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**SUBJECT:** Development Charge Reimbursement Application (Denison Street Structure) & Culvert Infrastructure Works – Village of Fairtree by Forest Bay Homes Ltd. (Ward 7) )

**PREPARED BY:** Alain Cachola, Senior Manager, Infrastructure and Capital Projects, ext. 2711  
Kevin Ross, Manager, Development Finance and Payroll, ext. 2126

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**RECOMMENDATION:**

1. That the report entitled “Development Charge Reimbursement Application (Denison Street Structure) & Culvert Infrastructure Works – Village of Fairtree by Forest Bay Homes Ltd. (Ward 7)” be received; and
2. That Council authorize City Wide Hard Development Charge DC reimbursement not exceeding \$2,278,117, to Forest Bay Homes Ltd. for the construction of the Denison Street Structure and associated infrastructure, external to the plan of subdivision, as set out in this report, and all in accordance with the City’s Development Charge Credit and Reimbursement Policy; and
3. That Council authorize the Development Charge reimbursement of any completed works to date, subject to the approval of the Director of Engineering and the Treasurer; and
4. That the Mayor and Clerk be authorized to execute a Development Charge Reimbursement Agreement, if necessary, in accordance with the City’s Development Charge Credit and Reimbursement Policy, with Forest Bay Homes Ltd., or their successors in title, to the satisfaction of the Treasurer and City Solicitor; and
5. That Council authorize a payment not exceeding \$1,205,560, to Forest Bay Homes Ltd. for the change in scope associated with the culvert infrastructure work on Denison Street; and
6. That the payment for the culvert infrastructure work be funded from the Development Charges Citywide Hard Reserve; and
7. That the Mayor and Clerk be authorized to execute an Agreement, with Forest Bay Homes Ltd., or their successors in title, in respect of the City’s payment of the cost of the culvert infrastructure work on Denison Street to the satisfaction of the Treasurer and City Solicitor; and further
8. That staff be directed to do all things necessary to give effect to this report.

**PURPOSE:**

The purpose of this report are as follows:

- Obtain Council’s authorization, in accordance with the City’s Development Charge Credit and Reimbursement Policy, to grant City Wide Hard Development Charge reimbursements, not exceeding \$2,278,117, to Forest Bay Homes Ltd. (“Developer”), or their successors in title. The requested

- reimbursement is for the construction of the Denison Street Structure and associated infrastructure, external to the plan of subdivision and is included in the 2017 City Wide Hard Development Charge Background Study.
- Obtain Council's authorization for the Mayor and Clerk to enter into the necessary Development Charge Reimbursement Agreement.
  - Obtain Council's authorization, to pay to Forest Bay Homes Ltd. ("Developer"), or their successors in title, for the change in scope associated with the culvert infrastructure work on Denison Street. The requested infrastructure is not included in the 2017 Development Charge Background Study, but is eligible to be funded from the DC Reserve as it satisfies the definition of DC Eligible infrastructure.

The development charge (DC) eligible infrastructure includes the design, contract administration and construction cost for the road extension and structure on Denison Street, west of Forest Bay's development.

These works were necessary for the Developer to complete the Village of Fairtree subdivision, and therefore, could not be constructed by the City at a later date. Council's authorization is required in accordance with the Development Charge Credit and Reimbursement Policy, as the reimbursement request exceeds the Treasurer's approval authority of less than \$500,000

**BACKGROUND:**

The Developer constructed, at its own expense, a majority of approved infrastructure that is eligible for Development Charge (DC) credit or reimbursement. In addition, an existing culvert had to be replaced which was not identified during the design stage and was added as a scope change during construction. These works were necessary for the Developer to provide access to the development of the Village of Fairtree subdivision. The DC credit / reimbursement eligible infrastructure is shown in Attachment 'A'.

As part of the Denison Street extension, the Developer was required to conduct a structural review and assessment of the existing culvert, which was initially planned to remain in place. Upon further investigation, it was confirmed that the existing culvert was not structurally adequate to carry the additional load of the proposed Denison Street and, as such, it was required to be removed and replaced. The Developer submitted drawings with the change in scope, and Engineering staff reviewed and approved the design for construction.

As the replacement of the existing culvert was not anticipated at the start of the construction, and had to be completed at the same time as the structure, the Developer did not formally apply for DC credit/reimbursement or payment prior to start of construction. This is not consistent with the City's Development Charge Credit and/or Reimbursement Policy. No cost estimate was requested or provided prior to the start of replacement of the existing culvert. The incremental cost of the scope change was not identified at that time. In the future, Engineering staff will ensure that estimates are approved for works to be undertaken on the City's behalf where DC credit / reimbursement are to be granted, and confirm that there are sufficient funds to reimburse developers for works undertaken.

The Developer has now requested that the DC eligible cost of the completed works (not exceeding \$2,384,386) be reimbursed, which can occur upon approval of this report, subject to the approval of the Director of Engineering, confirming that the works have been completed satisfactorily and that the costs are acceptable and eligible under the current Development Charge By-law.

The Developer also requested that the additional work to replace the existing culvert in the amount of \$1,205,560 be reimbursed.

## **OPTIONS/DISCUSSION:**

### City Wide Hard Development Charges Reimbursement

In accordance with the DC Credit and Reimbursement Policy, development charge credits and reimbursements will be limited to the lesser of the amount in the Development Charges (DC) Background Study and the actual cost of the infrastructure. In this instance, the 2017 DC Background Study establishes the estimated cost of the infrastructure, in the amount of \$2,384,386.

The total cost of the DC eligible infrastructure, as submitted by the developer is \$2,278,117, which is less than the amount in the DC Background Study. Therefore, the Developer will be eligible for the reimbursement of a maximum of \$2,278,117. The completed works to date identified in the claim is shown at an actual cost of \$2,134,367, and the remaining works (top asphalt and curbs) scheduled to be completed in Summer 2020, is capped at \$143,750.

Engineering staff has reviewed the submitted claim and confirm that the amounts as submitted are acceptable. Based on the review, staff is recommending a DC reimbursement amount of a maximum of \$2,278,117.

### Culvert Infrastructure Work

As mentioned earlier in this report, the Developer replaced an existing culvert which was originally planned to be remain in place. Due to the timing and the restriction to tender this culvert infrastructure work as a separate contract, Engineering staff instructed the Developer to carry out this work to be carried out at the same time as the Denison Street construction. The Developer is requesting the City to pay for the price (actual cost) of the culvert infrastructure work in the amount of \$1,205,560. Engineering staff reviewed the submitted claim and determined that the price is reasonable. The work has been completed in accordance with the revised approved drawings and the work has been certified by the Developer's consulting engineer.

Engineering staff is recommending that this amount be funded from Development Charges as this is additional work is triggered by growth.

### Timing of Recommended Reimbursement

The Developer has submitted two claims: (a) the DC eligible work and (b) the culvert infrastructure work. The claims will be funded through two (2) separate agreements (DC Reimbursement and Developer Payment for Culvert Enhancement respectively).

#### *DC Reimbursement Component*

Based on review by Engineering staff, the Developer is eligible to receive DC reimbursement for the completed works in the amount of \$2,134,367.

The final DC reimbursement amount is to be issued to the Developer, once the Director of Engineering has confirmed that the DC eligible works are completed and are being used for the intended purpose and, the DC reimbursement agreement is executed. The remaining works is currently capped at \$143,750.

The City is empowered to enter into credit/reimbursement agreements by Section 38(1) of the *Development Charges Act, 1997* which provides as follows:

*“If a municipality agrees to allow a person to perform work that relates to a service to which a development charge by-law relates, the municipality shall give the person a credit towards the development charge in accordance with the agreement.”*

Development charge credits and reimbursements have been used in a number of development applications to facilitate the construction of infrastructure in advance of the City’s capital program.

#### *Developer Payment Component*

Based on review by Engineering staff, the Developer is eligible to receive repayment for the change in scope of work for the culvert infrastructure work in the amount of \$1,205,560.

The final repayment amount is to be issued to the Developer, once the Director of Engineering has confirmed that the eligible works are completed and are being used for the intended purpose and, the agreement is executed.

#### Financial Security

The City is holding securities for infrastructure works based on the standard conditions in the subdivision agreement, to ensure municipal infrastructure is constructed to the City’s standards.

#### **FINANCIAL CONSIDERATIONS:**

There is no net financial impact to the City. DC credits/reimbursements are provided to developers in exchange for the construction of works included in the City’s Development

Charges Background Study, in compliance with the Development Charge Credit and Reimbursement Policy. The repayment of \$1,205,560 for the culvert infrastructure work is being funded from DCs as it is required due to growth as such, there is no negative impact to the City.

The Engineering Department has reviewed the scope and actual cost of the works provided by the Developer to confirm that these are in alignment with the City's standards. Consistent with the City's Development Charge Credit and Reimbursement Policy, the Developer will be required to pay an administration fee for the Engineering, Legal and Finance Department's costs incurred relating to the review, preparation and administration of the development charge credit and reimbursement. The fee is structured in the following manner:

- An application fee of \$1,628.50 plus HST to review the development charge credit request; plus
- A fee equivalent to 1.0% of the value of the credit request or a maximum of \$10,856. For this application, the fee is \$10,856 plus HST and is payable upon credit or reimbursement of the approved amounts.

Other legal fees may be applicable for the culvert payment, upon execution of an agreement by the City and Developer.

**ALIGNMENT WITH STRATEGIC PRIORITIES:**

This is consistent with the City's goal of efficient service delivery.

**BUSINESS UNITS CONSULTED AND AFFECTED:**

Finance, Engineering and Legal Services Departments.

**RECOMMENDED BY:**

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Joel Lustig  
Treasurer

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Brian Lee, P.Eng.  
Director of Engineering

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Trinela Cane  
Commissioner, Corporate Services

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Arvin Prasad, MCIP, RPP  
Commissioner, Development Services

**ATTACHMENTS:**

Attachment 'A' – DC Eligible Infrastructures