SUBJECT: Proposed Development Charges By-Law 04-145 Amendments – Consultant Services (FCS06021) (City Wide)

RECOMMENDATION:

a) That CN Watson & Associates be single-sourced (purchasing policy #11) to undertake a Development Charges Background Study and By-Law amendments at an estimated cost of $30,000;

b) That the total cost of the Development Charges Study and By-Law amendments, to an upset limit of $50,000, be 90% funded (as per legislative requirement) from the following development charge reserves:

- Residential Growth Management (110324 - $27,000)
- Non-residential Growth Management (110325 - $18,000); and
- 10% funded from the General Tax Capital Reserve (108020 - $5,000).

Joseph L. Rinaldo
General Manager
Finance and Corporate Services

EXECUTIVE SUMMARY:

Development Charges (DC) By-Law 04-145 was enacted on July 6, 2004, based on the findings of the Development Charges Background Study dated May 19, 2004. Since then, staff and Council have identified several areas of the Background Study and By-
Law that require updating. Potential Background Study and By-Law amendments include:

- Inclusion of any new major water, sewer and storm growth infrastructure;
- Increasing of the stormwater management land costs to more accurately reflect market values;
- Adjusting “hard services” project costs to reflect more up-to-date financial data;
- Updating cost estimates pertaining to the Waterdown/Aldershot Transportation Master Plan;
- Amendment to the By-Law to reflect Council’s decision of a 50% reduction in DCs on residential facilities for McMaster University (report FCS05063a);
- Review potential changes to apartment vs residential facility definitions to avoid potential abuse of the By-Law; and
- Review DC rates charged on apartment developments.

It is recommended that CN Watson & Associates be retained to undertake the Study and By-Law Update at an estimated cost of $30,000. CN Watson & Associates may be retained as a “single source” as per the City’s Purchasing Policy #11. CN Watson & Associates authored the original Background Study in 2004 and are familiar with the Background material, processes and calculations used to arrive at the current DC By-Law and would therefore be able to amend the documents as required with minimal cost.

**BACKGROUND:**

Development Charges (DC) By-Law 04-145 was enacted on July 6, 2004, based on the findings of the Development Charge Background Study dated May 19, 2004. By-Law 04-145 replaced the seven DC By-Laws that were in effect for each of the former six municipalities and the former region. As per the Development Charges Act, 1997, DC By-Laws can be in effect for a maximum period of five years before a new Background Study and By-Law is required to be enacted. However, municipalities may elect to enact a new By-Law or amend their By-Laws before the five year period expires.

Since the DC By-Law was enacted in July 2004, several areas of the Background Study and By-Law that require updating have been identified. Also, several administrative changes to the By-Law are required as a result of happenings since the By-Law was enacted.

As a result, staff are recommending that a review of DC By-Law 04-145 be undertaken with a report on potential amendments brought to Council for consideration.

**ANALYSIS/RATIONALE:**

Areas that would be reviewed for potential amendments are as follows:
WINS
In order to meet the City’s long-term requirements for wastewater treatment, a $330 million upgrade of the Woodward Avenue Wastewater Treatment Plant is planned for 2007-2013. This is a growth-related project with millions of dollars of DC funding required, however, this project is not currently identified in the DC Background Study meaning that no DCs are currently being collected for this project.

Details of this project were not available when the Background Study for DC By-Law 04-145 was being developed. Given the magnitude of the project, and now that more complete information is available, this project can be included in the DC Study and by way of an Amending By-Law, the City would be recovering DCs for this project.

Stormwater Management Pond Land Costs
In the DC Background Study, land costs for stormwater management facilities were estimated at $250,000 per hectare (approx $100,000/acre). Based on more current information, land values across the City range from $740,000 per hectare ($300,000/acre) to $185,000 per hectare ($75,000/acre). As a result, the $250,000 per hectare provision currently in the Background Study is on the low end of the spectrum and should be revised to reflect more appropriate figures. This would allow DC collections to be more in line with actual costs.

Cost Overruns
Since the DC Background Study was completed in 2004, many project costs have increased in comparison to the estimated costs included in the Study. Amending the Background Study would allow for the costs to be adjusted to more up-to-date levels allowing the City to collect more appropriate DCs.

Only projects included in the Hard Services (Water, Wastewater and Stormwater) components of the DC would be reviewed for cost adjustments. These components do not need the service standard calculations to be updated.

Waterdown/Aldershot Transportation Master Plan
The original Background Study included estimated costs for the construction of the Waterdown/Aldershot Transportation Master Plan, however, more accurate cost estimates have since been developed and need to be included in the Background Study to ensure appropriate DCs are collected.

McMaster Student Residences
As part of report FCS05063a “Development Charges – McMaster University Student Residences and Athletic Centre”, Council approved a 50% DC reduction for student residences built by McMaster. An Amendment is required to incorporate Council’s decision into the By-Law.

Apartment vs Residential Facility Definitions
The DC By-Law needs to be reviewed with respect to clarifying the definition of apartments vs residential facilities, particularly with respect to private student housing developments. Typically, such developments consist of multiple living areas that are
grouped together. Each grouping may have six to eight bedroom units that share common kitchen and bathroom facilities.

The intent of the DC By-Law is that student housing developments pay the “residential facility” rate for each bedroom unit. However, under the current By-Law, such developments can be considered to be apartment units with each six to eight bedroom grouping considered to be one unit. By being classified as an apartment for DC purposes, the DCs collected can be considerably less.

A review of the By-Law is needed to address these types of situations for clarity and to ensure that the developments pay appropriate DCs.

**Apartment DC Rates**

Since By-Law 04-145 was enacted, staff have received several complaints regarding apartment DC rates. The common concern among the development community is that apartment DC rates are too high to allow for apartment developments to be economically viable. It would be appropriate to address this issue now since a change in rates would require a By-Law amendment.

**Process**

The Development Charges Stakeholders’ Committee was formed in 2003 to review and provide input to the 2003-2004 development charges process. As part of the By-Law amendment process, the Committee would meet again on an as needed basis. Staff would present findings to the Committee and the Committee would have opportunity to voice their opinions. The Committee is made up of the following members:

- Four Councillors (Bruckler, McHattie, Mitchell, Pearson);
- Two citizen representatives;
- One representative of the Hamilton-Halton Homebuilders’ Association;
- One representative of the Chamber of Commerce; and
- One representative of the Hamilton-Burlington Real Estate Board.

A report would be brought to Council with recommendations for amendments along with comments from members of the Development Charges Stakeholders Committee.

A minimum of one public meeting must be held to address any proposed amendments before the amended By-Law can be enacted.

**ALTERNATIVES FOR CONSIDERATION:**

The alternative would be to not proceed with a review of possible Background Study and By-Law amendments at this time. Given the change in forecasted projects and costs, the DC By-Law would be under-collcting and the City’s objective of growth paying for growth, would not be achieved.
FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial
It is recommended that CN Watson & Associates be retained to undertake the Study and By-Law update at an estimated cost of $30,000. CN Watson & Associates may be retained as a “single source” as per the City’s Purchasing Policy #11. A single source refers to a situation where there may be more than one source of supply in the open market but only one is recommended based on the grounds that it is more beneficial or cost-effective to the City. CN Watson authored the original Background Study in 2004 and are familiar with the Background material, processes and calculations used to arrive at the current DC By-Law and would therefore be able to amend the documents as required with minimal cost.

It is also recommended that a total budget of $50,000 be approved for the Background Study and By-Law amendment. The cost breakdown is estimated as follows:

- $30,000 – consulting services;
- $10,000 – Legal fees, public meetings, advertising costs, printing costs; and
- $10,000 – chargebacks, contingencies, other miscellaneous expenses.

As per the Development Charges Act, 1997, the costs would be 90% funded by development charge reserves and 10% funded by general tax capital reserves.

Staffing  - none.

Legal
As per the Development Charges Act, 1997, the following steps must be followed prior to the passage of the Amending By-Law:

- At least one public meeting must be held;
- At least 20 days notice of the meeting(s) must be given;
- The proposed By-Law and Background Study must be made available to the public at least two weeks prior to the first meeting; and
- Notice of the Amended By-Law must be given and the deadline date for an appeal must also be given (40 days after By-Law passage). Only the amended portions of the By-Law are open to appeal.

POLICIES AFFECTING PROPOSAL:

None.

RELEVANT CONSULTATION:

Planning & Economic Development Department
Public Works Department
Legal Services
Purchasing Department
CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Evaluate the implications of your recommendations by indicating and completing the sections below. Consider both short-term and long-term implications.

Community Well-Being is enhanced. ☒ Yes ☐ No

Environmental Well-Being is enhanced. ☒ Yes ☐ No

Economic Well-Being is enhanced. ☒ Yes ☐ No

Does the option you are recommending create value across all three bottom lines? ☒ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☒ No