

THE CITY OF EDMONTON

DESIGN, BUILD, FINANCE OF THE VALLEY LINE WEST LIGHT RAIL TRANSIT PROJECT

Request for Qualifications

No. 932400

FAIRNESS MONITOR

LETTER REPORT

May 21, 2019

**DESIGN, BUILD, FINANCE OF THE VALLEY LINE WEST LIGHT RAIL TRANSIT PROJECT
REQUEST FOR QUALIFICATIONS – SHORTLISTING OF RESPONDENTS
REPORT OF THE FAIRNESS MONITOR**

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TO: Chair, Project Procurement Due Diligence Committee

This Fairness Report is specific to the procurement process for the shortlisting of Respondents for the Design, Build, Finance of the Valley Line West Light Rail Transit Project (“Project”) in accordance with the Request for Qualifications (“RFQ”) issued on March 8, 2019 by the City of Edmonton (“City”).

B. Larkin & Associates Ltd. and Owen D. Pawson Law Corporation (a joint venture) were appointed by the City of Edmonton on May 28, 2018 to provide Fairness Monitor services to the City for selected projects and were subsequently appointed as Fairness Monitor for the Valley Line West Light Rail Transit Project on December 17th, 2018. Our role as Fairness Monitor is to provide monitoring and oversight of the procurement process as an independent observer to ensure that the competitive selection process is transparent, fair and equitable. We do not validate the shortlisting of successful respondents but provide assurance regarding the fairness of the procurement process generally and the manner in which the evaluation weighting and scoring was applied in arriving at the selection.

The RFQ for the Project was issued on March 8, 2019 and had a Closing Time of April 24, 2019. The intent of the RFQ was to obtain submissions from parties with proven experience in large infrastructure projects who were interested in delivering the Project as a Design Build Finance (“DBF”) and to shortlist up to three Respondents for participation in the Request for Proposal (“RFP”). Each shortlisted Respondent was expected to have: the capacity to design, build and partially finance the Project; experience managing procurement of Light Rail Vehicles (“LRVs”); demonstrated experience in raising the required private financing; and, demonstrated financial stability and capacity to undertake the Project and provide the required financing.

As a result of past or current involvement with the Project, some individuals, companies and their Affiliates were identified as not being eligible to be a Respondent, Team Member, supplier, subcontractor, or service provider to a Respondent. These parties were “Restricted Parties”. In particular, TransEd Partners General Partnership (“TransEd”) which is currently undertaking the Valley Line Southeast (VLSE) Project has had no role or responsibility associated with the VLW Project, however, under the terms of the RFQ, the City provided all Respondents with information in respect of VLSE that was relevant for the Project. The RFQ made it clear to Interested Parties and Respondents that TransEd entities including Fengate Capital Management Ltd., EllisDon Corporation and Bechtel Corporation and their Affiliates were Restricted Parties. In addition, the City determined that Bombardier Inc., (and its Affiliates) could only participate in this Project as a Non-exclusive Supplier. That is, Bombardier could not enter into exclusive commercial arrangements with any Respondent.

In order to assess and manage any conflict of interest or unfair advantage matters as they arose in relation to the implementation and administration of the Project Procurement Process, the City established a Relationship Review Committee to review relationships that any member of the Evaluation Teams or others involved in the Process disclosed in a conflict of interest declaration. Respondents and their team members were also obliged to disclose any relationships that may be an actual or perceived conflict of interest. We participated in reviews of relationship disclosure documents by the Relationship Review Committee.

During the RFQ stage of the procurement process we: reviewed and commented on fairness issues in a draft copy of the RFQ document; attended the Information Session with interested parties; reviewed all correspondence between the City and the Respondents, including Requests for Information and addenda; monitored conflict of interest issues; participated in the

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evaluation training meeting for members of the Evaluation Teams; attended all evaluation consensus meetings of the Evaluation Teams and attended the Rollup Committee meeting that considered and assessed information from the Evaluation Teams and recommended the shortlist. The Fairness Monitor will attend all debrief meetings with Respondents following notification to the Respondents of the evaluation results.

The RFQ had only two mandatory requirements for Responses – they must be received at the Submission Location by the Closing Time and they must be in English. We attended the Closing location and observed that all three Responses were received prior to Closing Time. Each of the Responses was then reviewed for completeness to determine whether they contained the information and documentation requested in the RFQ. It was determined that all Responses had provided the requested information and documentation.

The RFQ included a pass/fail evaluation for certain criteria including the approach to financing, safety record and financial capacity. That assessment was based on objective criteria and Submissions were required to receive a “pass” in order to be considered valid for further evaluation and to have its total score be considered as part of the evaluation process and to be shortlisted. In addition, the RFQ required evaluation of each Submission on detailed criteria intended to ensure each of the Respondents, their team members and key personnel had the experience, capability and capacity to undertake the Project. These evaluations involved an in-depth assessment of each of the three broad aspects of the Project that were considered necessary in order to ensure a successful Project: Design-Build Leadership and Integration, Construction and Design. The City created three Evaluation Teams with members having specific expertise in each of those three aspects.

Each member of each of the Evaluation Teams individually evaluated each of the Responses against the stated RFQ evaluation criteria prior to a full meeting of their Evaluation Team. The members were fully aware, in accordance with the orientation meeting, that their individual assessments of the Responses were to be based solely on the process and criteria specified in the RFQ. Reference checks of the Respondents based on Submission contact information provided by the Respondents were conducted by the City to verify information in the Submissions. We were in attendance on those telephone calls.

Two of the individual Evaluation Teams met on May 9 and the third Evaluation Team met May 15, 2019 in order to reach consensus on the overall scoring of their specific evaluation section of each of the Submissions. The information from the review and assessment by the subject matter experts of the technical aspects of the Submissions were provided to each of the Evaluation Teams for guidance prior to those consensus meetings. We attended each of those consensus meetings of the Evaluation Teams. We observed that all members of each of the Evaluation Teams came to their meetings well prepared to discuss, evaluate and score the Submissions based solely on the specific evaluation criteria as described in the RFQ for each of the Evaluation Teams. We also attended the subsequent Roll-up Committee meeting on May 15 at which the consensus scoring from each of the Evaluation Teams was discussed, the final scoring of all Responses determined and a recommendation made regarding the shortlist of Respondents to be taken forward to the RFP. We observed no partiality or bias in any of those meetings.

It is our opinion based on our Fairness Monitor activities, including observations at each of the consensus meetings of the Evaluation Teams and the subsequent meeting of the Roll-up Committee, that the competitive selection process for the RFQ stage of the Design, Build, Finance of the Valley Line West Light Rail Transit Project through to the selection of the

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shortlisted Respondents was conducted in a fair, open, transparent, consistent and unbiased manner in full accordance with the procurement process and evaluation criteria established in the RFQ.

We are satisfied that:

- the members of the Evaluation Teams and the Roll-up Committee followed the procurement process described in the RFQ and fairly applied the evaluation criteria and scoring specified in the RFQ; and
- where judgment and interpretation were allowed or required, the Evaluation Teams and Roll-up Committee exercised reasonable judgment and made interpretations in a fair, unbiased and impartial manner.

We are also satisfied that we have been provided with the appropriate access and information to render this fairness review opinion concerning the RFQ stage of the procurement process for the Project.

Respectfully submitted by B. Larkin & Associates Ltd. and Owen D. Pawson Law Corporation (a joint venture),



Bill Larkin
Fairness Monitor



Owen D. Pawson
Fairness Monitor

Dated this 21st day of May, 2019