REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Results of Request for Proposal Ariba Doc. No. 2767753648 and Authority to Negotiate and Enter into an Agreement with Xylem Canada LP for the Purchase of Pumps / Motors / Drives for the Integrated Pumping Station Construction Contract 3 at the Ashbridges Bay Treatment Plant

Date: June 18, 2021
To: Infrastructure and Environment Committee
From: Chief Engineer and Executive Director, Engineering and Construction Services and Chief Procurement Officer, Purchasing and Materials Management
Wards: 14 (Toronto-Danforth)

REASON FOR CONFIDENTIAL INFORMATION

The attachment to this report is about a position, plan, and criteria to be applied to any negotiations to be carried on by or on behalf of the City of Toronto.

SUMMARY

The purpose of this report is to advise of the results of Request for Proposal Ariba Doc. No. 2767753648; and request authority for the Chief Engineer and Executive Director, Engineering and Construction Services, to negotiate and enter into an agreement, on terms and conditions satisfactory to the City Solicitor, with Xylem Canada LP for the purchase of pumps/motors/drives for the Integrated Pumping Station, Construction Contract 3, at the Ashbridges Bay Treatment Plant. This purchase is necessary to complete the detailed engineering design for the Pumping Station.

City Council approval is required in accordance with Section 195-8.5 (C) and (E) of the Toronto Municipal Code Chapter 195 (Purchasing By-Law), where the Chief Procurement Officer, after consulting with the City Solicitor, has determined that there are material risks as to the merits of making or rescinding any award; and where the Chief Procurement Officer or the City official on whose behalf the solicitation was made are of the opinion that the award should be made by Council.

RECOMMENDATIONS

The Chief Engineer and Executive Director, Engineering and Construction Services, and the Chief Procurement Officer, Purchasing and Materials Management, recommend that:

1. City Council direct the information set out in Confidential Attachment 1 to this report remain confidential in its entirety until such a time that the City enters into a successful agreement for the procurement of pumps / motors / drives for the Integrated Pumping Station, Construction Contract 3. This would extend to any future Request for Proposals for pumps / motors / drives for the Integrated Pumping Station.

2. City Council authorize the Chief Engineer and Executive Director, Engineering and Construction Services, to negotiate, award, and execute an agreement with Xylem Canada LP for the purchase of pumps / motors / drives for the Integrated Pumping Station, Construction Contract 3 at the Ashbridges Bay Treatment Plant based on the terms and conditions set out in Confidential Attachment 1 of the report and in a form satisfactory to the City Solicitor.

FINANCIAL IMPACT

Details outlined in Confidential Attachment 1.

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

DECISION HISTORY

At its meeting on May 28, 2020, City Council adopted amendments to Purchase Order No. 6042338 and 6042339 for Project Management and Engineering Services respectively, and amend the agreement with Black & Veatch Canada Company Ltd. for the Detailed Design of the Integrated Pumping Station. A copy of the Committee Decision Document can be found at:
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.CC21.9

At its meeting on August 14, 2019, the Bid Award Panel granted authority to award Contract 18ECS-MI-01DC, Tender Document No. 1722208722, for the Integrated Pumping Station, Construction Contract 2 at the Ashbridges Bay Treatment Plant that involves deep excavation, tunnels and Screen Building shaft, to STRABAG Inc., in the amount of $141,715,036 net of all applicable taxes and charges ($144,209,221 net of HST recoveries) having submitted the lowest compliant bid and meeting the specifications in conformance with the Tender requirements. A copy of the Committee Decision Document can be found at:
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.BA39.5

At its meeting on January 19, 2018, the Public Works and Infrastructure Committee granted authority to award Contract 17ECS-MI-03DC, Tender Call 200-2017, for the Integrated Pumping Station, Site Preparation (Construction Contract 1) at the Ashbridges Bay Treatment Plant, to Kenaidan Contracting Ltd. in the amount of $23,470,000 net of all applicable taxes and charges ($23,883,073 net of HST recoveries) having submitted the lowest compliant bid and meeting the specifications in conformance with the Tender requirements. A copy of the Committee Decision Document can be found at:
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.PW26.2

At its meeting on October 5, 2015, the Public Works and Infrastructure Committee granted authority to the Executive Director, Engineering and Construction Services, to negotiate and execute agreements with Black & Veatch Canada Company Ltd., being the highest scoring proponent meeting the requirements of RFP No. 9117-15-7122, to provide professional engineering services for the Project Management, Preliminary Design and Detailed Design, Services during Construction and Post Construction Services for an Integrated Pumping Station in the amount of $51,237,492.00 net of HST ($52,139,271.80 net of HST recoveries) at Ashbridges Bay Treatment Plant. A copy of the Committee Decision Document can be found at:
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.PW8.5

At its meeting of March 4, 2014, the Public Works and Infrastructure Committee granted authority to the Executive Director, Engineering and Construction Services, to negotiate and enter into agreements with Black & Veatch Canada Company Ltd., being the highest scoring proponent meeting the requirements of RFP No. 9117-13-7210, to provide contracted professional engineering services for the Design and Construction Administration of the Wet Weather Flow System to Control Combined Sewer Overflow Discharges to the Don River and Central Waterfront, including the Coxwell Sanitary Trunk Sewer Bypass Tunnel, in the amount of $57,018,913.00 net of HST. A copy of the Decision Document can be found at:
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PW29.5

On December 16, 2010, Bid Committee adopted staff recommendations to grant authority to award RFP No. 9117-10-7226 for the Ashbridges Bay Treatment Plant M and T Pumping Station Upgrades Project to Black & Veatch Canada Company Ltd., including scope to investigate a new pumping station to replace the M and T Pumping Station, in the amount of $13,335,299.70 net of HST. A copy of the Decision Document can be found at:
http://app.toronto.ca/tmmis/viewPublishedReport.do?function=getMinutesReport&meetingId=4388

At its meeting of September 26 and 27, 2007, City Council adopted staff recommendations to authorize the appropriate Division Head, after consultation with the City Solicitor, to make such limitations on liability and indemnities in contracts for specialized goods and services for Toronto Water, Solid Waste Management Services, and Engineering and Construction Services (formally Technical Services), as they deem appropriate in the interests of the City and in accordance Policy on Limitations on Liability and Indemnities in the Procurement of Specialized Goods and Services for

Toronto Water. Solid Waste Management Services and Engineering and Construction Services. A copy of the report and Decision Document (GM7.11) can be found at:
https://www.toronto.ca/legdocs/mmis/2007/gm/bgrd/backgroundfile-6465.pdf
https://www.toronto.ca/legdocs/mmis/2007/gm/reports/2007-09-18-gm07-cr.pdf

On January 25, 2006, Bid Committee adopted staff recommendations to grant authority to award RFP No. 9117-05-7299 to Associated Engineering Ltd., being the highest scoring proponent meeting the RFP requirements, for the provision of engineering services for Ashbridges Bay Treatment Plant M and T Pump Station Upgrades Study, in the amount of $769,974.38 net of HST. A copy of the Decision Document can be found at:
https://www.toronto.ca/legdocs/2006/minutes/committees/bc/bc060125.pdf

COMMENTS

Background

A new Integrated Pumping Station is required to address critical sanitary sewer infrastructure needs to service the Ashbridges Bay Treatment Plant, as well as to provide new pumping infrastructure for the wet weather flow collection and treatment systems associated with the Don River and Central Waterfront Project.

The Ashbridges Bay Treatment Plant, located at 9 Leslie Street in Toronto's east end, is the largest and oldest of the City's four wastewater treatment plants operated by Toronto Water. The plant receives raw sewage from the M and T Building Pumping Stations (located north of Lake Shore Boulevard East, immediately north of the Ashbridges Bay Treatment Plant), respectively, and by gravity from the Coxwell Sanitary Trunk Sewer. The M and T Building Pumping Stations convey approximately 70% of the inflow to the Treatment Plant. Combined, the total influent sewage flows to the plant service an estimated population of 1.6 million residents.

The M Building Pumping Station was constructed in 1911 and the T Building Pumping Station was constructed in 1970. These existing Pumping Stations are approaching the end the end of their service life and are in need of significant upgrades. In 2010, the City retained Black & Veatch Canada Company Ltd. to undertake a preliminary engineering design for the upgrades and concluded that upgrading M and T Building Pumping Stations could not resolve systemic operational challenges and issues of long-term reliability.

In 2012, the Don River and Central Waterfront Municipal Class Environmental Assessment recommended construction of a new wet weather flow collection and storage system which would intercept combined sewer overflow (CSO) discharges from 50 outfalls, representing most of the remaining CSOs in the City, and connect to a downstream wet weather flow pumping station.

Given the risks associated with the originally proposed M and T Building Pumping Station upgrades and the need to construct a new wet weather flow pumping station, the City engaged Black & Veatch Canada Company Ltd. to undertake a Schedule B

Class Environmental Assessment to identify a preferred solution to meet both the dry and wet weather flow needs at the Ashbridges Bay Treatment Plant. The Class Environmental Assessment, completed in 2013, concluded that the preferred alternative was the construction of a single Integrated Pumping Station south of Lake Shore Boulevard East within the Ashbridges Bay Treatment Plant property.

The Integrated Pumping Station will resolve the risks associated with trying to refurbish and upgrade the M and T Building Pumping Stations while maintaining full time operations of the Ashbridges Bay Treatment Plant, resolve a number of systemic M and T Building operational and technical issues that the refurbishment would not resolve, and provide the pumping infrastructure needed for the Don River and Central Waterfront Project. The Integrated Pumping Station is now the City's largest wastewater infrastructure project underway, and will be one of the largest wastewater pumping stations in the world. It is the most downstream point in the Ashbridges Bay Treatment Plant sanitary sewershed and will be responsible for directing all influent flows to the Ashbridges Bay Treatment Plant, and from the wet weather flows captured within the Don River and Central Waterfront Project, to the future dedicated high rate treatment facility.

Engineering Services & Construction Phasing

Through Request for Proposal Number 9117-15-7122, awarded to Black & Veatch Canada Company Ltd., the City retained professional engineering services for the project management, preliminary design and detailed design, contract administration services during construction and post construction services for the Integrated Pumping Station Project.

The objective was to provide an operationally robust, reliable solution that integrates the functionality of the existing M and T Building Pumping Stations and provides the wet weather flow pumping requirements for the Don River and Central Waterfront Project. The City planned the construction of the Project in three stages which includes three separate construction tenders as follows:

- Construction Contract No. 1 for site preparation including site clearing, conduit isolation work, and re-routing of existing electrical cabling and ducting. This contract is currently in the warranty phase - the tender was awarded to Kenaidan Contracting Ltd., Contract No. 17ECS-MI-03DC in January 2018 and it was substantially completed in October 2019.

- Construction Contract No. 2 for demolition of the Ashbridges Bay Treatment Plant water tower, tunnelling and civil site works for deep excavations including the Mid-Toronto Interceptor, Low Level Interceptor tunnel, the Screen Building shaft, and the Integrated Pumping Station Pump House shaft with concrete structural works to grade. This contract is currently in the construction phase - the tender was awarded to STRABAG Inc., Contract No. 18ECS-MI-01DC in October 2019, and the construction is currently underway with a projected completion date of November 2022.

- Construction Contract No.3 for general construction of the complex Integrated Pumping Station buildout including structural, process, mechanical, electrical, and instrumentation and control, and the final commissioning of the new facility. This contract is currently in the detailed design phase, which is expected to be completed by December 2022; construction is anticipated to begin in December 2023 and completed in second quarter of 2033.

Rationale for Preselection of Pumps / Motors / Drives for the Integrated Pumping Station

The Integrated Pumping Station contains three pump groups to be installed at different elevations. The shallowest pump group will collect flows from the Toronto High Level Interceptor; the middle pump group will receive flows from the Mid-Toronto Interceptor, Low Level Interceptor, and the Queen Street and Lakeshore Boulevard Interceptor Sewers; and the deepest pump group will receive wet weather from the network of tunnels being constructed under the Don River and Central Waterfront Project (i.e. the Wet Weather Flow Tunnels).

At the time of the issuance of the Request for Proposal for the engineering design of the Integrated Pumping Station, the City recognized the need to procure pumping equipment ahead of Construction Contract 3 because the Integrated Pumping Station design is critically influenced by the selection of pumping equipment (pumps, motors, drives) which are highly vendor specific, including the design, size, weight and performance of the pumps that are different for each pump group and critical to the pumping station design. Therefore, the pump details must be known in order to move forward with key elements of the detailed design. A pre-selection or a pre-purchase procurement is required to provide these necessary design details.

In 2018, Black & Veatch Canada Company Ltd. completed a review of procurement options and a pre-selection risk assessment. It was determined at that time to proceed with a pre-selection of vertical shaft, end suction centrifugal pumps, motors, drives and appurtenances for 12 pumps, representing four pumps for each of the following pump group packages: High Level Interceptor, Mid Toronto Interceptor / Low Level Interceptor, and the Wet Weather Flow Tunnel. As the detailed engineering design progressed, Engineering and Construction Services and Black & Veatch Canada Company Ltd., in consultation with Toronto Water, determined that the Dewatering pumps (i.e. the two pumps used to dewater the Wet Weather Flow Tunnel after a wet weather flow event) should also be procured as part of the overall pump procurement strategy. Therefore, the scope of work for Ariba Doc. No. 2767753648 is to retain a qualified supplier to supply the equipment and services required for the Integrated Pumping Station Project, which includes the design and supply of 14 vertical shaft, end suction centrifugal pumps along with motors, drives, and all associated appurtenances for four pump group packages: High Level Interceptor (4 pumps), Mid Toronto Interceptor / Low Level Interceptor (4 pumps), Wet Weather Flow Tunnel (4 pumps), and Dewatering (2 pumps).

Procurement of Pump Equipment

The City assessed two commonly employed procurement methods for municipal wastewater equipment: pre-selection and pre-purchase. Due to the extended period of time between the purchase of the equipment and the anticipated installation date it was determined the pre-selection of the equipment offered the City the lowest risk.

a) Request for Proposal Number 1

On March 26, 2019 the City issued Request for Proposal Number 9117-19-7100 for the pre-selection of the pump equipment. The Request for Proposal closed on July 2, 2019. The City received one (1) proposal and two (2) Notices of Non-Submission. The equipment suppliers indicated that risks posed by the terms of payment and the future agreement with an unknown general contractor inhibited their capacity to bid on the project. In parallel, the detailed engineering design was underway through Black & Veatch, and a change in the scope of supply was required to include the Dewatering pumps in the overall pump procurement strategy. In order to ensure a competitive procurement process and to incorporate the required scope changes, prior to the evaluation of the received proposal, the City cancelled the Request for Proposal Number 9117-19-7100 on July 18, 2019 with the intent to revise the scope of supply and specifications.

b) Request for Proposal Number 2

In consultation with the City's engineering consultant, Black & Veatch Canada Ltd., the City revised the procurement strategy from a pre-selection to a pre-purchase, which was expected to interest additional equipment suppliers to participate in the equipment procurement. Legal Services and Risk Management were consulted and specific Terms and Conditions were modified to address issues identified as noted above.

On December 24, 2020 the City issued Request for Proposal Ariba Doc. No. 2767753648 for the pre-purchase of pumping equipment at the Integrated Pumping Station. The call successfully closed on March 17, 2021 with the submission of two (2) proposals from Xylem Canada LP, and Ebara Corporation.

The evaluation for Request for Proposal Ariba Doc. No. 2767753648 consisted of three stages: Stage 1 – Mandatory Submission Requirements, Stage 2 – Mandatory Technical Requirements and Rated Evaluations, and Stage 3 – Pricing and Rankings. Ebara Corporation failed Stage 2 of the evaluation, and was disqualified from further consideration. The Evaluation Team, included two (2) Toronto Water Staff and three (3) Engineering and Construction Services Staff. The Team met on April 6, 2021 and determined that Xylem Canada LP passed Stage 2; meeting the mandatory technical requirements and exceeding the minimum threshold.

Further details of the evaluation are outlined in Confidential Attachment 1.

The Request for Proposal was intended to provide a fixed cost by the vendors, and did not provide for negotiations on the agreement. This was well documented in the Request for proposal and in its addendum. As such, we would not normally entertain a

proposal for negotiations on terms and conditions as set out in the draft agreement issued with the Request for Proposal.

An independent fairness consultant, P1 Consulting, was retained to review and monitor the evaluation and decision making process associated with Request for Proposal Ariba Doc. No. 2767753648. In their report dated June 16, 2021 it was determined that up to, and including the completion of the technical evaluation the processes conducted were done so in a fair, open and transparent manner. However, it was noted that should the City proceed with the negotiations and award of Request for Proposal Ariba Doc. No. 2767753648 to Xylem Canada LP that this approach is inconsistent with the established processes included within the Request for Proposal.

In the view of the Chief Procurement Officer, in consultation with the Legal Services and with Engineering and Construction Services, the appropriate course of action was to seek authority from Council to negotiate with Xylem Canada LP and is consistent with the Purchasing By-law which provides for situations when the Chief Procurement Officer is of the opinion that the award should be made by Council.

The potential term of the agreement between the City and Xylem Canada LP is to be a period from the award of Proposal Ariba Doc. No. 2767753648 until the subsequent award of the general contractor for Construction Contract 3. At this time the agreement will be novated from the City to the future Construction Contract 3 general contractor. The anticipated term of this agreement is 36 months.

CONTACT

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SIGNATURE

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ATTACHMENTS

1. Confidential Attachment 1
2. Attachment 1 - Fairness Monitor Report, dated June 16, 2021