

Committee of the Whole (2) Report

DATE: Tuesday, June 16, 2020

WARD(S): 1

**TITLE: KIRBY ROAD EXTENSION BETWEEN BATHURST STREET
AND DUFFERIN STREET CLASS ENVIRONMENTAL
ASSESSMENT STUDY-COST REVIEW AND CAPITAL BUDGET
AMENDMENT**

FROM:

Nick Spensieri, Deputy City Manager, Infrastructure Development

ACTION: DECISION

Purpose

Following approval of the Class Environmental Assessment for the Kirby Road Extension between Bathurst Street and Dufferin Street (December 2019) and direction received at the Committee of the Whole (Closed Session) May 20, 2020, staff seek authorization for further amendments to the agreement between Rizmi Holdings Limited and the City, and approval of an associated mid-year capital budget amendment.

Report Highlights

- In June 2019 Council directed staff to report back on the review of Rizmi Holdings Limited (RHL) submission to the City for reimbursement of additional costs up to \$875,000 associated with completing the Kirby Road Environmental Assessment Study
- Further to direction received at the Committee of the Whole (Closed Session) May 20, 2020 (Item 3, Report No. 21), staff seek Council authorization to further amend the agreement with RHL to the upset limit of \$1.2M for reimbursement of actual costs incurred by RHL on the study, subject to certain conditions
- Council approval of an associated mid-year Capital budget amendment to Capital project DT 7112-14, funded from City-Wide Development Charges (Engineering) is required

Recommendations

1. That Council approve a mid-year Capital Budget amendment of an incremental amount of \$875,000 to Capital Budget DT 7112-14 with funding from City-Wide Development Charges (Engineering);
2. That the Mayor and the City Clerk be authorized to enter into an amending agreement with Rizmi Holdings Limited on behalf of the City, in accordance with the terms and conditions as outlined within this report from the Deputy City Manager, Infrastructure Development, in a form satisfactory to Legal Services;
3. That the inclusion of this matter on a Public Committee or Council agenda with respect to amending the Capital Budget DT 7112-14 is deemed sufficient notice pursuant to Section 2(1)(c) of By-Law 394-020 as amended; and
4. That all necessary by-laws be enacted.

Background

Council at its meeting in December 2015 permitted Rizmi Holdings Limited to undertake the Kirby Road extension from Bathurst Street to Dufferin Street Class Environmental Assessment (EA) and to be reimbursed to an upset limit of \$325,000

Council at its meeting in December 2015 approved recommendations permitting Rizmi Holdings Limited (RHL) to undertake the Environmental Assessment Study (EAS) and subject to the basic conditions set out in Council report – including the following:

“That Rizmi Holdings Limited be reimbursed for the cost of retaining professional consulting services associated with undertaking the Kirby Road Extension Class EA Study to an upset limit of \$325,000 (exclusive of HST) or the actual cost of the study whichever is lesser only after the Class EA study receives final approval from the Ministry of the Environment and Climate Change with funding from Capital Project DT-7112-14.”

The City subsequently entered into an agreement in November 2016 with RHL setting out the terms under which the City will reimburse for cost associated with undertaking the EAS to an upset limit of \$325,000 per Council approval December 2015.

In May 2019, RHL submitted a request for additional costs in the amount of approximately \$875,000, together with the original \$325,000 associated with completing the Environmental Assessment Study

RHL is seeking a compensation value of \$1.2M for professional consultant services associated with completing the Environmental Assessment Study. The request was accompanied by documentation from RHL with respect to the actual cost in undertaking the EAS to date.

Council, at its meeting of June 2019, approved recommendations including direction to proceed as co-proponents with RHL to issue the Notice of Completion and file the Environmental Study Report (ESR) for the mandatory public review. Council at this meeting also considered a joint communication from the Deputy City Manager of Public Works and Deputy City Manager of Planning and Growth, with respect to additional information regarding cost of the Class Environmental Assessment as submitted by RHL in May 2019 and a recommendation authorizing staff to advance an initial reimbursement prior to RHL fulfilling obligation with respect to completion of the EAS per the Agreement November 2016. More specifically, Council at this meeting approved the following:

“That staff review the submission and request from Rizmi Holding Limited to be reimbursed for the additional costs associated with completing the Kirby Road Extension Class Environmental Assessment Study and report back to Council once the Kirby Road Extension Class Environmental Assessment Study has received final approval by the Ministry of Environment Conservation and Parks.”

Council approved the recommendation authorizing staff reimburse the initial amount equivalent to 80 percent (\$260K), to the upset limit (\$325K), pursuant to the agreement once the ESR was filed.

Following Council’s authorization in June 2019, the City proceeded jointly with RHL to issue a Notice of Completion and file the ESR on September 19, 2019 for the mandatory public review period per the Municipal Engineers Association Municipal Class Environmental Assessment October 2000 (as amended).

Previous Reports/Authority

- [Per Council's permission December 2015](#), the City entered into an agreement in November 2016 with Rizmi Holdings Limited formalizing the arrangements under which Rizmi Holdings Limited, as sole proponent, was to undertake and complete the Municipal Class Environmental Assessment Study Kirby Road Extension Between Bathurst Street to Dufferin Street to an upset limit of \$325,000 (exclusive of HST).
- [Council at its meeting in June 2019](#) authorized staff to proceed jointly with Rizmi Holdings Limited to issue a [Notice of Study Completion and file the Environmental Study Report](#) for the mandatory public review. At this meeting Council, directed reimbursement of up to 80 percent to RHL, to an upset limit of \$325,000.

Analysis and Options

Rizmi Holdings Limited has been reimbursed in full to the upset limit of \$325,000 per the agreement as amended October 2019

Following Council's authorization, the City and RHL as co-proponents issued the Notice of Completion and filed the ESR on September 19, 2019 for the public review period ending October 19, 2020. City staff received confirmation from the Ministry of Environment Conservation and Parks on December 6, 2019 that there were no Part II orders received and that the project is approved. Commensurate with the foregoing, RHL has since been reimbursed and the City has remitted payments of \$260K (80 percent) and \$65K (20 percent) in full to the upset limit of \$325K per the agreement as amended on October 2, 2019.

Upon approval of the Environmental Assessment Study in December 2019, review of the RHL's submission for reimbursement of additional costs was undertaken

Upon approval (December 6, 2019) of the EAS, a review of RHL's submission for request for reimbursement of additional costs was undertaken. The review included invoice documentation of costs for multi-disciplinary professional consultant services, as retained by RHL, with total cost aligned with the request for reimbursement.

Staff provided a review of the claim for additional costs submitted by RHL in May 2019 at Closed Session on May 20, 2020 (Item 3, Report No. 21) and sought Council's direction on the City's negotiations position. Council passed the motion to reimburse RHL the total cost incurred for completing the Environmental Assessment.

Staff recommend that any further reimbursement and associated remittance of payment(s) to RHL, above the original upset limit of \$325,000 be subject to conditions and detailed terms

Following, Committee of the Whole (Closed Session) May 20, 2020, staff recommend that reimbursement for additional costs and remittance of further payment(s) to RHL, above \$325,000 (for which RHL has been fully reimbursed) and to the upset limit of \$1.2M be subject to and not limited to the following conditions and as the basis of more detailed terms.

1. RHL delivering the EAS project files in a format, per standards and to the satisfaction of the City.
2. RHL finalizing and delivering the Preliminary Preferred Design (PPD), per standards and to the satisfaction of the City.
3. Final payment amount will be subject to staff review of invoices submitted in support of the additional cost provided.

It is recommended that an amendment to the Agreement be executed between the City and Rizmi Holdings Limited that more specifically sets out the terms under which the City will reimburse additional costs.

Financial Impact

In the 2014 Capital budget, Council approved the expenditure of \$891,980 through Capital Project DT-7112-14 for the undertaking of a Class Environmental Assessment study and preliminary design for the Kirby Road corridor covering that have since been advanced in two segments between Jane Street and Dufferin Street and extension between Bathurst Street and Dufferin Street (missing link) with funding from City-Wide Development Charges (Engineering).

The Class Environmental Assessment Study for the approved Kirby Road extension from Bathurst Street to Dufferin Street, together with the ongoing Kirby Road Widening Class Environmental Assessment from Dufferin Street to Jane Street, for which Notice of Commencement was issued January 16, 2020, form part of broader City-Wide Kirby improvements. The Environmental Assessment Studies were approved under Capital Project DT-7112-14 with funding from City-Wide Development Charges (Engineering).

Based on direction by Committee of the Whole (Closed Session) May 20, 2020, staff seek a mid-year Capital Budget amendment of an incremental amount of \$875,000 to Capital Budget DT 7112-14 for reimbursement of additional costs associated with completing the Kirby Road extension from Bathurst Street to Dufferin Street EAS.

Broader Regional Impacts/Considerations

There are no broader regional impacts/consideration in association with this report.

Conclusion

Rizmi Holdings Limited submitted a request for additional costs in the amount of approximately \$875,000 for professional consultant services associated with completing the Environmental Assessment Study. Together with the original \$325,000, Rizmi is seeking a compensation value of approximately \$1.2M. Following direction received at the Committee of the Whole (Closed Session) May 20, 2020, staff seek authorization to further amend the agreement with Rizmi Holdings Limited, subject to certain terms and conditions, and approval of an associated mid-year capital budget amendment with funding from City-Wide Development Charges (Engineering).

For more information, please contact Vince Musacchio, Director Infrastructure Planning & Corporate Asset Management, extn. 8311.

Attachments

N/A

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