Special Council Meeting  

to be held at  
City of Penticton Council Chambers  
171 Main Street, Penticton, B.C.  

Wednesday, July 29, 2015  
at 9:00 a.m.

1. Call Special Council Meeting to Order

2. Adoption of Agenda

3. Staff Reports:

DO 3.1 Awarding Contract for Penticton Creek  

Staff Recommendation: THAT Council approves award of the Penticton Creek Showcase Project to H&M Excavating in the amount of $329,550;  
AND THAT the Council Authorize the Mayor and Corporate Officer to execute the required contract documents;  
AND FURTHER THAT the 2015 Capital Budget be amended to transfer $119,220 from CAP412 Bike Network Plan to CAP303 Penticton Creek Restoration.

4. Media and Public Question Period

5. Adjourn to In-Camera

Adjourn to a closed meeting of Council pursuant to the provisions of the Community Charter section 90 (1) as follows:

(e) the acquisition, disposition or expropriation of land or improvements, if the Council considers that disclosure could reasonably be expected to harm the interests of the municipality;

(i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.
Date: July 29, 2015
To: Eric Sorensen, City Manager
From: Ian Chapman, City Engineer
Subject: Penticton Creek Showcase Project

Staff recommendation

THAT Council approves award of the Penticton Creek Showcase Project to H&M Excavating in the amount of $329,550;

AND THAT the Council Authorize the Mayor and Corporate Officer to execute the required contract documents;

AND FURTHER THAT the 2015 Capital Budget be amended to transfer $119,220 from CAP412 Bike Network Plan to CAP303 Penticton Creek Restoration.

Strategic priority objective

The Penticton Creek Rehabilitation Project meets Council’s strategic priorities of Downtown revitalization and is identified as an important component of the Vibrant Penticton Downtown Plan.

Background

City staff has been working with various funding bodies and the representatives of several interest groups including the Downtown Business Association, Penticton Fly Fishers, Okanagan Nation Alliance and the Penticton Indian Band to rehabilitate and improve fish habitat in Penticton Creek.

The improvement essentially involves removing the existing concrete lining and installing a combination of rip rap and river rock, some of which is embedded in concrete, to create a more natural looking channel.

The design process to date has taken almost 2 years during which time many issues and challenges have been addressed:

- Selection of major storm return period and associated predicted flow for design purposes;
- Review of land ownership;
- Selection of potential channel solutions;
- Identification of issues and budget costs;
- Selection of showcase project location;
- Detailed design for the showcase project;
- Consultation with stakeholders;
• Response to requirements identified by funding bodies and Ministry of Environment approving officers;
• Generation of tender documents and review of results; and
• Application for a permit under the Water Act (received July 22\textsuperscript{nd}, 2015)

The design phase is complete and has been fully funded with $50,000 from the City and $164,500 from Habitat Conservation Trust Fund (HCTF) and others. One of the objectives of this phase of the work has been to generate a design that remains within the available budget for the construction phase. The final few months of this process were strongly influenced by additional requirements identified by funding bodies to ensure that the original fish habitat improvement objectives would be met and the Ministry of Environment approving officers concerned that flood risk and public process needs are fully addressed.

The scope of the construction work has been adjusted as much as possible to accommodate these requirements and the project as tendered represents the minimum practical scope. Even so the scope and cost of the construction increased from that originally expected and additional funds were secured from the HCTF ($14,000) and Freshwater Fisheries Society of BC ($30,000) in order to meet the projected construction costs.

The total construction budget secured to date is a combination of contributions received or committed to from several sources and including the increased funding noted above for a total budget of $338,679.

The project was tendered on July 8\textsuperscript{th}, 2015 and closed July 21, 2015. Two tenders were received, the lowest of which was submitted by H&M Excavating, a well-known and reputable local construction firm with excellent experience and substantial resources to execute the work.

Their tender price was however $93,750 above the consultant’s estimate and this together with further additional monitoring requirements has raised the projected total construction phase costs to $446,850.

A summary of the budget and cost estimate breakdown is provided below;

**Construction budget secured:**

- Grant funding $276,498 (HCTF $106,500, RFCPP $140,000, BC Fresh Water $30,000)
- Compensatory funds $62,181 (HADD DFO Funds (Hooded Merganser / Lakeside Resort)
  Sub-Total: $338,679

**Estimated Costs:**

- Low tender excluding tax or contingency $329,550
- Contingency Approx. 10% $35,000
- Environmental monitoring $8,100
- Groundwater piezometer install/monitor $1,000 (defer others to 2016)
- Contract docs and tendering $24,400
- Survey, project admin & as-builts $40,700
- Final Report $8,100
  Subtotal $446,850

**Budget shortfall (City) $108,171**

Our consultant has suggested the following factors have likely influenced the higher than anticipated tender price:
• Time of year – it was intended to tender the work earlier in the year but design changes and additional process requirements imposed by the approving authority caused delay in issuing the tender. It is anticipated that contractors are now much busier and less inclined to offer more competitive pricing;
• Contract schedule – the work is starting later than originally planned but must be completed within a strictly defined “fish window”. In this case it presents a total of only 3 weeks to complete all work within the creek itself (although other work outside the creek can proceed later). This is a tight schedule and presents risks that tenderers would include in their price; and
• The ministry has defined very rigorous creek diversion and storm risk mitigation requirements.
• Critical materials for the works that were anticipated to be readily available from local suppliers are now in short supply.

Staff has approached the funding partners for this project several times during the design phase for more funds and leniency concerning missed milestones due to the many challenges that the project has faced. The most recent request for more construction funds from these organizations was approved on the strict understanding that there would be no further funds available for this particular showcase project. Therefore the City is faced with the challenge to address the budget shortfall itself to ensure that the project proceeds within the current very tight work window.

Financial implication

Upon consideration of the remaining 2015 workload and Engineering staff resources it is unlikely that the installation of Bike Lanes on Power Street and Skaha Lake Road (CAP412) can proceed this year. The option therefore exists to cancel this project and make a budget amendment to transfer the funds to the Penticton Creek Showcase Project. Sufficient funds of $119,000 exist to cover the Creek project shortfall.

Analysis

Construction of the Penticton Creek Showcase Project would be the logical conclusion to a protracted and challenging design process from which valuable lessons have been learned for future (inevitable) creek rehabilitation work. Considerable time and effort has already been invested in the project and there is a very real concern that failure to proceed now will jeopardize further funding opportunities for projects of this nature. Conversely a commitment to proceed now would be seen as a positive step in the rehabilitation of the whole creek and would be helpful in future funding applications.

It is worth noting that a contribution of $108,171 by the City would represent a cost sharing of the construction in the proportion of 24% City to 76% HCTF, etc. Furthermore, while the main objective of the funding partners is fish habitat improvement, the City will also derive several benefits from the work including:

• Aesthetic improvement due to removal of the concrete and rehabilitation with a more natural creek appearance;
• Potential savings associated with avoiding the inevitable repairs required to the concrete lining which is already showing signs of failure; and
• Project meets Council’s strategic priorities of Downtown revitalization and is identified as an important component of the Vibrant Penticton Downtown Plan.

There might be an opportunity to reduce construction costs through negotiation with the contractor after award per contract law but this should not be relied upon. It might be possible to defer the project to
investigate alternative funding options but that would most likely jeopardize existing funding provisions and negatively impact future funding applications which would place a higher financial burden on the City.

Alternate recommendations

1. THAT the Penticton Creek Showcase Project be deferred to a later year to examine other funding solutions; or
2. THAT the Penticton Creek Showcase Project not be implemented; or
3. THAT Council provides other direction to staff.

Respectfully submitted

Ian Chapman, P.Eng
City Engineer
Approvals

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