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TO:	CHAIR AND MEMBERS CIVIC WORKS COMMITTEE MEETING ON JUNE 19, 2012
FROM:	JOHN BRAAM, P.ENG. ACTING EXECUTIVE DIRECTOR, PLANNING, ENVIRONMENTAL & ENGINEERING SERVICES & CITY ENGINEER
SUBJECT:	SERVICES AGREEMENT BETWEEN PARTNER MUNICIPALITIES and the ONTARIO CLEAN WATER AGENCY for CONTRACTED OPERATIONS at the ELGIN-MIDDLESEX PUMPING STATION

RECOMMENDATION

That, on the recommendation of the Acting Executive Director, Planning, Environmental and Engineering Services and City Engineer, the following actions **BE TAKEN** with respect to the services for contracted operations at the Elgin-Middlesex Pumping Station:

- (a) the attached proposed By-law (Appendix "A") **BE INTRODUCED** at the Municipal Council Meeting of June 26, 2012, to approve a Services Agreement between the Ontario Clean Water Agency and the Corporation of the City of London, Aylmer Area Secondary Water Supply System Board of Management, and the St. Thomas Area Secondary Water Supply System Board of Management for the provision of operating, maintaining, and managing of the Elgin-Middlesex Pumping Station;
- (b) the Mayor and City Clerk **BE AUTHORIZED** to execute the Agreement, substantially in the form attached to this by-law, and satisfactory to the City Solicitor, and all documents required to fulfill its condition; and,
- (c) the Civic Administration **BE AUTHORIZED** to undertake all the administrative acts that are necessary in connection with this Agreement;

it **BEING NOTED** that the Boards of Management for both Secondary Water Supply Systems are concurrently passing similar by-laws in order to enter into the Services Agreement, and that their staff have reported on the need to undertake a strategic assessment of the cost apportionments relative to the service to be provided on behalf of each owner once planned improvements have been completed and the Services Agreement with the Ontario Clean Water Agency is implemented.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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None.

BACKGROUND

Purpose:

In June 2004, the City of London entered into a four-party agreement with the partnering municipalities of Aylmer and St. Thomas (both designated as the Administering Municipality for the Aylmer Area Secondary Water Supply System Board of Management, and the St. Thomas Area Secondary Water Supply System Board of Management, respectively), and American Water Canada Corporation (AWCC), for the operation, maintenance, and management of the Elgin-Middlesex Pumping Station. The facility is generally located in northeast St. Thomas near the intersection of Highbury Avenue South and South Edgeware Road.

The three (3) municipalities share the facility along with the Elgin Area Primary Water Supply System. Therein various processes, pumping units, electrical and ancillary equipment are identified and owned by each municipal partner. As well, the facility has some components which are under the ownership and responsibility of the Board of Management for the Elgin Area Primary Water Supply System.

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The contracted operation of the Elgin-Middlesex Pumping Station facility was awarded to AWCC through an agreement which paralleled (with respect to time) the Services Agreement entered into by the Board of Management for the Elgin Area Primary Water Supply System. Both Service Agreements with AWCC were set to expire at the end of 2011, and both Agreements were extended for an additional six (6) months in order to facilitate the transfer of contracted operations to another operator. The transition is set to occur on July 1, 2012.

CONTEXT

In 2011, the Boards of Management for the Elgin Area and Lake Huron Primary Water Supply Systems undertook a procurement process for the management, operation and maintenance contract of the Elgin and Lake Huron systems. A component of the proposal process provided bidding contractors with an opportunity to provide a quote on the contracted operation of the Elgin Middlesex Pump Station (EMPS), as an additional component to the main proposal call. Within the request for proposal, it stipulated that the three (3) owners of the Elgin-Middlesex Pumping Station would only negotiate with the successful proponent of the larger contract for the Elgin and Lake Huron systems after the submission was accepted.

On January 19, 2012, the Boards of Management for the Lake Huron Primary Water Supply System and the Elgin Area Primary Water Supply System concurrently reviewed and accepted a recommendation to enter into an agreement with the successful contractor, being the Ontario Clean Water Agency (OCWA). This is set to occur on July 1, 2012.

The partner municipalities evaluated various operating scenarios, such as if they were to operate the facilities which they own at their discretion (ie. individual self-operation), or in some form of combined effort (ie. self-operated partnerships), or via a contracted operation. Also, they reviewed the proposal submitted by successful contractor (Ontario Clean Water Agency) once it was made available. All parties evaluated the proposal and commenced negotiations and development of a Services Agreement between the partner municipalities and OCWA. Involvement by Regional Water Supply staff was enlisted to ensure that the EMPS Services Agreement complemented – and did not conflict with - the contract OCWA was entering into with the Elgin Area Primary Water Supply System.

DISCUSSION

Appendix “A” – Schedule 1 contains the proposed Services Agreement between the partner municipalities and OCWA. The terms and conditions, overall approach, acceptable levels of work to be performed, highlights of maintenance aspects and tasks, pricing, and defined responsibilities are reflected in the agreement. Staff from all three (3) water systems, as well as representatives from Regional Water Supply, have met numerous times with OCWA, and have developed the proposed Services Agreement provided herein. The Services Agreement has been reviewed by both the Risk Management Division and City Solicitor’s Office. Likewise, the other municipalities have sought review and advice from their respective insurers and legal counsel, and have incorporated same into this final product.

The following are some of the key components of the Services Agreement:

Term and Renewal:

- Term of Services Agreement – Five (5) years; commencing on July 1st 2012;
- Renewal option – Potential for a five year renewal at owners’ discretion;
- Termination (cancellation) and Transfer of Operations requirements;
- Some terms are similar to those of the Elgin Area Primary Water Supply System (including the above).

Services Provided:

The agreement structure is based on a two-tier cost system that includes a base operating and maintenance component coupled with an additional services/Capital Works component. The base component is intended to be shared among the owners on an equitable basis.

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Any additional services and/or capital requirements beyond the identified tasks within the base component becomes the responsibility of the benefiting owner to administer, with associated costs borne by the owner requesting the work to be performed.

The base operating and maintenance component includes the following:

- Salaries and Benefits (contracted operator costs, including ancillary support by their electricians, process millwrights, instrumentation technicians, etc.); provision for on-call service and emergency response; Overall Responsible Operator responsibilities for the facility in its entirety; support for the Drinking Water Quality Management System (DWQMS) Operational Plan for each owner’s system);
- Transportation and Communications (telephones; data communication; cell phones; operator’s training);
- Services (vehicles; lab equipment; repairs and maintenance materials; lab analysis-outsourced; insurances);
- Supplies and Equipment (lubricants; equipment calibration; vehicle fuel, safety, laboratory, and hardware supplies).

The items which comprise of the additional services/Capital Works component are not included in the base cost, and include items such as:

- Initial and final condition surveys: each owner will undertake a third-party assessment of the condition of their facility components at the start of OCWA’s operation and at the end of the contract;
- All capital costs for work required to be undertaken on their components that cost more than \$1,000;
- Consumable products, such as natural gas, electricity, chemicals, chlorine gas, other utility costs: these invoices will go directly to Regional Water Supply for apportionment to benefiting owner(s), noting that not all of these components are needed for all owners and not necessarily on an equally-shared basis;
- Preparing the DWQMS Operational Plan for each owner’s system, and transitioning the accreditation requirements;
- Audit costs associated with the legislated requirement to have an external auditor undertake an assessment of each owner’s DWQMS once every three (3) years.

These items listed above are variable costs that will be directly approved and reimbursed by the water supply system requiring the work to be done. This Services Agreement will ensure that each administering municipality will be made fully aware of impending rehabilitation needs and improvements required to its system. The benefiting owner will be responsible to administer and authorize the work to be undertaken. The owner can choose to authorize it to be done by OCWA on behalf of the owner, or alternatively subcontract the work to themselves (eg. utilize City of London personnel), or procure the services of a contractor of its choice. Items that are procured through OCWA will be subject to a cost-plus fee, in accordance with the Services Agreement.

The base operating/maintenance fee provided by OCWA for the initial five (5) year term has been negotiated by the partner municipalities, considering all the factors and information cited above:

Item	Year 1 6 Months	Year 2	Year 3	Year 4	Year 5	Year 6 6 Months
Salaries and Benefits	\$51,212	\$104,472	\$106,562	\$108,693	\$110,866	\$56,542
Transportation and Communication	\$3,344	\$6,706	\$6,841	\$6,978	\$7,117	\$3,629
Services	\$16,924	\$43,492	\$44,363	\$45,250	\$46,154	\$23,539
Supplies and Equipment	\$10,998	\$22,072	\$22,544	\$23,024	\$23,515	\$11,879
Total Fixed Price, excluding taxes	\$82,478	\$176,743	\$180,310	\$183,946	\$187,652	\$95,590

Financial Considerations:

The fixed cost for the base operating and maintenance fee will be split between the owners of the three (3) water supply systems. The existing arrangement between the three (3) systems is that the cost is distributed on the basis of water consumption representative of the apportionment levels derived for the original agreement with AWCC in 2004:

- City of London: 61.0%
- City of St. Thomas: 28.5%
- Town of Aylmer: 10.5%

During the review of the annual operating costs for EMPS, the partner municipalities recognized that there is a need to better understand the various operating and maintenance costs attributed to facilities belonging to a particular owner/supply system rather than simply apportioning on a volumetric basis. Each owner agrees that, in the short-term, the apportionment of costs will continue using the ratios developed in 2004 (ie. consumption volumes) until the end of 2013. The partner municipalities will endeavour to establish a more accurate assessment of their respective base operating/maintenance costs through a strategic evaluation of OCWA's actual workload and associated costs for each system, established by review of their on-site tasks, staff activities and utilization, operating and maintenance routines reflective of their Maintenance Management System program outputs, regulatory compliance requirements, achievement of performance expectations, etc.

Based on potential results of the evaluative effort noted above coupled with the two-tiered cost structure, it is possible that London's base cost apportionment may shift towards an optimal equivalent amount for each system (ie. 1/3 each). Both Boards of Management for the secondary water supply systems have been advised of this assessment mandate through their respective staff report submissions which introduced the Services Agreement to their respective Boards for consideration.

The hydro and utility costs will be based on actual costs for each system. As currently done, the partner municipalities have made arrangements to have Regional Water Supply continue to receive the invoices directly on their behalf, thus negating mark-up costs by the contractor. Regional Water Supply will in turn, delineate the appropriate costs to each owner, while ensuring that all costs attributed to EMPS and/or the Elgin Area Primary Water Supply System are legitimized.

For 2012 and 2013, London's component of OCWA's fixed fees can be accommodated in the current (2012) and proposed (2013) Water Operations budgets for the operation of EMPS, noting that the fees have not increased significantly. London's current base cost apportionment for operation is approximately \$98,000, and the 2013 amount will increase to approximately \$107,000.

It is also important to note that London's Water Engineering Division has an approved Capital Works project planned for the Elgin-Middlesex Pumping Station. Two (2) duty pumps will be replaced completely with much more efficient pumping units, and London's third pump will be overhauled, including power supply and ancillary equipment. Implementing these improvements must be commensurate with the commissioning of the Southeast Reservoir and Pumping Station. The completion of these two initiatives in tandem will set system hydraulic operating conditions for water supply from the Elgin Area Primary Water Supply System which are significantly different than today's parameters. It is anticipated that the altered operating condition, with completion of the Capital Works improvements at EMPS, will reduce EMPS's annual operating costs significantly.

Additionally, at the Elgin Area Primary Water Supply System Board of Management meeting on June 7, 2012, an initiative was endorsed whereby ownership issues at EMPS will be comprehensively reviewed. It noted that a clarification of ownership is necessary to ensure responsibilities are clearly delineated for regulatory purposes and for inspections undertaken by the Ministry of the Environment. Conflicting language in the various Transfer Orders, previous Certificates of Approval, and the new Municipal Drinking Water Licences require reconciliation. It is felt that clarification of ownership would also then affect the operating requirements for each water system, so that appropriate cost-sharing of contracted services could be fairly and equitably established based upon the proper, correct delineation of responsibilities. Therefore it is recommended in this report that the cost apportionments continue as-is (ie. through 2013)

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until a clear rationalization and agreement among all owners, can be undertaken. Administration believe that adjustments to the cost apportionments will be known and concurred with by all owners in time for inclusion into the City of London’s 2014 Water Operating budget.

SUMMARY

The Services Agreement in Appendix “A” – Schedule 1 provides a two-tier cost structure, giving each owner administrative control of their respective facility components. The fixed base cost component will be reviewed, noting OCWA’s performance objectives and compliance to each supply system’s actual operational and maintenance requirements and effort. The partner municipalities understand that the opportunity for better assessment of the apportionment levels will be undertaken. In the near term, London’s apportioned costs can be accommodated in the 2012 (approved) and 2013 (proposed) Water Operations budgets.

Each owner’s Administrative staff, in consultation with staff from Regional Water Supply, has conducted a thorough review of the terms, conditions, and responsibilities negotiated and developed in the proposed Services Agreement between the City of London, its partner municipalities, and the Ontario Clean Water Agency. Approval and execution of this Services Agreement by London and the other parties will effectively and efficiently consolidate all operation, maintenance, and management responsibilities to be undertaken at the Elgin-Middlesex Pumping Station facility in the care of a single operator, being the Ontario Clean Water Agency.

Acknowledgements:

This report has been prepared with input from David Munteer – City Solicitor’s Office, and Joy Jackson – Risk Management Division, through their review and comments provided on the terms of the proposed Services Agreement.

PREPARED BY:	RECOMMENDED BY:
JOHN SIMON, P.ENG. DIVISION MANAGER, WATER OPERATIONS	JOHN BRAAM, P.ENG. ACTING EXECUTIVE DIRECTOR, PLANNING, ENVIRONMENTAL & ENGINEERING SERVICES & CITY ENGINEER

Appendix “A” – By-law to approve a Services Agreement Between Ontario Clean Water Agency and The Corporation of the City of London, Aylmer Area Secondary Water Supply System Board of Management and the St. Thomas Secondary Water Supply System Board of Management for the operation, maintenance, and management of the Elgin-Middlesex Pumping Station

- cc. Ontario Clean Water Agency
- St. Thomas Area Secondary Water Supply System Board of Management c/o City of St. Thomas
- Aylmer Area Secondary Water Supply System Board of Management c/o Township of Malahide
- Andrew Henry - Division Manager – Regional Water Supply
- Roland Welker - Division Manager – Water Engineering
- Joy Jackson – Risk Management Division
- David Munteer – City Solicitor’s Office

APPENDIX "A"

Bill No.

By-law No.

A By-law to authorize a Services Agreement between Ontario Clean Water Agency and The Corporation of the City of London, the Aylmer Area Secondary Water Supply System Board of Management, and the St. Thomas Secondary Water Supply System Board of Management for the operation, maintenance, and management of the Elgin-Middlesex Pumping Station; and to authorize the Mayor and City Clerk to execute the Agreement.

WHEREAS section 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS it is deemed expedient for The Corporation of the City of London (the "City") to enter into a Services Agreement between Ontario Clean Water Agency and The Corporation of the City of London, the Aylmer Area Secondary Water Supply System Board of Management, and the St. Thomas Secondary Water Supply System Board of Management for the operation, maintenance, and management of the Elgin-Middlesex Pumping Station (the "Agreement");

AND WHEREAS it is appropriate to authorize the Mayor and City Clerk to execute the Agreement on behalf of the City;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Agreement attached as Schedule "1" to this By-law, being a Services Agreement between Ontario Clean Water Agency and The Corporation of the City of London, the Aylmer Area Secondary Water Supply System Board of Management, and the St. Thomas Secondary Water Supply System Board of Management for the operation, maintenance, and management of the Elgin-Middlesex Pumping Station is hereby AUTHORIZED AND APPROVED.
2. The Mayor and City Clerk are authorized to execute the Agreement authorized and approved under section 1 of this by-law.
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council June 26, 2012

Joseph Fontana
Mayor

Catherine Saunders
City Clerk

First reading -
Second reading -

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Third reading –

SCHEDULE “1”

SERVICES AGREEMENT

**BETWEEN
ONTARIO CLEAN WATER AGENCY**

A N D

**THE CORPORATION OF CITY OF LONDON,
AYLMER AREA SECONDARY WATER SUPPLY SYSTEM BOARD OF MANAGEMENT
AND THE**

**ST. THOMAS AREA SECONDARY WATER SUPPLY SYSTEM BOARD OF
MANAGEMENT**