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December 20, 2017

British Columbia Utilities Commission
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Attention: Patrick Wruck, Commission Secretary

Dear Mr. Wruck:

**British Columbia Utilities Commission
City of Surrey and FortisBC Energy Inc.
Applications for Approval of Terms for an Operating Agreement
Project No. 1598915**

We are counsel to the City of Surrey ("Surrey") for its application to the British Columbia Utilities Commission ("Commission") requesting an order pursuant to subsection 32(2) of the *Utilities Commission Act* setting terms for an Operating Agreement with FortisBC Energy Inc. ("FEI").

In accordance with Order No. G-163-17, we write to submit Surrey's rebuttal evidence addressing the following matter. Pursuant to Surrey IR 1.3.1 to FEI, we asked FEI to provide references to any regulatory precedents from other jurisdictions FEI is aware of that align with FEI's position on responsibility for upgrade/betterment costs incurred during relocation projects, and in particular that employ the "but for" concept proposed by FEI. FEI's response to that IR does not reference any such regulatory precedents, but it does reference certain City of Surrey By-laws. Although the By-law provisions referenced by FEI are not related to infrastructure relocation projects, and therefore are of limited if any relevance to the issue, FEI incorrectly described the operation of these By-laws. Accordingly, to correct the record with respect to this matter we asked Surrey's Manager, Utilities to explain how upsizing of Surrey infrastructure is actually paid for pursuant to these By-laws when an applicant (typically a developer) is undertaking the work. This rebuttal evidence is enclosed.

Yours very truly,

LAWSON LUNDELL LLP

Ian Webb

Encl.

cc. City of Surrey Legal Services
FEI Counsel

TO: British Columbia Utilities Commission

**FROM: Jeff Arason, P.Eng.
Manager, Utilities**

DATE: December 19, 2017

**RE: Funding Infrastructure Upsizing
Rebuttal of FortisBC Energy Inc. response to
the City of Surrey Information Request No. 1.3.1**

The purpose of this statement is to clarify how upsizing of City of Surrey (“Surrey”) infrastructure is paid for when an applicant (typically a developer) is undertaking the work. This statement corrects the incorrect statements made by FortisBC Energy Inc. (“FEI”) in its response to Surrey Information Request (“IR”) No. 1.3.1.

On Page 19 in Lines 35 through 39 of FEI’s response to the Surrey IR No. 1 (FEI’s response to Surrey IR 1.3.1.), FEI states that

“Surrey has at least two different bylaws requiring a requestor to pay the full cost of work the requestor requires, as well as potentially paying for upsizing the infrastructure to meet future demand/growth for the benefit of others (i.e., betterment)...”.

FEI’s statement above and its interpretations of the City’s Surrey Stormwater Drainage Regulation and Charges Bylaw and the Surrey Sanitary Sewer Regulation and Charges Bylaw on Page 20 in Lines 1 through 33, Page 21 in Lines 1 through 30 and Page 22 in Lines 1 through 8 of its response to Surrey IR No. 1 are not correct.

The Surrey Stormwater Drainage Regulation and Charges Bylaw, 2008, No. 16610 (the “Bylaw”), requires an applicant seeking drainage servicing and needs to extend service to their parcel to do so at their cost. The Bylaw states that:

18. The cost payable by an applicant shall be the actual cost to extend the storm drain or ditch on a legally designated road allowance, from the most convenient existing storm drain or ditch to a point opposite the farthest boundary of the last parcel of land to be served or to such point as the General Manager, Engineering determines is appropriate. In addition, the actual costs of service connection(s) shall be added to and form part of the costs in providing such extension.

There are times that the extension of the service may benefit neighbouring lands. When this situation occurs, the applicant (now also referred to as a Front-ender) is able to recover an equitable portion of the cost from the benefiting lands through a Latecomer Agreement. As defined in the Bylaw, a Latecomer Agreement means:

a written agreement in the form prescribed by the General Manager, Engineering, under which the City agrees to impose a charge on subsequent owners whose real property is benefiting lands and for which there is a front-ender.

The administration of Latecomer Agreements is established through City Policy H-25 and City Policy H-43, copies of which are included in Surrey's Latecomer Procedure Manual attached as Attachment "I". City Policy H-25 relates to extensions of service that result in the installation of infrastructure along the frontage of benefiting properties, such as a sanitary sewer pipe. City Policy H-43 relates to extensions of service that result in the installation of infrastructure that benefits a number of properties in a particular area, such as a sanitary sewer pump station.

A copy of a sample Latecomer Agreement is attached as Attachment "II".

There are also times that in order to service the applicant and the neighbouring lands or beyond, the diameter of the service extension may need to be upsized as the base size normally required to solely service the applicant is insufficient to service the neighbouring lands or beyond. The Bylaw states that:

22. Where the City determines that a storm drain and/or ditch of greater capacity should be installed than is required to provide service to the parcels (including their upstream catchments) for which an application for an extension has been made, such excess capacity shall be provided. The City shall pay the cost of providing such excess capacity in accordance with the current Council policy, but only if:

- (a) the proposed extension does not create an excessive burden for the City; and*
- (b) the required funds are available.*

For greater certainty, the City pays the cost of this upsizing. The City either directly reimburses the applicant for the cost for the upsizing or enters into a Development Cost Charge Front-Ending Agreement with the applicant which establishes how and when the applicant will be reimbursed by the City for these upsizing costs.

A copy of a recent Development Cost Charge Front-Ending Agreement approach authorized by Council is attached as Attachment "III". The related Development Cost Charge Front-Ending Agreement is attached as Attachment "IV".

These extension/upsizing approaches are also established for sanitary sewer infrastructure through the Surrey Sanitary Sewer Regulation and Charges Bylaw, 2008, No. 16611 and for water infrastructure through the Surrey Waterworks Regulation and Charges By-law, 2007, No. 16337.

Attachment "I"	Council Policy H-25 and Council Policy H-43
Attachment "II"	Sample Latecomer Agreement
Attachment "III"	Corporate Report R010, 2013, re. South Newton Drainage Development Cost Charge Front-Ending Agreement
Attachment "IV"	Sample Development Cost Charge Front-Ending Agreement



City of Surrey

LATECOMER PROCEDURE MANUAL

**City of Surrey
Engineering Department**

January 2009



CITY POLICY

No. H-25

REFERENCE:

REGULAR COUNCIL MINUTES
NOVEMBER 24, 2008
CORPORATE REPORT R224

APPROVED BY:**DATE:**

JANUARY 1, 2009

HISTORY:

OCTOBER 3, 2005
FEBRUARY 4, 1991
NOVEMBER 20, 1989

COUNCIL

TITLE: EXCESS OR EXTENDED SERVICES – FRONTAGE LATECOMER AGREEMENTS

1. Where the City has required a developer to provide a highway or water, sewer, or drainage facilities that serves or fronts land other than the land being subdivided or developed, this policy shall apply.
2. The Applicant shall pay all the costs of the road, water, sanitary sewer, or storm sewer extension, and may apply to the City to enter into a Latecomer Agreement in accordance with this policy.
3. Under the Latecomer Agreement, the City shall impose a charge on subsequent owners who obtain physical access to, connect to, front or benefit from the extension. Such charge shall be paid to the City who will, in turn, pay the frontender on a semi-annual basis.
4. The City may pay the cost of upsizing the road, water, storm sewer or sanitary sewer systems, or the provision of additional works not required by the Subdivision & Development By-law, subject to funding availability and policy. The developer shall not be eligible for latecomer benefits on any upsizing or additional component of system extensions paid for by Surrey.
5. The cost of the extension used to determine the latecomer charges shall be based on the actual cost of the extension required to serve the frontender's land in accordance with the standards prescribed in the Subdivision and Development By-law No. 8830. The cost of the extension shall only include the following:
 - (i) land or rights-of-way acquisition costs (only those incurred outside the Applicant's land);

* This policy is subject to any specific provisions of the Local Government Act, or other relevant legislation or Union agreement.

- (ii) actual construction costs;
- (iii) design and inspection costs;

all as certified by a Professional Engineer and as agreed to by the General Manager of Engineering.

The General Manager of Engineering reserves the right to request three public tender prices for costs submitted under Section 5(ii).

6. Within the benefiting lands of a Latecomer Agreement, the road, water, storm, and sanitary latecomer charge per metre shall be calculated from the costs of the works determined in Section 5., divided by the total amount of benefiting frontage.
7. All latecomer charges collected by the City, will be paid semi-annually to the frontender. No payment shall be made after the Latecomer Agreement has expired. The total amount paid to any frontender under the Latecomer Agreement during the entire term of the Agreement shall not exceed the total cost of the extension plus accumulated interest minus the frontender share of the costs.
8. All lands that were connected to the City system adequate for the existing Zone and use prior to a Latecomer Agreement are exempt from latecomer charges except where a new or larger connection is applied for.
9. A property owner who already had an existing connection to a road, or already fronted a Municipal main of adequate size and capacity for the intended land use prior to the date of a Latecomer Agreement is exempt from all payments under Section 3 for those works that were already connected unless the property is developed to a higher density.
10. Exempt properties shall not be taken into account when calculating the total amount of benefiting frontage.
11. The latecomer charges shall be escalated by an interest rate prescribed in the Surrey Subdivision and Development By-law No. 8830. The accumulation of interest shall be compounded annually on the anniversary date of the completion of the extension.
12. An owner within the benefiting lands shall pay, at the time of application for connection, a latecomer charge equal to the unit latecomer charge, multiplied by the benefiting frontage for that lot unless waived from the Latecomer Agreement by the Applicant.
13. The Applicant may choose to waive or eliminate latecomer charges for certain lands within the benefiting land. Waived properties shall be taken into account when calculating the total amount of benefiting frontage.

* This policy is subject to any specific provisions of the Local Government Act, or other relevant legislation or Union agreement.

TITLE: EXCESS OR EXTENDED SERVICES – FRONTAGE LATECOMER AGREEMENTS

H-25 (3)

14. The term of the Latecomer Agreement shall not exceed 15 years; however, the Latecomer Agreement shall become null and void when all extension costs have been collected and paid to the frontender.
15. No provision of this policy shall be deemed to exempt any land from payment of frontage taxes, development cost charges or any like charges or fees imposed by any by-law of the City.
16. No provision of this policy shall be deemed to be held to limit or restrict the City Council from exercising full jurisdiction and control over the operations of the extended Municipal system, nor shall it exempt any person receiving service thereby from any regulation, order or By-law of the Municipality.
17. If a developer has entered into a Servicing Agreement, or has commenced construction of works prior to the application for Latecomer Agreement, they shall be deemed to have forfeited their right to receive latecomer benefits.
18. The General Manager of Engineering is authorized to adopt a procedure which implements this policy.
19. See the Engineering Department document titled "Latecomer Procedure Manual" for a definition of terms used in this policy.

* This policy is subject to any specific provisions of the Local Government Act, or other relevant legislation or Union agreement.



CITY POLICY

No. H-43

REFERENCE:	APPROVED BY:	CITY COUNCIL
REGULAR COUNCIL MINUTES NOVEMBER 24, 2008 CORPORATE REPORT R224	DATE:	JANUARY 1, 2009
	HISTORY:	OCTOBER 3, 2005 MARCH 27, 1995

TITLE: EXCESS OR EXTENDED SERVICES - AREA LATECOMER AGREEMENTS

1. Where the City has required a developer to provide a sanitary sewer pump station or drainage pump station and/or related appurtenances that serves land other than the land being subdivided or developed, this policy shall apply.
2. The Applicant shall pay all the costs of the Works and may apply to the City to enter into an Area Latecomer Agreement in accordance with this policy.
3. Under the Area Latecomer Agreement, the City shall impose a charge on subsequent owners who obtain benefit from the Works. Such charge shall be paid to the City who will, in turn, pay the frontender on a semi-annual basis.
4. The City may pay the cost of upsizing the Works, or the provision of additional works not required by the Subdivision & Development By-law No. 8830, subject to funding availability and policy. The developer shall not be eligible for latecomer benefits on any upsizing or additional component of system extensions paid for by Surrey.
5. The cost of the Works used to determine the latecomer charges shall be based on the actual cost of the Works required to serve the frontender and benefiting lands in accordance with the standards prescribed in the Subdivision and Development By-law No. 8830. The cost of the extension shall only include the following:
 - (i) land or rights-of-way acquisition costs (only those incurred outside the Applicant's land);
 - (ii) actual construction costs;
 - (iii) design and inspection costs for the works;

all as certified by a Professional Engineer and as agreed to by the General Manager of Engineering.

* This policy is subject to any specific provisions of the Local Government Act, or other relevant legislation or Union agreement.

The General Manager of Engineering reserves the right to request three public tender prices for costs submitted under Section 5(ii).

6. Within the benefiting lands of an Area Latecomer Agreement, the latecomer charge per hectare shall be calculated from the costs of the work determined in Section 5., divided by the total amount of gross developable benefiting area.
7. All latecomer charges collected by the City, will be paid semi-annually to the frontender. No payment shall be made after the Area Latecomer Agreement has expired. The total amount paid to any frontender under the Area Latecomer Agreement during the entire term of the Agreement shall not exceed the total cost of the extension plus accumulated interest, minus the frontender share of the costs.
8. All lands that were connected to City system adequate for the existing Zone and use prior to an Area Latecomer Agreement are exempt from latecomer charges.
9. Exempt properties shall not be taken into account when calculating the total amount of benefiting area.
10. The latecomer charges shall be escalated by an interest rate prescribed in the Surrey Subdivision and Development By-law No. 8830. The accumulation of interest shall be compounded annually on the anniversary date of the completion of the extension.
11. An owner within the benefiting lands shall pay, at the time of Rezone, or Subdivision, or application for connection, a latecomer charge equal to the unit latecomer charge, multiplied by the benefiting area for that lot unless waived from the Area Latecomer Agreement by the Applicant.
12. The Applicant may choose to waive or eliminate latecomer charges for certain lands within the benefiting lands. Waived properties shall be taken into account when calculating the total amount of benefiting area.
13. The term of the Area Latecomer Agreement shall not exceed 15 years; however, the Area Latecomer Agreement shall become null and void when all works costs in excess of the frontender costs have been collected and paid to the frontender.
14. No provision of this policy shall be deemed to exempt any land from payment of frontage taxes, development cost charges or any like charges or fees imposed by any by-law of the City.

* This policy is subject to any specific provisions of the Local Government Act, or other relevant legislation or Union agreement.

**TITLE: EXCESS OR EXTENDED SERVICES – AREA
LATECOMER AGREEMENTS**

H-43 (3)

15. No provision of this policy shall be deemed to be held to limit or restrict the City Council from exercising full jurisdiction and control over the operations of the extended Municipal system, nor shall it exempt any person receiving service thereby from any regulation, order or By-law of the City.
16. If a developer has entered into a Servicing Agreement or has commenced construction of works prior to the application for an Area Latecomer Agreement, they shall be deemed to have forfeited their right to receive latecomer benefits.
17. The General Manager of Engineering is authorized to adopt a procedure which implements this policy.
18. See the Engineering Department document titled "Latecomer Procedure Manual" for a definition of terms used in this policy.

* This policy is subject to any specific provisions of the Local Government Act, or other relevant legislation or Union agreement.



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Attachments

- A. Latecomer Process Flowchart
- B. Latecomer Application
- C. Latecomer Graphic – Schedule “A”
- D. Latecomer Rate Calculation – Schedule “B”
- E. Latecomer Summary Table – Schedule “C”



1.0 DEFINITIONS

“BENEFITING LANDS” are lands that directly front the extended services and directly benefit from the construction of the works.

“CONSULTING ENGINEER/CONSULTANT” is the professional engineer of record hired by the developer to design and inspect the construction of the extended services.

“DEVELOPER/FRONT ENDER” is the person who constructs the extended services, executes the Latecomer Agreement and represents the Front-End lands shown on the Latecomer Graphic.

“EXCESS CAPACITY” relates to a request by the City to construct water, sanitary sewer and/or storm drainage works above the requirements of the City’s Design Criteria Manual, and where upsizing costs are directly paid by the City.

“EXEMPT/EXCLUDED LANDS” are lands that directly front the extended services, but which cannot be assessed a latecomer fee as determined by the City. These may include, but are not limited to, Federal, Provincial, First Nations and Railway lands, plus lands that have previously paid a cash-in-lieu of construction contribution.

“EXTENDED SERVICES” are water, sanitary sewer, storm drainage and/or roadworks which front and directly benefit other lands with development potential and are not included in the City’s DCC Bylaw.

“FRONTAGE” means the length of land measured in metres that directly fronts the extended services.

“LATECOMER” is the registered owner of lands that front and directly benefit from the construction of the extended services.

“NON-BENEFITING LANDS” are lands that directly front the extended services, but which have been previously developed or have no future development potential. These may include, but are not limited to, ALR lands, dedicated park, environmental protected lands, and excluded lands as determined by the City.

“SUBSTANTIALLY COMPLETE” is the issuance of a Substantial Completion Certificate by the City.

“WAIVED LANDS” are lands that directly front the extended services, but the Developer has chosen to waive or eliminate from latecomer charges.



2.0 GENERAL

- 2.1 The City of Surrey provides a number of cost recovery mechanisms to the development industry to partially recover infrastructure servicing costs associated with developing property within the City.
- 2.2 This manual provides information on the process used for determining and collecting latecomer fees.
- 2.3 The process flowchart, included as Attachment A, will assist Consulting Engineers and Developers with understanding the essence of the latecomer process.
- 2.4 Latecomer process applies to extended services required by the City in conjunction with the land development process, building permit or extension of services.
- 2.5 **All Latecomer Agreements are subject to the approval of the General Manager of Engineering.** The General Manager may approve variations in these procedures for specific circumstances.

3.0 REVIEW / ELIGIBILITY

- 3.1 Developer/Consulting Engineer requests the City to review the eligibility for a latecomer cost recovery.
- 3.2 City confirms the Developer is required to provide the extended services, and that the works are **not included** in a DCC Bylaw.
- 3.3 City has a separate process for excess capacity works, where applicable. The upsizing payment determined by the City is included in a Servicing Agreement and payment is made when the works are substantially complete.

4.0 APPLICATION

- 4.1 Developer, in conjunction with the Consulting Engineer, applies for a Latecomer Agreement by paying the administration fee and submitting the signed Latecomer Application together with the Latecomer Graphic (Schedule “A”), Latecomer Rate Calculation (Schedule “B”), and Latecomer Summary Table (Schedule “C”). Refer to Attachments B through E. A separate application is made for each infrastructure component.
- 4.2 Latecomer Graphic includes:
- Scale of 1:2500 using Surrey’s GIS base and professional drawing standards
 - Extended services - show all works on one drawing



- Benefiting lands including front-end lands (Developer) and waived lands with frontages for each parcel
- Non-benefiting lands including previously developed lands, non-developable lands and exempt/excluded lands with frontages for each parcel.

4.3 Latecomer Rate Calculation includes:

- Total latecomer pre-construction cost estimate
- Eligible costs can include:
 - Actual construction costs
 - Engineering design, inspection and administration (maximum 12%)
 - Independent testing, GST less rebates, land acquisition (excluding fees)
 - Specialist consulting services, where pre-approved by the City
- Ineligible costs include:
 - Legal, planning, and City fees
 - Construction delays and interest or carrying costs during construction
 - Advertising, communication costs
 - Service connection costs
- Total benefiting frontage
- Latecomer rate calculation, which is the total latecomer cost divided by the total benefiting frontage
- Professional Engineer Certification.

4.4 Latecomer Summary Table includes:

- Civic address and legal description of each benefiting parcel, including waived lands
- Frontage for each parcel
- Estimated latecomer charge for each parcel assessed latecomers
- Professional Engineer Certification.



5.0 APPROVAL

- 5.1 City advises the Developer of approval and references the latecomer application in the Servicing Agreement.

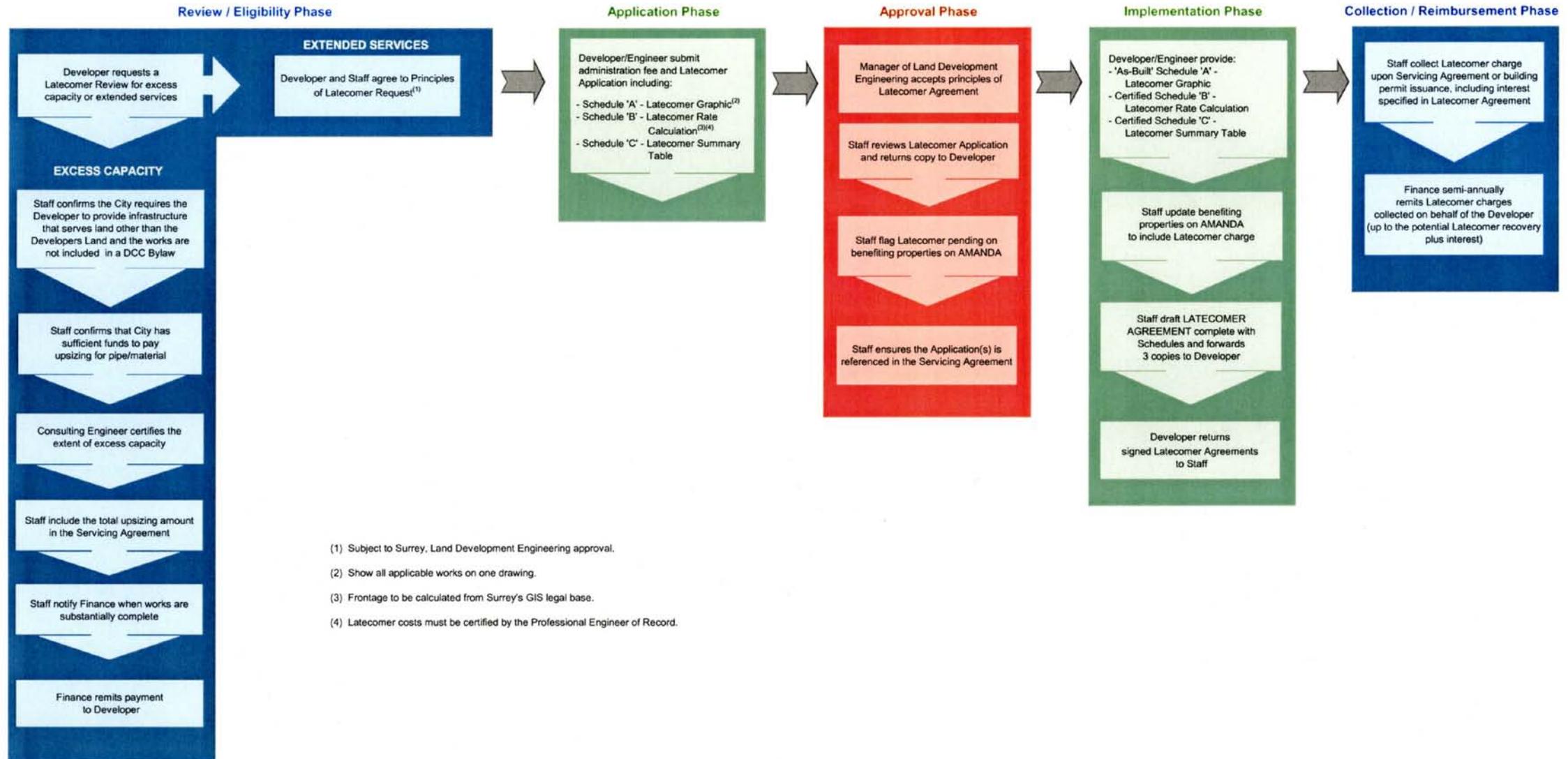
6.0 IMPLEMENTATION

- 6.1 The latecomer properties are flagged as latecomer application pending in accordance with the Latecomer Summary Table.
- 6.2 Developer constructs the extended services.
- 6.3 Consulting Engineer re-submits to the City as built Schedule “A”, and certified Schedules “B” and “C” within 90 days of the Building Permit process date for the development.
- 6.4 City prepares the Latecomer Agreement, complete with the certified schedules, and forwards it to the Developer for execution. It is important to note that **the development Substantial Completion Certificate will not be released by the City until the signed Latecomer Agreement is returned to the City by the Developer.**
- 6.5 Interest, as determined by the City, is calculated from the date on the Latecomer Agreement.
- 6.6 The latecomer properties are flagged with the certified latecomer charge(s) in accordance with the Latecomer Summary Table(s).

7.0 COLLECTION/REIMBURSEMENT

- 7.1 City collects certified latecomer charges upon execution of a Servicing Agreement or issuance of a Building Permit on the latecomer properties.
- 7.2 City forwards, on a semi-annual basis, to the Developer payments collected up to the maximum of the net recovery costs specified in the Latecomer Agreement, plus interest, to the end of the term of the agreement (10 years from the date of the agreement).

Latecomer Process



- (1) Subject to Surrey, Land Development Engineering approval.
- (2) Show all applicable works on one drawing.
- (3) Frontage to be calculated from Surrey's GIS legal base.
- (4) Latecomer costs must be certified by the Professional Engineer of Record.



LATECOMER APPLICATION

Date: _____

Land Development Project No.: _____

Consultant File No.: _____

Developer: Name _____
Address _____
Phone No. _____
Contact _____

Consultant: _____

Works: Water Storm Sewer
 Sanitary Sewer Roads

Summary: Total Latecomer Costs _____
Total Benefiting Frontage _____
Latecomer Rate _____

Signature: Professional Engineer of Record _____
Name Signature
Developer _____
Name Signature

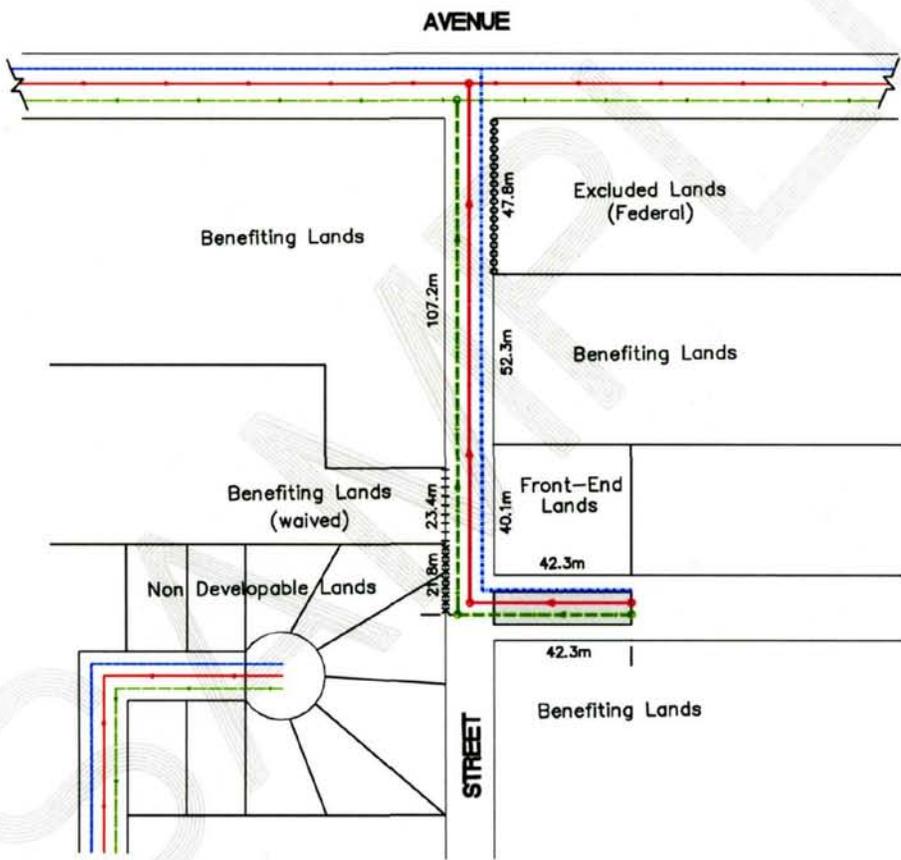
Schedules A Latecomer Graphic
B Latecomer Rate Calculation
C Latecomer Summary Table

Notes:

The City of Surrey will consider entering into a Latecomer Agreement subject to:

- Conformance with the City of Surrey Latecomer Manual.
- Approval by the Manager of Land Development Engineering or the Land Development Engineer.
- Completion of the works to the satisfaction of the City, and submission of final certified scope and costs prior to issuance of the Substantial Completion Certificate.
- The entering into a Latecomer Agreement with the City of Surrey.

Schedule "A" Latecomer Graphic



- LEGEND**
- Proposed Storm Sewer
 - Proposed Sanitary Sewer
 - Proposed Water Main
 - Existing Storm Sewer
 - Existing Sanitary Sewer
 - Existing Water Main
 - Waived Lands
 - Non Developable Lands
 - Exempt/Excluded Lands
 - Proposed Road

CITY OF SURREY	
Front-End Developer :	-
Engineering Consultant :	-
SCALE : 1:2000	Land Development File No. -
As Built :	Latecomer Application No. -



SCHEDULE "B"

LATECOMER RATE CALCULATION

Land Development Project No.: _____

- Water
 Sanitary Sewer
 Storm Sewer
 Roads

1. Latecomer Costs

	Pre Construction Estimate	Post Construction Certified
A. Construction Costs (attach detailed costs as required)		
Construction Costs	_____	_____
GST	_____	_____
Total Construction Costs	_____	_____
B. Engineering Costs		
Engineering Services	_____	_____
GST	_____	_____
City Inspection	_____	_____
Total Engineering Costs	_____	_____
C. Other Consultant Costs (attach details as required)		
Other Consultant Costs	_____	_____
GST	_____	_____
Total Consultant Costs	_____	_____
D. Land / Right-of-Way Acquisition (attach details as required)		
Total Land Costs	_____	_____
Total Latecomer Costs		

2. Frontage

	Pre Construction Estimate	Post Construction Certified
A. Benefiting Lands		
Front-Ender (metres)	_____	_____
Latecomer (metres)	_____	_____
Waived (metres)	_____	_____
Total Benefiting Frontage		

3. Latecomer Rate

Latecomer Rate = $\frac{\text{Total Latecomer Costs}}{\text{Total Benefiting Frontage}}$ =

By affixing my seal and signing below, I _____ certify, represent and warrant that the information and calculations set out herein are correct. I also acknowledge and agree that the City of Surrey may rely on the information and calculations set out herein.

Professional Engineer Certification / Seal

 Professional Engineer Signature Date



SCHEDULE "C" LATECOMER SUMMARY TABLE

Parcel	Civic Address	Legal Description	Pre-Construction Estimate			Post Construction Certified		
			Waived Frontage	Latecomer Frontage	Latecomer Charge	Waived Frontage	Latecomer Frontage	Latecomer Charge
1								
2								
3								
4								
5								
6								
7								
TOTAL								

By affixing my seal and signing below, I _____ certify, represent and warrant that the information and calculations set out herein are correct. I also acknowledge and agree that the City of Surrey may rely on the information and calculations set out herein.

Professional Engineer Certification / Seal _____
 Professional Engineer Signature _____ Date _____

City Records / Data Entry

Application Pending Flag

Entered by:

Date:

Certified Agreement

Entered by:

Date:

LATECOMER AGREEMENT

FILE: 5813-0065-00-1

THIS AGREEMENT made this 27 day of August A.D., 2014; (the "Commencement Date").

BETWEEN:

CITY OF SURREY, 13450 – 104 Avenue, City of Surrey,
Province of British Columbia, V3T 1V8

(the "City")

OF THE FIRST PART

AND:

0969566 BC Ltd.
18525 53 AVE Unit 216
Surrey BC V3S 7A4

(the "Frontender")

OF THE SECOND PART

WHEREAS:

- A. The Frontender intends to subdivide or develop certain lands in the City of Surrey (the "Frontender's Lands").
- B. The Frontender has retained a British Columbia accredited Professional Engineer (the "Frontender's Engineer") to prepare the necessary Schedules in a form acceptable to the City which will be appended to and which will form part of this Agreement.
- C. The City pursuant to s. 939 of the *Local Government Act*, R.S.B.C. 1996, c. 323, as amended, has required the Frontender to provide certain excess or extended services (the "Excess and/or Extended Services"), which serve parcels of land other than the Frontender's Lands (the "Benefiting Lands").
- D. The City may impose, as a condition on an owner of Benefiting Lands connecting to or using the Excess and/or Extended Services, a charge for such connection or use (the "Latecomer Charge").

NOW THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), it is agreed by and between the parties hereto as follows:

- 1. The City shall determine the proportion of cost of the highway or water or sewage or drainage facilities that it considers Excess and/or Extended Services.
- 2. The City shall determine which part of the Excess and/or Extended Services will benefit each parcel of land that will be served by the Excess/Extended Works and Services.
- 3. The location, extent and description of the Excess and/or Extended Services, the Frontender's Lands and the Benefiting Lands are set out on Schedule "A" which is attached and which forms part of this Agreement.

4. The project cost, latecomer frontage and latecomer rate calculation are set out on Schedule "B" which is attached and which forms part of this Agreement.
5. The parcels of land which comprise the Benefiting Lands are set out on Schedule "C" which is attached and which forms part of this Agreement.
6. The amount of the Latecomer Charge shall be determined by the City in its sole and absolute discretion. In determining the Latecomer Charge the City may rely on Schedules "A", "B" and "C".
7. The Frontender acknowledges and agrees that Schedules "A", "B" and "C" have been prepared and have been certified as correct by the Frontender's Engineer and have been provided to the City on the understanding that they will be relied upon by the City and that the City has no obligation to verify, investigate or confirm their accuracy or completeness.
8. The amount of total benefiting frontage (the "Total Benefiting Frontage") is 302.60 metres as set out on Schedule "B".
9. The total cost of the Excess and/or Extended Services (the "Total Latecomer Cost") is \$41,033.00 as set out on Schedule "B".
10. The Latecomer Charge on a per metre basis of Total Benefiting Frontage is \$135.60 as set out in Schedule "B".
11. The Latecomer Charge shall be adjusted to include annual interest at a rate established by by-law and calculated from the Commencement Date up to the date that the connection is made to or the use begins by an owner of Benefiting Lands.
12. The term of this Agreement (the "Term") shall be a maximum of fifteen (15) years commencing on the Commencement Date and ending on the earlier of:
 - (i) August 26, 2029; or
 - (ii) full cost of recovery from all Benefiting Lands listed on Schedule "C".
(the "Expiry Date")
13. During the Term, the City agrees to impose a Latecomer Charge calculated in accordance with this Agreement on an owner of Benefiting Lands listed on Schedule "C" who seeks to connect to or use the Excess and/or Extended Services.
14. During the Term, the Latecomer Charge shall be collected by the City at the time an owner of Benefiting Lands listed on Schedule "C" applies to connect to or use the Excess and/or Extended Services. The Latecomer Charges collected by the City shall then be paid twice annually to the Frontender following receipt by the City.
15. The City's obligation to impose and collect Latecomer Charges and make payment to the Frontender under this Agreement shall cease on the Expiry Date.
16. The City shall forward payment of the Latecomer Charges collected under this Agreement by the City to the Frontender, at the address of the Frontender as set forth herein or at such other address as the Frontender shall provide in writing by registered mail. If the said payments are returned to the City unclaimed by the Frontender and if the City is unable to locate the Frontender after reasonable efforts, then the City shall hold all monies collected until the Expiry Date. After the Expiry Date, all such unclaimed funds shall be retained forever by the City and the City's

obligation to forward such funds to the Frontender shall be discharged in full.

17. The rights of the Frontender under this Agreement cannot be assigned or transferred.
18. (a) The Frontender hereby covenants and agrees to remise, release and forever discharge the City, its officers, elected and appointed officials, councillors, agents, suppliers and employees of, from and against any and all claims, actions, liabilities, causes of actions, demands, rights, damages, losses, costs, debts, expenses and compensation whatsoever, whether at law or in equity and whether known or unknown, suspected or unsuspected (hereinafter individually and collectively referred to as "Claims") which the Frontender or its successors or assigns has with respect to or which have resulted, either directly or indirectly, from:
 - (i) inaccuracies or omissions contained in Schedules "A", "B" and "C" of this Agreement;
 - (ii) unclaimed payments to the Frontender; or
 - (iii) the failure by the City to verify, investigate or confirm the correctness, completeness or accuracy of Latecomer Charges and Schedules "A", "B" and "C".
- (b) The Frontender hereby covenants and agrees to indemnify the City of, from and against any and all Claims which relate or which are in any way attributable to, either directly or indirectly, to:
 - (i) inaccuracies or omissions contained in Schedules "A", "B" and "C" of this Agreement;
 - (ii) unclaimed payments to the Frontender; or
 - (iii) legal proceedings commenced by a third party in respect of latecomer payments or the failure by the City to verify, investigate or confirm the correctness, completeness or accuracy of Latecomer Charges and Schedules "A", "B" and "C".
19. The Frontender covenants, represents and warrants that Schedules "A", "B" and "C" are complete and accurate and as such may be relied upon by the City.
20. The Frontender further covenants, represents and warrants that Schedules "A", "B" and "C" have been certified as correct by the Frontender's Engineer.
21. Paragraphs 18, 19 and 20 of this Agreement and the covenants, representations, warranties and certifications of the Frontender and the Frontender's Engineer contained herein shall survive termination of this Agreement.
22. IT IS MUTUALLY UNDERSTOOD, agreed and declared by and between the parties hereto that:
 - (a) the City has made no representations, covenants, warranties, guarantees, promises or agreements (oral or otherwise) with the Frontender other than those contained in this Agreement;
 - (b) nothing contained or implied herein shall prejudice or affect the rights of the City in the exercise of its functions under any public and private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Benefiting

Lands and the Frontender's Lands as if this Agreement had not been entered into;

- (c) wherever the singular or masculine is used herein, the same shall be construed as meaning the plural, feminine or the body corporate or politic where the context of the parties so require and, where the Frontender consists of more than one person, the term "Frontender" shall mean all such persons jointly and severally;
- (d) this Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrator, successors and assigns; and
- (e) the parties hereto shall do and cause to be done all things and execute and cause to be executed all documents which may be necessary to give proper effect to the intention of this Agreement.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands on the day and year first above written.

CITY OF SURREY
by its authorized signatory



General Manager, Engineering
by his Authorized Designate, Sam Lau, P.Eng.
Manager, Land Development

0969566 BC Ltd.
by its authorized signatory(ies)



Signature

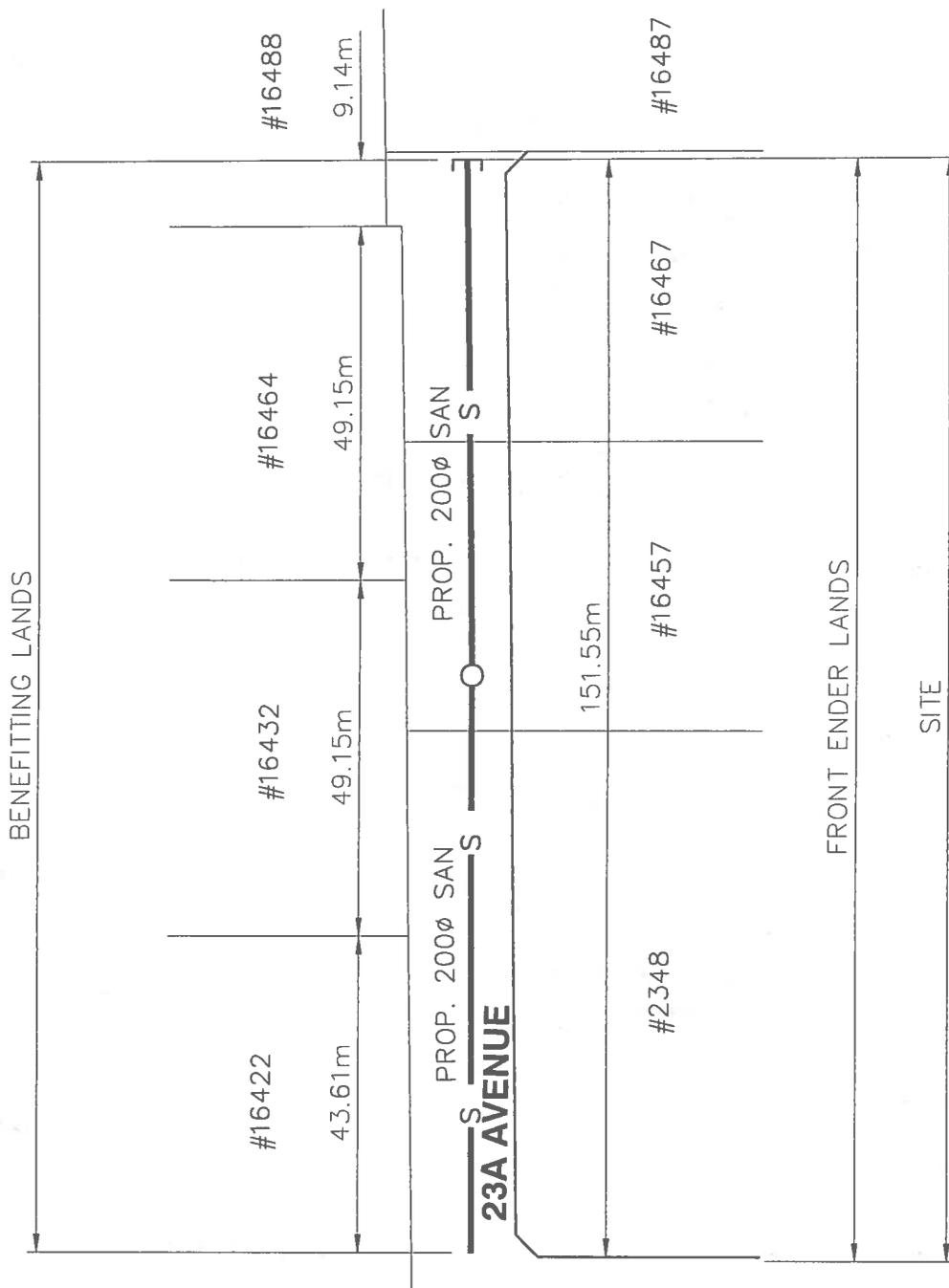


Print Name

LR1

SCHEDULE "A"

Latecomer Graphic



164 STREET

AS CONSTRUCTED

LEGEND

- PROPOSED STORM SEWER
- PROPOSED SANITARY SEWER
- PROPOSED WATER MAIN
- PROPOSED ROAD
- EXISTING STORM SEWER
- EXISTING SANITARY SEWER
- EXISTING WATER MAIN
- WAIVED LANDS
- NON DEVELOPABLE LANDS
- EXEMPT/EXCLUDED LANDS

CITY OF SURREY

FRONT-END DEVELOPER: 0969566 B.C. LTD.

ENGINEERING CONSULTANT: APLIN & MARTIN CONSULTANTS LTD.

SCALE: 1:1000

LAND DEVELOPMENT FILE No.
7813-0065-00

AS BUILT: AUGUST 15 2014

LATECOMER APPLICATION No.
5813-0065-00-1

SCHEDULE "B" LATECOMER RATE CALCULATION

Land Development Project No.: 7813-0065-00

Water
 Sanitary Sewer
 Storm Sewer
 Roads

		Pre Construction Estimate	Post Construction Certified
1.	Latecomer Costs		
A.	Construction Costs (attach detailed costs as required)		
	Construction Costs	37,819.00	33,100.00
	GST (5%)	1,891.00	1,655.00
	Total Construction Costs	39,710.00	34,755.00
B.	Engineering Costs		
	Engineering Services	4,538.00	4,538.00
	GST (5%)	227.00	227.00
	City Inspection (4%)	1,513.00	1,513.00
	Total Engineering Costs	6,278.00	6,278.00
C.	Other Consultant Costs (attach details, as required)		
	Other Consultant Costs		
	GST		
	Total Consultant Costs	0.00	0.00
D.	Land / Right-of-Way Acquisition (attach details as required)		
	Total Land Costs	0.00	0.00
	Total Latecomer Costs	\$ 45,988.00	\$ 41,033.00
2.	Frontage	Pre Construction Estimate	Post Construction Certified
A.	Benefiting Lands		
	Front-Ender (metres)	151.55	151.55
	Latecomer (metres)	151.05	151.05
	Waived (metres)		
	Total Benefiting Frontage	302.60	\$ 302.60
3.	Latecomer Rate		
	Latecomer Rate =	$\frac{\text{Total Latecomer Costs}}{\text{Total Benefiting Frontage}} =$	$\frac{\$ 45,988.00}{\$ 302.60} =$
		\$ 151.98	\$ 135.60

By affixing my seal and signing below, I Derek D. Hull certify, represent and warrant that the information and calculations set out herein are correct. I also acknowledge and agree that the City of Surrey may rely on the information and calculations set out herein.

Professional Engineer Certification / Seal _____
 Professional Engineer Signature _____ Date _____



December 05, 2014

The City of Surrey
Schedule "C"
Lands Within Benefitting Area Affected by Latecomer Agreement

Project File: 7813-0065-00
Latecomer File: 5813-0065-00-1

Legal Description	Registered Property Owners	Civic Address	Frontage	Tax Roll Number
LT 2 A 6 1&2 NE SEC 13 T1 PL 19720	0949048 Bc Ltd	16488 24 Ave	9.14	5134010043
LT 27 NE SEC 13 T1 PL 36854 (EX 38725)	Karolina Skerget	16464 24 Ave	49.15	5134260023
LT 28 NE SEC 13 T1 PL 36854 (EX 38725)	0949048 Bc Ltd	16432 24 Ave	49.15	5134270028
LT 29 NE SEC 13 T1 PL 36854 (EX 38725)	0949048 B C Ltd	16422 24 Ave	43.61	5134280022

NO: **R010**

COUNCIL DATE: **January 28, 2013**

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **January 24, 2013**

FROM: **General Manager, Engineering**

FILE: **7812-0328-00**

XC: **8312-0328-00-1**

SUBJECT: **South Newton Drainage Development Cost Charge Front-Ending Agreement – McLeod Pond**

RECOMMENDATION

The Engineering Department recommends that Council authorize the execution of a Drainage Development Cost Charge (DCC) Front-Ending Agreement to an upset limit of \$1.25 million, including HST, with McLeod Pond Development Inc. (the front-ending Developer) as the means by which to reimburse the Developer from Drainage DCCs collected by the City from other developments in the benefiting area (as illustrated on the map attached as Appendix I) some of the costs that the Developer will incur in constructing the McLeod community detention pond on City parkland at 6306 - 140 Street.

INTENT

The purpose of this report is to obtain Council's approval for use of a Development Cost Charge Front-Ending Agreement (DCCFEA) as a means by which to reimburse the front-ending Developer for some of the costs associated with the construction of McLeod detention pond at 6306 - 140 Street.

DISCUSSION

To mitigate the drainage impacts associated with development in the Hyland Creek catchment, the Servicing Strategy in the South Newton Neighbourhood Concept Plan (NCP) as approved by Council on June 14, 1999, included a number of stormwater detention ponds. The Hyland Creek Integrated Stormwater Management Plan (ISMP) completed in 2005 confirmed the need for detention ponds along with the application of on-site drainage best management practices to mitigate the stormwater impacts of new development.

At its Regular Council Land Use meeting on February 6, 2012, Council considered Planning Report 7905-0300-00 and approved a recommendation that the South Newton NCP be amended by relocating detention pond P4B from the lot at 6154 - 140 Street to the parkland at 6306 - 140 Street. This relocation was necessary based on topographical and riparian area constraints at the site on which the pond was originally proposed to be constructed.

In the past year, City staff initiated the design of the proposed pond. The scope of the design assignment included a review of the feasibility of implementing ponds P4A and P1C proposed at 13925 - 62 Avenue and 6185 - 140 Street, respectively, (as illustrated on the map attached as Appendix I) as part of a larger detention pond at a single location. Based on this review, it was determined that a single community pond located on parkland at 6306 - 140 Street would be the most cost effective approach to providing stormwater detention for the catchment area based on the mitigation targets documented in the South Newton NCP and the Hyland Creek ISMP. The review included land use impacts, funding mechanisms, topographical constraints, riparian area constraints and impacts to forest cover. The subject ponds are all part of the 10-Year Servicing Plan and are to be funded by drainage DCCs.

The construction of the proposed pond can be managed in two phases with 50% of the pond's capacity being constructed as the first phase and the remaining 50% of the pond's capacity being constructed as a second phase.

A developer, McLeod Pond Development Inc. (the "Developer"), has agreed to construct the first phase of the pond subject to the City executing a DCCFEA. The Developer intends to fund and complete the construction of the works within 12 months of the DCCFEA being executed. The DCCFEA will provide that the City will recover, on behalf of the Developer, the costs of constructing the pond up to a maximum limit of \$1.25 million from the drainage DCCs collected within the next 15 years from development in the benefiting catchment area (as illustrated on the map attached as Appendix I). The Developer has agreed to cover any costs related to the construction of the pond above \$1.25 million including HST.

The Engineering Department is satisfied that the DCC front-ending agreement as proposed in this report will not affect the orderly implementation of other drainage works in the South Newton area.

The use of Drainage DCCs to fund construction of the proposed pond is consistent with the provisions of the Local Government Act regarding Development Costs Recovery. Furthermore, the use of a Drainage DCCFEA, as recommended in this report, is in keeping with Corporate Report No. S980;1997 endorsed by Council October 6, 1997 recommending the use of DCCFEA as a means of financing implementation of 10 Year Infrastructure Plan items specified in approved NCPs.

The DCCFEA will be reviewed by Legal Services prior to its execution.

SUSTAINABILITY CONSIDERATIONS

The proposed drainage works to which this report refers support the Economic and Environmental Pillars of the City's Sustainability Charter; more particularly, the following goals:

- EC3: Sustainable Infrastructure Maintenance and Replacement – by minimizing initial and long term maintenance costs;
- EN8: Sustainable Engineering Standards and Practices – by ensuring low impact development measures are implemented in the subject catchment;

- EN9: Sustainable Land Use Planning and Development Practices – by minimizing the land required to implement infrastructure and securing a sustainable funding approach to infrastructure implementation; and
- EN12: Enhance and Protect Natural Areas, Fish Habitat and Wildlife Habitat – by mitigating stormwater impacts on natural watercourses.

FUNDING

The construction of the subject pond will be front-ended by the Developer. The proposed DCCFEA, which has a term of 15 years, will allow the Developer to recover some of the costs of constructing the pond and related infrastructure from drainage DCCs collected from other development in the benefiting area (as illustrated on the map attached as Appendix I). The DCCFEA does not include any commitment with respect to the timing or phasing of other development in the benefiting area, but rather states that when a development in the benefiting area pays Drainage DCCs that the City will provide a reimbursement from such DCCs to the Developer subject to such development occurring within 15 years of the execution of the DCCFEA.

CONCLUSION

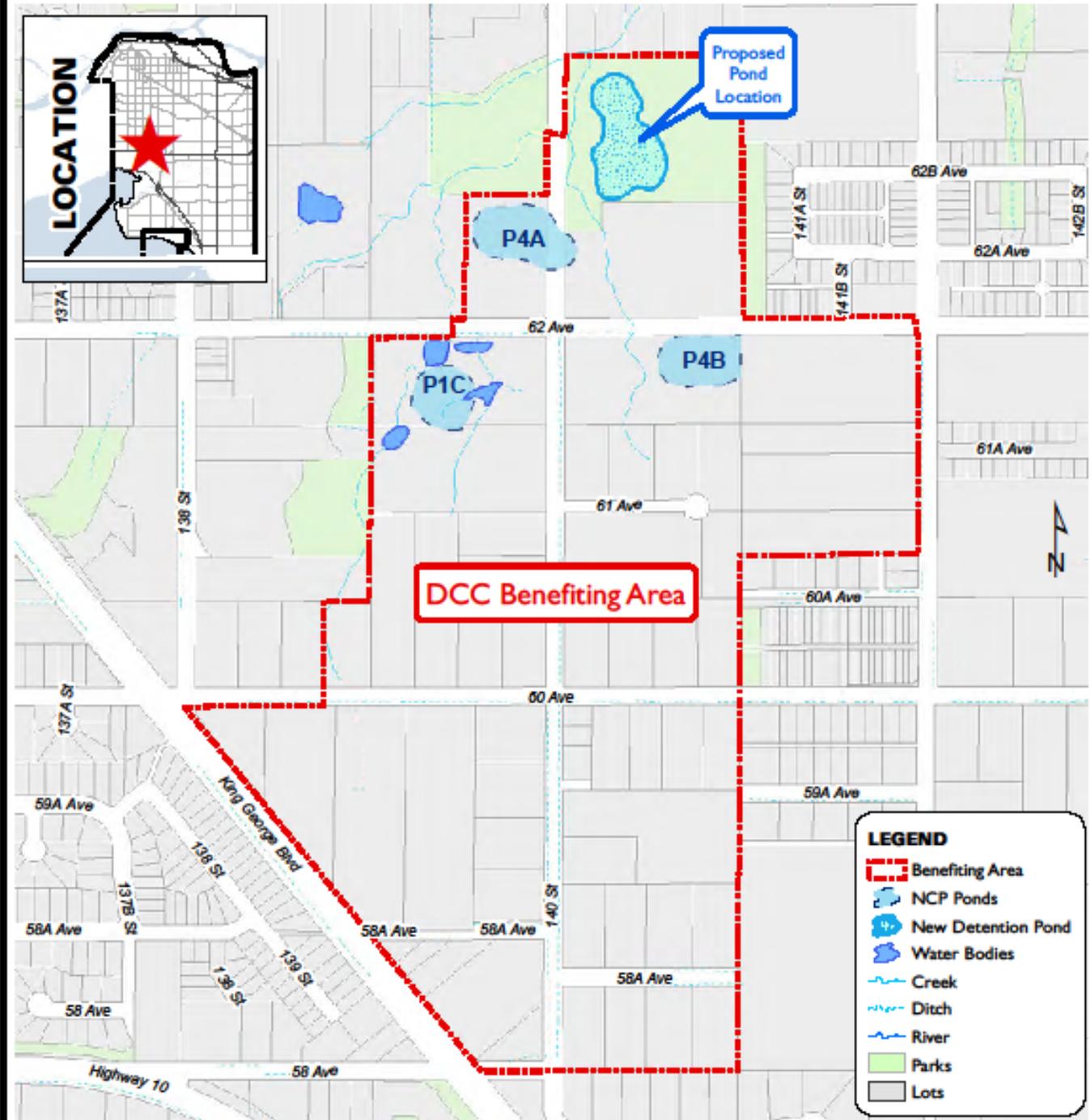
Based on the above discussion, it is recommended that Council authorize the execution of a Drainage Development Cost Charge (DCC) Front-Ending Agreement to an upset limit of \$1.25 million, including HST, with McLeod Pond Development Inc. (the front-ending Developer) as the means by which to reimburse the Developer from Drainage DCCs collected by the City from other developments in the benefiting area (as illustrated on the map attached as Appendix I) some of the costs that the Developer will incur in constructing the McLeod community detention pond on City parkland at 6306 - 140 Street.

Vincent Lalonde, P.Eng.
General Manager, Engineering

SSL/JA/RD/brb

Appendix I – Benefiting Area

APPENDIX I SITE MAP



Produced by GIS Section: 08-Jan-2013, C6S



McLeod Pond Drainage DCC
Front-Ending Agreement
Benefiting Area Boundary
South Newton NCP

ENGINEERING
DEPARTMENT

The data provided is compiled from various sources and is NOT warranted as to its accuracy or sufficiency by the City of Surrey.
This information is provided for information and convenience purposes only.

Lot sizes, legal descriptions and encumbrances must be confirmed at the Land Title Office.

Source: G:\MAPPING\GIS\Mapa\Corporate\reports\Land Development\CS-McLeod Pond\South Newton NCP-A.mxd

**CITY OF SURREY
DEVELOPMENT COST CHARGE FRONTENDING AGREEMENT**

Project 8312-0328-00-1 (Drainage)

THIS AGREEMENT dated for reference the 17th day of December, 2014.

BETWEEN:

CITY OF SURREY, at 13450 – 104 Avenue,
City of Surrey, British Columbia, V3T 1V8

(the "City")

OF THE FIRST PART

AND:

McLEOD POND DEVELOPMENT INC. of 6264 Carnarvon Street,
Vancouver B.C. V6N 1K3

(the "Developer")

OF THE SECOND PART

- A. **WHEREAS** the real property within the South Newton Neighborhood Concept Plan is identified in column one entitled "Legal Description" in Schedule "A" and as illustrated in "Benefiting Area Map" in Schedule "C";
- B. **AND WHEREAS** the registered owners in fee simple of the Benefiting Area (as hereinafter defined) are identified in column two entitled "Registered Owners"(as hereinafter defined);
- C. **AND WHEREAS** the Works (as hereinafter defined) have been constructed;
- D. **AND WHEREAS** the Developer has undertaken the performance of its obligations required to be made pursuant to this Agreement;
- E. **AND WHEREAS** the Works are contained within the City's 10 Year Engineering Servicing Plan;
- F. **AND WHEREAS** the Developer has requested that the City advance the acquisition and construction of the Works and has agreed to facilitate such acquisition and construction for the development of the Benefiting Area (As hereinafter defined);
- G. **AND WHEREAS** Sections 933 and 935 of the *Act* authorize Council to enter into an agreement to permit an owner to provide services in lieu of the payment of all or any portion of a development cost charge; and
- H. **AND WHEREAS** Council passed a resolution on January 28, 2013 on authorizing the parties to enter into this Development Cost Charge Frontending Agreement pursuant to Sections 933(8) and 935 of the *Act*, for the provision of the Works.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the sum of TEN (\$10.00) DOLLARS of lawful money of Canada and other good and valuable consideration now paid by each of the parties hereto, to each of the other parties hereto, the receipt whereof is hereby acknowledged, the parties hereto hereby covenant, promise and agree with each other as follows:

1. DEFINITIONS

In this Agreement and in the recital above:

"Act" means the Local Government Act, R.S.B.C. 1996, c. 323, as revised, reenacted or consolidated from time to time and any successor statute;

"Agreement" means this Agreement and all schedules attached hereto;

"Benefiting Area" means the real property described in column one entitled "Legal Description" in Schedule "A";

"Capital Cost" means actual costs incurred by the Developer to construct the Works which costs are shown in Section 2.2 of this Agreement;

"City" means the City of Surrey;

"Completion Date" means Jun 09, 2014;

"Council" means the elected Council of the City;

"Developer" means McLeod Pond Development Inc.;

"Development Cost Charge" or "DCC" means a charge imposed pursuant to the Development Cost Charge By-law;

"Development Cost Charge By-law" means Surrey Development Cost Charge By-law, 2007, No. 16494, enacted by the City under the Act as such By-law is amended or replaced from time to time;

"General Manager Engineering" means the General Manager, Engineering for the City;

"Owners" means each of the registered owners in fee simple of the Benefiting Area as identified in column two entitled "Registered Owners" in Schedule "A" attached hereto;

"Works" means storm drainage works and related appurtenances substantially as described in Schedule "B";

"Subdivision and Development By-law" means Surrey Subdivision and Development By-law, 1986, No. 8830, enacted by the City under the Act as such By-law is amended or replaced from time to time; and

"Term" means the period of time this Agreement is in effect as specified in Section 4.1.

2. WORKS

- .1 The Developer is solely responsible for the design, engineering and construction of the Works and for retaining consultants and entering into any contracts required to construct the storm drainage Works, subject to the direction of the City.
- .2 The parties acknowledge that, as of the date of this Agreement, the final Capital Cost is One Million, One Hundred, Twenty-three Thousand, Six Hundred, Twenty-Nine Dollars and Eighty-four Cents (\$1,123,629.84) in Canadian Dollars, including applicable taxes.
- .3 The Developer has facilitated the design, engineering and construction of the Works through the provision of funds as set out in this Agreement.
- .4 The Developer agrees that the construction of the Works was completed on or before Jun 09, 2014.

3. PAYMENT FOR WORKS

- .1 The City is not responsible for financing any of the costs of the Works.
- .2 In consideration of the completion of the Works by the Developer to the satisfaction of the General Manager, without incurring any cost to the City, the City agrees to collect Drainage Development Cost Charges from the Owners within the Benefiting

Area for each subdivision or building permit in accordance with the Development Cost Charge By-law issued up to the maximum of the available Development Cost Charges as specified in paragraph 2.2.

- .3 Reimbursement of the Development Cost Charges as specified in paragraph 2.2 within the Benefiting Area shall be paid as follows:
 - (a) the extent the Drainage component of the Development Cost Charges have been collected from any Owners pursuant to the prevailing Development Cost Charge By-law;
 - (b) the City shall only be obligated to pay to the extent the City actually receives the Drainage Development Cost Charge component from Owners; and
 - (c) the City shall remit the amounts actually received twice each calendar year to the Developer and the City shall have no further obligation to the Developer to make any payment pursuant to this Agreement.
- .4 The City shall pay the Developer at the address of the Developer as set forth hereinbefore or at such other address as the Developer shall provide by registered mail. If the said payments are returned to the City unclaimed by the Developer and if the City is unable to locate the Developer after all reasonable efforts, then the City shall hold all monies collected until the expiry of this Agreement. After the expiry of this Agreement, the City shall retain all such unclaimed funds forever.
- .5 In the event of the assignment or transfer of the rights of the Developer voluntarily, or by operation of law, the General Manager, Finance, Technology and Human Resources shall pay any benefits accruing hereunder, after notice, to such successor of the Developer as the General Manager, Finance, Technology and Human Resources, in their judgment deems entitled to such benefits; and in the event of conflicting demands being made upon the City for benefits accruing under this Agreement, then the City may at its option commence an action in interpleader joining any party claiming rights under this Agreement, or other parties which the City believes to be necessary or proper, and the City shall be discharged from further liability upon paying the person or persons whom any court having jurisdiction of such interpleader action shall determine, and in such action the City shall be entitled to recover its reasonable legal fees and costs, which fees and costs shall constitute a lien upon all funds accrued or accruing pursuant to this Agreement.

4. **TERM**

- .1 The term of this Agreement shall commence on the Completion Date and shall expire on June 08, 2029, (the "Term").
- .2 The Developer agrees that if insufficient funds are paid by the Owners within the Term of this Agreement, that it is at its risk and at the expiry of the Term no further monies are payable to the Developer pursuant to this Agreement.
- .3 This Agreement shall terminate prior to the expiry of the Term in the event the Developer has been paid the Cost without interest.

5. **INDEMNITY**

In consideration of Ten (\$10.00) Dollars and other good and valuable consideration paid by the City to the Developer (the receipt and sufficiency of which is hereby acknowledged), the Developer jointly and severally agrees to indemnify and save harmless the City, its employees, elected officials, contractors and agents against all actions, causes of action, suits, claims and demands whatsoever which may arise either directly or indirectly by reason of the City and the Developer entering into this Agreement, and including without limitation the Developer agrees that if insufficient funds are paid by the Owners within the Term of this Agreement, that it is at its risk and at the expiry of the Term no further monies are payable to the Developer pursuant to this Agreement. This indemnity shall survive the expiry of the Term of this Agreement.

6. CITY'S COSTS

The Developer shall pay to the City, by cash or bank draft, prior to the City executing this Agreement, a fee equivalent to \$5,365.50 which includes GST. The City acknowledges the receipt of payment by Receipt No. 518117) paid to the City on November 29, 2012 for the preparation, registration and administration of this Agreement.

7. NOTICES

- .1 Any notice, demand, acceptance or request required to be given hereunder in writing shall be deemed to be given if either personally delivered or mailed by registered mail, postage prepaid (at any time other than during a general discontinuance of postal services due to a strike, lockout or otherwise) and addressed to the Developer as follows:

McLEOD POND DEVELOPMENT INC.
6264 Carnarvon Street,
Vancouver, B.C. V6N 1K3

or such change of address as the Developer has, by written notification, forwarded to the City, and to the City as follows:

City of Surrey
Engineering Department
13450 – 104th Avenue
Surrey, B.C. V3T 1V8

Attention: General Manager, Engineering
c.c. City Solicitor

or such change of address as the City has, by written notification, forwarded to the Developer.

- .2 Any notice shall be deemed to have been given to and received by the party to which it is addressed:
- (a) if delivered, on the date of delivery; or
 - (b) if mailed, then on the fifth (5th) day after the mailing thereof.

8. ASSIGNMENT

The Developer shall not assign or transfer its interest in this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld.

9. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes any prior agreements, undertakings, declarations or representations, written or verbal, in respect thereof. It is hereby agreed between the parties hereto that this Agreement shall be enforceable by and against the parties, and their successors and assigns.

10. LAWS OF BRITISH COLUMBIA

This Agreement shall be interpreted under and is governed by the applicable laws of Canada and the Province of British Columbia.

11. SCHEDULES

The Schedules attached hereto, which form part of this Agreement, are as follows:

- .1 Schedule "A" - Legal Description and Registered Owners
- .2 Schedule "B" - Description of Storm Drainage Works
- .3 Schedule "C" - Benefiting Area Map

12. **CONFLICT**

In the event of any conflict or inconsistency between Schedules "A" and "C", Schedule "A" shall supersede Schedule "C".

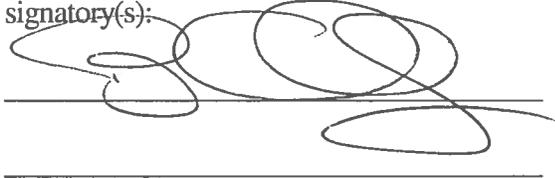
IN WITNESS WHEREOF this Agreement has been executed as of the day and year first above written.

CITY OF SURREY
by its authorized signatory



General Manager, Engineering
by his Authorized Designate, Sam Lau, P.Eng.
Manager, Land Development

McLEOD POND DEVELOPMENT INC.
as per their duly appointed
signatory(s):



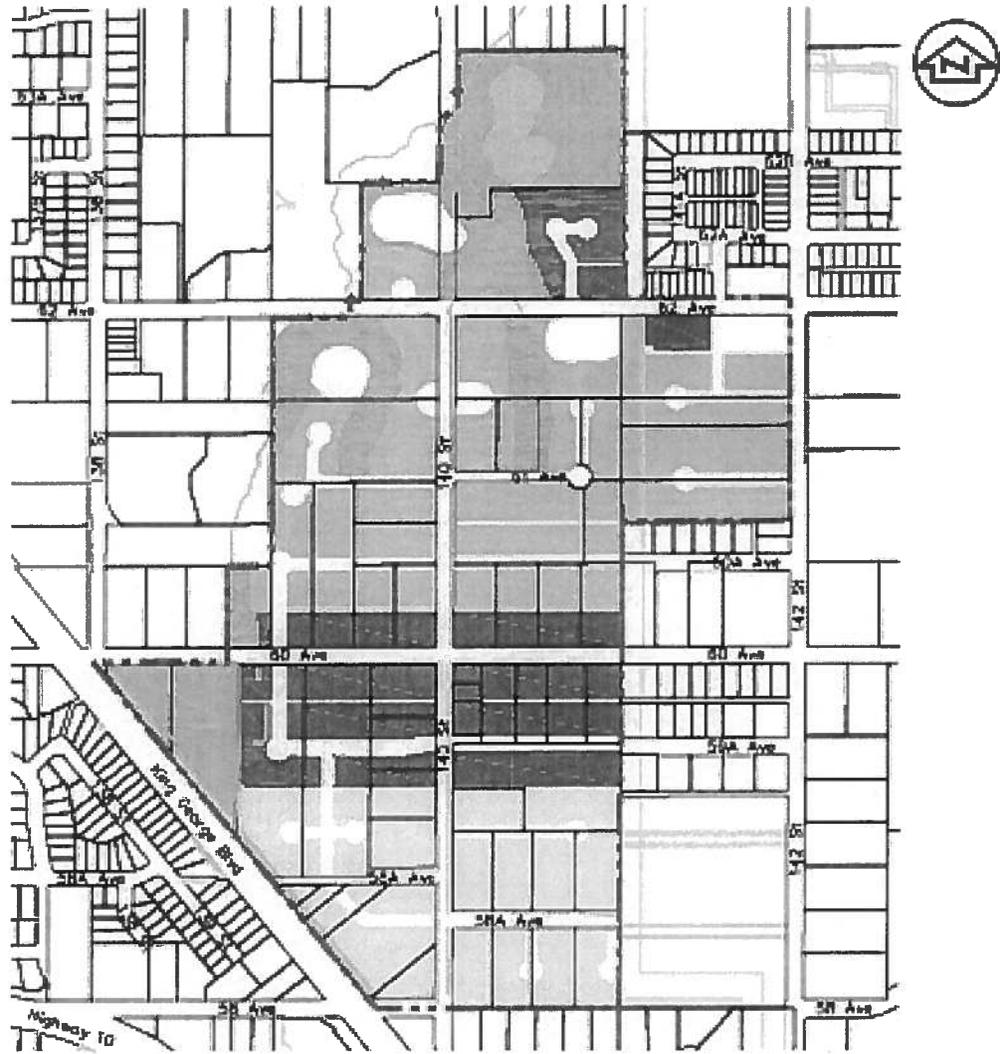
SCHEDULE "B"

DESCRIPTION OF WORKS

Means and includes anything and everything required for the design, engineering and construction of Storm Sewer on 62 Avenue between 140 Street and Hydro ROW, within the Hydro ROW to 6306 - 140 Street and detention pond located at 6306 140 Street.

SCHEDULE "C"

BENEFITING AREA MAP



LEGEND:

- Benefiting Area
- ~ Existing Creek
- Proposed Pond
- DCP - Creeks & Riparian Sideways
- DCP - Parks & Walkways
- DCP - Single Family Residential
- DCP - SF Residential (6-44,5 u.p.A.)
- DCP - Single Family Small Lots
- DCP - Multi-Family (15 u.p.A. max)
- DCP - Buffers
- DCP - Utility ROW
- DCP - Existing & Future Parks

CITY OF SURREY	
DCC PROJECT NAME: SOUTH NEWTON MCLEOD POND	
FRONT-END DEVELOPER NAME: -	
SCALE: 1:8000	LAND DEVELOPMENT FILE NO. 7812-0328-00
	DCC F/E APPLICATION NO. -

December 05, 2014

City of Surrey
Schedule "A"

Legal Description and Registered Owners

Project File: 7812-0328-00
DCC Frontender File: 8312-0328-00-1

Legal Description	Registered Owners	Civic Address	Parcel Identifier	Tax Roll Number
PCL 1 B BK 5&6 SW SEC 9 T2 EXP 13435	Kenneth A Moffat	5846 King George Blvd	009-577-271	6092000180
LT 6 SW SEC 9 T2 PL 4395 PTN N OF H	Anthony D Mcdonagh	5964 King George Blvd	011-064-731	6092050043
BK 7 N 5/16 SW SEC 9 T2 PL 4395 PT	Hardip Sangha	13866 60 Ave	011-064-773	6092060048
LT 8 SW SEC 9 T2 PL 4395 (EX6363) 4	Ngan L Lee	13900 60 Ave	011-064-803	6092070029
LT 51 SW SEC 9 T2 PL 40335	Gurdial S Sandhu Rajwant K Sandhu Sukhraj S Gill Sukhjot K Gill	5877 140 St	005-186-820 005-186-820 005-186-820 005-186-820	6092500024 6092500024 6092500024 6092500024
LT 52 SW SEC 9 T2 PL 40335	Gurnit S Pannu Manprit K Pannu	5925 140 St	005-186-838 005-186-838	6092505022 6092505022
LT 67 SW SEC 9 T2 PL 44314	Ruben R Urruuta Aurora Urruuta	13980 60 Ave	001-597-116 001-597-116	6092580020 6092580020
LT 68 SW SEC 9 T2 PL 44314	Terrance M Cholowski	5957 140 St	001-597-124	6092585029
LT A 5&6 N1/2 SW SEC 9 T2 PL 11655	South 60 Development Inc	5836 King George Blvd	006-796-061	6092900063
PCL A BK 6 N 1/2 SW SEC 9 T2 EXP 11837	South 60 Development Inc	5821 140 St	012-830-879	6092900087
LT B 5&6 N1/2 SW SEC 9 T2 PL 11655 (Stephen M Simpson Joanne D Howard	5854 King George Blvd	001-037-480 001-037-480	6092910020 6092910020
PCL B 6 N1/2 SW SEC 9 T2 EXP 9979 (South 60 Development Inc	5814 King George Blvd	012-830-810	6092910044
LT 1 BK 3 S1/2 N1/2 SEC 9 T2 PL 2840	Kulwant K Auja Jasbir S Auja	6154 140 St	000-748-269 000-748-269	6093000047 6093000047

December 05, 2014

City of Surrey
Schedule "A"
Legal Description and Registered Owners

Project File: 7812-0328-00
DCC Frontender File: 8312-0328-00-1

Legal Description	Registered Owners	Civic Address	Parcel Identifier	Tax Roll Number
E165'4 2 S1/2 NW SEC 9 T2	PL 2840			
	Jagmohan Singh Kuljit K Gosal		000-748-269 000-748-269	6093000047 6093000047
LT 7 2 S1/2 NW SEC 9 T2	PL 2840 4			
	Jarnail S Purewall Kashmir K Purewall	13887 60 Ave 6129 140 St	007-564-228 010-766-022 010-766-022	6093030076 6093060044 6093060044
LT 8 2 S1/2 NW SEC 9 T2	PL 2840 4			
	402875 Bc Ltd	6185 140 St	009-289-674	6093070049
LT 9 NW SEC 9 T2 PL 27504	(EX PL 323			
	Balwinder K Taggar Sarbjit S Taggar	13967 60 Ave	007-212-763 007-212-763	6093080067 6093080067
LT 12 NW SEC 9 T2 PL 33797				
	Mukhtiar S Nijjar Shinder G Nijjar	13969 62 Ave	006-948-677 006-948-677	6093110047 6093110047
LT 23 NW SEC 9 T2 PL 48173				
	Jagdish K Nijjar Paramjit S Nijjar	13935 60 Ave	006-219-241 006-219-241	6093220047 6093220047
LT 24 NW SEC 9 T2 PL 48173				
	Margarete M Wacker Susan M Wacker	13905 60 Ave	006-219-250 006-219-250	6093230028 6093230028
PCL A(EXP 32391) 9 NW SEC 9 T2PL 27504				
	Victor R Chan Judith M Chan	13987 60 Ave	008-905-509 008-905-509	6093900125 6093900125
E1/2 N1/2 NW SEC 9 T2	(EX E33&S3			
	Bagh S Dhandra 404163 Bc Ltd	13925 62 Ave	013-212-923 013-212-923	6093971041 6093971041
N1/2 6 3 S1/2 NE SEC 9 T2	PL 2840			
	0939827 Bc Ltd	6081 142 St	010-766-138	609405006X
LT 7 3 NE SEC 9 T2 PL 2840	(EX S205.5			
	Kulwinder K Bathi Balkar S Sodhi	6137 142 St	002-059-746 002-059-746	6094060088 6094060088

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LT 39 SC 9 T2 PL62429	Manjinder S Suri Parvinder K Suri Upkar S Mann Khushal K Mann	14047 61 Ave	002-014-441 002-014-441 002-014-441 002-014-441	6094380022 6094380022 6094380022 6094380022
LT 40 SC 9 T2 PL62429	0811350 Bc Ltd	14065 61 Ave	002-014-467	6094390027
LT 41 SC 9 T2 PL62429	Puran Construction (1997) Ltd	14085 61 Ave	002-014-483	6094400021
LT A NE SC 9 T2 PL68663 PART NE PID 000	Robert J Gallichen	14066 61 Ave	000-835-587	609490011X
LT A NE SC 9 T2 PL79299 PART: NE1/4 PID	City Of Surrey	6306 140 St	012-097-764	6094900121
LT B NE SC 9 T2 PL68663 PART NE PID 000	Porte Developments (Henley) Ltd	14084 61 Ave	000-835-595	6094910096
LT B NE SC 9 T2 PL79299 PART: NE1/4 PID	Bingumal R Manawadu	6230 140 St	012-097-781	6094910102
LT 25 S1/2 N1/2 SEC 9 T2 PL 54515	William G Hennessey Ruby K Hennessey	6077 140 St	005-267-986 005-267-986	6096240021 6096240021
LT 26 S1/2 N1/2 SEC 9 T2 PL 54515	Jasvir S Hayer Manjit K Hayer	6087 140 St	000-997-927 000-997-927	6096250026 6096250026
LT 2 N1/2 N1/2 W1/2 LS 7 SEC 9T2 PL 1271	Satnam S Auja Satpal S Bal	14022 60 Ave	009-735-348 009-735-348	6099010063 6099010063
LT 3 N1/2 N1/2 W1/2 LS 7 SEC 9T2 PL 1271	Narinder Garcha	14050 60 Ave	002-249-464	6099020081
LT 4 N1/2 N1/2 W1/2 LS 7 SEC 9T2 PL 1271	Hardeep K Samra	14064 60 Ave	009-735-356	6099030049
LT 25 LS 7 SEC 9 T2 PL 35476	Baldev D Sanghera	5838 140 St	007-218-150	6099240020

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LT 26 LS 7 SEC 9 T2 PL 35476	Beat F Joehl Maja Joehl	14034 58A Ave	007-218-168 007-218-168	6099250025 6099250025
LT 27 LS 7 SEC 9 T2 PL 35476	Ranjit S Sandhu Sarjrit K Sandhu Shamsher S Sandhu	14056 58A Ave	002-367-041 002-367-041 002-367-041	609926002X 609926002X 609926002X
LT 28 BK LS7 SC 9 T2 PL35476	Harvinder S Gill Surjit S Gosal Rupinder S Mangat	14088 58A Ave	007-218-176 007-218-176 007-218-176	6099270024 6099270024 6099270024
LT 29 LS 7 SEC 9 T2 PL 35476	Gerard H Rougeau	14091 58A Ave	000-641-219	6099280029
LT 30 LS 7 SEC 9 T2 PL 35476	Ragbhir S Bindra Bilhar S Bindra Gurdial K Bindra	14061 58A Ave	007-218-184 007-218-184 007-218-184	6099290023 6099290023 6099290023
LT 31 LS 7 SEC 9 T2 PL 35476	Angrej S Sandhu Paramjit K Sandhu	14041 58A Ave	007-218-192 007-218-192	6099300028 6099300028
LT 32 LS 7 SEC 9 T2 PL 35476	Pritam S Dhaliwal Sukhjrit S Dhaliwal	14013 58A Ave	007-218-206 007-218-206	6099310022 6099310022
LT 33 LS 7 SEC 9 T2 PL 44504	Stephen W Kilgour Madeleine E Kilgour	5912 140 St	007-476-833 007-476-833	6099320027 6099320027
PCL A 1 LS 7 SEC 9 T2 PL 16724	Robert Justason Elizabeth M Justason	14010 60 Ave	004-055-055 004-055-055	6099900081 6099900081
PCL B 1 NI/2 NI/2 W1/2 LS 7 SEC 9 T2 P	Herranjit S Sandhu	5980 140 St	010-205-829	6099910062
PCL CLT 1 LS 7 SEC 9 T2 PL 16724	Peter M Stolling	5964 140 St	010-205-853	6099920067

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Legal Description	Registered Owners	Civic Address	Parcel Identifier	Tax Roll Number
S1/2 N1/2 W1/2 LS 7 SEC 9 T2 EX W33& P	Peter Neliba	5928 140 St	013-212-427	6099971130
E132N1/2 N1/2 W1/2 LS 7 SEC 9T2 (EX N33	Justine Smith	14082 60 Ave	013-211-927	6099971208