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PREPAID DEVELOPMENT CHARGE CREDIT AGREEMENT PRINCIPLES BATHURST TRUNK SEWER PHASE 3

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, May 7, 2004, from the Commissioner of Finance and 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 the Block 12 Developer Group for the advanced construction of the Bathurst Trunk Sewer Phase 3 at an estimated cost of $3.6 million, in accordance with the revised principles outlined herein.

2. The Commissioner of Transportation and Works may permit the Developer Group to tender and construct the Bathurst Trunk Sewer Phase 3 at an estimated cost of $3.6 million, in conformance with the general requirements of the Purchasing By-law. In such case, Regional Council waive the Regional Purchasing By-law # A-0304-2002-031.

3. The Regional Chair and Clerk be authorized to execute the agreement for the advanced construction of the Bathurst Trunk Sewer Phase 3 subject to receipt of funding from the Block 12 Developer 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 the Block 12 Developer Group to advance the construction timing of Regional 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 the Bathurst Trunk Sewer Phase 3 from Major Mackenzie to mid-Block 12.

The key principles of the proposed Agreement are as follows:

- The estimated cost of the Bathurst Trunk Sewer – Phase 3 is $3.6 million;
- The Block 12 Developer Group will be responsible for the growth component of the works equal to 80% of the cost of the works or $2.9 million;
- The Region will be responsible for the non-growth component of the works equal to 20% of the cost of the works or $0.7 million;
- The Block 12 Developer Group may be permitted to construct the Bathurst Trunk Sewer Phase 3, at the discretion of the Commissioner of Transportation and Works;

- The Developer Group agrees to have the construction and design of the works approved by Regional staff;
- The Block 12 Developer Group will be entitled to recover the growth component of the works equal to 80% of the cost of the works or $2.9 million, by way of credits against the sewer component of the Regional development charge at time of subdivision(s); and
- The Developer Group will be eligible to recover the non-growth component of the works equal to 20% of the cost or $0.7 million subject to completion to the satisfaction of the Commissioner of Transportation and Works.

3. BACKGROUND

On January 6, 2003 Vaughan Council approved a report from the Commissioner of Engineering and Public Works recommending that York Region be asked to extend the proposed Bathurst Trunk Sewer northerly from Major Mackenzie to mid-point of Block 12 as a Regional Sewer, at an estimated cost of $3.6 million. On March 27, 2003 Regional Council authorized the assumption of these works, and the above mentioned works were included in the 10 Year Capital Plan and the Development Charge By-law.

On November 21, 2002 and October 16, 2003 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 the Bathurst Trunk Sewer from mid-Block 10 to Major Mackenzie Drive. The Prepaid Development Charge Credit Agreement was executed by the Regional Chair and Clerk on March 29, 2004.

On April 29, 2004 Regional staff received a request from the Block 12 Developer Group expressing their interest to enter into a prepaid development charge credit agreement for the advanced construction of the Bathurst Trunk Sewer Phase 3. Phase 3 is required to service the Block 12 lands. The developer group has proposed that they be authorized to construct Phase 3 of the works so that they can co-ordinate the construction of the trunk sewer with the installation of other services within their subdivisions resulting in construction efficiencies and cost savings.

4. ANALYSIS AND OPTIONS

4.1 Bathurst Trunk Sewer

The Bathurst Trunk Sewer 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 Trunk Sewer from Major Mackenzie Drive to mid-Block 12, will service approximately 560 hectares of land. In total the proposed Bathurst Trunk Sewer will stretch from Steeles Avenue to mid-Block 12.

4.2 Planning Considerations

4.2.1 Official Plans

Block 12 is designated primarily "Urban Area" by the Regional Official Plan, which permits a full range of residential, employment, institutional and other urban uses. Tributaries of the Don River which traverse Block 12 are identified as forming part of the Regional Greenlands System. Development in close proximity to the Regional Greenlands System must be supported by an environmental evaluation on the functions, attribute and linkages of the Regional Greenlands System.

A secondary plan for Block 12 was approved when York Region approved Amendment No. 600 to the Official Plan of the City of Vaughan. The secondary plan designates the majority of lands within block 12 for low density residential and associated uses. Lands adjacent to the tributaries of the Don River are designated "Valley Lands".

The majority of Block 12 is located within the boundaries of the Oak Ridges Moraine Conservation Plan, which designates the lands as "Settlement Area" and "Natural Core Area". The "Settlement Area" designation permits urban uses in accordance with uses permitted by municipal official plans. Development is not permitted within the "Natural Core Area".

4.2.1 Plans of Subdivision

There are 8 plans of subdivision proposed within Block 12, consisting of approximately 2,013 detached, 386 semi detached, 32 multiple attached residential dwelling units and 190 part lots/blocks for future development (see Table 1 below). Prior to draft plan approval the City of Vaughan must prepare a phasing plan identifying the lands and residential units to be serviced by phases 1, 2 and 3 of the Bathurst Trunk Sewer. Prior to draft plan approval for lands serviced by phases 1,2 and 3 of the Bathurst Trunk Sewer, the owners/developers must enter into a "No Pre-Sale" agreement with the City of Vaughan and York Region agreeing not to sell lots or blocks to end users. This requirement has been conveyed to the City of Vaughan for Bathurst Trunk Sewer Phases 1 and 2 and the landowners have agreed to the requirement.

Table 1
Block 12 Future Development

19T #	Detached	Semi Detached	Multiple Attached	Other
89124	115			
99V08	889	184		172 pt. lots
00V02	140	12		13 pt. lots
03V12	113			
03V13	748	124	32	
03V14	103			
03V22	3	46		5 blocks
03V23	2	20		
Totals	2013	386	32	190

4.3 Servicing Considerations

4.3.1 Sewage Servicing

On March 27, 2003, the Regional Council passed a resolution to assume responsibility of the proposed Bathurst Sanitary Trunk Sewer Phase 3 from Major Mackenzie Drive to Mill Street. The sewer extension is required to provide sanitary servicing for the Block 12 development and other lands north of Teston Road.

The Block 12 Developer Group, along with Blocks 10 and 11 Developers Group, entered into a Prepaid Development Charge Credit Agreement with the Region in March 2004 for the construction of the Bathurst Trunk Sewer Phases 1 and 2 from Steeles Avenue to Major Mackenzie Dr. Block 12 is now requesting to enter into a Prepaid Development Charge Credit Agreement for the advancement of the Bathurst Trunk Sewer Phase 3.

Preliminary design for the sewer was completed by the Block 12 Developer Group as part of their Master Environmental Servicing Plan study. The estimated cost of the works is $3.6 million. Recently, the Block 12 Developer Group has indicated that the profile of the sewer can be raised and under the new design the trunk sewer will cost only $1.7 million. Regional staff is currently reviewing the proposal and, if the design is acceptable, the cost of the works will be adjusted accordingly.

An interim sewage capacity of 3,500 persons has been reserved for Block 12 by City of Vaughan, as part of the Bathurst Trunk Sewer Phases 1 and 2 Prepaid Development Charge Agreement. This interim capacity is made available by temporarily diverting the sewage flow from Block 12 to the North Don Sewer. Phase 3 of the Bathurst sewer is required to utilize this interim capacity. Additional sewer capacity assignment to Vaughan is contingent upon the construction of the Southeast Collector Sewer and the Bathurst Trunk Sewer, or the identification and determination of additional capacity at the Region's sole discretion for assignment purpose, based on the on-going system capacity review.

4.3.1 Water Servicing

Under the Bathurst Trunk Sewer Phases 1 and 2 Prepaid Development Charge Agreement, the Region confirmed that adequate water capacity is available to match the interim sewage capacity of 3,500 persons reserved for Block 12. Assignment of additional water capacity will be subject to confirmation of additional water supply from Peel Region.

5. FINANCIAL IMPLICATIONS

The developer group has proposed that they be able to design and construct the Bathurst Street Phase 3 trunk sewer. 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. In such case it is recommended that Council waive the Purchasing By-law to allow this to occur.

5.1 Financial Principles

The following are the principles of the prepaid development charge credit agreement between the Block 12 Developer Group and the Regional Municipality of York for the advanced construction of the Bathurst Trunk Sewer Phase 3.

- The estimated cost of the Bathurst Trunk Sewer Phase 3 is $3.6 million;
- The Developer Group will be entitled to recover the growth component of the works equal to 80% of the cost of the works or $2.9 million, by way of credits against the sewer 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 $0.7 million subject to completion of the works to the satisfaction of the Commissioner of Transportation and Works;
- The Developer 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;
- Subject to Council approval the Region and the Developer Group agree to a fixed price for the construction of the trunk sewer prior to the construction of the works;
- The Developer 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 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 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, any 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;
- The Developer Agrees to a 3% maintenance holdback until the maintenance period has lapsed;

- The Commissioner of Transportation and Works may, 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. In such case Council waives the Purchasing By-law.

The Developer Group has proposed to design and construct the Bathurst Trunk Sewer Phase 3. The following are the principles pertaining to construction.

- The Developer Group would retain a consultant to issue the tender documents, award and administer the contract;
- The Developer Group agree to build the trunk sewer to Regional standards and specifications;
- The Developer Group agrees to construct the works in accordance with the design prepared and approved under direction of Regional staff;
- The Developer Group will obtain the necessary environmental approvals required;
- The Developer 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 Developer 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 Developer Group will be obligated to fulfil the requirements of the Construction Lien Act;
- The Developer Group agrees that the Region has the right to inspect the installation of the works and have 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;
- The Developer Group shall not connect the Bathurst Trunk Sewer Phase 3 to any sewer without the written approval of the Region;
- Upon substantial completion of the Bathurst Trunk Sewer Phase 3 portion, the Developer group will commission the sewer to the Region to provide sewage servicing to the City of Vaughan;
- The Developer Group agrees to a maintenance period of two years and 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 Developer Group agrees to conduct two video inspections of the works; the first prior to substantial completion and the second two months prior to completion of the maintenance period;
- The Developer Group will agree to pay for the Region's legal costs (external or internal) to prepare the agreement; and
- 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 Bathurst Trunk Sewer Phase 3 will result in the development of the plans of subdivision within the Block 12 lands and surrounding area. It will be the responsibility of the City of Vaughan to allocate servicing capacity to the participating landowners. No additional capacity or allocation is required, as this allows Block 12 to use capacity already allocated to it.

7. CONCLUSION

This report outlines the principles of a Prepaid Development Charge Credit Agreement between the Region and the landowners within the Block 12 lands, required to advance the construction timing of the Bathurst Trunk Sewer Phase 3. The advanced construction of the Bathurst Trunk Sewer Phase 3 has an estimated cost of $3.6 million and is required to permit further development of the lands within the Block 12 lands and surrounding area within the City of Vaughan.

The Senior Management Group has reviewed this report.