

Development Charges Background Study, Community Benefits Charge Strategy and Parkland Conveyance By-law Statement of Work

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1. Background

In May 2019, the Minister of Municipal Affairs and Housing released *More Homes, More Choice: Ontario's Housing Supply Action Plan*. In support of the Action Plan, the Province developed omnibus Bill 108, *More Homes More Choices Act, 2019*, which received Royal Assent on June 6, 2019.

One of the key concepts introduced under Bill 108 was a new authority for municipalities to utilize a Community Benefits Charge (CBC) based on land value.

Some of the proposed changes from Bill 108 were subsequently changed in Bill 197, the *COVID-19 Economic Recovery Act 2020*, which received Royal Assent on July 21, 2020. Bill 197 affected the *Development Charges Act (DCA)* and the *Planning Act (PA)*. Soft services continue to be included as part of the DCA funding framework. The development-related costs of providing these services are fully eligible for DC funding; the 10% "discount" no longer applies. The requirements for parkland dedication remain the same; however, the alternate rate can now be appealed.

On September 18, 2020, the remaining amendments made to the DCA and the PA by Bill 108 and Bill 197 were proclaimed and associated regulations were released, including the regulations for CBC.

Municipalities now have until September 18, 2022, to transition to the new framework for Development Charges, Community Benefits Charges and Parkland Dedication.

The DC Background Study relies on the growth allocation to the City by the Region of Peel. At the time of the writing of this document, the Region of Peel is reviewing the growth forecast allocation. Should Regional Council approve these growth allocations in time for work to commence on the City's DC Background Study, these forecasts will be used as inputs. If these forecasts are not Council approved in time to commence the background study work, staff will rely on the existing forecasts.

The City of Mississauga currently collects Development Charges for the following services:

- General Government
- Development Related Studies
- Library
- Fire Services
- Recreation and Park Development
- Transit
- Public Works
- Living Art Centre Debt Recovery
- Parking
- Roads & Road Related
- Storm Water Management

These categories will need to be assessed as part of this review, to incorporate Bill 197 changes and potentially add or change new service categories.

In order to benefit from the new legislative changes that would allow the City to recover enhanced costs associated with growth, it is required that a new DC Background Study and by-law, a CBC Strategy and by-law be developed within the legislated time period.

The Parkland Conveyance By-law will be updated. There are no major changes to how cash-in-lieu can be collected, however, the by-law is now subject to appeal.

2. Key Project Objectives

The following key project objectives are to be achieved, in the context of minimizing the likelihood of by-law appeals:

- Completion of a Community Benefits Charge Strategy, and review of a new By-law
- Completion of a new Development Charges Background Study and review of the new By-law
- Development of a DC rate model, and the establishment of Development Charges rates for residential and non-residential categories
- Completion of a review of existing policies and practices, provide a report summarizing best practices on specific items, and identify recommended policies and practices for the City, with the goal of having unambiguous application of the DC By-law and CBC By-law
- Completion of a detailed review of the recent legislative changes in the DCA, PA and associated regulations to fully understand what the impacts are to Mississauga and what changes are necessary to the local by-laws so that the City can recover any necessary costs attributed to growth
- Completion of an Asset Management plan for development-related capital infrastructure
- Review of the existing Parkland Conveyance By-law and the existing draft of a new Parkland Conveyance By-Law and provide comment and recommendations for addressing the alternate requirement, and completion of a new Parkland Conveyance Corporate Policy and By-law
- Completion of a market-sensitivity analysis to inform the alternative requirement and to inform the City's proposed alternative requirement methodology for medium and high density residential development. The consultant is also expected to recommend a preferred alternate requirement methodology for cash-in-lieu collection for medium and high density residential development
- Review and provide edits to the draft Parks Plan
- Completion of an integrated public and industry stakeholder consultation process for the DC Background Study, CBC Strategy and Parkland Conveyance By-law

The successful consultant will also be required to provide support and representation in any post By-law adoption activities (e.g., appeals) (separate hourly rate would apply).

3. Key Project Deliverables

A. Development Charges Background Study

The Development Charges Background Study must be clearly written and well organized, including a table of contents and appendices containing supporting data and information required under the *Development Charges Act 1997* and related regulations for the determination of Development Charges rates for the City of Mississauga. The following are some specific guidelines for the DC Background Study:

- Prepared in accordance to the *Development Charges Act 1997* and related regulations
- Provides clarity in areas where definitions may vary between the DC By-law and Zoning By-law (e.g. definition of uses)
- Includes relevant and appropriate rate categories for residential and non-residential development categories
- Provides net developable areas by watershed
- Reviews long-term population and employment forecasts assessing occupancy, vacancy and other factors and recommending growth forecast data for population, household, employment and non-residential floor space growth (Industrial, Commercial, Institutional) and Household forecasts detailed by unit type, and other forecasts as required in the study
- Identifies and presents an appropriate methodology for calculating levels of service and allowable charges for services eligible for Development Charges funding
- Includes an assessment of whether a DC rate should be applied on a City-wide approach or an area-specified approach, or some combination of both
- Addresses specific changes under Bill 197, such as factoring in full recovery of soft services and evaluation of all service categories eligible for DC collections
- Identifies operating impacts and long-term capital costing impacts
- Reviews LPAT decisions and other relevant legislation with a view of strengthening the defensibility of the DC Background Study

The Consultant will provide assistance with the drafting of the new DC By-law.

The Consultant is expected to bring a level of innovation and creativity that maximizes the value of the project while at the same time maintaining awareness of project constraints.

a. DC Rate Model

A DC Rate Model will be developed, taking into consideration, but not limited to:

- Existing service levels
- Growth forecasts
- Asset inventories
- Growth-related capital forecast and cashflow assumptions
- Person-per-unit assumptions
- Gross-floor-area assumptions
- The portion of capital projects that are related to grants/subsidies, benefit-to-existing and/or post-period benefit
- Any unfunded balances/loans, and any DC credits, that should be included in the Development Charges rate calculation

The model must be flexible, and able to apply charges to type of Development (e.g., residential, industrial, non-industrial). Outputs from the model would include a cash-flow analysis of reserve funds, revenues and expenditures to ensure that forecasted DC revenues will match future growth expenditure needs.

A final electronic model with full modelling functionality (i.e., no hidden formulas, worksheets or critical data withheld) will be provided to the City upon completion of the study. Furthermore, the model will be updated to reflect any amendments required as a result of an appeal or negotiated settlement.

b. DC Policy Review

The successful consultant will review existing policies and practices, particularly those that have been identified as ambiguous or are not fully defined (see list below for main examples), and provide a report summarizing best practices on these items and identifying recommended policies and practices for the City, with the goal of having unambiguous application of the DC By-law:

- Benefits to Existing (BTE) and Post Period Benefits (PPB) policies
- Floor Space per Worker (FSW)
- Application and expiration of demolition credits
- Financial and other impacts of discretionary exemptions and/or credits

The consultant will prepare a management report outlining:

- A review of other municipalities' best practices on DC cost recovery policies and strategies, application of Bill 197 legislation and associated regulations, servicing policies and implementation tools

- Relevant LPAT decisions and legislation, ensuring the study is in line with recent decisions
- Recommendations for policy changes, such as the appropriate cost-recovery policies and strategies associated with excess capacity which is designed to service growth beyond the 10-year period, how the City should be funding legislated and discretionary DC By-law exemptions (such as industrial expansion credit, residential intensification, places of religious assembly) and recommending the acceptable levels of debt to be repaid through future development charges, if applicable

c. Asset Management Plan for Growth-Related Capital Projects

In accordance with the DC Regulations, all growth-related capital projects identified in the model and the background study will have asset management plans identified. These plans must demonstrate that all the assets are financially sustainable over their full life cycle. The asset management plans must be consistent with other asset management documents and plans of the City. The asset management plans will form part of the DC Background Study.

B. Community Benefits Charge Strategy and By-Law

The Community Benefits Charge Strategy must be clearly written and well organized, including a table of contents and appendices containing supporting data and information required under the *Planning Act and the related regulations*. The CBC Strategy will:

- Be prepared in accordance to the *Planning Act, 1997* and related regulations, including O. Reg. 509/20;
- Determine the services which will be funded through the CBC
- Include estimates of the anticipated amount, type and location of development and redevelopment with respect to which CBC will be imposed
- Include estimates of the increase in the need for facilities, services and matters attributable to the anticipated development and redevelopment to which the CBC by-law would relate
- Identify the excess capacity that exists in relation to the facilities, services and matters attributable to the anticipated development and redevelopment to which the CBC by-law would relate
- Include estimates of the extent to which an increase in a facility, service or matter attributable to the anticipated development and redevelopment to which the CBC by-law would benefit existing development
- Include estimates of the capital costs necessary to provide the facilities, services and matters attributable to the anticipated development and redevelopment to which the CBC by-law would relate

- Identify any capital grants, subsidies and other contributions made to the municipality or that the council of the municipality anticipates will be made in respect of the capital costs necessary to provide the facilities, services and matters attributable to the anticipated development and redevelopment to which the CBC by-law would relate
- Include an assessment of whether a CBC should be applied based on a City-wide approach or an area-specified approach, or some combination of both

The Consultant will provide assistance with the drafting of the new CBC By-Law, including ensuring the CBC By-law does not charge for the same services that would be charged under the DC By-law.

The Consultant is expected to bring a level of innovation and creativity that maximizes the value of the project while at the same time maintaining awareness of project constraints.

C. Parkland Conveyance By-law Review

The key project deliverables for the Parkland Conveyance By-law review include the following:

- Completion of a Parkland Conveyance By-law
- Completion of a Parkland Conveyance Corporate Policy
- Memo and a revised red-lined version of the Parks Plan to ensure consistency and justification for the Parkland Conveyance By-law
- Completion of a GTHA Municipalities Benchmarking Document

The following background documents should be considered before the consultant commences work on the Parkland Conveyance By-law Review:

- Parkland Conveyance By-law 0400-2006, as amended by By-law 0166-2001
- Dedication of Land or Cash-in-Lieu Thereof, for Public Open Space (07-07-01)
- Draft Parkland Conveyance By-law
- Draft Parkland Conveyance Corporate Policy
- Draft Parks Plan
- GTHA Municipal Benchmarking
- NBLC and The Planning Partnership Parkland Conveyance By-law Review Memo (2019)
- Mississauga's Future Directions Parks and Forestry Master Plan (2019)
- Downtown Growth Area Park Provision Strategy (2015)
- Natural Heritage and Urban Forest Strategy (2014)

a. Market Analysis and Policy Evaluation:

The scope of work required for the completion of the Parkland Conveyance By-law Review includes the following:

- Complete a market sensitivity and viability analysis to test and inform the City's proposed alternative requirement methodology for medium and high density residential development. The analysis is to also consider other development charges and levies, including the Community Benefits Charge, and their overall impacts on development viability.
- Recommend a preferred alternative requirement methodology for cash-in-lieu collection for medium and high density residential development.
- Justify the proposed methodology in consideration of appeal provisions in S.42 of the *Planning Act*.
- Determine if the City should provide parkland credits for Privately Owned Public Spaces (POPS). If so, propose appropriate mechanism and methodology for the credits.
- Critically review and provide input into the Parks Plan among other purposes, to support the parkland conveyance by-law, specifically the alternative requirement justification. The Parks Plan will be relied upon heavily in case of an appeal.
- The consultant's approach must satisfy the public consultation requirements for the new Parkland Conveyance By-law under S. 42 of the *Planning Act*.

D. Integrated Stakeholder Consultation Process

The successful consultant will be required to meet with various City staff as required to complete the DC Background Study, CBC Strategy and Parkland Conveyance By-law, ensure alignment with City Master Plans, work closely with the City's Working Group(s) on these three projects and make presentations to the following groups:

- Steering Committee(s) (minimum two meetings)
- Leadership Team (LT) (minimum two meetings)
- General Committee / Council (minimum one meeting)
- Industry stakeholder groups (minimum three meetings)

Note: it is not yet determined whether there will be a joint Steering Committee and joint Working Group for all deliverables, or a separately established Steering Committee and Working Group for Parkland Conveyance.

Engaging with stakeholders is important and critical to the approval of new DC, CBC and Parkland Conveyance By-laws. The City will be responsible for ensuring the appropriate consultation is conducted, and supplying the consultant with the required information to be gathered in the study process. The consultant will be required to develop an approach for public

consultation with various stakeholder groups. City staff will arrange for either in-person or virtual meetings with the Leadership Team, Council, Steering Committee(s) and Working Group(s), including specific dates and venue locations. The consultant will be responsible for providing presentations, reports and all supporting documentation.

A minimum of eight meetings are required; more may be necessary to ensure an effective consultation process. The consultant is expected to provide the timing of and number of meetings within their work plan. The proposal should provide best practices information for public consultation.

The meetings listed above do not include working meetings that may be required between the consultant and City staff to complete the outlined work.

4. Specific Project Requirements

A. Qualifications and Experience

Specific qualifications required to complete the DC Background Study, CBC Strategy and Parkland Conveyance Review and associated by-laws are:

- Professional services with five or more years of experience in the areas of planning policy, municipal finance, demographic and economic forecasting, and growth management.
- Registered Professional Planner with five or more years of experience, preferred experience in drafting municipal Cash-in-lieu of Parkland / Parkland Conveyance by-laws and policy
- Extensive knowledge of the legislative framework as it pertains to development charges, community benefits charge and parks planning, including the *Planning Act* and *Development Charges Act*
- Experience with POPS, as demonstrated by previous projects including policy drafting
- Experience with and ability to conduct economic analysis (market feasibility, sensitivity, and viability)
- Relevant experience in undertaking parkland provision analysis, park policy and land use planning in large Ontario municipalities.

B. General Consulting Services

The Consultant will be required to provide the following services:

- General project co-ordination, including developing a detailed project work plan, maintaining a log of action items, providing electronic copies of presentations in advance of scheduled meetings, etc.

- Co-ordination with Planning and Building staff preparing the City's growth forecast
- Co-ordination with City staff and other Consultants in gathering information from ongoing studies that form part of the DC Background Study and CBC Strategy, including:
 - Future Directions Master Plan (includes Parks, Recreation, Culture and Library services)
 - Fire Master Plan
 - Transportation Master Plan
 - Transportation DC Background Study
 - Storm Water Management Master Plan
 - Cycling Master Plan
 - Parking Master Plan
 - Asset Management Policy and Plan
 - Region of Peel's Growth Management Strategy

The consultant will be required to ensure the DC Study and CBC Strategy aligns with these reports, including consistency in terminology and use of language. The consultant will also ensure the DC Background Study and CBC Strategy align with the City's strategic initiatives and strategies that the City and the Region of Peel are undertaking including:

- Training and technical advice to City staff with regard to the preparation of information required to complete the 2022 DC Background Study and CBC Strategy
- Work closely with City staff to collect and analyze data required to calculate new Development Charges and Community Benefit Charges
- Attend Leadership Team (LT) meetings as required, including delivering presentations on the calculated draft DC charges, CBC strategy and answering questions

The consultant will present the final report(s) and By-Laws to Council at a public meeting.

C. Technical Specifications

- Electronic copies of all presentations and final documents used (including tables, maps, drawings, etc.) are to be provided to the Manager of Development Financing & Reserve Management or designate, or to the Manager of Park Planning or designate, respectively
- Presentations to Staff, Council and other stakeholders (as necessary) on the changes to the DC Act, *Planning Act*, new regulations and their impact on the City of Mississauga's DC by-law and policies and Parkland Conveyance by-law and policies
- Status reports and preliminary findings shall be prepared as an interim step in the project to facilitate discussion and consultation on key issues and financial implications under review

- In a format satisfactory to the City, electronic PDF copies of the draft and final reports along with all work completed for the City of Mississauga will be provided. Approximately 25 hard-bound copies of the final report and one unbound copy will be required
- Prepare and distribute meeting agendas, supporting documentation and minutes. Meeting agendas and any supporting documentation should be provided at a minimum of five (5) business days in advance of the meeting. Minutes of meeting should be provided no more than ten (10) business days following the meeting
- Provide adequate technical representation at all meetings

D. Post-By-Laws Adoption Activities

There is always potential that the DC, CBC and Parkland Conveyance By-laws and related studies as adopted will be appealed. The consultant is asked to provide an hourly rate for any post-adoption activities including appeal discussions/meetings, defence testimony at the Local Planning Appeal Tribunal and follow-up procedures and documentation.

5. Project Schedule

The consultant shall be required to submit a detailed project work plan and schedule reflecting project commencement at the start of Q1, 2021. The statutory public meeting for the projects is expected to be completed by January 2022 with Council approval of the new by-laws to occur within Q1 of 2022. It shall be the responsibility of the consultant to ensure the project remains on schedule and on budget. All schedules must consider internal approval times for LT, GC and Council meetings. The project is anticipated to be completed by the end of Q1 of 2022 with post-adoption activities taking place as necessary.

Proposed By-Laws Process Timeline

Phase of Work	Timeline
1. Collection of Technical Data	Q1-Q2 2021
2. Policy Review	Q1-Q3 2021
3. Data Review and Analysis	Q3 2021
4. Draft Documents and By-Laws	Q4 2021
5. Stakeholder Consultations	Q4 2021
6. Draft Study Reviews Finalized	December 2021
7. Release of Study, Strategy and Proposed Draft By-Laws	December 2021
8. Public Meeting before Passing of the By-Laws	January 2022
9. Finalize Background Study, Strategy and By-Laws	January 2022
10. Council Approval of the By-Laws	February 2022