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ADMINISTRATIVE REPORT

Report Date: April 10, 2013
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Meeting Date: April 23, 2013

TO: Vancouver City Council

FROM: General Manager of Engineering, Director of Finance and Chief Purchasing Official

SUBJECT: Contract Award for the Design-Build for the Powell Street Overpass

RECOMMENDATION

THAT this report be received for information.

REPORT SUMMARY

This report is provided to Council for information in regard to the awarding of a \$22,982,287.51 Design-Build contract for the Powell Street Overpass project, a partnership between Port Metro Vancouver, Transport Canada, CPR, and others. Due to the tight funding deadlines under the \$18.5M Transport Canada Funding Agreement, it was necessary to expedite execution of the contract as soon as all agreements between the city and the other project partners had been executed. Permission to execute was provided by Council authorization in camera on March 14 2013, along with a commitment by staff to report publically to Council at the first meeting following execution.

Since March 14 2013, staff were able to successfully conclude negotiations with the Port and CPR (for funding), Burlington Northern Inc. ("BN") (for access rights) and then proceeded to issue the Notice of Award to the DB Contractor.

Thus, the purpose of this report is to report back to Council on the successful completion of these agreements with the Port, CPR, BN, and BA Blacktop and to confirm that this Project is now fully authorized, funded and proceeding.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

The Powell Street Overpass Project has been informed and developed following a number of Council directives over the past twelve years, including:

- In March, 2001, Council approved, in principle, the *False Creek Flats Structure Plan* and called for Transportation and Rail studies for the Flats to be undertaken.
- In September 2005 Council requested that the Vancouver Port Authority, Gateway Council and Railways begin as soon as possible a more detailed rail operation and network study of the False Creek Flats and Waterfront rail support yards and that planning for False Creek Flats should take into account the range of possible future rail "footprints".
- In January 2007 Council:
 - authorized the City to enter into a contribution agreement with Transport Canada for completion of the False Creek Flats Rail Corridor Strategy;
 - provided its support to explore funding opportunities through the Asia Pacific Gateway and Corridor initiative and with other project partners;
 - requested that staff report back on any allocation of funds for the City's share of any grade separation projects.
- On February 17, 2009, Council provided its support in principle to proceed with the Powell Street Grade Separation project, subject to a successful funding agreement with Transport Canada and other agencies.
- On July 21, 2009, RTS 8242, Council approved, in principle, the Powell street grade separation project for a total estimated cost of \$50,000,000, with a net city contribution of up to \$7.5M, subject to funding approval through the City's Capital planning process leading up to the 2012-2014 Capital Plan.
- In September 2011, the City of Vancouver launched the Vancouver Economic Action Strategy, providing a strategy and work plan to focus on:
 - A healthy climate for growth and prosperity
 - Support for local business, new investment and global trade
 - A focus on people - attracting and retaining human capital
- On April 10, 2012, the City entered into a funding agreement with Transport Canada for \$18,500,000 of the required funding for this Project.
- On July 25, 2012 Council approved the the Powell Street Overpass design and construction concept and proceeding with negotiations with CPR and the Port for the final funding project delivery agreements.
- On March 14, Council gave the City Manager and senior staff the authority to conclude all required agreements during the spring break recess of Council.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

Under the City of Vancouver Procurement Policy, the award of all contracts over \$2M is accomplished through a report to a public meeting of City Council. This project is complex with multiple partners, multiple legal agreements, and very tight timelines. An exception in process was authorized by Council and following final execution of funding and access agreements with the partners, the DB contract with BA Blacktop for the Powell Street Overpass was executed by senior staff and this report is now brought forward for information.

REPORT

Background/Context

In July 2009, RTS# 8242 Council approved in principle the Powell Street Overpass project and funding for the budget has been approved by Council.

Request for Proposal (RFP) No. PS20120210, for the Design-Build Powell Street Overpass Project was issued on October 10, 2012 and was sent to three (3) pre-qualified respondents that were short-listed following the Request for Expressions of Interest (RFEOI) No. PS20120632 Pre-Qualifications for the Powell Street Overpass Design-Build Project.

Following the closing date of December 19, 2012, City Staff coordinated a three stage evaluation process that included: proposal completeness, technical compliance, and financial compliance.

A Due Diligence Committee consisting of City, Port and CPR Staff, and the City's Engineering Consultant, Collings Johnston Inc., provided oversight of the technical and financial proposal evaluations.

The evaluations for proposal completeness and technical compliance were completed first. Only those proposals that passed both the completeness and technical evaluations were eligible to have their financial proposals evaluated. All three proposals were deemed eligible.

Financial proposals were opened by City staff on January 22, 2013 in the presence of the proponents and local funding partners.

An independent fairness monitor, the law firm of Borden Ladner Gervais LLP, was retained to review the Request for Proposal process and the evaluation procedure and to monitor all steps of the evaluation, including attending bi-weekly meetings with the evaluation team and reviewing requests for clarifications and communicating with City staff lawyers. Following due-diligence sign-off of the financial evaluation the fairness monitor submitted a report that stated the RFP process had been conducted in a fair manner, having regard to applicable law.

BA Blacktop is a well-recognized firm for construction of municipal infrastructure projects and has completed similar overpass structures in the Metro Vancouver region as well as having solid experience with the design-build process.

The format of this fixed price DB Contract was developed to minimize risk. The DB contractor has responsibility for maintaining schedule, gaining railway, City and third party utility approvals, and completing the design to achieve the specified performance levels.

Strategic Analysis

The project involves a number of funding partners: City of Vancouver, Transport Canada, Port Metro Vancouver and CPR are the primary partners. As noted above, and further to Council's direction on March 14, all necessary access and/or funding agreements are now in place with the primary partners: Transport Canada, CPR, and the Port and with the other minor partners: BN, CNR, and Translink.

Financial

The total gross project budget for the Powell Street Overpass project is \$50,000,000. Transport Canada, Port, CPR, Translink and the City of Vancouver will share in the total cost of the project. The funding share for the project is laid out in Table 1.

Table 1 Project costs (Eligible & Ineligible) from External Funding

| Partner | Total | |
|------------------|-------------|---------------------|
| | % Share | Budget Share |
| Transport Canada | 37% | \$18,500,000* |
| Port | 39% | \$19,500,000 |
| City | 15% | \$7,500,000** |
| CPR | 9% | \$4,500,000* |
| Total: | 100% | \$50,000,000 |

Notes:

* These are maximum, capped contributions.

** The City's budget share for this project is \$7.5 million, of which 50% is eligible for reimbursement from Translink upon completion of the project, for a net budget share of \$3.75 million (plus 28% of any amounts over the \$50M budget).

The value of the Design build contract award to Blacktop totals \$22,982,287.51.

Environmental

Based on preliminary site investigations completed to date, the DB Contractor will encounter limited contaminated soils and ground water in completing the works. The DB contractor is obligated to test for and remediate any contaminated soils and groundwater to applicable environmental standards. The City has also retained an independent environmental consultant to monitor and oversee the work of the DB contractor to ensure all necessary work is conducted in accordance with standard environmental procedures and with the approval of the City's Environmental Manager.

Legal

The DB Contract has been designed to address risk and allocate it in an economically rational manner. The DB Contract in turn has been approved by CPR and the Port so as to allocate risk amongst the City, CPR and the Port in the manner noted above and to be set out in detail in the legally binding funding agreements.

Other

The City initiated stakeholder engagement with local, directly-affected, businesses and residents in the vicinity of the project, during the Project Definition Phase, from March to June 2012. A public open house was held in May 2012. Despite significant public notification, attendance was relatively low at the open house. Key stakeholder groups such as the Downtown Vancouver Business Improvement Association, Board of Trade, and BC Trucking have been notified of the project and to date have not expressed any concerns.

The City has retained the services of a communications consultant to work closely with corporate communications to implement the communications strategy/program to inform businesses and the public about the benefits of the Powell Street overpass, the short-term and long term effects of the project and to facilitate a seamless transition through all project stages - from pre-construction, to construction, and completion. This strategy has been approved by corporate communications and project funding partners.

A key aspect of this project is traffic management and communications to deal with a full closure of a portion of this important commuter and transit route between Clarke and Hawks from mid-April 2013 to June 2014. Mitigation measures to be implemented before and during the closure include a number of improvements to intersections surrounding the closure, an extensive monitoring program for alternate arterials and potentially affected local streets, and a comprehensive communications strategy to notify the travelling public.

CONCLUSION

In summary, this report is provided to Council as an update on the finalization of the funding and access agreements and the awarding of the Design Build Contract to BA Blacktop.

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