TORONTO

REPORT FOR ACTION

Addressing Harbourfront Centre's Outstanding Property Taxes and Rent Arrears

Date: March 22, 2018
To: Government Management Committee
From: Treasurer and General Manager, Economic Development and Culture
Wards: Ward 20, Trinity Spadina

SUMMARY

Harbourfront Centre is a major cultural facility in Toronto, located on a large site on the city's central waterfront. It holds a 99 year lease from the City of Toronto on property formerly owned by the federal government. Harbourfront Centre (HC) requires the support of all three orders of government for its programming and operations. In 2017, the City struck a Harbourfront Centre Working Group (HCWG) to determine how to better support the operations and future viability of Harbourfront Centre, to streamline its agreements and funding arrangements with the City, and to coordinate intergovernmental approaches to public funding.

The HCWG has worked with Harbourfront Centre to resolve a variety of issues, including outstanding payments owed to the City of Toronto, in order to strengthen HC's financial position and operational sustainability. This report recommends that the City relieve Harbourfront Centre of approximately $1.392 million in debt owed to the City of Toronto, accumulated in part due to reassessment of the taxability of its leased parking lot properties with no offsetting increases in public funding. It is recommended that this relief be provided through a combination of a write-off of rent arrears and a proposal to Council of a one-time grant to HC to address unpaid property taxes. It further recommends that HC submit a business plan to the General Manager of Economic Development and Culture demonstrating long-term financial viability including an ability to pay all current year and future property taxes and debts to the City. Economic Development and Culture will assume the role of the City's main liaison with Harbourfront Centre and will also work with funders from the other orders of government.

RECOMMENDATIONS

The Treasurer and the General Manager, Economic Development and Culture, recommend that:

1. City Council recognise that significant rent arrears owed to Real Estate Services by Harbourfront Centre (HC) for 318 Queens Quay West are unrecoverable and authorize the Treasurer to write off $964,335.37.

2. City Council approve payment of a one-time grant to HC in the amount of approximately $427,286 (such amount to be calculated to be equivalent to the property taxes, interest, penalty and fees that have or will accumulate on the accounts pending the finalization of the process, net of the eligible and late charitable rebate applications), with such grant amount to be funded from the City's 2018 Non-program Tax Deficiency Account, subject to the following conditions:

a. City Council authorize the acceptance of HC's late applications for the charitable rebate program for 2014 and 2015, so that the approved rebate amounts can be applied to reduce the outstanding taxes and associated grant required;

b. HC be required to apply for the charitable rebate for 2017 and prior years, to allow the City to determine the grant issued above, net of the rebate;

c. the one-time grant amount be applied directly to the property tax account to offset property taxes payable;

d. HC agree to pay in full property taxes for 2018 and future years as a condition of ongoing operating grants; and

e. HC be required, as a condition of future City support, to submit by Q4 2018 to the City of Toronto, Economic Development and Culture, a business plan demonstrating long term financial viability including an ability to pay all current year and future property taxes and debts to the City.

3. City Council deem the grant referred to in Recommendation 2 above to be in the interests of the City.

FINANCIAL IMPACT

The total cost to the City of writing off rent arrears and providing a grant to address back property taxes for the Harbourfront Centre is $1,391,621. There is no 2018 financial impact as a result of writing off the rent arrears of $964,335.37, as these amounts have been allowed as uncollectible as at December 31, 2017. It is anticipated that the final outstanding amount to be written off after application of the late charitable rebates and additional interest, penalties and fees will cost the City $427,286 and will be funded from the Non-Program Tax Deficiency Account.

As of March 1, 2018 the details of the amount outstanding on the 225 Queens Quay West tax account for the underground parking lot that belongs to Harbourfront Corporation is calculated at $541,200, (pending any additional charitable rebate applications not yet processed), as shown in Table 1 below.

Table 1: Harbourfront Corporation Outstanding Tax Arrears - 225 Queens Quay West

Year	Total Taxes Interest and Fees ($)	Amounts Paid / Rebated ($)	Outstanding Amount ($)	Late Charity Rebate Applications ($)	Estimated Grant Amount ($)
2017	211,386	-75,582 *	135,804	0	135,804
2016	165,253	-57,920 *	107,333	0	107,333
2015	170,033	0	170,033	-57,577	112,456
2014	163,030	-35,000	128,030	-56,337	71,693
TOTAL	**709,701**	**-168,502**	**541,200**	**-113,914**	**427,286**

* 2016 rebate amount was processed and applied against outstanding taxes and the 2017 rebate amount will be processed and applied against outstanding taxes.

In 2016, the Municipal Property Assessment Corporation (MPAC) issued supplementary assessments for 2014 and 2015 that could have been eligible for charity rebates. HC had until November 17, 2017 to file applications but failed to apply. If Council approves that late charity rebate applications can be accepted for 2014 and 2015 for HC, the resulting rebate amounts will be applied against the taxes outstanding and will serve to reduce the amount of the grant required to $427,286. This amount will be funded from the City's Non-Program Tax Deficiency Account.

The Acting Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

In May 2016, the Economic Development Committee requested that the General Manager, Economic Development and Culture, in consultation with other impacted divisions, conduct a review of the City's partnership with Harbourfront Centre.
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.ED12.11

At its meeting of March 28 and 29, 2017 City Council adopted staff report ED19.8 entitled "Review of City's Partnership with Harbourfront Centre" that authorized a one year extension of the contribution agreement until March 31, 2018; requesting staff to report back to Council as part of the 2018 Budget Process with recommendations from a City working group related to a long-term partnership plan addressing a streamlined

operating agreement and proposals related to ongoing financial and other support.
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.ED19.8

At its meeting of February 12, 2018, City Council approved the 2018 Operating Budget which included an increase of $250,000 to the Major Cultural Organizations program administered by EDC for the purpose of increasing the annual operating grant to Harbourfront Centre.
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.EX31.2

COMMENTS

Harbourfront Corporation was a federal Crown Corporation from 1976 until it was dissolved in 1990. The current Harbourfront Centre was incorporated January 1, 1991, as a not-for-profit cultural, recreational and educational organization to program and operate the 10 acre site. In 1992, as part of the larger Harbourfront Implementation Agreement with the federal government, 40 acres of land were transferred to the City for parks purposes, with 10 acres to be leased to Harbourfront Centre. On December 9, 1997, the City of Toronto entered into a 99 year perpetually renewable lease with Harbourfront Centre. The current lease term expires in December 2096. There are 78 years left on the lease.

Harbourfront Centre (HC) is a critical economic and cultural asset for Toronto as:

- a tourism and cultural anchor organization in Toronto, attracting over 3 million people annually to the City's central waterfront;
- a significant economic driver, with the last economic impact assessment in 2000 finding that HC had an overall economic impact of $132 million, accounting for the equivalent of 1,424 full-time jobs;
- a major employer in the cultural economy, as HC currently employs 120 full-time staff, 170 part-time staff and a further 350 seasonal staff and contracts with about 1,000 artists each year, spending over $1 million annually on artists' fees;
- a critical incubator for diverse cultural organizations that might not have otherwise found a home, such as the Tirgan Festival, hosted at HC since its inception in 2008 and now the largest Persian cultural festival outside the Middle East; and,
- a key point of access to cultural programming including its free award-winning outdoor music series and the International Festival of Authors which brings together the best writers of contemporary literature for Canada's premier literary event.

In 2016, the Economic Development Committee requested that City staff report back on how the City could strengthen its relationship with HC. Prior to this point, HC did not have an active “relationship manager” in the City and its multiple, largely transactional touch points with the City did not provide an adequate overall picture of either their contribution to the city or their ongoing viability. An interdivisional Harbourfront Centre Working Group (HCWG) was convened to address the City's relationships with HC. The Working Group includes representation by senior staff from the City Manager's Office, Legal Services, Real Estate Services, Facilities Management, Transportation Services, Revenue Services, Parks Forestry and Recreation, City Planning, Waterfront Secretariat, Financial Planning, and Economic Development and Culture.

Over 2017, the Working Group met and through the 2018 Budget process consolidated all of the annual operating grants from the City to HC through EDC. It has established EDC to act as the City's liaison in discussions with intergovernmental funding partners. One of the key purposes in convening the HCWG was to address anticipated future revenue losses as a result of the surface parking lot operated by HC at 318 Queens Quay West being converted to a City of Toronto park in 2020. However, in undertaking the work directed by Council, the scope of HC's financial challenges have become more visible to City staff.

The key financial pressures facing HC include:

- rising operating costs;
- historic underinvestment in its facilities and equipment, resulting in a $16 million state of good repair backlog;
- a related erosion of other revenues for HC, such as corporate sponsorships, naming rights and facilities rentals;
- no significant increases in support from public funders; and,
- the lack of an endowment and a need to strengthen revenue from charitable donations.

HC is an annual recipient of operating funding from the City. In 2018, the projected contribution will be approximately $1.3 million; including a net increase of $0.250 million approved by City Council as part of the 2018 Operating Budget. It must be noted that this is HC's first operating grant increase from the City since 1997. HC's operating budget is approximately $28 million. It posted an operating deficit of $0.936 million in 2016, and a deficit of $2.434 million in 2017 according to HC's audited financial statements. The increase in the operating deficit in 2017 is largely attributable to one-time costs associated with organizational restructuring.

City staff reviewed HC's outstanding property taxes and rent arrears, and are recommending that it is in the interests of both HC and the City to write off the rent arrears and grant HC one-time funds to pay its outstanding property taxes. The core rationale for these recommendations is that staff believe that these outstanding taxes are unrecoverable from HC, without severely jeopardizing its operations. Notably, these debts have been accumulated by HC over a number of years, dating as far back as 2009.

Staff are aware of the financial pressures facing HC and are working with federal partners to identify areas for revenue development, in order to mitigate the impact of anticipated revenue losses. The Government of Canada funds HC with a $5 million annual operating grant and is anticipated to fund HC at this level until at least March 31, 2020. Among the key pressures facing HC is the pending loss of the 318 Queens Quay West parking lot revenues, once it is converted to parkland. Net revenues for HC from the operation of this parking lot are expected to exceed $0.800 million in 2018. In addition, the increases in provincial minimum wage will impact HC operations by increasing labour costs by approximately $0.800 million in 2018, due to high levels of part-time and seasonal recreational and programming staff. Further, HC has stated it has a backlog of $16 million in state of good repair work, and the deteriorated state of its facilities is hampering its ability to generate ancillary revenue through venue rentals and sponsorships. All these pressures are negatively impacting HC's ability to offer excellent and accessible programming and thereby pursue its mission as a cultural, recreational, and educational organization.

The recommendations in this report seek to ensure both HC’s long-term financial viability, as well as ensure it meets the City's goals in such areas as waterfront renewal and cultural access and participation.

Harbourfront Centre Corporation constructed, owns and operates the underground parking lot at 225 Queens Quay West. The newly constructed underground parking lot replaced a surface parking lot which was operated by HC on the site for over two decades without paying property taxes, as the land was owned by the City. Profits from the parking lot operations are collected by Harbourfront Foundation in order to be flowed to HC to support operations. As property taxes were not paid for the surface parking lot, HC did not anticipate that it would have to pay property taxes on the new underground parking lot. In 2016 however, the Municipal Property Assessment Corporation issued supplementary assessments for the 2014 and 2015 taxation years making the underground parking lot liable to taxation. Cumulative unpaid taxes since the opening of the underground lot total $0.541 million, which pending charitable rebate applications would lower to $0.427 million.

The $0.964 million in rent arrears owed to Real Estate Services was also incurred through outstanding property taxes. Real Estate Services paid these outstanding taxes on behalf of Harbourfront Centre for the parking lot at 318 Queens Quay West. The amount paid was the full amount, not the net amount after the charity rebate that HC would have paid. The debt owed by Harbourfront Centre is now deemed rent arrears. Harbourfront Centre did pay its 2017 taxes for 318 Queens Quay West and is up to date. It will be expected to remain up to date going forward.

The recommendations, if adopted, are intended to "reset" the financial relationship with HC. As a condition of future support from the City of Toronto, HC is required to submit a business plan that demonstrates ongoing viability. The accounting firm of Grant Thornton, on behalf of the Department of Canadian Heritage of the Government of Canada is currently doing a risk assessment and business audit of HC. The City, through Economic Development and Culture, helped define the terms of the assessment to reflect the City’s interests and will be party to the findings. Interim findings from Grant Thornton are expected in spring 2018, with a final report to be delivered to the federal government in May 2018. The report will address governance, financial management, revenue generation, and provide an overall assessment of Harbourfront's complex business operations in relation to its mission.

As a condition of these recommendations, City staff will obtain commitments from HC for it to remain current on all accounts owed to the City in a timely manner, or the amounts of outstanding taxes and bills will be deducted from the operating grant allocated to the organization. The HC Board will provide to Economic Development and Culture, a business plan demonstrating long-term viability and an ability to pay all current year and future property taxes and debts to the City. Upon review of this business plan, Economic Development and Culture will assess options regarding the structure of HC's tenancy and its City funding levels.

An organizationally sound and sustainable HC will allow all Toronto residents and visitors to continue to access excellent cultural offerings and enjoy recreation and educational programs on Toronto's central waterfront. As such, it is in the interests of both HC and the City to strengthen HC's financial position.

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SIGNATURE

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