



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Planning, Administration and Policy Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	June 15, 2023
SUBJECT/REPORT NO:	Development Charges Reserves Status Report as of December 31, 2022 (FCS23035) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Kerry Meissner (905) 546-2424 Ext. 2790
SUBMITTED BY:	Mike Zegarac General Manager, Finance and Corporate Services Corporate Services Department
SIGNATURE:	

RECOMMENDATION(S)

That Report FCS23035, "Development Charges Reserves Status Report as of December 31, 2022", be forwarded, if requested, to the Ministry of Municipal Affairs and Housing.

EXECUTIVE SUMMARY

As per the requirements of the *Development Charges Act, 1997*, as amended (DC Act), an annual report of Development Charge (DC) reserves' activity must be provided to Council. The DC Reserves Status Report is the "Treasurer's Statement" as outlined in the DC Act, as amended, which must be made available to the public and forwarded to the Ministry of Municipal Affairs and Housing, at their request.

The accounting balance of the DC Reserves as of December 31, 2022 is \$467.13 M, which has increased by \$93.53 M since 2021. The increase is primarily due to in-year collections exceeding in-year capital financing. The balance of \$467.13 M reflects Public Sector Accounting Board (PSAB) standards which requires that any DC funds remain in (or are returned to) the DC reserves until the eligible capital project has expended the funds. A summary is provided in Table 1 (page 5) and details by DC Service are provided in Appendix "A" to Report FCS23035.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: Development Charges Reserves Status Report as of
December 31, 2022 (FCS23035) (City Wide) – Page 2 of 11**

There are a few DC services in Appendix “A” to Report FCS23035 which have negative balances. Per the City’s Development Charges Reserve Policy (Report FCS13035), as long as the consolidated balance remains in excess of the outstanding DC Deferral Agreements (2022 – \$50.01 M), service specific DC Reserves may incur a negative balance with staff working on financing strategies to remedy said negative balance for the future. Municipalities require most growth infrastructure to be constructed prior to the development being completed (e.g. subdivision, industrial park) and, therefore, expenditures often precede the collection of DCs. Significant negative balances can usually be mitigated by financing large projects over longer periods of time through debt financing.

If all approved direct capital funding (\$140.08 M) were allocated to the approved projects and approved debt funding (\$615.71 M) were to be cash funded from the DC reserves, the 2022 DC reserves adjusted balance would be a deficit balance of \$288.66 M, which represents a decrease of \$162.61 M from 2021. A summary is provided in Table 2 (page 7).

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The consolidated DC reserve balance in 2022 reflects the application of PSAB reporting requirements for obligatory reserve funds whereby funds collected remain in the DC reserves and are not transferred to capital projects until expenditures are incurred. The year-end consolidated DC reserve balance is \$467.13 M, as outlined in Appendix “A” to Report FCS23035. Summary information on the DC reserves is provided in Tables 1 and 2 (pages 5 and 7 respectively).

Staffing: None.

Legal: The DC Act requires the Treasurer to report annually on the opening and closing balances of the DC reserve funds and the transactions related to the funds. Report FCS23035 addresses this legal requirement.

HISTORICAL BACKGROUND

As per the requirements of the DC Act, an annual report of DC reserves activity must be provided to Council. The DC Reserves Status Report is the “Treasurer’s Statement” as outlined in the DC Act, which must be made available to the public and forwarded to the Ministry of Municipal Affairs and Housing, at their request.

**SUBJECT: Development Charges Reserves Status Report as of
December 31, 2022 (FCS23035) (City Wide) – Page 3 of 11**

Appendix “A” to Report FCS23035 summarizes the 2022 activity for each DC reserve. DC revenues were collected through the authorization of Municipal DC By-law 19-142, as amended, which was passed by Council in June 2019 and was amended in March 2021. Collections under DC By-laws are deposited into DC reserves.

Appendix “B” to Report FCS23035 provides a summary of the development charge funding to capital projects and Appendix “C” to Report FCS23035 provides a summary of the development charge funding to capital projects by reserve.

The Province updated Ontario Regulation 528/06 on November 25, 2022, with the effect of permitting municipalities to collect GO Transit charges until December 31, 2025. During the extension period, the Ministry of Transportation is to undertake a broader review of the framework governing municipal contributions to GO Transit. To date, the City has not received communications regarding the future of GO Transit as it relates to DC collections. City By-law 11-174 – GO Transit Development Charges will remain in effect until details of any future update become available.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The DC Reserves Status Report is the “Treasurer’s Statement” as required in Section 43 of the DC Act, which must be made available to the public and sent to the Ministry of Municipal Affairs and Housing, if requested.

Hamilton Conservation Authority (HCA)

The Region of Halton DC By-law for 2012 was appealed by the Hamilton-Halton Home Builders’ Association (HHHBA), now the West End Home Builders’ Association (WEHBA), on the grounds that the Region of Halton did not have the authority to include conservation authority capital costs in its DC By-law. The Ontario Municipal Board, now the Ontario Land Tribunal (OLT), rendered a decision of the WEHBA’s appeal to the Region of Halton and the decision allowed WEHBA’s appeal. This issue was also appealed by WEHBA on the same grounds for the 2014 City of Hamilton DC By-law.

The appeals on the 2014 City of Hamilton DC By-law were settled in November 2022 via OLT case OLT-22-003394. The City was directed to amend the 2014 City of Hamilton DC By-law such that the HCA charge was removed from the rate tables. This effectively resulted in a refund of every HCA fee that the City had collected. All refunds for HCA DCs collected by the City were issued in December 2022 from the HCA DC Reserves. Staff continues to support inquiries on these refunds and will submit the HCA DC Reserves for closure at an appropriate time.

RELEVANT CONSULTATION

Staff from the City's Planning and Economic Development Department have confirmed that the City is in compliance with s.s. 59.1(1) of the DC Act, as amended, which states that a "municipality shall not impose, directly or indirectly, a charge related to a development or a requirement to construct a service related to development, except as permitted by this Act or another Act."

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

As per the requirements of the DC Act, an annual report of DC reserves activity must be provided to Council. The report must be made available to the public and provided to the Minister of Municipal Affairs and Housing, if requested.

Appendices "A", "B", "C" and "E" to Report FCS23035 contain the financial information required to meet the disclosure requirements as set out in Section 43 of the DC Act, as amended. Appendix "D" to Report FCS23035 is provided in addition to the legislated requirements as described below.

The 2022 year-end consolidated DC reserve balance is \$467.13 M, as outlined in Appendix "A" to Report FCS23035.

The DC reserves balance as at December 31, 2022 reflects the application of PSAB reporting requirements for obligatory reserve funds.

PSAB reporting requirements require the City to only recognize DC revenue in capital projects once the expenses have been incurred. Therefore, the DC reserve balances are based on actual expenses, to date, and not the Council approved budgeted amounts. Table 2 shows the adjusted DC reserve balances if all Council approved budgeted amounts were to be cash funded.

Since project funding from DC reserves can only be allocated to capital projects after the expenses have been incurred, there is often a timing difference between when current budget contribution, other source funding, and DC funding are allocated to projects. For this reason, the current year funding to each project often does not reflect the funding ratios identified in the DC background studies. Staff included Appendix "D" to Report FCS23035 to show the DC funded projects closed in the year and their final revenue funding from all sources. Appendix "D" to Report FCS23035 includes closed projects from October 1, 2021 to September 30, 2022. At the time of Report FCS23035 preparation, the projects closed during the period October 1, 2022 to December 31, 2022 have not yet been approved by Council. Accordingly, projects closed between October 1, 2022 and December 31, 2022 will be included on next year's Development Charges Reserves Status Report.

**SUBJECT: Development Charges Reserves Status Report as of
December 31, 2022 (FCS23035) (City Wide) – Page 5 of 11**

There are a few DC services in Appendix “A” to Report FCS23035 which have negative balances. This occurs either because (1) capital infrastructure has been developed at a pace which exceeds the actual growth realized or (2) expenses for growth related studies must be incurred prior to the growth occurring and debt financing is not an option. Where debt financing is an option, it would have been possible to avoid the negative balances but that would have resulted in additional debt financing costs which would ultimately be passed on to the developer through the calculation of the DC.

DC reserves are permitted to borrow from each other and, therefore, a negative balance in one service can be offset with a surplus balance in another service. In order to minimize the overall debt financing costs to be charged through the calculation of the DC, it is prudent to allow DC services to go into a deficit position with a controlled plan for the overall forecast of each service.

Table 1 provides a continuity of DC Reserves with a summary of inflows and outflows in 2022 resulting in a consolidated PSAB balance of \$467.13 M at December 31, 2022.

Table 1 - DC Reserves Continuity (\$Millions)

Balance as of January 1, 2022		\$ 373.59
Funding Inflows		
Interest	\$	8.88
Collections	\$	99.30
DC Exemption Funding	\$	32.02
Internal Borrowing Repayment	\$	0.48
Subtotal of Inflows	\$	140.68
Funding Outflows		
Other Transfers	\$	0.14
Transfers to CBC	\$	14.77
External Debt Payments	\$	9.36
Direct Capital Funding	\$	22.87
Subtotal of Outflows	\$	47.14
Balance as of December 31, 2022		\$ 467.13

Note: Variances in totals may exist due to rounding

DC collections in 2022 totalled \$99.30 M, a \$15.49 M decrease from 2021. Residential DC collections decreased from \$104.58 M in 2021 to \$84.71 M in 2022 and non-residential DC collections increased from \$10.22 M in 2021 to \$14.59 M in 2022.

**SUBJECT: Development Charges Reserves Status Report as of
December 31, 2022 (FCS23035) (City Wide) – Page 6 of 11**

The City adopted By-law 22-158, Community Benefits Charges By-law on June 16, 2022 with an effective date of September 18, 2022. In accordance with the requirements in Section 37 (51) 1 of the *Planning Act, 1990*, as amended, the balances in the City's Airport and Parking DC Reserves were transferred to the City's Community Benefits Charge Transition Reserve which is part of the Community Benefits Charges Special Account required under Section 37(42) of the *Planning Act, 1990*, as amended. This transfer is further detailed in FCS23054.

Any DC exemptions authorized by Council through DC By-law 19-142 (e.g. reduced industrial rate) or through a Council meeting (i.e. exemptions for non-profits) are required to be recovered through other sources. Council has approved amounts in the Rates and Tax Capital Budgets to enable staff to recover a portion of these exemptions. A 10-year (2013-2022) summary of the exemptions is included as Appendix "E" to Report FCS23035. Appendix "E" to Report FCS23035 shows that the total exemptions provided in 2022 has increased by \$11.18 M from \$39.41 M in 2021 to \$50.59 M in 2022.

The City's backlog of unfunded DC exemptions is highlighted in Appendix "E" to Report FCS23035. As of December 31, 2022, the City has \$58.81 M in unfunded discretionary DC exemptions. Through Report FCS22042(b), Council approved the transfer of \$8.88 M from the 2022 year-end surplus to fund 2022 discretionary exemptions. The 2023 Tax Supported Capital Budget (Report FCS22081) has been updated with a strategy to address the remaining funding shortfall in historical discretionary Development Charges (DC) exemptions.

Beginning in 2023, the Capital Financing Plan incorporates an additional \$6.5 M per year over an eight-year period (ending in 2030) as dedicated funding for DC exemptions.

As of January 1, 2020, DC rates and exemptions applicable to a development are based on the complete application date of a Site Plan Application or a Site-specific Zoning Amendment, only where such application is applied for on or after January 1, 2020 and where the building permit is issued within two years following the approval of said application. This rate freeze has been legislated by the Province and is found within Section 26.2 of the DC Act.

While interest is applicable to the locked-in DC rate from the date of the related planning application to the date of building permit issuance, it means that the Downtown Hamilton CIPA exemption, in effect at planning application date, will continue to apply potentially years later when the building permit is issued. Therefore, this legislated change will further increase the amount of time to balance in-year budgeted DC exemption funding with in-year exemptions provided.

**SUBJECT: Development Charges Reserves Status Report as of
December 31, 2022 (FCS23035) (City Wide) – Page 7 of 11**

Table 2 provides the accounting DC reserve balance at December 31, 2022, the approved funding that has not yet been transferred to projects, the debt funding that has not yet been incurred and the adjusted DC reserve balances.

Table 2- DC Adjusted Balance as at December 31, 2022				
DC Service	Dec. 31/22 Balance (\$)	Adjustments		Adjusted Balance (\$)
		Direct Capital Funding (\$)	DC Debt (\$)	
Water Services	74,939,322	(27,772,338)	(88,040,500)	(40,873,516)
Wastewater Services	114,475,939	(1,239,862)	(27,283,530)	85,952,547
Linear Wastewater	49,727,666	(7,976,420)	(225,009,898)	(183,258,652)
Storm Water	57,151,516	(30,869,948)	(37,340,000)	(11,058,432)
Roads	75,379,076	(40,053,754)	(90,385,099)	(55,059,776)
Public Wks&Roll Stock	8,468,954	(656,139)	-	7,812,815
Transit Services	12,854,963	(1,535,253)	(37,998,000)	(26,678,290)
Airport	-	-	-	-
Fire Protection	5,036,704	(555,601)	(18,813,800)	(14,332,697)
Police Services	4,496,500	(585,485)	(15,005,000)	(11,093,985)
Ambulance Services	(87,042)	-	(4,743,000)	(4,830,042)
Outdoor Recreation	2,622,878	(3,615,004)	(24,675,000)	(25,667,126)
Indoor Recreation	30,443,173	(12,069,199)	(12,319,500)	6,054,474
Library Services	7,096,161	-	(5,310,500)	1,785,661
Admin Studies	(4,083,154)	(5,789,397)	(790,000)	(10,662,551)
Burlington Road	6,369,708	-	(25,694,000)	(19,324,292)
Homes for Aged	7,230,884	(7,246,739)	-	(15,855)
Health	886,660	-	-	886,660
Social&Child	987,787	-	-	987,787
Housing	13,229,391	-	-	13,229,391
Parking	-	(23,067)	-	(23,067)
Provincial Offences Act	(191,092)	-	-	(191,092)
Hamilton Conservation Authority	44,725	-	-	44,725
Waste Diversion	5,102,392	(91,131)	(2,303,000)	2,708,261
Dundas/Waterdown SAC	(5,151,554)	-	-	(5,151,554)
GO Transit	96,523	-	-	96,523
TOTAL	467,128,080	(140,079,338)	(615,710,827)	(288,662,085)

Note: The DC Reserve Policy (Report FCS13035) permits the General Manager of Finance and Corporate Services to change approved DC funding from debt funded to reserve funded in order to maintain the sustainability of the DC reserves. Table 2 reflects current estimates under this authority.

As seen in Table 2, if all approved direct capital funding (\$140.08 M) were allocated to the approved projects and approved debt funding (\$615.71 M) were to be cash funded from the DC reserves, the 2022 DC reserves adjusted balance would be a deficit balance of \$288.66 M, which represents a decrease of \$162.61 M from 2021.

**SUBJECT: Development Charges Reserves Status Report as of
December 31, 2022 (FCS23035) (City Wide) – Page 8 of 11**

Of note, the funding commitments (including debt) are only included in the Capital Budgets to the extent that current (and future) DC collections can be expected to fund the commitments. Should development activity vary from the existing development forecasts, staff would ensure that future years' collections can meet existing commitments or undertake a review to determine which growth projects can be deferred. Staff will undertake a review related to the changes to the DC Act from the *More Homes Built Faster Act, 2022* (Bill 23) and report back to Council with recommendations.

A new requirement for 2023 opening DC Reserve balances (2022 closing DC reserve balances), contained in s.s. 35(2) of the DC Act, requires municipalities to spend or allocate at least 60 percent of the monies that are in a reserve fund relating to Water Supply services, Wastewater services, and Services related to a highway. In tandem, Schedule 61 of Municipal Financial Information Returns (FIR) was updated to include detail about DC commitments. Table 3 details information used in preparation of Schedule 61 of the City's 2022 FIR and demonstrates the City's satisfaction of s.s. 35(2) as each service area is well above the 60 percent threshold.

Table 3 - Summary of Capital Project Commitments (over the next 10 years) as at December 31, 2022

Service	A						B		A / B
	DC Reserve Funding Commitments	DC Debt Funding Commitments	Future Debt Commitments	Existing Debt Commitments	Future Capital Commitments	TOTAL Commitments	Closing Balance of Reserve Fund(s) 2022	% of Service Allocated	
Roads	\$ 40,053,754	\$ 90,385,099	\$ 42,863,379	\$ 19,364,963	\$ 237,940,985	\$ 430,608,179	\$ 75,379,076	571%	
Wastewater Services	\$ 1,239,862	\$ 27,283,530	\$ 181,281,723	\$ -	\$ -	\$ 209,805,115	\$ 114,475,939	183%	
Wastewater Linear Services	\$ 7,976,420	\$ 225,009,898	\$ 31,364,200	\$ 1,296,544	\$ 5,785,000	\$ 271,432,062	\$ 49,727,665	546%	
Water Services	\$ 27,772,338	\$ 88,040,500	\$ 125,482,858	\$ 277,423	\$ 10,865,250	\$ 252,438,369	\$ 74,939,322	337%	
TOTAL	\$ 77,042,374	\$ 430,719,027	\$ 380,992,161	\$ 20,938,930	\$ 254,591,235	\$ 1,164,283,726	\$ 314,522,002	370%	

Newly introduced in 2022, O.Reg 82/98 s.s. 12 (3) 2 to the DCA requires municipalities to state “whether, as of the end of the year, the municipality expects to incur the amount of capital costs that were estimated, in the relevant development charge background study, to be incurred during the term of the applicable development charge by-law”.

As per Table 6-7 of the 2019 DC Background Study there was \$1.2 B in DC funding expected over the 2019-2023 period; adjusted for edits through the DC Update Study dated March 5, 2021, this amount is adjusted to \$1.3 B.

Staff first reviewed the amount of funds to be inflowed to the DC reserves over the 2019-2023 period; inflows consist of DC collections, interest, and City funding of discretionary exemptions. \$0.75 B is forecasted to be received into the DC reserves, a little more than 40% less than what the DC study forecasted would be spent on eligible capital projects. Therefore, since the City has not collected enough to support the expenses planned in the 2019 DC Background Study, it can generally be expected that

**SUBJECT: Development Charges Reserves Status Report as of
December 31, 2022 (FCS23035) (City Wide) – Page 9 of 11**

the City will not fund to the level planned in the 2019 DC Background Study (as adjusted), although debt is often used to bridge timing differences.

The DC funding for all services over the 2019-2023 period was reviewed and, aside from the exceptions noted below, all services are expected to incur +/- 15% of the estimated capital costs from the 2019 DC Background Study (as adjusted).

Services forecasted to spend up to ~40% less than what was forecasted in the 2019 DC Study (as adjusted) and which are explained by keeping spending in line with the pace of growth:

- Storm Water Services (\$27 M, 18 % less)
- Water Services (\$77 M, 38% less)
- Police Services (\$3 M, 16% less)
- Indoor Recreation Services (\$21 M, 38% less)
- Library Services (\$5 M, 42% less)

Roads (Services related to a highway) is forecasted to spend \$176 M (48%) less in the 2019-2023 period versus the amount in the 2019 DC Background Study (as adjusted). The majority of the difference is explained by keeping spending in line with the pace of growth. However, there is one project that can be singled out for explanation. The Rail Grade Separation project (\$9.6 M in period costs in the 2019 DC Background Study) in is on hold due to a lack of staff resources.

Public Works and Rolling Stock is forecasted to spend \$16 M (70%) less in the 2019-2023 period versus the amount in the 2019 DC Background Study (as adjusted). This is largely a timing difference as the planned Water & Wastewater office/storage expansion (\$17 M in the 2019 DC Background Study) has yet to be programmed into the capital budget.

Housing Services is forecasted to spend \$21.97 M (95%) less in the 2019-2023 period versus the amount in the 2019 DC Background Study (as adjusted). Housing has experienced delays in getting projects approved and therefore they are not included in the capital budget forecast; while net costs estimated by the 2019 DC Study are still expected in the long run, to date there has been minimal DC funding provided to housing projects.

Waste Diversion Services is forecasted to spend \$13.3 M (81%) less in the 2019-2023 period versus the amount in the 2019 DC Background Study (as adjusted). The primary driver of this variance is the Material Recycling Facility Lifecycle Replacement & Upgrades project for which the 2019 DC Study estimated \$8.2M of DC Financing; the project has experienced almost nil to date. This is because Waste Diversion Services is transitioning out of recycling in 2025 and does not know what the future of the facility is. Consequently, there has been no budget dedicated to replace or upgrade the facility.

**SUBJECT: Development Charges Reserves Status Report as of
December 31, 2022 (FCS23035) (City Wide) – Page 10 of 11**

Another new requirement per O.Reg 82/98, Section 12 (3) 3. to the DC Act requires municipalities to state, regarding any service for which a development charge was collected during the year but in respect of which no money from a reserve fund was spent during the year, why there was no spending during the year. For the purpose of these comments spending is defined as direct capital financing and payments covering external debt.

With respect to Airport and Parking services, as previously discussed in Report FCS23035, these services have had their balances transferred to the Community Benefits Charge Transition Reserve. Current and future spending will occur through Community Benefits Charge reserves rather than development charge reserves. Burlington Road did not realize any spending during the year but has significant DC Debt commitments as seen in Table 2 which will utilize the balance once the debt is issued. Dundas / Waterdown SAC had all spending completed by 2017 and thus the reserve represents that amount remaining to be recovered from previous spending. Accordingly, it did not see any spending.

Lastly, Health, as well as, Social and Child services have less than \$1 M in reserve balances, respectively, as seen in Appendix “A” to Report FCS23035. These services do not collect substantial development charges, which is also demonstrated in Appendix “A”. Consequently, it is reasonable that there was no spending through these DC reserves this year.

ALTERNATIVES FOR CONSIDERATION

Not applicable.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Built Environment and Infrastructure

Hamilton is supported by state-of-the-art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

**SUBJECT: Development Charges Reserves Status Report as of
December 31, 2022 (FCS23035) (City Wide) – Page 11 of 11**

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report FCS23035 – Development Charges Reserve Funds for the period of January 1, 2022 to December 31, 2022

Appendix “B” to Report FCS23035 – Revenue Sources for Development Charges Funded Projects for the Year ended December 31, 2022

Appendix “C” to Report FCS23035 – Development Charges Project Funding by Reserve, December 31, 2022

Appendix “D” to Report FCS23035 – Development Charges Capital Projects’ Closing Summary for the Year ended December 31, 2022

Appendix “E” to Report FCS23035 – Ten Year Development Charges Exemption Summary, Ten Year History