



**STAFF REPORT  
ACTION REQUIRED**

**Amendment to Purchase Order No. 6019670 – Central Waterfront Secondary Plan Appeals - Legal Consultant Fees**

<b>Date:</b>	January 3, 2013
<b>To:</b>	Government Management Committee
<b>From:</b>	Chief Planner and Executive Director, City Planning Division, City Solicitor, Legal Services Division, and Director, Purchasing and Materials Management Division
<b>Wards:</b>	Wards 20 – Trinity-Spadina, 28 – Toronto Centre-Rosedale, and 30 – Toronto- Danforth
<b>Reference Number:</b>	P:\2013\Cluster B\PLN\GM13003

**SUMMARY**

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The purpose of this report is to request authority to amend Purchase Order No. 6019670 issued to Ritchie Ketcheson Hart & Biggart LLP, Barristers and Solicitors for consulting legal services appeals work related to the appeals of the Central Waterfront Secondary Plan. The Purchase Order Amendment request is to extend the current Purchase Order validity end date to December 31, 2013 and increase the Purchase Order amount by \$75,000 net of HST (\$76,320.00 net of HST recoveries) revising the current Purchase Order value from \$345,794.39 net of HST (\$351,880.37 net of HST recoveries) to \$420,794.39 net of HST (\$428,200.37 net of HST recoveries).

City Council approval is required in accordance with Municipal Code Chapter 195- Purchasing, where the current request has exceeded the Chief Purchasing Official's authority of the cumulative five year commitment limit under Section 1 of the Purchasing By-Law.

## **RECOMMENDATIONS**

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### **The Chief Planner and Executive Director, the Director of Purchasing and Materials Management and the City Solicitor recommend that:**

1. City Council authorize the extension of the validity end date of Purchase Order No. 6019670 with Ritchie Ketcheson Hart & Biggart LLP to December 31, 2013 and to increase the dollar value by \$75,000 net of HST (\$76,320.00 net of HST recoveries) revising the current Purchase Order value from \$345,794.39 net of HST (\$351,880.37 net of HST recoveries) to \$420,794.39 net of HST (\$428,200.37 net of HST recoveries).

### **Financial Impact**

The amendment for an additional amount of \$75,000.00 net of HST (\$76,320.00 net of HST recoveries) will increase the current Purchase Order No. 6019670 from \$345,794.39 net of HST (\$351,880.37 net of HST recoveries) to \$420,794.39 net of HST (\$428,200.37 net of HST recoveries). Funding in the amount \$25,000.00 net of HST (\$25,444.00 net of HST recoveries) is available in City Planning's 2012 Operating Budget under Cost Centre UR0001 and Cost Element 4010 and funding for the balance amount of \$50,000.00 net of HST (\$50,880.00 net of HST recoveries) will be available in City Planning's 2013 Operating Budget under Cost Centre UR0005 and Cost Element 4010.

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

### **DECISION HISTORY**

In 2006 after the adoption of the Central Waterfront Secondary Plan, it was recognized that external legal consulting services would be required to support City Legal's work related to the Central Waterfront Secondary Plan as well as to coordinate this with the ongoing appeal work related to the City's Official Plan. At that time it was recommended that it would be beneficial to hire one Legal Consultant to perform the coordination of the appeal work related to the appeals of both the Official Plan and the Central Waterfront Secondary Plan (as both documents are inter-related). In June 2006, Purchase Order No. 6019670 was issued to Richie Ketcheson, Hart & Biggart LLP, in accordance with the non-competitive sole source process and in the amount of \$345,794.39 (net of all taxes) for a period five years.

### **COMMENTS**

Over the past six years staff have worked to achieve significant development approvals and facilitate construction within the Central Waterfront Secondary Plan area. In particular, development within the West Don Lands for the Pan Am facilities has been approved and construction has commenced for this very significant City project, which includes the development of major new City infrastructure (including the Flood Protection Landform, reconstruction of streets and services and an LRT extension), a

YMCA recreation building, a George Brown Student Residence, three affordable housing projects, three large condominium developments and two award winning City parks.

Development within East Bayfront has also been approved and construction of the Corus studio facility, the George Brown College Health Sciences complex and the waters' edge promenade and Sugar Beach and Sherbourne Common Parks have all been completed in accordance with the policies and plans set out in the Central Waterfront Plan. In addition, several other new development projects have been launched in this precinct.

The approvals necessary for new development and each of these facilities has been predicated on approval of various components of the Central Waterfront Secondary Plan.

The City's approach has been to settle appeals individually rather than by having full Ontario Municipal Board (OMB) hearings at significantly higher costs. Staff continue to address issues related to appeals in the Keating Precinct and the Lower Yonge Street Precinct. Each of these projects regularly requires legal input both from staff and external legal consultants leading to achieve resolution of outstanding appeals. The work to resolve OMB appeals has provided for some of the most creative development within the City, while ensuring that the new development is complementary to existing employment uses in the Central Waterfront area such as Redpath Sugar, which is a fundamental to the continuation of the food industry within the City.

There is still on-going work being done to deal with appeals of the Central Waterfront Secondary Plan at the OMB and reinforcing the City's interests in resolving outstanding matters of settlement necessitates extending the current Purchase Order with Ritchie Ketcheson Hart & Biggart LLP to December 31, 2013 and also increasing the Purchase Order amount by \$75,000, net of HST (\$76,320.00 net of HST recoveries). This includes addressing outstanding invoices exceeding the current Purchase Order by \$17,809.11 net of HST (\$18,122.55 net of HST recoveries) for external legal services related to settlement proceedings and OMB prehearing conferences in the latter half of 2012. The continued use of Ritchie Ketcheson Hart & Biggart LLP is the most cost effective means of responding to the City's legal requirements for representation at the OMB with respect to these appeals so as to maintain continuity and confidentiality of information with those appeals, given their experience working with the Central Waterfront Secondary Plan and their specialized knowledge in Planning Law generally. The retention of the same external law firm also reduces the costs that would be involved in transferring the file to a different legal firm and the time it would require for a different legal firm to become familiar with the ongoing issues.

The City Solicitor has reviewed this report and supports the recommendation herein.

## **CONTACT**

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## **SIGNATURE**

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Jennifer Keesmaat  
Chief Planner and Executive Director  
City Planning

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Michael Pacholok  
Director, Purchasing and Materials  
Management

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Anna Kinastowski  
City Solicitor  
Legal Services