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The Regional Municipality of Durham Report

To: Committee of the Whole
From: Commissioner of Finance and Commissioner of Planning and Economic Development
Report: #2024-COW-13
Date: April 10, 2024

Subject:

Sole Source Procurement for the Economic Study to undertake the analysis necessary to prepare the Region of Durham for the future prescribed Bill 131 Background Study

Recommendation:

That the Committee of the Whole recommends to Regional Council:

- A) That a sole source contract for the preparation of an Economic Study to explore using the new Station Contribution Charge through the *GO Transit Station Funding Act, 2023*, to deliver four new GO stations along the Lakeshore East GO Extension to Bowmanville, which will build on the work completed for the Region's Station Implementation Strategy by N. Barry Lyon Consultants (NBLC), be awarded to a consultant team led by NBLC and including Watson & Associates Economists Limited, with an upset limit of \$285,000, to be financed through the approved 2024 Transit Oriented Development Division budget or at the discretion of the Commissioner of Finance; and
 - B) That the Commissioner of Finance be authorized to execute the necessary documents related to the contract.
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Report:**1. Purpose**

- 1.1 The purpose of this report is to seek approval from Regional Council to award a sole source contract for the completion of an Economic Study, being the initial analysis needed for the Region to understand the various factors that would affect the Transit Station Charge (TSC), if the Region were to utilize the new legislation. This Study is being done to further explore the use of the TSC through the *GO Transit Station Funding Act, 2023* as a precursor to the prescribed Bill 131 Background Study which has yet to be formalized through the related regulation.
- 1.2 Dollar amounts followed by an asterisk (*) are before applicable taxes.

2. Background

- 2.1 The Region of Durham has been working with the provincial government for over 30 years to expand GO train service to Bowmanville, which is a 20-kilometre extension involving four proposed new GO stations in the City of Oshawa and the Municipality of Clarington.
- 2.2 On December 7, 2017, Metrolinx awarded a Technical Advisor contract to Stantec to provide technical advisory, design, and construction support services for the Lakeshore GO East Extension to Bowmanville. The Technical Advisor has designed the Extension only and not the stations to approximately 50 per cent, in anticipation of awarding a Construction Manager at Risk contract to refine and bring the Extension to 100 per cent design and priced for construction.
- 2.3 In 2018, the province announced it would no longer pay for new GO stations. Metrolinx introduced its Market Driven Strategy (MDS) to enforce the concept of “the benefiter pays”. Instead, Metrolinx would leverage the value of the new transit service and would work with landowners adjacent to GO stations, (who stand to benefit the greatest from the introduction of the transit service), to pay for the station in exchange for the rapid transit service.
- 2.4 The MDS is based on the ability of a single developer to pay for and build a GO station in exchange for the increased land value associated with the new transit infrastructure.

- 2.5 Despite having carried out an engagement process to identify station partners in Durham, it has proven challenging for Metrolinx to secure developer agreements to pay for any of the four stations, underpinned by the following reasons:
- a. The fragmented land ownership around the proposed stations means that no single land parcel can generate enough land value uplift to support paying for stations; and
 - b. The land value uplift and Regional market conditions are not strong enough within the Durham context for any single developer to absorb the cost of a station while supporting a viable development.
- 2.6 On June 15, 2023, Metrolinx awarded the rail extension Construction Manager at Risk (CMAR) contract to Bowmanville Construction Partners which is a general partnership between Ledcor CMI Ltd. and Dragados Canada Inc. This consortium will advance the Technical Advisor's work to take the rail extension to 100 per cent design for Metrolinx and will be the preferred contractor to build the Extension. At present, the CMAR does not include the design or construction of the four proposed stations.
- 2.7 On September 25, 2023, the Province of Ontario introduced the proposed *GO Transit Station Funding Act, 2023*, which later received royal assent on December 4, 2023. The legislation enables both upper, single and lower-tier municipalities to support the delivery of new GO Stations by using the collection of a Transit Station Charge generated from development projects being built surrounding Transit Oriented Communities through the completion of a prescribed Bill 131 Background Study and subsequent approval by the Minister of Infrastructure.
- 2.8 The prescribed Bill 131 Background Study will be detailed in the impending Regulation for the new legislation, which is expected to be completed by the Province in July 2024.

3. Sole Source Justification

- 3.1 NBLC was engaged in 2021 to assist the Region in creating a modified market driven Station Implementation Strategy. NBLC has continued to work with the Region and has provided the foundational research and analysis for the strategy to date. The research and analysis completed will be used as the basis to inform the Economic Study. Time and cost savings will be realized by the Region to continue working with NBLC for the Economic Study. The Finance Department has also been seeking expert advice from Watson and Associates regarding both the Station Implementation Strategy and specifically the new revenue tool of the TSC. In

addition, Watson and Associates has assisted the Region on recent Official Plan and various Development Charge related work.

- 3.2 This study of a TSC and the related scope of work are completely new as the legislation was just passed on December 4, 2023. Given that their work in advising the Region on options to enable the construction of GO stations, NBLC is uniquely qualified due to their background and existing work completed to date.
- 3.3 With Metrolinx CMAR procurement for the rail extension continuing to move ahead quickly, it is critical that the Region rapidly completes the Economic Study to ready itself for the requirements of the Background Study that will be prescribed in the regulation to implement the *GO Transit Station Funding Act, 2023*.
- 3.4 Procurement of NBLC's services for the Economic Study will ensure the Region continues to work concurrently on exploring the opportunity to upfront the costs related to the delivery of the four new GO stations along the Lakeshore East GO Extension to Bowmanville using the TSC, while Metrolinx, and its partners', progress on the rail and station designs.

4. Financial Implications

- 4.1 Section 7.2 of the Region's Purchasing By-law #16-2020 permits the acquisition of goods and services through sole source negotiations under specific circumstances outlined in Appendix "C" of the by-law. Section 1.2 of Appendix "C" permits sole sourcing for, "additional deliveries by original supplier for goods/services from initial procurement if a change of supplier cannot be made due to interchangeability/interoperability with existing goods/services from initial procurement and would cause significant inconvenience or substantial duplication of costs". In addition, Section 1.8 of Appendix "C" permits sole sourcing if, "procurement is confidential and privileged in nature and disclosure through open process would compromise government confidentiality, waive privilege, cause economic disruption, and be contrary to the public interest".
- 4.2 The by-law also requires approval by the appropriate standing committee and Council for the award of sole source contracts that exceed \$100,000 in value.
- 4.3 Financing for a sole source Economic Study contract, estimated at a total contract value not to exceed \$285,000*, will be funded from the approved 2024 Transit Oriented Development Office Division budget. However, it is anticipated that these funds will become recoverable if the Region decides to move forward with the

prescribed Bill 131 Background Study and the new TSC is approved by the Province.

5. Previous Reports and Decisions

- 5.1 On May 6, 2022, the Commissioner of the Planning and Economic Development Department released Council Information Report #[2022-INFO-38](#), “Approval of the Lakeshore East GO Extension to Bowmanville”.
- 5.2 On March 29, 2023, Council considered and endorsed confidential staff report #2023-COW-11 containing information regarding the Bowmanville GO Extension station funding strategies.
- 5.3 On November 15, 2023, the Committee of the Whole received report [2023-COW-38](#), seeking endorsement of Durham Region’s response to Ontario’s Regulatory Registry post regarding the proposed *GO Transit Station Funding Act, 2023*, which identified the Region’s support for the legislation and proposed a few amendments. This report subsequently received Council endorsement on November 29, 2023.

6. Relationship to Strategic Plan

- 6.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:
 - a. Goal 1 Environmental Sustainability: Objective 1.5: Expand sustainable and active transportation.
 - b. Goal 2 Community Vitality: Objective 2.1: Revitalize existing neighbourhoods and build complete communities that are walkable, well-connected, and have a mix of attainable housing.
 - c. Goal 3 Economic Prosperity: Objective 3.3: Enhance communications and transportation networks to better connect people and move goods efficiently.
 - d. Goal 4 Social Investment: Objective 4.1: Revitalize community housing and improve housing choice, affordability, and sustainability.

7. Conclusion

- 7.1 It is recommended that Regional Council approve the award of a sole source contract in the amount of \$285,000 for the completion of the Economic Study to NBLC and its subconsultant, Watson and Associates with the funding to be provided from the approved 2024 Transit Oriented Development Office division budget or at the discretion of the Commissioner of Finance.

Respectfully submitted,

Original signed by

Brian Bridgeman, MCIP, RPP, PLE
Commissioner of Planning and
Economic Development

Original signed by

Nancy Taylor, BBA, CPA, CA
Commissioner of Finance

Recommended for Presentation to Committee

Original signed by

Elaine C. Baxter-Trahair
Chief Administrative Officer