




CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Light Rail Transit Project Office

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	March 23, 2022
SUBJECT/REPORT NO:	Light Rail Transit (LRT) Agreements Update (PED21176(a)) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Abdul Shaikh (905) 546-2424 Ext. 6559 Bryan Boodhoo (905) 546-2424 Ext. 7164
SUBMITTED BY:	Abdul Shaikh Director, Hamilton LRT Project Office Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That the City Manager be authorized and directed to execute the Communications Protocol for the Hamilton Light Rail Transit (LRT) project, attached as Appendix "A" to Report PED21176(a), as a Schedule to the Hamilton LRT Memorandum of Understanding;
- (b) That the City Manager be given delegated authority to negotiate and execute a protocol respecting property interests to and from the City of Hamilton and any ancillary documents in accordance with key terms set out in the Protocol Respecting Property Interests to and from the City of Hamilton term sheet, attached as Appendix "B" to Report PED21176(a) in a form satisfactory to the City Solicitor, as a Schedule to the Hamilton LRT Memorandum of Understanding; and,
- (c) That the City Manager be given delegated authority to negotiate and execute a Governance Terms of Reference and any ancillary documents in accordance with the City of Hamilton and Metrolinx Governance Framework, attached as Appendix "C" to Report PED21176(a) in a form satisfactory to the City Solicitor as a Schedule to the Hamilton LRT Memorandum of Understanding.

EXECUTIVE SUMMARY

The Memorandum of Understanding (MOU) for the Hamilton Light Rail Transit (LRT) Project that was approved by Council on September 15, 2021 contemplates a series of implementing schedules and agreements. In approving the MOU, Council gave delegated authority to the City Manager to negotiate and execute the Staffing Agreement schedule. All other schedules need to come to Council for approval.

This report is seeking Council's approval to execute on three schedules to the MOU:

- Communications Protocol;
- Real Estate Protocol for transactions between Metrolinx and the City of Hamilton; and,
- Governance Framework.

This report also gives an update on staffing for the LRT Project Office and a road map for future LRT agreements.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: There are no financial implications associated with the staff recommendation.

Staffing: There are no staffing implications associated with the staff recommendation. On September 15, 2021, Council ratified a resolution that gave the City Manager the authority to negotiate and enter into a Staffing Agreement with Metrolinx, and to create any temporary or permanent FTEs associated with that Staffing Agreement, provided there is no levy impact. To date, the City has hired 2 full-time employee (FTE) positions, and the City has an immediate need for 8 other FTE positions. (Metrolinx has not yet approved all 8 of these FTE positions). Additionally, other positions and consultants are billing their time to Metrolinx for work done on the LRT project.

Legal: The City's Legal Services has been engaged in negotiating and drafting the three recommended MOU Schedules.

HISTORICAL BACKGROUND

On September 15, 2021, City Council ratified a Memorandum of Understanding (MOU) with Metrolinx and the Ministry of Transportation (MTO) to move forward with the 14-kilometre Hamilton Light Rail Transit (LRT) project. The MOU contemplates a series of schedules that would be negotiated and executed after the initial signing of the MOU.

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Also, on September 15, 2021, City Council ratified a resolution to give the City Manager authority to negotiate and execute a Staffing Agreement:

That the City Manager be given the delegated authority to negotiate and execute a Staffing Agreement with Metrolinx and the Ministry of Transportation, pursuant to the Memorandum of Understanding attached as Appendix A to Report LS21034/PED21176/CM21012 , to create any temporary or permanent FTEs associated with that Staffing Agreement, and to create an LRT Office as a Division within the Planning and Economic Development Department, provided there is no levy impact.

The Staffing Agreement will be incorporated as one of the schedules to the MOU.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Not Applicable

RELEVANT CONSULTATION

The following groups were consulted, with Directors being consulted within each of the areas identified within the City of Hamilton below:

- Metrolinx
- Legal Services and Risk Management Services, City of Hamilton
- Communications, City of Hamilton
- Real Estate Services, City of Hamilton
- Roads Division, City of Hamilton
- Engineering Services Division, City of Hamilton
- Environmental Services Division, City of Hamilton
- Transportation Planning and Parking Division, City of Hamilton
- Planning Division, City of Hamilton
- Transit Division, City of Hamilton
- Transportation Operations and Maintenance Division, City of Hamilton
- Hamilton Water Division, City of Hamilton
- Corporate Services Department, City of Hamilton
- Human Resources, City of Hamilton
- Mike Murray, Murray Advisory Services

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The purpose of this report is to seek authority to execute the Communications Protocol, seek delegated authority for staff to negotiate and execute the Real Estate Protocol, and the Governance Protocol based on the terms contained in this report. All three protocols will be incorporated into the LRT MOU as schedules. This report also provides an update on staffing for the LRT Project Office.

Communications Protocol

The Communications Protocol sets out the roles of the Ministry of Transportation, Metrolinx and the City for all communications with respect to the LRT Project. Through this protocol, a subgroup will be formed, which will consist of Metrolinx and City communications staff. Ministry of Transportation staff may attend as needed.

The Ministry of Transportation, working closely with Metrolinx and in collaboration with the City, will be responsible for coordination of major announcements and media events. Additionally, the Ministry of Transportation has overall lead and responsibility for final project communications.

The protocol also acknowledges the City's need and ability to speak to LRT-related impacts to its own line of business as well as the need for the City to play a significant role on project related updates as needed.

The protocol also recognizes Council's right speak to LRT issues individually or as a group as needed, in line with their duties as elected officials in the community.

The Communications Protocol is attached as Appendix "A" to Report PED21176(a). It has already received approval from the Metrolinx and the Ministry of Transportation.

Real Estate Protocol for Transactions Between the City of Hamilton and Metrolinx

The Protocol Respecting Property Interests to and from the City of Hamilton (the "Metrolinx-City Real Estate Protocol") addresses the transfer of lands from the City to Metrolinx, (to build the LRT) and from Metrolinx to the City (for example, for transfer of future road allowances). It does not address how Metrolinx will acquire lands from third-parties or dispose of lands to third parties.

Notably, there will be no City staff acquiring properties on behalf of Metrolinx, as was the case in previous iterations of the LRT project. Rather, Metrolinx will negotiate its own third-party real estate deals without the use of the City's real estate and legal services.

Also, notably, the issue of potentially leveraging provincial land holdings for affordable housing also remains outside the scope of this protocol. City staff continue to emphasize the importance of this aspect of the LRT Project with MTO and Metrolinx, however the purpose of this protocol is intended to address how transactions for corridor lands will be administered, as opposed to how provincially-acquired developable lands will be disposed of in the future. That said, given the importance of this issue, there is acknowledgement in the body of the MOU of the critical importance of affordable housing. Recital G of the MOU states:

The Province continues to recognize the critical importance of building affordable housing near transit stations and maximizing high quality jobs and benefits for communities adjacent to or affected by the Project. The Province will work with the City and community stakeholders to endeavour to determine how best to support these goals of affordable housing and community benefits as part of transit project delivery.

The Metrolinx-City Real Estate Protocol follows Section 10 the MOU, and, more specifically, it follows the key terms as described in Report Hamilton Light Rail Transit (LRT) Project Memorandum of Understanding (PED21176/CM21012/LS21034) to the September 8, 2021 General Issues Committee:

Real Estate: *As with the original MOA [Memorandum of Agreement for the prior Hamilton LRT Project], the City will transfer on corridor right-of-way lands to Metrolinx at a nominal fee. Metrolinx would pay fair market value to the City for off-corridor lands if required (e.g. for transit power substations or for the operation and maintenance facility) if they use City lands.*

It is also notable that Metrolinx has agreed to use all reasonable efforts to minimize the impact to City parks. This is in addition to their commitment in the MOU to cause the LRT constructor to use all reasonable efforts to minimize impacts to trees, parks and City lands.

Appendix “B” to Report PED21176(a) sets out the key terms of the Metrolinx-City Real Estate Protocol. If Council approves, staff will negotiate and execute a legal agreement based on these terms.

Governance Framework

City-Metrolinx Governance Framework

In accordance with Section 17 of the MOU, the City and Metrolinx worked together and developed a City of Hamilton and Metrolinx Governance Framework (the “Governance Framework”) for the Hamilton LRT project, which will be utilized throughout the life cycle

of the project. The purpose of the Governance Framework is to accomplish the following:

- Streamline intergovernmental relationships with respect to delivery of capital programs and projects that impact transit expansion;
- Identify, escalate and resolve intergovernmental delivery issues affecting capital programs; and,
- Provide structured forums for senior staff from each organization to advance shared objectives, seek strategic direction and input and guide collaboration between the partners.

Appendix “C” to Report PED21176(a) sets out the key terms of the City-Metrolinx Governance Framework. If Council approves, staff will negotiate and execute a legal agreement based on these terms.

City Staff Internal Governance Structure

In addition to the City-Metrolinx Governance Framework, the LRT Project Office has developed an internal staff governance structure. The purpose of internal staff governance structure is to accomplish the following:

- Setting guiding principles on how the City’s LRT Project Office will interact with various divisions across the City;
- Setting mechanisms to receive approvals involving various divisions across the City; and,
- Setting a framework for escalation as arising from internal working groups.

The internal staff governance structure includes the formation of the Core Working Team, Extended Resource Team and Steering Committee.

Core Working Team

The Core Working Team will provide input into design and procurement documents and coordinate works with the Extended Resource Team as required. The members of the Core Working Team will include the key full-time staff who are dedicated to the LRT Project. This team will meet internally on a regular basis to coordinate the LRT related matters. This team will be involved with Metrolinx and its designers and contractors through the project Core Working Groups to expedite the City related matters on the LRT project.

Extended Resource Team

The City's Extended Resource Team will be responsible for completing works assigned by the Core Working Team. This team provides specific knowledge or service to the project on a limited basis. The members will include service area leads (supervisors or managers) from various divisions across the City, mainly from areas that do not have representation in a Core Working Team. The members from the Extended Resource Team will be involved when the Core Working Team requires input or endorsement on an item that is relevant to their division.

Steering Committee

The Steering Committee will oversee the work of the Core Working Team and provide direction and approvals as required. The Steering Committee involves selected divisional directors across the City and a Project Sponsor (General Manager, Planning and Economic Development Department). The Steering Committee will meet regularly, including the members from the Core Working Team.

In addition to forming new teams for the LRT Project, the LRT Project Office will provide regular updates to the SLT Growth and Economic Working Group and seek their direction on escalation matters as required.

The City staff governance framework described above deals with how City staff will be organized and aligned to ensure the City's interests are protected, and to assist with the timely implementation of this complex project. This framework will ensure that staff are appropriately engaged in the project in an integrated and coordinated way, and that reports and recommendations to Council on project-related matters appropriately address the full range of City interests. Council fully retains its policy-setting and decision-making roles related to the project.

Staffing Update

The City has hired the following position exclusively for the LRT Project:

- Director, LRT Project
- Manager, Communications LRT Project

Additionally, there is an immediate need for the following positions, and in some instances, the hiring process is already well underway:

- Manager, Design-LRT
- Manager, LRT Technical Services and Approvals Coordination
- Senior Project Manager, Subsurface Coordination
- Senior Project Manager, Water Distribution & Wastewater Collection
- Senior Project Manager, Urban Design and Heritage
- Senior Project Manager, Transportation Engineering
- Law Clerk
- Administrative Assistant

Currently, the following positions support the project, and bill their time to Metrolinx:

- Solicitor (full-time basis)
- Human Resources Specialist
- Business Administrator
- Senior Project Manager, Transportation Planning and Modelling
- Strategic Advisor, Mike Murray, Murray Advisory Services, (consultant)

If approved by Metrolinx, all of the above positions will be paid for by Metrolinx as part of the LRT Project.

Roadmap of Future Agreements

There are a number of schedules and agreements and protocols that staff will continue to work with Metrolinx to complete. They are as follows:

- Municipal Funding Agreement
- Commissioning and Acceptance Protocol
- Fare and Non-Fare Revenue Matters
- Municipal Infrastructure Agreement
- Permits, Licenses and Approvals
- Dispute Resolution Protocol

Many of these agreements and protocols require technical input, and some may not be finalized until the LRT Project has been awarded, following the Province's completion of the request for proposal process.

Staff will continue to engage with Metrolinx and intend to report back to Council as further agreements are developed, which is anticipated to be in the first quarter of 2023.

ALTERNATIVES FOR CONSIDERATION

Not Applicable

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

Built Environment and Infrastructure

Hamilton is supported by state-of-the-art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PED21176(a) - Communications Protocol

Appendix “B” to Report PED21176(a) - Protocol Respecting Property Interests to and from the City of Hamilton

Appendix “C” to Report PED21176(a) - City of Hamilton and Metrolinx Governance Framework