

February 13, 2004

To: Policy and Finance Committee  
From: Chief Financial Officer and Treasurer  
Subject: 2004 Development Charges Background Study

Purpose:

The purpose of this report is to present the City's 2004 Development Charge Background Study and to seek authority to hold a public meeting pursuant to the provisions of the *Development Charges Act, 1997* ("DCA") in order to consider public input prior to the passage of a new development charges by-law.

Financial Implications and Impact Statement:

The City's existing development charges by-law, which generated approximately \$23 million in 2003, will expire on July 29, 2004.

There are no immediate financial implications arising from the recommendations of this report. If Council adopts the recommendations of this report, a public consultation process will commence and a subsequent report to Council in June, 2004, will contain development charges policy recommendations with consequential financial implications.

Development charges are used by the City to assist in the funding of capital costs arising from growth. This capital financing tool is integral to the City's long term fiscal stability. The Background Study calculates the development charge amounts projected to cover the costs of development-related infrastructure to the maximum allowed by the DCA. However, Council can elect to adopt a charge that is less than the calculated amount. In deciding whether to charge as calculated or some reduced amount, the City must balance long-term economic development, financial and planning objectives against the immediate cost impact to ratepayers. Any development-related costs that are not recovered through development charges must be absorbed by existing ratepayers through increased taxes or user fees.

Recommendations:

It is recommended that:

- (1) staff be directed to consult with stakeholders prior to presenting any final policy recommendations with respect to the following matters:
  - (a) the policy framework for development charges;

- (b) the potential impact of development charges on all categories of development;
- (c) transitional provisions for an orderly implementation of any changes in development charge rates; and

staff report back to the Policy and Finance Committee on the results of those consultations and on a recommended Development Charge for the City of Toronto;

- (2) the authority and responsibility for holding the public meeting required pursuant to Section 12 of the Development Charges Act, 1997 be delegated to the Policy and Finance Committee, and that such public meeting be held at the Policy and Finance Committee meeting scheduled on May 6, 2004;
- (3) the capital program identified in the 2004 Development Charge Background Study be forwarded to the Budget Advisory Committee for its consideration;
- (4) the attached City of Toronto 2004 Development Charge Background Study dated February 6, 2004 be received;
- (5) the sum of \$50,000 be allocated from account number XR2030 for the purposes of funding printing, advertising and public consultation costs; and
- (6) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

#### Executive Summary:

The City's current development charges bylaw will expire on July 29, 2004. A new bylaw must be adopted before then, if Council wishes to continue to utilize development charges as a source of funding growth related capital expenditures.

Council has directed staff to bring forward a new bylaw for its consideration. Prior to such consideration however, the Development Charges Act requires that a number of things be undertaken including the preparation of a Background Study and the holding of a statutory public meeting. The study has now been completed and together with a draft bylaw, it is being released some ten weeks in advance of the proposed public meeting in order to provide sufficient time for review and consultation with no Council decision on development charges until June, 2004.

The principal result of the study is a schedule of calculated development charge amounts, shown below in Exhibit 1. These calculated charges represent the amounts that are projected to cover the costs of development-related infrastructure to the maximum allowed by the DCA. The methodology utilized in arriving at these amounts, together with the requirements of the DCA, are outlined in detail within the Background Study.

The 2004 calculated charge includes a number of services that are not currently levied for under the existing charge. These include services such as child care, social housing, emergency shelters,

ambulance facilities and vehicles, TTC ridership growth strategy, water pollution control plant and storm water management. The 2004 calculated charge also reflects five years of capital cost inflation which has occurred since the 1999 calculation.

Exhibit I  
Schedule of Calculated Development Charges  
(As Determined By Background Study Dated February 6, 2004)

	Calculated Development Charge
<u>Residential (per unit)</u>	
Single and Semi-Detached Units	\$13,060
Apartments 2 Bedroom and Larger	8,471
Apartments Bachelor and 1 Bedroom*	5,264
Multiples	10,395
<u>Non-Residential</u>	
Per sq. ft. of gross floor area	\$8.03
Per sq. m. of gross floor area	\$86.43

Under the DCA, Council has the option of adopting a charge that is less than the calculated maximum amount. In deciding whether to charge as calculated or some reduced amount, the City must balance overall, long-term economic development, financial and planning objectives against the immediate cost impact to existing ratepayers.

Council is not currently being asked to adopt any of the charges shown in Exhibit 1. That decision along with other policy decisions relating to transitional provisions, potential exemptions and full or partial relief to non-residential development, will not be made until staff have concluded the consultation process and have considered input from the public at the statutory public meeting.

Background:

At its meeting of October 29, 30 and 31, 2002, Council considered and adopted as amended Clause No. 18 contained in Report No. 14 of the Policy and Finance Committee. That clause recommended, among other things, that the Chief Financial Officer and Treasurer be authorized to undertake the requisite Background Study pursuant to the Development Charges Act, 1997 (hereinafter referred to as the "DCA") and further that "the CFO and Treasurer be requested to meet with the General Manager of the Toronto Transit Commission and the Commissioner of Works and Emergency Services to better define the infrastructure requirements arising from the new Official Plan with the intent of providing a financing tool to fund these improvements and this be reported with the introduction of the new Development Charges by-law, such new updated Development Charges by-law to include provisions for the inclusion of child care and affordable housing."

Before a new DC bylaw can be passed, the DCA requires that a background study be completed and that it, together with a proposed bylaw, be made available to the public at least two weeks prior to the statutory public meeting. To that end, the consulting firm of C.N. Watson and Associates Ltd., considered a leading expert in the area of development charges, was retained to undertake the requisite Background Study.

The study which represents the combined efforts of the consulting team and representatives from virtually all City departments and a number of the City's agencies, boards and commissions, has now been completed. It is being made available considerably in advance of the proposed public meeting in order to provide sufficient time for review and consultation. Any modification to the study as a result of these consultations will be made available to the public at least two weeks prior to the public meeting in the form of an updated Background Study.

It is important to note that the final recommendations from staff with respect to the development charges policies and by-law will not be made until staff have concluded the consultation process and have considered input from the public at the statutory public meeting.

The following principles serve as a guide in assessing various development charges policy options:

- (a) growth ought to pay for itself so that the burden arising from development related costs should not largely fall on existing residents in the form of higher taxes and user fees;
- (b) development charges should be used to mitigate the City's capital pressures and to assist in providing the infrastructure necessary to accommodate future growth;
- (c) development charges should be applied on a consistent and equitable basis; and
- (d) development charges should not act as an unnecessary disincentive to growth and development occurring in the City.

#### The Calculated Schedule of Charges:

The Background Study has been prepared pursuant to Section 10 of the DCA. The study sets out the requirements of the Act and the approach taken by the City in meeting these requirements. It also provides in comprehensive detail the methodology utilized in determining the level of charges that can be imposed under the legislation. The resultant schedule of development charges was previously shown in Exhibit I.

Residential development charges are differentiated on the basis of type of unit being constructed, with larger units such as single and semi-detached units subject to a comparatively higher charge than smaller units such as apartments. The differentiation in the level of charges is based upon average occupancy by unit type and requirement for services. Various types of non-residential development are exempted from the charge because of either statutory or public policy reasons (discussed later in the report). The types of non-residential development that are not exempted will be subject to a development charge calculated on the basis of the floor area of the development.

Exhibit II provides a comparison of the calculated charge (column C) with the charge calculated in 1999 as adjusted to January 2004 (column A) and the current charge (column B).

**Exhibit II**  
**Comparison of Calculated Charge with Charge**  
**Calculated in 1999 and Current Charge**

	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>		<b>E</b>	
	1999 Calculated Charge Indexed to Jan 2004	Jan 2004 Current Charge	Jan 2004 Calculated Charge	Increase from Current Charge C-B		Increase from 1999 Calculated Charge Indexed to Jan 2004 C-A	
	\$	\$	\$	\$	%	\$	%
Per Single Family Unit	6,080	4,370	13,060	8,690	199	6,980	115
Per 2 Bedroom or Larger Apartment	4,107	2,816	8,471	5,655	201	4,364	106
Non- Residential Per Sq. Ft.	3.54	Nil	8.03	8.03	N/A	4.49	127

There are a number of factors that account for the considerable increase in the calculated charge.

The 2004 calculated charge includes a number of services that are not currently levied for under the existing charge. These include services such as child care, social housing, emergency shelters, ambulance facilities and vehicles, TTC ridership growth strategy, water pollution control plant and storm water management. These services were not included in the original charge, because in most cases in 1999, the program areas did not have a 10 year development-related capital program which is a prerequisite for the establishment of a development charge.

The charge that is currently in effect (column B) reflects a substantial reduction from the 1999 DC calculation as indexed to January 2004 (column A). This reduction in the amount that could have been levied was a result of a negotiated settlement with the development industry in 1999. Had the 1999 calculated charge not been reduced, the increase now proposed would be significantly less (column E rather than column D in Exhibit II) in relative terms in comparison to what the City could currently be charging (column A).

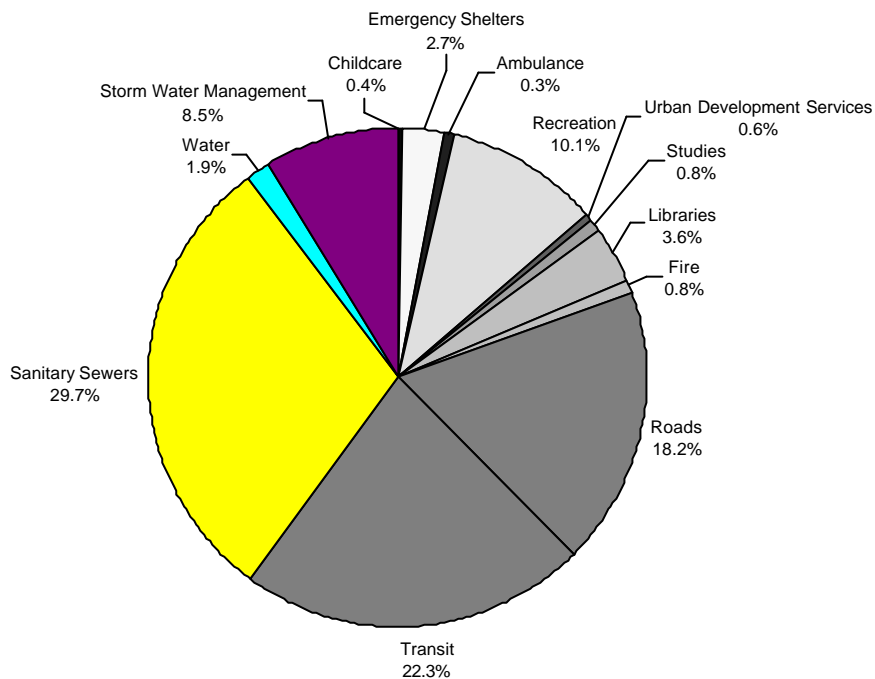
The 2004 calculated charge also reflects five years of capital cost inflation which has occurred since the 1999 calculation. The charge established in 1999 has only been partially indexed during that time (as part of the phase-in strategy adopted in 1999).

Lastly, the 2004 calculated charge is based on an updated much more comprehensive capital program than that which existed shortly after amalgamation in 1998.

Services Included in the Development Charge:

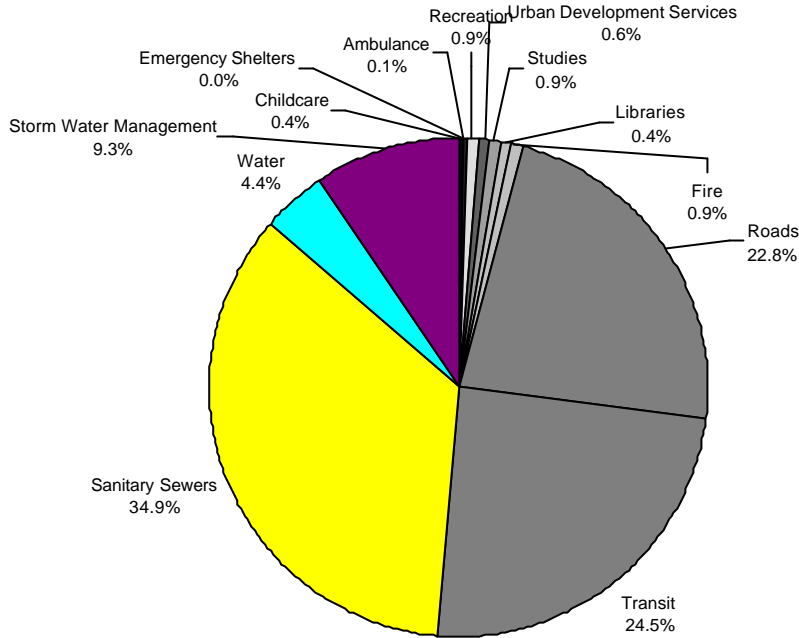
As previously noted, one of the main factors contributing to the increase in the development charge is the inclusion of a number of services for which no charge currently exists. Exhibit III provides the composition of the 2004 calculated residential development charge by service while Exhibit IV provides the same information for the non-residential charge.

Exhibit III  
Composition of Calculated Residential  
Development Charge By Service (%)



It should be noted, that upon collection, development charges are segregated into separate reserve funds. These reserve funds can only be utilized for funding the development-related capital projects for which the charge is imposed. The development charges revenue is allocated in separate reserve funds in accordance with the percentage distributions shown in Exhibits III and IV.

**Exhibit IV  
Composition of Calculated Non Residential  
Development Charge By Service (%)**



Services That are Not Included in the Development Charge:

The following services are not included in the 2004 calculated development charge. The reasons for their exclusion range from specific statutory ineligibility to an absence of the required development-related capital plans.

Statutory Ineligibility	No Development-Related Capital Plans
<ul style="list-style-type: none"> <li>• Parkland Acquisition</li> <li>• Electrical Power Services</li> <li>• Cultural, Entertainment and Tourism Facilities</li> <li>• Solid Waste Management</li> <li>• Hospitals</li> <li>• Administrative Headquarters</li> </ul>	<ul style="list-style-type: none"> <li>• Police Services</li> <li>• Homes for the Aged</li> </ul>

Impact on the Capital Program and DC Revenue

Exhibit V provides a summary of the development related capital program contained in the Background Study, with a more detailed summary in Appendix I. The majority of the projects that make up this program are reflected in the City's 2004 Capital Forecast.

Exhibit V  
2004 – 2013 Development-related Capital Program (\$000's)  
Development Charges Background Study dated February 6, 2004

Services	Gross Development- related Capital Costs	Net of Assumed Additional Prov/Fed Subsidy	DC Recoverable	% Recoverable from Net
<u>Misc. Tax Funded Services</u>				
Childcare	9,604	9,604	5,186	54.0%
Shelters/Housing	193,820	193,820	21,582	11.1%
Emergency Medical Services	15,628	15,628	3,302	21.1%
Parks and Recreation	145,672	145,672	83,856	57.6%
Urban Development Services	19,360	19,360	7,841	40.5%
Development Related Studies	15,000	15,000	9,975	66.5%
Library	52,624	52,624	30,151	57.3%
Fire Facilities	28,951	28,951	10,450	36.1%
<b>Misc. Sub-total Tax Funded Services</b>	<b>480,659</b>	<b>480,659</b>	<b>172,343</b>	<b>35.9%</b>
<u>Roads and Transit</u>				
Roads	572,936	572,936	252,315	44.0%
Transit	4,873,800	1,974,733	293,206	14.8%
<b>Sub-total Roads and Transit</b>	<b>5,446,736</b>	<b>2,547,669</b>	<b>545,521</b>	<b>21.4%</b>
<u>Rate-funded Services</u>				
Sanitary Sewers	955,954	955,954	400,259	41.9%
Water	496,802	496,802	35,918	7.2%
Storm Water Management	483,519	483,519	111,209	23.0%
<b>Sub-total Rate Funded Services</b>	<b>1,936,275</b>	<b>1,936,275</b>	<b>547,386</b>	<b>28.3%</b>
<b>Total</b>	<b>7,863,670</b>	<b>4,964,603</b>	<b>1,265,250</b>	<b>25.5%</b>

The following projects are not included within the City's 2004 Capital Budget submission:

- (1) \$750 million City share of TTC Ridership Growth Strategy (RGS) including subway expansion (Spadina and Sheppard) is to be considered separately by Council. Two thirds Provincial and Federal subsidy has been assumed for the TTC RGS.
- (2) Where specific location of development and resultant capital projects could not be identified in advance, an allowance was made to unallocated improvements for some program areas. These projects are not specifically included within the City's capital program.

Appendix I summarizes the City's Ten Year Development Related Capital Program and the deductions made thereto, in accordance with the *DCA*. In summary, the gross development-related capital cost of the entire 10 year program is \$7.86 billion. Of this amount, \$1.265 billion has been determined to be DC-recoverable. The difference between these two amounts comprises the following deductions, pursuant to the *DCA*:

- \$2.78 billion      Beyond 10 year Service Level Cap
- \$2.92 billion      Benefit to Existing Development
- \$0.63 billion      Subsidies and Other Contributions (\$2.4 billion in additional TTC subsidies already netted from the City's transit cost share)
- \$0.22 billion      Post-2014 Capacity
- \$0.05 billion      10% Statutory Deduction
- \$6.60 billion

As a result of statutory and voluntary exemptions , it is estimated that approximately \$71 - \$76 million in annual development charges revenue will be realized, if the full charge is implemented. The actual amount of revenue to be realized is dependant on a number of factors, including the amount of the adopted charge, the amount and type of development occurring and the impact of potential policy decisions such as the granting of full or partial exemptions to certain land uses, the phasing-in of the charge and other transitional provisions.

#### Competitiveness and Potential Development Charge Impacts

The schedule in Exhibit 1 represents the calculated charge amounts that are projected to cover the costs of development-related infrastructure to the maximum allowed by the *DCA*. However, Council can elect to adopt a charge that is less than the calculated amount. In deciding whether to charge as calculated or some reduced amount, the City must balance overall, long-term economic development, financial and planning objectives against the immediate cost impact to ratepayers. Any development-related costs that are not recovered through development charges must be absorbed by existing ratepayers through increased taxes and/or user fees.

Research that is referenced in Appendix H of the Background Study indicates that the relative level of development charges is not likely to be one of the principal factors in location decisions. However, in marginal situations development charges that are not competitive with neighboring jurisdictions may contribute towards some reduction in the level of development activity within a municipality. Even if development charges are overshadowed by other costs (such as land costs or property taxes), a non-competitive level of charges can contribute to a market perception that a particular municipality is "high cost". This, in turn, can have long-term direct and indirect impacts on employment, land values and tax revenues.

#### Comparison of Calculated Residential Development Charges with Other GTA Municipalities

Exhibit VI provides a comparison of the residential development charge rates for fully serviced single detached dwelling units in the largest ten GTA municipalities (GTA10) with the calculated charge for Toronto. Exhibit VII provides a similar comparison for apartment units, which are by far the largest type of land development projects in Toronto.

Exhibit VI  
Uniform Residential Development Charges-GTA  
Per Fully Serviced Single Detached Unit  
(As of December 31, 2003)

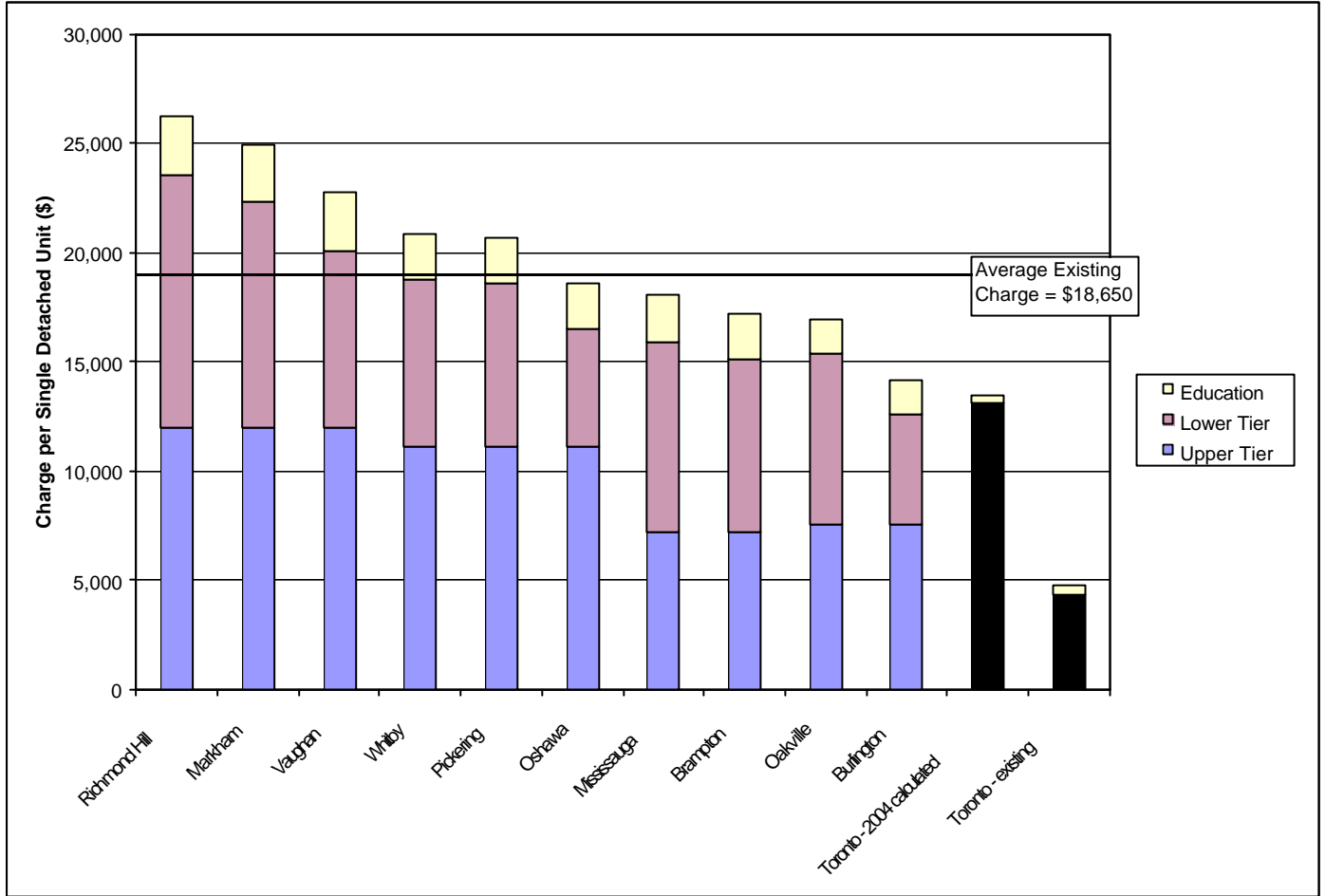
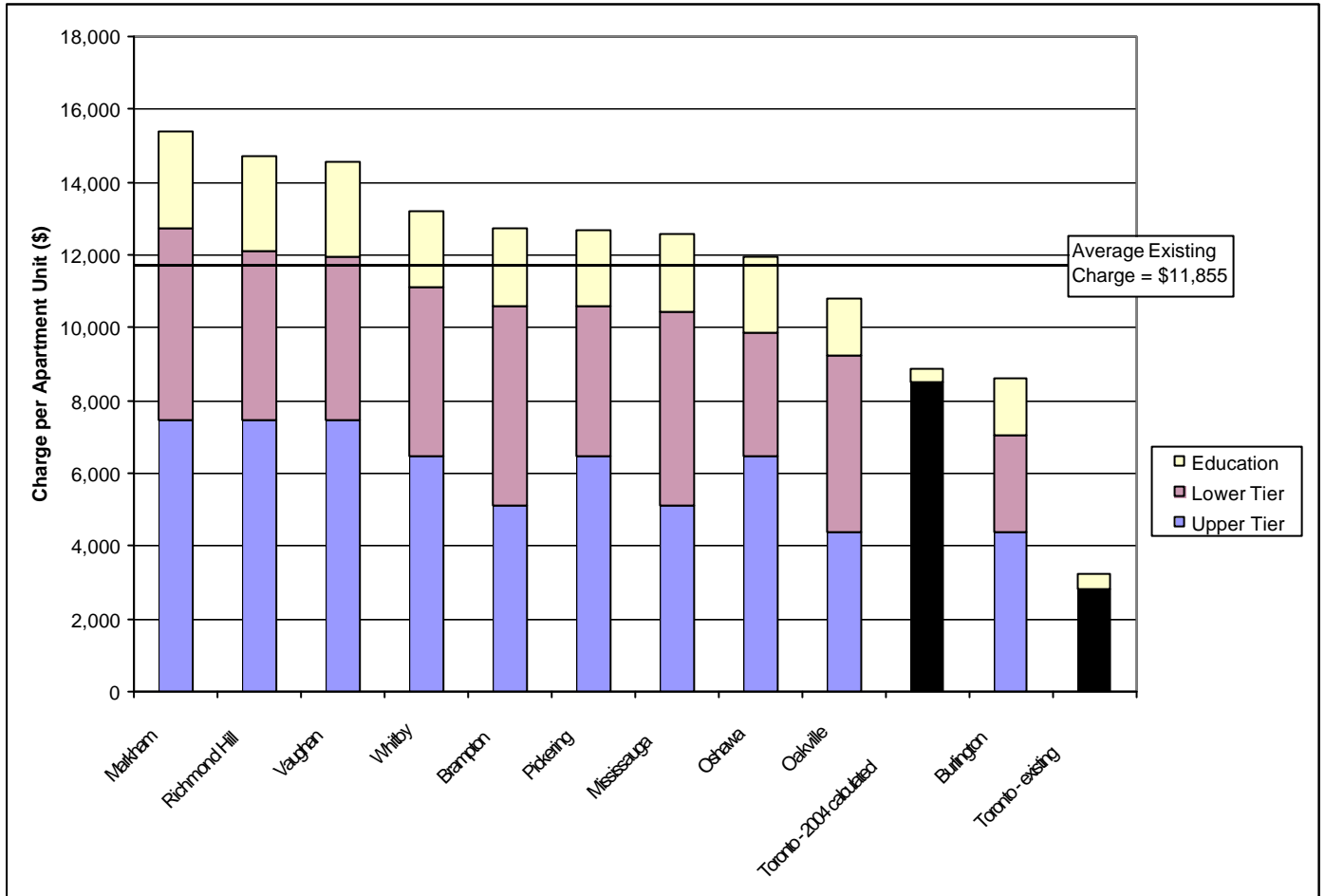


Exhibit VII  
 Uniform Residential Development Charges-GTA  
 Per Fully Serviced Two Bedroom or Greater Apartment Unit  
 (As of December 31, 2003)



As these exhibits indicate, Toronto’s existing residential charges are considerably lower than those currently being levied by any of the other GTA10 municipalities. While the calculated charges represent a significant increase for Toronto, the resulting charges would continue to be amongst the lowest of the nearby municipalities. Toronto’s competitive advantage is further augmented by a residential tax rate that is lower than that of any of the other GTA10 municipalities.

Comparison of Calculated Non-Residential Development Charge with Other GTA Municipalities

As shown in Exhibits VIII and IX, Toronto’s current non-residential charges are the lowest of the GTA10 municipalities. Toronto currently exempts non-residential development from all non-education development charges.

The calculated charge for non-residential development in Toronto is approximately the average of the other large GTA municipalities (lower than average for commercial). As Exhibits VIII and IX indicate, most of the large GTA municipalities have adopted non-residential charges that are considerably discounted from the values originally calculated as part of their background studies.

Exhibit VIII  
Uniform Commercial Development Charges-GTA  
Per Square Foot of Gross Floor Area (GFA)  
(As of December 31, 2003)

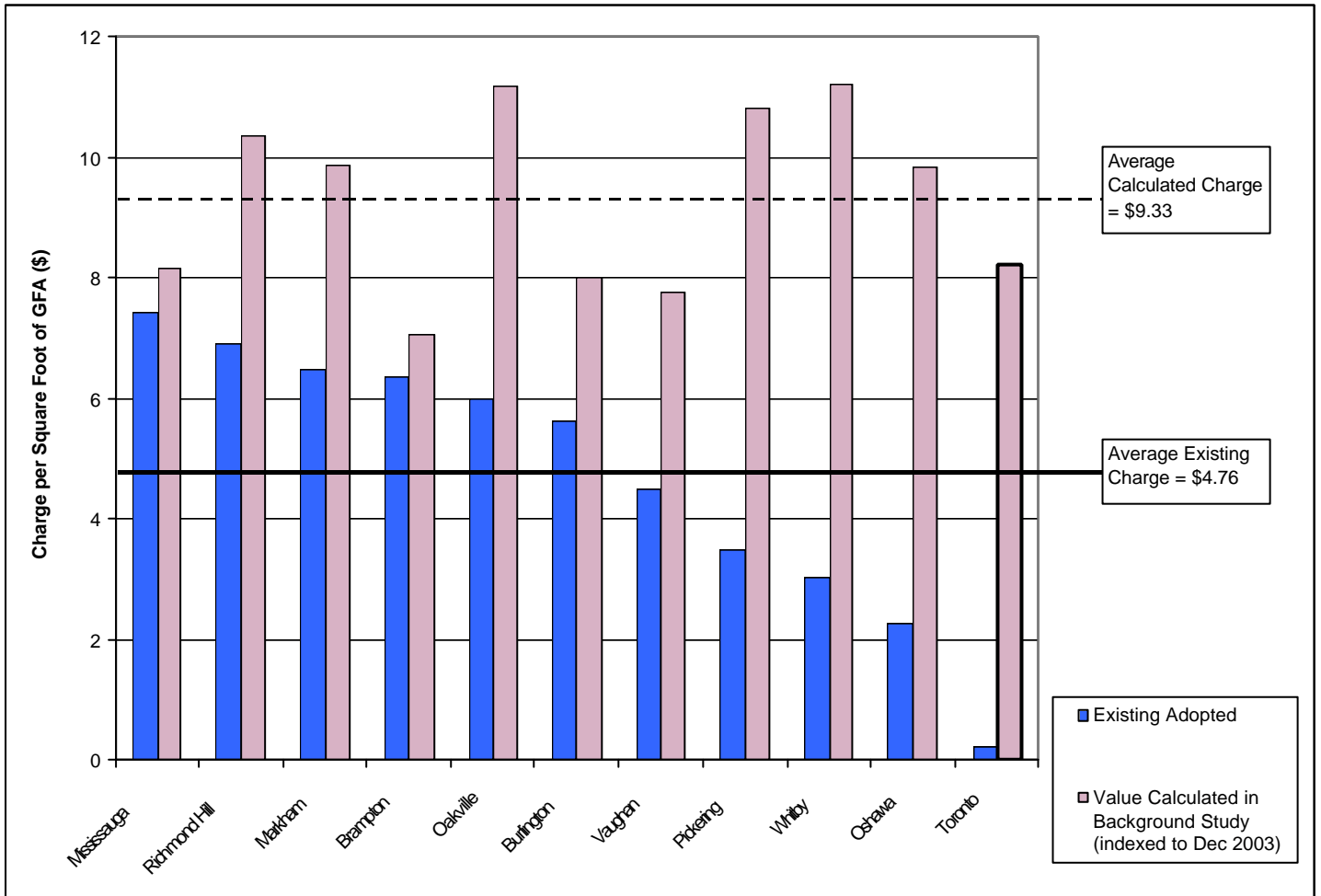
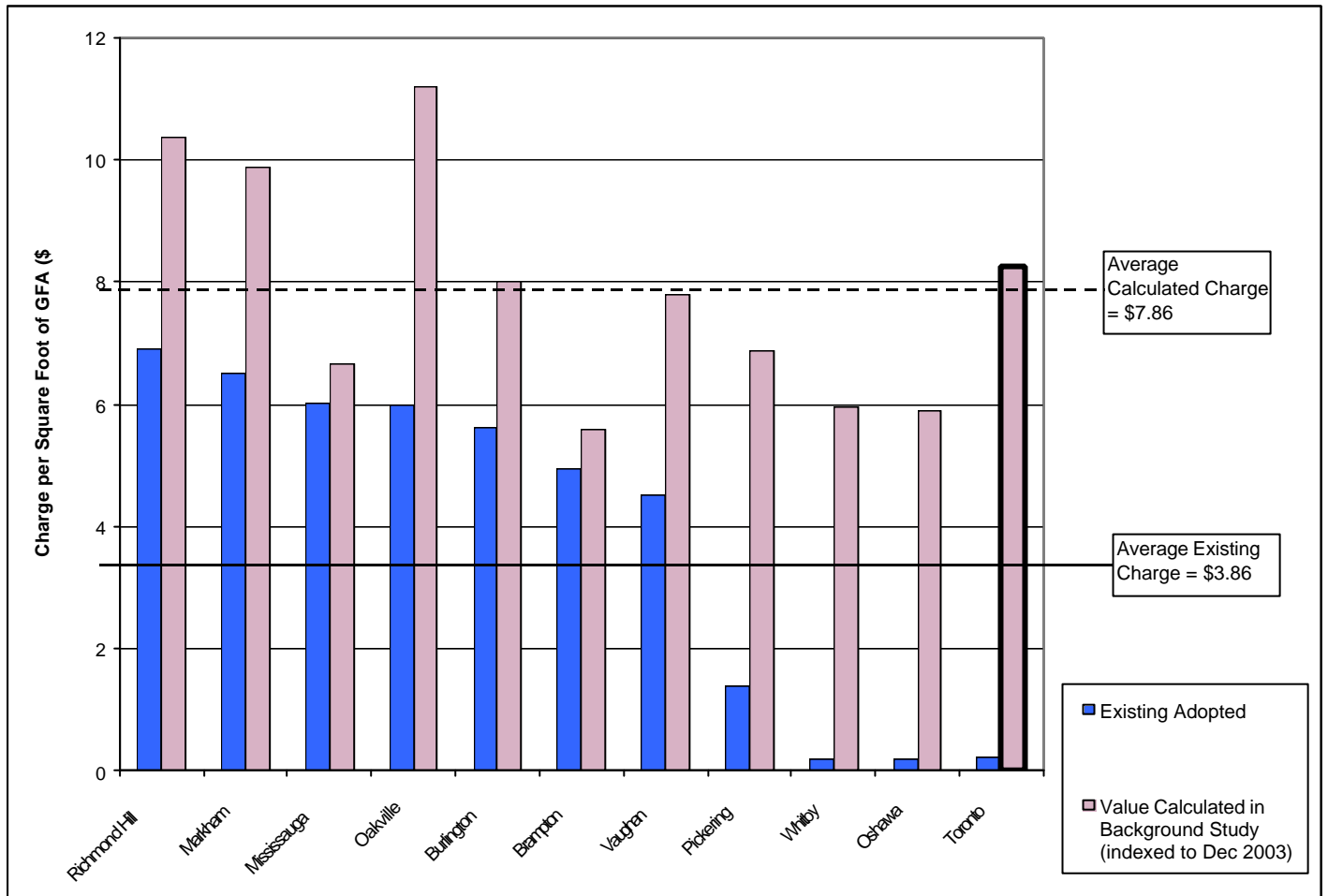


Exhibit IX  
Uniform Industrial Development Charges-GTA  
Per Square Foot of Gross Floor Area (GFA)  
(As of December 31, 2003)



Key Policy Issues

The following section highlights some of the key policy and implementation issues that have been identified by staff and are likely to be the subject of considerable consultation. These issues can be summarized as follows:

- (i) Transitional provisions
- (ii) Use of DC exemptions to promote public policy initiatives
- (iii) Non-residential development charge impacts
- (iv) Use of area specific versus uniform city-wide charges

(i) Transitional Provisions

In 1999, when Council was considering the adoption of the amalgamated City's first development charge by-law, many stakeholders expressed concerns with respect to the imposition of a development charge in areas where no charge previously existed (former Toronto, East York and York). The concerns were based upon the proposition that landowners had formulated business plans and made financial decisions on the basis of then existing and foreseeable conditions, including existing municipal financial requirements. It was claimed that the introduction of a new charge that had not been contemplated in their proformas may have significant financial implications on some projects.

In response to these concerns, the by-law that was approved by Council provided a two year phase-in of the increase in the charge and a grandfathering provision that shielded building permit applicants from the higher charge if they submitted their complete building permit applications by a certain time period. These measures were viewed as appropriate for the orderly transition to the new regime of charges.

The schedule of charges that is currently calculated represents, in the case of residential a 200% increase over existing, and in the case of non-residential (excluding industrial) an altogether new charge where none previously existed.

The extent to which transitional provisions ought to be provided largely depends on a variety of factors including prevailing market conditions, and the historical or original level of the charge.

In the short run, the incidence of the increase in the charge could only be borne by the existing developer/builder who currently owns developable land or the final purchaser. The extent to which a land developer is able to pass on a levy to the final purchaser is dependent on market conditions. If the demand for housing (in the case of residential) or commercial space (in the case of non-residential) is fairly inelastic (i.e. buyers are relatively insensitive to price), the development charge will be passed on in the form of a higher price.

Conversely, if demand is relatively elastic, it is unlikely that much of the burden can be passed on to the final purchaser. The burden of the charge under these circumstances will be absorbed by the developer through reduced profits. In the long run, the development charge should effectively be capitalized into predevelopment land values.

The draft bylaw, as currently prepared, does not include any transitional provisions at this time. Input from the land development community during the consultation process as well as at the public meeting, along with assessment of financial implications on the City, will be considered before policy recommendations are made with respect to transitional matters.

(ii) Use of DC exemptions to promote public policy initiatives

The Development Charges Act (DCA) stipulates that rules must be developed to determine a number of things and, "the rules may provide for full or partial exemptions for types of

development”. The Act also requires that the DC Bylaw must set out an expressed statement indicating how, if at all, the rules provide for exemptions.

It is important to note that the rules do not allow a development charge revenue shortfall resulting from exemptions to be made up through higher development charges on non-exempt development. In other words, the development charge revenue foregone through exemptions must be funded by sources other than DC’s, which means primarily through the tax base.

Exhibit X, provides a summary of those exemptions that are mandated by the DCA or case law and those that are discretionary as contained in the City’s existing and proposed draft bylaws.

**Exhibit X**  
Summary of Development Charge Exemptions

Statutory Exemptions	
<ul style="list-style-type: none"> <li>▪ Enlargement of units</li> <li>▪ 1 or 2 additional units in an existing building (with restrictions)</li> <li>▪ Lands for municipal or education purposes</li> <li>▪ 50% enlargements to industrial developments</li> <li>▪ Crown agencies, colleges and universities</li> <li>▪ Provincial and Federal governments</li> </ul>	
Discretionary exemptions	
Existing By-law	Draft By-law
<ul style="list-style-type: none"> <li>▪ Non-profit housing</li> <li>▪ Accessory uses less than 10 sq. m.</li> <li>▪ Public hospitals</li> <li>▪ Dwelling rooms</li> <li>▪ Places of worship &amp; cemeteries</li> <li>▪ Non-residential development</li> </ul>	<ul style="list-style-type: none"> <li>▪ Non-profit housing</li> <li>▪ Accessory uses less than 10 sq. m.</li> <li>▪ Public hospitals</li> <li>▪ Rooming houses</li> <li>▪ Places of worship &amp; cemeteries</li> <li>▪ Temporary buildings</li> </ul>

All exemptions in the current by-law, with the exceptions noted in Exhibit X, as discussed below, are carried forward to the new draft by-law.

The dwelling rooms exemption has been replaced by a more narrow rooming house exemption, which more accurately reflects the intent of public policy. The current definition of dwelling room is broader in scope and has the unintended effect of exempting such developments as luxury for-profit retirement homes.

The draft by-law also includes a new exemption for temporary buildings or structures, such as sales centers for condominium projects, which are erected for less than eight months. Owners may be required to submit security in the amount of the development charges in the event that the building is created for more than the eight-month timeframe.

It is important to note that, in addition to the non-profit housing exemption currently provided in the DC bylaw, Council in April 2002, enacted a Municipal Housing Facility By-law. That by-law

enables the City to enter into agreements with housing providers (including for profit providers) for the development of affordable housing as defined in the by-law. The agreements may provide for, among other things, financial and other assistance including the granting of full or partial exemptions from the payment of development charges.

Other Considerations:

(a) Municipal Shelters or Other Emergency/Temporary Shelters

Municipal Shelters established pursuant to the Municipal Shelter By-law 138-2003, currently under appeal to the OMB, are exempt either through their direct ownership and operation by the City, or through the non-profit status of the operators if operated by a third party on behalf of the City. Other emergency shelters would similarly have non-profit status, and there are no known for-profit emergency or temporary shelters. Examples of other shelters are shelters for abused women and children funded by the Province or refugee shelters funded by the Federal government.

(b) Heritage Properties

Within the context of the Official Plan, public objectives also include the conservation of heritage resources. With respect to development charges, the redevelopment of a heritage building in many cases would constitute interior alterations that do not intensify the use of the building. Accordingly, development charges would not apply. However, where additional floor area is being added within the building envelope, or where the redevelopment intensifies the use of the building, development charges would be payable on the net additional gross floor area created.

Currently, the *Ontario Heritage Act* does not provide a great deal of leverage to ensure that owners preserve and maintain heritage buildings. Heritage Preservation staff advise that a tax incentive program is under consideration by the Province, but timing is uncertain. That program would provide a 40% reduction in property taxes for designated heritage buildings where a Heritage Easement Agreement exists. Heritage staff do not consider it appropriate to provide an additional development charges incentive, if a tax incentive is adopted.

An alternative incentive mechanism is a grant in lieu of development charges program, where Council reviews individual projects and, where appropriate, provides a grant in an amount equal to the development charges payable. This mechanism affords the City greater flexibility to consider and provide development charges relief to suitable heritage redevelopment projects on a case by case basis.

(c) Non-profit Non-residential Development

Consideration has been given to extending the non-profit housing development charges exemption to non-profit non-residential, privately owned, publicly accessible community facilities (e.g. Young Men's Christian Association, Young Women's Christian Association,

Jewish Community Centre). However, making a distinction between the relatively inexpensive facilities and high-priced, members-only clubs or cooperatives such as, for example, the Royal Canadian Yacht Club, is difficult. Also, where a non-profit non-residential project is funded by senior levels of government, an allocation for the payment of development charges often exists. A development charges exemption would have the undesirable effect of subsidizing the senior levels of government. Further discussion into the appropriateness of providing DC relief for a non-residential non-profit exemption is warranted, including the feasibility of providing grants equal to the amount of development charges payable.

(d) Development of Contaminated Lands

With respect to land development projects that involve soil remediation, Legal staff advise that the DCA permits exemptions for "types of development" and that an exemption for the redevelopment of contaminated lands would not constitute a type of development. Accordingly, a development charges exemption for the redevelopment of contaminated lands has not been included in the draft by-law.

(iii) Non-Residential Development Charge Impacts:

As mentioned previously, the level of non-residential development charges in Toronto relative to other neighboring municipalities is unlikely to be the most important factor in locational decisions by business owners. Research in Halton and York Regions indicates that development charges only account for approximately 2-8% of total non-residential project costs. If a non residential charge was implemented in Toronto these percentages would be significantly lower because of higher land and construction costs.

The factors driving locational decisions can generally be grouped into two categories:

Non-Financial:

- Site or building availability
- Access to transportation infrastructure
- Cost and quality of labor
- Proximity to suppliers and markets
- Quality of life
- Image
- Local amenities
- Municipal approval environment

Financial:

- One-time costs (land, construction, development charges, planning and building fees).
- Annual on-going costs (rents, property taxes, utility rates).

Relative to neighboring municipalities, certain parts of Toronto, such as the downtown core, continues to have a number of important non-financial advantages such as a higher profile and a greater level of amenities.

However, Toronto is at a disadvantage with respect to many of the principal financial factors driving locational decisions. Land and construction costs are usually higher in Toronto than in the neighboring municipalities. Toronto is also at a disadvantage with respect to the level of non-residential property taxes. For instance, the property tax rate for commercial floor space is currently 53% higher in Toronto than the average value in the GTA10.

Toronto's lack of competitiveness with respect to financial factors has varying impacts on different types of non-residential development. Some forms of non-residential development, such as local retail or local services, are "captive" to the residential neighborhoods that they serve. As such, the relative level of development charges in Toronto is unlikely to have a large impact on their rate of development within any particular community. Numerous municipalities have established higher development charge rates for this use than for other non-residential uses.

Other types of non-residential development are more mobile and have a greater range of locational options. While not the most important factor, the relative level of development charges may contribute towards the locational decisions for these forms of development.

For many municipalities, the locational decisions of industrial land users have been of particular concern due, in large part, to the greater perceived benefits of this type of land development (e.g. basic employment part of attracting service sector support, higher paying jobs, significant tax contribution). Development charges also represent a larger portion of total costs for an industrial development than for any other form of non-residential development. With respect to municipal DC practice, the trend for many municipalities is to establish a separate and lower DC rate for this type of development.

#### (iv) Use of Area-specific versus Uniform City-wide Charges

Most municipalities in Ontario, particularly those in mature urban areas, have established uniform, municipal-wide development charges. Area-specific charges have generally been used in "greenfield" situations to underpin master servicing and front-end financing arrangements.

The principal reasons that mature, urban municipalities have adopted a City-wide charge are:

- Continued growth in one part of the City, such as the central area, can trigger the need for new infrastructure throughout the City.
- Many services, including roads, treatment plants and City-wide parks, are provided on a municipal-wide basis and are therefore best funded on that basis. The service areas for recreation facilities, fire halls, and other services are not readily definable, as they draw users from, or provide services to, a wide and variable area.
- Once boundaries have been defined for area-specific charges, those on the higher charge side of any boundary may be encouraged to appeal the policy in order to modify the location of

the line, or the amount of the charge. As a result, area-specific charges are more contentious, subject to appeal and difficult to defend and administer.

- Once a municipality has opted in favor of establishing some area-specific charges, it must deal with appeals to create new, smaller and differently-configured areas. This, in turn, involves making decisions as to the treatment of sunk costs (i.e. oversizing) vs. future costs, as well as whether to charge in accordance with development potential vs. actual development as it occurs, in an attempt to achieve full cost recovery.
- When the City changes the timing, cost or nature of its servicing plan in any given area over time, this would potentially create the immediate need to revise area-specific charges and/or to make refunds for monies collected.
- The use of area-specific development charge collections is restricted to the specific purpose for which the collections were made, which reduces the City's flexibility to fund new works from a consolidated reserve fund, early in the period.
- With area-specific charges, the amount of the charge will be less readily apparent to landowners and staff would have to tabulate and explain charges based on overlapping coverage for various services.
- Applying the complexities of the DCA to individual areas would be much more time-consuming and contentious than doing so for the City as a whole.
- The charge, in some areas, would be so high as to discourage development.

Notwithstanding the above, it is proposed that an area-specific charge eventually be considered for the Waterfront Redevelopment Area once planning and cost-sharing arrangements are sufficiently advanced. This area is a unique situation within the City because of the magnitude of the development and the proposed cost-sharing arrangements between private land owners and the three levels of government.

#### Relationship of Section 37 of the Planning Act to Development Charges:

In the public consultation process leading to the adoption of the 1999 DC By-law, the development industry raised the issue of the concurrent use of Section 37 of the Planning Act and development charges. Council members asked questions at that time about the relationship of Section 37 to development charges. Similar issues are expected to arise in the approval process for the new DC By-law.

Section 37 of the Planning Act provides for local municipalities to pass zoning by-laws which authorize increases in height and/or density in exchange for the provision of "facilities, services and matters" (community benefits) as are set out in the zoning by-law. These benefits may be secured by a municipality through agreements with a developer and the agreements may be registered against title. In order to utilize Section 37, a municipality must have Official Plan policies relating to the authorization of increases in height and/or density. Such policies have been included in the new city-wide Official Plan, and are currently in existence in a variety of forms in the Official Plans of the former municipalities.

Development charges must be determined in a very structured manner in accordance with a formula set out in the Development Charges Act and the accompanying Regulations. The general intent of development charges is to ensure that new growth largely pays for capital costs of municipal services attributable to such new development and that these costs are not borne by the existing community. The types of services for which a development charge may be imposed are discussed elsewhere in this report. Where applicable, a development charge applies to the entire development, not just the increased density or height, and is applicable even if there is no rezoning for increased density or height.

Section 37 of the Planning Act is a separate tool, distinct from development charges, and may be used by a municipality to secure facilities, services or matters in the context of development which cannot be, or are not, funded through development charges. Section 37 is a flexible planning tool which enables a municipality to secure a wide range of community benefits, but is applicable only in a rezoning to increase the permitted density and/or height. Under Section 37, where a rezoning invites an increase in height and/or density, and the project represents good planning, then the City may use Section 37 to secure community benefits that improve the quality of life in the local community. The community benefits are not restricted to benefiting new development only, nor to specified types of facilities, services or matters. The new Official Plan provides that Section 37 community benefits are apart from and in addition to those matters provided under other sections of *The Planning Act* (such as parks levies) or under *The Development Charges Act*.

A fundamental principle in operationalizing the use of Section 37 in the context of development charges is that no duplication of charges occur, i.e. Section 37 will not be used to fund the specific services funded by development charges. Following this principle, Section 37 may be used to secure public benefits which:

- (a) address service needs or deficiencies in the existing community;
- (b) are facilities, services or matters which cannot be, or are not, funded by development charges; or
- (c) represent the municipal share of funding for facilities or services which are only partially funded through development charges.

There are, and will continue to be, some overlaps between Section 37 community benefits and those services funded by development charges for some general service categories. For example, park improvements and transit improvements, broadly defined, may be funded from development charges or secured through Section 37. Given the differences in application of the tools, however, this does not constitute a duplication. The City has made, and will continue to make a conscious effort to avoid securing Section 37 contributions for the specific services funded by development charges. If such a duplication does occur in an unusual circumstance, an appropriate reserve fund credit will be applicable against the next calculation of development charge levels. Used in this manner, it is entirely appropriate that Section 37 be used concurrently with development charges, as has been the case across the City for the past five years.

Since amalgamation, Section 37 has been used in 109 projects to secure cash contributions of more than \$23.5 million toward a variety of community benefits, as well as many additional “in-

kind” community benefits for which a dollar value is unknown. Significant community benefits secured since amalgamation have included affordable housing, preservation and/or replacement of existing rental housing, provision of new rental housing, heritage conservation, day care facilities, public art, transit improvements, subway/RT pedestrian access, contributions to Dundas Square, improvements to local parks and schools, streetscape improvements, pedestrian walkways, environmental remediation, publicly accessible open space, park land, community services and facilities space, community centre facilities, and local road improvements.

All community benefits mentioned above are important and contribute to an improved urban environment and quality of life, thus helping to make the City a more attractive place to live, work, play and invest. The use of Section 37 is particularly essential in the City of Toronto to achieve the following three important objectives: the preservation of existing rental housing, the replacement of rental housing to be demolished, and the conservation of heritage resources.

In summary, Section 37 is a planning tool distinct from development charges that may be used by a municipality to secure important community benefits in addition to the services funded by development charges. Section 37 can be used to benefit the existing community, unlike development charges, and also to provide services and facilities for new growth that development charges do not fund. Duplication for the same specific services through the use of Section 37 and development charges will be avoided. The continued concurrent use of Section 37 and development charges is appropriate, and for some matters related to conservation of existing rental housing and heritage resources, is essential.

#### Conclusions:

The City’s current development charges by-law expires on July 29, 2004. Before Council can pass a replacement by-law, the Development Charges Act, 1997, requires that a Background Study be prepared in accordance with the provisions of the Act and that a public meeting be held. The Background Study has now been completed and it, along with a draft development charges by-law, are being released some ten weeks in advance of the public meeting in order to provide sufficient time for review and consultation.

#### Contact:

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Joseph P. Pennachetti  
Chief Financial Officer and Treasurer

List of Attachments:

Appendix I: 2004 – 2013 Development-related Capital Program (\$000's)

Appendix II: "City of Toronto 2004 Development Charge Background Study" dated February 6, 2004

Appendix I  
2004 – 2013 Development-related Capital Program (\$000's)  
(Development Charges Background Study dated February 6, 2004)

Services	Gross Costs	Net of Additional Prov/Fed Subsidy	DC Recoverable	% Recoverable from Net
<b><u>TAX FUNDED SERVICES</u></b>				
Childcare	9,604	9,604	5,186	54.0%
Emergency Shelters	87,732	87,732	2,486	2.8%
Subsidized Housing	106,089	106,089	19,096	18.0%
<b>Sub-total Shelters/Housing</b>	<b>193,820</b>	<b>193,820</b>	<b>21,582</b>	<b>11.1%</b>
Ambulance Facilities	13,734	13,734	1,683	12.3%
Ambulance Vehicles	1,894	1,894	1,619	85.5%
<b>Sub-total Emergency Medical Services</b>	<b>15,628</b>	<b>15,628</b>	<b>3,302</b>	<b>21.1%</b>
Recreation Facilities	89,550	89,550	52,144	58.2%
Parkland Development	56,122	56,122	31,713	56.5%
<b>Sub-total Parks and Recreation</b>	<b>145,672</b>	<b>145,672</b>	<b>83,856</b>	<b>57.6%</b>
Urban Development Services	19,360	19,360	7,841	40.5%
Development Related Studies	15,000	15,000	9,975	66.5%
Library Facilities	35,686	35,686	20,395	57.2%
Library Materials	16,938	16,938	9,756	57.6%
<b>Sub-total Library</b>	<b>52,624</b>	<b>52,624</b>	<b>30,151</b>	<b>57.3%</b>
Fire Facilities	28,951	28,951	10,450	36.1%
<b>Misc. Sub-total Tax Funded Services</b>	<b>480,659</b>	<b>480,659</b>	<b>172,343</b>	<b>35.9%</b>
<b><u>ROADS</u></b>				
Roads	572,936	572,936	252,315	44.0%
<b><u>TRANSIT</u></b>				
Sheppard Subway Oversizing	445,400	445,400	75,365	16.9%
Union Station Platform	80,000	80,000	10,800	13.5%
Bus Surface Rapid Transit	371,100	123,700	50,490	40.8%
Subway Expansion	1,887,000	629,000	31,860	5.1%
Commuter Parking Lots	18,600	6,067	2,070	34.1%
RT Cars, Buses, Streetcars, Subwaycars	2,071,700	690,567	122,621	17.8%
GO Transit	-	-	-	0.0%
<b>Sub-total Transit</b>	<b>4,873,800</b>	<b>1,974,733</b>	<b>293,206</b>	<b>14.8%</b>
<b><u>RATE FUNDED SERVICES</u></b>				
Water Pollution Control Plant	748,214	748,214	239,277	32.0%
Sanitary Sewers	207,740	207,740	160,981	77.5%
<b>Sub-total Sanitary Sewers</b>	<b>955,954</b>	<b>955,954</b>	<b>400,259</b>	<b>41.9%</b>
Water Supply	467,182	467,182	11,600	2.5%
Water Mains	29,620	29,620	24,318	82.1%
<b>Sub-total Water</b>	<b>496,802</b>	<b>496,802</b>	<b>35,918</b>	<b>7.2%</b>
Storm Water Management	483,519	483,519	111,209	23.0%
<b>Sub-total Rate Funded Services</b>	<b>1,936,275</b>	<b>1,936,275</b>	<b>547,386</b>	<b>28.3%</b>
<b><u>SUMMARY</u></b>				
Misc. Tax Funded Services	480,659	480,659	172,343	35.9%
Roads	572,936	572,936	252,315	44.0%
Transit	4,873,800	1,974,733	293,206	14.8%
Rate Funded Services	1,936,275	1,936,275	547,386	28.3%
<b>Total</b>	<b>7,863,670</b>	<b>4,964,603</b>	<b>1,265,250</b>	<b>25.5%</b>