



MEMO / NOTE DE SERVICE

To / Destinataire	Mayor and Members of Council	File/N° de fichier:
From / Expéditeur	Steve Kanellakos City Manager	
Subject / Objet	RTG/RTM Payments	Date: February 8, 2020

The purpose of this memo is to provide you with information pertaining to the monthly service payments to Rideau Transit Group (RTG) that have not been made by the City of Ottawa, as you may be asked for clarification from your residents.

The City of Ottawa has applied all performance adjustments to RTG payments that are permitted under the Project Agreement. Using the Project Agreement, the City was able to start significant deductions in October 2019. As a result of the deductions, these monthly payments, which equate to approximately \$4-5 million per month, have not been made by the City of Ottawa.

In the past, members of the news media have asked for clarification on this. Following the December 3 FEDCO meeting, John Manconi stated that RTG has received some payments during a media scrum with municipal beat reporters.

Reporter: How many times have you withheld the payment to RTG...?

GM, John Manconi: So the concession just started. They're not going to get October. They're not going to get November. And now we're into December. They had a payment for I believe for the tail-end of September, which that's the way the payment mechanism works and then you adjust from that point on.

As noted publicly on numerous occasions, for all contractual matters with RTG, the City is following the Project Agreement requirements to ensure that the City's rights and interests are preserved. The Project Agreement is highly prescriptive in terms of the application of performance adjustments made against RTG for maintenance services provided during the maintenance period.

Per the Project Agreement, a monthly service payment is payable for each contract month during the maintenance period. If at any time during the maintenance period a performance failure occurs, the City shall be entitled to make a deduction or deductions from the relevant monthly service payment for the performance failure(s). Following the end of the month, an invoice for the monthly service payment is made with adjustments for performance failures that occurred in the previous month [emphasis added]. As required by the Project Agreement, a monthly service payment is made with adjustments for the previous month, e.g. the October invoice includes the September performance deductions.

RTG achieved Revenue Service Availability on August 30, 2019 and was eligible for a pro-rated monthly service payment for a single day of service on August 31, 2019. The performance deductions that accumulated for this single day of service were applied to the September payment. The administrative processes detailed in the Project Agreement effectively required the City to pay the full amount for the first contract month of service irrespective of the contractor's performance during that month.

To meet the City's obligations for RTG's September invoice, a payment was made in November 2019. The amount was effectively for the full monthly service payment for September 2019, as was required by the Project Agreement. Service payments are not made during the month of service. They are made after the City receives the invoice and after the invoice is appropriately reviewed.

Subsequent to the September invoice, the October invoice included performance deductions that accumulated during the month of September and the November invoice included performance deductions that accumulated during the month of October. To date, the October and November invoices have not been paid due to the accumulation of performance deductions in September and October. The performance deductions for November (affecting December's invoice) and December (affecting January's invoice) are still under review.

As the performance deductions lag the invoice period by a month, RTG is effectively a month behind in its eligible payments and will be required to sustain a high level of performance for at least a month to eliminate this backlog of accumulated deductions.

Therefore, the City is maintaining its position that it will continue to enforce the provisions of the contract and that RTG is required to meet the service requirements outlined in the Project Agreement. In every opportunity that the City has had under the Project Agreement to not pay RTG to date, the City has used its authority to not provide payment.

c.c. Senior Leadership Team
Director, Public Information and Media Relations