

MANAGEMENT REPORT TO THE GREATER TORONTO TRANSPORTATION AUTHORITY

Board Meeting Date:

Item Class: Chair's Item
 Decision
 In Camera
 Information
 Resolution / By Law

RECOMMENDATION(S):

BE IT RESOLVED THAT:

1. The draft corporate policy respecting Conflict of Interest in the form attached is hereby approved and adopted as a Policy governing that aspect of the business and the affairs of the Corporation to which it pertains.
2. All officers and employees of the Corporation are hereby authorized and directed to take all steps necessary or advisable to implement and otherwise give effect to the above specified Policy in carrying out the day-to-day administration of the Corporation.
3. The Chief Executive Officer of the Corporation is hereby directed to report back to the Board of the Directors of the Corporation on at least a semi-annual basis concerning the implementation and enforcement of the above Policy.

RATIONALE:

Consistent with current trends in corporate governance applicable to private entities and Crown agencies alike it is important to conserve and enhance public confidence and trust in GTTA's integrity, objectivity and impartiality. A key step in satisfying this priority is putting in place a policy which minimizes the possibility of conflicts between individual's private interests and their roles and responsibilities with the Corporation. This policy will also provide that if a conflict does arise it will be resolved appropriately.

ISSUE:

Recording procedures to avoid and resolve conflict of interests in a written policy ensures that individuals will be aware of their duties and govern themselves appropriately.

BACKGROUND:

Board members are being asked to approve a resolution authorizing the attached Conflict of Interest Policy to take effect immediately. New GTTA employees, as well as employees seconded to GTTA who convert to permanent GTTA employees, will sign employment contracts agreeing to be bound by this policy.

Policy Implications:

The policy ensures that adequate conflict of interest provisions are in place until such time as GTTA's future Memorandum of Understanding with the Ministry of Transportation either replaces or adopts the policy.

Operational Implications:

The Chair and the CEO will have responsibility for dealing with potential conflicts of interest which may be reported by the CEO and GTTA employees respectively. The chair of the Audit Committee will consider any conflict of interest reported by the Chair and the Chair will consider any conflicts of interest reported by a Board member

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INTRODUCTION

The object of this Policy is to conserve and enhance public confidence and trust in the integrity, objectivity and impartiality of the Greater Toronto Transportation Authority (the "Corporation")

This Policy seeks to minimize the possibility of conflicts occurring or being seen to exist between the private interests of individuals (including their interests as employees or officers of other corporations or government ministries, departments, agencies or other entities), and their roles and responsibilities with the Corporation and to ensure that if any real, potential or apparent conflict does arise it will be resolved appropriately.

Conforming to this Policy does not absolve an individual from responsibility to take such additional actions as may be necessary to prevent or, if need be, resolve any real, potential or apparent conflict of interest, nor does it absolve an individual from any requirement to comply with a statutory, common law or contractual obligation or prohibition.

All individuals should review this Policy on a regular basis and satisfy themselves that they have taken or are taking such actions as may be required for compliance.

PART 1 – INTERPRETATION

1.01 Definitions

In this Policy, unless another meaning is stated or is dictated by the context, words or phrases which are defined in the Act have the meanings so ascribed to them and

"Act" means the *Greater Toronto Transportation Authority Act, 2006*.

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"**Board**" means the board of directors of the Corporation.

"**Chair**" means the chair of the Board.

"**Chief Executive Officer**" means the chief executive officer of the Corporation.

"**Conflict of Interest**" means a situation or potential situation in which private business or personal interests, including interests as officers or employees of other corporations or government ministries, departments or agencies, may affect, or may be perceived by others to affect, an employee's, officer's or director's judgement in acting in the best interest of the Corporation. It includes using that person's position, confidential information or corporate time, material or facilities for private gain or advancement or the expectation of private gain or advancement. A Conflict of Interest may also occur when a situation benefits any member of an employee, director or officer's family, friends or business associates.

"**Corporation**" means the Greater Toronto Transportation Authority

"**Designated Official**" means (1) for the Chief Executive Officer, the Chair; (2) for all other employees, the Chief Executive Officer; (3) for the Chair, the chair of the Audit Committee of the Corporation; and, (4) in the case of all other Directors, the Chair.

"**Director**" means any individual who is a member of the Board.

"**Employee**" means any employee of the Corporation, whether full or part-time, whether employed for an indefinite or a fixed or otherwise limited term, and includes individuals either seconded to the Corporation from another employer or on a leave of absence from another employer.

PART 2 - DIRECTORS

2.01 Principles

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- 1) Directors are required to conform to the following principles:
- a) A Director must uphold the highest ethical standards so that public confidence and trust in the integrity, objectivity and impartiality of the Corporation are conserved and enhanced.
 - b) A Director must arrange his or her affairs in a manner designed to prevent or minimize real, potential or apparent Conflicts of Interest from arising, but if such a conflict does arise between the private interests of a Director and the responsibilities of that Director, it must be reported to the Designated Official and resolved in a manner satisfactory to the Board.
 - c) A Director must not accept or solicit economic benefits, other than incidental gifts, customary hospitality or other benefits of nominal value.
 - d) A Director must not step out of his or her role as a Director to assist private persons, including corporate persons, in their dealings with the Corporation where that would result in preferential treatment to, or privileged access to the Corporation by, any person.
 - e) A Director must not knowingly take advantage of, or benefit from, any information obtained by reason of his or her status as a Director and not generally available to the public.
 - f) A Director must not directly or indirectly use, or allow the use of Corporation's property, including property leased to the Corporation, for anything other than officially approved activities.
 - g) A Director must not, after ceasing to have that status, act in such a manner as to take improper advantage of his or her former status as a Director.
 - h) Except as he or she may be compelled by applicable legal process

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or Parliamentary practice, a Director must, both while having and after ceasing to have that status, treat as confidential all information regarding the policies, internal operations, systems, business or affairs of the Corporation obtained by reason of his or her status as a Director and not generally available to the public.

- 2) The principles set forth in subsection (1) regarding confidentiality of information are not to be interpreted to prevent a Director or former Director carrying out responsibilities under or in relation to any Canadian federal, provincial or territorial statute, including the Ontario *Municipal Act*. The fact that a Director is a nominee for a particular municipality or region is a requirement under the Act and does not prima facie result in a Conflict of Interest. A Director is permitted to raise the interests of that municipality or region in any Board discussions, including any discussions which lead to a Board decision, provided that Director fully discloses the municipality or region's interests. Where a director cannot reconcile the competing interests of a municipality or region, on the one hand, and the Corporation on the other hand, or where a Director is aware of information concerning the subject matter of the Board decision which he or she is not free to provide to the rest of the Board, that Director shall so advise the Chair who will require that he or she refrain from voting on the related resolution.

2.02 Gifts, Hospitality and Other Benefits

- 1) Reasonable levels of business hospitality are useful practise in the business environment in which the Corporation operates. These practises can contribute to developing good business relationships with the various entities through which the Corporation must work to achieve its objectives and advance the public interest.
- 2) Notwithstanding subsection 2.02 (1) of this policy a Director shall not solicit or accept any gift, hospitality or other benefit arising out of any activity associated with his or her responsibilities with the Corporation unless
- i) it is within the bounds of propriety, a normal expression of courtesy or within the normal standards of hospitality, is not such as to cast suspicion on the Director's objectivity and impartiality and will not

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compromise the Corporation, or

- ii) it is provided by the Corporation.
- 3) Where it is not practical to decline a gift, hospitality or other benefit that is prohibited under subsection (1), the Director must make a report on the matter to the Designated Official. On receiving such a report, the Designated Official may require that the benefit, or its reasonable equivalent, be turned over to the Corporation, devoted to charitable purposes or otherwise disposed of by the Director.

2.03 Ongoing Proceedings

A former Director must not, either personally or through or in the name of any other person, act for or on behalf of any person in any ongoing proceeding, transaction, negotiation or case to which the Corporation is a party in respect of which the former Director was involved at any time as part of his or her role as such and which would result in the conferring of an advantage or benefit that is not generally available.

2.04 Declaration of a Conflict of Interest

Directors are responsible to identify actual, perceived and potential Conflicts of Interest. Once a director becomes aware of a Conflict of Interest, it is his or her duty to report it as follows:

a) If a Director has a Conflict of Interest:

The Director shall declare any Conflict of Interest to the chair at the Board or Committee meeting at which the matter which is the subject of the Director's conflict is first taken into consideration, at the earliest opportunity, prior to discussion or decision on the matter by the Board. The Director shall disclose the nature and extent of the interest and to the extent to which the interest or information is within his or her knowledge or control. The director shall further

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disclose any steps he or she has taken to mitigate the Conflict of Interest. The Chair of the Committee shall report the Conflict of Interest to the Chair at the first opportunity if the conflict is first raised at a Committee meeting.

Directors shall follow-up in writing to the Chair in a timely manner regarding specific conflict of interests disclosed during Board or Committee meetings. The written disclosure should address the specific matter, nature and extent of the conflict and the steps taken by the director to mitigate and manage the conflict situation.

Directors have an obligation to update their conflict declarations and keep the Chair and Board apprised of changes in their situations impacting Conflict of Interest.

b) If the Chair has a Conflict of Interest:

The Chair shall declare any Conflict of Interest to the chair of the audit committee prior to discussion, consideration or decision on the matter by the Board. The Chair shall disclose the nature and extent of the Conflict of Interest and the extent to which the interest or information is within his knowledge or control. The Chair shall further disclose any steps he has taken to mitigate the Conflict of Interest.

PART 3 – EMPLOYEES

3.01 Principles

1) The Corporation recognizes the importance of achieving the highest standards of conduct from all employees and expects employees to conduct themselves with personal integrity, ethics, honesty and diligence in performing their duties. Employees must avoid Conflicts of Interest. Employees are required to conform to the following principles:

a) An employee must uphold the highest ethical standards so that public

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confidence and trust in the integrity, objectivity and impartiality of the Corporation are conserved and enhanced.

- b) An employee must arrange his or her private affairs in a manner designed to prevent real, potential or apparent conflicts of interest from arising, but if such a conflict does arise between the private interests of an employee and the responsibilities of that employee with the Corporation the conflict must be resolved in a manner satisfactory to the Board if the employee is an Officer or, in any other case, satisfactory to the Chief Executive Officer.
- c) An employee must not solicit or accept economic benefits, other than incidental gifts, customary hospitality or other benefits of nominal value.
- d) An employee must not step out of his or her role as such to assist private persons, including corporate persons, in their dealings with the Corporation where that would result in preferential treatment to, or privileged access to the Corporation by, any person.
- e) An employee must not knowingly take advantage of, or benefit from, any information that obtained by reason of his or her employment by the Corporation and not generally available to the public.
- f) An employee must not directly or indirectly use, or allow the use of, Corporation property, including property leased to the Corporation, for anything other than officially approved activities.
- g) An employee must not, after ceasing to be employed by the Corporation, act in such a manner as to take improper advantage of his or her former employment by the Corporation.
- h) Except as he or she may be compelled by applicable legal process or Parliamentary practice, an employee must, both while employed and after ceasing to be employed by the Corporation, treat as confidential all information regarding the policies, internal operations, systems,

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business or affairs of the Corporation obtained by reason of his or her employment by the Corporation and not generally available to the public.

- 2) The principles set forth in subsection (1) regarding confidentiality of information are not to be interpreted to prevent an employee or former employee carrying out responsibilities under or in relation to any Canadian federal, provincial or territorial statute.

3.02 Reporting a Conflict of Interest

All employees should report a Conflict of Interest situation to the Designated Official.

The employee's report must clearly identify the nature of the actual or potential Conflict of Interest. The Designated Official may require the identified activity be curtailed, modified or stopped. Where the Conflict of Interest relates to consideration of a matter by the Board, selection panel or other decision-making group, the employee must also report the Conflict of Interest to the Chair and, where relevant, withdraw from consideration of the matter without participating.

3.03 Failure to Comply

An employee who fails to comply with this policy is subject to disciplinary measures. Disciplinary measures may include discharge or termination of employment.

3.04 Gifts, Hospitality and other Benefits

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Reasonable levels of business hospitality are useful practise in the business environment in which the Corporation operates. These practises can contribute to developing good business relationships with the various entities through which the Corporation must work to achieve its objectives and advance the public interest.

Where a gift, hospitality, favour or other benefit could influence an employee’s judgement and

performance of official duties (including a benefit to family members, friends or business associates) it should be refused. An employee may accept modest promotional gifts or items of nominal value, such as a coffee mug, baseball cap, shirts, pens, calendars with a corporate logo. Gifts of more than a nominal value should be returned with an acknowledgement of the return and a reference to this policy.

Where it is not practical to decline a gift, hospitality or other benefit the employee must make a report on the matter to the Designated Official. On receiving such a report, the Designated Official may require that the benefit, or its reasonable equivalent, be turned over to the Corporation, devoted to charitable purposes or otherwise disposed of by the employee.

In the course of carrying out normal business activities for the Corporation including the development of good business relationships, an employee may accept a meal invitation. When in doubt, the invitation should be declined.

If in the context of a work-related matter, an employee receives an invitation to attend a cultural, social, charitable, political, or sporting event, the employee should decide whether or not attendance would be beneficial for corporate purposes (e.g., it may be appropriate to send a representatives from the

Corporation to a charitable event or one which is sponsored by a supporting

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municipality, ministry etc.) When in doubt, the employee should either consult the Designated Official or decline the invitation

A gift, hospitality, meal or attendance at an event may be offered at the expense of the Corporation if approved by the Chief Executive Officer based on a determination that it would be beneficial for corporate purposes or would further the interests of the Corporation.

When gifts, hospitality or other benefits are accepted by employees in accordance with this policy, an appropriate business record should be kept identifying the date, the host or gift provider and, where relevant, the event attended.

3.05 Outside Activities

- 1) An employee may be involved in outside activities if they do not create a real, potential or apparent Conflict of Interest with the employee's responsibilities for the Corporation.
 - 2) An employee must report to the Designated Official his or her involvement in any outside activity that is directly related to the employee's responsibilities for the Corporation.
 - 3) On receiving such a report, the Designated Official may require the employee to curtail, modify or cease the outside activity if, in the opinion of the Designated Official, it creates a real, potential or apparent Conflict of Interest.
- or a member of a bidding consortium.

3.06 Ongoing Proceedings

A former employee, including a formerly seconded employee, must not, either

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personally or through or in the name of any other person, act for or on behalf of any person in any ongoing proceeding, transaction, negotiation or case to which the Corporation is a party in respect of which the former employee was involved at any time as part of his or her employment by the Corporation and which would result in the conferring of an advantage or benefit that is not generally available or that is dependent on any special knowledge that the former employee obtained by reason of his or her employment by the Corporation.

3.07 Post-Employment Prohibition Period

- 1) A former employee, including a formerly seconded employee, must not, within a period of one year after cessation of employment by the Corporation, either personally or through or in the name of any other person,
 - i) make any representation or application to the Corporation for or on behalf of any person with which he or she had significant dealings as an employee within the period of one year immediately prior to cessation of employment by the Corporation, or
 - ii) give counsel to any person concerning the policies of the Corporation, other than the Government of Canada or Ontario or an agency, department or instrumentality thereof.

- 2) An employee or former employee who wishes to have the one-year period reduced may apply in writing to the Designated Official and the latter may decide to reduce the one-year period, taking into consideration:
 - i) the circumstances under which the individual's employment by the Corporation ceased or is expected to cease,
 - ii) the general employment or other prospects of the individual,
 - iii) the significance to the Corporation of the information possessed by the individual by virtue of his or her employment by the Corporation,

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- iv) the desirability of a rapid transfer from the Corporation to the private sector, a Canadian provincial or territorial government or a municipal corporation or local board, of the individual's knowledge and skills,
 - v) the degree to which another person might gain unfair commercial advantage or benefit by appointing, employing or otherwise engaging the services of the individual,
 - vi) the levels of authority and influence possessed by the individual while employed by the Corporation, and
 - vii) the disposition of other cases.
- 3) If the employee or former employee disagrees with a decision made pursuant to subsection (2), he or she may apply in writing to the Chair or, through the Chair, to the Board for a reconsideration and the Chair or the Board (as the case may be) may decide to reduce the one year period taking into consideration the matters listed in subsection (2).

PART 4 – EFFECTIVE DATE

4.01 Effective Date

These policies shall take effect immediately upon adoption by the Board and continue in force until superseded or continued by the provisions of the Memorandum of Understanding with the Minister of Transportation.