



**STAFF REPORT  
ACTION REQUIRED  
with Confidential Attachment**

**Upgrading City Infrastructure During Construction Of  
The Metrolinx Rapid Transit Program**

<b>Date:</b>	June 18, 2013
<b>To:</b>	Executive Committee
<b>From:</b>	Deputy City Manager, Cluster B
<b>Wards:</b>	All
<b>Reason for Confidential Information:</b>	This report involves the security of property belonging to the City or one of its agencies, boards, and commissions.
<b>Reference Number:</b>	

**SUMMARY**

In 2012, Toronto City Council authorized the City to enter into a Master Agreement for the implementation of a Provincially-funded Toronto light rail transit program, which agreement the City signed with the TTC and Metrolinx (the "Master Agreement").

This report seeks authorities that will permit the City to coordinate its own infrastructure projects with the first phase of Metrolinx's Toronto light rail transit program (the "Transit Program") to avoid multiple construction disruptions in the same location and to capitalize on any cost savings that may be available.

Toronto Water and Transportation Services have identified a preliminary list of capital projects that Metrolinx could construct for the City in the course of construction of the Transit Program. The estimated cost of this list of capital projects is included in the confidential attachments to this Report (the "Confidential Information"). The City may identify other opportunities to coordinate City infrastructure projects with Metrolinx as the latter provides the City with more information pertaining to the scope and schedule of the Transit Program, including City infrastructure that will be impacted by transit construction.

Metrolinx is utilizing the services of several contractors, including one that will design, build, finance, and maintain the Transit Program in accordance with a concession agreement that follows the Provincial alternative financing and procurement ("AFP") model. A request for proposals ("RFP") will be issued by Metrolinx this Fall to select a contractor (the "AFP Contractor"). Accordingly, the City must move quickly to incorporate its requirements for additional infrastructure in the RFP.

This report also outlines the process that City divisions will subsequently follow through consideration of annual capital budgets, to seek funding for City infrastructure projects which the City wishes to have Metrolinx undertake as part of the coordination of capital projects.

## **RECOMMENDATIONS**

### **The Deputy City Manager, Cluster B, recommends that:**

1. City Council, with respect to the Metrolinx procurement process to retain the AFP Contractor:
  - a. Authorize the Deputy City Manager, Cluster B, to request Metrolinx to include new and upgraded City infrastructure as set out in Appendices A-1, A-2 and C to this Report (the "Recommended Additional City Infrastructure") in its RFP for the Transit Program, as provisional or optional items for which separate competitive pricing is to be provided and with which the City can determine if it wishes to proceed, all in accordance with the terms of the Master Agreement.
  - b. Authorize the Deputy City Manager, Cluster B, following selection by Metrolinx of the AFP Contractor, to identify and approve the Recommended Additional City Infrastructure which the AFP Contractor will be asked to construct, subject to the following conditions:
    - i. The Deputy City Manager, Cluster B is of the view that the price submitted by the AFP Contractor for the Recommended Additional City Infrastructure is considered fair and reasonable; and
    - ii. The funding for the cost of the Recommended Additional City Infrastructure is available, in the year required, within an approved capital budget.
2. City Council:
  - a. Authorize the Deputy City Manager, Cluster B subject to the conditions set out in Recommendation 2(b) to:
    - i. Include part of the Basement Flooding Protection Program as set out in Appendix B to this report, and at other locations that he may later identify and which intersect with, or are situated in close proximity to the Transit Program, as additional scope in

Metrolinx's existing contracts for tunnelling work (the "Tunnelling Contracts"); and

- ii. Identify and approve other enhancements or upgrades to City infrastructure impacted by the Transit Program, as well as investigative, planning and design studies considered necessary for City infrastructure and services in the vicinity of the Transit Program, which may arise from time to time (the "Unidentified Work") as additional scope in any agreement which Metrolinx may have for the Transit Program, including any agreement with the AFP Contractor and the Tunnelling Contracts.
- b. Apply the following conditions to the authority provided to the Deputy City Manager, Cluster B by Recommendation 2(a):
  - i. The Deputy City Manager, Cluster B, is of the view that the benefits and costs of the Unidentified Work in each case are fair and reasonable; and
  - ii. The funding for the cost of the Unidentified Work is available, in the year required, within an approved capital or operating budget.
3. City Council authorize the Deputy City Manager, Cluster B, to enter into any agreements with Metrolinx, including any amendments and extensions, and any other agreements with any other parties as may be considered necessary, to give effect to Recommendations 1 and 2, all on such terms and conditions satisfactory to the Deputy City Manager, Cluster B, and in a form satisfactory to the City Solicitor.
4. City Council, in order to protect competitive bidding and procurement processes with respect to the infrastructure to which the Confidential Information relates, only release the Confidential Information to the public after the City has entered into contracts or other agreements with Metrolinx or any other parties for construction of the new and upgraded infrastructure.

## **FINANCIAL IMPACT**

Metrolinx is required by the Master Agreement to protect, relocate or replace City infrastructure that is impacted by the Transit Program. All relocation and replacement work, which must meet pre-construction service levels and current standards, will be completed and paid for by Metrolinx, with the exception of construction work planned by the City in the corresponding locations that was identified in the City's five-year capital expenditure plan for 2013 to 2017, to which the City will make a financial contribution.

The City can enhance capacity, service levels, or standards of City infrastructure at the time of its relocation or replacement by Metrolinx. If the City takes advantage of this opportunity, the City will only be required to pay Metrolinx for the incremental cost of the enhancements.

Coordination of capital projects also affords the City an opportunity to reduce its exposure to potential liabilities arising from possible constructor conflicts by requiring the Metrolinx contractors for the Tunnelling Contracts and the AFP Contractor to assume legally required health and safety responsibilities, and other construction risks associated with their work.

The appendices and confidential attachment to this report identify provisional or optional items for new and upgraded City infrastructure for which funds are available in the approved 10-Year Capital Plans for Toronto Water and Transportation Services, and in the case of Basement Flooding Program work, in cash flow authorized for 2013.

Subject to approval of the recommendations of this report, separate pricing for the City's identified work will be provided through bidders' responses to the Metrolinx RFP, after which the City can determine if it wishes to proceed, provided the price submitted by the AFP Contractor for the recommended new or additional City infrastructure is considered fair and reasonable, and funding for the submitted costs are available in the year required within an approved capital budget.

In the event that funding is not available in an approved budget for opportunities to pursue new or additional City infrastructure, to perform engineering studies, or to capitalize on other opportunities associated with Unidentified Work, but staff feel that it is financially prudent to advance on the opportunity presented, appropriate authorities will be sought.

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

## **DECISION HISTORY**

At its meeting of October 30, 31 and November 1, 2012, City Council considered item CC27.6 (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.CC27.6>) which included a report from the City Manager, dated October 23, 2012, as amended by a further report dated October 29, 2012, stating that a report will be submitted to Council with recommended enhancements to City infrastructure and requests for any required budgetary approvals.

## **ISSUE BACKGROUND**

From time to time opportunities arise to coordinate infrastructure projects sponsored by different parties to capitalize on benefits from coordinated design and construction, such as avoiding multiple construction disruptions in the same location and achieving cost savings. One opportunity for coordination that will benefit the City involves construction of new or upgraded City infrastructure in conjunction with the Metrolinx Transit Program.

The extent of construction that will be performed by Metrolinx presents opportunities for the City to obtain greater capacity or level of service by installing new or upgraded infrastructure in locations that will be impacted by Metrolinx construction.

Metrolinx is employing the Provincial AFP method of procurement, which mandates that details of project scope must be as comprehensive as possible prior to issuing the RFP. To ensure that the City's infrastructure requirements are included in the Metrolinx RFP, it is necessary to disclose those requirements to Metrolinx prior to its Fall 2013 RFP issuance. Accordingly, the City must act now to meet the Metrolinx deadline.

As Metrolinx refines its schedule and identifies other City infrastructure that may be impacted by the Transit Program, the City will continue to evaluate opportunities to upgrade its infrastructure and services. Subsequent needs will be identified and quantified through the budget process and in accordance with the delegated authorities sought through this report. The authority to request that Metrolinx add other, currently unidentified, City upgrades to its work is limited to circumstances where the benefits and costs of the upgrades are considered to be fair and reasonable and the necessary budget approvals are in place.

## **COMMENTS**

As noted above, where Metrolinx intends to restore or replace City infrastructure to accommodate the Transit Program, the City can benefit by paying only the incremental cost to upgrade its infrastructure at the time it is replaced by Metrolinx. This approach is preferable to the alternative of later removing new infrastructure that Metrolinx installed and paying the full cost to construct upgraded infrastructure.

Toronto Water has recognized that a likely consequence of transit expansion will be new pressure on City infrastructure to support urban diversification and intensification. Toronto Water has identified several opportunities to upgrade portions of its infrastructure in conjunction with the Transit Program, thereby removing physical constraints to growth while incurring only the marginal cost of the upgrades. Transportation Services has also identified an upgrade that the AFP Contractor could perform cost-effectively during construction of the Transit Program.

Metrolinx is finalizing its RFP, which it intends to issue in the Fall of 2013, and is willing to include the requested City infrastructure upgrades and new construction as provisional or optional items. This would allow the City to request that its work be performed only if the City determines that the benefits and costs are fair and reasonable, and after confirming that the necessary budget approvals are in place. If these requirements are met, then the City would enter into the necessary agreements with Metrolinx for this work.

Metrolinx has advised the City that it must submit its list of infrastructure upgrades and new construction no later than the beginning of August 2013 in order for it to be included in the RFP. Based on the information provided by Metrolinx to date, Toronto Water has established a list of water infrastructure upgrades (Appendix A) and the estimated value of the work can be found in the confidential attachment to this report.

Toronto Water has also identified one location at the present time where infrastructure upgrades are required by the Basement Flooding Program (Appendix B). The estimated value of the Basement Flooding work that Metrolinx would be asked to perform is also found in the confidential attachment to this report.

Transportation Services has identified one project at this time (Appendix C) and the estimated value is found in the confidential attachment to this report.

## **AUTHORIZATION AND DIRECTION OF CITY COUNCIL**

The public will benefit from coordinated planning and construction of overlapping capital projects: (i) through a shorter period of construction in which one contractor can accomplish multiple tasks; and (ii) a lower cost of construction in which one contract will reduce the expense of separate projects tendered at different times.

To achieve those benefits, City Council is required to authorize certain actions by staff as set out in this report.

## **CONTACT**

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## **SIGNATURE**

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John W. Livey, F.C.I.P.  
Deputy City Manager

## **ATTACHMENTS**

Attachment 1 – Confidential Information: Upgrading City Infrastructure During Construction Of The Metrolinx Rapid Transit Program

Appendix A-1: Toronto Water – New/Upgraded Watermain Infrastructure  
Appendix A-2: Toronto Water – New/Upgraded Sewer Infrastructure  
Appendix B: Toronto Water – Basement Flooding Project Infrastructure  
Appendix C: Transportation Services – New Transportation Infrastructure