TORONTO CITY CLERK

Clause embodied in Report No. 10 of the Administration Committee, as adopted by the Council of the City of Toronto at its meeting held on June 26, 27 and 28, 2001.

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Request for Proposals to Restore, Develop and Operate Union Station (Ward 28 - Toronto Centre-Rosedale)

(City Council on June 26, 27 and 28, 2001, amended this Clause by adding thereto the following:

"It is further recommended that:

(a) the Hockey Hall of Fame be consulted in regard to a permanent hockey display in the new Union Station; and

(b) the report dated May 30, 2001, from the Commissioner of Corporate Services, embodying the following recommendations, be adopted:

'It is recommended that:

(1) the Commissioner of Corporate Services and Director of the Purchasing and Materials Management Division be authorized to issue a Request for Proposals to restore, develop and operate Union Station, to the three pre-qualified respondent groups from the Request for Expressions of Interest, in accordance with the terms identified herein;

(2) the retainers of Marshall Macklin Monaghan and Davies Ward Phillips & Vineberg, LLP, be continued, to provide advice and assistance as required in connection with the Request for Proposals process, at a cost not to exceed $250,000.00, to be funded from the net revenues of Union Station;

(3) the Commissioner of Corporate Services report back to Administration Committee on the results of the Request for Proposals and with a recommended course of action to provide for a transition of Union Station to the governance body; and

(4) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.' ")

The Administration Committee recommends the adoption of the confidential report (May 30, 2001) from the Commissioner of Corporate Services, entitled "Request for Proposals to Restore, Develop and Operate Union Station", which was forwarded to Members of Council under confidential cover; and further, that in accordance with the Municipal Act, discussions pertaining thereto be held in-camera having regard that the subject may involve matters which may not be disclosed pursuant to the Municipal Freedom of Information and Protection of Privacy Act.

The Administration Committee reports, for the information of Council, having requested the Commissioner of Corporate Services to submit a public version of the aforementioned report directly to Council for its meeting scheduled to be held on June 26, 2001, and also report on the history respecting this matter.

(City Council at its meeting on June 26, 27 and 28, 2001, had before it, during consideration of the foregoing Clause, a confidential report (May 30, 2001) from the Commissioner of Corporate Services, such report to remain confidential, in its entirety, in accordance with the provisions of the Municipal Act, given that it concerns matters of the security of a property interest of the municipality or local board.)

(City Council also had before it, during consideration of the foregoing Clause, the following report (May 30, 2001) from the Commissioner of Corporate Services:

Purpose:

The purpose of this report is to address the proposed terms to be included in the Request for Proposals to restore, develop and operate Union Station.

Financial Implications and Impact Statement:

As part of the business case for the acquisition of Union Station, it was determined that this asset was underperforming financially and was in need of basic capital repairs and refurbishment, identified by Cole Sherman in their report dated May 1999 as likely to cost the City approximately $4 million at that time. By enlisting the private sector to restore, develop and operate Union Station, the City can avoid these upfront capital costs and utilize the development expertise of the private sector to revitalize the Station. Eventually, this will increase the revenue stream to the City. Costs to prepare and issue the Request for Proposals can be covered out of the revenues currently being generated at the Station.

Recommendations:

It is recommended that:

(1) the Commissioner of Corporate Services and Director of Purchasing and Materials Management Division be authorized to issue a Request for Proposals to restore, develop and operate Union Station to the three pre-qualified respondent groups from the Request for Expressions of Interest in accordance with the terms identified herein;

(2) the retainers of Marshall Macklin Monaghan and Davies Ward Phillips & Vineberg, LLP be continued to provide advice and assistance as required in connection with the Request for Proposals process, at a cost not to exceed $250,000 and to be funded from the net revenues at Union Station;

(3) the Commissioner of Corporate Services report back to Administration Committee on the results of the Request for Proposals and with a recommended course of action to provide for a transition of Union Station to the governance body; and

(4) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Background:

The City purchased Union Station in August 2000. In doing so three key objectives were identified, promotion of Union Station as a multi- modal transportation hub, heritage preservation and revitalization of Union Station. As part of the business case presented in support of the acquisition, it was determined that to maximize the revenue potential and rejuvenate Union Station would require an infusion of capital and quality management. An international Request for Expressions of Interest ("REOI") was issued in January 2001 to determine the extent of private sector interest in the restoration, redevelopment and operation of Union Station and possibly to pre-qualify firms for a subsequent Request for Proposals ("RFP"). Purchasing received eight responses, two of which did not constitute formal submissions. At its meeting held March 6, 7 and 8, 2001, Council pre-qualified three proponents from the REOI to proceed to a RFP to restore, develop and operate Union Station and requested the Commissioner of Corporate Services to report back to Administration Committee on proposed terms for the RFP including how it can address the Walks and Gardens Trust.

Comments:

The City team, consisting of staff from City Planning, Real Estate, Finance and Heritage Preservation, assisted by Marshall Macklin Monaghan ("MMM") and Davies Ward Phillips & Vineberg ("DWPV") has identified 4 key areas within which issues need to be addressed in order to finalize the terms of reference within the RFP. Council has also requested that this report indicate how the RFP could address the Walks and Gardens Trust.

Heritage.

As a National Historic Site, Union Station is subject to a Heritage Easement Agreement with Parks Canada that requires federal approval for any alterations to the Station Complex (the Union Station building and the train sheds behind) which would impact on the historically or architecturally significant elements. As the owner of the building, the City also has approval rights over alterations. In order to provide greater certainty to tenants, existing or potential, and any potential private sector developer/operator, the Heritage Easement Agreement is to be supplemented with a collateral agreement that identifies zones within the Station according to the nature of the identified heritage features and provides a site specific process for approvals by both City and federal heritage staff. This agreement is still being finalized and it is anticipated

that it will be completed by the time the RFP is issued. A set of heritage guidelines has been prepared that identifies the important heritage characteristics of Union Station and defines conservation and design guidelines. The successful private sector proponent chosen through the RFP process ("the Developer") will be required to comply with these guidelines. The RFP will list certain minimum required heritage restorations to be completed by the Developer and will identify a number of desired improvements. Proponents will be required to name a heritage consultant for the project and identify the heritage works to be undertaken with a preliminary timeline for doing so.

Construction and Operations Management.

GO Transit and VIA Rail, the principal transportation tenants in the Station, as well as TTC, the operator of the adjacent Union Station subway station, all have their own construction activities underway at the Station. They have been consulted and are providing construction and scheduling details to be included in the RFP. The Developer will be required to act as the construction manager not only for its own construction activities but also to co-ordinate with GO, VIA and TTC to ensure that there are integrated construction activities and continuous and efficient operations at the Station throughout the redevelopment process. Proponents will be required to demonstrate their ability to manage construction of a project of this size, type and complexity with strict requirements for tight cost control, high quality construction and a high standard for continuous transportation operations during construction. Proponents will be required to provide details of their organizational structure for both construction and operations including any transition from one to the other.

Development Potential.

The City identified in the REOI an opportunity to develop approximately 25,000 sq. ft of retail commercial space at street level (the Great Hall), 100,000 sq. ft. of retail commercial space at the concourse level and 125,000 sq. ft. of office/commercial space within the west wing above the concourse level, all within the existing building structure. The REOI also requested the proponents to consider the possibility of creating additional commercial space within the existing building envelope by excavating beneath the building. In addition, it alluded to the possibility of creating additional development density in the following terms:

> *"Additional development density is currently not permitted by the Station's zoning designation and proponents should not assume that such development density will be created over the term of the agreement. However, this opportunity may become available at some time in the future through the efforts of the proponent and subject to the City's usual planning process."*

The RFP will invite proponents to provide as a "base case" their proposals for restoration and development of the existing building structure. The RFP will identify certain obligations required under existing legal agreements affecting the Station which must be undertaken by the Developer and will list a number of desired improvements. Development within the existing building cannot be made conditional upon the realization of any additional development density. However, the City team recommends that the Developer be provided with the opportunity to apply for additional development density through the usual City planning process on specified terms and conditions.

(i) Renovation or Conversion of Existing Space within the Station:

The current zoning for the Station (designated "T" in Section 7 of By-law 168-93) allows for a range of commercial retail and office uses within Union Station and within the moat and teamways, but limited to the non-residential gross floor area existing on the date of the passing of the By-law. Expansion of such uses into areas such as the proposed GO West concourse area or any possible expansion into other areas which were previously used for parking, service uses or mechanical functions, would be interpreted to be an increase in the non-residential gross floor area and would require zoning by-law amendments. In order to assist the transportation tenants with their expansion and relocation plans and the Developer, it is recommended that City staff immediately commence the process to obtain the necessary approvals for this expansion within the existing areas of the Station complex. Creation of additional non-residential gross floor area for any new development either by way of excavation or new construction above grade would require official plan and zoning approvals to be obtained by the Developer and is discussed below.

The Developer will be required to submit a Master Plan for the redevelopment of Union Station to ensure that the proposed renovations adequately address the technical requirements of the City related to orderly design, planning and servicing facilities, reasonable pedestrian and vehicular movement and appropriate architectural standards, in addition to addressing heritage issues. The usual City policies would apply, including the requirement for public art.

As a heritage building, any planning application for Union Station is entitled to priority status by staff. Given the primary importance of this project to the City, staff would ensure that a team would be assigned to such a review and the project would be "workshopped" to ensure a speedy and co-operative review of issues by the relevant departments. Nevertheless, such approvals could take six to nine months, assuming that the Developer is able to adequately address the issues and provide comprehensive information in a timely manner.

(ii) Creation of Additional Development Density:

The current "Union Station" designation of the Station and the train shed (as well as the adjacent teamways on either side of Bay and York Street) within the Railway Lands East Part II Plan provides for the continued operation of the transportation use as the primary function of the Station. The Official Plan policies also address the requirement of establishing a Master Plan for the Station to incorporate the following, among other issues:

- *respect for the historic significance of Union Station,*
- *ensuring transportation use as the primary function of Union Station,*
- *establishment of civic design quality,*
- *the integration of the Station with its environs, and*
- *ensuring the flexibility for expansion and future changes of use.*

The policies of the Railway Lands East Part II Plan provide for the consideration of proposals for decking and/or building over the rail tracks in the area designated Rail Corridor which is to the east and west of the train shed areas. Neither the Official Plan nor the Part II Plan contemplates decking and/or building over the tracks in the Union Station block nor do they recognize any additional density (either above or below grade) for Union Station other than that which currently exists.

While the Official Plan and Zoning By-law do not currently provide for additional development opportunities at Union Station, if the City as part of this RFP process were to allow the Developer to submit an application to amend the Official Plan and/or Zoning By-law to provide for appropriate additional development, any such application for additional development opportunities on the site would be reviewed within the overall context of the merit of the proposal as it affects the Station and its primary transportation function, its heritage value and the impact on adjacent lands. The ability to achieve any additional density would be limited by the overall development constraints of the site, including the ability to provide adequate loading and parking facilities, the implications of new construction on the existing rail operations, and the constraints associated with the heritage aspects of the building.

The Official Plan policies require that such a proposal would have to ensure that:

- *the scale, form and design of the development would be compatible with existing development within the area*
- *flexibility for expansion and future changes of use would be protected*
- *future opportunities for transportation improvements within the rail corridor would not be reduced and that such development would encourage the effective, safe and efficient provision of rail services*
- *all environmental and development concerns associated with such development, including but not limited to, noise, vibration, air quality, wind, sun shadowing, parking, servicing, pedestrian access and the capacity of the transportation system serving such development have been adequately addressed*

Any such application would be subject to the full public review associated with the application process and the decisions of Council would be open to appeal by the general public. Such a process might normally take in the order of at least one year for review and consideration by Council prior to any approval.

Under the circumstances, it is recommended that the RFP provide the Developer the opportunity to address the possibility of additional development density at Union Station in accordance with the usual public planning process and subject to the business terms identified later in this report.

Walks and Gardens Trust.

In 1818, a strip of land, immediately south of Front Street and extending from Berkeley Street in the East to Peter Street in the West was granted to five trustees "for the use and benefit of the Inhabitants of the Town of York …for a Public Walk or Mall in front of the said town…". In the 1850's this strip of land was then transferred to the City of Toronto on the same terms but with additional powers to lease or sell these lands free of the trust on the condition that any monies received, by way of rent or otherwise, were to be placed in a special account by the treasurer to be used for the "purchase, planting, ornamenting and care of some other piece or parcel of land" to be held upon similar trusts.

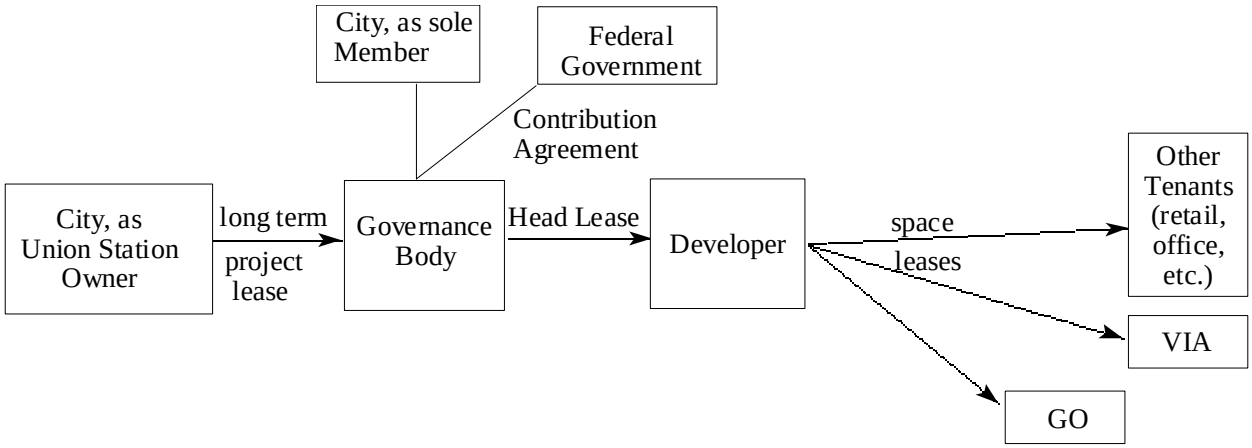
A portion of Union Station (approximately 28% of the site area) is located on this strip of land. While the purchase transaction was being reported through Council, the City Solicitor was asked to report on the application of the trust to the Union Station transaction. In a report dated

March 15, 2000 the City Solicitor confirmed that there was no evidence that those legislative provisions had been repealed or otherwise amended, meaning that the trust imposed by the original patent still existed, and gave an opinion that it was arguable that the trust did not apply to the Union Station sale transaction. At its meeting held May 7 and 8, 2000 City Council referred the City Solicitor's report to a Walks and Gardens Working Group to be established to provide input to the Commissioner of Urban Development Services and the City Solicitor on the status and value of the trust and on appropriate functions for the trust, including the possible acquisition of the First Parliament Site and the acquisition of walks, amenities and parks in the Front Street Area.

The Walks and Gardens Working Group ("the Working Group") has met on a regular basis and a report on its investigations is currently being finalized. If, as a result of the Working Group's report, Council were to determine that there is some financial liability on account of this trust, the revenues from Union Station would be one logical source of funding. However, it would not be appropriate to address this possible financial obligation in the RFP, as it would not be a responsibility of the Developer. The responsibility for the Walks and Gardens Trust rests with the City and as such, it would be more appropriate for the City to determine whether to earmark some portion of the lease revenues that will flow to the City from Union Station for Walks and Gardens. City staff can certainly highlight in the RFP (as one of the desirable heritage or other improvements) or explore directly with the Developer through the site planning process other (non-monetary) ways to commemorate the history of the Walks and Gardens at Union Station.

Transaction Terms.

The RFP will identify the following basic legal structure for Union Station:



As previously reported in the CAO's report on the governance structure for Union Station, approved by Council by its adoption of Administration Committee Report 3(1) at its meeting held March 6, 7 and 8, 2001, the City will retain reversionary title to Union Station and lease the Station to the governance body under a "Project Lease" for a long term (50 years less one day) with the possibility of renewal rights for up to the same length of term. The Project Lease is intended to be net/net - i.e. building risks would be transferred to the governance body.

The governance body will have long term control of the Project. The Project Lease will provide for a base rent to the City plus participation. In accordance with the Memorandum of Understanding between the federal government, represented by the Minister of Transportation, and the City of Toronto the Federal government is to contribute $25 million to the governance body to be used toward specified Union Station capital costs, for which they would receive certain approval rights and possibly revenue participation.

The Developer will have day-to-day management and control of the Station but will be "overseen" by the governance body. The Developer could either receive a "head lease" of the Project or an alternative structure, such as a management contract, could be put in place. This decision will be left open through the RFP stage (see below) so as not to preclude private sector creativity.

The RFP will require all three proponents to provide their proposals in the following format:

(i) Base Case:

Each proponent will be required to address a "base case" approach in its proposal which contemplates that the Developer would take a head lease of the Project from the Authority with a defined lease term. As tenant under the Head Lease, the Developer would assume the existing leases in place and thereby become the landlord under them (i.e., GO Lease/VIA Lease/BNS Lease/Retail Leases/Office Leases) and would assume the other third party licenses and agreements in place. Any unusual terms contained in the existing leases, licenses or other agreements that might materially impact restoration, development or operations would be identified either in the RFP or in summaries made available in the data room during the call for proposals. The rental structure under the Head Lease will be as negotiated with the Developer based on the preferred proposal.

In requiring submissions as to the financial terms under the "Base Case" model, the proponents will be requested to address a relatively prescriptive set of terms (e.g. a specifically defined basic rent with inflation adjustment and recalculation to market at appropriate intervals and a participation rent framework), leaving it to the proponents to propose the rental amounts, escalations, percentage of revenues, and escalations to revenue percentages, etc..

The Head Lease is intended to be absolutely net. Proponents will be requested to identify their expenditure levels and may be provided with the City's own estimates of required expenditure levels, where known.

Expenditure obligations would include ongoing contributions to capital reserves to be held in accounts established by the governing body. The Head Lease would contain all such other provisions as were appropriate to a head lease of this nature, including terms pertaining to subleasing, financing, insurance, dispositions, events of default and remedies.

(ii) Additional Proposals:

The proponents will be permitted to propose terms pursuant to which they would develop additional commercial space in the area(s) below the concourse levels. These terms would include a description of the proposed development approach, uses, concept plans, rental terms, etc.

The proponents will also be permitted to propose the creation of additional, above grade, density, to be used in a new above grade building area (i.e., not within the existing structures) recognizing that this does not exist at the present time and cannot be guaranteed. Such a proposal would need to include payment terms for the density that ensured that the City/Authority received a market value return for this density. The payment terms would presumably be a formula rather than a specific price in order to reflect market terms at the time the density was created.

If the Developer proposed either or both of the below grade or air space development it would be appropriate to permit a renewal of the Head Lease term.

Any approach to the creation of additional density could be time limited on the basis that the Developer would be given a minimum period of time from closing within which to initiate an application for rezoning (and other permissions) and would be required to proceed diligently and in good faith thereafter toward approval. If not, the City would be entitled to pursue its creation and and/or alternate use.

Any approach to the creation of density will be on the basis that, while the City as "owner" would consent to the application and cooperate during the process, this will not fetter the discretion of the City as a municipality, with regard to its various regulatory powers.

(iii) Alternate Structure

Proponents will not be restricted to only making a submission based on the "Base Case". In order to elicit the most creativity possible, the proponents will be given the opportunity to propose an additional alternative approach they wish the City to consider (subject to the Project Lease between the City and the governance body). Notwithstanding the nature of the alternative approach, the proponents would, as a minimum, have to submit a proposal on the base case and in any scenario would have to assume the basic responsibilities for the Project.

Evaluation of Proposals.

In evaluating the proposals and selecting a preferred proponent, the City's Evaluation Team of technical experts will be guided by multiple criteria including: (not in any particular order)*

(1) Financial offer
(2) Business plan and demonstrated commitment of equity
(3) Understanding and planning for the construction co-ordination complexities of the project
(4) Development and implementation plan
(5) Commercial Facilities and Leasing Plan
(6) Operations Plan
(7) Realization of City Objectives
(8) Recognition of the historic significance of Union Station

Proponents will be asked to participate in interviews with and make individual presentations on their proposals to the Evaluation Team. The interview stage will serve as a mechanism for further understanding and evaluation of proposals and will allow the Evaluation Team to take into account clarifications or other information necessary to complete a full and fair assessment of all proposals.

RFP Requirements and Schedule.

In addition to the standard City RFP requirements, early in the RFP process the proponents will be required to formally register the team that will be submitting a proposal

The following is the proposed schedule for the RFP process:

Pre-RFP Proponents Conference	*May 22, 2001*
RFP Issued	*July 3, 2001*
Proponent Team Registration	*July 21, 2001*
Proposals Due	*October 2, 2001*
Report to Council on RFP Results	*January 2002*

In the event the governance body is created and operational by the time the proposals are received, the final decision on the successful proponent will be made by that body. In any event, the City Team will continue to consult with federal officials and report to Council for its information on the results of the RFP process and the transition to the governance body.

Completion of the RFP process will require the continued services of MMM and DWPV. It is recommended that their retainers be continued and funded by revenues from Union Station up to a further $250,000. It should be noted that the Memorandum of Understanding with the federal government with regard to the governance body provides for one third of any costs associated with the REOI/RFP process, up to $1 million dollars, to be reimbursed to the City out of the $25 million contribution.

Conclusions:

This report identifies the basic parameters for a RFP to restore, develop and operate Union Station. It is recommended that City staff, with the continuing assistance of MMM and DWPV, prepare and issue a RFP based on the terms identified in this report. The RFP will not identify any financial obligation on the proponents related to the Walks and Gardens Trust but staff will seek other ways that this piece of the City's heritage could be addressed as part of the redevelopment of Union Station or otherwise. It is also appropriate for City staff to commence an application to allow the conversion or development of existing space within the Station, subject to heritage guidelines and approvals and other operational issues identified by the transportation tenants.

The Chief Financial Officer and Treasurer, Commissioner of Urban Development Services and Commissioner of Economic Development, Culture and Tourism have been consulted in the preparation of this report and concur with the proposed terms for the RFP and recommendations herein.

Contact:

Name: *Patricia Simpson*
Position: *Project Co-ordinator*
Telephone: *392-8057*
Fax: *392-3848*
e-Mail:psimpson@ city.toronto.on.ca)