



Report to: Development Services Committee

Meeting Date: December 12, 2023

SUBJECT: Authority to Provide Development Charges (DC) Credit and / or Reimbursement for the Construction of Rougeside Promenade from 100m east of Warden Avenue (west limits of the subdivision) to Verdale Crossing and for the Construction of Multi-Use Pathway (MUP) on Warden Avenue to 1771107 Ontario Inc. (Ward 3)

PREPARED BY: Mansoor Ali, Ext. 2523
Alex Lee, Ext. 2414
Kevin Ross, Ext. 2126

RECOMMENDATION:

1. That the report entitled “Authority to Provide Development Charges (DC) Credit and / or Reimbursement for the Construction of Rougeside Promenade from 100m east of Warden Avenue (west limits of the subdivision) to Verdale Crossing and for the Construction of Multi-Use Pathway (MUP) on Warden Avenue to 1771107 Ontario Inc. (Ward 3)” be received;
2. That Council authorize Development Charge Credits and / or Reimbursements not exceeding \$202,509.00 to 1771107 Ontario Inc. (“Times Group”) for the costs associated with the design, contract administration, construction, and maintenance until assumption, for the construction of Rougeside Promenade from 100m east of Warden Avenue to Verdale Crossing;
3. That Council authorize the following reimbursements to 1771107 Ontario Inc. (“Times Group”) related to the design, contract administration, construction, and maintenance until assumption, for the construction of MUP on Warden Avenue west of Block 1 and Block 5, adjacent to the Plan of Subdivision:
 - a. Development Charge Credits and/or Reimbursements not exceeding \$66,885.00 representing 65% of the costs associated with the construction of MUP on Warden Avenue, and;
 - b. Reimbursement not exceeding \$18,007.50 from the Community Benefit Charges Reserve representing 17.5% of the costs associated with the construction of the MUP on Warden Avenue, and;
 - c. Reimbursement not exceeding \$18,007.50 from the Non-DC Growth Reserve representing 17.5% of the costs associated with the construction of the MUP on Warden Avenue.
4. 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;

5. That the Mayor and Clerk be authorized to execute a Development Charge Credit and / or Reimbursement Agreement, if required, in accordance with the City's Development Charge Credit and Reimbursement Policy, with 1771107 Ontario Inc. or their successors in title to the satisfaction of the Treasurer and the City Solicitor, or their respective delegates;
6. 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
7. 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 a Development Charge Credit and/or Reimbursement Agreement, if required, with 1771107 Ontario Inc. who will be constructing the Rougeside Promenade from 100m east of Warden Avenue to Verdale Crossing and the MUP on Warden Avenue, west of Block 1 and Block 5, adjacent to the Plan of Subdivision.

PURPOSE:

The purpose of this report is to obtain Council authorization to grant City Wide Hard Development Charge Credits and/or Reimbursements and, reimbursement from the Community Benefits Charges (CBC) and Non-DC Growth Reserve to 1771107 Ontario Inc. not exceeding \$202,509.00 and \$102,900.00 respectively for the design, contract administration, and construction costs associated with the construction of a portion of Rougeside Promenade and the MUP on Warden Avenue as shown on a figure appended to this report as Attachments 'A' and 'B' respectively.

BACKGROUND:

- 1) 1771107 Ontario Inc. ("Times Group") has a development application (TEC 21 133313 003) for Phase 3 of their construction that is currently in progress. A Pre-servicing agreement was executed on October 14, 2022 and those works are on-going at this time. The City is also currently preparing a Subdivision Agreement which is anticipated to be finalized by the end of 2023.
- 2) As a part of Phase 3 subdivision, Times Group will be constructing a portion of Rougeside Promenade (200m), from 100m east of Warden Avenue (west limits of the subdivision) to Verdale Crossing and the MUP on Warden Avenue west of Block 1

and Block 5, adjacent to the Plan of Subdivision, as shown in Attachments 'A' and 'B' respectively.

- 3) Times Group has constructed Rougeside Promenade in Phases 1 and 2 from Verdale Crossing to future Sheridan Street, and were provided with City Wide Hard (CWH) DC credits for the 4th lane of Rougeside Promenade as per Council report dated August 13, 2015. Attached is a map (Attachment 'C') where credits were provided.
- 4) In the Council report dated August 13, 2015, a 42m length of Rougeside Promenade was also approved and a development charge (DC) credit of \$11,158.00 was to be provided to Times Group. However, this DC credit was not given because the works have not been constructed to-date. Subsequent to the approval of the credits, the DC Background Study was updated in 2022 and the value of the works was adjusted to reflect current costs. The Times Group has now agreed to construct the balance of Rougeside Promenade (approx. 191m up from the 42m that credits were previously approved for) and the City has consented to provide DC credits and/or reimbursement not exceeding the amount of \$202,509.00 as stated in the DC Background Study (DCBS) and which is subject to indexing as appropriate.
- 5) The portion of Rougeside Promenade to be constructed by Times Group in Phase 3 is eligible for CWH DC credits and / or reimbursement. The total capital cost of these works, as included in the 2022 DC Background Study, is \$202,509.00 and the Times Group is eligible for credit and/or reimbursement based on, the lesser of the actual cost of the works and the indexed capital cost included in the 2022 DC Background Study.
- 6) Rougeside Promenade (Phase 3) construction has been secured by the Pre-servicing / Subdivision agreements and the City currently has security (Letters of Credit) (\$2.66 M) for any outstanding works for Rougeside Promenade.

There is no net financial impact to the City for Rougeside Promenade, as DC credits and/or reimbursements are provided to developers in exchange for the construction of works on the City's behalf. These works are included in the DC Background Study and the process is in accordance with the City's DC Credit and Reimbursement Policy.

PREVIOUS REPORTS/AUTHORITY:

<https://pub-markham.escribemeetings.com/filestream.ashx?documentid=6361>

OPTIONS / DISCUSSION:

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 included in the 2022 DCBS or the actual cost of the infrastructure.

The 2022 DCBS established the estimated cost for the construction of the identified portion of Rougeside Promenade and the MUP on Warden Avenue as \$202,509.00 and \$102,900.00 respectively. The value of the works estimated and reflected in the 2022 DCBS, is shown in **Table 1**.

Infrastructure	Project Location	Costs in the 2022 DCBS	Non-DC	Total
Rougeside Promenade / Street C	100m east of Warden Avenue to Verdale Crossing	\$202,509.00	\$0.00	\$202,509.00
Multi Use Pathway (MUP) on Warden Avenue	west of Block 1 and Block 5	\$66,885.00	\$36,015.00	\$102,900.00
TOTAL		\$269,394.00	\$36,015.00	\$305,409.00

Table 1: Construction Costs related to Rougeside Promenade and MUP as Reflected in 2022 DCBS

The Times Group will be eligible for development charges reimbursement and/or credit to a maximum of the indexed amounts identified above, exclusive of HST and interest, for the design, construction, and maintenance until assumption of Rougeside Promenade and 65% of the MUP on Warden Avenue - the remaining 35% will be reimbursed from CBCs and the Non-DC Growth Reserve in equal amounts of 17.5% each. 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 cost of the MUP as included in the 2022 Development Charges Background Study is \$102,900.00 representing a length of 171.50m of which 65% (\$66,885.00) is reimbursable from development charges and 35% (\$36,015.00) from non-development charge sources.

Timing of Recommended DC Credits and/or Reimbursements

Once the Director of Engineering has confirmed that the DC eligible works have been completed to the City’s satisfaction, and the actual certified costs have been provided by

Times Group, the Engineering Department will review and sign off on the costs to ensure that they are reasonable. The DC credit and/or reimbursement to be provided will be the lesser of the actual cost and the indexed amount included in the 2022 Development Charges Background Study, as amended. The DC credits and/or reimbursements for Rougeside Promenade and MUP are to be issued to the Times Group.

The City may enter into DC credit and reimbursement 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 of 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 for Rougeside Promenade, as DC credits/reimbursements are provided to developers in exchange for the construction of works included in the City’s DCBS, in compliance with the Development Charge Credit and Reimbursement Policy.

There is a net financial impact of \$18,007.50 to the City for the MUP (portion of costs to be funded from non-DC Growth Reserve), as per the details provided below.

The total credit and/or reimbursement for the construction of the works will exclude HST and interest and be as follows:

- a) Development Charge credit and/or reimbursement from the City Wide Hard DCs for the lesser of the indexed amount of \$202,509.00 (100%) included in the 2022 DC Background Study or the actual cost for the construction of Rougeside Promenade.
- b) Development Charge Credits and/or Reimbursements from the City Wide Hard DCs for the lesser of the indexed amount of \$66,885.00 (65%) included in the DC Background Study or the actual cost of the construction of the MUP on Warden Avenue.
- c) Reimbursement not exceeding \$18,007.50 from the Community Benefit Charges Reserve representing 17.5% of the costs associated with the construction of the MUP on Warden Avenue.

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- d) Reimbursement not exceeding \$18,007.50 from the Non-DC Growth Reserve representing 17.5% of the costs associated with the construction of the MUP on Warden Avenue.

The reimbursements from the CBCs and Non-DC Growth Reserve will be indexed in the same manner as the amounts to be reimbursed from the DCs, if required.

The Engineering Department has reviewed the scope of the works and designs provided by the landowners to confirm that they meet the City's requirements. Consistent with the City's Development Charge Credit and Reimbursement Policy, the Times Group, 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 their development charge credit and/or reimbursement. The fee 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 these applications, the fee plus HST is payable upon credit and/or reimbursement of the approved amounts.

Other legal fees may be applicable upon execution of respective agreements between the City and Times Group.

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, Operations and Legal Services Departments have reviewed this report and their comments are incorporated.

RECOMMENDED BY:

Joseph Silva
Treasurer

Frank Clarizio, P. Eng.
Director of Engineering

Trinela Cane
Commissioner, Corporate Services

Arvin Prasad, MCIP, RPP
Commissioner, Development
Services

ATTACHMENTS:

Attachment 'A': Proposed Construction of Rougeside Promenade in Phase 3
Attachment 'B': Proposed Location of Multi-Use Pathway (MUP)
Attachment 'C': Rougeside Promenade Constructed in Phases 1 and 2