
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, August 10, 2021

Recommendations

1. That the Single Source Purchase Order Requests identified in Appendix 1 of Report PW 43-2021 **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 and recommend them for approval as best value for the Corporation given 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
- PW 25-2021, May 11, 2021 Approval of Public Works Single Source Purchase Requests Over \$100,000
- PW 27-2021, June 15, 2021 Approval of Public Works Single Source Purchase Requests Over \$100,000
- PW 41-2021, July 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: Lakeshore Road Sewage Pumping Station Upgrades and Enhanced Conceptual Design (2020-RFP-205)

Request: \$230,000.00

Consultant: GM BluePlan

Purchase Order Number: 0000090421

Increase original contract amount of \$154,531.00 (excl. HST) by \$230,000.00 for a new total of \$384,531.00

Rationale for Increase

The Region is conducting a Schedule B Municipal Class Environmental Assessment for the Lakeshore Road Sewage Pumping Station in accordance with the 2016 Master Servicing Plan. Due to the critical condition of this station the Region is recommending expediting the detailed design of the preferred alternative which will allow for construction to commence in 2022 and minimize the risk associated with the existing station operation.

The current Lakeshore Road Sewage Pumping Station is located at 14A Lakeshore Road in the Town of Fort Erie and was originally constructed in 1984, servicing approximately 929 residents. The most recent Water and Wastewater Master Servicing Plan has identified growth within the area by 2041 requiring an increase in capacity from 63 L/s to 70 L/s. The Pumping Station is currently in declining condition and has had two (2) reported forcemain failures since the start of this Project. The first incident was a break in the forcemain on March 18, 2021 and another on June 18, 2021. As a result of the aging equipment the station is also currently operating with only one pump and is in an overall state of deterioration. Given the age and condition of this station it poses an immediate threat to the environment due to the proximity of Lake Erie, a threat to the local resident's health and safety and property damage due to potential for basement flooding.

GM BluePlan was awarded 2020-RFP-205 through the competitive procurement bid process in April, 2021 for the Environmental Assessment and Enhanced Conceptual Design for the Project for a total of \$154,531.00. There have been no scope changes and GM BluePlan has maintained their schedule and are currently conducting the required field investigations.

The current request is for a single source award of \$230,000 to GM BluePlan to complete the detailed design and tendering needed to ensure Lakeshore Road Sewage Pumping Station is upgraded in a timely manner. Contract Administration and Inspection will also be required in the future during the construction phase of this Project, however those costs are not included in the current project funding request. Staff will be requesting approval of additional funding for engineering services for construction upon Construction award in the summer of 2022.

The detailed design will be based on the recommended alternative which was determined from the evaluation criteria of the Municipal Class Environmental Assessment and presented to Niagara Region, Niagara Parks and the Town of Fort Erie on June 22, 2021.

The scope of the detailed design will include;

- (i) A new wet well and concrete valve chamber within the existing property boundaries;
- (ii) New outdoor standby power generator system;
- (iii) Decommissioning of the existing wet well and forcemain;
- (iv) Demolition of the existing control building;
- (v) New 200mm forcemain up to CBSA Plaza;
- (vi) New process piping and equipment including two submersible pumps;
- (vii) New process instrumentation;
- (viii) New electrical equipment outdoor shelter and all required controls;
- (ix) All required interior finishes; and
- (x) Overall site restoration

Staff recommend that GM BluePlan be awarded this Single Source assignment in accordance with Purchasing By-law 02-2016 Section 18(a)(iv) as GM BluePlan is familiar with the immediate area and has an in-depth knowledge of the station as a result of the ongoing Municipal Class EA and can complete the detailed design assignment in a timely manner meeting the project constraints and challenges. As a situation of urgency exists it is in the best interest of the project to single source this assignment as a competitive procurement process will extend the project schedule which would cause project delays and increase the risk of station failure impacting local residents, maintenance staff and the surrounding environment. This work is critical and needs to be completed as soon as possible. The current proposed schedule has an expected detailed design completion and tendering in 2022 with construction planned for 2022.

Alternatives Reviewed

(i) Do nothing:

- This alternative does not address the needs of the project due to the deterioration and age of the station and resulting impacts of failure at the station;
- If the station were to fail there would be possible basement flooding of surrounding residents which could result in property damage;
- The current station has unsafe work conditions for Operations and Maintenance staff to complete repairs;
- The station poses serious environmental risks to Lake Erie as it is in close proximity;
- Additional operation and maintenance costs will be incurred for future repairs

(ii) Proceed with competitive RFP process:

- A competitive process will impact the expedited need for these services which would negate the efficiencies gained in the EA/design cost schedule through a streamlined design process;
- Forgoing the competitive bid process will allow the Project to progress to the preliminary design phase and skip the conceptual design. The conceptual design is included to aid in the proper scoping of the detailed design;
- Onboarding a different consultant will require additional cost, effort and time for them to become familiar with the project and requirements which will impact our ability to move into the next phase; and
- A competitive process will not allow for the start of the detailed design immediately upon successful completion of the Class EA resulting in Project delays

Funding Source

Original PO \$154,531.00

Change PO \$230,000.00 (no HST)

Total changed unit price **\$384,531.00**

Total Budget \$900,000

Expenditures including commitments \$165,447.19

Budget Remaining **\$734,552.81**

There is sufficient budget in the project budget to assign this change PO.