



November 19, 2024

Delivered via Email to Genevieve.Sharkey@toronto.ca, Zella.Phillips@toronto.ca and ggc@toronto.ca

Chief Procurement Officer

Purchasing & Materials Management Division
Toronto City Hall
18th Floor, West Tower
100 Queen Street West
Toronto, Ontario M5H 2N2

General Government Committee

Attention: Matthew Green, Committee Administrator

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

Dear Sir/Madam,

RE: Capital Access Upgrades Program for City Buildings MSA RFSQ 3907-20-5021

General Government Committee Meeting – November 20, 2024

Our File No. 24868

We are counsel for Duron Ontario Ltd. (“**Duron**”) in the above noted matter, and we write to you in respect of the General Government Committee (“**GGC**”) Meeting scheduled to occur on November 20, 2024. The meeting intends to deal with the proposed Temporary Suspension of Duron.

We have registered to appear before the GGC during the upcoming meeting. We are requesting that our portion of the meeting be closed to public pursuant to section 190(2) of the City of Toronto Act.

Duron intends to raise issues with the KPMG Audit Report submitted to the City of Toronto on October 8, 2024, which was the basis for their position on recommending a suspension of Duron. The report raises multiple issues, including the fact that on October 9, 2024, the Chief Procurement Officer (“**CPO**”) sent correspondence to Duron advising that they would be recommending the maximum penalty of a five (5) year suspension and that they were relying on a **final report** submitted to the City of Toronto by KPMG.

The CPO has deprived Duron of procedural fairness in this process and the discussion of this report is a critical part of this argument.

Just by way of summary, the CPO took the position that a maximum penalty was recommended and if Duron had objections they were to submit those for consideration by November 8, 2024. The CPO received Duron's submissions on November 7, 2024 and then informed Duron that they had submitted a report to the GGC for consideration. The CPO refused to produce the report to GGC and advised that we would have to wait until it was uploaded online on November 13, 2024.

When Duron finally accessed the report on November 13, 2024, it was clear that the CPO was walking back on their position for a final suspension and rather seeking a further temporary suspension, which is not permitted under the Supplier Suspension Procedure. A further temporary suspension was sought to continue investigation. This was the first time that the City of Toronto confirmed that the investigation by KPMG was incomplete.

The KPMG report only came to Duron on the evening of Friday, November 15, 2024, after business hours.

Duron submits that it intends to discuss this report and some of its contents in their deputation to the GGC. It is clear that s. 190(2) of the City of Toronto Act permits meetings to be closed if the subject matter being considered is:

(f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose or a trade secret.

Given the confidential nature of the report, it is clear it was not intended for public consumption. The City of Toronto retained KPMG to conduct the audit, it is possible that the scope of work and work itself would amount to communications that may become subject to solicitor-client privilege. **Further, given that the report is addressed to the City of Toronto, Legal Services Division, this report is likely to fall under communications necessary for the purposes of solicitor-client privilege.**

For all the reasons stated, the GGC meeting in respect of the Duron matter should be strictly confidential and closed to the public.

Should you have any further questions or concerns, please contact the undersigned.

Yours very truly,

PER:
SUTHERLAND LAW



ROB MOUBARAK
rmoubarak@sutherlandlaw.com

RM/sw

November 19, 2024

Delivered via Email to Genevieve.Sharkey@toronto.ca and Zella.Phillips@toronto.ca

Chief Procurement Officer

Purchasing & Materials Management Division
Toronto City Hall
18th Floor, West Tower
100 Queen Street West
Toronto, Ontario M5H 2N2

Dear Madam,

**RE: Capital Access Upgrades Program for City Buildings MSA RFSQ 3907-20-5021
Our File No. 24868**

Please consider the herein correspondence as a further supplement to the Objection Letters dated November 7, 2024 and November 8, 2024, submitted on behalf of Duron Ontario Ltd. (“**Duron**”). Duron requests that all Objection material forwarded to your office be put before the General Government Committee (“**GGC**”) for review and consideration.

Requirement to Submit Further Supplemental Objection

This additional material is necessary as a result of new information that has come to light since the previous Objection material was provided.

First, it is required in order to address the issue of the late delivery of the KPMG report. On Friday, November 15, 2024 at 5:17pm, Duron’s counsel was forwarded an email from KPMG permitting them to access the KPMG report. Duron’s counsel immediately requested the password to access the report, the password was provided at 7:15pm.

Second, on November 13, 2024 Duron was informed that the City of Toronto has unilaterally made the decision to withhold \$1,000,000.00 from Duron, in order to “ensure that sufficient funds are available to cover the City’s costs and losses as a result of Duron’s actions.”¹ In

¹ Letter from City of Toronto, dated November 8, 2024, attached at Tab A

addition, the correspondence further states that the City of Toronto is refusing to accept Duron's offer to pay the total amount of the overpayment of \$161,804.00. Duron sees no basis for this position. Duron further notes that while they received the correspondence on November 13, 2024, the letter is dated November 8, 2024.

The Failure to Disclose Pertinent Reports

On October 9, 2024, the City of Toronto stated, "*KPMG has **concluded** the Audit and submitted its **final** report to the City of Toronto on October 8, 2024* [Emphasis Added]." As previously mentioned in Duron's Objection Letter, dated November 7, 2024, we fail to understand how KPMG has dragged out this audit for over one (1) year and has been unable to confirm the amounts determined by Duron and/or completed the entire audit process. It is evidently clear that the City of Toronto intentionally misrepresented that the audit was complete, and a final report was rendered by KPMG, as per the letter dated October 9, 2024. In addition to the emails previously attached in our Objection Letters, this November 8, 2024 letter once again confirms that the audit process is still ongoing, despite the City of Toronto's previous position that it was complete.

It is also of serious concern that the letter was sent four (4) days² after the deadline for Duron to respond to the Proposed Suspension Letter from the City of Toronto, despite the fact that the letter was dated for November 8, 2024.

We see no justification for this continued delay, misrepresentation of the fact that the audit was complete and the intentional actions of the City of Toronto to deprive Duron of procedural fairness.

In addition to the above, Duron's counsel has sent numerous emails seeking a copy of the report that was prepared and will be submitted to the GGC. The City of Toronto informed

² Email enclosing Letter from City, dated November 8, 2024, attached at Tab B

Duron's counsel on November 8, 2024 that the report was completed and being submitted to the GGC.

Duron's counsel sought production of this report on multiple occasions. On November 8, 2024, counsel for Duron emailed seeking a copy of the report and advised that he would be out of the country beginning November 14th and would like the opportunity to review the report well before then.³

Given the email correspondence mentioned above, Duron sent further supplemental materials to be considered. These materials were sent within the deadline to respond to the Proposed Suspension Letter.

On or about November 11, 2024, counsel for Duron sought a follow up to the November 6th email, which reiterated a request for further information, including questions related to the continued audit by KPMG. Duron's counsel also confirmed that Duron would be forwarding the additional documents requested by KPMG.⁴ The additional documents were provided the same day.⁵

On or about November 12, 2024, the City of Toronto responded to Duron's counsel and once again reiterated that the report to the GGC would be uploaded online and is the report that will be considered by them on November 20, 2024. They further advised that the report could not be shared in advance.⁶ No explanation or rule was cited that supported the fact that this report could not be shared in advance. On the same date, counsel for Duron stated once again that the report be provided or they be directed to a rule preventing disclosure. It was also noted that counsel for Duron would be out of the country on November 14th and would like the opportunity to review the report in advance.⁷ No response was provided to this correspondence.

³ Email from Duron's Counsel to City of Toronto, dated November 8, 2024, attached at Tab C

⁴ Email from Duron's Counsel to City of Toronto, dated November 11, 2024, attached at Tab D

⁵ Email from Duron's Counsel to City of Toronto and KPMG, dated November 11, 2024, attached at Tab E

⁶ Email from Ms. Philips to Duron's Counsel, dated November 12, 2024, attached at Tab F

⁷ Email from Duron's Counsel to Ms. Philips, dated November 12, 2024, attached at Tab G

On Friday, November 15, 2024 at 5:17pm, KPMG emailed Duron's counsel providing them a link to access the alleged "final report" that was submitted to the City of Toronto on October 8, 2024. Further to a request for the password, the report became available to download at 7:15pm.

The KPMG report now confirms all allegations raised by Duron on this matter and further confirms that the City of Toronto has abused their power and proceeded to suspend Duron without complying with its own policies.

The KPMG report confirms that this is a preliminary reporting letter and contrary to the statements of the City of Toronto, this report is not final.

In addition, it appears that KPMG was retained in September 2023, despite the fact that the City of Toronto sent a Notice of Audit to Duron on August 2, 2022. Duron agreed to cooperate with this audit and confirmed same on August 12, 2022. There is no explanation as to why the City of Toronto willingly chose to sit on conducting this audit for over a year. Furthermore, if the City of Toronto was genuinely concerned with any risks to their valid commercial or business interests then they would not have waited a year to start the audit process. Duron submits that the City of Toronto was well aware before August 2022 that there was overbilling by Duron yet failed to act immediately by retaining a third-party to conduct the audit.

Report to General Government Committee

On or about November 13, 2024 at approximately 10:00am the report was uploaded on the City of Toronto website. We have now had the opportunity to review this report submitted to the GGC ahead of the meeting scheduled on November 20, 2024. We are perplexed with the position that is now being taken by the City of Toronto, which is a complete reversal from its position advanced on October 9, 2024. It appears that the position now is that a temporary suspension is sought while the investigation continues.

We fail to comprehend how it is possible that a further temporary suspension can be issued when one is not provided for in the Supplier Suspension Procedure. It is inconceivable how the City of Toronto can continue to conduct themselves in a manner that violates its own policies and procedures in place outright.

The Supplier Suspension Procedure is clear, a Chief Procurement Officer (“CPO”) can temporarily suspend a supplier up to a maximum of six (6) months. The CPO has already exercised this right. In addition, the temporary suspension was issued in June 2024, which was one (1) year after this investigation began. In the time between issuing the temporary suspension and the date of the Proposed Suspension Letter, which is four (4) months, KPMG met with Duron and Duron provided the result of their fulsome internal audit. The City of Toronto then sent their Proposed Suspension Letter to Duron advising that KPMG had submitted a **final report** to the City of Toronto and a recommendation was made to issue a five (5) year suspension, being the maximum penalty.

Duron had thirty (30) days to provide an objection with additional information, which Duron submitted on November 7, 2024. After receipt of Duron’s objection, your office submitted a report to the GGC walking back the maximum penalty and instead seeking a temporary suspension of four (4) months while the investigation continues. Duron submits that this position was taken as a result of Duron’s submissions in the objection letter which raised a number of serious concerns with this process and findings.

It does not appear that there are any new facts to suggest that the City of Toronto or KPMG requires additional time to investigate. This is supported by the fact that your office stated that a **final report** was submitted by KPMG. The City of Toronto cannot now come back and say that the investigation is still ongoing. Furthermore, if additional time was needed to investigate, then there was no reason why your office did not agree to provide Duron an extension to provide its objection to the Proposed Suspension Letter. Duron’s counsel sought an extension on multiple occasions prior to submitting its Objection Letter and one was not granted. In fact, Ms. Philips, the solicitor for the City of Toronto, advised during the October 23, 2024 meeting with Duron’s counsel that she was not aware if she had authority to provide

one. The City of Toronto cited no rule or provision preventing the extension. Duron submits that an extension could have been granted and has done so on previous occasions in other similar matters.⁸

Duron reiterates that the City of Toronto now received a preview Duron's position on all issues, allowing the City of Toronto to re-assess their case, suggesting that the case against Duron was weak. The fact that the audit was not complete was not a new issue raised. In fact, Duron's counsel advised the City of Toronto that Duron was still receiving requests for documents and information from KPMG before the Objection Letter was sent on November 7, 2024. In any event, the City of Toronto would have been well aware in advance that KPMG had not completed their audit. It is clear to Duron that the recommendation to suspend was a decision made prematurely and without any evidence to support the position taken.

The way in which the audit has unfolded is of serious concern to Duron for several reasons.

- The City of Toronto **falsely** represented that the audit was complete;
- Even after the Proposed Suspension Letter was sent on October 9, 2024, KPMG continued to request additional documents from Duron and further meetings to discuss;
- KPMG was retained in September 2023 to conduct an audit of this Project, which is over one (1) year ago;
- The City of Toronto was aware between October 9, 2024 and November 8, 2024 that KPMG was continuing its investigation (this is supported by the various emails that Duron's counsel sent to the City of Toronto questioning why the audit was still ongoing); and,
- KPMG had over one (1) year to conduct their audit, yet somehow only claimed to have audited ten percent (10%) of the change orders. In any event, their results of the audit solely rely on the information and documentation provided by Duron from their own fulsome audit.

⁸ Report for Action, Temporary Suspension of Toronto Zenith Contracting Ltd., dated November 20, 2019, at page 11 attached at Tab H

The report further misrepresents the facts of this case. It is suggested that Duron requested additional information when they learned that the CPO was considering a longer suspension to be imposed by the City Council. This is entirely false. Duron submits that it always maintained its position to object to any suspension. In fact, Duron first objected to the temporary six (6) month suspension issued in June 2024. Given the gravity of the recommendation of issuing the maximum penalty, Duron requested production of **relevant** documents that formed the basis of the recommendation. These requests were made well before the deadline to provide a response to the Proposed Suspension Letter. As mentioned above, Duron requested these documents and an extension to provide a fulsome response, and neither was provided.

The City of Toronto now uses their failure to work and cooperate with Duron as basis for seeking a further temporary suspension (which is not provided for in the Supplier Suspension Procedures) to allow them to finish the investigation that was previously finished and provide the documents requested by Duron. There was nothing preventing from either of these steps being taken much earlier in the process. The further delay in reaching a final decision only continues to prejudice Duron for all the reasons previously outlined in the November 7, 2024 Objection Letter.

Furthermore, Duron should not be penalized or punished for the City of Toronto's failure to effectively and efficiently investigate this matter. This delay should not fall on the feet of Duron or its employees, especially given the fact that Duron has been cooperating and take positive steps to resolve the issues from the outset.

A decision to issue a further temporary suspension, given the position outlined herein, would in effect operate as a punishment, which is contrary to the principles under the Supplier Suspension Procedure. It further offends principles of procedural fairness and natural justice.

Duron further submits that it appears clear to them that if the City of Toronto cannot punish them through this process, it can do so through use of the provisions in the agreement. More

particularly, the letter sent on November 12, 2024 advised that \$1,000,000.00 will be withheld from Duron. If Duron takes steps to object or commence proceedings related to this decision it will disqualify them from bidding, which has the same effect as the suspension.

Duron submits that should this matter proceed, the GGC should either make a determination with respect to the final suspension or City of Toronto should withdraw their request for the temporary suspension. If a final suspension is considered, then Duron submits that the GGC should take into account the time already served.

Should you have any further questions or concerns, please contact the undersigned.

Yours very truly,

PER:
SUTHERLAND LAW

A handwritten signature in black ink, appearing to read 'Rob Moubarak', with a stylized flourish at the end.

ROB MOUBARAK
rmoubarak@sutherlandlaw.com
RM/sw

TAB A

Project Management Office
Corporate Real Estate Management

Metro Hall
55 John Street,
2nd Floor
Toronto, Ontario M5V 3C6

Tel: 416 338 0237
lisa.barroso@toronto.ca
www.toronto.ca

November 8, 2024

VIA EMAIL: Altaf Chaudaury (achaudhary@duro.ca)

Duron Ontario Ltd. ("Duron")
1860 Shawson Dr,
Mississauga ON
L4W 1R7

Attention: Altaf Chaudaury

Dear Altaf Chaudaury,

Re: Withholding of Funds Related to Fraud and Audit Matters

Reference is made to the agreement entered into between the City of Toronto (the "**City**") and Duron related to the Capital Accessibility Upgrades Program for City Buildings dated July 10, 2020 (the "**Agreement**").

An audit has been conducted pursuant to the Agreement over the course of the past two years (the "**Audit**") by the City-engaged auditor, KPMG LLP ("**KPMG**"). Over the course of the Audit, KPMG confirmed that irregularities first identified by the City's project consultant, Arcadis IBI Group ("**Arcadis**") were present and that Duron had defrauded the City in the form of overpayment of certain invoices. In August, 2024, Duron admitted that the fraud had indeed occurred and gave KPMG the figure of \$161,804 as the total amount that had been overpaid by the City.

At this time, it cannot be objectively confirmed that the total amount of overpayments is capped at \$161,804. KPMG continues to work with Duron to validate its figures, but at this time, a final figure cannot be established.

It is the City's intention to continue the Audit to determine whether other overpayments not yet found or disclosed by Duron exist.

While Duron has repeatedly offered to pay back the \$161,804 figure it has presented the City, the City does not accept this offer and will exercise its right to set off its actual losses once the Audit is complete

Further, the City's costs for the audit will be borne by Duron pursuant to the indemnity in the Agreement. To date, those costs amount to approximately \$120,000. The continuation of the Audit will add costs for which Duron is responsible.

The City is accountable for the responsible use and management of taxpayer money and must ensure that it is spent in the public interest and that the public receives the best value for money. It is critical that suppliers who submit invoices for services or work performed under contracts with the City understand and respect this principle and comply with the City's Supplier Code of Conduct. To that end, it is important for the City to act appropriately in the interest of the taxpayer.

Accordingly, the City will be withholding \$1,000,000 at this time to ensure that sufficient funds are available to cover the City's costs and losses as a result of Duron's actions.

Once the Audit is finalized and all matters settled, the City will exercise its right of set off set out in the Agreement to make itself whole. Any remaining monies, if any, will be distributed to Duron only at that time.

Sincerely,

Lisa Barroso B.Arch, PMP
Director, Project Management Office
Corporate Real Estate Management
City of Toronto

TAB B

From: [Sabrina Waraich](#)
To: [Sabrina Waraich](#)
Subject: FW: Duron_ Notice for non-payment
Date: Tuesday, November 19, 2024 9:28:58 AM
Attachments: [image004.png](#)

----- Original message -----

From: "Lisa (PMO) Barroso" <Lisa.Barroso@toronto.ca>
Date: 13/11/2024 12:22 am (GMT+05:00)
To: Altaf Chaudhary <achaudhary@duro.ca>
Cc: Tanuja Saha <Tanuja.Saha@toronto.ca>, Justin John <Justin.John@toronto.ca>
Subject: Duron_ Notice for non-payment

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- Check the **SENDER** name and email address. Do you recognize them? Are they trustworthy?
- Hover over any **LINKS**. Do they match the website URL? If you're unsure, do not click. Visit the website(s) separately by typing the same URL link(s) into your browser to determine legitimacy.
- Do not open **ATTACHMENTS** unless you trust the sender. Be on high alert if the sender is asking you to take an immediate action that does not seem appropriate.
- If the email looks **suspicious**, report it to **Duron's** Security Team

Hello Mr. Chaudaury,

Please find attached notice of nonpayment for your information and review.

Thanks

Lisa Barroso B.Arch, MCR, PMP

Director - Project Management Office

Corporate Real Estate Management Division - City of Toronto

T- 416 338 0237 | M – 437 388 4230

lisa.barroso@toronto.ca | www.toronto.ca

I acknowledge the land I am standing on is the traditional territory of many nations including the Mississaugas of the Credit, the Anishnabeg, the Chippewa, the Haudenosaunee and the Wendat peoples and is now home to many diverse First Nations, Inuit and Métis peoples. I also acknowledge that Toronto is covered by Treaty 13 with the Mississaugas of the Credit and the Williams Treaty signed with multiple Mississaugas and Chippewa bands.



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TAB C

From: [Rob Moubarak](#)
To: [Zella Phillips](#); [Sabrina Waraich](#)
Cc: [Jonathan L. Frustaglio](#); [Andrea Morado](#); [Karla Toma](#); [Geneviève Sharkey](#)
Subject: RE: RE: Capital Access Upgrades Program for City Buildings MSA RFSQ 3907-20-5021 - Objection to Proposed Suspension
Date: Friday, November 8, 2024 4:02:28 PM
Attachments: [image001.png](#)
[image002.png](#)

Hello Zella,

I do not understand your email below and would appreciate your clarification. Can you please share the report that you have already put forward to the General Government Committee? I would appreciate not being made to wait till next week and only have limited time to review it as I'm leaving the country on the 14th in the morning early. I would certainly love the opportunity to review it prior and since you have it handy. And can you clarify what is the extension requested for? I had asked for an extension, and it was declined by you. Do you get to seek extensions with no consideration or position from us? Is that how the process works?

Thank you, Zella, as always. And please either you or Ms. Sharkey feel free to advise if you wish to discuss this matter further.

Sincerely,



Rob Moubarak

Partner

Phone: (905) 695-5500 ext. 2800

Fax : (905) 695-5501

Email: rmoubarak@sutherlandlaw.com

3300 Highway 7, Suite 904
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From: Zella Phillips <Zella.Phillips@toronto.ca>

Sent: Friday, November 8, 2024 3:43 PM

To: Sabrina Waraich <swaraich@sutherlaw.com>

Cc: Rob Moubarak <rmoubarak@sutherlaw.com>; Jonathan L. Frustaglio <jfrustaglio@sutherlaw.com>; Andrea Morado <amorado@sutherlaw.com>; Karla Toma <ktoma@sutherlaw.com>; Geneviève Sharkey <Genevieve.Sharkey@toronto.ca>

Subject: RE: RE: Capital Access Upgrades Program for City Buildings MSA RFSQ 3907-20-5021 - Objection to Proposed Suspension

EXTERNAL: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon Ms. Waraich,

This email is to acknowledge receipt of your email of Thursday, November 7, 2024, which included Duron's response and objection. We have put forward a report to the General Government Committee for the meeting on November 20, 2024, requesting an extension of time. The agenda for the meeting, including the report, will be published on the City's website on Wednesday, November 13, 2024. I have attached a link to same here: [Council & Committee Meetings – City of Toronto](#)

I will respond to your email in detail once I have had an opportunity to review the materials attached to same.

Yours truly,

Zella Phillips

Zella Phillips (she/her) | Solicitor, Municipal Law Section

Legal Services Division | Metro Hall | 55 John Street | 26th Floor | Toronto ON | M5V3C6

Tel: (416) 338-5665 | Cell: (647) 668-5461



This email message may be privileged and confidential. Any unauthorized use or disclosure is prohibited. If you have received this email and are not the intended recipient, please let me know and delete it. Thank you.

From: Sabrina Waraich <swaraich@sutherlaw.com>

Sent: Thursday, November 7, 2024 4:49 PM

To: Zella Phillips <Zella.Phillips@toronto.ca>; Geneviève Sharkey <Genevieve.Sharkey@toronto.ca>

Cc: Rob Moubarak <rmoubarak@sutherlaw.com>; Jonathan L. Frustaglio <jfrustaglio@sutherlaw.com>; Andrea Morado <amorado@sutherlaw.com>; Karla Toma <ktoma@sutherlaw.com>

Subject: [External Sender] RE: Capital Access Upgrades Program for City Buildings MSA RFSQ 3907-20-5021 - Objection to Proposed Suspension

Good Afternoon,

Further to your correspondence to Duron Ontario Ltd. dated October 9, 2024, please find enclosed Duron's response and objection to the proposed suspension.

Kind Regards,



Sabrina Waraich

Associate Lawyer

Phone: (905) 695-5500 Ext. 2950

Fax : (905) 695-5501

Email: swaraich@sutherlandlaw.com

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TAB D

From: [Rob Moubarak](#)
To: [Zella Phillips](#)
Cc: [Geneviève Sharkey](#); [Sabrina Waraich](#); [Jonathan L. Frustaglio](#); [Christie, Cameron](#); [Armstrong, Peter W](#); [Rusu, Ana](#); [Gani, Iman](#)
Subject: RE: COT TAU Audit Meeting
Date: Monday, November 11, 2024 2:24:01 PM
Attachments: [image002.png](#)
[image004.png](#)
[image006.png](#)
[image008.png](#)
[image010.png](#)
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[image030.png](#)
[image031.png](#)
[image032.png](#)

Dear all,

Yet to receive any response to below.

In any event, Mr. Chaudhary has, while away on vacation abroad, put together documents that KPMG has seemingly requested recently to gain greater understanding.

I will have my client forward those to the KPMG team, and particularly Mr. Christie.

If KPMG have further questions, I've invited that they be sent to me to have my client work on them while away. This will again avoid any delay.

Sincerely,



Rob Moubarak

Partner

Phone: (905) 695-5500 ext. 2800

Fax : (905) 695-5501

Email: rmoubarak@sutherlandlaw.com

3300 Highway 7, Suite 904
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From: Rob Moubarak

Sent: Wednesday, November 6, 2024 11:39 AM

To: Zella Phillips <Zella.Phillips@toronto.ca>

Cc: Geneviève Sharkey <Genevieve.Sharkey@toronto.ca>; Sabrina Waraich <swaraich@sutherlandlaw.com>; Jonathan L. Frustaglio <jfrustaglio@sutherlandlaw.com>; Christie, Cameron <cameronchristie@kpmg.ca>; Armstrong, Peter W <pearmsstrong@kpmg.ca>; Rusu, Ana <anarusu@kpmg.ca>; Gani, Iman <igani@kpmg.ca>

Subject: RE: COT TAU Audit Meeting

Thank you for below.

Miss Zella, I can appreciate that you are quite busy and I'm sure so is Ms. Sharkey.

But, given the seriousness of this matter and the gravity of prejudice to my client, may I respectfully implore you to take my requests on behalf of my client somewhat seriously and provide me with information that I am seeking. I am seeking this information to assist me in doing my job for my client. I require the information I am seeking to effectively provide my client's objection material by the deadline that you refuse to extend. With the greatest of respect, the information that I seek is readily available to you / the City, and you can provide it to me effortlessly. You have had my requests for some time, and I am 'under the gun' so to speak to provide my client's material to you to go before the committee. I ask that you kindly review again my email of October 30th and provide me with a comprehensive response and at this time.

Some of the inquiries contained in my October 30th email are not new and have been raised before and yet remain unanswered.

I do thank you, however, for finally providing me with the name of the staff member (Mr. Matozzo) who made the recommendation to Ms. Sharkey.

Would you kindly provide me with Mr. Matozzo's CV and an explanation as to why as director of Corporate Real Estate at the City is involved in this matter? There is no issue with respect to real estate assets of the City. How is the Executive Director involved and what are his qualification to review the matter and make recommendations on same to Ms. Sharkey?

I note from a quick search online Mr. Matozzo's job role is:

The Corporate Real Estate Management (CREM) division is responsible for the operational day-to-day stewardship and planning of the City's real estate assets. The division's mandate is to provide efficient real estate service delivery city-wide, manage City assets through their lifecycles and implement strategies to use City real estate effectively to deliver on City of Toronto objectives.

I am somewhat unclear as to how this role is relevant to my client's matter at hand. Please do provide me with Mr. Matozzo's CV so that I can at least understand the relevance of his involvement and his qualifications to make recommendations as those made to Ms. Sharkey?

Further understanding and audit work from KPMG: I have added your audit team for convenience and I'm certain they are acting on instructions from the city with your oversight. As such I'd like to avoid a duplication of emails.

I would appreciate that we perhaps try our best to tone down the threats towards my client. My client never stated they do not intend to cooperate. Not sure where this misunderstanding is coming from. I am entitled and so is my client to an explanation as to why the City, without any discussion with counsel having been involved, decided to send a request for its auditors to continue with their audit and seek understandings of documents provided by my client, following recommendations made by Mr. Matozzo in reliance on a report apparently provided to the City from KPMG. I have requested the report, or any material relied upon by the City and yet to receive anything.

Your auditors seem to think that my clients have nothing else to do and need to drop all matters at once and acquiesce to their demands of unreasonable short timelines. Mr. Chaudhary is now off on holidays abroad in Pakistan for 3 weeks. He was dealing with KPMG and understands the documents. Please in the interim respond to my email inquiries below and please without threats would be appreciated. Today just past 10:30 am, KPMG sent an email asking Duron / Mr. Chaudhary to meet tomorrow! Is this on instructions from the City to KPMG?

I am happy to arrange for a meeting upon Mr. Chaudhary's return and in the interim I would invite you/KPMG to provide me with a list of specific questions your auditors have now, so that I can have my client start working on answering them remotely from abroad perhaps? If the city and its auditors are suddenly pressed for time, then this will alleviate any delay.

Please provide me with the questions and clarification needed and I will ensure they are worked on right away notwithstanding Mr. Chaudhary's holiday. This matter is a serious matter to my client.

Once again, I reiterate that my client is cooperating, has cooperated, and intends to continue to do so. My client's desires to work with the City and resolve matters amicably remain as such.

Finally, I have advised that my client wishes to pay at once to the City the overpayment. Please direct me as to whom to do so and in what manner? Does the City not wish to facilitate this?

Sincerely,



Rob Moubarak

Partner

Phone: (905) 695-5500 ext. 2800

Fax : (905) 695-5501

Email: rmoubarak@sutherlandlaw.com

3300 Highway 7, Suite 904
Vaughan, Ontario L4K 4M3

www.sutherlandlaw.com

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From: Zella Phillips <Zella.Phillips@toronto.ca>

Sent: Friday, November 1, 2024 5:01 PM

To: Rob Moubarak <rmoubarak@sutherlandlaw.com>

Cc: Geneviève Sharkey <Genevieve.Sharkey@toronto.ca>; Sabrina Waraich <swaraich@sutherlandlaw.com>; Jonathan L. Frustaglio <jfrustaglio@sutherlandlaw.com>

Subject: RE: COT TAU Audit Meeting

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Dear Mr. Moubarek,

Thank you for your email on October 30.

First, as Ms. Sharkey advised in her previous correspondence to you on October 25 and 30, the purpose of the meeting requested by KPMG was to review with Duron the documents that your client provided to KPMG in support of Duron's own internal investigation findings, which determined that the City had been overbilled by \$161,804 (excluding tax). Pursuant to its rights under the Capital Access Upgrades Program for City Buildings MSA RFSQ 3907-20-5021 dated April 3, 2020 (the "Contract") with Duron, the City has directed KPMG to evaluate the supporting documentation provided by Duron and whether documents sufficiently responsive to KPMG's previous requests have been provided. If your client refuses to cooperate with requests from KPMG, as per the City's audit rights in the Contract, the City will consider your client to be in breach of the Contract.

Second, determining the correct quantum of the monies overbilled by your client is a related, but separate, issue from the proposed 5 year suspension of your client under Chapter 195 and the Supplier Suspension Procedure. The facts and reasons underlying the proposed suspension were already communicated to your client in the detailed letter from Ms. Sharkey on October 9, 2024. With respect to your request for the names of the staff that made the recommendation to the Chief Procurement Officer to proceed with a report to the General Government Committee for a suspension, please be advised that Ms. Sharkey wrote to your client after receiving a recommendation from Patrick Matozzo, Executive Director, Corporate Real Estate Management at the City.

Finally, I wish to reiterate that, in accordance with the Supplier Suspension Procedure, your client still has an opportunity to provide additional documentation or information that responds to the detailed information provided in Ms. Sharkey's previous correspondence that might be relevant in determining if the report should be forwarded to the General Government Committee meeting on November 20, 2024. If your client has any additional information, please provide same as soon as possible, as the 30 day notification period provided to your client under Section 4.2 of the Supplier Suspension Procedure will expire on November 8, 2024.

Sincerely,
Zella

Zella Phillips (she/her) | Solicitor, Municipal Law Section

Legal Services Division | Metro Hall | 55 John Street | 26th Floor | Toronto ON | M5V3C6
Tel: (416) 338-5665 | Cell: (647) 668-5461



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TABLE

From: [Sabrina Waraich](#)
To: [Zella Phillips](#); [Geneviève Sharkey](#)
Cc: [Jonathan L. Frustaglio](#); [Rob Moubarak](#); "[cameronchristie@kpmg.ca](#)"; "[pearmsstrong@kpmg.ca](#)"; "[narusu@kpmg.ca](#)"; "[igani@kpmg.ca](#)"
Subject: RE: COT TAU Audit Meeting
Date: Monday, November 11, 2024 7:02:26 PM
Attachments: [image002.png](#)
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[image006.png](#)
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[image009.png](#)
[image011.png](#)
[image013.png](#)
[image015.png](#)
[image017.png](#)
[image019.png](#)

Good Evening All,

Please be advised that our client has uploaded the documents most recently sought by KPMG to the KPMG server.

Please let us know if you have any questions.

Kind Regards,



Sabrina Waraich

Associate Lawyer

Phone: (905) 695-5500 Ext. 2950

Fax : (905) 695-5501

Email: swaraich@sutherlandlaw.com

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necessary virus checks and that you open this email and any attachments at your own risk.

Sent: Monday, November 11, 2024 2:24 PM

To: 'Zella Phillips' <Zella.Phillips@toronto.ca>

Cc: 'Geneviève Sharkey' <Genevieve.Sharkey@toronto.ca>; Sabrina Waraich <swaraich@sutherlandlaw.com>; Jonathan L. Frustaglio <jfrustaglio@sutherlandlaw.com>; 'Christie, Cameron' <cameronchristie@kpmg.ca>; 'Armstrong, Peter W' <pearmstrong@kpmg.ca>; 'Rusu, Ana' <anarusu@kpmg.ca>; 'Gani, Iman' <igani@kpmg.ca>

Subject: RE: COT TAU Audit Meeting

Dear all,

Yet to receive any response to below.

In any event, Mr. Chaudhary has, while away on vacation abroad, put together documents that KPMG has seemingly requested recently to gain greater understanding.

I will have my client forward those to the KPMG team, and particularly Mr. Christie.

If KPMG have further questions, I've invited that they be sent to me to have my client work on them while away. This will again avoid any delay.

Sincerely,



Rob Moubarak

Partner

Phone: (905) 695-5500 ext. 2800

Fax : (905) 695-5501

Email: rmoubarak@sutherlandlaw.com

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TAB F

From: [Zella Phillips](#)
To: [Rob Moubarak](#)
Cc: [Geneviève Sharkey](#); [Sabrina Waraich](#); [Jonathan L. Frustaglio](#); [Christie, Cameron](#); [Armstrong, Peter W](#); [Rusu, Ana](#); [Gani, Iman](#)
Subject: RE: COT TAU Audit Meeting
Date: Tuesday, November 12, 2024 12:07:04 PM
Attachments: [image001.png](#)
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[image003.png](#)
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[image030.png](#)
[image031.png](#)
[image032.png](#)

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Good afternoon,

Thank you for your email. The report to the General Government Committee (“GGC”) will be made public on Wednesday, November 12, and it will be available at this link [General Government Committee - Meeting 18 - TMMIS \(toronto.ca\)](#). The report will be considered by the GGC on November 20. We are unable to share the report in advance.

Thank you for advising that additional documents are being provided to KPMG.

We will provide a more comprehensive response to your request for additional information and documents shortly.

Yours truly,

Zella Phillips (she/her) | Solicitor, Municipal Law Section

Legal Services Division | Metro Hall | 55 John Street | 26th Floor | Toronto ON | M5V3C6

Tel: (416) 338-5665 | Cell: (647) 668-5461



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From: Rob Moubarak <rmoubarak@sutherlandlaw.com>
Sent: Monday, November 11, 2024 2:24 PM
To: Zella Phillips <Zella.Phillips@toronto.ca>
Cc: Geneviève Sharkey <Genevieve.Sharkey@toronto.ca>; Sabrina Waraich <swaraich@sutherlandlaw.com>; Jonathan L. Frustaglio <jfrustaglio@sutherlandlaw.com>; Christie, Cameron <cameronchristie@kpmg.ca>; Armstrong, Peter W <pearmstrong@kpmg.ca>; Rusu, Ana <anarusu@kpmg.ca>; Gani, Iman <igani@kpmg.ca>
Subject: [External Sender] RE: COT TAU Audit Meeting

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Sincerely,



Rob Moubarak

Partner

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From: Rob Moubarak
Sent: Wednesday, November 6, 2024 11:39 AM

TAB G

From: [Sabrina Waraich](#)
To: "Zella Phillips"; [Rob Moubarak](#)
Cc: [Geneviève Sharkey](#); [Jonathan L. Frustaglio](#); [Christie, Cameron](#); [Armstrong, Peter W](#); [Rusu, Ana](#); [Gani, Iman](#)
Subject: RE: COT TAU Audit Meeting
Date: Tuesday, November 12, 2024 5:26:00 PM
Attachments: [image002.png](#)
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[image006.png](#)
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[image025.png](#)
[image026.png](#)
[image027.png](#)

Good Evening Zella,

Further to your email below, we note that there has been no report uploaded to the link you've shared.

It was our understanding that the report would be available November 12th, as mentioned in your email.

We fail to understand why the secrecy and refusal to accommodate counsel (Mr. Moubarak repeatedly) given that he is out of the country as of the 14th 5am. Why can't this report simply be emailed to our office for review in advance of Mr. Moubarak's departure. Please provide us a copy of same or direct us to the rule that prevents you from doing so.

Kind Regards,



Sabrina Waraich

Associate Lawyer

Phone: (905) 695-5500 Ext. 2950

Fax : (905) 695-5501

Email: swaraich@sutherlandlaw.com

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From: Zella Phillips <Zella.Phillips@toronto.ca>
Sent: Tuesday, November 12, 2024 12:07 PM
To: Rob Moubarak <rmoubarak@sutherlandlaw.com>
Cc: Geneviève Sharkey <Genevieve.Sharkey@toronto.ca>; Sabrina Waraich <swaraich@sutherlandlaw.com>; Jonathan L. Frustaglio <jfrustaglio@sutherlandlaw.com>; Christie, Cameron <cameronchristie@kpmg.ca>; Armstrong, Peter W <pearmstrong@kpmg.ca>; Rusu, Ana <anarusu@kpmg.ca>; Gani, Iman <igani@kpmg.ca>
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Yours truly,

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From: Rob Moubarak <rmoubarak@sutherlandlaw.com>
Sent: Monday, November 11, 2024 2:24 PM
To: Zella Phillips <Zella.Phillips@toronto.ca>

TAB H



REPORT FOR ACTION

Temporary Suspension of Toronto Zenith Contracting Ltd.

Date: November 20, 2019

To: Infrastructure and Environment Committee

From: Chief Engineer and Executive Director, Engineering and Construction Services and Chief Purchasing Officer, Purchasing and Materials Management

Wards: All

SUMMARY

This report recommends that City Council declare Toronto Zenith Contracting Ltd., (TZ) ineligible to bid on or be awarded contracts on any City of Toronto tenders for a period of one year, pursuant to Chapter 195, Purchasing, Section 195-13.13, Suspension of suppliers from future solicitations.

This recommendation is based on demonstrated poor performance by TZ on two Engineering and Construction Services contracts and is made in accordance with the City's Contractor Performance Evaluation Tool. TZ's actions on these contracts demonstrated inadequate contract management, numerous health and safety violations lack of effort to adhere to the project schedule resulting in extended disruptions to the public or City operations, and risk to public safety with respect to the state of the construction site.

City Council approval is required in order to suspend a contractor from bidding on or be awarded contracts for poor performance.

RECOMMENDATIONS

The Chief Engineer and Executive Director, Engineering and Construction Services and the Chief Purchasing Officer, Purchasing and Materials Management Division, recommend that:

1. City Council declare Toronto Zenith Contracting Ltd., and any affiliated persons, as defined in Chapter 195, ineligible to bid on or be awarded any City of Toronto contracts as a supplier of goods and/or services or as a subcontractor to such a supplier, including any options, renewals or extensions of existing contracts, for a total period of one year commencing upon the date City Council approves this recommendation.

FINANCIAL IMPACT

There is no financial impact arising from this report.

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

DECISION HISTORY

At its meeting of June 11, 2014, the Bid Committee authorized the Chief Engineer and Executive Director, Engineering and Construction Services, to negotiate and enter into agreements with Toronto Zenith Contracting Ltd., being the lowest bidder meeting the requirements of Tender 36-2014 for the structural rehabilitation of the Prince Edward Viaduct over the Don Valley Parkway and Bayview Ave., in the amount of \$19,338,778 net of all taxes, including disbursements. The Bid Committee decision can be found at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.BD184.18>

At its meeting of June 8, 2016, the Bid Award Panel authorized the Chief Engineer and Executive Director, Engineering and Construction Services, to negotiate and enter into agreements with Toronto Zenith Contracting Ltd., being the lowest bidder meeting the requirements of Tender 344-2016 for the rehabilitation and widening of the Morningside Avenue Bridge over Highland Creek in the amount of \$15,643,917 net of all taxes, including disbursements. The Bid Committee decision can be found at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.BA11.8#>

COMMENTS

Contractor Performance Evaluation

As part of obtaining contracted services, Divisions are responsible for overseeing that the contractor performance is in accordance with the contract. Chapter 195, Purchasing, was revised in 2017, to codify that a contractor's poor performance could be grounds for suspending the contractor from doing business with the City.

For construction services, staff have developed a Contractor Performance Evaluation (CPE) Form and an associated procedure that sets out when staff may initiate a request to Council to suspend a contractor. Using the CPE form, the project manager will evaluate the performance of a contractor in five categories:

- A. Safety & Compliance – Laws & Standards
- B. Quality – Compliance with Contract Standards & Specifications
- C. Organization – Work Plan and Management
- D. Execution – Work Performance
- E. Administration – Contractor Performance and Diligence

Each category has its own set of questions that require ranking as follows:

- 1 – Unsatisfactory ("U")
- 2 – Improvement Needed ("I")
- 3 – Meets Expectations ("ME")
- 4 – Exceeds Expectations ("EE")
- 5 – Exceptional ("EX")

Table 1 summarizes the actions that the City may take with respect to poor performance by the Contractor, as represented by the CPE scores.

Table 1 - Action to be taken based on Contractor Performance Evaluation score

SCORE	ACTION
Any interim or final evaluation score below 2.5 (out of 5)	Warning letter to the contractor indicating risk of suspension
<p>Any one of:</p> <ul style="list-style-type: none"> • A final CPE score of 2 or less; • Two interim/final CPE scores below 2.5 within 5 years • Two interim/final criterion checks of "I" (Improvement needed) or "U" (Unsatisfactory) within 5 years for the criterion A.1 - "Did the contractor comply with OHSA requirements?" • One final criterion check of "U" (Unsatisfactory) for A.1 - "Did the contractor comply with OHSA requirements?" 	May initiate a report to Council recommending suspension for a period of time between 1 and 5 years

Summary of Toronto Zenith Contracting Ltd., Performance

Toronto Zenith Contracting Ltd., (TZ) has exhibited poor performance on two Engineering and Construction Services contracts (the Prince Edward Viaduct Contract and the Morningside Bridge Contract). Both contracts were in support of the Transportation Services' State of Good Repair Capital Program for bridges. The poor performance was documented through multiple interim and final Contractor Performance Evaluations and discussed with TZ during site meetings for those respective contracts. Table 2 summarizes TZ's CPE scores on the Prince Edward Viaduct Contract and the Morningside Bridge Contract.

Table 2 - Summary of TZ's CPE Scores

	Interim CPE	Final CPE
Prince Edward Viaduct Contract	<ul style="list-style-type: none"> Interim #2 - Score of "U" (Unsatisfactory) on A.1 "Did the contractor comply with OHSA requirements?" 	<ul style="list-style-type: none"> Score of "I" (Improvement needed) on A.1 "Did the contractor comply with OHSA requirements?" Final weighted total score of 2.64
Morningside Bridge Contract	<ul style="list-style-type: none"> Interim #1 - Score of "I" (Improvement Needed) Interim #2 - Score of "I" (Improvement needed) on A.1 "Did the contractor comply with OHSA requirements?" 	<ul style="list-style-type: none"> Score of "I" (Improvement Needed) on A.1. "Did the contractor comply with OHSA requirements?" Final weighted total score was 2.43

As shown in Table 2, TZ's performance on both the Prince Edward Viaduct; and Morningside Bridge contracts meet the requirements, presented in Table 1, to recommend TZ for suspension.

Pursuant to the Contractor Performance Evaluation Procedure warning letters were issued to TZ by PMMD on January 7, 2016 and December 28, 2017, respectively, following the poor performance reviews for the interim Contractor Performance Evaluations. Both letters warned TZ that their failure to meet performance expectations on the contracts could lead to suspension following a decision by Council.

TZ's performance on the above-noted contracts is characterized by:

- Violations of the Occupational Health and Safety Act (OHSA);
- Inadequate contract management resulting in significant delays during construction, and ineffective coordination of subcontractors and suppliers leading to additional delays to the overall contract completion dates;
- Failure to adhere to project schedules resulting in compounding project slippage, resulting in significant delays to the overall contract completion dates;
- Failure to minimize disruptions to the public and to City operations;
- Failure to comply with contract terms and conditions which provided for extended construction work hours to reduce the overall construction schedule;
- Failure to comply with requirements for adequate protection for workers when working in the vicinity of utilities; and,
- Substantial additional effort required on the part of City staff to manage the two contracts.

More information with respect to TZ's performance history for each contract is presented below according to the categories outlined in the City's Contractor Performance Evaluation (CPE) tool.

Prince Edward Viaduct Contract

Contract Value \$19,338,778 plus HST, awarded June 11, 2014.

Original Stipulated Contract Duration: Thirty-Four (34) weeks.

The scope of work for this contract included structural rehabilitation of the Prince Edward Viaduct over the Don Valley Parkway and Bayview Avenue consisting of concrete pier repairs, deck soffit repairs, steel repairs of cross braces, cleaning and coating of cross braces, concrete sealing, repair and/or replacement of deck drainage systems, removal and pruning of trees, and removal and decommissioning of Bell Canada conduits and the corresponding support system.

The contract challenges included coordinating work with TTC to provide subway track level access, co-ordination with utility companies, and working adjacent to the Don Valley Parkway, Bayview Extension and Metrolinx rail corridor.

The following sections present the documented instances of contractor non-compliance with the City's CPE, specifically those sections covering Safety and Compliance and Administration, on the Prince Edward Viaduct Contract:

Section A. Safety and Compliance – Laws and Standards

Compliance with Occupational Health and Safety Act (OHSA)

1. During the chipping operation of the Bloor Street sidewalk (Prince Edward Viaduct) on August 25, 2014, it was noted by the City's consultant site inspector that TZ was allowing concrete debris to fall from Bloor Street to the valley below, potentially injuring TZ employees and/or the public using the Don Valley trail system, as well as potentially damaging the overhead high-voltage hydro lines.

2. Cables belonging to Bell Canada (Bell) and Rogers Communications (Rogers) were exposed and damaged in September, 2014, with the potential for significant disruption to Bell and Rogers's service. It was also discovered on October 2, 2014, that a 600V Toronto Hydro cable and manhole, had been excavated and damaged. The damaged cable was a hazard to TZ employees and also resulted in a significant period of Don Valley Parkway (DVP) lighting outage. The damaged cable was re-buried and the incident was not reported by TZ. An Instruction Notice to Contractor was issued to TZ by The City's Contract Administrator on October 3, 2014, with instructions to stop all operations in the vicinity of the pier until Toronto Hydro could isolate the cable and ensure the safety of the area. TZ was reminded that protection of utilities are the responsibility of the Contractor.

In addition, another 600V Toronto Hydro cable near a high mast light pole was excavated on December 3, 2014. The conduit was damaged, although there was no damage to the cables themselves. This incident was a serious hazard to TZ employees and had the potential to result in significant service disruption.

3. Another Instruction Notice to Contractor was issued to TZ by the City's Contract Administrator on October 22, 2014, which documented observations regarding reoccurring safety issues throughout the work site, including:

- Working at heights without fall protection,
- Unsafe scaffold systems, and
- Poor maintenance of the construction the access roads.

The Contract Administrator documented that despite numerous conversations with TZ supervisors and employees, dangerous practices continued to be observed.

4. On October 25, 2014, the City's Contract Administrator observed that TZ had excavated a number of vertical cuts in the slope on the east side embankment of the DVP adjacent to a pier, exceeding the limits allowable by OHSA. The cuts had the potential to compromise the stability of the slope adjacent to the DVP, resulting in a significant hazard to the travelling public and TZ workers in the vicinity.

Another Instruction Notice to Contractor was issued to TZ by the City's Contract Administrator on October 25, 2014, instructing TZ to install shoring immediately, as the ground had been excavated to a height that compromised the safety of the workers in the vicinity of the excavation. At the request of the City, TZ performed temporary repairs on October 25, 26, and 27, 2014, in order to stabilize the slope and maintain public safety. A safety meeting was held on October 27, 2014, to review and document the contract safety requirements, including OHSA provisions, and to establish required measures to remedy the slope stability concerns on an emergency basis.

TZ was requested to carry out necessary remedial measures to temporarily brace the excavated areas, and provide a stamped report from a Geotechnical Engineer following the completion of the temporary remedial work indicating that the condition of the slopes were safe and identifying any permanent remedial measures required to restore the slope to its pre-construction condition. Subsequently, TZ retained MNA Engineering to provide the requested report which was submitted on October 28, 2014. TZ was advised in writing on November 3, 2014, that the submitted report from MNA Engineering was insufficient as it did not confirm that TZ's proposed remedial measures would meet the pre-construction conditions and did not address the slope stability issues created by the excavation work. Final restoration of the slope, accepted by the City, was not achieved until April 29, 2015 (i.e. nearly 6 months later).

5. Instruction Notices to Contractor were issued to TZ by the City's Contract Administrator on October 29, 2014 and November 25 and 27, 2014, to instruct TZ that access gates were to remain closed during the day and must be locked at the end of each shift and to not park construction vehicles on the shoulder of the DVP or live lanes of Bloor Street East as it would create a safety hazard to the workers and the public.

6. Despite numerous Instruction Notices to Contractor issued regarding site safety, site meeting records dated November 6, 2014, identified that additional safety issues continued to be observed by the City. TZ was continuously reminded that:

- Scaffold systems were to be inspected and approved prior to use;
- Proper fall protection was to be used for work at heights; and
- Concrete debris was not permitted to fall in a hazardous manner.

7. On December 11, 2014, a site instruction was issued by the City's Contract Administrator to address safety violations observed during a weekend closure of the Bloor-Danforth subway and TZ work TTC subway track level. The documented safety violations included:

- Scaffold systems missing handrails,
- Scaffold systems with planks missing,
- Workers not using proper fall protection,
- Workers not wearing full personal protective equipment, and
- Ignition of wood construction material at track level caused by hot metal debris.

These issues were considered a hazard to TZ and TTC employees and the public, and had the potential to result in long term closures of the Bloor-Danforth Subway.

8. On January 26 and 31, 2015, the City discovered that concrete debris had been allowed to fall onto an Imperial Oil power supply cable and rectifier cabinet down in the valley which had been damaged and also on the power traction cables at TTC subway track level. This concrete was not cleaned up at the end of TZ's TTC subway track level work. This issue was considered a serious hazard to TTC employees and the public, and had the potential to result in long term closures of the Bloor-Danforth subway.

9. A Stop Work Order was issued by the Ministry of Labour (MOL) on April 24, 2015 for lack of written measures and procedures regarding minimum distances for energized overhead electrical conductors as per OHSA Regulation 213 Section 188.4(a). The Stop Work Order was withdrawn on April 27, 2015, following a subsequent MOL site visit and provision of the requested procedure. The overall schedule was not substantially impacted.

10. Another Stop Work Order was issued by the MOL on April 27, 2015, because the scaffolding system being used by TZ was deficient and did not meet the regulated safety requirements as per OHSA Regulation 213 Section 130.1(b). The MOL report identified missing pins on scaffolds and that the scaffolds were not erected in accordance with the design drawings. The Stop Work Order was withdrawn on May 1, 2015 and the overall schedule was not substantially impacted.

11. TTC raised a number of concerns following observations on March 9, 2015 and April 19, 2015, with respect to:

- The lack of proper personal protective equipment at TTC subway track level,

- Working at heights without fall arrest, and
- Working at TTC track level without receiving a job briefing or signing in with a TTC representative.

12. On the City's Contractor Performance Evaluation (CPE) Interim #2, dated February 23, 2015, TZ received a Ranking of "U" (unsatisfactory) on A.1 "Did the contractor comply with OHSA requirements?" On their Final CPE dated September 22, 2015, TZ received a Ranking of "I" (improvement needed) on A.1.

Section E. Administration – Contractor Performance and Diligence

1. TZ stated that the City delayed awarding the contract and argued from the start of their work that they were entitled to a schedule extension. In reality, the award was delayed due to incomplete submissions by TZ with their bid. TZ provided insufficient information with their bid, specifically the inclusion of references establishing the Contractor's minimum qualifications as prescribed in the Tender requirements, which resulted in a delay in the evaluation of their bid.

2. The slope cut at Pier A was undertaken by TZ in violation of the OHSA. TZ was very slow in responding to this issue and significant effort was required by City staff and the City's Contract Administrator to force TZ to rectify the problem. TZ was reluctant to complete the remedial work and additional effort was required to obtain certification of the restored slope. TZ did not demonstrate concern or accountability for their actions, which created the slope stability issue adjacent to the DVP.

3. On two occasions, TZ disregarded the lane closure requirements on Bloor Street and kept lane closures in place well into the rush hour. Instruction notices were issued to TZ in both cases to remind the crews that disruption of rush hour traffic was not acceptable, and that this was in contravention of the contract requirements.

Morningside Bridge Contract

Contract Value \$15,643,917 plus HST, awarded March 8, 2017.

Original Stipulated Contract Duration: 210 calendar days.

The scope of work for this contract included rehabilitation and widening of the Morningside Bridge over Highland Creek (south of Ellesmere Road) including removal of the existing superstructure, supply, fabrication and erection of structural steel, new concrete deck, sidewalks and parapets, new metal railing, expansion joints, waterproofing, paving, electrical/street lighting, concrete substructure extension and repairs, landscaping and roadway approach works. The project was completed in two (2) stages with one lane of traffic in each direction on Morningside Avenue maintained at all times.

The contract challenges included working in the valley which is regulated by the Toronto Region Conservation Authority (TRCA), construction conflicts with Bell Canada utilities; and managing pedestrian traffic during various phases of the work. In between Stage 1 and Stage 2 there was an unexpected site shut down to allow Bell Canada to relocate their plant away from the bridge. The work shutdown was 78 days in length and was not the responsibility of TZ. TZ was compensated for their work interruption with 78 days of time extension and for all costs associated with this shut down.

The following sections present the documented instances of contractor non-compliance with the City's CPE, specifically those sections covering Safety and Compliance, Organization, and Execution, on the Morningside Bridge Contract:

Section A. Safety and Compliance – Laws and Standards

Compliance with Occupational Health and Safety (OHSA)

1. During the Stage 1 demolition work during the month of June 2017, the City's site inspector observed one of TZ's subcontractor workers working at a height of more than 40 feet above ground with no fall protection, increasing the potential risk of falling resulting in injury or death. This fact was recorded in the Minutes of Site Meeting No.6 dated June 29, 2017. Health and safety was discussed at each of the thirty-two (32) site meetings with regular reminders to work in a safe manner in accordance with OHSA requirements.
2. On October 24, 2017, a 16KV live electrical cable was hit by a TZ boom truck causing live electrical cables to fall onto live traffic lanes resulting in the shutdown of all traffic lanes on Morningside Avenue with a potential risk of injury or death (Attachments 1, 2, 3 and 4). MOL visited the site on October 25, 2017, and issued a Field Visit Report that requested: i) a copy of the written measures and procedures adequate to ensure that no part of a vehicle or equipment or its load encroaches on the minimum allowable distances to overhead cables; ii) a copy of the operator's manual for the boom truck, and iii) an inspection report verifying the safe operation of the equipment.
3. On November 28, 2017, an unmanned bridge inspection vehicle moved approximately 10 meters from its parked position until it struck the concrete barrier separating the work zone and the live traffic lanes, moving it approximately 5 inches while bending and pushing the fence anchored to the top of the concrete barrier partially into the live traffic lane. This incident caused damage to a passing truck and had significant potential for causing a serious accident in the live traffic lanes (Attachments 5 and 6).
4. June 8, 2018, to the morning of June 11, 2018, TZ failed to close the access gate and barriers on the north side of the bridge. At this stage of the work, half of the bridge was completely removed and vehicles or pedestrians entering the work zone through the open access point were at risk of accidentally falling off the edge into the valley, more than 40 feet below the road, with a risk of serious injury or death (Attachments 7, 8 and 9).

5. Once again, on June 18, 2018, a TZ worker and subcontractor worker were identified as working at height of more than 40 feet above ground with no fall protection method increasing the potential risk of falling resulting in injury or death (Attachment 10).

6. On CPE Interim Evaluation #1, dated September 29, 2017 and Interim Evaluation #2, dated June 25, 2018, TZ received a Ranking of "I" (improvement needed) on A.1 "Did the contractor comply with OHSA requirements"? On the Final CPE, dated October 19, 2018, TZ received a Ranking of "I" (improvement needed) on A.1 "Did the contractor comply with OHSA requirements?"

Section C. Organization – Work Plan and Management

1. This contract was awarded to TZ, where the contractor proposed a construction schedule of 210 calendar days to complete the prescribed work. The contract was awarded on March 8, 2017, with an Order to Commence Site Work issued on March 24, 2017, with April 10, 2017, as the effective start date of the contract. The original completion date with a duration of 210 days was November 6, 2017.

Immediately following the award of the contract TZ asked for a schedule extension due to lack of availability of steel for the steel girder fabrication. The City's position was that the information regarding the availability of steel for the girder fabrication were readily available during the bidding process and should have been accounted for during the calculation of number of days required to complete the project. The contract was awarded on time as stipulated in the bidding document. A satisfactory baseline schedule in compliance with the contract was never submitted by TZ. Not one of the schedules submitted by TZ reflected accurate contractual milestone dates nor correct contractual completion date of the contract.

2. TZ did not have enough personnel on-site during construction, and failed to make use of the extended work hour provisions that were specified in the contract, which resulted in delays to the schedule. Concerns about the project schedule were brought to TZ's attention at approximately twenty-five (25) construction site meetings and in several other correspondences. Extended working hours permitted in the contract were Monday to Friday 7AM to 11PM and Weekends 9AM to 11PM. TZ started the project with only one shift of workers. For a limited period of time they employed a second shift with only three (3) to four (4) workers which resulted in TZ withdrawing the second shift due to lack of productivity. The City requested, in writing, that TZ employ the resources necessary to complete the project within the contractually stipulated schedule. TZ responded that the deployment of forces is the responsibility of the contractor and no further effort was made by TZ to increase the pace of the work. The first stage of the project, which constituted approximately 50% of the work, was completed in 241 days, in stark contrast to the overall construction schedule of 210 days submitted in TZ's bid. Following a work stoppage to allow for the removal of a Bell Canada utility conflict, the second stage of the project was completed in 187 days. The total duration of the project was 428 days, more than double the 210 days that TZ included in their bid for the work.

3. In Stage 1 of the work, TZ did not effectively co-ordinate their demolition subcontractor and the schedule for the construction of the curb and gutter work appeared to be driven by their subcontractor. TZ's demolition subcontractor made changes to the approach several times during shop drawing submissions. TZ's demolition subcontractor also took substantially longer than the project schedule allowed and TZ did not make adequate effort to intervene and remedy the demolition subcontractor's slow progress. TZ allowed the subcontractor to work at a relatively slow pace and did not require the subcontractor to rely on extended work hours as permitted in the contract which further contributed to the project delay.

4. On CPE Interim Evaluation #1, dated September 29, 2017, TZ received a Ranking of "U" (unsatisfactory) on C.4 "Did the contractor adequately staff and resource the project in compliance with the contract?" and C.6 "Did the contractor effectively coordinate and manage the work of its subcontractors"?

On CPE Interim Evaluation #2, dated June 25, 2018, and the Final CPE, dated October 19, 2018, TZ received a Ranking of "U" (unsatisfactory) on C.4.

Section D. Execution – Work Performance

The project was not completed on time. In accordance with the number of days bid by the contractor and as noted above. The work was completed in two stages with TZ completing Stage 1 in 241 days, and Stage 2 in 187 days for a total of 428 days, more than double the original construction schedule of 210 days contained in TZ's bid. Accordingly Liquidated Damages were assessed and monies withheld for the delay in the contract completion.

Suspension Process

At the request of the Chief Engineer and Executive Director of Engineering and Construction Services, on January 22, 2019, the Chief Purchasing Officer issued a letter to TZ advising the company that the City was planning to suspended TZ from being awarded any City of Toronto contracts for a period of six (6) months based on the documentation of unsatisfactory performance as described in this report. The letter explained to TZ that the six (6) month suspension would form part of the suspension that would be recommended by staff in this report, and that TZ would have an opportunity to provide any additional information that might be relevant in determining whether a report should be forwarded to the Infrastructure and Environment Committee within 30 days from the notice of the letter.

Subsequently on January 30, 2019, the Chief Purchasing Officer agreed to provide more time to TZ to provide a written response to the suspension letter. In addition, TZ agreed not to bid on City work until such time as some resolution on the matter has materialized, which may include a suspension report to the Infrastructure and Environment Committee.

On March 21, 2019, TZ responded to the Chief Purchasing Officer letter of January 22, 2019, which contained information on how TZ managed and reacted to the issues that were encountered and argued that the City did not accurately capture TZ's performance related to the corrective action they may have taken to mitigate the safety issues that occurred (Attachment 11). The City provided a further response to TZ's letter on June 10, 2019, (Attachment 12), and then subsequently City staff set up a meeting with TZ representatives for August 1, 2019, in order to allow TZ an opportunity to further explain their position, and so the City could consider whether suspension was still warranted. On July 31, 2019, TZ provided an additional letter (Attachment 13) which was also discussed at the August 1, 2019, meeting.

TZ did not provide any credible explanation surrounding the circumstances leading to their poor performance on the two contracts outlined in this report. Consequently, on September 6, 2019, the Chief Purchasing Officer issued a letter to TZ advising them that Engineering and Construction Services and Purchasing and Materials Management Division would be reporting to the Infrastructure and Environment Committee with a recommendation that TZ be suspended from award of any City of Toronto contracts for a total period of one year from the date of Council's decision.

Given that TZ has voluntarily agreed to not bid on City tenders since January 2019, TZ will effectively have suspended bidding for a period of two years, if the recommendation in this report is adopted. By adopting this recommendation, City Council will clearly communicate to TZ and the wider construction industry that poor performance will not be tolerated on City of Toronto contracts.

CONTACT

Frank Clarizio, P.Eng., Director, Design and Construction, Transportation Infrastructure, Engineering and Construction Services, Telephone: 416-392-8412, E-mail: frank.clarizio@toronto.ca

Sabrina Dipietro, Acting Manager, Purchasing and Materials Management, Telephone: 416-397-4809, E-mail: sabrina.dipietro@toronto.ca

SIGNATURE

Michael D'Andrea, M.E.Sc., P.Eng.
Chief Engineer and Executive Director,
Engineering and Construction Services

Michael Pacholok, JD
Chief Purchasing Officer
Purchasing and Materials Management

ATTACHMENTS

Attachment 1: Man lift operating in close proximity to overhead wires
Attachment 2: Downed electrical wires over live traffic lanes
Attachment 3: Downed electrical wires over live traffic lanes
Attachment 4: Road closures due to downed electrical wires
Attachment 5: Machine impact to temporary concrete barrier and chain link fence
Attachment 6: Machine impact to temporary concrete barrier and chain link fence
Attachment 7: Unrestricted access to work zone and drop-off to valley below
Attachment 8: Unrestricted access to work zone and drop-off to valley below
Attachment 9: Unrestricted access to work zone and drop-off to valley below
Attachment 10: Worker wearing harness but not tied off
Attachment 11: Correspondence from TZ dated March 21, 2019
Attachment 12: Memo from ECS to PMMD in response to TZ's March 21, 2019 letter, dated June 10, 2019
Attachment 13: Correspondence from TZ, dated July 31, 2019

November 8, 2024

Delivered via Email to Genevieve.Sharkey@toronto.ca and Zella.Phillips@toronto.ca

Chief Procurement Officer

Purchasing & Materials Management Division
Toronto City Hall
18th Floor, West Tower
100 Queen Street West
Toronto, Ontario M5H 2N2

Dear Madam,

RE: Capital Access Upgrades Program for City Buildings MSA RFSQ 3907-20-5021
Our File No. 24868

Please consider the herein correspondence as a supplement to the Objection Letter dated November 7, 2024, submitted on behalf of Duron Ontario Ltd. (“**Duron**”).

On or about November 7, 2024, Duron submitted an Objection Letter in response to the Proposed Suspension Letter from the City of Toronto dated October 9, 2024 (“**Proposed Suspension Letter**”). Duron’s counsel received a response from Zella Philips (“**Ms. Philips**”), the solicitor for the City of Toronto on November 8, 2024, which was the deadline for Duron to respond to the Proposed Suspension Letter.

In her response, Ms. Philips acknowledged receipt of Duron’s Objection Letter. She further confirmed that “*We have put forward a report to the General Government Committee for the meeting on November 20, 2024, requesting an extension of time...I will respond to your email in detail once I have had the opportunity to review the materials attached to same.*”¹

Firstly, it is unclear as to what report was submitted to the General Government Committee and pursuant to the Supplier Suspension Procedures, the response provided by Duron is

¹ Email from Ms. Philips to Duron’s Counsel, dated November 8, 2024, attached at Tab A

considered prior to a report being submitted.² Furthermore, the Proposed Suspension Letter states that “*Duron will have 30 days from the receipt of this letter (by end of day November 8, 2024) to provide me with any additional information it would like to be considered when a recommendation is made to the General Government Committee*”.³ Duron submits that providing a report to the General Government Committee prior to review of Duron’s Objection Letter is in direct contravention of the Supplier Suspension Procedures. Duron requires that this report be produced forthwith.

Secondly, Ms. Philips states in her email that an extension has been requested without any further explanation. Duron submits that they were not afforded the opportunity for an extension to submit their materials or given disclosure of relevant documents in order to permit them to provide a fulsome response to the Proposed Suspension Letter. Despite the repeated requests for an extension, the City of Toronto required that Duron respond within thirty (30) days of the Proposed Suspension Letter. The City of Toronto provided no authority that prevented them from providing this extension to Duron. It is procedurally unfair that now, when the City of Toronto is required to submit a report within a specified timeframe, they are able to request an extension, when Duron was deprived of the same right, without any justification.

Thirdly, the City of Toronto now has Duron’s position on all issues, including the KPMG audit and that the audit process is flawed and incomplete. The alleged final report of KPMG has not been produced for review. Duron submits that they will be unable to defend the case against them without production of this report. Furthermore, Duron will be unable to test whether any report produced now is the same report that was submitted to the City of Toronto before the Proposed Suspension Letter was drafted.

² Supplier Suspension Procedure, effective January 1, 2017, Section 4.2, attached at Tab B of Duron Objection Letter, dated November 7, 2024

This further raises concerns of procedural fairness, given that the City of Toronto now has a preview of Duron's position and can take steps to mitigate Duron's concerns/allegations before the General Government Committee meeting.

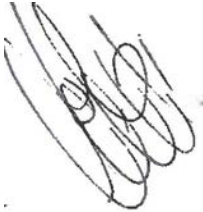
Duron repeats and relies on the position taken in their Objection Letter and reiterates that this entire process has been tainted from the outset and continues to be procedurally unfair.

Duron repeats its requests for the production of items in the Objection Letter dated November 7, 2024.

Should you have any further questions or concerns, please contact the undersigned.

Yours very truly,

PER:
SUTHERLAND LAW

A handwritten signature in black ink, appearing to read 'Rob Moubarak', written over a light blue grid background.

ROB MOUBARAK
rmoubarak@sutherlandlaw.com
RM/sw

TAB A

From: [Zella Phillips](#)
To: [Sabrina Waraich](#)
Cc: [Rob Moubarak](#); [Jonathan L. Frustaglio](#); [Andrea Morado](#); [Karla Toma](#); [Geneviève Sharkey](#)
Subject: RE: RE: Capital Access Upgrades Program for City Buildings MSA RFSQ 3907-20-5021 - Objection to Proposed Suspension
Date: Friday, November 8, 2024 3:42:46 PM
Attachments: [image002.png](#)
[image003.png](#)

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Good afternoon Ms. Waraich,

This email is to acknowledge receipt of your email of Thursday, November 7, 2024, which included Duron's response and objection. We have put forward a report to the General Government Committee for the meeting on November 20, 2024, requesting an extension of time. The agenda for the meeting, including the report, will be published on the City's website on Wednesday, November 13, 2024. I have attached a link to same here: [Council & Committee Meetings – City of Toronto](#)

I will respond to your email in detail once I have had an opportunity to review the materials attached to same.

Yours truly,

Zella Phillips

Zella Phillips (she/her) | Solicitor, Municipal Law Section

Legal Services Division | Metro Hall | 55 John Street | 26th Floor | Toronto ON | M5V3C6

Tel: (416) 338-5665 | Cell: (647) 668-5461



This email message may be privileged and confidential. Any unauthorized use or disclosure is prohibited. If you have received this email and are not the intended recipient, please let me know and delete it. Thank you.

From: Sabrina Waraich <swaraich@sutherlaw.com>

Sent: Thursday, November 7, 2024 4:49 PM

To: Zella Phillips <Zella.Phillips@toronto.ca>; Geneviève Sharkey <Genevieve.Sharkey@toronto.ca>

Cc: Rob Moubarak <rmoubarak@sutherlaw.com>; Jonathan L. Frustaglio <jfrustaglio@sutherlaw.com>; Andrea Morado <amorado@sutherlaw.com>; Karla Toma <ktoma@sutherlaw.com>

Subject: [External Sender] RE: Capital Access Upgrades Program for City Buildings MSA RFSQ 3907-20-5021 - Objection to Proposed Suspension

Good Afternoon,

Further to your correspondence to Duron Ontario Ltd. dated October 9, 2024, please find enclosed Duron's response and objection to the proposed suspension.

Kind Regards,



Sabrina Waraich

Associate Lawyer

Phone: (905) 695-5500 Ext. 2950

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November 7, 2024

Delivered via Email to Genevieve.Sharkey@toronto.ca and Zella.Phillips@toronto.ca

Chief Procurement Officer

Purchasing & Materials Management Division
Toronto City Hall
18th Floor, West Tower
100 Queen Street West
Toronto, Ontario M5H 2N2

Dear Madam,

RE: Capital Access Upgrades Program for City Buildings MSA RFSQ 3907-20-5021
Our File No. 24868

As you are aware, we are counsel for Duron Ontario Ltd. (“**Duron**”) in the above noted matter, and we write to you in response to your letter dated October 9, 2024 (the “**Proposed Suspension Letter**”).

Duron objects to the recommendation that they be suspended for a period of five (5) years and relies on this responding letter to support its position with respect to the unwarranted maximum penalty being imposed.

While our office has previously requested for additional time to ensure that Duron is provided the opportunity to fulsomely respond to your Proposed Suspension Letter, and further requested for the disclosure of relevant documents as it relates to the within investigation in order to achieve said fulsome and comprehensive response, we are nonetheless providing our client’s position based on the limited information currently available. Duron reserves the right to submit additional information prior to the General Government Committee meeting on November 20, 2024, after said disclosure is made available by the City of Toronto.

City of Toronto has refused to provide disclosure and to date of this letter, Duron does not have the following information and/or documentation:

- The memorandum from the appropriate division that supported and recommended the suspension;

- The final report rendered by KPMG, which was submitted to the City of Toronto;
- Any and all reports, documents, notes, records, written correspondence in respect of the Capital Access Upgrades Program for the City Building MSA RFSQ 3907-20-5021 Project;
- Any and all reports, documents, notes, records, written correspondence regarding complaints made by any person, company, and/or corporation in respect of the construction work being performed;
- By-Law Enforcement reports, records and/or police records, notes, written correspondence and/or other documentation, pertaining to the Project;
- All documents, reports, records, notes, written correspondence and other documentation from the Planning & Development Department – Engineers, pertaining to the Project;
- All documents, reports, records, notes, written correspondence and other documentation from the Community Infrastructure and Environmental Services Department, pertaining to the Project;
- All documents, reports, records, notes, written correspondence and other documentation from the City of Toronto;
- All documents, reports, records, notes, written correspondence and other documentation between any member of the city, Council of the City of Toronto.
- All supporting documents relied upon by KPMG in drafting its audit report that was conducted on or about October 8, 2024, and preparation of its findings;
- All correspondence between City staff and KPMG relating to its audit and preparation of its findings;
- All supporting documents relating to the CPO's investigation and determination for recommending a five (5) year suspension by the CPO.¹

¹ These documents were requested through a Freedom of Information Request, the FOI submission is enclosed for reference, attached at Tab A.

General Principles

Duron is entitled to procedural fairness throughout the entirety of this process. The recommendations made to the City of Toronto and the decision pending to be made by your office is one that requires procedural fairness. That is, that the “*decisions are made using a fair and open procedure, appropriate to the decision being made and its statutory, institutional, and social context, with an opportunity for those affected by the decision to put forward their view and evidence fully and have them considered by the decision-maker.*”²

In determining whether a decision is justified in light of the legal and factual constraints that bear on it the following elements are relevant:

- the governing statutory scheme;
- other relevant statutory or common law;
- the principles of statutory interpretation;
- the evidence before the decision maker and facts of which the decision maker may take notice;
- the submission of the parties;
- the past practices and decisions of the administrative body; and,
- the potential impact of the decision on the individual to whom it applies.³

Procedural fairness also requires decisions to be made free from a reasonable apprehension of bias by an impartial decision maker.⁴

The Supplier Suspension Procedure requires that the suspension of a supplier should not be exercised for purposes of punishment, but rather based upon a balanced review of whether the Supplier’s conduct presents a risk to the City’s valid commercial or business interests.⁵

² *Baker v. Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 SCR 817 (“*Baker*”) at para. 22

³ *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 (CanLII) (“*Vavilov*”) at para. 106

⁴ *Baker* at para. 45

⁵ Supplier Suspension Procedure, effective January 1, 2017 (“SSP”), attached at Tab B

The decision to suspend **must be** supported by a memo containing all the details connected with the analysis as set out per the Reasons for Suspension. The memo must demonstrate that the issues with the Supplier have been appropriately escalated and the Supplier has had the opportunity to address the reasons for suspension.⁶ Duron is unable to speak to whether a memo was provided, since it has not been produced, despite the request for same.

The Supreme Court of Canada has previously stated that a “*reasonable decision is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker.*”⁷ If an outcome that would normally be reasonable was reached by an irrational or unintelligible analysis, it cannot stand.

Meeting with Chief Procurement Officer

On or about October 23, 2024, counsel for Duron met with Genevieve Sharkey (“**Ms. Sharkey**”) and Zella Philips (“**Ms. Philips**”) to outline Duron’s position and explore a potential and amicable resolution for this matter.

During this meeting, Duron’s counsel advised Ms. Philips and Ms. Sharkey that Duron required additional information in order to provide a fulsome response to the Proposed Suspension Letter dated October 9, 2024. In particular, Duron’s counsel advised that Duron sought the names of all the individuals that provided the recommendation that Duron should receive the maximum penalty of a five (5) year suspension. After continued requests, the City of Toronto provided only one name, Patrick Matozzo (“**Mr. Matozzo**”), the Executive Director of the Corporate Real Estate Management (“**CREM**”) division.⁸ The City of Toronto claimed that Mr. Matozzo provided the recommendation to Ms. Sharkey. Despite further requests, no other information was provided.⁹

⁶ SSP, at Section 4.1 at Tab B

⁷ *Vavilov*, at para. 15

⁸ Email from Ms. Philips to Duron’s Counsel, dated November 1, 2024, attached at Tab C

⁹ Email from Duron’s Counsel to Ms. Philips, dated November 6, 2024, attached at Tab D

In conducting a general search to better understand Mr. Matozzo's role, it appears that the CREM division is responsible for the operational day-to-day stewardship and planning of the City's real estate assets. The division's mandate is to provide efficient real estate service delivery city-wide, manage City assets through their lifecycles and implement strategies to use City real estate effectively to deliver on City of Toronto objectives.¹⁰

It is unclear how Mr. Matozzo's role is relevant to Duron's matter or whether he is qualified to provide recommendations in this respect.

Allegations in Proposed Suspension Letter dated October 9, 2024

The correspondence from your office on October 9, 2024, claims that KPMG, the third-party auditor retained by the City of Toronto, completed a further investigation and on that basis, "staff" have recommended the preparation of a report to the General Government Committee, followed by Council, to recommend a five (5) year suspension, being the maximum penalty.

As previously requested, our office has neither received a copy of said report from KPMG which formed the basis of the aforementioned recommendations, nor received a copy of the memo prepared by the "staff" that made such recommendations. Duron has not been provided with any rule or statute that permits withholding this relevant disclosure and submits that this information is highly relevant in order for Duron to understand and properly respond to the case against it.

The Proposed Suspension Letter from your office suggests that following the decision to suspend Duron on a temporary basis, there were further developments in the investigation by KPMG. It is claimed that KPMG concluded the audit and submitted a **final** report to the City of Toronto on October 8, 2024.

¹⁰ [Corporate Real Estate Management – City of Toronto](#)

Duron reiterates that they have not received this final report and contrary to the claims in the Proposed Suspension Letter, it is apparent that KPMG **did not complete** its investigation. On or about October 25, 2024, which postdates the date of the Proposed Suspension Letter, KPMG reached out to Duron seeking to schedule a meeting as KPMG aimed to “clarify a few things and discuss what might be of further assistance to us in getting to the bottom of this.”¹¹ The correspondence from KPMG then continues on until October 29, 2024. Duron advised KPMG that they had already received a letter from the City of Toronto proposing a five (5) year suspension and on that basis believed that the audit process was complete.¹² KPMG responded to Duron only responding to the fact that they were a “fact finder” and did not provide recommendations as to what the City of Toronto should do. KPMG further confirmed that they wanted to “*confirm some things we have seen in the documents you provided*”¹³ and once again requested a meeting.

KPMG further admits that the audit is not complete in further correspondence sent to Duron on November 6, 2024, wherein they state as follows:

“We are writing further to the email sent by Mr. Moubarak on October 30, 2024.

We contacted Altaf on October 25, 2024 to continue the audit under the terms of the City’s contract with Duron. We would like to meet with you to verify/discuss aspects of the calculations and documentation you have provided so far (i.e., differences we observed), ask further questions and continue review of the explanations you previously reported. We also hope to discuss next steps in the audit (e.g., communications review).

We are also seeking the remaining documentation requested in September. Our reconciliation suggests that we are still missing (more critical parts):

¹¹ Email from KPMG to Duron, dated October 25, 2024, attached at Tab E

¹² Emails between Duron and KPMG, dated October 28-29, 2024, attached at Tab F; See also emails between City of Toronto and Duron’s counsel from October 25-30, 2024, attached at Tab G, See also email to City of Toronto from Duron’s counsel, dated October 30, 2024, attached at Tab H

¹³ Email from KPMG to Duron, dated October 28, 2024, attached at Tab I

- Most of the emails indicating the quote sent from the subcontractor to Duron and from Duron to the City.
- Most of the invoices from the subcontractor to Duron and from Duron to the City.
- Documentary evidence of what was paid by Duron to the subcontractors.
- A majority of the quotes submitted by Duron to the City.

Please let us know on or before November 7th, 2024 if you are willing to meet and **continue the audit**” [Emphasis Added].¹⁴

It is abundantly clear from a review of the email correspondence that the investigation is not complete, and it appears that the “staff” at the City of Toronto have hastily proceeded with providing the recommendation of the five (5) year suspension on interim findings and incomplete information. Since the time that Duron’s counsel raised concerns regarding the investigation of this process, KPMG has been urgently seeking to schedule a meeting with Duron to confirm all the information provided. The timing and volume of the emails appear to suggest that the City of Toronto is now attempting finish the investigation prior to the Committee meeting scheduled to occur on November 20, 2024.

In or around June 2022, Arcadis IBI Group (“**Arcadis**”) met with Duron to discuss some discrepancies in the some of the change orders related to this project. Upon being notified of the discrepancies, Duron proceeded to conduct a fulsome internal investigation and audit of the department on this project. On or about June 20, 2022, Duron sent an email to Arcadis detailing the findings of their fulsome investigation, including advising that an employee had been terminated as a result.¹⁵

On or about August 2, 2022, Duron received correspondence from the City of Toronto advising that the City of Toronto would be proceeding with an independent financial audit.¹⁶

¹⁴ Email from KPMG to Duron, dated November 6, 2024, attached at Tab J

¹⁵ Email from Duron to Arcadis, dated June 20, 2022, attached at Tab K

¹⁶ Letter from City of Toronto, Notice of Audit, dated August 2, 2022, attached at Tab L

KPMG was ultimately retained to conduct this audit on behalf of the City of Toronto. Duron responded and confirmed that they would cooperate with the audit process and further advised that they were also in the process of conducting an internal audit all Groups and if requested, Duron offered to share the findings with the City of Toronto.¹⁷

The KPMG audit was broken down into multiple phases. In Phase 1, the focus was to create a **sample** of 41 change orders that would be reviewed for inconsistencies. Phase 2 was focused on approaching Duron's subcontractors.¹⁸ As part of Phase 3, KPMG met with Duron.

At all times throughout the audit process with Arcadis and then with KPMG, Duron agreed to fully cooperate and provide any documentation or information necessary in ensuring the audit process ran smoothly. On or about August 1, 2024, Duron met with KPMG as part of the audit process. Duron fully cooperated with KPMG and had in fact disclosed the results of their own internal investigation to KPMG regarding the overbilling. The email correspondence between KPMG and Duron from July 16, 2024 onwards, demonstrates Duron's cooperation in providing documents, further clarification and the availability to meet.¹⁹

Prior to the meeting on August 1, 2024, KPMG identified only thirteen (13) instances of overbilling, totalling \$41,958 (not inclusive of tax). It was only at the meeting that KPMG learned the following:

- When Duron learned about the inconsistencies with the billing from Arcadis, they conducted their own internal investigation;
- After conducting their own investigation, Duron discovered that \$161,404(excluding tax) had been overbilled;
- At the center of the billing inconsistencies were 2 project managers, Ali Al-Shahrestani and Kusay Salim and an unnamed project assistant; and,

¹⁷ Email to City of Toronto from Duron, dated August 12, 2022, attached at Tab M

¹⁸ Letter from City of Toronto, dated May 27, 2024, attached at Tab N

¹⁹ Emails between Duron and KPMG, from July 16, 2024 to October 29, 2024, attached at Tab O

- The individuals in question had either been terminated or removed from dealing directly with billing/invoicing.

While Ali Al-Shahrestani (“**Ali**”) was connected to the overbilling issue, Duron concluded that terminating his employment would have serious consequences to the project with respect to the City of Toronto as a whole. Since Ali was responsible for said project, terminating him or removing him from the project totally would have interfered with the project resulting in a breach of contract with the City of Toronto. However, Duron did not turn a blind eye to the conduct of Ali and removed him from any duties connected to pricing and invoicing.

Duron’s own investigation uncovered the amounts that were overbilled. The Proposed Suspension Letter clearly states that KPMG only conducted an audit of ten percent (10%) of the change orders and speculates that the amount overbilled is likely much higher. Despite KPMG having two (2) years to conduct a detailed fulsome audit and Duron confirming its agreement to cooperate at the outset, KPMG failed to audit ninety percent (90%) of the change orders.

The Proposed Suspension Letter further suggests that despite Duron admitting to overbilling by \$161,804 (not inclusive of tax), it was only done in response to the KPMG audit and suggests that there is no way to verify the analysis carried out by Duron. During Duron’s meeting with KPMG on August 1, 2024, Duron voluntarily provided information and documents related to its own investigation. In fact, KPMG requested additional documents/information after the meeting and Duron voluntarily cooperated with those requests before receipt of the Proposed Suspension Letter on October 9, 2024. ²⁰ Even after receipt of the Proposed Suspension Letter, Duron was willing to continue cooperating with the investigation.

It is clear from the October 25, 2024, correspondence from KPMG, that KPMG was still trying to review and understand the materials provided to them regarding the investigation.

²⁰ This is highlighted throughout the emails between Duron and KPMG, from July 16, 2024 to October 29, 2024, attached at Tab O

It is further evident that following the August 1, 2024, meeting, KPMG was no longer conducting an independent audit of all the change orders, but rather analyzing the audit that had already been conducted by Duron.

Irreparable Harm

A maximum penalty in this case would result in irreparable harm to Duron and affect the short term and long-term viability of the company. A significant amount of business for Duron directly arises from the work it performs for the City of Toronto. The revenues in the last three (3) years for just the Restoration/Building Rehabilitation Department of Duron alone speak for themselves. In the 2022 fiscal year, Duron's revenues from City of Toronto projected totals of just under \$15,000,000.00. That number increased in the 2023 fiscal year to approximately \$15,500,000.00. In the 2024 fiscal year, this number dropped significantly to just \$2,000,000.00.²¹

The drop in over \$13,000,000.00 of revenue is a direct result of this suspension. This staggering drop and reduction in revenue of approximately \$13,000,000.00, causing severe depletion in the financial health of Duron, is attributed to and a direct result of the proposed suspension.

Even before the issuance of the temporary suspension, knowledge of the investigation was leaked to the media, despite the process being confidential. The Toronto Star had a full spread in the August 29, 2023 issue, which provided details of the investigation against Duron.²² In fact, the City of Toronto was well aware that this leak occurred and were the ones that notified Duron of said leak. In the email to Duron, the City of Toronto advised that they had been contacted by the media about the alleged invoice inconsistencies with Duron and that the City

²¹ Duron Revenue Figures, 2022 to 2024, attached at Tab P

²² Toronto Star Article, [Toronto auditing construction firm's work over billing concerns](#), dated August 29, 2023

has issued a statement to this individual. The City of Toronto further advised Duron that they were investigating the source of this leak.²³

The publicity surrounding this matter caused significant damage to Duron's reputation, having a rippling effect among contracts with others, including the Toronto District School Board.

The pending suspension also created turmoil amongst Duron's other business relationships, including but not limited to the Royal Bank of Canada, who will no longer lend to buying shareholders until this matter has been resolved.

At the present time, Duron has already suffered reputational loss and financial loss due to the actions of a few individual employees. The company, which was in the process of succession planning, has now halted that process and considered whether Duron will even exist if the suspension is issued.

Even if Duron is somehow able to survive a lengthy suspension, Duron will need to eliminate multiple departments and lay off its employees. A significant part of Duron's business is connected to the projects with the City of Toronto, either directly with the City or through subcontracts with contractors working with the City. This suspension will affect Duron in both respects as companies will be unable to subcontract with Duron due to the suspension.

In consideration of the overall harm, Duron as an entire company, should not be punished for the conduct of a few individual employees. The livelihood hundreds of employees is at stake.

The Supplier Suspension Procedure states that the length of the suspension must be proportional to the reasons for suspension and the maximum penalty should only be applied in the most serious Supplier risk profile.

²³ Email correspondence with City of Toronto, dated May 25, 2023 and January 5, 2024, attached at Tab Q

Duron submits that this is not a case where a maximum penalty is warranted. The length of suspension is not proportional to the reasons, especially in light of the irreparable harm that has resulted from the outset of this process.

Furthermore, the length of the suspension is also not proportional to the amount that was overbilled in view of the price of the entire contract.

Project	Total Contract Value plus Change Order & Cash Allowance	Overbilled Amounts
Group 10	\$10,971,262.11	
Group 11	\$6,960,736.06	
Total:	\$17,931,998.17	\$161,804.00
Total % of Amounts Overbilled	0.9%	

As outlined above, the Group 10 and Group 11 projects totalled approximately \$15,500,000.00; the amount overbilled only makes up less than one percent (1%) of that total. It is also noteworthy, that the figures above represent the total overbilled based on a FULL audit on both Group 10 and Group 11.

As previously stated, the underlying principles of the Supplier Suspension Procedure stipulate that suspensions are not for purposes of punishment, but rather are determined on a balanced review of whether the Supplier's conduct presents a risk to the City's valid commercial or business interests. The scope and duration of any suspension should be consistent with what is necessary to ensure that the City's commercial interests are adequately protected.²⁴

²⁴ SSP, at Tab B

Duron submits that they do not pose any risk to the City of Toronto and their conduct does not warrant a maximum penalty.

Firstly, the gravity of the penalty is not proportional, whatsoever, to the less than one percent (1%) that was overbilled.

Secondly, the harm, as outlined herein, far outweighs any potential risk to the City of Toronto.

Thirdly, Duron poses no risk, in fact Duron took positive steps to review and resolve the issues immediately upon being advised of the discrepancies in the invoicing. This conduct does not rise to a level that would present a risk to the City of Toronto. Rather, it demonstrates transparency, honesty and good faith.

The City of Toronto will also face irreparable harm from this suspension. The inability of Duron to bid for the suspended period will restrict competitive bidding and therefore result in higher costs to taxpayers. For instance, across the six (6) Accessibility for Ontarians with Disabilities Act projects, Duron came in at approximately \$1,500,000.00 less than its competitors, which is a significant savings to the taxpayers.

Lack of Procedural Fairness/Bias

The failure to disclose documentation related to the investigation and recommendation has deprived Duron's ability to provide a detailed and fulsome response to the Proposed Suspension Letter dated October 9, 2024. It has and continues to prevent Duron from understanding the case against it. This is further amplified by the fact that the audit process is still ongoing and therefore, it would be difficult for Duron to take any position based on the interim findings laid out in the Proposed Suspension Letter.

In fact, the City of Toronto has failed to provide any disclosure, aside from the Proposed Suspension Letter which outlines the recommendation for the maximum penalty and the name of the individual that provided this recommendation. The letter has falsely misrepresented that the investigation by KPMG is complete, when there is clear evidence to the contrary.

The reasons for failing to disclose material evidence in reaching a recommendation has not been provided. Duron must be afforded an opportunity to review this alleged final report provided to the City of Toronto by KPMG and review the memo drafted by City staff in reaching said decision that the maximum penalty should be imposed. The failure to provide this information has caused this entire process to be procedurally unfair to Duron.

It is unclear what review was done which led to the recommendation outlined in the Proposed Suspension Letter. The Supplier Suspension Procedure, as outlined above, suggests that the memo outlining the recommendation and reasons for such, must demonstrate that the issues with the Supplier have been appropriately escalated and the Supplier has had the opportunity to address the reasons for suspension. Duron submits that this has not been done, it is clear that the investigation is not complete. Despite stating that KPMG provided a **final report** to the City of Toronto, that statement is directly contradicted by the fact that KPMG requested a further meeting with Duron, after the Proposed Suspension Letter, to discuss the matter and review the documents Duron previously provided.

Without the benefit of the reviewing the KPMG report or the memo supporting the suspension, Duron can only speculate that the memo falsely represented the facts of this matter and was drafted in contravention of the Supplier Suspension Procedure.

The Supplier Suspension Procedure also stipulates that the memo is to be provided by the appropriate Division and signed by the appropriate Division Head. Further, any suspensions that require City Council approval, which is required in this case, require a report from the Chief Purchasing Officer, in consultation with the City Solicitor and the Division Head that would primarily contract with the supplier, where appropriate.²⁵

The connection between the CREM and Duron in respect of this project is unclear. Based on the Supplier Suspension Procedure, the memo and recommendation would be provided by

²⁵ SSP, at Section 4.3 at Tab B

the appropriate Division Head and primarily the one contracting with the Supplier. The project that is the subject of this matter concerns Accessibility Upgrades, there is no issue with respect to the City of Toronto's real estate assets.

Duron submits that the based on the limited information available at the present time, Mr. Matozzo is not qualified to make any recommendations regarding this matter and as such the entire process has proceeded in contravention of the procedures laid out by the City of Toronto.

Furthermore, the manner in which this investigation and recommendation has unfolded also raises concerns of impartiality and bias. As already outlined herein, the investigation process is incomplete, disclosure has not been provided, and the Proposed Suspension Letter makes false representations regarding the evidence and investigation. The evidence clearly supports that this process has been tainted from the outset of the investigation and no attempts have been made by the City of Toronto to cure any appearance of unfairness, bias and impartiality. Rather, the City of Toronto is conducting themselves in a manner that only supports a stronger case of procedural unfairness.

Proposed Resolution

The severity of the penalty is not warranted in the present case. Duron is committed to taking all necessary steps to comfort the City of Toronto in respect of their ongoing concerns.

Duron has already implemented various procedures within the company to prevent similar issues to occur going forward. Specifically, Duron has implemented a Code of Conduct²⁶, a Code of Ethics²⁷ and Document Control Procedures in respect of Change Orders²⁸. All employees are bound by these new procedures, and they have been reviewed with all employees of Duron.

²⁶ Code of Conduct, attached at Tab R

²⁷ Code of Ethics, attached at Tab S

²⁸ Document Control Procedures for Change Orders, attached at Tab T

Duron values its relationship with the City of Toronto and seeks to maintain same. On that basis, Duron is willing to put in place various measures to ensure full transparency at all times.

Firstly, Duron will pay the City of Toronto the amount of \$161,804.00 representing the amounts improperly billed by a former employee(s) of Duron.

Secondly, Duron will submit to spot audits on all projects with the City of Toronto moving forward, to be conducted by a neutral third-party.

Thirdly, as Duron previously mentioned they have conducted an internal audit on all projects with the City of Toronto and shared those findings with the City of Toronto. They would be open to discuss this further, if required.

Fourthly, Duron has already undertaken to conduct an internal review of the entire department that was involved in this contract with the City of Toronto.

Finally, Duron proposes and requests that any departments that are not the subject of this matter and are unrelated to the work provided on this project, be permitted to enter into subcontracts with any general contractors that have contracted with the City of Toronto. Duron submits that this will provide an intermediary between Duron and the City of Toronto and assist with alleviating any concerns the City of Toronto has at the present time.

Duron further submits that the procedures permit the suspension to apply only to this specific department, rather than a suspension for all procurement opportunities.²⁹ Duron asks that your office consider a suspension to this department alone and not penalize other departments within Duron.

²⁹ SSP, at Section 4.1 at Tab B

Should you have any further questions or concerns, please contact the undersigned.

Yours very truly,

PER:
SUTHERLAND LAW

A handwritten signature in black ink, appearing to read 'Rob Moubarak', written in a cursive style.

ROB MOUBARAK
rmoubarak@sutherlaw.com
RM/sw

TAB A

AUTHORIZATION AND DIRECTION

TO: Access and Privacy Officer
City Clerk Office
Corporate Information Management Services
City Hall, 13th Floor (West Tower)
100 Queen Street West
Toronto, Ontario M5H 2N2

FROM: Duron Ontario Ltd., Altaf Chaudhary

RE: Release of Freedom of Information / MFIPPA Request for Records to Sutherland Law-Capital Access Upgrades Program for City Buildings MSA RFSQ 3907-20-5021

I, Altaf Chaudhary authorized signing officer of Duron Ontario Ltd, **THE UNDERSIGNED**, hereby authorize and direct the Access and Privacy Officer of the City of Toronto, and/or any other relevant person(s), to release any and all documents, notes, records, communications to and from staff/employees of the town, in respect of Capital Access Upgrades Program for City Buildings MSA RFSQ 3907-20-5021 (“**Project**”) within your power, possession, and/or control, including but not limited to:

- (1) Any and all reports, documents, notes, records and any written correspondence, in respect of the Project;
- (2) Any and all reports, documents, notes, records and any written correspondence regarding complaints made by any person, company, and/or corporation in respect of the construction work being performed at the Project, and/or complaints of any other nature;
- (3) By-Law Enforcement reports, records and/or police records, notes, written correspondence and/or other documentation, pertaining to the Project;
- (4) All documents, reports, records, notes, written correspondence and other documentation from the Planning & Development Department –Engineers, pertaining to the Project;
- (5) All documents, reports, records, notes, written correspondence and other documentation from the Community Infrastructure and Environmental Services Department, pertaining to the Project;
- (6) All documents, reports, records, notes, written correspondence and other documentation from the City of Toronto;
- (7) All documents, reports, records, notes, written correspondence and other documentation between any member of the city, Council of the City of Toronto.
- (8) All supporting documents relied upon KPMG in drafting its audit report that was conducted on or about October 8, 2024 and preparation of its findings;

(9) All correspondence between City staff and KPMG relating to its audit and preparation of its findings;

(10) All supporting documents relating to the CPO's investigation and determination for recommending a five (5) year suspension by the CPO;

(11) all internal memos and/or external reports relied upon by CPO in arriving at its proposed suspension.

Kindly release the aforementioned, on an urgent basis, to Mr. Jonathan Frustaglio at **SUTHERLAND LAW**, located at 3300 Highway No. 7, Suite 904, Vaughan, Ontario L4K 4M3, and all other lawyers and staff from the office.

We further irrevocably authorize and direct you to communicate directly with **SUTHERLAND LAW** and release copies of any and all information that they may require with respect to the Freedom of Information Request for Records.

AND THIS SHALL BE YOUR GOOD AND SUFFICIENT AUTHORITY FOR SO DOING

Dated at Vaughan, Ontario on 21st day of October 2024

Altaf Chaudhary

Per:

Signed by:

Altaf Chaudhary

24288920D54E43A


Name: Altaf Chaudhary

(I have authority to bind the corporation)

Freedom of Information Access Request

- Use this form to:
- Request City information
 - Request personal information
 - Correct personal information
 - To request your personal health information, or to correct your personal health information, please contact the appropriate Health Information Custodian.

Description of Information Requested	
Any records, documents noted, written correspondences made by any person, company and/or corporation with respect to Capital Access Upgrades Program for City Buildings MSA RFSQ 3907-20-5021. Any By-Law Enforcement reports, records and/or Police records, notes or correspondences regarding to Capital Access Upgrades Program for City Buildings MSA RFSQ 3907-20-5021. All documents, reports, records, notes, written correspondence and other documentation from the Planning & Development Department-Engineers, pertaining to the Capital Access Upgrades Program for City Buildings MSA RFSQ 3907-20-5021, All supporting documents relied upon the KPMG in drafting its audit that was conducted on or about October 8, 2024 and preparation of its finding, All correspondence between the City staff and KPMG relating to its audit and preparation, All supporting documents relating to the CPO's investigation and determination for recommending a five (5) year suspension by the CPO, all internal memos and/or external reports relied upon by the CPO in arriving at its proposed suspension.	
Which City office or Division has the information you are requesting, if you know it: Corporate Information Management Services City Hall, 13th Floor (West Tower) 100 Queen Street West Toronto, Ontario M5H 2N2	What is the start and end dates of the information you are requesting, if applicable (use date format yyyy-mm-dd): From 2022-06-01 To 2024-10-22

Contact Information		
First Name Jonathan	Last Name Frustaglio	
<input checked="" type="checkbox"/> Check this box if First Name and Last Name do not apply to you because you have either a registered Birth Certificate or Change of Name Certificate bearing a Single Name. Provide your Single Name.		
Single Name		
Street Number 3300	Street Name Highway 7	Suite/Unit Number 904
City/Town Vaughan	Province Ontario	Postal Code L4K 4M3
Telephone Number 905-695-5500 ext. 2760	Alternate Number	Email jfrustaglio@sutherlaw.comm
Signature (required) 		Date (yyyy-mm-dd) October 21, 2024

Before sending your request, ensure you have:

- ☒ Provided a detailed description of the information or records you are requesting
- ☒ Included the \$5 application fee (cash, cheque or money order), payable to: **City of Toronto**
- ☒ If requesting personal information for yourself or via a third party with consent, **prior to records disclosure**, you will be required to provide a copy of government-issued identification. Examples are: Driver's license, Ontario photo card, Citizenship card, or first photo page of Passport. (Ontario Health Card is not accepted).
- ☐ If correcting personal information, indicate the desired correction and attach supporting documentation

Mail request to: Access Unit, City Hall, 100 Queen Street West, 13th Floor, West Tower, Toronto, Ontario, M5H 2N2.

For further information about information requests, please visit www.toronto.ca/foi or call 416-392-9684.

For Office Use Only		
Date Received (yyyy-mm-dd)	Request Number	Type of Request
		<input type="checkbox"/> MFIPPA <input type="checkbox"/> Access to General Records <input type="checkbox"/> Correction to Personal Information <input type="checkbox"/> Access to Personal Information

City Clerk's Office collects personal information on this form under the legal authority of the Municipal Freedom of Information and Protection of Privacy Act. The information will be used for the purpose of responding to your request. Questions about this collection can be directed to the Manager, Access Unit, City Hall, 100 Queen Street West, 13th Floor, West Tower, Toronto, Ontario M5H 2N2 or by telephone at 416-392-9684.

Freedom of Information Access Request

SUMMARY OF FEES

For Information Requests under the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)

The payment and amount of fees are set out in the Act and its regulations. Permitted fees are:

Fees for Requests for Personal Information

A request for information about oneself is considered a "personal information request". The following fees apply to requests for your own personal information:

Application Fee:	\$5.00 - To be paid when you submit your request; Application Fee is mandatory and not subject to waiver
* Photocopying:	\$0.20 for each page (Requester's copy only)
Computer Programming:	\$15.00 per ¼ hour if needed to develop program to retrieve information;
USB's:	\$10.00 for each USB key.

Fees for Requests for General Information

Requests for information, whether about a person other than yourself or about a government program or activity are considered "general information requests". The following fees apply to requests for general information:

Application Fee:	\$5.00 - To be paid when you submit your request; Application Fee is mandatory and not subject to waiver
Search Time:	\$7.50 per ¼ hour required to search and retrieve records;
Record Preparation (i.e. severing):	\$7.50 per ¼ hour required to prepare records for release;
* Photocopying:	\$0.20 for each page (Requester's copy only)
Computer Programming:	\$15.00 per ¼ hour if needed to develop program to retrieve information;
USB's:	\$10.00 for each USB key.

IMPORTANT NOTES:

The City of Toronto does not process FOI requests for records of other institutions including, but not limited to, those listed below. You must contact these institutions directly to request records from them:

- [Toronto Police Service](#) (for police records, criminal background checks, etc.)
- [Toronto Transit Commission](#)
- [Toronto Community Housing Corporation](#)
- [Toronto Public Library](#)
- [Exhibition Place](#)
- [Toronto Hydro](#)
- [CreateTO](#)
- All Business Improvement Areas (BIA)

Requests for records from the Ontario Disability Support Program (ODSP) are not processed by the City of Toronto and should be sent directly to the [Ministry of Children, Community and Social Services](#).

TAB B



Supplier Suspension Procedure

PROCEDURE

Responsible Division: Purchasing & Materials Management
Responsible Official: Chief Purchasing Officer

Effective Date: January 1, 2017
Last Revision Date: August 15, 2018

Description

This procedure provides guidance for suspending Suppliers from City of Toronto procurements under the Purchasing Chapter of the Municipal Code and the Procurement Processes Policy. For the purposes of this procedure, suspension means a determination of ineligibility or a disqualification of a Supplier's eligibility to bid on future City contracts for any duration.

A decision to suspend a Supplier should be considered independent of a decision to award any particular contract. Unless otherwise stated, this procedure does not apply to a decision to reject a Bid for failure to meet the City's evaluation criteria or the City's reserved rights applicable to any particular solicitation. However, any other actions by the City that may indirectly operate as a suspension of a Supplier for any duration, should be consistent with the fairness standards set out in this procedure.

The suspension of a Supplier shall not be exercised for the purpose of punishing a Supplier. It should be based on a balanced review of whether the Supplier's conduct presents a risk to the City's valid commercial or business interests. The scope and duration of any suspension should be consistent with what is necessary to ensure that the City's commercial interests are adequately protected. A Supplier must be notified of the reasons for the City's proposed suspension and be given an opportunity to respond in writing prior to any suspension decision taking effect.

The City may suspend Suppliers for one or more reasons from the City's Supplier Code of Conduct as further described below.

Related Bylaws & Policies

Municipal Code – Purchasing Chapter 195:

- **Article 2: Interpretation**
 - Section 195-2.1 – Definitions
- **Article 13: Supplier Code of Conduct (Generally)**
 - Section 195-13.3 (Conflicts of interest or unfair advantage – disclosure of ongoing or proposed litigation)
 - Section 195-13.12 (Disqualification of Suppliers for non-compliance)
 - Section 195-13.13 (Suspension of Suppliers from future solicitations)
 - Section 195-13.14 (Review of Suspensions)

Procurement Processes Policy

- **Article 19: Contract Establishment, Execution and Administration**

- Section 19.4.6 Contractor Performance Evaluation and Disqualification
- Article 21: Supplier Code of Conduct
- Article 22: Suspension of Suppliers from Future Solicitations

Procedure

1. Interpretation:

Definitions used throughout this procedure are based on definitions found in Chapter 195, Purchasing.

2. Approval Authority:

The decision to suspend a Supplier is discretionary, and must be exercised consistently and fairly and supported by a written memo from staff including evidence of one or more of the reasons set out in **Section 3 - Reasons for Suspension**. The City's discretion to suspend a Supplier shall be approved as follows, depending upon the proposed duration and reasons for suspension:

Level of Approval	Reason	Time Period	Scope
Chief Purchasing Officer (CPO) with annual report to Government Management Committee per §195-13.13(C)	- One or more Supplier Code of Conduct reasons for suspension exclusive of criminal offences	Up to 6 months	Total Suspension* including - affiliated persons - subcontracting - options, renewals or extensions of existing contracts, *suspension may be limited in scope to contracts of similar or greater value or classification, based on the particular memo.
CPO (Review of Evidence only)	- Evidence that Supplier or their affiliated persons have been convicted of an applicable criminal offence	Automatic 5 years from date of conviction	Total Suspension, including - affiliated persons - subcontracting - options, renewals or extensions of existing contracts.
City Council via Standing Committee	- One or more Supplier Code of Conduct reasons for suspension	Up to 5 years	Total Suspension* including - affiliated persons - subcontracting - options, renewals or extensions of existing contracts, *suspension may be limited in scope to contracts of similar or greater value or classification, based on the particular memo.

3. Reasons for Suspension:

3.1 Unsatisfactory Performance

If a Supplier performs inadequately on an existing or recent contract with the City, the City may consider suspending that Supplier in the following circumstances:

- Materially fail to perform in accordance with the terms of one or more contracts, including but not limited to
 - A contract was terminated for performance default issues prior to its normal expiry;
 - There were unrectified performance issues on one or more contracts that resulted in performance related contract amendments or in extra costs to the City;
 - Contract deliverables were defective or deficient and were not replaced or repaired, or required multiple untimely repairs; or
 - The City was required to call upon a performance bond or bring litigation¹ against the Supplier to remedy unsatisfactory contract performance issues;
- The Supplier over-billed, double billed, retained a known overpayment or failed to notify the City of an overpayment or duplicate payment within a reasonable time;
- The Supplier billed for goods or services not supplied;
- The Supplier billed for goods or services of one grade, while supplying goods or services of an inferior grade;
- The Supplier misrepresented the quality or origin of goods and services, their functionality or suitability for purpose, or their performance characteristics;
- The Supplier misappropriated any property or right of the City, in any form;
- The Supplier submitted false or exaggerated² claims to the City;
- The Supplier submitted misleading information to the City;
- The Supplier sought modifications to the price of a contract through false or misleading representations, including materially undervaluing their bid or any included unit prices to win the contract, and later seeking unnecessary contract modifications;
- Failure to pay debts to the City or indemnify the City upon reasonable demand;
- The Supplier acts in any manner that is a conflict of interest with the City without the knowledge and consent the City (Section 2.7 - Failure to disclose a potential conflict of interest or unfair advantage);
- Failure to maintain a satisfactory performance rating in accordance with the City's Performance Evaluation Procedure (See: **Contractor Performance Evaluation Procedure, February 25, 2015**); or
- Commit any other professional misconduct or omissions that adversely reflect on the commercial integrity of the supplier.

Note 1 – Litigation includes other forms of adjudication.

Note 2 - what constitutes an exaggerated amount will have to be determined in context of the situation and should be done in consultation with the Chief Financial Officer, Treasurer or their respective delegate.

All performance issues in connection with the City's contracts must be effectively managed by the Project Lead, and take into consideration any factors outside of the Supplier's contractual control. Unsatisfactory performance by a Supplier must be supported by documentation evidencing the notification of the Supplier of the specific performance issues and the appropriate escalation of such issues.

Project Leads shall maintain records of Supplier performance on all applicable contracts, including proof that the Project Lead or delegate has communicated with the Supplier regarding the matter before taking any contract performance measure. Project Leads must

adequately document and report to PMMD any unsatisfactory performance for Suppliers where less than full performance of the City contract by the Supplier results in either:

- A termination of the contract due to the Supplier's default; or
- A conditional amendment of the contract due to the Supplier's default.

3.2 Bidding Practices Prohibited by Law

If the City has reason to suspect that a Supplier or Suppliers are engaged in bid –rigging, price fixing, collusion or other behaviours or practices prohibited by statute in connection with a City procurement, the City should contact the appropriate law enforcement authorities and provide any assistance as may be required to support an subsequent investigation by those authorities, and if applicable, a prosecution.

If a Supplier is convicted of an offence in connection with a City or any other public sector procurement, the City's Chief Purchasing Officer shall suspend that Supplier for (5) years from the date of the conviction.

3.3 Unethical Bidding Practices

A Supplier who engages in unethical bidding practices that do not amount to a criminal or statutory offense may still warrant suspension from City procurement opportunities.

Examples of such unethical bidding practices include:

- inappropriate offers of gifts or other inducements to the City employees or officials;
- misrepresentations contained in Bids or related submissions;
- failure to provide reasonable and timely Bid verification information;
- failure to pre-disclose to the CPO any affiliations, subcontracting or material supply arrangements with other prospective bidders;
- material alteration of Bid or submission information, not authorized by the solicitation process or the CPO;
- inappropriate in-process lobbying of City employees or officials;
- communications with non-designated City employees or officials during a procurement process;
- intimidation or interference with any City employee, public office holder or other Suppliers in relation to a procurement;
- obtaining or using the City's non-public confidential information in connection with a procurement process or contract performance in an unethical manner or without the City's consent;
- submitting materially unbalanced bid pricing that could reasonably distort the total or individual value of the proposed contract deliverables;
- **Section 3.4 Failure to honour a Bid**; or
- **Section 3.7 - Failure to disclose a potential conflict of interest or unfair advantage.**

The City must conduct a full review of the unethical practice in question and perform a contextual analysis to determine whether the Supplier in question should be suspended. Specifically, the City must review whether the unethical bidding practice not only warrants rejecting a particular bid or cancelling a call, but also that the Supplier presents an ongoing risk to the City's ability to run a fair procurement process in the future.

3.4 Failure to honour a Bid

Suppliers should only submit proposals if they are capable of delivering the goods or services. If a Supplier submits a Bid in response to a the City procurement opportunity and that Supplier

subsequently refuses to honour its Bid or the pricing included in that Bid, the City may consider suspending that Supplier from participating in future City procurements.

A Supplier should not be suspended if their failure to honour a Bid was a legitimate withdrawal of that Bid. The reason why a Supplier did not honour its Bid must be analyzed and considered in making a decision to suspend that Supplier. Factors that the City may consider in this analysis include, but are not limited to:

- If the City and a selected Bidder in a negotiated procurement process attempt to negotiate an agreement in good faith and for valid business reasons are unable to come to an agreement, that Supplier should not be suspended.
- If a Supplier fails to honour its submitted pricing because of a change in market conditions, the City should consider whether pricing fluctuations are common in the industry. If price increases are common, the City should consider whether the Supplier should have factored this into their pricing. For example, could the market conditions have been reasonably predicted within the industry?
- If the process for accepting the Bid took significantly longer than anticipated, the City should consider the impact of the delay on the Supplier's willingness to honour its submitted pricing.
- If a Supplier did not honour its submission because it was too busy on other contracts, and the City's award was within the time period for irrevocable bids set out in the solicitation, the City should consider suspending that Supplier.

Other reasons for a Supplier's failure to honour a submission or pricing should be reviewed contextually and fairly with a view to maintaining healthy competition while protecting the City's ability to maintain a fair procurement process.

3.5 Failing to disclose a potential conflict of interest or unfair advantage

If a Supplier fails to disclose a conflict of interest during a City procurement opportunity or during the performance of a contract with the City and the City subsequently discovers that such a conflict of interest exists, the City may suspend that Supplier from participating in future procurement opportunities after conducting an analysis according to the following factors:

- The nature of the conflict of interest, including whether it is a perceived or an actual conflict of interest and the materiality of the advantage that such a conflict may have given the Supplier:
 - Does the conflict relate to a particular solicitation, such as having been retained to prepare technical specifications for a solicitation? or
 - Does the conflict have the potential to be more general in application, such as a Supplier engaging a former City employee in relation to proposed contracts for which the employee may have knowledge of confidential City information or influence with City officials involved in awarding or managing the contract?
- Whether the Supplier knowingly failed to disclose such a conflict of interest.
- The impact that failure to disclose the conflict of interest has had or may have on the City, including its reputation and its obligation to conduct a fair procurement process.

All Bids by Suppliers will include a declaration by Suppliers that they have no potential conflicts of interest and an acknowledgement and undertaking to comply with the City's Supplier Code of Conduct. Suppliers with potential conflicts of interest must declare them to the Chief Purchasing Officer before submitting their Bid. For the purpose of managing any potential conflict, the Chief Purchasing Officer may set additional conditions on the Supplier's participation, including

- Setting additional disclosure requirements or safeguards; or
- Excluding individuals from the Supplier's proposed team.

A Supplier may have their Bid rejected where the Chief Purchasing Officer determines that a conflict of interest exists and is incompatible with a fair and open competitive procurement process or the performance of the proposed contract with the City.

4. Suspension Process

4.1 General

Any decision to suspend a Supplier must be supported by a memo that contains all details connected with the analysis using factors set out in **Section 3 - Reasons for Suspension** provided by the appropriate Division and signed by the appropriate Division Head. The memo must demonstrate that the issues with the Supplier have been appropriately escalated and the Supplier has had an opportunity to address the reasons for the suspension.

The memo must also include and support a recommended maximum length of the suspension. The maximum suspension period is five (5) years under **section 195-13.13 (A) of the Purchasing Chapter**. The length of the suspension period should be proportional to the reasons for the suspension and the full five year suspension should only be applied to the most serious Supplier risk profile. The memo should also indicate whether the Chief Purchasing Officer should exercise the authority of the Chief Purchasing Officer for a suspension up to 6 months.

A suspension can either be a total suspension for all procurement opportunities or a suspension from providing specific goods or services or a certain value of goods and services. The memo must clearly set out the scope of the suspension.

All recommendations to suspend a Supplier must be reviewed by the Chief Purchasing Officer in consultation with the City Solicitor, and be approved in accordance with the **Level of Approval** set out in Section 2 of this Procedure.

4.2 Notification to the Supplier & Supplier Rebuttal

Prior to the Chief Purchasing Officer approving a temporary suspension (up to 6 months), or prior to submitting a report to the appropriate Standing Committee for a 1 year or longer suspension, the Chief Purchasing Officer will provide the Supplier with an advance notification letter that will contain:

- Notice of a temporary suspension of the Supplier, where approved by the CPO or Treasurer, if applicable;
- Notice of the proposed report to Council as to the reasons for the suspension, and may include copies of relevant documents or correspondence to support such a suspension;
- Details about the Standing Committee where the Report will be received, and the Supplier's opportunity to depute at that Standing Committee, if applicable; and
- The length of the proposed suspension period and the scope, if applicable.

For a temporary suspension, the advanced notification letter will request the Supplier to provide any additional information within 10 days of the letter that might be relevant in determining if the temporary suspension should be approved. If no information is received within 10 days, then the temporary suspension will come into effect for up to 6 months.

For a suspension that must be approved by Council, the advanced notification letter will request the Supplier to provide any additional information within 30 days of the letter, that might be relevant in determining if the report should be forwarded to the appropriate Standing committee. If no information is received within the 30 days, then the CPO and the relevant Division Head will proceed to the appropriate Standing Committee.

The CPO may call a meeting with the Supplier to discuss the information provided prior to approving the temporary suspension or prior to reporting to the appropriate Standing Committee.

4.3 Council Approved Suspensions

For suspensions that require City Council approval, a report will be sent to the appropriate Standing Committee and then to City Council. The report will be from the Chief Purchasing Officer, in consultation with the City Solicitor and the Division Head that would primarily contract with the Supplier, where appropriate. The report will indicate:

- the length of the proposed suspension period and the scope of the suspension;
- the reasons for the suspension;
- whether a temporary suspension was imposed by the Chief Purchasing Officer;
- may include copies of relevant documents or correspondence to support such a suspension; and
- provide any information obtained from the Supplier.

4.3 Final Notice of Suspension

If a final suspension is approved, a notification must be provided by the Chief Purchasing Officer to the Supplier in question informing that Supplier that they are suspended from participating in the City procurement opportunities for the prescribed time period.

The notification letter must contain:

- Reasons for the suspension, and may include copies of relevant documents or correspondence to support such a suspension; and
- The length of the suspension period and the scope, if applicable.

4.4 Extension of the suspension

Apart from a temporary suspension, any final suspension decision should not be extended or renewed, unless additional reasons come to light that were not known to the City at the time the final suspension was approved.

4.5 Post Suspension

Once the period of full suspension has expired, the Supplier will again be eligible to Bid on City contracts without further notice.

5. Review of Suspension

Within 15 days of a suspension authorized by the Chief Purchasing Officer (§195-13.13(B) - suspensions up to 6 months), a Supplier may request in writing a review of the suspension by

the Chief Purchasing Officer. The CPO, in consultation with Legal Services shall take into consideration any arguments and relevant supporting documentation provided by the Supplier in determining whether to uphold, amend, or revoke the suspension.

Where Council has authorized the suspension (§195-13.13(A) - suspensions 1 year to 5 years or otherwise determined by Council), a suspended Supplier may not apply for an additional review until the completion of half of the original suspension period, unless additional information is to be presented that was not reasonably available when the initial decision was made. For example, if the original suspension period was two years, the Supplier may apply for review of the suspension after one year. To be eligible to be reinstated thereafter, the Supplier must submit a written case for reinstatement, including any supporting documentation that provides reasons why removing the suspension would no longer prove a risk for the City.

Applications for review of suspensions are to be reviewed by the Chief Purchasing Officer and Legal Services. If the CPO and Legal Services are satisfied that the reasons for the original suspension will no longer present risk for the City by the Supplier in question, then a memo supporting the reinstatement of the Supplier may also be provided to the appropriate **Approval Authority** as set out in **Section 2**.

In addition, the Treasurer may reverse a suspension in respect of an offence listed in **Article 195-13.5(A) of the Purchasing Chapter** if the Supplier demonstrates that it or its affiliate person has been granted an absolute discharge, conditional discharge (and has satisfied the conditions), a pardon or a record suspension (See: **Section 21.2.2 of the Procurement Processes Policy**).

The Supplier must be notified, in writing, of the final decision for reinstatement made by the City.

6. Suspension List

PMMD shall maintain an up-to-date and current list of all suspended Suppliers.

A Supplier's Affiliated Persons, including any director or officer who was a director or officer of a Supplier on the suspension list at the time it was suspended are also considered suspended.

For this purpose, the Suspension list should contain, at a minimum:

- the full name of the Supplier;
- the names of the directors and officers of the Supplier;
- the reasons for the suspension;
- the file number where the memo for the suspension is filed;
- the scope of the suspension, where applicable (if less than total suspension); and
- the length of the suspension period and the date of the expiry of the suspension period.

Review of the suspension list against a list of Suppliers or respondents and their directors should be conducted by PMMD for each Procurement to ensure that Suppliers are not allowed to Bid or continue in the process. In particular, Bids from Suppliers on the Suspension List, or their affiliated persons, should not be opened or otherwise evaluated.

7. Scope of Suspension and Related Exceptions

Unless the memo supports a suspension limited in scope to contracts of a particular type or value, the suspension will apply to all contracts procured by the City of Toronto under the authority of the Purchasing Chapter of the Municipal Code.

A Supplier cannot subcontract with a suspended Supplier. A Supplier is required to verify that their prospective first-tier subcontractors are not on the Suspension List prior to bid submission. Any existing contract may not be extended or expanded without the approval of the Treasurer, in consultation with the City Solicitor.

The Treasurer may decide that it is in the public interest to approve the use of an ineligible or suspended Supplier in the following possible circumstances:

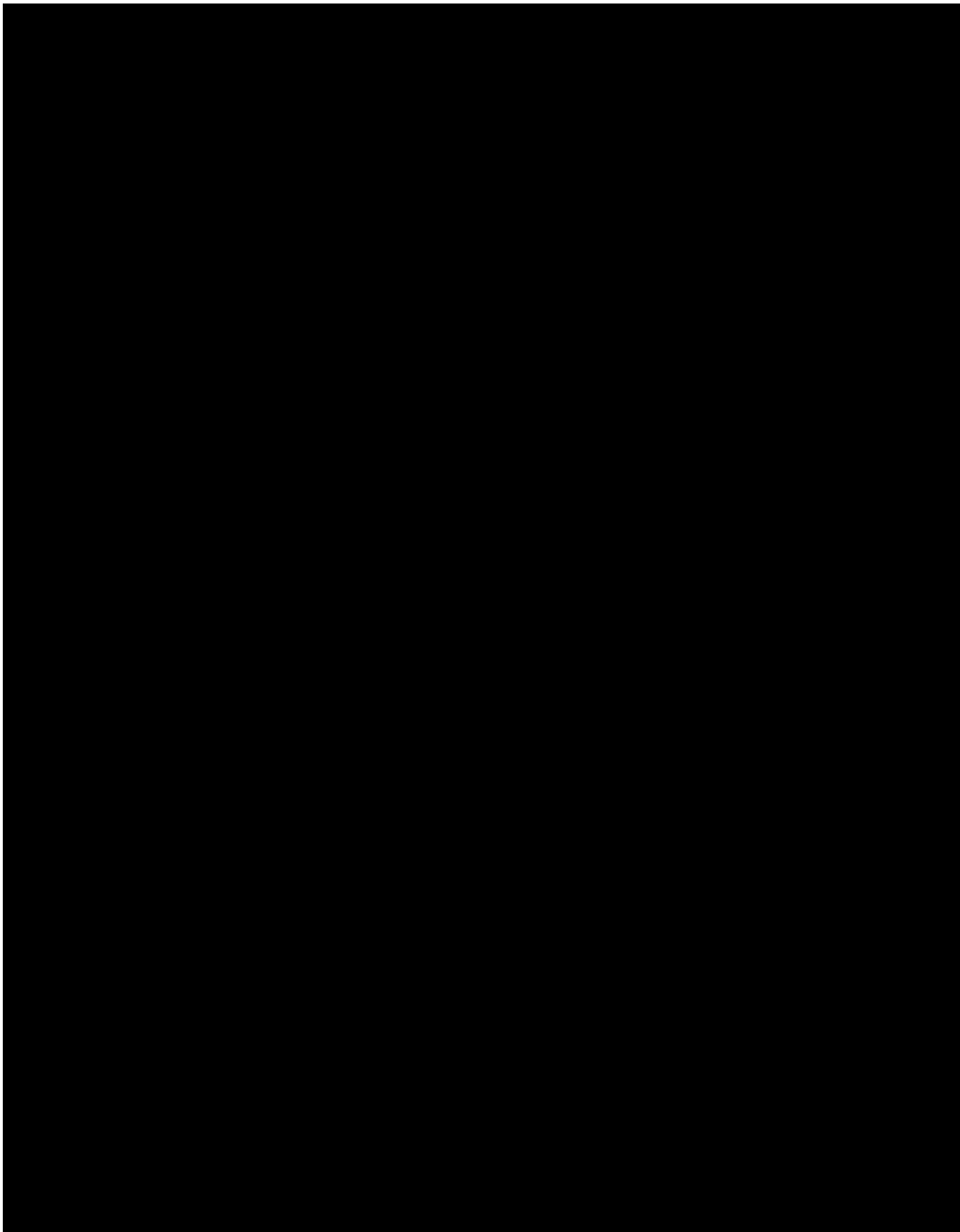
- An emergency where delay would be injurious to the public interest;
- The Supplier is the only person capable of performing the contract;
- The contract is essential to maintain sufficient emergency supplies; or
- Not entering into the contract or extending the contract with the Supplier would have a significant adverse impact on the health, security, safety, public security or economic or financial well-being of the City.

The exception is applied on a case-by case basis by the Treasurer (See: **Section 22 of the Procurement Processes Policy**).

Questions? Contact

Should you have any questions, please contact the Purchasing and Materials Management Division. If further interpretation is required, please contact the Manager, Corporate Purchasing Policy & Quality Assurance at 416-392-0387 or Supervisor, Policy, Training & Technology at 416-392-1305.

TAB C



From: Zella Phillips <Zella.Phillips@toronto.ca>

Sent: Friday, November 1, 2024 5:01 PM

To: Rob Moubarak <rmoubarak@sutherlaw.com>

Cc: Geneviève Sharkey <Genevieve.Sharkey@toronto.ca>; Sabrina Waraich <swaraich@sutherlaw.com>; Jonathan L. Frustaglio <jfrustaglio@sutherlaw.com>

Subject: RE: COT TAU Audit Meeting

EXTERNAL: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Moubarek,

Thank you for your email on October 30.

First, as Ms. Sharkey advised in her previous correspondence to you on October 25 and 30, the purpose of the meeting requested by KPMG was to review with Duron the documents that your client provided to KPMG in support of Duron's own internal investigation findings, which determined that the City had been overbilled by \$161,804 (excluding tax). Pursuant to its rights under the Capital Access Upgrades Program for City Buildings MSA RFSQ 3907-20-5021 dated April 3, 2020 (the "Contract") with Duron, the City has directed KPMG to evaluate the supporting documentation provided by Duron and whether documents sufficiently responsive to KPMG's previous requests have been provided. If your client refuses to cooperate with requests from KPMG, as per the City's audit rights in the Contract, the City will consider your client to be in breach of the Contract.

Second, determining the correct quantum of the monies overbilled by your client is a related, but separate, issue from the proposed 5 year suspension of your client under Chapter 195 and the Supplier Suspension Procedure. The facts and reasons underlying the proposed suspension were already communicated to your client in the detailed letter from Ms. Sharkey on October 9, 2024. With respect to your request for the names of the staff that made the recommendation to the Chief Procurement Officer to proceed with a report to the General Government Committee for a suspension, please be advised that Ms. Sharkey wrote to your client after receiving a recommendation from Patrick Matozzo, Executive Director, Corporate Real Estate Management at the City.

Finally, I wish to reiterate that, in accordance with the Supplier Suspension Procedure, your client still has an opportunity to provide additional documentation or information that responds to the detailed information provided in Ms. Sharkey's previous correspondence that might be relevant in determining if the report should be forwarded to the General Government Committee meeting on November 20, 2024. If your client has any additional information, please provide same as soon as possible, as the 30 day notification period provided to your client under Section 4.2 of the Supplier Suspension Procedure will expire on November 8, 2024.

Sincerely,
Zella

TAB D

From: [Rob Moubarak](#)
To: [Zella Phillips](#)
Cc: [Geneviève Sharkey](#); [Sabrina Waraich](#); [Jonathan L. Frustaglio](#); [Christie, Cameron](#); [Armstrong, Peter W](#); [Rusu, Ana](#); [Gani, Iman](#)
Subject: RE: COT TAU Audit Meeting
Date: Wednesday, November 6, 2024 11:39:14 AM
Attachments: [image002.png](#)
[image004.png](#)
[image006.png](#)
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Thank you for below.

Miss Zella, I can appreciate that you are quite busy and I'm sure so is Ms. Sharkey.

But, given the seriousness of this matter and the gravity of prejudice to my client, may I respectfully implore you to take my requests on behalf of my client somewhat seriously and provide me with information that I am seeking. I am seeking this information to assist me in doing my job for my client. I require the information I am seeking to effectively provide my client's objection material by the deadline that you refuse to extend. With the greatest of respect, the information that I seek is readily available to you / the City, and you can provide it to me effortlessly. You have had my requests for some time, and I am 'under the gun' so to speak to provide my client's material to you to go before the committee. I ask that you kindly review again my email of October 30th and provide me with a comprehensive response and at this time.

Some of the inquiries contained in my October 30th email are not new and have been raised before and yet remain unanswered.

I do thank you, however, for finally providing me with the name of the staff member (Mr. Matozzo) who made the recommendation to Ms. Sharkey.

Would you kindly provide me with Mr. Matozzo's CV and an explanation as to why as director of Corporate Real Estate at the City is involved in this matter? There is no issue

with respect to real estate assets of the City. How is the Executive Director involved and what are his qualifications to review the matter and make recommendations on same to Ms. Sharkey?

I note from a quick search online Mr. Matozzo's job role is:

The Corporate Real Estate Management (CREM) division is responsible for the operational day-to-day stewardship and planning of the City's real estate assets. The division's mandate is to provide efficient real estate service delivery city-wide, manage City assets through their lifecycles and implement strategies to use City real estate effectively to deliver on City of Toronto objectives.

I am somewhat unclear as to how this role is relevant to my client's matter at hand. Please do provide me with Mr. Matozzo's CV so that I can at least understand the relevance of his involvement and his qualifications to make recommendations as those made to Ms. Sharkey?

Further understanding and audit work from KPMG: I have added your audit team for convenience and I'm certain they are acting on instructions from the city with your oversight. As such I'd like to avoid a duplication of emails.

I would appreciate that we perhaps try our best to tone down the threats towards my client. My client never stated they do not intend to cooperate. Not sure where this misunderstanding is coming from. I am entitled and so is my client to an explanation as to why the City, without any discussion with counsel having been involved, decided to send a request for its auditors to continue with their audit and seek understandings of documents provided by my client, following recommendations made by Mr. Matozzo in reliance on a report apparently provided to the City from KPMG. I have requested the report, or any material relied upon by the City and yet to receive anything.

Your auditors seem to think that my clients have nothing else to do and need to drop all matters at once and acquiesce to their demands of unreasonable short timelines. Mr. Chaudhary is now off on holidays abroad in Pakistan for 3 weeks. He was dealing with KPMG and understands the documents. Please in the interim respond to my email inquiries below and please without threats would be appreciated. Today just past 10:30 am, KPMG sent an email asking Duron / Mr. Chaudhary to meet tomorrow! Is this on instructions from the City to KPMG?

I am happy to arrange for a meeting upon Mr. Chaudhary's return and in the interim I would invite you/KPMG to provide me with a list of specific questions your auditors have now, so that I can have my client start working on answering them remotely from abroad perhaps? If the city and its auditors are suddenly pressed for time, then this will alleviate any delay.

Please provide me with the questions and clarification needed and I will ensure they are worked on right away notwithstanding Mr. Chaudhary's holiday. This matter is a serious matter to my client.

Once again, I reiterate that my client is cooperating, has cooperated, and intends to continue to do so. My client's desires to work with the City and resolve matters amicably remain as such.

Finally, I have advised that my client wishes to pay at once to the City the overpayment. Please direct me as to whom to do so and in what manner? Does the City not wish to facilitate this?

Sincerely,



Rob Moubarak

Partner

Phone: (905) 695-5500 ext. 2800

Fax : (905) 695-5501

Email: rmoubarak@sutherlaw.com

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From: Zella Phillips <Zella.Phillips@toronto.ca>

Sent: Friday, November 1, 2024 5:01 PM

TABLE

From: [Rob Moubarak](#)
To: [Geneviève Sharkey](#)
Cc: [Jonathan L. Frustaglio](#); [Sabrina Waraich](#)
Subject: Fw: COT TAU Audit Meeting
Date: Friday, October 25, 2024 1:57:17 PM
Attachments: [Outlook-54f4ily2.png](#)

Genevieve, I thank you for the time for chatting with you and meeting this week.

My client received a follow up from KPMG to meet further as you will note below. I am not certain if you are aware of this, and if this were something the city would like to do after our call? Please confirm. Any insight would be most appreciated.

Sincerely,



Rob Moubarak

Partner

Phone: (905) 695-5500 ext. 2800

Fax : (905) 695-5501

Email: rmoubarak@sutherlandlaw.com

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From: Christie, Cameron <cameronchristie@kpmg.ca>

Sent: Friday, October 25, 2024 12:51 PM

To: Altaf Chaudhary <achaudhary@duro.ca>

Cc: Armstrong, Peter W <pearstrong@kpmg.ca>; Chris Economou <ceconomou@duro.ca>; Rusu, Ana <anarusu@kpmg.ca>; Gani, Iman <igani@kpmg.ca>

Subject: RE: COT TAU Audit Meeting

Hi Altaf,

Thank you for all of the documents you have provided thus far and your assistance with this.

I'd like to set up another meeting with you to clarify a few things and discuss what might be of further assistance to us in getting to the bottom of this. Would you be available to meet in person next Wednesday (30th) morning? I can come to your office as last time, if that works for you. If so, please let me know what time works best.

Kind regards,
Cam

Cameron Christie, CPA, CMA

Senior Manager, Advisory

KPMG LLP
Bay Adelaide Centre
333 Bay Street Suite 4600
Toronto, ON M5H 2S5
T: (416) 777-3094
cameronchristie@kpmg.ca

TAB F

Department Manager – Building Rehabilitation Department
C: 416.795.0222 | O: 905.670.1998 x106 | F: 905.670.4662
achaudhary@duro.ca | www.duro.ca
1860 Shawson Dr, Mississauga ON L4W 1R7 Canada
Building Rehabilitation | Concrete Flooring | Waterproofing
Roofing & Traffic Topping | Epoxy & Decorative Flooring | Mastic Asphalt

From: Christie, Cameron <cameronchristie@kpmg.ca>
Sent: Tuesday, October 29, 2024 9:29 AM
To: Altaf Chaudhary <achaudhary@duro.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>; Chris Economou <ceconomou@duro.ca>; Rusu, Ana <anarusu@kpmg.ca>; Gani, Iman <igani@kpmg.ca>
Subject: RE: COT TAU Audit Meeting

Thanks Altaf. We'll see you on Thursday at 10am.

Kind regards,
Cam

Cameron Christie, CPA, CMA
Senior Manager, Advisory

KPMG LLP
Bay Adelaide Centre
333 Bay Street Suite 4600
Toronto, ON M5H 2S5
T: (416) 777-3094
cameronchristie@kpmg.ca

From: Altaf Chaudhary <achaudhary@duro.ca>
Sent: Tuesday, October 29, 2024 9:23 AM
To: Christie, Cameron <cameronchristie@kpmg.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>; Chris Economou <ceconomou@duro.ca>; Rusu, Ana <anarusu@kpmg.ca>; Gani, Iman <igani@kpmg.ca>
Subject: RE: COT TAU Audit Meeting [EXTERNAL]

Good morning,
Today is not possible but Thursday 10 Am also works good for us as well. Thanks

Altaf Chaudhary, P.Eng.
Department Manager – Building Rehabilitation Department
C: 416.795.0222 | O: 905.670.1998 x106 | F: 905.670.4662
achaudhary@duro.ca | www.duro.ca
1860 Shawson Dr, Mississauga ON L4W 1R7 Canada
Building Rehabilitation | Concrete Flooring | Waterproofing

From: Christie, Cameron <cameronchristie@kpmg.ca>
Sent: Monday, October 28, 2024 9:26 PM
To: Altaf Chaudhary <achaudhary@duro.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>; Chris Economou <ceconomou@duro.ca>; Rusu, Ana <anarusu@kpmg.ca>; Gani, Iman <igani@kpmg.ca>
Subject: RE: COT TAU Audit Meeting

Thanks for accommodating, Altaf.

If you are able, we can meet tomorrow (Tuesday) afternoon in case your unavailability is more on Wednesday. If not, Thursday morning, sometime between 10am and noon would be best. Please let me know if any of that works for you.

Kind regards,
Cam

Cameron Christie, CPA, CMA
Senior Manager, Advisory

KPMG LLP
Bay Adelaide Centre
333 Bay Street Suite 4600
Toronto, ON M5H 2S5
T: (416) 777-3094
cameronchristie@kpmg.ca

From: Altaf Chaudhary <achaudhary@duro.ca>
Sent: Monday, October 28, 2024 4:20 PM
To: Christie, Cameron <cameronchristie@kpmg.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>; Chris Economou <ceconomou@duro.ca>; Rusu, Ana <anarusu@kpmg.ca>; Gani, Iman <igani@kpmg.ca>
Subject: RE: COT TAU Audit Meeting [EXTERNAL]

Thanks Cameron.

We can meet either Thursday or Friday .

I am going on vacation next week for 3 weeks and will be back on Nov.25 so for sure I will try to meet either of these 2 days. Please advise your available time slots.

Altaf Chaudhary, P.Eng.
Department Manager – Building Rehabilitation Department
C: 416.795.0222 | O: 905.670.1998 x106 | F: 905.670.4662
achaudhary@duro.ca | www.duro.ca

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From: Christie, Cameron <cameronchristie@kpmg.ca>
Sent: Monday, October 28, 2024 4:06 PM
To: Altaf Chaudhary <achaudhary@duon.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>; Chris Economou <ceconomou@duon.ca>; Rusu, Ana <anarusu@kpmg.ca>; Gani, Iman <igani@kpmg.ca>
Subject: RE: COT TAU Audit Meeting

Hi Altaf,

Just to give you the context, our role in this is only as fact finder, we do not make recommendations as to what action the City should pursue, if any – that's entirely an internal discussion there and we are generally not part of that process; we just report based on what we have seen and heard. What I'm hoping to talk about is whether there is more we could see and hear, to put it that way, and explore some of those options with you (e.g., to confirm some things we have seen in the documents you provided – thank you).

Does that help? I'd still like to meet with you but don't want to disrupt your business too much if Wednesday is a major deadline for you – we can come on Thursday if that works? Please let me know.

Kind regards,
Cam

Cameron Christie, CPA, CMA
Senior Manager, Advisory

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333 Bay Street Suite 4600
Toronto, ON M5H 2S5
T: (416) 777-3094
cameronchristie@kpmg.ca

From: Altaf Chaudhary <achaudhary@duon.ca>
Sent: Monday, October 28, 2024 3:54 PM
To: Christie, Cameron <cameronchristie@kpmg.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>; Chris Economou <ceconomou@duon.ca>; Rusu, Ana <anarusu@kpmg.ca>; Gani, Iman <igani@kpmg.ca>
Subject: RE: COT TAU Audit Meeting [EXTERNAL]

Hi Cameron,

Sorry for the late response. I got your voice mail as well. I was busy as I am working on a big tender closing this Wednesday.

Christie we got a letter from the City stating that they are recommending to ban us from bidding for the maximum penalty for 5 years so what we thought that the audit process is finished as KPMG has already given their recommendations to the City and thus I even did not upload the G10 invoices folder to the Share file system.

Please advise if you want me to upload this folder and probably that was the reason you want to meet with us again. Please advise. Thanks

Altaf Chaudhary, P.Eng.

Department Manager – Building Rehabilitation Department

C: 416.795.0222 | O: 905.670.1998 x106 | F: 905.670.4662

achaudhary@duro.ca | www.duro.ca

1860 Shawson Dr, Mississauga ON L4W 1R7 Canada

Building Rehabilitation | Concrete Flooring | Waterproofing

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From: Christie, Cameron <cameronchristie@kpmg.ca>

Sent: Friday, October 25, 2024 12:51 PM

To: Altaf Chaudhary <achaudhary@duro.ca>

Cc: Armstrong, Peter W <pearstrong@kpmg.ca>; Chris Economou <ceconomou@duro.ca>; Rusu, Ana <anarusu@kpmg.ca>; Gani, Iman <igani@kpmg.ca>

Subject: RE: COT TAU Audit Meeting

Hi Altaf,

Thank you for all of the documents you have provided thus far and your assistance with this.

I'd like to set up another meeting with you to clarify a few things and discuss what might be of further assistance to us in getting to the bottom of this. Would you be available to meet in person next Wednesday (30th) morning? I can come to your office as last time, if that works for you. If so, please let me know what time works best.

Kind regards,

Cam

Cameron Christie, CPA, CMA

Senior Manager, Advisory

KPMG LLP

Bay Adelaide Centre

333 Bay Street Suite 4600

Toronto, ON M5H 2S5

T: (416) 777-3094

TAB G

From: [Geneviève Sharkey](#)
To: [Rob Moubarak](#)
Cc: [Jonathan L. Frustaglio](#); [Sabrina Waraich](#); [Zella Phillips](#)
Subject: RE: COT TAU Audit Meeting
Date: Wednesday, October 30, 2024 9:41:21 AM
Attachments: [image001.png](#)

Some people who received this message don't often get email from genevieve.sharkey@toronto.ca. [Learn why this is important](#)

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Good morning Rob,

Thank you for your email of October 25.

KPMG contacted your client as they are currently seeking to understand the documents that Duron previously provided to KPMG. Duron provided the documents in support of the amounts arrived at in its own internal investigation, during which Duron determined that it overbilled the City by \$161,804 (excluding tax). KPMG wishes to verify the documentation submitted by Duron as it is the only evidence that Duron has provided to validate the \$161,804 amount.

The proposed suspension process is not a negotiation; the process is being followed in accordance with the Supplier Suspension Procedure. Your client has an opportunity to be heard and provide additional documentation or information that might be relevant in determining if the report should be forwarded to the General Government Committee meeting on November 20, 2024. If your client has any such information, please provide this to me as soon as possible. The 30 day notification period provided to your client under Section 4.2 of the Supplier Suspension Procedure will expire on November 8, 2024.

Finally, I wish to confirm that there will not be any time extensions granted.

Regards,

Geneviève Sharkey

Chief Procurement Officer

Purchasing & Materials Management Division

City of Toronto

Cell: 437-755-8089

Administrative Assistant: June.Buckle@toronto.ca

[Accounts Payable: Getting Paid for Goods and/or Services provided to the City – City of Toronto](#)

From: Rob Moubarak <rmoubarak@sutherlaw.com>

Sent: Friday, October 25, 2024 7:00 PM

To: Geneviève Sharkey <Genevieve.Sharkey@toronto.ca>

Cc: Jonathan L. Frustaglio <jfrustaglio@sutherlaw.com>; Sabrina Waraich <swaraich@sutherlaw.com>; Zella Phillips <Zella.Phillips@toronto.ca>

Subject: [External Sender] Re: COT TAU Audit Meeting

Genevieve thank you for the response below.

I did not have Zella's email so I'm glad you added her. thank you for that. Zella thank you for the meeting this week.

I must admit that I'm at a loss as to what KPMG is then doing further, since the city seems to be acting on recommendations already to penalize Duron for the maximum penalty.

So is KPMG in the process of now after the fact seeking to bolster the recommendations made to penalize Duron after the fact? I'm only asking to confirm.

I am concerned and somewhat troubled with what I feel to be prejudicial, with the greatest of respect. The city on an interim basis suspended Duron on a 6-month suspension. Utilize that period to further investigate Duron through KPMG (auditors). Duron gives findings of its own internal investigation to KPMG. Duron's transparency to the city's auditors is used to then recommend that Duron be suspended for the maximum penalty possible and it is given 30 days to respond.

However, in this period of objection, the city is sending KPMG back to Duron to investigate further in an effort to only bolster its recommendation already made as outlined in your last communication to Duron!

What I am further confused about is that Duron was led to believe that KPMG had concluded its work and based on the report that KPMG had submitted to the city, city staff recommended the maximum possible penalty against Duron. Something of course we take issue with and find somewhat extreme given the evidence that KPMG had which was volunteered by Duron.

further to our meeting last week, you were to get back to me on possibly a pathway for resolution between both sides and perhaps a negotiated resolution that both sides can agree to. is the city not interested in this approach from Duron?

Secondly, I had asked if the city would be prepared to grant Duron some more time to respond while the city and Duron exposure resolution perhaps of the matter and a united recommendations on accountability or penalty is put forth before the committee?

Am I to understand that the city at this time has no interest in these efforts following our meeting this week?

Sincerely,



Rob Moubarak

Partner

Phone: (905) 695-5500 ext. 2800

Fax : (905) 695-5501

Email: rmoubarak@sutherlandlaw.com

3300 Highway 7, Suite 904

Vaughan, Ontario L4K 4M3

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From: Geneviève Sharkey <Genevieve.Sharkey@toronto.ca>

Sent: Friday, October 25, 2024 3:29 PM

To: Rob Moubarak <rmoubarak@sutherlandlaw.com>

Cc: Jonathan L. Frustaglio <jfrustaglio@sutherlandlaw.com>; Sabrina Waraich <swaraich@sutherlandlaw.com>; Zella Phillips <Zella.Phillips@toronto.ca>

Subject: RE: COT TAU Audit Meeting

EXTERNAL: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon Rob,

Thank you for requesting a meeting to discuss the recommendation by City staff to prepare a report to the General Government Committee to recommend that Duron Ontario Ltd.'s eligibility to participate in future procurement competitions be suspended for a 5-year period, as set out in my letter to Duron Ontario Ltd. dated October 9, 2024. The meeting on Wednesday, October 23, 2024, provided an early opportunity for your client's position to be heard on whether the report should be forwarded to the General Government Committee meeting on November 20, 2024. As we stated during the meeting, the City is committed to ensuring the principles of procedural fairness are met throughout this process.

Further to the request in the above-noted letter, and in light of what you explained to me and Ms. Phillips during the meeting, if your client has any additional documentation or information that might be relevant in determining if the report should be forwarded to the General Government Committee meeting on November 20, 2024, please provide same to me as soon as possible. I invite you and your client to respond specifically to the statements set out in the above-noted letter.

Please find attached a link to the City's [Supplier Suspension Procedure](#) for your reference.

As to your question from your last e-mail, KPMG is currently reviewing the documents your client provided previously in support of its internal investigation findings and will need to continue meeting with your client to verify and ask questions about the documentation it provided.

Thank you again for your time.

Geneviève Sharkey

Chief Procurement Officer
Purchasing & Materials Management Division
City of Toronto
Cell: 437-755-8089

Administrative Assistant: June.Buckle@toronto.ca

[*Accounts Payable: Getting Paid for Goods and/or Services provided to the City – City of Toronto*](#)

From: Rob Moubarak <rmoubarak@sutherlaw.com>

Sent: Friday, October 25, 2024 1:57 PM

To: Geneviève Sharkey <Genevieve.Sharkey@toronto.ca>

Cc: Jonathan L. Frustaglio <jfrustaglio@sutherlaw.com>; Sabrina Waraich <swaraich@sutherlaw.com>

Subject: [External Sender] Fw: COT TAU Audit Meeting

Genevieve, I thank you for the time for chatting with you and meeting this week.

My client received a follow up from KPMG to meet further as you will note below. I am not certain if you are aware of this, and if this were something the city would like to do after our call? Please confirm. Any insight would be most appreciated.

Sincerely,



Rob Moubarak

Partner

Phone: (905) 695-5500 ext. 2800

Fax : (905) 695-5501

Email: rmoubarak@sutherlaw.com

3300 Highway 7, Suite 904

Vaughan, Ontario L4K 4M3

www.sutherlaw.com

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From: Christie, Cameron <cameronchristie@kpmg.ca>

Sent: Friday, October 25, 2024 12:51 PM

To: Altaf Chaudhary <achaudhary@duro.ca>

Cc: Armstrong, Peter W <pearmstrong@kpmg.ca>; Chris Economou <ceconomou@duro.ca>; Rusu, Ana <anarusu@kpmg.ca>; Gani, Iman <igani@kpmg.ca>
Subject: RE: COT TAU Audit Meeting

Hi Altaf,

Thank you for all of the documents you have provided thus far and your assistance with this.

I'd like to set up another meeting with you to clarify a few things and discuss what might be of further assistance to us in getting to the bottom of this. Would you be available to meet in person next Wednesday (30th) morning? I can come to your office as last time, if that works for you. If so, please let me know what time works best.

Kind regards,

Cam

Cameron Christie, CPA, CMA

Senior Manager, Advisory

KPMG LLP

Bay Adelaide Centre

333 Bay Street Suite 4600

Toronto, ON M5H 2S5

T: (416) 777-3094

cameronchristie@kpmg.ca

TAB H

From: [Rob Moubarak](#)
To: [Altaf Chaudhary](#); pearstrong@kpmg.ca; [Chris Economou](#); [Rusu, Ana](#); [Gani, Iman](#)
Cc: [Geneviève Sharkey](#); [Zella Phillips](#); [Sabrina Waraich](#); [Jonathan L. Frustaglio](#)
Subject: RE: COT TAU Audit Meeting
Date: Wednesday, October 30, 2024 12:15:56 PM
Attachments: [image002.png](#)
[image005.png](#)
[image007.png](#)
[image008.png](#)
[image011.png](#)
[image014.png](#)
[image015.png](#)
[image017.png](#)
[image018.png](#)
[image020.png](#)
[image022.png](#)
[image023.png](#)

Dear Zella,

I was forwarded the below chain from my client. The meeting tomorrow will not proceed till I get some clarity on what is going. I must admit I'm at a loss regarding the purpose of this meeting and what understanding remains missing, when the City has taken a position that is extreme, dare I say, on penalty in its correspondence to my client and asked that my client file its position on.

How was a decision taken with such haste and inconsideration when your own auditor still needs to proceed with further investigation, requires further clarification and understanding of documents?

I know you sent me an email today some 5 days after I had asked for clarification, and I have not had a chance to review it with my client and digest what you provided as a response. I am in examinations and wanted as a courtesy to advise your auditor that I'm not comfortable proceeding without further clarification of what the city is doing here?

I am busy working on my client's position to your recommendations and yet apparently the City through its auditors are still building a case? I need to understand what the City is still doing so that I can at least respond once with my clients' position.

The city has also refused to grant my client any extension in time and is not prepared to discuss resolution of the case.

I will respond to your email Genevieve this week most certainly and I suspect I have further questions. While I was awaiting a response the City had its auditors reach out directly to my client and demand further meeting and scheduled same! I was not advised of this but for my client bringing it to my attention. This happened after we had

our discussion last week. Before I heard with any follow ups from your office, your auditors felt it was critical for them to demand a meeting to seek further understanding of the evidence and on an urgent / rush basis! I must admit my somewhat disappointment in this tactic, and I trust you were not at all aware of this.

I am happy to consider a meeting and certainly my client has always maintained they have no issues with full transparency and honesty in this matter. As you have seen your auditors were provided all the evidence by my client that you cite in your letter with recommendations on penalty. It was not your auditors (KPMG) that uncovered any of the discrepancies stated. My client came volunteered all the evidence and figures of overpayment that they uncovered through its own internal audit. As such and in that commitment, my client is happy to cooperate and answer any questions but for my concerns with the process that the City is employing that I take issue with.

Have you taken the time to reconsider my request for crucial information that allow my client to ascertain the City's case against it?

I have sent a request for information which remains pending.

In the interest of expediency and given that I'm not being given any extension to your deadline to respond of November 8th, can you please provide with the following at least:

1. The report / finding of KPMG that the City has relied upon to make the recommendations of a 5-year maximum penalty?
2. The identity of the investigative person(s) at the city that made such findings and what they based their finding on if anything other than the KPMG report(s)?

I really require this information at the very least to confirm that the recommendation of the City was made impartially, reasonably and with fairness to my client.

As you can appreciate this is a very serious matter to my client reputationally and financially. People's jobs are at stake, my client's longevity as a company given how large of a client the City was, the impact on the morale of employees at the company, their security, the impact, and harm to the City itself given that the spectrum of competitors bidding on city jobs is now much narrower and the City will likely experience higher costs.

I remain hopeful and optimistic that we can either resolve this through fair discussions and or at the very least proceed with full transparency of the process the City has and

will follow in this matter.

As a final note please advise to who and how my client may reimburse the City immediately with the overpayments it has uncovered through its internal audit. My Client wishes to do so at once.

Sincerely,



Rob Moubarak

Partner

Phone: (905) 695-5500 ext. 2800

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TAB I

1860 Shawson Dr, Mississauga ON L4W 1R7 Canada
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Roofing & Traffic Topping | Epoxy & Decorative Flooring | Mastic Asphalt

From: Christie, Cameron <cameronchristie@kpmg.ca>
Sent: Monday, October 28, 2024 4:06 PM
To: Altaf Chaudhary <achaudhary@duro.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>; Chris Economou <ceconomou@duro.ca>; Rusu, Ana <anarusu@kpmg.ca>; Gani, Iman <igani@kpmg.ca>
Subject: RE: COT TAU Audit Meeting

Hi Altaf,

Just to give you the context, our role in this is only as fact finder, we do not make recommendations as to what action the City should pursue, if any – that's entirely an internal discussion there and we are generally not part of that process; we just report based on what we have seen and heard. What I'm hoping to talk about is whether there is more we could see and hear, to put it that way, and explore some of those options with you (e.g., to confirm some things we have seen in the documents you provided – thank you).

Does that help? I'd still like to meet with you but don't want to disrupt your business too much if Wednesday is a major deadline for you – we can come on Thursday if that works? Please let me know.

Kind regards,
Cam

Cameron Christie, CPA, CMA
Senior Manager, Advisory

KPMG LLP
Bay Adelaide Centre
333 Bay Street Suite 4600
Toronto, ON M5H 2S5
T: (416) 777-3094
cameronchristie@kpmg.ca

From: Altaf Chaudhary <achaudhary@duro.ca>
Sent: Monday, October 28, 2024 3:54 PM
To: Christie, Cameron <cameronchristie@kpmg.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>; Chris Economou <ceconomou@duro.ca>; Rusu, Ana <anarusu@kpmg.ca>; Gani, Iman <igani@kpmg.ca>
Subject: RE: COT TAU Audit Meeting [EXTERNAL]

TAB J

From: [Sabrina Waraich](#)
To: [Sabrina Waraich](#)
Subject: FW: City of Toronto/TAU audit process
Date: Wednesday, November 6, 2024 5:06:06 PM

From: Christie, Cameron <cameronchristie@kpmg.ca>
Sent: Wednesday, November 6, 2024 10:35 AM
To: Altaf Chaudhary <achaudhary@duroon.ca>; Chris Economou <ceconomou@duroon.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>; Rusu, Ana <anarusu@kpmg.ca>; Gani, Iman <igani@kpmg.ca>; Rob Moubarak <rmoubarak@sutherlaw.com>
Subject: City of Toronto/TAU audit process

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Altaf and Chris,

We are writing further to the email sent by Mr. Moubarak on October 30, 2024.

We contacted Altaf on October 25, 2024 to continue the audit under the terms of the City's contract with Duron. We would like to meet with you to verify/discuss aspects of the calculations and documentation you have provided so far (i.e., differences we observed), ask further questions and continue review of the explanations you previously reported. We also hope to discuss next steps in the audit (e.g., communications review).

We are also seeking the remaining documentation requested in September. Our reconciliation suggests that we are still missing (more critical parts):

- Most of the emails indicating the quote sent from the subcontractor to Duron and from Duron to the City.
- Most of the invoices from the subcontractor to Duron and from Duron to the City.
- Documentary evidence of what was paid by Duron to the subcontractors.
- A majority of the quotes submitted by Duron to the City.

Please let us know on or before **November 7th, 2024** if you are willing to meet and continue the audit.

Regards,
Cam

Cameron Christie, CPA, CMA
Senior Manager, Advisory

KPMG LLP
Bay Adelaide Centre
333 Bay Street Suite 4600
Toronto, ON M5H 2S5

T: (416) 777-3094
cameronchristie@kpmg.ca

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- **[Disclaimer concerning tax advice](https://taxdisclaimer.kpmg.ca)** (<https://taxdisclaimer.kpmg.ca>).

If you are unable to access the links above, please cut and paste the URL that follows the link into your browser.

TAB K

From: [Daniel Paolucci](#)
To: [Altaf Chaudhary](#); [Chris Economou](#); [Mark Bendix](#); [Lou Bandiera](#)
Subject: RE: TAU - Change Order Discrepancies - Discussion Summary
Date: Wednesday, June 22, 2022 1:22:56 PM
Attachments: [image001.png](#)

Hi Altaf,

Please provide this individuals name.

Thanks,

Daniel Paolucci P. ENG.

Associate - Manager, Buildings Projects
mob 416 712 1279

IBI GROUP

100 - 175 Galaxy Blvd
Toronto ON M9W 0C9 Canada
tel +1 416 679 1930 ext 65092



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From: Altaf Chaudhary <achaudhary@duro.ca>
Sent: Monday, June 20, 2022 2:04 PM
To: Daniel Paolucci <daniel.paolucci@ibigroup.com>; Chris Economou <ceconomou@duro.ca>; Mark Bendix <Mark.Bendix@IBIGroup.com>; Lou Bandiera <lou.bandiera@ibigroup.com>
Subject: RE: TAU - Change Order Discrepancies - Discussion Summary

Hi Daniel,

Thank you for bringing the CCO discrepancies to our attention, we understand that some quotations have been finalized, and some are still under review with IBI.

Upon further investigation, there was an individual who was recently terminated, that was assisting the Group PM's in gathering and compiling CCO's. Due to the quantity of CO's associated with these contracts, additional support was required. Typically, the quotes are e-mailed to the PM who will save on the local Drive. The assisting individual compiles quotations and prepares the cover page with Duron markup. Each respective PM reviews quotations, and coordinators submit through Onware.

Our conclusions for the CO's discussed in our first meeting are as follows:

- CDH Quote CCO#87 (May 24, 2022): Original Quote was \$2,731.14, submitted quote was \$4,031.14. The quote was adjusted in order to cover missed hardware costs associated with CO#52, which only included door replacements (see CDH Change#17). CDH issued an additional change #20 on May 17th to Duron, to cover these missed costs, however CO#52 had already been finalized (April 20th, 2022). Please see attached quotation #20, this does not include install, or mark-up.
This change has not been approved yet and we will submit our revised pricing based on the original CDH quote of the amount of \$2,731.14 with other itemized pricing as well.
- FT Tiles Quotation (November 3rd) associated with CO#11. The quote was sent from the estimator Saleh (FT Tiles) to Duron for \$5,361.00. The quote was verified with Andy (FT tiles) verbally through phone conversation, who requested that Duron revise the price to \$6,361.00 as there was misc. prep work, and premium night shift labour that was missed in the quotation. The PO issued to FT tiles was in the amount of \$6,361.00 to reflect the verbally agreed amount between Duron and FT Tiles. Duron submitted to IBI, the CCO in the amount of \$6,361.00.
- FT Tiles and Aquaflow quotations #37 and #59, respectively. These quotations were both sent to Duron via e-mail. The quotations are in line with what was submitted to IBI, and reflects the Purchase Order amounts to which Duron issued to each respective subcontractor. There was a font change noticed by IBI after reaching out to Duron's subs, however Duron is not in a position to comment on this. Each individual has different default fonts that vary from computer to cell phone, and may have caused this discrepancy. Our Purchase Orders in the exact amounts are attached to this e-mail.

Due to the numerous changes on these contracts, additional assistance was and continues to be required. At the time, the individual that was tasked with this role had been pulled in from the accounting department. Unfortunately, this individual failed to maintain the proper document control and was terminated for this reason. Upon investigating these discrepancies further, this individual negotiated and accepted updated pricing through informal conversations and revised documents on file without notifying management. This does not follow Duron protocols, and we have reiterated the importance of proper document control to all our team members. We continue to strive to complete these projects in a timely manner given the many moving parts and challenges.

We are continuously hiring qualified team members, and are currently modifying the process in which CO's are tracked internally. All CCO's moving forward will be thoroughly reviewed by the PM's and Department Manager before submission to IBI.

Altat Chaudhary, P.Eng.

Department Manager - Building Rehabilitation Department

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Roofing & Traffic Topping | Epoxy & Decorative Flooring | Mastic Asphalt

From: Daniel Paolucci <daniel.paolucci@ibigroup.com>

Sent: June 15, 2022 10:38 AM

To: Chris Economou <ceconomou@duon.ca>; Altaf Chaudhary <achaudhary@duon.ca>; Mark Bendix <Mark.Bendix@IBIGroup.com>; Lou Bandiera <lou.bandiera@ibigroup.com>
Subject: RE: TAU - Change Order Discrepancies - Discussion Summary

Hi Chris, Altaf,

Just a follow up to yesterdays email, IBI are expecting a response from Duron by Friday of this week.

Thanks,

Daniel Paolucci P. ENG.

Associate - Manager, Buildings Projects
mob 416 712 1279

IBI GROUP
100 - 175 Galaxy Blvd
Toronto ON M9W 0C9 Canada
tel +1 416 679 1930 ext 65092



NOTE: This email message/attachments may contain privileged and confidential information. If received in error, please notify the sender and delete this e-mail message.
NOTE: Ce courriel peut contenir de l'information privilégiée et confidentielle. Si vous avez reçu ce message par erreur, veuillez le mentionner immédiatement à l'expéditeur et effacer ce courriel.

From: Daniel Paolucci
Sent: Tuesday, June 14, 2022 10:29 AM
To: Chris Economou <ceconomou@duon.ca>; Altaf Chaudhary <achaudhary@duon.ca>; Mark Bendix <Mark.Bendix@IBIGroup.com>; Lou Bandiera <lou.bandiera@ibigroup.com>
Subject: TAU - Change Order Discrepancies - Discussion Summary

Hello all,

Thank you for taking the time to meet with us yesterday to review our concerns with regarding supporting documents for Change Orders.

As discussed, IBI called this meeting with Duron following our review of CCO-87 pricing. During the review, we found the overall price to be high, and requested our sub-consultant to complete a review of CCO-87. Our sub-consultant and the supplier, CDH, had a discussion about the submitted quote and it was indicated by CDH that the quote they provided Duron differed from the quote Duron had provided IBI and the City. Upon review of both the Duron submitted CDH quote and the original CDH quote, it was evident that there were differences.

After becoming aware of this, IBI carried out a sample check of a few other CO's and discovered what appears to be other discrepancies and inconsistencies. As per the MSA 2.6.2., IBI contacted a sampling of suppliers and requested them to confirm their original quotes over the phone and send

copies of originals to IBI. During our call, we highlighted both the submitted documents and original documents from sub-trades and suppliers. The documents and subs highlighted were:

1. CCO-87 – CDH
2. CO-11 – FT Tiles Company
3. CO-37 – Aqua Flow
4. CO-59 – FT Tiles Company

As requested, attached is the power point we shared as a demonstration to assist in our discussions about these Change Orders.

IBI has carried out a sample check of the documents, and by no means is this a complete review. We would request that Duron carry out such a complete review. As discussed, IBI has to bring this information to the attention of the City of Toronto. Duron is requested to review as soon as possible and provide an explanation for these discrepancies.

Thanks,

Daniel Paolucci P. ENG.

Associate - Manager, Buildings Projects
mob 416 712 1279

IBI GROUP
100 - 175 Galaxy Blvd
Toronto ON M9W 0C9 Canada
tel +1 416 679 1930 ext 65092



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TAB L

**Project Management Office
Corporate Real Estate Management**

Metro Hall
55 John Street,
2nd Floor
Toronto, Ontario M5V 3C6

Tel: 416 338 0237
lisa.barroso@toronto.ca
www.toronto.ca

August 2nd, 2022

Duron
1860 Shawson Dr.,
Mississauga, ON L4W 1R7

Attention: Altaf Chaudhary, Department Manager

**Re: Capital Accessibility Upgrades Program for City Buildings MSA RFSQ 3907-20-5021
(Ariba Doc No.: 2254709397) dated April 3, 2020, Change Order Review**

Dear Altaf,

In relation to the above MSA and the following Work Assignment Agreements for the City of Toronto ("City") Accessibility Upgrades (AODA) made under it:

- Group #11 Ariba Doc No. 2628960219, PO# 6051393 issued 11/30/2020
- Group #9 Ariba Doc No. 2734599637, PO# 6051889 issued 03/17/2021
- Group #10 Ariba Doc No. 2834486666, PO# 6052292 issued 06/22/2021
- Group #30 Ariba Doc No. 3279242784, PO# 6053185 issued 03/25/2022
- Group #6 Ariba Doc No. 3350684544, PO# 6053348 issued 05/16/2022
- Group #2 Ariba Doc No. 3355944743, PO# 6053392 issued 05/31/2022

The City understands that discussions were held between Duron (represented by Altaf Chaudhary and Chris Economou) and IBI Group ("IBI") (represented by Mark Bendix, Lou Bandiera and Daniel Paolucci) on June 13, 2022 and June 17, 2022 (same attendees as well as Joanne Navaratnam of IBI Group). We have been advised that these discussions related to discrepancies noted by IBI as the City's contract administrator on contemplated Change Orders and Change Order supporting documents associated with Group 10 CO-11, CO-37, CO-59 and CCO-87.

The City is understandably concerned regarding these noted discrepancies, Duron's response to them and its refusal to comply with the request made by IBI for the removal of the Project Manager despite the contract providing for such action. We are also aware of the inflammatory response provided by Duron's lawyer which suggested wrong doing on the part of IBI and one of its employees in investigating these noted discrepancies. As such, out of an abundance of caution, and in order to ensure that the facts of the matter are properly understood by the City as the Owner, we are requesting that an independent financial audit of all Change Orders submitted by Duron for this entire Program be conducted and in so doing, we

would reserve the right to request similar documentation related to other City contracts with Duron should similar issues be identified.

In accordance with Section 2.6 of the MSA:

2.6.1 Prior to the issuance of the final certificate for payment, and thereafter until the later of two (2) years after the end of the Warranty Period, or all Claims in respect of the Agreement being settled, the Contractor shall maintain and keep accurate Contractor Records in respect of Work (including in respect of Fixed Price Work, Construction Equipment, Products, component costs reflecting the taxes and customs duties, including excise taxes and changes in the Work). Without limiting the generality of the foregoing, the Contractor Records shall be of sufficient detail to support the total cost of any Work (other than Fixed Price Work), changes in the Work, Cash Allowances expenditures and taxes and

duties. For Fixed Price Work, the Contractor Records shall be of sufficient detail for the Owner to ascertain the Contractor's compliance with the Fair Wage Policy, if any.

2.6.2 The Contractor shall cause the Subcontractors, Suppliers and Sub-subcontractors, to:

- .1 maintain and keep accurate Contractor Records in respect of all items for which the Contractor is required by the Agreement to maintain and keep Contractor Records; and
- .2 allow the Owner to inspect and audit such Contractor Records, for the same period of time.

2.6.3 Without limiting the generality of 13.3, the Owner may inspect and audit the Contractor Records at any time during the period in which the Contractor is required to maintain and keep such Contractor Records. The Contractor shall, at its cost, supply certified copies (and notarized if maintained outside of Ontario) of any part of the Contractor Records required whenever requested by the Owner.

The City is requesting Duron's full cooperation with the independent financial audit that will review all Change Orders including supporting documents pertaining to this Program and where warranted with respect to other City contracts. In so doing, Duron will be required to provide to the independent financial auditor all change orders and supporting documents as may be requested by the independent financial auditor.

We request that going forward, any Change documentation provided by Duron be reviewed and formally approved, by signature, by a senior staff member at Duron in addition to the Project Manager, who has knowledge of this Program.

Your acknowledgement of this correspondence and indication of your intention to cooperate with these requests is required to be provided to the City by way of an email response no later than end of day on August 9, 2022.

We are looking forward to resolving this matter and to the successful completion of the Program.

Sincerely,

Lisa Barroso
Director of PMO

Digitally signed by Lisa
Barroso Director of PMO
Date: 2022.08.03
08:53:10 -04'00'

Lisa Barroso B.Arch, PMP
Director, Project Management Office

Corporate Real Estate Management
City of Toronto

Cc'd to:

Sandra Lisi A/Chief Procurement Officer, Sandra.Lisi@toronto.ca
Ryan.MacNeil Ryan.MacNeil@toronto.ca
Mark Bendix Mark.Bendix@IBIGroup.com
Daniel Paolucci daniel.paolucci@ibigroup.com
Chris Economou ceconomou@duon.ca

TAB M

From: [Altaf Chaudhary](#)
To: [Lisa \(PMO\) Barroso](#)
Cc: [Sandra Lisi](#); [Ryan MacNeil](#); ["Mark.Bendix@IBIGroup.com"](#); ["daniel.paolucci@ibigroup.com"](#); [Chris Economou](#)
Subject: RE: Duron Construction - TAU Notice of Audit
Date: Friday, August 12, 2022 3:54:50 PM
Attachments: [image002.png](#)
[image004.png](#)

Dear Ms. Barroso:

We are writing with respect to your letter of August 2, 2022 requesting that Duron cooperate with an independent financial audit to be conducted by an independent financial auditor retained by the City to review all change orders and supporting documents pertaining to the MSA RFSQ 3907-20-5021 and work Assignment Agreements for Group # 11,9,10,30,6 and Group 2. We thank you for your agreement to extend the date by which you have requested a response to your letter, from Duron to August 12, 2022.

Duron confirms its agreement to cooperate with an audit proposed by the City to be conducted by an independent financial auditor, as Duron recognizes the right of the City to conduct such audit pursuant to Section 2.6 of the MSA. Duron further recognizes the concerns raised by the City and can advise that it remains committed to the Program and to performing the services set out in the various Work Assignment Agreements, in accordance with the terms of the MSA.

Duron understands that the City is engaging the independent auditor at its own expense. As noted herein Duron is of the view that any such audit is unnecessary, given the information and explanations provided by Duron to the City and the City's Contract Administrator to date. Nevertheless, Duron confirms its commitment to cooperate with requests made by the auditor for information and documentation as set out herein.

Duron also at this point is doing an internal audit of all of the Groups and if the City wishes, Duron is ready to share the outcome of this internal audit and also request that if the findings of this internal audit are acceptable than an external audit will be unnecessary as it will cost City money and will also take resources from us in order to provide documentation etc. to the independent financial auditor as well.

In this regard, Duron confirms that all inquires and requests for documentation be provided in writing to Altaf Chaudhary, Department Manager of Duron. Duron further requests that all information obtained by the auditor and the City, in the course of the audit be treated as confidential to Duron, including pricing provided by its Subcontractors and Suppliers and that such pricing not be disclosed to anyone outside of Duron, the City and the independent auditor.

Duron can also confirm that moving forward, any Change documentation provided by Duron will be reviewed and, if approved by Duron, such approval will be evidenced by the signature of Altaf Chaudhary, Department Manager, in addition to the Project Manager, who has knowledge of the terms of the MSA.

As noted herein, Duron asks that any and all requests made by the City's auditor, be directed in writing to Altaf Chaudhary, Department Manager of Duron. Duron remains committed to addressing the City's concerns and to the successful completion of the Program

Altaf Chaudhary, P.Eng.

Department Manager - Building Rehabilitation Department

C: 416-795-0222 | O: 905.670.1998 x106 | F: 905.670.4662

achaudhary@duro.ca | www.duro.ca

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From: Lisa (PMO) Barroso <Lisa.Barroso@toronto.ca>

Sent: August 3, 2022 11:55 AM

To: Altaf Chaudhary <achaudhary@duro.ca>

Cc: Lisa (PMO) Barroso <Lisa.Barroso@toronto.ca>; Sandra Lisi <Sandra.Lisi@toronto.ca>; Ryan

MacNeil <Ryan.MacNeil@toronto.ca>; 'Mark.Bendix@IBIGroup.com'

<Mark.Bendix@IBIGroup.com>; 'daniel.paolucci@ibigroup.com' <daniel.paolucci@ibigroup.com>;

Chris Economou <ceconomou@duro.ca>

Subject: Duro Construction - TAU Notice of Audit

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- Check the **SENDER** name and email address. Do you recognize them? Are they trustworthy?
- Hover over any **LINKS**. Do they match the website URL? If you're unsure, do not click. Visit the website(s) separately by typing the same URL link(s) into your browser to determine legitimacy.
- Do not open **ATTACHMENTS** unless you trust the sender. Be on high alert if the sender is asking you to take an immediate action that does not seem appropriate.
- If the email looks **suspicious**, report it to **Duro's** Security Team

Good morning Altaf,

Please see attached correspondence regarding the Duro Construction - TAU Notice of Audit.

Regards,

Lisa Barroso B.Arch, PMP

Director - Project Management Office

Corporate Real Estate Management Division - City of Toronto

T- 416 338 0237 | M – 437 388 4230

lisa.barroso@toronto.ca | www.toronto.ca



TAB N

Sent Via Email to: Altaf Chaudhary - achaudhary@duon.ca
Chris Economou - ceconomou@duon.ca

Duron Ontario Ltd.
1860 Shawson Dr.,
Mississauga, ON L4W 1R7

May 27, 2024

Re: Temporary Suspension from City of Toronto Procurement Calls – Capital Access Upgrades Program for City Buildings MSA RFSQ 3907-20-5021 dated April 3, 2020, Change Order Review

Dear Mr. Chaudhary,

I am writing to advise that I am considering suspending Duron Ontario Ltd. (“Duron”) from bidding on all City contracts for a period of six months, pursuant to my authority as the Chief Procurement Officer under Toronto Municipal Code, Chapter 195, Purchasing, Article 13, Supplier Code of Conduct, Section 13.13-B and the Supplier Suspension Procedure. Below I have summarized the information that I am considering so that you may provide me with any written explanation or additional information you would like me to consider in making my decision. Any response you wish me to consider must be provided within 10 days; my email address is above.

In June 2022, Arcadis IBI Group (“Arcadis”), the Consultant of Record for the Toronto Accessibility Upgrades (“TAU”) Program, informed the City of Toronto (“City”) staff of inconsistencies it had discovered in a contemplated change order (“CCO”) received from Duron.

On August 2, 2022, the City provided Duron formal notice that the City was enforcing its right in its agreement with Duron to conduct an audit (the “Audit”). Duron acknowledged receipt of this letter by email on August 12, 2022, and confirmed its agreement to cooperate with the Audit.

In the initial stages of the Audit, which was handled by Arcadis, the following examples were found:

Example 1:

A quote submitted to Arcadis on April 18, 2022, by Duron as part of CCO-87 from its subcontractor, CDH, had a total price of \$4,031.14. Arcadis noted inconsistencies within the quotation received from Duron and contacted CDH directly to receive a copy of the documentation that CDH provided to Duron for CCO-87. The total price as set out in the documentation provided by CDH was \$2,731.41, which did not match what Arcadis received from Duron.

Example 2:

A quote submitted to Arcadis from Duron included an email quotation sent on November 3, 2021, as part of Change Order-11 (CO), from subcontractor FT Tiles Company and had a price of \$3,369.00 for wall tile/settling material. Arcadis noted inconsistencies within the quotation received from Duron and contacted FT Tiles Company directly to receive a copy of the email related to CO-11. The price for wall tiles/settling material in the email received from FT Tiles Company was \$2,369.00, which did not match what Arcadis received from Duron.

When Duron was notified of these findings by Arcadis, Duron identified a specific employee as being solely responsible for the alterations, advised that it had terminated that employee, and raised allegations of wrongdoing on the part of Arcadis and its employee who had been conducting the investigation. Duron's allegations towards Arcadis prompted the City to review the best method to conduct the Audit.

As a result, the City started the process of engaging a third-party auditor to continue the Audit, and KPMG was selected in September 2023.

KPMG agreed to continue the Audit in multiple phases:

Phase 1 focused on creating a sample of 41 Change Orders that would be reviewed for inconsistencies, including the identification of potential visual anomalies for further examination in Phase 2. Of that sample, KPMG identified 28 quotes of concern.

Phase 2 focused on approaching Duron's subcontractors directly and commenced on February 22, 2024. KPMG approached nine subcontractors in person and ten subcontractors were approached via email.

On April 19, 2024, KPMG presented initial Phase 2 findings to me and City staff. Three of the nineteen subcontractors submitted documents to KPMG for review (Pace Elevator Inc., Automated Fire Protection System Inc., and Maxcon Inc.). KPMG reviewed the quotes directly obtained from the three subcontractors by KPMG, the corresponding quotation from the Change Orders provided by Duron to Arcadis, and additional relevant documents, including additional quotes and invoices.

KPMG observed inconsistencies between the documents obtained directly from the subcontractors and the corresponding quotation provided by Arcadis. The inconsistencies included:

- Price increases to line items where the price presented in the documentation provided to Arcadis is higher than the one provided by the subcontractor to KPMG;
- Differences in dates and/or the work described; and
- Differences in font and formatting, which in KPMG's experience suggests impropriety may be present.

In particular, KPMG drew our attention to the following issues:

Example 1:

A quote submitted by Duron to Arcadis on January 26, 2022, as part of Quote #403954 from its subcontractor Pace Elevator Inc., had a total price of \$34,383.66. The quotation received by KPMG from Pace Elevator as part of Quote #403954 had a total price of \$29,306.22.

Example 2:

A change order was submitted by Duron to Arcadis under Quote#403574 on February 16, 2022, from Pace Elevator, for a total of \$3,000. KPMG was told by Pace Elevator on March 1, 2024, that they could not locate this quotation in their records and they have no records of being paid for this work.

Example 3:

A quote submitted by Duron to Arcadis included a quotation from its subcontractor, Automated Fire Protection System's Inc. ("Automated"), with a quotation date of February 9, 2021. The total of this quotation was \$20,070.00. KPMG received a copy of this same quotation directly from Automated on April 3, 2024, which showed an amount of \$15,070.00, which did not match what Arcadis received from Duron and submitted to the City.

Example 4:

A quote submitted by Duron to Arcadis included a quotation from its subcontractor, Automated, dated March 12, 2021, for CCO-18. The total of this quotation was \$1,850. The City approved and paid for this quotation. On April 3, 2024, Automated confirmed to KPMG that work submitted in relation to this quotation was not completed, and therefore, they were never paid for the quoted amount.

Based on the information that I have summarized above, the Executive Director, Corporate Real Estate Management has requested that I, as the Chief Procurement Officer, suspend Duron Ontario Ltd. from being eligible to bid on all City contracts for a temporary six-month period, in accordance with the authority granted under the Toronto Municipal Code, Chapter 195, Purchasing, Article 13, Supplier Code of Conduct, Section 13.13-B and the Supplier Suspension Procedure. The recommended scope is a total suspension for all procurement opportunities.

The relevant grounds for the proposed temporary suspension are set out in Article 13 (Supplier Code of Conduct) of Chapter 195, in Section 13.11, and in Section 3.1 of the Supplier Suspension Procedure. Under Section 13.11, no supplier shall, in the performance of a contract with the City:

- Bill for goods and services not supplied;
- Submit false or exaggerated claims to the City;
- Submit misleading information to the City; or
- Any other professional misconduct or omissions that adversely reflect on the commercial integrity of the supplier.

Pursuant to the City's procedures related to the suspension of a Supplier, Duron will have 10 days from the receipt of this letter (by the end of day June 6, 2024) to provide me with any additional information that might be relevant in determining if the proposed temporary suspension should be approved. If no information is received from Duron within 10 days of the receipt of this letter, then the temporary suspension will come into effect for a six-month period as set out above.

Should it come into effect, the suspension of Duron will be noted on the City's website as a temporary six-month suspension. Duron will not be eligible to bid on any future City contracts or perform work as a subcontractor on those contracts for the duration of the suspension. The proposed suspension will also apply to any of Duron's affiliated persons within the meaning of Chapter 195.

Yours truly,

A handwritten signature in blue ink, appearing to read "GS", with a long horizontal stroke extending to the right.

Geneviève Sharkey
Chief Procurement Officer
Purchasing & Materials Management

TAB O

Department Manager – Building Rehabilitation Department
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achaudhary@duro.ca | www.duro.ca
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Building Rehabilitation | Concrete Flooring | Waterproofing
Roofing & Traffic Topping | Epoxy & Decorative Flooring | Mastic Asphalt

From: Christie, Cameron <cameronchristie@kpmg.ca>
Sent: Tuesday, October 29, 2024 9:29 AM
To: Altaf Chaudhary <achaudhary@duro.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>; Chris Economou <ceconomou@duro.ca>; Rusu, Ana <anarusu@kpmg.ca>; Gani, Iman <igani@kpmg.ca>
Subject: RE: COT TAU Audit Meeting

Thanks Altaf. We'll see you on Thursday at 10am.

Kind regards,
Cam

Cameron Christie, CPA, CMA
Senior Manager, Advisory

KPMG LLP
Bay Adelaide Centre
333 Bay Street Suite 4600
Toronto, ON M5H 2S5
T: (416) 777-3094
cameronchristie@kpmg.ca

From: Altaf Chaudhary <achaudhary@duro.ca>
Sent: Tuesday, October 29, 2024 9:23 AM
To: Christie, Cameron <cameronchristie@kpmg.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>; Chris Economou <ceconomou@duro.ca>; Rusu, Ana <anarusu@kpmg.ca>; Gani, Iman <igani@kpmg.ca>
Subject: RE: COT TAU Audit Meeting [EXTERNAL]

Good morning,
Today is not possible but Thursday 10 Am also works good for us as well. Thanks

Altaf Chaudhary, P.Eng.
Department Manager – Building Rehabilitation Department
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achaudhary@duro.ca | www.duro.ca
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From: Christie, Cameron <cameronchristie@kpmg.ca>
Sent: Monday, October 28, 2024 9:26 PM
To: Altaf Chaudhary <achaudhary@duro.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>; Chris Economou <ceconomou@duro.ca>; Rusu, Ana <anarusu@kpmg.ca>; Gani, Iman <igani@kpmg.ca>
Subject: RE: COT TAU Audit Meeting

Thanks for accommodating, Altaf.

If you are able, we can meet tomorrow (Tuesday) afternoon in case your unavailability is more on Wednesday. If not, Thursday morning, sometime between 10am and noon would be best. Please let me know if any of that works for you.

Kind regards,
Cam

Cameron Christie, CPA, CMA
Senior Manager, Advisory

KPMG LLP
Bay Adelaide Centre
333 Bay Street Suite 4600
Toronto, ON M5H 2S5
T: (416) 777-3094
cameronchristie@kpmg.ca

From: Altaf Chaudhary <achaudhary@duro.ca>
Sent: Monday, October 28, 2024 4:20 PM
To: Christie, Cameron <cameronchristie@kpmg.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>; Chris Economou <ceconomou@duro.ca>; Rusu, Ana <anarusu@kpmg.ca>; Gani, Iman <igani@kpmg.ca>
Subject: RE: COT TAU Audit Meeting [EXTERNAL]

Thanks Cameron.

We can meet either Thursday or Friday .

I am going on vacation next week for 3 weeks and will be back on Nov.25 so for sure I will try to meet either of these 2 days. Please advise your available time slots.

Altaf Chaudhary, P.Eng.
Department Manager – Building Rehabilitation Department
C: 416.795.0222 | O: 905.670.1998 x106 | F: 905.670.4662
achaudhary@duro.ca | www.duro.ca

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Roofing & Traffic Topping | Epoxy & Decorative Flooring | Mastic Asphalt

From: Christie, Cameron <cameronchristie@kpmg.ca>
Sent: Monday, October 28, 2024 4:06 PM
To: Altaf Chaudhary <achaudhary@duro.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>; Chris Economou <ceconomou@duro.ca>; Rusu, Ana <anarusu@kpmg.ca>; Gani, Iman <igani@kpmg.ca>
Subject: RE: COT TAU Audit Meeting

Hi Altaf,

Just to give you the context, our role in this is only as fact finder, we do not make recommendations as to what action the City should pursue, if any – that's entirely an internal discussion there and we are generally not part of that process; we just report based on what we have seen and heard. What I'm hoping to talk about is whether there is more we could see and hear, to put it that way, and explore some of those options with you (e.g., to confirm some things we have seen in the documents you provided – thank you).

Does that help? I'd still like to meet with you but don't want to disrupt your business too much if Wednesday is a major deadline for you – we can come on Thursday if that works? Please let me know.

Kind regards,
Cam

Cameron Christie, CPA, CMA
Senior Manager, Advisory

KPMG LLP
Bay Adelaide Centre
333 Bay Street Suite 4600
Toronto, ON M5H 2S5
T: (416) 777-3094
cameronchristie@kpmg.ca

From: Altaf Chaudhary <achaudhary@duro.ca>
Sent: Monday, October 28, 2024 3:54 PM
To: Christie, Cameron <cameronchristie@kpmg.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>; Chris Economou <ceconomou@duro.ca>; Rusu, Ana <anarusu@kpmg.ca>; Gani, Iman <igani@kpmg.ca>
Subject: RE: COT TAU Audit Meeting [EXTERNAL]

Hi Cameron,

Sorry for the late response. I got your voice mail as well. I was busy as I am working on a big tender closing this Wednesday.

Christie we got a letter from the City stating that they are recommending to ban us from bidding for the maximum penalty for 5 years so what we thought that the audit process is finished as KPMG has already given their recommendations to the City and thus I even did not upload the G10 invoices folder to the Share file system.

Please advise if you want me to upload this folder and probably that was the reason you want to meet with us again. Please advise. Thanks

Altaf Chaudhary, P.Eng.

Department Manager – Building Rehabilitation Department

C: 416.795.0222 | O: 905.670.1998 x106 | F: 905.670.4662

achaudhary@duro.ca | www.duro.ca

1860 Shawson Dr, Mississauga ON L4W 1R7 Canada

Building Rehabilitation | Concrete Flooring | Waterproofing

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From: Christie, Cameron <cameronchristie@kpmg.ca>

Sent: Friday, October 25, 2024 12:51 PM

To: Altaf Chaudhary <achaudhary@duro.ca>

Cc: Armstrong, Peter W <pearstrong@kpmg.ca>; Chris Economou <ceconomou@duro.ca>; Rusu, Ana <anarusu@kpmg.ca>; Gani, Iman <igani@kpmg.ca>

Subject: RE: COT TAU Audit Meeting

Hi Altaf,

Thank you for all of the documents you have provided thus far and your assistance with this.

I'd like to set up another meeting with you to clarify a few things and discuss what might be of further assistance to us in getting to the bottom of this. Would you be available to meet in person next Wednesday (30th) morning? I can come to your office as last time, if that works for you. If so, please let me know what time works best.

Kind regards,

Cam

Cameron Christie, CPA, CMA

Senior Manager, Advisory

KPMG LLP

Bay Adelaide Centre

333 Bay Street Suite 4600

Toronto, ON M5H 2S5

T: (416) 777-3094

cameronchristie@kpmg.ca

From: Altaf Chaudhary <achaudhary@duon.ca>
Sent: Thursday, September 26, 2024 10:04 AM
To: Christie, Cameron <cameronchristie@kpmg.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>; Gani, Iman <igani@kpmg.ca>; Chris Economou <ceconomou@duon.ca>
Subject: RE: COT TAU Audit Meeting [EXTERNAL]

Thanks Cam for letting me know about this protocol. Yes I will be able to upload to your designated set up system.

Altaf Chaudhary, P.Eng.

Department Manager – Building Rehabilitation Department
C: 416.795.0222 | O: 905.670.1998 x106 | F: 905.670.4662
achaudhary@duon.ca | www.duron.ca
1860 Shawson Dr, Mississauga ON L4W 1R7 Canada
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From: Christie, Cameron <cameronchristie@kpmg.ca>
Sent: Thursday, September 26, 2024 12:00 PM
To: Altaf Chaudhary <achaudhary@duon.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>; Gani, Iman <igani@kpmg.ca>; Chris Economou <ceconomou@duon.ca>
Subject: RE: COT TAU Audit Meeting

Hi Altaf,

Unfortunately, our firm has some quite stringent requirements around what file sharing platforms we are able to access. Iman will set up an account for you to access the one that we use, and you will get the login details emailed to you from the Sharefile system. Would you be able to upload these documents there, once you have access? Or, if there is someone else you would like to have access, please let us know. Sorry for the inconvenience.

Kind regards,
Cam

Cameron Christie, CPA, CMA
Senior Manager, Advisory

KPMG LLP
Bay Adelaide Centre
333 Bay Street Suite 4600
Toronto, ON M5H 2S5

T: (416) 777-3094
cameronchristie@kpmg.ca

From: Altaf Chaudhary <achaudhary@duro.ca>
Sent: Thursday, September 26, 2024 11:53 AM
To: Christie, Cameron <cameronchristie@kpmg.ca>; Chris Economou <ceconomou@duro.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>; Gani, Iman <igani@kpmg.ca>
Subject: RE: COT TAU Audit Meeting [EXTERNAL]

Hi Cam,

Please see attached link for the G-11 quotes for now. We are working on the invoices and will submit soon. Thanks

[Audit Related](#)

Altaf Chaudhary, P.Eng.

Department Manager – Building Rehabilitation Department
C: 416.795.0222 | O: 905.670.1998 x106 | F: 905.670.4662
achaudhary@duro.ca | www.duro.ca
1860 Shawson Dr, Mississauga ON L4W 1R7 Canada
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Roofing & Traffic Topping | Epoxy & Decorative Flooring | Mastic Asphalt

From: Christie, Cameron <cameronchristie@kpmg.ca>
Sent: Tuesday, September 24, 2024 1:22 PM
To: Altaf Chaudhary <achaudhary@duro.ca>; Chris Economou <ceconomou@duro.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>
Subject: RE: COT TAU Audit Meeting

Hi Chris and Altaf,

Thank you for responding to our requests for information. We have done a preliminary review of the documentation you provided and have identified additional documents that would be helpful for our review.

In respect of each of the Change Orders listed in the Group 10 and Group 11 Change Order Summaries provided, it would be helpful if you could provide us with copies of the following documents where they pertain to the differences you have identified:

1. Quotes provided by subcontractors to Duro.
2. Quotes submitted by Duro to Arcadis/IBI and/or representatives of the City associated with the work.
3. Invoices associated with the work (as well as copies of any credits and other payments made in respect of the work).
4. Supporting documentation showing the amount that Duro was paid, and showing the date when you were paid (e.g, email or e-transfer email, cheque copies, remittance, banking

documentation, etc.).

5. Proof of payment showing the amount that Duron paid to subcontractors and the date they were paid (e.g, email or e-transfer email, cheque copies, remittance, banking documentation, etc.).
6. Emails/texts that communicated/accompanied your firm sending/receiving quotes and invoices, and copies of the attachments, and any other relevant communications (e.g., if there was discussion about pricing or requests for something to be re-quoted). If email was not used, please outline how quotes and invoices were sent, when they were sent and to whom they were sent.

We understand that it may take time to provide all these documents. If it is more convenient for you to send documents in batches, please feel free to do so.

Following receipt of the information we may be in contact with questions. This exercise is a priority for the City, and we appreciate your attention to this matter. Please reach out if you have questions.

Kind regards,

Cam

Cameron Christie, CPA, CMA

Senior Manager, Advisory

KPMG LLP

Bay Adelaide Centre

333 Bay Street Suite 4600

Toronto, ON M5H 2S5

T: (416) 777-3094

cameronchristie@kpmg.ca

From: Altaf Chaudhary <achaudhary@duro.ca>

Sent: Thursday, August 29, 2024 5:21 PM

To: Christie, Cameron <cameronchristie@kpmg.ca>; Chris Economou <ceconomou@duro.ca>

Cc: Armstrong, Peter W <pearmstrong@kpmg.ca>

Subject: RE: COT TAU Audit Meeting [EXTERNAL]

Hi Cam,

Please see attached. And sorry for the delay. I was caught by the fever so was not able to finish it by yesterday.

Altaf Chaudhary, P.Eng.

Department Manager – Building Rehabilitation Department

C: 416.795.0222 | O: 905.670.1998 x106 | F: 905.670.4662

achaudhary@duro.ca | www.duro.ca

1860 Shawson Dr, Mississauga ON L4W 1R7 Canada

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From: Christie, Cameron <cameronchristie@kpmg.ca>

Sent: Friday, August 23, 2024 10:39 AM

To: Altaf Chaudhary <achaudhary@duon.ca>; Chris Economou <ceconomou@duon.ca>

Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>

Subject: RE: COT TAU Audit Meeting

Hi both,

Hope you are doing well. I was just wondering if you had made any progress and had an idea of when we might be able to get things? As you know, this is priority for all of us and we want to be able to tell our client that we are moving forwards. If there is anything you can send to us as and when it is ready, we can get people to start to look at it.

Thanks, and have a good weekend.

Cam

Cameron Christie, CPA, CMA

Senior Manager, Advisory

KPMG LLP

Bay Adelaide Centre

333 Bay Street Suite 4600

Toronto, ON M5H 2S5

T: (416) 777-3094

cameronchristie@kpmg.ca

From: Altaf Chaudhary <achaudhary@duon.ca>

Sent: Friday, August 9, 2024 9:53 AM

To: Christie, Cameron <cameronchristie@kpmg.ca>; Chris Economou <ceconomou@duon.ca>

Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>

Subject: RE: COT TAU Audit Meeting [EXTERNAL]

Hi Cam,

Thanks for your e mail. We will be working in giving the response to your queries as soon as possible.
thanks

Altaf Chaudhary, P.Eng.

Department Manager – Building Rehabilitation Department

C: 416.795.0222 | O: 905.670.1998 x106 | F: 905.670.4662

achaudhary@duon.ca | www.duron.ca

1860 Shawson Dr, Mississauga ON L4W 1R7 Canada

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From: Christie, Cameron <cameronchristie@kpmg.ca>

Sent: August 8, 2024 4:31 PM

To: Altaf Chaudhary <achaudhary@duon.ca>; Chris Economou <ceconomou@duon.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>
Subject: RE: COT TAU Audit Meeting

Hi Altaf and Chris,

Thanks again for your time and participation in this.

As you collect some of the items we discussed around the issues, I just wanted to lay out some things that would be of interest to us, in case it helps guide what you are doing. Please don't hesitate to include anything else you think is important. Broadly, we are interested in knowing more about what you did to investigate and respond to the issues, such as:

- What projects did you look into: just TAU, or all work done for the City, or something wider than that?
- Who are the different project managers (and anyone else) you looked into? Whether or not you concluded they were involved in any way.
- What date range did you look at (i.e., work performed during what periods)?
- What documents did you look at? Presumably you looked at quotes from subcontractors and what was submitted towards Change Orders, but did you also look at accounting and payment documents, invoices, anything else?
- Did you look at communications, and if so, what kinds and from what sources (e.g., did you collect and review the PMs' mailboxes, phones/instant messaging, other communications, and are these preserved/still available)?
- Who did you speak with as part of your investigation, in terms of understanding what may have happened? What did they say?
- What do you think is the total value of the anomalies? If you had some kind of spreadsheet broken down with details, e.g., the amount 'extra' you think there is by subcontractor/quote, Change Order, Group or whatever other listing you have access to, it would be very helpful.
- What do you think happened and what are the root causes? We spoke about some of this but if you had notes of your discussions or something else in the documents you have looked at, it would help.
- How did you come to the understanding that an assistant/administrative person was doing things that PMs were telling him or her to do?
- What are all of the things you did to stop and remediate this? We mentioned some of them, but details such as who you spoke to and when, who you intend to have carry out the ethics training and any other details would be useful.
- If you had a timeline of when you found out about this issue and the dates of various actions you took, that would be useful to us as well.

Hopefully that gives you some kind of indication about the type of thing that would be useful to us – let me know if you have questions. Please also let me know when you think you might have some things pulled together so we can keep our client apprised of the progress we are making. We will likely have more questions as we go through this process, but in the meantime, thanks for your help with this.

Kind regards,
Cam

Cameron Christie, CPA, CMA
Senior Manager, Advisory

KPMG LLP
Bay Adelaide Centre
333 Bay Street Suite 4600
Toronto, ON M5H 2S5
T: (416) 777-3094
cameronchristie@kpmg.ca

From: Altaf Chaudhary <achaudhary@duro.ca>
Sent: Friday, July 26, 2024 11:42 AM
To: Christie, Cameron <cameronchristie@kpmg.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>; Chris Economou <ceconomou@duro.ca>
Subject: RE: COT TAU Audit Meeting [EXTERNAL]

Hi Cam,
Thursday August 01 at 10-30 Am will work for us . The meeting will also be attended by Chris Economou.
Our office is located at 1860 Shawson Drive, Mississauga.
thanks

Altaf Chaudhary, P.Eng.
Department Manager – Building Rehabilitation Department
C: 416.795.0222 | O: 905.670.1998 x106 | F: 905.670.4662
achaudhary@duro.ca | www.duro.ca
1860 Shawson Dr, Mississauga ON L4W 1R7 Canada
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From: Christie, Cameron <cameronchristie@kpmg.ca>
Sent: July 26, 2024 11:06 AM
To: Altaf Chaudhary <achaudhary@duro.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>
Subject: RE: COT TAU Audit Meeting

Hi Altaf,

Thanks for getting back to us and working through this. I think your input will be very helpful.

We are available to come to your offices to meet next Thursday or Friday, any time between 10.30am and 3pm either day. Please let me know what works for you. Just so you are aware, we will

attend with KPMG people only, not our client, so we can have an open discussion between us and yourself/management. Likely it will be just Peter and I, and maybe a junior accountant to take notes. If you let us know who will be attending from your side, I'll send around a calendar invite just so we coordinate and protect this time.

Hopefully that all works for you – please let me know.

Kind regards,
Cam

Cameron Christie, CPA, CMA

Senior Manager, Advisory

KPMG LLP
Bay Adelaide Centre
333 Bay Street Suite 4600
Toronto, ON M5H 2S5
T: (416) 777-3094
cameronchristie@kpmg.ca

From: Altaf Chaudhary <achaudhary@duro.ca>
Sent: Thursday, July 25, 2024 10:28 AM
To: Christie, Cameron <cameronchristie@kpmg.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>
Subject: RE: COT TAU Audit Meeting [EXTERNAL]

Hi Cam,
We got instructions from City last evening.
I can meet you sometimes next week per your availability. Please let me which days /times you prefer to have the discussion. Thanks

Altaf Chaudhary, P.Eng.

Department Manager – Building Rehabilitation Department
C: 416.795.0222 | O: 905.670.1998 x106 | F: 905.670.4662
achaudhary@duro.ca | www.duro.ca
1860 Shawson Dr, Mississauga ON L4W 1R7 Canada
*Building Rehabilitation | Concrete Flooring | Waterproofing
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From: Christie, Cameron <cameronchristie@kpmg.ca>
Sent: July 19, 2024 9:43 AM
To: Altaf Chaudhary <achaudhary@duro.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>
Subject: RE: COT TAU Audit Meeting

Hi Altaf,

Hope you're well. Unfortunately I didn't hear from you so we of course won't be there today. I know you are likely busy but we really do need to speak with you and get your thoughts on a few things. Are there days/times that would work better for you next week?

Thanks,
Cam

Cameron Christie, CPA, CMA
Senior Manager, Advisory

KPMG LLP
Bay Adelaide Centre
333 Bay Street Suite 4600
Toronto, ON M5H 2S5
T: (416) 777-3094
cameronchristie@kpmg.ca

From: Christie, Cameron
Sent: Tuesday, July 16, 2024 9:50 PM
To: 'achaudhary@duon.ca' <achaudhary@duon.ca>
Cc: Armstrong, Peter W <pearmsstrong@kpmg.ca>
Subject: COT TAU Audit Meeting

Hi Altaf,

As you will be aware, the City of Toronto has engaged us to perform an audit of the Toronto Accessibility Upgrades program. We have now reached a stage where we would like to have a meeting with you to gather information needed to complete our work.

Would you be available to meet with us to kick off this stage of our work, on Friday morning around 10.30 or 11am? We can come to your Shawson Dr. offices to meet in person. Please let me know what timing works for you.

Kind regards,
Cam

Cameron Christie, CPA, CMA
Senior Manager, Advisory

KPMG LLP
Bay Adelaide Centre
333 Bay Street Suite 4600
Toronto, ON M5H 2S5

T: (416) 777-3094
cameronchristie@kpmg.ca

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TAB P

Duron Ontario Ltd.			
Revenue			
Jan - Sep 2024			
Restoration			
213072	COT/GR10	GROUP 10	327,757
223023	COT/GR30	COT - GROUP 30	28,177
223026	COT/GR6	GROUP 6	13,632
223028	COT/BERM	BERMONDSEY TS FACILITY UPGRADE	592,400
223031	COT/GR2	GROUP 2	67,384
243005	COT/TIPF	DISCO ROAD TIP FLOOR REHAB	1,062,340
Total			2,091,690
Jan - Dec 2023			
Restoration			
203100	COT/GR11	GROUP 11	2,110
213021	COT/GR9	GROUP 9	37,639
213072	COT/GR10	GROUP 10	1,423,752
223023	COT/GR30	COT - GROUP 30	2,325,198
223026	COT/GR6	GROUP 6	1,364,592
223028	COT/BERM	BERMONDSEY TS FACILITY UPGRADE	3,919,512
223031	COT/GR2	GROUP 2	6,501,002
Total			15,573,806
Jan - Dec 2022			
Restoration			
203100	TORO/GR11	GROUP 11	643,976
213021	TORO/GR9	GROUP 9	1,410,483
213072	TORO/GR10	GROUP 10	4,645,310
223023	TORO/GR30	COT - GROUP 30	3,927,552
223026	COT/GR6	GROUP 6	2,598,449
223028	COT/BREM	BREMONDSEY TS UPGRADES	541,470
223031	COT/GR2	GROUP 2	1,087,109
Total			14,854,349

TAB Q

From: [Sabrina Waraich](#)
To: [Sabrina Waraich](#)
Subject: FW: Privileged and Confidential Information DURON ONTARIO LTD TAU PROGRAM
Date: Wednesday, November 6, 2024 5:16:35 PM
Attachments: [image002.png](#)
[image004.png](#)
Importance: High

From: Chris Economou
Sent: January 5, 2024 12:58 PM
To: 'Tanuja Saha' <Tanuja.Saha@toronto.ca>
Subject: RE: Privileged and Confidential Information DURON ONTARIO LTD TAU PROGRAM
Importance: High

Hi Saha I'm writing concerning first the Audit which was being conducted by the City, and secondly to find out anything further to your email below.

I'm sure you understand that this entire situation has been extremely troubling for our company, and currently another one of our customers which we have successfully been working with for years, the TDSB, has temporarily halted our Bidding with them.

Can you please let me know what the current status is of this whole situation?

Thanking you in advance,

Chris Economou, Hon.B.A.

Director

C: 416-795-0211 | O: 905.670.1998 x117 | F: 905.670.4662

ceconomou@duon.ca | www.duron.ca

1860 Shawson Dr, Mississauga ON L4W 1R7 Canada

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From: Tanuja Saha <Tanuja.Saha@toronto.ca>
Sent: Thursday, May 25, 2023 2:06 PM
To: Altaf Chaudhary <achaudhary@duon.ca>; Chris Economou <ceconomou@duon.ca>
Cc: Lisa (PMO) Barroso <Lisa.Barroso@toronto.ca>; Priya Ganesalingam <Priya.Ganesalingam@toronto.ca>; Matt Harding <Matt.Harding@toronto.ca>
Subject: Privileged and Confidential Information
Importance: High

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- If the email looks **suspicious**, report it to **Duron's** Security Team

Good afternoon,

This email is for your information.

We would like to bring to your attention that The City of Toronto has been contacted by a member of the media seeking to gather more information regarding alleged invoice inconsistencies with Duron for the Toronto Accessibility Upgrades program. The City has issued a statement to the individual, without naming any specific parties, stating that the City is initiating an audit related to the alleged inconsistencies observed across the Toronto Accessibility Upgrades program. The City is investigating the source of the leak.

Thank you,

Tanuja Saha P.Eng., PMP®

Project Director

City of Toronto | Project Management Office

Metro Hall - 55 John Street, 2nd Floor

Toronto, ON M5V 3C6

P: 416-392-3225 | M: 437-249-0167

Tanuja.Saha@toronto.ca | www.toronto.ca



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TAB R

Duron Ontario Ltd. Code of Conduct

Welcome to our Code of Conduct. This guide outlines the principles and standards that govern our behaviour. We require all employees, directors, and shareholders to familiarize themselves with these guidelines, as they are vital to maintaining our shared values and ensuring the success of our organization. After reviewing this guide, please discuss any questions you have with your direct manager for clarification. If there are uncertainties about a possible issue or conflict, we turn to our leadership team for guidance.

Leadership Pledge

Duron Ontario Ltd. is committed to the highest standards of business conduct. All employees, directors, and shareholders must be committed to these standards while doing their jobs for our organization. We emphasize taking action and making decisions that support the long-term success of our company rather than pursuing short-term gains.

- **Honesty and Integrity:** We are honest in all our interactions, ensuring transparency, truthfulness, and integrity in every aspect of our work and communications. We are ethical and accountable for all our actions and decisions. We use the organization's assets and resources for business purposes only and in a responsible manner.
- **Confidentiality:** We protect sensitive and confidential information within our organization. We understand that breaches of confidentiality are serious and will not be tolerated.
- **Compliance and Systems:** We adhere to all applicable laws, regulations, and industry standards. We use technology and tools responsibly while protecting company property, data, and systems.
- **Customer Focus:** We work hard to understand our customers' needs by listening, communicating clearly, and addressing issues or concerns openly and swiftly. We are committed to our customers' success and will deliver the highest-value solutions for their construction challenges.
- **Work Ethic:** We deliver high-quality results by completing tasks fully and accurately the first time. We are efficient, plan with the end goal in mind, and adjust as needed as our work progresses. We take pride in our work and value each person's contribution as essential to our shared success.
- **Continuous Improvement Mindset:** We foster a continuous improvement mindset focused on curiosity as we learn, grow, and develop in our profession. We strive to identify the root cause of issues, implement effective solutions, and support each other in pursuing excellence in all that we do. We value asking good questions and exploring innovative ideas.
- **Safety:** We prioritize our employees and customers' safety and well-being by adhering to rigorous safety standards and practices, ensuring a secure environment in all our operations and interactions. We are committed to sustainability and minimizing our environmental impact in our work. We follow environmentally responsible practices.
- **Teamwork, Collaboration and Support:** We value and promote teamwork and collaboration. We support each other as we work to achieve our common goals, making sure every team member feels valued. In our conversations, we show mutual respect and ensure that all voices are heard, regardless of differing opinions.

- **Pursuit of Excellence:** We appreciate, respect, and acknowledge employees who not only meet their responsibilities but also strive to exceed expectations. We foster an environment that inspires initiative and extra effort. Together, we aim for excellence in everything we do.
- **Accountability:** We are accountable by taking ownership of our actions and responsibilities, consistently meeting our commitments, and being transparent in our performance and decision-making.
- **Respect and Dignity:** We treat others with respect and dignity by embracing diversity, accepting differences, and fostering an inclusive environment where everyone feels valued and supported. We show respect for people, time, and resources.

While this Code may not address all behaviour, compliance, or ethical concerns that an employee, director, or shareholder may encounter in the workplace, it should be considered the primary source of information regarding conduct.

When presented with options, we consistently choose the path that aligns with integrity and ethical standards. We hold ourselves and our employees accountable to these principles. We look for ways to encourage growth and development while adhering to the highest standards of conduct and ethics. We encourage open discussions. We ask questions when we are unsure.

Raising Concerns

We expect that issues contradicting our Code of Conduct, or any organization policy will be brought forward for investigation and resolution in the spirit of transparency and accountability. We encourage all employees to report any concerns about illegal, unethical, or harmful activities within the organization. We have a responsibility to protect our company's culture and reputation.

If you witness or become aware of any behaviour that violates our company policies or legal regulations, please report it immediately. You can do so through the following channels:

- **Internal Reporting:** Contact your manager or the designated compliance officer.
- **External or Anonymous Reporting:** If you prefer to report your concerns to someone outside the company or anonymously, contact True North HR Consulting's Lisa Cunningham at 416.238.1400 extension 118 or via email at lisa.cunningham@truenorthhr.ca.

We assure you that all reports will be taken seriously and investigated promptly. We also protect against retaliation for those reporting concerns in good faith. Your commitment to transparency and accountability helps us maintain a positive and ethical work environment for everyone.

Thank you for your dedication to upholding our company Code of Conduct.

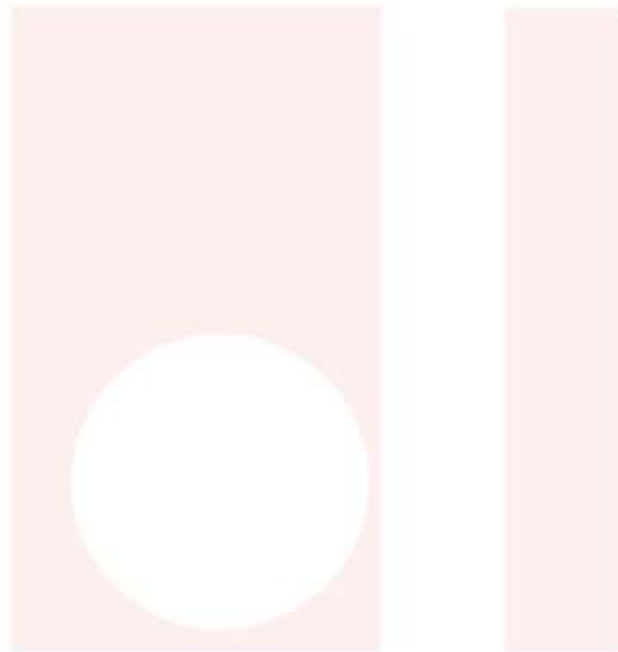
Acknowledgement and Consent

I acknowledge receipt of the Code of Conduct. I understand that it is my responsibility to comply with its requirements and any revisions made by Duron Ontario Ltd. I agree to comply with its principles and standards.

Signed: _____

Name: _____

Date: _____



Duron Ontario Ltd.

1860 Shawson Drive, Mississauga, Ontario L4W 1R7 Canada

Telephone: (905) 670-1998 Fax: (905) 670-4662 Toll Free: 800-94-DURON www.duron.ca

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TAB S

Duron Ontario Ltd. Code of Ethics

Welcome to our Code of Ethics. Our commitment to ethical behaviour is foundational to our mission, vision, and success. This guide will serve as a guiding framework, helping to foster a culture of integrity, respect, and accountability in all our actions and interactions. We require all employees, directors, and shareholders to familiarize themselves with the Code of Ethics, as they are vital to maintaining our shared values and ensuring the success of our organization. After reviewing this guide, please discuss any questions you have with your direct manager for clarification. If there are uncertainties about a possible issue or conflict, we turn to our leadership team for guidance.

Leadership Pledge

Duron Ontario Ltd. is committed to the highest standards of business conduct. We hold ourselves and our employees, directors, and shareholders responsible for practicing ethical decision-making that considers the impact on all stakeholders. We prioritize making decisions and taking actions that support the long-term success of our company rather than pursuing short-term gains. Our choices are grounded in the following principles.

- **Commitment to Ethical Conduct:** We commit to making fair, transparent and ethical decisions. We strive for integrity, accountability, and reliability, honouring our commitments and taking responsibility for our actions.
- **Honesty and Transparency:** We uphold the principles of honesty, sincerity, truthfulness and transparency in all communications and actions.
- **Customer Commitment:** We prioritize our customers' happiness by delivering solutions that meet their needs, ensuring our advice and decisions are rooted in ethical principles and practices.
- **Quality of Work:** We are committed to delivering high-quality services. We provide our employees with the necessary tools, training, and support and empower them to achieve results that align with our goals and values.
- **Safety:** We are committed to maintaining a safe work environment. We prioritize the safety and well-being of our team and customers by adhering to rigorous safety standards.
- **Environmental Stewardship:** We recognize our responsibility to protect the environment and promote sustainability in our operations. We engage in environmentally responsible practices.
- **Equity, Fairness, and Respect:** We promote a diverse and inclusive workplace to ensure equitable and fair treatment of our employees, subcontractors, and customers. We treat everyone with dignity and respect, valuing diversity and fostering an environment where everyone feels included. We have zero tolerance for bullying, harassment, and violence, ensuring a safe and supportive atmosphere for all.
- **Confidentiality and Trust:** We are dedicated to protecting sensitive information and upholding the trust placed in us by our customers and colleagues. We recognize that breaches of confidentiality undermine our integrity.
- **Conflict of Interest:** We make decisions based on the best interests of the organization rather than personal gain. We avoid situations where personal interests could compromise, or appear to compromise, our judgement and decision-making.
- **Compliance with Regulations:** We adhere to all relevant laws, regulations, and industry standards, recognizing our responsibility to always act within legal and ethical boundaries.

Our Code of Ethics complements our Code of Conduct, reinforcing the principles that guide our decisions and behaviour. Together, they convey our values and the ethical standards and practices we uphold at Duron Ontario Ltd.

While this Code may not address all possible behaviour, compliance, or ethical concerns that an employee, director, or shareholder may encounter in the workplace, it should be considered the primary source of information regarding ethical guiding principles.

When presented with options, we consistently choose the path that aligns with integrity and ethical standards. We hold ourselves and our employees accountable to these principles. We look for ways to encourage growth and development while adhering to the highest standards of conduct and ethics. We encourage open discussions. We ask questions when we are unsure.

Raising Concerns

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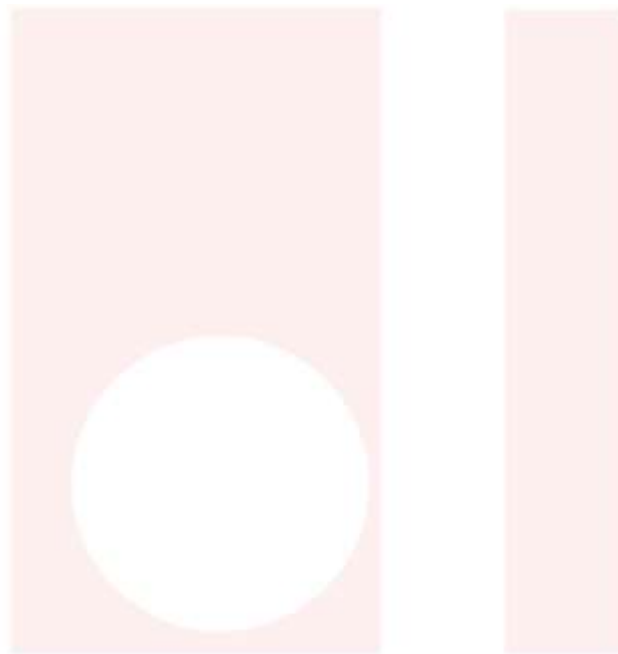
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TAB T

Document Control Procedures for Changes to the Contract Values- Dated July 17,2024

- These procedures will be applicable for any change order /RFQ pricing
- Project Manager will be responsible for acknowledgment signing of the request for the change order pricing and will log the pricing request into the RFQ folder
- PM with the assistance of site supervisor and project coordinator will price the change and will request the pricing for any items where subcontractors are required.
- All original pricing as obtained from the subs will also be logged into the relevant RFQ folder including the originating e mail enclosing the said price from the Sub.
- DWAS /T& M to be completed on a daily basis with utmost care for any work which is either a change order issued by the Customer or a claim initiated by us. The DWAS/T & M needs to get signed by the Customer as well either on daily or weekly basis per Customer requirements.
- Labour rates are to be approved and up to date (on yearly basis)
- We should always use OPSS 127 rates for the owned equipment. Rental equipment we can use the invoices and we can also apply markup on the invoices.
- RFQ's to be priced carefully and on a timely basis
- The overhead and profit percentages are to be applied correctly and should be as per Contract
- NO alterations or creation of any kind of quotes/invoices or any other document or reports from the subs or suppliers will be tolerated and there will be zero tolerance on any such action. Such action will be grounds for immediate termination with cause.
- Any change order/RFQ should be priced in a transparent and easy to follow manner. The customer/client should have the ability to obtain backup and clear answers to the queries regarding the same.
- At all times all change orders should be in strict compliance to the contract with the client.
- If any PM/Site supervisor finds any questionable document they must bring to the notice of department head
- After the change order is priced and finalized by the PM, notify the department manager and get it reviewed before submission to the client.
- Subcontractor's T/M if required will also be done on a timely basis.