



Engagement with the Province on Toronto's Transit System – Q1 2019 Status Report

Date: March 7, 2019

To: City Council

From: City Manager

Wards: All

SUMMARY

The Province of Ontario has proposed to "upload" the City's subway infrastructure. In December 2018, City Council considered item *CC1.6 - Engagement with the Province on Toronto's Transit System*, and authorized the City Manager, in consultation with the Chief Executive Officer, Toronto Transit Commission (TTC), to negotiate a joint Terms of Reference (ToR) to guide a discussion and information exchange process between the City and Province, subject to inclusion of the following:

- jointly agreed upon objectives which give consideration to the City's Guiding Principles (CC1.6 – Attachment 2);
- an evaluation of potential models and other policy options, including a comprehensive assessment of the potential risks, liabilities and implications; and
- the inclusion of a public consultation process which results in a meaningful exchange of concerns and/or opportunities raised in a transparent manner.

On February 12, 2019, a joint ToR between Toronto and Ontario was finalized that satisfies the conditions of Council identified in CC1.6 (see Attachment 1). In particular, the ToR outlines a process to evaluate a range of options. This includes options that do not contemplate a transfer of assets, but explore a realignment of responsibilities. In line with existing Council direction, City staff have begun engaging with the Province in accordance with the process described in the ToR.

This report responds to City Council's request for a report back in Q1 2019, and includes details of the process (i.e. the Review), the range of options/models included in this Review, public consultation process, and identifies the required resources to complete the work.

This report was prepared in consultation with the Chief Executive Officer of the TTC.

RECOMMENDATIONS

The City Manager recommends that:

1. City Council allocate \$2,000,000 from the Capital Financing Reserve Fund XQ0011 to provide funding for additional staff and third-party advice and services required to support engagement with the Province, including one "Solicitor 3" FTE staff position (\$134,395.81) on a one-year contract basis.
2. City Council direct the City Manager to seek full cost-recovery from the Province for third-party services, City / TTC staff-time, and any other resources employed arising from the City's participation in this engagement with the Province.
3. City Council authorize the City Manager to, at his discretion, release to the Province confidential information deemed within the scope of this Review and contained in confidential reports and attachments previously before Council and its Committees, subject to the Province entering into a confidentiality agreement for the release of the information and/or data.
4. City Council forward this report to the Toronto Transit Commission Board for its information.

FINANCIAL IMPACT

The City Manager will, within existing authority, retain third-party advice and support as required on matters such as provincial accounting requirements, valuation of assets, real-estate valuation, public consultation, management and research activities, and management and coordination services for the Expert Advisory Panel to be provided by the Institute on Municipal Finance and Governance. One "Solicitor 3" FTE staff position in Legal Services will also be hired on a one-year contract basis to provide legal support throughout the duration of this Review.

Total funding for activities and advice to support Stage 1 of the Review is currently estimated at \$2.0 million and will be allocated from Capital Financing Reserve Fund XQ0011. The City will be seeking full cost recovery from the Province for its expenditures to engage in this Review, including the cost of temporarily re-assigned City and TTC staff to a dedicated internal project team to support the City in these discussions.

The City Manager will report back to City Council to request additional funding to support subsequent stages of this process, as required.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting of May 22, 2018, City Council considered *MM41.36 Keeping Toronto's Transit in Toronto's Hands*, which stated "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", and that transit within the City should remain publicly owned through the TTC.

Report Link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.MM41.36>

At its meeting of December 13, 2018, City Council considered *CC1.6 Engagement with the Province on Toronto's Transit System*, which reaffirmed its support for keeping the TTC in the City of Toronto, while authorizing the City Manager to negotiate a joint Terms of Reference for a discussion with the Province having regard to the City's Guiding Principles, an evaluation of potential models and other policy options, and the inclusion of a meaningful public consultation process. Council further authorized the City Manager to engage in the discussion with the Province based upon the joint Terms of Reference, and requested the City Manager to report to Council in Q1 2019 with an update on the process.

Full Report Link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CC1.6>

Attachment 2 - Guiding Principles:

<https://www.toronto.ca/legdocs/mmis/2019/cc/bgrd/backgroundfile-122443.pdf>

ISSUE BACKGROUND

In May and December 2018, City Council passed resolutions stating a position that ownership of the Toronto Subway System should not transfer to the Province of Ontario. The subway system forms a critical part of an integrated and co-ordinated multi-modal network, with customers having access to seamless connections within the system. This integrated network serves approximately 530-million riders annually; approximately 85 percent of the Greater Toronto and Hamilton Region's transit riders.

Through the provincial government's election platform, the engagement of a Special Advisor to Cabinet (August 2018), public statements, and formal correspondence to the Mayor and City Manager, the Province has indicated a desire to "assume responsibility for subway infrastructure from the City, including the building and maintenance of new and existing subway lines" and to engage with the City in a discovery and information exchange process to that end.

In December 2018 City Council considered the report CC1.6, which provided authority to the City Manager and CEO TTC to negotiate a joint Terms of Reference with the Province. Subject to the completion of a joint ToR, the City Manager was authorized to

engage with the Province. This authority was subject to a ToR that addressed specific terms and conditions:

- “a jointly agreed upon set of objectives which give consideration to the City's following principles set out in Attachment 2—Guiding Principles”;
- “an evaluation of potential models and other policy options, including a comprehensive assessment of the potential risks, liabilities and implications, to achieve both the Province and City objectives; and
- “the inclusion of a public consultation process which results in a meaningful exchange of concerns and/or opportunities raised in transparent manner”.

The City Manager and CEO TTC have worked with the Province to develop a Terms of Reference that reflects the direction provided by Council, and that establishes how the two orders of government will engage in this matter. The City Manager and CEO TTC finalized the Terms of Reference on February 12, 2019 (Attachment 1 to this report), which includes the conditions set forward by Council.

Please see the section "Background" in Attachment 1 – Terms of Reference for full history on this issue.

COMMENTS

The Terms of Reference provides the framework for engaging in a discussion with the Province on alternative models and how to best align responsibilities for transit in Toronto. The ToR does not represent an agreement to implement any particular realignment option, including the province's proposed "Upload" option.

1. Objectives and Principles

City Council directed the City Manager to ensure the parties establish a set of jointly agreed upon objectives, which give consideration to the City's Guiding Principles reflected in CC1.6 – Attachment 2.

The ToR outlines the following objectives for the joint review:

- The accelerated implementation of priority expansion projects;
- The integration of transit services across modes and agencies (e.g. TTC, Metrolinx, other 905 transit agencies);
- The modernization and enhancement of the existing subway system, while ensuring the system is maintained in a state of good repair;
- The continuity of safe, reliable service to all residents whom depend on it for mobility; and
- A long-term sustainable, predictable, funding model for the existing transit system and future transit needs.

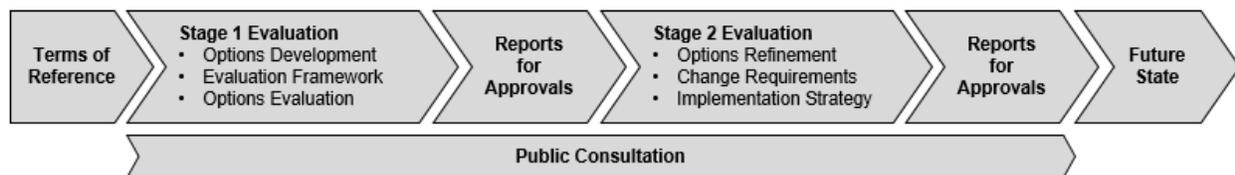
The City's Guiding Principles are reflected in the Objectives & Principles in the ToR and will guide both the City and the Province throughout the overall review and engagement

process. The City's Guiding Principles will also be incorporated into the evaluation framework for assessing potential realignment options.

2. Evaluation of Options

City Council directed that the ToR should provide for an evaluation of a range of potential models and other policy options in addition to the Province's proposed "upload" model. The evaluation should also consider a comprehensive assessment of the potential risks, liabilities and implications to achieving both parties' objectives, as articulated above.

Over the next few months, the City and Province will jointly undertake a two-stage options definition, evaluation and refinement process. Stage 1 consists of defining and evaluating a finite set of options, including models that do and do not contemplate the transfer of assets. At the end of Stage 1, staff will report to Council with a recommendation on the options evaluated, and seek direction on the option(s) to proceed to Stage 2 of the evaluation.



A formal timeline for the evaluation is currently being developed in collaboration with the Province. Activities are expected to proceed rapidly, reflecting the desire of the Province to introduce legislation as early as Q2 2019.

Stage 1- Evaluation of Potential Options/Models

The ToR describes a joint evidence-based evaluation process through which a number of potential models for realigning transit responsibilities will be evaluated by the City/TTC and Province that will include:

1. The proposed "upload" model, in which the Province would assume ownership of, and responsibility for, subway infrastructure from the City, including the building and maintenance of new and existing subway lines, while the responsibility for day-to-day operations, including labour relations, remains with the City.
2. Other options that consider the potential transfer of asset ownership from the City to the Province (e.g., the Province assumes ownership of, and responsibility for, new transit expansion projects only, etc.).
3. Options that do not consider the transfer of assets, but include a realignment of responsibilities (e.g., the Province assumes responsibility for the delivery of new transit expansion projects, etc.).

The City/TTC and Province are currently in the process of defining the options to be jointly evaluated. The City has identified three option streams that address the joint

problem statement in the ToR. These streams are generally described below and will be proposed to the Province:

- **Stream 1 – Provincial Ownership of the Subway Network/ the "Upload":** The Province takes ownership of and responsibility for the subway network and all subway assets. The Province, as owner, assumes responsibility for funding and delivery of all new and planned capital projects, including maintenance. The TTC would continue to operate the full network, collect and retain fare box revenues, and set all operations policy.
- **Stream 2 – Provincial Ownership Role in Subway Expansion Only:** Options where the City/TTC maintain full ownership of the existing subway network. All subway transit expansion projects would be done as joint ventures between City/TTC and the Province, with a variety of potential ownership options including:
 - Province fully owns and delivers new subway lines, not including extensions to existing lines (i.e. Crosstown LRT model);
 - Joint ownership of all subway expansion components; and
 - Province fully owns all subway expansion components, including extensions to existing lines.

The TTC would continue to operate the full network, collect and retain fare box revenues, and set all operations policy.

Stream 3 – Realignment of Transit Responsibilities: Options that would be defined by a broader realignment of transit responsibilities, including governance, funding, transit service integration, and transit expansion planning and project delivery. A realignment may or may not include changes to asset ownership. Options in this stream would include examination of dedicated transit funding tools and governance changes required to support integration and collaboration across the region.

The final list of options to be evaluated as part of this exercise will be jointly developed with the Province and give due consideration to all options that have the potential to meet the objectives and problem statement identified in the ToR.

Option definition will include, at a minimum, the scope and distribution of risks and liabilities under consideration, and an identification of both functional and funding roles and responsibilities (i.e. who does what and who pays for what).

Each option will be assessed against a joint evaluation framework, which will include the following (non-exhaustive) considerations:

- achievement of objectives;
- financial and operational implications;
- risks and impacts;
- feasibility/implementation considerations;
- governance implications; and
- other considerations (i.e., City's Guiding Principles).

The City's Guiding Principles (CC1.6) will be foundational to the evaluation of the impacts, risks, and benefits under each option being evaluated. The evaluation process will include consideration of the potential customer/user and employee impacts, and define how input received through the public consultation process will be integrated.

Following the evaluation of options, City staff will report back to City Council on the results of Stage 1 analysis. The report will identify the option(s) to be carried forward to Stage 2, including the risks and benefits. This report back is anticipated for Q2 2019.
Stage 2- Design of End State

Subject to Council direction, Stage 2 of the exercise would be to undertake refinement of the option(s) carried forward. This stage would include defining the specific responsibilities of the parties to inform future governance decision-making and funding frameworks. The Province has indicated that a review of existing intergovernmental funding transfers for transit may be included as part of this process.

Stage 2 would also include further definition of the specific design characteristics of the end state to enable both parties to optimally fulfill their respective roles/functions and responsibilities. Measures to mitigate risks in the end state option will also be addressed. At the conclusion of Stage 2, a report back to respective governing bodies will be required that will discuss the next steps in the process and obtain the required municipal and provincial approvals prior to proceeding further.

3. Public Consultation

City Council requested the Terms of Reference to include a public consultation process which results in a meaningful exchange of concerns and/or opportunities associated with the scope of the review.

The Terms of Reference acknowledges “that meaningful public consultation is a required input to effective decision-making. To that end, during the process, the parties will conduct consultation with the public, including other key stakeholders.” The City will undertake public consultation throughout the duration of the Review and has developed a consultation plan to ensure meaningful input is obtained. City staff will work collaboratively with the Province to undertake joint consultation activities where appropriate.

The objectives of the public consultation to support Stage 1 of this review will be to:

- Establish with the public a baseline understanding of the Review, including the current state of transit responsibilities between the City and Province, options under assessment and evaluation framework, and timelines for the Review;
- Obtain public input and feedback on the options to inform the Review; and
- Obtain public input and feedback on the evaluation process to inform the Review. The City's Guiding Principles (CC1.6) will be a key input into development of the proposed evaluation framework.

The public and key stakeholders will be engaged through a variety of methods to ensure the widest possible reach and inclusion of Toronto's diverse communities. Methods will

include, but are not limited to public meetings, tele-town halls, webinars, pop-ups, and online engagement (surveys, website, etc.). Third party research services may also be retained to undertake public opinion polling to inform staff analysis. Dedicated pages on the City's website (www.toronto.ca) will be launched shortly to keep the public informed.

The City will also establish an Expert Advisory Panel to obtain input and feedback on best practice in key areas. These areas include: transit operations and service delivery, public governance and finance, social impact analysis, land-use planning and transit oriented development, corporate finance, and labour relations. The City intends to engage the Institute on Municipal Finance and Governance (IMFG) at the University of Toronto for advice and support in establishing the Expert Advisory Panel. The Panel will be appointed by the City Manager, in consultation with the CEO TTC, and will report to the City Manager. The selection process for panel members will include consideration to ensuring balanced representation from Toronto's diverse communities.

A summary of the public consultation activities that will be undertaken is provided in Table 1 below. The consultation plan and activities for subsequent stages of the Review will be included in future reports back.

Table 1: Summary of Engagement Activities

| Activities | Description |
|---------------------------------------|---|
| Public Meetings | <ul style="list-style-type: none"> • Four public meetings- one in each community council district • Open-house style meeting with presentation • Provide information and updates regarding the Review • Feedback will be collected on comment forms • Attendees will also be directed to online survey |
| Tele-Town Hall and Series of Webinars | <ul style="list-style-type: none"> • Call-in/Dial-out public meeting and staff webinars and Q&A sessions • Educate/promote awareness of the Review and answer questions • Easy way for people to tune-in from any location |
| Third Party Research | <ul style="list-style-type: none"> • Third party research support to undertake statistically valid public opinion research • Methods to be employed by third party researcher may include online survey and other methods to be jointly determined |
| Online Survey | <ul style="list-style-type: none"> • Online survey to be hosted on Toronto.ca webpage to collect public input and feedback |

| Activities | Description |
|-----------------------|---|
| Pop-Ups | <ul style="list-style-type: none"> • A series of pop-up information booths in public spaces (e.g. markets, subway stations) to educate/promote awareness of the Review, potential changes, and direct public to other methods of engagement (e.g., online, public meetings, etc) |
| Expert Advisory Panel | <ul style="list-style-type: none"> • Skills-based expert panel to obtain objective feedback and advice based on international best practice on range of areas • Appointed by the City Manager in consultation with CEO TTC |

4. Project Governance and Oversight

A joint project steering committee has been established with the Province with membership from both parties as described in the ToR. The steering committee meets on a bi-weekly basis, with technical sub-committees on topics such as the options assessment and opportunities to advance transit expansion projects meeting more frequently.

Information and Data Sharing

A shared inventory of records will be established to facilitate the process and establish common understanding of facts and data to support informed decision-making. The City received an initial information request from the Province in mid-February, and is in the process of evaluating and responding to this request. In late February, the City submitted its preliminary request for information from the Province, covering topics such as information or documentation relating to provincial definition of the TTC Subway Assets considered as part proposed "upload" scenario, any analysis completed to-date on benefits to be realized through "upload", any analysis conducted on best practices related to delivering transit infrastructure, and clarity regarding intergovernmental funding programs in the context of this discussion.

Some of the documents requested by the Province include confidential reports and attachments previously before Council and its Committees. As Council approval is required to release such information, this report recommends that the City Manager be authorized to do so, subject to the Province entering into a confidentiality agreement for the release of the information and/or data.

Internal and External Resources

The City and TTC have established a dedicated team of staff with technical competencies required to support the City's participation in the joint process with the Province. Technical expertise in intergovernmental relations, corporate finance, transit service planning, transit operations, city planning, real estate, and legal, are being assigned to ensure that the City's key objectives and interests are protected throughout

this process. Staff are also recommending that a temporary lawyer position be added to the 2019 Legal Services Operating Budget in order to ensure that a dedicated lawyer can be provided to support these negotiations. This technical team and the Expert Advisory Panel described above will provide advice to the City-TTC Executive Team.

Additionally, the City will be retaining third-party advice and services as necessary, including on matters related to provincial accounting requirements, an independent valuation of the subway assets and related real estate, public consultation, and management and research support.

Summary

Establishment of the Joint Terms of Reference with the Province initiates a review of the current alignment of roles and responsibilities in planning, funding and delivery of transit services in the City of Toronto.

As detailed in this report, dedicated resources from across the City and TTC are being assigned to ensure the City's interests and objectives as identified in the Guiding Principles are reflected throughout this review. City staff will continue to report back to City Council as necessary, including at the conclusion of Stage 1 of this review.

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SIGNATURE

Chris Murray
City Manager

ATTACHMENTS

Attachment 1 – Province of Ontario-City of Toronto Realignment of Transit Responsibilities Review – Terms of Reference