

BROADER CONSTRUCTION ASSOCIATION CONSULTATION GROUP

Meeting Minutes – May 30, 2016

11:30 - 1:30 p.m., City Hall, 2nd Floor, Committee Room #3

Attendees	
<i>Name</i>	<i>City Of Toronto</i>
Michael Pacholok (Chair)	CPO & Director, Purchasing & Materials Management
Daniel McLaughlin	Manager Construction, Parks Forestry & Rec.
Joanne Kehoe	Manager, Construction Services - PMMD
Kim Pafford (meeting minutes)	Admin. Assistant, Purchasing & Materials Management
Michael D'Andrea	General Manager – Engineering & Construction Services
Rod Blake	Solicitor, Legal Services
Steven Kodama	Director, Transportation Services
<i>Name</i>	<i>Association</i>
Adam Tracey	OAA
Anthony Fernando	Residential & Civil Construction Alliance of Ontario
Barry Steinberg	Consulting Engineers of Ontario
David Frame	Ontario General Contractor Association
Giovanni Cautillo	GT Sewer & Watermain Contractors Association
Patrick McManus	Ontario Sewer & Watermain Construction Association
Rob Bradford	Toronto Area Road Builders Association
Rob Leigh	OSCI
Regrets	
<i>Name</i>	<i>City Of Toronto</i>
Bill De Angelis	Director, Engineering & Construction Services
Dave Nosella	PM Capital Construction, Parks, Forestry & Recreation
Denzil Minnan-Wong	Deputy Mayor, City of Toronto
Frank Molinari	Director, Facilities Management
Garry Boychuk	Manager Capital Works, Toronto Water
Janie Romoff	General Manager, Parks, Forestry & Recreation
Josie Scioli	Chief Corporate Officer
Kyp Perikleous	Director, Transportation Services
Lou Di Gironimo	General Manager, Toronto Water
Michael Schreiner	Director, Parks, Forestry & Recreation
Mika Raisanen	Director, Engineering & Construction Services
Stephen Buckley	General Manager, Transportation Services
Sunil Sharma	General Manager, Facilities Management
Wayne Chu	Policy Development Officer, SDFA
<i>Name</i>	<i>Association</i>
Al Prowse	Mechanical Contractors Association
Andy Manahan	Residential and Civil Construction Alliance Ont.
Ashley De Souza	ORBA
Ashton Martin	Toronto Area Road Builders Association
Brian Gage	OCSI
Carl Bodimeade	Ontario Coalition for Sustainable Infrastructure
Chris Conway	Ready Mixed Concrete Association
Clive Thurston	OGCA
Dale Harley	ORBA
David Zurawel	Consulting Engineers of Ontario

Eric Lewis	Heavy Construction Assoc. of Toronto
Geoff Wilkinson	ORBA
Kristi Doyle	OAA
Toben Jerry	OAFS
Vince Aurilio	OHMPA

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Item	Discussion / Comments Raised	Action
1. Welcome & Introductions	<ul style="list-style-type: none"> Round table introductions 	
2. Review and Confirmation of Minutes (attachment)	<ul style="list-style-type: none"> Minutes approved by group Minutes to be posted to the City website 	<ul style="list-style-type: none"> Minutes approved Michael Pacholok to ensure minutes are posted to website
3. Update on the Issues List & Outreach to Member of Associations	<ul style="list-style-type: none"> Issues list distributed; members encouraged to add their name to items if they have not already done so Members on the list will be contacted for upcoming meetings related to their area of interest Please forward any new issues to Michael Pacholok if you do not see it on the list Michael D'Andrea asked that members send senior people with the appropriate depth of knowledge to the issue meetings Michael Pacholok flagged e-tendering as an item that members may be asked to test in future <p>Questions/Comments:</p> <ul style="list-style-type: none"> Giovanni Cautillo asked if the associations can send the contractors email addresses directly to Michael to let them know about upcoming meetings; <ul style="list-style-type: none"> Please do so and cc: Kim Pafford; Michael will copy the association member on any emails sent to the contractors Patrick McManus added, feedback from association members is that payments have been more timely David Frame asked if issue #2 "Prequalification-General Contractors & Subcontractors" included health and safety? <ul style="list-style-type: none"> It will in future, but not at this time; Michael Pacholok to discuss with Bill D'Angelis Giovanni Cautillo commented that the change order meeting is very fulsome 	<ul style="list-style-type: none"> Joanne Kehoe/Michael Pacholok to contact re: upcoming meetings
4. Purchasing By-law Changes - Comprehensive Economic	<ul style="list-style-type: none"> CETA; could be an impact on timelines for construction on projects over \$8.5M 	<ul style="list-style-type: none"> Michael Pacholok to add "Litigation with the City" to the

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<p>Trade Agreement (CETA) with the EU and,</p> <ul style="list-style-type: none"> - Supplier Code of Conduct 	<ul style="list-style-type: none"> ▪ Notice of intended procurement (CETA) has to be published 40 days before tender closes; with better planning on the City's part, the lowest we can cut it down to is 10 days ▪ The City needs to be organized so as not to affect timelines i.e. blackout periods etc. ▪ Michael D'Andrea – ECS has been pushing for budget pre-approval and pre-design the year beforehand; CETA forces them to advance the design earlier than they normally would; also, more contracts will be hitting the \$8.5M threshold due to more multi-year contracts ▪ Other changes: <ul style="list-style-type: none"> - The CoT will be more clear on negotiations; in the case of construction (where there is only one bidder and it is over budget) they will start to use the CCDC-23 approach of negotiating up to 15% - Post-Award disputes will be able to be brought to the Chief Purchasing Official, then to the City Treasurer if needed - Supplier debriefing happens within 60 days of award - Supplier code of conduct; important to elevate up into the by-law (due to the Charbonneau Commission findings) - Two new provisions (1. Litigation with the City and, 2. Interference Prohibited) - Re: Litigation with the City change: Change from suppliers in litigation with the City seeking pre-approval before bidding from the Treasurer, to the Treasurer, at its sole discretion, can disqualify a supplier in litigation with the City related to a contract awarded by the City on a case by case basis ▪ Various members raised concerns that the change to "Litigation with the City" feels threatening; implies that if the City is taken to court, the company will be excluded from other opportunities ▪ Members asked for clarity regarding the outcome of prior litigation; can the by-law state that a company will not be held responsible if they win in court? ▪ The by-law comes into effect January 2017; there is ample time to look at the group's issues and flush out mechanisms within the procedures ▪ The procedure for the dispute process will be written out over the next 6 months and welcome input from the group on the procedure 	<p>"Issues Identified at BCACG Meetings" list</p> <ul style="list-style-type: none"> ▪ Michael Pacholok/Kim Pafford to send a copy of the powerpoint presentation slide deck to the group
<p>5. Unbalanced Bid Analysis</p>	<ul style="list-style-type: none"> ▪ PMMD does an analysis, if they see that the following are true, they go to 	

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	<p>the Client Division with the problem; decision is then made to either cancel the call or move forward:</p> <ul style="list-style-type: none"> - Determination of a Significant Item -An individual item will be considered significant to the contract if a bidder has an item included in the proposal where the difference between the total cost of the item and the item estimate, expressed as a percent of the estimated total contract cost, is greater than or less than 0.50% for contracts less than \$2,000,000 and greater than or less than 0.25% for contracts \$2,000,000 and larger. - Determination of a Mathematically Unbalanced Bid -An item will be considered mathematically unbalanced bid if the difference between the low bidder's unit price and the unit price estimate, expressed as a percent of the unit price estimate, is greater than +50% or is less than -75%. - Any items where both 1 & 2 are true. <ul style="list-style-type: none"> ▪ It is the intention for PMMD to flag any problems for the Divisions, who will then further scrutinize; the Division will make the decision at that point ▪ Our unbalanced bid process will be posted online, showing how we make these decisions ▪ Patrick McManus stated bidders notice that the estimates are off, and this factors into the unbalanced bids; Michael Pacholok would like bidders to notify us, prior to a call closing, when they see that estimates may be off ▪ Transportation is trying to curtail this, trying to have better estimates to avoid cancelled calls 	
6. Other Business	<p>1. Contract Awards (Rob Bradford); has had feedback from his members that there has been a real slow down in contract awards – wondering the reason?</p> <p>Michael Pacholok pointed to volume of calls; PMMD has been snowed under and is waiting on metrics so we can raise those issues to the other Divisions – sometimes it is PMMD causing the slowdown, sometimes it is the client Divisions</p>	
7. Adjournment	Meeting Adjourned 1:30 p.m.	

Next Meeting:

October 3, 2016
Toronto City Hall
Meeting Room 3