SUBJECT: Airport Crash Rescue Truck (PED08109) (City Wide)

RECOMMENDATION:

(a) That staff be authorized and directed to finalize an Agreement with Transport Canada for $1.053 million in grant funding from the Airports Capital Assistance Program (ACAP).

(b) That staff be authorized and directed to purchase the Airport Crash Rescue Truck and provide an equivalent guarantee to Transport Canada in the amount of $1.053 million in grant funding from ACAP.

(c) That staff be authorized and directed to prepare and negotiate an Agreement between the City of Hamilton and TradePort International Corporation, to ensure the responsibility for all maintenance, insurance, indemnification, maintenance audit fees and any other operating expenses of the truck are fulfilled and that the Agreement includes a provision for transfer of ownership of the Airport Crash Rescue Truck at the conclusion of the ten (10) year Agreement with ACAP. Further, that the Agreement includes a provision for the utilization of this Airport Crash Rescue Truck in the event of extraordinary emergencies near or adjacent to the John C. Munro Hamilton International Airport.

(d) That the Mayor and City Clerk be authorized to execute the Agreement in a form satisfactory to the City Solicitor.

Tim McCabe
General Manager
Planning and Economic Development Department
EXECUTIVE SUMMARY:

Through Transport Canada’s ACAP program, the John C. Munro International Airport is eligible for $1.053 million grant that will completely cover the cost of acquiring an Airport Crash Rescue Truck. This highly specialized piece of fire fighting equipment will be housed at the Airport and utilized only by TradePort employees.

This report details the legal and financial issues concerning the acquisition of this vehicle and the dispersal of the corresponding Federal grant. It presents a viable solution to address these issues that eliminates the financial risk to the City of Hamilton while at the same time acquiring an Airport Crash Rescue Truck at no cost to the City.

BACKGROUND:

The Airports Capital Assistance Program (ACAP) is a Federal Transport Canada Program established to assist eligible applicants in funding capital projects related to safety, asset protection and operating cost reduction. ACAP is available to the owner of an eligible airport or its operator - which is TradePort International Corporation (TradePort) in the case of the John C. Munro Hamilton International Airport (HIA).

In December 2006, TradePort applied for $1.053 million in ACAP grant funding as a contribution to the acquisition of an Airport Crash Rescue Truck. According to ACAP eligibility criteria, aircraft fire fighting equipment is ranked as a first priority since it directly improves the safety of the Airport. Further, aircraft fire fighting service-related projects as required by regulation are reimbursed at 100% of eligible costs. The result is that Hamilton International Airport is eligible to receive a $1.053 million truck at no cost to the City of Hamilton or TradePort.

As the operator (designated by the City of Hamilton), TradePort is an eligible applicant and therefore made the original application to ACAP for grant funding. A problem arose when Transport Canada requested a guarantee from the Airport owner (being the City of Hamilton) for the $1.053 million contribution to the truck. In the last five (5) years, the Federal Treasury Board has considerably tightened its requirements on the ACAP funding process. After several discussions between TradePort’s lawyers, City of Hamilton lawyers and the Treasury Board, there was simply no flexibility regarding this demand for a City guarantee by the Federal Government.

The basic problem with the City of Hamilton providing security for the $1.053 million ACAP grant is the potential for default by TradePort. Although the risk is very limited, the Federal Government could exercise the guarantee at any time within the ten (10) year life of the ACAP Agreement if the truck was not properly maintained or if the City sold the Airport. In all likelihood, if a default occurred, the City would assume ownership of the Airport Crash Rescue Truck but it would still forfeit the $1.053 million even if Transport Canada initiated action in year ten (10) of the ten (10) year Agreement.

Consequently, TradePort proposed two (2) possible solutions to the City in an attempt to resolve this financing problem. These being: 1) that the City accept security on a piece of land adjacent to the Airport owned by a company related to TradePort; and 2)
that an amendment be made to the existing head lease and the 40 year Operating Agreement with the Airport. These two (2) options each possess significant concerns for the City of Hamilton from both a legal and risk management perspective. Regardless of whatever solution is applied, in order for TradePort to receive this $1.053 million grant the City would still have to provide an equivalent guarantee for a Crash Rescue Truck that will be owned by TradePort and reside at the Hamilton International Airport. Legal, Corporate Services and Planning and Economic Development staff all had strong reservations regarding both of these options. Consequently, City staff instead identified an alternate solution which is acceptable to both TradePort and the Federal Government (ACAP). The solution being that the City of Hamilton would purchase the Airport Crash Rescue Truck, receive the $1.053 million grant directly from ACAP, then provide the required guarantee to the Federal Government, and retain ownership of the truck until the termination of the ten (10) year Agreement.

**ANALYSIS/RATIONALE:**

Although the staff solution still requires the City to commit a $1.053 million guarantee, in this scenario the City of Hamilton retains 100% ownership of the vehicle during the life of the ACAP Agreement and not TradePort. Additionally as part of this solution, the City would have a separate side agreement with TradePort for a nominal consideration. Specified in this Agreement would be TradePort’s responsibility for all maintenance, insurance and any other operating expenses related to the truck. Also, within this Agreement would be a provision that the City (through Public Works’ Energy, Fleet and Facilities Division) conduct a semi-annual inspection/audit of the maintenance of the Airport Crash Rescue Truck and that this truck be made available to respond to extraordinary emergencies (i.e. plane crash, failed landing gear, etc.) immediately adjacent to the airport lands. The cost of semi-annual inspection / audit will be fully recovered through the annual nominal consideration.

The City/TradePort Agreement would terminate on the same date as the ACAP Agreement (ten (10) years) at which time the ownership of the truck would be transferred to TradePort. The three (3) major reasons that the City would not retain ownership of the vehicle are as follows: 1) that Hamilton Emergency Services (HES) would not have any need for this type of specialized fire fighting equipment since their focus is primarily structure; 2) that HES staff are not trained to operate or maintain this type of specialized vehicle; and, 3) these Crash Rescue Trucks do not comply with the rules and regulations that fall under the Ontario Highway Traffic Act and therefore are not permitted to travel on commercial roads or highways.

**ALTERNATIVES FOR CONSIDERATION:**

Council could approve one (1) of the two (2) solutions identified by TradePort or could decline to provide a guarantee resulting in the loss of ACAP grant funding for a new Airport Crash Rescue Truck.
FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial - In accordance with City Purchasing Policy, the City would issue the tender (with the required information provided by TradePort) employing the standard template used to acquire City-owned Structural Fire Trucks. The only potential issue envisioned by staff is if Transport Canada had any specific requirements concerning listing/advertising of the tender but the City would be willing to accommodate any alternative approaches. Maintenance audit fees will be fully recovered through the nominal consideration in the agreement.

Staffing - N/A.

Legal - Legal Services will draft the necessary documents to assist in the delivery of the ACAP funding and the additional side agreement between TradePort and the City of Hamilton.

POLICIES AFFECTING PROPOSAL:

City of Hamilton/TradePort 40 Year Lease Agreement for John C. Munro Hamilton International Airport
City Purchasing Policy

RELEVANT CONSULTATION:

Corporate Services (Finance, Purchasing, Legal Services, Risk Management)
Hamilton Emergency Services
Public Works (Energy, Fleet and Facilities Division)
TradePort International Corporation
Ross & McBride (TradePort’s Solicitors)

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No
Partnerships are promoted.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Human health and safety are protected.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Investment in Hamilton is enhanced and supported.
Does the option you are recommending create value across all three bottom lines?
☐ Yes  ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants?
☐ Yes  ☑ No

NE:db