks, including the Units that are the subject of this report, were included in the Bus Bench Furniture Program Review and Street Furniture RFP (PW09033) that went to Public Works Committee in April 2009. Staff will issue a Request for Proposal (RFP) in the fourth quarter of 2014 with the intention of coordinating the expiry of the various contracts for street furniture and for transit shelter advertising on December 31, 2015.

Although staff intends to recommend the inclusion of bike racks in the comprehensive Street Furniture RFP, there is a need to enter into an interim Licence Agreement with The Compound Inc. for a term ending December 31, 2015, primarily for the purposes of ensuring that the Units are maintained properly and that The Compound Inc. adequately indemnifies the City.

POLICY IMPLICATIONS

Corporate Strategic Plan

In Focus Area 6, Environmental Stewardship, facilitating cycling contributes to reduced air emissions in desired end result 6.4.
Public Works Business Plan

Vision driver of “Communities” - cycling contributes to the greening of the City.

Hamilton-Wentworth Official Plan, “Towards a Sustainable Region” - Section 4.3.3 of the current approved Regional Official Plan endorses Bicycling as an essential form of transportation and, as such, will provide adequate bicycle parking facilities and a required minimum provision for bicycle parking in high demand areas.

Cycling Master Plan - This Licence Agreement supports the strategies in the Cycling Master Plan.

Commercial Advertising and Sponsorship Policy - The terms of the Licence Agreement requires that all advertising messages placed upon the Units are required to comply with the City of Hamilton’s Commercial Advertising and Sponsorship Policy.

Purchasing Policy - This Licence Agreement does not violate the terms of the City’s Purchasing Policy as the Purchasing Policy does not address no cost ventures, provided that the terms of this Licence continue to include advertising revenue only to the Unit owner in exchange for maintenance and life cycle replacement.

RELEVANT CONSULTATION

Corporate Services Department - Legal Services Division, Budgets and Finance Division, Financial Services Division.

Public Works Department - Environment and Sustainable Infrastructure Division, Operations and Waste Management Division.

Legal Services staff has prepared an Agreement to extend the contract to December 31, 2015.

The other noted divisions reviewed the Agreement and relevant comments have been incorporated in the Agreement.

ANALYSIS / RATIONALE FOR RECOMMENDATION

It is fully intended that bike racks be addressed as part of the comprehensive Street Furniture RFP. Until that time, it is appropriate that the City continue to provide bike racks. The arrangement with The Compound Inc. is reasonable and can remain in place on the City’s road allowances, subject to an agreement governing the terms of such occupation and appropriate insurance coverage. These Units provide a benefit to the residents of the City of Hamilton and constitute a strategy for bike parking solutions endorsed by Council in the Cycling Master Plan. Accordingly, staff supports the Licence Agreement, which will ensure continuous and adequate bike parking facilities.

In addition to the obvious benefits, this Licence Agreement is necessary to impart certain contractual obligations on The Compound Inc. required to ensure that the City’s interests are protected by limiting exposure to potential liability and enhancing the
existing maintenance and design standards. It was also identified that this new Agreement should include compliance with the City of Hamilton's Commercial Advertising and Sponsorship Policy and provisions regarding the same have been incorporated therein.

It is recommended that the Licence Agreement be approved and executed in a form satisfactory to the City Solicitor.

**ALTERNATIVES FOR CONSIDERATION:**

Staff has reviewed the following three (3) alternatives to renewing the Licence Agreement on an interim basis:

Option 1: Require staff to issue an RFP for bike racks for an interim period leading up to the Street Furniture RFP implementation in 2015

The Compound Inc. assumed the contract from FLS without the knowledge of the City. Therefore, City Council could require that staff develop an RFP specific to bike racks ahead of the intended 2014 Street Furniture RFP. In keeping with Council's direction in Report PW09033, such an RFP would include a requirement that the successful proponent be required to enter into a contract with an end date to coincide with the implementation of the Street Furniture RFP in 2015. This would allow staff to consider revenue generating opportunities. Staff is not recommending this alternative at this time because it would require a short term agreement which could limit the number of compliant bids and minimize revenues.

Option 2: Require The Compound Inc. to remove the bike racks from the Street Furniture RFP and proceed with Option 1

City Council could direct staff to remove the bike racks from the intended Street Furniture RFP and proceed to develop an RFP specific to the bike parking units as otherwise considered in Option 1. This would have the benefit of enabling staff to seek proposals for a longer term and provide an opportunity to seek a portion of the revenue. Staff is not recommending this alternative as the removal of the Units could reduce the number of available bicycle parking spaces in the City, contrary to the Cycling Master Plan. It could also potentially make the 2014 Street Furniture RFP less attractive to proponents of bike rack facilities.

Option 3: Require staff to direct The Compound Inc. to remove the existing Units and wait for the 2014 RFP to address the issue

City Council could direct staff to require The Compound Inc. to remove the existing Units from the City's road allowance; however, this would not support the Cycling Master Plan or cycling as an alternative means of transportation. Staff is not recommending this alternative as it would reduce the availability of bike parking for the public.
Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork

CORPORATE STRATEGIC PLAN


Financial Sustainability
- Delivery of municipal services and management capital assets/liabilities in a sustainable, innovative and cost effective manner

Healthy Community
- Plan and manage the built environment

Environmental Stewardship
- Aspiring to the highest environmental standards

APPENDICES / SCHEDULES
None