



January 26, 2021

Chair Evan Woolley and Members of the Audit Committee
City of Calgary
P.O. Box 2100, Station M
Calgary, Alberta T2P 2M5

Dear Councillor Woolley and Members of the Audit Committee

RE: Assuring Credibility of the Off-Site Levy Bylaw Update

On behalf of BILD and NAIOP (Industry) and industry members of the Joint City Industry Off-site Levy Governance Committee, we are writing this letter outlining Industry concerns to Audit Committee in support of the direction in the Motion approved by City Council on January 18, 2021, specifically:

“...to engage the Off-Site Levy (OSL) Governance Committee to understand concerns raised by stakeholders and to direct Deloitte to evaluate the concerns raised by stakeholders and develop a scope of audit procedures that responds to the issues raised...”

Prior to outlining our concerns however, Industry wanted to express our sincere thanks to Calgary's City Council who unanimously supported the direction to the Audit Committee to engage stakeholders. We fully support Council's direction and have provided further background as to why stakeholders believe additional audit work and Audit Committee engagement is required in Attachment 1.

At the January 25, 2021 Joint City Industry Off-site Levy (OSL) Governance Committee meeting, City of Calgary members of the committee advised it would be most appropriate and effective for Industry to convey stakeholder's concerns directly to the Audit committee.

Accordingly, we write this letter to provide the Audit Committee with an understanding of stakeholder concerns in respect of OSL stewardship, governance, accounting, and project management. In advance of writing this letter we have had many discussions with City Administration and raised these concerns with the OSL Joint Governance Committee. We have also reviewed these matters with a cross section of executive level financial professionals in our industry who have a wide range of experience in completing and understanding audit work and have included their guidance and input.

Given the significance of this matter, we trust the Audit Committee will initiate action on Council's direction at its January 28, 2021 Audit Committee meeting.

To ensure credibility of OSL accounting and project management data, the OSL Bylaw update process, and compliance with the Municipal Government Act, further audit work is required to address stakeholder issues and concerns, which are outlined in more detail in Attachment 2, but generally as follows:

1. Confirmation of the Annual OSL balances

Using a process separate and distinct from the City of Calgary's annual financial audit with an audit materiality specific to the OSL balances, confirm the annual OSL balances reported for Water Resources, Transportation, and Community Services are correct in all material respects. Industry believes:

- a. This audit should include a review of OSL Annual Reports and all other OSL accounting and project management and include procedures to ensure, amongst other things, compliance with the City of Calgary's Corporate Project Management Framework and City of Calgary internal controls and policies.
- b. The OSL Annual Reports, OSL accounting and project management controls audited should date back to a suitable year, noting that the recently disclosed investment income accounting errors were determined to run as far back as 2006.
- c. Any additional OSL accounting errors identified and corrected with a timely update so accurate data can be confirmed for the OSL bylaw update.

2. Compliance Audits

Industry believes a follow up audit should be scheduled as part of the City of Calgary audit plan. This follow up should include compliance audits completed in 2022 of:

- a. The changes implemented to address the corrective actions outlined in the 2019 audit of the 2017 Annual Reporting (AC2019-1241).
- b. Any further action items identified from the audit work requested in this letter of OSL Annual Reports, OSL accounting and project management controls.

3. Timeline

Completion of all the above work in a timely fashion to ensure that the OSL Bylaw update underway is based on accurate data that can be confirmed.

We have also included the approved 2021 OSL Bylaw Guiding Principles that were adopted by City Council at the January 21, 2021 meeting in Attachment 3 for reference.

Thank you for your consideration of further audit work to address Industry's concerns regarding the Off-site Levy stewardship, governance, accounting, and project management. We believe it is in The City's, the stakeholder's, and the public's interest for that to occur in a timely fashion and ensure the integrity as to the material accuracy of the data on which an Off-site Levy Bylaw update will be based.

Respectfully,



Brian R. Hahn
CEO, BILD Calgary



Guy Huntingford
Dir. Strategic Initiatives, NAIOP Calgary

Cc. David Duckworth, City Manager
Stuart Dalgleish, General Manager Planning and Development
Carla Male, Chief Financial Officer
Members of the Joint City Industry OSL Governance Committee

Attachment 1 – Background

Council Direction

City of Calgary Administration presented a strategic foundation for a new off-site levy bylaw, along with guiding principles, to Priorities and Finance Committee (PFC) on January 12, 2021. PFC recommended to Council approval of the use of the principles which were approved by Council on January 18, 2021. Those principles include a commitment to transparency and accountability, specifically, “clear governance and stewardship of the off-site levy will be established and maintained, and off-site levy funds, transaction, projections and reporting will be accurate and credible and reviewed regularly, in addition to annual reporting”. Please see Attachment 3 for the list of principles.

At the January 18, 2021 Council meeting, Council directed:

1. The Audit Committee to engage the Off-Site Levy (OSL) Governance Committee to understand concerns raised by stakeholders and to direct Deloitte to evaluate the concerns raised by stakeholders and develop a scope of audit procedures that responds to the issues raised to the satisfaction of the Audit Committee;
2. The Audit Committee to return to Council with the cost and timing for approval once Audit Committee has determined the scope in recommendation 1;
3. The Audit Committee Chair report to council with an update on a quarterly basis; and
4. Upon completion of the OSL audit procedures in recommendation 1, the Audit Committee reports the findings and recommendations for corrective action to Council.

2019 Audit of the 2017 OSL Annual Report

The City of Calgary City Auditor identified in its report of October 15, 2019 (AC2019-1241), amongst other things:

- An absence of a defined governance structure and clear and consistent internal policies and procedures;
- OSL financial reconciliations do not include sufficient detail or support to verify whether OSL balances, spend or collections are correctly reported;
- A failure to properly steward levies collected and utilized may lead to legislative non-compliance, reporting errors, and damage to The City’s reputation;
- Legislation requires that the municipality provides full and open disclosure of all levy costs and payments; and
- Over \$4 Million in reserve interest that was not included in the reported OSL balance at December 31, 2017 or used to offset the interest costs on debt financed Water Resource projects.

The City Auditor also identified and recommended a series of action items to address the findings in its report. Management (City Administration) indicated their substantial agreement to all of the Auditor’s findings and the action items. City Administration has indicated they have been working on implementing the action items. We understood a report on the progress of those action items was to be presented to Audit Committee on January 28, 2021. We look forward to public presentation of progress on the audit action items, the bulk of which were agreed to be completed by December 1, 2020, as well as the specifics of the corrective actions taken.

Investment Income Allocation

The City of Calgary Administration disclosed to PFC on November 4, 2020 that additional accounting errors of \$56 million of investment income, dating back to 2006, was misallocated to general revenues.

City Administration advised Industry it will respond to Industry's request, of November 6, 2020, for working papers detailing the \$56 million investment income errors in February 2021.

2019 Audit Recommendations and Year End Annual Financial Audit

While Administration has indicated some of the Internal Audit action items will be incorporated into the 2020 Annual Report, the Audit Report notes other key Internal Audit action items will be implemented at the earliest for the 2021 OSL Annual Report. The 2021 OSL Annual Report is expected to be issued no earlier than the end of Q1 2022. City Administration indicated no intention to revisit 2021 levy rates notwithstanding the findings of the Audit and the further errors in OSL accounting noted above. Stakeholders are concerned that the data upon which the 2016-2020 OSL Bylaw was based may contain material errors and the data and reports prepared upon which the current bylaw update process must rely upon cannot be confirmed as correct.

Industry is concerned that additional processes associated with The City of Calgary annual financial audit may not be sufficient to focus resources and carry out procedures in the detail required to ensure OSL balances are correct in all material respects and OSL accounting, project management and financial stewardship complies with the Municipal Government Act.

Municipal Government Act and Associated Regulations

Industry believes a focused, comprehensive audit, with appropriate procedures, on the OSL accounting and project management, will ensure that The Municipal Government Act is being complied with, specifically the municipality's requirements to:

- Consult in good faith with stakeholders on all matters related to the determination of an OSL Bylaw update.
- Make available to the public and stakeholders any information or data the municipality relied upon and any assumptions the municipality made in calculating the levy, including, without limitation, any information, data or assumptions the municipality used in models to complete calculations.

Attachment 2 – Stakeholder Issues and Concerns

Stakeholder Issues and Concerns	
1.0	General
1.1	Can the reported annual OSL pool balances for each of water resources, transportation and community services be confirmed as accurate in all material respects? To the extent the balances cannot be confirmed, determine what work is required to confirm/correct them.
1.2	Have City of Calgary accounting and project management policies, processes and controls been applied to the OSL data used to compile each of the OSL Annual Reports?
1.3	The 2019 audit covered the 2017 OSL Annual Report and did not look back to previous years (2006-2016) or later years (2018-2020). Implementation of the corrective action items from the Internal Audit do not take effect until 2021 Annual Report or later (Reference: Recommendation 11 in the Internal Audit Report). Were prior bylaw updates based on erroneous accounting data and how can the accounting data for the current bylaw update be confirmed as correct?
1.4	While the level of errors disclosed as part of a year end audit may not be material in the context of The City's overall financial statements, they are material to OSL balances and Industry. What level of materiality will auditors apply to OSL accounting, transactions and project management?
1.5	Timely provision of accurate information and response to stakeholder request for information. What is a reasonable time frame for this work to be completed and responses provided to stakeholders?
1.6	Of the 11 recommendations outlined in the Internal Audit Report, which of those recommendations have been or will be applied to the 2020 OSL Annual Report? When will progress on those corrective action items and the details of the actions taken be publicly reported and available to Industry?
2.0	MGA, Associated Regulations and Bylaws
2.1	Have the OSL funds been accounted for separately and used for the purpose for which they were collected per MGA 648 (5)?
2.2	Has there been fair, reasonable and consistent allocation and use of other order of government funding (i.e., grants for transportation and community services) in accordance with the MGA and practices of other Alberta Municipalities? The December 2015 OSL and Community Services Background Report states on page 24 "Where grants or provincial highway funding are provided from other levels of government for a specific project and obtained only to be applied to that specific project, those amounts are applied to the project costs above. Should project specific funding be received, grant amounts will be taken into consideration for future calculations." Legislation and Policy (AUMA report https://auma.ca/sites/default/files/off-site-levies-manual-final.pdf , City of Calgary background document https://www.calgary.ca/pda/pd/commercial-development/off-site-levy.html#levy) and practices in other municipalities appear to support recognition of benefits and benefitting party and at least sharing of specific project grant money.
2.3	Are definitions in MGA, associated regulations and bylaws clearly understood and consistently applied?
3.0	Accounting
3.1	What documentation demonstrates oversight, stewardship, and management in accordance with defined accounting procedures and controls for the OSL funds?
3.2	Are the accounting procedures and controls adequate to ensure no material error, misstatement, or misuse of OSL funds? Are those procedures and controls consistently applied and adhered to?
3.3	Is all interest earned from the investment of the levy funds properly accounted for separately and used for the specific purpose per MGA 648 (5)?

Stakeholder Issues and Concerns	
4.0	Project Management
4.1	What documentation or controls demonstrates proper oversight, stewardship, and management in accordance with defined project management procedures and controls for the OSL projects?
4.2	Have all OSL projects been managed with The City of Calgary Project Management Framework (CPMF) standards and guidance documents?
4.3	What documentation, policies, procedures and controls demonstrate appropriate reconciliation of forecast project costs (estimates) to actual project costs, including project levy eligibility and credit of savings to the applicable OSL balance?
4.4	<p>Are the project management procedures, controls and accounting policies adequate and consistently applied and adhered to, ensure OSL projects are:</p> <ul style="list-style-type: none"> • Eligible for OSL funds? • Managed within a defined scope? • Managed within authorized expenditure and where costs become forecast to exceed authorized expenditure, further approval is sought on a timely basis prior to authorized expenditure being exceeded? • Appropriately timed to ensure OSL infrastructure/capacity matches delivery with need and development? • Procured (including all materials and services) on a competitive basis, consistent with well-understood and appropriately applied procurement policies and procedures?

Attachment 3 - 2021 Off-Site Levy Principles

1. **Sustainable and resilient:** The off-site levy should be structured and monitored in a way that supports long-term sustainability of levies and associated service and infrastructure for Calgary, on the premise that growth pays for its share of growth. At the same time, it should allow the ability to withstand and be nimble in response to changing environments in the near-and mid-term.
 - Supports the ability to forecast and predict future cash flow, infrastructure investment and cost related to city growth.
 - Stable and predictable regulatory environment within which development occurs.
 - Easy to understand and administer.
2. **Shared cost, shared benefit, shared risk:** The off-site levy should reflect equitable sharing, among stakeholders, of cost, benefit and risk related to off-site infrastructure.
 - Off-site infrastructure supported by levies may benefit growth, existing residents, regional customers and/or municipal governments and support intergenerational equity.
 - Cost of off-site infrastructure should be allocated to, and shared by, those who benefit.
 - Risk should be equitably shared between The City and Industry, to allow long-term sustainability and viability of Calgary.
3. **Competitive:** As a component of the overall cost of development, and value for money within Calgary, the off-site levy should be positioned to deliver infrastructure and services, within a competitive and stable environment, that help attract residential, commercial, and industrial development and investment within the Calgary Region.
 - Contributes to Calgary's ability to be cost-competitive in order to attract development and investment.
 - Provides certainty that the timing of infrastructure and service delivery will match the pace of growth and associated development.
4. **Collaborative and consultative:** The off-site levy (process, methodology and calculation) should be developed through a collaborative and consultative approach with stakeholders.
 - Growth and development are enabled by citizens, Industry, The City, and the region among others; these partnerships require collaboration to achieve shared outcomes.
 - Collaboration requires clarity and transparency to allow a common understanding and robust outcomes.
5. **Transparent and accountable:** The off-site levy (process, methodology and calculation) shall be clear and transparent. The off-site levy should be governed according to the Off-Site Levy Principles, with oversight, stewardship and ongoing monitoring and reporting.
 - Clear governance and stewardship of the off-site levy will be established and maintained.
 - Off-site levy funds, transaction, projections and reporting will be accurate and credible and reviewed regularly, in addition to annual reporting.
6. **Aligned and compliant:** The off-site levy shall be aligned to The City's growth and funding strategies, be compliant with governing legislation, and seek changes in the legislation that help advance towards the Off-Site Levy Principles.
 - The off-site levy should not be used as part of a regulator strategy to influence market demand.