

## Request for Decision

### Request for Development Charges Deferral by 1499545 Ontario Inc.

Presented To: Finance and  
Administration  
Committee

Presented: Tuesday, Jan 14, 2020

Report Date Tuesday, Dec 24, 2019

Type: Managers' Reports

### Resolution

THAT the City of Greater Sudbury approves a Development Charges Deferral Payment Agreement under Section 27 of the Development Charges Act with 1499545 Ontario Inc., as outlined in the report entitled "Request for Development Charges Deferral by 1499545 Ontario Inc.", from the General Manager of Corporate Services, presented at the Finance and Administration Committee meeting on January 14, 2020, for the proposed development at 150 Mumford Road in Lively, Ontario with an installment payment plan with first installment due before issuance of building permit and with five annual installments with annual compound interest charged on the outstanding balance of development charges owing at a 5% interest rate;

AND THAT the Executive Director of Finance, Assets and Fleet be authorized to execute and approve the Development Charges Deferral Payment Agreement with 1499545 Ontario Inc.;

AND THAT the Executive Director of Finance, Assets and Fleet be delegated authority relating to the Restriction on Transfer that would be registered on title, any postponement of mortgage, if required, or to remove from title before development charges are paid in full;

AND THAT the building permit will be issued in relation to the development charges once all conditions have been satisfied in terms of the first annual payment, restriction on transfer registered on title, receipt of letter of credit in the amount of the deferred development charges owing, and a signed Development Charges Deferral Payment Agreement;

AND THAT the City of Greater Sudbury directs staff to prepare a by-law to implement the recommended changes.

#### Signed By

**Report Prepared By**

Apryl Lukezic  
Co-ordinator of Budgets  
*Digitally Signed Dec 24, 19*

**Division Review**

Ed Stankiewicz  
Executive Director of Finance, Assets  
and Fleet  
*Digitally Signed Dec 27, 19*

**Financial Implications**

Apryl Lukezic  
Co-ordinator of Budgets  
*Digitally Signed Dec 24, 19*

**Recommended by the Department**

Kevin Fowke  
General Manager of Corporate  
Services  
*Digitally Signed Dec 24, 19*

**Recommended by the C.A.O.**

Ed Archer  
Chief Administrative Officer  
*Digitally Signed Dec 30, 19*

### Relationship to the Strategic Plan / Health Impact Assessment

This report relates to a request for a Development Charges Deferral Payment Agreement relating to the City's Development Charges By-Law 2019-100 as well as the Development Charges Act.

### **Report Summary**

This report responds to a request by the building permit applicant, 1499545 Ontario Inc, for a Section 27 Development Charges (DC) Deferral Payment Agreement in order to pay the development charges at a later time instead of in full at the building permit stage.

### **Financial Implications**

If approved, the development charges collected would be based on annual instalment payment plan with the first payment made before issuance of the building permit and with five annual instalments with annual compound interest charged on the outstanding balance of development charges owing at a 5% interest rate per year. As a result, the full amount of DC revenues would be unavailable to fund growth related projects until the funds are received.

## Report

1499545 Ontario Inc is proposing to use the property for industrial development on the property located at 150 Mumford Road in Lively, Ontario. The proposed square footage of this new building is expected to be 30,000 square feet and will result in development charges (DC) to be collected in the amount of \$88,800, per the DC rates as of July 1, 2019 with water and wastewater services. This amount may differ depending on the DC rates in effect when the building permit is issued.

As a result of the amount of DCs, the 1499545 Ontario Inc has requested consideration for a proposed development charge deferral payment agreement in accordance with Section 27 of the DC Act.

Section 27 of the DC Act states the following:

### *Agreement, early or late payment*

- (1) *"A municipality may enter into an agreement with a person who is required to pay a development charge providing for all or any part of a development charge to be paid before or after it would otherwise be payable".*

### *Amount of charge payable*

- (2) *The total amount of a development charge payable under an agreement under this section is the amount of the development charge that would be determined under the by-law on the day specified in the agreement or, if no such day is specified, at the earlier of,*
- a. the time the development charge or any part of it is payable under the agreement;*
  - b. the time the development charge would have been payable in the absence of the agreement.*

### *Interest on late payments*

- (3) *An agreement under this section may allow the municipality to charge interest, at a rate stipulated in the agreement, on that part of the development charge paid after it would otherwise be payable.*

Staff are presenting this request to Council for their consideration. If Council approves a DC deferral payment agreement with 1499545 Ontario Inc, then staff recommends the following conditions as part of the agreement:

a) Payment term.

DCs should be paid in six instalments with the first payment (without interest) due before issuance of building permit, and then the remaining balance over a five-year period. The remaining five annual payments (principal and interest) will be required to be paid before the annual anniversary date of when the building permit will be issued, as shown in Appendix A.

Recent Provincial legislation under Bill 138 has removed the development charges deferred payments for industrial and commercial buildings as a proposed change to the DC Act. As a result, deferred development charges will not be included in the DC Act for these types of developments. However, municipalities can authorize development charge deferral agreements on a specific development if they wish under Section 27 of the DC Act.

If Council would like to authorize a DC deferral agreement, then staff has recommended six payments as consistent with the proposed Bill 108 where DCs for industrial properties would be paid over six payments (which has since been removed), and staff is recommending that the first payment (without interest) be paid before issuance of building permit.

The amount owing will be based on the rates in effect on the date the building permit is issued and would not be reduced or eliminated if future DC rates change.

b) Interest rate.

Staff would apply an interest rate of 5%, in accordance with the City's Accounts Receivable Policy for DC deferrals, that would be compounded annually. Interest will be calculated based on the remaining balance owing of DCs each year and an amortization payment schedule will be provided to the applicant, similar to what is shown in Appendix A.

If the subsequent annual payments are not received before the specified dates in the agreement (building permit anniversary date), then additional interest would be charged on amounts in arrears (past due date) in accordance with the City's Accounts Receivable and Collection Policy and the Miscellaneous User Fee By-Law 2019-24 which is 1.25% per month or 15% per year. This represents interest from

overdue amounts and is separate from the interest within the deferral payment agreement.

c) Register a Restriction on Transfer on Title.

The applicant would be required to register a Restriction on Transfer on title to the property before execution of the agreement and before the issuance of the building permit. The restriction would prevent transfer without the consent of the City, ensuring that DCs are paid in full before the transfer can occur. The remaining payments would be accelerated and become due on sale or transfer of the property even if the five remaining years of the deferral agreement have not passed. Costs to register and de-register (after DCs owing paid in full) would be paid by the applicant.

d) Letter of Credit.

Staff is recommending that a letter of credit for the amount of DCs deferred, be received from the applicant before the building permit is issued. This will minimize risk to the City for any potential non-payment of DCs.

**Appendix A - Draft Amortization Payment Schedule**  
**Development Charge Deferral Payment Agreement -**  
**150 Mumford Drive, Lively, 1499545 Ontario Inc**

<b>Development Charges Amount</b>	<b>\$ 88,800.00</b>	<b>*</b>
<b>Less First Payment (no interest)</b>	<b>\$ (14,800.00)</b>	Year 1 - February 1, 2020
<b>Remaining Balance</b>	<b>\$ 74,000.00</b>	
<b>Payment (Annual)</b>	<b>\$17,092.14</b>	
<b>Compound Interest Rate</b>	<b>5.0%</b>	

<b>Date**</b>	<b>Remaining Principal</b>	<b>Payment</b>	<b>Interest</b>	<b>Principal</b>
Year 2 - February 1, 2021	\$ 74,000	\$ 17,092	\$ 3,700	\$ 13,392
Year 3 - February 1, 2022	\$ 60,608	\$ 17,092	\$ 3,030	\$ 14,062
Year 4 - February 1, 2023	\$ 46,546	\$ 17,092	\$ 2,327	\$ 14,765
Year 5 - February 1, 2024	\$ 31,782	\$ 17,092	\$ 1,589	\$ 15,503
Year 6 - February 1, 2025	\$ 16,279	\$ 17,092	\$ 813	\$ 16,279
		\$ 85,460	\$ 11,460	\$ 74,000

\* Based on DC rates in effect as of July 1, 2019 for proposed 30,000 square feet building at \$2.96 per square foot. This amount may change depending on the rates in effect when the building permit is issued, if subsequent to June 30, 2020.

\*\* For illustrative purposes, a date of February 1, 2020 is assumed for issuance of the building permit. The payment dates for the amortization payment schedule will be updated based on the annual anniversary dates of when the building permit is issued.