



**Subject: MacDonald Island Park Expansion Grant (Shell Place)
In Camera**

APPROVALS:

Ralph Timleck, Director
Carole Bouchard, Acting Executive Director
Kevin Scoble, Deputy Chief Administrative Officer

Administrative Recommendations:

That the Regional Recreation Corporation be requested to submit to Council the following audited reports once the project has been formally completed:

1. A financial report for the MacDonald Island Park Expansion Grant.
2. A report on all LEED costs incurred for the project including, the cost for the points obtained during accreditation.

Summary:

The Office of the Municipal Auditor was asked by Council to conduct a preliminary survey on the actual costs of the MacDonald Island Park Expansion Grant, commonly referred to as “Shell Place”. Council was concerned after receiving differing explanations provided by Administration and by the RRC for a cost overrun of \$4.3 million. Details of this discrepancy, including the September 1, 2015 Council Report are included as Attachment 4.

Council also asked that we look at the following three areas of concern as part of the preliminary survey:

1. Stadium Seating

We were informed by the Chief Financial Officer (CFO) for the RRC that the original football stadium was planned as a community stadium, and all seating was benches only. When the design was changed to a performance stadium the planned benches were removed and the existing seats were installed. No documentation was provided to substantiate this information.

Seating for both Stadiums (Football and Baseball) was supplied and installed by Irwin Seating Company at a cost of \$1,157,415. As the original “Cost plus contract with guaranteed maximum price option” (GMP) included the supply and installation of aluminum benches, a credit of \$332,965 was made to eliminate the cost of the aluminum bench seats.

When the change was made from benches to seats, the available foot or leg room in the stadium was also reduced. The seats in the football stadium have 9.86 inches of leg room, which is 5.89 inches less than the Fédération Internationale de Football Association (FIFA) recommended minimum of 15.7 inches. In addition, the Irwin Seat Company advised the RRC that “18” chairs

are used to try and meet the quantity of chairs shown on the received architectural plans. “Irwin Seating Company doesn’t recommend this option due to 18 inch chairs being under the current industry standards for occupant comfort.” Notwithstanding the advice of the manufacturer, the RRC installed the 18 inch seats in order to maximize the number of sellable seats.

In addition to the foregoing, aftermarket armrests with cup holders were installed on the 18” seats, reducing the available clearance by 2.37”.

2. South Football Stadium Washrooms

We confirmed that the original design did not include washrooms on the South (Snye) side of the football stadium. We also consulted with the Chief Building Safety Codes Officer in the Planning and Development Department who had no concerns relating to the absence of washrooms on the South side of the stadium.

The original design included access to the North side washrooms from either end of the football field. During the 2015 Shell Place events access was somewhat restricted on the West (Baseball) end of the football stadium.

3. Kitchen and Concession

The Kitchen and the Concession spaces (two separate and distinct areas) in the architectural drawings of Shell Place were essentially “white space”. Although the spaces were identified as “the Kitchen” and “the Concession” respectively no details were included on any of the required architectural, mechanical, or electrical work. The appliances necessary for each space were also not detailed. Because of the lack of detail in the design, Clark Builders had no obligation to complete additional construction work or to supply appliances in either the Kitchen or the Concession. At the time of our review the Kitchen was virtually complete and is waiting for Planning and Development Department Approval. The Kitchen was tendered in January of 2015.

The Concession is still a vacant space. During the 2015 Shell Place events, concession operators provided their own equipment. The Concession is scheduled to be completed in December 2015.

Architecture Tekaltic Bengert (ATB) was engaged to design the Kitchen and the Concession spaces and to coordinate vendors. Two agreements were made with ATB for this work. The \$49,340 Kitchen agreement with ATB was signed on April 6, 2015, long after the actual work had been tendered in January of the same year.

The \$49,932 Concession agreement was signed on March 26, 2015.

Both the Kitchen and the Concession agreements were awarded to ATB without obtaining any quotes or bids.

In addition to the foregoing we also identified the following areas of concern during our review:

4. Guaranteed Maximum Price Agreement

A total of 214 Change Orders (172 increases on Schedule 2 and 42 decreases on Schedule 3) changed the actual cost of the “Guaranteed Maximum Price Agreement” (GMP). The agreement did not guarantee individual line items, only the bottom line total cost. The GMP detail was not descriptive enough for us to determine what work or costs were already in the contract amount. As a result, we could not determine the validity of change orders adding to the cost of the GMP without a detailed engineering review. A detailed engineering review could potentially identify items added by change order that were included in the original cost estimate.

As stated above, in addition to work being added to the project, \$3,271,999 was deleted by change orders. Significant items deleted include a boathouse, ropes course, trail system, and transit terminal.

5. LEED Costs

To achieve LEED gold, 60 to 79 points are required. As of September 23, 2015 Shell Place has 55 points confirmed, which is more than the minimum requirement (50) for a Silver Accreditation. There are currently 13 points pending approval.

Clark Riley coordinated the LEED initiatives until May 15, 2015. At which time, his contract was terminated. Since this time, the CFO has coordinated the outstanding LEED Gold initiatives. The CFO is only completing those items which were already determined to be attainable on the LEED scorecard.

6. Accommodations

The RRC rented accommodations for Clark Builders’ workers from River Park Glen (RPG). RPG is commonly known as “The Towers” and the complex has an unsavoury reputation. After a criminal incident in 2013, many of the construction workers refused to stay in the buildings. \$1,360,597 was incurred for vacant units guaranteed by the RRC. The total cost of the vacant units was reduced by subletting units to the Municipality and the RRC.

Background:

On July 12, 2012 a presentation was made to Council by the RRC, outlining the total proposed design and related construction costs (\$127,000,000) for Shell Place. Included in the \$127,000,000 was \$2,200,000 for “LEEDS Accreditation Fees”. Later that year (October 23, 2012) the RRC applied to Council for a development permit for Shell Place. The supporting Council Report document indicated that the facility would be built to LEED Gold certification standards in accordance with the requirements of the City Centre Area Redevelopment Plan and the City Centre Land Use Bylaw (Green Building Standards).

On October 31, 2012 the former CEO of the RRC wrote to the then CAO advising that the RRC Board of Directors had approved the transition of the expansion project from LEED Silver to LEED Gold. At that time, the RRC estimated that the cost of achieving LEED Gold would be \$3,000,000. Concurrently, the estimated accreditation fees estimate was reduced from \$2,200,000

to \$400,000, providing a \$1,800,000 surplus that could be used to achieve the Gold Standard. The CEO stated that the additional \$1,200,000 required would be funded from project savings and external grant opportunities.

On June 9, 2015 the Board Chairman of the RRC advised Council that the RRC managed the project by transferring surplus amounts to the “Contingency Account”. The balance of funds in the Contingency Account was used to pay cost overruns. One of the “surplus” accounts transferred to “contingency” by the RRC was the \$2,200,000 for “LEED Silver Accreditation”. Because the project was revised from LEED Silver to the LEED Gold Standard after the initial project funding had been obtained the RRC tracked the \$4,300,000 LEED Gold costs outside of the project budget.

Administration believes that regardless of whether or not the standard is “Silver” or “Gold” the \$2,200,000 allocated for LEED costs should be disbursed for LEED costs.

Alternatives:

1. Accept the overrun amount to be used for anticipated construction costs.
2. To assess the actual expenditure after April 30, 2016 when the final deficiencies are estimated to be completed.
3. To engage an engineer or architect for an audit of Shell Place Project GMP expenditure. This alternative was not recommended due to the cost. All Change Orders increasing the GMP were approved by the Owner’s Representative.

Budget/Financial Implications:

The Shell Place Project has not yet been completed and is still under construction. While a forecast of the costs to complete the project can be made the actual costs will not be known until the project has actually been completed.

Rationale for Recommendations:

1. The project is not yet complete.
2. RRC has until April 30, 2016 to file any deficiencies with Clark Builders.

Strategic Plan Linkage:

Pillar 1 – Building Responsible Government

Attachments:

1. Schedule 1: Summary of Construction Costs
2. Schedule 2: Summary of Change Orders Increasing the Project Costs
3. Schedule 3: Summary of Change Orders Decreasing the Project Costs
4. Original Council Report dated September 1, 2015