



SUSTAINABLE



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Design, Build, Finance and Maintenance of the Ottawa Light Rail Transit (OLRT) Project

Appendix 2 – Legal Overview

December 5, 2012



Our Mission

Transformation through transportation.

Our Vision

To leverage the power of transportation and community to create a modern, integrated capital city that is environmentally, socially, economically and culturally sustainable and a desirable place for living, working and visiting.

Light rail will shape how we grow our City.

An Official Publication of The City of Ottawa.

Please direct any questions concerning this publication to:



John Jensen
Director, Rail Implementation
Rail Implementation Office
613-580-2424 ext. 12764
john.jensen@ottawa.ca

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1. University of Ottawa Memorandum of Understanding (MOU)

OTTAWA LIGHT RAIL TRANSIT PROJECT

Memorandum of Understanding (the “MOU”) between the University of Ottawa (“University”) and the City of Ottawa (“City”)

OVERVIEW OF STRUCTURE AND CONTENT

The MOU discussed herein has been negotiated with the University of Ottawa but is conditional on approval of the University of Ottawa’s Board of Directors.

The MOU sets out the terms and conditions upon which mutual covenants will be granted by the City and the University. In the MOU, interests in property owned by the University (“**OLRT Property Interests**”) are granted to the City for the purpose of allowing the OLRT Project to proceed. Interests in three groups of properties owned by the City (respectively called herein “**City Lands**”, “**Option Lands**”, and “**Development Lands**” – together the “**Development Property Interests Lands**”) are granted to the University for the purpose of the development of future University facilities and ongoing development.

This document is intended to be a summary of the material terms in the MOU, but does not describe all the terms of the MOU. In the event of any inconsistency between the description of the material terms in this document and those in the MOU, the terms of the MOU will prevail.

Material Term	Description
Conditions Precedent	<p>The MOU is conditional on and will become effective upon fulfillment of the following:</p> <ul style="list-style-type: none"> • The University obtaining all approvals of the terms and conditions of the MOU by the Board of Directors of the University on or before December 31, 2012; and, • The City obtaining all necessary approvals of the terms and conditions of the MOU by the Council of the City on or before December 31, 2012.
University Grant of OLRT Property Interests to the City	
Grant of Temporary Easements	<p>The University shall grant, convey and transfer to the City an exclusive temporary construction easement to enter upon, in, on, over, under, along and across the Temporary Easement Lands (identified in Schedule “A”) at all times for the purpose of the construction of OLRT Project infrastructure, including guide way, stations and other light rail infrastructure (“Work”). The easements shall last for a period of 2.2 years, 2.5 years, 3 years or 5 years, depending on the given parcel of land, mostly all commencing April 15, 2013. The City shall also have the option of extending a given easement term by providing the University with written notice at least 30 days prior to the expiry of the initial term.</p> <p>The City shall have exclusive possession of the Temporary Easement Lands during the respective terms, and have free, uninterrupted and unobstructed access for its servants, agents, workmen, contractors, vehicles, supplies and equipment at all times and for all purposes and things necessary for or incidental to the exercise and enjoyment of the rights transferred in the MOU.</p> <p>The City would indemnify the University for all claims and damage related to or on the Temporary Easement Lands, and would restore those portions of the Temporary Easement Lands which it disturbs prior to the expiry of the easement term(s).</p>
Grant of the Fee Lands and Permanent Easement Lands	<p>The University shall transfer and convey fee simple interests in certain lands (the “Fee Lands”) and permanent easements in certain lands (the “Permanent Easement Lands”) (both identified in Schedule “A”). The transfer shall be completed 60 days after the latter of:</p> <ol style="list-style-type: none"> The day on which the City, at its sole cost, deposits a reference plan establishing the boundaries of the Fee Lands and the Easement Lands; and, The date on which all conditions in favour of the City are waived or satisfied (the “Closing”).

Material Term	Description
	On the date of Closing, the University shall convey the Fee Lands free and clear of encumbrances and all tenancies, and the permanent easements for the Permanent Easement Lands by a good and sufficient transfer and subject to all postponements requested by the City.
City's Closing Conditions for Fee Lands and Temporary Easement Lands	<p>The following shall be conditions of the obligation of the City to accept the conveyance of the Fee Lands and the Permanent Easement Lands:</p> <ul style="list-style-type: none"> • All representations and warranties of the University shall be true and complete as of the date of Closing and the University shall deliver a certificate stating same; • The University shall have delivered to the City all Closing deliveries; • All encumbrances against the Fee Land and Temporary Easement Lands shall be discharged, except permitted encumbrances and encumbrances accepted by the City; and, • The City shall be satisfied with the results of any geotechnical and environmental surveys or investigations ordered conducted at its expense. <p>Failure to satisfy any of the above conditions would allow the City to extend Closing for another 12 months to permit another solution, failing which the parties would enter dispute resolution.</p>
License of Occupation	The University shall grant to the City, for the benefit of the City, its contractors, employees, agents and designees, a License of Occupation (attached in Schedule “E”) in respect of the OLRT Property Interests. The License of Occupation would become effective on April 15, 2013, and shall remain in force and effect until all transfers and conveyances of the OLRT Property Interests from the University to the City are complete in accordance with the MOU.
City Grant of Development Property Interests to the University	
Grant of the Development Lands	<p>The transfer and conveyance of the Development Lands shall occur on the same date as the date of Closing for the Fee Lands and Permanent Easement Lands described above. On Closing, the City shall convey to the University vacant possession of the Development Lands by a good and sufficient transfer, free and clear of all encumbrances and tenancies.</p> <p>The University shall acknowledge that is acquiring the Development Lands on an “as is, where is” basis from the City, without representations or warranties with respect to the Development Lands or their environmental condition.</p> <p>If the Closing is prior to the City’s completion of the OLRT Project, then the City shall not be required to deliver vacant possession and may lease back the Development Lands for a term equal to the period of time that the City requires them in connection with the OLRT Project for nominal rent of \$1.00 per annum.</p>

Material Term	Description
Development Matters	The University may, at its sole option, seek to obtain all development approvals from applicable authorities necessary to permit the construction of the University's intended redevelopment of the Development Lands. The City shall reasonably cooperate with the University in respect of its proposed redevelopment and provide reasonable access to City records in order to assist the University in respect thereof. However, the City is not obligated to incur any costs related to such assistance.
Environmental Assessments related to Leaseback	<p>The City's Phase II Environmental Site Assessment update, to be dated December 7, 2012, shall provide the baseline environmental assessment for the Development Lands and constitute <i>prima facie</i> evidence of the existence of contaminants within, upon or under the Development Lands.</p> <p>The City shall also, at its own expense, cause a Phase II Environmental Site Assessment of the Development Lands to be performed as close as reasonably practicable, but not earlier than 30 days prior to the expiration of the term under the Lease, by an independent consultant to determine the extent of any contamination and establish the estimated cost of restoration. Should any contaminants be revealed, the City would be required to promptly and diligently remove such contamination at its own cost.</p>
Grant of Option to Purchase the Option Lands	
Option to Purchase	<p>The City shall grant to the University irrevocable option to purchase the Option Lands for a term equal to the period of time that the City requires the Development Lands in connection with the OLRT Project, commencing as of the date of the MOU, at a purchase price of \$1.00. However, the University may not exercise its option to purchase the Option Lands until the City no longer requires the Option Lands for its OLRT Project, which is anticipated to be December 31, 2018.</p> <p>The City shall advise the University in writing as soon as the Option Lands are no longer required in connection with the OLRT Project and the University, within 1 year of receiving said confirmation, shall be able to exercise its right to purchase the Option Lands by providing written notice of that intention within the same period. Upon the University exercising its option to purchase the Option Lands, the parties shall be deemed to have entered into an agreement of purchase and sale for Option Lands, at the purchase price of \$1.00. The closing date for the purchase and sale shall be 60 days after the exercise of the option by the University.</p>

Appendix 2 – Legal Overview

Material Term	Description
	If the University fails to exercise its option to purchase the Option Lands within the aforesaid 1 year period, the University's option to purchase shall be at an end. If there are orders or directions relating to environmental matters requiring work, repairs, construction or capital expenditures with respect to the Option Lands, or the City has received notice of remediation measures to protect the health and safety of persons or the environment in respect of the Option Lands, or if the City has taken remediation measures, then the purchase price of the Option Lands shall be the City's cost of such remediation.
Improvement of the Option Lands	<p>As soon as is reasonably practicable after the execution of the MOU and prior to the University exercising its option to purchase the Option Lands, the University would prepare and obtain the necessary planning and approvals from the applicable authorities for the redevelopment of the Option Lands to permit uses which are generally consistent with the provisions of the Transit Oriented Destination Designation zone. The University would also undertake to construct a building or buildings on the Option Lands.</p> <p>If the University fails to complete construction of improvements on the Option Lands in accordance with planning approvals within 5 years of the Closing, the City may repurchase the Option Lands for \$1.00. The City shall have 90 days from the end of the 5-year period to notify the University in writing of its agreement to repurchase the Option Lands, failing which the City's option to repurchase shall be null and void.</p>
Parking Release	The University currently enjoys a perpetual license for parking over Parcel 4 in the MOU, which is among the Option Lands. From closing of the Option Lands, the University shall forever release its perpetual license for parking on that Parcel.
Other Matters	
Compensation	Compensation for all mutual conveyances and rights exchanges by the parties in the MOU shall be set off against each other such that neither party shall have a claim against the other for any additional compensation over and above what is set out in the MOU. Prior to closing, the parties shall agree to deliver an allocation of the compensation and set off in respect thereof, acting reasonably.
Section 30	The University has reserved its rights for injurious affection and disturbance damages under section 30 of the Expropriations Act for: 1) loss of parking; 2) loss of density on main campus lands; and 3) noise/impact claims arising from construction.
Parking Lot K License	<p>Subject to City Council's approval of the appropriate zoning amendments, the City shall provide to the University:</p> <ul style="list-style-type: none"> • Parking rights at the Sandy Hill Arena from April 15, 2013 until August 31, 2013 for some displaced parking spaces in respect of the University's parking lot known as Parking Lot K; and, • Parking rights at an alternate site in accordance with a draft parking plan (Schedule "G") for displaced parking spaces for a term of 5 years, commencing September 1, 2013 and expiring August 12, 2018.



Material Term	Description
	The City shall be responsible, at its sole expense, for the initial construction of the alternate parking lot similar to the standards of a park and ride parking lot in accordance with the draft parking plan. The University shall be responsible, at its sole expense, for the repair and maintenance of the alternate parking lot, but shall not be required to restore the lot at the end of its license term.
<i>Sandy Hill Arena Redevelopment</i>	<p>Acknowledging that the University’s redevelopment plans are in general alignment with its interests and provided that the University would use the National Capital Commission lands for said redevelopment, the City’s Parks, Recreation and Cultural Services Department shall work with the University in achieving its long term development goals related to the redevelopment of lands located around Sandy Hill Arena, including their acquisition from the National Capital Commission, but would not be obligated to incur any cost in doing so.</p> <p>If the University requires a portion of the Sandy Hill arena lands with respect to their redevelopment plans, the City will engage with the University and will use its reasonable efforts in timely fashion consistent with City policies and programs to accommodate such redevelopment plans provided that such portion of the Sandy Hill arena lands does not adversely impact on the City’s current use of these lands.</p>
<i>Density on Fee Lands</i>	The City acknowledges that as a result of acquiring the fee simple interests to the Fee Lands, the Fee Lands shall have a lower development density due to the reduction in the area of lands that can be developed. Provided the appropriate zoning amendments can be obtained by the City, the City shall provide to the University the replacement of the lost density rights in respect of the Fee Lands.
<i>Air Rights</i>	<p>The City may consider granting air rights to the University over Parcel 5 in the MOU should the University submit plans for a proposed facility over that parcel in association with its improvement plans. The grant shall be subject to the City’s policies and practices, in existence at that time, for granting air rights over rapid transit corridors.</p> <p>The City grants a right of first refusal to the University for air rights developments.</p>
<i>Schedules</i>	<p>The following Schedules would be attached to and form an integral part of the MOU:</p> <ul style="list-style-type: none"> • <u>Schedule “A”</u>: University Lands and OLRT Property Interests • <u>Schedule “B”</u>: University Lands Sketches • <u>Schedule “C”</u>: City Lands Legal Description • <u>Schedule “D”</u>: Sketch of City Lands • <u>Schedule “E”</u>: License of Occupation

Appendix 2 – Legal Overview

Material Term	Description
	<ul style="list-style-type: none">• <u>Schedule “1”</u>: Legal Description of Licensed Lands• <u>Schedule “2”</u>: Property Sketches of Licensed Lands• <u>Schedule “F”</u>: Dispute Resolution Procedure• <u>Schedule “G”</u>: Alternate Parking Lot Lands – Parking Plan and Requirements• <u>Schedule “H”</u>: Sketch of Home Plate and NCC Lands



2. Overview of Provincial Contribution Agreement

OTTAWA LIGHT RAIL TRANSIT PROJECT

CONTRIBUTION AGREEMENT WITH THE ONTARIO MINISTRY OF TRANSPORTATION

OVERVIEW OF STRUCTURE AND CONTENT

The Contribution Agreement (the “**Contribution Agreement**”) was entered into between the City of Ottawa (the “**City**”) and Her Majesty the Queen in Right of Ontario, represented by the Minister of Transportation for the Province of Ontario (the “**Ministry**”) on September 1, 2011, in respect of a contribution of up to \$600 million by the Ministry for the Ottawa Light Rail Transit (“**OLRT**”) project.

This document is intended to be a summary of the material terms in the Contribution Agreement, but does not describe all the terms of the Contribution Agreement. In the event of any inconsistency between the description of the material terms in this document and those in the Contribution Agreement, the terms of the Contribution Agreement will prevail.

Appendix 2 – Legal Overview

Material Term	Description
Term	The earlier of 18 months from the OLRT project substantial completion date and December 31, 2019.
Future Amendment	The City is to submit amended financial information for approval by the Ministry: (i) within 30 days of entering into the OLRT project agreement; and (ii) within 30 days of entering into a contribution agreement with the Federal government. If approved by the Ministry, in its sole discretion, the Contribution Agreement would be amended accordingly.
Contribution Amount / Calculation	<p>A maximum contribution of \$600 million will be made by the Ministry.</p> <p>The Ministry will provide funds (i) with respect to the OLRT project agreement, on an instalment basis; and (ii) with respect to general Eligible Costs (as set out in the Contribution Agreement) on an invoice basis.</p>
Obligation of Recipient	City is responsible for: complete, diligent, timely, and on budget OLRT project implementation; any cost overruns; and operation, maintenance and repair for full lifecycle of infrastructure.
Other Funding	Other funding for the OLRT project must be disclosed to the Ministry, which can recover (or reduce its subsequent contributions by a similar amount): (i) any funding provided to the City over the Ministry's maximum contribution (excluding Gas Tax amounts); (ii) any amounts received by the City over 100% of Eligible Costs; and (iii) any funds used for ineligible costs, as set out in the Contribution Agreement.
Appropriations and Budgeting	<p>The Ministry's contribution to the OLRT project is subject to annual appropriations for the applicable fiscal year, provided that the Ministry will use efforts to secure an annual appropriation. The City releases the Ministry from any liability arising as a result of termination or reduction of funding due to appropriations.</p> <p>Subject to the Contribution Agreement, the Ministry will commit funds in a fiscal year towards the OLRT project in accordance with the schedule set out in the Contribution Agreement. If, in a fiscal year, an amount lesser than the estimated contribution is paid or payable by the Ministry, the Ministry will, subject to the Contribution Agreement, make reasonable efforts to re-allocate the difference to a subsequent fiscal year.</p>
Increase in Project Costs	If it will not be possible to complete OLRT project construction unless the City expends amounts in excess of available funding, notification is to be provided; the City will provide a plan to remedy the shortfall and the Ministry may exercise its remedies available on a default if it is not satisfied with the plan.
Aboriginal Consultation	<p>Aboriginal consultation by the City is to be in accordance with the requirements of the Contribution Agreement.</p> <p>The City shall develop and follow an Aboriginal Consultation Plan that meets the approval of the Ministry. The Ministry may direct changes to such plan. The Ministry shall also receive notice of contact between the City and defined aboriginal groups and the discovery of aboriginal archaeological resources and the Ministry may give directions in respect thereof.</p>
Agreement Management Committee	<p>A four member committee (two from each party) will be established to administer and monitor the Contribution Agreement. The committee will review procurement procedures, monitor the progress of the project, review claims and review and approve reports and cash flows, make non-significant amendments to the project schedule and cost breakdown, establish subcommittees, resolve disputes between the parties, ensure the Contribution Agreement is implemented in accordance with its terms, and undertake other tasks as directed by the Ministry.</p> <p>Each of the Ministry and the City appoints a co-chair of the committee and quorum for a meeting requires that both co-chairs be</p>

Material Term	Description
	<p>present.</p> <p>The co-chairs are the only voting members of the committee and their decisions must be unanimous.</p>
<i>Change Control</i>	<p>Changes with respect to the OLRT project that are not significant changes can be approved or rejected by the committee.</p> <p>Significant changes shall be decided by the Ministry (with a recommendation from the committee), and are defined as those which: (i) modify a quantifiable element of a project component, as determined by the Ministry; (ii) significantly modifies the location, timing or scope of a project component, as determined by the Ministry; (iii) adds or removes a project component; (iv) may require a further environmental assessment; (v) are an increase in the total estimated Eligible Costs of a project component which may result in the Ministry's total contribution towards Eligible Costs exceeding 20% of the total estimated Eligible Costs of that project component; or (vi) any other change so deemed by the Ministry.</p> <p>Any changes to the contribution fiscal year breakdown require consent of the Ministry.</p>
<i>Procurement and Required provisions</i>	<p>All project contracts are to be granted and managed in accordance with City policies and procedures, which shall be provided to the committee.</p> <p>All contracts, including the Concession Agreement, shall: (i) be awarded in a manner that is transparent, competitive, consistent with value for money principles and that accords with the Agreement on Internal Trade, the Ontario and Quebec Trade Cooperation Agreement and the Canadian Content Policy; (ii) are consistent with, and incorporate, relevant provisions of the Contribution Agreement, such as maintenance of and access to records and compliance with laws.</p>
<i>Independent Engineer Agreement</i>	<p>The following provisions must be included in an Independent Engineer Agreement (to which the Ministry will not be a party and a copy of which shall be supplied to the Ministry within 30 days of its effective date): (i) it may not be amended or assigned without the written consent of the Ministry; (ii) the independent engineer will have an equal duty of care to the Ministry and the City and will be independent of the OLRT project contractor; (iii) the independent engineer will represent and warrant that all information provided to the City is true, accurate, and prepared to the best of his or her skill, judgment and knowledge; (iv) the independent engineer will provide the Ministry with copies of all reports and certificates delivered to the City; (v) the Ministry shall have the right to request information and investigation (copies of such requests will be provided to the City); and (vi) the independent engineer will maintain accurate and complete records for at least 7 years after the end of the Contribution Agreement.</p>
<i>Claim and Payment Structure</i>	<p>Reimbursement of Eligible Costs is for amounts previously paid in full by the City.</p> <p>Where claims are under the Concession Agreement, the claim must be accompanied by a certificate describing Eligible Costs and a claim certification and request from the City, a certificate from the independent engineer or, if applicable, a declaration of substantial completion by the independent engineer, and such other documentation as may be required by the Ministry.</p> <p>Where claims are for general Eligible Costs, the claim must be accompanied by a certificate describing Eligible Costs and a claim certification and request from the City, the quarterly report and audit report for the required timeline, and such other</p>

Material Term	Description
	<p>documentation as may be required by the Ministry.</p> <p>The Ministry shall use reasonable efforts to make payments within 30 days of receipt of a proper and complete claim, subject to annual appropriations.</p> <p>The City must submit its claims prior to the end of the term of the Contribution Agreement, following which date the Ministry has no obligation to make a payment.</p> <p>Following the delivery of final reports by the City, the Parties will carry out a joint reconciliation and make any required adjustments. The Ministry may holdback ten percent of its contribution until the joint reconciliation.</p>
Dispute Resolution	<p>The parties will keep each other informed of any disagreement or contentious issue relevant to the Contribution Agreement and use reasonable efforts to resolve it.</p> <p>Either party may refer a disagreement or contentious issue to the committee for resolution. The co-chairs will attempt to resolve the disagreement or issue within 30 days of referral, failing which the disagreement or issue will be referred to the Ministry for resolution. Any obligations, including payments, related to the issue in dispute will be suspended until resolved.</p>
Default by City	<p>Where the City defaults by: (i) not completing the project on the terms and conditions in the Contribution Agreement; (ii) by submitting false or misleading information or making a false or misleading representation (excluding errors in good faith); (iii) by not complying with any condition, undertaking or term of the Agreement; (iv) by not making required payments to the Ministry, the Ministry may after 30 days notice suspend or terminate any obligation to contribute to the project and require the City to reimburse all or part of the contribution already paid.</p>
Audit and Reporting	<p>Audits and progress reports are to be conducted and provided in accordance with the Contribution Agreement, including the City providing quarterly project status reports and annual progress reports. The Ministry and/or the Auditor General of Ontario may audit at their own expense. The City will provide the Ministry, its representative, the independent auditor, and the Auditor General with reasonable access to project sites, facilities, and documentation and will coordinate access for the same parties under the OLRT project agreement.</p> <p>The City shall submit quarterly status reports as well as an annual progress report (due June 30 of each year) to the Ministry.</p> <p>The City is responsible for requesting and managing all audits. Financial audits shall be conducted yearly by external auditors. The City shall develop and implement an audit plan, which shall be submitted to the Ministry for approval within three months of the execution of the Contribution Agreement. There shall be two compliance audits conducted by external auditors in the course of the Project (one midway through and one after substantial completion); the Ministry may, in its sole discretion, alter the frequency of the audits.</p> <p>The City shall conduct a final audit satisfactory to the Ministry within six months of OLRT project substantial completion and a post project evaluation, which shall be a public document.</p>

Material Term	Description
<i>Communications</i>	<p>The City shall acknowledge the support of the Ministry in any and all publications relating to the project</p> <p>The City agrees to undertake joint communications activities with the Ministry, ensuring equal recognition and prominence of the Ministry’s financial contribution with the City and the Government of Canada. All communications, including signage and electronic communication, is subject to this policy.</p> <p>All written communications shall be prepared in a manner that supports the communications objectives and branding of the City and the Ministry. The City is responsible for operational communications (including calls for tender, constructing, design, property, emergency and public safety notices).</p> <p>The City shall notify and consult with the Ministry a minimum of 15 working days before all news releases, new media communications, or public announcements. A communications plan will be developed. In the event of an election call that affects a riding that the Project is located in (whether federal, provincial, or municipal), no public announcements will be permitted. A joint news conference may be held when the Contribution Agreement is signed. The City and the Ministry may develop joint information kits and news releases. Within an agreed upon time period, the City agrees to produce and erect temporary signage acknowledging the Ministry’s contribution (which must be of at least equal size and prominence of other contributors’ signage), which shall remain until 90 days after construction is completed. A permanent plaque or sign shall be installed on the completed OLRT project. Any advertising campaigns must reflect the provisions of the Contribution Agreement and notice thereof will be given between the parties 90 days prior to commencement. Costs will follow the eligibility rules. The Ministry will monitor compliance and may advise the City of required adjustments.</p>
<i>Representations and Warranties</i>	<p>The City provides representations and warranties in respect of: (i) its good standing under applicable laws; (ii) its power and capacity to own its assets and to carry-on the activities under the Agreement; (iii) its authority and power to enter into the Agreement; (iv) the enforceability of the Contribution Agreement; (v) the non-contravention of the Contribution Agreement with applicable laws and by-laws, judgements, orders, licenses, permits, contracts and other similar matters; (vi) the existence of no actions, claims or proceedings that are pending or threatened that could adversely affect the City’s ability to carry out the Contribution Agreement; and (vii) that all information from the City has and will be true and complete.</p>
<i>Indemnity</i>	<p>Indemnity from the City to the Province of Ontario (and its ministers, directors, officers, appointees, servants, employees and agents) for any and all claims, demands, losses, costs, damages, actions suits or other proceedings based upon any injury to persons, damage to or loss or destruction of property, economic loss, or infringement of rights caused by, in connection with, or arising directly or indirectly from: (i) the project; (ii) the performance or breach of the Contribution Agreement by the City or a third party involved in project implementation or their respective officers, servants, employees, or agents; (iii) any stage of the project, including consultation, assessment, monitoring, design planning, procurement, construction, testing, operation, maintenance, repair, rehabilitation, demolition or reconstruction; (iv) any omission or other wilful or negligent act of the City or a third party involved in project implementation and their respective employees, officers or agents; (v) the entering into by the City or a third party involved in project implementation or their respective employees, officers or agents of a loan, capital lease or other long term obligation in relation to the project; (vi) any actions taken by the Ministry as co-chair or member of the committee; and (vii) any decision of a court that prevents the Ministry from performing any obligation under the Contribution</p>

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Material Term	Description
	<p>Agreement. The only limitation to the indemnity by the City is the indemnified parties' acts or negligence in the performance of their duties.</p> <p>The City must ensure adequate bonding is in place to protect itself and the Ministry and to support the indemnification of the Ministry.</p> <p>The City is to maintain minimum insurance requirements (\$2 million per occurrence).</p>
<i>Restrictions on Disposal of Assets</i>	<p>During the twenty-five years following OLRT project substantial completion, one hundred and eighty days prior notice is required by the City to sell, lease, encumber or use assets acquired, constructed, repaired, rehabilitated or improved with the Ministry's contribution in a manner differently than described in the Contribution Agreement. The City is to repay a portion of the Ministry's contribution, determined by the date of such disposition. A similar provision applies in respect of land, noting that repayment is 100% of the greater of book value or fair market value of the land, without time restriction.</p> <p>An exclusion exists for disposition of assets for technical or operational reasons, if replaced with assets of equal or greater value, subject to prior approval by the Ministry.</p>
<i>Revenues from Assets</i>	<p>For the first twenty-five years from the date of project substantial completion, City must notify the Ministry within ninety days of the end of a fiscal year where an asset to which the Ministry made a contribution has generated revenues which exceed its operating expenses and the Ministry may require a proportion of the excess to be paid to it.</p>
<i>Assignment</i>	<p>The City may not assign its rights under the Agreement without the prior written consent of the Ministry.</p>
<i>Amendment to Agreement</i>	<p>Subject to the change control provisions, the Contribution Agreement may only be amended in writing by the parties.</p>
<i>Construction Guidelines</i>	<p>The City will apply and ensure that the OLRT project contractor and others participating in project implementation comply with all laws (including environmental laws), regulations, orders in council and the requirements of regulatory bodies. The City will undertake and cause to be undertaken all project construction and engineering work in compliance with industry standards.</p>
<i>Freedom of Information / Access to Information</i>	<p>FIPPA applies and, accordingly, information provided to the Ministry may be subject to disclosure.</p>
<i>Other Special Conditions (in addition to those previously listed)</i>	<p>The Ministry's contribution is subject to prior conditions, including:</p> <ul style="list-style-type: none"> (i) the City providing a certified copy of the municipal by-laws or resolutions authorizing the execution of this Agreement and the City's financial contribution of at least \$900 million; (ii) the City approving a final business case, satisfactory to the Ministry, for the Project; (iii) the City entering into an agreement prior to the OLRT project substantial completion with the Federal Government for the

Material Term	Description
	<p>contribution of \$600 million to the OLRT project;</p> <p>(iv) the City providing necessary information to facilitate an electronic funds transfer to an interest bearing account in the name of the City;</p> <p>(v) the City providing the Ministry with detailed design information and verified cost estimates and cash flows;</p> <p>(vi) for Eligible Costs for the acquisition of an interest in real property, providing written notice to the Ministry and a certificate confirming acquisition of the interest;</p> <p>(vii) the City participating in the PRESTO program;</p> <p>(viii) the City consulting with Infrastructure Ontario in respect of value for money and the AFP model; and</p> <p>(xi) the City must complete all required environmental assessments in connection with a claim for reimbursement.</p> <p>Where funds are remitted by the Ministry without satisfaction of these conditions, absent a waiver thereof, the Ministry may exercise its remedies in connection with a default.</p>

3. Hydro Ottawa Agency Agreement

OTTAWA LIGHT RAIL TRANSIT PROJECT

Agency Agreement (the “Agreement”) between Hydro Ottawa Limited (“Hydro Ottawa”) and the City of Ottawa (“City”)

OVERVIEW OF STRUCTURE AND CONTENT

The Agreement discussed herein has been negotiated with Hydro Ottawa but has not yet been executed. It is anticipated that there will be few changes to this document prior to execution.

The City has a mandate and a budget to acquire property interests required for the OLRT Project and is prepared to act as agent for Hydro Ottawa with respect to the negotiated acquisition of the Required Property Interests and to commit to funding all costs, consideration and/or compensation associated with such acquisitions and/or expropriations.

The Agreement sets out the terms and conditions upon which Hydro Ottawa has agreed to appoint the City to act as its agent with respect to the negotiated acquisition or, if necessary, the expropriation of property interests identified as required to support new electrical works and installations (“**Installations**”) which are required for the purpose of supporting the OLRT Project (“**Required Property Interests**”).

This document is intended to be a summary of the material terms in the Agreement, but does not describe all the terms of the Agreement. In the event of any inconsistency between the description of the material terms in this document and those in the Agreement, the terms of the Agreement will prevail.

Material Term	Description
<i>Appointment</i>	<p>Hydro Ottawa shall appoint the City and its duly authorized employees, agents, consultants and representatives to act as its agent with respect to all matters related to the acquisition and/or the expropriation of the Required Property Interests, including but not limited to:</p> <ul style="list-style-type: none"> • Undertaking negotiations with the owners of the Required Property Interests (“Property Owners”) with respect to the conveyance of the Required Property Interests and, to the extent such negotiations are successful, preparation, execution and/or registration of all agreements, deeds and/or transfers required in order to effect the conveyances therein; • In the event that expropriation of any Required Property Interest becomes necessary, making application to the Energy Board for authority to expropriate land and preparing and submitting all required documentation, including expropriation justification statements, reference plans and supporting material; • Appearing before the Energy Board with respect to any application for expropriation authority, as well as preparing and submitting the required documentation; • Undertaking all processes required to complete any authorized expropriation, including preparing the appropriate reference plan documents, arranging for any required Certificates, registering expropriation plans and preparing and serving any required notices, offers or appraisals; • Negotiating final settlement of compensation payable under the <i>Expropriations Act</i>; and, • Where the City and any Property Owner have not agreed upon compensation payable under the <i>Expropriations Act</i>, appearing before the Board of Negotiation and/or the Ontario Municipal Board in any hearing related to the determination of any compensation payable.
<i>Effective Date of Agreement</i>	<p>The Appointment shall be effective on the latter of:</p> <ul style="list-style-type: none"> • The day on which the Agreement is approved by the Board of Directors of Hydro Ottawa; and, • The day on which the Agreement is approved by Ottawa City Council, <p>and shall continue until the earlier of 6 years from the Effective Date or until such time as all Required Property Interests have been conveyed to Hydro Ottawa and, if applicable, until all final compensation under the <i>Expropriations Act</i> has been awarded. On consent of both parties, the term may be extended on a year-to-year basis.</p>
<i>Required Property Interests and Installations</i>	<p>The Agreement identifies, in Schedule “A” and Schedule “B” respectively, the required installations to support OLRT and the Required Property Interests that have been identified to support the installations. The parties, however, acknowledge that, throughout the design and construction process, additions or amendments to the above Schedules may be required. Any amendments shall require the written consent of the Chief Operating Officer of Hydro Ottawa and the</p>

Material Term	Description
	Director of Real Estate of the City of Ottawa.
Costs	<p>All costs incurred as a result of the City’s appointment as agent shall be the City’s responsibility, including without limitation:</p> <ul style="list-style-type: none"> • Any and all consideration payable with respect to the acquisition and conveyance of any Required Property Interest to Hydro Ottawa; • Any and all compensation payable under the <i>Expropriations Act</i>; and, • Any and all legal, survey, appraisal and/or other costs incurred in connection with the acquisition or expropriation of the Required Property Interests.
Limitation	The Agreement applies solely to the acquisition of the Required Property Interests either by negotiated acquisition or by expropriation and would have no application whatsoever to any other dealings between the City and Hydro Ottawa with respect to the OLRT or otherwise.
Disclosure and Public Statements	The City shall provide Hydro Ottawa with regular reports as to its dealings with Property Owners and the status of the acquisition of Required Property Interests. In addition, the City shall provide notice to Hydro Ottawa prior to issuing any formal public notice in connection with any expropriation of any Required Property Interest.
Energy Board Approval	Hydro Ottawa will assist the City, as required, with the production and preparation of information or material that may be required in order to obtain authority from the Energy Board to expropriate.
Objection to City Actions and Practices	Should Hydro Ottawa object to any action, practice or process undertaken by the City to acquire or settle the Required Property Interests, it shall be required to give written notice to the Director of Real Estate of its objections. The Director of Real Estate shall then meet with the Chief Operating Officer of Hydro Ottawa to review and consider the objections, and attempt to reach a resolution.

4. Railway Regulations Agreement

THIS AGREEMENT made effective as of the 1st day of October, 2011 FOR REGULATION OF THE DESIGN, CONSTRUCTION, OPERATION, SAFETY AND SECURITY OF OTTAWA LIGHT RAIL TRANSIT SYSTEMS.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA
("CANADA"), as represented by the Minister of Transport

OF THE FIRST PART

AND:

CITY OF OTTAWA (hereinafter referred to as "**CITY**")

OF THE SECOND PART

WHEREAS, the CITY is planning the design, construction and operation of a light rail transit system, including the regulatory oversight of related safety and security matters (as defined below; the "**RAILWAY**");

AND WHEREAS, the planned RAILWAY is a "*railway*" within the meaning of the *Canada Transportation Act*, S.C. 1996 c. 10 ("**CTA**");

AND WHEREAS, Section 158 of the CTA provides the MINISTER with the authority to enter into an agreement with a provincial authority to authorize the provincial authority to regulate the design, construction, operation, safety and security of a railway as well as the rates and conditions of service in the same manner and to the same extent as it may regulate a railway within its jurisdiction;

AND WHEREAS, pursuant to section 12.17 of the *City of Ottawa Act*, 1999, S.O. 1999, c. 14, Sched. E and the *Municipal Act*, 2001, S.O. 2001, c. 25, the CITY has authority to operate and maintain a passenger transportation system;

AND WHEREAS, CANADA and the CITY, a provincial authority, agree that the CITY should be authorized to regulate the design, construction, operation, safety and security of, as well as the rates and conditions of service of, the RAILWAY in the same manner and to the same extent as the CITY may regulate a railway within its jurisdiction;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the mutual terms and conditions hereinafter specified, the PARTIES agree as follows:

1. **DEFINITIONS**

- 1.1 “CAPITAL RAILWAY” (O-Train) means the railway owned and operated by the CITY, for which the CITY has been issued a Certificate of Fitness under the CTA;
- 1.2 “MINISTER” means the Minister of Transport.
- 1.3 “MINISTER’S DELEGATE” means the Deputy Minister, the Assistant Deputy Minister, the Associate Deputy Minister, the Assistant Associate Deputy Minister, the Director General responsible for rail security or the Director General responsible for rail safety.
- 1.4 “PARTY” means CANADA or the CITY.
- 1.5 “PARTIES” means CANADA and the CITY.
- 1.6 “RAILWAY” means any light rail transit system designed, constructed, operated and/or maintained by, or on behalf of, the CITY, including any expansions or modifications made thereto, and located generally within the City of Ottawa and between any point in the City of Ottawa and any

point outside the City of Ottawa including any point outside Ontario. For greater certainty for the purposes of this Agreement, RAILWAY does not include the CAPITAL RAILWAY.

- 1.7 “REGULATIONS” means the bylaws, guidelines, policies, regulations, rules, standards, safety management systems and/or security management systems, or similar instruments, adopted by the CITY from time to time in relation to the regulation of the design, construction, operation, safety and security of, as well as the rates and conditions of service of, the RAILWAY.

2. **AUTHORIZATION**

- 2.1 The CITY is authorized to regulate any matters covered by Part III and IV of the CTA and the *Railway Safety Act* (RSA) relating to the design, construction, operation, safety and security of the RAILWAY as well as the rates and conditions of service in the same manner and to the same extent as the CITY may regulate a railway within its jurisdiction.

- 2.2 For greater certainty, and without limiting the generality of section 2.1, the CITY may exercise any of the following:
- (a) adopt, enact, modify and administer the REGULATIONS as the CITY determines appropriate from time to time;
 - (b) approve the design, construction and operation from time to time of any new, supplemental or modified RAILWAY including any extension or modification, crossing, grade separation, tunnel or other RAILWAY related facilities or works; and
 - (c) apply the REGULATIONS to any person involved in the design, construction, operation, safety and security and/or use of the RAILWAY including any contract operators, suppliers, contractors or service providers.
- 2.3 Until this Agreement is terminated, section 2.1 has, for the purpose of the application of the RSA and Parts III and IV of CTA, the effect of treating the RAILWAY as if the Railway is not a “railway” within the meaning of the CTA and RSA.
- 2.4 This Agreement does not modify, limit or restrict in any way the powers and authorities of the CITY under provincial and municipal legislation, including by way of illustration and for further clarification, the power and authority of the CITY to apply, use and rely upon provincial expropriation legislation for its RAILWAY and related purposes.

3. TERMS AND CONDITIONS

- 3.1 Prior to construction of the RAILWAY, the CITY shall develop, implement and enforce a comprehensive regulatory framework for the safety of the RAILWAY based on codes, standards, practices, design references, safety principles and guidelines generally recognized and/or adopted by other municipal light rail system operators in respect of similar systems and/or by established professional or technical railway associations, including the American Public Transportation Association (APTA) or International Railway Industry Standard (IRIS) as adapted to North American operating conditions.
- 3.2 Prior to construction of the RAILWAY, the CITY shall develop, implement and enforce a comprehensive regulatory framework for the security of the RAILWAY based on codes, standards, practices, design references, construction standards, security principles and guidelines recognized and/or adopted by other municipal light rail operators in respect of similar systems and/or by established professional or technical



railway associations, including American Public Transportation Association (APTA) or International Railway Industry Standards (IRIS) as adapted to North American operating conditions.

- 3.3 Prior to construction of the RAILWAY, the CITY as operator of the RAILWAY will become a signatory to the Memorandum of Understanding on Security, as renegotiated from time to time, between Transport Canada and the Railway Association of Canada.
- 3.4 The CITY shall assume all responsibility and accountability in respect of the development, implementation and enforcement of the REGULATIONS.
- 3.5 The CITY shall establish procedures that require that compliance with the REGULATIONS be monitored and reported on to the City Manager or designate by an independent internal auditor or other responsible CITY official. The CITY shall ensure that any occurrences or incidences of non compliance with the REGULATIONS are appropriately managed.
- 3.6 The RAILWAY shall not include any crossings at grade with federally regulated railways without the prior written approval of the MINISTER or the MINISTER’S DELEGATE, who may, at their sole discretion, refuse to provide such approval.

4. **REPORTING**

- 4.1 The CITY shall:
 - (a) ensure that a Safety Management System (SMS) audit, based on ISO 19011 Guidelines for Quality and Environmental Management Systems Auditing, or equivalent international standards with respect to all oversight matters related to the safety of the RAILWAY is conducted one year after the RAILWAY’s initial operation and thereafter at least every 3 years by a qualified person or organization operating independently from the CITY;
 - (b) within 60 days of each SMS audit, provide the MINISTER with a report, satisfactory in content and form to both PARTIES as determined at least 6 months before the RAILWAY’s initial operation and consistent with common industry practice for such audit forms, on the results of the SMS audit; and
 - (c) within 90 days of each SMS audit, provide to the MINISTER a plan for corrective measures the CITY intends to take as a result of the SMS audit, if any, as well as a timeline for the implementation of those corrective measures.

4.2 The CITY shall:

- (a) ensure that a Security Management System (SeMS) audit with respect to all oversight matters related to the security of the RAILWAY is conducted one year after the RAILWAY's initial operation and thereafter at least every 3 years by a qualified person or organization operating independently from the CITY;
- (b) within 60 days of each SeMS audit, provide the MINISTER with a report, satisfactory in content and form to both PARTIES as determined at least 6 months prior to the RAILWAY's initial operation and consistent with common industry practice for such audit forms on the results of the SeMS audit; and
- (c) within 90 days of each SeMS audit, provide to the MINISTER a plan for corrective measures the CITY intends to take as a result of

the SeMS audit, if any, as well as a timeline for the implementation of those corrective measures.

4.3 The CITY shall:

- (a) file with the MINISTER an annual safety and security report (the ANNUAL REPORT) with respect to the RAILWAY, to be first filed one year after the RAILWAY's initial operation and thereafter on or before every March 31 after this Agreement is made; and
- (b) the ANNUAL REPORT will: (i) summarize the safety and security accidents and incidents relative to the RAILWAY from the period since the last ANNUAL REPORT; (ii) outline any changes made by the CITY to the REGULATIONS to specifically address these matters; (iii) describe other remedial measures taken in respect of these matters since the last ANNUAL REPORT; and (iv) generally provide an evaluation of the effectiveness of the REGULATIONS in protecting the safety and security of the public in relation to the RAILWAY.
- (c) Upon the request of the MINISTER, the CITY shall provide to the MINISTER any other reports or information related to the RAILWAY to which the MINISTER would, but for this agreement, be lawfully entitled to request or receive.

5. SECURITY THREATS

- 5.1 If the MINISTER or the Deputy Minister of Transport becomes aware of a significant security threat to the RAILWAY or the public in any way resulting from or relating to the RAILWAY the PARTIES, as directed by the MINISTER or the MINISTER'S DELEGATE, shall collaborate to ensure that the CITY takes appropriate action to address the risk.
- 5.2 Where the risk has not been addressed to the satisfaction of the MINISTER or the MINISTER'S DELEGATE, the MINISTER or the MINISTER'S DELEGATE may provide instructions to the CITY to address the risk and the CITY shall comply with those instructions from the MINISTER or the MINISTER'S DELEGATE.

6. LIABILITY AND INDEMNIFICATION

- 6.1 CANADA, its officers, servants, employees and/or agents shall not be held liable by the CITY, or its officers, servants, employees and/or agents for any injury, including death to any person, for any loss or damage to property of any person or the environment, or for any obligation of the CITY or anyone else, by reason of this Agreement or the performance or non performance by the CITY of its obligations, or the exercise or the non exercise of its rights, under this Agreement.
- 6.2 The CITY shall at all times indemnify and save harmless CANADA and its officers, servants, employees and/or agents, from and against all actions, whether in contract, tort, or otherwise, claims and demands, losses, costs, damages, suits or other proceedings by whomsoever brought or prosecuted in any manner against CANADA, its officers, servants, employees and/or agents based upon, or occasioned by any injury to any person, including but not limited to damage to or loss or destruction of property, economic loss or infringement of rights caused by, in connection with, or arising directly or indirectly by reason of this Agreement or the performance or non-performance by the CITY of its obligations, or the exercise or non exercise of the CITY's rights, under this Agreement, including but not limited to:
- (a) the development, adoption, implementation or omission thereof, or the compliance or non compliance with, or the enforcement (or lack thereof), or the manner of enforcement of, the REGULATIONS;
 - (b) any negligent omission, willful misconduct, or negligent act or other unlawful or actionable conduct or behaviour of the CITY, its officers, servants, employees and/or agents; and

- (c) any actions taken or not taken by the MINISTER or the MINISTER'S DELEGATE pursuant to section 5 (Security Threats) of this Agreement

except to the extent to which such claims, demands, losses, costs, damages, actions, suits, or other proceedings relate to, arise from, are caused by or are otherwise connected to any negligent omission, willful misconduct, or negligent or other unlawful or actionable conduct or behavior of an officer, servant, employee, or agent of the CANADA in the performance of his or her duties.

7. DISPUTE RESOLUTION

- 7.1 The PARTIES shall attempt to resolve any disputes arising out of or pursuant to this Agreement through collaborative discussions between the PARTIES' representatives. Where the PARTIES' representatives cannot agree on a solution to the dispute, the matter shall be referred to the Assistant Deputy Minister or Deputy Minister of Transport and Deputy City Manager or City Manager for resolution.
- 7.2 If the PARTIES are not able to resolve the dispute pursuant to section 7.1 then the matter shall be referred to the MINISTER and to the City Mayor for resolution.

8. COMMUNICATIONS

- 8.1 The PARTIES shall use reasonable efforts at all times to coordinate any press release or public announcement relating to this Agreement as early as possible with the other PARTY.
- 8.2 The PARTIES shall use reasonable efforts at all times to endeavor to ensure that the form and content of any press release or public announcement will be approved by the other PARTY.
- 8.3 Except in the event of an unforeseen and urgent circumstances, the PARTIES agree that all press releases and public announcements will be bilingual.
- 8.4 Each PARTY shall provide copies of all communications which have not been subject to the coordinated efforts described in 8.1 to the other PARTY as soon as possible after the issuance of the communication.

9. AGREEMENT

- 9.1 This Agreement constitutes the whole Agreement and shall be binding upon both PARTIES as of the effective date of October 1, 2011. No prior document, negotiation, provision, undertaking or agreement in relation to the subject of the Agreement has legal effect.

10. **AMENDMENTS**

10.1 Proposals for changes to this Agreement may be made at any time by either PARTY and appropriate amendments made as agreed upon by the PARTIES in writing.

11. **BENEFITS**

11.1 This Agreement shall enure to the benefit of **THE CITY OF OTTAWA** and **HER MAJESTY THE QUEEN** in right of Canada. This agreement may not be assigned.

12. **TERMINATION**

12.1 This Agreement shall terminate:

- (a) On a date determined by the MINISTER, in its sole discretion;
- (b) Upon the CITY providing 150 days written notice of termination to the MINISTER; or
- (c) On a date agreed upon by the PARTIES.

13. **NOTICE**

13.1 All information or documents required or desired to be given pursuant to this Agreement may be given to the CITY by delivery or mail addressed to:

Deputy City Manager
City Operations
City of Ottawa
110 Laurier Avenue West
Ottawa, ON
K1P 1J1

Telephone: (613) 580-2424 (ext. 25654)
Facsimile: (613) 580-2843

13.2 All information, reports or other documents required or desired to be given pursuant to this Agreement may be given to the MINISTER by delivery or mail addressed to:

Director General
Rail Safety
Transport Canada
427 Laurier Avenue West, 14th Floor
Ottawa, ON K1A 0N5

Telephone: (613) 998-2984
Facsimile: (613) 990-1169

- 13.3 Except for matters arising under Part V of the CTA, any enquiries, complaints, or other communications that may be directed to or otherwise received by CANADA or its representatives from any person in relation to the RAILWAY or the Regulations, including any noise or vibration or similar complaints received by the Canada Transportation Agency, shall be forwarded by CANADA to the CITY to the following address:

Deputy City Manager
City Operations
City of Ottawa
110 Laurier Avenue West
Ottawa, Ontario
K1P 1J1

Telephone: (613) 580-2424 (ext. 25654)
Facsimile: (613) 580-2843

14. **GOVERNING LAW**

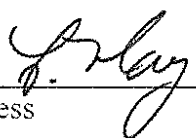
- 14.1 This Agreement shall be governed by and shall be construed in accordance with the Laws of Ontario, and the Laws of Canada applicable therein.

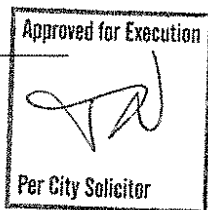
15. **COUNTERPART SIGNING**

- 15.1 This Agreement may be signed in counterpart by the PARTIES.

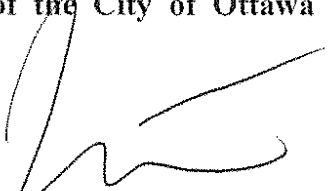
IN WITNESS WHEREOF the parties here to have executed this Agreement.

SIGNED, SEALED AND DELIVERED on behalf of the City of Ottawa in the presence of:

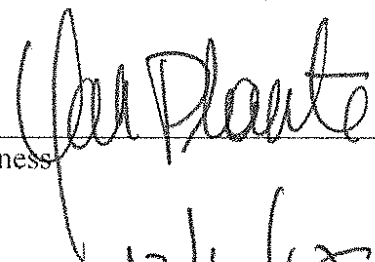

Witness




March 23, 2012
Date


City of Ottawa; as represented by the Mayor, Jim Watson

SIGNED, SEALED AND DELIVERED on behalf of Her Majesty the Queen in right of Canada in the presence of:


Witness

13/6/10
Date


Her Majesty the Queen in Right of Canada as represented by the Minister of Transport

5. Highway Works Agreement

A Highway Works Agreement between the City and Her Majesty the Queen in Right of Ontario, represented by the Minister of Transportation for the Province of Ontario (the “**Ministry**”), is anticipated to be entered into in respect of the bundling of certain Highway 417 work with the OLRT project. Anticipated provisions of this agreement include reimbursement of up to \$206 million by the Ministry for defined work on Highway 417, the conditions upon which the City will undertake and complete the Highway 417 work, including when the work can commence, the City’s engagement of a construction administration for the 417 work and completion by the City of certain transit priority removal works at its own cost following the OLRT revenue service date.

6. National Capital Commission (NCC)

OTTAWA LIGHT RAIL TRANSIT PROJECT

Memorandum of Understanding (the “MOU”) between the National Capital Commission (“NCC”) and the City of Ottawa (“City”)

OVERVIEW OF STRUCTURE AND CONTENT

The MOU sets out the terms and conditions upon which interests in NCC property required in connection with the OLRT Project (the “**NCC Property**”) are to be licenced and ultimately granted and conveyed to the City. The MOU will ensure that the NCC Property is available in time for commencement of construction of the OLRT Project while providing the City and the NCC with an opportunity to continue to work towards resolution of various matters including outstanding issues under existing agreements between the City and the NCC and valuation of the NCC Property.

In exchange for timely access to the NCC Property, the City is to deliver to the NCC, to hold in escrow, an amount equivalent to the market value of all of the NCC Property (being \$49,000,000) (the “**Escrow Amount**”) together with a performance deposit equal to 50% of the Escrow Amount (being \$24,500,000) (the “**Performance Deposit**”) which is intended to guarantee performance of City obligations on or prior to deadlines established in the MOU. The Escrow Amount, subject to adjustments in accordance with the MOU, will ultimately be released to the NCC in consideration for the transfer of the NCC Property to the City.

This document is intended to be a summary of the material terms in the MOU, but does not describe all the terms of the MOU. In the event of any inconsistency between the description of the material terms in this document and those in the MOU, the terms of the MOU will prevail.

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Material Term	Description
<i>Conditions Precedent</i>	<p>The MOU will become effective and is conditional upon the following:</p> <ul style="list-style-type: none"> • The NCC obtaining all necessary internal and external approvals; • The NCC issuing a Federal Land Use and Design Approval; and, • The City obtaining all necessary approvals of the terms and conditions of the MOU.
<i>Escrow Amount</i>	<p>The City will deliver to the NCC an Escrow Amount of \$49,000,000, to be held in trust in an interest-bearing account. The Escrow Amount was derived from the NCC’s appraisal of the fair market value of the NCC Property as follows:</p> <ul style="list-style-type: none"> (i) Fee Simple Interests: One Hundred Percent (100%) of the market value; (ii) 99-year Easements (excluding subterranean easements): Fifty Percent (50%) of the market value; (iii) Subterranean Easements: Ten Percent (10%) of the market value; and, (iv) Temporary Uses: Ten Percent (10%) of the market value per year (assuming a five (5) year term).
<i>Performance Deposit</i>	<p>The City will deliver to the NCC a Performance Deposit equal to 50% of the Escrow Amount (\$24,500,000), to be held in trust in an interest-bearing account.</p>
<i>Deadlines for Performance of Obligations</i>	<p>Performance deadlines pursuant to the MOU are as follows:</p>

- **September 30, 2014:** The City must confirm OLRT property requirements by delivering to the NCC reference plans, sketches, and confirmation of expected duration of temporary uses.
 - Penalty: 30% of the Performance Deposit (\$7,350,000), plus interest accrued.

- **June 30, 2015:** The City and the NCC must formalize an agreement governing the final transfer of the NCC Property to the City, any adjustments to the amounts to be paid by the City to the NCC in exchange for the transfer, compensation payable the NCC for any loss of value to the adjacent lands, the resolution of all Legacy Agreement matters, the terms and conditions of any NCC reservation of air rights over the OLRT, and other matters (the “**Transfer Agreement**”).
 - Penalty: 25% of the Performance Deposit (\$6,125,000), plus interest accrued.

- **June 30, 2019:** The City must deliver to the NCC “as-built” drawings with respect to all OLRT infrastructure constructed on any lands currently in federal ownership.
 - Penalty: 10% of the Performance Deposit (\$2,450,000), plus interest accrued.

- **December 31, 2019:** The registration of transfers and finalization of all matters contained in the Transfer Agreement must be complete.
 - Penalty: All remaining amounts of the Performance Deposit (\$8,575,000), plus interest accrued.

On satisfaction of any of the above deadlines, the NCC will return to the City the applicable percentage of the Performance Deposit, together with all interest accrued thereon, within sixty (60) days.

<p><i>Adjustments to Escrow Amount</i></p>	<p>Provided the conveyances and transfers and other obligations that are the subject of the Transfer Agreement are completed or fulfilled on or prior to December 31, 2019, prior to being released to the NCC, the Escrow Amount will be adjusted, based on the following factors:</p> <ul style="list-style-type: none"> • Temporary use property requirements: If the City provides evidence to the NCC that the NCC property has been reinstated prior to February 1, 2018, the Escrow Amount will be adjusted to reflect such early termination date. Any adjustment will be completed within sixty (60) days of the date by which the NCC provides notice to the City that its property has been reinstated to its satisfaction. • Legacy Agreements: The Escrow Amount will be adjusted to reflect any agreement reached by the City and the NCC with regards to transfers of interest in NCC Property for nominal consideration in accordance with Legacy Agreements. • Final Surveyed Area of NCC Property: The Escrow Amount will be adjusted to reflect the final surveyed area of any NCC Property to be transferred to the City. • Pre-Existing Environmental Contamination: The Escrow Amount will be adjusted to reflect the negative impact on market value of any pre-existing environmental contamination on the NCC Property. • Title Encumbrances and Air Rights: The Escrow Amount will be adjusted to reflect the negative impact on market value of any title encumbrances on or air rights reserved over the NCC Property. • Fair Market Value: The Escrow Amount will be adjusted to reflect the agreed market value of the NCC Property based on negotiations relating to valuation.
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	<ul style="list-style-type: none"> • Injurious Affection and Disturbance: The Escrow Amount will be adjusted for matters arising from injurious affection and disturbance, including but not limited to reduction in market value of the NCC’s remaining lands adjacent to the NCC Property, damages or loss of economic benefit suffered by the NCC as a result of construction or use of the OLRT. • Reinstatement of Lands: The Escrow Amount will be adjusted to cover the costs of reinstating of any part of the NCC Property used by the City and its Contractors on a temporary basis to the extent that such reinstatement is not completed to the satisfaction of the NCC.
<i>Transfer Agreement</i>	<p>The parties will negotiate and enter into a Transfer Agreement no later than June 30, 2015 to give effect to the transfers of NCC Property. The Transfer Agreement will also include:</p> <ul style="list-style-type: none"> • Legacy Agreements: provisions giving effect to any agreement reached between the City and the NCC with respect the Legacy Agreements; • Remnant parcels: provisions identifying “remnant parcels”, being parcels of NCC land adjacent to the NCC Property which are no longer of use to the NCC, and setting out the manner with which such parcels will be dealt; • Third-party easements: provisions identifying and providing for the transfer of easements to be granted to third party utility companies, subject to the approval of the NCC; • Air Rights: reservations of air rights to the NCC over the NCC Property, subject to terms to be agreed by the NCC and the City; • Final consideration: provisions setting out the final consideration payable for all transfers of NCC Property including any adjustments to the Escrow Amount. • Environmental liability: a City undertaking to release and indemnify the NCC from any liability for the environmental condition of the NCC Property retroactive to the date of the License of Occupation. • Closing date: a requirement that the transfers of the NCC Property will occur on or before December 31, 2019.

<p><i>Federal Land Use, Design and Transaction Approvals</i></p>	<p>The MOU is subject to the provisions of the NCC’s Federal Land Use, Design and Transactions Approval(s).</p>
<p><i>Legacy Agreements</i></p>	<p>The City and the NCC have identified the following four (4) pre-existing agreements containing outstanding obligations between them to be resolved in accordance with the MOU (the “Legacy Agreements”):</p> <ol style="list-style-type: none"> 1. West Transitway Agreement dated December 28, 1984 between the National Capital Commission and the Regional Municipality of Ottawa-Carleton; 2. Southeast Transitway and Central Area Transitway Southeast Approaches agreement dated December 28, 1984 between the National Capital Commission and the Regional Municipality of Ottawa-Carleton; 3. LeBreton Flats Master Agreement dated March 28th, 1996 between the National Capital Commission, the Regional Municipality of Ottawa-Carleton and the Corporation of the City of Ottawa which was amended by the Amending Agreement to the LeBreton Flats Master Agreement dated November 8th, 1999; and 4. Subdivision Agreement dated March 6th, 2006 between Claridge Homes (Lebreton Flats) Inc., the City of Ottawa and the National Capital Commission (only with respect to obligations between the City and the NCC) <p>The parties will use their best efforts to negotiate and resolve all outstanding Legacy Agreement matters by December 31. Any bona fide dispute arising over any of the legacy agreements’ provisions will be submitted to arbitration. Arbitrators’ awards will be final and binding upon the parties, and will be reflected in the Transfer Agreement. The City will assume all costs of the arbitration.</p>

	<p>The Escrow Amount will be adjusted concurrently with the completion of the conveyances and transfers of property in accordance with Legacy Agreements provided that the parties reach a mutually acceptable resolution for all outstanding matters provided for in same.</p>
<i>Air Rights</i>	<p>The NCC may reserve air rights above any part of the NCC Property to be conveyed to the City in fee simple or for a 99-year easement. By December 31, 2014, the NCC must deliver to the City notice of any intention to reserve air rights, and the parties will negotiate measures to ensure that any reserved air rights do not interference with the construction, operation, and/or maintenance of the OLRT system.</p>
<i>Costs</i>	<p>The City is responsible for the cost of all surveying and valuation of interests contemplated in the MOU, as well as any expert advice required to evaluate the impact of the matters contemplated in the MOU.</p>
<i>Cancellation of OLRT Project</i>	<p>In the event that the OLRT Project is cancelled, the parties agree that:</p> <ul style="list-style-type: none">• If the City has not undertaken any “Work” on the NCC Property as defined in the License of Occupation, within 30 days of receipt of notice of cancellation, the NCC will deliver the Escrow Amount and Performance Deposit to the City; and,• If the City has undertaken “Work”, it will first reinstate the NCC Property to the NCC’s satisfaction, after which the NCC will deliver the Escrow Amount and Performance Deposit to the City within 30 days.

License of Occupation

The NCC will grant, subject to delivery of the Escrow Amount and Performance Deposit and the fulfillment of the conditions precedent set out above, a License of Occupation (attached in **Schedule “C”**) to the benefit of the City, its servants, employees, contractors, subcontractors, agents, architects, landscape architects, engineers, surveyors, planners, consultants, suppliers, and trades or project managers. The License of Occupation will take effect on February 1, 2013 and will remain in force until all transfers and conveyances of real property interests, and the fulfillment of other obligations, are completed in accordance with the terms of the Transfer Agreement.

7. VIA Rail

OTTAWA LIGHT RAIL TRANSIT PROJECT

Memorandum of Understanding (the “MOU”) between VIA Rail Canada Inc. (“VIA”) and the City of Ottawa (“City”)

PRINCIPLES OF AGREEMENT WITH VIA

The City and its contractors have designed the OLRT Station for a location to the west of the VIA Station (the “**Current Design**”), and both VIA and the City are committed to supporting intermodality and seamless connectivity to and through every light rail station constructed as part of the OLRT Project, including connectivity to and from the OLRT Station and the VIA Station.

The MOU will set out the terms and conditions upon which VIA will transfer and convey to the City certain property interests which the City requires in connection with the OLRT Project, including the construction of the OLRT Station, guide-ways, grade separated guide-way corridors and a pedestrian bridge over Highway 417 with ancillary works and improvements (the “**Current Design Lands**”).

While negotiations with VIA are still underway, the parties have reached a consensus with respect to principles that will be included in the MOU. These principles are set out in the table below.

Material Term	Description
<i>Timely Access to VIA Property</i>	In order to ensure that the OLRT Project can proceed on Schedule, VIA will provide advance access to required property by granting the City a Licence of Occupation over such property.
VIA Operations	In order to ensure that VIA's operations are not unduly affected by the construction of the OLRT Project, the City will ensure that its contractors maintain access to all VIA station platforms and facilities and seek prior approval from VIA prior to undertaking any work likely to result in interruption of access to VIA station platforms and facilities.
<i>Preventing Impact on Traffic Circulation Within VIA's Access Road</i>	The City will ensure that the use and operation of the future OLRT Station does not result in any negative impact on traffic circulation within VIA's access road, and will ensure that the access road is not used as a 'Kiss & Ride' drop off location for the OLRT Station.
Future Grade Separated Connection to VIA's Parking Deck	<p>The City appreciates that connectivity between the OLRT Station and VIA would be enhanced by the construction of a grade separated connection to a future parking deck to be constructed by VIA within the area bounded by its existing access road; however, given that the future parking deck has not yet been designed, in order to provide the City with some certainty as to the extent of its obligations with regards to the proposed connection, the following parameters are to be reflected in the MOU:</p> <ul style="list-style-type: none"> • While the City will ensure that the OLRT Station contains a 'knock out panel' to permit the construction of a future tunnel connection, the City's contractors will proceed with construction of a tunnel stub, up to VIA's property line (but providing that the length of the tunnel is not unreasonable), only if sufficient detail regarding the location and elevation of the future parking structure can be provided by VIA on or before March 1, 2015; • To the extent that additional property interests are required in order to permit the construction of a tunnel stub, VIA will assist the City in obtaining such interests; and, • The City will bear the cost of constructing a tunnel stub, the estimated cost of which is One Million, Five Hundred Thousand Dollars (\$1,500,000.00). (In the event that the required information is not supplied in time for the City to construct the tunnel stub as part of the OLRT Project, the City could contribute an amount equivalent to the said estimated cost to a future VIA undertaking to construct a tunnel connection between the VIA Station and the OLRT Station.)

Material Term	Description
Permanent Property Requirements Within Area to be Redeveloped by VIA	In order to strike a balance between the City’s need to protect permanent OLRT infrastructure and VIA’s desire to protect the future redevelopment potential of its property (including flexibility with respect to servicing and access to a future below grade parking structure), the City has agreed that only stratified interests in property running through the area bounded by VIA’s access road will be transferred, such stratified interests to be complemented by support easements and covenants prohibiting development and construction in close proximity to OLRT infrastructure.
Construction on Property to Revert to VIA	To the extent that the City is constructing any OLRT infrastructure on property that will revert to VIA immediately following completion of construction, the City and its contractors will consult with VIA with regards to the design of such infrastructure prior to commencing construction.
Second Entrance (“Back Door”)	The City and VIA will share the cost of commissioning a study to assess the feasibility of creating a pedestrian access to the VIA Station and the OLRT Station from the area south of the VIA station. For clarity, there is currently no commitment by the parties to invest in a pedestrian access; this study is intended to provide the parties with more information upon which to consider a path forward.