

<b>TTCPP BYLAW AMENDMENTS</b>
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**Date:** June 16, 2021  
**To:** TTC Board  
**From:** Chief Executive Officer – TTC Pension Plan

## **SUMMARY**

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The TTC Pension Fund Society (TTC Pension Plan/TTCPP) Board of Directors approved changes to the TTCPP Bylaws as follows:

1. To update the base year period used to calculate retiring TTC employees' pension and provide a 1.03% increase to former members currently in receipt of a pension. Based on TTCPP's strong financial position, both base year updates and pensioner cost of living increases have been provided annually since 2011.
2. To remove Bylaw 3.06, which stipulates that the General Counsel of the Commission shall be the solicitor for the TTCPP.

Pursuant to TTCPP Bylaw 3.09, TTC Board sanction is required in order for the Bylaw amendments to be effective. Membership approval of these amendments will be requested at the next Annual General Meeting (AGM) of TTCPP on June 26, 2021.

## **RECOMMENDATION**

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It is recommended that:

1. The TTC Board approve the necessary changes to the TTCPP Bylaws, appended to this report as Attachment 1.

## **FINANCIAL SUMMARY**

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There are no financial implications resulting from the adoption of this report as the Bylaw amendments do not change the existing pension contribution rate. The TTCPP contribution rate of 9.25% up to the Yearly Maximum Pensionable Earnings (YMPE) and 10.85% above the YMPE remains comparable to, or significantly lower than, other Ontario Jointly Sponsored Pension Plans (JSPP).

Members contribute to the TTCPP pension plan based on their earnings and the above-noted contribution rates. Employers match the employees' contribution amounts.

## **DECISION HISTORY**

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Based on TTCPP's strong financial position, both the base year updates and pensioner cost of living increases have been provided annually since 2011. Each year, the external TTCPP Actuary prepares an actuarial valuation and detailed analysis of TTCPP's funded status which is used by the Board of Directors to determine the affordability of granting base year period updates and ad hoc pensioner increases. The granting of these benefits is used to determine pension amounts paid to TTC retirees.

On April 29, 2021, after consideration of long-term pension benefit affordability based on current contribution rates, TTCPP Board of Directors approved a one-year base period update (to include 2020) and 1.03% pensioner increase, which is subject to limits under the Canadian *Income Tax Act*. These approvals are effected by the Bylaw amendments appended to this report as Attachment 1.

On April 29, 2021, removal of Bylaw 3.06, which stipulates that the General Counsel of the Commission shall be the solicitor for the TTCPP, was deemed appropriate by the Board. Removal of this Bylaw is supported by an independent governance best practices review carried out by Governance Solutions Inc. and is also supported by the former General Counsel of the TTC. Importantly, the removal of Bylaw 3.06 will not change current practice. TTCPP current practice is to retain independent counsel best suited to the operational issues at hand, subject to TTCPP Board oversight and limits authorized by the Board in the TTCPP Delegation of Monetary Authority policy.

In accordance with TTCPP Bylaw 3.09, any Bylaw amendments require sanctioning by the TTC Board and approval by the Regular Members at the TTCPP AGM. Administration of these benefit changes will commence after all required approvals are received.

## **BACKGROUND**

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TTC Pension Plan was established through collective bargaining and incorporated on January 3, 1940 to provide retirement benefits for Toronto's transit employees. TTCPP is administered by a Board, consisting of five directors appointed by the TTC and five directors who are ex-officio members of the Amalgamated Transit Commission (ATU) Local 113 executive.

TTCPP is a defined benefit, multi-employer pension plan. It covers substantially all full time employees of the TTC, ATU (the employers) and TTCPP who have completed six months of continuous service. Contributions are made into the Plan by members and matched dollar for dollar by their employer. The Plan is registered with the Financial Services Regulatory Authority of Ontario (FSRA) and is subject to regulation under the Ontario *Pension Benefits Act* and the *Income Tax Act* (registration number 0317586).

As at December 31, 2020, the TTCPP had approximately 15,400 active members and 9,700 pensioners. TTCPP plan design supports equal cost and risk sharing between employees and employers.

In 2020, TTCPP net assets grew to \$8.0 billion, representing an investment return of 10.9% after all fees and expenses, one of the strongest years on record. The strength of 2020's performance is a continuation of consistent long term results. Over the past 10 years, TTCPP earned 8.5%, net of expenses, which has exceeded the benchmark return by 0.6%.

Contributions under the existing rates are sufficient to meet the going concern funding requirements as defined under the Ontario *Pension Benefits Act* and the Canadian *Income Tax Act*. After taking into account this year's plan updates, the funded status of the plan on a going-concern basis will remain at levels comparable to the prior three years at approximately 96%. As confirmed by the Plan's Actuary, Mercer (Canada) Limited, a compliant actuarial valuation as at January 1, 2021, will be filed with Regulators within the prescribed deadlines.

Periodically, TTCPP Board of Directors conducts an independent governance review of best practices. In 2020, the Board conducted a review of governance practices with Governance Solutions Inc.

Governance Solutions Inc. reviewed the continued appropriateness of Bylaw 3.06 which stipulates that the General Counsel of the Commission shall be the solicitor for the TTCPP. The Bylaw was created prior to TTCPP conversion to a Jointly Sponsored Pension Plan (JSPP) in 2011 and has fallen into disuse over time. In Governance Solutions Inc's view, best practice is consistent with TTCPP current practice, which is to retain independent counsel best suited to the operational issues at hand, subject to TTCPP Board oversight and limits authorized by the Board in the TTCPP Delegation of Monetary Authority policy. Given the view of Governance Solutions Inc. and to align the Bylaws with current practice, the Board approved the remove of the Bylaw.

## **COMMENTS**

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TTCPP does not provide automatic annual updates to the best four-year base period used in determining pension benefits, and does not guarantee automatic increases to pensions in payment. Instead, benefit changes are approved only when, and to the degree that, they are deemed actuarially affordable.

Each year TTCPP Actuary prepares detailed analyses of the Plan's funded status which guides the Directors in their decisions regarding indexing of pensions in payment, providing updates to the base period and other plan improvements. This model has allowed the plan to contain costs during unfavourable market conditions by foregoing base period updates and indexing, as was the case during the period between 2008 and 2010.

On April 29, 2021, TTCPP Board of Directors approved the Bylaw amendments, appended to this report as Attachment 1, to effect plan updates. These amendments will not change the current employer/employee contribution rates, which have been in

effect since 2011 and it is worth noting that TTCPP contribution rates are among the lowest of other Ontario JSPPs.

## **CONTACT**

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## **SIGNATURE**

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Sean Hewitt

TTCPP Chief Executive Officer

## **ATTACHMENT**

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Attachment 1 – 2020 TTCPP Bylaw Amendments

## **BYLAW NUMBER 2**

### **DEFINITIONS**

2.01 – Where Used in Any Bylaws of the Society:

(35) “Survivor Benefit Date” shall mean January 1, ~~2020~~2021.

### 3.06 General Counsel

~~The General Counsel of the Commission shall be the solicitor for the Society.~~

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~~All documents to be executed on behalf of the Society shall be drawn and/or approved by the General Counsel or by such other external legal counsel as shall be retained from time to time.~~

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## 6.02 PENSIONABLE EARNINGS

### (1) Average Base Period Earnings

Effective January 1, ~~2020~~2021 for Members retiring on or after January 1, ~~2020~~2021 pursuant to Bylaw 8 and for Regular Members whose death occurs on or after January 1, ~~2020~~2021 for purposes of Bylaw 11, and effective ~~June 24~~April 29, ~~2020~~2021, for Members terminating on or after ~~June 24~~April 29, ~~2020~~2021, for the purposes of calculating the amount of Regular Member's pension for Credited Service accrued to December 31, ~~2019~~2020, Average Base Period Earnings shall be the greater of:

- (a) the average of the highest consecutive four calendar year's Pensionable Earnings prior to ~~2020~~2021 and for this purpose two calendar years will be considered consecutive even if they include a temporary break in service, and
- (b) the average of the highest four calendar year's Pensionable Earnings after December 31, 1985 and prior to ~~2020~~2021.

A Member's Base Period shall mean the four years used for computing his or her Average Base Period Earnings. For a Member who does not have four calendar years of Pensionable Earnings prior to ~~2020~~2021, the Member's Base Period shall be his or her total number of calendar years, including fractional years, of Pensionable Earnings prior to ~~2020~~2021.

The YMPE used in the calculation of pension entitlements for the Base Period pursuant to Bylaw 9.01 and 9.04 shall be the YMPE under the Canada Pension Plan for each of the corresponding calendar years used in determining the Member's Average Base Period Earnings, or if the Member's Pensionable Earnings are less than the YMPE in a corresponding calendar year, the Member's Pensionable Earnings in that year.

## 9.01 NORMAL OR POSTPONED RETIREMENT PENSION

(1) For a Regular Member who retires pursuant to Bylaw 8.01 or 8.02 on or after January 1, ~~2020~~2021 and for a Regular Member whose death occurs on or after January 1, ~~2020~~2021 for purposes of Bylaw 11, the annual amount of pension shall be determined as the sum of:

(a) 1.6% of the Member's Average Base Period Earnings Below YMPE plus 2% of the Average Base Period Earnings Above YMPE,

multiplied by

the number of calendar years in the Member's Base Period divided by the number of years of Credited Service in the Member's Base Period,

multiplied by

the years of Credited Service accrued to December 31, ~~2019~~2020; plus

(b) 1.6% of Pensionable Earnings Below the YMPE plus 2% of Pensionable Earnings above the YMPE for the period of Credited Service after December 31, ~~2019~~2020; plus

(c) 0.4% of the Member's Average Base Period Earnings Below YMPE multiplied by the number of calendar years of Credited Service before 1987 during which the Member:

- (i) was at least age 65 for the entire year; and,
- (ii) did not contribute any amount to the Canada pension Plan during the calendar year.

(2) The total amount of pension payable to any Member under this Subsection shall not be less than the total amount of accrued pension payable to such Member in respect of years of service up to December 31, ~~2019~~2020, determined in accordance with the Bylaws of the Society in effect as at December 31, ~~2019~~2020.



(3) Notwithstanding Bylaw 9.01(1), for each calendar year in which a Member is sick or injured and is credited with Pensionable Earnings pursuant to Bylaw 6.02 but not Contributory Earnings, the level of YMPE for purposes of Bylaw 9.01(1) shall be based on the YMPE in the year such sickness or injury was incurred or, if later, the year in which the Member's Pensionable Earnings ceased to be adjusted for general increases that are granted to all other employees in the Member's job class.

(4) The annual pension of a Member who retires in accordance with Bylaw 8.01(2) and who:

(a) has Credited Service and Continuous Service which are each less than 30 years, and

(b) has age plus Continuous Service which equal less than 80 years shall be multiplied by the early retirement factor applicable to the Member as of his or her pension commencement date shown in the Table of Early Retirement Factors adopted by the Board, and shall be further reduced if necessary so that the total reduction is at least that required under Bylaw 9.02(2).

## 13.02 AD HOC ADJUSTMENTS

- (1) Notwithstanding Bylaw 13.01, and subject to Bylaw 16.13 and Bylaw 13.02(2) and (3), pensions in the course of payment to Associate Members may be increased in accordance with this Bylaw 13.02. Increases approved by the Board shall be set out in Bylaw 13.02(4) and shall specify the effective date, the pensions to which the increase is applicable and the amount of the increase.
- (2) An increase under Bylaw 13.02(1) that applies to a pension which first becomes payable in the year prior to the effective date of the increase shall be the full increase multiplied by the ratio of the number of days for which the pension was payable to the total number of days in the corresponding calendar year.
- (3) Increases under Bylaw 13.02(1) shall be applied equally to pensions in the normal form or optional forms available to Members under Bylaw 10.
- (4) Effective January 1, 2011, pensions in the course of payment shall be increased by 2.0%. The pensions to which the increase is applicable shall be determined in the same manner as provided under Bylaw 13.01.
- (5) Effective January 1, 2012, pensions in the course of payment shall be increased by 1.0%. The pensions to which the increase is applicable shall be determined in the same manner as provided under Bylaw 13.01.
- (6) Effective January 1, 2013, pensions in the course of payment shall be increased by 2.0%. The pensions to which the increase is applicable shall be determined in the same manner as provided under Bylaw 13.01.
- (7) Effective January 1, 2014, pensions in the course of payment shall be increased by 2.0%. The pensions to which the increase is applicable shall be determined in the same manner as provided under Bylaw 13.01.
- (8) Effective January 1, 2015, pensions in the course of payment shall be increased by 2.0%. The pensions to which the increase is applicable shall be determined in the same manner as provided under Bylaw 13.01.
- (9) Effective January 1, 2016, pensions in the course of payment shall be increased by 1.28%. The pensions to which the increase is applicable shall be determined in the same manner as provided under Bylaw 13.01.
- (10) Effective January 1, 2017, pensions in the course of payment shall be increased by 1.35%. The pensions to which the increase is applicable shall be determined in the same manner as provided under Bylaw 13.01.

(11) Effective January 1, 2018, pensions in the course of payment shall be increased by 1.56%. The pensions to which the increase is applicable shall be determined in the same manner as provided under Bylaw 13.01.

(12) Effective January 1, 2019, pensions in the course of payment shall be increased by 2.16%. The pensions to which the increase is applicable shall be determined in the same manner as provided under Bylaw 13.01.

(13) Effective January 1, 2020, pensions in the course of payment shall be increased by 1.96%. The pensions to which the increase is applicable shall be determined in the same manner as provided under Bylaw 13.01.

(14) Effective January 1, 2021, pensions in the course of payment shall be increased by 1.03%. The pensions to which the increase is applicable shall be determined in the same manner as provided under Bylaw 13.01.