
TO: GENERAL COMMITTEE

SUBJECT: DEVELOPMENT CHARGE CREDIT AGREEMENT – HEWITT’S CREEK SECONDARY PLAN AREA – FORCEMAIN AND PUMPING STATION

WARDS: WARD 10

PREPARED BY AND KEY CONTACT: C. PACKHAM, LEGAL COUNSEL

SUBMITTED BY: B. ARANIYASUNDARAN, P. ENG., PMP, DIRECTOR OF INFRASTRUCTURE
I. PETERS, DIRECTOR OF LEGAL SERVICES

GENERAL MANAGER APPROVAL: B. ARANIYASUNDARAN, P. ENG., PMP, GENERAL MANAGER OF INFRASTRUCTURE AND GROWTH MANAGEMENT

CHIEF ADMINISTRATIVE OFFICER APPROVAL: M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

RECOMMENDED MOTION

1. That the General Manager of Infrastructure and Growth Management be authorized to negotiate a Development Charge Credit Agreement with Dorsay Development Corporation and the Hewitt’s Creek Landowners Group Trustee for the Design of Project 1540 - Hewitts Pump Station and Forcemains (the “Design Project”) generally in accordance with the principles set out in this report and in a form approved by the Director of Legal Services and the Chief Financial Officer.
2. That a budget of \$3 million (\$250,000 in 2024, \$1,500,000 in 2025 and \$1,250,000) be approved for environmental assessments, engineering services, field investigations and city staff costs, with funding from future Wastewater Development Charge Credits and the forecasted budgeted in the years 2029 and beyond be reduced by \$3 million.
3. That the Mayor and City Clerk be authorized to execute a Development Charge Credit Agreement for the Design Project with Dorsay Development Corporation and the Hewitt’s Creek Landowners’ Group Trustee.
4. That the Infrastructure team be authorized to hire a Project Manager on a temporary 2 year contract basis, to oversee the procurement and design phase of the Hewitt Pump Station and Force mains Project with an annual cost of \$159,542 to be recovered from the capital project.

PURPOSE & BACKGROUND

5. The purpose of this report is to seek authorization to negotiate a Development Charge Credit Agreement with Dorsay Development Corporation (“Dorsay”) and the Hewitt’s Creek Landowners’ Group Trustee for the Design of Project 1540 - Hewitt’s Pump Station and Forcemains.
6. Project 1540 is in the 2024 Capital Plan, starting with the predesign phase in 2029. Construction is anticipated to begin in 2033.
7. Project 1540 comprises a New Wastewater Pump Station and twinned Forcemains in the Hewitts Secondary Plan Area south of Mapleview Drive and west of the 20th Sideroad.

8. Dorsay has requested that the City advance the completion of the Design Project from its planned completion in order to facilitate the early completion of Project 1540, which will permit the development of various lands within the Hewitt's Creek Secondary Plan Area.

ANALYSIS

9. In exchange for the City's agreement to advance the Design Project, the City requires Dorsay to up-front the costs of the Design Project, in exchange for Development Charge Credits in accordance with the terms of the DC Credit Agreement.
10. The DC Credit Agreement is expected to contain the following terms and conditions:
- a) The City will be responsible for project management, scheduling/timing, Class EA (to the extent required), engineering, and procurement for the Design Project.
 - b) Dorsay will defray 100% of the estimated costs of the Design Project, including project management, Class EA, engineering, and field investigations, for the pump station and twin force mains (herein called the works).
 - c) Dorsay will be responsible to provide additional funds should the actual costs exceed the estimated design phase costs.
 - d) The City shall have sole discretion to approve any increases in costs, in accordance with City financial policies.
 - e) Should any change to the Design Project result in an increase greater than 10% of the agreed to budget, Dorsay shall have the right to terminate the Agreement. In the event of such a request for termination, the City shall be permitted to complete the field investigations and any restoration work as may be required by applicable laws or provincial orders and Dorsay shall defray the costs associated with the field investigations and restoration work.
 - f) If the Design Project is terminated at the request of Dorsay prior to completion, then Dorsay may not be entitled to any Development Charge Credits to the extent that that the work can be used in the future.
 - g) Dorsay will provide the City with a Letter of Credit in the amount of 100% of the estimated cost of the Design Project to secure the completion of the Design Project. In the event of cost increases, Dorsay will provide additional security as required by the City.
 - h) Dorsay shall be entitled to direct that the City draw-down on the LC for payment of costs or for Dorsay to provide payment to the City with a corresponding immediate reduction in the LC.
 - i) Upon substantial completion of construction of the works, Dorsay will be entitled to Development Charge Credits equaling the total actual amount of the funds provided by Dorsay to complete the Design Project.
 - j) Credits will be available for use by Dorsay and shall be applied against DC's payable for development of lands directly benefitting from the works. In addition, Dorsay shall receive DC payments made by other benefitting owners. This will be tracked and administered by the Hewitt Creek Landowners' Group Trustee.
 - k) Indexing of Credits will not commence till 2029. The City may reimburse funds by 2029, or indexing will commence starting 2029 subject to substantial completion of construction by 2029.
 - l) Servicing capacity will be available for development of Owners' lands upon completion of works.

11. As the proposed Development Charge Credit Agreement shall only cover the design component of the Project, it is intended that the City will work with Dorsay and other benefitting landowners on agreements to secure upfront funding for construction of Project 1540.
12. The project Manager position is required to oversee the design phase of this project and the on-going archaeological investigations in the vicinity of Mapleview Drive and 20th Sideroad. The position is required to develop the project, develop terms of reference for the request for proposal (RFP), and manage the project to the completion of the design phase.
13. The Infrastructure team is currently operating at full capacity and requires the additional resource to advance and deliver this project in a timely manner.

ENVIRONMENTAL AND CLIMATE CHANGE IMPACT MATTERS

14. There are no environmental or climate change impact matters related to the recommendation.

ALTERNATIVES

15. The following alternatives are available for consideration by General Committee:

Alternative #1

General Committee could choose not to authorize staff to execute the agreement with Dorsay.

This alternative is not recommended as the design work must be completed to advance the project and the proposed arrangement will protect the City's cashflow and have the work completed to allow for development of lands within the Hewitt's Secondary Plan Area that are currently not serviced and would require the proposed wastewater infrastructure for development to proceed.

FINANCIAL

16. In order to reduce risk to the city's cash flow, the City's Financial Policy framework that was approved by Council in November 2021, recommended entering into front-end type agreements for any capital works in later phases for the Salem & Hewitts Secondary Plan areas.
17. The recommended DC credit approach in this staff report allows the Design Project to be front ended and paid by Dorsay, who will receive credits for the work upon substantial completion of construction of Project 1540.
18. The 2024 Capital Plan includes a forecasted budget starting in 2029 of \$5,858,000 for design phase. Currently, this project has an approved budget of \$1.5M mainly associated with archaeology related investigations. The Capital Project Status Report (Staff Report FIN007-24), dated May 29, 2024 is requesting approval for an additional \$700,000 for the archaeology work.
19. Proposed changes to the Capital Plan to implement the recommendations in this report (Staff Report LGL002-24) are summarised as follows:
 - a) Approve a budget of \$3 million (with \$250,000 in 2024, \$1,500,000 in \$2025 and \$1,250,000) for the design phase.
 - b) Delete \$3 million from amounts in the design phase shown in 2029, 2030, and 2031.
20. The Agreement with Dorsay will outline the scope of services for the design phase with a commensurate upset limit for total costs including appropriate contingencies.

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21. The Project Manager position will be funded as part of the capital project with the front-end contributions from Dorsay. The costs associated with the position have been included within the budget estimates.

LINKAGE TO 2022–2026 STRATEGIC PLAN

22. The recommendation(s) included in this Staff Report support the following goals identified in the 2022-2026 Strategic Plan:
- Infrastructure Investments
 - Responsible Governance