
REPORT TITLE: **Development Charges Credit Agreement for the Square One Drive Watermain Extension**

FROM: Kealy Dedman, Commissioner of Public Works

RECOMMENDATION

- 1. That the Commissioner of Public Works be delegated the authority to enter into and execute a Development Charges Credit Agreement between The Regional Municipality of Peel (the “Region”), Amacon Development (City Centre) Corp. (“Amacon”) and the Corporation of the City of Mississauga (the “City”) for watermain construction works performed by Amacon, on business terms satisfactory to the Commissioner of Public Works and on legal terms satisfactory to the Regional Solicitor; and**
- 2. That the Chief Financial Officer and Commissioner of Corporate Services be delegated the authority to enter into and execute agreements, pursuant to Section 27 of the *Development Charges Act, 1997, S.O. 1997, c. 27* providing for the payment of all or any part of the development charges that is subject to the aforementioned Development Charge Credit agreement before or after it would otherwise be payable by Amacon for the mixed use development undertaken by Amacon on the lands comprising Block 1E in compliance with the City’s zoning by-law and official plan and site plan application SP 18-149, on business terms and conditions satisfactory to the Chief Financial Officer in his or her discretion and on legal terms satisfactory to the Regional Solicitor.**

REPORT HIGHLIGHTS

- The City of Mississauga is leading a project for the extension of Square One Drive from Confederation Parkway to Rathburn Road West. As part of the new road construction, a watermain is to be installed along the road extension.
 - Amacon has expressed an interest to construct the City’s road and the Region’s watermain abutting Amacon’s lands for their current mixed use residential high rise and at-grade retail/commercial development.
 - The watermain infrastructure fronting their lands will initially be built at Amacon’s cost, with Amacon receiving the credits towards development charges as compensation.
 - Regional Council approval is needed as the Region’s current Development Charges (DC) By-law does not delegate authority for Regional staff to execute a Development Charges Credit Agreement to give DC credits as compensation to Amacon for the works.
 - The *Development Charges Act* provides municipalities with the authority to give DC credits towards development charges for capital work performed by a developer.
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DISCUSSION

1. Background

The City of Mississauga is leading a project for the extension of Square One Drive from Confederation Parkway to Rathburn Road West on Appendix I, Figure 1. As part of this project, a watermain is to be installed along the road extension to connect the existing watermains within Confederation Parkway and Rathburn Road West. The City is managing the road design portion of the project with the Region overseeing the watermain portion of the works.

Regional funding for the design and construction of the watermain has been secured through the Region's approved Capital Budget and is within the Region's Water and Wastewater Plan to provide looping of the Region's water system to increase system security. Notwithstanding, the western half of the road extension cannot be tendered until plans and agreements related to the reconfiguration of an existing substation owned by Alectra are finalized. The details and timing for these works are currently being determined as part of ongoing discussions between Alectra and the City.

Amacon owns a number of properties within the Parkside Villages Master Plan including Block 1E (the subject lands) as well as Blocks 1W, 6 and 11 as shown on Appendix I Figure 2. The subject lands are located at the south-west corner of Confederation Parkway and the planned extension of Square One Drive, as shown on Appendix I Figure 3, and are being developed for a mixed use residential high rise and at-grade retail/commercial development – comprised of approximately 1,030 residential units within two towers (50 and 38 storeys) atop a four to nine storey podium, and approximately 3,849 m² of ground floor retail/commercial.

Amacon has expressed an interest in constructing the Region's watermain and part of the extension of Square One Drive from Confederation Parkway to approximately 130 metres (425 feet) westerly on behalf of the City and Region to allow them to continuously occupy the City's unopened road allowance for construction and staging purposes for their development. This will enable them to avoid potential construction conflicts and further control the timing of the construction to satisfy their building occupancy target dates and other development permit timelines.

Regional staff have determined that an initial phase of the road construction from Confederation Parkway to the western limit of Amacon's development site could move forward with Amacon being responsible for constructing the watermain to the Region's standards, which would include securing relevant permits and the procurement of construction services to the Region's satisfaction.

2. Development Charges Credit Agreement

Section 38 of the *Development Charges Act, 1997* provides municipalities with the authority to enter into an agreement to allow a person to perform work that relates to a service to which a development charge by-law relates in exchange for a credit toward the development charge. Amacon will be performing work to construct a section of the Region's watermain, which otherwise would fall under a class of services for which development charges are imposed on Amacon under this By-law. Amacon will then be receiving the agreed-upon DC credits towards development charges as compensation.

Development Charges Credit Agreement for the Square One Drive Watermain Extension

City of Mississauga Council passed motion 0182-2021 on September 29, 2021, which authorized City staff to enter into negotiations for a Development Charges Credit Agreement between the City of Mississauga, Amacon, and The Regional Municipality of Peel.

The Region's current Development Charge By-law 77-2020 does not delegate authority for Regional staff to enter into or execute a development charge credit agreement and Council approval is required accordingly. However, the Region's Finance Policy 40-06 Front End Financing Agreements and Developer Reimbursements (the "Policy") provides a framework for construction and development reimbursement of such works. According to the Policy these types of agreements enable a proposed development to proceed at an earlier time than construction of the capital works in accordance with what the Regional Capital Plan would normally allow. The Policy prescribes evaluation criteria and conditions for staff to consider the appropriateness of entering into a front-end financing agreement. The agreements for which this report seeks authority are consistent with the Region's Policy in that the negotiated cost is not to exceed the amount specified in the approved capital budget, the repayment amount will be the lesser of the developer's total costs, the costs anticipated by the Region of Peel in the applicable Development Charges Background Study, or the costs calculated in accordance with market prices current at the time the work is performed, as adjusted to reflect site specific conditions.

Should Council approve the recommendations of this report, the credit apportioned by the value of the construction of the Region's watermain would be applied to reduce the development charges payable by Amacon. DC credits granted to Amacon through the Development Charge Credit Agreement would be applied to the development charges imposed under the Region's DC By-law that is subject to the aforementioned Development Charge Credit Agreement for the proposed subsequent phase(s) of Amacon's development. To facilitate the implementation of the DC credits granted under the Development Charges Credit Agreement Regional staff recommend entering into development charge deferral agreement(s) as required to defer development charges subject to the aforementioned Development Charge Credit Agreement until final acceptance of the works to align with when the development charge credits are made available to Amacon.

RISK CONSIDERATIONS

With the adjustment for inflation built into the proposed estimate, staff have recommended that the Region pay the excess of Amacon's actual costs in excess of the estimated amount of \$413,100 only in the event that Amacon faces unexpected site conditions for their part of the watermain works. This contingency amount for unexpected site conditions would be reviewed internally by Regional staff with respect to the budget for the entirety of the Region's watermain project, and is anticipated by staff to be significantly less than the Region's entire watermain project amounts stated in the Region's Development Charge Background Study.

FINANCIAL IMPLICATIONS

The watermain infrastructure will initially be built at the developer's cost. Amacon will receive the agreed-upon credits towards development charges for the proposed subsequent phase(s) of its Parkside Village development. The Region's estimate for the Amacon portion of the works is approximately \$413,100, which includes an adjustment for inflation built in as recommended by Public Works.

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The available budget for the watermain extension on Square One Drive (#20-1119) is \$710,000. The portion being advanced by Amacon is approximately 50 per cent of the overall scope and with the potential escalation costs the proportionate amount is greater than allotted in the original budget, but it is in line with current pricing. If additional funds are required for the remaining 50 per cent of the scope, Public Works staff will request the funds through a later process.

The capital project has sufficient funding to carry out the report direction to provide authority for Amacon to carry out the works on behalf of the Region.

CONCLUSION

To manage the timing of their development project, Amacon has requested to construct a section of the Region's watermain in conjunction with the City's Square One Drive extension to which Regional staff has no objections as funding for this watermain has been accounted for through the Region's approved Capital budget. It is recommended that Council authorize Amacon to receive development charge credits to compensate for work performed on the Region's behalf in an acceptable manner consistent with relevant legislation and by-laws which will be captured in a Development Charges Credit Agreement. Furthermore, to facilitate the implementation of the DC credits granted under a Development Charges Credit Agreement, Regional staff recommend entering into development charge deferral agreement(s) as required to defer development charges until final acceptance of the works when the development charge credits are made available to Amacon.

APPENDICES

Appendix I - Location Maps

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Kealy Dedman, Commissioner of Public Works