

BROADER CONSTRUCTION ASSOCIATION CONSULTATION GROUP

MEETING NOTES MONDAY JUNE 8, 2015

2:00 p.m. – 4:00 p.m.

City Hall, 2nd Floor, Committee Room 3

Attendees:

NAME	CITY OF TORONTO
Deputy Mayor Minnan-Wong	
John Webster	Executive Assistant to Deputy Mayor Minnan-Wong
Michael Pacholok (Chair)	CPO & Director, Purchasing & Materials Management Division
Joanne Kehoe	Manager, Construction Services - PMMD
Janie Romoff	General Manager – Parks, Forestry & Recreation
Michael Schreiner	Director – Parks, Development & Capital Projects
Michael D'Andrea	General Manager – Engineering & Construction Services
Susan Samuel	Manager, Capital Works Delivery – E&CS
Penelope Palmer	(Acting) Manager, Engineering & Support Services – E&CS
Bill De Angelis	Director, DCMI – E&CS
Richard Noehammer	Director, Operational Support – Toronto Water
Rob Burlie	Manager, Special Projects – Transportation Services
Tom Kalogiannis	Manager, Service Maintenance – Transportation Services
Sunil Sharma	General Manager – Facilities Management
Barry Steinberg	Consulting Engineers of Ontario
Giovanni Cautillo	GT Sewer & Watermain Contractors Association
Eric Lewis	Heavy Construction Association of Toronto
Aldo Paganelli	Heavy Construction Association of Toronto
Brian McCabe (for Al Prowse)	Mechanical Contractors Association

NAME	ASSOCIATION
Toben Jerry	Ontario Association of Foundation Specialists
Carl Bodimeade	Ontario Coalition for Sustainable Infrastructure
David Frane	Ontario General Contractor Association
Nadia Todorova	Ontario Road Builders' Association
Chris Conway	Ready Mixed Concrete Association
Andy Manahan	Residential and Civil Construction Alliance Ont.
Ashton Martin	Toronto Area Road Builders Association
Rod Bradford	Toronto Area Road Builders Association
Jim Lee	Toronto Transit Commission
Mike Piementese	Toronto Transit Commission
Renata Wojteczko	Toronto Transit Commission
Patrick Mcmanus	Ontario Sewer & Watermain Construction Assoc.

Regrets:

NAME	CITY OF TORONTO/ASSOCIATION
Stephen Buckley	City of Toronto
Lou Di Gironimo	City of Toronto
Kristi Doyle	OAA
Adam Tracey	OAA
Brian Gauge	OCSI
Clive Thurston	OGCA
Doug Duke	OHMPA
Ashley D'Souza	ORBA
Geoff Wilkinson	ORBA

ITEM	DISCUSSION/COMMENTS RAISED	ACTION
1. Welcome & Introductions	<ul style="list-style-type: none"> • Round table introductions • Michael Pacholok thanked representatives of associations and City Division for attending today 	
2. Review and confirmation of Minutes <i>(attachment)</i>	<ul style="list-style-type: none"> • Minutes were reviewed • One comment: Item 1, third point – “The City did not invite certain companies” would be better worded “The City did not invite individual companies”. 	<p>Minutes approved pending change noted.</p> <p>Michael agreed to ensure minutes were also resent with the agenda for the next meeting.</p>
3. Review and Approve Terms of Reference <i>(attachment)</i>	<ul style="list-style-type: none"> • A minor change to the Terms of Reference, Appendix 1, Procedures: <ul style="list-style-type: none"> • Made additions to Membership and correction to representatives • Page 8, under General Procedures, Point 3, deleted "or Association representatives" • Page 8, under 'Reporting', last sentence, deleted "and Associations where applicable" • Otherwise members indicated no further changes. • The Broader Construction Association Consultation Group Terms of Reference Staff Report was considered at the May 26, 2015 Executive Committee Meeting. The report was for information. Executive Committee adopted one motion related to the item which was: 	<p>Michael Pacholok will incorporate the change. Finalize and send around for confirmation of sign off.</p>

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	<p>in these areas for better communication, transparency, consistency, and speedier decision making across the City Construction Divisions.</p> <ul style="list-style-type: none"> • Associations noted that we have to be clear about what the PM has authority to approve, and that approvals needing Senior Management authority are handled quickly. • Communication is key. PM needs to provide estimated time line of how long it will take to get approvals. • Contractors need to be able to have some decisions so they can continue to work as COR's make their way through various approval levels. • Associations also noted that it's important that the PM and Senior Management understand that the requested change is an actual change in work, not just something that's already in scope • To provide clarity, Associations suggested incorporating matrixes outlining different types of decisions and the approvals / time they would require into COM • Associations believe that PM should have more decision making authority • If there are fundamental changes in the scope of work, it is important to identify and communicate in a timely manner • Timelines should be an element of the discussions between the PM and Contractor to recognize if there are delays and take appropriate action to speed up work • If there are disagreements between the Contractor and Project Manager, these issues should be brought 	

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	<p>to the attention of Senior Management.</p> <p>2) Prequalification – general Contractors and Subcontractors</p> <ul style="list-style-type: none"> • Associations noted concern that appears we are bundling projects which may lessen competition and could possibly reduce local companies from being able to participate. • Need to be consistent on what requirements are being used to pre-qualify for similar jobs • Bid documents to pre-qualify should have clear language to be more transparent • City is looking to determine when we should use a pre-qualification, what is reasonable criteria that should be used and how long the list should be until it is refreshed (if not a project specific pre-qualification) <p>3) Timely Payment</p> <ul style="list-style-type: none"> • Engineering & Construction Services and Accounting have developed a process that started in March 2015 to improve timely payments. It has been proven successful and a roll out to other City Divisions is scheduled for September • City reviewing signing authorities to streamline • Timely payments will only work if contractor submits invoices that are clear and concise, and on time. • Associations noted that minor deficiencies in work should not hold up majority of payment • Associations noted that there should be a penalty against the City for late payment • Needs to be clear with Project Manager, attend site 	

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	<p>meetings for any changes, etc.</p> <ul style="list-style-type: none"> • Concern about POA's \$500k + requires City Council's approval which delays the project timelines • Associations noted that City has difficulty when they need to dip in to contingency or exceed contract value. These changes take extra time to approve. • Associations believe that \$500K approval limit for City Staff has been around for a long time and should be increased to reflect current costs. • Michael Pacholok advised PMMD is looking at changes to the Purchasing By-law, i.e. expanding staff's authority in increasing dollar value of contract to streamline process. Michael will need the new City Manager's view on this prior to moving forward on changes to the By-law • It was identified that many of these issues fall under Change Order Management process <p>4) Better Communication and Contract Management between contractors and the City of Toronto</p> <ul style="list-style-type: none"> • TARBA stated the issue of <i>'better communication and contract management between contractors and the City of Toronto'</i> is a broad statement. • The question is whether this a stand-alone issue or should it be an all-encompassing one? • Should we separate Better Communication and Contract Management as two different issues <ul style="list-style-type: none"> • SPECIFIC ISSUES to this item are: 	

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	<ul style="list-style-type: none"> ○ The communication process is an overarching umbrella for two major issues. City staff are aware communication needs to be addressed as a high priority and is a fundamental issue between Project Manager, Manager and Division Head ○ Communication can be more specific in contractor evaluations; if there are deficiencies, communicate them clearly and fix the issue • SUGGESTIONS: <ul style="list-style-type: none"> ○ Rename '<i>better communication</i>' to either 'consistent communication' or 'transparent communication' ○ Suggestion brought forward was to split Better Communication and place under action item in Contract Management ○ Better communication between the City's Construction Division's to ensure there is no miscommunication prior to PMMD issuing a tender document Contract Management <ul style="list-style-type: none"> ○ Issue is that contract/tender doesn't indicate who the contractor can talk to about the Project Manager, without repercussions, if there is an issue... and at what point that appeal should be triggered. ○ Michael D'Andrea noted issue has to have a clean turnaround time and if it does not, 	

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	<p>question when it gets "kicked-up". This is part of the task of the Construction Working Group (CWG), and their job is to look at different types of turnarounds, plus contractors need to clearly understand approval levels</p> <ul style="list-style-type: none"> ○ Associations indicated that Contractors need to be kept apprised of where a decision is in the approval chain, and what is needed from them to help the decision along. ○ Michael D'Andrea asked members on whether they or identify municipalities who have higher authority levels to communicate this to Michael Pacholok <p>5) Contractor Performance Evaluation – Discussed as agenda item 6</p> <p>Other Discussion about the priority of items:</p> <ul style="list-style-type: none"> ● Invest in Engineering: Michael D'Andrea advised this issue has been identified and has made it a high priority ● Utility Locates has been identified as an important issue. One Call is averaging 21 days, but some contractors are experiencing wait times of 60-90 days ● Associations do not want this to result in liquidated damages. The City agrees, if the delay is found to be due to this issue. ● Associations need to clarify how long contracts are taking to be awarded – average close to 70 days 	

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	<ul style="list-style-type: none"> • How much time between contract awarded at Bid Committee and order to commence issued; delay possible with staff or contractor • City is looking internally on contract award timeline reductions to address the issue • Suggestion was to prepare all necessary process steps ahead of time of preparing the award, i.e. ensuring compliancy, dollar value, Bonds, etc. • The Buyer is the main contact for a contract. The contact information can be found on the on-line document system under Doing Business with the City, and this is where information can be obtained on where the contract is during the approval process to award • At award side of commitment, CETA will have contracts on the public realm by 30 days, when it is incorporated into the Purchasing By-law • Michael D'Andrea will be issuing construction contracts in the Fall of 2015 for Spring 2016. The Associations are pleased with this approach. 	
<p>5. Considerations for Incentives/Disincentives in Future Contracts</p>	<p>Currently ECS is working with Legal and PMMD to develop tools to provide an opportunity for the contractor to accelerate the work and to put in better provisions related to delays. If a contractor is delayed in project, there are a lot of impacts, such as:</p> <ul style="list-style-type: none"> • impact on road users, lane closures for motorists for longer time periods • Economic impacts \$1M a day • 30% diversion rates, loss of productivity 	<p>ECS will provide the example jurisdictions to the Associations related to acceleration provisions and delay provisions including cost + time bidding</p>

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	<ul style="list-style-type: none"> • Disincentive would be contractors will be penalized each day a job has not met the schedule agreement as per the Bid Document • If contractor is able to advance timeline schedules, this would in turn assist impacts on motorists <p>ECS will be sending a report to PWI on June 17, that will highlight tools that will be piloted – acceleration incentives and delay costs, as well as cost plus time bidding methodology for tenders. This will not be applied universally but will be on select projects. For those select projects, there will be a pre-tender meeting that will be mandatory to explain how it will work.</p> <p>ECS's plan is to report back in 2017 on the results of the pilots to Council to determine how to move forward. ECS researched other jurisdictions including York Region, IO, Ottawa and US (New York and New Jersey), Europe and Australia. The City of Toronto would be the first municipality in Canada to use cost plus time bidding.</p>	
<p>6. CPE Discussion</p> <p>a) City provide overview of CPE</p> <p>b) Identification of issues - All</p>	<p>a) Joanne Kehoe, Manager, Construction Services, PMMD gave a presentation on Contractor Performance Evaluation (CPE). Major points in the presentation:</p> <ul style="list-style-type: none"> • CPE forms assist Project Managers in evaluating contractors performing work on City Construction projects • CPE's are used for future procurement: to supplement a pre-qualification process, by-pass a low bid and/or temporarily suspend a contractor from bidding • The purpose is to encourage contractors to maintain good performance • The City expects Project Managers to adhere to the 	<p>Presentation will be provided electronically to members.</p> <p>CWG members will take comments under consideration in looking for improvements</p>

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	<p>guidelines</p> <ul style="list-style-type: none"> • CPE will be communicated to the contractor at the pre-construction meeting <ul style="list-style-type: none"> ○ Minutes are taken at PM/CPE meetings ○ The minutes are also signed off by the Project Manager and Manager <p>Associations provided the following feedback to presentation:</p> <ul style="list-style-type: none"> • Concerned about transparency and consistency of the process • Would like independent body to review low scores prior to warning letter or recommendation to suspend. • Would like more time spent discussing the CPE at the preconstruction meeting so the contractor is very clear about how many reports will be issued, when they can expect them, and what the various categories / scores mean • They also believe that project specific comments provided with the score page would be helpful to the contractor • Concerned about the ability of PM's to rate contractors on OHS requirements. • Pleased that City has updated the objection process, but would like better communication of the changes. 	
7. Update on Work underway	<ul style="list-style-type: none"> • Discussed during Agenda Item 4 	
8. Other	<p>Mechanical Contractors Association requested that Subcontractors being listed at Tender Close be added as an issue to be reviewed.</p>	<p>Item will be added to the list of issues identified.</p>
9. Adjournment	<p>Meeting Adjourned 4:25 p.m.</p>	

Next Meeting:
Monday September 28, 2015
2:00 – 4:00 pm
Committee Room 3

FINAL