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EXTENSION OF VIVANEXT PROCUREMENT AGREEMENT

The Finance and Administration Committee recommends the adoption of the recommendation contained in the following report dated May 31, 2011, from the Chief Administrative Officer.

1. RECOMMENDATION

It is recommended that:

1. Council authorize the extension of the VivaNext Procurement Agreement, among the Region, YRRTC, and York Consortium 2002, for a further five year term, expiring on June 30, 2016, subject to approval by Metrolinx.

2. PURPOSE

This report seeks Council approval for the extension of business arrangements with York Consortium 2002, as set out in the VivaNext Procurement Agreement, in respect of the delivery of certain rapid transit projects. It is recommended that the agreement be extended in order to align with the two five-year funding phases now established by Metrolinx.

3. BACKGROUND

In 2009, the Province of Ontario committed funding through Metrolinx to regional transit projects in the Greater Toronto and Hamilton Area

On April 1, 2009, the Province committed \$1.4 Billion of the MoveOntario 2020 Program funds to certain segments of the York Region Rapid Transit system identified in “green” and “gold” as shown on the plan set out in *Attachment 1*. Initially the funding for the green and gold bundles was to be delivered over seven years from 2010 through 2017.

The Region/YRRTC’s then existing business arrangements with York Consortium 2002 (“YC2002”) gave YC2002 the right of first opportunity to future project work in respect of the Rapid Transit System, subject to certain conditions.

In order for the Region and YRRTC to be eligible for funding, Metrolinx required that certain amendments be made to the existing business arrangements with YC2002. These revised terms were incorporated into the VivaNext Procurement Agreement among the Region, YRRTC and YC2002.

The VivaNext Procurement Agreement limited YC2002's conditional right of first opportunity to the delivery of the "green" bundle of rapid transit projects and amended the terms and conditions of this conditional right

Under the VivaNext Procurement Agreement, YC2002 is entitled to construct each segment of the rapid transit system identified within the green bundle, subject to successful completion of a cost confidence process. Should the cost confidence process not be successful, the Region and Metrolinx are entitled to procure the work through a competitive process.

To date, YC2002 has been awarded the H3 (Highway 7 from Warden Avenue to Yonge Street) segment of work in the green bundle and Davis Drive early works.

The cost confidence process is underway on Davis Drive for the main design build contract.

In 2010, the Province realigned its funding into a two phase funding program

On April 1, 2010, the Province's funding was realigned such that the original time frame for delivery of these projects was expanded to two phases. The Region filed revised timing for the delivery of the green and gold bundles of the project to meet the Provincial funding requirements.

The revised timeframe provided for the delivery of the "green" bundle of rapid transit projects by YC2002 under the VivaNext Procurement Agreement in the first five year phase of the program, from 2011 to 2015. The "gold" bundle of rapid transit projects is expected to be delivered by Infrastructure Ontario, and has been deferred to the second five year phase of the MoveOntario 2020 Program, from 2016 to 2020.

The scope of the projects to be delivered under the green and gold bundles was adjusted slightly to reflect the funding available in each of the five year periods and to ensure land acquisition occurred in the first five years.

During 2010, the Region, YRRTC and Metrolinx negotiated the terms and provisions of the Master Agreement under which Metrolinx will fund YRRTC/Region's delivery of its rapid transit projects

The agreement among Metrolinx, the Region and YRRTC (the "Metrolinx Master Agreement"), effective October 1, 2009 provides Provincial funding for both the green and gold bundles of rapid transit projects.

The Metrolinx Master Agreement reflects the revised green and gold bundles as follows:

- the Y2.1 Project (along Yonge Street from Richmond Hill Centre north to Major Mackenzie Drive) was moved into the green bundle
- the H2 – Vaughan Metropolitan Centre Project was moved into the green bundle
- the H3.4 Project (along Highway 7 from Birchmount to Unionville GO Station) was moved into the gold bundle

4. ANALYSIS AND OPTIONS

The term of the VivaNext Procurement Agreement needs to be aligned with the 2011 – 2015 time frame set out in the Master Agreement

The VivaNext Procurement Agreement expires on June 30, 2011, unless it is extended by the parties.

In order to align with the first five year funding phase set out in the Metrolinx Master Agreement, the term of the VivaNext Procurement Agreement must be extended for an additional five year term.

Minor amendments to the form of the VivaNext Procurement Agreement will need to be incorporated into any extension agreement, including the revision of the definition of the rapid transit projects comprising the green bundle so as to accord with the projects described in the Metrolinx Master Agreement.

The extension of the VivaNext Procurement Agreement requires Metrolinx's consent.

YRRTC staff recommend that the VivaNext Procurement Agreement be renewed and extended for a further period of five years

To date the procurement methodology under the VivaNext Procurement Agreement has worked well and has enabled YRRTC to initiate projects to meet the program schedule approved by Metrolinx.

The VivaNext Procurement Agreement needs to be extended in order to continue to utilize the cost confidence process procurement methodology as attached to the VivaNext Procurement Agreement with YC2002 for the delivery of the green bundle of rapid transit projects.

YC2002 has confirmed to YRRTC that it wishes to extend the VivaNext Procurement Agreement for another five year term.

5. FINANCIAL IMPLICATIONS

There are no direct financial implications associated with this report.

6. LOCAL MUNICIPAL IMPACT

There are no local municipal implications associated with this report.

7. CONCLUSION

The renewal and extension of the VivaNext Procurement Agreement for an additional five year term will enable YRRTC to continue to use the procurement methodology set forth in the agreement to deliver the rapid transit projects that the Region/YRRTC have agreed to deliver in the next five years under the Metrolinx Master Agreement.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause was included in the agenda for the June 9, 2011 Committee meeting.)

Renewal of VivaNext Procurement Agreement

Green and Gold Segments

