Amendment to Sole Source Purchase Order No. 6034414 issued to Rochon Genova LLP for Rent Arbitration – 2 Bloor Street East

<table>
<thead>
<tr>
<th>Date:</th>
<th>August 8, 2014</th>
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<tr>
<td>To:</td>
<td>Government Management Committee</td>
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<tr>
<td>From:</td>
<td>Chief Corporate Officer and Acting Director, Purchasing and Materials Management</td>
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<td>Wards:</td>
<td>Ward 27 Toronto Centre-Rosedale</td>
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<td>Reason for Confidential Information:</td>
<td>Litigation or potential litigation, including matters before administrative tribunals, affecting the City or a local board.</td>
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<td>Reference Number:</td>
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**SUMMARY**

The purpose of this report is to request authority to amend Purchase Order No. 6034414, issued to Rochon Genova LLP in the amount of $459,238.71, net of HST ($467,321.31 net of HST recoveries), to increase the Purchase Order by an additional amount of $750,000.00, net of HST ($763,200.00 net of HST recoveries). The total amended value of the Purchase Order will be $1,209,238.70, net of HST ($1,230,521.30 net of HST recoveries). The additional funds are required for the continuing retention of legal services with regards to a rent renewal arbitration for a long term ground lease on the City’s property located at 2 Bloor Street East.

The Purchase Order for the specialized legal services of this prolonged rent arbitration is almost depleted. Real Estate Services is now seeking authority to amend the Purchase Order to maintain the legal services required to finalize the arbitration process.

City Council approval is required in accordance with Municipal Code By-law Chapter 195-9 (B)(C) - Purchasing, and where the current request exceeds the threshold of $500,000, net of HST, allowed under staff authority as per Municipal Code By-law Chapter 71-11.1 (C) – Financial Control.
RECOMMENDATIONS

The Chief Corporate Officer and the Acting Director, Purchasing & Materials Management recommend that:

1. City Council grant authority to amend and increase the value of Rochon Genova LLP Purchase Order No. 6034414 for an additional $750,000.00, net of HST ($763,200.00 net of HST recoveries). This amount will increase the current contract value from $459,238.71, net of HST ($467,321.31 net of HST recoveries) to $1,209,238.70, net of HST ($1,230,521.30 net of HST recoveries).

2. City Council direct that Confidential Attachment 1 remain confidential as it is the subject of litigation or potential litigation, including matters before administrative tribunals, affecting the City or a local board.

Financial Impact

Purchase Order No. 6034414, is currently issued to Rochon Genova LLP in the amount of $459,238.71, net of HST ($467,321.31 net of HST recoveries) Amendment is required to increase the Purchase Order by an additional amount of $750,000.00, net of HST ($763,200.00 net of HST recoveries). The total amended value of the Purchase Order will be $1,209,238.70, net of HST ($1,230,521.30 net of HST recoveries). The Purchase Order needs to be amended to provide for the continued retention of legal services to be provided by Rochon Genova LLP.

Funding is available in the Approved 2014 Real Estate Services Operating Budget in Cost Centre FA0131 and GL Cost Element C/E 4010.

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

ISSUE BACKGROUND

The City is currently involved in a rent arbitration with Brookfield Properties Corporation (BPC) as tenant regarding a long term ground lease on its property located at 2 Bloor Street East. Due to the complexity and length of the arbitration, Legal Services retained the firm of Rochon Genova LLP, through a sole source, on behalf of the Real Estate Services Division.

The City is proceeding with rent arbitration for a long term ground lease on its property located at 2 Bloor Street East with BPC.
The ground lease commenced on December 1, 1971 with an initial term of 40 years and expired November 30, 2011, subject to the rights of termination as set out in the Ground Lease. The second term of the ground lease commenced on December 1, 2011, without resolution of a new rental amount.

The City filed its Notice of Intention to Arbitrate to BPC on November 30, 2011.

Legal Services retained, through a sole source Purchase Order the firm of Rochon Genova LLP to act as counsel for the City for the arbitration on December 12, 2011.

Real Estate Services is now seeking City Council authority to increase the amount of the sole source Purchase Order to retain the legal services required to finalize the arbitration process.

City Council approval is required in accordance with Municipal Code By-law Chapter 195- Purchasing, where the current request exceeds the threshold of $500,000, net of HST, allowed under staff authority as per the Toronto Municipal Code By-law, Chapter 71 – Financial Control.

The Fair Wage Office has reported that Rochon Genova LLP has reviewed and understood the Fair Wage Policy and Labour Trades requirements and has agreed to comply fully.

**CONTACT**

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**SIGNATURE**

________________________________________  _______________________________________
Josie Scioli  
Chief Corporate Officer  

Victor Tryl,  
Acting Director  
Purchasing and Materials Management Division

**ATTACHMENTS**

Attachment 1 – Confidential Information - Amendment to Sole Source Purchase Order No. 6034414 Issued to Rochon Genova LLP for Rent Arbitration – 2 Bloor Street East.