

REPORT NO. 14 of the
FAMILY AQUATIC STEERING COMMITTEE
of its meeting held
January 30, 2012

Present: **Councillor Drew Dilkens, Chair**
 Councillor Ed Sleiman
 Councillor Ron Jones
 Councillor Hilary Payne
 Councillor Fulvio Valentinis

Your Committee submits the following recommendation:

Moved by Councillor Sleiman, seconded by Councillor Jones,
That a Change Order **BE RECEIVED** with respect to the development of the Family Aquatic Centre's
front facade in accordance with the process recommended by the City's external legal counsel.
Carried.

Clerk's Note: The report of the Manager of Purchasing & Risk Management
entitled ""Family Aquatic Centre (the "Facility") - Fa9ade e elopment" is attached.

COMMITTEE COORDINATOR

NOTIFICATION		
Members of the Family Aquatics Complex Steering Committee (including resource personnel)		

**THE CO
CITY SOLICITOR- Legal Services**

MISSION STATEMENT:

"The City of Windsor, with the involvement of its citizens, will deliver effective responsive municipal services, and will mobilize innovative community partnerships"

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To: Members of the Steering Committee - Family Aquatic Complex

Subject: Family Aquatic Complex (the "Facility") - Façade Development

1. RECOMMENDATION: City Wide: Ward(s): ___

THAT a Change Order **BE APPROVED** with respect to the development of the Facility's front façade in accordance with the process recommended by the City's external legal counsel.

2. BACKGROUND:

On December 15, 2011 by Council Resolution 302/11, Council approved the award of RFP 114-11 to EllisDon Corporation/ DeArigelis Construction Inc. in joint venture (the "Contractor") at a fixed price of \$60,512,300 and an overall project budget net of non-corporate recoveries of \$62,622,300. Included in this budget is a contingency of \$2,900,000. The means of use of this contingency will be dictated by the project charter, but it is intended to address out-of-scope matters expected to arise in a project of this magnitude and complexity.

During the design development phase, a change to the Facility's front façade was contemplated. A design befitting the prominence of this project in the City's downtown core has been created, but cannot be accomplished within the contract price of \$60,512,300 as it valued at \$500,000. Recognizing the partnership between the City and the Contractor in the project as well as the project budget, an agreement has been reached which is satisfactory to all parties and would result in the enhanced façade being accomplished within the City's project budget.

3. DISCUSSION:

Design/build processes are, by their nature dynamic. The initial designs are not fleshed out to the fine level of detail required to build, and in the process of developing the designs, changes are expected to occur. The Facility is going to be a landmark building in the City's downtown

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The design accepted by Council of the Facility's facade has been further developed to reflect the City's desires. To build such a design, however, will cost an additional \$500,000. As noted, the City has a contingency budget of \$2,900,000. The expenditure of \$500,000 fits well within this contingency and adds value to the Facility without having a negative impact on the project budget. That being said, the project is in its early stages and other issues may arise that require recourse to the contingency fund.

To balance these competing concerns, the City and the Contractor have agreed that the City will segregate \$500,000 of the "contingency fund" to pay for the facade improvements at the end of the construction. This segregated contingency will remain under the full control of the City, but the City will not make use of this money for anything other than the facade payment unless it is required to satisfy a problem that affects the core functionality of the Facility. In the event that occurs whatever remains in the segregated contingency will be paid to the contractor, and the City will pay 50% of the unfunded balance. Based on this formula, the City's maximum additional liability will be \$250,000, or 0.004% of the overall project budget net of non-corporate recoveries.

Because of the stringent nature of the Contract and the thoroughness of the OSR, the City is confident that the segregated contingency will be entirely available at the end of the project. To put this agreement into effect, a change order is required to describe the nature of the agreement and to define the point at which the cost of the change will be assessed against the contract price. The contract price will not change until the end of the project when the availability of the segregated contingency will determine the net cost of the change to the City.

4. FINANCIAL MATTERS:

As noted in the discussion, if the City were to completely exhaust the contingency budget including the segregated contingency, the maximum additional financial liability to the City is \$250,000, or 0.004% of the overall project budget net of all non-corporate recoveries.

5. CONSULTATIONS:

Family Aquatic Complex Executive Committee
City Solicitor
EllisDon Corporation/DeAngelis Construction Inc. (in joint venture)
Miller Thomson LLP (Bill Pigott and Drazen Bulat)

7. CONCLUSION:

Through the development of the design for the Facility, desired changes to the facade have been identified that would "better meet the City's vision of an iconic landmark building. These changes would cost an additional \$500,000 that can be accommodated within the contingency on

/SAH

