EXECUTIVE SUMMARY:
In this report, Staff ask Council to grant the award of the contract for construction of the Memorial Centre Leo Lafleur Pool and Building to Emmons & Mitchell Construction Limited for an upset limit of $8,000,000 dollars based on the proposal submitted, negotiations as provided for under the Request for Proposals (RFP) as issued and execution of an Agreement satisfactory to City staff.

In May 2010, the City issued a consolidated RFP for the construction of both the Memorial Gardens and Leo Lafleur Pool on the Memorial Centre site. Three (3) proposals were received and all were significantly over budget by a factor of millions of dollars. Upon review, staff determined that in order to get proper expertise and price point for each component of specialized landscaping and pool construction work, that the scope of work should be reduced and then reissued separately to ensure that each aspect of the project was allocated in a focused manner within acceptable budget. Companies that submitted proposals to the original consolidated RFP were advised on June 11th that the City would not proceed with award.

The reduced scope pool and building construction RFP was issued on June 24th and closed on July 14th. Proposals from H.R. Doornekamp Construction Ltd., Emmons & Mitchell Construction Ltd and T.A. Andre General Contractors Kingston were received and evaluated. Although lower than the first round of RFP’s, all three (3) proposals were again over the approved budget by a significant amount. In response, staff have again taken various steps to continue to reduce costs:

1. make further changes to the original scope without impacting the program; and
2. interview all proponents to review additional potential cost savings.

Interviews have been held. Even with these actions, all three (3) prices were still over budget. This high cost is driven mainly by the compressed schedule, lack of competition caused by high demand for specialist pool building services, winter construction costs and the limited trades available in some areas as many other similar projects receiving stimulus funding are also trying to meet the same deadline.

Emmons & Mitchell Construction Limited has the highest score after staff evaluations but did not have the lowest price. The price for this proposal is about $8M, not including budgeting a contingency. The approved capital budget is $6M for this project and staff had obtained Class A estimates from Cannon Design. In compliance with the Purchasing By-Law 2000-134, Section 3.4, where any one of the criteria required for award by delegated authority is not present, the procurement must be approved by separate report to Council. Deferral of the report would most likely result in the project passing the March 31, 2011 deadline and jeopardizing the $2M grant from the Provincial and Federal governments.
The City has two options:

1. Not proceed with the project at this time and postponing the construction
   a. Loss of $2M in grant from the provincial and federal governments.
   b. Further delays the provision an aquatic service in an area of high need for affordable recreation.
   c. Could result in lower RFP prices after stimulus projects are completed but there are no guarantees.

2. Award the construction and moving forward with the project
   a. City to make an additional $2M to this project plus 10% contingency.
   b. Proponents intend to meet the March 31, 2011 deadline but cannot guarantee.
   c. Provide an affordable aquatic service on the Memorial Centre site in June 2011.

Recognizing that this project has a number of challenges and obstacles that are driven by the deadline, staff contacted the Federal Government to find out if there was any chance of an extension on the deadline. The Federal Government representative indicated that at this point, there is no indication that there will be an extension of the deadline on the stimulus funding projects and that many other municipalities face similar deadline challenges as Kingston.

Considering that a lower cost cannot be guaranteed if the City waits to proceed with this project and that $2M grant would be lost, City staff is recommending that this project proceeds and that the contract be structured in such a way to allow for flexibility in price should the project deadline be extended by the Federal and Provincial governments.

RECOMMENDATION:

1. THAT the RFP No. F31-SGG-RLS-2010-75 for the construction of an outdoor pool and building be awarded to Emmons & Mitchell Construction Limited for the maximum price of $8M (excluding taxes) but including the cash allowance included in clause 5; and

2. THAT the 2009-2010 capital budget be amended by $2.8M including contingency to be financed by the issuance of long term debt from Municipal Capital Reserve Fund; and

3. THAT the City applies to the Federal Government for an extension of the Recreational Infrastructure Canada (RInC) Program deadline as a special circumstance for the pool and building project; and

4. THAT the contract be structured to include a provision to allow project timeline to be extended subject to a deadline extension approval from the Federal Government; and

5. THAT the contract be structured to include cash allowances giving the City the flexibility to reduce costing further should the deadline be extended resulting in the reduced need to pay weekend overtime and winter heating expenses; and

6. THAT savings resulting from any extension to the project timelines be applied to reduce the debt financing portion of the financing; and

7. THAT Mayor and Clerk be authorized to enter into a contract with Emmons & Mitchell Construction Limited in the amount of no more than 8 million dollars plus applicable taxes to the satisfaction of the Director of Legal Services including a separate Letter of Agreement to allow for mobilization and other identified preliminary tasks prior to the entering into a full agreement.
AUTHORIZING SIGNATURES:

ORIGINAL SIGNED BY COMMISSIONER

Cynthia Beach, Commissioner, Sustainability & Growth

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

Gerard Hunt, Chief Administrative Officer

CONSULTATION WITH THE FOLLOWING COMMISSIONERS:

<table>
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<tr>
<th>Commissioner</th>
<th>Status</th>
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<tbody>
<tr>
<td>Terry Willing, Community Services</td>
<td>N/A</td>
</tr>
<tr>
<td>Denis Leger, Transportation, Properties &amp; Emergency Services</td>
<td>N/A</td>
</tr>
<tr>
<td>Jim Keech, President and CEO, Utilities Kingston</td>
<td>N/A</td>
</tr>
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(N/R indicates consultation not required)
OPTIONS/DISCUSSION:

In July 2009, The City received confirmation of a grant of $2M from both the provincial and federal governments to replace the Leo Lafleur Pool on the Memorial Centre site. The time frame to complete all projects was limited but staff took the following actions to accelerate the process while maintaining public involvement in the process:

- July/August 2009, staff retained Vic Davies Architect to develop an initial concept plan for public review and comments.

- August 31, 2009, staff presented the first draft concept plan of the pool to the Memorial Centre Revitalization Committee. The Committee requested staff to make some amendments to the plan and report back with an updated concept after public and user groups consultations.

- September 2009, staff initiated a public consultation process which included: a public meeting, meeting with user groups and posting on City website for comments. This public consultation started in September and was completed in mid October.

- October 2009, staff submitted final concept plan to the Memorial Centre Revitalization Committee for endorsement. Because of the Committee schedule, this concept plan was only endorsed by Council in mid November 2009.

- November 2009, staff prepared and issued an RFP to retain architectural services to complete the detailed design and tender package for the pool and memorial gardens project.

- December 2009, council approved a recommendation to retain the services of Cannon Design to proceed with detailed design and tender package of both the Memorial Gardens and outdoor pool. Due to the Holiday season and contract documentation requirements, the detailed design work only started in January 2010. During the detailed design phase, a number of meetings with representatives of the Municipal Advisory Accessibility Committee and the Memorial Centre Revitalization Committee were held. The timing to prepare the detailed design is similar to other projects like the John Machin international multi-purpose fields for which design also started in January of 2010 and for which a construction RFP was also issued in June 2010.

- April 2010, City staff proceeded with the demolition of existing pool in order to speed up construction process after selection of a contractor. The existing pool was in very poor condition. In some areas rebar was uncovered and rusted. Rebar is what holds the concrete structure together. In some cases, and in order to operate the pool last year, posts were holding up the deck in some areas. The condition was becoming unsafe and a liability for the City considering the number of families that use the facility every summer.

- May 2010, City staff issued the original RFP combining both the Memorial Gardens and the outdoor pool. Three (3) proposals were received and upon review of these proposals with Legal Services, two (2) of them were identified as incomplete and all three (3) were significantly over budget. Information missing from proposals included information on sub trades to complete the work and in one proposal cost of certain construction elements were not included. Prices received in the proposals were well over budget by a scale of millions of dollars.

- June 2010, staff issued an RFP for the construction of the Memorial Gardens. This RFP closed on June 30th. Five (5) proposals were received and evaluated. Staff awarded the work to Len Corcoran Excavating under the time-sensitive clause within the City of Kingston’s Purchasing By-Law. The proposal cost was about $1.5M slightly under approved budget of $1.6M and staff have made a few amendments to the scope to achieve additional savings for a final project cost around $1.2M.

- June 2010, staff issued an updated RFP for the pool and building only. This RFP was issued to the market at large and the document was downloaded by companies in New York State, Quebec and throughout Ontario including the
Toronto Construction Association. The RFP was downloaded by more than 40 companies and closed on July 14th, 2010.

Despite the more focused approach and reduction of the scope of work required for the pool, only three (3) proposals were received. Although lower than the previous consolidated RFP, all proposals are still higher than approved budget. Based on revised scope and interviews with proponents, prices ranged from $7,645,000 to $9,057,000. Even though budget continues to be exceeded, based on the original RFP’s prices and removing the $1.5M contract value for the Memorial Gardens as well as a reduction of the scope of work related to the pool, the separate RFP provide for the pool has potential savings ranging from $1,055,000 to $4,343,000.

Staff evaluated proposals received based on the criteria set out in the RFP which included but was not limited to project schedule, understanding of project and pricing. Staff updated these evaluations based on interviews held on 19 July 2010 with all proponents. The table below provides final scores of the evaluation of proposals.

<table>
<thead>
<tr>
<th>RFP Submission</th>
<th>Emmons &amp; Mitchell Construction Limited</th>
<th>H.R. Doornekamp Construction Ltd.</th>
<th>T.A. Andre General Contractors Kingston</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Score</td>
<td>66.5</td>
<td>59</td>
<td>64.5</td>
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In evaluating the proposals received, Staff gave significant importance to previous experience with pool construction, whether by the contractor or a proposed sub-contractor doing the pool construction, as well as the proponent’s ability to deliver a complex product within such a short time frame without any significant change to design or programming. Evaluation resulted in the following conclusions:

- Although the proponent with the lowest price has significant experience and a strong reputation in construction, it did not have any previous experience in building these types of pools. This was a significant concern considering that the time frame is limited. Also, proposed cost saving changes to the scope of work potentially required changes to design and programming.

- Although not the lowest bid, Emmons & Mitchell Construction Limited had a complete proposal with a pool construction sub-contractor with many years of experience and having built pools in Canada and the United States. The proponent also had a good understanding of the tight schedule including in the case of the construction of a similar outdoor pool facility in winter conditions while retaining design and programming requirements.

- The proposal with the highest price was also comprehensive but it is $1M more in price than the Emmons & Mitchell Construction Limited proposal. Some changes to design and programming may have been required to achieve acceptable budget.

Emmons & Mitchell Construction Limited proposed pricing of approximately $8M includes the following amendment to the scope:

1. Changes to interior and exterior finishes
2. Removal of LEED Certification (under City of Kingston LEED Policy, certification only applies to building of 10,000 square feet or more. The proposed building is 5,700 square feet).
3. Reduce the size of the splash pad (the proposed reduced size is equivalent to the splash pad at Shannon Park)
4. Change some concrete finish to asphalt
5. Reduction in play features
6. Reduction of water slide from 10 metres to 6 metres

Otherwise all elements in the scope of work will be provided under the proposed Agreement.
The approved budget for this project is $6M which includes $2M of Federal and Provincial government funding. The recommended proposal is about $8M, not including any City contingencies. Staff recommends a budget allocation of an additional contingency of $800,000 which is equivalent to 10% of the budget. The additional $2.8M is to be funded by debt through the Municipal Capital Reserve Fund.

EXISTING POLICY-BY LAW:

By-Law 2000-134 to regulate purchasing policies and procedures.

NOTICE PROVISIONS:

N/A

ACCESSIBILITY CONSIDERATIONS:

City of Kingston Facility Accessibility Design Standards were incorporated in the design of this project and a member of the Municipal Accessibility Advisory Committee was involved in the detailed design process.

FINANCIAL CONSIDERATIONS:

The approved budget for this project is $6M which includes $2M of Federal and Provincial government funding. The recommended proposal is about $8M, not including any City contingencies. Staff recommend a budget allocation of an additional contingency of $800,000 which is equivalent to 10% of the budget. The additional $2.8M is to be funded by debt through the Municipal Capital Reserve Fund. In the event that project is not completed by the March 31, 2011 deadline, the Federal and Provincial government funding, received up to March 31, 2011, would have to be paid back and the budget would have to be provided for otherwise.

CONTACTS:

Lanie Hurdle, Director, Recreation and Leisure Services (613) 546-4291 ext. 1231

OTHER CITY OF KINGSTON STAFF CONSULTED:

Luke Follwell, Manager, Recreation Facilities
Tim Hastie, Assistant Supervisor, Aquatic Facilities
Alan McLeod, Senior Legal Counsel
Lana Foulds, Financial Planning Coordinator

EXHIBITS ATTACHED:

Exhibit A – Pictures of Leo Lafleur Condition Prior to Demolition
Exhibit A – Pictures of the Leo Lafleur Pool prior to demolition