Minutes - Executive Policy Committee - October 17, 2007

Minute No. 581
Report - Standing Policy Committee on Protection and Community Services - October 12, 2007

Item No. 1 **Award of Contract – Supply, Installation and Operation of a Photo Enforcement Program**
File GL-9

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee laid over the matter to a special meeting at the call of the Chairperson.

Minutes - Executive Policy Committee - October 17, 2007

Report - Standing Policy Committee on Protection and Community Services - October 12, 2007

DECISION MAKING HISTORY:

Moved by Councillor Steeves,

That the matter be laid over to a special meeting at the call of the Chairperson.

Carried

STANDING COMMITTEE RECOMMENDATION:

On October 12, 2007, the Standing Policy Committee on Protection and Community Services concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

RE: Award of Contract for Supply, Installation and Operation of a Photo Enforcement Program, Bid Opportunities Numbers 208-2006 (RFQ) and 646-2006 (RFP)

FOR SUBMISSION TO: Standing Policy Committee on Protection and Community Services

ORIGINAL REPORT SIGNED BY: A/Chief of Police D. A. Webster

REPORT DATE: October 10, 2007

RECOMMENDATION:

1. That the proposal submitted by Traffipax Inc. in response to RFP 646-2006 be rejected as provided for in the RFP because Traffipax Inc. did not demonstrate that it is qualified to do the work required for this contract.
2. That a contract for the Supply, Installation and Operation of a Photo Enforcement Program using wet film technology, be awarded to ACS Public Sector Solutions Inc. for the period of sixty (60) months commencing on December 1, 2007, based on Alternative One – fixed monthly processing fee plus variable monthly fees based on set volume categories of offence notices plus a CPI factor of 2% per year starting in 2009 – in the estimated amount of $25,075,505 plus GST and PST.

Report Summary

Key Issues:

- The submission from Trafco Canada during the RFQ stage failed to meet the mandatory requirements to qualify to proceed to the RFP stage.

- Traffipax Inc. did not demonstrate in its Proposal Submission to RFP 646-2006 or in other information required to be submitted that it was qualified to perform the Work of this contract.

- The City should continue to provide a photo enforcement program as it is a proven safety initiative that the citizens have positively responded to. A recent survey revealed a 79% public support rate. Data supports that the program's goals are being achieved, reducing red light and speeding violations.

- The proposed contract is for a 60 month term, with the possibility of three (3) five (5) year extensions by mutual agreement of the City and the Contractor.

- Currently the City has one contract for the supply, installation and operation of the photo enforcement program and a separate contract for the provision of photo enforcement

operators. The new RFP 646-2006 contract will include the provision of photo radar operators from an “arms length” subcontractor.

- It is important to note that the revenue that will be generated by the photo enforcement program is dependent on the number of offence notices issued and paid.

Implications of the Recommendation(s):

General Implications

( ) None

( ) For the organization overall and/or for other departments

( ) For the community and/or organizations external to the City

(X) Involves a multi-year contract

Comment(s): The proposed contract is for a 60 month term, with the possibility of three (3) five (5) year extensions by mutual agreement of the City and the Contractor.

Policy Implications

(X) No

( ) Yes

Comment(s):

Regulatory Implications

(X) None

( ) Eliminates or reduces regulatory impact

( ) Proposes regulatory impact

Comment(s):

Environmental Implications

(X) No

( ) Yes

Comment(s):

Human Resources Implications

(X) No

( ) Yes

Comment(s):

Financial Implications

(X) Within approved current and/or capital budget

( ) Current and/or capital budget adjustment required

Comment(s): Based on the current volume of offence notices, the cost to the City under the proposed contract would be less than the costs that the City is currently incurring for the photo enforcement program and is within approved current and/or capital budget for 2007. This is a multi-year contract that will require continued funding in future budget years.

Report

REASON FOR THE REPORT:

As the total conditional amount to be paid by the City pursuant to the contract is estimated to be approximately $25,075,505 (plus GST and PST) and the contract is for a purchase that obligates the City to expenditures on future budgets, Council has authority to approve the award of contract by the Chief Administrative Officer pursuant to B 8.2.3 of the Materials Management Policy.

HISTORY:

On March 15, 2006, in anticipation of the expiry of the current contract, the Photo Enforcement RFP Committee, comprised, as recommended by the Photo Enforcement Program Review Report (Audit Report), of representatives from Legal Services, Materials Management, Winnipeg Police Service, Corporate Finance and Public Works, held its first of many meetings to formulate and strategize a new RFP specification for the Photo Enforcement Program which would address the recommendations of the Audit Report for the Photo Enforcement Program.

The current contracts for the photo enforcement program expired on May 31, 2007 and have been extended on a month-to-month basis until no later than December 31, 2007.

On August 28, 2006, the City of Winnipeg issued Request for Qualifications 208-2006 for the "Supply, Installation and Operation of Photo Enforcement Program". Three (3) bidders submitted their qualifications. A Request for Proposals (RFP) was issued to the two (2) bidders who were considered to be qualified for Phase II. The RFP submission deadline was June 28, 2007.

On July 11, 2007 an RFP Evaluation Committee was formed, comprised of the Manager of Materials Management and the Winnipeg Police Service's Finance Controller, Traffic Unit Commander, Supervisor and Assistant Supervisor of the Photo Enforcement Program, and Supervisor of Quartermaster Stores to evaluate the RFP submissions. In accordance with the Audit Department report, the evaluation committee included a technical expert and a financial representative, and had access to a specific lawyer.

DISCUSSION:

Three submissions were received in response to Request for Qualifications 208-2006. In accordance with Sections 17 and 24, the submission submitted by Trafco Canada was not considered for Phase II – RFP Detailed Proposal Solicitation and Evaluation because its proposed equipment did not meet the mandatory requirement of Section 25. Trafco indicated that it would not provide a non video based system as required. This is a significant deviation and should not be waived. Based on the requirements of the RFQ and the information submitted, ACS Public Sector Solutions Inc. (ACS) and Traffipax Inc. (Traffipax) were considered to be qualified in accordance with the RFQ. The Phase II Request for Proposals No. 646-2006 (RFP) was issued to them with a submission deadline of June 28, 2007.

Both ACS and Traffipax submitted proposals which were evaluated and scored in accordance with the parameters set out in B:16 of the RFP document.

The evaluation criteria were:

a) Compliance by the Bidder with the mandatory requirements of the Request for Proposal or acceptable deviations there from; (pass/fail);
b) Qualifications of the Bidder and the Subcontractors; (pass/fail);
c) Features and functionality of the proposed system: (60%)

1. Features shall be defined as all tangible aspects of the goods required. Items will be evaluated considering, but not limited to the following criteria:
   (i) Item performance
   (ii) Item endurance
   (iii) Aesthetics
   (iv) Ease of operation
   (v) CSA certification or equivalent
   (vi) References of current or past operations with greater weight being given to current operations.
2. Functionality shall be defined as all intangible aspects of the Photo Enforcement Program. Items will be evaluated considering, but not limited to, the following:
   (i) Process precision
   (ii) Speed of process
   (iii) Capacity of process

d) Evaluated Bid Price (40%)

Bidders were required to submit pricing based on 6 alternatives:

Alternative 1 - Fixed and Variable Pricing for Wet Film Technology;
Alternative 2 - Fixed and Variable Pricing for Digital Technology;
Alternative 3 - Variable Pricing for Wet Film;
Alternative 4 - Variable Pricing for Digital Technology;
Alternative 5 - Fixed Pricing for Wet Film Technology; and
Alternative 6 - Fixed Pricing for Digital Technology.

It is recommended that the proposal submission from Traffipax Inc. should be rejected as Traffipax did not demonstrate in its Proposal Submission or in other information required to be submitted that it is qualified to perform the Work of the contract. The qualification requirements of the RFP differ from the qualification requirements of the RFQ, and the evaluation of references was more detailed in the RFP process. Traffipax did not provide sufficient evidence that it has all the necessary experience, organization and equipment to perform the Work in strict accordance with the terms and provisions of the Contract as required in B10.1 (c) of the RFP. The information provided by Traffipax indicated as follows:

- References provided were not of the size and scope for the type of program required under this Contract. This Contract includes 48 Intersection Safety Camera locations and 10 Photo Radar Vehicles. Traffipax's references for wet film technology were primarily for the supply and installation of intersection safety and photo enforcement equipment,

not for the operation of a photo enforcement program. Traffipax's references for digital technology programs were for programs much smaller in size and scope, and did not include programs with both intersection safety cameras and photo radar equipment.

- Traffipax has very limited experience in wet film system summons processing, and are not currently doing this type of processing for any of the references provided. None of the references provided are currently doing this type of processing.

- Traffipax has failed to adequately demonstrate that it will be able to have arrangements in place for the required "arms-length" Sub-contractor for the staffing of Mobile Photo Radar Units.

In the opinion of the Winnipeg Police Service, the proposed contractor has the skills and resources to satisfactorily complete the Work. ACS provided sufficient information in its Proposal Submission and in other information required to be submitted, to confirm that it is responsible and qualified, including having all the necessary experience, capital, organization and equipment to perform the Work in strict accordance with the terms and provisions of the Contract. ACS has indicated that TriStar Traffic Control Systems, Inc. is its proposed subcontractor for the installation of the Intersection Safety Camera locations. TriStar Traffic Control Systems, Inc. is COR certified with the Construction Safety Association of Manitoba (COR Certification # 17411-06).

Based on the evaluation criteria stated above, ACS's proposal received the highest total weighted score for Features and Functionality.

WET FILM TECHNOLOGY OR DIGITAL TECHNOLOGY

Bidders were required to submit pricing for both wet film technology and digital technology. For the reasons discussed below, it is recommended that it is in the best interests of the City to award a contract under Alternative 1, Fixed and Variable Pricing for Wet Film Technology.

Digital technology was included in the RFP so that the City could evaluate whether cost advantages would offset perceived risks to the integrity and enforceability of the photo enforcement program. Digital photography is a relatively new and recently emerging technology that has not yet obtained the quality of photographs that wet film provides. Wet film technology has been and continues to be accepted by the Manitoba Courts for evidentiary purposes and has never been successfully challenged over the lifetime of Winnipeg's program. Photographic evidence is crucial in court trials pertaining to charges related to photo enforcement. A successful challenge to the integrity of a digital image could effectively halt the program if it is based solely on this technology. The pricing submitted by ACS for Digital Technology was higher than the pricing it submitted for Wet Film Technology. Pricing provided by Traffipax for digital was slightly lower than Wet Film Technology. However, pricing provided by Traffipax for digital technology was significantly lower than prices provided by ACS for digital.

Wet film technology has been around for over a hundred years and has acceptance in the courts as evidence. These photographs are particularly crucial with respect to photo enforcement prosecutions. In this regard the wet film technology has been tried and tested and has never been successfully challenged.

Digital photo technology, being much newer has not yet been tried and accepted in Manitoba courts as evidence respecting photo enforcement. There is potential risk that this technology could face a challenge in court. As the photographs are crucial evidence to photo enforcement charges, a successful challenge could potentially render void the City's photo enforcement program if entirely based on digital photo technology. The Service did not want to be the lead on this in Manitoba (Canada) and have a test case tied up in courts. While it was difficult to gauge what sort of length of time a challenge might take to be resolved there was a consensus that a year would not be an unreasonable amount of time. Additionally, until there is such a challenge there would be no way to know if the resolve by the court would be favorable or not to this type of technology as acceptable evidence. The City could not afford to have the photo enforcement program to be on hold for a year, while incurring fixed cost payments to the vendors, and not receiving any revenue. The loss of revenue for a whole year would be greater than any reduction realized by going digital. As well, the Service would not want to tie up the courts with tickets being on hold while a determination is being made. As there is considerable likelihood that a legal challenge could occur, it is recommended that it is in the best interests of the City to remain with a proven and accepted technology. The Winnipeg Police Service will endeavor to utilize digital photo technology at a test site – to allow the courts an opportunity to examine and rule on the digital images without jeopardizing the whole program.

It can be expected that as Digital technology and its use increases, challenges and decisions will emerge through the Courts that will provide or reveal any potential shortcomings for this type of system. The Winnipeg Police Service will continue monitoring any court challenges and decisions in other Canadian jurisdictions where digital photography technology is in use. Under the proposed contract it is the intent of the Service to gradually move towards and test the use of digital photography while still maintaining the wet film system. This prudent approach will better ensure the viability of the program.

In summary, with limited financial benefit to offset the perceived risks to integrity and enforceability, it is recommended that it is not in the City's best interests to award a contract based on one of the digital technology alternatives. However, because of significant pricing differences noted between Traffipax and ACS, if the City decides to use digital technology, further pricing could be obtained by RFP at the end of the first five year term.

FINANCIAL IMPACT SECTION– EVALUATION OF PRICING ALTERNATIVES:

The revenue that will be generated by the photo enforcement program is dependent on the number of offence notices issued and paid. Capital and/or operating budget funds will be required if revenues are less than the fees to be paid to the proposed contractor.

It is recommended that the City choose Alternative 1 - Fixed and Variable Pricing for Wet Film Technology. In compliance with the recommendation of the Audit Report, the following financial analysis is provided.

Bidders were required to provide pricing for six Alternatives:

Alternative 1 - Fixed and Variable Pricing for Wet Film Technology;
Alternative 2 - Fixed and Variable Pricing for Digital Technology;

Alternative 3 - Variable Pricing for Wet Film;
Alternative 4 - Variable Pricing for Digital Technology;
Alternative 5 - Fixed Pricing for Wet Film Technology;
Alternative 6 - Fixed Pricing for Digital Technology.

For evaluation and comparison purposes, evaluation was based on the monthly volumes of offence notices issued in 2006.

ACS was the only qualified bidder. In order from highest to lowest, the ACS pricing was as follows:

1. Alternative 2- Fixed and Variable Pricing for Digital Technology;
2. Alternative 4 - Variable Pricing for Digital Technology;
3. Alternative 6 - Fixed Pricing for Digital Technology
4. Alternative 1- Fixed and Variable Pricing for Wet Film Technology
5. Alternative 3 - Variable Pricing for Wet Film
6. Alternative 5 - Fixed Pricing for Wet Film Technology

For the reasons discussed below, it is recommended that a contract be awarded to ACS based on Alternative 1 – Fixed and Variable Pricing for Wet Film Technology.

Although pricing provided by Traffipax is generally less than the pricing offered by ACS it should be noted that even if Traffipax Inc had been determined to be qualified, it incorrectly completed the Form B: Prices for Alternatives 1 and 2 such that it would not have been possible to fairly evaluate those alternatives or award a contract to Traffipax for those alternatives. Further, Traffipax received a lower weighted scoring (for features & functionality and price) than ACS for Alternatives 3, 4, 5 and 6.

The Winnipeg Police Service, in order to maximize flexibility which would allow for the lowest cost option when determining its costs in relation to Photo radar enforcement, needed to look at several different options in costing evaluations. In order to determine what would be the best pricing option for the City a number of assumptions had to be made. These assumptions are based on current knowledge at the time of the evaluation.

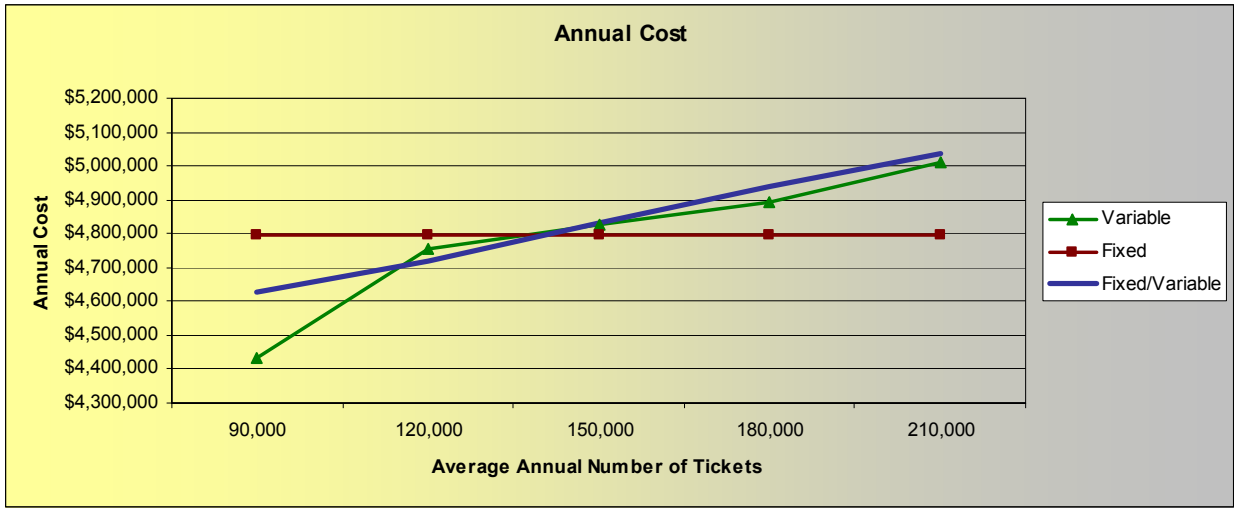
Financial Analysis:

Using an average revenue per offence of $57.56 based on Projected 2008 revenues (excluding revenue apportioned to the Street Crime Unit) the break even point to cover fixed contractual and program expenses would require a yearly minimum of approximately 90,000 offences to be issued and collected. As it is expected that the photo enforcement program can, at a minimum, generate this yearly amount of tickets over the 5 year program, net revenue can be expected to allow the City of Winnipeg to cover the fixed and operating costs of the contract. Based on 2006, the number of offences issued was approximately 150,000.

The following sensitivity analysis graphs have been prepared to illustrate the comparison of the ACS pricing alternative for wet film technology on a cost per ticket basis and on an annual cost basis over a range of volumes. The analysis does not include any proposed increases provided by the contract with respect to CPI.

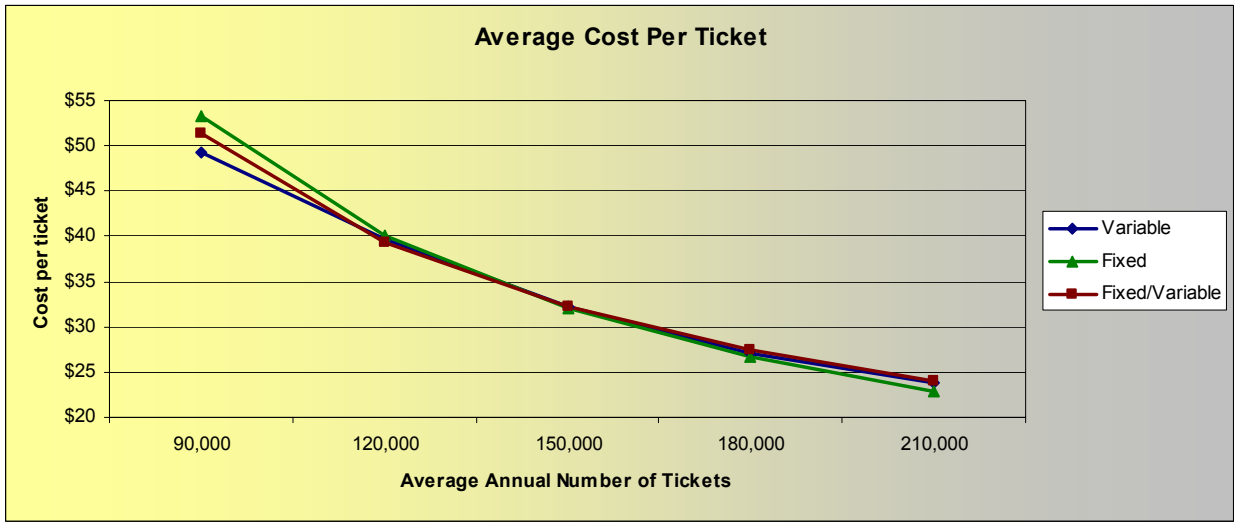
Comparison of ACS Pricing Alternatives

Total Annual Cost Over A Range Of Volume (2008)



Comparison of ACS Pricing Alternatives

Annual Average Cost Per Ticket Over A Range Of Volumes (2008)



Variable Price Alternative:

- Completely based on volume which provides flexibility on all volume ranges.
- Only pay on offences issued (no fixed costs to pay)
- The variable line on the chart (Total annual costs) above has a significant spike on the lower volumes as it recovers its fixed costs. As it achieves higher volumes the line smoothens as the fixed component is now covered.
- Would take focus off the program as a safety initiative, and potentially focus it as revenue collection program.
- Although slightly financially better in the operating volume range, it is not favourable due to the negative factors noted above.

Fixed Price Alternative:

- One price for the entire program regardless of volumes. This type of pricing was applied over the past five year contract.
- Best pricing at the benchmarked volume (150,000 annual offences).
- Best pricing at the highest volume as well, but it is expected that the contractor could request a renegotiated price as this change of volume could only be created by a change of scope of work.
- Cost reduction at the benchmarked volume constitutes a $32,000 cost reduction over the recommended option of fixed/variable price alternative.
- Less favourable as volumes decrease, which is supported by the above trend analysis.
- Forgoing the higher cost reduction on the fixed alternative is a small yearly premium to incur for the flexibilities provided under the fixed/variable alternative.

Fixed/Variable Alternative:

- Pricing is based on fixed components which include such cost elements as operating lease, equipment, mobile operators, and a variable component which includes cost adjustments such as additional film and processing costs which are dependent on volumes. However, it should be noted that the submissions do not provide a breakdown between the fixed and variable components.
- Slightly more expensive than the fixed price alternative ($32,000 yearly).
- As volumes decrease the fixed/variable becomes more favourable over fixed
- It is consistent with the City's objectives for the program, namely that the program is a safety initiative and is not meant to maximize revenue, It allows for some changes to the scope of the photo enforcement program which result in increased volumes of offence notices without requiring contract re-negotiations
- Is sensitive to changes in volume, and provides the greatest amount of flexibility for the City of Winnipeg
- Recommended as overall best option to the City.

Summary:

Based on the above, under the present working environment and assumptions, it is recommended that it is in the best financial interests of the City to continue use of the wet film technology using a fixed monthly processing fee with a monthly variable fee per volume levels (Alternative 1).

This recommendation will constitute a significant cost reduction over the original contract that was awarded pursuant to RFP 160-2002, while still providing cost reductions over the previous re-negotiated contract as set out below.

Comparisons - Costing of Contracts	
Estimated payments to ACS from 2002-2007	**$ 29,171,000**
Estimated payments to Corps of Commissionaires 2002-2007	**$ 2,231,000**
Total Combined Estimated payments	**$ 31,402,000**
Estimated all-inclusive Contract payments 2007-2012	**$ 25,075,505**
Estimated 5 Year cost reduction from previous contracts	**$ 6,326,495**
Note: Based on expected range of 150,000 offences yearly and slowly decreasing at fixed/variable	

The following additional considerations support this recommendation:

- ACS indicated in its Proposal that they have achieved sufficient efficiencies and natural depreciation over time to offer a substantial discount to the City, even based on new capital investment of a renewed fleet of vehicles and a new larger capacity server.
- Enhanced turnaround time and amount of report information available will be part of the new contract to ensure that the operational review will allow closer monitoring of allocation of resources and maximize efficiencies.
- As recommended in the Audit Report, the contract provides for liquidated damages in the event that the work is not performed in accordance with the contract requirements. This will help maximize financial benefit to the City specifically in reference to required staffing levels in the mobile units.

GENERAL COMMENTS

- Bids are valid for acceptance until October 26, 2007.

- The contract includes provision of performance security by the Contractor.

- The proposed contract is for a 60 month term, with the possibility of three (3) five (5) year extensions by mutual agreement of the City and the Contractor. After December 31, 2008, the Contractor may submit an annual request for a price increase based on CPI.

- The City may terminate the contract upon 90 Calendar Days written notice in the event that operational changes result in substantial changes to the requirement for the Work or there is a change in Provincial Legislation affecting the Work.

Accordingly it is recommended that a contract for the Supply, Installation and Operation of a Photo Enforcement Program using wet film technology, be awarded to ACS Public Sector Solutions Inc. for the period of sixty (60) months commencing on December 1, 2007, based on Alternative One – fixed monthly processing fee plus variable monthly fees based on volume of tickets plus a CPI factor of 2% per year starting in 2009 – in the estimated amount of $25,075,505, plus GST and PST, being the responsible and qualified bidder submitting the most advantageous offer for the Alternative which is in the best interests of the City.

Financial Impact Statement

Date: October 2, 2007

Project Name: Photo Enforcement Program

First Year of Program 2007

	2007	2008	2009	2010	2011/2012
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ 388,421	$ 4,830,784	$ 4,918,572	$ 5,011,540	$ 9,926,188
Less: Incremental Revenue/Recovery					
Net Cost/(Benefit)	$ 388,421	$ 4,830,784	$ 4,918,572	$ 5,011,540	$ 9,926,188
Less: Existing Budget Amounts	553,210	6,183,153	6,306,815	6,306,815	12,088,062
Net Budget Adjustment Required	$ (164,789)	$ (1,352,369)	$ (1,388,243)	$ (1,295,275)	$ (2,161,874)

Additional Comments: Assumed contract start date of Dec 1, 2007. Costs are before taxes and include an allowance for CPI of 2% per year starting 2009. Other assumptions are listed under the different scenarios in the financial discussion. No addition to the number of fixed cameras (30) or number of mobile operators (10) has been anticipated. No interruption to the photo enforcement program is anticipated with implementation of the new contract. This financial impact relates only to the contract related costs and does not include the impact of departmental costs required to run this program. An allowance of 10% for uncollectible tickets has been factored in. December 2007 expenses are using the volume costs from December 2006. Budgeted forecast costs for 2011 and 2012 are assumed to be the same as 2010 administrative forecast and budgeted equally each month (yearly amount divided by 12). The contract will be for 60 months carrying the program into 2012. The budgeted cost reduction inclusive of 2012 will total $6,362,550.

Ron Smolik October 2, 2007
Controller - Police Finance Division

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:
Legal Services Division, Internal Services Department
Materials Management Branch, Corporate Finance Department
Corporate Finance Department

External Consultation With:

THIS REPORT SUBMITTED BY:

Department Winnipeg Police Service
Division Central Traffic Unit
Branch
Prepared by: Finance Controller Ron Smolik,
P/Sgt Randy Vertone,
SUPSU Derrick Williams
File No.

2026