



STAFF REPORT ACTION REQUIRED

TTC Special Constable Status in the Regional Municipality of York

Date:	November 13, 2017
To:	TTC Board
From:	Chief Executive Officer

Summary

As the first TTC subway line to cross the City of Toronto boundary, the Line 1 extension will provide a critical extension for the existing subway system across the municipal boundary between the City of Toronto and The Regional Municipality of York (York Region). The TTC will continue to operate this line as part of its current service. An operational Memorandum of Understanding was negotiated on December 15, 2008, between TTC and York Region Transit (YRT) whereby the TTC is responsible for law enforcement and security in York Region at underground subway stations. TTC Enforcement staff will work co-operatively with YRT/Viva Enforcement staff at the new stations to ensure adequate safety and security of the facilities, our employees and our customers both above and below ground. In 2010, a joint services agreement provided YRT/Viva Special Constables with enforcement powers as they pertain to YRT/Viva operations within the City of Toronto.

A new agreement between the TTC and the York Regional Police Services Board (YRPS Board) recognizes the need for adequate and effective powers and authorities to ensure TTC Transit Enforcement Officers have the ability and tools to perform their functions while also ensuring accountability.

In support of York Regional Police Service (YRPS) operations, the proposed authorities will allow TTC Transit Enforcement Officers to deal effectively and efficiently with any issues that arise as a result of their duties and respond to TTC emergencies with an objective to minimize service disruptions that can result in significant public safety issues, and transit and traffic gridlock.

Recommendations

It is recommended that the Board:

1. Authorize the agreement with the YRPS Board regarding enforcement activities to be undertaken by TTC special constables with the Region of York; and
2. Forward the approved agreement to the Toronto Police Services (TPS) Board for consideration to appoint Transit Enforcement Officers as special constables in the Region of York for the purpose of supporting the TTC's bylaw and limited law enforcement objectives.

Financial Summary

To address the requirements for TYSSE, two additional transit enforcement officer positions were added in the TTC's 2017 Operating Budget as approved by the TTC Board on November 21, 2016 and City Council on February 15, 2017. The annual cost of approximately \$180,000 is incorporated in the 2018 TTC Operating Budget which will be considered by the TTC Board on November 28, 2017.

The Chief Financial Officer has reviewed this report and agrees with the financial impact information.

Decision History

In January of 2002, at the request of the TTC and with the approval of the Minister of Community Safety and Correctional Services, the YRPS Board designated employees of the TTC responsible for law enforcement and security as special constables. The purpose of this designation was to provide TTC officers with appropriate authorities to effectively deal with issues that arose from their duties. This agreement was suspended in February of 2012, while the TTC studied the most appropriate model of transit policing and security. Special constable status had been suspended between the TTC and the TPS Board in February of 2011.

As part of the Memorandum of Understanding: Operation and Maintenance of Spadina Subway Extension, executed Dec 15, 2008 between TTC, York Region and the City of Toronto, it was agreed that subject to approval of York Regional Police Service (YRPS), TTC would be responsible for fare enforcement, law enforcement and security of the new stations.

The TTC executed a new Special Constable Agreement with the TPS Board in May of 2014. Within the City of Toronto, TTC Transit Enforcement Officers provide effective law enforcement and security services consistent with the business needs of the TTC in partnership with the TPS and the TPS Board.

On February 21, 2017, the Board approved the 2017 Toronto Transit Commission Position Paper for Special Constable Status in the Regional Municipality of York and forwarded the

document to the YRPS Board for consideration. The purpose of the 2017 position paper was to provide the YRPS Board and the Chief of Police with sufficient information and justification to confer limited powers and authorities under selected federal and provincial legislation to employees of the TTC Transit Enforcement Unit. With the approval of the Ministry of Community Safety and Correctional Services, this would be accomplished by appointing them as Special Constables under section 53 of the *Police Services Act*, R.S.O.

On March 22, 2017, the YRPS Board received the correspondence and referred the correspondence to Regional staff for review and recommendations.

On September 20, 2017, the YRPS Board authorized an agreement with the TTC regarding enforcement activities to be undertaken by TTC special constables with the Region of York.

Issue Background

The TTC has authority to enact by-laws regulating the use of its transit system and has enacted By-law No. 1 – a by-law regulating the use of the TTC local passenger transportation system.

The TTC has established a Transit Enforcement Unit in order to protect the integrity of the transit system, perform security and limited law enforcement functions with respect to TTC properties and assets, and to ensure that the transit system remains a safe and reliable form of transportation.

Since July of 1987 the TTC has employed staff with Provincial Offences Officer status. These officers provide a visible presence, enforce TTC by-laws, and respond to calls for service in order to help preserve the peace, to protect the safety of TTC customers and employees and to protect TTC assets.

Order maintenance, proactive fare enforcement and bylaw enforcement on the transit system are generally not policing matters; rather they are matters of a corporate and public interest, both of which would normally be addressed by the transit authority.

It is in the best interests of the TTC and York Region to respond to and mitigate transit disruptions as quickly and efficiently as possible to ensure public safety is maintained at all times. Special constable authority for Transit Enforcement Officers is beneficial in supporting the TTC's by-law enforcement and limited law enforcement objectives with a view to ensuring safe and efficient transit operations.

In 2015, the TTC set an all-time record of 538 million rides, surpassing its previous all-time total of 535 million set in 2014.

The TTC has the third largest ridership in North America, after Mexico City and New York City – cities with populations greater than eight million people.

In the opinion of TTC Legal and York Regional staff, it is not necessary for the YRPS Board to appoint TTC Transit Enforcement Officers as special constables to enable the officers to exercise the full range of their powers within York Regional boundaries. Section 53 of the *Police Services Act* provides that a police services board may appoint special constables “for

the period, area and purpose that the board considers expedient”. Accordingly, it is within the authority of the TPS Board to confer on TTC special constables the ability to exercise their authorities beyond the boundaries of the City of Toronto.

This position is consistent with the approach taken with respect to YRT special constables operating within the City of Toronto. In 2009, York and Toronto Police Services Boards executed a memorandum of understanding (MOU) to govern the enforcement of the Regions’ transit bylaw within the geographic boundaries of the City of Toronto. It was determined at that time that it was not necessary for the TPS Board to approved the appointments of the York Region Transit special constable appointments. Rather, the YRPS Board amended the appointments to provide for enforcement powers beyond the York Region boundaries.

York Regional staff concurs that the agreement between TTC and the YRPS Board should mirror the existing MOU and provide for operational and administrative protocols. A revised agreement has been developed with concurrence of York Regional Police, TTC and York Regional staff. The key issues in the agreement include: scope of authority, particularly the respective powers of TTC special constables and York Regional Police, the investigation of complaints and reporting requirements.

Accessibility/Equity Matters

As Transit Enforcement Officers have significant public contact and perform both enforcement and customer service roles, equity becomes an important factor. Challenges serving customers in a diverse population and living with a mental illness will arise. The importance of having the skills necessary to ensure all customers are treated equally and with dignity and respect, is crucial.

All front line members of the Transit Enforcement Unit participate in a mandatory five-day mental health awareness training program. This training program covers such topics as Understanding Mental Illness, Psychological First Aid, Crisis Intervention and De-Escalation, Self-Care: Maintaining Health and Well-Being and includes an interactive panel discussion with community members living with a mental illness. Members also participate in instructor led training delivered by the Alzheimer’s Society of Toronto and the City of Toronto Streets to Homes program.

Transit Enforcement Officers participate in holistic simulation based training as part of the curriculum. All front line members of the Transit Enforcement Unit also participate in mandatory e-learning diversity and inclusion training as facilitated by the Ontario Police Video Training Alliance and instructor-led or e-learning training by the TTC Human Rights and Diversity Department. In addition to the aforementioned diversity and inclusion training, all new Transit Enforcement Officer recruits also participate in an extra one-day, interactive, instructor-led diversity course.

As the training program evolves, should equity issues be identified, they will be resolved using a collaborative approach with appropriate stakeholders consulted, best practices identified, and policy and procedural changes made as required.

Recently, the Transit Enforcement Unit has also engaged with our City of Toronto partners at the SPIDER (Specialized Program for Inter-divisional Enhanced Responsiveness) Program. This is a city wide program that provides response to complex and unresolved health and safety risks that involve vulnerable individuals.

Comments

As the first subway line to cross the City of Toronto boundary, the extension will provide a critical extension for the existing subway into York Region. Service on the new extension starts December 17, 2017.

Staff is requesting a new agreement with the YRPS Board to designate Transit Enforcement Officers as special constables with limited powers and authorities under selected federal and provincial statutes to support a more effective partnership with the YRPS in creating a safe and secure transit environment while maintaining an appropriate duty of care to customers using the system.

The limited powers and authorities requested by the TTC from the YRPS Board for Transit Enforcement Officers are similar to those conferred upon TTC Special Constables by the TPS Board. These powers and authorities are also consistent with those afforded to special constables employed by other large transit operators for limited law enforcement, and fare and by-law enforcement functions. The dedicated uniformed presence the TTC's Transit Enforcement Officers provide in partnership with the YRPS and York Region Transit Enforcement serves to enhance public confidence in the safety and security of the transit system.

The Transit Enforcement Unit has established a complaint investigation procedure for the intake and investigation of complaints concerning the conduct of a special constable. All public complaints regarding the conduct of a sworn Transit Enforcement Officer will be subject to investigation by the YRPS. The TTC Unit Complaints Coordinator is responsible for receiving and administering the complaints investigation process.

The TTC is committed to a full range of accountability to the YRPS Board. Powers and authorities conferred upon its Transit Enforcement Officers by the YRPS Board will be exercised to meet the needs and expectations of the TTC and the York Region Transit community having full regard to the agreement between the TTC and the YRPS Board and in compliance with the policies, procedures and core values of the YRPS.

Conclusion

The role of the Transit Enforcement Officer is clear and includes crime prevention, fare and by-law enforcement, limited law enforcement and response to TTC emergencies and security related incidents. The transit system is a very specialized environment with unique needs and circumstances that are not found in other elements of the community.

The goal of any modern rapid transit system is to provide effective and efficient transit services to the public. The focus for the Transit Enforcement Officer is community and customer oriented by providing customer awareness and assistance to transit riders using the system, enhancing public awareness of crime prevention strategies and providing a security related function in matters of public safety, public interest and when the corporate business needs of the TTC require such action.

Limited special constable powers and authorities for the TTC's Transit Enforcement Officers in their proposed form are intended to contribute to an effective partnership with the YRPS and York Region Transit Enforcement to provide a safe, secure, and efficient transit service. Transit Enforcement Officers are trained and supervised to ensure they exercise their authorities granted by the TPS and YRPS Boards both professionally and responsibly in instances when immediate action is favourable to public safety, the public interest, the interests of the YRPS and the TTC's corporate interests.

Contact

Michael Killingsworth
Head-Transit Enforcement (Interim)
Phone: 416-393-7836
Email: michael.killingsworth@ttc.ca

Attachments

Agreement between Toronto Transit Commission and York Police Services Board Re Appointment of Special Constables

THE REGIONAL MUNICIPALITY OF YORK

POLICE SERVICES BOARD

Report of the

REGIONAL SOLICITOR

September 20, 2017

**AGREEMENT WITH TORONTO TRANSIT COMMISSION FOR ENFORCEMENT BY
SPECIAL CONSTABLES ON THE TORONTO-SPADINA SUBWAY**

RECOMMENDATION

It is recommended that the Board authorize an agreement with the Toronto Transit Commission ("TTC") regarding enforcement activities to be undertaken by TTC special constables within the Region of York.

PURPOSE

This report responds to a request from TTC for the Board to appoint TTC transit enforcement officers as special constables with respect to enforcement activities on the Toronto-York Spadina Subway Extension ("TYSSE") and to initiate a new agreement between TTC and the Board. This report

BACKGROUND

At its meeting on March 22, 2017, the Board received correspondence from TTC attaching a report entitled "TTC Special Constable Status in the Regional Municipality of York", together with a position paper on proposed powers and authorities. In the report, TTC requested that the Board consider appointing TTC transit enforcement officers as special constables within the Region for certain enforcement powers and for the Board to initiate a new agreement between the two agencies with respect to special constables. The Board referred the correspondence and the report to Regional staff for review and proposed recommendations.

Staff from the Region's Legal Services Branch reviewed the materials submitted by TTC and engaged in discussions with YRP and TTC legal staff. The recommendations set out in this report reflect those discussions.

SUMMARY

The TYSSE is scheduled to be operational as of December 17, 2017 and will be operated by TTC as an extension of its current service. TTC transit enforcement officers are appointed as special constables by the Toronto Police Services Board and have been conferred a range of powers for law enforcement and security services on the transit system and at TTC facilities. To date, their powers have been limited to the geographic boundaries of the City of Toronto. In anticipation of the expansion of the subway system into York Region, TTC requested that the Board appoint TTC transit enforcement officers as special constables for the purpose of extending their jurisdiction into York Region. TTC staff provided a draft agreement setting out the terms of the proposed appointment and establishing operational protocols.

In the opinion of Regional staff, it is not necessary for the Board to appoint TTC transit officers as special constables to enable the officers to exercise the full range of their powers within Regional boundaries. Section 53 of the *Police Services Act* provides that a police services board may appoint special constables “for the period, area and purpose that the board considers expedient”. Accordingly, it is within the authority of the Toronto Police Services Board to confer on its special constables the ability to exercise their powers beyond the boundaries of the City of Toronto. No additional authority is required from the Board. TTC legal staff concur with this conclusion.

This position is consistent with the approach taken with respect to York Region Transit special constables operating within the City of Toronto. In 2009, York and Toronto Police Services Boards executed a memorandum of understanding (“MOU”) to govern the enforcement of the Region’s transit bylaw within the geographic boundaries of the City of Toronto. It was determined at that time that it was not necessary for Toronto’s Board to approve the appointment. Rather, the Board amended their appointment to provide for enforcement powers beyond the Region’s boundaries. Accordingly, the MOU set out administrative procedures regarding investigations, complaints and reporting requirements.

TTC staff concur that the agreement between TTC and the Board should mirror the existing MOU and provide for operational and administrative protocols. A revised agreement has been developed with concurrence of YRP, TTC and Regional staff. The key issues in the agreement include: scope of authority, particularly the respective powers of TTC special constables and YRP, the investigation of complaints and reporting requirements.

The powers conferred on TTC special constables by Toronto PSB are broader than those of York Region Transit special constables and include limited police officer designation for specified matters under the *Trespass to Property Act*, *Liquor Licence Act* and *Mental Health Act*, enabling them to address various passenger safety issues. The jurisdiction of the TTC special constables will, however, be limited to TTC property located in the Region, including facilities and vehicles, and other locations as necessary for the purpose of apprehending and transporting persons suspected of unlawful activity.

There are specific provisions governing the respective roles of TTC special constables and YRP in the case of an arrest. Generally, the TTC special constables will conduct investigations according to TTC protocols and procedures. However, where YRP has

responded to an incident, YRP will assume responsibility for directing the appropriate action. In addition, in the case of an arrest where the person is detained in custody, the TTC special constable will be required to transport the person to 4 District and the YRP Officer in Charge will assume carriage of the matter.

Any complaints made with respect to the conduct of a TTC special constable will be investigated by TTC according to TTC procedures and protocols. TTC must provide a copy of its complaints investigation procedure to the York PSB and make it available to the public, including on the TTC website. Furthermore, TTC must advise the YRP Public Transportation Liaison Officer of the result of any investigation. There are also more general reporting requirements. TTC will be required to report daily to the Liaison Officer regarding any arrests and major incidents occurring in the Region. A more comprehensive report must be submitted annually, including details on enforcement activity, training and other matters requested by the Board.

CONCLUSION

In connection with the expansion of the TYSSE into York Region, the Board received a request from TTC to appoint its transit enforcement officers as special constables to enable them to perform their duties within Regional boundaries. Through discussions among TTC, YRP and York Regional staff, it has been determined that this appointment is not necessary. Staff have developed an agreement between TTC and the Board to govern the appropriate operational and administrative procedures and recommend that the agreement be executed by the Board.

Joy L. Hulton
Regional Solicitor

Elizabeth Wilson
Deputy Regional Solicitor,
Municipal & Corporate Law

September 12, 2017

L-17-07

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AGREEMENT

This agreement is made this ____ day of _____, 2017 (the "Agreement")

THE REGIONAL MUNICIPALITY OF YORK POLICE SERVICES BOARD
(the "Board")

-and-

TORONTO TRANSIT COMMISSION
(**"TTC"**)

WITNESSES THAT:

WHEREAS the Board is responsible for the provision of police services and law enforcement in The Regional Municipality of York (the "**Region**") pursuant to the provisions of the *Police Services Act*, R.S.O. 1990, c. P.15, as amended from time to time (the "**PSA**");

AND WHEREAS TTC is a body corporate pursuant to the *City of Toronto Act, 2006*, S.O. 2006, c. 11, Schedule A, as amended from time to time, engaged in the carriage of passengers for hire in and about the City of Toronto (the "**COTA**");

AND WHEREAS TTC has established its own transit enforcement department and employs persons to perform security and law enforcement functions in relation to the property and operations of TTC;

AND WHEREAS TTC has the authority to pass by-laws regulating the use of its passenger transportation system in accordance with section 143 and Part XV of the COTA and has passed TTC By-law No. 1, a by-law regulating the use of its passenger transportation system;

AND WHEREAS pursuant to section 53 of the PSA the Toronto Police Services Board ("**Toronto PSB**") has authority to appoint special constables to act for the period, area and purpose that the Board considers expedient, subject to the approval of the Ministry of the Solicitor General and Correctional Services (the "**Ministry**") or such person designated under the Act to provide such approval;

AND WHEREAS TTC deems it expedient for TTC's transit enforcement officers appointed as special constables to provide the law enforcement and security functions set out herein within the Region;

AND WHEREAS TTC and the Board wish to enter into this Agreement to set out the powers, duties, and responsibilities of these special constables and all ancillary matters thereto.

IN CONSIDERATION of the mutual covenants set forth below, the parties agree as follows:

TERM, AMENDMENTS, AND DESIGNATES

1. This Agreement commences on the date of execution and delivery of this Agreement by the parties and continues for a period of five (5) years and shall automatically renew, on the same terms, or as modified in writing by the parties in accordance with its terms, for successive five (5) year terms unless terminated by either party upon ninety (90) days written notice to the other party.
2. If this Agreement is breached by TTC and such breach is not cured to the satisfaction of the Board within thirty (30) days after written notice of such breach is given by the Board to TTC, the Board may terminate this Agreement.
3. The parties acknowledge and agree that any amendments to this Agreement may be made from time to time with the written consent of the parties and upon notification to the Ministry.
4. For the purposes of the administration of this Agreement, the Board may designate the Chief of Police (the "**Chief**") to perform some or all of the Board's administrative functions under this Agreement, and will notify in writing TTC accordingly.
5. For the purposes of the administration of this Agreement, TTC may designate the Chief Executive Officer of TTC (the "**CEO**") to perform some or all of TTC's administrative functions under this Agreement, and will notify in writing the Board accordingly.
6. Subject to paragraph 4 of this Agreement, the Chief may designate one or more members of the York Regional Police (the "**YRP**") as liaison officer(s) with respect to one or more administrative aspects of this Agreement as specified from time to time, and will notify in writing the CEO accordingly.
7. Subject to paragraph 5 of this Agreement, the CEO shall designate an employee of TTC as TTC's liaison officer with respect to the operational aspects of this Agreement, and will notify in writing the Chief accordingly.

IDENTIFICATION OF SPECIAL CONSTABLES

8. Upon appointment by the Toronto PSB as a special constable, an applicant shall be identified as a "Transit Enforcement Officer".
9. TTC shall ensure that Transit Enforcement Officers refrain from using or displaying any identification issued by or property of the YRP or the Region without the express consent of the Board.

10. Transit Enforcement Officers are prohibited from identifying themselves as police officers or as employees or members of the YRP or the Region.
11. Nothing in this Agreement shall be construed to deem Transit Enforcement Officers to be employees or members of the YRP or the Region.

POWERS, DUTIES, AND RESPONSIBILITIES

12. Subject to the provisions of this Agreement, for the purpose of carrying out his or her powers, duties and responsibilities under this Agreement, the Board acknowledges it expedient that in addition to the powers conferred on a Transit Enforcement Officer for the enforcement of TTC By-law No. 1, a Transit Enforcement Officer shall have the following powers:
 - (i) In relation to an offence under any other act or regulation, the powers and obligations of a peace officer under sections 495 to 497 and subsections 495(3) and 497(3) of *Criminal Code*, R.S.C., 1985, c. C-46, as amended from time to time (the "**Criminal Code**").
 - (ii) The powers of a police officer for the purposes of sections 16 and 17 of the *Mental Health Act*, R.S.O. 1990, c. M.7, as amended from time to time.
 - (iii) The powers of a police officer for the purposes of subsections 31(5), 36(1), 47(1), 47(1.1) and 48 of the *Liquor Licence Act*, R.S.O. 1990, c. L.19, as amended from time to time.
 - (iv) The powers of a police officer for the purposes of sections 9 and 10 of the *Trespass to Property Act*, R.S.O. 1990, c. T.21, as amended from time to time.
 - (v) The powers of a police officer for the purposes of subsections 134(1), 134.1(1), 134.1(2), 134.1(3) and 134.1(4) of the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended from time to time (the "**HTA**").
 - (vi) Status of a provincial offences officer for the purposes of Part II of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended from time to time (the "**POA**").
13. In the event of a call for police or security assistance by an employee, lessee, or passenger of TTC through TTC's Transit Control to the department of the Transit Enforcement Officers, or in the event of the discovery by, or reporting to, the department of the Transit Enforcement Officers of an occurrence requiring police or security assistance and/or action at a location within the Region and under TTC's geographic jurisdiction, as set out in paragraph 16, Transit Enforcement Officers shall respond as follows:

- (i) If at least one or member of the YRP has responded to the call, the attending Transit Enforcement Officers shall inform the highest-ranking attending YRP member of the situation and follow the instructions of the YRP member regarding investigation or action;
 - (ii) If no member of the YRP responds to the call and,
 - (A) if the occurrence is a dual procedure offence or an indictable offence, both as defined in the Criminal Code,
 - (1) if an arrest is made by the Transit Enforcement Officers, and the person under arrest is not released at the scene, the attending Transit Enforcement Officers shall transport the person in custody to YRP 4 District, located at 2700 Rutherford Road, in the City of Vaughan and shall thereafter follow the instructions of the Officer in Charge or his or her designate, regarding further action; or
 - (2) if no further action is taken by the Transit Enforcement Officers, the attending Transit Enforcement Officers shall note and report the call in accordance with the reporting provisions of this Agreement; or
 - (B) if the occurrence is not a dual procedure offence or an indictable offence both as defined in the Criminal Code, the attending Transit Enforcement Officers shall proceed with the investigation of the call in accordance with TTC's policies, standards, and procedures and in accordance with their powers, duties and responsibilities as set out in this Agreement.
14. In carrying out their powers, duties and responsibilities under this Agreement, Transit Enforcement Officers shall follow the enforcement procedures agreed to from time to time between TTC and the Board.

LIMITATIONS

15. Transit Enforcement Officers are specifically prohibited from the following:
- (a) Carrying firearms.
 - (b) Taking part in any vehicle pursuits.
 - (c) Using or carrying any use of force equipment (as defined in paragraph 17) not authorized under paragraph 17.
16. The geographic jurisdiction of the Transit Enforcement Officers is restricted to the following:
- (i) Any TTC property which includes any land, facility, structure, station and vehicle owned, leased, occupied, or maintained by TTC.

- (ii) Any place in the Region provided the Transit Enforcement Officer has legal authority to make an arrest and the suspect of the arrest has made fresh departure from TTC property and where not taking action may result in the following:
 - A. Compromise of public safety.
 - B. The possible loss of the immediate opportunity for police to further investigate a suspect.
 - C. Undue disruption of its transportation system.
 - D. Compromise of public order of its transportation system.
- (iii) Any place in the Region for the purpose of transporting persons detained in custody to a police facility, medical facility, or as otherwise directed by the YRP Officer In Charge.
- (iv) Any place in the Region for the purpose of exercising powers, duties and authorities as granted by the Board under the HTA or Part II of the POA.

USE OF FORCE EQUIPMENT AND VEHICLES

- 17. In this Agreement, “**use of force equipment**” and “**vehicles**” means the use of force equipment and vehicles listed in the attached Appendix “A”, as of the date of this Agreement approved by the TTC, for use by Transit Enforcement Officers in the performance of their powers, duties and responsibilities.
- 18. TTC shall, at its expense, issue all use of force equipment to Transit Enforcement Officers.

EXCHANGE OF INFORMATION AND DATA SHARING

- 19. All service policies, standards and procedures applicable to the powers, duties and responsibilities of the Transit Enforcement Officers, including any directives or policies of the Toronto PSB or TTC governing special constables, in effect as of the date of this Agreement, shall be forwarded to the Board upon execution and delivery of this Agreement by the parties.
- 20. Prior to any amendment or modification to any policy, standard, or procedure as referenced in paragraph 19 applicable the Transit Enforcement Officers, TTC agrees to consult with the Board.
- 21. TTC shall provide to the Board TTC’s current enforcement policies, standards and procedures within thirty (30) days of the date of execution and delivery of this Agreement by the parties.

22. TTC shall consult with the Board prior to changing its enforcement policies, standards or procedures and shall forward copies of any such change to the Board upon its enactment by TTC.
23. Subject to the discretion of the Board upon the request by YRP, for the sole purpose of carrying out their powers, duties and responsibilities under this Agreement, YRP may provide the Transit Enforcement Officers with confidential police information and data, including but not limited to CPIC and criminal record information.
24. With respect to the confidential police information and data referenced in paragraph 23, TTC shall ensure that the Transit Enforcement Officers comply with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M56.
25. The Board and TTC acknowledge and agree to the importance of and need for timely and appropriate exchanges of information and data and to inform the other of material matters relevant to this Agreement and the safety and security of TTC's transportation system not otherwise addressed in this Agreement as soon as practicable.

TRANSPORTATION OF PERSONS TO BE DETAINED IN CUSTODY

26. The Transit Enforcement Officers, as required for the sole purpose of carrying out their powers, duties and responsibilities may transport persons arrested or apprehended to police facilities, medical facilities, or as otherwise directed by the Officer In Charge of YRP 4 District.
27. The Transit Enforcement Officers shall transport and process persons to be detained in custody according to TTC's policies, standards and procedures referenced in paragraph 21.

PROPERTY

28. Property seized from persons in custody or as evidence by the Transit Enforcement Officers shall be turned over to the YRP if the person from whom the property and/or evidence was seized is being held in custody by the YRP or the YRP is taking over the investigation of the offence, subject to the direction of the Officer in charge of the YRP investigation.
29. Property seized from persons in custody or as evidence by the Transit Enforcement Officers that is not turned over to the YRP shall be stored, preserved and disposed of according to TTC's policies, standards and procedures referenced in paragraph 21.

REPORTING REQUIREMENTS

30. Every arrest by and every criminal offence investigation conducted by the Transit Enforcement Officers within the Region shall be reported to the YRP as soon as

practicable utilizing the then current reporting process as agreed upon by the Board and TTC.

- 31e Each day, for the immediately previous twenty-four (24) hour period, TTC shall provide to the YRP Public Transportation Liaison Officer a written report detailing all arrests, occurrences and major incidents, as reasonably determined by TTC, involving the Transit Enforcement Officers and occurring within the Region. The written report shall include the badge number of any member of the YRP consulted by or who provided direction to the Transit Enforcement Officers in respect of any arrest, occurrence, or major incident.
32. Each year, TTC shall provide to the Board a written report regarding the enforcement activities of the Transit Enforcement Officers from the immediate previous year, occurring within the Region, including but not limited to information regarding training, supervision, complaints, other information as agreed upon by the parties, and further information as may be requested by the Board from time to time.
33. At any time, the Board may request TTC report to the Board on any aspect of this Agreement, including the operation and administration of the Transit Enforcement Officers.

ACCOUNTABILITY

34. TTC is accountable to the TTC Board for all actions taken in relation to the exercise of the powers, duties and responsibilities granted by this Agreement to the Transit Enforcement Officers and to TTC.
35. TTC shall ensure that the Transit Enforcement Officers comply with the PSA and the regulations thereunder, TTC's policies, standards and procedures, the YRP policies, standards and procedures applicable to the powers, duties and responsibilities of the Transit Enforcement Officers.

INVESTIGATION OF COMPLAINTS

36. TTC shall have a written complaint investigation procedure describing the procedure and process respecting the investigation of complaints of the TTC Enforcement Officer program or the conduct of a Transit Enforcement Officer. TTC shall provide the complaints investigation procedure to the YRP and the Board. TTC shall make the complaint investigation procedure available to the public, including through TTC's public website located at www.ttc.ca.
37. Upon the receipt of a complaint respecting the policies of the TTC Transit Enforcement Officer program, the services provided by a Transit Enforcement Officer, or the conduct of a Transit Enforcement Officer, TTC shall immediately investigate the complaint in accordance with applicable TTC protocols and procedures.

38. At any time before, during or after completion of TTC's investigation of a complaint or before the findings on a complaint investigation by TTC respecting a Transit Enforcement Officer, the Board, in its sole discretion, may request the YRP to undertake the investigation of the complaint.
39. A Transit Enforcement Officer shall immediately notify his or her supervisor of the following upon becoming aware of the following:
- (i) The Transit Enforcement Officer is charged with a provincial offence, other than a violation of the HTA, for which no power of arrest is provided.
 - (ii) The Transit Enforcement Officer is suspected of, under investigation for, or charged with, a criminal offence.
40. When a supervisor of a Transit Enforcement Officer is notified of an event described in paragraph 39, the supervisor shall immediately notify the YRP Public Transportation Liaison Officer in accordance with the established process.
41. With respect to any occurrence in the Region, TTC shall provide to the Public Transportation Liaison Officer the results of a complaint investigations carried out by TTC,
- (a) forthwith, if TTC finds misconduct, including a breach of any provision of this Agreement, of the Transit Enforcement Officer; and
 - (b) annually, if TTC finds no misconduct of the Transit Enforcement Officer, together with copies of all investigation documentation, for the Board's review.
42. Subject to any applicable laws, in addition to the finding of misconduct following a complaint TTC shall immediately forward to the Board, for the Board's review and action, any information TTC receives or obtains respecting misconduct or alleged misconduct, including a breach of this Agreement, of a Transit Enforcement Officer.

INSURANCE

43. TTC shall obtain, maintain, pay for and provide insurance coverage taken out with insurance companies licensed to transact business in the Province of Ontario with respect to the obligations under this Agreement as follows:

(a) commercial general liability insurance ("CGL") with limits of not less than five million dollars (\$5,000,000.00) inclusive per occurrence for bodily and personal injury, death and damage to property, including loss of use;

(b) the policy shall name the Regional Municipality of York and the Boards as additional insureds;

(c) evidenc of the insurance coverage shall be provided to the Board on request, in a form acceptable to the Board.

INDEMNITY

44. (a) TTC shall indemnify and save and hold harmless the Board, the Chief, and all members of the YRP from and against all losses, liabilities, damages, expenses and costs which the Board, the Chief or any member of the YRP may incur arising out of, related to or the carrying out of the powers, duties and responsibilities granted to TTC and the Transit Enforcement Officers under this Agreement.

(b) If the Board, the Chief and/or any member of the YRP are, without fault on their part, be made a party to any litigation commenced by or against TTC and/or any Transit Enforcement Officer (except litigation commenced by TTC against the Board), TTC shall,

(ii) protect, indemnify and hold harmless the Board, the Chief and/or the member; and

(iii) pay all costs, expenses and reasonable legal fees that may be incurred by the Board, the Chief and/or the member in enforcing the terms, covenants and conditions of this Agreement, unless a court shall decide otherwise.

GENERAL

45. Time shall be of the essence in this Agreement and of every part thereof except as herein otherwise provided.

46. The headings in this Agreement are inserted for convenience or reference only and in no way define, limit, construe or describe the scope or intent of any part of this Agreement.

47. If any provision of this Agreement is held by a competent authority to be invalid, illegal or unenforceable, for any reason, the remaining provisions of this Agreement and the Appendices shall continue in full force so long as they express the intent of the parties. If the intent of either party cannot be preserved, this Agreement shall be either renegotiated or terminated by the parties.

48. This Agreement, including Appendix "A" and Appendix "B", constitutes the entire agreement between the parties with regard to the matters dealt with in it, and supersedes and replaces all prior representations, negotiations, understandings and agreements, whether oral or written, between the parties with respect to this Agreement.
49. This Agreement shall be construed in accordance with and be governed by the laws of the Province of Ontario and the laws of Canada applicable therein, and the parties agree that any claim, dispute or legal procedure arising out of this or in connection with this Agreement shall be brought solely in the courts of the Province of Ontario located in the City of Toronto.
50. This Agreement may be executed in counterparts and when each party has executed a counterpart each of such counterparts shall be deemed to be an original, and all of such counterparts when taken together shall constitute one and the same agreement. Counterparts may be executed either in original, facsimile or electronic form and the parties shall adopt any signatures received by facsimile or electronic form as original signatures.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF the parties have executed this agreement by their duly authorized officers.

**THE REGIONAL MUNICIPALITY OF
YORK POLICE SERVICES BOARD**

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the corporation.

TORONTO TRANSIT COMMISSION

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have the authority to bind the corporation.
7642394

APPENDIX "A"
Use of Force Equipment and Vehicles

Use of Force Equipment

The following use of force equipment may be issued to a Transit Enforcement Officer following appointment as a special constable and completion of training:

- (a) Expandable baton and holder.
- (b) Handcuffs, handcuff pouch and handcuff key.
- (c) Oleoresin capsicum (OC) spray/foam and holder.

Vehicles

Due to the broad range of powers, duties and responsibilities, a Transit Enforcement Officer may operate patrol vehicles of a standard police make and model. The vehicles are clearly marked/identified with a decal and shall have a high visibility, highly reflective graphics package. All vehicles are equipped with high profile roof mounted emergency lighting equipment package capable of producing intermittent flashes of red and white light in all directions (360 degrees).

Any unidentified/unmarked vehicles (generally utilized by senior Transit Enforcement Officers), although not decaled, shall have a low profile emergency lighting package capable of producing intermittent flashes of red and white light in all directions (360 degrees) sufficient to provide a high level of traffic safety and visibility when activated.

