

Executive Committee – Item 8.8

Considered by City Council on May 23, 24 and 25, 2007

EX8.8	AMENDED		Policy	Ward: All
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Coordinated Street Furniture Program - Results of Request for Proposals (RFP) 9103-06-7316

Confidential Attachment- The security of the property of the City and receipt of advice which is subject to solicitor-client privilege.

City Council Decision

City Council on May 23, 24 and 25, 2007, adopted the following motions:

1. City Council accept the proposal by Astral Media Outdoor LP as having achieved the highest evaluated score, to provide a coordinated street furniture program for the City of Toronto as described in the City's RFP 9103-06-7316.
2. The appropriate City officials be authorized to enter into negotiations as contemplated in the RFP with the recommended Vendor, finalize contract provisions and finalize an Agreement with the recommended Vendor incorporating terms and conditions substantially as set out in Attachment 3 of this report, any additional confidential direction provided by City Council in consideration of the matters contained in Confidential Attachment 4, and such other terms and conditions as may be satisfactory to the Deputy City Manager and City Solicitor.
3. The Director of Urban Design, in consultation with City officials, the Design Jury and Technical review team, negotiate with the recommended Vendor any appropriate design refinements to the preferred proposal, including limitations on the size and prominence of company branding by the recommended vendor, audio capacity, and frequency of scrolling advertising on street furniture elements.
4. The Deputy City Manager, in consultation with the appropriate City officials, be authorized and directed to establish a Public Realm organizational unit that shall have strategic responsibility and accountability for planning, design oversight, implementing and managing sidewalk spaces to achieve a beautiful, functional and safe pedestrian realm; more particularly this unit would comprise the functional elements of street furniture management and administration, pedestrian space policy, planning and coordination, leveraging City investment with public and private sectors through neighbourhood beautification projects and project management/coordination for capital streetscape works.

5. The Deputy City Manager and Chief Financial Officer, in conjunction with the Deputy City Manager responsible for Transportation Services, report back to the Budget Committee as soon as the agreement between the City and the recommended Vendor is finalized, on the financial implication arising from the final terms of the agreement, including the maintenance of existing revenues for affected City programs, the establishment of the Public Realm Unit and the disposition of any net revenues.
6. City Council direct that the confidential information in Attachments 4 and 5 not be released publicly as it contains advice which is subject to solicitor-client privilege and confidential instructions to staff.
7. City Council confirm that approval of advertising on street furniture as permitted under the Agreement shall constitute a deemed variance as necessary and such advertising shall, as with the City's previous agreements, not be subject to the requirement for any further approvals under the City's sign by-laws.
8. City Council direct that the confidential information in Confidential Attachment 4 to the supplementary report (May 18, 2007) from the City Manager and Deputy City Manager, not be released publicly as it contains advice which is subject to solicitor-client privilege.
9. City Council request staff, as part of the negotiation of a final agreement with the recommended vendor, to address the following on terms and conditions satisfactory to the Deputy City Manager and the City Solicitor, and subject to the advice in Confidential Attachment 4:
 - a. the suggestions for improvements to the environmental benefits of the proposal as set out in the Environmental Impact Statement (Attachment 3);
 - b. the feasibility of implementing a design modification to litter/recycling receptacles that can be deployed on older, narrower streets in Toronto; and
 - c. the exclusion of island transit shelters on the St. Clair Avenue West streetcar project from the agreement, on the understanding that advertising will not be provided on such shelters pursuant to commitments made during the Environmental Assessment process for the St. Clair project.
10. City Council recognize and endorse the ongoing actions of Toronto Buildings and Municipal Licensing and Standards staff in continuing to investigate complaints and enforce the City's sign by-laws against all relevant parties.
11. City Council direct appropriate staff to give notice to terminate the agreement with the operator of the transit shelter outside the entrance of 1200 Bay Street, in co-ordination with the rollout of the Street Furniture Program.

12. City Council confirm that, pursuant to the provisions of the RFP, the General Manager, Transportation Services will approve the locations of street furniture installations, and direct the appropriate staff to:
 - a. develop detailed procedures to be included in a Street Furniture Operations Manual, generally along the lines set out in this report, including providing Ward Councillors at least annually with maps of all street furniture installed in their wards, seeking input from Ward Councillors and BIAs on requested new locations prior to each year's installation program and providing prior notice to Ward Councillors of the yearly installation plan for their Ward; and
 - b. negotiate a term in the final agreement that in the event an impasse arises with a Ward Councillor disagreeing with the General Manager's determination on a specific street furniture element, such matter be referred to Community Council for a decision as appropriate.
13. City Council endorse the principle that no street furniture element or other item installed by a public agency or utility be placed if it has graffiti on it, and refer the remaining motions related to graffiti to the Deputy City Manager, Cluster B and the inter-agency Graffiti Team for consideration and inclusion in the Action Plan.
14. City Council request the Deputy City Manager and Chief Financial Officer, and Deputy City Manager, Cluster B to consider, when reporting to the Budget Committee on the financial implications of the final agreement (Recommendation 5 above), the motions concerning dedicating revenues to areas in which they are generated and allocating a portion of revenues for graffiti eradication programs and to include a provision that the City set aside a portion of the revenues secured from Astral Media in payment for this contract specifically for additional enforcement of the sign by-laws.
15. The City adopt a holistic approach to the urban design environment and, in that regard, the Public Realm Organizational Unit and Municipal Licensing and Standards, be responsible for making recommendations to the appropriate city committee(s) about city action required to enhance both the public and adjacent private realm.
16. City Council adopt the following principles outlined in communication (January 2, 2007) from Councillor Palacio:
 - a. no salt box, bench, garbage can or other piece of street furniture should be allowed out of a Toronto Works Yard to be placed on City street if it has graffiti on it;
 - b. no piece of street furniture or public works property may be moved or maintained without the graffiti being removed; and

- c. any additional privately owned street furniture, utility boxes or equipment, which are subject to City of Toronto Transportation's authorization to be placed on City owned right-of-way, should be subject to the same strict "no graffiti when installed" policy. This should include phone booths, A-frame signs, post-office boxes and newspaper boxes.
17. The Public Realm Organizational Unit be requested to report back to the Executive Committee, in concert with staff from Municipal Licensing and Standards, setting standards for poster and graffiti removal from the public realm based on the following principles:
 - a. each City division or agency, board and commission (ABC) that has equipment on the street shall be responsible for removing graffiti and posters from their equipment and facilities within time frames established by the Public Realm Organizational Unit. For example:

Toronto Transit Commission - bus poles
Toronto Parking Authority - pay and display machines
Toronto Hydro - hydro poles (etc.);
 - b. a funding allocation approved by the Budget Committee shall be provided from revenues generated by the contract for each City division or ABC, as required;
 - c. each City division and ABC shall budget an appropriate amount for graffiti and poster removal; and
 - d. City divisions and ABCs will seek assistance from Municipal Licensing and Standards with enforcement activities.
18. The Executive Director, Municipal Licensing and Standards, in consultation with staff from the inter-agency graffiti team, report to the Public Works and Infrastructure Committee, on:
 - a. a process to ensure that all street furniture, utility facilities, or hardware located within the City's public right-of-way, be kept free of graffiti and posters, regardless of ownership; and
 - b. the feasibility of requiring graffiti covered street furniture to be removed, at the expense of the owner, after having provided the owner with sufficient notice and upon them failing to act on such request.
19. The Deputy City Manager and Chief Financial Officer, in conjunction with the Deputy City Manager responsible for Transportation Services, report to Council, through the Executive Committee, on the implementation of the street furniture program on a six-month basis after a contract has been signed.

City Council also issued confidential instructions to staff which are to remain confidential in their entirety, in accordance with the provisions of the City of Toronto Act, 2006, as they contain confidential information that is subject to solicitor-client privilege.

Confidential Attachments 4 and 5 to the report (April 17, 2007) from the Deputy City Manager and the Director, Purchasing and Materials Management, remain confidential in their entirety, in accordance with the provisions of the City of Toronto Act, 2006, as they contain information related to the security of the property of the City and the receipt of advice which is subject to solicitor-client privilege.

(April 17, 2007) report from the Deputy City Manager and the Director, Purchasing and Materials Management

Committee Recommendations

The Executive Committee recommends that:

1. City Council accept the proposal by Astral Media Outdoor LP as having achieved the highest evaluated score, to provide a coordinated street furniture program for the City of Toronto as described in the City's RFP 9103-06-7316;
2. the appropriate City officials be authorized to enter into negotiations as contemplated in the RFP with the recommended Vendor, finalize contract provisions and finalize an Agreement with the recommended Vendor incorporating terms and conditions substantially as set out in Attachment 3 of this report, any additional confidential direction provided by City Council in consideration of the matters contained in Confidential Attachment 4, and such other terms and conditions as may be satisfactory to the Deputy City Manager and City Solicitor;
3. the Director of Urban Design, in consultation with City officials, the Design Jury and Technical review team, negotiate with the recommended Vendor any appropriate design refinements to the preferred proposal;
4. the Deputy City Manager, in consultation with the appropriate City officials, be authorized and directed to establish a Public Realm organizational unit that shall have strategic responsibility and accountability for planning, design oversight, implementing and managing sidewalk spaces to achieve a beautiful, functional and safe pedestrian realm; more particularly this unit would comprise the functional elements of street furniture management and administration, pedestrian space policy, planning and coordination, leveraging City investment with public and private sectors through neighbourhood beautification projects and project management/coordination for capital streetscape works;

5. the Deputy City Manager and Chief Financial Officer, in conjunction with the Deputy City Manager responsible for Transportation Services, report back to the Budget Committee as soon as the agreement between the City and the recommended Vendor is finalized, on the financial implication arising from the final terms of the agreement, including the maintenance of existing revenues for affected City programs, the establishment of the Public Realm Unit and the disposition of any net revenues;
6. City Council direct that the confidential information in Attachments 4 and 5 not be released publicly as it contains advice which is subject to solicitor-client privilege and confidential instructions to staff; and
7. City Council confirm that approval of advertising on street furniture as permitted under the Agreement shall constitute a deemed variance as necessary and such advertising shall, as with the City's previous agreements, not be subject to the requirement for any further approvals under the City's sign by-laws.

Financial Impact

Entering into an Agreement with the recommended Vendor based on the Vendor's proposal will result in receipt by the City of guaranteed revenue of \$428.8 million (\$ current year/\$252.2 million net present value NPV) over the 20 year term of the Agreement, including an initial payment of \$36.5 million on execution of the Agreement. This initial payment comprises a lump sum amount of \$28.0 million and prepayment of the first three years guaranteed amounts. Annual payments will be made to the City based on a formula of: the greater of the minimum annual guaranteed amount or percentage of gross revenue.

The successful Vendor shall, at no cost to the City, provide the City with a capital investment in street furniture of approximately \$202.4 million (\$ current year/\$167.1 NPV) and at no cost to the City, provide ongoing maintenance estimated at \$294.3 million (\$ current year/\$168.4 million NPV) over the term. These two amounts represent expenditures which the City will avoid as a result of the Agreement.

The successful Vendor is also required to contribute \$100,000 toward the "Design Links" study as previously endorsed by Council, and \$285,000 to cover the costs of the City's RFP process. These amounts are payable upon execution of the Agreement.

The successful Vendor is required, prior to execution of the Agreement, to provide the City with an irrevocable letter of credit in the amount of \$16 million applicable in full for the first 10 years of the Agreement and reducing incrementally thereafter, to secure the performance of the Vendor under the Agreement. The successful Vendor shall also provide an indemnity from its parent company Astral Media Inc., guaranteeing performance of the successful Vendor's obligations under the eventual agreement.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

Summary

This report provides information and recommendations on the results of the Coordinated Street Furniture Program Request for Proposals No. 9103-06-7316. Staff are seeking City Council's authority to enter into negotiations with the Vendor best satisfying the requirements of the RFP, Astral Media Outdoor LP, to finalize contract provisions, incorporate technical and design refinements to the recommended family of street furniture; and enter an Agreement with the recommended Vendor.

In order to achieve the widespread benefits of beautiful, functional and safe pedestrian spaces envisioned by "Vibrant Streets", including adequately managing the street furniture program, it will be essential to establish a dedicated organizational unit that would have strategic responsibility and accountability for planning, design oversight, implementing and managing the pedestrian realm. This can be achieved through the use of a portion of the revenues generated by the street furniture program at no new net cost to the City's budget. In addition, substantial investment in streetscape and public realm improvements can and should be funded by revenue derived from this program.

Background Information

Coordinated Street Furniture Program

(<http://www.toronto.ca/legdocs/mmis/2007/ex/bgrd/backgroundfile-3206.pdf>)

Attachment 1 - Coordinated Street Furniture Program Overview

(<http://www.toronto.ca/legdocs/mmis/2007/ex/bgrd/backgroundfile-2962.pdf>)

Attachment 2 Report of the Fairness Commissioner

(<http://www.toronto.ca/legdocs/mmis/2007/ex/bgrd/backgroundfile-2963.pdf>)

Attachment 3 Summary of Draft Agreement Provisions

(<http://www.toronto.ca/legdocs/mmis/2007/ex/bgrd/backgroundfile-2964.pdf>)

Communications

(January 2, 2007) letter from Councillor Cesar Palacio

(<http://www.toronto.ca/legdocs/mmis/2007/ex/comm/communicationfile-1148.pdf>)

(April 26, 2007) e-mail from Ms. Doreen (Betty) Craddock

(April 26, 2007) e-mail from Ms. Joanne Fisher, Resident of Ward

(April 27, 2007) e-mail from Ms. Kate Chung

(April 27, 2007) e-mail from Ms. Valerie Schatzker

(<http://www.toronto.ca/legdocs/mmis/2007/ex/comm/communicationfile-1263.pdf>)

(April 29, 2007) e-mail from Ms. Sara Lipson

(April 29, 2007) e-mail from Mr. Hamish Wilson

(April 30, 2007) e-mail from Ms. Doreen (Betty) Craddock

(April 30, 2007) e-mail from Ms. Kate Chung

(April 30, 2007) e-mail from Narina Nagra, Safety Director, METRAC

Council also considered the following:

- Report (May 18, 2007) from the City Manager and the Deputy City Manager. ([EX8.8a](#))

Confidential Attachment 4 to the report (May 18, 2007) from the City Manager and the Deputy City Manager, remains confidential in its entirety, in accordance with the provisions of the City of Toronto Act, 2006, as it contains information that is subject to solicitor-client privilege.

- Communication (May 17, 2007) from Jane Dowsett and William Dowsett. (EX8.8.11)

Speakers

Mr. Joe Clark

Mr. Jonathan Goldsbie, Toronto Public Space Committee

Mr. Rami Tabetlo, Coordinator, IllegalSigns.ca

Mr. Miro Wagner

Mr. David Henderson

Mr. Matthew Blackett, Publisher, Space Magazine

Mr. Liam O'Doherty

Mr. John Jory, President, Clear Channel Outdoor Canada

Mr. Paul Seaman, Vice-President, Public Affairs, Clear Channel Outdoor Canada

Mr. Daniel Quinn

Mr. Jan Suurmond

Mr. Franz Hartmann, Toronto Environmental Alliance

Mr. Dave Meslin

Mr. John Kiru, Toronto Association of Business Improvement Areas

Councillor Janet Davis, Ward 31, Beaches-East York

Councillor Gord Perks, Ward 14, Parkdale-High Park

Councillor Adam Vaughan, Ward 20, Trinity-Spadina

Decision Advice and Other Information

The Executive Committee referred the following motions to the City Manager for consideration and report directly to Council for its meeting scheduled to be held on May 23, 2007, along with appropriate recommendations:

Moved by Councillor Fletcher:

“That the Executive Committee request the City manager to report on ensuring the City’s principles of equity and diversity in the advertising on bus shelters and pillars in the right-of-way; and

That the City Manager be requested to report directly to Council on the mandate and the reporting relationship of the proposed Public Realm Department or Business Unit.

Moved by Councillor McConnell:

“That the Executive Committee:

- I. request the City Manager to report to Council for its meeting scheduled to be held on May 23, 2007, on:
 - a. the process for approval of street furniture locations;
 - b. the distribution of revenue, and whether investments in public realm resulting from this revenue will be correlated to the wards in which they are located;
 - c. the mechanisms and protocols in place to protect BIAs, historical districts and tourism areas from the proliferation of public realm signage;
 - d. the complete timeline of the roll out of installation of street furniture; and
- II. recommends that current and proposed locations for all types of street furniture, along with their advertising content, be plotted on a ward map and circulated to Councillors annually.

Moved by Councillor Mihevc:

“That the Executive Committee request that:

1. City staff define in a report directly to Council, how local BIAs will be able to access their one advertising panel, and decide on the appropriate location(s);
2. City staff work with the recommended proponent to identify as soon as possible, after the Agreement is signed, a preliminary list of locations for each piece of street furniture, particularly the large elements, transit shelters, washrooms and info pillars, in each ward to be installed for the first few years of the Agreement. Further, ensure Councillors have input into the rollout, including identifying priority locations for specific pieces of furniture;
3. staff be directed to request the recommended proponent to provide a clarification to staff before the meeting of Council of the meaning of “scrolling advertising of fixed images, referred to in the report dated April 17, 2007, from the Deputy City Manager, Director, Purchasing and Materials Management;
4. staff be requested, as part of the final negotiation of the Agreement, to address on terms and conditions satisfactory to the Deputy City Manager and the City Solicitor, the following issues:

- a. if video images are to be included under the Agreement that the addition of appropriate limitations such as split screens, the number of advertisement changes per minute, be included to ensure that such advertising does not affect safety for motorists or have negative impacts for nearby residents and businesses;
- b. that a maximum brightness level for ads be defined;
- c. that the process for approving the placement of shelters and other street furniture under the Agreement, at new locations, include a process for considering and responding to the concerns of the community and the Ward Councillor, including consideration by the Community Council, if appropriate, if agreements are not achieved at a staff or individual Councillor level;
- d. confirmation that the total square footage of advertising space permitted under the Request for Proposals may only be achieved through the use of the 120 pillars and transit shelters with caissons as permitted under the Agreement and specifically not include third party advertising options;
- e. that a clear and accessible complaints protocol be negotiated with the recommended proponent that would allow residents and Councillors easy access to address issues that arise such as cleanliness and broken fixtures, and also that do not meet community standards;
- f. ensuring that the agreement with the local community concerning the passenger islands on St. Clair Avenue West (i.e., that commercial ads space will not be provided in the shelters) will be respected under the Agreement; and
- g. ensure that the final Agreement include a “No censorship” clause related to political/public advocacy and like ads.

Moved by Councillor Mihevc on behalf of Councillor Perks:

“That the Executive Committee request Deputy City Manager Richard Butts to submit a report directly to Council for its meeting scheduled to be held on May 23, 2007, on the green aspects of the recommended proponents and how they might be strengthened as part of the final negotiations with the proponent so that a strategy for achieving 100 per cent renewable energy is pursued.

Moved by Mayor Miller on behalf of Councillor Davis:

“That:

1. Deputy City Manager Richard Butts be requested to submit a report to the Executive Committee for its meeting on June 25, 2007, with an implementation plan and a process that incorporates Councillors’ input in the placement of street furniture in their Ward;
2. the “security eyes” be removed from the information pillar design;
3. the General Manager, Transportation Services, be requested to submit a report to the Public Works and Infrastructure Committee every six months beginning in January 2008 on the implementation of the Street Furniture contract, including revenue, completion rate, installation locations, public complaints, and maintenance issues and any other pertinent information; and
4. in order to achieve an immediate reduction in the clutter and advertising on City streets, existing street furniture elements with advertising, such as benches, be replaced as soon as possible with new street furniture without advertising.

Moved by Mayor Miller on behalf of Councillor Vaughan:

“That staff, in consultation with the proponents, come forward with a garbage can that will fit older or narrow streets in Toronto; and

That a protocol be developed to govern the placement and location of the various street furniture elements that includes consultation with the relevant local councillor.”

Moved by Councillor Moscoe:

“That the Executive Committee recommends:

1. that City Council approve the recommendations in the report (April 17, 2007) from Deputy City Manager Richard Butts and the Director, Purchasing and Materials Management;
2. the City adopt a holistic approach to the urban design environment;
3. in that regard, the Public Realm Organizational Unit with Municipal Licensing and Standards, be responsible for making

recommendations to the appropriate city committee(s) about city action required to enhance both the public and adjacent private realm;

4. adopt the following principles outlined in communication EX8.8(a), from Councillor Palacio:
 - a. no saltbox, bench, garbage can or other piece of street furniture should be allowed out of a Toronto Works Yard to be placed on City street if it has graffiti on it;
 - b. no piece of street furniture or public works property may be moved or maintained without the graffiti being removed; and
 - c. any additional privately owned street furniture, utility boxes or equipment, which are subject to City of Toronto Transportation's authorization to be placed on City owned right-of-way, should be subject to the same strict "no graffiti when installed" policy. This should include phone booths, A-frame signs, post-office boxes and newspaper boxes;

5. the Public Realm Organizational Unit be requested to report back to the Executive Committee in concert with staff from Municipal Licensing and Standards setting standards for poster and graffiti removal from the public realm based on the following principles:
 - i. each city department or ABC that has equipment on the street shall be responsible for removing graffiti and posters from their equipment and facilities within time frames established by the Public Realm Organizational Unit. For example:

TTC	bus poles
Parking Authority	pay and display machines
Toronto Hydro	hydro poles (etc.);
 - ii. a funding allocation approved by the Budget Committee shall be provided from revenues generated by the contract for each department or ABC as required;
 - iii. each division and ABC shall budget an appropriate amount for graffiti and poster removal; and
 - iv. divisions and ABCs will seek assistance from licensing and standards with enforcement activities.

6. That Deputy City Manager Richard Butts be requested to consult with the City's Accessibility Committee to ensure that the new street furniture meets City accessibility standards.
7. That:
 - i. it be a requirement of this agreement, that prior to the finalization of this agreement, the company agree to remove any and all structures that were erected in violation of our current Sign By-laws; and
 - ii. the agreement contain penalty clauses that protect the City from future violations of the City's Sign By-laws; and
8. That prior to finalizing the agreement, Deputy City Manager Richard Butts be requested to provide an environmental impact statement on the proposed contract with a view to, if necessary, amending the contract to ensure that the environmental impact on the City is less than it is at present and that this statement be submitted to the Council meeting to be held on May 23, 2007.

Moved by Councillor Rae:

“That:

1. Astral Media submit a written declaration to the satisfaction of the Chief Building Official in consultation with the Executive Director, Municipal Licensing and Standards and the City Solicitor stating that all of their signs erected across the City of Toronto are in compliance with City By-laws by the time of the execution of the agreement; and
2. in co-ordination with the roll-out of the street furniture program in the City of Toronto, notice should be given to terminate the agreements with the third party operator of the bus shelter and advertising options located outside the entrance of 1200 Bay Street, at the north west corner of Bay and Bloor.

Mr. Andrew Koropeski, Director, Toronto and East York District, Transportation Services; Mr. Robert Freedman, Director, Urban Design, City Planning and Mr. George Kapelis, Ryerson University and Architect, provided a presentation to the Executive Committee regarding the Coordinated Street Furniture Program – Results of Request for Proposals (RFP) 9103-06-7316.

The Executive Committee held a public meeting on April 30, 2007, in accordance with the City of Toronto Act, 2006, and notice of the proposed award of contract for the Design, Construction, Installation and Maintenance of Street Furniture (with Advertising) on the Public Highway was posted on the City's web site for a minimum of 5 days.

