Minutes – Executive Policy Committee – July 11, 2018

REPORTS

Item No. 5 Non-Award of Contract for Rehabilitation of Public Water Service Outlets: Pavement Works, Building Supply and Repairs, Demolition and Electrical

EXECUTIVE POLICY COMMITTEE DECISION:

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. 634-2017 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 REHABILITATION OF PUBLIC WATER SERVICE OUTLETS: PAVEMENT WORKS, BUILDING SUPPLY AND REPAIRS, DEMOLITION AND ELECTRICAL BID OPPORTUNITY NO. 634-2017**

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. 634-2017 for the Rehabilitation of Public Water Service Outlets: Pavement Works, Building Supply and Repairs, Demolition and Electrical. The procurement is through the Bid Opportunity process. The bid prices received exceed the allocated City funds of $600,000.00 for this 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 capital project was to be financed from the approved 2013 Capital Budget for Public Water Outlets.

The Recommendations of this Report do not comply with the applicable Trade Agreements, but do comply with the Materials Management Policy. Further detail is provided in the History section.

RECOMMENDATIONS

1. That a contract for Bid Opportunity No. 634-2017 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 CFTA does not contain 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 $750,000.00 are included in the 2013 Capital Budget for Public Water Outlets, Account Distribution No. 443 181000 200751 2001001713 Contractex.

There is no financial implication, as the Department is recommending that Bid Opportunity No. 634-2017 not be awarded.

HISTORY / DISCUSSION

The work of this contract consists of the rehabilitation of the public water service outlet at the Chevrier Boulevard location and replacement of the public water service outlet at the McCarthy Street location.

The Bid Opportunity closed on January 25, 2018, with bids being received as follows:

Darco Enterprises Ltd.	$ 852,000.00
Bayview Construction Ltd.	$1,252,840.00

Pre-bid Estimate $583,211.00

The received bid prices exceed the pre-bid cost estimate and the available City funds for the work.

The higher than expected bid submissions may be due to the following factors:

- Both bidders are civil contractors who will use sub-contractors for the electrical portion of the work. This resulted in a significant cost markup for electrical items.
- Concrete estimates were developed using City estimated costs for larger pavement contracts. The mobilization/demobilization costs for the smaller amount of concrete work in this contract may have been underestimated by the Consultant.

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 B17.2.1, which states that without limiting the generality of B17.2, 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 be served by not awarding a contract.

Engineering staff of this Department recommend that this contract not be awarded as per Clause B17.2.1a). The prices exceed the available City funds for the work.

The public water service outlets billing systems' experience frequent failures causing service disruptions and the buildings themselves are at the end of their service life. To ensure continued service, alternative bid packaging design strategies and options to reduce the project capital cost are being investigated.

This procurement is subject to the *Canadian Free Trade Agreement* ("CFTA"). The CFTA does not appear to contain an exception that would allow this 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 CFTA should the Recommendations be approved.

The bids expired on March 26, 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:** 1-Jun-18

Project Name:

NON-AWARD OF CONTRACT FOR REHABILITATION OF PUBLIC WATER SERVICE OUTLETS: PAVEMENT WORKS, BUILDING SUPPLY AND REPAIRS, DEMOLITION AND ELECTRICAL
BID OPPORTUNITY NO. 634-2017

COMMENTS:

There is no financial impact for this recommendation of a Non-Award.

"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 Department (as to legal issues)
Materials Management

OURWINNIPEG POLICY ALIGNMENT

OurWinnipeg Reference: Environment

SUBMITTED BY

Department: Water and Waste
Division: Engineering Services
Prepared by: Matthew Nikkel, E.I.T.
Date: June 4, 2018
File No.: W-748