

MEMORANDUM OF UNDERSTANDING

BETWEEN:

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO
AS REPRESENTED BY
THE MINISTER OF TRANSPORTATION**

AND

METROLINX

1.0 Definitions

Terms defined in the Act, have the same meaning in this MOU. In addition, the following terms have the following meanings:

"Act" means the *Metrolinx Act, 2006*;

"Annual Report" means the report set out in section 33 of the *Act*;

"Board" means the Board of Directors of Metrolinx;

"Business Plan" means the plan set out in section 32 of the *Act*;

"By-laws" means the By-laws adopted by the Board;

"Chief Executive Officer" means the individual appointed by the Lieutenant Governor in Council as the chief executive officer of Metrolinx;

"Chair" means the Director who is designated by the Lieutenant Governor in Council as chair of the Board;

"Communications Protocol" means the agreed to framework between Metrolinx and the Ministry regarding their mutual roles and responsibilities relating to ongoing external and internal communications.

"Deputy Minister" means the Deputy Minister of Transportation;

"Director" means a person appointed by the Lieutenant Governor in Council as a member of the Board;

"Effective Date" means the date on which this MOU takes effect, which is the date, this MOU is executed by the Minister;

"GO Transit Service Area" means the area prescribed by the Minister in which the GO Transit system is principally operated, as per section 1 of the *Act*;

"Government" means the Government of Ontario;

"Greater Golden Horseshoe" means the Greater Golden Horseshoe growth plan area as set out in O. Reg. 416/05 under the *Places to Grow Act, 2005, S.O. 2005, c 13*;

"Metrolinx" means the corporation established by the *Act*;

"Minister" means the member of the Executive Council to whom the administration of the *Act* is assigned, presently the Minister of Transportation;

"Ministry" means the Ministry of Transportation;

"MOU" means this Memorandum of Understanding;

"Regional Transit System" means the GO Transit system and the passenger transportation system prescribed by the Minister, as per section 1 of the *Act*;

"Regional Transportation Area" means all the area within the boundaries of the City of Hamilton, the City of Toronto, and the Regions of Halton, Peel, York and Durham, and any additional area prescribed by the Minister, as per section 1 of the *Act*;

"TB/MBC" means Treasury Board and Management Board of Cabinet;

"Transportation Plan" means the transportation plan for the Regional Transportation Area, as per section 1 of the *Act*.

2.0 Purpose and Principles

2.1 Purpose of the MOU

The purpose of this MOU is to clarify the relationship between the Minister and Metrolinx. The MOU is intended to supplement and clarify, not modify the obligations and responsibilities of the parties under law. In the event of a conflict, the parties' responsibilities under applicable law shall prevail.

The Minister and Metrolinx shall act according to the responsibilities set out for each in this MOU. In addition, Metrolinx is subject to, and shall comply with the policies, guidelines and directives identified in Section 1 of Schedule A to this MOU and the Legislation identified in Section 2 of Schedule A. The Ministry will provide written notice to Metrolinx of any updates or changes to the legislation, policies, guidelines or directives, or new applicable directives or legislation.

2.2 General Principles

Metrolinx shall conduct itself according to the following principles: ethical behaviour, accountability, excellence in management, responsible and appropriate use of public resources, value for money, public funds being spent with due regard to economy and efficiency, high-quality service provided with integrity and honesty, fair and equitable access, openness and transparency in accordance with applicable legislation and government directives.

2.3 Ministry's Role

Within the context of this MOU, the Ministry's role is to provide strategic leadership, planning and central oversight as steward of the transportation system in Ontario. The Minister, considering the advice of the Ministry, establishes strategic directions and Government priorities, and develops legislation, regulations, standards, policies and directives. The Ministry also monitors, evaluates and reports on the performance of the transportation system and the transportation of Ontarians, and establishes funding models and funding levels for the transportation system.

2.4 Metrolinx's Mandate

As per section 5 of the *Act*, the objects of Metrolinx are to provide leadership in the co-ordination, planning, financing, development and implementation of an integrated, multi-modal transportation network in the Regional Transportation Area; act as the central procurement agency on behalf of Ontario municipalities with respect to their local transit systems; be responsible for the operation of the Regional Transit System and the provision of other transit services.

2.5 Agency Classification and Applicability of Government Directives

Metrolinx is an operational enterprise agency of the Crown and is accountable to the Crown through the Minister in exercising its mandate. Metrolinx is subject to the financial, human resources and administrative policies, guidelines and directives established by TB/MBC and the Ministry of Finance that apply to Operational Enterprise agencies. In particular, Metrolinx is required to follow those directives listed in Schedule A, Part 1 of this MOU.

As required by the TB/MBC Agency Establishment and Accountability Directive, as an operational enterprise agency, Metrolinx is required to make decisions that are consistent with the principles of those Directives not specified in Schedule A Part 1. The Ministry agrees to share those Directives with Metrolinx.

2.6 Mutual Support

The Minister and Metrolinx shall respect each others responsibilities in the transformation and management of transportation in Ontario and shall ensure that in fulfilling their respective responsibilities, they will do so in a manner that supports and enables the other party.

2.7 Regional Transit System and Services

- (a) Metrolinx will ensure that the transportation services and ancillary operations provided by or on its behalf are planned, designed and delivered in a safe manner, to a high standard of service and that they support and are consistent with provincial legislation and with the Government's policies, plans and strategies affecting matters such as transportation, environmental, land use and growth management strategies for the Greater Golden Horseshoe area.
- (b) Metrolinx will provide leadership in the provision of integrated public transportation services in the GO Transit Service Area as set out in O. Reg 189/09 under the *Act*, which falls within the Greater Golden Horseshoe, by improving the linkages between its transportation services and local/intercity services, increasing ridership, expanding service, promoting customer service excellence and contributing to the Government's efforts to deliver the best services as efficiently as possible.
- (c) Ministry and Metrolinx staff will solicit mutual input and seek agreement, where possible, on matters relating to the planning, design, construction and operation of the Regional Transit System, consistent with provincial legislation, policies, plans and strategies affecting matters such as transportation, environmental, land use and growth management strategies for the Greater Golden Horseshoe.

2.8 Metrolinx Transportation Plan

In accordance with the *Act*, Metrolinx will develop and adopt a Transportation Plan for the Regional Transportation Area. The Plan will address all modes of transportation for the movement of people and goods. Metrolinx will also plan, co-ordinate and set priorities for its implementation; and develop an investment strategy to support the implementation of the Plan for the Regional Transportation Area.

3.0 Accountability Relationships, Roles and Responsibilities

3.1 Minister

- (a) The Minister is accountable to the Cabinet and the Legislative Assembly for Metrolinx's fulfilment of its mandate, its compliance with applicable legislation, Government policies and for reporting to the Cabinet and Legislative Assembly on the affairs, activities and operations of Metrolinx.
- (b) The Minister is responsible for:
 - (i) providing the Government's strategic direction to Metrolinx for transportation in the Regional Transportation Area and informing the Board, through the Chair, of the Government's priorities and broad policy directions for Metrolinx, including providing direction on the development of Metrolinx's annual Business Plan;;
 - (ii) ensuring that the Ministry works with Metrolinx to achieve Metrolinx's mandate;
 - (iii) consulting, as appropriate, with the Board, through the Chair, on changes in direction, regulation or legislation that would impact Metrolinx;
 - (iv) keeping the Chair informed of issues or events that may concern the Chair in the exercise of the Chair's responsibilities, including government priorities and broad policy direction for Metrolinx;
 - (v) reviewing and approving the Metrolinx Business Plan, including the capital plan and multi-year forecasts, and presenting the recommended annual allocation for Metrolinx as part of the Government's budget process;
 - (vi) recommending to TB/MBC the approval of Metrolinx's MOUs;

- (vii) directing and approving amendments to and renewals of this MOU;
- (viii) recommending up to 15 Directors for appointment by the Lieutenant Governor in Council, and subsequently recommending two of those Directors to the Lieutenant Governor in Council as Chair and Vice Chair;
- (ix) following consultation with the Chair, recommending to the Lieutenant Governor in Council, the appointment of a Chief Executive Officer of Metrolinx;
- (x) meeting with the Board annually, or more often as needed;
- (xi) recommending to TB/MBC the establishment, elimination, consolidation or acquisition of Metrolinx subsidiaries, and any changes to Metrolinx's mandate that needs corresponding change to the *Act*;
- (xii) recommending to TB/MBC the powers to be given to Metrolinx when there is a change in Metrolinx's mandate proposed;
- (xiii) reporting and responding to the Legislative Assembly on the affairs of Metrolinx;
- (xiv) reporting and responding to Cabinet on Metrolinx's performance and compliance with Government's relevant directives and policies;
- (xv) receiving the Annual Report from Metrolinx and tabling it in the Legislative Assembly;
- (xvi) when appropriate or necessary, taking action or directing/recommending that alternative action be taken in respect of Metrolinx's mandate or operations; and
- (xvii) directing that a periodic review of Metrolinx be conducted and making subsequent recommendations to TB/MBC.

3.2 Deputy Minister

- (a) The Deputy Minister is accountable to the Minister for the performance of the Ministry in respect of this MOU and for carrying out the roles and responsibilities assigned to him or her by the Minister, TB/MBC, applicable TB/MBC Directives, applicable legislation and this MOU.
- (b) The Deputy Minister is responsible for:
 - (i) consulting and meeting with the Chief Executive Officer and/or the Chair on a regular basis as needed;
 - (ii) keeping the Minister and Chief Executive Officer advised of issues or events that concern the Minister, the Chief Executive Officer and the Chair in the exercise of their respective responsibilities on matters of mutual importance; and on applicable TB/MBC Directives and ministry policies;
 - (iii) providing administrative, financial and other support to Metrolinx as directed by the Minister or specified by this MOU;
 - (iv) maintaining an open and co-operative working relationship with Metrolinx with respect to all planning, financial, administrative and management matters through regular meetings with Metrolinx;
 - (v) ensuring that the Ministry adheres to the Communications Protocol;
 - (vi) directing the Ministry to operate in alignment with Metrolinx's need to function effectively, efficiently, accountably, and within a balanced budget;
 - (vii) advising the Minister on fulfilling the Minister's and Ministry's assigned responsibilities under the MOU and applicable legislation and government directives with respect to Metrolinx;
 - (viii) advising the Minister on Metrolinx's documents submitted to the Minister for review and/or approval;

- (ix) providing support and assistance to the Minister in the execution of the Minister's duties with regard to Metrolinx;
- (x) establishing a framework for reviewing and assessing Metrolinx's Business Plans and other reports;
- (xi) monitoring Metrolinx on behalf of the Minister, while respecting its authority, including assessments of whether Metrolinx is fulfilling its mandate in concert with Government policies and where warranted, identifying any need for alternative action and recommending to the Minister, ways to resolve any issues that are identified;
- (xii) undertaking reviews as directed by the Minister;
- (xiii) co-operating with any Metrolinx review or audit undertaken in accordance with Article 8 of this MOU and
- (xiv) negotiating with the Metrolinx Chief Executive Officer amendments to and renewals of this MOU, as directed by the Minister.

3.3 The Board

- (a) The Board is accountable through the Chair to the Minister for the performance of Metrolinx in fulfilling its mandate and for carrying out the roles and responsibilities assigned to the Board by the *Act*, applicable legislation, applicable government directives and this MOU.
- (b) The Board is responsible for:
 - (i) setting the goals, objectives and strategic direction for Metrolinx, within its mandate as defined in the *Act* ;
 - (ii) directing the affairs and monitoring the performance of Metrolinx to ensure compliance with the *Act*, this MOU and applicable law;
 - (iii) ensuring governance best practices are implemented to assist in the discharge of its responsibilities to serve the interests of the Crown, including ensuring that Directors have received sufficient training to carry out their duties;
 - (iv) ensuring that Directors are aware of and are in compliance with all applicable conflict of interest requirements, including those in the *Metrolinx Act*, the *Public Service of Ontario Act*, 2006 or other relevant documents as they relate to Board members;
 - (v) ensuring Directors adhere to the Communications Protocol, especially with respect to each Director's potential role as a spokesperson for Metrolinx;
 - (vi) keeping the Minister informed, through the Chair, of issues or events in Metrolinx that affect the Minister in the exercise of the Minister's responsibilities;
 - (vii) consulting as appropriate with stakeholders on Metrolinx's goals, objectives, strategic directions, and Transportation Plan;
 - (viii) directing and monitoring the preparation of Metrolinx's Business Plan, Annual Report, budget, the Transportation Plan and other reports and approving these reports for submission to the Minister;
 - (ix) ensuring that the Metrolinx fare and parking administrative fees program and changes in the fee amounts: support the objective of high quality customer service; encourage compliance with Metrolinx by-laws; relate to the overall costs of delivering the program and incremental changes to those costs; and reflect fee amounts in effect in similar programs in comparable jurisdictions;

- (x) setting policies to ensure that Metrolinx uses public funds and assets with integrity, honesty and due regard to economy and efficiency and that Metrolinx operates within its approved funding;
- (xi) approving this MOU, including any subsequent amendments, for Metrolinx in a timely manner and authorizing the Chair to sign for Metrolinx;
- (xii) making decisions consistent with the Business Plan approved for Metrolinx;
- (xiii) ensuring the Agency has corresponding human resources policies in place consistent with the spirit and intent of the TB/MBC Human Resources Management directives and policies, to the extent possible based on the Agency's mandate, activities, and other relevant factors;
- (xiv) establishing performance measures and targets for Metrolinx and a performance review system for staff;
- (xv) performing an annual assessment of the effectiveness of the Board as a whole and on individual members including the Chair and Vice Chair;
- (xvi) arranging for and cooperating with any review or audit undertaken in accordance with Article 8 of this MOU; and
- (xvii) ensuring that corrective action be taken if needed as recommended by any audit.

3.4 Chair

The Chair is accountable to the Minister for the performance of the Board in fulfilling its mandate, and for carrying out the roles and responsibilities assigned to the Chair by the *Act*, applicable legislation, Government directives and this MOU, and is responsible for:

- (i) keeping the Minister informed of issues or events that may concern the Minister in the exercise of the Minister's responsibilities;
- (ii) providing strategic leadership to Metrolinx;
- (iii) monitoring the performance of Metrolinx;
- (iv) communicating strategic directions and decisions of the Board to the Chief Executive Officer;
- (v) reviewing Metrolinx's Annual Report, Business Plan, annual budget, By-laws made under Section 21 of the *Act* related to transit systems, and quarterly financial reports, or other reports required by the Minister, and submitting the same to the Minister once approved by the Board;
- (vi) notifying the Minister of any proposed changes to the amounts in the Corporation's Administrative Fee by-law pertaining to GO Transit parking and fare infractions;
- (vii) convening and chairing meetings of the Board in accordance with applicable By-laws and procedures;
- (viii) ensuring that Directors are informed of their roles, responsibilities and obligations and receive the necessary orientation to carry out their responsibilities, including complying with (to the extent that the Chair is aware of a conflict) all relevant conflict-of-interest and confidentiality rules and guidelines as set out in Metrolinx's legally required documents dealing with those matters, and bringing issues of non-compliance to the Minister's attention;
- (ix) in consultation with the Board, assessing the Chief Executive Officer's performance;
- (x) acting as the chief spokesperson, as appropriate, in partnership with the Chief Executive Officer, on all Metrolinx matters including representing the Board at meetings with the Minister, the Deputy Minister, joint Metrolinx meetings or on working groups;

- (xi) where appropriate communicating to the Board about the meetings that the Chair attends, including the substance of the issues discussed and any consensus reached for consideration by the Board; and communicating the Board's position back to the Minister, the Deputy Minister, the joint Metrolinx meetings or the working groups as the case may be;
- (xii) consulting with the Minister regarding the annual Business Plan prior to final approval by the Board; as well as the process for evaluating the performance of the Chair, individual Directors and the Board as a whole;
- (xiii) notifying the Minister of any Director vacancies and upcoming expiries of terms of Directors, and making recommendations to the Minister regarding new appointments and re-appointments, size and composition of the Board and Directors' compensation;
- (xiv) taking such other actions on behalf of the Board as may be directed by the Board;
- (xv) directing and approving amendments and renewals of this MOU, as directed by the Board;
- (xvi) co-operating with any periodic review or audit directed by the Minister or TB/MBC; and
- (xvii) signing this MOU or any amendments or revisions to this MOU as directed by the Board.

3.5 Chief Executive Officer

The Chief Executive Officer of Metrolinx is accountable to the Board for the management and administration of Metrolinx in a manner consistent with the directions of the Board, and is responsible for:

- (i) providing leadership, guidance and management to Metrolinx staff, including human and financial resources management and procurement, in accordance with accepted business and financial practices and standards, this MOU, the *Act*, Ministerial directives and applicable legislation, applicable TB/MBC and Ministry of Finance directives;
- (ii) translating the goals, objectives and strategic direction of the Board into operational plans and activities;
- (iii) supporting and advising the Board and Chair on meeting their responsibilities and complying with applicable Government directives;
- (iv) monitoring Metrolinx's in-year operational performance and reporting on it to the Chair and the Board;
- (v) ensuring that Metrolinx adheres to the Communications Protocol;
- (vi) ensuring that appropriate consultation takes place with stakeholders before significant changes to Metrolinx plans, programs or operations and when addressing contentious issues involving Metrolinx;
- (vii) ensuring that the Ministry is provided information in a timely manner on matters regarding Metrolinx as requested in order that the Minister can carry out his or her responsibilities and to support the Ministry throughout the Government's business planning process;
- (viii) consulting with the Deputy Minister, as needed, on matters of mutual importance and maintaining effective communications with staff of the Ministry through an open and cooperative working relationship with respect to planning, financial, administrative and management matters of Metrolinx, as appropriate;
- (ix) acting as chief spokesperson, as appropriate, in partnership with the Chair, on all Metrolinx matters and delegating this role in whole or in part to senior staff members as necessary or appropriate;
- (x) keeping the Board and the Chair advised of issues or events that may concern them in the exercise of their respective responsibilities, including operational matters.
- (xi) establishing appropriate systems and controls so that Metrolinx operates in compliance with the *Act*, this MOU and corporate policies;

- (xii) preparing the Transportation Plan, an Annual Report, Business Plan, quarterly reports, financial reports, budgets and any other reports, plans or documents for submission to the Board, as required by the Minister, the *Act* and this MOU, or as directed by the Board;
- (xiii) co-operating with any Metrolinx review or audit undertaken in accordance with Article 8 of this MOU;
- (xiv) applying policies so that public funds are used with integrity, honesty and due regard to economy and efficiency;
- (xv) establishing systems so that Metrolinx operates within the approved Business Plan;
- (xvi) establishing a system of retention of formal Metrolinx documents and for appropriately making such documents publicly available;
- (xvii) preparing for approval by the Board, a performance review system for staff and Metrolinx as a whole, and implementing the system; and
- (xviii) negotiating with the Deputy Minister amendments to and renewals of this MOU, as directed by the Chair.

4.0 Metrolinx Governance & Administration

4.1 A Separate Corporate Entity

Metrolinx is a Crown agency within the meaning of the *Crown Agency Act*. It is a corporate entity that exercises powers and performs duties to meet its objects as set out in the *Act*. It is not subject to the *Corporations Act* or the Ontario *Business Corporations Act* except as provided in the *Act*.

4.2 Conflict of Interest and Indemnification

- (a) Metrolinx shall comply with the provisions of the *Public Service of Ontario Act, 2006* applicable to public bodies.
- (b) For the purposes of the *Public Service of Ontario Act, 2006* and Ont. Reg. 375/07, the Chief Executive Officer is the Ethics Executive for Metrolinx. This includes ensuring that a conflict of interest policy is developed, ensuring that those persons named in the Metrolinx conflict of interest policy are familiar with the conflict of interest rules that apply; and promoting ethical conduct by all within Metrolinx.
- (c) Subsection 37(2) of the *Act* sets out those sections of the *Business Corporations Act* dealing with, among other things, the indemnification of Directors that apply to Metrolinx.

4.3 Financial Administration

- (a) The Ministry will provide funding to Metrolinx, through its approved funding from TB/MBC for costs including its operating deficit and for capital renewal and expansion that is consistent with TB/MBC and Cabinet approvals. The Ministry will work with Metrolinx to ensure that the necessary information is made available in a timely manner to allow for such funding approvals from TB/MBC. Metrolinx shall restrict access to information prepared for, submitted to or received from TB/MBC in the course of the funding approval process to those employees and appointees who have sworn or affirmed an oath of office as set out in the *Public Service of Ontario Act, 2006*.
- (b) The Chief Executive Officer will ensure that the Ministry is consulted during Metrolinx's business planning process and provided the opportunity to comment on the relevant reports in advance of submission to the Board for approval.

- (c) The Chief Executive Officer will ensure that Metrolinx undertakes to share with Ministry staff any proposals to generate significant revenue as early as possible. Metrolinx may proceed with those proposed initiatives provided there is no negative impact on the Metrolinx annual budget, as approved by the Minister.

4.4 Borrowing and Investing

- (a) Pursuant to subsection 27(1) of the *Act*, the power of Metrolinx and its subsidiary corporations to borrow, issue securities, make short-term investments of funds, manage risks associated with financing and investment or incur liabilities in order to facilitate financing by others may only be exercised under the authority of a By-law that has been approved by the Minister of Finance. Where Metrolinx is seeking such approval from the Minister of Finance, Metrolinx will work in conjunction with the Ministry, in supporting the Ministry's formal request to the Minister of Finance to obtain such approvals.
- (b) Pursuant to subsection 27(2) of the *Act*, all borrowing, financing, short-term investment of funds and financial risk management activities of Metrolinx and its subsidiary corporations shall be coordinated and arranged by the Ontario Financing Authority, unless the Minister of Finance agrees otherwise. Where Metrolinx is seeking such approval from the Minister of Finance, Metrolinx will work in conjunction with the Ministry, in supporting the Ministry's formal request to the Minister of Finance to obtain such approvals.

4.5 Funding

- (a) Metrolinx will be funded through transfer payments from the Ministry in accordance with the terms of the *Act* and approved funding through the TB/MBC approval process.
- (b) The Lieutenant Governor in Council may by order authorize the Minister of Finance to make loans to Metrolinx or any of its subsidiary corporations on terms and conditions determined by the Minister of Finance.
- (c) The Lieutenant Governor in Council may by order authorize the Minister of Finance to purchase securities of Metrolinx's subsidiary corporations at times and on terms and conditions determined by the Minister of Finance.
- (d) Subsection 42(2) of the *Act* permits the Lieutenant Governor in Council to make regulations to authorize Metrolinx to establish and impose fees and charges and to utilize other mechanisms for revenue generation.
- (e) Initial capital and operating funding is approved through the Metrolinx and Ministry's budget planning process. Any approvals for additional operating funding during a fiscal year must be obtained by the Minister through the appropriate TB/MBC approval process. Ministry and Metrolinx staff shall jointly prepare the required documentation related to seeking that approval.
- (f) Any additional capital funding during a fiscal year must be obtained through the TB/MBC approval process. Ministry and Metrolinx staff shall jointly prepare the required documentation related to seeking those approvals.
- (g) Metrolinx's approved operating and capital allocations may be adjusted in a given year if in-year fiscal constraints are ordered by Cabinet or the Minister or his/her designate. Metrolinx will be provided notice of changes to its allocation as soon as reasonably possible.
- (h) The Ministry will inform Metrolinx of the funding levels for Metrolinx approved by TB/MBC as soon as reasonably possible. Metrolinx shall restrict access to approved funding levels to those employees and appointees who have sworn or affirmed an oath of office as set out in the *Public Service of Ontario Act, 2006*.

- (i) The Board, through the Chair, shall inform the Minister in the event that Metrolinx does not anticipate spending the full operating or capital allocations as early as possible and, at a minimum, one month prior to the end of the fiscal year.
- (j) When directed to do so by the Minister of Finance, Metrolinx shall pay into the Consolidated Revenue Fund such of its surplus funds as are determined by the Minister of Finance pursuant to the *Financial Administration Act*.
- (k) Metrolinx will submit, in a manner agreed to by the Ministry, requests for funding on an as needed basis. Requests for funding should not exceed amounts required for the following two week period. The Ministry will endeavour to arrange for the transfer of funds on a timely basis.
- (l) Metrolinx will comply with section 28 of the *Financial Administration Act* when entering into a transaction contemplated by that provision and will advise the Ministry in advance of seeking the approval of the Minister of Finance under said provision.

4.6 Liability for Goods and Services Tax

Metrolinx does not collect GST on any of its fare services. GST is collected on its non-fare related sales and services and remitted to the federal government as required. GST is paid on goods and services purchased by Metrolinx.

4.7 Acquisition of Goods, Consulting and Non-Consulting Services

- (a) Metrolinx is required to adhere to the TB/MBC Procurement Directive on Advertising, Public Media, and Creative Communications Services.
- (b) Metrolinx is required to adhere to the Management Board of Cabinet Procurement Directive, July 2009 as it applies to Other Included Entities, as defined in that Directive, as may be amended from time to time. Metrolinx shall ensure that its procurement policies, processes and procedures do not conflict with the mandatory sections which apply to Other Included Entities. For the remaining sections, Metrolinx shall ensure that its corresponding procurement policies, processes and procedures are in accordance with the principles of that Directive and are in keeping with other related direction as communicated to Metrolinx by either the Minister or the Deputy Minister.
- (c) Metrolinx is subject to Ontario's Trade Agreements and must ensure that their procurement policy reflects the requirements of Ontario's Trade Agreement as appropriate. The Trade Agreements apply to the acquisition of goods valued at or over \$25,000 and services and construction valued at or over \$100,000.
- (d) Metrolinx shall adhere to the principle of "Value for Money" as defined in TB/MBC's Real Property and Accommodation Directive, when undertaking the acquisition and disposal of real property. It is acknowledged there may be times that market value does not represent the best value for money with respect to property purchases associated with the operation of rail and bus transit services. Metrolinx shall use a competitive process, to the extent possible, to acquire property or accommodation and maximize the return to the Crown when disposing of property or surplus assets.

4.8 Advertising Content Directive

Within the context of the Advertising Content Directive, June 2006, the following types of items shall be considered to fall within the definition provided by the Directive as to what does not constitute "advertising" within the context of the last paragraph of section 2 of that Directive and as such shall not require Ministry approval: customer service bulletins, e-news messaging, webpage updates, ads for Environmental Approvals related to statutory requirements, construction notices, job ads, tender notices and other operational communications including, without limitation, ads of an operational nature advising customers of such matters as service information, fare changes and infrastructure improvements. Notwithstanding the above, these same cited items, as and if applicable remain subject to the Communications Protocol to be established by section 6 of this MOU.

4.9 Travel, Meals and Hospitality Expenses Directive

The provisions of the Travel, Meals and Hospitality Expenses Directive, August 2006, apply to Metrolinx, as an agency governed by enabling legislation, as set out in that Directive.

4.10 Legal Services

Metrolinx shall employ or retain, as appropriate, its own legal counsel.

4.11 Audit Services

Metrolinx shall engage its own Auditor(s) as set out in section 26 of the *Act*.

4.12 IM & IT Infrastructure Development and Management

Metrolinx shall acquire its own Information Management and Information Technology (IM & IT) infrastructure.

4.13 HR Services

Metrolinx shall engage human resources (HR) services.

4.14 Employees

Subject to applicable law, Metrolinx staff, other than the Chief Executive Officer, report to and are accountable to the Chief Executive Officer for their performance. Pursuant to section 38 of the *Metrolinx Act, the Crown Employees Collective Bargaining Act, 1993* applies to Metrolinx, and its employees are Crown employees for the purpose of that Act.

4.15 Recorded Information Management

- (a) The Chief Executive Officer shall ensure that Metrolinx follows appropriately defined processes of information retention and disposal, as well as develops appropriate policies related to information security which are consistent with the principles contained in TB/MBC's Management of Recorded Information Directive, Information and Information Technology Directive, Information and Information Technology Security Directive, the *Archives and Record Keeping Act, 2006*, and other relevant legislation and directives.
- (b) The Chief Executive Officer shall ensure that Metrolinx's intellectual property assets or intellectual property assets of the Crown which Metrolinx has been authorized to use, are managed efficiently, effectively and consistent with the principles of the TB/MBC Directive on Managing, Distributing and Pricing Government Information.
- (c) The Chief Executive Officer is the "Head" of Metrolinx for the purposes of the *Freedom of Information and Protection of Privacy Act*.

4.16 Customer Service Quality

Metrolinx's formal process for responding to complaints about the quality of service received by its customers /clients will be in keeping with the customer / client service provisions in TB/MBC's Agency Establishment and Accountability Directive. In addition, Metrolinx will meet the spirit and intent of the principles of the OPS Service Directive.

4.17 Agreements with Third Parties

Metrolinx shall not enter into any agreements with third parties, the purpose of which is to avoid compliance with TB/MBC directives with which the Corporation is required to comply.

5.0 Reporting Requirements

5.1 Business Plan, Annual Reports and Performance Measurement

5.1.1 Metrolinx's Business Plan, Annual Report, financial reports, performance measurement system, and any other reports shall comply with the requirements of the *Act* and applicable Government directives.

5.1.2 Metrolinx shall develop a performance measurement system on its strategic and operational priorities in consultation with the Ministry and ensure that the Ministry is provided in a timely manner with relevant Metrolinx performance measurement information as may be requested from time to time, including reporting on the attainment of specific performance goals as directed by the Minister.

5.1.3 The Board, through the Chair, will submit the following reports to the Minister:

- (a) Pursuant to section 33 of the *Act*, an Annual Report signed by the Chair on Metrolinx's affairs and the affairs of its subsidiary corporations for the previous fiscal year. The Annual Report shall be submitted to the Minister and to the Minister of Finance on or before July 31 in each year, or such other date specified by the Minister, or the Ministry's Director of Finance.

The Annual Report's contents will be in keeping with those set out in the TB/MBC Agency Establishment and Accountability Directives and will include:

- (i) Metrolinx's audited financial statements;
 - (ii) A description of Metrolinx's performance measurement system and analysis of Metrolinx's operational and financial performance, including an explanation and analysis of any significant variances between actual and planned results set out in the approved Business Plan for that year;
 - (iii) The names of appointees to the Board including when each was first appointed, when the current term of the appointment expires, and the type and amount of compensation received during the year; and
 - (iv) Other additional information which may be required in the future by law or TB/MBC.
- (b) Pursuant to section 24 of the *Act*, Metrolinx's budget for the Minister's approval. The budget will be provided in a timely manner, containing the information in a specified format and timeline as requested by the Minister or communicated by the Ministry's Finance Director.
 - (c) An annual Business Plan prepared in accordance with section 32 of the *Act* and the TB/MBC Agency Establishment and Accountability Directive including:

- (i) An operating plan, describing the objectives and results that Metrolinx expects to achieve for the upcoming fiscal year, as well as a fiscal outlook as directed by the Ministry, based on its mandate, objects and responsibilities, and advancing the Government's, Ministry's and Metrolinx's priorities and policies;
- (ii) Metrolinx's strategic directions;
- (iii) Metrolinx's proposed capital expenditures, operating expenditures and funding requirements, including a proposed rolling four year operational plan and a five year rolling capital plan for expansion and rehabilitation;
- (iv) Metrolinx's performance measures and targets;
- (v) Risk assessment and management;
- (vi) Joint initiatives with third parties; and
- (vii) Other requirements imposed by any future applicable TB/MBC Directives.

5.1.4. The Business Plan shall be submitted to the Minister for approval. If the Minister does not initially approve the Business Plan, the Minister shall provide the Board, through the Chair, with the Minister's assessment of ways in which the Business Plan can be brought into compliance with the Government's policies and priorities.

5.1.5 It is normal procedure for the Ministry to require a draft Metrolinx Business Plan by September 30th each year to facilitate submission of the Ministry's Business Plan to TB/MBC. The draft Metrolinx Business Plan will be provided in a timely manner as requested by the Ministry's Finance Director.

5.2 Financial Reports

5.2.1 Metrolinx will prepare and present to the Ministry's Finance Director, monthly and quarterly accrual and cash based financial reports according to the required report contents and schedule communicated by the Ministry's Finance Director. The reports will provide the following:

- (a) Budget, actual expenditures to date and year end projections, covering both operating and capital expenditures.
- (b) An explanation to the satisfaction of the Ministry about any financial projections that vary significantly from Metrolinx's budget as approved by TB/MBC, or impact the Ministry's financial performance.

5.2.2 At the beginning of each fiscal year, Metrolinx will submit to the Ministry's Controllershship Office forecasts of estimated revenues and expenditures for each month of the coming fiscal year.

5.2.3 Metrolinx will submit its financial reports and forecasts in a timely manner to enable the Minister to meet the Government's business planning and public accounts process requirements and the Minister will provide advance notice of such requirements to the Chair, as early as reasonably possible.

6.0 Communications

6.1 General Agreement

The parties agree that the timely exchange of information and consultation is essential to success in discharging their respective responsibilities. In particular, the Minister and Metrolinx, through the Chair, shall consult with each other and keep each other advised of significant public issues, communication strategies and publications, such consultation and advice to be provided as soon as reasonably possible and sufficiently in advance of any public release to allow a considered response by the recipient. Metrolinx and the Ministry will advise each other of potentially contentious issues as soon as reasonably possible. As well, Metrolinx agrees that its communications activities will be carried out in accordance with applicable TB/MBC Directives, including the Advertising Content Directive and the Advertising and Creative Communications Services Procurement Directive.

6.2 Communications Protocol

The Minister and Metrolinx agree to develop a Communications Protocol, which sets out a clear framework for the Ministry and Metrolinx regarding their responsibilities relating to issues management, media responses and news releases. The Chief Executive Officer and the Deputy Minister shall be responsible for ensuring that the Communications Protocol is adhered to and updated as required. This responsibility can be delegated to appropriate staff within the Ministry and Metrolinx.

6.3 Ministry Activities Affecting Metrolinx

The Minister will keep Metrolinx informed of:

- (i) comments, announcements, and/or public appearances of interest to Metrolinx or its stakeholders; and
- (ii) the results of stakeholder and other public consultations on matters relevant to Metrolinx that were conducted by or on behalf of the Ministry, in areas within or adjacent to Metrolinx's Regional Transportation Area as set out in the *Act*.

6.4 Metrolinx Activities Affecting the Ministry

Metrolinx will keep the Ministry informed of:

- (i) comments, announcements, and/or public appearances of interest to the Ministry or its stakeholders; and
- (ii) the results of stakeholder and other public consultations.

6.5 Recognition of Financial Support

Metrolinx shall recognize the financial support of the Government of Ontario, through the Ministry of Transportation, in all its financial, educational, and promotional materials, in accordance with guidelines established by the Ministry and be in compliance with TB/MBC's Visual Identify Directive. For greater certainty, Metrolinx has TB/MBC approval to use its Unique Identifier and logo for GO Transit/Metrolinx.

7.0 Subsidiaries

Metrolinx shall enter into a separate memorandum of understanding with each of its subsidiaries, if any, to clarify the accountability, financial, administrative, auditing and reporting relationships between the Minister, Metrolinx and the subsidiary.

The Ministry shall be involved with Metrolinx in the development of the memoranda of understanding with each of its subsidiaries. The Minister shall be a signatory to such memoranda of understanding.

Establishing subsidiaries requires Cabinet approval as provided under section 17 of the *Act*.

8.0 Audit and Review of Metrolinx

- (a) Section 26 of the *Act* sets out provisions related to Metrolinx related audits.
- (b) The Chair will provide a copy of the audited financial statements to the Minister and the Minister of Finance within a time frame as directed by the Ministry's Finance Director. The Chair will also provide the Minister and the Minister of Finance with a copy of any communication of matters identified during the financial statement audit and its response to the auditor's recommendations therein.
- (c) The Minister or TB/MBC may conduct a review or other audit of Metrolinx at their discretion. The Minister or TB/MBC shall determine the timing, terms of reference and responsibility for conducting the review or audit, the roles of the Chair and Deputy Minister and how any other parties may be involved. The Board shall be given an opportunity to provide comments on the final draft report, where appropriate, prior to its submission to the Minister or TB/MBC, as the case may be.

9.0 Term, Review and Amendment of the MOU

9.1 Effective Date and Term

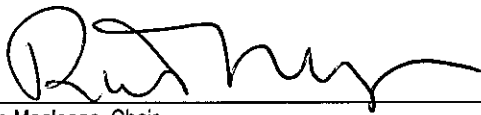
This MOU comes into force upon the Effective Date and for no more than 5 years from that date. This MOU must be renewed or revised by the expiry date. Notwithstanding the foregoing this MOU will continue in effect temporarily until a new MOU has been approved and signed.

9.2 Review and Amendment

- (a) This MOU and any revisions to this MOU must be approved by the Board and the Minister. The MOU must be reviewed every five years; or in the event of a new Minister or Chair, to determine whether the MOU should be continued or revised; or if the Minister is requested to do so by a simple majority of Metrolinx; or at the discretion of TB/MBC.
- (b) The MOU may only be replaced or amended by an instrument in writing, with the signed approval of the Minister and the Chair. Before a Minister signs the MOU, or an amendment to it, the Minister must recommend the MOU or MOU amendment to TB/MBC for approval.

The authorized signatories for the parties have signed this MOU as of the Effective Date.

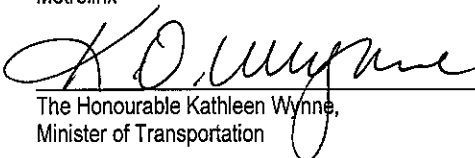
By:



Rob Maclsaac, Chair
Metrolinx

July 21, 2010

Date Signed



The Honourable Kathleen Wynne,
Minister of Transportation

August 9, 2010

Date Signed

Approved by Management Board of Cabinet on:

September 17 2009

SCHEDULE A

List of Applicable TB/MBC and Ministry of Finance Directives and Legislation

1. Metrolinx shall comply with the following Directives, as well as the associated policies and guidelines of the listed Directives:
 - Accounting and Financial Reporting Directive (MOF)
 - Advertising Content Directive
 - Agency Establishment and Accountability Directive
 - Business Planning and Allocations Directive
 - Cash Management Directive (MOF)
 - Certificate of Assurance Directive (MOF)
 - Delegation of Authority Key Directive (MOF)
 - Disclosure of Wrongdoing Directive for Employees/Appointees of Public Bodies
 - Emergency Management and Security Directive
 - Enhancing Privacy: Computer Matching of Personal Information Directive and Guideline
 - Expenditure Management Directive
 - Financial Signing Authorities Operating Directive (MOF)
 - Freedom of Information & Privacy Directive
 - Government Appointees Directive
 - Indemnification Directive (MOF)
 - Internal Audit Directive
 - Internal Controls Management Directive (MOF)
 - Procurement Directive, July 2009 – those sections that are mandatory for Other Included Entities, as defined in that Directive
 - Procurement Directive on Advertising, Public and Media Relations and Creative Communications Services
 - Risk Management Policy (MOF)
 - Seeking Accounting Advice (MOF)
 - Travel, Meal and Hospitality Expenses Directive
 - Visual Identity Directive

and such other written directions the Minister may address to the Chair:

- (a) Where the Minister delegates the power to issue a direction to another person, the directions to the Chair shall clearly reference such delegation.
 - (b) The applicable content of the listed Directives, Policies and Guidelines is that content in effect on the effective date of this MOU, and any amendments thereto that are communicated in writing to the Chair by the Deputy Minister and/or Minister.
2. Metrolinx shall comply with all provincial and applicable federal legislation and related applicable regulations including applicable provisions of the following:
 - (a) *Accessibility for Ontarians with Disabilities Act, 2005*
 - (b) *Archives and Recordkeeping Act, 2006*
 - (c) *Crown Employees Collective Bargaining Act, 1993*
 - (d) *Emergency Management and Civil Protection Act*
 - (e) *Financial Administration Act*

- (f) *Freedom of Information and Protection of Privacy Act*
- (g) *French Language Services Act*
- (h) *Ministry of Treasury and Economics Act*
- (i) *Ombudsman Act*
- (j) *Ontarians with Disabilities Act, 2001*
- (k) *Public Service of Ontario Act, 2006*
- (l) *Public Sector Salary Disclosure Act, 1996*