
REPORT TITLE: Water and Wastewater Housing Enabling Infrastructure Procurement Strategies to Support Bill 23

FROM: Kealy Dedman, Commissioner of Public Works

RECOMMENDATION

- 1. That the Commissioner of Public Works and the Chief Financial Officer and Commissioner of Corporate Services be authorized to increase and amend contracts for new capital work identified through interim servicing strategies, studies, or the revised Master Plan, where the advancement of housing enabling infrastructure is necessary to meet Provincial growth targets in Peel, and where a change in contractor/consultant for such additional scope or services would cause significant inconvenience, delay in delivery of enabling infrastructure or substantial duplication of costs for Peel, to December 31, 2026, subject to approved budget, and pursuant to Procurement By-law 45-2023; and**
- 2. That staff report back to Regional Council with annual status updates related to the advancement of critical housing enabling infrastructure and associated contract increases, as outlined in the subject report; and**
- 3. That the key terms of the Region of Peel’s Water and Wastewater contracts for Program Management, as described in the report of the Commissioner of Public Works, listed on the March 21, 2024 Regional Council agenda titled “Water and Wastewater Housing Enabling Infrastructure Procurement Strategies to Support Bill 23” be endorsed.**

REPORT HIGHLIGHTS

- Bill 23 and the municipal housing pledges in Peel Region have drastically accelerated the demands on housing enabling infrastructure
- Region of Peel staff have responded in an unprecedented manner by implementing the tactics proposed in the staff presentation “Infrastructure Planning to Support Bill 23 Housing Targets” received on February 23, 2023 and October 26, 2023.
- The 2024 Capital budget for Water and Wastewater was approved which included significant increases in the 2024 and 10-year capital budgets. They represented the first incremental increase in capital budgets associated with Bill 23 growth projections.
- Staff are implementing the first phase of alternative delivery model – Program Management.
- Program management and advanced capital delivery requires new procurement strategies and policy amendments.

Water and Wastewater Housing Enabling Infrastructure Procurement Strategies to Support Bill 23

- Progress towards the new Master Plan, which includes an assessment of the infrastructure required to meet Bill 23 growth projections continues and is scheduled for completion in 2025.
-

1. Background

Regional Council adopted the 2051 Regional Official Plan on April 28, 2022, and the province approved it on November 4, 2022. Staff immediately began to prepare the update to current Master Plans to meet the new ROP growth forecast. The province introduced Bill 23, *More Homes Built Faster Act*, in October 2022 which received Royal Assent November 28, 2022. Bill 23 and the province's ambitious housing target significantly accelerated the demands on housing enabling infrastructure, at rates of almost two and a half (2.5) times that of the 2051 Regional Official Plan for the same period, and five (5) times that of historical growth.

On February 23, 2023, Regional Council received a staff presentation titled "Infrastructure Planning to Support Bill 23 Housing Targets" (Resolution 2023-129). The presentation was followed up with a report on March 9, 2023, titled "Infrastructure Planning and Requests of the Province to Support Bill 23 Housing Targets" (Resolution 2023-182).

On October 26, 2023, Regional Council received a staff presentation and update on the infrastructure servicing plan. Staff provided a primer on the 2024 Capital Budget and also an update on Servicing Capital Delivery Strategy and Resourcing Plan. In the update staff noted the need for an enhanced delivery strategy in order to support increased capital output.

The enhanced strategy utilizes delivery methods outside of conventional processes currently utilized by staff to deliver capital infrastructure. In order for the new processes to be utilized by staff, an initial phase of changes is required to support the initial option in the strategy outlined by staff – Program Management. Additional alternative delivery models including Progressive Design Build and Integrated Project Delivery/Alliance contracting will continue to be evaluated for further required changes to Peel's typical procurement strategies and forms of contract.

The October report noted "While the Master Plan updates are underway, water, wastewater and transportation infrastructure identified in the current Master Plans will be advanced on a priority basis to support growth areas". Results of these studies produce interim servicing strategies for action. In order to support increased housing enabling infrastructure, staff must have a methodology to quickly action recommendations into design and construction.

2. Proposed Direction

Staff are recommending a series of strategies contained in this report that will serve to support advanced and alternative Water and Wastewater capital delivery for current and future growth.

(a) Interim Servicing Strategies

Interim servicing strategies are required for new capital works identified in areas where overlapping capital projects are currently underway through existing engineering and/or construction activities. Interim servicing strategies include completed and/or partial outputs from ongoing Environmental Assessments (EAs), Major Transit Station Service Area (MTSA) studies and Master Plans. Where completed and/or partially completed, new capital projects are identified. New projects often overlap existing engineering consulting assignments and/or

Water and Wastewater Housing Enabling Infrastructure Procurement Strategies to Support Bill 23

construction activities which result in the need to complete new work and/or delay implementation until ongoing works are complete. Delaying the implementation of capital work recommended by interim strategies may result in the need to duplicate activities ongoing in an existing assignment.

1) Delegated Authority for Contract Increases Related to Housing Enabling Infrastructure

In order to expedite new capital projects identified through interim servicing strategies, studies, or the revised Master Plan, staff recommend delegation of approval authority for expanding the scope of existing assignments beyond the approval authorities and thresholds as set out in Procurement By-law 45-2023, Part 8, Contract Increases.

Staff recommend that for an interim period to December 31, 2026, on a case-by-case basis and subject to approved budget, that the Commissioner of Public Works and Commissioner of Corporate Services and Chief Financial Officer be authorized to increase and amend contracts for new capital work identified through interim servicing strategies, studies, or the revised Master Plan, where the advancement of housing enabling infrastructure is necessary to meet Provincial growth targets in Peel, and where a change in contractor/consultant for such additional scope or services would cause significant inconvenience, delay in delivery of enabling infrastructure or substantial duplication of costs for Peel.

This delegation of authority is recommended where new works are required for infrastructure as a result of ongoing studies, EA's and/ or where staff determine the need to expedite works where existing infrastructure is under assessment and to defer rehabilitation and/or repair would add significant additional cost and operational challenges to Peel.

As an example, in 2022, the Region of Peel awarded Document 2022-207P to Arcadis Professional Services for engineering services for design and construction administration related to watermains and sanitary trunk sewer on Clarkway Drive and Humber Station Road, between Countryside Drive and Healey Road, in the City of Brampton and Town of Caledon. After the commencement of the design works under the contract, staff were requested to expand the scope of the project to include servicing on an adjacent road to accommodate a developer ready to construct.

Due to the proximity of the original work and knowledge of the local needs, and subject to Council approval of the delegated authority established in this report, staff would recommend increasing the current contract with Arcadis for the additional engineering works. The current request to advance the infrastructure to support this housing development, equates to an increase of 34 per cent of the original scope of the project. Failure to advance the additional work would result in the adjacent housing development being unable to proceed until construction is completed and the Region being able to tender a new construction project in the same area. To do so would be inefficient and result in duplicative work. In this example staff propose to increase the existing assignment using the new delegated authority.

Water and Wastewater Housing Enabling Infrastructure Procurement Strategies to Support Bill 23

2) Annual Program Council Reporting and Procurement Tri-Annual Activity Reporting

Staff will report back to Regional Council with regular status updates related to the advancement of critical housing enabling infrastructure and associated contract amendments and increases.

Additionally, where the delegated authority for contract increases is utilized, a summary of such contract increases, including amounts will be reported to Regional Council as part of the regular tri-annual Procurement Activity reporting.

(b) Program Management Approach

Program management is an amalgamation and award of an assignment of mass capital projects within a specific geographic area to a single Vendor entity whose responsibility includes completion of all tasks to effectively deliver all applicable projects. Program management approaches to Water and Wastewater infrastructure will allow existing and future projects to be added and incorporated into one larger geographic assignment on a yearly or as needed basis, as new projects are added to the capital plan within the geographic limits.

Projects may include environmental assessments, feasibility studies, design and construction administration. These assignments will also include the need for extensive consultation with local municipalities and external agencies, and communication strategies to coordinate capital construction at a larger scale.

Program Management is an effective method for capital delivery where a complex capital plan exists and where the capital infrastructure needs are evolving. Delivery of a multitude of capital projects in a specific area without employing program management would result in challenging coordination needs and inefficiencies from drawing on a significant number of capital project resources. Staff have completed detailed research of program delivery model in consultation with consultants and other municipalities across North America who have successfully delivered capital programs within a program-based approach.

The procurement and contract administration of Program Management engineering consultant agreements include a number of advancements from typical Design-Bid-Build procurement processes and project delivery. It is proposed that Water and Wastewater Program Management competitive procurements may include:

- awarding engineering contracts of a significant size, scope and value, within a set geographic area, to one qualified vendor (or consultant team);
- long-term contractual arrangements; up to seven years total duration;
- flexibility for the addition or deletion of services within the contract, as capital plans and servicing needs change;
- the ability to negotiate Task Order amendments with the awarded vendor for contract and scope amendments, where best value can be established;
- annual pricing escalation consistent with CPI and/or other applicable market indices; and
- the inclusion of honorariums for unsuccessful Bidders, where deemed reasonable based on the efforts to submit complex and detailed proposal submissions.

Water and Wastewater Housing Enabling Infrastructure Procurement Strategies to Support Bill 23

In order to develop and implement Program Management capital delivery, staff recommend the following approaches to the procurement process for Program Management long-term Request for Proposals (RFPs).

1) Water and Wastewater Program Management Contracts - Task Orders/Scope Revisions/Contract Increases

Program management assignments/contracts are long term assignments which are successful only when a large number of projects are amalgamated into a single assignment. The Water and Wastewater capital plan for housing enabling infrastructure is in a state of flux – new projects are being envisioned from multiple ongoing studies including Master Plans, EAs, MTSA studies and high growth scenario reviews. The Master Plan will not be completed until late 2025. After completion of the Master Plan, the budget process will see projects incorporated into the 10-year capital plan for implementation.

As growth areas are under immediate pressure, staff propose to incorporate active capital plans into the Program and subsequently incorporate future capital projects into the assignment when new capital budgets are approved in the program's geographic limits. Therefore, yearly changes to the Program level projects will be required in order to be successful. Negotiation of the fees and assignments throughout the contract term will be required and will be stated in the contractual terms. Typically, "Task Orders" or the amalgamation of new and/or amended projects will be handled on a yearly basis through negotiation, with the occasional mid-year adjustment(s) depending on need.

The table below summarizes the proposed contractual mechanisms for successfully implementing Program Management project delivery at Peel, for Council endorsement.

Item	Description	Recommendation	Justification
1	Program Management RFPs - Contract Term Duration	(3) year fixed initial Contract Term, with 3 to 4 optional 12-month Extension Terms, contingent on the Program consultant's performance evaluation for the previous year.	Longer term contract approach is intended to provide enough security to a consultant to setup long term program but also balances out incentive to perform to continue program services for the later years of the contract. Peel's Vendor Performance Management (VPM) system would apply and monitor Consultant performance throughout the duration of the contract(s).
2	Program Management RFPs - Annual or as Needed	Awarded Program Management Consultant contracts will require adjustments annually or as needed, through the issuance of "Task Orders" that will add or amend existing scope	Contract increases will be required throughout the life of the program to reflect the evolution of planning and capital scope at the time of issuance and contract

Water and Wastewater Housing Enabling Infrastructure Procurement Strategies to Support Bill 23

Item	Description	Recommendation	Justification
	<p>Contract Increases or Amendments based on "Task Orders"</p>	<p>as new capital projects are identified within a set geographic area.</p> <p>Task Orders will require staff to negotiate fees for additional scope, revisions in existing scope and/or additional allowances or contingency amounts based on need, and as new capital and master plan projects are added to the geographic area.</p>	<p>award. This is consistent with other large programs intended to advance capital delivery.</p> <p>Contract amendments will be managed through the concept of Task Orders. Which will more than likely occur frequently early in the contract and should reduce once times goes on due to additional clarity around scope once the Master Plan is completed and planning and growth areas are finalized. This Task Order concept is critical for the program to both function and succeed.</p> <p>Hourly rates submitted and escalated in accordance with the contract will be the basis of negotiations for new/additional work.</p>
3	<p>Program Management RFPs - Annual Unit Rate Pricing Escalation</p>	<p>That following year 2 of the contract, that the hourly rates for consulting services be increased based on an annual CPI, cost of living, or other applicable market indices</p>	<p>The provision for permitting annual price escalations is based on the fact that as new program projects are added and/or amended inflationary pressures will be addressed and bidding risks associated with a longer-term contract may be mitigated.</p>

2) Inclusion of Honorariums for Water and Wastewater Program Management RFPs

Currently Peel's Procurement Procedure F35-24, Honorarium, Design Build Proposals, permits the following related to Honorariums:

"Honorariums are defined as remuneration for work that a well-qualified team of designers and builders would undertake to satisfy the basic submittal requirements of a Design-Build, Request for Proposal. The honorarium is not expected to fully compensate all costs of an unsuccessful effort but is deemed necessary to be sufficient to generate meaningful competition among Pre-qualified Proponents on Design-Build projects.

Honorariums will only be paid where there is sufficient design requirement and complexity within the proposal submission; only projects having an estimated construction cost estimate exceeding \$10M being considered for remuneration. The calculation for payment will be as indicated in the Canadian Design-Build

Water and Wastewater Housing Enabling Infrastructure Procurement Strategies to Support Bill 23

Institute document 'A Guide for the Calculation of Remuneration' or as approved by Regional Council."

Recommendation

Although the proposed Program Management assignments are not specific to Design/build type construction delivery, the level of complexity anticipated to prepare submissions for program management RFPs is significant. In their review of best practices across North America staff have noted the presence of honorariums in the bid practices.

Staff recommend that in order to obtain the best quality submissions, and the highest quality delivery teams, that Water and Wastewater Program Management RFPs contain honorariums, in an amount up to \$25,000, be provided to those unsuccessful Bidders who achieve a stated minimum technical score.

The first Program Management proposal call for the Queen Street Housing Enabling Infrastructure projects will be released for proposal calls in early Spring 2024. Overall, staff envision the delivery of over \$500M of capital works as part of the program. The proposed honorarium represents a small proportion of these costs and ensures that the cost of preparing proposals is an important part of the success of the program.

(c) Alternative/Third Party Led Financing Policy

As staff reported to Council in the past year, the Region in collaboration with the three local municipalities have been developing an infrastructure and service plan with a goal to meeting Bill 23 Provincial housing targets. Council approved an unprecedented and strategic service investment plan in the recent Regional budget and staff are continuing efforts in exploring various tools to support housing. On January 19, 2023, staff brought forward a report to Council including a study titled "Financial Sustainability of Growth Study" conducted by Watson & Associates Economists Ltd. (Watson). As a part of this financial sustainability study, an opportunity to review the Region's existing front end financing policy was identified to discuss various approaches to capital financing.

Watson has since worked with Region staff to prepare an initial draft policy document in which distinction would be made between the three different agreements defined in the *Development Charges Act (1997)*, (i.e. s.27 early payments, s.38 service emplacement, and s. 44 front-ending). Input into the draft policy included feedback from consultation sessions with staff from City of Brampton, Town of Caledon and City of Mississauga. Additional stakeholder engagement includes engagement sessions with representatives from Building Industry and Land Development Association (BILD). Staff is planning to bring forward a report along with a draft policy for Council review and consideration in spring 2024. Peel understands the importance and challenges of meeting the Province's housing targets and staff are looking forward to continued partnership with stakeholders in our efforts to build housing.

Water and Wastewater Housing Enabling Infrastructure Procurement Strategies to Support Bill 23

RISK CONSIDERATIONS

The introduction of Bill 23 and the growth projections has significantly impacted the projects identified in the Water and Wastewater Master Servicing Plan completed in 2020. New growth projections are being studied extensively both at the local and global system level.

The requirement to implement alternative delivery methods for housing enabling infrastructure is critical to the delivery timelines required of Bill 23. If not implemented substantial delay will result. Also, if projects are not amalgamated into larger program-based assignments a lack of coordination with major municipal road improvement and major transit initiatives may result including a lack of coordinated communication, traffic impacts and economic challenges for businesses within complex areas of capital infrastructure projects.

The significant increase in capital budget approved as part of the 2024 Budget requires additional resources to support delivery. The 2024 10-year budget is 2.5 times larger than that previously envisioned. Staff resources to support delivery have not been increased in similar proportions. Alternative delivery represents an augmented staff model to reduce the additional staff resources required to support delivery. Upon approval of the recommendations staff are advancing the resource delivery model to be brought forth to Council in Spring 2024. If not approved, the anticipated resource to support conventional delivery will be significant. Resource scarcity is also problematic industry wide given the infrastructure challenges in the GTA. Consultant resource required to support design and construction administration add to the complexity of securing resources at the Region and are reducing availability to secure new staff resources.

BILL 112 RISKS AND IMPLICATIONS

The passing of the *Hazel McCallion Act (Peel Dissolution), 2023* on June 8, 2023, formalized a plan to dissolve the Region of Peel effective January 1, 2025. On December 13, 2023, the provincial government announced that Peel will not be dissolved, and that new legislation will be passed in 2024 to repeal or amend Bill 112. Until new legislation is passed, no implications can be determined.

FINANCIAL IMPLICATIONS

The infrastructure projects needed to support accelerated housing growth will require substantial financial investments. Development charges are typically the main funding source for growth-related infrastructure. As there is a lag between the infrastructure investments needed and the actual receipt of development charges, Peel has historically issued debt to cash flow the timing difference. This situation may lead to additional debt incurrence and additional operating investments to operate and maintain underutilized assets.

The approved 2024 Utility capital budget represents an ambitious approach to capital project planning and budgeting. Staff have dedicated significant time and effort since the October 2023 Update to assess priority growth areas and advance a plan to meet the initial targets of the Bill 23 municipal pledges. Alternative delivery methodologies are ready for the first step in implementation and the procurement policy amendments require approval to commence the Queen Street Housing Enabling Infrastructure Program. The RFP has been released for proposals.

Water and Wastewater Housing Enabling Infrastructure Procurement Strategies to Support Bill 23

The proposed 10-year capital budget for 2024-2033 does not yet include all the construction funding required for servicing and significant amendments are planned for the 2025 Capital Budget.

As discussed, resource requirement assessment work is also underway which includes a qualitative and quantitative assessment of the resources required to support capital delivery. The review, which includes internal support services, will be brought forward to Council for preliminary recommendations in Spring 2024.

CONCLUSION

This report summarizes an update on ongoing efforts, challenges, and proposed strategies for infrastructure planning. Staff remain committed to addressing the dynamic needs of our local municipalities and ensuring sustainable growth and development.



Kealy Dedman, Commissioner of Public Works

Authored By: Anthony Parente, General Manager, Water & Wastewater