Minute No. 614
Report – Standing Policy Committee on Infrastructure Renewal and Public Works – October 4, 2016

Item No. 3 **Waverley Street at CN Mainline (Rivers) Grade Separation Project – Delegation of Authority to Award a Construction Contract Exceeding $5,000,000 and a Single Source Contract for Rail Work – MM Ref. #749-2016**

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Infrastructure Renewal and Public Works and adopted the following:

1. That the Chief Administrative Officer be delegated the authority to award a competitively tendered multi-year general construction contract exceeding $5,000,000 associated with the Waverley Street at CN Mainline (Rivers) Grade Separation Project, within the Council approved budget and not exceeding $85,000,000.

2. That the Chief Administrative Officer be delegated the authority to negotiate and award single source contracts with Canadian Nation Railway Company ("CN") exceeding $5,000,000, including multi-year contracts not exceeding 5 years, associated with the Waverley Street at CN Mainline (Rivers) Grade Separation Project, within the Council approved budget and not exceeding an aggregate total of $15,000,000.

3. That the CAO be delegated the Authority to approve over expenditures for Recommendations 1 & 2 where there are sufficient funds in an approved budget.

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

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DECISION MAKING HISTORY:

Moved by Councillor Lukes,

That the recommendation of the Standing Policy Committee on Infrastructure Renewal and Public Works t be adopted by consent

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 12, 2016, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Infrastructure Renewal and Public Works and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On October 4, 2016, 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: Waverley Street at CN Mainline (Rivers) Grade Separation Project –Delegation of Authority to Award a Construction Contract Exceeding $5,000,000 and a Single Source Contract for Rail Work – MM Ref. #749-2016

Critical Path: Standing Policy Committee on Infrastructure Renewal and Public Works; Executive Policy Committee; Council

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Neirinck, P. Eng.	L.P. Deane, P. Eng.	M. Ruta	D. McNeil

EXECUTIVE SUMMARY

The delegation of authority to the Chief Administrative Officer to award a competitively tendered multi-year general construction contract exceeding $5,000,000 will minimize the duration of the award period ensuring reasonable design and tender periods, and provide a greater degree of schedule certainty to the project.

It is presently envisioned that CN will undertake and coordinate elements of the project pertaining to railway work, which include rail crossing signal work, flagging, track work and design and construction of communications utilities within their right-of-way. Compatibility of the supply of rail materials within CN's existing property, and CN maintaining ownership and control over their operations are paramount considerations; therefore, single source negotiations and contracts will be required and are permitted under the Materials Management Policy and the Agreement on Internal Trade.

The timely engagement of CN and a general contractor for construction in early 2017 is critical to the overall project schedule. Completion of the Waverley Street detour and the railway detour need to occur in the 2017 construction season in order to maintain the project schedule. Delays in engaging these parties in time to complete the 2017 detour works may result in project delays up to one year.

RECOMMENDATIONS

1. That the Chief Administrative Officer be delegated the authority to award a competitively tendered multi-year general construction contract exceeding $5,000,000 associated with the Waverley Street at CN Mainline (Rivers) Grade Separation Project, within the Council approved budget and not exceeding $85,000,000.

2. That the Chief Administrative Officer be delegated the authority to negotiate and award single source contracts with Canadian Nation Railway Company ("CN") exceeding $5,000,000, including multi-year contracts not exceeding 5 years, associated with the

Waverley Street at CN Mainline (Rivers) Grade Separation Project, within the Council approved budget and not exceeding an aggregate total of $15,000,000.

3. That the CAO be delegated the Authority to approve over expenditures for Recommendations 1 & 2 where there are sufficient funds in an approved budget.

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

REASON FOR THE REPORT

Pursuant to B8.2 of the City of Winnipeg's Materials Management Policy, the Chief Administrative Officer is delegated the authority to award a contract where the value of the contract does not exceed $5,000,000 and there are sufficient funds in a budget approved by Council.

The Materials Management Policy further provides that in all other cases, the Chief Administrative Officer shall forward a recommendation to the appropriate Standing Committee including a recommendation, where appropriate, for funding the difference between the budgetary provision and the consideration to be paid by the City pursuant to the proposed contract. The award of the contract can be approved by the Standing Committee if it is able to identify sufficient available funds in an alternative budget approved by Council. Otherwise, Council approval is required for the award of the proposed contract.

The Standing Policy Committee on Infrastructure Renewal and Public Works does not have authority to delegate its Materials Management Policy award authority to an employee. However, pursuant to The City of Winnipeg Charter, Council has authority to delegate any of its administrative powers, duties or functions to an employee.

IMPLICATIONS OF THE RECOMMENDATIONS

The purpose of Recommendation 1 is to expedite the award process for a multi-year general construction contract expected to exceed $5,000,000. Upon approval of Recommendation 1, the Chief Administrative Officer will be able to approve an award of contract to the successful bidder without further Standing Policy Committee or City Council approval, thereby avoiding potential lengthy delays to project timelines and potentially increased project costs.

The purpose of Recommendation 2 is to allow the City to engage CN to perform rail related works for the project. CN has better competitive access to railwork contractors, and solely designs and performs modifications to crossing signals and utilities within CN's right-of-way. Upon approval of Recommendation 2, the Chief Administrative Officer will be able to approve an award of contract to CN without further Standing Policy Committee or City Council approval.

Recommendation 3 will allow the CAO to approve over expenditures for the general construction contract and for CN contract for rail work if they are required, provided there are sufficient funds within the approved budget.

HISTORY / DISCUSSION

On January 29, 2013, Council approved the 2013 Capital Budget that included an amount of $1.2 million to undertake the preliminary engineering study and public consultation for the Project.

On May 19, 2015 the Administration submitted an application for infrastructure funding to the New Building Canada Fund.

On January 15, 2016, the Province of Manitoba provided approval-in-principle for their portion of funding to a maximum amount of $45.9 million under the New Building Canada Fund.

On January 20, 2016, the Federal Government provided approval-in-principle for their portion of the funding to a maximum amount of $45.882 million under the New Building Canada Fund.

On February 24, 2016, Council approved the addition of the Project in the 2016 Capital Budget in the amount of $155.082 million including the Provincial and Federal Funding.

On February 29, 2016, Dillon Consulting Limited was awarded consulting services for detailed design, contract administration, and post-construction services for the Project.

On March 22, 2016, Council approved the 2016 Capital Budget which includes the Waverley Street at CN Mainline (Rivers) Grade Separation Project as noted above.

Detailed design work is ongoing. It is currently envisioned that the project will be divided into two construction contracts: one smaller-value contract consisting of pre-construction underground works, and a larger-value general construction contract for of the underpass bridge structure, land drainage, pump station, and surrounding roadways. It is anticipated that the larger value general construction contract will exceed $5,000,000. Timely award of this contract in the spring of 2017 is critical to the overall project schedule.

Award of a contract by a standing committee of council can take six to eight weeks depending on the bid opportunity submission deadline date relative to committee meetings, resulting in delay when awarding a contract greater than $5,000,000. Approval of a contract award report by the Chief Administrative Officer can be accomplished in approximately three weeks from the bid submission deadline date. This expedited award period will ensure reasonable design and tender periods, and provide a greater degree of schedule certainty to the project.

The terms of a crossing agreement are subject to ongoing negotiations with CN, and ultimately subject to ratification by Council. It is presently envisioned that CN will undertake and coordinate elements of the project pertaining to rail crossing signal work, flagging, track work and design and construction of communications utilities within their right-of-way

The Materials Management Policy provides at B4(f) that single source negotiations may be authorized where appropriate or necessary and that the compatibility of a supply with existing property or services is the paramount consideration, and that supply is available only from a single supplier. Canadian National Railway Company, as owner of the property and the rail

infrastructure, will be required to proceed with rail crossing signal work, flagging, track work and design and construction of communications utilities within their right-of-way.

The Agreement on Internal Trade is applicable to this procurement because of the estimated value of the contract. There is an absence of competition for this work on Waverly Street at CN Mainline for technical reasons related to the ownership and control of the rail infrastructure and the owner's requirements for compatibility with their rail systems. The Agreement on Internal Trade (AIT), in sections (a) and (b) of Appendix D, provides that a sole supplier procurement can be made to ensure compatibility with existing products, to recognize exclusive rights, and where there is an absence of competition for technical reasons.

The timely engagement of CN and a general contractor for construction and in early 2017 is critical to the overall project schedule. Completion of the Waverley Street detour and the railway detour need to occur in the 2017 construction season in order to maintain the project schedule. Delays in engaging these parties in time to complete the 2017 detour woks may result in project delays up to one year.

FINANCIAL IMPACT

Financial Impact Statement **Date:** September 2, 2016

Project Name:

Waverley Street at CN Mainline (Rivers) Grade Separation Project – Delegation of Authority to Award a Construction Contract Exceeding $5,000,000 and a Single Source Contract for Rail Work – MM Ref. #749-2016

COMMENTS:

There is no financial impact associated with the recommendations of this report.

Costs associated with the construction contracts are unknown at this time. The report recommends that authorization be given to the Chief Administrative Officer to award construction contracts within the Council approved budget.

The awards are estimated to exceed $5,000,000 and are for the Waverley Street at CN Mainline (Rivers) Grade Separation Project multi-year construction contract to a maximum of $85,000,000 as per recommendation 1 and for Canadian National Railway multi-year contracts not exceeding 5 years, to a maximum of $15,000,000 as per recommendation 2.

"Original signed by J. Ruby, CPA, CA"
J. Ruby, CPA, CA
Manager of Finance and Administration

CONSULTATION

In preparing this Report there was consultation with:
Legal Services
Material Management

OURWINNIPEG POLICY ALIGNMENT

N/A

SUBMITTED BY

Department: Public Works
Division: Engineering
Prepared by: C.D. Ward, P. Eng., Bridge Projects Engineer
Date: August 24, 2016