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RFP FOR ENVIRONMENTAL LEGAL SERVICES

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, March 8, 2007, from the Commissioner of Corporate Services:

1. RECOMMENDATIONS

It is recommended that:

1. The firm of Aird & Berlis LLP be approved to provide environmental legal services on a fee for service basis through a retainer agreement for the period January 1, 2007 to December 31, 2009.
2. The Regional Solicitor be authorized to execute a retainer agreement and related documents necessary to implement the retainer.

2. PURPOSE

The purpose of this report is to seek approval from Regional Council for the retainer of environmental legal services for the period from January 1, 2007 to December 31, 2009.

3. BACKGROUND

On January 25, 2007 Regional Council approved three-year retainers with two law firms to provide a range of legal services based on an RFP issued in December 2006. While Borden Ladner Gervais LLP and Weir Foulds LLP are both full service law firms, the Region requires access to specialized external legal services in the areas of environmental assessment and environmental litigation/legal proceedings. Consequently, a separate RFP process has been completed to secure environmental legal services required by the Region.

4. ANALYSIS AND OPTIONS

4.1 Evaluation of RFP

Six proponents pre-qualified as full service law firms in response to an RFQ issued in November 2006. In order to conduct the RFP for environmental legal services, the submissions of the six pre-qualified firms were reviewed and those proponents demonstrating strengths in environmental law were invited to participate in a new RFP. While the volume of work did not support the use of blended hourly rate model as applied to the retainer awarded for overall legal services, proponents were invited to

propose flexible fee arrangements to ensure the cost effectiveness of external legal resources. Proponents were also required to guarantee fixed hourly rates for the duration of a three year retainer.

Invitations were sent to three of the six pre-qualified firms, and all three submitted proposals for evaluation. The proposals were evaluated based on technical expertise (60%) and financial (40%). As expected, all three proposals were technically strong, however only one proposal complied with the requirement for three-year fixed hourly rates, and the other two proposals did not include any flexibility in billing or hourly rates. The responsive bid, Aird & Berlis LLP, proposed a reduced hourly rate fee structure and a cap on any increases for the three-year period of the RFP. Further, Aird & Berlis LLP proposed additional percentage discounts ranging from 2.5% to 10% if various thresholds of gross annual fees (excluding taxes and disbursements) were met.

Aird & Berlis LLP offers the expertise required by the Region based on its mandate and program areas. The proposal submitted by this firm demonstrated its willingness and ability to meet our requirements for efficiency and effectiveness in case management along with opportunities to enhance the working relationship between the firm and the Region to maximize the benefits of external resources.

The retainers with Borden Ladner Gervais LLP and Weir Foulds LLP are non-exclusive and allow the Region to retain additional resources as required in certain circumstances. The proposed retainer with Aird & Berlis LLP would be issued on similar terms.

5. FINANCIAL IMPLICATIONS

The overall hourly rates for Aird & Berlis LLP for the three-year term of the RFP are extremely competitive and represent a savings of at least \$290 per hour in the first year of the RFP compared to the fees proposed by the other two proponents, and further savings will be realized in subsequent years as these fees are capped for three years. Further discounts would be available depending on the amount of annual gross fees billed to the Region. The financial proposal provides the Region with cost certainty.

6. LOCAL MUNICIPAL IMPACT

There is no local municipal impact arising from this report.

7. CONCLUSION

By entering into a retainer agreement with Aird & Berlis LLP on a three-year fixed hourly rate, the Region will achieve savings in its external legal costs while enjoying a superior level of client-based service. This arrangement will compliment internal legal

resources and the existing retainers with Borden Ladner Gervais LLP and Weir Foulds LLP.

The Senior Management Group has reviewed this report.