
Subject: NRPS 1 District Tender Analysis & Award

Report to: Corporate Services Committee

Report date: Wednesday, February 20, 2019

Recommendations

1. That Contract 2018-T-23 “Niagara Regional Police Service (NRPS) 1 District Facility St. Catharines – General Contractor for Construction” **BE AWARDED** to Merit Contractors Niagara Ltd at their bid price of \$16,761,290 (including 13% HST); and,
2. That the Gross Budget for Long-Term Acc-2017 NRPS D1 **BE INCREASED** by \$3,795,841 and that the increase **BE FUNDED** from the Capital Variance Project

Key Facts

- The purpose of this report is to seek Council approval for an increase to the NRPS 1 District project budget and to approve the Tender Award to Merit Contractors Niagara Ltd.
- The provision of a new NRPS 1 District facility was mandated as part of an Ontario Civilian Commission on Police Services (OCCOPS) negotiated settlement between the Niagara Region and Niagara Region Police Services Board in September 2009.
- Remaining funding for the NRPS 1 District Project was initiated in 2018, as part of the original \$83,076,100 budget for the NRPS Long-Term Accommodation Project.
- Significant project costs of \$3.3M for land purchase and remediation were not anticipated in the original \$83,076,100 budget.
- The increased project cost is due to higher than expected tender prices due to market conditions and refinement of drawings after the final cost estimate was prepared.
- Staff will negotiate targeted cost savings with the low bidder, Merit Contractors Niagara Ltd., following contract award.
- The NRPS 1 District budget will be offset by funding sources that do not impact the 2019 capital budget.

Financial Considerations

In April 2011 a project budget of \$83,076,100 was approved by Council to implement the NRPS Long-Term Accommodation Project. Of the overall budget, \$65,856,108 was allocated to the Headquarters & 2 District project (10PO0515), leaving \$17,219,992 to complete the 1 District facility project (20000805).

The NRPS Accommodations Master Plan envisioned construction of the NRPS Headquarters & 2 District Facility in Niagara Falls and a new 1 District Facility at the existing 68 Church Street property in St. Catharines. While working through the schematic design phase for 1 District, the NRPS and Region determined that constructing the new 1 District facility on the existing 68 Church Street property would not provide sufficient parking to meet operational requirements and requested the Police Services Board authorize the search for a new site. On January 18, 2013 Council approved staff to proceed with the design and tender of Headquarters & 2 District independent of the 1 District Facility in St. Catharines and that staff continue to work on finding a new site for 1 District.

The NRPS Headquarters & 2 District Facility proceeded through design, tender and construction and achieved substantial completion in September 2016. The project was delivered at a final cost of \$65,148,000, approximately \$900,000 under budget which is inclusive of \$191,892 in revenue from lease payments, energy incentives and credit in design costs.

The \$900,000 favourable variance on the NRPS Headquarters & 2 District budget is being returned to the Capital Variance Project and will be used to fund the 1 District project. The return of the \$900,000 to the Capital Variance Project reduces the overall ask for funds outside NRPS Long-Term Accommodations related capital projects from 3,795,841 to \$2,895,841.

As described earlier in the report, constructing the 1 District facility on the existing 68 Church Street site posed operational challenges for NRPS, necessitating the search for a new property. Following an extensive property search Council, through report CSD 62-2014, directed staff to proceed with the purchase of a new site at 198 Welland Avenue for the 1 District facility. The brownfield site was purchased and remediated at a total cost of approximately \$3.3M. The cost to purchase and remediate the Welland Avenue property was not accounted for in the original project budget since the 1 District facility was to be constructed on land owned by the Region. To address the unanticipated costs, the project team went through an extensive value engineering exercise, reducing the building program area and making additional modifications to the design prior to releasing the tender with the belief that the results would be within the available budget.

On August 14, 2018 the Region issued a Request for Tender for the construction of the NRPS 1 District Facility. Based on the results of the Request for Tender and a low bid of \$14,833,000 (before tax) or \$15,094,061 (including 1.76% non-refundable HST), the 1 District project is tracking \$3,795,841 over budget. The Project Budget Summary for 1 District is provided in Appendix 1.

After the tender closed, the consultant was requested by staff to review the results and identify any potential causes for the tenders coming in significantly higher than

anticipated. The Consultant's analysis identified approximately half of the variance was attributable to the refinement of drawings and specifications that occurred after the last cost estimate was prepared in addition to clarifications provided through addendums issued during the tender period. The remainder of the deficit is believed to be due to current market conditions and construction demands.

Since commencing operations at their new facility in Niagara Falls, NRPS has been managing an operational issue of insufficient parking on site. A change to the NRPS take home vehicle policy in 2014, resulted in greater number of vehicles being accommodated on site than originally contemplated during design. As a result, the parking lot is often over capacity presenting challenges for staff, especially during the winter months due to snow accumulation. To address the issue, it was proposed that an overflow parking area adjacent to the property be constructed at a cost of approximately \$400,000 with funding coming from the \$900,000 project surplus. The return of \$900,000 to the Capital Variance project to fund the 1 District Project has eliminated the funding source for the parking lot. It is anticipated that the required funding for the parking lot could be achieved through cost savings obtained from negotiations with Merit Contractors following award of the Contract.

Staff will report back to Council with updates on cost savings negotiated with the Contractor, the status of the parking lot at Headquarters and eventual disposition of the 68 Church Street property, proceeds of which will be returned to the Capital Variance Project that is funding the 1 District shortfall.

Analysis

A Request for Prequalification (RFPQ) of General Contractors "2018-RFPQ-04 - Request for Prequalification of General Contractors for the Niagara Regional Police Service (NRPS) 1 District Facility in St. Catharines" was issued through Procurement Services on May 18, 2018. The RFPQ closed on June 7, 2018 with the Region receiving a total of six (6) submissions from the following firms:

Aquicon Construction
BECC Construction Group Limited
Collaborative Structures Limited (CSL)
Matheson Constructors
Merit Contractors Niagara Ltd.
Tambro Construction Ltd.

Based on the size and quality of this project, it was anticipated there would be a greater number of respondents to the RFPQ. The low number of submissions was likely due to an active construction market. This fact is consistent with the cost consultant's review of the results. To achieve the best value for the project, it was the Region's intention to

prequalify the maximum number of contractors with the requisite experience and qualifications to successfully deliver the project.

A four member evaluation committee, with representation from the Niagara Regional Police Service (NRPS), Region and Architect, was formed to evaluate the RFPQ submissions. Proposals were evaluated independently by each committee member in accordance with the scoring criteria outlined in the RFPQ and approved by Council, through report CSD 20-2018. The evaluation committee convened on June 26, 2018 with a representative from Procurement to review individual scoring, discuss any deviations and to establish final scores for each proponent. The project team presented the evaluation results to the NRPS Steering Committee and were provided direction by the Committee to invite all six proponents to participate in the Request for Tender.

On August 14, 2018 the Region issued Request for Tender 2018-T-23 "Niagara Regional Police Service (NRPS) 1 District Facility St. Catharines – General Contractor for Construction" to the six invited bidders. A number of requests for information were submitted by the bidders throughout the tender period. To provide sufficient time for the consultants to respond and contractors to process and cost the information, the tender period was extended from the original closing date of September 13 to October 2, 2018.

The Region received bids from each of the six proponents. All submissions were reviewed by Procurement Services and found to be compliant bids. A summary of the tender results is presented in the table below.

NRPS 1 District Tender Results:

Bidder	Tender Price	Rank
Aquicon Construction Co. Ltd.	\$15,133,000	4
BECC Construction Group Ltd.	\$15,785,664	6
Collaborative Structures Limited	\$14,850,000	2
Matheson Constructors	\$14,962,288	3
Merit Contractors Niagara Ltd.	\$14,833,000	1
Tambro Construction Ltd.	\$15,120,000	5

Merit Contractors was the low bidder, submitting a tender price of \$14,833,000. All six bids were within \$952,664 (6.5%) of one another with the range considerably narrower at 1.9% for the top five bidders. The narrow spread is indicative of a competitive bidding process, however the cost per square foot was significantly higher than anticipated ranging from \$493 to \$504 per square foot. Based on most current construction estimate prepared by the Cost Consultant, the cost per square foot was expected to be in the range of \$379 per square foot. The Class B estimate was deemed by the Cost Consultant to be accurate to +/- 5 to 10 percent and was within a tolerance acceptable the Steering Committee to proceed to tender.

The two low bidders, Merit Contractors and Collaborative Structures Limited, submitted detailed cost breakdowns of their bids that were reviewed by the Consultant to identify any variations or discrepancies between the bids and the most current cost estimate.

The low bid of \$14,833,000 exceeds the available construction budget for the Project and award of the Contract cannot proceed unless additional funds are approved or the construction cost is brought back within the available budget. Reducing the budget by over \$3,000,000 would require substantive changes to the building program and large reductions in building area.

As part of their analysis, the Consultant identified a number of areas with potential for achieving targeted cost savings. The strategy focused on eliminating certain building elements, material substitutions and reduced finishes rather than eliminating square footage from the building, as area reductions were already considered and reduced during the design phase to reduce costs. The value of potential savings would be determined through negotiations with the low bidder but is anticipated to be a maximum of 30 percent of the current deficit.

The Request for Tender identified an irrevocability period of 90 days, which represents the duration for which contractors are required to hold their bid price. Based on a tender closing of October 2, 2019, the irrevocability period would have expired on December 31, 2018. With staff not being able to bring this report to Council until February 2019, Merit Contractors was approached to determine if they would be responsive to extending the irrevocability period for an additional 90 days to March 31, 2019. Merit Contractors has agreed to the extension and will hold their tender price until March 31, 2019.

Alternatives Reviewed

Staff reviewed several alternatives in analysing how to achieve required cost savings for the 1 District Project, giving consideration to best procurement practices and risk mitigation for the Region. Options considered included negotiation with the Contractor, cancelling the Request for Tender and re-issuing the bid documents under a new Tender. Details of the reviewed alternatives are provided in Appendix 2 of this report.

Relationship to Council Strategic Priorities

Highlight how the recommendation will strategically enforce/improve that priority (why this report is being brought forward).

Other Pertinent Reports

COTW 7-2009	Committee of the Whole	Sep 10, 2009
CSD 10-2013 (confidential)	Corporate Services Committee	Jan 9, 2013
CSD 123-2013	Corporate Services Committee	Dec 4, 2013
CSD 62-2014 (confidential)	Corporate Services Committee	Jul 16, 2014
CSD 76-2014 (confidential)	Corporate Services Committee	Sep 3, 2014
CSD 84-2014	Corporate Services Committee	Sep 24, 2014
CSD 20-2018	Corporate Services Committee	Apr 4, 2018

Prepared by:

Mislav Koren
Project Manager
Enterprise Resource Management
Services

Recommended by:

Todd Harrison, CPA, CMA
Commissioner/Treasurer
Enterprise Resource Management
Services

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Bradley Ray, Associate Director, Facilities Projects, Assets & Energy Management; Adam Niece, Program Financial Specialist, ERMS; Bart Menage, Director, Procurement and Strategic Acquisitions, ERMS; Donovan D'Amboise, Manager, Program Financial Support, ERMS; and reviewed by Brent Julian, Director, Construction, Energy & Facilities Management.

Appendices

Appendix 1	Total Estimated Project Cost Contract Award
Appendix 2	Analysis of Alternatives Reviewed
Appendix 3	Site Plan
Appendix 4	Exterior Renderings

CSD 13-2019 APPENDIX 1
Total Estimated Project Cost
Contract Award

Contract 2013-T-23 Niagara Regional Police Service (NRPS) 1 District Facility St. Catharines

	Council Approved Budget	Budget Increase/ Reallocation	Revised Council Approved Budget	Expended & Committed as of 12/19/18	Contract Award/ Forecast	Budget Remaining
	(A)	(B)	(C) = (A) + (B)	(D)	(E)	(F) = (C)-(D)- (E)
<u>Total Estimated Project Cost (20000805)*</u>						
(a) Construction (including Construction Contingency and 1.76% non-refundable HST)**	12,020,400	3,074,441	15,094,841	-	15,094,841	-
(b) Project Contingency	91,250	744,220	835,470	-	835,470	-
(c) Property Acquisition	1,359,321		1,359,321	1,359,321	-	-
(c) Furniture, Fixtures, Equipment	203,520		203,520	-	203,520	-
(d) Consulting Engineering Services						
i. Detailed Design & Contract Administration	1,224,712	(25,207)	1,199,505	960,981	238,525	-
ii. Fees & Permits	54,369		54,369	-	54,369	-
(e) Project Management (In-House) and Operations	304,348	2,387	306,735	102,874	203,861	-
(f) Miscellaneous (Site Remediation)	1,962,072		1,962,072	1,962,072	-	-
Total Estimated Project Cost	17,219,992	3,795,841	21,015,833	4,385,247	16,630,586	-

Project Funding Sources (NOTE - only include if you are increasing budget and only include relevant line items)

Regional reserves & debt	(17,069,313)		(17,069,313)	(4,535,926)	(12,533,387)	-
NRPS Capital Levy	(150,000)		(150,000)	(150,000)	-	-
Capital Interest Closeout	(679)		(679)	(679)	-	-
Capital Variance Project - Levy		(3,795,841)	(3,795,841)		(3,795,841)	-
	(17,219,992)	(3,795,841)	(21,015,833)	(4,686,605)	(16,329,228)	-

*All costs include 1.76% non-refundable HST

** Total Contract Award is equal to i) \$14,833,000 before tax; ii) \$15,094,061 including 1.76% non-refundable HST; iii) \$16,761,290 including 13% HST

Negotiating with the Lowest Compliant Bidder

The Region's Procurement By-Law No. 02-2016 allows for negotiation under specific circumstances, including when the lowest compliant bid received, meeting all specifications, exceeds the budget amount.

Staff reviewed the following two scenarios for negotiating with the lowest compliant bidder:

1. Negotiate the full amount of the variance
2. Negotiate to reduce the amount of the variance

OPTION	DESCRIPTION & TIMING	ITEMS TO CONSIDER
Negotiation	<p>1. Negotiate full amount of variance</p> <p>Timing:</p> <ul style="list-style-type: none"> • Redesign & Negotiation 1-2 months • SPA & Building Permit Re-submissions 2-3 months • Council approval of additional funding & contract award – March 2019 • Construction start – April 2019 	<ul style="list-style-type: none"> • Likely to involve significant changes to the building program including area reductions, affecting NRPS operations • Facility redesign of this magnitude would require resubmission for Site Plan Approval and Building Permit • Contract could be awarded within the approved budget without request for additional funding from Council <p>Risks:</p> <ul style="list-style-type: none"> • Irrevocability period would be exceeded and require written agreement from low bidder to honour their bid price for an extended period of time • Negotiation at odds with the express and implied duties of Contract A (the duty to award the contract as tendered) • May face legal challenge from other bidders

Negotiating the full amount of the variance would involve significant changes to the building program including large area reductions. The required revisions would impact police operations and result in a facility that isn't in compliance with the NRPS mandate to deliver adequate and effective policing. This approach also carries significant legal risk as it runs contrary to Contract "A" obligations created under the terms of the RFP. Therefore this approach was not recommended.

OPTION	DESCRIPTION & TIMING	ITEMS TO CONSIDER
Negotiation	<p>2. Negotiate to reduce amount of the variance & seek Council approval for remaining funds</p> <p>Timing:</p> <ul style="list-style-type: none"> • Redesign & Negotiation 4-6 weeks • Council approval of contract award and additional funding– January 2019 • Construction start – February 2019 	<ul style="list-style-type: none"> • Less significant changes not likely to affect building program or NRPS operations • Revisions not likely to require resubmission for Site Plan Approval or Building Permit • Project would require approval of additional funding by Council <p>Risks:</p> <ul style="list-style-type: none"> • Irrevocability period would be exceeded and require written agreement from low bidder to honour their bid price for an extended period of time. • Negotiation at odds with the express and implied duties of Contract A (the duty to award the contract as tendered) • May face legal challenge from other bidders, however risk may be lower if changes not significant • Council may not award additional funding for project

Negotiating with the lowest compliant bidder to reduce the amount of the variance would involve less significant changes to the building program. NRPS operations may still be impacted if building elements were to be removed from the project or higher life cycle costs may be realized if less durable finishes are selected to reduce the construction cost. There remains some legal risk with this approach, but to a lesser extent than if the full amount of the variance was negotiated. Additional project funding would still be required with this approach. This approach was not recommended, however there is an opportunity to negotiate with the Contractor following award of the Contract. This would significantly reduce any perceived procurement issues around negotiation.

Cancel Request for Tender and Re-issue Bid Documents

The Request for Tender (RFT) document provides the Region with reserved rights including the ability to cancel the RFT process at any stage and issue a new RFT for deliverables the same as or similar to the deliverables.

Staff reviewed the following two scenarios for cancelling and reissuing the Tender:

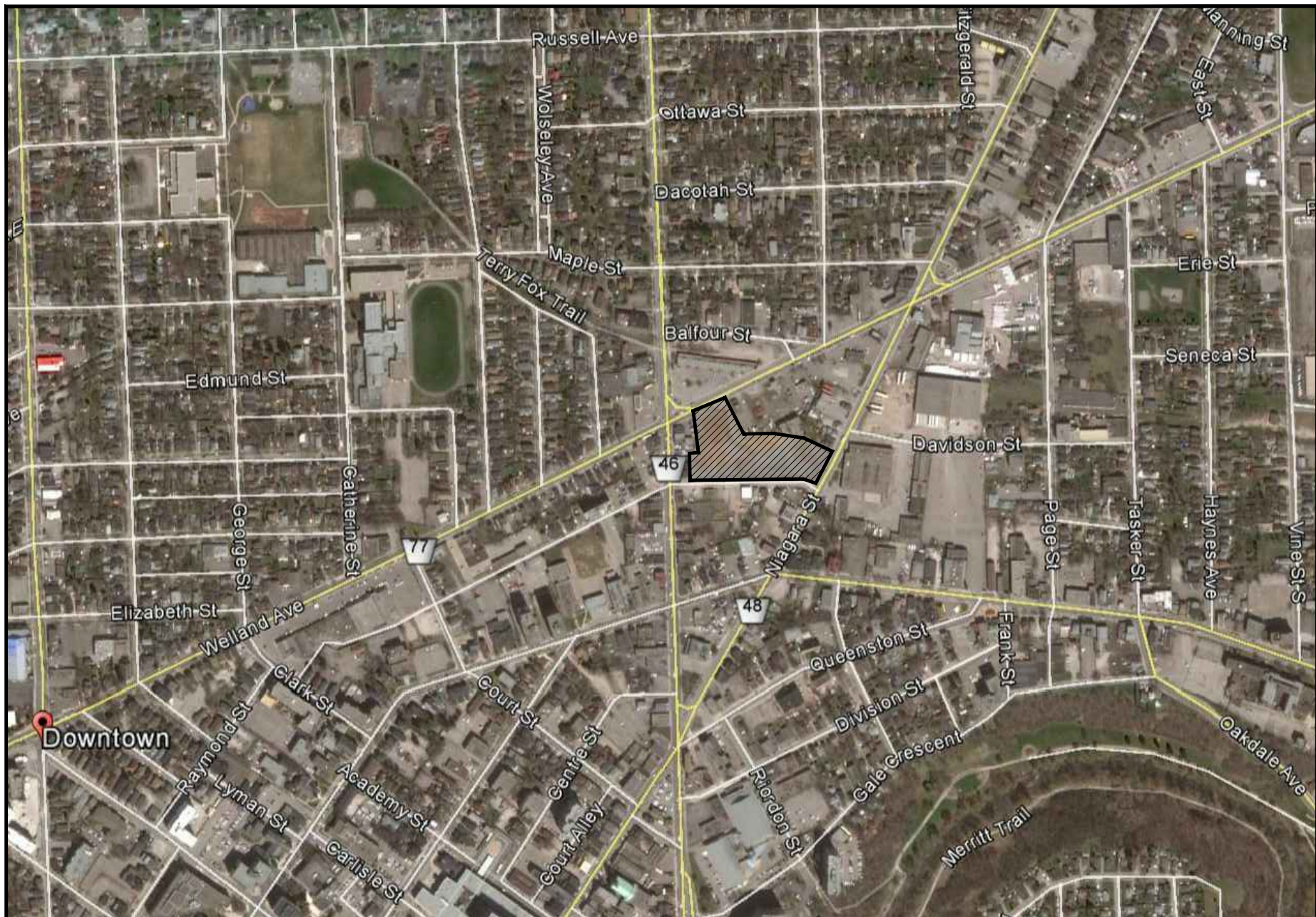
1. Cancel RFT and re-tender for deliverables the same as or similar to the Deliverables
2. Cancel RFT and re-tender on modified Bid Documents

OPTION	DESCRIPTION & TIMING	ITEMS TO CONSIDER
Cancel RFT	<p>1. Cancel RFT and re-tender for deliverables the same as or similar to the Deliverables</p> <p>Timing:</p> <ul style="list-style-type: none"> • Re-issue Tender Documents 4-8 weeks • Council approval of contract award (and budget increase) – January 2019 • Construction start – February 2019 	<ul style="list-style-type: none"> • Re-issuing same or similar documents will likely result in pricing that is over budget • Would be perceived as bid shopping and not be looked upon favourably by the bidders • Project would still require additional funding and need to be approved by Council • Irrevocability period would not be exceeded <p>Risks:</p> <ul style="list-style-type: none"> • Face significant legal risk from all bidders for perceived bid shopping • May not have all bidders respond to the RFT • High probability of remaining over budget • May not have the ability to add additional funding to the 2019 capital budget • Council may not award additional funding for project • Region may be perceived negatively for employing this methodology and could impact future procurements

Cancelling the RFT and reissuing similar documents under a new procurement process would likely result in bids that are still over budget. If changes to the documents are not substantive, the bidders may perceive this as bid shopping and elect not to participate in the procurement process or commence legal action against the Region for bid shopping. The Region may be perceived negatively for employing this methodology and could impact future procurements. The option was not recommended.

OPTION	DESCRIPTION & TIMING	ITEMS TO CONSIDER
Cancel RFT	<p>2. Cancel RFT and re-tender on modified Bid Documents</p> <p>Timing:</p> <ul style="list-style-type: none"> • Re-design and issue Tender Documents 8-10 weeks • SPA & Building Permit Re-submissions 2-3 months • Council approval of contract award (and budget increase) – March 2019 • Construction start – April 2019 	<ul style="list-style-type: none"> • Re-issuing tender documents with sufficient changes to original scope so as not to constitute bid shopping • Project still likely to require additional funding that would need to be approved by Council • Redesign of facility may require resubmission for Site Plan Approval and Building Permit • Irrevocability period would not be exceeded <p>Risks:</p> <ul style="list-style-type: none"> • Substantive changes to project scope may impact NRPS operations • Tenders may still come in over budget and require additional funding • If Tenders come in over budget may not have the ability to add additional funding to the 2019 capital budget • Council may not award additional funding for project







































To revise the scope of the project to realistically align with the budget under current market conditions and allow all bidders to compete for the revised contract in a new procurement process would involve making substantive changes to the program and negatively impact NRPS operations. For these reasons this option was not recommended.



1 KEY PLAN
L100 SCALE: NTS

ORIGINAL SHEET • ISO A0

LEGEND:

	CONCRETE PAVING AND SIDEWALK AREAS
	CONCRETE UNIT PAVING WITH COLOURED CONCRETE BANDING
	PLANTING AREA
	BUILDING
	PROPOSED WALL 1.0 m HIGH
	PROPOSED WALL 1.8 m HIGH
	PLANTING BED
	EXISTING WOOD FENCE
	PROPOSED WOOD FENCE
	PROPOSED DECORATIVE METAL FENCE
	PLANTING AREA
	BENCH
	PROPOSED TREE
	FIRE HYDRANT
	LAMP STANDARD
	LIGHT
	STORM BASIN
	STORM SEWER MANHOLE
	STORAGE POST
	WASTE RECEPTACLE
	DESIGNATED BARRIER-FREE PARKING SPACE 1000 X1000 WITH BLUE BACKGROUND, CENTERED IN STALL
	TACTILE WARNING STRIP
	90° PARKING STRIP
	NO IDLING SIGN
	STOP BAR REFER TO DETAIL
	STOP SIGN RA-1 REFER TO DETAIL
	NO IDLING SIGN
	PERMANENT BOLLARD WITH ACCESSIBLE SIGN REFER TO DETAIL
	ACCESSIBLE PAVEMENT MARKING
	HYBRID PARKING SIGN
	POLICE VEHICLES ONLY SIGN
	GATE SWING PAVEMENT MARKING
	NO ENTRY SIGN POLICE VEHICLES EXCEPTED, PUBLIC PARKING IS LOCATED AT NORTH STREET
	TRAFFIC SIGN "RIGHT ONLY" (BELOW STOP SIGN)
	"POLICE VEHICLES ONLY" PAVEMENT MARKING
	ARROW DIRECTION PAVEMENT MARKING
	METAL FABRICATIONS PAINTED GALV. STEEL POST WITH INTERCOM, CARD READER AND CCTV
	PARKING INTERCOM CHARGE

OWNER'S NAME _____

SIGNATURE _____

THE CORPORATION OF
THE CITY OF ST. CATHARINES

DIRECTOR OF PLANNING & BUILDING SERVICE

DATE: _____, 20____

NOTE: THE DIMENSIONS, AREAS AND LOCATIONS SHOWN ON
THIS PLAN ARE APPROXIMATE AND MAY BE SLIGHTLY
ALTERED IN THE FINAL DESIGN, PROVIDING THE INTENT AND
PURPOSE OF THE ORIGINAL PLAN IS MAINTAINED AND ALL
RELEVANT ZONING PROVISIONS COMPLIED WITH. FURTHER
AND NOTWITHSTANDING ANYTHING SHOWN ON THIS PLAN IT
THE CONTRARY, ALL SITE SERVICING, GRADING AND
DRAINAGE SHALL BE IN ACCORDANCE WITH PLANS
APPROVED BY THE ENGINEER.



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Consultants

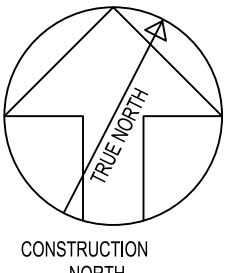
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Client/Project

NIAGARA REGIONAL POLICE SERVICE
NEW 1 DISTRICT FACILITY
198 WELLAND AVENUE
ST. CATHARINE, ONTARIO

Title

SITE PLAN

Project No.	Scale
140015001	1:250

L-100





