



**Proposed Suspension of 614128 Ontario Ltd o/a Trisan Construction ("Trisan") from City of  
Toronto Construction Procurement Calls**

A Rebuttal and Request  
Submitted to Public Works & Infrastructure Committee  
By Trisan Construction  
May 12, 2014



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# TAB 1



May 12, 2014

Toronto City Hall  
100 Queen Street West  
Toronto, ON  
M5H 2N2

Attn: Public Works & Infrastructure Committee

**RE: Proposed Suspension of 614128 Ontario Ltd o/a Trisan Construction ("Trisan") from City of Toronto Construction Procurement Calls**

Dear Councilors,

Trisan Construction received an email on May 8<sup>th</sup>, 2014 with a letter attached from the City of Toronto proposing a suspension of 614128 Ontario Ltd o/a Trisan Construction. The letter stated that two reports had been prepared to City Council. The one report recommended suspension for a period of one year of Trisan Construction being awarded any construction contracts. The other report recommended by-passing Trisan Construction on two projects that our firm is currently low bid on.

The Reports to City Council are dated April 30<sup>th</sup>, 2014 yet Trisan was only notified of the Temporary Suspension of Trisan Construction Recommendation Report as of May 8<sup>th</sup>, 2014. The Temporary Suspension Report is being recommended at the May 14<sup>th</sup>, 2014 Public Works & Infrastructure Committee Meeting.

Trisan has attached a detailed report refuting the recommendation that has been presented to Public Works & Infrastructure Committee which is awaiting Committee approval. Trisan is requesting that this report and information contained in Trisan's report be thoroughly reviewed, analyzed, and contemplated before a decision to suspend Trisan for any period of time is considered, and also before by-passing Trisan as low bid on two current projects.

It is imperative that Trisan's entire report be reviewed as all information documented in the report is critical in defending Trisan from receiving a suspension and/or being by-passed as low bidder. Trisan is certain that if all the information in Trisan's detail reported is analyzed that the recommendation to suspend Trisan and to by-pass Trisan on low bid tenders will be rejected.

The poor performance being referenced in Toronto's report to council is based off projects related to a Request to Pre-Qualify Tender No. 3907-09-7256 related to Basement Flooding Improvement Project. The purpose of pre-qualifications as outlined in Toronto's Information on Purchasing Policies and Practices is that, "Pre-qualifications are used by the City on complex or large projects, or where specified skills sets may be required. Pre-qualifications are generally designed to qualify bidders or proponents for a specific project that will be subject to a Tender or RFP. The City's Procurement Processes policy suggests that pre-qualifications should be used where it is deemed that the nature and complexity of the work involved warrants the time and effort required to pre-select the most experienced and qualified bidders. PMMD also recommends pre-qualification as a potential step in novel situations where we have not done previously. The majority of work done each year in construction is routine and does not



require the use of a pre-qualification”.

If any suspension is contemplated it should only apply to the Basement Flooding Protection Program projects as these projects were pre-qualified due to their difficulty and complexity. The poor performances under review by the City are only related to the pre-qualified Basement Flooding Project.

It would not be fair to suspend Trisan from any and all future construction contracts in the City of Toronto due to a poor performance review on a pre-qualified program. Trisan has successfully completed over 85 projects for the City of Toronto for a combined total of over \$275,000,000. Through this work Trisan Construction has saved the City of Toronto over \$20,000,000 with competitive bids.

The possible suspension of Trisan for one year has a serious impact to the City of Toronto, City of Toronto taxpayers, Trisan employees considering the volume of work and diversity of work that Trisan does within the City of Toronto on a yearly basis.

The letter to recommend a temporary suspension of Trisan was Trisan’s first knowledge of any poor performance that Trisan has ever received doing work in the City of Toronto since 2001. Trisan has never received or been involved with a Contractor Performance Evaluation with the City Staff that are managing the Basement Flooding Projects; these are the projects that are in review with respect to Trisan’s poor performance. Moreover, Trisan’s Contractor Performance Evaluations that have been completed in the years 2012, 2013, and 2014, during the years that the two questionable poor performance Basement Flooding Projects have been going on, have all demonstrated a satisfactory rating for all aspects with regards to the Contractor Performance Evaluation Form.

It is absolutely unnecessary and unfair to suspend Trisan on all future City construction contracts due to a poor performance on a pre-qualified program for complex, specialty projects. If any drastic course of action was to take place with regards to suspension it should only apply to the Basement Flooding Program. Trisan has consistently demonstrated effective, competent, and quality work with regards to all routine construction projects within every other department that Trisan has completed work for, which the completed Contractor Performance Evaluations will substantiate.

Trisan is scheduled to have a deputation in front of Public Works & Infrastructure Committee on May 14<sup>th</sup> to give an explanation of their side of the events that have been categorized in the Temporary Suspension of Trisan Construction Report that has been submitted to City Council. We are requesting that the City Council and Public Works weigh the information that Trisan has presented in this letter, along with our detailed report prior to the May 14<sup>th</sup>, 2014 Public Works and Infrastructure Committee meeting.

Sincerely,

Angelo Santorelli  
President  
Trisan Construction



# TAB 2



## **REBUTTAL OF STAFF REPORT “TEMPORARY SUSPENSION OF TRISAN CONSTRUCTION”**

Trisan has reviewed the staff report, dated April 30, 2014, which was posted on the City of Toronto website on May 7<sup>th</sup>, 2014. Trisan has not seen this report or statements previous to this date. Notice of these actions was not received until May 8<sup>th</sup>, 2014, only six days before the scheduled Committee meeting. Trisan believes that the statements made within this report to be completely biased to sell their argument to the Public Works & Infrastructure Committee and, as these statements are being provided out of context, it is believed to be at risk of slander as outlined in the Libel and Slander Act (see Appendix A).

The following statements are responses to the statements provided in the staff report, “Temporary Suspension of Trisan Construction”;

- *“In both contracts Trisan’s performance to date has clearly demonstrated that they are neither equipped nor sufficiently experienced to undertake this type of work”*
  - In 2009 Trisan was selected as 1 of 3 contractors through City of Toronto document, Tender Call 123-2009 or Contract 12FS-71WP. This contract was referred to as General Services Contract 1. During this contract over a period of 10 months, Trisan successfully completed \$10,417,384.19 of sewer upgrades related to the Basement Flooding Protection Program. These projects were all very difficult and carried numerous challenges. Trisan completed all of these projects successfully and on schedule.
  - Following the completion of General Services Contract 1, City of Toronto issued the document Request to Pre-Qualify No. 3907-09-7256. Trisan submitted this document and was pre-qualified with a short list of other Contractors to perform work under the Basement Flooding Protection Program. Under this pre-qualified list of contractors, Trisan Construction was further selected to form part of a shorter list of task order Contractors which performed work under General Services Contract 2. Trisan completed \$2,291,424.87 of sewer upgrades through this project.
  - It is noted by the author of this Staff Report that both these contracts involve challenging sewer construction; one due to the size of the pipe and the second due the depth. Trisan would like to point out these project would be challenging for any Contractor qualified for this work. On contract 12FS-14WP Trisan has completed all underground works well ahead of Milestone dates of the contract which deems to discredit the above statement. On contract 12FS-22WP, the two low bidders of this contract backed out of work and the City awarded this contract to Trisan Construction. Although Trisan may have had some challenges on this project we are proceeding with the works successfully as per the contract documents.

### **SAFETY AND COMPLIANCE- LAWS AND STANDARDS COMMENTS**

We would like to provide the following comments related to the Ministry of Labour visits. Trisan Construction on this and all project works closely with the Ministry of Labour to ensure compliance with OHSa. Although stop work orders being issued by the MOL are never intended, different interpretation of OHSa requirements can be made depending on the Officer that visits the site. The issuance of a stop work order does not necessarily mean that Trisan Construction was working unsafe, but in the Officers view something could be done safer. It can also be noted that on both these projects there has been no



loss time injuries. We would like to provide the following comments to points being made in the Staff Report;

- “Lack of adequate barriers (guardrails) and signage around their open excavation”
  - Trisan was at this point in construction excavating a shaft for the construction of a large poured in place manhole. Trisan had modular fencing in place at this time around the excavation. When the MOL visited the site, they felt that a fixed railing would serve as a safer barrier. Trisan immediately complied with this request and the order was lifted.
- “Open manholes that were not adequately covered and marked to prevent a fall”
  - The manhole that was discussed with the Ministry was a manhole being utilized for the bypass system to discharge into. A steel plate was in place, along with a traffic barrel. This did not pose any danger. The representative from the MOL thought it would be safer to place modular fencing around the location. Trisan immediately complied and the order was lifted.
- “Lack of written measures and procedures on-site for working around live overhead electrical conductors”
  - Trisan and its subcontractors were working within close proximity of hydro lines to construct a large poured in place manhole. Trisan, prior to working at this area of Brian Drive and Old Sheppard, consulted with members from Toronto Hydro, ESA, and Powerline Plus to plan and expedite the work. Meetings were held onsite between Trisan and these organizations to plan and execute the work. Trisan had wires covered and protected ahead of construction and ensured smaller equipment was being utilized to ensure required distance from live power lines was being maintained. Site meetings were held with staff to review the safety requirements prior to work commencing. Significant planning went into this work as the City and their consultant would be aware. The MOL did come onsite and requested additional written procedures to be provided specific for this task. This was immediately complied with and the order was lifted.
- “Lack of a copy of engineered drawings on-site for the shoring/piling being installed for trench support.”
  - All shoring being utilized on this project was engineered by Keewatin Group or Tarra Engineering Inc., and were designed specifically for various areas on the site. Copies were always provided to staff working with equipment. At the time of the MOL visit, a copy could not be located but was immediately turned over to them and the order was lifted.
- “City staff observed Trisan’s employees working within the trench but outside of the shoring system”
  - Trisan’s staff are all provided with safety equipment, shoring, training, and are experienced with this type of work. Trisan has rigid safety policies in place to enforce the requirements of our Safety Policy and the OHSA. Any employee that works unsafe is reprimanded immediately and would escalate if occurrences happen again.





- “In an effort to protect workers and mitigate safety risks, a letter was issued to Trisan on January 30, 2014, which notified Trisan that they were at risk of default of the contract if the noted safety concerns were not addressed.”
  - Trisan acknowledges that during the month of December and January on Pearldale Avenue, although the shoring system was designed and engineered for the project, the conditions onsite created challenges that prevented progress of the sewer works. Shoring was being utilized but failures of the existing watermain and soil conditions prevented Trisan from moving forward. Trisan later modified their shoring method and is proceeding successfully. This letter being mentioned in this report was never delivered or received by any Trisan members.

### **PROTECTION OF EXISTING UTILITIES**

- “Throughout the course of the contract to date Trisan has caused seven gas leaks between March 2013 and August 2013. The leaks were a result of inadequate support of excavation and/or inadequate protection of an existing utility. With each break public was placed at risk and existing infrastructure was damaged which required repair by a third party.”
  - It is understood by Trisan that working around utilities is a major part of the work and creates a major challenge. This project brought exceptional challenges as a result of the size of infrastructure being installed in a limited space with various utilities required to be worked around. The breaks were not from lack of support and poor workmanship, but were merely accidents as a result of the type of work that was being performed. As these challenges continued it was coordinated with Enbridge to loop the gas services around the work area to prevent such damages. This was not the standard way that work would proceed, but given the size and nature of the work, this was the safest way to move forward.
  - The seven gas breaks that did occur on this project were all ½” plastic gas lines that are very delicate. When the break did occur appropriate actions were taken to ensure safety of workers and residents. The authorities were immediately notified for the repairs. Trisan compensated Enbridge for these repairs.
  - As something to note, when Trisan bid on this project, the contract drawings provided by CH2M Hill and the City showed gas mains on both sides of Brian Drive which would mean that gas services would not have to be crossed. However, when work began, it was discovered that that not the case.
- “On January 23<sup>rd</sup>, 2014, Trisan was sent a written notice from the Consultant who noted that a length of watermain had been left exposed in an unsupported area of the excavation, and request immediate action.”
  - This section of watermain was carefully worked around and supports were installed as work progressed and installation of support system could permit. Failure of watermain occurred well beyond Trisan’s excavation and is, in Trisan’s opinion, in relation to the fragile condition of the existing watermain which is believed to be 40-50 years old. Flanged fittings were exposed in numerous locations which showed fittings with bolts were almost completely corroded away. Thrusts blocks were never present along the watermain which is not to City of Toronto specifications. Concerns were raised by CH2M



Hill and City of Toronto in regards to installation of deep sewer (8-10 metres deep) directly beside an existing watermain that was in poor condition. These concerns were ignored by both parties. Samples of watermain were provided for City of Toronto to inspect but were neither picked up or examined.

- “Additional effort by both Toronto Water District Operations and Engineering & Construction Services staff were required onsite to coordinate the repairs and ensure further damage was not caused by the construction activities.”
  - Efforts were required by Toronto Water District Operations to shutdown watermain as crews were working in close vicinity. It should be noted that during these required shutdowns, existing valves failed to properly close which added to challenge of crossing these utilities and aided in the failures that occurred. It should also be noted that there was infrastructure that was in the ground which CH2M Hill or the City failed to identify on the contract drawings which were not.
  - Engineering and Construction staff did not participate in coordinating the repairs.
  - On numerous occasions Toronto Water District Operations who Trisan relied on for valve operations, failed to attend the site for scheduled valve turn on or turn off. These problems created frustration from residents as they were without water for extended periods. Trisan took pro-active measures to mitigate the situation by having a water trucks there to reduce the frustration of residence at apartment building.

#### **PROPER EXCAVATION SUPPORT**

- “Trisan was requested to submit a proposed contact-compliant alternate shoring system for approval and implementation. Tabulated data for the installed shoring system was only submitted by Trisan on September 24, 2013.”
  - On September 23<sup>rd</sup>, 2013, an email from Adam Banting was received which requested updated tabulated data. This was provided the following day as per his request. These drawings are always readily available at the site office for CH2M Hill’s inspector and Trisan staff.
  - Various site specific drawings were designed by either Tarra Engineering or Keewatin Group which were utilized throughout various stages of construction depending on depth of excavation and width of excavation. These drawings were all in compliance with the OHSA.
- “The City Project Manager visited the site on January 24<sup>th</sup>, 2014, observed the same unsupported excavation, and notified the Ministry of Labour to report the concerns.”
  - Ministry of Labour did visit the site and no report was provided. Trisan has and will be working closely with MOL to ensure compliance with OHSA. The work on Pearldale was very deep and soil conditions were very poor. Existing infrastructure created challenges but sewer was installed. As sewer got deeper Trisan decided to re-engineer the shoring system to better suit the conditions onsite and has been moving forward successfully since then.



## EXECUTION – WORK PERFORMANCE

- “On August 26 and August 28, 2013, Trisan’s neglect during execution of Contract 12FS-14WP caused basement flooding at 25 homes in the construction area, which resulted in 33 damage claims.”
  - The storm event that occurred on August 26 was a major storm event, and the amount of flow that required to be dealt with was extreme. Flows like this had not been dealt with on this project and unfortunately had expectantly shifted the shoring that was in place between new and old sewers and caused some backup within the system. Trisan did respond to the site immediately which mitigated further damage that could have been caused. The issue was referred to our insurance company who handled the investigation and the resolution. Other flooding beyond the limits of our construction that occurred which was deemed to be the result of poor infrastructure and not related to our construction. Trisan twice throughout this project assisted Toronto Water in their investigation into the poor condition of the sanitary sewer along Pleasantview that led to flooding of residences. Trisan offered to replace this sewer under this contract, but it was decided by the City and/or Consultant to leave it in place for replacement at a later date, a decision that could contribute to addition flooding in this area.
  
- “Due to the flooding events on August 26 and 28, 2013, the City requested that the Consultant work extra hours each working day to document the state of the excavation each prior to leaving the job site for the day. This was to ensure that no sewers had been left blocked, and to make certain that excavation site was left in an appropriate state.”
  - Additional time should not have been required on behalf of the Consultant, as Trisan always worked a typical 50 hour work week throughout the duration of the project. As per RFP No. 9117-10-7310 6.2.14 (f), 50 hours per week should be anticipated.
  
- “Trisan only provided part-time site supervision and this lack of supervision may have contributed to the cause of the flooding events”
  - This is not true. Trisan at all times throughout this project had full time site supervision. Trisan did change Supervisors mid-way through project as the current supervisor retired.
  
- “On September 9, 2013, City and Consultant observed a significant blockage at the existing storm outlet once again, and notified Trisan of their observations and concerns.”
  - The Consultants email was received at 9:00pm on the September 9<sup>th</sup>, 2013, Trisan was already on site monitoring the weather conditions. Flows were being maintained through the excavation as previously discussed and approved. Since these major storms that occurred in August, no other issues arose throughout this project, and all underground works were completed ahead of schedule.



- “On November 26<sup>th</sup>, 2013, the sewage bypass pumps that Trisan was using during construction failed, causing basement flooding at an apartment building within the construction area. City staff and the Consultant visited the apartment building to observe the extent of flooding damage and discuss the situation with the superintendent. The City required Trisan to investigate the cause of the bypass pump failure and produce a report of the incident, and has been reminded of this request at each subsequent site meeting, yet, to date, Trisan has not submitted a report of the flooding incident.”
  - The failure that occurred was the result of a frustrated home owner manually turning off pumps, Trisan immediately responded to activate the bypass system to prevent further backup. The backup that did occur was in the parking garage area of the apartment building. Trisan assisted the Superintendent with the cleanup and reimbursed him for a few articles that were damaged. The report on this incident was forwarded to CH2M Hill contrary to the statement made in the report.

#### **ADMINISTRATION- CONTRACTOR PERFORMANCE AND DILIGENCE**

- “City and Consultant staff have been required to spend significant additional time and resources to elicit response and action from Trisan on various contractual issues.”
  - Trisan is unaware of what additional efforts would have been required of City staff and/or Consultant beyond what would have been usually expected for this type of work.
  - Trisan believes that the inexperience on behalf of the City and the Consultant led to much of the issues on these projects which are further documented.
- “Extra staff time and resources were also required to provide two (2) additional public meetings for Contract 12FS-14WP (one for the flooding incident, and one for the multiple street closures and to address many questions and concerns from residents and the Councillor’s office).”
  - It should be noted that as per RFP 9117-10-7310, which forms CH2M Hill contract with the City of Toronto, within their base scope, five (5) public meetings/presentations should be expected for each assignment. Trisan is unaware of how many public meetings were actually required but a meeting in relation to multiple street closures should be expected for this type of work.

#### **CLOSING COMMENTS**

Construction work at its very nature is extremely risky and every particular project carries its own challenges whether it be the depth of excavation, size of pipes being installed, maintenance of traffic, etc. Every project is different in its own way. We are not arguing with the Staff Report that these two projects being highlighted to the Public Work and Infrastructure Committee were challenging, we concur that this is a fact but need to assert that Trisan Construction is more than qualified to perform this type of work. Trisan’s past history needs to be reviewed beyond what the management and administration of these two projects appears to suggest. When issues have arisen throughout these contracts, Trisan has always acted in a responsible manner to better fulfil its contractual obligations to the City. The works on Contract 12FS-14WP (Briand Drive and Old Sheppard), the underground works were completed ahead of Milestone dates, and Trisan has moved beyond some of the challenges faced on 12FS-22WP (Navenby Crescent Area) and is proceeding with the work successfully. Trisan Construction has successfully completed all projects for City of Toronto since 2001, and will continue to do so into the future.



# TAB 3



## **CITY OF TORONTO PRE-QUALIFICATION PROCESS**

### **Introduction**

The City of Toronto has stated on their Information on Purchasing Policies and Practices that pre-qualifications are used by the City on complex or large projects where specific skill sets may be required. The intention of pre-qualifying contractors is so that the more experienced and qualified contractors for specialty works are used.

A pre-qualified project is one that is above and beyond routine construction practices which only skilled contractors can perform. Trisan Construction was accepted as being one of the top skilled and qualified contractors to perform the requirements involved with Request to Pre-Qualify 3907-09-7256 (attached in Appendix B) with respect to Basement Flooding Improvement Projects.

If Trisan Construction was suddenly deemed to be failing with respect to performance under the Pre-Qualified Tender then the City of Toronto under their Contractor Performance Evaluation Procedure had the responsibility to evaluate Trisan formally throughout any projects so that Trisan understood the City of Toronto's stance with respect to current performance.

The work that Trisan Construction has been accused of poor performance on is specialty work tendered through a pre-qualification process then the utmost of any possible suspension should be under the umbrella of the prequalification work. Routine construction work Trisan has consistently proven to complete successfully over their 13 year tenure as a company. Trisan Construction knows by its past and present work that they are more than qualified to do the work under these contracts.

### **Background**

The City of Toronto issued Request to Pre-Qualify 3907-09-7256 which closed on December 8, 2009. The pre-qualification was to improve chronic basement flooding during severe storm events as outlined on Page 4 of the Request to Pre-Qualify.

Both projects which City staff has accused Trisan Construction of having demonstrated poor performance have been a part of the Basement Flooding Protection Program projects that have been tendered out using the pre-qualified contractors from Request to Pre-Qualify 3907-09-7256.

In "Information on Purchasing Policies and Practices" which can be found at <http://www.toronto.ca/legdocs/mmis/2014/gm/bgrd/backgroundfile-66790.pdf> (attached in Appendix C) it is stated that, "Pre-qualifications are used by the City on complex or large projects, or where specified skills sets may be required. Pre-qualifications are generally designed to qualify bidders or proponents for a specific project that will be subject to a Tender or RFP. The City's Procurement Processes policy suggests that pre-qualifications should be used where it is deemed that the nature and complexity of the work involved warrants the time and effort required to pre-select the most experienced and qualified bidders. PMMD also recommends pre-qualification as a potential step in novel situations where we have not done previously. The majority of work done each year in construction is routine and does not require the use of a pre-qualification".



The Request to Pre-Qualify 3907-09-7256 states on Page 6 under Section 3.3, "Based on the above background, the City herewith invites Contractors with superior specialized skills and abilities required to execute the described work to apply for pre-qualification for this Project". Under Section 3.4, also on Page 6, it states, "Submissions are requested from experienced General Contractors. The contractors must have experience and expertise, and proven track record in undertaking construction of storm and sanitary sewers and watermain works or similar comparable projects. Page 6 also has Section 3.5 which says, "Contractors submitting pre-qualification documents shall have completed work similar in scope, size and complexity to this project, and shall be able to refer to projects of comparable character completed by them. Any contractor previously pre-qualified for other works must re-submit for this project". It is even mentioned on Page 10 under Section 5.6 that, "Contractors who have previously submitted tenders for similar work must resubmit for this pre-qualification.

It is clearly demonstrated in the sections of Request to Pre-Qualify 3907-09-7256 that the scope of work included specialty and complex projects which were not normal and routine as far as construction projects go. The City of Toronto clearly deemed Trisan Construction fit and able to perform these pre-qualified projects by qualifying Trisan Construction through the Request to Pre-Qualify.

Trisan Construction has completed five previous Basement Flooding Projects prior to Contract 12FS-14WP (Tender 141-2012) and Contract 12FS-22WP (Tender 230-2012) which are the two projects where Trisan Construction is being accused of performing poorly.

### **Summary**

It would be absolutely unfair and unwarranted to suspend Trisan Construction on all future City construction contracts for performances that are related to specialty work that only a select few General Contractors can even perform. The entire purpose of a pre-qualification process is to set apart a certain style of work from another. If the City of Toronto suspends Trisan Construction from competing on any work for a one year period of time it is completely undermining the entire process of a pre-qualification process.

If this suspension is passed there will be a precedence set that it does not matter how many or few projects, how large or small a project, or how simple or complex a project is that a General Contractor completes with the City of Toronto because one report stating there has been a bad performance will be means for suspension on any and all work in the City of Toronto for a period of time regardless of the General Contractor's overall experience, evaluations, and historical work. These means of suspending a General Contractor will most definitely deter other contractors on bidding on future projects and have a serious financial impact on the City of Toronto, as well as inhibiting the City from completing planned projects in the future.



# TAB 4





## **CITY OF TORONTO CONTRACTOR PERFORMANCE EVALUATION PROCESS AND TRISAN CONSTRUCTION'S PAST & CURRENT CONTRACTOR PERFORMANCE EVALUATIONS**

### **Introduction**

The City of Toronto has adopted a Contractor Performance Evaluation Form. The Contractor Performance Evaluation Form is to be done formally alongside the contractor as per the Contractor Performance Evaluation Procedure. Furthermore the Contractor Performance Evaluation Form is to be signed by the contractor. Trisan Construction has never seen, been a part of, or signed any Contractor Performance Evaluation Form for the two Basement Protection Flooding Projects which the City of Toronto is accusing Trisan Construction of performing poorly on.

The Contractor Performance Evaluation is supposed to be completed as many times as necessary throughout a project depending on the current performance of the contractor. Since the City of Toronto staff thought Trisan was performing so poorly on two of the Basement Flooding Protection projects then a Contractor Performance Evaluation should have been completed regularly. A perfect example for a time and place to formally conduct a Contractor Performance Evaluation regularly would be at the bi-weekly site meetings that takes place on both projects.

Trisan Construction does have Contractor Performance Evaluation Forms completed for the years 2012, 2013, and 2014 when the two Basement Flooding Projects were taking place but the completed Contractor Performance Evaluation Forms were not for the two projects were Trisan is being accused of performing poorly but rather for many other projects and City Toronto Divisions where Trisan performed as well as possible which the completed Contractor Performance Evaluation Forms will establish (attached in Appendix D).

### **Background**

#### **2006 Contractor Performance Evaluation Policy**

City Council adopted "Contractors, Consultants and Supplier Performance Evaluations" as part of Administration Committee Report 6 on September 25, 26, and 27, 2006. The link <http://www.toronto.ca/legdocs/2006/minutes/council/cc060925.pdf> will bring up the minutes where this was adopted. Administration Committee Report 6 contains the "Contractors, Consultants and Supplier Performance Evaluation" (attached in Appendix E).

One of the main purposes of the Contractor Performance Evaluation Form as mentioned in Administration Committee Report 6, Clause 11 on Page 3 is that, "A formal and robust consultant/contractor/supplier performance evaluation system is considered to be a contract management best practice. It can serve a number of purposes: Document issues for discussion with the contractor and consultant to facilitate two way communication".

The Administration Committee Report 6, Clause 11 on Page 4 states, "The performance evaluation should be available to the consultant, contractor or supplier as the work progresses to afford them the opportunity to take corrective action".



Page 4 also states, "The Procurement Processes Policy includes provision regarding vendor performance. This provision states that the City shall maintain records of vendor performance on all contracts...staff have not used this policy to award to other than the lowest bidder because performance evaluations are not always completed for each contract and those that are have typically not included the information required to withstand a legal challenge".

The Administration Committee Report 6, Clause 11 on Page 8 the City of Toronto approached two construction associations, TARBA and GTSWCA, to receive feedback regarding contractor evaluations and it is recorded as, "These organizations stated that they believed that contractors performance could not be done in an objective manner."

### **2013 Contractor Performance Evaluation Policy**

The link <http://www.toronto.ca/legdocs/mmis/2013/pw/bgrd/backgroundfile-62265.pdf> is referenced to City of Toronto's "Contractor Performance Evaluation Procedure" ("CPE") (attached in Appendix F). City of Toronto staff is stating in their "Temporary Suspension of Trisan Construction" recommendation to Council (attached in Appendix F) on Page 2 that they are using this CPE as part of the suspension and by-pass of low award criteria of Trisan Construction.

On Page 1 of "Contractor Performance Evaluation Procedure" it states, "As part of The CPE Procedure, the CPE Form is designed to summarize a contractor's performance by the City's project manager, to encourage the contractor to improve its performance." Page 2 also states, "The report also identified that consistent evaluations conducted across all Divisions would assist the City in dealing with poor performing contractors".

"Project managers are responsible for completing the CPE Form in consultation with the site supervisor and/or Contract Administrator. All criteria must be evaluated or marked N/A. The project manager must submit completed interim CPE Forms to their manager for approval and completed final CPE Forms to their Director for approval. The project managers will review the performance of the contract with the contractor at progress review meetings and shall ensure this item is on the agenda. Any concerns or issues raised by the contractor should be recorded by City staff or its Contract Administrator. City staff may amend the CPE Form. If the contractor has further concerns with the evaluation, the contractor may utilize the dispute resolution mechanism in the contact, with necessary modifications". All this is stated on Page 4 of "Contractor Performance Evaluation Procedure".

Also on Page 4 it is stated, "The number of CPE Forms to be completed by the project manager is dependent on the complexity and duration of the project. Project managers are expected to adhere to the guidelines below when determining the number of CPE's to conduct for interim and final evaluations: A final evaluation at the end of the project; one mandatory interim evaluation per year, with the option to conduct up to three interim evaluations per year".

The "Contractor Performance Evaluation Procedure" even mentions on Page 6, "the scope of projects included in the suspension..." which identifies that a suspension does not have to include every future City project.

During two meetings between City of Toronto staff and various construction associations the City of Toronto confirmed on Page 7 that, "Staff made it clear to the industry/association that the intention of



the CPE Procedure was not to suspend contractors but instead to ensure that contracts were performed properly”.

#### **Contractor Performance Evaluation User Instructions**

Under User Instructions (attached in Appendix G) which is attached to a Contractor Performance Evaluation Form it states under question one, “Performance evaluation is a formal communication tool between the City and a contractor to manage the performance of contractor on a construction contract. It provides a proactive means of dialogue and indentifying areas where performance improvements are required”.

Question 2 mentions, “The purpose of the form is to provide a standard way of recording evaluation data. It can also be used as a guide for discussion with contractors on performance issues. “Contractor performance evaluation should be performed on all construction contracts regardless of contract value” is cited in Question 3.

#### **Summary**

The only Contractor Performance Evaluations by the City of Toronto that have been completed properly as per “Contractor Performance Evaluation Procedure” and/or “Contractors, Consultants and Supplier Performance Evaluations” Trisan Construction has performed satisfactorily for any project since Trisan’s beginning of 2001. What is ironic is that Trisan has received Contractor Performance Evaluation Forms from all City of Toronto from all other Divisions except the Basement Flooding Protection Division which is the division where the poor performance is related too.

The entire purpose of the Contractor Performance Evaluation is to rate the contractor on performance so that the contractor knows if they are performing well or not. The evaluation is performed with the contractor so that the contractor can improve on their performance and also defend any uncharacteristic low scores that might be presented by the City. The Contractor Performance Evaluation is supposed to be completed in an objective manner which is impossible if it is not done together with the City staff and Contractor staff.

This is Trisan Construction’s first knowledge of any poor performance evaluation that Trisan Construction has ever received over Trisan Construction’s entire career working on projects with the City of Toronto since 2001. Trisan Construction has not even done a Contractor Performance Evaluation with the City Staff that are managing the Basement Flooding Projects which are the projects that are in review with respect to Trisan Construction’s poor performance.

The real question is how can a contractor be suspended based on poor performance when no, whether new or old, Contractor Performance Evaluation was performed with the contractor on any of the poor performance projects in question; especially when there are only satisfactory Contractor Performance Evaluation Forms completed by other divisions that Trisan Construction has completed work with during the same years that the questionable poor performance projects with Basement Flooding Protection Division have taken place?



# TAB 5



## **TRISAN CONSTRUCTION'S COMPLETED CITY OF TORONTO PROJECTS AND FINANCIAL IMPACTS**

Since 2001, Trisan has been a great force in the City of Toronto in performing work related to civil construction, maintenance and repairs of existing underground infrastructure, winter maintenance of roads, sidewalks, paths, etc. Trisan Construction has always strived to provide excellent product paired with competitive pricing. Trisan has completed hundreds of millions of dollars of work while saving the City of Toronto taxpayers millions of dollars through the bidding process.

Trisan Construction has completed over \$275,000,000 of work for the City of Toronto spread over 85 different projects. Due to the competitive bidding process, Trisan's presence alone has saved the City of Toronto taxpayers over \$20,000,000.00 over the years. A breakdown is attached and lists projects year by year; backup is provided to verify the amounts listed in Appendix H.

With the above being said, it is crucial to understand that Trisan Construction is one of very few contractors in the region capable of handling some of the work put out by the City of Toronto. By eliminating Trisan Construction from bidding, even for one year, it is intuitive to understand that costs for projects will increase due to the removal of competition for the work. Over 13 years, Trisan has saved the City of Toronto over \$20,000,000; that's approximately \$1,500,000 a year of taxpayer money saved. Assuming this pattern is consistent, a one year suspension of Trisan will be the equivalent of paying \$1,500,000 more for projects in the 2014-2015 years.

To put things into perspective, Trisan Construction was recently the low bidder on two Basement Flooding Protection Program, Cartright Avenue (14FS-06WP) and Sunnycrest Road (13FS-36WP). The next lowest bid prices are \$111,568.00 and \$83,934.00 higher than Trisan's, respectively. If Trisan is not awarded those two contracts, it's an automatic additional cost of \$195,502.00 of tax money to award the contracts to the next lowest bidders.

Trisan Construction is also the employer of approximately 100 tax paying residents of the City of Toronto. By passing this suspension, there is a high risk that it may essentially eliminate a lot of those positions.

To conclude, in the staff report issued on April 30, 2014, there is a statement that claims there is no financial impact from Recommendation No. 1 and Recommendation No. 2. This claim is misleading and not representative of the true implications that will follow if the suspension is allowed. Trisan has provided services to the City of Toronto for over 13 years and would like to continue to do so.

**City of Toronto Contracts History**

| Tender Closing Date | Contract # or PO # | Call # or RFQ# | Description of Work  | Price of Awarded Bidder (Trisan Construction) | Price of Next Lowest Bidder | Difference From Next Bidder (\$ CITY SAVED) |
|---------------------|--------------------|----------------|--|---|-----------------------------|---|
|                     |                    | <b>2001</b>    |  |   |                             |   |
|                     | 01D2-20WP          |                | King Georges/Kingsway Sewers   | \$ 264,627.68                                 | **Information Not Available |   |
|                     | 01D2-29WS          |                | The Queensway - Hwy 27 Underground Work                                    | \$ 161,463.72                                 | **Information Not Available |   |
|                     |                    | <b>2002</b>    | <b>2001 Total:</b>   | \$ 426,091.40                                 | \$ -                        |   |
|                     | 02D1-95WP          |                | Winchester Street & Parliament Street Underground Work                     | \$ 105,187.17                                 | **Information Not Available |   |
|                     | 02D3-16WP          |                | Faywood & Chalkfarm Sewers   | \$ 894,319.00                                 | **Information Not Available |   |
|                     | 02D3-20WP          |                | Honeywood Sewers   | \$ 288,737.64                                 | **Information Not Available |   |
|                     | 02D1-74WP          |                | 74 Adair Road Sewer Work   | \$ 77,506.52                                  | **Information Not Available |   |
|                     |                    | <b>2003</b>    | <b>2002 Total:</b>   | \$ 1,365,750.33                               | \$ -                        |   |
|                     | 03D2-133TW         | 170-2003       | Winter Maintenance 2003-2008 of Wards 7, 8, 9, 11, 12                      | \$ 4,859,091.81                               | **Information Not Available |   |
|                     | 03D3-20RD          |                | Hedgewood Road Reconstruction  | \$ 490,061.71                                 | **Information Not Available |   |
|                     | 03D3-19WS          |                | Cherrylawn Watermain Construction  | \$ 962,807.40                                 | **Information Not Available |   |
|                     |                    | <b>2004</b>    | <b>2003 Total:</b>   | \$ 6,311,960.92                               | \$ -                        |   |
|                     | 04D1-531WS         |                | Cement Mortar Lining York  | \$ 1,719,690.75                               | **Information Not Available |   |
|                     | 04SD-128TU         |                | Ward 28 Utility Cuts   | \$ 723,381.82                                 | **Information Not Available |   |
|                     | 04D2-09RD          |                | Toronto Sidewalk Construction - Various Locations                          | \$ 176,189.74                                 | **Information Not Available |   |
|                     | 04SD-101TR         |                | Toronto Manholes   | \$ 111,205.39                                 | **Information Not Available |   |
|                     |                    | <b>2005</b>    | <b>2004 Total:</b>   | \$ 2,730,467.70                               | \$ -                        |   |
|                     | 05WD-16RD          | 214-2005       | Valley Crescent Watermain, Sewers, Pavement, Hyde Avenue Watermain         | \$ 1,344,434.45                               | **Information Not Available |   |
|                     | 05ED-304WS         | 56-2005        | Catholic Protection of Existing Watermains at Various Locations            | \$ 1,249,650.75                               | **Information Not Available |   |
|                     | 05ED-300WS         | 62-2005        | Cleaning & Cement Mortar Lining of Existing Watermains in East District    | \$ 2,711,957.91                               | **Information Not Available |   |
|                     | WW46118            |                | Ellesmere Yard Fill Removal  | \$ 244,200.00                                 | **Information Not Available |   |
|                     |                    | <b>2006</b>    | <b>2005 Total:</b>   | \$ 5,550,243.11                               | \$ -                        |   |
| 2/01/06             | 06EY-17WS          | 6-2006         | Watermain Replacements on Holmesdale Crescent                              | \$ 751,756.97                                 | \$ 846,097.04               | \$ 94,340.07                                |
|                     | 06NY-18RD          | 13-2006        | Beecroft Road Extension, Road Modifications to Blakeley Road, Kempford...  | \$ 4,363,035.96                               | **Information Not Available |   |
|                     | 06SC-330WS         | 131-2006       | Catholic Protection of Existing Watermains in Wards 35, 36, 37, 40, 43, 44 | \$ 1,298,787.40                               | **Information Not Available |   |
| 3/23/06             | 06EY-312WS         | 72-2006        | Cleaning & Cement Mortar Lining of Existing Watermains - Etobicoke/York    | \$ 3,324,891.25                               | \$ 3,350,394.70             | \$ 25,503.45                                |
|                     |                    | <b>2007</b>    | <b>2006 Total:</b>   | \$ 9,738,471.58                               | \$ -                        | <b>119,843.52</b>                           |
|                     |                    | 6038-06-3476   | Hired Vacuum Excavation Services Complete with Operator                    | \$ 748,000.00                                 | **Information Not Available |   |
|                     | 07SC-313WS         | 117-2007       | Cleaning and Cement Mortar Lining of Existing Watermains Wards 38/40       | \$ 2,445,533.70                               | **Information Not Available |   |
| 4/11/07             | 07NY-01RD          | 107-2007       | Bathurst Street Reconstruction and Widening                                | \$ 5,278,361.55                               | \$ 6,126,510.94             | \$ 848,149.39                               |
|                     | 07EY-05RD          | 83-2007        | Caledonia Road Pavement Reconstruction, Waterman and Storm Sewer...        | \$ 2,639,899.90                               | \$ 2,863,570.09             | \$ 223,670.19                               |
|                     | 07SC-329WS         | 221-2007       | Catholic Protection of Existing Watermains in Wards 34, 37-42, 44          | \$ 1,178,669.00                               | \$ 1,276,399.00             | \$ 97,730.00                                |
|                     |                    | <b>2008</b>    | <b>2007 Total:</b>   | \$ 12,290,464.15                              | \$ -                        | <b>1,169,549.58</b>                         |
| 5/29/08             |                    | 6032-08-0187   | Winter Maintenance, 2008-2015, Scarborough District Southwest Quadrant     | \$ 12,801,292.44                              | \$ 13,504,870.75            | \$ 703,578.31                               |
| 6/11/08             | 08TE-75RD          | 134-2008       | Jameson Avenue Reconstruction of Watermain, Pavement, Sidewalk, Street...  | \$ 2,851,843.40                               | \$ 3,587,802.75             | \$ 735,959.35                               |
| 2/29/08             | 08EY-13WS          | 44-2008        | Weston Road Watermain Replacement and Installation                         | \$ 1,699,010.78                               | \$ 2,032,161.29             | \$ 333,150.51                               |
| 5/15/08             | 08SC-316WS         | 107-2008       | Catholic Protection of Existing Watermains in Toronto                      | \$ 891,905.70                                 | \$ 1,040,001.90             | \$ 148,096.20                               |
| 8/12/08             | 08NY-06RD          | 152-2008       | Byng Avenue to Finch Avenue East Extension, Including Modifications...     | \$ 4,284,439.31                               | \$ 4,961,021.63             | \$ 676,582.32                               |

| 2009     |            | 2008 Total:  |  | 2009 Total:             |                             | 2010 Total:             |                             | 2011 Total:            |                  | 2012 Total:     |                        |
|----------|------------|--------------|--|-------------------------|-----------------------------|-------------------------|-----------------------------|------------------------|------------------|-----------------|------------------------|
| 5/08/09  | 09EY-11WS  | 110-2009     | Scarlett Road Under the Black Creek  | \$ 398,792.10           | \$ 468,860.70               | \$ 2,291,424.87         | \$ 3,162,166.32             | \$ 1,993,278.78        | \$ 4,934,348.00  | \$ 341,315.00   | \$ 2,597,366.69        |
| 5/08/09  | 09EY-24RD  | 106-2009     | Road and Watermain Replacement on Arrow Road and Emery Village                   | \$ 4,217,491.64         | \$ 4,297,601.58             | \$ 65,621,551.33        | \$ 68,658,369.00            | \$ 7,188,512.80        | \$ 4,486,100.00  | \$ 137,105.00   | \$ 70,068.60           |
| 6/03/09  | 09TE-24RD  | 116-2009     | Reconstruction of Watermain, Water Services, Pavement... on Eglington...         | \$ 820,164.98           | \$ 821,449.00               | \$ 1,559,061.00         | \$ 1,797,587.00             | \$ 1,215,929.48        | \$ 2,993,024.00  | \$ 147,009.00   | \$ 80,109.94           |
| 8/26/09  | 10FS-52WS  | 123-2009     | BFFP - General Services Contract #1 for Sewers and WM                            | \$ 23,394,946.05        | \$ 26,535,931.20            | \$ 194,741.40           | \$ 234,654.00               | \$ 4,186,188.96        | \$ 5,890,271.90  | \$ 93,512.25    | \$ 1,284.02            |
|          |            | 6038-09-7069 | Hired Vacuum Excavation Services with Operator on Demand                         | \$ 629,380.00           | **Information Not Available | \$ 5,592,370.00         | **Information Not Available | \$ 4,429,600.00        | \$ 22,531,820.00 | \$ 2,763,366.79 | \$ 3,140,985.15        |
|          |            | <b>2010</b>  |  | <b>\$ 29,460,774.77</b> |                             | <b>\$ 84,657,396.52</b> |                             | <b>\$ 4,642,644.50</b> |                  |                 | <b>\$ 3,292,447.71</b> |
| 6/10/10  | 10FS-73WP  | 97-2010      | BFFP - General Services Contract #2 for Sewers and WM in Ward 14, 28, 29, & 30 * | \$ 2,291,424.87         | \$ 3,162,166.32             | \$ 289,398.03           | \$ 296,838.57               | \$ 1,934,362.25        | \$ 4,593,033.00  | \$ 341,315.00   | \$ 870,741.45          |
| 2/22/10  | 10FS-52WS  | 05-2010      | Stand Alone Watermain Replacement Program General Services Contract              | \$ 65,621,551.33        | \$ 68,658,369.00            | \$ 1,196,833.29         | \$ 1,269,772.00             | \$ 6,440,675.48        | \$ 4,348,995.00  | \$ 137,105.00   | \$ 3,036,817.67        |
| 3/31/10  | 10TE-10STU | 43-2010      | Permanent Repairs to Utility Cuts - Toronto and East York District               | \$ 1,559,061.00         | \$ 1,797,587.00             | \$ 1,596,149.41         | \$ 1,668,856.00             | \$ 1,189,817.70        | \$ 2,846,015.00  | \$ 147,009.00   | \$ 1,284.02            |
| 3/31/10  | 10NY-05WP  | 65-2010      | Sanitary Sewer Replacement on Leslie Street                                      | \$ 194,741.40           | \$ 234,654.00               | \$ 5,592,370.00         | **Information Not Available | \$ 676,525.35          | \$ 729,746.00    | \$ 31,800.00    | \$ 3,140,985.15        |
| 6/04/10  |            | 6033-10-7138 | Load, Remove, Transport, Dispose Fill, Concrete, Asphalt from City Yards         | \$ 5,592,370.00         | **Information Not Available | \$ 289,398.03           | \$ 296,838.57               | \$ 1,934,362.25        | \$ 4,593,033.00  | \$ 341,315.00   | \$ 870,741.45          |
| 6/07/10  | 10SC-14RD  | 149-2010     | Kennedy Road - New Concrete Sidewalk, Curb, Gutter                               | \$ 289,398.03           | \$ 296,838.57               | \$ 1,196,833.29         | \$ 1,269,772.00             | \$ 7,188,512.80        | \$ 4,486,100.00  | \$ 137,105.00   | \$ 70,068.60           |
| 7/07/10  | 10NY-12RD  | 189-2010     | Road Reconstruction on Old Forest Hill Road and Avenal Drive                     | \$ 1,196,833.29         | \$ 1,269,772.00             | \$ 1,596,149.41         | \$ 1,668,856.00             | \$ 1,215,929.48        | \$ 2,993,024.00  | \$ 147,009.00   | \$ 80,109.94           |
| 8/27/10  | 10TE-19RD  | 258-2010     | Full Depth Road Reconstruction on Eastwood Road                                  | \$ 1,596,149.41         | \$ 1,668,856.00             | \$ 238,085.35           | \$ 271,702.85               | \$ 1,189,817.70        | \$ 2,846,015.00  | \$ 147,009.00   | \$ 1,284.02            |
| 8/27/10  | 10SC-12RD  | 237-2010     | Kennedy Road - Road Improvements, Storm Drainage Improvements...                 | \$ 238,085.35           | \$ 271,702.85               | \$ 1,891,592.88         | \$ 1,918,125.28             | \$ 676,525.35          | \$ 767,748.22    | \$ 91,222.87    | \$ 33,617.50           |
| 9/01/10  | 10TE-21WS  | 262-2010     | Construction of Watermains and Water Services                                    | \$ 1,891,592.88         | \$ 1,918,125.28             | \$ 4,186,188.96         | \$ 4,429,600.00             | \$ 4,186,188.96        | \$ 5,890,271.90  | \$ 93,512.25    | \$ 26,532.40           |
| 11/26/10 | 10FS-63WP  | 326-2010     | Coatsworth Cut Conveyance Controls - Kingston and Dundas Storage Tank            | \$ 4,186,188.96         | \$ 4,429,600.00             | \$ 84,657,396.52        | \$ 4,642,644.50             | \$ 4,186,188.96        | \$ 5,890,271.90  | \$ 93,512.25    | \$ 243,411.04          |
|          |            | <b>2011</b>  |  | <b>\$ 84,657,396.52</b> |                             | <b>\$ 4,642,644.50</b>  |                             | <b>\$ 4,642,644.50</b> |                  |                 | <b>\$ 4,642,644.50</b> |
| 1/31/11  | 11TE-127TU | 09-2011      | Permanent Repairs to Utility Cuts - Toronto and East York District               | \$ 1,934,362.25         | \$ 1,993,278.78             | \$ 1,934,362.25         | \$ 1,993,278.78             | \$ 1,934,362.25        | \$ 4,593,033.00  | \$ 341,315.00   | \$ 870,741.45          |
| 3/30/11  | 10EY-01RD  | 65-2011      | Burnhamthorpe Road Storm and Sanitary Sewers, Watermain Upgrades                 | \$ 6,440,675.48         | \$ 7,188,512.80             | \$ 1,189,817.70         | \$ 1,215,929.48             | \$ 7,188,512.80        | \$ 4,486,100.00  | \$ 137,105.00   | \$ 3,036,817.67        |
| 4/15/11  | 11EY-05RD  | 90-2011      | Road Resurfacing on Brampton Road and Montgomery Road                            | \$ 1,189,817.70         | \$ 1,215,929.48             | \$ 676,525.35           | \$ 767,748.22               | \$ 1,189,817.70        | \$ 2,846,015.00  | \$ 147,009.00   | \$ 1,284.02            |
| 5/05/11  | N/A        | 89-2011      | Civil Improvements at Traffic Control Devices                                    | \$ 676,525.35           | \$ 767,748.22               | \$ 698,167.77           | \$ 733,050.61               | \$ 698,167.77          | \$ 733,050.61    | \$ 34,882.84    | \$ 34,882.84           |
| 5/13/11  | 11SC-05RD  | 105-2011     | Dawes Road Intersection Improvement at Victoria Park, Streetscaping...           | \$ 698,167.77           | \$ 733,050.61               | \$ 3,198,549.19         | \$ 3,370,616.50             | \$ 3,198,549.19        | \$ 3,370,616.50  | \$ 172,067.31   | \$ 172,067.31          |
| 5/20/11  | 10EY-10RD  | 120-2011     | Reconstruction of Royal York Road, Including Sewers, Watermain, Servicing...     | \$ 3,198,549.19         | \$ 3,370,616.50             | \$ 2,596,962.61         | \$ 2,717,028.85             | \$ 2,596,962.61        | \$ 2,717,028.85  | \$ 1,538,815.89 | \$ 1,538,815.89        |
| 6/06/11  | 11NY-07RD  | 132-2011     | Watermain and Road Resurfacing on Finch from Yonge to Bayview                    | \$ 2,596,962.61         | \$ 2,717,028.85             | \$ 5,796,759.65         | \$ 5,890,271.90             | \$ 5,796,759.65        | \$ 5,890,271.90  | \$ 93,512.25    | \$ 93,512.25           |
| 6/07/11  | 11NY-01RD  | 142-2011     | Beecroft Road Streetscaping, Watermain, Sanitary & Storm Sewers Install          | \$ 5,796,759.65         | \$ 5,890,271.90             | \$ 22,531,820.00        | \$ 2,763,366.79             | \$ 22,531,820.00       | \$ 2,763,366.79  | \$ 2,763,366.79 | \$ 2,763,366.79        |
|          |            | <b>2012</b>  |  | <b>\$ 22,531,820.00</b> |                             | <b>\$ 2,763,366.79</b>  |                             | <b>\$ 2,763,366.79</b> |                  |                 | <b>\$ 2,763,366.79</b> |
| 3/21/12  | 10EY-12RD  | 56-2012      | Lanard Road & Sidewalk Reconstruction  | \$ 4,593,033.00         | \$ 4,934,348.00             | \$ 4,593,033.00         | \$ 4,934,348.00             | \$ 4,593,033.00        | \$ 4,934,348.00  | \$ 341,315.00   | \$ 870,741.45          |
| 4/05/12  | 12SC-14WS  | 57-2012      | Kirkhams Road Utility Replacement & Road Reconstruction                          | \$ 4,348,995.00         | \$ 4,486,100.00             | \$ 2,846,015.00         | \$ 2,993,024.00             | \$ 4,348,995.00        | \$ 4,486,100.00  | \$ 137,105.00   | \$ 3,036,817.67        |
| 4/12/12  | 12EY-01RD  | 84-2012      | Burnhamthorpe Road Pavement Reconstruction                                       | \$ 2,846,015.00         | \$ 2,993,024.00             | \$ 729,746.00           | \$ 761,546.00               | \$ 2,846,015.00        | \$ 2,993,024.00  | \$ 147,009.00   | \$ 1,284.02            |
| 5/28/12  | 12SC-11RD  | 114-2012     | Toronto New Sidewalk Installation  | \$ 729,746.00           | \$ 761,546.00               | \$ 238,995.00           | \$ 297,964.00               | \$ 729,746.00          | \$ 761,546.00    | \$ 31,800.00    | \$ 31,800.00           |
| 6/07/12  | 12NY-10RD  | 144-2012     | Toronto North York District Sidewalk Reconstruction                              | \$ 238,995.00           | \$ 297,964.00               | \$ 1,148,222.00         | \$ 1,247,156.00             | \$ 238,995.00          | \$ 297,964.00    | \$ 58,969.00    | \$ 58,969.00           |
| 6/13/12  | 12SC-10RD  | 98-2012      | Toronto Road & Laneway Reconstruction  | \$ 1,148,222.00         | \$ 1,247,156.00             | \$ 25,086.00            | \$ 53,957.50                | \$ 1,148,222.00        | \$ 1,247,156.00  | \$ 98,934.00    | \$ 98,934.00           |
| 7/04/12  | SC018-2012 | 3907-12-7101 | 1659 Victoria Park Avenue Underground Work                                       | \$ 25,086.00            | \$ 53,957.50                | \$ 960,579.10           | \$ 1,080,585.00             | \$ 25,086.00           | \$ 53,957.50     | \$ 28,871.50    | \$ 28,871.50           |
| 7/31/12  | 12SC-316WS | 178-2012     | New Residential Water & Sewer Connections - Scarborough District                 | \$ 960,579.10           | \$ 1,080,585.00             | \$ 53,410.58            | \$ 61,638.11                | \$ 960,579.10          | \$ 1,080,585.00  | \$ 120,005.90   | \$ 120,005.90          |
| 8/01/12  | NV030-2012 | 3907-12-7101 | 1911 Finch Avenue Underground Work   | \$ 53,410.58            | \$ 61,638.11                | \$ 1,479,006.00         | \$ 1,541,028.00             | \$ 53,410.58           | \$ 61,638.11     | \$ 8,227.53     | \$ 8,227.53            |
| 8/03/12  | 12NY-03RD  | 170-2012     | Allen & Lawrence Ave Intersection Modifications                                  | \$ 1,479,006.00         | \$ 1,541,028.00             | \$ 16,688,231.00        | \$ 18,181,798.00            | \$ 1,479,006.00        | \$ 1,541,028.00  | \$ 62,022.00    | \$ 62,022.00           |
| 8/08/12  | 12FS-14WP  | 141-2012     | BFFP - Sewer & Watermain Improvements on Pleasant View Dr, Brian Dr...           | \$ 16,688,231.00        | \$ 18,181,798.00            | \$ 1,128,169.00         | \$ 1,233,296.00             | \$ 16,688,231.00       | \$ 18,181,798.00 | \$ 1,493,567.00 | \$ 1,493,567.00        |
| 9/07/12  | 12TE-126TU | 204-2012     | Greektown Permanent Repairs to Utility Cuts                                      | \$ 1,128,169.00         | \$ 1,233,296.00             | \$ 498,160.50           | \$ 559,350.00               | \$ 1,128,169.00        | \$ 1,233,296.00  | \$ 105,127.00   | \$ 105,127.00          |
| 11/21/12 | EY055-2012 | 3907-12-7101 | 30 Weston Road Phase 2 Underground Work  | \$ 498,160.50           | \$ 559,350.00               | \$ 19,293,296.82        | \$ 20,320,013.78            | \$ 498,160.50          | \$ 559,350.00    | \$ 61,189.50    | \$ 61,189.50           |
| 11/23/12 | 12FS-22WP  | 230-2012     | BFFP - Sewer and Watermain Improvements on Seaciff Blvd, Finch Ave...            | \$ 19,293,296.82        | \$ 20,320,013.78            | \$ 2,735,492.00         | \$ 3,587,750.00             | \$ 19,293,296.82       | \$ 20,320,013.78 | \$ 852,258.00   | \$ 852,258.00          |
| 12/04/12 | 13SC-304WS | 257-2012     | Scarborough District Water & Sewer Connection Repairs                            | \$ 2,735,492.00         | \$ 3,587,750.00             | \$ 56,766,437.00        | \$ 4,573,117.39             | \$ 2,735,492.00        | \$ 3,587,750.00  | \$ 852,258.00   | \$ 852,258.00          |
|          |            | <b>2013</b>  |  | <b>\$ 56,766,437.00</b> |                             | <b>\$ 4,573,117.39</b>  |                             | <b>\$ 4,573,117.39</b> |                  |                 | <b>\$ 4,573,117.39</b> |

|          |              |              |  |  |             |                       |                             |                      |
|----------|--------------|--------------|--|--|-------------|-----------------------|-----------------------------|----------------------|
| 2/20/13  | EY002-2013   | 3907-12-7101 | 115 Black Cree Drive Underground Work                                    |  | \$82,864.03 | \$125,995.00          | \$                          | 43,130.97            |
| 3/18/13  | 13EY-104TU   | 65-2013      | Permanent Repairs of Utility Cuts - Wards 13 & 17                        |  | \$          | 1,691,691.43          | \$                          | 1,748,754.10         |
| 6/26/13  | TE068-2013   | 3907-12-7101 | 1 Hanson Street Underground Work   |  | \$          | 95,534.72             | \$                          | 119,215.00           |
| 9/18/13  | NY2007-2013  | 3907-12-7101 | Water and Sewer Disconnects  |  | \$          | 548,879.42            | \$                          | 562,767.12           |
| 12/09/13 | 13TESC-330WS | 330-2013     | Repl of curb boxes & stops by vacuum excav, East York & Scarborough      |  | \$          | 1,217,857.00          | \$                          | 1,596,972.00         |
| 12/09/13 | 13EVNY-329WS | 331-2013     | Repl of curb boxes & stops by vacuum excav, Etobicoke & North York       |  | \$          | 1,630,138.00          | \$                          | 2,060,555.00         |
| 12/11/13 | NY047-2013   | 3907-12-7101 | 88 Sheppard Avenue East Watermain and Sewer Relay                        |  | \$          | 188,281.73            | \$                          | 198,484.50           |
| 12/11/13 | TE129-2013   | 3907-12-7101 | 55 Howie Underground Work  |  | \$          | 41,814.52             | \$                          | 48,025.00            |
| 12/18/13 | 13FS-36WP    | 319-2013     | BFPP - Sewer Improvements on Sunnycrest Road Easement***                 |  | \$          | 1,097,865.00          | \$                          | 1,344,920.00         |
| 12/20/13 | TE127-2013   | 3907-12-7101 | 1675 Lake Shore Boulevard East Waterworks Work                           |  | \$          | 214,761.02            | \$                          | 241,368.50           |
| 12/01/13 | 6038842      |              | 2013 Ice Storm Tree Cleanup - Tree Removal/Heavy Equipment Services      |  | \$          | 475,000.00            | **Information Not Available |                      |
|          |              | <b>2014</b>  | <b>2013 Total:</b>   |  | \$          | <b>7,284,686.87</b>   |                             | <b>1,237,369.35</b>  |
| 1/08/14  | 14SC-120TE   | 334-2013     | Toronto Scarborough District Emergency Repairs                           |  | \$          | 209,247.00            | \$                          | 242,931.00           |
| 1/28/14  | MCP13-12WP   | 165-2013     | Toronto Valleysmede Sewage Pumping Station & New Twin Forcemain***       |  | \$          | 3,787,736.00          | \$                          | 3,842,501.00         |
| 2/21/14  | 14EY-100TU   | 37-2014      | Permanent Repairs to Utility Cuts, Wards 1, 2 & 7, Etobicoke             |  | \$          | 1,098,374.00          | \$                          | 1,127,793.00         |
| 3/14/14  | 14TE-126TR   | 71-2014      | Queen Street West Accessibility Ramps Sidewalk & Road Repairs            |  | \$          | 2,597,279.00          | \$                          | 2,705,163.00         |
| 4/16/14  | TE030-2014   | 3907-12-7101 | 616 Yonge Street Underground Work  |  | \$          | 17,357.93             | \$                          | 18,475.50            |
| 4/16/14  | SC013-2014   | 3907-12-7101 | 6039 Kingston Road Underground Work                                      |  | \$          | 90,772.90             | \$                          | 93,281.50            |
| 4/03/14  | 14FS-06WP    | 70-2014      | BFPP - Sewer Improvements & Watermain Relocation on Cartwright Avenue*** |  | \$          | 7,893,503.00          | \$                          | 7,977,437.00         |
|          |              |              | <b>2014 Total:</b>   |  | \$          | <b>15,694,269.83</b>  |                             | <b>313,312.17</b>    |
|          |              |              | <b>Total Value of Work for Toronto</b>                                   |  | \$          | <b>277,337,325.81</b> |                             | <b>20,709,017.70</b> |
|          |              |              | <b>AMOUNT TRISAN SAVED THE CITY OF TORONTO TO DATE ON PROJECTS:</b>      |  | \$          | <b>20,709,017.70</b>  |                             | <b>20,709,017.70</b> |

Notes:

\* Number based on GSC2 results, and actual work completed. Actual tender results were 1. Trisan: \$92,341,759.53 2. Drainstar: \$127,841,820.50 3. North Rock: \$130,993,019.60

\*\* Information not available due to age or circumstances where information would skew results and inaccurate information will be provided.

\*\*\* Denotes projects Trisan is currently low bidder, but no awards have yet been made. If Trisan is not awarded, the City must pay the difference amount to award next bidder.





# TAB 6



## **CITY OF TORONTO'S STAFF AND CONSULTANT ON BASEMENT FLOODING PROJECTS**

### **Introduction**

Toronto's City Staff and Toronto's Consultants that have been a part of the two Basement Flooding Protection projects, Contract 12FS-14WP and Contract 12FS-22WP, under review for poor performance have not followed the City's own policy as far as managing the projects.

Currently the City is in default on Contract 12FS-14WP with regards to payment.

Trisan Construction has been completing Basement Flooding Protection projects since 2009. Trisan has had no major issues with regards to projects being managed effectively with Trisan Construction, City of Toronto, and the City's Consultant management until recently. The management teams involved on both Contract 12FS-14WP and Contract 12FS-22WP have new individuals working on these projects for both the City of Toronto staff and the City of Toronto consultant staff.

### **Background**

The City is in default of Contract 12FS-14WP as defined in General Condition 7.10.03 (attached in Appendix I). Certified Payment Certificates dating back to December 2013 still have not been paid fully.

Negotiated Change Orders have been approved by Contract Management team (CH2M Hill and the City of Toronto), but have failed to process and pay for these for months on end.

On a previous contract with the same project team, 10FS-63WP, a change order was negotiated and agreed to approximately 14 months ago, and has yet to be paid to Trisan Construction. Trisan Construction has always been beyond patient with the City of Toronto payment processing, but this situation is unacceptable and again creates a scenario where the City has failed to meet their Contractual obligations.

The City of Toronto staff, representing the Basement Flooding Protection Program, has clearly demonstrated that they do not follow any City of Toronto policies with regards to Contractor Performance Evaluation as Trisan Construction has never received an evaluation on any of the seven Basement Flooding Protection projects that they completed or currently are completing.

Under the ASCE Standard 38-02 (attached in Appendix J), and as per RFQ No. 9117-10-7310, the Consultant on this project is required to perform Level B SUE utility reporting and incorporate into contract drawings, and if required recommend to the Owner to conduct Level A SUE utility investigations. It is apparent by change orders on this project that very little utility investigations were conducted through the pre-engineering process under these contracts. Substantial costs and time delays were a result of unknown utilities throughout both projects.

The City of Toronto consultant company CH2M Hill was awarded the Request for Proposal No. 9117-10-7310 in October of 2010 for Engineering Services for Basement Flooding Improvements for the City of Toronto. The Request for Proposal required CH2M Hill to qualify a team. Members of this team have since left the company CH2M Hill in the year 2013.



City Staff have only targeted three out of five categories related to the Contractor Performance Evaluation in their "Temporary Suspension of Trisan Construction" recommendation report (attached in Appendix K) to Public Works & Infrastructure. The other two categories that have not been mentioned are: B. Quality and C. Organization. Trisan has exceeded exceptionally on these two categories which the City of Toronto staff conveniently leave out of their report.

One of the main purposes of the Contractor Performance Evaluation Form as mentioned in Administration Committee Report 6, Clause 11 on Page 3 is that, "A formal and robust consultant/contractor/supplier performance evaluation system is considered to be a contract management best practice." The City staff has not completed even one of these Contractor Performance Evaluations since Trisan Construction has started working on Basement Flooding Protection projects in 2009.

### **Summary**

The City staff and City consultant have not demonstrated proper experience and management practices dealing with the projects in question and have not involved Trisan in any Contractor Performance Evaluations with regards to Basement Flooding Protection projects.



# TAB 7



## **CONCLUSION**

It is absolutely unnecessary and unwarranted to suspend Trisan Construction on all future City contracts. The many reasons have been well documented throughout Trisan's report. They are now summarized below:

- Over 10 years experience working in the City of Toronto
- Has completed over 85 projects in the City of Toronto
- Has only received one poor performance complaint over all 85 projects
- All Contractor Performance Evaluation's completed by City of Toronto departments have rated Trisan as satisfactory
- Completed over \$275,000,000 of work with the City of Toronto
- Has saved City of Toronto over \$20,000,000 in competitive bidding process
- Pre-qualifications are issued for specialty complex work and are set aside from routine construction work
- Trisan was pre-qualified for the projects that have been deemed poorly performed by Trisan
- Trisan completed work in many different departments throughout Trisan's work with the City of Toronto
- Trisan has completed every project they have been awarded with the City of Toronto
- The accusations in the author's report to recommend suspension of Trisan are one-sided and do not contain all the facts

It is also un-called for to by-pass Trisan as low bid on two current projects. Reasons are also summarized below:

- Trisan has completed Basement Flooding Protection projects since 2009
- Trisan has never received or been involved in any Contractor Performance Evaluations to discuss performance issues
- The two projects that City of Toronto is accusing Trisan of poor performance on are challenging and complex projects with constantly changing circumstances throughout the projects
- Trisan has complied with safety & compliance which will reflect a zero loss injury time on either projects
- Trisan has always given the City of Toronto quality products by complying with contract standards & specifications
- The most important part of a construction project is the organization that takes place before a construction project is tendered with pre-investigation to determine any constraints that may deter and hold up progression once the construction project starts
- Execution is never straight forward when doing underground work due to the complexity of existing underground utilities and mains for which a Contractor cannot be wholly responsible for unknown issues that arise that affect execution
- Any construction project is a joint project between Ownership, Consultants, and Contractors and administration can only take place effectively if all parties are upholding their responsibilities



# TAB 8



**APPENDIX DOCUMENTATION**

|   |       |
|---|-------|
| Appendix A – Libel and Slander Act                              | Tab A |
| Appendix B – Request to Pre-Qualify 3907-09-7256                | Tab B |
| Appendix C – Information on Purchasing Policies and Practices   | Tab C |
| Appendix D – Contractor Performance Evaluation Forms            | Tab D |
| Appendix E – Administration Committee Report 6 Clause 11        | Tab E |
| Appendix F – Contractor Performance Evaluation Procedure        | Tab F |
| Appendix G – Contract Performance Evaluation User Instructions  | Tab G |
| Appendix H – Trisan’s Awarded Projects                          | Tab H |
| Appendix I – General Condition 7.10.03                          | Tab I |
| Appendix J – ASEC Standard 38-02                                | Tab J |
| Appendix K – Temporary Suspension of Trisan Construction Report | Tab K |