

TORONTO TRANSIT COMMISSION REPORT NO.

MEETING DATE: April 6, 2011

SUBJECT: TORONTO TRANSIT INFRASTRUCTURE LIMITED

ACTION ITEM

RECOMMENDATION

It is recommended that the Commission:

1. Receive this report for information regarding developments at the Meeting of Shareholders and Meeting of Directors of Toronto Transit Infrastructure Limited ("TTIL"), formerly Toronto Transit Consultants Limited ("TTIL") of March 8, 2011; and
2. Direct TTIL to adopt procurement policies, financial authorization policies and a by-law to govern proceedings consistent with those of the Toronto Transit Commission and that TTIL not award any contracts until these items have been adopted and funding has been secured.

FUNDING

No funding impact.

BACKGROUND

At a Commission Meeting on March 8, 2011, the Commission approved the following two recommendations:

1. Approve the proxy as set out in Schedule A with respect to the voting shares of the Toronto Transit Consultants Limited ("TTCL") in order to allow TTCL to carry on business as expressly set out in the Articles of Incorporation, namely the furnishing of professional services in connection with urban transit systems worldwide and to appoint additional directors to ensure compliance with TTCL's Articles of Incorporation;
2. That any Director appointed to TTCL meet the qualifications as set out in the *Canada Business Corporations Act*.

Attached as Appendix "A" is a copy of the above-mentioned proxy.

The proxy approved by the Commission appointed the Commission's Vice-Chair, Peter Milczyn, to exercise the proxy and to vote 1,000 shares on behalf of the TTC at Meeting of Shareholder of March 8, 2011.

As referenced below, TTCL changed its name to TTIL effective March 21, 2011. References to developments predating March 21, 2011 will refer to TTCL.

DISCUSSION

On March 8, 2011, a Meeting of Shareholders was held at which the Commission Vice-Chair Peter Milczyn attended and presented the Commission-approved proxy permitting him to vote the 1,000 shares on behalf of the Commission. Vice-Chair Milczyn signed a resolution which provided for the following:

- a. Appointment of additional directors. The following individuals were appointed as directors: Norm Kelly, Gordon Chong, and Douglas Ford;
- b. Authorizing TTCL to assist and advise the TTC in connection with the City of Toronto Subway Project;
- c. Authorizing TTCL to obtain sufficient funding by way of an allocation from the TTC as may be required to allow TTCL to provide its assistance and advice to the TTC in connection with the City of Toronto Subway Project, it being understood that TTCL will be applying to PPP Canada for reimbursement of any expenses;
- d. That TTCL is authorized to make an application to PPP Canada for funding for the City of Toronto Subway Project; and
- e. TTCL's President and CEO be authorized to retain such advisors as required by it to fulfil TTCL's mandate.

Attached as Appendix "B" is a copy of the signed Shareholder's Resolution.

It should be noted that based on the resolutions passed by TTC as shareholder, TTCL's role with respect to its operations was advisory in nature. The Shareholder's Resolutions clearly state that TTIL's responsibility is to "provide assistance and advice to the TTC".

Further, with respect to resolution C 1. as set out in Appendix B, any authorization provided must be read in context of the restrictions imposed by both the *City of Toronto Act* and the City's financial control by-law with respect to the TTC. The *City of Toronto Act* does not permit the TTC to invest more than \$100,000 in TTCL's capital stock without the consent of the City. In addition, there is about \$60,000 in Retained Savings on the corporation's balance sheet. The directors were advised of these restrictions at the meeting of directors. Furthermore, the City's financial control by-law (by-law 1155-2010) requires Council approval for changes to the TTC Operating Budget or Ten Year Capital Budget, with limited exceptions, prior to the award of a contract.

Prior to March 8, 2011, TTCL was a dormant company and not actively engaged in any form of business. The Commission's approved proxy allowed TTCL to become active in providing professional services to urban transit companies, including the TTC. The shareholder-approved resolutions re-activated the company for a limited purpose, namely to provide assistance and advice to the TTC with respect to the City of Toronto Subway project, and

provided further authorizations (e.g. retaining experts, applying to PPP Canada for project and funding approval) consistent with permitting the company to fulfil its mandate.

It should be noted that a further shareholder resolution was approved amending the name of the Corporation formally from Toronto Transit Consultant's Limited to Toronto Transit Infrastructure Limited.

The name was formally amended effective March 21, 2011.

Meeting of Directors

A meeting of the Board of Directors occurred after the meeting of shareholders.

The following officers were appointed:

- Gordon Chong: President, Chief Executive Officer, Secretary, Treasurer and Co-chair
- Norm Kelly: Co-Chair
- Brian Leck: General Counsel
- Vincent Rodo: Comptroller

In addition and subject to funding being secured, Miller Thomson LLP was also retained as general counsel to TTCL. At the time of writing this report, no form of retainer agreement has been executed.

Gordon Chong was retained as CEO and President of TTCL.

TTC Directives to TTIL

Given that TTIL is a subsidiary corporation of the TTC, and its recent mandate to provide assistance and advice to the TTC in a specific, limited area, subject to certain conditions and restrictions, staff recommend that TTIL be requested to develop policies relating to procurement and financial authorizations and a by-law to govern proceedings consistent with those of the Commission.

JUSTIFICATION

This report is provided in order to update the Commission with respect to TTIL's Shareholder Meeting and to ensure that TTIL establishes appropriate policies by which it is to be governed.

April 6, 2011

Attachments - Appendix A
- Appendix B