

18TH REPORT OF THE
BUILT AND NATURAL ENVIRONMENT COMMITTEE

Meeting held on July 25, 2011, commencing at 4:00 p.m.

PRESENT: Councillor W. J. Polhill (Chair), Mayor J. F. Fontana, Councillors J. L. Baechler, D. Brown, J. Swan and S. White and J. Purser (Acting Secretary).

ALSO PRESENT: P. McNally, D. Ailles, B. Krichker and J. Leunissen.

I YOUR COMMITTEE RECOMMENDS:

Proceeding
with Greenway
Biosolids
Upgrades
While
Investigating
Alternative
Sludge
Disposal
Options

1. (1) That, on the recommendation of the Director, Wastewater and Treatment, Planning, Environmental and Engineering Services, the following actions be taken with respect to the appointment of a consultant for the Bio-Solids Dewatering Optimization and Upgrade Project (ES 2095):

- (a) R.V. Anderson and Associates, 557 Southdale Road East, Suite 200, London N6E 1A2 **BE APPOINTED** for Consulting Engineers—Design Phase, for the Bio-Solids Dewatering Optimization and Upgrade project in accordance with the estimate, on file, at an upset amount of \$350,986 (excluding H.S.T.), based upon the Fee Guideline for Professional Engineering Services, recommended by the Ontario Society of Professional Engineers, and in accordance with Section 15, Clause 15.2(d) of the Procurement of Goods and Services Policy;
- (b) the financing for the project **BE APPROVED** in accordance with the "Sources of Financing Report" attached hereto as Appendix "A";
- (c) the approvals given herein **BE CONDITIONAL** upon the Corporation entering into a formal contract with the consultant for the work.

Tridon
Properties
Limited – 1100
Fanshawe
Park Road
East (39T-
11501/Z-7897)

2. (2) That, on the recommendation of the Director of Development Planning and the Managing Director of Development Approvals Business Unit, as a result of the input at the public meeting held by the Built and Natural Environment Committee with respect to the application submitted by Tridon Properties Limited relating to the proposed draft plan of subdivision and proposed rezoning of property located at 1100 Fanshawe Park Road East:

- (a) the Approval Authority **BE ADVISED** by Municipal Council that condition #33 in Appendix "39T-11501" of the staff report, dated July 18, 2011, be replaced with the following:

"33. In conjunction with the Design Studies submission, the Owner shall have his professional engineer identify the storm/drainage and SWM servicing works for the subject lands and how the interim and ultimate drainage from external lands at 1150 & 1152 Fanshawe Park Road East will be handled (e.g. including drainage ditch and outlet from Stackhouse Avenue), all to the satisfaction of the City Engineer.";

- (b) the Approval Authority **BE ADVISED** by Municipal Council that the following additional condition be added as a condition of draft approval:

"xx. Storm drainage Design Studies prepared by the Owner's consultant will be provided to the owners of 1150 & 1152 Fanshawe Park Road East, upon receipt by the City, to the satisfaction of the Managing Director of Development Approvals Business Unit.";

- (c) a change in the drainage flows for lands at 1150 & 1152 Fanshawe park Road east to drain entirely towards Fanshawe Park Road East **BE APPROVED**;
- (d) Tridon Properties Limited's submission of a claim to cover the cost of

oversizing storm works based on the least cost internal routing plan to accommodate stormwater from 1150 & 1152 Fanshawe Park Road East and the Fanshawe Park Road East road allowance, in accordance with the Development Charges By-Law **BE APPROVED**, and

- (e) the environmental assessment graphic entitled "Modified Stoney Creek EA – 2011" **BE REVISED** by the Managing Director of Development Approvals to include drainage flows from 1150 and 1152 Fanshawe Park Road East drain to Fanshawe Park Road east in their entirety.

It being noted that the Built and Natural Environment Committee heard a verbal delegation from Mr. John D. Ross with respect to this matter.

Corlon
Properties Inc.
and
Sunningdale
Golf & Country
Club Ltd. –
312
Sunningdale
Road East
(39T-10502)
Consulting Fee
Claim

3. (4) That, on the recommendation of the Director of Development Planning and the Managing Director, Development Approvals Business Unit, the following actions be taken with respect to entering into a subdivision agreement between The Corporation of the City of London and Corlon Properties Inc. and Sunningdale Golf & Country Club Ltd., for the subdivision of land over Part of Lot 48, Compiled Plan 1029, (Geographic Township of London), City of London, County of Middlesex, municipally referred to as 312 Sunningdale Road East;

- (a) the attached Subdivision Agreement between The Corporation of the City of London and Corlon Properties Inc. and Sunningdale Golf & Country Club Ltd - (39T-10502) **BE APPROVED**;
- (b) the financing for this project **BE APPROVED** as set out in the Source of Financing Report attached hereto as Appendix "A";
- (c) the Mayor and the City Clerk **BE AUTHORIZED** to execute this Agreement, any amending agreements and all documents required to fulfill its conditions; and
- (d) Council **BE ADVISED** that the anticipated reimbursements from the Capital Works Budget have been negotiated:
 - i) for lands dedicated to the City for the construction of Sunningdale SWM Facility 4, (being Block 176 of the Draft Approved Plan 39T-10502) the estimated cost of which is \$1,147,804.00 Dollars (CDN), (4.622 ha at \$247,100/hectare (\$100,000/acre)), plus applicable taxes;
 - ii) for lands dedicated to the City, compensation area, (being Block 179 of the Draft Approved Plan 39T-10502) the estimated cost of which is \$7,460.91 Dollars (CDN), (0.549 ha at \$13,590/hectare (\$5,500/acre)), plus applicable taxes; and
 - iii) for approved consulting fees as accepted by the Managing Director, Development Approvals Business Unit, in consultation with the Director – Development Finance and the City Engineer, which in the opinion of the City Engineer were necessary and pertinent to the initial design of Sunningdale SWM Facility 4, and useful for the remaining activity necessary to complete the construction of the pond, estimated in the amount not to exceed an amount of \$198,289.44 Dollars (CDN), plus applicable taxes.

It being noted that the Built and Natural Environment Committee heard a verbal delegation from Mr. David R. Schmidt, Development Manager, Sunningdale with respect to this matter.

It being further noted that the Managing Director of Development Approvals provided the attached information handout showing the project costs.

II YOUR COMMITTEE REPORTS:

Pottersburg
Creek Erosion
Repair Works

4. (3) That the Built and Natural Environment Committee received an information report from the Executive Director, Planning, Environmental and Engineering Services with respect to Pottersburg Creek erosion repair works.

The meeting adjourned at 4:47 p.m.

①

Chair and Members
Built and Natural Environment Committee

July 8, 2011
Consulting Engineer)

RE: Bio-Solids Dewatering Optimization and Upgrade
Capital Project ES2095 - Bio-Solids Disposal and Optimization Plan
RV Anderson and Associates - \$350,986 (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:

<u>ESTIMATED EXPENDITURES</u>	<u>Approved Budget</u>	<u>Committed to Date</u>	<u>This Submission</u>	<u>Balance for Future Work</u>
Engineering	\$1,350,000	\$33,072	\$357,163	\$959,765
Construction	7,632,000	1,968,369		5,663,631
NET ESTIMATED EXPENDITURES	\$8,982,000	\$2,001,441	\$357,163 1)	\$6,623,396
SOURCE OF FINANCING:				
Drawdown from City Services - Sewers Reserve Fund (Development Charges) 2)	\$2,597,300	\$688,606	\$122,884	\$1,785,810
Debenture Quota (Serviced through City Services - Sewer R.F.(Development Charges) 2)	493,000			493,000
Drawdown from Sewage Works Reserve Fund	1,254,469	1,176,097	78,372	0
Debenture Quota (Serviced through Industrial Oversizing Reserve Fund)	613,700	136,738	24,401	452,561
Debenture Quota	4,023,531		131,506	3,892,025
TOTAL FINANCING	\$8,982,000	\$2,001,441	\$357,163	\$6,623,396

1) **Financial Note:**

Contract Price
Add: HST @13%
Total Contract Price Including Taxes
Less: HST Rebate
Net Contract Price

Engineering

\$350,986
45,628
396,614
39,451
\$357,163

- 2) This new growth related work will enable the City to significantly defer the need for a new incinerator. A review of the costs have been performed along with the evaluation of the growth component. The consultants have determined that this project is 42.7% Growth related (34.4% DC Rate Supported).
- 3) As part of this review, staff visited several municipalities to confirm operations efficiencies. The business case suggests a return on investment of less than four years, with annual savings in the magnitude of \$800,000.

JG



Alan Dunbar
Manager of Financial Planning & Policy

File Number: 39T-10502
F. Gerrits/S. Mathers

THIS AGREEMENT made this ___ day of ____, 2011

BETWEEN:

THE CORPORATION OF THE CITY OF LONDON
(hereinafter called the "City")

OF THE FIRST PART

AND

CORLON PROPERTIES INC.
(hereinafter called "the Owner")

AND

SUNNINGDALE GOLF & COUNTRY CLUB LTD.
(hereinafter called "the Owner")

OF THE SECOND PART

WHEREAS the Owner represents that it is seized of those lands situate in the City of London, (formerly the Township of London) in the County of Middlesex, more particularly described as all of Parts ~~XX and XX~~ of plan ~~33R-XXXXX~~ and desires to obtain the approval of the City of London for the Draft plan of Subdivision (39T-10502) of the said lands.

AND WHEREAS the said Plan of Subdivision would be premature, would not be in the public interest, and would not be lands for which municipal services are or would be available unless assurances were given by the Owner that the matters, services, works and things referred to in this Agreement were done in the manner and in the order set out in this Agreement;

AND WHEREAS the Approval Authority has required as a condition precedent to his approval of the said Plan of Subdivision that the Owner enter into this Agreement with the City;

AND WHEREAS the Owner desires that the City assume the role of Project Manager for the, tendering and contract administration of 133.1 meters of 375 millimeter diameter sanitary sewer through ~~Part XXX of 33R-XXXXXX~~

AND WHEREAS the Owner agrees to fund Sanitary Sewer Project in its entirety, and provide a certified cheque payment for the full accepted tender value including the full cost associated with Part F - Sanitary Sewer Works and a proportional share of Part D Miscellaneous (Excluding D-7) totaling XXXXXX as per the successful tender document;

NOW THEREFORE THIS AGREEMENT WITNESSETH that for other valuable consideration and the sum of Two Dollars (\$2.00) of lawful money of Canada, paid by the City to the Owner at or before the execution of these presents (the receipt whereof is hereby acknowledged) the parties hereto covenant and agree each with the other to comply with, keep, perform and be bound by each and every term, condition and covenant herein set out to the extent that the same are expressed to be respectively binding upon them, and the same shall enure to the benefits of and shall be binding upon their respective heirs, executors, administrators, successors and assigns.

File Number: 39T-10502
F. Gerrits/S. Mathers

1 DEFINITIONS

The words and phrases defined in this paragraph shall for all purposes of this Agreement and of any subsequent agreement supplemental hereto have the meanings herein specified unless the context expressly or by necessary implication otherwise requires.

- (a) "Director - Development Finance" means that person who from time to time, is employed by the City as its Director of Development Finance.
- (b) "City Engineer" means that person who, from time to time, is employed by the City as its Engineer.
- (c) "Planning Act" means the Planning Act R.S.O. 1990, c. P.13, as amended;
- (d) "Property" means the land described in **Schedule "A"**, hereto;
- (e) "Sanitary Sewer Project" means these works necessary for the construction of 133.1m of 375 mm diameter sanitary sewer through ~~Part XXX of 33R-XXXXXX~~
- (f) "SWM Facility Works" means those acts necessary for the construction of Sunningdale SWM Facility 4; and
- (g) "CSRF" means the City Services Reserve Fund

2 LANDS FOR SUNNINGDALE SWM FACILITY 4:

Upon registration of this Agreement, the Owner shall dedicate ~~Part XXX of 33R-XXXXXX~~ to the City, free and clear of all encumbrances, all at no cost to the City and all to the satisfaction of the City Engineer. This land dedication is eligible for reimbursement from the City Services Reserve Fund (CSRF) as described in Section 3(a) of this Agreement to be paid in accordance with Section 3(b).

3 CLAIMS AGAINST THE CITY SERVICES RESERVE FUND

- (a) The anticipated reimbursements from the Fund are:
 - iv) for lands dedicated to the City for the construction of Sunningdale SWM Facility 4, (being Part 1, 2A, 2B, and 3 of Reference Plan XXXXXX) the estimated cost of which is \$1,147,804.00 Dollars (CDN), (4.622 ha at \$247,100/hectare (\$100,000/acre)), plus applicable taxes;
 - v) for lands dedicated to the City, compensation area, (being Block 179 of the Draft Approved Plan) the estimated cost of which is \$7,460.91 Dollars (CDN), (0.549 ha at \$13,590/hectare (\$5,500/acre)), plus applicable taxes; and
 - vi) for approved consulting fees as accepted by the Managing Director, Development Approvals Business Unit, in consultation with the Director – Development Finance and the City Engineer, which in the opinion of the City Engineer were necessary and pertinent to the initial design of Sunningdale SWM Facility 4, and useful for the remaining activity necessary to complete the construction of the pond, estimated in the amount not to exceed an amount of \$258,318.03 Dollars (CDN).
- (b) Upon approval of an application for a claim to the CSRF, the City shall pay the approved claim in full to the Owner in accordance with the then in force Development Charges By-law and any policies established thereunder. No claim for SWM Facility lands will be approved until such time as the property has been transferred to the City.

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4 FINANCING OF THE SANITARY SEWER PROJECT AND CLAIMS AGAINST THE URBAN WORKS RESERVE FUND:

- a) The Owner shall be solely responsible for the financing of Sanitary Sewer Project of this Agreement, to cover all construction costs, security deposits and administrative charges as invoiced by the City.
- b) The following procedure shall be followed for the invoicing and financing of all works associated with construction of the Sanitary Sewer Project:
 - i) the Owner may choose to cancel the Sanitary Sewer Project following the opening of the tender, should the recommended tender, that meets the City's specifications and requirements in all areas, exceed the Engineer's construction cost estimate;
 - ii) if the Owner chooses to proceed with construction, the Owner shall provide a certified cheque payment to the City for the full construction costs within thirty (30) days of the tender closing. If no payment is received, the contract will not be awarded;
 - iii) the City shall receive and process payment certificates using the certified cheque payment provided by the Owner;
 - iv) in the event of cost savings on the Sanitary Sewer Project, the unused balance of the certified cheque payment will be released to the Owner upon completion of the construction without interest, and
 - v) in the event of a short fall between the estimated tender costs and the actual construction costs of the Sanitary Sewer Project, the Owner shall promptly reimburse the City for the difference.
- c) The City shall undertake all works related to the Sanitary Sewer Project at the Owner's entire expense as a capital cost incurred on behalf of the Owner and as authorized by the City Engineer subject to a claim under this section.

If the Owner alleges an entitlement to any reimbursement or payment from the Urban Works Reserve Fund (the "Fund") either as a result of the terms hereof or pursuant to the requirements of City of London By-law C.P.-1440-167 as amended (the "Development Charges By-law"), the Owner may, upon issuance of a Final Certificate by the City Engineer, make application to the said Fund for payment of the sum alleged to be owing, and as confirmed by the Director – Development Finance, in consultation with the City Engineer, and the payment will be made pursuant to the by-law and any policy established by Council to govern the administration of the said Fund. Claims may not be submitted for any work invoiced to the City which has not yet been reimbursed to the City by the Owner.

It is further understood by the Owner that no words or phrases used in this Agreement relating to the calculation of any credits due the Owner or entitlements from the Fund or elsewhere shall be interpreted as an obligation or promise on the part of the City to pay from the said Fund except in conformity with the By-law and policies governing the administration thereof as provided in this clause above and no payment shall be made except from the said Fund and only after appropriate application is made as herein set out.

The City may plead this Agreement as an estoppel against any application or action whatsoever to challenge the validity of this Agreement, the Development Charges By-law or the Fund. In addition, the Owner agrees that in the event that the Fund does not have sufficient funds to pay the Owner's claim by reason of an order or judgment of a Court of Law that or that the Development Charges By-law is void or invalid for any reason, the Owner will not seek further or other reimbursement from the City.

If the Owner undertakes work subject to a claim under this section it shall not seek a credit under section 38 of the *Development Charges Act* and this clause may be

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pleaded in any complaint, action, application or appeal to any court or tribunal in which the Owner who is entitled to make a claim against the Fund seeks a credit under Section 38.

The anticipated claims against the Fund are:

- (i) for the oversizing of 133.1 meters of 375 millimeter diameter sanitary sewer through the stormwater management block for the estimated oversizing claim value of \$7,187.40.

5 RELEASE

Subject to the terms hereof, the Owner releases the City of and from all claims, suits, demands, actions, causes of action, and damages accruing to the Owner resulting directly or indirectly from the use of the Owner's lands, to the date of this Agreement.

6 INCONTESTABILITY

The Owner will not call into question directly or indirectly in any proceeding whatsoever in law or in equity or before any administrative or other tribunal the right of the City to enter into this Agreement and to enforce each and every term, covenant and condition thereof and this provision may be pleaded by the City in any such action or proceeding as a complete and conclusive estoppel of any denial of such right.

7 REGISTRATION DOCUMENTS

The City agrees to register the transfer of ~~Part XXX of 33R XXXXX~~ forthwith on the delivery thereof to the City and authorize the claims to the CSRF as specified in Section 3 of this Agreement.

8 GENERAL PROVISIONS

- (a) The parties hereby to authorize, empower and instruct their solicitors to enter into an appropriate escrow arrangement to facilitate the completion of those parts of this Agreement to be completed upon registration of this Agreement and those to be completed thereafter. In default of agreement between the parties' solicitors as to the terms such appropriate escrow arrangement; the Documentation Registration published by the Law Society of Upper Canada on its website shall be employed.
- (b) The division of this Agreement into sections and headings (or paragraphs) herein are for convenience or reference only and are not be used in the interpretation of the provisions related to them.
- (c) The Owner and its successors shall not assign this Agreement in whole or in part without the written consent of the City, which consent shall not be unreasonably withheld.
- (d) Subject to the provisions herein, the Owner shall be subject to all By-laws of the City. In the event of a conflict between the provisions of this Agreement and the provision of any By-law of the City, the provisions of the By-law shall prevail.
- (e) All of the provisions of this Agreement are, and are to be construed as, covenants and agreements as though the words importing such covenants and agreements were used in each separate clause hereof. Should any provision of this Agreement be adjudged unlawful or not enforceable, it shall be considered separate and severable from the agreement and its remaining provisions as though the unlawful or unenforceable provision had never been included.

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- (f) This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns, and that the Agreement and the covenants herein contained shall run with and burden the Lands.
- (g) Any notices required or permitted to be given pursuant to the terms of this Agreement shall be given in writing sent by prepaid registered post, addressed in the case of notice given by the City to: Corlon Properties Inc., 379 Sunningdale Road West, London, Ontario N6G 5B9 and in the case of notice given by the Owner, addressed to: The City Clerk, P.O. 5035, London, Ontario N6A 4L9.

Notice shall conclusively be deemed to have been given on the day that the same is posted. Wherever in this Agreement the City Engineer is permitted or required to give direction, exercise supervision, or to require work to be done or work to cease in respect of the construction, installation, repair and maintenance of works and services, he shall be deemed to have done so if he communicates such direction, supervision or requirement, orally or in writing, to any person purporting or appearing to be a foreman, superintendent or other servant of the Owner, and if the City Engineer shall have made such communication orally he shall confirm such communication in writing as soon as conveniently possible.

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SCHEDULE "A"

This is Schedule "A" to the Subdivision Agreement dated this _____ day of _____, 2011, between The Corporation of the City of London and Corlon Properties Inc. and Sunningdale Golf & Country Club Ltd. to which it is attached and forms a part.

ALL AND SINGULAR that certain parcel or tract of land and premises, lying, being and situate on ~~63R-xxxx Part X~~, in the geographic (Township of London), now in the City of London, County of Middlesex.

3

Chair and Members
 Built and Natural Environment Committee

July 8, 2011
 (Property Acquisition)

RE: Sunningdale SWM Pond Facility No. 4
 Capital Project ES3019 - 2010 SWM Ponds & Outlet Structures for Linked Systems
 Capital Project TS1496-2 - Sunningdale Rd Widening - Phase 2 Intersections Upgrades
 Corlon Properties Inc. & Sunningdale Golf & Country Club Ltd.

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 of Development Planning and the Managing Director of Development Approvals Business Unit, the detailed source of financing for this project is:

	Approved Budget	Committed to Date	This Submission	Balance for Future Work
ESTIMATED EXPENDITURES				
ES3019-2010 SWM Ponds & Outlet Structures for Linked Systems				
Engineering	\$2,268,000	\$926,348	\$201,779 1)	\$1,139,873
Land Purchase	5,000,000	3,617,329	1,131,123	251,548
Construction	7,916,400	1,381,089		6,535,311
	<u>15,184,400</u>	<u>5,924,766</u>	<u>1,332,902</u>	<u>7,926,732</u>
TS1496-2-Sunningdale Rd Wdng Ph. 2 Intersections Upgrades				
Engineering	\$250,000			\$250,000
Land Purchase	500,000		24,142	475,858
	<u>750,000</u>	<u>0</u>	<u>24,142</u>	<u>725,858</u>
NET ESTIMATED EXPENDITURES	<u>\$15,934,400</u>	<u>\$5,924,766</u>	<u>\$1,357,044</u>	<u>\$8,652,590</u>

SOURCE OF FINANCING:

ES3019-2010 SWM Ponds & Outlet Structures for Linked Systems				
Drawdown from Sewage Works Reserve Fund	\$624,500	\$236,991	\$48,070	\$339,439
Debenture By-law No. W.-5289-233 2) (Serviced through City Services - Sewer Reserve Fund - Development Charges)	14,559,900	5,687,775	1,284,832	7,587,293
	<u>15,184,400</u>	<u>5,924,766</u>	<u>1,332,902</u>	<u>7,926,732</u>
TS1496-2-Sunningdale Rd Wdng Ph. 2 Intersections Upgrades				
Debenture Quota 3)	\$213,700		\$6,760	\$206,940
Drawdown from City Services - Roads Reserve Fund - (Development Charges) 2)	536,300		17,382	518,918
	<u>750,000</u>	<u>0</u>	<u>24,142</u>	<u>725,858</u>
TOTAL FINANCING	<u>\$15,934,400</u>	<u>\$5,924,766</u>	<u>\$1,357,044</u>	<u>\$8,652,590</u>

Financial Note:

Contract Price	Engineering ES3019
Add: HST @13%	\$198,289
Total Contract Price Including Taxes	25,778
Less: HST Rebate	224,067
Net Contract Price	22,288
	<u>\$201,779</u>

SWM Pond Land and required Compensation (ES3019)	\$1,131,123
Transportation Land (TS1496-2)	24,142
Total Land Purchase cost	<u>\$1,155,265</u>
TOTAL ENGINEERING & LAND	<u>\$1,357,044</u>


NOTES:

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

NOTE TO CITY CLERK:

Administration hereby certifies that the estimated amounts payable in respect of this project does not exceed the annual financial debt and obligation limit for the Municipality of Municipal Affairs in accordance with the provisions of Ontario Regulation 403/02 made under the Municipal Act, and accordingly the City Clerk is hereby requested to prepare and introduce the necessary authorizing by-laws.

An authorizing by-law should be drafted to secure debenture financing for Project TS1496-2 - Sunningdale Rd Wdng Phase 2 Intersections Upgrades for the net amount to be debentured of \$213,700.


 Alan Dunbar
 Manager of Financial Planning & Policy

Corlon Properties Inc. and Sunningdale Golf & Country Club Ltd.
Sunningdale SWM No.4 Consulting Fee Claim

Development Charges Sunningdale SWM No.4 Estimate \$ 4,737,700.00

Accepted Corlon Claim

Stantec Design Fee (July 18, 2011 BNEC Report) \$ 198,000.00

City of London Led Costs

Delcan Functional Design Fee (July 19, 2010 BNEC Report) \$ 375,000.00

Delcan Contract Administration Fee (July 18, 2011 BNEC Report) \$ 185,000.00

Pond Construction Tender (July 18, 2011 BNEC Report) \$ 2,379,859.50

Land Cost Value (July 18, 2011 BNEC Report) \$ 1,155,264.91

Total Without Stantec Fee

Eng Fee Without Stantec Fee (%) 14%
Eng Fee With Stantec Fee (%) 18%

TO:	CHAIR AND MEMBERS BUILT AND NATURAL ENVIRONMENT COMMITTEE MEETING ON JULY 25, 2011
FROM:	PAT MCNALLY, P.ENG. EXECUTIVE DIRECTOR PLANNING, ENVIRONMENTAL AND ENGINEERING SERVICES
SUBJECT:	POTTERSBURG CREEK EROSION REPAIR WORKS

RECOMMENDATION

That, on the recommendation of the Executive Director of Planning, Environmental and Engineering Services (PEESD), this report **BE RECIEVED** and reported to Municipal Council for their information.

BACKGROUND

Purpose:

To report to Council on the results of preliminary soils testing in advance of stream bank erosion repairs area and identify the plan of action to deal with higher than anticipated concentrations of PCB in a sample taken within the Pottersburg Creek Flood Plain area 'D' - the Jehovah's Witnesses (London Assembly Hall) site located at 459 Second Street.

Context:

In 1987, the City and the Ministry of the Environment (MOE) jointly undertook PCB material/soil containment works within the Pottersburg Flood Plain Area within the Kiwanis Park area and/or adjacent to Kiwanis Park. The containment works were based on the objectives that the contaminated material/soil by PCB (20-25ppm) be sealed (capped) by a clay liner with a thickness of app.15 cm (6 in). This containment worked reasonably well for a period of more than 20 years.

The City has worked with the MOE over the past 3 years on their clean up of the PCB vaults at Huron/Clark. That effort re-educated the community on the clean up from the early 1980s. During the process, current PEESD administration were also educated with respect to the City's obligation to monitor erosion in the Creek particularly in areas where 'lightly' contaminated PCB waste was placed and subsequently capped. Heavy contaminated material went to the vaults that were subsequently cleaned up. Over the last 3 years there have been various spin off stories – the Middlesex Health Unit (MHU) got involved in a blood testing program, the site to the north of the vaults – owned by ABB – has come under scrutiny because of historic PCBs leaking off site.

Like many creeks, Pottersburg Creek runs through an urban/industrial portion of the City as is impacted by the upstream agricultural practices, business, industries, stormwater run-off and various uses in the watershed. The creek's history with respect to PCBs is unique and well documented. In 2009, the Ministry of the Environment has concluded that the levels of PCBs found in water and sediment are within or well below the limits the ministry considers acceptable from a human health perspective. In 2010 the Middlesex London Health Unit concluded in their PCB Blood Survey that as a group, those who lived or played in and around the creek did not have PCB levels different from those of the reference population. The City's role includes monitoring, maintaining and repairing those systems in place that continue to mitigate any impacts from the historical uses.

Discussion:

Since 2003, the City has been working on a phased approach to address various issues to eliminate and minimize the flooding and erosion deficiencies and provide the recovery of public and privately owned lands presently within a portion of the Pottersburg Floodplain. In 2008, the

MOE inspected a portion of the Pottersburg Creek and identified the erosion deficiencies in the channel within the area of the PCB containment in the Flood Plain areas. The creek bank erosion is not uncommon however, the MOE's concerns were related to if the 'capped PCBs' material may be exposed, what measures need to be undertaken by the City to re-cap this material. Addressing the erosion areas is the next phase of the City's work plan.

In the summer 2010, the City (via contractor & consultant) constructed a pedestrian path and bridge in Kiwanis Park that inadvertently disturbed some of the capped material. Public representatives took a number of soil samples within the constructed pedestrian path and bridge area in Kiwanis Park. Based on the City's re-sampling in the same area it was confirmed PCB contaminations in the soil of approximately 20-22ppm – as expected based on the historic placement records. The MOE was made aware of this information and we continue to work with all involved parties.

To address these issues, the City conducted number meetings with the MOE, and based on these meetings, we agreed to the following main objectives:

1. The City would review and evaluate available information on where the excavation of material, stockpiling and spreading may have taken place in Kiwanis Park ;
2. Once the City knows the extent of the activity the City can test for PCBs to determine nature and extent of any problem (preliminary testing in late 2010, subsequent testing this summer);
3. The City would formulate a remediation plan including addressing the erosion issue; and
4. The City would submit the plan to the MOE for their agreement as per the recommended practices discussed in the 1980's.

In February, 2011, the Stormwater Management Unit (SWM) reviewed a record of the City's work completed along the Pottersburg Creek and Walker Drain in Kiwanis Park related to parks improvements. We met with the MOE and the MOE accepted that the review of the park related work and plans for subsequent testing.

Also, in order to proceed with the remediation works to address the identified Pottersburg Creek erosion deficiencies, the City developed a remediation plan that was accepted in principal by the MOE that included baseline preliminary soil, sediment and surface water monitoring of the identified sections of the Flood Plain. Phase 1 of this monitoring commenced in summer – autumn of 2010 and Phase 2 was undertaken in June 2011. However, in June 2011, the City completed soil sampling and analyses within Kiwanis Park area where the construction works were undertaken by Parks Planning. In the total approximately 5 PCB soil contamination spots were found within Kiwanis Park where the analyzed samples identify elevated levels above the current 'guideline' values but at levels within the accepted limits given the history of the site.

Phase 2 involved three different types of samples; soil core samples taken at various locations, stream bank core samples taken in areas where bank erosion was evident, samples of sediment from the creek bed and water samples (see attachment A). Of the over 40 samples taken, there were 4 soil samples and 3 sediment samples that were similarly moderately elevated. There was one outlier. Stream bank erosion samples were tested in four areas (see attachment B). One core sample in area D, a high concentration of PCB's of 112ppm was found, greater than the anticipated 20-25 ppm range at the time of placement. The laboratory was asked to check the duplicate sample to check this analysis and they confirmed 112ppm. The sediment sample in this station is 0.133, well within the permissible level for PCBs in sediment. Results were received by the City on July 12.

Since receiving the results, the City conducted a number of meetings with the MOE and Health Unit, and all parties agreed to the following approach:

- Additional stream bank samples should be collected in the stream bank areas that are inclined to be eroded as well as re-sampling of area D to confirm 'spot' or wide spread potential contamination;
- It is also recommended that a number of surface soil samples be collected similar to the approach taken for the other park samples;

- City forces will be securing the area of the Pottersburg Creek Flood Plain - bank erosion repair area and place appropriate precautionary signage;
- Develop appropriate monitoring to evaluate balance of capped areas to prevent 'breakthrough', and if necessary reinforcing of 'cap'; and
- Design and implementation of remediation works based on above, including information gained from additional samples.

On July 18, 2011, at the meeting with the City and the MOE, the Health Unit confirmed that based on the City's preliminary baseline sampling, the Health Unit does not consider the Pottersburg Flood Plain stream bank erosion repair area soil (area D) to be a risk to the public health and safety.

The City's Communication Plan discussed and reviewed with the MOE and the Middlesex Health Unit includes:

- the City contacting the Jehovah Witness Congregation, located at 459 Second Street (initial contact and discussion has taken place on July 19th);
- the City releasing a statement to the Press to inform the Public: and
- the City has sent copies of the Press Release to former members of the Community Liaison Group that was form for the original PCB storage site decommissioning.

Conclusions:

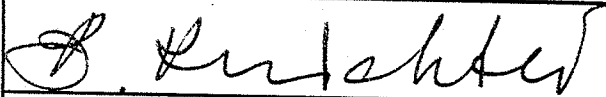

Based on the results of preliminary baseline PCB monitoring within the stream bank erosion repairs area within the Pottersburg Creek Flood Plain area 'D', the City is proceeding (during the week of July 25, 2011) with the additional stream bank sampling that will be collected in the stream bank areas that are eroded as well as re-sampling to confirm extent and limits of the higher than anticipated PCB levels. Based on the over 50 samples taken in the last year, it is anticipated that the area in question is an anomaly resulting from original placement procedures or site alterations that have taken place in the intervening years.

Given the mutual cooperation with MOE dating back to the original clean up in the 1980's and continuing cooperation with the cleanup of the Clark/Huron site, the City has approached this situation with the same mutual interests in mind. The City remains prepared to deal with remediation of areas that were believed to be in compliance with contaminant loading at the time of placement, and will continue to seek the support of the MOE in dealing maintenance and remediation plans.

Upon completing additional sampling and analyses, staff will proceed with the design of appropriate erosion repair work. As appropriate future status reports will be provided to City Council.

Acknowledgements:

This report was prepared by Berta Krichker Manager M. Eng, F.E.C., P. Eng., Manager of Stormwater, and Stormwater Management Unit.

SUBMITTED BY:	RECOMMENDED BY:
	
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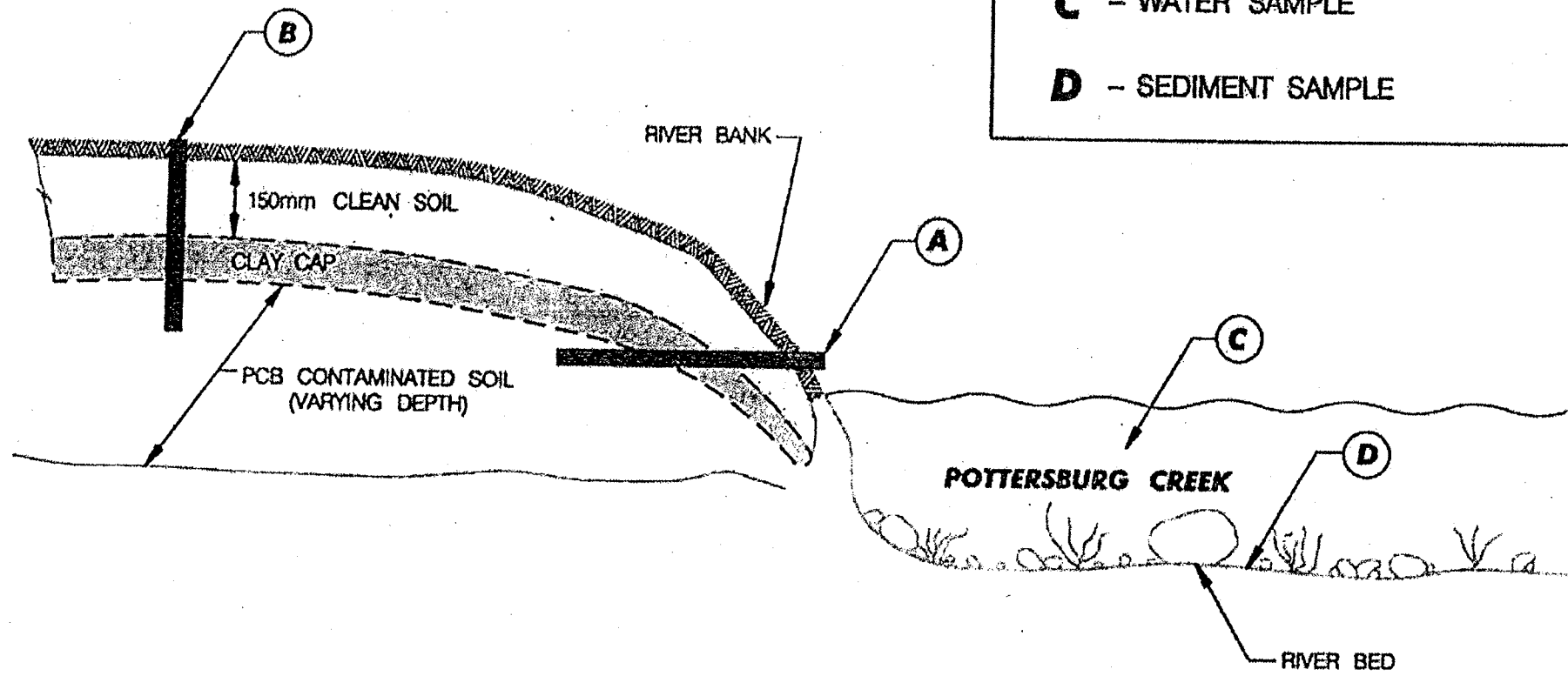
July 22, 2011

Attachment: Appendix 'A' Typical Cross Section
Appendix 'B' Erosion Back Repairs Map

c.c. K. Blanchard, MOE, London District Office
Dr. S. Siu, MLHU
J. Kobyluk, Jehovah's Witnesses (London Assembly Hall)

LEGEND

- A** - HORIZONTAL SOIL SAMPLE (STREAM BANK)
- B** - VERTICAL SOIL SAMPLE
- C** - WATER SAMPLE
- D** - SEDIMENT SAMPLE



TYPICAL CROSS-SECTION

APPENDIX - A

4

APPENDIX - B

