

May 12, 2003

3, Place Ville Marie, bureau 500  
Montréal (Québec)  
H3B 2C9  
Téléphone: (514) 871-6150  
Télécopieur: (514) 871-6619

3 Place Ville Marie, Suite 500  
Montreal, Quebec  
H3B 2C9  
Telephone: (514) 871-6150  
Fax: (514) 871-6619

Marc LeFrançois  
Président et chef de la direction

Marc LeFrançois  
President and Chief Executive Officer

Her Majesty the Queen in right of Canada  
as represented by the Minister of Transport  
330 Sparks Street  
Ottawa, ON  
K1A 0N5

**Subject: Air Rail Link between Toronto Union Station and the  
Toronto-Lester B. Pearson International Airport**

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VIA Rail Canada Incorporated ("VIA") acknowledges that Her Majesty the Queen in right of Canada as represented by the Minister of Transport ("Transport Canada") issued a "Request for Expressions of Interest, Air Rail Link from Lester B. Pearson International Airport to Union Station" ("RFEOI") dated April 12, 2001 to persons interested in financing, designing, constructing, operating and maintaining a passenger railway service ("Air Rail Link") between Toronto Union Station and Toronto-Lester B. Pearson International Airport ("LBPIA").

VIA also acknowledges that, pursuant to the RFEOI, Transport Canada qualified four respondents (each a "Respondent"). Transport Canada proposes to issue to each Respondent a "Request for Business Case, Air Rail Link from Toronto-Lester B. Pearson International Airport to Union Station" ("RFBC") requesting a business case response ("Response") for financing, designing, constructing, operating and maintaining the Air Rail Link service from Toronto Union Station through the Union Station Rail Corridor and the CN Weston Subdivision and along the track and guideway structure ("Spur Line") that may be constructed from the CN Weston Subdivision (just west of Highway 427) to the limits of the proposed station within LBPIA. VIA is a stakeholder in the proposed Air Rail Link, as VIA has an interest in providing services related to train maintenance, train crewing, ticketing and baggage handling ("VIA Services").

VIA understands that there are a number of other stakeholders in addition to VIA (each a "Stakeholder"), whose collective involvement in the Air Rail Link is required, and that they are issuing letters to Transport Canada, with respect to the terms and conditions of their involvement in the Air Rail Link. It is VIA's understanding that for those Stakeholders who are providing some form of access to their facility, such as the Canadian National Railway Company, Greater Toronto Airports Authority and GO Transit, there is a more comprehensive stakeholder agreement letter ("Stakeholder Agreement Letter") which stipulates terms and conditions. For Stakeholders such as VIA Rail Canada Incorporated, the City of Mississauga, the Ontario Ministry of

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Transportation, the City of Toronto, the Region of Peel, the Toronto and Region Conservation Authority, Orlando Corporation, and others, Transport Canada has requested that such Stakeholders provide, in letters similar to this, the general terms and conditions ("Stakeholder Terms") of the involvement of such Stakeholders in the Air Rail Link. It is further acknowledged that VIA has not taken cognizance of other Stakeholders, correspondence mentioned in this paragraph.

The Stakeholder Terms for VIA are set forth notably in this letter and outline some of the terms and conditions upon which VIA would provide the VIA Services.

VIA also understands that there will be final stakeholder agreements ("Final Stakeholder Agreements") between all Stakeholders and the Respondent selected by Transport Canada as the successful respondent ("Successful Respondent"), that will formalize the terms and conditions contained in the Stakeholder Agreement Letters and the Stakeholder Terms.

VIA understands that the Successful Respondent shall be responsible for all the costs and expenses associated with the operation and maintenance of the Air Rail Link service, and the design, construction and maintenance of the Spur Line.

VIA also understands that this letter will be annexed to the RFBC for the information of the Respondents.

In consideration of Transport Canada acting as a facilitator of the process ("Process") that will be used by Transport Canada to select the Successful Respondent and for the Successful Respondent to enter into the Final Stakeholder Agreements with the Stakeholders, and of any fees to be paid by the Successful Respondent to VIA for the provision of VIA Services, and of other good and valuable consideration, VIA agrees with Transport Canada as follows:

1. The role of Transport Canada is to facilitate the Process. The selection of the Successful Respondent will entitle the Successful Respondent to enter into Final Stakeholder Agreements with each of the Stakeholders to implement the terms and conditions of each Stakeholder Agreement Letter and each of the Stakeholder Terms.
2. The Air Rail Link can only be designed, constructed, operated and maintained through the Final Stakeholder Agreements between the Successful Respondent and each Stakeholder.
3. In order for each Respondent to submit a Response, such Respondent must have certainty as to the general terms and general conditions on which VIA is prepared to enter into a Final Stakeholder Agreement with such Respondent, should it be selected as the Successful Respondent.

4. The need for the VIA Services will be at the discretion of the Respondents and, as such, the need for a Final Stakeholder Agreement between VIA and the Successful Respondent will depend on whether the Successful Respondent requires the VIA Services and, if so, on whether the parties reach agreement on the terms and conditions regarding the VIA Services.
5. In the case of VIA, the Final Stakeholder Agreement will be comprised at a minimum of a service agreement ("Service Agreement"). Section 8 of this letter contains certain terms and conditions which may form part of such Service Agreement. The Final Stakeholder Agreement between VIA and the Respondent may have terms and conditions additional to those set forth in Section 8. VIA agrees to negotiate this agreement with the Successful Respondent in good faith in order that the Final Stakeholder Agreement may be settled, executed and delivered within the time frame described in Section 6.
6. The Successful Respondent and VIA shall enter into the Final Stakeholder Agreement within nine months following the date of selection of the Successful Respondent.
7. The Final Stakeholder Agreement between VIA and the Successful Respondent will only become effective when and if the Successful Respondent has provided VIA with acceptable evidence that the Final Stakeholder Agreements have been obtained from each of GO Transit, Greater Toronto Airports Authority and the Canadian National Railway Company.
8. The following sets forth specific terms and conditions of VIA's involvement in the Air Rail Link:
  - (a) VIA understands that GO Transit will be the proponent under the federal and provincial environmental assessment processes;
  - (b) Subject to the outcome of the federal and provincial environmental assessment processes and final design, VIA agrees to enter into discussions with each of the Respondents during the preparation of the Responses with regard to provision of the VIA Services;
  - (c) If a Respondent requires the VIA Services and submits a written request to VIA for the VIA Services, including the following details:
    - (i) Train Maintenance Services - the type of trains to be maintained and the level / frequency of maintenance services required;
    - (ii) Train Crewing - the frequency of the Air Rail Link service and staffing requirements;
    - (iii) Ticketing - the location of outlets and the fare medium; and

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- (iv) Baggage Handling – security arrangements, liability insurance, proposed check-in procedures, details regarding train loading and on-board storage provisions,

VIA will provide a fixed price quote to the Respondent based on the details provided and will negotiate in good faith with the Respondent regarding the terms and conditions for the provision of the requested VIA Services.

- (d) VIA understands that GO Transit will be the proponent under the federal and provincial environmental assessment processes;
9. If the parties reach agreement in respect of the matters described in Section 8(c), VIA agrees to provide the Respondent with a letter (“Comfort Letter”), which provides the results of the discussions.

The Comfort Letter shall include details regarding, in particular:

- (a) the process that the Respondent and VIA will follow to enter into the Final Stakeholder Agreement, should the Respondent be selected as the Successful Respondent; and
  - (b) terms and conditions regarding the provision of VIA Services.
10. VIA understands that any requests for information and data required by a Respondent from VIA in connection with the Process will be submitted to Transport Canada who will provide the VIA information and data to such Respondent.
11. At the written request of Transport Canada, VIA will permit the Respondent and its representatives to have access to any VIA facilities, including but not limited to the Mimico Yard Maintenance Centre and VIA facilities at Toronto Union Station, related to the VIA Services for the purpose of obtaining information in order to permit the Respondent to prepare its Response.
12. VIA acknowledges and agrees that:
- (a) Transport Canada will not be a part of or involved in any negotiations between any Respondent and VIA;
  - (b) Transport Canada shall have no obligation or responsibilities with respect to financing, designing, constructing, operating or maintaining the Air Rail Link;
  - (c) Transport Canada shall have no liability to VIA arising out of or related to the Stakeholder Terms of VIA and the Final Stakeholder Agreement

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or any other agreements relating to the Air Rail Link, between VIA and a Respondent;

- (d) Transport Canada shall have no liability of any kind to VIA arising out of or related to the Process, including the RFEOI and the RFBC;
  - (e) Transport Canada is not obligated pursuant to the Process, to provide any funding to VIA or the Successful Respondent with respect to or in connection with the Air Rail Link; and
  - (f) Nothing contained in this letter nor any acts of VIA or Transport Canada shall constitute or be deemed to constitute VIA and Transport Canada as partners, joint venturers or principal and agent in any way or for any purpose. VIA shall not represent or hold itself out to be an agent of Transport Canada.. VIA shall indemnify Transport Canada for any liability that Transport Canada incurs towards a third party with respect to any obligation of VIA towards the third party by virtue of being found, in respect of the management, operation or maintenance of the Air Rail Link to be a partner of or joint venturer with VIA or a principal of VIA.
13. For the duration of the Process, VIA shall negotiate exclusively with the Successful Respondent in connection with the Air Rail Link.
14. VIA agrees to provide Transport Canada with a copy of the Final Stakeholder Agreement between VIA and the Successful Respondent, once it has been executed and delivered.
15. VIA shall cooperate with Transport Canada, the Stakeholders, and the Respondents in order to facilitate the creation of the Air Rail Link and shall act reasonably with respect to any issues which arise with respect to the involvement of VIA in the Air Rail Link, which are not specifically addressed in this letter.
16. This letter is a binding undertaking of VIA in favour of Transport Canada, it shall be governed by and construed in accordance with the laws of the Province of Ontario and it shall enure to the benefit of Transport Canada and its successors and assigns and shall be binding upon VIA and its successors.

VIA RAIL CANADA INC.

By:   
Marc LeFrançois  
President and Chief Executive Officer

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