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April 11, 2022

Our File No.: 220239

Via Email

Mayor and Members of Council
City of Markham
101 Town Centre Boulevard
Markham ON L3R 9W3

Dear Mayor Scarpitti and Members of Council:

Re: City of Markham Proposed Development Charge and Community Benefits Charge

We represent the Building Industry and Land Development Association ("BILD") regarding the City's ongoing Development Charge ("DC") By-law review. We have been working with a team of consultants retained by BILD, including land economist Randy Grimes, and engineering consultants SCS Consulting Group ("SCS"), in respect of the review. Kagan Shastri LLP has also been retained by BILD in respect of the City's proposed Community Benefits Charge ("CBC").

Development Charge

The consulting team has reviewed the materials provided by the City through the DC review process, including the proposed Development Charge Background Study by Hemson Consulting, and has participated in the consultation sessions arranged by City staff.

BILD appreciates the efforts City staff and consultants have made to provide background information, schedule meetings to discuss issues, and provide written responses to ongoing questions and requests for information from BILD's consulting team.

Notwithstanding the helpful dialogue that has occurred through the review process, BILD has identified a number of concerns with various aspects of the DC calculations proposed in the Background Study. We note that the material is voluminous and highly technical, and we are still reviewing it.

Attached is a letter from SCS to City staff, dated April 8, 2022, setting out outstanding questions that have been identified to date regarding assumptions, estimates and calculations pertaining to the proposed City-Wide Hard Development Charge. Some of the key issues raised can be summarized as follows:

1. **BTE and PPB:** The Act requires that the services funded by a DC be reduced by the extent to which existing development will benefit from those services, commonly referred to as a “benefit to existing” share. The Act also only allows the services that are actually required by development during the study period selected (2022-2031) to be funded by the DC, and accordingly appropriate allocations of capital costs to post-period benefit need to be made. For many projects, appropriate allocations of benefit to existing development or post-period benefit do not appear to have been made, including in respect of:
 - Sidewalk Gapping Program projects, various Active Transportation Program projects, and City-Wide Street Safety and Traffic Calming projects, including related illumination; and
 - various road projects and structures; particularly: (i) mid-block crossings, rail crossings and highway ramp improvements that will benefit existing development and create capacity for post-period development, and (ii) other significant projects to be constructed toward the end of the study period that will clearly create capacity for post-period development.
2. **Highway 404 Mid-Block Crossings:** We note that there is an inconsistency between the timing of various mid-block crossings in the City’s and Region of York’s DC background studies, with the Region assuming they will be required outside of the City’s 2022-2031 study period. If the Region’s timing is correct, they should be removed from the capital program to be funded by the City’s DC.
3. **Road Oversizing Costs:** The City’s Background Study seems to estimate the costs of oversizing roads based on assumed average rights-of-way, whereas such costs should be calculated based on an assessment of actual planned rights-of-way.
4. **Land Costs:** Further information is required regarding property acquisition costs for various road projects. Furthermore, BILD is requesting additional justification regarding property acquisition costs for “trails and pathways on Greenlands”, as BILD understands the City does not typically purchase such lands.
5. **Project Scope and Costs:** BILD requires some additional information regarding the scope and estimated costs of certain road projects, such as the East Precinct Road Project.

BILD is also seeking additional information from the City regarding the land area used in the historic service level inventory for the Unionville Library and Community Centre, which appears to be overstated.

Community Benefits Charge

The draft Community Benefits Charges Strategy was provided to BILD when it was released to the public just a few days ago. As a result, BILD has not been able to review it in detail, but detailed comments will be provided to staff under separate cover.

BILD looks forward to continuing its dialogue with City staff prior to the enactment of the DC By-law and CBC By-law, to ensure that both charges are fair, reasonable and in accordance with the requirements of the applicable legislation.

Yours truly,

Goodmans LLP



Robert Howe

cc: Mr. Kevin Ross, Manager, Development Finance, City of Markham
Building Industry and Land Development Association

7262304

Mr. Kevin Ross
Manager, Development Finance & Payroll
City of Markham
101 Town Centre Boulevard
Markham, Ontario, L3R 9W3

Dear Mr. Ross,

**Re: 2022 Development Charges Background Study Update
Building Industry and Land Developments Association (BILD) Review
Response to City of Markham March 24, 2022 Letter
City of Markham, Ontario**

We are pleased to provide you with our response regarding the proposed 2022 Municipality Development Charge (DC) Background Study (DCBS) Update and March 24, 2022 Response Letter from the City of Markham, prepared by Hemson Consulting Ltd. for the City of Markham on behalf of the Building Industry and Land Development Association Developers Group (the "BILD").

Our general comments regarding the draft 2022 City-Wide Hard Capital Program Costs and how the projects relate to BILD's interests are as follows: SCS' February 11, 2022 review letter in regular font, March 24, 2022, City Response in *italics font*, and then our April 8, 2022 Response in **bold font**.

Additionally, we have attached is a copy of Appendix C of the Draft March 2022 DCBS (refer to **Attachment No. 1**), where we have highlighted the subject projects in yellow.

General Comments

For any projects, especially those planned later in the planning horizon (i.e., 2028-2031), we request confirmation for the rationale for not including Other Development-Related Costs (i.e., Post Period Benefit).

City Response:

No post-period funding has been allocated to projects in the 2028-2031 timeframe as they are deemed necessary to meet the servicing needs arising from the significant growth forecast to occur over the 2022 -2031 planning period. Further, the capital program for the City wide hard services does not exceed the maximum allowable funding envelope; as such, the development-related costs associated with the capital program are eligible for recovery through development charges within the ten-year planning period. Growth occurring beyond the 2031 planning horizon will require further infrastructure investment.

SCS Response:

We have attached a copy of Appendix C of the Draft March 17 2022 DCBS (refer to Attachment No. 1), where we have highlighted the subject projects in yellow, and have underlined the project's Other Development Related (i.e., Post Period Benefit) in question in red.

Table C-3, Item No. 1.0: Illumination

- 2.3 There has been no Other Development-Related Costs (i.e., Post Period Benefit) Allocation for the White belt Land Illumination projects (\$3,244,509). We request including Other Development-Related Costs (i.e., Post Period Benefit) costs to these Illumination projects.

City-Wide Illumination Requests	\$4,447,556
Streetlights for Sidewalk Gapping Program	\$5,189,473
Streetlights for Active Transportation Program	\$4,960,060

City Response:

No post-period funding has been allocated to projects in the white belt as they are deemed necessary to meet the servicing needs arising from the significant growth forecast to occur over the 2022 -2031 planning period. Growth occurring beyond the 2031 planning horizon will require further infrastructure investment.

SCS Response:

We have attached a copy of Appendix C of the Draft March 17 2022 DCBS (refer to Attachment No. 1), where we have highlighted the subject projects in yellow, and have underlined the project's Other Development Related Costs (i.e., Post Period Benefit) in question in red. We request including Other Development Related Costs (i.e., Post Period Benefit) for the City-Wide Illumination Requests.

We understand that the Sidewalk Gapping Program is a Council initiative; however, this illumination project has increased between the February 1, 2022 Draft City-Wide Capital Program from \$3,703,418 to \$5,189,473 in the March 17, 2022 Draft DCBS. We request the reasoning for the increase of approximately \$1.5 Million.

Additionally, the above-mentioned illumination projects are located within the existing City, and are filling in gaps on existing rights-of-way that have been constructed for some time. We would like to understand the reasoning behind the 35% allocated to Non-growth (i.e., Replacement/Benefit to Existing) for Streetlights for Sidewalk Gapping Program and Streetlights for Active Transportation Program projects.



Table C-3, Item No. 3.0: Roads

- 4.5 We do not know where the East Precinct Road Requirements (\$87,855,138) is located and if it is within the City's designated urban boundary. We understand that capital costs are apportioned over the longer-term development anticipated within the City's designated urban boundary. Please provide justification, the estimate and the scope of work for the East Precinct Road Requirements project.

City Response:

East Precinct is the area in Markham Centre (ASDC 42B-9) bounded by the railroad tracks to the west, Kennedy Road to the east, Highway 7 to the north and Hwy 407 to the south. The 2017 DCBS assumed a number of road networks required for the area including a number of grade separation over the rail road tracks.

SCS Response:

We have attached a copy of Appendix C of the Draft March 17 2022 DCBS (refer to Attachment No. 1), where we have highlighted the subject projects in yellow, and have underlined the project's Total Gross Cost in question in red. We request that the City of Markham provide the specific projects and breakdown, including any detailed scope of work for the East Precinct Mobility Hub. Given that the estimated cost is well over \$85 million, we assume that the City has completed studies and reports supporting these projects.

- 4.6 The 2017 local servicing policy states, "any portion of the road (land and construction) greater than the 23.0 m ROW and 11.0 m asphalt in a residential plan of subdivision are to be funded through the CWH development charge." The Local – By Others share is 82%, and the City's share is 18% for all projects in question. The shares remain consistent even though the type of collectors and associated ROW widths are inconsistent. We request confirmation of the cross-sections used to develop the Gross Costs for each road project.

City Response:

The 18% cost is the difference in overall cost between a 26.0m ROW and ad 23.0m ROW (local), as per the current Engineering Standards. The 2017 DCBS assumed that a majority of these future collector roads are to be 26.0 ROW. The ROW width within the FUA has been finalized as part of the draft plan approvals and updated in the draft 2022 DCBS.

SCS Response:

We have attached a copy of Appendix C of the Draft March 17 2022 DCBS (refer to Attachment No. 1), where we have highlighted the subject projects in yellow, and have underlined the project's Local – By Others Costs (i.e., Benefit to Existing), City-Share, and Other Development Related (i.e., Post Period Benefit) in question in red.

We understand the City has made some revisions to the road calculations in the Draft March 17, 2022 DCBS; however, upon further review of the road projects included, we would recommend revisiting the oversizing share for all of the road projects. We have prepared a summary table (refer to Attachment No. 2) where we have gathered the right-of-way sizes for the roads included, many differ from the 26.0m wide right-of-way included in the study. We would like to



understand the oversizing credit versus the full road acquisition where the City build through means of their Capital Plan.

Table C-3, Section No. 4.1: Roads Properties Acquisition

We request the City confirm the projects to be included in Table C-3, Item No. 4.1 and 4.2. We suggest to the City to restructure these items into four separate tables or confirming which project requires property acquisition for roads, structures, mid-blocks, and ramps.

- 5.1 The City has allocated a land cost formula to the Properties Acquisition: Roads. The 2017 local servicing policy states, "any portion of the road (land and construction) greater than the 23.0 m ROW and 11.0 m asphalt in a residential plan of subdivision are to be funded through the CWH development charge." We request the rationale and estimate for the reasonable land cost estimate for every project in this section. We understand that the City has allocated a land cost formula to the Properties Acquisition: Structures, Mid-Blocks, and Ramps projects. We request the rationale and estimate for the reasonable land cost for every project in this section.

City Response:

The City's Hard DC capital program has identified land acquisition needs associated with the delivery of road projects. The need for land acquisition was determined on a project by project basis. Land acquisition costs are eligible for recovery under the DCA and the land acquisition needs identified are associated with meeting the increased needs of development over the 2022-2031 planning period. The gross cost of the land acquisition need is based on the anticipated amount of land required and land acquisition cost estimates, based on input from the City's Real Property section. These estimated land values are considered confidential in nature and can be shared subject to a mutual agreement on the process for doing so. Consistent with the City's local service guidelines, when a land acquisition includes a local service component the local share has been identified and the associated cost removed from the DC rate calculations.

SCS Response:

Similar to our comment above on the roads oversizing construction costs, we understand the City has made some revisions to the road calculations in the Draft March 17, 2022 DCBS. However, upon further review of the roads included we would recommend revisiting the oversizing share for all of the roads included. We have prepared a summary table (refer to Attachment No. 2) where we have gathered the right-of-way sizes for the roads included, many differ from the 26.0m wide right-of-way included in the study.

Additionally, please provide further information on the land valuation formula applied to the right-of-way oversizing, and the variance in the cost per hectare based on the location of such works in the City.



- 5.4 We request confirmation of the reasoning for keeping the mid-block crossing property for the Highway 404 project included.

City Response:

The Hwy 404 Mid-block crossing property has been identified in the previous DCBSs and is required by growth, hence its continued inclusion.

SCS Response:

The recent Region's draft 2022 Development Charges Background Study (DCBS) includes timing of 2041 and beyond for the Highway 404 Mid-Block crossings while the City has included these projects within the 2031 planning horizon. Therefore, we request that the City consider the planning horizons that the Region has used for these property acquisition: roads projects.

Table C-3, Section No. 4.2: Properties Acquisition: Structures, Mid-Blocks, and Ramps

We request the City confirm the projects to be included in Table C-3, Item No. 4.1 and 4.2. We suggest to the City to restructure these items into four separate tables or confirming which project requires property acquisition for roads, structures, mid-blocks, and ramps.

- 6.3 There has been no Other Development-Related Costs (i.e., Post Period Benefit) Allocation for the following Properties Acquisition projects:

6.3.1. 19th Ave (Urbanize) (Hwy 404 to 1000m E of Woodbine Ave)	\$3,697,784
6.3.2. Reesor Rd (Riverlands to Hwy 7)	\$1,597,705
6.3.3. Hwy 404 Mid-Block Crossing - Buttonville	\$4,000,000
6.3.4. Renfrew Drive (Frontenac Dr to Allstate Pkwy)	\$7,432,737
6.3.5. Gorvette Rd Extension (Kennedy Rd to Old Kennedy Rd)	\$1,360,749
6.3.6. Midland Ave Extension (Steeles Ave. to Old Kennedy Road)	\$3,177,410

We request including Other Development-Related Costs (i.e., Post Period Benefit) costs to these projects.

City Response:

No post-period funding has been allocated to the infrastructure above as they are deemed necessary to meet the servicing needs arising from the significant growth forecast to occur over the 2022 -2031 planning period. Growth occurring beyond the 2031 planning horizon will require further infrastructure investment.

SCS Response:

As noted above, the Region's draft 2022 Development Charges Background Study (DCBS) includes timing of 2041 and beyond for the Highway 404 Mid-Block crossings while the City has included these projects within the 2031 planning horizon. Therefore, we request that the City consider the planning horizons that the Region has used.



Additionally, the balance of the projects listed above are for works proposed towards the end of the growth period and we would benefit future growth beyond the 2031 planning horizon. As these projects have a benefit in the future (post 2031) in the Region's planning horizon, we request that the City considers including a portion of these properties acquisition projects in the Other Development Related (i.e., Post Period Benefit) section. We have attached a copy of Appendix C of the Draft March 17 2022 DCBS (refer to Attachment No. 1), where we have highlighted the subject projects in yellow, and have underlined the project's Other Development Related Costs (i.e., Post Period Benefit) in question in red.

Table C-3, Section No. 5.0: Sidewalks

- 7.1 We understand that the City has allocated a land cost formula to the Sidewalk projects. The 2017 local servicing policy states, "trails and pathways on Greenlands (valley land or open space outside of a draft plan of subdivision) are to be funded through CWH development charges (65 percent) and the local developer/non-growth (35 percent)." We request the rationale and estimate for the reasonable land cost estimate for every project in this section.

City Response:

The City's Hard DC capital program has identified land acquisition needs associated with the delivery and construction of trails and pathways. The need for land acquisition was determined on a project by project basis. Land acquisition costs are eligible for recovery under the DCA and the land acquisition needs identified are associated with meeting the increased needs of development over the 2022-2031 planning period. The gross cost of the land acquisition need is based on the anticipated amount of land required and land acquisition cost estimates, based on input from the City's Real Property section. These estimated land values are considered confidential in nature and can be shared subject to a mutual agreement on the process for doing so. Consistent with the City's local service guidelines, when a land acquisition includes a local service component the local share has been identified and the associated cost removed from the DC rate calculations.

SCS Response:

Please provide addition information regarding land values applicable for "trails and pathways on Greenlands (valley land or open space outside of a draft plan of subdivision)." These trails and paths are typically built within natural heritage systems, and the land is dedicated to a public approval agency. If not dedicated through a planning process, these lands have a lesser value applied to them as they would be considered non-developable. Please confirm how this valuation is done.

- 7.3 We assume the Sidewalk Gapping Program (\$24,587,452) comprises the sidewalks on regional structures and sidewalks construction crossing Highway/watercourse from 2018 DCBS. We request the justification of the Sidewalk Gapping Program as it is a new project for the 2022 DC Background Study with 40% of the total gross Sidewalk sub-total.



City Response:

The sidewalk gapping program is a Council approved program to complete the missing sidewalk networks within existing collector and arterial roads. The cost has been updated (\$34.5M) to reflect the updated cost of the sidewalk program based on recent cost estimates.

SCS Response:

We understand that the Sidewalk Gapping Program is a Council initiative; however, this sidewalk project has increased between the February 1, 2022 Draft City-Wide Capital Program from \$24,587,452 to \$34,494,490 in the March 17, 2022 Draft DCBS. We request the reasoning for the increase of \$9.9 Million.

Furthermore, there was 40% allocation to the Others Sharing in the February 1, 2022 Draft City-Wide Capital Program. In the current March 17, 2022 DCBS, the Others Sharing allocation has been reduced from 40% to 18%. We would like to understand the reasoning behind the difference of 18% and 40% for Others Sharing.

Additionally, we would like to understand the reasoning for 18% allocated to Other Sharing (i.e., Post Period Benefit) for the Sidewalks and 35% for Illumination project components for the Sidewalk Gapping project.

Table C-3, Section No. 9.0: Special Projects

There has been an 18% share allocated to Other Sharing Costs (i.e., Benefit to Existing) for the following Special Projects:

1. Bike Lanes on Collector / Arterial Roads	\$5,677,280
2. MUP on Collector / Arterial Roads	\$22,549,608
3. Cycle Track on Collector / Arterial Roads	\$6,136,017
4. City-Wide Street Safety and Traffic Calming (Various Locations)	\$6,098,729

We would like to understand the reasoning behind the 18% allocated to these Special Projects. We request that the City consider increasing the Other Sharing Costs (i.e., Benefit to Existing) allocation of 18% to 35%. This will keep the Benefit to Existing allocation consistent with other projects of this nature included in the Draft March 17, 2022 DCBS.

Table C-3, Section No. 10.0: Structures

- 13.1 Structures related to rail crossings, highway ramp improvements, Provincial 400-series highways provide a broader benefit to the municipality, even Region-wide. We request the inclusion of a non-growth (i.e., Replacement/Benefit to Existing) cost for these Structure projects.

City Response:

No non-growth or post-period funding has been allocated to rail crossings, highway ramps or 400-series crossings as the infrastructure is deemed necessary to meet the servicing needs arising from the significant growth forecast to occur over the 2022 -2031 planning period.

SCS Response:

These structures projects include work that will benefit the City overall. As these projects benefit all City of Markham residents, we ask that the City finds including a portion of these structures projects to include a Non-growth (i.e., Replacement/Benefit to Existing) cost for these projects. We have attached a copy of Appendix C of the Draft March 17 2022 DCBS (refer to Attachment No. 1), where we have highlighted the subject projects in yellow, and have underlined the project's Non-Growth (i.e., Replacement/Benefit to Existing) in question in red.

- 13.2 There has been no Other Development-Related Costs (i.e., Post Period Benefit) Allocation included for the Highway 404 Mid-Block Crossing North of Elgin Mills Road Structure Project (\$19.7 Million). We request including Other Development-Related Costs (i.e., Post Period Benefit) costs for all other Structures projects, especially for the Miller Avenue and Future Urban Area – Employment Area (2 Major Collector Crossings).

City Response:

No post-period funding has been allocated to the Miller Avenue or 404 Mid-Block Crossing as the infrastructure is deemed necessary to meet the servicing needs arising from the significant growth forecast to occur over the 2022 -2031 planning period.

SCS Response:

The recent Region's draft 2022 Development Charges Background Study (DCBS) includes timing of 2041 and beyond for the Highway 404 Mid-Block crossings while the City has included these projects within the 2031 planning horizon. Therefore, we request that the City consider the planning horizons that the Region has used for these structure projects.

Additionally, the balance of the projects listed above are for works proposed towards the end of the growth period and we would benefit future growth beyond the 2031 planning horizon. As these projects have a benefit in the future (post 2031) in the Region's planning horizon, we request that the City considers including a portion of these properties acquisition projects in the Other Development Related (i.e., Post Period Benefit) section. We have attached a copy of Appendix C of the Draft March 17 2022 DCBS (refer to Attachment No. 1), where we have highlighted the subject projects in yellow, and have underlined the project's Other Development Related Costs (i.e., Post Period Benefit) in question in red.



**Re: | 2022 Development Charges Background Study Update
Building Industry and Land Developments Association (BILD) Review
Response to City of Markham March 24, 2022 Letter
City of Markham, Ontario**

File #: 2479
April 8, 2022
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We trust the above-mentioned is complete. For that reason, we would appreciate the City of Markham acknowledging the requests mentioned above in writing. We look forward to hearing from the City of Markham Staff shortly.

Please contact the undersigned if you have any questions or require additional information.

Sincerely,

SCS Consulting Group Ltd.



Julie Bottos, A.Sc.T.
jbottos@scsconsultinggroup.com

Attachment: Attachment 1 – City of Markham, Draft March 17, 2022 DCBS, Table C-3
Attachment 2 – Type and Width of Collector Roads Summary prepared by SCS Consulting Group Ltd., dated April 1, 2022

c. Mr. Craig Binnings, Hemson Consulting Ltd.
Mr. Mark Visser, City of Markham
Mr. Alain Cachola, City of Markham
BILD Developers Group

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