Minutes – Executive Policy Committee – July 11, 2018

REPORTS

Item No. 6 Award of Contract for the Northeast Interceptor Sewer River Crossing

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 the bid from Ward & Burke Microtunnelling Ltd. for $11,728,150.60, GST extra as applicable, be determined to be non-responsive and not accepted due to exceeding the pre-tender estimate of $10,027,000.00, as stated in clause B18.5 of the bid documents.

2. That the alternative bid from Ward & Burke Microtunnelling Ltd. for $9,537,850.00, GST extra as applicable, be determined to be non-responsive because the bid submission did not comply with the stated requirements of the Bid Opportunity.

3. That, subject to approval of Recommendations 1 and 2, a single source contract for Bid Opportunity No. 1136-2017B be awarded to, and that the City enter into, execute and deliver a contract for same with, Ward & Burke Microtunnelling Ltd. in the amount of $9,537,850.00, plus a possible site occupancy bonus payment not to exceed 2% of the total bid price ($190,757.00), GST extra as applicable, in addition to such other agreements as determined necessary by the Director of Legal Services and City Solicitor to implement the intent of the foregoing (the "Ancillary Agreements").

4. That authority be delegated to the Chief Administrative Officer to negotiate and approve the terms and conditions of the contract for Bid Opportunity No. 1136-2017B and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the Director of Legal Services and City Solicitor to protect the interests of the City.

5. That the Proper Officers of the City be authorized do all things necessary to implement 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: **AWARD OF CONTRACT FOR THE NORTHEAST INTERCEPTOR SEWER RIVER CROSSING**
BID OPPORTUNITY NO. 1136-2017B

Critical Path: The 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, Engineering Services Division	M. L. Geer, CPA, CA, Director, Water and Waste Department	B. D'Avignon Acting CFO	D. McNeil

EXECUTIVE SUMMARY

This report is for the award of a contract to Ward & Burke Microtunnelling Ltd. for the construction of the Northeast Interceptor River Crossing the Red River South of Chief Peguis Trail. The procurement was initiated through the Bid Opportunity process.

The original bid from Ward & Burke Microtunnelling Ltd. was in excess of the available funds for this project, and the Public Service therefore recommends that it be determined non-responsive. An alternative bid which was also included with the original submission provided a cost savings of $2,190,300.60, but as it proposed alterations to the Bid Opportunity terms the department recommends that it also be determined non-responsive. However, while the alternative bid is technically non-responsive, the proposed alterations themselves are an innovative approach that meet the key project constraints of coordinating with area stakeholders and do not substantially modify the terms of the Bid opportunity. As such, the Public Service recommends awarding a contract to Ward & Burke Microtunneling Ltd. on a single source basis, as further described herein.

This capital project is financed from the approved 2015-2016 Capital Budgets for Northeast Interceptor River Crossing Upgrade project. The recommendation of this report is not compliant with the Materials Management Policy, but is compliant with the applicable trade agreements. Further details are provided in the History section.

RECOMMENDATIONS

1. That the bid from Ward & Burke Microtunnelling Ltd. for $11,728,150.60, GST extra as applicable, be determined to be non-responsive and not accepted due to exceeding the pre-tender estimate of $10,027,000.00, as stated in clause B18.5 of the bid documents.

2. That the alternative bid from Ward & Burke Microtunnelling Ltd. for $9,537,850.00, GST extra as applicable, be determined to be non-responsive because the bid submission did not comply with the stated requirements of the Bid Opportunity.

3. That, subject to approval of Recommendations 1 and 2, a single source contract for Bid Opportunity No. 1136-2017B be awarded to, and that the City enter into, execute and deliver a contract for same with, Ward & Burke Microtunnelling Ltd. in the amount of $9,537,850.00, plus a possible site occupancy bonus payment not to exceed 2% of the total bid price ($190,757.00), GST extra as applicable, in addition to such other agreements as determined necessary by the City Solicitor / Director of Legal Services to implement the intent of the foregoing (the “Ancillary Agreements”).

4. That authority be delegated to the Chief Administrative Officer to negotiate and approve the terms and conditions of the contract for Bid Opportunity No. 1136-2017B and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor / Director of Legal Services to protect the interests of the City.

5. That the Proper officers of the City be authorized do all things necessary to implement the foregoing.

REASON FOR THE REPORT

As the Recommendations exceed the authority of the Chief Administrative Officer and the reasons for single source negotiation do not comply with the reasons allowed for under the Materials Management Policy, Executive Policy Committee approval is required.

IMPLICATIONS OF THE RECOMMENDATIONS

Funds in the amount of $12,500,000.00 are included in the 2015-2016 Capital Budget for the Northeast Interceptor River Crossing Upgrade project, Account Distribution No. 444 181000 200752 20370015xx.

HISTORY/DISCUSSION

The Northeast Interceptor collects wastewater from the northeast quadrant of Winnipeg and conveys it to the North End Sewage Treatment Plant (NEWPCC). The last section of the interceptor contains a siphon. This allows all flows from the Northeast Interceptor

to cross the Red River to the NEWPCC. This crossing is located just south of the Chief Peguis Trail Bridge.

This river crossing was constructed in the 1970's and consists of 800mm and 500mm diameter siphons that were laid on the bottom of the Red River. Two chambers, one on each side of the river, with gates were constructed to allow isolation of each pipe. The chamber also includes provisions for a third siphon pipe, which would be constructed when additional capacity was required. The sewer system upstream currently experiences surcharging during wet weather events, and some of the areas serviced by the Interceptor, such as Transcona, currently have below City standard basement flood protection.

The work of this contract consists of the construction of a new sewer river crossing across the Red River, with a specified 900mm diameter carrier pipe. The major components of the Work are as follows:

a) construction of temporary access roads and development of work areas;
b) installation of Microtunnel Boring Machine launch and receiving shafts;
c) installation of approximately 250m long river crossing by microtunneling;
d) construction of cast-in-place flow control chambers;
e) construction of 1200mm diameter connections to existing trunk sewer;
f) supply and installation of internal chamber piping; and
g) grading and site restoration works.

The work of this contract was initially anticipated to begin on October 1, 2018 due to the following:

a) coordination with Kildonan Golf Course to minimize disruption to their operation. and
b) coordination with Public Works for the Chief Peguis Greenway Extension – Frog Plain Way to Henderson Highway to allow the completion of majority of work associated with that project.

This project includes the use of Site Occupancy as a means for monitoring and administering progress of the Work. Site Occupancy involves the Contract Administrator setting a completion date for the Work along with a daily Contract Administration cost (Site Occupancy cost) for each Working Day the Contractor is able to work. The Contractor Bids the number of anticipated Working Days to complete the Work, and depending on the actual Working Days to complete the Work, there may be a bonus payment or deduction applied to the final payment. The cost of site occupancy is determined by the amount of declared working days by the contractor multiplied by the set daily cost for site occupancy. The total value is then added to the Total Bid Price to form the Total Evaluated Bid Price.

A Pre-Qualification process was completed prior to issuing the Bid Opportunity. A Request for Qualification was advertised on the City of Winnipeg Bid Opportunity Page on February 13, 2018, and closed on March 16, 2018. As part of the Pre-Qualification documents, 90% complete drawings were provided. Three (3) contractors submitted proposals and were deemed qualified by the Contract Administrator: Ward & Burke

Microtunnelling Ltd., CRS Tunnelling Inc., and Michels Canada Co. The Bid Opportunity was posted on April 27, 2018, with a closing date of May 23, 2018.

Michels Canada Co. submitted an email to the Contract Administrator on April 30, 2018, stating that they would not be submitting a bid.

A bid extension of two weeks was requested on May 11, 2018, by CRS Tunnelling Inc. In order to allow sufficient time to diligently and thoroughly review all bids prior to submission to the appropriate Committee of Council on September 6, 2018, only a two-day extension was feasible, and said extension was granted. Notwithstanding the extension, CRS Tunnelling Inc. ultimately chose not to submit a bid.

The Bid Opportunity closed on May 25, 2018, with only one bid received.

	Total Bid Price	Total Evaluated Bid Price
Ward & Burke Microtunnelling Ltd.	$11,728,150.60	$12,113,150.00

Pre-bid Estimate $10,027,200.00 (does not include site occupancy)

As part of their submission Ward & Burke Microtunnelling Ltd. also presented an alternative with the following pricing:

	Total Bid Price	Total Evaluated Bid Price
Ward & Burke Microtunnelling Ltd.	$ 9,537,850.00	$10,087,850.00

In accordance with B18.5 of the Bid Opportunity documents, the Award Authority may reject a Bid as being non-responsive if it exceeds the Pre-tender Estimate as shown in D3.1.1. Ward & Burke Microtunnelling Ltd.'s bid for $11,728,150.00 not only exceeds this estimate, but is also materially in excess of the available funds for this project, due to the previously authorized expenditures outlined below. Based on that, the Public Service recommends this bid be considered non-responsive and not be accepted.

In accordance with B18.2 of the Bid Opportunity documents, the Award Authority may reject a Bid as being non-responsive if it contains additions or alterations. The alternate bid submitted by Ward & Burke Microtunnelling should be determined to be non-responsive as it proposed alternatives to the Substantial and Total Performance dates outlined at D21.1 and D22 of the Bid Opportunity documents.

Notwithstanding the foregoing, Ward & Burke Microtunnelling proposed an innovative approach that provides a cost savings of $2,190,300.60 to the City of Winnipeg while meeting the key project constraints of coordinating with area stakeholders.

The alternative bid from Ward & Burke Microtunnelling Ltd. proposed starting July 15, 2018, completing the launch and receiving shafts and installing the 250m river crossing portions by the end of November 2018. Ward & Burke Microtunnelling Ltd. would then demobilize and remobilize in April 2019 to complete the remaining work by November 2019.

The revised schedule has the following impacts:

a) Additional coordination with the Kildonan Park Golf Course;
b) Potential minor cost and/or delay impacts in completing small sections of the Chief Peguis Trail Greenway project; and
c) The Total Performance completion date extended from June 2019 to November 2019.

This procurement is subject to the Canadian Free Trade Agreement (the "CFTA") and the Comprehensive Economic and Trade Agreement ("CETA"). Article 513.1 of the CFTA permits limited tendering (otherwise known as "single sourcing") in situations where no submitted bids conform to the essential requirements of the Bid Opportunity, provided that the subsequent single source contract does not substantially modify the requirements of the Bid Opportunity, and provided that the exception is not used for the purpose of avoiding competition. CETA has an analogous exception at Article 19.12.1(a).

Ward & Burke Microtunnelling Ltd.'s original bid was non-responsive due to its price, while its alternative bid was non-responsive due to proposing alterations. As such, the Public Service believes that neither of the submitted bids conformed to the essential requirements of the Bid Opportunity.

Engineering staff of the Public Service have evaluated Ward & Burke Microtunnelling Ltd.'s alternative timelines, and the affected Departments have confirmed that the proposed approach can be accommodated without substantially modifying the essential terms of the Bid Opportunity, for the following reasons:

a) available project funds will not be exceeded by adjusting the timelines;
b) adjusting the timelines will not require any substitute methods, equipment, labour, or materials; and
c) the scope of the project will not be modified by adjusting the timelines.

The Public Service believes that given how significantly adjusting the timelines will lower project costs, and given how manageable the associated impacts are predicted to be, it is in the City's best interest to award a single source contract to Ward & Burke Microtunnelling Ltd. in the amount of $9,537,850.00, plus a possible site occupancy bonus payment not to exceed 2% of the total bid price ($190,757.00), GST extra as applicable.

The total cost of the project including the contract works plus a possible site occupancy bonus payment not to exceed 2%, 2% for Interim Financing and 1.25% for Administration (maximum of $100,000.00) will be $10,023,179.00 which is within the budget funds provided.

A Pre-Award meeting was held on May 28, 2018, to confirm that the Contractor had the resources and ability to complete the work based on the alternate bid and schedule and within the number of Working Days bid by the Contractor for site occupancy. Ward & Burke Microtunnelling Ltd. provided confirmation that the project would be completed as detailed in the Bid Opportunity, and as documented in the Pre-Award Meeting Minutes, dated May 30, 2018. Engineering staff are satisfied that the low Bidder has the necessary resources to perform all of the work in accordance with the requirements of the specifications. The low Bidder has satisfactorily carried out previous construction works of a similar nature.

The recommended Contractor has a (COR) Certificate of Recognition Equivalency provided by the Construction Safety Association of Manitoba, Certification No. 28702-17-E1.

The Manager of Materials has advised that each of the bid submissions was accompanied by satisfactory bid security.

The financial status of the Northeast Interceptor River Crossing Upgrade project is as follows:

Authorized Capital		$12,500,000.00
Amount of Previous Awards or Expenditures	$ 908,457.00	
Amount of this Award	$9,537,850.00	
Amount of 2% Site Occupancy Bonus	$ 190,757.00	
Estimated Interim Financing Costs	$ 194,572.00	
Estimated Administration Costs	$ 100,000.00	
Total Estimated Cost	$10,931,636.00	$10,931,636.00
Estimated Residual for Remaining Projects		$ 1,568,364.00

The bid recommended for acceptance is the low bid meeting all requirements of the specifications. This offer is open for acceptance until October 12, 2018, however, the proposed adjusted timelines require an expedited response.

Construction will not commence prior to the award of contract.

FINANCIAL IMPACT

Financial Impact Statement

Date: June 19, 2018

Project Name:

AWARD OF CONTRACT FOR THE NORTHEAST INTERCEPTOR SEWER RIVER CROSSING BID OPPORTUNITY NO. 1136-2017B

First Year of Program **2018**

	2018	2019	2020	2021	2022
Capital					
Capital Expenditures Required	$ 10,023,179	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	10,023,179	-	-	-	-
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	$ 294,572	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	294,572	-	-	-	-
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Funds are included in the 2015-2016 Capital Budget for the Northeast Interceptor River Crossing Upgrade project, Account Distribution No. 444 181000 200752 20370015xx. This project is funded by Retained Earnings.

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

Lucy Szkwarek, CPA, CGA
Manager of Finance and Administration

sc
1-Jun-18

CONSULTATION

In preparing this report there was consultation with:

Legal Services (as to legal issues)
Corporate Finance, Materials Management Branch

OURWINNIPEG POLICY ALIGNMENT

OurWinnipeg Reference: Environment

SUBMITTED BY

Department: Water and Waste
Division: Engineering Services
Prepared by: Stacy Cournoyer, P. Eng.
Date: June 19, 2018
File No.: S-1020