Winnipeg | Chief Administrative Office
Direction municipale

Scott Sinclair
Deputy Minister of Central Services
Room 349 Legislative Building
Winnipeg MB R3C 0V8

Bruce Gray
Deputy Minister of Municipal Relations
Room 311 Legislative Building
Winnipeg MB R3C 0V8

Messrs. Sinclair and Gray,

RE: ICIP Funding for NEWPCC Upgrade Project: Biosolids Facilities

I'm writing to you today to provide additional clarity on how the City intends to proceed on this matter, and to serve as a catalyst to discuss the next steps towards the successful submission of the City's application to the Investing in Canada Infrastructure Program ("ICIP").

Our lengthy series of discussions on the preferred procurement model for the NEWPCC Upgrade Projects has been helpful from the City's perspective. Your request that other procurement models be further explored and studied was also helpful, as it has assisted the City to refine its thinking on the most appropriate path forward on these significant projects — projects that are collectively unprecedented in size and scope in this City's history.

You have also confirmed that selection of the Design-Build-Finance-Operate-Maintain ("DBFOM") procurement methodology was not to be viewed as a "hard" requirement or prerequisite; rather, on behalf of the Province, you have been "strongly suggesting" the City consider this model, for the reasons you have advanced.

The City, within its discretion as a municipal corporation, has determined that it intends to proceed immediately with Biosolids. It has explored and considered P3 methodology, as you have strongly suggested, and has landed on a path forward. As noted by Deloitte, there may be significant interest were the City to proceed with the DBF model, although any such decision would ultimately rest with our Council. We have continued to ensure that our elected officials have all necessary information in front of them to execute their own duties, and we will continue to do so.

We have therefore reached the appropriate point in time for the City's ICIP Application to advance, and we are confident the Province will agree.

Office of the Chief Administrative Officer
2nd Floor, 510 Main St., Winnipeg, MB R3B 1B9
Bureau de directeur municipal
2e étage, 510, rue Main, Winnipeg (Manitoba) R3B 1B9

T. | Tél. : 204-986-2566
F. | Fax : 204-949-1174
winnipeg.ca

History

As you know, on February 28, 2019, Council approved the North End Sewage Treatment Plant Biological Nutrient Removal Upgrade Project report recommending the NEWPCC Upgrade Project be split into three separate capital projects to mitigate the risk associated with a single large, complex and lengthy project.

The project was split into:
1) NEWPCC Upgrade Project: Power Supply and Headworks Facilities ("Headworks");
2) NEWPCC Upgrade Project: Biosolids Facilities ("Biosolids); and
3) NEWPCC Upgrade Project: Nutrient Removal Facilities ("BNR").

The City's Public Service had concluded that executing the upgrades as three separate capital projects would provide opportunities to better manage the overall project scope and cost, particularly within significant funding constraints. The Report submitted at that time provided the urgent warning that the existing Biosolids Facility would be nearing maximum capacity in 5 - 9 years.

On September 26, 2019, Council approved a 2019 Capital Budget of $552,712,000 for Biosolids, subject to final written confirmation of Federal and Provincial funding satisfactory to the Chief Financial Officer. This Council decision directed the Public Service to submit the Headworks and Biosolids projects, among others, for Provincial and Federal funding under the ICIP program.

In October 2019, the Public Service submitted the funding application for the Headworks and Biosolids projects to the Province, as it is administering ICIP on behalf of the Federal government under the bilateral agreement.

On January 30, 2020, Council approved $15,334,000 for the Biosolids project budget to secure engineering services within the 2020 to 2023 Water and Sewer Rate report to undertake detailed engineering to proceed with a Design-Bid-Build ("DBB"). This engineering work has not yet started, as you have asked the City to undertake a review of a P3 project procurement methodology prior to proceeding.

On September 30, 2020, Council approved the transfer of $321.24 million of Federal funding under ICIP from the Public Transit Infrastructure Stream to the Green Infrastructure Stream to fund the Federal government's portion for the Headworks and Biosolids projects.

On December 17, 2020, City Council approved the Biosolids Capacity Report that highlighted the City's remaining biosolids capacity of 90,000 population equivalent that could be consumed within the next 5 - 9 years. As we all know, this limitation significantly impacts development in both the City and the Winnipeg Metro Region.

On March 25, 2021, Council approved the Update on North End Sewage Treatment Plant (NEWPCC) Upgrade: Headworks and Biosolids Facilities Projects recommending not to proceed with detailed design and to request that the Province of Manitoba confirm the procurement methodology for the Biosolids project.

On March 30, 2021, the Province requested the Public Service to proceed with P3 market sounding with a specific focus on DBFOM methodology in addition to other forms of P3. In particular, you stated:

"A P3 procurement would provide the greatest opportunity to shorten the project timelines as well as enhance cost certainty in delivering this significant investment. As the City of Winnipeg has not presented a strategy or identified budget sources to implement the BNR, fully exploring the P3 methodology is critical in identifying the optimal approach for this project."

On May 18, 2021 Executive Policy Committee ("EPC") approved a single source negotiation to award a contract to Deloitte LLP to conduct the P3 market sounding for the Biosolids project as you had requested.

However, as you're aware, EPC also mandated that the current Operation and Maintenance ("OM") of Winnipeg's wastewater treatment utility shall remain publicly provided and that OM was not be included as part of the P3 market sounding. We recognize the Province may disagree or question this direction, but that was nonetheless the formal direction provided.

Market Sounding Results

As you are also aware, Deloitte LLP along with the Public Service conducted the requested market sounding to seek the input and interest of potential bidders on the pending procurement for the Biosolids and BNR projects.

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F. | Fax : 204-949-1174
winnipeg.ca

The target audience included design-builders, general contractors, engineering firms and financiers. The team conducted interviews with twelve potential bidders and the results were as follows:

Category	Key Findings
Market interest and capacity	• There is **significant interest** in the Projects' scope, with size being a potential constraint. • A **bundled procurement** approach was **not preferred**.
Project scope and delivery model	• No significant **scope concerns** were noted. • Allowing **flexibility in design** will encourage innovation. • The **DBF model was acceptable** to the Participants, though some suggested other **alternative delivery models with early contractor involvement** such **as Progressive Design-Build ("PDB")** and **Construction Management / Design-Assist**. • There was some high-level interest expressed for a **DBFOM model**. However, as the focus of the Market Sounding was a DBF model, such interest was **not based on discussion of key operational aspects** of the City's current collective agreements and complexities related to integration of the NEWPCC into the City's overall wastewater collection and treatment.
Project risks	• The City should **retain the risk for prescribed processes** or vendors/suppliers (e.g., technology). • **Key cited risks** included: passed down and unknown risks from existing facilities, process guarantees, geotechnical / environmental, existing facilities, permitting, and unknown utilities.
Procurement process	• **Separate procurements** would promote the **most competition**. • **RFP open period** timelines provided (6 to 9 months) were generally considered reasonable. • Ample **technical information** in the RFQ stage is important. • Having a **"Project Champion"** from City's leadership is important to justify procurement participation. • **Veolia contract** information and clarity is important for bidders.

Category	Key Findings
Construction term and scope	• The **proposed construction periods** (over 5 years) for each project is **reasonable** given the size and complexity of the Projects. ○ For the Nutrient Removal Facilities, given the constraints of the project, workarounds and tie-ins with existing NEWPCC operations, etc., a relatively long construction period was considered logical. • Participants cited that the suggested **collaborative approaches (e.g., PDB)** could shorten the construction period.
Construction period payments	• Some participants preferred **milestone payments** while others preferred **monthly construction period payments**, both with a 50% holdback to be paid through a substantial completion payment.
Financing capacity	• There is **sufficient capacity and interest** in the Canadian debt market to provide financing for the two Projects. • Lenders would look for a **customary risk profile** for a DBF delivery model. • No concerns were noted on ability and capacity of contractors to meet the standard performance security requirements for the Projects.
Honorarium	• Pursuit costs are sizable and hence participants would prefer an honorarium of approximately **1% - 2% of the capital cost**. • Larger honorariums allow for **meaningful effort** and innovation in design, as well as more **accurate pricing** with lower contingencies.

Deloitte LLP's advice to the City on a P3 procurement on Biosolids and BNR has been consistent:

- Critical to the DBFOM model is the OM function, which is provided by water/wastewater OM contractors;
- With regard to the Canadian market of OM providers, there are a limited number in existence and Canadian OM providers have not operated at the scale of NEWPCC;
- There have been no wastewater DBFOMs of this scale in Canada. Typically, for a DBFOM procurement, the objective would be to identify at least 4 - 5 bid teams - the project would need up to 5 credible OM leads to create an optimal competitive environment, and thereby deliver the optimal value to the taxpayers that we all seek; and
- The City's market sounding showed that there are sufficient interested construction contractors for competitive Design-Build-Finance ("DBF") projects to be conducted for Biosolids and Nutrient Removal as separate projects.

The market sounding indicated that the market may prefer a DBF, or some variation thereof, for procurement of the Biosolids project as opposed to a traditional procurement model.

Part of the Province's justification in pushing to include OM has been the suggestion that doing so would open the procurement up to entities that may have superior resources regarding innovation, and that the resulting innovation delivered by a DBFOM provider/team could conceivably deliver superior value for the taxpayers at every level. One significant element of the narrative that has not been sufficiently acknowledged is the fact that back in 2011, the City entered into an innovative, performance-based contract with Veolia, designed to ensure the optimization of both capital investments and operations. The commercial terms of the City's agreement with Veolia mirror a DBFOM model as Veolia is compensated for capital and operating cost savings that are realized as a result of their advice and summarized on the City of Winnipeg website: (https://winnipeg.ca/waterandwaste/sewage/wstp/default.stm#tab-links).

Veolia is an embedded expert that brings global expertise in sewage treatment plant upgrades and operations and is a world leader in both water and wastewater treatment:

- $30.4B revenues
- 178,780 employees
- 98M people supplied with drinking water
- 67M people connected to wastewater systems
- 3,548 drinking water production plants managed
- 2,835 wastewater treatment plants managed

Environmental Impact

The NEWPCC Upgrade was deliberately split into three separate projects to manage scope and complexity. We have repeatedly asserted that these three projects must occur sequentially due to integration of new processes and requirement for biological (versus chemical) nutrient removal as codified in *The Save Lake Winnipeg Act*.

As planned in this phased approach, and as soon as funding issues have been resolved, the City will undertake a constructability review to determine how the Headworks, Biosolids and BNR projects can be most effectively coordinated to expedite the overall schedule. The review will also assess project stacking and what level of construction activity the constrained NEWPCC footprint will be able to accommodate.

Economic Impact

As aforementioned, the City's remaining biosolids capacity is estimated to be between 5 and 9 years. However, if one large industrial user "ties in" to the system, it is possible that capacity may be reduced even more quickly. Even if procurement and construction of the new Biosolids facility were approved immediately, the facility would not commence operations for another 7.5 - 8 years. Consequently, it is reasonable to say that the City may deplete remaining capacity for several years before a new facility begins operations. If that scenario occurs, the City could operate the Biosolids treatment facility at maximum capacity; however, the City would be exposed to increased risk arising from environmental licence violations and sewage treatment failures.

Given these constraints and risks, the City faces a serious risk of potential suspension on growth within the residential and non-residential industries in the near term. Because of this, the City may have no viable alternative but to recommend halting development of the most intense biosolids users, such as those in the agricultural and agri-food industries.

There will be a clear and dramatic economic and financial impact of delaying the expansion of City's biosolids capacity. A precise estimate of these impacts is unknown given that these impacts are contingent on future opportunities. Yet, by studying statistics regarding residential development, non-residential development, agricultural industry, and other related financial and economic statistics, the City can provide a range of potential impacts. In no particular order, these are:

1. A proportion of the annual $1.2 Billion in residential development may not occur;
2. A proportion of the annual $1.4 Billion in non-residential, and in particular, agricultural growth, may not occur;
3. Agri-food industry investments, likely on the order of $100 million in capital investment and 100 jobs, may not occur;
4. Prices of existing housing supply may accelerate faster than usual;
5. Prices of existing industrial supply may accelerate faster than usual;
6. Individuals and companies may substitute surrounding regions for Winnipeg (locally/nationally/internationally);
7. Intangibles, such as business and consumer confidence; and
8. City revenue increases would certainly be reduced by an amount up to $88 million.

It is important to note that some of the growth which otherwise would have taken place within City limits may be diverted to surrounding regions. This assumes those regions aren't also operating under a wastewater service-sharing agreement with the City, have their own capacity and that those locations are practical substitutes.

On a lesser scale, should the ICIP funding for Biosolids not materialize, economic development could be stymied by inordinate rate increases that would hamper Winnipeg to remain an economically competitive city. This would negatively impact both the Winnipeg and Manitoba economies. Essentially, the limited biosolids capacity of roughly 5 to 9 years of growth could be a deterrent for industry seeking to locate in (or proximate to) Winnipeg.

The Path Forward

While the City has considered all of the suggestions you have advanced concerning the suitability of the DBFOM model, you will also recognize that the City is not only entitled, but in fact, required to exercise its own discretion over the construction of its own capital projects. Going further, it would amount to a complete abdication of its democratic responsibility to its residents to implement generational changes to its wastewater infrastructure considering solely the "strong suggestions" of representatives of the Provincial government, without also taking into account the values and principles of the residents it serves. I assume you are in agreement.

Therefore, with this stage of the discussion now complete, the most critical remaining element at this stage will be advancing the ICIP Application for Biosolids to the Federal government for its consideration. We trust this can now occur without further delay. Please advise immediately, and in any event, no later than **Friday, November 19, 2021**, if any further information is required from the City that has not already been provided to date.

In your March 30, 2021 letter, you highlighted that:

"As the City of Winnipeg has not presented a strategy or identified budget sources to implement the BNR, fully exploring the P3 methodology is critical in identifying the optimal approach for this project."

It is without question that the City, along with its Provincial and Federal counterparts, will need to continue to build the funding strategy for BNR. However, what is also without question is that work on Biosolids must begin immediately, and there is no time left to waste.

To continue building the funding strategy for BNR, we are also optimistic that the Province will continue to serve as a valued partner in exploring funding opportunities. We believe this exact type of support was contemplated by the Clean Environment Commission when it released its *BETTER TREATMENT – TAKING ACTION TO IMPROVE WATER QUALITY Report on Public Hearings City of Winnipeg Wastewater Collection and Treatment Systems* in August 2003.

Of particular note is Recommendation 15 from that Report:

Recommendation on Financial Support

15. The City of Winnipeg should be directly assisted by the Province of Manitoba in efforts to secure financial support under existing and future infrastructure programs for upgrades to its wastewater collection and treatment systems. The estimated costs to upgrade Winnipeg's wastewater collection and treatment systems to achieve a better level of treatment and thereby improve water quality constitute a significant cost burden to a municipal level of government. Municipal governments have many competing priorities for funding and do not have access to the growth revenues of provincial and federal governments. Both the provincial and federal governments have placed significant emphasis on nutrient management with a strong focus on reducing nutrients in municipal wastewaters. The Commission believes that the senior levels of government should assist with the cost of achieving improved nutrient management and other water quality enhancement measures. Ideally, the funding formula of one-third municipal, one-third provincial and one-third federal should be used.
(underlining mine)

http://www.cecmanitoba.ca/cecm/archive/pubs/commission%20reports/commissioned-reports-2003-2004-better_treatment_taking_action_improve_water_quality.pdf

Those words remain as meaningful today, if not even more so, as when the Report was released in 2003. With the guidance provided by the CEC, we are certain that all three levels of government will find a reasonable path to funding the BNR phase of NEWPCC Upgrades. On behalf of the City, I hereby commit to continued engagement and participation in that dialogue as we move forward together.

I want to close by thanking you and your colleagues once again for the thoughtful and exhaustive discussions we have had on this matter. I am strongly encouraged that we have all been acting in good faith, with clear areas of focus on ensuring maximum value for the collective taxpayer and the health of Lake Winnipeg, while also acknowledging the City's responsibility for delivering its services in a reasonable and sustainable manner that is also properly responsive to its residents.

I look forward to your response.

Thanks,

Michael A. Jack
Chief Administrative Officer