




CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Environmental Services Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	April 22, 2022
SUBJECT/REPORT NO:	Brightside Park – Environmental Reporting (PW22026) (Ward 3)
WARD(S) AFFECTED:	Ward 3
PREPARED BY:	Sarah Eakins (905) 546-2424 Ext. 4667
SUBMITTED BY:	Cynthia Graham Acting Director, Environmental Services Public Works Department
SIGNATURE:	

RECOMMENDATION

- (a) That the single source procurement, pursuant to Procurement Policy #11 – Non-competitive Procurements, for the extension of Contract C11-53-20 Environmental Reporting for Stadium Precinct Community Park as follows be approved:
- (i) \$750,000.00 for the completion of known required environmental reporting works; and,
 - (ii) \$250,000 for additional and unforeseen environmental reporting works until a Record of Site Condition is obtained from the Ministry of the Environment, Conservation and Parks (MECP);
- (b) That the General Manager, Public Works Department be authorized to negotiate and execute an amendment to the Contract and any ancillary documents required to give effect thereto with WSP Canada Inc., in a form satisfactory to the City Solicitor;

**SUBJECT: Brightside Park – Environmental Reporting
(PW22026) (Ward 3) - Page 2 of 11**

- (c) That the \$1,000,000 budget required for the purchase order extension be funded from existing budget available in project ID 4401456401 – Parkland – Stadium Precinct up to a maximum of \$500,000; and the remaining \$500,000 to be funded by the Parkland Dedication Reserve #104090 and transferred to project ID 4401456401 – Parkland – Stadium Precinct.

EXECUTIVE SUMMARY

Report PW22026 seeks Council authorization to extend the purchase order for WSP Canada Inc. (WSP) for additional work to delineate newly found contaminants at 43 Lloyd Street. This work is necessary to fulfill requirements of the Ministry of Environment, Conservation and Parks (MECP) to be able to proceed with obtaining a Record of Site Condition (RSC) and Certificate of Property Use (CPU) and commence redevelopment of the site into parkland.

Additionally, lands located south of 43 Lloyd Street and forming part of the overall assembly for the parkland were acquired in 2021. These parcels, in combination with other City of Hamilton (City) owned lands have been undergoing environmental reporting and delineation protocols lead by EXP Services Inc. That testing has now reached a point where these parcels could be combined with the 43 Lloyd Street reporting so that all of the lands required to provide parkland amenities and associated access can be included under one Record of Site Condition.

Finally, in February of 2022, it was discovered that before the site was developed as a factory in 1911, a waterway ran through the property. Although the site has been filled for over 100 years, the waterway could still be flowing underground. This may be contributing to currently observed high water levels on site and could potentially act as a pathway for contaminants. A meeting with the MECP is planned to further discuss works required to delineate impacts of the waterway. This additional testing was not anticipated when the consulting assignment for the work was awarded.

WSP Canada Inc. has been undertaking the environmental delineation and reporting for 43 Lloyd Street since 2015. This is the largest parcel of the Brightside Park lands and is also the most contaminated of the properties. WSP's background knowledge and familiarity with the site best positions them to efficiently complete the additional environmental works required.

The requested purchase order extension for WSP includes costs associated with the additional delineation works required at 43 Lloyd Street, the combining of the of the newly acquired lands with 43 Lloyd Street to the Record of Site Condition submissions to the MECP, and investigation and further delineation of the potential underground waterway at 43 Lloyd Street. It also includes funds for additional and unforeseen environmental reporting works until a Record of Site Condition is obtained from the

**SUBJECT: Brightside Park – Environmental Reporting
(PW22026) (Ward 3) - Page 3 of 11**

Ministry of the Environment, Conservation and Parks (MECP). This is in recognition of the industrial historical uses of these lands and the potential for unforeseen impacts that may need to be addressed. Being able to proceed with required work without delay would be beneficial to the delivery of the project.

Alternatives for Consideration – See Page 9

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The proposed purchase order extension of \$1,000,000 will be partially funded through existing approved project ID 4401456401 – Parkland – Stadium Precinct up to a maximum of \$500,000 while the remaining funding needs of \$500,000 will be funded by the Parkland Dedication Reserve #104090 to support bringing the land up to parkland environmental standards.

WSP's current purchase order amount is \$252,046.30. They have indicated that they will hold their consulting rates of the original Request for Proposal for this extension.

Approved consulting fees for the Brightside Park environmental reporting and park design are shown in Table 1 below.

Table 1 – Brightside Park Environmental and Design Consulting Fees to Date

Consultant	Assignment Type	Description of Work	Fee
WSP Canada Inc.	Roster C12-07-14 Category 17	Assess the ESA reports prepared by WESA, prepare a new Phase 1 ESA Report for 43 Lloyd St, prepare Phase 2 Conceptual Site Models, undertake supplemental subsurface investigation and, following the results of this investigation, further site delineation	\$219,485.20
WSP Canada Inc.	Request for Proposal C11-53-20	Environmental reporting services to obtain a Record of Site Condition (RSC) and Certificate of Property Use (CPU) for 43 Lloyd St	\$252,046.30
TOTAL FEES			\$471,531.50

Staffing: N/A

Legal: N/A

HISTORICAL BACKGROUND

Brightside Park emerged as part of the Stadium Precinct Planning work initiated by the City in 2012. The Stadium Precinct was defined as Sherman Avenue North to Glendale Avenue North, CN Rail tracks to Main Street East. Attached to Report PW22026 as Appendix “A” – Stadium Precinct Map. The Stadium Precinct Plan included investments by the City in new recreation facilities at Tim Horton’s Stadium and Bernie Morelli Recreation Centre, and the construction of Bernie Custis Secondary School at the former Scott Park site. Recognizing the existing deficiency of parkland in this community and the impacts these projects would have, the Stadium Precinct Plan also identified a new park at the former Dominion Glass Plant. This park would include a space for the former Brian Timmis Stadium and associated facilities, as well as much needed community parkland amenities.

In 2013, Council approved the purchase of the former Dominion Glass Plant located at 43 Lloyd Street as well as a series of properties on Lloyd Street through Report CM13014(a). Attached to Report PW22026 as Appendix “B” – Location Map.

It was understood at the time of purchase that the property would have contaminated soils on site. The term contaminant refers to substances found on site that exceed Table 3 Site Condition Standards for parkland per the Environmental Protection Act and will require remediation as part of the redevelopment efforts.

43 Lloyd Street is the historic location of a glass manufacturing facility and had been in heavy industrial use since the early 1900’s. In January 2014, Water and Earth Science Associates Ltd. (WESA) was hired to conduct a Phase One Environmental Site Assessment (ESA), a Phase Two ESA and a Designated Substance Survey prior to the demolition of the factory structures slated to commence in the second half of 2014. Demolition efforts would see the above grade structures removed, leaving all underground structures, basements, suspended slabs, footings, foundations, and tunnels (at or below grade) remaining in place.

In 2015 WSP Canada Inc. (WSP) was engaged under Roster C12-07-14 Category 17 for the amount of \$99,000.00 to assess the ESA reports prepared by the previous environmental consultant, prepare a new Phase One ESA Report, prepare Phase Two Conceptual Site Models, undertake supplemental subsurface investigation and, following the results of this investigation, further site delineation (drilling of boreholes, installation of monitoring wells, sampling and testing). These efforts are part of the requirements to obtain a Record of Site Condition (RSC).

**SUBJECT: Brightside Park – Environmental Reporting
(PW22026) (Ward 3) - Page 5 of 11**

Additionally, the City retained the services of Azimuth Environmental Consulting Inc. (Azimuth) in 2015 to provide a peer review of the works and recommendations proposed by environmental consultants. Azimuth continues to engage with City staff and the WSP consulting team as necessary to provide a third-party perspective on how to approach the environmental works required.

After three years of collecting data and delineating the extents of contamination, in 2018 it was determined that soil and groundwater on site did not meet the standards specified under O.Reg.153 and further delineation work was needed to obtain a Record of Site Condition. Subsequently, WSP's assignment was extended by \$98,485.20 through a Policy 11 to include groundwater re-sampling, additional site delineation, installation of soil vapour probes and submission of a Risk Assessment Pre-submission Form to the MECP. In 2019 WSP's assignment was further extended by \$22,000.00 through another Policy 11 to include additional drilling into the bedrock for groundwater sampling.

The environmental works completed by 2019 provided enough data to start to inform the design of the park and staff began to work concurrently on the conceptual design and public consultation component of the project. In June of 2019, Strasman Architects Inc. was hired to undertake a Feasibility Study for the future park and various Public Information Centres (PIC) were held to garner feedback on the priorities for the park programming. The Feasibility Study was informed by the responses at these PIC's and the resulting plan for the park was completed and shared with the public.

In October 2019 WSP completed draft ESA reports and submitted the Risk Assessment Pre-submission Form to the MECP. This concluded the scope of their roster assignment.

In December 2019 the Ministry of the Environment, Conservation and Parks (MECP) provided comments on the submission which indicated the need to further delineate contamination across the site. As a result, staff issued an open Request for Proposals (RFP) for environmental consulting services and in 2020 WSP was hired as the successful proponent for \$152,554.60. This assignment included site delineation (drilling of boreholes, installation of monitoring wells, sampling, and testing), collaboration with the design consulting team to develop environmental Risk Management Measures and a soils management plan, and environmental report submission to the MECP.

In October of 2020, The MBTW Group was hired as the successful proponent of an open Request for Proposals to provide prime design consultant services for the future park, including detailed design, a public art proposal, preparation of construction documents, contractor pre-qualification assistance and evaluation of construction bids.

**SUBJECT: Brightside Park – Environmental Reporting
(PW22026) (Ward 3) - Page 6 of 11**

Under authorization of Report PW16068, negotiations to purchase Part 4 of 37 Lloyd Street and the west portion of 221 Gage Avenue North commenced in Winter of 2020. Attached to Report PW22026 as Appendix “B” – Location Map.

In February 2021, EXP Services Inc. (EXP) was engaged under Roster C12-06-18 Category 17 to conduct a Phase One and Phase Two Environmental Site Assessment (ESA), Risk Assessment and Record of Site Condition. Their scope included newly acquired lands located at Part 4 of 37 Lloyd Street and the west portion of 221 Gage Avenue North as well as other City-owned lands located at 39 Lloyd Street, 45 Lloyd Street and the Chapple Street Right of Way (ROW) north of Lloyd Street. Attached to Report PW22026 as Appendix “B” – Location Map. These properties were prioritized for study by the City as they represent lands required to provide parkland amenities and associated access per the Feasibility Study and subsequent detailed design.

Since acquiring the 43 Lloyd Street property, the City has faced ongoing challenges with keeping the site protected from trespassing and vandalism. Although the site is fully fenced, fencing has been regularly cut requiring constant repair. It is essential to public safety that trespassers stay off the site as open excavations, remnant structures and debris posed a potential risk. As the 2020/2021 winter progressed, it was deemed essential to demolish remnant factory structures to deter people from accessing the site after escalating reports of trespassing were received. In January 2021, Budget Environmental Disposal Inc. (Budget) was hired through an emergency procurement process to complete this task.

The demolition revealed two transformer vault rooms previously inaccessible to the environmental consultants. These were new areas of potential environmental concern and WSP’s assignment was extended by \$58,621.20 through a Policy 11 in April of 2021 to address additional site delineation, ambient air monitoring, and reporting.

In the Spring of 2021, significant amounts of water began to pond in the areas of the recently exposed basement floor. The water level continued to rise over the summer, submerging a large area of the site and halting WSP’s ability to collect samples from many of the monitoring wells or drill boreholes to delineate new areas of potential environmental concern. In response to the ponding water, WSP’s assignment was extended through another Policy 11 by \$40,870.50 to prepare tender documents for ponded water management and oversee water management activities on site. In September 2021, Budget Environmental Disposal Inc. (Budget) was hired as the successful proponent of a Request for Tender (RFT) with a scope of improving access and dewatering areas to enable ongoing environmental drilling and sampling. After numerous attempts using various methods, dewatering the basement excavations was deemed impractical because the source of the water was unknown, and it became apparent that the water would continue to recharge once removed. Alternatively,

roadways were constructed through the ponded water using on-site rubble to gain access to areas that required environmental sampling.

In October 2021, the analytical results from the wells installed found there to be unexpectedly high levels of contamination in this area of the site. These findings lead City staff to organize a meeting with the MECP in December of 2021. At the meeting, the MECP confirmed that it is necessary to ensure that maximum concentration in soils and groundwater has been identified and delineated. This means that drilling of boreholes, installation of monitoring wells, and sampling and testing of materials must continue.

In the meantime, MBTW has continued to work on the detailed design of the park and in January 2022, they submitted the 60% complete detailed design drawing set. Detailed grading and servicing plans cannot proceed any further until that time that the environmental reporting process confirms the risk management measures required. Attached to Report PW22026 as Appendix “C” – Brightside Park Concept Plan.

In January 2022, EXP Services Inc. (EXP) completed draft Phase One and Two Environmental Site Assessments (ESA). The next step in their assignment will be to begin the Risk Assessment and liaise with the MECP to obtain a Record of Site Condition.

In February of 2022, it was discovered that before the site was developed as a factory in 1911, a waterway ran through the property. Although the site has been filled for over 100 years, the waterway could still be flowing underground. This could be contributing to currently observed high water levels on site and could potentially act as a pathway for contaminants. A meeting with the MECP is planned to further discuss works required to delineate impacts of the waterway.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

- City’s Strategic Plan
- City’s Official Plan
- Stadium Precinct Plan
- By-law 21-215 Procurement Policy, Policy #11, Non-competitive Procurements
- Environmental Protection Act - Ontario Regulation 153/04

RELEVANT CONSULTATION

The following internal stakeholders have been consulted and are supportive of the recommendations:

- Strategic Planning & Capital Compliance, Energy, Fleet and Facilities Management Division, Public Works Department

**SUBJECT: Brightside Park – Environmental Reporting
(PW22026) (Ward 3) - Page 8 of 11**

- Finance and Administration, Financial Planning, Administration and Policy Division, Corporate Services Department
- Procurement, Financial Services and Taxation Division, Corporate Services Department
- Legal Services, Legal and Risk Management Services Division, Corporate Services Department
- Ward 3 Councillor

External stakeholders include:

- Ministry of the Environment, Conservation and Parks

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Per Environmental Protection Act O.Reg.153/04, the City is required to obtain a Record of Site Condition (RSC) and Certificate of Property Use (CPU) from the Ministry of Environment, Conservation and Parks (MECP) before the former industrial properties can be transformed into parkland.

In order to obtain a RSC and CPU from the MECP, the maximum concentrations of each contaminant of concern on the site, both in soil and groundwater, must be identified.

WSP Canada Inc. (WSP) has been undertaking the environmental delineation and reporting for the 43 Lloyd Street property since 2015. Their current services were procured through a competitive Request for Proposal process and their background knowledge and familiarity with the site best positions them to efficiently complete the additional environmental works required. WSP has provided confirmation that they will continue to charge the rates per the RFP submission.

The environmental reporting lead by EXP Services Inc. (EXP) for lands described as Part 4 of 37 Lloyd Street, the west portion of 221 Gage Avenue North, 39 Lloyd Street, 45 Lloyd Street and the Chapple Street Right of Way north of Lloyd Street is at a stage where it can seamlessly be transferred to WSP's responsibility and submitted to the MECP under one Record of Site Condition. Doing so would be beneficial to the project as it would enable the MECP to review the listed properties as one study area and would result in a consistent application of risk management measures across all sites. This would be considered a more efficient and cohesive approach and would have no overall financial impact to the project as the costs associated with the outstanding tasks would be removed from the scope of one consultant and added to another.

The City hired a third-party consultant Azimuth Environmental Consulting Inc. (Azimuth) to assist staff with preparation of the RFP documents and for peer review of reports

**SUBJECT: Brightside Park – Environmental Reporting
(PW22026) (Ward 3) - Page 9 of 11**

prepared, as staff are not experts in environmental remediation. Azimuth continues to engage with City staff regularly and this gives staff the confidence that the methodology and works proposed by WSP is valid and trustworthy and that reviews and reports will be completed efficiently.

In recognition of the industrial historical uses of these lands and the potential for unforeseen impacts that may need to be addressed, additional funds for unforeseen environmental reporting works until a Record of Site Condition is obtained from the (MECP) are proposed to be included.

Construction of Brightside Park is contingent upon the completion of all required environmental works. An estimate for the environmental reporting work to be completed by WSP can be found in Table 2 below.

Table 2 – Estimate of Outstanding Environmental Work for WSP at Brightside Park

Task	Estimated Cost
Supplemental Site Delineation for 43 Lloyd Street due to newly found contaminants.	\$530,000.00
Transfer of EXP's outstanding Environmental Reporting tasks to WSP for lands described as Part 4 of 37 Lloyd Street, the west portion of 221 Gage Avenue North, 39 Lloyd Street, 45 Lloyd Street, and the Chapple Street Right of Way (ROW) north of Lloyd Street.	\$70,000.00
Supplemental Site Delineation for 43 Lloyd Street due to potential underground waterway.	\$150,000.00
Additional and unforeseen environmental reporting works until a Record of Site Condition is obtained from the Ministry of the Environment, Conservation and Parks (MECP)	\$250,000.00
TOTAL ESTIMATED COST	\$1,000,000.00

ALTERNATIVES FOR CONSIDERATION

An alternative to the recommendations of Report PW22026 is that Council does not authorize the extension of WSP Canada Inc.'s environmental reporting assignment and directs staff to hire a new consultant to complete the required environmental reporting for 43 Lloyd Street and have EXP Services Inc. complete the outstanding environmental reporting tasks for lands described as Part 4 of 37 Lloyd Street, the west portion of 221 Gage Avenue North, 39 Lloyd Street, 45 Lloyd Street and the Chapple Street Right of Way (ROW) north of Lloyd Street.

The time required to write, issue and award a new Request for Proposal as well as time associated with the review by a new consultant of environmental works completed to

date at a site as complex as 43 Lloyd Street could further delay the delivery and construction of Brightside Park. A new consultant Qualified Person (QP) would need to certify the work to date and bring that information under a new revised report to meet the obligations of their professional license. It may be required by a new QP to complete additional confirmatory testing to fulfill their obligations for their submission to the MECP. Additionally, should EXP continue with their environmental reporting assignment, there is the potential that this could result in a less efficient process due to having to coordinate with the consultants overseeing adjacent lands at 43 Lloyd Street. There is also the possibility that the MECP could provide differing comments if the study areas are submitted separately as opposed to together.

A new procurement for the remaining environmental work could result in a new consultant working on the project. This would result in lost efficiencies realized from having WSP continue their work on the project.

Financial: The work WSP has completed to date will need to be reviewed and verified if a new consultant was to take over at this stage of the project. This would result in higher consulting fees and a delayed project timeline that would contribute to higher construction costs due to inflation. Additionally, a new RFP would likely result in higher hourly rates than the original RFP hourly rates that WSP has proposed to keep with this assignment. Staff anticipate, therefore, a new RFP will result in additional overall cost to the City.

Submitting environmental reports to the MECP for two separate study areas within one project could result in higher consulting fees due to time spent coordinating with consultants overseeing adjacent lands. It could also impact the type of risk management measure implemented within each study area that could in turn result in a more complex construction and higher construction costs.

Staffing: N/A

Legal: N/A

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Healthy and Safe Communities

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

Built Environment and Infrastructure

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

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PW22026 – Stadium Precinct Map

Appendix “B” to Report PW22026 – Location Map - Brightside Park Environmental
Reporting Lands

Appendix “C” to Report PW22026 – Brightside Park Concept Plan