

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: Disaster Mitigation and Adaptation Fund – Contribution
Agreement

Date: March 29, 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 April 12, 2022, and that:

- (a) the Contribution Agreement for the Disaster Mitigation and Adaptation Fund between Her Majesty the Queen in Right of Canada as represented by the Minister of Infrastructure and Communities and The Corporation of the City of London (the “Agreement”) **BE APPROVED**;
- (b) the Mayor and City Clerk **BE AUTHORIZED** to execute any contract or other documents, if required, to give effect to these recommendations.
- (c) the Deputy City Manager, Finance Supports or the Deputy City manager, Environment and Infrastructure **BE AUTHORIZED** to approve further Amending Agreements to the Agreement;
- (d) the Mayor and the City Clerk **BE AUTHORIZED** to execute any amendments to the Agreement approved by the Deputy City Manager, Finance Supports or Deputy City Manager, Environment and Infrastructure; and,
- (e) the Deputy City Manager, Finance Supports (or delegate) **BE AUTHORIZED** to execute any financial reports required under this Agreement.

Executive Summary

Purpose

This report introduces a by-law to authorize the Mayor and the City Clerk to execute the Contribution Agreement and any future amending agreements between Her Majesty the Queen in Right of Canada as represented by the Minister of Infrastructure and Communities and The Corporation of the City of London with respect to the Disaster Mitigation and Adaptation Fund – Agreement for Wastewater Treatment Plant Flood Protection Project.

Context

London’s wastewater treatment plants, which protect the Thames River from the effects of the City’s wastewater and represent millions of dollars in assets, are located in areas that may be flooded during extreme weather events. On October 13, 2020, the Federal Government announced that the City of London was successful in obtaining up to \$19.8 Million in funding under the Disaster Mitigation and Adaptation Fund program to support the construction of flood protection measures at the Greenway and Adelaide Wastewater Treatment Plants. This represents a 40% cost share contribution from the Federal Government. Civic Administration has negotiated the terms of the Contribution Agreement with the Federal Government that will enable the City to recover eligible expenses under the program.

Linkage to the Corporate Strategic Plan

The following report supports the Strategic Plan through the strategic focus area of “Building a Sustainable City”, under the outcome of increasing actions to respond to climate change and severe weather.

In this case the Strategic Plan is supported by ensuring that London’s infrastructure is built, maintained, and operated to consider and adapt to the effects of climate change such as increasingly intense weather and flood events.

Analysis

1.0 Background Information

1.1 Previous Reports Related to this Matter

- Civic Works Committee – March 2, 2021 – Greenway and Adelaide Wastewater Treatment Plants Climate Change Resiliency Class Environmental Assessment Consultant Award

1.2 Context

Council declared a climate emergency in the City of London on April 24, 2019. The Climate Emergency Action Plan addresses the City’s responsibility to reduce greenhouse gas emissions and increase resiliency to climate change.

In December 2020 the City of London announced federal funding through the Disaster Mitigation and Adaptation Fund for upgrades to the Greenway and Adelaide Wastewater Treatment Plants. Potential improvement works at each plant site include a flood barrier, a pumping station, and other upgrades to protect these critical infrastructure assets and reduce environmental impacts of flooding events. The federal funding will support the public consultation, design, and construction of these works at both the Greenway and Adelaide Wastewater Treatment Plants.

2.0 Discussion and Considerations

2.1 Climate Change Resilience for Wastewater Treatment Plants

The City of London owns and operates five wastewater treatment plants in the City and these plants are typically situated immediately adjacent to the Thames River in low-lying areas. Many of the essential treatment plant components are located within the floodplain.

With climate change, the City of London and other communities are experiencing more frequent and intense wet weather events, which increases the potential for flooding. A physical barrier, such as a berm or wall, would protect the plants from river flooding. This strategy was recently implemented at the Vauxhall Wastewater Treatment Plant.

Flood protection measures at the City’s wastewater treatment plants will improve the resilience of these facilities and enhance staff safety during extreme wet weather events. Improving the resilience of the City’s wastewater treatment plants to extreme wet weather events also improves treatment capabilities, reduces the likelihood of overflows and bypasses during those events, and supports the City’s commitment to the Lake Erie Domestic Action Plan by reducing phosphorus discharged to the Thames River.

2.2 Disaster Mitigation and Adaptation Fund

The Government of Canada created a \$2 billion fund intended to support large infrastructure projects that, among other things, contribute to the resilience of critical infrastructure in the face of increased risks of damage due to climate change. Under this

Disaster Mitigation and Adaptation Fund, the Federal Government would fund 40% of all eligible project costs, while participating municipalities would contribute the remaining 60%. In its application for funding, the City proposed the construction of flood protection at Greenway and Adelaide Wastewater Treatment Plants as major projects that fit the goals of the program, and the City's proposal was accepted.

The overall project cost is estimated at \$49.5 million, with the maximum federal share of all project related expenses totalling \$19.8 million (40%). A Contribution Agreement that formalizes the framework under which the City can recover eligible project costs is a mandatory requirement to receive any funding under this program. The purpose of this report is to present for approval the final Contribution Agreement between Her Majesty the Queen in Right of Canada as represented by the Minister of Infrastructure and Communities and The Corporation of the City of London and to introduce a by-law to authorize the Mayor and the City Clerk to execute the agreement and any future amending agreements. The proposed bylaw is attached as Appendix A, which contains the Contribution Agreement as Schedule A.

The Fund has strict timelines that must be met by the City. Accordingly, a consulting assignment was awarded by Council on March 23, 2021, to allow the public consultation process related to each wastewater treatment plant to proceed. This public consultation process is currently underway, with study information available at the following locations:

- Greenway: <https://getinvolved.london.ca/greenway-climate-change>
- Adelaide: <https://getinvolved.london.ca/adelaide-climate-change>

By commencing these studies in advance of the final Contribution Agreement, the City is able to maintain the schedule proposed in its application for funding.

3.0 Financial Impact/Considerations

Notwithstanding the requirement for an executed Contribution Agreement, all related expenditures incurred subsequent to the Government of Canada's notification of London's success in being selected for the Disaster Mitigation and Adaptation Fund (dated October 13, 2020) are still eligible to be claimed once the Agreement is executed. As a result, all previous and future fees paid under the consulting assignment previously approved by Council and currently underway for public consultation (the completion of a Municipal Class Environmental Assessment) for each site will be eligible for 40% reimbursement by the Federal Government upon execution of the Contribution Agreement.

Flood protection systems at Greenway and Adelaide Wastewater Treatment Plants were already identified as priority projects for the Wastewater Treatment Operations Division because of the location of those plants within the Thames River floodplain. There were previously no specific capital accounts dedicated to flood protection, but the availability of federal funding to subsidize those significant planned undertakings by 40% allowed the City to advance the timing. Sources of financing for the City's obligations under this Disaster Mitigation and Adaptation Fund agreement have been identified.

It should be noted that Article 3.3 – Appropriations and Funding Levels allows the Government of Canada to reduce or terminate the terms of the Contribution Agreement in the case of changes to funding sources for the transfer payments. Similarly, Article 16 – Limitation of Liability and Indemnity, requires the City to indemnify and hold harmless Canada from and against any loss or proceeding, unless solely caused by Canada's negligence or wilful misconduct. Although these clauses expose the City to risk, the benefits of the Agreement are considered by staff to outweigh the risks. Risk Managements has confirmed that the City can meet the insurance requirements in the Agreement.

Conclusion

On October 13, 2020, the Government of Canada announced that The City of London was successful in obtaining up to \$19.8 Million in federal funding under the Disaster Mitigation and Adaptation Fund to support the construction of flood protection measures at the Greenway and Adelaide Wastewater Treatment Plants, amounting to a 40% contribution. Public consultation for these important projects is underway. Concurrently, civic administration has negotiated the terms of a Contribution Agreement that will enable the City to recover eligible project costs.

This report introduces a by-law to seek approval of the Contribution Agreement between Her Majesty the Queen in Right of Canada as represented by the Minister of Infrastructure and Communities and The Corporation of the City of London with respect to the Disaster Mitigation and Adaptation Fund and authorize the Mayor and the City Clerk to execute the agreement and any future amending agreements.

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