

**TAB: FINANCIAL MANAGEMENT**

**SECTION: REVENUE**

**SUBJECT: FRONT END FINANCING AGREEMENTS AND DEVELOPER REIMBURSEMENTS**

### **PURPOSE**

This policy provides Regional Staff with a consistent approach to evaluate proposals and enter into front end financing agreements between a developer(s) and the Region of Peel for the construction of regional infrastructure set out in the Development Charges By-law Background Study in effect at the time.

### **GENERAL**

A front end financing agreement refers to an agreement made to address situations where, prior to approval in principle of a development, a developer(s) requests permission to construct capital works financed initially by the developer(s), with subsequent reimbursement by the Region, to enable a proposed development to proceed at an earlier time than construction of the capital works in accordance with the Regional Capital Plan would normally allow.

### **SCOPE**

This policy applies to all Regional Staff entering into a front end financing agreements between a developer(s) and the Region of Peel for the construction of regional infrastructure. The Director, Corporate Finance is responsible to keep this policy up-to-date.

### **MANDATE**

This policy is delivered in accordance with:

- The Region of Peel's Strategic Plan: "*Directions for Success: Investing in Peel's Future.*" Goal 2: Assess and manage all aspects of growth that affect Peel. 2.3 Ensure that planned development and existing communities can be provided with Regional physical infrastructure where appropriate. 2.4. Optimize the use of existing and planned Regional infrastructure.
- Purchasing By-law 62-2001;and
- Development Charges By-law Background Study.

### **POLICY**

#### **1. Evaluation Criteria**

Regional Staff are to jointly use the following criteria in considering the appropriateness of entering into a front end financing agreement. If the criteria outlined below are satisfied Regional staff may make a recommendation to Regional Council for approval to enter into a front end financing agreement subject to any necessary conditions.

- a) The Region should be fully secured against financial risk resulting from a front ending financing agreement.

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- b) The front ended development must be a logical and reasonable extension of existing or draft approved development.
- c) The proponent of the front end financing agreement must demonstrate to the satisfaction of Regional Staff, in consultation with area municipalities and other agencies, how the proposed departure from the Capital Plan is in the public interest.
- d) Temporary infrastructure required to facilitate a proposed development will not be reimbursable.
- e) A front end financing agreement must apply to infrastructure identified in the approved Development Charges Background Study or to approved substitutions thereof. Substitutions for items in the Development Charges Background Study may be made, subject to technical and financial review and acceptance by Regional Staff.
- f) Proposals for front end financing agreements must be coordinated among the members of the affected development area. Where a front end finance agreement is required with multiple landowners, the Region will require such landowners to be represented by a trustee that would deal with the Region directly on their behalf.

However a landowner choosing not to participate in a front end financing agreement will not necessarily preclude the creation of a front end financing agreement between the Region and the participating developers, provided that the lands are not essential to the overall development of the area and the criteria outlined in 1(h) are satisfied.

- g) Any proposal for a front end financing agreement will be assessed on a region-wide basis. Appropriate servicing studies will be required to address the impact of the proposed development on the existing Regional infrastructure.
- h) To ensure financial feasibility, the development necessitating a front end financing proposal shall be of sufficient size such that development charges to be collected from the participating developers will recover a minimum 50% of the development charge infrastructure costs from the subject development (i.e. water, wastewater and roads).
- i) The developer(s) is required to provide a build-out schedule of development which outlines the projected issuance of building permits by year. This will be reviewed by the Region to assess the viability of a front end financing agreement. However the repayment will be on the basis of actual building permits issued, not the projected number of building permits.

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j) Should the approval of a Regional front end financing agreement result in the requirement to advance area municipal infrastructure, the developer(s) will make arrangements for same, satisfactory to the area municipality and provide confirmation of same to the Region of Peel prior to the Region of Peel entering into the front end financing agreement.

k) Other criteria as deemed appropriate by Regional Council.

**2. Conditions (for approved front end financing agreements)**

a) A developer is to assume all risks including those associated with any changes in provincial legislation specific to Development Charges when entering into front end financing agreements with the Region.

b) The transactional costs incurred by a developer(s) in connection with entering into a front end financing agreement shall not be reimbursable by the Region (e.g. legal, consultant, study fees, etc).

c) The full costs borne by the Region to consider the request for a front end financing agreements will be recoverable from the developer(s), including but not limited to the costs of legal services, consultants and studies required to prepare the agreement.

d) As per 2(c) all front end financing agreements will be subject to an administration fee as per the Regional Fees & Charges By-law, in addition to those fees outlined in the most current Development Process Manual.

e) The front ending agreement shall expressly disclaim the creation of any obligation of the Region to seek or facilitate any third party contribution, including any contribution to the front ending payment or to the financing of same.

f) Any out-of-period costs, which are defined as costs of infrastructure not provided for within the 10 Year Capital Plan period, will be borne by and the responsibility of the developer(s), without reimbursement.

g) The cost of all works required shall be fully secured to the Region's satisfaction.

h) Development Charges shall be payable in full in accordance with the applicable Development Charges By-Law. The front ending agreement shall expressly waive any entitlement to a credit under the Development Charges Act.

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- i) Once the front end financing agreement is executed, the affected subdivision application(s) may proceed to draft approval, subject to other requirements of the approval authority.
- j) All proposed infrastructure will be constructed to the satisfaction of the Region of Peel in accordance with the latest standards and specifications, applicable policies and approved engineering plans.
- k) The developer(s) is required to notify the Region when the conditions for repayment outlined in the front end financing agreements have been satisfied.
- l) Other conditions as deemed appropriate by Regional Council.

### **3. Developer Reimbursement**

- a) Staff is authorized to reimburse Development Charges works constructed by developers in accordance with front end financing agreements approved by Council, provided all conditions have been met.
- b) In order to address depreciation and the cost of early maintenance, front end financing repayments will not be indexed.
- c) Repayment occurs after the performance criteria outlined in the front end financing agreement has been met. This will include repayment tied to building permit issuance and any other performance standards outlined in the agreement.
- d) The repayment amount will be the lesser of the developer's total project costs, the costs anticipated by the Region of Peel in the applicable Development Charges Background Study, or costs calculated in accordance with market prices current at the time the work is performed, as adjusted to reflect site specific conditions, e.g. depth, soil conditions.
- e) The Region reserves the right to limit cumulative payments per calendar year in reimbursements to all participating developers to \$10,000,000 (Ten Million dollars) if necessary to protect the Regions cash flow in any particular year.

### **4. Exemption**

- a) Development Charges works approved by Council in the Capital Budget and which therefore do not require a front end financing agreement, are exempt from the requirements of the Purchasing By-law for works on developer(s) property. Regional Staff may deal

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directly with the developer to negotiate the final cost. Staff is not required to present a report to Council for repayment of the works.

- b) The following conditions must be met:
  - i. The negotiated cost is not to exceed the amount specified in the approved Capital Budget;
  - ii. The repayment amount will be the lesser of the developer's total project costs, the costs anticipated by the Region of Peel in the applicable Development Charges Background Study, or costs calculated in accordance with market prices current at the time the work is performed, as adjusted to reflect site specific conditions, e.g. depth, soil conditions;
  - iii. The developers shall expressly waive entitlement to development charge credits arising from its provision of the reimbursable Development Charges works; and
  - iv. All criteria set out in *Purchasing By-law 62-2001* as amended.

**5. Implementation and Evaluation**

- a) This policy will be reviewed as required by Regional Staff and if updates are warranted those updates will be approved by the Chief Administrative Officer and the Commissioners of Finance, Public Works and Planning.

**SOURCE:** Resolution 2003-1056  
**LAST REVIEWED:** October, 2003  
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