



## STAFF REPORT ACTION REQUIRED

### **Suspension of Pave-1 Construction Limited (an affiliate of previously suspended IPAC Paving Limited) from being awarded or granted City contracts; bypassing the lowest bidder on Tender Call 202-2014; and amendment of Contract 47017945**

<b>Date:</b>	August 6, 2014
<b>To:</b>	Executive Committee
<b>From:</b>	Acting Director, Purchasing and Materials Management, and General Manager, Toronto Water
<b>Wards:</b>	All
<b>Reference Number:</b>	P:\2014\Cluster B\TW\EX14015

## **SUMMARY**

---

The purpose of this report is to recommend that Council suspend Pave-1 Construction Limited ("Pave-1") from being awarded future City contracts due to its affiliation with previously suspended contractor IPAC Paving Limited ("IPAC"); bypass Pave-1 in relation to Tender 202-2014; and extend an existing contract to prevent the interruption of City services. The report is being submitted to the Executive Committee for consideration to allow for public notice, as some elements of the report were not finalized prior to the publication of the Public Works and Infrastructure Committee agenda.

## **RECOMMENDATIONS**

---

**The Acting Director, Purchasing and Materials Management and the General Manager, Toronto Water recommend that City Council:**

1. Suspend Pave-1 Construction Limited, and any legal entity affiliated with or of the same operating mind as that of Pave-1 Construction Limited, IPAC Paving Limited, Roadmill Construction Inc. or Sebastian Corbo, as determined by the Director, Purchasing and Materials Management in consultation with the City Solicitor, from being awarded or granted any future City contracts, or otherwise profiting from any City contracts.

2. Bypass the lowest bidder, Pave-1 Construction Limited, and award a contract to C. Valley Paving Ltd., being the second lowest bidder meeting specifications of Tender 202-2014, for the restoration to roads, sidewalks and landscaping in various locations within the Etobicoke York and North York Districts in the amount of \$1,741,350.00 net of all taxes (\$1,771,997.76 net of HST Recoveries).
3. Amend Contract No. 47017945 (Tender 256-2013) for the restoration to roads, sidewalks and landscaping in various locations within the Etobicoke York and North York Districts, with D & A Road Services Inc. by an additional amount of \$500,000.00 net of all taxes (\$508,800.00 net of HST recoveries) revising the current contract value from \$989,600.00 to \$1,489,600.00 net of all taxes (\$1,515,816.96 net of HST recoveries) and extend the contract validity from November 4, 2014 to December 31, 2014.

### Financial Impact

The total potential contract award identified in this report is \$1,967,725.50 inclusive of all taxes and charges. The potential cost to the City is \$1,771,997.76 net of HST Recoveries and is \$52,661 net of HST recoveries higher than the bypassed lowest bidder. Funding is available in the Approved 2014 Toronto Water Operating Budget and provisions have been made in the 2015 Toronto Water Operating Budget Submission. The engineering estimate for this project was \$1,920,000.00, including HST and all applicable charges.

Amendment of Contract No. 47017945 for an additional \$500,000.00 net of HST (\$508,800.00 net of HST recoveries) will increase the current contract value from \$989,600.00 net of HST (\$1,007,016.96 net of HST Recoveries) to \$1,489,600.00 net of HST (\$1,515,816.96 net of HST Recoveries), and extend the contract validity date to December 31, 2014. Funding for this extension is available in the Approved 2014 Toronto Water Operating Budget.

The cash flow funding requirements for this project are as follows:

Operating Account	Description	2014 (net of HST Recoveries)	2015 (net of HST Recoveries)	Total (net of HST Recoveries)
TW2025 - 4424	District Operations – Operations & Maintenance North York	\$388,439.80	\$637,919.19	\$1,026,358.99
TW2030 - 4424	District Operations – Operations & Maintenance Etobicoke York	\$474,759.75	\$779,679.02	\$1,254,438.77

Total		\$863,199.55	\$1,417,598.21	\$2,280,797.76
-------	--	--------------	----------------	----------------

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

## **DECISION HISTORY**

At its meeting on February 6 and 7, 2012, City Council suspended IPAC, Sebastian Corbo, as an individual, and any entity in any way owned, directed or controlled by Sebastian Corbo, including Road Mill Construction Inc. ("Road Mill"), from being awarded or granted any future City contracts until the courts had rendered a final decision regarding the charges laid against Sebastian Corbo with respect to several Criminal Code offences, and all appeals had been exhausted or until all of the charges against Sebastian Corbo had been withdrawn.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.GM10.15>

At its meeting on November 27, 28 and 29, 2012, City Council made the above suspensions permanent.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.GM18.4>

## **ISSUE BACKGROUND**

As indicated in GM10.15, in July 2009 the TTC began investigating a complaint of fraud involving a TTC project manager and Sebastian Corbo in relation to a TTC construction contract with IPAC. The Toronto Police began assisting in the investigation in the summer of 2010. The TTC employee, his wife and son, and Sebastian Corbo were charged with various crimes related to fraud in connection with secret commissions paid through IPAC. Based on those charges, the City suspended IPAC, Sebastian Corbo, and Road Mill from being awarded City contracts as described above under Decision History.

At its meeting held on January 31, 2012, prior to the final disposition of Sebastian Corbo's criminal charges, the TTC permanently prohibited the awarding of any TTC contract to Sebastian Corbo and IPAC, based on its investigation into the matter.

As indicated in GM18.4, on July 12, 2012, Sebastian Corbo pleaded guilty to and was convicted of paying a secret commission. He was sentenced to a four month conditional sentence, one year probation and was ordered to pay \$30,000 restitution to the TTC within 12 months. The City then permanently suspended IPAC, Sebastian Corbo and Road Mill as described above under Decision History.

## **COMMENTS**

### **Recommendation for Suspension**

In the process of reviewing the bid from Pave-1 for Tender 202-2014, City staff requested clarification of Pave-1's affiliation with IPAC. John Corbo, on behalf of Pave-1, responded that "Pave-1 Construction Ltd is not affiliated, owned or operated with Ipac Paving Ltd and Road Mill Construction ..."

It was only after a subsequent request for clarification that John Corbo revealed through his lawyer that he is the sole owner of both Pave-1 and IPAC. In addition, the corporate profile reports show that John Corbo is the sole director of Pave-1 and is the sole director of IPAC. Pave-1 was incorporated less than one month after City Council first suspended IPAC in February 2012. One can reasonably conclude that Pave-1 was created to circumvent the suspension of IPAC and thereby allow its operating minds (including now convicted Sebastian Corbo) to continue bidding on City contracts.

Since Pave-1 is an affiliate of and has the same operating mind as the suspended contractor IPAC, the City has a reasonable basis to extend its suspension to Pave-1.

The failure of John Corbo to provide a full and consistent response as to his affiliation with IPAC as part of the clarification process also compromises the integrity of the City's procurement process.

### **Toronto Water Road Restoration Tender**

On June 18, 2014, Purchasing and Materials Management Division ("PMMD") issued Tender Call No. 202-2014 for Contract No. 14EYNY-311WS for restoration to roads, sidewalks and landscaping in various locations within the Etobicoke York and North York Districts. The Toronto Water Tender was available for download in PDF format on the City's website.

At its public opening held on July 2, 2014, PMMD opened the following bids for the Toronto Water Tender:

<b>Firm Name</b>	<b>Total Price (Net of HST)</b>
Pave-1 Construction Limited	\$1,689,600.00
C. Valley Paving Ltd.	\$1,741,350.00
Rafat General Contractor Inc.	\$1,882,100.00
D&A Road Services Inc.	\$1,960,100.00
Edgeway Paving Ltd.	\$2,472,300.00
Gazzola Paving Ltd.	\$4,102,600.00

The lowest compliant bidder is Pave-1 which, as described above, is owned and controlled by John Corbo and thereby affiliated with IPAC. Staff are recommending to bypass Pave-1 as the lowest bidder meeting specifications for the Toronto Water Tender

and instead award to the second lowest bidder meeting specifications, C. Valley Paving Ltd. ("C. Valley").

The bid documentation submitted by C. Valley has been reviewed by the General Manager of Toronto Water and was found to be in conformance with the Toronto Water Tender requirements.

Toronto Water staff have compared the bid to the estimated cost and found the price of C. Valley to be reasonable given the tender prices of all bidders.

The Fair Wage Office has reported that the recommended firm has indicated that it reviewed and understands the Fair Wage Policy and Labour Trades requirements and has agreed to comply fully.

### **Amendment of Contract 47017945**

The existing Contract 47017945 (Tender 256-2013) with D & A Road Services Inc. for the restoration to roads, sidewalks and landscaping in various locations within the Etobicoke York and North York Districts, expires on November 4, 2014 and funds are nearly exhausted. The contract was previously amended in the amount of \$500,000.00, net of all taxes, in accordance with the Financial Control By-Law for additional work required for watermain breaks and water service repairs due to the extreme winter conditions in January to March 2014.

The upcoming award of Tender 202-2014 was originally scheduled to be completed in August and would have replaced the existing Contract 47017945. An amendment of \$500,000.00, net of all taxes and a contract extension to December 31, 2014 is now being requested for Contract 47017945 with D & A Road Services to allow time for the award of the new Tender 202-2014 to C. Valley so that there is no interruption in services.

### **Changes to the Tender Template**

The tender template has been updated to include language that prevents bidders from using companies that have been suspended by the City as subcontractors. This would prevent Pave-1, IPAC, Road Mill and other suspended companies from indirectly profiting from City contracts.

### **City Contracts with Pave-1 Construction Limited**

Parks, Forestry and Recreation Division had contracts with Pave-1 that expired July 31, 2014. Although there was an option to renew the contracts for two additional one year periods, staff recommended not exercising the option to renew the contracts.

Legal Services has been consulted and concurs with the recommendations in this report.

## **CONTACT**

Allison Phillips  
Acting Manager  
Purchasing and Materials Management  
Tel: 416-392-7323  
Email: [aphilli2@toronto.ca](mailto:aphilli2@toronto.ca)

Frank Trinchini  
Manager, District Contract Services  
Toronto Water  
Tel: 416- 395-6284  
Email: [ftrinchi@toronto.ca](mailto:ftrinchi@toronto.ca)

## **SIGNATURE**

---

Victor Tryl  
Acting Director  
Purchasing and Materials Management

---

Lou Di Gironimo  
General Manager  
Toronto Water

## **ATTACHMENTS**

Appendix A: Corporate Profile Report for Pave-1 Construction Limited dated July 31, 2014

Appendix B: Corporate Profile Report for IPAC Paving Limited dated July 31, 2014