



Line 5 Eglinton – Train Operating and Funding Agreement

Date: April 14, 2022
To: TTC Board
From: Deputy Chief Executive Officer

Summary

The TTC and its partners at Metrolinx, Infrastructure Ontario and the City of Toronto are in the midst of the largest transit network expansion program in decades, which includes the implementation of the Toronto Light Rail Transit Program (Lines 5 and 6).

Line 5 Eglinton, also known as the Eglinton Crosstown (or ECLRT) is the latest Light Rail Transit (LRT) line to be delivered in the city of Toronto, and will operate as the official fourth mode of transit within the TTC network. It is expected to open for service in late 2022 with the official in-service date to be communicated by Metrolinx. Once operational, Line 5 Eglinton will allow the TTC to move more customers more reliably with enhanced accessibility along the Eglinton corridor with key points of intersection with Lines 1 and 2 and various bus routes.

Line 5 Eglinton is owned by Metrolinx, maintained by Crosslinx Transit Solutions (Construction and Maintenance consortium) and operated by the TTC. As the Operator of the Line, the TTC is responsible for operations, revenue protection, customer service, communications, amongst other important roles.

The TTC and City of Toronto have been working with Metrolinx to negotiate and draft business terms to develop a Train Operating and Funding Agreement (TOFA) between the parties (Parties). The TOFA will be comprised of an operations scope and a commercial scope. The business terms associated with the operations scope describe the TTC's role as the Operator of the Line, while the commercial scope describes the City's and the TTC's role in relation to collection of farebox and non-farebox revenue, and financial responsibilities for the operations and maintenance (O&M) expenditures of Line 5 Eglinton.

The purpose of this report is to obtain authorization for the TTC to enter into and execute any necessary agreements, including the TOFA for Line 5 Eglinton based on the terms outlined in Attachment 1 of this report.

Recommendations

It is recommended that the TTC Board:

1. Authorize the Chief Executive Officer of the TTC to enter into and execute the Train Operating and Funding Agreement, and any other necessary agreements, which shall be consistent with the Terms contained in Attachment 1, whereby the final agreement will be subject to terms and conditions acceptable to the TTC General Counsel.

Financial Summary

The 2022 Operating Budget approved by the TTC Board on December 20, 2021 and City Council on February 17, 2022 includes \$29.6 million in net funding relating to operating, non-lifecycle maintenance and mobilization costs associated with Line 5. This includes \$30.4 million in gross expenditures partially offset by \$0.8 million in anticipated incremental revenue. These amounts were based on an assumed revenue service commencement date of October 9, 2022.

The 2023 Outlook, included in the 2022 Operating Budget report, anticipated a net annualized funding requirement of \$62.6 million, comprised of \$79.2 million in gross expenditures and partially offset by \$8.0 million in incremental revenues and \$8.6 million in anticipated bus service savings, as summarized in the following table.

Table 1: Financial Summary

Item	2022 Operating Budget	2023 incremental	Total Annualized Cost
Labour and Benefits	17.2	9.2	26.4
<u>Non-Labour Costs</u>			
Maintenance Contract	10.0	28.9	38.9
Utilities and Traction Power	1.9	6.8	8.7
Other non-labour, including fare gate maintenance and uniforms	1.3	3.9	5.2
Subtotal Non-Labour	13.2	39.6	52.8
Total Gross Expenditures	30.4	48.8	79.2
Incremental Revenues	(0.8)	(7.2)	(8.0)
Bus Service Savings	-	(8.6)	(8.6)
Total Net Funding Requirement	29.6	33.0	62.6

All amounts are based on commencing service at Service Level 1 and moving to Service Level 2 in 2023, which reflect the planned service levels for year one and year two as outlined in the Project Agreement. Cost estimates will be refined with requirements based on the final Train Operating and Funding Agreement and will be incorporated into the 2023 Operating Budget request to be considered by the TTC Board.

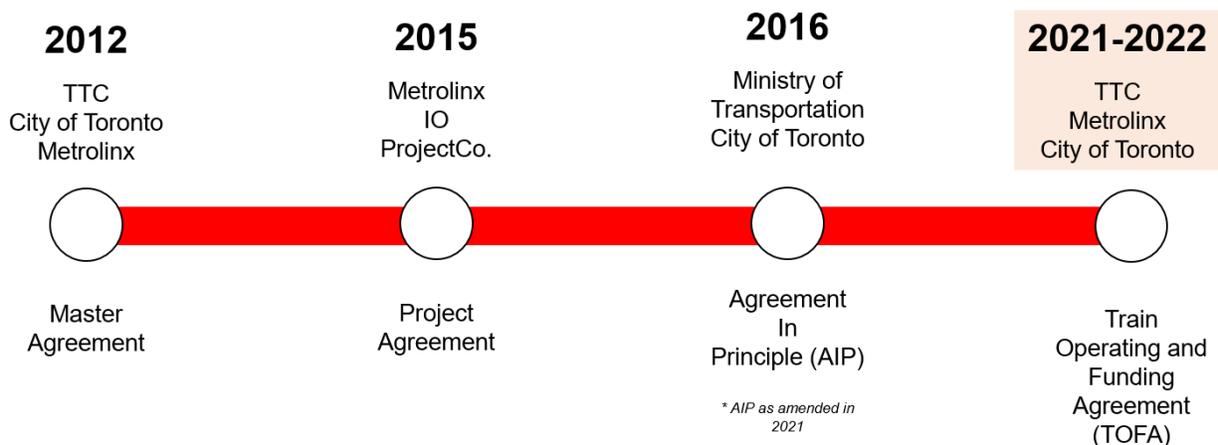
The Chief Financial Officer has reviewed this report and agrees with the financial summary information.

Equity/Accessibility Matters

A cornerstone of the TTC’s Corporate Plan 2018-2022 is accessibility and as a proud leader in providing accessible public transit in the city of Toronto, we are committed to ensuring reliable, safe and inclusive transit services for all our customers. This is supported through the work of the LRT Operations Integration Project and its objective to align future LRT operations with the TTC’s current service practices and policies. One of the critical paths noted in the Corporate Plan 2018-2022 is to *Make taking public transit seamless*. The TTC believes all customers should enjoy the freedom, independence and flexibility to travel anywhere on the public transit system, regardless of ability, race, creed, sexuality, etc. This means ensuring the customer journey on Line 5 Eglinton (Eglinton Crosstown) matches the TTC’s standards for an equitable, frictionless and barrier-free experience.

Decision History

The timeline below depicts the decision history of the various agreements and requirements that were negotiated and developed over the years, eventually leading up to the formation of the TOFA.



2012 LRT Master Agreement

In 2012, the LRT Master Agreement for the Implementation of the Toronto Light Rail Transit Program was signed between Metrolinx, the City of Toronto and the TTC. The LRT Master Agreement, provided in part, that the TTC is the owner and/or the operator of the TTC Infrastructure at the Interchange Stations and that the TTC operate the LRT lines on behalf of Metrolinx.

http://www.metrolinx.com/en/projectsandprograms/transitexpansionprojects/Master_Agreement_Nov_28_2012.pdf

2015 Project Agreement (PA)

The Project Agreement is the agreement between Metrolinx, Infrastructure Ontario and Crosslinx Transit Solutions General Partnership (“Project Co”), which specifies the construction requirements as well as the ongoing maintenance requirements from Project Co.

<https://www.infrastructureontario.ca/WorkArea/DownloadAsset.aspx?id=34359739088>

2016 Agreement in Principle (AIP)

In 2016, the Province of Ontario and the City of Toronto signed the Agreement in Principle (AIP), which secured capital and lifecycle maintenance funding from the Province, with the City of Toronto taking responsibility for operating and non-lifecycle maintenance funding. The AIP also stipulates that the City of Toronto and its agency, the TTC, was to receive farebox and non-farebox revenue, to assist in offsetting operating and maintenance costs.

<https://www.toronto.ca/wp-content/uploads/2020/08/944f-20180111-AIP-FINAL.pdf>

Issue Background

The TTC, City and Metrolinx have been working together to develop business terms for a Train Operating and Funding Agreement (TOFA), which will specify the TTC’s role as the ‘operator’, and the City’s obligation to fund the operating and non-lifecycle maintenance costs of Line 5 Eglinton. Metrolinx, as the asset owner, is funding the capital construction costs of Line 5 Eglinton, and will be responsible to fund the lifecycle maintenance costs during the operations of the Line, and Crosslinx Transit Solutions Maintenance General Partnership (through a contractor with Project Co.) is responsible for the maintenance of the Line.

Comments

Line 5 Eglinton Overview

The ECLRT, which will be publicly known as Line 5 Eglinton, is approximately 19 kilometres in length, consisting of a 10-kilometre underground portion between Keele Street and Laird Drive, and a nine-kilometre portion from Laird Drive to Kennedy Road that is predominantly at-grade.

There are 15 underground stations, including three subway interchanges – at Cedarvale, Eglinton and Kennedy – terminal stations at Mount Dennis and Kennedy, and 10 at-grade stops.

There are 14 at-grade intersections along the corridor, all signalized and incorporating transit signal priority. The Line includes a maintenance facility adjacent to Mt Dennis Station with track connections to the mainline. The alignment is depicted in Attachment 2.

It is important to note, the TTC has been planning the opening of Line 5 Eglinton at Service Level 1, however, discussions between TTC and Metrolinx are on-going about opening the Line at a higher service level, particularly Service Level 6. The TTC will update the Board if there is any change to the opening day service level and implications to TTC's plans with service commencing at a higher service level. The commencement of service at a higher service level will not impact the terms of the TOFA, which is the subject of this report.

Roles and Responsibilities

Line 5 Eglinton operates under a different business model as compared to the rest of the TTC network, with ownership, maintenance and operations functions split between the Parties. Furthermore, the City of Toronto is responsible for funding the operating and non-lifecycle maintenance costs of the Line. The table below outlines the general responsibilities and accountabilities of the parties.

Table 2: Stakeholder Responsibilities

Role	Responsibilities
Owner	<p>Metrolinx:</p> <ul style="list-style-type: none">• Owns the LRT assets and infrastructure.• Responsible for administering Maintainer and Operator Services contracts.• Responsible for Capital and lifecycle costs for all LRT assets.

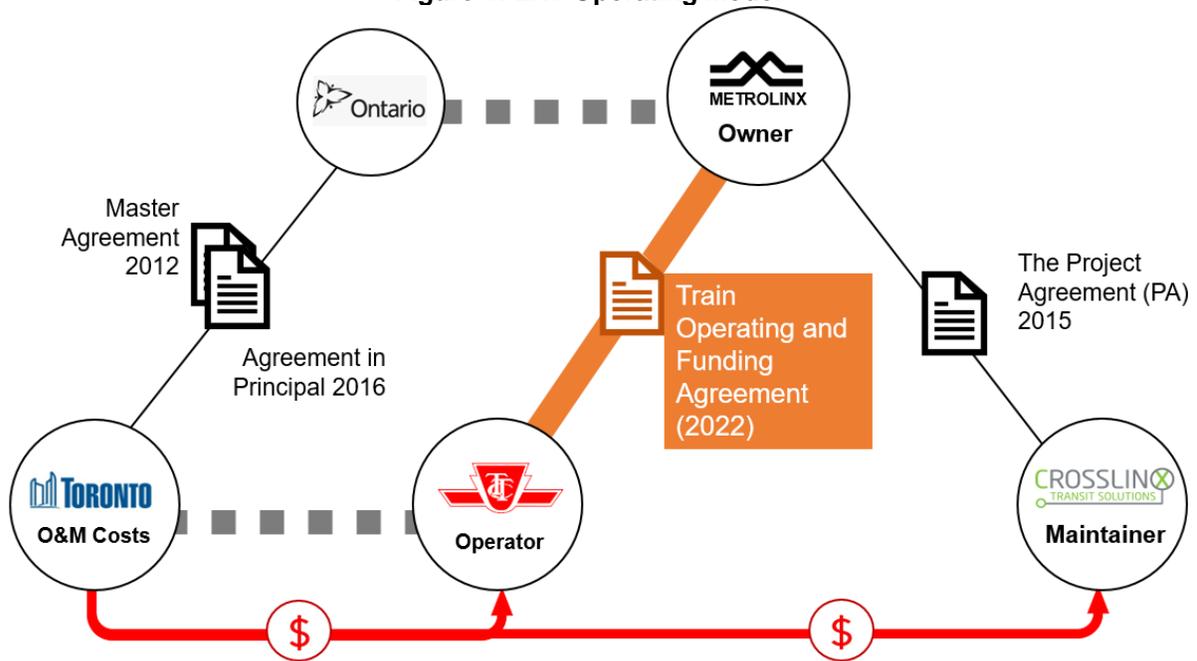
Role	Responsibilities
Operator	Toronto Transit Commission (TTC): <ul style="list-style-type: none"> • Accountable for provision of service on Line 5 Eglinton, inclusive of: <ul style="list-style-type: none"> ○ Customer Service; ○ Vehicle operation and supervision; ○ Control Centre functions; ○ Control of traction power distribution; ○ Station operations; and ○ Security and fare enforcement.
Maintainer	Project Co. or Crosslinx Transit Solutions (CTS): <ul style="list-style-type: none"> • Maintenance of LRT assets and infrastructure. • Preventative and corrective maintenance of all LRT assets and infrastructure, including: <ul style="list-style-type: none"> ○ The Eglinton Maintenance and Storage Facility (EMSF); ○ Light Rail Vehicles (LRVs) and other vehicles; ○ Stations and station facilities; ○ Offices and other facilities; ○ Tunnel sections; and ○ Critical systems, such as transit signalling, trackage and communications systems within the LRT right-of-way. • Custodial Maintenance. • Operation of the EMSF and storage of LRVs.
City of Toronto	<ul style="list-style-type: none"> • Funding of operating and non-lifecycle maintenance costs of ECLRT assets. • Receives revenues associate with Line 5 as outlined in Attachment 1.

Light Rail Transit (LRT) Operating Model

Line 5 Eglinton introduces a new operating model for the TTC, whereby the TTC will be performing a specified function as the Operator of the Line, and contractually obligated to fulfill its responsibilities (operations scope) as defined in the TOFA. The TTC is reliant upon Metrolinx (Owner) for ensuring that the Line is appropriately maintained through enforcement of the Project Agreement with CTS (Project Co. or the Maintainer) to ensure operations of the Line are not adversely impacted.

A summary of the various agreements and relationships existing under this new model are shown in Figure 1 below.

Figure 1: LRT Operating Model



As noted above, the TTC is currently working closely with its partners at the City of Toronto and Metrolinx to develop the TOFA, which will consist of an operations scope (service to be performed by the TTC), and a commercial scope that will address the funding of O&M expenditures of Line 5 Eglinton. It is critical to note that Project Co. has a contractual relationship only with Metrolinx. The TTC and Project Co. do not have a direct contractual relationship. However, the TTC is building working relationships with Project Co. through the joint goal of delivering the LRT lines safely and efficiently.

In this model, Metrolinx has full control over the Maintainer of the Line, and the TTC is reliant upon Metrolinx for the enforcement of maintenance standards, including but not limited to maintenance of equipment, infrastructure, assets, fleet, etc. Metrolinx, through Project Co., is responsible for corrective and preventive maintenance of Line 5 Eglinton, and for resolving any maintenance-related issues observed by the TTC that are brought to the attention of Metrolinx and Project Co.

Operational Scope

As the Operator of the Line, the TTC will be integrating Line 5 Eglinton into the overall TTC network, and performing the functions of train dispatch, control, operation, safety, security and customer service. Line 5 Eglinton will be operated through the TTC's Transit Control to ensure that there is a seamless customer interface between the LRT and the other modes of transit. Attachment 1 contains a full list of terms and functions that the TTC will be performing.

Control and Operation – The TTC will be responsible for performing the functions of train control and operation through its Transit Control Centre (TCC), to ensure that there is a seamless integrated network of TTC services. In addition to performing all the functions relating to train dispatch and operating Light Rail Vehicles (LRVs), the TTC

will also be responsible for providing replacement bus service in case of disruptions to regular service, similar to how the TTC manages disruptions on its other Lines.

Safety, Security and Customer Service – The TTC will be responsible for providing the functions of safety, security and customer service on the Line, whereby the TTC will have governing and paramount authority for all matters of security. The TTC’s LRT Supervisors, Fare Inspectors and Special Constables will be roving the Line during revenue service hours, in addition to enforcing TTC By-Law No. 1. Additionally, through Closed Circuit Television (CCTV) and system alarm notifications designed, installed and maintained by Project Co., the TTC will be able to monitor activity on the Line 24 hours a day, seven days a week. As the paramount authority for security, the TTC’s Transit Control will be responsible for managing any emergency situations (including evacuations, etc.).

From a customer standpoint, the TTC will provide good and continuously improving customer service, ensuring that it extends any existing TTC policies, charters, etc. to its customers on Line 5 Eglinton, and any services it currently provides, such as Lost and Found, will also be extended to Line 5 Eglinton. Furthermore, Line 5 Eglinton stations will be staffed with Customer Service Agents (CSAs) and supervisory staff to manage customer-facing services, in addition to staffing the Security Operations Office (SOO) located at Yonge and Eglinton. The operational responsibilities of the TTC also include communicating with the public, providing updates on service issues and responding to customer complaints and feedback. The TTC will be the customer-facing entity for all communications on Line 5 Eglinton, and collaborate with Metrolinx and Project Co. to resolve customer-related issues, where applicable.

Co-ordinating with the Maintainer – The TTC will not be responsible for any maintenance-related activities or functions of Line 5 Eglinton, as this will be under the purview of Metrolinx, and based on obligations outlined in the Project Agreement (PA), which exists between Metrolinx and Project Co. To ensure all parties continue to deliver a seamless customer experience, the TOFA and PA have specified various meetings and committees to ensure collaboration amongst the TTC, Metrolinx and Project Co. For example, the parties are required to meet on a daily basis to co-ordinate daily operations and maintenance activities, and any special events, and to discuss previous day’s performance of Line 5 Eglinton. These forums will provide the TTC with the ability to communicate any issues or concerns with maintenance activities to mitigate any impact on operations. Metrolinx will be responsible for the enforcement of the maintenance standards with Project Co. through the various mechanisms outlined in the PA.

To ensure the delivery of its Operator Services, the TTC is developing a Quality Management System (QMS) to manage and oversee the quality of its Operator Services for Line 5 Eglinton. The QMS will define processes, methods, key performance indicators, etc. to ensure quality assurance and quality control of the TTC’s processes.

The TTC continues to collaborate with Metrolinx to ensure that there is co-operation between the parties in anticipation of the opening of Line 5 Eglinton, with the overarching objective of ensuring a seamless customer experience.

Commercial Scope

The other major component of the overall TOFA is the commercial scope, which defines the City's obligation to fund all operating and non-lifecycle maintenance costs of Line 5 Eglinton, in exchange for receipt of farebox revenues and non-farebox revenue. The City (with support from the TTC) has led the negotiation and development of the commercial terms (see Attachment 1).

The commercial terms of the TOFA expand upon the principles of the 2016 AIP, specifying the parameters for the City's funding obligations, such as renewal and dispute terms, liabilities for non-fulfillment of obligations, and revenue and payment processes. The commercial terms also outline the TTC's role in fare and service-level setting. For example, the commercial terms note that TTC will have the ability to set fares on Line 5 Eglinton in accordance with TTC Fare Policy and structure that is used for the entire TTC network. This will ensure a seamless customer experience, as any fare policy changes that apply to the TTC network will include Line 5 Eglinton.

A key risk that the City and the TTC continue to navigate through is transparency regarding obligations in the Project Agreement that would be assumed by the City and the TTC. The publicly available version of the Project Agreement redacts certain areas of the Project Agreement due to the commercially sensitive nature of the information within those sections. Among the redacted sections are a maintenance activities schedule and a payments schedule (inclusive of penalty structure). Metrolinx assures the City and the TTC that the TOFA will clearly outline funding and operating obligations that the City and the TTC will be responsible for, including the applicable maintenance activities and payment schedule, and will be consistent with the attached Term Sheets. The City will not assume obligations from the Project Agreement that are not outlined in the TOFA.

Under the Toronto-Ontario AIP, the TTC/City are to receive non-farebox revenues. TTC, City and Metrolinx are continuing to work together to determine the parameters of what is included in non-farebox revenue.

Next Steps

Subject to the consideration of the Board, this report will be forwarded to City Council for information. The City will be presenting a report to Executive Committee and City Council in May to seek Council approval for the TOFA Term Sheets in order to obtain authorities for the City to enter into and execute the agreement on behalf of the city of Toronto. A final agreement between the parties will be executed in advance of revenue service for Line 5 Eglinton.

TTC staff will also continue to develop various plans, rules and procedures, etc. to ensure operational readiness of the Line prior to opening day and engage the appropriate stakeholders as required.

Contact

Sean Fuller, Head – Light Rail Transit Operations
416-393-7804
sean.fuller@ttc.ca

Signature

Kirsten Watson
Deputy Chief Executive Officer

Attachments

Attachment 1 – Line 5 Eglinton – Train Operating and Funding Agreement (TOFA):
Term Sheets

Attachment 2 – Line 5 Eglinton alignment

ATTACHMENT 1

TERM SHEET A – OPERATING TERMS

This Term Sheet will form the foundation of the operating terms to be included in a detailed Train Operating and Funding Agreement (TOFA) for Line 5 Eglinton, to be negotiated and executed between the City of Toronto (the City), the Toronto Transit Commission (the TTC) and Metrolinx (the Parties). Metrolinx’s Project Company (Project Co.), Crosslinx Transit Solutions (CTS), will perform all maintenance of Line 5 Eglinton in accordance with the terms of the Project Agreement between Metrolinx and CTS.

Item	Issue	Term
1.	Control and Operation	<p>As the Operator of Line 5 Eglinton, the TTC shall:</p> <ul style="list-style-type: none"> • Operate Line 5 Eglinton service at all times in the safest manner possible and in full compliance with all Applicable Laws and Operator practices, policies, procedures and programs applicable to the Operator. • Operate Line 5 Eglinton System at the Service Level(s) for each Contract Year as set out in the Operations Service Plan or as the TTC and Metrolinx agree to. • Work co-operatively with Metrolinx if any major, medium or minor changes are required to the service level(s). • Perform Train Dispatch and operate LRVs. • Provide replacement bus service during disruptions to regular service. • Comply with the LRT Rules and Standard Operating Procedures (SOPs). • Develop LRT Rules and SOPs in co-operation with Project Co. • Attend and participate in the Rules and Training Committee, and jointly approve changes to the LRT Rules and SOPs.
2.	Safety and Security	<p>As the Operator of Line 5 Eglinton, the TTC shall:</p> <ul style="list-style-type: none"> • Have governing and paramount authority for all matters of security on or relating to Project Co. System Infrastructure, with the exception of Eglinton Maintenance and Storage Facility. • Be the controlling authority responsible for managing access to Project Co. System Infrastructure, with the exception of Eglinton Maintenance and Storage Facility. • Control egress or evacuation of passengers and workers from Project Co. System Infrastructure when an Emergency is declared, in accordance with applicable Plans.

		<ul style="list-style-type: none"> • Be the single controlling authority for the management of emergency incidents. • Co-operate with Project Co. in the management of safety, security and Emergency Preparedness on Project Co. System Infrastructure. • Identify and mitigate risks to safety and security. • Attend and participate in Safety and Security Management Committee. • Conduct Investigations of safety accidents and security incidents, in accordance with applicable Plans. • Undertake tests and exercises of Emergency Preparedness in accordance with applicable Plans and participate in annual joint tests and exercises of Emergency Preparedness with Project Co., GO Transit, UP Express, Emergency Services and other affected third-party Stakeholders. • Enforce TTC By-Law No. 1. • Provide revenue protection.
3.	Customer Service	<p>As the Operator of Line 5 Eglinton, the TTC shall:</p> <ul style="list-style-type: none"> • Provide good and continuously improving customer service in the performance of Operator Services. • Extend its customer and passenger policies to Line 5 Eglinton and Line 5 Eglinton customers. • Extend customer services already in place on the existing TTC network to Line 5 Eglinton. • Provide public address updates and Emergency instructions to System Users on Trains and at Stations and Stops. • Maintain a record of all public enquiries, complaints and communications. • Extend the existing Lost and Found services already in place on the existing TTC network to Line 5 Eglinton. • Engage a third party to conduct annual service satisfaction surveys.
4.	Co-ordination with the Maintainer	<p>As the Operator of Line 5 Eglinton, the TTC shall:</p> <ul style="list-style-type: none"> • Work with Project Co. and Metrolinx in order to achieve a common objective of delivering a safe, secure, reliable, accessible and efficient transit service. • Co-ordinate maintenance related activities through the OCC with Project Co. • Establish a Maintenance Committee with Project Co. and Metrolinx.

		<ul style="list-style-type: none"> • Meet with Project Co. representatives on a daily basis to co-ordinate daily operations and maintenance activities, and any special events. • Meet with Project Co. representatives on a weekly basis to co-ordinate Maintenance and Rehabilitation Services, and determine if any outages are required. • Review and provide approval for any proposed Major Maintenance Shutdowns requested by Project Co. • Be responsible for managing the movement of customers affected by Major Maintenance Shutdowns or a disruption to Line 5 Eglinton Revenue Service. • Be provided access and training on the Maintenance Management System by Metrolinx and Project Co.
5.	Operator Staff	<p>As the Operator of Line 5 Eglinton, the TTC shall:</p> <ul style="list-style-type: none"> • Provide Field Staff (to fulfill the functions of providing security and customer service), Operations Control Centre staff, Back-up Operations Control Centre staff, Security Operations Office staff and (LRV) Drivers. • Have the same level of authority, qualifications, training and re-certification as comparable TTC staff on the remainder of the TTC rail network. • Employ staff who shall have authority and full responsibility for ensuring compliance with the applicable requirements of this Agreement.
6.	Submittals and Review Process	<p>The TTC is required to submit the following Plans during the Mobilization Period in relation to Line 5 Eglinton, and resubmit on an annual basis during the Operating Period as required:</p> <ul style="list-style-type: none"> • Cost Management Plan. • Mobilization Resource Plan. • Operating Period Resource Plan. • Operator Schedule. • Revenue Protection Plan. • Operator's Safety Management Plan. • Operator's Security Management Plan. • Risk Management Plan. • Quality Documentation (Quality Management Plan, etc.). • Operator Communications Plan.

7.	Quality Management System and Performance	<p>The TTC is responsible for:</p> <ul style="list-style-type: none"> • Developing and implementing a quality management system (QMS), and is solely responsible for the quality of the Operator Services. • All quality assurance and quality control activities that are required to manage its own processes as well as those of the Operator Parties. • Ensuring compliance with the QMS is maintained throughout the Term of the Agreement. • Updating its QMS and other documentation to remain in alignment with ISO 9001:2015 Standard. • Implementing mechanisms, such as management reviews and Quality Audit programs to continuously improve its QMS. • Submitting Quality Management System reports inclusive of a Non-Conformance Report log, Corrective Action and Preventive Action logs, continual improvement initiatives taken, and any changes to Operator QMS.
8.	Mobilization and Readiness	<p>The TTC is responsible for:</p> <ul style="list-style-type: none"> • Confirming the readiness of all of its own procedures, staffing, equipment and training to ensure it is fit to start Revenue Service. • Developing a Mobilization Resource Plan to address activities that are to be undertaken during the Mobilization Period. • Participating and assisting Project Co. during Revenue Service Demonstration. • Receiving a system that is safe and secure to operate on, subject to completion of safety security certification process of the Line by Metrolinx and Project Co.
9.	Communications and Public Engagement	<p>The TTC is responsible for:</p> <ul style="list-style-type: none"> • All customer and public-facing communications in respect of Line 5 Eglinton. • All communications-related protocols, plans, materials, advertisements, notices, activities, approaches and strategies with respect to the Line 5 Eglinton. • All customer-facing communication activities during the Operating Period in respect of Line 5 Eglinton, in order to deliver a consistent and uniform communications approach to all transit users in respect of their transit experience. • Integrating Line 5 Eglinton into the TTC's advertising, communications and marketing strategy to the same

		<p>degree as other TTC lines to achieve a seamless customer experience.</p> <ul style="list-style-type: none"> • Participating in a Communications Working Group and a Customer Communications Working Group to plan and implement communications and public engagement strategies for Line 5 Eglinton, share information, discuss community relations updates, identify and plan for communications and Line 5 Eglinton milestones, manage issues and receive schedule updates.
10.	Records	<p>The TTC is responsible for:</p> <ul style="list-style-type: none"> • Preparing, retaining and maintaining all records in relation to Line 5 Eglinton for a minimum period of at least seven years, or as required by Applicable Law. • Storing records in electronic format within Metrolinx's electronic control management system. • Storing records in electronic format within Metrolinx's electronic control management system. • Receiving access to those areas of Metrolinx's electronic control management system that Metrolinx and the Operator agree are necessary for the Operator to fulfill its obligations.
11.	Project Co. Maintenance Standards	<p>Project Co. is expected to meet certain Maintenance Standards, which will be included within the TOFA for information purposes, and will comprise of maintenance standards in relation to:</p> <ul style="list-style-type: none"> • Safety, Security and Operations. • Systems. • Facilities, Structures, Guideway, and Tunnels. • Waste, Recycling, Cleaning and Supplies. • Access and Availability.

TERM SHEET B: COMMERCIAL TERMS

This Term Sheet will form the foundation of the commercial terms to be included in a detailed Train Operating and Funding Agreement for Line 5 Eglinton, to be negotiated and executed between the City of Toronto (the City), the Toronto Transit Commission (the TTC) and Metrolinx (the Parties). Metrolinx's Project Company (Project Co.), Crosslinx Transit Solutions (CTS), will perform all maintenance of the Line 5 Eglinton in accordance with the terms of the Project Agreement between Metrolinx and CTS.

Item	Issue	Term
1.	General	<ul style="list-style-type: none"> All aspects of the Train Operating and Funding Agreement (the Agreement) will be based on the principles of the Light Rapid Transit Master Agreement between the Parties, dated November 28, 2012¹ and the Revised Agreement in Principle between the Ministry of Transportation and the City, dated August 13, 2021 (the AIP)² unless otherwise agreed by the Parties, subject to the necessary Council and Board approvals.
2.	City/TTC Roles	<ul style="list-style-type: none"> The TTC will be the Operator of Line 5 Eglinton. The City will fund the operation and non-lifecycle maintenance costs of Line 5 Eglinton.

¹https://www.metrolinx.com/en/projectsandprograms/transitexpansionprojects/Master_Agreement_Nov_28_2012.pdf

²<https://www.toronto.ca/wp-content/uploads/2021/08/9672-revised-ontario-toronto-agreement-in-principle-2021.pdf>

3.	Agreement Term	<ul style="list-style-type: none"> • During the first 30 years of Line 5 Eglinton, TTC operation and City funding will be governed by the Agreement as follows: <ul style="list-style-type: none"> ○ The initial term of the Agreement will be 10 years and there will be two successive renewal terms, each for an additional 10-year term that will renew automatically save and except that each Party will have the right to terminate either during the initial term or a renewal term or at the expiry of the then current term for major default of the other Party. Major default will be defined in the Agreement. ○ Three years before the end of the final renewal term, or such other period as the parties may agree, the Parties will start negotiations for an extended agreement or a new agreement, to be completed at least two years before the end of the term, subject to each Parties' approval and governance processes. ○ If an extension to Line 5 Eglinton is completed, the parties may agree to incorporate the operation and funding of the extension into the Agreement.
4.	City/TTC Operating and Maintenance Obligations	<ul style="list-style-type: none"> • The City will fund all operating and non-lifecycle maintenance costs, including the costs to administer the operating and non-lifecycle maintenance components of the Project Agreement in accordance with parameters to be set out in the Agreement. • The Agreement will include an appendix outlining the maintenance standards of CTS for non-lifecycle maintenance work under the Project Agreement. Metrolinx will provide the City and the TTC transparency into the calculation and payment of costs for that work. • The City will reimburse Metrolinx for costs related to a change in the Project Co. System Infrastructure, or a change to Project Co.'s maintenance responsibilities and obligations, when the change is directly requested by the City or the TTC for their sole benefit. • The TTC will be the Operator of Line 5 Eglinton and will coordinate on maintenance activities to be undertaken by Project Co. The Agreement will define the details of the TTC's operating obligations, including the scope of Operator Services and the applicable operator performance regime.

5.	Lifecycle Costs	<ul style="list-style-type: none"> • Metrolinx is responsible for all lifecycle maintenance costs of the Line 5 Eglinton, including lifecycle maintenance costs associated with acceleration of service levels due to increases in ridership demand. • In the event changes to service levels are requested solely by each Party, which are not driven by ridership demand, the Parties will work together to mutually determine the associated incremental costs, including operations, non-lifecycle maintenance and lifecycle maintenance that will be paid for by the Party requesting the change.
6.	Budget Process	<ul style="list-style-type: none"> • The City will flow funds for its contribution towards the Line 5 Eglinton operations and maintenance through the TTC in accordance with the annual budgetary process between the City and the TTC. • The TTC will flow the funds for maintenance to Metrolinx using an agreed upon funding model to be outlined in the Agreement.
7.	Review and Verification of Maintenance Activities	<ul style="list-style-type: none"> • Metrolinx as the owner of Line 5 Eglinton is responsible for the administration of the Project Agreement with their Project Co., CTS. Metrolinx will permit the City and the TTC, when requested, to participate with Metrolinx in review and verification of: <ul style="list-style-type: none"> ○ Planned maintenance activities; ○ Maintenance activities undertaken and performed; and ○ Costs incurred by CTS on behalf of Metrolinx that are reimbursable by the City. • Metrolinx will credit to the TTC funds pertaining to any failure by Project Co. of its maintenance obligations to Metrolinx, once the applicable penalties have been recovered from CTS. Funds will be credited to the TTC through a quarterly reconciliation process.
8.	Maintenance Payment Limits	<ul style="list-style-type: none"> • The City and the TTC reserve the right to limit the maintenance payment amount as it relates to non-lifecycle maintenance activities undertaken by Project Co. per year as outlined in the Agreement, including those amounts confirmed through the variation process, unless otherwise agreed.

9.	Fare-Setting	<ul style="list-style-type: none"> • The City and the TTC will have the ability to set fares in accordance with the TTC Fare Policy and structure for the entire TTC network. • The City and the TTC will ensure at all times to take into consideration the future benefit potential of the Line 5 Eglinton, by following TTC best practices in the setting of fares and fare structures. • The City and the TTC must not utilize a different fare structure, offer discounted fares, or implement subsidy programs that differ from, or do not align with, the rest of the TTC network. • The Parties will establish a process whereby the TTC will share with Metrolinx the following information over the term of the Agreement: <ul style="list-style-type: none"> ○ Fare structure the TTC is applying to the Line 5 Eglinton; ○ TTC annual operating costs related to Line 5 Eglinton; and ○ Non-farebox revenues generated by the TTC on Line 5 Eglinton for the sole purpose of informing Metrolinx of potential non-farebox revenue capabilities of Line 5 Eglinton. • Metrolinx will have a right to submit feedback for City and TTC consideration during the review.
10.	PRESTO	<ul style="list-style-type: none"> • PRESTO terms relating to Line 5 Eglinton will be included in the Line 5 Eglinton PRESTO Agreement, based on principles aligned with the existing PRESTO agreement between the TTC and Metrolinx.
11.	Service Levels	<ul style="list-style-type: none"> • The TTC conducts an annual service plan review, and will include Line 5 Eglinton to observe the entire TTC network. • Service levels will be established in accordance with the pre-determined service levels in the Project Agreement. • Any service level changes recommended or requested by each Party will be reviewed and agreed between the TTC and Metrolinx, with final authorization provided to CTS by Metrolinx in accordance with its role as owner of Line 5 Eglinton.

12.	TTC Mobilization Costs	<ul style="list-style-type: none"> • The TTC will develop a plan for mobilization of its resources to start Line 5 Eglinton operations, which will be shared with Metrolinx (the Mobilization Plan). • The TTC will advise Metrolinx in writing of its projected costs to implement the Mobilization Plan. • Upon commencement of TTC mobilization activities, Metrolinx will provide immediate notice to the TTC and the City of any official delays to the project schedule, and costs before the new opening date resulting from the delay will be handled in the following manner: <ul style="list-style-type: none"> a) The TTC must make all commercially reasonable efforts to adjust its mobilization activities to mitigate its costs; b) Subject to (a), if the delay is attributable to Metrolinx or Project Co., then Metrolinx will reimburse the TTC for direct operational costs, which will be clearly defined in the Agreement, that cannot be mitigated upon notification of the delay; c) If the delay is not attributable to the Metrolinx or Project Co., including if the delay is a result of a force majeure, the Parties will review the direct operational costs and work together to support a solution, which may be subject to each Parties' approval and governance processes; d) Reimbursement will be based on costs incurred, as demonstrated by appropriate supporting documentation; e) The TTC will be responsible for their costs for delays within their own control, or in the event of a TTC labour disruption; and f) Metrolinx will not be liable for any costs other than direct operational costs incurred by the TTC because of the delay.
13.	Liabilities	<ul style="list-style-type: none"> • The City, the TTC and Metrolinx will each be liable for damages arising from its non-fulfillment of obligations, breach of contract, acts and omissions, negligence and tortious acts. • Appropriate indemnities will be negotiated in the Agreement. Specific exclusions or limitations requested by each Party will be considered and negotiated, if appropriate.

14.	Disputes	<ul style="list-style-type: none"> • Disputes between the Parties regarding funding, operation and maintenance of Line 5 Eglinton will be escalated for dispute resolution in the following order: <ul style="list-style-type: none"> a) High-level tiered negotiation between the Parties and use of the Ontario-Toronto Transit Co-ordination Partnership governance framework as required; b) Negotiation with the assistance of an independent mediator; and c) Arbitration in a manner to be outlined in a dispute resolution process and arbitration procedure or as described in applicable legislation. • Each Party will continue to perform during any dispute and will accelerate dispute resolution timelines if reasonably requested by the other.
15.	Breaches and Remedies	<ul style="list-style-type: none"> • The Agreement will provide for adequate protections and remedies for the Parties against breach of the Agreement by any other party, with termination of the Agreement being a remedy of last resort in the case of a major default.
16.	Contract Termination or Expiry	<ul style="list-style-type: none"> • If the Agreement expires or is terminated, following such termination or expiry: <ul style="list-style-type: none"> ○ The City will have no continuing funding obligations for the operations or maintenance of Line 5 Eglinton, and all rights and obligations under the Agreement will cease, including rights to the farebox revenue and non-farebox revenue; and ○ The TTC will have no ongoing operation or maintenance obligations for Line 5 Eglinton, except where mutually agreed by the Parties and where new or amended terms are negotiated. • Termination rights of the Parties under the Agreement will ensure that any termination will result in minimal disruption to operations and maintenance of Line 5 Eglinton and that Line 5 Eglinton transit will continue to be provided at ordinary service levels.
17.	Fare Revenue	<ul style="list-style-type: none"> • Under the Toronto-Ontario AIP, TTC/City to receive farebox revenue.
18.	Non-Fare Revenue	<ul style="list-style-type: none"> • Under the Toronto-Ontario AIP, TTC/City to receive non-farebox revenues.

ATTACHMENT 2

LINE 5 EGLINTON ALIGNMENT

