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## Overview Report

### Delegation of Jurisdiction over the OLRT Project to the City of Ottawa

#### 1. Scope of Overview Report

1. The *Constitution Act, 1867*, stipulates that works and undertakings, including railways, that connect one province with another province fall under federal jurisdiction. Jurisdiction over the Ottawa Light Rail Transit (OLRT) system therefore rests with the federal government.<sup>1</sup> The federal government delegated this authority to the City of Ottawa (City), authorizing it to regulate and manage Stage 1 of the Ottawa Light Rail Transit Project (OLRT Project). This overview report outlines the basis of the City's delegated authority over Stage 1 of the OLRT Project.

#### 2. Canadian Federalism and the Division of Legislative Powers

2. Sections 91 and 92 of the *Constitution Act* divide legislative authority between Parliament and the provincial legislatures.<sup>2</sup> Generally, section 91 sets out matters within the competence of the federal Parliament, and section 92 sets out matters within the competence of the provincial legislatures.

#### 3. Constitutional Authority over the OLRT

3. The *Constitution Act* provides that local “works and undertakings”–like canals, railways, bus services, and communications works–are within the exclusive jurisdiction of the provinces, with certain exceptions. One such exception is works and undertakings that connect a province to any other province or extend beyond the province's territorial limits.<sup>3</sup> Such works and undertakings are within the jurisdiction of the federal Parliament.

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#### DISCLAIMER

Please note that in accordance with the Commission's Rules of Procedure, the statements in this Overview Report may be challenged or supplemented through evidence led before the Commission or submissions made to the Commissioner. The Commissioner will consider all the evidence entered in the Commission's public hearings in determining the weight to be ascribed to anything contained in the Overview Report.

4. The OLRT is part of the City's municipal transit system that extends into the Province of Quebec, therefore the OLRT is a federal undertaking under section 92(10)(a) of the *Constitution Act*.<sup>4</sup> Consequently, the federal government has the authority to regulate Ottawa's municipal transit system. The federal government has not enacted transportation legislation or regulations that apply only to Stage 1 of the OLRT Project. Transport Canada, the federal organization responsible for developing and overseeing the federal government's transportation policies and programs, is not administratively organized to provide active regulatory oversight for municipal transit systems.<sup>5</sup>
5. Effective October 1, 2011, the federal Minister of Transport (on behalf of the federal government) and the City entered into a Delegation Agreement, pursuant to which the Minister of Transport delegated to the City the Minister of Transport's *Canada Transportation Act*, SC 1996, c 10, Parts III and IV, and *Railway Safety Act*, RSC 1985, c 32 authority relating to the design, construction, operation, safety, and security of the OLRT system.<sup>6</sup> The Delegation Agreement does not delegate authority from other federal legislation related to federal rail (for example, federal labour or environmental legislation).
6. The Delegation Agreement<sup>7</sup> assigns federal authority over Stage 1 of the OLRT Project to the City. Specifically, the Delegation Agreement provides that the City shall, among other things:
  - a. develop, implement, and enforce a comprehensive regulatory framework for the safety and security of Ottawa Light Rail Systems;<sup>8</sup>
  - b. assume responsibility and accountability for the development, implementation, and enforcement of the regulations;<sup>9</sup>
  - c. establish procedures that require that compliance with the regulations be monitored and reported on by an independent internal auditor or other responsible City official;<sup>10</sup>
  - d. as operator, become a signatory to the Memorandum of Understanding on Security between Transport Canada and the Railway Association of Canada;<sup>11</sup> and
  - e. provide certain prescribed safety and security audit reports to the Minister of Transport, by delivery to Transport Canada.<sup>12</sup>
7. The Delegation Agreement does not provide for Transport Canada oversight of the City's regulatory framework.

8. To the extent authorized by and in accordance with the terms of the Delegation Agreement, the City became the federal government's delegated regulator of Stage 1 of the OLRT Project. To fulfill this role, the City enacted regulations and created structures for monitoring and compliance and to ensure accountability with the regulatory regime. Relevant documentation is attached as [Appendix A](#).

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## NOTES

<sup>1</sup> *Constitution Act*, 1867, 30 & 31 Victoria, c.3 [Constitution Act].

<sup>2</sup> *Constitution Act; Greenhouse Gas Reference*, paragraphs 48–49; *Reference Re Securities Act*, 2020 SCC 66 at paragraph 54.

<sup>3</sup> *Constitution Act*, section 92 10(a).

<sup>4</sup> *Re Ottawa-Carleton Regional Transit Commission and Amalgamated Transit Union, Local 279 et al.* (1983), 4 DLR (4th) 452.

<sup>5</sup> City of Ottawa. *Ottawa Light Rail Regulatory Framework*, Report to Transit Commission and City Council, September 1, 2015. (COM0001645)

<sup>6</sup> Canada and City of Ottawa. *Delegation Agreement between Canada (Minister of Transportation) and the City of Ottawa*, October 1, 2011, paragraph 2.1 [Delegation Agreement]. (COW0523308)

<sup>7</sup> Canada/City of Ottawa, *Delegation Agreement*. (COW0523308)

<sup>8</sup> Canada/City of Ottawa, *Delegation Agreement*, paragraphs 3.1 and 3.2. (COW0523308)

<sup>9</sup> Canada/City of Ottawa, *Delegation Agreement*, paragraph 3.4. (COW0523308)

<sup>10</sup> Canada/City of Ottawa, *Delegation Agreement*, paragraph 3.5. (COW0523308)

<sup>11</sup> Canada/City of Ottawa, *Delegation Agreement*, paragraph 3.3. (COW0523308)

<sup>12</sup> Canada/City of Ottawa, *Delegation Agreement*, paragraph 4. (COW0523308)

## Appendix A: Relevant Documentation on Delegation of Jurisdiction

Document Title	Document ID	Version Date
City's Project Charter	COM0000235 COW0593672	October 2011 2018
City's Project Management Plan (PMP)	IFO0004372	March 2012
City's Project Agreement with RTG	COM0000158	February 2013
Interface Agreement	RTG00150454	February 2013
City's Quality Management Plan	COW0327554	April 2016
City's Human Resources Plan	See within City's PMP (IFO0004372)	
City's (Rail Implementation Office) Risk Management Plan	COW0106920 COW0593652	June 2013 February 2016
City's Cost Management Plan	See within City's PMP (IFO0004372)	
City's Schedule Management Plan	See within City's PMP (IFO0004372) as Time Management	
City's Scope Change Management Plan	COW0593651	January 2016
RTG Project Management Plan	COW0088932	March 2013
City's (Rail Implementation Office) Audit Plan	COW0593655	April 2011
City's (Rail Implementation Office) Governance Process	COW0593653	January 2016
Various documents related to City enactment of bylaws regarding the delegation of authority (Finance and Economic Development Committee (FEDCO) Reports, Transit Commission Reports, Ottawa City Council Minutes)	COW0593625 to COW0593633 COW0593638 to COW0593646 COW0593648 COW0593649 COW0593656	Various dates
City Manager Designation – Light Rail Regulations	COW0537771	February 12, 2021

OC Transpo Safety Management System	<a href="#">COW0536782</a>	May 26, 2021
OC Transpo Electric Light Rail Operating Rules	<a href="#">PAR0004847</a> <a href="#">COW0153208</a> <a href="#">COW0503472</a>	September 6, 2017 August 27, 2018 January 11, 2021
OC Transpo Line 1 Oversight Plan for 2022	<a href="#">TRA0000002</a>	November 12, 2021
Ottawa City Council Minutes	<a href="#">COM0001736</a>	February 28, 2018
Report to Ottawa City Council: Light Rail Regulatory Monitor and Compliance Officer Work Plan	<a href="#">COM0001750</a> <a href="#">COM0001748</a>	September 7, 2018 August 29, 2018
OC Transpo Regulatory Framework for O-Train Line 1 V 1.0	<a href="#">COW0153188</a>	October 22, 2019
Regulatory Monitor and Compliance Officer Reports	<a href="#">RTM00101044</a> <a href="#">COM0009618</a> <a href="#">COM0009624</a>	February 4, 2020 February 26, 2021 March 1, 2022
Report to Transit Commission and Ottawa City Council: Ottawa Light Rail Regulatory Framework	<a href="#">COM0001645</a>	September 14, 2015
Presentation to Transit Commission: Ottawa Light Rail Regulation	<a href="#">COW0000192</a>	September 14, 2015