



Report of the Regional Solicitor and General Counsel

YRRTC Corporate Governance and Mandate Implementation

1. Recommendations

1. Council approve the draft Mandate Letter, Articles of Amendment and Shareholder Direction for YRRTC in a form substantially similar to Appendix A, Appendix B and Attachment 1, respectively, and bring them forward to a Special Shareholder Meeting for consideration and adoption.
2. Council delegate authority to the Regional Solicitor or his designate to make administrative amendments as required to ensure the corporate registration of the approved documents.

2. Purpose

York Region is the sole shareholder (“Shareholder”) of York Region Rapid Transit Corporation (“YRRTC”).

This report seeks Council’s approval of a proposed YRRTC Mandate Letter, Articles of Amendment, and Shareholder Direction (the “Governance Documents”) in a form substantially similar to the draft documents shown in Appendix A, Appendix B and Attachment 1, respectively.

Once adopted by Regional Council sitting as the Shareholder of YRRTC, the existing extended Rapid Transit Agreement between YRRTC and York Region dated September 10, 2009 will terminate and the Shareholder Direction, Articles of Amendment and Mandate Letter will be the new constating corporate documents which govern YRRTC and its work going forward.

Key Points:

- In November 2023 Council expressed clear direction that YRRTC should continue as a York Region Municipal Services Corporation following expiration of the Rapid Transit Agreement

originally set for September 10, 2024, now extended to March 10, 2025 or such other earlier date as new constating documents can be approved and executed

- As the sole YRRTC shareholder, the Region has authority to appoint directors, amend Articles of Incorporation and adopt any Shareholder Direction to facilitate continued YRRTC operations
- Council directed staff to develop a Mandate Letter and Shareholder Direction which would continue YRRTC as a Municipal Services Corporation and implement the corporate governance recommendations of Dr. Richard Leblanc (“consultant”) in his respective Mandate and Governance Reports dated [November 9, 2023](#), appended to the report of the Chief Administrative Officer presented to November 9, 2023 Committee of the Whole and adopted by Council at its meeting on November 23, 2023
- Following consultation with key stakeholders, staff have drafted a Mandate Letter, Articles of Amendment and Shareholder Direction that incorporate the consultant’s recommendations to provide effective governing direction to YRRTC going forward. This approach minimizes cost to the Shareholder by capitalizing on already developed practices, procedures, tools and resources previously developed or invested in by the Shareholder, aligns with the governance approach applied to leading municipal service corporations in Ontario, and eliminates duplication of services with those already provided by the Shareholder
- The YRRTC Board has endorsed the Mandate Letter and Shareholder Direction, demonstrating the Board’s support for the adoption of these Governance Documents
- Council’s approval of, and the Shareholder’s subsequent adoption of, the new Governance Documents will assure YRRTC’s continuation over the longer term while employing effective operations and governance best practices

3. Background

YRRTC was incorporated as a Municipal Services Corporation in 2003; in 2004 and 2009 YRRTC’s mandate was expanded to include Rapid Transit planning and delivery

In July 2003, YRRTC was incorporated as a Municipal Services Corporation under the *Ontario Business Corporations Act* and the *Municipal Act, 2001* and its regulations. At that time, Regional Council also passed a Unanimous Shareholder Direction to retain control over the corporation.

In February 2004, Regional Council issued an interim mandate authorizing YRRTC to oversee the initial BRT rapid transit project, prepare business cases to pursue additional funding for future phases from senior levels of government, and submit annual budgets for the Region’s approval.

In April 2009, the Province announced \$1.4 billion in funding for the vivaNext rapid transit project. At its meeting on June 25, 2009, Council approved an expanded mandate for YRRTC to deliver rapid transit projects and the parties executed the Rapid Transit Agreement, dated September 10, 2009, with a 15-year term. The Rapid Transit Agreement replaced the original Shareholder Direction, and the current Board replaced the former Rapid Transit Public/Private Partnership Steering Committee.

Following Regional Council direction to staff in early 2023 to undertake a YRRTC mandate and governance review, a specialized consultant was retained and concluded YRRTC should continue as a separate corporation with improved governance

With the term of the Rapid Transit Agreement set to expire on September 10, 2024, and with the first phase of rapid transit delivered, on January 26, 2023, Regional Council directed staff to undertake a fulsome review of YRRTC as a corporation to ensure YRRTC's mandate remains current and to identify areas where its governance could be strengthened and improved.

The consultant was retained to conduct the Council-directed review and produced two separate reports respectively entitled Final Governance Report for YRRTC (the "Governance Report") and Final Mandate Report for YRRTC (the "Mandate Report"). The consultant concluded YRRTC should continue as a separate corporation and provided recommendations to strengthen and improve governance, underpinned by a Shareholder Direction and a Mandate Letter. The consultant included suggested best corporate practices, mandate updates and other administrative improvements.

In November 2023, Council directed staff to implement the consultant's recommendations and report back on next steps

On November 23, 2023, staff presented the consultant's reports to Regional Council and were directed by Council as follows:

- a) The Regional Clerk and Regional Solicitor be directed to further review recommended governance enhancements, in consultation with the YRRTC Board.
- b) YRRTC management be directed to further review business and administrative improvements outlined in this report, and report back to the YRRTC Board and Regional Council on the next steps to implement the consultant's recommendations.

In June 2024, the YRRTC Board and Regional Council acting as the YRRTC Shareholder agreed to extend the Rapid Transit Agreement from September 10, 2024 for six months or until a new shareholder direction is in place, whichever is earlier, to facilitate the necessary corporate and statutory processes to best position YRRTC and the Region for the future.

Regional and YRRTC staff worked together and consulted with the YRRTC Board Chair and Vice-Chair. The Board subsequently endorsed the proposed Mandate Letter and Shareholder Direction at its meeting on September 12, 2024.

4. Analysis

The Region is the sole Shareholder of YRRTC and can direct the corporation through a Shareholder Direction and a Mandate Letter

In its capacity as sole Shareholder, Council has wide-ranging authority including the power to appoint directors, amend or repeal the YRRTC Articles of Incorporation and direct the corporation through a Shareholder Direction and a Mandate Letter.

Section 108 of the *Ontario Business Corporations Act* authorizes a sole shareholder to define directors' powers to manage or supervise the management of the business and affairs of a corporation as being those powers expressly permitted by written declaration. In essence, that written declaration—the Shareholder Direction—allows shareholders to impose “ground rules” over and above the basic legislation outlining the shareholder's expectations of the corporation. A Shareholder Direction is beneficial as it details a corporation's accountability to its shareholders and provides clarity to the corporation on permissible activities and prioritized actions and outcomes.

A corporation's mandate can be included in its Shareholder Direction, or it can be separately detailed in a Mandate Letter. A Mandate Letter is a letter from the shareholder to the corporation and is used to provide more granular detail regarding the shareholder's expectations of the corporation. A Mandate Letter can be a more flexible and nimble document compared to a Shareholder's Direction, and gives the shareholder the ability to be responsive to changing corporate priorities while still maintaining the “ground rules” in the Shareholder Direction document.

Consultant's key recommendations implemented in proposed Mandate Letter and Shareholder Direction, and upon Council's adoption, YRRTC's continuation will be assured, employing effective operations and governance best practices

In the respective Governance and Mandate reports, the consultant expressly recommended that the Region adopt a Mandate Letter and a Shareholder Direction. Staff implemented these recommendations through the Draft Governance Documents attached as Appendix A and Attachment 1 to this Report.

The proposed Governance Documents will replace the Rapid Transit Agreement, which currently governs YRRTC and is set to expire on the earlier of March 10, 2025 or adoption of new governance documents by Council. Upon the Shareholder's adoption of new governance documents, YRRTC's continuation will be assured, employing effective operations and governance best practices.

Adopting a Shareholder Direction to govern YRRTC implements one of the consultant's key best practices recommendations. Adopting a Mandate Letter, as recommended by the consultant, will provide clarity as to YRRTC's role, accountability and relationship to the Region going forward.

The Governance Documents have been the subject of significant consultation and review, including with York Region and YRRTC senior management and individual Board members to ensure the consultant's recommendations are captured and can be effectively operationalized to support

YRRTC operations and deliverables over the long term. The Governance Documents represent clear and implementable direction regarding the conduct of the corporation.

The proposed draft Mandate Letter follows the wording and structure of the Mandate proposed in the consultant's Mandate Report and includes key responsibilities

The Mandate Letter will clarify the role and responsibilities of the corporation regarding the Region's rapid transit system, rapid transit projects and related infrastructure. The Mandate Report recommended that YRRTC senior management, with oversight by the YRRTC Board and subject to financial, legal, budgetary, operating plan and funding requirements, be focused on key responsibilities going forward. These key responsibilities are in the proposed draft Mandate Letter at Appendix A:

- Plan, design and construct York Region's Rapid Transit System, Rapid Transit Projects, and related infrastructure
- Coordinate Rapid Transit infrastructure being planned and implemented by others within and adjacent to York Region, such as the Yonge North Subway Extension, Queen Street/ Highway 7 West BRT, further TTC expansion projects, Steeles Avenue BRT and other rapid transit projects that are materially relevant
- Provide the foregoing in a cost-effective, safe, reliable, efficient manner that provides value for money and uses public funds with respect, honesty and integrity
- Identify, pursue, prepare submissions, negotiate, and arrange funding and funding opportunities with governments, government agencies and other funding partners
- Undertake, implement, and obtain, as the case may be, environmental and engineering assessment, design, mitigation, reviews and approval
- Solicit, establish, monitor performance, ensure compliance, compensate, and disestablish, as required, contractual relationships with project partners, business partners and contractors
- Coordinate and implement with other nearby Regions and Municipalities, as may be required, for corridor specific environmental assessments or preliminary design work, in a manner consistent with the Shareholder Direction
- Align and enable activities of YRRTC to be consistent with goals and objectives of the Region
- Work with relevant municipal partners to facilitate, promote and grow transit-oriented development and joint development opportunities related to the Rapid Transit System
- Communicate, clearly and transparently as appropriate with all stakeholders, including funders, partners, community and Indigenous stakeholders, federal and provincial ministries and agencies, local municipalities, the public, the Region and the Board of YRRTC in respect of the role and responsibilities of YRRTC

- Coordinate infrastructure to promote transit-oriented development and joint development opportunities related to the Rapid Transit investments under consideration.
- Take all reasonable steps to enhance clarity in communicating the role and responsibilities of YRRTC and the Region to enhance clarity with external stakeholders
- Report and be accountable to Regional Council and the YRRTC Board
- Coordinate and seek funding such that the Region's planned future Rapid Transit Network project construction is achieved, consistent with the Regional Transportation Master Plan
- Collaborate and coordinate with Public Works transportation/ transit staff, in the Region's/ YRRTC's role to represent Regional needs as a part funder, and stakeholder, of the Yonge North Subway Extension project that Metrolinx is delivering
- Engage in similar collaboration with local municipal public works and transportation teams and other funding and delivery partners, including, as required, the Government of Canada; the Government of Ontario; and the Region; in designing, constructing, and otherwise fulfilling the Region/ YRRTC's role in delivering Rapid Transit System, projects, and related infrastructure

Mandate Report Recommendation #3 suggested specific enhancements to YRRTC's annual report be enacted, which enhancements are provided for in the draft Mandate Letter at Item #5 and include conducting an annual Board review and approval of a multi-year YRRTC Business Plan with Key Performance Indicators to measure achievement of the Business Plan, and a direction that the achievement of the Business Plan be monitored and regularly discussed by the Board.

Mandate Report Recommendation #2 called for a Mandate review every 10 years, which is provided for in the draft Mandate Letter. Note, even though the Mandate Letter is set to expire if it is not reviewed within 10 years or earlier (following the corporate governance best practices outlined in the Mandate Report), the Shareholder Direction would continue to be in effect.

Structuring YRRTC this way avoids the critical issue YRRTC currently faces in the event the Rapid Transit Agreement were to expire without a Shareholder Direction being in place, which scenario would potentially threaten operation of the corporation. To mitigate that threat, should Council adopt the Governance Documents, even if the Mandate Letter should expire, YRRTC could continue to operate pursuant to its Shareholder Direction—albeit without the benefit of the transparency and clarity that the Mandate Letter provides.

The Mandate Report recommended amendments to the Articles of Incorporation, which are technical in nature and require the preparation of and public consultation on a Business Case Study for the corporation

In addition to the Mandate Letter, the Mandate Report recommended detailed amendments to YRRTC's Articles of Incorporation. Staff, with assistance and support from external counsel, have reviewed current practices for Municipal Service Corporations and determined that simplified Articles

of Amendment would be a better approach that would provide more flexibility to YRRTC and reduce the necessity for further amendments to the Articles, for example, should current legislation change.

In addition, simpler Articles will ensure that YRRTC is not inadvertently constrained in its ability to perform all its intended functions. More prescriptive Articles, as proposed by the consultant, increase the likelihood that future amendments will be required more frequently. The proposed Articles of Amendment are included as Appendix B to this Report.

Amending Articles of a Municipal Services Corporation requires preparation of a business case study (the “Business Case Study”) pursuant to Section 6(d) of Ontario Regulation 599/06 under the *Municipal Act, 2001*. The Business Case Study must undergo public consultation prior to adoption of Articles of Amendment by the Shareholder. For this reason, the Business Case Study for YRRTC has been prepared and is presented at Appendix C to this Report. The public therefore has notice of and opportunity to review the Business Case Study as part of the Region’s Committee of the Whole public meeting process.

The proposed draft Shareholder Direction incorporates the consultant’s recommendations and represents existing corporate best practices

Following Council’s direction to report back on implementation of the consultant’s Governance Report, highly specialized external legal counsel assisted staff with drafting the YRRTC Shareholder Direction. The legal team reviewed precedents from several leading public sector corporations, including Alectra Utilities, Toronto Hydro, Build Toronto, as well as the Region’s own Municipal Services Corporation, YorkNet. The proposed draft Shareholder Direction attached as Attachment 1 represents the best and most modern corporate practices, incorporating the consultant’s recommendations.

The Shareholder Direction provides a framework for the operations of YRRTC as a corporate entity going forward, as previously established in the 2009 Rapid Transit Agreement. The Shareholder Direction details essential elements for the corporation, including:

- Respective roles of YRRTC management and Regional staff
- Corporate operating principles
- Board structure and responsibilities
- Matters requiring Shareholder approval
- Conduct of Board meetings
- Accountability and reporting requirements, including strategic plans and budgeting, ensuring alignment with Regional budgeting processes
- Mandatory corporate policies, such as procurement, remuneration, conflict of interest, etc.

The Shareholder Direction also implements recommendations outlined in the consultant's Governance Report. Table 1 summarizes the Governance Report's key recommendations and details how the proposed draft Shareholder Direction addresses each one.

Table 1
Governance Report Key Recommendations and
Proposed Shareholder Direction

| Item | Consultant Recommendation | Proposed Shareholder Direction |
|---|--|---|
| Develop Position Descriptions | Governance Report: Recommendation #2, pages 8 and 9 | Direction to YRRTC management to report to the Board on the response to the recommendation, including any required budget (Shareholder Direction: section 8.3.2(viii)) |
| Recruitment of Independent Directors | Governance Report: Recommendation #3, pages 9, 10 and 11 | In light of the Shareholder's current near total financial responsibility for costs of the corporation, implementation of this recommendation has not been reflected in the proposed Shareholder Direction at this time and is proposed to be deferred for potential consideration in the future. |
| Develop an Enterprise Risk Management Framework | Governance Report: Recommendation #4, page 11 | Direction to YRRTC management to work with the Shareholder and other York Region corporations on development of an appropriate Enterprise Risk Management Framework, and to report back to the Board in the future. (Shareholder Direction: section 8.3.2(i)) |
| Private Board Sessions without YRRTC leadership | Governance Report: Recommendation #5, pages 12 and 13 | Confirms the Board's flexibility and power to exclude YRRTC leadership from specific Board considerations. (Shareholder Direction: sections 5.2.1, 5.4.3 and 8.3.2(ii)) |
| Board Orientation and Education | Governance Report: Recommendation #6, pages 13 and 14 | Direction to YRRTC management as part of Annual Report to report on steps taken to implement recommendation, including timing and any required budget (Shareholder Direction: section 8.3.2(iii)) |
| Tailored Conflict of Interest Policy | Governance Report: Recommendation #7, pages 14 and 15 | Direction to YRRTC management to report on a plan as to how to implement recommendation, including timing and any required budget (Shareholder Direction: section 8.3.2(iv)) |

| Item | Consultant Recommendation | Proposed Shareholder Direction |
|---|--|---|
| Annual Strategy and Governance Retreat | Governance Report: Recommendation #8, pages 15 and 16 | Direction to YRRTC management as part of Annual Report to report on steps taken to implement recommendation, including timing and any required budget (Shareholder Direction: section 8.3.2(v)) |
| Adopt a formal Whistle-Blowing Policy and Program | Governance Report: Recommendation #9, page 16 | Direction to YRRTC management to report on steps to implement recommendation, including timing and any required budget (Shareholder Direction: section 8.3.2(vi)) |
| Board Self-Assessment | Governance Report: Recommendation #10, pages 16 and 17 | Direction to YRRTC management to report on steps to develop plan as to how to implement recommendation, including timing and any required budget (Shareholder Direction: section 8.3.2(vii)) |

The Shareholder Direction facilitates corporate governance best practices outlined in the Governance Report while recognizing implementation may be staggered based on available resources and costs

As described in Table 1, the proposed draft Shareholder Direction incorporates each of the corporate governance best practice recommendations outlined in the Governance Report. However, the Shareholder Direction does not dictate specific timeframes for achieving each of the recommendations. Instead, the Shareholder Direction requires that each of the recommendations be addressed as part of the YRRTC annual, or one time reporting, as appropriate, so that the Board is kept up to date with respect to progress and costs of the recommendations and can budget accordingly, and so that the Region can ensure budgetary control through the annual budget approval process.

It is recognized that many of the recommendations will require substantial staff time or may require assistance of external consultant expertise, such as development of a tailored Conflict of Interest Policy, a Whistle-blowing program or an Enterprise Risk Management Framework to minimize costs to the Shareholder. Therefore, YRRTC and Regional leadership have agreed to leverage existing Regional frameworks, policies and resources and maximize returns on the Region’s earlier investments in developing such resources. Delivery of these objectives may need to be staggered, given available YRRTC management and staff resources, and may require the assistance of external counsel and consultants and Regional staff support.

Further, some of the proposed recommendations may require YRRTC to incur costs, such as implementing an annual educational Board retreat. The proposed Shareholder Direction facilitates these possible governance initiatives while ensuring that appropriate budgeting and/or authorizations are first adopted or approved.

5. Financial Considerations

This report does not have a financial component or financial implications.

All financial implications associated with the governance and mandate review and implementation of new constating documents have been addressed in the respective Regional and YRRTC 2024-2026 budgets.

Any new costs that may be incurred to implement specific elements of the proposed Shareholder Direction or Mandate Letter are contemplated to be brought forward as part of YRRTC budget and strategic planning processes.

6. Local Impact

All impacts to local interests align with Regional Plans, including Vision and 2023 to 2027 Strategic Plan, and the 2051 Rapid Transit Network identified within the 2022 York Region Transportation Master Plan.

7. Conclusion

In accordance with Council's direction in November 2023, staff reviewed and implemented the key governance and mandate recommendations outlined in the Mandate Report and the Governance Report through development of the Mandate Letter, Amended Articles, and Shareholder Direction while undertaking vigorous consultation and engagement with all stakeholders.

Staff are seeking Council's approval of, and the Shareholder's subsequent adoption of, the new Governance Documents to assure the robust continuance of YRRTC as a corporation which adheres to corporate governance best practices while employing effective operations and protecting the Shareholder's interests.

For more information on this report, please contact Dan Kuzmyk at 1-877-464-9675 ext. 71401. Accessible formats or communication supports are available upon request.

Recommended by:



Dan Kuzmyk
Regional Solicitor and General Counsel



Approved for Submission: **Erin Mahoney**
Chief Administrative Officer

September 25, 2024
eDocs# 16333498

Appendix A - Draft form of Mandate Letter
Appendix B - Articles of Amendment
Appendix C - Business Case Study
Attachment 1 - Draft form of Shareholder Direction (#16337796)

[On Region Letterhead]

_____, 2024

York Region Rapid Transit Corporation (“YRRTC”)
c/o 17250 Yonge Street
Newmarket, ON L3Y 6Z1

Attention: Frank Scarpitti, Chair of the Board

Dear Mayor Scarpitti:

Re: YRRTC Mandate

The Regional Municipality of York (the “**Shareholder**”) retained Dr. Richard Leblanc to provide reports to the Region with respect to: 1) YRRTC’s mandate, and 2) YRRTC’s governance and Dr. Leblanc rendered two reports (collectively, the “**Consultant Reports**”):

- Final Mandate Report for York Region Rapid Transit Corporation (YRRTC), The Regional Municipality of York, dated September 15, 2023 (the “Mandate Report”); and
- Final Governance Report for York Region Rapid Transit Corporation (YRRTC), The Regional Municipality of York, dated September 15, 2023 (the “Governance Report”).

On November 23, 2023, Regional Council received the Consultant Reports and decided to support the continuance of YRRTC and to update YRRTC’s governance and mandate, as proposed and recommend in the Consultant Reports and as reviewed by the Regional Clerk and Regional Solicitor in consultation with the YRRTC Board of Directors (the “**Board**”).

In furtherance of Council’s decision, the Region as the sole shareholder of YRRTC is issuing this Mandate Letter to serve, until it is terminated, revised or superseded by the Shareholder in its discretion, as a written directive prescribing policy, courses of action and performance expectations required by the Shareholder of YRRTC as an organization, including YRRTC’s Board, YRRTC management (“**Management**”) and YRRTC employees. In accordance with and subject to the terms and conditions of this Mandate Letter, the mandate of YRRTC is to undertake as a service provider to the Region the following:

1. In each case, at and subject to the direction of the Shareholder as provided from time to time, and subject to financial, legal, budgetary, operating plan and funding requirements in place from time to time, directly from the Shareholder, or through governments, government agencies, and other funding partners, as the case may be, through Management, with oversight by the Board as appropriate, and always in accordance with and subject to the terms and conditions of any shareholders direction from time to time issued by the Region in its discretion (“Shareholders Direction”) and applicable law, YRRTC shall:

- (i) Plan, design and construct The Regional Municipality of York Rapid Transit System, Rapid Transit Projects, and related infrastructure;
- (ii) Coordinate Rapid Transit infrastructure being planned and implemented by others within and adjacent to York Region, such as the Yonge North Subway Extension, Queen Street/Highway 7 West BRT, further TTC expansion projects, Steeles Avenue BRT, and other projects that are materially relevant; and
- (iii) Provide the foregoing in a cost-effective, safe, reliable, efficient manner that provides value for money and uses public funds with respect, honesty and integrity.

2. In fulfilling item 1., in each case, at and subject to the direction of the Shareholder as provided from time to time, and subject to financial, legal, budgetary, operating plan and funding requirements in place from time to time, directly from the Shareholder, or through governments, government agencies, and other funding partners, as the case may be, through management, with oversight by the Board as appropriate, and always in accordance with and subject to the terms and conditions of any Shareholders Direction and applicable law, YRRTC shall:

- (i) Identify, pursue, prepare submissions, negotiate, and arrange funding and funding opportunities, as the case may be, with governments, government agencies and other funding partners;
- (ii) Undertake, implement and obtain, as the case may be, environmental and engineering assessment, design, mitigation, work plans, review and approval;
- (iii) Solicit, establish, monitor performance, ensure compliance, compensate, and disestablish, as the case may be, contractual relationships with project partners, business partners and contractors;
- (iv) Coordinate and implement with other nearby Regions and Municipalities, as may be required, for corridor specific environmental assessments or preliminary design work;
- (v) Align and enable the activities of YRRTC to be consistent with the goals and objectives of the Shareholder (e.g., affordability, timing, population and housing growth);

- (vi) Work with relevant municipal partners to facilitate, promote and grow transit-oriented development and joint development opportunities related to the Rapid Transit System;
- (vii) Communicate, clearly and transparently as appropriate, with all stakeholders, including funders, partners, community and Indigenous stakeholders, federal and provincial ministries and agencies, local municipalities, the public, the Shareholder and the Board, including in respect of the role and responsibilities of YRRTC;
- (ix) Coordinate infrastructure in order to promote transit-oriented development and joint development opportunities related to the Rapid Transit System and Transit-Oriented Communities;
- (x) Take all reasonable steps to enhance clarity in communicating the role and respective responsibilities of YRRTC and the Shareholder, so as to enhance clarity with external stakeholders; and
- (xi) Report and be accountable to the Shareholder and the Board.

3. YRRTC shall provide services in coordinating and seeking funding such that the Region's planned future Rapid Transit Network project construction is achieved, consistent with the Regional Transportation Master Plan.

4. YRRTC shall collaborate and coordinate with Public Works and Transportation/Transit Teams first-hand, in the Shareholder's/YRRTC's role to represent the Shareholder's needs as a part funder, and stakeholder, of the Yonge North Subway Extension project that Metrolinx is delivering, and provide services in engaging in similar first-hand collaboration with Public Works and Transportation/Transit Teams with the local municipalities and other funding and delivery partners, including, as the case may be, the Government of Canada; the Government of Ontario; and the Shareholder, in designing, constructing, and otherwise fulfilling the Shareholder's/YRRTC's role in delivering Rapid Transit System, Projects and related infrastructure.

5. (i) The multi-year Business Plan of YRRTC, consistent with Shareholder Direction and reflective of this Mandate, shall be reviewed and approved by the Board on an annual basis; (ii) the Business Plan shall include Key Performance Indicators (or the equivalent) to measure the achievement of the Business Plan; and (iii) the achievement of the Business Plan shall be monitored and regularly discussed by the Board. It is intended that this Mandate Letter shall be operative for the next ten (10) years or such shorter time as the Shareholder in its discretion determines to address, among other things, changes in governing provincial legislation or new shareholder directions or requirements. Any revised Mandate must be reviewed by senior management at the Shareholder in collaboration with the Board and Management of YRRTC and must first be approved by Regional Council prior to becoming effective.

For clarity, and notwithstanding any other provision contained herein, this Mandate Letter: 1) does not amend or supersede any Shareholder Direction now in effect or in effect in the future and is subject to the terms and conditions of any such Shareholder Direction and the requirements of applicable law; 2) directs YRRTC to, when carrying out its mandate, align with and use existing or planned investments in Regional services or processes whenever possible, in order to maximize value and reduce risks, costs and duplication; 3) does not authorize or give YRRTC the authority to bind or incur obligations on the part of the Shareholder and does not create a relationship of partnership, joint venturers or principal and agent between the Shareholder and YRRTC; and

4) may be amended, revoked, superseded or replaced at any time and from time to time by the Shareholder in its discretion.

Yours very truly,

The Regional Municipality of York

Per:

Wayne Emmerson, Regional Chair

Receipt acknowledged this _____ day of _____, 2024.

York Region Rapid Transit Corporation

Per:

Frank Scarpitti, Chair of the Board



Instructions

For questions or more information to complete this form, please refer to the instruction page.

Fields marked with an asterisk (*) are mandatory.

1. Corporation Information

Corporation Name *
YORK REGION RAPID TRANSIT CORPORATION

Ontario Corporation Number (OCN) *
1578560

Company Key *

Official Email Address *

2. Contact Information

Please provide the following information for the person we should contact regarding this filing. This person will receive official documents or notices and correspondence related to this filing. By proceeding with this filing, you are confirming that you have been duly authorized to do so.

First Name *
Daniel

Middle Name

Last Name *
Ferguson

Telephone Country Code
1

Telephone Number *
416-947-5029

Extension

Email Address *
obr-notices@weirfoulds.com

3. Proposed New Corporation Name (if applicable)

Complete this section only if you are changing the corporation name

If you are changing the corporation name, you can either propose a new name or request a number name. If you propose a new name for the corporation, you need a Nuans report for the proposed name. If your corporation has a number name, you must not select the option for a number name, unless you are changing only the legal element.

Will this corporation have a number name? Yes No

4. Number of Director(s) (if applicable)

Complete this section only if you are changing the number of directors

Please specify the number of directors for your Corporation

Fixed Number Minimum/Maximum

5. Shares and Provisions (if applicable) (Maximum is 900,000 characters per text box. To activate the toolbar press "Ctrl + E")

Complete this section only if you are amending the Shares and Provisions

Description of Changes to Classes of Shares

The corporation amends the Description of Classes of Shares as follows (please be specific):

Enter the Text

Description of Changes to Rights, Privileges, Restrictions and Conditions

The corporation amends the Rights, Privileges, Restrictions and Conditions as follows (please be specific):

Enter the Text

Description of Changes to Restrictions on Share Transfers

The corporation amends the Restrictions on Share Transfers as follows (please be specific):

Enter the Text

To delete in its entirety Section 8 of the Articles of Incorporation and replace with the following:

The right to transfer securities, other than non-convertible debt securities, of the Corporation shall be restricted in that no security holder shall be entitled to transfer any such securities of the Corporation without the approval of:

- (a) the directors of the Corporation expressed by resolution passed by the votes cast by a majority of the directors of the Corporation at a meeting of the board of directors or signed by all of the directors of the Corporation; or
- (b) the shareholders of the Corporation expressed by resolution passed by the votes cast by a majority of the shareholders who voted in respect of the resolution or signed by all shareholders entitled to vote on that resolution.

Description of Changes to Restrictions on Business or Powers

The corporation amends the Restrictions on Business or Powers as follows (please be specific):

Enter the Text

To delete in its entirety Section 5 of the Articles of Incorporation and replace with the following:

Restrictions, if any, on business the corporation may carry on or the powers the corporation may exercise.

The Corporation shall not carry on any activities or take any actions that are prohibited by the Municipal Act (Ontario) or Ontario Regulation 599/06, or their respective successor statutes or regulations without the consent of the Minister of Municipal Affairs and Housing or such Minister's successor.

Description of Changes to Other Provisions

The corporation amends the Other Provisions as follows (please be specific):

Enter the Text

To delete in its entirety Section 9 of the Articles of Incorporation and replace with the following:

- (a) The number of security holders that beneficially own, directly or indirectly, securities of the Corporation, other than non-convertible debt securities, is limited to 50, not including employees or former employees of the Corporation or its affiliates, provided that each person is counted as one beneficial owner unless the person is created or used solely to purchase or hold securities of the Corporation in which case each beneficial owner or each beneficiary of the

person, as the case may be, must be counted as a separate beneficial owner.

(b) The securities of the Corporation, other than non-convertible debt securities, may be distributed only to persons described in Section 2.4 of National Instrument 45-106 - Prospectus Exemptions, as promulgated by the Canadian Securities Administrators, as the same may be amended, replaced or substituted for from time to time.

6. Authorization

* I, Daniel Ferguson

confirm that:

- This form has been signed by the required person.
- This amendment has been duly authorized as required by sections 168 and 170 (as applicable) of the *Business Corporations Act*.

The resolution authorizing the amendment was approved by the shareholders/directors (as applicable) of the corporation on *

Requested Date for Amendment *

Caution - The Act sets out penalties, including fines, for submitting false or misleading information.

Required Signature

| Name | Position | Signature |
|------|----------|-----------|
| | | |

Business Case Study for the filing of Articles of Amendment for YRRTC

This is the Business Case Study for Articles of Amendment for York Region Rapid Transit Corporation (“**YRRTC**”) required pursuant to Section 6(d) of Ontario Regulation 599/06 (the “**Regulations**”) under the *Municipal Act, 2001* (the “**Municipal Act**”).

History and Background

YRRTC is a business corporation incorporated under the *Business Corporations Act of Ontario* (“**OBCA**”) and is a Municipal Services Corporation (“**MSC**”) pursuant to the *Municipal Act*. YRRTC was established by Articles of Incorporation (the “**Articles**”) filed under the OBCA effective July 2, 2003.

Section 5 of the Articles contains numerous business powers and restrictions YRRTC was eligible to perform under the OBCA and *Municipal Act* and their respective Regulations in the form and content as existed in 2003. These provisions were inserted into the Articles after significant consultation with the Ministry of Municipal Affairs and Housing at the time of YRRTC incorporation of YRRTC, reflecting the newness at that time of the statutory and regulatory provisions concerning establishment of MSCs.

Since YRRTC was established, the Regulations for MSCs have been amended from time to time and may be amended further from time to time in the future.

Since 2003, YRRTC has provided services to The Regional Municipality of York (the “**Region**”) in connection with numerous transit matters and undertakings. These services involve \$3.6 billion in rapid transit infrastructure delivered across York Region, include the following:

- Planning and implementation of:
 - QuickStart stations along regional corridors
 - Environmental Assessments for Bus Rapid Transit (“BRT”) along regional corridors
- Planning, design and construction of:
 - 34 km of dedicated BRT lanes and 38 BRT stations, including tree-lined streetscapes, and updated infrastructure such as utilities, fibre optic, bridges and culverts
 - SmartVMC Bus Terminal
 - Cornell Bus Terminal
 - LEED-certified operations, maintenance and storage facility
 - Park and ride facility in Newmarket at Davis Drive and Highway 404

- Overseeing design and construction of aboveground infrastructure for:
 - 2.4 km of subway in York Region included in the 8.6-km Toronto-York Spadina Subway Extension
 - YRT Bus Terminal at Pioneer Village subway station

Current Initiative

On January 12, 2023, Regional Council endorsed a mandate review and governance assessment of YRRTC.

Pursuant to Regional Council's direction, the Region retained an independent consultant with expertise in corporate governance to undertake the mandate review and governance assessment as directed by Regional Council. The consultant's recommendations are included in two separate reports (collectively the "**Consultant Reports**"), as follows:

1. Final Mandate Report for York Region Rapid Transit Corporation (YRRTC) for The Regional Municipality of York dated September 15, 2023; and
2. Final Governance Report for York Region Rapid Transit Corporation (YRRTC) for The Regional Municipality of York dated September 15, 2023.

The Consultant Reports recommended that YRRTC continue as a stand-alone corporation and provide justification and a case study for the continuation of YRRTC as a Regional MSC.

The Consultant Reports recommend that YRRTC's mandate be clarified and that certain best practices concerning governance procedures, protocols and policies be adopted. To this end, the Consultant Reports recommend the adoption of a Mandate Letter from York Region to YRRTC to clearly set out YRRTC's Mandate.

The Consultant Reports also recommend that numerous governance best practices be adopted by YRRTC and that this recommendation be implemented, in part, through adoption of a Shareholder Direction from the Region to YRRTC that will implement the recommendations and clarify and codify YRRTC governance.

A Mandate Letter and a Shareholder Direction have been developed following consultation with various Regional staff and senior management and consultation with YRRTC management and the YRRTC Board of YRRTC. The Mandate Letter and Shareholder Direction implement the Mandate and Governance recommendations contained in the Consultant Reports.

The Consultant Reports note that the YRRTC Articles were specifically drafted to conform, on a very granular level, to the Regulations in effect when YRRTC was incorporated. Since the Regulations have been amended since that time, the consultant made recommendations to amend the Articles to conform to the current Regulations now in effect, again describing YRRTC's current and anticipated activities on a granular level.

After consideration and advice from external legal counsel, it has been determined that to best achieve the consultant's recommendations, it is better to not attempt to conform to the specific

wording of the current Regulations and specifically and prescriptively set out detailed rights, powers and restrictions on YRRTC. Instead, it is a better approach to simply state that YRRTC has all the powers and capacities of a MSC under the OBCA, *Municipal Act* and Regulations, as may be in effect from time to time in the future, and to allow the Mandate Letter and the Shareholder Direction to prescribe the specific details of YRRTC powers and the limitations. The proposed YRRTC Articles of Amendment ("**Articles of Amendment**") modernize the YRRTC Articles and allow conformance with existing technical requirements for business corporations and MSCs.

There are a number of benefits to proceeding in this way to best achieve the recommendations of the consultant. Firstly, this approach will avoid the possibility of again being in a situation of the Articles being inconsistent with the Regulations if the Regulations should change in the future. This approach also avoids uncertainty as to the exact meanings and effect of the specific and granular provisions in YRRTC's Articles. Such uncertainty might give rise to potential confusion or difficulties in making determinations required for important transactions involving corporate capacity.

Further, a highly prescriptive approach gives rise to the potential for inflexibility and uncertainty concerning YRRTC's corporate capacity. Being overly prescriptive would require the requirement to continuously amend the YRRTC Articles of YRRTC if and when the Regulations may again be amended by the Province. An overly prescriptive approach may also restrict YRRTC's power and capacity to act in accordance with its legitimate Mandate.

Finally, drafting objects based on YRRTC's current activities may limit its ability to expand its capacities as may be determined by Regional Council. In fact, all the consultant's recommendations can be implemented through the Mandate Letter and Shareholders Direction and more general Articles enabling YRRTC to act as an MSC under the *Municipal Act* and Regulations in effect from time to time. This will allow greater flexibility in meeting changing circumstances and reduce the possibility of inadvertently restricting YRRTC beyond what is intended. It will also reduce possible confusion on capacity if the Regulations change again in the future and avoid the need to file further Articles of Amendment to enable YRRTC to fulfil its Mandate. In short, this approach implements letter and spirit of the consultant's recommendations and provides greater certainty and more flexibility. This approach is also consistent with the current approach of many other MSCs.

Conclusion

The Articles of Amendment and other materials attached to this Business Case Study do not involve any additional financial commitment or business risk for the Region or YRRTC. They assist in the implementation of the recommendations of the independent expert on Mandate and best Governance practices and implement the previous direction of Regional Council adopting the Consultant Reports. They also significantly improve the clarity of Mandate and the Governance practices of YRRTC and are consistent with best practices of other MSCs throughout the Province of Ontario.

Under the revised Mandate and Governance protocols, YRRTC will continue work to advance all its ongoing projects. Similarly, the Articles of Amendment will not impact YRRTC's ability to perform its intended work on these projects, which include:

- Planning, design and construction of bus rapid transit lanes and stations identified within York Region's Transportation Master Plan
- Continued collaboration with stakeholders on advancement of the Metrolinx-led Yonge North Subway Extension
- Pursuit of capital construction funding from senior levels of government for rapid transit projects and initiatives

This Business Case Study is submitted in respect of the authorization and filing of the Articles of Amendment of YRRTC.