

## Report to Civic Works Committee

**To:** Chair and Members  
Civic Works Committee

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

**Subject:** Broughdale Dyke Disaster Mitigation and Adaptation Funding  
– Contribution Agreement

**Date:** May 2, 2023

## 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 May 16, 2023, and that:

- (a) the Contribution Agreement for the Disaster Mitigation and Adaptation Fund between His Majesty the King in Right of Canada as represented by the Minister of Intergovernmental Affairs, Infrastructure and Communities (“Canada”) and The Corporation of the City of London (the “Recipient”) **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 His Majesty the King in Right of Canada as represented by the Minister of Intergovernmental Affairs, Infrastructure and Communities and The Corporation of the City of London with respect to the Disaster Mitigation and Adaptation Fund – Contribution Agreement for the Broughdale Dyke Reconstruction Project.

### Context

The City of London owns flood and erosion control structures throughout the watershed that protect many areas within the floodplain areas from flooding. On October 21<sup>st</sup>, 2022 the Federal Government announced that the City of London was successful in obtaining up to \$3.6 Million in funding under the Disaster Mitigation and Adaptation Fund program to support the reconstruction of the Broughdale Dyke. 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

This project supports the 2019-2023 Strategic Plan through the following: Building a

Sustainable City, Build infrastructure to support future development and protect the environment, Improve London's resiliency to respond to future challenges, and Maintain or increase current levels of service; manage the infrastructure gap for all assets.

## **Analysis**

### **1.0 Background Information**

#### **1.1 Previous Reports Related to this Matter**

Strategic Priorities and Policy Committee – April 2019 – Climate Emergency Declaration

Ecological Community Advisory Committee – February 21, 2019 – Notice of Completion – Broughdale Dyke Municipal Class Environmental Assessment.

Civic Works Committee – July 17, 2017 – Water and Erosion Control Infrastructure (WECI) Program – 2017 Provincially Approved Project Funding

### **2.0 Discussion and Considerations**

#### **2.1 Discussion**

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.

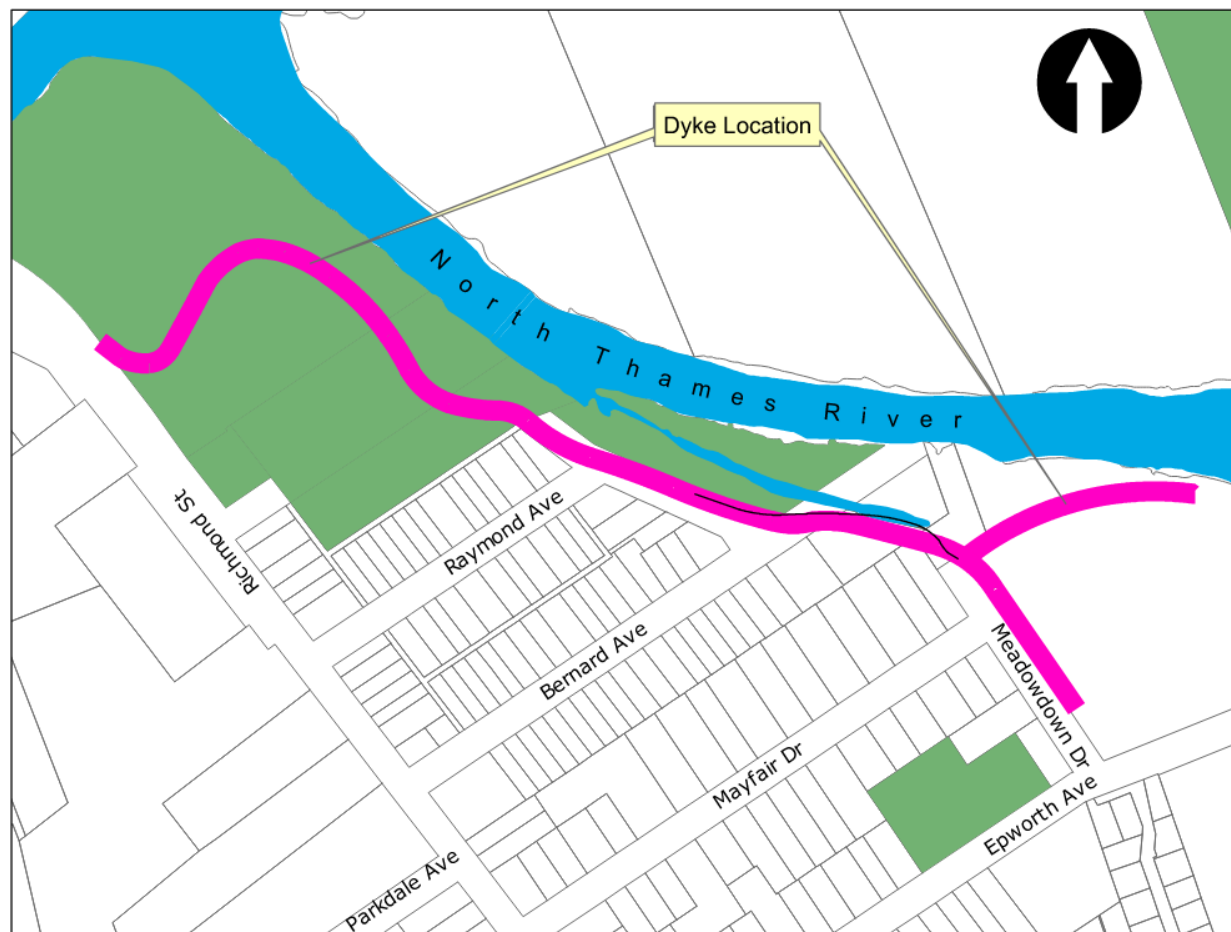
In 2011, a stability and condition assessment of the Broughdale Dyke identified sections of the dyke to be in poor condition with severe stability issues. In 2016, a model was completed to assess the flood protection capabilities of the dyke under existing and future (climate change) conditions. The engineer's report identified the area as a high flood hazard that could impact the safety of people and structures within the Broughdale Area during the 250-year storm event. In 2018, a Broughdale Dyke Stability Municipal Class Environmental Assessment was completed that recommended extending and raising the dyke to meet the 250-year event with a 0.9m freeboard as a safety factor for climate change. Raising and improving the dyke will reduce the likelihood of flooding for over 190 properties within the Broughdale area.

#### **2.2 Disaster Mitigation and Adaptation Fund**

In 2017, the Government of Canada created a two 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. In 2021, the Government of Canada topped up this funding with another \$1.375 billion. Under this Disaster Mitigation and Adaptation Fund, the Federal Government funds 40% of all eligible project costs, while participating municipalities contribute the remaining 60%. In its application for funding, the City proposed the reconstruction of the Broughdale Dyke as a project that fit the goals of the program, and the City's proposal was accepted.

The overall project cost is estimated at \$9.09 million, with the maximum federal share of project related expenses totalling \$3.6 million (40%). A Contribution Agreement that formalizes the framework under which the City can recover eligible project costs is a mandatory requirement to receive funding under this program. The purpose of this report is to present for approval the final Contribution Agreement His Majesty the King in Right of Canada as represented by the Minister of Intergovernmental Affairs, 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.

## 2.3 Location Map



**Figure 1: Location map showing the location of the Broughdale Dyke**

## 3.0 Financial Impact/Considerations

Any expenses incurred after the Government of Canada's notification of London's success (dated October 21<sup>st</sup>, 2022) are eligible to be claimed for 40% reimbursement once the Contribution Agreement is executed.

Flood protection measures have been identified as priority projects for the City through the Upper Thames Conservation Authority – Remediating Flood Control Works within City Limits. The availability of federal funding to subsidize the Broughdale Dyke reconstruction by 40% allowed the City to advance the timing of this work. 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 Management has confirmed that the City can meet the insurance requirements in the Agreement.

## Conclusion

On March 3<sup>rd</sup>, 2023, the Government of Canada announced that The City of London was successful in obtaining up to \$3.6 Million in federal funding under the Disaster Mitigation and Adaptation Fund to support the reconstruction of the Broughdale Dyke, amounting to a 40% contribution. 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 His Majesty the King in Right of Canada as represented by the Minister of Intergovernmental Affairs, 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.

**Prepared by:** **Shawna Chambers, P.Eng., DPA,  
Division Manager, Stormwater Engineering**

**Submitted by:** **Ashley Rammeloo, MMSc., P. Eng.  
Director, Water, Wastewater and Stormwater**

**Recommended by:** **Kelly Scherr, P. Eng., MBA, FEC  
Deputy City Manager, Environment & Infrastructure**

**Attachments:** Appendix 'A' – Draft By-law and Terms and Conditions for Funding

**CC:** John Freeman  
Gary MacDonald  
Alan Dunbar  
Jason Davies  
Monica McVicar

## Appendix “A”

Bill No.  
2023

By-law No.

A by-law to approve the Ontario Transfer Payment between His Majesty the King in right of Canada as represented by the Minister of Intergovernmental Affairs, Infrastructure and Communities (“Canada”) and authorize the Mayor and City Clerk to execute the Agreement and any future amending agreements.

WHEREAS subsection 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 subsection 10(1) of the Municipal Act, 2001 provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the Municipal Act, 2001 provides that a municipality may pass by-laws respecting, among other things: i) economic, social and environmental well-being of the municipality; and ii) financial management of the municipality;

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

1. The Ontario Transfer Payment between His Majesty the King in Right of Canada as represented by the Minister of Intergovernmental Affairs, Infrastructure and Communities (“Canada”) and The Corporation of the City of London (“Recipient”) attached as Schedule “1” to this by-law is hereby authorized and approved.
2. The Mayor and the City Clerk are hereby authorized to execute the Agreement authorized and approved under section 1 of this by-law.
3. The Deputy City Manager, Finance Supports or the Deputy City Manager, Environment and Infrastructure are hereby authorized to approve amending agreements to the Agreement provided it does not increase the indebtedness or liabilities of The Corporation of the City of London under the Agreement.
4. The Mayor and City Clerk are hereby authorized to execute any amending agreements approved by the Deputy City Manager, Finance Supports or the Deputy City Manager, Environment and Infrastructure under section 3 of this by-law.
5. The Deputy City Manager, Finance Supports, or their delegate, is hereby authorized to execute any financial reports required as a condition under the Agreement.
6. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on May 16, 2023

Josh Morgan  
Mayor

Michael Schulthess  
City Clerk

First Reading – May 16, 2023  
Second Reading – May 16, 2023  
Third Reading – May 16, 2023

**CANADA – CITY OF LONDON  
DISASTER MITIGATION AND ADAPTATION FUND**

**AGREEMENT FOR BROUGHDALE DYKE RECONSTRUCTION PROJECT**

This Agreement is made as of the date of last signature

**BETWEEN:** **HIS MAJESTY THE KING IN RIGHT OF CANADA**, as represented by the Minister of Intergovernmental Affairs, Infrastructure and Communities (“Canada”)

**AND**

**CORPORATION OF THE CITY OF LONDON**, incorporated pursuant to the *Municipal Act, 2001*, S.O. 2001, c. 25 (the “Recipient”),

individually referred to as a “Party” and collectively referred to as the “Parties”.

**RECITALS**

WHEREAS the Government of Canada established the \$2 billion Disaster Mitigation and Adaptation Fund in Budget 2017;

WHEREAS the Government of Canada established a top up of \$1.375 billion for the Disaster Mitigation and Adaptation Fund in Budget 2021;

*WHEREAS, the Minister of Intergovernmental Affairs, Infrastructure and Communities is responsible for the Disaster Mitigation and Adaptation Fund (the “Program”);*

WHEREAS the Recipient has submitted to Canada a proposal for the funding of the Broughdale Dyke Reconstruction Project (the “Project”) which qualifies for support under the Program;

AND WHEREAS the Recipient is responsible to carry out the Project and Canada wishes to provide financial support for the Project and its objectives;

**NOW THEREFORE**, in accordance with the mutual covenants and agreements herein, the Parties hereby agree as follows:

**1. INTERPRETATION**

**1.1 DEFINITIONS**

In addition to the terms and conditions defined in the recitals and elsewhere in this Agreement, a capitalized term has the meaning given to it in this subsection.

“**Agreement**” means this contribution agreement and all its schedules, as may be amended from time to time.

“**Agreement End Date**” means March 31, 2033.

“**Asset**” means any real or personal property or immovable or movable asset acquired, purchased, constructed, rehabilitated or improved, in whole or in part, with funds contributed by Canada under the terms and conditions of this Agreement, including but not limited to any Non-owned Asset.

“**Asset Disposal Period**” means the period commencing from the Effective Date and ending twenty (20) years after the Project’s Substantial Completion Date.

“**Communications Activity**” or “**Communications Activities**” means, but is not limited to, public or media events or ceremonies including key milestone events, news releases, reports, web and social media products or postings, blogs, news conferences, public notices, physical and digital signs, publications, success stories and vignettes, photos, videos, multi-media content, advertising campaigns, awareness campaigns, editorials, multi-media products and all related communication materials.

“**Contract**” means an agreement between the Recipient and a Third Party whereby the latter agrees to supply a product or service to the Project in return for financial consideration.

“**Declaration of Substantial Completion**” means a declaration in the form substantially prescribed in Schedule D (Declaration of Substantial Completion).

“**Effective Date**” means the date of last signature of this Agreement.

**“Eligible Expenditures”** means those costs of the Project incurred by the Recipient and eligible for reimbursement by Canada as set out in Schedule A (Eligible and Ineligible Expenditures).

**“Fair Value”** means the amount that would be agreed upon in an arm’s length transaction between knowledgeable, willing parties who are under no compulsion to act.

**“Fiscal Year”** means the period beginning April 1 of a year and ending March 31 of the following year.

**“In-Kind Contributions”** means non-monetary contributions of goods, services or other support provided by the Recipient, or to the Recipient by a third party for the Project, for which Fair Value is assigned, but for which no payment occurs.

**“Joint Communications”** means events, news releases and signage that relate to the Agreement and are collaboratively developed and approved by the Parties and are not operational in nature.

**“Oversight Committee”** means the committee established pursuant to Section 5 (Oversight Committee).

**“Non-owned Asset”** means an Asset to which the Recipient does not hold the title and ownership.

**“Project”** means the project as described in Schedule B (Project Details).

**“Project Approval Date”** means July 29, 2022 which is the date indicated by Canada in writing to the Recipient following Canada’s approval in principle of the Project.

**“Project Component”** means any of the components of the Project as described in Schedule B2 (Project Components and Cashflow).

**“Program”** means the Disaster Mitigation and Adaptation Fund Program.

**“Substantial Completion Date”** means the date on which the Project can be used for the purpose for which it was intended as described in Schedule B1 (Project Description) and as will be set out in Schedule D (Declaration of Substantial Completion).

**“Third Party”** means any person or legal entity, other than a Party, who participates in the implementation of the Project by means of a Contract.

**“Total Financial Assistance”** means total funding from all sources towards Total Expenditures of the Project, including funding from the Recipient and federal, provincial, territorial, and municipal governments as well as funding from other sources, private financial sources and In-Kind Contributions.

## **1.2 ENTIRE AGREEMENT**

This Agreement, including the recitals, comprises the entire agreement between the Parties in relation to the subject of the Agreement. No prior document, negotiation, provision, undertaking or agreement has legal effect, unless incorporated by reference into this Agreement. No representation or warranty expressed, implied or otherwise, is made by Canada to the Recipient except as expressly set out in this Agreement.

## **1.3 DURATION OF AGREEMENT**

This Agreement will be effective as of the Effective Date and will terminate on the Agreement End Date subject to early termination in accordance with this Agreement.

## **1.4 SCHEDULES**

The following schedules are attached to, and form part of this Agreement:

Schedule A – Eligible and Ineligible Expenditures

Schedule B – Project Details

Schedule C – Communications Protocol

Schedule D – Declaration of Substantial Completion

## **2. PURPOSE OF AGREEMENT**

- a) The purpose of this Agreement is to establish the terms and conditions whereby Canada will provide funding to the Recipient for the Project.
- b) The parties acknowledge that their contributions to the Project are meant to accrue to the public benefit.



### 3. OBLIGATION OF THE PARTIES

#### 3.1 COMMITMENTS BY CANADA

- a) Canada agrees to pay a contribution to the Recipient of not more than forty percent (40%) of the total Eligible Expenditures for the Project, but only up to a maximum of three million six hundred thirty-six thousand dollars (\$3,636,000).
- b) Canada will pay the contribution in accordance with the terms and conditions of this Agreement and the Fiscal Year breakdown in Schedule B2 (Project Components and Cashflow).
- c) The Parties acknowledge that Canada's role in the Project is limited to making a financial contribution to the Recipient for the Project and that Canada will have no involvement in the implementation of the Project or its operation. Canada is neither a decision-maker nor an administrator to the Project.
- d) If Canada's total contribution towards the Project exceeds forty percent (40%) of the Project's total Eligible Expenditures or if the Total Financial Assistance received or due in respect of the total Project costs exceeds one hundred per cent (100%) thereof, Canada may recover the excess from the Recipient or reduce its contribution by an amount equal to the excess.

#### 3.2 COMMITMENTS BY THE RECIPIENT

- a) The Recipient will ensure the Project is completed in a diligent and timely manner, as per the Project Details outlined in Schedule B, within the costs and deadlines specified in this Agreement and in accordance with the terms and conditions of this Agreement.
- b) The Recipient will be responsible for all costs of the Project including cost overruns, if any.
- c) The Recipient will be responsible for any and all costs associated with the Project should the Project be withdrawn or cancelled, and the Recipient will repay to Canada any payment received for disallowed costs and all ineligible costs, surpluses, unexpended contributions, and overpayments made under and according to the terms and conditions of this Agreement.
- d) The Recipient will ensure that the greenhouse gas emissions assessment that includes a cost-per-tonne calculation for the Project is completed to Canada's satisfaction and submitted to Canada *within six months of the Effective Date* and prior to Canada flowing funds, unless otherwise required by Canada.
- e) The Recipient will report on community employment benefits provided to at least three federal target groups (apprentices, Indigenous peoples, women, persons with disabilities, veterans, youth, recent immigrants, or small- and medium-sized enterprises and social enterprises) and submit to Canada with annual updates until Project completion as per paragraph 8.1 c) Reporting.
- f) The Recipient will promptly inform Canada of the Total Financial Assistance received or due for the Project.
- g) During the Asset Disposal Period, the Recipient will ensure that it acquires, secures and maintains all necessary rights, interests, permissions, permits, licences, approvals, registrations, and any other authorizations, to carry out the Project and to provide the ongoing operation, maintenance, and repair of any Asset, in accordance with this Agreement.
- h) The Recipient will ensure the ongoing operation, maintenance, and repair of any Asset in relation to the Project, as per appropriate standards, during the Asset Disposal Period.
- i) At the request of Canada, the Recipient will declare to Canada any amounts owing to the federal Crown, under legislation or contribution agreements, which constitute an overdue debt. The Recipient recognizes that any such amount owing is a debt due to the federal Crown and may be set-off by Canada in accordance with Section 18.5 (Set-off by Canada).
- j) The Recipient will inform Canada immediately of any fact or event that will compromise wholly or in part the Project.
- k) The Recipient agrees that material changes to the Project will require Canada's consent, which may be subject to terms and conditions, and a corresponding amendment to the Agreement.

#### 3.3 APPROPRIATIONS AND FUNDING LEVELS

Notwithstanding Canada's obligation to make any payment under this Agreement, this obligation does not arise if, at the time when a payment under this Agreement becomes due, the Parliament of Canada has not passed an appropriation that is sufficient and constitutes lawful authority for making the payment. Canada may reduce or terminate any payment under this Agreement in response to the reduction of appropriations or departmental funding levels in respect of transfer payments, the Program under which this Agreement was made or otherwise, as evidenced by any appropriation act or the federal Crown's main or supplementary estimates expenditures. Canada will not be liable for any direct, indirect, consequential, exemplary or punitive damages, regardless of the form of action, whether in contract, tort or otherwise, arising from any such reduction or termination of funding.

### **3.4 FISCAL YEAR BUDGETING**

- a) The amount of the contribution payable by Canada for each Fiscal Year of the Project is set out in Schedule B2 (Project Components and Cashflow).
- b) If the actual amount payable by Canada in respect of any Fiscal Year of the Project is less than the estimated amount in Schedule B2 (Project Components and Cashflow), the Recipient may request that Canada re-allocate the difference between the two amounts to a subsequent Fiscal Year. Subject to Subsection 3.3 (Appropriations and Funding Levels), Canada agrees to make reasonable efforts to accommodate the Recipient's request. The Recipient acknowledges that requests for re-allocation of Project funding will require appropriation adjustments or federal Crown approvals.
- c) In the event that any requested re-allocation of Project funding is not approved, the amount of Canada's contribution payable pursuant to Subsection 3.1 (Commitments by Canada) may be reduced by the amount of the requested re-allocation. If the contribution payable by Canada pursuant to Subsection 3.1 (Commitments by Canada) is so reduced, the Parties agree to review the effects of such reduction on the overall implementation of the Project and to adjust the terms and conditions of this Agreement as appropriate.

### **3.5 INABILITY TO COMPLETE PROJECT**

If, at any time during the term of this Agreement, one or all of the Parties determine that it will not be possible to complete the Project for any reason, the Party will immediately notify the other Party of that determination and Canada may suspend its funding obligation. The Recipient will, within thirty (30) business days of a request from Canada, provide a summary of the measures that it proposes to remedy the situation. If Canada is not satisfied that the measures proposed will be adequate to remedy the situation, then this will constitute an Event of Default under Section 15 (Default) and Canada may declare a default pursuant to Section 15 (Default).

### **3.6 CONDITIONS PRECEDENT**

#### *a) Condition*

*The Recipient agrees that Canada has no obligation to make payments under this Agreement unless and until:*

- i. *The Recipient completes a greenhouse gas emissions assessment that includes a cost-per-tonne calculation for the Project to Canada's satisfaction and provides it to Canada.*

#### *b) Remedy*

*In the event that the Recipient is unable to meet the condition set out in paragraph 3.6 (a) (Condition), Canada may terminate this Agreement. Canada will not be liable for any direct, indirect, consequential, exemplary or punitive damages, regardless of the form of action, whether in contract, tort or otherwise, arising from the termination of this Agreement.*

## **4. THE RECIPIENT REPRESENTATIONS AND WARRANTIES**

The Recipient represents and warrants to Canada that:

- a) The Recipient has the capacity and authority to enter into and execute this Agreement

“AS DULY AUTHORIZED BY BY-LAW XXXX<sup>1</sup>, dated [DATE]”;

- b) The Recipient has the capacity and authority to carry out the Project;
- c) The Recipient has the requisite power to own the Assets or it has or will have secured all necessary rights, interests, and permissions in respect of the Assets, during the Asset Disposal Period;
- d) This Agreement constitutes a legally binding obligation of the Recipient, enforceable against it in accordance with its terms and conditions;
- e) All information submitted to Canada as set out in this Agreement is true, accurate, and was prepared in good faith to the best of its ability, skill, and judgment;
- f) There are no actions, suits, investigations or other proceedings pending or, to the knowledge of the Recipient, threatened and there is no order, judgment or decree of any court or governmental agency which could materially and adversely affect the Recipient’s ability to carry out the activities contemplated by this Agreement. The Recipient will inform Canada immediately if any such action or proceedings are threatened or brought during the term of this Agreement.
- g) Any individual, corporation or organization that the Recipient has hired, for payment, who undertakes to speak to or correspond with any employee or other person representing Canada on the Recipient’s behalf, concerning any matter relating to the contribution under this Agreement or any benefit hereunder and who is required to be registered pursuant to the federal *Lobbying Act*, is registered pursuant to that *Act*;
- h) The Recipient has not and will not make a payment or provide other compensation that is contingent upon or is calculated upon the contribution hereunder or the negotiation of the whole or any part of the terms and conditions of this Agreement to any individual, corporation or organization with which that individual is engaged in doing business with, who is registered pursuant to the federal *Lobbying Act*;

## 5. OVERSIGHT COMMITTEE

Within sixty (60) business days of the date of the last signature of this Agreement, the Parties will establish an Oversight Committee comprising a federal co-chair and a co-chair from the Recipient. The Oversight Committee will:

- a) Monitor compliance with the terms and conditions of this Agreement;
- b) Monitor the implementation of Schedule C (Communications Protocol);
- c) Monitor Project risks and mitigation measures;
- d) Monitor the progress of the Project as per described in Section 8 (Reporting);
- e) Ensure that audit plans are carried out as per this Agreement, including but not limited to Section 10 (Audit);
- f) Act as a forum to resolve potential issues and address concerns;
- g) Review and, as necessary, recommend to the Parties amendments to the Agreement; and
- h) Attend to any other function required by this Agreement, or as mutually agreed to by the Parties.

## 6. CONTRACT PROCEDURES

### 6.1 AWARDING OF CONTRACTS

- a) The Recipient will ensure that Contracts are awarded in a way that is fair, transparent, competitive and consistent with value-for-money principles, and if applicable, in accordance with the Canadian Free Trade Agreement and international trade agreements.
- b) If Canada becomes aware that a Contract is awarded in a manner that is not in compliance with the foregoing, upon notification to the Recipient, Canada may consider the expenditures associated with the Contract to be ineligible.
- c) In addition to any other remedy available to Canada under this Agreement, if Canada considers the expenditures associated with a Contract to be ineligible under Section

6.1(b), the Recipient shall repay to Canada any funds that have been paid for Eligible Expenditures in relation to the Contract, at Canada's discretion.

## **6.2 CONTRACT PROVISIONS**

The Recipient will ensure that all Contracts are consistent with, and incorporate, the relevant provisions of this Agreement. More specifically but without limiting the generality of the foregoing, the Recipient agrees to include terms and conditions in all Contracts to ensure that:

- a) The Third Party will keep proper and accurate financial accounts and records, including but not limited to its Contracts, invoices, statements, receipts, and vouchers, in respect of the Project for at least six (6) years after the Agreement End Date and that the Recipient has the contractual right to audit them;
- b) All applicable labour, environmental, and human rights legislation is respected; and
- c) Canada, the Auditor General of Canada, and their designated representatives, to the extent permitted by law, will at all times be permitted to inspect the terms and conditions of the Contract and any records and accounts respecting the Project and will have reasonable and timely access to the Project sites and to any documentation relevant for the purpose of audit.

## **7. CLAIMS AND PAYMENTS**

### **7.1 PAYMENT CONDITIONS**

- a) Canada will not pay interest for failing to make a payment under this Agreement.
- b) Canada will not make a payment until the conditions identified in subsection 3.6 (Conditions Precedent) have been met;
- c) Canada will not make a payment, other than the first Fiscal Year in which claims are submitted, unless Canada has received and approved reports as required under Section 8 (Reporting) and any audit requirements as required in Section 10 (Audit);
- d) Canada will not make a payment in respect of an Asset until the Recipient secures and confirms in writing to Canada, and to Canada's satisfaction, the necessary rights or interests with respect to land required for the Project in respect of that Asset.
- e) Canada will not pay any claims until the requirements under Section 20 (Indigenous Consultations), if applicable, are, in Canada's opinion, satisfied to the extent possible at the date the claim is submitted to Canada.

### **7.2 CLAIMS AND PAYMENTS**

- a) The Recipient will submit claims to Canada covering the Eligible Expenditures, in a form acceptable to Canada. Each claim must include the following:
  - i. a written attestation by a senior official designated by the Recipient that the information submitted in support of the claim is accurate and that Eligible Expenditures have been incurred;
  - ii. a breakdown of Eligible Expenditures claimed by Project Component in accordance with Schedule B2 (Project Components and Cashflow);
  - iii. upon request by Canada, any documents in support of Eligible Expenditures claimed.
- b) Canada will make a payment upon review and acceptance of a claim, subject to the terms and conditions of this Agreement.
- c) The Recipient will provide a final claim to Canada no later than twelve (12) months after Substantial Completion Date, along with all information required under Subsections 8.2 (Final Report), Section 10 (Audit), and Declaration of Substantial Completion (Schedule D).

### **7.3 DECLARATION OF SUBSTANTIAL COMPLETION**

- a) Prior to executing the Declaration of Substantial Completion, the Recipient will request confirmation from Canada as to whether the Declaration of Substantial Completion lists all relevant documents;

- b) The Declaration of Substantial Completion must be signed by an authorized official as deemed acceptable by Canada, and it must list all relevant documents as agreed to by Canada.

**7.4 PAYMENT DEADLINE**

- a) Canada will not have the obligation to make a payment after March 31st of the year following the Fiscal Year in which the Eligible Expenditures were incurred; and
- b) Canada will make the final payment no later than March 31st, 2033.

**7.5 RETENTION OF CONTRIBUTION**

Canada will retain up to five percent (5%) of its contribution under this Agreement. Any amount retained by Canada will be released by Canada upon review and acceptance of the final report described under Section 8.2 (Final Report) and the Recipient fulfills all of its obligations under this Agreement.

**7.6 FINAL ADJUSTMENTS**

Upon Canada's receipt of the final claim, but before issuing the final payment, the Parties will jointly carry out a final reconciliation of all claims and payments in respect of the Project and make any adjustments required in the circumstances.

**7.7 FINAL PAYMENT**

Canada will make a final payment upon review and acceptance of the final claim, subject to the terms and conditions of this Agreement.

**8. REPORTING**

**8.1 PROGRESS REPORT**

- a) The Recipient will submit progress reports to Canada at a timing and frequency determined by Canada but no less than once per year. The progress report will be attested by a delegated senior official. The first progress report under this Agreement must cover the period from the Project Approval Date.
- b) Each progress report must include, at a minimum, the following information:
  - i. Project Title
  - ii. A confirmation of Schedule B2 Project Components and Cashflow, or a request for updated Schedule B2 Project Components and Cashflow submitted pursuant to section 3.4 (Fiscal Year Budgeting).
  - iii. construction start and end dates (forecast/actual);
  - iv. Project progress for the period;
  - v. an update on Project issues/risks, if any, and mitigation measures;
  - vi. an update on Project alignment to meet results as described in Schedule B, subsection 1.2; and
  - vii. confirmation of the Project's installed signage, if applicable.
- c) Expected and actual results related to community employment benefits for the Project will be included in a progress report on an annual basis.

**8.2 FINAL REPORT**

The Recipient will submit a final report to Canada with the final claim for approval no later than twelve (12) months after the Substantial Completion Date. The final report will include:

- a) All information required under paragraph 8.1. (Progress Report), covering the period from the last progress report to the date of submitting the final claim; and
- b) A cumulative summary of the results and the financials for the Project, which will include the following information:
  - i. the Project's completed results compared to the baseline established prior to the start of the Project as listed under Schedule B (Project Details);
  - ii. total expenditures and Eligible Expenditures by source of funding as well as federal contribution by Fiscal Year for the Project;
  - iii. an attestation, signed by a delegated senior official, that the Project has been completed and that federal funding was spent on Eligible Expenditures in accordance with this Agreement;

- iv. reporting on community employment benefits and demonstrating that all environmental conditions and indigenous consultation and accommodation requirements have been met;
- v. Reporting on the number of jobs created and trees planted.
- vi. confirmation of the Total Financial Assistance in accordance with paragraph 3.2 (f) (Commitments by the Recipient) and Schedule B3 (Total Financial Assistance).

## **9. INFORMATION MANAGEMENT**

The Recipient will use the Infrastructure Recipient Information System (IRIS), or a process designated by Canada, to fulfill the obligations of the Recipient under this Agreement, including Section 8 (Reporting) and any other obligations of the Recipient as requested by Canada.

## **10. AUDIT**

- a) The Recipient agrees to inform Canada of any audit that has been conducted on the use of contribution funding under this Agreement, provide Canada with all relevant audit reports, and ensure that prompt and timely corrective action is taken in response to any audit findings and recommendations. The Recipient will submit to Canada in writing as soon as possible, but no later than sixty (60) days following receiving it, a report on follow-up actions taken to address recommendations and results of the audit.
- b) Canada may, at its discretion, conduct a Recipient audit related to this Agreement during the term of this Agreement and up to two years after the Agreement End Date, in accordance with the Canadian Auditing Standards and Section 18.2 (Accounting Principles).
- c) The Recipient will ensure proper and accurate financial accounts and records are kept, including but not limited to its Contracts, invoices, statements, receipts, and vouchers in respect to the Project for at least six (6) years after the Agreement End Date.

## **11. EVALUATION**

The Recipient agrees to provide Project-related information to Canada during and following the termination of the Agreement in order for Canada to conduct any evaluation of the performance of the Program. All evaluation results will be made available to the public, subject to all applicable laws and policy requirements.

## **12. ACCESS**

The Recipient will provide Canada and its designated representatives with reasonable and timely access to the Project sites, facilities, and any documentation for the purposes of audit, inspection, monitoring, evaluation, and ensuring compliance with this Agreement.

## **13. COMMUNICATIONS**

### **13.1 COMMUNICATIONS PROTOCOL**

- a) The Parties will comply with Schedule C (Communications Protocol).
- b) The Recipient will acknowledge Canada's contribution in all signage and public communication produced as part of the Project or Agreement, in a manner acceptable to Canada, unless Canada communicates in writing to the Recipient that this acknowledgement is not required.
- c) The Recipient acknowledges that the following may be made publicly available by Canada:
  - i. its name, the amount awarded by Canada, and the general nature of the Project; and
  - ii. any evaluation or audit report and other reviews related to this Agreement.

### **13.2 OFFICIAL LANGUAGES**

- a) The Recipient will ensure that information on the Project is developed and is available

in both official languages when intended for the information of, or use by the public.

- b) The Recipient will communicate in such a manner as to address the needs of both official language communities.

## **14. DISPUTE RESOLUTION**

The Parties will keep each other informed of any issue that could be contentious by exchanging information and will, in good faith and reasonably, attempt to resolve potential disputes.

- a) If a contentious issue arises, it will be referred to the Oversight Committee. The Oversight Committee will examine it and, in good faith, attempt to resolve it, within thirty (30) business days from the receipt of notice.
- b) Where the Oversight Committee cannot agree on a resolution, the issue will be referred to the Parties for resolution. The Parties will provide a decision within ninety (90) business days.
- c) Where the Parties cannot agree on a resolution, the Parties may explore any alternative dispute resolution mechanisms available to them to resolve the issue.
- d) Any payments related to the issue will be suspended, together with the obligations related to such issue, pending resolution.
- e) The Parties agree that nothing in this Section will affect, alter or modify the rights of Canada to terminate this Agreement.

## **15. DEFAULT**

### **15.1 EVENTS OF DEFAULT**

The following events constitute Events of Default under this Agreement:

- a) The Recipient has not complied with one or more of the terms and conditions of this Agreement;
- b) The Recipient has not completed the Project in accordance with the terms and conditions of this Agreement;
- c) The Recipient has submitted false or misleading information to Canada or made a false or misleading representation in respect of the Project or in this Agreement, except for an error in good faith, demonstration of which is incumbent on the Recipient, to Canada's satisfaction; or
- d) The Recipient has neglected or failed to pay Canada any amount due in accordance with this Agreement;

### **15.2 DECLARATION OF DEFAULT**

Canada may declare default if:

- a) One or more of the Events of Default occurs.
- b) Canada gave notice to the Recipient of the event which in Canada's opinion constitutes an Event of Default; and
- c) The Recipient has failed, within thirty (30) business days of receipt of the notice, either to remedy the Event of Default or to notify and demonstrate, to the satisfaction of Canada, that it has taken such steps as are necessary to remedy the Event of Default.

### **15.3 REMEDIES ON DEFAULT**

In the event that Canada declares a default under Subsection 15.2 (Declaration of Default), Canada may exercise one or more of the following remedies, without limiting any remedy available to it by law:

- a) Suspend any obligation by Canada to contribute or continue to contribute funding to the Project, including any obligation to pay an amount owing prior to the date of such suspension;
- b) Terminate any obligation of Canada to contribute or continue to contribute funding to the Project, including any obligation to pay any amount owing prior to the date of such termination;
- c) Require the Recipient to reimburse Canada all or part of the contribution paid by Canada to the Recipient;

- d) Terminate this Agreement.

## **16. LIMITATION OF LIABILITY AND INDEMNIFICATION**

### **16.1 DEFINITION OF PERSON**

In this section, "Person" includes, without limitation, a person, the Recipient, a Third Party, a corporation, or any other legal entity, and their officers, servants, employees or agents.

### **16.2 LIMITATION OF LIABILITY**

In no event will Canada, its officers, servants, employees or agents be held liable for any damages in contract, tort (including negligence) or otherwise, for:

- a) Any injury to any Person, including, but not limited to, death, economic loss or infringement of rights;
- b) Any damage to, loss of, or destruction of property of any Person; or
- c) Any obligation of any Person, including, but not limited to, any obligation arising from a loan, capital lease or other long term obligation;

in relation to this Agreement or the Project.

### **16.3 INDEMNIFICATION**

The Recipient will at all times indemnify and save harmless Canada, its officers, servants, employees or agents, from and against all actions, claims, demands, losses, costs, damages, suits or other proceedings, whether in contract, tort (including negligence) or otherwise, by whomsoever brought or prosecuted in any manner based upon or occasioned by:

- a) Any injury to any Person, including, but not limited to, death, economic loss or any infringement of rights;
- b) Any damage to or loss or destruction of property of any Person; or
- c) Any obligation of any Person, including, but not limited to, any obligation arising from a loan, capital lease or other long term obligation in relation to this Agreement or Project, except to the extent to which such actions, claims, demands, losses, costs, damages, suits or other proceedings are caused by the negligence or breach of this Agreement by an officer, servant, employee or agent of Canada in the performance of his or her duties.

## **17. DISPOSAL OF ASSETS**

- a) Unless otherwise agreed to by the Parties, the Recipient will:
  - i) where the Recipient owns the Asset, retain title to and ownership of the Asset or part of the Asset for the Asset Disposal Period; and
  - ii) for a Non-owned Asset, retain all necessary rights, interests, and permissions in Non-Owned Assets for the Asset Disposal Period.
- b) The Recipient will ensure that any Asset will be preserved, maintained, and used for the purposes of the Project, and that no Asset, in whole or in part, will be sold, leased, encumbered or otherwise disposed of, directly or indirectly, during the Asset Disposal Period unless the Recipient notifies Canada in advance and in writing, and Canada consents to the such disposal.
- c) Upon alternate use or disposal of any Asset, which includes selling, leasing, encumbering, or otherwise disposing of, directly or indirectly, during the Asset Disposal Period, the Recipient will reimburse Canada, at Canada's discretion, all or part of the contribution paid under this Agreement by Canada to the Recipient.

## **18. GENERAL**

### **18.1 SURVIVAL**



The Parties' rights and obligations which, by their nature, extend beyond the termination of this Agreement, will survive any termination of this Agreement.

**18.2 ACCOUNTING PRINCIPLES**

All accounting terms will have the meanings assigned to them, all calculations will be made and all financial data to be submitted will be prepared in accordance with the Generally Accepted Accounting Principles (GAAP) or the Public Sector Accounting Standards (PSAS) in effect in Canada.

**18.3 DEBTS DUE TO THE FEDERAL CROWN**

Any amount owed to Canada under this Agreement by the Recipient will constitute a debt due to the federal Crown, which the Recipient will reimburse Canada forthwith on demand.

**18.4 INTEREST ON DEBTS DUE TO THE FEDERAL CROWN**

Debts due to the federal Crown by the Recipient will accrue interest in accordance with the federal *Interest and Administrative Charges Regulations*.

**18.5 SET-OFF BY CANADA**

Any debt due to the federal Crown by the Recipient may be set-off against any amounts payable by Canada to the Recipient under this Agreement.

**18.6 MEMBERS OF THE HOUSE OF COMMONS AND SENATE**

No member of the House of Commons or the Senate of Canada will be admitted to any share or part of this Agreement, or to any benefit arising from it, that is not otherwise available to the general public. The Recipient will promptly inform Canada should it become aware of the existence of any such situation.

**18.7 CONFLICT OF INTEREST**

No current or former public servant or public office holder to whom any post-employment, ethics and conflict of interest legislation, guidelines, codes or policies of Canada applies will derive direct benefit from this Agreement unless the provision or receipt of such benefits is in compliance with such legislation, guidelines, policies or codes. The Recipient will promptly inform Canada should it become aware of the existence of any such situation.

**18.8 NO AGENCY, PARTNERSHIP, JOINT VENTURE, ETC.**

- a) No provision of this Agreement and no action by the Parties will establish or be deemed to establish a partnership, joint venture, principal-agent relationship or employer-employee relationship in any way or for any purpose whatsoever between Canada and the Recipient or between Canada and a Third Party.
- b) The Recipient will not represent itself, including in any agreement with a Third Party, as a partner, employee or agent of Canada.

**18.9 NO AUTHORITY TO REPRESENT**

Nothing in this Agreement is to be construed as authorizing any person, including a Third Party, to contract for or to incur any obligation on behalf of Canada or to act as an agent for Canada. The Recipient will take the necessary action to ensure that any Contract between the Recipient and any Third Party contains a provision to that effect.

**18.10 ASSIGNMENT**

The Recipient will not transfer or assign its rights or obligations under this Agreement without the prior written consent of Canada. Any attempt by the Recipient to assign any of the rights, duties or obligations of this Agreement without Canada's express written consent is void.

**18.11 COUNTERPART SIGNATURE**

This Agreement may be executed and delivered in counterparts (including by mail or other means of electronic transmission, such as by electronic mail in "pdf" form), with the same effect as if all parties had signed and delivered the same document, and all counterparts shall together constitute one and the same original document.

**18.12 SEVERABILITY**

If for any reason a provision of this Agreement that is not a fundamental term of this Agreement between the Parties is found to be or becomes invalid or unenforceable, in whole or in part, and if both Parties agree, it will be deemed to be severable and will be deleted from this Agreement, but all the other terms and conditions of this Agreement will continue to be valid and enforceable.

**18.13 AMENDMENTS**

This Agreement, including its schedules, can only be amended in writing by the Parties. Reallocation of amounts within Schedule B2 Project Components and Cashflow which do not result in an increase to the maximum amount of Canada's contribution under section 3.1 (Commitments by Canada), do not require a formal amendment agreement between the Parties and may be agreed to by the Parties through administrative processes.

**18.14 WAIVER**

A Party may waive any of its rights under this Agreement only in writing. Any tolerance or indulgence demonstrated by the Party will not constitute a waiver.

**18.15 NOTICE**

Any notice provided for under this Agreement may be delivered in person, sent by mail addressed to:

for Canada:

ASSISTANT DEPUTY MINISTER  
COMMUNITIES AND INFRASTRUCTURE PROGRAMS BRANCH  
INFRASTRUCTURE CANADA  
1100 - 180 Kent Street  
Ottawa, Ontario  
K1P 0B6

or to such other address or email or addressed to such other person as Canada may, from time to time, designate in writing to the Recipient; and

for the Recipient:

DEPUTY CITY MANAGER, ENVIRONMENT AND INFRASTRUCTURE  
CORPORATION OF THE CITY OF LONDON  
300 Dufferin Avenue  
London, ON  
N6A 4L9

or such other address or email or addressed to such other person as the Recipient may, from time to time, designate in writing to Canada.

Such notice will be deemed to have been received, if sent by mail or email, when receipt is acknowledged by the other Party; and in person, when delivered.

**18.16 COMPLIANCE WITH LAWS**

The Recipient will comply with all applicable laws and regulations and all requirements of regulatory bodies having jurisdiction over the subject matter of the Project.

**18.17 GOVERNING LAW**

This Agreement is governed by the laws applicable in the Province of the Recipient.

**18.18 SUCCESSORS AND ASSIGNS**

This Agreement is binding upon the Parties and their respective successors and assigns.

**18.19 INTELLECTUAL PROPERTY**

- (a) All intellectual property that arises in the course of the Project will vest in the Recipient.
- (b) The Recipient will obtain the necessary authorizations, as needed, for the implementation of the Project, from Third Parties who may own the intellectual property rights or other rights in respect of the Project. Canada will assume no liability in respect of claims from any Third Party in relation to such rights and to the Agreement.

**19. ENVIRONMENTAL AND IMPACT ASSESSMENT**

**19.1 REQUIREMENTS UNDER APPLICABLE FEDERAL ENVIRONMENTAL OR IMPACT ASSESSMENT LEGISLATION**

The Recipient represents and warrants that there are no requirements under applicable federal environmental or impact assessment legislation for the Project.

## **19.2 CHANGES TO PROJECT OR OTHERWISE**

- a) If, as a result of changes to the Project or otherwise, Canada is of the opinion that the Project is subject to federal environmental or impact assessment legislation, the Recipient agrees that construction of the Project or any other physical activity to be carried out in relation to the Project, including site preparation or vegetation removal, will not be undertaken or will be suspended unless and until the legislative requirements are met and continue to be met. The Recipient also agrees that no funds or additional funds for any Eligible Expenditure for the Project will become or will be payable by Canada to the Recipient unless and until the legislative requirements are met and continue to be met.
- b) Canada may consent in writing that construction or any other physical activity, including site preparation or vegetation removal, be carried out for the portion of the Project not subject to federal environmental or impact assessment and that funds or additional funds for any Eligible Expenditure will be payable by Canada for the portion of the Project not subject to federal environmental or impact assessment.

## **20. INDIGENOUS CONSULTATIONS**

### **20.1 INDIGENOUS CONSULTATION**

- a) The Recipient agrees that:
  - a. it will consult with Indigenous communities that might be affected by the Project. Specifically, it will
    - i. explain the Project to the Indigenous communities, including Canada's funding role, and
    - ii. provide a report to Canada, which will include:
      - (1) a list of all Indigenous communities contacted;
      - (2) a summary of all communications with the Indigenous communities;
      - (3) a summary of any issues or concerns that the Indigenous communities have raised, how they were addressed, and any outstanding concerns; and
      - (4) any other information Canada may consider appropriate.
  - b) accommodation measures, where appropriate, will be carried out by the Recipient and these costs may be considered Eligible Expenditures.
  - c) no construction or any other physical activity, including site preparation or vegetation removal may be carried out in relation to the Project, and no funds or additional funds for any Eligible Expenditure for the Project will be payable by Canada to the Recipient, unless and until Canada is satisfied that its legal duty to consult and, where appropriate, accommodate Indigenous communities has been met and continues to be met.

### **20.2 CHANGES TO PROJECT OR OTHERWISE**

If, as a result of changes to the Project or otherwise, Canada determines that further Indigenous consultation is required, the Recipient will work with Canada to satisfy its legal duty to consult and, where appropriate, accommodate Indigenous communities and agrees that clause 20.1 will be applicable.

## SIGNATURES

This Agreement has been executed on behalf of His Majesty the King in right of Canada by the Minister of Infrastructure and Communities and on behalf of the Corporation of the City of London by the Mayor and City Clerk.

HIS MAJESTY THE KING IN RIGHT OF CANADA

CORPORATION OF THE CITY OF LONDON

\_\_\_\_\_  
The Honourable Dominic LeBlanc  
*Minister of Intergovernmental Affairs,  
Infrastructure and Communities*

\_\_\_\_\_  
His Worship Josh Morgan  
Mayor of the Corporation of the City of London

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DATE

CORPORATION OF THE CITY OF LONDON

\_\_\_\_\_  
Michael Schulthess  
City Clerk, The Corporation of the City of London

\_\_\_\_\_  
DATE

## **SCHEDULE A – ELIGIBLE AND INELIGIBLE EXPENDITURES**

### **A.1. ELIGIBLE EXPENDITURES**

- a) All Eligible Expenditures identified below can begin to be incurred as of the Project Approval Date except for expenditures associated with greenhouse gas assessments, which are Eligible Expenditures, that may be incurred within twelve (12) months prior to the Project Approval Date.
- b) Eligible Expenditures will be all direct and necessary expenditures incurred by the Recipient towards the eligible Project that are associated with acquiring, planning, designing, constructing or rehabilitating a tangible capital asset, as defined by the Generally Accepted Accounting Principles (GAAP) or the Public Sector Accounting Standards (PSAS) in effect in Canada. This also specifically includes the following:
  - i. Expenditures directly associated with joint federal communication activities and with Project signage, installed in accordance with federal signage guidelines.
  - ii. The incremental costs of the Recipient's employees or leasing of equipment may be included as Eligible Expenditures under the following conditions:
    - 1. The Recipient is able to demonstrate that it is not economically feasible to tender a contract;
    - 2. The employee or equipment is engaged directly in respect of the work that would have been the subject of the contract; and
    - 3. The arrangement is approved in advance and in writing by Canada.
  - iii. Costs of Indigenous consultations, and where appropriate, accommodation.
- c) All Eligible Expenditures outlined above can be reimbursed to the Recipient only following the Effective Date of the Agreement.

### **A.2 INELIGIBLE EXPENDITURES**

- a) Expenditures incurred before Project Approval Date and all expenditures related to contracts signed prior to the Project Approval Date except for expenditures associated with greenhouse gas assessments as per paragraph A.1.a).
- b) Expenditures incurred for cancelled Projects.
- c) Expenditures of relocating entire communities.
- d) Costs for and associated with the acquisition of land;
- e) Leasing land, buildings and other facilities; leasing equipment other than equipment directly related to the construction of the Project; real estate fees and related costs, unless in accordance with the requirements described in Schedule A.1.b)ii;
- f) Any overhead expenditures, including salaries and other employment benefits of any employees of the recipient, the direct or indirect operating or administrative costs of recipients, and more specifically its costs related to planning, engineering, architecture, supervision, management and other activities normally carried out by its staff, unless in accordance with the requirements described in Schedule A.1.b)ii;
- g) Financing charges, legal fees, and loan interest payments including those related to easements (e.g. surveys).
- h) Any goods and services costs which are received through donations or in-kind.
- i) Provincial sales tax and Goods and Services tax/HST, for which the recipient is eligible for a rebate, and any other costs eligible for rebates.
- j) Expenditures associated with operating expenses and regularly scheduled maintenance work.

- k) Expenditures related to furnishings and non-fixed assets which are not essential for the operation of the Asset/Project.
- l) All capital expenditures and costs, including site preparation and construction costs, until Canada is satisfied that the Environmental Assessment and Indigenous consultation obligations have been met and continue to be met; and
- m) Expenditures related to all emergency services infrastructure.

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## **SCHEDULE B – PROJECT DETAILS**

### **B1. Project Description:**

In response to major floods in 1937, the City of London has developed a system of flood protection dykes along the Thames River. The dykes protect people and properties in areas that would otherwise be at significant risk of flooding. The Broughdale dyke is an integral part of this larger flood control network that includes other dykes, flood control dams, and a flood forecasting and warning system. In recent years slope stability concerns have been identified at the dyke and the dyke fails to provide the necessary flood protection (250 year event) mandated by the provincial government.

The Broughdale dyke, located on the south side of the Thames River between Richmond Street and Meadowdown Drive, is 710m long. Construction of the western section of the dyke, from Raymond Avenue to Meadowdown Drive, was completed after the 1937 flood with the eastern section, in Ross Park, completed in 1990. The Broughdale dyke hazard classification is Moderate/High based on potential impacts to life and property within the Broughdale area if the dyke were to fail. The minimum Design Flood for a Moderate/High classification is the Regulatory Flood (250 year event). The dyke currently provides protection up to the 100 year event, putting residents of 191 properties within the 250 year regulatory flood limit at risk of flooding.

In 2011, stability and condition assessments of the Broughdale dyke identified sections of the dyke to be in poor condition with severe stability issues which require, at a minimum, reconstruction of the unstable sections to ensure public safety. The 2013 London Earth Dykes Stability Review (AECOM) assessed the stability of the Thames River Dykes and developed Preliminary Dyke Standards in the absence of Provincial standards. The long-term management of the Broughdale dyke should take these standards into account while also considering climate change adaptation. The Broughdale Dyke Flood Characterization 2D Model Report was completed in 2016 and identified very high flood hazard for the people and structures within the Broughdale Area during the 250 year event due to fast flowing and deep water. These studies indicate a need to consider repairing and raising the Broughdale dyke to provide critical flood protection for the Broughdale community.

A Broughdale Dyke Municipal Class Environmental Assessment was completed in 2019 and recommended to raise and extend the dyke to the 250 year event plus 0.9m freeboard to account for climate change resiliency and relocate the dyke between Bernard Avenue and Meadowdown Drive towards the floodplain. The recommendation provides adequate level of protection for the people and properties within the Broughdale area.

#### **B1.1 Project Objective:**

The overall project objectives of the project are to rehabilitate the dyke by raising and extending it to withstand a 250-year event; and relocating it towards the floodplain for added protection. This would improve the resilience of the community by ensuring that residents, properties, transportation networks, critical infrastructure, and access to essential services are protected.

The existing Broughdale dyke is a 710m long stretch of earthen dyke and protects 191 properties including low density residential, high density residential, institutional (Kings College), recreational areas (parks and pathways) and an arterial roadway (Richmond Street). The Broughdale dyke hazard classification is moderate/high based on potential impacts to life and property within the Broughdale area if the dyke were to fail.

To achieve the recommendation of the EA, the project area is broken into four main areas, as shown on the map below in Section B1.3. The first two sections in Ross Park and Raymond Avenue required the dyke to be raised approximately 1.9m and have existing overgrown vegetation removed. The next section along Meadowdown Drive required the dyke height to be raised 1.5m, hazard trees and vegetation removed, and replacement of existing gabion baskets and railway ties. The final section requires the dyke to be extended along the Thames River towards Kings College and raised 2.0m in order to achieve the 250 year level of protection.

Raising and extending the Broughdale Dyke reduces natural heritage risks to the people within the Broughdale Area. Flood protection is increased for the many residents within the area and Ross park will be further protected from erosion due to high flood waters.

List of Assets:

Assets	Asset Owner and/or Applicable Ultimate Recipient Agreement
A – Broughdale Dyke	City of London

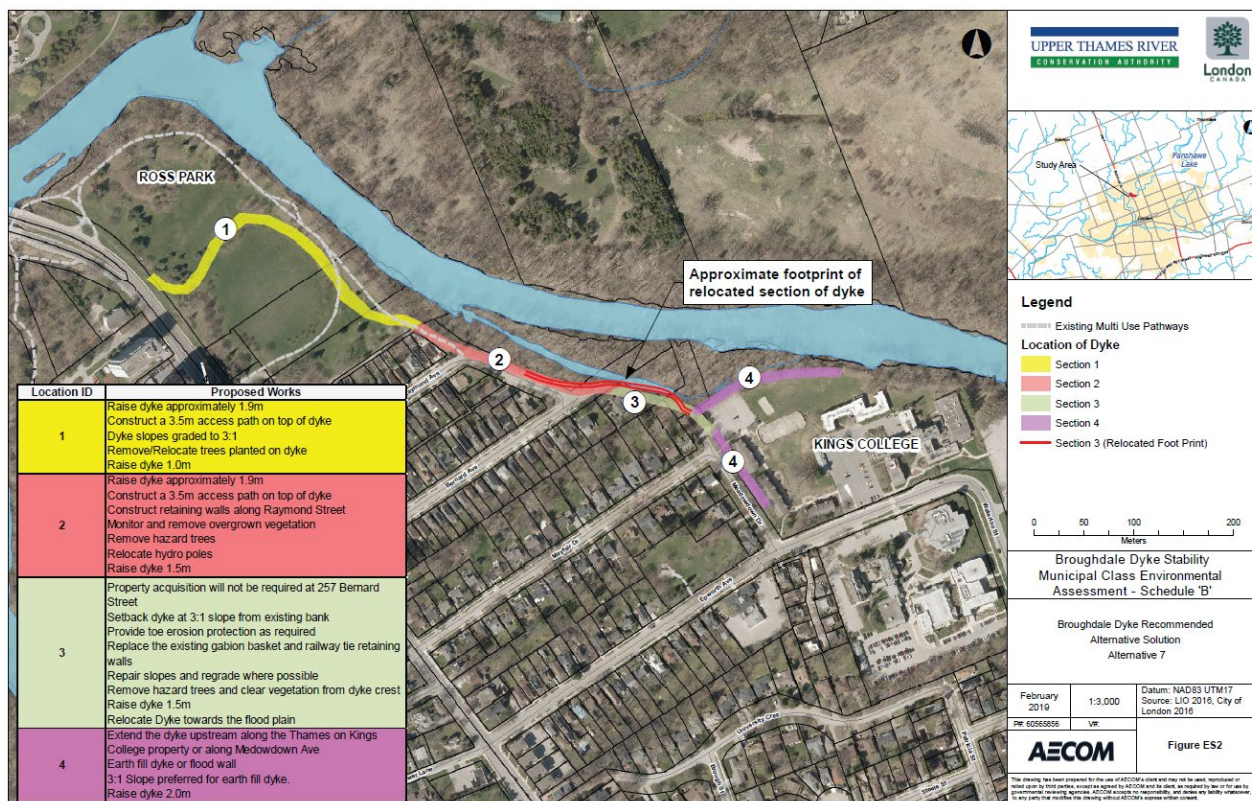
B1.2 Expected Results at Project completion (by asset or asset system):

Expected Outputs and immediate Outcome(s)	Indicators	Baseline	Target	Actual Results (info to be included in final report)
Increased structural capacity to adapt to climate change impacts, disasters triggered by natural hazards, and extreme weather events	Number of newly built or improved infrastructure Assets	A. 1	A. 1	
	Expected lifecycle of newly built or improved infrastructure Assets (years)	A. 0 years	A. 75 years	
	Performance of newly built or improved infrastructure Assets (ex. m <sup>3</sup> )	A. 100-year level of flood protection	A. ~250-year level of flood protection plus 0.9m freeboard	
Expected intermediate Outcome(s)	Indicators	Baseline	Target	Actual Results (info to be included in final report)
Increased ability of communities to adapt and withstand climate change impacts, disasters triggered by natural hazards, and extreme weather events	Percentage of directly affected people by hazard	10%	~1%	
	Percentage of local economic losses per hazard	1%	~0%	
	Percentage of population without essential services during hazard	10%	~0%	
	Number of missing people/lives lost	0	0	
Expected ultimate Outcome(s)	Indicators	Baseline	Target	Actual Results (info to be included in final report)
Increased economic, environmental and social resilience	Long-term savings on socio-economic damages during the Asset life cycle	0	\$30,011,250	
Minimum Federal Requirements	<p>All projects under the DMAF must meet the following federal requirements:</p> <ul style="list-style-type: none"> <li>a) Meeting or exceeding the applicable energy efficiency standards for buildings outlined in the <i>Pan-Canadian Framework (PCF) on Clean Growth and Climate Change</i>.</li> <li>b) Meeting or exceeding the requirement of the highest published accessibility standard in a jurisdiction, defined as the requirements in the Canadian Standards Association Technical Standard Accessible Design for the Built Environment (CAN/CSA B651-12 or newer), in addition to applicable provincial or territorial building codes, and relevant municipal by-laws.</li> </ul>			



**B1.3 Boundaries:**

		Project Component Mid-Points	
Project Component	Midpoint km	CSRS-UTM-20N Lat/Long	
		Latitude (N)	Longitude (W)
A	0.380km	43°00'47.89"N	81°15'37.69"W



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**B2. Project Components and Cashflow**

Project Components	Estimated Expenditures			Forecast		
	Estimated Total Expenditures	Estimated Eligible Expenditures	Estimated Contribution by Canada	Forecast of Estimated Contribution by Canada by Fiscal Year		
				2023/24	2024/25	2025/26
Project Cost	\$9,090,000	\$9,090,000	\$3,636,000	\$909,000	\$909,000	\$1,818,000
<b>Total</b>	\$9,090,000	\$9,090,000	\$3,636,000	\$909,000	\$909,000	\$1,818,000

**B3. Total Financial Assistance :**

Recipient: \$ 5,454,000  
 Canada: \$ 3,636,000  
 Other contributors: \$ 0

## **SCHEDULE C – COMMUNICATIONS PROTOCOL**

### **C.1 PURPOSE**

This Communications Protocol outlines the roles and responsibilities of each of the Parties to this Agreement with respect to Communications Activities related to the funded Project.

This Communications Protocol will guide all communications activity planning, development and implementation to ensure clear, consistent and coordinated communications to the Canadian public.

The provisions of this Communications Protocol apply to all Communications Activities related to this Agreement including any Projects funded under this Agreement.

Communications Activities may include, but are not limited to, public or media events, news releases, reports, web and social media products or postings, blogs, project signs, digital signs, publications, success stories and vignettes, photo compilations, videos, advertising campaigns, awareness campaigns, editorials, and multi-media products.

### **C.2 GUIDING PRINCIPLES**

The Parties recognize the importance of managing the delivery of coherent Communications Activities based on the principle of transparent and open discussion and collaboration.

Communications Activities undertaken through this Protocol should ensure that Canadians are informed of infrastructure investments made to help improve their quality of life and that they receive consistent information about the funded Project and its benefits.

The Communication Activities undertaken jointly by Canada and the Recipient should recognize the funding of all contributors to the Project.

The Recipient's public acknowledgement of financial assistance received from Canada is a condition of funding under this Agreement.

The Recipient will address any deficiencies and/or corrective actions identified by Canada or by the Oversight Committee.

### **C.3 GOVERNANCE**

The Parties will designate communications contacts and form a communications subcommittee that will be responsible for preparing the Project's communications plan, overseeing its implementation and reporting on its results to the Oversight Committee.

### **C.4 PROGRAM COMMUNICATIONS**

Canada retains the right to meet its obligations to communicate information to Canadians about the Program and the use of funding through its own communications

products and activities.

Canada and the Recipient may also include general Program messaging and an overview of this Project as an example in their own communications products and activities. The Party undertaking these activities will recognize the funding of the Parties.

Canada and the Recipient agree that they will not unreasonably restrict the other Party or other funding contributors from using, for their own purposes, public communications products related to the Project that were prepared collectively or individually by the Parties, and if web-based, from linking to them.

Canada and the Recipient will ensure that:

- a) Canada and the Recipient will work together with respect to Joint Communications about the Project.
- b) Joint Communications related to Project funded under this Agreement should not occur without the prior knowledge and agreement of each of the Parties.
- c) All Joint Communications material will be approved by Canada and the Recipient, and will recognize the funding of each of the Parties.
- d) Each of the Parties may request Joint Communications to communicate to Canadians about the progress or completion of Projects. The requestor will provide at least fifteen (15) business days' notice to the other Parties. If the Communications Activity is an event, it will take place at a mutually agreed date and location.
- e) The requestor of the Joint Communications will provide an equal opportunity for the other Parties to participate and choose their own designated representative in the case of an event.
- f) As Canada has an obligation to communicate in English and French, Communications products related to events must be bilingual and include the Canada word mark and the other Party's logo. In such cases, Canada will provide the translation services and final approval of products.
- g) The conduct of all Joint Communications will follow the *Table of Precedence for Canada*.

Media events include, but are not limited to, news conferences, public announcements, official events or ceremonies, and news releases.

The Recipient agrees to collaborate with Canada on Communications Activities and products including, but not limited to, Project success stories, vignettes, and multi-media products.

## **C.5 INDIVIDUAL COMMUNICATIONS**

The Recipient will ensure that:

- a) Where a website or webpage is created to promote or communicate progress on a funded Project or Projects, it must recognize federal funding through the use of a digital sign or through the use of the Canada wordmark and the following wording, "This project is funded in part by the Government of Canada." The Canada wordmark or digital sign must link to Infrastructure Canada's website, at [www.infrastructure.gc.ca](http://www.infrastructure.gc.ca). The guidelines for how this recognition is to appear and

language requirements are published on Infrastructure Canada’s website (<http://www.infrastructure.gc.ca/pub/signage-panneaux/intro-eng.html>).

- b) The Recipient will be required to send a minimum of one photograph to each of the Parties of the construction in progress, or of the completed project, for use in social media and other digital individual Communications Activities. Sending the photos will constitute permission to use and transfer of copyright. Photographs are to be sent to [infc.photo.infccanada.ca](mailto:infc.photo.infccanada.ca) along with the Project name and location.

## **C.6 OPERATIONAL COMMUNICATIONS**

The Recipient is solely responsible for operational communications with respect to the Project, including, but not limited to, calls for tender, construction, and public safety notices.

Operational communications will include the following statement: “This project is funded in part by the Government of Canada”. Operational communications as described above are not subject to the federal official languages policy.

Canada and the Recipient will share information promptly with the other Party should significant media inquiries be received or if major stakeholder issues relating to the Project arise.

## **C.7 SIGNAGE**

Unless otherwise agreed upon by Canada, the Recipient will produce and install a sign to recognize contributors’ funding at each Project site in accordance with current federal signage guidelines. The sign’s design, content, and installation guidelines are provided by Canada (<http://www.infrastructure.gc.ca/pub/signage-panneaux/intro-eng.html>).

Where the Recipient decides to install a permanent plaque or other suitable marker with respect to the Project, it must recognize the federal contribution and be approved by Canada.

The Recipient will ensure that signs are installed at the Project site(s) at least one (1) month prior to the start of construction, be visible for the duration of the Project, and remain in place until one (1) month after construction is completed and the infrastructure is fully operational or opened for public use.

The Recipient will ensure that signs are installed in a prominent and visible location that takes into consideration pedestrian and traffic safety and visibility.

Sign installations shall be reported to Canada as per subsection 8.1 b) (Progress Report).

## **C.8 ADVERTISING CAMPAIGNS**

Recognizing that advertising can be an effective means of communicating with the public, Canada and the Recipient may, at their own cost, organize an advertising or public information campaign related to the Program or the funded Project. However, such a campaign must respect the provisions of this Agreement. In the event of such a

campaign, each Party agrees to inform the other Party of its intention, no less than twenty-one (21) business days prior to the campaign launch.

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## SCHEDULE D – DECLARATION OF SUBSTANTIAL COMPLETION

In the matter of the Agreement entered into between His Majesty the King in right of Canada, as represented by the Minister of Infrastructure and Communities, and the Recipient, as represented by \_\_\_\_\_(Name), concerning the Broughdale Dyke Reconstruction Project.

I, \_\_\_\_\_(Name), of the City of London, Ontario, declare as follows:

1. I hold the position of \_\_\_\_\_with the City of London and as such have knowledge of the matters set forth in this declaration and believe this declaration to be true.
  
2.
  - a) I have received the following documents for the Broughdale Dyke Reconstruction Project:
    - i. [LIST NAME OF RELEVANT DOCUMENT(S), E.G. CERTIFICATE OF COMPLETION, CERTIFICATE OF PERFORMANCE, OCCUPANCY PERMIT, ETC.] signed by \_\_\_\_\_ (Name), a \_\_\_\_\_ (Profession, e.g. professional engineer) for the Project.
    - ii. [ADD SAME TEXT AS IN i FOR EACH DOCUMENT]
  
  - b) Based on the above documents and the representations made to me by the professionals identified in Section 2(a) above, I declare to the best of my knowledge and belief that the Project:
    - i. has been substantially completed, as described in Schedule B.1 (Project Description) of the Agreement, dated on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_;
    - ii. was carried out between the dates \_\_\_\_\_ (start date) and \_\_\_\_\_ (Substantial Completion Date).
  
3. I have received the following documents and based on these documents and representations made to me by the professionals identified below, I declare to the best of my knowledge and belief that the Project conforms with the [applicable environmental review or assessment e.g., *Impact Assessment Act, 2019*, or *Northern Regime*]:
  - i. [LIST NAME OF RELEVANT DOCUMENT(S)] signed by \_\_\_\_\_ (Name), an \_\_\_\_\_ .
  - ii. [ADD SAME TEXT AS IN i FOR EACH DOCUMENT]
  
4. All terms and conditions of the Agreement that are required to be met as of the

date of this declaration have been met.

Declared at \_\_\_\_\_ (City), in \_\_\_\_\_ (Province/Territory)  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(Signature)

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