

Amendments to Purchase Orders 6025203 and 6040342 for Legal Services Involving Union Station

Date: November 16, 2021

To: General Government and Licensing Committee

From: Executive Director, Corporate Real Estate Management and Chief Procurement Officer

Wards: Ward 10 - Spadina-Fort York

SUMMARY

The purpose of the report is to request authority for Corporate Real Estate Management to amend two (2) existing purchase orders: Davies Ward Phillips & Vineberg L.L.P., Purchase Order number 6025203, in the additional amount of up to \$405,000, net of all taxes (\$412,128 net of Harmonized Sales Tax recoveries), and Osler, Hoskin & Harcourt L.L.P., Purchase Order number 6040342, in the additional amount of up to \$1,000,000.

These purchase order amendments will ensure continuity of professional services for ongoing claims, construction, real estate, commercial and expropriation matters at Union Station. The purchase order amendments will be funded through the existing 2021 Council Approved Operating Budget and future 2022 Operating Budget submission for Corporate Real Estate Management.

RECOMMENDATIONS

The Executive Director, Corporate Real Estate Management and the Chief Procurement Officer recommends that:

1. In accordance with Section 71-11.1.C of City of Toronto Municipal Code Chapter 71, Financial Control, the General Government and Licensing Committee authorize the amendment of existing purchase orders, in accordance with the details as specified below:

- a. Davies Ward Phillips & Vineberg L.L.P., Purchase Order number 6025203, in the additional amount of up to \$405,000, net of all taxes (\$412,128 net of Harmonized Sales Tax recoveries), revising the current purchase order authority from \$4,315,000, net of all taxes, up to a potential value of \$4,720,000, net of all taxes (\$4,803,072 net of Harmonized Sales Tax recoveries), to provide ongoing real estate legal

advice, draft legal terms and agreements for the ongoing agreements and negotiations with Union Station tenants and stakeholders.

b. Osler, Hoskin & Harcourt L.L.P., Purchase Order number 6040342, in the additional amount of up to \$1,000,000, revising the current purchase order authority from \$12,300,000, net of all taxes, up to a potential value of \$13,300,000, net of all taxes, to retain the necessary third-party legal services required for any legal matters that arise from the receipt of claims in respect of the Union Station Revitalization Project, not including trial proceedings.

FINANCIAL IMPACT

Funding for the requested amendment in recommendation 1.a. (\$0.412 million) is available and will be funded through the existing 2021 Council Approved Operating Budget and future 2022 Operating Budget Submission for Corporate Real Estate Management.

Purchase Order Number	Cost Centre	Amendment Request
Davies Ward Phillips & Vineberg L.L.P.; 6025203	FA3078	\$405,000, net of all taxes (\$412,128 net of Harmonized Sales Tax recoveries)

Funding for the requested amendment in recommendation 1.b. (\$1.000 million) is available and will be funded through the existing 2021 and future 2022 Capital submission for Corporate Real Estate Management under the project budget for the Union Station Revitalization Project (U.S.R.P.).

Purchase Order Number	WBS Element	Amendment Request
Osler, Hoskin & Harcourt L.L.P.; 6040342	CCA911	\$1,000,000, net of all taxes

The Chief Financial Officer and Treasurer has been provided the financial impacts associated with these programs for review as part of the 2022 budget process.

DECISION HISTORY

At its meeting of September 14, 2020, the General Government and Licensing Committee adopted Item GL15.12 "Union Station Revitalization Project - Status Report

and Contract Amendments" and approved an amendment to the retainer of Davies Ward Phillips & Vineberg L.L.P.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.GL15.12>

At its meeting of January 6, 2020, the General Government and Licensing Committee adopted Item GL11.19 "Amendment to Purchase Order Number 6040342 with Osler, Hoskin & Harcourt, L.L.P. for Construction Law Support and Litigation Services for the Union Station Revitalization Project" and approved an amendment to the retainer of Osler, Hoskin & Harcourt, L.L.P.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.GL11.9>

COMMENTS

Davies Ward Phillips & Vineberg L.L.P.

With the completion of the base building construction and transfer of the Bay Concourse to Metrolinx at Union Station, property management staff are now working to address retail fit ups, tenant improvements and COVID-19 recovery. With full retail operations targeted to come online in 2022 during the COVID-19 recovery, ongoing legal services provided by Davies Ward Phillips & Vineberg L.L.P. are required for real estate legal advice, drafting legal terms and agreements for the ongoing agreements, and negotiations with Union Station tenants and stakeholders.

If approved, Purchase Order Number 6025203, issued to Davies Ward Phillips & Vineberg L.L.P., will be amended for an additional purchase order value of \$405,000 net of all taxes (\$412,128 net of Harmonized Sales Tax recoveries), increasing the total potential purchase order value to \$4,720,000, net of all taxes (\$4,803,072 net of Harmonized Sales Tax recoveries).

Osler, Hoskin & Harcourt L.L.P. - U.S.R.P

While the U.S.R.P. was substantially completed in September 2021, a proposed amendment to purchase order 6040342, issued to Osler, Hoskin & Harcourt L.L.P, is needed to ensure the City can continue to retain the necessary third-party legal services required to respond to any claims that may arise out of the purchase order with the General Contractor, or the performance bond on the U.S.R.P.

Based on the information currently available, to undertake detailed discussions with the goal of reaching a possible settlement in this matter, the potential additional legal fees required for Osler are currently estimated to be up to \$600,000, with an additional \$200,000 required for fees for consulting experts to be retained by outside counsel. The amount of \$200,000 is also required for fees incurred for the current year. Given the scale, complexity and importance of this file to the City, outside counsel have been involved from the outset and are in staff's view essential to the successful resolution of this matter. The current estimate is based upon counsel's detailed knowledge of the file and previous experience in assisting the City in resolving claims in relation to Phase I of the project. This is expected to increase the total purchase order by an additional amount of up to \$1,000,000, net of all taxes, revising the current purchase order

authority from \$12,300,000, net of all taxes, up to a potential value of \$13,300,000, net of all taxes. Note that this would not include any amounts required for any formal litigation proceedings, in the event that these claims are not otherwise resolved and proceedings are initiated by one of the parties. There are sufficient uncommitted funds available within the U.S.R.P. approved budget to accommodate the proposed amendment.

CONTACT

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SIGNATURE

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