Minutes – Executive Policy Committee – July 9, 2014

Minute No. 470
Report – Standing Policy Committee on Infrastructure Renewal and Public Works – July 4, 2014

Item No. 5 **Award of Contract for Polo Park Infrastructure Improvements – Part 2 – St. Matthews Avenue, St. James Street, King Edward Street East and Ellice Avenue Reconstructions, Watermain Renewals and Associated Works**

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Infrastructure Renewal and Public Works and submitted the following to Council:

1. That an increase in the amount of $4,300,000.00 for the Polo Park Infrastructure Improvements Project budget to include the Developer funding for Traffic Signals and the St. Matthews Avenue Roadway Extension share of costs under Servicing Agreement AG514/13 between 8239959 Canada Inc. and the City of Winnipeg, be approved

2. That an additional increase in the amount of $1,000,000.00 for the Polo Park Infrastructure Improvements Project budget to include Developer funding for specific roadway and utility works on St. James Street and St. Matthews Avenue required under the Servicing Agreement AG514/13 between 8239959 Canada Inc. and the City of Winnipeg, be approved.

3. That, subject to approval of Recommendation 1. and 2., a contract be awarded to Borland Construction Inc., which firm submitted the lowest responsive bid meeting all requirements of the published Bid Opportunity, in the estimated amount of $7,877,705.00 plus G.S.T. for Polo Park Infrastructure Improvements – Part 2, based on the Unit Prices identified in the low bidder's Bid Opportunity submission for Polo Park Infrastructure Improvements – St. Matthews Avenue, St. James Street, King Edward Street East and Ellice Avenue Reconstructions, Watermain Renewals and Associated works – Part 1: Polo Park Infrastructure Improvements, Part 2: Pending Property Acquisition – Bid Opportunity 210-2014, plus a possible accelerated completion payment not to exceed $100,000.00, for both parts of the Bid Opportunity.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Minutes – Executive Policy Committee – July 9, 2014

Report – Standing Policy Committee on Infrastructure Renewal and Public Works – July 4, 2014

DECISION MAKING HISTORY:

Moved by Deputy Mayor Swandel,

That the recommendation of the Standing Policy Committee on Infrastructure Renewal and Public Works be concurred in and forwarded to Council.

Carried

David Sanders submitted a communication dated July 9, 2014, in opposition to Award of Contract for Polo Park Infrastructure Improvements – Part 2 – St. Matthews Avenue, St. James Street, King Edward Street East and Ellice Avenue Reconstructions, Watermain Renewals and Associated Works.

STANDING COMMITTEE RECOMMENDATION:

On July 4, 2014, the Standing Policy Committee on Infrastructure Renewal and Public Works concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title: AWARD OF CONTRACT FOR POLO PARK INFRASTRUCTURE IMPROVEMENTS – PART 2 – ST. MATTHEWS AVENUE, ST. JAMES STREET, KING EDWARD STREET EAST AND ELLICE AVENUE RECONSTRUCTIONS, WATERMAIN RENEWALS AND ASSOCIATED WORKS – BID OPPORTUNITY NO. 210-2014

Issue: RECOMMENDATION FOR AMENDMENT TO PROJECT BUDGET TO INCLUDE DEVELOPER FUNDING

Critical Path: STANDING POLICY COMMITTEE ON INFRASTRUCTURE RENEWAL AND PUBLIC WORKS – EPC – COUNCIL

AUTHORIZATION

Author	Department Head	CFO	CAO
L. Deane, P.Eng.	Luis Escobar, P.Eng., PTOE	M. Ruta	D. Joshi A/CAO

RECOMMENDATIONS

1. That Council approve an increase in the amount of $4,300,000.00 for the Polo Park Infrastructure Improvements Project budget to include the Developer funding for Traffic Signals and the St. Matthews Avenue Roadway Extension share of costs under Servicing Agreement AG514/13 between 8239959 Canada Inc. and the City of Winnipeg.

2. That Council approve an additional increase in the amount of $1,000,000.00 for the Polo Park Infrastructure Improvements Project budget to include Developer funding for specific roadway and utility works on St. James Street and St. Matthews Avenue required under the Servicing Agreement AG514/13 between 8239959 Canada Inc. and the City of Winnipeg.

3. That, subject to approval of Recommendation 1. and 2., a contract be awarded to Borland Construction Inc., which firm submitted the lowest responsive bid meeting all requirements of the published Bid Opportunity, in the estimated amount of $7,877,705.00 plus G.S.T. for Polo Park Infrastructure Improvements – Part 2, based on the Unit Prices identified in the low bidder's Bid Opportunity submission for Polo Park Infrastructure Improvements – St. Matthews Avenue, St. James Street, King Edward Street East and Ellice Avenue Reconstructions, Watermain Renewals and Associated works – Part 1: Polo Park Infrastructure Improvements, Part 2: Pending Property Acquisition – Bid Opportunity 210-2014, plus a possible accelerated completion payment not to exceed $100,000.00, for both parts of the Bid Opportunity.

REASON FOR THE REPORT

City Council approval is required to amend capital budgets.

City Council approval is required for award of contract for a supply to the City where the value of the contract exceeds $5,000,000.00 and for which there is no Council approved funding source for the difference between the budgetary provision and the consideration to be paid by the City pursuant to the proposed contract.

IMPLICATIONS OF THE RECOMMENDATIONS

The 2013 Capital Budget adopted by Council on January 29, 2013 included funding for the Polo Park Infrastructure Improvements Project totaling $30,000,000.00.

The 2014 Capital Budget adopted by Council on December 17, 2013 included an additional amount of $10,000,000.00 in Provincial Funding for a total Project Budget of $40,000,000.00.

The amendment of the adopted capital budget to include the Developer as a funding source is required to facilitate construction of the Polo Park Infrastructure Improvement Project with specific roadworks, traffic signals and related utility work which are the responsibility of the developer of the former Winnipeg Stadium Site in an efficient and timely manner.

The financial status of the project is as follows:

Authorized Funding

2013 Capital Budget – Polo Park Infrastructure Improvements Project:	$30,000,000.00
2014 Capital Budget – Polo Park Infrastructure Improvements Project:	$10,000,000.00
Planning Property & Development – Future Reserves Account – Developer Obligation AG 514/13 (pending approval of Recommendation 1 & 2):	$5,300,000.00
Water & Waste 2014 Watermain Renewal Program:	$803,643.00
Total Project Funding:	**$46,103,643.00**
Less: Estimated Total Costs of Previous Awards	
Less: Estimated Total Costs of Engineering	
Engineering Planning & Preliminary Design Fees:	$549,000.00
Engineering and Contract Administration Fees:	$2,189,600.00
Other Project Costs (30%):	$656,880.00
Optional for Sewer Repair – to be determined during design:	$75,000.00
Optional Value Engineering/Newsletters/Stakeholder Meetings/Marketing:	$170,000.00
MRST at 8% (on 30% Detailed Design Fees):	$17,424.00
Engineering – Third Party Contract Administration:	$259,800.00
Engineering Administration:	$78,354.08
Less: Total Cost of Engineering:	**$3,996,058.08**
Less: Estimated Total Costs of Other Expenditures/Commitments:	
Award for Part 1: Polo Park Infrastructure Improvements:	$13,015,827.50
Advertising:	$5,935.96
Traffic Signals:	$1,827,200.00
Manitoba Hydro – Gas, Electric & Street lighting:	$3,500,000.00
Shaw Communications Inc.	$716,757.12
Permits:	$7,028.00
Property Acquisition:	$10,000,000.00
Property Acquisition - Appraisals:	$20,500.00
Engineering Administration:	$321,548.42
Interest Overhead:	$160,569.21
Administrative Overhead	$20,205.00
Less: Total Cost of Other Expenditures/Commitments	**$29,595,571.21**

Total Funding Available for this Award:	**$12,512,013.71**
Amount of this Award: Part 2: Pending Property Acquisition:	$7,877,705.00
Accelerated Completion:	$25,000.00
Contingency:	$395,440.71
Traffic Services:	$125,000.00
MTS/Shaw/Bell/Terra Span:	$500,000.00
Interest Overhead:	$76,760.00
Engineering Administration:	$178,465.00
Estimated Total Cost	**$9,178,370.71**
Remaining Polo Park Infrastructure Improvements Project Budget	$3,333,643.00
Estimated Surplus	Nil

HISTORY

On July 3, 2012 the Standing Policy Committee on Property and Development concurred with the Administrative recommendations in their report titled Expression of Interest No. 257-2011 Sale of the Winnipeg Stadium Site – 1465 Maroons Road to Polo Park Holdings LP (or its Nominee). The Administrative Report indicated that "As part of the redevelopment of the existing Stadium site, and in accordance with the Development Agreement Parameters, the parties will be responsible for their portion of the off-site related infrastructure improvements costs.

The City of Winnipeg and 8239959 Canada Inc. subsequently entered into Servicing Agreement AG 514/2013 pursuant to the Expression of Interest and a short form subdivision application DASSF 514/2013.

On February 19, 2014, the City of Winnipeg retained Morrison Hershfield Ltd. to undertake the Detailed Design, Contract Administration and Post Construction Services for Polo Park Infrastructure Improvements – St. Matthews Avenue, St. James Street, Ellice Avenue, based on the requirements of RFP 236-2013.

On April 10, 2014, Bid Opportunity 210-2014 for Polo Park Infrastructure Improvements – St. Matthews Avenue, St. James Street, King Edward Street East and Ellice Avenue Reconstructions, Watermain Renewals and Associated Works was issued on the Materials Management website. The bid opportunity stated that the City intends to award Part 1 of the Contract by May 26, 2014 and Part 2 of the Contract by July 15, 2014.

On May 20, 2014, Standing Policy Committee on Infrastructure Renewal and Public Works approved the award of Contract for Part 1 Work to Borland Construction Inc. in the amount of $11,622,965.50 plus GST.

On June 10, 2014 the Standing Policy Committee on Property and Development concurred with the Administrative recommendations in their report titled Amendment to Servicing Agreement – Proposed Subdivision and Rezoning of Land located at 1465 Maroons Road. The Administrative Report recommended amendments to include that the Developer pay to the City, in cash, on demand, all costs associated with the Street Pavement Improvements & Utilities – St. James Street & St. Matthews Avenue.

Discussion – Developer Requirements:

Developer Requirements included in Servicing Agreement AG 514/2013, requires the following:

3.a) The Developer shall, at no expense to the City, pay the full cost of a traffic control signal and all related works, including, but not necessarily limited to pedestrian and vehicle actuation and interconnection with the adjacent traffic control signals and audible pedestrian signal, on St. James Street at the north proposed private approach, as determined by and to the satisfaction of the Director of Public Works (estimated cost of $500,000).

4. The Developer shall pay to the City, in cash on demand 23.86% of all costs associated with the extension of St. Matthews Avenue roadway improvements from Empress Street to Century Street to a maximum of $3.8 million.

5.a) The Developer shall, at no expense to the City construct, or pay to the City in cash, on demand the full cost to construct a concrete median on St. James Street from Maroons Road to the north proposed private access with a southbound left turn storage lane at Maroons Road, as determined by and to the satisfaction of the Director of Public Works.

5.b) The Developer shall, at no expense to the City widen, or pay to the City in cash, on demand the full cost to widen St. James Street from the north proposed private access towards St. Matthews Avenue and construct, or pay to the City in cash, on demand the full cost to construct a southbound left turn storage lane at the north proposed private access, as determined by and to the satisfaction of the Director of Public Works.

5.c) The Developer shall, at no expense to the City construct, or pay to the City in cash, on demand the full cost to construct a four –legged intersection at the north proposed private access on St. James Street, to provide all directional private access to the west side of St. James Street, as determined by and to the satisfaction of the Director of Public Works.

6. The Developer shall pay, in cash on demand, the cost to construct 55 meters of westbound left turn storage land on St. Matthews Avenue at St. James Street.

7.b) The Developer shall pay, or pay to the City in cash, on demand all costs associated with the installation and/or relocation of street lights and other utilities made necessary as a result of or required to accommodate works, which are required by the Developer to serve the planned area, as determined by and to the satisfaction of the Director of Public Works.

The City's Polo Park Infrastructure Improvements Capital Project will be proceeding with major re-construction works on St. James Street and St. Matthews Avenue. Servicing Agreement AG514/2013 requires the Developer to pay the City for specific work included in the Capital Project.

The Developer and the City (as represented by the Public Works Department) desire to synchronize the works in St. James Street and St. Matthews Avenue by having the City construct the majority of the works and by having the Developer pay its share of the cost of those works identified in Servicing Agreement AG 514/2013 rather than have two contracts and possibly two contractors on site to the potential detriment of efficiently controlling the work flow and costs.

On May 26, 2014, the Director of Public Works sent a letter to the Developer, 8239959 Canada Inc., confirming their obligations and soliciting their agreement for the City to construct the works on their behalf, concurrent with the Polo Park Infrastructure Improvements Project. The letter included the estimated costs of the works. The Developer, 8239959 Canada Inc., provided written acceptance of the agreement.

Traffic Signals & St. Matthews Roadway Extension - $4,300,000.00

The City of Winnipeg has received on demand payments totaling $4,300,000.00 from the Developer, 8239959 Canada Inc., for the St. Matthews Avenue Roadway Extension share of costs and for the Traffic Signals included under Items 3a) and 4 above. The funds are presently held in Planning Property & Development's accounts as follows:

- Future Services Account in the amount of $3,800,000.00
- Developer's Securities Account for Performance Warranty, Builder's Liens and Signals in the amount of $500,000.00.

Street Pavement Improvements & Utilities – St. James Street & St. Matthews Avenue – $1,000,000.00

In addition, the City of Winnipeg has received $240,000.00 from the Developer, 8239959 Canada Inc., as required performance security and builders liens liability for specific roadway and utility works on St. James Street and St. Matthews Avenue required under Servicing Agreement AG514/13 and included under Items 5a), 5b), 5c), 6, and 7b) above. The funds are presently held in Planning, Property & Development's Developer's Securities Account for Performance Warranty, Builder's Liens and signals.

As the approved report recommending amendments to include that the Developer pay to the City, in cash, on demand, all costs associated with Items 5a), 5b), 5c), and 7b) above, the Developer will be requested to provide additional securities equal to 100% of the values of the "on demand" payments. It is estimated that the additional payment to the City would be $760,000.00.

Discussion: Bid Opportunity 210-2014

On April 10, 2014, Bid Opportunity 210-2014 for Polo Park Infrastructure Improvements – St. Matthews Avenue, St. James Street, King Edward Street East and Ellice Avenue Reconstructions, Watermain Renewals and Associated Works was issued on the Materials Management website. Two addenda were issued and were acknowledged by all bidders.

Final receipt of bids was 12:00 noon on April 30, 2014. Three (3) bids were received as follows:

	Part 1 Work	Part 2 Work	Total Bid Price
Borland Construction Inc.:	11,622,965.50	7,877,705.00	$19,500,670.50
Nelson River Construction Inc.:	11,842,958.50	8,581,362.50	$20,424,321.00
Maple Leaf Construction Ltd.:	12,275,879.50	8,551,807.00	$20,827,686.50

The Bid Opportunity recommended for acceptance is the lowest responsive bid meeting all requirements of the Bid Opportunity package.

On May 20, 2014, Standing Policy Committee on Infrastructure Renewal and Public Works approved the award of Contract for Part 1 Work to Borland Construction Inc. in the amount of $11,622,965.50 plus GST.

An Accelerated Completion Payment up to a maximum of $75,000.00 for Part 1 Work will be paid to the Contractor for re-opening specified site locations to traffic and pedestrians in advance of the Critical Stages and/or Substantial Performance of contractual requirements for Part 1 Work with an additional maximum amount of $25,000.00 similarly for Part 2 Work. The Accelerated Completion Payment amount is based on the estimated cost of delay to the public using these segments of roadways. Liquidated damages ranging between $3,000.00 and $5,000.00 per day would be charged to the Contractor should the work not be completed as scheduled to meet Critical Stages and/or Substantial

Performance, and $1,000.00 per day should the work not be completed as scheduled to meet Total Performance.

Based on the lowest Bid Opportunity Submission by Borland Construction Inc., the total cost related to the above contract award for Part 1 and Part 2 Works, including contract works, contingencies, utilities, engineering administration, and administration and finance is estimated to be $22,194,198.21.

The bid opportunity states that the City intends to award:

- Part 2 of the Contract by July 15, 2014

The lapse date for the award of this Contract is August 8, 2014.

The Manager of Materials has advised that all bid submissions were accompanied by a satisfactory bid security.

Borland Construction Inc. is certified in the Certificate of Recognition (COR) program with the Manitoba Heavy Construction Association of Manitoba (Registration Number MH031103B).

The Engineering staff of the Department and the Engineering Consultant has the opinion that Borland Construction Inc. has the necessary experience and resources to perform all the work in accordance with the requirements of the project. Borland Construction Inc. has satisfactorily carried out previous work of a similar nature for the City of Winnipeg.

Property Status

Six (6) properties are required for work east of St. James Street. On February 26, 2014, Council approved the initiation of expropriation proceedings to acquire these lands. One (1) of the properties is required for Part 1 Work of the Contract. The land, located on the Southeast corner of St. Matthews Avenue and Empress Street is required for utility relocation and lane widening. The negotiations with this property owner are near complete. The remaining five (5) properties are required for Part 2 Work of the Contract and are required for utility relocations and lane widening. Negotiations are ongoing.

On April 30, 2014, Council concurred with the recommendations of the Standing Policy Committee on Property and Development, that the City enter into "Enter to Construct" agreements for the six (6) properties for the work east of St. James Street for the purpose of commencing construction of the Polo Park Infrastructure Improvements Project pending expropriation or the purchase and sale of said property and that the Acting Chief Administrative Officer be authorized to negotiate and approve the terms and conditions of the "Enter to Construct" agreements.

An additional ten (10) properties are required for Part 2 Work, west of St. James Street. On May 27, 2014, Council approved the initiation of expropriation proceedings to acquire these lands and that the City enter into an "Enter to Construct" agreement authorizing the City to enter upon properties identified herein for the purposes of commencing construction on the Polo Park Infrastructure Improvements Project pending the expropriation or the purchase and sale of said property by or to the City. Negotiations are ongoing to acquire these lands.

In accordance with Clause B17.4 and Clause D2.4 of the bid opportunity, the Work of Part 2 will be contingent upon the City obtaining the required properties. If the required properties for Part 2 Work are not obtained by the City, the City reserves the right to diminish all or any portion of Part 2 Work without penalty, claim for damages on the loss of anticipated profit on the Work so diminished.

In accordance with the Bid Opportunity Clause D14.4, work shall not commence on private property until it receives written authorization from the Contract Administrator.

FINANCIAL IMPACT

Financial Impact Statement

Date: June 24, 2014

Project Name:

AWARD OF CONTRACT FOR POLO PARK INFRASTRUCTURE IMPROVEMENTS - PART 2 - ST. MATHEWS AVENUE, ST. JAMES STREET, KING EDWARD STREET EAST AND ELLICE AVENUE RECONSTRUCTIONS, WATERMAIN RENEWALS AND ASSOCIATED WORKS - BID OPPORTUNITY NO. 210-2014

First Year of Program 2014

	2014	2015	2016	2017	2018
Capital					
Capital Expenditures Required	$ 9,178,371	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	3,878,371	-	-	-	-
Additional Capital Budget Required	$ 5,300,000	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Developer Funding	5,300,000	-	-	-	-
Total Funding	$ 5,300,000	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ 5,300,000				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ 5,000	$ 5,000	$ 5,000	$ 5,000
Less: Incremental Revenue/Recovery	255,225	-	-	-	-
Net Cost/(Benefit)	$ (255,225)	$ 5,000	$ 5,000	$ 5,000	$ 5,000
Less: Existing Budget Amounts	(255,225)	-	-	-	-
Net Budget Adjustment Required	$ -	$ 5,000	$ 5,000	$ 5,000	$ 5,000

Additional Comments: The estimated costs will be funded by the Polo Park Infrastructure Improvements (Public Works Capital Project #1803000213), contingent upon the approval of the requested budget increase for the developer funded portion of the project, recommendation 1 and 2 of this report. Developer Funding for Polo Park Infrastructure Improvements received by Planning, Property and Development is $4,540,000, an estimated additional payment of $760,000 will be received as outlined in the Servicing Agreement AG 514/13 - Traffic Signals, St. Matthews Avenue Roadway Extension, St. James Street Pavement Improvements, and Utilities. Recoveries represent the Department Engineering Administration and the Corporate Interest overheads. Direct Costs represent annual maintenance and operating costs for the new installation of traffic signals. The maintenance and operating costs would need to be addressed in the 2015 budget process, as the existing Traffic Signals Branch operating budget is insufficient to absorb these additional annual costs.

"Original signed by D. Stewart, CA"
D. Stewart, CA
Manager of Finance and Administration

CONSULTATION

In preparing this Report there was consultation with:
Planning, Property & Development Department
Legal Services Department (as to legal issues for Bid Opportunity 210-2014)

SUBMITTED BY

Department:	Public Works
Division:	Engineering
Prepared by:	B. Konzelman
Processed by:	J. Curti
Date:	June 3, 2014
File No.	13-B-02
File Name:	L:\Admin\Bid Opportunities 2014\3. Polo Park Infrastructure Improvements\Polo Park Infrastructure Imprv - Part 2\210-2014 Award of Contract - Polo Park Infrastructure Imprv Part 2 - June 6 14.docx