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**MEMORANDUM OF UNDERSTANDING
NCC/City of Ottawa Western LRT Working Group
WITHOUT PREJUDICE**

March 6, 2015

The NCC/City of Ottawa Western Light Rail Train (LRT) Working Group (“the Working Group”) agrees to the following joint recommendation:

- The NCC members of the Working Group agree to present this Memorandum of Understanding to the NCC Board of Directors for approval in a public session.
- The City of Ottawa members of the Working Group agree to share this Memorandum of Understanding with Mayor Jim Watson and all members of City Council and seek public input and ultimately endorsement of Council through the Environmental Assessment process.
- The basis of the Memorandum of Understanding below, and the Mandate and Proceedings (Appendix A), will be made public as part of a joint announcement by Russell Mills, Chair of the NCC and Mayor Jim Watson (or a designate) at a press conference to be announced prior to the expiration of the “100 days” agreed to by Mayor Jim Watson and Minister John Baird on November 27, 2014.

The Working Group conditionally recommends the use of a defined portion of the NCC’s Sir John A Macdonald Parkway (the Parkway) lands to run the future western extension of the City of Ottawa’s LRT system under a rebuilt Sir John A. Macdonald Parkway, in accordance with a draft concept plan prepared by the City’s Cost Consultant and shown in Appendix B. The re-aligned Sir John A. Macdonald Parkway will enable the existing tree buffer between the Parkway and private/city lands to be retained, provide a net gain in accessible green space, and result in greater open park land between the Ottawa River and the Parkway. It will also provide the opportunity to begin the process of establishing a Linear Park as part of the Sir John A. Macdonald Parkway. The recommendation is subject to the following:

- 1) The City of Ottawa will be responsible for all costs related to the construction of the transit facility, temporary traffic lanes during construction, and reconstruction of the Parkway to a rough grade condition that blends in the transit infrastructure into the landscape setting.

The City will be responsible for the costs of reconstructing the east and westbound Parkway lanes to ensure full functionality including roads upgrade and surface, curbs, and drainage infrastructure to its current standard, the restoration and enhancements of existing pedestrians and cycling pathways, the construction of two new grade-separated pedestrian access points as shown on the draft concept plan. Making provisions to enable the extension of servicing into adjacent sections of the Park at a future date from Cleary and Dominion stations will also be explored.

- 2) The City of Ottawa agrees to set aside a fixed landscape and restoration budget of \$30 million ("the Restoration Funds") that the NCC will use for finished grading and landscape installation. Work done using the Restoration Fund will need to be completed no later than the opening of the Western Light Rail Transit Line, and may be subject to either the City or the NCC procurement process, at the NCC's discretion. Upon request by the City of Ottawa, the NCC will provide the City of Ottawa with a statement of expenses related to the Restoration Funds.
- 3) The Working Group delegates to senior NCC and City staff the responsibility to conduct a further detailed review of the LRT corridor design to find further cost savings, provided that the intent of "blending LRT into the Park context" is not lost. To that end, the NCC agrees to show flexibility on:
 - a) Portal location - Can be located anywhere north of Rochester Field as far west as the west boundary of 529 Richmond Road (north of Maple Lawn); and
 - b) Depth of cover over the transit box - The Parkway road elevation has to be maintained at current level.
- 4) The NCC will participate in a formal value engineering exercise organized by the City to reduce the costs of mitigation in the Pinecrest Creek Corridor since the NCC is consciously prioritizing landscape restoration on Sir John A. Macdonald Parkway.
- 5) Upon execution of this MOU, the City agrees to settle the outstanding Ontario Municipal Board appeal by the NCC as it relates to Rochester Field by designating two-thirds in the northeast section of Rochester Field as "General Urban" land use designation subject to a Concept Plan to be done by the NCC and to be commenced no earlier than January 2016. The NCC acknowledges in this settlement that the remaining one third of the land area of the site on the western side will be retained as parkland with a "Major Open Space" land use designation and may be credited towards parkland dedication requirements for the development of the eastern portion of the site.

- 6) The City acknowledges that it must compensate, at fair market value, the NCC for property rights for NCC lands required during the construction and to operate the Western LRT line.
- 7) The City acknowledges that the NCC's approval of the easement transaction is subject to Governor in Council approval.
- 8) The City agrees to ensure that the Cleary Station design meets the two conditions set out by the NCC board (ie. (a) unimpeded continuous access to the corridor lands and the shorelines of the Ottawa River and (b) the project has minimal visual impact on the corridor landscape quality and its experience by users) or that the Cleary station be re-located to city lands.
- 9) Notwithstanding clause 1) above, City agrees to abide by standard NCC practice and compensate NCC for any tree loss based on market value of trees removed, or alternatively the City may install an equivalent monetary value of trees on the Sir John A. Macdonald corridor in accordance with a plan approved by the NCC.
- 10) The City acknowledges that the design and land use of all elements located on NCC lands are subject to receiving a Federal Land Use and Design Approval of the NCC's Board of Directors.
- 11) The NCC and the City of Ottawa are committed to work together to meet the City's timeline when procurement and construction deadlines are required. According to current plans, procurement decisions regarding the construction of the Western Light Rail Transit Line are required by January 1, 2017.
- 12) Subject to the approval of the Memorandum of Understanding by the NCC's Board of Directors and the City of Ottawa, the NCC and the City of Ottawa will proceed to negotiate a final agreement incorporating the terms and conditions of this Memorandum of Understanding within 6 months of the public release of this document, and such other terms and conditions as may be agreed to between the parties. This agreement will inform a future agreement that will replace existing agreements between the parties related to the use of the Ottawa River Parkway for transit purposes.
- 13) The NCC and the City of Ottawa agree to retain the Working Group to complete a review of all federal land conditions and requirements associated with Stage 2 as well as a dispute resolution mechanism, as required.
- 14) The NCC affirms its offer to make Rochester Field available without need for Federal Land Use Design Approval (FLUDA) to the City as an alternate route for western light rail.
- 15) This Memorandum of Understanding is limited to the use of NCC lands for Ottawa's Western Light Rail Transit and should not be construed as a commitment of the

Government of Canada with respect to funding in response to an application from the City of Ottawa.

- 16) This Memorandum of Understanding provides an outline and summary of the high level elements agreed to in principle by the NCC and the City of Ottawa and will include the Working Group's mandate and proceedings as an appendix. The Memorandum of Understanding will be considered the report of the Working Group and will be made public when the Working Group announces its recommended option.

In witness whereof, the NCC and the City of Ottawa have executed this Memorandum of Understanding.

NATIONAL CAPITAL COMMISSION

Dr. Mark Kristmanson, Chief Executive Officer

CITY OF OTTAWA

Kent Kirkpatrick, City Manager

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Mandate and Proceedings of the NCC/City of Ottawa Western LRT Working Group

History:

- On June 28, 2013 the NCC Board passed a motion agreeing to consider the development of the Western Light Rail Transit project on the Sir John A Macdonald Parkway corridor provided that two conditions were met:
 - Unimpeded continuous access to the corridor lands and the shorelines of the Ottawa River; and
 - The project has minimal visual impact on the corridor landscape quality and its experience by users.
- On November 21, 2014, the NCC requested the City to study a Rochester Field alternative in its Environmental Assessment study since the partially buried design option presented by the City would not meet the Boards two conditions. The Board stated that it was encouraged that the City might consider a deeply buried tunnel under the parkway, but it wanted Rochester Field considered as an option.
- The City of Ottawa expressed concern about the affordability of the options presented by the NCC and stated that the options would cost up to \$1.7 billion, which was well above the City's "affordability envelope".
- On November 27, 2014, Foreign Affairs Minister and Minister Responsible for the NCC John Baird and Mayor Jim Watson met and announced that both parties would take 100 days to resolve the outstanding issues on the WLRT.
- Senior City and NCC staff held meetings in December 2014 to draft a structure, mandate and agenda for the Working Group discussions.
- The NCC and the City of Ottawa agreed to jointly retain Mr. George Dark of Urban Strategies Inc. to support the discussions of the Working Group.

Composition of the Working Group:

NCC: Dr. Mark Kristmanson, NCC CEO, Co-Chair of the Working Group

 Mr. Bob Plamondon, NCC Board member

 Ms. Jackie Holzman, NCC Board member

 Mr. Norm Hotson, NCC Board member

 Mr. Mike Pankiw, NCC Board member

 Senior NCC employees as support

City of Ottawa: Mr. Kent Kirkpatrick, City Manager, Co-Chair of the Working Group
Councillor and Deputy Mayor Mark Taylor
Councillor Keith Egli, Chair of the Transportation Committee
Councillor Stephen Blais, Chair of the Transit Commission
Senior City employees as support
Mr. David Hopper, Consultant to the City of Ottawa

External support resource: Mr. George Dark, Urban Strategies Inc.

Mandate of the Working Group (January 9, 2015)

Key principles:

- NCC and the City of Ottawa affirm their intent to work positively and constructively towards a solution to light rail alignment for Stage 2
- All deliberations will be held in confidence
- NCC and the City of Ottawa will share all relevant technical and financial reports (internal and external) related to Stage 2 of light rail
- External costs for the working group will be shared, subject to prior approval

Mandate:

Develop and explore costs and benefits of a light rail alignment along the:

- Sir John A Macdonald riverfront corridor
- Richmond/Byron corridor
- Achieve a common understanding of the issues and implications of an alignment along both corridors
- Identify and assess how the entirety of Stage 2 of light rail could impact on NCC lands
- Prepare a joint report with recommendations to the NCC Board and Ottawa City Council. If agreement is not reached on recommendations then a common report will be issued on the areas where there is consensus
- Develop a joint communications plan
- Endeavour to conclude the work by March 6, 2015

Synopsis of Meeting #1

- City staff presented an overview of the Stage 2 LRT program, along with information on the EA process to date, the history of the evaluation of alternatives, and the affordability conditions for the Stage 2 transit program. City staff explained aspects of the potential procurement methodology for Stage 2 and approaches they would be taking to allow creativity and save cost. City staff and the consultants answered questions from the NCC.
- NCC presented the policy considerations for the uses of NCC parkways and a discussion of the landscape attribute features of the Parkway.
- It was noted that normally the Commission will undertake municipal-like activities only where the municipality has no alternative itself, and where such action is not detrimental to the NCC's mandate.
- For the next meeting, the City agreed to complete a cost and non-cost comparison of two options: an improved version of the alignment on the parkway and an alignment within the Richmond Road corridor using Rochester Field.
- The NCC suggested that the improved parkway option could be an alignment buried beneath the eastbound lanes of the Parkway so that it would not require going through the mature forest edge that is a buffer between the residences and the parkway.

Events Between Meeting # 1 and Meeting #2

- City staff and their consultant worked to draw up conceptual plans and profiles of the two options, and develop cost estimates.
- City staff and their consultant met directly with NCC staff and Mr. George Dark to review and refine the concepts.
- The City's consultant prepared detailed cost estimates of both concepts.
- The NCC retained an independent cost consultant to peer review the City's consultant's cost estimates for both concepts.

Synopsis of Meeting #2

- Mr. David Hopper and Mr. George Dark presented both concepts.
- Mr. Hopper presented a preliminary cost estimate of both options showing that either would cost approximately \$1.1 billion.
- The revised parkway option (under the parkway traffic lanes with two new grade separated crossings of the parkway for access) was estimated to cost \$1.106 billion.
- The option that would go fully underground through Rochester Field and underneath the Byron Linear park—with a high quality reconstruction of Richmond Road and the Byron Linear Park—and including one grade-separated crossing of the parkway for access at Dominion Station would cost \$1.135 billion.
- The City's consultant acknowledged that there were potential cost risks to both options covered by contingencies built into the estimates, as well as opportunities for cost savings in both options if certain design modifications were possible.
- In particular, it was agreed that permitting the train to cross Rochester Field partially at grade to descend under Richmond Road would reduce this option by \$42 million to \$1.092 billion.
- NCC staff confirmed that the peer review of the costs felt that the estimates were reasonable and consistent with industry methodology.

- Mr. Hopper presented a comparison of the two options as it related to: transit operations, costs, operations and maintenance, community impacts and benefits, ridership and station functionality, and impacts to the environment and greenspace.
- The meeting concluded with considerable debate on the impacts and ability to mitigate the impacts on the nearby residents, the greenspace, the function of the Parkway and the function of the Byron Linear Park, and ways to manage cost risk.
- The group agreed to convene a third meeting to continue the discussions.

Events Between Meeting # 2 and Meeting #3

- City staff and their consultant worked with Mr. George Dark to identify areas where costs could be reduced for both options.
- NCC staff worked with its cost consultant to identify areas where cost savings could be realized without diminishing the landscape qualities.
- Both sides exchanged options for an agreement.

Synopsis of Meeting #3

- Both parties had independently prepared cost reduction strategies to reduce costs on both options to a threshold of \$1 billion. (These estimates were roughly equivalent.)
- The City did not accept the NCC's proposed incentives with respect to the Rochester Field-Richmond Rd. alignment:
 - a. Reduced cost by permitting surface alignment across most of Rochester Field
 - b. Reduced cost by offering Rochester Field in a land swap (i.e. no land purchase necessary)
 - c. NCC would pay for partial embellishments to SJAM green space to help offset inconvenience to local residents during construction period
 - d. NCC would consider conveying another park to City ownership as part of the settlement
 - e. NCC would waive the requirement for Federal Land Use and Design Approval.
- The NCC also pointed out that a less expensive option available to the City is to run the train on the surface in the Richmond Road, Byron Park corridor.
- The City agreed that although it may be a cheaper option this option is technically difficult and would impose an undue burden on local residents.
- NCC agreed to waive, on an exceptional basis given the potential to initiate the creation of the Sir John A. MacDonald Linear Park, its principle that municipal-like activities on federal lands should only take place when no other options are available.
- The NCC then clarified on what basis its Board might accept the SJAM option:
 - a. City pays for re-routing the Parkway over top of the rail thereby saving most of the mature trees, creating better water access and an improved pathway system.
 - b. City agrees to a fixed landscape restoration budget of \$30 million that is guaranteed and not susceptible to future value engineering.
 - c. City agrees to settle the outstanding OMB appeal allowing NCC to use two thirds of Rochester Field as a future development site.
 - d. City pays market value for easement required for use of NCC lands, and acknowledges GIC approval is required.
 - e. City acknowledges that design is subject to Federal Land Use and Design approval.
 - f. City agrees to compensate for any trees cut during construction.

- g. City acknowledges that a full report of the Working Group will be made public as part of the final recommendation, including cost information
 - h. City agrees to joint communications lines and strategy.
- Notwithstanding the above, the NCC also proposed:
 - a. A joint value engineering exercise to see where other costs can be saved across the entire WLRT system.
 - b. This exercise is intended to ensure the resulting agreement respects the City's affordability envelope and safeguards the Parkway restoration and improvements.
 - c. That the offer of Rochester Field to facilitate WLRT on Richmond Road remains open to the city.
 - d. That the Joint Working Group be retained as a dispute resolution mechanism.
- A verbal agreement in principle was reached to allow the City's WLRT to use the SJAM Parkway.
- The terms of the agreement and next steps are to be formalized in writing by Mark Kristmanson and Kent Kirkpatrick.

Draft concept plan

