

TORONTO TRANSIT COMMISSION REPORT NO.

MEETING DATE: June 18, 2008

SUBJECT: TORONTO-YORK SPADINA SUBWAY EXTENSION
MEMORANDUM OF UNDERSTANDING –
OPERATING AND MAINTENANCE COST RESPONSIBILITIES

ACTION ITEM

RECOMMENDATION

It is recommended that the Commission:

1. Approve the principles developed between the TTC, York Region and the City of Toronto with respect to operating cost responsibilities for the Toronto-York Spadina Subway Extension (TYSSE) Project.
2. Authorize the Chief General Manager to negotiate and execute an Operating Memorandum of Understanding and any related agreements as necessary, in a form satisfactory to the Commission's General Counsel, relating to the TYSSE and on terms and conditions as outlined in this report.
3. Authorize the Chief General Manager to negotiate and execute any further agreements and contracts as required relating to the implementation or delivery of the TYSSE Project, in a form satisfactory to Commission's General Counsel, provided that all costs arising from the agreement(s) are to be paid from the approved Project budget, if the:
 - a) principles of the agreement/contract have been previously approved either by the Commission or City of Toronto Council and the agreement/contract is consistent with the approved principles, and in case of principles approved by City of Toronto Council, the principles do not conflict with any Commission policy; or
 - b) subject matter of the agreement/contract relates to the retention of experts by the Commission to provide advice directly to the Executive Task Force, which has been established to oversee the Project.
4. Forward this report to the Chair of Metrolinx requesting that Metrolinx provide a firm time table for the resolution of the provision of transitional operating subsidies for the TYSSE Project and the development of a policy for transitional operating subsidies for new rapid transit initiatives.

FUNDING

The TTC will be responsible for the full operating costs of the Spadina Subway extension from Downsview to the Vaughan Corporate Centre and receive all revenue from the Project (passenger revenue, commuter parking, advertising, retail leasing), with the exception of the operating costs and revenues for bus terminals and passenger pickup and drop off facilities located within York Region, which shall be maintained and operated by York Region.

BACKGROUND

As part of the negotiations for the implementation of the Project, including the resolution of governance, capital cost responsibilities, project management and control over the assets and property for the Project, agreement has been reached between the City of Toronto, York Region and the TTC concerning operating cost responsibilities for the project.

At its meeting of May 23, 24 and 25, 2007, City Council adopted recommendations of Executive Committee Report No. 8.5 which included authorization for various parties, including the Interim Chief General Manager, to “negotiate and execute an operating Memorandum of Understanding related to the Spadina Subway Extension on behalf of the City of Toronto and TTC with York Region”. Council also authorized a set of principles for an Operating Memorandum of Understanding between the City, TTC, and York Region, that included TTC ownership of, and responsibility for, the subway extension infrastructure, its operations, maintenance, and regulation.

A Memorandum of Understanding (MOU) to implement City Council’s direction has now been reached between the parties. This report outlines the principles of the MOU for operation and maintenance of the Toronto-York Spadina Subway Extension (TYSSE) Project and will provide TTC staff with the necessary authority to execute the necessary agreements.

As a result of the interregional aspect of the TYSSE Project, City Council on May 23, 24 and 25, 2007, approved the project delivery structure as set out in Appendix “A” to this report.

The project delivery structure includes the creation of an oversight task force consisting of the senior staff representing York Region and the City of Toronto. The task force is responsible for managing the delivery of the TYSSE project. The TTC is the Project Manager (save and except for PPUDO’s and bus terminals located in York Region which will be managed by York Region).

DISCUSSION

Operating Memorandum of Understanding

The MOU is based on the following key principles:

a) Responsibilities/Future Agreements

- The MOU outlines the operating, maintenance, cost, revenue, development, design, ownership and other legal responsibilities for the TYSSE Project.
- The MOU will govern these issues until an Interim Agreement is in place within 12 months of the execution of the MOU and a final Operating Agreement which will be in place no later than 18 months prior to the commencement of revenue service.

b) Operational Issues, Costs and Revenue

- The TYSSE will be operated as a seamless extension of the existing subway system.
- All project elements, with the exception of regional bus terminals and passenger pick up and drop off (PPUDO) facilities will be owned and maintained by the TTC at its cost.
- York Region will own and maintain, and be responsible for the cost of regional bus terminals and PPUDO facilities located within York Region.
- The TTC will collect and retain all revenue sources with the exception of those facilities to be owned and maintained by York Region.

c) Property

- The TTC shall have title to all property for the project elements it is responsible for operating/maintaining.

d) Development Issues/Entrance Connections (EC)

- York Region has agreed to a development review protocol within the zone of influence of the subway consistent with standard TTC practice.
- The TTC agrees to allow, subject to a technical review, EC connections from developments within York Region in accordance with TTC EC standards and policies.

e) Design Standards

- The Project is to be designed in accordance with TTC design standards and other applicable TTC requirements. For PPUDO's and bus terminals to be designed by York, York is to consult with the TTC on design standards and to adopt mutually acceptable standards.

f) State of Good Repair/TTC Policies

- The TTC is responsible for maintaining the assets under its control in a state of good repair in accordance with the standards, policies and procedures of the TTC.
- York recognizes the primary purpose of the subway system and agrees that the operation, regulation and use of the system is the sole responsibility of the TTC and that the TTC will be responsible for all subway operating decisions.
- York acknowledges and agrees that TTC policies and procedures which may affect the operation of the subway shall apply to the TYSSE.

g) Security Issues

- The TTC will be responsible for fare enforcement, law enforcement and security, including stations and commuter parking lots, in accordance with normal standards.
- York will be responsible for fare enforcement and security within York bus terminals and PPUDO's.

h) Utilities

- York will enter into cost sharing agreements with respect to relocation of utilities and be responsible for the cost of utility upgrades above existing base conditions.

i) Communications

- TTC and York agree to develop a communication protocol with respect to media, customer, special events and emergency response.

j) TTC Unionized Environment

- York acknowledges the TTC unionized environment/TTC collective agreements. TTC acknowledges that the areas to be maintained by York (regional bus terminals, PPUDO) may be performed by non-unionized staff.

k) Commuter Parking

- The TTC/City agree that, as part of the scope of the project, no commuter parking will be located at VCC Station.
- TTC shall maintain all commuter parking lots and receive all revenue from such lots.
- TTC agrees to charge a minimum parking fee at Highway 407 Station (600 spaces) of twice the cost of the TTC or York average fare, whichever is lower. In the event utilization of the lot is under-performing, the minimum price for the lot will be renegotiated.
- With the exception of the Highway 407 lot, the TTC will set all prices for commuter parking lots.
- TTC shall have the right to contract for the operation and maintenance of commuter parking lots.

l) Fare Structure/Transitional Operating Subsidies

- Fares for the TYSSE Project will be consistent with the existing system and not be discriminatory to York.
- All parties to work cooperatively to request transitional operating subsidies which shall be to the benefit of the TTC.
- York Region agrees not to operate or permit the operation of public transit services directly to York University.
- All parties agree to work cooperatively with Metrolinx/Government of Ontario to allow York bus passengers connecting to the subway within York Region to access York University without paying a double fare.

m) Abandonment of Assets

- In the event the City/TTC abandons the TYSSE operating assets, City/TTC agree to reimburse York a proportion of the funds contributed for the portion that is abandoned on a sliding scale for the first 25 years after commencement of revenue service. The TTC commits to reasonable efforts to restore subway service if incidents affect the use of the subway assets.

Authorization of Agreements and Contract(s) by Chief General Manger

The TTC, as Project Manager, while reporting to the Commission, also reports to the Executive Task Force (ETF) which, in turn, reports to City of Toronto Council and York Region Council. The City Manager, who is a member of the ETF, may be required from time to time, to seek approval from Council for various agreements which would also require execution by TTC. In this case, TTC staff would co-sign the report to Council. If the report

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is approved by Council and the adopted principles therein do not conflict with any Commission policy, staff recommend that the Commission provide the authority to the Chief General Manager to negotiate and execute any related and resulting agreements.

Secondly, the ETF may direct TTC staff to negotiate and enter into contracts for services on behalf of the ETF for the purposes of the TYSSE Project. An example is the Independent Engineer who would report directly to the ETF on matters as directed by them. In this instance TTC staff would prepare the necessary procurement documentation and administer the Contract, and the actual selection and recommendation for award would be undertaken by the ETF in conjunction with the TTC. In the above instances, it is implicit that the associated costs must be included in the approved project budget.

JUSTIFICATION

The principles established are consistent with City Council direction on this issue. Authority to enter into the necessary agreements is necessary in order to execute a Memorandum of Understanding by the end of June 2008.

May 21, 2008
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Attachment: Appendix A

APPENDIX A

**TORONTO-YORK SPADINA SUBWAY EXTENSION
PROJECT DELIVERY STRUCTURE**

