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APPROVAL OF ALTERNATE LEGAL SERVICES PROVIDER FOR INSURABLE CLAIMS

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, January 12, 2006, from the Commissioner of Finance:

1. RECOMMENDATIONS

It is recommended that:

1. The firm of Nicholl Paskell-Mede LLP (NPM) be approved as a legal services provider for insurable claims effective immediately, for a term ending December 31, 2007;
2. The firm of Gowling Lafleur Henderson LLP (Gowling) be terminated as a legal services provider for insurable claims as per the terms and conditions of the retainer agreement with them; and
3. Staff be authorized to take all actions necessary to implement this recommendation.

2. PURPOSE

The purpose of this report is to approve Nicholl Paskell-Mede (NPM) as a legal services provider for insurable claims for a term ending December 31, 2007.

3. BACKGROUND

In March 2004, Council approved the following three law firms to provide legal services for insurable claims for a term from April 1, 2004 to December 31, 2007:

- Patterson McDougall LLP
- Borden Ladner Gervais LLP
- Gowling Lafleur Henderson LLP

Each of these firms were assigned files and are responsible for defending insurance claims that have the potential to exceed the Region's deductible. Claims less than the deductible are usually handled by the Region's legal staff.

Effective January 16, 2006, the lawyers that were serving the Region's account at Gowling left that firm in order to open a Toronto office for the firm of Nicholl Paskell-Mede LLP (NPM). NPM is a "boutique" law firm specializing in insurance law and professional and civil liability defence work, which was founded in Montreal in 1992.

4. ANALYSIS AND OPTIONS

The firms that were recommended as legal services providers for insurable claims were selected based on their responses to an RFP as well as an interview conducted by staff from Finance and Legal Services. The scoring criteria used during the RFP process was heavily weighted to recognize the experience of the individual lawyers and the law clerks that would be assigned to the Region and less on the actual firm. Gowling put forward Graeme Mew and Karen Earl as its primary service providers for the Region. Both Mr. Mew and Ms. Earl are well known in the industry and are highly regarded municipal insurance lawyers. During the RFP process and after a year and a half of working with Karen Earl in particular, staff from Finance and Legal Services as well as the Region's insurer, OMEX, feel that she is very knowledgeable and serves the Region's interests well. Furthermore, as a result of her work with us, OMEX has recommended Ms. Earl to other member municipalities.

With the move of Mr. Mew, Ms. Earl and their law clerk to NPM, Gowling would no longer have a legal team with known expertise in municipal liability and/or familiarity with the Region's operations. The Region has an option under this retainer agreement to terminate its relationship with Gowling upon (7) days prior written notice and move those files to another firm such as NPM without fault or liability. Gowling currently is handling 10 claim files on behalf of the Region.

A.M. Best Directory of Insurance Attorneys and Adjusters list NPM as a highly recommended law firm. The Canadian Legal LEXPERT Directory lists NPM as one of the leading firms in Montreal in this area of law and recognised its partners as the most recommended practitioners in Montreal. With the addition of Mr. Mew, Ms Earl and their law clerk as part of a new office in Toronto, NPM would be able to come up to speed quickly on existing claims and have depth of municipal insurance experience.

It is therefore the joint Finance and Legal Services' recommendation that Council approve NPM as an alternative legal service provider for legal services on insurable claims.

5. FINANCIAL IMPLICATIONS

NPM would be paid on a fee for service basis at the same hourly rates that are currently being charged by Gowling.

These costs have been included in the insurance expense for each department shown as part of the 2006 Regional Budget.

6. LOCAL MUNICIPAL IMPACT

There is no local municipal impact from this report.

7. CONCLUSION

This report recommends that Council approve NPM as an alternative legal service provider for legal services on insurable claims and that the Region terminate its retainer agreement with Gowling.

The Senior Management Group has reviewed this report.