

Date: October 26, 2021	Originator's files: EC.08.DUN
To: Chair and Members of General Committee	
From: Geoff Wright, P.Eng, MBA, Commissioner of Transportation and Works	Meeting date: November 17, 2021

Subject

Indemnity Agreement for 2688 Dundas Street West (Ward 2)

Recommendation

That a by-law be enacted authorizing the Commissioner of Transportation and Works and the City Clerk to execute and affix the corporate seal to an Indemnity Agreement, and subsequent amending agreements and/or ancillary documents, between the City of Mississauga, the Region of Peel and 1515422 Ontario Inc., as owner of 2688 Dundas Street West, to permit 1515422 Ontario Inc. to undertake investigative and remedial work for addressing petroleum hydrocarbon impacts in soil and groundwater within the City of Mississauga's road allowance (Dundas Street West) and to indemnify the City of Mississauga against any potential related costs or claims in form and content satisfactory to the City Solicitor.

Background

The subject property is located at 2688 Dundas Street West (the "Site"), illustrated in Appendix 1, and is owned and operated by 1515422 Ontario Inc. ("the Owner"). The Site has been operating as a service station since the mid 1970s.

In June 2015, in preparation for site redevelopment activities, the Owner undertook environmental investigations and petroleum-related contamination was discovered in soil and groundwater that exceeded applicable criteria both on the service station site and on the adjacent municipal road allowances, namely Dundas Street West (owned by the City of Mississauga) and Winston Churchill Boulevard (owned by the Region of Peel). Specifically, concentrations of several petroleum-related chemical parameters were detected in groundwater that exceeded the Ministry of the Environment, Conservation and Parks' 2011 applicable Site Condition Standards within these municipal road allowances.

The Owner subsequently duly notified the Technical Standards and Safety Authority ("TSSA"), the City and the Region regarding the presence of on-site and off-site contaminants originating from the Site.

As a result of the identified contamination, the Owner is obligated to remediate both the Site subject to a Contaminant Management Plan approved by the TSSA and the municipal road allowances as part of the redevelopment undertaking.

The City and the Region requested to enter into a tri-party Indemnity Agreement (the “Agreement”) with the Owner to protect their respective liability associated with potential remaining contamination in the Dundas Street West and/or Winston Churchill Boulevard road allowances.

Comments

The Owner has agreed to negotiate and enter into the Agreement related to the Site and the municipal road allowances with the City and the Region. With respect to the City’s interest, it would be of benefit to the City to negotiate and enter into this Agreement. The Agreement will commit the Owner to continue additional work required to address the contamination in the municipal road allowance at the Owner’s cost and to reimburse the City for any incremental costs that may be incurred by the City in connection with the contamination, should any work be required within the City’s road allowance. This in turn will reduce any potential liability to the City with respect to claims that the contamination may impact workers during subsurface intrusive activities for maintenance, replacement or repair of underground utilities within the City’s road allowance.

Financial Impact

There will be no financial impact to the City for entering into the Agreement. If the Agreement is not entered into, the City may incur costs associated with pursuing environmental investigations to delineate and remediate contamination within the City road allowance and costs incurred due to any claims brought against the City relating to the contamination.

Conclusion

Petroleum-related contamination has been identified within the municipal road allowances adjacent to a service station. Executing an Indemnity Agreement between the City, the Region and 1515422 Ontario Inc. will be advantageous to the City to improve the environmental conditions and reduce the City’s liability associated with the City road allowance. It will commit the Owner to continue its obligations to address contamination issues and ensure protection to the public and workers.

Attachments

Appendix 1: Site Map



Geoff Wright, P.Eng, MBA, Commissioner of Transportation and Works

Prepared by: Imshun Je, Manager, Environmental Site Management & Compliance