

TO:	CHAIR AND MEMBERS CIVIC WORKS COMMITTEE MEETING ON NOVEMBER 19, 2019
FROM:	KELLY SCHERR, P.ENG., MBA, FEC MANAGING DIRECTOR, ENVIRONMENTAL AND ENGINEERING SERVICES & CITY ENGINEER
SUBJECT:	AGREEMENT WITH 1889 WESTMINSTER DRIVE FOR CROP IMPACTS AND A MUTUAL AGREEMENT DRAIN

RECOMMENDATION

That, on the recommendation of the Managing Director, Environmental & Engineering Services & City Engineer, the following actions **BE TAKEN** with respect to the Mutual Agreement Drain and Construction and Crop Impacts to 1889 Westminster Drive:

- (a) The draft agreement negotiated between the Corporation of the City of London and the property owners of 1889 Westminster Drive for a Mutual Agreement Drain, attached hereto as Appendix "C" **BE APPROVED** substantially in the form attached and as approved by the City Solicitor;
- (b) The proposed By-law, attached hereto as Appendix "B", **BE INTRODUCED** at the Municipal Council Meeting of November 26, 2019 to approve the agreement between the City of London and the property owners of 1889 Westminster Drive, and to authorize the Mayor and Clerk to sign the agreement;
- (c) the Civic Administration **BE AUTHORIZED** to undertake all the administrative acts that are necessary in connection with this project;
- (d) the approvals given herein **BE CONDITIONAL** upon the Corporation entering into a formal contract;
- (e) the Mayor and City Clerk **BE AUTHORIZED** to execute any contract or other documents, if required, to give effect to these recommendations and;
- (f) Civic Administration **BE AUTHORIZED** to provide compensation for crop impacts and construction impacts to the property owners of 1889 Westminster Drive in the amount of \$24,004.94 (exclusive of H.S.T.), as recommended in the report from Soils Research Group.
- (g) The financing for this project **BE APPROVED** as set out in the Sources of Financing Report attached, hereto, as Appendix "A";

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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None

2019-2023 STRATEGIC PLAN

The following report supports the 2019-2023 Strategic Plan through the strategic focus area of *Building a Sustainable City: Infrastructure is built, maintained and operated to meet the long-term needs of our community.*

BACKGROUND

Purpose

The purpose of this report is to gain approval for a Mutual Drain Agreement with the property owners of 1889 Westminster Drive and authorize compensation for crop and construction impacts to the same property arising from the construction of the Southeast Reservoir and Pumping Station.

Context

The construction of the Southeast Reservoir and Pumping Station project began in July 2009. Due to delays experienced with the construction of the Southeast Reservoir and Pumping Station project, topsoil was stockpiled in the northeast corner of the site until it could be reused and placed as cover material over the reservoir. Precipitation over the subsequent years caused sediment from the stockpile to spill onto the adjacent property. This erosion caused soil to be deposited on top of the agricultural land causing several wet ponding areas that could not be farmed.

In the spring of 2015, the above issues were identified to the City so the City retained Soil Resource Group to evaluate the sedimentation issue and develop an appropriate work plan to resolve the problem. In 2017, drainage improvements were completed to resolve the sedimentation problem. These improvements took place on the Southeast Reservoir and Pumping Station property and on the 1889 Westminster Drive property.

DISCUSSION

Property Owner Compensation

At this time, the City is seeking to finalize compensation to the property owners of 1889 Westminster Drive for following items:

- Crop damage experienced from 2009 until the drainage improvements were made in 2017 and
- Construction impacts for the drainage works constructed in 2017 and the resulting soil impacts which were ongoing for 6 years following the construction.

Compensation costs for crop damage and construction impacts are estimated at \$24,004.94 (exclusive of H.S.T.). This compensation was determined using an established model of compensation settlement for agricultural properties impacted by construction and has been used during other City projects with agricultural impacts. The Property owners have signed a Full and Final Release satisfactory to the City of London Legal Department.

Funding for these costs is available in the previously budgeted Southeast Reservoir and Pumping Station Capital works Project.

Mutual Agreement Drain

In order to provide a framework for future maintenance and repair of the drainage works, it is recommended that the City enter into a mutual agreement drain agreement as defined in the *Drainage Act*. This agreement sets out the terms for undertaking future repairs and maintenance of the drain. All future repairs on the City's property would be

undertaken at the City's cost and repairs on the 1889 Westminster Drive property would be undertaken at the owners cost.

CONCLUSIONS

The financial settlement outlined above is recommended as a fair compensation for the damages that occurred from the delayed completion of the Southeast Reservoir and Pumping Station. The compensation to the property owners of 1889 Westminster Drive for crop impacts and construction is both fair and reasonable. The registration of the drainage works as a Municipal Agreement Drain will set a framework for long-term maintenance of the drainage works which will help prevent crop damage in the future.

SUBMITTED BY:	REVIEWED & CONCURRED BY:
AARON ROZENTALS, P. ENG. DIVISION MANAGER WATER ENGINEERING DIVISION	SCOTT MATHERS, MPA, P. ENG. DIRECTOR WATER & WASTEWATER
RECOMMENDED BY:	
KELLY SCHERR, P.ENG., MBA, FEC MANAGING DIRECTOR ENVIRONMENTAL & ENGINEERING SERVICES AND CITY ENGINEER	

Attach:

- Appendix "A" – Source of Financing
- Appendix "B" – draft By-Law to Execute an Agreement between the City of London and the Property Owners of 1889 Westminster Drive for a Mutual Agreement Drain
- Appendix "C" – Mutual Agreement Drain between the City of London and the property owners of 1889 Westminster Drive
- Appendix "D" – Location Map

- c.c. John Freeman, Manager, Purchasing and Supply
 John Simon, Water Operations
 Gary McDonald, Budget Analyst
 Alan Dunbar, Manager, Financial Planning and Policy
 Jason Davies, Manager, Financial Planning and Policy
 Don Simpson, Stormwater Management Division