

THE REGIONAL MUNICIPALITY OF YORK

**REPORT NO. 9 OF THE RAPID TRANSIT PUBLIC/PRIVATE PARTNERSHIP
STEERING COMMITTEE
MEETING HELD ON JUNE 18, 2009**

**For Consideration by
The Council of The Regional Municipality of York
on June 25, 2009**

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**YORK REGION RAPID TRANSIT CORPORATION
CORPORATE GOVERNANCE UPDATE**

The Rapid Transit Public/Private Partnership Steering Committee recommends the adoption of the recommendations contained in the following report dated June 18, 2009, from the Vice-President, York Region Rapid Transit Corporation.

1. RECOMMENDATIONS

It is recommended that:

1. The Region enter into an agreement (the “Rapid Transit Agreement”) with York Region Rapid Transit Corporation (“YRRTC”) in accordance with the terms and provisions outlined in this report, to enable YRRTC to carry out its responsibilities in connection with the rapid transit system in an accountable and effective manner.
2. The Regional Chair and Regional Clerk be authorized to execute the Rapid Transit Agreement on behalf of the Region as well as any other documents or ancillary agreements in connection with the Rapid Transit Agreement.
3. If required by Metrolinx prior to the effective date of the Rapid Transit Agreement, YRRTC be authorized to execute a Performance Agreement with Metrolinx in accordance with the terms and provisions outlined in this report, to implement the vivaNext rapid transit system including any other documents or ancillary agreements in connection with the Performance Agreement, including a Memorandum of Understanding.

4. If Metrolinx establishes a subsidiary corporation under the recently enacted *Metrolinx Act, 2006*, for the purposes of delivering a passenger transportation system, the Region be permitted to acquire, if required, a minority shareholding interest in that corporation, on terms acceptable to the Regional Treasurer and Regional Chair, including the consideration payable for such interest.
5. The Region consent to the Regional Chair, Bill Fisch, along with two other YRRTC board members to represent the Region's and YRRTC's interests on an Advisory Committee if established by Metrolinx in connection with the rapid transit system, or, if required, on the board of the aforementioned Metrolinx subsidiary corporation, so long as they continue to be a member of the YRRTC board of directors.
6. Commencing in July, 2009 or following the effective date of the Rapid Transit Agreement, whichever is the later, the monthly reporting requirements of YRRTC to the Region via the Rapid Transit Public/Private Partnership Steering Committee meetings will no longer be required and the reporting requirements under the Rapid Transit Agreement will prevail.
7. YRRTC be directed to finalize the YRRTC 2009 corporate strategic business plan, based on the one, five, and ten year business plan framework for approval of the YRRTC Board and the Region.
8. YRRTC be authorized to amend its bylaws and/or articles, if necessary, to give effect to the foregoing.
9. Staff be authorized to negotiate the terms and provisions of an operating agreement between the Region and YRRTC respecting the roles and responsibilities of York Region Transit and YRRTC in connection with the operation of the rapid transit system and report back when they have determined the framework of this Agreement.

2. PURPOSE

The purpose of this report is to seek Regional Council's approval to vest powers in YRRTC that will enable it to implement the Region's rapid transit projects in the Metrolinx Regional Transportation Plan "The Big Move" (the "Regional Transportation Plan" or the "Plan") in an effective and accountable manner. The recently enacted *Metrolinx Act, 2006* which vests in Metrolinx the power to deliver the regional transportation system, has been a pivotal factor in recommending the proposed governance structure set forth in this report. This report is to be considered in a closed meeting of committee and Council because its subject matter deals with legal advice which is subject to solicitor-client privilege.

3. BACKGROUND

***Metrolinx Act, 2006* came into force on May 14, 2009 and represents a fundamental shift in Provincial government policy and strategic direction**

The fundamental shift by the government of the Province of Ontario with respect to the delivery of an integrated, multi-modal transportation network is reflected in the recently introduced Provincial legislation, the *Metrolinx Act, 2006* (Bill 163) (the “*Metrolinx Act*”) which came into force on May 14, 2009. The underlying impetus and reasons for this shift have informed the recommendations in this report.

***Metrolinx Act* expands powers of Metrolinx from its leadership role in the planning, financing and development of a transportation network to include the responsibility for the construction, implementation and operation of the transportation system**

The *Metrolinx Act* transforms Metrolinx (formerly called the Greater Toronto Transportation Authority) from a strategic planning oversight body whose key responsibility was the development of the Regional Transportation Plan to a corporation that has the power to construct and operate a transportation system. Metrolinx has the power to:

- create subsidiary corporations in which it holds a controlling interest
- acquire, hold, lease or dispose of property
- enter into commercial arrangements

Elected officials are no longer permitted to be members of the Metrolinx board of directors

Under the *Metrolinx Act*, elected officials are no longer eligible to be appointed to the Metrolinx board of directors. The former Metrolinx board, comprised largely of elected officials appointed by the councils of those municipalities in the regional transportation area, have been replaced by persons from the private sector, all of which are selected on the recommendation of the Minister of Transportation. The Minister also recommends the chief executive officer position, currently held by Robert Pritchard. In effect, the Provincial government controls the membership of the Metrolinx board.

Municipal governments’ role has evolved to a consultative role

The implications for municipal governments in the strategic decision-making process for a regional transportation system are critical in light of the fact that the role of municipal governments has evolved to a consultative role. The Region, through YRRTC, has organized itself to ensure that it continues to play a significant role in the rapid transit project.

The York Region Rapid Transit Plan has been officially recognized in the Regional Transportation Plan

As a result of the Region's proactive "be ready" philosophy, it has been actively able to help shape the final outcome of the Regional Transportation Plan and major recommendations to fund the next phase of rapid transit in York Region. Following years of planning and the implementation of VIVA Phase One, YRRTC was successful in securing full endorsement of York Region's rapid transit network in the Regional Transportation Plan. The total construction value of the York Region rapid transit plan is in excess of \$5 billion and includes:

- two subway extensions to Richmond Hill Centre on the Yonge line and to Vaughan Corporate Centre on the Spadina line
- 70 kms of bus rapid transit rapidways stretching across Highway 7 and Yonge Street north of Richmond Hill Centre to Newmarket Centre, Southlake Hospital and East Gwillimbury.

A governance structure that aligns with Metrolinx will ensure the successful deployment of the rapid transit system

Metrolinx's board is responsible for the successful deployment of a fully integrated, multi-modal regional transportation system. A governance structure that aligns with that of Metrolinx will ensure that the projects are delivered in accordance with the timetable under the Regional Transportation Plan. The Region, through YRRTC, has the opportunity to shape the delivery of the project through this alignment.

YRRTC has a proven record of delivering projects on time and within budget

YRRTC has a proven record of delivering projects on time and within budget. The value of the vivaNext capital investment is in excess of \$5 billion. The rate of expenditure of these funds will be significantly higher than VIVA Phase One. YRRTC and its board must not only provide real time policy guidance on the project, but must also have oversight of all activities and be ready to act as major project issues arise.

4. ANALYSIS AND OPTIONS

YRRTC'S ROLE AND RESPONSIBILITIES ARE LIMITED BY ITS CURRENT INTERIM MANDATE

Since incorporation in 2003, YRRTC's mandate has continually evolved and it is now timely for it to assume its full powers and responsibilities for the rapid transit project. The following chronology sets out various stages in its evolution.

The Region executed a unanimous shareholder's declaration which vested the powers of the YRRTC board in the Region as sole shareholder

Following the incorporation of YRRTC on July 2, 2003, the Region, by way of a unanimous shareholder's declaration, vested the majority of the powers of the YRRTC board of directors in itself, as sole shareholder. With the board's powers thus assumed by the Region, during the initial seven years of the rapid transit projects, including the implementation of VIVA Phase One, approvals were secured predominantly through reports to Regional Council via the Rapid Transit Public/Private Partnership Steering Committee (the "Rapid Transit Steering Committee").

YRRTC's interim mandate prescribed by Regional Council on February 19, 2004

Since its inception, the YRRTC Board, comprised of the members of the Rapid Transit Steering Committee, has met from time to time to carry out its limited and prescribed duties and responsibilities that were set forth in a certain interim mandate approved by Regional Council on February 19, 2004. Under the interim mandate YRRTC was required, among other things, to provide oversight of the Quick Start project, to prepare business plans for future phases of the rapid transit project, to pursue funding opportunities for future phases, and to prepare annual budgets for the Region's approval.

Interim mandate narrowed considerably the role and responsibilities of YRRTC

In the February 19, 2004 report, Regional Council considered three scenarios respecting the distribution of roles and responsibilities among the Region, York Region Transit, and YRRTC, and the implications to the Region in each scenario. At that time, the Region had not received firm funding commitments from the senior levels of government to future phases of the rapid transit project and nor did it anticipate that it would receive private sector investment given the projected initial operating deficits. The other essential factor for the Region at that time was retaining sufficient controls upon the expenditures for rapid transit as well as maintaining control upon the operational decisions concerning transit generally. Based upon these factors, Regional Council authorized a governance model that gave it the most control while narrowing considerably the role and responsibilities of YRRTC.

Restrictive mandate was meant as an interim business arrangement until senior government funding was secured

The restrictions placed upon YRRTC by Regional Council in the interim mandate were premised on the funding reality at that time. However Regional Council from the outset contemplated an expanded role for YRRTC in the future when a funding commitment from senior government was secured for future phases of the rapid transit project.

Regional Council authorized staff to prepare an interim concession agreement to clarify the roles and responsibilities of the Region and YRRTC based upon the interim mandate

Regional Council, on February 19, 2004, authorized staff to prepare an interim concession agreement based upon the approved interim mandate to give effect to this authorization. Within this authorization it was also contemplated that YRRTC enter into an operating agreement with York Region Transit to integrate the operations of Quick Start and the conventional bus fleet.

YRRTC has secured a \$1.4 billion funding commitment from the Province of Ontario for vivaNext rapid transit project

On April 1, 2009, the Province of Ontario announced that it would provide funding in the amount of \$1.4 billion for the vivaNext rapid transit project. The Regional Transportation Plan requires that certain of these projects commence in July 2009. Attachment "1" to this report sets out in Figure 1 the rapid transit projects funded under the Plan as marked in pink highlight, and Table 1 provides a list of the projects, the projected work plan schedule for each project, and the funding for each project.

THE RECOMMENDED GOVERNANCE STRUCTURE WOULD EXPAND YRRTC'S MANDATE BUT RETAINS ACCOUNTABILITY AND CONTROLS**YRRTC board of directors will manage business of YRRTC**

In light of the recently enacted *Metrolinx Act*, the governance structure that will best meet the Region's objectives is one which empowers the YRRTC Board to manage the business of YRRTC. This will include the power to:

- enter into contracts
- hire and dismiss staff
- purchase, lease or otherwise acquire real property
- borrow or incur debt
- appoint officers and delegate to them powers to manage the business

These powers will be subject to applicable legislation and other constraints.

YRRTC's staff have the expertise to manage its business

YRRTC has recruited staff which have the expertise to manage its business and delivery of the rapid transit system. The corporate organization chart is discussed in more detail in a companion report to Council of the same date entitled "Appointment of Directors of the York Region Rapid Transit Corporation".

Rapid Transit Agreement has been prepared to provide the mandate and powers that YRRTC needs to deliver the rapid transit system together with the accountability measures required by the Region

The original organization structure and interim mandate of YRRTC allowed YRRTC to bring the rapid transit project to its current state. However, now that the scale of activities and spending has increased significantly, YRRTC needs to have the ability to exercise its full powers so that it can fully and efficiently carry out the rapid transit projects. An agreement between the Region and YRRTC entitled "Rapid Transit Agreement" has been prepared which will enable YRRTC to fulfill this mandate and advance and protect the interests of the Region. YRRTC's powers, duties and responsibilities are more particularly set forth in Attachment "2" to this report.

Rapid Transit Agreement will prescribe when YRRTC must report to Regional Council or obtain Council's approval to certain decisions

The Rapid Transit Agreement will provide that YRRTC will report to Regional Council with respect to the following:

- Confirmation, on an annual basis, that the YRRTC business plan goals and objectives are on track and within budget.
- Identification of the operating impact of the \$1.4 billion Metrolinx/YRRTC capital work program, seeking approval of Regional Council.
- Reports and recommendations, as required, where changes to the \$1.4 capital budget have a material operating impact, seeking approval of same from Regional Council.
- Seeking approval to obtain long-term financing or to enter into any business arrangements which have a long term Regional financial obligation such as an operating concession for the rapid transit system, land development arrangements, the creation of subsidiary corporations assigned to YRRTC such as a rapid transit parking agreement and significant commercial arrangements.

- Land acquisitions, including expropriation. The Region, as an expropriating authority, will expropriate land as required for the rapid transit projects.

The Rapid Transit Agreement will include a right to audit clause that will permit the Region's Director of Audit Services to conduct financial audits to ensure YRRTC's compliance with the Agreement. This will give the Region the requisite financial control to ensure that YRRTC remains accountable for budgets and expenditures.

Proposed governance structure replaces Rapid Transit Steering Committee and supersedes unanimous shareholder's declaration and interim mandate

The Rapid Transit Steering Committee will no longer be required to consider the rapid transit reports for Regional Council because most decisions will be made by the board. The proposed structure will effectively replace the current decision-making process whereby the Region, through Regional Council, exercised the powers of the board of directors by way of the unanimous shareholder's declaration. It will supersede the declaration and the February 2004 interim mandate.

Meetings of the YRRTC board

The board of YRRTC will conduct monthly meetings and more frequently as business requires. These meetings will replace the former Regional meetings process through the Rapid Transit Steering Committee. YRRTC's board are permitted to hold closed meetings. A member of Regional Council who is not a member of the YRRTC board may attend any board meeting. YRRTC will need to put in place policies concerning business practices, such as a purchasing policy.

Articles of Incorporation give YRRTC broad powers

Under its Articles of Incorporation (the "Articles"), YRRTC has broad powers in connection with the delivery and operation of a public transportation system. Its Articles permit YRRTC to:

- operate and maintain a public transportation system
- construct and own the system, including the related land and facilities, provided however that these facilities are new
- undertake transit-related development
- sell, lease and encumber related land and facilities

Subsequent changes under the *Municipal Act, 2001* would broaden the scope of YRRTC's powers and would require an amendment to the Articles, with the shareholder's approval.

Region's wholly owned housing corporation is illustrative of proposed corporate governance structure

The Region's wholly owned housing corporation, Housing York Inc. ("HYI") is illustrative of the benefits and opportunities that this corporate governance structure can provide in a municipal context. Attachment "3" to this report sets forth in Table 2 a comparative analysis of HYI's governance structure and powers and those proposed herein for YRRTC. Whereas there are unique distinctions between each of these structures arising largely because of legislative parameters, the analysis demonstrates that while each governance structure provides for flexibility, both of them ensure that accountability and controls measures are in place to protect the Region's interests.

Region's interests may be represented by YRRTC board members participating on an Advisory Committee or on the board of a Metrolinx subsidiary

The Region's interests respecting the implementation of the vivaNext projects may be represented by YRRTC board members participating on an Advisory Committee or subsidiary established by Metrolinx. It is anticipated that under either scenario membership could be composed of Metrolinx representatives and York Region representatives. In either case, the Region will require that its operational responsibilities be given prominence in the capital decisions made by the Advisory Committee or by the subsidiary corporation.

YRRTC will be delivery agent of vivaNext projects pursuant to a Performance Agreement between YRRTC and Metrolinx

Project governance to provide oversight to each of the vivaNext projects will require a considerable investment of staff and legal time by YRRTC and its board over the course of the balance of 2009. YRRTC staff is currently working closely with the Metrolinx implementation team to develop a Memorandum of Understanding that will provide the framework for a Performance Agreement between Metrolinx and YRRTC, the latter being responsible for the delivery of the vivaNext projects. The Performance Agreement will delineate the provision of funding and cash flow arrangements to enable construction of the rapid transit projects to begin in 2009.

Key responsibilities of both parties under the Performance Agreement are ensuring that the projects are delivered on time and on budget while meeting the quality and performance standards established for each project. YRRTC will develop a project management and controls framework with Metrolinx for these projects. In addition it is expected that the Performance Agreement will include performance standards to be achieved throughout the implementation of the project including possible performance incentives and penalties.

YRRTC can best advance the vivaNext rapid transit projects through its current business arrangements with York Consortium 2002

YRRTC is in a position to commence project construction in 2009. This start date is conditional on being able to utilize its current business arrangements with the Region and York Consortium 2002 (“YC 2002”). Both 2009 project bundles on Highway 7 and Davis Drive are currently in negotiation with YC 2002 for final design and construction commencing in July and the fall of 2009.

Metrolinx staff is recommending that the current business arrangements set out in the Going-Forward Business Arrangements Agreement and the Master Agreement, among the Region and YRRTC and YC 2002 be used to deliver the first group of 2009 shovel-ready projects included in the \$1.4 billion dollar capital work program. Metrolinx has made no commitment to these business arrangements after the expiry of these Agreements with YC 2002 on June 30th, 2011. The board of YRRTC will be required to revisit the business arrangements with YC2002 in 2010 for unfunded vivaNext capital projects.

Summary of factors that support the recommendation in this report to implement the proposed corporate governance structure

The following list summarizes the reasons that support the recommendation in this report to implement the proposed corporate governance structure:

1. The *Metrolinx Act* (Bill 163) represents a fundamental shift of responsibilities to Metrolinx in support of an integrated approach to the delivery of transit systems.
2. Proposed governance structure of an Ontario Business Corporations Act (“OBCA”) corporation will align with principles under *Metrolinx Act* and mesh with Metrolinx’s powers and approach to deliver rapid transit projects.
3. The Regional Transportation Plan has established a priority for YRRTC’s projects that are shovel-ready and YRRTC has a proven record of delivering projects on time.
4. The Region, through YRRTC, has been successful in securing \$1.4 billion of funding from the Provincial government for its projects.
5. Metrolinx requires a Performance Agreement with YRRTC and YRRTC needs to have full powers to carry out its obligations.
6. Regional Council contemplated that the interim mandate and decision-making process through the Rapid Transit Steering Committee would evolve into a corporate governance framework when significant funding from senior levels of government to multiple phases of the project was secured.

7. A proposed governance structure is subject to the Rapid Transit Agreement which puts in place effective accountability provisions to protect the Region.
8. The Region, as sole shareholder, appoints the YRRTC board of directors.
9. A wholly owned corporation provides flexibility to the Region to allow for the ownership of assets and a breadth of financing options in a manner that is best for the Region and YRRTC.

5. FINANCIAL IMPLICATIONS

The Region has secured a \$1.4 billion funding commitment from the Province for the vivaNext rapid transit projects. The total construction value of York Region's rapid transit plan that has been approved in the Metrolinx Regional Transportation Plan is in excess of \$5 billion. Whether there will be a cost to the Region to acquire a minority shareholding interest in a subsidiary corporation to be incorporated by Metrolinx remains to be determined.

6. LOCAL MUNICIPAL IMPACT

The implementation of the recommendations in this report will enable the delivery of the rapid transit service necessary to support intensification within the regional urban growth centres and corridors consistent with the Provincial Growth Plan. An integrated regional rapid transit system will benefit the residents and employees in the Region's constituent municipalities.

7. CONCLUSION

In light of the recently enacted *Metrolinx Act*, it is critical that the Region vest the power and authority in YRRTC to carry out the rapid transit projects contemplated in the Regional Transportation Plan. With provincial funding of \$1.4 billion now confirmed, the Region, through YRRTC, has a significant responsibility to deliver on its commitment to have projects under construction in 2009 and in subsequent years. The governance structure proposed in this report for YRRTC will ensure that the Region continues to have an important role in the strategic implementation of the rapid transit system.

For more information on this report, please contact Mary-Frances Turner, Vice President of the York Region Rapid Transit Corporation, or Janis Vanderburgh, Senior Counsel, at Ext. 1408.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause is attached to this report.)

Respectfully submitted,

**June 18, 2009
Newmarket, Ontario**

**B. Fisch
Chair**

(Report No. 9 of the Rapid Transit Public/Private Partnership Steering Committee was adopted without amendment, by the Council of The Regional Municipality of York at its meeting on June 25, 2009.)

Attachment "1"

**Figure 1
Funded Projects**



On April 1, 2009, the Province of Ontario announced \$1.4 billion dollars in funding for vivaNext. The projects funded are shown in Figure 1 as indicated by the pink segments and are also listed in Table 1.

**Table 1
Funded Projects**



	2009				2010				2011				2012				2013				Total Funded from \$1.4 billion \$millions
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	
Design/Build																					\$ 1,187.3
Davis Drive and Yonge Street from Mulock to Davis Drive																					\$ 227.4
Hwy 7 - Centre Street from Dufferin to Bathurst																					\$ 2.7
Hwy 7 - Richmond Hill Centre to Warden; Birchmount to Kennedy																					\$ 320.7
Yonge Street - Richmond Hill Centre to 19th Avenue																					\$ 220.5
Hwy 7 - Pine Valley to Dufferin; Bathurst to Richmond Hill Centre																					\$ 415.9
Property																					\$ 206.3
Cornell Terminal																					\$ 0.1
Davis Drive and Yonge Street from Mulock to Davis Drive																					\$ 54.4
Hwy 7 - Centre Street from Dufferin to Bathurst																					\$ 2.2
Hwy 7 - Richmond Hill Centre to Warden; Birchmount to Kennedy																					\$ 17.3
Operations, Maintenance and Storage Facility - South York Region																					\$ 0.2
Yonge Street - Richmond Hill Centre to 19th Avenue																					\$ 26.6
Hwy 7 - Pine Valley to Dufferin; Bathurst to Richmond Hill Centre																					\$ 10.2
Hwy 7 - Hwy 50 to Pine Valley Drive																					\$ 5.0
Hwy 7 - Kennedy Road to Cornell																					\$ 6.2
Yonge Street - 19th Avenue to Mulock; Davis Drive to Green Lane																					\$ 78.9
Green Lane																					\$ 5.2
Vehicles																					\$ 6.0
Vehicles																					\$ 6.0
Total																					\$ 1,400.0

Attachment “2”

Among other things, the Rapid Transit Agreement grants to YRRTC responsibilities, rights and powers in connection with the Rapid Transit Project that include:

- a. strategic planning of the rapid transit system, including obtaining environmental assessment approvals, planning and preliminary engineering work, capital delivery and funding or financing for the rapid transit system;
- b. delivering the rapid transit system;
- c. negotiating for and obtaining senior government funding, either on its own behalf or in the name of the Region, from time to time to assist in the further development of the Project, including funding co-ordinated through or administered by Metrolinx, Infrastructure Ontario, or any other Provincial or Federal crown corporation or agency;
- d. propelling the Project in the best interests of both the Region and YRRTC;
- e. managing and monitoring Project work;
- f. managing the Project work procurement process under the Going Forward Business Arrangements Framework Agreement (and any agreement that amends or replaces the Going Forward Business Arrangements Framework Agreement) and any other agreement relating to Project work;
- g. working with Metrolinx, Infrastructure Ontario, and any other Provincial or Federal crown corporation or agency in the procurement or financing of Project work, where the involvement of Metrolinx, Infrastructure Ontario, or such other Provincial or Federal crown corporation or agency is required by applicable law, as a condition of senior government funding, or where YRRTC requests such involvement;
- h. monitoring compliance with the Master Agreement (and any agreement that amends or replaces the Master Agreement) in Project contracts and Project work;
- i. monitoring and managing Project work undertaken by the Region’s private sector partner;
- j. working with Metrolinx, Infrastructure Ontario, and other Provincial or Federal crown corporations or agencies, to further propel and develop the Project in the best interests of both the Region and YRRTC;
- k. providing strategic oversight to ensure the effective and efficient implementation of the rapid transit system, including establishing overall budget and performance

criteria for the monitoring of the Operation and Maintenance Agreement and the work of the Operator thereunder, and collaborating with YRT in this regard;

- l. with YRT, jointly developing the operations and maintenance strategy for the rapid transit system, leading to the selection of the Operator, from time to time;
- m. in collaboration with YRT, preparing the Operations and Maintenance Agreement and with YRT, jointly procuring the Operator;
- n. planning and implementing the extension of the existing City of Toronto subway system and light rail system into the Region;
- o. planning and implementing rapid transit connections with other nearby regions and municipalities;
- p. planning, pursuing and implementing commercial business opportunities and alternative Project organization and governance models to better propel the Project and that are in the best interests of YRRTC and the Region;
- q. planning, implementing and managing transit-oriented development and joint development opportunities related to the rapid transit system;
- r. recommending to the Region the business and governance structure for transit-oriented development, joint development projects, and any commercial business opportunities related to or arising from the Project, and managing the role of any municipal service corporations (or other similar municipal corporations), other than YRRTC, incorporated or established by the Region to participate in such projects;
- s. reporting on an annual basis and from time to time on matters requiring shareholder approval (eg. budget; business plan; long-term financing), through the appropriate Regional standing committee depending upon the particular issue or subject matter;
- t. entering into agreements with senior government, Metrolinx (or any subsidiary corporation established by Metrolinx), Infrastructure Ontario, or any other Provincial or Federal crown corporation or agency relating to the Project;
- u. carrying out such other obligations in connection with the rapid transit system or the Project as agreed upon from time to time in writing by the Region and YRRTC; and
- v. subject to applicable law, and in addition to YRRTC's or the Board of Directors powers under applicable law, the Articles of Incorporation or By-Laws of YRRTC may be amended so as to vest in YRRTC certain additional powers, provided from time to time in the *Municipal Act, 2001* and any regulations

thereunder, and the parties to this Agreement will be able to take such acts and pass such resolutions as are required to authorize and give effect to any such amendments.

Attachment “3”

Table 2

No.	Type of Governance Matter	HYI	YRRTC
1	Region as sole shareholder must approve decisions with material financial impact or as required by OBCA or other legislation.	Governed by both OBCA and the <i>Social Housing Reform Act, 2000</i> (the “SHRA”)	Governed by the OBCA. Subject to <i>Municipal Act, 2001</i> in a limited way eg. meeting provisions do not apply
2	Region, as sole shareholder, elects the board. May remove board members as well.	√	√
3	Most decisions re business affairs exercised by the board of directors.	√	√
4	Board membership.	Must be members of Regional Council.	Must be members of Regional Council and 2 other private sector individuals.
5	Regional Chair Bill Fisch – Board member	√	√
6	Business practices policies	√ HYI’s Purchasing Policy.	√ YRRTC’s will have regard to Region’s policies.
7	Meetings of the board of directors may be closed	√	√
8	Frequency of board meetings	SHRA requires 4 quarterly board meetings. Board meetings have immediately followed Community Services and Housing Committee meetings	No legislative requirement but anticipated YRRTC will hold monthly board meetings and more frequently as business requires
9	Shareholder meetings which are meetings of Regional Council will continue as usual for OBCA requirements and other requirements.	√ OCA requires that financial statements as approved by the board must be received by the shareholder.	√ See corresponding comment under HYI.

10	Shareholder's right to audit	√	√ Regional Director, Audit Services shall have right to audit for financial compliance. External auditor same as Region's auditor.
11	Ability to own property and to mortgage.	√	Restricted under current Articles but could be expanded if YRRTC amended its Articles in accordance with O. Reg. 599/06, with shareholder approval.
12	Annual business plan and budget approved by shareholder	√	√
13	Region has controls over business	√ SHRA gives the Region as service manager various controls. Region has entered into Property Management Services Agreement with HYL.	√ Various protections to the Region afforded under regulations to the <i>Municipal Act, 2001</i> and under the Rapid Transit Agreement.
14	Delegated authority to officers and directors.	√ Through by-law which was approved by shareholder.	√ To be done by way of a by-law approved by shareholder.
15	Ability to borrow and incur debt.	√ Subject to OBCA and SHRA.	√ Subject to OBCA and Rapid Transit Agreement.