



**RPT 20-417**

**TITLE:** Agreement to Provide City Solicitor Services - City Solicitor Contract - City Council

**DATE:** September 24, 2020

**TO:** City Council

**PUBLIC: X**

**INCAMERA:**

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**RECOMMENDATIONS:**

1. That Council reaffirm, continue and extend the appointment of Mitchell Holash, Q.C. as the City Solicitor effective October 1, 2020 and to continue until September 30, 2022.
2. That the Mayor and City Clerk be authorized to execute the Contract to Provide City Solicitor Services, and any applicable documents as approved by this Report.

**TOPIC & PURPOSE:**

To approve the appointment of Mitchell Holash as the City's City Solicitor effective October 1, 2020 until the date of September 30, 2022 for guaranteed on-site legal services during the term of the contract for the annual contract amount of \$245,000.

**BACKGROUND:**

The City's Administration Bylaw No. 1 of 2020 states the following regarding "City Solicitor":

**Continuation of Position**

- "27. (1) *The position of City Solicitor is continued.*
- (2) *Council shall by resolution, upon the recommendation of the Management Committee, appoint an individual to the position of City Solicitor and shall establish the terms and conditions of the City Solicitor's service.*

**Duties, Reporting and Accountability**

28. (1) *The City Solicitor shall be responsible for the provision of legal services to:*
- (a) *Council and its Committee, and for that purpose shall report to and be accountable to Council;*
  - (b) *the City Manager and the civic administration, and for that purpose shall report to and be accountable to the City Manager;*
  - (c) *such Boards, agencies and other organizations as may be approved by Council and for that purpose shall report to such Board, agency or other organization provided that, in the event of any conflict between Council and such Board, agency or other organization, the City Solicitor shall provide legal services only to Council!.*
- (2) *The City Solicitor may, in circumstances the City Solicitor considers appropriate, submit a report or opinion directly to Council on matters relating to the public interest, the professional oath of office or budgetary considerations which may significantly affect the ability of this office to provide services for the City.*
- (3) *Where the City Solicitor submits a report or opinion directly to Council pursuant to subsection (2), the City Solicitor shall concurrently provide a copy of the report to the City Manager.*
- (4) *The Management Committee shall be responsible to consult with the City Manager and to provide to the City Solicitor an annual written performance evaluation for the position of City Solicitor in respect to fulfilling his/her roles and responsibilities based on a protocol established by the Management Committee.*
- (5) *The Management Committee shall report in writing to the Executive Committee the findings of the performance evaluation as a matter of information.*

The recently expired Contract to Provide City Solicitor Services commenced October 1, 2018 and concluded September 30, 2020.

Mr. Holash's law firm has for the past two years been providing under contract base line on-site legal presence at City Hall for 40 weeks per year, covering daily on-site City Hall presence on scheduled days during the designated weeks. Adjustments of dedicated on-site hours of attendance have been accommodated on prior notice and discussion.

The current Contract included 1120 hours of on-site attendance by the law firm, serviced on an alternating basis by Novus staff lawyers and by Mitchell Holash personally, with all such days supervised by Mr. Holash. City Administration have determined that increasing Mr. Holash's personal presence in-house at City Hall would be beneficial to the City's legal advisory needs. Mr. Holash has, in answer to that objective, presented a proposal for an additional 280 hours per year of his personally dedicated professional in-house service at City Hall. Mr. Holash's effort to meet these Administration objectives is set out below.

### **New Contract to Provide City Solicitor Services**

The attached proposed new Contract to Provide City Solicitor Services includes the following:

1. That the City of Prince Albert shall continue and extend the appointment of Mitchell Holash, Q.C. as the City Solicitor effective October 1, 2020 and to continue until September 30, 2022.
2. Mr. Holash will personally be in attendance during the guaranteed on-site hours a minimum of 1120 hours over the contract term and will supervise and be available to other lawyers from his firm when they are on-site during the guaranteed on-site hours. This is providing the City with an additional 280 hours per year (an additional 560 hours over the contract term) personally served by Mr. Holash on site at City Hall.
3. On-site legal services per week from four days to three days to accommodate having Mr. Holash provide the additional 560 hours.
4. Hours from 9:00 a.m. to Noon and 12:30 p.m. to 4:30 p.m.
5. City Solicitor will attend City Council meetings as requested.
6. City Solicitor will continue to attend Executive Committee and Incamera Executive Committee meetings along with Agenda Review meetings.
7. Communications of City officials will be directed through Mr. Holash and his designated personal assistant. Communications between City officials and assigned lawyers on-site at City Hall may continue directly with the lawyer attending City Hall.

The role of the City Solicitor is to:

- provide strategic legal advice to City Council and to Administration in support of municipal procedures, facilities, services and operations;
- provide legal, municipal and corporate document review and drafting in support of the City's municipal operations; and
- provide management, instruction and supervision of all external legal contracts with outside law firms, typically in areas of litigation, labour relations, human resources, bylaw enforcement and in-kind coverage of legislated policing legal requirements.

Mr. Holash from Novus Law Group, will continue to designate specific lawyers, including Mr. Holash, that the City has approved to service the contract. The intention is that this would assist in avoiding the practical implication for the City in having only a one-lawyer City Solicitor resource for the third largest City in the province. The designated team is also seen as important to better address the City's objective to expand the type and nature of work that is performed within the City Solicitor day-to-day "base cost" service, and to reduce the type and nature of work that is assigned to more expensive external legal contracts.

Mr. Holash would be responsible to manage the City Solicitor's office and the approved lawyers from his firm in delivering the service. Mr. Holash would report directly to City Council as required by legislation, and would report to the City Manager who would be responsible to manage the City Solicitor contract performance.

#### **CONSULTATIONS:**

The City Manager has consulted with Mr. Holash regarding continued City Solicitor services from Novus Law Group.

#### **COMMUNICATION AND/OR ANNOUNCEMENT PLAN:**

Once approved by City Council, Administration will ensure to communicate to the various lawyers that deal with City on legal matters, as well as advising City Staff.

**POLICY IMPLICATIONS:**

As per the City's Administration Bylaw No. 1 of 2020, Council shall by resolution, upon the recommendation of a special committee of Council comprised of members of Council and the City Manager, appoint an individual to the position of City Solicitor and shall establish the terms and conditions of the City Solicitor's employment.

**FINANCIAL IMPLICATIONS:****Guaranteed On-Site Presence and Cost:**

The City has asked Mr. Holash to provide a guaranteed on-site presence, to be delivered over 40 designated weeks three days a week. Mr. Holash is able to respond to a price point of \$245,000.00 annually as the cost target for guaranteed on-site presence at City Hall.

**No Lawyer Practice Fees or Insurance Costs**

Mr. Holash's law firm would continue to be responsible to pay and cover all costs of lawyers servicing the contract model. The City would NOT be responsible for the cost of lawyer salaries or for costs of any employee remittances, pension, benefits, employee holidays, lawyer annual fees, practice insurance or lawyer CPD costs. Mr. Holash will cover all lawyer costs, remittances and benefits associated with the on-site presence, and will utilize his firm's own para-legal, clerical, equipment and legal software.

**No New Legal Support Staff Costs Required**

The lawyers servicing the contract will use clerical support from Mr. Holash's firm at the firm's cost, so as to mitigate the clerical resource required by the City in support of legal functions.

**Other Legal Services**

The law firm provides beyond the guaranteed scheduled on-site presence for any additional "day-to-day" City Solicitor legal services on an as-need basis throughout the entire year, as a continuation of the existing arrangement, at a continuing discounted default hourly rate specified, below market cost.

The law firm also provides specialized legal services in the nature of litigation, pre-litigation, prosecution, labour relations hearings or police services, operations or discipline assigned to and undertaken by Mitchell Holash or law firm for benefit of the City, Chief of Police for the Prince Albert Police Service, Prince Albert Board of Police Commissioners or any other institution, organization, or corporation affiliated with or funded in contribution by the City at the continuing agreed discounted hourly rate specified, below market cost..

**OTHER CONSIDERATIONS/IMPLICATIONS:**

There are no privacy implications or official community plan implications.

**STRATEGIC PLAN:**

Corporate Sustainability – This is a key position to ensure the City maintains corporate wide legal assistance with City matters and ensures risk management for the City.

**OPTIONS TO RECOMMENDATION:**

City Council may direct Administration to renegotiate the Contract. This is not being recommended as there is a need and requirement due to the legal complexity and needs of the City regarding legal matters to appoint a City Solicitor, and the services that have been provided have addressed the extensive list of outstanding legal matters and administrative matters. The outstanding listing of legal matters have been undertaken by the contract and the services being provided provide efficient legal resources for City Council and the Administrative Team. As well, the legal services currently being provided minimize risk to the corporation and protects the City's interests.

**PUBLIC NOTICE**

Public Notice pursuant to the Public Notice Bylaw No. 24 of 2015 is not required.

**PRESENTATION: NONE****ATTACHMENTS:**

1. Contract to Provide City Solicitor Services between the City of Prince Albert and Mitchell Holash for the term of October 1, 2020 to September 30, 2022.
2. Current Contract to Provide City Solicitor Services that expires September 30, 2020.

Written by: Jim Toye, City Manager

Approved by: City Manager