

Attachment 3

Ministry of Transportation

Ministère des Transports

Office of the Deputy Minister

Bureau du sous-ministre

3rd Floor, Ferguson Block
77 Wellesley Street West
Toronto ON M7A 1Z8
Tel.: 416-327-9162
Fax: 416-327-9185

Édifice Ferguson, 3^e étage
77, rue Wellesley Ouest
Toronto ON M7A 1Z8
Tél. : 416-327-9162
Télééc. : 416-327-9185



Chris Murray
City Manager
City of Toronto
11th Floor, East Tower, City Hall
100 Queen Street West
Toronto, ON
M5H 2N2

Rick Leary
Chief Executive Officer
Toronto Transit Commission (TTC)
TTC Head Office
1900 Yonge Street
Toronto, ON
M4S 1Z2

Chris Rick
Dear Mr. Murray & Mr. Leary:

In recognition of the importance of the Toronto Transit Commission (TTC) subway system to the broader regional transit network, the Government of Ontario has committed to moving forward in developing a plan for assuming responsibility for TTC subway infrastructure. In late August 2018, as a first step in proceeding with this initiative, the government appointed Michael Lindsay as Special Advisor to help deliver on the province's commitment.

The Province of Ontario, the City of Toronto and the TTC have maintained a longstanding partnership with regards to advancing public transit initiatives. With this letter, I would like to confirm the Ministry of Transportation's (MTO's) desire to partner with the city and the TTC in a confidential discovery process, in support of the due diligence and analysis to be conducted by MTO, with the purpose of reaching a joint understanding of the fair valuation of the assets and liabilities encompassing the TTC subway system. This process would involve cooperatively undertaking a comprehensive data-/information-sharing exercise between fall 2018 and winter 2019.

Subject to your agreement, the following key elements, prepared without prejudice, are proposed as forming the basis of the discovery process:

Guiding Framework

Collaboration amongst the "parties" – Mr. Lindsay, and representatives from MTO, the city and the TTC – would be underpinned by a set of governing parameters and principles:

- **Structured Engagement** – A Steering Committee, comprising Mr. Lindsay and senior officials identified by each of MTO, the city and the TTC, would guide the discovery process for conducting an objective, mutually-consented valuation of TTC subway infrastructure. MTO proposes that the Steering Committee would be:
 - Supported by technical working groups, as appropriate, with designates from each of the parties who would provide advice on specific components of the underlying work plan for the discovery process; and,
 - Established by a terms of reference, which would outline in greater detail: the scope of work and intended outcomes resulting from the exercise; the membership and mandate of the Steering Committee and technical working groups; and, the roles and responsibilities of all parties.

- **Discretion & Confidentiality** – In recognition of the sensitive nature of the discovery process, all personnel participating on behalf of the parties would be bound by strict and absolute confidentiality to ensure the integrity and protection of the information that would be exchanged. Furthermore, all city and TTC representatives would be required to execute the attached Non-Disclosure and Confidentiality Agreement prior to participating in the exercise. MTO would also consider executing a reciprocal confidentiality agreement with the city and TTC as needed.
- **Reciprocal Sharing of Data & Information** – MTO would manage and administer a virtual data room, which would enable and facilitate the timely and transparent sharing of information. The data room would be a web-based repository/portal subject to controlled access protocols, with permissions extended solely to those officials designated by the parties.

Following the discovery process, there may be a further review and analysis phase, which we would continue to work on closely with the city and TTC.

If you are in agreement with the above proposal and path forward, I recommend that we convene a meeting to review it in greater depth. My office will work with your respective supports and Mr. Lindsay to schedule the discussion in the coming days.

I look forward to working closely with you on this important initiative in the months ahead, and to continuing to foster a collaborative relationship between our respective organizations.

Sincerely,



Scott Thompson
Deputy Minister of Transportation

Attachment

Cc: Michael Lindsay, Special Advisor to Cabinet – Transit Upload

City Hall
100 Queen Street West
East Tower, 11th Floor
Toronto, Ontario M5H 2N2

Tel: 416-392-3551
Fax: 416-392-1827
chris.murray@toronto.ca
www.toronto.ca

November 8, 2018

Scott Thompson
Deputy Minister of Transportation
3rd Floor, Ferguson Block
77 Wellesley Street West
Toronto, Ontario M7A 1Z8

RE: TTC Subway Infrastructure

Dear Mr. Thompson,

Thank you for your letter of October 24th, 2018 and subsequent meeting on November 5th, 2018 regarding the Province's desire to partner with the City of Toronto and Toronto Transit Commission (TTC) in a formal valuation of the assets and liabilities encompassing the TTC subway system. The City understands the Government of Ontario has committed to developing a plan for assuming responsibility for TTC subway infrastructure, and is interested in proceeding with a discovery process over the next several months.

As discussed, in May 2018, City Council has taken the position that the City of Toronto "...should continue to own, operate and maintain the Toronto subway system and that transit within the City of Toronto should not be uploaded or otherwise transferred, in whole or in part, to the Province of Ontario".¹ Accordingly, a report to the new term of City Council is required to advise on the Province's proposal, and to seek Council direction and authority to continue this important dialogue.

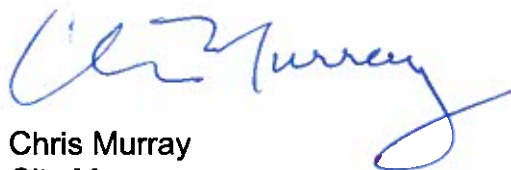
Per our meeting, the City understands the Province has a primary interest in accelerating the construction of subway infrastructure expansion and is of the view that the subway infrastructure is an asset of regional value. The information provided during the course of our meeting with respect to the Province's overarching goals and objectives, information requirements, and timelines will inform our future discussions with City Council and the TTC Board. As two orders of government, a clear and transparent process for evaluating the proposal should be jointly determined. We welcome further discussions on a recommended joint approach.

¹ MM41.36 - Keeping Toronto's Transit in Toronto's Hands.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.MM41.36>

With respect to the specific requests outlined in the October 24th letter on data/information sharing and confidentiality provisions, the City is of the view that Toronto-Ontario Cooperation and Consultation Agreement (TOCCA)² continues to provide an appropriate framework.

The TTC provides an important service—connecting the diverse communities of Toronto to economic and social opportunities through an integrated network of subway, bus, streetcar and Wheel Trans services. An accessible and robust network that supports current demand and the future growth of Toronto and the region is critical to achieving our shared objective of keeping people moving. The City and TTC look forward to a continued constructive dialogue with the Province, in order to ensure the needs of transit riders and the communities we serve are met.

Sincerely,



Chris Murray
City Manager
City of Toronto



Richard J. Leary
Chief Executive Officer
Toronto Transit Commission

Cc: Michael Lindsay, Special Advisor to Cabinet – Transit Upload

² <http://www.mah.gov.on.ca/Page9507.aspx>

Ministry of
Transportation

Office of the Minister

Ferguson Block, 3rd Floor
77 Wellesley St. West
Toronto ON M7A 1Z8
416 327-9200
www.ontario.ca/transportation

Ministère des
Transports

Bureau du ministre

Édifice Ferguson, 3^e étage
77, rue Wellesley Ouest
Toronto ON M7A 1Z8
416 327-9200
www.ontario.ca/transports



NOV 29 2018

His Worship John Tory
Mayor
City of Toronto
City Hall, Second Floor
100 Queen Street West
Toronto ON M5H 2N2

Dear Mayor Tory:

Thank you for taking the time to speak with me last week to discuss our shared priorities on improving and expanding transit in Toronto and the Greater Toronto and Hamilton Area (GTHA). Further to our conversation, the Government of Ontario acknowledges that the Toronto Transit Commission (TTC) subway system is a significant component of the broader regional transportation network that spans the municipal boundaries of the GTHA. However, little progress has been made over the past decade in building vital new transit infrastructure in Toronto, due in large part to challenges experienced by the city/ TTC in advancing projects through municipal approvals, and in delivering major initiatives on-time and on-budget. Furthermore, conflicting city council priorities has led to perpetual paralysis in the funding and decision-making related to much-needed transit capital expansion.

In light of these realities, the province is committed to moving forward in the development of a plan to assume responsibility for components of the TTC subway system (that is, the "upload"). To this end, the Premier appointed Michael Lindsay as "Special Advisor" to work with the City of Toronto to proceed with the upload initiative.

Based upon preliminary analysis, we believe that an upload would generate the following benefits to transit riders and residents of the GTHA:

- Expedited implementation of a greater number of priority regional transit projects, made possible by the province's ability to accelerate procurement, permitting and approvals, and to effectively undertake capital construction;
- An enhanced ability to plan a more efficient regional transit network across the GTHA, with improved connectivity achieved, for example, through fare and service integration; and,
- A greater fiscal flexibility to fund and deliver additional transit projects, and to address essential deferred maintenance needs, which would be effected through amortized provincial capital expenditures on owned assets.

In order to realize these benefits, our government views the City of Toronto and TTC as key partners, now and in the future, to execute the upload plan. Underlying this arrangement are the following statements of good faith from the province's perspective:

- The relationship between the province and city would continue to be collaborative, in joint pursuit of the advantages under the upload;
- The long-term funding model would seek to ensure fiscal prudence and due regard for the taxpayers of Toronto and the province; and,
- The TTC would retain responsibility for the day-to-day operations and maintenance of the subway system.

I understand that provincial and city/TTC officials have held initial meetings to discuss the collective next steps. Moreover, I gather that these conversations have focused on partnering in a confidential discovery process that would involve the reciprocal sharing of data and information, along with subsequent review, analysis and due diligence work to be conducted by MTO. Such an exercise is intended to yield a joint understanding of the following:

- The fair valuation of the assets and liabilities encompassing the subway system;
- The TTC's current backlog of deferred maintenance on subway assets; and,
- The costs to operate the subways, disaggregated from the bus/streetcar network.

We are cognizant that collecting and analyzing will incur costs and are amenable to paying for any third-party expertise required to assist us in this exercise. We cannot let the costs associated with this vital sharing of data become a barrier that would unnecessarily delay the upload and new subway builds that go along with it.

With all of this in mind, I am requesting your support to confirm that the city and TTC will actively participate in the discovery process with the province, thereby making available, on a confidential basis, the aforementioned TTC subway system data and information. More specifically, I am seeking your consent in writing by December 13, 2018 to proceed with the cooperative exercise - and confirmation of your direction to officials to share relevant data pertaining to the value and condition of TTC assets, as well as the costs of TTC subway operations.

Finally, consistent with the overarching intention of accelerating key subway projects in Toronto – and in addition to the \$150 million in committed provincial planning funding – I would propose that we assemble an Ontario-Toronto team, with representatives from Metrolinx, Infrastructure Ontario, the city and the TTC, to examine how best to advance the design and delivery of the Downtown Relief Line. In recognition that the TTC's Line 1 capacity issues are reaching a critical point, I know we both agree that work must be undertaken as quickly as possible to pursue the Downtown Relief Line as a core infrastructure solution in Toronto. As such, I would suggest that provincial officials engage city/TTC officials in the coming weeks to explore this concept further before mutual province-city agreement is sought on the path forward.

Thank you for your consideration, and I look forward to hearing back from you on this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Yurek', written in a cursive style.

Honourable Jeff Yurek
Minister of Transportation

- c. The Honourable Doug Ford, Premier of Ontario
The Honourable Steve Clark, Minister of Municipal Affairs and Housing
The Honourable Monte McNaughton, Minister of Infrastructure
Scott Thompson, Deputy Minister of Transportation and Deputy Minister of Infrastructure
Michael Lindsay, Special Advisor to Cabinet – Transit Upload



John Tory
Mayor

November 30, 2018

Chris Murray
City Manager
11th Floor, East Tower, City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Dear Mr. Murray,

I am sending you correspondence I received yesterday from Transportation Minister Jeff Yurek regarding the Toronto Transit Commission (TTC).

It is my hope that this new information and its implications be brought to City Council at the earliest opportunity along with any other relevant information.

I firmly believe that any actions taken with regard to our subway system need to be in the best interests of the people of Toronto, including transit riders and employees, and that Toronto must be completely involved and fully consulted as Premier Ford previously indicated would be the case.

We know that the subway upload was a campaign pledge of the Progressive Conservatives in the last election and that the government has now indicated its determination to proceed with this initiative. Minister Yurek has requested that the City and TTC participate in an information sharing exercise.

I believe subject to clear conditions, that the City's participation in this exercise is the best way to protect our TTC system. First and foremost, such participation will allow us to form a detailed understanding of exactly what "uploading" means since at present, the only preliminary sense we have of that comes from the attached letter, and it contains very few details.

.../2

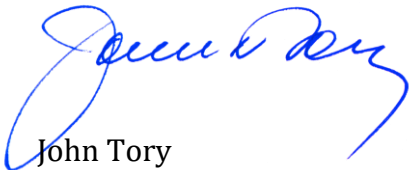
It is also my hope that this process will further assist the City in allowing us to establish the value of our TTC assets so that if anything is done which affects them we will be able to ensure fair and beneficial financial treatment for City of Toronto residents.

I believe we will not be able to obtain this clarity on exactly what "uploading" is and what the financial and other implications of such an action would be unless we participate in some kind of process similar to what is proposed. In fact, assuming we can agree on reasonable conditions defining such a process, it could even be argued this kind of process forms part of the discussion and consultation we insisted upon, including me personally.

Notwithstanding the above, I understand some will say the City should simply respond to the province by refusing to take part in such an exercise. I would request that your report to Council include an explanation of what risks such a response carries, legal and otherwise.

Thank you for your assistance with this matter.

Sincerely,



John Tory
Mayor of Toronto

Encl.