

Planning & Development Report to
Combined Meeting of Council
2020 June 15

ISC: UNRESTRICTED
C2020-0647

Off-site levy payment relief in response to COVID-19 pandemic

EXECUTIVE SUMMARY

The COVID-19 pandemic has disrupted daily life for all Calgarians and poses significant challenges to local business. Priorities of Planning & Development's pandemic response are specifically focused on supporting businesses and the development and building industry (an essential service) and have included exploring relief of developers' off-site levy payments. BILD Calgary Region has submitted a letter and addendum, requesting City Administration review options for financial relief related to the timing of off-site levy payments and interest charges, in support of the development and building industry. The rapidly emerging impacts of COVID-19 have left developers facing financial strains, including cash-flow challenges. Administration is seeking Council's direction on whether or not to further explore an off-site levy payment relief program.

ADMINISTRATION RECOMMENDATION:

If further exploration is desired, that Council direct Administration to further explore an off-site levy payment relief program in response to the COVID-19 pandemic's impact on the development industry, including: stakeholder engagement to determine a recommended option, conduct next steps for the option(s) as outlined in Attachment 3, and report back to Council no later than 2020 September 14.

PREVIOUS COUNCIL DIRECTION / POLICY

At the [2019 November 18 Combined Meeting of Council](#), Council received the Centre City Levy 2018 Annual Report (PUD2019-1205) for information. Administration also publishes the Off-Site Levy Annual Report yearly on Calgary.ca.

At the [2018 November 12 Regular Public Hearing Meeting of Council](#), with respect to PFC2018-0973, Council approved the proposed bylaw amendment to the Off-site Levy Bylaw 2M2016 in Attachment 1, to enable Council's direction on the New Community Growth Strategy 2018.

At the [2016 January 11 Combined Meeting of Council](#), with respect to C2016-0023, Council adopted the Administration Recommendations to:

1. Give three readings to Bylaw 2M2016;
2. Adopt by resolution, the Community Services Charges; and
3. Direct Administration to implement the key deliverables of the 2016 work plan to address issues that arose through this process;
4. Direct Administration to create an Established Area Redevelopment Incentive Budget (EARIB) to offset reduced revenue resulting from the proposed density incentive program.

At the 2009 June 01 meeting of Council, with respect to C2009-41, Council approved and gave three readings to the Centre City Bylaw 38M2009.

BACKGROUND

In response to the COVID-19 pandemic, Planning & Development's priorities have specifically focused on supporting businesses and the development and building industry (an essential service) and have included exploring short term relief of developers' off-site levy payments. The

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rapidly emerging impacts of COVID-19 have left developers facing financial strains, including cash-flow challenges. BILD Calgary Region, in support of the development and building industry, has submitted a request and addendum (Attachments 1 and 2) that City Administration review options for financial relief related to the timing of off-site levy payments and interest charges. BILD's letter suggests that off-site levy payments currently represent a significant proportion of a typical developer's total project expenditures, and therefore limit developer cash liquidity in the near-term. Administration is seeking Council's direction on whether or not to further explore an off-site levy payment relief program.

During the COVID-19 pandemic, The City is currently offering a variety of municipal financial relief measures, as presented to Council on 2020 April 30 (C2020-0508) and at the 2010 May 11 Strategic Meeting of Council, to support individuals and businesses. These include Property Tax relief measures for citizen and business taxpayers facing financial hardship (C2020-0382, approved by Council on 2020 April 6), and Utility payment deferrals without penalty or interest for residential and some small business customers. Federal and provincial policy relief measures are also outlined in presentation C2020-0508 and include measures benefiting individuals and businesses. In addition, the priorities for Planning & Development's pandemic response are specifically focused on supporting businesses and the development and building industry (an essential service), and include:

- Supporting construction site safety through virtual inspections and mandatory protocols for on-site inspections, in benefit of City employees and construction site workers, and providing service continuity for the development and building industry;
- Focusing on business support relief by addressing application fee structures – approved by Council on 2020 April 30 (C2020-0508); and
- Exploring relief considerations of developers' off-site levy payments, for payments due in 2020.

The off-site levies and the off-site levy bylaw are governed by the Municipal Government Act (MGA), and the Off-Site Levies Regulation (Alta Reg 187/2017), as amended by the City of Calgary Charter, 2018 Regulation (Alta Reg 40/2018). Off-site levies are financial tools that enable development in Calgary by providing certainty of costs to the land development industry, while paying for all or part of the capital cost of new or expanded infrastructure, supporting the economic sustainability of The City. Levy charges are placed on development to fund major off-site growth-related capital infrastructure such as: water/wastewater treatment/pipes, storm water infrastructure, major interchanges/expressways, fire stations, recreation facilities and libraries.

Short-term relief measures for off-site levy payments are anticipated to provide financial relief for developers with ongoing projects, enabling development that contributes to the local economy, and increases the property tax base and revenue for The City over the long term. At the same time, the pace of development has been significantly slower in recent years, resulting in lower off-site levy payments received than anticipated. The forecast for growth has not met expectations, resulting in an off-site levy shortfall and pressure on customer rates in the Water, Wastewater and Stormwater lines of service (PFC2019-1402 Water Utility Indicative Rates – Revised for 2020). The next development forecast is anticipated to be delivered to Priorities and Finance Committee in 2020 October, as part of the 2020 Growth Monitoring Report. Current economic conditions compounded by the pandemic, are likely to result in continued slower pace of growth.

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INVESTIGATION: ALTERNATIVES AND ANALYSIS

In a short time, City Administration has conducted a preliminary investigation to explore options related to off-site levy payment, similar to Municipal Property Tax relief measures, and Utility payment deferrals for customers.

Current situation

As a result of COVID-19, The City has experienced increased expenditure as well as reduced revenue and changes to the timing of payments, putting pressure on The City's financial position and liquidity. Changes to off-site levy payments will further impact this situation. With that in mind, Administration is seeking Council's direction on whether or not an off-site levy payment relief program should be further explored. If so, Administration would then engage in further evaluation and stakeholder engagement to determine the best course of action to recommend.

As outlined in the Off-Site Levy Bylaw (2M2016), current payment terms for off-site levies in greenfield areas are 30 per cent within one year, 30 per cent within two years, and 40 per cent within three years of the date of execution of a development agreement. Off-site levies in Established Areas are due at the time the Development Completion Permit is issued. In the Centre City Levy Bylaw (38M2009), the levies are due on or before the date of subdivision approval, or on or before the date of release of the development permit. In all cases, payment is due in full 30 days from invoice date, after which interest is charged at 1.5% per month or 18% per annum.

The value of off-site levy payments coming due over the next 12 months is approximately \$130M from approximately 38 developers (2020 July to 2021 June). Of this, approximately \$78M is coming due over the next six months (2020 July to December) from 25 developers, and approximately \$51M comes due in the first half of 2021 (2021 January to June). These totals would not include any new development agreements that may be entered into beyond 2020 April.

The balance of off-site levies is approximately \$339M, as at December 31, 2019. These levy balances are used as the funding source for budgeted capital projects and principal and interest payments for debt financed infrastructure, with MGA requirements related to infrastructure type that must be adhered to. In Calgary, utility infrastructure is financed through debt, and constructed prior to receiving associated levy funds. Other infrastructure types funded by levies, are paid for and constructed after anticipated receipt of levy funds from developers. If levy payments are received later than outlined in the payment terms of the bylaw, The City would continue to incur principal and interest payments associated with utility debt requiring an interim funding source, and experience cash flow implications which may impact planned capital infrastructure paid for by levies, potentially resulting in the need to defer capital investment.

Concurrent to the pandemic response, Administration currently has work underway to implement the Off-Site Levy Audit recommendations (AC2019-1242) and review the current Off-Site Levy Bylaw (Bylaw 2M2016), planned for Council in Q1 2021. Investigating options for off-site levy payment relief in response to the COVID-19 pandemic would be considered a new and distinct program of work and would likely impact timelines by up to six months on these two important initiatives, as many of the same staff resources are required. Any action that may be recommended is intended solely to provide short-term financial relief for developers and is not

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intended to be a permanent solution included as part of the Off-Site Levy Bylaw Review for 2021.

Principles of a potential payment relief option

In reviewing options for off-site levy payment relief, Administration has and will apply the following principles:

- Manage City liquidity and cash flow
- Mitigate risk of non-payment
- Enable economic activity during pandemic recovery
- Transparent approach that maintains the integrity of the off-site levy bylaw and process
- Maintain the principle of 'Growth Pays for Growth'

Potential payment relief options

Administration has initially considered four short-term off-site levy payment relief options. If Council directs Administration to further explore an off-site levy payment relief program, Administration would conduct stakeholder engagement and further analysis on these four options and return to Council with a recommendation. A summary of these options and associated next steps is outlined in Attachment 3. Further work on a payment relief program would result in delays to the Off-Site Levy Bylaw Review for 2021, and the Off-Site Levy Audit Implementation.

Option 1: Maintain status quo

Given The City's current liquidity position and to remain nimble to future liquidity needs, The City would continue to collect off-site levies and assess late payment charges according to the current payment terms in the bylaws. With no changes to payment terms there is more predictable cash flow and a stronger liquidity position for The City, and no additional immediate financial risk. However, it would not respond to development industry cash flow concerns and may result in increased late payments, under which the current charge of 18% per annum may cause additional financial burden to developers.

Option 2: Late payment fee credit – costs covered through invoice

The City could introduce a short-term invoice credit that effectively reduces late payment charges (interest) for off-site levy invoices in 2020, to an amount anticipated to fully cover costs incurred by The City because of deferred payments. Costs related to levy payment relief would be covered by the developers paying the invoices, and not by The City. There would be short-term cash flow management implications for The City, related to principal and interest payments for the Utility and timing of capital infrastructure investments, resulting in increased pressure on The City's liquidity.

To avoid potential impacts to utility rate payers, there would be an immediate need to identify a short-term corporate funding source for principal and interest payments for the Utility. Administration would also need to further explore potential timing impacts to capital infrastructure investment related to levy payment relief. While this option may eliminate the need for The City to cover costs, there remains a financial risk that deferring payment may make it more difficult to collect the payment in the future should a developer be unable to pay.

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This late payment relief program may be approved by Council resolution, rather than through a bylaw amendment and public hearing. Complex changes to the bylaw and invoicing would be avoided, and this option has the potential of being applied retroactively. This approach could be administered through an application process whereby developers wishing to use the program could apply. As this would likely not require a bylaw amendment, Administration could return to Council as early as 2020 July 20, if further investigation is desired and this option is recommended.

Option 3: Late payment fee credit – costs not fully covered through invoice

The City could introduce a short-term invoice credit that effectively reduces late payment charges (interest) for off-site levy invoices in 2020, to an amount that does not fully cover costs incurred by The City. The same short-term cash flow management implications, increased pressure on The City's liquidity, timing impacts to capital infrastructure, and need to identify a corporate funding source for principal and interest payment for the Utility would apply as in Option 2. Financial risk related to ability to collect payment should a developer be unable to pay, remains a risk with this option. In addition, a funding source (The City, or industry through bylaw changes) would need to be identified to cover costs related to the levy payment relief.

This option responds to development industry cash flow concerns, but increases financial risk for The City, and would likely result in bylaw changes requiring extensive stakeholder engagement, advertising and a public hearing. Under this option, Administration would likely return to the 2020 September 14 public hearing of Council with recommendations.

Option 4: Other options arising through engagement – costs covered through levy bylaw amendments

Through stakeholder engagement, other options for a potential short-term off-site levy payment relief program may arise. These options are likely to result in proposed changes to the off-site levy bylaw, and requiring extensive stakeholder engagement, advertising of proposed bylaw changes and a public hearing. Given public hearing timelines and to allow for sufficient stakeholder engagement, it is likely that Administration would return to the 2020 September 14 public hearing of Council with recommendations. Any changes to the bylaw would not apply retroactively, and no refunds for previously collected off-site levies would be issued to developers.

This option would require significant time investment by The City and stakeholders, and therefore have greater impact on the Off-Site Levy Audit recommendations implementation and the Off-Site Levy Bylaw Review. Developer cash flow concerns may not be immediately or retroactively addressed, and The City's operating and capital budgets may be impacted. However, this option allows for broader investigation and exploration of potential payment relief program options. Other relief options likely expose The City to additional financial risk.

Stakeholder Engagement, Research and Communication

Off-site levies are governed by the Municipal Government Act, which sets forth engagement requirements prior to amending the off-site levy bylaw. Should bylaw amendments be proposed, The City must first consult in good faith with stakeholders (s 648.001 of the MGA, as amended by the Charter Regulation), including consultation on the methodology, and on the calculation "with stakeholders in the benefitting area where the off-site levy will apply". Should a relief

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program require a bylaw amendment, the MGA requires that it must be advertised and heard at a public hearing of Council.

Should further exploration be desired, regardless of the recommended option, additional investigation and stakeholder engagement would be required in order to return to Council with a recommendation. As required by the MGA, Option 3 and likely Option 2, will require more extensive stakeholder engagement should a bylaw amendment be part of the proposed relief solution. Benefits and impacts to Administration and stakeholders would need to be further explored and analyzed before returning to Council with a specific recommendation.

Administration intends to conduct stakeholder engagement in compliance with current City engagement practices during COVID-19. This includes virtual meetings with members of the land development industry, and with developers that have payments due in 2020. Additionally, Administration will conduct on-line engagement to provide the public an opportunity to be informed and offer input.

On 2020 June 4, Administration met with the Economic Resilience Task Force (ERTF) seeking input into this work. This is aligned with the ERTF terms of reference, outlining that the task force would have the opportunity to comment on any relief measures under consideration. Administration collected input and suggestions for further exploration from the ERTF. This feedback and further questions for exploration are summarized below and will be considered in option evaluation and engagement discussions:

- What is The City's best use of any funding available for business relief measures? Do we anticipate further requests for this funding?
- Consider length of the program relative to other relief programs already offered by The City
- Mitigate and reduce financial exposure for The City
- Maintain the principle that 'growth pays for growth'
- What other relief measures (provincial, federal, etc.) are available to this sector, and what other programs have been successfully used by this sector?
- What are other municipalities doing?

The City is not currently aware of any other municipalities where deferrals in off-site levies are occurring. Administration is completing a scan of other jurisdictions to understand what impact COVID-19 is having on the development industry, and what, if anything has been implemented or is being contemplated.

Strategic Alignment

The recommendations are in alignment with direction in Council's approval of One Calgary 2019-2022 Service Plans and Budgets (C2018-1158), as amended and adjusted (C2019-1052).

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Social, Environmental, Economic (External)

Collection of off-site levies allows the municipality to generate funds necessary for all or part of the capital cost of new or expanded infrastructure related to growth, in alignment with One Calgary 2019-2022 Service Plans and Budgets.

Financial Capacity

Current and Future Operating Budget:

There are no impacts to current or future operating budgets as a result of this report. Administration will evaluate potential impact to operating budgets for all options, including any operating cost to administer a relief program.

Current and Future Capital Budget:

There are no impacts to current or future capital budgets as a result of this report. However, Administration will evaluate impact to liquidity and cash flow for The City and its ability to fund budgeted capital infrastructure for all options.

Risk Assessment

City Financial Risk – Any off-site levy payment relief option increases financial risk for The City, these financial risks include:

- Limiting The City's future flexibility to respond to other needs or demands related to impacts of COVID-19,
- Further compound the current financial gap faced by the Utilities due to a slower pace of growth and may result in the need for a utility rate increase. To mitigate some of these potential impacts in the utility lines of service, there would be an immediate need to identify a funding source for principal and interest payments for the Utility. Administration will review and consider cost coverage for utility debt servicing, implications/options for capital infrastructure project deferral to manage City cash flow.
- If a developer defaults on off-site levy payments because of the pandemic, The City would experience significant cash flow and liquidity impacts, Administration will review how The City's financial interests could be secured against developer default.

To remain transparent, Administration would track and report any payment relief options including any costs incurred by The City, and the number and value of impacted invoices.

Developer Financial Risk – Payment deferrals may increase financial risk for developers where deferred payment may be due at the same time as a future year payment, thus introducing a compounding effect.

Service Risk – Any payment relief option may impact corporate capital delivery programs, as off-site levies represent a significant source of funds. The City will review the impact to budgeted capital infrastructure that may result from payment relief options.

Work Plan Risk – Work towards a payment relief option recommendation and implementation may impact delivery of the Off-Site Levy Audit recommendations implementation and the Off-Site Levy Bylaw Review 2021, as they require many of the same cross-corporate staff resources. It is anticipated that further work could have up to a six-month impact on current

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work plans. It is possible that some work on the Off-Site Levy Audit and Bylaw Review could continue.

Stakeholder Relationship Risk – There is a risk of eroding trust with development and building industry stakeholders if an off-site levy payment relief option is not pursued, or an appropriate option not recommended and directed by Council.

Legal Risk – Legal risk exists should The City not undertake stakeholder engagement in good faith as required through the MGA, as it relates to any proposed changes to the off-site levy bylaw.

REASON(S) FOR RECOMMENDATION(S):

Developers have indicated that the COVID-19 pandemic has resulted in cash flow concerns for the development industry. Short-term relief measures for developer's off-site levy payments are anticipated to enable development, and directly result in future property tax generation as increased revenue for The City over the long term. Given the re-prioritization of work, and due to the potential of putting The City's financial position at increased risk, Administration is seeking Council direction prior to conducting further work on a potential payment relief program.

ATTACHMENT(S)

1. Attachment 1 – Letter from BILD Calgary Region – C2020-0647
2. Attachment 2 – Addendum to Letter from BILD Calgary Region – C2020-0647
3. Attachment 3 – Off-site levy potential payment relief options – Summary and next steps – C2020-0647