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# HALDIMAND COUNTY

## Report RDS-03-2021 Winter Control Roads – Contract Amendment For Consideration by Council in Committee on October 5, 2021

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### OBJECTIVE:

To receive Council approval to execute an amending agreement for Contract PW RO 16-021 Winter Control Roads.

### RECOMMENDATIONS:

1. THAT Report RDS-03-2021 Winter Control Roads – Contract Amendment be received;
2. AND THAT the Mayor and Clerk be authorized to execute an amending agreement with both winter control contractors;
3. AND THAT the impacts of the changes to contract RFT PW RO 16-021 outlined in RDS-03-2021 be included in the 2022 Tax Supported Operating Budget as a Council Approved Initiative.

**Prepared by:** David Pressey, Director - Roads Operations

**Reviewed by:** Philip Mete, P. Eng., General Manager of Public Works Operations

**Respectfully submitted:** Philip Mete, P. Eng., General Manager of Public Works Operations

**Approved:** Craig Manley, MCIP, RPP, Chief Administrative Officer

### EXECUTIVE SUMMARY:

Contract PW RO 16-021 Winter Control Roads, which provides contracted winter control services, commenced the winter season of 2016/2017 with a 6 year term, and the option for two one-year extensions. Over the term of the contract, the industry has experienced significant unforeseen impacts related to insurances costs, fuel costs and pandemic related staffing challenges resulting in the recognized need for an amendment to the terms of the original contract. Staff have successfully negotiated with the contractors to develop a proposed amendment to present to Council for approval and subsequent execution of the amending agreements.

### BACKGROUND:

Haldimand County is responsible for the provision of winter maintenance services across all of our municipal roadways, parking lots, and sidewalks. The services are provided by county staff and county owned equipment supplemented with contracted services. Each of the four roads operations districts (Dunnville, Cayuga, Walpole, and Oneida) have 10 full time staff, augmented by 16 temporary full time staff (divided among the districts) during the winter months to assist with winter maintenance activities.

Haldimand County currently administers PW RO 16-021 Winter Control Roads for the provision of contracted services for winter maintenance. The contract was awarded in 2016 and services are currently provided by Haldimand Commercial Maintenance (HCM) and Jim Mattice Co. Ltd. (Mattice).

## **ANALYSIS:**

Haldimand County is responsible for various winter control activities on County roads as stipulated by O. Reg. 239/02 Minimum Maintenance Standards for Municipal Highways (MMS). In order to comply with the MMS for winter control, the County utilizes county staff and county owned equipment, along with the use of contracted services.

In 2016, Haldimand County issued PW RO 16-021 Winter Control Roads for the provision of contracted services for winter maintenance on the public roadways. Throughout the term of the contract, changes and challenges have become apparent within the industry, which were not accounted for, nor could be foreseen within the original terms and conditions. The contract was issued as a six year contract with options for two-one year renewals. Typically, the County would not issue a contract for such an extended period of time however, due to the cost of amortization of the snow maintenance equipment, the industry would not support a shorter period of time. In order to continue our contractual relationship in a fair and equitable manner and to ensure continuity of service in compliance with the MMS Regulation, mid-term contractual adjustments are proposed in order to address the industry impacts.

County staff held meetings with HCM and Mattice in order to fully understand the impacts they are faced with while providing services under the existing contract. Both contractors are facing significant liability insurance and fuel costs – both of which were not anticipated in the original contract. In addition there are unanticipated challenges related to COVID and the ever present pandemic, which has impacted cost of materials and the availability of qualified labour.

### **Insurance Impacts**

Insurance costs related to the provision of contracted services for winter maintenance have been continually increasing over the past few years; and there is a significant reduction in insurers willing to provide insurance coverage at all. This has made it extremely difficult for contractors willing to provide winter control services to find insurance coverage – and when they do, it is at a cost premium, even when there have been no claims. Those that are willing to become a winter maintenance contractor, in many cases, are unable to source insurance coverage at all which has resulted in a decrease in available contractors. Unfortunately, HCM and Mattice are not immune to this, reporting premium increases of 15-25%. Each contractor has provided documentation from their insurance to support the premium increases and specifically noted that the increased cost is specific to providing winter control services to Haldimand County and is not based upon claims history – simply the market rates. The percentages provided are in line with what the County has faced for the provision of similar work.

### **Fuel Impacts**

Fuel prices have also seen a significant increase throughout the term of this contract in the range of 25-30%; and the existing contract does not include a fuel escalator. Where fuel is a significant factor in providing the goods or services, fuel escalators have been within the agreements for multi year contracts to remove the risk of fluctuating fuel prices, as it ultimately protects both parties from the pricing volatility.

### **Pandemic Impacts**

Over the past 18 months, the COVID pandemic has influenced the free market. Pricing for many goods and services have been impacted by the pandemic, driving uncertainty and increases for items such as parts and equipment related to snow plow operations and the availability of labour.

### **Termination Clause**

Contract PW RO 16-021 Winter Control Roads contains a termination clause that allows for either party to terminate the existing contract, at any point, with 60 days notice, without penalty. Given the nature

of the scope of work for this contract, staff identified an operational risk if this clause was enacted upon. First and foremost, public safety could be in jeopardy if the contractor enacted this clause, ultimately leaving Haldimand without the capability of providing winter maintenance.

HCM, Mattice and staff have come to an agreement, subject to Council approval, to amend the termination clause to mitigate this risk. Should either party wish to terminate the contract, without cause and without penalty, under the newly negotiated parameters they must provide written notice to the other party no later than April 15 of each contract year.

Under the current 60 day notice arrangement the ability to prepare and tender for new service providers (equipment with qualified operators), it would be extremely challenging given the increased costs to the industry, limited contractor availability to perform winter maintenance services and limited time to source equipment and qualified operators. Furthermore, it is very likely the prices would be significantly increased to the contracted hourly rates. Overall, staff believe it is better for the County to address the issues under the current contract with the existing providers to ensure that winter control services can be completed for the 2021/2022 winter control season, than to develop and issue a tender this year.

The current term of PW RO 16-020 Winter Control Roads will expire on April 15, 2024, including the optional annual extensions. Prior to the expiry of the contract, staff will be reviewing and assessing all aspects of this contracted service and will ensure terms and conditions will be included going forward to address these volatilities.

## **Outcome**

Based on the foregoing analysis, staff believe the fiscal impacts to the existing operators are significant and in a spirit of fairness, the contract requires adjustments to account for this. A mid term adjustment will ensure that for the 2021/22 Winter Control season, there will be continuity of operations and comply with our requirements under the MMS Regulation. As such, staff are recommending that the contract be amended to address the unforeseen fiscal costs. In order to accommodate this, financial adjustments will be made to compensate the contractors for the difference in insurance rates paid during the 2016/2017 season and the current year rates. Also the standby rates will be increased to compensate the contractors for the costs associated with the fuel increases and some pandemic impacts. The adjustments will also include the new earlier notification of termination date clause which will ensure going forward the County has sufficient time to address any change in service.

Should Council approve the recommendation staff will be preparing a amending agreements for HCM and Mattice that will include terms and conditions to allow the County to account for the increased costs related to insurance, fuels and pandemic impacts, all while mitigating the risk of a short termination notice period; ultimately allowing for the uninterrupted continuation of services related to winter control.

## **FINANCIAL/LEGAL IMPLICATIONS:**

If approved by Council, there will be a negative variance in the winter control cost centre for 2021. The total impact of the amendments is an annual increase of approximately \$210,000, which is an increase in the contracted services for winter control of approximately 15%. Corporately, the deficit or surplus for the tax supported operating budget is funded or contributed to the Contingency Reserve. As such, the levy impacts in 2021 will from part of the overall annual surplus deficit. Staff will monitor other operating costs to mitigate this impact as best as possible.

These impacts will continue into the remaining years of the existing contracts. As such, the inclusion of these changes as a Council Approved initiative in the 2022 Draft Tax Supported Operating Budget will be required and it will result in an annual levy increase.

**STAKEHOLDER IMPACTS:**

Not applicable.

**REPORT IMPACTS:**

Agreement: Yes

By-law: No

Budget Amendment: No

Policy: No

**ATTACHMENTS:**

1. None