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ENVIRONMENTAL ASSESSMENT STUDIES SCOPE CHANGE

The Rapid Transit Public/Private Partnership Steering Committee recommends the following:

- 1. The presentation by Paul May, Director, Infrastructure Planning, be received; and**
- 2. The recommendations contained in the following report January 6, 2005, from the Vice President, York Region Rapid Transit Corporation, be adopted subject to replacing the amount of \$50,000 in recommendation 2 with the amount of \$25,000:**

1. RECOMMENDATIONS

It is recommended that:

1. York Consortium 2002 be reimbursed \$470,413 for the additional costs associated with preparation of revised Environmental Assessment Terms of Reference, subject to the 2005 business plan and budget process.
2. An allowance of \$50,000 be established to cover costs, on a time and expenses basis, for on-going York Consortium 2002 support to York Region's interfacing role during the Toronto Transit Commission's Spadina Subway Extension EA, and that the work be conducted under the current legal framework of the Amended and Restated Stage One Agreement.

2. PURPOSE

The purpose of this report is to document the effect of the need to obtain Ministry of the Environment (MOE) approval of revised non-focused Terms of Reference (ToR) for the Environmental Assessment (EA) Reports for three York Region Rapid Transit Corporation (Rapidco) EA Studies on the Stage 1 schedule and budget. The background to this change of scope of the studies is summarized below to provide the context for the additional services required.

3. BACKGROUND

The original July 2002 Stage 1 Contract (July 2002) between York Region and York Consortium 2002 (YC2002) covered the following EA services:

- South Yonge Corridor: - Carry out an EA based on ToR, including Need and Justification (N&J,) that was prepared by a consultant to York Region prior to the Stage 1 Agreement between York Region and YC2002.
- Hwy 7 Corridor (including the Vaughan N-S Link): - Carry out an EA based on ToR, including N&J, that was prepared by a consultant to York Region prior to the Stage 1 Agreement between York Region and YC2002.
- Markham N-S Link: - YC2002 was to prepare ToR, including N&J, and then carry out an EA.

The Amended and Re-stated Stage 1 Agreement (April, 2003) added the North Yonge Corridor EA ToR, including need and justification. In January 2003, the original ToR for Yonge Street was approved by MOE and similarly, in June 2003, the original Highway 7/Vaughan N-S Link ToR was approved. Also, in September 2003, the original Markham N-S Link ToR and Need and Justification was completed in draft form ready for submission.

The budget for ToR preparation for the North Yonge Corridor was included in the scope of the Year 2 Agreement with YC2002.

In October 2003, MOE notified York Region that the previously approved ToRs were no longer legally valid as a basis for the Rapidco EA studies because a Divisional Court ruling questioned the validity of a focussed ToR for an eastern Ontario landfill site. At that time the Stage 1 EA's were substantially complete.

After investigation of options that included obtaining legal advice and discussion of the strategies available to advance the completion and approval of the EA's that were substantially complete, York Region directed YC2002 to prepare and submit new ToR's for all three EA's covered by the Stage 1 agreement.

Completion of the draft Yonge and Highway 7 EA Reports and their circulation to the government review team is planned for January 2005. The remaining alternatives analysis, consultation and reporting phases of the Markham N-S Link are scheduled for completion in early spring 2005.

4. ANALYSIS AND OPTIONS

4.1 ToR resubmission and EA Study documentation changes

The work activities required to enable York Region to submit new EA ToRs and modified Study Reports included the following:

- Re-writing the original Yonge and Highway 7 Corridor ToRs, prepared by others, in non-focused form so that the N&J analysis and recommendations would now be part of the actual EA scope.

- Rewriting the Markham N-S Link draft ToR prepared by YC2002, in non-focussed form so that the N&J analysis and recommendations would be part of actual EA scope.
- Consulting the public on the new ToRs through newspaper notices, website material and e-mail communications.
- Attending meetings, providing an on-going interface with MOE staff and responding to the comments of the Government Review Team during resubmission and approval of the revised ToRs.
- Modifying the draft South Yonge Corridor EA report to incorporate and update prior N&J analysis and recommendations.
- Expanding the Highway 7 EA Report to include the updated prior N&J analysis and recommendations.
- Updating travel demand forecasting for Yonge and Highway 7 Corridors in the previous N&J studies to achieve consistency across all corridors with Rapidco forecasts in terms of data sources, assumptions and methodology to establish the justification for rapid transit.
- Additional public and stakeholder consultation required as part of the new ToR scope resulting in further opportunities for public and stakeholder input to the EA process. This required additional responses by Rapidco.
- Preparing materials, co-ordinating logistics and conducting additional formal public consultation sessions as part of the Yonge and Highway 7 Corridor EA requirements after approval of the new ToRs.

4.2 Additional activities performed as a consequence of the extended EA schedule

Completion of the three draft EA reports has been delayed over a year from the original planned dates. During this time, the EA team has been available to provide support for on-going Rapidco and York Region parallel planning and review activities, in the absence of approved EA's, that are beyond the Stage 1 scope and schedule. Specific tasks have included:

- Extended support for land use planning, development applications and acquisition of Rights-of-Way.
- Additional presentations to local Councils and Committees.
- Participation in the discussions and meetings related to YRT terminal location at Markham-Stouffville Hospital.

- Extended public interface on Yonge and Highway 7 Corridors.
- Interfacing with Vaughan Corp. Centre Streetscaping and Centre Street Land Use studies initiated during additional year of EA schedule.
- Assessment of effect of York University stadium project on QS and full-build access.

As noted above, the ToR resubmission significantly increased the study period for the three EAs resulting in a loss of efficiency in carrying out the formal process of analysis and documentation. YC2002 has indicated that, as a result, work effort will exceed the Stage 1 EA labour estimates by 15% and is seeking compensation for part of these consequential costs.

4.3 Services to support the Toronto Transit Commission's Spadina Subway Extension Environmental Assessment

The TTC is carrying out the above EA during 2005 with a funding contribution and participation of staff on the Technical Advisory Committee (TAC) by York Region. This EA study includes analysis and evaluation of alternatives for the Steeles Avenue Station and ancillary feeder bus facilities including an interface with the Region's proposed terminal on Steeles Avenue.

TTC will require input to, and analysis and review of options by Rapidco and YC2002 staff during the course of the study to optimize the interface between Regional transit services and the subway extension as well as the use of the terminal facilities and access to York University's campus for students from the Region.

YC2002 proposes to make these services available on an as required basis with authorization by the Region's TAC representative and reimbursement on a time and expenses basis up to a provisional allowance of \$50,000.

5. FINANCIAL IMPLICATIONS

The total cost of the preparation, submission and approval of the revised ToRs and EA reports and the additional services listed above is \$470,413. This additional amount over the original budget of \$2.9 million in the Stage 1 agreement is supported by Regional staff.

In addition, an allowance of \$50,000 is recommended for potential additional EA work required for integration with the TTC's Spadina Subway Extension EA.

Funding for the above amounts is available in the draft 2005 Rapid Transit Capital Budget.

6. LOCAL MUNICIPAL IMPACT

There are no local municipal impacts associated with this report.

7. CONCLUSION

As a result of a Divisional Court ruling that invalidated a focussed ToR in Eastern Ontario, there was no longer a legally valid basis for the Rapidco EA studies. Consequently, new ToR's and amendments to the EA documentation were necessary for the EA's covered by the Stage 1 agreement with YC2002, a requirement that was never envisioned in the Stage 1 agreement.

The Stage 1 Agreement provides for requests for additional funds to cover events that could not reasonably be anticipated. The extraordinary direct and consequential costs of resubmitting ToRs, rewriting parts of the EA reports and additional services provided during the extended schedule fall into this category and reimbursement can be justified on the basis that the MOE's position could not have been anticipated. These services were requested because of the delayed EA submission and, in some cases, covered activities that commenced after the original scheduled Stage 1 completion date.

The Senior Management Group has reviewed this report.