

Committee of the Whole (1) Report

DATE: Tuesday, November 28, 2023

WARD(S): ALL

TITLE: AGREEMENT TEMPLATE MODERNIZATION AND PROCESS REVIEW

FROM:

Vince Musacchio, Deputy City Manager, Infrastructure Development
Wendy Law, Deputy City Manager, Legal and Administrative Services & City Solicitor

ACTION: DECISION

Purpose

For Council to approve an updated development agreement framework.

Report Highlights

- Development Engineering and Legal Services Departments have undertaken the Agreement Template Modernization and Process Review Project, which involved a review of the City's standard agreement templates and permits to determine operational efficiencies while respecting the needs of the City, development community and applicable legislation.
- The existing templates for Spine Servicing, Subdivision and Development Agreements and Encroachment permit have been updated.
- New Pre-Servicing Agreement and Front Ending Agreement templates have been developed to enable options to secure municipal works.
- Updated authority is proposed for staff to approve and execute these development agreements, subject to Council's draft approval of the applicable development application.

Recommendations

1. THAT Council endorse the framework as outlined in this report, including implementation of the updated standard Development Agreement templates effective January 1, 2024;

2. THAT Council delegate authority to staff to approve and execute development agreements and other related matters as more specifically set out in Attachment 3;
3. THAT Council repeal the existing delegations in By-law 005-2018 related to the matters in the updated delegated authority as provided in Attachment 3;
4. THAT Schedule “A” of By-law 144-2018 be amended to transfer the authority currently delegated to the City Solicitor under the heading “Real Estate” to the Deputy City Manager, Infrastructure Development and to include the condition / requirement that agreements are to be in a form satisfactory to Legal Services; and
5. THAT all necessary bylaws be enacted to implement the foregoing recommendations.

Background

When City Council approves a development application, included among the standard conditions of development approval is the requirement for the developer to enter into certain agreements. These agreements are essential to responsible City Building and are used by the City to ensure that development proceeds in accordance with the conditions of draft approval issued by City Council. The agreements ensure appropriate municipal infrastructure are installed in accordance with the City’s and all applicable legal and statutory requirements.

In the City of Vaughan, the Development Engineering Department is responsible for the preparation of the following agreements:

- **Subdivision agreements**, which allow for the creation of lots and/or blocks on a parcel of land as well as land conveyance to the Municipality or other affected stakeholders and provides the mechanism to construct, secure financially and assume municipal infrastructure.
- **Spine servicing agreements**, which essentially allows for a larger developing block and its respective landowners to proceed with installing vital infrastructure which benefits multiple owners and allows for a cost sharing mechanism amongst them to facilitate the development of their lands in a well-planned manner that is fair and equitable.
- **Development agreements**, which allow for construction and installation of infrastructure, external to the site, required to support a site development, and

- **Encroachment Permits**, which allows applicants to occupy the city right of way to allow for encroachment of materials, equipment, hoarding, tiebacks and the general staging of works.

Attachment 1 provides a description and rationale for each of these agreements, as well as the new Pre-Servicing and Front Ending Agreements that are proposed to be added as detailed below in this report (the “**Development Agreements**”). We note that the City does produce other forms of land development agreements, such as condominium and site plan agreements, which are under the purview of Planning and Growth Management and are outside the scope of this report.

The last time the City completed a review of its standard Development Agreement templates was in 2002. The City's urban structure has significantly evolved since 2002 and development has shifted from low to high-rise buildings since that time. Given this, Development Engineering, in coordination with Legal Services, recently undertook the Agreement Template Modernization and Process Review Project. The Agreement Template Modernization and Process Review Project has involved a review of the existing standard agreement templates and the agreement process, with a view to reducing agreement turn-around time and to ensure that the City's agreements/permits meet the needs of the City, development community and applicable legislation.

More specifically, staff have completed the following as part of this project:

- **Agreement Process Review** – reviewed the agreement process starting from approval of a planning application to the registration of the agreements (Spine Servicing, Subdivision, Development) and M-Plan (for draft plan of subdivisions). The process review also identified ways to improve processing time and create other operational efficiencies.
- **Standard Agreement and Permit Template Review** – reviewed, updated and modernized the City's standard agreement templates within the purview of the City's Development Engineering Department (Spine Servicing, Subdivision, Development Agreements and Encroachment Permit).
- **Other Enhancements** – identified enhancements, such as additional agreement templates that can be used to facilitate various aspect of the development process, and the potential for the implementation of a by-law under section 34(5) of the *Planning Act* to restrict development before municipal services are in place and building permits issued.

Previous Reports/Authority

[By-laws - 005-2018.pdf - All Documents \(sharepoint.com\)](#)

Analysis and Options

A. Proposed Improvements to Development Agreements and Process

Development Engineering and Legal Services Departments, in consultation with other internal and external stakeholders, have completed the following:

(1) Updated Standard Agreement and Permit Templates

Staff have reviewed, updated and modernized the Development Agreements to create an agreement structure that places all standard provisions in the main body of the agreement. For example, all technical and site-specific requirements and conditions are organized within clearly identifiable schedules. The changes also include a new definitions section, new and revised schedules, revised insurance and indemnity provisions, clearer identification of the City's requirements prior to registration of the Plan of Subdivision, and improved readability of the agreements. A summary of the changes to the standard subdivision agreement template (which are also applicable and carried through the balance of the templates) is found in **Attachment 2**. Development Engineering plans to implement the new templates as of January 1, 2024, following council approval.

As a result of these changes, the body of the new standard agreements will no longer require review or modification, and staff will focus only on schedules which will be populated based on the nature of the specific application. It is expected that this structural re-alignment of the templates will not only improve internal processing times but will also make agreement preparation and review easier for the development community and the City.

The new subdivision agreement template has also been modified to include provisions for greenfield and high-rise developments, reducing the time City staff current take to customize agreements for each respective development.

(2) New Pre-Servicing Agreement

Pre-Servicing Agreements are typically used by municipalities to advance certain aspects of construction (such as installation of water, sanitary and storm sewers and open roadways) pending final execution of subdivision/development agreement(s). The City currently allows for some pre-servicing to be completed as part of the road occupancy permit, referred to as a pre-development permit.

As part of this project, Staff identified the need for a more robust Pre-Servicing Agreement Template that will allow construction of municipal infrastructure to be advanced during the subdivision/development agreement preparation, so that development can progress at an earlier stage while the City and developer continue to work on satisfying all of the necessary conditions of development as approved by Council.

The new Pre-Servicing Agreement template would replace the current pre-servicing development permit.

(3) New Front Ending Agreement

The City currently offers the development community options of utilizing a Spine Servicing Agreement when a developer group wish to install local services and/or municipal services eligible for development charge credits under the Development Charges Act (“*DCA*”). The City uses the Spine Servicing Agreement to assist developer groups: (i) by committing to use reasonable efforts to collect reimbursement of local services costs from non-participating benefiting owners to the developer group; and (ii) by recovering *DCA* eligible service costs from non-participating owners pursuant to section 38 of the *Act*.

As part of this project, Staff identified an opportunity to offer an additional option to our development community to assist in the recovery of *DCA* eligible services costs from non-participating owners available through a Front Ending Agreement in accordance with section 44 of the *DCA*. This Front Ending Agreement would assist developers wishing to advance DC eligible infrastructure which benefit their own and surrounding lands, by providing protections to developer(s) through a statutory process that ensures future recovery of costs from benefiting landowners.

Staff are proposing to introduce the Front Ending Agreement as an **option** for the development community. The City will, however, continue to offer the development community the option and ability to address Development Charge reimbursement through Spine Servicing, Subdivision and Development Agreements pursuant to section 38 of the *Development Charges Act*.

Based on recent benchmarking, several other municipalities offer Front Ending Agreements as an option for their development community, including Ottawa, Hamilton, Aurora, and Whitby.

(4) Proposed Municipal Servicing By-law

Staff recommend Council consider enacting a by-law pursuant to Section 34(5) of the *Planning Act* to ensure that municipal services are in place prior to building permits being issued. More specifically, section 34(5) of the *Planning Act* permits a municipality to pass a zoning by-law to “prohibit the use of land or the erection or use of buildings or structures unless such municipal services as may be set out in the by-law are available

to service the land, buildings or structures, as the case may be.” Other municipalities, such as the City of Mississauga and the City of Markham have enacted such by-laws.

Staff will bring forward a report on the enactment of such a by-law at a future public meeting under section 34 of the *Planning Act*.

(5) Delegated Authority

In 2021 the Development Engineering Department moved from the Planning and Growth Management (PGM) to the Infrastructure Development, however, certain existing delegated authority with respect to the Development Agreements currently remains with PGM. More specifically, under By-Law 005-2018, the approval of the final Development Agreement is still delegated to the Deputy City Manager of Planning and Growth Management. Staff are proposing to transfer this delegated authority to the Deputy City Manager of Infrastructure Development to reflect the organizational structure change noted above.

In addition, as part of Staff’s review of the Development Agreement process, one area of efficiency was identified relating to the execution of these agreements. More specifically, the process of preparing a Development Agreement only commences after City Council has approved a development application and any necessary conditions (which typically include the requirement for a development agreement). After the agreements are prepared and approved by staff they currently proceed to the Clerk and Mayor for signature. Staff recommend that this final step of agreement execution be delegated to the applicable Deputy City Manager, whose department has prepared and is most familiar with the development agreement and is able to confirm the necessary City requirements and Council approved conditions have been satisfied and/or included in the agreements. A copy of the proposed updated delegations for development agreements can be found at **Attachment 3**.

Based on recent benchmarking, several other municipalities have similarly delegated authority to execute development agreements to staff, including Mississauga, Brampton, Aurora and Newmarket.

Staff also recommend a housekeeping amendment to By-law 144-2018 to transfer the existing authority in relation to real estate matters from the City Solicitor to the Deputy City Manager, Infrastructure Development, to reflect the transfer of the Real Estate Department from Legal Services to Infrastructure Development in 2019.

B. Anticipated Impact of Improvements

Staff anticipate that the improvements identified above will:

- improve development agreement processing time, by shortening the duration of staff agreement preparation;

- result in more efficient use of existing resources, by increasing staff capacity to deliver core department services;
- creating simple-to-read Development Agreements and permits;
- ensuring Development Agreements and permits comply with current policies and legislation and clear references to statutory authority.

C. Stakeholder Engagement

In addition to extensive internal consultation with various City departments who are engaged as part of the development agreement process, Staff also conducted a stakeholder engagement session with the development community reaching out to the Building Industry and Land Development Association (BILD) through the City's Development Liaison Committee group (which consist of developers, builders and consultants).

At the Development Liaison Committee meeting held on September 29, 2023, Staff presented the City's approach to improving agreement processes and outlined the improvements and changes proposed to the City's Development Agreements templates. The City has addressed all comments received from the Development Liaison Committee members to date.

In addition, City Staff have advised the Committee members of the intention for ongoing consultation with the development community and that any further comments or recommendations they may have with respect to the Development Agreements and process will be addressed as part of Phase II of this project.

D. Agreement Modernization Phase II

Staff have identified the need for further enhancements to the development agreement process, which flow from the work which has been completed to date as outlined above. More specifically, as part of a Phase II of this project Staff will continue to investigate further efficiencies to the preparation of Development Agreements, including in particular the potential to introduce software designed to automate and improve the intake and agreement circulation process. In addition, staff will continue to receive and review any requested changes the community may have with respect to the City's Development Agreement Templates.

City staff will continue to work with the development community and schedule discussions as necessary to ensure that further improvements can continue to be made as part of the second phase of this project.

Financial Impact

There are no requirements for new funding associated with this report.

Operational Impact

The proposed agreement templates have been prepared in consultation with the internal and external stakeholders.

Broader Regional Impacts/Considerations

N/A

Conclusion

City staff have recently completed the updating and modernization of Development Agreements within the purview of the Development Engineering Department, as well as a review of the Development Agreement preparation and circulation process, with a view of identifying ways to improve efficiencies and ensure that the Development Agreements meet the needs of the City, development community and conform with applicable legislation. Staff recommend the framework outlined in this report on the updated Development Agreements process and other housekeeping amendments to existing authority. City Staff plan to implement the new templates as of January 1, 2024 following council approval.

For more information, please contact: Frank Suppa, Director, Development Engineering, Ext. 8255.

Attachments

1. Summary of Development Agreements under the purview of the Development Engineering Department.
2. Summary of Improvements to Subdivision Agreement Template.
3. Proposed Updated Delegations.

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