

Ottawa Light Rail Commission

Diane Deans
on Thursday, April 14, 2022



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OTTAWA LIGHT RAIL COMMISSION
CITY OF OTTAWA - DIANE DEANS
APRIL 14th, 2022

--- Held via Zoom Videoconferencing, with all
participants attending remotely, on the 14th day
of APRIL, 2022, 9:00 a.m. to 11:23 a.m.

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COMMISSION COUNSEL:
Kate McGrann, Co-Lead Counsel Member
Liz McLellan, Litigation Counsel Member

PARTICIPANTS:
Diane Deans: City of Ottawa
Peter Wardle and Betsy Segal: Singleton
Urquhart Reynolds Vogel LLP

ALSO PRESENT:
Leila Heckert, Reporter/Transcriptionist
Elizabeth Deasy, Virtual Technician

INDEX OF EXHIBITS

2	NO. / DESCRIPTION	PAGE
3	1 Curriculum Vitae of Diane Deans	7
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 --- Upon commencing at 9:00 a.m.

2 DIANE DEANS: AFFIRMED.

3 KATE MCGRANN: Good morning,
4 Councillor Deans. My name is Kate McGrann. I'm
5 one of the co-lead counsel on the Ottawa Light
6 Rail Transit Public Inquiry.

7 Before we get started, I just want to
8 give you some information about today's
9 interview. The purpose of today's interview is
10 to obtain your evidence under oath or solemn
11 declaration for use of the Commission's public
12 hearings.

13 This will be a collaborative
14 interview, such that my co-counsel may intervene
15 to ask certain questions. If the time permits,
16 your counsel may also ask follow-up questions at
17 the end of the interview.

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

24 The transcript will also be posted to
25 the Commission's public website along with any

1 corrections made to it after it is entered into
2 evidence.

3 The transcript, along with any
4 corrections later made to it, will be shared
5 with the Commission's participants and their
6 counsel on a confidential basis before being
7 entered into evidence.

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

14 Pursuant to section 33(6) of the
15 Public Inquiries Act 2009, a witness at an
16 inquiry shall be deemed to have objected to
17 answer any question asked him or her upon the
18 ground that his or her answer may tend to
19 incriminate the witness or may tend to establish
20 his or her liability to civil proceedings at the
21 instance of the Crown or of any person.

22 And no answer given by a witness at an
23 inquiry shall be used or be receivable in
24 evidence against him or her in any trial or
25 other proceedings against him or her thereafter

1 taking place, other than a prosecution for
2 perjury in giving such evidence.

3 As required by section 33(7) of that
4 Act, you are hereby advised that you have the
5 right to object to answer any question under
6 section 5 of the Canada Evidence Act.

7 Do you have any questions about any of
8 that?

9 DIANE DEANS: No, I don't.

10 KATE MCGRANN: If at any point during
11 our interview you need to take a break for any
12 reason, just let us know and we will stop the
13 recording and take a break as needed.

14 DIANE DEANS: Perfect. Thank you.

15 KATE MCGRANN: I'd like to start with
16 some questions about your background and your
17 work on Council. And I understand that you have
18 been a member of City Council for eight
19 consecutive terms starting in 1994, and this
20 year, you're in the midst of your eighth term
21 now. Is that right?

22 DIANE DEANS: That's correct.

23 KATE MCGRANN: And I believe that you
24 were running for mayor in the upcoming election.
25 Is that right?

1 DIANE DEANS: Well, that is my current
2 stated intention. Maybe I should just clarify
3 that although I've been elected for eight
4 consecutive terms and have served consecutively
5 since 1994, I did take a leave, a medical leave
6 of absence from September 2019 to September
7 2020.

8 KATE MCGRANN: In advance of our
9 interview, I asked your counsel to provide us
10 with a copy of your CV. So I'm just going to
11 show you what we received.

12 I am currently showing the first two
13 pages of a three-page document. I'm going to
14 scroll through it rather quickly just so that
15 you can see the entire document. But if you
16 need me to show you it more slowly, just let me
17 know.

18 My first question for you about this
19 document is do you recognize this document?

20 A. Yes.

21 1 Q. Is this a copy of your CV?

22 A. Yes.

23 2 Q. So we'll have that entered as
24 Exhibit 1.

25 EXHIBIT NO. 1: Curriculum Vitae of

1 Diane Deans.

2 KATE MCGRANN: And then there's one
3 piece of information that I wanted to ask you
4 about, and it is -- I'm going to try to
5 highlight it to make things a little bit easier
6 here.

7 Under the heading "2010 to 2014
8 Chairperson, Ottawa Transit Commission", can you
9 read what I've highlighted on the screen there?

10 DIANE DEANS: "City Council's most
11 challenging portfolio."

12 KATE MCGRANN: So I was just wondering
13 if you could explain to us why you described the
14 Ottawa Transit Commission as the most
15 challenging portfolio?

16 DIANE DEANS: I described it in that
17 way because that was my personal experience when
18 I was Chair of the Transit Commission. Those
19 were years when we had already had a failed LRT
20 project, which I would refer to as the
21 "Chiarelli line", which we had awarded a
22 contract to Siemens. And then we had an
23 election, and then that project was cancelled,
24 and we were back at the starting line again.

25 We were introducing the Presto

1 technology, in terms of fare structure, and it
2 was fraught with difficulty and we had delays.

3 So my experience during the Transit
4 Commission was that we were using a lot of
5 taxpayers' dollars and we were finding out that
6 these were challenging, challenging projects.

7 KATE MCGRANN: I'm going to stop
8 sharing my screen. So I will come back to it
9 with some more questions about your work on the
10 Transit Commission. But just generally, can you
11 describe your involvement in Stage I of the LRT
12 project over the life of your time as
13 Councillor, and its time as a project report
14 Council?

15 DIANE DEANS: Yes. You know, I
16 almost -- I think what I would tell you is that
17 my experience as a member of Council, even prior
18 to the Confederation line award of the contract
19 and everything else, was informed by the first
20 project, the Chiarelli line, for lack of a
21 better term.

22 And that one, Council was fully
23 involved. We had delegated considerable
24 authority to City staff, but I can tell you that
25 throughout the project, we were in-camera at

1 almost every City Council meeting. We were
2 receiving voluminous information.

3 And we were being kept, I would say,
4 fully apprised of what was happening with that
5 project throughout. My impression is by the
6 time we got to the starting gate for the
7 Confederation line, the City staff had concluded
8 that, perhaps, they had over shared with Council
9 the information that was necessary in the
10 performance of our duties.

11 And my overall impression today is
12 that it was, for lack of a better term, perhaps
13 the law of diminishing returns that, as we went
14 along, Council was getting -- receiving less and
15 less and less information in the performance of
16 our duty.

17 And our duty as members of Council is
18 oversight. So, you know, Council can only make
19 good decisions and provide the oversight duty
20 that we are required under the Municipal Act to
21 provide if we have that information; if we have
22 full, wholesome, fulsome and correct and
23 pertinent information, and my sense is that's
24 what was happening.

25 So when we got to the starting line,

1 the Confederation line, it was a decision made
2 to bring in IO, Infrastructure Ontario, to
3 assist, and we had advisors and, you know, we
4 went about the project.

5 I was -- I was involved somewhat with
6 that as the Chair of the Transit Commission
7 early on. And in the early phases, you know, my
8 general sense is that there was a lot of
9 excitement about this project and, you know, a
10 feeling that this was a transformational project
11 for the City of Ottawa, that this was going to,
12 sort of, move us into the big leagues. It was
13 going to be a game changer for our community in
14 terms of how they moved around the City. It was
15 a very hopeful time.

16 And we really truly believe that this
17 was a project that was really going to be a net
18 benefit for many years to come for our City. So
19 for me, and I think for all of Council, there
20 was a lot of enthusiasm around this project and
21 a belief that, you know, it was a game changer
22 for us.

23 KATE MCGRANN: Where you involved in
24 -- let me put it this way. I believe that you
25 sat as a member of FEDCO for a period of time.

1 DIANE DEANS: I did.

2 KATE MCGRANN: I shouldn't use
3 acronyms without explaining what they mean, so I
4 think we're talking about the Financial and
5 Economic Development Committee.

6 DIANE DEANS: Correct.

7 KATE MCGRANN: And when were you a
8 member of FEDCO?

9 DIANE DEANS: You're taxing my memory.
10 You know, we're going over a long period of
11 time. I was a member of FEDCO, I believe,
12 throughout that whole process until the start of
13 this term in 2018.

14 KATE MCGRANN: So call it, it would
15 have been 2010 to 2018, sort of, two terms?

16 DIANE DEANS: Even further back.

17 KATE MCGRANN: Further back.

18 DIANE DEANS: I don't know if that's
19 relevant. But I was throughout a member of
20 FEDCO.

21 KATE MCGRANN: Let me ask a few
22 questions about the LRT project that was stopped
23 before Council turned to Stage I of the LRT.

24 You've referred to it as the Chiarelli
25 line. That's a line that was planned to move

1 north-south across the City and was cancelled in
2 around 2009, 2010 I believe.

3 DIANE DEANS: Yeah. It was 29
4 kilometres of track from Barrhaven to the
5 University of Ottawa, service rail through the
6 core of the City. And it was started under
7 Mayor Bob Chiarelli.

8 KATE MCGRANN: Do you know if the City
9 did any sort of look-back or review exercise on
10 the work that was done on that line to identify
11 elements that it wanted to carry forward and
12 also to identify areas in which it wanted to do
13 things differently in order to achieve a
14 different or better outcome as part of its work
15 process for the line itself?

16 DIANE DEANS: I can't say, Kate, that
17 I recall if that happened or not.

18 KATE MCGRANN: Do you know if any
19 decisions that had been made about the City's
20 requirements for that line - what it wanted it
21 to look like, how it wanted it to perform - were
22 carried forward from that project to Stage I of
23 the LRT?

24 DIANE DEANS: I can't answer that
25 question with any degree of certainty either,

1 other than to say that the City manager was Kent
2 Kirkpatrick during those years. And the City
3 manager who had a pivotal role was also the City
4 manager at the commencement of Stage I or the
5 Confederation line.

6 So I would have to believe that the
7 key elements were carried forward. I also, you
8 know -- I have this recollection, and it's a
9 memory, but I couldn't -- I couldn't say any
10 words with any degree of certainty, it was so
11 long ago. But I do have this memory that Kent
12 felt that, perhaps, Council had been over
13 involved in the first line. And they had over
14 shared information. It was a bit onerous, and
15 so, maybe, needed less, and needed to delegate
16 more authority going forward.

17 KATE MCGRANN: With respect to the
18 delegation of authority, and I understand that
19 authority was delegated in pieces over time. It
20 didn't all happen in one decision or one move.

21 But from where you were sitting as a
22 member of Council, was there a different
23 approach to the delegation of authority taken
24 with respect to Stage I of the LRT as compared
25 to the North-South line that preceded it?

1 DIANE DEANS: Yeah. There was -- I
2 mean, Infrastructure Ontario was now in charge,
3 but there was clearly less communication and
4 day-to-day information sharing with Council.

5 So that's how I perceived the change
6 in the delegated authority that we had, maybe,
7 learned some lessons from the Chiarelli line,
8 and moving forward were, perhaps, somewhat
9 convinced that we didn't need as much day-to-day
10 as we were getting. So, yeah, there was a
11 discernible change in the information flow to
12 Council.

13 KATE MCGRANN: And was that change
14 explicitly discussed with Council, We're going
15 to change the nature or the amount of
16 information that is shared and here is why, kind
17 of, a discussion?

18 DIANE DEANS: Now, I guess it's my
19 overall sense that that happened. But I just
20 cannot recall the conversation. I'm sorry.

21 KATE MCGRANN: You mentioned that with
22 respect to Stage I of the LRT, IO was in charge.

23 What did you understand IO's role to
24 be, Infrastructure Ontario's role to be
25 vis-à-vis the City for Stage I of the LRT?

1 DIANE DEANS: Yes. I guess
2 quarterback in a way that they were responsible
3 overall for bringing elements in, and for, sort
4 of, the day-to-day project operations advice to
5 the City that perhaps the City didn't have in
6 terms of level of expertise and different
7 barriers that Infrastructure Ontario, having
8 other projects, would have access to information
9 and advice and expertise that, perhaps, we
10 didn't have access to.

11 KATE MCGRANN: Are you able to be more
12 specific about the areas of expertise that
13 Infrastructure Ontario brought to the work that
14 was being done on Stage I of the LRT?

15 DIANE DEANS: I don't feel right now.
16 I'd almost have to give that some thought to be
17 able to answer that question, and maybe go back
18 and look at some of the reports. But off the
19 top of my head, I don't feel that I can expound
20 upon that.

21 KATE MCGRANN: And sitting here today,
22 what's your view on the results of having
23 Infrastructure Ontario involved in the project?

24 DIANE DEANS: I've been thinking a lot
25 about this because the timeline has gone on.

1 And where we are today has kind of, probably,
2 changed my view. So retrospectively what I knew
3 then and what I know now are, sort of, two
4 worlds apart. And so at the time, I believed
5 that Infrastructure Ontario was helpful. I
6 still believe that today that Infrastructure
7 Ontario was probably the right way to go.

8 Fast-forward to the award of contract
9 on Stage II, and Infrastructure Ontario was
10 eliminated in favour of Norton Rose Fulbright,
11 and I think that was a huge mistake. And at the
12 time, I can't tell you who told us that, but I
13 believe my recollection of that is that we were
14 told that IO was too busy, they had other big
15 projects in Toronto, they weren't focused on
16 Ottawa anymore, and that we should go with
17 Norton Rose Fulbright.

18 And I think that was a huge mistake
19 for us. I think Norton Rose Fulbright was far
20 too close to SNC-Lavalin. In fact, they acted
21 for SNC-Lavalin, and they may have had a
22 firewall, but it wasn't very fireproof, in my
23 estimation.

24 And I kind of feel that we were sold a
25 bit of a bill of goods on IO's capacity and

1 ability to continue to provide help and advice
2 and service for our large infrastructure project
3 of that nature to the City of Ottawa.

4 KATE MCGRANN: I'm only saying this
5 because you mention the name of a law firm, but
6 I'll say it now and then this applies throughout
7 our conversation this morning. In none of my
8 questions am I asking you to share any advice
9 that's been provided by legal counsel to the
10 City, or advice sought, legal advice sought.

11 So if one of my questions sounds like
12 it's looking for that kind of information,
13 please let me know, because I will clarify or
14 change it.

15 DIANE DEANS: Okay.

16 KATE MCGRANN: What can you tell me
17 about FEDCO's role during the time that you
18 remember that committee in overseeing or working
19 on Stage I of the LRT?

20 DIANE DEANS: Can you repeat that
21 question, Kate?

22 KATE MCGRANN: Yes. What can you tell
23 me about FEDCO's role in Stage I of the LRT
24 during the time that you were a member of that
25 committee?

1 DIANE DEANS: FEDCO was, probably,
2 more in the driver seat than the Transit
3 Commission. The Transit Commission was more
4 focused on operational issues, and the LRT was
5 centred, decisions, discussions, ongoing
6 information sharing, what is happening at the
7 FEDCO committee.

8 You know, the Mayor chairs FEDCO, and
9 the Mayor very much wanted to be in the driver's
10 seat on this project, and understandably so.
11 And it's our largest infrastructure project in
12 the City's history.

13 There was a lot riding on this. There
14 was a lot at stake. And so FEDCO was showing
15 the, sort of, channel for information and
16 ongoing discussion on the contracts and on the
17 project.

18 KATE MCGRANN: You spoke earlier about
19 as contrasted to the North-South line, Council
20 receiving less information about the work done
21 on Stage I of the LRT.

22 Was it the same situation for FEDCO?
23 Did you feel that FEDCO was receiving less
24 information than Council had received on the
25 North-South line?

1 DIANE DEANS: Absolutely. The
2 information was getting less and less as we
3 moved forward. And I couldn't tell you the
4 exact moment in time when the light bulb went
5 off and I realized that we weren't getting the
6 information that we needed in the performance of
7 our duty oversight.

8 But it did go off for me along the way
9 that there was information that Council really
10 needed to have, and were asking for it. And
11 there were things, Kate, specifics that I could
12 point to, like the decisions around the
13 Chiarelli line or the North-South line were
14 informed by things like ridership studies, and
15 that.

16 And Phase II, I recall asking Nancy
17 Schepers about what the ridership study
18 indicated in terms of making those early
19 decisions on the track, and where it should go,
20 and all of those things. And they had abandoned
21 the idea of ridership studies, which, to me,
22 seems kind of fundamental. You know, you're
23 building a brand-new transit line, ensuring that
24 you're going to have the riders to support the
25 line would seem to be a fundamental.

1 But that sort of stuff, decision was
2 not being made at the Council table or even at
3 the FEDCO table. It was being made somewhere
4 else, and Council was merely being informed of
5 it, not involved in that level of the internal
6 decision-making.

7 And I felt that we really needed to
8 understand the ridership projections, and things
9 like that, to be comfortable with the decisions
10 that were being taken.

11 KATE MCGRANN: Well, with respect to
12 the change in approach as related to ridership
13 studies, you said that they had abandoned
14 ridership studies. Who were you referring to?

15 DIANE DEANS: Well, I was referring to
16 City staff because they were the ones that were
17 doing the answering questions to members of
18 Council. And they -- I can't recall the details
19 of it, but it's probably on a record somewhere,
20 Nancy Schepers explaining that we didn't need
21 the ridership studies anymore.

22 There was also in the Chiarelli line,
23 there was also continuous auditing that
24 happened. So it was just -- there was just
25 auditing ongoing all the time in a number of

1 aspects of the project. And when we got to the
2 Confederation line, you know, I started
3 hearing -- you know, people talk, and I can't
4 even tell you who necessarily.

5 You know, you bump into people on the
6 street. Everywhere you go, people want to talk
7 about this project. It was huge. And I was
8 hearing all kinds of things about property
9 acquisitions and different aspects of the
10 project that people were saying.

11 I remember hearing one day that the
12 City was paying Scotiabank a lease at the corner
13 of Rideau and Sussex for a year or more as part
14 of a negotiation, and we weren't getting any of
15 that information at the Council table. They
16 weren't sharing with us the arrangements that
17 were being made from property acquisition
18 perspective.

19 And so, I started asking for
20 continuous auditing as had been done in the
21 North-South line, and that was rejected. And as
22 time went on and we were going along and the
23 more and more requests I was making for
24 information and they were all being shut down
25 was becoming increasingly worrisome to me that

1 that information was purposefully being hidden
2 from Council.

3 KATE MCGRANN: A couple of follow-up
4 questions there. The continuous auditing of the
5 previous North-South line that you mentioned,
6 could you be more specific as to what areas or
7 aspects of the project were audited or give some
8 examples?

9 DIANE DEANS: Yeah. I can't. I
10 haven't gone back and looked at exactly what
11 that was. I just remember that that was a
12 function of it and our audit department was
13 performing that function throughout. And the
14 details of that are -- I mean, that's a long
15 time back. It's pretty fuzzy in my mind now.
16 But I know that that was a function of the first
17 stage.

18 KATE MCGRANN: When you sought --

19 DIANE DEANS: And to begin with, there
20 was an auditor that -- the audit -- the audit
21 department changed, too. So we had a new
22 audit -- auditor there. And the former -- some
23 of the former staff had left.

24 But I was hearing from some people
25 that had previously worked there that, you know,

1 they were able to conduct a lot of audits in a
2 year, and even though we had hired an extra, I
3 think, deputy auditor in the department, the
4 number of audits had actually diminished rather
5 substantially from what they used to perform in
6 that department.

7 Now, of course, the breadth and depth
8 of an audit might inform how many you can do,
9 and I certainly understand that. But there was
10 this -- I had a sense that there -- someone was
11 giving an order that there was not to be any
12 auditing of this done. That was my sense.

13 KATE MCGRANN: The sense that there
14 may have been instructions or directions
15 provided to not do as many audits. Any basis
16 for that belief in addition to the fact that the
17 number of audits being performed, to your
18 understanding, had decreased, any other reasons
19 that you thought that --

20 DIANE DEANS: Just because
21 increasingly so, I was getting the sense that
22 the decisions were being made away from the
23 public view and that there were, you know, some
24 members of Council closer to the Mayor than I
25 certainly was, that were involved in making sure

1 that this information didn't come to light.

2 And those of us who were asking the
3 questions, we were losing every vote at the
4 Council table. So I mean, it's just a
5 perception that I had that, for whatever reason,
6 information was being kept from Council and from
7 the public.

8 KATE MCGRANN: With respect to your
9 request to introduce auditing on Stage I of the
10 LRT, you said that that request was rejected.

11 Was that through a vote of Council?
12 Or how was that request --

13 DIANE DEANS: Yeah. It was through a
14 vote of Council. I can't remember when that
15 was, and I had a timeline here. But they did
16 one audit. I might be able to find that if you
17 gave me a second, Kate.

18 If we take a break, I'll look it up
19 and we can come back to it. How's that?

20 KATE MCGRANN: That's helpful. Let me
21 just make a note of that.

22 So just to make sure I understand this
23 correctly. I think that you had both said that
24 the amount of information available to Council
25 with respect to the work being done on Stage I

1 from the outset was less as compared to the work
2 done on the North-South line?

3 DIANE DEANS: Yes.

4 KATE MCGRANN: And also that the
5 amount of information that was made available to
6 Council over the life of the OLRT1 project
7 decreased over time?

8 DIANE DEANS: Correct. That is
9 definitely my impression.

10 KATE MCGRANN: Generally, what is, in
11 your view, the impact of that lessening of that
12 information being shared on Council's ability to
13 do its job with respect to Stage I of the OLRT?

14 DIANE DEANS: Well, we, as a member of
15 Council, we have duties that are prescribed
16 under the Municipal Act. And one is the duty of
17 oversight. And certainly, when you are spending
18 a large amount of public dollars, the public
19 expectation, very rightfully so, is that the
20 public will be kept informed through their
21 members of Council and that's the structure
22 that's in place.

23 And so when Council, you know -- when
24 information is blocked to Council, it's also
25 blocked to the public - the people that are

1 paying the bills.

2 So, for me, it's fundamental. It also
3 means that I'm not performing my job in
4 accordance with the Act. And so, I take my
5 roles as member Council very seriously. And I
6 really believe that I have a duty, even if it's
7 a little uncomfortable, to ask those probing
8 questions and to get to the bottom of what's
9 going on, and to feel assured that, you know,
10 things are being done properly and that, you
11 know, nothing untoward is happening.

12 And when you are getting less and less
13 information and you're getting the sense that
14 information is purposefully being withheld, you
15 start -- the confidence in the whole project
16 starts eroding. And that happened for me.

17 KATE MCGRANN: I'm going to turn to
18 ask you some questions, hopefully
19 chronologically, through the progress of the
20 project. But before I do that, I just want to
21 check with my colleague, Ms. McClellan, do you
22 have any questions based on anything we've
23 discussed so far?

24 LIZ MCLELLAN: I don't, no.

25 KATE MCGRANN: I have some questions

1 for you about the decisions that were made in
2 the first election to the procurement and
3 delivery model for this project.

4 Can you tell me what you recall about
5 the decisions made about the delivery model and
6 how the delivery model ultimately used design,
7 build, finance, maintain was selected.

8 DIANE DEANS: I mean, I can recall
9 conversations at the Council table about the
10 procurement model and adding the maintenance as
11 a way to, I think, make the affordability model
12 work for the proponent.

13 And so originally, I think we had
14 design, build, finance model. And then I
15 believe we added on "maintain" later if I'm not
16 mistaken. Or maybe it was design, build,
17 maintain, and we added on "finance". I can't
18 quite remember. I think it was "maintain" came
19 later.

20 But I don't recall the specifics
21 around the discussion about the maintenance
22 agreement other than the general sense that I
23 have that Council was told that they needed the
24 maintenance contract over a long period of time
25 to make the affordability model work.

1 And I must say as a member of Council,
2 knowing what I know now, I regret that. I mean,
3 a 30-year contract retrospectively -- hindsight
4 it's a great thing. But retrospectively, a
5 30-year contract with a company that we knew so
6 little about was, I think, not in the public
7 interest.

8 And we found out that, you know, the
9 maintenance has been substandard to date and
10 we've had two derailments. And one was solely
11 based on substandard maintenance, and probably
12 the axil break was, too, when we really get
13 right down to it.

14 But not having local expertise, I
15 think has been a real problem here. And so we
16 were buying what our staff were selling because
17 none of us sitting at that table are experts in
18 rail, or experts in light rail systems. Our
19 engineers -- or have any in-depth knowledge.

20 And so to a certain extent, we hear
21 from the experts that this is the best option
22 for the City for a variety of reasons, and we
23 take that at face value. I took it at face
24 value. Don't think I would do that again now
25 knowing what I know now. But that's the benefit

1 of hindsight.

2 KATE MCGRANN: With respect to the
3 discussion about including the maintenance
4 component in the design, build, finance,
5 maintain model, do you recall if there were any
6 discussions about the upsides of including the
7 maintenance model? You've identified one
8 already that it was going to make the
9 affordability cap more workable for the
10 proponents. Have I got that right?

11 DIANE DEANS: Yes.

12 KATE MCGRANN: Any discussions of any
13 other upsides or benefits that would flow to the
14 City from including the maintenance component
15 and the delivery model?

16 DIANE DEANS: I cannot recall.

17 KATE MCGRANN: Do you recall any
18 discussion about potential risks that may flow
19 from including the maintenance component, and
20 how those risks could be understood, addressed
21 or mitigated?

22 DIANE DEANS: I don't recall the
23 specifics of those conversations. I'm sorry.

24 KATE MCGRANN: That's okay. Do you
25 recall any discussions about including the

1 financing component in the model that was
2 ultimately chosen?

3 DIANE DEANS: I just vaguely recall
4 the discussion about transferring risk to the
5 private sector partner, and that that was in the
6 City's interest to transfer that risk. And that
7 they would be taking on -- you know, this is
8 uncharted water for the City, that something we
9 haven't done before; that certainly tunneling
10 under the downtown core of the City had a lot of
11 risk associated with it, financial risk; and
12 that, you know, having a private sector partner
13 that would be assuming all of that risk would,
14 you know, basically guarantee cost to the
15 taxpayers, and make sure that that mantra that
16 emerged, "on time and on budget", would
17 ultimately occur because we were, sort of,
18 guaranteeing the budget.

19 And I think that gets into this whole
20 issue of budgets, which I think turned out to
21 not be as billed either, really, to Council that
22 this was the panacea. And that's, sort of, the
23 sense that I had that if we transferred this
24 risk to the private sector, that these numbers
25 were guaranteed, and that any cost overruns

1 would be borne by the private sector proponent,
2 not by the taxpayers; and that, you know, even
3 if you pay a little more upfront, that having
4 that guarantee, had value.

5 KATE MCGRANN: With respect to the
6 project budget, do you recall any concerns or
7 discussion before the RFP was released about
8 whether the budget was sufficient to achieve
9 what the City was hoping to achieve with Stage I
10 of the LRT?

11 DIANE DEANS: I can't recall specific
12 conversations. I know that we are very focused
13 on money. I know that we got guarantees from
14 the upper tier governments early on in the
15 project for their 600 million-dollar
16 contributions. And it's probably too early on,
17 is, I think, the lesson that we learned that
18 those were, I don't know, Class D estimates or
19 something, they were high level estimates, and I
20 think had not taken into account inflation or
21 time between when we were at that stage and when
22 we actually got the shovels in the ground on the
23 project and that the prices escalated and the
24 costs have escalated.

25 And the upper tier governments were

1 not adding on inflationary costs or anything
2 else. Theirs was fixed at \$600 million each.
3 And so all of the additional costs were going to
4 be borne by the taxpayers.

5 You know, we -- I think that price
6 rose to 2.1, which already made the City on the
7 hook for more than the upper tier, even though
8 it was supposed to be a three-way partnership,
9 we were already paying more than they were.

10 And then we had a mayor that had a
11 mantra which was "on time and on budget". And
12 our mayor is very focused on the bottom line.
13 And my sense is that he was driving hard that
14 mantra on budget and that, you know, if corners
15 had to be cut to stick to that number, then
16 corners were to be cut to stick to that number
17 because that was his promise to the public and
18 he was going to keep it.

19 KATE MCGRANN: You mentioned that if
20 corners needed to be cut to stick to the budget,
21 they would be cut.

22 Are you aware of any corners that were
23 cut with respect to Stage I of the LRT?

24 DIANE DEANS: I'm certainly aware of
25 decisions that were made. Like, there was

1 supposed to be transit stop at the NAC downtown,
2 that was eliminated from the project.

3 I think they were going over it with a
4 fine tooth comb to make sure that they were
5 staying within those numbers. And I also -- I
6 had this sense, and I can't say if I'm right
7 about it, but you get senses in your mind of
8 things that are going on.

9 I had this sense that, you know, they
10 were bringing projects on board that -- they
11 were saying that it made sense if we're digging
12 up this part of the street, then we should do
13 this project at the same time. And so they were
14 identifying projects along the way that should
15 get priority because they had some relationship
16 to this build.

17 And I always had the sense that that
18 is one of the ways they were kind of burying
19 costs in other budgets in order to not go over
20 that \$2.1 billion number.

21 KATE MCGRANN: And from where you're
22 sitting today, was the project brought in on
23 budget?

24 DIANE DEANS: I don't believe it was
25 at all. You know, I remember asking questions

1 at the Council table about what projects, other
2 projects in our City were set aside or delayed
3 or torpedoed in some way or another in order
4 that this project got completed because, yeah, I
5 had a strong sense that we were underfunding
6 things as fundamental as our snow project.

7 I mean, for year over year, our snow
8 budget was being clearly underfunded. And I
9 always had the impression it's because we did
10 not have enough money. I mean, municipalities
11 primarily would get our money from tax revenue,
12 and we just -- and development charges, but
13 primarily from taxation. And we just did not
14 have enough money to be able to shore up all of
15 this, and we issued a lot of debt.

16 We now have the largest debt in the
17 City of Ottawa's history. And we have a lot of
18 needy infrastructure projects everywhere else in
19 the City that didn't get funded because of the
20 priority that LRT was taking.

21 KATE MCGRANN: Before I move too far
22 away from this, I just want to finish our
23 discussion about the concept that corners may
24 have been cut on the LRT in order to stay within
25 budget. You mentioned the elimination of one

1 transit stop.

2 Are you aware of any other corners
3 that were cut in order to try to stay within the
4 budget for this project?

5 DIANE DEANS: You know, Kate, I'd have
6 to think about that a little bit more. I'd have
7 to really, kind of, try and recall what I was
8 hearing at the time. I hadn't anticipated this
9 question, so I haven't thought about it. But
10 maybe it's something that we could come back to
11 at a later date if need be.

12 KATE MCGRANN: Sticking with a budget
13 for a minute longer here, do you have any sense
14 or what is your view on what factors in the
15 project may have contributed to the budget
16 landing where it has, obviously?

17 DIANE DEANS: Can you just repeat that
18 question?

19 KATE MCGRANN: Yes. I'm wondering if
20 you have any views of what factors or elements
21 of the project led to it costing what it
22 ultimately cost as compared to the budget that
23 was originally set?

24 DIANE DEANS: I think we just
25 underfunded the project. I think it was just

1 more costly than we anticipated. We had never
2 done it before, so I don't think that we really
3 recognized the complexity.

4 Probably, that whole model, the
5 design, build, finance, there was a real focus
6 on money on that contract, and so, you get what
7 you pay for. And the focus was more on money
8 than quality would be my, kind of, sense of what
9 happened.

10 Even when -- I know we are not talking
11 about Stage II today. But certainly, money was
12 a driving factor in the award of contracts in
13 Stage II. It was not quality. And you would
14 think that we might have learned something by
15 then, but apparently not.

16 But money was, I think, the primary
17 driving factor. And money does not translate to
18 quality. And I think that there had to be a
19 more balanced approach between ensuring that a
20 standard was met throughout, whether it be in
21 the maintenance contract, or whether it be in
22 the actual infrastructure build itself that was
23 just lacking. And so, yeah, I think that was,
24 probably, the primary issue.

25 KATE MCGRANN: We have been talking

1 about the, sort of, pre-procurement and
2 procurement phase. So stepping back to that
3 time in the project, what do you recall about
4 what the City was looking for as it headed into
5 the procurement phase, specifically with respect
6 to the vehicles that would be purchased to run
7 on the line?

8 Do you remember if the City had any
9 specific requirements or if it was looking for
10 any specific components on the vehicles, for
11 example.

12 DIANE DEANS: I don't recall the
13 specifics of the components. But I know that
14 there were lots of discussions about Ottawa
15 being a winter city, and that, you know, we are
16 in the snow belt, and that the trains needed to
17 be able to perform in winter conditions.

18 That's the primary issue on the
19 acquisition of the trains, that I recall.

20 KATE MCGRANN: But do you remember
21 whether you or Council were given any
22 information about what steps were taken to try
23 to obtain trains that could run in Ottawa's
24 winter conditions?

25 DIANE DEANS: It's so hard to remember

1 the specifics. I mean, I remember being told
2 that these trains, Alstom, you know, had
3 experience in winter conditions, and that they
4 had provided trains in other countries where
5 they have similar conditions.

6 What I don't think I fully understood
7 at the time is that this was a new train that
8 was untested in other winter cities, and was
9 probably not the right train or technology for
10 Ottawa winters. And I can't recall the
11 specifics at all. I wish I was more of an
12 engineer.

13 But there was some sort of power box
14 that was appended to the bottom or underneath
15 the car that was dragging early on, and dragging
16 snow to pile up. And just the way it was
17 constructed, it was just not for winter weather
18 at all.

19 And it was only after we started
20 seeing the problems with the fundamentals of
21 this train, I think, did we really get the
22 message that this was probably not the right
23 train for this climate.

24 KATE MCGRANN: Just following on the
25 statement that this probably wasn't the right

1 train for this climate. So you've explained
2 that there's a power box appended to the car
3 that was driving snow and causing issues.

4 Any other reasons why this would not
5 be the right train for Ottawa's winter climate?

6 DIANE DEANS: They didn't have plows.
7 They didn't have a way to plow the snow that
8 they were coming into. There was no
9 consideration given for how that snow ahead of
10 them was going to be plowed. They actually had
11 to buy aftermarket, some sort of technology to
12 go out and clear the tracks. It was not built
13 into the system. I recall that.

14 Those are the main ones that I recall.
15 There were lots of other issues that came up
16 where they related to winter conditions. It's
17 foggy in my mind now. The catenary wires, the
18 jammed doors, all the other things that were
19 happening. I'm not sure that that was
20 necessarily related to winter conditions.

21 KATE MCGRANN: With respect to the
22 power box that caused issues due to the driving
23 snow, are you aware if efforts have been made to
24 address that, and if so, whether they were
25 successful?

1 DIANE DEANS: Yeah. I think along the
2 way, a lot of effort has been made to address
3 the deficiencies in the system. Although, I
4 think, fundamentally, my impression is
5 fundamentally, we are always going to have
6 problems with this technology because it's
7 probably just the wrong technology. And you can
8 make adjustments along the way to try and make
9 things better. But, you know, I think it was
10 just the wrong technology.

11 And I've heard from people that are
12 more expert than me that, you know, the tracks
13 were not laid properly. They're not the right
14 tracks for our winter conditions. I don't know.
15 I mean, I'm not an expert, so I don't profess to
16 be, and I don't profess to have first-hand
17 knowledge of that.

18 But I think there's certainly some
19 opinion with people that know more about this
20 technology that I do that the fundamentals are
21 wrong.

22 KATE MCGRANN: Well, with respect to
23 the tracks not being the right tracks and/or not
24 being laid properly, where did that information
25 come from?

1 DIANE DEANS: I wish I -- I can't -- I
2 can't tell you that I recall who has said that
3 to me. I mean, people talk about this train all
4 the time. So, unfortunately, they leave an
5 impression in your mind. But I just don't
6 recall the conversations.

7 KATE MCGRANN: Can you help me
8 understand the basis for your belief that for
9 this system and these vehicles, there's always
10 going to be problems?

11 DIANE DEANS: You know, I mean, you
12 raise a really good point because, frankly, when
13 I look at the North-South line, and I mean, it's
14 a different technology, it's diesel. But we've
15 had a really good experience with it. And we've
16 had capacity and our run-times have been pretty
17 solid, and breakdowns have been minimal, and
18 disruptions to service have been minimal. And
19 yes, it was a good experience.

20 But I guess I'm just so tainted by the
21 experience of the Confederation line now. And
22 I've read things about other municipalities that
23 have had problems with electrified light rapid
24 transit systems that, I guess, I've sort of got
25 in my mind to some extent, problems are going to

1 happen. Do I think that this has been a
2 particularly bad experience? Yes.

3 KATE MCGRANN: What are the other
4 municipalities that you are using as comparators
5 when you say that you've read about other
6 municipalities with issues and things like that?

7 DIANE DEANS: Edmonton. I know that
8 Edmonton was late. They had issues with theirs.
9 I think Vancouver has had some issues. The City
10 of Toronto, you know, and the construction of
11 their -- I forget the name of their line, the
12 crosstown line. I think they've had delays.

13 And just my sense is that building
14 major infrastructure projects like this one are
15 fraught with difficulties. But I don't think
16 all to the same magnitude by any stretch of the
17 imagination. And I do think that the City of
18 Ottawa's experience has been particularly,
19 frankly, embarrassing.

20 KATE MCGRANN: Just to wrap up this
21 area of discussion, and trying to understand why
22 you believe that the system is always going to
23 have problems.

24 You mentioned a comparison to the
25 North-South line and the experience with that

1 line as compared to the experience with the
2 Stage I. Have I got that right?

3 DIANE DEANS: Yes.

4 KATE MCGRANN: And then you also
5 mentioned a comparison to other municipalities
6 with light rail lines, Edmonton, Vancouver, the
7 City of Toronto. Have I got that right?

8 DIANE DEANS: Yes.

9 KATE MCGRANN: And then I'll suggest
10 to you that this belief is also informed by the
11 experience with Stage I of the LRT so far and
12 what you've seen about that. Is that fair?

13 DIANE DEANS: Um-hmm.

14 KATE MCGRANN: Any other information
15 that you received that is informing your belief
16 that, maybe, there's always going to be problems
17 with Stage I of the LRT.

18 DIANE DEANS: Well, I -- my sense is
19 that the maintenance contract is a huge issue.
20 When we have a breakdown, we don't have enough
21 local people that are trained and professional
22 in electrified light rapid transit systems on
23 hand to be able to address the issues in a
24 timely fashion. So I think that's problematic,
25 and I think that's going to be an ongoing issue.

1 I mean, I said to you before, I
2 suspect corners were cut in terms of what was
3 done in order to meet the financial obligations
4 and keep that budget on track. And you know
5 when you cut corners financially and make
6 decisions and buy things that are probably not
7 the top-of-the-line or even midline that you get
8 problems.

9 And I've had people, lots of people
10 telling me about different aspects of this
11 system that know way more about it than I do
12 that say that things were just done improperly.
13 I will show you one example. Just a little
14 show-and-tell for you.

15 Someone, a father-and-son team, they
16 were -- and I'm not going to be able to describe
17 this to you at all. But they are a
18 father-and-son team of engineers brought this to
19 my office. And it's a model that they made of
20 the wheel bearing system.

21 And they went over in great detail - I
22 took notes; I don't have them with me today - of
23 how this whole system was configured. And they
24 told me that, basically, the second derailment
25 was pretty rudimentary, and that the engineers

1 that understand these things can look at this
2 and understand why it failed, and that it
3 shouldn't have been that difficult.

4 And so that -- it's stuff like this
5 that leads me to believe that we just don't have
6 the expertise, we don't have the right people,
7 we don't have the depth of knowledge that it
8 takes to be relatively problem-free.

9 KATE MCGRANN: When you say that
10 people who know more about this are talking to
11 you about the system, know more about this than
12 you, were talking to you about the system, you
13 referenced the father-son team of engineers.

14 Who else falls under that group that's
15 been speaking to you about the system?

16 DIANE DEANS: I've talked to people
17 that know people that have been in the tunnel.
18 And people just, frankly, on the street even
19 that come up to me and say, You know, I've got a
20 friend that works for one of the subcontractors,
21 and this was during the construction, and I can
22 tell you that there were huge problems in the
23 tunnel, there's no systems integrator down
24 there, they're bumping into each other.

25 I mean, at the time, I, frankly,

1 didn't even know what the term "systems
2 integrator" meant. But, you know, it was
3 described to me if you are doing a home
4 renovation project and you've got a plumber and
5 an electrician and a dry-waller, and all those
6 things, you need somebody that's corralling them
7 all, and making sure that they are not bumping
8 into each other, and that was not happening in
9 the tunnel.

10 So people were just sharing all that
11 kind of anecdotal information with me. I didn't
12 seek to verify any of it. But people were just
13 -- were just telling me things that were
14 happening.

15 KATE MCGRANN: I'm trying to think
16 about the right way to summarize what you've
17 described. But it sounds like when you talk
18 about people who know more about the system than
19 you, you're talking about people who you
20 encounter in your day-to-day life as opposed to
21 professional advisors to the City or City staff
22 or anyone working directly on the project. Is
23 that fair?

24 DIANE DEANS: I mean, I have had
25 conversations with City staff who have shared

1 opinions with me about different aspects of it
2 that have gone wrong. I mean, I'm a fairly
3 recognizable person in Ottawa, so I can tell
4 you, pretty much anywhere I go, people --
5 through this project, people had opinions, so I
6 was hearing a lot of information and opinions
7 from a lot of people.

8 KATE MCGRANN: When you say that City
9 staff would share opinions with you about things
10 that have gone wrong, what are the things that
11 have been identified to you by City staff?

12 DIANE DEANS: Over the Phase I --

13 KATE MCGRANN: Yes.

14 DIANE DEANS: -- the Confed line?
15 Yeah, I can't think of specifics that have been
16 identified. I mean, I think Phase II, I can
17 think of a few. But Phase I, nothing is popping
18 into my mind right now.

19 KATE MCGRANN: You mentioned earlier
20 in our conversation that the maintenance of the
21 Confederation line has been substandard to date.

22 Can you help me understand what
23 information lead to you forming that belief?

24 DIANE DEANS: Well, the second
25 derailment, and the TSB coming in and saying

1 that, you know, they hadn't torqued the wheels
2 properly and, you know, it's hard to feel
3 confident when you hear that sort of thing.

4 And even the other ones. Even the
5 axil break in the first one. There were
6 multiple derailments that we've been told
7 occurred in the yard. We've never really heard
8 a lot about permanent fixes to these issues,
9 just maybe enhanced maintenance more than actual
10 fixes.

11 KATE MCGRANN: And have you seen any
12 improvement or any change to the maintenance and
13 the effects of the maintenance on the lines
14 since the system returned after the second
15 derailment, return to public service.

16 DIANE DEANS: I can't say yes to that
17 question. And primarily, I think the reason is
18 because of a pandemic. You know, we have been
19 receiving a lot less information on what's been
20 happening.

21 I mean, certainly, the pandemic took
22 front and centre. And then, of course, the
23 Freedom Convoy. I think we've had some other
24 high -- high-profile issues that have kind of,
25 maybe, put the transit system a little bit more

1 off the front page and off our minds.

2 And I'm not on the Transit Commission
3 either. But I just feel that I'm not as
4 informed as we were previously about what was
5 happening. And with fewer riders, I mean, when
6 they don't meet their obligations for a number
7 of trains or there's -- we don't hear as much
8 hue and cry from the public as we did previously
9 when the ridership was a lot higher.

10 So once your ridership gets diminished
11 so substantially, you perhaps mask the problems
12 a little better than you did when you were
13 running a peak service that thousands of people
14 every hour were dependent on to get to their
15 workplaces and other obligations.

16 KATE MCGRANN: When you say that
17 you're not getting as much information as you
18 were previously, I just want to make sure I
19 understand what you are referring to there. I
20 understand that there's been a decrease in
21 public feedback with respect to the system. Is
22 that right?

23 DIANE DEANS: Yes.

24 KATE MCGRANN: And there has been a
25 change in the ridership as a result of the

1 pandemic and otherwise. Is that right?

2 DIANE DEANS: That's correct.

3 KATE MCGRANN: In addition to those
4 two factors, with respect to the information
5 that's being provided to you as a City
6 Councillor about the maintenance on the system
7 and the system performance, has there been a
8 change in the amount or the nature of
9 information that you've been receiving?

10 DIANE DEANS: Probably me personally,
11 I don't know if I -- I wouldn't speak for
12 Council or for the Transit Commission for that.
13 I mean, my focus has been very much on policing
14 especially in the last few months. So I haven't
15 necessarily attended all of the Transit
16 Commission meetings of late. So that might be
17 my own issue as much as anything else.

18 But I do know that the level and
19 discourse has come down on transit as less
20 people have been using the system.

21 KATE MCGRANN: Okay. But I take it
22 that you don't see necessarily a relationship
23 between the change in the level of discourse and
24 the quality of the maintenance that's being
25 provided? To be more clear, I don't think that

1 you see the fact that there's less discourse is
2 evidence that the maintenance has improved on
3 the line.

4 DIANE DEANS: No, I don't. And you
5 know the Chair of the Transit Commission has
6 cancelled a few meetings. And I'm always a
7 little sceptical when that happens, especially
8 when they haven't met in a long time and the
9 public is seeking information. And then, for
10 whatever reason, the meeting is cancelled and
11 delayed for quite some time, that does not breed
12 confidence in me or, I think, in the public that
13 information is being freely shared.

14 KATE MCGRANN: Other than the fact
15 that meetings have been cancelled, anything else
16 -- anything else inform your belief that
17 information may not be being freely shared with
18 respect to the LRT?

19 DIANE DEANS: I mean, there's a lot.
20 But part of it is Stage II now, too, because
21 Stage II is, sort of, getting rolled into it.
22 And, yeah, I've just gotten to the point where I
23 personally don't really believe that Council is
24 getting the information or, frankly, the public,
25 because we are there to be the eyes and ears for

1 the public and getting the information that we
2 need in the performance of our duties.

3 KATE MCGRANN: Circling back to our
4 discussion on maintenance, and we were talking
5 about what informed your belief that the
6 maintenance has been substandard to date. So
7 you've mentioned the first and second
8 derailments on the line, and you mentioned
9 derailments in the yard.

10 Anything else inform your belief that
11 the maintenance has been substandard to date?

12 DIANE DEANS: Well, just, I mean, just
13 perhaps media reports and reports that we
14 received of different problems. I mean, there's
15 just a smorgasbord of things that went wrong
16 with the tracks not being plowed early on, with
17 breaks in the catenary wires, with the door
18 jams.

19 I mean, to a certain extent, I get it.
20 You know, you purchase a new technology and
21 there's going to be wrinkles in it. You buy a
22 new car, same thing. There might be issues.

23 But this, to me, the degree and level
24 and continuousness, if that's a word, of the
25 problems has, sort of, left me to believe that

1 just the maintenance is just substandard.

2 KATE MCGRANN: But in addition to what
3 you have described and what you've seen and
4 experienced on the line, have you been provided
5 with any assessment of the maintenance work done
6 on the line to date, or any reports analyzing
7 the quality of the maintenance provided or
8 identifying any issues with it?

9 PETER WARDLE: I just want to flag,
10 Kate, if I can, that counsel has received
11 privilege reports from Council, including
12 consultants who have been retained directly by
13 our firm in connection with the litigation, and
14 those deal directly with the maintenance issues.
15 So I think, if I can make a suggestion, I think
16 with respect to the work of TRA, that has been
17 -- that's not subject to any privilege, so I
18 don't have a problem with Councillor Deans
19 referring to TRA.

20 But there's certainly, at least, one
21 other consultant I'm aware of who is doing work
22 for the City that counsel has been briefed on
23 in-camera and I just want to be careful about
24 that.

25 DIANE DEANS: Again, it's always hard

1 for me to remember what information that was
2 shared in-camera and was shared in public. I'm
3 looking at the clock. I think we're just about
4 halfway through or getting to that point. So
5 I'm wondering if this would be a reasonable time
6 to take a short break?

7 KATE MCGRANN: Of course, we can take
8 a break. It's 10:13 on my calendar. Shall we
9 come back, is 10:25 okay?

10 DIANE DEANS: Absolutely.

11 -- RECESS TAKEN AT 10:13 A.M.

12 -- RESUME AT 10:24 A.M.

13 KATE MCGRANN: Earlier in our
14 discussion this morning, we've been talking
15 about efforts that you took to try to introduce
16 audits on Stage I of the LRT. And there was one
17 audit that you wanted to come back to after the
18 break, so I just wanted to check with you, was
19 there anything that you wanted to share about
20 that audit?

21 DIANE DEANS: Yeah. That was in 2016.
22 I had, at the audit committee, tried to add to
23 the work plan the notion of continuous auditing,
24 and the auditor had said -- I had indicated at
25 that meeting that I was concerned that

1 LRT-related costs were being buried in other
2 budgets. The auditor said that he felt the
3 scope that I was looking for in terms of
4 auditing was too broad.

5 So at a Council meeting, subsequent to
6 that, I think it was at the year end, I narrowed
7 the scope to auditing around real estate
8 transactions. And that motion lost on a 6 to 18
9 divide.

10 KATE MCGRANN: And what records did
11 you look at to refresh your memory about that?

12 DIANE DEANS: Well, I just -- articles
13 that my staff put together in a binder for me,
14 that just -- just articles, and also reports and
15 things that have been put together in a binder
16 for me just to trigger my memory of things that
17 happened.

18 KATE MCGRANN: Other than your
19 concerns that costs from the Stage I LRT project
20 were being placed or buried in other City
21 projects, were there any other aspects of the
22 project that you were hoping would be subject to
23 an audit or other review that have not been
24 subject to that kind of scrutiny?

25 DIANE DEANS: I mean, pretty much

1 every aspect of it I felt needed to -- the way I
2 view our audit function, our internal audit
3 function is a bit of an early warning system to
4 Council that they're, kind of, watching more of
5 the details on an ongoing basis.

6 So they're, sort of, picking and
7 choosing different aspects whether it be
8 maintenance of the system, whether it be
9 property acquisition. Regardless of what it is,
10 ridership, anything that, you know, they pick
11 and choose different aspects and take a look at
12 and report to Council that, you know, their
13 findings are in accordance with our
14 expectations.

15 So that's why I would -- the notion of
16 continuous auditing that I learned through the
17 original North-South plan seemed, in a project
18 of this magnitude, to be a prudent thing for
19 Council to be requesting. And I honestly could
20 not understand why Council wouldn't want to do
21 that.

22 KATE MCGRANN: Right before the break,
23 we had been talking about maintenance work done
24 on the line. And I had asked you whether you
25 were aware of any reports or analysis or

1 assessment of the maintenance work done, and I
2 will remind you that I'm not looking for any
3 information, any legal advice, or maybe I'll
4 just remind you of your counsel's caution with
5 respect to what is subject to solicitor-client
6 privilege here. But he did note that you could
7 speak about the TRA reports.

8 So what information did you take from
9 the TRA report, if anything, about the quality
10 of the maintenance work that has been done on
11 the system?

12 DIANE DEANS: You know, it's vague in
13 my mind, as well. And it's all, kind of,
14 blurred together what was in-camera and what
15 wasn't, so it's kind of difficult for me.

16 But the TRA, I mean, I think, my sort
17 of high-level assessment of that report, it was
18 a bit vague. And the bottom line, take away for
19 me was that they were suggesting that we needed
20 extra help and there was a commitment that RTM
21 would bring in extra help to address the
22 shortcomings and the maintenance.

23 KATE MCGRANN: So when you say that we
24 needed extra help, who were you referring to
25 when you say "we"?

1 DIANE DEANS: The -- well, the system
2 needed extra help. The maintenance, I think we
3 discussed that before the break in a little bit
4 more detail that the maintenance seemed
5 substandard, that there didn't seem to be the
6 expertise. This certain isn't the local
7 expertise on the ground here. They were
8 bringing people from overseas when we had a
9 problem, and so the TRA assessment was, Yep, we
10 have a problem and we'll bring in extra help.

11 KATE MCGRANN: Did Council receive any
12 regular normal course, I will call it, normal
13 course reporting on the maintenance of the
14 system? And I'll give you an example of what
15 I'm referring to. A sort of monthly report on
16 the maintenance -- the maintainer's ability to
17 meet KPIs from the prior month or a general
18 report and how the maintenance was going.
19 Anything like that?

20 DIANE DEANS: I have to remind you at
21 the very start of our conversation this morning,
22 I indicated to you that I had taken a medical
23 leave of absence. And that medical leave of
24 absence fell exactly at the start of revenue
25 service for LRT. So at the very outset, for the

1 first 11 months of the system, I was on medical
2 leave of absence and was not receiving those
3 reports.

4 So I have a big gap in my knowledge of
5 what was occurring in terms of reporting at the
6 very outset when it was particularly
7 problematic. So I don't think that I'm the best
8 source of that information.

9 KATE MCGRANN: I'm just asking you to
10 speak for the time period since you've returned
11 from your medical leave, what kind of normal
12 course reporting has Council been receiving
13 about the work done by the maintenance team, and
14 whether it is meeting expectations or not.

15 DIANE DEANS: We've had reporting. I
16 couldn't say that it was monthly. It was, I
17 think, slightly more sporadic than that. I
18 think it was probably more quarterly than
19 monthly.

20 And Mr. Manconi, who was the general
21 manager until quite recently, in the interim
22 would send memorandums to members of Council
23 providing information. But I mean, I had a
24 general sense they didn't love coming to
25 Committee or Council and sharing a lot of

1 information.

2 So sometimes when I felt they should
3 have been a meeting where we could probe and ask
4 questions, instead we received a memo where we
5 really could not have that kind of dialogue or
6 the back and forth that I thought was necessary.

7 KATE MCGRANN: So when you say that
8 they didn't love coming to Committee or Council,
9 who are you referring to?

10 DIANE DEANS: Well, that's a good
11 question. I think I'm referring to the senior
12 city management, and I think I'm also referring
13 to the Mayor and his office. I very much see
14 them as a bit of a duo, a dynamic duo that, sort
15 of, control the flow of information to Council.

16 KATE MCGRANN: And with respect to the
17 memos that you and other members of Council were
18 receiving, just so the record is clear, when you
19 say that Mr. Manconi would deliver memos to
20 members of Council, are you referring to the
21 members -- like, the entire Council or specific
22 members of Council?

23 DIANE DEANS: The entire Council.

24 KATE MCGRANN: And you mentioned that
25 the memos as compared to an attendance before

1 Council didn't provide an opportunity for a
2 back-and-forth.

3 Did Council have the opportunity to
4 ask questions of the information provided in the
5 memos and receive answers back?

6 DIANE DEANS: Yes. But you see, I
7 have a problem with that because we are a public
8 organization. We are funded with public
9 dollars. We have a responsibility to be
10 transparent in a public way.

11 And I felt very much that a memo to
12 members of Council where I read something in
13 that memo, I'd pick up the phone and phone
14 Mr. Manconi, the public didn't have the benefit
15 of seeing that exchange or hearing that exchange
16 or informing their views by that exchange. And
17 I think that was purposeful.

18 KATE MCGRANN: It looks like, or I
19 understand that in a conversation with Ottawa
20 Now, which I believe is a radio show, in October
21 of 2021, you expressed concerns that RTM was
22 choosing short-term solutions over long-term
23 fixes.

24 Does that ring a bell for you?

25 DIANE DEANS: Yep.

1 KATE MCGRANN: Can you help me
2 understand the basis for the concern you
3 expressed that RTM was choosing short-term
4 solutions instead of long-term fixes?

5 DIANE DEANS: Yeah. I did so many
6 interviews, I'm just trying to recall. Can you
7 remind me of the dates specifically of that,
8 Kate?

9 KATE MCGRANN: It's October 2021.
10 But, I think, really, what I'm trying to get at
11 is not the conversation that you had in the
12 interview, but more just the view that you
13 expressed at the time and why you had that view.

14 DIANE DEANS: I think that view was
15 formulated over time that more than anything
16 else that I was just increasingly becoming of
17 the view that the quality of the maintenance was
18 not there, that it was not going to be there,
19 that they may be -- you know, there were a lot
20 of things - I probably can't articulate this
21 very well - that went into my thought processes.

22 But, you know, I had been of the
23 opinion that they may be in some financial
24 difficulty at some point because the whole award
25 of the Stage II contract North-South to

1 SNC-Lavalin, sort of, was in my mind part of
2 that, award of that contract was to shore up
3 Phase I because we had withheld milestone
4 payments. And I had been hearing that
5 contractors were working off the -- walking off
6 the job for lack of payment.

7 And I was -- I have, in my mind, that
8 there was some financial issues around that
9 Consortium, and, sure, they were all big
10 companies that probably had deep pockets, but
11 that entity, perhaps didn't.

12 And I was concerned that they were --
13 the maintenance, they weren't hiring more people
14 than they absolutely had to because of financial
15 constraints that they were under. And it was a
16 bit of a chicken and the egg because we're
17 withholding milestone payments because they
18 weren't meeting our requirements. And, yet, by
19 withholding milestone payments, they didn't have
20 the money to pay the workers that they needed to
21 maintain the system. So, I mean, that generally
22 was my overall concern of what was starting to
23 happen.

24 KATE MCGRANN: When you say that you
25 were wondering whether they had financial

1 difficulty, who are you referring to?

2 DIANE DEANS: RTM and RTG.

3 KATE MCGRANN: And other than what you
4 knew about the fact that maintenance payments,
5 certain maintenance payments were not made or
6 were being withheld, what other information lead
7 you to question whether RTM and RTG were
8 experiencing financial difficulty that might be
9 trickling down to the resources they could bring
10 to bare on the maintenance of the system?

11 DIANE DEANS: Well, I had heard, and I
12 had inquired at a FEDCO meeting, I believe it
13 was a FEDCO meeting, if, in fact, there were
14 problems with payments to the subcontractors
15 because I had heard that that was occurring.

16 I can't even tell you who told me that
17 now. But I had heard that at the time that
18 people were leaving for lack of payment. And
19 that really concerned me. So that was really
20 impacting my view. It was also really leading
21 me to worry about awarding a contract to the
22 same group in basically in Stage II. And they
23 changed; in Stage II, they changed to monthly
24 payments from milestone payments, and that
25 struck me that the reason they made that change

1 was in order to get money to RTG, RTM in order
2 that we could shore up Phase I.

3 KATE MCGRANN: I do have some
4 questions about the concept that changes were
5 made in the approach to Phase II in order to
6 shore up Phase I. But before we get there, I
7 just want to finish the conversation about the
8 concerns that you raised at the FEDCO meeting
9 about potential financial difficulties on the
10 part of RTM and RTG.

11 What discussion followed you raising
12 those concerns?

13 DIANE DEANS: It's so hard to remember
14 the details without going back and listening to
15 that tape. But it seems to me that there was a
16 general denial that there were financial
17 difficulties that the City was aware of.

18 I suppose, though, if I'm being really
19 frank about it, I was no longer necessarily
20 taking at face value what I was being told by
21 senior staff anymore because I was at the point
22 where I really felt that Council was not
23 receiving timely and wholesome information.

24 KATE MCGRANN: Would you please -- I
25 know you've just described it. But would you

1 please walk me through -- would you please walk
2 me through what you think may have been part of
3 the motivation with respect to changes made at
4 the approach to Phase II as it relates to
5 potentially shoring up Phase I?

6 DIANE DEANS: Well, I had asked at
7 that meeting about if RTG, RTM if the City was
8 aware of them having any financial difficulties.
9 And I mean, the general answer was no, but that
10 was not what I was hearing on the street, if you
11 will. And then we got to Phase II and the award
12 of that contract.

13 Now, I mean, I know a lot more about
14 the award of that contract today than I did
15 then. But the reality is, and what we all know
16 now is that SNC-Lavalin who's the principal and
17 was the principal here in Phase I as well, was
18 awarded that contract even though they did not
19 meet the technical score of 70 percent, so they
20 should not -- in accordance with the City's own
21 procurement rules, they should not have been
22 passed through to the next stage. They should
23 not have been eligible to win that contract.

24 And what we also know now is that the
25 first score they received was, I think, 62.

1 They were asked by someone from the law firm,
2 and I know, Kate, you didn't ask me to mention a
3 law firm. But they were asked by someone by the
4 law firm of Norton Rose Fulbright to rescore.
5 They rescored, and I think they brought it up a
6 number of points, but they still did not achieve
7 the 70 percent. And then with the benefit of an
8 audit, we found out later that the City had
9 written into the contract a procurement rule
10 that allowed them to pass someone who hadn't met
11 the technical score through to the next round.

12 But that is not even in accordance
13 with the City's own procurement bylaw. The
14 City's own procurement bylaw says you must
15 maintain a base score of 70 percent. And so my
16 contention, for what it's worth, is that if the
17 City was going to change the procurement rules,
18 that should've been a Council decision, and
19 Council should have been informed of that and/or
20 asked to approve that, and we never were.

21 So I mean, all of those things really,
22 kind of, worry me. And in terms of the
23 firewall, I mean, Norton Rose Fulbright also
24 acts for SNC-Lavalin, and they were the ones
25 that were directing the rescoring which seems

1 odd to me as well.

2 So, I think, all of those things are
3 very concerning and it does lead to the
4 questioning of why were we so keen to give a
5 contract in Stage II to someone who had so
6 dismally failed our citizens in Stage I, and
7 especially when there were two other bidders
8 that had met all the technical requirements and
9 has scored quite high.

10 And so I can't help but draw the
11 conclusion that there is a link between what was
12 happening in Stage I and shoring that up by
13 using Stage II dollars, and changing the payment
14 structure from milestone payments to monthly
15 payments in order to advance money into Phase I.

16 PETER WARDLE: Ms. McGrann, I just
17 want to note that I'm not going to stop
18 Councillor Deans from speaking about her views
19 with respect to Stage II. But, obviously, the
20 mandate of the Commission is limited to Stage I.
21 The City is not producing any documents relating
22 to Stage II.

23 And there's a limit, I think, to how
24 far we can go on this topic. So again, I'm not
25 going to stop any questions you may have for

1 Councillor Deans about it. But just to remind
2 about -- there are some limits of the
3 Commission's mandates, and it does not have the
4 mandate to pursue issues relating, for example,
5 to the Stage II procurement.

6 KATE MCGRANN: We've been talking
7 about lot about maintenance and we may come back
8 to it before the end of our time here this
9 morning. But one more question on that topic
10 for now. And I'm going to take you back to the
11 work that the City was doing prior to the
12 procurement of the decision to proceed the
13 design, build, finance, maintain.

14 Do you know whether the City undertook
15 any assessment of what would be required in
16 terms of resources, and otherwise, if the City
17 was to undertake the maintenance of Stage I, LRT
18 in-house or otherwise take responsibility for
19 it?

20 DIANE DEANS: Yeah. I think there was
21 some conversation about the level of expertise
22 that would be required and was perhaps lacking.
23 I mean, we certainly heard that even more
24 recently as I, and probably others, have mused
25 about bringing that maintenance function

1 in-house you still hear, you know, that we don't
2 have the expertise. Well, we don't have it
3 anyway as far as I'm concerned.

4 So the other recollection that I'm
5 having around how the design, build, finance,
6 maintain was sold to Council is that if we give
7 them a maintenance contract and they're invested
8 here for 30 years that they will spend -- they
9 will produce a higher quality product upfront
10 because they're going to have to maintain it.

11 And so, that was one of the sale
12 features that we also heard that, you know, if
13 you build something and then you walk away from
14 it, you are not as invested because it's not
15 your problem. But if you have to maintain it
16 for 30 years and it is your problem, then you're
17 going to get a higher quality product. And that
18 was certainly one of the things that Council was
19 told that we should consider in making that
20 decision.

21 KATE MCGRANN: Sticking with the idea
22 of the City potentially taking on the
23 maintenance responsibilities either directly or
24 through hiring others to work for it, I
25 understand the benefits that were explained to

1 you, including the maintenance in the
2 procurement model.

3 But do you know if the assessment of
4 whether the City could take that responsibility
5 on proceeded to a point where Council received
6 an opinion about whether it was viable
7 financially or practically for the City to
8 continue to look at that option?

9 DIANE DEANS: I can't remember the
10 specifics of that.

11 KATE MCGRANN: Before I move away from
12 this maintenance discussion, Ms. McLellan, do
13 you have any follow-up questions about anything
14 we've discussed?

15 LIZ MCLELLAN: I don't, no.

16 KATE MCGRANN: Moving from the
17 procurement phase into the construction phase,
18 what was your understanding of the City's role
19 in overseeing the construction work being done
20 by RTG or otherwise connected to the
21 construction of Stage I of the audit?

22 DIANE DEANS: Yeah. That -- I mean, I
23 can't really say that I recall the details of
24 how the roles were identified. I know as we
25 went on, City staff were embedded with the

1 proponent in a sort of joint, kind of,
2 structure, sort of, teamwork because, you know,
3 City staff had a role in running this system
4 once we took it over.

5 But in terms of how much oversight --
6 I mean, when they did presentations to the
7 Committee and Council, Mr. Manconi was there, we
8 saw very little of the proponent. I think
9 Mr. Lauch, who was the CEO of RTG, appeared
10 maybe twice. He was -- more sightings of the
11 Loch Ness Monster than him through that project.

12 So he was not put front and centre.
13 Our information was coming from the City staff
14 and so I guess I was left with the impression
15 that they were quite embedded and knowledgeable
16 in what was happening. In terms of oversight, I
17 can't say I specifically have a strong sense of
18 what that relationship was.

19 KATE MCGRANN: When you say that they
20 did presentations to Committee and Council, who
21 are you referring to?

22 DIANE DEANS: Mr. Manconi and his
23 team.

24 KATE MCGRANN: And just for clarity of
25 the transcript when people are looking at it

1 later, when you refer to the proponent, who are
2 you referring to?

3 DIANE DEANS: RTG.

4 KATE MCGRANN: With respect to
5 Mr. Lauch and his communications directed with
6 Council that you made reference to the Loch Ness
7 Monster, did you have an expectation heading
8 into the construction phase of the kind of
9 interactions Council would have with
10 representatives of RTG?

11 DIANE DEANS: Yeah, I think I had an
12 expectation that our partner would be very
13 present to the Board of Directors of the
14 Corporation in the City of Ottawa in the largest
15 project in the City's history. And that was
16 just not happening.

17 KATE MCGRANN: Why did you form that
18 expectation?

19 DIANE DEANS: I guess, just my, sort
20 of, sense of partnership. The word
21 "partnership" seems to imply that there's some,
22 sort of, of equality of knowledge-sharing and
23 understanding and working together, all of those
24 things.

25 And I would think that imparting

1 information to the Board of Directors, which is
2 what City Council is, would be a part of that
3 partnership arrangement. But it wasn't.

4 And it was interesting. There was one
5 committee meeting, it was a FEDCO meeting. It
6 was one of the two that Mr. Lauch attended, and
7 it was one of the times when he came to provide,
8 I think, members of Council with some assurance
9 that the system was going to be ready to be
10 handed over in the near future.

11 And he provided a date to the members
12 of the committee and I got on the speakers list.
13 I think it was 40 minutes into the meeting that
14 when I got onto the speakers list, and my first
15 question was to Mr. Manconi, and I just said,
16 Mr. Manconi -- they were sitting beside each
17 other, and I said to Mr. Manconi, Do you agree
18 that this is an achievable date? And his answer
19 was no.

20 We were 40 minutes into the meeting,
21 and the two of them were presumably partners in
22 this arrangement, and Mr. Lauch came and, you
23 know, provided this information to members of
24 Council and, yet, our general manager of transit
25 in the City of Ottawa sitting next to him and

1 until somebody explicitly asked him the question
2 40 minutes into the meeting that that was the
3 first time he disclosed that he didn't believe a
4 word of it. So it's been frustrating.

5 KATE MCGRANN: What discussion
6 followed your question that elicited
7 Mr. Manconi's response that he did not agree
8 that that date being provided by RTG was
9 achievable?

10 DIANE DEANS: Can you just repeat the
11 beginning of that question?

12 KATE MCGRANN: Yes. Let me put it a
13 different way. That sounds like it was a
14 notable question and answer.

15 What discussion followed that question
16 and answer? Do you agree with RTG's date? Do
17 you agree it's achievable? No. What happened
18 next in the conversation?

19 DIANE DEANS: Yeah, it just more of an
20 explanation of the issues and the timeline and
21 the complexity and, you know, all of those
22 things. And that, I guess, by then, Mr. Manconi
23 had probably seen enough to realize that, you
24 know, at the time RTG was pushing for an RSA
25 date because those were milestone dates in terms

1 of their payments. So they were pushing hard to
2 get to payments. But those dates turned out to
3 be quite unrealistic.

4 KATE MCGRANN: And with respect to
5 RTG's motivation to achieve RSA and that being
6 to obtain a payment, where did you get that
7 information from?

8 DIANE DEANS: That was -- I mean, I
9 can't point to a specific time that someone
10 explained that. But it was the general
11 impression that I had informed from the
12 information that was being provided to members
13 of Council that led me to that conclusion.

14 KATE MCGRANN: Turning back to the
15 frequency that RTG or a representative of RTG,
16 I should say, appeared before Council to discuss
17 the project.

18 At the outset of the project, was
19 there any, sort of, schedule set for RTG
20 appearances before Council, or any expectations
21 created about the number and nature of
22 interactions that Council would have with
23 representatives of RTG?

24 DIANE DEANS: Not to the best of my
25 knowledge. And that perhaps was a shortcoming

1 of on our part that we hadn't established
2 clearly from the outset our expectation in terms
3 of availability to the proponent.

4 KATE MCGRANN: What benefits do you
5 think would have followed more frequent
6 interactions between Council and representatives
7 of RTG?

8 DIANE DEANS: Probably relationship
9 building. I mean, I think that the relationship
10 became very strained, and, you know, if we had
11 done more in terms of building a relationship of
12 trust and understanding at the outset, that
13 probably would have been very useful because as
14 time went on and, you know, all kinds of things
15 happened to create doubt and distrust in our
16 minds, they hadn't built a foundation in terms
17 of a relationship that sustained us.

18 KATE MCGRANN: And how do you think
19 that lack of foundation and the relationship
20 becoming strained has impacted on the Stage I
21 LRT project?

22 DIANE DEANS: I think it's taken it's
23 toll on the City. I think it's taken its toll
24 on the customers. I think our customers are
25 distrusting of our partner. I think it's taken

1 its toll on members of Council individually. I
2 think it's taken its toll on Council as a whole.
3 I think it has taken its toll on senior staff.
4 I think it's been very difficult for our staff
5 in the organization, and we've seen some
6 high-profile turnover in, you know, the real
7 office and then in OC Transpo. And, you know,
8 the senior ranks have turned over throughout
9 this process. I think the entire project has
10 taken its toll individually and collectively on
11 a lot of people.

12 KATE MCGRANN: Other than more
13 frequent interactions between Council and
14 representatives of RTG, is there anything else,
15 sitting here today looking back, that you think
16 could have been done to better build or bolster
17 the relationship between the City and RTG to the
18 benefit of the project?

19 DIANE DEANS: I think auditing could
20 have really helped because I think we could've
21 had an early warning system of problems. I, in
22 hindsight, don't think we should have awarded a
23 long-term maintenance contract to the same
24 organization.

25 I think that we should have built

1 better in-house capacity to be able to address
2 our own issues because ultimately, people that
3 live here and invested in our City are probably
4 people that will pay more attention to the
5 detail. I think financially, too much focus was
6 on the bottom line as opposed to the quality of
7 the product. And, yeah, I think there's a lot
8 of lessons to learn from all of this.

9 KATE MCGRANN: When you refer to
10 building more in-house capacity to address
11 issues, what are you speaking about there?

12 DIANE DEANS: I'm talking about the
13 maintenance of the whole system. I think that
14 we need more people that understand electrified
15 light rapid transit system. I think we need
16 more people with technical skills, engineers,
17 maintenance people. All of those things that
18 can assess a situation and understand our needs
19 and understand our climate and have that
20 intimate knowledge. And I spoke earlier about
21 how well, actually, the North-South line, the
22 one that, until recently, was running had done.

23 But we had a lot of in-house capacity,
24 and, you know, a lot of people really invested
25 in and had pride in that project. And I don't

1 think that when you have a maintenance firm that
2 is based elsewhere that they have the same pride
3 and determination in terms of making sure that
4 the system is running really well.

5 So my conclusion is that if I were
6 doing it again, I would be promoting that we
7 build, maybe, a short-term maintenance contract
8 while we build capacity. But over time, that we
9 build our in-house capacity to maintain our own
10 system.

11 KATE MCGRANN: As the project moved
12 from construction into trial running period and
13 then revenue service availability, handover of
14 the system -- I realize I just covered quite a
15 time period there. So let me focus in a little
16 bit.

17 At the beginning of the trial running
18 period, do you know what I'm referring to?

19 DIANE DEANS: Yes.

20 KATE MCGRANN: At the beginning of the
21 trial running period, what information did
22 Council have about the reliability of the system
23 and the trains heading into that trial running?

24 DIANE DEANS: We were hearing that
25 there were problems. I mean, we were hearing a

1 lot of the same comments early on from
2 Mr. Manconi and the senior managers of the City,
3 that, you know, that 12 days continuing
4 problem-free, uninterrupted running was the,
5 sort of, panacea. And that was our assurance
6 that we're Ready for Rail.

7 And, you know, I was putting a lot of
8 stock in that. I was worried that 12 days of
9 continuous running was not enough because I was
10 hearing from other systems that their continuous
11 run-time programs, in advance of bringing the
12 system into service, was much longer.

13 But having said that, we kept hearing
14 over and over again that, you know, if they
15 could run problem-free at the full capacity on
16 the line in trial run tests for 12 days that we
17 would be prepared to take the system.

18 So that was, for me, the minimum that
19 we should do. But Mr. Manconi was -- he was
20 making big statements about how important this
21 trial run and getting it right and then being
22 problem-free, and, yeah, there were kinks. You
23 know, in the early -- in the early days, they
24 were seeing problems on the line and they were
25 towing trains back, but they were working it out

1 in this 12-day continuing run-time was really
2 the benchmark for us taking the system.

3 KATE MCGRANN: You said you understood
4 that there were problems as you headed into the
5 trial running phase.

6 What problems were you aware of?

7 DIANE DEANS: Oh, gosh. I don't
8 remember if I can remember details of those,
9 Kate. But there were -- there were, you know,
10 issues with trains being towed back or for
11 whatever reason there were problems. I just --
12 I cannot recall the details of what they are
13 other than that I was aware they were occurring.

14 KATE MCGRANN: And you mentioned that
15 you had concerns about, I think, whether 12 days
16 was sufficient based on information that you had
17 heard about the length of the trial running
18 period for other systems. Is that right?

19 DIANE DEANS: That's right.

20 KATE MCGRANN: What other systems are
21 you referring to?

22 DIANE DEANS: I wish I can remember.
23 But I can't. But at the time, I remember
24 hearing that some municipalities would have
25 trial run periods of six months or more. So 12

1 days -- when I was hearing that kind of
2 information, I wondered why did we only pick 12
3 days? Is that really enough? Like, can you
4 fake it for 12 days? I wasn't sure.

5 But, you know, let me just say, like,
6 members of Council are not experts in any of
7 this stuff. So we take at face value a lot of
8 what we are told by our senior staff. And when
9 they told us that this was what absolutely had
10 to happen, and that was the minimum, if we got
11 there, that they would feel that we were ready
12 to take the system. I mean, we took that at
13 face value.

14 KATE MCGRANN: Was there any
15 discussion about extending the length of the
16 trial running period at any point to a longer
17 period?

18 DIANE DEANS: I don't believe there
19 was. Not that I can recall anyway. And because
20 we were concerned that they weren't going to do
21 12. So I don't know, but I just don't recall
22 that.

23 KATE MCGRANN: And a realistic trial
24 running period happens in August 2019, and then
25 you are away from your Council duties for a

1 period of time starting in September. So to the
2 extent that you're unable to answer this
3 question because you weren't there, just let me
4 know. Do I have those dates right? I think I
5 do.

6 What information did Council receive
7 about the results of the trial running?

8 DIANE DEANS: Yeah. Now, I was there
9 because -- I probably can't zero in on the exact
10 words. But Council -- I was in the Council
11 chamber the day that they announced we're taking
12 the system. And I knew enough by then to know
13 that there was a lot of wobble words being used,
14 and then that they had not met that standard,
15 and they had changed the standard by then.

16 It wasn't 12 continuous days, it was
17 Mr. Manconi was satisfied that even though there
18 were some interruptions that, generally
19 speaking, they felt that they had met the
20 spirit. It was that sort of thing, and it's
21 certainly not those words. Those are my words,
22 not theirs.

23 But it was very clear to me that my
24 perception based on what I heard and saw that
25 they could not come and just sit in front of

1 Council and say, Yes, they met the 12 continuous
2 days problem-free of trial running. We never
3 heard those words spoken. And there's was a lot
4 of hedging that was happening in the words.

5 And I sat in the Council chamber. It
6 was a briefing, they had the Ready for Rail, the
7 big key, the -- and I was in the audience
8 watching all of this. And I was just, This
9 isn't ready, and it's being forced open
10 politically. And that was a strong sense that I
11 had that day.

12 KATE MCGRANN: When you say "it was
13 being forced open politically", what do you mean
14 by that?

15 DIANE DEANS: Well, we had had four
16 delays and the public were very frustrated, as
17 was Council, as was the senior staff. Everybody
18 was frustrated. But I think the tolerance level
19 for more delays was getting short. And my
20 personal opinion was, I mean, it was sort of
21 disastrous at this point. But safety trumps
22 everything else.

23 And so, for me, I did not want to
24 accept that key and the responsibility that came
25 with it because risk shifted to the municipality

1 once we took that system. So I didn't want to
2 take that key until we, at the very least, met
3 that minimum standard that had been set, and had
4 been promoted heavily in the years and months
5 prior.

6 And yet, that day, I sat in the
7 Council chamber, it was very, very evident to me
8 that it hadn't been met and, yet, it was being
9 forced open. And then after-the-fact, and, you
10 know, we saw that letter from Mr. Lauch where he
11 expressed concerns that it was being forced open
12 politically, and it's the sense that I had that
13 date sitting in the Council chamber that this
14 was -- this was not ready for prime time. It
15 was not ready to put our customers on.

16 And I actually did not go to the
17 opening because I personally didn't believe that
18 it was ready and I wasn't ready to celebrate a
19 system that I thought was -- should not have
20 been accepted by the City.

21 KATE MCGRANN: Did Council have any
22 opportunity to question the decision to accept
23 the results of the trial running?

24 DIANE DEANS: Yes, we did. That day,
25 we were given an opportunity to ask questions.

1 And certainly afterwards, the media were also
2 asking a lot of questions. But there were no
3 direct answers given. I mean, it was all kind
4 of a shade of grey that, you know, Mr. Manconi
5 was satisfied that they had met the spirit of
6 it.

7 It was not -- it was not an emphatic,
8 They met the 12 days continuing run time, and we
9 are ready for revenue service. It wasn't that.

10 KATE MCGRANN: You've spoken about
11 factors that may have influenced the decision to
12 open or to accept the system: The four prior
13 delays, frustration on the part of the City,
14 City staff, the public, councillors.

15 If you feel you can answer this
16 question, in your view was there -- would the
17 environment, the overall environment at the time
18 have left room to push the revenue service date
19 further into the future to push the full
20 revenues service and open to the public further
21 into the future? Did that option exist?

22 DIANE DEANS: In my view, it
23 absolutely existed. If I had -- if there had
24 been a vote, I would not have voted to accept
25 the system without the guarantee of those 12

1 continuous days. There was not -- a decision
2 was not made by Council based on the evidence to
3 open that system.

4 KATE MCGRANN: Sitting here today, and
5 looking back on how everything unfolded, do you
6 think that there's anything that could have been
7 done to create an environment, overall
8 environment that may have been more receptive to
9 further delay to the opening of the system?

10 DIANE DEANS: I mean, I think it was
11 intestinal fortitude. I mean, I think it was up
12 to Council. I mean, Council ultimately had the
13 responsibility to be the voice of the public,
14 and, frankly, the protectors of the public. And
15 our ultimate responsibility was to ensure the
16 safety and reliability of that system before we
17 accepted it and put it into service. And I
18 think we failed in that duty.

19 And that the vote never came to
20 Council, it was driven through the Mayor's
21 office, at least that's my opinion. It was
22 driven through the Mayor's office, it was driven
23 politically.

24 And I think that his tolerance for
25 another delay just wasn't there. And look, the

1 public were very unhappy. But at the end of the
2 day, safety of the system, safety of our riders,
3 safety of the public has to be the number 1 and
4 even if you have to go back and say, We are
5 sorry, but this is not a system that is ready to
6 accept riders, then we needed to do that. And
7 that's how I felt about it. That's why I didn't
8 attend the opening.

9 KATE MCGRANN: With respect to the
10 operation of the system, and again to the extent
11 you feel you can answer this, sitting where we
12 are today, what is your view on whether the City
13 had the resources it needed in order to operate
14 the system efficiently?

15 DIANE DEANS: I mean, if you're
16 talking about the system meaning the LRT system,
17 I mean, I think they have the resources to
18 operate the system. I don't think we had the
19 resources to operate -- to effectively move our
20 citizens around the city in the absence of a
21 working system.

22 And so, we had gotten -- we had pink
23 slipped, I think, over 300 bus drivers; we had
24 sold off our fleet of buses. And then we found
25 out that the system wasn't working effectively

1 and we were stranding people all over the place,
2 and we were stranding our riders, and people
3 were choosing other options to move around our
4 city.

5 And we are bleeding ridership. People
6 were choosing to purchase bicycles and cars and
7 other modes of transportation, and carpool and
8 Uber and all kinds of things because the system
9 wasn't reliable.

10 So in an overall sense? Yes. In
11 terms of operating that system, we could
12 probably operate the system if it was
13 operational. But the problem was it wasn't
14 always operational.

15 KATE MCGRANN: The Commissioner and
16 Commission has been asked to investigate the
17 commercial and technical circumstances that led
18 to the breakdowns and the derailments on Stage I
19 of Ottawa's LRT system.

20 Are there any other topics or areas
21 that we haven't discussed this morning that you
22 think it would be important for the Commission
23 to look at as part of its investigation?

24 DIANE DEANS: No. Nothing -- nothing
25 comes to mind. I mean, I think you've asked a

1 lot of specific areas that I had most concerns
2 about, problems along the way, sinkholes and
3 stuff like that. But, no. I think, generally
4 speaking, you have covered all of the topics.

5 KATE MCGRANN: And one of the things
6 that the Commissioner has been asked to do is to
7 make recommendations to try to prevent similar
8 issues from happening again.

9 Are there any specific recommendations
10 or areas for recommendation that you think you
11 should consider as part of that work?

12 DIANE DEANS: That's a good question.
13 I think -- I actually think that municipalities,
14 spending public dollars, probably should be
15 looking at, like, using entities like
16 Infrastructure Ontario as opposed to private
17 firms.

18 I'm not sure why that happened in
19 Ottawa in the award of the Stage II contract.
20 But I sense that that was a mistake. And so I
21 would say if the Commissioner looked at the role
22 of Infrastructure Ontario, and if that, you
23 know, is what he should recommend, or they
24 should recommend, we follow in the future, I
25 think that would be an important consideration.

1 I think the structure of these
2 large-scale projects, I think in terms of
3 financing, I think we need to consider how best
4 to cost share into the future, these projects,
5 because I think, ultimately, you know, if we
6 ever did a really deep dive on what this project
7 has cost the City of Ottawa financially, I think
8 it's been far greater than any of us will ever
9 know.

10 So I think, you know, I think we need
11 to understand the impact on the City finances of
12 a project like that going forward.

13 I think looking at the advisability of
14 having long-term maintenance contracts from
15 companies outside might be something worth the
16 Commissioner's time in terms of consideration
17 for how we might protect the public long-term,
18 and insure the system.

19 I mean, maybe more -- maybe more
20 advice on how in terms of technical advice and
21 technical support to municipalities. It was
22 really uncharted water for us when we got into
23 this and we don't think in-house we had enough
24 expertise to deal with the project of this
25 magnitude on a lot of fronts.

1 But even in terms of setting up the
2 project conditions, and all of that, we probably
3 needed more help than we had in terms of
4 understanding how we get the best value for
5 money in the end.

6 I really think the way we set up the
7 project was almost set up to fail in that we
8 award the contract, the private sector proponent
9 chooses the component parts. Like, we didn't
10 have any say in the choice of the trains or any
11 of that, that we're going to operate here, and
12 the quality of the vehicles that the vehicles
13 were, you know, the right technology for our
14 winter city. All of those things.

15 We probably didn't have the expertise,
16 but we also didn't have a say because he handed
17 it all over to the private partner. And my
18 sense is that a private company like that are
19 driven by their bottom-line.

20 And so even though, you know, the
21 belief in what counsel was told by our own staff
22 is, Well, they're going to maintain this for a
23 long time, you know, they're going to pick
24 quality parts. That didn't happen. So there's
25 some lessons certainly to be learned in terms of

1 all of that.

2 KATE MCGRANN: Ms. McClellan, do you
3 have any follow-up question based on our
4 discussions this morning?

5 LIZ MCLELLAN: I don't, no.

6 KATE MCGRANN: Mr. Wardle, do you have
7 any questions for the witness?

8 PETER WARDLE: No, thank you.

9 KATE MCGRANN: Well, that brings my
10 questions this morning to an end. Thank you
11 very much for your time.

12 DIANE DEANS: And thank you very much
13 for your work on this file. I appreciate the
14 opportunity.

15 Concluded at 11:23 A.M.

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REPORTER'S CERTIFICATE

I, LEILA HECKERT, CVR, Certified
Verbatim Reporter, certify;

That the foregoing proceedings were
taken before me at the time and date therein set
forth;

That the statements of the presenters
and all comments made at the time of the meeting
were recorded digitally by me;

That the foregoing is a certified
transcript of my shorthand notes so taken.

Dated this 14th day of April, 2022.



PER: LEILA HECKERT
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WORD INDEX

< \$ >

\$2.1 34:20
\$600 33:2

< 1 >

1 3:3 7:21, 24,
25 90:3
10:13 55:8, 11
10:24 55:12
10:25 55:9
11 60:1
11:23 1:16
95:15
12 82:3, 8, 16
83:15, 25 84:2,
4, 21 85:16
86:1 88:8, 25
12-day 83:1
14th 1:8, 15
96:15
18 56:8
1994 6:19 7:5

< 2 >

2 7:23
2.1 33:6
2009 5:15 13:2
2010 8:7 12:15
13:2
2014 8:7
2016 55:21
2018 12:13, 15
2019 7:6 84:24
2020 7:7
2021 62:21 63:9
2022 1:8, 16
96:15
29 13:3

< 3 >

30 71:8, 16
300 90:23
30-year 29:3, 5
33(6) 5:14
33(7) 6:3

< 4 >

40 75:13, 20
76:2

< 5 >

5 6:6

< 6 >

6 56:8
600 32:15
62 67:25

< 7 >

7 3:3
70 67:19 68:7,
15

< 9 >

9:00 1:16 4:1

< A >

a.m 1:16 4:1
55:11, 12 95:15
abandoned
20:20 21:13
ability 18:1
26:12 59:16
absence 7:6
59:23, 24 60:2
90:20
Absolutely 20:1
55:10 64:14
84:9 88:23
accept 86:24
87:22 88:12, 24
90:6
accepted 87:20
89:17
access 16:8, 10
account 32:20
achievable
75:18 76:9, 17
achieve 13:13
32:8, 9 68:6
77:5
acquisition
22:17 38:19
57:9
acquisitions
22:9
acronyms 12:3
Act 5:15 6:4, 6
10:20 26:16
27:4
acted 17:20
acts 68:24
actual 37:22
49:9
add 55:22
added 28:15, 17

adding 28:10
33:1
addition 24:16
51:3 54:2
additional 33:3
address 40:24
41:2 44:23
58:21 80:1, 10
addressed 30:20
adjustments
41:8
advance 7:8
69:15 82:11
advice 16:4, 9
18:1, 8, 10 58:3
93:20
advisability
93:13
advised 6:4
advisors 11:3
47:21
AFFIRMED 4:2
affordability
28:11, 25 30:9
after 5:1 39:19
49:14 55:17
aftermarket
40:11
after-the-fact
87:9
ago 14:11
agree 75:17
76:7, 16, 17
agreement
28:22
ahead 40:9
allowed 68:10
Alstom 39:2
amount 15:15
25:24 26:5, 18
51:8
analysis 57:25
analyzing 54:6
and/or 41:23
68:19
anecdotal 47:11
announced
85:11
answering 21:17
answers 62:5
88:3
anticipated 36:8
37:1
anymore 17:16
21:21 66:21

anyway 71:3
84:19
apart 17:4
apparently
37:15
appearances
77:20
appeared 73:9
77:16
appended 5:13
39:14 40:2
applies 18:6
appreciate 95:13
apprised 10:4
approach 14:23
21:12 37:19
66:5 67:4
approve 68:20
APRIL 1:8, 16
96:15
area 43:21
areas 13:12
16:12 23:6
91:20 92:1, 10
arrangement
75:3, 22
arrangements
22:16
articles 56:12,
14
articulate 63:20
aside 35:2
asked 5:17 7:9
57:24 67:6
68:1, 3, 20 76:1
91:16, 25 92:6
asking 18:8
20:10, 16 22:19
25:2 34:25
60:9 88:2
aspect 57:1
aspects 22:1, 9
23:7 45:10
48:1 56:21
57:7, 11
assess 80:18
assessment
54:5 58:1, 17
59:9 70:15 72:3
assist 11:3
associated
31:11
assuming 31:13
assurance 75:8

82:5
assured 27:9
attend 90:8
attendance
61:25
attended 51:15
75:6
attending 1:15
attention 80:4
audience 86:7
audit 23:12, 20,
22 24:8 25:16
55:17, 20, 22
56:23 57:2
68:8 72:21
audited 23:7
auditing 21:23,
25 22:20 23:4
24:12 25:9
55:23 56:4, 7
57:16 79:19
auditor 23:20,
22 24:3 55:24
56:2
audits 24:1, 4,
15, 17 55:16
August 84:24
authority 9:24
14:16, 18, 19, 23
15:6
availability 78:3
81:13
available 25:24
26:5
award 9:18
17:8 37:12
63:24 64:2
67:11, 14 92:19
94:8
awarded 8:21
67:18 79:22
awarding 65:21
aware 33:22, 24
36:2 40:23
54:21 57:25
66:17 67:8
83:6, 13
axil 29:12 49:5

< B >
back 8:24 9:8
12:16, 17 16:17
23:10, 15 25:19
36:10 38:2
53:3 55:9, 17

61:6 62:5 66:14 70:7, 10 77:14 79:15 82:25 83:10 89:5 90:4 back-and-forth 62:2 background 6:16 bad 43:2 balanced 37:19 bare 65:10 Barrhaven 13:4 barriers 16:7 base 68:15 based 27:22 29:11 81:2 83:16 85:24 89:2 95:3 basically 31:14 45:24 65:22 basis 5:6 24:15 42:8 57:5 63:2 bearing 45:20 becoming 22:25 63:16 78:20 beginning 76:11 81:17, 20 belief 11:21 24:16 42:8 44:10, 15 48:23 52:16 53:5, 10 94:21 believe 6:23 11:16, 24 12:11 13:2 14:6 17:6, 13 27:6 28:15 34:24 43:22 46:5 52:23 53:25 62:20 65:12 76:3 84:18 87:17 believed 17:4 bell 62:24 belt 38:16 benchmark 83:2 benefit 11:18 29:25 62:14 68:7 79:18 benefits 30:13 71:25 78:4 best 29:21 60:7 77:24	93:3 94:4 Betsy 2:7 better 9:21 10:12 13:14 41:9 50:12 79:16 80:1 bicycles 91:6 bidders 69:7 big 11:12 17:14 60:4 64:9 82:20 86:7 bill 17:25 billed 31:21 billion 34:20 bills 27:1 binder 56:13, 15 bit 8:5 14:14 17:25 36:6 49:25 57:3 58:18 59:3 61:14 64:16 81:16 bleeding 91:5 blocked 26:24, 25 blurred 58:14 board 34:10 74:13 75:1 Bob 13:7 bolster 79:16 borne 32:1 33:4 bottom 27:8 33:12 39:14 58:18 80:6 bottom-line 94:19 box 39:13 40:2, 22 brand-new 20:23 breadth 24:7 break 6:11, 13 25:18 29:12 49:5 55:6, 8, 18 57:22 59:3 breakdown 44:20 breakdowns 42:17 91:18 breaks 53:17 breed 52:11 briefed 54:22 briefing 86:6	bring 11:2 58:21 59:10 65:9 bringing 16:3 34:10 59:8 70:25 82:11 brings 95:9 broad 56:4 brought 16:13 34:22 45:18 68:5 budget 31:16, 18 32:6, 8 33:11, 14, 20 34:23 35:8, 25 36:4, 12, 15, 22 45:4 budgets 31:20 34:19 56:2 build 28:7, 14, 16 30:4 34:16 37:5, 22 70:13 71:5, 13 79:16 81:7, 8, 9 building 20:23 43:13 78:9, 11 80:10 built 40:12 78:16 79:25 bulb 20:4 bump 22:5 bumping 46:24 47:7 buried 56:1, 20 burying 34:18 bus 90:23 buses 90:24 busy 17:14 buy 40:11 45:6 53:21 buying 29:16 bylaw 68:13, 14 < C > calendar 55:8 call 12:14 59:12 Canada 6:6 cancelled 8:23 13:1 52:6, 10, 15 cap 30:9 capacity 17:25 42:16 80:1, 10, 23 81:8, 9 82:15 car 39:15 40:2	53:22 careful 54:23 carpool 91:7 carried 13:22 14:7 carry 13:11 cars 91:6 catenary 40:17 53:17 caused 40:22 caution 58:4 celebrate 87:18 centre 49:22 73:12 centred 19:5 CEO 73:9 certain 4:15 29:20 53:19 59:6 65:5 certainly 24:9, 25 26:17 31:9 33:24 37:11 41:18 49:21 54:20 70:23 71:18 85:21 88:1 94:25 certainty 13:25 14:10 CERTIFICATE 96:1 Certified 96:3, 12, 21 certify 96:4 Chair 8:18 11:6 52:5 Chairperson 8:8 chairs 19:8 challenging 8:11, 15 9:6 chamber 85:11 86:5 87:7, 13 change 15:5, 11, 13, 15 18:14 21:12 49:12 50:25 51:8, 23 65:25 68:17 changed 17:2 23:21 65:23 85:15 changer 11:13, 21 changes 66:4 67:3 changing 69:13	channel 19:15 charge 15:2, 22 charges 35:12 check 27:21 55:18 Chiarelli 8:21 9:20 12:24 13:7 15:7 20:13 21:22 chicken 64:16 choice 94:10 choose 57:11 chooses 94:9 choosing 57:7 62:22 63:3 91:3, 6 chosen 31:2 chronologically 27:19 Circling 53:3 circumstances 91:17 cities 39:8 citizens 69:6 90:20 CITY 1:7 2:6 6:18 8:10 9:24 10:1, 7 11:11, 14, 18 13:1, 6, 8 14:1, 2, 3 15:25 16:5 18:3, 10 21:16 22:12 29:22 30:14 31:8, 10 32:9 33:6 35:2, 17, 19 38:4, 8, 15 43:9, 17 44:7 47:21, 25 48:8, 11 51:5 54:22 56:20 61:12 66:17 67:7 68:8, 17 69:21 70:11, 14, 16 71:22 72:4, 7, 25 73:3, 13 74:14 75:2, 25 78:23 79:17 80:3 82:2 87:20 88:13, 14 90:12, 20 91:4 93:7, 11 94:14 City's 13:19 19:12 31:6 67:20 68:13, 14
--	--	---	--	--

<p>72:18 74:15 civil 5:20 clarify 7:2 18:13 clarity 73:24 Class 32:18 clear 40:12 51:25 61:18 85:23 clearly 15:3 35:8 78:2 climate 39:23 40:1, 5 80:19 clock 55:3 close 17:20 closer 24:24 co-counsel 4:14 Co-Lead 2:2 4:5 collaborative 4:13 colleague 27:21 collectively 79:10 comb 34:4 come 9:8 11:18 25:1, 19 36:10 41:25 46:19 51:19 55:9, 17 70:7 85:25 comes 91:25 comfortable 21:9 coming 40:8 48:25 60:24 61:8 73:13 commenced 4:23 commencement 14:4 commencing 4:1 comments 82:1 96:10 commercial 91:17 COMMISSION 1:6 2:1 4:19 8:8, 14, 18 9:4, 10 11:6 19:3 50:2 51:12, 16 52:5 69:20 91:16, 22</p>	<p>Commissioner 91:15 92:6, 21 Commissioner's 93:16 Commission's 4:11, 20, 25 5:5 70:3 commitment 58:20 Committee 12:5 18:18, 25 19:7 55:22 60:25 61:8 73:7, 20 75:5, 12 communication 15:3 communications 74:5 community 11:13 companies 64:10 93:15 company 29:5 94:18 comparators 43:4 compared 14:24 26:1 36:22 44:1 61:25 comparison 43:24 44:5 completed 35:4 complexity 37:3 76:21 component 30:4, 14, 19 31:1 94:9 components 38:10, 13 concept 35:23 66:4 concern 63:2 64:22 concerned 55:25 64:12 65:19 71:3 84:20 concerning 69:3 concerns 32:6 56:19 62:21 66:8, 12 83:15 87:11 92:1 concluded 10:7 95:15</p>	<p>conclusion 69:11 77:13 81:5 conditions 38:17, 24 39:3, 5 40:16, 20 41:14 94:2 conduct 24:1 Confed 48:14 Confederation 9:18 10:7 11:1 14:5 22:2 42:21 48:21 confidence 27:15 52:12 confident 49:3 confidential 5:6 configured 45:23 connected 72:20 connection 54:13 consecutive 6:19 7:4 consecutively 7:4 consider 71:19 92:11 93:3 considerable 9:23 consideration 40:9 92:25 93:16 Consortium 64:9 constraints 64:15 constructed 39:17 construction 43:10 46:21 72:17, 19, 21 74:8 81:12 consultant 54:21 consultants 54:12 contention 68:16 continue 18:1 72:8 continuing 82:3 83:1 88:8 continuous 21:23 22:20</p>	<p>23:4 55:23 57:16 82:9, 10 85:16 86:1 89:1 continuousness 53:24 contract 8:22 9:18 17:8 28:24 29:3, 5 37:6, 21 44:19 63:25 64:2 65:21 67:12, 14, 18, 23 68:9 69:5 71:7 79:23 81:7 92:19 94:8 contractors 64:5 contracts 19:16 37:12 93:14 contrasted 19:19 contributed 36:15 contributions 32:16 control 61:15 conversation 15:20 18:7 48:20 59:21 62:19 63:11 66:7 70:21 76:18 conversations 28:9 30:23 32:12 42:6 47:25 convinced 15:9 Convoy 49:23 copy 7:10, 21 core 13:6 31:10 corner 22:12 corners 33:14, 16, 20, 22 35:23 36:2 45:2, 5 Corporation 74:14 corralling 47:6 correct 5:9 6:22 10:22 12:6 26:8 51:2 corrections 5:1, 4, 12 correctly 25:23 cost 31:14, 25 36:22 93:4, 7</p>	<p>costing 36:21 costly 37:1 costs 32:24 33:1, 3 34:19 56:1, 19 could've 79:20 Council 6:17, 18 9:14, 17, 22 10:1, 8, 14, 17, 18 11:19 12:23 14:12, 22 15:4, 12, 14 19:19, 24 20:9 21:2, 4, 18 22:15 23:2 24:24 25:4, 6, 11, 14, 24 26:6, 15, 21, 23, 24 27:5 28:9, 23 29:1 31:21 35:1 38:21 51:12 52:23 54:11 56:5 57:4, 12, 19, 20 59:11 60:12, 22, 25 61:8, 15, 17, 20, 21, 22, 23 62:1, 3, 12 66:22 68:18, 19 71:6, 18 72:5 73:7, 20 74:6, 9 75:2, 8, 24 77:13, 16, 20, 22 78:6 79:1, 2, 13 81:22 84:6, 25 85:6, 10 86:1, 5, 17 87:7, 13, 21 89:2, 12, 20 Councillor 4:4 9:13 51:6 54:18 69:18 70:1 councillors 88:14 Council's 8:10 26:12 COUNSEL 2:1, 2, 3 4:5, 16 5:6 7:9 18:9 54:10, 22 94:21 counsel's 58:4 countries 39:4 couple 23:3 course 24:7 49:22 55:7 59:12, 13 60:12</p>
---	--	--	---	---

covered 81:14
92:4
create 78:15
89:7
created 77:21
crosstown 43:12
Crown 5:21
cry 50:8
current 7:1
currently 7:12
Curriculum 3:3
7:25
customers
78:24 87:15
cut 33:15, 16,
20, 21, 23 35:24
36:3 45:2, 5
CV 7:10, 21
CVR 96:3

< D >

date 29:9
36:11 48:21
53:6, 11 54:6
75:11, 18 76:8,
16, 25 87:13
88:18 96:7
Dated 96:15
dates 63:7
76:25 77:2 85:4
day 1:15 22:11
85:11 86:11
87:6, 24 90:2
96:15
days 82:3, 8, 16,
23 83:15 84:1,
3, 4 85:16 86:2
88:8 89:1
day-to-day 15:4,
9 16:4 47:20
deal 54:14
93:24
DEANS 1:7 2:6
3:3 4:2, 4 6:9,
14, 22 7:1 8:1,
10, 16 9:15
12:1, 6, 9, 16, 18
13:3, 16, 24
15:1, 18 16:1,
15, 24 18:15, 20
19:1 20:1
21:15 23:9, 19
24:20 25:13
26:3, 8, 14 28:8
30:11, 16, 22

31:3 32:11
33:24 34:24
36:5, 17, 24
38:12, 25 40:6
41:1 42:1, 11
43:7 44:3, 8, 13,
18 46:16 47:24
48:12, 14, 24
49:16 50:23
51:2, 10 52:4,
19 53:12 54:18,
25 55:10, 21
56:12, 25 58:12
59:1, 20 60:15
61:10, 23 62:6,
25 63:5, 14
65:2, 11 66:13
67:6 69:18
70:1, 20 72:9,
22 73:22 74:3,
11, 19 76:10, 19
77:8, 24 78:8,
22 79:19 80:12
81:19, 24 83:7,
19, 22 84:18
85:8 86:15
87:24 88:22
89:10 90:15
91:24 92:12
95:12
Deasy 2:13
debt 35:15, 16
decision 11:1
14:20 21:1
68:18 70:12
71:20 87:22
88:11 89:1
decision-making
21:6
decisions 10:19
13:19 19:5
20:12, 19 21:9
24:22 28:1, 5
33:25 45:6
declaration 4:11
decrease 50:20
decreased
24:18 26:7
deemed 5:16
deep 64:10
93:6
deficiencies
41:3
definitely 26:9

degree 13:25
14:10 53:23
delay 89:9, 25
delayed 35:2
52:11
delays 9:2
43:12 86:16, 19
88:13
delegate 14:15
delegated 9:23
14:19 15:6
delegation
14:18, 23
deliver 61:19
delivery 28:3, 5,
6 30:15
denial 66:16
department
23:12, 21 24:3, 6
dependent
50:14
depth 24:7 46:7
deputy 24:3
derailment
45:24 48:25
49:15
derailments
29:10 49:6
53:8, 9 91:18
describe 9:11
45:16
described 8:13,
16 47:3, 17
54:3 66:25
DESCRIPTION
3:2
design 28:6, 14,
16 30:4 37:5
70:13 71:5
detail 45:21
59:4 80:5
details 21:18
23:14 57:5
66:14 72:23
83:8, 12
determination
81:3
Development
12:5 35:12
dialogue 61:5
DIANE 1:7 2:6
3:3 4:2 6:9, 14,
22 7:1 8:1, 10,
16 9:15 12:1, 6,
9, 16, 18 13:3,

16, 24 15:1, 18
16:1, 15, 24
18:15, 20 19:1
20:1 21:15
23:9, 19 24:20
25:13 26:3, 8,
14 28:8 30:11,
16, 22 31:3
32:11 33:24
34:24 36:5, 17,
24 38:12, 25
40:6 41:1 42:1,
11 43:7 44:3, 8,
13, 18 46:16
47:24 48:12, 14,
24 49:16 50:23
51:2, 10 52:4,
19 53:12 54:25
55:10, 21 56:12,
25 58:12 59:1,
20 60:15 61:10,
23 62:6, 25
63:5, 14 65:2,
11 66:13 67:6
70:20 72:9, 22
73:22 74:3, 11,
19 76:10, 19
77:8, 24 78:8,
22 79:19 80:12
81:19, 24 83:7,
19, 22 84:18
85:8 86:15
87:24 88:22
89:10 90:15
91:24 92:12
95:12
diesel 42:14
different 13:14
14:22 16:6
22:9 42:14
45:10 48:1
53:14 57:7, 11
76:13
differently 13:13
difficult 46:3
58:15 79:4
difficulties
43:15 66:9, 17
67:8
difficulty 9:2
63:24 65:1, 8
digging 34:11
digitally 96:11
diminished 24:4
50:10

diminishing
10:13
direct 88:3
directed 74:5
directing 68:25
directions 24:14
directly 47:22
54:12, 14 71:23
Directors 74:13
75:1
disastrous
86:21
discernible
15:11
disclosed 76:3
discourse 51:19,
23 52:1
discuss 77:16
discussed
15:14 27:23
59:3 72:14
91:21
discussion
15:17 19:16
28:21 30:3, 18
31:4 32:7
35:23 43:21
53:4 55:14
66:11 72:12
76:5, 15 84:15
discussions
19:5 30:6, 12,
25 38:14 95:4
dismally 69:6
disruptions
42:18
distrust 78:15
distrusting
78:25
dive 93:6
divide 56:9
document 7:13,
15, 19
documents
69:21
doing 21:17
47:3 54:21
70:11 81:6
dollars 9:5
26:18 62:9
69:13 92:14
door 53:17
doors 40:18
doubt 78:15

<p>downtown 31:10 34:1 dragging 39:15 draw 69:10 driven 89:20, 22 94:19 driver 19:2 drivers 90:23 driver's 19:9 driving 33:13 37:12, 17 40:3, 22 dry-waller 47:5 due 40:22 duo 61:14 duties 10:10 26:15 53:2 84:25 duty 10:16, 17, 19 20:7 26:16 27:6 89:18 dynamic 61:14</p> <p>< E > earlier 19:18 48:19 55:13 80:20 early 11:7 20:18 32:14, 16 39:15 53:16 57:3 79:21 82:1, 23 ears 52:25 easier 8:5 Economic 12:5 Edmonton 43:7, 8 44:6 effectively 90:19, 25 effects 49:13 efficiently 90:14 effort 41:2 efforts 40:23 55:15 egg 64:16 eighth 6:20 elected 7:3 election 6:24 8:23 28:2 electrician 47:5 electrified 42:23 44:22 80:14 elements 13:11 14:7 16:3 36:20</p>	<p>elicited 76:6 eligible 67:23 eliminated 17:10 34:2 elimination 35:25 Elizabeth 2:13 embarrassing 43:19 embedded 72:25 73:15 emerged 31:16 emphatic 88:7 encounter 47:20 engineer 39:12 engineers 29:19 45:18, 25 46:13 80:16 enhanced 49:9 ensure 89:15 ensuring 20:23 37:19 enter 4:19 entered 5:1, 7, 11 7:23 enthusiasm 11:20 entire 7:15 61:21, 23 79:9 entities 92:15 entity 64:11 environment 88:17 89:7, 8 equality 74:22 eroding 27:16 errors 5:10 escalated 32:23, 24 especially 51:14 52:7 69:7 establish 5:19 established 78:1 estate 56:7 estimates 32:18, 19 estimation 17:23 Everybody 86:17 evidence 4:10, 20 5:2, 7, 11, 24 6:2, 6 52:2 89:2 evident 87:7 exact 20:4 85:9 exactly 23:10 59:24</p>	<p>example 38:11 45:13 59:14 70:4 examples 23:8 exchange 62:15, 16 excitement 11:9 exercise 13:9 Exhibit 7:24, 25 EXHIBITS 3:1 exist 88:21 existed 88:23 expectation 26:19 74:7, 12, 18 78:2 expectations 57:14 60:14 77:20 experience 8:17 9:3, 17 39:3 42:15, 19, 21 43:2, 18, 25 44:1, 11 experienced 54:4 experiencing 65:8 expert 41:12, 15 expertise 16:6, 9, 12 29:14 46:6 59:6, 7 70:21 71:2 93:24 94:15 experts 29:17, 18, 21 84:6 explain 8:13 explained 40:1 71:25 77:10 explaining 12:3 21:20 explanation 76:20 explicitly 15:14 76:1 expound 16:19 expressed 62:21 63:3, 13 87:11 extending 84:15 extent 29:20 42:25 53:19 85:2 90:10 extra 24:2 58:20, 21, 24</p>	<p>59:2, 10 eyes 52:25</p> <p>< F > face 29:23 66:20 84:7, 13 fact 17:20 24:16 52:1, 14 65:4, 13 factor 37:12, 17 factors 36:14, 20 51:4 88:11 fail 94:7 failed 8:19 46:2 69:6 89:18 fair 44:12 47:23 fairly 48:2 fake 84:4 falls 46:14 fare 9:1 fashion 44:24 Fast-forward 17:8 father-and-son 45:15, 18 father-son 46:13 favour 17:10 features 71:12 FEDCO 11:25 12:8, 11, 20 19:1, 7, 8, 14, 22, 23 21:3 65:12, 13 66:8 75:5 FEDCO's 18:17, 23 feedback 50:21 feel 16:15, 19 17:24 19:23 27:9 49:2 50:3 84:11 88:15 90:11 feeling 11:10 fell 59:24 felt 14:12 21:7 56:2 57:1 61:2 62:11 66:22 85:19 90:7 fewer 50:5 file 95:13 finance 28:7, 14, 17 30:4 37:5 70:13 71:5 finances 93:11 Financial 12:4 31:11 45:3</p>	<p>63:23 64:8, 14, 25 65:8 66:9, 16 67:8 financially 45:5 72:7 80:5 93:7 financing 31:1 93:3 find 25:16 finding 9:5 findings 57:13 fine 34:4 finish 35:22 66:7 fireproof 17:22 firewall 17:22 68:23 firm 18:5 54:13 68:1, 3, 4 81:1 firms 92:17 first-hand 41:16 fixed 33:2 fixes 49:8, 10 62:23 63:4 flag 54:9 fleet 90:24 flow 15:11 30:13, 18 61:15 focus 37:5, 7 51:13 80:5 81:15 focused 17:15 19:4 32:12 33:12 foggy 40:17 follow 92:24 followed 66:11 76:6, 15 78:5 following 39:24 follow-up 4:16 23:3 72:13 95:3 forced 86:9, 13 87:9, 11 foregoing 96:6, 12 forget 43:11 form 74:17 former 23:22, 23 forming 48:23 formulated 63:15 forth 61:6 96:8 fortitude 89:11 forward 13:11, 22 14:7, 16 15:8 20:3 93:12</p>
---	---	--	--	--

<p>found 29:8 68:8 90:24 foundation 78:16, 19 frank 66:19 frankly 42:12 43:19 46:18, 25 52:24 89:14 fraught 9:2 43:15 Freedom 49:23 freely 52:13, 17 frequency 77:15 frequent 78:5 79:13 friend 46:20 front 49:22 50:1 73:12 85:25 fronts 93:25 frustrated 86:16, 18 frustrating 76:4 frustration 88:13 Fulbright 17:10, 17, 19 68:4, 23 full 10:22 82:15 88:19 fully 9:22 10:4 39:6 fulsome 10:22 function 23:12, 13, 16 57:2, 3 70:25 fundamental 20:22, 25 27:2 35:6 fundamentally 41:4, 5 fundamentals 39:20 41:20 funded 35:19 62:8 future 75:10 88:19, 21 92:24 93:4 fuzzy 23:15</p> <p>< G > game 11:13, 21 gap 60:4 gate 10:6 general 11:8 28:22 59:17 60:20, 24 66:16</p>	<p>67:9 75:24 77:10 generally 9:10 26:10 64:21 85:18 92:3 give 4:8 16:16 23:7 59:14 69:4 71:6 given 5:8, 22 38:21 40:9 87:25 88:3 giving 6:2 24:11 Good 4:3 10:19 42:12, 15, 19 61:10 92:12 goods 17:25 gosh 83:7 governments 32:14, 25 great 29:4 45:21 greater 93:8 grey 88:4 ground 5:18 32:22 59:7 group 46:14 65:22 guarantee 31:14 32:4 88:25 guaranteed 31:25 guaranteeing 31:18 guarantees 32:13 guess 15:18 16:1 42:20, 24 73:14 74:19 76:22</p> <p>< H > halfway 55:4 hand 44:23 handed 75:10 94:16 handover 81:13 happen 14:20 43:1 64:23 84:10 94:24 happened 13:17 15:19 21:24 27:16 37:9</p>	<p>56:17 76:17 78:15 92:18 happening 10:4, 24 19:6 27:11 40:19 47:8, 14 49:20 50:5 69:12 73:16 74:16 86:4 92:8 happens 52:7 84:24 hard 33:13 38:25 49:2 54:25 66:13 77:1 head 16:19 headed 38:4 83:4 heading 8:7 74:7 81:23 hear 29:20 49:3 50:7 71:1 heard 41:11 49:7 65:11, 15, 17 70:23 71:12 83:17 85:24 86:3 hearing 4:21, 22 22:3, 8, 11 23:24 36:8 48:6 62:15 64:4 67:10 81:24, 25 82:10, 13 83:24 84:1 hearings 4:12, 21 heavily 87:4 Heckert 2:12 96:3, 20 hedging 86:4 Held 1:14 help 18:1 42:7 48:22 58:20, 21, 24 59:2, 10 63:1 69:10 94:3 helped 79:20 helpful 17:5 25:20 hidden 23:1 high 32:19 49:24 69:9 higher 50:9 71:9, 17 high-level 58:17 highlight 8:5 highlighted 8:9</p>	<p>high-profile 49:24 79:6 hindsight 29:3 30:1 79:22 hired 24:2 hiring 64:13 71:24 history 19:12 35:17 74:15 home 47:3 honestly 57:19 hook 33:7 hopeful 11:15 hopefully 27:18 hoping 32:9 56:22 hour 50:14 How's 25:19 hue 50:8 huge 17:11, 18 22:7 44:19 46:22</p> <p>< I > idea 20:21 71:21 identified 30:7 48:11, 16 72:24 identify 13:10, 12 identifying 34:14 54:8 II 17:9 20:16 37:11, 13 48:16 52:20, 21 63:25 65:22, 23 66:5 67:4, 11 69:5, 13, 19, 22 70:5 92:19 imagination 43:17 impact 26:11 93:11 impacted 78:20 impacting 65:20 imparting 74:25 imply 74:21 important 82:20 91:22 92:25 impression 10:5, 11 26:9 35:9 41:4 42:5 73:14 77:11 improperly</p>	<p>45:12 improved 52:2 improvement 49:12 in-camera 9:25 54:23 55:2 58:14 including 30:3, 6, 14, 19, 25 54:11 72:1 increasingly 22:25 24:21 63:16 incriminate 5:19 in-depth 29:19 INDEX 3:1 indicated 20:18 55:24 59:22 individually 79:1, 10 inflationary 33:1 influenced 88:11 inform 24:8 52:16 53:10 information 4:8 8:3 10:2, 9, 15, 21, 23 14:14 15:4, 11, 16 16:8 18:12 19:6, 15, 20, 24 20:2, 6, 9 22:15, 24 23:1 25:1, 6, 24 26:5, 12, 24 27:13, 14 38:22 41:24 44:14 47:11 48:6, 23 49:19 50:17 51:4, 9 52:9, 13, 17, 24 53:1 55:1 58:3, 8 60:8, 23 61:1, 15 62:4 65:6 66:23 73:13 75:1, 23 77:7, 12 81:21 83:16 84:2 85:6 informed 9:19 20:14 21:4 26:20 44:10 50:4 53:5 68:19 77:11 informing 44:15 62:16</p>
--	--	---	---	--

Infrastructure 11:2 15:2, 24 16:7, 13, 23 17:5, 6, 9 18:2 19:11 35:18 37:22 43:14 92:16, 22 in-house 70:18 71:1 80:1, 10, 23 81:9 93:23 inquired 65:12 Inquiries 5:15 Inquiry 4:6 5:16, 23 instance 5:21 instructions 24:14 insure 93:18 integrator 46:23 47:2 intends 4:19 intention 7:2 interactions 74:9 77:22 78:6 79:13 interest 29:7 31:6 interesting 75:4 interim 60:21 internal 21:5 57:2 interruptions 85:18 intervene 4:14 interview 4:9, 14, 17, 18 6:11 7:9 63:12 interviews 63:6 intestinal 89:11 intimate 80:20 introduce 25:9 55:15 introducing 8:25 invested 71:7, 14 80:3, 24 investigate 91:16 investigation 91:23 involved 9:23 11:5, 23 14:13 16:23 21:5 24:25 involvement 9:11	IO 11:2 15:22 17:14 IO's 15:23 17:25 issue 31:20 37:24 38:18 44:19, 25 51:17 issued 35:15 issues 19:4 40:3, 15, 22 43:6, 8, 9 44:23 49:8, 24 53:22 54:8, 14 64:8 70:4 76:20 80:2, 11 83:10 92:8 < J > jammed 40:18 jams 53:18 job 26:13 27:3 64:6 joint 73:1 < K > Kate 2:2 4:3, 4 6:10, 15, 23 7:8 8:2, 12 9:7 11:23 12:2, 7, 14, 17, 21 13:8, 16, 18 14:17 15:13, 21 16:11, 21 18:4, 16, 21, 22 19:18 20:11 21:11 23:3, 18 24:13 25:8, 17, 20 26:4, 10 27:17, 25 30:2, 12, 17, 24 32:5 33:19 34:21 35:21 36:5, 12, 19 37:25 38:20 39:24 40:21 41:22 42:7 43:3, 20 44:4, 9, 14 46:9 47:15 48:8, 13, 19 49:11 50:16, 24 51:3, 21 52:14 53:3 54:2, 10 55:7, 13 56:10, 18 57:22 58:23 59:11 60:9 61:7, 16, 24 62:18 63:1, 8, 9	64:24 65:3 66:3, 24 68:2 70:6 71:21 72:11, 16 73:19, 24 74:4, 17 76:5, 12 77:4, 14 78:4, 18 79:12 80:9 81:11, 20 83:3, 9, 14, 20 84:14, 23 86:12 87:21 88:10 89:4 90:9 91:15 92:5 95:2, 6, 9 keen 69:4 Kent 14:1, 11 kept 10:3 25:6 26:20 82:13 key 14:7 86:7, 24 87:2 kilometres 13:4 kind 15:16 17:1, 24 18:12 20:22 34:18 36:7 37:8 47:11 49:24 56:24 57:4 58:13, 15 60:11 61:5 68:22 73:1 74:8 84:1 88:3 kinds 22:8 78:14 91:8 kinks 82:22 Kirkpatrick 14:2 knew 17:2 29:5 65:4 85:12 knowing 29:2, 25 knowledge 29:19 41:17 46:7 60:4 77:25 80:20 knowledgeable 73:15 knowledge- sharing 74:22 KPIs 59:17 < L > lack 9:20 10:12 64:6 65:18 78:19 lacking 37:23	70:22 laid 41:13, 24 landing 36:16 large 18:2 26:18 large-scale 93:2 largest 19:11 35:16 74:14 late 43:8 51:16 Lauch 73:9 74:5 75:6, 22 87:10 law 10:13 18:5 68:1, 3, 4 lead 48:23 65:6 69:3 leading 65:20 leads 46:5 leagues 11:12 learn 80:8 learned 15:7 32:17 37:14 57:16 94:25 lease 22:12 leave 7:5 42:4 59:23 60:2, 11 leaving 65:18 led 36:21 77:13 91:17 left 23:23 53:25 73:14 88:18 legal 18:9, 10 58:3 Leila 2:12 96:3, 20 length 83:17 84:15 lessening 26:11 lesson 32:17 lessons 15:7 80:8 94:25 letter 87:10 level 16:6 21:5 32:19 51:18, 23 53:23 70:21 86:18 liability 5:20 life 9:12 26:6 47:20 LIGHT 1:6 4:5 20:4 25:1 29:18 42:23 44:6, 22 80:15	limit 69:23 limited 69:20 limits 70:2 lines 44:6 49:13 link 69:11 listening 66:14 Litigation 2:3 54:13 live 80:3 Liz 2:3 27:24 72:15 95:5 LLP 2:8 local 29:14 44:21 59:6 Loch 73:11 74:6 long 12:10 14:11 23:14 28:24 52:8 94:23 longer 36:13 66:19 82:12 84:16 long-term 62:22 63:4 79:23 93:14, 17 look-back 13:9 looked 23:10 92:21 looking 18:12 38:4, 9 55:3 56:3 58:2 73:25 79:15 89:5 92:15 93:13 looks 62:18 losing 25:3 lost 56:8 lot 9:4 11:8, 20 16:24 19:13, 14 24:1 31:10 35:15, 17 41:2 48:6, 7 49:8, 19 50:9 52:19 60:25 63:19 67:13 70:7 79:11 80:7, 23, 24 82:1, 7 84:7 85:13 86:3 88:2 92:1 93:25 lots 38:14 40:15 45:9 love 60:24 61:8
--	--	---	---	--

LRT 8:19 9:11
12:22, 23 13:23
14:24 15:22, 25
16:14 18:19, 23
19:4, 21 25:10
32:10 33:23
35:20, 24 44:11,
17 52:18 55:16
56:19 59:25
70:17 78:21
90:16 91:19
LRT-related 56:1

< **M** >

made 5:1, 4, 12
11:1 13:19
21:2, 3 22:17
24:22 26:5
28:1, 5 33:6, 25
34:11 40:23
41:2 45:19
65:5, 25 66:5
67:3 74:6 89:2
96:10
magnitude
43:16 57:18
93:25
main 40:14
maintain 28:7,
15, 17, 18 30:5
64:21 68:15
70:13 71:6, 10,
15 81:9 94:22
maintainer's
59:16
maintenance
28:10, 21, 24
29:9, 11 30:3, 7,
14, 19 37:21
44:19 48:20
49:9, 12, 13
51:6, 24 52:2
53:4, 6, 11 54:1,
5, 7, 14 57:8, 23
58:1, 10, 22
59:2, 4, 13, 16,
18 60:13 63:17
64:13 65:4, 5,
10 70:7, 17, 25
71:7, 23 72:1,
12 79:23 80:13,
17 81:1, 7 93:14
major 43:14
making 20:18
22:23 24:25

47:7 71:19
81:3 82:20
management
61:12
manager 14:1, 3,
4 60:21 75:24
managers 82:2
Manconi 60:20
61:19 62:14
73:7, 22 75:15,
16, 17 76:22
82:2, 19 85:17
88:4
Manconi's 76:7
mandate 69:20
70:4
mandates 70:3
mantra 31:15
33:11, 14
mask 50:11
mayor 6:24
13:7 19:8, 9
24:24 33:10, 12
61:13
Mayor's 89:20,
22
McClellan 27:21
95:2
McGrann 2:2
4:3, 4 6:10, 15,
23 7:8 8:2, 12
9:7 11:23 12:2,
7, 14, 17, 21
13:8, 18 14:17
15:13, 21 16:11,
21 18:4, 16, 22
19:18 21:11
23:3, 18 24:13
25:8, 20 26:4,
10 27:17, 25
30:2, 12, 17, 24
32:5 33:19
34:21 35:21
36:12, 19 37:25
38:20 39:24
40:21 41:22
42:7 43:3, 20
44:4, 9, 14 46:9
47:15 48:8, 13,
19 49:11 50:16,
24 51:3, 21
52:14 53:3
54:2 55:7, 13
56:10, 18 57:22
58:23 59:11

60:9 61:7, 16,
24 62:18 63:1,
9 64:24 65:3
66:3, 24 69:16
70:6 71:21
72:11, 16 73:19,
24 74:4, 17
76:5, 12 77:4,
14 78:4, 18
79:12 80:9
81:11, 20 83:3,
14, 20 84:14, 23
86:12 87:21
88:10 89:4
90:9 91:15
92:5 95:2, 6, 9
McLellan 2:3
27:24 72:12, 15
95:5
meaning 90:16
means 27:3
meant 47:2
media 53:13
88:1
medical 7:5
59:22, 23 60:1,
11
meet 45:3 50:6
59:17 67:19
meeting 10:1
52:10 55:25
56:5 60:14
61:3 64:18
65:12, 13 66:8
67:7 75:5, 13,
20 76:2 96:10
meetings 51:16
52:6, 15
Member 2:2, 3
6:18 9:17
11:25 12:8, 11,
19 14:22 18:24
26:14 27:5 29:1
members 10:17
21:17 24:24
26:21 60:22
61:17, 20, 21, 22
62:12 75:8, 11,
23 77:12 79:1
84:6
memo 61:4
62:11, 13
memorandums
60:22

memory 12:9
14:9, 11 56:11,
16
memos 61:17,
19, 25 62:5
mention 18:5
68:2
mentioned
15:21 23:5
33:19 35:25
43:24 44:5
48:19 53:7, 8
61:24 83:14
merely 21:4
message 39:22
met 37:20 52:8
68:10 69:8
85:14, 19 86:1
87:2, 8 88:5, 8
midline 45:7
midst 6:20
milestone 64:3,
17, 19 65:24
69:14 76:25
million 33:2
million-dollar
32:15
mind 23:15
34:7 40:17
42:5, 25 48:18
58:13 64:1, 7
91:25
minds 50:1
78:16
minimal 42:17,
18
minimum 82:18
84:10 87:3
minute 36:13
minutes 75:13,
20 76:2
mistake 17:11,
18 92:20
mistaken 28:16
mitigated 30:21
model 28:3, 5, 6,
10, 11, 14, 25
30:5, 7, 15 31:1
37:4 45:19 72:2
modes 91:7
moment 20:4
money 32:13
35:10, 11, 14
37:6, 7, 11, 16,

17 64:20 66:1
69:15 94:5
Monster 73:11
74:7
month 59:17
monthly 59:15
60:16, 19 65:23
69:14
months 51:14
60:1 83:25 87:4
morning 4:3
18:7 55:14
59:21 70:9
91:21 95:4, 10
motion 56:8
motivation 67:3
77:5
move 11:12
12:25 14:20
35:21 72:11
90:19 91:3
moved 11:14
20:3 81:11
moving 15:8
72:16
multiple 49:6
Municipal 10:20
26:16
municipalities
35:10 42:22
43:4, 6 44:5
83:24 92:13
93:21
municipality
86:25
mused 70:24

< **N** >
NAC 34:1
Nancy 20:16
21:20
narrowed 56:6
nature 15:15
18:3 51:8 77:21
near 75:10
necessarily
22:4 40:20
51:15, 22 66:19
necessary 10:9
61:6
needed 6:13
14:15 20:6, 10
21:7 28:23
33:20 38:16
57:1 58:19, 24

<p>59:2 64:20 90:6, 13 94:3 needs 80:18 needy 35:18 negotiation 22:14 Ness 73:11 74:6 net 11:17 new 23:21 39:7 53:20, 22 non- typographical 5:12 normal 59:12 60:11 north-south 13:1 14:25 19:19, 25 20:13 22:21 23:5 26:2 42:13 43:25 57:17 63:25 80:21 Norton 17:10, 17, 19 68:4, 23 notable 76:14 note 25:21 58:6 69:17 notes 45:22 96:13 notion 55:23 57:15 number 21:25 24:4, 17 33:15, 16 34:20 50:6 68:6 77:21 90:3 numbers 31:24 34:5</p> <p>< O > object 6:5 objected 5:16 obligations 45:3 50:6, 15 obtain 4:10 38:23 77:6 OC 79:7 occur 31:17 occurred 49:7 occurring 60:5 65:15 83:13 October 62:20 63:9 odd 69:1</p>	<p>office 45:19 61:13 79:7 89:21, 22 OLRT 26:13 OLRT1 26:6 onerous 14:14 ones 21:16 40:14 49:4 68:24 ongoing 19:5, 16 21:25 44:25 57:5 Ontario 11:2 15:2 16:7, 13, 23 17:5, 7, 9 92:16, 22 Ontario's 15:24 open 86:9, 13 87:9, 11 88:12, 20 89:3 opening 87:17 89:9 90:8 operate 90:13, 18, 19 91:12 94:11 operating 91:11 operation 90:10 operational 19:4 91:13, 14 operations 16:4 opinion 41:19 63:23 72:6 86:20 89:21 opinions 48:1, 5, 6, 9 opportunity 5:8 62:1, 3 87:22, 25 95:14 opposed 47:20 80:6 92:16 option 29:21 72:8 88:21 options 91:3 order 4:22 13:13 24:11 34:19 35:3, 24 36:3 45:3 66:1, 5 69:15 90:13 organization 62:8 79:5, 24 original 57:17 originally 28:13 36:23 OTTAWA 1:6, 7 2:6 4:5 8:8, 14</p>	<p>11:11 13:5 17:16 18:3 38:14 39:10 48:3 62:19 74:14 75:25 92:19 93:7 Ottawa's 35:17 38:23 40:5 43:18 91:19 outcome 13:14 outset 26:1 59:25 60:6 77:18 78:2, 12 outside 93:15 overall 10:11 15:19 16:3 64:22 88:17 89:7 91:10 overruns 31:25 overseas 59:8 overseeing 18:18 72:19 oversight 10:18, 19 20:7 26:17 73:5, 16</p> <p>< P > pages 7:13 panacea 31:22 82:5 pandemic 49:18, 21 51:1 part 13:14 22:13 34:12 52:20 64:1 66:10 67:2 75:2 78:1 88:13 91:23 92:11 participants 1:15 2:5 5:5, 11 particularly 43:2, 18 60:6 partner 31:5, 12 74:12 78:25 94:17 partners 75:21 partnership 33:8 74:20, 21 75:3 parts 94:9, 24 pass 68:10 passed 67:22 pay 32:3 37:7 64:20 80:4</p>	<p>paying 22:12 27:1 33:9 payment 64:6 65:18 69:13 77:6 payments 64:4, 17, 19 65:4, 5, 14, 24 69:14, 15 77:1, 2 peak 50:13 people 22:3, 5, 6, 10 23:24 26:25 41:11, 19 42:3 44:21 45:9 46:6, 10, 16, 17, 18 47:10, 12, 18, 19 48:4, 5, 7 50:13 51:20 59:8 64:13 65:18 73:25 79:11 80:2, 4, 14, 16, 17, 24 91:1, 2, 5 perceived 15:5 percent 67:19 68:7, 15 perception 25:5 85:24 Perfect 6:14 perform 13:21 24:5 38:17 performance 10:10, 15 20:6 51:7 53:2 performed 24:17 performing 23:13 27:3 period 11:25 12:10 28:24 60:10 81:12, 15, 18, 21 83:18 84:16, 17, 24 85:1 periods 83:25 perjury 6:2 permanent 49:8 permits 4:15 person 5:21 48:3 personal 8:17 86:20 personally 51:10 52:23 87:17</p>	<p>perspective 22:18 pertinent 10:23 Peter 2:7 54:9 69:16 95:8 Phase 20:16 38:2, 5 48:12, 16, 17 64:3 66:2, 5, 6 67:4, 5, 11, 17 69:15 72:17 74:8 83:5 phases 11:7 phone 62:13 pick 57:10 62:13 84:2 94:23 picking 57:6 piece 8:3 pieces 14:19 pile 39:16 pink 90:22 pivotal 14:3 place 6:1 26:22 91:1 placed 56:20 plan 55:23 57:17 planned 12:25 plow 40:7 plowed 40:10 53:16 plows 40:6 plumber 47:4 pockets 64:10 point 6:10 20:12 42:12 52:22 55:4 63:24 66:21 72:5 77:9 84:16 86:21 points 68:6 policing 51:13 politically 86:10, 13 87:12 89:23 popping 48:17 portfolio 8:11, 15 posted 4:24 potential 30:18 66:9 potentially 67:5 71:22 power 39:13 40:2, 22</p>
--	--	---	--	--

practically 72:7
preceded 14:25
prepared 82:17
pre-procurement
38:1
prescribed
26:15
PRESENT 2:11
74:13
presentations
73:6, 20
presenters 96:9
Presto 8:25
presumably
75:21
pretty 23:15
42:16 45:25
48:4 56:25
prevent 92:7
previous 23:5
previously
23:25 50:4, 8, 18
price 33:5
prices 32:23
pride 80:25
81:2
primarily 35:11,
13 49:17
primary 37:16,
24 38:18
prime 87:14
principal 67:16,
17
prior 9:17
59:17 70:11
87:5 88:12
priority 34:15
35:20
private 31:5, 12,
24 32:1 92:16
94:8, 17, 18
privilege 54:11,
17 58:6
probe 61:3
probing 27:7
problem 29:15
54:18 59:9, 10
62:7 71:15, 16
91:13
problematic
44:24 60:7
problem-free
46:8 82:4, 15,
22 86:2

problems 39:20
41:6 42:10, 23,
25 43:23 44:16
45:8 46:22
50:11 53:14, 25
65:14 79:21
81:25 82:24
83:4, 6, 11 92:2
procedural 4:22
proceed 70:12
proceeded 72:5
proceedings
5:20, 25 96:6
process 12:12
13:15 79:9
processes 63:21
procurement
28:2, 10 38:2, 5
67:21 68:9, 13,
14, 17 70:5, 12
72:2, 17
produce 71:9
producing 69:21
product 71:9,
17 80:7
profess 41:15,
16
professional
44:21 47:21
programs 82:11
progress 27:19
project 8:20, 23
9:12, 13, 20, 25
10:5 11:4, 9, 10,
17, 20 12:22
13:22 16:4, 23
18:2 19:10, 11,
17 22:1, 7, 10
23:7 26:6
27:15, 20 28:3
32:6, 15, 23
34:2, 13, 22
35:4, 6 36:4, 15,
21, 25 38:3
47:4, 22 48:5
56:19, 22 57:17
73:11 74:15
77:17, 18 78:21
79:9, 18 80:25
81:11 93:6, 12,
24 94:2, 7
projections 21:8
projects 9:6
16:8 17:15
34:10, 14 35:1,

2, 18 43:14
56:21 93:2, 4
promise 33:17
promoted 87:4
promoting 81:6
properly 27:10
41:13, 24 49:2
property 22:8,
17 57:9
proponent
28:12 32:1
73:1, 8 74:1
78:3 94:8
proponents
30:10
prosecution 6:1
protect 93:17
protectors 89:14
provide 7:9
10:19, 21 18:1
62:1 75:7
provided 18:9
24:15 39:4
51:5, 25 54:4, 7
62:4 75:11, 23
76:8 77:12
providing 60:23
prudent 57:18
Public 4:6, 11,
21, 25 5:15
24:23 25:7
26:18, 20, 25
29:6 33:17
49:15 50:8, 21
52:9, 12, 24
53:1 55:2 62:7,
8, 10, 14 86:16
88:14, 20 89:13,
14 90:1, 3
92:14 93:17
purchase 53:20
91:6
purchased 38:6
purpose 4:9
purposeful
62:17
purposefully
23:1 27:14
Pursuant 5:14
pursue 70:4
push 88:18, 19
pushing 76:24
77:1
put 11:24
49:25 56:13, 15

73:12 76:12
87:15 89:17
putting 82:7

< Q >
quality 37:8, 13,
18 51:24 54:7
58:9 63:17
71:9, 17 80:6
94:12, 24
quarterback
16:2
quarterly 60:18
question 5:17
6:5 7:18 13:25
16:17 18:21
36:9, 18 49:17
61:11 65:7
70:9 75:15
76:1, 6, 11, 14,
15 85:3 87:22
88:16 92:12
95:3
questioning
69:4
questions 4:15,
16 6:7, 16 9:9
12:22 18:8, 11
21:17 23:4
25:3 27:8, 18,
22, 25 34:25
61:4 62:4 66:4
69:25 72:13
87:25 88:2
95:7, 10
quickly 7:14
quite 28:18
52:11 60:21
69:9 73:15
77:3 81:14

< R >
radio 62:20
RAIL 1:6 4:6
13:5 29:18
44:6 82:6 86:6
raise 42:12
raised 66:8
raising 66:11
ranks 79:8
rapid 42:23
44:22 80:15
read 8:9 42:22
43:5 62:12

ready 75:9
82:6 84:11
86:6, 9 87:14,
15, 18 88:9 90:5
real 29:15 37:5
56:7 79:6
realistic 84:23
reality 67:15
realize 76:23
81:14
realized 20:5
really 11:16, 17
20:9 21:7 27:6
29:12 31:21
36:7 37:2
39:21 42:12, 15
49:7 52:23
61:5 63:10
65:19, 20 66:18,
22 68:21 72:23
79:20 80:24
81:4 83:1 84:3
93:6, 22 94:6
reason 6:12
25:5 49:17
52:10 65:25
83:11
reasonable 55:5
reasons 24:18
29:22 40:4
recall 13:17
15:20 20:16
21:18 28:4, 8,
20 30:5, 16, 17,
22, 25 31:3
32:6, 11 36:7
38:3, 12, 19
39:10 40:13, 14
42:2, 6 63:6
72:23 83:12
84:19, 21
receivable 5:23
receive 59:11
62:5 85:6
received 7:11
19:24 44:15
53:14 54:10
61:4 67:25 72:5
receiving 10:2,
14 19:20, 23
49:19 51:9
60:2, 12 61:18
66:23
receptive 89:8
RECESS 55:11

<p>recognizable 48:3 recognize 7:19 recognized 37:3 recollection 14:8 17:13 71:4 recommend 92:23, 24 recommendation 92:10 recommendation s 92:7, 9 record 21:19 61:18 recorded 96:11 recording 6:13 records 56:10 refer 8:20 74:1 80:9 reference 74:6 referenced 46:13 referred 12:24 referring 21:14, 15 50:19 54:19 58:24 59:15 61:9, 11, 12, 20 65:1 73:21 74:2 81:18 83:21 refresh 56:11 Regardless 57:9 regret 29:2 regular 59:12 rejected 22:21 25:10 related 21:12 40:16, 20 relates 67:4 relating 69:21 70:4 relationship 34:15 51:22 73:18 78:8, 9, 11, 17, 19 79:17 relatively 46:8 released 32:7 relevant 12:19 reliability 81:22 89:16 reliable 91:9 remember 18:18 22:11 23:11 25:14 28:18 34:25</p>	<p>38:8, 20, 25 39:1 55:1 66:13 72:9 83:8, 22, 23 remind 58:2, 4 59:20 63:7 70:1 remotely 1:15 renovation 47:4 repeat 18:20 36:17 76:10 report 9:13 57:12 58:9, 17 59:15, 18 Reporter 96:4, 21 Reporter/Transcriptionist 2:12 REPORTER'S 96:1 reporting 59:13 60:5, 12, 15 reports 16:18 53:13 54:6, 11 56:14 57:25 58:7 60:3 representative 77:15 representatives 74:10 77:23 78:6 79:14 request 25:9, 10, 12 requesting 57:19 requests 22:23 required 6:3 10:20 70:15, 22 requirements 13:20 38:9 64:18 69:8 rescore 68:4 rescored 68:5 rescoring 68:25 resources 65:9 70:16 90:13, 17, 19 respect 14:17, 24 15:22 21:11 25:8, 25 26:13 30:2 32:5 33:23 38:5 40:21 41:22 50:21 51:4 52:18 54:16 58:5 61:16</p>	<p>67:3 69:19 74:4 77:4 90:9 response 76:7 responsibilities 71:23 responsibility 62:9 70:18 72:4 86:24 89:13, 15 responsible 16:2 result 50:25 results 16:22 85:7 87:23 RESUME 55:12 retained 54:12 retrospectively 17:2 29:3, 4 return 49:15 returned 49:14 60:10 returns 10:13 revenue 35:11 59:24 81:13 88:9, 18 revenues 88:20 review 5:9 13:9 56:23 Reynolds 2:8 RFP 32:7 Rideau 22:13 riders 20:24 50:5 90:2, 6 91:2 ridership 20:14, 17, 21 21:8, 12, 14, 21 50:9, 10, 25 57:10 91:5 riding 19:13 rightfully 26:19 ring 62:24 risk 31:4, 6, 11, 13, 24 86:25 risks 30:18, 20 role 14:3 15:23, 24 18:17, 23 72:18 73:3 92:21 roles 27:5 72:24 rolled 52:21 room 88:18 Rose 17:10, 17, 19 33:6 68:4, 23</p>	<p>round 68:11 RSA 76:24 77:5 RTG 65:2, 7 66:1, 10 67:7 72:20 73:9 74:3, 10 76:8, 24 77:15, 19, 23 78:7 79:14, 17 RTG's 76:16 77:5 RTM 58:20 62:21 63:3 65:2, 7 66:1, 10 67:7 rudimentary 45:25 rule 68:9 rules 67:21 68:17 run 38:6, 23 82:15, 16, 21 83:25 88:8 running 6:24 50:13 73:3 80:22 81:4, 12, 17, 21, 23 82:4, 9 83:5, 17 84:16, 24 85:7 86:2 87:23 run-time 82:11 83:1 run-times 42:16 < S > safety 86:21 89:16 90:2, 3 sale 71:11 sat 11:25 86:5 87:6 satisfied 85:17 88:5 sceptical 52:7 schedule 77:19 Schepers 20:17 21:20 scope 56:3, 7 score 67:19, 25 68:11, 15 scored 69:9 Scotiabank 22:12 screen 8:9 9:8 scroll 7:14 scrutiny 56:24 seat 19:2, 10</p>	<p>section 5:14 6:3, 6 sector 31:5, 12, 24 32:1 94:8 seek 47:12 seeking 52:9 Segal 2:7 selected 28:7 selling 29:16 send 60:22 senior 61:11 66:21 79:3, 8 82:2 84:8 86:17 sense 10:23 11:8 15:19 24:10, 12, 13, 21 27:13 28:22 31:23 33:13 34:6, 9, 11, 17 35:5 36:13 37:8 43:13 44:18 60:24 73:17 74:20 86:10 87:12 91:10 92:20 94:18 senses 34:7 September 7:6 85:1 seriously 27:5 served 7:4 service 13:5 18:2 42:18 49:15 50:13 59:25 81:13 82:12 88:9, 18, 20 89:17 set 35:2 36:23 77:19 87:3 94:6, 7 96:7 setting 94:1 shade 88:4 share 18:8 48:9 55:19 93:4 shared 5:4, 10 10:8 14:14 15:16 26:12 47:25 52:13, 17 55:2 sharing 9:8 15:4 19:6 22:16 47:10 60:25 shifted 86:25</p>
--	--	--	--	--

<p>shore 35:14 64:2 66:2, 6 shoring 67:5 69:12 short 55:6 86:19 shortcoming 77:25 shortcomings 58:22 shorthand 96:13 short-term 62:22 63:3 81:7 should've 68:18 shovels 32:22 show 7:11, 16 45:13 62:20 show-and-tell 45:14 showing 7:12 19:14 shut 22:24 Siemens 8:22 sightings 73:10 similar 39:5 92:7 Singleton 2:7 sinkholes 92:2 sit 85:25 sitting 14:21 16:21 29:17 34:22 75:16, 25 79:15 87:13 89:4 90:11 situation 19:22 80:18 skills 80:16 slightly 60:17 slipped 90:23 slowly 7:16 smorgasbord 53:15 SNC-Lavalin 17:20, 21 64:1 67:16 68:24 snow 35:6, 7 38:16 39:16 40:3, 7, 9, 23 sold 17:24 71:6 90:24 solely 29:10 solemn 4:10 solicitor-client 58:5 solid 42:17</p>	<p>solutions 62:22 63:4 somebody 47:6 76:1 somewhat 11:5 15:8 sorry 15:20 30:23 90:5 sort 11:12 12:15 13:9 16:3 17:3 19:15 21:1 31:17, 22 38:1 39:13 40:11 42:24 49:3 52:21 53:25 57:6 58:16 59:15 61:14 64:1 73:1, 2 74:19, 22 77:19 82:5 85:20 86:20 sought 18:10 23:18 sounds 18:11 47:17 76:13 source 60:8 speak 51:11 58:7 60:10 speakers 75:12, 14 speaking 46:15 69:18 80:11 85:19 92:4 specific 16:12 23:6 32:11 38:9, 10 61:21 77:9 92:1, 9 specifically 38:5 63:7 73:17 specifics 20:11 28:20 30:23 38:13 39:1, 11 48:15 72:10 spend 71:8 spending 26:17 92:14 spirit 85:20 88:5 spoke 19:18 80:20 spoken 86:3 88:10 sporadic 60:17</p>	<p>staff 9:24 10:7 21:16 23:23 29:16 47:21, 25 48:9, 11 56:13 66:21 72:25 73:3, 13 79:3, 4 84:8 86:17 88:14 94:21 Stage 9:11 12:23 13:22 14:4, 24 15:22, 25 16:14 17:9 18:19, 23 19:21 23:17 25:9, 25 26:13 32:9, 21 33:23 37:11, 13 44:2, 11, 17 52:20, 21 55:16 56:19 63:25 65:22, 23 67:22 69:5, 6, 12, 13, 19, 20, 22 70:5, 17 72:21 78:20 91:18 92:19 stake 19:14 standard 37:20 85:14, 15 87:3 start 6:15 12:12 27:15 59:21, 24 started 4:7 13:6 22:2, 19 39:19 starting 6:19 8:24 10:6, 25 64:22 85:1 starts 27:16 stated 7:2 statement 39:25 statements 82:20 96:9 stay 35:24 36:3 staying 34:5 stepping 38:2 steps 38:22 stick 33:15, 16, 20 Sticking 36:12 71:21 stock 82:8 stop 6:12 9:7 34:1 36:1 69:17, 25 stopped 12:22</p>	<p>strained 78:10, 20 stranding 91:1, 2 street 22:6 34:12 46:18 67:10 stretch 43:16 strong 35:5 73:17 86:10 struck 65:25 structure 9:1 26:21 69:14 73:2 93:1 studies 20:14, 21 21:13, 14, 21 study 20:17 stuff 21:1 46:4 84:7 92:3 subcontractors 46:20 65:14 subject 54:17 56:22, 24 58:5 subsequent 56:5 substandard 29:9, 11 48:21 53:6, 11 54:1 59:5 substantially 24:5 50:11 successful 40:25 sufficient 32:8 83:16 suggest 44:9 suggesting 58:19 suggestion 54:15 summarize 47:16 support 20:24 93:21 suppose 66:18 supposed 33:8 34:1 suspect 45:2 Sussex 22:13 sustained 78:17 system 40:13 41:3 42:9 43:22 45:11, 20, 23 46:11, 12, 15 47:18 49:14, 25</p>	<p>50:21 51:6, 7, 20 57:3, 8 58:11 59:1, 14 60:1 64:21 65:10 73:3 75:9 79:21 80:13, 15 81:4, 10, 14, 22 82:12, 17 83:2 84:12 85:12 87:1, 19 88:12, 25 89:3, 9, 16 90:2, 5, 10, 14, 16, 18, 21, 25 91:8, 11, 12, 19 93:18 systems 29:18 42:24 44:22 46:23 47:1 82:10 83:18, 20 < T > table 21:2, 3 22:15 25:4 28:9 29:17 35:1 tainted 42:20 takes 46:8 talk 22:3, 6 42:3 47:17 talked 46:16 talking 12:4 37:10, 25 46:10, 12 47:19 53:4 55:14 57:23 70:6 80:12 90:16 tape 66:15 tax 35:11 taxation 35:13 taxing 12:9 taxpayers 9:5 31:15 32:2 33:4 team 45:15, 18 46:13 60:13 73:23 teamwork 73:2 technical 67:19 68:11 69:8 80:16 91:17 93:20, 21 Technician 2:13 technology 9:1 39:9 40:11 41:6, 7, 10, 20 42:14 53:20</p>
---	---	---	---	---

94:13 tend 5:18, 19 term 6:20 9:21 10:12 12:13 47:1 terms 6:19 7:4 9:1 11:14 12:15 16:6 20:18 45:2 56:3 60:5 68:22 70:16 73:5, 16 76:25 78:2, 11, 16 81:3 91:11 93:2, 16, 20 94:1, 3, 25 tests 82:16 Theirs 33:2 43:8 85:22 thing 29:4 49:3 53:22 57:18 85:20 things 8:5 13:13 20:11, 14, 20 21:8 22:8 27:10 34:8 35:6 40:18 41:9 42:22 43:6 45:6, 12 46:1 47:6, 13 48:9, 10 53:15 56:15, 16 63:20 68:21 69:2 71:18 74:24 76:22 78:14 80:17 91:8 92:5 94:14 thinking 16:24 thought 16:16 24:19 36:9 61:6 63:21 87:19 thousands 50:13 three-page 7:13 three-way 33:8 tier 32:14, 25 33:7 time 4:15 9:12, 13 10:6 11:15, 25 12:11 14:19 17:4, 12 18:17, 24 20:4 21:25 22:22 23:15 26:7 28:24	31:16 32:21 33:11 34:13 36:8 38:3 39:7 42:4 46:25 52:8, 11 55:5 60:10 63:13, 15 65:17 70:8 76:3, 24 77:9 78:14 81:8, 15 83:23 85:1 87:14 88:8, 17 93:16 94:23 95:11 96:7, 10 timeline 16:25 25:15 76:20 timely 44:24 66:23 times 75:7 today 10:11 16:21 17:1, 6 34:22 37:11 45:22 67:14 79:15 89:4 90:12 today's 4:8, 9 told 17:12, 14 28:23 39:1 45:24 49:6 65:16 66:20 71:19 84:8, 9 94:21 tolerance 86:18 89:24 toll 78:23 79:1, 2, 3, 10 tooth 34:4 top 16:19 topic 69:24 70:9 topics 91:20 92:4 top-of-the-line 45:7 Toronto 17:15 43:10 44:7 torpedoed 35:3 torqued 49:1 towed 83:10 towing 82:25 TRA 54:16, 19 58:7, 9, 16 59:9 track 13:4 20:19 45:4	tracks 40:12 41:12, 14, 23 53:16 train 39:7, 9, 21, 23 40:1, 5 42:3 trained 44:21 trains 38:16, 19, 23 39:2, 4 50:7 81:23 82:25 83:10 94:10 transactions 56:8 transcribed 4:18 transcript 4:20, 24 5:3, 9, 10, 13 73:25 96:13 transfer 31:6 transferred 31:23 transferring 31:4 transformational 11:10 Transit 4:6 8:8, 14, 18 9:3, 10 11:6 19:2, 3 20:23 34:1 36:1 42:24 44:22 49:25 50:2 51:12, 15, 19 52:5 75:24 80:15 translate 37:17 transparent 62:10 Transpo 79:7 transportation 91:7 trial 5:24 81:12, 17, 21, 23 82:16, 21 83:5, 17, 25 84:16, 23 85:7 86:2 87:23 trickling 65:9 trigger 56:16 truly 11:16 trumps 86:21 trust 78:12 trying 43:21 47:15 63:6, 10 TSB 48:25 tunnel 46:17, 23 47:9 tunneling 31:9 turn 27:17	turned 12:23 31:20 77:2 79:8 Turning 77:14 turnover 79:6 typos 5:9 < U > Uber 91:8 ultimate 89:15 ultimately 28:6 31:2, 17 36:22 80:2 89:12 93:5 Um-hmm 44:13 unable 85:2 uncharted 31:8 93:22 uncomfortable 27:7 underfunded 35:8 36:25 underfunding 35:5 underneath 39:14 understand 6:17 14:18 15:23 21:8 24:9 25:22 42:8 43:21 46:1, 2 48:22 50:19, 20 57:20 62:19 63:2 71:25 80:14, 18, 19 93:11 understandably 19:10 understanding 24:18 72:18 74:23 78:12 94:4 understood 30:20 39:6 83:3 undertake 70:17 undertook 70:14 unfolded 89:5 unfortunately 42:4 unhappy 90:1 uninterrupted 82:4 University 13:5 unrealistic 77:3 untested 39:8 untoward 27:11 upcoming 6:24	upfront 32:3 71:9 upper 32:14, 25 33:7 upsides 30:6, 13 Urquhart 2:8 useful 78:13 < V > vague 58:12, 18 vaguely 31:3 value 29:23, 24 32:4 66:20 84:7, 13 94:4 Vancouver 43:9 44:6 variety 29:22 vehicles 38:6, 10 42:9 94:12 Verbatim 96:4, 21 verify 47:12 viable 72:6 Videoconferenci ng 1:14 view 16:22 17:2 24:23 26:11 36:14 57:2 63:12, 13, 14, 17 65:20 88:16, 22 90:12 views 36:20 62:16 69:18 Virtual 2:13 vis-à-vis 15:25 Vitae 3:3 7:25 Vogel 2:8 voice 89:13 voluminous 10:2 vote 25:3, 11, 14 88:24 89:19 voted 88:24 < W > walk 67:1 71:13 walking 64:5 wanted 8:3 13:11, 12, 20, 21 19:9 55:17, 18, 19 Wardle 2:7 54:9 69:16 95:6, 8
--	--	---	---	--

<p>warning 57:3 79:21 watching 57:4 86:8 water 31:8 93:22 ways 34:18 weather 39:17 website 4:25 wheel 45:20 wheels 49:1 wholesome 10:22 66:23 wiggle 85:13 win 67:23 winter 38:15, 17, 24 39:3, 8, 17 40:5, 16, 20 41:14 94:14 winters 39:10 wires 40:17 53:17 wish 39:11 42:1 83:22 withheld 27:14 64:3 65:6 withholding 64:17, 19 witness 5:15, 19, 22 95:7 wondered 84:2 wondering 8:12 36:19 55:5 64:25 word 53:24 74:20 76:4 words 14:10 85:10, 13, 21 86:3, 4 work 6:17 9:9 13:10, 14 16:13 19:20 25:25 26:1 28:12, 25 54:5, 16, 21 55:23 57:23 58:1, 10 60:13 70:11 71:24 72:19 92:11 95:13 workable 30:9 worked 23:25 workers 64:20 working 18:18 47:22 64:5</p>	<p>74:23 82:25 90:21, 25 workplaces 50:15 works 46:20 worlds 17:4 worried 82:8 worrisome 22:25 worry 65:21 68:22 worth 68:16 93:15 wrap 43:20 wrinkles 53:21 written 68:9 wrong 41:7, 10, 21 48:2, 10 53:15 < Y > yard 49:7 53:9 Yeah 13:3 15:1, 10 23:9 25:13 35:4 37:23 41:1 48:15 52:22 55:21 63:5 70:20 72:22 74:11 76:19 80:7 82:22 85:8 year 6:20 22:13 24:2 35:7 56:6 years 8:19 11:18 14:2 71:8, 16 87:4 Yep 59:9 62:25 < Z > zero 85:9 Zoom 1:14</p>			
---	---	--	--	--