



**STAFF REPORT
ACTION REQUIRED**

**Amendment to Purchase Order No. 6024178 –
For Architectural and Related Design Services
and Contract Administration Services to Implement
the Nathan Phillips Square Revitalization Project**

Date:	June 3, 2013
To:	Government Management Committee
From:	Chief Corporate Officer Director, Purchasing and Materials Management Division
Wards:	Ward 27 – Toronto Center Rosedale
Reference Number:	P:\2013\Internal Services\FAC\Gm13007fac (AFS #17724)

SUMMARY

This report requests authority to amend Purchase Order No. 6024178 with Plant Architect Inc. and Shore Tilbe Irwin & Partners in Joint Venture, for Architectural and Related Design Services and Contract Administration Services for the implementation of the Nathan Phillips Square Revitalization (NPSR) project at Toronto City Hall by:

- changing the name on the Purchase Order to Plant Architect Inc. and Perkins + Will Canada Corporation in Joint Venture (the Architects); and
- increasing the Purchase Order by \$898,185.00 net of all applicable taxes and charges (\$913,993.06 net of HST recoveries) revising the current contract value from \$4,297,815.00 net of all applicable taxes and charges (\$4,373,456.54 net of HST recoveries) to \$5,196,000.00 net of all applicable taxes and charges (\$5,287,449.60 net of HST recoveries);

The report also recommends that the City enter into an amending agreement to include an additional scope of work for the future Restaurant Project at an upset limit of \$35,000.00 net of all applicable taxes and charges (included in the above-noted amount of \$898,185.00) and to obtain a waiver for the design of the future Restaurant Project.

RECOMMENDATIONS

The Chief Corporate Officer and the Director of Purchasing and Materials Management Division recommend that:

1. City Council grant authority to amend Purchase Order No. 6024178 with Plant Architect Inc. and Shore Tilbe Irwin & Partners in Joint Venture, for the architectural and related design services and contract administration services for the implementation of the Nathan Phillips Square Revitalization Project, including State of Good Repair (SOGR) elements at Toronto City Hall by:
 - a. changing the name on the Purchase Order to Plant Architect Inc. and Perkins + Will Canada Corporation in Joint Venture; and
 - b. increasing the Purchase Order value by \$898,185.00 net of all applicable taxes and charges (\$913,993.06 net of HST recoveries), revising the current contract value from \$4,297,815.00 (\$4,373,456.54 net of HST recoveries) to \$5,196,000.00 (\$5,287,449.60 net of HST recoveries) net of all applicable taxes and charges;
2. City Council authorize the City to enter into an amending agreement with Plant Architect Inc. and Perkins + Will Canada Corporation in Joint Venture related to the expanded role of the architect for the future Restaurant Project at an upset cost of \$35,000.00 net of all applicable taxes and charges (which is included in the increase to the Purchase Order as set out in 1b), and also to obtain from Plant Architect Inc. and Perkins + Will Canada Corporation in Joint Venture a waiver of the moral rights to the NPSR design related to the future Restaurant Project, on terms satisfactory to the Chief Corporate Officer and in a form satisfactory to the City Solicitor.

Financial Impact

The amendment to Purchase Order No. 6024178 in the amount of \$898,185.00 net of all applicable taxes (\$913,993.06 net of HST recoveries) will increase the current contract value from \$4,297,815.00 (\$4,373,456.54 net of HST recoveries) to \$5,196,000.00 (\$5,287,449.60 net of HST recoveries) net of all taxes. Note that this amount is inclusive of the Recommendation 2 upset cost of \$35,000.00 net of all applicable taxes and charges.

Funding for the requested Purchase Order amendment amount is available in the 2013 Council Approved Capital Budget and 2014-2022 Capital Plan for Facilities Management & Real Estate in WBS Element CCA909-01 (Nathan Phillips Square Revitalization, including SOGR elements), and is within the approved budget of \$60.4 million.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information

DECISION HISTORY

In October 2006, the City launched an international design competition to develop a renewed vision and overall revitalization plan for Nathan Phillips Square (NPS). At the conclusion of the competition process, the Competition Jury selected the design submitted by the architectural firms of Plant Architect Inc. and Shore Tilbe Irwin & Partners in Joint Venture ("the Architects") as the winning design for the NPS revitalization initiative.

At its meeting on June 19, 20 and 21, 2007, City Council, in dealing with Item GM5.17, endorsed the winning design for the NPS revitalization submitted by the Architects and authorized the Executive Director of Facilities and Real Estate to enter into and execute an Agreement on the behalf of the City with the Architects for the provision of architectural and related design services for the project in an amount not to exceed \$4.1 million calculated based on the original estimated project cost of \$40.0 million and the time estimated for completion of 3.5 years, ending on December 31, 2012.

The following is the link to the City Council Decision Document:

<http://www.toronto.ca/legdocs/mmis/2007/cc/decisions/2007-06-19-cc10-dd.pdf>

ISSUE BACKGROUND

On October 31, 2007, the City entered into an Agreement with Plant Architect Inc. and Shore Tilbe Irwin & Partners in Joint Venture to provide architectural and related design services and contract administration services for implementation of the NPSR project.

Purchase Order Number 6024178, in the approved amount of \$3,798,500.00, was then issued in three parts. The first amount was issued on December 20, 2007 for \$903,375.00 excluding taxes, the second amount was issued on October 28, 2008 for \$2,011,750.00 excluding taxes and the third amount was issued on September 24, 2009 for \$883,375.00 excluding taxes, for the total contract amount of \$3,798,500.00, which was below the \$4.1 million approved by Council.

Subsequently, in accordance with the City's Financial Control By-Law, Financial Code 71, the Purchase Order was further amended to increase the total amount of the PO to \$4,297,815.00 as follows:

- June 23, 2011, \$99,315.00 for additional work on the design and installation of the City Hall podium green roof;
- May 8, 2012, \$150,000.00 for additional work on the design and implementation of NPSR Phases 1 and 2; and
- August 2, 2012, \$250,000.00 for additional work on the design and construction of NPSR Phases 3 and 4.

Due to the complexity of the project and the requirement to maintain public access on the Square and accommodate functions and events during the course of construction, it was necessary to phase the implementation of the NPSR project. At the start of the design process in 2007, the tentative project schedule identified December 31, 2012 as the targeted completion date to construct all phases of the project. As per staff's recently completed report (GM21.11 Nathan Phillips Square Revitalization Project - Update), the project is now anticipated to be completed by the end of 2014.

COMMENTS

1. Additional Architectural Fees for Phases 3 and 4.

During the course of project implementation, the Architects invested additional time and effort on the project to accommodate value engineering, design revisions of project elements and re-tendering / multiple tendering of project phases to meet the project budget constraints and unforeseen site conditions. These additional requirements also resulted in the introduction of additional/revised phases to complete the intended scope of work for the project. The cumulative effect of the various revisions and additional phases has prolonged the Architects' originally expected completion date for their scope of work as contemplated under the contract from December 31, 2012 to December 31, 2014.

As a result, the Architects have expended their allotted resources for design and contract administration and are requesting additional fees to continue providing professional services to complete the final Phases 3 and 4 of the project. This request is consistent with the contract with the Architects which contemplates the payment of additional fees for contract management where the completion of the construction project extends beyond the original completion date as contemplated in the contract.

To reflect the two years of additional time (from December 31, 2012 to December 31, 2014) which the Architects will be required to spend on the project and the additional professional services that the Architects will need to continue to provide for this time period, the Architects are requesting additional compensation for their continued services, in the amount of \$833,185.00 net of all taxes and charges. This is based on the same formula used for the original contract price, i.e. a percentage of 10.25% of the additional project budget of \$13 million available for construction of Phases 3 and 4 of the NPSR project less amendment amounts previously issued totaling \$499,315.00. In addition, a cash allowance amount of \$30,000 (calculated on a pro-rata basis consistent with the determination of the original disbursement amount) is required for disbursements.

Tender 67-2013 for construction of Phase 3 was issued on March 25, 2013 and closed on May 3, 2013. It is anticipated that a report to award construction of Phase 3 to the successful bidder will be forwarded to the Bid Committee by the end of June with construction of this phase starting in July, 2013. To ensure the NPSR project design and schedule are maintained, it is reasonable and in the interest of the NPSR project for the City to continue retaining Plant Architect Inc. and Perkins + Will Canada Corporation on existing terms to complete the remaining phases of the NPSR project which would otherwise require that a new firm be retained by competitive tender and the selected firm brought up to speed on the project.

The implications of not expeditiously approving this report, would result in possible delays with the completion of Phase 2 and future project phases scope of work and the added process and expense of procuring the services of a new architectural firm to complete the NPSR project.

2. Additional Architectural Fees and Architects' Waiver of Moral Rights for New Restaurant.

One of the planned elements of the revitalization project is a new restaurant to be located in the southwest area of the Square facing Queen Street West, with outdoor seasonal patio and terrace dining and access to the adjacent overhead walkway and public roof terrace on the Skate Pavilion and Concession building. While the Architects have completed the design for the new restaurant, the City subsequently determined that the restaurant will be constructed separately based on the City's competitive Request for Proposals (RFP) procurement process and a business case to select a private vendor to finance, build and operate the restaurant. The RFP is being prepared and will be brought forward to Council for approval prior to its release.

It is planned that an evaluation committee will be established to evaluate the submissions with the input of the Public Advisory Committee, and select a successful proponent to finance, build and operate the restaurant. It will be necessary for the existing Architects for the NPSR project to participate on this selection committee, particularly on the evaluation of the design submissions for the restaurant. The Architects role would entail: the review of the interim and final drafts of the RFP documents; participate in the evaluation process for the new restaurant builder/operator; and participate in the design review of the builder/operator at the schematic design, design development and contract documents including financial close. Therefore, additional fees for the existing architect team to provide professional services in this regard are required as an allowance in an amount not to exceed \$35,000.00.

It is therefore recommended that the City enter into an amending agreement with the Architects with respect to this new scope of work set out in the preceding paragraph and to obtain from the Architects a waiver of any moral rights of the Architects to the works related to the Restaurant Project to allow for any appropriate modification of the original design by the new firm.

3. Name change of the Architects

The City entered into an agreement in 2007 with Plant Architects Inc. and Shore Tilbe Irwin & Partners, In Joint Venture. On January 6, 2010, Shore Tilbe Irwin & Partners was amalgamated with Perkins + Will Canada Corporation, so the amended Purchase Order, amended agreement and waiver will be in the name: Plant Architect Inc. and Perkins + Will Canada Corporation, in Joint Venture.

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