

**Subject: Delegation of Authority to Sign Mutual Agreement for Drainage Works at  
2121 Huntley Road**

**File Number: ACS2023-PRE-CRO-0022**

**Report to Finance and Corporate Services Committee on 5 September 2023  
and Council on 13 September 2023**

**Submitted on July 31, 2023 by Peter Radke, Director, Corporate Real Estate  
Office; Planning, Real Estate and Economic Development Department**

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**Ward: Rideau-Jock (21)**

**Objet : Délégation des pouvoirs pour signer une entente concernant des  
travaux de drainage au 2121, chemin Huntley**

**Dossier : ACS2023-PRE-CRO-0022**

**Rapport au Comité des finances et des services organisationnels**

**le 5 septembre 2023**

**et au Conseil le 13 septembre 2023**

**Soumis le 31 juillet 2023 par Peter Radke, Directeur, Bureau des biens  
immobiliers municipal, Services de la planification, des biens immobiliers et du  
développement économique**

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**Quartier : Rideau-Jock (21)**

## **REPORT RECOMMENDATION(S)**

**That the Finance and Corporate Services Committee recommend City Council authorize and delegate authority to the Director, Corporate Real Estate Office, to execute a Mutual Agreement for Drainage Works under Section 2 of the Drainage Act between the City and Thomas Cavanagh Construction Limited as described in this report.**

## **RECOMMANDATION(S) DU RAPPORT**

**Que le Comité des finances et des services organisationnels recommande au Conseil d'autoriser le directeur du Bureau des biens immobiliers municipaux à conclure une entente de gré à gré entre la Ville et Thomas Cavanagh Construction Limited concernant les travaux de drainage en vertu de l'article 2 de la *Loi sur le drainage* comme le décrit le rapport, et de lui déléguer les pouvoirs à cette fin.**

## **BACKGROUND**

The City of Ottawa will be constructing a new salt storage facility at its Public Works facility at 2121 Huntley Road (the "City Lands"), which is in the watershed of the Hewitt Branch of the Faulkner Municipal Drain. The new facility will result in changes in the land use, surface, subsurface and storm water flows from the City Lands.

As a result of the proposed Salt Shed design, the City of Ottawa Public Works Department requires a legal and sufficient outlet for stormwater to satisfy conditions of the Environmental Compliance Approval (ECA). A mutual agreement for drainage works, one of many options, was selected by the Public Works Department as the mechanism to accommodate this ECA condition. The mutual agreement for drainage works proposes to take stormwater from the City Lands through another privately owned property owned by Thomas Cavanagh Construction Limited (Cavanagh) and ultimately discharging to the Hewitt Branch of the Faulkner Drain (a drainage system established under the provincial Drainage Act).

The proposed mutual agreement for drainage triggers a review of the capacity of the Hewitt Branch and Faulkner Drain under S.65 of the Drainage Act to determine if it could accommodate the subsequent connection. Additionally, the proposed mutual agreement for drainage works triggers a Drainage Act process to revise the existing Assessment Schedule for the Hewitt Branch to accommodate the subsequent connection. A report prepared under S.65 of the Drainage Act can accommodate the subsequent connections following the signing of the mutual agreement for drainage

works. The Drainage Act has no bearing on the mutual agreement for drainage works, rather it accommodates the change in drainage conditions under the Drainage Act.

The City has drafted a mutual agreement for drainage works with Cavanagh under the authority of Section 2 of the Drainage Act, R.S.O. 1990, c. D.17, as amended (the "Drainage Act"), to provide for the maintenance of an existing open drainage ditch located on lands owned by Cavanagh (the "Open Ditch Drainage Works") and to provide for the cost apportionment of the maintenance of the Open Ditch Drainage Works. Section 2 of the Drainage Act requires each property owner to enter into a written agreement and register it on the title of each property. To appropriately sign the mutual agreement for drainage works, City Council must delegate signing authority to a member of staff. Once the mutual agreement has been signed, the S.65 Report can be finalized accordingly.

The Section 65 Report permits the connection but does not govern the existing Open Ditch Drainage Works located on the lands municipally known as 6248 Flewellyn Road that are owned by Cavanagh which will connect the City lands to the Faulkner Municipal drain. This is because the current Hewitt Branch of the Faulkner Municipal Drain ends at the half lot line between the East and West halves of Lot 23, Concession 8 to the subject property in Lot 22, Concession 8. Future maintenance of the Open Ditch Drainage Works remains the responsibility of the City and Cavanagh in accordance with the terms and conditions of the mutual agreement for drainage works.

## **DISCUSSION**

The City is the owner of lands municipally known as 2121 Huntley Road with Property Identification Number 04449-0241 LT (the "City Lands"). Cavanagh is the owner of the adjacent lands to the east, municipally known as 6248 Flewellyn Road with Property Identification Number 04449-0289 LT (the "Cavanagh Lands").

The City and Cavanagh have agreed that it is to their mutual benefit to enter into a mutual agreement for drainage works under Section 2 of the Drainage Act to provide for the maintenance of the Open Ditch Drainage Works and the cost apportionment of the maintenance of the Open Ditch Drainage Works in an effort to provide for sufficient outlet for water from the City Lands and the Cavanagh Lands to the Hewitt Branch of the Faulkner Municipal Drain.

The Open Drainage Works consist of an open ditch with a route that commences at the easterly boundary of the City Lands and flows in an easterly direction through the Cavanagh Lands and outlets into the Hewitt Branch of the Faulkner Municipal Drain.

Future maintenance of the Open Ditch Drainage Works may be requested by either party but only be completed as determined by the City's Drainage Superintendent. The Open Ditch Drainage Works shall be maintained in accordance with the proposed design features outlined in the Engineer's Report prepared by Robinson Consultants titled "S.65 Subsequent Connection to the Faulkner Municipal Drain Hewitt Branch" that was prepared in relation to the report to City Council titled "Hewitt Branch of the Faulkner Municipal Drain - Appointment of Engineer" under which City Council approved the appointment of Mr. Andy Robinson , P. Eng of Robinson Consultants Inc. as the Engineer of record to prepare a report that addresses the subsequent connection to the Hewitt Branch of the Faulkner Municipal Drain (City Council June 8, 2022, Bulk Consent Agenda Item F, ARAC Report 31, File Number: ACS2022-IWS-WS-000).

The cost of all future repairs and maintenance shall be shared equally by the City and Cavanagh. The City client department responsible for the land at 2121 Huntley Road will be responsible for any costs attributed to the City (present and future) associated with this agreement. As such, Public Works has agreed to any and all costs associated with this mutual agreement for drainage works.

If Cavanagh remains the owner of the Cavanagh Lands, Cavanagh shall be the contractor hired by the City to complete the maintenance work. Rates shall be consistent with the City of Ottawa standing offer rates at the time of maintenance. All maintenance work shall be directed by the City's Drainage Superintendent. If ownership of the Cavanagh Lands changes, the City may hire any contractor at its discretion.

If at any time Cavanagh wishes to modify the Open Ditch Drainage Works, Cavanagh shall first demonstrate to the City that positive drainage from the City Lands will be maintained, and that water will be carried to the Hewitt Branch of the Faulkner Drain at the required minimum flow rate. Once confirmed, Cavanagh shall have the right to make all such modifications at its sole cost under the required supervision as set out in the Mutual Agreement for Drainage Works. Once completed, the maintenance of the Open Ditch Drainage Works will continue to be shared by the City and Cavanagh on an equal basis.

Cavanagh shall allow the City Drainage Superintendent access to Cavanagh's Lands for inspection of the Open Ditch Drainage Works and to perform repairs and maintenance to the Open Ditch Drainage Works. Cavanagh and the City shall not obstruct or interfere with the Open Ditch Drainage Works in any manner. The City will obtain any required permits for future drain repair and maintenance activities. The City and Cavanagh will share the cost of all permits equally.

The mutual agreement for drainage works is considered fair and reasonable. Staff

recommend that Committee recommend that City Council authorize and delegate authority to the Director, Corporate Real Estate Office, to execute the mutual agreement for drainage works as described in this report. The Director, Corporate Real Estate Office will be acting in the role as a property owner for the City lands in executing the subject agreement.

### **FINANCIAL IMPLICATIONS**

There are no direct financial implications. Costs associated with this agreement are from within existing resources.

### **LEGAL IMPLICATIONS**

There are no legal impediments to the implementation of the recommendation in this report.

### **COMMENTS BY THE WARD COUNCILLOR(S)**

The Ward Councillor, David Brown, concurs with the recommendation in this report.

### **CONSULTATION**

Public Consultation was not conducted with respect to the recommendation in this report.

### **ACCESSIBILITY IMPACTS**

There are no accessibility impacts to implementing the recommendation in this report.

### **ASSET MANAGEMENT IMPLICATIONS**

There are no exceptional asset management implications resulting from this report. The agreement ensures the City has maintenance access to the stormwater outlet required by the Public Works facility. Legal: Legal: There are no legal impediments to the implementation of the recommendation in this report. Finance: There are no direct financial implications. Costs associated with this agreement are from within existing resources.

### **ENVIRONMENTAL IMPLICATIONS**

Any proposed works arising out the approval of delegation of authority to sign this agreement will require compliance with City, provincial and federal policies, standards, regulations and legislation.

### **RISK MANAGEMENT IMPLICATIONS**

There are no risk implications associated with the recommendation in this report.

### **RURAL IMPLICATIONS**

The existing lands and roads will benefit from this undertaking through improved drainage, storm water management, watercourse management reduced risk of flooding and the provision of a legal and sufficient outlet.

### **TERM OF COUNCIL PRIORITIES**

The mutual drain aligns with the current Strategic Priority of a city that is green and resilient, specifically its objective to improve key infrastructure.

The new salt storage facility aligns with the current Strategic priority of a city that is more connected with reliable, safe and accessible mobility options, specifically its objective to improve road safety.

### **SUPPORTING DOCUMENTATION**

Document 1 – Map depicting location of Proposed Salt Storage Facility and connection to Faulkner Municipal Drain.

### **DISPOSITION**

Following approval by Council, Legal Services, and Corporate Real Estate Office staff will implement the recommendation in this report.

### Document 1 – Property Sketch

The proposed Salt Storage Facility is shown in red with a hatched green line depicting the connection to the Hewitt Branch of the Faulkner Municipal Drain shown in blue.

