4
CANADA MORTGAGE AND HOUSING LOAN -TOWN OF MARKHAM

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report dated April 9, 2010, from the Commissioner of Finance.

1. RECOMMENDATIONS

It is recommended that:

1. Regional Council support an application by the Town of Markham to Canada Mortgage and Housing Corporation (CMHC) under the Municipal Infrastructure Lending Program for the development of the Birchmount Energy Centre in an amount not to exceed $13.055 million for a term not to exceed 20 years subject to the conditions outlined in Table 1 of Section 4 of this report.

2. The Regional Chair and the Regional Treasurer be authorized to execute all documents, including any financial instruments required to give effect to the Town of Markham loan subject to review of Legal Services.

2. PURPOSE

This report recommends supporting the Town of Markham's loan application through the Region to Canada Mortgage and Housing Corporation (CMHC) to fund the construction of the Markham District Energy Birchmount Energy Centre.

3. BACKGROUND

Markham District Energy Corporation and the Town of Markham are exploring methods to most effectively finance the Birchmount Energy Centre

The Markham District Energy Corporation (MDEC) which is wholly owned by the Town of Markham is developing a new district energy plant, the Birchmount Energy Centre. The Centre will produce hot and chilled water which will supply cooling and heating to customers in the downtown Markham Centre.

As explained in the attached December 2009 Report to the Town's General Committee *(Attachment 1)* the Town has proposed entering into an arrangement whereby the Town will build and own the project on MDEC's land and lease it back to the MDEC in the amount of the financing costs associated with the development of the project.

The Town has made an application under the Building Canada Stimulus Fund (BCSF) to fund the project. If this application is approved the Town will receive one-third of the estimated project cost of $13.055 million cost from the federal government and another third from the province. If the Town's application under the BSCF is successful, it will apply for its one-third of the project cost ($4,351,667) to Canada Mortgage and Housing Corporation under its Municipal Infrastructure Lending Program.

The Municipal Infrastructure Lending Program provides low interest rate loans to municipalities to develop projects which relate mainly to residentially related infrastructure. The Town's Council Report approving the application to CMHC in March 2010 is attached as *Attachment 2* to this report. Although not indicated in the Town's report the term of the financing being sought is up to 20 years. Obtaining CMHC financing could result in significant savings to the Town of between 85 and 100 basis points on the interest to be repaid.

As further outlined in *Attachment 2*, the Town may apply for the entire $13.055 million cost of the project to CMHC if its application to the BCSF is not successful.

CMHC Loans in Ontario to local municipalities must be approved by their regional municipalities

Under the *Municipal Act, 2001* local municipalities in Ontario cannot issue their own debentures The *Municipal Act, 2001* mandates that such debentures are issued by Regional municipalities on behalf of their local municipalities. Further, CMHC executes its loan agreement only with Regional municipalities in Ontario.

4. ANALYSIS AND OPTIONS

The Region is not fully protected under the provisions from non-performance on the part of the local municipality

The Region's external counsel has indicated that the Region is protected under provisions of the *Municipal Act, 2001* in respect of repayment of the loan. However, the Region will not be protected in a situation where the local municipality does not perform its development obligations under a contract signed only between the Region and CMHC. For example, the CMHC agreement calls for significant penalties if the Town does not complete the project by March 31, 2012.

As such, our counsel has advised that the Region and the Town will need to enter into an indemnification agreement whereby the Town agrees to indemnify the Region against any lack of performance which is described in the CMHC- Region Agreement.

It is recommended Regional Council support of the loan application and any subsequent execution of the loan agreement by the Region be subject to normal borrowing documentation required by the Region in addition to the conditions as outlined below.

Conditions required for Regional approval of Town of Markham CMHC loan

- Solicitor's opinion from the Town indicating that the lease arrangement between the Town and MDEC is fully compliant with all regulations and statutes
- Confirmatory letter from CMHC that the arrangement being contemplated by the Town meets all CMHC's program objectives;
- An indemnification agreement from the Town to the Region which satisfies the Region in its sole discretion that it will not be at risk due to any non-performance by the Town concerning the loan arrangements made between CMHC and the Region
- Any other statutory and regulatory requirements required by the Region

5. FINANCIAL IMPLICATIONS

There are no financial implications to the Region arising from the recommendations in this report.

6. LOCAL MUNICIPAL IMPACT

Receiving a low interest cost loan from CMHC will enable the Town of Markham to develop a cooling and heating plant for its new downtown Centre in a cost effective manner.

7. CONCLUSION

The Town of Markham has requested a low interest rate loan from Canada Mortgage and Housing Corporation in an amount up to $13.055 million which could result in significant savings to the Town. The actual loan agreement will be required to be signed by the Region requiring the Town and the Region to satisfactorily conclude an indemnification agreement. The Region will require the Town to meet other conditions as outlined in this report.

For more information on this report, please contact Len Bulmer at Ext. 1676.

The Senior Management Group has reviewed this report.

(The two attachments referred to in this clause were included in the agenda for the May 6, 2010 meeting.)

Attachment 1

MARKHAM

Report to: General Committee Date Report Authored: December 10, 2009

SUBJECT: Application to Building Canada Fund Stimulus Fund for the Birchmount Energy Centre
PREPARED BY: Barb Cribbett, Treasurer
Ext 4735

RECOMMENDATION:

1) That the report entitled "Application to Building Canada Fund Stimulus Fund the Birchmount Energy Centre" be received;

2) And that the Commissioner of Corporate Services be directed to submit an application for the Birchmount Energy Centre project as outlined in the report to the Government of Canada and the Province of Ontario under the Building Canada Fund Stimulus Fund program

3) And that the Town proceed with the project at an upset limit of $13,055,000 ($14,624,000 less land cost of $1,569,000) on a 1/3 shared basis with the Province of Ontario, and Government of Canada and the Town of Markham

4) And that the Town of Markham's share of $4,351,667 for the project be funded from the Lifecycle Replacement and Capital Reserve Fund

5) And that staff report back to Council with a draft lease agreement for the Birchmount Energy Centre with Markham District Energy Inc.

6) And that Staff be authorized and directed to do all things necessary to give effect to this resolution

PURPOSE:

To obtain approval to submit a request for funding to the Federal and Provincial governments under the Building Canada Fund (BCF) Stimulus Fund grant program for the Birchmount Energy Centre

BACKGROUND:

The Birchmount Energy Centre was one of the potential projects considered by staff in the spring of 2009 for Stimulus Funding. Although this project was not considered among the top priorities submitted to Council in March of 2009, due in part to the expectation that the facility would be owned by Markham District Energy (MDE), this project is a priority as an element of the overall district energy system in Markham.

Obtaining external debt financing for the Birchmount Energy Centre is proving to be challenging. Staff is proposing a model whereby MDE owns the land upon which the Birchmount Energy Centre is situated, but the Town owns the constructed energy centre facility. The Town's investment of $4,351,667 can then be recovered through a long term lease to Markham District Energy.

OPTIONS/ DISCUSSION:

Stimulus Funding is Still Available
The Town has had several discussions with both the Federal and Provincial governments and has identified that there is still uncommitted stimulus funding available. Although the timeframes for an application for the BCF funding is unknown at this time, it is thought that we need to start the process immediately.

The Birchmount Energy Centre project had not started at the time that the Stimulus Grant applications were submitted in April 2009, however, the construction has recently begun (December 7th). This may result in the project being ineligible for Stimulus funding, although the Infrastructure Stimulus Fund agreement indicates that costs incurred prior to June 5, 2009 are ineligible, suggesting that costs incurred after June 5, 2009 are eligible. That being said, the deadline of March 31, 2011 makes it almost impossible for a project that has not started to be substantially complete by the deadline. Staff recommend that this project be submitted in spite of the commencement of construction, as:

- The construction did not commence prior to June 5, 2009 (commencement date for eligible costs in the Infrastructure Stimulus Grant agreement)
- The benefits listed below are significant
- The project is on track to be completed no later than March 31, 2011

The following is a more detailed description of the project:

The Birchmount Energy Centre will be a district energy plant to produce hot and chilled water which are supplied via underground pipes to provide heating and cooling services to customers east of Warden Avenue in downtown Markham Centre. The hot and chilled water are produced from high efficiency boilers and high efficiency chillers.

The major equipment consists of:
a) two high efficiency electric 1450 ton chillers each
b) two high efficiency natural gas 5 MWth boilers each

The plant is located in Birchmount Road and is expected to cost $14.624M, excluding the land cost the construction cost is $13.055M. It is sized to accommodate the addition of two chillers and two boilers at a future date.

Birchmount Energy Centre Budget			
Item	**Description**	**Costs**	**% of Total**
1.	Land Acquisition & Closing Costs	$1,569,000	10.7%
2.	Owner Supplied Equipment	$2,885,000	19.7%
3.	PowerStream Costs		

	Pole Relocation	$500,000	3.4%
	Connection Costs	$300,000	2.1%
4.	Engineering & Professional Services	$1,500,000	10.3%
5.	Construction Costs	$7,370,000	50.4%
6.	Contingency	$500,000	3.4%
Total		**$14,624,000**	
Note: Construction interest, financing and associated legal costs and commissions not included in above total.			

Project Start Date

Construction commenced December 7, 2009 (the concrete footings for the building was poured) and the plant is expected to be substantially completed November 30, 2010.

Project Benefits

The district energy system utilizes higher efficiency boilers and chillers providing an efficiency resource improvement. Further benefits of district energy include:

1. **Energy efficient.** When hot water or chilled water arrives at a customer's building, the thermal energy is "ready to use". It is 100 percent efficient "at the door," compared with 80 percent or lower efficiencies when burning natural gas at a building. The less energy used, the less emissions expelled into the environment.

2. **Environmentally sound.** District energy enables building owners to conserve energy, improve operating efficiency and protect the environment. With district energy, building managers no longer need to burn fuels or store or use refrigerants on site, so the site is safer and more environmentally sound. District energy plants can employ stringent emission controls - more so than individual buildings - and this provides air-quality benefits.

3. **Easy to operate and maintain.** District energy is worry-free heating and/or cooling delivered directly to a customer's building - ready to use. Customers do not need boilers or chillers, so there is less maintenance, monitoring and equipment permitting. And that allows occupants, rather than energy operations, to be the focus. District energy customers also eliminate the need for fuel deliveries, handling and storage so there are fewer safety and liability concerns for employees and building occupants.

4. **Reliable.** Building owners and managers can count on district energy systems since energy professionals operate around-the-clock and have backup systems readily available.

5. **Comfortable and convenient.** District energy is available whenever a building needs heating or cooling. In addition, district energy reduces vibrations and noise problems that could annoy building occupants and frees up building space so more room is available to meet increasing tenant storage needs.

6. **Design flexibility.** No stacks, boilers or cooling towers means greater building design flexibility. Architects can easily design or renovate buildings to be more versatile and aesthetically pleasing for both potential occupants and the community.

7. **Fuel flexibility.** District energy system facilitates fuel flexibility for all connected customers. Renewable fuels such as biomass, biogas and concentrated solar thermal can be easily integrated into the energy centre plant.

8. **LEED.** Buildings served by a district energy system receive LEED (Leadership in Energy and Environmental Design) points.

FINANCIAL CONSIDERATIONS AND TEMPLATE:
The funding formula is based on a 1/3 shared basis with the Province of Ontario, Government of Canada and the Town of Markham. The Town's share ($4,351,667) is recommended to be funded from the Life Cycle Replacement and Capital Reserve. The investment of $4,351.667 (plus lost interest) would then be recovered through a lease to Markham District Energy.

ALIGNMENT WITH STRATEGIC PRIORITIES:

BUSINESS UNITS CONSULTED AND AFFECTED:

RECOMMENDED BY:

Barb Cribbett Treasurer	Andy Taylor Commissioner, Corporate Services

ATTACHMENTS:
N/A

Attachment 2

MARKHAM

Report to: General Committee – Finance & Admin. Date Report Authored: March 9, 2010

SUBJECT: Canada Mortgage and Housing Corporation Loan
PREPARED BY: Mark Visser, Manager, Financial Strategy & Investments

RECOMMENDATION:

1) THAT the report dated March 9, 2010 entitled "Canada Mortgage and Housing Corporation Loan" be received.
2) THAT Council approve the submission of a loan application (through the Region of York) to Canada Mortgage and Housing Corporation to fund the purchase of the Markham District Energy Birchmount plant
3) AND THAT staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

The purpose of this report is to obtain Council's approval to submit a loan application (through the Region of York) to Canada Mortgage and Housing Corporation (CMHC) to fund the purchase of the Markham District Energy Birchmount plant.

BACKGROUND:

On December 15, 2009 Council approved the submission to the Building Canada Stimulus Fund to fund the construction of the Birchmount Energy Centre, a new district energy plant to produce hot and chilled water which are supplied via underground pipes to provide heating and cooling services to customers east of Warden Avenue in downtown Markham Centre. The report further outlined the ownership model whereby MDE has a permanent easement on the land upon which the Birchmount Energy Centre is situated and the Town would own the constructed energy centre facility and lease it back to MDE. The budgeted cost of the Birchmount Energy Centre is $13,055,000 excluding land costs. To fund the project an application was submitted to the Building Canada Stimulus Fund, whereby if approved the project cost would be shared on a 1/3 basis between the Government of Canada, Province of Ontario and the Town of Markham ($4,351,667 each).

OPTIONS/DISCUSSION::

The December 15 Council report identified that the Town's share of the project be funded from the Lifecycle reserve. Since that time Town staff have been pursuing a low cost loan opportunity available through the CMHC Municipal Infrastructure Lending Program. As of March 11th, the Town has not heard back regarding its Building Canada Fund Stimulus Fund application. If it is not approved the Town would increase the CHMC loan request to $13,055,000 to cover the total cost of the project.

The CMHC Municipal Infrastructure Lending Program provides low cost loans to Municipalities for projects such as; housing services, power generation, local transportation, and residential infrastructure. The program will fund qualified projects with start dates after January 27, 2009 and completion dates before April 1, 2012. CMHC will only loan money directly to municipalities, which is further reason for the Town to own the facility. Through the CMHC program, the Town could borrow funds at an interest rate that is approximately 85 to 100 basis points less than rates currently anticipated by the Region. The CMHC rate is currently at 4.28% and is subject to change based on market conditions (although the spread to the Region's borrowing rate would likely remain in the 85 to 100 bps range).

As a lower tier Municipality the Town does not have the ability to borrow long-term funds, therefore the borrowing must be through the Regional Municipality. Town staff have been in contact with the Region regarding this potential CMHC loan and Region staff have advised that they would support the application to Regional Council, subject to all legal and program requirements relating to the application being met.

Staff therefore recommends Council approve the submission of a loan application to Canada Mortgage and Housing Corporation for the purchase of the Markham District Energy Birchmount plant.

FINANCIAL CONSIDERATIONS AND TEMPLATE:

The financial savings, assuming a 90 basis point reduction for a $13,000,000 loan with a 20 year term, is approximately $1,500,000. The Town and MDE will structure the lease so that both parties benefit from these savings.

ATTACHMENTS: **None**