

Memorandum

Office of the City Clerk
Fax: 623-5468
Telephone: 625-2230

TO: Members of Council
FROM: Ms. K. Power, Deputy City Clerk
DATE: Friday, August 10, 2018
SUBJECT: Additional Information
Committee of the Whole/City Council – August 13, 2018

COMMITTEE OF THE WHOLE

Additional Information

1. Report No. R 116/2018 (Infrastructure & Operations – Parks & Open Spaces Section) Re-Construction of CP4 Natural Turf Soccer Field in Chapples Park- Request for Proposals Award.

New Business

1. Report No. R 119/2018 (Infrastructure & Operations – Engineering) Multi-Use Trail Bridge at Nakina Drive Award.
2. Memorandum from Mr. J. Hannam, City Clerk, dated August 10, 2018, relative to Communication Protocol with Thunder Bay Police Services Board.
3. Memorandum from Councillor A. Ruberto, dated August 10, 2018, relative to Housing in the City of Thunder Bay.
4. Memorandum from Councillor S. Ch'ng, dated August 8, 2018, requesting a motion to allow representatives from ThunderCon to speak and be heard.
5. Confidential memorandum from Mr. G. Stover, Acting City Clerk, dated August 9, 2018, establishing closed session for August 27, 2018 at 5:00 p.m.
(Distributed to members of Council and EMT only)

The following resolution will be presented to Committee of the Whole for consideration:

“THAT a Committee of the Whole – Closed Session meeting be scheduled for Monday, August 27, 2018 at 5:00 p.m. in order to receive information relative to personal matters about an identifiable individual, including municipal or local board employees; and the security of the property of the municipality or local board.”

6. Confidential memorandum from Ms. K. Power, Deputy City Clerk, dated August 9, 2018, containing a new resolution to amend closed session reasons.
(Distributed to members of Council and EMT only)

CITY COUNCIL

New Business

1. Bylaw 74/2018 Municipal Accommodation Tax

/dh

DEPARTMENT/ DIVISION	Infrastructure & Operations	REPORT NO.	R 116/2018
DATE PREPARED	02/08/2018	FILE NO.	
MEETING DATE	13/08/2018 (mm/dd/yyyy)		
SUBJECT	Re-Construction of CP4 Natural Turf Soccer Field in Chapples Park – Request for Proposals Award		

RECOMMENDATION

With respect to Corporate Report No. R 116/2018 (Infrastructure & Operations – Parks & Open Spaces Section), we recommend that RFP 28/2018, for the Re-Construction of CP4 Natural Turf Soccer Field in Chapples Park be awarded to NMP Golf Construction, up to the amount of \$1,171,551.17 (inclusive of all taxes) as per their Proposal dated July 26, 2018 and revised August 7, 2018;

AND THAT the Manager – Supply Management be authorized to issue any purchase orders related to this project;

AND THAT the General Manager –Infrastructure & Operations report any circumstances to City Council should significant variations in contract values occur;

AND THAT the Mayor and Clerk be authorized to sign all documentation related to these matters;

AND THAT any necessary By-laws be presented to City Council for ratification.

EXECUTIVE SUMMARY

The work being recommended in this RFP award involves the Re-Construction of CP4 Natural Turf Soccer Field in Chapples Park including: the stripping and removal of existing turf and soil; installation of a structural granular base and drainage system; installation of a sand based growing media with irrigation; installation of a natural turf surface; installation of player amenities; and the construction of a Low Impact Development (LID) stormwater management.

One response was received as a result of the Request for Proposals and was submitted by NMP Golf Construction. This firm has completed similar construction contracts of this type and value for the City of Thunder Bay including Fort William Stadium and Baseball Central/ Port Arthur Stadium. Administration is recommending them as experienced and capable of doing the work.

There are sufficient funds in existing Capital budgets for the work to proceed as per the RFP.

DISCUSSION

In August 2017 the Parks & Open Spaces Section issued RFP 42/2017 for a Design Build Team for the Construction of a Synthetic Turf Multi-use Field in Chapples Park. All three proposals were over budget and it was decided not to award the RFP at that time and re-issue in the winter for construction in 2018. During this time there was a change in priority of Soccer Northwest Ontario (SNO) for a Premier Natural Turf Field, as the Thunder Bay District Catholic School Board had completed two new athletic turf fields in the fall of 2017 and these could be utilized by the soccer community. However, the City remained without a Premier Natural Turf Field and thus became the priority for SNO and the Thunder Bay Chill. As a result the Parks & Open Spaces Section changed the focus of a new RFP to the reconstruction of the natural turf field at CP4 in Chapples Park.

In preparation for the RFP, site survey work, drainage improvements, the conceptual grading plan and technical specifications were completed by City staff in the Engineering and Operations Division.

CP4 is the field the Thunder Bay Chill play on in Chapples Park. This field is often too wet to play on early in the season, with poor drainage. Poor materials resulted in uneven playing surface and high maintenance requirements.

The work associated with the reconstruction of the natural turf field at CP4 in Chapples Park in this RFP includes:

- The stripping and removal of existing turf and excavation of existing soil to required subgrade.
- The installation of a structural granular base consisting of geotextile, geogrid and clear stone and including a sub-drain drainage system.
- The installation of a high percolation rate sand based growing media with an automated irrigation system connected to the Chapples Golf Course system.
- The installation of a natural seeded turf surface.
- The installation of new player amenities such as player benches and shelters, goals and litter containers.
- Creation of a low impact development (LID) storm water management feature outside of the current fenced area.

The technical requirements of this RFP have been reviewed with the Soccer Northwest Ontario (SNO) and the Thunder Bay Chill representing the major users of the site and they are in agreement with the proposed reconstruction of CP4.

All work being completed in this RFP is consistent with the visioning of the Chapples Park Master Plan completed by Sierra Planning and Management presented in Report No. R 48/2017 approved by Council, as well as the Sports Field Inventory Study by Sports Turf International completed in 2014.

The RFP was advertised on Bids & Tenders on Thursday, July 5th 2018, the closing date was Thursday, July 26st, 2018 at 4:00 PM and was evaluated on Wednesday August 1st, 2018.

As a result of the Request for Proposals, one (1) response as listed below was received. The tendered costs below do not include HST.

<u>Contractor</u>	<u>Tendered Cost</u>
NMP Golf Construction	\$ 1,036,770.95

Administration is of the opinion that the bid received is competitive and accurately reflects the current construction market conditions in Thunder Bay.

The successful Proposal for this project was submitted by NMP Golf Construction. This company has successfully completed similar construction contracts of this type for the City of Thunder Bay.

FINANCIAL IMPLICATION

The following table breaks down the Project costs:

Contract Value Including HST	\$ 1,171,551.17
Contingency Including HST	\$45,200.00
Less HST Rebate	\$ (121,029.05)
TOTAL NET COST	<u>\$ 1,095,722.12</u>

There are sufficient funds in existing Capital budgets for the work to proceed as per the submitted Request for Proposals.

We have included a contingency allowance of \$40,000.00 for work that is unforeseen and can only be expended with the approval of the General Manager of Infrastructure and Operations.

CONCLUSION

It is concluded that RFP 28/2018, for the Re-Construction of CP4 Natural Turf Soccer Field in Chapples Park be awarded to NMP Golf Construction, in the amount of \$1,171,551.17 (inclusive of all taxes); and that the work proceed as per the Proposal submitted dated July 26, 2018, revised August 7, 2018.

BACKGROUND

R 48/2017 Chapples Park Master Plan - Presented April 10, 2017 and approved by Council

RFP 42/2017 Design-Build Team for the Construction of a Synthetic Turf Multi-Use Field in Chapples Park – Memorandum from Cory Halvorsen on September 21, 2017

Chapples Soccer Field Renewal Project – Memorandum from Cory Halvorsen on March 21, 2018 outlining the change in priority from constructing the artificial turf fields to re-constructing the CP4 natural turf field

REFERENCE MATERIAL ATTACHED

None

PREPARED BY: *Werner Schwar - Supervisor - Parks & Open Space Planning*

THIS REPORT SIGNED AND VERIFIED BY: (NAME OF GENERAL MANAGER) Kerri Marshall, General Manager – Infrastructure & Operations	DATE: August 8, 2018
---------------------------------------------------------------------------------------------------------------------------------------	-----------------------------

DEPARTMENT/ DIVISION	Infrastructure & Operations - Engineering & Operations	REPORT NO.	R 119/2018
DATE PREPARED	08/09/2018	FILE NO.	
MEETING DATE	08/13/2018 (mm/dd/yyyy)		
SUBJECT	Multi-Use Trail Bridge at Nakina Drive Award		

RECOMMENDATION

With respect to Report No. R 119/2018 (Infrastructure & Operations – Engineering), we recommend that remaining construction work for the multi-use trail bridge at Nakina Drive be awarded to LH North Ltd., through the joint tender with Confederation College for the City’s portion of the work in the amount of \$628,562.50 (inclusive of HST); it being noted that the amount shown is based on estimated quantities; final payment for this Contract will be based on measured quantities for the complete work;

AND THAT the consultant responsible for the design, JML Engineering Ltd. be retained for Contract Administration and Inspection services in the amount of \$39,550.00 (inclusive of HST);

AND THAT Appropriation No. 22 be approved;

AND THAT the General Manager of Infrastructure and Operations report any circumstances to City Council should significant variation in the Contract quantities occur;

AND THAT the Mayor and Clerk be authorized to sign all documentation related to this matter;

AND THAT any necessary By-laws be presented to City Council for ratification.

LINK TO STRATEGIC PLAN

The continued implementation of the City of Thunder Bay’s Active Transportation Plan is consistent with Goal 10, Strategy 10, Action 10.2 “Continue to implement the Active Transportation Plan” and seeking new funding opportunities is consistent with Goal 17, Strategy 17.4, Action 17.4 “Investigate and maximize funding opportunities” of the City’s Corporate Strategic Plan (2015-2018).

EXECUTIVE SUMMARY

The City received matching funding from the Ontario Municipal Cycling Infrastructure Fund for the design and construction of a multi-use bridge at Confederation College alongside Nakina

Drive. A portion of the work was completed under separate contract including the pile driving for the bridge abutments. Confederation College has received funding to rehabilitate their bridge on Nakina Drive and due to the proximity of the two structures the City and the College entered into a joint contract to construct the remainder of the multi-use bridge in conjunction with the rehabilitation of the College's vehicular bridge.

There were three (3) tenders for the overall college contract. LH North submitted the low bid overall, and the low bid for the City's portion of the work. Administration is recommending award of this contract to this company.

DISCUSSION

The City received matching funding from the Ontario Municipal Cycling Infrastructure Fund for the design and construction of a multi-use bridge crossing the McIntyre River at Confederation College alongside Nakina Drive. More recently, Confederation College also received grant funding to rehabilitate their vehicular bridge on Nakina Drive. As a result of the proximity of the two projects, the City of Thunder Bay and Confederation College entered into a joint contract to rehabilitate the College's vehicular bridge and construct the City's multi-use bridge.

As a result of a call for Tender, three (3) responses as listed below were received. The value of the City's portion only is presented below.

The tendered costs include the applicable HST. Bids have been checked for mathematical errors and the corrections noted.

CONTRACTOR	TENDERED COSTS	CORRECTED BID
LH North Ltd.	\$628,562.50	-
RJ Concrete	\$908,515.48	-
Landform Civil Infrastructure	\$911,634.29	-

This Contract includes completing the abutment walls and foundations for the bridge, purchase and installation of a prefabricated steel bridge, construction of the bridge deck and the associated surface and approach works to the existing multi-use trails to connect the structure.

The lowest tender received for this work was from LH North Ltd. They have completed numerous bridge replacements and rehabilitations for the City and the Ministry of Transportation. Administration is recommending this company as being capable of carrying out all the City's required work within this contract.

LINK TO EARTHCARE SUSTAINABILITY PLAN

Implementing the Active Transportation Plan is a component of the EarthCare Sustainability Plan. Objective ‘A’ in Section 6.0 ‘Community Lifestyle’, under ‘Mobility’ is to improve “public and private infrastructure” to “create seamless, barrier-free options for bicycling, walking, and Transit” “in order to create a cleaner, greener, and more beautiful Thunder Bay”.

FINANCIAL IMPLICATION

Capital funds are available to provide the matched funding received from the Ontario Municipal Cycling Infrastructure Fund for this work.

The following table breaks down the project costs:

Contract Amount	\$628,562.50
CA and Inspection:	\$39,550.00
HST Rebate	(\$66,456.50)
TOTAL	<u>\$601,656.00</u>

This contract includes a contingency allowance for work that is unforeseen and can only be expended with the approval of the General Manager of Infrastructure and Operations.

CONCLUSION

It is concluded work for the City of Thunder Bay’s multi-use trail at Nakina Drive should be award to LH North Ltd.

It is further concluded that Appropriation Change Order No.22 should be approved.

BACKGROUND

The college multi use bridge was funded partly through the Ontario Municipal Cycling Infrastructure Fund as identified in Corporation Report R64/2017.

REFERENCE MATERIAL ATTACHED

None

PREPARED BY: Mike Vogrig, Project Engineer

<p>THIS REPORT SIGNED AND VERIFIED BY: (NAME OF GENERAL MANAGER) Kerri Marshall, General Manager – Infrastructure & Operations</p>	<p>DATE: August 10, 2018</p>
------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------

Memorandum

Office of the City Clerk
Fax: 623-5468
Telephone: 625-2230

TO: Members, Thunder Bay Police Services Board

FROM: John S. Hannam, Secretary to the Board

DATE: August 10, 2018

SUBJECT: Communication Protocol with Thunder Bay Police Services Board

On January 28, 2002 City Council approved a communication protocol with the Thunder Bay Police Services Board that outlines the conditions for the formal sharing of information with City Council by the Board. The protocol addresses such information as annual reports and business plans and is a requirement under the Adequacy and Effectiveness Standards for policing in Ontario that apply to the Police Service and the Board.

In the Fall of 2009 the Thunder Bay Police Services Board received the Adequacy & Effectiveness Inspection Report for 2009 which included the identification of a need to amend the Communication Protocol agreement by including a specific date by which the Board will share its business plan with City Council, and the public. Inspections are conducted once every 5 years.

As such, an amendment to the Communication Protocol was presented and approved at the May 31, 2010 Committee of the Whole meeting and subsequently ratified by Council to delete the phrase “upon approval of the Board” from section 3(b) of the Protocol, substituting the phrase “by February 28” in the year in which the plan is adopted. The Protocol attached includes this amendment.

At the January 23, 2018 Regular Session meeting of the Thunder Bay Police Services Board discussion was held relative to further amendments to be made to the Protocol. The Board had directed Vice Chair of the Board Brian McKinnon and myself to undertake a review of the existing Communications Protocol Agreement (formerly titled Protocol for the Sharing of Information) between the Board and City Council and return any recommendations for its amendment.

At that time the following amendments were recommended:

- 1) Include members of Council and the City Manager in the distribution of all Media Releases issued by the Thunder Bay Police Service and the Thunder Bay Police Services Board. (This measure has already been put in place as of October 2, 2017)
- 2) Chief of Police to make a presentation twice a year to City Council, sitting as Committee of the Whole, on current issues and activities in Policing in the community.

- 3) That public information presentation made to the Board also be considered for presentation to City Council, sitting as Committee of the Whole, on a case by case basis.
- 4) That Section 2 of the Protocol be amended to indicate that Thunder Bay Police will attend, upon invitation, Ward and Town-hall meetings to address community safety issues.

The Board therefore passed the following resolution.

THAT with respect to the Communication Protocol (formerly titled the Protocol for the Sharing of Information) Between the Thunder Bay Police Services Board and the Corporation of the City of Thunder Bay, we recommend the Protocol be amended as follows:

- a) Article 2 be amended to read: Upon invitation the Chief of Police will assign Officer(s) to attend scheduled Ward and Town-hall meetings to make presentations on, and respond to questions, regarding community safety issues.
- b) Article 2 be further amended to add: That the Chief of Police be invited twice each calendar year to attend a meeting of City Council, sitting as Committee of the Whole, to make presentations on Policing in the community.
- c) Article 2 be further amended to add: That members of the Thunder Bay Police Service be invited, from time to time, to make presentations to City Council, sitting as Committee of the Whole, on policing activities in the public interest.

All in accordance with Section 32(1) of Regulation 3/99 to the Police Services Act RSO, 1990.

AND THAT this recommendation be submitted to City Council for its consideration;

AND THAT the Chair and Secretary be authorized to execute the amended Protocol;

AND THAT any necessary by-laws be presented to the Board for ratification.

Please consider the above motion at the August 13, 2018 Committee of the Whole meeting and for ratification the same evening. Upon acceptance of the amendments to the Protocol, the necessary by-laws will be presented and the amended agreement executed. Please note that this will also include the amendment as approved at the May 31, 2010 Committee of the Whole meeting.

Attachment: By-law 24-2002 – The Corporation of the City of Thunder Bay and attached Agreement known as “Schedule A.”

JSH/nk

Memorandum

Office of the City Clerk
Fax: 623-5468
Telephone: 625-2230

TO: Krista Power, Deputy City Clerk

FROM: Councillor A. Ruberto

DATE: August 10, 2018

SUBJECT: Presentation & Motion – Housing in the City of Thunder Bay
August 13, 2018 – Committee of the Whole Meeting

It is my request that a presentation be added to the agenda as new business at Committee of the Whole on August 13, 2018 in response to housing and homelessness in Thunder Bay.

I have been working with stakeholders regarding initiatives undertaken by other municipalities that are targeted to decrease homelessness and provide for a housing strategy that assists vulnerable people. There is a funding program that may assist in providing assistance to do more work relative to the development of a new project related to addressing issues of homelessness in our community. The Trillium Foundation is providing for funding of \$5000-\$75,000 in Seed Grants for new ideas and approaches to attaining results for priority outcomes such as addressing housing for those in need. The deadline for the granting process begins on August 29, 2018.

I would like to provide a presentation on this topic and provide a motion for discussion and feedback from Council and Administration.

Following the presentation, I am proposing the following motion for Council's consideration relative to this matter.

With Respect to the housing presentation provided at the August 13, 2018 Committee of the Whole Meeting, we recommend that City Council direct administration to complete the initial work on the proposal for funding from the Ontario Trillium Foundation;

AND THAT if additional funds are required for support staff on this matter, that funding not to exceed \$20,000 be committed from the stabilization reserve fund;

AND THAT Administration report back on the status of the project grant at the August 27, 2018 meeting;

AND THAT any necessary by-laws be presented to City Council for ratification.

Attach: OTF Investment Stream: Seed Grants

Memorandum

Office of the City Clerk
Fax: 623-5468
Telephone: 625-2230

TO: Krista Power, Deputy City Clerk

FROM: Councillor S, Ch'ng

DATE: August 8, 2018

SUBJECT: Motion relative to Deputation Request - ThunderCon
August 13, 2018 – Committee of the Whole Meeting

It is my request that the following motion be presented to Committee of the Whole at the August 13, 2018 meeting in response to the denial of deputation to ThunderCon by the Office of the City Clerk.

The deputation request from ThunderCon was denied by the Deputy City Clerk because the group is prohibited from making a deputation to Committee of the Whole for the purpose of their request as they have previously applied for funding from the City of Thunder Bay through the Community, Youth and Cultural Funding program and been unsuccessful in that application. As a result their request “falls within the criteria of the City’s established financial assistance programs” (Section 5.08 (c.2)). The purpose of this section of the procedural rules supports the funding programs created within the city and respects the appeals processed that have been developed which would require ThunderCon to follow the appeals process established for their application rather than appealing to City Council.

While I understand that the Clerk is following the procedural rules approved and endorsed by City Council in accordance with the regulations of the Community, Youth and Cultural Funding Program, I am requesting that Council allow the opportunity for representatives from ThunderCon to speak and be heard.

I respectfully ask for Council’s support for the following motion;

With Respect to hearing a deputation from ThunderCon, we recommend that City Council waive Section 5.08 (c.2) of the Procedural By-law to allow for a deputation notwithstanding the subject matter being subject to an existing funding program – Community, Youth and Cultural Funding Program;

AND THAT any necessary by-laws be presented to City Council for ratification.



Memorandum

Corporate By-law Number BL 74/2018

TO: Office of the City Clerk **FILE:**

FROM: Corporate Services & Long Term Care

DATE: 07/16/2018

SUBJECT: BL 74/2018 Municipal Accommodation Tax

MEETING DATE: City Council - (08/13/2018)

By-law Description: BL 74/2018 - A By-law to establish a Municipal Accommodation Tax

Authorization: R 77/2018 (City Manager’s Office - Corporate Strategic Services) – Committee of the Whole - June 4, 2018.

By-law Explanation: The purpose of this By-law is to establish a Municipal Accommodation Tax within the boundaries of the City of Thunder Bay.

Schedules and Attachments:

Schedule A: Accommodation Establishment Information Form

Schedule B: Municipal Accommodation Tax Return Form

Amended/Repealed By-law Number(s):



THE CORPORATION OF THE CITY OF THUNDER BAY
BY-LAW NUMBER BL 74/2018

A By-law to establish a Municipal Accommodation Tax within the boundaries of the City of Thunder Bay, in the District of Thunder Bay.

Recitals

1. Section 400.1 of the *Municipal Act*, 2001, SO 2001, c 25, (the “*Act*”) provides that the council of a local municipality may pass By-laws imposing a tax in respect of the purchase of Transient Accommodation within the municipality.
2. Council considers it desirable to establish a Municipal Accommodation Tax to be imposed on the purchase of Transient Accommodations within the City of Thunder Bay, in the District of Thunder Bay.
3. Sections 400.1, 400.4, 420, and 430 of the *Act*, provides that a Municipality can establish enforcement measures as Council considers appropriate if an amount assessed for outstanding tax, penalties, or interest remains unpaid after it is due;

ACCORDINGLY, THE COUNCIL OF THE CORPORATION OF THE CITY OF THUNDER BAY ENACTS AS FOLLOWS:

DEFINITIONS

1. This By-law may be referred to as the “Municipal Accommodation Tax By-law”.
2. Wherever a term set out below appears in the text of this By-law with its first letter capitalized, the term is intended to have the meaning set out for it in this Section. Where any word appears in ordinary case, it is intended to have the meaning ordinarily attributed to it in the English language.

“**Accommodation**” means Lodging that is provided for consideration whether or not that Lodging is actually used;

“**City**” means The Corporation of the City of Thunder Bay;

“**Council**” means the Council of The Corporation of the City of Thunder Bay;

“**Eligible Tourism Entity**” has the meaning given to it in *Ontario Regulation 435/17*, as amended;

“Establishment” means a physical location, a building, or part of a building that provides Accommodation;

“Lodging” includes:

- a) the use of a bedroom, a suite of rooms containing a bedroom, or the use of a bed within a bedroom; or,
- b) the use of one or more additional beds or cots in a bedroom or suite;

“Municipal Accommodation Tax” means the tax imposed under this By-law;

“Point of Purchase” means the time at which payment for Accommodation is made by the Purchaser;

“Provider” means a person or an entity that sells, offers for sale, or otherwise provides Accommodation, and includes agents, hosts, or others who sell, offer for sale, or otherwise provides Accommodation;

“Purchaser” means a person who gives money or other consideration in exchange for Accommodation;

“Purchase Price” means the price for which Accommodation is purchased, including the price paid and/or other considerations accepted by the Provider in return for the Accommodation, excluding Harmonized Sales Tax (HST);

“Transient Accommodation” means Accommodation for a continuous period of less than thirty (30) days; this continuous period is not disrupted by the purchase of different rooms, suites, beds or lodging in the same Establishment.

3. In this By-law, a word identified in the singular has a corresponding meaning when used in the plural. Definitions of verbs apply to all tenses of the verb in the text.
4. The captions, articles and section names appearing in this By-law are for convenience of reference only and have no effect on its interpretation.
5. This By-law is to be read with all changes of gender required by the context.

ADMINISTRATION

6. The City Treasurer shall be responsible for the general administration of this By-law.
7. The City Manager, or designate, is delegated the authority to enter into agreements, including any necessary documents ancillary thereto, with any person or entity providing for the implementation, collection, and remittance of the Municipal Accommodation Tax.
8. The City Manager, or designate, is delegated the authority to develop agreements, including all necessary documents ancillary thereto, with any Eligible Tourism Entity that is designated

to receive any portion of the revenue generated through the Municipal Accommodation Tax which agreements shall:

- (a) Provide terms respecting reasonable financial accountability;
- (b) Ensure amounts paid to the Eligible Tourism Entity are used for the exclusive purpose of promoting tourism; and,
- (c) Provide for any other provisions deemed by the City Manager to be appropriate.

EXEMPTIONS

9. The Municipal Accommodation Tax does not apply to the following types of Accommodations:

- a) Accommodations provided by the Crown in right of Canada, the Crown in right of Ontario, every agency or authority, board, commission, corporation, office or organization of persons a majority of whose directors, members, or officers are appointed or chosen by or under the authority of an Order in Council or the Lieutenant Governor in Council or a member of the Executive Council, as the case may be;
- b) Accommodations provided by every board as defined in section 1(1) of the *Education Act*, R.S.O. 1990, c. E.2;
- c) Accommodations provided by a university or a college of applied arts and technology or post-secondary institution whether or not affiliated with a university, the enrolments of which are counted for the purpose of calculating operating grant entitlements from the Crown in right of Canada or the Crown in right of Ontario;
- d) Accommodations provided by a hospital referred to in the list of hospitals and their grades and classifications maintained by the Minister of Health and Long-Term Care under the *Public Hospitals Act*, R.S.O. 1990, c. P.40 and every private hospital operated under the authority of a license issued under the *Private Hospitals Act*, R.S.O. 1990, c. P.24 or every community health facility within the meaning of the *Oversight of Health Facilities and Devices Act*, 2017, that was formerly licensed under the *Private Hospitals Act*, as the case may be;
- e) Accommodations provided by a long-term care home as defined in section 2(1) of the *Long-Term Care Homes Act, 2007*, S.O. 2007, c.8 or hospice and palliative care centres;
- f) Accommodations provided by a treatment centre that receives provincial aid under the *Ministry of Community and Social Services Act*, R.S.O. 1990, c. M.20;

- g) Accommodations provided for the reformation of offenders;
- h) Accommodations provided by charitable or non-profit philanthropic organizations that are organized as shelters for the relief of the poor or for emergency;
- i) Accommodations consisting of a tent or trailer site supplied by a campground, tourist camp, or trailer park; and,
- j) A room in an Establishment that does not contain a bed, which is used for displaying merchandise, holding meetings, or entertaining.

REGISTRATION OF ACCOMMODATION ESTABLISHMENT

- 10. Providers who operate an Establishment prior to the enactment of this By-law shall register their Establishment with the City by submitting a completed Accommodation Establishment Information Form (Schedule A) to the City before September 30, 2018.
- 11. Providers who begin to operate an Establishment shall register their Establishment with the City by submitting a completed Accommodation Establishment Information Form (Schedule A) within thirty (30) days of the date of commencement for their operation.
- 12. Where there are any changes to the information provided, Providers shall update and submit the Accommodation Information Form (Schedule A) to the City within thirty (30) days of the change.

APPLICATION OF THE MUNICIPAL ACCOMMODATION TAX

- 13. The amount of four (4) per cent shall be established as the tax rate for the Municipal Accommodation Tax to be imposed on the Purchase Price of any Transient Accommodation.
- 14. A Purchaser shall pay the Provider the total amount of the Municipal Accommodation Tax at the Point of Purchase of the Accommodation.
- 15. A Provider who collects an amount as or on account of tax under this By-law is deemed, for all purposes and despite any security interest in the amount, to hold the amount in trust for the City, separate and apart from the property of the Provider and from property held by any secured creditor of the Provider that, but for a security interest, would be property of the Provider, until the amount is remitted to the City.
- 16. A Provider shall clearly indicate as a separate item on every invoice and receipt the value of the Municipal Accommodation Tax that was imposed and collected for the purchase of Transient Accommodation and shall identify such amount as the “Municipal Accommodation Tax”.

17. The Provider shall remit to the City the Municipal Accommodation Tax collected as outlined below through the Municipal Accommodation Tax Return Form (Schedule B):

- a) Providers who remit the Harmonized Sales Tax (HST) monthly shall remit the amount of the Municipal Accommodation Tax that is collectible on a monthly basis; the Provider shall remit the Municipal Accommodation Tax that is collectible for the previous month on or before the last day of every month, and shall submit the Municipal Accommodation Tax Return Form (Schedule B) as required for the purposes of administrating and enforcing this By-law; and,
- b) Providers who remit HST quarterly, annually, or who are not registered to remit HST, shall remit the amount of the Municipal Accommodation Tax that is collectible on a quarterly basis; the Provider shall remit the Municipal Accommodation Tax that is collectible for the previous quarter on or before the last day of the month following the end of the quarter and shall submit the Municipal Accommodation Tax Return Form (Schedule B) to the City as required for the purposes of administrating and enforcing this By-law;

18. Where a Provider fails to submit a Municipal Accommodation Tax Return From (Schedule B) on or before the due date prescribed at section 17 above, the amount that is determined on the basis of the following calculation shall be deemed to be the amount that is due and unremitted and this amount shall be assessed on the first day of default;

$$A \times 4\% = B$$

Where,

“A” is the amount of revenue that would have been generated had the Establishment experienced full occupancy for the period; and,

“B” is the amount deemed to be the amount of the Municipal Accommodation Tax that should have been collected and remitted and this amount shall be deemed to be the amount that is due and that remains unremitted on the first day of default.

19. A Provider who fails to collect any amounts owing for the Municipal Accommodation Tax from the Purchaser at the Point of Purchase, or otherwise fails to remit such amounts to the City on or before the due date prescribed at section 17 above, shall be personally liable for such amounts as should have been collected and remitted.

INTEREST PENALTIES

20. Where a Provider has submitted a Municipal Accommodation Tax Return Form (Schedule B) that allows for the determination of the actual amount of the Municipal Accommodation Tax that should have been collected and is owing, the prescribed interest and penalties shall be

assessed as of the first day of default in addition to the amount of the Municipal Accommodation Tax that is due and that remains unremitted.

21. Where a Provider has not submitted a Municipal Accommodation Tax Return Form (Schedule B) on or before the due date prescribed at section 17 above, the interest and penalties prescribed shall be assessed in addition to the amount that is determined on the basis of the following formula;

$$A \times 4\% = B$$

Where,

“A” is the amount of revenue that would have been generated had the establishment experienced full occupancy for the period; and,

“B” is the amount deemed to be the Municipal Accommodation Tax which should have been collected and remitted and deemed to be the amount of the Municipal Accommodation Tax that is due and remains unremitted as of the first day of default.

22. The prescribed interest and penalties shall be assessed on the first day of each month, and for all subsequent months, following the first day of default for any amount of the Municipal Accommodation Tax that is owing and that remains unremitted.

LIENS

23. All Municipal Accommodation Tax penalties and interest owing under the By-law that are past due shall be deemed to be in arrears, and may be added to the tax roll for any real property in the City registered in the name of the Provider to be collected in a like manner as property taxes and shall constitute a lien upon the lands, but such lien shall not be a priority lien for the purposes of sections 1 (2.1), (2.2) and (3) of the *Act*, and such lien will not have higher priority than it would otherwise have in law in relation to other claims, liens, or encumbrances.

AUDIT AND INSPECTION

24. The Provider shall keep books of account, records, and documents sufficient to provide the City or its agent with the necessary particulars of sales of Accommodations and the amount of Municipal Accommodation Tax which should have been collected and remitted.
25. The City or its agent may inspect and audit all books, documents, transactions, and accounts of the Provider and require the Provider to produce copies of any documents or records required to be kept for the purposes of administrating and enforcing this By-law.

OTHER PENALTIES

- 26. Every person who contravenes any provision of this By-law is guilty of an offence and is liable to a fine and such other penalties as may be provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P. 33 and the *Act*, each as amended.
- 27. A person who is convicted of an offence under this By-law is liable, for each day or part of a day that the offence continues, to a minimum fine of \$500.00 and a maximum fine of \$10,000.00, and the total of all daily fines for the offence is not limited to \$100,000.
- 28. When a person has been convicted of an offence under this By-law, the Superior Court of Justice, or any court of competent jurisdiction thereafter may, in addition to any penalty imposed on the person, issue an order;
 - a) Prohibiting the continuation or repetition of the offence by the person; and,
 - b) Requiring the person to correct the contravention in the manner and within the period that the court considers appropriate.

GENERAL

- 29. If any section or portion of this By-law is found by a court of competent jurisdiction to be invalid, that section shall be severed and all remaining portions of this By-law shall continue in force and effect.
- 30. This By-law shall come into effect on September 1st, 2018.

Enacted and passed this 13th day of August, A.D. 2018 as witnessed by the Seal of the Corporation and the hands of its proper Officers.

Keith Hobbs
Mayor

Krista Power
Deputy City Clerk