



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

<b>TO:</b>	Chair and Members General Issues Committee
<b>COMMITTEE DATE:</b>	August 8, 2022
<b>SUBJECT/REPORT NO:</b>	Chedoke Creek Order - Procurement Update PW19008(p) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Tim Crowley (905) 546-2424 Ext. 5063
<b>SUBMITTED BY:</b>	Cari Vanderperk Director, Watershed Management Public Works Department
<b>SIGNATURE:</b>	

## RECOMMENDATION

That Purchase Order #97465 for Wood Canada Ltd. be increased by \$780,156 and funded from Project ID. No. 5162168777, pursuant to Procurement Policy #11 (Non-competitive Procurements), for consultant services including project management, contract administration, and post construction monitoring services for the implementation of the Targeted Dredging of Chedoke Creek.

## EXECUTIVE SUMMARY

The January 12, 2022, Report PW19008(n) provided the General Issues Committee (GIC) with status updates on the Chedoke Creek and Cootes Paradise Workplans, costs to-date and the City of Hamilton's (City) response to the Ministry of the Environment, Conservation, and Parks (MECP) Director's Order No.1-PE3L3 (Order). The Order relates to the Main/King Combined Sewer Overflow (CSO) discharge that occurred between January 2014 and July 2018. The purpose of Report PW19008(p) is to address and update the Procurement Policy under which the project team has been operating to procure Wood Canada Ltd. (Wood) as the Qualified Person required by the Order.

The General Manager of Public Works, upon receipt of the Order in December 2020, initiated an emergency declaration authorizing staff to utilize a Procurement Policy #10 (Emergency Procurements) to retain the services of Wood, to act as the Qualified

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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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Person as required by the Order. The emergency declaration expedited the City's response to the original Order deadline of October 31, 2021. Under Procurement Policy #10 (Emergency Procurements) Wood continues to act as the Qualified Person and has completed the planning, design, and permitting process along with supporting community partner engagement and the tendering of the Targeted Dredging of Chedoke Creek. Since December 2020, Wood has completed the abovementioned tasks under Purchase Order #97465 at a value of \$791,144.

The General Manager of Public Works and staff recommend that the emergency declaration can end as a result of the project team having:

- A greater understanding of the overall requirements of the Order;
- the dredging deadline extended by the MECF from October 31, 2021 to December 31, 2022; and
- the project is moving from the MECF approved design into the construction phase.

In order to maintain the current schedule and complete the targeted dredging by December 31, 2022, it is recommended that Wood continue to be retained as the Qualified Person through to the end of the targeted dredging project schedule, which includes construction and post-construction monitoring and contract administration. The basis of this recommendation is that Wood has intimate constructability and technical knowledge of the project and its team of engineers and scientists/biologists is already mobilized and able to effectively complete this assignment.

The recommendation in Report PW19008(p) is to increase the Wood Purchase Order #97465 by \$780,156 to fund the remainder of Wood's consulting services. Sufficient budget is available in the existing Project ID. No. 5162168777. Council approval is required under Procurement Policy #11 (Non-competitive Procurements), for the Purchase Order increase as the total value exceeds \$250,000.

As previously reported through the July 12, 2022 Chedoke Creek Remediation Communications Update (HW.22.05), the project team completed the design and tendering of the project with the subsequent tender awarded on July 8, 2022 to Milestone Environmental Contracting Inc. with a corresponding bid price of \$5,919,992.00. Construction mobilization has begun, and the targeted dredging is on track to be completed by the December 31, 2022 Order deadline.

**Alternatives for Consideration – See Page 5**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: Report PW19008(p) is recommending that \$780,156 be added to Wood’s Purchase Order #97465 for additional project management, contract administration and post construction monitoring services in order to meet the deadline for the targeted dredging of Chedoke Creek of December 31, 2022. Project ID No. 5162168777 has sufficient budget to cover this work, therefore no additional funds are required. Council’s approval is required for this Purchase Order increase under Procurement Policy #11 (Non-competitive Procurements) as the total value exceeds \$250,000.

Wood Purchase Order Summary:	
Approved Policy #10 Expenditures (excl. contingency)	\$ 791,144.13
Recommended Increase under Policy #11	<u>\$ 780,156.00</u>
TOTAL	\$1,571,300.13

Staffing: N/A

Legal: N/A

**HISTORICAL BACKGROUND**

The City was served a Director’s Order by the MECP on December 4, 2020, as a result of the Main/King CSO discharge that occurred between January 2014 and July 2018. The goal of the Order is to improve the condition of Chedoke Creek and Cootes Paradise.

Upon receipt of the Order, and to expedite the City’s response to the MECP and comply with the Order deadlines, the General Manager of Public Works under Procurement Policy #2 (Approval Authority) initiated an emergency declaration authorizing staff to initiate a Procurement Policy #10 (Emergency Procurements) to retain the services of Wood to act as the Qualified Person as required by the Order. Since that time, Wood has completed the following tasks under Purchase Order #97465 at a value of \$791,144.

- Development of the Chedoke Creek Workplan
- Development of the Cootes Paradise Report
- Development of the Cootes Paradise Workplan
- Conducted Field Work for Design of Chedoke Creek Targeted Dredge
  - Topography
  - Bathymetry
  - Sediment Quality Assessments
  - Species at Risk Investigations

- Targeted Dredge Design
- Indigenous and First Nations Consultation Support
- Public Consultation Support
- Permitting Support

In order to maintain the current schedule and complete the targeted dredging by December 31, 2022, it is recommended that Wood continue to be retained as the Qualified Person through to the end of the targeted dredging project schedule, which includes construction and post-construction monitoring.

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

The policies that apply to this Report include:

- By-Law No. 20-205, as amended Procurement Policy #11 – Non-Competitive Procurements;
- By-Law No. 20-205, as amended Procurement Policy #10 – Emergency Procurements; and
- By-Law No. 20-205, as amended Procurement Policy #2 - Approval Authority.

Approval of the recommendations in Report PW19008(p) will not affect the corporate policies or legislative requirements listed above.

### **RELEVANT CONSULTATION**

The following groups have been consulted:

- Communications and Strategic Initiatives Division, Communications Section;
- Finance and Corporate Services Department, Finance Planning Administration and Policy Division;
- Finance and Corporate Services Department, Legal and Risk Management Services Division; and
- Finance and Corporate Services Department, Financial Services and Taxation Division, Procurement Section has provided guidance as to adherence to the Procurement Policy.

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

The General Manager of Public Works under Procurement Policy #2 (Approval Authority) has ended the emergency declaration for the response to the MECP Director's Order as a result of the Main/King Combined Sewer Overflow discharge that occurred between January 2014 and July 2018. Now that the remediation project has

moved from engineering design, permitting, and consultation with community partners to the construction phase of targeted dredging, it is an appropriate time to end the emergency declaration and retain Wood under a Procurement Policy #11 (Non-competitive Procurements) in order for the City to complete the targeted dredging by the prescribed MECP deadline by December 31, 2022.

Wood has intimate constructability and technical knowledge of the project and its team of engineers and scientists/biologists is already mobilized and able to complete this assignment. It would not be in the City's best interests to remove or replace Wood on the project at this time, based on their unique knowledge and experience in this matter.

The recommendation in report PW19008(p) is to increase the Wood Purchase Order #97465 by \$780,156 to fund additional consulting services through the end of the Chedoke Creek targeted dredging project schedule. Sufficient budget is available in the existing Project ID. No. 5162168777. Council approval is required under Procurement Policy #11 (Non-competitive Procurements), for the Purchase Order increase since the total value exceeds \$250,000.

#### **ALTERNATIVES FOR CONSIDERATION**

The Purchase Order with Wood could be cancelled/closed-out and a new Request for Proposal for the necessary remaining consulting services (Project Management, Contract Administration and Post-Construction Monitoring) could be procured competitively.

This alternative is not recommended as the newly onboarded contractor would need to be put on hold until a new consultant is procured while a transfer of knowledge occurs, thus resulting in a significant delay to the project schedule of approximately four (4) months, which will conflict with the prescribed MECP deadline for the project's implementation.

**Financial:** This alternative will cause a delay to construction resulting in the completion of the project beyond the contract specifications, likely causing the City to incur an increase in costs.

**Staffing:** N/A

**Legal:** This alternative would cause the City to be unable to meet the MECP deadline of December 31, 2022 and result in possible exposure to liability.

The Purchase Order with Wood could continue to be managed under a Procurement Policy #10 (Emergency Procurements). The remaining consulting services would still

include additional project management, contract administration and post construction monitoring services. This alternative is not recommended as it is the opinion of the General Manager of Public Works and staff that an emergency no longer exists with respect to the services associated with complying with the Order.

Financial: This alternative would result in continuing with a declared emergency with the remaining costs of Wood's consulting services staying at \$780,156. However, it is the opinion of the General Manager of Public Works and staff that an emergency no longer exists with respect to complying with the Order, as the project is moving from the MECP approved design into the construction phase of the remediation project. As such, with the emergency declaration ending so too does procuring Wood's services under a Procurement Policy #10 (Emergency Procurements).

Staffing: N/A

Legal: N/A

## **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

### **Clean and Green**

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

### **Our People and Performance**

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

## **APPENDICES AND SCHEDULES ATTACHED**

N/A