

Ministry of Infrastructure

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December 17, 2021

Mr. David Lindsay
Board Chair
Ontario Infrastructure and Lands Corporation (Infrastructure Ontario)
1 Dundas Street West, 20th Floor
Toronto, Ontario
M5G 1Z3

Dear Mr. Lindsay:

First, I would like to thank you and the members of the board for your hard work and dedication. The work that Infrastructure Ontario is doing to deliver public infrastructure projects in Ontario is a key element in making Ontario open for jobs and business.

I also wanted to recognize the efforts of Infrastructure Ontario staff in working collaboratively with our ministry staff on amendments to the Memorandum of Understanding.

I am pleased to approve the enclosed 2021 Memorandum of Understanding between the Ministry of Infrastructure and Infrastructure Ontario. Please note, that in accordance with the Agencies and Appointments Directive, the MOU must be posted on the agency's website within 30 calendar days following the date of approval.

We continue to commit to fostering our partnership which seeks to maximize outcomes for the Province of Ontario and the public.

Sincerely,

A handwritten signature in black ink, appearing to read "Kinga Surma".

The Honourable Kinga Surma
Minister of Infrastructure

Enclosure: 2021 Memorandum of Understanding

- c: Michael Lindsay, President and Chief Executive Officer, Infrastructure Ontario
Chris Giannikos, Deputy Minister, Ministry of Infrastructure
Grant Osborn, Assistant Deputy Minister/Chief Administrative Officer Policy, Research, Agency and Corporate Services Division
Chris Monahan, Director, Agency Policy and Accountability Branch

MEMORANDUM OF UNDERSTANDING

2021

Memorandum of Understanding

Between

The Minister of Infrastructure

and

**The Chair on behalf of the
Ontario Infrastructure and Lands Corporation**

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The parties to this Memorandum of Understanding (MOU) agree to the following:

1. Purpose

- a. The purpose of this MOU is to:
 - i. Establish the accountability relationships between the Minister and the Chair on behalf of the Agency;
 - ii. Clarify the roles and responsibilities of the Minister, the Chair, the Deputy Minister, the CEO, and the Board; and
 - iii. Clarify the operational, administrative, financial, staffing, auditing, and reporting arrangements between the Agency and the Ministry of Infrastructure.
- b. This MOU should be read together with the *Ontario Infrastructure and Lands Corporation Act, 2011*, the *Ministry of Infrastructure Act, 2011*, and all Applicable Government Directives. This MOU does not affect, modify or limit the powers of the Agency as set out under the *Ontario Infrastructure and Lands Corporation Act, 2011*, or interfere with the responsibilities of any of its parties as established by law. In case of a conflict between this MOU and any act or regulation, the act or regulation prevails.
- c. This MOU replaces the memorandum of understanding between the parties dated April 2020.

2. Definitions

In this MOU:

- a. “**AAD**” means the *MBC Agencies and Appointments Directive*, January 2019, as amended from time to time;
- b. “**Agency**” means Ontario Infrastructure and Lands Corporation;
- c. “**Annual Business Plan**” means the annual business plan described in article 13.2 of this MOU;
- d. “**Annual Report**” means the annual report referred to in article 13.3 of this MOU;
- e. “**Applicable Government Directives**” means the Government directives, policies, including operational and ministry policies, standards, protocols and guidelines that apply to the Agency, including those listed in Schedule 2 to this MOU, as may be amended or replaced from time to time;
- f. “**Appointee**” means a member of the Board or the CEO appointed to the Agency by the Lieutenant Governor in Council, but does not mean an individual employed or appointed by the Agency as staff;
- g. “**Board**” means the board of directors of the Agency;

- h. “**BPS Organizations**” means broader public sector organizations;
- i. “**CAO**” means the Chief Administrative Officer of MOI;
- j. “**CEO**” means the Chief Executive Officer of the Agency;
- k. “**Chair**” means the Chair of the Board;
- l. “**Client Ministry**” or “**Client Ministries**” means any ministries or other entities that are users of Government Property under the control of the Minister of Government and Consumer Services;
- m. “**Deputy Minister**” means the Deputy Minister of the Ministry of Infrastructure or its successor ministry;
- n. “**ERESA**” means the Enterprise Real Estate Services Agreement governing the relationship between the Agency and the Ministry of Government and Consumer Services (“MGCS”).
- o. “**FAA**” means the *Financial Administration Act*, R.S.O. 1990, c. F.12, as amended from time to time;
- p. “**FIPPA**” means the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended from time to time;
- q. “**Government**” means government as defined in the MOI Act;
- r. “**Government Property**” means government property as defined in the MOI Act;
- s. “**GREP**” means General Real Estate Portfolio;
- t. “**Letter of Direction**” means the written document provided by the Minister which provides direction to the Agency pursuant to the OILCA;
- u. “**MBC**” means Management Board of Cabinet;
- v. “**MGCS**” means the Ministry of Government and Consumer Services, or its successor.
- w. “**Minister**” means the Minister of Infrastructure that has been assigned the administration of the OILCA under Order in Council 1155/2018, except in respect of the Ontario Infrastructure and Lands Corporation’s powers and responsibilities regarding Government Property, other than subparagraph 2 ii of subsection 4(1);
- x. “**Minister of Finance**” means the Minister of Finance or such other member of the Executive Council who may be assigned powers and duties with respect to finance and revenue under the *Executive Council Act*, R.S.O. 1990, c. E. 25, as amended from time to time;
- y. “**Minister of Government and Consumer Services**” means the Minister of Government and Consumer Services that has been assigned the administration of the OILCA under Order in Council 1152/2018 in respect of the Ontario Infrastructure and Lands Corporation’s

powers and responsibilities regarding Government Property, other than subparagraph 2 ii of subsection 4(1);

- z. “**MOF**” means the Ministry of Finance, or its successor;
- aa. “**MOI**” means the Ministry of Infrastructure, or its successor;
- bb. “**MOI Act**” means the *Ministry of Infrastructure Act, 2011*, S.O. 2011, c. 9, Sched. 27 as amended from time to time;
- cc. “**MOU**” means this Memorandum of Understanding between the Minister and the Chair;
- dd. “**OILCA**” means the *Ontario Infrastructure and Lands Corporation Act, 2011*, S.O. 2011, c. 9, Sched. 32, as amended from time to time;
- ee. “**P3**” means the public private partnership model for delivering infrastructure projects;
- ff. “**Project Sponsor**” means the public sector entity that requests the Agency to provide advice or services for matters and projects that are not Government Property under the control of the Minister of Government and Consumer Services;
- gg. “**PSOA**” means the *Public Service of Ontario Act, 2006*, S.O. 2006, c. 35, Sched. A, as amended from time to time;
- hh. “**Sponsoring Minister**” means the member of the Executive Council assigned responsibility for a Sponsoring Ministry under the *Executive Council Act*, R.S.O. 1990, c. E. 25, as amended from time to time;
- ii. “**Sponsoring Ministry**” or “**Sponsoring Ministries**” means a ministry that requests the Agency to provide advice or services for matters and projects that are not Government Property under the control of the Minister of Government and Consumer Services;
- jj. “**TB/MBC**” means Treasury Board/Management Board of Cabinet;
- kk. “**TBS**” means Treasury Board Secretariat.

3. Agency’s Legal Authority and Mandate

3.1 Legal Authority

- a. The legislative authority and mandate of the Agency is set out in the OILCA.
- b. The Agency is a corporation without share capital.
- c. At all times, and in discharging all of its responsibilities, the Agency shall comply with applicable legislation, any minister’s delegations of authority to the Agency, and Applicable Government Directives.
- d. The Agency’s mandate is set out in subsection 4(1) of the OILCA.

- e. The Agency shall comply with direction as issued by the Minister.
- f. The Minister may grant the Agency broader authority, through Letters of Direction, including annual Letters of Direction, to permit the Agency to engage in such activities consistent with the Agency's objects as the Minister so directs.

4. Roles and Responsibilities related to the Agency's authority to provide advice and services

The following section sets out authorities of the Minister in issuing direction to the Agency to provide advice and services to ministries, public sector organizations (including municipalities) and entities undertaking infrastructure projects in Ontario, and/or entities outside of Ontario. The section also outlines the requirements the Agency is to adhere to prior to providing applicable advice and services.

4.1 AUTHORITY TO ISSUE DIRECTION BETWEEN THE MINISTER OF INFRASTRUCTURE AND THE MINISTER OF GOVERNMENT AND CONSUMER SERVICES

Pursuant to Orders in Council 1152/2018 and 1155/2018, both the Minister and the Minister of Government and Consumer Services have the authority to direct the Agency. The Minister of Government and Consumer Services has the authority to direct the Agency in relation to advice and services related to Government Property under the control of that minister. The Minister has the broad authority to direct the Agency on all other matters related to its objects. For further details relating to issuing direction to the Agency, refer to Schedule 3.

The relationship between the Agency and the Ministry of Government and Consumer Services shall be governed by the Enterprise Real Estate Services Agreement (ERESA), executed by both parties in a timely manner, and address matters in the Minister of Government and Consumer Services' authority including the parties' roles, accountabilities and responsibilities, scope of services, and fees.

4.2 SPECIFIC REQUIREMENTS RELATING TO THE NATURE OF ADVICE AND SERVICES PROVIDED

4.2.1 Realty Services

4.2.1.1 Government Property Administered and Controlled by the Minister of Government and Consumer Services

The Agency:

- a. As the delegate of the Minister of Government and Consumer Services, shall provide real estate services to the Minister of Government and Consumer Services and other Client Ministries pursuant to the pending ERESA, which clarifies the roles, responsibilities, relationships, mutual expectations and accountability mechanisms between MGCS and the Agency;
- b. Shall be responsible for the financial management of GREP, subject to legislation, any

delegation of authority from the Minister of Government and Consumer Services to the Agency and any direction issued by the Minister of Government and Consumer Services, and

- c. Shall carry out its activities related to realty services in a manner consistent with best practices and standards of the real estate industry and comparable public/private entities. The services provided by the Agency to the Ministry of Government and Consumer Services shall specifically include the provision of expert real estate advice and services in a professional, accurate, consistent and timely manner.

4.2.1.2 Corporate Realty Services (Government Property not Administered and Controlled by the Minister of Government and Consumer Services)

The Agency:

- a. May provide realty services related to Government Property not under the control of the Minister of Government and Consumer Services, if provided with a Letter of Direction.
- b. May provide realty services to BPS Organizations prescribed under the OILCA, if provided with a Letter of Direction.
- c. Shall carry out its activities related to realty services in a manner consistent with best practices and standards of the real estate industry and comparable public/private entities. The services provided by the Agency shall specifically include the provision of expert real estate advice and services in a professional, accurate, consistent and timely manner.

4.2.2 Land and Development Projects

The Agency:

- a. Shall provide financial, strategic or other advice and services, including project scoping, feasibility analyses, advisor procurement, transaction structuring and negotiations, open market offerings, stakeholder engagement and management, project management and contract management for Land and Development projects, including Transit Orientated Community Projects, if provided with a Letter of Direction.
- b. Shall ensure that Land and Development projects are aligned with the Government's overall priorities and identify the implications and resource requirements to MOI if these advice and services affect the Agency's ability to deliver on services as directed, or delegated, by Government.
- c. Shall carry out its activities related to Land and Development projects in a professional, accurate, consistent and timely manner.

4.2.3 Infrastructure Delivery

If provided with a Letter of Direction, the Agency shall provide advice and services, including project scoping, procurement, project management and contract management related to infrastructure projects.

- a. At the request of the Sponsoring Ministries and/or Project Sponsors, the Minister agrees to permit the Agency to engage in project planning and capital programming work related to infrastructure projects, if provided with a Letter of Direction.
- b. The Agency will support Sponsoring Ministries with respect to the project planning and reporting, during the Government's annual budget planning process.
- c. The Agency shall endeavor to ensure that infrastructure projects are implemented and delivered to specification in a cost-effective and timely manner.

4.2.4 Infrastructure Lending

The Agency shall:

- a. Provide financing to municipalities and to eligible public organizations in accordance with the OILCA, applicable regulation and in accordance with the Agency's Delegation of Authority.
- b. Administer the loan program in accordance with the OILCA, applicable regulations, and any applicable provincial policies for the loan program, while managing the risk of the loan portfolio to minimize fiscal impact to the province.
- c. Conduct the technical and credit review of loan applications in consultation with relevant partner ministries, if applicable.
- d. Manage approved loans and in the event of executing a notice of payment default and realizing on security, the Agency shall consult with MOI.
- e. Advise MOI on access to loans for eligible sectors.
- f. Notify MOI of approved loans that are at risk of default and on an annual basis inform MOI of the outcome of loan applications.

4.2.5 Commercial Services

- a. The Agency shall share a list of potential commercial services quarterly advising MOI of interactions with relevant Ministries or BPS Organizations for business development opportunities. The Agency shall:
 - i. Ensure the proposed projects are aligned with the Government's overall priorities; and
 - ii. Identify the implications and resource requirements to MOI if the advice and services affect the Agency's ability to deliver on services as directed, or delegated, by Government.

- b. If provided with a Letter of Direction, the Agency shall provide:
 - i. Financial, strategic or other advice and services in respect of projects or project management and contract management for Government assets or, government interest;
 - ii. Advice and services to ministries and other BPS Organizations, when requested by the entity, with the objective to share best practices and support capacity in other public sectors;

When providing advice and services to entities outside of Government, the Agency shall ensure that the advice and services do not impede the Agency's ability to provide the advice and services to Government, and are to be provided in a manner that will not distract from government priorities within Ontario.

- c. Agency to support MOI with the Unsolicited Proposals program. If requested, and as set out in the existing Letter of Direction, the Agency shall provide financial, strategic or other advice and services to ministries as required.
- d. MOI recognizes that there are circumstances where the Agency is required to provide advice and services to Government on an urgent basis, and in such circumstances, the Agency shall notify MOI within a timely manner upon receipt of the urgent request.
- e. For projects where a Letter of Direction is required urgently and where a delay poses a significant material risk to Government, the Minister shall seek to issue said Letter of Direction under compressed timelines, where possible.

4.2.6 Services Outside Ontario

- a. The Minister shall develop a protocol for the Agency's advice and services outside of Ontario to outline roles and responsibilities, procedures and risk management measures. Such protocol shall be approved by the Deputy Minister and CEO, and adhered to by both parties.
- b. A Letter of Direction may be issued after the Agency provides a business case to the Deputy Minister from the CEO, providing details as defined in the protocol for the Agency's advisory services outside of Ontario.
- c. The Agency shall provide advice and/or services to non-Ontario entities in accordance with the OILCA and the process, standards, and directions provided by the Minister.
- d. The Agency shall provide annual reports to the Minister, related to work provided to non-Ontario entities, which include detailed project updates, financial summary, performance measures and any other information that the Minister so directs.
- e. The Agency is prohibited from participating in formalized procurements in jurisdictions outside of Ontario.

- f. The Agency will not engage in any substantive sales and marketing program to pursue business outside of Ontario.
- g. The Agency is required to carry appropriate levels of liability insurance to manage risks associated with work undertaken in jurisdictions outside of Ontario.

4.2.7 Services to the Ministry of Infrastructure

- a. If provided with a Letter of Direction, the Agency shall provide advice and services to MOI on a full cost recovery basis for material advice and services which are to be stated in a Statement of Work (SOW), if applicable, as further outlined below.
- b. For material advice and services equal to or greater than \$25,000, MOI and the Agency shall agree to a SOW. The SOW is to include a project budget (with a detailed breakdown of costs), scope of the material work, timelines for anticipated completion, and services to be rendered, as well as any additional anticipated costs, expenses and liabilities relating to such advice and services, prior to the Agency commencing work on the project.
- c. The Agency will confirm with MOI that the Agency has the capacity and ability to provide the services as stated in the SOW.
- d. Upon receipt of a Letter of Direction, the Agency shall carry out the advice and services as directed by the Minister, in a timely manner.

5. Agency Type and Public Body Status

- a. The Agency is designated as a board-governed agency under the AAD.
- b. The Agency is prescribed as a public body under O. Reg. 146/10 under the PSOA. It is not organizationally part of MOI, but it is considered to be within the Government of Ontario.

6. Corporate Status and Crown Agency Status

- a. As set out in section 3 of the OILCA, the Agency is, for all its purposes, a Crown agent, except as follows:
 - i. The Agency may declare in writing in an agreement, security or instrument that it is not acting as a Crown agent for the purposes of the agreement, security or instrument.
 - ii. If the Agency makes a declaration set out in section 6(a)(i) of this MOU, the Agency shall be deemed not to be a Crown agent for the purposes of the agreement, security or instrument and the Crown is not liable for any liability or obligation of the Agency under the agreement, security or instrument.

- b. When the Minister directs the Agency to act as a non-Crown agent in the provision of specified advice or services, the Agency has the capacity, rights, powers and privileges of a natural person for carrying out its objects, subject to the limitations placed upon it under the OILCA.

7. Guiding Principles

The parties agree to the following principles:

- a. The Minister represents the interests of the people of Ontario and may set out public interest expectations for the Agency.
- b. The Minister recognizes that the Agency exercises powers and performs duties in accordance with its legal mandate under the OILCA and other applicable legislation, any minister's delegations of authority to the Agency, and Applicable Government Directives. The Minister further recognizes that the Agency performs work, when permitted to do so,
 - i. on a full cost recovery basis by business line for advice and services within Ontario; and
 - ii. on a revenue generation basis for advice and services rendered outside of Ontario.
- c. The Minister plays a meaningful role in the development of the policies and programs of the Government and the Minister recognizes that the Agency plays a meaningful role in the implementation of the Government of Ontario's policies and programs. The Minister further recognizes the Agency may act independently, within the authority granted, and in accordance with accepted business and financial practices when implementing the Government of Ontario's policy and programs.
- d. The Chair, for and on behalf of the Board, acknowledges that it is accountable, through the Minister, to the Legislative Assembly in exercising its mandate. Accountability is a fundamental principle to be observed in the management, administration and operations of the Agency. The Chair, for and on behalf of the Board, acknowledges that it is accountable to the Minister for governance and oversight of the Agency.
- e. As an agency of the Government of Ontario, the Agency conducts itself according to the management principles of the Government of Ontario. These principles include ethical behaviour; prudent, effective and lawful use of public resources and ensuring good value for taxpayers, fairness, transparency and effective controllership; fairness; high quality service to the public; and openness and transparency to the extent allowed under the law.
- f. The Minister and the Board, through the Chair, are committed to an Agency that is accountable for fulfilling its statutory mandate efficiently and effectively. They share the goal of establishing and maintaining a co-operative relationship that facilitates the efficient administration of the Agency and fulfillment of its statutory responsibilities.
- g. As a part of government, however, not organizationally part of MOI, the Agency has operational flexibility in its day to day functions.

- h. The Agency and MOI agree to work to avoid duplication of services wherever possible.
- i. The Agency and MOI shall work together in a mutually respectful manner.
- j. The Agency shall ensure regular reporting and communications are provided to the MOI on the timelines set by this MOU and as contemplated by this MOU, and in accordance with the Communications Protocol between the Agency and MOI.
- k. It is acknowledged and understood by both parties that nothing in this MOU shall be construed as limiting the Minister's discretionary authority under the OILCA and that in accordance with this authority, the Minister may amend, limit, revoke or rescind any Letter of Direction to the Agency and/or issue additional Letters of Direction to the Agency at any time.

8. Accountability Relationships

8.1 MINISTER

The Minister is accountable:

- a. To Cabinet and the Legislative Assembly for the Agency's fulfilment of its mandate and its compliance with Applicable Government Directives, and for reporting to the Legislative Assembly on the Agency's affairs.
- b. For reporting and responding to TB/MBC on the Agency's performance and compliance with Applicable Government Directives.
- c. To Cabinet for the performance of the Agency and its compliance with Applicable Government Directives and broad policy directions.
- d. For receiving and ensuring that the Agency's Annual Report is made available to the public in accordance with legislation and Applicable Government Directives.
- e. For approving the Annual Report within 60 days of receipt of the Annual Report from the Agency and tabling the Annual Report, in accordance with legislation and Applicable Government Directives.

8.2 CHAIR

The Chair, acting on behalf of the Board, is accountable:

- a. To the Minister for the Agency's performance in fulfilling its mandate, and for carrying out the roles and responsibilities assigned to the Chair by the OILCA and other applicable legislation, this MOU and Applicable Government Directives.
- b. For reporting to the Minister, as requested, on the Agency's activities.
- c. For ensuring timely communications with the Minister regarding any issue that affects, or can reasonably be expected to affect, the Minister's responsibilities for the Agency.

8.3 BOARD OF DIRECTORS

The Board is accountable, through the Chair, to the Minister for:

- a. the oversight and governance of the Agency;
- b. setting goals, objectives and strategic direction for the Agency within its mandate; and
- c. carrying out the roles and responsibilities assigned to it by the OILCA and other applicable legislation, any minister's delegation of authority to the Agency, this MOU and Applicable Government Directives.

8.4 DEPUTY MINISTER

The Deputy Minister is accountable:

- a. To the Secretary of the Cabinet and the Minister for the performance of MOI in providing administrative and organizational oversight to the Agency and for carrying out the roles and responsibilities assigned by the Minister, the OILCA and other applicable legislation, this MOU and Applicable Government Directives.
- b. To the Minister for overseeing that the Minister's direction, and Government's objectives, more broadly are being carried out by the Agency as prescribed or directed.
- c. For attesting to TB/MBC on the Agency's compliance with Applicable Government Directives.

8.5 CHIEF EXECUTIVE OFFICER

The CEO is accountable:

- a. to the Board for the management and administration of the Agency, the supervision of Agency staff, and carrying out the roles and responsibilities assigned by the Board, the OILCA, this MOU and Applicable Government Directives. The CEO works under the direction of the Chair to implement policy and operational decisions. The CEO reports the Agency's performance results to the Board, through the Chair.
- b. to the Deputy Minister for regular operational updates detailing the status of the Agency's work performed in accordance with the permissive authority granted pursuant to Letters of Direction, the Communications Protocol, and ongoing issues management practices (such as weekly briefings), in an effort to ensure the Minister is apprised of the Agency's activities.

9. Roles and Responsibilities

9.1 MINISTER

The Minister is responsible for:

- a. Reporting and responding to the Legislative Assembly on the affairs of the Agency.

- b. Reporting and responding to TB/MBC on the Agency's performance and compliance with Applicable Government Directives and broad policy directions.
- c. Recommending to TB/MBC, where required, a merger, any change to the mandate, or dissolution of the Agency.
- d. Recommending to TB/MBC the powers to be given to, or revoked from, the Agency when a change to the Agency's mandate is being proposed.
- e. Meeting with the Chair to discuss issues relating to the fulfilment of the Agency's mandate.
- f. Working with the Chair to develop appropriate measures and mechanisms related to the performance of the Agency.
- g. Reviewing the advice or recommendation of the Chair on candidates for appointment or re-appointment to the Board.
- h. Making recommendations to Cabinet and the Lieutenant Governor in Council for (1) appointments and reappointments of the Chair and members of the Board, pursuant to the process for agency appointments established by legislation and/or by MBC through the AAD; and (2) appointments of the CEO, both in accordance with the OILCA.
- i. Determining at any time the need for a review or audit of the Agency, directing the Chair to undertake reviews of the Agency on a periodic basis, and recommending to TB/MBC any change(s) to the governance or administration of the Agency resulting from any such review or audit.
- j. When appropriate or necessary, taking action or directing that the Agency take corrective action with respect to the Agency's administration or operations.
- k. Receiving and approving the Agency's Annual Report, within 60 days of receipt of the Annual Report from the Agency, and tabling it in the Legislative Assembly, in accordance with Applicable Government Directives.
- l. Informing the Chair of the Government's priorities and broad policy directions for the Agency.
- m. Issuing policies under the MOIA and informing the Chair of any policies that impact the Agency.
- n. Consulting, as appropriate, with the Chair (and others) on significant new directions or when the Government is considering and/or implementing regulatory or legislative changes for the Agency which may affect the mandate of the Agency.
- o. Attending meetings of the Board of Directions, if desired.
- p. Developing the Agency's MOU with the Chair, as well as any amendments to it, and signing the MOU into effect after it has been signed by the Chair.

- q. Reviewing and approving the Agency's Annual Business Plan.
- r. Recommending to TB/MBC any provincial funding to be allocated to the Agency.
- s. In accordance with the AAD, issuing an Agency mandate letter at the beginning of the annual business planning cycle. The letter shall outline the high-level expectations, key commitments, and performance priorities for the Agency.
- t. Approving by-laws of the Agency with respect to borrowing, investing, and managing financial risks prior to obtaining approval from the Minister of Finance.
- u. Advocating for the Agency's presence in forums where decisions are made involving IO's delivery of services and securing timely access to the Agency of records that impact IO.
- v. Issuing Letters of Direction to the Agency in a timely manner, including annual Letters of Direction with respect to infrastructure projects and other projects and services, based on the Government of Ontario's multi-year capital plan and/or other policy or fiscal decisions, including the appropriate details for each project. Providing Letters of Direction to the Agency in a timely manner and in an effort to target the following timelines where possible:
 - within six weeks of the date of the Cabinet approval/decision that relates to the project and/or that impacts the Agency;
 - within three months of the release of the provincial budget; and
 - within six weeks of the date of the receipt of a letter of request from a Ministry, Agency, or other entity.

In order to meet the target timelines noted above, MOI and IO to meet regularly and work collaboratively to secure relevant information as required from TBS, other ministries and agencies, and other entities that may request IO advice and services, including TB/MBC direction where applicable to:

- determine if a LOD is required, or would enhance transparency with respect to formal project records;
 - ensure that an appropriate timeframe for completing LODs is determined, taking into account timelines associated with government direction (and access to appropriate documentation), or when relevant, receipt of a letter of request from a ministry, agency, or other entity, as well as confirmation that IO has capacity to accept and undertake the work; prepare and finalize LODs, incorporating prompt feedback from IO and partner ministries;
 - review the status of in-process and anticipated Letters of Direction, including if the Minister chooses not to issue a Letter of Direction; and
 - for projects where Ministerial direction is required urgently and where a delay poses a significant material risk to Government, including potential impact on procurement and other project delivery milestones, the Minister shall seek to issue direction under compressed timelines, where possible.
- w. Liaising as necessary with Sponsoring Ministries and/or Project Sponsor with respect to infrastructure, commercial and other project contracts, and for seeking approvals to commit infrastructure, commercial and other project funds where necessary.

- x. Working with Sponsoring Ministries, and/or Project Sponsors to address outstanding issues relating to the Agency's advice and services, as necessary.
- y. Issuing policies and directives in writing to the Agency from time to time, regarding matters relating to the Agency's exercise of its powers and duties, pursuant to subsection 15(1) of the OILCA.
- z. Delegating, where appropriate, to the Deputy Minister any of the responsibilities of the Minister in this MOU, and advising the Agency of any such delegation.

9.2 CHAIR

The Chair is responsible for supporting the Board in:

- a. Providing leadership to the Agency by working with the Board to set the goals, corporate objectives and strategic directions within its mandate.
- b. Presenting the Agency's Strategic Plan to the Minister following Board approval.
- c. Providing leadership to the Agency's Board and ensuring that the Board carries out its responsibilities for decisions regarding the Agency.
- d. Chairing Board meetings, including the management of the Board's agenda.
- e. Providing the Minister and Deputy Minister with notice of a Board meeting two weeks prior to the meeting; and providing the Minister and Deputy Minister with the agenda and any meeting materials, which includes draft minutes, prior to the Board meeting
- f. Reviewing and approving claims for per diems and travel expenses for Appointees to the Board in accordance with the *Travel, Meal and Hospitality Expenses Directive*.
- g. Seeking strategic policy direction for the Agency from the Minister.
- h. Ensuring timely communications with the Minister regarding any issues or events that may concern, or can reasonably be expected to concern, the Minister in the exercise of their responsibilities relating to the Agency.
- i. Advising the Minister annually on any outstanding audit recommendations per direction of the Board.
- j. Consulting with the Minister in advance regarding any activity which may have an impact on the Government of Ontario's and MOI's policies, directives or procedures, or on the Agency's mandate, powers or responsibilities, as set out in the OILCA.
- k. Reporting to the Minister as requested on the Agency's activities within agreed upon timelines, including an annual letter confirming the Agency's compliance with all applicable legislation, and Applicable Government Directives, including accounting and financial policies.
- l. Ensuring that the Agency operates within its approved budget allocation in fulfilling its mandate, and that public funds are used for the purpose intended with integrity and

honesty.

- m. Developing the Agency's MOU with the Minister and signing it on behalf of the Board.
- n. Submitting the Agency's budget, Annual Report and financial reports, on behalf of the Board, to the Minister, in accordance with the timelines specified in Applicable Government Directives and this MOU.
- o. Submitting the Agency's Annual Business Plan, on behalf of the Board, to the Minister, in accordance with the timelines specified in this MOU.
- p. Ensuring that Appointees to the Board are informed of their responsibilities under the PSOA with regard to the rules of ethical conduct, including the political activity rules set out under Part V.
- q. Ensuring appropriate management systems are in place (financial, information technology, human resources) for the effective administration of the Agency.
- r. Carrying out effective public communications and relations for the Agency as its chief spokesperson.
- s. Cooperating with any review or audit of the Agency directed by the Minister or TB/MBC.
- t. Keeping the Minister informed of upcoming appointment vacancies and providing recommendations for appointments or re-appointments.
- u. Ensuring compliance with all applicable legislation, any minister's delegations of authority to the Agency, and any Applicable Government Directives.

9.3 BOARD OF DIRECTORS

The Board is responsible for:

- a. Establishing and approving the corporate objectives, and strategic directions for the Agency within its mandate as defined by the OILCA, Applicable Government Directives and this MOU.
- b. Governing the affairs of the Agency within its mandate as set out in the OILCA, its approved Annual Business Plan, as described in section 10.1 of this MOU, Applicable Government Directives and the parameters communicated in writing by the Minister.
- c. Directing the development of, and approving, the Agency's Annual Business Plans for submission to the Minister within the timelines agreed upon with MOI or this MOU.
- d. Directing the preparation of, and approving, the Agency's Annual Reports for tabling in the Legislative Assembly within the timelines established by the AAD.
- e. Making decisions consistent with the Annual Business Plan approved for the Agency and ensuring that the Agency operates within its budget allocation.
- f. Ensuring that the Agency uses public funds with integrity and honesty, and only for the

business of the Agency based on the principle of value for money, and in accordance with this MOU.

- g. Ensuring that the Agency is governed in an effective and efficient manner according to accepted business and financial practices, and in accordance with Applicable Government Directives.
- h. Establishing such board committees or oversight mechanisms as may be required to advise the Board on effective management, governance or accountability procedures for the Agency.
- i. Approving the Agency's MOU, and any amendments to the MOU, in a timely manner, and authorizing the Chair to sign the MOU, or any amendments to the MOU, on behalf of the Agency.
- j. Approving the Agency's reports and reviews that may be requested by the Minister from time to time for submissions to the Minister within agreed upon timelines.
- k. Directing the development of an appropriate risk management framework and a risk management plan and arranging for risk-based reviews and audits of the Agency as needed, to be shared with the Minister and the Deputy Minister following approval by the Board.
- l. Where applicable, ensuring that conflict of interest rules that the Agency is required to follow, as set out in O. Reg. 381/07 under the PSOA are in place for Appointees and employees of the Agency.
- m. Establishing performance measures, baselines, targets and management systems for monitoring and assessing the Agency's performance. This is to be shared with the Minister and the Deputy Minister, with the outcomes reported as part of the Agency's Annual Report following approval by the Board.
- n. Directing corrective action on the functioning or operations of the Agency, if needed.
- o. Cooperating with and sharing any relevant information on any risk-based or periodic review directed by the Minister or TB/MBC.
- p. Consulting, as appropriate, with stakeholders on the Agency's goals, objectives, and strategic directions.
- q. Providing advice to the Government, through the Minister, on issues within or affecting the Agency's mandate and operations.
- r. Setting and reporting on the strategic direction for the Agency according to the Minister's agency mandate letter or equivalent ministerial direction, the Agency's proposed Annual Business Plan, and the Agency's Annual Report.
- s. Evaluating the performance of the CEO based on performance criteria established by the Board and will notify the Minister of any concerns.

- t. Ensuring the CEO has a robust and appropriate performance management system in place to manage the performance of the executive team directly reporting to the CEO.
- u. Establishing by-laws governing the operations of the Agency, subject to the approval of the Minister and the Minister of Finance, if required.
- v. In accordance with subsection 15(2) of OILCA, implementing policies and directives regarding matters relating to the Agency's exercise of the Agency's powers and duties, received pursuant to subsection 15(1) of OILCA.

9.4 DEPUTY MINISTER

The Deputy Minister is responsible for:

- a. Advising and assisting the Minister regarding the Minister's responsibilities for the Agency, including on policy direction, policies and priorities of relevance to the Agency's mandate.
- b. Advising the Minister on the requirements of the AAD, and other Applicable Government Directives that apply to the Agency.
- c. Recommending to the Minister, as may be necessary, the evaluation or review, including a risk-based review, of the Agency or any of its programs, or changes to the management framework or operations of the Agency.
- d. Facilitating regular briefings and consultations between the Chair and the Minister, and between the Ministry staff and Agency staff, as needed.
- e. Attesting to TB/MBC on the Agency's compliance with the mandatory accountability requirements set out in the AAD and other Applicable Government Directives and broad policy directions based on the annual letter of compliance from the Chair to the Minister.
- f. Ensuring that the Ministry and the Agency have the capacity and systems in place for on-going risk-based management, including appropriate oversight of the Agency.
- g. Ensuring that the Agency has an appropriate risk management framework and a risk management plan in place for managing risks that the Agency may encounter in meeting its program or service delivery objectives.
- h. Undertaking timely risk-based reviews of the Agency, or its management or operations, as may be directed by the Minister or TB/MBC.
- i. Establishing a framework for reviewing and assessing the Agency's Annual Business Plan and other reports.
- j. Supporting the Minister in reviewing the performance targets, measures and results of the Agency and providing recommendations to the Minister for areas of improvement.
- k. Working with Sponsoring Ministries and/or Project Sponsors to manage outstanding issues resulting from the Agency's advice and services, including dispute resolution.

- l. Advising the Minister on documents submitted by the Agency to the Minister for review or approval, or both.
- m. Supporting the Minister by drafting and advising on the content of Letters of Direction to be issued to the Agency in a timely manner.
- n. Submitting to the Minister, as part of the annual planning process, a risk assessment and management plan for each risk category.
- o. Undertaking reviews of the Agency as may be directed by the Minister.
- p. Cooperating with any review of the Agency as directed by the Minister or TB/MBC.
- q. Monitoring the Agency on behalf of the Minister while respecting the Agency's authority and independence, while identifying needs for corrective action where warranted, and recommending to the Minister ways of resolving any issues that might arise from time to time.
- r. Negotiating a draft MOU with the CEO, as well as any amendments to the MOU, as directed by the Minister.
- s. Consulting with the Agency's CEO, as needed, on matters of mutual importance including services provided by the Ministry and compliance with Applicable Government Directives.
- t. Meeting with the CEO at least once a month and maintaining regular liaison as needed with the Chair and the CEO to discuss matters of mutual importance.
- u. Informing the Chair and CEO, in writing, of new government directives and any exceptions to, or exemptions in whole or in part from TB/MBC directives, government policies, or Ministry policies.
- v. Coordinating any required approvals from the Minister of Finance or President of TBS.
- w. When required, submitting a report to the Secretary of TB/MB on the wind-down of the Agency, following the disposition of any assets, completion of any outstanding responsibilities by the Agency, and the termination of any appointments.
- x. Ensuring that MOI adheres to the Communications Protocol, and ongoing issues management practices (such as weekly briefings) in an effort to ensure the Minister is apprised of the Agency's activities.

9.5 CHIEF EXECUTIVE OFFICER

The CEO is responsible for:

- a. Managing the day-to-day financial, analytical, and administrative affairs of the Agency in accordance with the mandate of the Agency, Applicable Government Directives, accepted business and financial practices and this MOU.

- b. Advising the Chair on the requirements of and the Agency's compliance with the AAD, as well as other Applicable Government Directives, and Agency by-laws and policies, including annually attesting to the Chair on the Agency's compliance with mandatory requirements.
- c. Applying policies and procedures so that public funds are used with integrity and honesty.
- d. Providing leadership and management to Agency staff, including human and financial resources management, in accordance with the approved Annual Business Plan, accepted business and financial practices and standards, the OILCA, and Applicable Government Directives.
- e. Establishing and applying a financial management framework for the Agency in accordance with applicable Minister of Finance/TB controllership directives, policies and guidelines to support decision-making, and establishing systems to enable the Agency to operate within the approved Annual Business Plan and corporate objectives.
- f. Translating the goals, objectives and strategic directions of the Board into operational plans and activities in accordance with the Agency's approved Annual Business Plan.
- g. Presenting the Agency's strategic plan to the Deputy Minister following Board approval.
- h. Ensuring that the Agency has the oversight capacity and an effective oversight framework in place for monitoring its management and operations.
- i. Keeping the Board, through the Chair, informed with respect to the implementation of policy and the operations of the Agency.
- j. Establishing and applying systems to ensure that the Agency operates within its approved Annual Business Plan.
- k. Advising the Deputy Minister and CAO annually on any outstanding audit recommendations as per the direction of the Board.
- l. Establishing and applying the Agency's risk management framework and risk management plan.
- m. Supporting the Chair in meeting their responsibilities, including compliance with all applicable legislation and Applicable Government Directives.
- n. Providing recommendations to the Chair for the agendas of Board meetings, ensuring that material for Board and Board committee consideration is prepared in a clear and timely manner consistent with any requirements of the Chair, overseeing the preparation of minutes, and supporting the operations of the Board to enable the Board to fulfill its legal and governance obligations and function effectively.
- o. Carrying out in-year monitoring of the operational and financial performance, ensuring that the Agency carries out the initiatives related to its mandate as defined by OILCA and this MOU, meeting the expectations and accomplishing the outcomes outlined in any Letter of Direction, including the requirement to provide regular operational reports to the Deputy

Minister, operating within its approved budget in fulfilling its mandate, and reporting the performance to the Board on a quarterly and annual basis.

- p. Keeping the Deputy Minister and the Chair advised on issues or events that may concern the Minister, the Deputy Minister and the Chair in the exercise of their responsibilities.
- q. Ensuring timely communications with the Deputy Minister regarding any issues or events that may concern, or can reasonably be expected to concern, MOI in the exercise of responsibilities related to the oversight of the Agency, and for urgent and/or emerging issues within one (1) business day of such urgent and/or emerging issues taking place.
- r. Ensuring that the Agency adheres to the Communications Protocol.
- s. Seeking support and advice from the Deputy Minister on Agency management issues.
- t. Ensuring that the responsibilities of the institution are carried out as set out in FIPPA.
- u. Establishing and applying a system for the retention of Agency documents and for making such documents publicly available when appropriate, for complying with FIPPA and the *Archives and Recordkeeping Act, 2006* where applicable.
- v. Undertaking timely risk-based reviews of the Agency's management and operations.
- w. Consulting with the Deputy Minister as needed, on matters of mutual importance, including services provided by MOI, and on Applicable Government Directives.
- x. Cooperating with a periodic review directed by the Minister or TB/MBC.
- y. Fulfilling the role of ethics executive for public servants, other than government Appointees, who work in the Agency. Promoting ethical conduct and ensuring that all employees of the Agency are familiar with the ethical requirements of the PSOA and the regulations and directives made under the PSOA, including in respect of conflict of interest, political activity, and the protected disclosure of wrongdoing.
- z. Keeping the Board informed about operational matters.
- aa. Preparing the Agency's Annual Reports and Annual Business Plans as directed by the Board.
- bb. Negotiating a draft MOU with the Deputy Minister, as well as any amendments to the MOU, as directed by the Chair.
- cc. Preparing financial reports for approval by the Board.
- dd. Preparing, for approval by the Board, a performance review system for staff and implementing the system.

- ee. Attesting to the compliance of the Agency to Applicable Government Directives and supporting the Board to provide the statement of compliance of the Agency.
- ff. Reviewing and approving claims for per diems and travel expenses for Agency employees in accordance with the Travel, Meal and Hospitality Expenses Directive.
- gg. Overseeing the Agency's obligations, which includes overseeing:
 - i. that the Agency's employees uphold and adhere to the principles of openness, transparency and accountability, and provide information to MOI in a professional, accurate, consistent and timely manner;
 - ii. the administration of compensation in a manner consistent with applicable legislation and Applicable Government Directives relating to the Agency's human resources;
 - iii. that the Agency's employees are knowledgeable of and adhere to the Agency's policies and procedures that incorporate all Applicable Government Directives;
 - iv. liaisons with other levels of government, and other persons, who are affected directly or indirectly by decisions of the Agency, and establishing working relationships with other provincial ministries and agencies to ensure a consistent approach to policy interpretation and project implementation;
 - v. the Agency entering into necessary governance documents with Sponsoring Ministries and/or Project Sponsors, and other clients for infrastructure projects, or other projects and services and provide Sponsoring Ministries and other clients with data and information to support fulfilling their reporting requirements under Applicable Government Directives.

10. Ethical Framework

- a. The Appointees are subject to the conflict of interest provisions of the AAD and the ethical conduct provisions of the PSOA and its regulations.
- b. Board members shall not use any information gained as a result of their appointment to or membership on the Board for personal gain or benefit. A member who has reasonable grounds to believe that they have a conflict of interest in a matter before the Board, or a committee of the Board, shall disclose the nature of the conflict to the Chair at the first opportunity and shall refrain from further participation in the consideration of the matter. The Chair shall cause to be recorded in the minutes of the meeting of the Board any declared conflicts of interest.
- c. The Chair, as the Ethics Executive for the Appointees and the CEO as the Ethics Executive for Employees, is responsible for ensuring that Appointees are informed of the ethical rules to which they are subject, including the rules on conflict of interest, political activity and protected disclosure of wrongdoing that apply to the Agency.
- d. For the purposes of the application of the rules in under O.Reg. 381/07 made under the PSOA, the "designated senior positions" for the Agency are those positions with direct

reporting relationships to the CEO, excluding administrative staff.

11. Communications and Issues Management

- a. The parties to this MOU recognize that the timely exchange of information between the Agency and the Ministry is essential for the Minister to meet their responsibilities for Agency oversight and responding to the Legislative Assembly on the affairs of the Agency. The parties also recognize that it is essential for the Chair on behalf of the Board to be kept informed of the Government initiatives and broad policy directions that may affect the Agency's mandate and functions.
 - i. The Agency and the Ministry should develop and/or update from time to time a Communications Protocol, as approved by the Ministry of Infrastructure's Director of Communications and the Agency's Vice President of Communications which outlines roles and responsibilities, process and timelines to address public communication and issues management matters. The Communications Protocol shall be reviewed and amended or affirmed within six months of the execution of this MOU.
 - ii. In addition to the Communications Protocol, the Agency must maintain ongoing information sharing issues management practices (such as weekly briefings), in an effort to ensure the Ministry is apprised of the Agency's activities.
- b. The Minister and the Chair on behalf of the Board, agree on the following communications principles:
 - i. The Minister shall consult with the Chair in a timely manner, as appropriate, on broad government policy initiatives or legislation being considered by the government that may impact on the Agency's mandate or functions, or which otherwise shall have a significant impact on the Agency.
 - ii. The Agency and MOI will engage early and often and share information in a timely matter. The Agency has a responsibility to communicate any contentious issues or matters of provincial interest to MOI.
 - iii. The Agency shall provide informational briefings to the Minister, at the Ministry's request, in coordination with sponsor Ministries as appropriate, for any capital infrastructure projects in which IO is providing support, prior to any submissions to TB/MBC, including for any report back and when seeking any approvals or further direction.
 - iv. The Minister acknowledges there may be certain circumstances where the Agency may need to respond to urgent requests which may render it difficult to notify MOI's Minister's Office and Deputy Minister in advance. In such circumstances, the Agency shall notify the Minister's Office and Deputy Minister within one (1) business day of said activity taking place.

- v. The Agency and MOI shall consult with each other on public communication strategies and publications. They shall keep each other informed of the results of stakeholder and other public consultations and discussions.
 - vi. The Agency will not make public announcements about the work contemplated by written direction nor discuss such work with any media outlets without the consent of the Minister.
 - vii. The Agency supports communications opportunities for the Minister, the Deputy Minister and all other senior government officials. The Minister and the Chair shall meet at least quarterly, or as requested by either party, to discuss issues relating to the fulfillment of the Agency's mandate, management and operations.
- c. The Agency and MOI will work together to maintain a "one window" approach to have a coordinated process that allows for an efficient, transparent and timely communication.
 - d. The Deputy Minister and the CEO shall meet at least monthly, or as requested by either party, to discuss issues relating to the delivery of the Agency's mandate and the efficient operation of the Agency. The Deputy Minister and the CEO shall provide timely information and advice to each other concerning significant matters affecting the Agency's management or operations.
 - e. The Agency and MOI shall formalize current meetings in the form of a stakeholder and strategy forum with the intention of meeting regularly to discuss the Agency's overall activities, including but not limited to, reviewing the Agency's Strategic Plan and business line dashboards, progress against performance measures, updates of programs currently delivered and those projects considered in the pipeline, the status of Letters of Direction, and any matters requiring the Agency's or MOI's attention. Through this stakeholder and strategy forum, the Agency shall notify MOI of any material risks and risk mitigation measures or other issues that should be brought to MOI's attention.

12. Performance Measures

- a. The Agency shall work with MOI to develop detailed performance measures related to the Agency's performance against its mandate, and set baselines, and targets/desired outcomes.
- b. The Agency will share performance measures with MOI prior to approval by the Board.
- c. The Minister may direct the Agency to include new performance measures in the Agency's Strategic Plan and/or Business Plan.
- d. The Agency shall report on the results of its performance using the measures annually to MOI, noting the outcomes achieved, and performance against targets and baselines.
- e. The Agency shall report on its performance against the performance targets as part of the Agency's Annual Report.

13. Reporting Requirements

13.1 FINANCIAL REPORTS

- a. The Chair, on behalf of the Board, shall provide to the Minister audited annual financial statements, with segmented disclosure by business line, and shall include them as part of the Agency's Annual Report. The statements shall be provided in a format that is in accordance with Canadian generally accepted accounting principles for governments as established by the Public Sector Accounting Board of the Chartered Professional Accountants of Canada (Canadian public sector accounting standards). For clarity:
 - i. Financial reports for all advice and services provided outside of Ontario shall be segmented as a separate business line.
- b. The Agency's multi-year forecast will be provided prior to the Province's annual budgeting process containing the information in a specified format and timelines as requested by the Minister or communicated by the Deputy Minister in support of the multi-year planning process. MOI will notify IO of the expected timelines. Forecasts will include the following, at minimum:
 - i. Five (5) years of operating, capital and revenue projections segmented by business line and by projects in addition to the information referenced above.
 - ii. An explanation, to the satisfaction of MOI, about any financial projections that vary significantly from the previous year's report, or impact MOI's financial performance.
- c. The Agency will prepare and present to MOI, quarterly financial reports according to the required report contents and schedule communicated by the Deputy Minister. The Agency will prepare and present to MOI quarterly reports that provide the following:
 - i. Budget, actual expenditures to date, and year-end projections.
 - ii. Management Discussion and Analysis (MD&A) report presented analysis of IO's performance with qualitative and quantitative measures including a discussion of compliance, risks and financial variances explanations.
- d. The Agency shall submit its salary information annually to the Ministry of Finance (MOF) and/or the President of the TB, through MOI, in accordance with the *Public Sector Salary Disclosure Act, 1996*.
- e. The Agency is consolidated on the books of the Province and, as a result, the Agency shall provide to MOI the required Agency financial information for consolidation into the public accounts based on instruction from TBS in a format deemed appropriate by TBS.
- f. The Agency shall provide any additional financial information to MOI upon request.

13.2 BUSINESS PLAN

- a. The Chair shall ensure that the Minister and Deputy Minister is provided annually with the Agency's Annual Business Plan covering a minimum of three years from the current fiscal year, which includes a financial budget and a risk assessment and management plan for each business line, for approval by the Minister. The Annual Business Plan shall be in accordance with the requirements set out in the AAD.
- b. The Chair is responsible for ensuring that the Agency's Annual Business Plan includes a system of performance measures and reporting on the achievement of the objectives set out in the Annual Business Plan.
- c. The Chair shall ensure that the Annual Business Plan includes a risk assessment and risk management plan to assist MOI in developing its risk assessment and risk management plan information in accordance with the requirements of the AAD to assess risks, develop and maintain necessary records, and report to TB/MBC.
- d. The CEO will ensure that the Agency consults with MOI in the business planning process and is provided the opportunity to comment on the relevant reports in advance of submission to the Board for approval.
- e. The Minister shall review the Agency's Annual Business Plan and shall promptly advise the Chair whether or not they concur with the directions proposed by the Agency. The Minister may advise the Chair where and in what manner the Agency's Business Plan varies from Government of Ontario or MOI policy or priorities as may be required, and the Chair, on behalf of the Board, shall revise the Agency's Annual Business Plan accordingly. The Annual Business Plan is only to be considered valid once the Minister has approved the Annual Business Plan in writing.
- f. In addition, TB/MBC may require the Minister to submit the Agency's Annual Business Plan to TB/MBC for review at any time. The Chair, through the CEO, shall ensure that its Minister-approved Annual Business Plan is made available to the public in an accessible format, in both official languages, on the Agency's website within 30 days of the Minister's approval of the Annual Business Plan.

13.3 ANNUAL REPORT

- a. The Chair is responsible for ensuring that the Agency's Annual Report is prepared and submitted to the Minister for approval in accordance with the section 18 of the OILCA. The Annual Report shall be in accordance with the requirements set out in the AAD.
- b. The CEO shall submit a copy of the Annual Report to the Deputy Minister, following submission of the Annual Report to the Minister.
- c. The Minister shall receive and table the Agency's Annual Report in the Legislative Assembly.
- d. The Chair, through the CEO, shall ensure that its Annual Report is publicly posted in an accessible format, in both official languages, on the Agency's website within 30 days of

tabling in the Legislature, in accordance with Applicable Government Directives.

13.4 PROJECT SPECIFIC REPORTS

- a. The Agency shall report to MOI on a regular basis in a manner satisfactory to MOI, with reporting demonstrating whether the Agency is fulfilling its legislative mandate and satisfying any other direction given by the Minister, on the following:
 - i. on the performance of the projects and contracts under its management; and
 - ii. on the status and quality of its infrastructure loans, on a quarterly basis.
- b. The Agency shall provide the Minister and Deputy Minister with project information for infrastructure projects which may include but is not limited to financial reporting requirements and project data details to support MOI and Sponsoring Ministries' annual budget planning process, and quarterly reporting and to support MOI's regular reporting.
- c. The Agency shall provide MOI with quarterly reports or dashboards on each of the business lines overseen by the Minister including the Lending Program, Project Delivery, Corporate Realty services, Land and Development, and Commercial Projects.
- d. The Agency shall provide weekly Transaction Summary and Staging Plan dashboard and quarterly Summary Construction Reports.
- e. The Agency shall provide MOI and/or the Minister, when requested, with materials related to any infrastructure project.
- f. The Agency shall provide MOI with quarterly status updates, prior to reporting to TB/MBC, of all major public infrastructure projects delivered through public-private partnerships.
- g. The Agency shall provide all information as required by any delegation of authority and/or direction.

13.5 OTHER REPORTS

The Chair is responsible on behalf of the Board for:

- a. Ensuring that the reports and documents set out in Schedule 1 to this MOU are submitted for review, and where applicable, approved by the Minister in accordance with the prescribed timelines.
- b. Supplying specific data and other information, at the request of the Minister or Deputy Minister, that may be required from time-to-time for the purposes of MOI's administration.
- c. Ensuring compliance with the French Language Services Act and with Treasury Board/Management Board of Cabinet's Communications in French Directive.

- d. The CEO and the Deputy Minister agree to work to establish a regular reporting schedule to support the operationalization of this MOU.

14. Public Posting Requirements

- a. The Agency, through the Chair on behalf of the Board, shall ensure that the following approved governance documents are posted in an accessible format, in both official languages, on the Agency website within the specified timelines in accordance with Applicable Government Directives:
 - i. Memorandum of Understanding and any associated letter of affirmation – 30 days of signing by both parties.
 - ii. Agency Mandate Letter – at the same time as the associated business plan, and in any event, no later than 180 calendar days prior to the start of the agency’s next fiscal year.
 - iii. Annual Business Plan – 30 days of Minister’s approval.
 - iv. Annual Report – 30 days of Minister’s tabling in the Legislature.
- b. Posted governance documents should not disclose personal information, sensitive employment and labour relations information, solicitor-client privileged information, Cabinet confidential information, trade secrets or scientific information, information that would prejudice the financial or commercial interests of the Agency in the marketplace, and information that would otherwise pose a risk to the security of the facilities and/or operations of the Agency.
- c. The Agency, through the Chair on behalf of the Board, shall ensure that the expense information for Appointees and senior management staff are posted on the Agency or ministry website, in accordance with the requirements of the *Travel, Meal and Hospitality Expenses Directive*.
- d. The Agency, through the Chair on behalf of the Board, shall ensure that any other applicable public posting requirements are met.

15. Administrative Arrangements

15.1 APPLICABLE GOVERNMENT DIRECTIVES

- a. The Chair, on behalf of the Board, is responsible for ensuring that the Agency operates in accordance with all applicable TB/MBC, Public Service Commission and Government directives, as well as applicable ministry financial and administrative policies and procedures. Schedule 2 to this MOU provides a non-exhaustive list of Applicable Government Directives.
- b. MOI shall inform the Agency of amendments or additions to directives, policies and guidelines that apply to the Agency; however, the Agency is responsible for complying with all directives, policies and guidelines to which it is subject.

- c. In addition to complying with the MBC Realty Directive, the Agency shall comply with the Ministry of Government Services' Realty Policy including any appendices to this policy when acquiring space for accommodation and program purposes. MGCS will ensure that the Agency is provided with any updates to this policy.

15.2 ADMINISTRATIVE AND ORGANIZATIONAL SUPPORT SERVICES

Subject to statutory requirements and the Applicable Government Directives, the Agency may establish its own administrative, financial, procurement, human resource and operational policies and guidelines, exercising sound business acumen and operational flexibility. As an agent of the Crown, the Agency shall conduct itself according to the management principles of the Government. These principles include ethical behaviour, accountability, excellence in management, prudent use of public funds and fairness in the marketplace.

15.3 LEGAL SERVICES

The Agency's Legal Services group, as headed by the General Counsel, advises the Agency on matters of law. On a number of legal transactions across different business lines, when required, the Agency uses the legal services of external legal counsel. The Agency and the MOI agree that the Agency has the independent authority to retain external legal counsel and is not subject to the Ministry of the Attorney General's Operating Policy on Acquiring and Using Legal Services.

15.4 CREATION, COLLECTION, MAINTENANCE AND DISPOSITION OF RECORDS

- a. The Chair, on behalf of the Board, is responsible for ensuring that a system is in place for the creation, collection, maintenance, and disposal of records.
- b. The Board, through the Chair, is responsible for ensuring that the Agency complies with all legislation, Applicable Government Directives and policies related to information and records management.
- c. The CEO, the Chair and the Board shall protect the legal, fiscal and other interests of the Agency by implementing reasonable measures to ensure the ongoing viability, integrity, preservation and security of all official records created, commissioned or acquired by the Agency. This includes, but is not limited to, all electronic records, such as emails, information posted on the Agency's website(s), database data sets, and all records stored on personal computers and shared drives.
- d. The Chair, on behalf of the Board, is responsible for ensuring measures are implemented requiring the Agency's employees to create full, accurate and reliable records that document and support significant business transactions, decisions, events, policies, and programs.
- e. The Board through the Chair is responsible for ensuring that the Agency complies with the *Archives and Recordkeeping Act, 2006*.

15.5 INTELLECTUAL PROPERTY

- a. The Chair, on behalf of the Board, is responsible for ensuring that the legal, financial and other interests of the Government of Ontario related to intellectual property are protected in any contract that the Agency may enter into with a third party that involves the creation of intellectual property.

15.6 FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY

- a. The Chair and the Minister acknowledge that the Agency is bound to follow the requirements set out in FIPPA in relation to the collection, retention, security, use, distribution, and disposal of records.
- b. The CEO is the institution head for the purposes of FIPPA.

15.7 SERVICE STANDARDS

- a. The Agency shall develop a process for responding to complaints about the quality of services provided by the Agency, which is to be shared annually with the Minister and Deputy Minister, should there be any changes to the process.
- b. The Agency's Annual Business Plan shall include performance measures and targets for service standards and the Agency's response to complaints.

16. Financial Arrangements

16.1 GENERAL

- a. The Agency shall be responsible for managing its own financial affairs.
- b. For advice and services rendered within Ontario, pursuant to subsection 21(2) of the OILCA the revenues of the Agency must be applied to carry out its objects.
- c. For advice and services rendered outside of Ontario, pursuant to subsection 21.1 of the OILCA, net profits from the provision of the advice and services shall be determined and paid in the Consolidated Revenue Fund ("CRF") at the times and in the manner directed by the Minister.
- d. The Agency may be funded out of the CRF pursuant to an appropriation authorized by the Legislative Assembly as an annual allocation from MOI.
- e. Financial policies and procedures of the Agency must be in accordance with TB/MBC and FAA directives and guidelines and other Applicable Government Directives.
- f. The Agency shall collect revenue, in the form of costs to clients, to address the Agency's costs to provide advice and services related to each of the Agency's business lines other than services outside of Ontario, including the realty program, infrastructure projects, loan program, and other projects. The cost recovery structure for each business line shall reflect the Agency's costs that are attributed to the business line. The fee structure for the

services outside of Ontario shall reflect the Agency's costs that are attributed to the business line, as well as profit.

- g. The Agency is authorized to participate in the Government's Travel Card and P-Card program, and Motor Fleet Services coordinated through Ontario Shared Services.
- h. Before entering into any financial arrangement that could increase the Province's direct or indirect indebtedness or contingent liabilities, the Agency shall work with the Sponsoring Ministry, or MGCS, as applicable, to request that the minister of the Sponsoring Ministry, or MGCS, as applicable, seek approval under section 28 of the FAA from the Minister of Finance or the President of TBS, as appropriate, or delegate.
- i. Recovered costs and revenue received from GREP from third parties, if any, are paid as received to the Consolidated Revenue Fund.

16.2 TREASURY, CREDIT AND CASH MANAGEMENT

The Agency may obtain services from the Ontario Financing Authority for its borrowing program.

16.3 TAXATION STATUS: HARMONIZED SALES TAX (HST)

The Agency receives a rebate of the Harmonized Sales Tax. The Agency should consult MOF publications for any changes in tax treatment or procedures for the Agency.

17. Audit and Review Arrangements

17.1 AUDITS

- a. The Agency is subject to periodic review and value-for-money audit by the Auditor General of Ontario under the *Auditor General Act* or by the Ontario Internal Audit Division of TBS.
- b. The Ontario Internal Audit Division may also carry out an internal audit, if approved to do so by MOI's Audit Committee or by the Corporate Audit and Accountability Committee.
- c. Regardless of any previous or annual external audit, the Minister may direct that the Agency be audited at any time.
- d. The Agency shall provide a summary of audit findings to the CAO or delegate on a quarterly basis and provide a copy of the audit reports, when requested by the Minister. The Agency shall also provide a copy of its response to the audit report and any recommendations therein. The Agency shall advise the CAO or delegate annually on any outstanding audit recommendations.
- e. The Chair, on behalf of the Board, may request an external audit of the financial transactions or management controls of the Agency, at the Agency's expense.
- f. The accounts of the Agency shall be audited annually by an auditor (or auditors) appointed by the Board. Pursuant to subsection 22(1) of the OILCA, the Board shall appoint an auditor

licensed under the *Public Accounting Act, 2004* to audit the accounts and financial transactions of the Agency annually. Audited financial statements shall be included in the Agency's Annual Report.

17.2 OTHER REVIEWS

- a. The Agency is subject to periodic review initiated at the discretion and direction of TB/MBC or the Minister. The review may cover such matters relating to the Agency that are determined by TB/MBC or the Minister, and may include the mandate, powers, governance structure, policies, and/or operations of the Agency.
- b. In requiring a periodic review, the Minister or TB/MBC shall determine the timing and responsibility for conducting the review, the roles of the Chair, the Board, and the Minister, and how any other parties are involved.
- c. A mandate review of the provincial agency shall be conducted at least once every six years. The date of the next review shall be within the 2022-23 fiscal year.
- d. The Minister shall consult the Chair, on behalf of the Board, as appropriate during any such review.
- e. The Chair, the Board and the CEO shall cooperate in any review.
- f. In the event of a review initiated at the direction of the Minister, the Minister shall submit any recommendations for change that are developed from the results of the review regarding the Agency to TB/MBC for consideration.

18. Staffing and Appointments

18.1 STAFFING REQUIREMENTS

- a. The Agency may employ or otherwise engage persons it considers necessary for the proper conduct of business of the Agency.
- b. The Agency employees are employed in accordance with section 20 of the OILCA.

18.2 APPOINTMENTS

- a. The Chair is appointed by the Lieutenant Governor in Council pursuant to subsection 9(4) of the OILCA.
- b. The maximum number of Board directors is thirteen, and the minimum is five, as set out in subsection 9(1) of the OILCA.
- c. The members of the Board of the Agency are appointed by the Lieutenant Governor in Council on the recommendation of the Minister pursuant to subsection 9(1) of the OILCA. The appointments of Board directors, pursuant to subsection 9(2) of the OILCA, are for a term not exceeding three years and for successive terms not exceeding three years each.

18.3 REMUNERATION

- a. Remuneration for Board members is set by the Lieutenant Governor in Council.
- b. As set out in the Order in Council 1696/2005 Board members are each remunerated at a per diem rate of \$500.00 per day and the sum of \$5,000.00 per year.
- c. As set out in the Order in Council 535/2021, the Chair is remunerated at a per diem rate of \$500.00 per day and the sum of \$30,000.00 per year.
- d. Travel expenses of board members must comply with the *Travel, Meal and Hospitality Expenses Directives*. Reasonable expenses shall be reimbursed.

19. Risk Management, Liability Protection and Insurance

19.1 RISK MANAGEMENT

- a. The Chair, on behalf of the Board, is responsible for ensuring that a risk management strategy is developed for the Agency, in accordance with the OPS Risk Management process.
- b. The Agency shall ensure that the risks it faces are dealt with in an appropriate manner and that any substantial risks are reported to the Minister and the Deputy Minister.

19.2 LIABILITY PROTECTION AND INSURANCE

The Agency shall maintain directors' and officers' errors and omissions insurance and any other insurance requirements deemed appropriate by the Board.

20. Effective Date, Duration and Periodic Review of the MOU

- a. This MOU becomes effective on the date it is signed by the Minister as the last party to execute it ("Original Effective Date") and continues in effect until it is revoked or replaced by a subsequent MOU signed by the parties.
- b. A copy of the signed MOU and any successor MOU must be provided to the Secretary of TB/MBC by the Ministry.
- c. Upon a change in the Minister or Chair, both parties must affirm by letter that this MOU shall continue in force without a review (and attach the signed letter to the MOU); or alternatively, they may agree to revise it and sign a new MOU within six months of the change.
- d. A copy of the letter of affirmation, or a new MOU between the Minister and Chair must be provided to the Secretary, TB/MBC within six months of the new party or parties' commencement.
- e. Either the Minister or the Chair, on behalf of the Board, may initiate a review of this MOU by written request to the other.

- f. If either of the parties deems it expedient to amend this MOU, they may do so only in writing. Any amendment shall only be effective after approval by the parties.
- g. A full review and replacement of this MOU shall be conducted immediately in the event of a significant change to the Agency's mandate, powers or governance structure as a result of an amendment to the OILCA.
- h. At a minimum, this MOU shall be reviewed at least once every five years to ensure it is current and consistent with government expectations.

21. Signatures



Agency Chair, for and on behalf of
the Board of Directors
ONTARIO INFRASTRUCTURE
AND LANDS CORPORATION

January 13, 2022

Date



MINISTER OF INFRASTRUCTURE

January 14, 2022

Date

Schedule 1: Summary of Agency Reporting Requirements

REPORT / DOCUMENT	NAMES OF RESPONSIBLE OFFICIALS	DUE DATE
The Agency will prepare estimates of its expenditures for inclusion in MOI's business plan (known as MYP).	CEO or delegate	N/A – varies.
Agency Annual Business Plan <ul style="list-style-type: none"> a. Prepares b. Approves c. Provides to Minister d. Public Posting 	<ul style="list-style-type: none"> a. CEO or delegate b. Board or delegate c. Chair 	Must be submitted to Minister no later than one month before the start of the fiscal year.
Mandate Letter	Minister	Provided to Agency in time to influence Business Plan, no later than 180 calendar days prior to the start of the next fiscal year in both English and French.
Agency Mandate Review	Minister	Required once every six years.
Annual Report <ul style="list-style-type: none"> a. Prepares b. Approves c. Provides to Minister d. Public Posting 	<ul style="list-style-type: none"> a. CFO b. Board c. Chair 	Must be submitted to Minister no later than 120 calendar days after fiscal year-end.
Audit Reports	Board Audit Committee	Quarterly
Audited Financial Statements for the Agency	Board	Annually
Interim Financial Statements for the Agency	Board	Quarterly
Enterprise Risk Management Dashboard	Audit Committee of the Board reviews	Quarterly
Memorandum of Understanding	Chair	Upon a change in Minister or Chair an MOU must be

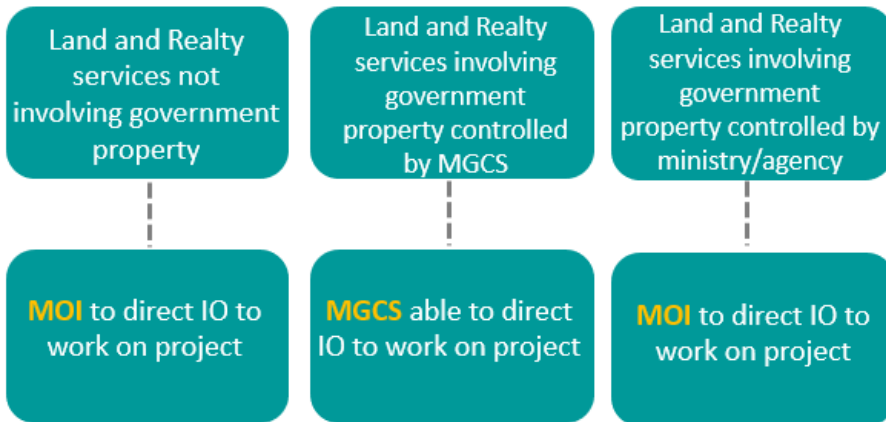
		affirmed or amended by all parties within six months.
Compliance Attestation	Chair/CEO	Chair must send letter to Minister, at a date set by annual instructions, confirming Agency's compliance with legislation, directives, and accounting and financial policies.
Letter of Direction Completion Report	CEO or delegate	Quarterly

Schedule 2: Applicable Government of Ontario Directives

1. The following TB/MBC and government directives, guidelines and policies apply to the Agency:
 - Accountability Directive
 - Advertising Content Directive
 - Agencies & Appointments Directive
 - Cash Management Directive
 - Communications in French Directive
 - Disclosure of Wrongdoing Directive
 - Governance and Management of Information and Data Assets Directive
 - Government Publications Directive
 - Indemnification Directive
 - Internal Audit Directive
 - Major Public Infrastructure Projects: Operational Policy
 - Managing, Distributing and Pricing Government Information Directive
 - Perquisites Directive
 - Procurement Directive, as it applies in part
 - Procurement Directive on Advertising, Public and Media Relations and Creative Communications Services
 - Realty Directive
 - Tangible Capital Assets Policy
 - Travel, Meal and Hospitality Expenses Directive
 - Transfer Payment Accountability Directive
 - Visual Identity Directive
2. The Agency is responsible for complying with all directives, policies and guidelines to which it is subject, irrespective of whether it is included on the list above.
3. MOI shall inform the agency of amendments or additions to directives, policies and guidelines that apply to the agency.

Schedule 3: Issuing Direction to the Agency

Land and Realty Services



Infrastructure Projects

