

Amendment of Purchase Order 6035908 for Legal Services in Support of Appealed Employment Lands Policies

Date: May 4, 2021

To: Planning and Housing Committee

From: Chief Planner and Executive Director, City Planning, City Solicitor, Legal Services, and Chief Purchasing Official and Director, Purchasing and Materials Management

Wards: All

SUMMARY

This report seeks approval to amend Purchase Order 6035908 for legal services associated with the approval of Council adopted policies on employment lands (Official Plan Amendment 231) and the 100+ site specific appeals that remain outstanding. Given the scheduling of the Local Planning Appeal Tribunal ("LPAT") hearing and the pace at which proceedings are occurring, it is staff's opinion that the proceedings will continue through 2021 and conclude in 2023.

At its Case Management Conference on April 9, 2021, the City provided a summary of the recommended phased approach for the remaining site specific hearings. In total, the site specific appellants have requested over 230 hearing dates to resolve their appeals. The additional funds will allow Ritchie Ketcheson Hart & Biggart LLP to continue their work on the upcoming site specific hearings.

RECOMMENDATIONS

The Chief Planner and Executive Director, City Planning, City Solicitor, Legal Services, and Director, Purchasing and Materials Management recommend that:

1. City Council in accordance with Section 71-11.1C of the City of Toronto Municipal Code Chapter 71 (Financial Control By-Law), grant authority to amend the retainer with Ritchie Ketcheson Hart & Biggart LLP, and the associated Purchase Order 6035908, for the provision of legal services associated with the approval of Official Plan Amendment 231 and site specific hearings, by an additional amount of \$400,000 net of all taxes, (**\$407,040** net of HST Recoveries) revising the contract value from \$897,000 to \$1,297,000.

FINANCIAL IMPACT

There is sufficient funding available in the 2021 Approved Capital Budget and 2022-2030 Approved Capital Plan for City Planning Division for the requested amendment as summarized in Table 1 below.

The amendment of Purchase Order 6035908 by an additional \$400,000 net of all taxes (\$407,040 net of HST recoveries) will increase the current Purchase Order value from \$897,000 to \$1,297,000 net of all taxes (\$912,787 to \$1,319,827 net of HST recoveries).

Table 1: Financial Impact Summary (net of HST recoveries)

WBS Element	Description	June 2021 – December 2021	January 2022 – June 2022	July 2022 - December 2022	January 2023 – June 2023	Total
CUR901-07	Five Year Review of the Official Plan	\$101,760	\$101,760	\$101,760	\$101,760	\$407,040

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

DECISION HISTORY

At its meeting on May 3, 2017, Planning and Growth Management Committee amended the Purchase Order for the services of Ritchie Ketcheson Hart & Biggart LLP in accordance with Section 71-11.1.C of the City of Toronto Municipal Code Chapter 71 (Financial Control By-Law). The Decision History can be accessed at this link: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PG20.2>.

The original Purchase Order was a result of the City Solicitor's invitation letters (dated July 3, 2012) to a number of firms for legal services. On September 26, 2012, the services of Ritchie Ketcheson Hart & Biggart LLP were secured through a retention letter in respect of the City's employment lands policies. Purchase Order 6035908 was issued to cover legal expenses associated with the approval of employment land policies, which are currently before the Local Planning Appeal Tribunal (LPAT).

At its meeting on December 16-18, 2013, City Council adopted Official Plan Amendment 231 (OPA 231), which included policies for employment lands. Council's decision ([Item PG28.2](http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.PG28.2) <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.PG28.2>) was approved, with modifications by the Minister of Municipal Affairs (previously Municipal

Affairs and Housing) on July 29, 2014 and was subsequently appealed to the Ontario Municipal Board now the LPAT.

Original Authority: Council meeting of December 4, 5 and 6, 2001, Report 10 Clause 10 of the Audit Committee.

<http://www.toronto.ca/legdocs/2001/agendas/council/cc011204/agenda.pdf>.

COMMENTS

In total, 178 appeals were received to OPA 231. In response to the number of appeals, the City and all parties agreed to a phased hearing to deal with the number of citywide policy matters and site specific appeals. Since the first Pre-hearing conference on OPA 231 held on March 12 and 13, 2015, the Ontario Municipal Board, now LPAT, has held numerous hearing dates, mediation sessions, and case management conferences. All but one (i.e., office replacement policies) City-wide policy appeals of OPA 231 have been resolved and approximately 20 site specific settlements have been adopted by Council and approved at the LPAT.

At the LPAT Case Management Conferences held on March 4, 2021 and April 9, 2021, City Legal provided a summary of the recommended phased approach for the remaining site specific hearings. In total, the site specific appellants are requesting over 230 hearing dates to resolve their appeals. The recommended first sub-phases of site specific hearings would resolve clusters of appeals in North Scarborough, South Etobicoke and Liberty Village, which would resolve over 20 generally clustered site specific appeals. Additional hearing dates would be sought to resolve the approximately 80 other site specific remaining appeals, some of which may result in settlements with the City. The City will continue to organize the site specific hearings in an efficient and orderly manner in an attempt to expeditiously resolve appeals where supportable.

Conclusion

Given the current scheduling of the LPAT hearings, the pace at which proceedings are occurring, and the recommendation that a consistent approach to the hearing continue, it is staff's opinion that the site specific proceedings will continue through 2021 and conclude in 2023. The additional funds recommended will allow Ritchie Ketcheson Hart & Biggart LLP to continue their work on the upcoming LPAT hearings and associated matters.

CONTACT

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SIGNATURE

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