

Subway Agreement in Principle and Update on Metrolinx Subway Program – Third Quarter 2024

Date: July 15, 2024

To: Executive Committee

From: Executive Director, Transit Expansion Division and Chief Financial Officer and
Treasurer

Wards: All

REASON FOR CONFIDENTIAL INFORMATION

Confidential Attachment 1 and 3 to this report contains information explicitly supplied in confidence to the City of Toronto by the Province of Ontario and relate to ongoing negotiations with the Province of Ontario.

Confidential Attachment 2 to this report contains commercial and financial information, supplied in confidence to the City of Toronto, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization.

SUMMARY

The Province of Ontario's Subway Program, being delivered by Metrolinx, is a significant transit expansion project within the City of Toronto. The Subway Program consists of the Ontario Line, Scarborough Subway Extension, Eglinton Crosstown West Extension, and Yonge North Subway Extension projects. This report provides City Council with an update on four key items related to the Subway Program, namely:

1. Subway Agreement-in-Principle;
2. Settlement of the transit ledger in accordance with the terms of the Ontario-Toronto New Deal;
3. Scarborough Subway Extension-Eglinton East LRT Kennedy Station interface; and,
4. Update on the status of the Subway Program projects.

1. Subway Agreement-in-Principle

In February 2020, the Province and the City negotiated a Preliminary Agreement (PA) for the Subway Program, amongst other matters. The PA outlined high-level roles and responsibilities of the City and Province in the planning, delivery, and operations of the

Subway Program. As the Province continues to advance the Subway Program, through its delivery agent Metrolinx, there is a need to develop and execute a Subway Agreement in Principle (AIP) that enhances the principles outlined within the PA to further guide the ongoing design and delivery of the Subway Program.

As such, this report is seeking City Council authority to execute a binding Subway AIP with the Province of Ontario, based on the terms outlined in Attachment 1. The AIP is intended to provide a clear understanding and agreement between the City and the Province on respective roles and responsibilities, authorities, funding responsibilities, ownership, and approvals that are crucial to the implementation of the Subway Program. Subject to City Council approval, the AIP will provide a framework for continued engagement between the City and the Province, as well as the TTC and Metrolinx, and will provide the basis from which a detailed Subway Main Agreement and additional ancillary agreements can be negotiated and executed by City staff in consultation with the TTC.

2. Transit Ledger Clearing

This report also seeks authority to negotiate and execute an agreement with the Province of Ontario to settle claims and clear the ledger on historical transit costs. The costs the City has sought to recover from the Province for planning and design work on the extension and development of new subway lines (prior to the upload of the Provincial Transit Priority projects) are of the same order of magnitude as the costs the Province has sought to recover from the City for work related to Metrolinx projects. Therefore, as a term of the New Deal Agreement, both the Province and the City of Toronto have agreed to settle their claims to support the shared commitment to advance the delivery of transit projects in the City. The settlement of these claims, that for both the City and the Province are of the same order of magnitude, reflect a change in accounting treatment and do not have a material impact to the City's overall net financial position. A summary of these settled amounts is provided under Confidential Attachment 1.

3. Scarborough Subway – Eglinton East LRT Kennedy Station Interface

In December 2023, through EX10.17, City Council authorized City staff to execute the necessary agreements with Metrolinx to advance only the design of the Scarborough Subway Extension (SSE) tunnel box structure in order to protect for the Eglinton East Light Rail Transit (EELRT) Kennedy Station overbuild (Overbuild), at a cost of up to the maximum amount outlined in Confidential Attachment 2 to that report (EX10.17).

On May 31, 2024, the Ministry of Transportation (MTO) requested formal written confirmation from the City that the City would fund the costs of both the design and delivery of the Overbuild, as well as the associated delay costs to the SSE, as provided by Metrolinx and outlined in Confidential Attachment 2 to this report, no later than July 31, 2024. City staff subsequently met with Metrolinx to further clarify and confirm how the cost estimate was derived, its breakdown, risk assumptions, and anticipated cash flow according to the stages of the EELRT Overbuild protection delivery process.

In parallel, City staff explored alternative options that removed structural dependency on the SSE tunnel box while achieving the same design and operations requirements as the design with the Overbuild. A potentially viable alternative has emerged (i.e., Option 2 as described in this report and in Confidential Attachment 2). Additional work is required to confirm the feasibility, costs and risks of Option 2. Confidential Attachment 2 also provides the benefits, and risks associated with Option 2.

Given the significant costs of delivering the Overbuild (Option 1), along with the fact that the EELRT is at 10% design, and full funding for its construction has not been secured, City staff do not recommend committing to the costs of the Overbuild at this time. However, to ensure a responsible intergovernmental approach to transit expansion, this report seeks City Council approval for staff to continue discussions with Metrolinx and the Province of Ontario to explore options that provide appropriate transit network integration between the EELRT and the SSE.

4. Subway Program Update

Attachment 3 provides updates on procurement, design, construction, and engagement milestones achieved by Metrolinx since City staff last reported to City Council on the full Subway Program in June 2023 and addresses related City Council directives that request bi-annual reports to Council on the overall Subway Program.

RECOMMENDATIONS

Subway Program Agreement-in-Principle

The Executive Director, Transit Expansion, and Chief Financial Officer and Treasurer recommend that:

1. City Council approve the terms set out in Attachment 1 to this report, and authorize the City Manager to enter into and execute a Subway Program Agreement-in-Principle ("AIP") with the Province of Ontario, based substantially on the terms set out in Attachment 1, and on such other terms and conditions satisfactory to the City Manager, in consultation with the Deputy City Manager, Infrastructure Services, Chief Financial Officer and Treasurer, Executive Director, Transit Expansion, and any other relevant officials, and in a form satisfactory to the City Solicitor.
2. Subject to entering into the Subway Program AIP in accordance with Recommendation 1 above, City Council authorize the Deputy City Manager, Infrastructure Services, or designate and any other relevant City officials, to negotiate and execute any such necessary ancillary or related agreements, amendments and renewals with any other relevant parties, including a Subway Main Agreement, for the implementation of the Subway Program, all substantially in accordance with the terms included as Attachment 1, the executed Subway Program AIP, and on such other terms and conditions satisfactory to the Deputy City Manager, Infrastructure Services, or designate in consultation with the Chief

Financial Officer and Treasurer, Executive Director, Transit Expansion, and any other relevant officials, and in a form satisfactory to the City Solicitor.

3. City Council delegate authority to the Deputy City Manager, Infrastructure Services or designate, in consultation with the relevant Divisions to oversee the management and implementation of the Subway Program AIP, the Subway Main Agreement and any ancillary or related agreements, including, without limitation, providing all necessary consents, approving assignments, and enforcement of warranties.
4. City Council delegate authority to the Deputy City Manager, Infrastructure Services or designate, in consultation with the relevant Divisions, to negotiate, enter into and execute agreements with Metrolinx and any other party, including amendments and renewals for new utility crossing, level crossings and grade separations, including terms related to cost-sharing for construction and on-going maintenance, if any, as appropriate.
5. City Council, with respect to the Subways Program:
 - a. Authorize the Deputy City Manager, Infrastructure Services or designate, in consultation with the relevant Divisions, to identify and approve the inclusion of enhancements to City infrastructure, as well as any investigative, planning and design studies considered necessary for City infrastructure and services in the vicinity of the work to deliver the Subway Program ("Additional Infrastructure") which Metrolinx's contractor will be asked to design and/or construct as part of the Subway Program, subject to the following conditions:
 - i. the Deputy City Manager, Infrastructure Services, in consultation with the Executive Director, Transit Expansion, the Chief Financial Officer and Treasurer and relevant Divisions are of the view that the estimated price provided by Metrolinx for the Additional Infrastructure, as may be reviewed by an independent reviewer, is fair and reasonable in the circumstances; and
 - ii. the funding for the estimated cost of the Additional Infrastructure is or will be available in the year required, within an approved capital budget.
 - b. Authorize the Deputy City Manager, Infrastructure Services or designate, in consultation with the relevant Divisions, to obtain and pay for estimates and pre-estimates for Additional Infrastructure from Metrolinx and/or Metrolinx's contractor;
 - c. Authorize the Deputy City Manager, Infrastructure Services or designate, in consultation with the relevant Divisions, to negotiate, enter into and execute Municipal Infrastructure Agreements with Metrolinx for Additional Infrastructure, including any amendments;

- d. Authorize the Deputy City Manager, Infrastructure Services or designate, in consultation with the relevant Divisions, to enter into cost-sharing arrangements with Metrolinx for services or infrastructure requested by the City for mutually beneficial projects in the vicinity of the Subway Program, or where the Province has agreed to cost-share with the City as their work on the Subway Program has created an incremental cost impact to the City's funded capital projects that are either planned or underway, as long as conditions in Recommendations 5a(i) and 5a(ii) are satisfied;
 - e. Notwithstanding City of Toronto Municipal Code Chapter 71, Financial Control, authorize the Chief Financial Officer and Treasurer to approve budget adjustments, provided that sufficient funds are available, and:
 - i. reallocate funds between capital projects or sub-projects in an amount not more than \$3 million; and
 - ii. report any exercise of this delegated authority to the appropriate standing committee at the first opportunity.
 - f. Direct that the confidential information contained in Confidential Attachment 3 remain confidential in its entirety, as it contains confidential information supplied in confidence to the City of Toronto by the Province of Ontario and contains financial information related to ongoing negotiations with the Province of Ontario.
6. City Council authorize the General Manager, Transportation Services to negotiate, in consultation with the TTC, and execute a TO360 Wayfinding Implementation Agreement, and any ancillary or related agreements and amendments, with Metrolinx for the Subway Program and other Metrolinx-led transit projects within the City of Toronto for the purpose of completing design studies, producing wayfinding maps and signs, sharing data and standards, and other deliverables as may be required to support wayfinding programs, in a form satisfactory to the City Solicitor.
7. City Council receive Attachment 3 – Subway Program Update of this report for information.

Transit Ledger Clearing

8. City Council authorize the Chief Financial Officer and Treasurer to negotiate and execute an agreement with the Province of Ontario, in terms satisfactory to the Chief Financial Officer and Treasurer, in consultation with the City Manager, for the settlement and clearing of transit ledger items outlined in Confidential Attachment 1 to this report, to fulfil a term in the Terms of the Ontario-Toronto New Deal, and in a form satisfactory to the City Solicitor.
9. City Council direct that the confidential information contained in Confidential Attachment 1 remain confidential in its entirety, as it contains confidential information supplied in confidence to the City of Toronto by the Province of

Ontario and contains financial information related to ongoing negotiations with the Province of Ontario.

Scarborough Subway Extension – Eglinton East LRT Kennedy Station Interface

10. City Council direct the Executive Director, Transit Expansion, to continue discussions with Metrolinx and the Province of Ontario to explore options that provide appropriate transit network integration between the EELRT and SSE at Kennedy Station.
11. City Council authorize the public release of Confidential Attachment 2 to this report following completion of the Scarborough Subway Extension project, as it contains commercial information, supplied in confidence to the City, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization and involves the security of the property belonging to the City of Toronto.

FINANCIAL IMPACT

1. Subway Program Agreement-in-Principle

The AIP outlines funding obligations for the delivery of the Subway Program. The Province is responsible for funding 100% of the capital cost of the Subway Program and the City will not be responsible for funding any capital cost of the Subway Program. The Province will also retain all Development Revenue (which includes revenue from Transit Oriented Communities, and property revenue, as defined in Attachment 1). The Province will own all assets in the Projects, except for the SSE and YNSE rolling stock (i.e., trains), or other assets otherwise agreed to by the City and the Province. The Province has agreed to fund the purchase of the SSE and YNSE rolling stock, which will be owned by the TTC.

Through the Ontario-Toronto New Deal, the Province and the City agreed to undertake a longer-term targeted review of the City's finances, to be completed by 2026. To allow for these discussions to occur, the AIP defers many decisions on roles and responsibilities for operating and maintenance costs until the targeted review is completed, with agreement that the farebox and non-farebox revenue from the Projects (i.e., OL, SSE, YNSE and ECWE) will be used to defray operating cost associated with operations and maintenance. This will ensure that, consistent with our current funding approach for transit, farebox and non-farebox revenue will continue to be used to partially offset the gross costs to operate and maintain the lines. The AIP also confirms that the TTC will set fares for the Subway Program in accordance with TTC fare policy, amongst other operational terms.

Staff will continue discussions with the Province regarding funding responsibilities for transit operations and maintenance as well as the net operating subsidy required and will report back to City Council once the New Deal discussions have been completed.

2. Transit Ledger Clearing

As part of the New Deal terms that the City committed to deliver, the City agreed to settle and clear the ledger on historical transit costs. City staff have negotiated a settlement for costs incurred prior to December 31, 2020, related to the relevant transit lines with the Province of Ontario. This includes costs for planning and design work the City had undertaken prior to the upload of the Provincial Transit Priority Projects. The Province also had sought to recover from the City certain costs related to Metrolinx projects.

Given that the value of the costs that each party sought to recover are of the same order of magnitude, and in support of the renewed partnership to deliver transit, the Province and City have negotiated a letter of agreement to formalize the settlement of claims and clear the ledger on historical transit costs.

The settlement of these claims has no impact on the City's approved Capital or Operating Budgets and reflects a change in accounting treatment that does not have a material impact to the City's overall net financial position. A summary of these settled amounts is provided under Confidential Attachment 1.

3. Scarborough Subway Extension – Eglinton East LRT Kennedy Station Interface

Item EX10.17 Advancing Eglinton East Light Rail Transit adopted by City Council at its meeting in December 2023 authorized City staff to execute necessary agreements with Metrolinx to advance design of the SSE tunnel box structure in order to protect for the EELRT Kennedy Station overbuild (Overbuild). Council also approved work to design and to construct a knockout panel at Sheppard-McCowan Station to facilitate the efficient flow of passengers between the EELRT and SSE in the future, and to undertake utility relocations to allow for a future EELRT utility exclusion zone at and in the vicinity of Kennedy Station. Funding to undertake further assessment of the design and to advance preliminary design work only by Metrolinx was also approved through EX10.17 based on Metrolinx estimates at that time.

To include the Overbuild protection within the scope of the SSE contract, MTO has requested formal confirmation from the City that the City would need to fund the costs of both the design and delivery of the Overbuild, as well as the associated delay costs to the SSE, no later than July 31, 2024. The estimated cost of the Overbuild at Kennedy Station has been provided by Metrolinx, and City staff have commenced an in-depth review to better understand and confirm these cost estimates. The total cost comprises of design and delivery costs, as well as schedule delay costs to add the Overbuild scope to the SSE project, and additional risk associated costs (or contingency) given the level of design. These amounts are outlined in Confidential Attachment 2 as the estimates contain commercial and financial information, supplied in confidence to the City of Toronto, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization.

Given the significant costs of delivering the Overbuild (Option 1), along with the fact that the EELRT is at 10% design, and full funding for its construction has not been secured, City staff do not recommend committing to the costs of the Overbuild at this time.

DECISION HISTORY

A full decision history is provided in Attachment 2.

COMMENTS

Update on Transit Commitments Under The New Deal

On November 27, 2023, the Government of Ontario and the City of Toronto announced a “New Deal”, a historic arrangement to help achieve long-term financial stability and sustainability for the City¹. The terms of the New Deal includes a package of provincial supports to assist the City with its long-term financial plan, in exchange for various commitments from the City². One of the commitments included advancing the delivery of the Province’s Priority Transit Projects (i.e., the Subway Program), which consist of the Ontario Line (OL), Yonge North Subway Extension (YNSE), Scarborough Subway Extension (SSE), and Eglinton Crosstown West Extension (ECWE), and supporting key transportation objectives. On December 13, 2023, City Council adopted item CC13.2 Ontario-Toronto New Deal Agreement (New Deal) approving in principle the terms of the New Deal.

This report provides an update on two terms under the New Deal:

1. Agreement to finalize negotiations, including a revised model for funding operations and maintenance, on the Subway Program Agreement-in-Principle (AIP) within defined timelines and seek City Council approval before June 2024 (extended by mutual agreement between the Province and the City to July 2024 in order to accommodate negotiations for the AIP); and,
2. Agreement that the ledger on historical transit funding reconciliation exercise is settled and cleared.

1. Subway Program Agreement-in-Principle (AIP)

City staff, in consultation with TTC staff, have been working with staff at the Ministry of Transportation (MTO) to advance a Subway Program AIP. The AIP is intended to build upon and enhance the principles of the Ontario-Toronto Transit Partnership Preliminary Agreement (PA)³ which was signed in 2020. The PA outlined high-level roles and responsibilities of the City and the Province for the planning, delivery, operations, and

¹ <https://news.ontario.ca/en/release/1003888/ontario-and-toronto-reach-a-new-deal>

² <https://www.ontario.ca/page/terms-new-deal-between-ontario-and-toronto>

³ <https://www.toronto.ca/wp-content/uploads/2020/02/94f1-02-12-2020-Final-Prelim-Agreement-Ontario-Toronto-Transit-Partnership-AODA.pdf>

ownership of the Subway Program. While the New Deal commitment was to finalize the AIP in June 2024, the Province and the City mutually determined that additional time was required to complete negotiations and agreed to seek Council approval in July 2024. Subject to City Council approval of the recommendations in this report, City staff anticipate that the AIP will be executed in August 2024.

The AIP outlines the detailed roles and responsibilities of the Province and its agent Metrolinx, the City, and the TTC, and will serve as the basis for future agreements on the Subway Program, including the Subway Main Agreement and the operating and maintenance agreements. The following sections describe the key proposed AIP terms related to the design and delivery of the Subway Program. The full list of terms for these sections is outlined in Attachment 1.

Summary of AIP Terms:

Information Sharing/Transparency

For the City and TTC to be fully engaged, and to protect the City and TTC's interests and assets, the Province, through its agent Metrolinx, will share technical information regarding the Subway Program with the City and TTC, including information regarding City and TTC infrastructure. If the City or TTC determine it has insufficient information to substantiate costs for which it may become responsible, a dispute resolution process may be triggered. The Province, Metrolinx, City and TTC will work together for the duration of the Subway Program to mitigate impacts on TTC operations, planned construction of potentially conflicting infrastructure projects, and on local communities.

In order to manage the scope and scale of the Subway Program's construction, and to coordinate City, Metrolinx and third-party construction activities properly, the City also agrees to provide necessary information to Metrolinx so that Metrolinx can update T.O.INview (City's interactive construction map) on a quarterly basis.

Federal Engagement

In accordance with City Council approval under EX9.1 Toronto-Ontario Transit Update, the City has endorsed the re-allocation of its federal funding under the Investing in Canada Infrastructure Program (ICIP) – Public Transit Infrastructure Stream, of up to \$660 million for the SSE and up to \$3.151 billion towards the Ontario Line. As such, all federal requirements for ICIP funding, including reporting, will be the Province's responsibility.

The Province has also agreed to support the City in calls for greater federal funding to support modernization, upgrades, and state-of-good-repair needs in the existing transit system, as well as to consider the City's request for funding of the capital costs of other City Council approved transit expansion projects, including the Eglinton East LRT and the Waterfront Transit Network. The Province's consideration of these transit expansion projects is subject to the City submitting the necessary information requested by the Province and subject to provincial approvals.

Dispute Resolution

All disputes during the planning, design and construction phases of the Subway Program will be resolved in accordance with the Ontario-Toronto Transit Partnership governance framework in place for other transit expansion programs between the City, TTC, Metrolinx, the Province, and Infrastructure Ontario. A dispute resolution process for the operations phase will be established in future operating and maintenance agreements.

City and TTC Review Rights

The City and TTC will be engaged early on in all phases of the Subway Program and consulted on any proposed changes to the scope or design of Subway Program that materially impact the benefits accruing to the City and TTC.

The City's rights and obligations in the planning, design, procurement and construction phases will be in accordance with Schedule A of the executed Subway Program Real Estate Protocol (Protocol), as approved by City Council through EX28.12. Schedule A of this Protocol confirms the City's rights to review and approve Metrolinx's design and construction of City infrastructure in order to ensure compliance with City standards, to the City's satisfaction. Furthermore, the Protocol notes that the City must review and comment on any proposed change that arises to the City infrastructure specifications, and that Metrolinx must correct all deficiencies in City infrastructure.

The TTC's rights and obligations in the planning, design, procurement and construction phases are outlined between the TTC and Metrolinx in a mutually agreed upon TTC Process and Approvals Protocol.

Furthermore, given City Council's recent approval of EX15.2 Priorities in Transit Expansion and Transit-Oriented Communities Projects, the Province has agreed to consider the City's implementation of the recommendations in that report. EX15.2 outlined priorities for City staff to advance in transit expansion projects, such as protecting City infrastructure and assets, providing community benefits, and engaging with, and mitigating impacts to communities and businesses. Along with the terms outlined in the AIP, City staff will also use the recommendations in EX15.2 to guide their negotiation with Metrolinx as part of the future Subway Main Agreement and other downstream agreements.

Utilities and Bridges

The Province will be responsible for costs associated with relocating City utilities required for the Subway Program, including incremental costs for increased capacity resulting from the Projects (i.e., OL, SSE, YNSE and ECWE). Where construction or other work on bridges are for the purposes of the Subway Program, all costs will be solely funded by the Province.

For effective construction coordination, the City and Province will discuss City bridges due for rehabilitation during and in the vicinity of the construction of the Subway Program, and the Province may undertake this rehabilitation work on behalf of the City.

The capital contributions for the design and construction costs for the rehabilitation of these bridges would be negotiated between the Province and City on a case-by-case basis and guided by the cost-sharing obligations in the existing Board Order for the specific crossing. The apportionment of maintenance responsibilities will be based on the guidelines of the Canadian Transportation Agency.

Additional Infrastructure

The City and TTC may request Metrolinx design or construct Additional Infrastructure as part of the Subway Program through Metrolinx's Third-Party Scope Request Process. If the request is approved by Metrolinx, the Additional Infrastructure will be designed and constructed according to City and TTC standards. Metrolinx will first provide the estimated cost for the Additional Infrastructure work to the City or TTC, as applicable, and if the scope, design and estimated costs are acknowledged as acceptable by the City or TTC, as applicable, then the parties will enter into a Municipal Infrastructure Agreement (MIA) setting out the scope of work and the payment schedule.

The City or TTC, as applicable, will reimburse Metrolinx for the cost of Additional Infrastructure, up to the maximum total amount explicitly set out in the MIA. If there are cost escalations beyond the maximum total amount, Metrolinx is not obliged to continue work. The City or TTC may choose to terminate the MIA at any time or amend the MIA to approve additional costs, subject to any further necessary approvals, including City Council approval, as required.

Public Realm

Public realm assets, which are publicly accessible spaces and amenities, will be constructed as part of the Subway Program. These may include areas beneath elevated guideways, squares, plazas, trails, parks, pedestrian clearways, landscaped areas, open spaces, waterfronts, conservation areas, and civic buildings and institutions. There may be opportunities through the construction of public realm assets for Metrolinx to align with existing City priorities for creation and investments in these assets.

A significant component of public realm assets contemplated through the AIP may relate to items under the jurisdiction of Parks, Forestry and Recreation. Where these planned public assets are to be constructed, Metrolinx will engage the City in a design process. The design process will include the City's design feedback, review of its public realm priorities, Operating Budget and Capital Plan, and engagement with the Local Councillor. Pending outcome of this analysis through the design process, where the City approves the design of the public realm asset, the City will take ownership of that public realm asset. This includes responsibility for operations and maintenance costs. The decision to take ownership of the asset will be based on the capacity to plan for the operating impact of the public realm asset.

Metrolinx will transfer its permanent interest in the public realm lands to the City in accordance with the Subway Real Estate Protocol. If Metrolinx requires access to these public realm spaces for the operations of the Subway Program, the City will provide easements to Metrolinx in accordance with the Subway Real Estate Protocol.

Notwithstanding that the City may participate in reviewing public realm improvements to be delivered through the Subway Program, for public realm assets where the City did not provide formal design approval, the City and Metrolinx will determine the ownership, maintenance and operating responsibilities on a site-by-site basis. City staff will use the recommendations in EX15.2 to guide their negotiation, and where necessary, use the dispute resolution process outlined in the AIP.

Community Benefits and Supports

The Province will work in consultation with the City, and community stakeholder groups to develop a suite of flexible and responsive community supports using an equity and gender lens. This suite of community supports will include, at a minimum, criteria and methods for prioritizing local procurement, local job creation and youth apprentice opportunities, leveraging provincial programming, appropriate for implementation in the construction of the Subway Program. The Province has also agreed to promote these community supports in the City's Neighbourhood Improvement Areas, with an implementation plan that could include local advertising, job fairs, hiring targets, and training programs.

The Province has also agreed to work with the City to incorporate public realm enhancements, through Metrolinx's community supports/benefits strategy, with a focus on areas within Toronto where the projects run above-ground to minimize negative impacts to the local community.

In addition to these supports, to minimize impact to the local community during construction, the Province will ensure a construction management plan(s) is developed to mitigate the negative impacts on local residents and businesses, transit and traffic operations, and ensure that the construction zone is kept clean and tidy.

Cellular Connectivity

The Province has also agreed to work with the City and TTC to enable cellular and internet connectivity across the projects in the Subway Program.

Funding – Capital

The Province will be responsible for funding 100% of the capital cost of the Subway Program, aside from federal funding contributions. The Province is also responsible for costs of demolishing and decommissioning the Scarborough Rapid Transit (SRT) to the extent required to facilitate the construction of the SSE. While the City and TTC have requested the Province fund the full capital costs of decommissioning and demolishing the remaining SRT infrastructure not required for transit operations, the Province has not agreed to the City and TTC's request. Additional information on the costs of demolishing and decommissioning the SRT is provided in subsequent sections of the report and in Confidential Attachment 3.

The Province will provide 100% of the capital funding to the TTC to purchase the new subway trains required for the SSE and YNSE, which trains will be owned by the TTC.

Ownership

All Subway Program assets will be owned by the Province through Metrolinx, except for rolling stock (i.e., trains) of the SSE and YNSE which will be owned by the TTC. Interface Stations (as defined in Attachment 1) remain in the ownership of the City and TTC, unless otherwise agreed.

City infrastructure or Additional Infrastructure that is constructed as part of the Subway Program will be owned by the City or TTC, as applicable, once accepted in accordance with the applicable City or TTC commissioning and acceptance protocols.

Access and Control

In order to meet its Public Sector Accounting Standards for the Projects' provincial ownership, the Province will be able to deny or regulate access to Program Assets (as defined in Attachment 1). The Province and Metrolinx, in partnership with the City and TTC, will establish access and control requirements for the Program Assets for operations and maintenance purposes, and to ensure the safety and security of the entire TTC network, in particular where there are interfaces between TTC infrastructure and Program Assets.

Funding of Operations and Maintenance

All farebox and non-farebox revenue will be used to defray operating and maintenance costs for the Subway Program. The Province and/or Metrolinx will retain Development Revenue (which includes revenue from Transit Oriented Communities, and property revenue as defined in Attachment 1) generated from the Subway Program.

The TTC will set the fares for the Subway Program in accordance with TTC fare policy. For Subway Program projects that extend beyond Toronto boundaries, the Province will negotiate an ongoing operating contribution with the host municipality that will be subject to City and TTC endorsement. As asset owner of the Subway Program, the Province is responsible for lifecycle maintenance of the Subway Program assets, unless otherwise agreed to by the Parties.

Roles and responsibilities for funding of operations and maintenance costs for the Subway Program will be determined as part of the targeted review of the long-term sustainability of the City's finances, anticipated to be completed in 2026 in accordance with the Ontario-Toronto New Deal. Once confirmed, and subject to further City Council approval, these terms will be included in future operations and maintenance agreements for the Subway Program, as applicable.

Performance of Operations and Maintenance

The TTC role as the operator of the Subway Program projects (i.e., OL, SSE, YNSE, ECWE) will be in accordance with the following principles, and will be further defined in operations and maintenance agreements:

- The TTC is the operator of the YNSE and the SSE as these are extensions to the existing TTC owned and operated subway system.
- The TTC is the operator of the ECWE which will be operated as an extension of the Eglinton Crosstown Light Rail Transit project.
- The specific functions of TTC's role as operator of the Ontario Line will be determined through ongoing discussions between the Province and the City, along with the TTC and Metrolinx.

Service levels for the Projects will be set in accordance with TTC service standards. Furthermore, the TTC and Metrolinx will work together to ensure practical and seamless integration of the Projects into existing and planned transit networks. The Parties agree to exercise clear communication and coordinate a system-wide operational approach to ensure safe operations, with details to be determined in future agreements.

Real Estate

All real estate transactions for the Subway Program will be in accordance with the executed Subway Program Real Estate Protocol based on City Council approval under EX28.12.

Communications

As the Subway Program is led by the Province, through Metrolinx, all aspects of public and stakeholder communications are their responsibility. City staff will participate wherever appropriate and be responsible for managing communications within the City including with Councillors. The Province and Metrolinx will engage the City on communications to increase public awareness and understanding of the Subway Program, and to identify and address local interests and concerns. The TTC will continue to be responsible for all communications regarding the existing TTC system.

AIP Next Steps

Subject to City Council's approval of the recommendations in this report, City staff will finalize and execute the AIP with the Province. City staff will also continue work to advance the targeted review of the long-term sustainability of the City's finances with the Province with the aim to complete this exercise in 2026 in accordance with the Ontario-Toronto New Deal. This review will include discussions on the City and Province's obligations regarding funding of Toronto's transit system, including the Subway Program.

To continue to advance the Subway Program, while providing protection for City infrastructure and assets, this report also seeks authority to enter into subsidiary agreements (e.g., bridge agreements, utility agreements, etc.) related to the design and construction of the Subway Program, in accordance with the AIP including the Subway Main Agreement. This report also seeks City Council authority for City staff to request Metrolinx deliver Additional Infrastructure on the City's behalf and execute the necessary Municipal Infrastructure Agreements (MIAs) to enable such work, subject to the conditions set out in the recommendations in this report.

TO360 Agreement

In addition, this report is also proposing moving forward with a wayfinding agreement between Metrolinx and the City. The purpose of this wayfinding agreement is to create accurate and consistent wayfinding maps and signs that are trusted by the public and are consistent with the City's TO360 Wayfinding Program's graphic specifications. TO360 provides consistent information across different modes of travel through a unified signage and mapping system that includes bike share and cycling maps, on-street pedestrian signs, and bus shelter signs. As the Province continues implementing an unprecedented volume of transit expansion projects in Toronto, it is critical to ensure that a consistent wayfinding system is in place to enable users to move seamlessly among transportation modes and services.

To realize this goal, Transportation Services staff have developed strategic partnerships with other City of Toronto wayfinding system providers, including the TTC, that allow these agencies to access Transportation Service's TO360 Mapping Database and TO360 Map Graphic Specification to create wayfinding maps and signs using common base mapping information, consistent graphic content, and information sharing between program partners. Metrolinx recognizes the value of partnering with the City's Transportation Services Division to align wayfinding across projects and will work with the City to negotiate and execute an agreement to utilize TO360 wayfinding data and standards for Metrolinx transit projects in Toronto. As such, this report seeks Council authority for the General Manager, Transportation Services to negotiate and execute a TO360 Wayfinding Implementation Agreement, and any ancillary or related agreements, with Metrolinx for the Subway Program and other Metrolinx-led transit projects.

Transportation Services will continue to work with the TTC and Metrolinx on integrated approaches to wayfinding.

2. Transit Funding Reconciliation Exercise Ledger Clearing

In accordance with the shared commitment to advance the delivery of the Province's Priority Transit Projects (i.e., SSE, OL, YNSE, ECWE) and to support key transportation objectives, the City agreed in principle, as a term of the New Deal, to settle and clear the ledger on historical transit costs. City staff have negotiated a settlement for costs incurred prior to December 31, 2020, related to the relevant transit lines with the Province. This includes costs for work that the City had undertaken for planning and design work on the extension and development of new subway lines prior to the upload of the Provincial Transit Priority projects. These costs have been held on the City's financial statements in anticipation for reimbursement from the Province. A summary of these amounts is included in Confidential Attachment 1.

Additionally, the Province had expected to recover from the City costs related to Metrolinx projects (i.e., GO Growth Related Capital infrastructure, Scarborough LRT, Georgetown South Expansion, and the Union Pearson Express projects). However, given that the value of the costs each party sought to recover from the other were of the same order of magnitude, and in support of the renewed partnership to deliver transit,

the Province and City have negotiated a letter of agreement to formalize the settlement of claims and clear the ledger on historical transit costs.

It is important to note that this exercise is a change in the accounting treatment of these historic costs and does not have a financial impact on the 2024-2033 Capital Budget and Plan. Expenses and claims were reflected in the City's financial statements in accordance with Public Sector Accounting Standards (PSAS). Historical costs have been funded as previously approved in the City's prior Capital Budgets and the City did not budget for provincial claims against the Metrolinx projects in 2024 and onward. Therefore, the settlement of these claims does not have a material impact to the City's overall net financial position.

As such, this report seeks City Council authority for the Chief Financial Officer and Treasurer to negotiate and execute an agreement with the Province of Ontario, on terms satisfactory to the Chief Financial Officer and Treasurer, in consultation with the City Manager, for the settlement and clearing of transit ledger items outlined in the Confidential Attachment 1 to this report.

3. Scarborough Subway Extension and Eglinton East Light Rail Transit Interface

Through EX33.2 Advancing City Priority Transit Expansion Projects – Eglinton East Light Rail Transit and Waterfront East Light Rail Transit, City Council directed City staff to accommodate and protect for the Eglinton East Light Rail Transit (EELRT) distinct-service concept in the design and delivery of the SSE project, particularly at Kennedy Station and Sheppard-McCowan Station interfaces. Metrolinx has been working with City staff and other stakeholders since 2021 to identify impacts, challenges, and requirements to support the interfacing of the SSE and EELRT. Discussions have focused on maximizing connectivity and avoiding future constructability challenges.

In December 2023, through EX10.17 Advancing Eglinton East Light Rail Transit, City Council authorized City staff to enter into and execute the necessary agreements with Metrolinx to undertake work to advance design work only on the SSE tunnel box structure in order to protect for the EELRT Kennedy Station overbuild. Council also approved advancing the design and construction of a knockout panel at Sheppard-McCowan Station to accommodate the efficient flow of passengers in the future between the EELRT and SSE, and to undertake utility relocations to allow for a future EELRT utility exclusion zone at and in the vicinity of Kennedy Station. City staff also received requisite funding for further assessment and preliminary design work only, to be undertaken by Metrolinx.

To date, Metrolinx has included some of the City's requested modifications to the SSE design to accommodate the EELRT at both Kennedy Station and Sheppard-McCowan Station as described in the succeeding sections.

Kennedy Station

At Kennedy Station, the EELRT terminal partially overlaps the SSE box section within the site, and City staff have identified the need for structural overbuild protection to support the load of the EELRT terminal station building partially atop the SSE box,

among other constructability protections. In December 2023, through EX10.17, City Council approved funding for design work to preserve the possibility to include constructability protections for the EELRT Kennedy Station within the SSE Kennedy Station design, to achieve a short and direct connection between the stations. At the time, Metrolinx would only commit to preserving the space required by the EELRT Kennedy Station but indicated they would advance further design work to consider structural constructability protections if the City could provide funding for the design exercise. In December 2023, through EX10.17, City Council approved funding for design work to preserve the possibility to include constructability protections for the EELRT Kennedy Station within the SSE Kennedy Station design, to achieve a short and direct connection between the stations.

Following City Council approval of the funding in December 2023, City staff requested that Metrolinx initiate design work to produce a construction cost estimate for the protections. In January 2024, Metrolinx issued a letter to City staff declining the request to accommodate the EELRT Overbuild protection in the SSE tunnel design at Kennedy Station, due to cost and schedule risk for the SSE project, regardless of the City funding the design exercise. Metrolinx noted that the design exercise would cause a projected 2.5-month delay for the delivery of the overall SSE project which was a key reason for their decision to decline the City's design work request.

Subsequently, in late January 2024, in response to the Metrolinx letter, City staff requested the Ministry of Transportation (MTO) direct Metrolinx to incorporate the Overbuild protection to the Kennedy Station box structure for the EELRT as part of the SSE project scope. On May 31, 2024, MTO responded that Metrolinx would only proceed with this work if the City provided a written commitment to fully fund the costs outlined in Confidential Attachment 2 to design and deliver the Overbuild by July 31, 2024.

Option 1 – Current 10% Design with Overbuild Protection via SSE Contract

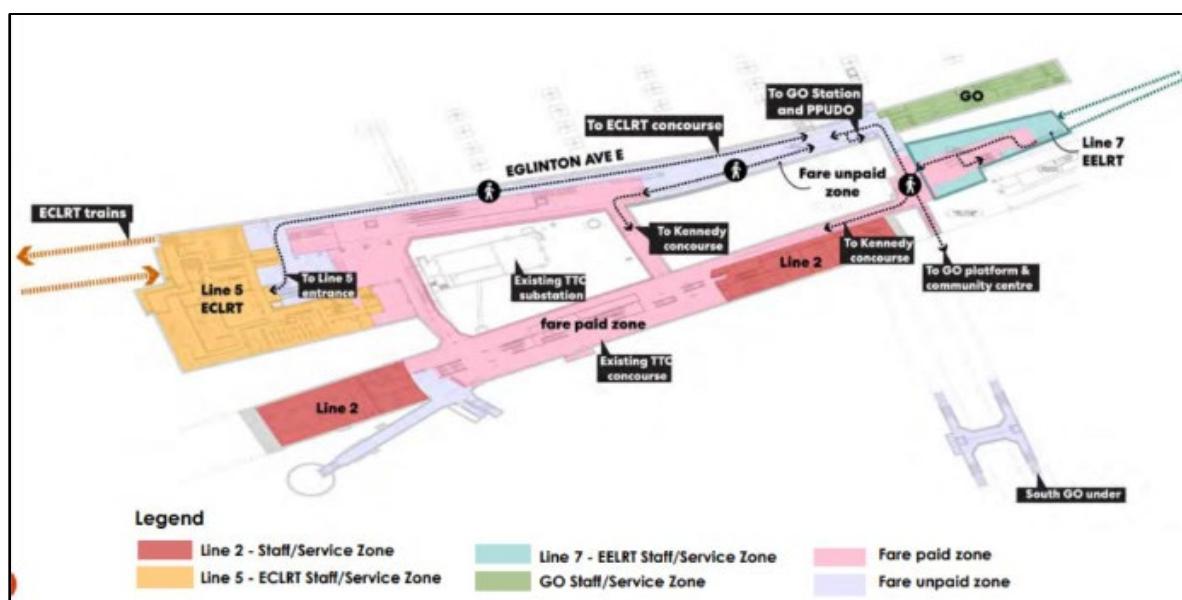


Figure 1: Option 1 Kennedy Station Below Grade Interface Context Plan

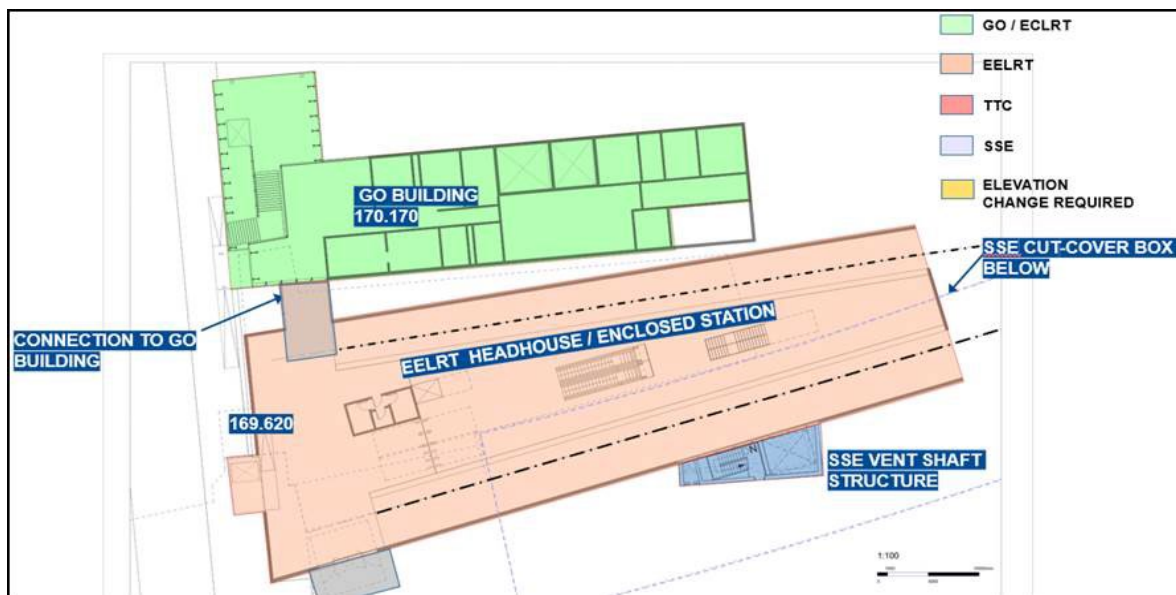


Figure 2: Option 1 Kennedy Station Plan

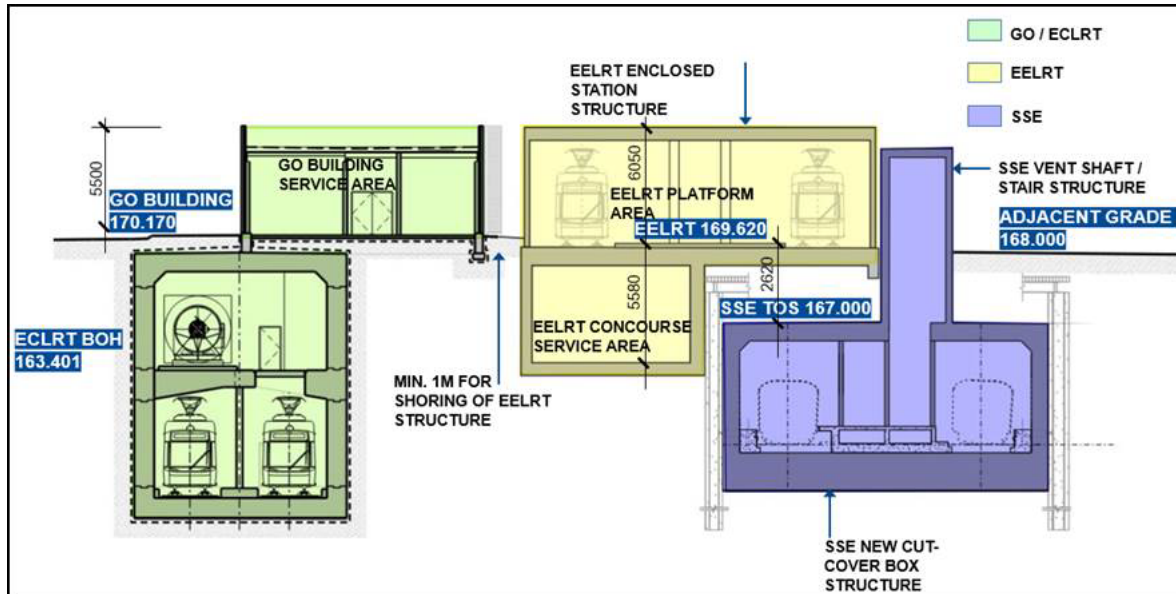


Figure 3: Option 1 Kennedy Station Plan – Sectional View

Option 1 (Overbuild) as shown in Figures 1, 2 and 3, was previously approved by Council under EX10.17, and developed by the EELRT project consultant in collaboration with TTC and other City divisions through the EERT 10% design process. This design, wherein the station partially overlaps the planned SSE box, provides weather protected connections to all Kennedy Station transit services, and avoids impacts on other existing facilities.

Key features and advantages of the 10% design (Option 1 Overbuild) include:

- Minimum estimated walking transfer times to each service:
 - 2 to 3 minutes between EELRT and TTC Line 2, the connection anticipated to have the highest number of transfers;

- 3 to 4 minutes between EELRT and Eglinton Crosstown LRT (ECLRT) TTC Line 5; and
 - 1 to 2 minutes between EELRT and GO.
- Reduces potential impact to surrounding structures particularly the SSE structure and future operations by containing the majority of its elements away from the SSE tunnel box. Impact to the SSE structure and future operations can be mitigated with the requested SSE Overbuild protection and ventilation and exit stair reorientation.
- Achieves TTC operations requirements with respect to station access, cross-over and storage tracks, and safety features.
- Minimizes impact to Eglinton Avenue East by largely maintaining the access intersection operation intact and avoiding further potential widening for cross-over and storage tracks as well as supporting structures, if elevated.
- Avoids impact to the Don Montgomery Recreation Centre by containing the EELRT station structure on land between the SSE structure, ECLRT and GO station structures.
- Minimizes impact to surrounding residential developments by adopting an at-grade solution away from these developments.

Option 2 – Alternative EELRT Kennedy Station Design

Due to the decision made by Metrolinx to initially decline the request made by the City to accommodate the EELRT Overbuild protection, City staff undertook a high-level assessment of alternative EELRT Kennedy Station design options in collaboration with the TTC and other City divisions to accommodate the EELRT at Kennedy Station.

Staff have identified a potentially viable alternative design that may achieve similar objectives as Option 1 (Overbuild). Option 2 would slightly shift the station platform, vertical circulation and underground concourse, and rearrange supporting structures. This could attain the necessary distances to enable the EELRT station to be independent of the SSE box tunnel structure. Confidential Attachment 2 provides further assessment of Option 2. Option 2 remains an initial concept, and further design development and analysis would be needed to confirm the viability, cost and other risks such as delays for the EELRT, SSE, and impact to TTC operations.

Next Steps

Given the significant costs of delivering the Overbuild (Option 1), along with the fact that the EELRT is at 10% design, and full funding for its construction has not been secured, City staff do not recommend committing to the costs of the Overbuild at this time. However, to ensure a responsible intergovernmental approach to transit expansion, this report seeks City Council approval for staff to continue discussions with Metrolinx and the Province of Ontario to explore options to provide appropriate transit network integration between the EELRT and the SSE.

4. Subway Program Update

Metrolinx, working with City staff, continues to implement the Subway Program projects. Attachment 3 provides updates on procurement, design, construction, and engagement

milestones achieved by Metrolinx since City staff last reported to City Council on the full Subway Program in June 2023 and addresses related City Council directives that request bi-annual reports to Council on the overall Subway Program.

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ATTACHMENTS

Attachment 1 – Subway Agreement in Principle

Attachment 2 – Decision History

Attachment 3 – Subway Program Update

Confidential Attachment 1 – Transit Ledger

Confidential Attachment 2 – SSE-EELRT Overbuild Protection Costs & Options Analysis

Confidential Attachment 3 – June 14, 2024, Provincial SRT Letter