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PREPAID DEVELOPMENT CHARGE CREDIT AGREEMENT FOR THE YDSS EXTENSION TO HOLLAND LANDING, QUEENSVILLE AND SHARON - STATUS UPDATE

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report dated August 20, 2010, from the Commissioner of Finance and the Commissioner of Environmental Services.

1. RECOMMENDATIONS

It is recommended that:

1. Regional Council authorize an amendment to the 2010 Capital Budget to increase the Total Project Budget Authority for the YDSS Extension to Queensville, Holland Landing and Sharon to the updated estimated total project cost of \$112,500,000.
2. The Regional Chair and Clerk be authorized to execute an amendment to the Development Charge Credit agreement for the YDSS Sewer Extension to Queensville, Holland Landing and Sharon in accordance with the conditions outlined in Section 4 of this report.

2. PURPOSE

This report provides an update on the York-Durham Sewer System (YDSS) extension to Queensville, Holland Landing and Sharon. This infrastructure project is being delivered through a development charge credit agreement whereby the developer is compensated for their up-front costs through development charge credits as development occurs. As outlined in this report, the estimated cost of this project has increased to \$112.5 million. As a result, an amendment is required to the 2010 Capital Budget. As well, an amendment to the tri-party Development Charge Credit agreement is also required.

3. BACKGROUND

Development charge credit agreement in place to fund the YDSS Extension

In order to proceed with the build-out of their subdivisions, a developer group having interests in the communities of Queensville, Holland Landing and Sharon has entered into a tri-party agreement with the Region and the Town of East Gwillimbury to advance construction of the Queensville-Holland Landing-Sharon YDSS Connection through prepayment of development charges. Principles for this agreement were approved by

Regional Council in June of 2008 and since that time the agreement has been finalized and executed.

Estimated project costs have increased to \$112.5 million

A key provision of the agreement stipulates that the developer group must carry out all necessary detailed design work and prepare the tender package. The Region would then administer the remainder of the project through the tendering, construction and commissioning phases.

At the 60% design stage the developer group's engineering consultant prepared the engineer's estimate for the project totalling \$63,000,000.

The final detailed design and tender package for the project was recently submitted to the Region by the developer group's engineering consultant and is currently ready to be tendered for construction. The pre-tender engineer's estimate for the project has also been submitted by the developer's consultant equalling \$107,000,000. Regional project administration costs as well as contingencies result in an updated Total Project Budget Authority requirement of \$112,500,000.

The previous estimate prepared by the developer group's engineering consultant significantly underestimated the overall cost to construct the project. Furthermore, the following recent changes have also contributed to additional cost increases:

- Provisions of scrubber unit at proposed pumping stations and implementation of a chemical dosing building for odour and corrosion control at the main pumping station (2nd Concession PS) that were not previously identified
- Third party consulting services to provide construction quality assurance audits
- Increases in recent tender prices submitted on similar projects
- Estimated project financing costs.

Developer group representatives recently confirmed their agreement with the increased project costs and are prepared to proceed with construction as soon as possible.

4. ANALYSIS AND OPTIONS

Implementation of the Upper York Sewage Solutions project is necessary for developer group to recover costs

Prepaid development charge credit agreements are used when a developer group has an interest in advancing infrastructure projects to ensure earlier completion than that provided for in the Region's 10 year capital plan. Under prepaid DC credit agreements, a

developer group pays the capital cost of building infrastructure and is compensated in the form of development charge credits.

Development charge credits are granted at the time that development charges payment would otherwise be required (typically subdivision registration or building permit issuance), and as such, compensation to the developer group is contingent on their build-out.

A project cost of \$63 million served as the basis for executing the Queensville/Holland Landing/Sharon YDSS connection prepaid development charge credit agreement (recognizing that this cost could change with actual tendered prices). At even the \$63 million cost, there are an insufficient number of new units that can be serviced by the current sewage system to fully cover the developer group's front end costs. Full recovery by the developer group is dependent on completion of the Upper York Sewage Solutions project to provide sufficient additional sewage capacity. With the revised project cost estimate of \$112.5 million, this shortfall is substantially greater.

The Queensville/Holland Landing/Sharon YDSS connection will initially accommodate service capacity to 5,465 units. For illustrative purposes, at the September 24, 2010 single family dwelling rate DC rate of \$10,153, these units would generate DC credits of approximately \$55 million. Under the terms of the agreement, the developer group is eligible to recover 93% of total project costs, as the non-growth component of is not eligible for recovery through DC Credits. Therefore, the remaining DC credits of approximately \$50 million cannot be issued until additional servicing capacity is made available through completion of the Upper York Sewage Solutions project. This project is currently in the IEA phase and is scheduled for completion in 2018.

The benefitting area for the agreement is the majority of the Town of East Gwillimbury. In accordance with the East Gwillimbury Official Plan, future development of approximately 15,000 units is anticipated in addition to the 5,465 units noted above. Therefore, sufficient growth is anticipated in the benefitting area to recover the share of costs to be reimbursed to the developer group. However, timing of cost recovery by the developer group would be significantly later than previously anticipated.

Developer group agrees that credits will not be granted until the DC By-law is updated to include revised project cost

On June 24, 2010, Regional Council approved an amendment to the DC By-law. This amendment resulted in increased rates for water, sewer and roads. A cost of \$66.6 million for the YDSS sewer project was included in the calculation determining the revised DC rates. It is estimated that the revised project cost of \$112.5 million would have an impact on the sewer DC of approximately \$200 per single family dwelling. The revised project cost will be incorporated into the Region's development charge by-law in 2012 when the Region will undertake a full update of the by-law.

In light of the difference between the estimated project cost and the cost reflected in the recent DC By-law update, an amendment to the prepaid agreement is to be executed by all parties. Under the terms of this amendment, the Developer Group will agree not to claim credits or take any actions that would give rights to credits until adoption of new Regional DC by-law in 2012. Additionally, the Town of East Gwillimbury will agree not to allow registrations or accept any building permit applications within the service area of this project until adoption of the new Regional DC by-law in 2012. Representatives of all parties have verbally agreed to these conditions.

Project is nearly tender ready

Tender documents for construction of the project are ready to be released to the pre-qualified contractors, pending approval of this Total Project Budget Authority increase. Various environmental approvals and property acquisitions are still outstanding, however, it is anticipated that their advanced status and minor nature will enable the release of the tender in the coming weeks.

Assuming release of the tender by late September/early October, a four to six week tender period and the required time for posting securities from the developer group, it is anticipated that the construction contract will be awarded in December. This should enable construction to commence in early 2011 and be completed by the end of 2012.

5. FINANCIAL IMPLICATIONS

Amendment to the Region's Capital Budget required to proceed

As noted above, the estimated cost for the YDSS Extension to Queensville, Holland Landing and Sharon (Project #71220) has increased to \$112,500,000. The Total Project Budget approved for this project in the 2010 capital budget was \$70,116,000. Therefore, it is recommended that Council authorize an amendment to increase the total project budget to \$112,500,000.

Development charge credits for this project will not be issued until the Region's DC By-law is updated in 2012 to reflect revised project costs

There are no net tax levy or user rate impacts on the Region's budget as the total cost of this project is developer financed. The Developer Group will be compensated through development charge credits as development occurs. In light of the \$45.9 million difference between the latest estimated project cost and the cost reflected in the recent DC By-law update (\$112.5 million versus \$66.6 million), an amendment to the Development Charge Credit agreement is being prepared. This amendment will ensure that the Developer Group is not entitled to claim credits until adoption of new Regional

DC by-law in 2012 which will reflect the higher actual project cost. This amendment to the Development Charge Agreement will also ensure that Town of East Gwillimbury will agree not to allow registrations or accept any building permit applications in the service area until adoption of the new Regional DC by-law in 2012.

6. LOCAL MUNICIPAL IMPACT

The Queensville/Holland Landing/Sharon YDSS connection will provide sewer capacity to the communities of Queensville, Holland Landing and Sharon in the Town of East Gwillimbury. This additional capacity will facilitate development in accordance with the Official Plans of East Gwillimbury and York Region.

7. CONCLUSION

The York-Durham Sewer System (YDSS) extension to Queensville, Holland Landing and Sharon is being delivered through a development charge credit agreement whereby the developer group is compensated for their up-front costs through development charge credits as development occurs. The cost for this project is now estimated at \$112.5 million and an amendment to the total project budget authority for this infrastructure is requested. As well, an amendment to the tri-party Development Charge Credit agreement is required to ensure that credits will not be issued until the Region's Development Charge By-law is updated to reflect the most current project cost estimate.

For more information on this report, please contact Kelly Strueby, Director, Business Planning and Budgets at Ext. 1611 or Daniel Kostopoulos, Director, Capital Planning and Delivery at Ext. 5070.

The Senior Management Group has reviewed this report.