

Union Station Revitalization Project - Proposed Settlement

Date: July 12, 2022

To: City Council

From: City Solicitor; Deputy City Manager, Corporate Services

Wards: Ward 10 - Spadina-Fort York

REASON FOR CONFIDENTIAL INFORMATION

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

The purpose of this report is to request instructions regarding a proposed settlement associated with the Union Station Revitalization Project.

RECOMMENDATIONS

The City Solicitor and Deputy City Manager, Corporate Services recommend that:

1. City Council approve the terms of settlement set out in Confidential Attachment 1 to the report (July 12, 2022) from the City Solicitor and the Deputy City Manager, Corporate Services.
2. City Council adopt the confidential instructions to staff in Confidential Attachment 1 to the report (July 12, 2022) from the City Solicitor and the Deputy City Manager, Corporate Services.
3. City Council direct that Confidential Attachment 1 to the report (July 12, 2022) from the City Solicitor and the Deputy City Manager, Corporate Services remain confidential in its entirety as it contains advice that is subject to solicitor-client privilege.

4. City Council approve an in-year budget adjustment of Corporate Real Estate Management's 2022-2031 Approved Capital Budget and Plan to reflect the settlement as outlined in Confidential Attachment 1 to the report (July 12, 2022).

FINANCIAL IMPACT

Proposed settlement details are provided in Confidential Attachment 1.

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

DECISION HISTORY

At its meeting of March 29, 2021, the General Government and Licensing Committee adopted GL21.29 "Concrete Barriers at Union Station" and requested the Deputy City Manager, Corporate Services report to the April 26, 2021 meeting of the General Government and Licensing Committee on a timeline and plan for the remove of the concrete barriers placed as a security measure in front of Union Station.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.GL21.29>

At its meeting of September 14, 2020 General Government and Licensing Committee adopted GL15.2 "Union Station Revitalization Project - Status Report and Contract Amendments," which noted that the project remained within the approved budget of \$824.0 million and authorized amendments to existing contracts with NORR Limited, WSP Canada Group Limited, and Davies Ward Phillips and Vineberg LLP.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.GL15.12>

At its meeting of January 6, 2020 General Government and Licensing Committee adopted GL11.9 "Amendment to Purchase Order Number 6040342 with Osler, Hoskin & Harcourt, LLP for Construction Law Support and Litigation Services for the Union Station Revitalization Project," which noted that the project remained within the approved budget of \$824.0 million.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.GL11.9>

At its meeting of May 21, 2019 General Government and Licensing Committee adopted GL5.9 "Union Station Revitalization Project - Status Report and Contract Amendments," which noted that the project remained within the approved budget of \$823.9 million and authorized amendments to existing contracts with NORR Limited, WSP Canada Group Limited, and Osler, Hoskin & Harcourt, LLP.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.GL5.9>

At its meeting of July 3, 2018, Government Management Committee adopted GM29.22 "Union Station Revitalization Project (U.S.R.P.) – Status Report," which noted that the project remained within the approved budget of \$823.9 million.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.GM29.22>

At its meeting of March 26, 2018, City Council adopted GM25.10 "Union Station Revitalization Project - Contract Amendments" and authorized amendments to existing contracts with NORR Limited, Architects and Engineers, WSP Canada Group Limited, Bondfield Construction Company Limited, and Osler, Hoskin & Harcourt, LLP.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.GM25.10>

At its meeting of February 12, 2018, City Council adopted 2018.EX31.2 "2018 Capital and Operating Budgets" and approved the 2018 Capital Budget and 2019-2027 Capital Plan for Union Station Revitalization Project, including an increase to the total project cost from \$800.7 million to \$823.5 million, requiring additional reserve funding and an increase to Facilities, Real Estate, and Environment & Energy (FREEE)'s 2018 – 2027 Preliminary Capital Budget and Plan for the Union Station Revitalization project in the amount of \$22.8 million in 2018, funded through the Capital Financing Reserve Fund.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.EX31.2>

At its meeting of May 29, 2017, Government Management Committee adopted 2017.GM21.14 "Union Station Revitalization Project - Status Update" and approved an amendment to the retainer of Davies Ward Phillips and Vineberg LLP.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.GM21.14>

At its meeting on February 3, 2016, City Council adopted 2016.GM9.5 "Union Station Proposed Building Enhancements" and authorized an amendment to the Head Lease Agreement to implement the building enhancements for Union Station.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.GM9.5>

At its meeting of July 7, 8, and 9, 2015, City Council adopted 2015.GM5.19 "Union Station Revitalization Project - Status Update" approving a budget increase of \$4.3 million related to forecasted cost increases and awarding a contract for Tender Call No. 75-2015 for the Union Station Revitalization Project Stages 2 and 3 to Bondfield Construction Company Limited in the amount of \$178,542,180 net of Harmonized SalesTax, including all allowances, contingencies and charges.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.GM5.19>

At its meeting on December 16, 17 and 18, 2013, City Council adopted Item GM26.5, entitled "Union Station Revitalization Project – Status Update", which included an update to the business case that was originally developed in 2009.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.GM26.5>

COMMENTS

In 2015, the City of Toronto issued a construction contract for Stages 2 and 3 of the Union Station Revitalization Project (U.S.R.P.) to Bondfield Construction Company Limited (B.C.C.L.). Stages 2 and 3 construction work included restorations of the East Wing, Great Hall and VIA Concourse, among others, to prepare this historic landmark to be a multi-modal destination point, focusing on retail and commercial uses, and serving as a gateway to the waterfront and surrounding community. The overall project remains both a technical achievement and an important revitalization initiative that will act as the

centre piece of the downtown core and transit. A major centre piece of the City of Toronto is now renewed and revitalized.

Both the City of Toronto and B.C.C.L. agree that the U.S.R.P. project was delivered significantly behind schedule, however the source of this delay is disputed between the parties. Following substantial completion of Stages 2 and 3, the City of Toronto, B.C.C.L. and its surety Zurich Insurance Ltd. have entered into confidential commercial discussions regarding the delays and challenges that occurred during the project. The results of those discussions are contained in the Confidential Attachment to this report for consideration by City Council.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

Josie Scioli
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ATTACHMENTS

Confidential Attachment 1 - Details of Proposed Settlement related to Union Station Revitalization Project Stages 2 and 3

Confidential Appendix A

Confidential Appendix B

Proposed Union Station Settlement

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