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Staff Report

Planning & Development Services – Planning

Report To: Committee of the Whole
Meeting Date: October 24, 2016
Report Number: PDS.16.130
Subject: Source Protection Municipal Implementation Funding Agreement Extension Request
Prepared by: Shawn Postma, Senior Policy Planner

A. Recommendations

THAT Council receive Staff Report PDS.16.130 “Source Protection Municipal Implementation Funding Agreement Extension Request”; and

THAT Council authorize the Mayor and Clerk to execute the required Amending Agreement.

B. Overview

In 2014 the Ministry of the Environment and Climate Change provided the Town with funding to implement new Source Water Protection requirements for the Municipality. A Grant Funding Agreement has been entered into between the Town and and Province and an opportunity now exists to expand the list of eligible funding activities and to extend spending opportunities to March 5, 2017 (instead of December 5, 2016).

In order to take advantage of the funding flexibility an amendment to the current Grant Funding Agreement is required.

C. Background

The Town of The Blue Mountains is impacted by the South Georgian Bay Lake Simcoe Source Protection Plan that came into effect on July 1, 2015 and the Saugeen Grey Sauble Northern Bruce Peninsula Source Water Protection Plan that came into effect on July 1, 2016.

In 2013 the Town applied for and received funding to implement the above Plans. Funding in the amount of \$18,493 was received and to date \$12,560 has been spent. A majority of the funding has been provided to the Grey Sauble Conservation Authority which we have an agreement with to provide Risk Management services on our behalf. The remainder of the funds were used to update the New Official Plan with Source Water Protection policies. Some funding remains in place to implement new Zoning regulations.

An opportunity now exists to extend our current funding agreement that expires in December 2016 by an additional three months. Planning Staff support the extension as the additional time can be used to finalize the Source Water Protection regulations for the New Zoning By-law.

The Province has provided the amending agreement to provide for the extension and requires the Town to sign off.

Based on the foregoing, Planning Staff recommend that Council authorize the Mayor and Clerk to execute the amending agreement as attached to this Staff Report.

D. The Blue Mountains Strategic Plan

Goal #3: Support Healthy Lifestyles

E. Environmental Impacts

Municipal drinking water sources will now have an added layer of protection from potentially incompatible land uses.

F. Financial Impact

Provincial funding will remain available until March 2017

G. In consultation with

Nil

H. Attached

1. Amendment 2 to Source Protection Municipal Implementation Funding Agreement

Respectfully submitted,

Shawn Postma, BES MCIP RPP
Senior Policy Planner

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Director of Planning and Development Services

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AMENDMENT NO. 2
to a Grant Funding Agreement under the
2013-14 Source Protection Municipal Implementation Fund (SPMIF_1314_130)

THIS AMENDMENT NO. 2 made in duplicate, as of the 17th day of August 2016,

B E T W E E N:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO
as represented by the Minister of the Environment and Climate Change

(the “**Province**”)

- and -

The Corporation of the Town of The Blue Mountains

(the “**Municipality**”)

WHEREAS the parties entered into a grant funding agreement under the Source Protection Municipal Implementation Fund dated as of December 13, 2013 for the Municipality to build municipal capacity to implement source protection plans and support sustainable, local actions to protect drinking water (the “**Agreement**”);

AND WHEREAS the parties entered into Amendment No. 1 as of August 17, 2015 to extend the term of the Agreement, add an additional report and include new timelines;

AND WHEREAS pursuant to Section 20.2 of the Agreement, the parties may amend the agreement in writing;

NOW THEREFORE in consideration of the contractual relationship between the Municipality and the Province referred to above and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by both parties, the Municipality and the Province hereby acknowledge, agree and undertake as follows:

1. Unless otherwise specified in this Amendment No. 2, capitalized words and phrases have their prescribed meaning as set out in the Agreement.

2. The Agreement is amended as follows:
- 2.1 The following definitions are added to Section 1.1, Definitions, in alphabetical order:

“Lower Tier Municipalities” as defined by the *Municipal Act, 2001* means a municipality that forms part of an upper-tier municipality for municipal purposes. Within regions, they are responsible for providing certain local services that are not provided by the regional municipality. Within counties, they are responsible for providing a wider range of local services since counties as upper-tier municipalities provide less local services than regions.

“Ministry” means the Ontario Ministry of the Environment and Climate Change presided over by the Province. When “Ministry” is referred to in this Agreement, the reference is to the “Ministry” as the regulator.

“RMI” means a risk management inspector appointed under Part IV of the *Clean Water Act, 2006*.

“RMO” means a risk management official appointed under Part IV of the *Clean Water Act, 2006*.

“SPMIF” means the Province’s Source Protection Municipal Implementation Fund.

“Upper Tier Municipality” as defined by the *Municipal Act, 2001* means a municipality of which two or more lower-tier municipalities form part for municipal purposes

- 2.2 Section A.2.2 (Project Objectives) is deleted and replaced with the following:
The objectives of the Project are for the Municipality to use the Funds to implement, or prepare to implement, one or more of the significant drinking water threat policies set out below in an approved source protection plan, or proposed source protection plan, that has been submitted to the Ministry for approval, provided that:

- i. The implementation of the policy is the responsibility of the Municipality; or
- ii. The implementation of the policy provides source protection implementation benefits to the Municipality, the Municipality’s stakeholders, the Municipality’s watershed, and/or the Municipality’s Lower Tier Municipalities.

Significant drinking water threat policies are limited to:

- (a) Policies for the purpose of Part IV of the *Clean Water Act, 2006* to address significant drinking water threats ;

- (b) Policies that govern *Planning Act* decisions to address significant drinking water threats;
- (c) Policies that establish education and outreach programs to address significant drinking water threats; or
- (d) Policies that specify other types of actions the Municipality is required to take to address significant drinking water threats.

2.3 Schedule “B” (Eligible Costs and Activities) is deleted in its entirety and replaced with the following:

SCHEDULE “B”

ELIGIBLE COSTS AND ACTIVITIES

B.1 Eligible Activities

The Municipality may only spend the Funds on the following eligible activities that are undertaken by the Municipality, or that are undertaken on the Municipality’s behalf, between December 13, 2013 and March 5, 2017 that are directly related to the following:

Risk management

- a) Establishing and enforcing risk management plans under Part IV of the *Clean Water Act, 2006*;
- b) Communication with landowners affected by policies pertaining to Part IV of the *Clean Water Act, 2006*;
- c) Refining the number of threats within the Municipality pertaining to Part IV of the *Clean Water Act, 2006*;

Land use policies

- d) Implementing the Municipality’s municipal land-use planning policies related to activities that are identified as significant drinking water threats;

Education and outreach

- e) Implementing education and outreach policies to address significant drinking water threats, including:
 - a. Installation of municipal road signs indicating areas of a wellhead protection area or an intake protection zone where significant threat policies apply;

Other activities

- f) Working with the local source protection authority and local source protection committee to understand the Municipality's requirements under the source protection plan;
- g) Developing and/or modifying the Municipality's business processes in order to implement significant drinking water threat policies;
- h) Establishing processes for information sharing among municipalities and source protection authorities;
- i) Developing a reporting framework for the Municipality that aligns with the collection of data under Section 65 of Ontario Regulation 287/07, made under the *Clean Water Act, 2006*;
- j) Other activities the Municipality undertakes to fulfill its requirements to implement significant drinking water threat policies, including:
 - a. Establishing a mandatory septic re-inspection program for vulnerable areas delineated in approved assessment reports; and,
 - b. Installation of road signs indicating areas of a wellhead protection area or an intake protection zone where significant threat policies apply.
- k) Activities identified in subsections B.1 (a) through (j) for another municipality with a current agreement under the SPMIF, provided that such activities:
 - a. Will provide source protection implementation benefits to the Municipality, the Municipality's community (Upper Tier Municipality and/or Lower Tier Municipalities), and/or the Municipality's watershed; and
 - b. Are not ineligible under the other municipality's own SPMIF agreement.

B.2 Ineligible Activities

The following activities are not eligible for funding under the Agreement and the Municipality may not spend the Funds on the following:

- a) Refining the number of threats within the Municipality not pertaining to Part IV of the *Clean Water Act, 2006*;
- b) Threat refinement work already funded by the Province through source protection authorities;
- c) Activities that are already funded through another program, funding body, partners, or other means;

- d) Activities that are funded by the SPMIF through an agreement between the Province and another municipality;
- e) Fulfilment of the Municipality's responsibilities as a property owner undertaking activities identified as significant drinking water threats;
- f) Fulfilment of the Municipality's responsibilities under other legislation (e.g., Building Code), except as noted in Section B.1(j)(a), including;
 - a. Establishment of a septic re-inspection program for areas delineated through other legislation (i.e. *Lake Simcoe Protection Act, 2008*);
 - b. Establishment of a discretionary septic re-inspection program for areas where an activity is not considered a significant drinking water threat under the source protection framework; and,
- g) Activities not related to fulfilling the Municipality's requirements to implement significant drinking water threat policies specified in an approved source protection plan, or proposed source protection plan that has been submitted to the Ministry for approval.

B.3 Eligible Costs

The eligible costs listed below must be directly related to the source protection implementation activities outlined in Section B.1:

- a) Municipal staff salaries and benefits for time spent working on the Project (such as hiring or re-assigning Municipal staff to serve as RMOs and RMIs as specified under the *Clean Water Act, 2006*; or administrative support required to establish and/or maintain the Risk Management Office);
- b) Fees incurred for contracted professional services from professionals, technical personnel, consultants, and contractors for work on the Project (such as hiring a consultant to support the RMO in determining appropriate measures the Municipality should include in a risk management plan);
- c) Printing and distribution costs related to education and outreach programs and activities necessary to implement a source protection plan;
- d) Purchase and/or production costs of municipal road signs indicating areas of a wellhead protection area or an intake protection zone where significant threat policies apply;
- e) Transportation (including mileage), meals and accommodation for an appointed RMO/RMI to attend Ministry legislated RMO/RMI training; and, mileage for an appointed RMO/RMI to undertake negotiating risk management plans;
 - a. The amount from the Funds used for transportation, meals and

accommodation must be calculated according to the rates in the Ontario Government's Travel, Meal and Hospitality Expenses Directive (<https://www.ontario.ca/document/travel-meal-and-hospitality-expenses-directive>) that is current as of the date that the expense is incurred;

- b. Transportation will be by the most practical and economical method; tickets (e.g. train, airplane) purchased must be for economy/coach class and when renting a vehicle, the Funds may only be used for a compact model or its equivalent unless approval for a different model is obtained from the Province prior to rental;
- c. Accommodation will be in a standard room; the Funds may not be used for hotel suites, executive floors or concierge levels.
- d. Meals refer to the provision of food or beverages, subject to the limitations below:
 - i. The Municipality may only use the Funds for food and beverage if it is collecting and retaining itemized receipts that verify the expenditure. The Funds may not be used for:
 - 1. non-meal food and beverages;
 - 2. alcohol; or
 - 3. meals when the travel period is less than 5 hours, calculated from the time the appointed RMO/RMI leaves their normal place of business (or reasonable alternative origin) to the time the RMO/RMI or returns to the normal place of business (or reasonable alternative destination);
- f) Equipment purchased for an appointed RMO/RMI to undertake negotiating risk management plans;
 - a. Costs for equipment are limited to a maximum of 10% of the Municipality's Maximum Funds;
 - b. Eligible equipment would include items listed in the Ministry of the Environment and Climate Change legislated RMO/RMI training (i.e. industrial personal property entry equipment and biosecurity protocol equipment)
- g) Training (registration fees for courses) for an appointed RMO/RMI, directly related to negotiating risk management plans (such as training on the *Nutrient Management Act*);
 - a. Costs for training are limited to a maximum of 10% of the Municipality's Maximum Funds; and,
- h) Any other expense approved by the Province, for which the Province has provided Notice to the Municipality.

For clarity, should the Municipality collaborate with one or more other municipalities to get a "bulk rate" for a similar expense, the bulk rate does not have to be allocated equally between all municipalities. However, the Municipality's share of the bulk rate cannot be any more than it would have paid for its own expense in the absence of a

bulk rate and the Municipality may be required by the Province to verify this cost.

B.4 Ineligible Costs

The following costs are not eligible for funding under the Agreement and the Municipality may not spend the Funds on the following:

- a) Travel, meals, accommodation and hospitality;
 - a. Penalties incurred for non-cancellation of guaranteed hotel reservations; and
 - b. Except as noted in Section B.3(e);
- b) Overhead (such as rent, utilities, human resources services, office supplies);
- c) Capital (such as vehicles, office furniture, computers, software licenses, etc.) and equipment;
 - a. Except for municipal road signs indicating areas of a wellhead protection area or an intake protection zone where significant threat policies apply as noted in Section B.3(d); and
 - b. Except for equipment as noted in Section B.3(f);
- d) Training (including staff and contracted professional services associated with training);
 - a. Except as noted in Section B.3(g);
- e) Land expropriation or purchase;
- f) Incentives or compensation for property owners; and
- g) Costs for establishing risk management plans if costs have been or will be recovered from property owners.

- END OF ELIGIBLE COSTS AND ACTIVITIES -

- 2.4 The chart in Schedule “D” (Reports) is deleted in its entirety and replaced with the following:

Name of Report	Due Date
Collaboration Statement (if applicable)	December 12, 2014
Progress Report 1	December 12, 2014
Progress Report 2	December 11, 2015
Progress Report 3	August 26, 2016
Final Report	March 5, 2017
Other Reports as specified from time to time	On a date or dates specified by the Province.

3. This Amendment No. 2 shall be in force from December 13, 2013 and shall have the same expiry or termination date as the Agreement.
4. All other terms and conditions of the Agreement and Amendment No. 1 shall remain in full force and effect unchanged and unmodified.
5. This Amendment No. 2 shall enure to the benefit of and be binding upon the Municipality and the Province and each of their administrators, permitted successors and permitted assigns, respectively.

6. This Amendment No. 2 may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. To evidence its execution of an original counterpart, a party may send a copy of its original signature on the execution page hereof to the other party by facsimile or other means of recorded electronic transmission (including in PDF) and such transmission with an acknowledgement of receipt shall constitute delivery of an executed copy of this Amendment.

IN WITNESS WHEREOF the parties have executed this Amendment No. 2 as of the date first written above.

HER MAJESTY THE QUEEN in Right of Ontario
as represented by the Minister of the Environment and Climate Change

Name: Heather Malcolmson
Title: Director
Source Protection Programs Branch

Pursuant to delegated authority.

The Corporation of the Town of The Blue Mountains

Name: John McKean
Title: Mayor

Name: Corrina Giles
Title: Clerk

We have authority to bind the Municipality.