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### **PREPAID DEVELOPMENT CHARGE CREDIT AGREEMENT PRINCIPLES EAST HOLLAND TRUNK SEWER - TABLELANDS PORTION TOWN OF AURORA**

**The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, May 13, 2005, from the Commissioner of Finance, Commissioner of Planning and Development Services and Commissioner of Transportation and Works:**

#### **1. RECOMMENDATIONS**

It is recommended that:

1. Regional staff be authorized to proceed with negotiating the terms of a prepaid development charge credit agreement with the Aurora 2B Developer Group in the Town of Aurora for the accelerated construction of the East Holland Trunk Sewer (EHTS) – Tablelands portion, at an estimated cost of \$2.5 million.
2. The Commissioner of Transportation and Works may at his discretion, permit the Developer Group to tender and construct the EHTS-Tablelands portion, at an estimated cost of \$2.5 million, in conformance with the general requirements of the Region's Purchasing By-law.
3. The Regional Chair and Clerk be authorized to execute the agreement for the advanced construction of the EHTS – Tablelands Portion subject to receipt of funding from the Aurora 2B Developer Group as outlined in this report subject to the prior review of Legal Services.

#### **2. PURPOSE**

The purpose of this report is to obtain Council authorization to permit Regional staff to enter into discussions regarding a prepaid development charge credit agreement with the Aurora 2B Developer Group to advance the construction timing of Regional infrastructure required for the development of their lands, at an estimated cost of \$2.5 million. The report further seeks authorization to permit the Aurora 2B Developer Group to construct and tender the portion of the East Holland Trunk Sewer through their lands, in conformance with the general requirements of the Regional Purchasing By-law and the attached Project Delivery Proposal. A draft Project Delivery Proposal is attached as Attachment 2 and it is anticipated that the Project Delivery Proposal shall be finalized and approved by the Commissioner of Transportation and Works in the coming weeks.

### **3. BACKGROUND**

On June 12, 2003, Regional Council approved the principles of a Prepaid Development Charge Credit Agreement with the Aurora 2B Developer Group. The principles included: the advanced construction of the EHTS (St. John's Sideroad portion) at an estimated cost of \$7.0 million; Bayview Avenue widening from Wellington Street to St. John's Sideroad at an estimated cost of \$4.0 million; and the Aurora Equalization Tank Environmental Assessment, estimated at \$250,000.

The East Holland Trunk Sewer and the Aurora Equalization Tank are required in order to achieve the ultimate servicing requirements of the Town of Aurora. The EHTS consists of two portions; an east-west section known as the St. John's Sideroad portion and a north-south section known as the Tableland portion. As mentioned above, the Developer Group has advanced the construction timing of the St. John's Sideroad portion. However, in order to proceed with the buildout of the Aurora 2B lands, the Tableland portion (Attachment 2) of the EHTS is also required.

### **4. ANALYSIS AND OPTIONS**

#### **4.1 Planning Considerations**

##### **4.1.1 Official Plan Designations**

The EHTS will service lands located within and beyond the "Urban Area" boundary as depicted on Map 5 of the Regional Official Plan. Lands that are located within the "Urban Area" are located within the boundaries of the Bayview Southeast Secondary Plan and the Bayview Northeast 2B Secondary Plan (Amendment Nos. 20 and 30 to the Aurora Official Plan). The majority of Amendment No. 20 was approved on March 19, 2001 and the majority of Amendment No. 30 was approved on July 19, 2002. The lands to be serviced by the EHTS are designated for a variety of residential, commercial, industrial and open space uses by the secondary plans.

Lands located beyond the "Urban Area" boundary comprise the Bayview Northwest Secondary Plan 2C area, which has not yet received approval. Regional and local Official Plan amendments are required prior to development occurring on these lands. The Town of Aurora has recently initiated an environmental features study as background information for the secondary plan. It is anticipated that the lands will be developed primarily with industrial uses and the EHTS has been sized to accommodate such development.

Lands located on the north side of St. John's Sideroad, between Bayview Avenue and Leslie Street, and lands located on the south side of St. John's Sideroad, between Leslie Street and Highway 404 have been appealed to the Ontario Municipal Board by the owners. Hearing dates have not yet been set.

#### 4.1.2 Provincial Growth Plan

In February 2005, the Province released a draft Growth Plan for the Greater Golden Horseshoe area which requires among other things, preparation by the Province and municipalities of a Sub-Area Growth Strategy. Elements of a Sub-Area Growth Strategy include:

- Need for urban boundary expansions.
- Availability of infrastructure capacity.
- An assessment of the environmental and fiscal impacts of an expansion.
- Distribution of population, household and employment growth.
- Identification of intensification areas, and establishment of affordable housing and intensification targets.

It is likely that a Sub-Area Growth Strategy will need to be prepared and integrated with the final Provincial Growth Plan prior to the urban area expansion into the Aurora 2C lands.

#### 4.1.3 Plans of Subdivision

York Region has received six plans of subdivision that are located in the urban area and catchment area for the EHTS. The table below identifies the status of the subdivisions and number of units required to complete phases 2 and 3 of the 2B Secondary Plan area as confirmed by the Town of Aurora.

**Table 1**  
Subdivision Status

| 19 - Number | Status                                     | Units Registered* | Remaining DA Units Requiring Allocation |
|-------------|--------------------------------------------|-------------------|-----------------------------------------|
| 19T-00A01   | Draft approved and phase 1 registered      | 242               | 404                                     |
| 19T-01A04   | Draft approved and phase 1 registered      | 237               | 202                                     |
| 19T-01A05   | Draft approved                             | 0                 | 167                                     |
| 19T-00A07   | Draft approved and phases 1 & 2 registered | 350               | 242                                     |
| Total       |                                            | 829               | 1,015                                   |

\* Units Registered, is the unit count of all registered phases of plans of subdivision, which had been allocated servicing prior to October 2004.

#### 4.2 Infrastructure Works

In accordance with the June 12, 2003 report Regional staff were required to report back to Council regarding the construction of the EHTS -Tablelands portion at a time when the works were required. The Developer Group has indicated that they are now in the final stages of their subdivision design and are now in a position to co-ordinate the installation of Regional and local infrastructure through their lands.

This portion of the EHTS is to be constructed almost entirely on the tableland portion of the Aurora 2B Developer Group lands. A small portion of the sewer alignment lies on private property, the sewer alignment will be temporarily diverted around the property until property issues have been resolved. Costs related to the construction of the sewer, including the temporary sewer diversion around the private Property, will be eligible for development credits. The Developer Group will be responsible for all cost related to the future construction of the permanent sewer over the private property, including decommissioning of the temporary sewer diversion; these costs will not be eligible for development credits. The temporary solution of diverting the sewer is contingent on design feasibility which will be confirmed in the coming weeks.

The Developer Group will provide the Region of York with a permanent easement over the Mavrinac Boulevard right-of-way through the Mattamy Lands. In addition, a permanent easement will be provided, as may be required, over the temporary sewer diversion lands (frozen building lots). A blanket grading and servicing easement will be provided to the Region over all draft approved lands (Preserve, Prato, Minto and St Johns). The developer group will convey to the Region free of cost, any lands or interest in lands, including but not limited to easements, required by the Region for the maintenance of the works.

The Developer Group and the Region of York will pre-qualify a short list of contractors on the basis of their ability to successfully undertake projects of this nature. Tender packages will be issued to qualified parties only. The contractor with the lowest tender price will be selected to construct the works. Tender documents will be approved by the Region and tender submissions will be opened in the presence of a Region of York representative.

The construction of the tableland portion of the East Holland Trunk Sewer will proceed as a single project from 240 m north of Wellington Street, along Mavrinac Boulevard to St. John's Sideroad. The Developers Group proposes to pre-cut the sewer corridor with the individual Landowners contractor and construct the sewer with the Developer Group contractor. The cost savings to the Region of York come in the form of efficiencies from utilizing earth scrapers to pre-cut the sewer trench as compared to utilizing several backhoes to cast and double handle material. Region staff have reviewed this request and has indicated that this arrangement would be acceptable based on the principles and conditions set out below and within the attached Project Delivery Proposal.

#### **4.3 Servicing Considerations**

##### **4.3.1 Sanitary Servicing**

Subject to the finalization of the development charge credit agreement by summer of 2005, an award for the construction of the EHTS – Tablelands portion is expected by the fall of 2005, with approximately one year for the completion of the sewer. The Town of Aurora has allocated 1,015 units of water and wastewater servicing to the Developer Group, with 474 units conditional upon the Aurora Equalization tank and water supply.

The Aurora Equalization tank is expected to be in service by 2007. It is recommended that the provisions be included in the agreement that will restrict the sale of the said 474 lots by retail to final purchasers until the Region confirms the construction of the Aurora Equalization tank is within six months of completion.

#### **4.3.2 Water Supply**

Water supply to the Town of Aurora is through the integrated York Water System. The Town of Aurora has allocated 1,015 units of water and wastewater servicing to the Developer Group, with 474 units conditional upon the Aurora Equalization tank and water supply. Additional water supply will be available to the Town of Aurora with the completion of the Peel and Aurora/Newmarket Feeder mains. This additional water supply is expected to be available in 2006. It is recommended that the provisions be included in the agreement that will restrict the sale of the said 474 lots by retail to final purchasers until the Region confirms the availability of water supply from the Peel and Aurora/Newmarket Feeder mains is within six months of availability.

### **5. FINANCIAL IMPLICATIONS**

The developer group has proposed that they be able to construct the EHTS – Tableland portion. The benefits identified are that the Developer Group can co-ordinate the construction of the trunk sewer in connection with the installation of other services 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.

The Commissioner of Transportation and Works may, if requested by the Developer Group, permit the Developer Group to construct the sewer works, in conformance with the general requirements of the Purchasing By-law based on conditions and principles set out by the Commissioner of Transportation and Works.

#### **5.1 Financial Principles**

The following are the principles of the prepaid development charge credit agreement between the Aurora 2B Developer Group and the Regional Municipality of York for the advanced construction of the EHTS – Tablelands portion.

- The Developer Group will be responsible for providing the required funding to advance the East Holland Trunk Sewer – Tablelands Portion, at an estimated cost of \$2.5 million.

- The Developer Group will secure by way of Letter of Credit, 100% of the estimated cost of the East Holland Trunk Sewer-Tableland Portion, with the Region, that will be reduced as progress payments are made by the Developer Group.
- The Developer Group will be responsible for constructing the East Holland Trunk Sewer in accordance with Regional standards and specifications and as per the approved design prepared under the direction of Regional staff.
- The Region of York and their design consultant will assume all responsibilities associated with design of the wastewater infrastructure.
- The Developer Group will assume all responsibilities associated with the tendering of the wastewater infrastructure project.
- The Developer Group and the Region of York will pre-qualify a short list of contractors on the basis of their ability to successfully undertake projects of this nature. Tender packages will be issued to qualified parties only. The contractor with the lowest tender price will be selected to construct the works. Tender documents will be approved by the Region and tender submissions will be opened in the presence of a Region of York representative.
- The tendering process and the selected bid shall be, subject to the approval of the Region and in accordance with the general requirements of the Region's Purchasing By-Law to ensure competitive bidding.
- The Developer Group would assume all responsibilities associated with the inspection of the wastewater infrastructure project.
- Additional Independent inspectors will be retained by the Region in order to conduct regular inspections of the works. Such costs shall be included in the total cost of the works and will be eligible for development charge credits.
- The Developer Group consultants (Stantec) will be responsible for review and approval of all shop drawings and recording of as-built drawings including GPS coordinates. As-built drawings of the Regional infrastructure will not include local infrastructure.
- The Developer Group consultants (Stantec and D.E. Aubie) will obtain all necessary approvals and permits including, but not limited to, permits for the MOE, TRCA, DFO, Coast Guard, and MNR. The Region may, if necessary, be named on permits as co-applicant.
- The Developer 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 or the adjacent wetlands to the satisfaction of the Region and all approval/regulatory authorities. The cost of this work is to be included in the total project cost to be paid for by the Developer Group.
- The Developer 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 Developer Group will be obligated to fulfill the requirements of the Construction Lien Act.
- The Developer Group Agrees to a 3% maintenance holdback until the maintenance period has lapsed.

- Upon substantial completion of the East Holland Trunk Sewer Tablelands portion and all deficiencies have been rectified to the satisfaction of the Commissioner of Transportation and Works, the Developer Group will commission the sewer to the Region to provide sewage servicing to the Town of Aurora.
- No connection to existing sewer shall be made without prior approval of the Region of York.
- The Developer Group agrees to a maintenance period of 5 years, once the maintenance period has lapsed the Developer Group will transfer the ownership of the infrastructure to the Region free of all costs and encumbrances.
- The agreement will contain provisions that restrict the sale of 474 lots by retail to a final purchaser (not including builders) until the Region confirms water supply capacity and sanitary sewage treatment capacity is available.
- The Developer Group shall reimburse the Region for its costs with respect to inspection, review, quality assurance and quality control activities in connection with the Sewer Works. Such costs shall be included in the total cost of the works and will be eligible for development charge credits.
- The Developer Group will be entitled to recover the growth component of the works equal to 80% of the cost of the works or \$2.0 million, by way of credits against the sewer 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 Developer Group will be eligible to recover the non-growth component of the works equal to 20% of the cost or \$0.5 million subject to completion of the works to the satisfaction of the Commissioner of Transportation and Works.
- The Region will direct any sewer development charges collected by the Region from non-participating developers within the benefiting area to the Developer Group to reduce any outstanding sewer credit obligation.
- The Aurora 2B Developer 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 Developer Group for the preparation and administration of the agreement.

## **6. LOCAL MUNICIPAL IMPACT**

The advancement of the East Holland Trunk Sewer – Tablelands portion along with the Aurora Equalization tank will facilitate buildout of phase 2 and 3 of the plans of subdivision within the Aurora 2B lands. The Town of Aurora will be responsible to allocate servicing capacity to the participating landowners as outlined in their report No. PL05-001.

## **7. CONCLUSION**

In June 2003, Regional Council approved the principles of a prepaid development charge credit agreement for the advanced construction of the East Holland Trunk Sewer – St. John's Sideroad portion, Bayview Avenue Widening and the EA for the Aurora Equalization Tank with the Aurora 2B Developer Group.

It is recommended that Council authorization be given to negotiate the terms of a Prepaid Development Charge Credit Agreement between the Region and landowners within the Aurora 2B lands, required to advance the East Holland Trunk Sewer – Tablelands portion in the Town of Aurora at an estimated cost of \$2.5 million, based on the principles outlined in the report. In addition, it is recommended that the Aurora 2B Developer Group be permitted to construct and tender the EHTS – Tableland portion, in conformance with the general requirements of the Regional Purchasing By-law.

The Senior Management Group has reviewed this report.

*(The attachment referred to in this clause was included in the agenda for the June 2, 2005 Committee meeting.)*