That on the recommendation of the General Manager of Finance and Corporate Services and Acting City Treasurer and the Director, Development Finance:

1. The capital projects listed in the rate calculations contained in Appendices "B" through "N" of the 2009 Development Charges Background Study - April, 2009 BE APPROVED noting that it is Council's intention to meet those needs, subject to ongoing reviews through service planning studies and the capital budgeting process;

2. The Development Charges Background Study dated April, 2009 BE RECEIVED AND APPROVED;

3. Having conducted a statutory public meeting under the Development Charges Act on May 13, 2009 and having considered the need for a further public meeting and determined that another public meeting is not necessary, the by-law attached as Appendix D, BE APPROVED effective August 4, 2009 and By-law C.P.-1440-167 (as amended, being the City's existing Development Charges by-law) BE REPEALED coincidental with the coming into force of the new by-law, it being noted (in addition to the comments contained in the DC covering report tabled on May 13, 2009) that the new by-law incorporates minor changes of a technical nature with respect to Schedule 7;

4. Civic Administration BE DIRECTED to undertake the following in the months to come:
   a. consistent with the recommendations of the Blue Ribbon Panel (2006), and under the direction of the Director of Development Finance, a program of monitoring development charge revenues and growth costs (including claimable works) BE ESTABLISHED with the intention of reporting to Council, significant variances that might impact DC rate levels;
   b. that in the interest of maintaining a consistent approach to the UWRF funding particularly with respect to reducing the scope of cost shared works and requiring owner contributions towards the "local share" of works in Industrial subdivisions, Administration BE DIRECTED to bring forward a report for the consideration of Council on the future operation of the City's Industrial Oversizing Reserve Fund;
   c. with respect to development interests who wish to accelerate financing of growth projects as contained in the City's capital budget, that Administration be directed TO UNDERTAKE a process to develop an appropriate policy and consult with stakeholders, and report to Council the results of that process in the coming year;

5. Civic Administration BE DIRECTED to meet with LDI and Pacific and Western to review issues related to payout for existing works and works under construction in the Urban Works Reserve Fund and report back to Council at a future date, noting this may result in an increase in the DC rates to accelerate payments;

6. Civic Administration BE DIRECTED to meet with LDI to develop alternative rules to apply demolition credits to qualifying brownfield sites and report back to Council at a future date;
On May 13th, Board of Control held a public meeting on the 2009 proposed Development Charge By-law. Formal submissions were received from the Urban League of London, the London Development Institute (LDI), Sifton Properties Limited, and the London Home Builders Association (LHBA). As a result of the public meeting, Council passed the following resolution on May 25th:

"That the following actions be taken with respect to the adoption of a Development Charge Policy, the Background Study and Rate By-law for Development Charges:

(a) the report dated May 13, 2009 from the General Manager of Finance and Corporate Services and Acting City Treasurer and related submissions BE REFERRED to the Civic Administration to report back at the June 24, 2009 meeting of the Board of Control, taking into consideration the submissions made at the public participation meeting; further input from the development community as it relates to marketability vis-à-vis affordability of housing and exceptions that might need to be considered;

(b) the word "is" BE DELETED from line 1 of clause 3e of the May 13, 2009 report from the General Manager of Finance and Corporate Services and Acting City Treasurer;

(c) the Civic Administration BE REQUESTED to consider language in the
Development Charges Policy to exempt community projects of a charitable nature which are potentially temporary and not growth related; it being noted this recommendation is the result of a request for funding from a community group for assistance with development and permit charges assessed to it by the City of London; and,

(d) independent of the matters addressed in (a) to (c), above, the Civic Administration BE REQUESTED to report back at a future meeting of the Board of Control on the possibility of alternative economic triggers for changes to residential development charges;

It being noted that the General Manager of Finance and Corporate Services and Acting City Treasurer gave the attached presentation with respect to this matter;

On May 29th, Board of Control received a further written submission from LDI which is also attached to this report. A letter has also been received from Pacific and Western regarding the impact of the change to Urban Works Reserve Fund (UWRF) and the impact on the payout for existing claims against the fund.

The written submissions containing objections have been appended to this report in Appendix A.

On June 15th, Council passed a further resolution:

"That the Civic Administration BE REQUESTED to report back at the June 24, 2009 meeting of the Board of Control with respect to the potential for either phasing in or deferring implementation of a new Development Charges By-law."

The purpose of this report is to respond to Council's direction from the public submissions and to bring forward the 2009 DC By-law for approval, noting this By-law must be in place by August 4th, 2009.

ANALYSIS

How Have DC Rates Increased Across the Province?

Several municipalities across the Province have just recently completed their development charge by-laws or are in the process of doing so. For growing mid-sized municipalities in Ontario, development charge rate calculations are increasing significantly. These increases are being driven by the rapidly increasing costs of capital works since the last DC studies and the scope of work required.

In April, 2009, the Region of Waterloo tabled a DC study that would have increased the regional rate by $8,000 for a single detached residential unit. As a result of discussions and review subsequent to the tabling, the Region revised its calculated charge resulting in an increase of approximately $3300. The reduction in the calculated rate is primarily due to removing elements of the calculation which have already been removed from calculations in London (i.e. projects already funded in the past, deferral of project construction beyond growth horizon). The final increase (which was approved by Regional Council on June 16, 2009) will increase the combined DC rate in the City of Waterloo to $27,470, Cambridge $24,238, and Kitchener to $22,327. These regional rate increases will come into effective January 1, 2010.

The City of Hamilton background study recently reflected a calculated DC rate of $23,875. On June 10th, the City of Hamilton chose to defer the proposed increase in residential rates for a one year period, pending review of the economic climate in April, 2010.

In the southwest, other DC rates in effect today include Guelph at $24,053 and Windsor at $11,667.

Approved or proposed DC rates in the Greater Toronto Area (GTA) are generally all over $30,000 per single detached dwelling.

The City of London's proposed rate of $22,921 is at the low end of mid-sized municipalities. London's commercial DC rate will remain slightly above average with the comparator municipalities in southwestern Ontario (see Table 1 below), even though the new rate represents a significant
reduction from the current rate (existing rate is $217.77; recommended rate : $168.59).

Table 1 (below) shows proposed or new development charge rates for single detached dwellings, and commercial rates, as well as comment on the implementation of the same, in southwestern Ontario centers.

Table 1
Municipal DC rate survey - Where rates are going

<table>
<thead>
<tr>
<th>Upper Tier</th>
<th>Municipality</th>
<th>Combined Residential (single) Rates</th>
<th>Combined Commercial Rates</th>
<th>Implementation of rate changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Waterloo, Region</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kitchener</td>
<td>$22,327</td>
<td>$146.11</td>
<td>Regional rate approved on June 16 09 with deferral of rate increase to Jan 1 2010. Council of City of Kitchener yet to consider recommendations arising from Jun 15 committee meetings. Likely Jan 1 2010 implementation to match Regional rate.</td>
<td></td>
</tr>
<tr>
<td>Waterloo</td>
<td>$27,470</td>
<td>$154.29</td>
<td>Regional rate approved on June 16 09 with deferral of increase to Jan 1 2010. City rate approved Aug. 09 effective Sept 08.</td>
<td></td>
</tr>
<tr>
<td>Cambridge</td>
<td>$24,238</td>
<td>$116.27</td>
<td>Regional rate approved on June 16 09 with deferral of increase to Jan 1 2010. Cambridge City DC rate recommended for approval on Jun 22 09.</td>
<td></td>
</tr>
</tbody>
</table>

Single Tier municipalities:


What has happened to lot prices in London over the last few years?

Council asked for background on lot prices over the past few years in London and comparable municipalities.

In 2005, the average single detached lot price in London was $1369 a front foot. Between 2005 and 2009 that price rose to about $1676 a front foot or a 22% percent increase. Information provided by the development industry cites the following reasons for the increases in lot prices in London:

(a) increases in raw land values within the Urban Growth Boundary
(b) circumstances related to supply and demand for registered lots
(c) increases in fees and study costs (Engineering, Planning Application, studies requisite to processing development applications, UTRCA fees)
(d) labour cost and fuel cost increases, and limited supply of contractors prior to start of 2008 recession.
Lot prices in most major cities in southwestern Ontario are higher than London. Hamilton’s 2009 lot price for single detached units is $3466 (per front foot), Brantford $2200, Milton $3500, Cambridge $2500, Waterloo $3000 and Kitchener $2500. The only large municipality in the southwestern Ontario with lower lot prices than London is Windsor with $1300. Over the past four years lot prices in municipalities in the southwest generally rose by a third.

Current and proposed development charges for these municipalities for single detached units are Hamilton (current $1,9784; proposed $23875), Milton (March, 2009 rate of $38,214), Kitchener (current $19080, proposed $22,327), Waterloo (current $24059, proposed $27470), Cambridge (current $22215, proposed $24238 ), Brantford (current $9305, proposed $21861 ), Windsor (current $11667) and London (current $17005, proposed $22921).

Even with the proposed increase in development charges, London remains cost competitive on residential development charges and lot prices for comparably sized municipalities in southwest Ontario.

How are municipalities Phasing in Rate Increases?

The London Home Builders have requested a phase in of the increase or a freezing of the rates at current levels until the economy improves. The City of Toronto is one of the municipalities that has frozen its’ DC rates at the old rates. The 2008 DC study in Toronto proposed a 130% increase in the residential rates and a 100% increase in the non-residential rates. London’s increase is 34% in the residential rates and a general decrease in the non-residential rates. Toronto’s DC charge is made up of 50% soft service costs. In London, soft service costs make up only 10% of the total costs and the remainder is for roads, sewer, water and storm water which are critical to service growth.

The Toronto DC rate phase-in is tied to economic activity. A graduated approach that implements 25% of the increase each successive year based on residential building activity level in the preceding year. If the level was below 7,000 units, no portion of the increase will be applied. A level beyond 9,000 units would result in a full 25% increase in the charge. Between 7,000 and 9,000 implies partial implementation of the 25% ‘step increase’. The “ground floor” of this phase-in plan – 7,000 units – appears from the growth forecasts in the study to be above the average year’s growth in Toronto’s ten (10) year forecast period. This would appear to make the prospects of implementing any increase somewhat doubtful in today’s economic climate. Annual cost indexing of the existing rate will continue until Jan, 2011.

We are not aware how the City of Toronto intends to address revenue shortfalls from phasing in DC rates. In the past, when the City of London has phased in rates, the revenue shortfall has been paid from property taxes and user rates resulting in increased City share for growth related capital projects. Toronto’s method of freezing rates and tying increases to building activity from the previous year is a policy decision based upon economic climate. It would be similar to the City of London’s policy of not applying development charges to industry. The growth splits and allocations of costs in Toronto are not in question.

Another municipality to freeze rates is Guelph. Guelph has only frozen the industrial rate which is being phased in beginning at a rate of approximately $45/sq.m. (42% of calculated rate) with 100% phase-in by March, 2013 (approximately $107/sq.m.). London does not charge an industrial development charge. Oshawa has lowered the DC rate based on a reduction in the calculated rate resulting from their DC background study. The charge for a single detached unit in this municipality has gone from $26594 to $25426.

The London Development Institute have indicated that unless the City changes its’ position on growth/non-growth splits and the residential/non-residential splits for road costs, or defers the implementation of this split until the Transportation Plan update is complete, that it will appeal the By-law. Municipalities that have deferral rate increases have similar splits (growth/non growth and R(0)I to London’s splits(see Table 2). Without agreement on these essential principles, a phase-in is not recommended. The LDI position would see DC rates for residential will drop to $18,000 per single family unit and and non-residential increase (commercial will go to close to $300/sq.m.). Given the likelihood of an appeal, phasing in of the increase in residential DC rates is not recommended. A rate phase-in means the property taxpayer will have to make up the difference or development will have to be deemed ‘premature’ until there are sufficient funds to provide the necessary capital improvements.
What are the options with respect to phase-in (or deferral) of the rate increase

As a result of Council's direction on June 15th, this section will provide Council with information as to options if it decided to phase-in a rate increase.

With respect to residential rate increase, a phase-in may be effected through amendments to rate schedules in the draft by-law. The reduction in the non-residential rates cannot be phased-in and must take place upon passage of the new by-law.

One scenario might be to introduce 50% of the rate increase effective January 1, 2010 (rate of $19,963) with the remaining 50% effective January 1, 2011. This rate of phase-in, if borne by tax and user rates, could be expected to result in foregone revenues of approximately $5 million.

What about municipalities that are freezing indexing of construction costs?
The London Home Builders have pointed out that several municipalities are freezing the construction cost index for calculating DC rates for 2009. This is not freezing rates at previously calculated levels from outdated studies but only foregoing 2009 rate increases that are based on changes in a construction cost index. As the City has seen in recent tenders, construction costs have come down a bit in 2009 and the freezing of rates may be offset by a flat lining in construction costs. To the extent construction costs may be higher these cities will have to pick up these additional costs.

Oshawa’s regional government (Durham) has frozen the development charge increase resulting from annual indexing of rates. The potential residential DC rate increase in Durham due to cost indexing was estimated at $1,002. This indexing reflected the year-over-year increase in costs in the previous year as measured by the StatsCan construction index. The index increase foregone in Durham was estimated, for the purpose of the staff report, at 5.5%. By foregoing the annual increase, the Durham Regional DC rate will remain at approximately $18,500 per single detached unit. When combined with lower tier DC rates, the total DC rates for municipalities in the Durham region (Pickering, Ajax, Scugog, Whitby, Uxbridge, Clarington, Oshawa, Brock) all hover around the $29,000 mark with the exception of Oshawa, which is approximately $25,500. The proposed DC rate for a single detached dwelling in London is $22,921. All the figures quoted in this paragraph exclude the Education Development charge portion of the rate.

A snapshot of various municipal rates either proposed, or in effect is provided in Appendix B. While it is true that some municipalities are foregoing indexing the DC rate, or have calculated DC rates that are marginally lower than their current rate, there are very few, comparable municipalities with lower rates than London.

The freezing of the rate for the construction index in 2010 for London DCs would ensure no further development charge rate increase until January 1, 2011. The amount of revenue lost would depend on the increase in the construction index which may be minimal (given the slowdown in the economy) and the amount of construction activity which will also likely be slow. Any lost revenue from freezing the index if there is construction inflation would mean that the DC capital reserve funds would be underfunded to pay for future capital projects and that the municipality would have to make up the difference.

Council may want to consider freezing development charges in 2010 by not implementing any inflationary increase in January, 2010 arising from the construction price index. Under this scenario, Council would still pass the new By-law in 2009 which would increase the single detached rate to $22,921, but the rate would stay the same in 2010. It is not expected that the construction price index will increase significantly and may in fact remain flat. Council may want to wait until the end of 2009 before determining whether to freeze rates in 2010. It would appear that many municipalities are following this policy choice to address the economic downturn, rather than freezing development charge rates which are determined by a development charge study. Freezing rates based on the construction index has much less impact on the health of the DC funds and the ability to provide infrastructure to meet future growth needs.

What about Growth/Non growth splits?
The London Development Institute and the London Home Builders have questioned the growth/non-growth splits for roads. The Urban League has supported the proposed splits. Growth/non-growth splits refer to the amount of costs of a project that are being assigned as a cost of growth and how much to non-growth. The approach to growth/non-growth splits has remained generally the same as the 2004 DC study approach, except for roads.
In the case of roads, IBI undertook a specific review of the practices in other municipalities. The results were reported to Board of Control and Council in November 2008. The conclusion from that review is that the non-growth share of roads should be based upon the cost share of rehabilitating the current road. The expansion of the road which is necessary because of growth would be the growth share.

This results in a shift of cost from the property taxpayer to the DC rate. The growth/non-growth share for the total growth related Road construction program in the 2009 DC study is 91%/9% in contrast to the 73%/27% for the total Road program in the 2004 study. For 2009, the 91/9 split results from the totaling all the project-by-project assessments of the growth share. The LDI and Home Builders want the split to be frozen at the 2004 study levels. The effect of this freeze would be to lower the DC rate for single detached dwellings to $18200 (from $22921) and increase the commercial to $291/sq.m. (from $169). In addition to these DC rate effects, property taxpayers would have to pick up about $5 million of additional road costs per year to fix the growth share at 2004 levels.

A comparison with other municipalities shows the proposed non/growth splits are in keeping with recent DC rate studies (see Table 2 below).

Table 2: DC policy survey - Road splits in various Southwestern Ontario municipalities

<table>
<thead>
<tr>
<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Kitchener, City</td>
<td>94.5%</td>
<td>5.5%</td>
<td>80.0%</td>
<td>20.0%</td>
</tr>
<tr>
<td>Waterloo Region</td>
<td>86.1%</td>
<td>13.9%</td>
<td>61.5%</td>
<td>38.5%</td>
</tr>
<tr>
<td>Halton Region</td>
<td>84.6%</td>
<td>15.4%</td>
<td>61.5%</td>
<td>38.5%</td>
</tr>
<tr>
<td>Waterloo, City</td>
<td>92.3%</td>
<td>7.7%</td>
<td>73.1%</td>
<td>26.9%</td>
</tr>
<tr>
<td>Guelph, City</td>
<td>73.0%</td>
<td>27.0%</td>
<td>63.0%</td>
<td>37.0%</td>
</tr>
<tr>
<td>Brantford, City</td>
<td>84.1%</td>
<td>15.9%</td>
<td>75.0%</td>
<td>25.0%</td>
</tr>
<tr>
<td>Hamilton, City</td>
<td>79.6%</td>
<td>20.4%</td>
<td>53.6%</td>
<td>46.4%</td>
</tr>
<tr>
<td>Durham, Region</td>
<td>65.2%</td>
<td>34.8%</td>
<td>61.1%</td>
<td>38.9%</td>
</tr>
<tr>
<td>Peel, Region</td>
<td>92.2%</td>
<td>7.8%</td>
<td>64.3%</td>
<td>35.7%</td>
</tr>
<tr>
<td>City of London</td>
<td>91.0%</td>
<td>9.0%</td>
<td>74.0%</td>
<td>26.0%</td>
</tr>
</tbody>
</table>

No change is being recommended in the proposed growth/non-growth split for roads in the 2009 DC study. It is the conclusion that the recommended growth splits are in keeping with other DC studies and calculations used in several other municipalities.

What about Residential/Non residential splits?

The London Development Institute and London Home Builders have questioned the splits for residential and non-residential for roads. Splits for other services have generally remained consistent with the 2004 DC study approach, except where a new set of circumstances suggested a change was in order.

The allocation of the growth cost for roads is based on the approximate benefit of a particular work attributable to each growth category (i.e. Res. or Non-Res.). With respect to net growth cost splits for the Road component (this component of the DC charge has by far, the greatest impact on overall DC rates), London's 2004 DC study incorporated a Residential/Non-residential split for major road works of approximately 50%/50% (Res / Non-res). In consultation with IBI Group, the City compared this split to a similar Road splits used in other urban centres (based on information available in mid 2008):

- City of Hamilton (single tier) 55/45
- City of Windsor (single tier) 60/40
- City of Kitchener & Region of Waterloo 68/32
- City of Kitchener excl Region (2004) 96/04
- City of Waterloo & Region of Waterloo 66/34
- City of Waterloo excl Region (2002) 72/28
- York Region 60/40
- Halton Region 60/40

London's 2004 Res/Non-res split for Roads was the lowest (on the Residential side) amongst all the municipalities listed.
The ratio of population to employment is used as a basis for allocating growth costs between Residential and Non-Residential rate calculation for various services in many other municipal DC studies. Population is used as a proxy for measuring benefit to residential development. Employment growth is used as a proxy for measuring benefit to non-residential development.

London's population growth to employment growth has a ratio of about 3 to 1. This is a much higher ratio on the residential side than the 50/50 split employed in the 2004 study. In reviewing cost allocation of roads in several other municipalities, it was also clear that there was a much stronger correlation between the ratio of population growth and employment growth and the Residential/Non Residential splits used in the DC study. The following graph shows the correlation between population and employment ratios and Residential/Non-Residential splits for several municipalities (see Figure 1 below).

![Correlation of Roads Split to Growth by Sector](image)

Figure 1

Based on these observations, a change in split of Residential/Non-Residential on growth costs was reported in November, 2008 and subsequently employed in the 2009 DC Study. The 74/26 split reflects the ratio of population and employment growth forecast in this City.

The Residential/Non-residential split used in the 2009 DC Background is more consistent than the 2004 study with what is used in the rest of the Province (see also Res/Non-res splits in Table 2 above). As a result, the DC rates for non-residential are closer to average with our comparator group. If we reverted to using the 2004 assumptions, the commercial DC rate would be just short of $300 a sq. m. which would be very near the highest in the Province. Having reviewed this issue in significant detail and having used outside consulting services to provide assistance, administration are not recommending any change to Residential/Non-Residential splits used in the 2009 DC study.

The Payout from the UWRF will be changed by the new DC By-law

The London Development Institute and Pacific and Western Bank have raised concerns with changes in the rates for UWRF which affects the payout period for developers who have already fronted the cost of claimable works.

The UWRF fund works by charging a rate for most development (industrial development being the most notable exemption). That revenue is then used to pay back developers who have funded works which are claimable from the fund. Developers will fund works in advance of growth and revenue streams to bring their land or development on stream on the expectation that they will be paid back from the fund over a period of time. The payout period is complicated and subject to a number of rules. Payouts only occur when there is money in the fund. The current economic slowdown lengthens the payout period because of a reduction of revenue going into the fund. For most works
under a million dollars the current payout period is currently about 11 months. There is a cap on payouts for storm water management ponds of $250,000, and for all other works the cap is a million ($1M) which lengthens the payout period.

The Blue Ribbon Panel recommended significant changes in the use of the Urban Works Reserve Fund to fund growth related works. An implementation strategy was provided to Council in March, 2007. The Panel report recommended that the UWRF continue to exist in a modified form, with a narrowing in the scope of the projects.

As a result, many of the future storm water management ponds and intersection and road improvements that were previously in the Urban Works Reserve Fund have been transferred to City Services and will in future be built by the City drawing from growth related development charges. The result is the future obligations of the Urban Works Reserve Fund in the 2009 development charge study are diminished and accordingly, the rates reduced from $6941 per unit to $3291 per unit.

The calculation approach to the UWRF in the 2009 development charge study is the same as the City Services Fund. Existing unfunded growth works are included in the rate calculation as are estimated claimable works for the growth period. These growth costs are then allocated to the benefiting type of development to arrive at a rate. Because the total amount of works has gone down, the UWRF rate has significantly decreased.

The decrease in UWRF rates is exactly what was contemplated by the Blue Ribbon Panel. The problem occurs in that approximately $60 million of works are in the ground or in the process of being built based on a payout schedule developed on the basis of a $6941 UWRF rate for single detached dwellings not $3291. The result will be a lengthening of the payout for these works (duration of payout may be doubled). LDI and Pacific and Western are concerned that the changes in revenue stream affects their original investment.

A solution may be to advance the payout from UWRF for works in the ground or under construction which can only be achieved by increasing the DC rates for all types of development. If we were to calculate the service growth benefit period as ten(10) years rather than twenty(20) for these works, the UWRF portion of the DC rate would go up by approximately $1200 for a single detached unit and the commercial rate would increase approximately $12/sq.m. After ten years this rate would decrease, once these works have been paid off. At the same time, the CSRF rate would be expected to increase at this time, as relatively more works were funded from the CSRF envelope.

The issue raised by LDI and Pacific and Western is significant and requires further analysis and a solution. Unfortunately it is likely DC rates will have to increase to address the issue. It is recommended that Council pass the DC By-law including the UWRF portion as proposed in the 2009 Background Study and the administration continue to work with LDI and Pacific and Western to develop a solution to this problem (see Recommendation #5). It is expected that both LDI and Pacific and Western may appeal the DC By-law with respect to this issue and that a solution may have to emerge through negotiation, mediation or OMB ruling.

Demolition Credits for Brown Fields

The City adopted a series of programs to encourage redevelopment of Brownfield sites in February, 2006. The program provides for a grant back to a property owner up to 50% of the normal development charge payable, at a maximum amount not to exceed the cost of site remediation, determined on a case-by-case basis.

At the same time, the DC by-law provides for a demolition credit (generally where demolition has occurred within the past 10 years). In the case of Brownfield sites where demolition has occurred beyond ten years, the demolition credit is not available.

While there is merit in the remediation of Brownfield sites, there must be some limitations and consistency applied to what constitutes a Brownfield site. The policy with respect development charge rebates applicable to Brownfield sites and their eligibility for development charge relief should be reviewed. Recommendation 8) would direct Administration to further review this element of City policy.

Wharncliffe Rd Railway Underpass at Horton Street

The LDI raised a particular concern about the treatment of the Wharncliffe Rd underpass at Horton
Street in the DC rate calculations. This underpass was involved in previous considerations of the increasing traffic demands for traffic originating in the west end of the City. At that time, the problem was addressed (circa 1980's) by the Horton Street extension. Today, as a result growth in traffic along the Wharncliffe Road corridor, capacity constraints are again calling for expansion.

The expansion of this underpass was included in the 2004 DC study. The work includes significant costs (land acquisition, retaining walls, traffic control and staging) which would not be undertaken except to alleviate a bottleneck created by years of growth. The benefit to existing population is the rehabilitation of the existing asphalt surface.

Soft Service Questions and Concerns

In the period after the public meeting, the LDI also raised a number of questions regarding the calculation of soft service rates. Their questions generally relate to:

(a) how "soft service" rates were calculated;
(b) how growth/non-growth splits were determined;
(c) how Res / Instl / Comm'l / Ind'l (RICI) splits were determined;
(d) clarification of the deferral of costs to post period collection;

These questions were addressed in a meeting with LDI on May 22 09. In only a couple of instances, the growth/non-growth split of a specific project was questioned. Subsequent review by administration suggests that the percentage used was reasonable.

The LDI has subsequently submitted another letter (dated June 12 09) expressing concerns about elements of soft services calculations. The issues are identical to those previously discussed. Administration is of the opinion that the rate study calculations are within the bounds and intent of the DC legislation and the assumptions used in the rate study are logical and defensible.

It is important to understand that the soft services portion of the proposed DC rate represents less than 10% of the overall rate (of the $22921 rate proposed, $2093 relates to soft services). In the case of Parks and Recreation projects, the rate calculations are limited by significant "caps" relating to a statutory limitation on against increasing future service levels as compared to historical service levels (approximately $10M in growth costs considered not recoverable due to service level "cap"). As a result, it would take a large number of significant changes to individual assessments of Growth/non-Growth and RICI splits to have any effect on the calculated DC rate for Parks and Recreation projects. For all the other soft services, a wholesale review that changed numerous individual assumptions would result in a minor rate adjustment at best. In the absence of specifics as to which projects should be amended, rates and assumptions remain as proposed in the original DC background study.

Sifton Properties – letter dated May 13 09

Sifton properties also tabled a letter that dealt with two major areas of concern:

(a) a desire to accelerate the payment on an existing claim (Riverbend Pumping Station)
(b) Works that were required for developments to proceed and constructed by Sifton, but were not identified as claimable in any agreement or in the 2004 DC rate study

With respect to (a), we have recognized the issue of a slowdown in the rate of reimbursement for UWRF claims as a significant issue. This is discussed above under the heading "The Payout from the UWRF will be changed by the new DC By-law". Administration recommends further review of the issue under Recommendation 5) of this report.

With respect to item (b), the suggestion is to reconsider financing for construction of certain works that were necessary for Sifton's developments to proceed. Both parties recognize these works as not claimable. No money has been collected through the DC rates to finance these works and it is not possible to retroactively go back and recover for these works.

Minor Technical Amendments to Schedule 7 of the DC rate by-law

Upon EESD review of the schedules affecting the administration of the UWRF, a number of minor clarifications and qualifications of a technical nature generally related to:

(a) the scope of claimable UWRF works under the new rules;
(b) changes associated with the creation of a business unit (Development Approvals Business Unit – DABU);

were identified.
These changes have been listed in detail in Appendix C of this report together with explanations of the amended by-law wording. The amendments are reflected in the by-law proposed for approval by Council (the By-law, including these proposed amendments is located in Appendix D).

Exemption for "portables"

Arising from discussions at the CPSC Committee, the Board directed staff to review the issue of exemption for community projects of a charitable nature which are potentially temporary and not growth related. Administration considers the following points pertinent to this discussion:

(a) Virtually all development places pressure on municipal infrastructure. With very few exceptions, development has an impact on the need for road capacity, water supply capacity, sanitary treatment capacity, storm drainage, fire and police protection. The individual impacts may be minor, but cumulatively, development of all kinds results in the need for expanded capacity.

(b) The Development Charges Act provides for the cost of all works to be averaged over all development. Where development is already served (e.g., existing water, sanitary sewer lines or storm pipes) it may be tempting to conclude that there is no impact. However, while no further investment in some existing services is required, exempting the development from payment of DC charges undermines the concept of pooling of all growth costs which are shared over all development.

(c) If Council chooses to exempt a type of development, the shortfall cannot be recovered from other forms of new development (DC Act s. 5(6)(3)). By introducing various exemptions not required by the Act (e.g., 50% institutional exemption), the amount of growth costs that must be recovered from taxpayer or user rates increases.

In the case of charitable groups seeking relief from the development charge by-law, it should be noted that:

(d) London’s DC by-law already provides for a 50% exemption from the CSRF portion of the rate for "land, buildings or structures used for not-for-profit purposes defined in, and exempt from taxation under, section 3 of the Assessment Act." (section 43 of the City by-law);

(e) A temporary building that is removed in its entirety from the lands on which it is located within twenty-four (24) months of the issuance of the building permit for placement of the building at that location may request a refund (section 20 of by-law). There would seem to be no compelling reason to reject the request if the building was truly temporary and otherwise meets the criteria of that section.

(f) The by-law that is before Council includes a proposed exemption for "an air supported structure or arch framed structure clad with fabric-type material, temporary in nature, the purpose of which is to provide indoor facilities for recreational and sports activities owned and operated by a non-profit organization and available for public use."

Rather than incorporate further exemptions in the by-law, staff would recommend that Council consider a grant to offset a development charge to be imposed on any particular organization.

Consideration of further public meeting

The DC Act provides for the conduct of a public meeting in which anyone who wishes to speak on the DC study or the proposed development charges by-law may do so. That meeting was conducted on May 13th, 2009. Since a follow-up meeting was required to consider items arising from the public meeting (i.e., the Board of Control meeting of June 24, 2009), Council must now consider the need for a further public meeting. Their decision on this matter is final, and cannot be questioned before the OMB or a court. Recommendation 3 above includes wording to the effect that the need for a further public meeting was contemplated by Council, but is not considered necessary.

CONCLUSION

Development charges represent a critical source of financing for growth related capital expenditures. This report is recommended as a critical step in updating our existing by-law on a timely basis. The current DC rate by-law will expire on August 4, 2009. The proposed new by-law is consistent with the by-law tabled on May 13, 2009, but has been amended for minor technical changes to wording related to administration of UWRF (Schedule 7).
This covering report has been assembled to provide a review of issues and objections raised at the public meeting on the DC Background Study and proposed By-law, and input provided by stakeholders at that meeting and beyond. Administrative recommendations put forward at the meeting are substantially the same as those tabled on May 13 09. Calculated rates subsequent to that meeting are unchanged. Though we are sympathetic to the current malaise in the residential building industry, we are also cognizant of budget implications of a deferral of DC rate increases, and make no recommendations in light of these genuine, but conflicting concerns.

PREPARED BY:

PETER CHRISTIAANS, C.A.
Director, Development Finance

RECOMMENDED BY:

RON STANDISH
Director - Wastewater and Treatment

RECOMMENDED BY:

VIC COTÉ
General Manager of Finance and Corporate Services and Acting City Treasurer

CONCURRED IN:

JEFF FIELDING
Chief Administrative Officer

c.c. UWRF/DC Implementation Team Members
London Development Institute,
Urban League,
London Building Construction Trades Council
Civic administration - CAO, GM's, Legal
George Kotsifas, Director of Building Controls
London Labour Council
London Chamber of Commerce
London Economic Development Corporation

Attachment
June 18, 2009

PC/pc
London Development Institute

May 22nd, 2009

Mayor and Members of Council
City of London
300 Dufferin Avenue
LONDON, Ontario
N6A 4L9

Dear Council:

Following the Public Meeting on May 13, 2009 we have continued our review of the proposed DC By-law and the Background Study. We want to again stress our concern that policies adopted in the proposed By-law represent a significant change from City practice and we question the rationale and philosophical basis for these policy changes.

In 2010 the City's Transportation Master Plan will incorporate the recommendations of the Transit Master Plan that promotes an increase in public transit and reduces private vehicle use. The consequence of the new TMP is that the road network proposals included in the Growth Management Implementation Strategy (GMIS) and the draft DC By-law will be altered and quite likely significantly reduced in scale.

Considerable debate continues on the share assessed to growth. The Development Industry supports the proposition that growth pays for growth but there needs to be a clear and fair understanding of the basis for cost sharing. Growth cannot carry the full burden of correcting long term maintenance issues faced by many City services. We want to discuss the fundamental philosophy considerations in establishing the Growth/Non-growth share.

Transferring growth costs to residential development by dramatically altering the share assessed to the TCI sector unfairly burdens the new home owner. To suggest that this is based on the simple ratio of employment growth to population growth denies...
vehicle trip generation factors associated with non-residential development that have been set by the Transportation Engineers Institute and are used by the City of London.

The Development Industry asks Council to maintain the current DC rate for Transportation:

- Until such time as the Transportation Master Plan 2010 update is completed and the growth/non-growth assessment is appropriately calculated in accordance with the City Transportation Vision and the Transit Master Plan;
- In the assessment of Transportation Costs, maintaining the current split between residential and ICI rates. Much of the increase to residential rates is based upon a contentious transfer of responsibility from the commercial to residential development sector. The advisability of this transfer has not been fully assessed. Maintaining the status quo maintains rather than reduces the commercial rate on an interim basis;

Over and beyond these major policy changes the LDI has specific concerns with each of the items in the following list which should be discussed after the fundamental principles have been agreed to.

- Technical issues – calculation errors, oversizing methodology and proposed definition of growth;
- Sources of Financing – review of funding allocation of past projects;
- CSRF/DFRF – transfer of projects between funds, payment procedures/cash flow;

LDI is meeting with City staff to have our concerns addressed and are seeking Council’s endorsement to this review prior to the passing of the DC By-law.

Yours very truly,
London Development Institute.

[Signature]
President

cc LDI/LHEA

---

... developing and planning for a strong London

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Fax: (519) 642-7203
email: hjanca@rogers.com
London Development Institute

May 29th, 2009

Board of Control
City of London
300 Dufferin Avenue
LONDON, Ontario
N6A 4L9

Dear Board Members:

Further to our May 22, 2009 letter to Council we met with Senior City Staff on May 27, 2009 to again express our concerns with key policies recommended in the proposed DC By-law. At our meeting we advised Staff that policies included in the proposed By-law represent a significant change from City practice and we questioned the rationale and philosophical basis for these changes:

- Major disagreement exists on what constitutes the growth/non-growth share for Transportation Projects. LDI position is that the share should be calculated on the basis of analyses of the existing road system for current and projected transportation corridor demands for each segment of road. This is the process used in the 2004 London analyses by IBI and is proposed to be considered in the new 2030 Transportation Master Plan (TMP). The new plan furthermore will incorporate all modes of transportation including the changes recommended in the approved Transit Master Plan. When completed the new TMP should provide for a basis to determine the proper and fair share of growth/non-growth costs for each segment of road, and should also change or eliminate the need for some of the transportation projects now included in the proposed DC By-law.

LDI requests that changes to the growth/non-growth share be deferred until the new Transportation Master Plan is completed. The method used in 2004 is supported by our
Transportation Consultants - ENTRA Consultants as the preferred approach for the 2009 DC By-law;

- Major disagreement exists on the assignment of growth costs to Res/ICI development. LDI takes the position that the 3:1 split based on population growth/employment growth has no relevance in the forecasting of demand for transportation projects. We believe that Vehicle Trip Generation factors developed by the Transportation Engineers Institute for application to different types of land use and used by the City in assessing transportation corridor impact is the more appropriate basis for the analysis. This position is also supported by our Transportation Consultants - ENTRA Consultants. It is our expectation that a detailed analysis of trip generation will also be completed as part of the 2030 Transportation Master Plan;

LDI requests that changes to the Res/ICI split for the assessment of growth costs be deferred until the new Transportation Master Plan is completed.

- Analyses of individual capital Projects included in the DC By-law concludes that in a limited number of cases the assignments in the DC By-law as growth costs, have ignored long standing maintenance deficiencies. These corrections need to be completed and adjustments made before the By-law is passed;

At the conclusion of our meeting we advised Staff that if agreement cannot be reached on the above issues and the appropriate amendment made to the proposed DC By-law, we will be left with no choice but to refer the DC By-law to the CMH.

It should be noted that LDI’s concerns are supported by other Development Associations and their support will be solicited in what amounts to a test case on these growth/non-growth and Res/ICI split policies.

In addition to the above noted policy issues, LDI again stressed to staff that we continue to have specific concerns with items in the following list:

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Agenda Item #  Page #

APPENDIX A

Technical issues – calculation errors and proposed definition of growth;
- Storm and sanitary sewer pipe calculation of the local share;
- Sources of Financing – review of funding allocation of past projects;
- CSRP/UWRF – transfer of projects between funds, payment procedures/cash flow;

With respect to the last bullet point, our preliminary analysis indicates that the reduction in the proposed DC By-law to the amount of funds collected as the UWRF charge will significantly decrease cash flow and will increase the payback time for projects. This factor will specifically affect those large projects that are already grandfathered. If this cash flow problem is not addressed, the resulting liabilities will be greater than those that the Blue Ribbon Panel was formed to deal with. We suggested that staff deal with these grandfathered projects in a manner such that the payouts will be completed within a reasonable and predictable timeframe.

We are willing to continue to meet with City staff in an effort to reach points of agreement that might remove the need for a referral to the OMB.

In discussions with staff earlier this week we learned that in order to make the June 22 Board of Control meeting and the June 29 Council meeting, staff reports must be completed and filed with the Clerk’s office by today, May 29. This is too little time to continue discussion with staff and we are asking Council to delay passing the DC By-law until the July 27 Council meeting to give the industry the additional month to meet with staff to try to resolve some of our concerns.

Yours very truly,
London Development Institute

[Signature]

M. H. Grace, P. Eng., MCIP
President

cc: LDMLEPA
B. E. Card
ENTRA Consultants

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May 13, 2009

City of London
Board of Control
300 Dufferin Avenue
London, ON N6A 4L9

Re: Development Charges Background Study - Inclusion of Growth Related Items

Sifton Properties Limited requests the following amendments to the proposed DC background study related to Sifton projects.

As the DC background study is generally only updated every 5 years, as the scope and timing for projects change, so too do the funding mechanisms of the projects. Many projects are either not contemplated at the time the DC bylaw was prepared, or are missed during the review process.

There are two main types of projects we request correction in the proposed bylaw. The following identifies these two groups of projects, and the Sifton-related works that apply:

- Allocation to correct charge - Growth related works that were claimed to the UWRF, but due to their scope and size should have been a DC project.
  
  This include the following project:

  - RiverBend Pump Station

  The pump station was built by Sifton as a requirement of Plan 33M-429. It is now planned to serve thousands of acres of existing and new growth tributary to the Oxford Pollution Control Plant. After Draft Plan approval and into detailed design, the size and scope of the station increased. The final total costs have now approached $5 million. This claim places a significant burden on the UWRF as this size of project was not contemplated when the rate was developed. The UWRF is not designed to recover projects of this scale, and further hinders the recovery period for legitimate UWRF work.

  In our discussions with staff over a number of years, everybody seems to agree this project should have been a DC recoverable work, not an UWRF work.

  We request the remainder of the projects' value be recovered as a Development charge payable in 2009.

A second group of projects we request inclusion in the bylaw include works that were constructed in the prior period, but were not specifically recovered in the DC bylaw or UWRF. These works were not recovered by Sifton through Development Charges even though the works have been constructed and should be eligible. These projects include the following:
• Sunningdale Road High pressure watermain from Bluelake Road west to the Sunningdale Water Booster Station. This project was not included as a Draft Plan condition to construct and as such was not included in the rate. Sifton did not require the work in Sunningdale Road for our development, but at the development agreement stage Sifton was required by the City to build the work. Therefore adequate recoveries were not included in the prior DC bylaw to recover these costs incurred by Sifton.

  • Wickerson Road Water Booster Station
  • Wickerson Road SWM pond
  • Wickerson Municipal Class C Environmental Assessment

Since the last DC bylaw, the Wickerson development area was approved for development and is now under construction. While the planning process advanced this area to construction during this period, the DC bylaw did not have any specific projects identified for the Wickerson area at all.

Full DC rates have been paid through the building of this community, and other than very minor UWRF recoveries to date for Byron Baseline Road, no UWRF or DC recoveries have been received.

Once again, the works, specifically the Wickerson Water booster station, built by Z-Group with area landowner participation, were sized to accommodate ultimate tributary areas and therefore served a much larger area than just one development.

The DCs were paid by each builder, but the recoveries were not theirs.

In conclusion, we note that the Development Charges Act allows for works to be included in the rate after they have been constructed, if there is a benefit to the period. We also note that in other municipalities we work in, where prior bylaws have missed or incorrectly allocated works, the municipality is supporting amendments to correct these errors. We request Board of Control direct staff to support a fair and proper DC bylaw, and allow these errors/omissions of the past to be corrected.

Yours truly,

SEITON PROPERTIES LIMITED

Phillip R. Messachlein
Vice President
Neighbourhood Developments

cc: Vic Cote,
  Peter Christiansen
  John Bruneau
  Anthony Gablett
  David Allen
  Ron Stantis
  Peter McClanahan
APPENDIX A

May 29, 2009

Board of Control, and
Mr. Vic Cote, General Manager of Finance & Corporate Services & Acting City Treasurer
City of London
300 Dufferin Ave.
London, Ontario
N6A 4L9

Dear Mr. Cote and Board of Control;

Re: Development Charges By-Law C.P. – 1440-167 ("DC Bylaw")

Firstly, we wish to apologize that we are only now providing this input recognizing that the public meeting respecting the DC By-Law was held on May 13, 2009. However, it has just come to our attention that the new DC By-law, if implemented as presently proposed, has a significant impact on the future amount of funds that will be flowing into the revised Urban Works Reserve Fund ("UWRF"). In this regard we wish to bring to your attention our concerns and the related issues respecting the proposed by-law.

By way of background and as you are no doubt aware, Pacific & Western Bank of Canada has been both a direct and indirect participant in the UWRF. Many of our developer clients have financed their works through our Bank. In some cases we provided project financing for the completion of their respective subdivisions and related works and in other cases we simply acquired a direct interest by way of purchasing their UWRF claims (essentially cashing them out) such that they could repatriate their funds and pursue other worthwhile and beneficial projects in the City of London. In fact, for the past 7 years we have been an active financing source as it relates to our developer clients and the UWRF. We are quite familiar with the nuances of the fund and the erratic nature of the inflows and outflows and the queuing process to receive those funds. Nonetheless we have always been able to arrive at a business evaluation that enables us to proceed based on the variables in play at that time.

Two of the important variables that we took into consideration (as did our developer clients) when considering a project and its relationship to future UWRF claims was the outlook on the future pace of absorption of developed land and the level of revenue flow into UWRF resulting therefrom. As we know, absorption is tricky to forecast and particularly subject to economic conditions and has its own impact on revenue inflow. However, we were, and are able to deal with this variable in our risk assessment. With respect to the anticipated dollar revenue, our evaluation and that of our clients, relied on the level of fees that were to be directed into the fund at the time we participated in a project. Historically, the quantum of these fees had been increasing not reducing. We never imagined that an increase in DC fees would lead to a reduction in UWRF revenues. Frankly we assumed the opposite would occur if we were to follow historical trends. We are now faced with a dramatic reduction in the quantum of fee to be directed into UWRF yet many of the projects that we and our developer clients undertook assumed a significantly higher level of UWRF revenue based on the fees in place at the time which resulted in a projected cash inflow and outflow from the fund.
APPENDIX A

We now arrive at our concerns and issues with the new DC By-Law. For illustration purposes we will simply use the Single/Semi rates for inside the Urban Growth Area. The existing and proposed new rates are summarized as follows as is the comparison of our understanding of the breakdown of funding within the UWRF two different envelopes:

<table>
<thead>
<tr>
<th>Service Components</th>
<th>Existing</th>
<th>Proposed</th>
<th>Inc/(Dec)</th>
<th>% change</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Services Charges</td>
<td>$10,064</td>
<td>$19,630</td>
<td>$9,566</td>
<td>95%</td>
</tr>
<tr>
<td>UWRF Charges</td>
<td>$6,941</td>
<td>$3,291</td>
<td>($3,650)</td>
<td>47%</td>
</tr>
<tr>
<td>Total Under DC By-Law</td>
<td>$17,005</td>
<td>$22,921</td>
<td>$5,916</td>
<td>35%</td>
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</table>

<table>
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<th>UWRF Components</th>
<th>Existing</th>
<th>Proposed</th>
<th>New CSRF</th>
</tr>
</thead>
<tbody>
<tr>
<td>SWM Fund</td>
<td>$2,152</td>
<td>$1,012</td>
<td>$3,442</td>
</tr>
<tr>
<td>Other Fund</td>
<td>$4,789</td>
<td>$2,279</td>
<td>$18,147</td>
</tr>
<tr>
<td>Totals</td>
<td>$6,941</td>
<td>$3,291</td>
<td>$16,589</td>
</tr>
</tbody>
</table>

Note: For CSRF Includes Road Services and Sanitary Sewerage only.

SWM Fund allocations under the existing rates were $2,152 yet under the new CSRF they will be $3,442 which is an increase of 59%. It is recognized that some of the rate increase relates to the increase in the cost of land, however, we are not aware that this has ever been the largest component of SWM cost and therefore we are wondering what is driving the 59% increase and why the CSRF benefits from this. We also note that under the new CSRF the allocation for growth oriented Road Services and Sanitary Sewer is significantly higher than was previously allocated under UWRF. We admit we are not sure if the two are directly comparable however the difference is startling.

Our major concern with the DC By-Law has to do with the transitioning (or lack thereof) from the existing UWRF and approved non-SWM Claims currently totaling in excess of $33.6 Million. These are works that have been completed by Developers and are fully approved for funding once they come through the appropriate queuing process. To further aggravate this situation, it is our understanding that the queue of Non-SWM authorized payments is currently in excess of $16.2 Million. In addition, the $33.6 Million in approved works include major works that have been completed by Developers under the former by-law and funding allocations. It is now proposed that these will be funded by a significantly lower cash flow and revenue stream than was expected when they were completed and yet the City will enjoy the benefit of the majority of the DC charges in the future to fund any future growth related major works that it will be undertaking. At the least, this is inequitable and most certainly seems patently unfair.

Based on the current level of revenues with the old rates and allocations, any Developer at the end of the current payment queue (i.e. $16.2 Million) will likely be waiting for anywhere from 24 to 30 months to receive their payment. However, the effect of cutting the allocated revenue from the current level to the proposed levels will send that payment well out to 5 years. Anyone with an approved claim in excess of the upper payment limit will be waiting an awfully long time to receive it – 10 years or longer depending on the size of the claim is likely based on the proposed funding levels. What is also unfair is that the "revenue expectation rules" are being changed and are being made retroactive after the works have been completed.
It was our understanding that the Blue Ribbon Panel was established to address growing concerns over the financial health of the UWRF and to recommend changes to address these concerns. It is also our understanding that this by-law was based, in part, on the foundation of the Blue Ribbon Panel's findings. We must admit we are finding it hard to see when this proposal by-law improves the financial condition. From our perspective it worsens the financial condition of the UWRF because it has not addressed equitable and fair transitioning policies. Those works that are currently grandfathered which were completed under the old system should still have appropriate repayment recognition based on the former revenue levels rather than the new ones. Or alternatively, the major works that have been completed by Developers should be pulled out of the UWRF and transferred to the CSRF on an established and mutually agreed repayment plan that is equitable and recognizes that the Developer and the City will participate in the revenues on an equal and pro rata basis as if the Developer was the City and/or the City was the Developer. Thereby the City can enjoy the same queuing process that the Developers have experienced for decades. This would seem only fair.

As you are no doubt aware we have been relatively innovative in financing our Developer clients particularly as it relates to their requirement to complete growth oriented Urban Works. We would like to continue to do so as we believe, that in the end, this is of benefit to the City and ultimately to its citizens and we have found it to be good business for our Bank. However, if we are to continue it is our considered position that there should be a much improved transitioning policy implemented to give appropriate recognition for the funds to be allocated for the works that have already been completed by the Development community.

We are available to discuss our concerns and possible resolutions further at your request.

Yours truly,
Pacific & Western Bank of Canada

[Signature]
Assistant Vice President

[Signature]
Vice President

RAC/RPD/sp

cc. Sifton Properties (Richard Sifton and Ways Reid)
Southside Group (Vito Prijia)
Z Group (Bernie Zelfman and Howard LaGrave)
Auburn Developments (Jamie Crilch)
The Hampton Group (David Tennant Sr.)
Noquay Developments (Michael Howe and Bill Velitch)
Tony Marsman Construction Limited (Tony Marsman)
London Development Institute (Steve Janes)
<table>
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<tr>
<th>Rank</th>
<th>Municipality</th>
<th>Upper Tier $</th>
<th>Lower/Single Tier $</th>
<th>Education $</th>
<th>Total $</th>
<th>Comments</th>
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<td>1</td>
<td>Durham</td>
<td>31,305</td>
<td>37,286</td>
<td>2,138</td>
<td>55,727</td>
<td>56% increase proposed</td>
</tr>
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<td>2</td>
<td>Halton Hills (South)</td>
<td>27,227</td>
<td>27,922</td>
<td>4,978</td>
<td>34,804</td>
<td>4% increase proposed</td>
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<tr>
<td>3</td>
<td>Vaughan</td>
<td>22,723</td>
<td>24,952</td>
<td>1,570</td>
<td>26,477</td>
<td>26% increase proposed for self services</td>
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<td>Milton</td>
<td>21,865</td>
<td>22,948</td>
<td>1,570</td>
<td>24,485</td>
<td>30% increase proposed for self services</td>
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<tr>
<td>5</td>
<td>Halton Hills (401 Corridor)</td>
<td>31,899</td>
<td>23,061</td>
<td>2,138</td>
<td>47,068</td>
<td>Indexed April 1, 2006</td>
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<td>Halton Hills (North)</td>
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<td>26,693</td>
<td>2,144</td>
<td>44,973</td>
<td>21% increase proposed</td>
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<td>24,261</td>
<td>2,141</td>
<td>44,563</td>
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<td>30,662</td>
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<td>44,218</td>
<td>18% increase proposed</td>
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<td>44,517</td>
<td>16% increase proposed</td>
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<td>43,062</td>
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<td>Hamilton</td>
<td>18,488</td>
<td>11,931</td>
<td>1,205</td>
<td>31,624</td>
<td>Set to index in September</td>
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<td>Cambridge</td>
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<td>10,880</td>
<td>1,205</td>
<td>30,570</td>
<td>8% increase proposed</td>
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<td>Waterloo</td>
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<td>10,388</td>
<td>1,205</td>
<td>35,080</td>
<td>Indexed January 2006</td>
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<td>Waterloo</td>
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<td>23,636</td>
<td>Proposed 2009 decrease of 14% in development charges for residential</td>
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<td>Frozen for 1 year - Proposed Hamilton Lower Tier rate in a year is 22.01% before</td>
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<td>24,603</td>
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<td>17</td>
<td>Guelph</td>
<td>11,931</td>
<td>1,205</td>
<td>33,831</td>
<td>33,831</td>
<td>Minimal change from previous change</td>
</tr>
<tr>
<td>18</td>
<td>Waterloo</td>
<td>10,300</td>
<td>1,205</td>
<td>24,603</td>
<td>24,603</td>
<td>Frozen for 1 year - Proposed Hamilton Lower Tier rate in a year is 22.01% before</td>
</tr>
<tr>
<td>19</td>
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<td>11,931</td>
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<tr>
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<tr>
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<td>1,205</td>
<td>33,831</td>
<td>33,831</td>
<td>Minimal change from previous change</td>
</tr>
</tbody>
</table>

Hamilton Rate includes existing Go Transit Rate of $211

*Durham Region is proposing Freeze for this year's indexing

*Waterloo Region is proposing Freeze until Jan. 1, 2010 on the rate
Administrative Amendments to SCHEDULE 7 UWRF – CLAIMS POLICY ("NEW RULES")

The following textual updates are mostly minor in impact but are required to add clarity to the new by-law. They have been provided to provide a summary of changes to the bylaw since May 13th. All the changes in this Appendix have been incorporated in the amended draft bylaw that is attached to this report.

<table>
<thead>
<tr>
<th>Recommended Text Change</th>
<th>Reason for Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.2.4 Remove the reference to “a further installment on the 13 month anniversary of the last claim payment date”. This whole section will be changed to match section 1.10 d which reads: “If the aggregate amount eligible to be paid exceeds these amounts, subsequent installments are eligible to be entered as a claim 12 months following the immediately preceding installment.”</td>
<td>Clarity, and consistency will be added by re-use of exactly the same text</td>
</tr>
<tr>
<td>1.6 (e) do not need “vi, vii or ix”</td>
<td>These are out dated submission requirements that are no longer required</td>
</tr>
<tr>
<td>1.7 (f) Will be re-written to place the 2nd sentence first and the 1st sentence last. With the addition of the text &quot;Following tender award&quot; to the first sentence and &quot;in creating the tender documents&quot; to the second sentence</td>
<td>Sentence structure flows better meaning is close to the same</td>
</tr>
<tr>
<td>1.9 4th paragraph - Add the words “Stormwater management” in front of best management practices</td>
<td>Adds clarity as BMP’s can apply to many processes and items.</td>
</tr>
<tr>
<td>1.9 5th paragraph - Add the word “not” in front of the word eligible</td>
<td>In line with current &amp; past policy. The addition acts to clarify, this (monitoring of SWM facilities) is an activity required for the release of securities and demonstrates that infrastructure is working prior to assumption by the City.</td>
</tr>
<tr>
<td>1.10 (e) add &quot;(including GST)” after $250,000</td>
<td>Clarifies meaning.</td>
</tr>
<tr>
<td>1.16 Flood Fringe – should add after $50,000/Acre (&quot;$123,550/ha&quot;)</td>
<td>Add metric conversion for consistency</td>
</tr>
<tr>
<td>2.1 Change reference from “subdivision” to &quot;development&quot;</td>
<td>Staff need to also reference site plans, condo’s … etc as “development” covers more than &quot;subdivision” work</td>
</tr>
</tbody>
</table>
### Appendix C

<table>
<thead>
<tr>
<th>Agenda Item</th>
<th>Page #</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>160</td>
</tr>
</tbody>
</table>

#### 2.2.1
Add note to diagram with arrows delineating "Claimable works" and "owner's expense"

Add for clarity.

#### 2.3.1
(i) should read "Connections of all streets, private roads or entrances, culverts, signage, gateway treatments, noise wall alterations, directional traffic islands and decorative features."

Add for clarity.

(ii) should read "Topsoil and sod to the back of any existing sidewalk fronting the development."

Add for clarity, this limits a developer's responsibility.

#### 2.3.2
Add - "When trees are planted as part of external roadworks to replace removed trees, other than those removed to facilitate an access, the cost of the removal and replacement is claimable."

This is a frequently asked question that needs a reference in the "rules".

#### 5.1.1
Add to 3rd paragraph: "Additionally, any costs associated with installing private drain connections or private systems are not claimable."

Current policy, needs adding for clarity.

#### 5.1.2 (last line)
This cost per metre covers all associated engineering, manholes, restoration etc.

Adds clarity

#### APPENDIX D
On the charts in Appendices 7-B & 7-C add "/m."

Adds clarity
### APPENDIX C

Amendments to Draft DC Rate By-law (tabled May 13 09) as a result of formation of Development Approvals Business Unit (DABU)

<table>
<thead>
<tr>
<th>Changes to Schedule 6 of Draft DC rate by-law:</th>
<th></th>
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<tbody>
<tr>
<td>section</td>
<td>2.3 (e)</td>
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<tr>
<td>7.4(b)</td>
<td>... claims shall be reviewed by the General Manager Planning &amp; Development in consultation with the City Engineer.</td>
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</table>

<table>
<thead>
<tr>
<th>Changes to Schedule 7 of Draft DC rate by-law:</th>
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<tr>
<td>section</td>
<td>1.4 – last line</td>
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<tr>
<td>1.5</td>
<td>... at the discretion of the General Manager Planning &amp; Development in consultation with the City Engineer.</td>
</tr>
<tr>
<td>1.6 a)</td>
<td>Change “City Engineer” to General Manager Planning &amp; Development</td>
</tr>
<tr>
<td>1.6 b)</td>
<td>Change &quot;Environmental Services&quot; to Planning &amp; Development</td>
</tr>
<tr>
<td>1.6 e) iii)</td>
<td>Change “City Engineer” to General Manager Planning &amp; Development</td>
</tr>
<tr>
<td>1.6 f)</td>
<td>All claims shall be directed to the Planning &amp; Development Department, Development Approvals Business Unit.</td>
</tr>
<tr>
<td>1.7 d) iii)</td>
<td>Change “City Engineer” to General Manager Planning &amp; Development</td>
</tr>
<tr>
<td>1.7 g)</td>
<td>Change “City Engineer” to General Manager Planning &amp; Development</td>
</tr>
<tr>
<td>1.7 h)</td>
<td>Change “City Engineer” to General Manager Planning &amp; Development</td>
</tr>
<tr>
<td>1.7 j)</td>
<td>Change “City Engineer” to General Manager Planning &amp; Development</td>
</tr>
<tr>
<td>1.9 – last line</td>
<td>Change in 2 places – “City Engineer” to General Manager Planning &amp; Development</td>
</tr>
<tr>
<td>1.12 – 2nd line</td>
<td>Change “City Engineer” to General Manager Planning &amp; Development</td>
</tr>
<tr>
<td>1.12 – 3rd line</td>
<td>Change “Director Development Finance” to “City Engineer”</td>
</tr>
<tr>
<td>1.15 b)</td>
<td>Change “City Engineer” to General Manager Planning &amp; Development</td>
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<tr>
<td>1.17 b)</td>
<td>Change “City Engineer in consultation with the Director of Development Finance” to General Manager Planning &amp; Development in consultation with the City Engineer.</td>
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<tr>
<td>2.3.2. i)</td>
<td>Change “City Engineer in consultation with the Director Development Finance” to General Manager Planning &amp; Development in consultation with the City Engineer.</td>
</tr>
<tr>
<td>3.1.3</td>
<td>Change “City Engineer” to General Manager Planning &amp; Development</td>
</tr>
<tr>
<td>4.1.1</td>
<td>... at the discretion of the City Engineer in consultation with the General Manager Planning &amp; Development.</td>
</tr>
<tr>
<td>4.1.2</td>
<td>... or with the approval of the General Manager Planning &amp; Development in consultation with the City Engineer either.</td>
</tr>
</tbody>
</table>

**Reason for change:**
As a result of organizational restructuring, Development Approvals Business Unit has been formed under the direction of the GM of Planning and Development.

Decision/Authority with respect to Urban Works Reserve funded works is now allocated between the General Manager Planning & Development and the City Engineer. In decisions regarding claims/funding, the GM Planning & Development leads. In design standards, phasing of works, servicing integration, the City Engineer leads. Above changes to Schedule 7 of draft DC rate by-law reflect those changes.
Bill No.???
2009

By-law C.P.???

A by-law respecting development charges.

WHEREAS the Development Charges Act, 1997 S.O. 1997, c.27, as amended authorizes by-laws of the council of a municipality for the imposition of development charges against land to pay for increased capital costs required because of increased needs for services arising from development of the area to which the by-law applies.

THEREFORE the MUNICIPAL COUNCIL of The Corporation of the City of London hereby enacts as follows:

DEVELOPMENT CHARGES BY-LAW

PART I

INTERPRETATION

1. Definitions

In this by-law, unless a contrary intention appears,

"apartment" means a residential building containing two or more dwelling units each of which has an independent entrance either directly from the outside or through a common corridor, hallway or vestibule;

"agricultural" use means

a) a use where animals or birds are kept for grazing, breeding, raising, boarding, or training of livestock of all kinds including, but not limited to, cattle, swine, sheep, goats, rabbits, poultry, fish, horses, ponies, donkeys, mules, and fur bearing animals, or

b) the tillage of soil, growing and harvesting of vegetables, fruits, field crops, mushrooms, berries, trees, flowers or landscaping materials; the erection and use of greenhouses, woodlots and forest tree uses; the packing, treating, storing, and sale of produce produced on the premises and other similar uses customarily carried on in the field of general agriculture."

"brownfield sites" means lands, vacant or improved, on which industrial, commercial, institutional or government activity took place in the past, and which activity has resulted in soil or water contamination because of chemicals or other pollutants, and are located in residential re-
development locations where infrastructure, services and facilities already exist.

"City Engineer" means the General Manager of Environmental and Engineering Services and City Engineer;

"City Services" are services that serve, in whole or in part, growth needs which are normally constructed or provided by the Corporation or its Boards or Commissions, including, but not limited to Transportation, Sanitary, Storm Drainage, Water, Fire, Police, Library, Transit and Growth Studies.

"Commercial Building" is a building used for:

(a) Office or administrative uses, including the practice of a profession, or the carrying on of a business or occupation or where most of the activities in the building provide support functions to an enterprise in the nature of trade, and for greater certainty shall include, but not be limited to, the office of a physician, lawyer, dentist, architect, engineer, accountant, real estate or insurance agency, veterinarian, surveyor, appraiser, contractor, builder, land developer, employment agency, security broker, mortgage company, medical clinic; or

(b) Retail purposes including activities of offering foods, wares, merchandise, substances, articles or things for sale or rental directly to the public and includes offices within the same building, which support, are in connection with, related or ancillary to such uses, or activities providing entertainment and recreation. Retail purposes shall include but not be limited to: conventional restaurants; fast food restaurants; night clubs, concert halls, theatres, cinemas, movie houses, and other entertainment related businesses; automotive fuel stations with or without service facilities; special automotive shops / auto repairs / collision services / car or truck washes; auto dealerships; regional shopping centres; community shopping centres; neighbourhood shopping centres, including more than two stores attached and under one ownership; department / discount stores; banks and similar financial institutions, including credit unions (excluding freestanding bank kiosks), money handling and cheque cashing facilities; warehouse clubs or retail warehouses; Food stores, pharmacies, clothing stores, furniture stores, department stores, sporting goods stores, appliance stores, garden centres (but not a garden centre defined as exempt under section 35 of this by-law), government owned retail facilities, private daycare, private schools, private lodging and retirement homes, private recreational facilities, sports clubs, golf courses, skiing facilities, race tracks, gambling operations, funeral homes, motels, hotels, restaurants, theatres, facilities for motion picture, audio and video production and distribution, sound recording services, Passenger stations and depots, Dry cleaning establishments, Laundries, establishments for commercial self-service uses.

With the intent of providing some flexibility in the administration of this section, any building use not named specifically above which is considered an adventure in the nature of trade, and is neither an Institutional nor Industrial use, may be deemed to be a Commercial use at the discretion of the Director of Building Controls.

"Commercial Truck Service Establishment" means a premises purpose designed for repair and servicing of freight carrying trucks, including truck tractors and truck trailers, and shall include the storage and sale of parts accessory to such vehicles;

"Corporation" means The Corporation of the City of London;

"developer" means a person who undertakes development or redevelopment;

"development" means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of changing the size or usability thereof, and includes all enlargement of existing development which creates new dwelling units or additional non-residential space and includes
work that requires a change of use building permit as per Section 10 of the Ontario Building Code; and "redevelopment" has a corresponding meaning;

"development charge" means any development charge that may be imposed pursuant to this by-law under the Development Charges Act, 1997;

"dwelling unit" means a suite operated as a housekeeping unit, used or intended to be used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping, and sanitary facilities;

"First storey" is defined as the storey that has its floor closest to grade and its underside of finished ceiling more than 1.8m above the average grade.

"force majeure" means any act of God, any act of the Queen's enemies, wars, blockades, insurrections, riots, civil disturbances, landslides, lightening, earthquakes, storms, floods, washouts, fires, or explosions;

"gross floor area" means the total floor space, measured between the outside of exterior walls or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of the first storey and all storeys or part of storeys (including mezzanines) above the first storey.

"Industrial Building" is a building used for:

a) manufacturing, producing, fabricating, assembling, compounding or processing of raw materials, goods, component parts or ingredients where the physical condition of such materials, goods, parts or components are altered to produce a finished or semi-finished tangible product, or the packaging, crating, bottling, of semi-processed goods or materials, but not including any of these activities where they primarily serve retail purposes to the general public;

b) storing or distributing something derived from the activities mentioned in a) above and for greater certainty, shall include the operation of a truck terminal, warehouse or depot;

c) research or development in connection with activities mentioned in (a) above;

d) retail sales of goods produced by activities mentioned in section a) at the site where the manufacturing, producing or processing from raw materials or semi-processed goods takes place and for greater certainty, includes the sale of goods or commodities to the general public where such sales are accessory or secondary to the industrial use, and does not include the sale of goods or commodities to the general public through a warehouse club;

e) office or administrative purposes, if they are carried out:

   i. with respect to the activity mentioned in section a),

   ii. in or attached to the building or structure used for activities mentioned in section a) and

   iii. for greater certainty, shall include an office building located on the same property as, and used solely to support, the activities mentioned in section a);

f) a business that stores and processes data for retrieval, license or sale to end users and are on lands zoned for industrial uses; or

g) businesses that develop computer software or hardware for license or sale to end users that are on lands zoned for industrial uses.

"Institutional Building" is a building used for or designed or intended for use by:

(a) a government entity, not in the nature of trade,

(b) an organized body, society or religious group promoting a public or non-profit purpose and shall include but not be limited to: public hospitals, schools, churches and other places of worship, cemetery or burial grounds, universities and colleges established pursuant to the Ministry of Colleges and Universities Act, other buildings used for not-for-profit purposes defined in, and exempt from taxation under, section 3 of the Assessment Act.

"lawfully existing" with reference to a dwelling unit means a dwelling unit:
(a) that is not prohibited by a by-law passed under section 34 of the Planning Act or a predecessor of that section; or

(b) that is a legal non-conforming use; or

(c) that is allowed by a minor variance authorized under section 45 of the Planning Act or a predecessor of that section.

“non-residential” means commercial, institutional or industrial use but excludes agricultural use."

“nursing home” means a building which has been built using the long term care facility design and service standards established by the Ministry of Health and Long Term Care, in which rooms or lodging are provided for hire or pay in conjunction with the provision of meals in a designated dining area, personal care 24 hours per day, 7 days per week, nursing services and medical care and treatment, and for purposes of this by-law is deemed to be a residential use where three beds are equivalent to a two bedroom apartment unit;

“owner” means the registered owner of the property and includes the authorized agent in lawful control of the property.

“parking structure” means an attached or detached building or structure or part thereof,

(a) that is used principally for the purpose, whether or not for profit, of providing parking space to the general public for a fee; or

(b) that provides parking space in connection with the use for residential, commercial, industrial or institutional purposes or any combination thereof of any attached or detached building or structure or part thereof;

“reserve funds” means the reserve funds, new and continued, under section 22 of this by-law;

“rowhousing” means a building divided vertically into three or more attached dwelling units by common walls;

“semi-detached dwelling” means a building which contains two single dwelling units which are attached vertically by a common wall;

“sewerage” includes any works or any part thereof for the collection, transmission, treatment, and disposal of sewage or storm water;

“single detached dwelling” means a residential building consisting of one dwelling unit and not attached to another building or structure;

“Statistics Canada Index” means the Statistics Canada Quarterly Construction Price Statistics, catalogue number 62-007, Non-residential (Toronto);

“temporary garden suite” means a one-unit detached residential structure containing bathroom and kitchen facilities that is ancillary to an existing residential dwelling structure;

“Urban Works” are growth related services, normally required as a consequence of, or prerequisite to development, which are cited in agreements under the Planning Act. The City permits the construction of these services by developers, and their cost is claimable or partially claimable from the Urban Works reserve funds identified in the rate schedules to this by-law. The eligibility for a claim from the funds is discussed in Schedules 6 and 7 of this by-law, and expanded in the Development Charges Background Study.

“zoning by-law” includes a minor variance to the provisions of a zoning by-law.

2. Purpose of By-law
Appendix D

The purpose of this by-law is to impose development charges within the City of London as it exists from time to time based on the recommendations, policies and standards contained in the City of London Development Charge Background Study dated April, 2009 and supplements to that study in accordance with the Development Charges Act, 1997.

3. Administration of By-law

(1) The administration of this by-law, except as otherwise provided in this section, is assigned to the Director of Building Controls.

(2) The administration of Parts III and VI is assigned to the City Treasurer.

PART II

RATES AND CALCULATIONS

4. Owner to Pay Development Charge

The owner of any land in the City of London who develops or redevelops the land or any building or structure thereon shall, at the time mentioned in section 5, pay development charges to the Corporation calculated in accordance with the applicable rate or rates in section 6, 7, 8 and 9 hereof.

5. Time of Payment of Development Charge

A development charge under section 4 shall be calculated,

(a) where a permit is required under the Building Code Act in relation to a building or structure, at the time of application for the permit; and

(b) where no permit is required under that Act for the development or redevelopment of the land or any building or structure thereon, at the time of commencing the development or redevelopment;

and the owner shall pay the development charge prior to the issuance of the permit or the commencement of development or redevelopment.

6. Development Charges for City Services Commencing August 4, 2009

a) On and after August 4, 2009 development charges for City Services shall be levied for the uses of land, buildings or structures designated in line 1 of columns 2, 3, 4, 5, 6 and 7, whichever is applicable, of Table 1 below at the rates shown in line 12 of the applicable column.
## 7. City Services Rates – January 1, 2010 and beyond

(1) On January 1, 2010 and the first day of January in each year thereafter, development charges for City Services for a subject year shall be levied for the uses of land, buildings or structures designated in line 1 of columns 2, 3, 4, 5, and 7, whichever is applicable, of Table 1 at the total of the rates shown in lines 2 to 12 as adjusted using the following formula:

\[ A \times C = D \]

Where:

- **A** = the rate shown in lines 2 to 12 inclusive of columns 2, 3, 4, 5, and 7 of Table 1;
- **B** = the Statistics Canada Index (see Definitions) for the quarter ending, December, 2008;
- **C** = the Statistics Canada Index for the latest month for which the Index is available (likely the Index for the quarter ending in September) in the year preceding the subject year;
- **D** = the rate for the subject year.

(2) Every rate derived by adjustment under subsection (1) shall, except in the case of non-residential rates, be correct to the nearest dollar, fifty cents being raised to the next higher dollar, and, in the case of non-residential rates, be correct to the nearest cent.

### 8. Development Charges for Urban Works commencing August 4, 2009

a) In addition to those charges levied under section 6 and 7, on and after August 4, 2009, development charges for Urban Works shall be levied for the uses of land, buildings or structures designated in line 1 of columns 2, 3, 4, 5, 6 and 7 whichever is applicable, of Table 2 below at the rates shown in line 7 of the applicable column.

### Table 1

<table>
<thead>
<tr>
<th>Line</th>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
<th>Column 4</th>
<th>Column 5</th>
<th>Column 6</th>
<th>Column 7</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Service Component:</td>
<td>Single &amp; Semi Detached (per dwelling unit)</td>
<td>Row Housing (per dwelling unit)</td>
<td>Apartments with &gt;= 2 bedrooms (per dwelling unit)</td>
<td>Apartments with &gt;= 3 bedrooms (per dwelling unit)</td>
<td>Commercial per sq. m. of gross floor area</td>
<td>Institutional per sq. m. of gross floor area</td>
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<td>Fire Services</td>
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<td>138.38</td>
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<td>Service Component:</td>
<td>Single &amp; Semi Detached (per dwelling unit)</td>
<td>Row Housing (per dwelling unit)</td>
<td>Apartments with &gt;= 2 bedrooms (per dwelling unit)</td>
<td>Apartments with &gt;= 3 bedrooms (per dwelling unit)</td>
<td>Commercial per sq. m. of gross floor area</td>
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<td>565.00</td>
<td>4.06</td>
<td>2.71</td>
</tr>
<tr>
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<td>3,442.00</td>
<td>2,489.00</td>
<td>1,454.00</td>
<td>2,052.00</td>
<td>33.07</td>
<td>20.39</td>
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## Appendix D
Table 2

<table>
<thead>
<tr>
<th>Line</th>
<th>Service Component:</th>
<th>Single &amp; Semi Detached (per dwelling unit)</th>
<th>Rowhousing (per dwelling unit)</th>
<th>Apartments with &lt; 2 bedrooms (per dwelling unit)</th>
<th>Apartments with &gt; 2 bedrooms (per dwelling unit)</th>
<th>Commercial per sq. m. of gross floor area</th>
<th>Institutional per sq. m. of gross floor area</th>
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<td><strong>TOTAL RATE</strong></td>
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<td><strong>Total UWRF rate</strong></td>
<td><strong>Total UWRF rate</strong></td>
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|     | $22,921.00        | $16,442.00                               | $9,765.00                      | $13,669.00                                   | $168.59                                      | $108.64                                   |


(1) On January 1, 2010 and the first day of January in each year thereafter, development charges for Urban Works for a subject year shall be levied for the uses of land, buildings or structures designated in line 1 of columns 2, 3, 4, 5, and 7, whichever is applicable, of Table 2 at the total of the rates shown in line 7 as adjusted using the following formula:

\[
A \times C = D
\]

Where:

- A = the rate shown in lines 2 to 6 inclusive of columns 2, 3, 4, 5, 6 and 7 of Table 2;
- B = the Statistics Canada Index (see Definitions) for the quarter ending, December, 2008;
- C = the Statistics Canada Index for the latest month for which the Index is available (likely the Index for the quarter ending in September) in the year preceding the subject year;
- D = the rate for the subject year.

(2) Every rate derived by adjustment under subsection (1) shall, except in the case of non-residential rates, be correct to the nearest dollar, fifty cents being raised to the next higher dollar, and, in the case of non-residential rates, be correct to the nearest cent.

10. Allocation of Charge To Reserve Funds

(1) Each development charge for City Services received by the Corporation shall be paid into a reserve fund for each component identified in the applicable Table and shall be apportioned according to the proportion that each service component of the rate is of the total rate. Each development charge for Urban Works shall similarly be paid into the Urban Works Reserve Fund continued in accordance with section 22 hereof and shall be apportioned according to its respective proportion of the total rate.

(2) The City Treasurer is hereby authorized to transfer the balances and commitments of the City Services Reserve Fund and the Urban Works Reserve Funds existing on termination of the predecessor development charge by-law, as amended, to the respective funds continued under this By-law.
11. Additional Units In Existing Residential Building

Where an existing residential building is enlarged or converted for the purpose of residential use, the number of dwelling units for which a development charge is payable shall be calculated using the following formula:

\[ A - B = C \]

Where:

\[ A = \] the total number of dwelling units actually existing after the enlargement or conversion;
\[ B = \] the number of dwelling units lawfully existing immediately before the enlargement or conversion; and
\[ C = \] the number of dwelling units for which a development charge is payable, a negative difference being converted to zero.

12. Residential Building Converted To Non-Residential Use

Where, in conjunction with a change from residential use to non-residential use, an existing building or structure is enlarged or wholly or partially converted, the development charge which is payable shall be calculated using the following formula:

\[ A - B = C \]

Where:

\[ A = \] the development charge that would be payable for the non-residential use at the current rate in respect of the area involved in the enlargement or conversion;
\[ B = \] the development charge that would be payable at the current rate in respect of the lawfully existing dwelling units eliminated by the enlargement, conversion or replacement;
\[ C = \] the development charge payable in respect of the area involved in the enlargement or conversion, a negative difference being converted to zero.

13. Non-Residential Building Converted To Residential Use

Where, in conjunction with a change to residential use from a non-residential use, an existing building or structure is enlarged or wholly or partially converted, the development charge which is payable shall be calculated using the following formula, and so long as a development charge was paid in respect of the non-residential use under this or any predecessor by-law or the building or structure existed prior to April 6, 1973:

\[ A - B = C \]

Where:

\[ A = \] the development charge that would be payable at the current rate in respect of the dwelling units comprising the gross floor area existing after the enlargement or conversion;
Appendix D

B = the development charge that would be payable at the current rate in respect of the lawfully existing non-residential gross floor area involved in the enlargement, conversion or replacement, except where the non-residential gross floor area being converted to residential use is, prior to the conversion, an industrial building that was built between April 6, 1973 and 1979 inclusive, and a development charge was paid on construction of the building, then the rate to be used for calculating this item (item B) shall be the current Commercial rate. The applicant for the building permit for the conversion shall provide proof satisfactory to the Director of Building Controls that the industrial building was built under a building permit issued between April 6, 1973 and 1979, in order to qualify for relief afforded by this paragraph.

G = the development charge payable in respect of the successor residential units, a negative number being converted to zero."

14. Conversion From One Form Of Non-residential Use To Another Form Of Non Residential Use

Where, in conjunction with a change from one form of lawfully existing non-residential use to another form of non-residential use, a lawfully existing building or structure is wholly or partially converted, the area for which a development charge is payable shall be calculated using the following formula, so long as a development charge was paid in respect of the lawfully existing use prior to conversion under this or any predecessor by-law or the building or structure existed prior to April 6, 1973:

\[ A - B = C \]

Where:
A = the development charge that, were it not for this section, would otherwise be payable at the current rate in respect of the use to which the space converted;
B = the development charge that would be payable at the current rate in respect of the lawfully existing former space being converted, except where the non-residential gross floor area being converted to residential use is, prior to the conversion, an industrial building that was built between April 6, 1973 and 1979 inclusive, and a development charge was paid on construction of the building, then the rate to be used for calculating this item (item B) shall be the current Commercial rate. The applicant for the building permit for the conversion shall provide proof satisfactory to the Director of Building Controls that the industrial building was built under a building permit issued between April 6, 1973 and 1979, in order to qualify for relief afforded by this paragraph; and
C = the development charge payable in respect of the converted space, a negative number being converted to zero."

15. Exemptions With Respect To Agricultural Use

This bylaw shall not apply to impose upon construction, or create a credit related to demolition or removal of any building, the purpose of which is to support an agricultural use."

16. Replacement Of Demolished Or Destroyed Non-Residential Premises or Dwelling Unit(s) with Dwelling units

(1) In this section and section 17, "specified period" means the period of time that is up to ten (10) years prior to the application for a building permit for a replacement building, except in the Downtown and Old East Areas identified in Schedules 1 and 2, in which case, the "specified period" means the period of time that is up to twenty (20) years prior to the application for a building permit for replacement dwelling units and except in the case of the Brownfield site located at 750 Elizabeth Street in the City of London in which case, the "specified period" means the period of time that is up to fourteen (14) years prior to the application for a building permit for a replacement dwelling units.

(2) Where a lawfully existing non-residential premises or dwelling unit, is destroyed by a force majeure or accidental fire, or is lawfully demolished or removed, the development charge payable in respect of a replacement dwelling unit that is to be constructed, erected or placed on the site of the former non-residential premises or dwelling unit shall be calculated using the following formula, so long as the former non-residential premises or dwelling unit was
Agenda Item #  Page

A-B=C

Appendix D

17. Replacement Of Demolished or Destroyed Non-Residential Premises or Dwelling Unit(s) with Non-Residential Premises

Where non-residential premises ("former premises") or dwelling units are destroyed by a force majeure or accidental fire, or are lawfully demolished or removed, the development charge payable in respect of replacement non-residential premises that are constructed, erected or placed on the site of the former premises shall be calculated using the following formula so long as the former premises were destroyed, demolished or removed during the specified period:

A - B = C

Where:

A = the development charge that, were it not for this section, would otherwise be payable at the current rate in respect of the gross floor area of the replacement non-residential premises;

B = the development charge that would be payable at the current rate in respect of the former non-residential premises (by using the applicable rate for the particular type of non-residential premises or dwelling units destroyed, demolished or removed), as the case may be, as if those premises or dwelling units were currently being constructed, erected or placed for the first time, except where the non-residential floor area being replaced is, prior to the replacement, an industrial building that was built under a building permit issued between April 6, 1973 and 1979 inclusive, and a development charge was paid on construction of the building, then the rate to be used for calculating this item (item B) shall be the current Commercial rate. The applicant for the building permit for the conversion shall provide proof satisfactory to the Director of Building Controls that the industrial building was built under a building permit issued between April 6, 1973 and 1979, in order to qualify for relief afforded by this paragraph; and

C = the development charge payable in respect of the successor premises, a negative number being converted to zero.

18. This section purposely omitted (consolidated under s. 16 & 17).

19. Building Replacement Prior to Demolition
Where a building or structure ("former premises") is replaced by another building or structure on the same site prior to demolition of the former premises, the owner of the building or structure who has paid a development charge on the construction of the replacement building may submit a request to the Director of Building Controls for a refund from the reserve funds for all or part of the development charge paid under this by-law, or its predecessor by-law. The refund shall be granted so long as:

(a) the former premises is lawfully demolished or removed from the land within twenty-four (24) months of the date the interior final inspection process has been closed by the Director of Building Controls for the replacement building or structure; and

(b) the replacement building uses the existing municipal services which serviced the former premises.

The refund shall be calculated by determining the development charge that would be payable at the current rate in respect of the former premises (by using the applicable current rate for the particular type of non-residential premises or dwelling units demolished) as if those former premises were currently being constructed, erected or placed for the first time, except where the non-residential floor area being demolished, was prior to the demolition, an industrial building that was built under a building permit issued between April 6, 1973 and 1979 inclusive, and a development charge was paid on construction of the building, then the rate to be used for calculating the refund shall be the current Commercial rate. The applicant for the building permit for the conversion shall provide proof satisfactory to the Director of Building Controls that the industrial building was under a building permit issued built between April 6, 1973 and 1979, in order to qualify for relief afforded by this paragraph.

20. Demolition or Removal of Temporary Buildings

Where a building or structure is demolished or removed in its entirety from the land on which it is located within twenty-four months (24) from the date of issuance of the building permit for the construction, erection or placing of the building or structure at such location, the owner of the building or structure may submit a request to the Director of Building Controls for refund from the reserve funds, of the amount paid at the issuance of the building permit toward all or part of the development charge payable under section 4 of this by-law or a predecessor of that section.

21. Revocation or Cancellation of Building Permit

Where, upon the application for a building permit or the issuance of a building permit, an amount is paid toward all or part of the development charge payable under section 4 of this by-law or a predecessor of that section, that amount is to be refunded in the event that the application for the building permit is abandoned or the building permit is revoked or surrendered.

PART III

RESERVE FUNDS

22. Reserve Funds – New and Continued

(1) Nine reserve funds established by By-law C.P. 1413-214, one for each of the service categories shown in column 1 of Table 1 are hereby continued.

(1.1) A new reserve fund entitled 'Major Storm Water Management DC Reserve Fund' is hereby established, for the purpose of administering revenues collected and expended on major storm water management facilities as described in the 2009 Development Charges Background Study – Appendix M.

(2) The reserve fund known as the Urban Works Reserve Fund heretofore established by By-law C.P. 1414-215 for the service components in column 1 of Table 2 is hereby continued;

(3) The City Treasurer is hereby authorized to maintain a separate reserve fund for collection of
service components shown in lines 2 through 4, of column 1 of Table 2 and a separate reserve fund for the service component shown in line 6 of Table 2

23. Composition Of Reserve Funds

(1) Money deposited into the ten reserve funds referred to in sections 22(1) and 22(1.1) may include,

(a) the portion relating to each service component of a development charge for City Services paid to the Corporation mentioned in sections 6 or 7 of this by-law; and

(b) interest earnings derived through the investment of the money deposited in the Fund as part of the Corporation's cash management program.

(2) Money deposited into the reserve funds referred to in section 22(3) the Urban Works Reserve Fund may include,

(a) the portion relating to each service component of each development charge for Urban Works paid to the Corporation mentioned in sections 8 or 9 of this by-law; and

(b) interest earnings derived through the investment of moneys deposited in the Urban Works Fund as part of the Corporation's cash management program;

(c) grants or refundable deposits of the Corporation.

(3) The Corporation may make grants or deposits to the Urban Works Reserve Fund on such terms and conditions as to repayment and otherwise as the Corporation may consider expedient for any purpose that, in the opinion of the Corporation, is in the interest of the Fund or the corporation.

(4) The use of the clauses set out in Schedule 5 to this by-law in agreements entered into by or for the benefit of the Corporation, including agreements under sections 41 and 51 of the Planning Act, is hereby approved, and deviations from the form of the clause not affecting its substance or calculated to mislead do not invalidate it or the approval for its use.

24. Purpose of the Reserve Funds

The money in the reserve funds shall be used by the Corporation toward the growth-related portion of capital costs incurred in providing the services listed in lines 2 to 12 inclusive in Table 1 and in lines 2 through 6 in Table 2.

25. Claims from Urban Works Reserve Fund

Where an Owner constructs works identified in lines 2 through 6 of column 1 of Table 2, reimbursement, if any, from the Urban Works Reserve Fund shall be in accordance with the provisions of Schedule 6 or Schedule 7 to this by-law, whichever applies. No payment shall be made from the Urban Works Reserve Fund and no credit under section 38 of the Development Charges Act, 1997 shall be given except as provided for in an agreement entered into pursuant to the Planning Act or the Development Charges Act, 1997.

PART IV

COMPLAINTS

26. Board of Control to Hear Complaints

The Board of Control is hereby appointed pursuant to section 23.1 of the Municipal Act, 2001 to act in the place and stead of Council to deal with complaints under section 20 of the Development Charges Act.
27. Grounds of Complaint

An owner may complain in writing to the Board of Control in respect of the development charge imposed by the Corporation that,

(a) the amount of the development charge was incorrectly determined;
(b) whether a credit is available to be used against the development charge, or the amount of the credit or the service with respect to which the credit was given, was incorrectly determined, or;
(c) there was an error in the application of this by-law.

28. When Complaint to be Made

A complaint may not be made under section 26 later than ninety (90) days after the day the development charge, or any part of it, is payable.

29. Particulars of Complaint

The complaint must be in writing, must state the complainant’s name, the address where notices can be given to the complainant and the reasons for the complaint, which reasons shall be consistent with section 27.

30. Hearing

The Board of Control shall hold a hearing into the complaint and shall give the complainant an opportunity to make representations at the hearing.

31. Notice of Hearing

The Clerk of the municipality shall mail a notice of the hearing to the complainant at least fourteen (14) days before the hearing.

32. Determination by Council

After hearing the evidence and submissions of the complainant, the Board of Control shall as soon as practicable make a recommendation to Council on the merits of the complaint and Council may,

(a) dismiss the complaint; or
(b) rectify any incorrect determination or error that was the subject of the complaint.

33. Notice of Decision

The Clerk of the municipality shall mail to the complainant a notice of the Council’s decision, and of the last day for appealing the decision, which shall be the day that is forty (40) days after the day the decision is made. The notice required under this section must be mailed not later than twenty (20) days after the day the Council’s decision is made.

PART V

EXEMPTIONS AND EXCEPTIONS

34. City And School Boards Exempt

(1) This by-law does not apply to land owned by and used for the purposes of,
(a) The Corporation of the City of London, and

(b) A board as defined in section 1 (1) of the Education Act.

(2) For the purpose of subsection (1)(a), land owned by and used for the purposes of The Corporation of the City of London' shall include lands owned by the Corporation and used for the purposes of:

(a) The London Public Library Board
(b) The Covent Garden Market Corporation
(c) The London Convention Center Corporation
(d) The London Transit Commission

(3) The exemption provided in subsection 1(a) above shall not extend to the payment by the City (and its Boards and Commissions) of charges listed in the Tables in s. 8 or 9 of this by-law, as applicable (ie. development charges for Urban Works). Similarly, the City and its Boards and Commissions will not be disqualified from making claims to the Urban Works Reserve Fund for qualifying works.

35. Certain Developments Exempt

No development charge under section 4 is payable where the development or redevelopment;

(a) is an enlargement of an existing dwelling unit;

(b) creates one or two additional dwelling units in an existing single detached dwelling if the total gross floor area of the additional dwelling unit or units does not exceed the gross floor area of the dwelling unit already in the building;

(c) creates one additional dwelling unit in a semi-detached or row dwelling if the gross floor area of the additional dwelling unit does not exceed the gross floor area of the dwelling unit already in the building;

(d) creates one additional dwelling unit in any existing residential building other than a single detached dwelling, a semi-detached dwelling or a row dwelling if the gross floor area of the additional dwelling unit does not exceed the gross floor area of the smallest dwelling unit already in the building;

(e) is a parking building or structure;

(f) is a bona fide non-residential farm building;

(g) is a structure that does not have water and sanitary facilities and that are intended for seasonal use only;

(h) is a commercial truck service establishment;

(i) is a 'temporary garden suite' installed in accordance with the provisions of the Planning Act, as amended.

(j) is an air supported structure or arch framed structure clad with fabric-type material, temporary in nature, the purpose of which is to provide indoor facilities for recreational and sports activities owned and operated by a non-profit organization and available for public use.

36. Industrial Use Exemptions

(a) Except as exempted under part (c) below, if a development includes the enlargement of the gross floor area of an existing industrial building, the amount of the development charge that is payable in respect of the enlargement is determined in accordance with this section.
Appendix D

i. Enlargement 50 per cent or less
If the gross floor area is enlarged by 50 per cent or less, the amount of the development charge in respect of the enlargement is zero.

ii. Enlargement more than 50 per cent
If the gross floor area is enlarged by more than 50 per cent the amount of the development charge in respect of the enlargement is the amount of the development charge that would otherwise be payable multiplied by the fraction determined as follows:

1. Determine the amount by which the enlargement exceeds 50 per cent of the gross floor area before the enlargement.
2. Divide the amount determined under paragraph 1 by the amount of the enlargement.

For the purposes of determining the portion of the expansion of an industrial building which is exempt under this section, the following definition applies:

1. manufacturing, producing, processing, storing or distributing something;
2. research or development in connection with manufacturing, producing or processing something;
3. retail sales by a manufacturer, producer, or processor of something they manufactured, produced, or processed, if the retail sales are at the site where the manufacturing, producing or processing takes place;
4. office or administrative purposes, if they are:
   a. carried out with respect to manufacturing, producing, processing, storage or distribution of something, and
   b. in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution;

(b) Exemption of new Industrial buildings by City policy:
No development charge is payable under section 4 for, new Industrial buildings, as defined in section (1) of this by-law.

(c) Exemption of all remaining enlargements of industrial buildings by City policy:
As long as subsection (b) above is in effect, an enlargement of an existing industrial building not exempted under paragraph (a) above shall be deemed to be exempted under this part.

37. Water Service Charges, Sewer Rates – provision
If a development charge under section 4 is payable in respect of a development or redevelopment, no charge for water or sewerage service, calculated on frontage, area or number of dwelling units, and no sewer rent under section 5 of the City of London Act, 1982, either or both of which would otherwise be imposed were it not for this section, is payable in respect of the development or redevelopment, if such charge is in respect of the same works for which the development charge was imposed.

38. Downtown/Old East Village Areas
No development charge under section 4 is payable in respect of any dwelling unit located within,

(a) The Downtown Area of the City outlined on Schedule 1 to this by-law; and

(b) The Old East Village Area of the City outlined on Schedule 2 to this by-law.
39. Subdivisions Prior To April 6, 1973

(1) This section applies to that area of the City of London which comprised the City on the 31st day of December, 1992.

(2) Subject to subsection (3), this by-law does not apply to any development but does apply to any redevelopment within a plan of subdivision,

(a) which was registered on or between the 1st day of January, 1961 and the 5th day of April, 1973; or

(b) in respect of which an agreement was entered into with the Corporation or another municipality prior to the 6th day of April, 1973 under subsection 33(6) of the Planning Act, Revised Statutes of Ontario, 1970, chapter 349, or a predecessor of that subsection or validated and confirmed by subsection 4(3) of the Planning Amendment Act, 1959, Statutes of Ontario, 1959, chapter 71.

(3) Where an amendment is made or a minor variance is allowed to the applicable zoning by-law increasing the number of dwelling units or gross floor area originally permitted in connection with the plan of subdivision, this by-law shall apply in respect of such increase in dwelling units or gross floor area.

40. This section purposely omitted (former section referred to Canterbury Estates Subdivision)

41. This section purposely omitted (former section referred to Gainsborough Meadows Subdivision)

42. Development Outside Urban Growth Area

Where a development occurs outside the urban growth area as shown in Schedule 4 to this by-law, the development charge payable under section 4 with respect to rates in section 6 (City Services Reserve fund rates) shall be applied without inclusion of lines 9, 10, 11 and 12 in Columns 2, 3, 4, 5, 6 and 7 of Table 1 of that section. The rates reflected in section 8 (Urban Works Reserve fund rates) do not apply to development which occurs outside the urban growth area as shown in Schedule 4 to this by-law.

PART VI

TRANSITIONAL

43. City Services Reserve Fund – Institutional discount

Notwithstanding the provisions of this by-law, development charges under sections 6 and 7 shall be reduced by 50% with respect to the following:

(1) a hospital as defined under the Public Hospitals Act,

(2) universities and colleges established pursuant to the Ministry of Colleges and Universities Act,

(3) lands, buildings or structures used or to be used for a place of worship or for the purposes of a cemetery or burial ground, and

(4) other land, buildings or structures used for not-for-profit purposes defined in, and exempt from taxation under, section 3 of the Assessment Act.

44. Downtown/Old East Village Reserve Fund
(1) The City Treasurer is authorized to continue the existing reserve fund for the purpose of
financing the exemption of dwelling units from development charges in the Areas
mentioned in section 38.

(2) The Director of Building Controls shall, in respect of every building permit issued for one
or more dwelling units in either Area mentioned in section 38, provide such information
from time to time as may be required by the City Treasurer regarding the development
charges that would have been paid were it not for section 38.

(3) The City Treasurer is authorized to transfer from time to time from the reserve funds
mentioned in subsection (1) to the reserve funds established and continued under section
22 an amount in respect of the development charges mentioned in subsection (2) and, in
so doing, the City Treasurer shall have regard to the amounts and proportions referred to
in section 10 of this by-law.

(4) The City Treasurer shall provide in the annual estimates of the Corporation such sums
as may be considered necessary to make the transfers mentioned in subsection (3),
noting that the contributions for any single development shall be financed over a period of
not more than ten years.

(5) Money deposited in the reserve fund or funds mentioned in subsection (1) may include,
(a) the amount provided in the annual estimates mentioned in subsection (4); and
(b) interest earnings derived through the investment of the money deposited in the fund
or funds as part of the Corporation's cash management program.

(6) The money withdrawn from the reserve funds mentioned in subsection (1) shall be used
only for the purpose of transfers to the reserve funds, under subsection (3).

PART VII
MISCELLANEOUS

45. Former By-laws Repealed

By-law C.P. - 1440-167 of the Corporation of the City of London, respecting development
charges and respecting contributions towards the cost of providing such services as boundary
roads and outlet sewers, as it existed on the date this by-law is passed, is hereby repealed
effective August 4, 2009.

46. Commencement

This by-law comes into force on August 4, 2009 or, in the event of an appeal pursuant to the
Development Charges Act, 1997, in accordance with that Act.

PASSED in Open Council on ???

Anne Marie DeCicco
Mayor

Linda Rowe
Acting City Clerk

First Reading - ???
Second Reading -
Third Reading -
DOWNTOWN AREA BOUNDARY
SCHEDULE 2

to By-law C.P.-???
Section 38

OLD EAST VILLAGE RESIDENTIAL DEVELOPMENT CHARGE EXEMPTION AREA
SCHEDULE 3
to By-law C.P.-1440-167
Section 40

(this schedule purposely left blank – formerly related to CANTEBURY ESTATES SUBDIVISION – s. 40)
SCHEDULE 4

to By-law C.P.-1440-???
Section 42

URBAN GROWTH BOUNDARY
Clause for Inclusion in Development and Subdivision Agreements

If the Owner alleges an entitlement to any reimbursement or payment from the Urban Works Reserve Fund (the "Fund") either as a result of the terms hereof or pursuant to the requirements of City of London By-law C.P.-1440-167 as amended (the "Development Charges By-law"), the Owner may, upon receipt of a Certificate of Conditional Approval pursuant to Clause 9 of the general provisions hereof, make application to the said Fund for payment of the sum alleged to be owing, and as confirmed by the City Engineer and the payment will be made pursuant to the by-law and any policy established by Council to govern the administration of the said Fund.

It is further understood by the Owner that no words or phrases used in this Agreement relating to the calculation of any credits due the Owner or entitlements from the Fund or elsewhere shall be interpreted as an obligation or promise on the part of the City to pay from the said Fund except in conformity with the By-law and policies governing the administration thereof as provided in this clause above and no payment shall be made except from the said Fund and only after appropriate application is made as herein set out.

The City may plead this Agreement as an estoppel against any application or action whatsoever to challenge the validity of this Agreement, the Development Charges By-law or the Fund. In addition, the Owner agrees that in the event that the Fund does not have sufficient funds to pay the Owner’s claim by reason of an order or judgment of a Court of Law that or that the Development Charges By-law is void or invalid for any reason, the Owner will not seek further or other reimbursement from the City.

If the Owner undertakes work subject to a claim under this section it shall not seek a credit under Section 38 of the Development Charges Act and this clause may be pleaded in any complaint, action, application or appeal to any court or tribunal in which the Owner who is entitled to make a claim against the Fund seeks a credit under Section 38.
URBAN WORKS RESERVE FUND - CLAIMS POLICY ("old rules")

1 SCOPE

For development projects identified in Appendix 6-B to this Schedule and developments where the owner and the City have executed a development agreement on or before the commencement date of this by-law, the following policy and rules (for convenience, called the "old rules") will apply.

2 INTRODUCTORY MATTERS

INTERPRETATION

2.1 In this Policy,

"Area 1" means essentially the Urban Growth Area except for the pre-1993 City Area, as highlighted on the map shown in Appendix 6-A to this Schedule;

"Area 2" principally the area of the Pre-1993 City Area as highlighted on the map shown in Appendix 6-A to this Schedule;

"development agreement" means an agreement between the City and an Owner required as a condition of an approval under Sections 41, 51 or 53 of the Planning Act and Section 9 of the Condominium Act.

"Fund" means the Urban Works Reserve Fund;

"Pre-1993 City Area" means that area of the City of London which comprised the City of London on the 31st day of December, 1992;

"Urban Growth Area (UGB)" means the Urban Growth Area existing from time to time as identified in the City's Official Plan as approved;

2.2 The effective date of this Policy is August 4, 2009

OBJECTIVES

Within Urban Growth Area Including Pre-1993 City Area

2.3 To determine the need for and adequacy of such services as major road and sewerage works required for development, the following policy objectives will be considered:

(a) The provision or extension of a required service where no such service exists to serve the proposed development;

(b) The provision of additional capacity to an existing service which has insufficient or no spare capacity to serve the proposed development;

(c) The raising of an existing service of adequate capacity, but of low standard, to an adopted higher level of improvement compatible with the abutting lands being developed;

(d) The provision of sufficient additional capacity, in an existing service to be improved or a new service to be provided as determined above, to serve future development in the surrounding contributory area as anticipated for some time ahead; and

(e) That at all times, the works be designed to ensure efficient & economical servicing of the City's growth areas, and ensure that the services be designed and constructed in
Appendix D

3 URBAN WORKS FUND CLAIMS

3.1 All claimable works which are subject to this policy are to be undertaken at the risk of the owner, and claims are paid, in whole or in part, only when there is sufficient money in the fund to honour claims. In all cases, the owner bears the cost of financing the works. The City will have access to the fund where it completes claimable works, but only when the first development that would have triggered the works is approved.

3.2 Where works that are subject to this policy include a non-growth component, funding of that portion of the works must wait until the City has approved sufficient funds in its budgets, to pay for that portion of the works.

3.3 An owner is ineligible to claim:

a) for any portion of the costs of any type of required works constructed or financed in connection with a development that is exempt in respect of paying urban works charges; and

b) for any engineering costs above 15% of the cost of the works.

3.4 With respect to a development agreement entered into on or before the effective date of this Policy, the maximum amount payable to an owner over a twelve-month period from the Fund for works to service development within Area 2 is $1,250,000 in respect of the total of all costs eligible for payment from the Fund for required minor road works, sanitary sewer pipe works, storm sewer pipe works, and storm water management works, provided a sufficient balance exists in this segment of the Fund.

3.5 With respect to a development agreement entered into on or before the effective date of this Policy, the maximum amounts payable over a twelve-month period from the Fund for works to service development within Area 1 to an owner are,

(a) $1,000,000 in respect of the total of all costs eligible for payment from the Fund for required minor road works, sanitary sewer pipe works, and storm sewer pipe works, provided a sufficient balance exists in this segment of the Fund; and,

(b) $250,000 in respect of the total costs eligible for payment from the Fund for required storm water management works provided a sufficient balance exists in the storm water management works segment of the Fund.

4 MINOR ROAD WORKS

Within Urban Growth Area Including Pre-1993 City Area

4.1 Minor road works consist of the construction or expansion of road works that are primarily intended to satisfy the needs of particular developments to ensure safe, efficient traffic flows and pedestrian movement. These ‘minor road works’ are triggered by development applications and would include street lighting, channelization (such as left and right turn lanes), median work, intersection improvements (including traffic signals), curb and gutter, bike paths, bike lanes and sidewalks that are on arterial or primary collector roads.

4.2 The owner finances and constructs the required works, as follows:

(a) The owner must receive approval from the City prior to tendering the work through
5 SANITARY SEWER PIPE WORKS

5.1 The City constructs and finances the cost of sewage treatment plants, major pumping stations and major trunk sewers in accordance with its five-year Capital Works Budget, and works identified for at least partial funding from development charges collected under the Development Charges Act, 1997 or any successor thereto according to the background studies, from time to time.

Within Area 1

5.2 Sanitary sewer pipe works that may be eligible for claim from the Urban Works Reserve Fund consist of sewers, other than major trunk sewers, and pumping stations other than major pumping stations, identified in the DC Background Study, as updated from time to time.

5.3 The owner finances and constructs the required works as follows:

   (a) The owner must receive approval from the City prior to tendering the work and the work must be identified in an executed agreement;

   (b) For the portion of the works which services less than 30 hectares, the owner bears the full cost of the works; and

   (c) For the portion of the works which services 30 hectares or more, the owner may claim the full cost of the works from the Fund, for the portion attributable to servicing non-industrial lands and from the Industrial Oversizing Reserve Fund for any portion attributable to servicing industrial lands.

Within Area 2

5.4 Sanitary sewer pipe works that may be eligible for claim from the Urban Works Reserve Fund consist of sewers, other than major trunk sewers and pumping stations other than major pumping stations, identified in the DC Background study as updated from time to time.

5.5 If the required works are not included in years 1 to 3 of the City’s five-year Capital Works Budget, the owner finances and constructs the works and bears the portion of the full cost that is in the same ratio to the full cost as the development’s design flow bears to the required works' total design flow. The balance is claimable by the owner from the Fund, for the portion attributable to servicing non-industrial lands and from the Industrial Oversizing Reserve Fund, for any portion attributable to servicing industrial lands. Development approval may be withheld until the priority of works is adopted in the Capital Works Budget.
6 STORM WATER SEWERAGE WORKS

Within Area 1

6.1 Storm water pipe works consist of those works, generally permanent trunks and sub-trunk works, identified through community planning studies.

6.2 The owner finances and constructs the required pipe works as follows:
   a) For the portion of the works which services less than 20 hectares, the owner bears the full cost of the works; and
   b) For the portion of the works which services 20 hectares or more, the owner may claim the full cost of the pipe works from the Fund, for the portion attributable to servicing non-industrial lands and from the Industrial Oversizing Reserve Fund, for any portion attributable to servicing industrial lands.

Within Area 2

6.3 Storm water sewerage works consist of any works not necessarily identified through community planning studies, but, will generally be permanent pipe works and storm water management works, as approved by the City Engineer. Only a single project shall be eligible to claim under Grand fathered Area 2 covered by schedule 6 of this by-law. The others will be paid under schedule 7 which does not differentiate between area 1 and area 2.

6.4 If the required works are not included in years 1 to 3 of the City's five-year Capital Works Budget, the owner finances and constructs the works and bears the portion of the full cost that is in the same ratio to the full cost as the development's design flow bears to the required works' total design flow. The balance is claimable by the owner from the Fund, for the portion attributable to servicing non-industrial lands and from the Industrial Oversizing Reserve Fund, for any portion attributable to servicing industrial lands. Development approval may be withheld until the priority of works is adopted in the Capital Works Budget.

7 STORM WATER MANAGEMENT WORKS

Within Area 1

7.1 Claimable Storm water management works serving Area 1 consist of permanent storm water management facilities, including but not restricted to major detention facilities, and local drainage works identified in the Development Charges Background Study (through the master plan process).

7.2 With respect to a development agreement entered into on or before the effective date of this Policy, The owner finances and constructs the required works, regardless of their inclusion or not in the City's five-year Capital Works Budget, as follows:

1. In all cases, the owner bears the cost of financing.

2. (a) With respect to land acquisition for stormwater management facilities in Area 1 the value of the land shall be subject to review every five years and is established as follows:

   **Floodplain** - private lands that are within the 1:250 Regulatory Storm Event Line and that are subject to regulation (ESA & buffer limit and/or stable slope line).
   $5,500/Acre ($13,590/ha)

   **Park Land** - lands set aside as a dedication for parks and not designated for development:
   $nil
Appendix D

Table Land - Lands designated in the Official Plan for development:
$100,000/Acre ($247,100/ha)

Flood Fringe is defined for payment purposes only as the land that is not an Environmentally Sensitive Area, not park land, not Flood Plain, and not Table Land. Flood Fringe lands are claimable at
$50,000/Acre ($123,650/ha)

For Multipurpose lands that may be defined by more than one of the above definitions. Claims shall be paid using the lowest lower cost allocation:

Where there is a shared use of a stormwater or sanitary work such as a maintenance road/pathway, the use and maintenance of the road/pathway shall be viewed as functioning solely for the sanitary or stormwater service use not the park use. Claims and use shall been determined and allocated to the servicing need with no allocation of costs to the Parks.

(b) If the subdivider chooses to relocate an existing internal watercourse outside of the subdivision, then no claim for easement acquisition may be made for the open channel.

(c) Land costs relating to existing watercourse improvements are not claimable.

(d) In Area 1, where a portion of the storm water management facilities are on line with the watercourse, the land beyond the pre-development 100 year floodline and within the post-development 100 year floodline is claimable at the Floodplain Land rate.

7.3 The owner may claim the full cost of the storm water management works servicing Area 1 from the storm water management segment of the Fund for the portion attributable to servicing non-industrial lands and from the Industrial Oversizing Reserve Fund for any portion attributable to servicing industrial lands.

7.4 Landscaping of SWM pond facilities, Conveyance Channels and other Claimable works

The following shall apply to the landscaping and other amenity costs that may be claimable from the UWRF for SWM ponds:

(a) For ponds of 5 ha in footprint and less, amounts paid will be dependant on the ponds classification and footprint area. (footprint is the physical size of the block for the pond not drainage area).

Type A - are ponds that do not border a park or ESA
These ponds require basic landscape/vegetation treatment to function and be ecologically stable (water plants). It is proposed that this type of pond be limited to $25,000/ha for landscaping and all other amenities.

Type B - are ponds which border ESA's
These ponds require landscape/vegetation treatment to function and to provide an aesthetical continuity with adjacent land features. It is proposed that this type of pond be limited to $50,000/ha for landscaping and all other amenities.

(b) For ponds with a footprint larger than 5 ha, claims shall be reviewed on an individual basis by the General Manager of Planning and Development in consultation with the City Engineer.

(c) If the Owner wishes to build SWM works larger than the design criteria dictates, then the difference in cost shall be borne by the Owner.
(d) Where a pedestrian foot bridge / gazebo/decorative retaining wall is required or desired, the Owner is responsible for the cost.
Map of Area 1 – Urban Growth Area except for the pre-1993 City Area
Map of Area 2 – area of the Pre-1993 City Area as highlighted on the map
List of Developments being administered under Schedule 6 ("old rules")
(Note: dollar costs are either actual unpaid claims or estimates made at varying times in the past)

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<th>Plan ID</th>
<th>Owner</th>
<th>Development Name</th>
<th>Description</th>
<th>Estimated Claim Amount</th>
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<td>Page #</td>
<td>Appendix D</td>
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**Total Value:** $22,630,937

**Total Value:** $54,800,078
URBAN WORKS RESERVE FUND - CLAIMS POLICY ("new rules")

1. GENERAL

1.1. Scope

For all development projects involving claimable works for which final approval of a development agreement was obtained after the commencement date of the by-law the following policy and rules (for convenience, called the "new rules") will apply:

1.2. Introduction

1.2.1. In this Policy,

"development agreement" means an agreement between the City and an Owner required as a condition of an approval under Sections 41, 51 or 53 of the Planning Act and Section 9 of the Condominium Act;

"Fund" means the Urban Works Reserve Fund;

"Growth Management Implementation Strategy" (GMIS) is the strategy adopted by Council in June, 2008 that provides a framework for the timing and locating of future infrastructure works required to serve growth.

"Sanitary Sewer Servicing Study" (SSSS) is any study, which from time to time, reviews and reports on the optimal approach to serving growth areas of the City with sanitary sewer conveyance and treatment;

"Urban Growth Area (UGB)" means the Urban Growth Area existing from time to time as identified in the City's Official Plan as approved;

1.2.2. The effective date of this Policy is August 4, 2009

1.2.3. This policy establishes the guidelines, procedures and requirements relating to the submission and processing of a claim to the Urban Works Reserve Fund ("UWRF").

1.2.4. All claims considered to be complete shall be registered and processed in chronological order as they are received. Payments are made as fund balance allows. If the aggregate amount eligible to be paid exceeds these amounts, subsequent installments are eligible to be entered as a claim 12 months following the immediately preceding installment.

1.3. Claimable works

In order to be claimable any work must be defined as a permanent piece of municipal infrastructure undertaken to facilitate the servicing of development and be identified as a claimable work in an executed development agreement. Temporary infrastructure is ineligible for any claim. Cost of claimable works to be administered under this Schedule have been estimated through a master planning study process (on a service by service basis) and are summarized in Appendix 7-A.

1.4. Interim works

Interim works are claimable if included in the Development Charges Background Study. Works that are alternative to those identified in master plans and compatible with the ultimate servicing plans may also be incorporated into development agreements as claimable works. Where claimable
works are provided for in a "contingency provision" of the DC rate calculations, the determination as to their claimability is at the discretion of the General Manager of Planning and Development in consultation with the City Engineer.

1.5. Phasing

Partial construction (phasing) of infrastructure can increase the overall total costs of works. Prior to phasing of any works the Owner must obtain written approval from the City Engineer to construct the infrastructure in phases and to also make claim for the incremental cost of phasing the works. Permission to construct works in phases may not automatically permit partial claims.

The City Engineer may consider a request for internal construction phasing of a subdivision and could determine that it should be staged in a manner that will balance all of a geographical area's needs. The construction of entire systems may be linked, at the discretion of the General Manager of Planning & Development in consultation with the City Engineer, to a claim's eligibility for payment from the UWRF.

Additionally, if property easements are required to service adjacent developments and are not provided by an owner then any payment of UWRF claim associated with that development may be withheld until the easement is provided.

1.6. Completeness of Claims

Prior to acceptance of a claim, the following requirements shall be satisfied:

a) The claim must conform to an agreement that has been approved by City Council, or a delegated authority or officer, signed and registered on title to the affected property. The works for which the claim is made shall be 100% complete with certain exceptions allowed by the General Manager of Planning and Development for seasonal condition preventing completion. Where the City undertakes claimable works, the project must be approved by Council with explicit funding sources;

b) The claims for the works are to be submitted by a Registered Professional Engineer or Architect retained by the Owner. The Planning and Development Department reserves the right to accept only claims stamped by the same consulting engineering company who designed, inspected and certified as complete the works for which the claim is being made;

c) No consideration will be given to claims for works which have previously been claimed and authorized. Works omitted from a previous claim will be considered for payment upon submission;

d) No claims to the Fund will be accepted for works that form part of an agreement for which the warranty period has expired. No new claims shall be authorized for payment, after all the securities have been released;

e) The following documentation shall be included with the claim for it to be considered complete:

i) A covering letter from the consulting engineer or architect stating that a claim is being made to the UWRF on behalf of the Owner as shown on the Agreement (or where the City under takes the work via Council resolution). The location and nature of the works shall be described and the costs representing the amount being claimed from the UWRF should be stated. The mailing address as well as the GST Registration Number of the Owner shall be provided;

ii) The "Certificate of Completion of Work" pertaining to the works being claimed in the format specified in the Agreement with an added statement certifying the quantities and final costs relating to the claim;

iii) Any specific documentation that may be required by the development agreement such as an inspection report, condition report, or survey. Such documentation shall be satisfactory to the General Manager Planning & Development;

iv) Summary sheets detailing the sharing of costs, engineering and GST calculations;
Appendix D

v) The consulting engineer or architect's calculations of all quantities and final costs relating to the claim;

vi) (this clause intentionally left blank);

vii) (this clause intentionally left blank);

viii) Servicing drawings for the related claimable works;

ix) (this clause intentionally left blank);

x) When Stormwater Management facilities are being claimed, they shall be separated from claims for Storm Collection Conveyance in accordance with the definitions;

xi) Copy of summary of unit prices and/or a copy of all tenders for the entire project;

xii) Copy of final payment certificate and a summary of engineering costs and paid invoices for claimable engineering fees;

xiii) Copy of the advertisement for tender, where a public tender is required;

xiv) All backup information relevant to the claim including invoices, change orders, fees etc;

xv) Copy of the Certificate of Publication of Substantial Performance, including the date of publication. This publication is generally carried in the Daily Commercial News and should include both the name of the Owner and the City of London. Similarly both should be mentioned under "Office to which claim for lien must be given to preserve lien"; and

xvi) Completed "Summary of Claimable Works" with current information for the subdivision or development.

f) All claims shall be directed to the Planning and Development Department, Development Approvals Business Unit.

1.7. Tendering

The following rules shall apply to the tendering of works under this Schedule:

a) Projects undertaken by agreement between the City and an Owner with an estimated claimable amount in excess of $250,000 are to be undertaken by public tender;

b) Projects undertaken by agreement between the City and an Owner with an estimated claimable amount less than $250,000 may be undertaken by public tender, or by invitation with a minimum of 3 invited tenders;

c) Works requiring an Owner to perform horizontal drilling may be undertaken by invitation with a minimum of 3 invited tenders;

d) Sole sourcing of a construction project is permissible when all three of the following conditions are met:

   i) work is an extension of existing work and is a result of a change in scope during the project;

   ii) there is no increase in individual tender item prices; and

   iii) the Owner has obtained written approval from the General Manager of Planning and Development or his/her designate before sole sourcing;

e) Works no portion of which are eligible for claims and which are to be assumed by the City may be undertaken by the Owner at his discretion without the necessity of a public tender procedure;

f) Cost estimates shall use the Average Unit Prices listed in the City of London Unit Price Spreadsheet unless the owner specifically notes a reason for varying from these costs. Following the tender award, all claimable external works shall be identified as separate tender
Appendix D

schedules listing items, quantities, plan locations of quantities (chainage from station to station), and unit costs within larger construction contracts.

g) Tender documents for the works which are eligible for claims must be standard City of London Contract Documents. They must be in a unit price format and follow a formal tender opening procedure to the specifications of the General Manager of Planning and Development. A representative of the City of London must be notified in advance of when and where the tenders are to be opened;

h) Any works which have not been tendered, including change orders, will be subject to review by the General Manager of Planning and Development for approval of unit prices and eligibility either prior to construction or at the submission of the claim;

i) Calculation of eligible items in the claim will be based on the successful lowest bidder's tendered unit prices regardless of which contractor ultimately performs the work; and

j) Tender results and unit price summaries shall be provided to the City of London for review upon the closing of tenders and prior to awarding the contract, if requested by the General Manager of Planning and Development.

1.8. Miscellaneous

a) Miscellaneous items in the contract that apply partially to the cost shareable works such as Bonding, Field Office Trailer, Traffic Control, and Permits can be claimed as a percentage of the total tendered contract amount using the following formula:

\[
\text{claimable costs excluding bonding, trailer etc.} = \frac{\text{total tendered contract}}{X^{\text{bonding, trailer etc.}}} - \text{bonding, trailer etc. amount}
\]

1.9. Engineering Fees

The UWRF shall reimburse Owners for the services provided by their consulting engineer including the design, resident supervision, drawing preparation, certification of works and preparation of claims. The invoiced engineering fees will be processed for payment at the actual invoiced cost up to a maximum 15% of the value of construction upon completion of the works after receipt of confirmation of final costs and invoices. In special circumstances engineering fees exceeding 15% of the cost of the tendered works may be permitted at the discretion of the General Manager of Planning and Development only if prior written permission from the General Manager of Planning and Development is obtained.

If alternate designs are pursued by the owner after the City's acceptance of the preferred alternative, the costs associated with the engineering over and above the original concept shall be borne 100% by the owner.

Engineering fees may not be applied to the claimable works for land acquisition costs, works performed and invoiced by utility companies and Ministry of the Environment application fees.

The design of Stormwater Management Best Management Practices and Private systems are not eligible for claims.

Monitoring of SWM Facilities is considered not eligible for claim from the UWRF but must be claimed for with the total engineering required for the project and can only be claimed at the completion of the works under the same yearly cap as the works.

Where applicable the over sizing subsidy for storm pipes and sanitary pipes already includes an allowance for engineering and no additional monies outside of the subsidy per meter shall be paid.
1.10. Payment

The following rules shall apply to payments under this schedule:

a) Valid claims will be paid to the Owner as identified in the applicable Agreement. The Owner may provide the City with a properly executed "Assignment and Direction", in a format acceptable by the City, to transfer the payment(s) of claims to another party;

b) If money is available in the fund, the payment of claims from the Urban Works Reserve Fund is made each 15th of the month for all claims authorized in the immediate preceding month. All claims considered to be complete shall be registered and processed in chronological order as they are received. Partial payments will be made as the fund balance permits.

Each partial payment shall be paid in chronological order with all other claims in the order they are approved without any prejudice or preference. Payments may be significantly delayed due to the lack of availability of money in the fund and bumping of pre-existing unpaid balance of claims by newer claims may occur resulting in longer waiting periods for all claims;

c) Holdback under the Construction Lien Act:

i) 10% holdback is retained on a claim until the entire contract has been substantially performed and the 45 days statutory period from the day of publication in a Daily Commercial News of the substantial performance has expired, and all clearances have been obtained; and

ii) If there is no certificate of publication included with the claim, the holdback will not be released until the certificate is provided and 45 days has elapsed from the date of publication and all clearances have been obtained;

d) Unless otherwise specifically mentioned in the Subdivision or Development Agreement the maximum payment from the UWRF general fund shall be $1,000,000 (including GST) for any one installment. If the aggregate amount eligible to be paid exceeds these amounts, subsequent installments are eligible to be entered as a claim 12 months following the immediately preceding installment. At that time, the claim will be entered in order of receipt in relation to every other claim which is eligible for payment from the Fund;

e) Works relating to Stormwater Management facilities listed for a subsidy from the UWRF will be separated and paid from a separate UWRF account. That account is comprised of money specifically for storm water management facilities and payments made for these items will be paid from this account subject to the availability of funds. The maximum payment from this account is $250,000 (including GST) for any one installment. If the aggregate amount eligible to be paid exceeds this amount, subsequent installments are eligible to be entered as a claim 12 months following the immediately preceding installment. At that time, the claim will be entered in order of receipt in relation to every other claim which is eligible for payment from the account. This amount is separate from and does not form part of the $1,000,000 maximum of the UWRF general fund referred to in d) above. Consequently, Stormwater Facilities claims can be made concurrently with claims in d) above; and

f) Order of Payment

Any agreement can provide for a claim up to $1,000,000 for eligible general works plus $250,000 for stormwater management works per year unless these have specifically been restricted to a lower number in the agreement.

Multiple agreements can occur for large draft plans. Each agreement is subject to the cap claim mentioned above;

1.11. Claims by Non-Contributing Entities (City of London)

When the City acts as an owner it shall be eligible to make claims when undertaking growth related projects containing works that would be claimable irrespective of whether they have made a
contribution to the fund. This is consistent with the Development Charges Act, which provides exemption to municipalities for payment of development charges.

The City shall be paid claims for these works in the same manner as other claims in the system through the application of all the pertinent policy including but not limited to eligibility of works, engineering costs, caps, waiting periods.

1.12. Dispute Resolution

Exceptions to the procedures mentioned herein may occur. The preferred methodology to resolve any dispute would be to seek interpretation and clarification through the General Manager of Planning and Development, in consultation with the City Engineer, or their designate. Should the Owner still feel aggrieved by a given policy interpretation then their avenue to seek remedy/relief is the Board of Control in accordance with Part IV of the by-law.

1.13. Financing of Infrastructure not listed as UWRF claimable

Significant infrastructure projects would usually be paid and managed through the CSRF, as identified in the Development Charges Background Study. Acceleration of works provided for in the City’s budget may occur, subject to execution of a separate Municipal Servicing and Financing Agreement (MSFA).

1.14. Municipal Land Requirements – Lands Owned by the Owner

As noted in section 18 of the City of London Official Plan all municipal property requirements including easements (except SWM ponds and combined SWM/Sanitary corridors specifically mentioned in section 1.19) identified in a consent or development agreement shall be provided at no cost to the City of London and/or Development Charge Fund. In the review of a plan of subdivision application or consent, the approval or consent authority may impose conditions relating to the dedication of lands for Road widenings, sewers, paths, commuter parking lots, transit stations and related infrastructure for the use of the general public.

Any land or easements that are owned by the Owner and which are transferred permanently to the City as a condition of a development approval are not eligible for claim with the exception of storm water management facilities. Temporary easements are not eligible for claim.

If the Owner chooses to relocate an existing internal watercourse or conveyance channel outside of the subdivision, when the water course or channel could have been located inside the plan, then no claim for easement acquisition may be made for the open channel.

Costs relating to existing watercourse improvements are not claimable. Unless specifically mentioned as projects in the DC Background Study

1.15. External Land Acquired from a Third Party

a) The cost sharing amount payable for property acquisitions or easements from third parties is the value as determined by the City’s Realty Services Division plus acceptable legal fees. Any amount over and above the value assessed by the Realty Services Division will be at the sole cost of the Owner. No GST is to be paid on land claims.

The cost of any work undertaken to restore or enhance a third Party’s property due to the acquisition of lands or the construction of infrastructure beyond the estimate set by the City’s Property Division shall be at the sole cost of the Owner.

Claims for land in easements will not be allowed for lands that are reasonably expected to develop within 10 years.

If the Owner is not satisfied with the value assessed by the City, an appeal can be made to the Board of Control;

b) Unless otherwise approved by the General Manager of Planning and Development, in consultation with the Director, Development Finance, no claim can be submitted until all the properties required for the project have been acquired;
Claims related to the cost sharing for property acquisition or easements from third parties may be advanced by the Owner, and may be claimed prior to any construction work being undertaken, if a subdivision, consent, or development agreement or site plan has been executed and all other relevant conditions have been complied with; and

d) If a non-growth share of the cost of acquisition is assessed and the cost of the easement is established acceptable to the Property Division, then the UWRF share is determined proportionally as mentioned in the DC Background Study. The prime driver for the need for the easement shall dictate the proportionate non-growth share.

1.16. Stormwater Management Facilities General Land Policies

With respect to land acquisition for stormwater management facilities the value of the land shall be subject to review every five years and is established as follows:

Flood Plain – private lands that are below the 1:100 Storm Event Line and above the existing open water and/or the 2 year flood elevation (defined by the Upper Thames Conservation Authority and the Official Plan): $5,500/Acre ($13,550/ha)

Lands under existing open water are not claimable as defined by the 2 year design high water elevation (2yr storm elevation)

Park Land – lands set aside as a dedication for parks and not designated for development: $ Nil

Table Land – developable land inside the Urban Growth Boundary (UGB) designated in the Official Plan for development: $100,000/Acre ($247,100/ha)

Flood Fringe is defined for payment purposes only as the land that is not an Environmentally Sensitive Area, not park land, not Flood Plain, and not Table Land. Flood Fringe lands are claimable at $50,000/Acre ($123,550/ha).

For Multipurpose lands that may be defined by more than one of the above definitions. Claims shall be paid using the lowest cost allocation:

Where there is a shared the use of a stormwater or sanitary work such as a maintenance road/pathway, the use and maintenance of the road/pathway shall be viewed as functioning solely for the sanitary or stormwater service use not the park use. Claims and use shall been determined and allocated to the servicing need with no allocation of costs to the Parks

1.17. Landscaping of SWM pond facilities, Conveyance Channels and other Claimable works

The following shall apply to the landscaping and other amenity costs that may be claimable from the UWRF for SWM ponds:

(a) For ponds of 5 ha in footprint and less, amounts paid will be dependant on the ponds classification and footprint area. (footprint is the physical size of the block for the pond not drainage area).

Type A – are ponds that do not border a park or ESA
These ponds require basic landscape/vegetation treatment to function and be ecologically stable (water plants). It is proposed that this type of pond be limited to $25,000/ha for landscaping and all other amenities.

Type B – are ponds which border ESA’s
These ponds require landscape/vegetation treatment to function and to provide an aesthetic continuity with adjacent land features. It is proposed that this type of pond be limited to $50,000/ha for landscaping and all other
amenities.

(b) For ponds with a foot print larger than 5 ha, claims shall be reviewed on an individual basis by the General Manager of Planning and Development in consultation with the City Engineer.

(c) If the Owner wishes to build SWM works larger than the design criteria dictates, then the difference in cost shall be borne by the Owner.

(d) Where a pedestrian foot bridge / gazebo/ decorative retaining wall is required or desired, the Owner is responsible for the cost
1.18. Infrastructure Located Outside the Urban Growth Boundary (UGB)

Storm water management facilities located outside the UGB which service lands inside the UGB are claimable proportionally to the total lands they will ultimately serve inside the UGB. Unless specifically sized and phased as mentioned in the DC Background Study. These claims are set up to the maximum as the same rates as facilities located inside the UGB.

Claims shall not be made for works that provide capacity that is above and beyond growth needs within the UGB.

1.19. Land requirements in combined Storm water and Sanitary corridors

In the case of two combined storm/sanitary corridors, namely:
ST4 Stoney Creek 4 Project ES5239 shown on Table EX 4 of the supporting documentation and MD2A Foxhollow, Budget ES 5236 shown on Table EX 4 of the AECOM supporting documentation,
the CSRF shall pay for the land associated with the additional width of the corridor at the land rates defined in Stormwater Management Facilities General Land Policies above
2. ROADWORKS

2.1. General

Where a development abuts, faces, flanks or backs onto, or is divided by an existing arterial or primary collector road, and the City requires the Owner to construct minor works beyond their access work, such road works are claimable to the UWRF.

2.2. Works on Lower order streets

The City may identify roadworks along lower order streets (local and collector) that require improvements due to localized growth in an area that is not specifically attributable to one single development. These infill or brown field developments will be specifically mentioned in the DC background Study and will be incorporated into DC rate calculations under road works listed as fundable from CSRF.

2.2.1. Limits of payment due to Property Extent and grade

Payment for claimable works is restricted to that portion of the works that is situated upon public or future public lands. As illustrated below there shall be no payment for spillage of fill or grading on privately owned lands.

2.3. Eligibility of Claims for Road Works

Cost sharing of growth related roadworks can be broken into five categories

1) Local costs borne by the Owner
2) Minor roadwork costs subsidized by UWRF
3) Major roadwork costs paid for by CSRF
4) Roadworks serving growth in industrial areas funded from Industrial Oversizing Reserve Fund
5) Non-growth works that benefit the existing population

The following sections describe these 5 categories.
Agenda Item

2.3.1. Local Costs Borne by Owner

i. Connections of all public and private new streets, roads, ramps, or entrances including features and design details such as: round-abouts, culverts, signage, gateway treatments, noise wall alterations, sidewalks, bike lanes, bike pathways, paths, directional traffic islands, decorative features

ii. Re-grading, cutting and placing fill on lands beyond the road allowance along their frontage in accordance with City of London standards. In addition, all grading and restoration of road allowance along the development frontage if no claimable roadworks are required;

iii. Topsoil and sod to the back of any existing sidewalk fronting the development;

iv. Planting of new trees fronting the development;

v. Any upgrade or reinforcement from a standard 100mm thickness sidewalk across the development’s new access;

vi. Retaining walls along the development frontage, where approved;

vii. 100% of the cost of temporary asphalt sidewalks, roads, paths, swales along the frontage abutting arterial or primary collectors where installation in ultimate location is deemed premature;

viii. Traffic signal installations at all private entrances and at public entrances which do not meet MTO warrants;

ix. Any other services, removals, relocations, etc., required even if the road widening had not been constructed for a private entrance or access road including but not limited to, utility relocation, sidewalk alterations, and curb cuts;

x. Restoration of any utility cuts, and or damage created by construction activities & or construction traffic in and out of the development. Including but not limited to daily removal of mud tracking, daily dust suppression, milling and paving of deteriorated asphalt caused by construction traffic, grading of gravel shoulders to remove rutting caused by construction traffic.

xi. Privately maintained noise walls, all noise berms, window streets and fences;

xii. Grading elements such as: swales, ditches, best management practices, (BMPs) and any other feature to address over land flow routes needs created by the development’s grading;

xiii. Pedestrian paths, walkways, bridges, tunnels, (including the related lighting and signage);

xiv. The costs related to the upgrading of any utility plant, or the relocation of the same, unless necessitated by the roadwork;

xv. The relocation and/or replacement costs of any encroachment on the City’s road allowance or easement including but not limited to hedges, sprinklers systems and fences;

xvi. Existing catch basins and culverts that cross roads, bridges, and leans are considered to be part of surface roadworks rather than sewers. Including and storm quality devices such as storm sceptors or oil/grit separators;

xvii. Traffic signals and street lighting on Arterial and Primary Collector roads that control or illuminate Public (Non-private) access points, where required by the development agreement; and

xviii. Utility relocations necessitated by the claimable roadworks can be claimed upon providing a copy of the invoices from the utility and proof of payment in full. The City shall issue a letter to the utility company stating that this work is required by the City under the Highway Act and will pay for 50% of cost of labor and trucking. This 50% share is claimable from the UWRF; the other 50% is the utility’s share and is not claimable. Should the utility refuse to pay then
these costs shall be the responsibility of the proponent owner. Engineering fees associated with these relocations are not claimable.

2.3.2. Minor Roadwork Costs Subsidized by UWRF

i. Works listed as eligible in the Development Charges Background Study, or with the approval of the General Manager of Planning and Development in consultation with the City Engineer, drawn from a contingency and/or substituted a work listed in the Background Study may be claimable.

ii. Where a new arterial or primary collector road is to be constructed in whole or in part through a subdivision, the Owner is responsible for the cost of constructing a standard secondary collector road 10m (32ft.) wide curb to curb. If the required road is wider or at a higher standard, the Owner is responsible for the cost of a standard road, including sidewalks, street lights, etc., and may make a claim to the Urban Works Reserve Fund for the difference in cost between a standard road and the road actually constructed. The construction responsibilities shall be defined by the conditions of an agreement between the City and the Owner. If the Owner wishes to construct the road at an enhanced standard beyond that acceptable to the City Engineer, then the Owner shall pay for the additional costs of enhancement with no eligibility for a claim from any fund.

iii. When trees are planted as part of external roadworks to replace removed trees, other than those removed to facilitate an access, the cost of the removal and replacement is claimable.

2.3.3. Major Roadwork Costs Paid for by CSRF

i. Works listed as eligible in the Development Charges Background Study, with the approval of the City Engineer, in consultation with the Director, Development Finance, drawn from a contingency and/or an alternative to a work listed in the Background Study may be funded from the CSRF. The claimability of such work would be subject to inclusion in the development agreement (for works less than $50,000 subject to approved funding in the Capital Budget) or subject to execution of a Municipal Servicing and Financing agreement prior to commencement of the work. The works funded from the CSRF under this paragraph would be subject to rules similar to those described for UWRF eligible works contained in this section with respect to eligibility, tender and claim completeness and submission.

ii. Transportation projects that have been listed in the DC Background Study as programs or studies are funded from the City Services Reserve Fund - Transportation component, and are subject to prior execution of a Municipal Servicing and Financing Agreement.

2.3.4. Roadworks Serving Growth in Industrial Areas Funded from Industrial Oversizing Reserve Fund

Certain Works which benefit industrial areas are similar to UWRF works. However, so long as industrial development is exempted from the charges, the City must make provision for claim of these works from a separate fund. This fund is the Industrial Oversizing Reserve Fund (IORF) and certain works are eligible for claim from this fund in accordance with the policies of the IORF.

2.3.5. Non-Growth Works that Benefit the Existing Population

Where works funded from the UWRF are subject to this policy and include a non-growth component, funding of that portion of the works must wait until the City has approved sufficient funds in its budgets, to pay for that portion of the works. The non-growth portion of the funding shall be identified in the City’s Capital Works Budget and approved by Council.
3. SANITARY SEWERAGE WORKS

3.1. Claimable Sanitary Sewerage Works

All new permanent sanitary sewerage works that are required to service undeveloped & developed lands that meet certain size and design criteria are partially claimable. These works are described in the sanitary sewerage section (UWRF works) of the Development Charge Background Study.

In order to be claimable, Sanitary Sewer works must be contained in, or alternative to, works contained in the Development Charges Background Study and must be incorporated into an executed development agreement.

In general the cost sharing of Sanitary works can be broken into five categories:

1) Local costs born by the Owner
2) Oversized minor Sanitary work costs subsidized by UWRF
3) Major trunk/ system improvements & plant work costs paid for by CSRF
4) Oversized works serving industrial areas funded from Industrial Oversizing Reserve Fund
5) Non-growth works that benefit the existing population

The following sections describe these categories:

3.1.1. Local Costs Borne by the Owner

Any pipe or portion of a larger pipe that is less than or equal to 300mm in diameter are referred to as local works, and undertaken at the Owner's expense. The 300mm threshold which defines a "local pipe" is the approximate size needed to serve a 20 ha development. Typically, this results in flows of 36-50L/sec, for average pipe slopes of 0.2%-0.3% (based on pipe capacity and minimum velocity)

Additionally, any costs associated with installing private drain connections are not claimable

Any temporary works are not claimable

3.1.2. Oversizing Minor Sanitary Work Costs Subsidized by the UWRF

This classification is applicable to the portion of a pipe defined in the GMIS, SSSS, and DC Background Study as UWRF claimable.

The claimable portion of an oversized sewerage works constructed by an Owner in order to provide service to areas beyond their development is eligible for a subsidy from the UWRF and is payable based on an average oversizing cost basis in the form of a $/m of pipe constructed as per the rates of the table in "Appendix 7-8".

The oversizing subsidy is a calculated average cost listed in Appendix 7-B and was derived by subtracting the estimated cost of a 300mm sanitary pipe from the estimated standard cost of oversized pipe of various sizes. The table in Appendix 7B lists the maximum claimable subsidy. If the actual cost of the works exceeds those used to calculate the table, then such additional costs shall be borne by the Owner. This subsidy covers all related costs of manholes, dewatering, restoration, back fill, engineering, utility relocates and labor. No payment above the noted $/m unit price shall be paid.

If the Owner is constructing pipes through or by, lands which are currently non-developed, the claimable subsidy of such pipes shall be determined in accordance with the preceding paragraphs.

The rates in Appendix 7-B will be monitored and adjustments will be recommended to Council if deemed necessary.

3.1.3. Major Trunk/System Improvements & Plant Work Costs Paid for by CSRF

This category refers to pipes defined in the DC Background Study as CSRF claimable. The

Appendix D
construction of these sewers shall be undertaken by the City and approved through the annual budget process.

On occasion, a portion of major works the cost of which is not expected to exceed $10,000 may, with the consent of the General Manager of Planning and Development and subject to the availability of approved funding in the capital budget, in consultation with the Director, Development Finance, and subject to availability of approved funding in the capital budget, be undertaken so long as the works appear in a development agreement.

Except as mentioned above, CSRF funded works may be undertaken by an owner upon execution of a Municipal Servicing and Financing Agreement.

3.1.4. Oversized Works Serving Industrial Areas Funded from Industrial Oversizing Reserve Fund

Certain Works which benefit industrial areas are similar to UWRF works. However, so long as industrial development is exempted from the charges, the City must make provision for claim of these works from a separate fund. This fund is the Industrial Oversizing Reserve Fund (IORF) and certain works are eligible for claim from this fund in accordance with the DC background study and policies of the IORF.

3.1.5. Non-growth Works that Benefit the Existing Population

Any component of sanitary sewerage works which serves existing developed areas, as identified in the Development Charges Background Study as well as remediation or repair of deficient services and are to be funded by the City budget.

If works are undertaken to increase capacity of an existing sanitary system, or to redirect flows to another system in order to provide capacity for growth in another area, then those costs shall be 100% attributed to growth. Rehabilitation, repair and installation of backflow preventing devices required due to increased or redirected flows shall also be 100% attributed to growth.

Where sanitary sewerage works include a non-growth component, funding of that portion of the works must wait until the City has approved sufficient funds in its budgets, to pay for that portion of the works. The non-growth portion of the funding shall be identified in the City's Capital Works Budget and is subject to annual approval by Council.

Any owner who proceeds with a work that contains a non-growth component prior to execution of an agreement that provides the details of the work and financing for the same shall do so entirely at their risk and expense.
4. STORMWATER MANAGEMENT WORKS (SWM)

4.1. Claimable Storm Water Management Works

In order to be claimable, Stormwater management works must be a permanent facility and be contained in, or alternative to, works contained in the Development Charges Background Study and must be incorporated into an executed development agreement.

In general the cost sharing of SWM works is broken into five categories:

1) Local costs borne by the Owner
2) Minor SWM ponds paid for by UWRF
3) Major SWM ponds & stream restoration paid for by CSRF
4) Storm works and ponds serving industrial areas funded from the Industrial Oversizing Reserve Fund
5) Non-growth portion of SWM works that benefit the existing population

The following sections describe these categories:

4.1.1. Local costs borne by the Owner

Any temporary works or works not included in the master servicing plan are at the sole expense of the Owner including operation, maintenance and decommissioning. Approval of temporary works is at the discretion of the City Engineer, in consultation with the General Manager of Planning and Development.

Any best management practices or Private drainage systems that benefit the single parcel of land for which they are constructed, and serve less than 15ha are not claimable.

The construction of ditches, swales, and overland flow routes are not eligible for claim unless specifically noted in the DC Background Study.

4.1.2. Minor SWM Ponds Paid for by UWRF

Works listed as eligible in the Development Charges Background Study as being UWRF works, or with the approval of the General Manager of Planning and Development in consultation with the City Engineer, either, drawn from a "contingency" in the DC rate calculations or is alternative to a work listed in the DC Background Study may be claimable.

In accordance with the basis of the costing of the works in the master servicing plan (which works are reflected in the Development Charges Background Study), 100% of the cost of 100m of inlet and 100m of outlet sewer are claimable.

4.1.3. Major SWM Ponds & Stream Restoration Paid for by CSRF

Works listed as eligible in the Development Charges Background Study as being CSRF works include major SWM ponds and stream restoration. These works may be eligible for acceleration of timing or construction by the Owner. The claimability of such works shall be subject to execution of a Municipal Servicing and Financing Agreement prior to commencement of any work by the Owner.

4.1.4. Storm works and ponds serving industrial areas funded from the Industrial Oversizing Reserve Fund

Certain SWM Works which benefit industrial areas are similar to UWRF works. However, so long as industrial development is exempted from payment of development charges, the City must make provision for claiming these works from a separate fund. This fund is the Industrial Oversizing Reserve Fund (IORF) and certain works are eligible for claim from this fund in accordance with the Development Charges study, and the policies of the IORF

4.1.5. Non-Growth Portion of SWM Works that Benefit The Existing Population
Appendix D

The component of storm water management works which services existing developed areas as defined in the Development Charge Background Study (which is based on the Master Plan) as well as remediation of deficient services or redirection of flows to improve optimal use of the system are to be funded by the City budget. Non-growth portions of eligible sewage systems are listed in the Development Charges Background Study report.

Where works that are subject to this policy include a non-growth component, funding of that portion of the works must wait until the City has approved sufficient funds in its budgets, to pay for that portion of the works. The non-growth portion of the funding shall be identified in the City’s Capital Works Budget and approved by Council.

Any owner who proceed with a work that contains a non-growth component prior to execution of an agreement that provides the details of the work and financing for the same shall do so entirely at their risk and expense.
5. STORM SEWER WORKS

5.1. Claimable Storm Water Works
All new permanent storm sewerage works that are required to service undeveloped & developed lands that meet certain size and design criteria are partially claimable. These works are described in the storm sewerage section of the Development Charge Background Study. The construction of ditches, swales, and overland flow routes are not eligible for claim unless specifically noted in the DC Background Study. Works used for detention will be considered as retention facilities rather than conveyance devices and will be paid as SWM facilities as discussed in the previous section. Claims may be payable providing there is provision for such claims in the Development Charges Background Study (which is based on the Engineering Master Plans for each service).

In order to be claimable, Stormwater Sewer works must be contained in, or alternative to, works contained in the Development Charges Background Study and must be incorporated into an executed development agreement.

In general the cost sharing of Stormwater works is broken into six categories:

1) Local costs borne by the Owner
2) Oversizing of Storm pipes paid for by UWRF
3) Inlet & outlets to Minor SWM ponds & stream restoration paid for by UWRF
4) Inlet & outlets to Major SWM ponds & stream restoration paid for by CSRF
5) Industrial Growth works (currently subsidized by IORF)
6) Non-growth works that benefit the existing population

The following sections describe these categories:

5.1.1. Local Costs (Pipes) Borne by Owner
Costs of all storm sewage systems that are temporary, not identified in the Storm Master Plan, or not defined in the DC Background Charge Study shall be borne by the Owner.

The cost of theoretical works required by the Owner as if there were no external upstream flows shall be borne by the Owner. For storm sewers these are defined by policy to be the pipes greater than 1050mm in diameter.

Additionally, any costs associated with installing private drain connections or private systems are not claimable.

5.1.2. Oversizing of Storm Pipes Paid for by UWRF
The claimable portion of an oversized storm pipe constructed by an Owner in order to provide service to areas beyond their development is eligible for a subsidy from the UWRF and is payable based on an average oversizing cost basis in the form of a $/m of pipe constructed as per the rates in the Table in Appendix 7-C. If the Owner is building through or by, lands which are currently non-developed, the claimable subsidy of such pipes shall likewise be determined in accordance with the Table in Appendix 7-C.

This subsidy is a calculated average cost listed in Appendix 7-C that is derived by subtracting the cost of a 1050mm storm sewer pipe from the estimated standard cost of oversized pipe of various sizes. The table lists the maximum claimable subsidy. If the actual cost of the works exceeds those used to calculate the table then such additional costs shall be borne by the Owner.

The rates in Appendix 7-C will be monitored and adjustments will be recommended to Council if deemed necessary. The cost per metre identified in the Appendix covers all associated engineering, manholes, restoration etc.
5.1.3. Inlet & Outlets to Minor SWM Ponds & Stream Restoration Paid For by UWRF SWM Fund

The UWRF will fund the cost of Stormwater Management works listed as eligible in the DC Background Study. These costs include limits for claims on land costs, landscaping, engineering & utilities as specified in other parts of this document. Additionally, 100% of the cost of 100m of inlet and 100m of outlet sewer are payable from this fund. The non-growth portion of the funding (if any) shall be identified in the City’s Capital Works Budget (GMIS) and approved by Council. The non-growth portion of any work under this paragraph may only be paid upon Council approval of the budget for the works in question.

5.1.4. Inlet & Outlets To Major SWM Ponds & Stream Restoration Paid for by CSRF SWM Fund

The CSRF will pay 100% of the cost of Stormwater Management works listed as eligible in the DC Background Study. These costs include limits for claims on land costs, landscaping, engineering, utilities as specified in other parts of this document. Additionally, 100% of the cost of 100m of inlet and 100m of outlet sewer are payable from this fund. The non-growth portion of the funding (if any) shall be identified in the City’s Capital Works Budget (GMIS) and only be paid upon Council approval of the budget for the works in question.

The acceleration of these works contained in the City’s Capital budget, and funded from the CSRF may be possible through execution of a Municipal Servicing and Financing Agreement.

5.1.5. Industrial Growth Works (currently subsidized by IORF)

Certain storm sewer pipes and inlets serve ponds which benefit industrial areas. As long as the City policy exempts industrial development from development charges, the City must make provision for claiming these works from a separate fund. This fund is the Industrial Oversizing Reserve Fund and certain works are eligible for claim from this fund in accordance with the Development charges study and the policies of the Industrial Oversizing Reserve Fund (IORF).

5.1.6. Non-Growth Works that Benefit the Existing Population

The portion of works which services existing developed areas as identified in the Development Charges Background shall be paid from a non-DC source at such time as the City has provided for the same in its capital budgets. Non-growth portions of eligible storm sewage systems are listed in the DC Background Study report.

Any owner who proceeds with a work that contains a non-growth component prior to execution of an agreement that provides the details of the work and financing for the same shall do so entirely at their risk and expense.
Reference of UWRF Eligible Items to Payment items in Master Plan Studies that are defined by "New Rules"

1. Sanitary Sewer (Going FWD)  
   SSMP Table 5.1
2. Minor Roadworks (Going FWD)  
   MRMP Table 4.4
3. Industrial Minor-Traffic Signals  
   MRMP Table 4.3
4. Storm Sewers UWRF Going FWD (Table 4.5.2)  
   STMP 4.5.2
5. SWM Total Grandfathered in UWRF Linked Systems  
   ST MP 4.1
6. SWM Total Grandfathered in UWRF in GMIS Boundary  
   ST MP 4.1
7. SWM Total Going FWD in UWRF in GMIS Boundary  
   ST MP 4.1

Table EX2.3 Sanitary Pipe size subsidy (as per AECOM Sanitary Master Plan Table EX2, April 2009, Amount Table (15))

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<th>Pipe Diameter</th>
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Table EX3.3 Storm Pipe size subsidy (as per AECOM Sanitary Master Plan Table EX2, April 2009, Amount Table (15))

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