



Report to: General Committee

Meeting Date: May 24th, 2022

SUBJECT: 2022 Development Charges Background Study and
Community Benefits Charges
PREPARED BY: Kevin Ross, Manager, Development Finance & Payroll – Ext.
2126
Shannon Neville, Senior Financial Analyst – Ext. 2659

RECOMMENDATION:

- 1) THAT the report on the “2022 Development Charges Background Study and Community Benefits Charges” be received;
- 2) THAT Council determine that no further public meeting is required, pursuant to Section 12 of the *Development Charges Act 1997*, as amended;
- 3) THAT Council approve the Development Charge Background Study prepared by Hemson Consulting Ltd. dated May 2022;
- 4) THAT Council affirm its intention to ensure that the increase in the need for services to service anticipated development will be met;
- 5) THAT Council affirm its intention that development related to post 2031 capacity identified in the Background Study shall be paid for by development charges or other similar charges;
- 6) THAT Council affirm its intention that infrastructure related to post 2031 development identified in the background study shall be paid for by development charges or similar charges;
- 7) THAT Council recognizes that there are operating costs associated with the implementation of the capital program;
- 8) THAT Council approve the policy changes as outlined in this report;
- 9) THAT Council enact the City Wide Hard, City Wide Soft and Area Specific Development Charges by-laws, effective June 17th, 2022;
- 10) THAT Council affirm its intention that the future excess capacity identified in the Development Charges Background Study, dated May 2022, prepared by Hemson Consulting Ltd. shall be paid for by the development charges;

- 11) THAT staff be authorized to change the Capital Administration Fees from the current sliding scale to a standard 9% of the project costs, to be effective for capital works from January 1, 2023 and beyond;
- 12) THAT Council acknowledges the consultations held with the development industry regarding the Community Benefits Charge Strategy as contemplated in the *Planning Act*;
- 13) THAT Council receive and approve the Community Benefits Charges Strategy;
- 14) THAT Council enact the Community Benefits Charge by-law effective May 31st, 2022;
- 15) THAT these recommendations, including the implementing by-laws, be forwarded to the May 31st, 2022 Council meeting for adoption; and
- 16) THAT staff be directed to do all things necessary to give effect to this report.

EXECUTIVE SUMMARY:

Staff commenced the review of the City's existing City Wide Hard, City Wide Soft and Area Specific Development Charge by-laws in March 2021. The existing by-laws are set to expire on December 13th, 2022. Furthermore, amendments to the *Development Charges Act 1997, as amended (DCA)* were proclaimed on September 18th, 2020 through *Bill 197, COVID-19 Economic Recovery Act, 2020*. The amendments included the removal of parking as an eligible service as well as the elimination of the statutory 10% non-DC component on all eligible soft services. Municipalities were given two years to transition to the new regime (i.e. September 18th, 2022).

Bill 197 also included amendments to the *Planning Act* which replaced the height and density bonusing permitted under section 37, with Community Benefits Charges. The new Community Benefits Charges replaces the section 37 density bonusing provisions and are similar in that Community Benefits Charges only apply against higher density residential development (5 or more storeys and 10 or more residential units) and the monies collected can only be used to pay for growth-related capital infrastructure. They may be used to fund services provided for under a development charge by-law, as long as there is no duplication of recovery of the same capital costs. Staff therefore felt it beneficial to prepare the Development Charges Background Study and the Community Benefits Charges Strategy concurrently.

Throughout the review process, staff met with the Development Charges and Community Benefits Charges Sub-Committee, held consultative meetings with the development industry and responded to the industry's concerns, while providing updates to General Committee.

The draft Development Charges Background Study, development charge by-laws, Community Benefits Charges Strategy, and Community Benefits Charges by-law, have been prepared. On April 12th, 2022, the legislated Development Charges public meeting

was held, where the public was provided with an opportunity to raise any concerns about the proposed development charges, policy changes, as well as the community benefits charge strategy.

The proposed development charges, community benefits strategy, and the implementing by-laws, are based on City policies and established service levels which the City intends to maintain, and they comply with the applicable legislation.

PURPOSE:

The purpose of this report is to update Council on the information, assumptions, and rates in the 2022 City of Markham Development Charges Background Study (Appendix A) and the 2022 Community Benefits Charges Strategy (Appendix B). Staff are also seeking to obtain General Committee's approval to forward the development charge rates, development charge by-laws, and Community Benefits Charges by-law to Council on May 31st 2022 for approval.

BACKGROUND:

The review of the current City Wide Soft (CWS), City Wide Hard (CWH) and Area Specific (ASDC) Development Charge by-laws commenced in the spring of 2021. In tandem, the Community Benefits Charges (CBC) review also began. In May 2021, a Development Charges and Community Benefits Charge Sub-Committee was formed and, over the course of 4 meetings, the Sub-Committee undertook a review of the development charge policy changes being introduced in the 2022 by-laws, as well as the proposed CBC Strategy. The policy changes and proposed strategy were later presented to General Committee for review, consideration and approval. Throughout this process, the City held consultation meetings with the development community (stakeholder group) to discuss the proposed rates, policy changes, and community benefits charge framework. The stakeholder group provided their comments with respect to the development charges calculation, policies, and community benefits charge framework. Subsequently, these comments were discussed at the Development Charges and Community Benefits Charge Sub-Committee and General Committee.

Community Benefits Charges

Community Benefits Charges are replacing the height and density bonusing previously permitted under Section 37 of the *Planning Act*. It is a new growth-funding tool that allows municipalities to levy a charge to fund associated development-related capital infrastructure needs related to higher density residential development. The charge can only be levied against higher density development which is 5 or more storeys in height, and contains 10 or more residential units. Note that a mixed-use development (i.e. both residential and non-residential uses), may also qualify should it meet the aforementioned requirements.

As per the *Planning Act*, a part of the requirement for approving a CBC by-law is the preparation of a Community Benefits Charges Strategy. The strategy was prepared by Hemson Consulting Ltd. and outlines the legislative context and regulatory requirements,

purpose, implementation and administration, and also includes a development forecast, a capital program, revenue analysis, and rate structure. For the creation of the Community Benefits Charges by-law, Finance and Legal staff benchmarked against other municipalities and also sought the expertise of external legal professionals whose comments are included in the final version of the by-law.

Development Charge Policy Changes

The 2022 Development Charges Background Study was prepared with the following new policies, as well as changes to policies from the 2017 Background Study, and these were endorsed by the Development Charges Sub-Committee and approved by Council:

- 1) *City Wide Hard Credits* – City Wide Hard development charge credits are to be provided based on the lesser of
 - a. the indexed cost of the infrastructure as stated in the DC Background Study and,
 - b. the actual cost of the infrastructure
- 2) *Stacked Townhouses* – Stacked townhouses to be assessed at the apartment unit rate.
- 3) *Sanitary Sewer Oversizing* – Sanitary sewer oversizing is now included in the local service definitions and a nominal cost included as a part of the City Wide Hard capital program.
- 4) *Multi-Year Area Specific Credits / Reimbursements* – The capital costs of works included in multi-year area-specific development charge credit/reimbursement agreements is now subject to indexing.

City Wide Consulting Process

A stakeholder group, including representatives of the Building Industry and Land Development Association (BILD), has participated in a number of meetings with staff to review, in detail, their issues and comments related to the City’s new Development Charges Background Study, Community Benefits Charge Strategy, and by-laws. The consultation group was provided with the following information:

- 1) The proposed policy changes
- 2) The Growth Forecast
- 3) The City Wide Hard Capital Program to 2031 including:
 - i) Construction cost/metre for infrastructure included in the calculation of the City Wide Hard, i.e. illumination, sidewalks, roads
 - ii) Information on how structures and crossings are classified for their inclusion in the City Wide Hard, as well as how the cost estimates are determined
 - iii) Proposed local service definitions
- 4) The City Wide Soft Inventories for the period 2012-2021
 - i) Including the calculation of historical services levels
- 5) All Soft Services capital programs to 2031, e.g. fire, park development, waste
- 6) The Community Benefits Charge Strategy

The primary issues raised by the developers during the consultations were:

- 1) **The allocation of costs to non-growth and post 2031** – The reconstruction/ expansion of existing infrastructure should include a share of cost for the existing population currently utilizing these structures. Infrastructure that will benefit population beyond 2031 is currently included in the City Wide Hard infrastructure list.
- 2) **Highway 404 mid-block crossings** – Both the Region and City are carrying Highway 404 mid-block crossings in their respective 2022 development charge background studies. The timing and cost of these items should be consistent.
- 3) **Road oversizing costs** – The roads component includes assumptions on average rights-of-way. In certain areas, differing rights of way sizes have been determined.
- 4) **Unionville Library and Community Centre** – The land area included in the historic service level inventory for the Unionville Library and Community Centre appears large in comparison to the square footage of each facility.

Staff Response

City staff reviewed the issues raised during the consultative process and responded as follows:

- 1) **The allocation of costs to non-growth and post 2031** – City staff revisited the City Wide Hard capital program and subsequent to this review, are satisfied that the distribution of capital cost between the various categories (growth, non-growth, and local costs) are appropriate. With respect to post 2031 costs, the City made some slight adjustments to the roads component to add approximately \$3M as a post period benefit for 3 projects which occurred late in the forecast. Additionally, \$28M of the Highway 404 mid-block crossings was allocated to post period after further consultations with the Region of York, as detailed below.
- 2) **Highway 404 mid-block crossings** – After further consultations with the Region of York, the following adjustments have been made to the capital program with respect to the mid-block crossings:
 - a) **Buttonville** – The Region confirmed this crossing is not identified in the Transportation Master Plan or the Region’s 2022 Development Charge Background Study. A future development application would be required to identify the need for the crossing, therefore the crossing was removed from the City’s capital program.
 - b) **Major Mackenzie** – Cost adjusted to align with the Region’s Transportation Master Plan. Based on the timing of the project from the Region, 50% of the City’s portion of the cost (approximately \$7M) was moved into post 2031.
 - c) **Elgin Mills** – Project was moved into post 2031 as the Region does not anticipate this project to begin prior to 2041 (approximately \$21M).
- 3) **Road oversizing costs** – After receiving further information from the developers group with respect to identified rights of way sizes, changes were made to the estimated cost of works accordingly.

- 4) **Unionville Library and Community Centre** – Prior to the creation of the Tony Murphy Park on the lands in 2019, the total land area carried in the historic service level for the Unionville Library and Community Centre totaled 2.68 hectares. This land area was determined based on the total land area of the parcel. Staff agreed to remove 1.54 hectares of land from the library and community centre’s historic service levels, as the parcel includes a large storm water management pond and open park area. This land area was therefore moved to the historic service level for parks.

The City’s approach to the items noted above has been discussed with the stakeholder group. Revised development charge rates reflecting changes from the first draft of the City Wide Hard and City Wide Soft capital program, along with the draft development charge by-laws, have been provided to the stakeholder group.

OPTIONS/DISCUSSION:

Public Meeting

On April 12th, 2022, a public meeting was held to present the proposed development charge rates and by-laws in accordance with the *Development Charges Act, 1997*, as amended. In advance of the meeting, the draft 2022 Development Charge Background Study and by-laws were made publicly available on March 17th 2022. Furthermore, the public meeting also served as a consultation of the proposed CBC Strategy, as stipulated under subsection 37(10) of the *Planning Act*. Note the draft 2022 CBC Strategy was made publicly available on April 6th 2022.

No deputations were made, however three letters were received in advance of the meeting. A summary of each letter and the City’s response is provided below.

White Owl Properties Limited (“White Owl”)

White Owl is the majority land owner in Area 17 – Rodick/Miller Road Planning District. The letter expressed concerns with the land areas included in the area map, as well as the opportunity to explore alternative servicing solutions than those proposed in the area-specific by-law.

- Response – City Engineering and Finance staff met with representatives of White Owl on April 28th, 2022. During the meeting, staff were able to clarify the lands included within the calculation of the area-specific by-law. Engineering staff also provided clarification on the servicing plans included in the by-law which had been reviewed and developed with the previous landowners. It was agreed that engineering staff are open to reviewing alternative servicing solutions in the future should White Owl wish to pursue. As no change in the servicing solutions would be viable prior to the expiration of the current by-law, the City will be moving forward with the proposed by-law, and has agreed to review the need for the by-law in the future should the servicing requirements change.

Cadillac Fairview Corporation Limited (“Cadillac Fairview”)

Cadillac Fairview is the majority landowner in Area 18 – Buttonville. The letter indicated they would be completing a further review of the proposed area-specific development charge and continue on-going discussions with City staff prior to the enactment of the by-law.

- Response – After further consultation with the Region of York regarding the Buttonville mid-block crossing (a portion of which is included in the area-specific development charge for Area 18), it was determined that there is no current case for its inclusion, but this can be reassessed in the future. As this was the only item being carried in the area-specific by-law, staff have determined there is no need to propose a new by-law for Area 18 in this update.

Building Industry and Land Development Association (“BILD”)

The letter received by the representatives of BILD outlined the areas identified during the city wide consultation process, including the non-growth components, post 2031 period benefit, the highway 404 mid-block crossings, road oversizing costs, and the historic service level inventory of Unionville Library and Community Centre. Additionally, the letter requested further detail on the scope of work for the East Precinct project (for which the majority of cost is carried in the post 2031 period), along with more detailed information on property acquisition costs.

- Response – Staff provided an overview of the scope of work for the East Precinct project to representatives of BILD, SCS Consulting Group Ltd., during a meeting held April 28th, 2022. Through a non-disclosure agreement with SCS Consulting Group Ltd., property acquisition details were also provided as requested.

FINANCIAL CONSIDERATIONS

Proposed Community Benefits Charges

As set out in Section 3 of O. Reg. 509/20, the maximum permissible CBC is capped at four per cent of land value of the development prior to the issuance of a building permit, or the first permit if the development requires multiple permits. As outlined in the CBC Strategy, the City will levy CBCs based on this legislative cap. Over the ten-year planning period from 2022 to 2031 (see chart below), the City is anticipated to grow by approximately 11,946 occupied dwelling units in buildings which would be subject to a CBC. It is anticipated that the average unit will contribute approximately \$3,825 in CBCs based on the legislated four per cent cap. This would result in a high-level revenue estimate of approximately \$46M (in 2022 \$’s) over the ten year period.

Estimated CBC Revenue Projection – 2022 – 2031

Area	# of CBC Eligible Units	4% of Land Value per Unit	CBC Revenue
Total Units	11,946	\$3,825	\$45,693,450

The CBC Strategy also outlines the capital program identified for recovery from CBCs (see chart below). The entire gross cost of \$258M is not eligible to be funded by CBCs, and is reduced by legislated deductions and shares to be funded by other growth-funding tools. As seen in the chart, the development-related costs eligible for CBC recovery totals \$158M. The CBC capital funding requirement therefore exceeds the estimated revenue of \$46M anticipated over the 2022-2031 period. The capital program acts as a guide from how CBCs can be spent. Council will determine through the annual budget process which items will be funded through CBCs as not all of the projects listed below will be able to be funded due to the finite amount of CBCs expected to be collected.

CBC Capital Program Summary

	Gross Project Cost	Replacement & BTE (\$)	DC Share (\$)	Other Funding	Total CBC Related Costs
Waste Management	\$36,000,000	\$0	\$0	\$0	\$36,000,000
Community Facilities	\$12,000,000	\$0	\$0	\$8,958,077	\$3,041,923
Roads & Other Related Infrastructure	\$93,933,098	\$16,704,117	\$58,524,864	\$0	\$18,704,117
Urban Park Facilities	\$58,189,658	\$0	\$0	\$0	\$58,189,658
Parking	\$12,088,294	\$0	\$0	\$4,603,561	\$7,484,733
Public Realm & Public Art	\$10,000,000	\$0	\$0	\$1,250,000	\$8,750,000
Housing	\$10,000,000	\$0	\$0	\$0	\$10,000,000
District Energy	\$25,000,000	\$0	\$0	\$9,520,700	\$15,479,300
Administration	\$300,000	\$0	\$0	\$0	\$300,000
TOTAL CBC CAPITAL PROGRAM	\$257,511,050	\$16,704,117	\$58,524,864	\$24,332,338	\$157,949,731

Proposed Development Charges

The charts below outline the current development charges, the proposed development charges as included in the May 2022 Development Charges Background Study, along with the relevant variances.

Residential

The proposed increase in the residential development charge rates (City Wide Hard and Soft) range from 32% for a small apartment to 38% for a large apartment, for an overall average increase of 36%.

Categories	Current Residential Charge	Calculated Residential Charge	Difference in Charge	
	\$/Unit	\$/Unit	\$	%
Single/Semi Detached	42,938	58,228	15,290	36%
Multiple Unit (Townhouse)	32,838	45,139	12,301	37%
Large Apartment	25,716	35,524	9,808	38%
Small Apartment	18,907	24,958	6,051	32%

Average Rate Increase	36%
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Non-residential

The proposed increase in non-residential charge rates (City Wide Hard and Soft) ranges from 35% for retail and mixed-use, to 42% for industrial/institutional/office developments, for an overall average increase of 37%.

Non-Residential	Current Non-Residential Charge	Calculated Non-Residential Charge	Difference in Charge	
	\$/m ²	\$/m ²	\$	%
Retail	177.77	239.82	62.05	35%
Industrial/Institutional/Office (IOI)	135.77	192.40	56.63	42%
Mixed Use	86.61	116.68	30.07	35%

Average Rate Increase	37%
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Area Specific Charges

The City has 22 proposed Area Specific Development Charge by-laws (see Appendix D attached) for defined development districts across the City.

At the public meeting on April 12th, 2022, an area specific by-law for Area 18 Buttonville Airport, was proposed. However, following subsequent consultations with the Region of York regarding the Highway 404 mid-block crossing at Buttonville and discussions with the landowner in the area, staff made the decision not to carry forward the proposed by-law (Area 18) for adoption. Should a need be identified for the Buttonville mid-block crossing in the future, staff will revisit the requirement for an area-specific by-law.

Furthermore, staff identified that the proposed Future Urban Area (FUA) area specific development charge for Robinson Glen (50A-2), has separate servicing requirements for distinct high and low density development sections within the specified land area. As such, it was determined that Robinson Glen should be separated into two distinct blocks representative of the cost to service the development areas. A newly created block, referred to as the FUA - Robinson Glen – South Block, has now been created as Area 50A-5.

Development-Related Share

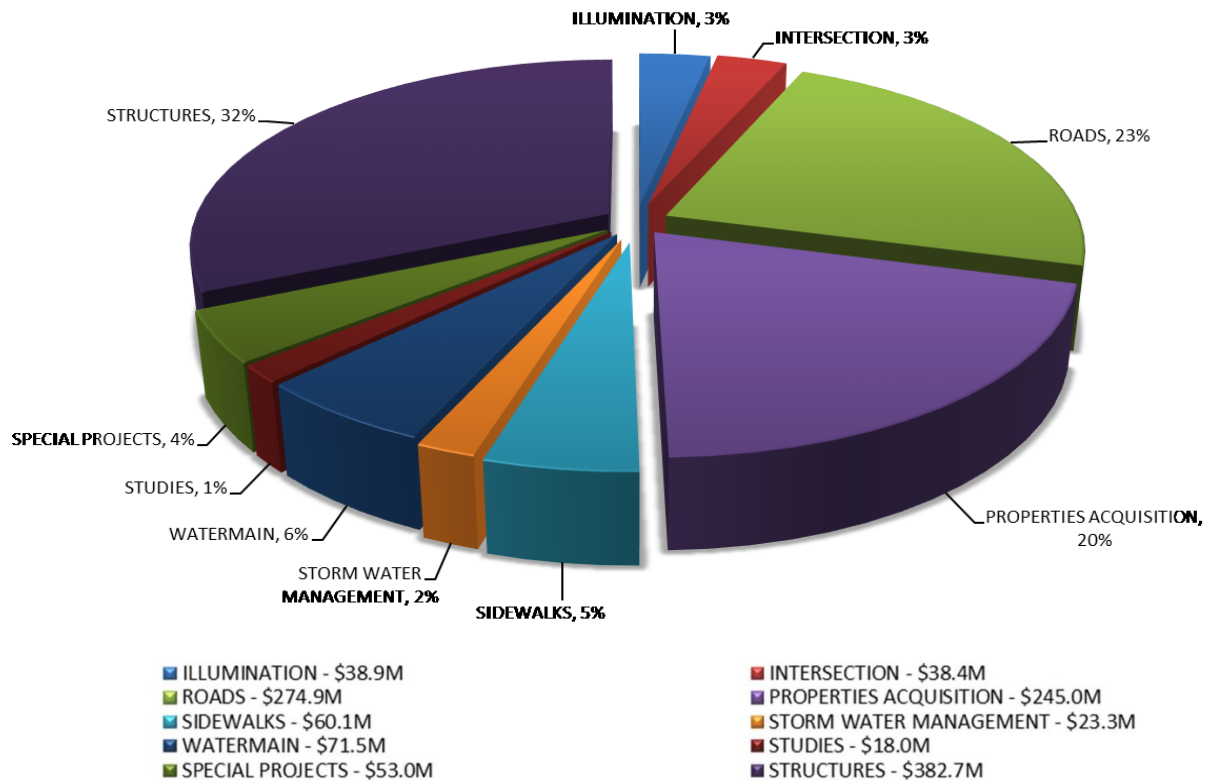
Hard Services

The 10-year (2022-2031) hard services capital program totals \$1,826.1M of which the development-related share that is recoverable through development charges is \$1,208.6M. As depicted below, the remaining amounts are to be financed through (1) local developers - \$379.4M, (2) Non-Development Charge (DC) shares - \$33.2M, (3) Area Specific and other DCs - \$18.5M, (4) prior growth (i.e. available reserves) - \$57.0M, and (5) other development related costs (including post 2031 charges) - \$129.4M.

City Wide Hard Services (2022-2031)	(\$ Millions)
Total Gross Cost	1,826.1
Less: Local Costs	379.4
Less: Non-DC Share	33.2
Less: Area-Specific & Other DCs	18.5
Less: Prior Growth (available reserves)	57.0
Less: Other Dev. Related (incl. post 2031)	129.4
Recoverable	1,208.6

City Wide Hard services are comprised of engineering-related infrastructure necessitated by growth. The City has designated areas for development, requiring new road networks and bridges, to connect and integrate these new areas into the existing City network.

The hard services costs are predominantly driven by structures/bridges (32%), roads (23%), and property acquisition (20%). The graph below shows the breakdown and distribution of the infrastructure costs that make up the hard services development charge recovery.

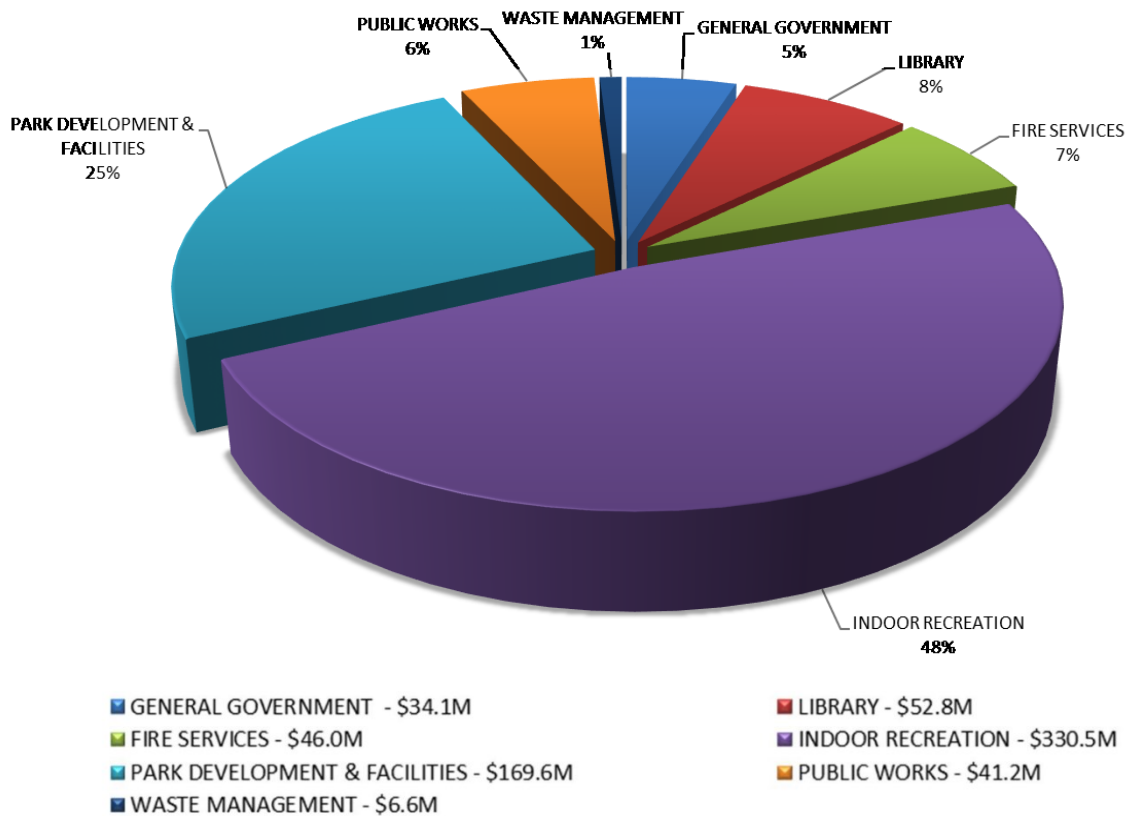


Soft Services

The 10-year (2022-2031) capital program is \$965.5M of which \$680.8M represents the development-related capital costs that can be recovered through development charges. The remaining amounts are to be funded through (1) available reserve funds - \$39.3M, and (2) Other Development Related sources (including post 2031) - \$245.4M.

City Wide Soft Services (2022-2031)	(\$ Millions)
Total Gross Cost	965.5
Less: Available DC reserves	39.3
Less: Other Dev. Related (incl. post 2031)	245.4
Total City Wide Development Charge Recoverable	680.8

The City Wide Soft service DCs are collected to provide facilities and services to new growth, such as community centres, parks and fire services. The charge is predominantly driven by indoor recreation (48%) and park development (25%). The graph below shows the breakdown and distribution of the services that make up the soft services development charge.



Non-Growth Share

The hard services non-growth share is not a legislated percentage and is based on the benefit the infrastructure will provide to the existing population. Consistent policies are applied to all hard service capital projects to determine the non-growth share.

Previously, there was a mandatory reduction of 10% for the non-growth share of the capital program for all soft services excluding fire services and public works. However, under the amendments to the *DCA*, the mandatory 10% reduction was removed.

The amount of non-growth costs identified for hard services in this proposed 2022 Development Charges Background Study equates to approximately \$33.2M and is to be funded through non-development charge sources (e.g. grants/subsidies, taxes, reserves etc.). \$3M of this non-development charge funding has already been approved through the City’s budgeting process, and the remaining amount can be funded annually through the Gas Tax framework as approved by Council in 2013.

Implementation of Capital Program

The *DCA* requires Council to indicate that it intends to ensure that the increase in the need for service attributable to the anticipated development will be met. Therefore, the enactment of the development charge by-law commits Council to ensure that the capital program is undertaken as outlined in the Development Charges Background Study.

However, if development does not materialize as outlined in the growth projects, the City's capital programs can be adjusted as well.

The capital program included in the proposed 2022 Development Charges Background Study anticipates a large portion of the infrastructure will be installed in advance of development. The City will more than likely be required to borrow internally and/or externally to meet this capital program. The borrowing costs associated with the front-loading of the capital program have been included in the development charge. It is anticipated that borrowing to fund the capital program could reach as much as \$100M.

Council, in approving the 2022 Development Charges Background Study, also affirms its intention that the future excess capacity (when the current year service level exceeds the 10-year historic service level) identified shall be paid for by the development charges.

Operating/Lifecycle Costs

In approving the development charge by-laws, Council is also committing to the costs associated with the ongoing operation and maintenance of the assets included in the capital program. The projected new asset value per capita for the period 2022-2031 is less than the existing asset value per capita throughout the City, indicating at a high level, that the City is not adding assets beyond its capability to operate.

The City has a practice of setting aside sufficient funds as a part of its annual budgeting process to offset the net operating costs of new facilities. Staff will continue to ramp up for expected costs, where possible, in the operating budget to help offset the impact the capital program may have in any given year.

The City also has a lifecycle reserve study in place to ensure that there are sufficient funds in the reserve for the rehabilitation and replacement of infrastructure for the next 25 years, based on known inflows and outflows.

Capital Administration Fees

The City currently charges a capital administration fee to cover the cost of implementation and delivery of capital projects from inception to completion. These fees have not been updated since 2007 and are levied on a sliding scale as follows:

- First \$100K in capital works – 15%
- Between \$100K and \$500K in capital works – 12%
- Between \$500K and \$1M in capital works – 9%
- Between \$1M and \$5M in capital works – 7.5%
- Between \$5M and \$10M in capital works – 6%
- Between \$10M and \$15M in capital works – 4.5%
- Over \$15M in capital works – 3.8%

In order to align the fees with the cost associated with the oversight work, staff are recommending the elimination of the sliding scale to be replaced with one fee of 9% to be charged based on a project's cost. This change is proposed to commence for all capital works on January 1st, 2023.

HUMAN RESOURCES CONSIDERATIONS:

Not applicable.

ALIGNMENT WITH STRATEGIC PRIORITIES:

The update of the Development Charges Background Study is important to ensure that the need for services generated by new development, is paid for by this new growth. Such services include, engineered services, indoor recreation, park development, fire services, library services and waste management services.

The enactment of the Community Benefits Charge by-laws under the *Planning Act* is important as it allows municipalities to fund incremental and additional development-related capital infrastructure related to higher density development that is not already recovered from development charges and parkland provisions.

BUSINESS UNITS CONSULTED AND AFFECTED:

The process of updating the Development Charges Background Study was a cross-commission collaborative initiative that included input from Legal Services, Engineering, Planning and Urban Design, Library Services, Fire & Emergency Services, Recreation Services, Waste & Environmental Management, Operations, Building Standards and Financial Services.

The creation of the Community Benefits Charges Strategy and by-law was a cross-commission collaborative initiative that included input from Legal Services and Financial Services.

RECOMMENDED BY:

X

Joel Lustig
Treasurer

X

Trinela Cane
Commissioner, Corporate Services

ATTACHMENTS:

Appendix A – 2022 Development Charges Background Study

Appendix B – Community Benefits Charges Strategy

Appendix C - Minutes – Development Charges Public Meeting

Appendix D – Summary of Area Specific Development Charges