



The Corporation of the Town of Milton

Report To: Council

From: Andy Scott, Director, Strategic Initiatives & Business Development

Date: February 6, 2023

Report No: ES-002-23

Subject: Farmers Market Agreement - Renewal

Recommendation: **THAT the Director, Strategic Initiatives and Business Development be authorized to approve necessary amendments to the proposed Farmers Market Agreement prior to its final execution;**

THAT the Mayor and Town Clerk be authorized to sign all necessary documentation to execute the Farmers Market Agreement subject to the satisfaction of legal counsel;

THAT the Mayor and Town Clerk be authorized to execute future renewals where the terms of the Farmers Market Agreement remain substantially the same.

EXECUTIVE SUMMARY

- The Milton Chamber of Commerce has approached the Town of Milton with a view of returning the Farmers' Market onto Main Street East after a period of hosting the market at the Milton Fairgrounds.
- The existing agreement between the parties which permits the use of the Road Allowance has expired and a new agreement is necessary to facilitate its return.
- Parties are in the late stages of negotiations and a final agreement is in development for execution.

REPORT

Background

In 2006, the Town of Milton entered into a 5 year agreement with the Milton Chamber of Commerce (report ENG-025-06) for the permitted use of Main Street East between Martin Street and James Street from 5:00am to 12:30pm Saturdays to support the facilitation of a Farmer's Market. This agreement was subsequently renewed in 2011 and 2016. In 2021 and 2022, the Farmers Market moved to the Milton Fairground temporarily to accommodate the implementation of public health measures as a result of the COVID-19



Background

pandemic. For the 2023 season the Milton Chamber of Commerce have demonstrated a desire to return the Farmers Market to Main Street East.

Discussion

The Town of Milton has identified in-community events as having tremendous value to the community through the Towns 2021 Culture Plan and the 2022 Economic Development Strategic Plan. Community events such as a Farmers Market support the concepts of placemaking and recognize their importance to Milton's vibrant, inclusive and engaged community.

The Downtown Milton Business Improvement Association (DMBIA) have also expressed a desire to host event activities within the DMBIA geography. In a 2022 member survey, increased event activity was identified as a high priority by the majority of the DMBIA membership.

Staff have met with representatives from the Milton Chamber of Commerce and the DMBIA to draft an agreement between each of the three parties.

The main changes being:

- Including the Downtown Milton Business Improvement Area as a signature to the agreement
- Minor adjustments to the street closure and reopening times
- A commitment from the Town to establish a process to ensure any cars requiring removal (towing) will occur in timely fashion

A full copy of the draft agreement is attached as an appendix to this staff report (Appendix A).

Financial Impact

There are no financial impacts associated with the passing of the recommendations contained within this report.

FARMERS MARKET AGREEMENT

BETWEEN:

The Corporation of the Town of Milton (herein referred to as 'Town')

AND:

The Milton Chamber of Commerce (herein referred to as 'Chamber')

AND:

The Milton Downtown Business Improvement Area (herein referred to as 'DMBIA')

WHEREAS the Town is the owner of the Road Allowance as defined in the Agreement;

AND WHEREAS the Chamber has previously operated a Farmers Market on a seasonable basis on Saturdays mornings, on the Road Allowance;

AND WHEREAS the Town, the Chamber and the DMBIA consider the Farmers' Market as an important and valuable feature of the community;

AND WHEREAS the parties deem it desirous to formalize their arrangement with respect to the Farmers' Market;

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the parties hereto covenant and agree as follows:

1.0 Definitions For the purposes hereof:

1.1 "Farmers Market" means a temporary farmers' market involving a number of farmer and grower vendors and other compatible vendors, operated by the Chamber on the Road Allowance, on a seasonable basis on Saturday mornings, pursuant to the terms off this Agreement.

1.2 Farmers' Market Supervisor means the person or persons so designated in accordance with the requirements of section 5.1 of this Agreement.

1.3 "Road Allowance" means the Main Street East road allowance in the Town of Milton from the westerly limit of Martin Street and Main Street East intersection, to the easterly limit of the Main Street East and James Street intersection, from curb to curb and not including the sidewalks with the exception of certain pedestrian node sidewalk areas, which total area is outlined on the visual attached hereto as Schedule "A".

2.0 Use

- 2.1** Market, which use shall be conducted in accordance with the terms of this Agreement.
- 2.2** The Chamber shall be responsible for the operation of the Farmers' Market and subject to this Agreement, shall have exclusive use of the Road Allowance for the purpose of the Farmers' Market when the Farmers' Market is in operation in accordance with the terms of this Agreement. Notwithstanding this provision for exclusive use of the Road Allowance as set out above, the Town reserves the right onto itself or its designates, at any time, to revoke or modify this exclusive use and otherwise use the Road Allowance for its purposes or the purposes of its designates, as it deems necessary in its complete discretion.
- 2.3** Notwithstanding section 2.2, if the Town decides to cancel use of the Road Allowance for the Farmers' Market on any date to facilitate community events or festivals, the Town shall provide 30 days' notice to the Chamber of any such community event or festival and shall encourage the community organizers of such events or festivals to incorporate the Farmers' Market into their plans and to coordinate with the Chamber in this regard.
- 2.4** The Chamber shall ensure that at all times, there is a minimum of eight-five percent of the vendors at the Farmers' Market who are farmers or growers of some type of produce offering such produce for sale, with the balance of such vendors being specialty for providers or genuine craft persons.

3.0 TERM

- 3.1** The term of this Agreement shall be for three (3) years commencing effective May 1, 2023.
- 3.2** Either party shall have the right to terminate this Agreement on six (6) months written notice to the other and upon termination, neither party shall have any further obligation to the other.

4.0 DATES AND HOURS OF OPERATION

- 4.1** The Chamber shall be permitted to operate the Farmers' Market on the Road Allowance on Saturdays from the third Saturday in May until the Saturday of Thanksgiving weekend in any year during the Terms of the Agreement, between the hours of 6:00 a.m. and 1:00 p.m. on such Saturdays. The Town shall ensure that all necessary steps are taken to ensure that the Road Allowance can be closed during these dates and times to allow use of the Road Allowance by the Chamber for the Farmers' Market.
- 4.2** The Chamber shall use barricades to block the Road Allowance from use by motor vehicles during the applicable time periods as set out in section 4.1 above.

5.0 OPERATION OF FARMERS' MARKET

- 5.1** Prior to each scheduled Farmers' Market the Town shall post appropriate notice of said Farmers' Market which includes notice of parking enforcement and the towing of vehicles prior to the Farmers' Market commencement at 8:00 a.m.
- 5.2** The Friday before each scheduled Farmers Market, the Town shall arrange for the Road Allowance to be pre-swept.
- 5.3** During the operation of the Farmers' Market, the Chamber shall ensure that a responsible adult person from the Chamber is on duty at all times to ensure that the Farmers' Market is conducted in compliance with terms of this Agreement and all other Town by-laws and applicable legislation, and to generally ensure that the Farmers' Market is operated in a safe and secure manner. This person shall be referred to as the Farmers' Market Supervisor.
- 5.4** The Chamber shall ensure the Farmers' Market Supervisor is equipped with a cell phone, so that the Supervisor is accessible by cell phone to the Town during the hours of operation of the Farmers' Market, and the Chamber shall ensure that the Town is provided with that cell phone number and always kept apprised of any change to that number. The Farmers' Market Supervisor shall act as the liaison with the Town's parking enforcement team for the purposes of identifying any vehicle towing, and the Milton Fire Department during emergency situations and shall assist in the identification of emergency locations and shall have the authority to instruct vendors to relocate in the event that the Milton Fire Department require same.
- 5.5** The Chamber shall operate the Farmers' Market in accordance with the terms of this Agreement and any other reasonable rules and regulations imposed by the Town from time to time, with respect to the operation of the Farmers' Market. The Chamber shall ensure that its Farmers' Market Supervisor is familiar with all of the Chamber's obligations under this Agreement with respect to the operation of the Farmers' Market.
- 5.6** The Chamber shall also ensure that its vendors are educated as to their obligations in participating in the Farmers' Market and ensure that all vendors comply with those obligations.
- 5.7** The Farmers' Market shall end by 12:00 p.m. on any day that is it in operation under this Agreement. The Chamber shall then ensure that there is a general clean-up of the Road Allowance within the one hour period that follows, such that the Road Allowance is again open for traffic with the barricades removed, garbage not contained within garbage receptacles removed and general clean-up completed by no later than 1:00 p.m.
- 5.8** After conclusion of each Farmers' Market, the Town will arrange for the collection of garbage from each garbage receptacle located within proximity of the Road Allowance.
- 5.9** The Town agrees to deliver and remove barricades each Saturday the Farmers' Market is planned. The Chamber shall be responsible for setting up

and taking down the barricades which shall be done to the satisfaction of the Town.

6.0 FIRE SAFETY

- 6.1** The Chamber shall ensure that a 14 foot wide emergency access lane is maintained through the centre of the Road Allowance along its entire length to allow for access by emergency vehicles should that be necessary. While it is agreed that pedestrians may utilize this emergency access lane during operation of the Farmers' Market, the Chamber shall ensure that no tents, awnings, displays, vehicles or any other equipment or items of any kind are allowed within this 14 ft. emergency access lane during operation of the Farmers' Market.
- 6.2** The Chamber shall ensure that an area of at least 10 ft. around all fire hydrants in the Road Allowance or on the sidewalks abutting the Road Allowance, are kept clear of all materials and obstructions of any kind. It is critical that the fire hydrants remain available for access by emergency personnel at all times.
- 6.3** It is agreed that the use of propane or other liquefied petroleum products shall be strictly controlled in the Road Allowance by the Chamber. The Chamber shall ensure that the vendors are limited to a maximum of two 20lb cylinders at any one location and that cylinders are maintained in good repair (having been hydrostatically tested within the previous fire years and having passed such test) and that such cylinders are stored in an upright position. The Town's Fire Department may advise the Chamber of other rules and regulations with respect to the use and storage of such products and the Chamber shall ensure that such rules and regulations are complied with by all vendors at the Farmers' Market.
- 6.4** The Chamber shall ensure the accumulation or storage of all combustibles, such as cardboard boxes, are confined to the interior of transport vehicles and not permitted to be stored outside on the Road Allowance.
- 6.5** The Chamber shall ensure that each vendor maintains a 2A10BC dry chemical fire extinguisher at their booth, in proper working order, with a validated inspection tag affixed, which is readily available at all time during the operation of the Farmers' Market.
- 6.6** The Chamber shall develop an emergency response contingency, in consultation with the Milton Fire Department and the Farmers' Market Supervisor will ensure all vendors are aware of and comply with the plan.
- 6.7** The Chamber shall ensure that the annually approved Fire Safety Plan referred to in section 6.6 above, is fully implemented by the Chamber for the Farmers' Market each year during the term of this Agreement. The Town's Fire Department may impose additional requirements to be incorporated into the Fire Safety Plan from time to time, and the Chamber shall ensure such additional requirements are implemented.

7.0 UTILITIES

7.1 The Chamber shall pay the cost of all utilities, including but not limited to, hydro and water, that may be required with respect to the operation of the Farmers' Market by the Chamber or the Farmers' Market vendors.

7.2 Notwithstanding section 7.1, the DMBIA agrees to grant access and use of DMBIA power outlets during the operation of the Farmers' Market. Access is granted to the Chamber and Farmers' Market vendors as needed.

8.0 INSURANCE

8.1 The Chamber shall, at its expense, maintain in force during the term of this Agreement, the following insurance:

- a) Comprehensive general liability insurance against claims for personal injury, death or property damage arising out of the operation of the Farmers' Market, in amounts required by the Town from time to time, by in no event less than \$5,000,000.00 per occurrence.
- b) Property insurance covering all property owned by the Chamber or the Farmers' Market vendors, including without limitation, all chattels, equipment, machinery, inventory and all other personal property in an amount equal to the full replacement value thereof; and
- c) Such other forms of insurance as may be reasonable required by the Town from time to time.

Such policies hereof shall contain a severability of interest clause and cross liability clause. All policies shall contain an undertaking by the insurers to notify the Town, in writing not less than 30 days prior to any material change, cancellation or termination thereof. The Chamber agrees to furnish upon request from the Town verification of compliance with the provisions of this section.

8.2 The Town shall not be responsible in any way for any injury to any person (including death) or for any loss of or damage to any property belonging to the Chamber or to the Farmers' Market vendors or to their respective employees, agents, invitees, licensees or other persons from time to time attending the Farmers' Market on the Road Allowance, including without limited the foregoing, any loss of or damage caused by theft or breakage, or by steam, water, rain or snow or for any loss or damage caused by attributable to the condition or arrangements of any electric or other wiring or for any damage caused by smoke or anything done or omitted to be done by any Farmers' Market vendor or for any loss whatsoever with respect to the property of the Chamber or the Farmers' Market vendors or any activity carried on by them on the Road Allowance or with respect to the Farmers' Market. The Chamber

shall be responsible for the loss of or damage to any Town property, caused by the Chamber or its Farmers' Market vendors.

9.0 RELEASE AND INDEMNITY

9.1 No work act, matter or thing done or omitted to be done by the Town, its officers, employees, or agents or Town Council, pursuant to or in connection with this Agreement, shall give rise to any action, claim, counter-claim or demand by the Chamber or its members, participants, vendors or invitees to the Farmers' Market, or their respective heirs, executors, administrators, successors or assigns, for damage or compensation of any kind because of such work act, matter or thing done or omitted to be done by the Town, its officers, employees or agents or Town Council, pursuant to or in connection with this Agreement.

9.2 The Chamber agrees to indemnify and forever save harmless the Town, its officers, employees, and agents and Town Council, from any claim, suit, demand, action, costs or causes of action against the Town by any other party, arising out of or in connection with the Farmers' Market or this Agreement of any work, act, matter or thing done or omitted to be done by the Town, its officers, employees or agents of Town Council pursuant to or in connection with this Agreement.

10.0 GENERAL PROVISIONS

10.1 If any section or sections or part or parts of a section or sections in this Agreement are determined by any Court or tribunal or competent jurisdiction to be illegal or unenforceable, it or they shall be considered separate and severable from this Agreement and the remaining provision of this Agreement shall remain in full force and effect and shall be binding upon the parties hereto as though the said section or sections or part or parts of a section or sections had never been included.

10.2 Any notice required to be given under this Agreement may be given personally at the following addresses, such service to be deemed effective upon such delivery, or may be given by registered mail sent to the following addresses, the service of which registered mail shall be deemed to have been made on the third day after the said mailing.

Town: The Corporation of the Town of Milton
 150 Mary Street
 Milton, ON
 L9T 2Z6
 Attention: Director, Infrastructure

Chamber: Milton Chamber of Commerce
251 Main Street East, Suite 104
Milton, ON
L9T 1P1
Attention: Executive Director

DMBIA: Downtown Milton Business Improvement Area
251 Main Street East, Suite 103
Milton, ON
L9T 1P1
Attention: Executive Director

10.3 Nothing contained in this Agreement shall relieve the Chamber from complying with all applicable municipal by-laws, provincial and federal statutes and regulations thereunder.

10.4 This Agreement shall be read with such changes of gender or number as the context may require.

10.5 The following schedule attached hereto shall be deemed to form part of this Agreement:

Scheduled "A" Sketch of Road Allowance

10.6 This Agreement shall ensure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns. The Chamber shall not assign or transfer its rights or obligations under this Agreement.

IN WITNESS WHEREOF the corporate parties have hereunto caused their corporate seals to be affixed and attended by their proper officers at the times and places indicated.

SIGNED, SEALED & DELIVERED)

This day of , 2023)

At the Town of Milton,)

Province of Ontario)

)

)

)

)

)

)

)

)

)

)

THE CORPORATION OF THE TOWN
OF MILTON

Per: _____

Gordon A. Krantz - Mayor

Per: _____

Meghan Reid - Clerk

SIGNED, SEALED & DELIVERED)

This day of , 2023)

At the Town of Milton,)

Province of Ontario)

)

)

)

)

)

)

)

)

MILTON CHAMBER OF COMMERCE

Per: _____

Bianca Caramento

SIGNED, SEALED & DELIVERED)

This day of , 2023)

At the Town of Milton,)

Province of Ontario)

)

)

)

)

)

DOWNTOWN MILTON BUSINESS
IMPROVEMENT AREA

Per: _____

Rachel Shuttleworth