

Sole Source for Grenwitch General Contracting Inc. to complete work at Stan Wadlow (Kiwanis) Outdoor Pool and Splash Pad

Date:	September 19, 2008
To:	Community Development and Recreation Committee
From:	General Manager, Parks, Forestry and Recreation Acting Director, Purchasing and Materials Management Division
Wards:	Ward 31
Reference Number:	

SUMMARY

The purpose of this report is to advise the Community Development and Recreation Committee on the sole source purchase agreement entered into with Grenwitch General Contracting Inc. on May 15, 2008 in order to expedite the completion of the renovations to Stan Wadlow (Kiwanis) Outdoor Pool and the construction of a new splash pad. The amount being reported is \$1,339,778.00 net of GST, and as outlined in the City's *Municipal Code, Chapter 195, Purchasing*, a sole source commitment in excess of \$500,000 requires the Chief Purchasing Official and the City Manager or Division Head to report jointly to the Community Development and Recreation Committee.

Land Construction Ltd. was originally retained to complete this work in April 2007. The City issued a formal notice of default to Land Construction on January 27, 2008 thereby cancelling the original contract. Grenwitch General Contracting Inc. has been retained by the City, with the assistance of the Surety, Kingsway General Insurance Company, to complete all outstanding work.

The City is obligated to complete the outstanding work as soon as possible to meet the recreational needs of the community, minimize the City's exposure to issues of public safety and liability, and not compromise the City's position with regards to the surety. A sole source agreement between the City and Grenwitch General Contracting Inc. was required because the Surety is not obligated, under the terms and conditions of their indemnity bond to complete this work on behalf of the City.

Financial Impact

The total contract award identified in this report is \$1,406,766.90, including all charges and applicable taxes. The cost to the City net of GST plus a contingency allowance of \$100,000.00 is \$1,339,778.00 and is required to pay for the outstanding work to be completed at Stan Wadlow Outdoor Pool by Grenwitch General Contracting Ltd. due to the default of Land Construction.

The remaining funds in capital accounts CPR120-36-03 (Kiwanis Pool Facility Renovation) and CPR120-37-01 (CAMP (SGR) ODP – Stan Wadlow Kiwanis), \$879,778.00 have been carried forward into 2008 to complete this project. Funding for the balance in the amount of \$460,000.00 will also come from the 2008 Parks, Forestry and Recreation Capital Budget in account CPR120-37-01.

The City will be looking to the Surety to pay any amounts in excess of the price of the original contract with Land, under the Performance Bond. However, due to an unresolved dispute between the City and the Surety over outstanding funds owed to Land Construction Ltd. for work performed on another project for Transportation Services Division, the Surety is not prepared to make payment to the City from the Performance Bond until this issue is resolved. As such, Parks Forestry and Recreation has committed additional funds from their capital budget to cover the short term construction costs, while maintaining their right to seek compensation from the Surety upon resolution of the dispute.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

On April 25, 2007, Contract No. PFR SAP 1081723 in the amount of \$1,258,500.00 (net of GST) was awarded to Land Construction Ltd. for the renovation of Stan Wadlow (Kiwanis) Outdoor Pool and construction of a new splash pad.

<http://www.toronto.ca/legdocs/2007/agendas/committees/bd/bd070425/bddd.pdf>

ISSUE BACKGROUND

On October 11, 2007, the City received direction from the Royal Bank of Canada (RBC) to redirect all funds owing to Land Construction Ltd. to RBC. Unable to resolve this matter with RBC, Land Construction advised the City on November 6, 2007 that they would be forced to cease operation at the job site.

On January 17, 2008 the City issued a formal notice of default thereby cancelling the contract with Land Construction Ltd. Of the \$1,258,500.00 (net of GST) contract with Land Construction Ltd., \$399,078.19 (net of GST) has been certified completed to date.

Following discussions with the Surety, Kingsway General Insurance Company, for Land Construction Ltd., it was agreed that in order to complete the work as expeditiously as possible, the Surety would facilitate re-bidding of the work.

The Surety retained an architectural consulting firm to redefine the scope of work and prepare the revised contract documents for re-bidding. In cooperation with Purchasing and Materials Management (PMMD) and the Surety, the second and third lowest bidders from the original tender were invited to by the Surety to re-submit competitive quotes for the outstanding work identified by the architectural consulting firm.

Bids were received by the Surety on April 22, 2008; the lowest being \$1,239,778.00 (net of GST) received from Grenwich General Contracting Inc.

The Surety is not obligated under the terms and conditions of the Indemnity Bond to manage the construction of the pool renovations, and as such the City was required to hire the new contractor; execute a contract, resulting in a sole source agreement; and manage the completion of the work.

COMMENTS

The 50% Performance Bond held with Kingsway General Insurance Company is in the amount of \$680,255.00 and the City will be pursuing the Surety to reimburse the City for its additional expenditures above and beyond the original contract amount, once the aforementioned dispute is resolved.

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SIGNATURE

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