




Hamilton

INFORMATION REPORT

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	July 12, 2023
SUBJECT/REPORT NO:	Impact of On-Site and Excess Soils Management Regulation (O. Reg 406/19) and other pressures on Capital Program Costs (PW22039(a)) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Susan Jacob (905) 546-2424 Ext. 2621
SUBMITTED BY:	Jackie Kennedy Director, Engineering Services Public Works Department
SIGNATURE:	

COUNCIL DIRECTION

At the Public Works Committee on May 16, 2022, Report PW22039 respecting the Impact of On-Site and Excess Soils Management Regulation (O. Reg 406/19) and other pressures on Capital Program Costs was referred to staff for a report back with further information about the recommendation to increase the funds in the Contaminated Soil & Rock Removal project account (#4032114405), not related to a specific project, to fund the removal of on-site and excess soils and to provide an explanation of why project tenders did not specify that contractors absorb any additional costs related to the removal of on-site and excess soils.

INFORMATION

The recommendation to increase funds in the Contaminated Soil & Rock Removal project account (#4032114405) was not approved at committee on May 16, 2022, and therefore the funds were not used from the account for the purposes which were intended at the time of the request. Instead, the additional costs associated with excess soils management have been addressed through budget increases according to the Purchasing Bylaw, referred to Council for requests for additional funding and in other

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instances, projects were deferred to allow for funding increase through the 2023 budget approval process.

At the time of the request for increased funds in May 2022, there were large fluctuations in the excess soils pricing due to regulatory changes and other pressures on capital program costs attributed to market uncertainty. The request would have impacted ten (10) projects that were in construction that had been awarded in 2021 and 2022, and seventeen (17) projects that were planned to be tendered in 2022.

Subsequent to the May 2022 request, additional funds were approved at Council for the award of the following three (3) projects through committee reports:

- Barton Street - Parkdale to Talbot (Report PW22038);
- Southcote Road - Highway 403 to Garner Road (Report PW22063); and
- Dickenson Road - Sanitary Trunk Sewer (Report PW22040).

Appropriation adjustments were made on eight (8) projects within the staff signing level of \$250,000 following the Procurement Bylaw as follows:

- Kelvin Court - Old Orchard Drive to South End
- Bridge 366 - Mud Street West 320 m East of Paramount
- Evans Road Culvert - 470 m North of Highway Number 5 East
- Hopkins Court
- Strachan Street East - James Street to East End
- Jackson Street - Catharine Street to Walnut Street
- Retaining Wall Rehabilitation Program 2020
- Hillcrest Court - West End to Chedoke Avenue

Report FCS22067 detailing Increase in Capital Budget Expense was presented to the General Issues Committee on August 8, 2022, and included four (4) projects where budget adjustments were needed, as follows:

- Royal CSO – Phase 1: Highway 403
- Garner Road Trunk Watermain
- Dewitt Road – Highway 8 to Barton Street
- Marion Avenue – Longwood Road South to Dromore Crescent

Further, nine (9) projects which required additional funding due to increased costs due to underground infrastructure such as sewers and watermains were deferred to allow for budget increases through the 2023 budget approval process, 2023 Tax Supported Capital Budget (FCS22081) (City Wide) and Recommended Water, Wastewater and Stormwater Budget (FCS22054) (City Wide) as follows:

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- Central Neighbourhood - Reconstruction Phase 02: Sheaffe / Park / Mulberry
- Bridge 248/Highway 8
- East-West Road Corridor (Waterdown Bypass)
- Mountain Park Avenue Rehabilitation
- Nebo Road - Rymal Road East to Twenty Road East
- Morden Street - Locke Street to Pearl Street
- Corktown Neighbourhood South - Phase 2
- East Street - Hunter Street to York Road
- Fletcher Road - Binbrook Road to Windwood Drive Extension

Staff agree that contract documents should and do obligate contractors to manage excess soils per the terms of their bids and additional costs for excess soils management and disposal should be borne by the contractor. This requirement is included in the Construction and Material Specifications General Conditions where itemized estimated quantities in tender documents differ from the actual quantities identified during construction due to on-site conditions. The process detailed in Section 200.02.08 Notice of Change under Form 200 must be executed to determine if additional compensation is warranted. Change in scope and additional payment is considered only under conditions of increased volumes due to unsuitability of soil. Soil is considered unsuitable for re-use for a few different reasons, including insufficient strength, wetness or soil quality incompatibility, and in these cases, staff review change requests made and authorize over-run amounts where fair, reasonable and justified, according to the situation and the terms of the contract.

Moving forward, excess soils management and specifically, the required studies to meet the Project Leaders planning requirements under Ontario Regulation 406/19 and the pricing for excess soils management are detailed as line items in tenders and therefore following award are binding to contractors. Additional direction to contractors is provided through Special Provisions of Contract where Excavated Materials are categorized by environmental soil quality and itemized for bidders to price. This change was implemented in October of 2020.

APPENDICES AND SCHEDULES ATTACHED

N/A