



**City of Kingston
Report to Council
Report Number 18-386**

To: Mayor and Members of Council
From: Desiree Kennedy, Chief Financial Officer and City Treasurer
Resource Staff: George Wallace, Senior Special Projects Manager
Date of Meeting: November 20, 2018
Subject: Award of Contract - 2019 Development Charge Background Study and By-Law Development – Consultant Selection

Executive Summary:

The City of Kingston collects development related charges at the time of building permit issuance pursuant to the Development Charge By-Law Number 2014-135 and the Impost Fee By-Law Number 2009-138, as amended. These charges assist in providing the infrastructure required by future development in the municipality. The current rates and rules were established on the basis of the 2014 Development Charge and Impost Fee Background Study prepared by Watson & Associates Economists Ltd. The City of Kingston passed the existing Development Charge By-Law together with amendments to the Impost Fee By-Law on September 9, 2014. The *Development Charges Act, 1997* requires that the municipality review its Development Charge every 5 years and also requires that a Background Study be prepared prior to the adoption of a new Development Charge By-Law to serve as supporting documentation in determining the new Development Charge. The existing Development Charge and Impost Fee By-Laws will expire on September 29 and 30, 2019, respectively.

City Council's motion to approve the 2014 Background Study also included the following direction to staff:

“That Staff be directed to undertake the necessary Background Study requirements under the *Development Charges Act, 1997* to include water and wastewater services such that those services be introduced into the 2019 Development Charges By-Law”.

In accordance with the foregoing Council direction, the 2019 Development Charge Background Study will consolidate all growth related charges into the new Development Charge By-Law including those related to water and wastewater services.

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The City of Kingston issued RFP F31-CFO-FS-PS-2018-03 requesting Proposals from qualified consultants to undertake the preparation of the 2019 Background Study in accordance with the requirements of the *Development Charges Act* and to prepare the new Development Charge By-Law to implement the Background Study.

Only one (1) submission was received in response to the RFP and staff is recommending that the sole bidder, Watson & Associates Economists Ltd., be retained to undertake the 2019 Development Charge Background Study and By-Law Development. Watson & Associates prepared the previous Development Charge and Impost Fee Background Study for the City of Kingston and is currently preparing the Population, Housing and Employment Projections Study, a key document that is required to support the 2019 Development Charge Background Study.

The cost of the Study will be \$120,960 including all consulting fees and disbursements (excluding HST and any costs to defend the By-Law in the event of an LPAT Appeal).

In compliance with the Purchasing By-Law Number 2000-134, as amended, Section 3.4, staff is required to present a recommendation to City Council for approval to award this Contract as three (3) valid Proposals were not received in response to the RFP.

Recommendation:

That Watson & Associates Economists Ltd. be retained to undertake the 2019 Development Charge Background Study and By-Law Development pursuant to RFP F31-CFO-FS-PS-2018-03; and

That the Mayor and City Clerk be authorized to enter into an Agreement, to the satisfaction of the Director of Legal Services, for the purpose of engaging Watson & Associates Economists Ltd. to undertake the preparation of the 2019 Development Charge Background Study and By-Law Development.

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Authorizing Signatures:

ORIGINAL SIGNED BY CHIEF FINANCIAL OFFICER AND CITY TREASURER

**Desirée Kennedy, Chief Financial Officer and
City Treasurer**

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

Gerard Hunt, Chief Administrative Officer

Consultation with the following Members of the Corporate Management Team:

Lanie Hurdle, Commissioner, Community Services

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Jim Keech, President & CEO, Utilities Kingston

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Denis Leger, Commissioner, Corporate & Emergency Services

Not required

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Options/Discussion:**Purpose**

The purpose of this report is to recommend the award of the contract for the preparation of the 2019 Development Charge Background Study and By-Law Development to Watson & Associates Economists Ltd. who submitted the only Proposal in response to the RFP. Section 3.4 of By-Law Number 2000-134, "A By-Law to Establish Purchasing Policies and Procedures for the City of Kingston", as amended, states that when all the criteria for delegated authority is not present, the Award of Contract must be approved by separate report to Council. In this case three (3) valid Proposals were not received in response to the RFP. Therefore, it does not meet all of the criteria for delegated authority and requires Council approval.

Background

The City of Kingston currently collects development related charges pursuant to two By-Laws: [By-Law Number 2014-135](#), authorized by subsection 2(1) of the *Development Charges Act, 1997* (uniform city-wide charges); and [By-Law Number 2009-138](#), as amended, which imposes water and wastewater fees under the *Municipal Act, 2001* within the Urban Service Area. These charges, collected at the time of building permit issuance, assist in providing the infrastructure required by future development in the municipality by establishing a viable capital funding source to meet the City's financial requirements. The current rates and rules were established on the basis of the 2014 Development Charge and Impost Fee Background Study prepared by Watson & Associates Economists Ltd. ([2014 Background Study](#)).

The *Development Charges Act, 1997* requires that the municipality review its Development Charge every 5 years. The legislation also requires that a Background Study be prepared to serve as supporting documentation in determining the new Development Charge and prior to the adoption of a new By-Law. In addition, Regulations require that a public meeting be held to advise the public of any proposed changes to the Development Charge and to provide an opportunity for the public to ask questions regarding the Background Study. While not statutorily required, the City has used a similar approach for determining the Impost Fee. The existing Development Charge and Impost Fee By-Laws will expire on September 29 and 30, 2019, respectively.

As noted in the 2014 Background Study, the City has a long-standing practice of imposing an Impost Fee on development for the purpose of recovering growth-related capital costs for water and wastewater services. This has been maintained by the City, in part, to ensure separation of funds between the City's Development Charge services and Utilities Kingston services, providing financial flexibility and transparency. During the preparation of the 2014 Background Study, there was much discussion with respect to the separate charges and By-Laws. City Council's motion to approve the 2014 Background Study included the following direction to staff:

"That Staff be directed to undertake the necessary Background Study requirements under the *Development Charges Act, 1997* to include water and wastewater services such that those services be introduced into the 2019 Development Charges By-Law".

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In accordance with the foregoing Council direction, the 2019 Development Charge Background Study will consolidate all growth related charges into the new Development Charge By-Law and the Impost Fee By-Law will be repealed.

Subsequent to the completion of the 2014 Background Study, there have been a number of legislative changes to the *Development Charges Act* that will impact the preparation of the 2019 Background Study. These changes include, but are not necessarily limited to, the following:

- The Background Study must be made available to the public at least sixty (60) days before the new Development Charge By-Law is passed;
- The Background Study must include an Asset Management Plan for all assets whose capital costs are proposed to be funded under the Development Charge By-Law; and
- Transit services are no longer subject to the statutory 10% reduction and the level of service for Transit can be calculated based on the future 10 year planning period.

The City of Kingston issued RFP F31-CFO-FS-PS-2018-03 requesting Proposals from qualified consultants to undertake the preparation of the required Background Study in accordance with the requirements of the *Development Charges Act* and to prepare the new Development Charge By-Law to implement the Background Study. The key deliverables of the Background Study will include:

- a Background Document that meets all requirements of the *Development Charges Act*;
- a Policy Report that addresses the recent changes to the *Development Charges Act, 1997* (e.g. waste diversion, transit services, average level of service, multiple buildings and reporting requirements) and the implications of those changes for the City of Kingston, and such policy issues as area charges, exemptions, clarification of definitions, coverage of any new services, phase-in and indexing and the identification of any potential policy amendments including the incorporation of water and wastewater services under the Development Charge By-Law;
- a draft Development Charge By-Law that establishes the residential and non-residential development charge respecting the City's growth-related needs; and
- a Public Engagement/Communications Plan that provides sufficient information and opportunities for public input to ensure a comprehensive program of consultation with all stakeholders throughout the Background Study process.

Evaluation of Submission

The Request for Proposal (RFP) was publicly advertised on Biddingo and from the eight (8) full document downloads of the RFP only one (1) firm submitted a Proposal, i.e. Watson & Associates Economists Ltd. (Watson and Associates).

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The RFP established an evaluation framework that assigned a weighted value to each of the following elements of the Proposal submission:

- Study Approach/Work Program (25%);
- Company Profile and Consultant Team Experience and Capability (20%);
- Stakeholder Engagement and Communication Plan (10%);
- Proposal Cost (35%);
- Familiarity with the City of Kingston (7%); and,
- Compliance with the *Accessibility for Ontarians with Disabilities Act* (3%).

The Proposal submitted by Watson & Associates was evaluated by staff based on the foregoing evaluation criteria. Staff's evaluation resulted in an average score of 95 out of 100. Based on that evaluation staff has concluded that the firm of Watson & Associates Economists Ltd. should be retained to undertake the 2019 Development Charge Background Study and By-Law Development.

Watson & Associates Economists Ltd. is a firm of municipal economists, planners and accountants with a municipal client base of more than 250 Ontario municipalities, including the City of Kingston. Watson and Associates has conducted numerous Development Charge Background Studies throughout the Province, including previous Background Studies for the City of Kingston. The firm has demonstrated a thorough knowledge of the relevant legislation and given its broad municipal client base has wide-ranging experience and a solid information base to prepare the required Background Study and updated By-Law for the City of Kingston. Watson & Associates provided a clear proposal that met all the terms of the RFP and proposed a work plan that would ensure completion of the draft Background Study and By-Law well before the expiration of the existing By-Laws in September, 2019. The Proposal presented a detailed outline of the proposed approach to the Study and demonstrated that the firm clearly understood the legislative changes to the *Development Charges Act* and the City's requirements and expectations in terms of timelines and Study deliverables. The proposed Consultant Team has the qualifications and experience to undertake the Study with at least three of the Team members having been involved in the preparation of the 2014 Background Study.

The proposed work plan includes considerable consultation throughout the Study process in accordance with the City's public engagement framework. In addition to regular Staff Steering Committee meetings, the work plan envisions three (3) Focus Group meetings that will include representatives of the development community and other key stakeholders. In order to keep the public informed throughout the Background Study process, Watson & Associates is proposing a dedicated webpage on the City's website. The webpage will be continually updated throughout the Study process and will include all background materials, agendas for the Focus Group meetings and any other public consultation meetings, minutes from all public consultation meetings, any interim reports (e.g. growth forecast and policy documents), and the draft

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Background Study and By-Law. This forum will allow any interested parties to submit comments or concerns by e-mail or regular mail throughout the Study process.

The cost of the Study will be \$120,960 including all consulting fees and disbursements (excluding HST any costs to defend a By-Law appeal) which is within the Council approved budget envelope.

Staff will be overseeing the Development Charge Background Study and By-Law Development. A contract for the preparation of the Background Study and By-Law Development will be finalized as soon as possible in order to allow the work on the Background Study to commence. According to the work plan provided by Watson & Associates, the Final Background Study and Development Charge By-Law are anticipated to be completed in July/August, 2019 with the By-Law submitted to Council for approval in September, 2019.

Existing Policy/By-Law:

By-Law Number 2000-134 – A By-Law to Establish Purchasing Policies and Procedures for the City of Kingston, as amended;

By-Law Number 2014-135 – “A By-Law to Establish Development Charges for the City of Kingston, Cited as the “City of Kingston Development Charge By-Law 2014”, and to Repeal By-Law Number 2009-136, Cited as the “City of Kingston Development Charge By-Law 2009”” ([By-Law 2014-135](#))

By-Law Number 2009-138, as amended – “A By-Law to Impose Water Rates and Sewer Rates to Recover the Capital Cost of Installing Water and Sanitary Sewer Services Necessary to Benefit Users of the System, Cited as The “City of Kingston Impost Fee By-Law”” ([By-Law 2009-138](#))

By-Law Number 2010-1 – Council Procedural By-Law, as amended, which provides the authority for the Mayor and Clerk to sign all Agreements that are approved by Council

Development Charges Act, 1997, S.O. 1997, Chapter 27 – requires the review of the City’s Development Charge every five years (Section 9) and the preparation of a Background Study before Council can pass a new Development Charge By-Law (Section 10). The Background Study must include all of the required information as prescribed in the Act (Section 5). The Development Charge By-Law must be passed within one (1) year of the completion of the Background Study (Section 11). At least one (1) public meeting must be held before Council passes the Development Charge By-Law (Section 12). Development Charge By-Laws may be appealed to the Local Planning Appeal Tribunal (Sections 13-15).

Ontario Regulation 82/98 under the *Development Charges Act, 1997*

Notice Provisions:

In accordance with the provisions of Section 12 of the *Development Charges Act* and Ontario Regulation 82/98, before passing a Development Charge By-Law, Council shall:

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- hold at least one public meeting;
- give at least 20 days' notice of the meeting or meetings to every owner of land in the area to which the proposed By-Law would apply, by personal service, fax or mail, **or** by publication in a newspaper that is, in the Clerk's opinion, of sufficiently general circulation in the area to which the proposed By-Law would apply to give the public reasonable notice of the meeting; and,
- ensure that the proposed By-Law and the Background Study are made available to the public at least two weeks prior to the meeting or, if there is more than one meeting, prior to the first meeting.

Following Council approval of the Development Charge By-Law, the Clerk must issue a Notice of Passing not later than 20 days after the By-Law is passed. The Notice must set out the last day for any appeals of the By-Law to the Local Planning Appeal Tribunal (LPAT) (40 days after the date of passing). Notice must be given to:

- Every owner of land in the area to which the By-Law applies, by personal service, fax or mail, **or** by publication in a newspaper that is, in the Clerk's opinion, of sufficiently general circulation in the area to which the By-Law applies to give the public reasonable notice of the passing of the By-Law;
- Every person and organization that has given the Clerk a written request for notice of the passing of the By-Law and provided a return office; and
- The secretary of every School Board having jurisdiction within the area to which the By-Law applies.

Accessibility Considerations:

This report is AODA compliant and may be available in alternate formats upon request.

Financial Considerations:

Funds for the preparation of the 2019 Background Study have been approved in the 2018 Capital Budget. It is noted that should the Council approved By-Law be appealed to the Local Planning Appeal Tribunal, the costs for Watson & Associates to defend the City's By-Law are not included in the cost noted above.

Contacts:

George Wallace, Senior Special Projects Manager, 613-546-4291, Ext. 1864

Other City of Kingston Staff Consulted:

Lana Foulds, Manager, Financial Planning

Exhibits Attached:

There are no exhibits to this report.