Minute No. 444
Report – Standing Policy Committee on Water and Waste, Riverbank Management and the Environment – June 27, 2019

Item No. 1 **Approval of Single Source Negotiation and Extension of Single Source Contract for the Supply and Delivery of Oxygen to the NEWPCC and SEWPCC**
Materials Management Reference No. 380-2018

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment and adopted the following:

1. That the single source negotiation be approved, and that the City award, enter into, execute and deliver a contract for the supply and delivery of liquid oxygen to the NEWPCC and SEWPCC, including all associated property lease agreements with Praxair Canada Inc. for the period from January 1, 2020 to December 31, 2024 in the total estimated amount of $11,600,000.00 GST and MRST extra as applicable and such other agreements as determined necessary by the City Solicitor / Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

2. That authority be delegated to the Chief Administrative Officer to negotiate and approve the terms and conditions of the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor / Director of Legal Services to protect the interests of the City.

3. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

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DECISION MAKING HISTORY:

Moved by Councillor Gilroy,

That the recommendation of the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 9, 2019, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On June 27, 2019, the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title: **APPROVAL OF SINGLE SOURCE NEGOTIATION AND EXTENSION OF SINGLE SOURCE CONTRACT FOR THE SUPPLY AND DELIVERY OF OXYGEN TO THE NEWPCC AND SEWPCC MATERIALS MANAGEMENT REFERENCE NO. 380-2018**

Critical Path: **The Standing Policy Committee on Water and Waste, Riverbank Management and the Environment - Executive Policy Committee - Council**

AUTHORIZATION

Author	Department Head	CFO	CAO
Chris Carroll, M.B.A., P. Eng., Manager of Wastewater Services	M. L. Geer, CPA, CA, Director, Water and Waste Department	P. Olafson, Interim CFO	M. Ruta, Interim CAO

EXECUTIVE SUMMARY

This report is for the approval of single source negotiation and extension of a single source contract to Praxair Canada Inc. for the supply and delivery of oxygen to the North End Sewage Treatment Plant (NEWPCC) and South End Sewage Treatment Plant (SEWPCC). The procurement is through the Single Source Negotiation and Award process. This project is financed from the approved annual Current Operating Budget for NEWPCC and SEWPCC oxygen supply.

The recommendation of this report is compliant with the Materials Management Policy and applicable trade agreements. Further details are provided in the History/Discussion section.

RECOMMENDATIONS

1. That Council approve the single source negotiation and that the City award, enter into, execute and deliver a contract for the supply and delivery of liquid oxygen to the NEWPCC and SEWPCC, including all associated property lease agreements with Praxair Canada Inc. for the period from January 1, 2020 to December 31, 2024 in the total estimated amount of $11,600,000.00 GST and MRST extra as applicable and such other agreements as determined necessary by the City Solicitor / Director of Legal Services to implement the intent of the foregoing (the “Ancillary Agreements”).

2. That authority be delegated to the Chief Administrative Officer to negotiate and approve the terms and conditions of the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor / Director of Legal Services to protect the interests of the City.

3. That the Proper Officers of the City of Winnipeg be authorized to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

As the total conditional amount to be paid by the City pursuant to the contract to Praxair Canada Inc. affects yearly budgets not yet approved by Council, Council approval is required pursuant to Section B8.2.2 of the City of Winnipeg Materials Management Policy.

Council has the authority to approve single source negotiations.

IMPLICATIONS OF THE RECOMMENDATIONS

The duration of this contract extension is for the period from January 1, 2020 to December 31, 2024 for the supply and delivery of oxygen to the NEWPCC and SEWPCC.

An absolute commitment for the labour and maintenance of the oxygen generation facility is necessary to supply all oxygen required for the NEWPCC. The supply and delivery of liquid oxygen to the SEWPCC is on an “as required” basis.

Funding for this contract will be made available from each year’s approved annual Current Budget – Sewage Disposal System – Interception and Treatment Regional – Account Distribution No. 444-533020-201108-999 (NEWPCC), and 444-533020-201109-999 (SEWPCC).

HISTORY/DISCUSSION

The work of this contract consists of the supply and delivery of oxygen to the North End Sewage Treatment Plant (NEWPCC) and South End Sewage Treatment Plant (SEWPCC).

In 1982 the City of Winnipeg entered into an agreement with Catalytic Enterprises for the supply and delivery of oxygen for the treatment of sewage at the NEWPCC. The term of the contract was from July 15, 1982 to December 31, 1999 and included the construction of an oxygen generating facility at the NEWPCC that was owned and operated by the Contractor.

On April 13, 1983 Catalytic Enterprises changed its name to Stearns Catalytic Ltd.

On April 1, 1987 Stearns Catalytic Ltd changed its name to Air Products of Canada Ltd.

On April 15, 1997 Air Products' proposal includes the supply and delivery of liquid oxygen to the SEWPCC at a cost of $100 per tonne for hauling, with no charge for the product, and provision of a larger storage tanks at no cost to the City. The SEWPCC uses liquid oxygen as a backup to the onsite oxygen production equipment.

On May 21, 1997 the contract for the supply and delivery of oxygen to the NEWPCC was extended and the SEWPCC liquid oxygen requirements were added to the agreement. It was extended until December 31, 2009.

On May 1, 2003 the contract for the supply and delivery of oxygen was assigned to Praxair Canada Inc.

On December 8, 2008 the Acting Chief Administrative Officer concurred in the recommendation from the Director of Water and Waste that the Water and Waste Department be authorized to negotiate without solicitation of competitive offers, an extension to the existing contract with Praxair Canada Inc. for the supply and delivery of oxygen to the NEWPCC for the period of January 1, 2010 to December 31, 2014. The estimated value of the resultant contract would be for $9,000,000.00 plus GST and MRST as applicable.

On March 25, 2009 Council approved the award of the contract to Praxair Canada Inc. in the amount of $9,000,000.00 for the period of January 1, 2010 to December 31, 2014.

On May 26, 2014 the Director of Water and Waste recommended to the Chief Administrative Officer that the Water and Waste Department be authorized to negotiate without solicitation of competitive offers, an extension to the existing contract with Praxair Canada Inc. for the supply and delivery of oxygen to the NEWPCC for the period of January 1, 2015 to December 31, 2019. The estimated value of the resultant contract would be for $10,325,000.00 plus GST and MRST as applicable.

On July 16, 2014 Council approved the single source negotiation and award of contract to Praxair Canada Inc. in the amount of $10,325,000.00 for the period of January 1, 2015 to December 31, 2019.

The contract for the supply and delivery of oxygen expires on December 31, 2019 and another supply contract is required to supply oxygen for the upcoming years until the NEWPCC and SEWPCC capital upgrades are completed.

The NEWPCC and SEWPCC will not be able to meet existing Environment Act Licences without a dedicated oxygen supply source. The following options were considered to secure the supply of oxygen through 2024.

1. Purchasing bulk liquid oxygen from the open market and trucking it to the NEWPCC and SEWPCC.
2. Demolishing the existing oxygen plant and reconstructing a new facility onsite.
3. Negotiate and award an extension to the existing contract with Praxair Canada Inc.

Option 1 is not preferred because there is no local supply available; the large quantity used at NEWPCC presents logistical difficulties; and the cost to purchase bulk liquid oxygen and deliver it to the NEWPCC and SEWPCC would be greater than the supply price proposed by Praxair.

Option 2 is not preferred because it is not practical to construct a new facility onsite and recover the capital investment before the new plant upgrades are complete.

Option 3 is the preferred choice and the rates proposed by Praxair are favourable compared to other available options.

The extension would be under the same terms and conditions with the exception that oxygen shall be supplied at purity equal or greater than 90% instead of 95% as previously required. This change is expected to prolong the life of the equipment and will not affect the ability to meet Environment Act Licence requirements.

The upgraded NEWPCC will not require the supply of oxygen as part of the treatment process. The NEWPCC Upgrade is a major undertaking and the timing for completion of various stages is uncertain. Due to the uncertainty of the future oxygen requirements, the Water and Waste Department intends to negotiate and award an extension to the existing contract with Praxair Canada Inc., for a 5 year term with an approximate value of $11,600,000.00, from January 1, 2020 to December 31, 2024, with $11,500,000.00 being dedicated to the NEWPCC requirements and $100,000.00 being dedicated to the SEWPCC oxygen requirements. A further extension, if required would be subject to mutual agreement by both parties, and require Council approval.

Pre-tender Estimate $11,600,000.00 plus GST and MRST as applicable

The work of this contract consists of the supply and delivery of oxygen for the wastewater treatment process at the NEWPCC and SEWPCC through an agreement. The original contract included the construction of a private oxygen production facility by the Contractor on land leased from the City of Winnipeg. The oxygen production facility remains the property of the Contractor.

This procurement is subject to the *New West Partnership Agreement* ("**NWPTA**"), which incorporates the requirements of the *Canadian Free Trade Agreement* ("**CFTA**") and the

Comprehensive Economic and Trade Agreement ("**CETA**"). Article 513(c) of the CFTA permits single sourcing for the purchase of additional deliveries of goods or services from an original supplier if a change of supplier cannot be made for technical reasons, and would cause significant inconvenience. If oxygen is not produced onsite at NEWPCC it would be trucked in from Alberta or Ontario creating potential supply management concerns (high risk of non-delivery). An estimated 660 truckloads per year would be required to supply the NEWPCC. As a result, it is not possible to change suppliers because without a local supplier the chance of a missed or delayed delivery would increase exponentially, and missed or delayed delivery would negatively impact NEWPCC and SEWPCC operations and would put the City at risk of violating the Environmental Act.

The Contract Administrator is satisfied that the recommended Contractor has the necessary experience and resources to perform the work of the contract satisfactorily and has satisfactorily performed the work since the beginning of the contract in accordance with the requirements of the Contract.

FINANCIAL IMPACT

Financial Impact Statement

Date: May 17, 2019

Project Name:

First Year of Program **2020**

APPROVAL OF SINGLE SOURCE NEGOTIATION AND EXTENSION OF SINGLE SOURCE CONTRACT FOR THE SUPPLY AND DELIVERY OF OXYGEN TO THE NEWPCC AND SEWPCC MATERIALS MANAGEMENT REFERENCE NO. 380-2018

	2020	2021	2022	2023	2024
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ 2,320,000	$ 2,320,000	$ 2,320,000	$ 2,320,000	$ 2,320,000
Less: Incremental Revenue/Recovery	-	-	-	-	-
Net Cost/(Benefit)	$ 2,320,000	$ 2,320,000	$ 2,320,000	$ 2,320,000	$ 2,320,000
Less: Existing Budget Amounts	2,320,000	2,320,000	2,320,000	2,320,000	2,320,000
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: The duration of this contract extension is for the period from January 1, 2020 to December 31, 2024 for the supply and delivery of oxygen to the NEWPCC and SEWPCC.
An absolute commitment for the labour and maintenance of the oxygen generation facility is necessary to supply all oxygen required for the NEWPCC. The supply and delivery of liquid oxygen to the SEWPCC is on an "as required" basis.
Funding for this contract will be made available from each year's approved annual Current Budget – Sewage Disposal System – Interception and Treatment Regional – Account Distribution No. 444-533020-201108-999 (NEWPCC), and 444-533020-201109-999 (SEWPCC).

"Original signed by L. Szkwarek, CPA, CGA"
Lucy Szkwarek, CPA, CGA
Manager of Finance and Administration

CONSULTATION

This Report has been prepared in consultation with:

Legal Services Department (as to legal issues)
Corporate Finance, Materials Management Branch

OURWINNIPEG POLICY ALIGNMENT

This report is in accordance with the OurWinnipeg policies through

OurWinnipeg Reference: Environmental

SUBMITTED BY

Department: Water and Waste
Division: Wastewater Services
Prepared by: Richard Vendramelli, Project Coordinator
Date: May 17, 2019
File No.: S-763