



REPORT FOR ACTION

Amendment to Purchase Order No. 6041832 for Contracted Professional Engineering Services Supporting Solid Waste Management Services Capital Projects

Date: February 5, 2020

To: Infrastructure and Environment Committee

From: General Manager, Solid Waste Management Services, and Chief Purchasing Officer, Purchasing & Materials Management Division

Wards: All

SUMMARY

The purpose of this report is to request authority to amend the value and extend the term of the Purchase Order 6041832 with GHD Limited (GHD), formerly Conestoga-Rovers and Associates Ltd. for engineering services related to the contract administration for the design, build and commissioning of the City's Dufferin Organics Processing Facility Expansion. GHD was originally awarded a contract in 2013 to provide contract administration and technical support for the expansion of the Organics Processing Facility at the Dufferin Solid Waste Management Facility.

There have been delays in the completion of the expansion project by W.S. Nicholls, the vendor responsible for the design, build and commission of the facility and as a result of the Contractor's delay, an amendment is required to the Purchase Order to increase the agreement value and to further extend the term to 2022. It is recommended that the contract be increased by \$490,772.63 exclusive of taxes and charges, from \$1,809,984.99 to \$2,300,757.62. The completion date is being extended from December 31, 2021 to December 31, 2022 to coincide with the projected completion of the post construction warranty period.

RECOMMENDATIONS

The General Manager of Solid Waste Management Services, and the Chief Purchasing Officer of Purchasing & Material 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), grant authority to amend and extend Purchase Order No. 6041832 with GHD Ltd. (GHD) formerly Conestoga-Rovers & Associates Ltd. as a result of Request for Proposal No.

9117-13-3073 by an additional amount of \$490,772.63, excluding taxes and charges (\$499,410.23 net of HST recoveries), revising the current total value of \$1,809,984.99, excluding taxes and charges to \$2,300,757.62, excluding taxes and charges (\$2,341,250.95 including HST recoveries) and authorize an extension of the agreement with GHD Ltd. from December 31, 2021 to December 31, 2022.

FINANCIAL IMPACT

The amendment to Purchase Order No. 6041832 for an additional amount of \$490,772.63 excluding taxes and charges (\$499,410.23 net of HST recoveries), increases the current value of Purchase Order No. 6041832 from \$1,809,984.99, excluding taxes and charges to \$2,300,757.62, excluding taxes and charges (\$2,341,250.95 net of HST recoveries). Sufficient funding is available in the 2020 Approved Capital Budget of Solid Waste Management Services as follows:

WBS Element	SAP Description	2020 Funding Requirement (net of HST recoveries)
CSW009-01-02	Dufferin OPF Facility - Consultant	\$ 228,689.08
CSW009-01-02	Dufferin OPF - Consultant - Provisional for Base Contract Administration	\$ 223,872.00
CSW017-02-26	Dufferin RNG Interconnection	\$ 46,849.15
Total		\$ 499,410.23

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

DECISION HISTORY

At its meeting on July 10, 2013, the Bid Committee adopted BD132.4 "Award of Request for Proposal No. 9117-13-3073 to Conestoga-Rovers & Associates for Engineering and Consulting Services for Expansion of the Dufferin Organics Processing Facility".

The Bid Committee Decision document can be viewed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.BD132.4>

At its meeting on June 19, 20 and 22, 2007, City Council adopted Item PW6.1 "SSO Public Facility Business Plan – Recommendations of the Planning Study for Expanded Public SSO Processing Capacity".

The City Council Decision document can be viewed at:

<http://www.toronto.ca/legdocs/mmis/2007/cc/decisions/2007-06-19-cc10-dd.pdf>

COMMENTS

GHD, formerly CRA, was retained through Request for Proposal No. 9117-08-7038 to provide contract administration and technical support services during design, build and commissioning for:

Design, Build and Commission Agreement for the Expansion of the Dufferin Organic Processing Facility: Dufferin Solid Waste Management Facility between the City of Toronto and WS Nicholls Construction Inc. (WSN) (dated December 23, 2015).

An agreement with CRA was executed on July 18, 2013 and subsequently Purchase Order No. 6037938 (dated September 24, 2013) was approved in the total amount of \$1,310,057.20 excluding taxes. CRA Purchase Order No. 6037938 was replaced by GHD Purchase Order No. 6041832 (dated November 27, 2015). It should be noted that the July 2013 agreement between the City and CRA was amended in February 2019 to reflect CRA's amalgamation with GHD and to clarify that the agreement term ends on July 17, 2023.

Purchase Order No. 6041832 has been amended three times as follows:

Purchase Order Amendment No. 1: Issued April 11, 2019 extended the GHD Purchase Order end date from December 31, 2018 to December 31, 2021 in conjunction with authorized Contractor schedule extensions required to achieve substantial performance and align with the Contractor revised post construction warranty period. (WSN Purchase Order No. 6042663: Change Order (CO) No. 18 (5 weeks; 3 days) - September 18 to November 12, 2018 and CO No. 31 (20 weeks) - November 12, 2018 to April 1, 2019 (20 weeks)), Purchase Order Amendment No. 1 also included an increase in the overall Purchase Order value by \$295,819.22 from \$1,310,057.20 to \$1,605,876.42, excluding taxes, to provide additional site inspection and contract administration services.

Liquidated damages, as permitted under the design, build and commissioning agreement, have been retained since November 12, 2018 at a rate of \$2,500/ day, based on the Contractor's failure to achieve the scheduled substantial performance. The retained liquidated damages will be used to offset the additional GHD contract administration costs that have been incurred through Purchase Order Amendment budget increases.

Purchase Order Amendment No. 2: Issued May 2, 2019 was undertaken to reallocate line items in the Purchase Order and align with GHD breakdown budget items included in their RFPOA No. 1 letter. There was no change to the Purchase Order total value nor the end date.

Purchase Order Amendment No. 3: Issued October 4, 2019 increased the overall Purchase Order by \$204,108.57 from \$1,605,876.42 to \$1,809,984.99, excluding taxes, to provide additional site inspection and contract administration services for the Dufferin Organic Processing Facility Agreement up to October 31, 2019, as a result of the Contractor's failure to achieve the amended authorized substantial performance date of April 1, 2019.

To date, the total value of the original purchase order has been amended by \$499,927.79, excluding taxes. With this new request, the total amendment value sums to \$990,700.42 excluding taxes, which requires a staff report to Infrastructure and Environment Committee for authorization to allow PMMD to complete further Purchase Order Amendments.

Ongoing Contractor delays with the Dufferin Organics Processing Facility Expansion project is briefly described below. GHD has been involved with the project since 2013 and has established special knowledge, skill, expertise and experience with respect to the project and is therefore uniquely positioned to work closely with the City and the Contractor to bring this project to completion. GHD has confirmed that they are in agreement with the proposed extension and that the increase in the Purchase Order value would be under the same terms and conditions of the existing agreement.

DOPF Agreement Project Delay:

A recommendation of Substantial Performance has not been issued to the City by GHD relating to WSN design, build and commissioning project work, as had been the objective of the most recently authorized Contract Change Order (No. 31). The Change Order proposed a planned substantial performance date of April 1, 2019. As of the date of this staff report, WSN has not initiated the design, build and commissioning contract acceptance tests that would demonstrate the facility's ability to operate at full capacity and with the specified processed material quality during the contract acceptance test period.

The projected date of substantial performance is September 2020. The Contractor is undertaking facility process equipment remedial efforts (August 2019 - March 2020) at no current additional cost to City, and has managed to process some material for SWMS operations. The City has allowed the contractor to continue with remedial efforts, and is working with GHD and WSN to finalize the design, design, build and commissioning contract. As a result of this on-going effort, a further extension is required to Purchase Order No. 6041832 to allow GHD to continue to provide contract administration and technical support into 2020 and a planned design, construction and commissioning contract substantial performance date of September 2020.

Since November 12, 2018, WSN has been assessed liquidated damages as per the DOPF Agreement. LDs will adequately offset increases in contract administration costs associated with the contractor delays with no cost to the City.

Solid Waste Management Services will continue to manage the project and document the difficulties encountered with the performance of the Contractor according to the requirements of the contract.

CONTACT

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SIGNATURE

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