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TRANSPORTATION IMPROVEMENTS DONALD COUSENS PARKWAY TO MORNINGSIDE AVENUE LINK PROJECT UPDATE

The Planning and Economic Development Committee recommends the adoption of the recommendations contained in the following report dated September 23, 2008, from the Commissioner of Planning and Development Services and Commissioner of Transportation Services:

1. RECOMMENDATIONS

It is recommended that:

1. Staff be authorized to proceed with an amendment to the Environmental Assessment for the discontinuous alignment.
2. Regional Council authorize increasing the value of the existing purchase order (P-02-11) for the consulting services of McCormick Rankin Corporation to undertake the amendment to the Environmental Assessment from \$849,900 to \$1,199,900 which represents an increase of \$350,000 exclusive of GST.
3. Regional Council authorize extending the contract term for the existing purchase order P-02-11 to December 31, 2009.
4. A copy of this report be forwarded by the Regional Clerk to the Ministry of the Environment, Ministry of Transportation, Ministry of Public Infrastructure Renewal, Ministry of Municipal Affairs and Housing, the Provincial Development Facilitator and the Clerks at the City of Toronto, Town of Markham, Region of Durham and City of Pickering.

2. PURPOSE

This report updates Committee and Council on the status of this project since staff last reported in June 2007 and seeks Council authorization to proceed with an amendment to the Environmental Assessment (EA).

3. BACKGROUND

For detailed background information, please refer to the previous reports to Planning and Economic Development Committee on June 13, 2007 and May 10, 2006 and to Transportation and Works Committee on October 12, 2005. *Attachment 1* presents the

proposed road link within the inter-regional context of this York/Toronto/Durham boundary area. *Attachment 2* identifies both the continuous alignment recommended through the Individual EA and the discontinuous alignment preferred by Toronto.

4. ANALYSIS AND OPTIONS

A phased approval strategy is still being pursued

In June 2007, staff reported that although there had been some progress in the facilitated mediation, there was no indication of an imminent resolution between York and Toronto on the final road alignment. In an effort to build on the progress that had been made, the Provincial Facilitator recommended a phased EA approval be pursued that would allow for construction of the common segment of the road alignment from 9th Line to Highway 407 to relieve imminent development pressure in the Box Grove area.

In June 2007, Council endorsed this approach and requested that the Ministry of the Environment approve the section of the alignment from Highway 407 south to 9th Line and protect the remainder of the corridor for both York and Toronto's preferred alignment until a final EA decision is rendered.

The EA project team worked through the fall of 2007 and winter 2008 to provide the MOE with technical information in support of the request for a phased EA approval. The MOE staff have not endorsed the phased approval strategy citing concerns with piecemealing of the project and concerns with whether the remainder of the corridor could ever be built given the outstanding issues between York and Toronto.

The delay in securing EA approval for the segment of the road from Highway 407 to 9th Line will impact timing of the road construction which had been planned to be concurrent with adjacent development in the Box Grove area. The adjacent development is now imminent and will likely proceed before the EA is approved. The adverse effects on the community in the Box Grove area are potentially significant, with poor transportation service in the absence of a completed arterial road network, in addition to future construction disruption to residents if the road is not built concurrent with the adjacent development.

Staff are continuing to work with the MOE and the Provincial Facilitator to explore options for moving forward with the EA process as quickly as possible to mitigate any adverse impacts on the community resulting from further delay.

The Ministry of Environment has published the EA Review

Following the submission of an individual EA, the process requires the Ministry of the Environment (MOE) to publish an EA Review, documenting the results of their technical review of the EA for public comment before the Minister makes a final decision. The

MOE published the EA Review for a 5-week public review period from January 25 to February 29, 2008.

The EA Review was generally positive regarding the project, concluding that the road will benefit the community while any potential negative impacts would be minimized and managed. The EA Review also indicated that the MOE was satisfied that the EA demonstrated, in a logical and transparent process, why the continuous road alignment was selected. The Review also concludes that the MOE legislative requirements had been satisfied confirming that the EA was conducted in accordance with the approved Terms of Reference and met the requirements of the *Environmental Assessment Act*.

The EA Review identified a significant outstanding issue of Municipal jurisdiction and with the Region's ability to implement the undertaking south of Steeles Avenue. The EA Review carefully positioned the MOE to reject the EA on this basis:

“The Minister may reasonably assume, given the position of the City of Toronto, that the entire undertaking may never be built...The Minister will have to decide, give all of the fact and information at hand, whether it is prudent to make a decision to approve an undertaking that may never be constructed.”

Following the EA Review process, the next step is for the Minister of the Environment to make a decision. There are a number of options available to the Minister including approve the EA, reject the EA, refer unresolved issues to mediation or refer the EA to the Environmental Review Tribunal for a decision.

On June 13, 2008, the Minister of the Environment wrote to the Regional Chair (a copy of the correspondence is included as attachment 3). In his letter, the Minister acknowledged the outstanding issue with Toronto and the significance implications it will have on his final decision. The Minister's correspondence also acknowledged that the Provincial Facilitator has made progress in bringing the parties together to resolve the dispute and that the Minister was willing to postpone a decision on the EA to allow the facilitated mediation to continue toward a final resolution.

The Regional Chair wrote back to the Minister of the Environment on June 25, 2008 requesting that a final decision on the EA be deferred to allow the facilitated mediation to continue.

The City of Toronto has moderated their position regarding cross-boundary transportation improvements in this area

Toronto Council took a position in June 2005 formally opposing the alignment for the proposed road link and identifying the discontinuous alignment as their preferred. In December 2005, Toronto Council went further and resolved that the City intends to keep Steeles Avenue east of Markham Road at its current width of two traffic lanes. In April

2006, Toronto Council reaffirmed their opposition to the continuous alignment and directed City staff to commence an Official Plan amendment process to eliminate protection for the road corridor south of Steeles Avenue.

In October 2007, Toronto Council took a position opposing the phased approval strategy that had been proposed by the Provincial Facilitator but did moderate their position regarding improvements to Steeles Avenue, resolving that they would support widening of Steeles Avenue east of Markham Road to four lanes, with widening of bridge structures to six lanes to accommodate future needs. *A copy of the latest Toronto Council position is included as Attachment 4.*

The Provincial Facilitator has been involved and is assisting with a resolution

On September 20, 2006, York Region requested that the Minister of Public Infrastructure Renewal assign the Provincial Development Facilitator to assist in resolving the York/Toronto issues. The request was granted and the Provincial Development Facilitator has been involved since the Fall of 2006 in discussions with York, Toronto and Provincial representatives.

The most significant role of the Provincial Facilitator over the past two years has been in engaging reluctant provincial agencies to get involved so that a broader boundary area transportation solution for long standing issues, including improvements to Steeles Avenue, might finally be realized. The Provincial Facilitator has been active in discussions with the Ministry of the Environment, Ministry of Transportation, Ministry of Municipal Affairs and Housing and the Ministry of Public Infrastructure Renewal.

MTO has been undertaking a boundary area transportation study to address needs in this York/Toronto/Durham boundary area in support of the Growth Plan and development in the Seaton area. The study is nearing completion and MTO is expected to release recommendations this fall, including potential recommendations for Provincial funding for transportation improvements in this area.

Provincial funding is critical if a final agreement is to be realized for boundary area transportation improvements. Staff will continue to work with the Provincial Facilitator, Toronto and Provincial agencies to finalize an agreement and report back to Council once an agreement has been reached.

An amendment to the EA is required

The discontinuous alignment preferred by Toronto was one of the alternatives that were considered in detail during the EA. Although it is not the optimal transportation solution to address travel demand in the study area, it does have some advantages since it utilizes existing corridors along 9th Line and Steeles Avenue and has the potential to minimize environmental effects. There have also been a number of developments since the EA was

completed that will help address growth in York/Toronto cross boundary travel demand, including the planned extensions of the Spadina Subway and Yonge Subway from their current terminus within Toronto, north into York Region to the Highway 7 area, as well as a potential light rail transit link on Don Mills/Leslie Street to connect to Toronto's planned Transit City Network.

Although the discontinuous alignment was evaluated in the original EA as one of the alternatives, it was not fully developed to the level of detailed functional design since it was not selected as the preferred alignment. In order to pursue the discontinuous alignment as the preferred solution, additional technical work is required to develop the detailed functional design, comprehensive effects mitigation, construction staging strategy and cost estimate.

An EA amendment will be required to undertake the additional technical work in order to pursue approval of the final recommended alignment. A detailed work plan and budget has been prepared by McCormick Rankin Corporation for the scope of work to prepare the EA amendment. The work plan includes additional consultation with the public and government agencies, detailed traffic modelling, review of existing environmental conditions, detailed development of the preliminary design for the preferred alternative, preparation of an amended EA report as well as technical support during the lengthy submission and approval process (for both the Provincial and Federal EA approval process).

McCormick Rankin Corporation undertook the original EA. The consultant project team demonstrated superior technical expertise during the original EA and excellent quality of work. The consultant project team has a detailed understanding of the work required to successfully complete the EA amendment as well as in-depth knowledge of sensitive stakeholder issues.

Staff recommend that the work to complete the EA amendment be awarded directly to McCormick Rankin Corporation. The estimated cost of \$350,000 is considered reasonable given the scope of work identified in the detailed work plan, the sensitive environmental features in the study area and the significant effort and level of complexity inherent with an Individual EA process that requires formal Provincial and Federal agency review and approval. This recommendation is compliant with Section 10 (Sole Source Purchases) of the Region's Purchasing By-Law.

5. FINANCIAL IMPLICATIONS

The consulting assignment to undertake the amendment to the Environmental Assessment is estimated at \$350,000 exclusive of GST. There are sufficient funds in the 2008 Roads Capital Budget to cover the expected cost this year. Sufficient funds will be included in the 2009 Roads Capital Budget to cover the cost of completing the EA amendment.

The present contract term extends from August 8, 2002 to December 31, 2008. The contract term will need to be extended to complete the EA amendment. Staff are seeking Council authorization to extend the contract term to December 31, 2009.

6. LOCAL MUNICIPAL IMPACT

As noted previously, the delay in securing EA approval for the segment of the road from Highway 407 to 9th Line will impact timing of the road construction which had been planned to be concurrent with adjacent development in the Box Grove area. The adjacent development is now imminent and will likely proceed before the EA amendment is complete and approved. Interim municipal road access to directly service the Box Grove development area will need to be developed in the absence of a completed arterial road network in the area.

7. CONCLUSION

Staff are continuing to pursue the phased approval strategy with MOE, as originally proposed by the Provincial Facilitator.

The MOE published their EA Review in January 2008 which positioned the Minister of the Environment to reject the EA, pointing to the outstanding objection by Toronto and the lack of a willing proponent with the jurisdiction to build the road south of Steeles Avenue.

The Provincial Facilitator has made progress bringing the parties together and particularly in encouraging the Province to take an active role in finding a solution to long standing transportation issues in the York/Toronto/Durham boundary area in support of the Growth Plan objectives and development in the Seaton area.

MTO will likely be releasing recommendations from their boundary area transportation study that has been undertaken in support of the Seaton development, including potential recommendations for Provincial funding for transportation improvements in this area.

An EA amendment will be required to further develop the discontinuous alignment should this become the preferred solution.

The decision to pursue the discontinuous alignment as preferred by Toronto will need to be considered in the context of an agreement for a broader boundary area transportation solution that would include a number of road and transit improvements to support growth in this area and Provincial funding for these improvements.

For more information on this report, please contact Steve Mota, Program Manager-Transportation Engineering, Infrastructure Planning Branch at 905-830-4444 ext. 5056 or Paul May, Director Infrastructure Planning at ext. 5029.

The Senior Management Group has reviewed this report.

(The four attachments referred to in this clause are attached to this report.)