
Subject: Approval of Various Public Works Sole/Single Source New Purchase Orders Requests and Purchase Change Order Requests Exceeding \$100,000

Report to: Public Works Committee

Report date: Tuesday, January 12, 2021

1. That the Sole/Single Source New Purchase Order Requests and Purchase Change Order Requests identified in Appendix 1 of this report **BE APPROVED**.

Key Facts

- 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.

Financial Considerations

The included Single Source requests have approved funding in place from either Capital or Operating budgets in the respective divisions in Public Works.

Analysis

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.

When this happens, staff consider the following alternative approaches to addressing the scope change:

1. Is the original project objective still achievable or should it be abandoned?
2. Can the project proceed as originally planned and this new information be deferred to a later time without reducing the integrity of the design, construction, etc.?
3. Is the current work at a point where it can be terminated, and a new competitive procurement for the additional scope items be initiated without excessive costs or negative impacts to the community from the delays?
4. Does the addition of this new work to the current assignment still achieve best value if Staff can validate that it represents fair value?

Staff note, that where a construction project is underway, the Ontario Occupational Health and Safety Act dictates that, "When an owner undertakes a project by contracting with more than one employer (contractor), the owner is undertaking the project and is the constructor." As a result, if Niagara Region were to initiate additional work on a project site at the same time by two contractors, Niagara Region would assume significant additional liability risk for the safety of all workers on the site. Ideally, the work of first contractor must be completed prior second contractor commencing.

Alternatives Reviewed

Staff have considered the following alternatives for each of the change order requests appended as Appendix 1:

- Closing out the current work. Abandoning the previous approach and re-considering strategy;
- Proceeding as originally planned and addressing the new information/change in scope at a later time through a competitive process; and,
- Terminating the current contract where possible and conducting a competitive procurement process to complete the work with the additional scope items added.

Staff conclude that none of the aforementioned options achieves the desired best value outcome without significant risk to the Region in terms of cost, delay and unavailability of critical infrastructure. Staff have assessed the financial impact of these additionally scoped items, deemed them fair and reasonable hence, the recommendation contained herein is presented for approval as it offers the best value for the Corporation given in the specific circumstances.

Relationship to Council Strategic Priorities

- Responsible Growth and Infrastructure Planning

Other Pertinent Reports

- CONF-C 6-2020, July 30, 2020 Closed Session - Update from Special Council Meeting
- PW 42-2020, September 8, 2020 - Approval of Various Single Source Public Works New Purchase Orders and Purchase Order Change Request
- PW 45-2020, October 13, 2020 - Approval of Public Works Single Source Purchase Requests Over \$100,000
- PW 47-2020, November 10, 2020 Approval of Public Works Single Source Purchase Requests Over \$100,000

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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

Appendix 1 Sole/Single Source New PO Requests and Change PO Requests

Purchase Order Change Requests to Existing Contracts

1. PO 49672 CIMA (2018-RFP-50)

Bridgeport Sewage Pump Station (SPS) Upgrades – EA Study

Increase original pre-tax amount of \$106,273.00 by a further \$85,690.00 for a new total of \$576,650.00.

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| Originally contemplated fees (2018-RFP-50) | \$106,273.00 |
| Total approved scope changes to date (single source) | \$384,687.00 |
| Current request (single source) | \$ 85,690.00 |
| Total fees for CIMA | \$576,650.00 |

Rationale for Increase

The request is to increase the current purchase order in order to account for additional work for:

- (a) Completion of a Stage 4 Archaeological Assessment as part of the Bridgeport SPS Upgrades Class EA and Detailed Design project. The Stage 1 & 2 Archaeological Assessment, which was included in the original scope for the Class EA Study, was completed on 08 July 2020. A subsequent Stage 3 Archaeological Assessment was then completed on 15 October 2020. During the Stage 3 archaeological assessment of the Euro-Canadian historical site, an Indigenous archaeological site was identified. The Indigenous component resulted in the recovery of approximately 50 lithic artifacts, dating between the Late Archaic and Woodland cultural period (2,500 to 1,500 BP). The Stage 4 Assessment will only be for the Indigenous component since the Euro-Canadian component does not have any further significance.

The site meets the following standards per the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) Standards and Guidelines for Consultant Archaeologists, and, therefore, a Stage 4 excavation is required:

- i. Section 3.4, Standard 1.e: Woodland period archaeological site
- ii. Section 3.4.1, Standard 1.a: One or more test units yielding 10 or more artifacts
- iii. Section 3.4.1, Standard 1.b. One or more test units yielding five to nine artifacts, including at least one diagnostic artifact

Alternatives Reviewed

(i) Do Nothing:

- This alternative does not address MHSTCI Standards and Guidelines.
- It does not address the need for development and growth that requires an increase of the pumping station capacity.
- This alternative would prevent the Region from expanding the pumping station within the purchased property parcel.

(ii) Expansion within the right-of-way:

- This does not address the needs and concerns of the local residents, Town of Lincoln and Niagara Region WWW Operations and Maintenance staff.

2. PO 79630 Complete Systems Installations

Road Weather Information System (RWIS) Equipment Replacement

Increase original amount of \$134,135 by a further \$26,160 to \$194,795.

Rationale for Increase:

As previously reported in PW 42-2020, the cost to repair all identified deficiencies was initially identified as \$134,135 and was undertaken during the summer months. Upon completion of those repairs the contractor resumed the annual maintenance activities and subsequently identified additional deficiencies at several of the stations. This year's maintenance program revealed a number of deficiencies at the seven (7) weather stations that will severely compromise the Region's ability to effectively and accurately manage winter operations. As a result, we are required to replace the damaged hardware to allow preparation for the 2020-2021 winter season.

Public Works Committee and Council on September 17, 2020 approved an additional \$34,500. However, a line item was not correctly incorporated into the request and the required increase should have been \$9,680 greater.

Since that date, we have experienced (1) solar battery failure at one of stations that restricts its operation to daytime hours thus bringing the station out of compliance. The cost to repair is an additional \$3,480; (2) a failed road sensor at the Grimsby station that must be replaced at an additional cost of \$13,000.

As noted in the previous report, an RFP will be issued soon to publicly procure a multi-year metrological maintenance and repair services contract using a competitive process allowing for active monitoring of system components and short replacement timelines; similar to MTO's newer contract model. This single source allocation is required to prepare for the 2020 winter season.

Niagara Region has seven (7) Road Weather Information System sites operating across the Region. These systems are installed with multiple scientific weather observation instruments and CCTV cameras that are monitored and recorded. This information is accessed, validated, interpreted, and reported on by the vendor of record to provide the Region with daily meteorological services such as weather forecasts and real-time RWIS site data access & information. This information is critical and essential to the Region's winter road maintenance operations for compliance with the Regulatory requirements set out in Ontario Regulation 239/02 – Minimum Maintenance Standards. The information is used to plan and react to

winter weather and significant weather events. This information is also provided at no charge to the Local Area Municipalities.

In summary, the additional request for funding is \$26,160, which when added to the revised PO amount of \$168,635, equals a total overall equipment replacement cost of \$194,795.

CSI is the defacto vendor used by the Region, MTO and municipalities throughout Ontario for RWIS maintenance and repair. CSI has established processes and has immediate access to the required equipment. Issuing a tender for the acquisition of parts (there is a minimum 6 week manufacturer order fulfillment from purchase date) and a contractor to implement the service will not meet the need for the 2020-2021 winter season.

Therefore it is recommended that the quote provided by Complete Systems Installations (CSI) be approved in accordance with the Region's Procurement By-Law as follows:

SINGLE SOURCE PURCHASES

18. (a) Bid Solicitations are not required for Single Source Purchases, provided that any of the following conditions apply:

- (i) the compatibility of a Purchase with existing equipment, product standards, facilities or service is a paramount consideration;

Sole-Source Purchase Requests for Approval

3. Request: Single source purchase of traffic control cabinets

Supplier: Econolite

Single source purchase of traffic control cabinets required for ten (10) signalized intersections and two (2) spares at a total cost of \$206,524.86 (exclusive of HST).

Rationale for Purchase

This request is for the approval for a single source purchase of traffic control cabinets as an interim measure until a procurement strategy is finalized. This request will fulfill the immediate need in order to keep the business operating.

This purchase is to replace traffic control cabinets which fall under Regional jurisdiction. It is required to replace cabinets which have passed their end-of-life (EOL) cycle at ten locations throughout the Region. Two (2) additional cabinets are included in this request to be placed in Stores for emergency cabinet replacement purposes. This product has proven to meet all Regional operational and performance standards consistently for over 20 years with approximately 260 in-service currently. The supplier has an established history of providing a high level of product support and has consistently met our delivery timelines.

This equipment is necessary for the safe and efficient operation of these signalized intersections. The Region has strived over the years to be proactive in replacement of obsolete traffic equipment to maintain accurate and consistent signal operation. This ensures proper alignment with changing traffic practices and technologies.

Alternatives Reviewed

- (i) Do nothing – Not an option as a traffic control cabinet is required at each signalized intersection in order to operate. Inefficient operation of the signalized intersection increasing driver delays, frustration and resulting in possible safety issues.
- (ii) Procurement strategy is under review:
 - The risk of procuring products of unproven performance may cause safety and operational concerns at affected signalized intersections.

4. Request: Single source purchase of Wavetronix Vehicle Radar Detection Systems

Supplier: Fortran Traffic

Single source purchase of traffic signal vehicle detection equipment required for nine (9) signalized intersections at a total cost of \$238,291 (exclusive of HST).

Rationale for Purchase

This request is for the approval for a single source purchase of vehicle radar detection equipment as an interim measure until a procurement strategy is finalized. This request will fulfill the immediate need in order to keep the business operating.

This purchase is for the materials needed to replace vehicle detection equipment for nine signalized intersections falling under both Regional and local area municipality jurisdiction. This is required to replace systems, which have failed or reached the end-of-life (EOL) cycle at nine (9) locations throughout the Region. This product has proven to meet all Regional operational and performance standards consistently at other locations over recent years without issue; currently operating at forty-three (43) intersections. The supplier has in the past, provided a high level of product support and has consistently met our delivery timelines.

These systems will replace failed or failing equipment currently installed at signalized intersections at nine (9) locations throughout the Region. This equipment is necessary for the safe and efficient operation of these signalized intersections. The Region has strived over the years to provide vehicle detection for all approaches to signalized intersections. This allows the signal to vary green times for each approach according to vehicle demand and respond to real time traffic conditions. This greatly reduces vehicle emissions and delays for all motorists at the intersection.

Alternatives Reviewed

- (iii) Do nothing – Inefficient operation of the signalized intersections increasing driver delays, frustration and resulting in possible safety issues.
- (i) Procurement strategy is under review:
 - The risk of procuring products of unproven performance may cause safety and operational concerns at affected signalized intersections.

5. Request: Sole Source of Water Valve Maintenance Trailer Replacement

Supplier: Wachs Canada

Sole source purchase of one (1) Water Valve Maintenance Trailer at a total cost of \$119,300.00 (exclusive of HST).

Rationale for Purchase

Niagara Region owns three (3) valve maintenance trailers, one (1) for each water operational area. Two (2) of our maintenance trailers are 2005 models. At 15 years old the trailers have surpassed their projected service life of 10-12 years. One (1) of the trailers has currently been removed from service by our fleet mechanics due to multiple mechanical problems. This request is for replacement of that trailer.

The water valve maintenance trailers are used daily by water maintenance staff to support Niagara's valve turning and maintenance programs. These programs are regularly scrutinized by our MECP inspectors. The trailers are also used for emergency response (water main breaks) and to support water system isolations required in the distribution system for Niagara region's Local Area Municipalities.

Niagara Region owns hundreds of large format water valves that cannot be effectively operated by hand. Mechanical advantage is required to operate them. The trailer is equipped with a hydraulic valve actuator, vacuum system, power washer, hydraulic de-watering pump, digital controller and data logger, as well as all of the safety beacons required for working within roadways. This equipment is essential to our valve maintenance and emergency response as all tasks related to operation and maintenance of water valves can be performed in a fraction of the time of manual means.

Rationale for sole source

The trailer is supplied by Wachs Canada in Newmarket, ON. It is considered specialized equipment and Niagara Region already own the controllers that are used to collect valve data and the software that is used to store that data, as well all of the tools and accessories that are used with this trailer. Niagara Region's Local Area Municipalities also use the same or similar equipment also supplied by Wachs.

Alternatives Reviewed

Staff are not aware of any other suppliers that can provide this equipment.