INFORMATION REPORT

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	April 19, 2017
SUBJECT/REPORT NO:	Cost Implications to the City of Hamilton Should the Light Rail Transit Project be Discontinued (PED17085) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Bryan Boodhoo (905) 546-2424 Ext. 7164 Carla Ippolito (905) 546-2424 Ext. 2448
SUBMITTED BY: **SIGNATURE:**	Paul Johnson Director, LRT Project Coordination Planning and Economic Development Department

Council Direction:

The Special General Issues Committee Light Rail Transit (LRT) Report 17-007 on March 28, 2017 identified the following motion:

> Cost Implications to Hamilton Taxpayers Should Council Discontinue the Light Rail Transit Project (Item 9.1)
>
> Staff were directed to report back to a Special General Issues Committee (LRT) to advise what the cost implications would be to the City of Hamilton taxpayers, should Council decide to discontinue the Light Rail Transit Project.

Information:

To understand the cost implications, the City of Hamilton would first need to determine whether the Province of Ontario ("Province") would seek damages from the City of Hamilton ("City") for cost associated with the Hamilton LRT Project. City staff spoke with Metrolinx, and they indicated that the Province had not made a determination on whether it would seek any recovery of LRT expenses. While that determination has not been made, it is fair to expect that if the City decided to discontinue the LRT Project, there would be a negotiation between the Province and the City on what discontinuance would cost, if anything, and how the parties would proceed.

If the Province or Metrolinx decided to commence a legal action against the City for choosing to discontinue the LRT Project, generally, the likely financial risk exposure

would be limited to monies spent and/or committed, minus any money that could be saved through mitigation measures. Mitigation measures could include avoiding severance pay through working notice or through the redeployment of work forces to existing vacancies. Notably, if contracts between the City and/or Metrolinx and its contractors were cancelled or terminated, the contractors would likely seek lost profits and other damages to place the contractors in as good a position as if all contract obligations had been fulfilled.

It is difficult to give more detailsof the likely financial exposure of the City, given that no legal actions have taken place and, in many cases, definitive written contracts have not been executed.

In analysing our financial exposure, costs were broken down into four broad categories: (a) costs actually spent by the City; (b) costs committed by the City; (c)costs actually spent by Metrolinx; (d) costs committedby Metrolinx. This approach was taken for two reasons. First, where the City has directly spent or committed monies, the City has greater control over cancellation of associated contracts and in many cases direct liability to contractors and employees. Second, the City and/or Metrolinx may be able to mitigate committed but unspent monies, but it is much harder to do so once monies have been spent. The summary of costs is as follows:

HAMILTON LRT – EXPENSES TO-DATE AND REMAINING COMMITMENTS

	Spent To-Date	**Remaining Commitments**	**TOTALS**
City – Early LRT Staffing and Consulting Costs (2007 -2011)	$10,785,670	$0	$10,785,670
City – Project Implementation (as at March2017)	$5,139,810	$13,059,500	$18,199,310
Metrolinx (as at Feb 2017)	$15,103,260	$27,897,500	$43,000,760
TOTALS	**$31,028,740**	**$40,957,000**	**$71,985,740**

A further breakdown of thesecosts areprovided in Appendix “A” to Report PED17085.

The City costs expended from 2007 to 2011 to complete preliminary work of the earlier studies, such as the Rapid Ready Report, were approximately $10.7M. Of those costs, $3M was funded by Metrolinx, $2.5M was funded by the Ministry of Transportation through Quick Wins monies, and the remaining $5.2M was funded by the City. In addition, Metrolinx has agreed to reimburse the City for $1.75M of those cost, subject to submission of detailed documentation.

The City's LRT Project costsinclude costs for the City's LRT Project Team, Property Acquisition Unit, Steer Davies Gleave Environmental Assessment consulting costs, leased spaces and hard costs, such as printing and equipment.

Metrolinx staff providedstaffing and consulting costs for this report. Metrolinx has not acquired any properties at the time of this report;however, some deposits have been made and time is of the essence in these property acquisitions.

Severance costs for City staff are currently estimated at $1.5M.City staff have not estimated severance costs for Metrolinx, because their personnel information is confidential.

Major Legal Documents

As part of our analysis, the following major legal documents were reviewed: (1) the Memorandum of Agreement between the City and Metrolinx ("MOA"); (2) the Real Estate Protocol between the City and Metrolinx; (3) the City's contract with Steer Davies Gleave.

Except for the confidentiality provisions, the MOA is non-binding, and as such does not offer definitive guidance for costs associated with discontinuing the LRT Project.

The Real Estate Protocol is a binding agreement that deals with the provision of real estate services by City staff to Metrolinx. The agreement allows the City to terminate for convenience upon 30 days' written notice. The agreement does not deal with severance costs, except to state that if Metrolinx terminates the agreement, it will pay for such costs.

Steer Davies Gleave was retained for$2.2M in connection with the Environmental Assessment process, and their work is nearly complete.

The qualification stage of the project is the first stage in a multi-stage procurement process that will eventually award the LRT Project contract to a consortium. The deadline to submit in response to the Request for Qualification is now closed, and the sponsors (Metrolinx and Infrastructure Ontario) are engaged in the evaluation of the responses. At this stage, there are minimal financial risks associated with procurement.

Please see the appendices for further financial information. Please note that this information is based on City financials until the end of March 2017 and Metrolinx financials until the end of February 2017. Financial information is subject to change as LRT Project continues.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" – Hamilton LRT- Expenses To-Date and Remaining Commitments

Hamilton LRT - Expenses To-Date and Remaining Commitments

Expenditures	Spent To-Date	Remaining Commitments	TOTAL
City of Hamilton/Metrolinx			
Early LRT/Rapid Ready Staffing & Consulting Expenditures (2007-2011)	$10,785,670	$0	$10,785,670
Sub-Total	**$10,785,670**	**$0**	**$10,785,670**
City of Hamilton (as at March 2017- 100% funded by Metrolinx)			
City Project Team	$2,269,000	$6,219,600	$8,488,600
City Property Acquisition Team	$830,310	$6,671,800	$7,502,110
Steer Davies Gleave EA	$2,040,500	$168,100	$2,208,600
Sub-Total	**$5,139,810**	**$13,059,500**	**$18,199,310**
Metrolinx (as at Feb 2017)			
Metrolinx Staffing/Consulting/ Land Acquisition Deposits	$15,103,260	$27,897,500	$43,000,760
Sub-Total	**$15,103,260**	**$27,897,500**	**$43,000,760**
GRAND TOTALS	**$31,028,740**	**$40,957,000**	**$71,985,740**

2015 MONTHLY EXPENDITURES

2015 LRT OFFICE EXPENDITURES

	NOVEMBER	DECEMBER	YEAR TO DATE
EMPLOYEE RELATED COSTS	0.00	101,458.80	101,458.80
MATERIAL AND SUPPLIES	42.79	1,922.73	1,965.52
CONTRACTUAL	0.00	281.74	281.74
Steer Davies Gleave	0.00	127,857.62	127,857.62
RESERVES/RECOVERIES	0.00	289.96	289.96
- PC Hardware/printing			
TOTAL EXPENSES	**42.79**	**231,810.85**	**231,853.64**

2016 MONTHLY EXPENDITURES

2016 LRT OFFICE EXPENDITURES

	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	YEAR TO DATE
EMPLOYEE RELATED COSTS	68,171.98	120,093.18	138,471.11	159,779.14	159,217.85	160,010.78	147,900.65	123,094.89	154,099.01	119,171.93	154,833.06	117,002.40	1,621,845.98
FINANCIAL - Recruitment	0.00	712.32	0.00	0.00	0.00	2,275.61	0.00	0.00	0.00	0.00	0.00	0.00	2,987.93
MATERIAL AND SUPPLIES	2,282.86	1,647.40	3,803.69	1,155.98	7,770.43	6,103.00	5,586.75	3,195.34	25,020.50	5,082.83	1,075.87	10,967.71	73,692.36
VEHICLE EXPENSES	0.00	0.00	0.00	0.00	0.00	0.00	0.00	165.16	246.46	0.00	0.00	11.14	422.76
BUILDING AND GROUNDS	362.84	961.02	419.54	155.83	170.00	170.04	170.04	580.40	653.51	0.00	162.51	88.56	3,894.29
CONSULTING	0.00	0.00	0.00	0.00	0.00	37,824.27	0.00	0.00	0.00	4,273.93	0.00	4,273.93	46,372.13
CONTRACTUAL	28.55	429.14	498.87	1,507.90	1,000.33	511.49	381.10	254.55	477.17	16,699.82	368.84	8,028.84	30,186.60
Steer Davies Gleave	0.00	0.00	0.00	0.00	0.00	569,848.47	0.00	0.00	0.00	0.00	0.00	549,547.82	1,119,396.29
RESERVES/RECOVERIES - PC Hardware/printing	0.00	191.12	108.61	155.98	70.78	80.96	109.45	41.93	92.41	20.35	20.35	0.00	891.94
TOTAL EXPENSES	**70,846.23**	**124,034.18**	**143,301.82**	**162,754.83**	**168,229.39**	**776,824.62**	**154,147.99**	**127,332.27**	**180,589.06**	**145,248.86**	**156,460.63**	**689,920.40**	**2,899,690.28**

2016 MONTHLY EXPENDITURES

2016 LRT PROPERTY ACQUISITION UNIT

	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	YEAR TO DATE
EMPLOYEE RELATED COSTS	26,898.71	20,363.70	39,011.86	94,535.73	141,425.61	322,235.61
FINANCIAL - Appraisal Fees	0.00	3,697.65	0.00	0.00	19,812.24	23,509.89
MATERIAL AND SUPPLIES	0.00	1,397.62	2,070.62	84,365.51	21,281.70	109,115.45
BUILDING AND GROUNDS	28.10	14.05	648.83	630.76	2,766.91	4,088.65
CONTRACTUAL	2,688.21	5,071.19	658.88	1,997.46	17,877.25	28,292.99
TOTAL EXPENSES	**29,615.02**	**30,544.21**	**42,390.19**	**181,529.46**	**203,163.71**	**487,242.59**

2017 MONTHLY EXPENDITURES

2017 LRT OFFICE EXPENDITURES

	JANUARY	FEBRUARY	MARCH	YEAR TO DATE
EMPLOYEE RELATED COSTS	136,184.73	112,853.02	110,482.46	359,520.21
MATERIAL AND SUPPLIES	1,143.83	1,768.17	254.37	3,166.37
BUILDING AND GROUNDS	140.01	75.13	0.00	215.14
CONTRACTUAL	3,948.26	15,764.85	2,063.64	21,776.75
Steer Davies Gleave	0.00	543,546.81	249,707.13	793,253.94
RESERVES/RECOVERIES	0.00	80.53	0.00	80.53
- PC Hardware/printing				
TOTAL EXPENSES	**141,416.83**	**674,088.51**	**362,507.60**	**1,178,012.94**

2017 MONTHLY EXPENDITURES

2017 PROPERTY ACQUISITION UNIT EXPENDITURES

	JANUARY	FEBRUARY	MARCH	YEAR TO DATE
EMPLOYEE RELATED COSTS	83,378.56	90,693.84	75,126.90	249,199.30
FINANCIAL - Appraisal Fees	-15,059.12	54,198.37	14,926.14	54,065.39
MATERIAL AND SUPPLIES	134.05	3,838.11	240.63	4,212.79
BUILDING AND GROUNDS	93.33	54.64	0.00	147.97
CONTRACTUAL	8,777.06	18,059.29	8,605.84	35,442.19
TOTAL EXPENSES	**77,323.88**	**166,844.25**	**98,899.51**	**343,067.64**