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**Subject:** Approval of Public Works Single Source Purchase Requests Over \$100,000

**Report to:** Public Works Committee

**Report date:** Tuesday, November 10, 2020

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## Recommendations

1. That a change request to Purchase Order PO23236, assigned to WSP per proposal 2017-RFP-08 for Niagara Falls Water Treatment Plant Phase II Upgrades, to increase the pre-tax amount of \$593,634.00 by \$96,400.00 for a new total of \$690,034.00 **BE APPROVED.**

## Key Facts

- The purpose of this report is to seek Public Works Committee's approval to proceed with a Purchase Order (PO) Change Request that is cumulatively in excess of \$100,000.
- At the Special Council meeting on July 30, 2020, Regional Council instructed staff that, "If any single source [Public Works] procurement [over \$5000] is deemed essential there must be approval first received by the Public Works Committee."
- On August 18, 2020, the CAO provided Confidential Memorandum CONF-C 6-2020 providing key information in response to the July 30, 2020 staff direction. The memo identified that pursuant to a formal competitive procurement process, a change to the resulting contract (via the Change PO process) is required for any additional goods and/or services, which were not part of that formal process (consider Single Source additions). This includes most (if not all) instances where the "work" is underway when a Change PO request initiates.
- At the Council meeting on September 17, 2020, Regional Council approved an increase in the limit to \$100,000 above which approval must first be received by the Public Works Committee.
- At the Council meeting on August 13, 2020, Regional Council approved report PW 36-2020 to increase the original contract (2018-T-116) to Maple Reinders Constructors Ltd for the Niagara Falls Water Treatment Plant Phase II Upgrades. The increase in scope was to address additional concrete repairs, high performance coatings and enhance cleaning of the filter underdrain system.
- This report addresses an increase to the contract (2017-RFP-08) WSP Consulting Engineers for the contract administration and inspection of the works in alignment with the increase in contract scope for the constructor as noted above.

## **Financial Considerations**

The Change PO request has approved funding in place from either Capital or Operating budgets in the respective divisions in Public Works.

## **Analysis**

Staff within the Public Works Department are currently managing 1388 open active Purchase Orders related to essential infrastructure projects. These include planning, design, preventative maintenance and construction.

Niagara Region's Procurement By-law 02-2016 as amended February 28, 2019 provides controls and methods that ensure, among other things, that the procurement processes undertaken to procure Goods and/or Services achieves, "best value for the Corporation".

Pursuant to the formal procurement process, which culminates in contract award, there are occasions, when new information identified after award, requires further consideration of how these unforeseen additional requirements will impact the final project deliverable.

This report addresses a request to increase the current purchase order for the Niagara Falls Water Treatment Plant Phase II Upgrades.

Construction of the Niagara Falls Water Treatment Plant Phase II Upgrades is well underway, and based on recent schedule negotiations with Maple Reinders Constructors Ltd (MRCL), construction is expected to be completed by January 11, 2021.

The scope of the exterior works includes: exterior building repairs, exterior concrete coatings, new plant stairs and accessibility ramp, structural canopy for dehumidifier units and a new sloped roof on the chlorine storage building. Scope of the interior works includes: work specific to the Plants 1 and 2 filter areas, including lead paint removal and abatement, application of epoxy coatings, replacement of 12 mechanical heaters, filter troughs replacement and rehabilitation, inlet and drain gates replacement (Plant 2), filter media replacement and application of cementitious coatings in the filter tanks. MRCL is currently working on the final phase of work.

WSP was awarded 2017-RFP-08 competitively in June 2017 for the detailed design and tendering of the Project for a total of \$133,227.00. Throughout design, there were three scope changes initiated and approved by the Region, for a total of \$34,006.00.

In September 2019, WSP's contract was extended to complete the contract administration and inspection, following tender and award to MRCL. The total fee for this phase of work was originally \$306,726.00 based on 2017-RFP-08. The revised amount of \$329,429.00 was required to accommodate adjusted rates for the new construction year (2018 originally but moved to 2019 due to required budget adjustments) as well there was now a better understanding of construction duration and speciality inspection requirements.

The Region approved an additional scope change in May 2020 for a total of \$96,972.00. The change was for additional design required to better facilitate construction, more frequent site meetings to ensure construction schedule was maintained due to CWWF funding requirements, additional inspection time for accepted contract duration extension (from July 31, 2020 to October 31, 2020) and additional speciality inspection that was recognized to add significant value to the project.

This current request is for an extension to WSP existing contract that is required for additional contract administration and inspection services required to bring the project to completion, which MRCL anticipates by January/February 2021. The extension to the construction schedule is required by MRCL to adequately complete construction. The exact schedule is not yet known due to the unknown magnitude of extensive concrete repairs, additional testing and cleaning of filter underdrains, and curing of the new high-performance coating systems still remaining in Phase 4. This change for WSP fees reflects this anticipated timeframe. MRCL contract amount was revised to account for these changes in Council Report PW 36-2020.

Below is a summary of WSP fees on this project:

Originally contemplated fees (2017-RFP-08)	\$439,953.00
Total approved scope changes to date (single source)	\$153,681.00
Current request (single source)	\$ 96,400.00
Total fees for WSP	<b>\$690,034.00</b>

Staff recommend that WSP be awarded this PO increase in accordance with Purchasing By-law 02-2016, Section 18(a)(i) as WSP is familiar with this immediate area and this work is directly related to the system that is being upgraded as part of the

project. If WSP continues their assignment based only on their approved scope of work to date, the Region will not be able to effectively provide contract administration and inspection on this complex project.

### **Alternatives Reviewed**

- (i) Do Nothing:
  - This alternative does not address the needs of the project and can result in further claims due to construction delays
  
- (ii) Proceed with competitive RFP process:
  - A competitive process will take more time than is available as there is immediate need for these services;
  - A different consultant will require additional cost, effort and time to become familiar with the project and requirements and will complicate the Contract Administration and Inspection process
  - A competitive RFP process will also hold up construction resulting in delay claims from the Contractor

Budget information is as follows:

Total Budget \$12,952,129.00

Expenditures including commitments \$12,610,842.28

Budget Remaining \$341,286.72

There is sufficient budget in the project budget to assign this change PO.

### **Relationship to Council Strategic Priorities**

- Responsible Growth and Infrastructure Planning

### **Other Pertinent Reports**

- PW 50-2019 Award of Tender 2018-T-116 Niagara Falls Water Treatment Plant Phase II Upgrades
- PW 36-2020 Niagara Falls Water Treatment Plant Phase II Upgrades – Contract Changes
- CONF-C 6-2020 Update from Special Council Meeting - July 30, 2020 Closed Session

- PW 42-2020 Approval of Various Single Source Public Works New Purchase Orders and Purchase Order Change Request - September 8, 2020
- PW 45-2020 Approval of Public Works Single Source Purchase Requests Over \$100,000

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**Prepared and Recommended by:**

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**Submitted by:**

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*This report was prepared in consultation with Dan Ane, Manager Program Financial Support and Bart Menage, Director Procurement and Strategic Acquisitions*

**Appendices**

None.