
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, May 11, 2021

Recommendations

1. That the Single Source Purchase Order Requests identified in Appendix 1 of Report PW 25-2021 **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
- PW 17-2021, April 13, 2021 Approval of Public Works Single Source Purchase Requests Over \$100,000

Prepared and Recommended 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

Appendix 1: Purchase Order Change Requests to Existing Contracts

1. Project Name: 2017-RFP-19 – RR20 West St, West Lincoln – Phase 4

Consultant: Associated Engineering (ONT)

Purchase Order Number: 0000033408

Increase the contract award amount to the lowest compliant bidder (\$432,139.02 exclusive of HST) with an additional (\$53,510.00 exclusive of HST)

The increase is to complete the following additional tasks which were not previously included in the design assignment;

- Revision of Issued for Tender Package to include the limit extension from the previous completed Phase 3.
- Township of West Lincoln requested the inclusion of municipal servicing works (watermain, storm)
- Additional Illumination analysis

Rationale for Increase

A continuation of the current design assignment, to maintain quality and control to ensure the designs being completed meet the required Regional, Provincial and Municipal standards. Originally Phase 4 was to be included as part of the Phase 2 & 3 construction; however due to internal and Municipal budget constraints, Phase 4 became its own stand-alone project within the original project limits.

During construction of Phase 2 & 3, project scope was increased to incorporate additional sidewalk works requested by the Township of West Lincoln, which subsequently requires an adjustment to the finalized Phase 4 design.

During the RFP process the Consultant was required to undertake specific tasks; infrastructure works were not flagged by the Township of West Lincoln for inclusion at the time of proposal preparation, and have recently been requested for inclusion in the project scope for design and construction.

The accumulated total, including the current change (\$53,510) to the original Purchase Order is \$205,437.06 as summarized below:

- | | |
|---|------------|
| i. Vertical and horizontal design changes to coordinate Township works .. | \$5,100.00 |
| ii. Alignment change to eliminate property acquisitions for the Township (Phases 2 & 3) | |
| | \$9,050.00 |
| iii. Additional storm sewer design and investigation | \$3,301.96 |
| iv. Incorporate Region landscaping into tender set (Phases 2 & 3) | \$1,100.00 |

v. Additional survey works for property at SGR6 (Phases 2 &3).....	\$1,932.00
vi. Re-tendering after initial cancellation (Phases 2 &3)	\$2,711.00
vii. Inspection fees (Phases 2 &3) (competitively procured)	\$128,732.10
viii. Current change request	\$53,510.00

Alternatives Reviewed

- (i) Do Nothing:
 - Without including the Township's infrastructure works, ageing infrastructure would be left under the newly constructed roadway, which could result in infrastructure failure and excavation of the project sites to fix. This is not being recommended.
- (ii) Increase the PO:
 - Allows for the continuation of the current assignment which will maintain quality control over the design completed / to be completed and facilitated during construction in a timely manner.

Recommendation by Transportation Services

Increase PO for an additional \$53,510.00 (excluding HST) to add the additional design assignments to the project.

2. Project Name: 2019-RFP-55 Thorold Stone Road Extension – Stage Two

Consultant: WSP Canada Inc.

Purchase Order Number: 0000088530

Increase the contract award amount to the lowest compliant bidder (\$480,648.00 exclusive of HST) with an additional \$127,763.50 (exclusive of HST)

The increase is to complete the following additional tasks which were not previously included in the design assignment;

- Review additional options for a stormwater outlet to service the proposed roundabout at Stanley Ave./Bridge St., and the proposed Thorold Stone Road Extension between the current cul-de-sac and the roundabout. This requires an hydrology assessment and analysis of five (5) potential options and preparation of a summary report; preparation of schematic plans for each option as well as cost sharing analysis for each; presentation of options and recommendations to various stakeholders including City of Niagara Falls; additional meetings with Region and City staff to reach consensus.

- Upgrades to the landscaping of the Victoria and Bridge roundabout, including illumination, irrigation, upgraded vegetation were requested by the City of Niagara Falls.
- City of Niagara Falls requested the inclusion of municipal servicing works (watermain, sanitary sewer and disconnection of catch basins from the existing combined sewers).
- Additional project management requirements for the coordination of these tasks into the tender package as it is nearing 90% complete.

Rationale for Increase

A continuation of the current design assignment in order to maintain quality and control to ensure the designs being completed meet the required Regional, Provincial and Municipal standards.

During the RFP process the Consultant was required to undertake specific tasks for the storm sewer outlet. However, at preliminary design a number of other alternatives were requested by stakeholders which require a scope change. Landscaping upgrades and infrastructure works were new requests by the City of Niagara Falls for inclusion during design and construction.

The accumulated change, including the current change (iii, iv, v), to the original Purchase Order is \$279,481.50 as summarized below:

i. Designated Substance Survey of 4799 Bridge Street	\$6,350.00
ii. Geotechnical and Excess Soil Management Plan	\$145,568.00
iii. Storm Sewer Outlet Options	\$46,604.50
iv. Municipal Landscape, Irrigation and Infrastructure Additions.....	\$80,959.00

Alternatives Reviewed

- (i) Do Nothing:
- Examination of additional storm outlet options, which includes a potential outlet into the hydro canal, will assist with identifying effective preferred locations in order to properly drain the roadway and neighbouring lands.
 - A vision for this area has been identified by both the City and Region, so the request is to include for the landscaping upgrades to enhance the gateway feature at the roundabout. Not including for this would be a loss to the gateway vision.
 - Without including the City's infrastructure works, ageing infrastructure under the newly constructed roundabout will be left, which could result in infrastructure failure and excavation of the project site in the near future.

- (ii) Increase the PO
 - Allows the continuation of the current assignment which will maintain quality control over the design completed and facilitated during construction.

Recommendation by Transportation Services

Increase PO for an additional \$127,564.50 (excluding HST) to add the additional design assignments to the project.

3. 2015-RFP-14 Regional Road 87 (Lakeshore Road) From Townline Road to Four Mile Creek in Niagara on the Lake – Consulting Services for Design of Road and Drainage Improvements

Request: Updates to tender documents and Phase 2 Contract Administration and Inspection Services.

Consultant: Kerry T. Howe (KTH)

Purchase Order Number: CNV0000139

Increase original contract amount of \$271,721.78 (excl. HST) by \$145,798.00 for a new total of \$616,466.71. *With the launch to the Peoplesoft System, the actual PO amount in the system is \$417,519.78 = \$344,744.93 (accumulated changes) + \$72,774.85 (converted PO in Peoplesoft)

Rationale for Increase

The request is for an extension to an existing contract.

Kerry T. Howe (KTH) was retained through a competitive bidding process under Request for Proposal 2015-RFP-14. The additional fees are required to provide:

- Updates to Contract Documents for Procurement in order to secure a Contractor for 2021 Phase 2 Construction
- Contract Administration and Inspection Services of 2021 Phase 2 Construction

The additional fees requested by Kerry T Howe to undertake the above is \$145,925. A credit in the amount of \$127 will be applied so the change PO request is \$145,798 (\$145,925 - \$127).

The accumulated change, including the current change (vi), to the original Purchase Order is \$344,744.93 as summarized below:

i) Financials not captured during PeopleSoft Conversion	\$18,712.33
ii) Ellis Engineering Culvert Extension	\$29,432.00
iii) Ellis Engineering culvert extension	\$23,680.00
iv) Contract Administration and Inspection for Phase 1 Construction (tendered)	\$127,122.60
v) PO Amendments: Changes Documented but PO value not adjusted	\$0
vi) Contract Administration and Inspection for Phase 2 Construction (current)	\$145,798.00

Alternatives Reviewed

- (i) Do nothing:
 - Impacts tendering of document.
 - Construction requires Contract Administration and Inspection Services. Rates to be applied were tendered under Phase I.
- (ii) New procurement:
 - 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 due to project delay).
 - Not considered a viable alternative since compatibility with existing service is a paramount consideration.
- (iii) Extend current assignment to cover the additional services:
 - Compatibility with existing service from a consistency and technical perspective with the current professional services.
 - Mitigates the risk/cost exposure resulting from conflicting information if a new consultant were to be procured.

Recommendation by Transportation Services

Approval of additional fees to support finalization of contract documents in order to procure the construction for 2021 season and for Contract Administration and Inspection Services.