

Use of Temporary Delegated Authority Regarding Procurement-Related Activities During Council's 2022 Municipal Election Recess

Date: February 16, 2023

To: General Government Committee

From: Director of Purchasing Client Services

Wards: All Wards

SUMMARY

In July 2022, City Council delegated authority to senior City staff on a time-limited basis to ensure that City business and divisional operating and capital activities could continue following the conclusion of the last City Council meeting of the 2018-2022 Council term until the start of the new Council term.

This report includes procurement activity during the 2022 election recess, which followed the last meeting of City Council on July 25, 2022 and ended on December 14, 2022, prior to the resumption of standing committees in the new term of Council.

The purpose of this report is to advise the General Government Committee of the following uses of delegated authority:

- Contracts awarded by Bid Award Panel during the 2022 election recess that are:
 - Valued over \$20 million, in accordance with Municipal Code Chapter 195, Section 8.3; and
 - Between 5 and 10 years in duration (inclusive of any option years), in accordance with the delegation of authority from City Council Report CC47.4 adopted on July 19, 20, 21 and 22, 2022;
- Non-competitive contracts approved by the City Manager during the 2022 election recess that are between \$500,000 and \$3 million, in accordance with the delegation of authority from City Council Report CC47.4 adopted on July 19, 20, 21 and 22, 2022; and
- Contract amendments approved by the City Manager during the 2022 election recess that are between \$500,000 and \$3 million, in accordance with the delegation

of authority from City Council Report CC47.4 adopted on July 19, 20, 21 and 22, 2022.

This report is being submitted by the Director of Purchasing Client Services who was the acting Chief Procurement Officer during the 2022 election recess and is delivering it on behalf of the new Chief Procurement Officer.

RECOMMENDATIONS

The Director of Purchasing Client Services recommends that:

1. General Government Committee receive this report for information.

FINANCIAL IMPACT

There is no financial impact resulting from the adoption of the recommendation in this report. The procurement-related activities included in this report were required to ensure continuity of operations for approved operating and capital activities during the 2022 election recess. Funding was available in the 2022 Operating and Capital Budgets for all of the reported procurement-related activities.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

On July 19, 20, 21 and 22, 2022, City Council approved the report [CC47.4 - Delegation of Authority for the Remainder of the 2018-2022 Council Term](#), which delegated certain authorities to the Bid Award Panel and City Manager for procurement-related activities to ensure that the City's approved operating and capital activities could continue to move forward during the 2022 election recess.

In Item CC47.4, Council also directed staff to report to the appropriate standing committee in early 2023 on the exercise of the use of this delegated authority.

COMMENTS

The following sections provide a summary of the use of delegated authority for procurement-related activities during the 2022 election recess.

Bid Award Panel Authority to Award Operating Contracts over \$20 million

Municipal Code Chapter 195, Purchasing, Section 8.2, authorizes the Bid Award Panel to make an award arising from the issuance of a solicitation provided that:

- The award is to the supplier whose response meets the specifications and qualification requirements set out in the solicitation and whose response represents the best value to the City based on the evaluation criteria set out in the solicitation, including price criteria;
- The solicitation was conducted in a fair and transparent manner;
- The term of the contract does not exceed a maximum term of five years, or the projected term of capital funding for a project as approved by Council; and
- The contract is within funding approval under the provisions of Chapter 71, Financial Control up to a maximum of \$20,000,000.

In addition, Municipal Code Chapter 195, Purchasing, Section 8.3, authorizes the Bid Award Panel to exercise extended authorities for a variety of reasons, which include exercising the power of a Standing Committee to make an award that exceeds \$20 million during the period between the last scheduled meeting of Council and the first meeting of a new Council after an election, providing all other pre-conditions to an award by the Bid Award Panel are met.

Attachment 1, Table 1, lists the six contracts over \$20 million awarded by the Bid Award Panel during the 2022 election recess.

Bid Award Panel Authority to Award Operating Contracts up to 10 Years in Duration

Municipal Code Chapter 195, Purchasing, Section 8.2, authorizes the Bid Award Panel to make an award of an operating contract that does not exceed a maximum term of five years.

At the July 19, 20, 21 and 22, 2022 City Council meeting, the Bid Award Panel received extended authority to make awards of operating contracts up to 10 years in duration, inclusive of option years, provided that the other pre-conditions to an award by the Bid Award Panel as set out in Municipal Code Chapter 195, Section 8.2 (A) and (B) are met.

No contracts over five years were awarded during the 2022 election recess.

Approval of Non-Competitive Contracts up to \$3 Million

Municipal Code Chapter 195, Purchasing, Section 7.3 (C) authorizes the City Manager to award a non-competitive contract of up to \$500,000. Section 7.3 (D) requires that Standing Committee and Council authorize awards for non-competitive procurements over \$500,000, or where the contract exceeds 5 years or exceeds the projected capital funding for the project as approved by Council.

At the July 19, 20, 21 and 22, 2022 City Council meeting, the City Manager was granted delegated authority to approve non-competitive contracts over \$500,000 and up to \$3 million during the election recess, in accordance with the exceptions set out in Chapter 195, Section 7.1 for non-competitive contracts, and under the condition that Council has provided funds in the operating or capital budget for that purpose.

Attachment 1, Table 2, lists the three non-competitive contracts approved by the City Manager during the 2022 election recess.

Approval of Amendments to Contracts up to \$3 Million

A purchase order is issued to a supplier under the authority of the Chief Procurement Officer that sets out the terms and conditions applicable to the supply of goods and services by a supplier, including reference to any other contract documents and the contract value. PMMD issues blanket contracts following a contract award to the successful supplier(s) to provide goods and/or services at a fixed unit price, with an estimated maximum target value and for a stated period of time. As such, blanket contracts allow Division(s) to purchase goods and services which are required frequently or repetitively, but where the exact quantity of goods and services required or the frequency of their delivery may not be known.

Amendments to purchase orders and blanket contracts can be issued to change the value, quantities, pricing, validity end date, delivery dates, and delivery location of an existing purchase order or blanket contract.

Authority for amendments is derived from Municipal Code Chapter 71, Section 11.1, which establishes the authorization level required to approve amendments for over-expenditures on a contract which may occur when actual use or cost of goods or services procured exceeds the awarded contract.

At the July 19, 20, 21 and 22, 2022 City Council meeting, the City Manager was granted delegated authority to authorize amendments for over-expenditures over \$500,000 and up to \$3 million (net of all applicable taxes), under the conditions that: (1) City Council has provided funds in the operating or capital budget for that purpose; (2) City Council has approved the project and the funding; and (3) there are sufficient funds remaining for the project.

Attachment 1, Table 3, lists the 22 amendments for over-expenditures to contracts above \$500,000 and up to \$3 million approved by the City Manager during the 2022 election recess. The \$3 million threshold for approvals is net of all applicable taxes. Table 3 reports the amendment values net of HST recoveries, resulting in two amendments being reported as over \$3 million.

CONTACT

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SIGNATURE

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ATTACHMENTS

Attachment 1: Awards and Amendments Approved during the 2022 Election Recess