



REPORT FOR ACTION

Metrolinx's Union Station Enhancement Project, Package 1 Implementation and Package 3 Review

Date: July 12, 2018

To: Executive Committee

From: Deputy City Manager, Internal Corporate Services

Wards: 28 – Toronto Centre-Rosedale

SUMMARY

This report addresses Metrolinx's proposed Union Station Enhancement Project and its requested access to construct Package 1 (USEP Package 1) partially on City lands, forming part of the enabling works for Metrolinx's GO Expansion Program. The report also addresses funding requirements for City staff to complete due diligence for USEP Package 3, which aims to optimize capacity and facilitate the electrification of trains at Union Station.

This report presents terms and principles required to advance the design and construction of USEP Package 1. USEP Package 1 will create two new platforms at track level and a new concourse below, constructed in the area between York Street and Bay Street as outlined in Attachment 3. Metrolinx advises that these platforms are needed to increase the capacity within the Union Station rail corridor to accommodate 15 minute or better train service. The Framework Agreement and Design and Construction Agreement are seen as important items to allow the Project to proceed and protect the City's interests. Metrolinx requires that the key terms of the Framework Agreement and Design and Construction Agreement be agreed to prior to the end of Metrolinx's and Infrastructure Ontario's bid period in September 2018 to meet the overall procurement schedule. The report requests authority to finalize and execute the Framework Agreement and the Design and Construction Agreement, and to negotiate, settle and execute amendments to existing impacted agreements with Metrolinx and other third parties. Furthermore, this report requests resources needed for USEP Package 1, as well as resources to conduct a review of USEP Package 3.

RECOMMENDATIONS

The Deputy City Manager, Internal Corporate Services recommends:

1. City Council direct the City Manager or designate to negotiate all agreements referenced in this staff report consistent with the following negotiating principles that recognize the City's authority as a level of government, as well as Metrolinx's

authority as a Provincial Crown Agency, that will be used for ongoing and future negotiations between the parties, and set the parameters for the use of delegated authority during the Council break:

- a. Impact of Union Station Enhancement Project on the proper functioning of Union Station, its tenants, and other Projects will be mitigated, and not result in any breach of any City tenant or other third party arrangements.
 - b. The Project will be undertaken in compliance with applicable law, including but not limited to site plan control processes.
 - c. The City will incur no direct or indirect cost or liability as a result of Union Station Enhancement Project.
 - d. The new South Concourse should be properly incorporated into and function as an integral part of Union Station, and administered according to all of the existing terms of the Amended and Restated Reciprocal Rights Agreement, as amended.
 - e. The City's current standards will be maintained for all pedestrian movements across the Union Station precinct, based on a 2041 planning horizon.
2. City Council authorize the City Manager or designate to negotiate and execute a Framework Agreement between the City and Metrolinx for the implementation of the Union Station Enhancement Project Package 1, based on the major terms outlined in Attachment 1 and such other or amended terms and conditions as may be satisfactory to the City Manager, the Chief Financial Officer, the Deputy City Manager, Internal Corporate Services and the Deputy City Manager, Cluster B, and in a form satisfactory to the City Solicitor.
 3. City Council authorize the City Manager or designate to negotiate and execute a Design and Construction Agreement between the City and Metrolinx, based on the major terms outlined in Attachment 2 and such other or amended terms and conditions as may be satisfactory to the City Manager, the Chief Financial Officer, the Deputy City Manager, Internal Corporate Services and the Deputy City Manager, Cluster B, and in a form satisfactory to the City Solicitor.
 4. City Council authorize the City Manager or designate to negotiate and execute the Key Agreements referenced in Attachment 1 and any other related or ancillary agreements that may be necessary to achieve Union Station Enhancement Project Package 1, on terms and conditions satisfactory to the City Manager, the Chief Financial Officer, the Deputy City Manager, Internal Corporate Services and the Deputy City Manager, Cluster B, and in a form satisfactory to the City Solicitor.
 5. City Council authorize the City Manager or designate to administer and manage the agreements pertaining to Union Station Enhancement Project Package 1, including the provision of any consents, approvals, notices and notices of termination provided that the City Manager may, at any time, refer consideration

of such matters (including their content) to City Council for its determination and direction.

6. City Council amend the 2018 - 2027 Council Approved Capital Budget and Plan for Facilities, Real Estate, Environment & Energy to increase total project cost and cash flow funding by \$0.500 million in 2018 for "Union Station Enhancement Project" (CCA913-01), from \$0.750 million to \$1.250 million, for additional resources for Union Station Enhancement Project Package 1, conditional upon full funding by Metrolinx.
7. City Council authorize the City Manager or designate to negotiate, approve and execute the Funding Agreement between the City and Metrolinx, requiring Metrolinx to pay all direct and indirect costs that will be incurred by the City in connection with the Union Station Enhancement Project, including the on-going review of Union Station Enhancement Project Package 3, on terms and conditions satisfactory to the Deputy City Manager, Internal Corporate Services and the Chief Financial Officer, and in a form satisfactory to the City Solicitor.
8. City Council amend the 2018 - 2027 Council Approved Capital Budget and Plan for Facilities, Real Estate, Environment and Energy to add a new project called "Union Station Enhancement Project, Pkg.3" with a total project cost of \$1.787 million, with cash flow funding of \$0.325 million in 2018, \$1.154 million in 2019, and \$0.308 million in 2020. \$1.050 million is dedicated to third party resources with cash flow funding of \$0.200 million in 2018 and \$0.850 million in 2019 and the remaining \$0.737 million is for temporary capital-funded positions for the period 2018 – 2020, conditional upon full funding by Metrolinx.
9. City Council approve:
 - a. the non-competitive retainer of Davies, Ward, Phillips & Vineberg LLP for the initial amount of \$250,000 for real estate law advice pertaining to USEP Package 3;
 - b. the non-competitive retainer of Osler, Hoskin & Harcourt LLP for the initial amount of \$250,000 for construction law advice pertaining to USEP Package 3;
 - c. the non-competitive retainer of NORR Limited for the initial amount of \$200,000 for peer reviews of the proposed USEP Package 3 design;
 - d. the non-competitive retainer of PwC for the initial amount of \$200,000 for retail revenue forecasting related to the proposed USEP Package 3 design; and
 - e. the reimbursement of Osmington for the initial amount of \$150,000 for design fees to assess impact and iterative redesign effort of retail space related to the proposed USEP Package 3 design,

and authorize any subsequent amendments, increases and/or assignments of these retainers, as deemed appropriate by the City Solicitor and Deputy City Manager, Internal Corporate Services, subject to all funding for these retainers, and reimbursement of Osmington, being provided by Metrolinx.

10. City Council amend the 2018 Facilities, Real Estate, Environment & Energy Council Approved Operating Budget by increasing complement by 2.5 temporary capital positions dedicated to the review of Union Station Enhancement Project Package 3, for the period of August 2018 to December 2020, with a gross expenditure increase of \$0.125 million in 2018, fully offset by recoveries from capital, for a \$0 net impact. 2019 and 2020 gross expenditure impacts are \$0.304 million and \$0.308 million respectively, fully offset by recoveries from capital, for a \$0 net impact. These amendments will be subject to full funding by Metrolinx.

FINANCIAL IMPACT

USEP Package 1

Included in the 2018 - 2027 Council Approved Capital Budget and Plan for Facilities, Real Estate, Environment & Energy (FREEE) is total project cost and cash flow funding of \$0.750 million in 2018, fully funded by Metrolinx for professional and consulting services related to property and construction related agreements, technical resources, and peer reviews of the Union Station Enhancement Project. This report, recommends an amendment to FREEE's 2018 - 2027 Council Approved Capital Budget and Plan to increase total project cost and cash flow funding by \$0.500 million in 2018 for "Union Station Enhancement Project (USEP)" (CCA913-01), fully funded by Metrolinx. The amendment is required for additional professional and consulting fees for the finalization of the necessary agreements that are required to facilitate the construction of USEP Package 1.

USEP Package 3

In order to facilitate the review of USEP Package 3, authority is being requested to retain external consultants to assist staff in assessing the impacts of the proposed Project, with any direct or indirect Project related costs incurred by the City to be reimbursed by Metrolinx through the Funding Agreement.

It is important that staff completes its review of USEP Package 3 as soon as possible so it can provide feedback for Metrolinx to incorporate while it is in its planning stages. Cash flows for required third party resources are included in Table 1.

Table 1: USEP Package 3 cash requirements for third party resources

Third Party Service	Estimated Costs (\$ millions)		
	2018	2019	Total
Legal (Property Matters)	0.100	0.150	0.250
Legal (Construction Matters)	0.000	0.250	0.250
Architectural and Technical Reviews	0.100	0.100	0.200
Retail Consulting (as needed)	0.000	0.150	0.150
Revenue Impact Appraisal (as needed)	0.000	0.200	0.200
Total	0.200	0.850	1.050

Further, this report requests additional temporary staff positions in Real Estate Services for the on-going review of Package 3. Based on initial information regarding the scope of the Project, the City's resource requirements for USEP Package 3 includes 1.0 Project Manager and 1.5 Project Coordinators, at a cost of \$0.737 million from 2018 to the end of 2020 with cash flows as outlined in Table 2. The general responsibilities of each required position is broken out below:

- Project Manager: Oversight of property matters and review of design and construction matters, including, but not limited to, analysis of third party and stakeholder agreements and impacts, management of third party resources;
- Project Coordinator (full time): Technical and administrative support to the Project Managers, and coordination with City Departments on necessary reviews,
- Project Coordinator (part time): Provides technical support for pedestrian modelling environment at Union Station and the greater precinct.

Table 2: USEP Package 3 cash requirements for FTEs (escalated at 1.25%)

	Number of FTEs	Estimated Costs (\$ millions)			
		2018	2019	2020	Total
Project Manager	1	0.055	0.132	0.134	0.321
Project Coordinator	1.5	0.071	0.172	0.174	0.417
Total	2.5	0.125	0.304	0.308	0.737

All costs outlined above are pending agreement between the City and Metrolinx for full cost recovery from Metrolinx.

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

DECISION HISTORY

In April 2018, as part of *EX.33.1 Implementation of the SmartTrack Stations Program and the Metrolinx Regional Express Rail Program*, City Council approved, in principle, the use of the City-owned land to the south of Union Station for USEP Package 1 and authorized the Deputy City Manager, Internal Corporate Services, to negotiate the terms of the necessary easements, licenses and other agreements with Metrolinx, including the Northwest PATH Agreement, and the terms of any required amendments to existing agreements that will be impacted by USEP Package 1 and report back to Executive Committee on the recommended terms of such agreements. City Council also approved non-competitive retainers of third party resources for USEP Package 1.

Link: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.EX33.1>

ISSUE BACKGROUND

Metrolinx's GO Expansion program, which includes Regional Express Rail (RER), will provide increased service on core portions of the GO Rail network by 2024/25, generating an increase in GO service from 1,500 to 6,000 trains per week, better than 15-minute two way service, providing more opportunities for travel in and around the City and region. GO Expansion includes electrification of five GO corridors (Barrie, Stouffville, Lakeshore East, Lakeshore West and Kitchener), enhancements to Union Station, grade separations, new stations and upgrades to existing stations. An important aspect of the RER program is to improve safety and increase train and passenger capacity at Union Station. The Project will have a significant impact on Union Station, while the City is nearing the completion of its Union Station Revitalization Project, in 2019.

RER is being delivered in three “packages” of work. USEP Package 1 falls into the category of enabling works for the delivery of RER. The three packages of work are as follows:

- **Package 1:** Package 1 includes the design and construction of two new rail platforms and a new south concourse below track level at Union Station (extending from the York East Teamway to the Bay West Teamway) to accommodate increased capacity requirements as outlined in Attachment 3. Metrolinx is proposing to execute construction in three separate phases, while maintaining access to existing Station Concourses and operational areas.

Procurement by Metrolinx and Infrastructure Ontario (IO) is currently underway, with the deadline for submission of Proposals being September 25, 2018.

Following the submission deadline, the Metrolinx Project team will evaluate submissions with the selection of the preferred Proponent targeted for January 9, 2019. Once the Proponent has secured financing for the financial close target date of March 8, 2019, the Project will move into the design and construction period

- **Package 2:** (No impacts to Union Station): Off-Corridor major modifications to existing stations and parking.
- **Package 3:** USEP Package 3 represents the final phase of the enabling works for GO Expansion to support electrification and rail capacity planning, including On-Corridor work on expanded platforms and tracks to the east and west of the station. Metrolinx proposes to build two new concourses below grade, to support the new platforms located east of Bay Street and west of York Street. Signals, electrification, and fleet with considerations for the operations and maintenance of the rail system are also part of this package.

Initial reviews of Package 3 by the City indicate proposed new vertical access points for the Station proper; impacting areas within the Bay, York, VIA concourses and retail level. Metrolinx and IO advised that in January, 2019, they intend to issue a Request for Proposal.

Based on information provided to the City by Metrolinx, the RER includes considerable work in the next few years as projects move through to construction. While the main focus of this report is Package 1 activities related to Union Station, City staff have been asked by Metrolinx to begin reviewing the upcoming Package 3 scope.

COMMENTS

USEP Package 1 helps to rationalize the connectivity at the south end of Union Station's existing Concourses, improving public safety through platform widening, while increasing train capacity and overall commuter experience. City staff and Metrolinx have worked through a number of issues to facilitate the Project and realize its positive effects on the Station. The accepted impacts, as well as outstanding matters are detailed in this report, along with requirements to facilitate the Project's procurement schedule.

1. Property Matters

USEP Package 1 encompasses east-to-west lands extending from the York West Teamway to the Bay West Teamway, and south-to-north from the access to the Union Plaza to the existing retaining wall between Platform 24/25 and Platform 20/21. The proposed design for USEP Package 1 also calls for a new canopy at track level that will encroach into the City-owned airspace above the tracks. Overall, roughly 50% of the project will be constructed on the City's property. Graphic illustrations of the proposed track level changes and new south concourse are provided in Attachment 3.

Accepted impacts to City interests from USEP Package 1 are summarized below:

- Telus Ramp
 - Ramp currently provides access to VIA Concourse from Union Plaza
 - Will be re-configured to provide access to Retail Concourse and AODA access to the VIA Concourse
- Truck Tunnel
 - Tunnel provides access to loading docks for deliveries
 - A section of tunnel will have the roof lowered to accommodate concourse level changes
- Bike Storage
 - Located at the south end of the York East Teamway
 - Needs to be rebuilt and possibly relocated
- Retail Concourse
 - New Fresh Market, Food Court and Retail Concourse are under construction as part of the City's Union Station Revitalization Project
 - Access to the Retail Concourse level will be re-configured and will be maintained throughout construction
- VIA Lunch Room
 - Currently located in the York West Teamway
 - Lunch Room to be relocated 50% on City land and 50% on Metrolinx land

City staff has provided initial feedback into the Output Specifications (OS) on the above matters, and participated in Design Proponent Meetings and Commercially Confidential Meetings. City staff will continue to advise Metrolinx of any other design requirements to be included in the OS, including any requirements that are a result of negotiations with third party stakeholders at Union Station.

2. Framework Agreement

The Framework Agreement is an overarching agreement that identifies the Project Lands, outlines key agreements to be amended or created, addresses pre-construction matters such as site access for due diligence, and sets out the general terms necessary to facilitate USEP Package 1 and protect the City's interests. The major terms of the Framework Agreement are included in Attachment 1 to this report. In addition, a Design and Construction Agreement is included as a Schedule to the Framework Agreement.

Key Agreements

Attachment 1 references the other Key Agreements that need to be amended or created to ensure that the construction and operation of the Project does not adversely impact the functioning of Union Station or result in a negative financial impact to the City. These Key Agreements will need to be substantially agreed upon prior to the closing under the Framework Agreement.

The agreements in question include:

- an amendment to the ARRRA to include the new South Concourse into the overall integrated operation of the Station.
- an amendment to the VIA Lease for relocation of staff facilities;
- possible amendments to the MLSE Blue Route easement providing north-south access; and
- other agreements with third parties to address issues arising from construction.

3. Design and Construction Agreement

The Design and Construction Agreement is one of the Key Agreements under the Framework Agreement. It provides processes and procedures for construction of the Project by Metrolinx, aimed at minimizing the disruption at Union Station. The major terms and key principles of the Design and Construction Agreement are included in Attachment 2 to this report.

These terms set out the requirements around the completion of USEP Package 1, ownership of the Project, any other work at Union Station as well as costs, losses, liabilities and impacts in relation to the Project.

4. City of Toronto and Metrolinx Negotiating Principles

The City and Metrolinx will continue to work together to resolve outstanding issues prior to Metrolinx executing the required agreements for the Project. Below are negotiating principles that recognize the City's authority as a level of government, as well as Metrolinx's authority as a Provincial Crown Agency, that will be used for ongoing and future negotiations between the Parties, and will set the parameters for the use of delegated authority during the Council break:

1. Impact of USEP on the proper functioning of Union Station, its tenants, and other Projects will be mitigated, and not result in any breach of any City tenant or other third party arrangements.
2. The Project will be undertaken in compliance with applicable law, including but not limited to site plan control processes.
3. The City will incur no direct or indirect cost or liability as a result of USEP.
4. The new South Concourse should be properly incorporated into and function as an integral part of Union Station, and administered according to all of the existing terms of the ARRRA, as amended.
5. The City's current standards will be maintained for all pedestrian movements across the Union Station precinct, based on a 2041 planning horizon.

5. Issues and Terms for Agreement: Framework Agreement and Design and Construction Agreement

The City and Metrolinx have been working actively on the Framework Agreement and Design and Construction Agreement; however, some outstanding issues remain. Staff are recommending that City Council delegate authority for the City Manager to negotiate

and execute the necessary agreements, once the following issues are resolved within the principles outlined above:

1. Scope Items
 - Zoning and code compliance requirements that may arise from the review of the Project will be adhered to.
 - City requirements will be included in the Project Agreement and OS or equivalent.
2. City Lands
 - Metrolinx will ensure that it coordinates the Project with other City or stakeholder projects at Union Station and cooperates with other contractors at Union Station.
 - City will maintain ongoing approval rights for works on or affecting its lands (including building system tie-ins)
3. Blue Route
 - The City will be included in negotiations with MLSE due to City's easement interest.
4. Existing Agreements
 - Metrolinx will adhere to any non-disturbance agreements and other applicable material agreements.
 - City will make commercially reasonable efforts to provide agreements deemed applicable to Metrolinx on or prior to July 18, 2018, but the date cannot bind the City.
5. Closing Date of Framework Agreement
 - City requires that the closing date of the Framework Agreement be subject to the finalization of the Key Agreements.

The review process outlined in the Design and Construction Agreement will be adhered to, including reasonable sharing of materials pertaining to design, to enable the City to undertake an informed review and to provide comments to Metrolinx.

With respect to all Key Agreements requiring negotiation following the closing date of Metrolinx's and IO's Request for Proposal, Metrolinx will provide the City with approval rights to review and ensure that design submissions related to City Assets maintain the terms set out in the amendments to those Key Agreements, at no financial impact to the City.

6. Project Governance

As part of the larger GO Expansion capital works, USEP Package 1 will fall under the GO Expansion Program and SmartTrack framework, and adhere to the set protocols around governance and communications, which are currently under development between the City of Toronto and Metrolinx. Program stewardship and issue resolution at Union Station through the construction period will be handled through the Project Committee established under the Design and Construction Agreement, and unresolved

issues will be escalated to the Toronto Ontario Transit Expansion Program Committee. Post construction, stewardship and dispute resolution will remain under the existing protocols set out in the ARRRA.

The City will remain the owner of the City portion of the lands on which part of USEP Package 1 will be constructed, and the owner of what is constructed on the City portion of the lands consistent with the approach used in the existing portions of Union Station. The City will continue to provide the necessary oversight to ensure City policies and requirements are followed throughout implementation.

7. Union Station Enhancement Project – Package 3 Due Diligence

USEP Package 3 is the next phase of construction proposed by Metrolinx at Union Station to fulfill the requirements of the greater RER Program. This work will optimize the rail capacity within the train shed, and complete the works associated with full electrification and signalling to service the new fleet that will be operated and maintained by the successful proponent.

- RER Package 3 includes system wide scope. USEP Package 3 is part of RER Package 3 and is specific to Union Station
- Requirements dictated by anticipated 2044 train traffic levels at Union Station
- Technical advisors working on output specifications & proof of concept

In its current configuration, Package 3 proposes to create two new below-grade concourses to the east of Bay Street and to the west of York Street. It also includes the addition of several vertical access points (elevators and escalator pits) within Union Station that could impact both the concourse and retail levels.

The full extent of these impacts are not known at this time, and require further analysis. As design and negotiations with Metrolinx progress, the need for the City to engage its external consultants to fully assess the impact of USEP Package 3, may be reduced or eliminated. Should the City require its external consultants, an amendment to the proposed funding agreement with Metrolinx will be required, which provides for the City to be reimbursed for costs it incurs associated with USEP Package 3. If and as needed, additional third party resources are required for the following:

- Legal services for property and construction matters;
- peer review services for building systems design integration;
- retail consulting; and
- architectural services.

A preliminary estimate of the cost to retain external legal counsel from Davies Ward Phillips and Vineberg to provide real estate law advice is set out below:

- Legal review of RFP and preliminary work related to necessary agreements:
 - Estimate \$250,000 in outside legal fees not including internal City costs

A preliminary estimate of the cost to retain external legal counsel from Osler, Hoskin & Harcourt LLP to provide construction law advice is set out below:

- RFP review and preliminary work related to necessary agreements
 - Estimate \$250,000 in outside legal fees not including internal City costs

A preliminary estimate of the cost for NORR Limited to complete a third party review of Metrolinx's integration strategy, including peer reviews of the proposed mechanical, electrical, and structural designs is set out below:

- Output Specification and Reference Concept Design reviews
 - Estimate \$200,000 in third party fees

It is recommended that the City agree to reimburse Osmington, as required, for the additional expenses it may incur to assess the impact of USEP Package 3 on its retail operations.

- Output Specification and Reference Concept Design reviews with impact studies
 - Estimate \$150,000 in third party fees

Since being retained in 2008, PwC has completed all financial modelling on Union Station's retail, and is best positioned to provide accurate analysis on potential revenue and operating losses associated with USEP Package 3. For this purpose, it is recommended that the City agree to retain PwC, if needed, to complete retail revenue analysis for USEP Package 3.

- Retail revenue forecasting based on impacts due to USEP Package 3
 - Estimate \$200,000 in third party fees

Temporary capital staff positions in Real Estate Services are also required for implementation of the Project and to ensure the City's interests are addressed. Based on initial information regarding the scope of the Project, the City's resource requirements for USEP Package 3 includes (1) Project Manager and (1.5) Project Coordinators, at a cost of \$0.737 million from 2018 to the end of 2020. All costs outlined above will be agreed to with Metrolinx, and will be fully recovered, with both parties acting reasonably.

8. Summary

The recommendations in this report request authorization to negotiate and execute the terms of any necessary agreements required to meet Metrolinx's and IO's procurement milestones for USEP Package 1; seeking, where appropriate, delegated approval authority for the ongoing timely implementation of RER and USEP Package 1, along with authorization to include USEP Package 3 costs in the funding agreement for on-going city review.

If needed, City staff will report back when Council reconvenes in 2019 regarding any additional authorities that may be required for agreements related to the completion of USEP Package 1.

As Package 3 design development continues, review from City staff and its external consultants will be required to fully assess and provide feedback to Metrolinx on the proposed Project. Staff will report back to Council on the results of this review in 2019.

CONTACT

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SIGNATURE

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ATTACHMENTS

Attachment 1 – USEP Package 1 – Major Terms of Framework Agreement
Attachment 2 – USEP Package 1 – Major Terms of Design and Construction Agreement
Attachment 3 – USEP Package 1 – Layouts and Renderings