Minute No. 145
Report – Executive Policy Committee – January 17, 2018

Item No. 4 **Issuance of a Letter of Credit to Fisheries and Oceans Canada in Connection with Application for Tache Promenade Project Authorization**

COUNCIL DECISION:

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

1. That the issuance of a letter of credit to the Receiver General for Canada on behalf of Fisheries and Oceans Canada be approved in an amount equal to the costs of the Offsetting Plan for the potential loss of fish habitat in connection with the Tache Promenade project, to a maximum amount of $250,000, for the purpose of submitting an Application for Project Authorization to the Minister of Fisheries and Oceans for the Tache Promenade project.

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

Report – Executive Policy Committee – January 17, 2018

DECISION MAKING HISTORY:

Moved by His Worship Mayor Bowman,

That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 17, 2018, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the matter to Council.

ADMINISTRATIVE REPORT

Title: Issuance of a Letter of Credit to Fisheries and Oceans Canada in Connection with Application for Tache Promenade Project Authorization

Critical Path: Executive Policy Committee - Council

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Neirinck, P. Eng.	J. Berezowsky Acting Director of Public Works	M. Ruta	D. McNeil

EXECUTIVE SUMMARY

Parts of the work for the Tache Promenade project require Project Authorization from Fisheries and Oceans Canada ("DFO"). The application to DFO for Project Authorization requires that the proponent provide a letter of credit to DFO. This report is seeking Council approval for issuance of a letter of credit to a maximum amount of $250,000 for the Tache Promenade project. The purpose of the letter of credit is to provide a financial assurance mechanism in the event that an Offsetting Plan is not completed by the proponent. The amount identified is within the project budget.

RECOMMENDATIONS

1. That Council approve the issuance of a letter of credit to the Receiver General for Canada on behalf of Fisheries and Oceans Canada, in an amount equal to the costs of the Offsetting Plan for the potential loss of fish habitat in connection with the Tache Promenade project, to a maximum amount of $250,000, for the purpose of submitting an Application for Project Authorization to the Minister of Fisheries and Oceans for the Tache Promenade project.

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

REASON FOR THE REPORT

Council approval is required to issue a letter of credit.

IMPLICATIONS OF THE RECOMMENDATIONS

Recommendation 1 will allow the City to submit a completed application for Project Authorization to DFO for the Tache Promenade project. The application and subsequent authorization by DFO is required prior to construction of erosion control on the riverbank.

The 2017 Capital Budget was adopted by Council on December 13, 2016 and included funding for Tache Promenade in the amount of $4,303,000.

On September 27, 2017, Council amended the capital project budget and consolidated funding from various sources for a total amended capital project budget of $10,000,000.

The cost to obtain and carry the Letter of Credit is approximately $8,000.

HISTORY/DISCUSSION

On May 18, 2017, TREK Geotechnical Inc. ("TREK") was awarded a contract for Professional Consulting Services for Tache Promenade in accordance with City of Winnipeg RFP No. 180-2017.

In June 2017, TREK submitted an Aquatic Habitat Assessment report for the project site.

Shortly thereafter, a self-assessment was completed by TREK in accordance with DFO guidelines. Self-assessment by qualified project staff is the lowest tier of DFO regulatory oversight. Because the project involves the placement of erosion protection (riprap) below the high water level it therefore did not satisfy DFO's conditions for self-assessment.

On July 25, 2017 TREK, on behalf of the City, submitted a Request for Review to DFO, Request for Review to DFO results in a higher degree of regulatory review and involvement by DFO.

On September 15, 2017 after additional review by the project team and by DFO, a concern was raised about the presence of Mapleleaf Mussel, *Quadrula quadrula,* which is classified as Threatened under the *Species at Risk Act* ("SARA"). Accordingly, a mussel relocation program was initiated.

On October 24, 2017, DFO issued a permit to the City under Section 73 of the SARA to proceed with mussel relocation. Mussel relocation was performed in the project site over the course of approximately 2 days in late October. A single *Quadrula* was found to be present in the affected area.

On November 3, 2017, a meeting was held with DFO representatives to relay the findings and determine next steps. In light of the presence of a threatened species under the SARA, DFO confirmed that a SARA-compliant Project Authorization would be required. Project Authorization is the highest level of DFO regulatory involvement and review, and requires that harm to fish or fish habitat be compensated in the form of an Offsetting Plan. The Offsetting Plan is part of the application to DFO in the application for Project Authorization. DFO uses a

letter of credit to provide a financial assurance mechanism in the event that an Offsetting Plan is not completed by the proponent.

Upon subsequent correspondence with DFO, an acceptable Offsetting Plan in the form of riverbank naturalization was proposed and accepted in principle, which has an estimated cost of $150,000. A maximum authorization of $250,000 will allow for amendments to the amount of the letter of credit to accommodate unforeseen circumstances or changes in the estimated cost of habitat compensation throughout the course of the project. An application for Project Authorization to DFO is not considered to be complete without a letter of credit issued to DFO. DFO will not grant Project Authorization until a complete application is submitted.
Failure to obtain a letter of credit will delay obtaining DFO Project Authorization, which is required by February 15, 2017. Failure to obtain authorization by this date would result in deferring parts of the erosion control measures until later in the project, adding additional costs, and impacting the overall project schedule. Completion of the project in 2018 is desired to correspond with community events related to the 200th anniversary of the Saint-Boniface Archdiocese.

FINANCIAL IMPACT

Financial Impact Statement

Date: December 21, 2017

Project Name:

First Year of Program **2018**

Issuance of a Letter of Credit to Fisheries and Oceans Canada in Connection with Application for Tache Promenade Project Authorization

	2018	2019	2020	2021	2022
Capital					
Capital Expenditures Required	$ 8,375	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	8,375	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	375	-	-	-	-
Net Cost/(Benefit)	$ (375)	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	(375)	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: The total estimated cost of $8,375 for obtaining the Letter of Credit will be funded by the Tache Promenade Project #6351800417. Recoveries represent the Department Engineering Administration and Corporate Interest Overheads.

"Original signed by J. Ruby, CPA, CA"

J. Ruby, CPA, CA
Manager of Finance & Administration

CONSULTATION

This Report has been prepared in consultation with: Legal Services Department as to legal issues.

OURWINNIPEG POLICY ALIGNMENT

N/A

SUBMITTED BY

Department: Public Works
Division: Engineering
Prepared by: Cameron Ward, P.Eng., Bridge Projects Engineer
Date: December 19, 2017
File No: 17-G-08