

## Request for Decision

### Development Charges Deferred Payment Request - 400 Second Avenue, Sudbury

Presented To: Finance and  
Administration  
Committee

Presented: Tuesday, Sep 17, 2019

Report Date Friday, Aug 23, 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 2166069 Ontario Inc for the proposed development at 400 Second Avenue in Sudbury with an instalment payment plan, the first instalment being due before issuance of a building permit with five annual instalments and interest to be charged on the outstanding balance of development charges owing at a 5% interest rate per annum, as outlined in the report entitled "Development Charges Deferred Payment Request - 400 Second Avenue, Sudbury", from the General Manager of Corporate Services, presented at the Finance and Administration Committee meeting on September 17, 2019;

AND THAT the Executive Director of Finance, Assets and Fleet be authorized to execute and approve the Development Charges Deferral Payment Agreement with 2166069 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 first annual payment, restriction on transfer registered on title, and a signed Development Charges Deferral Payment Agreement;

AND that the appropriate by-law be prepared.

### Signed By

#### Report Prepared By

Apryl Lukezic  
Co-ordinator of Budgets  
*Digitally Signed Aug 23, 19*

#### Manager Review

Jim Lister  
Manager of Financial Planning and  
Budgeting  
*Digitally Signed Aug 23, 19*

#### Division Review

Ed Stankiewicz  
Executive Director of Finance, Assets  
and Fleet  
*Digitally Signed Aug 23, 19*

#### Financial Implications

Jim Lister  
Manager of Financial Planning and  
Budgeting  
*Digitally Signed Aug 23, 19*

#### Recommended by the Department

Kevin Fowke  
General Manager of Corporate  
Services  
*Digitally Signed Aug 26, 19*

#### Recommended by the C.A.O.

Ed Archer  
Chief Administrative Officer  
*Digitally Signed Aug 27, 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, 2166069 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 to be made before issuance of the building permit and with five annual instalments with 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

2166069 Ontario Inc is proposing a retirement residence development on the property located at 400 Second Avenue in Sudbury. The proposed development will have 137 apartments (units) and will result in development charges (DC) to be collected in the amount of \$1,401,099 based on 137 units at \$10,227 per unit, per the DC rates as of July 1, 2019. This amount may differ depending on the DC rates in effect when the building permit is issued, if subsequent to July 1, 2020.

As a result of the amount of DCs, 2166069 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 2166069 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 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. The six payments are recommended as consistent with Bill 108 (when enacted at a future date) where DCs for rental housing would be paid over six payments, which 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% per year, in accordance with the City's Accounts Receivable Policy for DC deferrals. 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 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.

**Appendix A - Draft Amortization Payment Schedule  
Development Charge Deferral Payment Agreement -  
400 Second Avenue Sudbury, 2166069 Ontario Inc**

<b>Development Charges Amount</b>	\$ 1,401,099.00 *
<b>Less First Payment (no interest)</b>	\$ (233,516.50) Year 1 - October 1, 2019
<b>Remaining Balance</b>	<u>\$ 1,167,582.50</u>
<b>Payment (Annual)</b>	\$269,682.13
<b>Compound Interest Rate</b>	5.0%

<b>Date**</b>	<b>Remaining Principal</b>	<b>Payment</b>	<b>Interest</b>	<b>Principal</b>
Year 2 - October 1, 2020	\$ 1,167,583	\$ 269,682	\$ 58,379	\$ 211,303
Year 3 - October 1, 2021	\$ 956,280	\$ 269,682	\$ 47,814	\$ 221,868
Year 4 - October 1, 2022	\$ 734,412	\$ 269,682	\$ 36,721	\$ 232,961
Year 5 - October 1, 2023	\$ 501,450	\$ 269,682	\$ 25,073	\$ 244,609
Year 6 - October 1, 2024	\$ 256,841	\$ 269,682	\$ 12,842	\$ 256,840
		\$ 1,348,410	\$ 180,828	\$ 1,167,582

\* Based on DC rates in effect as of July 1, 2019 for 137 units at \$10,227 per unit. This amount may change depending on the rates in effect when the building permit is issued, if subsequent to July 1, 2020.

\*\* For illustrative purposes, a date of October 1, 2019 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.