




**CITY OF HAMILTON**  
**PUBLIC WORKS DEPARTMENT**  
**Hamilton Water Division**

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| <b>TO:</b>                | Chair and Members<br>Public Works Committee   |
| <b>COMMITTEE DATE:</b>    | May 2, 2022   |
| <b>SUBJECT/REPORT NO:</b> | HDR01 Kenilworth Reservoir Soil Removal and East Cell Upgrades (PW20074(b)) (Ward 4)              |
| <b>WARD(S) AFFECTED:</b>  | Ward 4  |
| <b>PREPARED BY:</b>       | Stuart Leitch (905) 546-2424 Ext. 7808  |
| <b>SUBMITTED BY:</b>      | Mark Bainbridge<br>Director, Water and Wastewater Planning and Capital<br>Public Works Department |
| <b>SIGNATURE:</b>         |                  |

**RECOMMENDATION**

- (a) That the Purchase Order #91268 for R.V. Anderson Associates Limited (C11-53-18) be expanded by \$400,000 and funded from Project ID. No. 5141967375, pursuant to Procurement Policy #11 – Non-Competitive Procurements, for consultancy services including project management, contract administration and site inspection during construction/commissioning/warranty services for the Kenilworth (HDR01) Reservoir Soil Removal and East Cell Upgrades project; and,
- (b) That the General Manager of Public Works, or their designate, be authorized and directed to negotiate, enter into and execute a contract and any ancillary documents required to give effect thereto with R.V Anderson Associates Limited in a form satisfactory to the City Solicitor.

**EXECUTIVE SUMMARY**

Report PW20074(a) (dated November 17, 2021) provided Council with the status of the construction award and timelines for the Kenilworth (HDR01) Reservoir Soil Removal and East Cell Upgrades project.

The City of Hamilton’s (City) consultant, R.V. Anderson Associates Limited (RVA) supported the design and tendering of the project and is also providing contract administration and site inspection services throughout construction (C11-53-18). In

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

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October 2021, the project was awarded to Torbear Contracting Inc. (Torbear) through contract C13-50-21 competitive request for tenders with a completion date by June 2022 as estimated by RVA during the tendering process. The project is currently in construction and the completion date is estimated to be within Q4 2022 as a result of Torbear's initial project schedule and additional construction time required to remove contaminated slag material that was found adhered to the exterior roof of the reservoir after the soil cover had been removed. Options are currently being reviewed to confirm the appropriate approach for the slag removal and the associated project delay. However, the project schedule will extend up to approximately six (6) months beyond the initial RVA estimate.

Report PW20074(a) noted that the project management, contract administration and site inspection assignment with RVA would be assessed and if necessary, staff would report back to Council for approval of additional financial support when additional information was obtained through the awarded contractor. The awarded purchase order (PO) #91268 for C11-53-18 with RVA did not have enough funds for consultant site services for the full construction period. Staff were hoping to find project schedule efficiencies once Torbear submitted their initial schedule. Unfortunately, no project schedule efficiencies were found. As a result of the extended project schedule additional funds are required on the PO for up to approximately six (6) months of additional consultant site services.

In order to complete the project in the most efficient and timely manner, this report recommends that the existing PO for C11-53-18 with RVA be expanded by \$400,000. This financing supports the extended construction schedule and the additional consultant effort to oversee the removal of the newly discovered slag as identified above. There are sufficient funds in the existing budget, Capital Project ID. No. 5141967375. Council's approval is required for this PO expansion because the total value is greater than \$250,000, and also because the PO has already been expanded once via Procurement Policy #11 – Non-Competitive Procurements.

**Alternatives for Consideration – See Page 5**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: Report PW20074(b) is recommending that an additional \$400,000 be added to RVA's contract C11-53-18 for additional project management, contract administration, and site inspection for the timeframe beyond what was allotted in the original scope of work. Project ID No. 5141967375 has sufficient budget to cover this additional work, therefore no additional funds are required. Council's approval is required for this PO expansion because the total value is greater than \$250,000, and also because the PO has

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already been expanded once via Procurement Policy #11 – Non-Competitive Procurements.

No additional funds are being requested for Torbear as their current PO has sufficient contingency to cover the anticipated cost to remove the slag material.

RVA Purchase Order (PO) Summary:

|   |             |
|---|-------------|
| Original RVA PO                         | \$574,120   |
| GM Approved Policy #11 Expansion        | \$249,832   |
| Report PW20074(b) Recommended Expansion | \$400,000   |
| TOTAL                                   | \$1,223,952 |

Including the recommended expansion to the RVA PO, this total represents 17.9% of the overall construction value of \$6.8M, which is reasonable for this type of construction contract.

Staffing: N/A

Legal: N/A

## **HISTORICAL BACKGROUND**

The Kenilworth Reservoir site is located at 111 Kenilworth Access. In July 2020, under a previous construction contract, some abnormal soil was identified on site. The City undertook site wide soil sampling and confirmed that half the reservoir's soil cover was contaminated with concentrations of Poly Aromatic Hydrocarbons (PAHs) above Provincial Standards (MECP Soil Quality Standards in a Non-Potable Ground Water Condition). The soil contamination was reported to City Council in November 2020, and the subsequent direction from Council was to remove the contaminated soils. Due to the significant volume of soil requiring removal, it was prudent to close out the original construction contract and initiate a new project for the removal and replacement of soil for the entire reservoir and inclusive of the remaining repairs to the East Cell of the reservoir.

In order to expedite the soil removal project, contingency funds remaining on R.V. Anderson Associates Limited's (RVA) contract (C11-53-18), from the completed works at the Kenilworth Reservoir West Cell were utilized to complete the design drawings and specifications for the new project tender. It was also necessary to expand RVA's purchase order (PO) for C11-53-18 in April 2021 at a value of \$249,832 for additional consulting services to support the project. This PO expansion was completed via Procurement Policy #11 – Non-Competitive Procurements under approval authority delegated to the General Manager of Public Works.

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The tender for the new construction project was released in the summer of 2021, and in October 2021, the project was awarded to Torbear Contracting Inc. (Torbear) through contract C13-50-21 competitive request for tenders with a completion date by June 2022 as estimated by RVA during the tendering process. Report PW20074(a) (dated November 17, 2021) provided Council with the status of the construction award and estimated timelines for the Kenilworth (HDR01) Reservoir Soil Removal and East Cell Upgrades project. This report also advised Council that the RVA assignment might require expansion once the initial project schedule was submitted by Torbear post-award. At that time the pre-tender schedule identified in the construction tender documents was established as the basis for bidding.

The project is currently in construction and the completion date is estimated to be within Q4 2022 as a result of Torbear's initial project schedule and additional construction time required to remove contaminated slag material that was found adhered to the exterior roof of the reservoir after the soil cover had been removed. Options are currently being reviewed to confirm the appropriate approach for the slag removal and the associated project delay. However, the project schedule will extend up to approximately six (6) months beyond the initial RVA estimate.

### **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

The policies affecting or impacting this Report include:

- By-Law No. 21-215 Procurement Policy #11 – Non-Competitive Procurements
- By-Law No. 21-215 Procurement Policy #2, Section 4.2 Approval Authority
- By-Law No. 21-215 Procurement Policy #5.3 – Request for Tenders (\$100,000 and greater)

### **RELEVANT CONSULTATION**

The following groups have been consulted:

- Finance Planning Administration and Policy Division, Corporate Services Department
- Financial Services and Taxation Division, Procurement Section, Corporate Services has provided guidance as to adherence to the Procurement Policy

### **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

Report PW20074(a) noted that the project management, contract administration and site inspection assignment with RVA would be assessed and if necessary, staff would report back to Council for approval of additional financial support when additional information was obtained through the awarded contractor. The awarded purchase order

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(PO) #91268 for C11-53-18 with RVA did not have enough funds for consultant site services for the full construction period. Staff were hoping to find project schedule efficiencies once Torbear submitted their initial schedule. Unfortunately, no project schedule efficiencies were found. As a result of the extended project schedule additional funds are required on the PO for up to approximately six (6) months of additional consultant site services.

RVA has intimate constructability and technical knowledge of the site and are already mobilized and able to complete their assignment. It would not be in the City's best interests to remove or replace RVA on the project at this time.

Recommendation (a) in report PW20074(b) is to expand the RVA Purchase Order #91268 by \$400,000 to fund additional consulting services throughout the expanded project schedule. Sufficient budget is available in the existing Project ID. No. 5141967375. Council approval is required for the PO expansion because the total value is greater than \$250,000, and also because PO has already been expanded once via Procurement Policy #11 – Non-Competitive Procurements.

Recommendation (b) in report PW20074(b) is to provide the General Manager of Public Works, or their designate, with authorization and direction to negotiate, enter into and execute a contract and any ancillary documents required for the continued provision of consulting services throughout the expanded project schedule.

**ALTERNATIVES FOR CONSIDERATION**

Contract C11-53-18 with RVA could be cancelled/closed-out and a new tender for the necessary consulting services could be re-issued competitively with a modified scope. The scope of work would need to be reduced to avoid or mitigate the risk of the City being cited for bid shopping. This alternative is not recommended for several reasons. The Contractor would be put on hold until a consultant is procured, thus resulting in significant delay costs. Cancelling the consultant contract would also create approximately 10 to 12 months of additional time for procurement and establishing renewed design and tender documents. This delayed approach would put the existing reservoir storage at future risk. The east reservoir repairs and the removal of the contaminated soils from the reservoir is approximately 50% complete and is required to be completed in an expeditious manner.

Financial: The alternative will result in increased construction and design costs due to potential market fluctuations and inflation cost escalations.

Staffing: N/A

Legal: N/A

**ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

**Economic Prosperity and Growth**

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

**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 – N/A**