



**STAFF REPORT
ACTION REQUIRED**
with Confidential Attachment

**Toronto-York Spadina Subway Extension – Schedule
and Budget Reset**

Date:	January 26, 2016
To:	City Council
From:	City Manager Deputy City Manager, Cluster B Deputy City Manager & Chief Financial Officer
Wards:	All Wards
Reason for Confidential Information:	This report involves the security of property belonging to the City or one of its agencies, boards, and commissions. This report is about litigation or potential litigation that affects the City or one of its agencies, boards, and commissions.
Reference Number:	P:\2016\Internal Services\Cf\Cc16005Cf (AFS #22155)

SUMMARY

This report transmits the Toronto Transit Commission (TTC) Board Report of January 21, 2016 entitled "Toronto-York Spadina Subway Extension – Schedule and Budget Reset", including its confidential attachment. The TTC report identifies additional estimated project reset costs of \$400 million, bringing the total project budget to \$3.184 billion and seeks confirmation from the Councils of the City of Toronto and York Region of funding their respective shares of the increased costs. The confidential attachment to the TTC Board report discusses legal strategies and other legal exposures due to outstanding claims and litigation matters.

This report addresses the financial impact of the project schedule and budget reset, and seeks the required funding authorities.

RECOMMENDATIONS

The City Manager, Deputy City Manager, Cluster B and Deputy City Manager & Chief Financial Officer recommend that:

1. Council increase the staff preliminary 2016 Capital Budget and 2017-2025 Capital Plan for the Toronto-York Spadina Subway Extension Project by \$400 million, with \$240 million representing the City of Toronto's share of costs, and the remaining \$160 million reflecting the Regional Municipality of York's share.
2. Council reiterate its request to the Province of Ontario to ensure that its contribution to the Toronto-York Spadina Subway Extension Project, through the Move Ontario Trust is no less than \$1.059 billion as projected at the outset of the project;
3. Council reiterate its request to the federal government to increase its funding for the Toronto-York Spadina Subway Extension Project to reflect one-third funding of the original total project cost; and
4. Council authorize that the information provided in the Confidential Attachment to the TTC Board's report, attached as Attachment 1 to this report, remain confidential until such time as the TTC has advised the City that all claims and litigation related to the Toronto-York Spadina Subway Extension Project are settled.

Financial Impact

The original budget for the Toronto-York Spadina Subway Extension Project (TYSSE) was \$2.634 billion. In March 2015, the budget was revised to \$2.784 billion, and at that time, it was reported that after undertaking the necessary due diligence, TTC staff would report back with the full expected cost of the TYSSE project reset.

A report to the January 21, 2016 TTC Board addresses the project reset cost for TYSSE. Additional costs of \$400 million are identified, for a total project reset budget of \$3.184 billion. This report recommends that the preliminary 2016 Capital Budget and 2017-2025 Capital Plan for the Toronto-York Spadina Subway Extension (TYSSE) Project be increased by this amount, and that the City's share of \$240 million be funded through additional borrowing.

TYSSE is funded by the Federal government, the Province of Ontario, the City of Toronto and the Regional Municipality of York ("York Region"). The municipal portion is shared between the municipalities: Toronto is responsible for 59.96%; and York Region, 40.04%. The City's share of TYSSE is being funded through a combination of debt, development charges and reserves.

Table 1 below provides information relating to the TYSSE budget reset, along with the sources of funding for the City's share of the project.

Table 1.

Funding Partner:	Original TYSSE Project Budget	March 26, 2015 Revised Project Budget	Anticipated Move Ontario Trust Shortfall	January 21, 2016		% of funding	
				Incremental Project Reset Cost	Project Reset Budget	Original	Adjusted
\$millions							
Federal	\$697	\$697			\$697	26.5%	21.9%
Provincial/Move Ontario Trust	\$1,059*	\$1,059*	(\$85)		\$974	40.2%	30.6%
City of Toronto	\$526	\$616	\$51	\$240	\$907	20.0%	28.5%
York Region	\$352	\$412	\$34	\$160	\$606	13.3%	19.0%
Total	\$2,634	\$2,784		\$400	\$3,184	100.0%	
<i>Sources of City Funding:</i>							
<i>Development Charges (pre-debt issuance)</i>	67	67			67		
<i>Tax increment Financing</i>	99	0			0		
<i>Strategic Infrastructure Reserve Fund</i>	16	115			115		
<i>Capital Financing Reserve Fund</i>		90			90		
<i>Debt (tax and DC supported)</i>	344	344			635		

* including investment income as projected in 2007

Provincial/Move Ontario Trust (MOT) Revenue Shortfall

A funding shortfall that is estimated at \$85 million, relates to the inability of the MOT to achieve forecast interest earnings of 4% since inception, which were included in the original funding plan to provide for a total contribution of \$1.059 billion to the project. In a letter dated May 4, 2015, the City of Toronto requested that the Province address this funding shortfall. York Region made a similar request. However, to date, no such funding commitment has been made. This report recommends that the City reiterate this funding request.

In the absence of provincial funding to address the MOT shortfall, the City and York Region will be required to increase their projected funding by an additional \$85 million, for total municipal funding of 47.5% of total reset project costs. The City's portion of the MOT shortfall would be \$51 million, for total City project funding of \$907 million, or 28.5% of the total reset project budget. As no additional provincial funding commitment has been made to date, it would be prudent for the City to provide for its share of the shortfall, which has been addressed as part of the 2016 preliminary Capital Budget and Plan.

Federal Funding

Federal funding of \$697 million was provided in the form of an up-front payment of \$75 million, and \$622 million by way of contributions over the course of the project through a Building Canada Fund Contribution Agreement. The federal contribution represents 26.5% of the **original** project budget, or approximately 22% of the total reset project budget.

In a letter dated May 4, 2015, the City of Toronto made a request to the previous Federal government to increase the federal portion of TYSSE funding to a full one-third of the **original** project budget, or an additional \$181 million. It is important to note that the City is not seeking federal funding for additional project costs, rather it is seeking a contribution that brings federal funding to one-third of the original project budget. York Region also made a similar request. A response was received by the City in July 2015 declining such additional funding participation. This report recommends that the City reiterate its federal funding request to the new federal leadership.

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

Decision History, and Background

TYSSE funding is split between the Federal government, the Province of Ontario, the City and York Region. The municipal share is split between Toronto (59.96%) and York Region (40.04%), and the municipalities are responsible for funding any cost overruns, allocated under the same formula. The decision history relating to the municipal funding arrangements is as follows.

Council, at its meeting of September 25, 26, 27, 2006, Policy and Finance Committee Report No 7, Clause 35.

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060925/pof7rpt/cl035.pdf>

adopted a the municipal cost sharing arrangement of 59.96 % City of Toronto/ 40.04 % Regional Municipality of York.

Council, at its meeting of May 23, 24, 25, 2007 (EX 8.5),

<http://www.toronto.ca/legdocs/mmis/2007/ex/reports/2007-04-30-ex08-cr.pdf>

directed that "the capital contribution from the City not exceed its share (59.96%) of the one-third funding that would be attributable to the municipal sector.

Funding from Other Orders of Government

In 2006, the Province provided funding of \$670 million for TYSSE costs, creating the "Move Ontario Trust" to hold and invest project funds, and in 2007, added additional funding of \$200 million, for total principal of \$870 million. It was envisioned at the time that this amount, together with investment income (\$189 million) would result in contributions to the project of \$1.059 billion.

In 2007, the Federal government pledged \$697-million towards eligible Project costs, subsequently providing \$75 million up-front, and \$622 million by way of a Building Canada Fund Contribution Agreement.

TYSSE Project Budget and Reset

The Council report of May 23, 24, 25, 2007 (EX 8.5) (noted above) alerted the reader that the:

- TYSSE project budget was preliminary, and would be refined once additional data became available. The budget at the time was expressed in 2006 dollars at \$2.1 billion, and subsequently restated at \$2.6 billion to include inflationary impacts (i.e. as spent dollars).
- The City would be pursuing enhanced funding arrangements with both the Federal and Provincial governments whereby each would commit to funding its full one-third share of Project capital funding.

A TTC Board report of March 26, 2015, outlined the need for a project schedule and budget reset, which would be required to ensure completion of the subway line by December 2017. That report sought additional funding of \$150 million (\$90 million from the City, and \$60 million from York Region) to address the incremental cost of project management/staffing to project completion.

[http://www.ttc.ca/About the TTC/Commission reports and information/Commission meetings/2015/March 26/Reports/4 1 TYSSE Final Report and Presentation.pdf](http://www.ttc.ca/About%20the%20TTC/Commission%20reports%20and%20information/Commission%20meetings/2015/March%2026/Reports/4%201%20TYSSE%20Final%20Report%20and%20Presentation.pdf)

The Board Report also indicated that after undertaking the necessary due diligence, TTC staff would report back (at the end of 2015) on the total estimated cost of the project reset.

Subsequently, City Council at its meeting of March 30, April 1, 2, 2015 approved recommendations for the City Manager.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.CC5.1>

Those recommendations provided for:

1. an increase to the TYSSE capital budget and ten-year plan of \$150 million, along with \$90 million in additional funding for the City of Toronto share of costs;
2. a request to the Federal government to increase its funding for TYSSE to one-third funding of the original total project cost;
3. a request to the Province of Ontario to ensure that its contribution to TYSSE is no less than \$1.059 billion, as projected at the outset of the project; and
4. directed the City Manager and the Chief Financial Officer, TTC to report back to Executive Committee by December 31, 2015 with the results of requests made to the Federal and Provincial governments, and final estimated project costs.

COMMENTS

The January 21, 2016 TTC Board Report (attached to this report), identifies additional estimated project reset costs of \$400 million. The TYSSE Project Budget, as revised in

March 2015, is \$2.784 billion and therefore, the addition of \$400 million would increase the TYSSE Project budget to \$3.184 billion.

The additional project reset costs, as outlined in the Board report, are comprised of changes in project scope, underestimated budget for remaining project scope, known claims settlements, risk mitigation strategies, litigation management costs, coordination of the work, contingency and forecasted cost exposure for unresolved claims and litigation matters.

This report recommends that Council increase the preliminary 2016 Capital Budget and 2017-2025 Capital Plan for the TYSSE Project by \$400 million, with \$240 million representing the City's share of costs, and the remaining \$160 million reflecting York Region's share. Total TYSSE funding, by funding partner, is set out in table 1 of this report.

Provincial/MOT Revenue Shortfall

In early 2008, the City, York Region, the Toronto Transit Commission, and the Province of Ontario submitted an application for federal funding to the Building Canada Fund. That application committed to a fully funded project of \$2.634 billion, including \$1.059 billion from the Province through the MOT.

At the outset of the TYSSE project, the Province had placed \$870 million in funding into the MOT. Interest earnings projected on the Trust assets were forecast at a rate of 4%, for total implied provincial funding of \$1.059 billion.

However, due to the shift in capital market conditions and the prolonged low interest rate environment since that time, the MOT has been unable to achieve projected earnings, resulting in a revenue shortfall that is estimated at \$85 million. In a letter dated May 4, 2015, the City of Toronto requested that the Province address this funding shortfall, and York Region made a similar request. However, to date, no such funding has been received. This report recommends that the City reiterate this funding request.

In the absence of provincial funding to address the MOT shortfall, the municipalities would be required to increase their project funding, for total municipal funding of 47.5% of the total reset project budget. The City's portion of the Trust shortfall would be \$51 million, for total City project funding of \$907 million, or 28.5% of the total reset project budget. As no additional provincial funding has been received, at this point, it would be prudent for the City to provide for its share of the shortfall, which has been addressed as part of the 2016 preliminary Capital Budget and Plan.

It should also be noted that in 2006, the Province passed the *Tax Increment Financing Act*, which would have provided a funding tool for the municipalities for the purpose of the TYSSE project. However, as the Province has not passed an enabling general regulation, the municipalities have not been able to access this source of funding. The

original TYSSE budget envisioned that Tax Increment Financing would have provided the City of Toronto with funding for TYSSE.

Given provincial inaction for almost a decade now, on enabling Toronto and York Region to access Tax Increment Financing, the City and York Region have now planned for alternate sources of funding. A breakdown of City sources of funding for TYSSE is provided in table 1 of this report.

Federal Funding

Federal staff have communicated in the past that the Federal Government would not provide additional funding in support of any project cost overruns. Accordingly, the request for additional federal funding is based on the original project budget of \$2.634 billion. The current federal funding commitment falls short of one-third of the original TYSSE project cost, having been capped at \$697 million, or 26.5% of the original total, or approximately 22% of the project reset budget.

Typically, large rapid transit infrastructure projects are shared between the Federal, Provincial and municipal governments at one-third each. Furthermore, a Federal cost sharing adjustment is not without precedent and has occurred in the past, as for example, on the Vancouver/TransLink Canada Line.

In a letter dated May 4, 2015, the City of Toronto made a request to the previous Federal government to increase the federal portion of TYSSE funding to a full one-third of the original project budget, or an additional \$181 million. York Region also made a similar request. A response was received by the City in July 2015 declining such additional funding participation. This report recommends that the City reiterate its federal funding request.

CONTACT

Joe Farag, Executive Director, Corporate Finance, Tel: 416-392-8108
E-mail: jfarag@toronto.ca

SIGNATURE

Peter Wallace, City Manager

John Livey, Deputy City Manager
Cluster B

Roberto Rossini
Deputy City Manager & Chief Financial
Officer

ATTACHMENTS

Attachment 1

- TTC Transmittal
- TTC Board Report of January 21, 2016 - Toronto-York Spadina Subway Extension
– Schedule and Budget Reset
- TTC Confidential Attachment