



## STAFF REPORT ACTION REQUIRED

### Labour and Training Costs in Construction Procurement

<b>Date:</b>	September 23, 2008
<b>To:</b>	Executive Committee
<b>From:</b>	City Manager
<b>Wards:</b>	All
<b>Reference Number:</b>	TBD

#### **SUMMARY**

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This report provides an overview of the construction activities for 2007 including the cost of construction contracts, breakdown of labour costs (union/non-union) and the value of training and legal issues.

#### **RECOMMENDATIONS**

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It is recommended that this report be received for information purposes

#### **FINANCIAL IMPACT**

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There are no financial implications resulting from this report.

#### **DECISION HISTORY**

At its regular meeting of September 26 and 27, 2007, City Council, received a notice of motion “To support the City of Hamilton in advocating the Province of Ontario to make changes to the *Labour Relations Act 1995*”. City Council referred this motion to the Executive Committee.

At its meeting on October 29, 2007, Executive Committee requested the City Manager to submit an information report to the Executive Committee respecting the cost of construction contracts, including a breakdown of labour cost, union/non-union, the value of training and any legal issues.

## ISSUE BACKGROUND

At its meeting of September 26 and 27, 2007, City Council received a Notice of Motion to support the City of Hamilton in advocating the Province of Ontario to make changes to the *Labour Relations Act, 1995*.

<http://www.toronto.ca/legdocs/mmis/2007/ex/bgrd/backgroundfile-7665.pdf>

<http://www.toronto.ca/legdocs/mmis/2007/cc/bgrd/m132.pdf>

## COMMENTS

The construction industry is highly complex and ranges from the design, development and construction of new large scale public infrastructure to the ongoing repair of existing buildings, plants, sewers, roads and bridges. The City is a significant purchaser of construction services.

The procurement of construction work by the City is usually accomplished through a competitive bidding process, the primary goal of which is to ensure that work is awarded to companies that are qualified to perform the work at the lowest price available in the marketplace. Specifications for the work are provided in order to give all qualified bidders an equal opportunity to bid on and be awarded the work. A broad range of considerations, beyond simply wages and benefits, go into the bids offered by companies competing for City business.

The construction industry is comprised of a wide range of highly specialized craft tradespersons and semi-skilled workers. General contracting firms commonly depend upon a network of sub-contractors to provide specific types of construction services, as a single project will often require integrating the skills of workers from different trades and specializations. While some large construction companies operate in a variety of capacities across different sectors of the construction industry, there are thousands of smaller construction companies that perform work in specialized fields of expertise and/or geographic areas.

The project-oriented and seasonal nature of many forms of construction work results in unique challenges and opportunities for construction workers. These unique characteristics of the construction industry are reflected in the *Labour Relations Act* (“LRA”), which contains an entirely separate and unique set of legal parameters in respect of unionization in the construction industry.

Under the *LRA*, the construction industry is divided into different sectors, including the sewer and watermain, heavy engineering, residential, roads and the institutional, commercial and industrial (“ICI”) sectors. In the ICI sector, collective bargaining is done on a province-wide basis, with both the employers’ association and the various union locals for that trade bargaining as a group. When an employer is certified by the Ontario Labour Relations Board (“OLRB”) for the ICI sector with respect to a particular

construction trade union, that employer becomes bound to the province-wide ICI collective agreement for that union. One of the most important features typically found in the ICI agreements are strong “subcontracting” clauses that require the employer to use unionized workers to perform work that falls within the jurisdiction of that union, whether it performs the work with its own forces or sub-contracts with other companies.

The former Toronto and Metro were bound to certain construction trades and these obligations flowed through to the amalgamated City by operation of provincial law. The City is currently bound to nine construction unions representing: electricians, carpenters, plumbers, bricklayers, painters, glaziers, sheet metal workers, asbestos workers, and ironworkers. The well-established practice at the City of Toronto is to act as a unionized employer in respect of ICI work, but as a non-unionized employer in respect of other sectors of the construction industry. In those other sectors, work must be performed in compliance with the City’s Fair Wage Policy, but need not be performed by union members. In addition, the City has a long established practice of allowing non-union general contractors to bid on and be awarded work, provided that any work within the ICI sector under the jurisdiction of the nine unions is performed by subcontractors who are ‘signatory’ with the applicable union.

The City has had a Fair Wage Policy in place for more than 100 years. One of the central requirements of the policy is to ensure that companies performing work for the City pay workers in accordance with the Fair Wage rate set for that type of work. The Fair Wage rate plays a central role with respect to work that may be performed by non-unionized workers (which includes work that falls outside of the ICI sector, as well as work within the ICI sector, but outside of the jurisdiction of the nine construction unions). Through the Fair Wage Policy, the City has directed companies that are bidding on City work to bid for the work at the best price they are willing to offer, but it must be based on the payment of fair wages being paid to the workers who will perform the work. While it goes without saying that the City could conceivably obtain bids for certain types of work at lower prices by not having a Fair Wage Policy and simply letting the marketplace and provincial laws dictate wages, the Fair Wage Policy reflects the City’s long standing policy direction that workers performing work on City projects be paid at a rate that is fair and appropriate for the work in question.

This report seeks to further explore the interrelationship between the City’s legal obligations to various construction unions, the Fair Wage Policy and the effect of unionization on the cost of construction procurement.

## **Fair Wage Policy and Labour Trades Requirements**

The City requires companies accepting City contracts to meet the requirements of the

- 1) Fair Wage Policy, and
- 2) Labour Trade Contractual Obligations in the Construction Industry Policy.

### **1) Fair Wage Policy**

The objectives of the Fair Wage Policy are to:

- (1) Produce stable labour relations with minimal disruption.
- (2) Compromise between wage differentials of organized and unorganized labour.
- (3) Create a level playing field in competition for City work
- (4) Set standards in the workplace that contractors must meet.
- (5) Protect the public and guard workers from exploitation
- (6) Enhance the reputation of the City for fair and ethical business dealing

The Fair Wage Policy seeks to provide wage protection for workers while working on City contracts. The competition to perform work for the City is often significant, which creates the risk that contractors and sub-contractors would reduce costs (and their bids) by cutting employee wages or paying workers at wage rates that are below the value of the work. The Fair Wage Policy seeks to address this concern by requiring contractors to pay workers in accordance with the Fair Wage schedules. This Policy seeks not only to protect workers, but to level the playing field for contractors; i.e., aggressive contractors are not able to win City contracts by paying workers less than the value of the work assigned and as prescribed by the Fair Wage schedules.

Fair Wage schedules are updated and recommended to Council for approval every three years, based on discussions and endorsement by employee and employer groups, associations, construction unions, organizations and City operating divisions. The City's current fair wage schedules remain at 2003/2004 levels.

### **2) Labour Trades Contractual Obligations Policy**

The Labour Trades Contractual Obligations Policy is a reflection of the City's legal obligations to the nine construction unions that are certified with the City, representing: Asbestos/Insulators, Bricklayers/Stonemasons, Carpenters, Electricians, Glaziers, Iron Workers, Painters, Plumbers, Sheet Metal Workers. If a particular project includes work that falls within the jurisdiction of these unions in the ICI sector, that work must be performed by union members. This is accomplished either by the general contractor assigning the work to members of that union directly or by sub-contracting that portion of the work to companies that are bound to the applicable union. Where work does not fall within the jurisdiction of these unions, it must be performed in compliance with the Fair Wage schedules, but does not have to be assigned to unionized firms or workers.

Under the *LRA*, the construction industry is divided into different sectors, including the sewer and watermain, heavy engineering, residential, roads and the institutional, commercial and industrial (“ICI”) sectors. As required by the *LRA*, collective bargaining in the ICI sector is done on a province-wide basis, with both the employers’ association and the various local’s for that union (eg. electricians) bargaining as a group. When an employer is certified by the OLRB for the ICI sector with respect to a particular construction union, that employer becomes bound to the province-wide ICI agreement for that union. One of the most important features typically found in the ICI agreements are strong “subcontracting” clauses that require the employer to use unionized workers to perform the work that falls within the jurisdiction of that construction union, whether it performs the work with its own forces or engages sub-contractors to do the work.

Prior to amalgamation, both the former City of Toronto and the former Municipality of Metropolitan Toronto were certified under the *LRA* by various construction unions. The former City was certified by eight different construction unions (electricians, carpenters, plumbers, bricklayers, painters, glaziers, sheet metal workers and asbestos workers). Former Metro had also been certified by the electricians, carpenters, plumbers and bricklayers. Most of these certifications date back to the early 1980’s. Pursuant to the *Public Sector Labour Relations Act, 1997* (“Bill 136”) the rights of the construction unions flowed through to the amalgamated City. Following amalgamation, Local 721 of the Ironworkers certified the City in August of 2005.

In all sectors of the construction industry other than the ICI sector, employers may generally bargain directly with the union local in question. However, there are no local collective agreements currently in use by the City of Toronto in respect of the construction industry. The long and well-established practice at the City of Toronto is to act as a unionized employer in respect of ICI work, but as a non-unionized employer in other sectors of the construction industry. In addition, the City has a long established practice of allowing non-union general contractors to be awarded City contracts, provided that work within the jurisdiction of the nine unions to which the City is bound is performed by unionized sub-contractors and/or union members.

Although work falling outside of the ICI sector and/or outside of the jurisdictions of the nine construction unions to which the City is bound may be performed by non-union workers, such work is nevertheless frequently performed by unionized firms. This indicates both that many unionized firms are successfully competing for City contracts, even where there is no union requirement, and, that there is a high rate of unionization in the construction industry, particularly in respect of large-scale construction.

## **City Procurement of Construction (2007)**

The City's procurement practice of open bidding and awarding work to the low bidder is well established. This competitive process is designed to accomplish the equally important objectives of paying the lowest possible price for certain work to be performed on behalf of the public, while also seeking to ensure it is performed by contractors (and workers) qualified to perform that work. The competitive bidding process for public procurement allows any contractor who has the experience and qualifications, the financial capacity for providing payment bonds for the construction contracts and who can meet various legislative requirements, to submit a bid and be given an equal consideration in the award of the contract.

Employers in the construction industry are often either general contractors or trade contractors. General contractors manage construction projects from start to finish. Trade contractors perform work of a more specialized nature and are often sub-contracted by the general contractors to complete particular aspects of a project. In many cases, the majority of hours required to complete a project are performed by the trade contractors, while the general contractor plays the role of overseeing the project and the various aspects of work performed by the sub-contractors. Some general contractors employ virtually no labour directly while others will do some of the work with their own forces.

Construction costs are a function of many factors. Projects differ in size, specialization and location. Projects of the same size may differ substantially in specifications. Similar projects built at different times or in different locations may face shortages or surplus of labour or materials arising from the overall state of the economy and/or industry conditions.

Competitive bidding on construction projects involves inherent uncertainty for each bidder. There are numerous interrelated factors that go into any particular bid, especially in respect of large scale work (such as materials cost, labour, value and pricing of work to be performed by sub-contractors, equipment, supervision, mark-up on return, overhead and return on investment). It is difficult for any particular bidder to predict what the bids submitted by a competitor will be or the rationale that other bidders will employ in offering a price for the work.

Despite the various challenges, the advantage of an open competitive bidding process is that all contractors are considering the same project requirements and design in order to calculate their bids for competition. The City division desiring the work, with the assistance of the purchasing division, provides clear and extensive contract documents of the work required and contractors, in turn, provide the City with a bid that identifies the price at which they are prepared to undertake the work.

Notwithstanding the effort to achieve clarity on the part of the City, the bidding process requires contractors to exercise judgement as to what weight to give to various considerations. The bid price offered by the contractor reflects a contractor's conclusions as to how well the proposed project fits into the overall company strategy as well as the

balance between seeking the chance of greater profit at the risk of not being awarded the contract. Further, a contractor may be more or less willing to perform work for the City based on the local or industry economic conditions, the amount of work the contractor has lined up during the relevant time frame, the availability and pricing of qualified sub-contractors, the complexity, risk or scale of the work and the profitability that is expected from the project (amongst numerous other considerations).

As noted above, the City is a significant purchaser of construction services. Of the \$1.1 billion in all goods and services purchased during 2007, nearly \$561,406,814 was spent on construction related services and procurement. The charts that follow illustrate: the City's construction procurement in various sectors of the construction industry; comparisons of how work is divided between union and non-union firms; comparisons of how much work is assigned to members of the respective unions; breakdowns of work jurisdiction in respect of a few sample projects; an overview of City contributions to various union training funds; and an overview of the number of unionized firms competing for City business.

**Table 1:** City of Toronto Total Construction Contract Cost for 2007 provides a breakdown by designated Construction Sectors. On average, and depending on the construction trade, labour accounts for approximately 33.5% of the total construction cost while 66.5% represents all other costs including; materials, equipment, fuel, rental, administration, supervision, insurance/bonding, finance, overhead, profit, etc.

CONSTRUCTION SECTOR	TOTAL CONTRACT VALUE 2007	TOTAL LABOUR COST (33%)	*ALL OTHER COSTS	% TOTAL CONSTRUCTION COST/SECTOR
Heavy Construction	\$ 35,379,105	\$ 11,675,105	\$ 23,704,000	6%
I.C.I. Construction	\$ 219,168,351	\$ 72,325,556	\$ 146,842,795	39%
Road Building	\$ 187,225,491	\$ 61,784,412	\$ 125,441,079	33%
Sewer & Watermain	\$ 119,632,867	\$ 39,478,846	\$ 80,154,021	21%
<b>TOTAL CONSTRUCTION COST</b>	<b>\$ 561,405,814</b>	<b>\$ 185,263,919</b>	<b>\$ 376,141,895</b>	

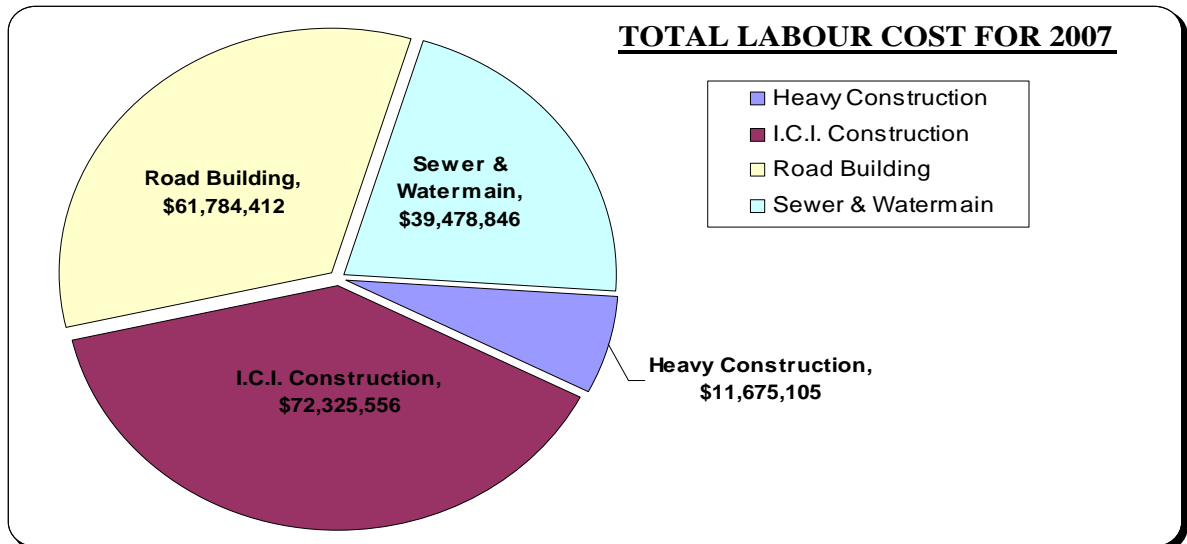
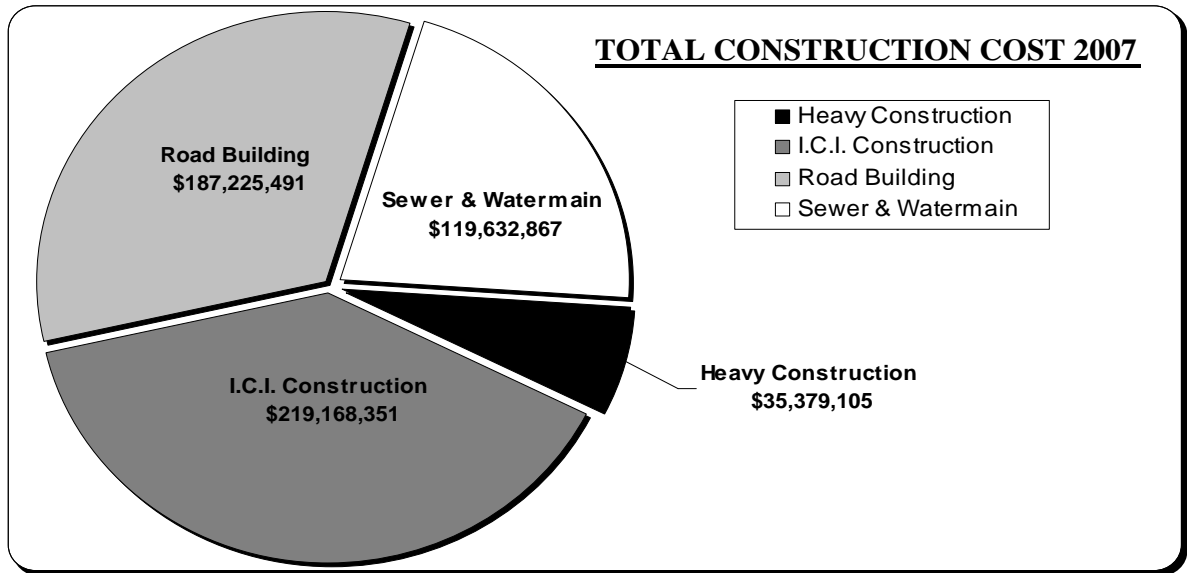




Table 1 demonstrates that more than half of the construction work performed for the City falls outside the ICI sector. As such, approximately 61% of City construction procurement can be performed by either unionized or non-unionized firms.

With respect to the approximately 39% (\$219,168,351) that falls within the ICI sector, it is estimated that the labour component is approximately \$72 million. It is important to note, however, that not all of this labour component falls within the jurisdiction of the City's nine unions. A typical construction contract will also include a significant amount of work that falls outside of the jurisdiction of these unions. The amount of work that falls within the jurisdiction of a particular trade turns on the nature of the work involved. For example, the construction of a new building might result in work that draws upon the skills of most of the craft trades to which the City is bound as well a range of general work of both a skilled and semi-skilled nature. By comparison, a specialized contract (eg. to upgrade the electrical system of a particular building) might draw upon the skills and expertise of a narrower group of contractors and craft trades, with a high concentration of the work being assigned to electricians.

**Table 2.** Union/Non-Union Contract Award 2007

CONSTRUCTION SECTOR	CONTRACT VALUE AWARDED TO UNION FIRMS	CONTRACT VALUE AWARDED TO NON-UNION FIRMS	TOTAL
Heavy Construction	\$ 35,379,105	\$ 0	\$ 35,379,105
I.C.I. Construction	\$ 118,378,994	\$ 100,789,357	\$ 219,168,351
Road Building	\$ 159,625,109	\$ 27,600,382	\$ 187,225,491
Sewer & Watermain	\$ 98,881,609	\$ 20,751,258	\$ 119,632,867
<b>TOTAL CONSTRUCTION COST</b>	<b>\$ 412,264,817</b>	<b>\$ 149,140,997</b>	<b>\$ 561,405,814</b>

73% of Total Constructions Cost Awarded to Union Firms

27% of Total Construction Cost Awarded to Non-Union Firms

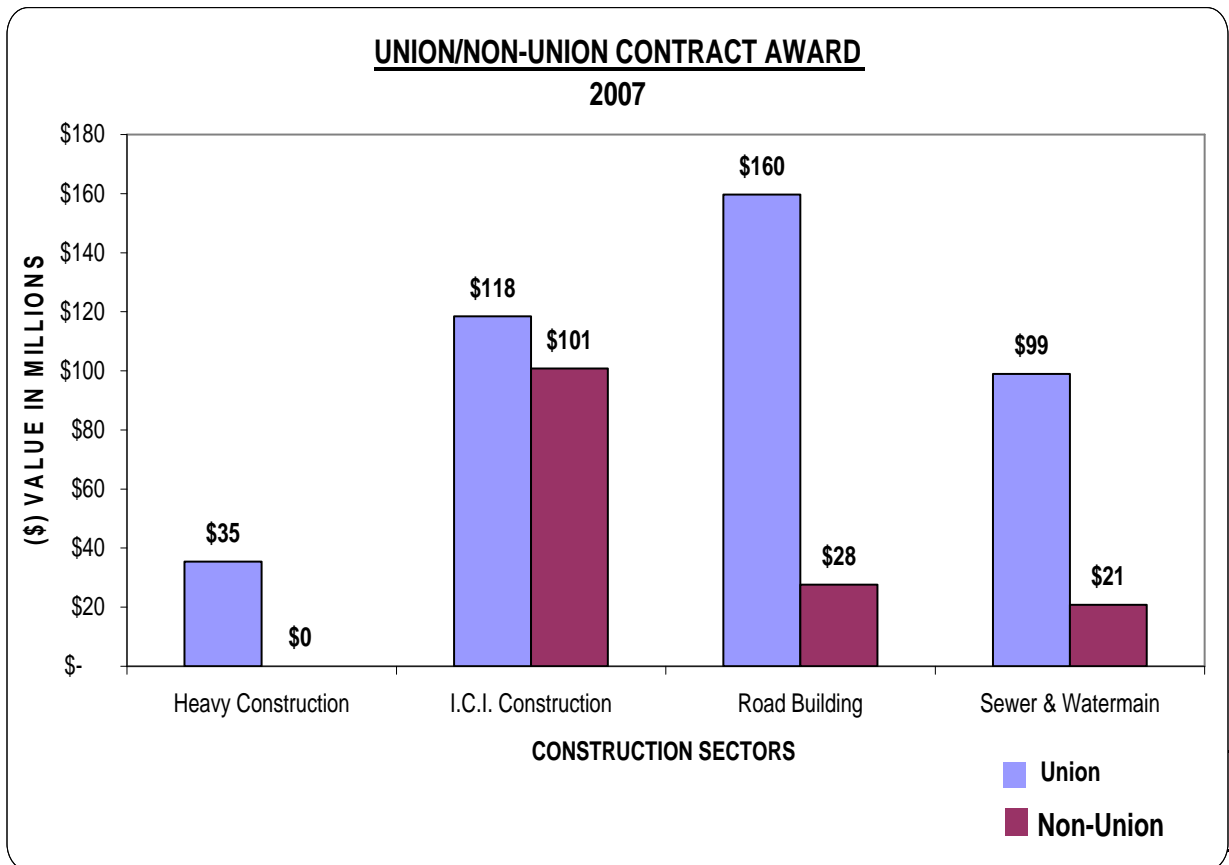


Table 2 indicates that union affiliated firms have won approximately 73% of all work while about 27% was performed by non-union contractors. For work outside of the ICI sector, wages are required to be paid at the Fair Wage rate as a minimum, but the applicable collective agreement rates are almost always higher than the rate set out in the Fair Wage schedule. The fact that work is often awarded to unionized firms leads to a few observations. At a minimum, it suggests that being unionized does not preclude

firms from being able to successfully compete for City work in those sectors. It also reflects the high degree of unionization in these sectors. It also suggests that union-free companies are not always offering to perform the work for a lower price than their unionized competitors, notwithstanding the fact that union-free companies are only required to pay workers at the Fair Wage rate, which is less than the union wage rate.

With respect to the ICI sector, it is conceivable that further competition amongst sub-contractors might have the effect of lowering the prices paid by general contractors to sub-contractors and, thereby, the bid prices received by the City from general contractors. As the City is not privy to the pricing that general contractors received from the trade subcontractors, it is difficult to draw conclusions as to whether general contractors would experience savings from increased competition and/or whether such savings would be passed on to the City.

It is also clear that a significant amount of work in the non-ICI sectors is performed by firms having a collective agreement and is therefore paid at rates that exceed the fair wage rate. This situation is magnified by the fact that the current Fair Wage rates are currently set at 2003/2004 levels and are typically 10 to 12% lower than the rates found in the applicable collective agreements. Further, as the Ontario construction industry has negotiated wages into their collective agreements from 2007 to 2010 with an annual wage increase between 2.5 to 3.5%, the differential between the Fair Wage rate and the rates of pay typically found in collective agreements will grow annually should there be no adjustment in the Fair Wage Schedules.

Ontario's construction industry has been very busy for several years. During such strong economic times, non-union contractors have advised the Fair Wage Office that they must pay rates comparable to union wages in order to attract qualified and skilled workers. It would seem self-evident that workers are unlikely to work at rates that are significantly below prevailing market rates during strong economic times.

**Table 3:** Total Estimated Labour Construction Contract Cost 2007 as applied to the Nine Certified Trades in the I.C.I. Sector of the Construction Industry.

I.C.I. CONSTRUCTION	ESTIMATED TOTAL CONTRACT VALUE	ESTIMATED LABOUR COST 33.5%	ALL OTHER COSTS (MATERIAL, EQUIP. ETC.) 66.5%
Bricklayers/Masonry	\$ 13,814,900.00	\$ 4,627,991.50	\$ 9,186,908.50
Carpenters	\$ 16,341,164.70	\$ 5,474,290.17	\$ 10,866,874.53
Sheetmetal Workers	\$ 6,421,207.44	\$ 2,151,104.49	\$ 4,270,102.95
Plumbers & Steamfitters	\$ 13,386,260.86	\$ 4,484,397.39	\$ 8,901,863.47
Asbestos/Insulators	\$ 1,253,965.00	\$ 420,078.28	\$ 833,886.73
Electrical Workers	\$ 21,975,132.48	\$ 7,361,669.38	\$ 14,613,463.10
Iron Workers	\$ 3,126,691.00	\$ 1,047,441.49	\$ 2,079,249.52
Glaziers	\$ 6,750,858.75	\$ 2,261,537.68	\$ 4,489,321.07
Painters	\$ 3,622,349.62	\$ 1,213,487.12	\$ 2,408,862.50
Combined Certified Trades	\$ 4,943,243.62	\$ 1,655,986.61	\$ 3,287,257.01
<b>TOTAL CONSTRUCTION COST</b>	<b>\$ 91,635,773.47</b>	<b>\$ 30,697,984.11</b>	<b>\$ 60,937,789.36</b>

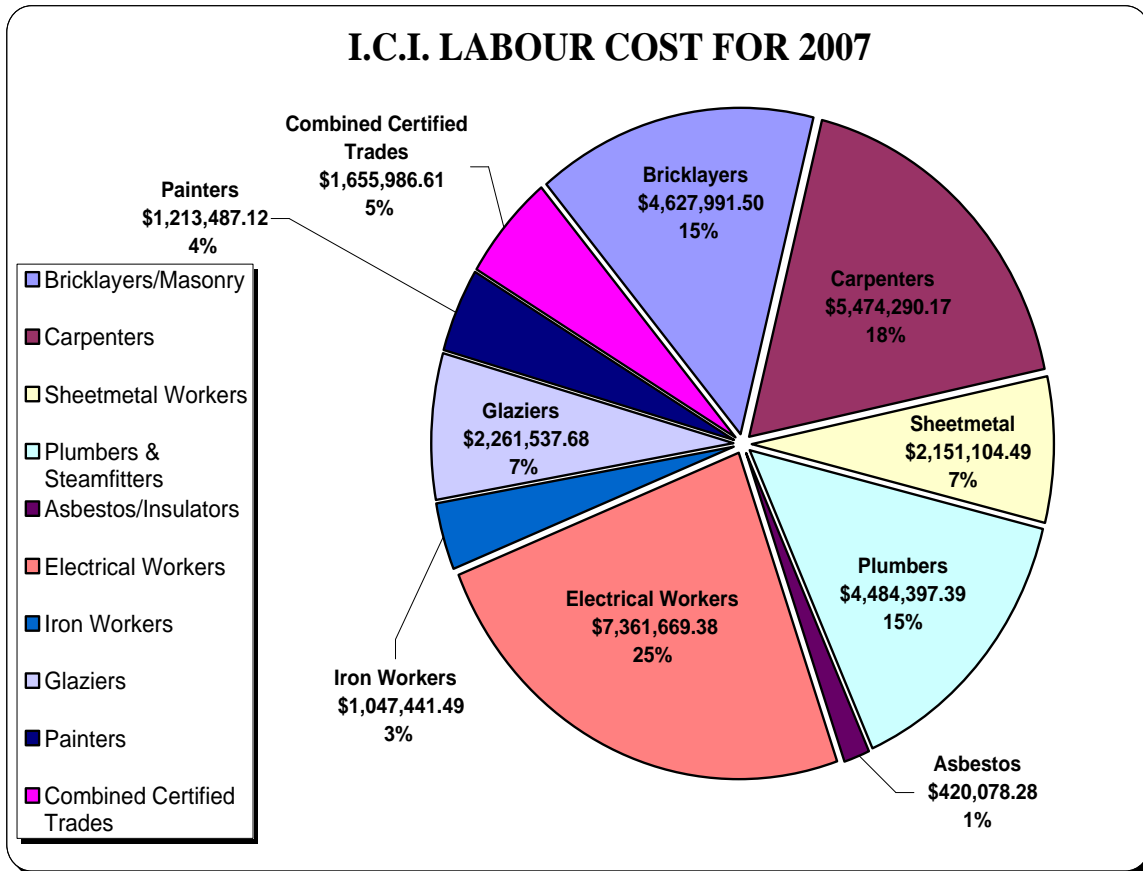


Table 3 is self-explanatory. The table provides an approximated breakdown of the construction work performed on City projects in the ICI sector by the various constructions unions to which the City is bound.

**Table 4:** Demonstrates I.C.I. Certified Trades directly employed by the City of Toronto along with contracted work and the hourly contribution towards Apprenticeship Training for 2007.

TRADESMEN	APPRENTICE-SHIP & TRAINING DEDUCTIONS PER HOUR	CERTIFIED I.C.I. TRADES ESTIMATED LABOUR COAST 33.5%	TOTAL HOURLY WAGE RATE (Journeyman)	I.C.I. TRADES MAN HOURS	ESTIMATED CONTRIBUTIONS CONTRACTED SERVICES IN I.C.I. TRADES	TRAINING CONTRIBUTIONS FOR TRADES EMPLOYED BY THE CITY OF TORONTO	TOTAL APPRENTICE-SHIP TRAINING CONTRIBUTIONS FOR 2007
Asbestos Workers	0.13	\$ 420,078.28	\$ 41.50	10,122.37	\$ 1,315.91	\$ -	\$ 1,315.91
Bricklayers	0.14	\$ 4,627,991.50	\$ 43.41	106,611.18	\$ 14,925.57	\$ -	\$ 14,925.57
Carpenters	0.54	\$ 5,474,290.17	\$ 43.98	124,472.26	\$ 67,215.02	\$ 19,908.52	\$ 87,123.54
Electricians	0.23	\$ 7,361,669.38	\$ 48.73	151,070.58	\$ 34,746.23	\$ 1,776.45	\$ 36,522.68
Plumbers	0.36	\$ 4,484,397.39	\$ 48.99	91,537.00	\$ 32,953.32	\$ 8,149.14	\$ 41,102.46
Painters	0.35	\$ 1,213,487.12	\$ 36.95	32,841.33	\$ 11,494.47	\$ 7,962.85	\$ 19,457.32
Glaziers	0.05	\$ 2,261,537.68	\$ 38.14	59,295.69	\$ 2,964.78	\$ 88.50	\$ 3,053.28
Sheet Metal Workers	0.24	\$ 2,151,104.49	\$ 45.70	47,070.12	\$ 11,296.83	\$ 2,285.28	\$ 13,582.11
Iron Workers	0.13	\$ 1,047,441.49	\$ 44.92	23,317.93	\$ 3,031.33		\$ 3,031.33
Combined I.C.I. Trades (Average)	0.24	\$ 1,655,986.61	\$ 43.59	37,990.06	\$ 9,117.61	\$ -	\$ 9,117.61
<b>TOTAL</b>		<b>\$ 30,697,984.11</b>	<b>\$ 435.91</b>	<b>684,328.52</b>	<b>\$ 189,061.07</b>	<b>\$ 40,170.74</b>	<b>\$ 229,231.81</b>

This chart provides an overview of the mandatory contributions made to training and apprenticeship programs, both through mandatory use of contracted union forces in the ICI sector in respect of employees employed directly by the City. As noted, the City's contribution to these programs amounts to almost \$230,000.00. It is also apparent that the City will have contributed to such training and apprenticeship programs indirectly in the other sectors of the construction industry by virtue of contracting with unionized companies to perform work.

**Table 5:** Number of Employers and Members I.C.I. Certified Trades

CERTIFIED TRADES	LOCAL	GTA BOARD AREA		PROVINCE WIDE	
		No. of Employers	No. of Members	No. of Employers	No. of Members
Asbestos Workers	Local 95	200	1,000	400	2,000
Bricklayers	Local 2	21	850	200	3,500
Electrical Workers	Local 353	400	7,000	800	15,000
Carpenters	Local 27	400	15,000	600-700	20,000
Drywall	Local 675				
Resilient Floor Workers	Local 27				
Caulkers	Local 27				
Iron Workers	Local 721	700	3,600	1,000-1,200	7,000
Painters DC 46	Local 557	80	900	200	1,600
Glaziers DC 46	Local 1819	100	1,000	200	1,600
Plumbers & Pipefitters	Local 46	95	6,000	336	15,000
Sheet Metal Workers	Local 30	198	1,877	429	5,500
<b>TOTAL</b>		<b>2,194</b>	<b>37,227</b>	<b>2,565</b>	<b>71,200</b>

**SOURCE**

Greater Toronto Electrical Contractors Association, Mechanical Contractors Association of Ontario, Federation of Painters and Decorating Contractors of Toronto, Ontario Sheet Metal and Air Handling Group, Ontario Erectors Association Incorporated, Ontario Masonry Contractors Association, Toronto Construction Association, Construction Trades, I.C.I. Construction Trades

This chart shows the number of companies that are unionized with the same construction union locals as the City and that are, therefore, eligible to perform work on City projects. It is apparent that there are a significant number of companies for general contractors to choose from, which would appear to suggest that there is a competitive marketplace. What cannot be certain is whether additional competition would have the effect of lowering prices offered to general contractors and whether further competition would, in turn, have the effect of lowering bid prices by general contractors.

**OVERVIEW**

The information contained in this report leads to a number of observations. It is apparent that less than half of the total construction procurement in 2007 fell within the ICI sector, with roughly 61% falling in the sewer and watermain, roads and heavy engineering sectors. While there is no requirement to perform the work with unionized workers in these other sectors, it is clear that both unionized and non-union firms are able to compete for City business. This reflects both that these sectors are heavily unionized and that larger unionized firms are often the successful bidder for projects procured by the City.

In the ICI sector, it is apparent that roughly half of the work on a typical project will relate to work and expenses that fall outside of the jurisdiction of the City’s nine unions. This percentage fluctuates from project to project based on the work that is to be performed. As approximately 33.5% of projects relate to labour costs, a typical project will result in approximately 17% of total cost being attributable to the payment of wages

to union workers in the nine unions. If one could assume that all of the remaining wages paid on such projects would be paid at the Fair Wage rate (approximately 10% less than unionized rate), as opposed to the collective agreement union rates, and assume that these savings would be passed on to the City in the form of lower bid prices, it is possible there might be savings of approximately 1.7% of the total project costs. However, as the construction industry is highly unionized (as the experience in the non-ICI sectors demonstrates), it is unlikely that all work would be performed by non-union forces. As a result, the savings to be realized by the City may be significantly lower.

There are a large number of factors which go into the bid prices received by the City for construction work. These include: the overall state of the economy generally and the construction industry specifically; the amount of competition existing between companies for the specific type of work to be performed, and for resources including equipment, supplies and qualified workers. A particular interest to the City is to ensure there is a sufficient degree of competition amongst companies bidding for City work. The recent experience in the City of Hamilton appears to reflect the negative consequence of increased prices caused by reduced competition. As a result of the City of Toronto's well-established practice of allowing non-union general contractors to bid for City work (which differs from Hamilton's situation), and operating as a non-unionized employer outside of the ICI sector, the City of Toronto appears to have a healthy level of competition for construction procurement. What is not certain is whether being free of unionization in the ICI sector would lead to further competition amongst sub-contractors and specialized trade contractors and lower prices for the City.

Earlier reports have addressed the mechanics of bringing an application to the OLRB to be declared a non-construction employer. Were City Council to elect to pursue this policy option, it is recommended that the specific facts as they relate to the union(s) in question be gathered and examined in consideration of the prevailing case law in advance of proceeding. It is advised that entering into such a decision would signal a substantial policy shift on the part of the City that warrants significant consideration in advance of proceeding.

## **CONCLUSION**

The savings to the City if it were deemed a non-construction employer appears to be a maximum of 1.7% of the total construction costs in the ICI sector (\$219 million) or a total \$3.74 million. This is assuming that all the savings are passed onto the City in the form of lower bid prices. Furthermore, there is no certainty that the City would be successful in being deemed a non-construction employer, in what would likely be a long and protracted litigation with the nine unions. Given these two factors and the fact that the City is currently in a situation where there exists healthy competition for construction contracts, it is recommended that the City not proceed with an application to the Ontario Labour Relations Board at this time.

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## **SIGNATURE**

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**Shirley Hoy**  
**City Manager**