



Report to: General Committee

Meeting Date: June 11th, 2024

SUBJECT: Development Charges and Community Benefits Charge December 31, 2023 Reserve Balances and Annual Activity of the Accounts
PREPARED BY: Shannon Neville, Senior Financial Analyst, ext. 2659
Kevin Ross, Manager, Development Finance & Payroll, ext. 2126

RECOMMENDATION:

- 1) That the report titled “Development Charge and Community Benefits Charge December 31, 2023 Reserve Balances and Annual Activity of the Accounts” be received by Council as required under Section 43(1) of the *Development Charges Act, 1997, as amended*, and Section 37(48) of the *Planning Act*; and further,
- 2) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

Section 43(1) of the *Development Charges Act, 1997, as amended*, requires the Treasurer to submit annually to Council a financial statement relating to Development Charges by-laws and reserve funds established under Section 33 of the *Development Charges Act, 1997*. This report includes the financial statement required under the Act, as well as information regarding the semi-annual indexing that occurred during 2023.

Additionally, Section 37(48) of the *Planning Act* requires that a report shall be provided to the public that provides the financial statements and activity of the Community Benefits Charge transactions in the preceding year. This report includes the necessary information required to satisfy the conditions under the *Planning Act*.

BACKGROUND:

As part of the *Development Charges Act, 1997, as amended (DCA)*, the Treasurer is to report annually on the funds received and dispersed as shown in the attached schedules.

In accordance with the *Planning Act*, the municipality is required to report on the Community Benefits Charge transactions for the year.

Enclosed are the statistics for the twelve (12) months ended December 31, 2023.

FINANCIAL CONSIDERATIONS**DEVELOPMENT CHARGE - SUMMARY OF ACTIVITY**

The December 31, 2023 closing balance of the development charges (DC) reserve accounts, before accounting for approved capital commitments, was \$118,872,408 (Schedule A). This balance represents the cash, letters of credit and receivable balances in the reserves, but does not take into account commitments for approved capital projects.

Approved capital commitments against the reserves as at December 31, 2023 totaled \$111,488,722 resulting in an adjusted (committed) reserve balance of \$7,383,686 (\$118,872,408 less \$111,488,722).

As depicted in Schedule B, the net increase in the reserve fund before capital commitments from January 1, 2023 to December 31, 2023 was \$5,899,531 (\$118,872,408 less \$112,972,877). Schedule B also outlines the net amount of \$35,279,934 transferred to capital projects in 2023, which is broken down into two components: transfer to capital projects, and transfer from capital projects. These two components of the transfer include \$54,761,461 of growth-related projects funded from development charges (Schedule C), as well as transfers to DC reserve accounts of \$19,481,527 resulting mainly from the closure of capital projects.

In addition to the net \$35,279,934 of growth-related capital projects funded from development charges in 2023, there are other associated sources of project funding including CBCs, which are identified in Schedule C.

A summary of the development charge activity for the year is as follows:

January 1, 2023 opening balance	\$112,972,877
Development Charges received	\$47,206,064
Interest	\$5,247,749
Developer Credits / Reimbursements Issued	(\$11,274,348)
Net amount transferred to capital projects	(\$35,279,934)
Balance as at December 31, 2023	<u>\$118,872,408</u>

The balance of the Development Charge Reserve Fund is comprised of the following major categories:

City-Wide Soft	(\$2,177,576)
City-Wide Hard	\$116,988,357
Area-Specific	\$4,061,627
Total	<u>\$118,872,408</u>

INTEREST

During 2023, there were no long-term investments of development charge reserve funds; however, the cash on hand earned interest at a competitive rate at the bank in line with short term investment rates. The interest earned for the year amounted to \$5,247,749 (Schedule D).

DEVELOPMENT CHARGE CREDITS AND REIMBURSEMENTS

Schedule E provides information on development charge credit and reimbursement agreements that the City has entered into with developers who have constructed infrastructure on the City's behalf. During the year, the City processed credits and reimbursements totaling \$11,274,348. The City has future obligations in the amount of \$11,907,513, which is to be offset from development charges payable when the respective developers execute their agreements.

COMPONENT CATEGORIES

Schedule F provides the year-end balance of each reserve for 2021 through 2023 along with the percentage change over the three-year period.

The chart below summarizes the year-end DC reserve balances by component category, taking into account the total approved capital commitments:

	YEAR-END BALANCES			% CHANGE 2021 - 2023
	2021	2022	2023	
CITY-WIDE SOFT SERVICES	(\$2,576,697)	(\$2,196,106)	(\$2,177,576)	15%
CTIY-WIDE HARD SERVICES	\$106,233,021	\$109,527,420	\$116,988,357	10%
AREA SPECIFIC CHARGES	\$7,721,206	\$5,641,563	\$4,061,627	-47%
TOTAL DEVELOPMENT CHARGE RESERVE	\$111,377,530	\$112,972,877	\$118,872,408	7%
CAPITAL COMMITMENTS AT YEAR-END	(\$41,068,941)	(\$48,828,229)	(\$111,488,722)	-171%
ADJUSTED DC RESERVE BALANCES	\$70,308,589	\$64,144,648	\$7,383,686	-89%

The City-Wide Soft services reserves continue to be in a negative balance, mainly due to the pre-emplacment of recreational facilities.

The increase in the City-Wide Hard reserve is primarily due to a slower pace of expenditures on engineering-related infrastructure than anticipated, to match growth patterns.

DEVELOPMENT CHARGES COMMITTED TO APPROVED PROJECTS

Growth-related capital projects approved as part of annual budgets generally denote development charges as the major funding source, but the actual cash funding for capital expenditures totaling one million dollars or greater is not transferred to the project until required. This process retains cash within the Development Charge Reserve Fund to earn as much interest as possible for the reserve. Upon the approval of the budget, the reserve balances in the Development Charge Reserve Fund are considered to be committed to projects underway, or about to start.

The reserve balance for the year ended December 31, 2023 is significantly lower when capital commitments of \$111,488,722 are taken into account, leaving an adjusted (committed) reserve balance of \$7,383,686. The total capital commitments for 2023 represent an increase of \$62,660,493 (\$111,488,722 less \$48,828,229) compared to the prior year. This increase is mainly attributed to the approximately \$96M in 2023 DC funded capital projects approved by Council as part of Budget 2023 (in April 2023), net of \$35M in capital projects funded from the DC reserves during the year. Two projects constituted the majority of the \$96M, namely - the construction of

the Highway 404 Midblock Crossing, north of 16th (\$53.5M) and the Phase 1 Construction of Victoria Square Boulevard (\$21.4M).

The capital commitments relate to City-Wide Hard and City-Wide Soft services projects which total approximately \$92M and \$19.5M respectively. The City Wide Hard includes projects with remaining funding balances, such as construction for the Highway 404 Mid-Block Crossing North of 16th (\$50M), Phase 1 Construction of Victoria Square Boulevard (\$17M) and the Miller Pond Site Preparation and Property Acquisition (\$15M). The City-Wide Soft capital commitments includes projects such as the construction of the Markham Centre-Rougeside Promenade Park (\$4M), and Phase 3 Design and Construction of Ada Mackenzie Park (\$4M). The adjusted (committed) reserve balance of \$7.4M represents a \$56.7M decrease from the prior year closing balance of \$64.1M.

The chart below summarizes the 2023 year-end reserve balances and capital commitments:

	YEAR-END RESERVE BALANCE	CAPITAL COMMITMENTS	ADJUSTED RESERVE BALANCE
CITY-WIDE SOFT SERVICES	(\$2,177,576)	(\$19,489,524)	(\$21,667,100)
CITY-WIDE HARD SERVICES	\$116,988,357	(\$91,999,198)	\$24,989,159
AREA-SPECIFIC CHARGES	\$4,061,627	\$0	\$4,061,627
TOTAL DEVELOPMENT CHARGE RESERVE	\$118,872,408	(\$111,488,722)	\$7,383,686

INDEXING

Section 15 of the City's Development Charge by-laws state that the charges referred to in each of the by-laws shall be increased, if applicable, semi-annually without an amendment to the by-laws, on the first day of January and the first day of July, of each year, in accordance with the most recent change in the Statistics Canada Quarterly, *Construction Price Statistics* (Catalogue No. 62-007). Indexing the City's development charges helps to partially mitigate the impact of inflationary increases on future growth-related costs.

As new development charge by-laws went into effect on June 17th, 2022, the development charge rates were not indexed on July 1st, 2022. Therefore, this index was included in the January 1st, 2023 rate adjustment of 15.7%, covering a 12-month period and is consistent with the historically high inflationary rates seen over the period. Semi-annual indexing continued thereafter, with an index of 4.3% on July 1st, 2023. This represents the increase in the prescribed index, the Statistics Canada Quarterly, *Construction Price Statistics* for non-residential buildings in Toronto.

COMMUNITY BENEFITS CHARGE

Through *Bill 197, COVID-19 Economic Recovery Act, 2020*, the Community Benefits Charge (CBC) replaced the Section 37 density bonusing under the *Planning Act*. In tandem with the 2022 Development Charges Background Study, Council also approved the CBC Strategy and By-law, which went into effect as at May 31st, 2022. To date, all applications processed have qualified for the previous Section 37 requirements and therefore, no CBCs have been collected. In 2023, the

City partially funded two capital projects through CBCs (see Schedule C) and, therefore, the reserve account has a negative balance at the end of the year. A summary of the annual activity of the account is shown below.

January 1, 2023 opening balance	\$0
CBCs Received	\$0
Interest	\$0
Net amount transferred to capital projects	(\$102,603)
Balance as at December 31, 2023	<u>(\$102,603)</u>

This information is provided in accordance with Section 37(48) of the *Planning Act*.

IMPACT OF THE MORE HOMES BUILT FASTER ACT, 2022 (BILL 23)

The passing of the *More Homes Built Faster Act, 2022* (Bill 23) on November 28, 2022 resulted in significant changes to the *DCA* and negatively impacted the municipality's ability to collect development charge revenues which are used to support growth-related infrastructure. City staff had estimated the total potential impact of \$136 million per year due to revenue loss from Bill 23. Bill 23 impacts related to development charges are outlined below.

Mandatory phase-in of DC rates - For by-laws enacted from January 1st, 2022 onwards, the phase-in requires the municipality to collect 80% of its approved rates during the first year of the by-law, and this increases annually by 5% until the full rates are in effect by year 5 of the by-law. As the City enacted new by-laws on June 17, 2022, the City's DC rates were adjusted to 80% when Bill 23 received Royal Assent (i.e., November 28, 2022), and to 85% on June 17, 2023 (i.e., year 2 of by-law enactment). Due to the mandatory rate phase-in, the City was not able to levy charges at the full 100% rate, which resulted in \$10.3M less in development charge revenues being collected as of December 31, 2023.

Non-profit, affordable/attainable, and rental housing exemptions - The non-profit residential housing exemption came into force at enactment of Bill 23, and was applied to one development application in 2023, which resulted in a \$8.3M loss in development charge revenues. As the regulations for affordable/attainable and rental housing had not been prescribed as at the end of 2023, these regulations have not yet impacted the City's development charge revenues.

The combined reduction in development charge revenue as a result of the rate phase-in and non-profit residential housing exemption as of December 31, 2023, is \$18.6M as shown in the table below.

	City-Wide Hard	City-Wide Soft	Area Specific	Total
2022 Cash Collection Impact (i.e. Nov. 28, 2022 to Dec. 31 2022)	(\$494,027)	(\$53,920)	\$0	(\$547,947)
2023 Cash Collections Impact at 80% (Collections to June 17, 2023)	(\$3,354,874)	(\$1,026,391)	(\$567,400)	(\$4,948,666)
2023 Cash Collections Impact at 85% (Rates June 17 2023 Onward)	(\$3,340,907)	(\$931,685)	(\$485,033)	(\$4,757,624)
Total Phase-In Impact	(\$7,189,807)	(\$2,011,996)	(\$1,052,433)	(\$10,254,237)
2023 Non-Profit Residential Housing Exemption	(\$4,481,522)	(\$3,864,404)	\$0	(\$8,345,926)
Total Impact as at December 31, 2023	(\$11,671,329)	(\$5,876,400)	(\$1,052,433)	(\$18,600,163)

There is a possibility that a portion of this loss (i.e., Hard Services) could be reconciled through future DC Background Study updates; however, the outstanding DC revenue shortfall will necessitate continued prudent financial management by the City to deliver infrastructure to support anticipated growth in the upcoming years. Other funding sources, such as grants and possibly property taxes, will be required to make up this shortfall. The City may also consider reducing service levels, however this will impact how new communities in Markham are planned and would create inequities across the City.

Additional changes through Bill 23 included the potential removal of land and growth-related studies as DC-eligible capital costs. To date, no regulations have been prescribed with respect to the removal of land, and the Province has not mentioned this in subsequent updates. The removal of studies impacts by-laws passed after the enactment of Bill 23 in November 2022 and, therefore, this does not affect the City's current by-laws and there are no impacts in 2023 to report.

THE CUTTING RED TAPE TO BUILD MORE HOMES ACT, 2024 (BILL 185)

On April 10, 2024, the Provincial Government introduced the *Cutting Red Tape to Build More Homes Act, 2024 (Bill 185)*, which provided further amendments to the DCA and DC Background Study process. Two of the more notable amendments proposed under Bill 185 include the reversal of certain changes enacted under Bill 23, specifically: (1) the removal of the mandatory rate phase-in; and (2) the re-introduction of growth-related studies as a DC-eligible capital cost.

The removal of the rate phase-in appears to only impact applications approved after the enactment of Bill 185, therefore any applications with rates 'frozen' between June 17, 2022 and Bill 185 enactment will still receive the benefit of the discounted development charge rates. The losses attributed to the rate phase-in will continue to be tracked and reported as part of this annual reserve report.

Other items to be implemented under Bill 185 include:

- Affordable housing exemptions by June 1, 2024;
- Reduction in the timeframe for rate freeze applications from 2 years to 18 months, whereby developers who do not obtain building permits within 18 months from the date their application receives approval will no longer benefit from the DC rate freeze and will be subject to prevailing rates at permit issuance;
- Proposed administrative changes to the by-law and Background Study process including the modernization of notice requirements, and in certain instances, a more efficient by-law amendment process.

Staff will continue to monitor the status of Bill 185 and adjust its processes accordingly to mitigate as far as possible any reduction in DC revenue which could include a review of service levels and exploring other funding sources.

COMPLIANCE WITH THE *DEVELOPMENT CHARGES ACT, 1997*

For the year ended December 31, 2023, the Reserve Balance and Annual Activity Statement is in compliance with the *DCA 1997, as amended*. The City has not imposed additional levies in accordance with Subsection 59.1 (1) of the Act.

HUMAN RESOURCES CONSIDERATIONS

Not applicable.

ALIGNMENT WITH STRATEGIC PRIORITIES:

Not applicable.

BUSINESS UNITS CONSULTED AND AFFECTED:

Not applicable.

RECOMMENDED BY:

Joseph Silva
Treasurer

Trinela Cane
Commissioner, Corporate Services

ATTACHMENTS:

- Schedule A – Summary Statement - Balances by Component of the Reserve Fund
- Schedule B – Continuity Statement - Funds Received and Dispersed by Category
- Schedule C – Capital Fund Transfers Addendum
- Schedule D – Summary of Investments - Reg. 74/97 Section 8 of the Municipal Act
- Schedule E – Credit Obligation Summary
- Schedule F – Statement of Change in Year-end Balances