

Report to Civic Works Committee

To: Chair and Members
Civic Works Committee

From: Kelly Scherr, P. Eng., MBA, FEC
Deputy City Manager, Environment and Infrastructure

Subject: Erosion and Sediment Controls: MECP Great Lakes Funding to Reduce Pollution from Construction Runoff through Citizen and Industry Engagement

Date: March 1, 2022

Recommendation

That, on the recommendation of the Deputy City Manager, Environment and Infrastructure, the attached proposed by-law (Appendix “A”) **BE INTRODUCED** at the Municipal Council meeting on March 22, 2022, to:

- (a) approve the Ontario Transfer Payment Agreement for the Great Lakes Fund between Her Majesty the Queen in Right of Ontario as represented by the Minister of Environment, Conservation, and Parks and The Corporation of the City of London (the “Agreement”);
- (b) authorize the Mayor and the City Clerk to execute the Agreement;
- (c) delegate authority to the Deputy City Manager, Finance Supports or the Deputy City manager, Environment and Infrastructure to approve further Amending Agreements to the Agreement;
- (d) authorize the Mayor and the City Clerk to execute any amendments to the Agreement approved by the Deputy City Manager, Finance Supports or Deputy City Manager, Environment and Infrastructure; and,
- (e) authorize the Deputy City Manager, Finance Supports (or delegate) to execute any financial reports required under this Agreement.

Executive Summary

Purpose:

To seek Council approval for the City of London (City) to enter into an agreement with the Ministry of Environment and Parks (MECP) for funding to promote the reduction of pollution from construction runoff through citizen engagement.

Context:

The proposed MECP Great Lakes pilot project to create and pilot a citizen engagement model that could be used by other Ontario communities. The desired project outcome is to engage citizens of the City in helping reduce pollutant loadings (including phosphorus) from poor erosion and sediment control (ESC) practices to stormwater infrastructure, receiving water bodies and ultimately the Thames River/Lake Erie. This project will complement the City’s ongoing efforts to make improvements to erosion and sediment controls.

Linkage to the Corporate Strategic Plan

- This project supports the 2019-2023 Strategic Plan through the following:
 - London has a strong and healthy environment.

Analysis

1.0 Background Information

1.1 Previous Reports Related to this Matter

August 31, 2021. CWC. Appointment of Consulting Engineers – Stormwater Management Facility Build-out Sediment Survey.

1.2 Erosion and Sediment Controls (ESC)

The purpose of erosion and sediment controls (ESC)s is to prevent sediment laden water from entering watercourses. The most prevalent source of sediment to watercourses results from rainfall runoff over exposed soils. Accordingly, construction activities such as site alterations, development of subdivisions and site plans, and municipal construction projects pose the greatest risk of generating sediment laden runoff. To mitigate the impacts of development and construction, typical ESC measures include installation of silt fence, silt socks/mattresses, sediment basins, and settling tanks. These measures aim to remove and contain the bulk of sediment found in runoff prior to releasing to watercourses. All ESC systems require regular and ongoing maintenance to be functional throughout the construction project or build-out period. As such, it is important to stage the type and placement of ESC measures in response to the evolving site conditions.

Improper or non-functioning ESCs can lead to sediment-laden runoff to enter watercourses, which poses a risk to the functions of the natural environment (e.g., fisheries, species at risk, etc.) and is considered a spill event by the province. It is noted that a sediment spill triggers a documented response involving the City, Upper Thames River Conservation Authority (UTRCA), MECP, and any private landowners involved in the spill event. As a result, properly installed and maintained ESCs are essential to protect the environment and to limit the City's liability from negative impacts that may arise from spill events.

2.0 Discussion and Considerations

2.1 MECP Great Lakes Program Pilot Project

The purpose of the proposed MECP Great Lakes pilot project is to reduce, and where possible, prevent construction sediment and associated nutrients from entering stormwater management systems and waterways by increasing industry and public awareness of erosion and sediment controls (ESC), and facilitating action on this environmental hazard through citizen engagement.

The objectives are to:

- Facilitate industry (developers, consultants, contractors and trades) understanding of the Toronto Region Conservation Authority (TRCA)'s updated ESC guideline for Urban Construction (2019) by hosting training sessions.
- Increase the public's knowledge on the need for robust ESC measures at construction sites for pollution prevention;
- Increase citizen engagement in pollution prevention and protecting Lake Erie from contaminated stormwater leaving construction sites;
- Create and pilot an electronic public reporting tool that citizens can use to report poor ESC measures at construction sites to the City;
- Improve defective or insufficient ESC measures at constructions sites; and,
- Create and share a case study on the benefits and challenges of citizen engagement through electronic public reporting of poor ESC measures.

The desired project outcome is to engage citizens of the City in helping reduce pollutant loadings (including phosphorus) from poor ESC practices to stormwater infrastructure, receiving water bodies and ultimately the Thames River/Lake Erie. This project creates and pilots a citizen engagement model that could be used by other Ontario communities.

2.2 Outcomes and Metrics

This pilot project will create a citizen engagement model that could be used by other Ontario communities to enhance ESC programs and reduce negative impacts of construction sites to waterbodies. The desired outcome for this project is to create a citizen engagement model for municipalities that uses electronic public reporting for construction ESC Case study that analyzes the benefits, challenges and lessons learned from the pilot.

The following metrics will be used to determine the success of the project:

- # of public engagement/education sessions for the reporting tool
- # of public reports of poor construction ESC practices
- # of instances where remedial action was taken on construction site in response to public complaints

2.3 Transfer Payment Agreement

On February 25, 2022, Civic Administration received the transfer payment agreement from the MECP (Schedule 1 to the by-law in Appendix A).

The Ontario Transfer Payment Agreement provides funding for the Project as set out in Schedule C of the Agreement in accordance with the project specifics and the approved amount included in the Schedules to the Agreement.

Risk Management has reviewed the transfer payment agreement and advises **Article 9.0 (Indemnity)** of the transfer payment agreement requires the City to indemnify and hold harmless the Province from and against any loss or proceeding, unless solely caused by the Province's negligence or willful misconduct. Although this clause exposes the City to risk, the benefits of the agreement outweigh the risks.

3.0 Financial Considerations

The MECP Great Lakes Fund has offered the City a transfer payment of \$20,000 to support the proposed project. As part of standard ministry procedures, the City is required to create a by-law to execute the agreement located in Appendix 'A'. The City will contribute \$15,000 to the \$35,000 estimated total cost of the project. The City has available funding to contribute to this project.

Conclusion

The MECP Great Lakes Program funding will support the City's initiatives of improving citizen engagement in the identification and reporting of ESC issues that may negatively impact local watercourses. Staff recommend signing the agreement with MECP to support the protection of local watercourses from construction impacts in accordance with the latest provincial guidelines.

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Deputy City Manager, Environment and Infrastructure

Appendix 'A' – By-law and Ontario Transfer Payment Agreement

c.c.

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