



**For Action
With Confidential Attachment**

Wilson Carhouse Tracks 15 and 16 Expansions and Alterations – Status Update

Date: February 22, 2024
To: TTC Board
From: Chief Capital Officer

Reason for Confidential Information

This report contains advice or communications that are subject to solicitor-client privilege, including communications necessary for that purpose.

This report is about litigation or potential litigation, including matters before administrative tribunals.

Summary

This report provides a summary of the outstanding issues relating to the Wilson Carhouse Tracks 15 and 16 Expansions and Alterations project. The information contained in this report is subject to solicitor-client privilege and litigation privilege.

Authorization of the conditional agreement with the Contractor, Black & McDonald Limited, for a settlement of a contract time extension and costs associated with the extended duration relating to Contract C1-42, Wilson Carhouse Tracks 15 and 16 Expansions and Alterations.

Recommendations

It is recommended that the TTC Board:

1. Approve the recommendations as set out in the Confidential Attachment.
2. Authorize that the information and recommendation provided in the Confidential Attachment is to remain confidential in its entirety as it contains advice that is subject to solicitor-client privilege and information about litigation or potential litigation.

Financial Summary

Funds for this expenditure are included in the TTC's 2024-2033 Capital Budget and Plan, which was approved by the TTC Board at its meeting on December 20, 2023 and by City Council on February 14, 2024.

The total project cost for the Wilson Yard Expansion Project is \$542.7 million, comprising of costs to the end of 2022 of \$397.2 million, projected year-end spending of \$36.8 million for 2023 and funding of \$108.7 million included in the 2024-2034 Capital Budget and Plan. Of the total project cost, approximately \$437.8 million has been committed to date.

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

Equity/Accessibility Matters

There are no accessibility or equity issues associated with this report or related to the TTC's ongoing commitment to equity and accessibility.

Decision History

At its meeting on July 23, 2014, the Board considered a report entitled, [Procurement Authorization – Wilson Yard Expansion Project – Contract AW85-4](#), and adopted the report recommendations, awarding a contract for the Wilson Yard Expansion Project (the “Master Contract”) to Bondfield Construction Company Limited and delegated authority for approval of the execution of future phase agreements to the Chief Executive Officer for the expenditure of the allowance in the amount of \$149,397,300.00, including HST.

Decision: [Procurement Authorization – Wilson Yard Expansion Project – Contract AW85-4](#)

On October 24, 2017, under the CEO's delegated authority, Phase Agreement No. 13 under Contract AW85-4 (referred to as Contract “C1-42 Wilson Carhouse Tracks 15 and 16 Expansions and Alterations”) was awarded to Bondfield Management Inc. in the amount of \$75,470,440.

Under Contract C1-42, Bondfield Management Inc. was to provide all the labour, equipment, material and services necessary to retrofit significant aspects of Wilson Yard and the Carhouse as described in the contract.

Issue Background

In 2018 and early 2019, both Bondfield Construction Company Limited and Bondfield Management Inc. encountered financial distress and were eventually placed into bankruptcy protection. The financial situation led to considerable delays in performing the work at Wilson Yard. The TTC called on its Performance Bond for the project (issued by Zurich) to provide assistance. Zurich's proposed solution for completing the work on Contract C1-42 was to assign the work from Bondfield Management Inc. to Black & McDonald Limited, the mechanical and electrical subcontractor on the contract.

On April 2, 2019, with the consent of TTC, Black & McDonald Limited signed an “Assignment & Assumption Agreement” with Bondfield Construction Company Limited and Bondfield Management Inc. to assume all of Bondfield Management Inc.’s obligations under the C1-42 contract, with a revised Substantial Performance date of May 18, 2021.

On February 1, 2021, B&M also took over Bondfield Construction Company Limited’s remaining scope on the Master Contract as it related to C1-42, including the statutory role and responsibilities of a “Constructor” under the Occupational Health & Safety Act. Concurrently, Bondfield Construction Company Limited’s Master Contract was terminated.

The work under Contract C1-42 achieved Substantial Performance on May 1, 2023, which was 713 calendar days after the date established with the Assignment & Assumption Agreement.

Comment

This proposed payment arises from additional work that was needed to be done due to unforeseen site conditions and additional scope. Had the work not been carried out as an extension of the C1-42 contract, the TTC would have likely incurred greater expenses in designing, procuring and implementing the repairs and upgrades, which the TTC received through the extended duration of this project.

TTC Board approval for the costs associated with the extended duration of Contract C1-42, Wilson Carhouse Tracks 15 and 16 Expansions and Alterations is required to avoid the litigation risks.

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Signature

Gary Downie
Chief Capital Officer

Attachments

Attachment 1 – Confidential Information