

THE REGIONAL MUNICIPALITY OF YORK

**REPORT NO. 1
OF THE REGIONAL CHIEF ADMINISTRATIVE OFFICER**

**For Consideration by
The Council of The Regional Municipality of York
On June 21, 2007**

**1
SUBWAY EXTENSION TO VAUGHAN CORPORATE CENTRE - OPERATING
AGREEMENT UPDATE**

1. RECOMMENDATIONS

It is recommended that:

1. Council confirm the principles of the Memorandum of Understanding as noted on Attachment 1;
2. Council authorize the Chief Administrative Officer to execute a Memorandum of Understanding with the City of Toronto and the Toronto Transit Commission (TTC) for the ownership and operation of the subway extension to Vaughan Corporate Centre.

2. PURPOSE

The purpose of this report is to provide details and recommend execution of a Memorandum of Understanding with the City of Toronto, Toronto Transit Commission (TTC) and the Regional Municipality of York for the ownership and operation of the subway extension to Vaughan Corporate Centre. As well, this report includes further analysis and options for commuter parking as directed by Council on April 19, 2007.

3. BACKGROUND

On April 19, 2007 Regional Council adopted a series of recommendations outlined in the report entitled *Subway Extension to Vaughan Corporate Centre – Operating Agreement Update*. That report outlined the general provisions for an operating arrangement and the conditions on which a Memorandum of Understanding for the ongoing ownership and operation of the subway extension in York Region was to be negotiated.

Some of the key principles outlined in that report included the TTC acting as the owner and operator of the subway extension into York Region. The Region would make no contributions to the operating costs for the subway (except for terminals in York Region) and would be saved harmless for future capital rehabilitation and replacement costs. These benefits to York Region would be enshrined in a legal agreement so as to accrue to the Region regardless of future ownership changes of the system. The Region would retain control of bus terminals (including operating costs and revenues). Where York Region owns land, the Region will retain development/air rights.

At that time, staff was directed to report back with further analysis and options for commuter parking. (Recommendation 2d of the report dated April 19, 2007)

These same principles for a Memorandum of Understanding were reflected in the City of Toronto report to Executive Committee of April 16, 2007 and approved by Toronto City Council on May 23, 2007. The principles for the MOU are listed in Attachment 1. The full City of Toronto staff report is contained in Attachment 2 to this report.

The only exception that was the subject of additional discussion was the issue of control and operation of commuter parking. The Toronto report stated that commuter parking revenues and costs were to be the responsibility of the TTC (see Principles 14 and 16 in Attachment 1) while Regional Council requested further analysis prior to agreeing to a parking arrangement.

The purpose of this report is to provide an update on the Memorandum of Understanding, including further analysis and options for commuter parking as directed by Council.

4. ANALYSIS AND OPTIONS

4.1 Highlights of the Operating MOU

York's negotiating principles are reflected in the operating MOU

Since Council adopted the direction for negotiation on April 19th, staff has been able to incorporate the points into the principles of the operating Memorandum of Understanding (Attachment 1). Highlights of the agreed-upon principles for the MOU include:

- The Region would own and operate the bus terminal facilities in York Region
- The Region would be responsible for all operating costs of the York bus terminals and receive all revenues associated with the terminals (i.e. bus bay lease fees, surface advertising, retail leasing)
- TTC would own and operate the subway system
- TTC would be responsible for all operating, maintenance, rehabilitation and future capital upgrades associated with the subway system
- In the event of a transfer of ownership for the subway, the Region would have the option of being saved harmless from future operating subway operating costs or of recouping its initial capital investment less any operating subsidies paid by the TTC for the York section of the line
- TTC would receive revenue associated with the subway system, including fare box and underground advertising
- The Region and TTC would work cooperatively to resolve the issue of York University students paying two fares for trips starting in York Region and ending at the University (see recommendations 2b and 2c on Attachment 2)

4.2 Commuter Parking

Regional Council expressed three issues relating to commuter parking

The proposed MOU raised some issues for commuter parking in York Region. On April 19th, Council expressed three issues relating to parking:

- I. Protecting future land use at Vaughan Corporate Centre (VCC) by ensuring that the 2500 parking spaces to be built in York Region as per the Environmental Assessment are located at Highway 407 and Steeles West stations instead of the VCC station.
- II. Ensuring that, to the greatest extent possible, local YRT/Viva services would feed the subway line thereby maximizing the positive impact of transit on congestion in the area. This would be achieved, for instance by imposing a minimum charge for parking.
- III. Maintaining an ownership interest in commuter parking as a means of influencing parking policy and sharing in revenue.

Commuter parking is an integral element of the subway project and as such, capital costs for commuter parking are part of the total project capital costs which will be split on a 60/40 basis between Toronto and York respectively.

TTC, Toronto and York staff has had ongoing discussions on the subject of commuter parking. The end result of these discussions is noted below.

TTC has agreed that commuter parking should not be built in Vaughan Corporate Centre

Parking is a broad issue for the Region and the question of commuter parking for the subway must be considered from the overall Regional perspective. It is important to ensure that parking for the subway project should be planned in the context of broader land use plans, especially in regards to the master plan for the VCC. As a result, it was proposed that all of the York Region parking spaces for the subway extension would be located at Steeles West and Highway 407 stations. The TTC has agreed that no commuter parking will be provided at the Vaughan Corporate Centre as part of this project.

There will be a minimum parking charge at Highway 407 Station

There has been agreement that the best place to implement a minimum parking charge is at the 407 station, where a minimum of 600 spaces will operate on a cash-only basis. The price for parking is subject to further discussion, but would be related to adult YRT/Viva fares.

There is an issue of implementing such a policy at the Steeles West station. Pricing for parking at Steeles station needs to consider the context of being immediately adjacent to parking facilities at York University, where all-day parking costs \$9.00 per day. A minimum charge would have to exceed \$9.00 to dissuade non-transit users from using the lot at Steeles station and walking across the street to the university. Conversely, a higher charge at Steeles station would cause the York University parking lot to fill with transit users. We recommend that staff continue to discuss pricing policy with TTC and involve York University in the discussions. These parking discussions would dovetail into discussions with York University on resolving the issue of the double transit fare for York University.

Parking ownership needs to be considered in the context of the overall deal with TTC/Toronto

The financial implications for parking operations must be considered in the context of the proposed operating agreement whereby the TTC will take full responsibility for operating costs and revenues as well as future rehabilitation and replacement requirements. In its June 13, 2007 report entitled *Spadina Subway Extension to the Vaughan Corporate Centre – Estimated Operating Costs and Revenues*, the TTC notes that operating losses for the York portion of the subway line are likely to be in the range of \$3.6 to \$4.4 million per year. In addition, the future rehabilitation and replacement requirements for the subway in York Region are approximately \$16 million per year.

Toronto staff takes the position that Toronto requires control of parking in order to generate revenue to offset operating and future capital liabilities. This is an essential element of the deal and must be included in any agreement.

Other particulars have been agreed to for commuter parking

Other items related to commuter parking that were discussed and agreed to are as follows:

- 2500 commuter parking spaces will be provided in York Region and the capital cost for these parking spaces will be the responsibility of the Region as per the capital cost sharing agreement
- The TTC will operate all commuter parking lots in York Region, and will be responsible for all operating costs, including long-term rehabilitation, and revenues associated with commuter parking
- The TTC will be responsible for establishing the pricing strategy for commuter parking lots within York Region (noting that cash-only pricing for 600 spaces at the Highway 407 station has been already been agreed to)
- The Region will make best efforts to discourage the use of privately-owned property near the Vaughan Corporate Centre for free commuter parking by making arrangements to install gate equipment to restrict vehicle access during peak travel periods, recognizing that York Region cannot compel any property owner into such an arrangement.

The MOU outlines the objectives of commuter parking and commits TTC and York staff to further discussions how best to achieve these objectives

The proposed MOU notes that the TTC and York Region have agreed that the objectives of operating commuter parking lots are to:

- Continue to serve existing TTC riders (including Metropass Users) who currently park at existing TTC commuter parking lots as well as attract new transit users
- Encourage bus access to stations to the extent possible
- Maximize overall transit ridership, including on YRT/Viva services feeding the subway
- Maximize passenger and commuter parking revenue
- Maximize utilization of the parking lots
- Discourage non-transit use of the parking lots; and
- Maintain consistency with overall TTC policies.

The MOU also indicates that York and TTC staff agree to continue to discuss how best to achieve the objectives outlined above, especially as related to commuter parking at Steeles West station.

The MOU does not preclude establishing a parking authority

It should be noted that this agreement does not preclude the City of Vaughan or the Region from setting up a parking authority in the future.

Staff recommend that this operating agreement be accepted

Staff feels that the proposal related to commuter parking can be accepted in the context of the broader operating agreement. The exclusion of Vaughan Corporate Centre as a location for commuter parking, together with minimum pricing at the 407 station and ongoing dialogue at Steeles station sets an important framework to achieve the objectives set by Regional Council. Additionally, savings on future operating, maintenance, rehabilitation and system upgrade costs offset any additional revenue that may have been achieved by York retaining an interest in parking operations.

5. FINANCIAL IMPLICATIONS

Under terms of the proposed Operating MOU, the TTC will be responsible for all operating costs and revenues of the subway expansion in York Region (except for terminals in York Region), and future rehabilitation and replacement costs. As per the capital cost sharing agreement, York will contribute 40.02% of the one-third municipal capital costs (currently \$312.1 million of a \$2.1 billion overall project cost).

The proposed operating agreement has significant financial benefit to the Region. York would not have to incur any operating costs for the subway extension in York Region (except terminals). As noted in Section 4.2 above, TTC indicates that net operating cost for the York portion of the subway line is likely to be in the range of \$3.6 to \$4.4 million per year.

As well, the Region would not be responsible for future rehabilitation and replacement costs. The resulting savings to the Region are significant. York's initial capital cost for the infrastructure component of the project before Federal and Provincial contribution is estimated at \$796 million (excluding land and one-time payment for existing services). In the simplest scenario, with an estimated 50 year life of the project, capital replacement reserve contributions of approximately \$16 million per year would be required. Under the terms of the proposed operating agreement, these costs are the responsibility of the TTC.

6. LOCAL MUNICIPAL IMPACT

The subway expansion to the Vaughan Corporate Centre will provide subway service in York Region. The project will have significant implications for the City of Vaughan, including proximity to subway service and development potential in the subway corridor.

The project will also provide transportation options for commuters throughout York Region including some anticipated relief to the Yonge Street subway line.

7. CONCLUSION

A Memorandum of Understanding is required between York Region and the TTC/Toronto to outline the principles on which to develop a detailed operating agreement for the subway extension to the Vaughan Corporate Centre. Toronto Council approved the principles of an MOU on May 23, 2007 and authorized staff to execute the MOU once finalized. It is recommended that Council authorize the Chief Administrative Officer to execute a Memorandum of Understanding based on the same principles as contained in Attachment 1.

(The attachments referred to in this clause are attached to this report.)

Respectfully submitted,

**June 19, 2007
Newmarket, Ontario**

**B. Macgregor
Chief Administrative Officer**

(Report No. 1 of the Chief Administrative Officer was adopted, without amendment, by Regional Council at its meeting held on June 21, 2007.)

Council Report Attachment 1

Operating MOU – Principles

Priorities for Subway Extension

1. The primary purpose of subway system is for public transportation, regardless of whether it also may be incidental to other uses.
2. Public safety and continuous operation of subway system is a priority.
3. The subway extension is to be operated as a seamless extension of the existing TTC subway system.

Design and Construction

4. The Project will be designed, constructed and operated in accordance with TTC design standards within York Region.
5. York will be responsible for constructing, maintaining and operating surface bus facilities, and passenger pick-up and drop-off, and will consult with the TTC on design standards.

Development in York Region and Technical Review

6. York will have the right to develop or permit development of lands in and around the transit facilities in York Region.
7. For developments that are directly connected to subway infrastructure, all developers, whether in the City of Toronto or York Region, will be required to enter into Entrance Connection Agreements with the TTC, consistent with current practice.
8. For the purpose of ensuring a safe and continued operation of the subway, approval of development and planning applications in York Region that include or affect property within 60 meters of any transit facility (the “Zone of Influence”) will be made subject to the TTC’s technical review process.
9. A written protocol will be developed by the City/TTC/York relating to the TTC’s right to conduct a technical review on proposed developments within the Zone of Influence. The protocol shall also address requirements for registering restrictive covenants and other agreements on title of lands, and a standard TTC warning clause for various interferences (e.g. noise, vibration, and electromagnetic interference).

Subway Operations

10. The TTC will be responsible for the operation, maintenance, regulation and use of the subway system, including setting service levels consistent with the entire system.
11. The TTC will continue to establish fare policies for travel by subway and these policies will not unfairly impact riders outside of Toronto.
12. The TTC will continue to be responsible for all subway-retail leasing within areas of TTC ownership.

Revenues

13. All subway Fare Revenues will accrue to the TTC/City.
14. All ancillary revenues within limits of TTC ownership including in-station advertising, retail leasing and sampling. Commuter parking revenue for all stations including Steeles and Highway 407 will accrue to the TTC/City. Ancillary revenues within limits of York Region ownership will accrue to the Region including bus bay leasing, surface retail and advertising.
15. In-vehicle advertising revenues will accrue to the TTC/City.

Costs

16. The TTC/City will be responsible for all operating and maintenance costs associated with subway operations, excluding regional Bus Terminals and passenger pick-up and drop-off facilities, which shall be maintained by York Region.
17. The TTC/City will be responsible for payment of all future capital maintenance costs associated with subway operations.

~~(<http://www.toronto.ca/legdocs/mmis/2007/ex/bgrd/backgroundfile-3167.pdf>)~~

EX8.4	NO AMENDMENT		Transactional	Ward: All
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Amendment of Federal Gas Tax Funding Agreement to Facilitate Flow of Funds Set Aside for unincorporated Areas

City Council Decision

City Council on May 23, 24 and 25, 2007, adopted the following motions:

1. The City of Toronto, represented by the Mayor, enter into an amending agreement with Her Majesty in Right of Canada (“Canada”), Her Majesty in Right of the Province of Ontario (“Ontario”) and the Association of Municipalities of Ontario (“AMO”) to amend the June 17, 2005 Canada-Ontario-AMO-City of Toronto Agreement for the Transfer of Federal Gas Tax Revenues under the New Deal for Cities and Communities.
2. Council authorize the finalization of the proposed amending agreement generally in accordance with the terms and conditions outlined in this report and otherwise to the satisfaction of the City Manager and in a form satisfactory to the City Solicitor.

Background Information

Amendment of Federal Gas Tax Funding Agreement to Facilitate Flow of Funds

~~(<http://www.toronto.ca/legdocs/mmis/2007/ex/bgrd/backgroundfile-3169.pdf>)~~

EX8.5	AMENDED		Policy	Ward: All
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Spadina Subway Extension - Update

City Council Decision

City Council on May 23, 24 and 25, 2007, adopted the following motions:

1. Council approve a project delivery structure for the implementation of the Spadina Subway Extension Project (“the Project”) as outlined in Appendix A to this report.
2. Council authorize the City Manager, Deputy City Manager and Chief Financial Officer, City Solicitor, and Interim Chief General Manager, Toronto Transit Commission, to negotiate and execute an Operating Memorandum of Understanding relating to the Spadina Subway Extension, on behalf of the City of Toronto and Toronto Transit Commission with the York Region, in a form satisfactory to the City Solicitor, on terms and conditions as outlined in Appendix B to this report, **subject to the City Manager and Chief General Manager of the Toronto Transit Commission (TTC) requesting the provision of special operating subsidies for**

the entire Spadina Subway Extension project by the Province of Ontario in recognition of:

- a. **the inter-regional benefits of the project and the operating cost risk to the City of Toronto until the line reaches mature ridership levels;**
 - b. **the intention of the TTC and York Region to negotiate a revenue-sharing agreement that would result in York University students travelling to/from York Region on the Spadina Subway paying a single fare and that the Province of Ontario would be responsible for any revenue loss associated with the agreement; and**
 - c. **the intention of the TTC to also negotiate with York University and York Region for the provision of a U-Pass for York University students.**
3. Council authorize the City Manager, Deputy City Manager and Chief Financial Officer, and City Solicitor to approach the Province to seek amendment to the City of Toronto Act, 2006, prior to the commencement of subway operations in York Region in order to effect the terms of the above-noted Operating Memorandum of Understanding, for the reasons outlined in this report.
 4. Council direct the Deputy City Manager and Chief Financial Officer, and City Solicitor to finalize for execution by the City, a Project capital cost agreement with the Region of York as previously directed, with amended terms and conditions in respect of the timing of receipt of a \$29.98 million one-time payment from York Region as set out in Appendix C to this report.
 5. The capital contribution from the City not exceed its share (59.96%) of the one-third funding that would be attributable to the municipal sector, and that a request be made to the Provincial and Federal Governments to provide a full two-thirds funding of actual Project capital costs.
 6. City Council direct staff not to enter into any agreement with Park Downsview as it pertains to the Park Downsview Station until such time as Park Downsview has agreed to abide by the City's official plan and the area secondary plan and has agreed to respect the City's planning protocol as it pertains to all non-park-related development.
 7. **The City Manager, in consultation with Toronto Transit Commission staff, report to the Executive Committee, by its first meeting in 2008, on the status of the negotiations.**

Background Information

Spadina Subway Extension - Update

(<http://www.toronto.ca/legdocs/mmis/2007/ex/bgrd/backgroundfile-3170.pdf>)



STAFF REPORT ACTION REQUIRED

Spadina Subway Extension- Update

Date:	April 16, 2007
To:	Executive Committee
From:	City Manager, Deputy City Manager and Chief Financial Officer, Interim Chief General Manager, Toronto Transit Commission
Wards:	All
Reference Number:	P:\2007\Internal Services\SP\ec07004Sp – tn (AFS #3091)

SUMMARY

This report provides a status update to the Spadina Subway Extension Project from existing Downsview Station in Toronto, to the Vaughan Corporate Centre at Highway 7 in York Region (“the Project”), including information pertaining to a recently-announced Federal funding commitment of \$697 million.

Furthermore, this report recommends a project delivery structure for implementing the Project, along with operational and maintenance principles to be contained in a Memorandum of Understanding (MOU) between the City, the Toronto Transit Commission (TTC), and the Regional Municipality of York (“York Region”).

RECOMMENDATIONS

The City Manager, Deputy City Manager and Chief Financial Officer, and Interim Chief General Manager of the Toronto Transit Commission recommend that:

1. Council approve a project delivery structure for the implementation of the Spadina Subway Extension Project (“the Project”) as outlined in Appendix A to this report;
2. Council authorize the City Manager, Deputy City Manager and Chief Financial Officer, City Solicitor, and Interim Chief General Manager, Toronto Transit Commission, to negotiate and execute an Operating Memorandum of Understanding relating to the Spadina Subway Extension, on behalf of the City of Toronto and Toronto Transit

Commission with the York Region, in a form satisfactory to the City Solicitor, on terms and conditions as outlined in Appendix B to this report;

3. Council authorize the City Manager, Deputy City Manager and Chief Financial Officer, and City Solicitor to approach the Province to seek amendment to the *City of Toronto Act, 2006*, prior to the commencement of subway operations in York Region in order to effect the terms of the above-noted Operating Memorandum of Understanding, for the reasons outlined in this report;
4. Council direct the Deputy City Manager and Chief Financial Officer, and City Solicitor to finalize for execution by the City a Project capital cost agreement on behalf of the City the capital contribution from of Toronto with the Region of York as previously directed, with amended terms and conditions in respect of the timing of receipt of a \$29.98 million one-time payment from York Region as set out in Appendix C to this report; and
5. the capital contribution from the City not exceed its share (59.96%) of the one-third funding that would be attributable to the municipal sector, and that a request be made to the Provincial and Federal Governments to provide a full two-thirds funding of actual Project capital costs.

Financial Impact

This report will have no financial impact on the 2007 operating or capital budgets. The financial impact of subway operations, once they commence, will be included in annual capital and operating budgets.

However, as current Project capital cost estimates (\$2.1 billion) are only preliminary, and will be refined once additional data is available, there is a risk of higher actual costs over current estimates. Therefore, City staff intends on pursuing enhanced funding arrangements with both the Federal and Provincial governments, whereby each would commit to funding its full one-third share of Project capital funding.

Finally, City staff intends on approaching the Province to discuss the potential for receiving operating subsidies, until such a time as the subway extension line reaches full ridership.

DECISION HISTORY

At its meeting of September 25, 26, 27, 2006, City Council adopted recommendations of Policy and Finance Committee Report No 7, Clause 35, <http://www.toronto.ca/legdocs/2006/agendas/council/cc060925/pof7rpt/cl035.pdf> which set various conditions precedent to proceeding with the extension of the Project, including the following:

“Unless waived by the parties or otherwise extended, the following are conditions for proceeding with the project:

- (a) the Federal government will commit to funding one-third of the capital cost of the Project by including the funding in the federal budget by the spring of 2007;
- (b) the Province of Ontario will enact legislation that would allow the City to avail itself of tax increment financing as a method of financing its share of Project capital costs;
- (c) the Province will amend the *Development Charges Act 1997*, in order to allow for the recovery of transit costs based on approved transit expansion plans, and not historical averages;
- (d) subway extension operating agreements between the Region and the City are negotiated, and the necessary Council approvals obtained; ...”

Furthermore, this report authorized senior staff to negotiate and execute a capital cost allocation agreement in relation to the Project on behalf of the City with York Region, and set out various agreement terms and conditions, including a one-time payment by York Region to the City of \$29.98 million in recognition of investments previously made by the City in the subway system.

ISSUE BACKGROUND

This report provides an update on negotiations with York Region respecting the various conditions precedent as outlined above, and recommends a project delivery structure for implementation of the Project, along with operational and maintenance principles to be incorporated into an operating MOU with York Region.

COMMENTS

Federal Funding commitment:

As part of the Federal Government’s FLOW initiative, on March 6, 2007, Prime Minister Stephen Harper pledged \$697-million towards eligible project costs to extend the subway to York University and onwards into York Region. Receipt of the funds are conditional upon completion of a due diligence review, the negotiation of a contribution agreement, and adherence to conditions to be put forth by the Federal Ministers of Finance, and of Transport, Infrastructure and Communities.

Other Funding

City staff intends on pursuing enhanced funding arrangements with both the Federal and Provincial governments, whereby each order of government would commit to funding its full one-third share of Project capital funding. It is important to note that current estimates of Project capital costs (\$2.1 billion) are only preliminary, and do not include the effect of inflationary pressures, giving rise to the risk of higher actual costs over current estimates.

Additionally, City staff intends on approaching the Province to discuss the potential for receiving operating subsidies until such a time as the subway extension line reaches full ridership.

Tax Increment Financing (TIF)

TIF is a method of financing capital costs associated with specific infrastructure, where the construction of that infrastructure is anticipated to give rise to an increase in both local property values and additional local development, such that incremental tax revenues are anticipated and would be applied towards the cost of financing.

On December 20, 2006, the Province passed the *Tax Increment Financing Act, 2006* (as Schedule Z.7 to the *Budget Measures Act, 2006, (No. 2)*) (“the TIF Act”), http://www.e-laws.gov.on.ca/DBLaws/Source/Statutes/English/2006/S06033_e.htm , thereby allowing the City to undertake TIF for the purposes of Project capital costs, and to apply to the Province to receive a grant equivalent to incremental educational revenues to be applied towards the cost of financing.

City staff is currently in discussions with the Ministry of Finance with respect to TIF regulations, and funding agreements between the Province and the City as required under the legislation. The Deputy City Manager and Chief Financial Officer will report back to Committee and Council with more detail once the Province enacts the related regulations.

Development Charges Act (DC Act)

In December 2006, the Province amended the *Development Charges Act, 1997* (“the DC Act”), specifically for the purposes of the Project, with the amendments to come into force once proclaimed by the Lieutenant Governor.

Under the amended DC Act, the Project will not be subject to historical service-level averages, nor to pre-existing statutory requirements for a 10% reduction of capital costs, thereby enabling the City to recover a more appropriate share of growth-related Project capital costs through development charges.

City staff are currently in discussions with the Ministry of Municipal Affairs and Housing with respect to related regulations.

Project Delivery Structure:

Given the shared financial and operational interests in the Project, City/TTC staff and York Region staff have negotiated a recommended project delivery structure pertaining to Project implementation, a diagram of which is set out in Appendix A to this report.

To summarize the recommended project delivery structure:

- the TTC would be responsible for Project Management, a logical choice given the TTC’s more than 50 years of history as builder, owner, and operator of the City’s subway system. Tasks to be undertaken by the Project Manager include setting

standards, strategies for project delivery and cost control, contracting and administration, and value engineering;

- “Technical Coordinating Committee”, the composition of which would include TTC and York Region Transit (YRT) staff members, would work closely with the Project Manager to coordinate property acquisition activities, and to integrate surface and subsurface transit facilities in both the City and York Region. Furthermore, this committee would monitor the progress of the overall Project, and support the Oversight Task Force (more information follows) in its efforts to resolve disputes that may arise over technical issues (with the exception of passenger pick-up and drop-off and regional bus terminal facilities, which are to be owned by York Region); and
- an “Oversight Task Force” (“OTF”) would perform an oversight function in order to ensure Project delivery in accordance with Council directions, and would therefore be disbanded upon Project completion.

The membership of the OTF would total 6, 3 from each of the City/TTC and York Region, and have 2 co-chairs (one from each municipal entity). The City’s members would include the City Manager, Chief Planner and Executive Director, and Chief General Manager of the TTC, while York Region’s members would include York Region/YRT senior staff, and may include an independent expert.

The OTF would receive regular progress reporting from the Project Manager, and reporting from the independent auditor. Furthermore, the OTF would retain an “Owner’s Engineer” to perform an independent review of Project delivery options, value engineering, and value for money, and would receive related reporting.

The OTF would function as liaison to Councils/Committees of both the City and York, would issue progress reports on a periodic basis, and would recommend Project budgets for approvals and major Project scope changes, if required.

Finally, the OTF would resolve disputes that might arise over technical issues as identified by the Technical Coordinating Committee, and would be responsible for ratifying the recommended Project delivery strategy. In the event that it does not ratify the delivery strategy, this issue would move to resolution by the City’s Mayor and York Chair.

Operating Memorandum of Understanding (MOU)

City and TTC staff have negotiated a set of principles with York Region and YRT staff relating to the operation and maintenance of the subway extension, as set out in Appendix B to this report. Pending Council approval, these principles would form the basis for an Operating MOU between the City, TTC, and York Region. The Operating MOU will be superseded by a more detailed interim operating agreement within 12 months of MOU

execution, and a final operating agreement, at least 18 months prior to operation of the subway extension.

The Operating MOU principles are based on TTC ownership (which may include long-term leases) of:

- the entire subway extension infrastructure, including the portion in York Region;
- all property to be acquired for subway purposes in York Region; and
- all commuter parking lots attached to the subway stations.

York Region staff have agreed to recommend this ownership structure to their Council on the condition that the TTC/City would assume full responsibility for operating and maintenance costs, and future capital maintenance costs, and assume the risk of revenue realization. Therefore, while York Region will continue to participate in funding the capital cost of building the subway extension, recommended principles for a subway extension Operating MOU, as set out in Appendix B to this report, include all subway revenues accruing to the TTC, and the TTC/City assuming full responsibility for funding operating, maintenance, and future capital maintenance costs.

It is important to note that, at present, under the *City of Toronto Act, 2006* (Section 397. (1)), the TTC may enter into an agreement with a municipality situated within 40 kilometres of the City to operate a local passenger transportation service, provided that the outside “municipality will pay any operating deficit”, and conversely, that “the TTC will credit any operating surplus to the municipality”. Therefore, it will be necessary to seek amendments to the *City of Toronto Act, 2006* (from the Province) prior to the commencement of subway operations in York Region in order to legally give effect to the terms of this arrangement.

It is estimated that operating costs associated with operating the subway line in York region are approximately \$9 million per annum, and that it should be possible to achieve a cost recovery of up to 80% from fares and other revenues. As previously discussed it will be important to receive operating subsidies in support of the line from the Province until such a time as full ridership is achieved.

Timing of Up-front Capital Payment

Capital Cost Allocation agreement principles as previously adopted by Council included a one-time payment of \$29.98 million, to be made by York Region to the City, in recognition of investments previously made in the subway system by the City.

Council had previously directed that 50% of this payment was due after various conditions precedent were met relating to a Federal government commitment towards Project funding, the Province enacting TIF legislation and amending the DC Act, and the City entering into subway extension operating agreements with York Region. The remainder of the payment was due upon the earlier of the commencement of construction of any aspect of the Project in York Region, or 30 months from the date that the first payment was due.

As a result of continued negotiations with York Region, an amended payment schedule has been discussed and is recommended for Council approval, whereby the funds are to be received in 3 equal instalments, as outlined in Appendix C to this report.

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SIGNATURES

Joseph P. Pennachetti
Deputy City Manager and
Chief Financial Officer

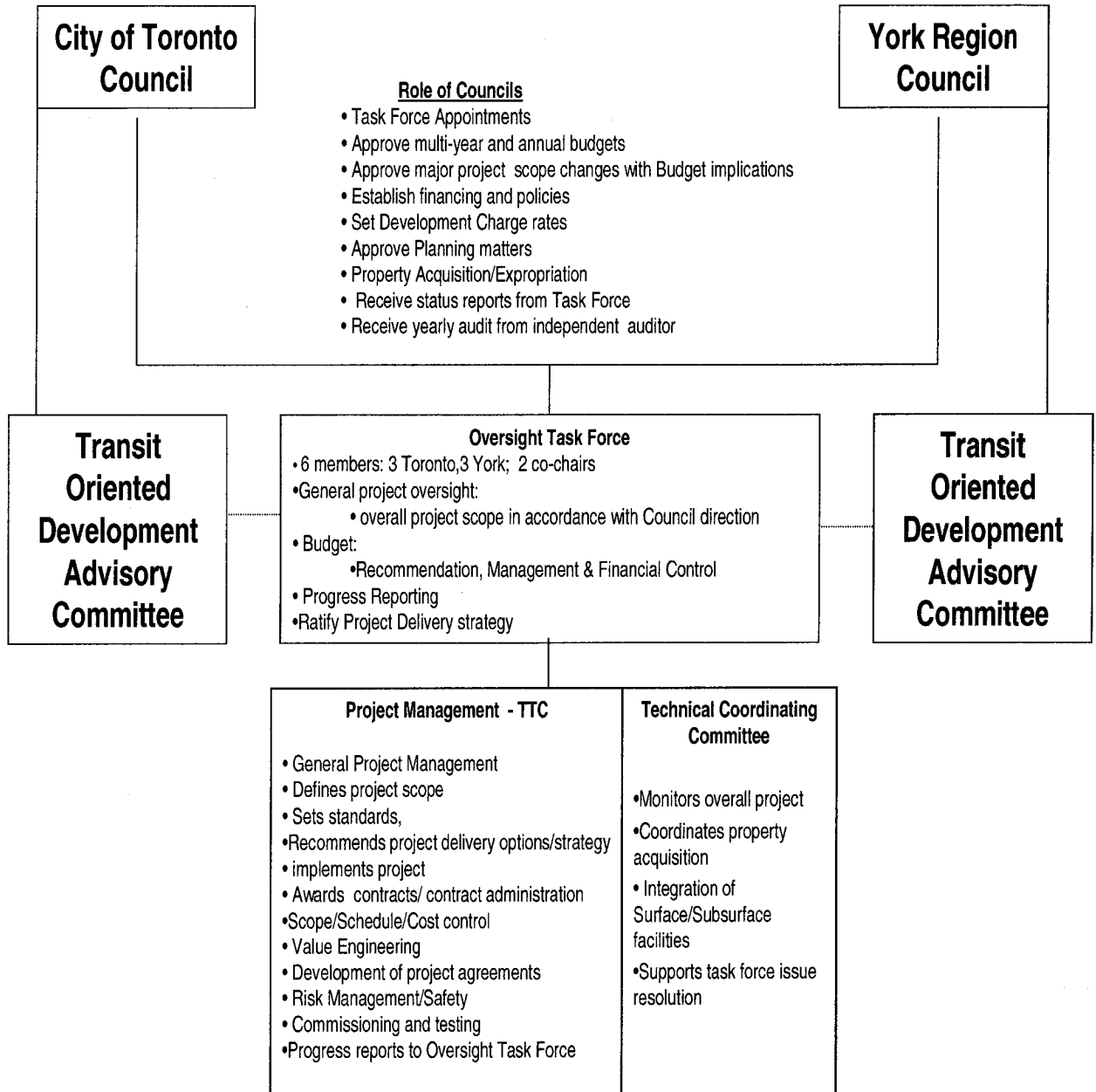
Gary Webster
Interim Chief General Manager,
Toronto Transit Commission

Shirley Hoy
City Manager

ATTACHMENTS

Appendix A: Project Delivery Structure
Appendix B: Operating MOU – Principles
Appendix C: Timing of One-Time Capital Payment

Appendix A
Project delivery Structure



Appendix B Operating MOU- Principles

Priorities for Subway Extension

1. The primary purpose of subway system is for public transportation, regardless of whether it also may be incidental to other uses.
2. Public safety and continuous operation of subway system is a priority.
3. The subway extension is to be operated as a seamless extension of the existing TTC subway system.

Design and Construction

4. The Project will be designed, constructed and operated in accordance with TTC design standards within York Region.
5. York will be responsible for constructing, maintaining and operating surface bus facilities, and passenger pick-up and drop-off, and will consult with the TTC on design standards.

Development in York Region and Technical Review

6. York will have the right to develop or permit development of lands in and around the transit facilities in York Region.
7. For developments that are directly connected to subway infrastructure, all developers, whether in the City of Toronto or York Region, will be required to enter into Entrance Connection Agreements with the TTC, consistent with current practice.
8. For the purpose of ensuring a safe and continued operation of the subway, approval of development and planning applications in York Region that include or affect property within 60 metres of any transit facility (the "Zone of Influence") will be made subject to the TTC's technical review process.
9. A written protocol will be developed by the City/TTC/York relating to the TTC's right to conduct a technical review on proposed developments within the Zone of Influence. The protocol shall also address requirements for registering restrictive covenants and other agreements on title of lands, and a standard TTC warning clause for various interferences (e.g. noise, vibration, and electromagnetic interference).

Subway Operations

10. The TTC will be responsible for the operation, maintenance, regulation and use of the subway system, including setting service levels.
11. The TTC will continue to establish fare policies for travel by subway.
12. The TTC will continue to be responsible for all subway-retail leasing.

Revenues

13. All subway Fare Revenues will accrue to the TTC/City.
14. All ancillary revenues, including in-station advertising, retail leasing, sampling, and commuter lots will accrue to the TTC/City.
15. In-vehicle advertising revenues will accrue to the TTC/City.

Costs

16. The TTC/City will be responsible for all operating and maintenance costs associated with subway operations, excluding regional Bus Terminals and passenger pick-up and drop-off facilities, which shall be maintained by York Region.
17. The TTC/City will be responsible for payment of all future capital maintenance costs associated with subway operations.

Appendix C

Timing of One-Time Capital Payment

York Region shall pay the City \$29.98 million in recognition of investments previously made in the subway system, as previously approved by Council, on the following amended terms and conditions:

1. A first payment of \$10 million shall be due at the commencement of the first major construction contract or purchase of construction equipment. In this case, "major" is defined as a minimum contract value of \$10 million.
2. A second payment of \$10 million shall be due at the time that tunnelling commences in York Region. "Tunnelling" may include the construction of a tunnel boring machine launch, or extraction shafts or the delivery of tunnel liners to York Region.
3. The final payment of \$9.98 million shall be due upon commencement of subway service operation in York Region. Interest shall accrue on this amount, from the time of the second payment, calculated at the One-Fund investment rate, to be adjusted on a semi-annual basis.