

**Report to
Rapport au:**

**Planning Committee / Comité de l'urbanisme
September 10, 2020 / 10 septembre 2020**

**and Council / et au Conseil
September 23, 2020 / 23 septembre 2020**

**Submitted on August 29, 2020
Soumis le 29 août 2020**

**Submitted by
Soumis par:
Douglas James**

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Ward: STITTSVILLE (6)

File Number: ACS2020-PIE-PS-0084

**SUBJECT: Front-Ending Report – Feedmill Creek Stream Rehabilitation
Measures, Reaches 1 to 5, Kanata West. 2325483 Ontario Ltd.**

**OBJET: Rapport d'entente préalable – Mesures de réaménagement du
ruisseau Feedmill, portions 1 à 5, Kanata-Ouest. 2325483 Ontario Ltd.**

REPORT RECOMMENDATIONS

That Planning Committee recommend that Council:

1. **Authorize the City and delegate authority to the General Manager, Planning, Infrastructure and Economic Development Department, to enter into a Front-Ending Agreement with 2325483 Ontario Ltd. for the Feedmill Creek Stream Rehabilitation Measures, Reaches 1 to 5, Kanata West as outlined in this report, to an upset limit of \$1,352,662 plus applicable taxes and indexing, in accordance with the Front-Ending Agreement Principles and Policy set forth in Documents 1 and 2 and with the final form and content being to the satisfaction of the City Solicitor;**
2. **Pursuant to the City and Kanata West Owners Group (KWOG) entering into an agreement for the payment of \$556,000 plus HST by KWOG for the Feedmill Creek Stream Rehabilitation Measures, authorize the reimbursement of the \$546,385 (\$556,000 minus sunk HST cost of 1.76%) to 2325483 Ontario Ltd. for the Feedmill Creek Stream Rehabilitation Measures, Reached 1 to 5, Kanata West as outlined in this report, in accordance with the Front-Ending Agreement Principles and Policy set forth in Documents 1 and 2 and with the final form and content being to the satisfaction of the City Solicitor;**
3. **Authorize the financial disbursement to reimburse the Feedmill Creek Stream Rehabilitation Measures, Reaches 1 to 5 remaining costs incurred by 2325483 Ontario Ltd. pursuant to the execution of the Front-Ending Agreement, to a maximum amount of \$806,278 plus applicable taxes and indexing, from Area Specific development charges collected and in accordance with the reimbursement schedule set out in the Front-Ending Agreement; and;**
4. **Authorize the creation of a budget for the design and construction work required per the Front-Ending agreement.**

RECOMMANDATIONS DU RAPPORT

Que le Comité de l'urbanisme recommande ce qui suit au Conseil :

1. **Autoriser la Ville à conclure une entente préalable avec 2325483 Ontario Ltd, et déléguer le pouvoir à cette fin au directeur général de Planification, Infrastructure et Développement économique, pour la mise en place des mesures de remise en état des tronçons 1 à 5 du ruisseau Feedmill à Kanata-Ouest, comme le décrit le présent rapport, jusqu'à concurrence de**

- 1 352 662 \$, taxes applicables et indexation en sus, conformément aux principes et à la politique de l'entente préalable énoncés dans les documents 1 et 2, et dont la forme et le contenu définitifs seront à la satisfaction de l'avocat général;**
- 2. Suivant la conclusion d'une entente entre la Ville et Kanata West Owners Group (KWOG) relativement au versement par KWOG d'une somme de 556 000 \$, TVH en sus, pour la mise en place des mesures de remise en état du ruisseau Feedmill, autoriser le remboursement de 546 385 \$ (soit 556 000 \$ moins les coûts irrécupérables de la TVH, soit 1,76 %) à 2325483 Ontario Ltd. pour la mise en place des mesures de remise en état des tronçons 1 à 5 du ruisseau Feedmill à Kanata-Ouest, comme le décrit le présent rapport, conformément aux principes et à la politique de l'entente préalable énoncés dans les documents 1 et 2, et dont la forme et le contenu définitifs seront à la satisfaction de l'avocat général;**
 - 3. Autoriser la sortie des fonds nécessaires au remboursement du coût restant engagé par 2325483 Ontario Ltd pour la mise en place des mesures de remise en état des tronçons 1 à 5 du ruisseau Feedmill, dans le cadre de l'exécution de l'entente préalable, jusqu'à concurrence de 806 278 \$, taxes applicables et indexation en sus, à partir des redevances d'aménagement propres au secteur perçues et conformément au calendrier de remboursement fixé dans l'entente préalable; et**
 - 4. Autoriser l'établissement d'un budget pour les travaux de conception et de construction requis dans le cadre de l'exécution de l'entente préalable.**

BACKGROUND

2325483 Ontario Ltd. - Shenkman/Cavanagh has draft approval on lands addressed as 195 Huntmar Drive and Part of 2499 Palladium Drive, for a subdivision in Kanata West. A City of Ottawa's condition of the Draft plan of Subdivision states that subject to Council approval, the owner will enter into a Front Ending agreement with the City such that the owner will construct the Feedmill Creek restoration works for Reaches 1 to 5. The Owner acknowledges and agrees that an Area Specific Development Charges By-law will be enacted to facilitate the terms of the Front Ending Agreement.

The City of Ottawa Area Specific Development Charge Background Study for Feedmill Creek In-stream measures was completed in August 2019 which formed the basis of the City of Ottawa By-Law No. 2020-5 - Findlay Creek In-Stream Measures, passed on Jan 29, 2020. Council has enacted this additional Development Charge By-law to the original Development Charge By-Law No. 2019-156, for the imposition of development

charges for the area in the City benefiting from rehabilitation measures in Feedmill Creek.

As part of By-Law 2020-5, a contribution of \$556,000 plus HST is required by the Kanata West Owners Group (KWOG) towards the cost of the Feedmill Creek In-Stream Measures. Under the By-Law, the City is authorized to enter into an agreement with KWOG to receive the funds to be directed to the works being considered.

2325483 Ontario Ltd. - Shenkman/Cavanagh has submitted a Front Ending application (D07-20-20-0003) to enter into a Front-Ending Agreement with the City of Ottawa to allow for payments for these works. These costs have been identified as \$1,352,662 plus applicable tax and indexing with payment occurring through the "Area Specific Development Charge" for the Feedmill Creek Stream Rehabilitation Measures, for Reaches 1 to 5 (which includes the \$556,000 contribution by KWOG)

DISCUSSION

The Feedmill Creek Stream Rehabilitation Measures for Reaches 1 to 5 is a requirement for the development of the 2325483 Ontario Ltd. (Shenkman/Cavanagh) subdivision plan of subdivision for servicing.

2325483 Ontario Ltd. is requesting to enter into a front-ending agreement for the cost recovery of the Feedmill Creek Stream Rehabilitation Measures for Reaches 1 to 5, from Highway 417 to the Carp River. The Total Development Charge Project Costs (Growth Related) for the design and construction for the Feedmill Creek Stream Rehabilitation Measures for Reaches 1 to 5 is \$1,352,662 plus applicable tax and indexing.

The Development Charges By-law addresses this type of works for this area through an Area Specific Development Charge.

An addition to the 2019 Development Charges By-Law, By-Law 2020-5 was enacted to adopt an additional by-law for the imposition of development charges for the area in the city benefiting from the rehabilitation measures in Feedmill Creek. Kanata West Owners Group (KWOG) is to provide a cash contribution of \$556,000 plus HST towards the works through a formal agreement. This cash contribution is to be used towards the repayment of 2325483 Ontario Ltd in accordance with the Front-Ending Agreement Principles and Policy set forth in Documents 1 and 2 and with the final form and content being to the satisfaction of the City Solicitor.

As per the condition of the Front Ending Agreement, a commence work for the Feedmill Creek Stream Rehabilitation Measures for Reaches 1 to 5 will not be issued until all necessary budgets are in place.

All Front-Ending Agreements are subject to the Front-Ending principles noted in Document 1 and the Council approved Front-Ending policy noted in Document 2.

RURAL IMPLICATIONS

There are no rural implications associated with the proposed Front-Ending Agreement.

CONSULTATION

All development approvals were conducted according to the requirements of the *Planning Act* and the City's Public Notification and Consultation Policy. The front-ending entities agree to the process outlined herein.

COMMENTS BY THE WARD COUNCILLORS

Ward Councillors Sudds, El-Chantiry, Gower and Moffat were notified of this report and its recommendations.

Councillors Sudds and El-Chantiry have no concerns.

LEGAL IMPLICATIONS

There are no legal implications associated with implementing the recommendations within this report.

RISK MANAGEMENT IMPLICATIONS

There are no risk implications associated with the front-ending of the Feedmill Creek Stream Rehabilitation Measures for Reaches 1 to 5.

ASSET MANAGEMENT IMPLICATIONS

The recommendations documented in this report are consistent with the City's [Comprehensive Asset Management \(CAM\) Program](#) objectives. The implementation of the Comprehensive Asset Management program enables the City to effectively manage existing and new infrastructure to maximize benefits, reduce risk, and provide safe and reliable levels of service to community users. This is done in a socially, culturally, environmentally, and economically conscious manner.

The proposed Front-Ending Agreement with 2325483 Ontario Ltd. for the Feedmill Creek Stream Rehabilitation Measures for Reaches 1 to 5 from Highway 417 to the Carp River, allows for the infrastructure to be built and operational in advance of the City's capital project plans for emplacement of these same works.

FINANCIAL IMPLICATIONS

The recommended front-ending agreement is in accordance with the 2019 Development Charge Study and By-law and Area Specific Charge Development Charge By-law 2020-5.

Upset limits and cost breakdowns are below. Repayment is subject to fulfilment of the Front-Ending Agreement conditions and will be based on the actual values of the costs incurred, to the upset limits, which include all City fees and review costs. Should the actual costs exceed the upset limit, the additional costs shall be borne by the developer and the City shall not be obligated to compensate for additional costs.

Development Charge – Area-specific Background Study for Feedmill Creek IN-stream Measures	Feedmill Creek Stream Rehabilitation Measures for Reaches 1 to 5, from Highway 417 to the Carp River (all amounts are in 2019 dollars)
A. Construction	\$966,187
B. 15 per cent Engineering	\$144,928
C. 10 per cent Project Management	\$96,619
D. 15 per cent Contingency	\$144,928
Sub-Total	\$1,352,662
E. City Sunk HST (1.76 per cent)	\$23,807
Total	\$1,376,469

Pending Council approval of the recommendations, a capital account will be established with budget authority of the upset limit. The account will be funded by the \$556,000 contribution from KWOG and the additional \$820,469 to be 100 per cent funded by area specific development charges. Both together makes up the total amount of \$1,376,469 as outlined in the table above. The repayment of the front-ended amount will be based on the following timeline once the Front-Ending Agreement conditions have been fulfilled:

1. The KWOG contribution portion will be repaid to the developer in full when it is received by the City.
2. The Area Specific Development Charges portion will be repaid to the developer in a quarterly basis as they are collected. There is no sunset provision

associated with this repayment.

There is no associated operating budget impact related to this project.

ACCESSIBILITY IMPACTS

All infrastructure will be designed in accordance with all relevant legislation and regulations.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications with the front ending of the Feedmill Creek Stream Rehabilitation Measures for Reaches 1 to 5, from Highway 417 to the Carp River.

TERM OF COUNCIL PRIORITIES

This project addresses the following Term of Council Priorities:

- Economic Growth & Diversification: Encourage economic growth and diversification by supporting business investment and expansion
- Sustainable Infrastructure: Ensure sustainable infrastructure investment to meet the future growth and service needs of the city.

SUPPORTING DOCUMENTATION

Document 1 Front-Ending Agreement Principles

Document 2 Council Approved Front-Ending Policy

Document 3 Location Map

DISPOSITION

Legal Services to prepare the final form of the agreements in consultation with the Planning, Infrastructure and Economic Development Department.

The Treasurer to earmark funds for repayment as noted in this report.

Document 1 – Front-Ending Agreement Principles

1. The cost of the Feedmill Creek Stream Rehabilitation Measures, for Reaches 1 to 5, including all associated works, is estimated at \$1,376,469 including engineering, Sunk HST, project management and contingences plus applicable taxes. All costs incurred shall be justified and include supporting invoices and payment certificates.
2. The City will reimburse 2325483 Ontario Ltd. after the works have been granted approval by the City. Reimbursement will take place through the “Area Specific Charge”, provided the applicant satisfies all requirements in accordance with the Council approved Front-Ending Policies in Document 2.
3. The repayment of the Feedmill Creek Stream Rehabilitation Measures, for Reaches 1 to 5 shall be pursuant to Council-approved Front-Ending Agreement Policy as referenced under Document 2.

Document 2 – Council Approved Front-Ending Policy

Front-Ending Agreements are requested by developers who wish to have specific growth-related capital works in place in advance of the City's capital project plans for emplacement of these same works: developers agree to finance the works at the "front-end" and recover their costs from the City at a later date. The following conditions must be met for the City to enter into a Front-Ending Agreement:

1. All Front-Ending Agreements with the City will be for growth-related capital works that have been included in a development charge study.
2. The contract for front-ended works shall be awarded by the front-ender in accordance with the City's Purchasing Policy of a competitive procurement process and subject to the review and satisfaction of the General Manager, Planning, Infrastructure and Economic Development Department. Where the front-ender does not award the work in accordance with the City's purchasing policy, they must demonstrate that competitive pricing has been obtained, through independent analysis of their engineer, to the satisfaction of the General Manager, Planning, Infrastructure and Economic Development Department. The contract for the work must be made available to the City to provide to the public.
3. Stormwater ponds and related sewer works that are 100 per cent development charge funded in the recommended by-laws will be paid back to the developer based on revenues as they are collected from the designated area. This means that at no time are the repayments to exceed the revenues received. Each Front-Ending Agreement will define the geographic area involved and a separate and specific deferred revenue account may be set up to keep track of the revenues collected and payments made. Crediting will also be allowed for the Front-Ending Agreements related to storm water ponds. Indexing shall apply to the outstanding balance in accordance with the rate of indexation pursuant to the Development Charge By-laws.
4. For all other capital projects, a lump sum payment, both the development charge portion and the City portion, will be made to the developer in the year the project is identified in the City's 10-year capital plan at the time the Front-Ending Agreement is approved. Should growth occur earlier than forecasted, then repayment would be accelerated to reflect the revised timing the City would have budgeted for the project. If growth occurs more slowly than forecasted, then the City will have an additional one to three years (one to three years from the year the project was identified in the 10-year plan) to make repayments. Only in this latter case will the City's portion of the payment be indexed beginning with the

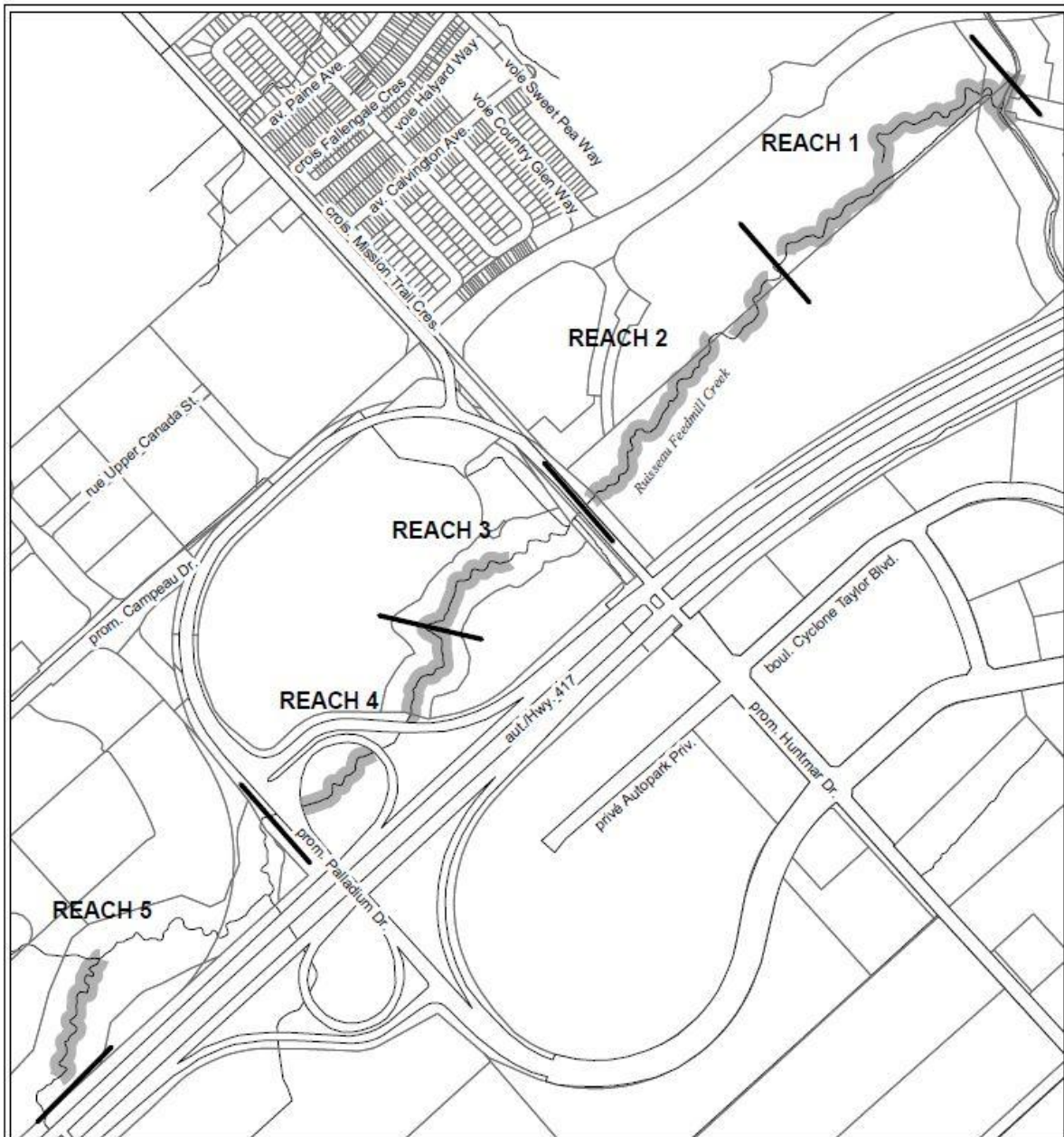
year the project was identified in the 10-year plan.




5. Given that the City will be assuming operating costs earlier than anticipated through the Front-Ending Agreement process; the City is not to pay any carrying costs to the developer.
6. All development charges payable by developers must be paid up front in accordance with the City's by-law. With the exception of the stormwater ponds and related sewer works, there will not be any crediting allowed as a result of entering into a Front-Ending Agreement. On December 8, 2004, City Council approved, "That staff be directed to work with the industry to develop the details of a credit policy to be incorporated into the Front-Ending Policy".
7. In the case where multiple Front-Ending Agreements are in force in the same area-specific Development Charge By-law, and the City has approved the front-ended works for development charge reimbursements, the front-enders will share in the distribution of development charge revenues on a pro-rata basis with other storm water drainage projects. The pro-rated works shall be based on the balance of the outstanding amount owing on the date the repayment is due. Existing front-enders will be advised of new Front-Ending Agreements for stormwater works within the same benefiting area and area-specific development charge By-law.
8. The capital project upset limits for engineering, project management, and contingency shall be the established rates set in accordance with the City's Development Charge By-laws and accompanying background studies, as amended.
9. Land remuneration shall be subject to an appraisal by a professional land appraiser and the appraisal shall be conducted in accordance with the terms of reference as established in the City's Development Charge By-laws and accompanying background studies, as amended. The upset limit for land remuneration shall be the lesser of the appraised value and the upset limit in accordance with the City's Development Charge By-laws and accompanying background studies.
10. Indexing shall apply to the total project costs if the front-ended works have been delayed over a period of time; the front-ender provides justification for the delay, and with the written concurrence of the City.
11. Where a front-ender is eligible for development charge reimbursement, documentation is required to support the reimbursement in accordance with the

City's Purchasing Policy. The Front-Ending Agreement shall identify at which stage the documentation shall be required. The following documentation shall be forwarded to the City before payment is issued:

- An invoice summarizing the front-ended works, and separate cost items, if applicable, for land, construction costs, engineering fees, project management fees, contingency fees, and applicable taxes.
 - Payment Certificates, including the final certificate, signed by the developer's civil engineer.
 - All invoices supporting re-payment for the front-ended works.
 - Statutory Declaration.
 - Certificate of Substantial Performance.
 - Workplace Safety and Insurance Board Clearance Certificate (WSIB).
 - Certificate of Publication.
12. A report to Council is required to authorize staff to enter into a Front-Ending Agreement. The recommendation will include the financial commitment of the City, specify the funding source(s), the project timeline and where necessary, request that a specific deferred revenue account be established. The financial comment in the report will specify the timelines for the repayment, an operating budget impact and an estimate of the year in which the operating budget impact will begin. It should also indicate the year in which the project was originally identified in the City's 10-year capital plan. A capital project will be established upon Council approval to enter into a Front-Ending Agreement. The status of these projects will be provided to Council on a yearly basis.
13. No capital project identified outside of the Council approved 10-year long range capital plan, shown in the Development Charge Background Study is eligible to be front-ended unless other item(s) of comparable value, funding allocation, and timing is delayed. A capital project identified with a post-period deduction applied to the gross cost will only have the development charge portion reimbursed if front-ended over the term of the by-law. Indexing would not be applicable to the repayment of the post-period component of the project cost. If growth occurs more slowly than forecasted, then the City Treasurer will have the authority to add an additional three years, without interest, to the repayment of the post-period component of the front-ended project from development charges.

Document 3 – Location Map



		LOCATION MAP / PLAN DE LOCALISATION	
D07-20-20-0003	20-0619-A	Area-specific Development Charge Background Study for Feedmill Creek In-stream Measures / Étude préliminaire sur les redevances d'aménagement d'application restreinte relatives aux travaux dans le ruisseau Feedmill	
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REVISION / RÉVISION - 2020 / 07 / 14			
		 Location of the Proposed In-stream Measures on Feedmill Creek / Emplacement des mesures proposées pour le ruisseau Feedmill	
			 <small>NOT TO SCALE</small>