Minute No. 103
Report – Executive Policy Committee – January 15, 2019

Item No. 4 **Issuance of a Letter of Credit to Fisheries and Oceans Canada in Connection with Application for Riverbank Stabilization and Erosion Protection Works at Cornish Library – Project Authorization – Project No. 2017-149**

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, in an amount to cover the costs of the Offsetting Plan for the potential loss of fish habitant in connection with the Riverbank Stabilization and Erosion Protection Works at Cornish Library project, to a maximum amount of $250,000.00, for the purpose of submitting an Application for Project Authorization to the Minister of Fisheries and Oceans for the Cornish Library project, be approved.

2. That the Chief Financial Officer be delegated the authority to determine the final amounts, timing, terms and process for the initial letter of credit based on legal and actuarial requirements.

3. 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 15, 2019

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 15, 2019, 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 Riverbank Stabilization and Erosion Protection Works at Cornish Library - Project Authorization – Project No. 2017-149

Critical Path: Executive Policy Committee - Council

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Erickson	J. Kiernan	B. D'Avignon, Acting for M. Ruta	D. McNeil

EXECUTIVE SUMMARY

Parts of the work for the Riverbank Stabilization and Erosion Protection Works at Cornish Library project require Project Authorization from Fisheries and Oceans Canada ("DFO"). The application for Project Authorization requires that the proponent ("The City of Winnipeg") 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 $250,000.00 for the Riverbank Stabilization and Erosion Protection Works at Cornish Library 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 the issuance of a letter of credit to the Receiver General for Canada on behalf of Fisheries and Oceans Canada, in an amount to cover the costs of the Offsetting Plan for the potential loss of fish habitant in connection with the Riverbank Stabilization and Erosion Protection Works at Cornish Library project, to a maximum amount of $250,000.00, for the purpose of submitting an Application for Project Authorization to the Minister of Fisheries and Oceans for the Cornish Library project, be approved.

2. That the Chief Financial Officer be delegated the authority to determine the final amounts, timing, terms and process for the initial letter of credit based on legal and actuarial requirements.

3. 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

The recommendations of this report will allow North/South Consultants Inc., on behalf of the City, to submit a completed application for Project Authorization to DFO for the Riverbank Stabilization and Erosion Protection Works at Cornish Library. The application, and subsequent authorization by DFO, is required prior to construction of erosion control on the riverbank.

The cost to obtain and carry the Letter of Credit is $6,000.00.

Failure to obtain a letter of credit will delay obtaining DFO Project Authorization, which is required by February 15, 2019. Failure to obtain authorization by this date would result in deferring parts of the erosion control measure until later in the project, adding additional costs, re-issuing Bid Opportunity, and impacting the overall project schedule.

HISTORY/DISCUSSION

The City of Winnipeg has proposed stabilization works and erosion protection works of the Assiniboine River shoreline adjacent to the Cornish Library, which includes both above water and in-water works.

In the 2016 Capital Budget, Council adopted $5,000,000 in support of major renovations at Cornish Library ($2,500,000) and St. John's Library ($2,500,000).

In September 2016, previously-approved capital program budgets, Community Incentive Grants, and designated donations from the Library Trust Fund in the amount of $26,400 (Cornish Library) and $15,700 (St. John's Library) were approved for consolidation.

On September 11, 2018, the Standing Policy Committee on Protection, Community Services and Parks approved the 'Reallocation of Surplus Budget from the Transcona Library Project to increase Capital Budgets for St. John's Library, Cornish Library, Windsor Park Library and Pan Am Pool Projects' Report, which included allocations of surplus funding from the Transcona Library Capital Project Budget into the Cornish Library Project ($195,000) and St. John's Library Project ($315,000) to complete the scope of the renovations.

The Winnipeg Library Foundation has assisted the Library Services Division for many years with fundraising in support of library capital projects and helped raise $2,500,000 for these renovations. The Foundation secured $2,250,000 from the Province of Manitoba – MWIA Funding ($1,125,000) for each Library)., a Community Incentive Grant – Fort Rouge-East Fort Garry Ward in the amount of $10,000 for Cornish Library, and a Community Incentive Grant – Mynarski Ward in the amount of $20,000 for St. John's Library.

In 2017, The Winnipeg Library Foundation received a $20,000 donor contribution to the Carnegie Campaign designated for Cornish Library.

The proposed stabilization works were to be completed in two phases. The Phase 1 above water work was completed in the winter of 2018. The Phase 2 in-water work will be completed in the winter of 2019, and will include completion of the remaining in-channel stabilization works. Slope stabilization measures are required to improve Assiniboine riverbank stability and allow a new building addition to the Cornish Library on the riverbank.

On June 26, 2018 North/South Consultants Inc., on behalf of the City, submitted a Request for Review to DFO. A request for Review to DFO results in a higher degree of regulatory review and involvement by DFO.

On September 28, 2018 after additional review by the Fisheries Protection Program (the Program) of Fisheries and Oceans Canada (DFO), a concern was raised about the presence of mapleleaf Mussel, Quadrula, which is classified as Threatened under the Species at Risk Act ("SARA"), and Bigmouth Buffalo and Silver Chub, which are listed as special concerns.

Based on the review of the information, the Program had concluded that work in the Assiniboine River has the potential to impact freshwater mussels and mussel habitat as well as navigation on the river, and requires two regulatory approvals for the in-water works including a Fisheries Act Request for Review and a Navigation Protection Act Notice of Works.

Following review of the project, DFO had ruled that the substrate within the project footprint (area below the winter water level – 10m x 50m) may support mapleleaf mussels and had advised that before the in-water stabilization works can proceed a field survey and relocation of mussels must be completed on the site. Accordingly, a mussel relocation program was initiated.

On October 2, 2018 North/South Consultants Inc., was retained by Municipal Accommodations Division for professional consulting services for in-water mussel survey and relocation of all mussels related to the Riverbank Stabilization and Erosion Protection Works at Cornish Library in the Assiniboine River.

On October 23, 2018, mussel relocation was performed by a dive team supported by biologists from North/South Consultants Inc. on the project site and a single Quadrula was found to be present in the affected area as well as 4 other species of native mussels.

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 conference call correspondence with DFO and North/South Consultants Inc., an acceptable Offsetting Plan in the form of riverbank naturalization was proposed and

accepted in principle, which has an estimated cost of $100,000. 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 fish 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, 2019. Failure to obtain authorization by this date would result in deferring parts of the erosion control measure until later in the project, adding additional costs, re-issuing Bid Opportunity, and impacting the overall project schedule. Completion of the project in 2019 is desired to correspond with the commencement and completion for the building addition to Cornish Library.

FINANCIAL IMPACT

Financial Impact Statement

Date: November 20, 2018

Project Name:

First Year of Program **2019**

Issuance of a Letter of Credit to Fisheries and Oceans Canada in Connection with Application for Cornish Library Riverbank Stabilization and Erosion Protection Works Project Authorization –

	2019	2020	2021	2022	2023
Capital					
Capital Expenditures Required	$ 6,381	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	6,381	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	381	-	-	-	-
Net Cost/(Benefit)	$ (381)	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	(381)	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Capital Expenditures in 2019 consist of the cost to issue the Letter of Credit of $6,000 MRST plus Divisional admin costs of $180 and Corporate Finance and admin costs of $201. The latter two amounts are offset by recoveries in the current budget of the Municipal Accommodation Division (PPD) and Corporate Finance Department, respectively.

original signed by
Mike McGinn, CPA, CA
Manager of Finance

CONSULTATION

This Report has been prepared in consultation with:
Planning, Property and Development Department, Waterways – Urban Design
Public Works Department, Engineering Division
Legal Services Department (as to legal issues)

OURWINNIPEG POLICTY ALIGNEMENT

02-2 Environment

- Recognize and preserve Winnipeg park, green spaces and riverbanks as green oases in our urban setting.

SUBMITTED BY

Department: Planning, Property and Development
Division: Municipal Accommodations
Prepared by: Lou M. Chubenko, Project Officer 2
Date: December 3, 2018
File No: MA2018-195