



**For Information**

## **City Council Transmittal – New Business Item 1.6 Engagement with the Province on Toronto’s Transit System**

**Date:** January 24, 2019

**To:** TTC Board

**From:** Head of Commission Services

### **Summary**

---

Transmittal letter from the City Clerk confirming that City Council on December 4, 5 and 13, 2018, adopted the subject item as amended and has forwarded a copy of City Council’s decision to the Toronto Transit Commission Board for the Board’s information.

### **Signature**

---

Kevin Lee  
Head of Commission Services

### **Attachments**

---

#### Attachment 1

- Transmittal letter from the City Clerk
- City Council’s Decision
- City of Toronto Report CC1.6 – Engagement with the Province on Toronto’s Transit System

City Clerk's Office

**Secretariat**  
Marilyn Toft  
Council Secretariat Support  
City Hall, 12<sup>th</sup> Floor, West  
100 Queen Street West  
Toronto, Ontario M5H 2N2Tel: 416-392-7032  
Fax: 416-392-2980  
e-mail: Marilyn.Toft@toronto.ca  
web: www.toronto.ca**In reply please quote:  
Ref.: 18-CC1.6**

December 19, 2018

Mr. Rick Leary  
Chief Executive Officer  
Toronto Transit Commission  
1900 Yonge Street  
Toronto, Ontario  
M4S 1Z2

Dear Mr. Leary:

**Subject: New Business Item 1.6  
Engagement with the Province on Toronto's Transit System**

City Council on December 4, 5 and 13, 2018, adopted this Item as amended and has forwarded a copy of City Council's decision to the Toronto Transit Commission Board for the Board's information.

Yours truly,



for City Clerk

M. Toft/sb

Attachments

c. City Manager



## City Council

December 5, 2018 - New Business - Meeting 1

CC1.6	ACTION	Amended		Ward: All
-------	--------	---------	--	-----------

### Engagement with the Province on Toronto's Transit System

#### City Council Decision

City Council on December 4, 5 and 13, 2018, adopted the following:

1. City Council reaffirm its support for keeping ownership of the Toronto Transit Commission in the City of Toronto.
2. As City Council is charged with safeguarding City assets, City Council request the Province to demonstrate clearly and with evidence the goals they believe can only be achieved through a change in subway ownership.
3. City Council indicate its interest in working with the Province to get the Relief Line subway built as a priority and as quickly as possible.
4. City Council request the Federal Government to hold a summit with representatives of the Federal, Provincial and City of Toronto governments, as soon as possible, recognizing the national significance of Toronto's transit infrastructure, with a goal to develop a long-term plan for investment in transit infrastructure, including both capital and operating funding.
5. City Council authorize the City Manager, in consultation with the Chief Executive Officer, Toronto Transit Commission, to negotiate a joint Terms of Reference to guide a discussion and information exchange process between the Province and the City on the alignment of transit responsibilities between the parties (the "Discussion") having regard to:
  - a. a jointly agreed upon set of objectives which give consideration to the City's following principles set out in Attachment 2 to the report (December 7, 2018) from the City Manager and the City Solicitor, as amended:

#### Guiding Principles

##### Good Governance

Accountability  
 Responsiveness to Community  
 Transparency

##### Policy and Operations

Safety and Security of the System  
 Preserving Mobility Options and a Seamless Journey  
 Ensure Accessible Local Service  
 Alignment of Infrastructure Investments with the City's Planning Objectives  
 Advance priority expansion projects underway

### **Funding**

Financial Sustainability of the transit system and the implications for the City as a whole  
 Fair Allocation of Financial Obligations

b. an evaluation of potential models and other policy options, including a comprehensive assessment of the potential risks, liabilities and implications, to achieve both the Province and City objectives; and

c. the inclusion of a public consultation process which results in a meaningful exchange of concerns and/or opportunities raised in transparent manner.

6. Conditional upon a joint Terms of Reference having been developed in accordance with Part 5 above to the City Manager's satisfaction, City Council authorize the City Manager, in consultation with the Chief Executive Officer, Toronto Transit Commission, to engage, as requested by the Province, in the Discussion, based upon the joint Terms of Reference.

7. City Council also authorize the Mayor, the Chair, Toronto Transit Commission, the City Manager and the Chief Executive Officer, Toronto Transit Commission and other relevant staff at the discretion of the City Manager, to engage in discussions with the Province on this matter and City Council direct the City Manager to report back as necessary.

8. City Council direct the City Manager to retain a third party validator for the City to determine all asset values.

9. City Council request the City Manager to report to City Council in the first quarter of 2019 with an update on the process, and to seek such further authority to engage in the process as may be required.

10. City Council direct that Confidential Attachment 1 to the report (December 7, 2018) from the City Manager and the City Solicitor remain confidential in its entirety as it contains advice that is subject to solicitor-client privilege.

11. City Council forward a copy of City Council's decision to the Toronto Transit Commission Board for its information.

Confidential Attachment 1 to the report (December 7, 2018) from City Manager and the City Solicitor remains confidential in its entirety in accordance with the provisions of the City of Toronto Act, 2006, as it contains advice or communications that are subject to solicitor-client privilege.

**Confidential Attachment - Advice or communications that are subject to solicitor-client privilege**

### **Summary**

The TTC provides a critical service—connecting the diverse communities of Toronto to economic and social opportunities through an integrated network of subway, bus, streetcar and Wheel-Trans services. This integrated network serves approximately 530-million riders annually; approximately 85 percent of the Greater Toronto and Hamilton Region's transit riders. The TTC network complements a regional commuter rail network, GO Transit, as well as intersects with other local transit service providers, such as York Region Transit and MiWay, to serve cross-municipal boundary trips.

The Province's proposed 'upload' of the City's subway infrastructure is a matter of significant public interest. As two orders of government, the City and Province need to establish a clear and transparent process for evaluating what is in the best interest of transit riders and how best to provide mobility options to the communities both parties have a responsibility to serve. There are elements of the Province's proposal to date that require further clarification and development, an assessment of risks and opportunities, and sharing of key information to allow for informed decision-making.

In August, the Province appointed a Special Advisor to Cabinet for a one year term to lead their review. The Minister of Transportation has requested the Mayor to advise on the City's willingness to engage in an information sharing exercise with the province on the proposed upload, and to provide a response by December 13, 2018. City Council earlier this year took a position in opposition to the proposed subway upload (MM41.36). This report responds to the November 30, 2018 letter from the Mayor to the City Manager requesting a report on the subject, including an assessment of risks and potential next steps.

The report recommends City Council authorize the City Manager, under key conditions and with consideration for the principles outlined in Attachment 2, to engage with the Province on their proposal to 'upload' the subway infrastructure. The purpose of this engagement will be to establish a joint Terms of Reference that will guide an ongoing discussion and information exchange process between the Province and the City on this matter. An update report to City Council in Q1 2019 will outline the parameters of the joint process and seek any additional authorities that may be required at that time.

This report was prepared in consultation with the Chief Executive Officer of the Toronto Transit Commission (TTC).

### **Background Information (City Council)**

(December 7, 2018) Report from the City Manager and the City Solicitor on Engagement with the Province on Toronto's Transit System (CC1.6)

(<http://www.toronto.ca/legdocs/mmis/2019/cc/bqrd/backgroundfile-122379.pdf>)

Confidential Attachment 1

Public Attachment 2 - Guiding Principles

(<http://www.toronto.ca/legdocs/mmis/2019/cc/bqrd/backgroundfile-122443.pdf>)

Public Attachment 3 - Correspondence between the City of Toronto and Province of Ontario

(<http://www.toronto.ca/legdocs/mmis/2019/cc/bqrd/backgroundfile-122444.pdf>)

Public Attachment 4 - "Special Advisor to Cabinet - Transit Upload and Transit Upload

Advisory Panel" Terms of Reference

(<http://www.toronto.ca/legdocs/mmis/2019/cc/bqrd/backgroundfile-122445.pdf>)

### **Communications (City Council)**

(December 9, 2018) Letter from Carolyn Johnson and Angelo Bertolas Co-chairs, York Quay Neighbourhood Association (CC.Supp.CC1.6.1)

(<http://www.toronto.ca/legdocs/mmis/2019/cc/comm/communicationfile-88157.pdf>)

- (December 11, 2018) E-mail from Hamish Wilson (CC.Supp.CC1.6.2)
- (December 11, 2018) E-mail from Hamish Wilson (CC.New.CC1.6.3)
- (December 12, 2018) E-mail from Hamish Wilson (CC.New.CC1.6.4)



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

# Engagement with the Province on Toronto's Transit System

**Date:** December 7, 2018

**To:** City Council

**From:** City Manager and City Solicitor

**Wards:** All

### REASON FOR CONFIDENTIAL INFORMATION

---

Attachment 1 to this report contains advice or communications that are subject to solicitor-client privilege.

### SUMMARY

---

The TTC provides a critical service—connecting the diverse communities of Toronto to economic and social opportunities through an integrated network of subway, bus, streetcar and Wheel-Trans services. This integrated network serves approximately 530-million riders annually; approximately 85 percent of the Greater Toronto and Hamilton Region's transit riders. The TTC network complements a regional commuter rail network, GO Transit, as well as intersects with other local transit service providers, such as York Region Transit and MiWay, to serve cross-municipal boundary trips.

The Province's proposed 'upload' of the City's subway infrastructure is a matter of significant public interest. As two orders of government, the City and Province need to establish a clear and transparent process for evaluating what is in the best interest of transit riders and how best to provide mobility options to the communities both parties have a responsibility to serve. There are elements of the Province's proposal to date that require further clarification and development, an assessment of risks and opportunities, and sharing of key information to allow for informed decision-making.

In August, the Province appointed a Special Advisor to Cabinet for a one year term to lead their review. The Minister of Transportation has requested the Mayor to advise on the City's willingness to engage in an information sharing exercise with the province on the proposed upload, and to provide a response by December 13, 2018. City Council earlier this year took a position in opposition to the proposed subway upload (MM41.36). This report responds to the November 30, 2018 letter from the Mayor to the City Manager requesting a report on the subject, including an assessment of risks and potential next steps.

The report recommends City Council authorize the City Manager, under key conditions and with consideration for the principles outlined in Attachment 2, to engage with the Province on their proposal to 'upload' the subway infrastructure. The purpose of this engagement will be to establish a joint Terms of Reference that will guide an ongoing discussion and information exchange process between the Province and the City on this matter. An update report to City Council in Q1 2019 will outline the parameters of the joint process and seek any additional authorities that may be required at that time.

This report was prepared in consultation with the Chief Executive Officer of the Toronto Transit Commission (TTC).

## **RECOMMENDATIONS**

---

The City Manager and the City Solicitor recommend that:

1. City Council authorize the City Manager, in consultation with the Chief Executive Officer, Toronto Transit Commission, to negotiate a joint Terms of Reference to guide a discussion and information exchange process between the Province and the City on the alignment of transit responsibilities between the parties (the "Discussion") having regard to:

- a. a jointly agreed upon set of objectives which give consideration to the City's principles set out in Attachment 2;
- b. an evaluation of potential models and other policy options, including a comprehensive assessment of the potential risks, liabilities and implications, to achieve both the Province and City objectives; and
- c. the inclusion of a public consultation process.

2. Conditional upon a joint Terms of Reference having been developed in accordance with Recommendation 1 to the City Manager's satisfaction, City Council authorize the City Manager, in consultation with the Chief Executive Officer Toronto Transit Commission, to engage, as requested by the Province, in the Discussion, based upon the joint Terms of Reference.

3. City Council request the City Manager to report to City Council in the first quarter of 2019 with an update on the process, and to seek such further authority to engage in the process as may be required.

4. City Council direct that Confidential Attachment 1 to this report remain confidential in its entirety as it contains advice that is subject to solicitor-client privilege.

5. City Council forward a copy of this report to the TTC Board for its information.



## FINANCIAL IMPACT

---

There is no direct financial impact as a result of recommendations in this report. The City Manager will report back to City Council on the financial implications associated with any future recommendations, as a result of the City's engagement in the review.

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

## DECISION HISTORY

---

At its meeting of May 22, 2018, City Council considered *MM41.36 Keeping Toronto's Transit in Toronto's Hands*, which stated "that the City of Toronto should continue to own, operate and maintain the Toronto subway system and that transit within the City of Toronto should not be uploaded or otherwise transferred, in whole or in part, to the Province of Ontario", and that transit within the City should remain publicly owned through the TTC.

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

## ISSUE BACKGROUND

---

In May 2018, City Council passed a resolution stating a position that the Toronto subway system should not be uploaded to the Province of Ontario. The newly formed Government of Ontario, as of June 2018, has committed to evaluate the opportunity to upload components of the TTC subway infrastructure.

### *Appointment of a Special Advisor to Cabinet*

In late August 2018, the Province engaged a Special Advisor to Cabinet to provide advice to government on assuming ownership of TTC subway infrastructure. The Special Advisor will be supported by a Transit Upload Advisory Panel of up to three members. A Terms of Reference for the Special Advisor and the Advisory Panel has been developed by the Province<sup>1</sup>, and outlines the following direction and mandate:

- "evaluate the benefits and implications of the province assuming responsibility for the TTC subway infrastructure, including the building and maintenance of new and existing subway lines, from the City of Toronto (the 'upload'); and to "engage with the City of Toronto such that, through the potential upload of subway infrastructure by the province, the responsibility for day-to day subway operations – including labour relations and fare revenue generated by the subway system – could remain with the City of Toronto."<sup>2</sup>

---

<sup>1</sup> <http://www.mto.gov.on.ca/english/transit/transit-upload-special-advisor-terms-of-reference.shtml>  
(posted: November 29, 2018 to the Ministry of Transportation website)

<sup>2</sup> Ibid, p. 1

- “[Develop] the upload implementation strategy, including the negotiating mandate, to secure provincial ownership of the TTC subway network and other strategic transit/transportation assets in Toronto”<sup>3</sup>; and
- “[Undertake] staged/scoped consultation with key stakeholders, and, potentially the public, to inform the upload implementation strategy”<sup>4</sup>;

The initial term for the Special Advisor is one year (to August 30, 2019), with the option to extend for a further two years at the discretion of the Premier. The first term of this mandate is split into two phases:

- Phase 1 - Early September to December 2018 – focused on introductory briefings, providing technical expertise and advice, initial development of the upload implementation strategy, and development of details related to a potential public consultation process.
- Phase 2 – January to April 2019 – lead pre-negotiation preparation and early engagement with the City of Toronto/TTC, and refinement of the upload strategy.

Should the term be extended, the mandate for the Special Advisor is identified as “executing the transaction and informing the development of the associated legally-binding agreement(s).”<sup>5</sup>

The Province's Terms of Reference and correspondence from the Minister of Transportation, outline some of the Province's objectives and assumed benefits from an upload, including:

- "The planning, implementation and operation of transit is more efficient and integrated throughout the region;
- The decision-making framework for transit projects and service delivery is effective and clear – enabling the province to build more projects faster;
- Investments are optimized to help manage congestion, to allow seamless connections across municipalities, and to enable regional economic competitiveness/productivity”<sup>6</sup>;
- “Expedited implementation of a greater number of priority regional transit projects, made possible by the province’s ability to accelerate procurement, permitting and approvals, and to effectively undertake capital construction;
- An enhanced ability to plan a more efficient regional transit network across the GTHA, with improved connectivity achieved, for example, through fare and service integration; and,
- Greater fiscal flexibility to fund and deliver additional transit projects, and to address essential deferred maintenance needs, which would be effected through amortized provincial capital expenditure on owned assets.”<sup>7</sup>

---

<sup>3</sup> Ibid, p.2

<sup>4</sup> Ibid, p.2

<sup>5</sup> Ibid, p.4

<sup>6</sup> Ibid p.1

<sup>7</sup> Minister of Transportation. Letter to Mayor Tory. November 29, 2018.

## *Toronto – Ontario Engagement to Date*

A series of informal discussions, highlighted by an introductory meeting between the City, TTC and Ministry of Transportation in early November 2018 have been the extent of the City's engagement with the Province's Special Advisor to this point. The discussion to date has focused on gaining a better understanding of the Province's process, timelines and broad objectives. Provincial staff were also advised of City Council's May 2018 position regarding the potential upload (MM41.36), and the requirement of City staff to seek Council direction.

The Province has requested the Mayor's commitment by December 13, 2018 "that the City and TTC will actively participate in the discovery process with the Province, thereby making available, on a confidential basis, the [requested] TTC subway system data and information"<sup>8</sup> including a valuation of the subway assets, the backlog of deferred maintenance, and the costs to operate the subway. In response to this request, the Mayor has asked the City Manager to bring this report forward to Council for its review.

Please see Attachment 3 for correspondence to date on the matter.

## **COMMENTS**

---

### **1. Importance of the TTC Network**

As Canada's largest and busiest transit agency, the TTC operates an extensive service network. The TTC's transit system is an integrated and co-ordinated multi-modal network, with customers having access to seamless connections within the system. The scale of the network is significant, and includes:

- 4 rapid transit lines, with 75 stations and more than 870 rapid transit cars are used to provide the service;
- 10 streetcar routes serving the busiest downtown surface corridors;
- more than 150 bus routes, all but 3 of which serve subway stations; and
- Wheel-trans – a comprehensive paratransit service.

The TTC carries large numbers of customers at all times of the day and week. Subway service is scheduled to operate every two to six minutes. Most bus and streetcar routes in the peak periods run every five to ten minutes. A core network of more than 40 routes runs every 10 minutes or better at all times. Twenty-six routes operate 24 hours a day, seven days a week, providing important overnight transit access. Of the TTC's total annual ridership, 57 percent of rides are made outside the traditional Monday to Friday rush hours. This proportion has steadily increased in the last three decades, when the split between peak and off peak ridership was traditionally about even.

Approximately two-thirds of the 1.7-million trips made each weekday on the TTC system are made with at least one ride on the subway system, with other parts of the trip made by TTC bus or streetcar. Only 30 percent of TTC rides on the subway do not include a

---

<sup>8</sup> Ibid.

transfer to another mode in the network. It is also important to note that 89 percent of the 1.7-million daily trips – approximately 1.5-million per day, or about 470 million per year – are made entirely within Toronto, comprising more than two-thirds of all daily transit riders in the Greater Toronto and Hamilton area.

The TTC system is a critical service in Toronto today, supporting the City's economic vitality, employment growth, and social cohesion. The further development of the transit network is important for the City to achieve a broad range of city-building objectives – economic, social and environmental. There is a strong reliance on the transit network in Toronto, with approximately 46 percent of trips in the downtown and 28 percent of all trips citywide made by transit. This compares with mode shares of 4-8 percent in nearby regions of Durham, York, Peel, Halton, and Hamilton<sup>9</sup>.

An expanded, connected transit network is central to the City being able to respond to current growth and development, and to plan for the expected 500,000+ new residents<sup>10</sup> of Toronto over the coming decades. A well-developed rapid transit network is essential for Toronto economic competitiveness of the City and the Region as a whole.

## **2. Recommended Approach for Engagement with the Province**

Given the important role the TTC network plays, this report recommends City Council authorize the City Manager, under key conditions, to engage with the Province on its proposal to "upload" the subway infrastructure. City/TTC engagement is recommended in this matter in order to:

- Develop an understanding of the Province's goals, objectives, and clarify and validate positions and assumptions;
- Support informed decision making by establishing a common understanding of facts and data and provide the Province with access to the TTC's operational expertise as the third-largest transit operator in North America and the only agency in the GTHA with experience in subway infrastructure and services; and
- Ensure the Province understands the City's key interests and objectives as outlined in this report; and the importance of the TTC subway infrastructure as a component of an integrated TTC network.

### *Terms of Reference Defined by Both Parties*

The report recommends City Council authorize the City Manager, in consultation with the CEO TTC, to negotiate a joint Terms of Reference with the Province to guide a discussion and information exchange process on the alignment of transit responsibilities between the parties. Subject to Council approval, the City would be prepared to work on an expedited basis with the Special Advisor and Ministry of Transportation staff to develop a joint Terms of Reference that will provide the framework for how the parties will engage on this important and complex issue.

---

<sup>9</sup> 2016 Transportation Tomorrow Survey. <http://dmg.utoronto.ca/transportation-tomorrow-survey/tts-reports>

<sup>10</sup> Growth Plan for the Greater Golden Horseshoe.

[http://placestogrow.ca/index.php?Itemid=14&id=430&option=com\\_content&task=view](http://placestogrow.ca/index.php?Itemid=14&id=430&option=com_content&task=view)

The process defined through the joint Terms of Reference should achieve the following objectives:

- Take a holistic view of the Province's proposal, examining the potential impacts to the TTC network as a whole and the risks to the continued operation of an integrated system;
- Represent a principles based discussion focused on a jointly agreed upon set of objectives, with consideration of the City's principles set out in Attachment 2 and described later in this report;
- Include a comprehensive assessment of the potential risks, liabilities and implications to both parties;
- Allow for an exploration of a range of potential models and other policy interventions to achieve both the Province and City's interests; and
- Outline how the public will be consulted in the process.

Further, the principles of the Toronto-Ontario Cooperation and Consultation Agreement (T-OCCA)<sup>11</sup> should be adhered to in the development of a joint process. The principles include respect for each other's jurisdiction and authority, cooperation on shared policy matters, a shared commitment to consult with one another, and acknowledgement of each other's interests.

By giving staff authority to formally engage with the Province, the City and TTC will seek to clarify the following issues related to the proposed model outlined in the November 29, 2018 letter from the Minister:

- Key provincial objectives and the 'problem statement'. To date a range of potential benefits and issues to be addressed have been cited in various correspondence, Minister speaking events, and the Province's Terms of Reference for the Special Advisor;
- Definition of subway asset infrastructure under review. The City and TTC require further clarification on the scope of subway related infrastructure the province is contemplating, given the integration of various infrastructure and service components that comprise the TTC subway network (e.g. stations, tunnels, signalling systems, real estate, fleet, etc.), in addition to interfaces with surface transit infrastructure and other municipal assets and services;
- The scope of other potential strategic transit assets the Province is interested in reviewing, as suggested in the Special Advisor's Terms of Reference<sup>12</sup>;
- Other potential models under consideration or/ previously evaluated, including other policy options that may also serve the objectives identified. For example, fare integration, and previous fare policies proposed<sup>13</sup> will also support "seamless connections across municipalities"<sup>14</sup>;

---

<sup>11</sup> <https://www.toronto.ca/city-government/accountability-operations-customer-service/city-administration/city-managers-office/intergovernmental-affairs/toronto-ontario-cooperation-and-consultation-agreement/>

<sup>12</sup> Attachment 4, p2.

<sup>13</sup> <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX16.1>

<sup>14</sup> Attachment 4, p1.

- Discussion on assignment of responsibility for operating, maintaining, and delivering expansion; including responsibilities for the full lifecycle costs of the network including operating, maintenance, capital, and lifecycle maintenance;
- Impacts to existing and future intergovernmental funding arrangements, including the status of existing agreements between the parties;
- Governance over the system, including responsibilities for setting service levels, fare policy and decision-making in general on the future of the network and current operations;
- Process for public consultation with Toronto residents and transit users;
- Specific details on the information required by the Province and referenced in various correspondence to date, to support the review. An inventory of information required in accordance with a joint work plan should be developed; and
- Approach to undertaking a fair market valuation of the assets and liabilities of the TTC subway infrastructure, including scope of services of the consultant, and request of City and TTC resources to complete the assignment.

Subject to Council's approval to engage the Province on the 'upload' proposal, the City will seek to develop a joint Terms of Reference with the Province. Conditional upon the joint Terms of Reference being satisfactorily completed, the City will then engage in a discussion and information exchange process with the Province, as requested. An update report to City Council will be prepared for the first quarter of 2019 that will provide an update on discussions with the Province to that point, and seek any additional authorities required.

In the interim the City Manager will, within existing authority, retain third-party advice as required on matters that could include independent advice on provincial accounting and controllership requirements, best practice in governance structures, and establishing an independent valuation of the subway assets. The City Manager will also consider the required organizational structure and resources required to support the City in the course of these discussions, including the merits of establishing an advisory panel or similar guidance body. An update will be included in the report to Council and the TTC Board in the first quarter of 2019.

### **3. Key Interests and Objectives – Guiding Principles**

The report recommends that a joint Terms of Reference be developed by the parties regarding the alignment of transit responsibilities between the parties. A principle-based approach to the engagement focused on an agreed to set of objectives between the parties is desired.

In order to assist discussions with the Province, guiding principles have been identified in Attachment 2 and described below, that reflect key Toronto interests from a governance, policy, operations, and finance perspective. The principles will provide staff with the guiding framework for evaluating the impacts and implications of various models that could be proposed, in addition to informing the development of further advice and recommendations to City Council and the TTC Board.

*Governance*

The TTC network, including Toronto's subway infrastructure, is currently governed by City Council and the TTC Board, with elected representatives on each who are directly accountable to the residents served. Should the Province pursue a new model for transit subway asset ownership, a comprehensive review of the governance structure would be necessary. The governance structure(s) and associated policies and practices that shape how decisions are made will need to be evaluated with respect to accepted principles of good governance<sup>15</sup> as outlined in Table 1 below.

*Table 1: Guiding Principles - Governance*

Principle	Description
Accountability	<ul style="list-style-type: none"> <li>• Defined roles and responsibilities, and fair assignment of risks and financial obligations.</li> </ul>
Responsiveness to Community	<ul style="list-style-type: none"> <li>• Accessible and responsive to the local community served by the transit service.</li> <li>• Transit decision makers to ensure adequate and meaningful public consultation occurs.</li> </ul>
Transparency	<ul style="list-style-type: none"> <li>• Decisions made in open with full visibility of the governance decision-making processes.</li> </ul>

Prior reports to City Council have identified the need for a review of transit governance in the region, in particular with respect to the current Metrolinx Board governance model. Currently, there is currently no formal mechanism for municipalities and local transit authorities to provide input into Metrolinx Board decision-making processes. Under the Metrolinx Act, 2006, the Minister of Transportation appoints the Metrolinx Board of Directors. Metrolinx is governed by a skills based board and elected officials are precluded from participating as members. The limitation of the current model is that there is no direct accountability link to the municipalities and their local transit authorities across the region.

In April 2014, City Council requested the Province to undertake a comprehensive review of the Metrolinx Board governance structure, and consider including political municipal and citizen representation. City Council also requested that the Province enhance the transparency of the Metrolinx Board decision-making processes to the public<sup>16</sup>. In December 2017, as part of the City's submission to Metrolinx on the *Draft Regional Transportation Plan for the GTHA*, the City requested Metrolinx to undertake a comprehensive review of board governance, considering the principles of accountability, transparency, and flexibility for municipalities to determine local priorities<sup>17</sup>. There have also been a number of other TTC Board and City Council directions, outlining ideas for improved coordination between the TTC and Metrolinx Board, including request to City

<sup>15</sup> *TransLink Governance Review*, March 2013, Acura Consulting, Silex Consulting, Steer Davies Gleave [http://www.acuere.ca/docs/TransLink\\_Governance\\_Review\\_-\\_March\\_21\\_2013\\_Final\\_Report.pdf](http://www.acuere.ca/docs/TransLink_Governance_Review_-_March_21_2013_Final_Report.pdf)

<sup>16</sup> <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.EX39.2>

<sup>17</sup> <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EX29.1>

staff to provide further recommendations on Metrolinx Board governance changes required.

In November 2018, the Province announced it will conduct a Metrolinx Agency Review and introduced legislative changes to the *Metrolinx Act, 2006*<sup>18</sup>, which amongst other changes, clarifies the role of Metrolinx is to provide leadership on an integrated transit network, and gives further discretion to the Minister with respect to the broader Regional Transportation Plan. The Metrolinx Agency Review and engagement with the Province regarding its desire to assume ownership of TTC subway infrastructure represent an opportunity for the City to further governance discussions with the Province.

The City will use the principles outlined to identify recommendations on required improvements to the governance model, based on the various 'upload' scenarios the Province may be developing through this process.

### *Policy and Operations*

As a municipality, the City of Toronto has a responsibility to direct and enable growth within Toronto, and to establish a vision for the City's future. The City and TTC also currently share responsibilities for the operation of the transit network. Table 2 identifies some key principles as they relate to policy and operational interests in the system.

*Table 2: Guiding Principles – Policy and Operations*

Principle	Description
Safety and Security of the System	<ul style="list-style-type: none"> <li>• Safety of the public and system operators continues to be the top priority, supported by:               <ul style="list-style-type: none"> <li>- maintaining the subway in a state of good repair;</li> <li>- continuing or advancing safety-related programs;</li> <li>- implementing measures required to meet current and future capacity needs;</li> <li>- clearly defining who has the overall responsibility for system safety; and</li> <li>- ensuring system expansion does not compromise safety</li> </ul> </li> </ul>
Preserving Mobility Options and a Seamless Journey	<ul style="list-style-type: none"> <li>• Maintain the operational and service integration of the rapid transit, streetcar, bus, and Wheel-Trans networks, allowing customers to continue to seamlessly combine multiple trips to reach their destination.</li> <li>• Respond to existing and projected demand for transit trips in Toronto.</li> <li>• Service planning and fare policy should support the achievement of social, economic growth, and mobility objectives.</li> </ul>

<sup>18</sup> Bill 57, Restoring Trust, Transparency and Accountability Act, 2018. <https://www.ola.org/en/legislative-business/bills/parliament-42/session-1/bill-57>



Principle	Description
Ensure Accessible Local Service	<ul style="list-style-type: none"> <li>• The bus and streetcar transit network provide connections to the rapid transit network and local transit access requirements.</li> <li>• New stations or lines provide customer-friendly connections to and from buses and streetcars.</li> <li>• Ensure equity considerations are addressed in planning transit services - supporting access to mobility, economic growth, poverty reduction, social inclusion, etc.</li> <li>• The transit system provides comprehensive coverage to all areas of the City.</li> </ul>
Alignment of Infrastructure Investments with the City's Planning Objectives	<ul style="list-style-type: none"> <li>• Land use planning and transit/transportation planning are aligned to ensure the transit system serves people, strengthens places and supports prosperity in Toronto</li> <li>• Expansion of the rapid transit network and related development, respects local planning (urban structure and growth) objectives and service needs.</li> </ul>
Advance priority expansion projects underway	<ul style="list-style-type: none"> <li>• Maintain momentum on key priority projects;</li> <li>• The City, TTC and the province work in partnership to identify opportunities to accelerate work and improve decision-making processes.</li> <li>• Future expansion should respect Council priorities as identified through mechanisms such as the 2031 Transit Network Plan<sup>19</sup> and priorities for intergovernmental funding<sup>20</sup>.</li> </ul>

The planning and development of infrastructure has a direct impact on the shape and experience of local communities, including interfaces with other municipal assets and services. The Planning Act confirms the authority of municipal councils to make planning decisions through an Official Plan, other planning tools, and development approval processes. Additionally under both the Growth Plan and the Planning Act, municipalities are responsible for identifying and addressing policies/requirements for development within Major Transit Station Areas in their Official Plans. Any proposed change in the governance of transit in Toronto needs to consider the role of the City of Toronto in the planning process.

The City and TTC currently share a further responsibility as the operator of the transit network to ensure that it is operated in a safe and secure manner, and that the system continues to serve the City's broader policy objectives (e.g. access to mobility, poverty reduction, social inclusion, etc.). To achieve these policy objectives, the bus, streetcar, subway, and Wheel-Trans networks should continue to function as an integrated system, supporting robust local service.

<sup>19</sup> <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX16.1>

<sup>20</sup> <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX20.4>

The future expansion of the subway system should not erode the safety of the existing network, including the provision of sufficient capacity on the rapid transit network to allow safe operation. The TTC is assessing improvements to address capacity challenges on Line 1, and will be providing an update to Council and the TTC Board in early 2019.

*Funding*

Fiscal sustainability and the fair allocation of financial obligations are two guiding principles that should be taken into consideration through the review process with the Province.

*Table 3: Guiding Principles – Funding*

Principle	Description
Financial Sustainability	<ul style="list-style-type: none"> <li>• Availability of adequate operating and capital funding for the following to maintain service levels and safety:               <ul style="list-style-type: none"> <li>- Regular maintenance</li> <li>- Capital (lifecycle) maintenance</li> <li>- Safety and accessibility enhancements</li> <li>- Capacity enhancement to address growing ridership.</li> </ul> </li> <li>• Stable, consistent funding sources for effective system planning and management.</li> <li>• Funding to reduce reliance on property taxes.</li> </ul>
Fair Allocation of Financial Obligations	<ul style="list-style-type: none"> <li>• Financial obligations allocated amongst stakeholders in accordance with accepted progressive taxation and user fee principles, and having regard to capacity to contribute, and recognition of past contributions and investments</li> </ul>

Prior to 1998, the City and the Province equally subsidized TTC operating costs. However, since then, the City has been responsible for an increasing proportion of the operating subsidy, with its share rising in 2017 to 85% net of an allocation of the provincial gas tax subsidy.

Even though City funding for the TTC has accounted for 1/3 of the growth in the City's net expenditures over the past 10 years, the TTC has still had to rely on fare revenue for a much larger share of its budget than any other major transit system in North America, in part due to significant service improvements and capacity expansion.

As a result of years of inadequate capital funding, during the 2018 budget process in November 2017, TTC identified \$6.1 billion in unfunded capital needs over a 10-year planning period including projects to be brought forward to the Board for future consideration such as Bloor-Yonge Capacity improvement, platform edge doors and, significantly, the purchase of replacement subway trains, streetcars and buses.

Transforming for fiscal sustainability was expressed as a critical path in the TTC's Corporate Plan released early this year. To advance this direction, during 2018 TTC

embarked on a comprehensive review of TTC capital needs over the next 15 years. Additional major projects requiring funding over the planning period include the Line 1 Capacity Enhancement program and the Line 2 Modernization program including automatic train control, track and power upgrades, and train storage.

Many Toronto transit expansion projects are also unfunded and rely on currently unconfirmed future funding partnerships with the Province and the Federal government.

In order to continue to realize the vital social, economic and environmental benefits of safe and effective public transit in Toronto, there is a need for a new funding model that draws on a broader range of funding tools, which grow with the economy, in order to provide financial sustainability, ensure a commitment to the long-term stewardship of the network, and a fair allocation of financial obligations.

#### **4. Advancing Toronto's Transit Priorities**

As part of the discussions to date, the Province has indicated a desire to “[expedite] implementation of a greater number of priority regional transit projects...” and to “...[accelerate] key subway projects in Toronto...”.<sup>21</sup>

Advancing City Council's priority transit expansion projects currently under development is also important to the City<sup>22</sup>. Significant progress has been made over the last several years in partnership with Metrolinx and other municipalities on key projects of importance to the City and to the region. The TTC has applied lessons learned from its latest subway extension, and the delivery of the next subway projects is benefitting from an improved co-ordinated approach that makes use of best practices from rapid transit project management from around the world.

Investments have been made by all three orders of government in the planning, design and engineering (PDE) of Council identified priorities. The TTC is leading the design and engineering work on four major subway projects – Line 2 East Extension, Line 1 North Extension, Relief Line South, and Bloor-Yonge Station improvements. The City, TTC, and Metrolinx are collaborating closely on the planning of other projects, such as the Relief Line North, Eglinton East and West LRT Extensions, SmartTrack Stations Program, and Waterfront Transit. The City and TTC are also working with York Region and Metrolinx to identify timing and sequencing for implementation of the Line 1 North Extension in the context of required improvements to Line 1 capacity<sup>23</sup>. The TTC is also assessing other improvements to address capacity challenges on Line 1. Further specific transit project updates will be reported to Council in early 2019.

Subway expansion projects are governed by management committees comprising partner organizations involved in each project. For example, in June 2016, the Province committed \$150 million to Metrolinx to work with the City and TTC to advance planning and design of the Relief Line. The City also identified \$55M for the Relief Line South (PDE)<sup>24</sup>. Accordingly, Metrolinx, the City and TTC have entered into a Memorandum of

---

<sup>21</sup> Minister Yurek, November 29, 2018.

<sup>22</sup> <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX13.3>

<sup>23</sup> <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EX25.1>

<sup>24</sup> The City's contribution includes a 50% contribution from the Federal Government through its PTIF Phase 1 program.

Understanding (MOU) for this project that outlines the terms of reference for all three parties to work together. The Ministry of Transportation is also involved in executive level oversight committees over the transit expansion program.

In his letter addressed to the Mayor dated November 29, 2018 (Attachment 3), the Minister of Transportation proposed the assembly of an Ontario-Toronto team to examine how best to advance the design and delivery of the Relief Line South. As described above, the appropriate Management Committee is already operating, but could benefit from the participation of Infrastructure Ontario to provide further advice and support, as suggested by the Minister.

### *Federal Infrastructure Funding*

The Province's subway "upload" proposal, and discussions on the overarching governance model for transit expansion, should not delay or impede the opportunity to take advantage of federal funding announced under the Investing in Canada Plan Public Transit Infrastructure Fund program.

Under the Canada-Ontario Integrated Bilateral Agreement (IBA) Public Transit stream Toronto can receive a maximum of \$4.9 billion in federal funding based on ridership<sup>25</sup>. Toronto's federal allocation includes Canada's commitment of \$660 million to the Line 2 East Extension (also known as the Scarborough Subway Extension). The IBA includes a requirement of a minimum 33% matching contribution from provincial governments for municipal projects. The federal government will contribute up to 40% of eligible project costs with municipalities funding the remainder.

In December 2016, City Council identified priority transit expansion projects for phase 2 federal funding<sup>26</sup>. In the first quarter of 2019, City staff will report to City Council on a recommended final list of priority transit expansion projects for inclusion in the City's Phase 2 Public Transit Infrastructure Fund (PTIF) Federal Funding submission to the Province and Federal Government. The report will include a status update on the transit expansion program.

## **4. Summary**

The TTC system is a critical service in Toronto, supporting the City's economic vitality and social cohesion. This integrated network serves 530-million riders annually, approximately 85 percent of the region's transit riders. In light of this role and the Province's proposed 'upload' of the City's subway infrastructure, the City and Province need to establish a joint process for evaluating what is in the best interest of transit riders and providing mobility options to the communities both parties have a responsibility to serve.

This report recommends City Council authorize the City Manager, under key conditions and with consideration for the principles as outlined in Attachment 2, to engage with the Province on their proposal to "upload" the subway infrastructure. This engagement is

---

<sup>25</sup> <https://news.ontario.ca/moi/en/2018/03/under-the-180-billioninvesting-in.html>

<sup>26</sup> <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX20.4>

recommended so that the City can best understand the Province's goals and objectives; ensure the Province understands Toronto's key interests, and to support informed decision making.

Subject to this approval, the City Manager in consultation with the CEO TTC, will begin the engagement process with the Province as soon as possible, with the overall aim to establish a joint Terms of Reference that will guide a discussion and information exchange process between the Province and the City. An update report to City Council in Q1 2019 will provide an update on discussions to date and seeking further direction as required.

## **CONTACT**

---

Karen Thorburn, Project Director, Corporate Initiatives, Strategic & Corporate Policy  
Email: [Karen.Thorburn@toronto.ca](mailto:Karen.Thorburn@toronto.ca), Tel: 416-392-2720

Christina Hueniken, Practice Lead, Municipal Law, Legal Services Division  
Email: [Christina.Hueniken@toronto.ca](mailto:Christina.Hueniken@toronto.ca), Tel: 416-392-6160

## **SIGNATURE**

---

---

Chris Murray  
City Manager

---

Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

---

Attachment 1 – Confidential Attachment – Legal Opinion  
Attachment 2 – Guiding Principles  
Attachment 3 – Correspondence between the City of Toronto and Province of Ontario  
Attachment 4 – "Special Advisor to Cabinet - Transit Upload & Transit Upload Advisory Panel" Terms of Reference

# ATTACHMENT 2

## GUIDING PRINCIPLES

---

Good Governance	<ul style="list-style-type: none"><li>• Accountability</li><li>• Responsiveness to Community</li><li>• Transparency</li></ul>
Policy & Operations	<ul style="list-style-type: none"><li>• Safety and Security of the System</li><li>• Preserving Mobility Options and a Seamless Journey</li><li>• Ensure Accessible Local Service</li><li>• Alignment of Infrastructure Investments with the City's Planning Objectives</li><li>• Advance priority expansion projects underway</li></ul>
Funding	<ul style="list-style-type: none"><li>• Financial Sustainability</li><li>• Fair Allocation of Financial Obligations</li></ul>

# Attachment 3



Ministry of Transportation

Ministère des Transports

Office of the Deputy Minister

Bureau du sous-ministre

3rd Floor, Ferguson Block  
77 Wellesley Street West  
Toronto ON M7A 1Z8  
Tel.: 416-327-9162  
Fax: 416-327-9185

Édifice Ferguson, 3<sup>e</sup> étage  
77, rue Wellesley Ouest  
Toronto ON M7A 1Z8  
Tél. : 416-327-9162  
Télééc. : 416-327-9185



Chris Murray  
City Manager  
City of Toronto  
11<sup>th</sup> Floor, East Tower, City Hall  
100 Queen Street West  
Toronto, ON  
M5H 2N2

Rick Leary  
Chief Executive Officer  
Toronto Transit Commission (TTC)  
TTC Head Office  
1900 Yonge Street  
Toronto, ON  
M4S 1Z2

*Chris Rick*  
Dear Mr. Murray & Mr. Leary:

In recognition of the importance of the Toronto Transit Commission (TTC) subway system to the broader regional transit network, the Government of Ontario has committed to moving forward in developing a plan for assuming responsibility for TTC subway infrastructure. In late August 2018, as a first step in proceeding with this initiative, the government appointed Michael Lindsay as Special Advisor to help deliver on the province's commitment.

The Province of Ontario, the City of Toronto and the TTC have maintained a longstanding partnership with regards to advancing public transit initiatives. With this letter, I would like to confirm the Ministry of Transportation's (MTO's) desire to partner with the city and the TTC in a confidential discovery process, in support of the due diligence and analysis to be conducted by MTO, with the purpose of reaching a joint understanding of the fair valuation of the assets and liabilities encompassing the TTC subway system. This process would involve cooperatively undertaking a comprehensive data-/information-sharing exercise between fall 2018 and winter 2019.

Subject to your agreement, the following key elements, prepared without prejudice, are proposed as forming the basis of the discovery process:

#### Guiding Framework

Collaboration amongst the "parties" – Mr. Lindsay, and representatives from MTO, the city and the TTC – would be underpinned by a set of governing parameters and principles:

- **Structured Engagement** – A Steering Committee, comprising Mr. Lindsay and senior officials identified by each of MTO, the city and the TTC, would guide the discovery process for conducting an objective, mutually-consented valuation of TTC subway infrastructure. MTO proposes that the Steering Committee would be:
  - Supported by technical working groups, as appropriate, with designates from each of the parties who would provide advice on specific components of the underlying work plan for the discovery process; and,
  - Established by a terms of reference, which would outline in greater detail: the scope of work and intended outcomes resulting from the exercise; the membership and mandate of the Steering Committee and technical working groups; and, the roles and responsibilities of all parties.

- **Discretion & Confidentiality** – In recognition of the sensitive nature of the discovery process, all personnel participating on behalf of the parties would be bound by strict and absolute confidentiality to ensure the integrity and protection of the information that would be exchanged. Furthermore, all city and TTC representatives would be required to execute the attached Non-Disclosure and Confidentiality Agreement prior to participating in the exercise. MTO would also consider executing a reciprocal confidentiality agreement with the city and TTC as needed.
- **Reciprocal Sharing of Data & Information** – MTO would manage and administer a virtual data room, which would enable and facilitate the timely and transparent sharing of information. The data room would be a web-based repository/portal subject to controlled access protocols, with permissions extended solely to those officials designated by the parties.

Following the discovery process, there may be a further review and analysis phase, which we would continue to work on closely with the city and TTC.

If you are in agreement with the above proposal and path forward, I recommend that we convene a meeting to review it in greater depth. My office will work with your respective supports and Mr. Lindsay to schedule the discussion in the coming days.

I look forward to working closely with you on this important initiative in the months ahead, and to continuing to foster a collaborative relationship between our respective organizations.

Sincerely,



Scott Thompson  
Deputy Minister of Transportation

Attachment

Cc: Michael Lindsay, Special Advisor to Cabinet – Transit Upload

City Hall  
100 Queen Street West  
East Tower, 11<sup>th</sup> Floor  
Toronto, Ontario M5H 2N2

Tel: 416-392-3551  
Fax: 416-392-1827  
[chris.murray@toronto.ca](mailto:chris.murray@toronto.ca)  
[www.toronto.ca](http://www.toronto.ca)

November 8, 2018

Scott Thompson  
Deputy Minister of Transportation  
3<sup>rd</sup> Floor, Ferguson Block  
77 Wellesley Street West  
Toronto, Ontario M7A 1Z8

RE: TTC Subway Infrastructure

Dear Mr. Thompson,

Thank you for your letter of October 24<sup>th</sup>, 2018 and subsequent meeting on November 5<sup>th</sup>, 2018 regarding the Province's desire to partner with the City of Toronto and Toronto Transit Commission (TTC) in a formal valuation of the assets and liabilities encompassing the TTC subway system. The City understands the Government of Ontario has committed to developing a plan for assuming responsibility for TTC subway infrastructure, and is interested in proceeding with a discovery process over the next several months.

As discussed, in May 2018, City Council has taken the position that the City of Toronto "...should continue to own, operate and maintain the Toronto subway system and that transit within the City of Toronto should not be uploaded or otherwise transferred, in whole or in part, to the Province of Ontario".<sup>1</sup> Accordingly, a report to the new term of City Council is required to advise on the Province's proposal, and to seek Council direction and authority to continue this important dialogue.

Per our meeting, the City understands the Province has a primary interest in accelerating the construction of subway infrastructure expansion and is of the view that the subway infrastructure is an asset of regional value. The information provided during the course of our meeting with respect to the Province's overarching goals and objectives, information requirements, and timelines will inform our future discussions with City Council and the TTC Board. As two orders of government, a clear and transparent process for evaluating the proposal should be jointly determined. We welcome further discussions on a recommended joint approach.

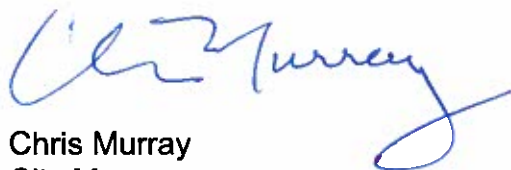
---

<sup>1</sup> MM41.36 - Keeping Toronto's Transit in Toronto's Hands.  
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.MM41.36>

With respect to the specific requests outlined in the October 24<sup>th</sup> letter on data/information sharing and confidentiality provisions, the City is of the view that Toronto-Ontario Cooperation and Consultation Agreement (TOCCA)<sup>2</sup> continues to provide an appropriate framework.

The TTC provides an important service—connecting the diverse communities of Toronto to economic and social opportunities through an integrated network of subway, bus, streetcar and Wheel Trans services. An accessible and robust network that supports current demand and the future growth of Toronto and the region is critical to achieving our shared objective of keeping people moving. The City and TTC look forward to a continued constructive dialogue with the Province, in order to ensure the needs of transit riders and the communities we serve are met.

Sincerely,



Chris Murray  
City Manager  
City of Toronto



Richard J. Leary  
Chief Executive Officer  
Toronto Transit Commission

Cc: Michael Lindsay, Special Advisor to Cabinet – Transit Upload

---

<sup>2</sup> <http://www.mah.gov.on.ca/Page9507.aspx>

Ministry of  
Transportation

Office of the Minister

Ferguson Block, 3<sup>rd</sup> Floor  
77 Wellesley St. West  
Toronto ON M7A 1Z8  
416 327-9200  
[www.ontario.ca/transportation](http://www.ontario.ca/transportation)

Ministère des  
Transports

Bureau du ministre

Édifice Ferguson, 3<sup>e</sup> étage  
77, rue Wellesley Ouest  
Toronto ON M7A 1Z8  
416 327-9200  
[www.ontario.ca/transports](http://www.ontario.ca/transports)



NOV 29 2018

His Worship John Tory  
Mayor  
City of Toronto  
City Hall, Second Floor  
100 Queen Street West  
Toronto ON M5H 2N2

Dear Mayor Tory:

Thank you for taking the time to speak with me last week to discuss our shared priorities on improving and expanding transit in Toronto and the Greater Toronto and Hamilton Area (GTHA). Further to our conversation, the Government of Ontario acknowledges that the Toronto Transit Commission (TTC) subway system is a significant component of the broader regional transportation network that spans the municipal boundaries of the GTHA. However, little progress has been made over the past decade in building vital new transit infrastructure in Toronto, due in large part to challenges experienced by the city/ TTC in advancing projects through municipal approvals, and in delivering major initiatives on-time and on-budget. Furthermore, conflicting city council priorities has led to perpetual paralysis in the funding and decision-making related to much-needed transit capital expansion.

In light of these realities, the province is committed to moving forward in the development of a plan to assume responsibility for components of the TTC subway system (that is, the "upload"). To this end, the Premier appointed Michael Lindsay as "Special Advisor" to work with the City of Toronto to proceed with the upload initiative.

Based upon preliminary analysis, we believe that an upload would generate the following benefits to transit riders and residents of the GTHA:

- Expedited implementation of a greater number of priority regional transit projects, made possible by the province's ability to accelerate procurement, permitting and approvals, and to effectively undertake capital construction;
- An enhanced ability to plan a more efficient regional transit network across the GTHA, with improved connectivity achieved, for example, through fare and service integration; and,
- A greater fiscal flexibility to fund and deliver additional transit projects, and to address essential deferred maintenance needs, which would be effected through amortized provincial capital expenditures on owned assets.

In order to realize these benefits, our government views the City of Toronto and TTC as key partners, now and in the future, to execute the upload plan. Underlying this arrangement are the following statements of good faith from the province's perspective:

- The relationship between the province and city would continue to be collaborative, in joint pursuit of the advantages under the upload;
- The long-term funding model would seek to ensure fiscal prudence and due regard for the taxpayers of Toronto and the province; and,
- The TTC would retain responsibility for the day-to-day operations and maintenance of the subway system.

I understand that provincial and city/TTC officials have held initial meetings to discuss the collective next steps. Moreover, I gather that these conversations have focused on partnering in a confidential discovery process that would involve the reciprocal sharing of data and information, along with subsequent review, analysis and due diligence work to be conducted by MTO. Such an exercise is intended to yield a joint understanding of the following:

- The fair valuation of the assets and liabilities encompassing the subway system;
- The TTC's current backlog of deferred maintenance on subway assets; and,
- The costs to operate the subways, disaggregated from the bus/streetcar network.

We are cognizant that collecting and analyzing will incur costs and are amenable to paying for any third-party expertise required to assist us in this exercise. We cannot let the costs associated with this vital sharing of data become a barrier that would unnecessarily delay the upload and new subway builds that go along with it.

With all of this in mind, I am requesting your support to confirm that the city and TTC will actively participate in the discovery process with the province, thereby making available, on a confidential basis, the aforementioned TTC subway system data and information. More specifically, I am seeking your consent in writing by December 13, 2018 to proceed with the cooperative exercise - and confirmation of your direction to officials to share relevant data pertaining to the value and condition of TTC assets, as well as the costs of TTC subway operations.

Finally, consistent with the overarching intention of accelerating key subway projects in Toronto – and in addition to the \$150 million in committed provincial planning funding – I would propose that we assemble an Ontario-Toronto team, with representatives from Metrolinx, Infrastructure Ontario, the city and the TTC, to examine how best to advance the design and delivery of the Downtown Relief Line. In recognition that the TTC's Line 1 capacity issues are reaching a critical point, I know we both agree that work must be undertaken as quickly as possible to pursue the Downtown Relief Line as a core infrastructure solution in Toronto. As such, I would suggest that provincial officials engage city/TTC officials in the coming weeks to explore this concept further before mutual province-city agreement is sought on the path forward.

Thank you for your consideration, and I look forward to hearing back from you on this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Yurek', written over a light blue horizontal line.

Honourable Jeff Yurek  
Minister of Transportation

- c. The Honourable Doug Ford, Premier of Ontario  
The Honourable Steve Clark, Minister of Municipal Affairs and Housing  
The Honourable Monte McNaughton, Minister of Infrastructure  
Scott Thompson, Deputy Minister of Transportation and Deputy Minister of Infrastructure  
Michael Lindsay, Special Advisor to Cabinet – Transit Upload



John Tory  
Mayor

November 30, 2018

Chris Murray  
City Manager  
11th Floor, East Tower, City Hall  
100 Queen Street West  
Toronto, ON M5H 2N2

Dear Mr. Murray,

I am sending you correspondence I received yesterday from Transportation Minister Jeff Yurek regarding the Toronto Transit Commission (TTC).

It is my hope that this new information and its implications be brought to City Council at the earliest opportunity along with any other relevant information.

I firmly believe that any actions taken with regard to our subway system need to be in the best interests of the people of Toronto, including transit riders and employees, and that Toronto must be completely involved and fully consulted as Premier Ford previously indicated would be the case.

We know that the subway upload was a campaign pledge of the Progressive Conservatives in the last election and that the government has now indicated its determination to proceed with this initiative. Minister Yurek has requested that the City and TTC participate in an information sharing exercise.

I believe subject to clear conditions, that the City's participation in this exercise is the best way to protect our TTC system. First and foremost, such participation will allow us to form a detailed understanding of exactly what "uploading" means since at present, the only preliminary sense we have of that comes from the attached letter, and it contains very few details.

.../2



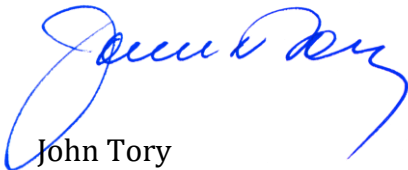
It is also my hope that this process will further assist the City in allowing us to establish the value of our TTC assets so that if anything is done which affects them we will be able to ensure fair and beneficial financial treatment for City of Toronto residents.

I believe we will not be able to obtain this clarity on exactly what "uploading" is and what the financial and other implications of such an action would be unless we participate in some kind of process similar to what is proposed. In fact, assuming we can agree on reasonable conditions defining such a process, it could even be argued this kind of process forms part of the discussion and consultation we insisted upon, including me personally.

Notwithstanding the above, I understand some will say the City should simply respond to the province by refusing to take part in such an exercise. I would request that your report to Council include an explanation of what risks such a response carries, legal and otherwise.

Thank you for your assistance with this matter.

Sincerely,



John Tory  
Mayor of Toronto

Encl.

# Attachment 4

# “SPECIAL ADVISOR TO CABINET – TRANSIT UPLOAD” & “TRANSIT UPLOAD ADVISORY PANEL”: TERMS OF REFERENCE

## CONTEXT

- In recognition of the strategic importance of the Toronto Transit Commission (TTC) subway system to the broader regional transit network, the Government of Ontario has committed to:
  - Evaluate the benefits and implications of the province assuming responsibility for the TTC subway infrastructure, including the building and maintenance of new and existing subway lines, from the City of Toronto (the “upload”); and,
  - Engage with the City of Toronto such that, through the potential upload of subway infrastructure by the province, the responsibility for day-to-day subway operations – including labour relations and fare revenue generated by the subway system – could remain with the City of Toronto.
- The potential upload of the TTC subway system presents an opportunity to realize regional benefits, which relate to improved decision-making and better transit connectivity in the Greater Toronto and Hamilton Area (GTHA). To that end, the upload could help to ensure that:
  - The planning, implementation and operation of transit is more efficient and integrated throughout the region;
  - The decision-making framework for transit projects and service delivery is effective and clear – enabling the province to build more projects faster; and,
  - Investments are optimized to help manage congestion, to allow seamless connections across municipalities, and to enable regional economic competitiveness/productivity.
- In light of the above, the Government of Ontario has established:
  - 1) A Special Advisor to Cabinet – Transit Upload (“Special Advisor”) position, with the objectives of:
    - Supporting the province’s evaluation and assessment of a potential upload; and,
    - Engaging the City of Toronto related to a potential upload.
  - 2) A Transit Upload Advisory Panel (“Panel”), with the objectives of:
    - Providing technical expertise and advice related to the potential upload; and,
    - Supporting the Special Advisor in carrying out his or her duties in respect of the potential upload.
- The following outlines the term and composition, key parameters and framework/structure that will guide and govern the work of the Special Advisor and Panel.

## TERM, COMPOSITION & STRUCTURE

- The Special Advisor and the Panel, comprising up to three peer experts, as needed, will be appointed by the Premier of Ontario (“Premier”) for a term of up to one year, with the option to extend the term – at the discretion of the Premier – to up to three years (total), or until the upload transaction has been executed.
- The Special Advisor, Michael Lindsay, was appointed on August 31, 2018 for an initial term that will end no later than August 30, 2019, unless extended in the position by the Premier.
- The Panel member(s):
  - Will be appointed as needed, and at a later date than the Special Advisor; and,
  - Is(/are) expected to be selected from a cross-section of various disciplines, in order to ensure that the required core competencies and areas of expertise can be leveraged in support of the upload exercise.
- The Premier may appoint new Panel member(s), as needed, during the established term, while ensuring that the Panel comprises no more than three individuals at any one point in time.

## **MANDATE & OBJECTIVES**

- Over the course of the initial maximum one-year term (“Stage 1”), the Special Advisor, supported by the Panel, will have a mandate to advise and work with the Ministry of Transportation – and partner ministries, as appropriate – in:
  - Developing the upload implementation strategy, including the negotiating mandate, to secure provincial ownership of the TTC subway network and other strategic transit/transportation assets in Toronto; and,
  - Undertaking staged/scoped consultation with key stakeholders, and, potentially the public, to inform the upload implementation strategy.
- If the option to extend for an additional maximum two year period (“Stage 2”) is exercised (i.e., for a total term of up to three years), then the Special Advisor (as appointed), supported by the Panel and subject to government approvals, will also:
  - Lead provincial upload negotiations with the City of Toronto/TTC.
- More specifically, the purposes of the Special Advisor and Panel functions are as follows:

### **Stage 1 – Initial Maximum One-Year Term**

- Based upon the recommendations of the Special Advisor, and subject to provincial approvals, it is expected that the key activities to be undertaken will include the following:

1) *Provide Technical Expertise and Advice to Government*

- Beginning in late summer/early fall 2018, the Special Advisor and Panel will guide and provide input to the internal-to-government analytical work, which will enable the development of the provincial upload implementation strategy.
- Moreover, the Special Advisor and Panel will be asked to bring to bear technical expertise on several focus areas to inform provincial decision-making, such as:
  - Financial modelling and analysis, including the associated accounting and controllership considerations;
  - Potential ownership and service delivery models under the upload; and,
  - The upload implementation pathway, timeline and strategy, including:
    - The design and mechanics of the merger/acquisition;
    - The policy, financial and corporate governance/structure implications for the entity responsible for the assumed Toronto assets; and,
    - Other implementation risks and considerations.

## 2) *Lead Stakeholder Engagement*

- The Special Advisor and Panel (as needed), working with MTO and partner ministries, will develop a formal negotiating strategy and lead pre-negotiation/early engagement with the City of Toronto/TTC, beginning in January 2019, in order to identify opportunities to advance the upload initiative.
- Additional engagement with key stakeholders (e.g., the federal government, GTHA municipalities, business/advocacy organizations, etc.) may also be conducted to inform the provincial upload implementation strategy, including the negotiating mandate.

## 3) *Potential for Public Consultation*

- The Special Advisor and Panel may be called upon to publicly champion the upload initiative on behalf of the province, which will involve working with MTO and, potentially, Metrolinx, to undertake a public engagement process.
- If public consultation is undertaken, the Special Advisor and Panel may be expected to deliver a final report to government that captures the feedback received throughout the process.
  - The results of this potential engagement process may be communicated publically.

## **Stage 2 – Additional (Optional) Maximum Two-Year Term**

- Subject to the term option being exercised, and upon provincial approval of the negotiating mandate, the Special Advisor (as appointed), working with MTO/partner ministries and supported by the Panel (as needed):
  - 1) May be responsible for leading formal negotiations with the City of Toronto/TTC to execute the upload transaction and the associated legally-binding agreement(s).
  - 2) May consult with other key stakeholder groups, and, potentially, the public, as negotiations progress.

## PHASES & POTENTIAL TIMELINES OF WORK

### Stage 1 – Initial Maximum One-Year Term

- Based upon the recommendations of the Special Advisor, and subject to government approvals, it is expected that the “Stage 1” mandate of the Special Advisor and Panel will be delivered in two phases of work, with details/timing to be confirmed:

#### *Phase One – Establishment & Internal Work (Early September to December 2018)*

- MTO, in collaboration with partner ministries, would provide a series of foundational briefings on the internal work underway related to the upload initiative.
- The Special Advisor and Panel (as needed) would begin developing the upload implementation strategy, while providing guidance/advice to MTO/partner ministries on the internal-to-government analysis as it proceeds.
  - Core outputs may include the negotiating mandate, the potential stakeholder engagement plan and a blueprint of the mechanisms that may be required to execute the upload.
- Furthermore, details related to a potential public consultation process – including timing and approach – would be developed between the Special Advisor/Panel and MTO/partner ministries.

#### *Phase Two – Pre-Negotiation Activities (January to April 2019)*

- Subject to approvals, the Special Advisor, working with MTO/partner ministries and supported by the Panel (as needed), would lead pre-negotiation preparation and early engagement activities with the City of Toronto/TTC, and, potentially, other key stakeholders.
- As this early engagement progresses, the Special Advisor and Panel would meet regularly with MTO/partner ministries to refine the upload implementation strategy, including the negotiating mandate.

### Stage 2 – Additional (Optional) Maximum Two-Year Term

- Subject to the term extension option being exercised and provincial approval of the negotiating mandate, the Special Advisor, as appointed, may lead formal negotiations with the City of Toronto related to the upload implementation strategy, including with respect to executing the transaction and informing the development of the associated legally-binding agreement(s).
  - To this end, the Special Advisor would work with MTO/partner ministries and be supported by the Panel (as needed).

- The Special Advisor and Panel may also engage other key stakeholder groups, and, potentially, the public, as part of the “Stage 2” mandate.

## **SPECIAL ADVISOR & PANEL SUPPORT**

- The Special Advisor and Panel will be supported by the following:
  - A dedicated team comprising staff from MTO, which will:
    - Work directly with the Special Advisor and Panel; and,
    - Perform secretariat duties.
  - Other ministries (e.g., Ministry of Infrastructure, Treasury Board Secretariat, Cabinet Office, Ministry of Finance, Ministry of Municipal Affairs and Housing, etc.) and, potentially, provincial agencies (i.e., Metrolinx and Infrastructure Ontario), as needed; and,
  - If a public consultation process is to be undertaken, a communications team may be made available to assist with report writing and other communications activities.
- In addition, MTO will work with the Special Advisor to determine the external expertise required to plan, negotiate and execute the upload, including the associated resource needs.
  - Once confirmed, MTO will seek provincial approval of the resources to support these activities.
- Finally, MTO will endeavour to leverage the resources of the Special Advisor, the Panel and participating ministries, in order to minimize costs.
  - For example, options will be explored to leverage facilities, such as firm boardrooms and government meeting space, to host engagement and negotiation activities.

## **ACCOUNTABILITY FRAMEWORK**

- The Special Advisor and Panel are accountable to the Premier, through the Minister of Transportation.
- Per the government Agencies and Appointments Directive (AAD), the following are the accountability relationships and responsibilities of the Minister of Transportation, the Deputy Minister of Transportation, and the Special Advisor and Panel:

<b><i>Role</i></b>	<b><i>Accountability</i></b>	<b><i>Responsibilities</i></b>
Minister of Transportation	<ul style="list-style-type: none"> <li>• The minister is accountable to Cabinet and the Legislature, representing the public.</li> </ul>	<ul style="list-style-type: none"> <li>• Reporting/responding, within prescribes timelines, to the Legislature and Cabinet on performance and compliance.</li> </ul>
Deputy Minister of	<ul style="list-style-type: none"> <li>• The Deputy Minister is</li> </ul>	<ul style="list-style-type: none"> <li>• Ensuring that the Special</li> </ul>

Transportation	accountable to the Secretary of Cabinet and the minister.	Advisor and Panel member(s) are provided with all of the necessary supports to deliver on the respective mandates.
Special Advisor and Panel Member(s)	<ul style="list-style-type: none"> <li>The Special Advisor and Panel member(s) are accountable to the minister for their conduct, and for the respective mandates and deliverables.</li> </ul>	<ul style="list-style-type: none"> <li>Keeping the minister informed; and,</li> <li>Achieving the purpose and deliverables – which are subject to provincial approvals – as stated in this Terms of Reference.</li> </ul>

- The Special Advisor and Panel member(s) will ensure that they are compliant with all applicable government directives and policies.

## **ETHICAL FRAMEWORK, CONFLICT OF INTEREST PROVISIONS & CONFIDENTIALITY**

- Per the AAD, the Special Advisor and Panel member(s) are required to fulfill the duties of their appointment in a professional, ethical and competent manner, and avoid any real or perceived conflict of interest. In particular, and without limiting the generality of the foregoing obligations, a government appointee shall:
  - Not use or attempt to use his or her appointment to benefit himself or herself or any person or entity;
  - Not participate in or attempt to influence decision-making as an appointee if he or she could benefit from the decision;
  - Not accept a gift that could influence, or that could be seen to influence, the appointee in carrying out the duties of the appointment;
  - Not use or disclose any confidential information, either during or after the appointment, obtained as a result of his or her appointment for any purpose unrelated to the duties of the appointment, except if required to do so by law or authorized to do so by the responsible minister/Premier;
  - Not use government premises, equipment or supplies for purposes unrelated to his or her appointment; and,
  - Comply with such additional requirements, if any, established by the short-term advisory body itself and/or the responsible minister/Premier.

*Note: Per 4. (above), the Special Advisor and Panel member(s) shall be required to execute the attached Confidentiality Agreement.*

- A government appointee must declare a personal or pecuniary interest that could raise conflict of interest concerns at the earliest opportunity to the responsible minister or minister's designate (i.e., the Deputy Minister of Transportation).



## **REMUNERATION**

- The Special Advisor and Panel member(s) shall be paid such remuneration as established in the applicable Order in Council.
- Moreover, the Special Advisor and Panel member(s) will be reimbursed for reasonable expenses incurred while discharging their duties and in accordance with the relevant directives, guidelines and policies of the Treasury Board and Management Board of Cabinet.