

5. MOTION – CONFEDERATION LINE CONTIGENCY FUNDING MOTION – FONDS DE PRÉVOYANCE DE LA LIGNE DE LA CONFÉDÉRATION

COMMITTEE RECOMMENDATIONS

That City Council approve the additional budget authority of \$15 million for Project 907143 Confederation Line Contingency, to be funded as described in this motion and on the understanding that the City intends to include and attempt to recover these costs in the dispute resolution process against RTG.

RECOMMANDATIONS DU COMITÉ

Que le Conseil municipal approuve l'autorisation budgétaire de 15 millions de dollars pour le projet 907143 Imprévu – Ligne de la Confédération, qui sera financée par les sources susmentionnées, en supposant que la Ville a l'intention d'inclure ces coûts dans le processus de résolution du litige avec GTR et de les recouvrer avec ce même processus.

DOCUMENTATION/DOCUMENTATION

- 1. Finance and Economic Development Committee report, dated March 3, 2021, (ACS2021-OCC-FED-0009)**

Rapport du Comité des finances et du développement économique daté le 3 mars 2021, (ACS2021-OCC-FED-0009)
- 2. Extract of draft Minutes, Finance and Economic Development Committee, 2 March 2021.**

Extrait de l'ébauche du procès-verbal, Comité des finances et du développement économique, le 2 mars 2021.

3. Extract of draft In Camera Minutes, Finance and Economic Development Committee, 2 March 2021. (held on file with the City Clerk)

Extrait de l'ébauche du procès-verbal à huis clôt, Comité des finances et du développement économique, le 2 mars 2021 (conservé dans les dossiers du greffier municipal)

**Report to
Rapport au:**

**Council
Conseil
10 March 2021 / 10 mars 2021**

**Submitted on March 3, 2021
Soumis le 3 mars 2021**

**Submitted by
Soumis par:
Finance and Economic Development Committee /
Comité des finances et du développement économique**

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Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE File Number: ACS2021-OCC-FED-0009

SUBJECT: MOTION – CONFEDERATION LINE CONTIGENCY FUNDING

**OBJET: MOTION – FONDS DE PRÉVOYANCE DE LA LIGNE DE LA
CONFÉDÉRATION**

REPORT RECOMMENDATION

That City Council approve the additional budget authority of \$15 million for Project 907143 Confederation Line Contingency, to be funded as described in this motion and on the understanding that the City intends to include and attempt to recover these costs in the dispute resolution process against RTG.

RECOMMANDATION DU RAPPORT

Que le Conseil municipal approuve l'autorisation budgétaire de 15 millions de dollars pour le projet 907143 Imprévu – Ligne de la Confédération, qui sera financée par les sources susmentionnées, en supposant que la Ville a l'intention d'inclure ces coûts dans le processus de résolution du litige avec GTR et de les recouvrer avec ce même processus.

BACKGROUND

The Finance and Economic Development Committee, at its meeting of March 2, 2021, met in closed session to receive a briefing Ottawa Light Rail Office staff and Sharon Vogel, the City's external legal counsel, on LRT Stage 1 – Claims Update. Upon resuming in open session, the Committee approved the following motion:

WHEREAS, at its meeting of March 2, 2021, the Finance and Economic Development Committee and other Members of Council received an in camera briefing on the status of the ongoing claims disputes between the City and the Rideau Transit Group (RTG) with respect to the Stage 1 Light Rail Transit Project, as well as the planned next steps towards resolving these disputes which is subject to lawyer-client, contemplation of litigation, and advice to government privilege; and

WHEREAS when the 2012 City Council approved the Ottawa Light Rail Transit Confederation Line Project budget of \$2.13 B, the \$100 million (approximately 4.5% of the combined total) as the project contingency to provide the flexibility to deal with possible cost changes, including legal and technical expert fees, and these project contingency funds have been fully expended due to the nature of City's claims disputes with RTG; and

WHEREAS, as identified in the in camera briefing, the ongoing legal and subject matter technical expertise support and City staff support required to continue to defend the City's interests in the ongoing claims and disputes and the necessary actions associated with ensuring the rectification plan issues are addressed will create an additional pressure of \$15 million on the Stage 1 LRT project contingency budget; and

WHEREAS the City intends to include and seek to recover these additional costs in the dispute resolution process against RTG; and

WHEREAS the City Treasurer and Chief Financial Officer recommends that the \$15 million in funds be provided from the Transit Capital Reserve, given that this project - 907143 Confederation Line Contingency - was refinanced as part of the Development Charges By-law update, with 18% or \$18 million of the total budget identified as the growth-related share of the costs; and

WHEREAS the City Treasurer and Chief Financial Officer further recommends that the growth-related component (18%) of this additional \$15 million also be funded from development charges in the future when the next Development Charges Background Study and By-law are updated, and that \$2.7 million of the \$15 million be funded from development charges on an interim basis until the DC Background study is updated;

THEREFORE BE IT RESOLVED that Finance and Economic Development Committee recommends that City Council approve the additional budget authority of \$15 million for Project 907143 Confederation Line Contingency, to be funded as described in this motion and on the understanding that the City intends to include and attempt to recover these costs in the dispute resolution process against RTG..

DISCUSSION

This above Motion, introduced by Councillor Dudas at the Finance and Economic Development Committee meeting of March 2, 2021, was added to the Committee agenda as an additional item pursuant to Subsection 89(3) of the *Procedure By-law*. It is now before Council for consideration.

RURAL IMPLICATIONS

No specific rural implications are identified in this Motion. Staff will be available at the Council meeting to respond to questions, as necessary.

CONSULTATION

No public consultation was undertaken in relation to this Motion. .

COMMENTS BY THE WARD COUNCILLOR(S)

This is a City-Wide issue.

ADVISORY COMMITTEE(S) COMMENTS

Advisory committees were not consulted on this motion.

LEGAL IMPLICATIONS

At its meeting on March 2, 2022, Finance and Economic Development Committee received an *in camera* briefing from the City's external legal counsel regarding the LRT Stage 1 Claims Update and associated legal implications. These matters will not be reported out as they relate to advice that is subject to solicitor-client privilege.

RISK MANAGEMENT IMPLICATIONS

Staff will be available at the Council meeting to respond to questions, as necessary.

FINANCIAL IMPLICATIONS

In the 2012 report to Council, the funding approved for the \$100 million contingency account was to be allocated from Transit Capital reserve fund account. Subsequently, in the Development Charges Background Study dated March 15, 2019, this project - 907143 Confederation Line Contingency - was refinanced as part of the By-law update with 18% or \$18 million of the total budget identified as the growth-related share of the costs. This funding adjustment was reflected in the Public Transit development charge rate calculation.

If Council approves the increase in the contingency project budget, it would then be Council's intention that the growth-related component (18%) will also be funded from development charges in the future. The proposed \$15 million adjustment in project costs will be fully funded by the Transit Capital reserve account that had been refinanced with development charge revenue in 2019, \$2.7 million of which is on an interim basis until the next Development Charges Background Study and By-law are updated, when the eligible growth-related funding component will be refinanced using development charges. The estimated future funding contribution is \$2.7 million or 18% of the additional funding request.

Even though the budget has increased by \$15 million, there is sufficient development charge funding to cover this increase, in comparison to the originally approved funding and reducing the funding required from Transit reserves.

Table 2 - Revised Funding Sources

	2012 Approved Funding (\$M)	Revised Funding (\$M)
Transit Capital Reserve	100.0	94.3
Development Charges		20.7
Total	100.0	115.0

ACCESSIBILITY IMPACTS

No specific impacts have been identified in the Motion. Staff will be available at the Council meeting to respond to questions, as necessary.

TERM OF COUNCIL PRIORITIES

Staff will be available at the Council meeting to respond to questions, as necessary.

DISPOSITION

Staff will implement Council's decision(s), as directed.

** Note: A correction was made to this report after publication of the Draft City Council Agenda of March 10, 2021, to correct the title of the City Treasurer and Chief Financial Officer in the fifth recital of the Motion rising from Finance and Economic Development Committee. This correction has been made pursuant to the City Clerk's Delegated Authority to correct clerical, spelling, or minor errors of an administrative nature as set out in Schedule C, Subsection 35 of Delegation of Authority By-Law 2020-360.*