Audit and Administration Committee
REPORT 10-004
9:30 a.m.
Wednesday, March 24, 2010
Room 207
Hamilton Convention Centre
One Summer’s Lane

Present: Councillors R. Powers (Chair), B. Morelli (Vice Chair), B. Bratina, C. Collins, M. Pearson and T. Whitehead

Absent with Regrets: Councillor B. Clark – Personal

Also Present: C. Murray, City Manager
R. Rossini, General Manager, Finance & Corporate Services
T. Tollis, City Treasurer
A. Pekaruk, Director, Audit Services
L. Friday, Director, Taxation
M. Zegarac, Director, Financial Planning & Policy
S. Paparella, Legislative Assistant, Office of the City Clerk
A. Grozelle, Legislative Assistant, Office of the City Clerk

THE AUDIT AND ADMINISTRATION COMMITTEE PRESENTS REPORT 10-004 AND RESPECTFULLY RECOMMENDS:

1. Audit Report 2009-03 - Hamilton Police Service – Cash Accounts & Revenue Processes (AUD10010) (City Wide) (Item 5.1)

That Report AUD10010 respecting Audit Report 2009-03, Hamilton Police Service – Cash Accounts and Revenue Processes, be received.

2. Follow Up of Audit Report 2008-09 - Taxation - Tax Appeals and Refunds (AUD10011) (City Wide) (Item 5.2)

That Report AUD10011 respecting the follow up of Audit Report 2008-09, Taxation – Tax Appeals and Refunds, be received.

Council – March 31, 2010
3. Follow Up of Audit Report 2007-12 - Waste Management - Recycling Program Revenues (AUD10012) (City Wide) (Item 5.3)

That Report AUD10012 respecting the follow up of Audit Report 2007-12, Waste Management – Recycling Program Revenues, be received.

4. Follow Up of Audit Report 2008-08 - Child Care Fee Subsidies (AUD10013) (City Wide) (Item 5.4)

That Report AUD10013 respecting the follow up of Audit Report 2008-08, Child Care Fee Subsidies, be received.

5. Report of the 2009 Remuneration and Expenses as Required under Section 284 of the Municipal Act, 2001 (FCS10023) (Item 5.5)

That Report FCS10023, respecting the 2009 Remuneration and Expenses as Required under Section 284 of the Municipal Act, 2001, be received.

6. Supply of Professional Services and Delivery of a Weigh Scale Software System (PW10036) (City Wide) (Item 5.6)

That Report PW10036, respecting the Supply of Professional Services and Delivery of a Weigh Scale Software System, be received.

7. Tax Appeals under Section 357 and Section 358 of the Municipal Act, 2001 (FCS10006(b) (City Wide) (Item 8.1)

(a) That Appendix “A” attached to Report 10-004 respecting the “Tax Write-offs processed under Section 357 of the Municipal Act, 2001”, in the amount of $181,890 be approved; and

(b) That Appendix “B” attached to Report 10-004, respecting the “Tax Appeals due to a Gross or Manifest Clerical Error, Pursuant to Section 358 of the Municipal Act, 2001”, in the amount of $2,439 be approved.

8. Federal Gas Tax Amending Agreement (FCS10021) (item 8.2)

(a) That the Mayor and City Clerk be authorized and directed to enter into an Amending Agreement between the City of Hamilton and the Association of Municipalities of Ontario, related to the funding commitment made on June 17, 2005 by the Federal Government to Ontario Municipalities under the Ontario Agreement for the Transfer of Federal Gas Revenues under the New Deal for Cities and Communities;

Council – March 31, 2010
(b) That the Mayor and City Clerk be authorized and directed to execute the Amending Agreement attached as Appendix "C" to Report 10-004;

(c) That the 2010-2014 Federal Gas Tax Funds be allocated to the Federal Gas Tax Reserve 112213 and utilized as per the annual capital financing strategy approved by Council;

(d) That the projects approved for federal gas tax funding in the 2009 Capital Budget, as outlined in Appendix D to Report 10-004, be re-allocated between previously approved financing sources to concur with the requirements dictated under the Federal Gas Tax Municipal Funding Agreement;

(e) That the appropriate By-Law, City of Hamilton/Association of Municipalities of Ontario Federal Gas Tax Amending Agreement By-Law be passed and enacted (attached as Appendix “B” to Report FCS10021); and,

(f) That a certified copy of this By-Law be forwarded to the Association of Municipalities of Ontario upon Council approval.

9. **Revisions to the Shareholders Direction Relating to the Hamilton Entertainment and Convention Facilities Inc. (HEC10003) (City Wide) (Item 8.3)**

That the revisions to the Shareholders Direction for the Hamilton Entertainment and Convention Facilities Inc., as shown in Appendix E to Report 10-004, be approved.

10. **County of Perth – Residential Farmland Property Tax (FCS10020) (City Wide) (item 8.4)**

That the County of Perth’s resolution (attached as Appendix “F” to Report 10-002), respecting Residential Farmland Property Tax Concerns, be endorsed.
FOR THE INFORMATION OF COUNCIL:

(a) CHANGES TO THE AGENDA (Item 1)

The Committee Clerk advised of the following changes to the agenda:

(i) Added as Item 4.2 – Delegation request, submitted by Mr. Anthony Acheampong, regarding damage from a water main break and tax arrears for Roll # 030.232.55760.

(ii) Added as Item 5.6 – Report PW10036 - Supply of Professional Services and Delivery of Weigh Scale Software System

(iii) Added as 12.1 – Closed Session Minutes, dated February 17, 2010 (distributed under separate cover)

The agenda for the March 24, 2010 meeting of the Audit & Administration Committee was approved, as amended.

(b) DECLARATIONS OF INTEREST (Item 2)

There were no declarations of interest.

(c) MINUTES (Item 3)

3.1 March 3, 2010

The Minutes of the March 3, 2010 meeting of the Audit & Administration Committee meeting were amended by:

(a) Renumbering Item (d) to Item 3 – Delegation Request submitted by Mr. Ted Valeri and Mr. Rudi Spallacci, respecting RFP C5-37-09, Canada-Ontario Affordable Housing Program 2009 Extension, and renumbering the subsequent items accordingly; and,

(b) Adding the following as sub-section (b) to Item 8 – Purchasing Subcommittee Report 10-001, Amendment to Tender Documents, to read as follows:

“(b) That Purchasing Policy #18 – Policy for Vendor Complaint Resolution, be amended to permit a vendor to challenge only the one year ban described in sub-section (a) to the appropriate Standing Committee of Council (currently Audit and Administration) where there are extenuating circumstances.”
circumstances respecting why the initialing was not done within one (1) business day of the City’s request. The Standing Committee will provide to Council a recommendation with respect to the vendor’s complaint."

The Minutes of the March 3, 2010 meeting of the Audit & Administration Committee be approved, as amended.

(d) Delegation Request, submitted by Mark Wills of Geoware Inc. respecting RFP C11-55-09 (Item 4.1)

The delegation request, submitted by Mark Wills of Geoware Inc. respecting RFP C11-55-09, was approved.

(e) Delegation request, submitted by Mr. Anthony Acheampong, regarding damage from a water main break and tax arrears for Roll # 030.232.55760 (Item 4.2)

The delegation request, submitted by Mr. Anthony Acheampong, regarding damage from a water main break and tax arrears for Roll # 030.232.55760, was approved.

(f) County of Perth – Residential Farmland Property Tax (FCS10020) (City Wide) (item 8.4)

Item “K” - County of Perth – Residential Farmland Property Tax was removed from the Audit and Administration Committee outstanding business list.

(g) On-line Municipal Services and Fees (Item 9.1)

Staff was directed to investigate what on-line municipal services are available to the public, through the City of Hamilton, and determine a means to display them more visibly on the front page of the City’s website, and report back to the Audit & Administration Committee.

Staff was directed to review the surcharges associated with all municipal services offered on-line to determine if the surcharges are required are necessary and if the on-line services can be made more convenient for members of the public, and to include this information in the report back to the Audit & Administration Committee.
(h) **Costing of Building Projects (Item 9.2)**

Staff was directed to outline how the City determines the costs associated with new building projects and the average cost of buildings in Hamilton, and report back to the Audit & Administration Committee.

(i) **Amendments to the Outstanding Business List (Item 11.1)**

The following proposed new due date was approved:

- **(i)** Item “H” – Customer Service – E-mails  
  Current Due Date: February, 2010  
  **Proposed New Due Date: October 6, 2010**

(j) **Closed Session Minutes, dated February 17, 2010 (Item 12.1)**

As the Audit & Administration Committee determined that no discussion, respecting the Closed Session Minutes of the February 17, 2010, meeting of the Audit & Administration Committee was required, the Minutes were approved in Open Session, as shown below:

The Closed Session Minutes of the February 17, 2010, meeting of the Audit & Administration Committee were approved, as presented.

The February 17, 2010, Minutes, of the Audit & Administration Committee will remain confidential and restricted from public disclosure, in accordance with exemptions provided in the Municipal Freedom of Information and Protection of Privacy Act.

CARRIED

(k) **AJOURNMENT (Item 13)**

There being no further business, the Audit and Administration Committee adjourned at 10:00 a.m.

Respectfully submitted,

Councillor Russ Powers, Chair  
Audit and Administration Committee

Stephanie Paparella  
Legislative Assistant  
March 24, 2010

Council – March 31, 2010
<table>
<thead>
<tr>
<th>Appeal No.</th>
<th>Property Address</th>
<th>Roll Number</th>
<th>Explanation</th>
<th>YEAR</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>357-08-294</td>
<td>357-08-294</td>
<td>070672017100000</td>
<td>Major Renovation damage due to leaking roof no insurance</td>
<td>2008</td>
<td>(615.27)</td>
</tr>
<tr>
<td>357-08-310</td>
<td>357-08-310</td>
<td>020121030300000</td>
<td>Demolition of building</td>
<td>2008</td>
<td>(1,185.97)</td>
</tr>
<tr>
<td>357-08-327</td>
<td>357-08-327</td>
<td>003650024000000</td>
<td>Demolition of building</td>
<td>2008</td>
<td>(50.00)</td>
</tr>
<tr>
<td>357-08-339</td>
<td>357-08-339</td>
<td>003110414000000</td>
<td>Tax Class Conversion now all CTN</td>
<td>2008</td>
<td>(12,976.03)</td>
</tr>
<tr>
<td>357-08-362</td>
<td>357-08-362</td>
<td>003110286000000</td>
<td>Tax Class Conversion denied no - no indication of farm activity</td>
<td>2008</td>
<td>-</td>
</tr>
<tr>
<td>357-09-007</td>
<td>357-09-007</td>
<td>003650024000000</td>
<td>Demolition of building</td>
<td>2009</td>
<td>561.43</td>
</tr>
<tr>
<td>357-09-047</td>
<td>357-09-047</td>
<td>302310054000000</td>
<td>Denied changes to roll carried over already</td>
<td>2009</td>
<td>-</td>
</tr>
<tr>
<td>357-09-079</td>
<td>357-09-079</td>
<td>003650938000000</td>
<td>Exempt - property deeded over to City - subdivision agreement</td>
<td>2009</td>
<td>(1,246.30)</td>
</tr>
<tr>
<td>357-09-141</td>
<td>357-09-141</td>
<td>003140114000000</td>
<td>Tax Class Conversion ITN/CTN split needs adjusted</td>
<td>2009</td>
<td>(6,036.90)</td>
</tr>
<tr>
<td>357-09-150</td>
<td>357-09-150</td>
<td>060721056900000</td>
<td>Tax Class Conversion now all CTN</td>
<td>2009</td>
<td>(1,222.44)</td>
</tr>
<tr>
<td>357-09-172</td>
<td>357-09-172</td>
<td>020126557000000</td>
<td>Tax Class Conversion denied does not meet criteria for RTN</td>
<td>2009</td>
<td>-</td>
</tr>
<tr>
<td>357-09-173</td>
<td>357-09-173</td>
<td>020126557300000</td>
<td>Tax Class Conversion denied does not meet criteria for RTN</td>
<td>2009</td>
<td>-</td>
</tr>
<tr>
<td>357-09-174</td>
<td>357-09-174</td>
<td>020126557600000</td>
<td>Tax Class Conversion denied does not meet criteria for RTN</td>
<td>2009</td>
<td>-</td>
</tr>
<tr>
<td>357-09-200</td>
<td>357-09-200</td>
<td>140410424450000</td>
<td>Tax Class Conversion new owners now all CTN</td>
<td>2009</td>
<td>(3,296.67)</td>
</tr>
<tr>
<td>357-09-248</td>
<td>357-09-248</td>
<td>050391054300000</td>
<td>Tax Class Conversion lease expired revert back to exempt</td>
<td>2009</td>
<td>(3,575.67)</td>
</tr>
<tr>
<td>357-09-253</td>
<td>357-09-253</td>
<td>140410424500000</td>
<td>Fire August 25 three walls remain standing</td>
<td>2009</td>
<td>(18,330.37)</td>
</tr>
<tr>
<td>357-09-269</td>
<td>357-09-269</td>
<td>010101000700000</td>
<td>Demolition of house May 12</td>
<td>2009</td>
<td>(792.28)</td>
</tr>
<tr>
<td>357-09-274</td>
<td>357-09-274</td>
<td>030214500100000</td>
<td>Major Renovation preparing for new tenant</td>
<td>2009</td>
<td>(5,949.19)</td>
</tr>
<tr>
<td>357-09-285</td>
<td>357-09-285</td>
<td>003013090000000</td>
<td>Demolition of house in 2007</td>
<td>2009</td>
<td>(1,686.50)</td>
</tr>
<tr>
<td>357-09-298</td>
<td>357-09-298</td>
<td>010061073300000</td>
<td>Gross or Manifest Error should have new multi res rate</td>
<td>2009</td>
<td>(31,652.33)</td>
</tr>
<tr>
<td>357-09-300</td>
<td>357-09-300</td>
<td>030214554100000</td>
<td>Gross or Manifest Error garage gone years ago</td>
<td>2009</td>
<td>(19.85)</td>
</tr>
<tr>
<td>357-09-302</td>
<td>357-09-302</td>
<td>030266083000000</td>
<td>Tax Class Conversion used as a warehouse now CTN</td>
<td>2009</td>
<td>(9,735.12)</td>
</tr>
<tr>
<td>357-09-307</td>
<td>357-09-307</td>
<td>060571570160000</td>
<td>Major Renovation flooded basement from July 26th storm</td>
<td>2009</td>
<td>(37.45)</td>
</tr>
<tr>
<td>357-09-308</td>
<td>357-09-308</td>
<td>070691068800000</td>
<td>Major Renovation flooded basement from July 26th storm</td>
<td>2009</td>
<td>(35.53)</td>
</tr>
<tr>
<td>357-09-309</td>
<td>357-09-309</td>
<td>070871019400000</td>
<td>Major Renovation to 20 hotel rooms for 10 months</td>
<td>2009</td>
<td>(52,275.46)</td>
</tr>
<tr>
<td>357-09-313</td>
<td>357-09-313</td>
<td>140310344000000</td>
<td>Demolition of house</td>
<td>2009</td>
<td>(2,702.65)</td>
</tr>
<tr>
<td>357-09-315</td>
<td>357-09-315</td>
<td>303510504000000</td>
<td>Demolition of house and garage</td>
<td>2009</td>
<td>(1,906.95)</td>
</tr>
<tr>
<td>357-09-318</td>
<td>357-09-318</td>
<td>903310322006000</td>
<td>Exempt- tenant vacated reverts back to exempt status</td>
<td>2009</td>
<td>(13,687.97)</td>
</tr>
<tr>
<td>357-09-319</td>
<td>357-09-319</td>
<td>903310322100000</td>
<td>Exempt- tenant vacated reverts back to exempt status</td>
<td>2009</td>
<td>(10,685.40)</td>
</tr>
</tbody>
</table>

Total: (181,889.87)
B- overcharge (Assessment Roll)
B1 -overcharged-application denied
E - Exempt

<table>
<thead>
<tr>
<th>Appeal No.</th>
<th>Property Address</th>
<th>Roll Number</th>
<th>Reason</th>
<th>Explanation</th>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>358-09-079</td>
<td>214 Upper Mount Albion</td>
<td>003650938000000</td>
<td>E</td>
<td>Property deeded over to the City should be exempt</td>
<td>2008</td>
<td>(2,406.30)</td>
</tr>
<tr>
<td>358-09-106</td>
<td>415 Cannon St E</td>
<td>030214554100000</td>
<td>B</td>
<td>The garage was removed years ago never reported</td>
<td>2008</td>
<td>(16.46)</td>
</tr>
<tr>
<td>358-09-106</td>
<td>415 Cannon St E</td>
<td>030214554100000</td>
<td>B</td>
<td>The garage was removed years ago never reported</td>
<td>2007</td>
<td>(15.96)</td>
</tr>
</tbody>
</table>

Total (2,438.72)
THIS AMENDING AGREEMENT made in duplicate this ____ day of ____________, 2010.

BETWEEN:

THE ASSOCIATION OF MUNICIPALITIES OF ONTARIO
(referred to herein as “AMO”)

-and-

THE CITY OF HAMILTON
(referred to herein as the “Recipient”)

WHEREAS Canada, Ontario and Ontario municipalities, as represented by AMO and Toronto entered into an Agreement for the Transfer of Federal Gas Tax Revenues Under the New Deal for Cities and Communities on June 17, 2005 (amended on June 20, 2007) (the “Canada-Ontario-AMO-Toronto Agreement”), whereby AMO agreed to administer funds on behalf of Ontario municipalities made available pursuant to the Canada-Ontario-AMO-Toronto Agreement on behalf of Canada;

WHEREAS the Canada-Ontario-AMO-Toronto Agreement outlines a framework for the transfer of funds to Ontario municipalities, represented by AMO and Toronto with stable, reliable and predictable funding for environmentally sustainable infrastructure purposes;

WHEREAS Canada, Ontario and Ontario municipalities, represented by AMO and Toronto have amended the Canada-Ontario-AMO-Toronto Agreement on September 3, 2008, in order to confirm municipalities’ Gas Tax Fund allocations to 2014;

AND WHEREAS AMO and the Recipient have previously entered into a Municipal Funding Agreement for the Transfer of Federal Gas Tax Revenues Under the New Deal for Cities and Communities;

NOW THEREFORE this Amending Agreement witnesseth that:

1. The preamble forms an integral part of this Amending Agreement.

2. Terms not defined in this Amending Agreement have the meanings assigned in the Municipal Funding Agreement For the Transfer of Federal Gas Tax Revenues Under The New Deal for Cities and Communities.
   a. Audit Statement definition is deleted and replaced as follows:

   “Audit Statement” means a written audit statement to be prepared and delivered to AMO as set out in section 7.1h hereto.
b. **End of Funds** definition is deleted and replaced as follows:

   "End of Funds" means March 31, 2014.

c. **Infrastructure Program** definition is deleted and replaced as follows:

   "Infrastructure Program" means Canada’s infrastructure programs in existence at the time of the execution of this Agreement.

d. **Large Municipalities** definition is deleted and replaced as follows:

   "Large Municipalities" means those Municipalities with a 2006 National Census data population of 500,000 or more including the Regional Municipalities of Durham, Peel and York and the Cities of Hamilton, Mississauga and Ottawa.

e. **Treasurer** definition is added:

   "Treasurer" means a municipal treasurer as defined in subsection 286(1) of the Municipal Act, 2001 (Ontario).

f. **Treasurer’s Certificate** definition is added:

   "Treasurer’s Certificate" means a written statement by the Treasurer to be prepared and delivered to AMO as set out in section 7.1i hereto and in the form identified in Schedule H attached.

3. Section 2.1 is deleted and replaced as follows:

2.1. **Term.** Subject to any extension or termination of this Agreement or the survival of any of the provisions of this Agreement pursuant to the provisions contained herein, this Agreement shall be in effect from the date set out on the first page of this Agreement, up to and including March 31, 2015.

4. Section 3.1c is deleted and replaced as follows:

c. ensure that there is no reduction in capital funding provided by Municipalities for Municipal Infrastructure.

5. Section 3.1d is deleted and replaced as follows:

d. In the case of Recipients that are Municipalities in excess of 100,000 in population, ensure that over the period of January 1, 2010 to March 31, 2014 the Recipient’s capital spending on Municipal Infrastructure shall not fall below its Base Amount; and,

6. Section 3.1e is added:

e. ensure any of its contracts for the supply of services or materials to
implement its responsibilities under this Agreement shall be awarded in a way that is transparent, competitive, consistent with value for money principles and pursuant to its adopted procurement policy.

7. Section 4.2 is deleted and replaced as follows:
   4.2. **Exception.** For Large Municipalities, the list of eligible categories shall consist of no more than two (2) of the categories in Section 4.1 a. to f.

8. Section 5.4 is deleted and replaced as follows:
   5.4. **Retention of Receipts.** The Recipient shall retain all evidence (such as invoices, receipts, etc.) of payments related to Eligible Costs and such supporting documentation must be available to Canada when requested and maintained by the Recipient for audit purposes in accordance with the municipal records retention by-law.

9. Section 6.7 is deleted and replaced as follows:
   6.7. **Expenditure of Funds.** The Recipient shall expend all Funds by December 31, 2016.

10. Section 6.8 is deleted and replaced as follows:
    6.8. **GST and HST.** The use of Funds is based on the net amount of goods and services tax or harmonized sales tax to be paid by the Recipient pursuant to the Excise Tax Act (Canada) net of any applicable rebates.

11. Section 7.1h is deleted and replaced as follows:
    h. an annual Audit Statement, if Funds were applied to Eligible Costs incurred for Eligible Projects in respect of the previous Municipal Fiscal Year. An annual Audit Statement is to be prepared by the Recipient’s auditor in accordance with section 5815 of the Canadian Institute of Chartered Accountants Handbook – Special Reports — Audit Reports on Compliance With Agreements, Statutes and Regulations, providing assurance that the terms of the Agreement have been adhered to and Funds received by the Recipient have been spent in accordance with the Agreement;

12. Section 7.1i is added:
    i. a Treasurer’s Certificate, if Funds were not applied to Eligible Costs incurred for Eligible Projects in respect of the previous Municipal Fiscal Year. A Treasurer’s Certificate is to be prepared by the Recipient’s Treasurer, providing assurance that activity related to sections 6.4, 6.5, and 11 has been conducted within the terms and conditions of the Agreement.

13. Section 7.2 is deleted and replaced as follows:
    7.2. **Outcomes Report.** The Recipient shall account in writing for outcomes achieved as a result of the Funds through an Outcomes Report to be submitted to AMO upon completion of an Eligible Project and to be made available publicly in manner consistent with financial reporting under the
Municipal Act, 2001 S.O. 2001 c.25 by March 31st of the following Municipal Fiscal Year.

a. The Recipient’s Outcomes Report shall report in writing on the cumulative investments made, in a manner to be provided by AMO, including information on the degree to which these investments have actually contributed to the objectives of cleaner air, cleaner water and reduced greenhouse gas emissions.

14. Section 9.2 is deleted and replaced as follows:
   9.2. Separate Records. The Recipient shall maintain separate records and documentation for the Funds and keep all records including invoices, statements, receipts and vouchers in respect of Eligible Projects that Funds are paid in respect of in accordance with the municipal records retention by-law. Upon reasonable notice, the Recipient shall submit all records and documentation relating to the Funds to Canada for inspection or audit.

15. Notwithstanding the date of execution of this Amendment Agreement, the provisions of this Amending Agreement are in effect as of January 1, 2010 and continue in effect for the duration of the term of the Municipal Funding Agreement For the Transfer of Federal Gas Tax Revenues Under The New Deal for Cities and Communities.

16. Section 14.3 is deleted and replaced as follows:
   14.3. Addresses for Notice. Further to Section 14.1 of this Agreement, notice can be given at the following addresses:

   a. If to AMO:

   Executive Director
   Federal Gas Tax Agreement
   Association of Municipalities of Ontario
   200 University Avenue, Suite 801
   Toronto, ON M5H 3C6

   Telephone: 416-971-9856
   Facsimile: 416-971-6191
   Email: gastax@amo.on.ca
b. If to the Recipient:

Michael Zegarac  
Director, Financial Planning and Policy  
City of Hamilton  
77 James St. North  
Suite 400  
Hamilton, ON L8R 2K3

Telephone: (905) 546-2424 x2739  
Facsimile: (905) 546-2095  
Email: Michael.Zegarac@hamilton.ca

17. Section 15.4 is deleted and replaced with the following:  
15.4 **Survival.** The following schedules, sections and provisions of this  
agreement shall survive the expiration or early termination hereof: Sections 5,  
6.7, 7, 9.3, 10.4, 10.5, 11, 12.3, 15.7, and Schedule G.

18. Section 16.1, Schedule A is amended as attached.

19. Section 16.1, Schedule H is added as attached.

20. Except as amended herein, the provisions of the Municipal Funding  
Agreement For the Transfer of Federal Gas Tax Revenues Under The New  
Deal for Cities and Communities remain in full force and effect.
IN WITNESS WHEREOF this Agreement has been executed by the duly authorized officers of the parties hereto as of the date first above written.

**RECIPIENT'S NAME:**  
By:  

<table>
<thead>
<tr>
<th>Name:</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title:</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name:</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title:</td>
<td></td>
</tr>
</tbody>
</table>

**THE CITY OF HAMILTON**  

<table>
<thead>
<tr>
<th>Name:</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title:</td>
<td></td>
</tr>
</tbody>
</table>

**THE ASSOCIATION OF MUNICIPALITIES OF ONTARIO**  
By:  

<table>
<thead>
<tr>
<th>Title: Executive Director</th>
<th>Date</th>
</tr>
</thead>
</table>

In the presence of:  

<table>
<thead>
<tr>
<th>Name:</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title: Director of Administration and Business Development</td>
<td></td>
</tr>
</tbody>
</table>
SCHEDULE A
SCHEDULE OF FUND PAYMENTS

RECIPIENT'S NAME: The City of Hamilton

The following represents the minimum Funds and schedule of payments over the life of this Amending Agreement.

<table>
<thead>
<tr>
<th>Year</th>
<th>Schedule of Fund Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>July 15th</td>
</tr>
<tr>
<td>2010</td>
<td>$15,477,347.33</td>
</tr>
<tr>
<td>2011</td>
<td>$15,477,347.33</td>
</tr>
<tr>
<td>2012</td>
<td>$15,477,347.33</td>
</tr>
<tr>
<td>2013</td>
<td>$15,477,347.33</td>
</tr>
<tr>
<td></td>
<td>November 15th</td>
</tr>
<tr>
<td>2010</td>
<td>$15,477,347.33</td>
</tr>
<tr>
<td>2011</td>
<td>$15,477,347.33</td>
</tr>
<tr>
<td>2012</td>
<td>$15,477,347.33</td>
</tr>
<tr>
<td>2013</td>
<td>$15,477,347.33</td>
</tr>
</tbody>
</table>
SCHEDULE H
TREASURER'S CERTIFICATE

To the Association of Municipalities of Ontario

As the Treasurer of the Corporation of <INSERT MUNICIPAL NAME>, I acknowledge that for the 20__ Municipal Fiscal Year, there were no Eligible Costs incurred for Eligible Projects under the Agreement.

I confirm that the Corporation of <INSERT MUNICIPAL NAME> received its Federal Gas Tax allocation for the 20__ Municipal Fiscal Year within the terms and conditions specified in section 6.4 of the Agreement.

I also confirm that the carry-over of unexpended Funds followed the terms and conditions of section 6.5 of the Agreement. Specifically, the interest earned on unspent funds has been calculated on a reasonable basis, the interest was calculated on a similar basis as other reserve and reserve funds, and that the interest rate used is comparable to the one used for other reserve funds which are required to earn interest.

I also confirm that the title to Municipal Infrastructure resulting from Eligible Projects is retained by the Corporation of <INSERT MUNICIPAL NAME> as specified under section 11.1 of the Agreement.

As the duly appointed Treasurer of the Corporation of <INSERT MUNICIPAL NAME> I hereby certify that, as at December 31, 20__, activity related to the Municipal Funding Agreement for the Transfer of Federal Gas Tax Revenues Under the New Deal for Cities and Communities dated <INSERT DATE ON MFA> between the Association of Municipalities of Ontario and the <INSERT MUNICIPAL NAME>, has been conducted within the terms and conditions set out in the Agreement.

________________________________________

Name: _______________________________ Date: ____________

Title: ________________________________

<INSERT MUNICIPAL NAME>
### 2009 CAPITAL BUDGET

**FEDERAL GAS TAX FUNDING REALLOCATION (000's)**

<table>
<thead>
<tr>
<th>Project Description</th>
<th>Budgeted Funding</th>
<th>Actual Funding</th>
<th>Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>Total</strong></td>
<td><strong>Act - Est</strong></td>
</tr>
<tr>
<td></td>
<td>$</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Hamilton City Hall Renovations</td>
<td>20,198</td>
<td>30,696</td>
<td>10,498</td>
</tr>
<tr>
<td>Chiller Replacement Program</td>
<td>500</td>
<td>-</td>
<td>(500)</td>
</tr>
<tr>
<td>COPPS Lighting Retrofit</td>
<td>350</td>
<td>-</td>
<td>(350)</td>
</tr>
<tr>
<td>Libraries - Mech, Elect &amp; Architect Replacements</td>
<td>770</td>
<td>-</td>
<td>(770)</td>
</tr>
<tr>
<td>King - Nash to Battlefield</td>
<td>2,500</td>
<td>-</td>
<td>(2,500)</td>
</tr>
<tr>
<td>Stonechurch - Up James to Garth</td>
<td>1,780</td>
<td>-</td>
<td>(1,780)</td>
</tr>
<tr>
<td>Brucedale - Up Wentworth to Up Wellington</td>
<td>1,610</td>
<td>-</td>
<td>(1,610)</td>
</tr>
<tr>
<td>Cannon - Gage to Ottawa</td>
<td>1,240</td>
<td>-</td>
<td>(1,240)</td>
</tr>
<tr>
<td>Millen (Barton to Hwy 8)</td>
<td>1,750</td>
<td>-</td>
<td>(1,750)</td>
</tr>
<tr>
<td>SWMMP - MRF Upgrades</td>
<td>660</td>
<td>-</td>
<td>(660)</td>
</tr>
<tr>
<td>SWMMP-Green Cart Implementation</td>
<td>535</td>
<td>1,197</td>
<td>662</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>31,893</td>
<td>31,893</td>
<td>-</td>
</tr>
</tbody>
</table>
SHAREHOLDER DIRECTION RELATING TO
THE HAMILTON ENTERTAINMENT AND CONVENTION FACILITIES INC.

PREAMBLE

The Hamilton Entertainment and Convention Facilities Inc. (HECFI) is a corporation existing under the City of Hamilton Act, 1985, as amended. The City of Hamilton is the sole shareholder of HECFI and through this Direction establishes certain principles of governance relating to HECFI. The HECFI Board is accountable to the citizens of Hamilton through the Shareholder.

ARTICLE 1 – INTERPRETATION

1.1 Definitions

In this Direction, the following terms have the meanings set out below:

“Auditor” means the auditor of HECFI;

“Authorized Signatory” means those individuals who are authorized to sign a certified minute of Council, or who are otherwise authorized by Council to sign written shareholder approvals or decisions relating to HECFI;

“Board” means the Board of Directors of HECFI;

“Business Plan” means HECFI’s five-year business plan and budget;

“Chair” means the Director of HECFI appointed as Chair of the Board by the Board;

“Citizen” means a Board member or a candidate for such membership who is not a member of Council;

“City” means City of Hamilton;

“Council” means the Council of the City;

“Directors” means a member of the Board;

“Economic Development Strategy” means the strategy guiding the direction of economic development for the City, as approved by Council from time to time;

“Financial Statements” means, for any particular period, audited or unaudited comprehensive financial statements of HECFI consisting of not less than a balance sheet, a statement of income and retained earnings, a statement of changes in financial position, a report or opinion of the Auditor (in the case of audited Financial Statements) and such other statements, reports, notes and information prepared in accordance with generally accepted accounting principles (consistently applied) and as are required in accordance with any applicable laws;
“HECFI” means the Hamilton Entertainment and Convention Centre Facilities Inc., a corporation existing under the OBCA;

“Shareholder” means the City, as sole shareholder of HECFI;

“Tourism Strategy” means the strategy guiding the direction of tourism for the City, as approved by Council from time to time.

ARTICLE 2 – OBJECTIVES AND PRINCIPLES

2.1 Purpose of Direction

Subject to the Board’s authority to manage, or supervise the management of, the business and affairs of HECFI, this Direction:

(a) Provides the Board with the Shareholder’s fundamental principles regarding HECFI;
(b) Sets out the accountability, responsibility and relationship between the Board and the Shareholder;
(c) Informs the residents of the City of Hamilton of the Shareholder’s fundamental principles regarding HECFI.

2.2 Shareholder Objectives

The Shareholder’s objectives in holding its interest in HECFI are:

(a) HECFI shall assist the City in achieving the City’s overall priorities in the spheres of Vision 2020, economic development, downtown revitalization, tourism and quality of community life;
(b) HECFI shall maintain, operate, manage and promote the City’s assets as assigned by the City from time to time, including Hamilton Convention Centre, Hamilton Place Theatre and the Copps Coliseum;
(c) HECFI shall protect the City’s assets for long-term sustainability;
(d) HECFI shall work with key stakeholders – departments, agencies and private partners – to maximize the economic development and community potential of the City facilities over which HECFI has been given management responsibility.

2.3 Principles

HECFI is integral to the quality of life and the economic development of the City. The City directs that, in the best interest of HECFI and the community of stakeholders whom HECFI affects, all members of the Board shall cause HECFI to conduct its affairs:

(a) On a commercially prudent basis;
(b) In a manner consistent with the City’s public service mandate and its economic development and tourism strategies;

(c) In accordance with the financial performance and strategic objectives as set out in its business plan.

2.4 No Interference with Legal obligations

In issuing this Shareholder Direction, the Shareholder is in no way attempting to interfere with any Director’s duty to act in the best interests of the Corporation.

ARTICLE 3 – BUSINESS OF HECFI

3.1 Mandate

The purpose of HECFI is to generate economic and tourism activity in the City while providing community benefits through the management of its facilities.

Subject to the ongoing ability of HECFI to meet the objectives of the Shareholder set out in this Direction, and the ability of the Board to demonstrate the same, HECFI may engage in any of the following business activities:

(a) Maintain, operate, manage and promote the City’s assets within its mandate, including Hamilton Convention Centre, Hamilton Place Theatre and the Copps Coliseum;

(b) Engage in partnerships to leverage key market opportunities for the City; and,

(c) Seek to reach financial self-sustainability.

3.2 Operational Decisions

HECFI shall employ its own staff. However, HECFI may seek assistance from City staff resources (e.g., finance, legal, IT, HR) on an occasional basis. These service costs will be tracked under service agreements with the City, at no cost to HECFI.

Subject to the terms of this Direction, the board shall be responsible for the management of the assigned City assets, making all policy and operational decisions, save and except for divestment of the assets, and be held accountable for these decisions through submission to the City of its annual Business Plan and Annual Report. The Board has no authority to bind the City, only to contract for services on behalf of HECFI.

ARTICLE 4 – OPERATION AND CONTROL
4.1 Board Responsibilities

Subject to any matters requiring approval of the Shareholder pursuant to this Direction, the Board shall manage or supervise the management of the business and affairs of HECFI, including:

(a) Establishing annual and long-range strategies and plans consistent with the Shareholder’s Business Planning template and the provisions of this Direction;
(b) Establishing and maintaining appropriate reserves consistent with sound financial principles and the financial performance objectives;
(c) Adopt a budget annually;
(d) Selecting bankers and other financial institutions and establishing all banking authorities; and,
(e) Managing and directing all labour and employee relations matters, including recruiting the CEO and conducting annual performance reviews.

ARTICLE 5 – BOARD OF DIRECTORS

5.1 Criteria for Board Membership

The composition of the Board will be maintained in a manner that provides the best mix of skills, experience and personal attributes to guide the long-term strategy and on-going business operations of HECFI.

In naming Directors to the Board, due consideration must be given to the qualifications of candidates, including:

(a) Experience or knowledge with respect to:
   (i) The general business of HECFI
   (ii) Strategic planning, risk management and board governance
   (iii) Public relations, marketing and communications
   (iv) Economic Development
   (v) Accounting and financial management;
   (vi) Business and legal background;
   (vii) Property management

(b) Independence of judgment; and,

(c) Personal integrity.

5.2 Composition of the Board

The Board shall be composed of nine (9) voting members, including:
• 3 members of Council, being the Mayor, a member of the Planning and Economic Development Committee, and a member of the Audit and Administration Committee;
• 6 citizens;
• Chairperson of Tourism Hamilton, non-voting ex-officio.

Staff attending shall include the CEO of HECFI, Director of Tourism Hamilton, and any others deemed appropriate by the HECFI Board.

The Directors will annually elect the following officers of the Board: a Chair, Vice-Chair, Treasurer and Secretary.

5.3 Nominating Process

The HECFI Board will appoint its citizen Directors through a Nominating Committee that will be struck annually to:

(a) Review the availability and interest of current Directors;
(b) Identify changes in the marketplace and undertake a needs assessment in light of available expertise among current Directors; and,
(c) Advertise new members based on specified qualifications, established guidelines and succession plans.

The Nominating Committee for the citizens will be composed of the one Council representative on the HECFI Board and two HECFI Board members to be selected by the Board.

The Board will consider the recommendations of the Nominating Committee and then pass their recommendation to the Shareholder for final ratification.

City Council will appoint the members of the Planning and Economic Development and Audit and Administration Committees.

5.4 Vacancies

If a member of the Board ceases to be a Director for any reason, the vacancy will be filled as soon as reasonably possible.

5.5 Terms of Appointment

Council members shall be on the HECFI Board for the term of Council.

Citizen members shall be appointed for a 3-year term with a maximum of two consecutive terms.
The Chair of the Tourism Board of Directors shall be on the HECFI Board for his/her term as Chair.

5.6 **Board Performance**

The Board will develop and adopt a performance management system.

5.7 **Remuneration**

HECFI will reimburse Directors for all reasonable expenses incurred during the conduct of HECFI’s business. Members of Council and City employees will receive no additional remuneration as Directors.

5.8 **Standing Down the Board**

Council may stand down the Board, should it be found to be in breach of the Direction.

5.9 **Officers**

Annually the Board shall elect its officers.

---

**ARTICLE 6 – CONFLICT OF INTEREST AND CONFIDENTIALITY**

6.1 **Code of Conduct**

The Board shall adopt a Code of Conduct in respect of Directors and employees consistent with the City of Hamilton’s Code of Conduct as it exists from time to time.

6.2 **Conflict of Interest**

The Board shall adopt a Conflict of Interest Policy and Procedure in respect of Directors consistent with the terms and procedures found in the *Municipal Conflict of Interest Act, R.S.O. 1990, CHAPTER M.50*, as amended.

6.3 **Confidentially**

The Board shall adopt a confidentially policy whereby Directors who are in receipt of confidential information including commercial matters, contractual matters, labour relations matters, personnel matters, legal advice, or any other matter confidential to the operations of HECFI shall not disclose any such information, or
ARTICLE 7 – SHAREHOLDER MATTERS

7.1 Approvals and Decisions of the Shareholder

The Board must approve a motion requesting Shareholder approvals or decisions through the Chair to the Chair of the relevant Standing Committee of Council. Such requests must be accompanied by all relevant information and within a reasonable timeframe.

7.2 Matters Requiring Shareholder Approval

The Shareholder must approve any changes by by-laws. HECFI shall not:

(a) Take any action, make any change or enter into any transaction that requires Shareholder approval pursuant to the City of Hamilton Act, 1985, as amended;
(b) Take any action, make any change or enter into any transaction with respect to divestment of the assets;
(c) Alter the corporate structure of HECFI in any way, including establishing subsidiaries;
(d) Take any action regarding a long-term capital plan for HECFI facilities without Shareholder approval; and,
(e) Create any deficits or variances from the approved budget and operating subsidy without reporting to the Shareholder.

ARTICLE 8 – REPORTING

8.1 Business Plan

Not later than 30 days prior to the end of each fiscal year of HECFI, the Board shall approve and submit to the Chair of the relevant Standing Committee of Council, a Business Plan for the next three fiscal years, and the Ten Year Capital Budget Programme is included with the Business plan. HECFI shall carry on its business and operations in accordance with the Business Plan that shall include:

(a) The strategic direction and any new business initiatives which HECFI will undertake;
(b) An operating and capital expenditure budget for the next fiscal year and an operating and capital expenditure projection for each fiscal year thereafter, including the resources necessary to implement the Business Plan;
(c) Recommendations to Council that a long-term capital plan is required for HECFI facilities;
(d) Submission of a facilities rehabilitation plan with costs in order to determine funding source (i.e., establishment of a reserve contribution);
(e) The projected annual revenues and profits for each fiscal year during the term of the Business Plan;
(f) Pro forma consolidated and unconsolidated Financial Statements;
(g) Any material variances in the projected ability to meet or continue to meet the financial or economic development objectives of the Shareholder; and,
(h) Any material variances from the Business Plan then in effect.

8.2 Annual Report and Financial Statements

Within 120 days after the end of each fiscal year of HECFI, the Board shall prepare an annual report and submit this report to Council through the Chair of the relevant Standing Committee of Council. This report shall include:

(a) Audited consolidated and unconsolidated Financial Statements;
(b) Such explanations, notes and information as are required to explain and account for any variances between the actual results from operations and the budgeted amounts set forth in the then current Business plan, and any material variances in the projected ability of any business activity to meet or continue to meet the financial and economic development objectives of the Shareholder;
(c) Information that is likely to materially affect the Shareholder's financial or economic development objectives;
(d) Information regarding any matter, occurrence or other event which is a material breach of the requirements of this Direction, or a material breach or violation of any law, including major findings of internal and other audits;
(e) Information regarding the performance of HECFI such that the Shareholder can determine that this Shareholder Direction has been respected; and
(f) Any such additional information as the Shareholder may specify from time to time.

Following submission of each report, the Directors shall make themselves available, if requested, to meet with the Shareholder or the appropriate Standing Committee of Council, or both, to discuss the report.

8.3 Annual Operating Subsidy

HECFI may continue to receive financial support from the City as an investment in the community’s quality of life, if necessary and reasonable.

Annually, HECFI must request Council approval for any operating subsidy it requires.

Operating Budget variance reports shall be submitted in accordance with the City’s existing reporting structure.

8.4 Access to Records and Information
The City Auditor (or designate) and any other duly appointed representatives of the Shareholder (as approved by Council from time to time) shall have unrestricted access to the books and records of HECFI during normal business hours. Such representatives shall treat all confidential information of HECFI with the same level of care and confidentiality as any confidential information of the Shareholder.

8.5 Audit

The Auditor will be appointed by the Shareholder. HECFI shall determine the remuneration for the Auditor. The annual consolidated and unconsolidated Financial Statements will be audited by the Auditor. All other audit and review requirements, including internal audits, will be the sole responsibility of the Board.

The City Auditor may audit all or any portion of HECFI records at any time.

8.6 Accounting

HECFI shall use the accounting and purchasing policies and procedures approved by and in accordance with the City of Hamilton. HECFI can make amendments to purchasing and personnel policies and procedures for business reasons specified by management.

ARTICLE 9 – FINANCIAL PERFORMANCE

9.1 Financial Performance Targets

The Board shall use its best efforts to ensure that HECFI meets the financial performance targets set out in each year’s Business Plan.

ARTICLE 10 – AMENDMENTS

10.1 Amendments to Direction

The Shareholder, in its sole discretion, may amend this Direction on written notice to the Board. The amendments shall come into effect six weeks after the Shareholder gives the Board written notice of the amendments, or on such other date as the Shareholder, in its sole discretion, may specify.
Resolution of Perth County Council regarding Residential-Farmland Property Tax Concerns

Recommendation: R2009-496(Amended)
Moved by Councillor Hollinger  Seconded by Councillor McKay

WHEREAS the 2009 Provincial assessment data included incorrect values in the Residential class that should have been included in the Farmland class; and

WHEREAS such incorrect values will be adjusted by MPAC for the affected taxpayers by the Post Roll Amended Notices, but for which such adjustments may create a budget shortfall for municipalities by having to write-off the differences; and

WHEREAS outstanding building permits not processed in a timely manner affect municipalities’ revenue and could offset such write-offs; and

WHEREAS incorrect values in the RT and FT class have an impact on the OMPF calculations for both 2009 and 2010;

NOW THEREFORE BE IT RESOLVED THAT MPAC be requested to provide additional, proactive reporting to municipalities to disclose such pending assessment changes in the future; and

THAT MPAC be requested to process the outstanding building permits to ensure that no Assessment revenue is lost, and that new permits be processed in a timely manner; and

THAT the Ministry of Finance be requested to reconcile the 2009 OMPF, and to adjust the 2010 OMPF calculations to their proper values; and

THAT a copy of this resolution be forwarded to the Hon. John Wilkinson, MPP, Eastern Wardens Caucus, the Western Warden Caucus, the Association of Municipalities of Ontario (AMO) for circulation, the Ontario Federation of Agriculture (OFA), the Christian Farmers Federation of Ontario (CFFO), and the National Farmers Union of Ontario (NFU) for support.

Carried

The Council of the County of Perth requests support for the above motion. Contact is: Renato Pullia, Director of Corporate Services/Treasurer 519-271-0531 ex 210 FAX 519-271-6265 rpullia@perthcounty.ca