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**MEMORANDUM**

**PWC-C 23-2021**

**Subject: Public Works Single Source Purchases over \$100,000 - Exceptions**

**Date: July 13, 2021**

**To: Public Works Committee**

**From: Bruce Zvaniga, P.Eng., Commissioner of Public Works (Interim)**

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Per Council direction on September 17, 2020, this memo has been prepared to inform Public Works Committee of Single Source procurements greater than \$100,000 processed under one of the following exceptions.

**Sole Source**, specifically Section 18 (a) (iii): “there is an absence of competition for technical reasons and the Goods and/or Services can only be supplied by a particular Supplier”; and/or

**Special Circumstances**, specifically Section 17 and Procurement By-law definition clause (ii): “An event that, unless immediately addressed, is likely to cause significant loss or damage to property”; and/or

**Negotiation**, specifically Section 19 (a) (iii) and (vi) respectively: “(iii) a Sole Source is being recommended”; and “(vi) the extension of an existing Contract would be more effective”

Appendix 1 provides detail of purchases made from February 1 to May 30, 2021.

Respectfully submitted and signed by

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Bruce Zvaniga, P.Eng.  
Commissioner of Public Works (Interim)

## Appendix 1: Single Source Purchase Orders - Exceptions

### 1. Project Name: Highway 406 Crossing – Trunk Watermain & Sewer

Purchase Order (PO) Number: **0000060681**

Supplier: **2524964 Ontario Inc. (Empire Homes - Developer)**

Exception Category: **Single Source** in accordance with Purchasing By-law 02-2016 as amended February 28, 2019, Section 18(a)(iii) as there is an absence of competition and the services can only be supplied by 2524964 Ontario Inc. (Empire Homes)

Date Work Authorized: **December 18, 2017**

Type: **Change PO** to increase Contract Scope to cover additional costs related to the highway crossing

Original PO Amount: **\$2,923,545.60 (excl. HST)**

Cumulative Single Source Increase: **\$3,396,666.00 (excl. HST)**

Description: As part of the Port Robinson West Development on the northeast corner of Highway 406 and Merritt Street (Thorold), the Developer, 2524964 Ontario Inc (Empire Homes), constructed a new trunk watermain and trunk sanitary sewer which was transferred to the Region in accordance with the development agreement between Empire Homes and the Region. This agreement was initially approved by Council in 2015 through PDS 44-2015 and then later amended in 2017 through PDS 46-2017. Original PO was for Phase 1 payment and this Change PO is for Phase 2 payment per the agreement. Phase 2 payment represents the full and final payment due to the Developer.

### 2. Project Name: Supply of Polymer for Garner Rd Dewatering Facility

Purchase Order (PO) Number: **0000087501**

Supplier: **SNF Canada Ltd.**

Exception Category: **Sole Source**

Date Work Authorized: **January to March 2021**

Type: Change PO to cover additional costs of product for daily operations until award process of new contract has been completed.

Original PO Amount: **\$94,999.86 (increased to \$153,199.86)**

Cumulative Single Source Increase: **\$58,200.00**

Description: Water-soluble polyelectrolyte is required for the dewatering of sludge operations at Garner rd. The current 3-year contract had expired at the end of 2020. (2017-T-32)

Completion of a full scale polymer trial between vendors for the next approved contract was postponed due to equipment failures which left a gap in the supply of polyelectrolyte product for daily operations.

The original PO covered the time period between January to March 2021 however the process to review, submit, award and create the new contract for supply of polyelectrolyte solution has been extended due to the pandemic. The increase required will allow for daily operations to continue between April through to mid July.

The PO was increased to allow for additional polyelectrolyte product to enable the continuation of daily operations while the new contract details are finalized. (2020-T-159). The Full scale trials for the new contract has concluded and the award process is currently underway.

Negotiation 19. (a) (iii) a Sole Source is being recommended) and “(vi) the extension of an existing Contract would be more effective” We are currently in the final stages of a formal procurement process (2020-T-159). Daily operational requirements for water-soluble polyelectrolyte will exhaust current bulk storage capacity prior to completion and award of the 2021 water-soluble polyelectrolyte contract (2020-T-159). The current polyelectrolyte product has been tested and approved for use at the Garner Rd. facility.

### **3. Project Name: Welland Vale PS and Forcemain Upgrades**

Purchase Order (PO) Number: **CNV0000022**

Supplier: **Cima**

Exception Category: **Negotiation** in accordance with Purchasing By-law 02-2016 as amended on February 28, 2019, Section 19(a)(vi) the extension of an existing Contract would be more effective as Cima was consultant performing Contract Administration and Inspection Services and the additional scope of work directly related to their scope during an active construction project

Date Work Authorized: **January to April, 2021**

Type: **Change PO** to increase Contract Scope to cover additional costs related to increased duration of construction contract administration and inspection services and design modifications.

Original PO Amount: **\$71,145.79**

Cumulative Single Source Increase: **\$169,053.21** (including current request of **\$9,901.00**)

Description: During Construction, additional design services were required to provide design changes as per Niagara Region request including structural revisions to accommodate davit base adjustments for maintenance purposes, addition of site lighting and replacement of inlet manhole and curb. The additional fees for these tasks include design details, the engineering effort to develop the change in price request from the contractor as well as additional effort for shop drawing reviews, follow-up during implementation, and integration into As-Built drawings, where applicable. As a result of these additions, the construction duration was increased.

An additional 40 hours of site inspection was required to oversee completion of the construction works, deficiencies and site restoration.

**4. Project Name: Bar Screen Replacement Upgrades**

Purchase Order (PO) Number: **0000021719**

Supplier: **Associated Engineering**

Exception Category: **Negotiation** in accordance with Purchasing By-law 02-2016 as amended on February 28, 2019, Section 19(a)(vi) the extension of an existing Contract would be more effective as Associated Engineering was consultant performing Contract Administration and Inspection Services and the additional scope of work directly related to their scope during an active construction project. Services could not be obtained in time by means of an open procurement and there would be additional costs to the Region through contractor delays.

Date Work Authorized: **March 27, 2021**

Type: **Change PO** to increase Contract Scope to cover additional costs related to increased duration of construction contract administration and inspection services and design modifications.

Original PO Amount: **\$195,154.00**

Cumulative Single Source Increase: **\$288,462** (including current request of \$90,526.00)

Description: During construction, additional design services were provided by AE for improvements to the hauled waste disposal station and screen building design modifications based on field conditions and to accommodate future hauled waste metering equipment. As a result of these improvements, the construction duration was increased and an extension of three (3) months to the contract was required for engineering contract administration and site inspection services.

**5. Project Name: 2019-RFP-334 Montrose Road and Lyons Creek Road/Biggar Road – Municipal Class Environmental Assessment and Detailed Design**

Purchase Order (PO) Number: **0000076921**

Supplier: **Parsons Inc.**

Exception Category: **Sole Source** in accordance with Purchasing By-law 02-2016 as amended February 28, 2019, specifically Section 18 (a) (iii): “there is an absence of competition for technical reasons and the Goods and/or Services can only be supplied by a particular Supplier”

Type: **Change PO**

Original PO Amount: **\$975,000**

Cumulative Single Source Increase: **\$465,982**

## Rationale for Increase

The request is for an amendment to an existing contract.

As a result of consultation with review agencies (i.e. Ministry of Environment, Climate and Parks, Ministry of Transportation, Niagara Peninsula Conservation Authority, and Ministry of Natural Resources) and the City of Niagara Falls, additional work or tasks beyond the original project scope were identified. A detailed list of the additional works, c/w associated costs, is detailed below.

Item	Title	Description	Estimated Fee
1	Phase 1 ESA	As part of the preliminary design, a Phase 1 ESA will be completed along Montrose Road, Biggar Road and Lyons Creek Road in general accordance with the CSA Z768 1 standards (last revision 2016). The Phase I ESA is required to support future design and construction; thus, the report shall also comply with the requirements of O.Reg. 406/19, specifically the Assessment of Past Uses reporting requirements.	\$10,340.00
2	Virtual PIC	While there were efficiencies to conduct the PIC virtually, Niagara Region recommended that Parsons utilize the public material branding template for each PIC. It was agreed at the start of the project to engage a graphic design and a PIC facilitator as well as utilize MURAL to encourage comments and feedback from the public.	\$43,175.00
3	Additional Meetings	Parsons exceeded the number of meetings identified in the RFP due to additional effort need to coordinate and meet with Niagara Region staff, technical agencies and stakeholders prior to the completion of detail design.	\$56,331.00

Item	Title	Description	Estimated Fee
4	Detailed Transportation Assessment Revisions	The original DTA was prepared using the Jan 2017 Grand Niagara Secondary Plan (GNSP) Traffic Report that was supplied to Parsons. Following several meetings and formal approval of Parsons Traffic Forecast Memo (Region/MTO), it was determined that this report was outdated and therefore the DTA required revisions utilizing the June/December 2017 GNSP Traffic Report. The DTA also include the Hospital's revised Traffic Study (Dec 2020).	\$27,700.00
5	Stage 2 Archaeology Assessment	A Stage 2 AA is required to clear the project footprint of archaeological potential for the full study area. The footprint was provided to ASI on Feb 3.	\$26,674.00
6	Stormwater Resiliency Analysis	As requested by Niagara Region, the Resiliency Study will review stormwater capacity requirements for scaled 20% 5-yr IDF and MTO Climate Change IDF. This information is beneficial to understand design implications using 2080 projections.	\$4,812.50
7	Bat Species At Risk Monitoring and Permitting	Through terrestrial surveys, Parsons ecologist determined there is the potential for bats. Parsons has reviewed the bat habitat details and permitting approaches with MECP as SAR permits require long-lead times to obtain agreement with MECP to reduce future risks. SAR monitoring to occur in June 2021. The estimated budget includes a multi-phased approach.	\$53,315.00
8	Additional Topographic Survey	The RFP states that survey should be within the Road Allowance (ROW) plus 10 m. However, during design, it was noted that the footprint will likely extend outside those limits.	\$25,000.00

Item	Title	Description	Estimated Fee
9	Excess Soil Management and Testing	In order to meet the requirements of Regulation 406/19 work may include additional testing of potential materials for import/export as well as the preparation of a soil management plan.	\$14,674.00
10	Heritage Impact Assessment	Pending the recommendations of the Cultural Heritage Resource Assessment, a Heritage Impact Assessment (HIA) may be required for the cultural heritage property on the northeast corner of Montrose Road and Reixinger Road.	\$11,000.00
11	Fisheries Permit	Culvert works at two watercourse crossings in the detail design section will likely require Request for Review (RFR) from DFO and potential MECP permit for SAR mussels. This covers if additional permitting is required following the RFR and a worst-case scenario with MECP.	\$19,305.00
12	Fluvial Geomorphology Design	Due to potential realignment and offline culvert replacement at the tributary of Lyons Creek culvert (i.e. north of Reixinger), fluvial geomorphological design may be required for tie-ins and creek realignment. This work would also support the potential DFO permit.	\$22,000.00
13	Additional Boreholes and Associated D	Interchange ramp improvements at the QEW and Lyons Creek Road will require widening/alignment shift work in order to extend the three proposed terminal intersection approach lanes. Based on the Region's requirements for borehole spacing at 50m, additional boreholes and design effort will be required at the interchange.	\$90,800.00
14	Willodell Road and Lyons Creek Road Intersection –	The proposed Preliminary Design, presented to the public at PIC #3, recommended restricting the intersection of Lyons Creek Road and Willodell Road	\$60,855.50

Item	Title	Description	Estimated Fee
	Additional EA and Design Effort	to right-in/right-out due to safety and traffic operations concerns. A request has been made to revisit the design of the intersection and explore alternatives that will provide greater access to Willodell Road. Work will include the creation and evaluation of intersection design options largely focussing on the option to shift the Willodell Road intersection further west and create a new signalized intersection allowing all moves.	
Subtotal			\$465,982.00

The project schedule is being driven by the overall schedule for the South Niagara Hospital, and construction of the project must be substantially complete by Q4 2023. As a result, the project team has approved the above noted changes in order to ensure that the timeline of this crucial project is met.

The current PO has sufficient funds available to cover the cost of these changes in the interim. However, a report will be brought forward to Council recommending a project budget increase to allow for the PO to be increased, and the agreement to be amended, for the above noted changes.