



Audit Committee ADDENDUM TO AGENDA

For the **Regular Meeting** of Audit Committee
To be held on **Tuesday, September 19, 2023 At 4:00 P.M.**
In the **Council Chamber Or Via Electronic Participation,**
Tom Davies Square

Addendum

(Two-thirds Majority Required to Deal with the Addendum)

Declarations of Pecuniary Interest and the General Nature Thereof

ADD- 1 Correspondence for Information Only

Investigation of Complaint Filed by Road Surface Recycling Limited (RSR)

This investigation determined that the allegations within the complaint filed by RSR on July 17, 2023 were not supported by the available evidence.

Investigation of Complaint Filed by Road Surface Recycling Limited (RSR)

Presented To:	Audit Committee
Meeting Date:	September 19, 2023
Type:	Correspondence for Information Only
Prepared by:	Ron Foster Auditor General
Recommended by:	Auditor General

Report Summary

This investigation determined that the allegations within the complaint filed by RSR on July 17, 2023 were not supported by the available evidence.

Relationship to the Strategic Plan, Health Impact Assessment and Community Energy & Emissions Plan (CEEP)

This is an operational report which has no relationship to the Community Energy & Emissions Plan.

Financial Implications

The findings of this investigation do not have any direct financial implications.

Background

In August 2021, the City executed Contract ENG21-38 with RSR for the resurfacing of three roads including easterly sections of the Kingsway using the hot-in-place asphalt recycling method.

RSR provided a performance bond from a Surety in the amount of \$1,017,000 in contemplation of the work being completed during the 2021 construction season with completion by November 15, 2021. RSR failed to commence work in 2021 and again in 2022.

After discussions took place between the City and the Surety, RSR committed to mobilizing to Greater Sudbury and submitted a schedule to commence work May 15, 2023.

The City retained WSP Engineering to conduct all quality assurance testing in 2023 for contract ENG21-38.

Construction Activities and Non-Conformances

RSR commenced work on the Kingsway June 20, 2023, and paved on June 21, 22, 28, 29, July 4 and 11. After identifying non-conformances during each day of paving, the City issued a notice to cease all work in the evening of July 11, 2023. A meeting between City staff and RSR occurred on July 12, 2023 to discuss next steps. RSR believed that it was irrelevant to the end result of the product and that the material was not deficient. The City issued a letter of non-conformance to RSR on July 13, 2023 directing RSR to cease work.

Hotline Complaint & Testing Results

On July 17, RSR filed a formal complaint to the Auditor General with the following allegations.

Allegation	Test Results	Conclusion
The City's decision to issue a stop work notice on July 13 was not made in good faith, nor in the spirit of cooperation or collaboration that should be inherent in any pilot project.	While hot-in-place technology is being used in the City as a pilot project, Contract ENG21-38 has clear performance expectations set out for RSR. A stop work notice was issued after significant non-conformances were identified during each day of paving.	Not supported by the available evidence
The individuals administering our contract lack the proper qualifications and objectivity to provide an impartial perspective on the work performed to date.	All of the administrative staff on the team have relevant education and significant work experience.	Not supported by the available evidence
There is an agenda within the City that is determined to see this pilot project fail, as evidenced by the heavy-handed and excessive scrutiny of work completed to date	The City made significant efforts to accommodate RSR in 2021 and in subsequent years with a view to adding hot-in-place recycling to the City's road maintenance processes.	Not supported by the available evidence
We were shut down because we were finally making it all work properly and getting the production, for Miranda Edwards not the outcome she wanted.	A stop work was issued on July 13 after the City's administrative staff decided that RSR either could not or would not address the significant non-conformances identified during each day of paving.	Not supported by the available evidence
This project was expected to fail before we ever got started; the motives of the City seem to be to preserve the status quo for asphalt paving in the region.	The City made significant efforts to accommodate RSR in 2021 and subsequent years. Aside from hot-in-place technology, the City has adopted a number of innovative pavement techniques to manage its capital budget effectively.	Not supported by the available evidence
I am absolutely disgusted that the Engineering department believes they can make RSR wait 4 weeks for results when Pioneer and Interpaving are not subjected to the same scrutiny.	The ordinary turnaround time for some of the asphalt tests required by the City and specified in Contract ENG21-38 is 4 weeks. In recent years, the City has adopted quality testing similar to the province.	Not supported by the available evidence
They think they can delay our project 4 weeks and we will wait. These tests are not necessary.	The ordinary turnaround time for some of the asphalt tests required by the City and specified with contract ENG21-38 is 4 weeks. In recent years, the City has adopted quality testing similar to the province.	Not supported by the available evidence
We have no doubt that the next proposal the Engineering Department will give to the legal department is that that RSR recycled material must be removed for safety reasons, another innuendo.	The contract management steps that have been taken to date by staff have been supported by field observations by staff and WSP and by test results from WSP.	Not supported by the available evidence
Additionally the Engineering department has left the mobilization costs open-ended.	The July 13 stop order indicated that "Should the City wish to continue with this contract once the assessment has been completed, the City will negotiate payment to remobilize to Greater Sudbury."	Not supported by the available evidence