



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Amendment to Purchase Order No. 6041805 for the Provision of Construction Services for Truck Loading Biofilter Upgrades at the Ashbridges Bay Plant

Date: October 22, 2019

To: Infrastructure and Environment Committee

From: Chief Engineer and Executive Director, Engineering and Construction Services
and the Chief Purchasing Officer, Purchasing and Materials Management Division

Wards: 14

REASON FOR CONFIDENTIAL INFORMATION

The attachment to this report contains information related to the security of property belonging to the City or one of its agencies or corporations.

SUMMARY

The purpose of this report is to request the authority to amend Purchase Order No. 6041805 with Torbear Contracting Inc., for construction of the Truck Loading Biofilter Upgrades at the Ashbridges Bay Treatment Plant, associated with the award of Tender Call No. 126-2015; Contract No. 15ECS-MI-01AB, by an additional amount of \$1,474,057 net of all applicable taxes and charges (\$1,500,000 net of HST recoveries) and to extend the delivery date for completion to June 30, 2020.

This amendment is required to complete the project, resolve claims and accommodate an extended timeline for completion of the remaining works.

RECOMMENDATIONS

The Chief Engineer and Executive Director of Engineering and Construction Services and the Chief Purchasing Officer, Purchasing and Materials Management Division recommend that:

1. The Infrastructure and Environment Committee, in accordance with Section 71-11.1.C of the City of Toronto Municipal Code Chapter 71 (Financial Control By-Law), grant authority to amend the Purchase Order No. 6041805 with Torbear Contracting

Inc., for the Construction of the Truck Loading Biofilter Upgrades at the Ashbridges Bay Treatment Plant by:

- a. increasing the value of Purchase Order No. 6041805 in the amount of \$1,474,057 net of all applicable taxes and charges (\$1,500,000 net of HST recoveries), which revises the contract value from \$19,291,938 net of all applicable taxes and charges (\$19,631,477 net of HST recoveries) to \$20,765,995 net of all applicable taxes and charges (\$21,131,477 net of HST recoveries); and,
- b. extends the delivery date for completion from December 31, 2019 to June 30, 2020.

2. The Infrastructure and Environment Committee direct that the confidential information contained in Confidential Attachment 1 remain confidential in its entirety, as it relates to the security of the property of the municipality, provided that such information or portions of such information may be released publicly at the discretion of the Chief Engineer and Executive Director of Engineering and Construction Services.

FINANCIAL IMPACT

The amendment request included in this report will increase the total contract value by \$1,474,057 net of all taxes and charges (\$1,500,000 net of HST recoveries).

Funding for the Purchase Order Amendment is available in the 2019 Capital Budget and 2020-2028 Capital Plan for Toronto Water.

Funding details are provided in Table 1 below (all values are net of HST recoveries).

Table 1: Projected Cash Flow (net of taxes) for Amendment to Purchase Order No. 6041805

WBS Element	Description	2019	2020	Total
CWW042-04	Truck Loading Biofilter Upgrades at Ashbridges Bay TP, Contract No. 15ECS-MI-01AB	\$1,000,000.00	\$474,057	\$1,474,057

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

DECISION HISTORY

At its meeting on July 2, 2015, Bid Committee awarded Tender Call No. 126-2015, Contract No. 15ECS-MI-01AB, to Torbear Contracting Inc., for the Ashbridges Bay Treatment Plant Truck Loading Biofilter Upgrades Project in the amount of \$15,614,938 net of all taxes and charges (\$15,889,762 net of HST recoveries), being the lowest bidder meeting the tender specifications. The Bid Committee decision can be found at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.BD34.1>

At its meeting on October 04, 2017, The Public Works and Infrastructure Committee, in accordance with Section 71- 11.1.C of the City of Toronto Municipal Code Chapter 71 (Financial Control Bylaw), granted authority to amend Purchase Order No. 6041805 (POA No. 1) with Torbear Contracting Inc., for construction of the Truck Loading Biofilter Upgrades at the Ashbridges Bay Treatment Plant, Contract No. 15ECS-MI-01AB, Tender Call No: 26-2015, by an additional amount of \$3,677,000 net of all taxes and charges (\$3,741,715 net of HST recoveries), revising the original contract value from \$15,614,938 net of all taxes and charges, to \$19,291,938 net of all taxes and charges (\$19,631,476 net of HST recoveries). The Public Works and Infrastructure Committee decision can be found at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PW24.2>

At its meeting on April 18, 2012, Bid Committee awarded Request for Proposal 9117-11-7321, to Black and Veatch Canada Company to provide Professional Engineering Services for the Ashbridges Bay Treatment Plant Truck Loading Biofilter Upgrades project. The Bid Committee decision can be found at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.BD70.1>

COMMENTS

Background

The purpose of the Truck Loading Biofilter Upgrades Project is to ensure the Ashbridges Bay Treatment Plant (ABTP) meets the regulatory requirements of the Ministry of the Environment, Conservation and Parks for odour mitigation requirements. The Project involves:

1. Construction of a new concrete partial in-ground enclosed biofilter structure.
2. Installation of a new overhead stainless steel air duct from the pelletizer facility to the new Biofilter facility that conveys captured foul air at the pelletizer facility and transports it to the new Biofilter for odour removal.
3. Upgrades and repairs to the existing Truck Loading facility.
4. Conversion of the existing Scrubber room into a storage and workshop area including building a new mezzanine floor for an administrative facility.

5. Associated electrical, mechanical, ventilation systems, process and instrumentation upgrades needed for the overall facility function.

Black and Veatch Canada have been contracted to provide professional engineering services during design, construction and post-construction periods for the ABTP Truck Loading Biofilter Upgrades Project.

Current Project Status

The construction contract for the ABTP Truck Loading Biofilter Upgrades Project was awarded to Torbear Contracting Inc., (Torbear) and the construction commenced in September 2015 with scheduled substantial completion in September 2017. As the construction work progressed, numerous scope changes were required, affecting the overall cost and time that would be needed to complete the construction. These changes were the subject of a purchase order amendment in Report PW24.2, Amendment to Purchase Order No. 6041805 for Truck Loading Biofilter Upgrades at the Ashbridges Bay Treatment Plant, Contract No. 15ECS-MI-01AB, approved by the Public Works and Infrastructure Committee on October 4, 2017.

The overall schedule has been significantly delayed mainly due to the time required to redesign and implement engineering solutions to resolve issues with the original design. Consequently, the contractor also submitted numerous delay claims including a claim by their electrical sub-contractor and a claim to cover contractor holdback financing costs, affecting the overall construction budget. These claims are further discussed in Confidential Attachment 1.

In June 2019, City staff were advised by the project consultant Black and Veatch Canada, that the value of these delay claims will exceed the remaining amount of contingency and recommended that the Purchase Order be further amended to increase the contingency amount by \$1,474,057 in order to complete the project and resolve the claims.

Negotiations with Torbear to finalize the claim amount are ongoing. A partial payment for the contractor's claim has been paid out of available contract contingency funds. This was done to mitigate contractor cash flow issues and prevent any work stoppage by the contractor. It is important to note that while the City has paid some of the contractor's delay claims, others have not been agreed to and remain open to negotiation between the parties. Staff will be making every effort to ensure the cost to the City is minimized. Staff will also seek to recover additional costs to the City where it is determined that costs are attributable to parties other than the City. ECS project staff have been meeting with Legal Services staff for advice on the approach and necessary documentation.

The contract completion date of this construction contract covered by Purchase Order No. 6041805 is currently December 31, 2019. To accommodate the time needed to implement the additional scope changes, the new proposed end date for the Purchase Order is June 30, 2020.

Amendment to Purchase Order No. 6041805, in the amount of \$1,474,057 net of all taxes and charges (\$1,500,000 net of HST recoveries), to Contract No. 15ECS-MI-01AB, Tender 126-2015, Truck Loading Biofilter Upgrades project at the Ashbridges Bay Treatment Plant will result in a revision of the current contract value from \$19,291,938 net of all taxes and charges, to \$20,765,995 net of all taxes and charges (\$21,131,477 net of HST recoveries).

CONTACT

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SIGNATURE

Michael D'Andrea, M.E.Sc., P.Eng.
Chief Engineer and Executive Director Engineering and Construction Services

Michael Pacholok
Chief Purchasing Officer, Purchasing and Materials Management Division

ATTACHMENTS

Confidential Attachment 1 - Amendment to Purchase Order 6041805