

Fairness Monitor Report on phase one of the competitive procurement  
process for the Johnson Street Bridge Replacement Project

Jamie Cassels, QC

May 8, 2012

Background

The City of Victoria is in the process of conducting a competitive procurement process to identify a qualified proponent for the Johnson Street Bridge Replacement Project. This project involves the construction of a new, moveable bridge and related street and utility works, and the demolition of the existing bridge.

The procurement process is being conducted in two phases. The first phase (the Request for Qualifications “RFQ”) is a search for and selection of interested and qualified candidates who, once selected, will be invited to proceed to the second stage and submit a full project proposal pursuant to a Request for Proposals (“RFP”).

As part of this process, the city has appointed a fairness monitor to observe and report on the integrity of the process. The RFQ states

*The City intends to appoint a fairness monitor (the “**Fairness Monitor**”) who will be independent from the City and its advisors, for the purpose of monitoring the competitive procurement process for the award of the Contract. The Fairness Monitor will, after each of the selection of the Short-Listed Proponents, and the selection of the Preferred Proponent, provide a written report to the City on whether the Fairness Monitor observed any unfairness or bias during the procurement process, and the City will make any such report available to interested parties.*

*The City will:*

*(a) provide the Fairness Monitor full access to all documents, meetings and information related to the competitive procurement process for the Bridge Project which the Fairness Monitor decides is required; and*

*(b) keep the Fairness Monitor fully informed of all documents and activities associated with the issued procurement documents, including this RFQ.*

A fairness monitor, who is independent of any of the parties, observes the process to ensure that it is carried out in a manner that is unbiased and fair to all participants. Proponents are to be treated equitably and judged against the same standards as set out in the relevant documents. There must be no bias or conflict of interest, and the final selection must be untainted by any improper considerations or practices. If any of the above defects are

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observed, the fairness monitor reports them. This is the fairness monitor report for phase one of the project (the RFQ phase).

## Development and Issuance of RFQ

I was appointed after the development of the RFQ (which was issued on March 16). But I did review it and found it to be clear and to afford a fair and equal opportunity to interested parties to participate. It explains the city's objectives, the process, and the relevant decision criteria in a transparent fashion. I also had access to other communications with proponents regarding the process and the RFQ and found those communications to be appropriate and fair. There were several requests for extensions of the deadline and it was extended by one week. No concerns were raised about the ability of interested parties to respond to the RFQ.

## Evaluation of Submissions

The City received eight submissions by the (revised) RFQ closing date of April 12, 2012. Over the course of the next three weeks, these submissions were reviewed by a three person Evaluation Team that was supported by advisors with technical expertise in various areas (as indicated in the RFQ).

I had the opportunity to closely monitor this part of the process. I had access to and reviewed the relevant documentation. I observed the deliberations of the evaluation team, their communications with advisors, meetings with proponents and final decision-making process. The process was carried out as indicated in the RFQ. It was fair and professional throughout, and I observed no fairness defects.

All members of the evaluation team and advisors underwent a relationship check for any conflicts of interest. In one instance past commercial dealings and relationships between one of the technical advisors and a number of firms were such that it was agreed that this person would not participate in this stage of the evaluation process. The required confidentiality agreements were signed by those involved. Additionally, prior to undertaking the evaluation, the process and criteria set out in the RFQ were reviewed with the team to ensure compliance with the stated processes and terms. The RFQ criteria included:

- the respondents' technical and financial strength and ability to undertake the project;
- the respondents' strength and ability to undertake the design review of the indicative design and identify design improvements;
- team composition; and
- claims and litigation history.

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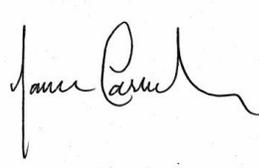
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The written submissions were closely evaluated by the Evaluation Team over the course of several meetings, all of which I attended. Throughout this stage of the evaluation the selection process set out in the RFQ was followed closely. Respondents were treated fairly insofar as their submissions were evaluated in accordance with the provisions and criteria set out in the RFQ. Technical advisors similarly provided relevant input, properly aligned with the RFQ criteria. There was no evidence of bias, or of inappropriate considerations being brought to bear and the members of the Evaluation Team exercised their judgment fairly and in good faith.

The RFQ permitted the Evaluation Team, at its discretion, to seek additional information through reference checking, interviews and other means, and the Evaluation Team exercised its discretion appropriately in this regard. A number of firms were selected for interviews to explore their submissions in greater depth and address questions related to the decision-criteria. These interviews were conducted professionally and fairly and proponents were treated consistently. The final evaluation meetings maintained a clear focus on the relevant criteria and in coming to their conclusions the Evaluation Team members met their responsibilities with objectivity, impartiality and an absence of bias.

Based on these observations, I am satisfied that the process leading to the selection of the final three qualified candidates was consistent with the RFQ and fair in all respects.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jamie Cassels", is centered on the page. The signature is written in a cursive style with a long, sweeping tail.

Jamie Cassels, QC