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JEFFERSON SIDEROAD WATERMAIN
PREPAID DEVELOPMENT CHARGE CREDIT AGREEMENT PRINCIPLES
TOWN OF RICHMOND HILL

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, March 18, 2004, from the Commissioner of Finance and the Commissioner of Transportation and Works:

1. RECOMMENDATIONS

It is recommended that:

1. Council authorize staff to negotiate the terms of a prepaid development charge credit agreement with the Developer Group for the advanced construction of the Jefferson Sideroad watermain from Bathurst Street to Yonge Street at an estimated cost of $1.5 million, in accordance with the principles outlined herein.

2. The Regional Chair and Clerk be authorized to execute the agreement for the advanced construction of the Jefferson Sideroad watermain subject to receipt of funding as outlined in this report.

3. Regional Council waive the purchasing By-law # A-0304-2002-031 to permit the Developer Group to design, tender and construct the Jefferson Sideroad watermain works in accordance with the principles outlined in this report.

2. PURPOSE

The purpose of this report is to obtain Council authorization to enter into a prepaid development charge credit agreement with Developer Group to allow for the buildout of their lands. The key principles of the proposed agreement are detailed below:

- The estimated cost of the Jefferson Sideroad watermain is $1.5 million;
- The Purchasing By-law # A-0304-2002-031 will be waived to permit the Developer Group to design, tender and construct the Jefferson Sideroad watermain;
- The Developer Group agrees to build the watermain to Regional standards and specifications;
- The Developer Group will provide a Letter of Credit for the full estimated value of the Works, that will be reduced as progress payments are made by developer;
- The Developer Group will be entitled to recover 80% of the estimated cost of the work equal to the growth component of the works by way of credits against the water component of the regional development charge at the time of subdivision registration;
- The Developer Group will be eligible to recover 20% of the estimated cost of the work equal to the non-growth component of the works subject to completion of the works to the satisfaction of the Commissioner of Transportation and Works;

- The Developer Group will agree to pay for the Region's legal costs (external or internal) to prepare the agreement; and
- The Region will require a fee for preparation and administration of the agreement equal to 0.5% of the capital cost of the sewer infrastructure works at the time of agreement execution.

3. BACKGROUND

On April 22, 2002 Ontario Regulation 140/02 came into effect and the Oak Ridges Moraine Conservation Pan (ORMC Plan) was established exempting various lands from the provisions of the Act.

Ontario Regulation 140/02 has the effect of exempting 25 plans of subdivision and 5 site plan applications within The Regional Municipality of York from the provisions of the ORMC Plan. The 25 plans of subdivision consist of a total of 4,594 residential units that may now proceed to final approval and registration.

Zavala Developments Inc. and Oak Ridges Farm Co-Tenancy, two exempted plans of subdivision, have expressed an interest in advancing the construction timing of the Jefferson Sideroad watermain in order to proceed with buildout of their subdivision and work on Jefferson Sideroad.

4. ANALYSIS AND OPTIONS

4.1 Planning Considerations

4.1.1 Official Plan

On June 27, 2002 the Minister approved an Order made under the Oak Ridges Moraine Conservation Act that approved Amendment No. 38 to the Regional Official Plan, which designates the lands as "Urban Area" and "Regional Greenlands System". The Minister's Order also approved Amendment No. 199 to the Official Plan of the Town of Richmond Hill, which designates the land for various residential and institutional uses and "Oak Ridges Moraine Natural Linkage Area".

4.1.2 Plans of Subdivision

Plans of subdivision 19TR-99007 (Zavala Developments Inc.) and 19TR-99006 (Oak Ridges Farm Co-Tenancy) received draft plan approval from the Ontario Municipal Board on December 30, 2002, consistent with a Minister's Order made under the Oak Ridges Moraine Conservation Act.

Phase one of plan of subdivision 19TR-99007 consists of 182 detached and 83 townhouse units and the entire plan consists of 1,074 detached and 430 townhouse units. Phase one of plan of subdivision 19TR-99006 consists of 382 detached and 196 townhouse units and the entire plan consists of 799 detached, 246 townhouses, and 379 apartments units.

The OMB has directed that the Town of Richmond Hill be the approval authority for the final plans for both plans of subdivision. Prior to the Town granting final approval all conditions of draft plan approval must be satisfied. Conditions of draft plan approval include the Region confirming that adequate water supply capacity and sewage treatment are available for the development, or any phase thereof, and have been allocated by the Town of Richmond Hill.

4.2 Infrastructure Considerations

The proposed Zavala Developments Inc. and Oak Ridges Farm Co-Tenancy developments are located in the York Water Pressure District 9 (PD9), currently serviced by the Jefferson PD9 pumping station and a 3.60 ML standpipe. Plans of subdivision 19TR-99006 and 19TR-99007 are located between Yonge Street and Bathurst Street, north of Jefferson Sideroad. A 500 mm diameter watermain along Jefferson Sideroad is required to be constructed from Bathurst Street to Yonge Street to service the proposed developments. The proposed PD9 Jefferson Sideroad watermain was originally programmed for 2010 in the 10-Year Capital Program (2003). The Developer Group has expressed interest to advance the construction of the watermain and the Town of Richmond Hill road improvement works along Jefferson Sideroad in order to service the said developments. The coordination of the construction of the watermain with the local road improvement work is to achieve construction and cost efficiencies. As a result, the project is now scheduled for commencement in 2004 in the current 10-Year Capital Plan as a Developer up-front financing project.

Full build-out of the said developments will depend on the completion of the Sixteenth Avenue, 19th Avenue Interceptor Sewer, Lower Leslie Trunk and Southeast Collector. These sewers were identified by the YDSS Master Plan to be required by 2006 to intercept the flow in the existing YDSS along Yonge Street, north of 19th Avenue.

Sewage capacity will be determined prior to execution of the Agreement and will be based on a share of available system capacity prior to the completion of the above noted sewers. Development of the remaining units will be subject to the timing of the 19th Avenue Interceptor Sewer, Lower Leslie Street Trunk, the Sixteenth Avenue Trunk Sewer and the Southeast Collector. To ensure that sewage capacity is available at time of occupancy, registration of the remaining units will not be permitted earlier than six months prior to the date that all the above noted sewers are in commission. The available capacity may be adjusted if alternative solutions subject to the satisfaction of the Commissioner of Transportation and Works can be found prior to execution of the Agreement or during implementation of the works.

Water allocation to the said developments will be subject to approval by the Town of Richmond Hill and should be within the capacity limit proposed by the Region. Subject to the completion of the Peel feedermain in 2004 and the anticipated water supply from Peel Region, it is expected that adequate water supply is available to service the said developments. Prior to registration of each draft plan of subdivision of the said developments, the Region will be required to confirm that adequate water supply capacity and appropriate infrastructure have been in place to service the respective subdivision.

The work will be carried out by the Developer Group and it is not expected that the advancement of the said project will have an impact on the schedules of other Region's projects.

5. FINANCIAL IMPLICATIONS

The Developer Group has expressed an interest in entering prepaid development charge credit agreement with the Regional Municipality of York for the construction of the Jefferson Sideroad Watermain from Bathurst to Yonge Street. The construction of the watermain is to coincide with construction of the Jefferson Sideroad road works to be undertaken by the developer group on behalf of the Town of Richmond Hill.

The benefits identified are that the developer group can co-ordinate the construction of the watermain in connection with the construction of road works. Regional staff has reviewed this request and has indicated that this arrangement would be acceptable based on certain conditions. These are outlined in the proposed agreement principles.

5.1 Financial Principles

Subject to receipt of the necessary planning approvals, the following are the financial proposed principles of the prepaid development charge credit agreement between the Developer Group and the Regional Municipality of York.

- The cost of the Jefferson Sideroad watermain is estimated at $1.5 million;
- The Region's Purchasing By-law # A-0304-2002-031 will be waived by Regional Council to permit the Developer Group to design, tender and construct the works;
- The Developer Group will provide a Letter of Credit for the full estimated value of the Works, that will be reduced as progress payments are made by the developer group; the reduction amount should be subject to the concurrence of the Region and should take into consideration any additional works not covered under the original security;
- The Developer Group will be entitled to recover the growth component of the works equal to 80% of the cost of the works or $1.2 million, by way of credits against the water component of the Regional development charge at time of subdivision(s) 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 subject or $0.3 million subject to completion of the works to the satisfaction of the Commissioner of Transportation and Works;
- The Developer Group will agree to pay for the Region's legal costs (external or internal) to prepare the agreement; and
- The Region will require a fee for preparation and administration of the agreement equal to 0.5% of the capital cost of the sewer infrastructure works at the time of agreement execution.

The Developer Group has proposed to design, tender and construct the Jefferson Sideroad Watermain. The following are the principles pertaining to construction:

- The Developer Group will be obligated to fulfil the requirements of the Construction Lien Act;
- The Developer Group agrees to build the watermain to Regional standards and specifications;
- The Developer Group agrees to construct the works in accordance with the approved design prepared under direction of Regional staff;
- The Developer Group will retain a consultant to issue the tender documents, award and administer the contract;
- The works shall be tendered under a competitive process to the satisfaction of the Region. The selected bid shall be subject to the Region's approval. The tender documents shall be approved by the Region, and prepared in the same format and requirements as the Region's;
- Changes in the work as required during construction shall not proceed without prior consent from the Region;
- The Developer Group agrees to a 3% maintenance holdback until the maintenance period has lapsed;
- The Developer Group will obtain the necessary approvals required, including any approvals required under Oak Ridges Moraine Conservation Act and EA Act ;
- 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 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, and potential impacts to private wells. The cost of this work is to be included in the total project cost to be paid for by the Developer Group;
- Upon substantial completion of the Jefferson Sideroad watermain, the Developer group will commission the watermain to the Region to provide water servicing to the Town of Richmond Hill;
- The Developer Group agrees to a warranty period of 18 months commencing from the date of Total Performance of the Work and once the warranty period has lapsed the Developer Group will transfer the ownership of the infrastructure to the Region free of all costs and encumbrances;
- The Region may inspect the installation of the Works and may require stoppage of work at its own discretion, if the work has been commenced without obtaining the necessary approvals and/or the work is being performed in a way that is not satisfactory to the Region; and
- The cost to the Region with respect to drawing and tender review, and inspection will be included in the overall project cost.

6. LOCAL MUNICIPAL IMPACT

It has been determined that the water capacity to be provided by the abovementioned works is required for the immediate servicing needs for subject lands. The Town of Richmond Hill will be responsible to allocate the additional water capacity to the participating landowners, in accordance with the allocation limit as granted by the

Region. Construction of Jefferson Sideroad works will be undertaken by the Developer Group on behalf of the Town of Richmond Hill.

7. CONCLUSION

The Developer Group has expressed an interest in entering into a prepaid development charge credit agreement to advance the construction of the Jefferson Sideroad watermain in conjunction with roads improvements they are undertaking on behalf of the Town Richmond Hill to facilitate the buildout of its lands.

This report seeks authorization to negotiate the terms of the agreement in accordance with the proposed principles and to authorize the Regional Chair and Clerk to execute the agreement. In addition, the report seeks authorization to waive the Purchasing By-law to permit the developer group to design, tender and construct the Jefferson Sideroad watermain.

The Senior Management Group has reviewed this report.