



Change Order: Costs for Additional Consulting Services for Regent Park Phase 2 Site Servicing

Item 5A

September 2, 2021

Building Investment, Finance and Audit Committee

Report: BIFAC:2021-64

To: Building Investment, Finance and Audit Committee (“BIFAC”)

From: Acting Chief Development Officer

Date: August 11, 2021

PURPOSE:

The purpose of this report is to seek the BIFAC’s approval to approve a change order to Dillon Consulting Ltd. (“Dillon”) for additional fees for civil engineering services in Phase 2 of the revitalization of Regent Park.

BIFAC approval is required for the recommended change order as the cumulative contract term is beyond the approval limit of Toronto Community Housing’s (“TCHC”) Procurement Award Committee (“PAC”), which does not have authority to approve commitments that extend TCHC’s contracts beyond five years. The existing contract with Dillon is more than five years old and is valued at less than \$5 million.

RECOMMENDATIONS:

It is recommended that the BIFAC:

1. Approve fee increases for Dillon Consulting Ltd. totaling \$124,276.68 (exclusive of taxes) for civil engineering and contract administration work in Phase 2 of the Regent Park revitalization for additional civil engineering services associated with roadway repairs and top-works

(asphalt paving) of the Phase 2 roads in Regent Park;

2. Approve a contingency of \$50,000.00 for anticipated additional costs to carry the project through the assumption of Phase 2 roads by the City; and
3. Authorize the appropriate TCHC staff to take the necessary actions to give effect to the above recommendations.

BACKGROUND:

In 2008, TCHC issued two Requests for Proposals (“RFP”) for separate but related civil engineering services in Phase 2 of the Regent Park revitalization project to design and construct five roads as shown in Public Attachment 1. Both projects were awarded to Dillon in 2009 and signed under one contract, with a total value of \$276,000 as summarized in Table 1 below:

Table 1: Original Dillon Contract Values

RFP #	Scope	Contract Value
07/08	Servicing Engineering Services for Regent Park Phase 2	\$256,500
08/08	Traffic Engineering Services for Regent Park Phase 2	\$19,500
	Total	\$276,000

Dillon’s scope of work included traffic studies and civil engineering (design and contract administration) for all Phase 2 roadways up to, but not including, asphalt paving. Construction began in 2011 and, excepting asphalt, was largely completed by 2015.

Conveying the roadways to the City of Toronto was delayed for two main reasons beyond the usual construction delays associated with work of this nature. First, the Phase 2 roads and services were, by necessity, constructed before work could begin on the buildings to be erected on the new city blocks created by those roads; however, the roads could not be readied for acceptance by the City until the buildings were largely completed. Second,

additional work related to an environmental review was required to ready the roads for turnover.

All of these steps have now been completed. Acceptance by the City of the roadways and underground services is anticipated in late summer/early fall 2021, and assumption is anticipated for mid-2022; TCHC remains responsible for their maintenance until then.

The term of Dillon's contract terminates upon successful completion of the tasks associated with the assumption of services of the roadways.

REASONS FOR RECOMMENDATIONS:

A change order is recommended for additional fees totaling \$124,276.68 as follows:

1. Assessment of damages to the Phase 2 roadways

As the roads and services were constructed before work could begin on the Phase 2 buildings, they were exposed to heavy construction vehicles since their completion in 2015 and suffered considerable wear and tear.

The next step in conveying the roadways to the City requires that TCHC ensure that all underground sewers, sidewalks, boulevards (sod and trees), curbs, and concrete road bases are in a good (like new) state of repair. As TCHC's design engineer for the project, Dillon was engaged to assess and quantify the damage in order for the contractor (RB Somerville) to effect the required repairs, and to also conduct the requisite construction observation and contract administration of Somerville's work.

It is to be expected that some repair work would be required prior to acceptance and assumption of the roadways. However, the extent of the required repairs was much greater than what might have been reasonably anticipated on account of the delay between completion of the roadway base works and their eventual acceptance by the City. Dillon's requested fee is \$9,607.68, which staff find to be fair and reasonable.

2. Observation and contract administration of top-works

Asphalt paving of the Phase 2 roads (along with ancillary work such as street signage, road markings, etc.) began in September 2020 and was completed by November 2020. Construction observation and contract administration of asphalt paving were not included in Dillon's original scope of work. Their requested fee is \$92,572.20, which staff find to be fair and reasonable.

3. Additional fees for construction delays

Dillon's fee in reason #2 above was based on a construction schedule provided by RB Somerville. Delays resulted in an additional 11 days' effort on Dillon's part, for which they have requested an additional \$22,096.80. Staff find the request to be fair and reasonable.

4. Contingency

It should be noted that additional effort will likely be required of Dillon in order to assist with repairs resulting from normal wear and tear prior to TCHC seeking assumption of the Phase 2 roads by the City. That work is not included in Dillon's current scope and will therefore constitute an extra; while the amount is likely to be relatively minimal, it is impossible to fully assess at this point in time. Although not considered by the Procurement Award Committee ("PAC") when they reviewed this change order, in anticipation of the expected future costs outlined above, a contingency of \$50,000 is recommended for this project.

None of the work described above was anticipated in Dillon's original contract and all of it represents additional scope. The amounts requested are based on hourly rates stipulated in Dillon's contract with TCHC. Their claimed time (effort) spent on the work was compared against the actual project construction schedule and found to be accurate, and was also confirmed by TCHC's construction manager, Daniels CM.

Change Order Summary:

The total value of change orders issued to Dillon Consulting Ltd. to date is \$984,111 for a total current contract value of \$1,260,111.

With approval of this request, the total cumulative value of change orders issued to Dillon will be \$1,108,388, equivalent to 401.6% of the original contract value, and the revised total contract amount will be \$1,384,388 as outlined in Table 2 below.

Table 2: Change Order Summary and Revised Contract Value

CO No.	Approval Date	Description	Reason	CO Amount
1	04/09/2009	Changes in scope of work	Re-zoning	\$372,283
2	12/04/2009	Fee adjustment for added scope	Re-zoning	\$5,994
3	03/16/2010	Fee adjustments for added scope	Re-zoning	\$250,443
4	04/28/2010	Fee adjustment for added scope	Other	\$975
5	12/24/2010	Changes in scope of work	Other	\$9,550
6	03/30/2012	Fee adjustment for added scope	Other	\$1,450
7	04/16/2012	Fee adjustment for added scope	Other	\$1,700
8	05/17/2013	Change in Scope Request 1	Other	\$215,000
9	04/7/2014	Change in Scope Requests 2 - 6	Various	\$57,549
10	12/17/2015	Change in Scope Request 7	Other	\$47,925
11	04/28/2016	Change in Scope Request 8	Other	\$1,750
12	01/16/2017	Change in Scope Request 9	Other	\$16,00
13	04/12/2018	Change in Scope Request 10	Other	\$3,488
Cumulative value of change orders approved to date (total of CO 1 to 13)				\$984,111
Total value of change orders requested in this report				\$124,277
Cumulative value of change orders				\$1,158,388
Original contract value (RFP 07/08 + 08/08)				\$276,000
Cumulative CO value as a % of the original contract value				419.7 %
Revised contract amount				\$1,434,388

The magnitude of the change in Dillon's contract value is due to changes in the project timeline and addition of scope as outlined above, and, in the inherent unpredictability associated with this type of construction.

Furthermore, it is important to note that TCHC and Daniels sought a rezoning of all the Phase 2 lands, which was enacted by Council on October 1, 2009, after RFPs 07/08 and 08/08 were issued and after Dillon was awarded the contract. The rezoning changed the scope in both RFPs by increasing the length of roadways and municipal services, and also the number of city blocks requiring services. This significantly increased Dillon's scope of work, for which they were awarded Change Orders 1, 2, and 3, totaling \$628,720, or about two-thirds of the cumulative value of change orders approved to date (\$984,111).

IMPLICATIONS AND RISKS:

Separation of Work:

The civil engineering services outlined above cannot be disassociated from the original scope of work for two main reasons:

1. TCHC's Subdivision Agreement with the City of Toronto prohibits TCHC from engaging a new (different) engineer before the roadways have been completed and assumed by the City. According to paragraph 3.1 of the agreement:

The Owner agrees to retain a Consulting Engineer to design all Services and carry out all the necessary engineering and inspection requirements to be performed for the development of the Subdivision and for the provision and installation of Services required by this Agreement. The Consulting Engineer shall continue to be retained until the Assumption of Services as provided for in this Agreement is complete.

2. Notwithstanding point 1 above, it remains more cost effective to expand Dillon's scope rather than seek competitive pricing by putting the new/added scope out to tender because:

- Engaging another engineer would require a lengthy RFP process and contract negotiation;
- A new engineer would require additional fees to review work that TCHC has already paid Dillon for; this is justified, as the second engineer would assume legal liability for some aspects of work by the first engineer; and
- The roadways and site services have been designed by Dillon, and it would be highly unusual for a second engineer to be engaged to inspect and report on their construction.

Evaluation of Pricing:

Development staff carefully assessed each of Dillon's requests for additional fees by:

- requesting from Dillon a detailed breakdown of the proposed work, including rates and time estimates for each work item;
- carefully examining the contract to make sure that the proposed work is not already included in Dillon's scope of work;
- where appropriate, verifying with TCHC's construction manager (Daniels CM) that the work is required, and that the scope described by Dillon is reasonable;
- comparing the request at hand with previous requests for similar or comparable previous work; and
- assessing the amount of time that Dillon proposes to spend on the tasks to make sure that these are reasonable and that their hourly rates are consistent, and negotiating adjustments as required.

Financial Implications:

Funding for this change order is within the total spending authority requested and approved for Regent Park Phase 2 Site Servicing of \$19,412,000 (TCHC:2010-116 and TCHC:C2014-23). The Board-approved budget is summarized in Table 3 below.

Table 3: Board-Approved Spending Authority

	Original Approved Budget (TCHC:C2010- 116)	Reduction in Spending Authority (TCHC:C2014- 23)	Current Approved Budget (TCHC:C2014- 23)
Regent Park Phase 2 Site Servicing	\$22,520,000	- \$3,108,000	\$19,412,000

SIGNATURE:*“Kelly Skeith”*

Kelly Skeith
Acting Chief Development Officer

PUBLIC ATTACHMENTS:

1. Map of the Regent Park Phase 2 Roadways

Confidential Attachment 1: Dillon Change in Scope # 30 Rev. 1

Reason for Confidential Attachment: Third party commercial information supplied in confidence and commercial information belonging to TCHC that has monetary value or potential monetary value and whose disclosure could reasonably be expected to be injurious to its financial interests.

Confidential Attachment 2: Dillon Change in Scope # 31

Reason for Confidential Attachment: Third party commercial information supplied in confidence and commercial information belonging to TCHC that has monetary value or potential monetary value and whose disclosure could reasonably be expected to be injurious to its financial interests.

Confidential Attachment 3: Dillon Change in Scope # 33 Rev. 1

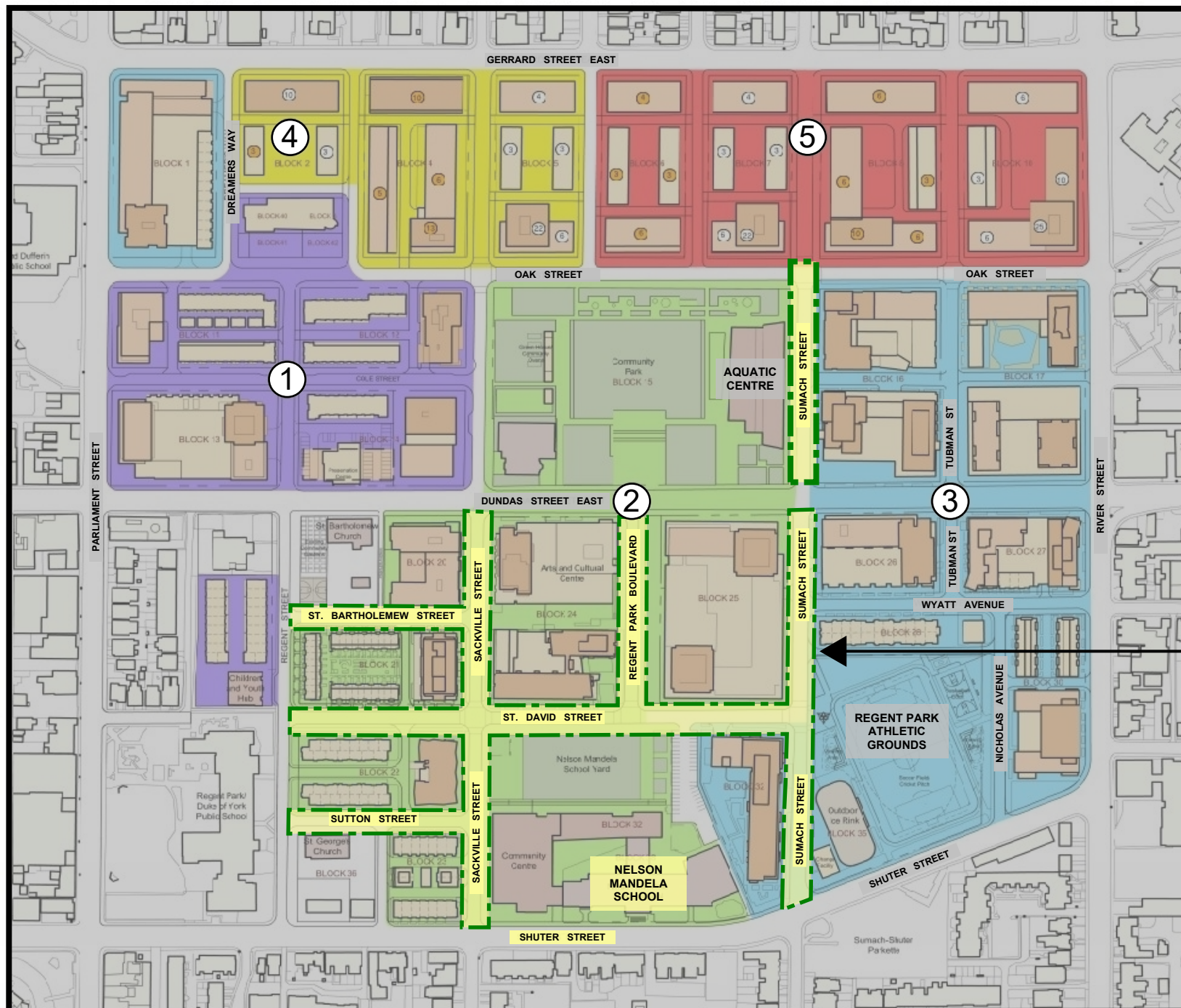
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**REGENT PARK
REVITALIZATION
PROJECT:
PHASE 2 ROADWAYS
AUGUST, 2020**



THE YELLOW AREA
INDICATES THE PHASE
2 ROADWAYS