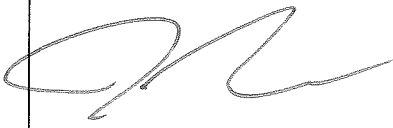





**CITY OF HAMILTON**  
**CITY MANAGER'S OFFICE**  
**City Solicitor**  
**and**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Light Rail Transit Office**

<b>TO:</b>	Mayor and Members Light Rail Transit Sub-Committee
<b>COMMITTEE DATE:</b>	January 25, 2016
<b>SUBJECT/REPORT NO:</b>	Light Rail Transit Memorandum of Agreement - City of Hamilton and Metrolinx (PED16042) (LS16003) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	David Dixon (905) 546-2424, Extension 1860  Christine Lee-Morrison (905) 546-2424, Extension 6390  Bryan Boodhoo (905) 546-2424, Extension 7164
<b>SUBMITTED BY:</b>	Jason Thorne General Manager Planning and Economic Development Department  Janice Atwood-Petkovski City Solicitor City Manager's Office
<b>SIGNATURE:</b>	 

**RECOMMENDATION**

- (a) That the City enter into the Memorandum of Agreement (MOA) between Metrolinx and the City of Hamilton, respecting the City of Hamilton Light Rail Transit project, substantially in the form attached as Appendix "A" to Report PED16042/LS16003 and other ancillary documents, with content approved by the General Manager of Public Works and the General Manager of Planning and Economic Development, in a form satisfactory to the City Solicitor;

- (b) That the City Manager be authorized to execute the Memorandum of Agreement between Metrolinx and the City of Hamilton, respecting the City of Hamilton Light Rail Transit and other ancillary documents;
- (c) That staff be directed and authorized to develop and negotiate one or more detailed Definitive Agreements with Metrolinx respecting the City of Hamilton Light Rail Transit project and report back to the Light Rail Transit Subcommittee for recommendation to Council.

## **EXECUTIVE SUMMARY**

In May of 2015, the Government of Ontario announced an investment of \$1B to build light rail transit (LRT) in the City of Hamilton. The purpose of the Memorandum of Agreement between Metrolinx and the City of Hamilton ("MOA") is to guide the project development until more detailed definitive agreements are in place. Highlights of the MOA are included in this report and the full agreement is attached as Appendix "A" to Report PED16042/LS16003.

It is recommended that the MOA be executed by the City. In approving the MOA, it should be noted that:

- The MOA allows for a Design, Build, Finance, Operate and Maintain model by way of Infrastructure Ontario's Alternative Finance Procurement; however, all elements of the model have not yet been determined.
- The determination of who will operate and maintain the LRT, including costs and gas tax implications, has not yet been determined and will be addressed at a later date and included in one or more definitive agreements.
- With respect to technical specifications for the project, Hamilton will have certain approval rights over infrastructure or assets owned by Hamilton (e.g. sewers, watermain) that are affected by or required to be rebuilt or replaced. For all other project components, the City will have the opportunity to review and provide input and Metrolinx will use reasonable efforts to implement Hamilton's suggestions but will have the final determination on these matters.
- The City will have the opportunity for reviewing and providing input into any material changes to the project scope proposed by Metrolinx; however, Metrolinx will have the final determination on these matters.
- If Metrolinx chooses to acquire property from the City of Hamilton for a Maintenance and Storage Facility, such as 330 Wentworth Street, Hamilton and Metrolinx will work collaboratively to arrive at a negotiated agreement that is consistent with the principles set out in the *Expropriations Act*, Ontario.

- The agreement indicates the City will support requests submitted by the Government of Ontario to acquire funding contributions from the Government of Canada.

***Alternatives for Consideration – See Page 5***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** The MOA specifies at a high level the terms and conditions under which Metrolinx will pay for the project subject to the \$1B “Project Budget” and the Ministry of Transportation’s Capital Cost Eligibility Criteria for Metrolinx Owned Rapid Transit Projects. The upcoming definitive agreements will provide additional details.

**Staffing:** The MOA establishes City of Hamilton dedicated staff, to be funded by Metrolinx, to facilitate reviews and approvals, and other matters to expedite the delivery of the LRT project. It also establishes that Metrolinx will work together with Hamilton to identify and approve costs incurred by Hamilton after May 26, 2015, to be covered by Metrolinx, to plan and develop the project.

**Legal:** Legal Services was involved in the development, review and negotiations of the MOA. The MOA is not a legally binding contract, except for the sections pertaining to Confidentiality. Rather, it sets out the high-level principles upon which the parties are making a preliminary commitment. By spring of this year, Metrolinx and the City plan to negotiate and enter into definitive agreements that will address, in legally binding contracts, the details of the LRT Project, including details of operations, maintenance, costs, etc. It is anticipated that Legal Services will continue to be involved in a number of aspects of the LRT project, including the development and negotiations of future definitive agreements, acquisition of property, expropriations, review of procurement documents, and other aspects of the LRT project.

**HISTORICAL BACKGROUND**

In May of 2015, the Government of Ontario announced an investment of \$1.2B to build Light Rail Transit (LRT) and a new GO Transit station in the City of Hamilton. The \$1B

B-Line LRT will operate from McMaster University through the downtown core to Queenston Circle. There will also be a connection north along the A-line to West Harbour, as well as a pedestrian corridor connecting the Hamilton Centre GO Station.

At the meeting of August 14, 2015 Council approved the following:

“That City staff be directed to begin developing a Memorandum of Agreement (MOA) with Metrolinx that scopes out a wide range of interests, including financial, design, operating, maintenance and legal, and report back to the General Issues Committee for final approval;”

City and Metrolinx staff has developed a MOA, attached as Appendix "A" to Report PED16042/LS16003. The MOA covers the following matters:

- Roles and Responsibilities
- Project Delivery
- Project Scope
- Real Estate Matters
- Permits, Licenses and Approvals Protocol
- Third Party Utilities
- Hamilton Dedicated Staff
- Public Communications and Engagement
- Public Realm
- Revenue and Service Integration
- Governance and Dispute Resolution
- Access to Information
- Confidentiality

Except for the sections pertaining to Confidentiality, the MOA is not legally binding. It is expected that the City and Metrolinx will enter into one or more definitive agreements that are legally binding.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

The MOA will facilitate further development of the Light Rail Transit project in Hamilton, which aligns with City policy and strategic directions.

## **RELEVANT CONSULTATION**

N/A

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The MOA will guide project development until the time that more detailed definitive agreements are in place. In approving the MOA, it should be noted that:

- The MOA allows for a Design, Build, Finance, Operate and Maintain model by way of Infrastructure Ontario's Alternative Finance Procurement; however, all elements of the model have not yet been determined.
- The determination of who will operate and maintain the LRT, including costs and gas tax implications, has not yet been determined and will be addressed at a later date and included in one or more definitive agreements.
- With respect to technical specifications for the project, Hamilton will have certain approval rights over infrastructure or assets owned by Hamilton (e.g. sewers, watermains) that are affected by or required to be rebuilt or replaced. For all other project components, the City will have the opportunity to review and provide input and Metrolinx will use reasonable efforts to implement Hamilton's suggestions but will have the final determination on these matters.
- The City will have the opportunity for reviewing and providing input into any material changes to the project scope proposed by Metrolinx, however, Metrolinx will have the final determination on these matters.
- If Metrolinx chooses to acquire property from the City of Hamilton for a Maintenance and Storage Facility, such as 330 Wentworth Street, Hamilton and Metrolinx will work collaboratively to arrive at a negotiated agreement that is consistent with the principles set out in the *Expropriations Act*, Ontario.
- The agreement to support requests submitted by the Government of Ontario to acquire funding contributions from the Government of Canada for the project may have implications for other potential applications by the City of Hamilton for federal funding.

It is recommended that the MOA be executed by the City and that staff be directed to begin negotiating the definitive agreements that will address, in legally binding contracts, the details of the LRT Project, including details of operations, maintenance, costs, etc.

## **ALTERNATIVES FOR CONSIDERATION**

An MOA is required to be in place to guide the project development to procurement. Therefore, the only alternative to this recommendation is to direct staff to continue to negotiate the MOA with Metrolinx staff. However, it should be noted that project delays are likely to occur if an MOA is not finalized and further negotiations are not likely to result in any significant changes to the MOA.

## **ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN**

### **Strategic Priority #1**

#### **A Prosperous & Healthy Community**

*WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.*

#### **Strategic Objective**

- 1.1 Continue to grow the non-residential tax base.
- 1.2 Continue to prioritize capital infrastructure projects to support managed growth and optimize community benefit.
- 1.3 Promote economic opportunities with a focus on Hamilton's downtown core, all downtown areas and waterfronts.
- 1.4 Improve the City's transportation system to support multi-modal mobility and encourage inter-regional connections.
- 1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.
- 1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

### **Strategic Priority #2**

#### **Valued & Sustainable Services**

*WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner*

### **Strategic Priority #3**

#### **Leadership & Governance**

*WE work together to ensure we are a government that is respectful towards each other and that the community has confidence and trust in.*

#### **Strategic Objective**

- 3.1 Engage in a range of inter-governmental relations (IGR) work that will advance partnerships and projects that benefit the City of Hamilton.

## **APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" – Memorandum of Agreement Metrolinx and City of Hamilton