**Agenda - Council - September 24, 2008**

**Report - Standing Policy Committee on Property and Development - September 15, 2008**

**Item No. 1 Riverbank Stabilization Grant and Local Improvement Tax Financing Program**
**E-File PR-4.5**

STANDING COMMITTEE RECOMMENDATION:

On September 17, 2008, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submits the following to Council:

1. That the project requirements, program criteria and process for the previously established Riverbank Stabilization Grant Program be amended as outlined in Appendix "A" to the report from the Director of Planning, Property and Development dated August 28, 2008, and renamed as the "Riverbank Stabilization Grant and Local Improvement Tax Financing Program."

2. That an allocation of an additional $3,000,000 in Local Improvement funding be approved as a first charge to the 2009 Capital Budget.

3. That the Local Improvement commitment be reviewed during the 2009 program year, in order to establish if the program should be modified or continued in future years.

4. That the process for approving Local Improvement Authorization by-laws resulting from unanimous petitions for riverbank stabilization projects within this Program be directed to: the Standing Policy Committee on Property and Development, Executive Policy Committee, and then Council.

5. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary by-laws for consideration of Council.

6. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

## Report - Standing Policy Committee on Property and Development - September 15, 2008

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 17, 2008, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On September 15, 2008, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

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| **Re:** | **City of Winnipeg Riverbank Stabilization Local Improvement Tax Financing Program** |
| **For submission to:** | **Standing Policy Committee on Property and Development** |
| **Original report signed by:** | **Director of Planning, Property and Development** |
| **Report Date:** | **August 28, 2008** |

**Recommendation(s):**

1. That Council approves the attached amended Project Requirements, Program Criteria and Process (Appendix A) to amend the previously established Riverbank Stabilization Grant Program and rename it the Riverbank Stabilization Grant and Local Improvement Tax Financing Program.
2. That Council approve an allocation of an additional $3,000,000 in Local Improvement funding to be referred to the 2009 Capital Budget deliberations, and that the LI commitment be reviewed during the 2009 program year pending the continuation and modification of the Riverbank Stabilization Grant Program for future years.
3. That the process for approving Local Improvement Authorization by-laws resulting from unanimous petitions for riverbank stabilization projects within this Program be directed in approval to: the Standing Policy Committee on Property and Development, Executive Policy Committee, and then Council.
4. That the City Solicitor be requested to prepare the necessary by-laws for consideration of Council.
5. That the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

## Report Summary

**Key Issues:**

- The proposed amendments to the previously established Riverbank Stabilization Grant Program incorporates the use of Local Improvement (LI) Tax Financing as a mechanism of obtaining the required 100% support from all of the affected property owners and as a method of financing the property owners' portion of the project cost.
- The recommended Program recognizes the financial hardship that many riverfront property owners are experiencing, even after the potential receipt of a 25% City grant, in their challenge to protect not simply significant portions of their property and investments in accessory structures, but in some cases, their primary structures as businesses or residences. The costs associated with protecting these assets can be in excess of $100,000 for standard-sized lots and easily represent up to 50% or more of the assessed property value.

- Several funding issues were explored and reviewed including: Tax increment financing TIF), Loan/Mortgage financing, and the Local Improvement tax process. The Program being recommended is designed using the Local Improvement tax process.

- The proposed riverbank stabilization works are distinct from the conventional Local Improvements as the works would be undertaken on private property pursuant to contracts to which the City would not be a party. Provisions will be incorporated into related agreements that limit the potential liability to the City. The proposed L.I. would limit the role of the City to that of funder with the private property owners taking on all other tasks. Any maintenance of the completed works would be the responsibility of the private property owners.

- The L.I. option has been fully incorporated within the previously approved Grant program to help ensure that this unconventional use of the L.I. is contained to this activity, and that the requirements of the Riverbank Stabilization Grant Program and application remain consistent and seamless to that of the L.I. process.

- The proposed use of the L.I. mechanism as part of the Riverbank Stabilization Program would arguably be a policy shift beyond the underlying policy parameters of previous owner-initiated L.I. petitions and could open the door for other owners to come forward to argue for similar L.I. support to fix private sewers, building foundations, etc. to protect the municipal tax base.

- By providing a grant and funding riverbank stabilization projects as Local Improvements, the City will be financing an investment in private property assets that may not result in an equivalent gain in market value and/or assessed value.

- The use of the Local Improvement process for riverbank stabilization work is innovative and untested. While there is no specific requirement in The City of Winnipeg Charter that the Local Improvement project must be on public land, the examples of an L.I. on private lands are rare. In order for the City to engage in an L.I. as a mechanism to finance private property improvements, the Project should meet some level of 'public benefit' standard or justification.

- It is recommended that the current political approval process for adopting Local Improvements be changed for ONLY those petitions that are part of this riverbank stabilization program. Local Improvements, within the context of the recommended riverbank stabilization Program are used in a non-traditional way – to finance work on private property and with forces contracted by the private property owners. As an integral part to this Program, it is recommended that the approval process for each Authorization by-law resulting from this Program be dealt with by the Standing Policy Committee on Property and Development. In addition, as the Program criteria requires that affected property owners are unanimous in their petition to finance their Project via a Local Improvement tax, it is seen as not necessary and represents a delay to include the Community Committee in the L.I. approval process.

- As the L.I. taxes are applied to the property and payable over a term of multiple years, it is likely that some properties will change ownership and subsequent property owners will be faced with the payment of this tax. It is also likely that some properties will change ownership without new property owners fully realizing the impact of this tax. This could

result in property owner complaints of an untenable tax bill for work that was neither initiated nor agreed to by that property owner, and, in worst cases, for work that might subsequently have failed during the lifespan of the LI.

- To mitigate against subsequent property owners being unaware of the LI, the Project Agreement requires property owners to disclose the fact that an L.I. has been established if the property is sold prior to the project being completed and the L.I. taxes being imposed.

- The City typically borrows externally the money necessary to finance L.I. projects but needs to include L.I. funding as part of its annual capital budget process.

## Implications of the Recommendation(s):

### General Implications

( ) None

(x) For the organization overall and/or for other departments

(x) For the community and/or organizations external to the City

( ) Comment(s): Implications resulting from the report affect a substantial number of private land owners and require modifications to or creation of separate City of Winnipeg by-laws.

### Policy Implications

( ) No

(x ) Yes

Comment(s): There are recommended changes to current Local Improvement authorization and approval process. The use of the Local Improvement tax to finance property improvements on private property using privately-contracted forces is innovative and untested.

The proposed amended Riverbank Stabilization Program is a shift beyond the underlying policy parameters relating to the traditional use of Local Improvements and could open the door for other owners to come forward to argue for similar support to fix private sewers, building foundations, etc. to protect the municipal tax base.

### Regulatory Implications

(X) None

( ) Eliminates or reduces regulatory impact

( ) Proposes regulatory impact

Comment(s):

### Environmental Implications

(x) No

( ) Yes

Comment(s): Environmental impacts on the river would be assessed through various regulatory agencies as required including the Department of Fisheries and Oceans.

### Human Resources Implications

(X ) No

() Yes

Comment(s): Human Resource implications were already identified in relation to the Riverbank Stabilization Grant Program. The recommended amendments to this program do not represent significant incremental Public Service time and involvement.

### Financial Implications

( ) Within approved current and/or capital budget

(x) Current and/or capital budget adjustment required

Comment(s): The City of Winnipeg would need to identify an additional $3 million in the 2009 Capital budget process - a potential local improvement commitment with the funds being maintained on a yearly basis pending program review.

## Report

## REASON FOR THE REPORT:

On July 16, 2008 Council adopted the Riverbank Stabilization Grant Program which grants up to 25% of costs for approved projects relating to private property owners collaboratively undertaking riverbank stabilization works with their own forces on privately-owned property. Included in the adopted recommendations was Recommendation 4 which states:

> *"That consideration be given to using the Local Improvement Process as a mechanism of obtaining the required 100% support from all of the affected property owners, and as a method financing the property owners portion of the project cost.*

Since the use of a Local Improvement (LI) process as a method to partially finance property owners' costs for work done on private property and by privately-contracted forces represents a departure from the traditional use of the L.I. mechanism, it is recommended that the use of an L.I. tax for riverbank stabilization be specifically defined as part of the Riverbank Stabilization Program. As such, this would contain the non-traditional use of this L.I. mechanism.

## HISTORY:

In 2006, the City adopted in its Local Improvement budget, an amount of $800,000 in allocated funding towards riverbank stabilization for twelve (12) properties along Riviera Crescent. The residents along this stretch of riverbank have yet to initiate the requisite petition process citing that, pursuant to a 2005 engineering estimate, the reimbursement costs to the City of approximately $6,000 - $8,000 *annually* per property owner, for such riverbank stabilization works under a local improvement tax over a 20-30 year term, would result in undue financial

hardship on them. It is likely that 2009 construction costs would reflect an even higher cost to the property owners. (The original $800,000 budgeted has been removed.)

The Riviera Crescent Homeowners Association subsequently submitted a report to the City entitled "Riverbank Stabilization of Private Property within the City of Winnipeg – Cost Benefit Analysis" dated April 23, 2007 with a request that the City participate in the development of a cost share program between Governments and the affected private property owners to engage in stabilization works on their properties.

The analysis of lost property taxes and revenues to the City of Winnipeg prepared by the Riviera Crescent property owners anticipates that, on a city-wide basis, many property owners will not act, or cannot act, to stabilize their riverbank properties as the cost of the remediation work is extremely high. The model proposed by Riviera Crescent residents suggests that based on probable (worst case scenario) vs. potential (3%/yr increase in values), that it is a good business decision for the City of Winnipeg to redirect the property-based taxes to be paid by riverbank property owners back into the affected properties for up to a 20 year period. The Riviera property owners' model recommends participation of and partnership between the Federal, Province, and Municipal Governments with the directly affected property owners. Currently there are no intergovernmental programs in place to address the needs identified by property owners who have immediate need and could be critically affected by riverbank failures. On June 20, 2007, Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

1. *That the Administration be directed to develop a policy for the establishment of a City of Winnipeg funding program for riverbank stabilization of privately-owned properties, together with priority criteria, taking into consideration, but not limited to, any or all of the following, namely:*

    *A. Define lost revenues due to decreased assessment;*
    *B. Tax Increment financing as a City funding method; or*
    *C. The Local Improvement process to assist homeowners in paying their share.*

On January 29, 2008, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service, as amended, to develop a riverbank stabilization program which would include the following:

*B. A financing mechanism which would:*
    *i. allow participants to payback initial costs over time;*
    *ii. provide the City with a reasonable assurance of payback within the lifecycle of the improvements; and*
    *iii. be for a period of no greater than 20 years.*
*C. A grant portion with procedures and criteria to determine priority applicants and with a grant cap of 25% of the value of the works directly related to critical riverbank stabilization.*

On July 16, 2008, Council adopted the Riverbank Stabilization Grant Program which grants up to 25% of costs for approved projects relating to private property owners collaboratively undertaking riverbank stabilization works with their own forces on privately-owned property. Included in the adopted recommendations was Recommendation 4 which states:

*"That consideration be given to using the Local Improvement Process as a mechanism of obtaining the required 100% support from all of the affected property owners, and as a method of financing the property owner's portion of the project cost."*

## DISCUSSION:

- The amended Riverbank Stabilization Grant Program's (now proposed Riverbank Stabilization Grant and Local Improvement Tax Financing Program) Criteria and Procedures are included in Appendix A.

- While an innovative and untested approach (particularly in its use of Local Improvements), the Riverbank Stabilization Program is intended to address improvements to riverbank stability which will provide substantial long-term improvements to Winnipeg's most critically at-risk privately-owned riverbanks. A demonstrated minimum of 30% improvement in bank stability is required for Program eligibility. This will entail deep seated riverbank stabilization works such as rock fill columns and shear keys including attendant erosion protection works, riverbank grading and drainage improvements, and landscape restoration as may be required. This program is not intended to address lower levels of bank stability improvements or the application of only erosion protection works.

- The Program is designed to be initiated in 2008, with Application deadlines in September, and with riverbank work on approved Proponent projects being initiated and completed in Q1, 2009. Grant and Local Improvement tax financing would flow in 2009.

## Financing Issues and Options:

By financing riverbank stabilization of privately owned property, the City:

- Has a long-term financial interest in the affected property
- Runs potential risk of financing property beyond the total owner equity and ability to repay, and
- Has an interest in the completion and nature of the Project work on all affected properties, due to the interconnected and contiguous nature of the stabilization work and the effect of erosion impacts of one property upon another
- May be found to have liability to the owners of the properties if directly undertaking the riverbank stabilization works.

Appropriate strategies need to be implemented to protect the City from financed property owners defaulting on the repayment of their loan from the City.

### 1. Tax Increment Financing

Traditional tax increment financing (TIF) models involve the use of municipal borrowing backed by anticipated increases in property tax revenues to finance projects which stimulate investment in targeted geographic areas (TIF zones or districts). The City of Winnipeg has legal authority under the Charter to engage in a wide variety of tax-related programs including a variety of TIF models. That being said, TIF is not particularly appropriate as a financing mechanism for this Riverbank Stabilization Program as there is no specific evidence that property assessments will increase significantly as a result of riverbank stabilization, and certainly not to the level that

would result in the repayment of City borrowing with only the incremental municipal property taxes generated by the Project.

**2. Loan / Mortgage Financing**

Pursuant to the City of Winnipeg Charter (218(1) (d)), the City may provide financial assistance to improve, preserve, repair, maintain, convert or develop any property in the City. The City could finance individual property owners through a mortgage (first or second depending on the existing encumbrances). This loan would be secured against the property but become subordinate to the primary mortgage in the case of payment default. The main advantage of this financing option to the City is that it ties the borrowing associated with the riverbank stabilization project specifically to the property owner. That is, the owner would typically have to clear this mortgage or loan to the City at time of sale, and un-encumber subsequent property owners from any financial liability associated with the work. The market value of the property subsequent to the stabilization work would contribute to increased property value, and to the extent that the increased market value of the property due to the work was not enough to cover the second mortgage, the mortgage would be paid from owner equity.

A loan/ mortgage financing mechanism provides a number of challenges to the City as follows:

- The financing of riverbank stabilization work is likely risky. If it wasn't, property owners would likely finance the work through traditional financial institutions. It would not be unreasonable to assume that the City would face at least some mortgage defaults in the event that it financed a number of property owners to do this work.
- The City does not have an infrastructure oriented to issuing mortgages and collecting mortgage payments. Specifically, while the City has a developed infrastructure for issuing tax statements, collecting taxes, assigning late payment fees for taxes, and property tax sales, it has no natural equivalent for setting up and collecting monthly mortgage payments, adjusting mortgage interest rates, or foreclosing on properties in mortgage default.
- Property owners would be required to obtain independent legal advice at their own expense prior to signing the mortgage documents.
- While taking a property in tax sale poses little political challenge currently, foreclosing on a property mortgage in default presents an increased political challenge in the court of public perception.

**3. Local Improvement Tax Financing – (Recommended)**

Local Improvement is a process established pursuant to the City of Winnipeg Charter to allow a project to be paid for or maintained by an additional Local Improvement tax levy being imposed on the property benefiting from this project. Typically, Local Improvements are done on a City right-of-way and would include projects such as roadway surfacing, sidewalks, watermains or wastewater sewers. That is, historically the City contracts work on public property that contributes to the public benefit and establishes an L.I. tax levy on the benefiting properties to pay for the work.

A typical Local Improvement requires a minimum of 3/5 of the affected property owners to agree to the work and the incremental tax associated with it. Council has subsequent authority to adopt or reject an L.I. even in cases of unanimous support by the property owners. The City typically borrows externally the money necessary to finance L.I. projects but needs to include L.I. funding as part of its annual capital budget process.

The use of the Local Improvement process for riverbank stabilization work, and work on private property with privately engaged contractors is innovative and untested. While there is no specific requirement in The City of Winnipeg Charter that the Local Improvement project must be on public land, the examples of an L.I. on private lands are rare. To order for the City to engage in an L.I. as a mechanism to finance private property improvements, the Project would have to meet some level of 'public benefit' standard or justification.

That being said, it would appear that riverbank stabilization does meet that public benefit standard. The most obvious justification is the fact that deep-seated riverbank stabilization work will typically require riverbank stretches of 200 to 1,000 linear feet. It is highly unlikely that these stretches will be represented by single property owners. The fact that work, therefore, requires that multi-property owners engage in a joint project indicates a need for government to facilitate or enable the process in some manner. This issue alone provides evidence of public benefit resulting from this type of Program. Additional justification might include the protection of a municipal tax base, the defense against declaring primary structures unsafe when they are threatened by unstable banks and the ultimate protection of inner primary dikes protecting the city-at-large.

As a financing mechanism, Local Improvement taxes provide other advantages to the City as follows:

- The City has an existing process and infrastructure to apply L.I. taxes, collect, and deal with properties in tax sale.
- The City's investment is protected even in cases where properties are in mortgage default. Unlike a second mortgage which would not transfer to subsequent property owners in the case of foreclosure, the L.I. tax would.
- As long as the total property value remains higher than the net present value of the unpaid and future property taxes, it is unlikely that the City would assume the property in a tax sale.

The disadvantages or challenges of Local Improvement taxes to finance this Program are as follows:

- As the L.I. taxes are applied to the property for the life of the LI, it is likely that subsequent property owners will be faced with the payment of this tax. It is also likely that some properties may change ownership without new property owners fully realizing the impact of this tax. This could result in property owner complaints of an untenable tax bill for work that was neither initiated nor agreed to by that property owner, and, in worst cases, for work that might subsequently have failed during the lifespan of the LI.

  To mitigate against subsequent property owners being unaware of the LI, the Project Agreement requires property owners to disclose the fact that an L.I. has been established if the property is sold prior to the project being completed and the L.I. being assessed. The City could apply to have an additional caveat attached to the property during the life of the LI, but it is unlikely that Land Titles will agree to attach one on the basis of an L.I. tax.

- It is awkward for the City to finance only select property owners in a group project with the L.I. mechanism. In the City's current L.I. process, all property owners involved in the project would have to participate in the L.I. even if only one property owner was requiring or requesting to utilize the L.I. as a financing mechanism. In such cases, the City would

authorize the L.I. for all affected property owners, engage in individual Project Agreements with all property owners, and assess the tax on all property owners subsequent to all costs being known. Property owners financing the work through other ways would then have 30 days to pay the cash equivalent of the tax to avoid the L.I. tax being levied on their properties. Even in cases where the cash equivalent was paid in advance, there would likely be interest charged to cover the time period from when the cash was released to when the L.I. was paid back prior to the tax levied. These L.I. participants may find it frustrating to be forced to receive money from the City only to then pay it back with interest simply as a mechanism to allow other property owners in the group to access this financing mechanism.

It is important to note, however, that regardless of the financing mechanism, by financing any individual property for riverbank works, the City develops a direct financial interest in the completion of all of the properties engaging in the work. Any property foregoing or not engaging the Project to completion puts at jeopardy the effect of the work on the other properties. To this end, the Local Improvement becomes a good mechanism to better ensure that ALL properties carry the Project through to completion.

Assessors look at homes that have sold and compare property characteristics to determine which ones are important – and how important they are -- in determining the sale price. This information is then used as a basis for assessments. The discussion point raised by riverbank property owners related to potentially lost tax revenues is a challenging assessment model to endorse as the municipal tax assessment process does not predict but follows market place trends.

## The Local Improvement Process

The Local Improvement Process was created so that when improvements within the City of Winnipeg (typically right-of-way improvements such as sidewalks, street and lane pavements, sewers, watermains, etc.) are requested by property owners, there would be a mechanism to accommodate the requests. Situations exist within the City where improvements have not been installed and therefore a process for the initiation, administration and financing of such improvements is required in order to execute such requests.

A Local Improvement may be proposed in two ways:

1) By City Council

2) By a petition signed by registered owners of at least 3/5 of the total property that is to be benefited by the proposed Local Improvement. A successfully signed petition (over 3/5) is required by The City of Winnipeg Charter to proceed through the Advertisement process.

The works are usually initiated the year following approval by Council of the Capital funding for the project.

When Local Improvements are undertaken, the City "front ends" the monies and administers the construction on behalf of the benefiting property owners and subsequently recovers the project costs over an extended number of years as an additional charge on the property owners tax bill.

- LI's are based on property(s) fronting or abutting on the improvement, or could be a Local Improvement district (LID), which covers a larger area that benefits from the improvements, for full cost recovery
- The payback may be based on single, directly affected properties, or over a larger district to ensure full cost recovery
- In some cases, the attachment of the L.I. payback to a specific property has been appealed on the assessed value of the property as a means of reducing property value and related municipal taxes. (An L.I. can be perceived as a negative and impact the municipal tax base through reduced assessments)
- Local Improvements are also not typically registered as a caveat on property titles.

Typically, a Local Improvement petition requires public notice to all affected property owners, and is initially dealt with at the Community Committee level. An authorization by-law then moves to the Standing Policy Committee on Infrastructure Renewal and Public Works before approval at Executive Policy Committee and Council.

Once a Local Improvement project is approved and implemented, and final costs tallied, property owners have the following two options:

1) The property owner can elect to payout a cash equivalent of the entire cost of the owner's share of the project within 30 days of receiving a Cash Cost Statement. The Cash Cost Statement is the full cost of the property owner's share of the project and does not include any interest or administration fees.
2) The property owner may elect to have the charge of the Local Improvement to be amortized over the length of the term on the property's Annual Statement and Demand for Property Taxes. This amortized charge includes interest as well as a 1% administration fee.

   At any point during the L.I. term the property owner can commute the remaining balance of the local improvement with the exception of the 1% administration fee which is not commutable.

## Historic Use of L.I. Financing Relating to Riverbank Stabilization in Winnipeg

Following the 1997 flood, the City entered into a tripartite agreement with the Federal and Provincial governments to raise secondary dikes within Winnipeg. The agreement provided $11,135,000; cost shared $5,200,000 each with the Federal and Provincial governments and $735,000 from the City. This program allowed for community ring dike projects as well as individual flood protection projects. In four of the five projects the City established Local Improvement Districts and recovered 10% of the total dike cost not covered by the Federal and Provincial Governments from the benefiting properties as a Local Improvement tax. In each of these projects, Council initiated the L.I. process (petition).

As part of the Kingston Row / Kingston Crescent ring dike project, additional property owners successfully initiated a unanimous L.I. petition in 2002 for related erosion improvement work to stabilize the riverbank and support the flood protection works. The works were successfully completed following Council approval in the winter 2002-2003. This is the only known Local Improvement initiative for riverbank stabilization works *initiated* by the private sector and was

approved as an extension and contributor to the previous community ring dike work. In this case the City directly engaged contractors on private property and it could be argued that the City be responsible for on-going maintenance of this work.

The City of Winnipeg in 2006 explored the opportunity to utilize the Local Improvement process to address the 12 key Riviera Crescent riverbank properties. The total construction estimates for the work was anticipated to be in excess of $830,000.00 (2006), resulting in approximately an additional $6,000 per property per year for twenty-five to thirty years as payback on the tax roll. The average cost per property for the improvements was deemed excessive by the individual property owners even when amortized over an extended period of time. The initiative therefore did not move forward and no formal petition was made.

## Policy Implications

The same policy implications presented as part of the Riverbank Stabilization Grant Program adopted by Council (July 16, 2008) apply to the use of Local Improvement tax as a financing mechanism. Private property owners typically have the responsibility to manage and protect their own assets and assume the costs associated with their property and structures. At the most basic level, the direct involvement of the City of Winnipeg in the physical improvement of private property changes the role of the municipality from an assessor of value or a regulator of public safety standards, to that of a direct provider of funds for private improvements.

The proposed Riverbank Stabilization Program would, arguably be a policy shift beyond the underlying policy parameters of the above activities. Namely, it would shift policy beyond:

- the municipal funding or financing of property improvements to the level represented by the incremental taxes that those improvements are likely to generate and;
- that municipal funding or financing of riverbank works connected specifically to public programs such as walkways or dike protection which provide public benefit to a larger group of properties than the specific property owners.

Therefore, it is important to note that should the City of Winnipeg opt to provide direct supports to private property in the manner recommended by the implementation of this amended Riverbank Stabilization Program, it could open the door for other owners to come forward to argue for similar L.I. support as financing to fix private sewers, building foundations, etc. to protect the municipal tax base. The City of Winnipeg, therefore, could be challenged through the political process to take on an active role in the management and improvements related to private property in order to maintain the current status quo related to tax or assessment levels across an extremely wide tax base.

As with the original Riverbank Stabilization Grant Program, the City needs to protect itself against the liability or long-term legal responsibility for the stabilization work. By the City of Winnipeg assisting in the financing of the work but not the direct contractual administration of the stabilization, then that responsibility would remain with the property owner. The recommended program, therefore, takes significant steps to ensure that the City is the financial contributor and financier of the work only, and has no direct connection to the contracting and implementation of the project work beyond the establishment of a base standard of performance for the works.

Traditional Local Improvement projects are contracted by the City for work on public property. The Program recommended by this report uses the Local Improvement process to finance projects on private property. Even in cases where Local Improvement financing funds will be held in escrow and released directly to the contractor or project administrator, the Project Agreement between the City and individual property owners will be clearly worded so that the City is saved harmless from failure of these works and from any future obligations to replace these works.

## Program Criteria and L.I. Financing Maximum

Current riverbank stabilization costs, including engineering range from approximately $2,000/lineal meter for erosion protection to $4,000-$6,000/lineal meter for full bank stabilization. These costs include: bank monitoring and surveying; analysis; engineering design and tendering; construction; site remediation; and long term monitoring and evaluation.

It would not be unusual, therefore, for a 50ft (15.24 lm) wide single property, engaging in deep-seated riverbank stabilization works including rock-fill columns as part of a multi-property project, to be considering, as its share of Project costs, as follows:

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|---|---|
| Core stabilization | $75,000 |
| Minimal erosion protection works | $15,000 |
| Engineering assessment, monitoring, functional and detail design, project management | $10,000 |
| Total | $100,000 |

If the above project was financed through the City's current Local Improvement tax, the annual incremental levy would be $9,623.48. As a rule of thumb, one would look at an annual tax of about 10% of the upfront financed costs based on a 20 year LI. A 10 year L.I. would escalate the annual tax to about 14.5% of financed costs using the current applied rates.

One issue facing both property owners and institutions financing these types of projects is that the incremental market value that this type of improvement adds to the property rarely comes close to the total cost of the project. Often the realistic incremental market gain is only 10-50% of the investment. This represents both the reason why the City might need to be involved in a grant subsidy and as a funder, but also the risk associated with that financing. That is, by providing a grant and funding for riverbank stabilization projects, the City will be funding an investment in private property assets that will likely not result in an equivalent gain in market value and/or assessed value.

The recommended amended Riverbank Stabilization program retains the key baseline and evaluation criteria of the adopted grant program. In addition, it is proposed that the maximum Local Improvement Tax Financing prior to the Grant being applied be limited to $6,000 per riverbank lineal meter. The maximum grant per property has already been established at $3,000 / lineal meter.

| | **Maximum** |
|---|---|
| Maximum Local Improvement Tax Financing prior to the Grant being applied per property | $6,000 / riverbank lineal meter |

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|---|---|
| Maximum Grant per property | $3,000 / riverbank lineal meter |

The maximums are recommended for the following reasons:

1. Through this Program, the City engages in financing of property improvements that could represent a high percentage of the total market value of that property, even after the improvement is in place. Clearly, as any funding agent, the City would want to cap its investment in this regard on a per property basis, and this represents a quick method for roughly establishing that cap. Other methods were discussed including assessed value and requiring all property owners to submit property appraisals by certified appraisers. The cap per lineal foot method, despite potential flaws, appeared to provide value with the least red tape.
    a. Even on a relatively standard 50 foot lot and after a full 25% Grant is applied, annual L.I. tax payments could be over $7,000 (exclusive of property taxes). The Public Service views annual L.I. tax payments higher than this unwieldy and at higher risk of default.
    b. The Grant maximum is not 25% of the L.I. maximum. This assumes that there may be some projects with a per meter cost of considerably more than $6,000 / riverbank lineal meter. In these cases where property owners are self-financing and/or supplementing the L.I. financing, limiting the Grant maximum to 25% of the L.I. maximum seemed unreasonable. Still, this is an attempt to provide some form of cap to the City's grant investment on a per property basis.
    c. There may be some risk that the property owners organize themselves to request that the City finance the complete Project by assigning a high percentage of the L.I. tax to a single property. This would essentially allow the other property owners to compensate the single property owner outside the parameters of this Program and leave the single property owner with an on-going tax payment liability representing far more in net present value terms than the property value, even with the stabilization work in place. A property in this category would represent a high risk of mortgage foreclosure and, more importantly, unpaid taxes leading to tax sale.

The general criteria of unanimity, mechanism of splitting the grant and financing between property owners, type of property, and application timing that were established as part of the Grant program continue to apply.

## Proposed Amendments to the L.I. Approval Process Specific to Riverbank Stabilization

The current process for adopting Local Improvements is that they are dealt with during the community hearing process at the local Community Committee, and then processed as Authorization By-laws at Standing Policy Committee on Infrastructure Renewal and Public Works and then recommended to Executive Policy Committee and Council for final adoption. Local Improvements, within the context of the recommended Riverbank Stabilization Program, are used in a non-traditional way – to finance work on private property and with forces contracted by the private property owners. As an integral part to this Program, it is

recommended that the approval process for each Authorization by-law resulting from this Program be dealt with by the Standing Policy Committee on Property and Development.

In addition, as the Program criteria requires that affected property owners are unanimous in their petition to finance their Project via a Local Improvement tax, therefore it is seen as not necessary to include the Community Committee in the L.I. approval process.

## Financial Impact Statement

**Date:** August 8, 2008

**Project Name:**

**First Year of Program** **2009**

City of Winnipeg Riverbank Stabilization Grant and Local Improvement Tax Financing Program

| | 2009 | 2010 | 2011 | 2012 | 2013 |
|---|---|---|---|---|---|
| **Capital** | | | | | |
| Capital Expenditures Required | $ 3,000,000 | $ - | $ - | $ - | $ - |
| Less: Existing Budgeted Costs | - | - | - | - | - |
| Additional Capital Budget Required | $ 3,000,000 | $ - | $ - | $ - | $ - |
| **Funding Sources:** | | | | | |
| Debt - Internal | $ 3,000,000 | $ - | $ - | $ - | $ - |
| Debt - External | - | - | - | - | - |
| Grants (Enter Description Here) | - | - | - | - | - |
| Reserves, Equity, Surplus | - | - | - | - | - |
| Other - Enter Description Here | - | - | - | - | - |
| Total Funding | $ 3,000,000 | $ - | $ - | $ - | $ - |
| Total Additional Capital Budget Required | $ 3,000,000 | | | | |
| Total Additional Debt Required | $ 3,000,000 | | | | |
| **Current Expenditures/Revenues** | | | | | |
| Direct Costs | $ - | $ 255,000 | $ 255,000 | $ 255,000 | $ 255,000 |
| Less: Incremental Revenue/Recovery | 87,378 | - | - | - | - |
| Net Cost/(Benefit) | $ (87,378) | $ 255,000 | $ 255,000 | $ 255,000 | $ 255,000 |
| Less: Existing Budget Amounts | - | - | - | - | - |
| Net Budget Adjustment Required | $ (87,378) | $ 255,000 | $ 255,000 | $ 255,000 | $ 255,000 |

**Additional Comments:** The $3M in capital funding is required in 2009 for the Local Improvement Tax Financing portion of the Program. These funds complement the $1M Riverbank Stabilization Grant approved by Council July 16, 2008. Included in these amounts are short-term financing charges & corp admin fees of $87,378, in 2009 which would be offset by corporate recoveries. Direct costs from 2010 onward represent debt & finance charges on the prior year's capital expenditures. Note: It is likely that there will be capital budget requirements for the LI Tax Financing portion of the project beyond 2009. However, as the amount of any such "top up" is unknown at this time and cannot be estimated with a reasonable degree of certainty, no provision has been included in this Financial Impact Statement.

"Original signed by"
Mike McGinn, CA
Manager of Finance

## IN PREPARING THIS REPORT THERE WAS:

Internal Consultation and concurrence with:
Corporate Finance Department
Legal Services

External Consultation With:

## THIS REPORT SUBMITTED BY:

| | |
|---|---|
| Department: | Planning, Property and Development |
| Division: | Planning and Land Use Division / Strategic Support Services |
| Prepared by: | John Kiernan, Coordinator - Planning and Land Use |
| | Stan Dueck, Manager of Support Services and Office of the Director |

O:\Reports Directive\Planning and Land Use\Parks, Riverbanks and Community Initiatives\John Kiernan\RIS RiverBank Stabilization Grant and LI Program - August 28, 2008

# Appendix A

## City of Winnipeg Riverbank Stabilization Grant and Local Improvement Tax Financing Program

**2008**

# PROJECT REQUIREMENTS, PROGRAM CRITERIA AND PROCESS

**For more detailed information and application forms, please contact:**

**Planning, Property and Development Department**
**Planning and Land Use**
**65 Garry Street**
**Winnipeg, Manitoba**
**R3C 4X5**

# City of Winnipeg Riverbank Stabilization Grant and Local Improvement Tax Financing Program

## 1.0 PROGRAM PURPOSE AND SUMMARY

The City of Winnipeg Riverbank Stabilization Grant and Local Improvement Tax Program is intended to assist private property owners in the deep seated stabilization of riverbanks along Winnipeg's primary waterways that are of high risk to failure and a threat to the primary buildings on affected property.

This grant and local improvement tax financing program is intended to support work that:

- Stabilizes riverbanks using recognized and proven bank stabilization techniques
- Substantially improves the level of riverbank stability consistent with engineering standards and local practice for long term protection of properties and structures.

Given the contiguous nature of riverbank failure over extended reaches of riverbank, this program is not intended to apply to single property owners acting independently, but rather multiple owners applying as a single project proponent.

The program allows for two streams of applications:

### A. Local Improvement Tax

Applicants in this category must jointly apply for the authorization of a Local Improvement project to include all affected properties. As the Local Improvement is occurring on private property, the normal 3/5 majority minimum standard usually applied to traditional Local Improvements will not apply. Rather, a full 100% of all affected property owners must agree to the establishment of a Local Improvement. In addition, because the work may be benefiting each property owner in a non-uniform manner, the allocation of payment and Local Improvement taxes imposed on each applicant property will be determined by and unanimously agreed to by all property owners as well as by Council.

Property Owners have two options for paying for the Local Improvement costs of the Project work. These options are:

1. Each property owner can elect to payout the entire cost of their share of the project within 30 days of receiving their Cash Cost Statement. The Cash Cost Statement is the full cost of the property owner's share of the project and does not include any future interest or administration fees (although interest and administration charges are applied during the Project implementation). In the case of Projects arising from this Program, it is required that any Grant money will be applied directly to cost total prior to the Cash Cost Statement being issued.

2. The property owner may elect to have the charge of the Local Improvement to be amortized over the length of the term (maximum 20 years) on their Annual Statement and Demand for Property Taxes. This amortized charge includes interest as well as a 1% administration fee.

Note that if the property owner chooses not to pay the cash cost, the owner or future owner may at anytime during the term commute the remaining balance of the Local Improvement with the exception of the 1% administration fee which is not commutable.

### B. Grant applications

Project applicants in this category are wishing to use Grant money to help off-set the costs of their Project regardless of their method of financing. That is, the Grant application stream applies equally to both Proponents electing to apply for Local Improvement financing and to Proponents choosing to finance their Project through other financing mechanisms. All property owners participating in an eligible Project must jointly submit a Project Grant Application. The Grant application will be considered and evaluated on a Project basis. That is, individual property owners who are jointing participating in the same Project cannot apply separately for a Grant.

As the Project may be benefiting each proponent property owner in a non-uniform manner, the allocation or division of grant payment between each applicant property will be determined by and unanimously agreed to by all property owners as well as the City of Winnipeg and be clearly identified in the Project Agreement.

The Grant portion of the program is not to exceed 25% of the eligible costs of the Project. In addition, the Grant portion cannot exceed the maximum per lineal foot for each individual property. The Grant portion agreed to by the City may vary due to availability of funding, allocation of Grants to other project proponents, and the assessment of the project in light of the Grant criteria. Due to Grant funding availability, not all approved Projects may receive the maximum Grant.

Grant money will only be paid upon full completion of the Project and submission of the requisite documentation and receipts to the satisfaction of the City. Alternatively, individual property owner Grant recipients of over $10,000 may request to have the City create an escrow account or letter of direction which may serve as a type of security for the contractor or project administrator. Costs of administering the escrow account will be subtracted from the Grant prior to payment.

## 2.0 DEFINITIONS AND INTERPRETATION

Unless the context requires otherwise, in the Document

a. “City” means the City of Winnipeg as continued under The City of Winnipeg Charter Act S.M. 2002, c39 and any amendments thereto.
b. “Consultant” means a pre-approved Engineering firm of record who meets the qualifications and criteria for the Program and has been engaged by the Proponent to provide Engineering services for Project design and Project contract administration.
c. “Contribution” means the total financial contribution that City agrees to make in the form of a grant or financing under the structure of a Local Improvement tax in respect of Eligible Costs incurred and paid by the Project Proponent to carry out the Project.
d. “Eligible Costs” means those costs necessary for the completion of the Project as set out by this Program which are incurred and paid by the Project Proponent.

e. “Engineer” means an Engineer qualified in the discipline of geotechnique and registered to practice in the Province of Manitoba by the APEGM.

f. “Functional Design” means a level of design process whereby the recommended Project design has been developed by the Engineer in sufficient detail from the factual site data.

g. “Grant” means any money given gratuitously and without liability by the City to private property owners to help offset the cost of eligible and approved riverbank stabilization as defined by this Program.

h. “Government-related entity or entities” means any municipal, provincial, federal government body, crown corporation, utility, or organization primarily funded by government.

i. “Local Improvement” means a project intended to be paid for wholly or partly by local improvement taxes imposed on real property benefited thereby as determined by Division 5 of The City of Winnipeg Charter Act S.M. 2002, c39.

j. “Local Improvement Taxes” means taxes imposed on properties by means of an Assessment By-law to repay financing provided by the City towards a Local Improvement Project.

k. “Occupied” means property which has located on it a building that would allow for year-round (e.g. winterized) residential habitation or for conducting business.

l. “Program” means the City of Winnipeg’s Riverbank Stabilization Grant and Local Improvement Tax Financing Program. This program has two distinct but interconnected parts: The Grant portion and the Local Improvement Tax Financing portion.

m. “Program Administrator” means a City of Winnipeg employee designated to administer the City of Winnipeg Riverbank Stabilization Grant and Local Improvement Tax Financing Program.

n. “Project” means the riverbank stabilization improvement works which meets the criteria outlined in this document which the Project Proponent undertakes or proposes to undertake.

o. “Project Administrator” means the Engineer who administers the Project on behalf of the Project Proponent.

p. “Project Agreement” means the formal agreement that each property owner represented by the Project Proponent will be required to sign with the City prior to the final approval of a Grant and/or Council’s initiation of riverbank Local Improvement tax process.

q. “Project Applicant” or “Applicant” is a Proponent who submits an Application.

r. “Project Application” means the submission by the Proponent of all of the required parts as outlined in the Application Requirements of the Riverbank Stabilization program. The evaluation of the Project Application will not be limited to the documentation submitted by the Project Proponent, and may include the Public Service’s direct evaluation of the affected property and other supporting documents.

s. “Project Proponent” or “Proponent” means the property owners or the group of property owners compromised of 100% of affected contiguous properties on which the riverbank stabilization work is proposed. The Project Proponent must, for all criteria, represent the unanimous consent of ALL property owners represented by the Project Proponent.

t. “Property Owner” means the legally registered owner of the property.

u. “Proponent Group” means the group of property owners comprising the Project Proponent.

v. “Public Service” means any person or group of persons employed by the City.

w. "Riverbank Lineal Meters" means the lineal distance along a riverbank measured as a straight line from each point of measurement. When measuring riverbank lineal meters for a single property, the measurement is taken as the distance between the two points where the respective upstream and downstream property lines or projection thereof meet the river at the 'ordinary high water mark' (OHWM).

## 3.0 MINIMUM PROJECT REQUIREMENTS

Minimum Project requirements are as follows:

1. Projects that encompass a significant reach of riverbank as determined appropriate from a geotechnical perspective by the Engineer and approved by the City.

2. Projects must address deep seated riverbank stabilization on one of Winnipeg's four primary waterways:
   a. Red River
   b. Assiniboine River
   c. LaSalle River
   d. Seine River

   and must be contained fully within the boundaries of the City as defined in The City of Winnipeg Charter Act and City of Winnipeg Boundaries Regulation.
3. Projects must provide a demonstrated minimum level of riverbank stability improvement in the order of 30% compared to the incipient conditions as determined by an Engineer.
4. The maximum Local Improvement tax financing available per subject property is not to exceed $6000 / riverbank lineal meter (prior to the Grant portion being applied).
5. The maximum Grant assistance available per subject property is not to exceed $3000 / riverbank lineal meter.

## 4.0 PROGRAM PROCESS STEPS

**Jan – Aug** **STAGE 1:**

**PRE-APPLICATION EXPRESSION OF INTEREST**

The Consultant on behalf of the Proponent shall submit a proposed scope of work, petition confirmation of and letters of intent from all affected homeowners and a preliminary site assessment report that includes assessment of, riverbank stability characterization and hazard/risk of existing condition.

This report should include the following:

- Identification of the proposed Project study area

- Riverbank stability characterization assessment
  - Till Depth
  - Bank Geometry including height and retrogression ratio
  - Vegetation cover

- Surface Drainage
- Evidence of movement
- Edge Erosion
- Existing works (altered bank features)
- Planform geometrics
- Known subsurface conditions
- Known soil characteristics

- Hazard/Risk assessment of existing condition.
  - Hazard/risk to primary residences and to property
  - Past history of bank performance (air photo interpretation)
  - Offset of private structures and public amenities/infrastructure from riverbank
  - Evidence/characteristics of bank distress
  - Concept level stabilization options including requisite reach of bank/number of effected property owners
  - Contribution to protection of public amenities/infrastructure
  -

The Proponent confirms commitment of reasonable majority of the study area owners to proceed with Project.

**Jan – Aug** **STAGE 2:**

**PRE-APPLICATION SCREENING**

Based on an agreed upon scope of work, proposed program and endorsement by a reasonable majority of the affected properties the proposal is reviewed

The Program Administrator determines if the Project meets the intent or minimum project requirements of the Program and informs Proponent.

**Aug/Sept** **STAGE 3:**

**FORMAL APPLICATION SUBMISSION**
(deadline first Friday following Labor Day long weekend – September 05, 2008)

Applications shall include a Consultant's report with functional design drawings, project cost estimates and breakdowns, and property owner endorsement (100%) of work. '

The Consultant's report on riverbank stability and proposed riverbank stabilization is to include but not be limited to the following study components:

- **Field Program:** site reconnaissance, site survey and river soundings, site drilling, soil sampling and field

testing.

- **Engineering Analyses/Assessment:** laboratory soil testing, rigorous bank stability modeling of existing condition and viable stabilization options with demonstrated minimum level of improvement to riverbank stability of 30%, cost estimates for alternate stabilization works, functional design of recommended stabilization measures with Class C cost estimate, hydraulic impact assessment of works on river flows and riverbank erosion.

The demonstrated minimum improvement of 30% in bank stability is to be confirmed from analysis based on extreme conditions of saturated bank/winter river levels and residual soil strengths, and must be realized with the riverbank stabilization works in place including, from parametric assessment, that absolute factors of stability are greater than incipient for critical conditions.

Final application will include confirmation from **all** affected property owners, and an identified cost sharing formula to be utilized for the implementation of the Grant. In addition to the unanimous engagement of all property owners of the Proponent group, all owners must also unanimously agree, together with the City's consent, on how to divide the Project costs between them. This cost breakdown will likely NOT be equal nor based on some form of property characteristic such as riverbank frontage or property square footage. Likely, the breakdown will be based on the nature of the work done on each property. This breakdown will form the basis for the division of the Grant financing.

Project Proponent submits an application in the requisite form signed by all registered owners representing property or property interests on which the Project is intended to occur

The Proponent submits supporting Engineer's report on riverbank stability and proposed riverbank stabilization that includes but is not limited to the following study components:

The Proponent provides evidence of submission of Project information package to the Department of Fisheries and Oceans (DFO) pursuant to the Fisheries Act.

**Sept** **STAGE 4:**

**APPLICATION REVIEW and EVALUATION**

The project evaluation is to assist on focusing limited grant funds to contribute to projects which are deemed to be of higher risk to primary structures and any City of Winnipeg infrastructure. To this end, the Engineer's report submitted in support of the application must not only

substantiate the hazard/risk for the affected riverbank properties and, in particular, to primary structures but the recommended response level and management approach of the identified risk on the basis of urgency or priority.

Evaluation criteria will be risk based and include but not be limited to the following probability and consequence factors:

- Demonstrated level of current riverbank stability and probability of failure based on engineering assessment and rigorous analyses of site specific conditions. A riverbank stability condition with a lower factor of safety will be assessed a higher ranking.
- The consequence of failure and, in particular, as relates to potential impact on primary structures or any City infrastructure works. Sites with higher potential of significant loss of primary structures will be assessed a higher ranking.

The Program Administrator will also take into consideration the Consultant's recommended response level and management approach for the site. A response level identified as "urgent" will be assessed a higher ranking than one identified as a "priority"

Program Administrator reviews and evaluates Application for compliance with Program criteria.

**Oct** **STAGE 5:**

**PROJECT APPROVAL AND IMPLEMENTATION**

| | **GRANT PROCESS** | **LI FINANCING PROCESS** |
|---|---|---|
| **Oct** | Grants are determined by the City CAO based on grant funding availability, program criteria, and evaluation criteria | Recommendations for LI Tax financing are prepared. |
| **Oct** | Communication of Grants to all Project Proponents | Communication of Public Service recommendations for LI financing to Applicants as applicable |
| **Jan – Oct** | Proponent engages formal Project Administrator – Project Administrator must be identified in Project Agreement | |
| **Oct** | Grant-only Project Agreements signed by all property owners and CAO | Full Project Agreement is signed by all property owners and CAO<br>Formal LI Petition is signed by 100% of Proponent Property Owners |
| **Oct – Dec** | Project Proponent submits Project detail design including quotation documents to the satisfaction of the Program Administrator. | |
| **Nov** | | Local Improvement Authorization |

| | | |
|---|---|---|
| | | Report and by-law submitted to relevant Community Committee |
| **Nov** | | Local Improvement Authorization Report and by-law submitted to Standing Policy Committee on Property and Development |
| **Dec** | | LI Authorization by-law submitted to EPC |
| **Dec** | | LI Authorization by-law submitted for approval by Council |
| **Dec** | | Property Owners formally informed of LI authorization |

**Nov / Dec** Proponent seeks a minimum of three formal quotes for the Project.

**Nov / Dec** Proponent provides evidence of obtaining a Waterway Permit from the City of Winnipeg and DFO letter of approval/authorization pursuant to The Fisheries Act.

**Nov - Feb** **CONTRACTS AND CONSTRUCTION ADMINISTRATION**

**Nov – Feb** The designated contract administrator for the approved properties shall enter into a contact with the City of Winnipeg regarding the release of funds upon staged completion of approved works. The contract shall include but not be limited to the following requirements and will be based on the Red Tape Commission Recommendation No. 17

Proponent provides evidence of contract details and confirms final project costs.

The contract shall address

- Confirmed Scope of work
- Proposed schedule of payments
- Obligations of the City of Winnipeg
- Obligations of the Recipient
- Obligations of the Contractor(s)
- Financial
- Insurance regarding Loss or injury
- Breach or defaults
- Compliance with By-laws and Permits

Contract Conditions:
The Program is limited to maximum 25% grant and maximum 75% of additional capital contribution related to the engineering and construction costs directly related to the bank stabilization costs associated with the protection of primary residences and structures.

**Jan / Feb** Project construction is initiated
Project is to be completed within 24 months of date of signed Project Agreements
Grant is allocated according to Submission of all project

| | |
|---|---|
| the Project Agreement to Proponent upon submission of completion criteria and inspections (e.g. completion documentation and receipts) as certified by the Project Administrator. Grant is allocated as a credit directly to LI financing costs in LI applications. | completion documentation and receipts as certified by Project Administrator and as outlined in the Project Agreement. |
| | Submission of City Assessment by-law to establish LI Tax<br>Notice of LI tax sent to all affected property owners<br>Property owners have 30 days to pay cash value of LI tax prior to LI tax being imposed on annual property tax bill.<br>LI tax is established |

## 5.0 TIMING

Applications must be submitted to City on or before 4:00 pm, on the first Friday following the September Labor Day long weekend.

Successful Grant Applicants will be notified on or before October 31. Local Improvement tax financing Applicants will be notified on or before October 31 if the City plans to recommend their Application to the Local Improvement approval process.

Proposed work must be completed within 24 months of formal the date of the signed Project Agreements. The City shall have the right to conduct inspections of the project and reserve the right to cancel or withdraw funding approval if the above dates for starting or finishing the project are not met or if the construction falls significantly behind schedule to the point where it is clear that the project would not be completed within the specified time frame.

## 6.0 ELIGIBLE WORK

Local Improvement Tax Financing will be calculated on the basis of up to 100% of the net investment made in eligible costs. Grant credits are calculated on the basis of a maximum of 25% of the net investment made in eligible costs. Eligible work includes:

- Works deemed essential to the deep seated stabilization of a riverbank. Such works include Rock fill columns, shear keys, and ancillary erosion protection works, riverbank re-grading and drainage improvements, and basic landscape restoration.
- Consulting, engineering services for design and contract administration
- Re-grading and drainage improvements, basic landscape restoration and other design mitigation works as necessary to meet the requirements of The Fisheries Act.

Eligible costs are exclusive of any other government grants or rebates, including any provincial sales tax or federal goods and services tax rebates.

## 7.0 WORK NOT ELIGIBLE

- Replacement of existing structures, including, but not limited to:
  - Buildings including houses, sheds, gazebos, garages
  - Parking areas, pools
  - Decks, docks
  - Fences
- Landscape restoration not core and essential to the bank stabilization works
- Removing, preserving, storing, or reusing portions of a demolished buildings
- Stabilization work undertaken prior to an executed Project Agreement.

## 8.0 PROJECT REQUIREMENTS

8.1 The City of Winnipeg Riverbank Stabilization Grant and Local Improvement Tax Financing Program is limited to designated primary waterways within the boundaries of the City.

8.2 Applications may be submitted and signed by all registered Property Owners representing property or property interests on which the Project is to occur. Alternatively, applications may be submitted by a single entity or Project Administrator who is acting on behalf of all registered Property Owners. Authorization agreements will be available from the Program Administrator prior to the Application deadline for each property owner to submit as part of the Application.

8.3 A Proponent Group which includes Property Owners whose City tax, utility or other payments are in arrears may submit an Application. However, any approval of assistance will be conditional upon outstanding amounts being paid by a mutually determined deadline. If that condition is not met, a formal agreement to proceed with either the Grant or Local Improvement tax financing will not be executed.

8.4 Engineering services for design and contract administration will be provided by Consultants.

8.5 Project Proponents must obtain all necessary regulator approvals including a Waterway Permit from the City and a letter of advise / authorization from DFO and submit evidence of approval to the Program Administrator prior to proceeding with the Project.

8.6 If net eligible costs are lower than originally estimated, or if not all the eligible work is done or completed as detailed in the Project Agreement and mutually agreed to by the City, then the dollar amount of the Financing and/or Grant will be reduced accordingly. However, if the Grant portion originally identified and agreed to the City remains still less than the maximum 25% of the total Project costs, the full portion (or up to 25%) will still be paid.

8.7 Grants and Financing will not be granted retroactively for stabilization work done before an Application has been made or appropriate approvals have been given. The exception is for approved engineering assessment, reports and design, or project administration work necessary as part of the Application submission if the Project Application is approved.

8.8 Project Grant and Financing will be calculated and extended for net private investment made in approved costs, exclusive of any other government grants or rebates, including any provincial sales tax or federal goods and services tax refunds or credits recipients may be eligible for, regardless of whether they have applied for or received those entitlements.

8.9 Project Proponents may include property ownership by Government-related Entities other than the City of Winnipeg. However, Government-related Entities are NOT eligible to receive Grants under this Program. Grants may be given to other Property Owners who are part of a Proponent group which includes Government-related Entities.

If applicable, Local Improvement taxes will be assessed and applied to properties owned by Government-related Entities.

8.10 Project Agreements must be signed between the City and ALL Proponent Property Owners and put into effect before work on an approved Project can begin. No stabilization work undertaken prior to an executed agreement will be considered.

8.11 All eligible work must be performed by individuals or companies that are Workers Compensation Board compliant and have registered GST numbers.

8.12 The proposed work must be reviewed and pre-authorized through the issuance of a Waterways permit from the City of Winnipeg, Planning and Land Use Division, Planning, Property and Development Department.

8.13 To enable this Program to be administered in a cost-effective manner, the onus will be on Applicants to provide all required information (reports, photographs, paid invoices, etc.) in a complete and timely fashion. The onus also will be on Applicants to inform the City in a timely fashion of delays or changes in Project plans.

8.14 The Project Proponent is responsible for all cost overruns and additional expenses beyond the approved scope of work. Depending on the nature of the Project, and in cases where the Projects are primarily financed through the Local Improvement tax, Property Owners may be required by the City to commit additional financial securities to cover potential cost overruns prior to the Project proceeding.

## 9.0 APPLICATION REQUIREMENTS

9.1 All applications must clearly indicate if the assistance sought is in the form of a Grant, Local Improvement Tax Financing, or both.

9.2 Each Applicant property's legal address (if existing), registered owner, legal property description, certificate of title number, and property assessment roll number.

9.3 Riverbank lineal meters of each Proponent property as defined by the Program.

9.4 A certified copy of Status of Title of each Proponent property

9.5 An Engineer's report on riverbank stability, hazard / risk assessment including Functional Design of proposed riverbank stabilization works (the Project) prepared by a Consultant.

9.6 An outline of the proposed Project and schedule for undertaking the work.

9.7 The estimated Project costs including a breakdown of eligible costs prepared by the Consultant.

9.8 Proposed Project cost split between Proponent properties agreed to by all Property Owners. The cost split must be based on reasonable estimates by the Consultant regarding the nature of Project work on each individual Property and should be submitted as a percentage breakdown of the total estimated Project costs allocated to each Property. If agreed to by the City as equitable, these percentage allocations will be the basis for the division of Grant and L.I. financing authorization between Proponent Property Owners.

9.9 Digital photographs of the affected areas.

9.10 Evidence of submission of Project information package to the Department of Fisheries and Oceans (DFO) pursuant to the Fisheries Act.

9.11 Plan for Project contractor to access the Project site including any necessary signed rights-of-way or interests in land and such rights of access and crossing together with all orders, permits, licenses and approvals as may be required for the construction and completion of the Project.

In the event that permits or approvals (e.g. Waterways Permit) cannot be issued or applied for until detail designs are developed, the Application should submit indication of necessary pre-requisites and the plan or timetable to obtain them.

9.12 Signed agreements by each Property Owner represented by the Project Proponent to address the following issues:

9.12.1 A property ownership transfer, particularly during the Project implementation period creates a particular complexity. Therefore, to help ensure that as the Project moves forward to completion and a new property owner does not create access or other issues for the Proponent and the following is required:

- An agreement will require all property owners, in the event of a property ownership transfer or sale, to fully disclose the nature of the Project, the legal commitments made regarding the Project (e.g. contracts for work to be done, access agreements, etc.),
- The agreement will include a commitment by the Property Owner to inform the City about any intention to sell or impending sale or ownership transfer prior to the completion of that sale.

9.12.2 It is also important that the Property Owners formally agree to fully disclosure the nature and commitments pertaining to the Project to in the case of property ownership transfer prior to Project completion (Grants and Local Improvement charges).

9.12.3 Agreement in principal to sign formal Project Agreements with the City. These Agreements will define the nature of the work, the nature of the Grant and / or Local Improvement Tax Financing, timelines, milestones, and nature of payment. Example Project Agreements will be made available by the Program Administrator prior to September 15, 2008.

## 10.0 Calculating the Term of an Local Improvement Tax

The Proponent Group may unanimously propose the term of the Local Improvement tax. However, the decision regarding the length of term will be determined by Council.

No Local Improvement tax associated with this Program will be implemented with a payback period longer than 20 years.

## 11.0 Process if Project and Proponent includes City-owned property

Project Proponents may approach the City to request that the City be a member of the Proponent Group if the affected riverbank requires that the Project include stabilization work on City-owned property.

The Proponent group will negotiate with the City as it would with any other Property Owner in terms of Project participation, contribution towards a riverbank assessment, determining the nature of work to be proposed, and the equitable division of costs. As an Applicant for the Program, the same criteria and application requirements would have to be met.

In the case of a Local Improvement tax financing Application, the City would be exempt from calculation and L.I. Tax but would be responsible to cover its negotiated portion of the Project costs.

In the case of a Grant Application, the City would NOT be subject to receiving a portion of the Grant, but the Grant requirements (e.g. no more than 25% of the total eligible costs of a Project) would still apply AS IF the City as a property owner was eligible to receive the Grant.

Preference for recommending Grant and Financing will be given to Projects where the City is a member of the Proponent group. However, the technical criteria for evaluating Projects will remain consistent.

## 12 CONSULTANT SELECTION

The City of Winnipeg will issue an Expression of Interest and Request for Qualifications to endorse consultants who are interested in acting as consultants of record for the riverbank stabilization program.

Consultant endorsement will be dependent on:

- A registered professional geotechnical engineer as their capabilities as team leader
- Proof of professional liability insurance
- Demonstrated interdisciplinary team and approach
- Proven contract administration experience
- Successful completion of 3 similar projects in the last 5 years

- Demonstrated ability of having secured regulatory approvals (Waterway Permits and DFO letters of advise/authorization) in a timely manner on the previous projects of record

## 12. EVALUATION CRITERIA FOR GRANT PORTION OF THE PROGRAM

The project evaluation is to assist on focusing limited grant funds to contribute to projects which are deemed to be of higher risk to primary structures and any City of Winnipeg infrastructure. To this end, the Engineer's report submitted in support of the application must not only substantiate the hazard/risk for the affected riverbank properties and, in particular, to primary structures but the recommended response level and management approach of the identified risk on the basis of urgency or priority.

Evaluation criteria will be risk based and include but not be limited to the following probability and consequence factors:

- Demonstrated level of current riverbank stability and probability of failure based on engineering assessment and rigorous analyses of site specific conditions. A riverbank stability condition with a lower factor of safety will be assessed a higher ranking.
- The consequence of failure and, in particular, as relates to potential impact on primary structures or any City infrastructure works. Sites with higher potential of significant loss of primary structures will be assessed a higher ranking.

The Program Administrator will also take into consideration the Consultant's recommended response level and management approach for the site. A response level identified as "urgent" will be assessed a higher ranking than one identified as a "priority".