



Report to: General Committee

Date Report Authored: August 11, 2014

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**SUBJECT:** Development Charge Credit/Reimbursement Application –  
North Markham Avenue 7 Developers Group;  
1820266 Ontario Inc. and Unionville Development Corp.

**PREPARED BY:** Kevin Ross, Manager Development Finance, ext. 2126  
Eugene Chen, Capital Works Administrator, ext. 2451

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**RECOMMENDATION:**

- 1) That the report entitled “Development Charge Credit/Reimbursement Application – North Markham Avenue 7 Developers Group; 1820266 Ontario Inc. and Unionville Development Corp.” 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 \$4,777,701, to the North Markham Avenue 7 Developers Group for the construction of the Sheridan pond, Sheridan storm sewer, and Highway 7 storm sewer from Village Parkway east along Highway 7 to the Sheridan pond;
- 3) That the Mayor and Clerk be authorized to execute a Development Charge Credit and Reimbursement Agreement, in accordance with the City’s Development Charge Credit and Reimbursement Policy, with the North Markham Avenue 7 Developers Group, or their successors in title to the satisfaction of the Treasurer and City Solicitor;
- 4) That Council authorize Area Specific Development Charge credits and reimbursement from Area 9 not exceeding \$400,250, to 1820266 Ontario Inc. and Unionville Development Corp. for the construction of a roundabout on Village Parkway;
- 5) That Council authorize Area Specific Development Charge credits and reimbursement from Area 9 not exceeding \$44,553, to 1820266 Ontario Inc. and Unionville Development Corp. for the construction of a dedicated left turn lane on Village Parkway at Highway 7;
- 6) That Council authorize Area Specific Development Charge credits and reimbursement from Area 9 not exceeding \$206,409, to 1820266 Ontario Inc. and Unionville Development Corp. for the construction of dedicated bike lanes along Village Parkway;
- 7) That the Mayor and Clerk be authorized to execute a Development Charge Credit and Reimbursement Agreement, in accordance with the City’s Development Charge Credit and Reimbursement Policy, with 1820266 Ontario Inc. and Unionville Development Corp., or their successors in title, to the satisfaction of the Treasurer and City Solicitor;

- 8) And that the Development Charge credits and reimbursement be phased as outlined in this report;
- 9) That a By-law be passed to amend the Fee By-law 2002-276 to include a cost recovery fee applicable to each credit and/or reimbursement request to be charged for the Engineering, Legal and Finance Departments costs incurred relating to the preparation and administration of a Development Charge Credit and/or Reimbursement agreement. The fee, which is structured in the following manner, will be payable at the execution of a credit and/or reimbursement agreement or any other relevant agreement:
  - A minimum fee of \$1,500 to review a development charge credit and/or reimbursement request
  - A fee equivalent to 1.0% of the value of the public works, to a maximum of \$10,000
  - In instances where the City's costs to prepare and administer a credit and/or reimbursement agreement exceed the fee structure set out above, such fees shall be separately quantified and invoiced to the applicant;
- 10) 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 (ASDC) credits and reimbursement, in accordance with the City's Development Charge Credit and Reimbursement Policy, to the North Markham Avenue 7 Developers Group, as well as, 1820266 Ontario Inc. ("Times") and Unionville Development Corporation ("Lee"). The requested credits and reimbursement relate to works that are included in the ASDC by-laws as follows:

1. Sheridan Stormwater Management Pond – ASDC 9, 42B-6 and 42B-8
  - a) Design, construction and contract administration cost for the construction of the Sheridan pond.
  - b) Design, construction and contract administration cost for the Highway 7 storm sewer from Village Parkway east along Highway 7 to the Sheridan lands.
  - c) Design, construction and contract administration cost for the Sheridan storm sewer from the intersection of Highway 7, south to the Sheridan stormwater management pond.

*Credits and reimbursement for these works are being requested by the North Markham Avenue 7 Developers Group.*

2. Village Parkway Construction – ASDC 9
  - a) Design, contract administration and construction cost for a roundabout abutting the future development of Times and Lee.
  - b) Design, contract administration and construction cost for a southbound dedicated left turn lane at Highway 7.

- c) Design, contract administration and construction cost for dedicated bike lanes.

*Credits and reimbursement for these works are being requested by Times and Lee.*

As per the table below, the ASDC recovery for the Sheridan Stormwater Management pond is being requested and administered by the North Markham Avenue 7 Developers Group, while the Village Parkway construction is being requested and administered by Times and Lee.

Infrastructure	Included in ASDC by-law	Upfronting Developers	Developers Requesting DC Credit/Reimbursement
Sheridan Stormwater Management Pond	9, 42B-6, 42B-8	Times & Lee	North Markham Avenue 7 Developers Group
Village Parkway Construction	9	Times & Lee	Times and Lee

The works noted in (1) and (2) above are necessary for the landowners to commence development of their lands.

#### **BACKGROUND:**

Times and Lee own lands to the north of Highway 7 and east and west of Village Parkway within Area 9. There are owners within the area that have draft plan approval and servicing allocation that have been waiting for years to develop their lands, but did not have the financial resources to upfront the cost of the required infrastructure. These landowners along with Times and Lee, formed the North Markham Avenue 7 Developers Group (“Developers Group”) which provides the owners with the mechanism to share in the costs of the required infrastructure.

Times and Lee, in order to develop their lands, made the decision to upfront the cost of the Sheridan stormwater management (SWM) pond, as well as road works along Village Parkway; these costs are being shared 50/50. They approached the City and requested authorization to undertake the construction of the required works, subject to the provision of ASDC credits and reimbursement.

The landowners within the Developers Group agreed to share in the costs of the Sheridan SWM Pond, however no such agreement was made for the Village Parkway construction. As such, recoveries for the Sheridan SWM pond will be done through the Developers Group, whereas recoveries for the Village Parkway construction will, at this time, be made by Times and Lee. Having agreed to upfront the cost of the Village Parkway works, Times and Lee will undertake their own internal reconciliation of the credits/reimbursements to ensure equitable distribution in the cost recovery process.

The construction of the Highway 7 and Sheridan storm sewer, as well as the Sheridan pond, commenced in 2012 and are now completed. Preliminary acceptance of these works is anticipated in 2015. The SWM facility is required to service the lands in ASDC 9 to the

north of Highway 7, a small portion of the lands in ASDC 42B-6 and the future drainage areas in ASDC 42B-8 (Sciberras); as such the costs are shared across these three ASDCs.

Times and Lee have also substantially completed the construction of the infrastructure on Village Parkway which is required for their development to proceed, these include (1) the Village Parkway roundabout, (2) dedicated bike lanes and (3) a southbound dedicated left turn lane at Highway 7. These works are recoverable from ASDC 9 only as per OMB settlement.

The City 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.”*

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.

## OPTIONS/DISCUSSION:

### Sheridan Stormwater Management Facility

The cost of the Sheridan SWM facility was included in the 2013 Development Charges Background Study at a total cost of \$5,162,259 of which \$4,777,701 is to be recovered through the ASDC by-laws and the remaining \$384,558 to be funded by the Region of York.

The SWM costs are apportioned into three segments, (1) the Sheridan pond construction, (2) Sheridan storm sewer (from Highway 7 south to the pond) and (3) the Highway 7 storm sewer (from Village Parkway east along Highway 7 to the Sheridan lands). The costs included in the 2013 DC Background Study are further apportioned to the three benefitting areas – these are ASDC 9, 42B-6 and 42B-8. The location of the works is shown in Appendix A and the cost breakdown is summarized in the table below.

Cost in 2013 Development Charge Background Study										
Infrastructure	Total Gross Cost	ASDC 9		ASDC 42B.6		ASDC 42B.8		Total ASDC Cost		Region of York
Sheridan Pond Construction	\$1,541,949	\$1,035,118	67%	\$ 9,922	1%	\$ 352,522	23%	\$ 1,397,562	91%	\$144,387 9%
Sheridan Storm Sewer	\$1,896,080	\$1,764,259	93%	\$32,682	2%	\$ 32,481	2%	\$ 1,829,422	97%	\$ 66,658 3%
Highway 7 Storm Sewer	\$1,724,230	\$1,550,717	90%	\$ -		\$ -		\$ 1,550,717	90%	\$173,513 10%
	<b>\$5,162,259</b>	<b>\$4,350,094</b>		<b>\$42,604</b>		<b>\$ 385,003</b>		<b>\$ 4,777,701</b>		<b>\$384,558</b>

Times and Lee will be eligible for DC credits when they develop their lands and, will receive reimbursements over time (as and when received by the City) from the other benefitting landowners, through the Developers Group.

The construction of the SWM facility was completed in the fall of 2013 and the Developers Group applied to the City for development charge credits and/or reimbursements to cover the cost of the works; they are claiming for costs of \$4,761,414 (excluding the Regional portion).

As per the City's Development Charge (DC) Credit and Reimbursement Policy, the ASDC credits/reimbursement will be limited to the lesser of the amount included in the 2013 DC Background Study and the actual cost of the infrastructure (exclusive of the Regional portion). As the cost of the works are apportioned into three segments, the eligible credits will be assessed based on these individual costs, and credits and/or reimbursements will be recommended for the lesser of the actual cost and the amount included in the 2013 DC Background Study.

Staff assessed the claim by each segment of the works and this resulted in the recommended credits being reduced to \$4,708,422, as the estimated construction cost for the Sheridan pond exceeds that included in the 2013 DC Background Study. The table below shows the cost by segment and the recommended ASDC credits totalling \$4,708,422 in compliance with the City's DC Credit and Reimbursement Policy.

		Cost in 2013 DC Background Study				
Infrastructure	Details	Total Gross Cost	% in ASDC	City Portion in ASDC	Developers Cost Estimate (City Portion)	Recommended ASDC Credits
Sheridan Pond Construction		\$ 1,541,949	91%	\$ 1,397,562	\$1,450,554	\$1,397,562
Sheridan Storm Sewer	Highway 7 to Sheridan Pond	\$ 1,896,080	97%	\$ 1,829,422	\$1,781,309	\$1,781,309
Highway 7 Storm Sewer	Village Parkway to East of Street G	\$ 1,724,230	90%	\$ 1,550,717	\$1,529,551	\$1,529,551
		\$5,162,259		\$4,777,701	\$4,761,414	\$4,708,422

The credits and reimbursements for each of the segments will be apportioned across the three ASDC areas based on the percentage allocation in the 2013 DC Background Study as shown in the first table above.

#### Village Parkway Construction

The Village Parkway construction cost is being upfronted by Times and Lee, both sharing in the cost of the works 50/50, with the intention of recovering these costs through DC credits and reimbursements. This cost recovery will not be done through a Developers Group (at this time), however, Times and Lee have committed to reconcile the credits and reimbursements and redistribute the recoveries between themselves as necessary to ensure equity in the absence of a Trustee. The City will reimburse any ASDC collections for these works 50/50, as and when received from other benefitting landowners, and will not be involved in determining appropriate cost recovery between the developers.

When the 2013 DC Background Study was undertaken, the construction of the Village Parkway was substantially complete and therefore the updated, tendered, costs were included in the approved Study. The works are all included in Area 9 of the ASDC by-laws and the

costs will be recovered in their entirety from this area. Appendix B shows the section of Village Parkway being constructed.

### **Roundabout**

The cost included in the 2013 DC Background Study for the Village Parkway roundabout is \$400,250 which is identical to the cost being claimed by Times and Lee. As per the DC Credit and Reimbursement Policy, the ASDC credits/reimbursement will be limited to the lesser of the amount in the 2013 DC Study and the actual cost. In this case, the two costs equate and therefore staff recommend a DC credit and/or reimbursement of \$400,250.

### **Dedicated Left Turn Lane**

The cost included in the 2013 DC Background Study for the Village Parkway southbound dedicated left turn lane at Highway 7 is \$44,553 which is identical to the cost being claimed by Times and Lee. As per the DC Credit and Reimbursement Policy, the ASDC credits/reimbursement will be limited to the lesser of the amount in the 2013 DC Study and the actual cost. In this case, the two costs equate and therefore staff recommend a DC credit and/or reimbursement of \$44,553.

### **Bike Lanes**

The cost included in the 2013 DC Background Study for the Village Parkway dedicated bike lanes is \$206,409 which is identical to the cost being claimed by Times and Lee. As per the DC Credit and Reimbursement Policy, the ASDC credits/reimbursement will be limited to the lesser of the amount in the 2013 DC Study and the actual cost. In this case, the two costs equate and therefore staff recommend a DC credit and/or reimbursement of \$206,409.

The upfront developers (Times and Lee), will be provided with ASDC credits for these works when they develop their properties. They will subsequently receive DC reimbursements, as and when, the other benefitting landowners in Area 9 proceed with their development. The table below summarizes the cost of the works and shows the staff recommended credits.

		Cost in 2013 DC Background Study ASDC 9			Developers Cost Estimate	Recommended ASDC Credits
Infrastructure	Details	Total Gross Cost	% in ASDC	ASDC Cost		
Village Parkway	Roundabout	\$ 400,250	100%	\$ 400,250	\$400,250	\$400,250
Village Parkway	Southbound Dedicated Left Turn Lane at Hwy 7	\$ 44,553	100%	\$ 44,553	\$44,553	\$44,553
Village Parkway	Dedicated Bike Lanes	\$ 206,409	100%	\$ 206,409	\$206,409	\$206,409
		\$651,212		\$651,212	\$651,212	\$651,212

As per the City's Development Charge (DC) Credit and Reimbursement Policy, the ASDC credits/reimbursement will be limited to the lesser of the amount included in the 2013 DC Background Study and the actual cost of the infrastructure. If the actual verified costs are determined to be less than the amount contained in the 2013 DC Background Study, the recommended credits above will be adjusted/reduced to reflect the actual cost, in conformance with the City's Policy.

City staff support this request for Area Specific Development Charge credits, as well as Area Specific reimbursement, subject to the terms set out in the DC 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.
- Definition of credit and reimbursement amounts to be applied to the development.

#### Financial Security

The City has secured for these ASDC works to cover the warranty period and Times and Lee's compliance with all the City's standards for design and construction under the Highway 7 SWM Facilities Construction Agreement dated September 6<sup>th</sup>, 2012 and the Village Parkway Construction Agreement dated July 11<sup>th</sup>, 2013. The construction letter of credit will be held until the completion of the works, and if the DC credits granted exceed the actual construction cost, the City 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 City. Development charge credits are provided to the developer in exchange for the construction of the works included in the City'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 cost of the works provided by Times and Lee and these are in alignment with the City's expectations.

The fees associated with a credit and/or reimbursement request were included in the DC Credit and Reimbursement Policy approved by Council on June 22, 2010 however, the Fee By-law was not updated to reflect these charges at that time. Staff are now undertaking the administrative process to include the fees appropriately in the City's Fee By-law 2002-276. These fees are a cost recovery applicable to each credit and/or reimbursement request to be charged for the Engineering, Legal and Finance Department's costs incurred relating to the preparation and administration of a DC Credit and/or Reimbursement agreement. The fee, which is structured in the following manner, will be payable at the execution of the credit and/or reimbursement agreement or any other relevant agreement:

- A minimum fee of \$1,500 to review a development charge credit and/or reimbursement request
- A fee equivalent to 1.0% of the value of the public works, to a maximum of \$10,000
- In instances where the City's costs to prepare and administer a credit and/or reimbursement agreement exceed the fee structure set out above, such fees shall be separately quantified and invoiced to the applicant.

**HUMAN RESOURCES CONSIDERATIONS:**

Not applicable

**ALIGNMENT WITH STRATEGIC PRIORITIES:**

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

**BUSINESS UNITS CONSULTED AND AFFECTED:**

The Legal Services Department has reviewed this report

**RECOMMENDED BY:**

04/09/2014

X 

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Mark Visser  
Acting Treasurer

10/09/2014

X 

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Alan Brown  
Director, Engineering

04/09/2014

X 

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Trinela Cane  
Commissioner, Corporate Services

11/09/2014

X 

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Jim Baird  
Commissioner, Development Services

**ATTACHMENTS:**

Appendix A – Sheridan Stormwater Management Pond

Appendix B – Village Parkway Construction