Minute No. 433
Report – Executive Policy Committee – July 9, 2019

Item No. 7 Request for Budget Increase to provide Legal Services

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee as amended, and adopted the following:

1. That an increase of $600,000 to the Legal Services Department operating budget be authorized to engage external legal counsel and expert witnesses to assist with civil litigation matters to be funded by a corresponding increase in the corporate efficiencies account.

2. That an increase of up to $400,000 to the Legal Services Department operating budget be authorized for the following:

    A. to engage external legal counsel for corporate/commercial legal matters and other services as required;

    B. to fund recruitment costs for a new Director of Legal Services and City Solicitor;

    C. to fund internal salaries for increments where required;

    all to be funded by a corresponding increase in the corporate efficiencies account.

3. That the Interim Chief Administrative Officer be authorized to engage in single source negotiation and award of contract for legal services with Duboff Edwards Haight & Schachter Law Corporation, subject to conflict of interest reviews and, where conflicts of interest are identified, that the Interim Chief Administrative Officer be authorized to negotiate and award one or more contracts on a single source basis to another qualified lawyer in respect of legal services for matters in which Duboff Edwards Haight & Schachter Law Corporation are in a conflict of interest.

4. That the City enter into, execute and deliver agreements determined necessary by the Acting City Solicitor / Director of Legal Services to implement the intent of the foregoing.

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COUNCIL DECISION (continued):

5. That authority be delegated to the Interim Chief Administrative Officer to negotiate and approve the terms and conditions of the agreements authorized by Recommendation 4, in accordance with this report and such other terms and conditions deemed necessary by the Acting Director of Legal Services / City Solicitor to protect the interests of the City.

6. That the Public Service ensure that appropriate resources are included within the 2020 Legal Services Operating Budget request.

7. That the Proper Officers of the City do all things necessary to implement the intent of the foregoing.

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DECISION MAKING HISTORY:

Moved by His Worship Mayor Bowman,
That the recommendation of the Executive Policy Committee be adopted.

In amendment,
Moved by Councillor Gillingham,
Seconded by Councillor Orlikow,

WHEREAS the City's Legal Services Department is currently understaffed and has posted for but not yet filled the position of a new senior litigator;

AND WHEREAS the City's Director of Legal Services and City Solicitor has recently resigned;

AND WHEREAS the City has a number of legal matters that require immediate resources and proper representation of such matters;

AND WHEREAS in the past the City has retained outside legal counsel when conflicts of interest, specialized knowledge or lack of resources prevent matters being dealt with internally;

AND WHEREAS it is necessary that legal counsel be retained through single source due to the time sensitive nature of such matters;

AND WHEREAS although there is no provision within the Materials Management Policy to allow for this single source negotiation, Council has the authority to waive the requirements of the Materials Management Policy;

AND WHEREAS the single source is compliant with the applicable trade agreements;

THEREFORE BE IT RESOLVED THAT Item 7 of the Report of Executive Policy Committee dated July 9, 2019, titled "Request for Budget Increase to provide Legal Services", be amended to include additional recommendations as follows:

2. That an increase of up to $400,000 to the Legal Services Department operating budget be authorized for the following:

    A. to engage external legal counsel for corporate/commercial legal matters and other services as required;
    B. to fund recruitment costs for a new Director of Legal Services and City Solicitor;
    C. to fund internal salaries for increments where required;

all to be funded by a corresponding increase in the corporate efficiencies account.

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DECISION MAKING HISTORY (continued):

3. That the Interim Chief Administrative Officer be authorized to engage in single source negotiation and award of contract for legal services with Duboff Edwards Haight & Schachter Law Corporation, subject to conflict of interest reviews and, where conflicts of interest are identified, that the Interim Chief Administrative Officer be authorized to negotiate and award one or more contracts on a single source basis to another qualified lawyer in respect of legal services for matters in which Duboff Edwards Haight & Schachter Law Corporation are in a conflict of interest.

4. That the City enter into, execute and deliver agreements determined necessary by the Acting City Solicitor / Director of Legal Services to implement the intent of the foregoing.

5. That authority be delegated to the Interim Chief Administrative Officer to negotiate and approve the terms and conditions of the agreements authorized by Recommendation 4, in accordance with this report and such other terms and conditions deemed necessary by the Acting Director of Legal Services / City Solicitor to protect the interests of the City.

6. That the Public Service ensure that appropriate resources are included within the 2020 Legal Services Operating Budget request.

AND BE IT FURTHER RESOLVED THAT the remainder of the recommendations be renumbered accordingly.

The amending motion moved by Councillor Gillingham and seconded by Councillor Orlikow was put and declared carried.

The motion for adoption of the item, as amended, was put and declared carried.

Councillor Klein asked to be recorded as having voted against the above motion, in accordance with rule 47(7) of the Procedure By-law.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 9, 2019, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the matter to Council.

ADMINISTRATIVE REPORT

Title: REQUEST FOR BUDGET INCREASE TO PROVIDE LEGAL SERVICES

Critical Path: Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
K. Boryskavich	K. Boryskavich	P. Olafson, Interim CFO	M. Ruta, Interim CAO

EXECUTIVE SUMMARY

The City of Winnipeg engages external legal consultants on an as-required basis when: (i) specialized expertise is required; (ii) additional legal resources beyond the scope of the Legal Services Department are required; or (iii) the Legal Services Department is in a position of conflict.

This report requests an increase to the Legal Services Department budget in the amount of $600,000, to be utilized to engage external legal counsel and expert witnesses to assist with civil litigation matters.

RECOMMENDATIONS

1. That an increase of $600,000 to the Legal Services Department operating budget be authorized to engage external legal counsel and expert witnesses to assist with civil litigation matters to be funded by a corresponding increase in the corporate efficiencies account.

2. That the proper officers of the City do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

As the above recommendation is an increase to the Legal Services Department operating budget, the request must be approved by Council.

IMPLICATIONS OF THE RECOMMENDATIONS

Approval of the recommendations will allow the City to engage additional legal resources to assist with civil litigation matters. Individual engagements will be approved through the Materials Management process.

HISTORY/DISCUSSION

The City's Legal Services Department currently has 4 full-time permanent civil litigation positions: (1) a by-law prosecutor; (2) two junior litigators; (3) one senior litigator.

As of April 8, 2019, the senior litigator has left the Legal Services Department to take a non-legal position in another City Department. The recruitment process to hire a new senior litigator is underway; however, given the timeline of such recruitment process, certain civil litigation matters need immediate attention that cannot be provided with existing resources. Therefore, the Legal Services Department will be required to engage external legal counsel in order to ensure the City is adequately represented with respect to such matters.

FINANCIAL IMPACT

Financial Impact Statement

Date: June 28, 2019

Project Name:

First Year of Program 2019

REQUEST FOR BUDGET INCREASE TO PROVIDE LEGAL SERVICES

	2019	2020	2021	2022	2023
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ 600,000	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	-	-	-	-	-
Net Cost/(Benefit)	$ 600,000	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ 600,000	$ -	$ -	$ -	$ -

Additional Comments:

1. Direct Costs above represents estimates for external legal costs to be incurred in the amount of $600,000 inclusive of PST.

2. An adjustment to the Legal Services Department 2019 operating budget is requested to be funded by an increase in corporate efficiencies.

original signed by
Tanis Yanchishyn
Manager of Finance (Campus)
Corporate Finance Department

CONSULTATION

This Report has been prepared in consultation with:

Corporate Finance
Materials Management

OURWINNIPEG POLICY ALIGNMENT

n/a

SUBMITTED BY

Department: Legal Services Department
Division: n/a
Prepared by: K. Boryskavich
Date: June 28, 2019