

**CITY OF HAMILTON**

**PUBLIC WORKS DEPARTMENT**  
**Environment & Sustainable Infrastructure Division**

<b>TO:</b> Chair and Members Public Works Committee	<b>WARD(S) AFFECTED:</b> CITY WIDE
<b>COMMITTEE DATE:</b> September 4, 2012	
<b>SUBJECT/REPORT NO:</b> McCormick Rankin Corporation - Construction of the Downtown Multi-Modal Transportation Centre (PW08110a) - (City Wide)	
<b>SUBMITTED BY:</b> Gerry Davis, CMA General Manager Public Works Department	<b>PREPARED BY:</b>  Gary Moore 905-546-2424, Extension 2382
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That Purchase Order 45404 to MMM Group be increased by \$132,000 to cover additional costs for onsite resident supervision and inspection for the contract management of MacNab Transit Terminal project as a result of an extended completion date by the Contractor.

**EXECUTIVE SUMMARY**

The Contract Administration and resident site inspection overseeing the construction work for the MacNab Street Transit Terminal was awarded to McCormick Rankin Associates (MRC now known as MMM Group) in October 2008, as part of the overall design and construction supervision contract. The terms and estimated fees were based on an anticipated construction schedule and scope of work prior to the start of the design stage. At the time of the Construction Contract Tender, the estimated fees were in accordance with specified time for completion. The original construction completion date was August 15, 2010, however as a result of utility conflicts and contractor delays; the project completion was delayed by an additional 24 weeks to February 4, 2011. MMM Group has identified a final additional cost of \$131,777 to provide the necessary additional project management and site inspection services to complete the contract. The contractor has been assessed \$85,000 in liquidated damages. As the additional unforeseen circumstances and delays were beyond the control of the Consultant, the

granting of additional payment in this regard is recommended by Staff. There is sufficient funding available to cover this cost.

**Alternatives for Consideration - See Page 3**

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS**

**Financial:** N/A

**Staffing:** N/A

**Legal:** N/A

**HISTORICAL BACKGROUND**

City Council, at its meeting of October 15, 2008, approved item 7 of Public Works Committee Report 08-015 (Appendix "A"), which authorized the General Manager of Public Works to negotiate a single source contract for the Detailed Design, Contract Tender Preparation and Construction Contract Administration and Site Inspection for the construction of the Downtown Multi-Modal Transportation Centre (MacNab Street Transit Terminal), with McCormick Rankin Corporation to an upset limit of \$1.2 million dollars. The original Purchase Order value was ultimately issued for \$1,150,900.00 which represents 15% of the total construction value of \$7,621,653.00. The original construction completion date was August 15, 2010, however as a result of utility conflicts and contractor delays; the project completion was delayed by an additional 24 weeks to February 4, 2011.

The Contractor repeatedly missed completion dates and had problems completing the in-platform heating installation and commissioning. It was not possible to determine an amount of additional funds required for the Consultant's attendance on site until all the work had been completed. This work is now complete and functioning and the Consultant's attendance and oversight is no longer required. The scope of the Consultant's attendance has far exceeded what was originally negotiated.

**POLICY IMPLICATIONS**

N/A

**RELEVANT CONSULTATION**

N/A

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

The Contractor was granted an extension to the required substantial performance date for the MacNab Street Transit Terminal from August 15, 2010 to October 8, 2010. This was due to the unforeseen delays attributed to the conflicts encountered with the relocation of the utilities. This was beyond the control of the contractor, the Consultant

or the City, hence the extension in allowable time to complete; however, the contractor further exceeded the extended date by an additional 85 days.

The Contractor is charged Liquidated Damages (LD's) for those non-approved days where work is required beyond the completion date in the contract. These LD's are based on the costs that the City would incur as a result of the project extension, in this case, the additional cost of a Consultant for Contract Administration. The liquidated damages in the contract were \$1,000 for each working day and a working day was defined as a day other than a Saturday, Sunday or statutory holiday.

Substantially performance was achieved on February 4, 2011, which fixed the liquidated damages at \$85,000 (85 days X \$1,000/day).

The Consultant was required to provide both full time resident supervision and inspection during the majority of the project. Once the terminal was opened to the public and the contractor was away from the public space or only on site intermittently, the Consultant's attendance was reduced to part time or as required to mitigate costs.

The Consultant's attendance was extended beyond the original scope of work by not only the contractor's unapproved late finish but also by the period of approved extension due to the utility and subsurface structural delays. As a result, only a portion of the over runs in consulting costs was covered by the assessed Liquidated Damages and additional project funding is required to make up the difference. There are sufficient funds within the project cost centre to cover this requested Purchase Order extension.

## **ALTERNATIVES FOR CONSIDERATION**

The only alternative to approving the increase would be to deny the Consultants claim and subject the claim to Court proceedings including a claim against the Utility companies.

## **CORPORATE STRATEGIC PLAN**

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

### ***Financial Sustainability***

- ◆ Public services and programs are delivered in an equitable manner, coordinated, efficient, effective and easily accessible to all citizens.
- ◆ Partnerships are promoted.

### ***Environmental Stewardship***

- ◆ A sustainable transportation network provides many options for people and goods movement; vehicle-dependency is reduced.

**APPENDICES / SCHEDULES**

Appendix "A": Item #7 of Public Works Committee Report 08-015, approved by Council October 15, 2008, which authorized and directed the General Manager of Public Works to negotiate a single source contract for the Detailed Design, Contract Tender Preparation and Construction Contract Administration and Site Inspection for the construction of the Downtown Multi-Modal Transportation Centre on MacNab Street to McCormick Rankin Corporation to an upset limit of \$1.2 million dollars, to be funded from Account No. 53006-85001 - Downtown Transit Terminal.

**7. McCormick Rankin Corporation – Construction of the Downtown Multi-Modal Transportation Centre (PW08110) (City Wide) (Item 8.2)**

That the General Manager of Public Works be authorized and directed to negotiate a single source contract for the Detailed Design Contract Tender Preparation and Construction Contract Administration and Site Inspection for the construction of the Downtown Multi-Modal Transportation Centre on McNab Street to McCormick Rankin Corporation to an upset limit of \$1.2 million, to be funded from Account No. 53006-85001 – Downtown Transit Terminal.

**8. Long Range Waste Disposal Options for the City of Hamilton (PW08113) (City Wide) (Item 8.3)**

- (a) That the recommendations of the July 11, 2008 Niagara-Hamilton WastePlan Joint Working Group meeting, as follows, be approved;
- (i) That the Niagara-Hamilton WastePlan staff report be received;
  - (ii) That the Niagara Region and City of Hamilton, represented by current members of the WastePlan Joint Working Group or other members of the Niagara Region Waste Management Planning Steering Committee and the Hamilton Solid Waste Management Master Plan Steering Committee members, continue to meet not less than annually or at the call of the co-chairs to consider opportunities of mutual interest including but not limited to waste management;
  - (iii) That the Councils of the Niagara Region and City of Hamilton be requested to enter into an agreement to terminate the Agreement for Joint Study of Waste Disposal dated January 1, 2004; and that the Chair of the Niagara Region, the Mayor of the City of Hamilton and the respective Clerks be authorized to execute the agreement within three (3) months of the approval by both Councils;
  - (iv) That the WastePlan website at [www.wasteplan.ca](http://www.wasteplan.ca) be posted with a notice that the site will be discontinued on a specified date to be three (3) months after, and subject to, the approval by both councils to terminate the agreement and end the Environmental Assessment (EA) Study;
  - (v) That subject to the approval by both Councils to terminate the agreement and end the EA Study, the Ministry of the Environment be so advised.
- (b) That the City of Hamilton enter into a Termination Agreement to discontinue the waste disposal initiative and the WastePlan Environmental Assessment Study with Niagara Region, be approved;