Staff Report

To	**Committee of the Whole**
Service Area	Office of the Chief Administrative Officer
Date	Tuesday, April 1, 2025
Subject	**Municipal Service and Financing Agreements Policy**

Recommendation

1. That the Municipal Service and Financing Agreements Policy included as Attachment-1 of report 2025-14 - Municipal Service and Financing Agreements Policy, be approved and implemented using a phased approach, and that staff report back to Council with any recommended updates prior to full implementation.
2. That the Delegated Authority By-law be updated at the earliest administratively convenient opportunity to reflect the authority provided to City staff in the Policy.
3. That the User Fees and Charges By-law be amended to add the new application and administration fees as outlined in report 2025-14 - Municipal Service and Financing Agreements Policy.

Executive Summary

Purpose of Report

To provide Council with information about Municipal Service and Financing Agreements (MSFAs) and propose an MSFA policy for approval, in response to October 2023 Council direction to investigate this tool and the impact on staffing implications, credit rating, delegated authority structure, and the risks and benefits.

Key Findings

MSFAs are agreements between a municipality and a developer(s) to build City infrastructure in advance of the City's planned timeline to enable housing. The policy provides for two potential agreement types:

- City-led: developer finances the early construction works, and the City delivers the project on the developer's schedule; or
- Developer-led: developer finances and delivers the works to the satisfaction of the City.

The policy provides the City Treasurer with delegated authority to enter into agreements within specific parameters, including the project being included in both the Development Charges (DC) Background Study and the capital budget and forecast, and a minimum of 70 per cent of the anticipated DC collections to come from the developer(s) involved in the agreement. These parameters are established to provide staff with the flexibility to move quickly on agreements that can advance housing while maintaining controls to not overcommit both DC and non-DC related spending.

Repayments will be made through DC credits, DC reimbursements, and Non-growth Cost Reimbursements, and the parameters for each of these repayments are outlined in the policy. The policy provides for a balanced approach to determining the overall credit amount based on a mutually agreed-upon Work Plan and cost estimates. MSFAs are expected to have minimal impact on the City's credit rating.

It is expected that MSFA applications and agreements will require a significant investment of staff time to review applications and enter into agreements. A fee structure has been proposed to help offset these costs and recover any external legal or consulting costs required, and staff will have a clearer picture of the sufficiency of the proposed fees after working through the process. A phased implementation is recommended to provide staff with the opportunity to work through the process of reviewing and entering into an agreement and incorporate learnings into any recommended updates for further implementation.

Strategic Plan Alignment

This work aligns with objective 6.1 in the Future Guelph Strategic Plan to meet our housing pledge, particularly initiative 6.1.1 to identify actions, advocacy and partnerships to improve housing supply and 6.1.2 to identify and address funding gaps in our growth revenues.

Future Guelph Theme

City Building

Future Guelph Objectives

City Building: Improve housing supply

Financial Implications

MSFAs are intended to accelerate housing development. The ongoing impact of a MSFA is the cost and benefit of the development it enables, where the cost includes the ongoing operating and replacement cost of the municipal infrastructure, and the benefit is demonstrated by the addition of new housing units in our community as well as the incremental tax and rate revenue from growth.

The City will give up some budgetary flexibility as the timing of payment for the non-growth portion of a project under an MSFA will be locked in when the agreement is executed; this is a trade off in exchange for receiving the benefit of accelerating housing development.

The proposed fee structure provides some resources to support the staff time required to enter into and manage agreements, and the sufficiency of the fees in comparison with the time required will be better understood after a few agreements have been successfully implemented.

Report

Background

MSFAs are a mechanism for City staff to work with developers who want to advance the timing of development-related municipal infrastructure projects to allow their lands to be developed earlier than the City's planned infrastructure delivery timeline. MSFA agreements are an emerging tool being implemented as municipalities grapple with the need to increase housing supply while facing fiscal constraints. The proposed policy was developed in collaboration with Hemson Consulting, based on current practices and learnings from other municipalities who have undertaken such agreements.

On October 17, 2023, Council directed staff to "investigate the use of front-ending agreements as a growth financing tool, including the impact on staffing implications, impact on credit rating, delegated authority structure, and the risks and benefits".

On October 25, 2024, information report [2024-476 - Municipal Service and Financing Agreements Update] outlined the progress to date on the policy research and included a report from Hemson Consulting which outlined various approaches as well as risks and benefits for consideration when undertaking MSFAs.

This work aligns with key goals and actions to promote housing affordability in Guelph. On December 10, 2024, Council approved the updated Housing Affordability Strategy, which includes action 2.2.1 - look into new tools for creatively financing affordable housing, including front-end financing or infrastructure agreements. Ultimately, the objective of this policy is to accelerate residential development by building housing enabling infrastructure earlier than the City otherwise would have been able to, while minimizing the property tax and utility rate burden on existing residents and businesses.

Analysis and recommended policy decisions

The intention of the policy is to provide the parameters within which the City would be willing to enter into MSFAs with developers. It outlines the requirements that need to be met, and the authority delegated to staff for authorizing agreements. A key objective of the policy is to provide clarity, transparency, and fairness for both the City and developers and to minimize risk associated with these agreements. The policy provides for two potential agreement types:

- **City-led:** developer finances the early construction work, and the City delivers the project on the developer's schedule; or
- **Developer-led:** developer finances and delivers the works to the satisfaction of the City.

As discussed in report 2024-476 - Municipal Service and Financing Agreements Update, there are risks associated with MSFAs, including:

- Risk that development could be advanced in one area at the expense of supporting higher priority development areas.
- Risk of negotiating unclear terms, making the agreement difficult to administer and creating disputes with members of the development community.
- Risk that City infrastructure is built, but the development it was intended to support occurs slower than expected, leading to a financial burden on the City to pay for and maintain infrastructure that is underutilized where the assessment base and customer base is not present to support it.
- Advancing projects may create challenges in delivering all of the scheduled projects as well as the one(s) being advanced through a MSFA.

The proposed policy addresses these risks and provides a foundation for moving housing development forward in our community more quickly. The key features of the policy are outlined below.

Delegated Authority

The policy provides the City Treasurer with delegated authority to enter into agreements where:

- The project is included in both the most recent DC Background Study and Council approved 10-year capital budget and forecast.
- The cost of the project does not exceed the cost included in the most recent Council approved 10-year capital budget and forecast.
- 70 per cent or more of the anticipated DC collections are to come from the developer(s) involved in the agreement.

These parameters are established to provide staff with the flexibility to move quickly on agreements that can advance housing while maintaining controls to not overcommit both DC and non-DC related spending. Advancing a growth project with a non-growth component, such as asset replacement, will lock in that spending at the timing that it is included in the City's most recently Council approved 10-year capital budget and forecast. For greater clarity, the policy will not advance the City's payment for the non-growth component of a project, but an agreement will remove Council's ability to defer the project to a later year. In situations that do not meet these criteria, Council approval of an MSFA will be required.

While the policy outlines delegated authority for staff to enter into agreements, it is not immediately required to receive and evaluate applications. Therefore, it is recommended that the Delegated Authority By-law be updated at the earliest administratively convenient opportunity.

Terms of Repayment for Advanced Works

The policy outlines the terms for repayment to a developer or group of developers who finance the advanced construction of municipal housing enabling infrastructure. There are three mechanisms for repayment:

- DC credits are the share of the DC eligible costs that will be reimbursed through credits on the developer's own DCs as they draw building permits.
- DC reimbursements are repayments for DC eligible costs that are in excess of the DCs payable by the developer who is party to the MSFA.
- Non-growth Cost Reimbursements are repayments for the non-growth-related portion of a project (if applicable), payable from property taxes, utility rates, or other sources.

DC credits will be credited monthly based on DC payments made as building permits are drawn after the municipal infrastructure project is deemed complete. In practice, this means that the developer will pay the DCs owing at the time of drawing the building permit, and the City will repay the developer monthly. Paying monthly in batches reduces the risk of erroneous payment and ensures that normal building permit issuance processes are not slowed down by additional complexity.

Any repayment above and beyond the DC credit will not begin before the year in which the City anticipated undertaking the project, as identified in the most recent Council approved 10-year capital budget and forecast in effect at the time the agreement is entered into. This requirement in the policy helps reduce the risk that MSFAs will negatively impact the construction of other planned and anticipated City capital projects. Regardless, it does reduce flexibility in the overall capital plan, particularly given the interconnectedness of the capital reserve forecast.

These repayment terms are also intended to incent developers to build housing as quickly as possible and dissuade developers who may build housing over a protracted period of time from applying for an MSFA.

Credit Amount

The DC Act requires that the credit be the reasonable cost of doing the work. There is room for strategic consideration, and municipalities have interpreted the meaning of "reasonable costs" differently, including:

- The cost included in the most recent DC Background Study (indexed to inflation).
- The estimated cost based on a mutually agreed to Work Plan.
- The actual cost of the work.

After considering all three approaches, staff have recommended that the credit be based on the cost of the works as determined in the developer created and mutually agreed to Work Plan. This is a balanced middle-ground approach that aims to provide fairness for both parties to the agreement.

In considering the approach of limiting credits to the cost included in the DC Background Study, staff concluded that that amount is a high-level estimate that would be subject to refinement by way of detailed design as the project draws nearer to implementation. Staff do not feel it is advantageous to preclude projects from consideration if the Work Plan cost is higher than the DC Background Study estimate if advancing the project would advance housing development while maintaining affordability. On the other end of the spectrum, staff are also not recommending entering into an open-ended agreement to pay the actual cost. Developers would likely favour an open-ended approach as it shifts the financial risk for delivering within the estimates to the City in the case of a developer-led project; however, this approach would represent a blank cheque from the City, while the day-to-day project delivery is with the developer. Recognizing that all construction projects are subject to a degree of uncertainty, a Work Plan may include provisional items or cash allowances in addition to a standard 10 per cent contingency, as appropriate for a project. The Work Plan Submission Requirements in the Policy also include a mechanism to amend a Work Plan and cost where necessary and mutually agreed between City and developer.

In the case of a developer-led project where the Work Plan agreement exceeds the value in the DC Background Study, or in the case of a City-led project for which the actual costs exceed the Work Plan agreement, the City will have the ability to further adjust the cost in a subsequent DC Background Study, so that the cost of the project to the City can be recovered. This approach limits additional exposure for the City to the non-growth portion of the project cost as established in the Work Plan and will require a plan for the cash flow management until the DC Background Study is updated.

Staffing Implications

The project team engaged in an exercise to estimate the staff time required to support the implementation of the MSFA. This is a challenging exercise as this has not been done before at the City of Guelph and the municipalities that Hemson Consulting engaged with indicated that they do not track their hours for these processes. Staff time estimates were generally grouped into five phases: initial application, detailed application, agreement development, construction, credits and reimbursements. The time required to review and analyze applications, approve Work Plans, and enter into and manage agreements is expected to be highly variable depending on the complexity and specifics of any given application. Regardless, there is expected to be a considerable investment in staff time required, particularly the first few agreements as internal expertise is developed. The work requires detailed knowledge of the City's planning and engineering documents and processes, and it cannot simply be undertaken by newly hired or temporary staff. Staff are exploring the possibility of hiring temporary staff to backstop impacted departments using a combination of fee revenue and Housing Accelerator grant funding. At this time, there is no request for additional permanent staff to implement this policy.

Fee Methodology

The proposed fee structure includes an initial application fee, a detailed application fee, and a recovery for engineering costs to review and approve work plans and provide ongoing monitoring and inspection throughout the project. The proposed fees are as follows:

- Initial application fee - $1,500 to provide an initial assessment on the feasibility of a proposed MSFA.
- Detailed application fee - if the initial application shows promise and generally aligns with the policy, the fee to consider a full application and enter into an agreement is 1 per cent of the estimated cost of the project, up to a maximum of $20,000. There are additional provisions for reimbursement of costs for external legal and consulting work, if required for complex applications.
- Work plan review and construction monitoring – a fee of 6 per cent of the estimated cost of the project. City costs associated with the construction phase include detailed review and approval of the Work Plan and cost estimates, which is time intensive and happens prior to entering into an agreement. City costs for ongoing monitoring and review of any design changes and ongoing inspection of the works is included in this fee. These costs would be included in the agreed-upon Work Plan cost estimate, and the developer would pay this amount to the City as part of the project costs and recover it through their DC credits. This fee is consistent with the City's Subdivision Assumption process.

The administration of credits and reimbursements would happen after construction and would be an ongoing cost to the City that is not covered by a fee. Ideally, the fees would cover the cost of staff time associated with all aspects of entering into and managing an agreement for the duration. Municipalities surveyed for more details on their fee structure explained that the cost to administer their agreements are not fully supported by their fees, and the fees proposed above may not cover the staff time associated with MSFAs. Staff will have a clearer picture of resource requirements after the pilot phase.

The work on MSFAs helps protect the City from financial risk, so it is important to not under-invest in staff time to enter into and manage these agreements. At the same time, if the fees are set at a rate to fully recover estimated costs, they may reduce interest from developers in pursuing this tool to accelerate housing.

The fee structure proposed is based on a combination of Hemson Consulting's analysis of other municipalities' fees for this type of work which vary widely, and an analogous fee structure that currently exists at the City for plan of subdivision agreements.

Phased Implementation

Staff are recommending that the City implement the MSFA Policy using a phased approach for processing applications and agreements after Council approval of the policy. This would mean that the City would work through one agreement from initial application to agreement execution to allow the City time to develop and refine processes as it relates to these agreements. With the lessons learned, staff will report back with any adjustments (if required) prior to further implementation. The phased implementation will also allow time to be appropriately staffed for full implementation and managing other competing housing and affordability priorities.

Credit Rating

City staff met with a representative from S&P to discuss the five criteria that are used when evaluating the City's credit rating. For the reasons outlined below, staff's assessment is there will be minimal impact on the credit rating from entering into MSFAs.

- **Budgetary Performance** – This takes into consideration the schedule of capital expenditures and uses a 5-year average. Mitigation can be achieved by limiting the amount of time a project can be advanced. However, with the scale of the City's overall capital expenditures, advancing projects under a MSFA are not anticipated to impact the credit rating.
- **Financial Management** – This looks at how risk is managed. Mitigation is achieved by establishing a policy and by limiting the City's exposure to unexpected project costs by capping costs at the mutually agreed to Work Plan cost estimate as currently proposed, and the minimum DC credit threshold requirements proposed.
- **Liquidity** – Deferred revenue is not included in the liquidity metric.
- **Debt Burden** – Only rated debt impacts this factor. The obligations under the MSFAs would not be included in the debt burden metric.
- **Economy** – This policy is not anticipated to have a material impact on the broader Canada/Ontario/Guelph economy for the purpose of the credit rating. It may have a positive impact on our local economy by creating additional jobs within our community in the construction sector. At the same time, it could result in additional competition for limited construction resources, driving up pricing for City managed infrastructure projects.

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The City will give up some budgetary flexibility as the timing of payment for the non-growth portion of a project under an MSFA will be locked in when the agreement is executed; this is a trade off in exchange for receiving the benefit of accelerating housing development.

The proposed fee structure provides some resources to support the staff time required to enter into and manage agreements, and the sufficiency of the fees in comparison with the time required will be better understood after the initial pilot phase.

Consultations and Engagement

Staff hosted two consultation sessions to seek feedback on the development of the policy. After each session, attendees were invited to make written submissions for consideration in the development of the policy. Below is a summary of the questions and comments received, and staff responses.

Housing affordability

Staff received a question about whether this policy would help with housing affordability. Increasing the supply of housing should make it easier for purchasers and renters to find suitable housing as it increases the total number of homes on the market, and over the long term, more housing units should have downward pressure on the price of housing as the supply and demand imbalance is corrected.

City controls on entering into agreements

Staff received a question on the controls for entering into agreements. The policy provides for a progressive application process where developers are encouraged to raise their possible interest in an MSFA as early as possible. Once the developer is ready, they can submit an initial application for preliminary staff review. If the application demonstrates merit, the developer will be required to provide additional information including a Work Plan. The additional information will be evaluated and if it continues to show merit, an agreement will be developed for approval. The proposed policy has guardrails to minimize risk where possible, and it is the City's ultimate decision whether or not to enter into an agreement.

How projects will be prioritized

Projects will be evaluated through mandatory criteria and the guiding principles identified in the policy. To prioritize applications, staff will consider the financial impact and housing impact.

Construction meeting City standards

The fee structure provides for funds that cover the cost of City inspections of the project. Moreover, the terms of the MSFA will require the developer to post security for the developer's obligations under the agreement equal to 100 per cent of the estimated total cost of the work. The City's Subdivision Assumption Guidance Manual, as may be amended or replaced by the City from time to time, is to be followed for security reductions prior to assumption of the works.

Development charge exemptions and discounts

The DC Act, and the City's DC By-laws have provisions for exemptions and discounts. The City is required to fund DC exemptions and discounts through non-DC sources. The impact of exemptions or discounts would be evaluated during the MSFA application process.

Demand on ground water supply and health care resources

The growth that the MSFAs would support is included in the growth forecast in the Official Plan and Comprehensive Zoning By-law, and water needs are therefore considered through the existing Water Supply Master Plan. Staff will evaluate the impact of advancing projects and growth on water and wastewater treatment demand through the application process. Staff will evaluate whether other infrastructure would need to be advanced to expand capacity and support the proposed development.

For healthcare resources, the Province provided the municipal growth targets and is responsible for the provision of healthcare resources.

Policy Clarity

Through engagement, including with local developers, staff received comments seeking greater clarity in the policy, below is a summary of the updates:

- Updated the definition of the local service cost to reference our Local Service Policy.
- Updated the wording to provide greater clarity that the Work Plan is used to determine the reasonable amount of the credit.
- Updated the wording to provide greater clarity that the agreement will address the recovery of the non-growth costs.
- Updated the fees section to provide greater clarity about what the fees cover, and when incremental costs will be payable.

Attachments

Attachment-1 Municipal Service and Financing Agreements Policy

Attachment-2 Municipal Service and Financing Agreements Policy Presentation

Departmental Approval

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