



Report to: General Committee

Report Date: May 24, 2011

SUBJECT: Development Charge Credit/Reimbursement Application –
Times Group Corporation
PREPARED BY: Kevin Ross, Ext 2126

RECOMMENDATION:

- 1) That the report entitled “Development Charge Credit/Reimbursement Application – Times Group Corporation” be received;
- 2) That Council authorize Area Specific Development Charge credits and reimbursement from Area Specific By-laws for areas 9, 42B-6 and 42B-8 not exceeding \$5,128,329, based on current estimates, to Times Group Corporation (O/A 1771107 Ontario Inc.) for land acquisition, as well as the contract administration, construction and warranty of a sanitary sewer along Highway 7 from Main Street, Unionville to Village Parkway;
- 3) That Council authorize the amount to be credited and reimbursed to Times Group Corporation (O/A 1771107 Ontario Inc.) be increased after the update of the Area Specific by-laws for areas 9, 42B-6 and 42B-8, to reflect the actual cost of the Highway 7 sanitary sewer which is currently estimated at \$6,238,025;
- 4) That Council authorize the reimbursement of \$486,982.82 to Times Group Corporation (O/A 1771107 Ontario Inc.) from Area Specific by-law 42B-6 for that portion of their area specific development charge payment relating to a stormwater management pond, which will no longer be built to service the area as defined in the Town’s Development Charge Background Study;
- 5) That Council authorize Town Wide Hard Development Charge credits for the lesser of \$1,691,260 (the amount included in the 2008 Development Charge Background Study) and the actual cost of the infrastructure (currently estimated at \$1,018,826) to Times Group Corporation (O/A 1771107 Ontario Inc.), for the design, property acquisition and construction of the 4th lane of Birchmount Road from Highway 7 to Riverside Drive, the intersection of Birchmount Road and Riverside Drive, the installation of street lighting enhancements and the environmental assessments for the Birchmount and Verclaire crossings;
- 6) That the Mayor and Clerk be authorized to execute a Development Charge Credit and Reimbursement Agreement, in accordance with the Town’s Development Charge Credit and Reimbursement Policy, with Times Group Corporation (O/A 1771107 Ontario Inc.) or their successors in title to the satisfaction of the Treasurer and Town Solicitor;
- 7) And that staff be directed to do all things necessary to give effect to this report.

EXECUTIVE SUMMARY:

Not applicable.

PURPOSE:

The purpose of this report is to obtain Council's authorization to grant Area Specific Development Charge credits/reimbursement and Town Wide Hard Development Charge credits to Times Group Corporation (O/A 1771107 Ontario Inc.). The requested credits and reimbursement relate to works that are included in the Area Specific (ASDC) and Town Wide Hard (TWH) Development Charge by-laws as follows:

1. ASDC – Highway 7 Sanitary Sewer
 - a) Land acquisition costs and the contract administration, construction and warranty cost of a sanitary sewer along Highway 7 from Main Street, Unionville to Village Parkway.
2. ASDC – Stormwater Management
 - a) Construction of an underground stormwater management facility instead of the stormwater management pond included in the by-laws.
3. TWH – Road Construction
 - a) The design and construction cost for the 4th lane of sections of Birchmount Road from Highway 7 to Riverside Drive.
 - b) The construction of the intersection at Birchmount Road and Riverside Drive.
 - c) Street lighting enhancements for Birchmount Road.
 - d) The land costs (i.e. right-of-way beyond 20.0m) related to sections of the 4th lane and the intersection as well as Environmental Assessment for the Birchmount and Verclaire crossings.

These works are necessary for Times Group Corporation to commence development of their lands located on the south east corner of Highway 7 and Warden Avenue.

BACKGROUND:

Times Group Corporation (hereafter referred to as “Times”) is currently in the process of having their subdivision agreement approved for the construction of the first phase of their development in Markham Centre. The first phase is proposed to include 190 large apartments and 390 small apartments along with an underground parking garage.

Times approached the Town requesting authorization to undertake the construction of the Highway 7 sanitary sewer from Main Street Unionville to Village Parkway, sections of Birchmount Road from Highway 7 to Riverside Drive along with enhanced street lighting, as well as, the intersection of Birchmount Road and Riverside Drive, subject to the Town providing development charge credits and reimbursement.

Below is a summary of the Development Charge (DC) credits/reimbursements recommended for the first phase of the Times development in Markham Centre.

Infrastructure	DC Category	Recommended DC Credits/ Reimbursements ¹	DC Credits/ Reimbursements in 1 st Phase	Future Credits	Future Reimbursements
1. Highway 7 Sanitary Sewer	Area Specific 42B-6, 42B-8, 9	\$5,128,329	\$660,418	\$2,621,712	\$1,846,198
2. Stormwater Management	Area Specific 42B-6	\$486,983	\$486,983	-	-
3. Birchmount Road Construction	Town Wide Hard	\$1,018,826	\$1,018,826	-	-
		\$6,634,138	\$2,166,227	\$2,621,712	\$1,846,198

1 - These are based on estimated costs. Credits will be based on the lesser of the amount included in the DC Background Study and the actual cost.

Times will receive ASDC credits of \$660,418 upon execution of their subdivision agreement (based on prior Council approval - see Appendix B referenced below), while the remaining \$1,505,809 (\$486,983 and \$1,018,826) currently being held in letters of credits, will be released upon Council approval.

1. **ASDC - Highway 7 Sanitary Sewer**

The Highway 7 sanitary sewer is required in order to facilitate additional development along the Highway 7 corridor from Warden Avenue eastwards to the vicinity of the Sheridan lands. The lands to the north of Highway 7 at Village Parkway have servicing allocation for about 700 residential units and Times is currently preparing to construct 580 units on their lands located on the south east corner of Highway 7 and Warden Avenue.

To service these new developments, the Town requires the new sanitary sewer which has been designed and sized to accommodate developments on both sides of Highway 7 (Appendix A). Staff have agreed to allow Times to finance and construct this portion of the sanitary sewer. The first phase was recently completed by the Town and runs north along Main Street Unionville to Highway 7.

Area Specific Credits – Sanitary Sewer Construction

Area Specific Development Charge (ASDC) by-laws for areas 9, 42B-6 and 42B-8 quantify the cost associated with the construction of the Highway 7 sanitary sewer, from Main Street Unionville to the Village Parkway and therefore determines the maximum amount of development charge credits and/or reimbursements that can be accessed for these works. In order to facilitate an early completion of these works and meet their development schedule, Times has proposed to up-front finance and construct the remaining Town-related works, in exchange for development charge credits and reimbursements. The Town is empowered to enter into credit 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.”

On September 21, 2010 Council endorsed in principle that the mechanism by which Times will be reimbursed for its costs incurred for the ORC land acquisition and the construction of the Highway 7 sanitary sewer would be through development charge credits and/or reimbursements (Appendix B). The credits and/or reimbursements are to be made from the current and future ASDC by-laws for areas 9, 42B-6 and 42B-8. The current ASDC by-laws were updated in 2008 however the cost and scope of the works have changed since then, as a result, Council also gave staff the approval (September 21, 2010) to update ASDC by-law numbers 9, 42B-6 and 42B-8 to include the updated cost of the infrastructure.

Based on the endorsement of Council, staff are in a position to grant ASDC credits/reimbursements to Times for the works along Highway 7 from Main Street, Unionville to Village Parkway.

As per the Town's Development Charge Credit and Reimbursement Policy, the ASDC credits/reimbursement will be limited to the lesser of \$5,128,329 (the amount included in the 2008 Background Study) and the actual cost of the infrastructure which is estimated by Times at \$6,238,025. The estimated reimbursement shortfall of \$1,109,696 (\$6,238,025 - \$5,128,329) will be adjusted if and when the current ASDC by-laws are updated within the next two years to include the updated cost of the works; this will enable Times to be compensated in full for their costs. Based on the allocation of the sanitary sewer cost (\$5,128,329) included in the current 2008 by-laws, Times will be eligible for ASDC credits of \$3,282,130 (\$660,418 upon execution of their subdivision agreement and \$2,621,712 when Times further develops their property) with the remaining \$1,846,199 to be recovered by way of ASDC reimbursement from areas 9 and 42B-8, when collected by the Town from other developers when future development occurs.

Breakdown of DC Credits/Reimbursement to Times

Area Specific	% Share of Works in ASDC	Developer's Cost Recovery	DC Credits/Reimbursement
ASDC 42B-6	64%	\$3,282,130	DC Credits (current & future)
ASDC 42B-8	16%	\$820,533	DC Reimbursement (upon Town collection)
ASDC 9	20%	\$1,025,666	DC Reimbursement (upon Town collection)
	100%	\$5,128,329	

Staff will recommend an update to the by-laws when all the relevant information is received regarding the new costs of the infrastructure required in the three ASDC's. The new by-laws will put Times in a position to recoup (either through reimbursements from future development or credits) its actual cost incurred, subject to it being no more than the cost included in the new DC Background Study.

The Town has secured these works to cover the warranty period through a construction agreement and Times will comply with all the Town's standards for construction.

2. ASDC Reimbursement – Stormwater Management

The land area included in the ASDC 42B-6 by-law is predominantly owned by Times and currently includes a stormwater management (SWM) pond required to service the area Times has proposed instead to build its own on-site SWM facility to service the entire area rather than drain to the planned SWM pond. The on-site SWM facility is an underground tank which does not qualify for DC credits; the estimated cost of construction is \$700,000.

The ASDC which Times will be paying for its first phase of development includes the cost of this SWM pond which will no longer be built to service the lands and therefore Times has requested reimbursement for this portion of the ASDC payment. Town staff agree that since Times will be supplying the SWM facility at their own cost, then that portion of the development charge which relates to the SWM pond can be reimbursed to Times. This amount represents 28% of the ASDC payment and totals \$486,982.82. When the new ASDC by-law for 42B-6 is enacted, the SWM pond will be removed

3. TWH – Road Construction

Birchmount Road and Intersection Construction

The Secondary Plan for Markham Centre and the 2008 DC Background Study, included the extension of Birchmount Road from 14th Avenue to Highway 7 which is required to service the expected growth in the community. The extension of Birchmount Road will traverse the Times property, and as such, the developer has proposed that they construct the portion of the extension from Highway 7 to Riverside Drive, in return for Town Wide Hard DC credits. The road will be required by the subdivision of 580 apartment units in the first phase of the development.

Town Wide Hard Credits

The Town Wide Hard (TWH) by-law quantified the cost associated with the property acquisition, design, contract administration and construction of the Birchmount Road extension in Markham Centre. In order to facilitate an early completion of these works, and meet their development schedule, Times has proposed to up-front finance and construct the road in exchange for TWH development charge credits for the 4th lane on that section of Birchmount Road from Highway 7 to Riverside Drive, the intersection of Birchmount Road and Riverside Drive and the installation of enhanced street lighting. The Town has agreed in principle to grant development charge credits which will be

limited to the lesser of \$1,691,260 (the amount included in the 2008 Background Study) and the actual cost of the works estimated to be \$1,018,826. The breakdown of the estimated costs is shown in the table below and includes property required for the construction of the road.

Summary of Birchmount Road Costs & Credits

Infrastructure	Details	Cost of Works		Developer's Cost Recovery
		Background Study (2008)	Developers Estimate	Recommended TWH Credits
<u>Roads</u>				
Birchmount Road 4th Lane	Highway 7 to Riverside Drive	\$179,437	\$75,129	\$75,129
<u>Property Acquisition</u>				
Birchmount Road, 6m ROW	Highway 7 to Rouge River	\$432,700	\$432,700	\$432,700
Birchmount Road, 3m ROW	Highway 7 to Rouge River	\$216,350	\$216,350	\$216,350
<u>Intersection</u>				
Riverside Drive	at Birchmount Road Extension	\$209,622	\$27,300	\$27,300
<u>Environmental Assessment</u>				
Birchmount Overpass	at Rouge River	\$331,800	\$146,368	\$146,368
Verclaire Overpass	at Rouge River	\$202,500	\$97,579	\$97,579
<u>Streetscaping</u>				
Birchmount Road	Highway 7 to Riverside Drive	\$118,851	\$23,400	\$23,400
		\$1,691,260	\$1,018,826	\$1,018,826

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

Town staff support this request for Town Wide Hard and Area Specific Development Charge credits, as well as Area Specific reimbursement, subject to the terms set out in the Development Charge Credit and Reimbursement Policy, including:

- Definition of the scope of the work and the responsibilities of the Owner.
- Deposit of financial securities to guarantee completion of the work and payment of any additional development charges owing.

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- Deposit of financial securities to guarantee completion of the work and payment of any additional development charges owing.
- Definition of credit and reimbursement amounts to be applied to the development.
- Identification of time schedules for various activities.

Financial Security

The Town will require security for these ASDC and TWH works to cover the warranty period and Times will comply with all the Town's standards for design and construction. The construction letter of credit will be held until the completion of the works, and if the DC credit granted exceeds the actual construction cost, the Town will draw the difference to cover any excess credit, as per the DC Credit and Reimbursement Policy.

FINANCIAL CONSIDERATIONS

There is no net financial impact to the Town. Development charge credits are provided to the developer in exchange for the construction of the works included in the Town's Development Charge by-law. Development charge reimbursements are done upon receipt of the funds and therefore no payment is done in advance of collection.

The Engineering Department has reviewed the scope and estimated cost of the works provided by Times and these are in alignment with the Town's expectations.

HUMAN RESOURCES CONSIDERATIONS:

Not applicable

ALIGNMENT WITH STRATEGIC PRIORITIES:

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

BUSINESS UNITS CONSULTED AND AFFECTED:

Finance, Engineering and Legal Services Departments.

RECOMMENDED BY:

16/06/2011

16/06/2011

X 

Joel Lustig
Treasurer

X 

Lisa Riegel
Acting Town Solicitor

16/06/2011

X 

Joel Lustig
Acting Commissioner, Corporate Services

ATTACHMENTS:

Appendix A – Highway 7 Sanitary Sewer

Appendix B – September 21, 2010 Council Resolution – Highway 7 Sanitary Sewers and
Stormwater Management