

## Committee of the Whole (2) Report

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**DATE:** Tuesday, November 12, 2024

**WARD(S):** ALL

**TITLE:** DEVELOPMENT REIMBURSEMENT AND CREDIT POLICY - REFERRED

**FROM:**

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

**ACTION:** DECISION

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**Purpose**

Staff were directed to bring back to Council a policy to address development charge (DC) reimbursement and/or credits for growth related works constructed by developers, inclusive of interest and/or indexing payment eligibility. Staff were also directed to report on *Development Charge Act, 1997* (DC Act) policies and regulations that may address interest payment on DC eligible works.

**Report Highlights**

- A policy is proposed to formalize the current long-standing practice of reimbursing developers who construct DC eligible works on the City's behalf.
- The proposed policy introduces an interest payment component relating to new Area Specific DC funded projects.
- The interest rate would be set in the development agreement and interest payments would be funded by the same Area Specific DC reserve used to fund the works.
- Specific criteria are to be met to be eligible for interest payment on the reimbursement.

## **Recommendations**

1. That Council approve the Development Charges Reimbursement and Credit Policy (12.C.18), substantially in the form of Attachment 1, to administer development charge reimbursements and/or credits.

## **Background**

On September 19, 2023, staff brought forward to the Committee a draft policy to formalize the current process with respect to the reimbursement or credit of developer-built growth-related works that have been included in the City's DC background study. The policy was referred to staff to address comments from Council members regarding the introduction and applicability of interest payments and/or indexing for DC related works. This would allow the City to provide interest payments to compensate the developer for delayed reimbursement payments resulting from delayed development for certain projects. The current process for DC related works reimbursements has been, and continues to be, captured in the various development agreements executed by the City and the applicable landowner.

## **Previous Reports/Authority**

[DEVELOPMENT REIMBURSEMENT AND CREDIT POLICY, Item 1, Report 37, Committee of the Whole \(2\), September 26, 2023](#)

## **Analysis and Options**

### **Proposed Policy Structure**

A *DC reimbursement* is the process through which the City repays development charges 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 Area Specific DC (ASDC), the developer that is constructing the works on behalf of the City is provided a credit (in lieu of reimbursement) for the work was initially undertaken at their cost.

The proposed 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.

The City's current practice of entering into an agreement which provides for DC reimbursements or credits is proposed to continue. More specifically, when the City agrees to the design and construction of works by a developer on behalf of the City, the works, including their parameters, the upset limit for DC reimbursement and/or credit,

and requirements of the City prior to repayment, are included as a part of a development agreement (or other agreement).

Staff also acknowledge that some projects take longer to reimburse, especially those funded by ASDCs, as these are limited by the funds collected from benefitting lands as they proceed through the development process and receive building permits. In those instances, staff propose to incorporate an interest payment for ASDC works subject to certain conditions:

- The works have been deemed substantially complete by the developer's consulting engineer;
- The payment submission package (including an invoice, as per the applicable agreement requirements for the works) has been submitted to the City by the developer, verified and accepted by Development Engineering; and
- The City has determined that the reimbursement cannot be made in a single payment installment.

It is proposed that the applicable interest rate shall be identified in the applicable agreement and shall be the lower of the City's current City-Wide DC Background Study interest rate on positive balances, or the City's 4 year rolling weighted average return on the City's investment funds. This proposed interest rate will not create additional pressures on the ASDC reserves nor will it prolong the reimbursement period as it is in line with the interest earned on reserve balances. Also, any interest component will be funded from the same ASDC reserve relating to the works to avoid placing any financial burden on property taxation. Staff propose that the policy is only applicable to ASDC funded projects as the ASDC reserves balance are based on the collection of the ASDC through the permit issuance process, which may occur over a longer period of time, reducing the City's ability to make a full payment for front ended works.

### ***Development Charge Act, 1997 and Regulations***

The DC Act and its regulations do not provide details with respect to the reimbursement/credit agreement being used by the City and the interest rate being proposed.

By way of comparison, sections 44 and 45 of the DC Act detail the requirements for front ending agreements between the City and the landowner. These provisions require certain details such as the description of the works and the estimated costs to be included in the agreement. These sections do not prescribe any interest rate to be used for the payment of DC eligible works.

Section 26.3, "Maximum Interest rate" of the DC Act, prescribes an interest rate to be used in conjunction with Sections 26.1 and 26.2, which deal with phased payments and

the locking in of DC rates at the time of a site plan application or a zoning by-law amendment application. These provisions are not applicable to the reimbursement of works.

Within the DC Act regulations, O. Reg. 82/98, Section 11 speaks to the minimum interest rate a municipality shall use when dealing with refunds as a result of an appeal or DC complaint, or the borrowing from DC reserve funds. This regulation does not apply to the reimbursement of front-ended works.

### **Financial Impact**

There would be no additional financial impact to the City, as any reimbursement inclusive of interest would be contained within the respective ASDC reserve fund balances.

### **Operational Impact**

Legal Services and Development Engineering would be required to update the wording in the development agreement template to revise the applicable DC reimbursement clauses to reflect the proposed policy.

### **Broader Regional Impacts/Considerations**

Not applicable.

### **Conclusion**

Staff propose a policy to formalize a long-standing practice of reimbursing DC eligible works constructed by a developer. In recognition that certain projects take a long time to complete the total reimbursement payment, Staff propose incorporating an interest component relating to area specific DC eligible projects. This policy would apply to projects funded by new ASDC by-laws in order to prevent adding pressure on existing ASDC reserves.

**For more information**, please contact: Nelson Pereira, Manager Development Finance.

### **Attachments**

1. 12.C.18 – Development Charges Reimbursement and Credit Policy

### **Prepared by**

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