Minute No. 76
Report – Standing Policy Committee on Water, Waste and Environment – November 25, 2022

Item No. 2 **Issuance of a Letter of Credit to Fisheries and Oceans Canada in Connection with Application for Riviera Crescent Outfall Authorization**

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Water, Waste and Environment and adopted the following:

1. That the issuance of a letter of credit be approved to the Receiver General for Canada on behalf of Fisheries and Oceans Canada, or a similar financial instrument such as a surety bond as may be accepted by 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 Riviera Crescent Outfall project, to a maximum amount of $100,000, for the purpose of submitting an Application for Project Authorization to the Minister of Fisheries and Oceans for the Riviera Crescent Outfall project.

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

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DECISION MAKING HISTORY:

Moved by Councillor Mayes,

That the recommendation of the Standing Policy Committee on Water, Waste and Environment be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On December 7, 2022, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Water, Waste and Environment and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On November 25, 2022, the Standing Policy Committee on Water, Waste and Environment concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title: ISSUANCE OF A LETTER OF CREDIT TO FISHERIES AND OCEANS CANADA IN CONNECTION WITH APPLICATION FOR RIVIERA CRESCENT OUTFALL AUTHORIZATION

Critical Path: Standing Policy Committee on Water and Waste, Riverbank Management and the Environment - Executive Policy Committee - Council

AUTHORIZATION

Author	Department Head	CFO	CAO
C. D. Wiebe, P. Eng., CAMP, Manager of Engineering Services	Tim W. Shanks, M. Eng., P. Eng., Director of Water and Waste	C. Kloepfer	M. Jack.

EXECUTIVE SUMMARY

Parts of the work for the Riviera Crescent Outfall 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 $100,000 for the Riviera Crescent Outfall 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 (in this case, the City of Winnipeg). The amount identified is within the approved Capital 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, or a similar financial instrument such as a surety bond as may be accepted by 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 Riviera Crescent Outfall project, to a maximum amount of $100,000, for the purpose of submitting an Application for Project Authorization to the Minister of Fisheries and Oceans for the Riviera Crescent Outfall 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

Approval of this report's recommendations will allow the Public Service to submit a completed application for Project Authorization to DFO for the Riviera Crescent Outfall project. The application and subsequent authorization by DFO are required prior to the construction of a cofferdam in the Red River and erosion control on the riverbank.

The 2022 Capital Budget was adopted by Council on December 15, 2021, and included funding for Outfall Rehabilitation in the amount of $3,550,000, Account Distribution No. 446 181000 200754 2078000122 Miscellexp.

The cost to obtain and carry the Letter of Credit is approximately $1,200. This amount is included in the approved Captial Budget and no new funding is required.

HISTORY/DISCUSSION

On August 26, 2020, Kontzamanis Graumann Smith MacMillan Inc. (doing business as KGS Group) was awarded a contract for Professional Consulting Services for the 2020-2021 Outfall Program in accordance with City of Winnipeg RFP No. 460-2020.

In March 2021, KGS Group completed an initial self-assessment (based on site information gained to date) in accordance with Fisheries and Oceans Canada ("DFO") guidelines. Self-assessment by qualified project staff is the lowest tier of DFO regulatory oversight. As the project involves the placement of a temporary clay cofferdam and riprap below the high water level, it did not satisfy DFO's conditions for self-assessment.

On April 20, 2021, KGS Group, on behalf of the City, submitted an initial Request for Review to DFO which requires a higher degree of regulatory review and involvement by DFO.

Additional geotechnical instrument readings were taken throughout Spring/Summer/Fall 2021 to confirm slope stability requirements for the site. Upon analyzing the data, KGS Group determined that a more extensive riprap blanket and slope stability works were required to stabilize the riverbank and protect the City's outfall pipe asset than previously proposed. On November 1, 2021, KGS Group notified DFO of the design changes and new proposed riprap blanket extents for the site.

After additional review and consultation with DFO, the assigned DFO biologist determined that the proposed works would likely cause an impact to Mapleleaf Mussel, Quadrula quadrula, which is classified as Threatened under the Species at Risk Act ("SARA"). In light of the known 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 Fisheries Act Authorization Report to DFO in the application for Project Authorization. DFO also requires a

Letter of Credit to provide a financial assurance mechanism in the event that an Offsetting Plan is not completed by the proponent (in this case, the City of Winnipeg).

On January 26, 2022, DFO formally requested that the project team submit a new Request for Review to initiate a new project file with the proposed design changes, as well as submission of the required Fisheries Act Authorization Report and initiation of a Mussel Relocation Program.

On March 4, 2022, KGS Group, on behalf of the City, issued the new DFO Request for Review. Additionally, KGS Group, on behalf of the City, submitted the required DFO Fisheries Act Authorization report (complete with Offsetting Plan) on June 16, 2022.

On July 25, 2022, DFO confirmed the acceptance of the proposed Offsetting Plan in the form of riverbank naturalization, which has an estimated cost of $35,000. A maximum authorization of $100,000 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 January 1, 2023. Failure to obtain authorization by this date would result in additional costs and impact the overall project schedule.

FINANCIAL IMPACT

Financial Impact Statement

Date: September 21, 2022

Project Name: **First Year of Program** **2022**

ISSUANCE OF A LETTER OF CREDIT TO FISHERIES AND OCEANS CANADA IN CONNECTION WITH APPLICATION FOR RIVIERA CRESCENT OUTFALL AUTHORIZATION

	2022	2023	2024	2025	2026
Capital					
Capital Expenditures Required	$ 1,200	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	1,200	-	-	-	-
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	-	-	-	-	-
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Funds for this project are included in the approved Capital Budget for Outfall Rehabilitation, Account Distribution No. 446 181000 200754 2078000122. This project is financed by Land Drainage.

Lucy Szkwarek, CPA, CGA

Lucy Szkwarek, CPA, CGA
Manager of Finance and Administration

CONSULTATION

This Report has been prepared in consultation with:

- Kontzamanis Graumann Smith MacMillan Inc. (dba KGS Group)
- Corporate Finance – Treasury Division
- Legal Services (as to legal issues)

OURWINNIPEG POLICY ALIGNMENT

This report aligns with OurWinnipeg 2045, Policy 2.17 Regional Water Resource Management, by protecting local and regional watershed resources from the negative impacts of development, flooding, and pollution.

> Objective: Protect and value ecosystems as essential components to quality of life through municipal activities and urban environment.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

N/A

SUBMITTED BY

Department: Water and Waste
Division: Engineering Services
Prepared by: Duane Baker, C.E.T.
Date: September 23, 2022
File No.: D-438