



Ministry of  
Transportation  
and Infrastructure



## MEMORANDUM OF UNDERSTANDING

BETWEEN

MINISTER OF TRANSPORTATION AND INFRASTRUCTURE

AND

Chair of the PASSENGER TRANSPORTATION BOARD

May 2012

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## 1.0 Introduction

### 1.1 Preamble

The Passenger Transportation Board (the Board), in its adjudicative role, operates at “arms length” from Government. This Memorandum of Understanding (MOU) recognizes the principle that decisions of the Board must be made, and must be seen to be made, independently and impartially.

The principle of independence requires that members of the Board be able to reach decisions in the matters before them based solely upon their merits and the law, in an environment that is free from executive Government or ministry influence and pressure. Independence is supported by the legislated structure of the Board and by institutional arrangements, like this MOU, that address operational issues.

The Board, through the Chair, reports directly to, and is accountable to, the Minister. On appropriate matters, the Minister may designate the Deputy Minister or other Ministry staff to undertake Ministry responsibilities under this MOU. The Chair may designate a Vice Chair, another Member or Board staff to undertake Board responsibilities.

The Board (through the Chair) and the Ministry (through the Minister) are each independently responsible for meeting their respective obligations as outlined in this MOU or as mandated by legislation. Neither party is responsible for the supervision of the other party, other than as specifically outlined in the reporting relationship set out in this MOU.

This MOU sets out arrangements and understandings concluded in good faith between the Minister and the Chair. The responsibilities, accountabilities and expectations set out herein recognize that the Board must be:

1. Provided with the human and financial resources reasonably necessary to carry out its mandate;
2. Given the opportunity to play a meaningful role in advising Government on any policy that affects the Board’s mandate and activities; and
3. Accountable to the Minister for complying with applicable government administrative, financial and personnel management legislation, directives, orders and policies.

### 1.2 Definitions and Acronyms

“Act” means the Passenger Transportation Act (RSBC 1996, C. 39), as amended from time to time;

“Annual Report” means the report that will be submitted annually to the Minister as at fiscal year end (March 31);

“ATA” means the Administrative Tribunals Act (SBC 2004, C. 45), as amended from time to time;

“Board” means the Passenger Transportation Board;

“BRDO” means the Board Resourcing and Development Office;

“Chair” means the chair of the Board;



**"Government"** means the Government of the Province of British Columbia;

**"Member"** means an individual appointed as a member of the Board;

**"Minister"** means the member of the Executive Council assigned responsibility for the Board, currently the Minister of Transportation and Infrastructure;

**"Ministry"** means the Government ministry responsible for the Board, currently the Ministry of Transportation and Infrastructure;

**"MOU"** means this Memorandum of Understanding, entered into between the Minister and the Chair;

**"Parties"** means the Chair and the Minister;

**"Proceeding"** means Board investigations or inquiries, any application made or forwarded to the Board, any hearing conducted by the Board or any appeal heard by the Board;

**"Registrar"** means Registrar of Passenger Transportation and includes the Passenger Transportation Branch.

### **1.3 Effective Date and Duration**

This MOU and any amendments are effective on the date they are signed by the Parties and remain in effect until a replacement MOU is signed between the Minister and the Chair or the Minister and the Chair agree that this MOU is no longer in effect.

### **1.4 Review and Amendment**

The Parties agree to review the terms of the MOU every 5 years, or at any other time upon agreement of both Parties.

Either party may request a review of the MOU upon the appointment of a new Minister or a new Chair or any material change in circumstances that affect the operations of the Board.

Amendments to the MOU will be in writing, dated and signed by the Parties. Once signed, amendments will be attached to, and form part of, this MOU.

### **1.5 Statutory Authority**

The Board is established under section 6 of the Act. It operates under the authority of the Act, the Administrative Tribunals Act, and the Motor Vehicle Transportation Act (1987) Canada.

## **2.0 General Roles and Responsibilities**

The roles and responsibilities set out in this MOU will not be interpreted or exercised in a manner that would impinge, or could reasonably be seen to impinge, upon the Board's impartiality or independence in the exercise of its adjudicative functions.

## **2.1 Minister**

The Minister's general responsibilities in relation to the Board include:

- Reporting to the Legislature and to Cabinet on the affairs of the Board as outlined in the Annual Report;
- Monitoring the Board to ensure that it complies with all applicable legislation, directives, orders, guidelines and policies relating to the Board's accountability measures and management of public resources;
- Providing the Board with the financial resources, human resources and other supports that are reasonably required for the Board to implement and administer its statutory and procedural mandate and achieve its objectives and its performance targets; and
- Meeting personally with the Chair at least annually, or more frequently if needed, to discuss and resolve general issues relating to the management and operations of the Board, including the level of the Ministry's service standards to the Board, Board resources, performance measures, service plans and Board appointments, but not including specific decisions of the Board.

## **2.2 Chair**

The Chair's general responsibilities in relation to the Board include:

- Being accountable to the Minister for the effective management and efficient operation of the Board resources within the annual voted allocation to the Board;
- Ensuring that the Board's procedures and processes are conducted in accordance with the Act and other relevant legislation;
- Ensuring that the Board conducts its proceedings in a manner that is fair to participants and complies with the principles of administrative justice and applicable legislation;
- Reporting to the Minister on the Board's performance results and activities;
- Meeting personally with the Minister at least annually, or more frequently if needed, to discuss and resolve general issues relating to the management and operations of the Board, including Board resources, performance measures, service plans and Board appointments, but not including specific decisions of the Board; and
- As required, attending and making presentations to Cabinet, Cabinet committees and committees of the legislature on matters related to the Board's operations or mandate.

## **3.0 Board Planning, Performance and Budgeting**

### **3.1 Minister**

The Minister's responsibilities include:

- Providing support and advice to the Chair in developing a Strategic Plan that contains the mission, values and strategic objectives and goals for the Board that are consistent with the Board's mandate and with any relevant strategic goals and objectives in the service plan for the Ministry;

- Ensuring that the Chair has implemented a process to monitor and report on the Board's performance and its progress in achieving its objectives and meeting the targets set out in the Strategic Plan; and
- Providing feedback on the Board's Annual Report within 3 months of receipt.

### **3.2 Chair**

The Chair is responsible for:

- Preparing an annual Strategic Plan for the Board , incorporating the goals, objectives, criteria and performance measures established for the Board and submitting the Plan to the Minister ;
- Monitoring the Board's success in achieving its objectives and performance targets;
- If requested by the Minister, preparing and submitting semi-annual reports, with information similar to that contained in the Annual Report, but on a year-to-date basis;
- Ensuring that the Board establishes performance measures for the processing of applications as set out in the MOU;
- Ensuring that the Board cooperates with the Registrar in developing performance targets respecting the processing of applications, including returning application files to the Registrar and notifying the Registrar of the Board's decisions ;
- Providing by October 31 of each year to the Minister an Annual Report that contains a summary of statistical information regarding Board caseloads and processing times for the previous year and highlights of the Board's activities during the previous year;
- Upon approval from the Minister, posting the Annual Report on the Board's website and making it available to the public on request; and
- Developing guidelines and an appropriate process for evaluating the performance of Board staff and Board members.

## **4.0 Board Finance and Administration**

### **4.1 General Administration**

The Ministry will provide or facilitate administrative advice and support to the Board that is reasonably appropriate to the size and nature of the Board's operations. As the individual responsible to the Legislative Assembly for the Board, the Minister is also responsible for the final determination as to what level of advice and support is reasonably appropriate.

The Board must comply with all applicable legislation, as well as directives and orders issued pursuant to that legislation. The Board is also expected to comply with other Government and Ministry policies and procedures related to finance and administration.

#### **4.1.1 Minister**

The Minister is responsible for ensuring that the Ministry:



- Provides or facilitates adequate support to the Board in financial and administrative services;
- Provides the above support to a level that is comparable to the level of support provided to similar-sized organizational units within the Ministry; and
- Ensures that Board staff and Members are able to access training regarding Government financial and administrative policies that are applicable to the Board.

#### **4.1.2 Chair**

The Chair is responsible for:

- Ensuring that the Board's financial and administrative activities comply with the relevant statutes, regulations, policies and procedures set by Government and the Ministry;
- Where it appears that compliance with a policy or procedure may interfere with the Board's decision-making independence or would significantly impact the efficiency of Board operations, working cooperatively with the Ministry to develop solutions that mitigate or eliminate the impact of the policy or procedure, but adhere to the spirit and intent of the policy or procedure; and
- Responding in a timely manner, with accurate information, to reasonable requests by Ministry staff for information related to Board finance and administration activities.

### **4.2 Finance**

The Board's funding is included in the appropriation voted for the Ministry. The Financial Administration Act (FAA) applies to the Board and the Treasury Board policies and directives made pursuant to the FAA.

#### **4.2.1 Minister**

The Minister is responsible for ensuring that the Ministry:

- Provides financial services support and relevant policies and procedures to the Board;
- Ensures that the Chair is consulted regarding any significant changes to the Board's budgetary allocations, especially those regarding staffing levels; and
- Approves the Board's annual budget allocation and advising the Board of the allocation.

#### **4.2.2 Chair**

The Chair is responsible for:

- Ensuring that the Board's financial and administrative activities conform to relevant legislation and government/ministry policies;
- Responding to Ministry budget planning requests in a timely manner; and
- Ensuring that Board expenditures and commitments do not exceed the budget allocation approved for the Board, unless appropriate authorization for an over expenditure has been obtained.



### **4.3 Legal Services**

The Ministry of Justice acts as legal counsel for the Board regarding licensing applications and associated proceedings, but not with regard to specific appeals of administrative penalties imposed by the Registrar. The Ministry of Justice acts as legal counsel for the Registrar regarding enforcement and compliance, including the imposition of administrative penalties. Therefore, to avoid conflicts of interest, the Board may be required to retain a private practitioner to obtain legal advice on appeals. The Board will follow appropriate policies and tariffs with respect to obtaining independent legal counsel.

### **4.4 Board Members**

Board members are appointed in accordance with the Act, the ATA, BRDO requirements and other relevant legislation and government policies.

#### **4.4.1 Minister**

The Minister's responsibilities include:

- When necessary, recommending to the Lieutenant Governor in Council the appointment or reappointment of an individual as the Chair of the Board, in accordance with legislation and the merit-based processes, procedures and criteria set out by the BRDO; and
- Consulting with the Chair regarding the reappointment of Members or Vice Chairs.

#### **4.4.2 Chair**

The Chair is responsible for:

- Determining any additional qualifications desirable for appointment to the Board;
- Making recommendations to the Minister on the appointment or re-appointment of Members based on the outcome of the merit based recruitment process;
- Ensuring Members are provided with the training necessary to enable them to carry out their adjudicative roles and meet their individual performance objectives;
- In consultation with the Board's members, establishing and implementing a process for planning, monitoring and evaluating the members' performance that does not interfere with the Members' ability to exercise independent decision-making; and
- Developing and implementing a Code of Conduct for Members.

### **4.5 Policy, Research and Legislation**

The Minister may provide general policy directives to the Board with respect to the exercise of the Board's powers and duties.

These general policy directives may not interfere with the Board's exercise of its powers and duties with respect to specific applications or appeals that may be before the Board.

#### **4.5.1 Minister**

The Minister's responsibilities include:

- Ensuring the Ministry develops recommendations for the legislation and submits them to Government for consideration; and
- Where appropriate and subject to Cabinet confidences and directions, ensuring that the Chair is advised of, or consulted about, potential legislative or policy changes that may impact the Board's mandate or operations.

#### **4.5.2 Chair**

The Chair is responsible for:

- Informing the Minister about issues involving the Board that may affect a Government or Ministry policy or strategic direction;
- When requested, reviewing and analyzing any proposed Government or Ministry regulatory changes and ensuring that the Board's views are communicated to the Minister in a timely manner; and
- Identifying and communicating to the Ministry any anticipated need for any Ministry support of research, consultation and policy analysis.

### **4.6 Communications and Consultation**

Communication activities include publications, correspondence, stakeholder consultations and media relations. The activities must be carried out efficiently and effectively in a manner that respects the arm's length relationship between the Ministry and the Board. The Chair cannot speak for either the Government or the Minister to whom he or she is accountable. Conversely, in making public statements, the Minister should affirm the Board's adjudicative role and support its decision-making independence.

#### **4.6.1 Minister**

The Minister's responsibilities include:

- Affirming and supporting, in public statements and reports, the Board's role, its impartiality and its adjudicative independence; and
- Restricting his/her public comments about the Board to general matters and the Board's mandate and not commenting on the appropriateness of specific Board decisions or on applications or appeals currently before the Board.

#### **4.6.2 Chair**

The Chair is responsible for:

- Advising the Minister, in advance, of the Board's planned media releases, press conferences, and extraordinary stakeholder consultations, but not including communications activities related to the requirements of the Act, the ordinary business of the Board or the release of a decision of the Board;
- Ensuring the rules, practice directions and decisions of the Board are accessible to the public;
- Implementing processes to facilitate stakeholder consultation appropriate to the organization and composition of the industry;

- Implementing a process for responding to public complaints with respect to the Board's operations or in respect of individual members or staff of the Board;
- Where appropriate, obtaining Ministry or other professional advice regarding the content, format or approach for a planned communications activity or strategy; and
- Acting as public and media spokesperson on behalf of the Board, or designating a person from the Board to act as spokesperson.

## **4.7 Investigations into the Operation and Licensing of Commercial Passenger Vehicles**

The Act enables the Board, at the request of the Minister, to conduct investigations into any matter related to the licensing of commercial passenger vehicles.

### **4.7.1 Minister**

If the Minister requests the Board to conduct an investigation, the Minister will specify, in writing, the scope and terms of reference for any such investigation and ensure that the Board has the resources reasonably necessary to undertake such an investigation.

### **4.7.2 Chair**

If the Minister requests the Board to conduct an investigation, the Board will carry out the investigation and provide a written report pursuant to the terms of reference established by the Minister.

## **4.8 Information Technology and Telecommunications**

### **4.8.1 Minister**

The Minister is responsible for ensuring that the Ministry provides advice, business analysis and support services for the Board's information technology (IT) system and telecommunications requirements.

### **4.8.2 Chair**

The Chair is responsible for complying with applicable Government and Ministry policies and standards related to computer and telecommunications software and hardware.

## **5.0 Board and Registrar Cooperation**

The Board, an independent tribunal, and the Registrar, an employee of the Ministry of Transportation, have distinct functions under the Act.

### **5.1 Minister**

In addition to responsibilities set out in Part 3, the Ministry is responsible for:

- Ensuring that the Registrar conducts investigations, including preparation of reports in a comprehensive manner, as directed by the Board and in accordance with agreed upon timelines;
- Ensuring that the Registrar provides the Board with the information it requests pursuant to an appeal; and



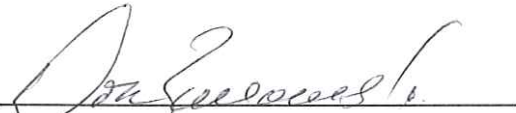
- Ensuring that the Registrar works cooperatively with the Board to evaluate processes and procedures and to streamline operations where possible

## 5.2 Chair

In addition to responsibilities set out in Part 3, the Chair is responsible for:

- Ensuring that the Board's investigation requests are clear and timelines are within agreed upon timelines between the Board and the Registrar;
- Ensuring that the Board conducts appeals in a timely manner and notifies the Registrar of its decision in accordance with agreed upon timelines; and
- Ensuring that the Board works cooperatively with the Registrar to evaluate processes and procedures and to streamline operations where possible.

## 6.0 Signatures



Don Zurowski

Chair, Passenger Transportation Board



November 13, 2012



Honourable Mary Polak

Minister of Transportation and Infrastructure



November 13, 2012