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**Subject:** Approval of Public Works Single Source Purchase Order Requests and Purchase Change Order Requests Exceeding \$100,000

**Report to:** Public Works Committee

**Report date:** Tuesday, March 9, 2021

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## **Recommendations**

1. That the Single Source Purchase Order Requests identified in Appendix 1 of Report PW 13-2021 **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
- PW 3-2021, January 12, 2021 Approval of Public Works Single Source Purchase Requests Over \$100,000
- PW 7-2021, February 16, 2021 Approval of Public Works Single Source Purchase Requests Over \$100,000

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#### **Prepared and Recommend 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**

Appendix 1            Single Source Purchase Order Requests

## **Purchase Order Requests for Approval**

### **1. Request: Sole source purchase of ZincFive Battery Backup Systems**

Supplier: Innovative Traffic Solutions Inc.

**Sole source purchase of traffic signal cabinet battery backup systems required for twenty (20) signalized intersections at a total cost of \$238,900.00 (exclusive of HST).**

#### **Rationale for Purchase**

This request is for the approval for a sole source purchase of traffic signal cabinet battery backup systems (BBS) as an interim measure to address immediate business needs.

This purchase is for the materials needed for the installation of traffic signal cabinet battery backup systems at twenty (20) signalized intersections falling under both Regional and local area municipality jurisdiction. The Region has implemented a redundant backup system with the installation of these batteries in all new traffic signal installations and/or rebuilds.

ZincFive has the patent and is therefore the sole supplier of the sealed Nickel-Zinc (NiZn) battery system which is safer, has a wider operating temperature range, and a longer operating life than traditional batteries. The ZincFive battery is also intelligent and can self-monitor performance and is hot-swappable. This battery system has a central system management platform which can continuously monitor equipment health and report faults. The result is a system which requires little to no preventative maintenance, with the redundancy needed for operations.

Since 2014, the Region has invested over \$700,000 in ZincFive systems at 70+ signalized intersections throughout the Niagara region. The product is a proven performer.

#### **Alternatives Reviewed**

- (i) Do nothing: Without the battery backup systems in place, signalized intersections go down and are not operational. Therefore, this creates inefficient operation of the signalized intersections during brownouts, blackouts, and utility power issues with increase driver delays and frustration, resulting in an increase of safety issues.
- (ii) Procurement strategy is under review: In 2021, Staff will work with Procurement on proper supporting information in support of this sole

source purchase, plus review if other vendors have the rights to price and supply this patented battery. Staff will also evaluate the performance of other battery types with similar operational and cost characteristics against the proven performance of the patented ZincFive battery system.

### **Recommendation by Transportation Services**

Proceed with sole source purchase of traffic signal cabinet battery backup systems in the interim.

#### **2. Request: Sole source purchase of Polara Accessible Pedestrian Signal (APS) button systems**

Supplier: Tacel Ltd.

**Sole source purchase of Polara Accessible Pedestrian Signal (APS) button systems required for fifteen (15) signalized intersections at a total cost of \$138,000.00 (exclusive of HST).**

### **Rationale for Purchase**

This request is for the approval for a sole source purchase of Polara Accessible Pedestrian Signal (APS) buttons required to meet immediate operational needs. Staff will work with Procurement and the supplier on proper sole source documentation for existing infrastructure. What makes this a sole source request is that Polara owns the patent rights for a 2-wire Accessible Pedestrian Signal (APS) system which allows for installation in existing signal infrastructure with minimal cost and resources. Competitive products use a 3-5 wire system which would require new cabling to be installed throughout each signal plant throughout the Region. As part of future procurement reviews, an analysis will be done on the merits of introducing a 3-5 wire system product.

In accordance with the Accessibility for Ontarians with Disabilities Act, 2005 (AODA), the Region installs Accessible Pedestrian Signal (APS) button systems at all new traffic signal installations and/or rebuilds.

This purchase is for the materials needed for installation of Polara Accessible Pedestrian Signal (APS) button systems at fifteen (15) signalized intersections falling under both Regional and local area municipal jurisdictions. This sole source product has proven to meet all Regional operational and performance standards consistently at other locations for years without issue.

Since 2006, the Region has invested over \$1.6 million in Polara Accessible Pedestrian Systems at 171+ signalized intersections related to safety. As part of

AODA, it is very important to ensure equipment has a consistent look, sound, and feel, therefore, the Region has standardized their installation methods so staff are experienced when installing and maintaining this product. The product is a proven performer and has evolved to provide non-contact actuation where citizens can activate the buttons by simply waving their hand in front of it.

### **Alternatives Reviewed**

- (iii) Do nothing: Not recommended. AODA regulation mandates that APS buttons shall be installed at all new signal installations and/or signal rebuilds.
- (iv) Procurement strategy is under review: Staff will be assessing the risk of introducing a 3-5 wire product against a number of factors such as its appearance, operation, and performance related to safety and operational requirements, if to be introduced into the larger Regional network.

### **Recommendation by Transportation Services**

Proceed with sole source purchase of Polara Accessible Pedestrian Signal (APS) button systems as staff undergo the review process with Procurement.