
City of Kelowna

MEMORANDUM

DATE: March 9, 2006
FILES: 5600-04
TO: Ron Born, City Manager
FROM: Lance Kayfish, Risk Manager
SUBJECT: INDEMNITY FOR NORTH END WATER SYSTEM BONDS & FUTURE BOND REQUIREMENTS

RECOMMENDATION:

THAT Council authorize the Mayor and City Clerk to sign and seal an *Indemnity Agreement* in favour of The Guarantee Company of North America in connection with surety bonds provided for the UBCO Reservoir and Tutt Watermain Upgrade construction projects as part of the North End Water System for the Glenmore Ellison Irrigation District;

AND THAT Council authorize the *Indemnity Agreement* in favour of The Guarantee Company of North America to remain in force for future surety bonds required for projects authorized by Council.

BACKGROUND:

Council authorized the City to construct the UBCO Reservoir and Tutt Watermain Upgrade projects as part of the North End Water System for the Glenmore Ellison Irrigation District at the Council meeting held on Monday, October 31, 2005.

The City of Kelowna has provided a separate *Performance Bond* and a *Labour & Materials Payment Bond* for each of the UBCO Reservoir and Tutt Watermain Upgrade construction projects, at 50% of the total project values. Placing surety bonding requires the City to agree to indemnify the bonding company should the bonds be called on. This is a customary requirement securing bonding. The bonding company, The Guarantee Company of North America, requires that a corporate board of directors, or Municipal Council in the case of the City, authorize the indemnity. The bonding company has issued the bonding for the North End Water System projects in advance of the council resolution, however requires the indemnity for the bonds to remain in force through the bonding period. The *Indemnity Agreement* has been reviewed by the Risk Manager and the City's Insurance Agent of Record, which placed the surety bonding on the City's behalf.

Surety bonding is a standard requirement for an entity taking on a contract to perform significant construction work for a third-party and is a condition of the contracts for the North End Water System projects. It provides a third-party guarantee that responds if the entity under contract is unable to perform. In the case of a claim, the bonding company may use their rights under the indemnity to recover any costs incurred, but would normally work with the City to satisfy or resolve the claim prior to making payment or undertaking to complete works.

The events that would potentially give rise to a bond being called on are non-performance of the contract or non-payment for the works or materials used in completion of the contract. These are remote outcomes for the City and it is unlikely the indemnity will result in any additional costs or liabilities to the City.

The form of the *Indemnity Agreement* is intended to apply to all bonds issued on the City's behalf. There is no need to authorize the execution of the indemnity agreement each time a new bond is issued. It is required at this time as this is the first time the City has obtained surety bonding through the The Guarantee Company of North America. For future bond requirements it is recommended the *Indemnity Agreement* continue to apply for projects approved by council requiring bonding. This is to streamline the administrative process.

Lance Kayfish
Risk Manager

Approved for inclusion

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Paul Macklem, CMA
Director of Financial Services