

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF SEPTEMBER 26, 2023

Item 1, Report No. 37, of the Committee of the Whole, which was adopted, as amended, by the Council of the City of Vaughan on September 26, 2023, as follows:

By receiving Communication C15 from Rosemarie Humphries, Humphries Planning Group Inc., Pippin Road, Vaughan, dated September 25, 2023.

1. DEVELOPMENT REIMBURSEMENT AND CREDIT POLICY

The Committee of the Whole recommends:

1. That this matter be referred back to staff to develop a more reasonable approach as it relates to interest and/or indexing policies, as well as more shared risk policies;
2. That staff be directed to report back on the Development Charges Act and regulation policies as it relates to interest and reimbursement requirements; and
3. That the report of the Deputy City Manager, Corporate Services, City Treasurer and Chief Financial Officer, dated September 19, 2023, be received.

Recommendations

1. That Council approve the Development Charges Reimbursement and Credit Policy (Attachment 1) to administer DC reimbursements and/or credits.

Committee of the Whole (2) Report

DATE: Tuesday, September 19, 2023

WARD(S): ALL

TITLE: DEVELOPMENT REIMBURSEMENT AND CREDIT POLICY

FROM:

Michael Coroneos, Deputy City Manager, Corporate Services, City Treasurer and Chief Financial Officer

ACTION: DECISION

Purpose

To introduce a policy to formalize the City's position as it relates to development charge (DC) reimbursement and/or credits for growth-related, eligible works, designed and constructed by developers on behalf of the City in advance of the City's timing to deliver.

Report Highlights

- The City of Vaughan already undertakes the reimbursement and/or credit of DCs.
- This policy is intended to formalize processes that are already in place.
- A DC reimbursement is the repayment of DCs for works undertaken on behalf of the City by a developer.
- A DC credit is when a DC credit is provided in lieu of a DC payment for a developer that has constructed works that are the subject of the charge as is sometimes the case with Area Specific Development Charges (ASDCs)
- The policy is also intended to establish general principles, such as:
 - Agreement requirements,
 - The City's position on the payment of interest,
 - Timing and frequency of reimbursement payments, and
 - Roles and responsibilities of staff.

Recommendations

1. That Council approve the Development Charges Reimbursement and Credit Policy (Attachment 1) to administer DC reimbursements and/or credits.

Background

The City of Vaughan currently allows for the reimbursement and/or credit of DCs to developers for the design and construction of works that are considered growth-related and identified in the City's DC background study. These arrangements allow for infrastructure to be designed and constructed in advance of the timing that may have been contemplated by the City. By allowing a developer to initially pay for and construct works on behalf of the City, it ensures that the infrastructure necessary for their development, and in some cases, future development, is delivered in a timely fashion that aligns with the rate and pace of private development.

The purpose of this policy is to formalize the process which includes the terms, conditions, and restriction under which the City will enter into such an agreement with a developer to advance DC eligible works. This policy will apply to landowners, builders, developers and developer groups carrying out private development within the City.

The City currently includes clauses regarding the reimbursement for DC eligible works within subdivision, servicing, spine and development agreements. These clauses indicate the necessary requirements to process a reimbursement once the works are completed.

Previous Reports/Authority

N/A

Analysis and Options

A DC reimbursement is the process through which the City may repay development charges through an approved capital project to a developer for growth-related DC eligible works that have been undertaken on behalf of the City. A DC Credit is when, in the case of an ASDC, the developer that is constructing the works on behalf of the City is provided a credit in lieu of payment as the work was initially undertaken at their cost.

If the City should agree to the design and construction of works by a developer, the works, including the parameters of such work, the upset limit for DC reimbursement and/or credit, and requirements of the City prior to repayment, would be included as a part of a subdivision, spine services and/or development agreement.

The DC Reimbursement and Credit Policy establishes a series of eligibility requirements and conditions to determine if a project would be considered eligible for a DC reimbursement or credit. Below is a general list of eligibility criteria and conditions used in the determination if a project may be subject to a reimbursement or credit:

- The project must be included in the City-Wide DC Background Study or an ASDC Background Study.
- The project must not be considered local works as defined under the City's "Local Service Policy – 12.C.01".
- Any parks related projects would be subject to the City's "Developer Build Parks Policy – 07.2.05" and the DC Reimbursement and Credit Policy will not override the parks policy.
- Temporary works will not be considered reimbursable.
- All works undertaken by a developer on behalf of the City are undertaken at their own risk including risks associated with legislative changes and capital budget approvals through the City's annual budget process.

Upon completion of a projects or works by a developer, on behalf of the City, a developer may request the repayment or reimbursement of DCs for the works. City staff will complete any necessary inspections and review the as-built construction documentation to ensure adherence to City requirements.

Financial Impact

DCs are the City's primary source of funding for growth-related capital infrastructure. Reimbursement for DC related infrastructure works is appropriate when the works are in alignment with the City's DC Background Study and are prioritized against other City priorities as a part of the City's budget process.

DC reimbursements or credit will only be issued by the City upon completion of the design and construction of the infrastructure outlined in the agreement to the satisfaction of the City. The reimbursement or credit amount shall always be the lesser of:

- a) The Developer's actual total project cost up to the upset limit as stipulated in the related agreement; and
- b) The estimated project cost, as stated in the DC Background Study.

Reimbursements of development charges will be made from an approved capital project only when the development charge reserve funds are available. In the case of City-

Wide DCs, typically the full reimbursement amount would be available in the relevant reserve and a lump sum payment would be made that represents the full cost of the works. In the case of ASDCs, payments may be required to occur over a longer period of time as funds will only be released to the developer as the City actualizes collections.

Additionally, the policy states that the City will not index the reimbursement or credit amount and the City shall not be responsible for compensating the developer for interest.

Operational Impact

The steps required to provide DC reimbursement and credits is already included as a part of the development engineering agreement process at the City of Vaughan. This policy formalizes this process, but no additional operational impacts beyond that which already occur are expected. Departments that are impacted by this policy were consulted as a part of the policy development.

Broader Regional Impacts/Considerations

As this policy is regarding City infrastructure, it does not impact the Region specifically. It should be noted that the Region has a similar policy titled “Development Charges Credit Policy”, which City Staff reviewed as a part of the preparation of the policy that is the subject of this report.

Conclusion

This policy will provide important guidance to staff with regards to the governance of DC reimbursement and/or credits as well as requirements of the development industry. This policy will ensure that all roles and responsibilities are understood ensuring the process is consistent as we move forward with further reimbursements and/or credits into the future.

For more information, please contact: Nelson Pereira, Manager of Development Finance, ext. 8393

Attachments

1. Development Charges Reimbursement and Credit Policy, Financial Planning and Development Finance, December 1, 2023

Prepared by

Brianne Clace, Project Manager of Development Finance, ext. 8284

Approved by



Michael Coroneos, Deputy City
Manager, Corporate Services, City
Treasurer, and Chief Financial Officer

Reviewed by



Nick Spensieri, City Manager



THE CITY OF VAUGHAN

CORPORATE POLICY

POLICY TITLE: DEVELOPMENT CHARGES REIMBURSEMENT AND CREDIT

POLICY NO.: 12.C.18

Section:	Finance & Budgets		
Effective Date:	September 26, 2023	Date of Last Review:	Click or tap to enter a date.
Approval Authority:	Policy Owner:		
Council	DCM, Corporate Services, City Treasurer & Chief Financial Officer		

POLICY STATEMENT

A policy governing development charge credits and/or reimbursements to a Developer with respect to eligible infrastructure being designed and constructed on the City's behalf in advance of the City's timing to deliver.

PURPOSE

This policy sets out the City's guidelines for the efficient application and administration of development charge credits and/or reimbursements related to certain eligible City infrastructure that is front-ended by a Developer ["Works" or "Project(s)"]. The terms, conditions, and restrictions governing development charge credits and/or reimbursements detailed herein are implemented through subdivision, development and/or spine services agreements with the City and seek to mitigate the City's exposure to potential risks and liabilities arising from such arrangements.

SCOPE

This policy applies to landowners, builders, developers and developer groups carrying out private development within the City of Vaughan which require certain City infrastructure to be designed and constructed in advance of the City's timing to deliver same to permit the private development to proceed.

All City staff facilitating agreements between the City and aforementioned parties must adhere to this policy.

LEGISLATIVE REQUIREMENTS

1. *Development Charges Act, 1997*

POLICY TITLE: DEVELOPMENT CHARGES REIMBURSEMENT AND CREDIT

POLICY NO.: 12.C.18

DEFINITIONS

1. **Act:** *The Development Charges Act, 1997, S.O. 1997, c.27, as amended, revised, re-enacted, or consolidated from time to time, and any successor statute.*
2. **Area Specific Development Charges ('ASDC'):** A charge imposed with respect to growth-related net capital costs against a defined land area or per unit for specified services under the applicable by-law.
3. **Developer:** A person, corporation, group of persons and/or corporations, or trustee that has submitted an application pursuant to the Planning Act to the City of Vaughan for approval.
4. **Development:** The construction, erection or placing of one or more buildings or structures on land, or the making of an addition or alteration to a building or a structure that has the effect of substantially increasing the size or usability thereof and includes redevelopment.
5. **Development Charges (DC):** A charge imposed with respect to growth-related net capital costs against land under the City's Development Charges By-Law.
6. **Development Charges By-Law:** Municipal regulation that imposes development charges against land to pay for increased capital costs required because of increased needs for services arising from the development of the area for which the regulation applies.
7. **DCM/CFO:** Deputy City Manager of Corporate Services, City Treasurer and Chief Financial Officer.
8. **Planning Act:** The Planning Act, R.S.O. 1990, c. P.13, as amended.

POLICY

1. REQUIREMENTS

City staff are required to use the following criteria in considering the eligibility of development charges credits and/or reimbursements for Projects that have been identified in the City-Wide DC or ASDC By-laws.

- 1.1. The subject Development and Works must comply with the *Local Service Policy 12.C.01.* and/or the *Developer Build Parks Policy 07.2.05* where applicable.

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1.1.1. This policy shall neither override nor substitute any requirements, restrictions, or guidelines set out in the *Local Service Policy 12.C.01.* and the *Developer Build Parks Policy 07.2.05* as amended from time to time.

1.2. To receive a credit or reimbursement pursuant to this Policy, the Developer shall carry out the following steps prior to commencement of the design and construction of any Works seeking reimbursement and/or credit pursuant to this Policy:

1.2.1. Submit a request to the Infrastructure Development Portfolio, unless the City initiates the request that the Developer undertakes Works on behalf of the City as a part of a development application;

1.2.2. Enter into an agreement with the City in the form of a subdivision, spine services, servicing and/or development agreement which contains provisions regarding the nature, scope and process of reimbursement and to establish the Developer's obligations regarding the front-ending of design, construction, maintenance and delivery of the Works.

1.3. Credit and/or reimbursement is subject to City approval, and there is no entitlement to reimbursement prior to such approval.

2. CONDITIONS

The Developer shall satisfy the following conditions prior to constructing Works seeking reimbursement or credit from the City pursuant to this Policy:

2.1. The Developer shall assume all risks, including those associated with any changes to provincial legislation specific to Development Charges, when entering into an agreement with the City.

2.2. Any transactional costs incurred by the Developer in relation to entering into an agreement with the City (e.g., legal, consultation, study fees, etc.) shall not be reimbursed by the City.

2.3. All costs incurred by the City in relation to considering an agreement initiated by a Developer are recoverable by the City from the Developer, including but not limited to the fees and disbursements for legal services, consultants, and studies required to prepare the agreement and are not reimbursable.

2.4. Temporary infrastructure is not reimbursable and shall not be included in the reimbursement amount.

2.5. Any expenditures incurred after the approved Project completion date shall not be reimbursable.

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2.6. All Works eligible for credit or reimbursement shall be constructed to the City's satisfaction and in accordance with the latest municipal and provincial standards, specifications, applicable policies, approved engineering plans and priorities identified in the City's Official Plan, Transportation Master Plan, Integrated Urban Water Master Plan.

2.7. The Developer may be required to design and construct the Works to a higher standard, at its sole expense, as determined by the Deputy City Manager, Infrastructure Development, acting reasonably, than that which has been detailed in the City's City-Wide or Area Specific Development Charges Background Study and By-law.

2.8. The Developer shall provide an invoice and HST number as well as all documentation required to review and verify as-built construction costs to the satisfaction of the City prior to reimbursement or credit.

2.9. Any other and further conditions as deemed appropriate by City Council.

3. DEVELOPER REIMBURSEMENT OR CREDIT

3.1. Reimbursement or credit may only be issued after all Works have been completed, all required inspections have been completed, and verification of costs is completed, all to the City's satisfaction.

3.2. The reimbursement amount shall be the lesser of:

(1) The Developer's actual total Project costs up to the upset limit as stipulated in the related agreement; and

(2) The estimated Project cost, as stated in the development charges background study.

3.3. The payment structure will follow one of the below guidelines, depending on the nature of the Project.

(1) If the City classifies the Project as city-wide infrastructure, then a lump sum payment will be made to the Developer only when the Project is both complete and included in an approved capital budget. The payment amount will adhere to the restrictions set in section 3.2 of this policy. The City is entitled, in its sole discretion, to break up the payment into multiple payments over a timeline that the City deems appropriate.

(2) If the City classifies the Project as ASDC infrastructure, payments will be made to the Developer only when sufficient funds have been

collected through the related ASDCs and when the Project is included in an approved capital budget. The payment amount will adhere to the restrictions set in section 3.2 of this policy. The City is entitled, in its sole discretion, to break up the payment into multiple payments over a timeline that the City deems appropriate.

3.3.1. Using the City's reasonable efforts, payments will be made to the Developer every year on the anniversary of the approved project completion date until the approved reimbursement amount is paid in full or the sunset clause date stipulated in the applicable agreement has been reached, whichever date occurs earlier.

3.3.2. In a year with no related ASDC collections, payment shall not be made by the City to the Developer.

3.3.3. Under no circumstance shall the City be obligated to make fixed-yearly payments to the Developer.

3.3.4. At the sole discretion of the City, the City may agree to pay the Developer a specific percentage of the total approved reimbursement amount at certain development/design milestones to facilitate the construction of more expensive City-wide infrastructure Projects.

3.3.4.1. Section 3.3.4 only applies to City-wide infrastructure Projects included in the approved capital budget.

3.4. If the Project cost exceeds the amount estimated within the DC background study, then the City shall not be obligated in any way to reimburse the developer for any remaining balance.

3.4.1. The City may use reasonable efforts to update future DC background studies to include the difference referenced in section 3.4 and reimburse the Developer at a later date, subject to approval.

3.5. The reimbursement or credit amount shall not be indexed, and the City shall not be responsible for compensating the Developer for interest.

4. ROLES AND RESPONSIBILITIES

City Manager

4.1.1. Reviews and approves reimbursements as required by the City's signing authority framework.

DCM Corporate Services, City Treasurer and Chief Financial Officer

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4.1.2. Reviews and approves reimbursements as required by the City’s signing authority framework.

4.1.3. Maintains administrative authority and responsibility for the Development Charges Reimbursements Policy.

Director, Financial Planning and Development Finance

4.1.4. Reviews and approves reimbursements as required by the City’s signing authority framework.

4.1.5. Approves department operating procedures and processes under this policy.

Manager, Development Finance, Financial Planning and Development Finance and Designates

4.1.6. Reviews and approves reimbursements as required by the City’s signing authority framework.

4.1.7. Leads updates or revisions to this policy.

4.1.8. Follows procedures to prepare the payment of reimbursements as requested by the City’s engineering staff.

4.1.9. Reviews and approves reimbursements as required by the City’s signing authority framework.

Director of Development Engineering and Designates

4.1.10. Signs off on reimbursements after the completion of review, verification of inspections and as-built construction costs.

4.1.11. Review as-builts and prepare reimbursement memos.

ADMINISTRATION

Administered by the Office of the City Clerk.

Review Schedule:	5 Years <small>If other, specify here</small>	Next Review Date:	December 1, 2028
Related Policy(ies):	12.C.01 - Local Service, 07.2.05 – Developer Build Parks		
Related	By-Law 109-2022		

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By-Law(s):	
Procedural Document:	
Revision History	
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