Agenda – Executive Policy Committee – December 5, 2023

Moved by Councillor

That Rule 10(3) of The Procedure By-law No. 50/2007 be suspended in order that the following item, which was received less than four business days preceding the committee meeting, be considered by Committee.

ADDENDUM REPORTS

Item No. 21 Approval of Single Source Negotiation and Award of Contract for the Supply and Delivery of Fuels, Bid Opportunity No. 634-2014

WINNIPEG PUBLIC SERVICE RECOMMENDATION:

1. That a Single Source Negotiation be approved for a contract extension for the supply and delivery of fuels, Materials Management Reference No. 634-2014, with Suncor Energy Products Partnership, through its general partners, Suncor Energy Inc., 1277136 Alberta Ltd., and Suncor Energy Products Inc. for a three (3) month period from January 1, 2024 to March 31, 2024, pursuant to B4.1(i) of the Materials Management Policy, where the supply is for interim contractual arrangements following the expiration of a contract.

2. That authority be delegated to the Chief Administrative Officer to negotiate and approve the terms and conditions and award of contract for a three (3) month extension of Materials Management Reference No. 634-2014, with Suncor Energy Products Partnership, through its general partners, Suncor Energy Inc., 1277136 Alberta Ltd., and Suncor Energy Products Inc. in an estimated amount not to exceed $3,750,000.00, GST and MRST extra as applicable, 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.

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

ADMINISTRATIVE REPORT

Title: Approval of Single Source Negotiation and Award of Contract for the Supply and Delivery of Fuels, Bid Opportunity No. 634-2014

Critical Path: Executive Policy Committee

AUTHORIZATION

Author	Department Head	CFO	CAO
B. D'Avignon Manager of Materials	C. Kloepfer	C. Kloepfer	M. Jack

EXECUTIVE SUMMARY

This report is for the approval of a single source negotiation with Suncor Energy Products Partnership, through its general partners, Suncor Energy Inc., 1277136 Alberta Ltd., and Suncor Energy Products Inc. for the Supply and Delivery of Fuels for a three-month period from January 1, 2024, to March 31, 2024.

The City of Winnipeg is participating in the collaborative procurement initiative with the Province of Manitoba. This collaborative procurement initiative was formed by public sector members to satisfy business needs, maximize efficiencies and achieve cost savings by combining commodity volumes for different public sector organizations. The Province is on track to meet the April 1, 2024 start date, however the City requires a single source contract which will ensure uninterrupted supply until the Cooperative Contract is awarded.

The Recommendations of this Report are compliant with the Materials Management Policy, but not with the applicable Trade Agreements. Further details are provided in the History/Discussion section.

RECOMMENDATIONS

1. That a Single Source Negotiation be approved for a contract extension for the supply and delivery of fuels, Materials Management Reference No. 634-2014, with Suncor Energy Products Partnership, through its general partners, Suncor Energy Inc., 1277136 Alberta Ltd., and Suncor Energy Products Inc. for a three (3) month period from January 1, 2024 to March 31, 2024, pursuant to B4.1(i) of the Materials Management Policy, where the supply is for interim contractual arrangements following the expiration of a contract.

2. That authority be delegated to the Chief Administrative Officer to negotiate and approve the terms and conditions and award of contract for a three (3) month extension of Materials Management Reference No. 634-2014, with Suncor Energy Products Partnership, through its general partners, Suncor Energy Inc., 1277136 Alberta Ltd., and Suncor Energy Products Inc. in an estimated amount not to exceed $3,750,000.00, GST and MRST extra as

applicable, 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.

3. 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

Where the estimated value of the single source contract to be negotiated exceeds $1 million, and the procurement may not be permitted under the various Trade Agreements, Executive Policy Committee (EPC) approval is required pursuant to B8.1.1(b) of the Materials Management Policy.

IMPLICATIONS OF THE RECOMMENDATIONS

The Contract is for the supply and delivery of fuels, including diesel fuel, gasoline and furnace fuel for the City, and for cooperative purchases including those by the University of Manitoba and multiple school divisions.

The estimated contract amount of $3,750,000 does not include the amount of any cooperative purchases.

Users such as the University of Manitoba and the school divisions purchase fuel pursuant to this cooperative purchase and will be responsible to set up their own contracts and pay for their own fuel.
This Contract is on an “as required” basis and does not commit the City to purchase any fixed quantity. The goods are purchased and used by various City departments during the term of the contract. As the funding for this contract is through the budgets of the various user departments, the financial impact will have to be determined by the user departments on an individual basis.

As there are no more extensions available, this report seeks authority to engage in contract negotiations to extend the current agreement through a single source extension for the period from January 1, 2024 to March 31, 2024, to align with the start date of the new Cooperative Contract of April 1, 2024.

HISTORY/DISCUSSION

The work of this Contract consists of the supply and delivery of fuels on an as-required basis. The original contract term was for the period of January 1, 2015 until December 31, 2017 with the option of three (3) mutually agreed upon two (2) year extensions as per Clause D2.1 of the Bid Opportunity document.

On October 12, 2017, the CFO approved the first contract extension for the period of January 1, 2018 to December 31, 2019 to Suncor Energy Products Partnership, through its general partners, Suncor Energy Inc., 1277136 Alberta Ltd., and Suncor Energy Products Inc. in the amount of $92,563,313.62 (GST and MRST extra as applicable).

On September 13, 2019, the CFO approved the second contract extension for the period of January 1, 2020, to December 31, 2021, to Suncor Energy Products Partnership, through its general partners, Suncor Energy Inc., 1277136 Alberta Ltd., and Suncor Energy Products Inc. in the amount of $48,662,623.08 (GST and MRST extra as applicable).

On September 20, 2021, the CFO approved the third contract extension for the period of January 1, 2022 to December 31, 2023, to Suncor Energy Products Partnership, through its general partners, Suncor Energy Inc., 1277136 Alberta Ltd., and Suncor Energy Products Inc. in the amount of $48,086,441.74 (GST and MRST extra as applicable).

The single source contract is for the period from January 1, 2024, to March 31, 2024, to align with the start date of the new Cooperative Contract of April 1, 2024, and will be subject to the same terms and conditions as the third contract extension of Bid Opportunity 634-2014. The price estimate is calculated based on 2022 annual spend report provided by the Contractor.

This procurement is subject to the New West Partnership Trade Agreement ("NWPTA"), which incorporates the requirements of the Canadian Free Trade Agreement ("CFTA"), and the Comprehensive Economic and Trade Agreement ("CETA") (collectively the "Trade Agreements"). The Trade Agreements do not appear to contain an exception that would permit the actions in Recommendations 1 and 2 of this Report. In the opinion of the Public Service, though minimal, there is a risk a complaint could be brought against the City pursuant to the Trade Agreements should EPC approve these Recommendations.

The Contract Administrator is satisfied that the recommended Contractor has the necessary experience and resources to perform the work of the contract satisfactorily and has satisfactorily performed the work since the beginning of the contract in accordance with the requirements of the Contract.

FINANCIAL IMPACT

Financial Impact Statement

Date: November 23, 2023

Project Name:

First Year of Program 2024

APPROVAL OF SINGLE SOURCE NEGOTIATION AND AWARD OF CONTRACT FOR THE SUPPLY AND DELIVERY OF FUELS, BID OPPORTUNITY No. 634-2014

	2024	2025	2026	2027	2028
Capital					
Capital Expenditures Required					
Less: Existing Budgeted Costs					
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	$ 4,012,500				
Less: Incremental Revenue/Recovery					
Net Cost/(Benefit)	$ 4,012,500	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	4,012,500				
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments:

1. Direct costs above represents the contract value of $3.75M plus 7% PST for the supply and delivery of fuels for the three-month period January 1, 2024 to March 31, 2024.
2. Funding for this Contract is through the budgets of the various user departments. The goods are purchased and used by various City departments during the term of the Contract on "as required" basis. The financial impact will have to be determined by the user departments on an individual basis. The Contract does not commit the City to purchase any fixed quantity.
3. As there are no more extensions available in the original contract (Bid Opportunity 613-2014), this report seeks authority to engage in contract negotiations to extend the current engagement through a single source extension for the period from January 1, 2024 to March 31, 2024, or until the City has the approval to participate on the new fuel contract through the cooperative purchase agreement with the Province of Manitoba, but not later than March 31, 2024.

Randy Bernard

Randy Bernard, CPA, CMA
Manager of Finance & Administration (Campus)
Corporate Finance Department

CONSULTATION

This Report has been prepared in consultation with:

N/A

OURWINNIPEG POLICY ALIGNMENT

N/A

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

N/A

SUBMITTED BY

Department: Corporate Finance
Division: Materials Management
Prepared by: E. Oseghale
File No. 634-2014
Date: November 23, 2023