

SUBJECT: Authority to provide Development Charge (DC) Credits and/or Reimbursements to the Trustee of Berczy Glen Landowners Group Inc. and to Mattamy (Berczy Glen) Limited (Wards 2 and 6)

PREPARED BY: Mansoor Ali, P. Eng. Ext. 2523

REVIEWED BY: Reza Fani, P. Eng. Ext. 2414

Kevin Ross, Ext. 2126

RECOMMENDATION:

1. That the report entitled “Authority to provide Development Charge (DC) Credits and/or Reimbursements to the Trustee of Berczy Glen Landowners Group Inc. and to Mattamy (Berczy Glen) Limited (Wards 2 and 6)” be received; and
2. That Council authorize a City-Wide Hard Development Charge Credit and/or Reimbursement not exceeding \$8,000,000.00 to the Trustee of Berczy Glen Landowners Group Inc. for the design, contract administration, and construction costs associated with the construction of a bridge crossing the Berczy Creek (“North Bridge”) for the northerly east-west collector road (Street ‘D’) in the Berczy Glen Community; and
3. That Council authorize a City-Wide Hard Development Charge Credit and/or Reimbursement not exceeding \$1,476,960.00, to the Trustee of Berczy Glen Landowners Group Inc. for the design, contract administration, and construction costs associated with the construction of the watermain on Warden Avenue between Major Mackenzie Drive and Street ‘D’; and
4. That Council authorize the amount to be credited and/or reimbursed to the Trustee of Berczy Glen Landowners Group Inc. be increased after the update of the City-Wide Hard Development Charges By-law in 2022 to reflect the updated cost of the watermain on Warden Avenue, between Major Mackenzie Drive and Street ‘D’ which is currently estimated at \$6,100,000.00; and
5. That Council authorize a City-Wide Hard Development Charge Credit and/or Reimbursement not exceeding \$639,904.00, to Mattamy (Berczy Glen) Limited for the design, contract administration, and construction costs associated with the construction of the watermain on Elgin Mills Road between Victoria Square Boulevard and Street ‘A’; and
6. That Council authorize the amount to be credited and/or reimbursed to Mattamy (Berczy Glen) Limited be increased after the update of the City-Wide Hard Development Charges By-law in 2022 to reflect the updated cost of the

watermain on Elgin Mills Road, between Victoria Square Boulevard and Street 'A' which is currently estimated at \$2,200,000.00; and

7. That the Mayor and Clerk be authorized to execute a Construction Agreement with the Trustee of Berczy Glen Landowners Group Inc. or its successors in title for the construction of the North Bridge and watermain on Warden Avenue upon terms to the satisfaction of the Director of Engineering and the City Solicitor, or their respective designates; and
8. That the Mayor and Clerk be authorized to execute a Construction Agreement with Mattamy (Berczy Glen) Limited or its successors in title for the construction of a watermain on Elgin Mills Road to the satisfaction of the Director of Engineering and the City Solicitor, or their respective designates; and
9. That the Mayor and Clerk be authorized to execute a Development Charge Credit and/or Reimbursement Agreements, if required, in accordance with the City's Development Charge Credit and Reimbursement Policy, with the Trustee of Berczy Glen Landowners Group Inc. and/or with Mattamy (Berczy Glen) Limited, or its successors in title to the satisfaction of the Treasurer and the City Solicitor, or their respective delegates; and
10. That all of the above credits and/or reimbursements shall be the absolute value of the credits and/or reimbursements, and that HST, interest and/or indexing shall not be credited and/or reimbursed; and further
11. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

EXECUTIVE SUMMARY:

Not applicable

PURPOSE:

The purpose of this report is to obtain Council authorization:

- a) To grant a City-Wide Hard Development Charge Credit and/or Reimbursement to the Trustee of Berczy Glen Landowners Group Inc. not exceeding \$9,476,960.00, in accordance with the City's Development Charge Credit and Reimbursement Policy. The requested credit and/or reimbursement is for the construction of the following infrastructure which are eligible for development charges:
 - North Bridge to provide for a continuous northerly east-west collector road (Street 'D') in the Berczy Glen Community, as shown in Attachment 'A'. The DC credit and/or reimbursement for this item to not exceed \$8,000,000.00; and

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- A watermain on Warden Avenue between Major Mackenzie Drive and Street 'D' (approximately 1,500 m in length), as shown in Attachment 'B'. The DC credit and/or reimbursement for this item to not exceed \$1,476,960.00.
- b) To get Council authorization to update the City-Wide Hard Development Charges By-law in 2022 to reflect the updated cost of the watermain on Warden Avenue, between Major Mackenzie Drive and Street 'D' which is currently estimated at \$6,100,000.00.
- c) To grant a City-Wide Hard Development Charge Credit and/or Reimbursement to Mattamy (Berczy Glen) Limited not exceeding \$639,904.00, in accordance with the City's Development Charge Credit and Reimbursement Policy. The requested credit and/or reimbursement is for the construction of the following infrastructure on behalf of the City:
- A watermain on Elgin Mills Road from Victoria Square Boulevard eastward to Street A, (approximately 635 m in length) as shown in Attachment 'B'. The DC credit and/or reimbursement for this item not to exceed \$639,904.00.
- d) To get Council authorization to update the City-Wide Hard Development Charges in 2022 to reflect the updated cost of the watermain on Elgin Mills Road, between Victoria Square Boulevard and Street 'A' which is currently estimated at \$2,200,000.00.
- e) For the Mayor and Clerk to enter into the necessary Construction Agreements and Development Charge Credit and/or Reimbursement Agreements with the Trustee of Berczy Glen Landowners Group Inc. and with Mattamy (Berczy Glen) Limited or its successors in title.

The Development Charge (DC) credit and/or reimbursement for eligible infrastructure includes the design, contract administration, engineering fees, and construction costs.

BACKGROUND:

On November 19, 2018, the Planning's report entitled, "Recommendation Report, Berczy Glen Landowners Group, Application for Official Plan Amendment and Secondary Plan in the north Markham Future Urban Area (Ward 2)" and the application submitted by the Berczy Glen Landowners Group for Official Plan Amendment and Secondary Plan in the north Markham Future Urban Area were adopted by Council.

The Berczy Glen Secondary Plan builds on the Conceptual Master Plan (CMP) for the FUA, which was endorsed by the Council on October 17, 2017.

Four plans of subdivision applications in the Berczy Glen Secondary Plan have received draft plan approval and the developers are in the process of designing the required infrastructure to service their respective plans of subdivision. The developers have proposed to initiate construction of the above-noted municipal infrastructure in 2021 and 2022 to coincide with their development schedule and minimize potential delays. In order

to be credited and/or reimbursed for the cost of constructing the infrastructure, Council's authorization is required in accordance with the Development Charge Credit and Reimbursement Policy, as the credit and/or reimbursement request exceeds the Treasurer's approval authority of less than \$500,000.00.

OPTIONS/ DISCUSSION:

City Wide Hard Development Charge Credits and/or Reimbursements

In accordance with the City's Development Charge Credit and Reimbursement Policy, the development charge credit and/or reimbursement for these works, will be limited to the lesser of the pro-rated amount in the Development Charges Background Study or the actual cost of the infrastructure. In this instance, the 2017 Development Charges Background Study established the prorated estimated cost of the infrastructure, in the amount of \$10,116,864.00.

The total estimated cost of the DC eligible infrastructure, as submitted by the group engineer (SCS Consulting Group Ltd.) is \$15,600,000.00 as shown in the table below, which is more than the amount in the DC Background Study. Therefore, Berczy Glen Landowners Group Inc. and Mattamy (Berczy Glen) Limited will be eligible for reimbursement and/or credit to a maximum of \$10,116,864.00 exclusive of HST, initially. It should be noted that the City does not give credit for, or reimburse HST costs, and no interest or indexing shall be payable on the credit/reimbursement.

Infrastructure	Project Location	Developer's Submitted (Estimated) Costs	Cost in the 2017 DC Background Study*
North Bridge	Berczy Creek Crossing (Street D)	\$7,300,000.00	\$8,000,000.00
Watermain	Warden Avenue	\$6,100,000.00	\$1,476,960.00
Watermain	Elgin Mills Road East	\$2,200,000.00	\$639,904.00
Grand Total		\$15,600,000.00	\$10,116,864.00

* Maximum credit allowed under the DC Credit/Reimbursement Policy

Justification for Cost Increase

a) Watermain - Warden Avenue:

In the 2017 DC Background Study, a 400 mm watermain (approximately 2,100 m in length) was assumed with no allowance for a tributary crossing. Based on the recent design information and current estimated construction unit rates, the cost has increased significantly, as the current design requires a 600 mm watermain (approximately 400 m in length) and a 750 mm watermain (approximately 1,100 m in length) with a tributary crossing. At this time, the developer is only proposing to construct a total of 1,500 m length of watermain. The remaining 600 m of watermain

will also need to be constructed later and the costs will be revised as a part of the next DC Background Study update.

The City has received DC Credit and/or Reimbursement request based on the current design, which will necessitate the update of the costs in the next DC Background Study scheduled to be completed in 2022.

b) Watermain - Elgin Mills Road:

In the 2017 DC Background Study, a 400 mm watermain (approximately 1,500 m in length) was assumed. Based on the detailed study completed during the preparation of the Conceptual Master Plan, a 600 mm watermain (approximately 1,500 m in length) was recommended to support growth in the FUA. This increase in watermain size resulted in increased costs.

The City has received DC Credit and/or Reimbursement request based on the current design, which will necessitate the update of the costs in the next DC Background Study scheduled to be completed in 2022.

Timing of Recommended DC Credits and/or Reimbursements

The final DC credits and/or reimbursements amounts for (a) North Bridge and Warden Avenue Watermain, and (b) Elgin Mills Road Watermain are to be issued to the Trustee of Berczy Glen Landowners Group Inc. and to Mattamy (Berczy Glen) Limited, respectively. Once the Director of Engineering has confirmed that the DC eligible works have been completed, the actual certified costs are provided by the developers and reviewed and signed off by the Engineering Department, to ensure that the costs are reasonable, the credit and/or reimbursement will then be the lesser of the actual cost and the amount included in the DC Background Study.

The City may enter into DC credits/reimbursements agreements as permitted 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/or reimbursements have been used in a number of development applications to facilitate the construction of infrastructure in advance of the City’s capital programs in order for development to proceed.

Financial Security

The City will require security for these works to cover the warranty period and the developers will comply with all the City’s standards for design and construction. The construction letter of credit will be held until the works are accepted by the City.

FINANCIAL CONSIDERATIONS

There is no net financial impact to the City as 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 credit and/or reimbursement of \$10,116,864.00 exclusive of HST for the infrastructure will be funded from DCs as it is required due to growth. As such, there is no negative financial impact to the City. It should be noted that the City does not give credit for, or reimburse HST costs, as well, no interest or indexing shall be payable on the credit and/or reimbursement.

The estimated cost of the watermains to be constructed on Warden Avenue and Elgin Mills Road East, is \$6.2M higher than the cost included in the current 2017 DC Background Study. These costs will be updated in the new DC background study in 2022. The DC credit and/or reimbursement will be provided based on the lesser of the actual cost and the amount included in the background study, so the developers will potentially be eligible for an increased amount.

Consistent with the City's Development Charge Credit and Reimbursement Policy, the Trustee for the Berczy Glen Landowners Group Inc., and Mattamy (Berczy Glen) Limited 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/or reimbursement. The fee is structured in the following manner:

- An application fee of \$1,628.50 plus HST to review the development charge credit and/or reimbursement request; plus
- A fee equivalent to 1.0% of the value of the credit and/or reimbursement request or a maximum of \$10,856.00. For this application, the fee is \$10,856.00 plus HST and is payable upon credit and/or reimbursement of the approved amounts.

Other legal fees may be applicable upon execution of agreements between the City and the Trustee of Berczy Glen Landowners Group Inc., and between the City and Mattamy (Berczy Glen) Limited.

HUMAN RESOURCES CONSIDERATIONS

Not applicable

ALIGNMENT WITH STRATEGIC PRIORITIES:

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

BUSINESS UNITS CONSULTED AND AFFECTED:

Finance and Legal Services Departments have reviewed this report and their comments

are incorporated.

RECOMMENDED BY:

Joel Lusting
Treasurer

Brian Lee, P. Eng.
Director of Engineering

Trinela Cane
Commissioner, Corporate Services

Arvin Prasad, MCIP, RPP
Commissioner, Development Services

ATTACHMENTS:

Attachment 'A': DC Eligible Infrastructure - North Bridge

Attachment 'B': DC Eligible Infrastructure - watermain on Warden Avenue and Elgin
Mills Road