



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Amendment to Purchase Order # 6019425 – Consultant Old City Hall Mechanical Upgrade project 60 Queen St. W, Toronto

Date: March 20, 2017

To: Government Management Committee

From: Chief Corporate Officer, Director Purchasing and Materials Management and the City Solicitor

Wards: Ward 27

REASON FOR CONFIDENTIAL INFORMATION

This report is about litigation or potential litigation that affects the City or one of its agencies or corporations and contains advice which is subject to solicitor-client privilege.

SUMMARY

The purpose of this report is to request authority to amend Purchase Order No. 6019425 issued to TMP Inc. for additional consulting and contract administration costs identified during the construction close-out phase of the Old City Hall HVAC Upgrade project.

RECOMMENDATIONS

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

1. City Council amend Purchase Order #6019425 for RFP 9117-05-7457 issued to The Mitchell Partnership Inc. (TMP) for the engineering services for the new HVAC systems in Old City Hall, by \$0.927 million net of all taxes (\$0.943 million net of HST recoveries) revising the current contract value from \$2.933 million to \$3.860 million, net of all taxes (\$3.928 million net of HST recoveries), and direct that the Facilities 2017 Capital Budget and 2018 – 2026 Capital Plan be amended accordingly.
2. City Council direct that the confidential information contained in Confidential Attachment 1 remain confidential in its entirety, as it is about litigation or potential litigation that affects the City or one of its agencies or corporations and contains advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

Funding for the requested contract amendment of \$0.927 million net of all taxes (\$0.943 million net of HST recoveries) is subject to Council approval of the staff report "Facilities 2017 Capital Budget and 2018 – 2026 Capital Plan Adjustments (Q1)" submitted for consideration to Budget Committee on March 27, 2017 by the Chief Corporate Officer. That report recommends amendment of the 2017 Council Approved Capital Budget for Facilities, Real Estate, Environment & Energy (FREEE) to reallocate the additional funding of \$0.943 million in 2017 from various structural/building envelope and mechanical and electrical projects to the Old City Hall HVAC Upgrade project resulting in zero gross and net debt impact.

Funding details are provided below (net of HST recoveries):

WBS Element	Description	2017	Total
CCA192-01	Old City Hall HVAC Upgrade Project	\$0.943 million	\$0.943 million

Upon Council approval, PO #6019425 would be increased to \$3.860 million net of all taxes (\$3.928 million net of HST recoveries) and total project cost would be increased to \$37.842 million.

The main consultant on the project submitted a request for additional costs. It was during the close out phase Staff reviewed this request, with assistance from City Legal. A fair and reasonable amount of additional costs owed to the consultant was determined. This purchase order amendment will ensure costs can be paid and the project closed. There continues to be claims outstanding from the general contractor.

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

DECISION HISTORY

Bid Committee at its meeting held on February 1, 2006 adopted a report recommending the award of Engineering Services for New HVAC Systems in Old City Hall to Mitchell Partnership Inc. The decision can be found at the following link:
<http://www.toronto.ca/legdocs/2006/minutes/committees/bc/bc060201.pdf>

Council, at its meeting of April 29 and 30, 2009, adopted a report recommending the award of the construction contract for HVAC and Electrical Upgrade at Old City Hall construction in two (2) separate purchase orders, with the second purchase order being subject to Budget Committee approval. The total of the contract award was \$32.7 million, net of all taxes.

Budget Committee at its meeting of November 19, 2009, approved the funding for the second purchase order. The background information for these decisions (PO# 6029453 for \$21.062 million and PO# 6032199 for \$11.638 million for a total of \$32.700 million) can be found at the following links:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2009.GM22.17>

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2009.BU59.1>

<http://www.toronto.ca/legdocs/mmis/2011/gm/bgrd/backgroundfile-37543.pdf>

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.EX6.17>

(May 10, 2011) Amendment to Purchase Order No. 6019425 - Engineering Services for HVAC Upgrades at Old City Hall (Item BU11.5)

(<http://www.toronto.ca/legdocs/mmis/2011/ex/bgrd/backgroundfile-38156.pdf>)

(May 2, 2011) Letter from the Government Management Committee on Amendment to Purchase Order 6019425 - Engineering Services for HVAC Upgrades at Old City Hall - GM3.18

(<http://www.toronto.ca/legdocs/mmis/2011/bu/bgrd/backgroundfile-37689.pdf>)

A total budget of \$36.899 million had been approved sequentially from 2004 to 2010.

The background information for these decisions can be found at the following links:

<http://www.toronto.ca/legdocs/2004/agendas/council/cc040419/cofa.pdf>

<http://www.toronto.ca/legdocs/2005/agendas/council/cc050221/cofa.pdf>

<http://www.toronto.ca/legdocs/mmis/2007/cc/minutes/2007-12-11-cc15-mn.pdf>

<http://www.toronto.ca/legdocs/mmis/2008/cc/minutes/2008-12-10-cc28-mn.pdf>

<http://www.toronto.ca/legdocs/mmis/2009/cc/minutes/2009-12-08-cc44-mn.htm>

COMMENTS

The Old City Hall Mechanical Upgrade Project began in 2005. TMP was retained to both design the project and to manage its construction. When they initially bid, the project was to start in November 2007. However, work did not actually commence until early 2010.

The purchase order for TMP fees was originally approved at \$1.095 million and subsequently amended to a total value of \$2.933 million as a result of increased scope and complexity of TMP's work, such as heritage, site conditions and state of good repair requirements determined during the design phase.

The implementation of the Old City Hall HVAC Project was phased to accommodate the tenants and ensure no disruption of their operations. Early during the construction problems arose concerning arrangements with the Province of Ontario regarding accommodation for judges, due particularly to dust levels. Work in many areas was halted for a number of months until this issue was resolved. This led to an approved 7 1/2 month extension to the project. The new schedule completion date was November 2014. Substantial completion was not achieved until November 2015 however. During the course of construction TMP was authorized to hire sub-consultants to monitor construction, in light of the claims being advanced by the City's contractor and subcontractors. TMP incurred \$0.277 million in disbursements on the City's behalf to do

so. It also expended additional time and effort on this project. City staff have reviewed the additional work performed by TMP and are of the view that \$0.650 million is fair and reasonable compensation for that work, which when added to the \$0.277 million in disbursements results in a total of \$0.927 million.

CONTACT

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SIGNATURE

Michael Pacholok
Director, Purchasing &
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Josie Scioli
Chief Corporate Officer

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Amendment to Purchase Order No. 6019425