

Amendment to Purchase Order 6044699 and Contract with Air Products Canada Ltd. for the Supply of Liquid Oxygen, the Lease of Liquid Oxygen Equipment and Specialized Maintenance Services at the F.J. Horgan Water Treatment Plant

Date: December 16, 2021

To: Infrastructure and Environment Committee

From: General Manager, Toronto Water and Chief Procurement Officer, Purchasing and Materials Management

Wards: All

SUMMARY

The purpose of this report is to request authority to amend the value and extend the term to February 22, 2023 of Purchase Order 6044699 issued to Air Products Canada Ltd. (the "Supplier") for the supply of liquid oxygen, the lease of liquid oxygen equipment and the provision of specialized maintenance services at the F.J. Horgan Water Treatment Plant (the "Purchase Order"). This report further seeks delegated authority to the General Manager, Toronto Water, to enter into and execute an amending agreement to the City's current contract with the Supplier to give effect to these Purchase Order amendments.

The City is in the process of procuring a new liquid oxygen supply contract for these specialized services, however, the new contract will not be awarded prior to the expiration of the City's current contract with the Supplier on February 22, 2022. To avoid any adverse operational impacts, and to ensure the uninterrupted and continuous operation of the F.J. Horgan Water Treatment Plant and its ozonation system which is critical to the City's water supply operations, a contract extension is required to maintain liquid oxygen supply through the forthcoming contract transition period. The total value of the Purchase Order amendment being requested is \$225,000 net of all taxes and charges (\$228,960 net of HST recoveries), revising the current Purchase Order value from the amount of \$570,000 net of all taxes and charges (\$580,032 net of HST recoveries) to \$795,000 excluding HST (\$808,992 net of HST recoveries).

RECOMMENDATIONS

The General Manager, Toronto Water and the Chief Procurement Officer, Purchasing and Materials Management, recommend that:

1. City Council grant authority to amend Purchase Order No. 6044699 issued to Air Products Canada Ltd. ("Supplier") for the supply of liquid oxygen, the lease of liquid oxygen equipment and the provision of specialized maintenance services at the F.J. Horgan Water Treatment Plant ("Purchase Order") in the amount of \$225,000 net of all taxes and charges (\$228,960 net of HST recoveries) revising the current Purchase Order value from the amount of \$570,000 net of all taxes and charges (\$580,032 net of HST recoveries) to \$795,000 net of all taxes and charges (\$808,992 net of HST recoveries) and to extend the expiry of the term of the Purchase Order from February 22, 2022 to February 22, 2023.
2. City Council authorize the General Manager, Toronto Water, to negotiate, enter into and execute an amending agreement to the City's current contract with the Supplier dated February 17, 2017 and expiring on February 22, 2022 to give effect to the Purchase Order amendments set out in Recommendation 1 above on such terms and conditions as are acceptable to the General Manager, Toronto Water, and in a form satisfactory to the City Solicitor.

FINANCIAL IMPACT

The proposed amendments to the Purchase Order as set out in this report would increase the total value of the Purchase Order by an additional \$225,000 net of all taxes and charges (\$228,960 net of HST recoveries) revising the current Purchase Order value from \$570,000 net of all taxes and charges (\$580,032 net of HST recoveries) to \$795,000 net of all taxes and charges (\$808,992 net of HST recoveries).

Funding in the amount of \$191,309 net of HST recoveries is available in the 2022 Approved Operating for Toronto Water and appropriate additional funding, if needed, will be included in the 2023 Operating Budget Submission for Toronto Water. Additional details follow in Table 1.

Table 1: Financial Impact Summary (Net of HST Recoveries)

PO Item Description	Cost Centre/Cost Element	February 23, 2022 to December 31, 2022	January 1, 2023 to February 22, 2023	Total
Line 10 - Equipment Lease	Cost Centre: TW 7015 Cost Element: 2499/2463 (Water Treatment & Supply: FJ Horgan TP - Process)	\$20,352	\$4,070	\$24,422
Line 20 - Liquid Oxygen Supply	Cost Centre: TW 7015 Cost Element: 2499/2463	\$170,957	\$33,581	\$204,538

PO Item Description	Cost Centre/Cost Element	February 23, 2022 to December 31, 2022	January 1, 2023 to February 22, 2023	Total
	(Water Treatment & Supply: FJ Horgan TP - Process)			
	Totals	\$191,309	\$37,651	\$228,960

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

DECISION HISTORY

At its meeting on July 27, 2011, Bid Committee, pursuant to its adoption of Item 5, awarded a contract to the Supplier in relation to Request for Quotation (RFQ) 6613-11-7195 for the supply of liquid oxygen ("LOX"), the lease of LOX equipment and the provision of specialized maintenance services at the F.J. Horgan Water Treatment Plant (the "Horgan Plant") for a term of five (5) years (the "Original Contract"). The Bid Committee decision can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.BD34.1>
<http://www.toronto.ca/legdocs/mmis/2011/bd/bgrd/backgroundfile-39647.pdf>

Thereafter, in accordance with the City's approved Purchasing authorities, the Original Contract was amended and is now set to expire on February 22, 2022.

COMMENTS

Horgan Plant Expansion Requires Use of LOX

As part of the Horgan Plant expansion, beginning in about 2009 through to 2012, a drinking water ozone system was added to enhance the disinfection process and provide taste and odour control. In order to operate, the ozone system requires a regular and continuous supply of LOX and specialized LOX storage and vaporization equipment.

Past LOX Procurements

After two (2) unsuccessful RFQ procurements resulting in qualified bid quotes, after a modification of the City's procurement terms including liability limitation, in 2011, RFQ 6613-11-7195 resulted in the award of the Original Contract to the Supplier who was the only bidder.

As the end of the five (5) year term under the Original Contract approached, it was determined, based on then-market conditions, that a new procurement process would face similar challenges experienced during the time of the unsuccessful RFQ

procurements. Moreover, during this intervening period, no new suppliers had entered into the market that could provide the quantities of liquid oxygen required by the City.

In these circumstances, in an effort to ensure continued and uninterrupted service and to mitigate against operational and regulatory compliance risks, in 2016 a sole source was obtained to enter into a five (5) year contract amendment with the Supplier based on the 2011 RFQ terms and conditions (the "2017 Amending Agreement").

Request for Information and Current Procurement Status

City staff have been working on a new LOX RFQ competitive procurement process. In 2021, a Request for Information (RFI) was issued to obtain feedback from potential LOX system suppliers on the procurement and related future contract terms and conditions. Three (3) different suppliers responded to the RFI and their feedback has now been taken into account in the preparation of the new LOX RFQ. The additional time that was required to complete the RFI to obtain and incorporate supplier feedback in the new RFQ procurement documents has extended the timeline for the new LOX RFQ issuance and, ultimately, a new LOX contract award. The City is working towards issuing the RFQ for the new LOX supply contract in early 2022.

LOX Contract Transition

If the new LOX RFQ results in an award to a new supplier, then the current Supplier will be required to remove their LOX storage equipment from site once the new supplier has installed and commissioned their storage equipment. Liquid oxygen suppliers have indicated during the RFI process that they may require up to six (6) months, from the date the City issues its purchase order, to have their storage equipment installed and operational to allow time for the design of the new equipment, fabrication, shipping, installation and commissioning.

Extension of Current Purchase Order and Supplier Contract

This report seeks the necessary Council authority to amend the Purchase Order, and the corresponding 2017 Amending Agreement, to extend the expiry of their respective terms from February 22, 2022 to February 22, 2023. The total cost for the one (1) year contract extension is \$225,000 net of all taxes and charges.

While it is intended that most of the same contract terms and conditions would apply to this one (1) year extension, including the equipment lease price (monthly service charge), the Supplier has requested a unit price increase for their liquid oxygen chemical, resulting from increased distribution costs during the pandemic. The unit price quoted for the duration of the one (1) year extension is an 11% increase from the current unit rate under the 2017 Amending Agreement. Toronto Water staff have reviewed this proposed unit rate and found it to be acceptable based on a comparison with similar liquid oxygen unit rates experienced by neighbouring municipalities. For this reason, staff have included this increased unit price for the liquid oxygen chemical as part of the requested \$225,000 net of all taxes and charges increase in Purchase Order amount for the one year extension.

New LOX RFQ Contract Term

Given the substantial effort associated with the potential transition from one supplier's LOX equipment to another's LOX equipment (including removal of the existing tanks, vaporizers and associated piping and controls, and installation of the new supplier's equivalent equipment), City staff intend to base the new LOX RFQ competitive procurement on a ten (10) year total contract term (structured as a five (5) year base term with a five (5) year option term to be exercised at the City's discretion). This extended contract term will minimize operational disturbances and future equipment changeovers.

CONTACT

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SIGNATURE

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