

Clause No. 15 in Report No. 8 of the Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on April 17, 2014.

15

AUTHORITY TO EXECUTE AGREEMENTS FOR DESIGN AND BUILD OF VIVANEXT YONGE STREET RAPIDWAY PROJECT

Committee of the Whole recommends adoption of the recommendation contained in the following report dated March 31, 2014 from the Chief Administrative Officer:

1. RECOMMENDATIONS

It is recommended that:

1. The Region enter into an agreement with York RapidLINK Constructors, being the successful proponent under request for proposals RFP-13-002-RT, to design and build a rapidway along three corridor segments on Yonge Street from Highway 7 in Richmond Hill up to north of the Davis Drive intersection in Newmarket, as more particularly described in this report, for the total contract price of \$260,465,000, inclusive of \$7,950,640 in additional works funded by municipalities, and excluding all applicable taxes. The contract is to be substantially in the final form of the design-build agreement issued to proponents under RFP-13-002-RT.
2. The Region enter into a limited notice to proceed agreement that will allow the successful proponent to initiate work under the contract upon contract award prior to finalizing and executing the design-build agreement, such work not to exceed \$15 million, exclusive of applicable taxes.

2. PURPOSE

This report recommends that the Region enter into a design-build agreement and a limited notice to proceed agreement with the successful proponent under request for proposals RFP-13-002-RT, to design and build a rapidway along Yonge Street in the Towns of Richmond Hill and Newmarket.

3. BACKGROUND

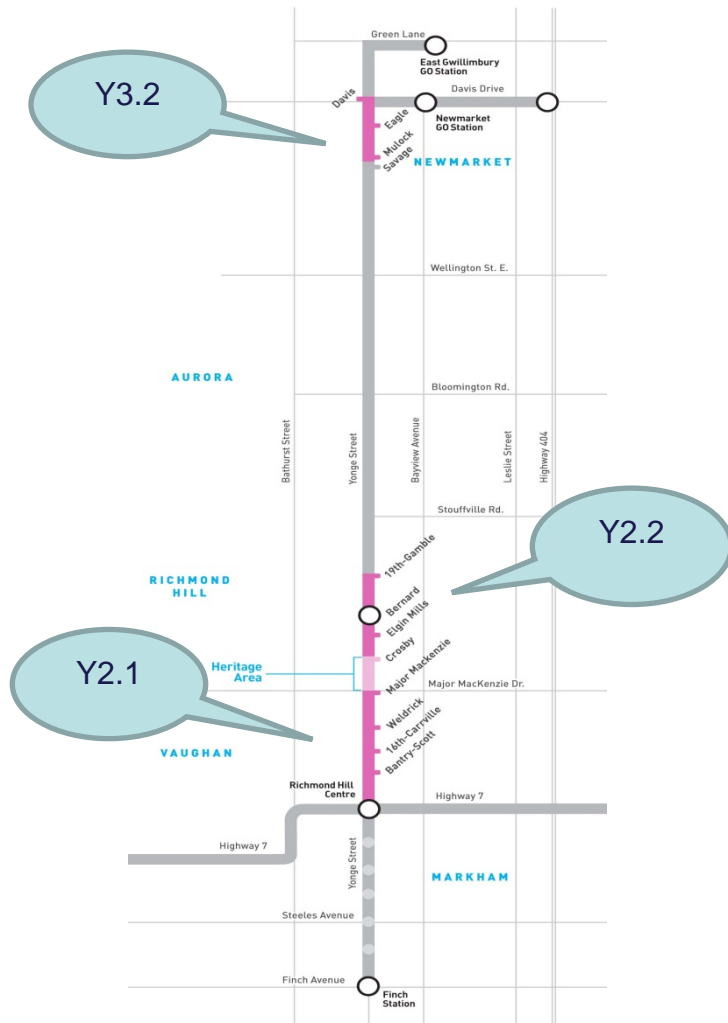
The design and build of a rapidway along Yonge Street is one of the York Region rapid transit projects funded by Metrolinx under the Master Agreement among Metrolinx, the Region and YRRTC

Under the Master Agreement dated as of October 1, 2009, among Metrolinx, the Region and YRRTC, Metrolinx agreed to fund, under its \$1.755 billion “MoveOntario program”, the design and build of certain rapid transit projects in York Region. The project referred to in this council report consists of the design and construction of rapidways along three discrete segments on Yonge Street namely (Attachment One):

- Y2.1 – Yonge Street from Highway 7 to Major Mackenzie Drive in Richmond Hill
- Y2.2 – Yonge Street from Levendale Road to 19th Avenue/Gamble Road in Richmond Hill
- Y3.2 – Yonge Street from south of Savage Road/Sawmill Valley Drive to north of the Davis Drive intersection in Newmarket

The design and construction of the rapid transit project comprising the Y2.1, Y2.2 and Y3.2 segments is collectively referred to in this report as the “Yonge Street Rapidway Project” or the “Project”.

The Project segments are depicted per the vivaNext network map below:



Metrolinx directed York Region Rapid Transit Corporation to develop a design-build procurement process for the Project based upon industry best practices

York Region Rapid Transit Corporation, as project manager under the Master Agreement, is responsible for the procurement and delivery of York Region rapid transit projects. Under Metrolinx’s overview and at its direction, a new procurement process was developed and issued by YRRTC, through the Region’s Supplies and Services, to procure the design-builder for the Yonge Street Rapidway Project.

At the YRRTC Board of Directors meeting on January 10, 2013 (See Approval of Procurement Process for the VivaNext Yonge Street Rapidway Project Report of the President dated December 14, 2012) the YRRTC Board approved the procurement process which was set out in that report.

Under the Yonge Street Rapidway Project procurement process the contract will be awarded to the proponent submitting the lowest priced compliant proposal

The process is modelled after design-build procurement processes developed and utilized by the provincial governments of Alberta and Manitoba. The procurement process is divided into two stages, firstly, the request for qualifications (RFQ) stage to pre-qualify three qualified proponents. The second stage, namely the request for proposals (RFP), invites the proponents pre-qualified in the RFQ stage to participate in the RFP process.

The Yonge Street Rapidway Project procurement process separates the technical submission close from the financial close. Those proponents who have submitted compliant technical proposals are invited to submit price proposals. The contract is awarded to the proponent whose price proposal is lowest, after deducting the cost savings from an approved innovation, if any, from that proponent.

The form of design-build agreement for this Project differs from previously awarded vivaNext bus rapid transit projects

The previous Regional Council authorizations to YRRTC to sign design-build agreements for vivaNext projects do not encompass this new form of design-build agreement. Metrolinx will also be a signatory to the agreement.

4. ANALYSIS AND OPTIONS

The request for qualifications to pre-qualify three respondents to design and build the Yonge Street Rapidway Project was issued in January 2013

The request for qualifications process to pre-qualify potential design-builders for the Project was issued on January 22, 2013. Three teams configuring themselves as consortia submitted responses to the RFQ on the March 14, 2013 RFQ closing date. All three teams pre-qualified in the RFQ process and were invited to submit proposals under the request for proposals RFP-13-002-RT.

At the YRRTC Board of Directors meeting on June 13, 2013 (See VivaNext Yonge Street Rapidway Project – Update on the RFQ Procurement Process Report of the President dated June 4, 2013) the YRRTC Board was informed that all three teams had been pre-qualified under the RFQ and that YRRTC would shortly embark upon the request for proposals stage of the procurement process.

On July 25, 2013, YRRTC issued the request for proposals inviting the three pre-qualified proponents to submit proposals

The three pre-qualified proponents participating in the RFP process for the Project are as follows:

- York RapidLINK Constructors (comprising corporate team members – Aecon Construction and Materials Limited, Dufferin Construction Company, Hatch Mott MacDonald Ltd., Morrison Hershfield Limited, and Leigh Fisher Canada Inc.); and,
- EDCO (comprising corporate team members – EllisDon Corporation, IBI Group, LEA Consulting Ltd., Coco Paving Inc. and Plant Group Inc.); and,
- moveYONGE Transit Partners (comprising corporate team members – Miller Paving Ltd.; AECOM Canada Ltd., Delcan Corporation, OHL Canada Ltd., and Collier Management Consulting.

Commercially confidential meetings with each proponent took place during the months of September through November 2013

In September and October, 2013, YRRTC held three commercially confidential meetings with each proponent to discuss the Project design and technical requirements. During October and November 2013, YRRTC held two commercially confidential meetings with each proponent with respect to the draft design-build agreement. Based upon these discussions, the final form of design-build agreement was issued under the RFP to the proponents in February 2014.

The design-build agreement provides a risk allocation framework tailored to the Project

The form of design-build agreement was modelled upon the agreement used by the Province of Alberta in the Anthony Henday Drive and Stony Plain Road/100 Avenue Interchange Project in the City of Edmonton in 2008. It provides a risk framework that allocates the Project risks in a manner designed to have risk borne by the party most reasonably able to manage the risk. For example, the provision of land for the Project is the responsibility of the owner (through the Region as expropriating authority) although the design-builder is expected to satisfy itself that the land to be delivered will be sufficient for the construction of the Project.

The design-builder bears the risk of the delivering the Project on or before the substantial completion date of December 31, 2018. The design-build agreement allows for relief events such as force majeure, subject to the design-builder's duty to mitigate delays and or extra costs arising from such events.

There are a series of schedules attached to the design-build agreement including a schedule dedicated to environmental matters such as contaminants in the soil or otherwise impacting the Project. Another schedule sets forth a dispute resolution procedure for contract disputes. The design-builder's payment mechanism under the agreement is based upon the design-builder's completion of a number of distinct design or construction components for the Project. This is a departure from a traditional payment schedule based upon project milestones.

The design-builder assumes full responsibility for the design and construction of the Project, subject to circumstances that give rise to a relief event as defined in the agreement. While the design-builder has the responsibility to coordinate third party utility work, the risk of delays arising from delays in utility work is borne by the owner, subject to mitigation. The owner bears the risk of unknown environmental contamination however this risk has been reduced by advance geotechnical and environmental studies conducted by YRRTC prior to the technical proposal closing date.

Bonding and insurance requirements in the design-build agreement were vetted through the Region's Risk Management group. York Region's Legal Services participated in the working group led by YRRTC's owner's engineer and external legal counsel to develop the design-build agreement. Metrolinx legal counsel has reviewed the form of agreement and provided its comments.

The date for submission of the technical proposals closed on December 17, 2013

All three proponents submitted technical proposals to the RFP on the technical proposal closing date of December 17, 2013. The completeness team comprised of the Region's Supplies and Services purchasing representative and the YRRTC process lead confirmed the completeness of each proponent's technical proposal. Each proposal was then disseminated to technical reviewers from the YRRTC Owner's Engineer and from YRRTC and Regional staff to be reviewed for compliance with the Project requirements. When required, the technical reviewers sought clarification through the request for clarification (RFC) process.

The request for clarification (RFC) process commenced immediately following the technical proposal closing date

The RFC process afforded YRRTC the opportunity to clarify the information submitted by the proponents in their technical proposals. In this Project, the technical proposals consisted of 23 distinct technical submissions (TSs) including for example, TS-1 (design and aesthetic requirements), TS-12 (utility relocation strategy), TS-14 (project construction, property and utility schedule), and TS-18 (traffic management plan). The RFC process is designed to ensure that each proponent understands the Project requirements and that each TS is compliant with the Project requirements. The RFC process closed on February 21, 2014.

The date for submission of the revised technical proposals was February 27, 2014

Following the close of the RFC process, each proponent submitted revised TSs black-lining the changes made to their original technical proposal.

Each proponent's revised technical proposals were evaluated to be compliant and each proponent was invited to submit a price proposal by the price proposal closing date of March 20, 2014

Having completed the evaluation of the revised technical proposals and finding them to be compliant with the Project requirements, on March 6, 2014, YRRTC invited each of the three proponents to submit price proposals. The closing date for submission of the price proposals was March 20, 2014. The price envelopes for each of the proponents were opened on March 21, 2014.

As previously stated, the proponent submitting the lowest priced compliant proposal for the Project will be awarded the contract. The three proposals submitted to the RFP is set forth in Table 1 below:

**Table 1
Proposal Evaluation Results**

No.	Proponent	Technical Proposal (Compliant/Non-compliant)	Total Price (Exclusive of taxes)
1.	York RapidLINK Constructors	Compliant	\$260,465,000
2.	EDCO	Compliant	\$294,665,976
3.	moveYONGE Transit Partners	Compliant	\$365,686,090

The preferred proponent is the proponent having the lowest priced compliant proposal

York RapidLINK Constructors submitted the lowest priced proposal and under the procurement process is the preferred proponent under RFP-13-002-RT.

The award of this contract requires Metrolinx's approval

The Metrolinx Board must approve contracts that have a value exceeding \$10,000,000.

There is a companion report to this report that will be brought to the YRRTC Board of Directors on April 10, 2014.

At this meeting, the YRRTC President will confirm that she has received written notification from Metrolinx to award this contract, along with the authorized contract change allowance (contingencies).

This design-build agreement will be managed by YRRTC in accordance with its responsibilities under the Rapid Transit Agreement with the Region.

Link to key Council-approved Plans

The recommendations in this report address the following Vision 2051 goals:

- Goal 2 – Liveable Cities and Complete Communities, and,
- Goal 6 – Interconnected Systems for Mobility

6. FINANCIAL IMPLICATIONS

The capital costs associated with the Yonge Street Rapidway Project are borne by Metrolinx under the \$1.755 billion MoveOntario Provincial funding program. The Limited Notice to Proceed Agreement will enable the successful proponent to commence work under the Project in accordance with the limited scope of work provided in that agreement, up to the financial cap of \$15 million. Once the Project is built, the Region will have responsibilities regarding operations and maintenance of the rapidway under the Access and Operating Agreement entered into between the Region and Metrolinx on August 16, 2013.

6. LOCAL MUNICIPAL IMPACT

The rapidway along Yonge Street in the Towns of Richmond Hill and Newmarket will be substantially completed by December 31, 2018.

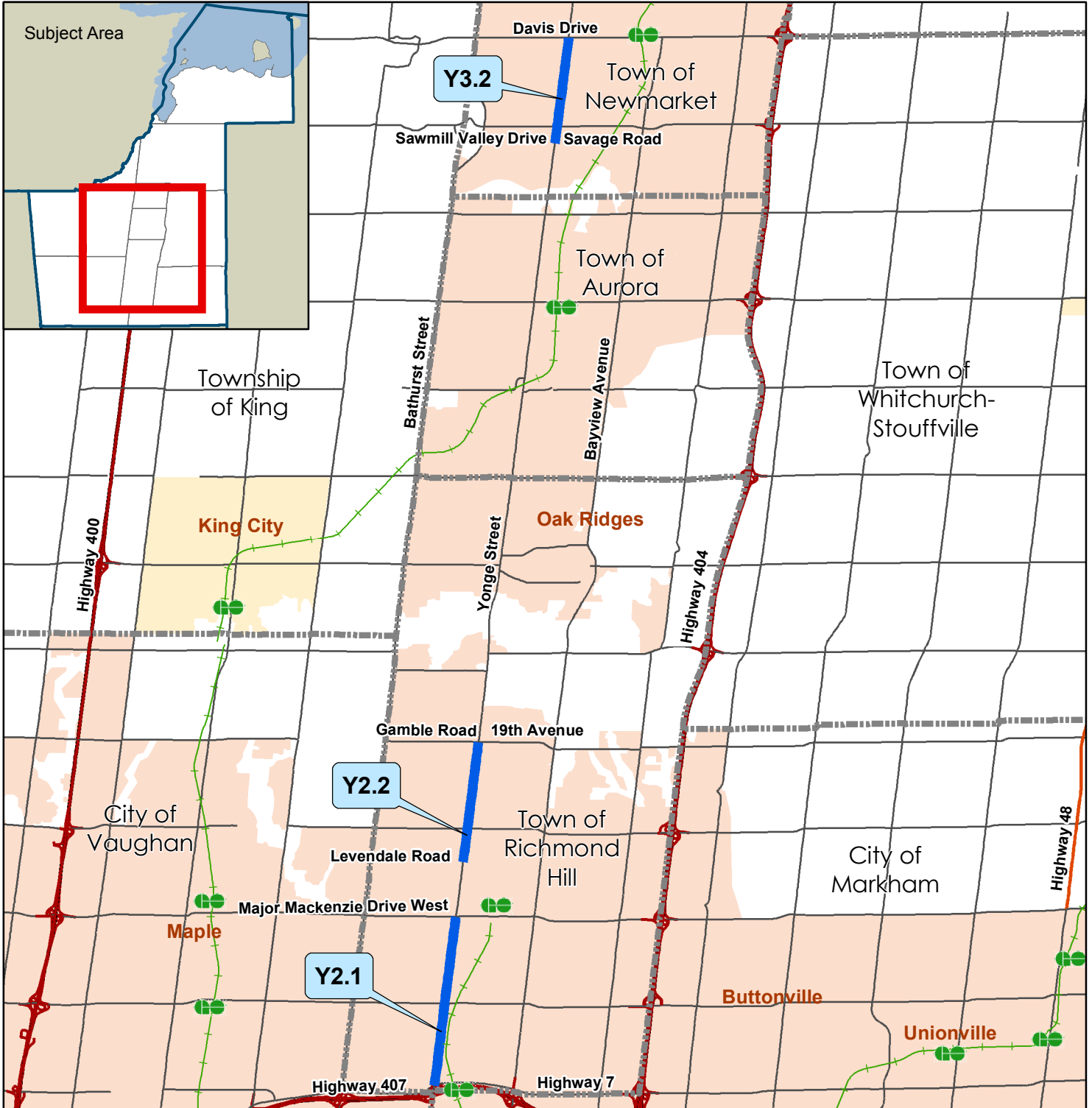
7. CONCLUSION

The design-builder for the vivaNext Yonge Street Rapidway Project has been secured following a competitive request for proposals process issued by York Region Rapid Transit Corporation on behalf of the Region and Metrolinx.

For more information on this report, please contact Janis Ingram, Senior Counsel at extension 71045.

The Senior Management Group has reviewed this report.

Attachment (1)



Yonge Street Rapidway

Yonge Street Design and Build Rapidway Project
 March 25, 2014



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Legend	
	Rapidway Projects
	GO Station/Rail Line
	Municipal Boundary
	Freeway
	Provincial Highway
	Regional Road
	Towns and Villages
	Urban