

Agenda Item # Page #

--	--

TO:	CHAIR AND MEMBERS CIVIC WORKS COMMITTEE MEETING ON MARCH 24, 2014
FROM:	EDWARD SOLDI, P. ENG. DIRECTOR, ROADS AND TRANSPORTATION
SUBJECT:	HYDE PARK NO.4 STORMWATER MANAGEMENT FACILITY TRANSITIONAL PROJECT – ENGINEERING CONSULTING FEES

RECOMMENDATION

That, on the recommendation of the Director, Roads and Transportation, the following actions **BE TAKEN** with respect to the Hyde Park No. 4 Stormwater Management Facility Transitional Project:

- (a) the engineering consulting fees submitted by Calloway REIT (London-NW) Inc. in the amount of \$296,244.96 (excluding applicable taxes) **BE REIMBURSED**;
- (b) the engineering consulting fees submitted by Fanshawe S.C. Ltd. in the amount of \$37,284.03 (excluding applicable taxes) **BE REIMBURSED**; and
- (c) the financing for these fees **BE APPROVED** as set out in the Sources of Financing Report attached hereto as Appendix "A".

PREVIOUS REPORTS PERTINENT TO THIS MATTER

CWC – April 22, 2013 - Hyde Park No. 4 Stormwater Management Facility & Stanton Drain Remediation Contract

CWC – December 3, 2012 – Contract Award – Tender No. T12-60 Hyde Park No. 4 Stormwater Management Facility & Stanton Drain Remediation (ES3020-HP4/ES2487-STNDR)

CWC – June 19, 2012 – Phasing of Stormwater Management Facilities

PEC – February 21, 2012 – 2012-2016 Growth Management Implementation Strategy

PEC – February 6, 2012 – 2012-2016 Growth Management Implementation Strategy'

ETC – November 8, 2010 – Appointment of Consulting Engineering for Engineering Services for Functional and Detailed Design of Stanton Drain Remediation/Hyde Park Stormwater Management Facility No. 4

BACKGROUND

Purpose:

Hyde Park SWM Facility No. 4 is a “transitional project” which was originally UWRF funded, and with the 2009 transitional changes, is now to be funded from the CSRF. A substantial portion of the preliminary design was completed prior to the newest development charges by-law brought into effect August 9th 2009.

The new by-law moved this project and several others from the Urban Works Reserve Fund to the City Services Reserve Fund. The developer’s consultant undertook engineering design work that as per the Urban Works Reserve Fund rules of the day would be eligible as a claim. The

Agenda Item #	Page #

purpose of this report is to compensate Calloway REIT (London-NW) Inc. and Fanshawe S.C. Ltd. for their consulting costs related to this Development Charges claimable project.

Context:

The Hyde Park No. 4 SWM facility and Stanton Drain Remediation works were identified in the Hyde Park Community Storm Drainage and Stormwater Servicing Environmental Assessment (EA) completed by EarthTech in 2002.

The stormwater facility design work was completed by Stantec Consulting in accordance with the Development Charges bylaw that was in effect at the time. Subsequently in 2010, the City engaged AECOM to undertake the functional design of the Hyde Park No. 4 SWM facility.

DISCUSSION

Calloway REIT (London-NW) Inc. and Fanshawe S.C. Ltd. submitted an engineering fee claim in the amount of \$391,816.17 (excluding applicable taxes) for the stormwater facility design work related to Hyde Park SWM Facility 4. City staff met with the owners on numerous occasions to discuss which costs related to the design of the SWM Facility would be eligible for claim reimbursement.

The following rationale was used to determine the appropriate claim amount:

- Eligible Components of the Claim
 - Fees paid prior to the enactment of the 2009 Development Charges (DC) Bylaw: \$333,528.99 (excluding applicable taxes)
 - The August 2009 DC Bylaw moved major stormwater management projects from the Urban Works Reserve Fund to the City Services Reserve Fund. Cost previous to this date would be eligible for reimbursement as per the Urban Works Reserve Fund rules of the day.
 - Costs borne after the enactment of the 2009 Development Charges Bylaw: \$58,287.18 (excluding applicable taxes)
 - Following August 2009 DC Bylaw the design and construction of the Hyde Park SWM No. 4 project was the responsibility of the City and therefore costs borne after the bylaw coming into effect will not be reimbursed.

The above noted settlement resulted in a reduction in the claim of \$58,287.18 (excluding applicable taxes). This amount would be at the entire expense of Calloway REIT (London-NW) Inc. Calloway REIT (London-NW) Inc. and Fanshawe S.C. Ltd. have agreed to the rationale outlined above for the claim rather than proceed with possible litigation in order to move forward with this outstanding claim.

It should be noted that in 2004/2005, Smart Centres engaged the services of Stantec to complete a functional design of the Hyde Park No. 4 SWM facility and Stanton Drain remediation. The City was reviewing the design when Council passed the Development Charges by-law stipulating that regional SWM facilities be constructed by the City (August 2009). The City engaged AECOM to undertake a peer review of Stantec's design and determined that deviations proposed in the design from what was identified in the EA, would not be as efficient and will result in a considerable increase in project cost. On that basis, the City did not accept the design proposed by Stantec on behalf of Smart Centres.

CONCLUSIONS

Based on the long and complex history of the project and the fact that the claim is transitional in nature, it is recommended that \$333,528.99 (excluding applicable taxes) be reimbursed to the owners as the amount is fair and reasonable for all of the parties involved.

Agenda Item #

Page #

--	--

PREPARED BY:	REVIEWED BY:
BERTA KRICKER, M. ENG., F.E.C., P.ENG. MANAGER OF STORMWATER MANAGEMENT UNIT	SCOTT MATHERS, P.ENG, MPA MANAGER, DEVELOPMENT FINANCE
RECOMMENDED BY:	REVIEWED AND CONCURRED BY:
EDWARD SOLDI, P.ENG. DIRECTOR, ROADS AND TRANSPORTATION	JOHN BRAAM, P.ENG. MANAGING DIRECTOR, ENVIRONMENTAL & ENGINEERING SERVICES & CITY ENGINEER

March 19, 2014

Attach: Appendix 'A' – Source of Financing
Appendix 'B' – Location Map

Hyde Park SWM No 4-Transitional Consulting Costs -Final-Mar24'14.docx