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**FOR IMMEDIATE RELEASE**

## **Moose on the Bikepath!**

### **City of Ottawa ignores federal court decision. Mandates of five federal ministers involved.**

**Ottawa, Ontario. 3 February 2015.** Today Moose Inc. (Mobility Ottawa-Outaouais: Systems and Enterprises Inc.) asked the federal Canadian Transportation Agency to take steps to enforce a 2012 court decision, and to inform the City of Ottawa of legal requirements under the Canada Transportation Act relating to the Prince of Wales Bridge. The bridge is a one-kilometer-long legally active and structurally sound inter-provincial railway between Ottawa, Ontario and Gatineau, Quebec.

Moose Inc. is a private company that is assembling a commercial consortium to operate all-day passenger rail service across the bridge by 2017. The company recently learned of the City of Ottawa's January 26 posting of a "Request for Qualifications: Prince of Wales Bridge Enhancements - Conversion to a Pedestrian and Cycling Bridge over the Ottawa River".

The City's bid solicitation document describes "removal of tracks from the existing north and south bridges and conversion to a multi-use pathway". The City invites engineering firms to position themselves to complete this rails-TO-trails conversion "by 15 December 2016".

But Councilor Keith Egli who Chairs the City's Transportation Committee, backtracked in a CBC interview on Monday: "The posting on Merx was premature. There's still discussions going on with potential funding partners, so it was frankly a little bit early to put on Merx".

However Moose Inc's President and General Manager, Joseph Potvin, said, "Premature or not, both of the concepts described by the City would complicate, delay and could forever prevent use of this kilometer-long bridge as railway." So he said Moose Inc has no choice but to request that the Canadian Transportation Agency take steps to enforce its 2012 decision (No. 210-R-2012) on the same issue. "Whatever their timing, the city's actual procurement document is perfectly clear", said Potvin. "It explicitly describes the removal of railway tracks to unilaterally convert \$1.5 billion worth of inter-provincial railway infrastructure into a bicycle and pedestrian path only."

Potvin explained that the set of companies being assembled into the Moose Consortium are targeting start-up service by 2017 across the Prince of Wales Bridge, as well as to Kanata, Barrhaven and Gatineau, and even out to Smiths Falls, Alexandria, Montebello, and other semi-rural municipalities. Under the both federal and provincial laws, independent private sector railway companies can run their trains on municipally-owned tracks.

Potvin added, "The Moose Consortium plan has always included rails-WITH-trails, and certainly we are developing ideas for a safe pedestrian and cycling corridor across that bridge. Cyclists will also be able to transport bicycles on the trains". But he explained: "The problem with the City's current exclusive rails-TO-trails idea is that it places two laudable objectives in opposition to each other. It's hard to understand why the City would not want both passenger railway service and a trails network, especially since we're arranging the private sector financing to do this. We're not asking taxpayers to foot the bill."

In the CBC interview on Monday, Councilor Egli contradicted the procurement document by suggesting that the idea is not to remove tracks, but to construct a wooden boardwalk directly onto the steel of the tracks across the bridge to allow for bicycle and pedestrian traffic between Ontario and Quebec.

Moose Rail's Potvin asks: "In any case, since when is it okay to construct a boardwalk that obstructs running rights on a legally active railway?"

Deputy City Manager Nancy Schepers told the CBC that a pedestrian or cycling boardwalk built directly onto the tracks "would not compromise future transit use for either bus and rail."

Potvin said she's mistaken. "Ms. Schepers and some other elected officials are thinking there won't be any trains on there for decades. We've been communicating our plans, but it appears they're not even listening to their own professional transportation engineering staff or consultants."

In the Request for Qualification, the City does not take into account recommendations of a 2011 study by McCormick Rankin that illustrates and costs-out in detail a combined rails-WITH-trails option. That study envisions the path constructed off the side of the railway bridge, like the Alexandra Bridge. The bid solicitation also contradicts the City's own 2014 Transportation Master Plan, and the 2013 Inter-provincial Transportation Strategy developed in collaboration with the City of Gatineau and the National Capital Commission. It also conflicts with the Certificate of Fitness that the O-Train operates under.

Furthermore, Moose Rail says that the published request for proposals document ignores the law of the land so profoundly, that it violates Section 92.10(a) of the Canadian Constitution. "Simply put" explained Potvin, "the city cannot remove, modify or obstruct the tracks of an inter-provincial railway without stepping through the well-defined federal process, even though the city owns those tracks." He suggests, "The problem is that some of the elected people in the municipality seem to be uncomfortable with what it means in practice to have three jurisdictional layers."

Potvin explained, "The reason this rule has been in the Constitution since Confederation, is because inter-provincial trade is a good thing for overall business and jobs development, even though, yes, there can be some short-term local advantages in building artificial barriers." In November 2014 on a national panel with executives from Toronto's GO-Transit and Calgary Transit, Potvin detailed how Moose Rail would increase families' aggregate household disposable income throughout both Ontario and Quebec sides of the Greater National Capital Region by over \$20 million per year, and would reduce overall carbon emissions by more than 20,000 tonnes per year.

With an eye to federal jurisdictional powers and responsibilities, Moose Rail is asking five federal Ministers to work together so that the private sector can develop its railway service:

- Transportation Minister Lisa Raitt can empower professional staff of the Canadian Transportation Agency to enforce the Agency's 2012 Decision, and she can enable the Railway Safety Board to pro-actively enforce routine safety and maintenance requirements on this federally regulated railway.
- Minister of Justice and Attorney General of Canada, Peter MacKay can lead his professional staff in defending Section 92.10(a) of the Constitution of Canada by ensuring that essential federal authorities and responsibilities are respected by a municipal level of government.
- Minister for the National Capital Commission, John Baird can give the nod to professional staff of the NCC to leverage Section 13 of the National Capital Act to

"enter into agreements with any railway company for the use or operation of a railway or facilities". Since the Prince of Wales Bridge is the sole railway connecting the Quebec and Ontario halves of the National Capital Region, this single kilometer is indispensable to the spirit and letter of Section 13 of the Act.

- Minister for PWGSC, Diane Finley, can ask her professional staff, under the federal "Act Respecting Certain Works on the Ottawa River", to ensure that the full public interest potential of this real property asset is attained. This law specifies that for any infrastructure "located in the Ottawa River to have been constructed for a public utility purpose, these are held to be works for the general advantage of Canada, and come under the control and management of the Department of Public Works and Government Services".
- Minister of Finance Joe Oliver can take steps to ensure that \$1.5 billion dollars worth of federally-regulated infrastructure is employed for business and jobs development in two provinces, through new railway services financed entirely by the private sector.

Potvin added, "The co-existence of trails and trains throughout the National Capital Region makes overwhelming economic, environmental, safety and lifestyle sense. These corridors, tracks and bridges are already bought and paid for. Residents and businesses of the Greater National Capital Region want and need several sustainable, affordable and convenient ways to get around."

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### **Additional Information**

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### **Online Info**

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### **Useful Documents**

- City of Ottawa, Request for Qualifications (RFQ) No. 27615-92533-Q01. "Prince of Wales Bridge Enhancements - Conversion to a Pedestrian and Cycling Bridge over the Ottawa River Preliminary, Detailed Design and Tender Documents, Construction Administration and Risk Management Strategies. [https://www.merx.com/English/SUPPLIER\\_Menu.asp?WCE=Show&TAB=1&PORTAL=MERX&State=7&id=319104&src=osr&FED\\_ONLY=0&ACTION=&rowcount=&lastpage=&MoreResults=&PUBSORT=2&CLOSESORT=0&IS\\_SME=Y&hcode=mrizj03FssrJJomrq98msw%3d%3d](https://www.merx.com/English/SUPPLIER_Menu.asp?WCE=Show&TAB=1&PORTAL=MERX&State=7&id=319104&src=osr&FED_ONLY=0&ACTION=&rowcount=&lastpage=&MoreResults=&PUBSORT=2&CLOSESORT=0&IS_SME=Y&hcode=mrizj03FssrJJomrq98msw%3d%3d)
- Canadian Transportation Agency, Decision No. 210-R-2012, June 6, 2012. COMPLAINT by Mobility Ottawa-Outaouais: Systems & Enterprises Inc. pursuant to Part III, Division V of the Canada Transportation Act. <https://www.otc-cta.gc.ca/eng/ruling/210-r-2012>
- Moose Inc. Submission to City of Ottawa, Transportation Committee (Transportation Master Plan). 15 November 2013. <https://drive.google.com/file/d/0Bz47kauZsx60d1I2OHZvaVNvbJQ/edit?usp=sharing>
- Moose Inc. Presentation to City of Ottawa, Transportation Committee (Transportation Master Plan). 15 November 2013. <https://drive.google.com/file/d/0Bz47kauZsx60bjBOamJhUWRJcTA/edit?usp=sharing>