

TO:	CHAIR AND MEMBERS BUILT AND NATURAL ENVIRONMENT COMMITTEE MEETING ON OCTOBER 31, 2011
FROM:	RON STANDISH, P. Eng. DIRECTOR, WASTEWATER AND TREATMENT PLANNING, ENVIRONMENTAL AND ENGINEERING SERVICES
SUBJECT:	STATUS REPORT FOR ENVIRONMENTAL ASSESSMENT STUDY FOR TRIBUTARY 'C' DRAINAGE AREA

RECOMMENDATION

That, on the recommendation of the Director, Wastewater and Treatment, Environmental and Engineering Services, the following actions **BE TAKEN** with respect to a First Nation's review request of the Draft Environmental Study Report (ESR) for the Municipal Class Environmental Assessment (EA) Study, Schedule "C" for the Storm/Drainage and Stormwater Management (SWM), Transportation and Sanitary Trunk Servicing Works for the Tributary 'C' drainage area located within the Downstream Thames River Subwatershed Area:

- (a) the Civic Administration **BE AUTHORIZED** to undertake all administrative acts that are necessary to proceed with the Munsee-Delaware First Nation's request for the engineering and legal peer review of the Draft Environmental Study Report (ESR) for the Municipal Class EA Study for the Tributary 'C' drainage area at the estimated cost of \$50,000.00 excluding HST, in accordance with Section 15, Clause 15.2(g) of the Procurement of Goods and Services Policy;
- (b) the approval given herein **BE CONDITIONAL** upon receiving and acceptance of the First Nation's Consultants' finalized peer review's work plan by the City's Executive Director of Planning, Environmental and Engineering Services Department as the delegated authority by the Council;
- (c) the Mayor and the City Clerk **BE AUTHORIZED** to execute an agreement with AECOM, 250 York Street, Suite 410, London Ontario K6A 6K2 to increase the previously approved cost of engineering fees for the on-going Municipal Class EA Study for the Tributary 'C' drainage area by \$39,000.00, excluding HST, in accordance with the revised work program and schedule, provided by the Consultant, it being noted that the revised upset cost of this study including the City's Consultant estimated fees cost and the First Nation's Consultant's peer review's cost is \$505,430.00, excluding HST; based upon the Fee Guideline for Professional Engineering Services, 2006, recommended by the Ontario Society of Professional Engineers; and in accordance with Section 15.2 (g) of the Procurement of Goods and Services Policy;
- (d) the financing for this work **BE APPROVED** as set out in the Sources of Financing Report attached hereto as Appendix "A"; and

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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ETC June 1997 – Riverbend Community Plan that was completed by Proctor & Redfern Limited, was accepted

ETC 2008-10-24; Appointment of Consulting Engineer for Municipal Class Environmental Assessment for a Tributary 'C' Drainage Area (2008-A03-00-00/W05-00,1/19/ETC)

ETC 2009-05-11; Appointment of Consulting Engineer for Municipal Class Environmental Assessment for the Tributary 'C' Drainage Area (2009-A03-00) (AS AMENDED) (2/10/ETC)

ETC 2009-11-16; Appointment of Consulting Engineer for Municipal Class Environmental Assessment for the Tributary 'C' Drainage Area

BNEC 2011-02-14; Additional Engineering Fees for Municipal Class Environmental Assessment (EA) Study for the Tributary 'C' Drainage Area

BACKGROUND

Purpose:

The purpose of this report is to obtain a Council approval for the Civic Administration to proceed with the First Nation's request of the engineering and legal peer review of the ESR and to report on the status of the on-going Municipal Class EA Study, Schedule "C" for the Storm/Drainage and SWM, Transportation and Sanitary Trunk Servicing Works for the Tributary 'C' drainage area.

Context:

The Downstream Thames River Subwatershed Study was accepted by Council in 1995. This Subwatershed study identified the SWM criteria, environmental targets and governing principles to manage water resources and ecological health of the system.

The RiverBend Community Plan was completed by Proctor & Redfern Limited in May 1997 with various amendments completed in 2000. As part of the community planning process a Servicing Plan was completed and identified a preferred preliminary approach to storm/drainage and SWM servicing within the RiverBend development area. The water resources strategy recommended that the development area be serviced by a combination of a conveyance and SWM system, and other SWM measures.

In November 2008, Council accepted, at the recommendation of Administration, to engage AECOM to undertake the Municipal Class EA study for the Tributary 'C' drainage area. Further, in May 2009, Council accepted an increase to the Municipal Class EA Study for the purpose of including an Environmental Impact Study (EIS).

The field information completed for the EIS identified a cold fishery designation for a majority of the existing watercourse located on the subject lands. Based on the environmental and ecological sensitivity and requirements of the study area, it became evident that it would be beneficial to evaluate the proposed transportation and sanitary trunk works in coordination with the storm/drainage and SWM servicing works within one Municipal Class EA process. An increase in project scope was accepted by Council in November 2009 to incorporate road and sanitary trunk servicing works as a component of the study.

The coldwater fishery within the Tributary 'C' drainage area is believed to be the last water resource of its kind within the City of London. Cooler water supplied by the subsurface springs provides base flow and creates a habitat for resident trout and other coldwater fauna within the creek. Through discussions with approval agencies, they had requested that further ecological assessment be completed as part of the current study to confirm its classification and ensure protection against adverse impacts for London's last remaining coldwater fishery. In order to protect and sustain the resource, further analysis is necessary to assess source control measures as the SWM Best Management Practices (BMP) low impact development (LID) options and base flow to protect, recharge and discharge functions of the Tributary 'C' drainage area. This information was finalized in October, 2011.

The subject land within this study consists of approximately 161 ha of undeveloped grass/forest and small areas of existing low density residential development lands within the Downstream Thames Subwatershed. Development applications have been submitted for the majority of the undeveloped parcels of land within the study area and the intent of this study's recommendations are to develop infrastructures that will service the subject lands and minimize the potential adverse environmental impacts.

The goal of this project is to recommend servicing alternatives which provide the most efficient and cost effective stormwater and storm drainage servicing, sanitary servicing and collector road alignment for the study area in combination with the ability to maintain the main function of the existing water resources and Natural Heritage components. The recommended servicing option will provide storm/drainage and SWM for approximately 29 ha that will discharge directly to Tributary C and the remaining portion of the drainage area is going to the Thames River via the RiverBend Mews SWM facility under post development conditions.

Discussion:

Approximately twenty six options have been evaluated and reviewed by AECOM and City's staff for this study in order to deliver a preferred storm/drainage and SWM servicing option that will be:

- completed in accordance with the Municipal Class EA process;
- meeting the City and approval agencies' standards and requirements;
- taking in consideration landowners' expectations and needs;
- based on the system approach; and
- blended well with the Natural Heritage System.

Multifaceted engineering complexity and compound approval requirements by approval agencies, a commitment to protect/preserve one of London's last remaining coldwater fisheries and regard for landowners' expectations and needs, has led to various responses to all approval agencies, the public and numerous interest group including the First Nation. The City and Consulting Team reviewed and conducted 3 Public Meetings (PM) and 15 meetings with the landowners. On August 19, 2011, the City and the Consulting Team conducted PM #3 where the recommended draft servicing option was presented.

On August 19, 2011, the Munsee-Delaware First Nation, Chief Waddilove, undertook discussions with the City's staff and attended PM #3. In these discussions, Chief Waddilove wants confirmation that the City of London, as the Proponent of this study, will ensure that the proposed stormwater flow that will be discharged to the cold water fishery stream does not adversely affect the environment and/or ecological habitat conditions of this system. It is our understanding that the Chief of Munsee-Delaware Nation is primarily concerned with the following issues:

- Preservation of the Tributary 'C' in relation to the water quality;
- Preservation of the Tributary 'C' in relation to temperature control;
- Preservation of the Tributary 'C' in relation to the fishery and aquatic habitat; and
- Preservation of springs that are supplying and feeding the cold water stream (Tributary 'C') and the setbacks associated with maintaining the cold water fishery functions.

Upon completion of the 1st Draft ESR for this Class EA study, a copy was forwarded to the Munsee-Delaware First Nation on September 19, 2011.

Duty to consult with First Nations is regarded by the approval authority (for this ESR the Ministry of the Environment) as an essential step in stakeholder consultation. It is unfortunate that their concerns were not raised until just before the Public Meeting of August 19, 2011. The recommendations in this report are now being put forward by City staff in an effort to expedite the process and advance the related development plans.

On October 24, 2011, the MOE, City staff and the Consulting Team met with the Munsee-Delaware First Nation. The Chief and First Nation's representatives of Munsee-Delaware Nation confirmed that they will engage the legal and engineering review of the Draft report of the Municipal Class EA Study for Tributary 'C' and they will present the comments of this peer review at our next meeting that was agreed that will be scheduled by the City in December. At this proposed meeting, the Munsee-Delaware First Nation's target is to release the peer review's comments (engineering and legal) to the City with their Council's affirmation.

Also as per the City's request, the Munsee-Delaware First Nation agreed that the City's staff will be permitted to undertake all necessary discussions directly with both consultants and provide all necessary additional information during all phases of this review, if it is required. The following consultants are identified:

- Engineering - Kevin J.D. Ridley, Ph.D., P.Eng. (ON, AB), P.Geol. (AB), QP Red Lea Environmental Corporation;
- Legal Willms Shier Environmental Lawyers LLP

Upon receiving these comments by the City, the City's Team will be required to consider addressing or re-negotiating the acceptable resolutions and it is not possible to provide the time commitment for this task at this time

Conclusions:

At this time, we have only a preliminary cost estimation for the First Nation requested engineering and legal peer review of the ESR for the Class EA Study for the Tributary 'C' drainage area at the estimated cost of \$50,000.00 excluding HST. We have not received the First Nation's Consultants' finalized peer reviews work plan. However, in order to expedite and minimize the time for completing this study, we recommend that this report be accepted, subject to acceptance of the First Nation's Consultants' finalized peer review's work plan by the City's Executive Director of Planning, Environmental and Engineering Services Department as the delegated authority by the Council.

AECOM is the consultant for this study. AECOM has extensive knowledge of the City's storm/drainage and SWM infrastructure and system requirements within the RiverBend Community drainage area and the consultant has demonstrated competency and expertise in completing multi-disciplinary water resource projects that meet EESD's requirements. The Consultant's proposed work program meets delivery requirements needed to proceed in a timely manner with this study. Therefore, it is recommended that AECOM be the consultant to finalize the Class EA study for the Tributary 'C' Drainage Area at the additional fees of \$39,000.00, excluding HST, in accordance with the revised work program and schedule, provided by the Consultant, it being noted that the revised total upset cost of this study including the City's Consultant estimated fees cost and the First Nation's Consultants peer review's cost is \$505,430.00, excluding HST.

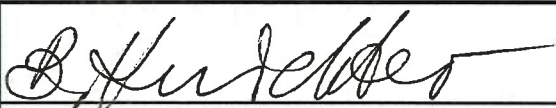

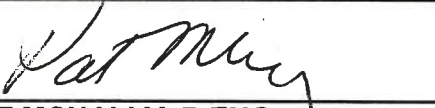
Next Steps:

Upon acceptance by Council and the First Nation's Consultants' finalized peer review's work plan approved by the City's Executive Director of Planning, Environmental and Engineering Services Department as the delegated authority by the Council:

- 1) The Draft ESR will be distributed to all approval agencies and landowners;
- 2) The City will schedule a meeting on December 14, 2011, with the Munsee-Delaware Nation to receive and discuss the peer review comments;
- 3) The Council status report for this Class EA will be provided in February on the results of addressing the First Nation's comments.

Acknowledgements:

This report was prepared by Berta Krichker of the Stormwater Management Unit.

SUBMITTED BY:	RECOMMENDED BY:
	
BERTA KRICKER, M.Eng., F.E.C., P. Eng. MANAGER OF STORMWATER STORMWATER MANAGEMENT UNIT	RON STANDISH, P.ENG. DIRECTOR, WASTEWATER AND TREATMENT – PLANNING, ENVIRONMENTAL AND ENGINEERING SERVICES
REVIEWED & CONCURRED BY:	
	
PAT MCNALLY, P.ENG. EXECUTIVE DIRECTOR OF PLANNING, ENVIRONMENTAL AND ENGINEERING SERVICES	

October 27, 2011

Attach: Appendix "A" – Sources of Financing
Appendix "B" – Location Map

c.c. AECOM
John Braam, City Engineer

Chair and Members
Built and Natural Environment Committee

October 27, 2011
(Approve Additional Consulting Fees)

**RE: Status Report for Environmental Assessment Study for Tributary 'C' Drainage Area
Capital Project ES3019-11 - 2011 SWM Ponds & Outlet Structures for Linked Systems
Various Consultants - \$50,000 (excluding H.S.T.)
AECOM - \$455,430 (excluding H.S.T.)**

FINANCE DEPARTMENT REPORT ON THE SOURCES OF FINANCING:

Finance Department confirms that the cost of this project can be accommodated within the financing available for it in the Capital Works Budget and that, subject to the adoption of the recommendations of the Director, Wastewater and Treatment, the detailed source of financing for this project is:

ESTIMATED EXPENDITURES	Approved Budget	Committed to Date	This Submission	Balance For Future Work
Engineering	\$324,973	\$234,407	\$90,566	\$0
Land Purchase	1,526,144	1,526,144		0
Construction	9,619,166	503,071		9,116,095
City Related Expenses	30,817	16,344		14,474
NET ESTIMATED EXPENDITURES	\$11,501,100	\$2,279,966	\$90,566 1)	\$9,130,568

SOURCE OF FINANCING:				
Drawdown from Sewage Works Reserve Fund	\$472,700	\$93,708	\$3,722	\$375,270
Drawdown from City Services - Mjr SWM Reserve Fund (Development Charges) 2)	4,275,400	2,186,258	86,844	2,002,298
Debt Quota (Serviced through City Services - Mjr SWM Reserve Fund - (Development Charges) 2)	6,753,000			6,753,000
TOTAL FINANCING	\$11,501,100	\$2,279,966	\$90,566	\$9,130,568

NOTES:

1) **Financial Note:**

Estimated Expenditure

Less: Amount previously approved by Council - Project ES3018

May 25/09 (\$223,195); ES5253 Nov.23/09 (\$109,217);

and ES3019-11 Feb 4/11 (\$84,018 excluding H.S.T.)

Net Estimated Expenditure

Add: HST @ 13%

Total Contract Price

Less: HST Rebate

Net Contract Price

	Various Consultants	AECOM	Total
	\$50,000	\$455,430	\$505,430
		416,430	416,430
	50,000	39,000	89,000
	6,500	5,070	11,570
	56,500	44,070	100,570
	5,620	4,384	10,004
	\$50,880	\$39,686	\$90,566

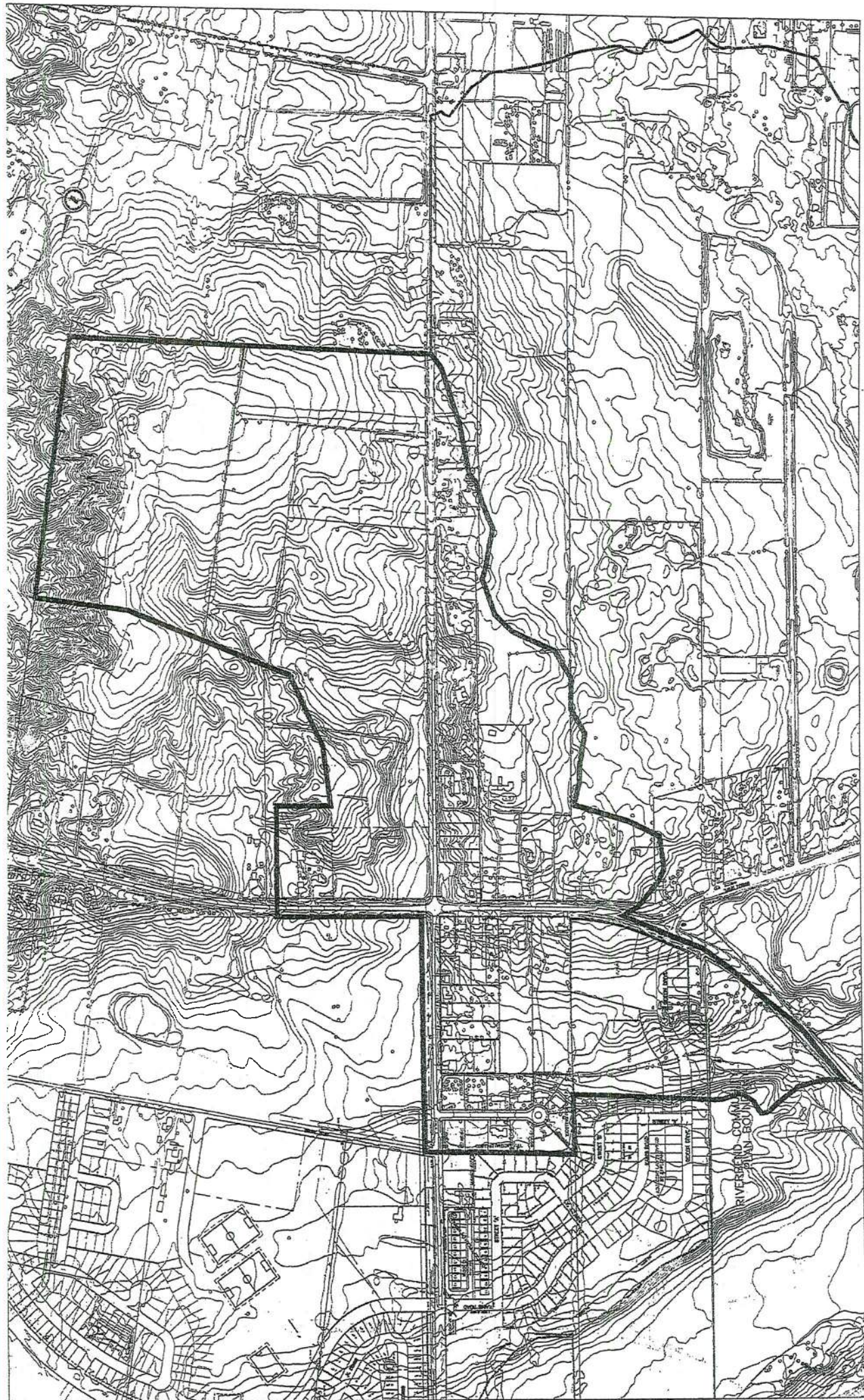
2) Development charges have been utilized in accordance with the underlying legislation and the Development Charges Background Studies completed in 2009.

JG



Alan Dunbar
Manager of Financial Planning & Policy

APPENDIX "B"



THE CITY OF LONDON
TRIBUTARY 'C'
MUNICIPAL CLASS EA
CATCHMENT AREA

AECOM