



**STAFF REPORT  
ACTION REQUIRED  
with Confidential Attachment**

**Union Station Revitalization Award of Contracts**

<b>Date:</b>	October 28, 2009
<b>To:</b>	Government Management Committee
<b>From:</b>	Chief Corporate Officer and Director, Purchasing & Materials Management
<b>Wards:</b>	Ward 28, Toronto Centre Rosedale
<b>Reason for Confidential Information:</b>	This report involves a proposed or pending acquisition or disposition of land by the City or one of its agencies, boards, and commissions.
<b>Reference Number:</b>	P:\2009\Internal Services\F&re\Gm09096F&re - (AFS 10514)

**SUMMARY**

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Following Council’s approval of the Union Station Revitalization Project at the Council meeting held on August 5 and 6, 2009, staff initiated the Request for Proposal process to select a General Contractor/Construction Manager to undertake the construction work required. This report outlines the final steps to be taken to award the General Contractor/Construction Manager contract and addresses some additional contractual matters and administrative items with regards to facilitating the work.

The remaining conditions to be satisfied in order for the Revitalization Project to proceed are the finalization and execution of various agreements with Metrolinx and the finalization and execution of the Head Lease Agreement. The Provincial funding announcement for the project was made by the Deputy Premier and Minister of Environment and Infrastructure on July 24, 2009 and further confirmation of the funding has been received via letter, dated August 4, 2009 from the Deputy Minister of the MTO, both of these actions procedurally followed Provincial Treasury Board and Cabinet Approval. The Federal Contribution Agreement signed on September 25th, 2009, which followed Federal Treasury Board approval, fulfilled another of the requirements of the August 5th and 6th Council approval.

This report also recommends approval of extensions to the existing professional services contracts required for the project and minor changes to the real estate transaction associated with the West Wing sale and lease of portions of the Station to Metrolinx.

## **RECOMMENDATIONS**

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### **The Chief Corporate Officer and the Director, Purchasing and Materials Management recommend that:**

1. City Council authorize the Chief Corporate Officer and Director of Purchasing and Materials Management to report directly to City Council at its meeting scheduled for November 30 and December 1, 2009 on the recommended General Contractor/Construction Manager for the Union Station Revitalization Project;
2. City Council authorize the Chief Corporate Officer to finalize terms and conditions, award and administer in accordance with Attachment 2, a General Contractor/Construction Manager contract, and the associated Phase Agreements, in a form satisfactory to the City Solicitor, in the amount of up to \$450,000,000 (net of GST), to the selected General Contractor/Construction Manager, subject to the finalization and signing of the agreements with Metrolinx and the Head Lease Agreement with the Head Lessee;
3. City Council authorize the Chief Corporate Officer to initiate project work with the selected General Contractor/Construction Manager through the issuance of a Limited Notice to Proceed to a maximum value of \$45 million (net of GST) of the \$450,000,000 total noted in Recommendation #2 above, until the full General Contractor/Construction Manager contract is executed;
4. City Council authorize the Chief Corporate Officer to assign relevant Union Station contracts to the General Contractor/Construction Manager;
5. City Council authorize revisions to certain terms and conditions of the West Wing sale agreement and lease to be entered into with Metrolinx that were authorized by City Council at its meeting on December 1, 2 and 3, 2008 (GM19.11) and its meeting on August 5 and 6, 2009 (EX33.44), substantially as set out in Confidential Attachment 1 and Attachment 4;
6. City Council adopt the confidential instructions to staff in Confidential Attachment 1.
7. City Council direct Transportation Services to ensure that the report on the Environmental Assessment of Front Street address the issues related to adequate provision of facilities for taxi operations at Union Station;

8. City Council authorize the Chief Corporate Officer to extend the retainers for professional services, in accordance with the details (not including taxes) as specified below, in a form satisfactory to the City Solicitor, such extensions to include the carrying forward of any previously authorized funds, contract terms and approvals for which the funds have not yet been expended:
  - (a) Davies Ward Phillips & Vineberg LLP for legal services for finalizing any necessary legal documents and provision of legal advice for the ongoing Revitalization at a cost not to exceed \$500,000;
  - (b) Deloitte & Touche LLP to undertake ongoing commercial head lessee negotiations and to provide financial and real estate advice at a cost not to exceed \$600,000;
  - (c) ARUP Canada Inc., to provide the Pedestrian Microsimulation Analysis, construction modeling and staging analysis at a cost not to exceed \$3.0 million;
  - (d) NORR Limited Architects & Engineers, to provide design services, contract documentation, bidding and negotiation support, and construction administration services, including remaining heritage approvals at a cost not to exceed \$35.4 million;
  - (e) Osler, Hoskin & Harcourt LLP to provide construction law services at a cost not to exceed \$100,000.
9. City Council authorize the public release of the confidential information and recommendations in Attachment 1 once the sale and lease agreements with Metrolinx have been signed and the Head Lease Agreement has been signed.

### **Financial Implications**

Funding in the amount of \$450 million for the General Contractor/Construction Manager contract is available in the 2010 Recommended Capital Budget and 2011-2019 Capital Plan for Union Station. In addition, \$39 million is available within the Recommended 10-Year Capital Plan for the extension of retainers for professional services.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

## **DECISION HISTORY**

A report giving authority to proceed with the Union Station Revitalization Project, subject to approvals of funding from the Federal and Provincial Governments and execution of the necessary agreements with the Federal Government, Metrolinx and the Head Lessee, was approved by Council at its meeting on August 5 and 6, 2009. The report is available on-line at:

<http://www.toronto.ca/legdocs/mmis/2009/cc/bgrd/backgroundfile-22625.pdf>

## **ISSUE BACKGROUND**

### Procurement of the General Contractor/Construction Manager (GC/CM)

As stated in the report that was before Council in August, 2009, the best method to deliver the construction involved in the revitalization of Union Station is through the construction management method of project delivery (See Attachment 2 for detailed explanation of the General Contractor/Construction Management Process). A Pre-Qualification call was carried out in the spring/summer of 2009 to identify capable construction firms that had experience working on very large complex construction projects. Through this process, four firms were identified and subsequently invited to submit proposals to the City for the provision of GC/CM services to the City. The work of the evaluation team is underway and will be completed before the Council meeting of November 30, 2009. The Fairness Consultant will also be preparing an Attest Report on the procurement process. In anticipation of the requirement to finalize the GC/CM contract, an interim agreement, Limited Notice to Proceed, is required to enable a limited scope of work to start, to avoid schedule delays and related financial impact. In addition, the City is in the process of initiating some construction contract work and procurement of long delivery items, in advance of the retention of the GC/CM in order to not delay the project, which is anticipated to be assigned to the GC/CM for implementation.

### Additional Professional Services

Almost all the professional firms noted in the report have been involved in the Revitalization work from the beginning and have extensive experience and knowledge of the Station. To not continue with their services would severely delay the City's ability to participate in the coordination of the transit operators' construction projects, would impact the recovery of funds for the project from the City's funding partners and would negatively impact the project schedule leaving the City financially liable to its project partners. The cost to the City to hire new professional service providers would be prohibitive both from a scheduling and financial perspective. Therefore, it is the recommendation of staff that the professional services retainers be extended.

## Status of Agreements

During the spring of 2009 negotiations were undertaken with the Federal Government to access funds available through the Building Canada Fund administered by Transport Canada. The City and the Federal Government have agreed on various projects as part of the revitalization of the Station to be funded by the Federal Government up to a total of \$133M. The method of funding, projects and consulting services eligible for federal funding are described in the Contribution Agreement signed September 25, 2009.

VIA Rail has also committed to a contribution of \$25 million towards the revitalization of its spaces within the Station and the York West Teamway area. It is anticipated that Treasury Board approval will be given in November 2009.

Staff expects the Metrolinx agreements, which include the Reciprocal Rights Amending Agreement, Train Shed Roof/Atrium Encroachment Agreement, Northwest PATH Agreement, lease of space within the West Wing and Centre Block, Strata Sale of the West Wing Upper Floors and the new Bay and York Concourses to be constructed, to be finalized and signed shortly.

Other agreements that staff anticipate will be signed over the next six months include the Amended VIA Lease, the Air Rail link Lease of their proposed lobby space within the west wing and the amended Bank of Nova Scotia lease.

As part of the July 29<sup>th</sup> 2009 report approved by Council on August 5, 2009 staff were directed to conclude the negotiations with the selected head lessee, including the terms of the Commercial Premises Head Lease Agreement. It is anticipated that the Head Lease Agreement will be signed within the next month.

## Front Street Taxi Issues

City Council passed a motion at its meeting on August 5 and 6, 2009 requesting the City Manager and the Deputy City Manager and Chief Financial Officer to report on taxi integration into Union Station no later than November 2009. Currently an Environmental Assessment (EA) is being undertaken for the Re-configuration of Front Street from Bay Street to York Street. This EA is being led by Transportation Services and it is expected that the EA will among other things, address the issues related to taxi facilities on Front Street and the provision of taxi facilities in the area.

It should be noted, however, that given heritage, security and pedestrian design issues it is not possible to provide taxi facilities within the Station itself. Additional taxi facilities will be located on Bremner Boulevard near the new entrance to the Station. This will relieve some of the congestion on Front Street while providing direct connections to the taxis to the south of the Station.

## West Wing Strata Sale and Lease

Due to provincial funding requirements, there have been changes to the financial arrangement that was reported to Council in a Confidential Attachment in December, 2008 for the sale of part of the West Wing and the long-term lease of parts of the West Wing and Centre Block. Details of these changes are set out in Confidential Attachment 1. Certain other minor changes, which are set out in Attachment 4, have also been negotiated.

## **COMMENTS**

### **Construction Implementation**

#### i) GC/CM Procurement

On April 30, 2009 a Pre-Qualification call was issued to the entire construction industry. Five submissions were received and were reviewed by an interdepartmental team with oversight by PMMD and a Fairness Consultant, P1 Consulting Inc. Evaluation criteria included Bonding and Insurance capacity, Respondent Profile, Experience and Qualifications of the Respondent and General Understanding of Project Complexities. The following four firms were Pre-Qualified to submit proposals for the provision of General Contractor/Construction Manager services:

- EllisDon Corporation;
- PCL Constructors Canada Inc.;
- Grand Union Junction Venture (consortia of SNC Lavalin, Aecon, Turner); and
- Vanbots, a division of Carillion Construction Inc.;

As stated in the report that was before Council on August 5 and 6, 2009, an RFP was issued to the above four firms on September 14, 2009. Criteria to be evaluated included Proposal Submission, Proponent Capacity, Detailed Work Plan and Approach to Risk Mitigation, Organizational Structure/Key Personnel and Pricing/Cost. An evaluation team of four, including F&RE and Technical Services staff, a TTC staff member and technical advisors are being utilized to evaluate the proposals received on October 16, 2009. The evaluation team is currently individually assessing the proposals against the pre-determined criteria. The team will then meet to establish a consensus score for each proposal. The RFP and evaluation process were established, documented, approved and overseen by a team of F&RE, PMMD and Legal staff together with outside legal staff and the Fairness Consultant to ensure that the RFP process is carried out in a fair and consistent manner. Additional information, as required, regarding the RFP process will be provided in the report to Council recommending the GC/CM.

## ii) Professional/Contractor Services

As per the staff report that was before Council on August 5 and 6, 2009, new contracts for those services that are considered to be reimbursable under the Federal Contribution Agreement are required for the extension of services such as the NORR and ARUP contracts. Certain of the services are not reimbursable and the contract authorization (which was limited to the execution of the Federal Contribution Agreement), including unexpended funds and the original proposed contract term to December 31, 2009 needs to be addressed. Forms of agreement will be updated to reflect the expanded scope of work envisaged. The following consultants, including a description of the services to be provided, are required:

**Design:** The continuation of NORR Limited Architects & Engineers is required to provide continued architectural and restoration design development, contract documentation, specifications, bidding and negotiation support, GC/CM contract administration and resident services, including continued heritage approvals through Parks Canada. To date, NORR has been retained from Schematic Design through to completion of design development and Stage 1 Contract Documentation for initial work packages, including heritage approvals. NORR is a highly regarded world renowned fully integrated Architectural and Engineering firm having worked on major projects in Canada and around the world including Lester B. Pearson Airport, Terminal 2, Rogers Centre (Skydome), Yonge Sheppard Subway Station, 180 Wellington Street in Ottawa (the proposed relocated home for the House of Commons and Senate in Ottawa) and Burj Dubai (world's tallest building). In addition, NORR has done numerous other smaller projects for both the TTC and GO Transit. City staff recommends that NORR be retained under improved commercial terms; better than standard architectural rates and comparable to overall fees for projects which incorporate similar characteristics and challenges from a heritage restoration and operational perspective at a cost not to exceed \$35.4 million.

**Transportation Planning:** It is recommended that Arup Canada Inc. continue to be retained to undertake further Pedestrian Microsimulation and Analysis, Construction Staging analysis of both the station and TTC facilities at the station, Metrolinx Forecasting and Operational Planning analyses for the duration of the construction of the revitalization. Transportation Planning, Metrolinx, TTC and VIA Rail all have confidence in Arup's ability to expedite the assignment. Additional work may also need to be undertaken on a cost shared basis with the Air Canada Centre to ensure that pedestrian movement into and around the Station addresses issues related to the volumes of pedestrian traffic generated by events. The retainer is recommended to be increased at a cost not to exceed \$3M.

**Real Estate/Financial:** Deloitte & Touche LLP (D&T) have provided financial, real estate and negotiation services to the City since the inception of the project, and are currently providing these consulting services towards the completion of the agreements with the Head Lessee, Metrolinx, VIARail Lease, Air Rail Link, BNS and MLSE agreements. D&T will be required to provide the City with on-going financial and real estate advice and support as the City completes these agreements. It is recommended that the Chief Corporate Officer extend Deloitte& Touche LLP's retainer at an additional cost not to exceed \$600,000.

**Legal Counsel:** Davies Ward Phillips & Vineberg LLP (DWPV) have provided legal advice to the City since 1999, before the purchase of the Station by the City. DWPV are currently providing legal services for the completion of the Head Lease Agreements, the Metrolinx Agreements, VIA Rail Lease, Air Rail Link, BNS and MLSE agreements. DWPV will be required to provide the City with further drafting of legal documents and advice and interpretation of various agreements as construction proceeds. Therefore, a retainer of \$100,000 per year, for five years, commencing January 1, 2010, should be provided for this service, after the current retainer extension. It is recommended that the City Solicitor, in consultation with the Chief Corporate Officer, extend the retainer of Davies Ward Phillips & Vineberg LLP at an additional cost not to exceed \$500,000.

Osler, Hoskin and Harcourt LLP were retained, by means of a competitive process, in early 2009 to provide construction law services to support the development of the GC/CM contract and the project architect's agreement. With the development of the GC/CM agreement and assisting with the support of the procurement documentation development for the retention of the GC/CM, it is prudent to extend the retainer for Osler Harcourt to cover construction law services that support the development of the required GC/CM Phase agreements and provide on-going support during the construction stages relating to these agreements and their interpretation and implementation. It is, therefore, recommended that the City Solicitor, in consultation with the Chief Corporate Officer, extend the retainer of Osler, Hoskin and Harcourt LLP at an additional cost not to exceed \$100,000.

**Civil/Building Infrastructure:** As reported in the report that was before Council on August 5 and 6, 2009, Clifford Restoration is authorized to undertake additional work in the amount of \$1.4 million for the relocation of a sanitary sewer in the northeast moat in advance of the adjacent TTC subway station project. Subsequent to this recommendation, development of the design resulted in an improved alignment and elimination of the potential for a construction schedule conflict with the proposed TTC work. The new design is ideally suited for incorporation into the TTC construction contract. TTC has agreed to incorporate this work into their contract, provided the TTC is reimbursed for the cost of this work, therefore the CCO will enter into any necessary agreements with TTC to enable the work to take place under this arrangement. Clifford Restoration is continuing with building envelope investigation/remediation work within the overall contract amount authorized by Council and if necessary, will enter into a new agreement for this work.



## CONCLUSION

The Chief Corporate Officer and the Director, Purchasing and Materials Management request Council's authorization to award the GC/CM contract, subject to finalization of the selection of the recommended GC/CM, and extend the retainer of other relevant professional services agreements for the construction of the Union Station Revitalization Project.

## CONTACT

Richard Coveduck, P. Eng.  
Director, Design Construction & Asset Preservation  
Tel. No. 416-338-2737  
Fax No. 416-338-2738  
E-mail: [rcovedu@toronto.ca](mailto:rcovedu@toronto.ca)

Chuck Donohue, P. Eng.,  
Executive Director, Facilities & Real Estate  
Tel. No. 416-397-5151  
Fax No. 416-392-4828  
E-mail: [cdonohue@toronto.ca](mailto:cdonohue@toronto.ca)

Rick Tolkunow, P. Eng.  
Senior Manager, Design and Construction  
Tel. No. 416-392-6322  
Fax No. 416-392-4828  
E-mail: [rtolkun@toronto.ca](mailto:rtolkun@toronto.ca)

## SIGNATURE

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Bruce Bowes, P.Eng.  
Chief Corporate Officer

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Lou Pagano, Director, Purchasing  
and Materials Management

## ATTACHMENTS

Confidential Attachment 1: Revised Terms and Conditions for Metrolinx Transactions  
Attachment 2: General Contractor/Construction Management Process  
Attachment 3: Project Schedule Milestones  
Attachment 4: Revised Terms and Conditions for Metrolinx Transactions

## **ATTACHMENT 2: GENERAL CONTRACTOR/CONSTRUCTION MANAGEMENT PROCESS**

### **Issue/Background:**

- The overall Union Station Revitalization project is estimated to cost \$640 million, inclusive of the NW Path, with the detailed design development initiated for the project in 2009 and the various stages/phases of construction to take place primarily from 2010 to 2016. The best approach is to hire an architectural firm for the design process and a General Contractor-Construction Management (GC/CM) firm for the construction process. The GC/CM will provide the specialized construction professional services, on behalf of the owner, inclusive of providing construction leadership, contract management, direction, supervision, coordination and control of the construction work. As well, the City's Senior Manager, Design and Construction and staff, will be in place to manage the project. This provides an overview of how the general contractor/construction management process will work.

### **Key Points:**

- The City team prequalified firms and established a short-list of capable firms to respond to the RFP for General Contractor-Construction Management (GC/CM) services for Union Station. PMMD and a Fairness Consultant provided process oversight.
- The design development construction budget is established for Union Station and a fee, based on the estimated construction cost will be the fee for GC/CM services, as determined through the RFP process. In addition, as part of the RFP process, fixed costs have been requested for core staff and other items that can be quantified at the time of the RFP.
- An evaluation team comprised F&RE and Technical Services' staff plus a TTC staff member will recommend (oversight by PMMD and the Fairness Consultant) the successful GC/CM firm. The contract will be based on a form of contract currently considered to be "best practice" in the construction industry. The contract will also allow for a negotiated "Guaranteed Maximum Price" for components of the work, should the City wish to exercise this option.
- The GC/CM will be the "constructor" under the provisions of the OHSA.
- The GC/CM will perform the duties and activities of a general contractor inclusive of provision of general site services (general accounts) in the performance of the construction work (eg. site clean up, temporary hoarding/barricades, dewatering, temporary site services, etc) on a cost reimbursable basis
- A report will be submitted to Council for award of contract to the GC/CM firm for the estimated overall construction cost inclusive of the fixed fees and estimated reimbursable general accounts for the GC/CM firm, with the large majority of the overall value of the contract subsequently tendered to subtrades.

- The GC/CM, together with the City's architectural firm and the Union Station Implementation Team will develop the detailed phasing/staging work packages to be tendered with due consideration of constructability issues. The GC/CM will assume the risks associated with scheduling and coordination of the sub-trades for these work packages once tendered and will contract directly with all sub-trades.
- The GC/CM, working with the City's Union Station Implementation Team will pre-qualify sub-trades as and when appropriate. The GC/CM will use the Daily Commercial News and MERX for advertising sub-trade pre-qualification/bid opportunities as determined (ie. over \$100K). All sub-trade bids will close to the GC/CM and be opened at their offices with the involvement of the Union Station Implementation Team (not a public opening). Selection of sub-trades will be based on the recommendations of GC/CM. The CCO will delegate authority to the Senior Manager, Design and Construction or Director DCAP or other designated staff to provide City approval of the selection, within the approved contract authority.
- The GC/CM will establish a monthly progress draw process for construction activity. Progress payments will be certified by the Project Architect with approval of progress draws by the Senior Manager, Design and Construction or Director DCAP. The City will hold back 10% of all progress draws to the GC/CM for Construction Lien purposes. The GC/CM will be responsible to pay all sub-trades on a monthly progress draw process. Timely processing of the GC/CM progress draw will be a requirement.
- The GC/CM will be directed to retain all project records for a seven (7) year period and this will be included as part of the contract documents. City policies and required procedures (e.g. Fair Wages) have been included in C/CM contract documents as well.
- The GC/CM will be required to provide a summary of the procurement activity detailing the calls issued, bids received and award details (firm and value) to the City for the Union Station file.
- The GC/CM will provide specific cost reports for any areas involving 3<sup>rd</sup> party sales or leases of property and funding agreements.
- All change orders initiated by the GC/CM will be approved by the Senior Manager, Design and Construction and/or Director DCAP or other designated staff, under delegated authority from the CCO. Change orders that cumulatively exceed the overall contract price by more than 20% would require Council approval or approval in arrears in time sensitive situations.
- Full audit authorities of the GC/CM's records will be incorporated into the contract documents.
- Senior oversight of GC/CM management to be provided by the Union Station Steering Committee

## ATTACHMENT 3: PROJECT SCHEDULING MILESTONES

### Target Milestones (from current schedule)

Milestone	Target Date
CM Council Award	Nov-09
CM Services Begin	Dec-09
Main Pedestrian Bridge Complete	Mar-10
Exterior Restoration Work-start	Jul-10
VIA Panorama Lounge	Oct-10
Loading Dock Complete	Jan-11
West Wing--Base Building-Complete	May-12
NW Path Phase 1	Jun-12
York (GO) Concourse Turnover	Jun-12
Bay (GO) Concourse Turnover	Nov-13
VIA Concourse Renovations Complete	Nov-13
Retail Area turned over to QPL	Dec-14
Project Completion	Jun-15
NW Path Complete	Mar-15

## **ATTACHMENT 4: REVISED TERMS AND CONDITIONS FOR METROLINX TRANSACTIONS**

Changes to the terms and conditions reported to City Council in Appendix “A” of GM19.11, as adopted by City Council on December 1, 2 and 3, 2008, as amended by Attachment 8 of EX33.44, as adopted by City Council on August 5 and 6, 2009

### **1) WEST WING STRATA PROPERTY SALE**

- **Maintenance & Repair**

It was originally reported to Council that Metrolinx would be responsible, at its own cost and expense, for all renovations, installations and owner improvements to the West Wing Strata Property, beyond the base building work to be completed by the City, subject to obtaining the prior approval of the City. It was subsequently reported that the City would instead be responsible for carrying out the work, at Metrolinx’s expense. Either Metrolinx or the City, as may be agreed by Metrolinx and the CCO, will carry out the work, in either case at Metrolinx’s cost and expense.

### **2) LEASED PREMISES**

- **Maintenance & Repair**

It was originally reported to Council that Metrolinx would be responsible, at its own cost and expense, for all renovations, installations and tenant improvements to the Leased Premises, beyond the base building work to be completed by the City, subject to obtaining the prior approval of the City. It was subsequently reported that the City would instead be responsible for carrying out the work, at Metrolinx’s expense. Either Metrolinx or the City, as may be agreed by Metrolinx and the CCO, will carry out the work, in either case at Metrolinx’s cost and expense.