



Report to: Development Services Committee

Meeting Date: June 26, 2023

SUBJECT: Authority to Provide Development Charge (DC) Credits and/or Reimbursements for the Construction of Trunk Sanitary Sewer and Bruce Creek Crossing in York Downs Subdivisions, to KM (AG SOUTH VILLAGE) LTD. and Metropia Minto (Sixteenth) Holdings Inc. (Ward 6)

PREPARED BY: Ziad Yassi, P. Eng., Ext. 7920

REVIEWED BY: Scott MacKenzie, P. Eng., Ext. 2414
Henry Lo, P.Eng. , Ext. 4030
Kevin Ross, Ext. 2126

RECOMMENDATION:

1. That the report entitled “Authority to Provide Development Charge Credits and/or Reimbursements for the Construction of Trunk Sanitary Sewer and Bruce Creek Crossing in York Downs Subdivisions, to KM (AG SOUTH VILLAGE) LTD. and Metropia Minto (Sixteenth) Holdings Inc. (Ward 6)” be received; and
2. That Council authorize an Area-Specific Development Charge Credit and/or Reimbursement not exceeding \$444,999 to KM (AG SOUTH VILLAGE) LTD. for the design, contract administration, and construction costs of a trunk sanitary sewer from Angus Glen Boulevard to the South Village Subdivision (York Downs – West Plan) within an easement (the “Sewer within the Easement”) that will service the York Downs lands and lands external from the Future Urban Area (the “FUA”); and
3. That Council authorize an Area-Specific Development Charge Credit and/or Reimbursement not exceeding \$1,952,274 to KM (AG SOUTH VILLAGE) LTD. for the design, contract administration, and construction costs of a trunk sanitary sewer from the South Village Subdivision (north end) to the connection to Street ‘C’ (upstream limit of the YDSS Connection) (the “Trunk Sanitary Sewer”) that will service the York Downs lands and lands external from the FUA; and
4. That Council authorize an Area-Specific Development Charge Credit and/or

Reimbursement not exceeding \$5,850,273 to KM (AG SOUTH VILLAGE) LTD. and Metropia Minto (Sixteenth) Holdings Inc. for the construction of the connection of the Trunk Sanitary Sewer to the YDSS (the “Connection to YDSS”) that will service the York Downs and the FUA; and

5. That Council authorize City Wide Hard Development Charge Credits and/or Reimbursements not exceeding \$852,726 to KM (AG SOUTH VILLAGE) LTD. for the oversizing cost associated with a trunk sanitary sewer within the South Village Subdivision (north end to Street ‘C’ (upstream limit of the YDSS connection)) (the “Trunk Sanitary Sewer”) that will service the lands external from the FUA; and
6. That Council authorize City Wide Hard Development Charge Credits and/or Reimbursements not exceeding \$11,710,430 to KM (AG SOUTH VILLAGE) LTD. and Metropia Minto (Sixteenth) Holdings Inc. for the design, contract administration, construction, and maintenance until assumption costs associated with the construction of a bridge crossing the Bruce Creek (the “Bruce Creek Crossing”) for the east-west collector (Street A) in the York Downs Subdivision; and
7. That notwithstanding the above recommendations, that the amount available for credits and/or reimbursements be based on the lesser of the actual cost to construct and the capital cost included in the most current Development Charges Background Study, as indexed from time to time, at the time works are complete and the credits and/or reimbursements are being provided; and
8. That the letter of credit(s) to secure the trunk sanitary sewer and bridge are to be to the satisfaction of the Director of Engineering and Treasurer; 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 KM (AG SOUTH VILLAGE) LTD. and Metropia Minto (Sixteenth) Holdings Inc., or their successors in title to the satisfaction of the Treasurer and the City Solicitor, or their respective delegates; and
10. That Council authorize the Mayor and Clerk to execute a Construction Agreement with the Owner/Trustee as necessary, to allow for the construction of the subject Trunk Sanitary Sewer and the subject Bruce Creek Crossing; and
11. That all of the above credits and/or reimbursements shall exclude HST and interest and shall be indexed in accordance with the City’s Development Charge Credit & Reimbursement Policy; and further

12. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

EXECUTIVE SUMMARY:

This report recommends that the Mayor and Clerk be authorized to enter into Development Charge Credit and/or Reimbursement Agreements with KM (AG SOUTH VILLAGE) LTD. and Metropia Minto (Sixteenth) Holdings Inc., who will be constructing the Trunk Sanitary Sewer and Bruce Creek Crossing to provide for a continuous east-west collector road (Street A) in the York Downs Subdivisions.

PURPOSE:

The purpose of this report is to obtain Council authorization to grant Development Charge Credits and/or Reimbursement to KM (AG SOUTH VILLAGE) LTD. and Metropia Minto (Sixteenth) Holdings Inc. for the design, contract administration, and construction costs of the following works:

- Area-Specific Development Charge credits/reimbursement not exceeding \$444,999 for the Trunk Sanitary Sewer from Angus Glen Boulevard to the South Village Subdivision (York Downs – West Plan) within the Easement;
- Area-Specific Development Charge credits/reimbursement not exceeding \$1,952,274 for the Trunk Sanitary Sewer from the South Village Subdivision (north end) to the connection to the York-Durham Sewage System (YDSS) under the Bruce Creek at 16th Avenue; and
- Area-Specific Development Charge not exceeding \$5,850,272 for the Trunk Sanitary Sewer Connection to YDSS; and
- City Wide Hard Development Charge credit/reimbursement not exceeding \$852,726 for the oversizing cost associated with the Trunk sanitary sewer.

These are all in accordance with the City's Development Charge Credit and Reimbursement Policy for the design, contract administration, and construction costs associated with the construction of a Trunk Sanitary Sewer that will service the York Downs, and lands external from the FUA (Employment Block, Berczy Glen Block, Angus Glen Block and Robinson Glen South Block). The Trunk Sanitary Sewer is shown on a figure appended to this report as Attachment A.

Additionally, this report is to also obtain Council authorization to grant City Wide Hard Development Charge Credits and/or Reimbursements to KM (AG SOUTH VILLAGE) LTD. and Metropia Minto (Sixteenth) Holdings Inc. not exceeding \$11,710,430 in accordance with the City's Development Charge Credit and Reimbursement Policy, for the design, contract administration, construction and maintenance costs associated with the construction of the

Bruce Creek Crossing that will service the York Downs Subdivision. The location of the Bruce Creek Crossing is shown on a figure appended to this report as Attachment B.

BACKGROUND:

On October 29, 2019, The Ontario Municipal Board (OMB), now the Tribunal (LPAT) has settled a hearing in the matter of appeals by Sixteenth Land Holdings Inc., from the failure of the City of Markham to adopt the requested Official Plan Amendment, make a decision on the proposed Zoning By-Law Amendment, and make a decision on two draft Plans of Subdivision within legislated timelines, for each to permit the proposed redevelopment of the York Downs Golf and Country Club. The subject property, known municipally as 4134 16th Avenue, is located on the north side of 16th Avenue and west of Kennedy Road, in the City of Markham.

The draft plan conditions acknowledge that the Bruce Creek Crossing provides a vehicular connection between the east and west parcels and is eligible for Development Charge Credits. The City agrees to reimburse the Owner for the cost of the works it has incurred through City Wide Hard (CWH) Development Charge Credits and/or reimbursement, in accordance with the terms of the City's DC Credit and Reimbursement Policy.

Both plans of subdivision applications in the York Downs 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 City and KM (AG SOUTH VILLAGE) LTD. and Metropia Minto (Sixteenth) Holdings Inc. will be finalizing a subdivision agreement to secure the obligation relating to the construction of the portion of the Trunk Sanitary Sewer that will be constructed within their subdivision development. Construction of the trunk sewer within the subdivision has already commenced in Q1 2023, as per direction from the City's CAO in January 2023, 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.

OPTIONS/DISCUSSION

Area-Specific 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 the works will be limited to the lesser of the indexed cost in the Development Charges Background Study (DCBS) and the actual cost of the infrastructure.

The 2022 Development Charges Background Study established the estimated cost of this portion of the Trunk Sanitary Sewer to be \$9,100,272. The total estimated cost of the

Trunk Sanitary Sewer, as submitted by the KM (AG SOUTH VILLAGE) LTD. and Metropia Minto (Sixteenth) Holdings Inc.'s engineer (Stantec Consulting Ltd.) is \$8,021,507. The value of the works is reflected in the 2022 DCBS, and is shown in the following table:

2022 Development Charges Background Study							
Sanitary Sewer Description	Employment Block ASDC 50A-1	Berczy Glen Block ASDC 50A-3	Angus Glen Block ASDC 50A-4	Robinson Glen – South Block ASDC 50A-5	Total Area Specific Component	City Wide Hard – Oversizing Component	Total CWH and ASDC Components
Angus Glen Boulevard to Proposed Street 'C'	\$371,780	\$492,659	\$961,199	\$126,636	\$1,952,274	\$852,726	\$2,805,000
Angus Glen Boulevard to 16 th Avenue ("Easement")	\$84,743	\$112,296	\$219,095	\$28,865	\$444,999	\$0	\$444,999
Connection to YDSS	\$1,114,091	\$1,476,324	\$2,880,374	\$379,484	\$5,850,273	\$0	\$5,850,273
TOTAL	\$1,570,614	\$2,081,279	\$4,060,668	\$534,985	\$8,247,546	\$852,726	\$9,100,272

KM (AG SOUTH VILLAGE) LTD. and Metropia Minto (Sixteenth) Holdings Inc. will be eligible for reimbursement and/or credit to a maximum of \$9,100,272.00 exclusive of HST. It should be noted that the City does not give credit for, or reimburse HST costs, and no interest shall be payable on the credit/reimbursement.

The 2022 Development Charges Background Study established the estimated cost of the Bruce Creek Crossing to be \$11,710,430.00. The total estimated cost of the Bruce Creek Crossing, as submitted by the KM (AG SOUTH VILLAGE) LTD. and Metropia Minto (Sixteenth) Holdings Inc.'s engineer (Stantec Consulting Ltd.) is \$11,494,354. The value of the works is reflected in the 2022 DCBS, and is shown in the following table:

Infrastructure	Project Location	Developer's Submitted (Estimated) Costs	Cost in the 2022 DCBS
Bruce Creek Crossing (Street A)	York Downs	\$11,494,354.00	\$11,710,430.00
TOTAL		\$11,494,354.00	\$11,710,430.00

KM (AG SOUTH VILLAGE) LTD. and Metropia Minto (Sixteenth) Holdings Inc. will be eligible for reimbursement and/or credit to a maximum of \$11,710,430.00 exclusive of HST. It should be noted that the City does not give credit for, or reimburse HST costs, and no interest shall be payable on the credit/reimbursement.

Timing of Recommended DC Credits and/or Reimbursements

KM (AG SOUTH VILLAGE) LTD. and Metropia Minto (Sixteenth) Holdings Inc. is proposing to construct 850 m of the Sanitary Trunk Sewer as part of their Phase 1 of the South Village Subdivision. The connection to the YDSS (412m) will follow the final design approval and is proposed to commence construction in Spring 2023. The remainder of the sewer (810m of the total 1660m) and easement (87m) will be constructed during future phases of the development to the north (Phases 2 and 3).

KM (AG SOUTH VILLAGE) LTD. and Metropia Minto (Sixteenth) Holdings Inc. are proposing to construct a 40.0m long bridge crossing the valley land to connect both sides of the York Downs Subdivisions, and to provide a continuous roadway as per the approved draft plans and the associated road network for the subject development. The final design of the bridge was peer reviewed and the construction is to commence in July 2023.

The reimbursement for the trunk sanitary sewer will be recouped from ASDCs, as and when paid by the benefiting landowners in Berczy Glen, Angus Glen, Robinson Glen and the Employment Lands. The cost for the trunk sanitary sewer as well as the oversizing costs, will be eligible for reimbursement from ASDCs and the City Wide Hard reserve respectively, when the Director of Engineering has confirmed that the DC eligible works have been completed, and the actual certified costs have been provided by the developers and reviewed and signed off by the Engineering Department, to ensure that the costs are reasonable.

The reimbursement for the bridge will take the form of City Wide Hard development charge credits and/or reimbursement, once the Director of Engineering has confirmed that the DC eligible works have been completed, and the actual certified costs have been provided by the developers and reviewed and signed off by the Engineering Department to ensure that the costs are reasonable.

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 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 total DC credit and/or reimbursement of \$9,100,272 exclusive of HST for the Trunk Sanitary Sewer 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 shall be payable on the credit and/or reimbursement.

The total credit and/or reimbursement of \$11,710,430.00 exclusive of HST for the Bruce Creek Crossing will be funded from the CWH 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 shall be payable on the credit and/or reimbursement.

Consistent with the City's Development Charge Credit and Reimbursement Policy, KM (AG SOUTH VILLAGE) LTD. and Metropia Minto (Sixteenth) Holdings Inc. 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, per infrastructure, is structured in the following manner:

- An application fee of \$1,802.00 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 \$12,012.00. For this application, the fee is \$12,012.00 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 KM (AG SOUTH VILLAGE) LTD. and Metropia Minto (Sixteenth) Holdings Inc.

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:

Mark Visser
Acting Treasurer

Frank Clarizio, P. Eng.
Director of Engineering

Trinela Cane
Commissioner, Corporate Services

Arvin Prasad, MCIP, RPP
Commissioner, Development Services

ATTACHMENTS:

Attachment 'A': DC Eligible Infrastructure – Trunk Sanitary Sewer

Attachment 'B': DC Eligible Infrastructure – Bruce Creek Crossing