
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, April 13, 2021

Recommendations

1. That the Single Source Purchase Order Requests identified in Appendix 1 of Report PW 17-2021 **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
- PW 13-2021, March 9, 2021 Approval of Public Works Single Source Purchase Requests Over \$100,000

Prepared and Recommend 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 Change Requests to Existing Contracts

1. 2018-RFP-41 St. Paul West CNR Bridge Replacement – Environmental Assessment and Design RFP

Request: Additional design supporting property acquisition, utility relocation, and heritage consultation with the City of St. Catharines

Consultant: Associated Engineering

Purchase Order Number: 0000052177

Increase original contract amount of \$318,466 (excl. HST) by \$2,800 for a new total of \$321,266.

Rationale for Increase

The request is for an extension to an existing contract.

Associated Engineering (AE) was retained through a competitive bidding process under Request for Proposal 2018-RFP-41. The additional fees are required to provide presentation material to property owners showing access solutions to their properties after the new bridge has been constructed.

In order to avoid potential property acquisition, AE has determined what would be required to provide access to #96 and #98 St. Paul St. West. In order to show each property owner what their new access will look like, 3D renderings will be prepared. The renderings are required to support the Real Estate Officer's negotiations with the affected property owners.

The accumulated changes throughout the project, including the current change, to the original Purchase Order is \$119,972 as summarized below:

i. Monitoring Well decommissioning and Heritage Impact Assessment	\$11,760
ii. Additional Public Information Centre	\$7,640
iii. Additional scope relating to St. Catharines underground works ...	\$41,406
iv. Additional survey for property impacts	\$5,973
v. Additional Geotechnical review for consolidation testing	\$19,880
vi. Street lighting design	\$11,547
vii. design associated with property acquisition, intersection design, additional utility relocation coordination, and heritage consultation	\$18,966
viii. Access driveway rendering	\$2,800

Alternatives Reviewed

- (i) Do nothing – Unknown cost exposures likely to occur during construction since these issues would need to be addressed during construction.
- (ii) New procurement:
 - Increased cost due to additional surveying for access designs and procurement delays, and with coordination between assignments.
 - Increased risk exposure to the Region as a result of the lack of project specific knowledge and decisions.
 - Increase in timeline (three to four months project delay)
 - Not considered a viable alternative.
- (iii) Extend current assignment to cover the additional services:
 - Compatibility with existing service since there is consistent professional and technical knowledge with the current professional services contract.
 - Mitigates the risk/cost exposure resulting from conflicting information.

Recommendation by Transportation Services

Approval of additional fees to support property acquisition.

Purchase Order Requests for Approval

2. Request: Sole Source of Bale Wire

Supplier: Accent Wire Tie

Sole source purchase of three (3) 48,000 lbs loads of bale wire which is required for baling recyclable products being sold to end markets at a total estimated cost of \$177,120 based on current market pricing (exclusive of HST).

Rationale for Purchase

This request is for the approval for a sole source purchase of bale wire which is required to meet daily operational needs at the Recycling Centre. Bale wire is used to bale recyclable products sold to end markets. Without bale wire, the Recycling Centre would not be able to continue to process incoming recyclables.

Due to market value fluctuations of steel, the pricing of bale wire is determined at the time a load is ordered.

Alternatives Reviewed

- (i) Do nothing: Without bale wire, the Recycling Centre would not be able to continue to process incoming recyclables.

- (ii) Procurement strategy is under review: Over the past 2 ½ years, six (6) Request for Quotation's (RFQs) were issued. Historically, only one bidder consistently responded to the RFQ. In 2019 and part of 2020, staff single sourced the purchase of bale wire to one bidder due to tariffs that were imposed by US, which created a shortage of material in the marketplace. In the latter half of 2020 and early 2021, staff issued several RFQs to test the market. Again, the same one bidder responded. Staff are continuing to look for other suppliers that can meet the bale wire specifications and will revisit issuing RFQs in 2022.

Funding Source

Funds for purchasing bale wire are included in the annual operating budget for Recycling Plant Operations.