TORONTO

REPORT FOR ACTION

Non-Competitive Contract to Plan Group Inc. and Purchase Order Amendment to Cole Engineering Group Ltd. for the Completion of the Ellesmere Pumping Station Power Generators Upgrade

Date: March 4, 2019
To: Infrastructure and Environment Committee
From: General Manager, Toronto Water
Chief Purchasing Officer, Purchasing and Materials Management Division.
Wards: 24 Scarborough-Guildwood

SUMMARY

The purpose of this report is to advise City Council on the requirements for the completion of the Ellesmere Pumping Station Power Generators Upgrade Project (the "Project") and to request authority to enter into a non-competitive contract with Plan Group Inc. ("Plan Group") for the completion of the Project in an amount not to exceed $13,960,143.20 net of all taxes ($14,205,841.72 net of HST recoveries). The rationale for this non-competitive contract is on the basis of urgency to complete the Project as soon as possible since the City terminated the Aplus General Contractor Corp. ("Aplus") from the original contract and Plan Group's knowledge of the Project as Plan Group was a major subcontractor to Aplus and the prices Plan Group has provided to Aplus will remain the same.

Furthermore, authority is requested to extend the Site Supervision, Contract Administration and Consultant services provided by Cole Engineering Group Ltd. for completion of the Project, to amend the dollar value of Purchase Order 6037723 in the amount of $661,948.35 to $1,789,318.85 net HST ($1,820,810.86 net of HST recoveries) and to extend the contract delivery date to December 31, 2021.

RECOMMENDATIONS

The General Manger of Toronto Water and Chief Purchasing Officer, Purchasing and Materials Management Division recommend that:

1. City Council authorize the General Manager of Toronto Water to negotiate and execute a non-competitive agreement with Plan Group Inc. for the completion of the Project for an amount not to exceed $13,960,143.20 including provisional items,

contingency and all applicable charges net of all taxes ($14,205,841.72 net of HST recoveries) on terms and conditions satisfactory to the General Manager, Toronto Water and in a form satisfactory to the City Solicitor.

2. City Council authorize the General Manager of Toronto Water to amend Purchase Order No. 6037723, issued to Cole Engineering Group Ltd. for the provision of professional engineering services as Consultant for the completion of the Project, by $661,948.35 net HST ($673,598.64 net of HST recoveries) from $1,127,370.50 to $1,789,318.85 net HST ($1,820,810.86 net of HST recoveries) and to extend the delivery date to December 31, 2021.

FINANCIAL IMPACT

The total amount of the proposed contract to complete the Project is up to $13,960,143.20 including provisional items, contingency and all applicable charges, net of HST. The cost to the City, net of HST recoveries, is $14,205,841.72. In addition the amendment to Purchase Order No. 6037723 is a total of $661,948.35 net of HST, or - $673,598.64 net of HST recoveries. The total value to complete the work on this project is $14,879,440.36, net of HST recoveries.

Funding is available in Toronto Water's 2019 Approved Capital Budget and 2020-2028 Approved Capital Plan as summarized in the Table 1 (net of HST recoveries):

Table 1 - Capital Funding

Account	Account Name	2019	2020	2021	2022	2023	Total
CPW069-01	System Sustainability	$1,200,428	$4,544,000	$5,457,000	$3,668,012	$10,000	$14,879,440

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

DECISION HISTORY

At its meeting of April 25, 2016, the Public Works and Infrastructure Committee awarded Tender Call No. 2-2015, Contract MCP-13-18WS, to Aplus General Contractors Corp. (Aplus) to undertake the Project in the amount of $23,835,000.00, net of all taxes ($24,254,496.00 net of HST recoveries).
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.PW12.4

COMMENTS

Contract MCP-13-18WS awarded to Aplus was issued in support of Toronto Water's System Sustainability initiative and the Toronto Water Strategic Plan capital program to upgrade the Ellesmere Pumping Station including its east reservoir and power generators. The upgrades encompassed the addition of a new high capacity two (2) meter diameter watermain connection into the reservoir allowing for future increased supply directly from the Horgan Water Plant. Also included in the upgrades was the construction of a new generating station, complete with installation of ten (10) megawatts of new power generating equipment intended to allow the City to maintain uninterrupted operation during any power outage, as well as creating revenue for the City under the Toronto Hydro DR3 program.

Ellesmere reservoir and pumping station is a key water storage and distribution hub serving 500,000 residents and annually supplying 30 billion litres of water to York Region and plays a significant role in the City's water security needs.

Work on the Project was commenced by Aplus in June of 2016 and Aplus suspended all Work on the Project on March 16, 2018, abandoning the work site prior to its completion. The City formally made a claim on the Performance Bond however Zurich denied responsibility to act under the Bond. Due to importance of the reservoir, on April 20, 2018 the City terminated Aplus' right to perform remaining work on the east reservoir at the site (a portion of the overall contract) and used other forces to return the reservoir to active service as soon as possible, as it plays a key role in the City's water security.

Negotiations to continue the remainder of the work on Contract MCP-13-18WS, Tender 2-2015, with Aplus came to a standstill and on November 1, 2018 Aplus' right to continue work on Contract MCP-13-18WS was terminated by the City.

On October 30, 2018, due to Contractor Performance Evaluation scores below the acceptable threshold, Aplus was suspended for six (6) months In accordance with the City of Toronto’s Municipal Code Chapter 195 – Purchasing, Section 195-13.13(B). A Staff Report has been prepared recommending further suspension for three (3) years based on repeated unacceptable performance scores.

Plan Group was a major subcontractor on Contract MCP-13-18WS and was responsible for the generators, switchgear, MCCs, electrical installation and controls. The value of this subcontractor's work remaining to be completed on the Project is approximately $8,519,100.00, constituting a substantial portion of the remaining work on the Project.

The City and its Consultant, Cole Engineering, have updated Project drawings and specifications to reflect the existing condition of the site and the remaining work to be completed within this proposed contract price.

Toronto Water Division and Plan Group have agreed on a proposal, for Plan Group to undertake the completion of the entire Project for a total lump sum amount of up to $13,960,143.00 (net of all taxes), including contingencies as well as provisional items, and has advised that it is ready, willing and able to complete the remaining work on the Project based on similar terms and conditions as the Project's original contract.

As a major subcontractor under the original Project contract, Plan Group is familiar with the work to be undertaken and has maintained its equipment on site since the original contract termination.

Toronto Water has confirmed that Plan Group has the capacity and bonding to act as a General Contractor and the City staff consider that Plan Group has a good working relationship with them. Plan Group has not demobilized from the construction site and is prepared to resume construction immediately.

Completion of the work as soon as possible is critical to maintaining uninterrupted operation at this important pumping station during any power outage, for enabling other critical plant upgrades dependent on its completion to be undertaken and to continue to generate revenue through Toronto Hydro's DR3 program.

City staff and its Consultant have reviewed the Plan Group proposal and are confident that it will allow the Project to be completed within the Project's original contract price of $23,835,000.00 which was previously established as the lowest compliant bid price through a competitive bid process and represents a reasonable price for completion of the work.

This proposal will allow the City to mitigate some of its damages arising from the termination of the original contract, will expedite the recommencement of work on the Project, and offers a price previously established through the competitive process.

City staff recommend this non-competitive proposal on the basis that competitive pricing for the work was obtained under the original contract and any further competitive procurement process would further delay this Project and may result in increased costs for the City. Council approval is required for this non-competitive contract pursuant to Chapter 195, Purchasing, section 195-7.3D, where the non-competitive contract is over $500,000 in value.

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

In conjunction with the construction contract to complete the project, the site supervision, contract administration, and professional engineering services being provided by Cole Engineering are required to be continued and extended by an additional eighty (80) weeks to project completion.

City staff recommend the existing Purchase Order No. 6037723 issued to Cole Engineering for professional engineering services be amended to continue and extend to include the increased project duration.

CONTACT

Garry Boychuk, P.Eng.
Manager, Capital Works Delivery, Toronto Water
Telephone: (416) 677-0593, Email: Garry.Boychuk@toronto.ca

Jacquie Breen, Manager, Corporate Purchasing Policy & Quality Assurance
Purchasing & Materials Management Division
Telephone: (416) 392-0387, E-mail: jacquie.breen@toronto.ca

SIGNATURE

Lou Di Gironimo,
General Manager, Toronto Water

Michael Pacholok,
Chief Purchasing Officer, Purchasing &Materials Management