
Subject: Status Update for Contract 2015-T-109 (RN 15-09) Welland Wastewater Treatment Plant, Phase I

Report to: Public Works Committee

Report date: Tuesday, July 14, 2020

Recommendations

1. That this Report, PW-32-2020, **BE RECEIVED** for information.

Key Facts

- The purpose of this report is to provide an update to the Committee on the project progress. As indicated in a previous report (February 20, 2018, PW 6-2018), the Region has agreed to a contract extension to August 17, 2018.
- A revised construction schedule was submitted by Varcon on February 19th, 2020. This schedule was incomplete and has not been approved by the Region.
- To date, Varcon has failed to submit an acceptable revised construction schedule and cites difficulties with scheduling subcontractors as the reason.
- The Region has not accepted Varcon's reasons for not submitting an acceptable schedule and this has been reported to Varcon through Cole Engineering.
- Staff continue to have concerns regarding the timely completion of this project. Varcon continues to fall behind on some of the major components of the construction project and this is reflected in their inability to provide a clear contract completion date.
- Due to this further delay, Region W&WW Staff, Cole (the Region's consultant) and Region's Corporate Services and Legal staff have had to spend significant additional time and effort on this project.
- CSD 29-2020 Confidential Report Update Regarding NOTL WWTP, NOTL SPS and Welland WWTP Upgrades contains confidential legal advice regarding litigation regarding Welland Wastewater Treatment Plant upgrades.

Financial Considerations

The total project expenditures and revenues to date are shown in the Total Estimated Project Cost Summary in Appendix 1. As outlined in the chart, there is an overall approved budget of \$21,821,204. Depending on the outcome of current discussions

with Cole Engineering, an additional budget request may follow in a later report cycle to facilitate Cole's further fee extension request and completion of the project.

The Region continues to assess Liquidated Damages at approximately \$44,000 per month (\$2,000/working day). As of Payment Certificate to June 15, 2020, Varcon has been assessed \$920,000 in liquidated damages.

Analysis

A construction progress update was provided in the previous report (PW 11-2019, February 11, 2019). Due to the many ongoing challenges with Varcon, including scheduling, construction sequencing, subcontractor liens and working with the contractor in an attempt to improve cooperation with their subcontractors, construction has been moving at much slower rate since fall of 2019.

Niagara Region's staff continue to be involved in the inspection and coordination of work.

Construction Progress to date:

1. Lift Station Wet Well Side - 70% complete; Dry Well Side - 25% complete
2. Administration Building - 98% complete
3. Screen Building and Grit System - 90% complete
4. Primary tanks and Gallery - 80% complete (Scum system not tested)
5. Secondary Building and Final Clarifier - 90% complete
6. Aeration Tanks - 90% complete
7. Chemical Storage Facility - 95% complete
8. Chlorine Building - 95% complete
9. Maintenance Building - 90% complete
10. Digester Building – 90% complete
11. Electrical Substation - 98% complete

12. Civil Works - 90% complete

Although construction is progressing, Varcon has not met their schedule obligations of the August 17, 2018 completion date nor their own scheduled completion date of September 24, 2018. Varcon's continued reluctance to provide the adequate work forces along with poor relations with their subcontractors has impacted their progress. Varcon has continuously failed to submit a workable schedule and staff feel that the most realistic completion date is now later than December 31, 2020. Niagara Region staff, as well as Cole, continue to press Varcon toward commissioning and substantial completion. Varcon has been advised of default for not delivering a workable schedule on February 10th, 2020 and June 12th, 2020.

As previously indicated, Varcon has, and is being, assessed Liquidated Damages, as stipulated in the contract, for every working day since August 17, 2018.

Water and Wastewater Engineering staff have been providing a significantly higher than normal amount of resources throughout the project in order to manage the contract. Corporate Services is also providing a significant amount time on additional contract and project payments as well as lien claims. Legal Services are engaged as a result of the construction liens filed and are investing significant time, effort and resources on this project.

At this time, there have been 141 change orders issued for the construction contract. These change orders total just under \$383,000 of the \$1.07 million (excluding non-refundable HST) in contingency available under the construction contract.

Alternatives Reviewed

No specific alternatives have been presented at this time. This report has been prepared as an update for the construction contract. Several challenges have been faced through the course the project.

Relationship to Council Strategic Priorities

This project is related to the Fostering Growth strategic priority since the planned upgrades will ensure reliable infrastructure to support growth and economic development within the Niagara Region

Other Pertinent Reports

PW 06-2018, February 20, 2018, Budget Increase Request

PW 56-2015, October 13, 2015, Award of Contract 2015-T-109 (RN 15-09) Welland Wastewater Treatment Plant Upgrades, in the City of Welland

Confidential PW 17-2017, March 21, 2017, A Matter of Litigation or Potential Litigation, Including Matters Before Administrative Tribunals, Affecting the Municipality – Contract No. 2015-T-109 (RN 15-09) Welland WWTP Phase I Upgrades – Project Status Report

PW 35-2017, September 5, 2017, Welland Wastewater Treatment Plant, Phase I Upgrades

PW 11-2019, Budget Adjustment and Status Update for Contract 2015-T-109 (RN 15-09) Welland Wastewater Treatment Plant, Phase I

CSD 29-2020 **Confidential Report** Update Regarding NOTL WWTP, NOTL SPS and Welland WWTP Upgrades

Prepared by:

Richard Gabel, P.Eng.
Senior Project Manager
Water and Wastewater Services

Recommended by:

Bruce Zvaniga, P.Eng.
Commissioner of Public Works (Interim)
Public Works Department

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Pamela Hamilton Program Financial Specialist W-WW, and reviewed by Tony Cimino, Associate Director W-WW and Joseph Tonellato, P.Eng., Director W-WW.

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