

# Ottawa Light Rail Commission

Chris Swail  
on Friday, April 29, 2022



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OTTAWA LIGHT RAIL COMMISSION  
CITY OF OTTAWA - CHRIS SWAIL  
APRIL 29, 2022

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--- Held via Zoom Video Conferencing, with all  
participants attending remotely, on the 29th day of  
April, 2022, 2:00 p.m. to 4:23 p.m.

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1 COMMISSION COUNSEL:

2

3 Kate McGrann, Co-Lead Counsel Member

4 Carly Peddle, Litigation Counsel Member

5

6 PARTICIPANTS:

7 Chris Swail - City of Ottawa

8 Peter Wardle and Betsy Segal: Singleton

9 Urquhart Reynolds Vogel LLP

10

11 ALSO PRESENT:

12

13 Janet Belma, Official Court Reporter

14 Graham Lavoie, Virtual Technician

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NUMBER/DESCRIPTION

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1 C. V. of Mr. Chris Swail

6

1 -- Upon commencing at 12:00 p.m.

2 CHRIS SWAIL: AFFIRMED

3 KATE MCGRANN: Good afternoon,  
4 Mr. Swail. My name is Kate McGrann. I'm one of  
5 the Co-Lead counsel of the Ottawa Light Rail  
6 Transit Public Inquiry. I'm joined by my  
7 colleague, Ms. Peddle who's a member of the  
8 Commission's counsel team.

9 The purpose of today's interview is to  
10 obtain your evidence under oath or solemn  
11 declaration for use at the Commission's public  
12 hearings. This will be a collaborative interview  
13 such that my co-counsel may intervene to ask  
14 certain questions. If time permits, your counsel  
15 may also ask follow-up questions at the end of this  
16 interview.

17 This interview is being transcribed,  
18 and the Commission intends to enter this transcript  
19 into evidence at the Commission's public hearings  
20 either at the hearings or by way of procedural  
21 order before the hearing is commenced.

22 The transcript will be posted to the  
23 Commission's public website along with any  
24 corrections made to it after it is entered into  
25 evidence. The transcript, along with any

1 corrections later made to it, will be shared with  
2 the Commission's participants and their counsel on  
3 a confidential basis before being entered into  
4 evidence.

5           You will be given the opportunity to  
6 review your transcript and correct any typos or  
7 other errors before the transcript is shared with  
8 the participants or entered into evidence. Any  
9 non-typographical corrections made will be appended  
10 to the transcript.

11           Pursuant to Section 33(6) of the Public  
12 Inquiries Act, 2009, a witness at an inquiry shall  
13 be deemed to have objected to answer any question  
14 asked him or her upon the ground that his or her  
15 answer may tend to incriminate the witness or may  
16 tend to establish his or her liability to civil  
17 proceedings at the instance of the Crown or of any  
18 person, and no answer given by a witness at an  
19 inquiry shall be used or be receivable in evidence  
20 against him or her in any trial or other proceeding  
21 against him or her thereafter taking place other  
22 than a prosecution for perjury in giving such  
23 evidence.

24           As required by Section 33(7) of that  
25 Act, you are hereby advised that you have the right

1 to object to answer any question under Section 5  
2 of the Canada Evidence Act.

3 If you need to take a break at any  
4 point during our interview, please let us know, and  
5 we'll just pause the recording.

6 CHRIS SWAIL: Okay.

7 KATE MCGRANN: We asked your counsel to  
8 share a copy of your C.V. in advance of your  
9 interview today. I'm just going to share with you  
10 what we received. So I am showing you the first  
11 page of a two-page document. Can you see the  
12 document okay?

13 CHRIS SWAIL: I can, yeah.

14 KATE MCGRANN: And I'm just going to  
15 scroll through it so you can take a look at it. If  
16 you need me to slow down, just let me know.

17 CHRIS SWAIL: It looks familiar. It's  
18 a little out of date, but it looks familiar.

19 KATE MCGRANN: So is this a copy of  
20 your resume maybe slightly out of date?

21 CHRIS SWAIL: Yeah.

22 KATE MCGRANN: Okay. So we will enter  
23 that as Exhibit 1 to your interview.

24 EXHIBIT 1: C.V. OF MR. CHRIS SWAIL

25 KATE MCGRANN: Would you please provide

1 a brief description of your professional background  
2 as it relates to the work that you did on Stage 1  
3 of Ottawa's Light Rail Transit System?

4 CHRIS SWAIL: Sure. So I joined the  
5 City early 2010, January of 2010, in the role of  
6 manager of the Deputy City Manager's Office, which  
7 is essentially performing the role of chief of  
8 staff to the Deputy City Manager who was  
9 Nancy Schepers at the time.

10 My role essentially was to support  
11 Nancy in overseeing and administering the various  
12 departments and portfolios that she was responsible  
13 for, and that included staffing, and it also  
14 included stewarding reports through committee and  
15 council that had to do with any kind of City policy  
16 or proposed changes across each of her departments.

17 So during my tenure, her departments  
18 would have included earlier on, Transit, so  
19 OC Transpo, RIO Property, which was called CREO and  
20 then was later called REPDO, Infrastructure  
21 Services, Wastewater and other environmental  
22 services including, essentially, Garbage,  
23 Infrastructure Services -- what else --  
24 Sustainability, Planning and Growth Management. I  
25 think that -- I think that's about it.



1 KATE MCGRANN: With respect to your  
2 role --

3 CHRIS SWAIL: Oh, and rail -- which is  
4 why I'm here, yeah, the Rail Implementation Office.

5 KATE MCGRANN: Can you describe in a  
6 little bit more detail what your responsibilities  
7 were as they pertained directly to Stage 1 of the  
8 LRT project?

9 CHRIS SWAIL: So for Stage 1, I would  
10 have supported stakeholder relations and outreach,  
11 so community meetings. I would have been there  
12 supporting Nancy prepping for community meetings as  
13 well as actually going to some of the community  
14 meetings.

15 I would have reviewed and -- so  
16 reviewed all of the reports, the legislative  
17 reports, concerning Confederation Line, and, you  
18 know, that means reviewing them before they go to  
19 committee and council, right?

20 So typically, it's my role to read  
21 through those reports, like, the higher-profile  
22 reports, and then if I have any questions of staff  
23 or if I have any concerns about lack of clarity or  
24 if I think, you know, something can be phrased  
25 better, if I'm worried about a particular

1 recommendation, I would express those concerns to  
2 Nancy. We'd discuss them and then, you know,  
3 usually meet with the lead on the file, in this  
4 case, John Jensen or someone that worked with him,  
5 you know, who was more directly over -- more  
6 directly responsible for that particular  
7 recommendation. And I'd get a chance to better  
8 understand it, and then we would try and either  
9 better communicate it or make some refinements or  
10 adjustments to it.

11 KATE MCGRANN: With respect to the  
12 legislative reports, am I correct in understanding  
13 that those are reports prepared by City staff --

14 CHRIS SWAIL: That's right.

15 KATE MCGRANN: -- delivered to City  
16 Council?

17 CHRIS SWAIL: Yeah, so they would first  
18 go to FEDCO in the case of the Rail Implementation  
19 Office, and then FEDCO would approve them, and then  
20 they would usually flow up to council depending on  
21 the level of delegated authority required -- or the  
22 level of authority required for the -- for the  
23 committee, yeah.

24 KATE MCGRANN: And just to be clear,  
25 you're reviewing those reports for clarity,

1 completeness. Anything else?

2 CHRIS SWAIL: Yeah. Yeah, that's  
3 about -- that's about it. Yeah. You know,  
4 concerns, if I think that something is going to  
5 cause a fuss, you know, I would also brief  
6 councillors on reports before they go live as well,  
7 right?

8 So I would go with Nancy on or my own  
9 to, you know, take councillors through the reports  
10 to make sure that they understood what was being  
11 recommended and to give them an opportunity before  
12 committee and council to ask questions and get more  
13 background information if they wanted it.

14 KATE MCGRANN: And with respect to  
15 those briefings, are they taking place with council  
16 as a whole, or are you briefing individual  
17 councillors?

18 CHRIS SWAIL: You'd -- you'd brief  
19 individual councillors before. You know, we try  
20 and reach out to most of them. Well, we try and  
21 reach out to all of them. We would often only get  
22 an opportunity to brief most of them in the -- on  
23 schedules or interest.

24 KATE MCGRANN: So would these briefings  
25 be made available on an on-demand basis?

1 CHRIS SWAIL: We would proactively  
2 reach out to them and offer them a briefing, yeah.

3 KATE MCGRANN: Other than reviewing  
4 legislative reports with respect to the work on  
5 Stage 1 of the LRT, did you have any other role and  
6 responsibilities with respect to that project?

7 CHRIS SWAIL: Well, I would -- you  
8 know, I was Nancy's chief of staff, so I talked to  
9 Nancy about LRT issues percolating or presentations  
10 that were going to be made to Executive Steering  
11 Committee before being included in a report.

12 I was not, you know, on Executive  
13 Steering Committee. I was not a decisionmaker on  
14 the -- on the project, but I, you know, had  
15 conversations with Nancy about -- about issues and  
16 the thinking behind decisions that were made even  
17 though I was not a decisionmaker.

18 KATE MCGRANN: And would you attend  
19 Executive Steering Committee meetings? I  
20 understand you weren't a member of the committee,  
21 but did you attend the meetings?

22 CHRIS SWAIL: I didn't -- typically, I  
23 didn't attend the meetings, and I can't remember  
24 actually attending an Executive Steering Committee  
25 meeting. I can't be a hundred percent certain,

1     though. I attended a lot. They all took place in  
2     Ken's boardroom, the City Manager's boardroom,  
3     right? I attended a lot of other meetings in the  
4     City Manager's boardroom, so...

5                   KATE MCGRANN: Okay. Would you please  
6     describe the approach the City took to overseeing  
7     Stage 1 of the LRT project from when it was  
8     introduced through to the procurement phase.

9                   CHRIS SWAIL: So can you give me a  
10    little bit more to go on in terms of context? What  
11    do you mean, like, the overall process? From a  
12    governance structure, like, setting up Executive  
13    Steering Committee?

14                  KATE MCGRANN: Yes, let's start with  
15    that.

16                  CHRIS SWAIL: Okay. So Executive  
17    Steering Committee would have been set up, I  
18    believe, soon after the Environmental Assessment  
19    Report was approved by council, and staff were  
20    given direction to undertake next steps in, you  
21    know, structuring a potential procurement and  
22    securing Federal and Provincial funding to  
23    implement the project. Executive Steering  
24    Committee consisted of the City Manager,  
25    Kent Kirkpatrick; Deputy City Manager, Nancy

1 Schepers; the treasurer, Marian Simulik; Legal,  
2 City Legal, which would have been Rick O'Connor.  
3 Who else would have been on the Executive Steering  
4 Committee?

5           So originally, it would have been Alain  
6 Mercier -- Alain Mercier from OC Transpo. And then  
7 I believe when Infrastructure Ontario came on board  
8 to support and provide procurement advisory  
9 services to the City of Ottawa, I think  
10 Rob Pattison was on, and I know -- I think  
11 Derrick Toigo may have been on later, but I think  
12 there was, like, a -- somebody else on earlier on  
13 that I can't recall their name.

14           And I'm not sure. You would have to go  
15 in and actually check the records. I'm not sure if  
16 procurement was at the table, too, in Executive  
17 Steering Committee or if that fell under Marian  
18 because typically, organizationally, it does fall  
19 under Marian.

20           But I know Jeff Byrne, you know, did  
21 keep, you know, an interest and -- and provide some  
22 counsel to decisions that were made as well from a  
23 procurement perspective, and he's the -- he would  
24 have been The Chief of Procurement at the time.

25           KATE MCGRANN: Who is Derek Toigo?

1                   CHRIS SWAIL: Toigo? He was, I  
2 believe, a VP at Infrastructure Ontario, so he  
3 worked with Rob Pattison. He's now with the City  
4 of Toronto working on infrastructure -- transit  
5 infrastructure delivery as it intersects and  
6 integrates with Metrolinx projects in Toronto.

7                   KATE MCGRANN: And what did the work of  
8 the Executive Steering Committee look like? And by  
9 that I mean, what kind of decisions did they make?  
10 How did they receive information in order to make  
11 those decisions? Can you describe what that looked  
12 like?

13                   CHRIS SWAIL: So, you know, typically,  
14 recommendations, so it -- you know, it was  
15 procedural, right? So if you take the decision to  
16 go with a DBFM for Confederation Line, so leading  
17 up to that, work would have been done by Deloitte,  
18 who was the financial and commercial advisor on the  
19 project.

20                   That work would have been supplemented  
21 by IO, and they would have, you know, based on P3  
22 screening and based on essentially a value for  
23 money analysis that looks at the types of risks  
24 that present themselves and the degree to which the  
25 risks may materialize on a project because they --

1 you know, based on technical feedback, they -- you  
2 know, basically come up with a number, right?  
3 Could be as high as this, could be as high as a  
4 million dollars, about a 25 percent chance of it  
5 actually materializing gives you a \$250,000 VFM in  
6 this particular model, right?

7           And so you look at all the different  
8 kinds of models, and then ultimately, you make a  
9 recommendation, and there are some, you know, other  
10 factors that are outside of the pure numbers that  
11 go into it, you know, the context, those kinds of  
12 things.

13           But, you know, essentially, you know,  
14 if I was to give you an example, then they would  
15 present each of the options that were looked at to  
16 Executive Steering Committee with a recommendation  
17 of which model that we believe would be in the best  
18 interest of the project or staff believe would be  
19 in the best interest of the project, and then that  
20 would get approved by Executive Steering Committee  
21 and then form a recommendation within a report that  
22 would then go to FEDCO and then council for  
23 approval. Does that -- does that answer your  
24 question?

25           KATE MCGRANN: Who directs the work



1 that is done and instructs staff and advisors as to  
2 what the Executive Steering Committee needs to hear  
3 about next? Like, who is setting the work plan?

4 CHRIS SWAIL: Who's setting the work  
5 plan? Well, it would be essentially the  
6 Rail Implementation Office. So at the time early  
7 on in the Confederation Line project, that would  
8 have been John Jensen, and he would be mapping out,  
9 you know, the steps to get Confederation Line  
10 procured.

11 And any requirement where, you know,  
12 staff needed direction from council or sought  
13 direction from council, those are the items that  
14 would then get surfaced for Executive Steering  
15 Committee.

16 KATE MCGRANN: So the day-to-day work  
17 is being directed by Mr. Jensen?

18 CHRIS SWAIL: For RIO, yeah,  
19 absolutely, just like any other department, right?  
20 So, you know, Infrastructure Services directed by  
21 the general manager of Infrastructure Services;  
22 planning is directed by the general manager of  
23 planning, yes.

24 KATE MCGRANN: Unless I indicate  
25 otherwise, the focus of all of my questions will be

1 on Stage 1 of the Ottawa Light Rail Transit  
2 System --

3 CHRIS SWAIL: I'm just saying --

4 KATE MCGRANN: -- is our particular  
5 area of focus.

6 CHRIS SWAIL: I'm sorry. I'm not  
7 trying to confuse. I'm just saying that it was a  
8 department like any other department at the City of  
9 Ottawa, yes.

10 KATE MCGRANN: So in terms of the  
11 day-to-day work on the Stage 1 project from the  
12 Environmental Assessment Report onwards, Mr. Jensen  
13 is directing the work, and is it largely staff  
14 members of RIO that are carrying out the work  
15 needed to advance the project?

16 CHRIS SWAIL: Yeah, staff members of  
17 RIO which would include the Owner's Engineer team  
18 that was brought on to provide technical support,  
19 and then that would include -- it was an integrated  
20 team, so it would be a mix of City staff and  
21 consultants.

22 KATE MCGRANN: The Owner's Engineer  
23 that you mentioned, is that Capital Transit  
24 Partners?

25 CHRIS SWAIL: That's right.

1 KATE MCGRANN: Any other consultants  
2 involved in advancing the project up to the  
3 procurement phase?

4 CHRIS SWAIL: So Deloitte.

5 KATE MCGRANN: M-hm.

6 CHRIS SWAIL: Who else would have been  
7 there? Well, BLG was legal. At that point, they  
8 would have been brought on. When IO -- the  
9 decision to go with IO as the procurement advisor,  
10 they would have been at the table as well.

11 KATE MCGRANN: Any other advisors that  
12 you recall?

13 CHRIS SWAIL: Well, at some point,  
14 Boxfish would have been brought on as well because  
15 they worked in RIO at that time.

16 KATE MCGRANN: So Deloitte is the  
17 financial adviser of the project; is that right?

18 CHRIS SWAIL: Financial and commercial,  
19 I believe, yeah.

20 KATE MCGRANN: BLG is providing legal  
21 advice. Infrastructure Ontario is providing  
22 procurement assistance and advice?

23 CHRIS SWAIL: M-hm.

24 KATE MCGRANN: What's Boxfish's role?

25 CHRIS SWAIL: I think they were brought

1 on as strategic advice for the project.

2 KATE MCGRANN: And can you be a bit  
3 more specific as to what their work entailed?

4 CHRIS SWAIL: Well,  
5 I -- not overly. I didn't work with them on a --  
6 on a day-to-day basis. But, you know, essentially,  
7 they supported John in terms of providing a  
8 challenge function for many aspects of the project.

9 Technically, commercially, you know,  
10 Brian had a good history of LRT in Ottawa, and so  
11 he would be involved in helping to work through and  
12 troubleshoot challenges that the project would be  
13 coming up against.

14 KATE MCGRANN: The Brian that you  
15 referred to, is that Brian Guest?

16 CHRIS SWAIL: It is, yeah.

17 KATE MCGRANN: You said that he had a  
18 good history of -- and then I missed it -- in  
19 Ottawa. He had a good history of something. Could  
20 you repeat that?

21 CHRIS SWAIL: Working on LRT in Ottawa,  
22 so he worked on the North/South project when he  
23 used to work for the former mayor, so he had a good  
24 understanding of the history of LRT in Ottawa.

25 KATE MCGRANN: And you mentioned that

1 he provided a challenge function. What does that  
2 mean?

3 CHRIS SWAIL: Well, it -- it --  
4 essentially, it means when someone is, you know,  
5 telling you this is our recommended approach, they  
6 ask good questions as to why it's the recommended  
7 approach and ensures that all options have been  
8 looked at.

9 KATE MCGRANN: And would that exercise  
10 in considering the recommendations coming forward  
11 and ensuring that all potential outcomes have been  
12 considered, for example, would that be reflected in  
13 the report that is ultimately drafted and shared  
14 with the Executive Steering Committee?

15 CHRIS SWAIL: Well, I can't tell you  
16 how much influence, say, Brian would have provided  
17 versus another technical person or Deloitte or BLG  
18 in any of those recommendations that came up to  
19 Executive Steering Committee because I wasn't -- I  
20 wasn't part -- I wasn't in the room for the  
21 debates, right? I wasn't -- I wasn't part of that  
22 exercise. I did not have day-to-day interaction  
23 towards those decisions. I would just know what  
24 the recommendation is by the time it came to me in  
25 the form of a report.

1 KATE MCGRANN: And in the reports that  
2 you're reviewing, are you expecting to see and are  
3 you finding a discussion of the various risks and  
4 possible outcomes that have been considered, the  
5 assessment of those risks and outcomes, and --

6 CHRIS SWAIL: Yeah. Yeah.

7 KATE MCGRANN: -- how they support the  
8 recommendation?

9 CHRIS SWAIL: Yeah, in -- in -- in any  
10 staff report, it gives you background into what the  
11 considerations were that led to the decision and  
12 why the recommendation is being made.

13 KATE MCGRANN: Other than what you  
14 described so far, was there anything else that you  
15 were doing in your role as it pertained to Stage 1  
16 of the LRT project?

17 CHRIS SWAIL: No.

18 KATE MCGRANN: You've spoken about the  
19 role of the Executive Steering Committee and how it  
20 went about doing its work. Can you speak to the  
21 role of FEDCO on the project and how it went about  
22 doing its work?

23 CHRIS SWAIL: Well, FEDCO, it's -- it's  
24 their job to review reports, ask questions of  
25 staff, and then decide if the recommendations, as

1 they're drafted in the report are adequate, or if  
2 they need to be supplemented or amended in some way  
3 via a motion, right?

4           They -- they adjudicate the merits of  
5 each report on its merits, and if there are some  
6 concerns that surface, either in their own reading  
7 of the report or through -- sorry -- my dog seems  
8 to be barking here -- or through public  
9 delegations, that ask questions of staff or express  
10 concerns, they will often, you know, bring forward  
11 motions that address some of those concerns. And  
12 then those directions or changes are captured in  
13 the report and then that refines the direction  
14 staff is to take.

15           KATE MCGRANN: Can you speak to the  
16 delegation of authority in respect of this project  
17 and how that worked out over time?

18           CHRIS SWAIL: Well, any specific  
19 delegation of authority required for staff to move  
20 forward with the procurement and then the  
21 subsequent implementation of Confederation Line was  
22 captured in each of the reports.

23           KATE MCGRANN: So I take it that in  
24 setting out recommendations, if an additional  
25 delegation of authority was required, staff would

1 also set out what that was and recommend that such  
2 a delegation --

3 CHRIS SWAIL: Yeah, and why.

4 KATE MCGRANN: -- why they take the  
5 approach?

6 CHRIS SWAIL: That's right, and why,  
7 yeah.

8 COURT REPORTER: Sir, if you could just  
9 wait until she's completely finished her question.  
10 I can't write two people at the same time. Thank  
11 you.

12 CHRIS SWAIL: I'm sorry.

13 COURT REPORTER: It's all right.

14 KATE MCGRANN: And in a general level,  
15 can you speak to how authority was delegated from  
16 council down to staff, delegated from council to  
17 staff on this project? What authority had been  
18 delegated?

19 CHRIS SWAIL: I would have to review  
20 each and every recommendation in each and every  
21 report since 2010, so I don't -- I don't have that  
22 laundry list available in my -- my limited memory.  
23 I'm sorry. But if -- if you wanted to do that, it  
24 could be done simply by going through each report.

25 KATE MCGRANN: Can you speak generally



1 to it at all?

2 CHRIS SWAIL: Generally to it, so staff  
3 would -- well, if we go back to the decision on the  
4 procurement model, staff would get authority to  
5 continue to work with IO on setting up the process  
6 through which you would go out with your RFQ and  
7 then go out with your RFP on the procurement,  
8 right? To proceed with the procurement, staff  
9 needs authority to do so.

10 When it comes to awarding a contract,  
11 staff doesn't have that authority, so when it came  
12 to awarding the contract for Confederation Line,  
13 that report would have a recommendation to give  
14 authority to probably the City Manager, in this  
15 case, if I'm remembering correctly, to enter into a  
16 contract with who we -- at that time, staff would  
17 have recommended as the preferred proponent.

18 So those are all examples of things  
19 that would have to be captured in a report in order  
20 to give staff the authority to move forward.

21 KATE MCGRANN: To your recollection,  
22 were there any delegations of authority that were  
23 more wholesale project-based and less tied to  
24 immediate next steps on the project?

25 CHRIS SWAIL: More a wholesale

1 project-based than immediate next needs project...I  
2 think there were a number with respect -- well, so  
3 the one that comes to mind would be property  
4 because of the lead time required to secure access  
5 to property either through, hopefully, negotiation  
6 or potentially expropriation.

7           There would have been a delegated  
8 authority for staff to pursue the necessary land  
9 requirements. And I believe, in the case of  
10 Confederation Line, because of, you know,  
11 commercial confidentiality, it was only after the  
12 property was secured that council would then go  
13 back and report out -- or, sorry -- staff would  
14 then go back and report out. So that was a broader  
15 direction that staff would have taken that was more  
16 project-based.

17           KATE MCGRANN: Anything else come to  
18 mind?

19           CHRIS SWAIL: Not off the top of my  
20 head. I -- I promise to circle back if something  
21 else does.

22           KATE MCGRANN: With respect to the  
23 budget that was set for the project, can you speak  
24 to the approach taken to setting that budget?

25           CHRIS SWAIL: Yes. So that budget was

1 set pretty soon after the environmental assessment  
2 was done in 2010 and was updated after that point.

3 In line or soon after their Federal and  
4 Provincial funding was also secured or at least at  
5 the time notional amounts were committed by both  
6 the Federal and Provincial Governments, so it would  
7 have been around 2011.

8 So the Provincial government, at that  
9 time, used the environmental assessment budget to  
10 calibrate their one-third share, and at that time,  
11 the budget for the project was \$1.8 billion, and  
12 then when it was updated, it became 2.1, and that  
13 was relatively early on, I think, when the  
14 Owner's Engineer team probably first came on, so  
15 could be soon within 2010 or early 2011.

16 KATE MCGRANN: Okay. So an initial  
17 budget is set in the environmental assessment of  
18 \$1.8 billion; is that correct?

19 CHRIS SWAIL: Yeah, and then our  
20 funding request would have come out from that,  
21 right, to the -- to the -- the Federal and  
22 Provincial Governments, and that's where they would  
23 target their funding.

24 But subsequent to that, once you get an  
25 Owner's Engineer team, you have more people sort of

1 looking at it technically, and then we have a  
2 financial team that's building more detailed  
3 budget, right?

4 So, you know, an environmental  
5 assessment level of design is Class C. It can be  
6 40 percent up or down, but it's never down, right?  
7 So, you know, as you refine your -- your design,  
8 typically, costs go up, and in that case, it --  
9 yeah.

10 KATE MCGRANN: Sorry. Please go ahead.

11 CHRIS SWAIL: No. No. And in that  
12 case, it did go up, you know, as designs advanced.

13 KATE MCGRANN: I couldn't hear if it  
14 was Class C as in cake or Class D as in dog that  
15 you said.

16 CHRIS SWAIL: I believe it was Class C  
17 at the time.

18 KATE MCGRANN: Okay. So the \$1.8  
19 billion budget has a -- it's plus or minus 40  
20 percent? Like, it could be increased by 40  
21 percent, or it could be decreased by 40 percent,  
22 although I understand that that's unlikely; have I  
23 got that right?

24 CHRIS SWAIL: You've got that right.

25 KATE MCGRANN: Who did the work to

1 update the budget to bring it to the \$2.1 billion  
2 number?

3 CHRIS SWAIL: I think it was Deloitte,  
4 but, you know, you -- you would have to confirm  
5 that.

6 KATE MCGRANN: Do you --

7 CHRIS SWAIL: Oh, you know what?  
8 Sorry. It may have been Hanscomb because --

9 KATE MCGRANN: So who's --

10 CHRIS SWAIL: So -- or someone like  
11 Hanscomb. So on -- on Stage 2, for example, you  
12 know, you -- your technical advisors give you all  
13 of the information that you need, right, how much  
14 kilometers of track and concrete and all of that  
15 stuff. And then you get a quantity surveyor like  
16 Hanscomb that comes in and tells you on a per-unit  
17 basis what the price is -- is for each of these,  
18 and they tally it up. So there -- likely, there  
19 was someone like Hanscomb working on Stage 1. I  
20 just can't recall who it was.

21 KATE MCGRANN: Do you know, at the time  
22 that the budget is updated to \$2.1 billion, does  
23 that budget take into account the fact that the  
24 project is going to be constructed over a period of  
25 time, inflation over that period of time, and

1 things like that?

2 CHRIS SWAIL: Yes. Yeah. Escalation  
3 over the period of construction, yeah. They take a  
4 mid point in the construction.

5 KATE MCGRANN: So what do you mean by  
6 that?

7 CHRIS SWAIL: I mean they escalate it  
8 to the mid-point of construction, right? So that  
9 way, you're not -- like, it just balances out.  
10 Earlier on, there's not much escalation. At the  
11 end, there's lots.

12 But what it does is it frames the  
13 timeline and ties costs to schedule. So if you  
14 build it in five years, this is the expected  
15 escalation. If you build the same thing over seven  
16 years, the cost will be higher because it's taking  
17 longer, and you're -- more escalation that was not  
18 included in the original estimate.

19 KATE MCGRANN: At any point, to your  
20 knowledge, did anybody raise any concerns about the  
21 sufficiency of the \$2.1 billion budget for this  
22 project?

23 CHRIS SWAIL: I think there's always  
24 concerns, to be honest. I think the way that the  
25 City satisfied itself ultimately that that number

1 was good was the fact that the market agreed.

2 KATE MCGRANN: So I'll ask you about  
3 the market agreement in a second, but given that  
4 there's always concerns about things like this, do  
5 you specifically remember anybody raising concerns  
6 about the sufficiency of the budget for this  
7 project?

8 CHRIS SWAIL: Yeah, I -- there -- there  
9 were concerns particularly with the -- when there  
10 was still a deep-tunnel alignment. So shallowing  
11 up the tunnel alignment through the core was one of  
12 the solutions that worked from a financial  
13 perspective to satisfy ourselves that the --  
14 essentially what was a price cap could hold and  
15 would be sufficient to build it.

16 And it also provided auxiliary benefits  
17 to customers because they didn't have to travel as  
18 far down from the surface to board a train. And  
19 that was one of the biggest, most persistent  
20 comments that we heard from, you know, people  
21 following the project that they were worried about  
22 some of that deep-tunnel alignment in terms of  
23 getting access, that it would -- you know, it takes  
24 a long time to get down 20, 40 metres, right?

25 KATE MCGRANN: So I'm interested in

1 understanding what you recall about the concerns  
2 that were expressed about the budget. So you  
3 identified that one way that those concerns were  
4 addressed was by changing the depth and the  
5 alignment of the tunnel.

6 CHRIS SWAIL: Yeah.

7 KATE MCGRANN: What can you tell me  
8 about what you recall about who was expressing  
9 concerns about the budget and what the concerns  
10 were?

11 CHRIS SWAIL: Just I think that one of  
12 the concerns was that, you know, the costs  
13 associated with building a deep tunnel, and so for  
14 that reason, the OE team or technical advisory  
15 team, CTP; looked at whether or not it was possible  
16 to shallow it up.

17 Again, you know, the deep-tunnel  
18 alignment was the alignment chosen by the team  
19 working on the environmental assessment, and CTP  
20 came in, and they took another look at it to see if  
21 it could be shallowed up for all of those benefits  
22 that I outlined.

23 The City is always, on every project,  
24 trying to figure out how we can save money without  
25 compromising the quality of a system. In this



1 case, we were looking at how we could potentially  
2 save money while improving the quality of the  
3 system.

4 The other source of questioning whether  
5 or not the \$2.1 billion was sufficient would have  
6 come out of discussions with the three proponents  
7 who were competing to build Confederation Line.

8 So there are meetings. There are  
9 commercially confidential meetings where the  
10 proponents and City staff have these conversations  
11 where they say, we have concerns about meeting the  
12 cap.

13 KATE MCGRANN: So before we move to the  
14 conversations with the proponents --

15 CHRIS SWAIL: Yeah.

16 KATE MCGRANN: -- I just want to  
17 understand, other than the concerns about the costs  
18 associated with building the tunnel as originally  
19 envisioned in the environmental assessment report,  
20 do you recall anybody raising concerns about the  
21 sufficiency of the budget for the project, anybody  
22 working for or on behalf of the City?

23 CHRIS SWAIL: No. I just know it's  
24 always a concern. You know, it's sort of a weird  
25 question, right? It's always -- on all of these

1 projects, it's always a concern because you are  
2 working very diligently to try and get the right  
3 target price for your project, right? Because you  
4 want to drive competitive tension to that dollar.  
5 You want them -- all of the people competing to  
6 build it thinking that the other person can build  
7 it for that price.

8 KATE MCGRANN: With respect to the  
9 feedback that the three proponents provided about  
10 the budget through the confidential meetings, what  
11 insight did you have into that process? Were you  
12 involved in --

13 CHRIS SWAIL: I didn't have any -- I  
14 was never in the room, right? I didn't have any  
15 direct insight into those conversations.

16 KATE MCGRANN: What leads you to say  
17 that the three proponents were commenting on the  
18 budget in those meetings?

19 CHRIS SWAIL: That's the point of the  
20 meetings. I know what CCMs are because I did them  
21 on Stage 2.

22 KATE MCGRANN: And did you receive any  
23 information about the CCMs on Stage 1?

24 CHRIS SWAIL: Not directly, no, that I  
25 can recall.

1 KATE MCGRANN: Did you receive any  
2 information indirectly?

3 CHRIS SWAIL: No. You know, other than  
4 at all times, staff were trying to get the number  
5 right.

6 KATE MCGRANN: And how is that an  
7 answer to the question of whether you received any  
8 information indirectly about those meetings? What  
9 does that mean in response to that question?

10 CHRIS SWAIL: I don't -- I just  
11 think -- so I would disassociate that comment from  
12 being related to those meetings. I can't say that  
13 it was related to those meetings.

14 KATE MCGRANN: Okay. So did you  
15 receive any information indirectly about the CCMs  
16 for Stage 1?

17 CHRIS SWAIL: No.

18 KATE MCGRANN: It's my understanding  
19 that in or about March of 2011, FEDCO directed City  
20 staff to explore opportunities to accelerate the  
21 project. Do you know what I'm talking about?

22 CHRIS SWAIL: Yeah, there was a report  
23 to try and accelerate the project to see if it  
24 could get opened by 2018.

25 KATE MCGRANN: And do you recall what

1 the purpose of the direction to accelerate was?

2 CHRIS SWAIL: Well, the purpose of  
3 accelerating a project is you think it's feasible  
4 to speed up your original timelines ultimately  
5 saving the City money from a cost-and-schedule  
6 perspective.

7 KATE MCGRANN: So for this particular  
8 direction to accelerate Stage 1 of the OLRT, was it  
9 your understanding the purpose of that direction  
10 was to see if there could be any cost savings  
11 associated with the project?

12 CHRIS SWAIL: I think that and just,  
13 you know, getting LRT operational faster. You  
14 know, the background context here is we had a  
15 downtown core that was at capacity in terms of the  
16 transit service that we could provide.

17 You know, the BRT line through the  
18 downtown had to cross 14 signalised intersections  
19 and maxed out at, I think, a little bit under  
20 10,000 people per hour per direction in each  
21 direction, and we couldn't increase ridership. So  
22 that's a major impediment to city growth and -- and  
23 getting around the city generally.

24 So the sooner that we could relieve  
25 that bottleneck, which showed up every day on the

1 Laurier or the Slater Bridge by the Rideau Centre,  
2 the better it would be for all citizens.

3 KATE MCGRANN: What impact did this  
4 direction have on the work that staff was doing?

5 CHRIS SWAIL: I don't know.

6 KATE MCGRANN: Did anyone have any --  
7 express any -- sorry -- you can't tell if anybody  
8 had anybody -- but did anybody express any  
9 concerns, to your knowledge, about the direction to  
10 accelerate the project or steps taken in order to  
11 follow that direction?

12 CHRIS SWAIL: No. No. I think people  
13 thought that was a good idea.

14 KATE MCGRANN: And what makes you say  
15 that?

16 CHRIS SWAIL: I think people were -- my  
17 recollection is -- is people were happy that we had  
18 an ability to accelerate the project.

19 KATE MCGRANN: And who are the people  
20 you're speaking about?

21 CHRIS SWAIL: I think the people at RIO  
22 were happy that they could speed up the project  
23 because they thought they were delivering better  
24 service for the citizens of Ottawa.

25 KATE MCGRANN: What is the basis for

1 that belief?

2 CHRIS SWAIL: It's -- it's our job to  
3 serve people well, and they thought they were  
4 serving people well by finding a way to speed up  
5 the project.

6 KATE MCGRANN: Is this an assumption  
7 that you're making? Is this based on conversations  
8 you had with people?

9 CHRIS SWAIL: No. I -- I had -- I -- I  
10 can recall conversations about -- like, with, you  
11 know, some staff at -- at RIO being -- feeling like  
12 they -- you know, this was a great thing to do and  
13 feeling like they were able to do it.

14 KATE MCGRANN: With respect to IO's  
15 involvement -- and you've spoken a little bit about  
16 that already --

17 CHRIS SWAIL: M-hm.

18 KATE MCGRANN: -- you've talked a  
19 little bit about IO's involvement in preparing  
20 reports to the Executive Steering Committee. Can  
21 you just sort of walk me through when they arrived  
22 on the project and what they did when they arrived?

23 CHRIS SWAIL: I can't recall exactly  
24 when IO arrived. I believe there was a report in  
25 2011 that laid out the recommendation to do the

1 project with some kind of a maintenance component  
2 and that IO were being -- we were exploring -- City  
3 staff was exploring using IO as a procurement  
4 advisor, and those talks were going to carry on, so  
5 sometime in 2011.

6 But I can't tell you when specifically  
7 they arrived. I did not have any direct  
8 conversations with anyone from IO on the project  
9 Confederation Line. I've had many direct  
10 conversations with people from IO since  
11 Confederation Line, but not -- not during.

12 KATE MCGRANN: So any insight you have  
13 into the work that they were doing would come as a  
14 result of the reports that you're reading?

15 CHRIS SWAIL: Yeah. Yeah.

16 KATE MCGRANN: And how did you  
17 understand their -- what did you understand their  
18 role to be vis-à-vis Deloitte, for example?

19 CHRIS SWAIL: So IO and -- and Deloitte  
20 would assess what would be the recommended  
21 procurement model for Confederation Line, so a  
22 myriad of options. It could have been a -- a DBF,  
23 DBFM, DBFOM. Those are really the -- sort of the  
24 three main procurement models that were considered  
25 for transit as it was extending from basically the

1 buildings that IO had been doing for probably six  
2 or seven years before that.

3 IO was formed in 2005, so they had been  
4 building hospitals, including the ROH here,  
5 prisons, and other office facilities essentially  
6 using the model, originally, and then they extended  
7 it for other transportation projects like highways,  
8 so Herb Gray, for example, would have been the  
9 first one, I think, out the gate from IO.

10 And then they -- there was an interest  
11 in extending that to transit which everyone thought  
12 was a good idea at the time.

13 KATE MCGRANN: And do you remember why  
14 everybody thought it was a good idea?

15 CHRIS SWAIL: Well, large mega  
16 projects, let's say, projects over a hundred  
17 million dollars or over a billion dollars did not  
18 have a great track record in terms of how they were  
19 being delivered through traditional means, so a  
20 traditional design-bid build, right?

21 KATE MCGRANN: Is there more to your  
22 answer? I don't want to interrupt you.

23 CHRIS SWAIL: No. Yeah, I can bore  
24 you.

25 KATE MCGRANN: No. No. I'm just



1 trying to understand why you thought everybody  
2 thought it was a good idea.

3 CHRIS SWAIL: Okay.

4 KATE MCGRANN: So you've explained  
5 that --

6 CHRIS SWAIL: Well, there were studies  
7 at the time, right, and you're looking at big --  
8 big mega projects, right? So nine out of every ten  
9 mega projects globally were coming in late and over  
10 budget. And in rail, a lot of them were coming in,  
11 like, 40 percent over budget and many years late.

12 IO's model had been proven to deliver  
13 many of their projects, I think nearly all of their  
14 projects, on time and on budget, right? And it was  
15 getting better understood by the market at the  
16 time. And it was seen as a real means to protect  
17 taxpayers and to ensure good value for what we were  
18 receiving or what sponsors were receiving for each  
19 of their projects.

20 KATE MCGRANN: The studies that you  
21 referred to, who was reviewing and analyzing those  
22 on behalf of the City?

23 CHRIS SWAIL: I'm just -- I'm not --  
24 I'm just telling you what I know. I'm not telling  
25 you that this is something -- I can't tell you that

1 Deloitte was saying, based on this study, we think  
2 you should do this. I'm just telling you what I  
3 know in the market. I'd be happy to give you  
4 studies that were done around this time that  
5 demonstrate that.

6 KATE MCGRANN: The studies that you're  
7 offering to share with the Commission, were they in  
8 the possession of the City? Was the City aware of  
9 them at the time?

10 CHRIS SWAIL: The City was aware that a  
11 lot of large mega projects had challenges when it  
12 comes to being on time and on schedule, certainly,  
13 yes.

14 KATE MCGRANN: And the specific studies  
15 that you're offering to share with the Commission,  
16 was the City aware of those studies at the time?

17 CHRIS SWAIL: I can't tell you  
18 specifically.

19 KATE MCGRANN: What is the basis for  
20 your statement that the City was aware that large  
21 megaprojects were coming in late and over budget?

22 CHRIS SWAIL: Well, you'd hear about  
23 them all the time, right?

24 KATE MCGRANN: Can you give me any  
25 examples of --

1                   CHRIS SWAIL: Second Avenue subway in  
2 New York, East Side Access extension, you know, it  
3 was originally going to be, I think, 2 point  
4 something billion dollars in 2006. It's now at \$11  
5 billion, right? There -- there's lots of examples.  
6 It -- it doesn't -- it's not hard to look them up.

7                   KATE MCGRANN: Can you give me any  
8 examples that were considered by the City at the  
9 time that it was determining which delivery model  
10 it would select for Stage 1 of the Light Rail  
11 Transit project?

12                  CHRIS SWAIL: No. They were just  
13 looking at what they thought would be the best  
14 model to ensure good value and protect taxpayers.

15                  KATE MCGRANN: With respect to the  
16 interest in IO's model and the success that it had  
17 had in the buildings that you described and then  
18 the transit projects, do you know if anyone at the  
19 City considered the risks of bringing that model to  
20 a new kind of project, namely the Light Rail  
21 project that Ottawa was undertaking?

22                  CHRIS SWAIL: I think everyone  
23 appreciated that that -- this was a first.  
24 Waterloo would have been a close second because  
25 they also followed in using the IO model, although

1 it was a DBFOM. But for context, and I'm sure  
2 you -- I'm not the first one to mention this, it --  
3 there was a requirement both Provincially and  
4 Federally to do a P3 screen for the project, and  
5 should that project prove to generate good value  
6 for money as a P3 in order to get funding from the  
7 Province and the Federal Government, you had to do  
8 it as a P3 in Ontario. So, you know, it wasn't a  
9 choice.

10 KATE MCGRANN: Because your  
11 understanding was that if the P3 indicated that --  
12 or the P3 screening -- I'm sorry -- indicated that  
13 there would be good value for money on the project  
14 if carried out as a P3, it was a prerequisite to  
15 obtaining Provincial and Federal funding that the  
16 project be carried out as a P3?

17 CHRIS SWAIL: Yeah, that was Ontario --  
18 Government of Ontario's position at the time, and  
19 in 2011, it was the Federal Government's position.

20 KATE MCGRANN: So that would have  
21 limited the City's options to --

22 CHRIS SWAIL: Get it funded, that's  
23 right, because they, too, were interested in  
24 protecting taxpayers on -- at each level of  
25 government.

1 KATE MCGRANN: With respect to IO's  
2 work on this project, you said that everybody knew  
3 that applying IO's model to Light Rail Transit  
4 system was a first.

5 What assessment of the risk that came  
6 with being a first in this kind of model was done  
7 by the City?

8 CHRIS SWAIL: Well, I -- I can't really  
9 give you too much details on that. It would go  
10 through the same type of screening, right? So when  
11 you're looking at various P3 delivery models, you  
12 look at the characteristics of the project and the  
13 risk of the project. You look at, you know, the  
14 schedule and the budget. You look at whether or  
15 not the private sector has the wherewithal to  
16 deliver all aspects of the project. Sorry. I  
17 thought you were frozen there for a second.

18 KATE MCGRANN: Just paying attention.

19 CHRIS SWAIL: You'd look at, you know,  
20 political constraints. You'd look at, you know,  
21 regulatory things, and you would go through the  
22 specific project risks, you know? So you'd look at  
23 things that are more complicated. We'd look at,  
24 you know, utility risks, geotechnical risks. You'd  
25 look at contamination. You'd look at permitting

1 [sic] -- permits, licenses, and approvals. You'd  
2 look at property-related risk, if there are any  
3 issues related to property that you needed, right?

4 And you would look at how likely those  
5 risks are, and if you were able to transfer those  
6 risks as part of the -- the project to the  
7 proponent in many cases who are best to manage  
8 those risks, then you build a risk registry and a  
9 risk regime, and it gives you a number in terms of  
10 the potential value of the project being done as a  
11 P3 versus a more traditional method.

12 KATE MCGRANN: Okay. So you've  
13 described the P3 screening approach, I think, if  
14 that answers; is that right?

15 CHRIS SWAIL: Yeah, I think so. Yeah.  
16 Yeah. But I'm just saying every project's  
17 specific, right? So you would -- you know, just  
18 because you're moving from a building to a linear  
19 infrastructure project, right, you would -- you  
20 would look at the specifics of the project and  
21 those risks and complications and challenges, and  
22 you would evaluate them in the same -- the same way  
23 based on advice from your technical advisors.

24 KATE MCGRANN: And moving from the  
25 general to the specific, is that the approach that

1 was taken on Stage 1 of the Ottawa Light Rail  
2 Transit project?

3 CHRIS SWAIL: Well, so I can only tell  
4 you that is the approach taken on projects that  
5 I've worked on subsequent to that. I was not -- I  
6 can't tell you specifically, because I wasn't in  
7 the room, how they -- like, I wasn't in the room  
8 going through the Monte Carlo that they would have  
9 gone through for LRT in evaluating the risks.

10 KATE MCGRANN: Would that work have  
11 found its way into a report that would have been  
12 presented to the Executive Steering Committee?

13 CHRIS SWAIL: It would have found its  
14 way in a report recommending the specific  
15 procurement option and why, yeah.

16 KATE MCGRANN: And do you recall seeing  
17 that work done in the reports that you reviewed?

18 CHRIS SWAIL: No. No. No. No. I've  
19 never gone through a specific Monte Carlo of  
20 Confederation Line. That would have been done  
21 internal to those parties, right, like, Deloitte,  
22 while not -- I wasn't in the room, so...

23 KATE MCGRANN: And how would Deloitte  
24 have shared that work with those at the City who  
25 have charge of the project?

1                   CHRIS SWAIL: They would have given  
2 them a report. So John would have gotten a report  
3 on the options. He would have reviewed the  
4 recommendation. That recommendation would have  
5 gone to Executive Steering Committee.

6                   KATE MCGRANN: Just the recommendation,  
7 not the underlying report?

8                   CHRIS SWAIL: I'm sure the underlying  
9 report would have accompanied it, but I'm -- you  
10 know...

11                  KATE MCGRANN: And do you recall seeing  
12 any report like that?

13                  CHRIS SWAIL: No.

14                  KATE MCGRANN: Would you have seen it  
15 in your role if one existed?

16                  CHRIS SWAIL: No. No. I wouldn't have  
17 seen it. The -- you know, the -- the  
18 puts-and-takes in the options analysis would be  
19 summarized as background to the report, right?  
20 We've -- we're choosing this model because of this,  
21 and then they would -- they would detail why.

22                  KATE MCGRANN: So we started on this  
23 conversation with a question. Do you know if the  
24 newness of IO's model to this kind of project was  
25 subject to any sort of risk assessment by the City?



1 You've now explained a P3 risk assessment to me,  
2 and you've talked about a Monte-Carlo approach.

3 Am I to take it from your answer that  
4 that is how this risk would have been assessed?

5 CHRIS SWAIL: That's right, and it  
6 would have been assessed specific to this project.

7 KATE MCGRANN: Can you speak to the  
8 reasons why DBFM was chosen over the other two  
9 options that you described, the DBM and the DBFOM?

10 CHRIS SWAIL: Well, generally, yeah, so  
11 a DBM has no financial component being funded by  
12 the proponent. So the benefits of that is they are  
13 more incented to hold the schedule, so that has a  
14 significant benefit to the City in this case.

15 With respect to why the City didn't go  
16 with a DBFOM, there was an interest in ensuring,  
17 basically, seamless integration from an operational  
18 perspective to the entire transit system writ  
19 large.

20 So what we didn't want is to have a  
21 different operator interfacing with the same  
22 customers that just came off the buses, for  
23 example, right? We didn't want any kind -- we just  
24 wanted seamless integration, one system between the  
25 two, so it made sense to not include the 0 element,

1 essentially, in the -- in the procurement.

2 KATE MCGRANN: What issues or problems  
3 did the City see posed by introducing the operator  
4 model? Like, what's the problem with two different  
5 operators that the City understood?

6 CHRIS SWAIL: Well, I think that the  
7 potential is, you know, a difference between two  
8 different operators. We wanted it all to be under  
9 one service that was City controlled and could  
10 offer guaranteed consistency for all customers.

11 There are also plans to extend, and if  
12 you had an operator essentially operating and  
13 maintaining one section, a railway line that was  
14 planned to be extended through subsequent phases,  
15 it could also make for more difficult challenges  
16 and -- and more irregularities between those  
17 potential interfaces as the system expands.

18 KATE MCGRANN: Can you be a bit more  
19 specific about the challenges that the City foresaw  
20 if the operations component was also made part of  
21 the model with respect to the expansion of the  
22 system?

23 CHRIS SWAIL: Well, there are, at both  
24 ends of the system, so Tunney's and Blair, there  
25 are hundreds of people boarding and alighting, you

1 know, within sort of five or ten-minute intervals,  
2 controlling all of the ways customers move from  
3 entering onto one of those buses, exiting one of  
4 those buses, and then getting into the station; the  
5 convenience and comfort, we would try and maximize.

6 So we introduced and were able to  
7 introduce fare-free zones, for example, where  
8 passengers could simply -- after they've gotten  
9 access on a bus, could simply walk from an area  
10 after exiting the bus and go straight into the  
11 station without having to tap again, right?

12 If you had a separate operator, you  
13 would not be able to do that because that operator  
14 is counting on your ability to count specifically,  
15 at that point, the person entering the station,  
16 right? So there would be some kind of an  
17 additional gate there for the bulk of our riders,  
18 and that's --

19 KATE MCGRANN: Sorry. Your volume went  
20 a little fuzzy there, but it seems to have fixed  
21 itself, so I didn't --

22 CHRIS SWAIL: Sorry.

23 KATE MCGRANN: I want to catch your  
24 answer as well.

25 CHRIS SWAIL: Yeah, for the bulk of our

1 riders, and I think, you know, with Confederation  
2 Line, because it was the trunk of the system, I  
3 think it was -- and I could be wrong with the  
4 number, but I think it's close to 80 percent of the  
5 people on the system would have to transfer.

6 So keeping -- maintaining control of  
7 operations helps make that much easier for people  
8 using the system, customers.

9 KATE MCGRANN: The only way to create  
10 fare-free zones in that high-traffic area was for  
11 the City to maintain operations -- maintain --

12 CHRIS SWAIL: I don't know -- I don't  
13 know how -- I don't know how you would with a  
14 separate operator because their revenue would be  
15 dependent on counting every single person going  
16 through the gate. I don't know how else you would  
17 do it.

18 KATE MCGRANN: And is that something  
19 that the City looked at and came to that  
20 conclusion?

21 CHRIS SWAIL: I certainly think that  
22 was one of the inputs that the City put into it,  
23 yes.

24 KATE MCGRANN: And when you say that  
25 was one of the inputs that the City put into it,

1 what are you talking about?

2 CHRIS SWAIL: Well, it must have been  
3 something that was considered at the time, right?

4 KATE MCGRANN: Do you know if it was  
5 considered at the time?

6 CHRIS SWAIL: Yes, it was considered at  
7 the time. The example I gave you was considered at  
8 the time, and it was in reports.

9 KATE MCGRANN: It was in the what?  
10 Sorry?

11 CHRIS SWAIL: It was in reports, the  
12 interest in, you know, creating fare-free zones so  
13 people could easily transfer, maintaining operation  
14 operations for customer comfort and convenience and  
15 all of those things, yes.

16 KATE MCGRANN: Do you know if the City  
17 considered any risks associated with proceeding  
18 with a DBFM as opposed to a DBFOM? So, for  
19 example, the interface that's introduced between  
20 the operator and the maintainer?

21 CHRIS SWAIL: I'm sorry. I thought I  
22 just explained that -- the reason why they weren't  
23 interested in having the operator. So are you  
24 interested in the complications that could be  
25 created between a conflict between the operator and

1 the maintainer within a DBFOM?

2 KATE MCGRANN: What I'd like to know is  
3 if the City considered any risks or downsides with  
4 proceeding with a DBFM as opposed to a DBFOM, for  
5 example, the introduction of an interface between  
6 two separate parties, the operator and the  
7 maintainer?

8 CHRIS SWAIL: That -- yeah, I can't --  
9 I can't recollect having a conversation about that.  
10 It certainly would have, you know, clearly been  
11 indicated to all of the people planning on building  
12 it and the relationship between the operator and --  
13 and the maintainer is dictated in the PA.

14 So I'm not sure what -- what you're  
15 getting at that somehow the potential builders  
16 would -- would look at that as a high risk when  
17 bidding on the project. Is that what you're --

18 KATE MCGRANN: No. My question simply  
19 is, you know, you talked about the upsides --

20 CHRIS SWAIL: Yeah.

21 KATE MCGRANN: -- that the City  
22 considered in maintaining operations of the system.

23 CHRIS SWAIL: Yeah.

24 KATE MCGRANN: And I'm trying to  
25 understand if the City also considered the

1 downsides that may be associated with the City  
2 maintaining operations to the system while  
3 contracting out the maintenance to the private  
4 partner.

5 CHRIS SWAIL: Yeah, I'm just -- you  
6 know, I'm looking at the minimal impacts that an  
7 operator can put, you know, on -- on the system,  
8 and I'm -- I'm trying to -- you know, other than  
9 issues where somebody would operate a train outside  
10 of protocols, I can't see how there is much of a  
11 downside on the part of the maintainer.

12 KATE MCGRANN: I'm not asking for your  
13 view today. I'm asking if you know if the City  
14 considered any downside risks with retaining  
15 operations while proceeding with the DBFOM --  
16 sorry, DBFM, when that decision was made.

17 CHRIS SWAIL: Sorry. I'm sure they  
18 would have, yeah, but I -- I don't recall the  
19 conversations. All the puts-and-takes are in each  
20 of the model -- the analysis for each of the  
21 models.

22 KATE MCGRANN: Before we move away from  
23 this, when I asked you at the outset, can you help  
24 me understand why the City's selected this model,  
25 and you described a DBM and said that no financial

1 component is being funded by the proponent, the  
2 private partner, and then you said they're more  
3 incented to hold to schedule.

4 Was the part of your answer where you  
5 said they are more incented to hold to schedule  
6 with respect to a DBM or a DBFM?

7 CHRIS SWAIL: A DBFM.

8 KATE MCGRANN: So the idea is that as  
9 compared to a DBM, because of the financial  
10 contribution of the proponent, they are more  
11 incented to hold the schedule?

12 CHRIS SWAIL: That's right.

13 KATE MCGRANN: You mentioned the  
14 extension as being a factor that weighed in favour  
15 of the City maintaining operations of the system.

16 Do you know if the potential extensions  
17 were considered with respect to other aspects of  
18 the delivery models that the City was looking at?

19 CHRIS SWAIL: Sorry. Can you repeat  
20 that question? I'm not quite understanding.

21 KATE MCGRANN: Yeah, let me try to  
22 rephrase it.

23 CHRIS SWAIL: Okay.

24 KATE MCGRANN: Do you know if the City  
25 considered the potential need for extending the



1 system in the future as part of its analysis of the  
2 different delivery models that it could use for --

3 CHRIS SWAIL: Yes. Yes. Yeah. It was  
4 always considering the extensions.

5 KATE MCGRANN: And can you speak to me  
6 about, like, how the extension was considered?  
7 What aspects of it played into the consideration of  
8 the models?

9 CHRIS SWAIL: So there were -- there  
10 were some operational perspectives that influenced  
11 the need to extend LRT in Ottawa mainly because the  
12 detours at -- at Tunney's could also only support a  
13 certain amount -- oh, sorry -- yeah, the bus detour  
14 or the bus drop-off at Tunney's could only support  
15 a certain volume.

16 So in order to continue to keep  
17 ridership levels at the same proportional level as  
18 the City grew, at some point, we needed to extend  
19 the line further west in order to make those  
20 transfers more diffuse in order to properly support  
21 Tunney's.

22 So that was -- and I recall it being  
23 captured in reports. That was always a key  
24 element, and one of the reasons why the City moved  
25 so quickly, and the transportation master plan

1 which was done in 2013 into 2014 supported this,  
2 was to get those extensions so we could make those  
3 transfer points more diffuse and also gain the  
4 benefits operationally of those extensions for  
5 ridership.

6 KATE MCGRANN: Do you know if the City  
7 considered the implications of the delivery models  
8 that it was considering on its ability to expand  
9 the system in the future?

10 CHRIS SWAIL: Yeah, they did. Yeah.

11 KATE MCGRANN: And what can you tell me  
12 about what those considerations involved?

13 CHRIS SWAIL: Well, again, it would go  
14 back to the operations, right? You would -- you  
15 would want to be able to see -- like, have the  
16 system operated consistently throughout all  
17 aspects, so bus on to rail and then rail as  
18 extended out.

19 KATE MCGRANN: Do you know if there was  
20 any consideration about whether any of these models  
21 offered more flexibility from a contract  
22 perspective with respect to extensions?

23 CHRIS SWAIL: Well, you know,  
24 traditional models, I suppose, would -- you know,  
25 it -- it's easier to extend something when you

1 don't have a maintainer on it or an operator on it,  
2 right? So...

3 KATE MCGRANN: Do you know if the City  
4 considered the flexibility of any of the options  
5 that it was considering with respect to its need to  
6 expand in the future and its selection of the  
7 delivery model?

8 CHRIS SWAIL: I think that the City did  
9 reflect upon it and realized that that would be a  
10 subsequent challenge, yes, because I was involved  
11 in working through that subsequent challenge on  
12 Stage 2, yeah.

13 KATE MCGRANN: So what can you tell me  
14 about the City's initial considerations and its  
15 decision that that was something that would have to  
16 be dealt with in the future?

17 CHRIS SWAIL: Well, we looked at --  
18 there were various options to extend the line that  
19 were -- were considered, and the City satisfied  
20 itself that -- that they were viable.

21 You know, you get somebody in to build  
22 it all, or you do a -- and you do a mixed fleet  
23 with two different maintenance regimes, right?

24 There are -- there are many options,  
25 and I think, at the time, the City satisfied

1 themselves that options were available to do it,  
2 and it would be the work of Stage 2 to come up with  
3 a recommendation -- recommended option.

4 KATE MCGRANN: And do you know what  
5 steps the City took in order to be able to satisfy  
6 itself with the decision that you just described?

7 CHRIS SWAIL: Sorry. It's sort of an  
8 odd question because there is -- you know, it's  
9 like saying when someone builds a three-storey  
10 house and they decide to add a fourth storey or a  
11 fifth storey at some later point, you know, as long  
12 as you have the foundation there and can physically  
13 do it, feasibly do it, there are many options to do  
14 it. The challenge is finding one that is the best  
15 option at the time.

16 KATE MCGRANN: Do you know how the City  
17 satisfied itself that this is a decision that could  
18 be left to another day, how to deal with the  
19 expansion of the system?

20 CHRIS SWAIL: Well, the City's -- the  
21 City's -- yeah, do I know? Was I part of a  
22 discussion where everybody looked at each other  
23 around a table and said, okay, can we expand the  
24 system when we want to? Like, of course they can  
25 expand the system when they want to. It's just a

1 matter of finding the right way to do it.

2 KATE MCGRANN: My question is if you  
3 can tell me how the City took this into  
4 consideration at the time that it made the decision  
5 to proceed with the DBFM.

6 CHRIS SWAIL: I know, but you're asking  
7 me a question. It's like saying, you know, when  
8 the province builds a new highway or does an  
9 extension to a highway, does it satisfy itself that  
10 it can, then, further extend the highway when it  
11 wants to at the time it builds the first highway.  
12 The answer to that question is, of course it can.

13 KATE MCGRANN: To your knowledge, did  
14 the City explicitly discuss the needs to expand  
15 after Stage 1 and how that could be accounted for  
16 in the procurement model that it selected?

17 CHRIS SWAIL: Yes.

18 KATE MCGRANN: What can you tell me  
19 about that?

20 CHRIS SWAIL: That there are many ways  
21 that it could be extended.

22 KATE MCGRANN: Who considered that, and  
23 how do you know that it was discussed at the time  
24 that the delivery model was selected?

25 CHRIS SWAIL: Because it was always in

1 the City's plans to extend both east and west of  
2 LRT.

3 KATE MCGRANN: I understand that.

4 CHRIS SWAIL: Yeah.

5 KATE MCGRANN: How do you know that the  
6 conversation about how will this model allow us to  
7 proceed with our expansion plans took place? What  
8 do you know about that?

9 CHRIS SWAIL: I can't recall any direct  
10 conversation or being exposed to a conversation  
11 about that. I'm just telling you that it has  
12 always been in City's plans since 2008 that after  
13 the first phase of LRT was built, it would be  
14 expanded both east and west.

15 KATE MCGRANN: And beyond not being  
16 involved in any discussions about that, did you see  
17 that question dealt with or addressed in any  
18 reports or any correspondence?

19 CHRIS SWAIL: I recall it being  
20 discussed in reports about the need for expansion,  
21 yes.

22 KATE MCGRANN: Do you recall how that  
23 expansion would be possible in the models that were  
24 being considered, being discussed in the reports?

25 CHRIS SWAIL: No. No, there's -- there

1 isn't a discussion about the -- the model.

2 KATE MCGRANN: Or how the model would  
3 accommodate that expansion?

4 CHRIS SWAIL: No. No, not that I can  
5 recall.

6 PETER WARDLE: Just, Ms. McGrann, we're  
7 talking about reports that were delivered in 2011,  
8 which you have been provided with, which you have  
9 not shown the witness. So, you know, it's not a  
10 memory exercise as you've reminded some witnesses  
11 before.

12 So I just want to be clear, you know,  
13 asking the witness about something that is now 11  
14 years old and trying to get him to recall the  
15 details of a 50-page report without showing him the  
16 report, you know, what value is the exercise?

17 KATE MCGRANN: You're right, Peter.

18 I'm not trying to quiz you on what you  
19 remember about the contents of the report, but I am  
20 trying to understanding what you recall, if  
21 anything, about what the City did to consider its  
22 expansion options under the different procurement  
23 models that were being considered.

24 And you have explained to me that  
25 expansion was always in the City's mind, and I just

1 want to know what you know about what  
2 consideration, if any, the City gave to the  
3 opportunities or the downsides that the models  
4 would present to those expansion needs that the  
5 City had.

6 CHRIS SWAIL: Yeah, I would have to go  
7 back and look at the report. I can tell you that  
8 it was always considered. I can't tell you if  
9 there was a narrative that made that point.

10 KATE MCGRANN: Can you speak to the  
11 decision around the level of private financing that  
12 the City chose to include in the DBFM model that it  
13 proceeded with?

14 CHRIS SWAIL: Yes. I think originally  
15 in the first report when it came to looking at a  
16 financial component, they looked at \$400 million  
17 as -- I think -- I think it was up to \$400 million  
18 they were looking at, and if I am recalling  
19 correctly, I believe the amount that RTG carried  
20 was 300 million in the final PA.

21 KATE MCGRANN: And do you know what  
22 drove the City's decision to proceed with up to 400  
23 million as opposed to more than that?

24 CHRIS SWAIL: Well, I think -- so -- so  
25 I don't -- I don't know directly. I know that IO



1 would have been part of that up to \$400 million  
2 number. They would have certainly advised on that.  
3 That was their job on the -- on the project, and  
4 they certainly would have endorsed the final figure  
5 that we landed on for the PA.

6 KATE MCGRANN: You spoke a little bit  
7 about work that Boxfish was doing. Who from  
8 Boxfish was working on Stage 1 of the OLRT?

9 CHRIS SWAIL: Brian Guest.

10 KATE MCGRANN: And anybody else?

11 CHRIS SWAIL: No, not that I -- not  
12 that I'm aware of.

13 KATE MCGRANN: Did they remain engaged  
14 with the project as it moved through the  
15 procurement phase and into construction?

16 CHRIS SWAIL: No. I believe Brian left  
17 the project in 2013.

18 KATE MCGRANN: And do you know why he  
19 left?

20 CHRIS SWAIL: He was quite busy doing  
21 work for Metrolinx.

22 KATE MCGRANN: So he didn't have the  
23 time to continue on?

24 CHRIS SWAIL: I just think he was busy  
25 doing other work, yeah. It was --

1                   KATE MCGRANN: Do you know if the City  
2 wished to continue to retain his advisory services  
3 and he was unavailable because of his work from  
4 Metrolinx or otherwise?

5                   CHRIS SWAIL: No, I don't. But I -- I  
6 do know the City did bring him back in 2015, in  
7 2016.

8                   KATE MCGRANN: And what can you tell me  
9 about the work that he was brought back to do?

10                  CHRIS SWAIL: He was brought back to do  
11 advisory work. Some of the work, he worked closely  
12 with Deloitte on commercial aspects.

13                  KATE MCGRANN: Commercial aspects of  
14 what?

15                  CHRIS SWAIL: The project at that time,  
16 when he came back, it would have been more in the,  
17 you know, planning of -- well, you know, to be  
18 honest with you, I don't -- I don't know exactly  
19 what his assignment would have been in 2015 or  
20 2016. He did some later advisory work for John on  
21 Stage 2, and that would have been a little bit  
22 later on, 2016, 2017.

23                  KATE MCGRANN: And do you know if he  
24 was working on both stages at that later point, the  
25 2016 to 2017 timeframe?

1 CHRIS SWAIL: I'm not sure if he was  
2 working on both. He -- you know, he's...

3 KATE MCGRANN: Are you able to speak to  
4 OC Transpo's role in the work that preceded the  
5 release of the RFP to ascertain the City's needs,  
6 to create the RFP documents and things like that?

7 CHRIS SWAIL: Yeah, as much as it --  
8 that work was captured, yeah, in -- in reports and  
9 whatnot, yeah.

10 KATE MCGRANN: Can you talk to me about  
11 the degree of their involvement in the planning and  
12 preparation of the RFP documents?

13 CHRIS SWAIL: Well, they're the client,  
14 so, you know, their needs are -- are given to the  
15 technical advisory team through, you know,  
16 interviewing people with, you know, the planning  
17 folks, the customer service folks.

18 You know, they wanted to understand,  
19 you know, what would be the accessibility  
20 requirements for a new vehicle, for example. So  
21 that would come through -- through OC Transpo.

22 They would help and inform all the  
23 technical specifications for things like vehicles,  
24 you know, the kinds of gates that they wanted to  
25 use, how passengers would move from, you know, one

1 level to another to board a train. Safety  
2 concerns, they would be all over that. They --  
3 they'd input into a lot of those things, yeah.

4 KATE MCGRANN: You are the director of  
5 the Stage 2 project office now; is that right?

6 CHRIS SWAIL: No. I left in -- in  
7 2019.

8 KATE MCGRANN: I'm so sorry.

9 CHRIS SWAIL: It's okay.

10 KATE MCGRANN: You were the director of  
11 the Stage 2 --

12 CHRIS SWAIL: I was.

13 KATE MCGRANN: -- project office from  
14 2015 to 2019.

15 CHRIS SWAIL: That's right.

16 KATE MCGRANN: My mistake. It's  
17 staring me right in the face. Can you speak to any  
18 changes that were made to the timing, the nature,  
19 or the extent of OC Transpo's involvement in the  
20 preparation and the planning for that stage of the  
21 project?

22 CHRIS SWAIL: Well, they functioned a  
23 little bit more integrated with the project team as  
24 opposed to -- so we brought people in to work as  
25 part of the project team from OC Transpo as opposed

1 to them continuing to do their day job for the most  
2 part, right, and then having meetings in a more  
3 intermittent fashion.

4 We wanted them to be essentially joined  
5 at the hip with the technical advisory team, so  
6 that was one of the things that we -- we did.

7 They were also part of teams that did,  
8 like, help structure the RFQ, right? What are the  
9 criteria that we want to make sure we're getting  
10 from our proponents? You know, they input it into  
11 PSOS for the -- the teams as well, right? So they  
12 were -- they were very much part and parcel of the  
13 team, which was great, actually.

14 KATE MCGRANN: What benefits flowed  
15 from those changes for Stage 2 in the  
16 more-increased involvement of OC Transpo, if I  
17 understand it correctly?

18 CHRIS SWAIL: Well, it just -- it made  
19 it easier to assure ourselves that we were  
20 capturing their cares and concerns in real time.

21 You know, one of the other things  
22 that -- that we did on the project was to ensure  
23 that, you know, any -- any tweaks that got made in  
24 real time to a specification that the City approved  
25 we were also capturing onto our project to

1 inform -- inform the PSOS.

2           You know, so if there were any hiccups  
3 that they were experiencing operationally or any  
4 changes in -- in technology, we could get that  
5 information quickly and -- and on-boarded  
6 efficiently, so it was good.

7           KATE MCGRANN: And that real time  
8 capture of design tweaks, technology, changes or  
9 desires for a different technology, that's an  
10 innovation that's introduced in Stage 2?

11           CHRIS SWAIL: Yeah, we -- yeah, they  
12 were. Yeah, they were into -- more formally  
13 integrated into the team, yeah.

14           KATE MCGRANN: Do you think that any  
15 benefits would have flowed from that kind of  
16 integration in Stage 1?

17           CHRIS SWAIL: You know, I can only say,  
18 based on feedback from folks at OC Transpo, yes.  
19 But I can't tell you materially what would have  
20 been different because the other thing that I think  
21 one needs to appreciate is everybody was more  
22 experienced the second time around.

23           KATE MCGRANN: And how does that -- how  
24 does that apply to what we're talking about right  
25 now?

1                   CHRIS SWAIL: That everyone was more  
2 experienced? Well, it just -- you know, they had a  
3 better understanding of -- of the process. They  
4 had a better understanding of how to write  
5 performance specifications, right? It's just, you  
6 know, you learn as you work on more of these  
7 projects.

8                   KATE MCGRANN: With respect to the  
9 plans for the launch of Stage 1 to public revenue  
10 service, my understanding is that the plan for the  
11 start of service was always that there would be a  
12 complete transfer from the bus rapid transit system  
13 to the LRT all at once. Have I got that right?

14                  CHRIS SWAIL: I don't -- I don't -- I  
15 don't think that's correct.

16                  KATE MCGRANN: Okay.

17                  CHRIS SWAIL: So I would have left the  
18 City in, I guess, around this time three years ago,  
19 so whatever, six months before -- four, five months  
20 before LRT opened for revenue service in -- so  
21 there were basically John Manconi had a management  
22 team, right, that -- and we would have our team  
23 meetings weekly or bi-weekly. I forget. And, you  
24 know, even, I think at least, maybe even a year  
25 before revenue service opened, there was discussion

1 about keeping some kind of parallel BRT system  
2 going to gradually move people onto -- onto the  
3 train to help the transition.

4 So now, I can't recall what -- you  
5 know, what the original plan may have -- if it was  
6 characterized in, like, the 2012 Implementation  
7 Report that it was a hard stop, and maybe you're  
8 referring to that. I don't know, but, you know...

9 KATE MCGRANN: So your recollection is,  
10 and are you in -- as you continue on as director of  
11 the Stage 2 project office, like, are you still  
12 involved in the work on Stage 1 at all?

13 CHRIS SWAIL: No. No. John had  
14 pretty, like, you know, clear lines, so John Jensen  
15 would have been director, and then Steve Cripps  
16 took over that, so he was part of the management  
17 team. And then Michael Morgan took over that --  
18 that role, and John was always very clear about,  
19 you know, that's your job. This is your job,  
20 right?

21 Now, it was also Michael's and Steve  
22 Cripps' job to let us know if there was anything  
23 that we should know for the -- the future planning,  
24 but in terms of the implementation, like, how it  
25 was going, all of that stuff, I didn't have much of



1 a view to that as -- as part of Stage 2.

2 KATE MCGRANN: Okay. So you learned  
3 about the consideration of parallel bus service for  
4 the launch of Stage 1 by virtue of your work on  
5 Stage 2 as to sort of keep you informed --

6 CHRIS SWAIL: Probably be around the  
7 table when people were giving updates, right, and  
8 so I'd -- you know, John would come up with an  
9 update, and people would present on.

10 KATE MCGRANN: Okay. So you're not  
11 working directly on it, but you're hearing updates  
12 by virtue of the work that you're doing on Stage 2?

13 CHRIS SWAIL: Yeah.

14 KATE MCGRANN: The discussion or the  
15 notion of parallel bus service, as you hear it,  
16 about a year before revenue service begins, was it  
17 being discussed as a new approach to the launch, or  
18 was it part of an ongoing discussion with parallel  
19 service that had been considered for some time? Do  
20 you know?

21 CHRIS SWAIL: I don't know. I don't  
22 know.

23 KATE MCGRANN: And do you have any  
24 recollection of any discussions or decisions about  
25 plans for how service would be launched during the

1 time that you were working with Ms. Schepers on  
2 Line 1 -- or Stage 1? Sorry.

3 CHRIS SWAIL: No. I can't...

4 KATE MCGRANN: Do you have any  
5 knowledge of who was involved in developing the  
6 parts of the project agreement that spoke to the  
7 trial running requirements for the system?

8 CHRIS SWAIL: CTP would have been  
9 involved in those recommendations for sure.

10 KATE MCGRANN: Sorry.

11 CHRIS SWAIL: IO, I'm sure that, you  
12 know, IO probably would have, you know, been party  
13 to them. Like, probably, the entire team would  
14 have been looking at -- at that, and it -- it only  
15 makes sense, right? It's -- testing and  
16 commissioning is a key part of any project.

17 KATE MCGRANN: And so would the entire  
18 team be the Executive Steering Committee, RIO, IO,  
19 Deloitte, and Boxfish?

20 CHRIS SWAIL: Well, certainly, the --  
21 certainly, the technical team. You know, I  
22 don't -- you -- yeah, I -- I can only speculate  
23 that that schedule would have been reviewed by, you  
24 know, most of the senior people working on the  
25 team, yeah.

1 KATE MCGRANN: Were you involved in any  
2 discussions about that schedule and --

3 CHRIS SWAIL: No.

4 KATE MCGRANN: -- what it simply took?

5 CHRIS SWAIL: No. No. No.

6 KATE MCGRANN: The transfer of the  
7 geotechnical risk to the private partner on Stage  
8 1 --

9 CHRIS SWAIL: M-hm.

10 KATE MCGRANN: -- were you involved in  
11 any discussions or more generally in considering  
12 the approach taken to that risk transfer?

13 CHRIS SWAIL: No, I didn't -- I  
14 didn't -- I wasn't party to the discussions or the  
15 development of that risk transfer, you know, how it  
16 was gated. I just -- I just understand it based  
17 on, you know, the reports that were given to  
18 council in terms of what it achieved for the City,  
19 yeah.

20 KATE MCGRANN: Now, I think I've  
21 already asked you this question, but just in case I  
22 haven't, did you have any involvement in the  
23 evaluation of the responses to the RFQ or the RFP?

24 CHRIS SWAIL: No. And you hadn't asked  
25 me that question yet.

1 KATE MCGRANN: Good thing I asked it,  
2 then. During the procurement period, what was your  
3 role? What were you doing with respect to this  
4 project?

5 CHRIS SWAIL: I was working for Nancy.

6 KATE MCGRANN: Specifically what kind  
7 of work -- what tasks were you carrying out? What  
8 did your day-to-day look like --

9 CHRIS SWAIL: My day --

10 KATE MCGRANN: -- with respect to this  
11 project?

12 CHRIS SWAIL: So my day-to-day would  
13 look like, if there was a report coming out of RIO,  
14 I would have been reading it, otherwise, I would  
15 have been working on other priorities within other  
16 departments.

17 KATE MCGRANN: So no changes to your  
18 responsibilities; you're still reviewing reports  
19 for the same purposes as before?

20 CHRIS SWAIL: No. No. I was never,  
21 you know, seconded or brought over to the RIO  
22 office or anything like that. They were very much  
23 just another department that I helped support Nancy  
24 in managing.

25 KATE MCGRANN: Can you speak to what

1 the City wanted with respect to rolling stock and  
2 the service proven requirement, what it was hoping  
3 to get out of that requirement by way of vehicles?

4 CHRIS SWAIL: That it could perform in  
5 this type of climate.

6 KATE MCGRANN: To handle all of the  
7 different kinds of weather that Ottawa experiences?

8 CHRIS SWAIL: That's right, yeah.

9 And -- and that it was a model that -- I believe in  
10 the report, they had to -- they had to prove that  
11 it could successfully operate in a similar climate.  
12 So in the case of RTG, the comparator, I think, was  
13 the Citadis operating in Russia.

14 KATE MCGRANN: And were you involved in  
15 any of the work done to assess whether that model  
16 would meet the service proven requirements?

17 CHRIS SWAIL: No. No.

18 KATE MCGRANN: Based on what you saw  
19 and the work that you did, when you learned that  
20 RTG had been selected as the preferred proponent,  
21 were you surprised by that selection at all?

22 CHRIS SWAIL: No.

23 KATE MCGRANN: To your knowledge did  
24 anybody voice any concerns about that selection?

25 CHRIS SWAIL: No. I believe at the

1 time, they had just successfully delivered  
2 Canada Line a couple years prior which came in on  
3 budget and early, if I remember. So I think there  
4 was generally excitement that they had a proven  
5 track record.

6 KATE MCGRANN: Do you know if the City  
7 anticipated any challenges arising from the joint  
8 venture structure of RTG? So, for example, the  
9 fact that there would be a company or two in  
10 between the City and subcontractors that are  
11 performing work.

12 CHRIS SWAIL: No. No.

13 KATE MCGRANN: Were you involved in any  
14 reporting to either the Provincial or Federal  
15 Government about the project?

16 CHRIS SWAIL: No. No.

17 KATE MCGRANN: Do you have any  
18 knowledge of what kind of involvement the  
19 Provincial or Federal Government had in the project  
20 from an oversight perspective or otherwise?

21 CHRIS SWAIL: Well, I know that in  
22 order to get payments, the City needs to submit  
23 what are deemed eligible expenses in order to have  
24 the money flow, and that's handled by Finance.

25 KATE MCGRANN: Okay. And anything

1 other than that?

2 CHRIS SWAIL: No. I just know of the  
3 process.

4 KATE MCGRANN: Once the project  
5 proceeds into the construction phase, can you  
6 describe to me how the Executive Steering Committee  
7 achieved its oversight of the project at that point  
8 in time?

9 CHRIS SWAIL: After the procurement  
10 phase, so between 2012 and moving over to Stage 2,  
11 I had pretty limited exposure to how the  
12 implementation was going, you know, other than  
13 progress updates on how construction was going, so,  
14 no.

15 KATE MCGRANN: Who would be delivering  
16 those progress updates?

17 CHRIS SWAIL: So they would be put  
18 together based on the reporting requirements that  
19 RTG had to deliver to the City, right? So RTG was  
20 required to -- as part of the PA to, you know,  
21 provide updates, and there's tons of reporting  
22 requirements in -- in PA, so that would be with the  
23 Rail Implementation Office, and they would put it  
24 together in some kind of a PowerPoint presentation,  
25 and that would, then, go up on the website, you

1 know, and they would show pictures of, you know,  
2 starting to excavate sites and starting to pour  
3 concrete and those kinds of things.

4 KATE MCGRANN: Okay. So your exposure  
5 to the construction process and the City's work to  
6 oversee it is limited to update reports put  
7 together by RIO based on information provided by  
8 RTG?

9 CHRIS SWAIL: Yeah. That -- that's  
10 what -- all I can recall at that -- at that time,  
11 right?

12 KATE MCGRANN: Do you recall learning  
13 of any particular risks to the schedule while you  
14 were in your role with Ms. Schepers?

15 CHRIS SWAIL: Sure. There was the --  
16 the Waller Street sinkhole that happened pretty  
17 early on in the project, right? So -- and then I  
18 certainly was aware of the Rideau Street sinkhole.  
19 You know, did -- yeah, those two come to mind for  
20 sure.

21 KATE MCGRANN: The Rideau Street  
22 sinkhole post-dated your involvement in Stage 1  
23 through your work in Ms. Schepers' office; is that  
24 right?

25 CHRIS SWAIL: Yeah, I was already on



1 Stage 2. I think the sinkhole was 2016, and I had  
2 already started working on Stage 2, yeah.

3 KATE MCGRANN: With respect to the  
4 Waller Street sinkhole, did you have an impression  
5 of what kind of or what magnitude of delay that  
6 caused for the construction schedule?

7 CHRIS SWAIL: I don't think it caused  
8 much of a delay, but I don't have, you know, my  
9 recollection is RTG dealt with it fairly  
10 efficiently and effectively. And they -- you know,  
11 it -- I can't recall a discussion about it  
12 impacting -- significantly impacting the schedule.  
13 It was pretty early on in the project, but...

14 KATE MCGRANN: Any other risks to the  
15 construction schedule or the construction more  
16 generally that you recall being made aware of  
17 during your time in Ms. Schepers' office?

18 CHRIS SWAIL: I think there were a few  
19 just, you know, hiccups on -- on getting permits  
20 and things like that that I -- I recollect, but  
21 nothing significant, right? So, you know, site  
22 inspector would come by and didn't like a few  
23 things, so RTG would have to fix it, right, those  
24 kinds of -- those kinds of things.

25 KATE MCGRANN: Nothing material,

1     though?

2                   CHRIS SWAIL:  No.  No.  You know, as --  
3     as the project progressed, people did get more  
4     concerned about, you know, what they were seeing  
5     being built versus when the system was going to get  
6     open, but that was, you know, throughout the City  
7     that concern was being expressed.  You know, they  
8     started -- questions started surfacing about  
9     whether or not RTG were going to be on schedule,  
10    and they -- and they weren't.

11                   KATE MCGRANN:  Do you remember  
12    approximately when those questions started  
13    surfacing at the City?

14                   CHRIS SWAIL:  I think, you know,  
15    materially after the sinkhole, there was questions  
16    after the Rideau Street sinkhole about whether or  
17    not they could catch up in the schedule.

18                   KATE MCGRANN:  And were you privy to  
19    discussions about that topic by virtue of the  
20    information that's being shared while you were  
21    working as director of the Stage 2 project office?

22                   CHRIS SWAIL:  So not directly, no.  I  
23    know that there were reports trying to find out,  
24    you know, what caused it and those kinds of things,  
25    but -- but that's about it.

1 KATE MCGRANN: Other than the  
2 Rideau Street sinkhole, are you aware of any other  
3 factors that may have caused or contributed to the  
4 construction delay on the project?

5 CHRIS SWAIL: No. That's the only  
6 unanticipated event that I can think of of any real  
7 significance. You know, I think it's a complicated  
8 project with lots of challenges, but there were  
9 means to build it.

10 KATE MCGRANN: Were you involved in  
11 negotiating amendments to the project agreement or  
12 more generally negotiating with RTG about Stage 2  
13 and the impacts that it would have on the Stage 1  
14 relationship between the City and RTG?

15 CHRIS SWAIL: I was involved in the MOU  
16 that we -- we achieved with RTG and then later the  
17 contract for Stage 2, yeah.

18 KATE MCGRANN: Can you speak to the  
19 City's considerations around the decision to step  
20 in and guarantee RTG's debt with respect to the  
21 Stage 1 work?

22 CHRIS SWAIL: Yeah. So in the original  
23 contract, the long-term lenders had the ability to  
24 approve any scope change on the original contract  
25 of \$5 million or more. There was also -- I think

1 it was like a debt servicing resiliency component  
2 to the agreement whereby, if additional scope was  
3 brought on, they could seek additional -- an  
4 additional equity infusion into the -- into the  
5 project on the part of RTG that would then also be  
6 carried over to the long-term maintenance regime, I  
7 believe.

8           And in looking at that, if I'm  
9 remembering correctly, I think it had the potential  
10 to cost the City somewhere around \$80 million in  
11 additional financing costs.

12           So a decision was made to assume the  
13 role of the long-term lender on the part of the  
14 City which made no material difference financially  
15 for the City in terms of its own debt financing  
16 because we were already guaranteeing the servicing  
17 of that debt.

18           And it also put us in a better position  
19 in terms of overseeing RTG's performance in terms  
20 of ensuring those long-term debt payments as part  
21 of their contribution more directly. So we had an  
22 ability to actually get more information from RTG  
23 in order to do that.

24           So I'm just -- I'm trying to think if  
25 that's all of the puts-and-takes that went into

1 that, yeah.

2 KATE MCGRANN: Okay. So the additional  
3 80 million in financing costs that would be  
4 required from the City, is that a result of the ask  
5 of the existing creditors --

6 CHRIS SWAIL: Yeah.

7 KATE MCGRANN: -- to agree to the  
8 amendments?

9 CHRIS SWAIL: They -- contractually,  
10 they would have to -- they would -- they would need  
11 to secure that, yeah. So essentially what they  
12 wanted is a guarantee that they would be made whole  
13 and couldn't lose any money, so we stepped in to  
14 make that -- to make that guarantee and assume  
15 their debt, right?

16 KATE MCGRANN: You --

17 CHRIS SWAIL: Then as a result, instead  
18 of the City paying them, they're paying the City.

19 KATE MCGRANN: The 80 million in  
20 additional financing costs, I just want to make  
21 sure that I understand where that comes from. So  
22 that was -- that was the lenders' demand in order  
23 to agree to the changes of the project agreement to  
24 account for the needs of Stage 2?

25 CHRIS SWAIL: It wasn't a demand. It

1 was what was in their contract for financing for --  
2 for RTG. It wasn't like a -- a new provision. It  
3 was how it was structured, their financing  
4 agreement was structured. They had the -- they had  
5 the rights to get more equity, and when the private  
6 partner holds more equity, you're paying additional  
7 financing costs to do so.

8 KATE MCGRANN: And was the quantum of  
9 the additional equity that they could require set  
10 out in the contract? It was a given that it was  
11 going to translate to 80 million for the City, this  
12 had to do with any positions that the lenders were  
13 taking?

14 CHRIS SWAIL: So you would have to talk  
15 to finance to get clarity on -- on that detail. I  
16 can't tell you if that was a provision that was  
17 captured in the PA or a provision that's captured  
18 between the agreement between RTG and their  
19 long-term lenders and how they structured their own  
20 financing.

21 KATE MCGRANN: Okay. So it was your  
22 understanding that the 80 million was part of the  
23 contract. That specific number was provided for  
24 there, not just the right to ask for more --

25 PETER WARDLE: I understood the witness

1 to say that it had the potential to cost the City  
2 \$80 million in additional financing costs.

3 CHRIS SWAIL: Yeah, that's right.

4 PETER WARDLE: That's what he said. So  
5 I think it's --

6 KATE MCGRANN: Okay. I understood  
7 then --

8 PETER WARDLE: Yeah. I think it's a  
9 different --

10 KATE MCGRANN: Sorry. Go ahead, Peter.

11 PETER WARDLE: I think it's a different  
12 step than seeking an additional equity infusion, as  
13 I understand it, that would have consequences that  
14 would lead to that potential.

15 CHRIS SWAIL: That's right.

16 KATE MCGRANN: Okay.

17 PETER WARDLE: And I just want to make  
18 sure that you've got the witness's answer.

19 KATE MCGRANN: Thank you very much.  
20 That's helpful.

21 So just to make sure that I understand  
22 this, the right to seek additional equity, that is  
23 built into the contract; that's your understanding?

24 CHRIS SWAIL: That is built into the  
25 agreement or the financing agreement between RTG

1 and the long-term lenders, their long-term lenders.

2 KATE MCGRANN: So the additional  
3 financing costs to the City that you described up  
4 to 80 million, explain to me how that number was  
5 arrived at.

6 CHRIS SWAIL: So it's a bit of a food  
7 chain when it comes to guaranteeing the investments  
8 of people participating in AFP models, okay?

9 So RTG had \$300 million of money that  
10 was being put forward. Some of it's paid back  
11 through the long-term debt, right? Some of it was  
12 paid back at construction completion.

13 Within the way they set up, they're  
14 also required to maintain a certain amount of  
15 equity, right? So the first people that get paid  
16 are those long-term lenders, and the security that  
17 the long-term lenders insist on having is RTG's own  
18 equity.

19 So if RTG isn't making or isn't  
20 performing so it's getting the full value of, say,  
21 its monthly maintenance amount, they have an  
22 ability to supplement it through their own equity  
23 which then goes to the long-term lenders.

24 Now, scope and scale are also a part of  
25 this. So in order to give a contract extension to



1 RTG that would see the provision of an expanded  
2 maintenance facility, the provision of, I think it  
3 was 38 more trains, and their input into developing  
4 and validating the PSOS that was going into Stage 2  
5 and working as a sub to the project proponents to  
6 validate that everything was being built to the  
7 right standard, right, all of that is all packaged  
8 up in the MOU, and it's worth about \$500 million,  
9 or \$492 million.

10 In order for them to get that kind of  
11 additional scope, the long-term lenders would have  
12 required them to put more of their -- more money,  
13 equity, into the pool to protect their money  
14 because now there's more things that could go  
15 wrong, so they had an agreement that would see them  
16 put more equity if we had followed it, okay?

17 And so we looked at that, and we said,  
18 well, the City can't really rationalize that when  
19 there isn't really good value to be had from those  
20 additional financing costs in any way, shape, or  
21 form.

22 So we decided to step into the shoes of  
23 the long-term lender, and we essentially guaranteed  
24 them, and RTG didn't have to increase their equity  
25 and with the impact of having the potential to cost

1 the City about \$80 million.

2 So it's in the reports. I -- you know,  
3 I -- I'm going from memory from whatever, half a  
4 decade ago, right? Well, I've a little bit less,  
5 three years ago, but, still, it's laid out. It was  
6 made very clear that -- the rationale for why we  
7 were doing so.

8 KATE MCGRANN: And who was involved in  
9 considering the options and preparing the reports  
10 on this?

11 CHRIS SWAIL: So I would have been  
12 involved in -- in hearing the options. CTP would  
13 have been involved in hearing the options,  
14 Deloitte; you know, Brian would have been involved  
15 in hearing the options and making a recommendation,  
16 and all the members of Executive Steering Committee  
17 at that time which continued to function overseeing  
18 both projects.

19 KATE MCGRANN: Do you remember who from  
20 CTP was involved?

21 CHRIS SWAIL: Who from CTP was  
22 involved? Yeah, a number -- a number of people  
23 would have been involved. You know, we had, you  
24 know, a couple of leads. So Keith MacKenzie, and  
25 Charles Wheeler would have been, you know, two of

1 the leads focusing on Confederation Line extension,  
2 so they were heavily involved and also involved in  
3 helping come up with the inputs and analysis that  
4 led us to deciding to do the contract extension in  
5 this way. We looked at many different options for  
6 how we could extend the line and -- and have RTG  
7 take on the -- the maintenance component.

8 KATE MCGRANN: And who from Deloitte  
9 was involved?

10 CHRIS SWAIL: That would have been  
11 Remo Bucci, and we had other, you know, team  
12 members reporting to him.

13 KATE MCGRANN: And Brian is  
14 Brian Guest?

15 CHRIS SWAIL: Brian is Brian Guest,  
16 yeah.

17 KATE MCGRANN: Can you help me  
18 understand the -- you spoke of the financial  
19 implications of guaranteeing the debt, but then you  
20 also spoke about what I would call the relational  
21 implications of guaranteeing the debt, the City  
22 vis-à-vis RTG.

23 CHRIS SWAIL: Right --

24 KATE MCGRANN: Sorry. So there's the  
25 financial component. We had discussed that. And

1 then you also talked what about I would describe as  
2 the --

3 CHRIS SWAIL: Sorry. I'm just closing  
4 my door.

5 KATE MCGRANN: -- relational benefits  
6 or relationship benefits to the City from  
7 guaranteeing the debt. So you mentioned getting  
8 more information from RTG. Can you just describe  
9 that component of the decision in more detail?

10 CHRIS SWAIL: So the long-term lenders  
11 have an ability to get more of a direct view to how  
12 things are going in order to make sure that their  
13 money is protected vis-à-vis progress on the  
14 project.

15 So stepping into their shoes, we had  
16 that direct ability to request reports and seek  
17 more information from RTG that -- through the same  
18 mechanisms that the long-term lender had because we  
19 were becoming the long-term lender.

20 KATE MCGRANN: Is the senior creditors  
21 technical adviser implicated in this at all?

22 CHRIS SWAIL: Creditors technical  
23 advisor, so these are -- this is the independent  
24 person that sort of wrote the reports; is that what  
25 you're referring to?

1 KATE MCGRANN: I think that was --

2 CHRIS SWAIL: I think I was getting  
3 lost in terminology. Yeah, you know, they -- they  
4 would be involved, yeah.

5 KATE MCGRANN: Is it that the City now  
6 gets to receive those reports which would have,  
7 before this decision, been going to the creditors?

8 CHRIS SWAIL: Yeah, and I think they --  
9 the City also has the same tools at their disposal  
10 to, you know, be able to demand other reports as --  
11 as well if there were any concerns.

12 KATE MCGRANN: Other than -- other than  
13 the report rights that you've described, any other  
14 benefits informing the City from an information or  
15 ability to try to require RTG to comply with the  
16 contract or the schedule?

17 CHRIS SWAIL: I can't recall any. You  
18 know, for us, the big benefit was just being able  
19 to have a single maintainer for the extensions.  
20 You know, that was one of our fundamental  
21 challenges and one of the things that we tried to  
22 achieve early on in the project because we were  
23 worried about getting into a situation where  
24 potentially you could have one maintainer's  
25 vehicles running on someone else's tracks and --

1 and vice versa and the untenable finger-pointing  
2 that could result with the City being caught in the  
3 middle of that.

4 KATE MCGRANN: Do you know if IO was  
5 consulted in this decision at all?

6 CHRIS SWAIL: IO was consulted in the  
7 decision at all -- IO was not a formal procurement  
8 advisor on Stage 2.

9 KATE MCGRANN: I was thinking more with  
10 respect to the implications for the Stage 1  
11 relationship.

12 CHRIS SWAIL: I -- I can only assume  
13 that they would have been.

14 KATE MCGRANN: Do you have any direct  
15 knowledge --

16 CHRIS SWAIL: No.

17 KATE MCGRANN: -- of Infrastructure  
18 Ontario being consulted?

19 CHRIS SWAIL: No.

20 KATE MCGRANN: All right. And do you  
21 know if the City provided notice or sought feedback  
22 from either the Provincial Government or the  
23 Federal Government with respect to this decision?

24 CHRIS SWAIL: Yes. We certainly did  
25 because we wanted to make sure that that \$500

1 million was eligible for cost-shared funding, so  
2 that was also a concern, and we got the blessing of  
3 both Federal and Provincial Governments after  
4 taking them through that.

5 I guess the -- the one thing I have to  
6 circle back on in terms of how you asked your  
7 question on IO's relationship as it relates to  
8 Stage 1, you know, IO is the procurement advisor  
9 for Stage 1, right? So...

10 KATE MCGRANN: I'm not sure what I  
11 should take from that.

12 CHRIS SWAIL: That, in many ways, it's  
13 their role to offer advice on those things. That's  
14 their job on the job is all I'm saying, right?

15 KATE MCGRANN: No. No. Fair enough.  
16 I think that's what leading to my question of, do  
17 you know if they were involved in this decision?

18 CHRIS SWAIL: Well, it's just -- it's a  
19 weird thing because it hangs out there like we  
20 don't know, but yet, we do know IO does its job.

21 KATE MCGRANN: We talked a little bit  
22 about some different approaches that have been  
23 taken on Stage 2. You talked about the integration  
24 of OC Transpo into the planning and procurement  
25 preparation. Any other changes made to Stage 2 as

1 compared to Stage 1?

2 CHRIS SWAIL: Well, I can tell you some  
3 of the -- the thinking, you know, that -- that went  
4 into it. You know, obviously, we did our best to  
5 make sure that we included better estimates and,  
6 you know, petitioned both the Provincial and  
7 Federal Governments not to cap their share of  
8 funding so early on.

9 We used Project Definition Reports --  
10 this is going to bore you -- but for the early  
11 stages of both the extensions basically to get a  
12 very clear handle on the overall scope of the  
13 project to do our best to mitigate scope increases  
14 as the design or the references on concept further  
15 developed and, you know, the project evolved.

16 We did push the NCC for -- and the  
17 Federal Government to see if we could get access to  
18 Federal lands for free as opposed to paying, you  
19 know, best and highest use on some of the -- on  
20 some of the properties because, you know, to circle  
21 back on eligibility, which is an interesting topic,  
22 property is not eligible for cost-sharing, right?  
23 Neither are financing costs, neither are legal  
24 costs, right? So your property costs are a hundred  
25 sent City dollars for these projects, and we saw



1 LRT as a benefit particularly in Ottawa to the  
2 Federal Government and thought that we'd have a  
3 pretty good case to try and get some kind of  
4 financial relief on that so we could push for that.

5 We focused on making sure we got the  
6 blessing from the NCC on designs for stations, et  
7 cetera, that were on Federal lands. We did our  
8 best to keep the risk regime that had been so  
9 successful on Stage 1, although, you know, the  
10 market was not willing to take on that risk as a  
11 result of the sinkhole and other things that were  
12 going on on projects.

13 We felt that bundling the 417 was very  
14 much a success primarily for the bus detours, but  
15 we continued to do that. At one point, the --  
16 another section of the 417 was included in Stage 2  
17 but then got pulled out by the  
18 Provincial Government sort of at the 11th hour when  
19 a new government was elected and they were looking  
20 to reduce some costs, so they pulled it out.

21 But we still bundled, I think it was  
22 \$180 million of -- of other works primarily to --  
23 because of the duration of the build and a lot of  
24 the structures, particularly the -- in the east  
25 end, were integrated with bridges.

1                   We wanted to get the rehabilitation of  
2 the bridges to be done at the same time as the  
3 structures were being built, and that way,  
4 everything would not only be built in an integrated  
5 fashion, but you wouldn't get finger-pointing  
6 between different contractors and those kinds of  
7 things.

8                   There were some things that needed to  
9 be done. Like, you know, there was a bridge that  
10 needed to be completely rehabbed at Montréal Road,  
11 and, you know, we were building a new station at  
12 Montréal Road, so it just made absolute sense.

13                   There were water mains that were  
14 travelling -- that travel underneath the alignment  
15 that at some point, in -- over the -- that horizon  
16 needed to be upgraded, so we brought that into the  
17 project as well, so just basically to get rid of  
18 contractor conflict.

19                   I think I mentioned the -- what we  
20 talked about OC Transpo already, right? So that  
21 was one of the things.

22                   And the other thing that comes to mind  
23 is going from earned value to milestone payments  
24 which most of the market has subsequently done, and  
25 I'm sure others have talked about that as well.

1                   We also enhanced mobility matters. I'm  
2 not sure if I need to explain that or -- or not,  
3 but essentially, it's a lane rental program that we  
4 used for Stage 1. We enhanced it to look at active  
5 mobility as well, you know, bike detouring, ped  
6 detouring. There were a lot of pathways on NCC  
7 lands, like, around Lincoln Fields heading up to  
8 Algonquin College, and we didn't want people to  
9 have to go through, you know, really long detours  
10 who rely on those pathways for recreational or  
11 computer [sic] -- commuter purposes, right, so we  
12 enhanced that.

13                   I think that's -- those are the ones  
14 that come to mind.

15                   KATE MCGRANN: The Project Definition  
16 Reports --

17                   CHRIS SWAIL: Yeah.

18                   KATE MCGRANN: -- first of all, have I  
19 got that title right?

20                   CHRIS SWAIL: Yeah.

21                   KATE MCGRANN: Were those used in Stage  
22 1?

23                   CHRIS SWAIL: Project Definition  
24 Reports? I'm not -- I'm not sure. It's a -- it's  
25 a good practice. They may have been. Our point in

1 using them was to make sure everybody was on the  
2 same page in terms of scope, too, right? So that's  
3 why we -- we did it, yes.

4 KATE MCGRANN: You made several  
5 references to the NCC. For the sake of the  
6 transcript, that's the National Capital  
7 Commission --

8 CHRIS SWAIL: Yeah.

9 KATE MCGRANN: -- is that right?

10 CHRIS SWAIL: Sorry.

11 KATE MCGRANN: You said that you went  
12 to the NCC for design blessings. Why did you do  
13 that?

14 CHRIS SWAIL: Because they have  
15 authority over designs that are being built on  
16 Federally significant lands in the National Capital  
17 region.

18 KATE MCGRANN: To your knowledge, were  
19 there any issues in obtaining the NCC's approval of  
20 designs on Stage 1?

21 CHRIS SWAIL: No. No.

22 KATE MCGRANN: You mentioned using  
23 the -- is -- my own handwriting. It's either risk  
24 regime or risk register -- that was so successful  
25 in Stage 1. What was what a reference to?

1                   CHRIS SWAIL: Risk regime, right? So  
2 obviously, that risk regime has served Ottawa well  
3 particularly in light of the sinkhole that  
4 materialized on Rideau Street.

5                   So with respect to geotechnical risk,  
6 you know, we were inclined at first to do that but  
7 heard very clearly from proponents that they were  
8 not willing to take on that risk and looked for a  
9 more reasonable and more potentially shared risk  
10 profile when it came to any potential geotechnical  
11 issues that may crop up that could not be otherwise  
12 interpreted from the data that the City had  
13 provided.

14                  KATE MCGRANN: So the risk regime that  
15 you're describing from Stage 1 was the transfer of  
16 the geotechnical risk to the private partner; is  
17 that right?

18                  CHRIS SWAIL: Yeah. Yeah. Yeah.

19                  KATE MCGRANN: And to the extent that  
20 you can speak to this, do you see any change in the  
21 relationship between the City and its private  
22 partner that you think may flow directly or  
23 indirectly from the shared risk that was introduced  
24 in Stage 2?

25                  CHRIS SWAIL: Sorry. Can you repeat

1 that?

2 KATE MCGRANN: I can try. Do you see  
3 any changes in the nature of the relationship  
4 between the City and its private partner that you  
5 think flows directly or indirectly from the fact  
6 that that risk is now shared between the two of  
7 them as opposed to transfer to just the private  
8 partner?

9 CHRIS SWAIL: No. I don't -- I don't  
10 think it's different.

11 KATE MCGRANN: And then you talked  
12 about a difference or, I think, a change from the  
13 milestone payment approach taken in Stage 1.

14 CHRIS SWAIL: Yeah.

15 KATE MCGRANN: Can you speak to that in  
16 a little bit more detail?

17 CHRIS SWAIL: Well, so for a project  
18 like a transit project where there are many moving  
19 parts that are being built, right, one of the --  
20 the lessons we learned on Stage 1 is, you know, the  
21 tunnel was a significant component, so it made  
22 absolute sense to have milestones associated with  
23 the tunnel in order for RTG to prove they had  
24 gotten to a certain point in terms of progress, and  
25 then they would receive that payment.

1           So I think altogether -- and you'd have  
2 to go back and check -- there were, you know, seven  
3 or eight milestone payments and then a substantial  
4 completion payment with Stage 1.

5           So what ends up happening with  
6 milestone payments is depending on where proponents  
7 are on the project in their own progress, they end  
8 up becoming very focused on what's going to give  
9 them a milestone payment.

10           And when you have an event like the  
11 sinkhole on Rideau Street, everybody -- after that  
12 happened, what's first and foremost on the  
13 proponent's mind is, how do we remedy this in order  
14 to get back to where we need to be to get our next  
15 milestone payment?

16           Whereas earned value is more flexible.  
17 A proponent just has to demonstrate that it has  
18 done any combination of works towards substantial  
19 completion that where the value of those works can  
20 reach the threshold required in order to receive a  
21 payment. So it gives them more flexibility.

22           And in the case of Stage 1, instead of,  
23 you know, them focusing all their energies on the  
24 sinkhole, other works could have been done in the  
25 meantime with less of a focus on getting caught up

1 from a schedule or a perspective in order to get  
2 that milestone payment.

3           So it's just -- and I can't say that  
4 this has been a result. Like, the market has moved  
5 this way because it's a more reasonable, flexible  
6 way, and in many ways, you know, P3s are built and  
7 are successful because they give the constructor  
8 more control, right? They can innovate when it  
9 comes to design. It's more performance-based, all  
10 of those things, and earned-value payments in that  
11 kind of a regime very much compliments the  
12 procurement model in a way that milestone payments  
13 doesn't as readily.

14           KATE MCGRANN: Are there any lessons  
15 learned from Stage 1 other than -- I'm not going to  
16 treat it as a -- are there any lessons learned from  
17 Stage 1 that you have seen applied in Stage 2?

18           CHRIS SWAIL: Well, the ones I listed,  
19 we did apply on Stage 2. So one that I missed that  
20 I should mention was, you know, we increased our  
21 stakeholder relations' outreach on Stage 2 just  
22 because of the swath of land we were -- we were  
23 going through in the different communities.

24           So, yeah, you know, I think that  
25 there's been, you know, improvements made. I think



1 that the -- you know, the -- the spec was made a  
2 little bit more performance-based and less  
3 prescriptive in areas where we could allow  
4 proponents to innovate a bit more.

5 For example, you know, one of the  
6 things we heard from proponents was station design  
7 was very complicated in terms of how RTG built the  
8 stations. And so, you know, we were -- you know,  
9 took very much a -- well, if you can emulate the  
10 look and feel but do it in a simpler way without  
11 compromising quality and all of the other, you  
12 know, safety principles, CPTED principles, things  
13 like that, you know, the gates are still working  
14 and in the right position, all of those things,  
15 then we're open to that, right?

16 So -- and those are lessons learned as  
17 well from -- from Stage 1, right? You don't -- and  
18 I think lessons learned in the market in general,  
19 and that was the point I was going to make about  
20 earned value, right. Like, I think regardless of  
21 whether or not there was a sinkhole on  
22 Rideau Street, earned value is going to become the  
23 standard as opposed to milestones as these types of  
24 procurements progressed.

25 KATE MCGRANN: Do you know if any

1 changes were made to the trial running period for  
2 Stage 2?

3 CHRIS SWAIL: Yeah. It was -- it was  
4 increased. I think it was made a little bit more  
5 stringent, but I don't want people to misunderstand  
6 the timelines here. It was made more stringent  
7 well before RTG got into any problems when it came  
8 to handing over the system to -- to the City.

9 That, again, was just something that,  
10 you know, we were being advised by our technical  
11 folks based on experience in other projects.

12 KATE MCGRANN: So increase, and you  
13 said made more stringent. What do you mean by  
14 that?

15 CHRIS SWAIL: Just the performance, you  
16 know, requirements, like, continuous; and, you  
17 know, more testing; you know, amount of people  
18 that, you know, could test it longer; trial  
19 running; that kind of stuff, just to make sure that  
20 everything -- everything worked.

21 KATE MCGRANN: Is the City taking a  
22 different approach to oversight of its private  
23 partner in Stage 2?

24 CHRIS SWAIL: Oversight in its private  
25 partner on Stage 2. Well, there are more players,

1 so RTG, you know, being one of them, right? So  
2 they -- you know, they have to satisfy the  
3 requirements that, you know, RTG also oversaw in  
4 the spec, right?

5 So they validated and verified the spec  
6 as it was put into -- into Stage 2, and they are  
7 overseeing the implementation, and when it gets  
8 down to systems integration and those kinds of  
9 things, they'll -- they'll play a part in with  
10 seeing that as well.

11 I think the independent certifier,  
12 which I think you might be referring to, that kind  
13 of regime and approach, I think, remained  
14 consistent between Stage 1 and -- and Stage 2.

15 KATE MCGRANN: And with respect to the  
16 City's oversight of the progress of construction,  
17 testing, and commissioning, any changes made to the  
18 approach taken in Stage 2?

19 CHRIS SWAIL: Well, there were changes  
20 made to the spec in the procurement, how its being,  
21 you know -- how oversight is being performed on a  
22 day-to-day basis, I think, is best left to the  
23 implementation office to -- to tell you.

24 KATE MCGRANN: Ms. Peddle, do you have  
25 any follow-up questions on anything that we've

1 discussed?

2 CARLY PEDDLE: No, I don't.

3 KATE MCGRANN: All right. Mr. Swail,  
4 the Commission has been asked to investigate the  
5 commercial and technical circumstances that led to  
6 the breakdowns and derailments on Stage 1.

7 Other than the topics that we've  
8 discussed this afternoon, are there any other areas  
9 that you think the Commission should be looking at  
10 as part of its investigation?

11 CHRIS SWAIL: No.

12 KATE MCGRANN: The Commissioner has  
13 also been asked as part of the mandate to make  
14 recommendations to try to prevent issues like this  
15 from occurring again in the future.

16 Do you have any specific  
17 recommendations or areas of recommendation that you  
18 think should be considered as part of that work?

19 CHRIS SWAIL: No. If you give me a  
20 couple days to think about it, but nothing off the  
21 top of my head, you know. To be honest with you,  
22 we -- the -- the problem that we have is a  
23 contractor that hasn't lived up to what they  
24 promised they could deliver, so...

25 KATE MCGRANN: Could you speak to that

1 a little bit more in a little more detail?

2 CHRIS SWAIL: Well, you know, from my  
3 perspective, which is just my perspective outside  
4 looking in now very much a few years later after,  
5 it's, you know, they -- they seemed to be a great  
6 team capable of building a great project.

7 And I'm not sure why and what happened  
8 within RTG and, you know, the arrangement between  
9 the constructor and the maintainer and the vehicle  
10 supplier.

11 But, you know, something -- it hasn't  
12 worked, and it hasn't clicked and, you know, I  
13 think a lot of the answers to why the City is not  
14 getting the reliable service it deserves lie in the  
15 inner machinations of -- of the group that are  
16 contractually obligated to deliver it.

17 KATE MCGRANN: Mr. Wardle, do you have  
18 any follow-up questions?

19 PETER WARDLE: No thank you.

20 KATE MCGRANN: Thank you very much,  
21 everyone, for your time, and this concludes our  
22 interview today.

23 PETER WARDLE: Thank you.

24 -- Whereupon the Examination concluded  
25 at 4:23 p.m.

1 REPORTER'S CERTIFICATE

2  
3 I, JANET BELMA, CSR, Certified  
4 Shorthand Reporter, certify;

5 That the foregoing proceedings were  
6 taken before me at the time and place therein set  
7 forth, at which time the witness was put under  
8 oath;

9 That the testimony of the witness  
10 and all objections made at the time of the  
11 examination were recorded stenographically by me  
12 and were thereafter transcribed;

13 That the foregoing is a true and  
14 correct transcript of my shorthand notes so taken.

15  
16 Dated this 2nd day of May, 2022.

17  
18  
19 

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