



**STAFF REPORT  
ACTION REQUIRED**  
with Confidential Attachment

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

<b>Date:</b>	April 1, 2015
<b>To:</b>	Government Management Committee
<b>From:</b>	Chief Corporate Officer, Director, Purchasing and Materials Management and City Solicitor
<b>Wards:</b>	Ward 27 Toronto Centre-Rosedale
<b>Reason for Confidential Information:</b>	Litigation or potential litigation, including matters before administrative tribunals, affecting the City or a local board and advice that is subject to solicitor-client privilege.
<b>Reference Number:</b>	P:\2015\Internal Services\RE\Gm15015re – (AFS #21113)

## **SUMMARY**

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The purpose of this report is to request authority to amend Purchase Order No. 6034414, issued to Rochon Genova LLP in the amount \$200,000.00 net of HST (\$203,520.00 net of HST recoveries). The total revised value of the Purchase Order will be \$1,409,238.71 net of HST (\$1,434,041.31 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.

This Purchase Order was originally issued at \$459,238.71, net of HST (\$467,7321.31 net of HST recoveries) and subsequently amended under GM32.33 in the amount of \$750,000.00, net of HST (\$763,200.00 net of HST recoveries).

The Purchase Order for the specialized legal services of this prolonged rent arbitration is almost depleted. Authority is being requested to amend the Purchase Order to maintain the legal services required to finalize the arbitration process, which is expected to be completed by the end of 2015.

City Council approval is required in accordance with Chapter 71-11.1 (C) – Financial Control By-Law.

## **RECOMMENDATIONS**

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The Chief Corporate Officer, Director, Purchasing & Materials Management and City Solicitor recommend that:

1. City Council grant authority to amend and increase the value of Rochon Genova LLP Purchase Order No. 6034414 for an additional \$200,000.00 net of HST (\$203,520.00 net of HST recoveries). This amount will increase the current contract value from \$1,209,238.70, net of HST (\$1,230,521.30 net of HST recoveries) to \$1,409,238.71 net of HST (\$1,434,041.31 net of HST recoveries).
2. City Council direct that Confidential Attachment 1 and Appendix A remain confidential as they are the subject of litigation or potential litigation, including matters before administrative tribunals, affecting the City or a local board and contain advice that is subject to solicitor-client privilege.

### **Financial Impact**

Purchase Order No. 6034414 issued to Rochon Genova LLP is in the amount of \$1,209,238.71, net of HST (\$1,230,521.31 net of HST recoveries). Amendment is required to increase the Purchase Order by an additional amount of \$200,000.00 net of HST (\$203,520.00 net of HST recoveries). The total revised value of the Purchase Order will be \$1,409,238.71 net of HST (\$1,434,041.31 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 for the continuing retention of legal services is available in the 2015 Approved Operating Budget for Real Estate Services.

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

### **DECISION HISTORY**

On August 25, 26, 27 and 28, 2014, City Council granted the authority under GM32.33 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). That increased the 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). The following is the link to City Council Decision Document:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.GM32.33>

### **ISSUE BACKGROUND**

The City is currently involved in a rent arbitration with Brookfield Properties Corporation (BPC) as a 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 on December 12, 2011, through a non competitive process, on behalf of the Real Estate Services Division. Rochon Genova in turn have retained Lerner LLP to assist. The reason for this choice is that counsel from Lerner

worked with counsel from Rochon Genova on a previous City rent arbitration matter for 2 Bloor West and developed specialized expertise.

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, for 26 years, 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.

Real Estate Services is now seeking Council authority to increase the amount of the Purchase Order, in order to continue the legal services required to finalize the arbitration process.

## **CONTACT**

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## **SIGNATURE**

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Josie Scioli  
Chief Corporate Officer

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Michael Pacholok  
Purchasing and Materials Management  
Division

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Anna Kinastowski  
City Solicitor

## **ATTACHMENTS**

1. Attachment 1 – Confidential Information - Amendment to Non Competitive Purchase Order No. 6034414 Issued to Rochon Genova LLP for Rent Arbitration – 2 Bloor Street East
2. Appendix A – Letter from Lerner LLP, dated March 23, 2015