Minutes – Executive Policy Committee – December 5, 2023

REPORTS

Item No. 6 Single Source Negotiation and Award of Contract for Professional Consulting Services for South Winnipeg Recreation Campus – Pembina Trails Collegiate New Vocational Wing

EXECUTIVE POLICY COMMITTEE DECISION:

The Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and approved the following:

1. That a Single Source Negotiation and Award of Contract for Professional Consulting Services for the South Winnipeg Recreation Campus – Pembina Trails Collegiate New Vocational Wing be approved.

2. That authority be delegated to the Director of Assets and Project Management to award a contract to LM Architectural Group-Environmental Space Planning upon receipt of an acceptable proposal for "Professional Consulting Services for the South Winnipeg Recreation Campus – Pembina Trails Collegiate New Vocational Wing" for a total contract amount not to exceed $490,000.00 plus GST.

3. 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 Lukes,

That the recommendation of the Winnipeg Public Service be concurred in.

Carried

ADMINISTRATIVE REPORT

Title: Single Source Negotiation and Award of Contract for Professional Consulting Services for South Winnipeg Recreation Campus – Pembina Trails Collegiate New Vocational Wing

Critical Path: Executive Policy Committee

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Erickson	G. Patton	C. Kloepfer	M. Jack

EXECUTIVE SUMMARY

On July 23, 2020, Council amended the previously-approved South Winnipeg Recreation Campus (SWRC): Phase One – Recreation Centre project to include a daycare and vocational building. The Public Service is seeking approval of a Single Source Negotiation and Award of Contract for Professional Consulting Services required for tender preparation and contract administration for the new Vocational Wing of Pembina Trails Collegiate, which is part of the SWRC Project.

Funds for this expense will be recovered from the Province of Manitoba as part of the ICIP Agreement.

The Province of Manitoba commissioned the design of this project prior to the Vocational Wing being added as part of the SWRC (under the Investing in Canada Infrastructure Program ["ICIP"] Agreement). LM Architectural Group-Environmental Space Planning ("LM") designed the Vocational Wing and also retains intellectual property and engineer of record interests as the designer.

The Public Service is recommending a single-source contract be awarded to LM to continue their ongoing services in the project. It is the opinion of the Public Service that LM has the required experience and resources to perform the work and that awarding the contract to LM will mitigate potential impacts to project scope, cost and schedule delay.

The Recommendation included in this report complies with the City's Materials Management Policy, but may not be compliant with the requirements of the various trade agreements. Further detail is provided in the History section.

RECOMMENDATIONS

1. That a Single Source Negotiations and Award of Contract for Professional Consulting Services for the South Winnipeg Recreation Campus – Pembina Trails Collegiate New Vocational Wing be approved.

2. That authority be delegated to the Director of Assets and Project Management to award a contract to LM Architectural Group-Environmental Space Planning upon receipt of an acceptable proposal for "Professional Consulting Services for the South Winnipeg Recreation Campus – Pembina Trails Collegiate New Vocational Wing" for a total contract amount not to exceed $490,000.00 plus GST.

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

Effective January 1, 2020, approval of Executive Policy Committee is required for any single source negotiation for consultant services where the estimated value of the consultant services relating to capital projects included in the capital budget exceeds $75,000 in total, including all phases of any given project.

As the total value of the procurement exceeds the applicable threshold of the *New West Partnership Trade Agreement* ("**NWPTA**"), the *Canadian Free Trade Agreement* ("**CFTA**"), and the *Comprehensive Economic and Trade Agreement* ("**CETA**") and associated *Canada-UK Continuity Agreement* (collectively the "Trade Agreements"), and the Trade Agreements do not contain a provision that would permit this single source, approval by the Executive Policy Committee ("EPC") is required pursuant to B8.1.1 of the Materials Management Policy.

IMPLICATIONS OF THE RECOMMENDATIONS

There is funding for this contract provided by a Capital Account. There is also sufficient funding available for the project to proceed with the award. Funds for this expense will be recovered from the Province of Manitoba as part of the ICIP Agreement.

Single Source Negotiations and Award of Contracts are permitted pursuant to B4.1(f) of the Materials Management Policy, but may not be compliant with the requirements of the various trade agreements. The risk that a complaint, if brought against the City pursuant to the Trade Agreements, would be successful, is relatively low should Council approve this Recommendation.

HISTORY/DISCUSSION

The South Winnipeg Recreation Campus (SWRC) is a new regional recreation facility that will be built on Bison Drive west of Frontier Trail and east of Kenaston Boulevard.

Communities in southwest Winnipeg are growing and a new recreation facility is needed to meet their needs. The facility is intended to serve a catchment area of 4 - 6 km that will be home to more than 120,000 residents.

The City previously acquired 19 acres in Waverley West for the purpose of developing the SWRC. The vision for the site includes the development of a phased multi-use generational recreation facility with regional leisure pool lap tank, multiple gymnasiums and multi-purpose rooms, fitness space, a community library, a community spray pad, adjacent park space and athletic fields, and potential future twin arena. The site is also to include a future new firehall to service this growing community.

The project has a Council-approved budget of $89.039 million (inclusive of the Recreation Centre, Vocational and Daycare Facility).

On July 23, 2020, Council amended the previously approved South Winnipeg Recreation Campus: Phase One – Recreation Centre project to include a daycare and vocational building. Council also approved submitting the amended $89.039 million project for federal and provincial funding consideration through ICIP.

On August 12, 2021, the South Winnipeg Recreation Campus: Phase One – Recreation Centre was approved for federal and provincial funding under the Investing in Canada Infrastructure Program – Community, Culture and Recreation Infrastructure Stream.

On February 15, 2023, the City of Winnipeg received the first-issue draft of the South Winnipeg Recreation Campus Funding Contribution Agreement from the Province of Manitoba.

An approved SWRC ICIP Contribution Agreement (Manitoba/Winnipeg) is currently being concluded.

Current Status:

The Pembina Trails Collegiate is substantially complete and students began attending classes in September 2023.

As per ICIP requirements, a high school vocational wing and child care facility will be constructed by the City but will subsequently be transferred to Pembina Trails School Division as future owner/operator of the entities. The targeted opening date of the new Vocational Wing is presently established as September, 2025.

Rationale for Single Source Negotiations and Award of Contract

LM Architectural Group-Environmental Space Planning (LM) was originally contracted by the Province of Manitoba as the designer and engineer of record for the Pembina Trails Collegiate, which included the vocational wing. The vocational wing was ultimately omitted from the contract to build the school. Utilizing the existing work plans, designs, drawings, and specifications (the “Existing Design”) will meet the ICIP project requirements and is advantageous in terms of monetary cost and development time. Re-engaging LM to continue their professional services to procure the vocational wing preserves the intellectual property rights held by LM and its subconsultants in the Existing Design.

Pursuant to The Architects Act and the Engineering and Geoscientific Professions Act of Manitoba, the Architect and/or Engineer of Record bears lawful responsibility to verify that all technical aspects of design and construction executed per their requirements under professional seal are satisfactorily achieved. If the City opted not to utilize LM for subsequent contract administration services, LM may elect to provide the City with a letter relinquishing all responsibility for their said work. In that instance, the City would be required to procure another professional to assume responsibility for the drawings and specifications. Additional time and monetary cost would likely impact the project as any new professional would have to evaluate the risks associated with assuming responsibility for the Existing Design. A new professional may also elect to redesign certain attributes of the Existing Design which could result in a marked change/departure from the original intent of design and increase time requirements and monetary costs.

The Public Service is of the opinion that this alternative for procuring professional consulting services introduces significant project risk including scope impact, cost escalation, and schedule delay, and as such, it is neither advisable nor recommended for procuring the necessary services.

In the interest of mitigating potential impacts to project scope, cost, and schedule, the Public Service recommends that Single Source Negotiations and Award of Contract to LM Architectural Group-Environmental Space Planning for Professional Consulting Services for South Winnipeg Recreation Campus – Pembina Trails Collegiate New Vocational Wing be approved.

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”) and associated *Canada-UK Continuity Agreement* (collectively, the “Trade Agreements”). There are numerous exceptions within the Trade Agreements that come close to describing the context of this procurement, however none squarely apply. Article 19.12(1)(b) and 19.12(1)(c) of CETA come closest, as they offer exceptions in cases where single sourcing is required to protect copyrights and where changing a supplier after an initial delivery would create interoperability issues and duplication of costs (respectively). However, as the City is not technically required to work from the Existing Design (which is the source of the copyright claim), and as the initial procurement of the Existing Design was ordered by a third party, neither apply exactly as written. However, in light of the circumstances in this case, in the opinion of the Public Service that the risk that a complaint, if brought against the City pursuant to the Trade Agreements would be successful, is relatively low should Council approve this Recommendation.

It is the opinion of the Assets and Project Management Department that LM has the required experience and resources to perform the work. If approved, the Department will negotiate a fixed fee price and the terms of an agreement with LM such that the value of the contract will be beneficial to all parties involved. If approved, award will be paid by Purchase Order. There are sufficient funds to render the service. Funds for this expense will be recovered from the Province of Manitoba as part of the ICIP Agreement.

FINANCIAL IMPACT

Financial Impact Statement

Date: October 30, 2023

Project Name:

First Year of Program **2023**

Single Source Negotiation and Award of Contract for Professional Consulting Services for South Winnipeg Recreation Campus – Pembina Trails Collegiate New Vocational Wing

	2023	2024	2025	2026	2027
Capital					
Capital Expenditures Required	$ 502,303	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	502,303	-	-	-	-
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	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	12,303	-	-	-	-
Net Cost/(Benefit)	$ (12,303)	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	(12,303)	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Capital expenditures consist of the $490,000 consultant assignment + short-term financing charges of $2,503 and Municipal Accommodations project management/admin overhead of $9,800. The latter two amounts are offset by equal recoveries in the current budget of the Corporate Finance Department and Municipal Accommodations Division respectively. The short-term financing charges have been prorated for the City-funded portion ($21.56M) of the total $84.4M budget.

Mike McGinn Oct. 30, 2023

Mike McGinn, CPA, CA
Manager of Finance

CONSULTATION

This Report has been prepared in consultation with:

Community Services Department
Legal Services Department

OURWINNIPEG POLICY ALIGNMENT

Goal: Environmental Resilience
Objective: Promote low-carbon, energy efficient buildings through low-energy building design, construction and retrofitting.
Policy 2.12: Eliminate Fossil Fuel Dependence
Reduce greenhouse gas emissions from existing and new buildings, including municipally-owned buildings and facilities, and associated infrastructure, through the promotion of renewable energy sources; energy efficiency use and performance measures; and low-carbon construction, retrofit and demolition methods that maximize the lifecycle of buildings.

Goal: Economic Prosperity
Objective: Make strategic use of community and regional assets to optimize local economic competitiveness.
Policy 3.16: Optimize Facility Access
Maximize the use of existing municipal assets to promote recreation, community development, and social interaction, while optimizing equitable access, infrastructure reinvestments, service delivery methods and resource management.

Goal: Good Health and Well-Being
Objective: Support positive health outcomes through the built and natural environments.
Policy 4.11: Equitable Service Access
Prioritize equitable access to recreation and parks systems, services, and infrastructure, in order to: enable active living; connect people and nature; create supportive environments; build community capacity; and achieve desired health outcomes, with a focus on children and youth.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

5.2 Improve Energy Performance of New Buildings

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

The development of the South Winnipeg Recreation Campus aligns with the following Goals and Objectives of the Winnipeg Poverty Reduction Strategy (2021 – 2031), including:

Goal 1: Equity and a Culture of Caring are Demonstrated through Strategy Implementation and Systems Change

Related 10-year Objectives:
C.Equity and a Culture of Caring are factored into all service planning and budget decisions, resulting in City-wide systems change.

Goal 6: All City Services are Equitable, Inclusive and Accessible:
Related 10-year Objectives:

Residents have equitable access to City services, in particular demographic groups who experience marginalization.

SUBMITTED BY

Department: Assets and Project Management
Division: Municipal Accommodations
Prepared by: Jerry Comeau, Project Coordinator
Date: October 30, 2023
File No: MA2023-156