

Union Station Revitalization Project – Status Update

Date: May 12, 2017

To: Government Management Committee

From: Chief Corporate Officer and Director, Purchasing and Materials Management

Wards: Ward 28 – Toronto-Centre Rosedale

SUMMARY

The purpose of the report is to advise on the status of the City of Toronto's Union Station Revitalization Project, including an update on the construction progress and project budget. This report also seeks authority to amend the contract with Davies Ward Phillips and Vineberg LLP for the provision of real estate advice, drafting of agreements and negotiations with Union Station tenants.

The project remains within the current approved budget of \$800.7 million and is scheduled to be substantially completed by early 2018.

RECOMMENDATIONS

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

1. Government Management Committee, in accordance with, Section 71-11.1.C of the City of Toronto Municipal Code Chapter 71 (Financial Control By-Law), authorize the amendment of the retainer with Davies Ward Phillips and Vineberg LLP (Purchase Order No. 6025203), to provide real estate legal advice, draft legal terms and agreements for the on-going agreements and negotiations with Union Station tenants in the additional amount of \$0.350 million, net of all applicable taxes (\$0.356 million net of HST recoveries). This addition will revise the Purchase Order 6025203 and current contract value from \$ 3.22 million to \$3.57 million, net of all applicable taxes (\$3.63 net of HST recoveries).

FINANCIAL IMPACT

The estimated increase to Purchase Order 6025203 is \$0.350 million, net of all applicable taxes (\$0.356 million net of HST recoveries) as identified in this report and will be funded through the existing 2017 Council Approved Operating Budget and future 2018 Operating Budget submission for Facilities Management, Real Estate, & Environment and Energy Division (FREEE).

The amendment is required for legal expertise for operational agreements of Union Station tenants and is not related to the Revitalization Project and is not capital in nature. It will be funded from FREEE's 2017 Council Approved Operating Budget within the Real Estate Services Division, through the Union Station Reserve Fund.

An amendment is required in the amount of \$0.35 million (2017 - \$0.10 million; 2018 - \$0.25 million) for Davies Ward Phillips and Vineberg LLP to ensure continuity and knowledge retention of external legal staff. The original contract that was established under the Revitalization project will be amended. The total value of the contract will be \$3.57 million of which \$3.061 million has been spent to date. The remainder of the contract is estimated to be spent over the next two (2) years.

Total Union Station Project Cost and Current Estimates:

The project remains within the current approved budget of \$800.7 million and funding is available within the 2017 Council Approved Capital Budget and 2018 to 2026 Capital Plan for Facilities Management, Real Estate, and Environment & Energy (FREEE).

Future cash flows based on current estimates, and a comparison to the current approved plan, is outlined in table 1 below:

Table 1—Approved Project Budget vs. Current Estimated Project Cost (\$ millions)

	Amount Spent to Dec 31, 2016	Jan 1, 2017 to Dec 31, 2017	Jan 1, 2018 to Dec 31, 2018	Total
Current Estimates	\$632.324	\$95.054	\$73.322	\$800.700
Approved Plan	\$632.324	\$137.844	\$30.532	\$800.700
Variance	-	(\$42.790)	\$42.790	-

Projections to year-end 2017, indicate that the USRP's capital expenditures are forecasted to be \$95.054 million or 69% of the 2017 approved cash flow of \$137.844 million.

Current forecasts continue to be within the current approved budget of \$800.7 million, however the project continues to face on-going challenges. These include, but are not limited to: site conditions found associated with Stage 2/3, performance issues with 3rd party contractors and consultants, project delivery dependencies with Metrolinx contracted work, coordination of work programs amongst stakeholders and projects at the station, and integration of transfers of work scope from Stage 1 to Stage 2/3. The project team is working to actively manage these challenges within the approved budget and will report back at the regularly scheduled status updates or through the capital budget process as the outcome and any associated financial impact becomes known. The City also continues to engage in discussions with external project stakeholders and other funding partners/sources to reimburse or fund components of the work being undertaken.

Financing Sources:

The Council approved budget and financing plan for the Union Station Revitalization project is outlined in table 2 below:

Table 2: Union Station Revitalization Project Cost & Funding Sources	Approved Budget \$ millions
Project Costs:	
Stage 1 Construction	402.1
Stage 2 Construction	179.0
Other Construction (Including 3rd Party works)	70.3
NW Path	50.0
Professional and consulting services (Including design and legal fees)	76.3
Other Fees (Including insurance and permits)	11.3
Internal project management	8.8
Other heritage elements	3.1
Total Project Cost Budget	800.7

Project Funding Sources:	
Province (GO / Metrolinx)	191.8
Federal	139.5
VIA Rail	24.9
Other stakeholders	2.4
Total External Funding Sources	358.6
City Debt	180.5
Recoverable Debt	190.5
Reserves	60.4
Development Charges	7.9
Section 16 Agreements	2.8
Total Internal Funding Sources	442.1
Total Project Funding Sources	800.7

See Appendix A at the end of this report for the current approved budget and life to date spending by major component. Forecasted spending is net of any future claims paid or received, as noted in previous reports.

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

DECISION HISTORY

At its meeting of February 15, 2017, City Council approved the 2017 Capital Budget and 2018-2026 Capital Plan for Union Station Revitalization Project.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EX22.2>

<http://www.toronto.ca/legdocs/mmis/2017/ex/bgrd/backgroundfile-100599.pdf>

At its meeting of November 16, 2016 Government Management Committee approved Amendment to Contract No. 75-2015 for Union Station Revitalization Project Stages 2 and 3.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.GM16.12>

<http://www.toronto.ca/legdocs/mmis/2016/gm/bgrd/backgroundfile-97861.pdf>

At its meeting of June 13, 2016 Government Management Committee received for information the Union Station Revitalization Project - Status Update Report.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.GM13.24>

<http://www.toronto.ca/legdocs/mmis/2016/gm/bgrd/backgroundfile-93682.pdf>

At its meeting of February 17-16, 2016, City Council approved the 2016 Capital Budget and 2017-2025 Capital Plan for Union Station Revitalization Project.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX12.2>

<http://www.toronto.ca/legdocs/mmis/2016/ex/bgrd/backgroundfile-89026.pdf>

At its meeting on February 3, 2016, City Council authorized an amendment to the Head Lease Agreement to implement the building enhancements for Union Station. A report is available on-line at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.GM9.5>

<http://www.toronto.ca/legdocs/mmis/2016/gm/bgrd/backgroundfile-87143.pdf>

At its meeting of July 7, 8, and 9, 2015, City Council approved the Union Station Status Update, resulting in a budget increase of \$4.3 million related to forecasted cost increases. The report is available on-line at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.GM5.19>

<http://www.toronto.ca/legdocs/mmis/2015/gm/bgrd/backgroundfile-81488.pdf>

At its meeting of March 10 and 11, 2015, City Council approved the 2015 Capital Budget and 2016-2025 Capital Plan for Union Station Revitalization Project.

<http://app.toronto.ca/tmmis/viewPublishedReport.do?function=getCouncilAgendaReport&meetingId=9689>

<http://www.toronto.ca/legdocs/mmis/2015/ex/bgrd/backgroundfile-77481.pdf>

At its meeting of August 25, 26, 27 and 28, 2014, City Council approved the Union Station Revitalization – Status update, including an amendment to an existing contract.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.GM32.10>

At its meeting of January 29 and 30, 2014, City Council approved the 2014 Capital Budget and 2015-2024 Capital Plan for Union Station Revitalization Project, including an increase of \$80 million related to forecasted cost increases and \$1 million for Heritage Plan and chandeliers. The report is available on-line at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.EX37.1>
<http://www.toronto.ca/legdocs/mmis/2014/ex/bgrd/backgroundfile-65945.pdf>

At its meeting of December 16, 17 and 18, 2013, City Council approved the Union Station Revitalization – Status update, including authorization for the Chief Corporate Officer to change the delivery method for construction work and the amendment of four existing contracts required to carry out the remainder of work within the Union Station Revitalization project, as well as for additional work to be carried out on behalf of 3rd parties, namely Metrolinx. The report is available on-line at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.GM26.5>

At its meeting on January 15 and 16, 2013, City Council approved the 2013 Capital Budget and 2014 - 2023 Capital Plan for the Union Station Revitalization project, resulting in an increase of \$48.2 million to the overall project cost. The report is available on-line at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.EX27.1>
<http://www.toronto.ca/legdocs/mmis/2013/ex/bgrd/backgroundfile-54840.pdf>

The Auditor General conducted a detailed on-site project audit in 2012 with a final report to Council on November 27, 2012 and the recommendations contained are being implemented for this project:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.AU9.7>

At its meeting on October 2, 2012, City Council approved an increase to the 2012 approved budget and 2013 capital plan of \$0.25 million for the installation of a commemoration of the Walks and Gardens Trust, funded through the Union Station reserve fund. The report is available on-line at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.GM11.6>

At its meeting on April 10, 2012, City Council approved an increase to the Union Station Revitalization budget of \$1.75 million to provide heritage architectural lighting and a heritage interpretation plan for Union Station, funded from a development agreement for 15 York Street. The report is available on-line at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.EX18.8>

At its meeting on March 5, 2012, City Council approved the amendment of five existing contracts required to carry out the remainder of work within the Union Station Revitalization project, as well as for additional work to be carried out on behalf of 3rd parties, namely Metrolinx. The report is available on-line at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.GM11.4>

At its meeting on January 17, 2012, City Council approved the 2012 Capital Budget and 2013 - 2022 Capital Plan for the Union Station Revitalization project, including increase to the original capital budget of \$25 million all related to work being carryout on behalf of various stakeholders at Union Station, funded through 3rd party contributions.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.EX14.1>

At its meeting on November 30, December 1, 2, 4 and 7, 2009, City Council authorized the award of a General Contractor/Construction Manager contract to the recommended proponent, and the extension of various professional services contracts to carry out the Union Station Revitalization Project. The reports are available on-line at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2009.GM26.32>

At its meeting on August 5 and 6, 2009, Council approved a report giving authority to proceed with the Union Station Revitalization Project, and confirmation of Federal and Provincial Funding commitments, as well as authorization to execute the necessary agreement with a Head Lessee for the commercial space within Union Station. The reports are available on-line at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2009.EX33.44>

At its meeting on December 1, 2, and 3, 2008, Council approved a report seeking authority to proceed with the design for the revitalization of the Station and the Northwest PATH connection. The report is available on-line at:

<http://www.toronto.ca/legdocs/mmis/2008/ex/bgrd/backgroundfile-16776.pdf>

At its meeting on July 26, 27, and 28, 2006 Council approved a report outlining Union Station Revitalization - Recommended Approach. The report is available on-line at:

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060725/pof6rpt/cl011.pdf>

COMMENTS

Union Station was opened to the public in 1927 and is a National Historic Site and one of the finest examples of Beaux-Art architecture in Canada. As part of the sale in 2000 from the Toronto Terminals Railway Company Limited to the City of Toronto, the City was required to enter into a Heritage Easement Agreement with Parks Canada which governs all the restoration work at the station. In July 2006 City Council approved the Master Plan for the Union Station Revitalization project as Council's vision to invest in the restoration and revitalization of this historic site and to expand this vital transportation hub for the next 50 to 100 years. To put the City's current investment into the station into context, Union Station has seen no significant capital investment by its owners for the past 90 years and as such, reflects a "once in a century" type of investment in city building.

The vision has three main objectives to be achieved:

1. Expansion and enhancement of the transportation purpose, primarily through improved pedestrian flows,
2. Restoration of this National Historic Site, and
3. Creation of a destination, a commercial retail hub as important in Toronto as Grand Central Station is in New York and others in similar world-class cities.

In 2009, the City signed the Head Lease Agreement with Osmington Inc. The agreement gives Osmington Inc. the exclusive right to carry out commercial uses in the Station, including leasing retail space, advertising, commercial signage and special events, with the City and Osmington Inc. sharing equally in the profits that are generated from these commercial activities.

The completion of the Revitalization will provide a pedestrian destination with self-sustaining retail and commercial uses serving the rapidly increasing densification in the adjacent residential community. The station will act as a gateway to the waterfront and will renew and revitalize a major centrepiece of the City.

The Union Station Revitalization Project is now in its seventh year of construction and is one of the most complicated projects in the country, "wedged" into one of the most congested parts of the City. The project began physical construction in 2010, however the major construction works began in 2011. At that time, the construction management contract was awarded to Carillion Canada Inc. Subsequently, Carillion Canada Inc. construction management contract was reduced to encompass Stage 1 only, and Stages 2 and 3 were awarded to Bondfield Construction Inc. under a stipulated price lump sum contract. Carillion Canada Inc. has filed an unsubstantiated construction claim action against the City. The City is and will continue to defend as required to the proper and final due process conclusion.

There is at present no factual or legal basis upon which to accept any portion of claims submitted by Carillion as legitimate. All allegations are unproven and untested. At its meeting of July 7th, 8th and 9th, 2015, City Council approved an expanded retainer for Osler, Hoskin & Harcourt LLP to continue to represent the City in respect of the project, including responses to any project claims or litigation. City staff are, as part of the process, working with Osler, Hoskins & Harcourt LLP in conducting an extensive legal and factual analysis of Carillion Canada Inc's claim (and the City's counter-claims), assisted by opinions from expert consultants/witnesses. The resolution of City retained holdback funds under the Construction Lien Act is presently underway through a Provincial judicial hearings process.

The uniqueness and complexity of the Union Station Revitalization project has been and continues to be an immense constraint on the predictability of the cost and schedule throughout construction, while maintaining passenger, station and rail operations. However, there is normal convergence occurring with respect to the variability of these many factors as the project advances closer to completion. The additional challenges associated with the status of the building as a National Historic Site and the associated requirements by this designation are significant and materially impactful. Furthermore, the coordination and interdependency with the remaining adjacent major capital projects being undertaken by Metrolinx with their much-modified Train Shed Reconstruction Project, upcoming Bay Street Bus Terminal Development, Vertical Access Construction, Union Station Track and Signal Corridor Improvements and the Regional Express Rail (RER) Program work has created complications, challenges and impacts and will continue to do so until the City's work is complete. The project team continues to aggressively and proactively manage the project within the constraints of the approved capital budget and with a focus on public safety and minimizing impacts on Station users.

Work Completed To Date

Significant progress has been made on the project. Stage 1 is fundamentally complete but for minor deficiencies being rectified and closeout documentation. Key milestones reached and components completed on Stage 1 and the NW PATH include:

- VIA Elements – Panorama Lounge, York West Teamway Catering space, East Concourse offices, baggage handling system, heritage washrooms, office space and Great Hall ticket offices.
- York West Concourse – base building fit-up work including stairs / elevators to platforms, life safety systems, loading docks and access/egress through Air Canada Centre, Maple Leaf Square and Telus building tunnels with York Concourse strata sold to and occupied by Metrolinx.
- West Wing - Floors 2 through 4 complete, strata sold to and occupied by Metrolinx.
- Structural Support Column Replacement (Stage 1) is complete.
- Electrical systems completed including installation, commissioning and operation of main and emergency power, lighting and lighting control, safety/security and communications systems.
- Mechanical systems completed including installation, commissioning and operation of HVAC, fire protection, plumbing, building automation and mechanical equipment systems.
- Exterior heritage façade restoration including roof of West, East Wings and Centre Block.
- NW Path Phase 1 complete and open to the public in April 2015. This connects the northwest corner of Union Station across Front Street to the northwest corner of Front and York Street.
- Stage 1 base building Retail Concourse beneath York and VIA Concourses is complete. Retail areas are released to the Head Lessee for fixturing and occupancy by tenants. Some retail operations are expected to open by Q4 2017.

Stage 2/3

- Exterior restoration of the East Wing is 50% complete.
- Great Hall Restoration: East and West arches, including windows, north wall and ceiling cleaning complete, south wall 33% complete.
- Front Street West Moat: all underground work complete and ready for Moat Installation.
- Front Street East Moat: 75% of underground work complete and passenger switchover completed successfully.
- East Wing ground floor over 50% complete.
- Bay Concourse/Retail: Excavation 95% complete; Structural column replacements almost completed; 50% of new Bay Concourse suspended slab completed; 30% of slab on grade completed.

Future Milestones Planned

Substantial Completion of Stage 2/3 currently expected in February 2018 (excluding York and Bay Street moat covers; mid 2018), which includes the restoration of the Bay Concourse, VIA Concourse, Great Hall, remaining retail areas and East Wing exterior façade. This will trigger the turnover of the Bay Concourse to Metrolinx for final fixturing. After this time, the City will have no control of the actual timing of the opening of the Bay Concourse to the public.

Updated Schedule

Project completion is currently scheduled in early 2018. This is based upon and within the parameters of the awarded Stage 2/3 construction contract to Bondfield Construction Co. and represent their contractual schedule. Note this completion date excludes the Bay and York Street Moat Covers per the construction contract. This remains a very challenging objective and the project team is working diligently to achieve this target.

Head Lease Agreement

Since the Head Lease Agreement was signed in 2009 the vision of the Station becoming a commercial retail hub and a world class destination has taken form. In August of 2009 Council authorized the CCO to administer and manage the Head Lease Agreement with the Head Lessee, Osmington Inc. Since then City staff have been working with Osmington Inc. in managing and maximizing the value of the current and future retail spaces within the Station. In February 2016, the City and Osmington Inc. entered into a retail enhancement agreement which will generate additional revenue for both the Head Lessee and the City through sponsorship and retail tenant percentage rent. Staff will continue to work with Osmington Inc. on potential enhancements to this space and will report back to Council in the future on any matters that require its determination or direction.

The newly created retail space within Union Station is expected to open in phases as construction progresses. Raw retail spaces are turned over to Osmington to take possession, Osmington completes the necessary base building retail work, the unit is then turned over to the tenant for tenant fit-up. Typically this process would take four months however, if the tenant space is used for a restaurateur the fit-up could take six to eight months. The York Street Promenade, and the Front Street Promenade (West side only) will open for business in November 2017. The West Wing TD Credit Card Lounge will open in the Fall of 2017. The Food Court will have a soft opening in the spring of 2018. It is anticipated that all of the retail in the station will be open in the spring of 2019.

Due to the ongoing negotiations with Metrolinx, VIA and Osmington Inc. at Union Station, the City requires additional real estate legal advice from Davies Ward Phillips and Vineberg LLP to complete these agreements. A Purchase Order for services from Davies Ward Phillips and Vineberg already exists and, as per recommendation in this report, should be amended to increase its value and avoid disruptions in services to the City to ensure continuity and knowledge retention of external legal staff.

Previous Purchase Order Amendment

In addition to the Purchase order amendments outlined in the Decision History there was a further amendment made to Purchase Order 6025203 issued to Davies Ward Phillips and Vineberg LLP in the amount of \$120,000 net of all applicable taxes for additional legal services.

CONCLUSION

The Union Station Revitalization continues to progress within the current approved budget and contractor schedule. Financial pressures and schedule risks continue to exist, which are typical on a project of this size and complexity. Staff continue to actively manage these risks and have taken substantial measures to minimize any adverse impacts to the project through implementation of a new contractor, active management of project costs, and re-sequencing, re-contracting and re-staging of the work. Staff, with the assistance of external legal counsel, continue to manage and respond to the construction claims filed in Court by Carillion Canada Inc. The overall project remains both a technical marvel and an important revitalization initiative that will act as the centrepiece of the downtown core and transit.

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SIGNATURE

Josie Scioli
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ATTACHMENTS

Appendix A – Union Station Revitalization - Current Approved Budget and Life-to-Date Spending