



**STAFF REPORT
ACTION REQUIRED
Confidential Attachments**

**Coordinated Street Furniture Program – Results of
Request for Proposals (RFP) 9103-06-7316**

Date:	April 17, 2007
To:	Executive Committee
From:	Deputy City Manager Director, Purchasing and Materials Management
Wards:	All
Reason for Confidential Information:	The security of the property of the City and receipt of advice which is subject to solicitor-client privilege.
Reference Number:	Ts07070ec.top.doc

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.

RECOMMENDATIONS

The Deputy City Manager and Director of Purchasing and Materials Management recommend 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 Pedestrian 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 Pedestrian 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.

DECISION HISTORY

City Council, at its meetings of June 27, 28 and 29, and July 25, 26 and 27, 2006 considered and approved certain design principles and policy directions leading to the formulation of a Request for Proposals (RFP) for a Coordinated Street Furniture Program (Design and Policy Guidelines and Directions Report, Clause No. 1b of Report No. 3; and Coordinated Street Furniture Program - Various Information Items, Clause No. 6 of Report No. 5; both of the Works Committee, respectively):

<http://www.toronto.ca/legdocs/2006/agendas/committees/wks/wks060503/it001.pdf>
<http://www.toronto.ca/legdocs/2006/agendas/committees/wks/wks060705/it020.pdf>

Council endorsed the design and placement principles and guidelines for the program as set out in the document, "Vibrant Streets: Toronto's Coordinated Street Furniture

Program Design and Policy Guidelines”. Council also established a framework for the development of detailed RFP and contract provisions, addressing key issues of project scope, role of advertising, contract structure and term, and RFP evaluation principles.

Attachment 1 to this report provides a more in-depth overview of the origins of this project and related Council decisions.

ISSUE BACKGROUND

A number of inter-related efforts are progressing under the umbrella of the Clean and Beautiful City initiative to improve and elevate the quality of Toronto’s public spaces through better coordination and design excellence. Among these efforts, the expiry of the current transit shelter and bench contracts in 2007 and waste/recycling bin contracts in 2009 have presented the City with a rare opportunity to transform Toronto’s public realm.

The Coordinated Street Furniture Program Request for Proposals was issued on September 8, 2006, and nearly 5 months were provided for prospective Vendors to prepare proposals.

“Design Matters”

Ensuring Toronto’s streetscapes have a high quality of urban design is an essential part of this coordinated street furniture initiative. During the extensive public consultation process leading to the preparation of the RFP, the public indicated that design, functionality and minimizing the quantity of advertising must be foremost in the development of the program.

The resulting guiding theme, “Design Matters”, was embraced by City Council. At its meetings of June and July 2006, Council established a compelling but challenging direction for this RFP in seeking to achieve unprecedented standards of design and quality of street furniture, maintenance standards and placement objectives, with strict criteria on the amount and location of advertising. Council specifically directed that: “the RFP be formulated in such a way as to allow a matrix that gives design, beauty and functionality primary consideration.”

COMMENTS

Proposal Submissions and Results

RFP 9103-06-7316 was posted on the city’s internet website and was open to any firm or consortium of parties wishing to provide a coordinated street furniture program for the City of Toronto. This resulted in a total of three (3) submissions being received on January 31, 2007:

1. Astral Media Outdoor LP;
2. CBS Outdoor Canada; and
3. Clear Channel Outdoor.

It should be noted that the proposal from Astral Media Outdoor LP included two distinct design families of elements (Series 100 and Series 200).

The proposal of Astral Media Outdoor LP is being recommended by staff as having met all of the requirements of the RFP and having achieved the highest overall score as evaluated by the Selection Committee. It is noted that this proposal scored highest in all four evaluation categories. For the information of Committee and Council, the scores ranged from 47.75 to 85.54. In accordance with Council approved policy, proponents' scores, financial comparison and staff analysis of the evaluation results can be provided to Councillors in an in-camera presentation if requested by Committee members.

The Fair Wage Office has reported that the recommended firm has indicated that it has reviewed and understands the Fair Wage Policy and Labour Trades requirements and has agreed to comply fully.

Benefits to City

Acceptance of the proposal by Astral Media Outdoor LP will result in a series of substantive benefits to the City that will have the effect of vastly improving the state of the public realm of Toronto. The street furniture is of high quality in both design and materials, and for the first time, Toronto will have compatible elements designed to work together that are functional, adaptable, incorporate sustainability features and will address the City's varied urban form, scale and can be customized for different BIAs and neighbourhoods.

It will provide the City with the ability to expand existing public services as well as new items that support programs of a number of City Divisions and will provide increased amenity to the public:

- Solid Waste Management – expanded street litter management;
- Municipal Licensing and Standards – neighbourhood information/poster kiosks to complement the postering elements of the Sign By-law as approved by Council;
- Toronto Transit Commission – adaptability for future GPS and passenger information systems;
- Tourism – wayfinding and tourist/attraction information;
- Transportation Services – additional transit shelters and bicycle parking, including potential for a bike rental system; and
- State of the art public toilets.

The designs and all installed street furniture elements will be owned by the City upon expiry/termination of the Agreement. The Agreement will also make provision for a review of design aspects at the mid-point of the term.

The recommended Vendor will be responsible for the significant costs of designing, fabricating and installing the street furniture and delivering a comprehensive ongoing maintenance program at no cost to the City. In addition, substantial direct revenues to the City will enable funding of current programs to continue and allow for a new administrative model for dealing with public realm issues and managing the street

furniture program. This revenue will also enable the City to accelerate substantial investment to streetscaping and other public realm initiatives.

The recommended proposal will introduce significant controls on advertising. The plan restricts advertising to only two elements: transit shelters and information pillars. This will eliminate multiple advertising formats at the same location. The recommended Vendor has committed to providing a sales team geared to local businesses and developing packages for these businesses that have used the bench format in the past. Scrolling advertising of fixed images within an ad caisson, either by mechanical or video means would be permitted, but animated video ads would not be allowed. The other advertising related criteria as set out in the RFP would be applicable. The City and each BIA will receive free space for public service/promotional purposes. It is noted that advertising approved by Council as part of the street furniture agreement has not in the past been the subject of a further approval process under the City's sign by-laws. It is therefore recommended that Council confirm that the City's sign by-law shall not be applied to advertising on street furniture approved as part of the proposed Agreement with the successful Vendor.

The recommended proposal also includes a sophisticated system for inventory tracking, maintenance and repair monitoring and installation management that will assist the City in monitoring all aspects of operations.

A number of value-added items have been advanced by the recommended Vendor (these were not assessed in the scoring as part of the evaluation process) including promotional opportunities for the City on the Vendor's various media properties across Canada.

Evaluation of Proposals

Criteria

The evaluation of proposals was completed under a detailed process in accordance with the parameters set out in the RFP. All submissions were reviewed for and found to be in compliance with the mandatory requirements of the RFP, and thus considered for further evaluation. The key criteria against which each proposal was reviewed are:

- Design;
- Technical, Functional, Maintenance;
- Financial; and
- Qualifications.

In keeping with Council's direction, the design aspects which deal with such matters as form, scale, materials, sustainability, modularity and enhancements, comprise the largest single element of scoring, at 40 points (of a total of 100). The design, combined with the technical/functionality element represent 60 points. Minimum thresholds were established in the RFP for each evaluation element to ensure the provision of a superior product for Toronto (20 out of 40 points for Design; 10 out of 20 points for Technical/Functional/ Maintenance; 5 out of 10 points for Qualifications; and minimum percentage values for the City's share of advertising revenues). All parts of the

evaluation were considered as a comprehensive package and led to a total score in determining the preferred Vendor. All of the proposals satisfied the minimum thresholds.

Selection Committee

The comprehensive review and analysis of the proposals was the responsibility of a Selection Committee. This Committee was comprised collectively of a Technical Review team, Qualifications Review team, Financial Review team and Design Jury. The evaluations completed by each team were provided to the Project Team (senior staff from Transportation Services, City Planning – Urban Design, the Clean and Beautiful City Secretariat; and outside Project Director Robert Millward of R.E. Millward and Associates) for compilation and preparation of this report to Council. Staff from Purchasing and Materials Management Division and Legal Services also assisted the Project Team with the implementation of the RFP process.

The technical, financial and qualifications teams were comprised primarily of City staff members with specific expertise within the various Divisions that are impacted by this initiative. Outside experts with experience in accessibility and street furniture design in other jurisdictions complemented City staff on these teams.

The design elements of the proposals were evaluated by an independent Design Jury, comprised of recognized professionals in their design discipline. In accordance with the approach approved by Council, recommendations from the following professional organizations resulted in the selection of the five jury members:

- Ontario Association of Architects (Toronto Society of Architects);
- Ontario Association of Landscape Architects;
- Association of Chartered Industrial Designers of Ontario;
- Registered Graphic Designers of Ontario; and
- Artscape.

A Professional Advisor, Mr. George Kapelos, Chair, Department of Architectural Sciences, Ryerson University, was retained to organize and facilitate the activities of the Design Jury and Technical Review team.

Methodology

Members of each review team and the Design Jury were provided with only those materials from each proposal relevant to their element of the review to familiarize themselves with the details of the submissions. The members then came together in their respective groups to discuss, debate and evaluate the submissions in accordance with the scoring matrices contained in the RFP. Final assessment and scoring was determined by each respective team through consensus.

With respect to the Financial Review team, the proposals of each Vendor were assessed in accordance with the mathematical methodologies contained in the RFP, on the basis of a net present value (NPV) calculation of the Vendor's guaranteed revenue to the City and the Vendor's percentage of gross annual revenue to the City over the 20-year term of the

agreement. This aspect of the assessment was assisted by expertise from the firm KPMG. Any value-added items additional to the requirements of the RFP were not evaluated as part of the financial scoring.

It should be noted that no member of the Design Jury or Technical Review team was privy to any aspect of the Vendors' financial proposals or the financial scoring in the course of the entire evaluation process. Similarly, the Financial Review team members were not provided with any information, including scoring, respecting the design and technical evaluations. An overall summary of the technical review (without scoring) was made available to the Design Jury to assist them in their evaluation of the designs. The scores as determined by the review teams and Design Jury were collected for overall proposal scores by the Project Team. The Project Team and Professional Advisor did not participate in the actual evaluations. All evaluators, City staff and every professional retained to participate in the review signed confidentiality/conflict of interest forms and were instructed not to discuss the contents of the proposals with anyone not directly associated with the project.

The entire RFP process has been monitored by a Fairness Commissioner, former Justice Coulter A. Osborne. Mr. Osborne provided input and reviewed critical documents throughout and directly addressed the Design Jury and Technical Review team prior to commencing their assessments. His report with respect to the process followed is appended to this staff report (Attachment 2). A confidential legal opinion, which is referred to in Mr. Osborne's report, is appended as Confidential Agreement 5 for the information of Committee and Council. It is noted that the matter did not pertain to the recommended proposal.

Next Steps

In accordance with the process directions previously endorsed by Council, the RFP established that City Council, in considering the recommendations of this staff report, may decide to award the Agreement, authorize staff to initiate negotiations with up to three top-scoring Vendors on such matters as it chooses, or if in the opinion of Council none of the proposals satisfies the objectives of the City under the RFP, terminate this process.

In view of the results of proposal evaluations, the staff project team recommends that the proposal of Astral Media Outdoor LP be accepted and that staff be directed to enter into negotiations with the preferred Vendor to finalize and enter into an Agreement, including such terms and conditions that are acceptable to the Deputy City Manager and City Solicitor, and as outlined in Confidential Attachment 4.

The RFP contained a draft agreement for the information of prospective Vendors which was intended to form the basis for an agreement with the successful Vendor. For the information of Council, the key terms and conditions of that document have been summarized in shortened form and are contained in Attachment 3 to this report. All Vendors were given the opportunity in their responses to propose changes to the draft agreement. All of the Vendors submitted a listing of items for further discussion.

Confidential Attachment 4 to this report outlines the key additional terms and conditions submitted by the preferred Vendor to be negotiated and finalized in the Agreement where these vary from the draft form of Agreement. Confidential Attachment 4 also seeks Council direction on these issues. It is recommended that the award of the Agreement be subject to the finalization of these issues.

The RFP stipulates that once an Agreement has been awarded, the successful Vendor will provide, install and maintain at its sole expense, fully functional prototypes of each street furniture element in at least three designated locations. Further, a process to make design refinements to the proposed street furniture is also contemplated. In this regard, both the Design Jury and Technical Review team provided detailed recommendations and commentary on design refinements. The staff Project Team recommends that staff, led by the Director of Urban Design, in consultation with the Design Jury, affected City Divisions and outside expertise as necessary, work with the recommended Vendor to incorporate refinements to the preferred proposal.

It is essential that the new Agreement be in place prior to the expiry of the current transit shelter contract on August 31, 2007. Prototypes should be installed before year-end.

Managing Street Furniture Placement and Public Realm Enhancement

The main goal of the Coordinated Street Furniture program is the overall elevation of the physical quality of the City's streetscapes, both in terms of the direct design and functional attributes the specified elements will deliver, and the direction set for the general upgrade of these public spaces. Throughout the consultation phase of the project, one of the messages that came through consistently is the need to ensure City staff from various Divisions coordinate efforts to place, implement and enforce the elements effectively.

From a more global perspective, concerns have been expressed that there are many related issues affecting these public spaces, from pedestrian priorities, opportunities for neighbourhood beautification, cafes and marketing, vending, tree planting techniques, street tree health and maintenance, utility coordination and enforcement, as well as street furniture in its various forms, but no one Division or unit seems to have overall carriage or identified project management responsibility.

To date, the ability to rally around complex streetscaping initiatives (for example, public spaces adjacent to iconic cultural institutions) has been lacking.

“Vibrant Streets” is a significant accomplishment of the Coordinated Street Furniture project in providing the vision for these pivotal public spaces. It supports the directions established by the City's Official Plan and advances the practical implementation framework set out in the Streetscape Manual. To ensure the “Vibrant Streets” vision is realized, there must be a buy-in to doing things differently and this must be clearly and strongly communicated and tangibly supported. The opportunity is now available to advance things differently and do better.

The concluding report of the Roundtable on a Beautiful City entitled “Designing a Great City” (September 2006) which comprises the Roundtable’s key observations and suggestions for the future, identified many of the same issues. The report suggests the application of a “Design Filter” for City capital and development programs to ensure that appropriate standards are being met and coordinated in such a way that overall design quality is achieved.

Small steps have been taken on the path to achieving these ends. The General Manager, Transportation Services has previously been designated as lead on pedestrian issues. By virtue of this RFP process and inter-Divisional Steering Committee and project team, recognition and collaboration on the issues has been enhanced. The Clean and Beautiful City initiative itself has certainly driven a better level of inter-Divisional coordination and awareness. If the City is to be successful, however, it must now build on these foundations and make a serious commitment to providing the appropriate administrative support structure and associated resources to adequately manage and provide strategic leadership on the overall management of public streets with a pedestrian focus.

Pedestrian Realm Organizational Unit

We recommend that a dedicated Pedestrian Realm organizational unit is a necessity to achieve the widespread benefits of beautiful, functional and safe pedestrian spaces. This group, reporting to the General Manager, Transportation Services would play a key strategic role and have accountability for planning, implementing and managing sidewalk spaces with a pedestrian perspective.

This group will touch on the activities and mandates of several City Divisions and serve as the focal point for co-ordinating stakeholders in the roll-out of street furniture and other capital streetscape and neighbourhood beautification initiatives. It will allow streetscape enhancements to be considered proactively with planned sidewalk and road reconstruction. These pedestrian policy development and project management capacities are lacking in the current organizational approach.

In practical terms, the magnitude of implementing the street furniture program in accordance with the “Vibrant Streets” principles, given the vast scope and rollout schedule contained in the RFP cannot be overstated. There will be many demands arising from what is effectively a complex and intense construction project with significant quantities of work occurring simultaneously across the entire City. Interests of many Divisions will have to be accommodated. There will be a need for project and contract management involving construction activities and inspection, insurance and security, monthly reporting of revenue and audited financial statements, tracking of inventories and maintenance reporting. In 2002, based on a review of management of the existing transit shelter agreement, the Auditor General made a series of recommendations related to the administration of the agreement. Although all applicable recommendations have been implemented in their entirety, it is not realistic to expect the existing staff complement to effectively manage the street furniture program in light of the vast increase in scope and complexity. In addition, there is increasing demand for this staff to

manage other elements within the streets (for example, publication boxes). This will be one of the major responsibilities of the pedestrian realm unit.

It is also envisaged that this unit will assume responsibilities and act as a resource for City Council's priority to make Toronto a cleaner and more beautiful city by leveraging City investment with public and private sectors through neighbourhood beautification projects, streetscape improvements, partnerships and advocacy. The pedestrian-related duties in terms of policy development and infrastructure coordination would also be provided by this new pedestrian realm unit. The groups now charged with these duties have struggled under the pressures of extremely limited resources and growing expectations to deliver their mandates, and by re-organizing in the manner recommended, significant mutual support and benefit will be realized and their goals will be better achieved in an operations environment.

Revenue Considerations

Staff have undertaken a preliminary assessment of the implications of establishing the new pedestrian realm organization. Net increases (net of a number of existing positions that would be directly assigned within the new unit) can readily be funded from the guaranteed revenue the City will secure through the proposed street furniture agreement. Accordingly, we recommend that the Deputy City Manager, in consultation with the appropriate City officials, be directed to implement the pedestrian realm unit and that funds in the amount of approximately \$3.0 million annually (plus initial start-up) from the City's street furniture revenue be dedicated for this purpose.

In addition to the Pedestrian Realm unit, proceeds from the program should be directed towards other directly related initiatives. First, so as not to incur an impact on existing City programs that rely on such revenue, it is recommended that the amount currently provided to Transportation Services under the transit shelter agreement (\$5 million) continue to be used to support district transportation services. Solid Waste Management currently receives revenue in the order of \$690,000 per year under the litter bin settlement. Parks, Forestry and Recreation Division also achieves revenue through the current pilot info pillar agreement (up to \$170,000 annually, guaranteed). It is suggested that under the new program, consideration be given to allocating some funds, in the order of \$500,000 toward enhanced maintenance of street trees. The Economic Development Division, which has partnered with Parks on the info pillar pilot should also be considered, and it may be appropriate that a similar amount be allocated to assist the Division in improving and developing public wayfinding and tourist information

strategies through the street furniture program. Finally, the funds could be applied to enhance streetscaping and public realm improvements in connection with the annual capital program. Once the Agreement is final, a report will be submitted to the Budget Committee recommending the details of disposition of revenues.

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AK/bmk

ATTACHMENTS

Attachment 1 – Coordinated Street Furniture Program Overview
(P:\2007\Cluster B\TRA\Toronto and East York\top\ts07070ec.top.doc-Att1)

Attachment 2 – Report of the Fairness Commissioner
(P:\2007\Cluster B\TRA\Toronto and East York\top\ts07070ec.top.doc-Att2)

Attachment 3 – Draft Agreement Provisions
(P:\2007\Cluster B\TRA\Toronto and East York\top\ts07070ec.top.doc-Att3)

Confidential Attachment 4 – Additional Agreement Issues

Confidential Attachment 5 – Legal Opinion

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