

4

PREPAID DEVELOPMENT CHARGE CREDIT AGREEMENT PRINCIPLES FOR BATHURST AND DUFFERIN STREET INTERSECTION IMPROVEMENTS AND ROAD WIDENINGS

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, January 23, 2006, from the Commissioner of Finance, Commissioner of Planning and Development Services and the Commissioner of Transportation and Works:

1. RECOMMENDATIONS

It is recommended that:

1. Council authorize staff to proceed with negotiating the terms of a prepaid development charge credit agreement with Block 11,12 and 18 Developers Group for the advanced intersection improvements and road widenings as described in this report, at an estimated cost of \$12 million, in accordance with the principles outlined herein.
2. Conditional upon the Developers Group demonstrating to the Commissioner of Transportation and Works, that the group can satisfy the Environmental Assessment (EA) and permitting requirements for the Dufferin Street widening, then they be permitted to undertake implementation of the works including the design, tender and construction. In such case, Regional Council waives the Purchasing By-law # A-0304-2002-031 to allow this to occur.
3. The Regional Chair and Clerk be authorized to execute the agreement for the advanced intersection improvements and road widening as described in this report, subject to receipt of funding from the Block 11, 12 and 18 Developers Group as outlined in this report.

2. PURPOSE

The purpose of this report is to obtain Council authorization to permit Regional staff to enter into a Prepaid Development Charge Credit Agreement with Block 11, 12 and 18 Developers Group to advance the construction timing of Regional road infrastructure required for the development of their lands. This report outlines the proposed principles of a Prepaid Development Charge Credit Agreement for the advanced construction of intersection improvements at Bathurst Street at Rutherford Road, Bathurst Street at Major Mackenzie Drive, the widening of Bathurst Street from Rutherford Road to Major Mackenzie Drive and the widening of Dufferin Street north of Major Mackenzie Drive. The key principles of the proposed Agreement are as follows:

- The Blocks 11, 12 and 18 Developers Group will be responsible for providing 100% of the required funding to advance the road works, at an estimated cost of \$12 million, the earlier of registration of a plan of subdivision or execution of the agreement, and no later than June 30, 2006.
- The Block 11, 12 and 18 Developers Group shall commit to enter into an agreement for a portion of the additional transportation works required to service growth beyond the initial 4,000 units in their Phase 1 subject to the Region's satisfaction including but not limited to alternative transportation options (ie. Transit, bicycle paths/lanes, etc)
- A consultant project manager is to be retained to manage all works and the Environmental Assessment related to this agreement on behalf of the Region. The project manager will report directly to Regional staff and costs for these services will be included in the total project costs.
- If the Developers Group can demonstrate to the Commissioner of Transportation and Works, that the group can satisfy the Environmental Assessment (EA) and permitting requirements for the Dufferin Street widening, then they be permitted to undertake implementation of the works including the design, tender and construction.
- The Block 11, 12 and 18 Developers Group will be entitled to recover the growth component of the road works, equal to 76.5% of the cost of the works or \$9.18 million, by way of credits against the road component of the Regional development charge at time of subdivision(s) registration; as the works are included in the Region's 10 Year Capital Plan.
- The Block 11, 12 and 18 Developers Group will be eligible to recover a portion of the non-growth cost of the works, to be determined based on the number of years that each project is advanced in the Region's Capital Plan and is subject to completion of the works to the satisfaction of the Commissioner of Transportation and Works.
- The Block 11, 12 and 18 Developers Group will agree to pay for the Region's legal costs (external or internal) for preparation the agreement.
- A fee equal to 0.5% of the capital cost of the works shall be payable by the Block 11, 12 and 18 Developer Group for the preparation and administration of the agreement at the time of agreement execution.

3. BACKGROUND

In order to proceed with the buildout of subdivisions within Blocks 11, 12 and 18, sufficient sanitary sewage servicing, water servicing and road capacity must be made available. This requires, but is not limited to the construction of, the Bathurst Collector, Langstaff Trunk Sewer, York-Peel PD6 feedermain, Teston Road PD7 pumping station, intersection improvements at Bathurst Street and Rutherford Road, intersection improvements of Bathurst Street and Major Mackenzie Drive, widening of Bathurst Street and widening of Dufferin Street.

The sanitary servicing requirements have been addressed through a number of Prepaid Development Charge Agreements. On November 21, 2002 Regional Council approved the principles of a Prepaid Development Charge Credit Agreement with Blocks 10, 11 and 12 and the City of Vaughan, for Phase 1 and 2 of the Bathurst Collector. On November 21, 2002 Regional Council approved the principles of a Prepaid Development Charge Credit Agreement with Blocks 18 and 33W and the City of Vaughan for the Langstaff Trunk Sewer. On June 10, 2004 Regional Council approved the principles of a Prepaid Development Charge Credit Agreement with Block 12 for the advanced construction of the Bathurst Trunk Sewer Phase 3. These Prepaid Development Charge Credit Agreements which include works for the advanced construction of the sewage infrastructure mentioned above have been executed, and have a total estimated cost of \$96 million. The additional water supply requirements have been addressed through the construction of the Peel Feedermain and the agreement with Peel Region.

The Block 11, 12 and 18 Developers Group are now planning to proceed to the registration of subdivisions and have expressed an interest in advancing the construction timing of the road works required to facilitate buildout of their first 4,000 units in the vicinity of their lands. These works include: intersection improvements at Bathurst Street and Rutherford Road, intersection improvements of Bathurst Street and Major Mackenzie Drive, widening of Bathurst Street and widening of Dufferin Street at an estimated cost of \$12 million.

4. ANALYSIS AND OPTIONS

4.1 Bathurst Collector

The Bathurst Collector Phase 1 and Phase 2 will extend from Steeles Avenue to Major Mackenzie Drive and service approximately 2,500 hectares of land. Phase 3, the northerly extension of the Bathurst Collector from Major Mackenzie Drive to mid-Block 12, will service approximately 560 hectares of land. In total the Bathurst Collector will stretch from Steeles Avenue to mid-Block 12.

4.2 Planning Considerations

Blocks 11, 12 and 18 make up the northern portion of the Carrville Urban Village 2 which was originally designated “urban” through Vaughan OPA 400 and incorporated into the Regional Official Plan “Urban Area” in 1994. The policies were further refined by Vaughan OPA 600. The full build out of this community will result in a population of approximately 66,000 people

Blocks 11, 12, and 18 have Draft Approvals for approximately 7,000 units of which all were provided servicing allocation through the Bathurst Langstaff Sanitary Sewer agreement. The applicants in Block 11, 12 and 18 now want to proceed to registration for the first phase of 4,000 units targeting buildout of these units by 2009. This build out is in keeping with the Regional forecast growth for the City of Vaughan. This development

also provides support for the establishment of the new higher density Carrville District Centre at Rutherford and Dufferin. Vaughan OPA 651 will provide the detailed policies for the Carrville District Centre which is currently in a draft format and not yet adopted by Vaughan Council.

The Draft Approved Subdivisions are summarized in Table 1. The registration of lots up to 4,000 units will be from within these draft approved subdivisions. Details of which lots will comprise this phase of registration is required from the developer group prior to finalization of the agreement.

Table 1: Draft Approved Subdivisions in Block 11, 12 and 18

Block 11		Block 12		Block 18	
Subdivision No.	Units	Subdivision No.	Units	Subdivision No.	Units
19T-03V01	197	19T-00V02	163	19T-00V12	499
19T-03V09	73	19T-03V12	111	19T-00V14	466
19T-04V05	666	19T-03V16	116	19T-00V15	354
19T-95062	218	19T-03V17	283	19T-00V17	391
19T-95065	231	19T-03V22	54	19T-00V18	308
19T-95066	341	19T-89124	173	19T-00V19	500
		19T-99V08	1,172	19T-01V01	328
				19T-02V10	45
				19T-03V15	42
				19T-03V18	63
Subtotals	1,726		2,072		2,996
Total 6,794 units					

The above table details the total draft approved units for Blocks 11, 12 and 18. However, it is important to note that Blocks 11, 12 and 18 has a restriction for registration up to 4,000 units as described above.

4.3 Road Considerations

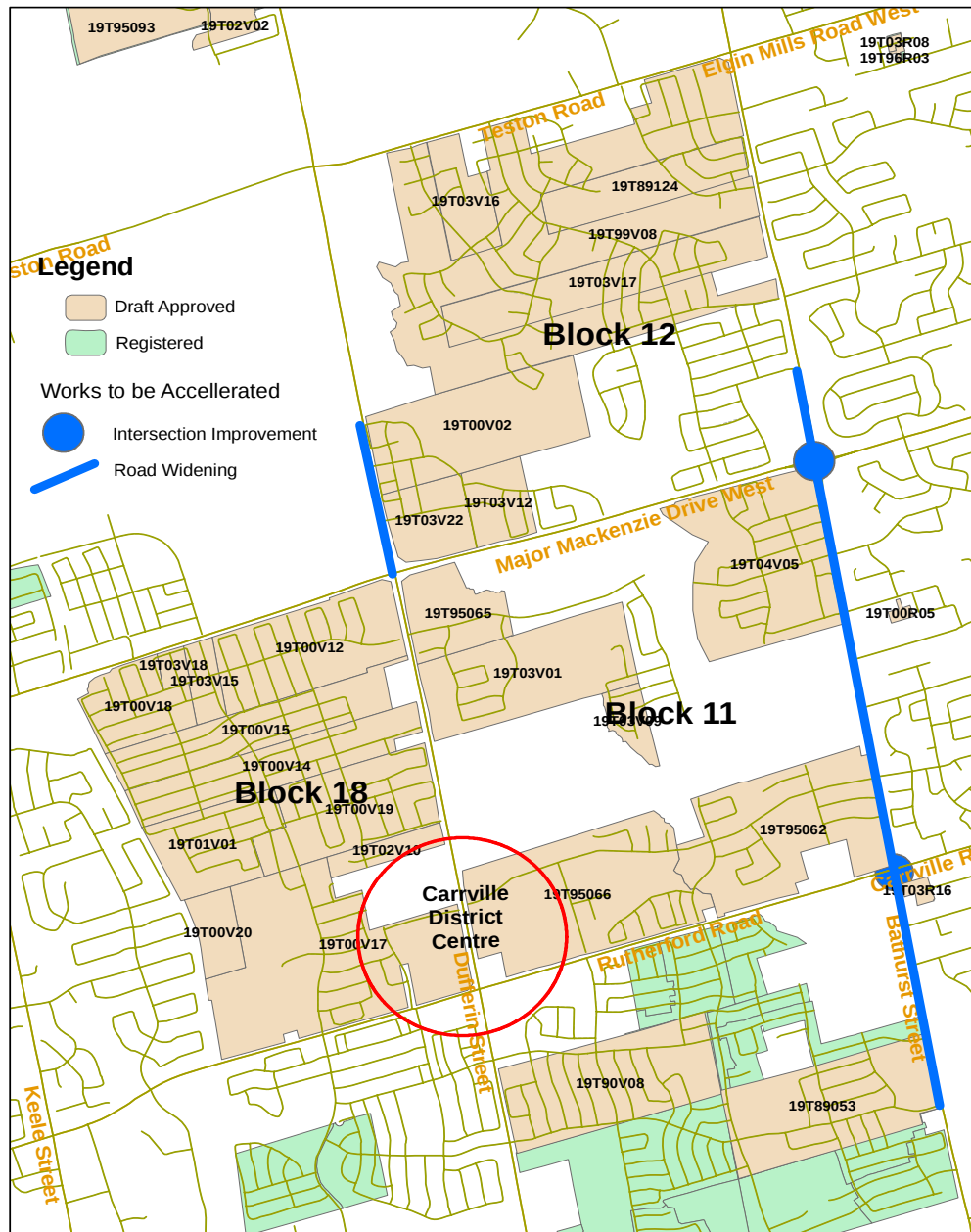
Bathurst Street widening is currently in the 10 year capital plan for 2012/13 and Dufferin Street widening is currently in the 10 year capital plan for 2013. Upon completion of a transportation analysis of Blocks 11, 12 and 18 and consultation with Regional staff, it was determined that the Regional transportation improvements required to accommodate the growth in this first phase of 4,000 units are as follows:

- intersection improvements at Bathurst Street and Rutherford Road
- intersection improvements at Bathurst Street and Major Mackenzie Drive
- the widening of Dufferin Street to 4 lanes from Major Mackenzie to 2nd collector north and the widening of Bathurst Street (south of Rutherford Road to Major Mackenzie Drive) to 6 lanes

These improvements are in addition to the construction of the internal collector road system which is currently under construction, with the majority completed by 2006. The completion of an internal collector road system in addition to the Regional arterial improvements is key to providing an effective transportation network for this phase.

The Developers Group through this prepaid development charge process has committed to enter into an agreement for additional transportation works required to service growth beyond the 4,000 units subject to the Region's satisfaction. This work will also assess alternative transportation options such as, but not limited to, transit and bicycle paths/lanes. The ultimate build-out of the Carrville Community will result in approximately 21,000 residential units in addition to commercial development.

Figure 1: Draft Approved Plans of Subdivision Map



4.4 Servicing Considerations

The Prepaid Development Charge Credit Agreement for the Bathurst Collector (Phase 1 and 2) and the Langstaff Sewer stipulated that prior to the completion of the Langstaff Sewer diversion, interim sewer capacity is available for Blocks 10, 11 and 18 as follows:

North Don Sewer

Block 11 – 4,500 persons = 1,324 units

Block 12 - 3,500 persons = 1,030 units

Maple Collector Sewer

Block 18 - 5,400 persons = 1,588 units

The above interim sewer and water capacity is currently available for the participating Block 11 and 12 owners dependent upon: 1) construction of the Bathurst Trunk Sewer (Phase II); 2) a sewage flow monitoring program in the North Don Collector sewer and any interim sewer works that are deemed to be required as a result of the flow monitoring; and 3) modifications to the existing Vaughan No. 2 Flume. These requirements have now been satisfied and therefore the interim sewer and water capacity is available for the participating Block 11 and 12 owners.

For Block 18, which relies on interim servicing to the Maple Collector, the Agreement further required that the interim sewer works be in place prior to final approval of the plans of subdivision. The interim sewer works consist of modifications to the existing Flow Splitting Chamber and sealing of manholes along the Maple Collector sewer in the vicinity of Langstaff Road, that are scheduled for completion in Spring of 2006.

5. FINANCIAL IMPLICATIONS

If the Developer Group can demonstrate to the Commissioner of Transportation and Works, that the group can satisfy the Environmental Assessment (EA) and permitting requirements for the Dufferin Street widening, then they be permitted to undertake implementation of the works including the design, tender and construction. The benefits identified are that the developer group can co-ordinate the construction of certain road works such as widenings and intersection improvements with other works within their subdivisions. Regional staff has indicated that this arrangement would be acceptable subject to the conditions outlined in the principles of the agreement below, and the submission of a Project Delivery Proposal to the satisfaction of the Commissioner of Transportation and Works. The Project Delivery Proposal will outline the respective responsibilities of the Region and the Developer Group, the project schedule, the consultant and contractor selection processes, and the Quality Assurance and Quality Control procedures.

5.1 Financial Principles

The following are the principles of the prepaid development charge credit agreement between the Block 11, 12 and 18 Developers Group and the Regional Municipality of York for the advanced construction of the road works described below:

- The following four road projects are subject to the agreement:
 - intersection improvements at Bathurst & Rutherford Road
 - intersection improvements at Bathurst & Major Mackenzie
 - the widening of Bathurst Street to 6 lanes
 - the widening of Dufferin Street to 4 lanes – Major Mackenzie to 2nd collector road north
- A consultant project manager is to be retained to manage all works and the Environmental Assessment related to this agreement on behalf of the Region. The project manager will report directly to Regional staff and costs for these services will be included in the total project costs.
- The Region commits to commence the Environmental Assessment for Bathurst Street widening and improvements in 2006.
- The Environment Assessment shall include all Bathurst Street improvements including all Regional intersection from Autumn Hill to Teston Road.
- The Block 11, 12 and 18 Developers Group will be responsible for providing 100% of the required funding to advance the road works, at an estimated cost of \$12 million, the earlier of registration of a plan of subdivision, execution of the agreement and no later than June 30, 2006.
- Should any of the Blocks not provide their proportionate share of the required security mentioned above by June 30, 2006, the outstanding balance of the security shall be provided by the Blocks that have registered, no later than August 31, 2006. Should the Block 11, 12 and 18 Developers Group not provide the required \$12 million funding by August 31, 2006, no Plan of Subdivision located within these Blocks shall receive Regional Clearance for registration.
- The agreement will be with the block trustees rather than individual landowners.
- The final funding will be adjusted up or down in accordance with the tendered price, and would be required by the Region prior to proceeding to Regional Council for approval of the award. The Developers Group undertakes to provide any additional funding within 15 days of a written request from the Region, and conversely, will be refunded any project savings upon project completion to the satisfaction of the Region.
- Block 11, 12 and 18 Developers Group shall provide a total of \$600,000 for preliminary works (i.e EA, design etc) to the Region by way of Certified Cheque prior to any registrations within Blocks 11, 12 and 18.
- The first stage of 4,000 units may be registered upon the Block 11, 12 and 18 Developers Group providing an undertaking and full securities for all required works as described below:
 - Block 11 shall provide \$3.8 million dollars in Letter of Credit prior to any registration within the Block

- Block 12 shall provide \$3.8 million dollars in Letter of Credit prior to any registration within the Block
 - Block 18 shall provide \$3.8 million dollars in Letter of Credit prior to any registration within the Block
 - Block 18 shall complete the interim sewer works on the Maple Collector prior to any registration within the Block
- Each Block is limited to register a total number of units as follows upon providing the above mentioned securities:
 - Block 11 – 4,500 persons = 1,324 units
 - Block 12 – 3,500 persons = 1,030 units
 - Block 18 – 5,400 persons = 1,589 units
- The Block 11, 12 and 18 Developers Group shall commit to enter into an agreement for additional transportation works required to service growth beyond the 4,000 units subject to the Region's satisfaction including but not limited to alternative transportation options (ie. Transit, bicycle paths/lanes, etc)
- The Region will allow the Block 11, 12 and 18 Developers Group to design, tender and construction the Dufferin Street widening, subject to the group demonstrating to the Commissioner of Transportation and Works, that they can satisfy the Environmental Assessment (EA) and permitting requirements.
- The complete collector road system as shown on the phasing schedule will be implemented in accordance with the 'Spine Services Agreement' entered into with the City of Vaughan.
- The collector road intersections with the arterial roads will proceed through the normal Development Credit process except for those intersecting with Teston Road which is subject to separate agreement where the developers will provide security for the works prior to tender/award of that contract and will receive credits accordingly.
- The Block 11, 12 and 18 Developers Group will be entitled to recover the growth component of the road works, equal to 76.5% of the cost of the works or \$9.18 million, by way of credits against the road component of the Regional development charge at time of subdivision(s) registration; as the works are included in the Region's 10 Year Capital Plan.
- The Block 11, 12 and 18 Developers Group will be eligible to recover a portion of the non-growth cost of the works, to be determined based on the number of years that each project is advanced in the Region's 2006 Ten Year Capital Plan and is subject to completion of the works to the satisfaction of the Commissioner of Transportation and Works.
- The Block 11, 12 and 18 Developers Group will agree to pay for the Region's legal costs (external or internal) to prepare the agreement.

- A fee equal to 0.5% of the capital cost of the works shall be payable by the Block 11, 12 and 18 Developers Group for the preparation and administration of the agreement at the time of agreement execution.

For the road works that the Block 11, 12 and 18 Developers Group has proposed to design and construct the following are the principles pertaining to the construction.

- The Block 11, 12 and 18 Developers Group agrees to submit a Project Delivery Proposal outlining the respective responsibilities of the Region and the Developer Group, the project schedule, the consultant and contractor selection procedures, prior to execution of the agreement.
- The Block 11, 12 and 18 Developers Group agrees to reimburse the Region for its reasonable costs with respect to the review and inspection of the works. Such costs will be included in the total cost of the project.
- The Block 11, 12 and 18 Developers Group agrees to fully indemnify the Region against any and all legal action that may arise during the design and construction of Works and thereafter;
- The Block 11, 12 and 18 Developers Group agrees to adhere to all Region requirements with respect to the proactive monitoring and mitigation of all construction impacts including those related to dewatering, obtaining and complying with a Permit to take Water, any potential impacts to private wells if necessary. The cost of this work is to be included in the total project cost to be paid for by the Developer Group.
- The Developer Agrees to a 3% maintenance holdback until the maintenance period has lapsed.
- If the Block 11, 12 and 18 Developers Group can demonstrate to the Commissioner of Transportation and Works, that the group can satisfy the Environmental Assessment (EA) and permitting requirements for the Dufferin Street widening, then they be permitted to undertake implementation of the works including the design, tender and construction. In such case, Regional Council waives the Purchasing By-law # A-0304-2002-031 to allow this to occur.
- The Block 11, 12 and 18 Developers Group would retain a consultant to issue the tender documents, award and administer the contract.
- The Block 11, 12 and 18 Developers Group agrees to build the road works to Regional standards and specifications.
- The Block 11, 12 and 18 Developers Group agrees to construct the road works in accordance with the design prepared and approved under direction of Regional staff.
- The Block 11, 12 and 18 Developers Group will obtain the necessary environmental approvals required.
- The Block 11, 12 and 18 Developers Group will be responsible for compliance with all statutes and regulations, including but not limited to the Construction Lien Act, Occupational Health and Safety Act, Ontario Water Resources Act, Environmental Assessment Act.

- The Block 11, 12 and 18 Developers Group will ensure and demonstrate to the satisfaction of the Commissioner of Transportation and Works that the works have satisfied (or exempted from) the requirements of the Environmental Assessment Act.
- The Block 11, 12 and 18 Developers Group will be obligated to fulfil the requirements of the Construction Lien Act.
- The Block 11, 12 and 18 Developers Group agrees that the Region has the right to inspect the installation of the works and has the power to stop the work in the event that, in its opinion, adjustment to the design is required to suit actual conditions not known at the time of approval, the work is being performed in a manner that may result in a completed installation that would not be satisfactory to the Region, or the work has been commenced without the Region's approval.

6. LOCAL MUNICIPAL IMPACT

The advancement of the road works mentioned above will result in the registration of the plans of subdivision within the Block 11, 12 and 18 lands and surrounding area. No additional sanitary or water capacity allocation is required as these road works allow Blocks 11, 12 and 18 to use sanitary and water capacity already allocated to them to register a portion of the subdivisions.

7. CONCLUSION

This report outlines the principles of a Prepaid Development Charge Credit Agreement between the Region and the landowners within the Block 11, 12 and 18 lands, required to advance the construction timing of the Bathurst and Dufferin Street intersection improvements and road widening. These works will facilitate the full build-out of their lands up to 4,000 units and will also address short term transportation requirements in the area. A further report will be brought forward at a later date that will address additional road works required to accommodate full build-out of these Blocks and other growth within the City of Vaughan.

The Senior Management Group has reviewed this report.