

Clause embodied in Report No. 14 of the Administration Committee, as adopted by the Council of the City of Toronto at its regular meeting held on February 4, 5 and 6, 2003.

1a

**Union Station Request for Proposals
Status Report on Negotiations With
Union Pearson Group
(Ward 28 - Toronto Centre - Rosedale)**

(City Council at its regular meeting held on February 4, 5 and 6, 2003, amended this Clause:

- (1) in accordance with the recommendations embodied in the communication dated January 29, 2003, from the City Clerk, subject to striking out and replacing Recommendation No. (III), embodied therein, so that the recommendations, as amended, read as follows:*

“The Administration Committee recommends:

- (I) the adoption of the following Recommendations Nos. (4) and (5) contained in the report (January 22, 2003) from the Commissioner of Corporate Services:*
- ‘(4) the Public Advisory Group initiated by Councillors Holyday, Sutherland and Ashton be continued to provide public input as part of the ongoing review process for the revitalization of Union Station and be formalized as part of the governance structure for Union Station; and*
 - (5) the retainer of Davies Ward Phillips & Vineberg be continued to complete this transaction with costs, not to exceed \$250,000.00, to be paid out of revenues from Union Station;’;*
- (II) that the Commissioner of Corporate Services be requested to release, publicly, all of the RFP submissions and evaluation documentation, subject to the obligations of MFIPPA so that their release will protect the City’s financial and public interest; and*
- (III) that City Council request Mr. Justice Osborne to:*
- (i) review the full process for developing the Request for Proposal (RFP) terms, the evaluation of the RFP submissions, and the Selection Committee’s process for the selection of the preferred proponent in the Union Station RFP, to ensure it has been conducted in a fair and proper manner, based on the criteria established in the RFP;*

- (ii) *review, as a first priority, the disclosure issues regarding the scoring spreadsheets, and provide advice to City Council in that regard, as soon as possible, and in that context, be requested to consult with both the City Solicitor and the Director of Corporate Access and Privacy; and*
- (iii) *review the role of the engineering firm of Marshall Macklin Monaghan in the advice, preparation and distribution of the proposal request, as well as the firm's declarations of interest submitted during this process, having regard that this firm worked with Mr. Tannenbaum's company during construction of the Air Canada Centre.”; and*

(2) *by adding thereto the following:*

“It is further recommended that:

- (a) *the matter of releasing the scoring documents be referred to Mr. Justice Osborne, with a request that he advise City Council as to the proper timing of their release, and that the Commissioner of Corporate Services be requested to report to the Administration Committee:*
 - (i) *no later than 60 days on the matter of releasing the scoring documents; and*
 - (ii) *with an explanatory document outlining their purpose and methodology, in the event the scoring documents are to be released to the media;*
- (b) *Union Pearson Group and LP Heritage be requested to provide their consent to disclosure of the comparative aspects of the essential elements of their proposals, including the financial and business terms;*
- (c) *prior to entering into a lease agreement with Union Pearson Group, Council hold a public presentation of the detailed development plan and invite public comment, and to do so, all Members of Council and the public be invited to attend the Special Meeting of the Administration Committee;*
- (d) *prior to the consideration of any further proposals of this nature, the Chief Administrative Officer be requested to submit a report to the Administration Committee on the approach and process for the issuance of such proposals, including consideration of the following recommendation:*

‘That in future proposals of this nature, City staff be directed to bring the proposal specifications to Council, and that at this stage, Council invite public participation in the design of the call, prior to its release to potential proponents.’;

- (e) *the Commissioner of Corporate Services be:*
- (i) *directed to continue, together with appropriate City staff, the preparatory work necessary to redevelop Union Station, in any event;*
 - (ii) *requested to provide to Council, in-camera, copies of any declarations of interest from the firms Marshall Macklin Monaghan and Davies Ward Phillips & Vineberg, and/or their employees, and that such information also be forwarded to Mr. Justice Osborne; and*
 - (iii) *requested to submit a report to Council, through the Administration Committee, on any involvement by Dale Lastman in providing advice on this project to Kilmer Van Nostrand and/or Borealis, prior to his appointment to the Board of Directors of Borealis, and that such information also be forwarded to Mr. Justice Osborne;*
- (f) *henceforth, any reference to Mr. Justice Osborne which pertains to his role in this review, not allude to him as Provincial Integrity/Ethics Commissioner, having regard that Mr. Osborne will not be conducting his review of this process in that capacity; and*
- (g) *all City staff involved in this process be thanked for their professionalism and diligence.”*

As a result of media reports related to this matter, Council subsequently adopted the following additional recommendations:

“It is recommended that:

- (1) *Council convey its sincere apology to the Commissioner of Urban Development Services, and express its full confidence in her professionalism in serving the City of Toronto; and*
- (2) *the Chief Administrative Officer be authorized to release whatever information she deems necessary to provide a complete explanation for the scoring in the evaluation of the Union Station RFP, in order to support and protect the reputation of City staff.”)*

(City Council, at its regular meeting held on November 26, 27 and 28, 2002, deferred consideration of this Clause to the next regular meeting of City Council scheduled to be held on February 4, 2003.)

The Administration Committee recommends the adoption of the report (October 24, 2002) from the Commissioner of Corporate Services.

The Administration Committee reports, for the information of Council, having:

- (1) established a Reference Group comprised of Councillors Doug Holyday, Brian Ashton and Paul Sutherland to assist staff to expeditiously formulate a public consultation and public input process that optimizes public involvement in reviewing all aspects of the concept design, including transportation components and heritage strategy;
- (2) requested the Commissioner of Corporate Services:
 - (a) to request the proponents to identify any potential conflicts of interest their Board Members or Senior Managers may have with respect to involvement with any transportation agencies or other affected parties; and
 - (b) to submit a report to the Administration Committee on a Project Management Model that would ensure public accountability of a major Toronto Heritage landmark and transportation asset; and
- (3) referred the following motion to the Commissioner of Corporate Services for report, directly to Council for its meeting scheduled to be held on November 26, 2002, on its impact to the current negotiations:

Moved by Councillor David Miller:

- “(1) That the Administration Committee recommend to Council that Recommendation No. (1) contained in the report (October 24, 2002) from the Commissioner of Corporate Services with respect to the applicants rights to any future density, be received; and
- (2) that the Commissioner of Corporate Services be requested to submit a report to the Administration Committee on the terms of a full public process including the opportunity for charettes and design competitions with respect to the future development potential of Union Station and nearby lands.”

The Administration Committee submits the following report (October 24, 2002) from the Commissioner of Corporate Services:

Purpose:

The purpose of this report is to provide an interim status report on negotiations with Union Pearson Group and on a process for public input.

Financial Implications and Impact Statement:

There are no financial implications arising from this report.

Recommendations:

It is recommended that:

- (1) City staff continue negotiations with Union Pearson Group;
- (2) in the event negotiations reach a point where no agreement can be reached with Union Pearson Group or further negotiating instructions are required, the Commissioner of Corporate Services be authorized to report directly to City Council's meeting on November 26, 27 and 28, 2002, if required; and
- (3) the appropriate City staff be authorized and directed to take all necessary actions to give effect thereto.

Background:

Union Station is the largest operating railway station in Canada, serving GO Transit, VIA Rail and other inter-city railways and TTC commuters. The federal government has designated it as a National Historic Site and it has been identified as a gateway to the waterfront. When the City purchased Union Station in August 2000 it identified three public policy objectives:

- (a) promotion of Union Station as a multi-modal transportation hub;
- (b) preservation of Union Station as a heritage building; and
- (c) revitalization of Union Station as a destination in order to ensure its financial stability.

At the same time it recognized that the station required both an infusion of capital and an experienced operator/manager to achieve these public objectives. The station was underperforming financially and was in serious need of basic capital repairs and refurbishment. To completely restore and revitalize the existing heritage building would require an infusion of significant capital funds. By enlisting the private sector to do so, the City can avoid the upfront capital costs and utilize the expertise of the private sector to rejuvenate the Station and restore it as a City landmark. At its meeting held March 6, 7 and 8, 2001, City Council directed the Commissioner of Corporate Services to initiate the Request for Proposals ("RFP") which is the subject of this report.

At its special meeting held July 30, 31 and August 1, 2002, City Council selected Union Pearson Group ("UPG") as the Preferred Proponent to revitalize Union Station. The next step in this RFP process is for staff to negotiate contractual terms with UPG, which are acceptable to the City of Toronto in the following general areas:

- (i) team composition;
- (ii) concept design, including transportation components and heritage strategy;
- (iii) project management;

- (iv) leasing and operations; and
- (v) business plan.

Those negotiations are underway and proceeding well. However, it is a complex matter and significant time and resources are required.

Comments:

To date, the parties have been settling the transaction framework and have begun an ambitious schedule of consultations with City staff, Parks Canada, Transport Canada and the station operators to obtain the key commitments necessary from UPG to assure City Council that its proposal will be implemented in a manner that is satisfactory to the City and to those stakeholders who have a direct interest in the Station.

(A) Transaction Framework:

The initial formal agreement to be entered into between the City and UPG, while principally an agreement to lease, is a more comprehensive agreement (the “Master Agreement”) given the complexities of the transaction. It will identify the Key Components of the proposal that must be committed by UPG before the City will agree to lease the Station to UPG.

Also to be finalized and attached as schedules to the Master Agreement will be a number of documents including:

- (a) the Station Lease;
- (b) the Concept Design, which will commit UPG to the revitalization concept for the Station, addressing such key components as the treatment of the moats; the lower level retail area; the opening in the VIA concourse to that lower level; the central stairwells; and a south access route connection; all to be approved by key stakeholders such as GO Transit, VIA Rail and Parks Canada;
- (c) preliminary project plans and preliminary outline specifications;
- (d) the Heritage Easement Agreement and Design Guidelines;
- (e) outline of the project team including strengthened heritage consultants;
- (f) the type and form of security to the City in respect of UPG’s obligations;
- (g) preliminary project schedule;
- (h) preliminary project budget; and
- (i) naming/signage policy.

These must all be committed by Union Pearson Group before Council will be asked to approve the Master Agreement.

If approved and executed, the Master Agreement then provides for a “Pre-Construction Period” during which various pre-conditions must be met to the City's satisfaction in order to close the transaction, including:

- (a) finalizing the project scope, pre-construction design, plans and specifications for the Station, including any modifications to the Concept Design, which must continue to address the key City objectives for Union Station, including:
 - (i) enhancement and integration of the transportation functions;
 - (ii) a demonstrated conservation ethic and respect for the heritage character and design of the Station and its Beaux-Arts architecture;
 - (iii) development of a distinguished identity and creation of a destination;
 - (iv) integration and connectivity to its surroundings, including enhanced pedestrian circulation and an improved south access route;
 - (v) use of major architectural elements; and
 - (vi) accommodation of servicing requirements;
- (b) obtaining all necessary approvals, including any necessary Parks Canada/heritage approvals, municipal rezonings, site plan approvals, permits or other pre-construction approvals. This would include the usual City requirements including provision of public art;
- (c) finalizing the pre-construction project budget; construction schedule, including a staging approach approved by GO Transit, VIA Rail and TTC which integrates the Station work with the GO, VIA and TTC projects and minimizes disruption to their ongoing operating functions in the Station; construction contract, including construction financing and all necessary bonding, insurance or other security satisfactory to the City.

If, by the end of the Pre-Construction Period, these requirements have been met, then the transaction would be completed by execution and delivery of the Station Lease and any other necessary agreements to be delivered on closing and UPG would take possession of the Station.

The form and detailed content of the Master Agreement is under active negotiation between the parties. Once it is finalized, negotiations can then commence on the schedules, including the Station Lease. This is where the financial transaction will be documented. As such, there is nothing to report on this aspect of the proposal as yet.

- (B) Concept Design:

Simultaneously with the negotiation of the Master Agreement terms, UPG has been working diligently with City staff from the relevant areas (planning, transportation, facilities and real estate and heritage preservation) in consultation with GO Transit, VIA Rail, TTC, Parks Canada and the landowners to the South to address any issues identified through the review and evaluation phase and to finalize a recommended Concept Design that is satisfactory to all parties. This is a refinement of the UPG concept plan presented to City Council and is expected to be completed shortly. The City and UPG will then seek public input into the recommended Concept Design. Once this is finalized, the impact of any amendments on the business plan can be determined and dealt with as part of the negotiations on the financial package.

(C) Status Update on Key Issues:

Heritage:

The Selection Panel in recommending UPG indicated that the heritage approach identified in its proposal was one area where improvement would be required. In response, UPG has retained the Montreal firm of Fournier Gersovitz Moss and Associates, Architects, to address heritage conservation issues. This firm has excellent credentials in the area of heritage conservation architecture. Discussions are underway to respond to issues and any further heritage requirements identified as part of the review and evaluation phase. Heritage Preservation Services staff will continue to work with Parks Canada and UPG to ensure that heritage conservation issues are adequately addressed in the legal agreements, Concept Design and resulting plans and specifications.

The Toronto Preservation Board is already aware of this proposal and will also be fully involved in its usual advisory role to City Council as part of the public review and reporting process on the Concept Design, and particularly any proposed alterations affecting identified heritage elements. A more detailed report on the heritage aspects of the UPG proposal will be incorporated in the final report on this transaction.

Additional Density:

Administration Committee Report No. 11(1) adopted, as amended, by City Council at its meeting held July 30, 31 and August 1, 2002, recommending Union Pearson Group as the Preferred Proponent, made it very clear that, having reviewed both proponents' approach to the creation of additional density, selection of a Preferred Proponent did not constitute approval of an additional density concept and it was intended to proceed solely with the Base Proposal. City Council also expressed its concern with the air rights associated with Union Station and gave direction to staff on a confidential basis to preserve the interests of the City and to negotiate an approach that separated any opportunity to pursue additional density at the site from the proposal to revitalize the existing building.

UPG has recognized City Council's position and the parties are proceeding in a manner that is consistent with Council's direction in this regard. The UPG Concept Design, which is under consideration by the City and other stakeholders, does not include the creation of any additional development in the air space above the building or the tracks.

The proposal is solely to restore and renovate the existing station building. Although the exact terms of the Master Agreement are still under negotiation, UPG has committed that it will restore and renovate the Station without delay and that this proposal is not in any way conditional upon the achievement of any additional density.

Public Process:

The City's web site has been updated to allow easy access to the various public reports and other useful information related to the Station including the heritage framework and the public presentation on the two development proposals made to the July 30, 31 and August 1, 2002, City Council meeting.

As noted earlier, in addition to stakeholder consultations with the transportation operators and heritage agencies, public review and comment will be invited on the UPG Concept Design. In addition to the involvement of the Toronto Preservation Board, City staff will be arranging an open house information session as soon as possible and continued use of the City's web site will allow wider access to information and input on the project in advance of any final staff recommendation. City staff would also meet with stakeholders from the community to discuss specific issues as they arise.

Once City staff have completed the negotiations and are recommending a Successful Proponent, all aspects of the proposal, including the proposed contract terms will be made public before City Council gives its final approval. There will be a public report and presentation on the proposed terms of the Master Agreement and its Schedules (such as the Lease and Design Concept) and the usual opportunity for public comment and deputation to the Administration Committee.

Conclusions:

If we continue to make good progress, I am optimistic that we will be able to provide a comprehensive report to the January Administration Committee meeting outlining the substance of the negotiations, including a response to the various City Council requests adopted at the meeting of July 30, 31 and August 1, 2002. Although negotiations are proceeding well, in the event the staff negotiating team determines that an agreement cannot be reached with Union Pearson Group such that I would be seeking instructions to commence negotiations with LP Heritage + Union Station Consortium or other critical negotiating instructions are required between now and then, I recommend that I be given the ability to report directly to City Council for advice and direction if required.

In the meantime, City staff will continue to work diligently with all parties to bring this Request for Proposals process to a successful conclusion, in order to restore and revitalize Union Station as a Toronto landmark.

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The Administration Committee also submits the following communication (October 7, 2002) from the City Clerk:

Recommendation:

The Toronto Cycling Committee requested the Administration Committee for an opportunity to review the site plan of Union Station for bicycle facilities, when it is available.

Background:

The Toronto Cycling Committee, at its meeting held on September 23, 2002, had before it a communication (August 8, 2002) from the City Clerk, providing, for information, Clause No. 1, contained in Report No. 11, of The Administration Committee, headed, "Request for proposals to Restore, Develop and Operate Union Station (Ward 28 – Toronto Centre-Rosedale), which was adopted, as amended, by City Council on July 30, 31 and August 1, 2002; and advising that City Council has adopted a recommendation that discussions with the proponent include the development of an ambitious plan for cycling facilities, cycling rentals and service, modeled on best practices from Europe, and further, that there be consultation with the City's Cycling Committee and staff of the Works and Emergency Services Department.

The Toronto Cycling Committee:

- (1) requested the Administration Committee for an opportunity to review the site plan of Union Station for bicycle facilities, when it is available; and
- (2) requested the Administration Committee to give favourable consideration to the aforementioned recommendation.

The Administration Committee also submits the following communication (November 5, 2002) from Councillor Michael Walker, St. Paul's:

Recommendations:

It is recommended that:

- (1) the present Request for Proposals and Master Agreement negotiations be terminated and an international design competition that incorporates the railway lands south of Union Station, Union Station and the Air Canada Centre be initiated;
- (2) an independent review of the present project be commissioned – such review to be completed for the March 25, 2003 Administration Committee meeting;
- (3) Clause No. 1 to the Administration Committee from Commissioner of Corporate Services, dated October 24, 2002, be received; and
- (4) no further consideration be given to this matter until the March 25, 2003, meeting of the administration committee.

Background:

I have had the privilege of serving the people of Toronto for over twenty years. In order to discharge my duties it is only common sense that it is necessary to be informed.

In my opinion, we have been asked to vote on the union station proposal without having sufficient information to do so. That is an insult to our integrity and furthermore, if followed, would be a dereliction of our duty.

I would like to propose an alternative and hopefully better way for us to proceed. The question has to be asked: Why are we tendering Union Station without due consideration of the lands to the south that we own? Surely the design of a project envisioned now should incorporate both properties and likely the Air Canada Centre at the same time.

Union Station is not only a Toronto landmark, but a Canadian one as well. We now have an opportunity to create a landmark project - one to be recognized world wide. We own the lands to the south of Union Station and the inherent value of that land can create the capital that could be used to capitalize and develop the site not only in an economic fashion but as a landmark statement.

The call for proposals re: Union Station stated that the development of this land should only be peripherally taken into account in the selection process. That is illogical. Should we pour the footings before planning the building?

I am not sure what the value of the railway lands are but indications are that the value is over \$100 million. Certainly an appraisal would be helpful. One of the parties who submitted a proposal on Union Station has indicated the railway lands' value as \$200 million.

Certain buildings around the world have created landmarks. Examples are the Empire State Building, the Rockefeller Center, the Sydney Opera House, and Toronto City Hall itself. We have a chance to utilize this property together with Union Station to create the same. I would

suggest that an international competition be called for the design of these lands, incorporating and merging the project with both Union Station and the Air Canada Centre.

Further to this, the newly adopted Official Plan states in section 3.1.1, the Public Realm:

“Policies:

(1) - quality architectural, landscape and urban design will be promoted by:

...(b) using design competitions to seek design excellence and promote public interest in design quality for public works; and...”

In order to protect Council’s interests and to realize the best economic benefits, I propose that the design firm need not be the developer. Thus, once we have decided on and approved the design of the project, we can open that for tender. We almost certainly will get better value as the inside track will have been broken.

Even if the city has to contribute a part of the value of the land and thus subsidize the costs so as to make them economical, the benefit will be the landmark project.

The process must be transparent, and without conflicts of interest or even the appearance of conflicts. One of the significant shareholders in the preferred respondent is a major significant shareholder in the Air Canada Centre. His lawyer, and good friend, is our mayor’s son. Accordingly, it would seem the mayor has an apparent conflict of interest that should be investigated. If there is not the appearance of conflict here I do not know what the term means. I cannot and will not vote for this proposal under these circumstances.

Approximately ten years ago I objected to a development proposal on Mutual Street involving the sears building and other adjacent properties. When City Council agreed on my and former Councillor Jacobek’s initiative to bring in an independent consultant for a report, the City realized savings in excess of thirty million dollars.

At the very least, if we proceed as we are being advised to by staff which I am against, I feel strongly that an independent review of this project be commissioned prior to any vote.

This building has been with us for nearly eighty years. Three or four more months is reasonable.

The Administration Committee, reports for the information of Council, having also had before it a communication (November 5, 2002) from Mr. Joe Lobko, Chair, Toronto Society of Architects, urging the City to support and implement a process of community involvement with respect to the restoration and development of the Union Station property, prior to entering into any contractual agreements with Union Pearson Group, or any other operator/developer proponent; requesting that the present contractual negotiations to determine the redevelopment plans for the Station be delayed until public input can be obtained; and advising that the Toronto Society of Architects would be pleased to work with the City to facilitate the generation of ideas and to promote public awareness of the issues and opportunities.

The following persons appeared before the Administration Committee in connection with the foregoing matter:

- Mr. John Sewell;
- Mr. Lawrence David;
- Ms. Linda Sheppard, and filed a written submission with respect thereto;
- Mr. Wayne Olsen, and filed a written submission with respect thereto;
- Mr. David Jeanes, President, Transport 2000 Canada, and filed a written submission with respect thereto;
- Mr. Rick Ducharme, General Manager, Toronto Transit Commission;
- Mr. Steven Otto;
- Mr. Andy Turnbull;
- Ms. Bobbi Speck, and filed a written submission with respect thereto;
- Mr. Gary Adamache;
- Mr. Stig Harvor, and filed a written submission with respect thereto;
- Mr. Wilfrid Walker, P. Eng, Transport 2000 Ontario;
- Mr. Rob Hines, and filed a written submission with respect thereto;
- Ms. Phyllis Creighton and Ms. Dorothy Fletcher;
- Mr. David Hanna;
- Ms. Marcia Cuthbert, and filed a written submission with respect thereto;
- Mr. Hamish Wilson;
- Ms. Lois James; and
- Mr. Andrew Jeanes.

The following Members of Council also appeared before the Administration Committee in connection with the foregoing matter:

- Councillor Sandra Bussin, Beaches-East York;

- Councillor Joe Mihevc, St. Paul's;
- Councillor Howard Moscoe, Eglinton-Lawrence; and
- Councillor Michael Walker, St. Paul's.

(City Council, at its regular meeting on November 26, 27 and 28, 2002, had before it, during consideration of the foregoing Clause, the following report (November 21, 2002) from the Commissioner of Corporate Services:

Purpose:

The purpose of this report is to report, as requested by the Administration Committee, directly to Council at its meeting scheduled to be held on November 26, 2002 on the impact on current negotiations of two motions more fully described below.

Financial Implications and Impact Statement:

This report has no financial implications.

Recommendation:

It is recommended that this report be received for information.

Background:

At its meeting held on November 5, 2002, the Administration Committee had before it the report (October 24, 2002) from the Commissioner of Corporate Services entitled "Union Station Request for Proposals – Status Report on Negotiations with Union Pearson Group" recommending that:

- “(1) City staff continue negotiations with Union Pearson Group; and*
- (2) in the event negotiations reach a point where no agreement can be reached with Union Pearson Group or further negotiating instructions are required, the Commissioner of Corporate Services be authorized to report directly to City Council's meeting on November 26, 27 and 28, 2002, if required.”*

The Administration Committee has recommended to Council the adoption of that report and, among other things, referred the following motions to the Commissioner of Corporate Services for a report to be made directly to Council for its meeting scheduled to be held on November 26, 2002 on their impact to the current negotiations:

- “(1) *that the Administration Committee recommend to Council that Recommendation No. (1) contained in the Report (October 24, 2002) from the Commissioner of Corporate Services with respect to the Applicant's right to any future density, be received; and*
- (2) *that the Commissioner of Corporate Services be requested to submit a report to the Administration Committee on the terms of a full public process including the opportunity for Charettes and design competitions with respect to the future development potential of Union Station and nearby lands.”*

Comments:

At its Special Meeting held July 30, 31 and August 1, 2002 City Council authorized and directed staff to undertake negotiations with Union Pearson Group Inc. and to report back to the October 15, 2002 Administration Committee meeting. In addition, certain confidential instructions were issued to staff including instructions as to how negotiations with the preferred proponent were to be structured with respect to the right, if any, of Union Pearson Group to develop additional density at Union Station.

The effect of Motion No. (1) would be to discontinue negotiations at this time with Union Pearson Group Inc. with respect to additional density. This would, in my view, be inconsistent with Council's direction. Council specifically provided confidential instructions to staff as to how negotiations on the additional density issue were to be conducted. City Council gave firm directions to staff to preserve the interests of the City and to negotiate an approach that addresses independently the restoration and renovation of the existing building and any opportunity to pursue the creation of additional density at the Station. Without determining whether additional density could or should be created at Union Station, the legal agreements to be negotiated must protect the City's right to create and develop additional density in the future, either on its own or in concert with a developer. As a minimum, this would require the reservation of rights of access and support and other rights necessary so as not to preclude construction in the future.

Staff is making good progress in the negotiations with regard to Council's directions in this regard. However, the parties have not completed these negotiations and in particular have not fully settled the terms required in the lease to allow the City to create and construct additional density at Union Station in the future, should it determine that this was appropriate. By instructing staff not to continue negotiations with regard to additional density, the first motion would remove staff's ability to negotiate the appropriate protections that would allow the City, or anyone else, to create and construct additional density at Union Station in the future. This is impractical and would not be in the best interests of the City.

Motion Number (2) requests a report to the Administration Committee on terms for a full public process including the opportunity for charettes and design competitions with respect to the future development potential of Union Station and nearby lands. It was always intended, and the RFP document states, that any proposal to create additional density at Union Station would be

subject to the normal planning and approval process as required by the Planning Act. City staff have made it very clear to proponents that there are significant planning, heritage, transportation and other issues that would have to be resolved before any additional density could be approved for Union Station. Any process to consider future development potential could incorporate design competitions, charettes and other forms of public participation. It would be appropriate for the Commissioner of Urban Development Services to report to the Administration Committee in this regard as part of the comprehensive report on the results of negotiations with the Union Pearson Group.

With respect to the impact on negotiations, the current concept design under discussion with Union Pearson Group does not include any additional development in the air space above Union Station or the rail corridor. As such, the second motion has no immediate or adverse impact on the current negotiations with Union Pearson Group. As noted above, any consideration of the future development potential of Union Station and nearby lands would include a full public process and the options suggested in the motion are always within the purview of the City to initiate or require – particularly for a City owned site of this significance.

The Chief Financial Officer and Treasurer, Commissioner of Urban Development Services and the City Solicitor have been consulted in the preparation of this report.

Conclusions:

In conclusion, Motion Number (1) will have a significant and adverse impact on City staff's ability to negotiate an agreement that protects the City's interests. Motion Number (2) has no impact on the negotiations.

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(City Council also had before it, during consideration of the foregoing Clause, communications from the following, forwarding comments with respect to the proposed redevelopment of Union Station:

- (a) (November 1, 2002) from Janet Goodfellow; and*
- (b) (November 21, 2002) from Laura F. Cooper, on behalf of the Save Union Station Steering Committee.)*

(Having regard that City Council deferred consideration of this Clause to its next regular meeting scheduled to be held on February 4, 2003, the aforementioned communications will be resubmitted to Council.)

(City Council, at its regular meeting on February 4, 5 and 6, 2003, had before it, during consideration of the foregoing Clause, the following communication (January 29, 2003) from the City Clerk:

Recommendations:

The Administration Committee recommends:

(I) the adoption of the following Recommendations Nos. (4) and (5) contained in the report (January 22, 2003) from the Commissioner of Corporate Services:

“(4) the Public Advisory Group initiated by Councillors Holyday, Sutherland and Ashton be continued to provide public input as part of the ongoing review process for the revitalization of Union Station and be formalized as part of the governance structure for Union Station;

(5) the retainer of Davies Ward Phillips & Vineberg be continued to complete this transaction with costs, not to exceed \$250,000, to be paid out of revenues from Union Station;”;

(II) that the Commissioner of Corporate Services be requested to release, publicly, all of the RFP submissions and evaluation documentation, subject to the obligations of MFIPPA so that their release will protect the City’s financial and public interest; and

(III) that the process undertaken in the Union Station RFP be reviewed by an independent reviewer to determine if the process has been undertaken properly in accordance with City standards of integrity, and that one of the following persons be requested to be the reviewer:

(i) the Provincial Ethics Commissioner, Mr. Justice Osborne; or

(ii) the City’s Auditor General.

The Administration Committee reports, for the information of Council, having:

(I) deferred consideration of the following Recommendations Nos. (1), (2), (3) and (6) contained in the report (January 22, 2003) from the Commissioner of Corporate Services, to a special meeting of the Administration Committee to be arranged at the call of the Chair:

“(1) a Master Agreement to Lease Union Station to the Union Pearson Group be approved on terms and conditions set out in the body of this report and be in a form satisfactory to the City Solicitor;

- (2) *the proposal deposit in the amount of \$50,000 be refunded to LP Heritage + Union Station Consortium;*
 - (3) *revenues to the City generated from the lease of Union Station to the Union Pearson Group be placed in a reserve account to be used solely for Union Station capital requirements, any post-closing adjustments and transaction costs, and outside legal, accounting or other consultants' fees necessary to finalize this transaction, pending a determination of the status of the Walks and Gardens Trust; and*
 - (6) *appropriate City staff be authorized and directed to take all necessary actions to give effect thereto;”;*
- (II) *requested the Commissioner of Corporate Services to:*
- (a) *negotiate further with Union Pearson Group with the intent of removing the second 50 year term of the lease or otherwise reducing the length of the lease or redefining the triggering mechanisms that afford greater control to the City;*
 - (b) *produce the lease and any agreements related to future density rights over Union Station lands to Council for consideration, through the Administration Committee;*
 - (c) *review further the design issues raised by the deputants appearing at the January 29, 2003, Special Meeting of the Administration Committee, particularly pedestrian flow, east west, north and south connections, the GO concourses and the location of retail, and report on potential improvements; and*
 - (d) *provide a public report to the Special Meeting of the Administration Committee to be arranged at the call of Chair of the Committee:*
 - (i) *comparing the financial arrangements negotiated with Union Pearson Group with the original financial proposals of Union Pearson Group and LP Heritage + Union Station Consortium and with a “public sector comparator”;* and
 - (ii) *on what extent the City is encumbered or specific rights assigned to the proponent of reciprocal rights regarding the upper area of Union Station; and*
- (III) *referred the submissions and concerns raised by the deputants appearing at the Special Meeting of the Administration Committee held on January 29, 2003, specifically the issues raised by Mr. Art MacIlwain, President, Urquhart, Mr. John Sewell, Save Union Station Committee; Mr. Wayne Olson, Architect, OAA MRAIC, the Toronto Railway Historical Society, and the Toronto Preservation Board, to the Commissioner of*

Corporate Services for report thereon to the Special Meeting of the Administration Committee to be arranged at the call of the Chair.

Background:

The Administration Committee at its Special Meeting held on January 29, 2003, had before it a report (January 22, 2003) from the Commissioner of Corporate Services recommending that:

- (1) a Master Agreement to Lease Union Station to the Union Pearson Group be approved on terms and conditions set out in the body of this report and be in a form satisfactory to the City Solicitor;*
- (2) the proposal deposit in the amount of \$50,000 be refunded to LP Heritage + Union Station Consortium;*
- (3) revenues to the City generated from the lease of Union Station to the Union Pearson Group be placed in a reserve account to be used solely for Union Station capital requirements, any post-closing adjustments and transaction costs, and outside legal, accounting or other consultants' fees necessary to finalize this transaction, pending a determination of the status of the Walks and Gardens Trust;*
- (4) the Public Advisory Group initiated by Councillors Holyday, Sutherland and Ashton be continued to provide public input as part of the ongoing review process for the revitalization of Union Station and be formalized as part of the governance structure for Union Station;*
- (5) the retainer of Davies Ward Phillips & Vineberg be continued to complete this transaction with costs, not to exceed \$250,000, to be paid out of revenues from Union Station; and*
- (6) appropriate City staff be authorized and directed to take all necessary actions to give effect thereto.*

The Administration Committee also had before it the following communications:

- (i) (January 23, 2003) from the City Clerk recommending the adoption of the following recommendations of the Toronto Preservation Board:*

“The Toronto Preservation Board recommends to the Administration Committee and Council that:

- (I) the City endorse “in principle” the following four major interventions referred to in the communication dated January 15, 2003, from Patricia H. Simpson, Solicitor, as amended:*

- (1) the moats to be covered with transparent glazing, which will provide weather-protected spaces, for public, pedestrian use;*

- (2) *an opening to be introduced into the floor of the Via Arrivals/Departure Lobby, in order to provide a connection to the Concourse level below;*
 - (3) *stairs to be introduced in two of the arches in the Great Hall, to allow additional circulation paths into the VIA Concourse and the Concourse levels below; and*
 - (4) *the West Wing to be used for either an office or hotel use, above the main floor, such an adaptive re-use not to involve any changes or any addition to the exterior facades or any additional floors, and provided that there is improved public access to the current waiting area;*
- (II) *the Toronto Preservation Board's displeasure and concern with the process be registered; and*
 - (III) *the appropriate City officials be authorized and directed to take the necessary action to give effect thereto;*
- (ii) *(December 5, 2002) from Mr. John Sewell, Save Union Station Committee, forwarding a brief entitled "Proposal for an Advisory Group for Union Station" for the consideration of the Administration Committee;*
 - (iii) *(December 5, 2002) from Mr. John Sewell, Save Union Station Committee, forwarding a brief entitled "Red Flag Issues regarding Union Station" for the consideration of the Administration Committee;*
 - (iv) *(January 24, 2003) from Mr. William Freeman;*
 - (v) *(January 25, 2003) from Ms. Brenda Zitzer and family;*
 - (vi) *(January 27, 2003) from Mr. John Sewell, Save Union Station Committee;*
 - (vii) *(January 28, 2003) from Ms. Alison Reid;*
 - (viii) *(January 28, 2003) from Mr. Wayne Olsen; and*
 - (ix) *Various submissions respecting the proposal pertaining to the Union Station Redevelopment Proposal.*

The following persons appeared before the Administration Committee in connection with the foregoing matter:

- *Mr. Ronald Taylor, on behalf of Union Pearson Group;*

- *Ms. Julia Gersovitz, on behalf of Union Pearson Group;*
- *Mr. Dave Sutherland, on behalf of Union Pearson Group;*
- *Mr. Cubie Dawson, on behalf of Union Pearson Group;*
- *Mr. John Sewell, Save Union Station Committee;*
- *Mr. David Jeanes;*
- *Mr. David Garon, Secretary, Toronto Railway Historical Society, and filed a written submission with respect thereto;*
- *Mrs. Joan York;*

- *Ms. Linda Sheppard;*
- *Mr. Lawrence David;*
- *Ms. Laura Cooper;*
- *Mr. Rob Hines;*
- *Ms. Alison Reid;*
- *Mr. Wayne Olsen; Architect, OAA MRAIC; and*
- *Mr. Art McIlwain, President, Urqhart Consortium, and filed a written submission with respect thereto.*

The following members of staff also appeared before the Administration Committee in connection with the foregoing matter:

- *Mr. Bob Boyle, GO Transit;*
- *Mr. David Hopper, Delcan Transit and Transportation Planning; and*
- *Mr. Thomas Middlebrook, Toronto Transit Commission.*

The following Members of Council also appeared before the Administration Committee in connection with the foregoing matter:

- *Councillor Pam McConnell, Toronto Centre-Rosedale;*
- *Councillor Sherene Shaw, Scarborough-Agincourt; and*
- *Councillor Michael Walker, St. Paul's.)*

*(Report dated January 22, 2003, addressed to the
Administration Committee, from
the Commissioner of Corporate Services.)*

Purpose:

To report on the status of negotiations with the Union Pearson Group and seek authority to execute a Master Agreement with the Union Pearson Group.

Financial Implications and Impact Statement:

If this transaction is approved and a Master Agreement executed on the terms and conditions identified herein, the City agrees to lease Union Station to the Union Pearson Group (“UPG”) for 35 years with one 15 year renewal and the possibility of a further 50 years if the lower level access route is constructed. On closing of the transaction, the City will receive a minimum guaranteed annual rental income stream of \$500,000 with the opportunity to share in excess revenues plus a participation component. UPG will invest up to \$150 million in the restoration and renovation of the Union Station building to revitalize this underperforming asset for the City and then maintain and operate the building to be self-sustaining. In addition to the financial return to the City, it is anticipated that this transaction will provide public benefits in both transportation improvements and heritage preservation, the creation of a tourist destination and a renewed civic pride in this treasured building.

This transaction does not include any right of UPG to create or build out any additional development in the air space above the building or the tracks. UPG will have no exclusive rights in respect of additional density. All right to create, market and develop any additional density available above Union Station and the rail corridor between York and Bay Streets rests with the City, subject to a defined “moratorium” period to allow UPG to fulfill the restoration and redevelopment obligations without interruption or interference.

The transaction contemplates the usual due diligence period for the parties to settle further lease details and other closing documentation and contains other pre-closing conditions to be satisfied as outlined in this report. If there are financial implications arising out of those matters not identified in this report, a further report will be provided. Delays in the closing of this transaction beyond the anticipated closing date may result in increased costs to the City.

All transaction costs, including legal or other consultants, can be funded from the revenues currently earned at Union Station.

The Chief Financial Officer and Treasurer has reviewed this report and concurs with the financial impact statement.

Recommendations:

It is recommended that:

- (1) *a Master Agreement to Lease Union Station to the Union Pearson Group be approved on terms and conditions set out in the body of this report and be in a form satisfactory to the City Solicitor;*
- (2) *the proposal deposit in the amount of \$50,000 be refunded to LP Heritage + Union Station Consortium;*
- (3) *revenues to the City generated from the lease of Union Station to the Union Pearson Group be placed in a reserve account to be used solely for Union Station capital requirements, any post-closing adjustments and transaction costs, and outside legal, accounting or other consultants' fees necessary to finalize this transaction, pending a determination of the status of the Walks and Gardens Trust;*
- (4) *the Public Advisory Group initiated by Councillors Holyday, Sutherland and Ashton be continued to provide public input as part of the ongoing review process for the revitalization of Union Station and be formalized as part of the governance structure for Union Station;*
- (5) *the retainer of Davies Ward Phillips & Vineberg be continued to complete this transaction with costs, not to exceed \$250,000, to be paid out of revenues from Union Station; and*
- (6) *appropriate City staff be authorized and directed to take all necessary actions to give effect thereto.*

Background:

The City purchased Union Station in August 2000. In doing so it identified three public policy objectives:

- (a) *promotion of Union Station as a multi-modal transportation hub;*
- (b) *preservation of Union Station as a heritage building; and*
- (c) *revitalization of Union Station as a destination in order to ensure its financial stability.*

The station requires both an infusion of capital and an experienced operator/manager to achieve these public objectives. It is underperforming financially and is in serious need of basic capital repairs and refurbishment of at least \$16 million. To completely restore and revitalize the existing heritage building requires a significant infusion of capital funds. After purchasing the station, City Council directed the Commissioner of Corporate Services to initiate a Request for Proposals ("RFP") to restore, develop and operate Union Station that is the subject of this report.

At its special meeting held July 30, 31 and August 1, 2002, City Council selected Union Pearson Group ("UPG") as the Preferred Proponent to revitalize Union Station and directed City staff to negotiate acceptable contractual terms with UPG based on its proposal. The results of those negotiations are the subject of this report.

Comments

As a result of negotiations, in consultation with GO Transit, VIA Rail, TTC, Transport Canada and Parks Canada, City staff and UPG have settled the terms of a Master Agreement (similar in nature to an Agreement to Lease) with UPG to restore, develop and operate Union Station on terms and conditions detailed herein and in a form satisfactory to the City Solicitor. UPG has approved the terms of the Master Agreement subject to obtaining certain requisite shareholder confirmations.

The RFP required the proposals to be irrevocable after submission and remain valid for one year following submission. That year has now passed. Inflation and increases in construction costs make the construction costs and other financial projections provided in the proposals less reliable as time progresses. While neither proponent has indicated they are withdrawing their proposal on this basis, it provides some urgency to complete the transaction without undue delay.

Both proponents were also required to submit a proposal deposit of \$50,000 to be refunded to an “unsuccessful proponent” when either its proposal has been “rejected” or another proposal is “unconditionally accepted”. To this date, neither has happened. If the recommendations in this report are adopted, there will still be conditions to be satisfied before UPG is awarded a lease to the station. LP Heritage + Union Station Consortium (LP Heritage) has raised the issue of the retained deposit of \$50,000 in light of the length of time the process has taken. It is not unreasonable for them to request the return of this deposit under the circumstances. Therefore it would be appropriate to refund the proposal deposit to LP Heritage.

The formal agreement to be entered into between the City and UPG, while principally an agreement to lease, is a more comprehensive agreement (the “Master Agreement”) given the complexities of the transaction. It identifies and commits UPG in principle to its proposal including the Key Components as shown on the Concept Design and described on the Preliminary Outline Specifications including:

- (a) treatment of the moats and teamways;*
- (b) an opening in the VIA concourse to a south access route below;*
- (c) central stairwells within the arches in the Great Hall allowing access to all levels within the station; and*
- (d) creation of a “South Central Concourse” beneath the VIA concourse.*

These significant elements of the UPG proposal respond to City objectives to enhance pedestrian circulation and wayfinding within, around and through the building as identified in the Railway Lands Plan and related Precinct Agreements. The South Central Concourse and retail area beneath the VIA concourse allows for a separation of inter-city travellers from commuters and creates additional retail opportunities without impeding GO and VIA concourse space. It also creates the opportunity for a mid-block linkage to the railway lands and the waterfront to the south.

GO Transit, TTC and VIA Rail are supportive of the UPG proposal and have provided their concurrence in principle to these key components. GO, TTC, and VIA will continue to be

involved in the development of the detailed design for the station, particularly as it affects their leased space and operations in the station.

The Master Agreement also identifies the City's key objectives for the station and commits UPG to adhere to them:

- (i) enhancement and integration of the transportation functions;*
- (ii) a demonstrated conservation ethic and respect for the heritage character and design of the station and its Beaux-Arts architecture;*
- (iii) development of a distinguished identity and creation of a destination;*
- (iv) integration and connectivity to its surroundings, including enhanced pedestrian circulation and an improved south access route;*
- (v) use of major architectural elements; and*
- (vi) accommodation of servicing requirements.*

Process

The Master Agreement anticipates that this transaction will close on October 31, 2003. After execution of the Master Agreement, there is a "Pre-closing Period" during which various pre-conditions must be met by UPG to the City's satisfaction in order for the City to execute a Lease to UPG for the station. These preconditions include:

- (a) finalizing the project scope, detailed design and development plans, including any modifications to the Concept Design identified to date in order to meet the City's Key Objectives and deliver the Key Components including a public consultation process;*
- (b) obtaining all necessary approvals, including any necessary Parks Canada/heritage approvals, site plan approvals, permits or other pre-construction approvals to commence construction of the Phase 1 work including the usual City requirements such as the provision of public art;*
- (c) finalizing the pre-construction project budget for the Phase 1 work and a pre-development budget for the following phases;*
- (d) finalizing a comprehensive development schedule, based on the preliminary development schedule established to date, including a staging approach approved by GO Transit, VIA Rail and TTC which integrates the station work with the GO, VIA and TTC projects and minimizes disruption to their ongoing operating functions in the station;*
- (e) finalizing a construction contract for the Phase 1 work and all necessary bonding, insurance or other security satisfactory to the City; and*
- (f) obtain construction financing commitment.*

For its part, the City must:

- (a) finalize all its closing documentation and deliveries (such as tenant and contract estoppels and the GO and VIA leases);*
- (b) obtain Council approval of the required technical amendment to update the zoning for Union Station to recognize all available gross floor area in the station, including the moats and teamways and to amend the use provisions to allow the commercial uses envisioned by the City for the station; and*
- (c) attempt to finalize the governance structure and a contribution agreement with the Minister of Transport (Canada) with respect to the proposed contribution of \$25 million to Union Station by the Government of Canada*

Once these requirements have been met by both parties, then the transaction would be completed by execution and delivery of the station lease and any other necessary agreements to be delivered on closing to allow UPG to take possession of the station and commence operations.

UPG is extremely concerned about the passage of time and delays to their construction schedule and the increase in construction costs due to inflation. Therefore, if the closing does not occur by October 31, 2003 as a result of a default by the City of its obligations (as noted above) then any increase in the construction costs attributable to the resulting delay would have to be satisfied out of third party funding or an alteration to the scope of Phase 4 or a deferral until such funding becomes available.

Running concurrently with the Pre-closing Period, there is also a shorter “ Due Diligence Period” targeted for April 9, 2003, during which the parties are to:

- (d) Finalize the Station Lease in accordance with the Principal Terms (summarized on Appendix 1 to this report); and*
- (e) Reconcile the 2002 Operating Income Statement for Union Station.*

Key Terms

Execution of the Master Agreement constitutes approval in principle by the City of the UPG Concept Design, the Preliminary Outline Specifications, Principal Station Lease Terms and other matters addressed in the Master Agreement. It is emphasized that these approvals are at a conceptual level and will be subject to further review and refinement in the pre-closing period. The following summarizes the key business terms from the Master Agreement:

- (i) Development Schedule and Phasing*

The revitalization project will be undertaken in four discrete and sequential phases (as shown on Appendix 2 to this report):

Phase 1 – North and South ends of GO East Concourse

Phase 2 – Great Hall, West Wing, Central and West Concourse

Phase 3 – GO West Concourse, Moats and Teamways, VIA Concourse and the South Central Concourse below

Phase 4 – GO East Concourse

These will be co-ordinated and integrated with TTC, GO and VIA projects within or adjacent to the station (described elsewhere in this report). Because of the uncertainties associated with timing of the later phases of the project (depending on heritage approvals and TTC, GO and VIA approvals and budgets) it is not possible to address detailed design and budget for those later phases of the project at this time. The detailed design will be developed for Phase 1 prior to closing and the detailed design for subsequent phases will proceed in advance of such phase and in accordance with the master site plan to be completed in the pre-closing period.

(ii) Completion Assurance

UPG will be required to maintain the Project Team and UPG organization in place to carry out UPG's obligations to restore, develop and operate Union Station in accordance with the Station Lease. The Lease cannot be transferred or assigned without the City's approval. Any changes to the structure of UPG must also be approved by the City to ensure that replacement participants will have the requisite qualifications to complete UPG's obligations.

PCL Constructors will provide a "Completion Assurance Agreement" committing it to complete construction notwithstanding any default by UPG or failure by UPG to provide funding. This Completion Assurance commitment will be provided on a phase by phase basis and must be in place as a precondition to proceeding with the phase in question.

(iii) City Security

On execution of the Master Agreement, UPG is required to provide a \$5 million Letter of Credit to secure its obligations for the length of the redevelopment period for all four phases. In addition to the completion assurance agreement, noted above, the City will also require appropriate performance bonds, labour and material bonds, payment bonds and insurance as is typically required for a project of this nature. These will be determined in consultation with the City's risk management advisors once the construction contract has been finalized. The City will also obtain and register a mortgage, charge and security interest against UPG's leasehold interest in the station as further security for the performance of UPG's obligations under the Station Lease and subject to the terms and conditions defined under "City Charge".

UPG may only mortgage its leasehold interest to lenders approved by the City to secure construction financing, permanent refinancing and capital improvement financing unless that financing does not exceed specified debt service and loan to value ratios .

(iv) Management Agreement

The station is currently being operated by Toronto Terminals Railway Company Limited (TTR) on the City's behalf pursuant to an Interim Building Management Agreement executed when the City purchased Union Station from TTR. TTR is also managing the rail corridor on a similar basis for GO Transit. The Interim Building Management Agreement requires 5 months notice to be given in advance of termination of the agreement. To avoid any possibility of a disruption in building management services should the transaction be delayed or not close for any reason, the required notice will be given to TTR on closing. Accordingly the City will maintain the Interim Building Management Agreement in place with TTR and subcontract to UPG for the first 5 months of the lease. This will also allow an orderly transition of management from TTR to UPG. It should be noted that UPG has indicated a willingness to employ TTR employees if not required elsewhere by TTR. These discussions will take place in the pre-closing period.

(v) *Naming/Signage Policy and other Tenant Criteria*

It is essential to the City that the historic significance and heritage character of Union Station be respected. To this end, UPG will be required to prepare detailed tenant criteria modelled on those developed for Union Station Washington or Grand Central Terminal, which will be attached to the Station Lease.

(vi) *Financial Terms*

In accordance with the terms of the RFP, the term of the Lease is 35 years with a 15-year renewal. If Union Pearson Group is entitled to proceed with the development of the South Central Concourse below the VIA concourse (which is subject to obtaining approvals from VIA and Parks Canada) they will have an option to renew the lease for a further 50 years.

The Lease is to be net to the City.

UPG will pay a Minimum Basic Rent of \$500,000 adjusted by Consumer Price Index at five year intervals.

UPG will also pay Additional Basic Rent allowing the City to take advantage of the success of the project. Once the redevelopment of the station is "Stabilized", (which essentially means fully completed, with permanent financing in place, tenant space leased up and tenants are through their initial adjustment process and a positive cash flow being regularized) there is a formula by which the base rent is increased to capture a percentage (25%) of the amount by which the actual net rental income being achieved exceeds the net rental income that was projected in the proposal. This is a one-time adjustment to be made on the third anniversary of substantial completion of the project. However, if there are any significant delays in proceeding with Phase 3 (because it is conditional on GO Transit's plans) the City may elect to invoke an interim stabilization calculation on the third anniversary after the completion of the Phase 2 work. If the City makes this interim election, there would then be a final Stabilization calculation made on the third anniversary after substantial completion of the entire project as contemplated.

UPG will also pay participation rent, commencing in Year 11, at 5% of net revenue. The City will have all the usual rights to obtain statements and audit to confirm net revenues.

The total investment in the station by UPG with a hotel in the west wing is approximately \$150 million. If an office alternative is pursued the total investment is approximately

\$115 million. In either scenario, the majority of the investment is made in the first two phases. In the office scenario Phases 1 and 2 together total \$67 million and in the hotel alternative \$102 million. Phases 3 and 4 are estimated at this stage at \$48 million for either alternative.

(vii) Walks and Gardens Trust

The City Solicitor and the Commissioners of Urban Development Services, Economic Development, Culture and Tourism and Chief Financial Officer and Treasurer have previously reported on the Walks and Gardens Trust, which is registered against a portion of the property. If still applicable, it only affects how the City accounts for the rental income to the City and does not affect any financial dealings of UPG. Further investigations are still being made as to the applicability of this trust and a further report is pending. Until this matter is finally determined, it would be prudent for the City to keep the revenues from Union Station separately reserved and only use them for Union Station purposes.

(viii) Environmental Indemnities

The City has always owned the majority of the land beneath Union Station. It will be responsible for any environmental risks/liability associated with the existing condition of the station lands on the commencement date of the Lease. It will also be responsible for liability related to any cause of action arising prior to the Lease commencement with respect to the station building. All other risks are the responsibility of the Lessee.

(ix) Additional Density

City Council at its meeting held July 30, 31 and August 1, 2002 made it very clear that selection of a Preferred Proponent did not constitute approval of an additional density concept and it intended to proceed solely with the Base Proposal. City Council also expressed its concern with the air rights associated with Union Station and gave direction to staff on a confidential basis to preserve the interests of the City and to negotiate an approach that separated any opportunity to pursue additional density at the site from the proposal to revitalize the existing building.

The UPG Concept Design does not include the creation of any additional development in the air space above the building or the tracks. The proposal is solely to restore and renovate the existing station building. UPG will have no exclusive rights in respect of the additional density. The City will retain the sole right to create and build out any additional density on its own or with such other parties as it may determine. In order to ensure that UPG can fulfill its restoration and redevelopment obligations for the station within the applicable timelines. The City will commit not to create or propose to third parties any development or density rights over either the station or the rail corridor during a specified period of time necessary to allow UPG to fulfill its restoration and redevelopment obligations for the station within the applicable timelines (the "Moratorium"). The periods of time will be determined separately for each location having regard to UPG's development schedule and the City's planning priorities. That

period would vary depending on the proposed location of any air right build out, and would be established as part of the Station Lease terms.

The Station Lease will also provide easements for access and support to allow the City to accommodate the possible build out of additional density over the station or the Rail Corridor. UPG's consent will be required where there is a material impediment, restriction or interruption of its activities and the costs of the disruption will be reimbursed. There will be the usual reciprocal arrangements for joint initiatives, cross indemnities and equitable allocation of shared costs.

(x) *Due Diligence Issues*

As a result of the more detailed due diligence undertaken by UPG during this negotiation phase, some financial issues have arisen which need to be addressed.

The RFP was issued in August 2001. In the RFP document the City identified the anticipated financial performance at the station for 2001. The City had been in possession of the station for only part of 2000 and so this was based on the best information available at the time. Due to a number of extraordinary items that occurred in 2001, the fact that TTR uses a cash based system of accounting, and because some expenses, such as property taxes, were still applied to both the station and the rail corridor, it has been determined that 2001 is not indicative of the financial performance at the station. In order for the parties to be able to verify the actual net operating income available at the station, it would be appropriate for the City to retain an independent accounting firm to review the financial performance at Union Station for 2002 and reconcile the Operating Statement for 2002. If the 2002 net operating income available at the station differs materially (ie. by more than 10%) from that identified in the RFP, the parties will have to re-adjust for this difference. It will be up to the City to elect how to deal with this adjustment such as by adjusting for that amount at closing, establishing pre-closing reserves or deferring certain future expenditures.

The Building Condition Audit undertaken by Cole Sherman and provided as part of the RFP document, addressed cost estimates of deferred maintenance and required capital improvements for all systems, mechanical, electrical, life safety etc. It was prepared as an overview document to identify the condition of the capital asset the City was purchasing. Subsequently, the City commissioned a more detailed fire life safety audit of the station. That report has identified a number of capital items that should be addressed in the immediate to short term not anticipated in the Cole Sherman report. While the UPG proposal addressed significant capital improvements and other necessary expenditures in this area, there is the possibility of duplication if some work is required to be completed in advance of their construction-phasing schedule. The City intended that the successful proponent would be responsible for all work identified in the Cole Sherman report. With respect to any immediate life safety improvements, it is appropriate that the City immediately undertake this work at its cost. A further report on what improvements are required will be submitted in the near future.

As part of a more detailed architectural review and design exercise, both the scope of work to be undertaken at the station and the costs of some of the budgeted items by UPG has increased from their proposal as a result of heritage issues. UPG estimates these additional items at a minimum

of \$4,000,000. City staff have reviewed the items with UPG and concur that at least \$1,800,000 of those additional costs relate to additional work associated with the historic nature and maintaining the heritage character of the building. The Memorandum of Understanding with the federal government anticipates a contribution of \$25 million to Union Station once a governance body is in place to oversee the revitalization project. It anticipates those funds being used for items such as this – additional capital requirements related to transportation or heritage requirements.

The RFP advised the proponents not to incorporate any of this potential funding in their proposal. The costs being identified here are necessary over and above the proposal. The City concurs that the improvements or additional costs are reasonable to incur and will enhance the project. UPG has agreed to fund these additional costs, which are in the first two phases of the project, in anticipation of the ability to receive federal funding at a later date. City staff will support this request if and when a contribution agreement is in place and funds are available for the purposes identified. In the event this funding does not materialize and no other source of funding is available, UPG may, in consultation with the City, seek to alter the scope of the final phase of work at the station to account for the difference.

(xi) Concept Design

Simultaneously with the negotiation of the Master Agreement terms, UPG has been working diligently with City staff from the relevant areas (planning, transportation, facilities and real estate and heritage preservation) in consultation with GO Transit, VIA Rail, TTC, Parks Canada and neighbouring property owners to address any issues identified through the review and evaluation phase and to finalize a recommended Concept Design that is satisfactory to all parties. This is a refinement of the UPG concept plan presented to City Council. A Preliminary Specification Outline is attached as Appendix 3 to this report providing a written explanation of the anticipated scope of work for this concept. A detailed review on a line by line basis will be undertaken during the Pre-closing period as part of the detailed design. A similar document, the Statement of Interventions has been prepared to outline the proposed scope of the heritage interventions associated with the concept design.

This concept design is acceptable in principle to City staff. It should be recognized that once UPG have the certainty of an executed Master Agreement they can commence a more detailed planning and design process. Any background studies or other documentation required to finalize a detailed design and master site plan for the station will be submitted as part of this process. Public consultation and input will be an important element in the finalization of the Concept Design.

(xii) Heritage Issues

Fournier Gersovitz Moss (FGM) have submitted a strategy document entitled Statement of Interventions to the City and Parks Canada as an indication of the scope of the proposed interventions associated with the Concept Design. The Toronto Preservation Board is reviewing

this document with specific regard to the interventions required conceptually for the key components at a special meeting to be held in advance of this Administration Committee meeting. A separate report will be forwarded from that meeting to accompany this report. Parks Canada has indicated its approval in principle to the key components in the concept design.

UPG have also committed to the preparation of a Historic Structures Report that will document in great detail the past architecture of Union Station, its present status and their proposal in order to inform the proposed interventions. All work will be subject to detailed review in accordance with the Heritage Easement Agreement and the Review Process, which is being finalized between Heritage Preservation Services and Parks Canada. The heritage design guidelines will be followed and augmented with detailed architectural and tenant design criteria modelled after those employed in the railway station restorations in Washington and New York. City staff are now confident that UPG and specifically its heritage consultant has the required expertise and heritage conservation ethic required for this project.

(xiii) Public Process

At its meeting held November 5, 2002, the Administration Committee established a Reference Group comprised of Councillors Holyday, Ashton and Sutherland to assist staff to expeditiously formulate a public consultation and public input process that optimizes public involvement in reviewing all aspects of the concept design, including transportation components and heritage strategy. A Public Information evening was held at Metro Hall Council Chamber on November 25, 2002 and attended by approximately 200 people. Presentations were made by City staff and UPG, focusing on the RFP process, UPG's concept design for the station and specifically heritage and transportation issues.

Comments and concerns related generally to 4 topics:

- (1) Public process:
suggesting establishment of a citizen advisory group
lack of public consultation when RFP was developed*
- (2) Transportation issues:
pedestrian movements and linkages to the rest of city
the ability to accommodate all modes (buses; air rail link; etc. new technology, high speed trains)
long range planning and ensure there is flexibility*
- (3) Concerns with regard to long term redevelopment of additional density and public involvement at that time.*
- (4) Heritage – the review process and how it will work
appropriate standards/criteria for advertising/naming/tenant design*

The second public date, an Information Forum was held on Saturday afternoon, January 18, 2003 at St. Lawrence Hall. Approximately 150 people attended this informal event to view displays of UPG's proposal as well as the projects of the three transportation operators at the station, GO, VIA and TTC and ask question directly to City staff, the transportation operators and UPG representatives.

The City's web site continues to be updated to allow easy access to the various public reports and other useful information related to the station. Comments can now be emailed to unionstation @ toronto.ca. A public display of the UPG concept design has been available in the Great Hall since November along with comment sheets. Approximately 20 comment sheets have been received from the station display. Comments were generally evenly divided between those who favour the proposal and those who do not. However, the majority of comments reinforce their affection for the station.

At the first meeting, the councillors determined that a public advisory group representing a wide-range of specific stakeholders who have a distinct interest in the restoration and revitalization of Union Station should be formed to assist them in providing advice to City Council on the revitalization proposal. The Toronto Preservation Board already serves this function for the heritage aspects of the proposal. Invitations were issued to interested parties/groups and an initial meeting was held on January 18, 2003 immediately prior to the Public Information Forum. A list of the representatives attending the first meeting is attached as Appendix 4 to this report. They determined their mandate should appropriately be to provide community input and advice to the Councillors' reference group and City Council and its Committees on the concept design, including transportation elements, design components and public benefits including governance issues to assist Council in its evaluation of the proposal for the restoration and revitalization of Union Station. This group will be reviewing this report and providing advice to the Councillors.

The public advisory group will serve a very useful function as the detailed design for the station progresses and it was recommended that the group should continue in place through this process and be formalized in the governance structure – which they intend to address in their deliberations. City staff concur. Administration Committee, on a motion from Councillor Ashton, had also asked City staff to report on a project management model that would ensure public accountability of a major Toronto Heritage landmark and transportation asset. This should be addressed in the context of the outstanding report on the governance structure which will be coming forward to a subsequent Administration Committee, once the appropriate vehicle for the required special legislation is determined.

UPG has welcomed the opportunity to engage the public in their design process and has undertaken to:

- (1) Create and regularly update a web site informing the public of its plans and construction progress;*
- (2) Create public input opportunities on the web site as well as a call –in hot line'*
- (3) Host a minimum of two public meetings to review the plans for each of Phases 1/2 and Phases 3/4, (i.e. at least four meeting) prior to the commencement of construction;*
- (4) Meet quarterly with the Public Advisory Group to review development plans, construction progress and operations issues of interest to the public.*

It is intended that there will be full public consultation in the development of the detailed design for the station.

Questions from City Council

When Council dealt with this matter at its special meeting held July 30, 31 and August 1, 2002, I was asked to address with UPG as part of the confidential negotiations or respond to a issues, in addition to the additional density issue addressed earlier. Now that the negotiations are complete, I can report as follows:

- Q1. Pursue the development of an ambitious plan for cycling facilities, cycling rentals and service, modelled on the best practices from Europe, and further, that there be consultation with the City's Cycling Committee.*
- A1. UPG has committed to do this as part of the detailed design phase for the Concept Design. The Cycling Subcommittee has been made aware of the proposal and will review the plan when it is available.*
- Q2. Ensure taxi access is incorporated into the project.*
- A2. There will be no vehicular access into Union Station. Appropriate taxi access will be considered as part of the design review process.*
- Q3. Pursue district heating and cooling options plus state of the art Energy Efficiency and Renewable Energy Program, in consultation with the City's Energy Efficiency Office.*
- A3. UPG will be reviewing energy efficiency measures for the station as part of their continuing due diligence and review.*
- Q4. Ensure that the sculpture to multiculturalism donated by Toronto's Italian Community retains a place of pride at Union Station and that a status update be provided.*
- A4. UPG have no plans to move the statue. Economic Development Culture and Tourism staff advise that the statue is in need of maintenance to ensure its preservation . Staff will be investigating this further and will be consulting with UPG as part of the review process.*
- Q5. Strengthen the heritage component of the UPG proposal.*
- A5. This issue was addressed in the previous report on the status of negotiations and in the body of this report.*
- Q6. Review the lower level access route with an emphasis on the financial and structural implications.*
- A6. UPG had Yolles Structural Engineers review the feasibility of lowering the existing lower concourse slab on grade below the VIA concourse. They have advised that it is structurally acceptable and will not jeopardize the ability of the support columns and caissons to support the load above. In the event this element could not be constructed, UPG have committed that they would amend the design in consultation with the City and the transportation operators to ensure that the City receives the same rental revenue.*

Q7. Provide a report on the GO, VIA and TTC projects underway at the station.

A7. GO Transit

GO has a number of ongoing projects underway at Union Station. The Phase I contract work was completed August 2002 for the GO Bus Terminal across Bay Street. The remaining phase of Contract work for the new Bus Terminal is scheduled for completion in the spring of 2003. Once completed, GO buses currently using Front Street will be transferred to this new Terminal.

In conjunction with GO's ongoing annual building maintenance program, repair work to critical sections of the concrete smoke ducts and roofing materials in the train shed is scheduled for completion this month. Similar, due diligence repair work will be done every year until the entire smoke ducts and roof is permanently replaced.

Contract work is currently also underway for improvements to the VIA platforms 7/8 and 8/9. This work is scheduled for completion March 2003. Once completed, the VIA Rail operation will be consolidated to the south, from Track 8 to 13 inclusive, freeing up platform 6/7 for GO Transit use.

The design and preparation of tender documents for improvements to platform 6/7 are nearing completion. This work is scheduled for tendering January 2003 with completion by the summer of 2003. These improvements include the construction of several additional vertical pedestrian connections to the teamways and concourses. The next phase The next phase of platform improvements by GO, scheduled over the next 5 to 10 years, is the construction of additional vertical connections to the concourses and Teamways from the remaining GO platforms located between Track 2 to 6, inclusive.

On the rail corridor, by 2006, it is proposed to complete the selection and design of a new signal control and communication system, to govern all train movements through Union Station. This new signal control system will replace the existing 80-year old signal system. Also, over the next 10 years or so, it is proposed to undertake certain track and signal plant improvements, on a phased basis, in the rail corridor. Completion of this work will enable GO to substantially increase the number of GO Trains operating in the peak periods.

TTC

One of the four priority projects for the Toronto Waterfront Revitalization is the addition of a new platform to the Union Station subway station. This involves the addition of a second subway platform to the south of the existing subway tracks, reconfiguration of the mezzanine level of the station and provision of a direct connection to the existing Harbourfront LRT platform. This will greatly increase the capacity of the station to carry highly concentrated customer demands following the end of major downtown events. This

project is subject to both a federal environmental assessment process and provincial. The project only recently received funding and will be proceeding through the approval process. The work will be completed in two phases commencing in 2002, construction would start in mid 2004, with an opening target at the end of 2007. This is a very preliminary schedule only and is subject to change. UPG has been in contact with TTC to co-ordinate scheduling of the two projects.

VIA Rail

Since the City purchased Union Station, VIA has consolidated its operations in the station to reduce its space requirements. VIA is just completing a \$10 million renovation of its concourse to add a new VIA 1 Lounge, upgrade the Concourse to eventually provide escalators and elevators to all platforms and provide a new baggage handling system. Any further work in the concourse will be co-ordinated with UPG.

It is clear from this summary that UPG will be required to co-ordinate a large amount of construction while maintaining operations at the station. The transportation operators are prepared to work closely with UPG to ensure that the revitalization improves their operations, which depend on adequate access and circulation at the station.

Conclusions:

City staff are satisfied that the Union Pearson Group and its consulting team have demonstrated the necessary expertise, experience and financial resources to complete the restoration, development and operation of Union Station in a manner that will meet the City objectives. The recommended Master Agreement commits UPG to a development concept that meets the City's key objectives for the station and is consistent with their proposal as selected by Council. UPG has provided a heritage strategy that provides sufficient comfort to both Heritage Preservation Services staff and Parks Canada that they can recommend that the proposal go forward in principle. The proposed business plan will provide a guaranteed base rent to the City with the opportunity to participate in increased revenues as the project matures. UPG will invest significant monies in capital improvements to the station. Capital reserves will be maintained at appropriate levels to ensure that the station does not fall into a state of disrepair again.

The requirements of Chapter 213 of the Municipal Code, respecting the disposal of City property, have been complied with and the notice given. City staff are satisfied that the proposed transaction constitutes fair market value for the leasehold interest being transferred to UPG.

If this report is adopted, City staff and UPG would continue to work to complete the closing conditions including finalizing the Station Lease in accordance with the terms and conditions identified herein. In the event further instructions are required, Council direction will be sought.

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*APPENDIX I
STATION LEASE PRINCIPAL TERMS*

1. Parties

- *City of Toronto, as Lessor*
- *Union Pearson Group Inc., as Lessee*

2. Premises

- *Union Station (land and buildings, as defined)*
- *Not the GO Transit Envelope or the Upper Area*
- *Subject to Permitted Encumbrances (eg. HLRT easement, GO reciprocal agreement, fibre optic easement,)*

- *Lessee to be granted reasonable access rights (licence, easements) around Union Station "envelope"*

3. *Term*

- *Initial Term: 35 years*
- *First Extension: 15 years*
- *Second Extension: 50 years, provided that the area below the VIA Concourse is built out in accordance with the Development Plan, etc.*

4. *Rent*

- *Total Basic Rent*
 - *Minimum Basic Rent: \$500,000 per annum commencing on the Commencement Date, adjusted for CPI every 5 years and for the Stabilization Adjustment*
 - *Participation Rent: commencing with eleventh Lease Year, 5% of Net Rental Income, with quarterly statements, annual audited statements, right to review, audit and contest, adjustment provisions*

- *Stabilization Adjustment*
 - *25% of the amount, if any, by which the Net Rental Income for the first Lease Year following the Stabilization Date exceeds the original projected Net Rental Income for such Lease Year*
- *Stabilization Date means, essentially, the earlier of:*
 - *that date which is the third anniversary of the Substantial Completion Date of all Phases of the Redevelopment, and*
 - *at the election of the City, that date when the Lessee obtains permanent financing in respect of the Redevelopment;*

provided that, if the actual construction of Phase 3 does not commence before the third anniversary of the Substantial Completion Date of Phase 2, the City may by notice given within the six month period immediately following such third anniversary elect that there be a Stabilization Adjustment for just Phases 1 and 2 with a subsequent Stabilization Adjustment for Phases 3 and 4.

5. *Net Lease*

- *Lease to be absolutely net to the Lessor, except as may be expressly provided to the contrary*

6. *Restoration/Redevelopment*

- *In Phases, in accordance with:*
 - *Concept Design*
 - *Development Plans*
 - *Development Schedule*
 - *Development Budget*
 - *QA/QC Plans*
 - *Heritage Design Guidelines*
 - *Council's specific requirements (to be detailed from Council report)*
- *In proceeding through Phases, Lessee to comply with same pre-construction covenants/conditions as per Phase 1*
- *Construction co-ordination with VIA, GO Transit and TTC*
- *Lessor to approve all material modifications to the Concept Design, Development Plans, Development Schedule and Development Budget*
- *Lessor to have access and inspection rights at all reasonable times to the Station as well as to all material reports, studies, models and other documentation relating to the Station and the right to attend regular site meetings*
- *Lessor to receive regular construction progress reports*
- *Changes to Project Team/UPG Organization to be approved by Lessor (i.e. "replacements" of team members permitted, provided Lessor approves new team member)*
- *Lessee to achieve build-out of Phases by respective milestone dates set out in the Development Schedule, subject to force majeure*
- *As a precondition to the right to proceed with Phases 3 and 4, UPG to provide the Completion Assurance Agreement for such Phases*
- *If build-out below VIA Concourse not possible due to inability to obtain requisite approvals from Parks Canada or VIA, forecasted Participation Rent from this area to be made up from other revenues from this area*
- *Lessor to continue to pursue the contribution from the Ministry of Transport (Canada) of the \$25,000,000 in funds for the Station contemplated by the Memorandum of Understanding between the City and the Ministry dated May, 2001 (the "Federal Funding")*
- *Lessor and Lessee to use diligent efforts to source additional funding (including the Federal Funding) for certain enhancements to the Moats as identified in Lessee's proposal as being contingent on receiving the Federal Funding and recognize that such enhancements may be deferred until such funding is available*

- *Parties will endeavour to obtain additional sources of funding (including the Federal Funding) for certain extra life safety, deferred maintenance and inflation adjustments and Phase 4 may either be reduced in scope (if agreed by the Lessor and the Lessee) or delayed until such funds become available*
- *Lessor to have access to "City security" for default*

7. *Use*

- *Carry out Uses as per Proposal (minimum 130,000 sq. ft. of retail, etc.)*
- *No Prohibited Uses without Lessor's consent (may be arbitrary)*
- *Comply with Naming/Signage Policy*
- *Comply with Project Agreements, including Heritage Easement Agreement*
- *Comply with Leasing Policy*
- *Paramountcy of transportation operations (work with Functional Plan)*

8. *Operations*

- *Operating costs*
- *Maintenance and repair*
- *Insurance*
- *Compliance with laws*
- *Indemnity*
- *Security*
- *Books and records*

9. *Damage or Destruction*

- *Unless specifically provided to the contrary, partial or complete destruction shall not terminate the lease or entitle the Lessee to surrender possession or demand any abatement of rent*
- *Lessee shall repair or replace such damage or destruction unless specifically provided to the contrary*
- *Lessee may terminate Lease following substantial damage or destruction (a) occurring within last five (5) years of term if the insurance proceeds available to the Landlord are sufficient to rebuild Union Station to its prior state (plus a Lessor approved deductible); or (b) if the major transportation tenants at the time could not be obligated by the Lessor to continue under their leases post repair/restoration*

10. *Leasehold Mortgages*

- *Lenders (other than certain pre-approved Lenders) to be approved by Lessor acting reasonably*
- *To secure construction financing, permanent refinancing and capital improvement financing*
- *Leasehold mortgaging for other financing permitted provided that (a) lender is a recognized financial institution; (b) the principal amount of such financing, when aggregated with the outstanding principal amount of prior financings, does not then exceed 75% of the value of the leasehold estate; and (c) there is projected debt service coverage (including prior or pari passu ranking debt) of at least 1.3 to 1*
- *Three party agreement (Lessor/Lessee/Lender) with reciprocal notices of default, rights to cure, etc.*
- *No subordination by Lessor*
- *Insurance trust*

11. *Transfers by Lessee*

- *Includes change of control, other than control changes resulting from exercise of customary joint venture rights-of-dilution; buy/sell, etc. approved by the Lessor, acting reasonably*
- *Lessor approval required:*
 - *during construction phase up to substantial completion, may arbitrarily withhold*
 - *during operations, not to be unreasonably withheld (usual tests)*

12. *Space Leases*

- *May enter into Space Leases without the consent of Lessor if in compliance with Leasing Policy*
- *Otherwise, require Lessor's consent, not to be unreasonably withheld*
- *Accommodate new transportation tenants*
- *Lessor to provide non-disturbance*

13. *Redevelopment Rights*

- *Comparable provisions to initial construction*
- *Annual Basic Rent continues*
- *Fixed "Participation Rent" for redevelopment period, being average participation rent over previous five years*

14. *Events of Default*

15. *Remedies*

- *Includes right to terminate for failure to achieve milestones*
- *recourse to security*

16. *Dispute Resolution*

- *Recourse to expert*
- *Arbitration*

17. *Reciprocal Rights re Upper Area*

- *In order to accommodate the possible build-out of improvements in the Upper Area:*
 - *easement for access, subject to reasonable objective requirements*
 - *easement for support, subject to reasonable objective requirements and provided Lessee's consent required re any material impediment, restriction or interruption of Lessee's activities*
 - *Lessee to approve scheduling of work, not to be unreasonably withheld*
 - *Lessee's (and sublessees) costs of disruption (i.e. actual direct costs of accommodating the build-out and lost revenues, if any, during disruption) to be covered by party undertaking the build-out*
 - *Lessor to indemnify Lessee against any third party claims arising from build-out of Upper Area unless caused by Lessee or persons for whom it is responsible*
 - *co-operation in respect of joint initiatives*
 - *no barriers*
 - *cross indemnities*
 - *insurance (named insureds) and insurance trust agreements*
 - *equitable allocation of any shared costs*
 - *binding dispute resolution procedures*

18. *Separate Agreement re Upper Area*

Note: There should be a separate agreement with the City in its capacity as owner of the Upper Area as one party and the City as owner of the Station and UPG as lessee of the Station as the other parties.

- *Separate "Moratorium Periods" for Station Upper Area and Rail Corridor Upper Area*
- *Once a particular Moratorium Period has expired, the City may, in respect of the Upper Area in question, pursue and create additional density in respect of the area*

and, subject to finalization of any arrangement contemplated in Section 17 above, build-out and use the permitted improvements

- *Lessee, as developer, may elect to shorten either or both of the Moratorium Periods*
- *City may proceed to create the additional density in such manner (i.e., RFP or otherwise) and with or without third parties, as it may, in its complete discretion, determine, which may or may not include the Lessee*
- *The Lessee has no exclusive rights in respect of the Additional Density, and for its own part, will respect the Moratorium Periods*

19. *Quiet Enjoyment*

20. *Environmental*

- *Lessee to be responsible for environmental risk/liability and any related costs for:*
 - *existing and future Station Building condition, other than in respect of causes of action arising prior to Commencement Date*
 - *hazardous substances, contaminants, etc. introduced to the Station Lands, post commencement date*
- *Lessor to be responsible for environmental risks/liability and any related costs for:*
 - *any causes of action in respect of the Station Building arising prior to the Commencement Date*
 - *existing condition of the Station Lands as at the Commencement Date*

21. *The lengths of the Moratoriums shall be settled as part of finalizing the Station Lease and shall be principally determined having regard to the Development Schedule and the City's planning priorities and other strategic objectives for Union Station on an overall basis.)*

APPENDIX 2

APPENDIX 2 (MAPS)

APPENDIX 3

APPENDIX 4

January 24, 2003

*Union Station Restoration and Revitalization
Public Advisory Group Membership*

- ***Transport 2000 Ontario - representing commuters***
Sean Nix, Director
Dan Hammond (back-up)
- ***Transport 2000 Canada - representing intercity users***
David Jeanes, Chair
- ***Toronto Historical Railway Committee***
David Garon
- ***St. Lawrence Market Neighbourhood Business Improvement Area***
Mike Comstock, Chair
- ***St. Lawrence Neighbourhood Association***
Edward Nixon, Acting President
- ***Save Union Station Committee***
John Sewell
- ***South East Downtown Economic Revitalization Initiative (SEDERI)***
Hugh-Francis Burns
- ***Travellers' Aid Society of Toronto***
Colin J. Rainsbury, General & Community Relations Manager
- ***Harbourfront Community Association***
Terri Tenberg, President
- ***Member of the public***
Douglas J. Bryden

*(Report dated January 23, 2003, addressed to
the Administration Committee, from the City Clerk.)*

Recommendation:

The Toronto Preservation Board, at its special meeting held on January 23, 2003, struck out the recommendations contained in the report dated January 6, 2003, from the Commissioner of Economic Development, Culture and Tourism, and substituted the following:

The Toronto Preservation Board recommends to the Administration Committee and Council that:

- (I) the City endorse “in principle” the following four major interventions referred to in the communication dated January 15, 2003, from Patricia H. Simpson, Solicitor, as amended:*
 - (1) the moats to be covered with transparent glazing, which will provide weather-protected spaces, for public, pedestrian use;*
 - (2) an opening to be introduced into the floor of the Via Arrivals/Departure Lobby, in order to provide a connection to the Concourse level below;*
 - (3) stairs to be introduced in two of the arches in the Great Hall, to allow additional circulation paths into the VIA Concourse and the Concourse levels below; and*
 - (4) the West Wing to be used for either an office or hotel use, above the main floor, such an adaptive re-use not to involve any changes or any addition to the exterior facades or any additional floors, and provided that there is improved public access to the current waiting area;*
- (II) the Toronto Preservation Board's displeasure and concern with the process be registered; and*
- (III) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.*

Background:

The Toronto Preservation Board had before it a report dated January 6, 2003, from the Commissioner of Economic Development, Culture and Tourism, headed "Union Station - Summary of Major Interventions"; a document dated December 2002, titled "Union Station Toronto, Statement of Intent: Interventions" submitted by the Union Pearson Group; and a communication dated January 15, 2003, from Ms Patricia H. Simpson, Solicitor.

The Board also had before it the following communications:

- *(January 20, 2003) from Mr. John Sewell;*
- *(January 22, 2003) from Ms Jane Beecroft, CHP Heritage Centre; and*
- *(January 22, 2003) from Mr. John Sewell*

The following persons appeared before the Toronto Preservation Board in connection with the foregoing matter:

- *Ms. Julia Gersovitz, Fournier Gersovitz Moss Architectes & Associes*
- *Mr. John Sewell*

*(Report dated January 6, 2002, addressed to the
Toronto Preservation Board, from the
Commissioner of Economic Development, Culture and Tourism.)*

Purpose:

This report outlines the major interventions embodied in the Union Pearson Group Concept Design for Union Station further to the verbal presentation at the November 26th, 2002 Toronto Preservation Board Meeting.

Financial Implications and Impact Statement:

There are no financial implications resulting from the adoption of this report.

Recommendations:

It is recommended that:

- (1) the City endorses “in principle” interventions as described in the report prepared by the Union Pearson Group titled “Union Station Toronto, Statement of Intent: Interventions”, dated December 2002, and*
- (2) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.*

Background:

Union Station was built as a joint venture between Canadian Pacific Railway and Grand Trunk Railway. Construction began in 1913 and the first passenger train was received and dispatched on August 11, 1927. The City purchased the Station in August, 2000.

Union Station is designated as a National Historic Site and protected under a Heritage Easement Agreement held by the Minister of Canadian Heritage (Parks Canada).

In July 2002, City Council selected Union Pearson Group as the preferred proponent from the RFP to restore, develop and operate Union Station, and directed staff to negotiate the appropriate agreements to give effect to their proposal. A report to the Administrative Committee on the results of those negotiations is anticipated shortly.

Union Pearson Group has submitted a preliminary Concept Design outlining their proposal for the Station. A companion document has been prepared by the Heritage Consultants for Union Pearson Group (Fournier Gersovitz Moss Architectes & Associes) that documents the interventions proposed as part of the Concept Design.

Comments:

The four major areas of intervention that are being proposed are described in detail in Attachment No. 1 and are summarized as follows:

Departures Concourse

A large opening is proposed in the departure concourse that would create a multi-level space in conjunction with a food court on the lower level.

The departure concourse was a key component of the original inter-city passenger circulation within the station.

The creation of the double storey space would establish a renewed focus on the central spine of the Station. This north-south pedestrian axis links directly to the Great Hall at the north and waterfront access to the south. In conjunction with the proposed stairways in the arches of the Great Hall this strategy serves to accommodate the needs of contemporary commuter and inter-city passenger circulation.

West Wing

The ground floor originally accommodated a waiting room, restaurant and public amenities. The upper floors of the West Wing initially contained offices of the train companies.

The West wing is to be converted to either office or hotel use with the ground floor accommodating restaurants, retail and lobby spaces for the upper floor function. This would require removal of all contemporary alterations and some original fabric. The main public space, the former Waiting Room would be restored to perform a semi-public role adjacent to the Great hall.

The relationship of public spaces and circulation connections to the west is a key concern in the layout of the ground floor. The West Wing retains vestiges of former public areas on the ground floor and office area above. The importance of these individual areas must be balanced with the viability and design integrity of the new uses and the complex as a whole.

Moats

The proposal covers the moats to provide a covered link to the TTC and alternate east-west pedestrian access reducing congestion within the station. The moats currently link the TTC and street to the lower level GO access.

The moats initially provided service access for taxis and baggage handling.

A key design consideration is how to enclose these areas for additional pedestrian circulation without compromising the moat as a device to enhance the monumental street façade.

Stairs in arches of Great Hall

A new stair is proposed at either end of the Great Hall that would link three levels and function as a prime vertical circulation within the complex.

Although early designs explored the use of the arches as major circulation elements, they became tenant spaces with the Great Hall.

This intervention is a bold move to accommodate the contemporary circulation incorporating existing monumental elements within the Great Hall.

Conclusions:

Staff of the Culture Division support the proposed interventions in principle with further design development to follow that will refine aspects of the design.

The Federal Government is also currently reviewing the document “Statement of Intentions: Interventions” as prepared by Julia Gersovitz of Fournier Gersovitz Moss Architectes & Associes (Heritage Consultant for Union Pearson Group). They will be supplying more detailed comments later in January.

Contact:

Rita Davies, Managing Director of Culture

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List of Attachments:

Attachment No. 1 - Statement of Intent: Interventions

*(Communication dated January 15, 2002, addressed to the
Toronto Preservation Board from Ms. Patricia H. Simpson, Solicitor)*

As requested I am forwarding a colour version of the Statement of Intent prepared by Fournier Gersovitz Moss et Associes for consideration in advance of your special meeting. Ms. Gersovitz

and I will be pleased to attend and review Union Pearson Group's proposal with you at that time.

The Statement of Intent was issued in December 2002 to the City of Toronto and to Parks Canada, to sketch out the scope of the interventions that will be undertaken by the Union Pearson Group in order to restore and rehabilitate Union Station. The document outlines both the exterior and interior restoration work and the renovation work. The text is meant to be read as a complement to the architectural drawings and to the perspective sketches -- a sort of check-list of intentions, that are conveyed on the drawings, but which may not be immediately apparent to the reader.

While the document sets out a variety of interventions, it is not exhaustive in scope. It is meant to give a general portrait of the work and of the philosophical approach that Union Pearson Group has demonstrated. It is not necessary at this time to review and approve every intervention listed in the document. The statement and the attached perspective sketches were intended to provide comfort to you in approving in principle the Union Pearson Group conceptual design.

If City Council selects the Union Pearson Group as the Successful Proponent, the detailed review of each and every intervention will be accomplished in the coming months in accordance with the Heritage Easement Agreement and the Review Process between the City of Toronto and Parks Canada. Union Pearson is contractually bound to follow this Review Process.

*At this time, city staff seek your advice to be incorporated into a report to City Council on the results of negotiations with the Union Pearson Group. City staff need to know whether there is **agreement-in-principle at a conceptual level for four interventions** that are key to the Union Pearson proposal. Again, it should be noted that the specific details of all interventions will be examined during the detailed design and review process.*

The City of Toronto therefore seeks an answer to each of the following four questions:

- (1) In principle, can the moats be covered with transparent glazing, which will provide weather-protected spaces, for public, pedestrian use?*
- (2) In principle, can an opening be introduced into the floor of the Via Arrivals/Departure Lobby, in order to provide a connection to the Concourse level below?*
- (3) In principle, can stairs be introduced in two of the arches in the Great Hall, to allow additional circulation paths into the VIA Concourse and the Concourse levels below?*
- (4) In principle, can the West Wing be used for either an office or hotel use, above the main floor? Such an adaptive-use will not involve any changes to the exterior facades or any additional floors.*

Thank you for agreeing to meet again to consider this request.)

(A copy of the additional communications, referred to in the foregoing report, is on file in the office of the City Clerk.)

(City Council also had before it, during consideration of the foregoing Clause, a confidential report (February 4, 2003) from the City Solicitor, such report to remain confidential in its entirety, in accordance with the provisions of the Municipal Act, having regard that it contains information which is subject to solicitor-client privilege.)

(City Council also had before it, during consideration of the foregoing Clause, the following communications, forwarding comments with respect to the proposed redevelopment of Union Station:

- (a) (November 1, 2002) from Janet Goodfellow;*
- (b) (November 21, 2002) from Laura F. Cooper, on behalf of the Save Union Station Steering Committee;*
- (c) (February 3, 2003) from Ron Taylor, Co-Project Director, Union Pearson Group Inc.;*
- (d) (January 8, 2003) from Gary McNeil, Managing Director, Go Transit, addressed to the Members of the Board of Directors of GO Transit, submitted by Councillor Holyday; and*
- (e) (February 4, 2003) from Mary Andela Tucker, Chair, Preservation Committee, The Ontario Historical Society.)*

(Mayor Lastman, at the regular meeting of Council held on February 4, 5, and 6, 2003, declared an interest in the foregoing Clause, in that his son was appointed to the Board of Directors of Borealis Capital Corporation, which has a financial interest in Enwave District Energy Limited and provides management services to some of OMERS assets.)