



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Services and Taxation Division
and
PUBLIC WORKS DEPARTMENT
Environmental Services Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	October 17, 2019
SUBJECT/REPORT NO:	Shoreline Protection Consulting Assignments (FCS19076/PW19087) (Wards 1, 2, 5 and 10)
WARD(S) AFFECTED:	Wards 1, 2, 5 and 10
PREPARED BY:	Tina Iacoe (905) 546-2424 Ext. 2796 Cynthia Graham (905) 546-2424 Ext. 2337
SUBMITTED BY: SIGNATURE:	Rick Male Director, Financial Services, Taxation & Corporate Controller Corporate Services Department
SUBMITTED BY: SIGNATURE:	Craig Murdoch Director, Environmental Services Public Works Department

RECOMMENDATIONS

- (a) That in accordance with By-law 17-064 Procurement Policy, Procurement Policy #5.4, and upon Federal approval of funding from the Disaster Mitigation and Adaptation Fund, that staff be directed to proceed with a modified Request for Proposals to consultancy firms specializing in coastal engineering for implementation of the Disaster Mitigation and Adaptation Funding project for Shoreline Protection Measures;

- (b) That the General Manager of the Public Works Department or designate be authorized to negotiate and execute all agreements and any ancillary documents required to implement this project in a form satisfactory to the City.

EXECUTIVE SUMMARY

On May 8, 2019, Report FCS19038 was approved by Council approving the funding for the Disaster Mitigation and Adaptation Fund (DMAF) project for Shoreline Protection Measures.

In accordance with By-law 17-064 Procurement Policy, Policy #5.4 Request for Proposals, the purpose of this Report is to request Council's approval to proceed with a modified Request for Proposals (RFP) for consultancy firms specializing in coastal engineering for implementation of the Disaster Mitigation and Adaptation Funding project for Shoreline Protection Measures. The modified RFP proposed would be issued similar to the Request for Rostered Candidates for Consulting and Professional Services in that multiple consultant firms will be pre-qualified based on their technical expertise and proposed hourly rates to complete the work. Consultant assignments will be issued one of two ways. The first is directly to pre-qualified firms on a rotational basis as well as a "best fit" basis and having an estimated procurement cost of less than \$150,000. The second is by an informal request for quotation of the pre-qualified firms and having an estimated procurement cost more than \$150,000.

The proposed modified RFP is an efficient way to secure qualified shoreline consultants that are prepared to complete work related to shoreline protection. Many municipalities across Ontario and Canada are requiring work related to shoreline damage due to extreme storms in the past few years, so the modified RFP would help the city secure qualified professionals, and help those firms plan for work in the next several years. Additionally, it would allow firms to be vetted once for this type of work rather than having to submit many similar proposals for each sub-project and save staff resources by consolidating the review of qualified firms to one review.

Alternatives for Consideration – See Page 6

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: No impact.

Staffing: The establishment of a shortlist of consultant teams would reduce the administrative burden on staff since individual RFP's would not be required to complete each of the sub-projects.

**SUBJECT: Shoreline Protection Consulting Assignments (FCS19076/PW19087)
(Wards 1, 2, 5 and 10) - Page 3 of 7**

Legal: Legal and Risk Management Services will provide support as required in the procurement process and in the development of contracts.

HISTORICAL BACKGROUND

On July 12, 2018, Report PW18063 was approved by Council directing staff to undertake a study of the shoreline for future erosion risk and remediation design, as well as complete repair work at damaged sections of the Lake Ontario and Hamilton Harbour shoreline. This report outlined the damage that was sustained in the Bayfront Trail area due to high water levels and extreme storm events in 2017 and 2018.

On December 12, 2018, Report PW18097 was approved by Council. This report outlined a series of proposed projects that staff recommended be submitted to the Disaster Mitigation and Adaptation Fund (DMAF) for Federal funding and directed staff to proceed with submission for DMAF approval. Staff completed this direction and an announcement was made by the Government of Canada in April 2019 that the funding request was successful.

On May 8, 2019, Report FCS19038 was approved by Council approving the funding sources for the City of Hamilton's (City) share of the project costs and directed staff to enter into the DMAF agreement for a project total of \$31.85 million. The terms of the program state that the Federal portion is 40% of the cost of the project (\$12.74M), with the city share totalling is 60% (\$19.11M)

The associated agreement to finalize the funding from DMAF has not yet been executed, due to a delay caused by the Federal election. Staff are confident that the funding will be secured, and the agreement executed following the election in October. The agreement includes mandatory items as part of the procurement of the services to complete the project. One of the mandatory items is the inclusion of community benefit measures, also called social procurement, to benefit at least three of the following federal target groups: apprentices from traditionally disadvantaged communities, Indigenous peoples, women, persons with disabilities, veterans, youth, new Canadians, or small-medium-sized enterprises and social enterprises. These measures are to be reported on regularly as part of the project reporting to the Government of Canada.

In addition, the DMAF agreement requires the City to meet several conditions including consultation with First Nations and Indigenous groups, and, if appropriate, the implementation of accommodation measures. The costs associated with First Nations and Indigenous consultation and accommodation are considered expenses eligible for reimbursement under the DMAF agreement. The recommendations in this report propose that staff be delegated authority to negotiate and execute all agreements including those necessary to satisfy DMAF obligations required to implement this project.

The Shoreline Protection Measures Project (Project) requires several varied design and construction requirements for each of the waterfront locations identified in the DMAF application. Staff anticipate that there will be a significant amount of consultancy work (in excess of \$3 million) to be procured in order to complete the work and meet the funding requirement dates for the Project. The Project is expected to take 8 years to complete.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Should Council give its approval to proceed with the modified RFP, the RFP will be issued and awarded in compliance with the following:

- the Canada – European Union Comprehensive Economic and Trade Agreement (CETA) and the Canadian Free Trade Agreement (CFTA) are applicable to municipal procurement initiatives for goods or services of a certain value (CETA: \$365,700 and above, CFTA: \$101,100 and above); and
- By-Law 17-064, City's Procurement Policy.

RELEVANT CONSULTATION

Legal and Risk Management Services were consulted on and support the recommendations in this Report.

ANALYSIS AND RATIONALE FOR RECOMMENDATIONS

Analysis of Procurement Policy #9 and #5.4

Procurement Policy #9 – Consulting and Professional Services allows for the issuance of a Request for Rostered Candidates (RFRC) procurement process every two years whereby several consultant firms are pre-qualified based on their technical expertise and proposed hourly rates to complete the work (Roster). The City's Roster is made up of 41 different roster categories, each having a different scope of work and technical expertise required. The Roster allows for several consultant assignments to be issued directly to pre-qualified firms on a rotational basis as well as a best fit basis and having an estimated procurement cost of less than \$150,000.

While the methodology of the City's Roster would fit well with the consultancy work required for the Project, the Roster currently does not have any categories with relevant expertise and scope of work required to complete the Project. None of the Roster categories have any coastal engineering experience therefore the Roster cannot be utilized for the Project.

**SUBJECT: Shoreline Protection Consulting Assignments (FCS19076/PW19087)
(Wards 1, 2, 5 and 10) - Page 5 of 7**

As an alternative, Procurement Policy #5.4 Request for Proposals allows for the issuance of a Request for Proposals (RFP) procurement process whereby proposals are scored on their technical expertise and costing using evaluation criteria and weightings. Staff do not feel that the evaluation methodologies set out in the Procurement Policy can be followed in strict accordance with the Procurement Policy for the purposes of the Project. However, Procurement Policy #5.4 section 2(d) provides for instances where the evaluation methodologies listed are not conducive to a successful outcome and allows an alternate evaluation methodology to be used at Council's approval.

Proposed Procurement Process

Staff is requesting Council's approval to proceed with a modified RFP for consultancy firms specializing in coastal engineering for the Shoreline Protection Measures project. The RFP would be issued similar to the RFRC for Consulting and Professional Services whereby:

- 1) several consultant firms would be pre-qualified based on their technical expertise;
- 2) proposed hourly rates will be evaluated;
- 3) consultant assignments will be issued directly to pre-qualified firms on a rotational basis as well as a best fit basis and having an estimated procurement cost of less than \$150,000;
- 4) staff will report annually on all assignments awarded under the RFP, including consultants used and a breakdown of the total cost awarded. This reporting will coincide with the DMAF funding reporting to Committee and Council;

and with the following differences:

- 1) the RFP and pre-qualification of proponents will continue for a three-year term (Roster has a two-year term);
- 2) should a consultant assignment be estimated more than \$150,000, each of the pre-qualified firms will be asked to submit a cost proposal for the work and the award of the work will be to the lowest compliant bid (this is currently allowed by Council under special approval as a pilot to the Roster);
- 3) in anticipation of the end of the three-year pre-qualification term, Landscape Architectural Services staff will also report back to Committee and Council with an assessment of this procurement process and make recommendations or request further direction;
- 4) Firms will be allowed a 2% inflation on their fees for each of the three years.

Rationale of Recommendation

Qualified consultant firms that will work on the Project will be required to have the technical expertise of a Coastal Engineer on staff to perform and lead the project. City staff is aware that there are a limited number (5 to 6) of consultant firms in Canada with this technical knowledge on staff. In addition to this, staff are aware that there are several other municipalities that have secured similar funding agreements for shoreline protection work, therefore the demand for these technical services will not only be high due to the volume of work but also because of the limited number of consultants available to do the work.

Staff also recognize that the volume of work to be completed by the timelines required is too much for one consultant firm to complete. By retaining a list of qualified consultants, staff will be able to distribute the work on a rotational and best fit basis, similar to the work awarded under the Roster, without having to undertake separate RFP's for each sub-project. Similar to the Roster, consultant firms will be interested in being a pre-qualified firm and being directly awarded work without having to submit multiple proposals. This will also allow the firms to take on work that is within the capacity of their firm.

ALTERNATIVES FOR CONSIDERATION

Option #1

An alternative to the recommended approach would be to issue separate RFPs for each sub-project within the Shoreline Protection Measures Project. Additional Landscape Architectural Services (LAS) and Procurement staff resources will be required to undertake this option due to the number of separate RFP's to be issued, evaluated and awarded. In addition to this, it is unlikely that the proponents' technical submissions will vary in response to multiple RFPs since both the nature of the work is similar and the team being proposed will be similar. It is likely that staff will be evaluating similar submissions, if not the same, from the same group of consultants for each RFP issued.

Option #2

An alternative to the recommended approach would be to issue one RFP for the entire consulting work required for the Project. Due to the nature of the work to be completed (multiple sites and sub projects) staff has determined that this option is not feasible since the volume of work is too much for one firm to complete within the timelines required. Also, this option will only provide the City with one firm's expertise and knowledge transfer. Since the Project is scheduled to continue for 8 years, it is possible that there may be personnel changes during that time that may change (adversely or favourably) the makeup of the technical team and the expertise they bring.

Also, the timelines set out in the funding agreement make it difficult for staff to predict the entire scope of work required to complete the Project. It will be very difficult for LAS staff to develop the scope of work for a single RFP for the 8 years of the Project. There will likely be many changes in the work required, therefore creating multiple change orders to the original contract as well as scope creep as the Project progressed.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Built Environment and Infrastructure

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

None

TI/CG//dw