

Section III – Items for the Information of the Board

TO: Chair and Members of the Board of Directors
Meeting #3/20, Friday, April 24, 2020

FROM: Michael Tolensky, Chief Financial and Operating Officer

RE: **TORONTO AND REGION CONSERVATION AUTHORITY ADMINISTRATIVE
OFFICE BUILDING PROJECT**
Project Update

KEY ISSUES

Update on Toronto and Region Conservation Authority (TRCA) Administrative Office Building Project and implications on the Project schedule, budget and municipal approvals resulting from the COVID-19 pandemic.

RECOMMENDATION

THAT this staff report on the status of the Toronto and Region Conservation Authority Administrative Office Building Project be received.

BACKGROUND

On February 27, 2015 Res. #A23/15 approved 5 Shoreham Drive as the preferred site for the new TRCA administration building. On June 24, 2016 Res. #A85/16 approved a project budget of \$70M with \$60M provided by participating municipalities and the remaining funds from land disposition funds. On February 24, 2017 Authority Res. #A14/17 staff reported that all six of TRCA's participating municipalities had approved the Project and the allocation of \$60M in new and existing capital funding. On May 25, 2018 Authority Res. #A79/18 staff reported that the Minister of Natural Resources and Forestry granted approval to use \$3,538,000 in disposition proceeds from land sales, for a revised overall budget of \$63,538,000 and, if possible, that the disposition funds be used to reduce the overall term of the required financing. The revised approved upper limit of the project budget of \$60M was not increased at that time, as the decision was made to wait until the tendering process was complete in mid-2019 to determine a more accurate budget for the project.

On May 17, 2017 Authority Res. #83/17 TRCA awarded Jones Lang LaSalle Canada (JLL) as its project managers and on August 30, 2017 Authority Res. #A156/17 awarded the integrated design contract to a team led by ZAS Architects and Bucholz McEvoy Architects, to proceed with the detailed design, planning and approvals, of the Project. On November 3, 2017 Authority Res. #A216/17 awarded Eastern Construction Company Limited a Construction Management Contract to provide pre-construction services throughout the design and procurement stages along with construction management services for the construction of the new facility pending agreement on the construction cost of the Project. This work includes the issuance of tenders to construction trades.

On Friday, January 25, 2019 Board of Directors Res.#A19/19 staff issued an update on the procurement of financial services and that the Canadian Imperial Bank of Commerce (CIBC) is providing a term loan for the costs of the new administration building project up to \$54,000,000.

On Friday, May 24, 2019 Board of Directors Res.#A78/19 staff provided an update on project

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costing and a strategy to move to the tendering process and received direction from the Board to report back on the total construction and Construction Management Services costs at the time construction tenders are received.

On Friday January 24, 2020 Board of Directors RES. #A232/19 provided an update on the value engineering process and that staff had authorized the project construction manager Eastern Construction to award construction tenders to selected trades that align with the project budget, that staff had authorized Eastern Construction to proceed with construction and finally, that staff were authorized to issue Notices of Borrowing to the project financial services provider according to the loan schedule based on the project cash flow.

RATIONALE

In light of the COVID-19 pandemic, the Ontario government has ordered the closure of all non-essential businesses pursuant to its powers under the Emergency Management and Civil Protection Act (the “Emergency Act”). On March 23, 2020, the Ontario government issued a list of essential businesses that would be exempt from the closure order effective Tuesday, March 24 at 11:59 pm for at least 14 days. The Ontario government has since significantly expanded the list of non-essential workplaces with the introduction of Ontario Regulation 119/20: Order under Subsection 7.0.2(4) - Closure of Places of Non-Essential Businesses, which was declared into law at 3 PM on April 3, 2020 (the “Essential Services Regulation”). On April 14, 2020 the Ontario government extended the state of emergency another 28 days to May 12, 2020.

Site Closure

On April 3, 2020 Eastern Construction informed TRCA by email that they would be suspending work on the project that day as they interpreted that the project no longer fell into the category of essential services. Eastern Construction issued an official notice on April 6, 2020 of work suspension but worked until April 6, 2020 to undertake the necessary construction and maintenance activities to ensure safety at the temporarily closed project site.

Staff have engaged outside legal services to assist TRCA in reviewing Eastern Construction’s interpretation of the Ontario government’s expanded list of non-essential workplaces is appropriate and will respond if necessary. Further, TRCA and the project team with the assistance of outside legal services will review Eastern Construction’s interpretation of the Construction Management contract to confirm if the Ontario government mandated closure of non-essential businesses should be considered a Stop Work Order or a project delay due to Force Majeure.

Schedule

RES. #A232/19 revised the project occupancy date to January 2022 due to Site Plan Approval delay. However, considering the COVID-19 pandemic, the project occupancy date will depend on the length of time the Government closure order will be in effect. In general, the project approvals delay has been exacerbated by the closure of the City Civic Centres and the resulting diminished capacity to process applications. The Site Plan Agreement remains outstanding and with it the full building permit. TRCA has issued to the City of Toronto all the pre-approval Notice of Approval Conditions (NOAC) including drafts of the shared use agreement with neighbouring Tennis Canada and the lease agreement with City of Toronto. Unfortunately, both agreements were not finalized before the City of Toronto closed all of its Civic Centres on March 19, 2020. Fortunately, prior to the closure of non-essential activities the City Building Department issued a Conditional Permit allowing for foundations to be constructed. To mitigate schedule risk an above ground conditional permit has been submitted to the City but there has been no response

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due to the Civic Centres being closed.

Milestone Schedule			
	Dec.18/19 – Baseline Schedule	Mar. 31/20 - Revised Schedule	Notes
Site Plan Approval	Feb. 2020	TBD	NOAC received Nov. 8/19 – all pre-approval conditions submitted
Building Permit	Mar. 2020	Jun. 2020	Will depend on City closure due to COVID-19. Applied for above grade Conditional Permit.
Conditional Permit	Jan. 2020	Mar. 30/20	Foundations only.
Construction	Jan. 2020 to Dec 2021	Jan. 2020 to Feb. 2022	Depending on site closure due to COVID-19
Occupancy	Nov. 2021	Jan. 2022	Depending on site closure due to COVID-19
Completion	Jan. 2022	Feb 2022	Depending on site closure due to COVID-19

Assuming the emergency order is not extended further Eastern Construction could resume construction on May 12th, 2020 adding at minimum five weeks to the project schedule. This will possibly shift the Occupancy to Feb. - Mar. 2022 and project Completion to Mar. - Apr. 2022. It should be kept in mind that the delay to municipal approvals because of the City closure due to COVID-19 may also affect the schedule if construction is delayed due to permitting.

Budget

The project costs remain within the overall budget of \$65,538,000 but this may be challenged by delays related to the COVID-19 pandemic and the suspension of construction. Staff are discussing with the consultant team and outside counsel what, if any compensation, Eastern Construction is entitled to under the construction management contract because of the delay.

	Preliminary Project Budget	Tender w/ Value Engineering (VE) (Nov. 28, 2019)	Post Tender w/ Value Engineering (VE) (Mar. 31,2020)	Variance to Tender w/ Value Engineering (VE) (Nov. 28, 2019)	Variance Explained
Construction Cost	\$35,608,539	\$40,945,268	\$41,661,627	\$716,359	A
General Conditions (GC)	\$5,362,573	\$6,187,565	\$6,187,565	\$0	
Construction Management (CM) Fee	\$860,569	\$934,308	\$948,599	\$14,219	B
Construction Contingency	\$3,418,791	\$2,341,620	\$2,377,442	\$35,818	C
Total Construction Costs	\$45,250,472	\$50,408,765	\$51,175,233	\$766,468	
Consultant Fees	\$4,021,133	4,297,883	4,297,883	\$ -	
Permits	\$624,697	\$626,658	\$626,658	\$ -	
Furniture/Fittings and Equipment	\$1,550,000	\$1,750,000	\$1,750,000	\$ -	

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Relocation Costs	\$2,026,697	\$2,026,697	\$2,026,697	\$ -	
Project Mgmt.	\$2,575,000	\$1,871,325	\$1,871,325	\$ -	
Financing Costs	\$2,515,265	\$1,940,016	\$1,940,016	\$ -	
Non-Recoverable HST (1.76%)	\$1,037,736	\$1,066,993	\$1,066,993	\$ -	
Soft Cost Contingency	\$399,000	\$399,000	\$399,000	\$ -	
Total Costs	\$60,000,000	\$64,387,337	\$65,153,806	\$766,469	
Total Available Funds	\$60,000,000	\$65,538,000	\$65,538,000	\$ -	D
Additional Contingency Funds	\$ -	\$1,150,663	\$384,194		

Variance Explanations:

- A. The post-tender increase in construction costs is a result of trades being unable to meet preliminary value engineering estimates. Further, the tender for a portion of the mechanical system (water augmented transparent air ducts – “waterwalls”) received only one bid at three times the estimated cost. This item is being retendered to reduce costs through a competitive bidding result.
- B. The construction management fee is calculated as 1.9% of the total construction cost per Eastern Construction’s successful CM proposal.
- C. The construction contingency is calculated at 5% of total construction cost, excluding the construction management fee.
- D. Total Available Funds includes \$2M to reflect a grant from the National Research Council’s Green Construction Through Wood program, which was confirmed after the July 26, 2019 Board of Directors meeting. This funding is in addition to the \$60M contributed by TRCA’s partner municipalities and \$3,538,000 contributed by the Province through approved land dispositions.

TRCA has entered the construction phase of the project with contingencies totaling \$3,160,636. This total represents 5.2% of total project costs of \$59M (includes construction, consultant fees, permitting fees, FF&E and relocation). According to TRCA’s consultants, a 5% contingency on construction projects is deemed to be conservative from a risk perspective.

Although total funding available for the project totals \$65,538,000, TRCA will continue to work to bring the project budget to the previously reported \$64,387,337. TRCA with the construction manager and design team are looking at the following cost savings measures:

1. Waterwalls – The waterwall tender produced only one bid at \$2M which was \$1.25M over the estimate. This item is in the process of being retendered. It is expected that a more competitive process will yield better results. The tender will be closing in May.
2. Geo – Exchange System – It is expected that a switch to an open loop ATES system may yield savings in the range of \$200k to \$300K. By the end of May or beginning of June 2020 the savings for this item will be more apparent. TRCA is pursuing funding from governmental agencies to assist with the development of an ATES system.
3. Engineered Fill and Backfilling – The budget carries a cash allowance of \$319k for this work. A savings found with this work occurring in the summer months allowing the project to use native materials rather than importing materials due to wet weather. This item should be clearer in June 2020

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4. De-watering – A cash allowance of \$103K for dewatering excavation will not likely be required now that excavation has been pushed out further into dryer weather. Same as engineered fill and backfilling whether this item is required will be clearer by June.

Construction Loan

Board of Directors Resolution #A145/19 authorized staff to issue Notices of Borrowing to the project financial services provider, Canadian Imperial Bank of Commerce (CIBC), according to a loan schedule based on the project cash flow. TRCA and the project financial services provider, CIBC, worked together to develop a quarterly amortization schedule for a \$54,000,000 term loan that best reflects the payment schedule from TRCA's partner municipalities, commencing on January 4, 2022 and ending on January 2, 2047, representing a period of 25 years.

TRCA worked with the construction manager to develop an expected loan drawings schedule, between January 2020 and January 4, 2022, when the \$54,000,000 construction loan converts to long-term debt. The decision by the construction manager to suspend construction will alter this schedule, which is expected to have financial ramifications on the project.

101 Exchange Lease Agreement

RES. A232/19 authorized staff to extend the lease at 101 Exchange Avenue as required to ensure overlap with the building occupancy period.

As previously reported TRCA requested and received from the landlord a lease extension at 101 Exchange from the original schedule of July 2021 to the end February 2022 at the current lease rate. Given the delay related to the suspension of construction, a further lease extension will be required. Preliminary discussions have occurred, and the expectation is that an extension will be acceptable. Staff will continue to work with the facilities manager of 101 Exchange Avenue to ensure a smooth transition.

DETAILS OF WORK TO BE DONE

The construction manager will be pursuing further cost savings into May 2020. The site plan approval process is nearing completion with TRCA providing the City the necessary documentation as outlined in the Notice of Approval Conditions to finalize the Site Plan Agreement. TRCA will continue to contact staff through the COVID-19 City closures to attempt to mitigate further approvals delay. TRCA staff will continue the furniture, fixtures and equipment procurement process starting with furniture layout and the staff relocation strategy.

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Date: April 15, 2020