Minutes – Executive Policy Committee – July 11, 2018

REPORTS

Item No. 4 Non-Award of Contract for Construction of 1.2 Km of 1800-2400 mm Diameter Trunk Sewer Cockburn and Calrossie Combined Sewer Relief Works (Contract 5)

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment:

1. That a contract for Bid Opportunity No. 866-2017B not be awarded.

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

DECISION MAKING HISTORY:

Moved by Councillor Mayes,

That the recommendation of the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment be concurred in.

Carried

STANDING COMMITTEE RECOMMENDATION:

On June 28, 2018, the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment concurred in the recommendation of the Winnipeg Public Service and forwarded the matter to the Executive Policy Committee.

ADMINISTRATIVE REPORT

Title: **NON-AWARD OF CONTRACT FOR CONSTRUCTION OF 1.2 KM OF 1800-2400 MM DIAMETER TRUNK SEWER COCKBURN AND CALROSSIE COMBINED SEWER RELIEF WORKS (CONTRACT 5)**
BID OPPORTUNITY NO. 866-2017B

Critical Path: **Standing Policy Committee on Water and Waste, Riverbank Management and the Environment – Executive Policy Committee**

AUTHORIZATION

Author	Department Head	CFO	CAO
G.K. Patton, P. Eng., Manager of Engineering Services	M. L. Geer, CPA, CA, Director, Water and Waste Department	N/A	D. McNeil

EXECUTIVE SUMMARY

This report is for the non-award of Bid Opportunity No. 866-2017B for the Construction of 1.2 km of 1800-2400 mm Diameter Trunk Sewer Cockburn and Calrossie Combined Sewer Relief Works (Contract 5). The procurement is through the Bid Opportunity process. The Public Service had allocated $24,000,000.00 to complete the works; the bid prices received exceed the available City funds for the work. This capital project was to be financed from the approved Capital Budgets for Combined Sewer Overflow and Basement Flood Management Strategy. The recommendation of this report is not compliant with the trade agreements, however it is compliant with the Materials Management Policy.

The Public Service, in conjunction with the Engineering consultant, will be investigating alternative bid packaging design strategies and options to reduce the project capital cost.

RECOMMENDATIONS

1. That a contract for Bid Opportunity No. 866-2017B not be awarded.

2. 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

As the total value of the Procurement exceeds the applicable thresholds of the *Canadian Free Trade Agreement* (CFTA) and the *Comprehensive Economic and Trade Agreement* (CETA), and neither Trade Agreement contains a provision that would permit this non-award, approval by the Executive Policy committee is required pursuant to B4.4 of the Materials Management Policy, which section relates to similar instances of Trade Agreement non-compliance and for which EPC approval is required.

IMPLICATIONS OF THE RECOMMENDATIONS

Funds in the amount of $118,707,000.00 are included in the 2009-2018 Capital Budgets for the Combined Sewer Overflow and Basement Flood Management Strategy, Account Distribution No. 444 181000 200752 20380001YY Contractex.

There is no financial implication as the Department is recommending that Bid Opportunity No. 866-2017B not be awarded.

HISTORY / DISCUSSION

The Work that was to be done under the Contract was to consist of the construction of a new land drainage sewer on Taylor Avenue between Nathanial Street and Pembina Highway. The new land drainage sewer is approximately 1,250 m in length using a two pass tunnelling method. The main land drainage sewer consists of pipe diameters ranging from 1800 mm to 2400 mm; stub connections for future contracts; and connections to the existing LDS surface infrastructure (inlets). The Work also includes traffic management, temporary pumping, utility relocations, and modifications to existing buried infrastructure to facilitate the tunneling.

The major components of the Work are as follows:

(a) Construction of Shafts to facilitate tunnelling and intermediate Works
(b) Carry out preparative Works for Tunneling, including development of the launch shaft and laydown area within the Grant Athletic Grounds; bypasses and/or relocations of existing utilities; construction of the junction chamber at Wilton Street; construction of the crossing detail to the 1950 clay tile combined sewer on Harrow Street.
(c) Provide temporary bypass pumping where required to maintain required flows within existing services.
(d) Construction of a primary tunnel casing using steel ribs and lagging.
(e) Construction of 2400 mm, 2100 mm and 1800 mm diameter land drainage sewers within the Tunnel Casing.
(f) Instrumentation and monitoring of surface and subsurface features to identify potential settlements caused by the tunnelling operation.

(g) Installation of stub-out sewers, and catch basin connections to the new trunk sewer.
(h) Surface restoration and related works.
(i) Implementation of traffic controls for each phase of the project.

A Pre-Qualification process was done prior to issuing the Bid Opportunity, and six tunneling contractors were pre-qualified to bid on the project. Of the six pre-qualified tunneling contractors, only four of the contractors submitted bids for the project.

The Bid Opportunity closed on March 7, 2018, with bids being received as follows:

	Total Evaluated Bid Price
C & M McNally Engineering Corp.	$36,998,641.00
McNally Construction Inc.	$37,977,700.00
Technicore Underground Inc.	$38,090,248.68
CRS Tunnelling Inc.	$43,694,760.00

Pre-bid Estimate: $22,729,125.00

While all bids received were deemed responsive, the submitted low bid of $36,998,641.00 exceeds the pre-bid estimate and exceeds the budget funds previously allocated and available for this project. The low bid of $36,998,641.00 was well in excess of the $24,000,000.00 budgeted for this project from the approved Capital Budget for Combined Sewer Overflows and Basement Flood Management Strategy.

The preliminary construction estimate was developed by the engineering consultant based on several different sources as listed below:

1. Collection of tunneling costs from across North America
2. 2017 City of Winnipeg tunneling construction work of similar size and nature
3. National Research Council Publication Construction and Rehabilitation Cost for Buried Pipe
4. Recent historical costs from a similar project in Western Canada
5. Pre-tender cost consultations with tunneling contractors

Submitted bid construction prices were substantially higher than the pre-bid estimated price. A definite reason in the variance in prices from the submitted contractor's prices to the pre-bid estimate cannot be determined conclusively. The cause in the discrepancy in pricing is most likely attributable to the current market conditions in North America for tunneling work and projects.

Some of the current market conditions that could affect tunneling works are as follows:

1. Not all of the qualified contractors have the specific size of the Tunnel Boring Machine (TBM) required for the project
2. TBM supplier costs are increasing
3. Cost premiums on products being delivered from the US, specifically steel ribs and lagging
4. Higher prices than anticipated for the “Hobas” tunnel pipe specified in the Contract
5. High cost of specialized instrumentation and monitoring for the work
6. Amount and location of current tunneling projects planned or currently underway in North America, with a limited amount of qualified tunneling contractors to perform the work (As evidenced by only four contractors submitting bids for the Work.)
7. Contractors perceived risk items and respective risk premiums built into the cost of the project

As per Clause B17.2, the City will have no obligation to award a Contract to a Bidder, even though one or all of the Bidders are determined to be responsible and qualified, and the Bids are determined to be responsive.

As per Clause B18.2, the City will have no obligation to award a Contract to a Bidder, even though one or all of the Bidders are determined to be responsible and qualified, and the Bids are determined to be responsive. Without limiting the generality of B18.2, the City will have no obligation to award a Contract where:

(a) the prices exceed the available City funds for the Work;
(b) the prices are materially in excess of the prices received for similar work in the past;
(c) the prices are materially in excess of the City’s cost to perform the Work, or a significant portion thereof, with its own forces;
(d) only one Bid is received; or
(e) in the judgment of the Award Authority, the interests of the City would best be served by not awarding a Contract.

Notwithstanding the foregoing, subsection B18.3(b) indicated that if the Total Bid Price exceeded the available funding in the 2018 Capital Budget, but the Total Bid Price less the subtotal for “Item B” on Form B prices was within the available funding in the 2018 Capital Budget, then a Contract would be awarded for the Work less the items provided in “Item B”. However, even after excluding “Item B,” all received bids exceeded the available funding by at least $1,000,000.

Engineering staff of this Department recommend that this Contract not be awarded as per clauses B18.2 (a) as the prices exceed the availability for the Work.

The Public Service, in conjunction with the Engineering consultant, will be investigating alternative bid packaging design strategies and options to reduce the project capital cost.

This procurement is subject to the CFTA and CETA. Neither trade agreement appears to contain a provision that would permit a non-award in these circumstances. In the opinion of the Public Service, there is a moderate risk that a complaint could be successfully brought against The City of Winnipeg pursuant to the trade agreements should the Recommendation be approved.

The bids expire on July 5th, 2018, and pursuant to Article 516 of the CFTA and Article 19.15.1 of CETA, the City of Winnipeg is required to promptly inform participating bidders of their contract award decisions, which would include decisions not to award.

FINANCIAL IMPACT

Financial Impact Statement **Date:** 5-Jun-18

Project Name:

NON-AWARD OF CONTRACT FOR CONSTRUCTION OF 1.2 KM OF 1800-2400 MM DIAMETER TRUNK SEWER COCKBURN AND CALROSSIE COMBINED SEWER RELIEF WORKS (CONTRACT 5)
BID OPPORTUNITY NO. 866-2017B

COMMENTS:

There is no financial impact with this recommendation.

"Original signed by L. Szkwarek, CPA, CGA"

js

Lucy Szkwarek, CPA, CGA
Manager of Finance and Administration

CONSULTATION

In preparing this report there was consultation with:

Legal Services (as to legal issues)
Materials Management

OURWINNIPEG POLICY ALIGNMENT

N/A

SUBMITTED BY

Department: Water and Waste
Division: Engineering Services
Prepared by: Jurgen Friesen, C.E.T.
Date: June 6, 2018
File No.: D-380