



Exhibition Place

Item No. 9

October 23, 2012

To: The Board of Governors of Exhibition Place

ACTION REQUIRED

From: Dianne Young
Chief Executive Officer

Subject: **Employee Indemnification for Management & Excluded Staff**

Summary:

This report revises the existing policy for Reimbursement of Legal Costs to establish more defined guidelines for permanent Board employees that addresses indemnification of legal expenses incurred by management and excluded employees (non-union).

Recommendation:

It is recommended that the Board approve the revised policy for Employee Indemnification for Management and Excluded Staff, as outlined in the attached Appendix “A”.

Financial Implications:

This revised policy will have no financial impact beyond what has already been approved in the 2012 Operating Budget.

Decision History:

The Exhibition Place 2009 – 2012 Strategic Plan had an Organizational & Staffing Goal to *Review and revise our corporate systems* and as a Strategy to support this Goal *we will complete an annual review of By-Laws, Policies and Procedures of the Board of Governors and CNEA Board of Directors*.

At its meeting of September 28, 2012, the Board referred subject policy back to the City Solicitor and staff for further review to ensure appropriate checks and balances were included in the policy.

For the Board’s ease of reference the changes have been bolded within the attached policy.

Issue Background:

The existing policy is not as clear as a similar policy approved by City Council at its meeting of November 24, 2005.

At its meeting of November 3, 2006, the Board approved of a consolidated Personnel Manual for Exhibition Place employees, wherein subject policy on Reimbursement of Legal Costs was included.

Comments:

While Exhibition Place has a policy on the Reimbursement of Legal Costs the attached revised policy more clearly defines for all Board employees' the guidelines that addresses indemnification of legal expenses and better reflects the City's Policy adopted by City Council at its meeting of November 24, 2005. The revised policy Appendix "A" is attached to this report.

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Submitted by:

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Chief Executive Officer



Exhibition Place

Appendix "A" Employee Indemnification for Management & Excluded Employees

DATE OF ISSUANCE		
November	23	2012

SUPERCEDES POLICY DATED		
October	16	2006

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Purpose

This policy establishes and defines for all permanent Board employees (management and excluded (non-union) guidelines that addresses indemnification of legal expenses.

1. Where a permanent employee is charged with an offence under the *Criminal Code*, the *Highway Traffic Act* or other statute(s) or is charged or has a complaint laid against him/her which may result in discipline by his/her professional regulatory organization arising out of an act done in the performance of his/her duties:
 - (a) the employee shall, in the first instance, be responsible for his/her own defence including the retaining of legal counsel or paralegal;
 - (b) if the employee is acquitted and his/her legal costs do not exceed \$25,000, the Chief Executive Officer, **in consultation with the City Solicitor**, shall be authorized to reimburse the employee for such costs, wherein receipt of all required documentation is provided prior to the approval of reimbursement amount by the Chief Executive Officer; and
 - (c) where an employee is acquitted and his/her legal costs exceed \$25,000, the matter shall be referred to the Board of Governors for consideration.

The term "acquitted" shall be taken to be the same as "dismissal" of the charge(s) or complaint(s) and may, in appropriate circumstances, include the withdrawal of the relevant charge(s) or complaint(s).

2. Where a civil action or proceeding, which is not covered by Exhibition Place's insurance policy, is brought against an employee, which in the opinion of the Chief Executive Officer, **following consultation with the City Solicitor**, arises out of acts or omissions done or made by such employee in his/her capacity as an employee of the Board, the Chief Executive Officer, **in consultation with the City Solicitor**, may pay damages or costs awarded against such employee or legal expenses incurred by him/her as may be determined by the Board. Whenever a civil action or other proceeding is brought against an employee, the employee is to advise the Chief Executive Officer immediately with respect to such action or proceeding.
3. The Chief Executive Officer is authorized to reimburse funds to cover the legal expenses of employees in matters covered by item 1 and 2 above to a maximum of \$25,000 if, in the opinion of the City Solicitor, reimbursement of funds is warranted upon consideration of all the circumstances. In the event that the initial reimbursement is exhausted before the matter is concluded, any further financing shall be referred to the Board for consideration.

Clarity Note - item 3 above shall not be read so as to preclude the reimbursement of funds by the Chief Executive Officer in circumstances where no charge has been laid and where independent legal advice is necessary.

4. Where an employee reasonably believes that, by virtue of his/her capacity as an employee of the Board, he/she has been defamed by a third party, the City Solicitor shall consider the merits of the matter and make a recommendation to the Chief Executive Officer to reimburse the costs of the initial stages of the litigation to a maximum of \$25,000. In the event that the initial reimbursement is exhausted before the matter is concluded, any further financing of the litigation shall be referred to the Board for consideration. **In the event a damage award is made in favour of the employee, the employee shall reimburse the Board for any monies reimbursed to him/her up to a maximum of the amount of the award.**
5. In the event the Board reimburses an employee, under this policy, for any legal expenses, damages or costs, the employee shall be compensated at his/her regular rate of pay for the time lost from his/her regular working schedule as a result of being required to attend court or appear before their professional regulatory organization.
6. Where the employee is provided with insurance to cover his/her legal expenses by reason of his/her membership in a professional regulatory organization or association, he/she must exhaust those rights first before being eligible for reimbursement for his/her legal expenses pursuant to this policy.
7. Where an employee is eligible for reimbursement of legal expenses, the employee shall be reimbursed in accordance with the "Cost Grids" set out below and in accordance with Part II (Disbursements) of Tariff A to the Rules of Civil Procedure, as amended (hereinafter collectively referred to as the "Tariff"). The Chief Executive Officer, on the advice of the City Solicitor, shall review the Cost Grids in the Tariff from time to time. Notwithstanding the Tariff, the City Solicitor shall assess the reasonableness of the bill in accordance with the provisions of this policy. Employees who retain a lawyer shall be provided with a letter setting out the Tariff and stating that the Board reserves the right to assess the bill for its reasonableness. In exceptional circumstances, upon the recommendation of the City Solicitor, the Board of Governors may reimburse for rates in excess of those set out in the Tariff. The letter will also include the telephone number of the Lawyer Referral Service offered by the Law Society of Upper Canada.

Table 1
Costs Grid
(Criminal or Civil Matters)

Description	Cost
Law Clerks	Up to \$60 per hour
Student-at-Law	Up to \$80 per hour
Lawyer (less than 10 years)	Up to \$225 per hour
Lawyer (10 or more years but less than 20 years)	Up to \$300 per hour
Lawyer (20 years and over)	Up to \$350 per hour