



## **REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT**

### **Proposed Settlement of Steelcore Construction Ltd. Claim for Delay Compensation – 3306 Kingston Road, Building Renovations for a New Shelter**

**Date:** March 30, 2021

**To:** City Council

**From:** City Solicitor and Executive Director, Corporate Real Estate Management

**Wards:** Ward 20 - Scarborough Southwest

#### **REASON FOR CONFIDENTIAL INFORMATION**

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This report is about litigation or potential litigation that affects the City of Toronto.

The attachment to this report contains advice or communications that are subject to solicitor-client privilege.

#### **SUMMARY**

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The purpose of this report is to obtain instructions regarding a potential settlement of the claim by Steelcore Construction Ltd. against the City of Toronto, for compensation arising out of delay claims for work at 3306 Kingston Road to complete a new shelter.

#### **RECOMMENDATIONS**

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The City Solicitor recommends that:

1. City Council adopt the confidential instructions to staff in Confidential Attachment 1.
2. City Council authorize the public release of the confidential recommendations contained in Confidential Attachment 1, at the discretion of the City Solicitor, but that the remainder of Confidential Attachment 1 remain confidential as it contains advice which is subject to solicitor-client privilege.

## **FINANCIAL IMPACT**

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Funding for the potential settlement is available within the 2021-2030 Council Approved Capital Budget and Plan for Shelter, Support and Housing Administration under capital project CHS040-03. Further details are provided in the confidential attachment.

## **DECISION HISTORY**

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At its December 9, 2015 meeting, City Council adopted EX10.12 "Acquisition of 3306 Kingston Road," authorizing staff to negotiate the acquisition of the property.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.EX10.12>

On January 17, 2018, Bid Award Panel adopted BA59.5 "Award of Tender Call No. 276-2017 to Steelcore Construction Ltd for Building Renovations at 3306 Kingston Road, Toronto.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.BA59.5>

On February 6, 2018, Purchase Order No. 6046453 was issued to Steelcore Construction Ltd. (SC) in the amount of \$8,712,036, net of HST.

At its June 26, 2018 meeting, City Council adopted CD29.8 "2019 Shelter Infrastructure Plan and System Update Report," which identified 3306 Kingston Road as the site of a future shelter to replace shelter capacity at Birchmount Residence and support the George Street Revitalization transition plan.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.CD29.8>

On November 28, 2018, a non-competitive contract, with Purchase Order No. 6048019, was issued to Steelcore in the amount of \$3,307,200, net of HST. The non-competitive contract was required for emergency construction services needed for the completion of shelter. This contract was issued under the emergency provision of the Purchasing By-law and a report was submitted to General Government & Licensing Committee on December 27, 2018, where it was adopted. City Council adopted the report on January 30, 2019 without amendments.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.GL1.3>

## COMMENTS

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In 2016, the City acquired the property at 3306 Kingston Road. Situated on the property at the time was a former Comfort Inn Motel. The purpose of the acquisition was to convert the motel into a shelter. A new shelter was required because the City's lease with the landlord of the Birchmount Residence shelter was expiring, and also the new shelter was to be used by transitional shelter clients from Seaton House as part of the Council-approved transition program for the George Street Revitalization Project.

On January 17, 2018, Steelcore was awarded the contract to complete the renovations to 3306 Kingston Road. The renovations would convert the two story building into a new 95-bed shelter for senior male clients and their pets. The value of the contract was \$9,844,600.68, inclusive of HST.

Work was supposed to begin on March 1, 2018, but due to certain City administrative issues, the work was not commenced until March 12<sup>th</sup>, 2018. The contract called for a completion date of July 18, 2018. Substantial performance was not attained until March 31<sup>st</sup>, 2019. Further, both non-warranty and warranty construction work were carried out by Steelcore well beyond the substantial performance date.

Throughout the duration of the contract, Steelcore had provided the City with notice that it would be submitting a claim for compensation arising from delays to the construction project.

The cause of the delays, the length of the delay to the project and the compensation amount are areas in dispute between Steelcore and the City. There were settlement negotiations between CREM, Steelcore, their lawyers, and Legal Services on this issue.

As a result of these negotiations, a settlement in principle has been agreed upon by Steelcore and staff from CREM. Approval of the settlement terms and amount are being sought through this report, the particulars of which are in the confidential attachment.

## CONTACT

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**SIGNATURE**

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Wendy Walberg  
City Solicitor

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Patrick Matozzo  
Executive Director, Corporate Real Estate  
Management Division

**ATTACHMENTS**

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Confidential Attachment 1 - Confidential Information