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**Subject:** Niagara Regional Police Services (NRPS) 1 District - Amending Agreement with Merit Contractors Niagara Ltd.

**Report to:** Corporate Services Committee

**Report date:** Wednesday, December 9, 2020

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## Recommendations

1. That the original CCDC-2 Stipulated Price Contract of \$16,761,290 (including 13% HST) awarded to Merit Contractors Niagara Ltd. ("**Merit**") **BE INCREASED** by \$350,000 (including 13% HST), for a total revised Contract of \$17,111,290 (including 13% HST) for the construction of the Niagara Regional Police Service ("NRPS") facility in St. Catharines; and
2. That the Regional Chair and Clerk **BE AUTHORIZED** to execute an amendment to the CCDC-2 Stipulated Price Contract between Niagara Region and Merit as proposed in Recommendation 1 above.

## Key Facts

- On March 1, 2019 Niagara Region entered into a CCDC-2 Stipulated Price Contract with Merit, in the amount of \$16,761,290 (\$14,833,000 base contract plus 13% HST) for the construction of the new NRPS 1 District facility in the city of St. Catharines.
- The increase to the Merit contract will not increase the project budget. The total project budget is \$20,495,519 and includes a 3% contingency of \$835,470 which is sufficient to fund the proposed increase.
- At the time of project award, the region's policy was to carry a contingency as part of the project budget but not to include a construction contingency in the base bid amount, this increase is to adjust the contract to include the construction contingency.
- The CCDC-2 contract is routinely used in construction projects and includes a rigorous process to increase/decrease the contract amount based on approved change orders.
- The Project Manager is currently forecasting \$350,000 in change orders (\$309,735 plus 13% HST) until the end of construction and is recommending adding the construction contingency to the contract in order to not impact the schedule and the completion date.

- The cumulative value of the CCDC-2 Stipulated Price Contract, inclusive of the proposed amendment, will exceed \$5,000,000 and therefore requires the authorization of Regional Council in accordance with Niagara Region's procurement By-law 02-2016 as amended on February 28, 2019 pursuant to Section 18 (c) and Schedule B.

## **Financial Considerations**

Pursuant to CSD 13-2019, Council approved the award of Contract 2018-T-23 for the construction of the NRPS 1 District facility in St. Catharines to Merit Contractors Niagara Ltd. for \$15,094,090 (inclusive of non-refundable HST). The addition of the recommended \$315,186 (inclusive of non-refundable HST) construction contingency will increase the value of the contract to \$15,409,277 (inclusive of non-refundable HST).

A change purchase will be dispatched if Council authorizes the execution of the amending agreement and approves the purchase order increase.

Staff confirms there are sufficient funds in the project budget (20000805) to address the amount of the change request (See Appendix 1). The total project budget will not be increased and the contingency will be reduced by \$315,186 to fund the increase in contract value.

## **Analysis**

Since construction started on April 1, 2019, Niagara Region staff have worked diligently with the architect and the contractor to control costs and deliver the project on schedule and on budget. However, as the project approaches substantial completion, there is a need to add a construction contingency to the contract amount in order to fund identified and forecasted changes to the construction.

It is typical and prudent for owners to carry a construction contingency, particularly with stipulated sum contracts (CCDC-2), for the various conditions that are not known at the time of contract award, but routinely occur during construction: unknown soils, unknown site conditions, owner requested changes and errors and omissions in the contract documents.

At the time of project award, the region's policy was to carry a contingency as part of the project budget (\$835,470 for NRPS 1 District) and not to include a construction contingency in the base bid amount. This helps control contractor expectations with

respect to what moneys are due, but requires approval from council to increase the contract award amount in order to not impact the schedule.

Although staff is recommending adding a construction contingency to the contract, this is an upset limit and the moneys will not be paid out to contractor unless and until they are approved through the CCDC-2 change order process. The contractor must demonstrate a change to the project specifications and provide supporting documentation for associated costs which are then vetted by the consultant to ensure they are at market costs. Region staff will continue to work closely with Merit to ensure all change orders are analysed for possible cost mitigations.

### **Alternatives Reviewed**

As noted above, change orders are typical to construction projects particularly if executed under a stipulated sum contract (CCDC-2) and do not do not indicate a change in scope.

Approving the addition of the construction contingency will allow construction to continue ensuring the timely completion of the new NRPS 1 District facility and permitting the scheduled move from the existing 1 District facility in early 2021. The new facility will provide NRPS staff with a new and more functional working environment and allow NRPS to better serve the Niagara Region community.

### **Relationship to Council Strategic Priorities**

Approving this recommendation by staff will align with Council's Strategic Priority to:

- Promote a Healthy and Vibrant Community; and
- Reasonable Growth and Infrastructure Planning.

### **Other Pertinent Reports**

CSD 13 – 2019

Corporate Service Committee

February 20<sup>th</sup>, 2019

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**Prepared by:**

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Management

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**Recommended by:**

Todd Harrison, CPA, CMA  
Commissioner/Treasurer  
Corporate Services

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**Submitted by:**

Ron Tripp, P.Eng.  
Acting Chief Administrative Officer

*This report was prepared in consultation with Nicole Menard, Senior Project Manager; and reviewed by Bradley Ray, Associate Director, Facilities Projects, Assets & Energy Management; Adam Niece, Program Financial Specialist; and Nicole Wolfe, Director, Construction, Energy & Facilities Management.*

## **Appendices**

Appendix 1 – Total Estimated Project Cost