Minutes – Executive Policy Committee – March 17, 2020

REPORTS

Item No. 11 Delegation of Single Source Negotiation Authority to the Chief Administrative Officer for Spring Flood 2020

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and recommended to Council:

1. That under the Materials Management Policy (Policy), the Chief Administrative Officer be delegated the authority to approve Single Source negotiations to a maximum of $5,000,000.00 per contract, where the Single Source is not permitted under the Policy and/or not permitted under the various Trade Agreements for urgent flood relief or prevention purposes during the Spring Flood of 2020; and that such approvals be reported on the annual report for Single Source Assignments for Consultants, Goods and Services.

2. That the Chief Administrative Officer report back to Council within 60 days of the approval of any single source negotiation permitted by this delegation of authority.

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

DECISION MAKING HISTORY:

Moved by Councillor Rollins,

That Rule 10(3) of The Procedure By-law No. 50/2007 be suspended in order that the following item, which was received less than four business days preceding the committee meeting, be considered by Committee.

Carried

Moved by Councillor Gillingham,

That the recommendation of the Winnipeg Public Service be concurred in and forwarded to Council.

Carried

ADMINISTRATIVE REPORT

Title: Delegation of Single Source Negotiation Authority to the Chief Administrative Officer for Spring Flood 2020

Critical Path: Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
T. Yanchishyn	P. Olafson	P. Olafson Interim CFO	M. Ruta, Interim CAO

EXECUTIVE SUMMARY

On February 27, 2020 the Province released its February Flood Outlook Report For Manitoba which stated:

- Winnipeg can expect peak river levels between 18.2 feet (favourable conditions) and 20 feet (unfavourable conditions) at James Avenue.
- There is a high risk of major spring flooding along the Red River main stem. However, this could change depending on weather conditions between now and the spring melt.

The Public Service has made, and is making, contractual arrangements for goods and services in preparation for the flood that are in compliance with the Materials Management Policy and the various Trade Agreements based on the City's previous experience with floods.

In preparation for the City of Winnipeg's response to any flood event, it is anticipated that there may be some time sensitive single source procurement requests beyond those contracts already arranged. Although such expenditures might be considered emergency in nature and available for approval by the Chief Administrative Officer, it is not clear whether emergency provisions in recently imposed trade agreements have been met. In the event of an unexpected emergency, there will not be time to seek approval from Executive Policy Committee for the single source procurements without impacting the City's ability to respond to the flood event.

Delegation of authority to approve single source negotiations that would violate the Materials Management Policy, or various Trade Agreements, for those procurements related to the Spring Flood 2020 will ensure appropriate authority exists with the Chief Administrative Officer to enable a timely response to the requests for goods and services.

RECOMMENDATIONS

1. That Council delegate the authority under the Materials Management Policy (Policy) to the Chief Administrative Officer to approve Single Source negotiations to a maximum of $5,000,000.00 per contract, where the Single Source is not permitted under the Policy and/or not permitted under the various Trade Agreements for urgent flood relief or prevention purposes during the Spring Flood of 2020; and that such approvals be

reported on the annual report for Single Source Assignments for Consultants, Goods and Services.

2. That the Chief Administrative Officer report back to Council within 60 days of the approval of any single source negotiation permitted by this delegation of authority.

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

REASON FOR THE REPORT

Only Council can delegate authority under the Materials Management Policy to the Chief Administrative Officer.

IMPLICATIONS OF THE RECOMMENDATIONS

This delegation will ensure the Chief Administrative Officer has the ability to respond to any unexpected emergencies during the 2020 flood event.

HISTORY/DISCUSSION

On February 27, 2020 the Province released its February Flood Outlook Report For Manitoba which stated:

- Winnipeg can expect peak river levels between 18.2 feet (favourable conditions) and 20 feet (unfavourable conditions) at James Avenue.
- There is a high risk of major spring flooding along the Red River main stem. However, this could change depending on weather conditions between now and the spring melt.

Flood event preparations require expedient procurement measures to ensure the City is adequately protected which the current Materials Management Policy delegation of authority won't adequately provide.

In 2017, two trade agreements came into effect:

- The Canadian Free Trade Agreement (CFTA) reducing the ability of Canadian municipalities to sole source where the value exceeds $100,000 for goods and services or $250,000 for construction;
- The Canada-European Union Comprehensive Economic and Trade Agreement (CETA) with less stringent dollar value thresholds. However, CETA prescribes a minimum thirty (30) day bidding period for all procurements where the value exceeds $340,000 for goods and services or $8,500,000 for construction.

In 2019, the New West Partnership Trade Agreement (NWPTA) came into effect reducing the sole source thresholds to $75,000 for goods and services or $200,000 for construction.

All three Trade Agreements contain restrictions for sole source (single source). Although *emergency* is allowable under all trade agreements, regular springtime flooding events may be considered foreseeable according to Trade Agreement standards and therefore not a compliant justification for single source procurement.

Delegation of authority to approve single source negotiations that would violate the Materials Management Policy or various Trade Agreements for those procurements related to the Spring Flood 2020 will ensure appropriate authority exists with the Chief Administrative Officer to enable a timely response to the requests for goods and services.

The Public Service has made or is in the process of making contractual arrangements for goods and services in preparation for the flood that are in compliance with the Policy and the various Trade Agreements. These arrangements include engineering consulting services, hired equipment and labour for the construction of clay dikes, pump rentals, bags (for sandbags) etc., on an as-required basis during a flood event.

Under B8.1(i) of the Materials Management Policy, the Chief Administrative Officer has the delegated authority to approve single source negotiations in the case of an ‘emergency’, up to the sum of $5,000,000.00. An ‘emergency’ is defined under the Materials Management Policy and Trade Agreements as an event that is unforeseeable and creates an immediate and serious need. As yearly spring flooding in Winnipeg is not unforeseeable, the delegation under B8.1(i) of the Materials Management Policy does not apply, and the Executive Policy Committee would need to approve flood related single source negotiations. There likely will not be time to seek approval from the Executive Policy Committee for such single source procurements without impacting the City’s ability to respond to the 2020 flood event. Approval by Council of the Recommendation of this Report will delegate authority to the Chief Administrative Officer to approve all flood of 2020 related single source purchases, allowing the Public Administration to respond to the flood in a timely manner.

FINANCIAL IMPACT

Financial Impact Statement **Date:** March 13, 2020

Project Name:
Delegation of Single Source Negotiation Authority to the Chief Administrative Officer for Spring Flood 2020

COMMENTS:

There is no financial impact associated with the delegation of authority recommended in this report.

original signed by
Tanis Yanchishyn
Manager of Finance (Campus)
Corporate Finance Department

CONSULTATION

This Report has been prepared in consultation with:
Materials Management
Legal Services Department (as to legal issues)

OURWINNIPEG POLICY ALIGNMENT

N/A

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

SUBMITTED BY

Department: Corporate Finance
Division: Campus Finance
Prepared by: T. Yanchishyn
Date: March 13, 2020