CITY OF LONDON

MUNICIPAL SERVICE AND FINANCING POLICY

November 7, 2011

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Planning for growth

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1. INTRODUCTION

1. INTRODUCTION

1.1 Background

The City of London presently imposes charges against residential and non-residential (not including industrial) development within the City. These charges are named the Urban Works Reserve Fund (UWRF) and the City Services Reserve Fund (CSRF). Both are deemed development charges as per the *Development Charge Act*; however, their purpose and use are somewhat different.

The City Services Reserve Fund (CSRF) was established to recover growth capital costs related to eligible City services. The type of capital works which are provided for generally are of a broader city-wide benefit and would include services such as Transportation, Sanitary, Storm Drainage, Water, Fire, Police, Library, Transit and Growth Studies.

In regard to the Urban Works Reserve Fund (UWRF), the City of London has historically used a unique approach to compensating developing landowners for the cost of oversizing road, sanitary and storm water infrastructure to provide service capacity beyond their own development requirements. The Urban Works Reserve Fund (UWRF) was established in 1973 by by-law under special legislation granted by the *City of London Act*. The UWRF provided funding for works paid for by a developer related to a specific subdivision or a site development where those works are identified as serving a broader but still localized growth area.

The process involved with the UWRF was generally as follows:

- On varying types of development applications, the City would grant planning approvals (subject to certain conditions);
- Financial impact of the development, both in terms of the UWRF and the CSRF (City Services Reserve Fund) would be determined by staff and included in information provided to Council;
- Subsequent to the development approvals, the developer would “front-end” construction of the works and, through its engineers, submit a claim to the City;
- City Staff would determine eligibility and approve claim for payment;
- Payments were on a sequential basis whereby an approved claim would be put into sequence for payment. In order, as funds came available, the claims would be paid out up to a maximum of $1 million ($250,000 for storm water management works.). For claim amounts in excess of this, the $1 million (or $250,000) would be paid and the landowner would be put back on the list in sequence for further payment;
- Payments are made only as funds are available in the reserve.

The basis for funding the reserve was to have UWRF contributions made at the time of the building permit being issued. In general, as the claims are made in advance of the building permits being issued, the fund has experienced significant deficits on several occasions. No loans or debt were issued by the City to address the shortfall; the result was that developing landowners would need to wait for future UWRF contributions to the reserve before receiving payment for their claims.

In the spring of 2006, City Council and the London Development Institute came to an agreement that a review of the Urban Works Reserve Fund was necessary given the emergence of a number of issues (including a UWRF deficit of $12.6 million which was predicted to increase up to $50 million). Both parties agreed that a "Blue Ribbon Panel" of independent experts should conduct this review. The mandate of the Panel was to consider:

- Liability to the City regarding potential cash flow problems with the fund;
- Consider the payback projections;
- Review Development Approvals and determine whether any further guidelines were required;
- Financial Viability of the UWRF and advise whether any change to processes may improve the cash balance to the fund;
- Review Oversight and Administration of the Fund;
- Review the appropriateness of the rates;
- Review rules and guidelines related to project eligibility and payments;
- Review of past claims;
- Consider other options for practices used by other municipalities for funding localized works.

The Blue Ribbon Panel provided its recommendations in October, 2006. Generally, in regard to the UWRF, they recommended that it be reduced in scope and that many of the projects formerly included in the UWRF be shifted into the CSRF. This change had an immediate impact of reducing the charge for the UWRF and increasing the CSRF. However, as a result of an OMB appeal, the City agreed to maintain the UWRF charge at present levels for four years and then to reduce the charge subsequently to a revised calculated rate.

The Panel also observed that "the tool of front-ending agreements for CSRF capital works has been underutilized and should be considered as a mechanism under the CSRF for the early emplacement of infrastructure".

Subsequently, in conjunction with the passing of the DC by-law in the latter part of June, 2009, Council directed staff as follows:

> "Civic Administration **BE DIRECTED** to undertake the following in the months to come:
> …….
> c. with respect to development interests who wish to accelerate financing of growth projects as contained in the City's capital budget, that Administration be directed **TO UNDERTAKE** a process to develop an appropriate policy and consult with stakeholders, and report to Council the results of that process in the coming year".

Watson & Associates Economists Ltd. has been retained by the City to assist in examining the topic of accelerating CSRF (only) related works in the City's capital plan that serve growth. Consideration is also to be given to:

- the circumstances where the timing of works funded from the City Services Reserve Fund (CSRF) could be moved forward by the land developer upon entering into a municipal services agreement with the City;
- identify the most appropriate form of municipal services agreement for the City to use;
- identify policy matters which should be considered in determining their use;
- identify potential issues to be addressed resulting from the above; and
- matters related to the UWRF are not to be considered as part of this report.

2. DEVELOPMENT CHARGES

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2.1 Overview of Development Charges

Development-related charges have been used in Ontario since the 1950's. Prior to 1989, these charges were referred to as "Lot Levies" as they were imposed under the *Planning Act* at the time a new lot was created (either by severance or subdivision). Subsequently in 1989, the Province of Ontario introduced the *Development Charges Act, 1989* which standardized the basis on which these charges were calculated and imposed on development. In 1997 the Act was amended to refine the basis for the calculation and introduced a number of deductions, reductions, limitations and exemptions.

Generally, the development charge:

- Provides an ability for a municipality to recover the capital costs associated with residential and non-residential growth within the municipality;
- May not include certain services (Parkland acquisition, City Halls, Tourism/Arts/Culture Facilities, Solid Waste Service, Hospitals) and certain capital items (Vehicle & Equipment with avg. life of less than 7 yrs., Computer Equipment);
- Provides a number of exemptions, reductions, deductions and limitations which reduce the recoverable portion of eligible costs. Hence, most often, there is a non-growth component to many projects which require the municipality to finance a portion of the project at the same time the growth component is funded.

In its simplest form, the DC is equal to all eligible growth costs during the period divided by all growth during the period, as follows:

$$\frac{\text{Eligible Costs for Period}}{\text{Total Growth for Period}} = \text{DC}$$

As provided above, the calculation of the charge provides that the full cost recovery of the eligible growth-related cost would be spread over the growth for the period. For "hard" services, such as roads, water, wastewater, storm water, police and fire, the planning period is most often 20 years or more. For all other municipal services, the planning period is 10 years. Given that the timing for full collection is collectively at the end of the planning period, municipalities often experience a cash flow issue. This necessitates the need to seek a form of bridge funding (i.e. debentures, developer agreements, etc.).

Cash flow issues are also further experienced based on the need to build the infrastructure in advance of growth. Figure 2-1 depicts graphically, the general timing of need for a municipal service relative to the timing of the development. For example:

- Water and sewage treatment capacity needs to be in place prior to a subdivision agreement being granted full approval;
- Prior to the issuance of building permits, storm water management facilities and the broader water distribution and waste collections systems need to be constructed and accessible to the developing lands;
- Roads need may occur at various time in the development process based on volume capacity needs (i.e. an initial road may be constructed and then expanded as development in the area proceeds);
- Generally the "soft" services tend to follow population (i.e. post occupancy).

As payment of DCs normally occurs at the time of building permit issuance, greater cash flow problems can be experienced by the municipality, once again, requiring forms of bridge funding (i.e. debentures, developer agreements, etc.) to assist in paying for these works.

It is noted that municipalities need to establish a policy of what forms of works are considered a local service and what works would be included as part of the DC. This has the affect of including very localized works within individual subdivision agreements. In regard to storm water management, over 90% of Ontario municipalities do not include this service in the DC charge and require the storm water to be addressed in the development agreement.

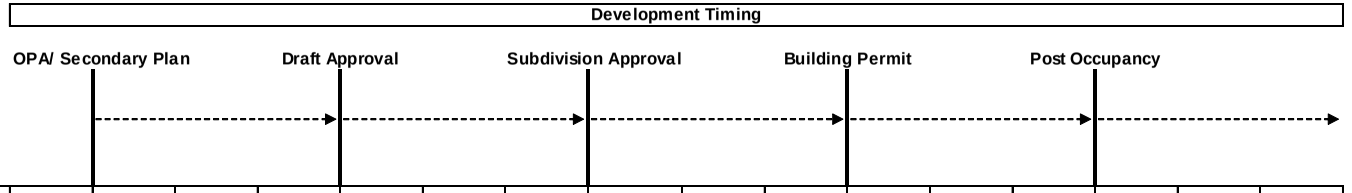
2.2 Forecast of Growth Expenditure and Revenues

The Growth Management Implementation Strategy (GMIS) process was introduced by the City in 2009 in conjunction with the 2009 DC Background study to help align identified growth infrastructure with the City's Growth Management policies. The GMIS was created to guide London's growth in an orderly manner by balancing the needs of growth with the costs of extending major new servicing. This process allows for an increased level of financial management of liabilities related to development.

The GMIS is to be reviewed annually and would generally entail:

- review of projected growth forecasts (demand by unit type);
- review of existing applications in the development approval process and market supply of lots in registered subdivisions;
- orderly progression of development to contiguous areas of the City;
- availability of existing municipal servicing;
- ability of the City to offer cost effective servicing; and

Figure 2-1
Timing of Servicing Needs for Development



Service	*Capital Item*
Water:	Treatment
	Distribution
	Local
Wastewater	Treatment
	Collection
	Local
Stormwater Management	Facilities
Roads and Related	Roads
	Rolling Stock
Library	Facilities
	Collection Materials
Transit	Facilities
	Vehicles
Parking	Parking Spaces
Police	Facilities
	Vehicles
	Police Communication Equipment
	Police Officer Equipment
Health Unit	Facilities
Ambulance	Facilities
	Vehicles
Child Care	Facilities
Provincial Offences Act	Facilities
Parks	Parkland Development
Recreation	Facilities
Fire	Facilities
	Vehicles
	Firefighter Equipment
Administrative	Growth Studies

- timely extension of new servicing necessary to support progression of development.

To the extent possible, the scheduled works are distributed over several growth areas to also provide for a variety in locations to meet the preferences of home buyers and builders.

As part of the GMIS annual review, consultation is undertaken with the development community. Through this process, capital budgets may be adjusted where it is financially feasible to do so, to ensure adequate provision for areas of growth. Substantial changes to the capital plan (in terms of timing or cost estimates) may have implications on the DC cash flow and possibly the DC rate, so this is carefully monitored.

The most available GMIS is the June 14, 2010 document which provides for the 2011-2028 planning period (note that the next document is expected in the near future). The 10 year forecast of expenditures provided therein for Roads, Sanitary Sewers, Water and Major Storm Water Management totalled $689 million in total capital works. However, this forecast has been revised downward in the interim to $478 million (due in part to Roads expenditures which were delayed to provide for the UWRF charge transitional phase-in).

Table 2-1 provides for the revised updated cash flow providing for anticipated CSRF DC revenues and expenditures for the noted services over the period (note that this table provides only for CSRF projects and does not include UWRF projects). Based on this table, the following observations are provided:

- Section A) provides for the consolidated total revenues and spending for the Roads, Sanitary Sewers, Water and Major Storm Water Management services. Total spending for the 10 years, including current work in progress and unfunded debt, is $556.3 million. Of this $143.8 million is non-DC/non-growth funded and must be funded by property taxes and rates. The residual $412.4 million is growth-related expenditures. During the period, $275.6 million in DC revenue is expected to be collected. With an opening DC Reserve fund deficit of $16.8 million and interest revenue of $2.1 million, the total program provides for a $66 million shortfall in funding the DC funded expenditures. During the entire forecast period the reserve fund is in a deficit balance with $80 million being the highest deficit achieved (in 2017).
- Section B) provides for the overall Roads cash flow. The DC funded expenditures exceed the DC revenues plus opening balance for the period producing deficits of up to $13.9 million during the last half of the forecast period.
- Section C) provides for the overall Sanitary Sewers cash flow. The DC revenues plus opening balance for the period provide a deficit balance for this service over the entire forecast period, peaking at a deficit of $27.4 million in 2013.
- Section D) provides for the overall Water cash flow. The DC funded expenditures exceed the DC revenues plus opening balance for the period producing deficits of up to $7.7 million during the last half of the forecast period.

Table 2-1
Forecast of Expenditures and DC Revenue

A) Total Roads, Sanitary Sewers, Water and Major SWM Program

	Prior Yrs	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	Total
DC Reserve Opening Balance	68,722	(16,846)	(37,255)	(31,815)	(49,937)	(53,082)	(61,179)	(76,313)	(80,522)	(73,605)	(62,330)	
DC Collections		19,284	20,914	23,379	29,540	30,417	30,417	30,417	30,417	30,417	30,417	275,619
Interest		946	511	410	230	95	(41)	(78)	(30)	29	(6)	2,066
DC Revenue Available	68,722	3,384	(15,830)	(8,026)	(20,167)	(22,570)	(30,803)	(45,974)	(50,135)	(43,159)	(31,919)	
DC Funded Expenditures	85,568	40,639	15,984	41,911	32,916	38,609	45,510	34,547	23,470	19,171	34,089	**412,415**
DC Shortfall	(16,846)	(37,255)	(31,815)	(49,937)	(53,082)	(61,179)	(76,313)	(80,522)	(73,605)	(62,330)	(66,008)	
Growth Related Expenditures												
DC Funded	85,568	40,639	15,984	41,911	32,916	38,609	45,510	34,547	23,470	19,171	34,089	**412,415**
Non-DC Funded (exemptions)	13,616	3,358	1,682	5,572	6,289	6,634	5,888	3,745	3,486	5,298	10,055	**65,623**
Non-Growth Funded	16,229	9,071	5,056	5,666	6,292	4,187	6,921	5,883	14,816	1,798	2,298	**78,217**
Total Annual Expenditures	**115,412**	**53,069**	**22,723**	**53,149**	**45,497**	**49,430**	**58,320**	**44,175**	**41,772**	**26,267**	**46,442**	**556,255**

B) Roads

	Prior Yrs	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	Total
DC Reserve Opening Balance	40,951	22,427	14,495	18,721	7,940	9,551	280	(10,066)	(13,931)	(8,851)	(9,067)	
DC Collections		8,393	9,091	10,309	16,063	16,532	16,532	16,532	16,532	16,532	16,532	143,048
Interest		581	324	253	144	51	(46)	(50)	1	38	2	1,298
DC Revenue Available	40,951	31,401	23,910	29,283	24,147	26,134	16,766	6,416	2,602	7,719	7,467	
DC Funded Expenditures	18,524	16,906	5,189	21,342	14,596	25,854	26,831	20,347	11,453	16,786	20,668	**198,498**
DC Shortfall	22,427	14,495	18,721	7,940	9,551	280	(10,066)	(13,931)	(8,851)	(9,067)	(13,201)	
Growth Related Expenditures												
DC Funded	18,524	16,906	5,189	21,342	14,596	25,854	26,831	20,347	11,453	16,786	20,668	**198,498**
Non-DC Funded (exemptions)	2,872	2,622	805	3,310	2,263	4,009	4,161	3,155	1,776	2,603	3,205	**30,781**
Non-Growth Funded	1,702	2,764	355	1,254	1,568	3,617	2,039	1,564	1,273	1,115	985	**18,235**
Total Annual Expenditures	**23,098**	**22,292**	**6,349**	**25,906**	**18,427**	**33,481**	**33,031**	**25,066**	**14,502**	**20,504**	**24,858**	**247,514**

C) Sanitary Sewers (incl PCP)

	Prior Yrs	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	Total
DC Reserve Opening Balance	13,104	(19,516)	(23,202)	(18,846)	(27,367)	(24,576)	(19,107)	(20,059)	(18,527)	(18,943)	(14,295)	
DC Collections		4,751	5,181	5,748	5,936	6,124	6,124	6,124	6,124	6,124	6,124	58,360
Interest		149	61	44	7	22	18	(13)	(29)	(10)	(8)	241
DC Revenue Available	13,104	(14,616)	(17,960)	(13,054)	(21,424)	(18,430)	(12,965)	(13,948)	(12,432)	(12,829)	(8,179)	
DC Funded Expenditures	32,620	8,586	886	14,313	3,152	677	7,093	4,579	6,511	1,467	7,192	**87,076**
DC Shortfall	(19,516)	(23,202)	(18,846)	(27,367)	(24,576)	(19,107)	(20,059)	(18,527)	(18,943)	(14,295)	(15,371)	
Growth Related Expenditures												
DC Funded	32,620	8,586	886	14,313	3,152	677	7,093	4,579	6,511	1,467	7,192	**87,076**
Non-DC Funded (exemptions)	7,424	38	208	1,667	101	3	1,236	0	943	1,633	6,563	**19,817**
Non-Growth Funded	8,488	1,870	145	2,226	2,947	570	1,341	331	4,740	0	0	**22,657**
Total Annual Expenditures	**48,531**	**10,495**	**1,239**	**18,206**	**6,200**	**1,250**	**9,671**	**4,910**	**12,194**	**3,100**	**13,755**	**129,550**

D) Water

	Prior Yrs	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	Total
DC Reserve Opening Balance	10,318	7,370	5,357	6,015	3,619	(3,569)	(7,713)	(6,281)	(5,839)	(4,486)	(3,826)	
DC Collections		1,197	1,305	1,448	1,495	1,543	1,543	1,543	1,543	1,543	1,543	14,703
Interest		155	111	94	50	10	6	25	33	35	26	545
DC Revenue Available	10,318	8,722	6,773	7,557	5,164	(2,016)	(6,164)	(4,713)	(4,263)	(2,908)	(2,257)	
DC Funded Expenditures	2,948	3,365	757	3,938	8,733	5,697	117	1,127	223	918	1,216	**29,039**
DC Shortfall	7,370	5,357	6,015	3,619	(3,569)	(7,713)	(6,281)	(5,839)	(4,486)	(3,826)	(3,473)	
Growth Related Expenditures												
DC Funded	2,948	3,365	757	3,938	8,733	5,697	117	1,127	223	918	1,216	**29,039**
Non-DC Funded (exemptions)	1,001	193	277	496	3,649	2,348	0	226	540	1,062	71	**9,865**
Non-Growth Funded	1,024	593	1,306	2,186	1,329	0	0	553	1,097	683	1,314	**10,083**
Total Annual Expenditures	**4,973**	**4,151**	**2,340**	**6,620**	**13,712**	**8,045**	**117**	**1,905**	**1,860**	**2,663**	**2,601**	**48,987**

E) Major Storm Water Mgmt

	Prior Yrs	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	Total
DC Reserve Opening Balance	4,349	(27,127)	(33,905)	(37,705)	(34,129)	(34,488)	(34,639)	(39,909)	(42,225)	(41,325)	(35,141)	
DC Collections		4,943	5,337	5,874	6,046	6,218	6,218	6,218	6,218	6,218	6,218	59,508
Interest		61	15	19	29	12	(19)	(40)	(35)	(34)	(26)	(18)
DC Revenue Available	4,349	(22,123)	(28,553)	(31,812)	(28,054)	(28,258)	(28,440)	(33,731)	(36,042)	(35,141)	(28,949)	
DC Funded Expenditures	31,476	11,782	9,152	2,317	6,434	6,381	11,469	8,494	5,283	0	5,013	**97,801**
DC Shortfall	(27,127)	(33,905)	(37,705)	(34,129)	(34,488)	(34,639)	(39,909)	(42,225)	(41,325)	(35,141)	(33,962)	
Growth Related Expenditures												
DC Funded	31,476	11,782	9,152	2,317	6,434	6,381	11,469	8,494	5,283	0	5,013	**97,801**
Non-DC Funded (exemptions)	1,349	505	392	99	276	273	492	364	226	0	215	**4,192**
Non-Growth Funded	10,548	3,844	3,250	0	448	0	3,541	3,436	7,707	0	0	**32,774**
Total Annual Expenditures	**43,373**	**16,131**	**12,795**	**2,417**	**7,158**	**6,654**	**15,501**	**12,294**	**13,217**	**0**	**5,228**	**134,768**

- Section E) provides for the overall Major Storm Water Management cash flow. The DC funded expenditures exceed the DC revenues plus opening balance for the total forecast period producing deficits of up to $42.2 million.

Based on the foregoing, it is anticipated that the DC funded expenditures will experience financing shortfalls over the forecast period. In these instances, either the capital program needs to be refined to keep DC funded spending within the DC revenue available range otherwise debt financing or some form of municipal service financing agreement would need to be entered into.

3. DEVELOPMENT CHARGE AGREEMENTS

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3.1 DC Collection Timing

The *Development Charges Act* (DCA) provides for two points in time where a municipality can, by by-law, mandate the collection of the development charge:

- Section 26(1) provides the charge shall be payable at the time the building permit is issued
- Section 26(2) provides that for Water, Wastewater, Storm Water and Roads services, a municipality may provide that the development charge be payable immediately upon the parties entering into a subdivision agreement or consent agreement

The Act also provides that the municipality may enter into different forms of municipal servicing agreements; however, these agreements are ad hoc and are based on negotiated terms. The Act provides for three types of agreements, as provided below. Appendices E, F and G to this report provide examples for each type of agreement. Appendix D provides further insight into the mechanics of these agreements.

3.1.1 Front-Ending Agreements (s. 44 and 45)

Section 44 and 45 of the DCA provides a municipality with the ability to enter into an agreement with parties to upfront the costs of a project which will benefit an area in the municipality to which the DC By-law applies. Such an agreement can provide for the upfront costs to be borne by one or more parties to the agreement who are, in turn, reimbursed in future, by persons who develop land within an area defined in the agreement. The services for which an agreement may be entered into are limited to Water, Wastewater, Storm Water and Roads services. The agreement may allow for "tiering" which provides for sharing the burden of the upfront costs by prorating the upfront costs (which is initially paid by one or more landowners) and then recovering these costs on a prorated sharing basis (i.e. as more landowners within the defined benefiting area come on-stream they shoulder a portion of the upfront costs). A front-ending agreement must be advertised and an opportunity is provided for a land owner within the defined benefiting area to object to the agreement. A front-ending agreement may provide for the following costs to be included in the cost of the work:

1. The reasonable costs of administering the agreement.
2. The reasonable costs of consultants and studies required to prepare the agreement

3.1.2 Accelerated Payment Agreements (s. 27(1))

Section 27(1) of the DCA provides that a municipality may enter into an agreement with a person who is required to pay a development charge providing for all or any part of a development charge to be paid before or after it would otherwise be payable. The total amount of a development charge payable through an agreement under this section is the amount of the development charge that would be determined under the by-law on the day specified in the agreement. If no day is specified, at the earlier of:

a) the time the development charge or any part of it is payable under the agreement;
b) the time the development charge would have been payable in the absence of the agreement.

Accelerated agreements most often assist municipalities with cash flow to build specific smaller projects and most often applies to water, wastewater and road improvements. Usually involves the prepayment of all or a portion of the DC with a credit provided at the time the DC is payable (i.e. building permit issuance).

3.1.3 Service Emplacement Agreements (s. 38)

Section 38 of the DCA provides that a developing landowner may construct or provide a service which relates to a service in the DC by-law. If a municipality allows this work to be provided then the municipality shall give the person a credit towards the development charge in accordance with the agreement. The amount of the credit is the reasonable cost of doing the work as agreed by the municipality and the person who is to be given the credit. A credit given in exchange for work done is a credit only in relation to the service to which the work relates (i.e. an agreement to build a park will provide that the credit is against the parkland component of the Development Charge). Service emplacement agreements most often apply to smaller water, wastewater and road improvements projects and to parkland development projects.

Of the three types of agreements described above, the Service Emplacement Agreement is the most often used by Ontario municipalities followed by the Accelerated Payment Agreement. The Front-ending agreement appears be to the least used either because it is the most complex, requires the most administration, is appealable by other landowners or is best used for very large capital works which generally require a significant investment and have a long term for recovery.

Accelerating project construction involves an increased risk to the City in that no new net revenues accrue to the DC reserve funds, but new liabilities arise for the accelerated infrastructure. In instances where repayments are based on set timing schedules, the municipality assumes a risk that revenues may not be available to make the repayment. This

risk could be counterbalanced by agreements with the developer with respect to providing timely DC revenue payments. In effect, the developer would be required to assume some or all of the risk of a slowdown in the housing market and correspondingly, the slowdown in DC revenues to be collected.

It is noted that in order to facilitate municipal service financial agreements, additional preparation and administration is required to oversee the credits and repayments. Additions to current DC administration systems and processes used by Finance and the Building Division to accommodate the credit/repayment system would most likely be necessary.

3.2 DC Credits vs. Cash Repayments

Based on the three municipal servicing agreement discussed in the prior section, the value of the project or cash contribution provided may be recognized in different ways, i.e. either by a credit or repayment. A "credit" is a deduction at the time the DC is to be paid (i.e. at the time the DC is paid at building permit, the credit will be deducted in order to reduce the charge payable). It is generally restricted to the lands and/or developer who has undertaken the work or prepaid their DCs. A "repayment" is a collection from others which is given to the person who did the work or made the initial contribution (i.e. the repayment for a front-ending agreement would collect from other benefitting landowners to pay the front-ender).

Under a DC credit system, a credit would be available against development charges otherwise payable (i.e. it is recognised at the time the building permit is issued). The credit would be limited in its application to the service component that was accelerated. For example, if a storm water management (SWM) pond was accelerated, credit would be applied to the SWM pond component of the DC upon application for building permit in that developer's subdivision. In this way, the credits for the construction of growth-related infrastructure would only be recovered upon development of the property facilitated by the accelerated infrastructure. The developer bears the risk and rewards of either slow or fast build out of the accelerated development.

If a credit system is used, all three types of agreements may be used to accelerate the project timing. If a repayment system is to be used then only the front-ending agreement would be used as the two other types of agreements relate to credit recoveries not repayments.

Both credits and repayments can impact a municipality's DC revenue stream. Repayments generally impact cash flow sooner as the payment has a stipulated date whereas credits generally impact later and are recognised when the development actually proceeds and the development charges are paid. Based on the ability to align the liability and collection directly with the specific development, agreements providing credits are the preferred alternative.

3.3 Potential Impact of Municipal Service Agreements

As presented in Table 2-1 (Cash Flow of City Services Reserve Fund), based on the City's revised timing of project construction and anticipated DC revenues arising at the building permit stage, the City is forecast to experience funding deficits for the DC funded expenditures (deficits are experienced in all services however the sanitary service is the least impacted). On the assumption that the CSRF projects were allowed to be accelerated earlier in the forecast period, an increased liability to fund would be experienced earlier and, depending on the terms and conditions of the MSFA, the City's cash flow could be worsened.

A potential concern is raised regarding the shift in definition for the UWRF fund. Under the "new" 2009 DC rules, many projects (formerly built and cash flowed by the developers) were shifted from the UWRF to CSRF. Prior to this change, the construction of these projects was undertaken by developers and repayment was limited to only the balances in the Urban Works reserves. With the new rules changes, should developers wish to continue the past practice for these projects and use the MSFA to facilitate this undertaking; this would have the affect of:

- Broadening the revenue pool available to developers (i.e. giving access to the City's DC revenues) thus accelerating payback to developers;
- Potentially placing a higher priority on "old rule" projects ahead of City priority projects;
- Limit the funds available to the City to build large treatment facilities, trunks, roads and major storm ponds. The impact of this is to either limit overall capacity in the system or increase the amount of debt the City would need to issue to make up for reduced cash flow.

A further area of concern relates to the City's ability to meet repayment requirements. Based on initial discussions with the developer representatives, their preferred approach to using the MSFA's is to accelerate the construction of the project from the timing identified in the Growth Management Implementation Strategy (GMIS) (and capital budget) and for the full repayment to be made back to the developer in the year the GMIS had originally identified it for construction. Given that the cash flow is already anticipated to be in a deficit position, the City will need to assist the cash flow (and to make the repayment) by using debt. Two potential problems arise as a result:

1. Long term debt may only be issued against a capital project. If the project is accelerated by a landowner and repayment is expected at a later date, it is unclear whether the City would still have the ability to raise funding via debt as the debt (at that point) would be raised to pay off another liability. This matter would need to be further clarified with Municipal Affairs and/or the OMB.
2. If the above was approved, the mandatory repayment timing requirements would label this form of agreement as a liability for the purposes of the City's debt capacity. The

debt capacity would be impact immediately vs. later on in the forecast when the project was originally planned.

3. The non-growth component of individual projects is funded from City financial resources (e.g. Taxes, rates, reserves, etc.). Who pays the non-growth share and when would need to be addressed.

Based on the discussions above, the key area of concern relates to cash flow. Based on the GMIS, the City establishes the project timing and the capital financing for those works. If developers are to be granted the ability to determine timing based on providing MSFA's then the City loses control of cash flow. The largest concern is that the MSFA could receive first priority on the City Service Reserve Funds (CSRF) resulting in the City not having the funds to build the broader benefit projects. If the City ultimately wishes to move in this direction (and it is not recommended), then it should consider adjusting the development charges in one of the two ways noted below:

1. The CSRF for Water, Wastewater, Roads and Storm Water should be split into a "City" related category and a "developer" related category. This is basically the same distinction the City had with the CSRF vs. UWRF. This would allow the City to retain funds for its purposes and allow funds related to the developer projects to be built via the MSFA's. Note however that there would have to be limits on the potential paybacks within the developer related category hence, credit agreements would be recommended to limit the liability and cash flow. In regard to the non-growth portion of individual projects, the developing landowner would need to cash flow this until the time the project was expected to be built.
2. Municipalities such as Richmond Hill and Markham, facilitate the more localized works (which the developers would be interested in building) in area specific by-laws. The broader City-wide projects area included in a City-wide by-law. The area specific by-law spreads the costs for the immediate benefiting area across the growth which benefits from the works. This also facilitates MSFA agreements (such as a front-ending agreement) which provide for recovery within the benefiting area.

4. POLICY PRINCIPLES

4. POLICY PRINCIPLES

4.1 General Principles

At the onset, the need and use of municipal finance servicing agreements for CSRF projects requires discussion to establish framework for its potential use. Generally, the Growth Management Implementation Strategy (GMIS) is the City's growth plan for coordinating the phasing of development and scheduling the construction of works through the capital budgeting process. As defined in the 2010 GMIS report "the purpose of the GMIS is to coordinate infrastructure with development approvals and guide the pace of growth across the City." As the GMIS considers the pace and timing of development within the City and aligns the CSRF capital construction requirements to facilitate that development, it is expected that the 20 year capital plan developed therein meets the direct servicing needs of the development community. From a financial perspective, the 20 year capital budget is developed with direct consideration given to the DC revenues available to fund the DC fundable works and seeks to establish a level of affordability. The question is then raised as to whether these agreements are to be used to finance the City's growth related projects (for Water, Wastewater, Storm Water and Roads services) as a general funding tool or whether they are to be used on an exception basis to advance works which the GMIS may have been "under prioritized" during the most recent review. As well, under either scenario, should the City consider agreements which involve cash payments or service emplacement or both?

In regard to the first issue (i.e. should this be used as a capital budget general funding tool), based on discussions with the City's Finance Department, an MSFA is not perceived as being needed as the key financing tool. It is observed however that any method which assists overall in the City's cash flow would be of assistance (however, this would be dependent upon the terms of the agreement). If the agreement is to be used on an exception basis to advance a project to assist an individual landowner, then there would be a need to rationalize the basis for advancing the project. As noted, the GMIS is an extensive process which prioritises the capital works based on a number of criteria considered in a City wide evaluation which is updated on an annual basis. Some form of criteria and framework would need to be established to allow capital works to be advanced ahead of other works, if at all. Section 4.2 provides a basis for evaluating requests on an exception basis.

In regard to the question of using service emplacement agreements (vs. cash payments to the City and the City undertakes the project), there are different perspectives as to the pros and cons of this process. Historically, under the UWRF funding, agreements with owners have long provided for them to construct minor works and claim back from the fund for those works identified in the agreement that were deemed to be cost sharable through development charge funding. With CSRF funded works, upon approval of the budget, City staff has historically executed the project delivery.

The benefits that have been cited in the past in favour of developer lead construction include:

1. ability to mobilize construction equipment and manpower for completing both "local" and development charge funded works simultaneously (i.e. avoid duplication of effort);
2. better coordination of resources to minimise disruption to the general public during construction in high traffic areas;
3. minimize construction adjustments or added cost for reconstructing components of assets.

Arguments in favour of the City maintaining the responsibility for timing and construction of major works include:

1. in the case of localized works, less likelihood that one developer could control the intentions of others by controlling service location and/or timing of construction;
2. ability for the City to construct a substantial number of projects all at once, as opposed to a number of lesser projects (i.e. efficiency);
3. ability to expropriate land if necessary;
4. ability (perceived or real) to better manage the public interest when working in environmentally sensitive areas;
5. clarity as to scope of works being financed by City administered funds;
6. projects are awarded based on a transparent and open bidding process.

In instances where the City would allow the developer to construct the works, a number of matters would need to be addressed. These include:

1. responsibility and execution for project management;
2. ensuring projects are undertaken to minimize impacts on local traffic and neighbourhoods;
3. ensuring timing of infrastructure construction in a predictable manner;
4. procurement practices consistent with City's Purchasing policy (clear scope definition, transparency, accountability, competitive bids);
5. appropriate sharing of any cost efficiencies achieved by simultaneous completion of DC funded works and local servicing undertaken by the developer;
6. formalized administrative practice for recognizing financial obligations under these agreements;
7. establishing basis for determining a fair and equitable cost of works provided and, in some cases, allocation between CSRF and local works.

In summary, there are both potential issues and opportunities associated with developer lead construction for CSRF funded works. Generally, this decision may be considered on an individual basis; however, a framework for evaluation would need to be established in order to do so.

Based on discussion with City staff, a general framework of principles has been established and is provided in the following section. A draft listing of principles was released to the development community in mid-May and meeting to discuss these matters was undertaken in early June. Comments were provided by the London Development Institute, London Home Builders' Association and Urban League of London which are attached in Appendices A to C.

4.2 Consideration of a Request to Advance the Timing of a CSRF Project

It is recognised that, on a select basis, the need may arise to allow a project to be advanced and potentially be funded via a MSFA. If a request is made to the City to advance the timing of a CSRF project and to facilitate that advanced timing vis-à-vis an MSFA, a process needs to be put into place to evaluate that request. As has been discussed, the GMIS is an extensive process which prioritises the capital works based on a number of criteria considered in a City wide evaluation which is updated on an annual basis. To consider an individual request, similar considerations should be used as in the GMIS update including:

- Review of projected growth forecasts;
- Consider existing applications and market supply of lots in registered subdivisions;
- Consider logical progression of development to contiguous areas of the City - development proposal does not constitute blatant "leap frog" development;
- Availability of existing municipal servicing, and extent of accelerated servicing required;
- The development advanced has a compelling advantage to the City;
- EA/EIS are completed;
- For acceleration of services for non-residential development, consider business case analysis for acceleration and process required to facilitate acceleration;
- Projects to be advanced are within the five year capital budget timeframe and are included within the existing DC Background Study;
- In addition, Council should consider:
    - whether the acceleration will unreasonably hamper or remove the discretion of future Councils to apply evolving standards to development;
    - where there is an emergent economic development opportunity involving significant job creation (other than construction) that makes accelerating longer term capital works desirable;
    - if it may facilitate the development of a major facility that is needed by the adjacent development servicing area or localized community (e.g. new school or community centre).

It is noted, based on comments made by the development community, that the ability to advance the timing of EA/EIS's would assist greatly in shortening the time needed to bring

projects on-stream. This should be considered as desirable as long as the potential timing of the work is within five years.

As part of this overall process, consideration of an application to accelerate a project and consider an MSFA, would include the following:

1. Through the initial stages of the development application process, servicing requirements are determined. (subdivision, site plan or consent process administered by DABU).
2. In the course of reviewing the application, the City staff identify infrastructure or other servicing needs that it believes need to be addressed prior to development occurring. If the identified capital needs are more than five years away (in terms of the timing of infrastructure in question as assigned in the most recently approved capital budget) the City may decline the application on the grounds of prematurity.
3. At this time, the developer may request the City consider a Municipal Servicing and Financing Agreement to accelerate the construction of the works that would allow their development to proceed further along the development approval process. The owner's request should include an explanation of how the proposed acceleration of the capital works are in the public interest and review of the merits of either the developer or the City undertaking the lead on the project. Any other elements of the agreement the developer would wish to advance as part of the application (concessions on financing other elements of the work, assurances of project viability, elements of agreement and risk allocation) should be identified with their submission.
4. City Administration will review merits of acceleration, consistent with the principles of MSFA's (as adopted by Council) including consideration of economic climate, an impact assessment provided by the City's Financial Planning and Policy division (see below), and other elements of the adopted MSFA policy, and compile a recommendation report. City administration will report back to Finance and Administration Committee with its review and recommendations on the MSFA. Managing Director, Development Approvals Business Unit, Executive Director of Planning, Environmental and Engineering Services, and City Treasurer will collectively make a final recommendation on the disposition of the request to accelerate a development proposal. If the staff recommendation is to proceed to an agreement, the report will also include discussion of key elements of the proposed agreement, all in accordance with the adopted principles of Council.
5. Pending Council approval "in principle," staff will be charged with responsibility to work out agreement details in accordance with the staff report and any further direction arising from Council's consideration of the report. The provisions of the agreement will normally include:
    a. Scope of CSRF funded capital works that will be subject of the agreement (UWRF claimable works will remain as part of the City's standard subdivision agreement for the time being);

   b. Terms of developer financing and repayment/recovery (note that this would include the growth and potential non-growth portions of the project);
   c. Terms of developer construction (if applicable);
   d. Terms related to developer assurances with respect to Development Charge revenues flows or terms of administration of development charge credits;
   e. Security requirements related to the MSFA;
   f. Responsibilities related to administration of the proposed agreement.

6. After negotiation and preparation of the municipal service finance agreement, return to Council for final approval of that agreement.
7. Other elements of the development application process would continue and the staff report on the merits of the application may be dovetailed with step 6) above.

In regard to the impact assessment (noted above in item 4) to be undertaken by the City's Financial Planning and Policy Division, issues to be addressed include:

- the implications of accelerating works on debt and DC revenues – may need to establish benchmarks as part of the capital budget policies;
- effects on future DC cash flow projections;
- effects of acceleration of non-growth share of works on tax and user rates – consideration of the non-growth share being non-reimbursable if the project is accelerated by more than five years.

In regards to the form of the MSFA to be considered, the main issue is that of using credits to recognise the value of the work (vs. cash reimbursement). A credit system would provide for the development proponent to receive credits against future development charges payable as a repayment for financing accelerated infrastructure. The credit would be available only against the service component in which the work was completed. Until all the credits are used, the developer underwrites all costs associated with financing the works. Where the credits available within a development do not fully reimburse the front ending developer, alternatives will be negotiated and incorporated into an MSFA that might include:

- DC credits available for accelerating developer for each DC paid within the area that benefits from the accelerated works;
- Tiered financing schemes that involve participation in financing by adjoining developers.

4.3 Assessment of Risk

During the meetings with representatives of the development community, the discussion of risk was undertaken on several occasions. From the developers' perspective, if a project proceeds through the evaluation process and is deemed acceptable to be advanced using Municipal

Services Finance Agreements, then there are benefits derived by both the developing landowner as well as the City. The developing landowner would seek to assume the financial risk for the period of time the project was advanced and would expect full repayment at the time the city expected to undertake the project. In this way, the risk is shared between the landowner and City. Repayment via credits would extend the period for the landowner to receive financial recovery, hence their expectation to receive full repayment from the City.

Clearly, both the developing landowners as well as the City are seeking to manage their risk. Conceptually, Risk Management is the process of measuring or assessing risk and then developing strategies to manage it. Strategies would include avoiding the risk, reducing the risk or transferring the risk.

From a broad perspective, the GMIS/capital budget process is a form of risk management for the City. This process seeks to manage the City's financial investment in infrastructure by emplacing works which would foster growth in the residential and non-residential sectors with the hope of receiving various social, economic and financial benefits in return. This policy paper (i.e. Master Servicing and Financing Policy) further refines this process by limiting changes to the GMIS process to deal only with exception situations which cannot wait for the next annual update to be reprioritized.

As provided in Table 2-1, the 2010 GMIS study provided an infrastructure spending plan which has more growth-related expenditures than DC revenues, hence, this plan already provides the City with a level of financial risk. If the policies provided herein are adopted by Council which limit changes to the GMIS prioritization of projects to an ad hoc basis, then these policies assist in managing risk at the level anticipated in the GMIS. If these policies don't limit the number of charges on the total quantum of the agreements being entered into, than the City's financial risk is increased.

If the development community would wish to move towards guaranteed repayment timing, then there should be a "ceiling" on the total value of agreements entered into, at least in the early years of the policy. This ceiling would preserve the City's flexibility to reprioritize projects in the future, while still allowing for some flexibility to address ad hoc situations.

Table 2-1 identifies that the total DC collections expected for the next 10 years for water, roads, sanitary and storm purposes is $275 million. The projected collections vary between a low of $19 million to a high of $30 million. Based on this annual revenue collection level, it is recommended that the total value of all agreements entered into not exceed $5 million at any point in time. This amount represents up to 25% of the collections anticipated in the "low" revenue years. This ceiling is intended to preserve the City's flexibility to continue the GMIS process with minimum constraints while allowing for some level of agreements to be entered into. It is recommended that this ceiling be maintained for the first three to five years and be reviewed based on how the policies provided herein are functioning.

It should be further clarified that the timing of project construction provided in the GMIS is predicated on an assumed forecast of annual building permits. Hence, assuming the level of annual building permit issuance slows, the corresponding need for project construction would also slow. As well, DC revenue collection will slow at the same pace. It is therefore recommended that the potential repayment timing (if this system is used instead of credits) be aligned with cumulative building permit issuance vs. calendar timing. That is to say, if certain projects were expected to be constructed after the issuance of say 6,000 units, the 6,000 unit trigger should be used as the timing to trigger the repayment.

Lastly, as noted in section 3.2, a front-ending agreement would have to be used in order to implement the repayment system as accelerated payment agreements and service emplacement agreements provide for credits not repayments.

4.4 Other Matters to Be Considered

In other municipalities, fees are normally charged for processing these types of requests. These fees can be in the $5,000-$10,000 range per request. These fees may vary depending on anticipated complexity of the accelerating request and/or may be established in relation to additional resources required to assess the MSFA request. Lastly, if the use of front-end agreements is used, consideration of fees which provide for the annual administration and reporting should be considered.

5. OBSERVATIONS, CONCLUSIONS AND RECOMMENDATIONS

5. OBSERVATIONS, CONCLUSIONS AND RECOMMENDATIONS

The foregoing has provided a review of the issues surrounding Municipal Service Finance Agreements (MSFA) and their potential use in funding City Services Reserve Fund (CSRF) projects. Based on this review, it is anticipated that the need to accelerate CSRF project timing using these agreements is limited. This conclusion is based upon the current process which the City has for reviewing development needs and coordinating the City's capital spending plan accordingly. Generally, the Growth Management Implementation Strategy (GMIS) is the City's growth plan for coordinating the phasing of development and scheduling the construction of works through the capital budgeting process. As defined in the 2010 GMIS report "the purpose of the GMIS is to coordinate infrastructure with development approvals and guide the pace of growth across the City." As the GMIS considers the pace and timing of development within the City and aligns the CSRF capital construction requirements to facilitate that development, it is expected that the 20 year capital plan developed therein meets the direct servicing needs of the development community. As the GMIS process is in place and reviewed annually, it is not anticipated that a significant number of project priority changes is warranted in the intervening months between GMIS updates.

From a financial perspective, the GMIS process develops a 20 year capital budget with direct consideration given to the DC revenues available to fund the DC fundable works and seeks to establish a level of affordability. As provided in Table 2-1, the City's CSRF capital plan for the next 10 years, including present work in progress and unfunded debt, provides total spending of $556.3 million. Of this $143.8 million is non-DC/non-growth funded and must be funded by property taxes and rates. For the residual $412.4 million, the DC expenditures will exceed the DC revenue thus resulting in a CSRF deficit of up to $80.5 million within six years. Should a process be put in place which allows further acceleration in the construction of CSRF capital projects, it would be expected that this deficit would increase sooner. Further, based on the form of MSFA used and the terms provided therein, the City's debt capacity is anticipated to be impacted upon negatively.

The discussion above does not preclude accelerating the timing of a CSRF project but to limit its use to an exception basis. There may be instances where City project priorities need to reviewed prior to a GMIS update. These instances would normally relate to potential economic development opportunities to facilitate new businesses and jobs (other than construction) and/or where it may facilitate a community use facility (e.g. new school, City facility, etc.). An evaluation process is provided in section 4.2 to assist in this review which includes the need for Council to consider the merits of the proposal.

If the review process provides for the acceleration of construction of a CSRF project, then the City should consider the use of the one of the three MSFA's discussed in Chapter 3. For

Accelerated Payment Agreements and Service Emplacement Agreements, credits would be used to recognise the financial value provide by the CSRF project (note that if a Service Emplacement Agreement is used, a process is provided in section 4.1). Front-ending agreements may also be used which would provide for either a credit system of recovery or a repayment system of recovery.

Based upon the above, the following recommendations are provided:

1. That the Growth Management Implementation Strategy (GMIS) be the primary basis for determining City priorities for construction of City Service Reserve Fund (CSRF) projects.
2. That consideration be given to the benefit of accelerating CSRF projects on an exception basis where the individual project provides economic opportunities for new business and jobs and/or where it may facilitate a community use facility. In considering the merits of an application to accelerate a CSRF project, the evaluation process provided in section 4.2 of this report be used and a report be prepared for Council consideration. The report should also include an assessment of risk and the financial implications of accelerating the timing of the project.
3. That the following forms of MSFA agreements be provided to facilitate Recommendation #2 based upon the identified reimbursement method:
    a. Accelerated Payment Agreements would facilitate construction of the CSRF project by the City with reimbursement provided by credits.
    b. Service Emplacement Agreements would facilitate construction of the CSRF project by the landowner subject to the process set out in section 4.1 with reimbursement provided by credits.
    c. Front-ending Agreements would facilitate construction of the CSRF project by the City with reimbursement provided by either a credit or repayment. If a repayment is considered, then the repayment should occur no earlier than the cumulative growth amount anticipated in the GMIS forecast.
4. That the non-growth share of projects undertaken with the MSFA be cashflowed by the developers and repaid by the City no earlier than the cumulative growth amount anticipated in the GMIS forecast.
5. That the total amount of all agreements entered into, not exceed $5 million and further, that the adequacy of this ceiling be reviewed within five years.

APPENDIX A
CORRESPONDENCE FROM LONDON DEVELOPMENT INSTITUTE

London Development Institute

June 9, 2011

City of London
300 Dufferin Avenue
London, Ontario
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Attn.: Martin Hayward, City Treasurer, CFO

Re: CSRF/UWRF Discussion Group, Municipal Service & Finance Agreement (MSFA), Initial Policy Principals

Dear Mr. Hayward:

The following are the London Development Institute's comments related to the information presented in the two handouts at the June 6, 2011 discussion group meeting.

Municipal Servicing Financing Agreements (MSFA), Initial Policy Principals, May 25, 2011

General Principals
Page 4, Point 2:
The developer must demonstrate how the proposed departure from the City's capital plan is in the interests of the public.

This should be changed to the interests of the City and not the public because the interests of the greater City may be different than the interests of a specific interest group in the City. The interest of the public will always be considered in any decision by the City.

Page 4, Point 4:
Temporary infrastructure to facilitate development is not reimbursable.

The terms temporary and interim have been used in defining projects in the Urban Works Reserve Fund (UWRF) to determine when a work is funded by the fund and these definitions should be reviewed in relation to the MSFA. Some works may be classed as temporary in the short term to allow development to proceed but may be built to a permanent standard and will be left in place as the permanent solution. More discussion is required on this issue.

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Considerations by City

Page 5, Point 1, Bullet 6:

Administrative review that precedes a MSFA should address similar considerations as used in the annual GMIS update:

- *EA/EIS are completed*

This point needs to be reviewed with the Planning Department and DABU because of the lead time required to meet the timelines in the GMIS for the delivery of CSRF projects. The Planning Department will not permit a developer to proceed to draft plan if the timing does not meet the GMIS schedule for the services to be built. The lead time required for a plan of subdivision in an area where CSRF projects are scheduled to be built in 2015 means that the developer should submit engineering drawings for the subdivision at least a year and a half before that date, the draft plan a year and a half before the engineering drawings are submitted and the EA or EIS at least a year before the draft plan is accepted as a complete application. The developer needs to start work on the file in 2011 to be ready to build the subdivision in 2015.

Page 6, Point 1:

For acceleration of services for non-residential development, consider business case analysis for acceleration and process required to facilitate acceleration;

More definition is needed on what will be required in the business case analysis, is it just the case on the benefits of the development to the City related to employment and future tax base or does it include an analysis on the effects on existing business.

Page 6, Point 2, Bullet 3:

In addition, Council should consider

- *Where the acceleration may facilitate the development of a major facility that is needed by the adjacent community (e.g. new school or community centre).*

What is meant by "adjacent community"; does this mean extending sanitary service to Arva or does it mean the next area/community plan within the City?

Timing

Page 7, Point 1:

MSFA should only be considered where services in question are within the 5yr. capital budget.

The timing of the project needs to be reviewed as discussed at the meeting due to the lead time required to complete portions of projects to meet the timelines in the GMIS (EA's, EIS). This may need to be changed to "be consider" in the ten year capital budget.

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Review of debt position in DC reserve funds
Page 9, Point 1, Bullet 1:
Implications of accelerating works on debt and DC revenues must be analyzed, in consultation with City Treasurer, before recommendation to advance works.

- *Analysis will include assessment of overall DC debt for the service in question, effects on future DC cash flow projections, effects on acceleration of non-growth share of works, if any*

This highlights the need for a DC Monitoring Committee to be established with members of the development community and City staff to review the update to the GMIS and DC spending. The Monitoring Committee should review the project scope and design to ensure that they are in conformance with the DC Background studies.

Page 9, Point 1, Bullet 2:

- *MSFA should provide for a system of how credits are provided to reimburse for obligation*

Further discussion and examples are needed on the credit system.

Page 9, Point 1, Bullet 3:

- *City will need to establish "benchmarks" for DC funded debt levels*

Benchmarks will need to take into consideration many factors including existing balance in the funds, future benefits and timing of repayments. The benchmarks should be reviewed yearly with a DC Monitoring Committee.

Credit system favoured over Cash Reimbursement
Page 10, Point 1
MSFA policy should provide for a system of credits against future development charges otherwise payable (Admin. Preference)

Further review and examples of the credit system is needed. The preference for the development industry is to be paid back in the year the project is scheduled in the GMIS that is tied to the Capital Budget.

Implications of Acceleration of Works on Tax/User Rates
Page 12, Point 2:
Non-growth share of accelerated works to be financed by developer

How is the developer to be repaid and when?

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City to project manage front ended works unless merits of developer lead construction dictate otherwise
Page 13, Point 1:
Any CSRF project to be accelerated would ordinarily be 'project managed' by the City, unless otherwise agreed to by the Managing Director, Development Approvals Business Unit and the GM of ESD

It has been almost two years since the new DC was adopted in 2009 and the City has taken on project management of CSRF projects. There have been examples of where some projects could be better managed by the developer to coordinate works on their sites, save duplication of work and save costs to the CSRF which will help keep future DC charges in check.

Other Matters
Page 15, Point 3:
City will require security to ensure developer obligations under agreement are met.

The determination of security needs to be discussed.

City of London
DC Overview, Financial Agreements and DC Cash flow
June 6, 2011

Timing of Capital Expenditures
Page 3, Chart

The timing of capital expenditures for water, wastewater, stormwater Management and roads shown on the chart may be more representative of how those works are completed in the GTA or under the intention of the 2009 DC By-law where the City is project managing more of those works with the changes to the CSRF but historically many of the works were initiated by the developer after they have received subdivision approval. In London development has proceeded well in advance of major road works being completed and has worked well in the past.

Financing Practices in Ontario
Page 5, Point 3

A few municipalities (e.g. Markham, Richmond Hill) include services similar to the 'old Rules UWRF' in an Area Specific DC and require developers to build the works – the municipality recovers the Area Specific DC from benefiting land owners

This method needs more discussion. Does the developer's engineer prepare the design, drawings and tender the project? This could be used as a means to keep

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DC costs in check and also a way to monitor the CSRF projects to ensure that the prices are in line with private sector works.

DC Cash flow
Page 6, Point 2
Project funding may require debenture financing or borrowing from other reserves to interim fund works (with repayment from DC's) – also requires prioritizing the timing of construction for various projects

The timing of projects is prioritized in the GMIS. There seems to be confusion on the deficit of the fund, as we understand it. The fund is expected to go into deficit (DC revenue extends beyond expense date), that is why there is interest calculated within the DC Act. We agree there are limits on borrowing; however it is performing as designed.

Service Emplacement Agreements
Page 10, Point 1
Developer may agree to build a specific project – most often applies to water, wastewater, parks and road improvements

If the developer agrees to build a project identified as a CSRF project who is responsible for preparing the design, drawings and project management. Can this work be undertaken by the developer, project managed by the City and the funds claimed through the CSRF to pay back the developer?

Forecast for Expenditures for Roads, Sanitary Sewage, Water Distribution and Major SWM 2011 – 2020
Page 15, Chart

Chart needs to be updated to reflect current balance in the fund and future benefits beyond the 20 year period

Page 16, 17, 18, 19 & 20, Charts

The growth-related expenditures on these charts should show the non-growth components to reflect the actual DC revenue.

General Comments

- Proposal does not seem consistent with the GMIS – what happens to a project on GMIS when front ended – what happens to the funds allocated to the same?

- Appeal of the DC By-law by the LDI needs to be clarified for all participants in this discussion on MSFA's. The industry referred the City's DC By-law to the OMB because the calculations did not include

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any "Grandfathered" payments and therefore was not representative of current situation or obligations.

- The industry had always believed that front ending agreements would tie into the GMIS – i.e. Assuming all things are occurring in accordance with GMIS schedules (City would be doing the work at the time noted in the GMIS and paying for the work in that year) the payment to a developer that advanced a work would be made to the developer, as scheduled in the GMIS – yes this might cause a deficit in the fund however that is how it was designed. Assuming any changes to GMIS are market driven and not political, we believe this to still be the best avenue to repay for the advancement of works.

- Confusion on deficit of fund – as we understand it the City would be paying for the work as scheduled in the GMIS – (the fund is supposed to go into deficit, DC revenue extends beyond expense dates) – that is why interest is calculated within the Act. Why, if a developer advances a project can't they get paid back in the year as scheduled in the GMIS because the City would have been doing the work at that time if it held to the schedule and paying for it in that year anyway? We agree there are limits to borrowing; however it is performing as designed.

- There are a number of projects that were missed when the changes were made to the CSRF/UWRF and the GMIS was developed. The DC/GMIS needs to be reviewed to include these projects in the DC to ensure that money is included in the fund to finance the works.

Thank you for the opportunity to comment on these issues which will form the basis of the Municipal Servicing Financing Agreement. We need to continue an open dialog on this matter to have all parties involved agree with the final mechanism to enable the advancement of CSRF projects to meet changing market demands.

Sincerely,
London Development Institute

Jim Kennedy
President, LDI

c.c. Jamie Crich, Auburn Developments
c.c. Richard Sifton, Sifton Properties
c.c. Alan Drewlo, Drewlo Developments Inc.
c.c. Mike Howe, Norquay Developments

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London Development Institute

July 20, 2011

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

Attn.: Martin Hayward, City Treasurer, CFO

Re: City of London, Municipal Service and Financing Policy Report, July 11, 2011

Dear Mr. Hayward

Further to our preliminary review of the Draft report and discussion at the meeting held on Wednesday July 13, 2011 this letter re-iterates our comments and highlights our concerns as follows:

One general comment on the report is that the language needs to be more balanced and less negative regarding the use of the funds to build growth related projects and the need for tax payers having to contribute their share of the works when they also benefit from many of the improvements being constructed. This could be reinforced in the second line of the second paragraph on Page 1-1 related to the city-wide benefits of the works.

Given the level of comment surrounding the fact the fund operates in a deficit position we would encourage Watson & Associates to state more clearly that in fact that is how the fund is supposed to work. This could be addressed in paragraph one on page 1-2 where it talks about the DC being paid at the time the building permit is issued or by introducing a new paragraph explaining that the premise of Development Charges throughout Ontario is that defined works are built prior to new development and the funds are then recouped over time as the development builds out..

The same paragraph goes on to say that "no loans or debt were issued by the City to address the shortfalls" and as a result the developers would need to wait for their payments from the UWRF. It should include that the delay in repayment based on building permits being issued was agreed to by the development community and that this forms the basis of the fund.

In regard to the comments on the Blue Ribbon Panel (BRP) on page 1-2 it should be stated that the BRP did not recommend that the UWRF should be eliminated but only reduced in scope. Further it needs to be highlighted more clearly that it was the BRP that observed the tool of front ending agreements for

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CSRF capital works has been underutilized and that the development industry agreed to the changes to the CSRF/UWRF based on the fact that the Administration would develop a front ending policy to permit the advancement of CSRF projects from the dates for the works as scheduled in the GMIS.

There needs to be more clarity regarding the reason for the LDI's DC Appeal in the third last paragraph on page 1-2 as follows:

> This change had an immediate impact of reducing the charge for the UWRF, *thus increasing the time for repayment of existing claims,* and increasing the CSRF *charge.* However, as a result of an OMB appeal, the City agreed to maintain the UWRF charge at present levels for four years *to pay back the "Grandfathered" claims* and then to reduce the charge subsequently to a revised rate.

Further discussion will be needed regarding the possible use of area specific development charges as mentioned in the meeting and what the affects will be on the affordability of housing in different areas of the City.

It should be stated that Table 2-1 provides a cash flow as a snapshot in time but does not reflect the fact that over the time period shown there will be two legislated times to review the DC charges to possibly reduce or increase the DC rates as well as an opportunity through the review of the GMIS to adjust the DC charges.

Table 2-1 shows a shortfall in funding for the works include in the DC background studies and it needs to be noted that the LDI has raised concerns over the increasing costs of CSRF funded projects that are now managed by the City and this reinforces the need for a pro-active DC Monitoring Committee which will include members of the development industry and the Urban League.

Section 3.0, Development Charge Agreements, puts forward the three types of financing agreements being considered by the City to enable advancing CSRF projects depending on the type of works being proposed. There has been a commitment made by Watson & Associates to provide examples of the different agreements for further review and the LDI will have comments at that time.

Section 3.1 raises the fact that the Planning Act provides for two points in time where a municipality can, by by-law, mandate the collection of the development charges. This issue was raised by different people at the meeting and the general concern is that if the fees are collected at the time of registration it will eliminate many of the smaller developers for two reasons; the first reason is will they have the capability to arrange the money to pay the fees upfront and the second is that due to the build out rate in London they may not be able to afford to wait for reimbursement of the fees. This issue needs further discussion.

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Another concern for the industry is the use of credits and how they will be used to reimburse the developer for installing CSRF works prior to the schedule in the GMIS. This issue also requires further discussion and review once the examples of agreements are provided by Watson & Associates. One challenge with using credits is that it doesn't provide monies to the CSRF to pay for projects that were budgeted in the DC study to be paid for on a City wide basis.

The GMIS is an important component to this process and needs to be reviewed and updated annually to ensure that CSRF works are being timed to the requirements of growth and also considering the debt position of the City. The GMIS can be used to review the growth rate and to monitor the lot build out to calculate the monies that are paid into the fund to pay for the installed works.

The development community has stated that the timing of the repayment of a claim for an advanced work should be timed to match the date the project was scheduled to be built in the GMIS. The industry has also stated that the repayment needs to be tied to benchmarks related to a specific number of permits being issued before repayment can occur so the City does not need to fund the claim by issuing debt.

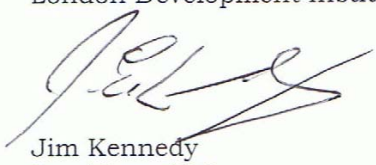
The LDI has said that the use of a MSFA should be the exception and not the rule if the GMIS is updated on a regular basis and that advancing works will be utilized to meet unanticipated market demands or influences that will be determined by criteria set in the final MSFA policy.

Further discussion will be required regarding if a developer wants to advance a project from the date in the GMIS they will be responsible to pay the non-growth component of the work with no claim permitted to recover the non-growth portion of the cost.

The questions raised in the LDI letter of June 9, 2011 have not been answered at this time and need to be discussed to address the concerns mentioned before the final policy can be completed.

Thank you for the opportunity to be included in the ongoing discussion on the MSFA policy and we look forward to your response to the issues raised in this letter.

Sincerely,
London Development Institute



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Response to matters raised by London Development Institute – June 9, 2011

1. Page 1 – General Principles

   The intent of the general principle is to balance the interest of all the public, not specific interest groups.

2. Page 1 – Temporary Infrastructure

   The intent of the policy is to acknowledge that the City prefers to build the planned permanent infrastructure vs. smaller, localized infrastructure which services smaller areas or specific developments. There may be instances where a temporary or interim infrastructure can assist in the long term servicing plan; however, this may only be defined on a case by case basis.

3. Page 2 – Consideration by City – Administrative Review

   The concern raised is focused on ensuring that the EA's and EIS's are undertaken enough in advance of the infrastructure project to ensure that the servicing project is not delayed. This is a valid point and should be identified as part of the GMIS process. (This is identified in section 4.2).

4. Page 2 – Acceleration of services for non-residential development – reference to business case

   The purpose of the GMIS (as acknowledged in Section 4.1 of this report) is to coordinate infrastructure with development approvals and guide the pace of growth across the City. Hence, the GMIS process is meant to facilitate growth to achieve additional employment and expansion of the tax base. As the GMIS is updated annually, it is anticipated that it will include all known opportunities at the time of review. The policy provided is to acknowledge unexpected employment opportunities through Commercial, Industrial or Institutional developments which require a process which would respond more quickly than the GMIS update process.

5. Page 2 – What is meant by adjacent community

   This definition has been expanded in section 4.2 to identify an adjacent development servicing area or localized community.

6. Page 2 – Timing of services to be considered for MSFA

   As discussed in Chapter 4 (and 5) the GMIS is meant to provide the process to prioritize infrastructure to facilitate development. Accelerating infrastructure beyond a five year planning horizon should be dealt with as part of the GMIS process, not in isolation of it.

7. Page 3 – Review of Debt position in DC Reserve Funds

   As part of the GMIS process, the Finance department will monitor debt levels and reserve balances. This information would be provided to Council and to the public. Hence the information will be made available to everyone; however, a separate monitoring committee is not expected to be warranted to prepare this information.

8. Page 3 – More discussion needed on credits

   This has been discussed in detail in Chapter 3, Chapter 4 and Appendix D.

9. Page 3 – Benchmarks needed for DC funded debt levels

   This is acknowledged. However, as discussed in chapter 2, the level of debt issued cannot require annual debt charge payments which exceed the anticipated DC collections for that year (by service). Hence, the potential benchmark may be set at the level of debt charge payments which equal the DC revenue generated during an economic downturn; otherwise the City would incur a payment liability which must be met with either tax / rate increases or use of other reserves.

10. Page 3 – Credits vs. Cash reimbursements

    More discussion is provided in Chapter 3 and Appendix D

11. Non-Growth share of works to be financed by developer

    This matter is discussed in Chapter 4.

12. Page 4 – Merits of City constructed accelerated works vs. developer constructed accelerated works.

    This is discussed in Chapter 4 of this report.

13. Page 4 – Security requirements for developer obligations

    This will be dependent upon the type of agreement undertaken.

14. Page 4 – Timing of Capital Expenditures

    This is discussed in Chapter 2 to this report.

15. Page 4 – Financing presented in Ontario

    How these rules are developed is generally specific to the municipality, however, the area specific charges normally include the localized studies (engineering and infrastructure).

16. Page 5 – DC Cash flow

    DC Cash flow is presented in Chapter 2 to this report.

17. Page 5 – Question regarding funding CSRF projects

    The City would prefer for the developer to pay for the work and be managed by the City. Repayment would be dependent upon the type of agreement.

18. Page 5 – Expenditure Forecasts by Service

    See Chapter 2 to this report.

19. Page 5 – General Comments

- What happens to GMIS project when front ended – as noted in this report, it is recommended that this practise be minimized and that a credit method is preferred. This would then have the "repayment" recognized as the building permits are taken out within that specific development.
- DC appeal – outside the scope of this study.
- The relationship between the GMIS study, infrastructure requirements and the potential for MSFA's is discussed in detail in this report. It is expected that the GMIS will define an annual payment program for the City and that agreements with developers would be minimized.
- Reserve fund debt – this is discussed in Chapter 2 to this report.
- Potential missed projects in CSRF/UWRF and GMIS – these works should be identified to staff during the GMIS process and the appropriate response will be provided.

APPENDIX B
CORRESPONDENCE FROM LONDON HOME BUILDERS' ASSOCIATION

June 9, 2011

Mr. Martin Hayward, City Treasurer
City of London
Emailed

Dear Mr. Hayward:

Re: CSRF / UWRF Discussion Group, Municipal Service & Finance Agreement, Initial Policy Principals

Thank you for including the LHBA in the above discussion group. Below are our comments:

- It is part of LHBA's mandate to work on behalf of London home buyers and home owners to protect affordability and choice for housing within London. As DC spending directly impacts the end price of homes for London citizens, all expenditures need to be based on principles that ensure prudent use of funds appropriate to the work undertaken, that protect again duplication of efforts between city and industry and maximizes the return of all expenditures. Examples of recent spending that is not in keeping with these principles is alarming. Establishing a Committee with members from City staff and the industry, to monitor that spending adhers to established principles, is critical.

- As it is the builder who pays the Development Charge at the time of building permit, any system for repayment to developers that involves this payment, warrants further discussion to ensure that it is planned in a manner that supports the efficiency of the process that is currently in place. Further discussion needs to happen to clarify how a credit system would work and the impact on the current building process needs to be considered.

- It cannot be overstressed, that the health of the residential construction industry and jobs of thousands of workers, rely on the industry's ability to respond to the demands of the market place. An ongoing review of the GMIS, with the ability to realign the priority of projects is essential. While completion of major road works in advance of development might have advantages in some circumstances, ensuring that land is available for building when buyers want to proceed is key.

- A clear understanding of the operation of the DC fund, including the interest already provided for in the DC calculation in relation to its deficit nature, is needed by all stakeholders.

We look forward to continuing to participate to work towards the best solutions for our community.

Yours truly,

Lois Langdon, Executive Officer

London Home Builders' Association

Mission Statement - LHBA is committed to provide a forum for its members to share information and experience; promote ethical building and business practices; be the voice of the residential construction industry in London and to work towards the betterment of our community.

TEAM - Together Everyone Achieves More

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Response to matters raised by London Homebuilders Association – June 9, 2011 Correspondence

1. The Development Cash flow for the hard services has been presented in Chapter 2 to this report. As is presented, there are presently negative balances in the reserve and this is anticipated to grow over the next 10 years. This does result from having to build services in advance of development. The capital spending and financing plan will be updated annually as part of the GMIS process and capital budget process.

2. Discussion on financial agreements and credits is provided in Chapter 3 and Appendix D

3. The City recognizes the importance of having an adequate supply of serviced lots across the City. The GMIS has been put in place to ensure that infrastructure servicing is constructed at the proper time in the right areas, to ensure that this continues into the future.

4. Please review the updated DC cash flow provided in Chapter 2 for the updated information.

APPENDIX C
CORRESPONDENCE FROM THE URBAN LEAGUE OF LONDON

the urban league of London
association of community groups

At present, as per our discussion at the end of the meeting, we are somewhat concerned that this is a backdoor return to the UWRF days. Gary's point of being unable to debenture a completed project is worrisome given a financing agreement is a clear obligation of the municipality for payment on a certain schedule. Making payment may squeeze other Council priorities if the size of the payment is too large, particularly if a cap on debt issuance remains in place.

One very important piece of this is that the city needs to have a good handle on costs. Based on the last DC monitoring report to Council in December, it was clear that the city (DABU?) still does not have a good handle on SWM costs. (December 13, 2010, page 5/6 of the report). Without good data, entering MFSA will be very risky financially.

We are concerned that advancing projects creates commitments that may be difficult to pay if the revenues don't materialize. It works in a market that performs better than expected, but runs very short when the market turns south. As no one, particularly the City, can predict the market, the City's risks are very high. The developer doesn't care as they can take the financing agreement to the bank (literally) putting the repayment risk on the city. (They would not enter into the agreement if they did not think the timing was good. Therefore, they can sign the agreement in a "good market" and get paid back in a "poor market"). In this situation, it is even worse than the UWRF "obligation" as the financing agreement likely has a fixed payment schedule (unlike an UWRF claim).

We are concerned that the city's "jumping the queue" at the 401 will make it very difficult for the city to say no to any developer request to bring forward a new project. This makes it important to reinforce the point to Council that the cash goes out in big bags at the beginning and the

"boom" in tax revenue comes in only in dibs and drabs over a long period of time.

We also think that servicing agreements can reduce competition in the development industry. It is less likely a smaller or infrequent player in London can front end and rely on credits. Will this have the unintended consequence of increasing land prices by putting pricing power in the hands of a few?

If the proposed agreements do become policy, we suggest the following:

Possible criteria for "interests of the public"

- The project to be advanced has a low non growth component. (this reduces the amount the taxpayers are on the hook for). Low might be under 20%.
- There is no negative impact on police, fire, EMS response by advancing the project. This requires input from these services into the analysis by staff.
- The advanced project provides an opportunity to bring a privately owned woodland, ESA, wetland, or ANSI into public ownership.
- The advanced proposal does not result in the premature loss of a woodland of 2 hectares or larger (the idea being that the woods should be protected as long as possible)
- The advanced proposal includes two or less landowners. The idea is that this makes it easier and more straight-forward to conclude a financing agreement.
- It might make sense that only one project per year can be advanced and the final approval can only be given by Council at its budget meeting (this puts the advancement where it belongs – in the context of budget impact. This is because other projects may be added to the capital budget by Council at budget time). Another approach would be that a project could only be advanced if the total cost was under a threshold amount. Not sure what would be a reasonable amount.

Questions that didn't get asked.

-Credits make more sense than cash. However, is there interest owing on credits that are recaptured by the developer as part of the agreement? If so, what rate of interest - the city's or the developer's?

-Are credits expensed on the city's budget annually?

-Why can't the city charge the developer the full cost of the work involved in preparing a financing agreement?

-In addition to financial risk, in an era of reduced human resources, will the city have the people in place to stay on top of this additional level of complexity? (Who backs up Peter in knowledge and experience in DCs?)

- While advancing a project might make necessitate a new community facility, or put pressure on a road that could be built along with the advanced project, doesn't that increase the budget pressure on the city making it a bigger negative than a positive?

June 7, 2011

Response to matters raised by Urban League of London – June 7, 2011 Correspondence

1. Page 1 – City needs to have a good handle on costs

   This is addressed in Chapter 2.

2. Page 1 – Concerned that advancing projects creates commitments that may be difficult to pay if revenues don't materialize.

   This is discussed in Chapter 2. The policies provided in Chapter 4 are meant to ensure that projects are advanced on an ad hoc basis and must provide defined benefits to the City. As well, Section 4.3 seeks to limit the total value of these agreements to $4 million.

3. Page 2 – Possible criteria for "interest of the public materialize.

   These points are acknowledged and would form part of the broad evaluation undertaken by staff

4. Page 3 – Questions which didn't get asked
   - Whether credits are returned at their uninflated value or increased over time is dependent upon the specific agreement. However, most often credits are indexed with the DC.
   - Credits are expensed as the developments are built.
   - The recommended charge is meant to be the averaged charge. Obviously the cost will be higher for the first agreement but will average over time. As well, the type of agreement entered into may affect the cost.
   - As this policy is expected to be on an ad hoc basis, numerous agreements are not expected and hence, may be accommodated using existing staff.

APPENDIX D
HYPOTHETICAL SERVICING EXAMPLES

APPENDIX D - Hypothetical Servicing Examples

As noted in Chapter 3, an example would be provided to demonstrate how each of the agreements would be developed for a specific example. These agreements are discussed in sections 3.1.1 to 3.1.3 and sample agreements are provided in the following Appendices.

1. Example #1

The first subdivision within a development area requires a trunk sanitary sewer extension to extend the servicing to the area. The first subdivision will build 300 single detached units, of which 1,000 will be built in total (by this landowner and others) for the area. Cost of the Sanitary Sewer extension is $500,000. The total development charge is $14,000/unit of which this service component is $2,600/unit.

1(a) Accelerated Payment Agreement

Section 27(1) of the Act provides that a municipality may enter into an agreement with a person who is required to pay a development charge providing for all or any part of a development charge to be paid before or after it would otherwise be payable. In this example, the subdivision would ultimately provide for $780,000 towards sanitary sewer services (300 units x $2,600/unit = $780,000) in general. The future total amount payable for this service exceeds the amount needed to fund the project so this form of agreement would be well suited to fund this project. Under this agreement, the subdivision would contribute the $500,000 project cost to the City and the project would be built. The value of the contribution ($500,000) would be recognised as a credit or reduction to the DC payable at the time the building permits are taken out for this subdivision.

The credit (or reduction of the DC payable at building permit) may be handled in two ways:

1. The credit may be spread equally across all units within that subdivision (i.e. $500,000 funding divided by 300 units equals a $1,667.67 credit per unit), or
2. The credit may be equal to the DC service component ($2,600/unit) and would be granted for the number of units needs to use up the credit (i.e. $500,000 in credit divided by $2,600 per unit for sanitary sewers = 192.3 units)

Under both options, the $500,000 is repaid by a reduction (or credit) in the DC payable at the time the building permits are taken out for this subdivision. In the first instance, all 300 units within the subdivision receive a reduction of $1,667.67 whereas in the second instance, 192.3 units receive a reduction of $2,600 per unit).

1(b) Service Emplacement Agreement

Section 38 of the Act provides that a developing landowner may construct or provide a service which relates to a service in the DC by-law. If a municipality allows this work to be provided then the municipality shall give the person a credit towards the development charge in accordance with the agreement. Hence this agreement functions in a very similar manner as the Accelerated Payment Agreement however instead of paying the $500,000 to the City, the subdivider builds the project and receives a credit (or reduction) against the DC payable at the time of building permit issuance. Note that approving the subdivider to construct these works would be subject to process described in section 4.1 of this report.

1(c) Front-ending Agreement

Section 44 and 45 of the DCA provides a municipality with the ability to enter into an agreement with parties to upfront the costs of a project which will benefit an area in the municipality to which the DC By-law applies. Such an agreement can provide for the upfront costs to be borne by one or more parties to the agreement who are, in turn, reimbursed in future, by persons who develop land within an area defined in the agreement. As noted in Chapter 3, front-ending agreements are often used for very large projects where the cost recovery exceeds what can be recognised as a reduction (or credit) at the time the DC is paid at building permit issuance. For this particular example, a front-ending agreement would not be used.

2. Example #2

The first subdivision within a development area requires a SWM pond to provide stormwater servicing to the area. The first subdivision will build 300 single detached units of which 1,000 will be built in total (by this landowner and others) for the area. Cost of the SWM pond is extension is $2,000,000. The total development charge is $14,000/unit of which this service component is $2,400/unit.

2(a) Accelerated Payment Agreement

As noted earlier, Section 27(1) of the Act provides that a municipality may enter into an agreement with a person who is required to pay a development charge providing for all or any part of a development charge to be paid before or after it would otherwise be payable. In this example, the subdivision would ultimately provide for $720,000 towards sanitary sewer services (300 units x $2,400/unit = $720,000). The total cost for this project ($2 million) in excess of the DC payable for this service for the entire subdivision ($720,000) and therefore a credit for this service against the DC is not possible. Although the total DC's for all services (300 units x $14,000/unit = $4,200,000) to be paid for the subdivision exceed the project costs, granting a credit against the full DC would in effect be borrowing money from all other services. This may cause cash flow issues for the other services and is not recommended. This form of agreement would not function well for this example.

2(b) Service Emplacement Agreement

As noted earlier, this form of agreement functions similar to Accelerated Payment Agreements except the subdivider would build the service. For the reasons noted in 2(a), this form of agreement would not function well for this example.

2(c) Front-ending Agreement

As noted, the DCA provides a municipality with the ability to enter into an agreement with parties to upfront the costs of a project which will benefit an area in the municipality to which the DC By-law applies. This form of agreement would provide for the upfront costs to be borne by the initial subdivider and would provide them to be reimbursed in future by development within the area defined in the agreement. In this example, there are 1,000 units within the defined area. The amount of DC's to be paid for the storm water services within this area is $2.4 million (1,000 units x $2,400/unit = $2,400,000) which is sufficient to recover the full project costs ($2 million). A front-ending agreement would provide for the following:

- Developer provides the City with $2 million to construct the SWM ponds
- Agreement would provide that the costs for this project would be recovered from the benefiting area

- The subdivider would receive a credit for their portion of the DC's payable for this service (300 units x $2,400/unit = $720,000)
- The remaining $1,280,000 would be recoverable from development within the area (i.e. the remaining 700 units). The City would flow back the $2,400 per unit (the storm sewer portion of the charge) for each of the next 533 units to develop in the area (i.e. 533 units at $2,400 per unit = $1,280,000). Depending upon the conditions established in the agreement, this could be collected at building permit issuance or the charges could be paid when other subdivisions in the area are approved.

APPENDIX E
SAMPLE ACCELERATED PAYMENT AGREEMENT

EARLY PAYMENT AGREEMENT

THIS EARLY PAYMENT AGREEMENT made this 23rd day of January, 2007

BETWEEN:

an Ontario Corporation, and

THE CORPORATION OF THE TOWN OF BRADFORD WEST GWILLIMBURY, a municipal corporation, (the "Town")

A. The parties listed on Schedule "A" (the "Owners") propose to develop their respective lands within the Urban Area of the Town, generally as depicted in Schedules "B-l" and "B-2", for residential purposes (individually the "Owner's Land" and collectively the "Owners' Land"). The Owners who are parties to the 1996 Agreement are identified by an asterisk (*) next to their names on Schedule "A".

B. The estimated capital cost of the Projects to service residential development in the Urban Area is SIXTY FIVE MILLION, SEVENTY FOUR THOUSAND, SIX HUNDRED AND EIGHTY ($65,074,680.00) DOLLARS,

C. The Owners wish to provide part of the capital cost of the Projects through the early payment of residential development charges in exchange for the Town granting Water Allocation and Wastewater Allocation, all in accordance with the terms contained in this agreement.

D. Without the early payments pursuant to this Agreement, residential development in the Town could not proceed in a timely manner.

E. The Town is authorized to execute this agreement through the enactment of By-law No. 2007-005 by the Town's Council on January 23, 2007.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the sum of ten dollars ($10.00) of lawful money of Canada now paid by each of the parties hereto to each of the other parties and in consideration of the covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows.

SECTION 1 - PRINCIPLES

1.1 The Town and the Owners agree that the following constitute the principles which govern the interpretation, application and administration of this agreement:

(a) the Owners will provide the Required Amount to fund the Residential Portion of the Approved Capital Costs of the Projects;

(b) the Owners will fund the Residential Portion of the Approved Capital Costs of the Projects through the early payment of the residential component of the water component of the Water DCB and the wastewater component of Wastewater DCB that are attributable to development of the Owners' Lands

(c) the Town shall grant the Owners Wastewater Allocation and the Water Allocation through the Interim Release, the 1996 Release and the Final Release (collectively the "Total Allocation"), in consideration for the Owners funding the Residential Portion of the Approved Capital Costs of the Projects;

(d) the Parties to the 1996 Agreement will receive the 1996 Release and a development charge credit for the wastewater treatment services portion of the Wastewater DCB that is attributable to the 1996 Wastewater Allocation;

(e) the Parties to the 1996 Agreement will, as a first priority, receive the 1996 Wastewater Allocation with an equal amount of the Water Allocation to achieve the 1996 Release for use in the residential development of the lands of the Parties to the 1996 Agreement within the Urban Area. The Trustee shall not be involved in administering this portion of the Water Allocation;

(f) the Parties to the 1996 Agreement will not receive any portion of the Interim Release, nor will they contribute to the wastewater treatment services portion of the Wastewater DCB that is attributable to the Interim Release;

(g) each Owner, excepting the Parties to the 1996 Agreement, will receive a portion of the Interim Release based upon the developable area of the Owner's Land within the Urban Area in accordance with Schedule "C";

(h) each Owner will receive a portion of the Final Release based upon the developable area of the Owner's Land within the Urban Area in accordance with Schedule "C";

(i) the Trustee shall confirm in writing to the Town how the Interim Release and the Final Release are to be distributed among the Owners prior to each Owner receiving final site plan approval, registering each plan of subdivision and each plan of condominium within the Owner's Land;

(j) the Owners may make independent arrangements for the transfer of Wastewater Allocation and Water Allocation among the Owners or to a non-participating landowner, provided that any landowner receiving Water Allocation and Wastewater Allocation must become a party to this agreement;

(k) the Owners will initially fund the Residential Portion of the Estimated Capital Costs for the Projects through a combination of certified funds and letters of credit:

(l) the Owners are funding the 3,500 Units of water capacity and 5,240 Units wastewater capacity;

(m) there are 1200 Units of water capacity reserved for the Parties to the 1996 Agreement;

(n) there are 2300 Units of water and wastewater capacity reserved for the Owners who are not Parties to the 1996 Agreement;

(o) the Owners are funding approximately 3,000 Units of wastewater capacity for which water capacity will not be available until the Substantial Completion of Innisfil 3 (the "Excess Wastewater Capacity") and subject to Section 1.1(p) where any owner is allocated water capacity from Innisfil 3, the provisions of Section 5.3 shall apply with all necessary modifications;

(p) the Excess Wastewater Capacity will not be allocated to the Trustee by the Town but will be held by the Town subject to the following provisions;

(i) If Innisfil 3 is funded by means other than contributions from landowners in the Town, then the Excess Capacity will be transferred to the Trustee based on the respective Units developable within in each of the Owner's Lands within the Urban Area in accordance with Schedule "C";

(ii) If Innisfil 3 is financed by landowner contributions, then to the extent the Owners fund Innisfil 3, those Owners will have a matching wastewater capacity allocation (up to but not exceeding the Excess Wastewater Capacity) and a credit for both the water component of the Water DCB and the wastewater component of the Wastewater DCB (up to but not exceeding the extent their contributions);

(iii) If the water capacity in Innisfil 3 funded by the Owners is less than the Excess Wastewater Capacity and additional water capacity in Innisfil 3 is funded by persons who were not parties to this agreement, that portion of the Excess Wastewater Capacity funded by those persons who are not parties to this agreement will be allocated to them and the parties to this agreement will be reimbursed for the Excess Wastewater Capacity transferred at the amount they paid plus indexing; or

(iv) If water capacity in Innisfil 3 for some of the Excess Wastewater Capacity is funded by the Town, then the Town will pass through the amount of the wastewater component of the development charges under the Wastewater DCB collected in the future by the Town to the Owners based on the respective Units developable within in each of the Owner's Lands within the Urban Area in accordance with Schedule "C";

(q) the Owners shall remit to the Town any difference between the Residential Portion of the Estimated Capital Costs for the Projects and the Residential Portion of the Approved Capital Costs for the Projects;

(r) the Owners' early development charge payments towards the Approved Capital Costs of the Projects will exceed the combined Water DCB and Wastewater DCB credits associated with the Total Allocation (the "Excess Early Payment");

(s) each Owner will receive a credit, equal to the early development charge payments made pursuant to this agreement, plus indexing on the funds in accordance with the rates contained in the Water DCB and the Wastewater DCB;

(t) the credits owing to the Owners will be applied to the combined Water DCB and, excepting the Parties to the 1996 Agreement, the Wastewater DCB components of the residential development charge that would otherwise be owing when an Owner receives a Building Permit for any Lot or Block and until the credit is retired in its entirety;

(u) each Owner's Land will be released from all obligations pursuant to this agreement upon the Substantial Completion of the Projects as long as the Owner has then met all of its obligations under this agreement and provided that each Owner will be entitled to apply its development charge credits until its credit balance is nil;

(v) the Owners acknowledge that a further early payment agreement pursuant to the DCA may be required in order for the Town to commit to the construction of Innisfil 3;

(w) the Owners that participate in the front-ending of Innisfil 3 will be entitled to pair, as a first priority, any future water allocation created by Innisfil 3 with the Unit credit available based upon the Excess Early Payment;

(x) the Town will provide the Owners with a full accounting of the Residential Portion of the Approved Capital Costs for Innisfil 2 and will consult with the Owners' engineer regarding any costs that the Town proposes to incur which are over and above the tendered cost of Plant 'D';

(y) prior to the granting of the Final Release, the Town will not grant any allocation that is in addition to the Total Allocation unless the additional allocation is administered by the Trustee and the receiving landowner becomes a party to this agreement;

(z) any consent or approval required or permitted under this Agreement shall be sought and considered reasonably, in good faith and in a timely basis;

(aa) this agreement is entered into pursuant to section 27 of the DCA; and

(bb) the Town has entered into this agreement based on the representations of the Owners that they would construct roads and services for the collection and transmission of wastewater and the transmission and distribution of water where such roads or services run through the Owners' Lands subject to additional development charge credits from the Town and the Owners have also represented that they would not object to a condition of approval of the development of the Owners' Lands to construct roads and services in accordance with this Section.

SECTION 2 - PROJECT CONSTRUCTION AND MANAGEMENT

2.1 The Town shall:

(a) be responsible for the design, engineering, tendering, construction, installation, operation and maintenance of the Projects;

(b) own the Projects; and

(c) be entitled to impose, from time to time and at any time, such fees and charges for the collection, production, treatment, storage, supply, transmission and distribution of water through the Town Wastewater System and the collection, transmission, treatment and disposal of wastewater through the Town Wastewater System as the Town considers necessary or desirable under Part XII (Fees and Charges) of the Municipal Act, 2001, S.O. 2001, c. 25 or as otherwise permitted by law.

2.2 Plant D

(a) Plant D Contract - The Town represents that it has issued a tender call for the Plant D construction contract (the "Plant D Contract") and that the lowest tender stipulates that the cost will remain in effect until February 15, 2007 pending the execution of the Plant D Contract. The Owners consent to the Town executing the Plant D Contract with the contractor that submitted the lowest tender. The Owners acknowledge that the Town will have no obligation to execute the contract unless the Owners deliver the Required Amount on or before February 2, 2007.

(b) Consultation - During the construction of Plant D, the Town's engineer and the engineer appointed by the Owners will meet upon the request of the engineer appointed by the Owners in order to discuss the progress of the Plant D works and issues which may arise and the administration of the Plant D Contract. The Owners' engineer will be given access to all plans, drawings, agreements and any other documents reasonably related to the Plant D Contract. The Town will provide in a timely fashion to the engineer appointed by the Owner, copies of all progress requisitions, progress certificates, change orders, engineer's certificates and architect's certificates received by the Town.

(c) Payment for Changes to Plant D Contract – If, in the adjustment of accounts under Section 3.2, there are capital costs incurred by the Town by reason of changes in the design of Plant D or change orders to the Plant D Contract that arise from field conditions or circumstances or events that are not in the control of the Town, such capital costs shall be part of the Residential Portion of the Approved Capital Costs provided such changes in design or change orders do not result in a reduction of the Wastewater Allocation. Any capital costs incurred by the Town by reason of changes in the design of Plant D or change orders to the

Plant D Contract that arise for any other reason shall not be part of the Residential Portion of the Approved Capital Costs.

2.3 Reporting on Progress of Projects - The Town shall provide to the Trustee on the first (1st) days of November, February, May and August of each year, until the Projects are Substantially Complete, a written report setting out the status and progress of the Projects. The Trustee may provide comments in writing to the Town concerning the report.

SECTION 3 - OWNER'S CONTRIBUTIONS

3.1 Delivery of Required Amount - Upon the execution of this agreement by the Owners, the Owners shall submit to the Town the Required Amount, as calculated in accordance with Schedule "C" and described as follows:

(a) the Owners shall pay to the Town by bank draft or certified cheque the total Cash Portion of the Required Amount in the following amounts:

(i) with respect to the 1996 Release applicable to the Parties to the 1996 Agreement, the sum of SIX MILLION, ONE HUNDRED AND EIGHTY NINE THOUSAND, EIGHT HUNDRED AND SIXTY-THREE ($6,189,863.00) DOLLARS, which represents the 1996 Wastewater Allocation, being one thousand, two hundred (1,200) units, multiplied by the sum of,

(A) the 2006 Water DCB component, being SIX THOUSAND, SEVEN HUNDRED AND NINETY ($6,790.00) DOLLARS, and

(B) the 2006 sanitary sewer portion of the Wastewater DCB, being TWO THOUSAND, SIX HUNDRED AND FIFTY ONE ($2,651.00) DOLLARS,

adjusted downward to derive the share of the Parties to the 1996 Agreement of the Cash Portion of the Required Amount where the basis for the adjustment, but not the adjustment itself, is that the Parties to the 1996 Agreement have a thirty-four point four-nine percent (34.49%)'s of the Total Allocation;

(ii) with respect to the Interim Release and the Final Release applicable to the Owners participating in the Interim and Final Release, the sum of TWENTY NINE MILLION, ONE HUNDRED AND SEVENTY-THREE THOUSAND, AND SEVENTY-FIVE ($29,173,075) DOLLARS which represents the remaining Cash Portion of the Required Amount and will be allocated among the receiving Owners based upon the Units developable within their respective Owner's Lands as set out at Schedule "C", provided that the Plant D cost allocation will exclude all Units located within the Owner's Land for the Parties to the 1996 Agreement (i.e., the Parties to the 1996 Agreement do not contribute to Plant D);

(iii) with respect to the Interim Release applicable to Honeycut Land Inc. which is participating only in the Interim Release the sum of ONE HUNDRED AND NINETY-ONE THOUSAND, FIVE HUNDRED ($191,500.00) DOLLARS; and

(iv) the one time administration fee under Section 10 per Owner or Owner's group.

(b) the Owners shall provide to the Town Letters of Credit totalling the Secured Portion of the Required Amount in the following amounts;

(i) with respect to the 1996 Release and the Parties to the 1996 Agreement, the sum of FIVE MILLION, ONE HUNDRED AND THIRTY-NINE THOUSAND, THREE HUNDRED AND THIRTY -SEVEN

($5,139,337.00) DOLLARS, which represents the 1996 Wastewater Allocation, being 1,200 units, multiplied by the sum of,

(A) the 2006 Water DCB component, being SIX THOUSAND, SEVEN HUNDRED AND NINETY ($6,790.00) DOLLARS, and

(B) the 2006 sanitary sewer portion of the Wastewater DCB, being TWO THOUSAND, SIX HUNDRED AND FIFTY ONE ($2,651.00) DOLLARS,

adjusted downward to derive the share of the Parties to the 1996 Agreement of the Cash Portion of the Required Amount where the basis for the adjustment, but not the adjustment itself, is that the Parties to the 1996 Agreement have a thirty-four point four-nine percent (34.49%)'s of the Total Allocation;

(ii) with respect to the Interim Release and the Final Release, the sum of TWENTY FOUR MILLION, TWO HUNDRED AND TWENTY ONE THOUSAND, NINE HUNDRED AND FIVE ($24,221,905.00) DOLLARS which represents the remaining Secured Portion of the Required Amount and will be allocated among the receiving Owners based upon the developable area of the Owner's Lands as set out at Schedule "C", provided that the Plant D cost allocation will exclude all Units located within the Owner's Land for the Parties to the 1996 Agreement (i.e., the Parties to the 1996 Agreement do not contribute to Plant D); and

(iii) with respect to the Interim Release applicable to Honeycut Land Inc. which is participating only in the Interim Release the sum of ONE HUNDRED AND FIFTY-NINE THOUSAND ($159,000.00) DOLLARS.

3.2 Adjustments to Accounts - Following Substantial Completion of the Projects, and in respect of which all lien periods under the CLA have expired, if the Residential Portion of the Approved Capital Costs, less any grants or contributions from any government entity for either Project:

(a) Exceeds the total of the remaining Letters of Credit - The Town shall first completely draw upon all remaining Letters of Credit, then the Town shall give the Owners notice in writing of the outstanding Residential Portion of the Approved Capital Costs. Each Owner shall submit to the Town its proportionate share of the shortfall in accordance with the percentages set out at Schedule "C" that have been calculated in accordance with the principles set out in Section 3.1 (a)(ii), by bank draft or certified cheque, within fifteen (15) Business Days of receiving notice. If the Owner does not pay the Town in accordance within the time period required, that Owner shall become a Defaulting Owner; or

(b) Is less than the total of the remaining Letters of Credit - The Town shall give the Owners notice in writing of the Residential Portion of the Approved Capital Costs and the amount by which each Owner's Letter of Credit exceeds the Owner's proportionate share, as set out at Schedule "C" that have been calculated in accordance with the principles set out in Section 3.1 (a)(ii), of the total Residential Portion of the Approved Costs and the Town shall promptly surrender the Letters of Credit for cancellation.

3.3 Draw-Downs on Letters of Credit - The Town may, from time to time and any time, draw upon the Letters of Credit provided by the Owners on a pro rata basis and in accordance with the percentages set out at Schedule "C", for the Residential Portion of the Approved Capital Costs of the Projects.

3.4 Additional Payments – Subject to Section 3.5, the Town may, from time to time and any time, give notice in writing to the Owner that it requires the Letter of Credit to be increased by the amount set out in the notice. The notice shall provide an explanation for the increase and shall set out each Owner's share of the increase in accordance with the

percentages set out at Schedule "C" that have been calculated in accordance with Section 3.1 (a) (ii). The Owners, within fifteen (15) Business Days of the giving of such notice, shall increase their respective Letters of Credit by the amount set out in the notice. If an Owner does not increase its Letter of Credit within the time period required, that Owner shall become a Defaulting Owner.

3.5 Amendments to Development Charge By-Laws - If the Town gives notice under Section 3.4 requiring an increase in a Letter of Credit or payment by the Owners, then the Town shall cause to be prepared a development charge background study or its equivalent under the DCA for the purpose, among others, of updating the residential portion of the applicable development charge by-law of the Town including, but not limited to, recognizing the total Approved Capital Costs for the Projects.

SECTION 4 - OWNER RECOVERIES

4.1 Early Payment Principle - The amounts paid and provided by the Owners under this agreement are early payments of the Water DC and Wastewater DC applicable to the development of the Owner's Lands. The Owners covenant not to make a complaint about these early payments pursuant to the DCA.

4.2 Development Charge Credits Available - The Owners will be reimbursed for the amounts paid and provided under this agreement only through the receipt of credits pursuant to Section 4.3, provided the total of the credits given pursuant to Section 4.3 do not exceed the amounts paid, inclusive of the indexing provided for in Section 4.5, and the Letters of Credit delivered by the Owners under this agreement.

4.3 Application of Development Charge Credits - Each Owner shall be entitled to a combined Water DC Credit and Wastewater DC Credit in respect of the development of each Owner's Lands at the time that the Water DC and the Wastewater DC would otherwise be payable. The credits under this Section:

(a) will be applied against the combined Water DC and the Wastewater DC only applicable to the development of the Owners' Lands; and

(b) will not exceed the total Water DC and the total Wastewater DC applicable to the development of the Owners' Lands.

4.4 Payment of Development Charges -The Owners hereby acknowledge and agree to pay all of the development charges of the Town (other than the Water DC and the Wastewater DC subject to early payment hereunder) in the amount and at the times specified in every development charge by-law of the Town applicable to the development of the Owners' Lands, provided the Owners are not prevented from making a complaint about such payments (other than Water DC and Wastewater DC payable hereunder) or appealing an unrelated by-law pursuant to the DCA.

4.5 Indexing – Beginning on the effective date of this Agreement under Section 7.2, the Town will index all cash payments made by the Owners, either directly or through the draw down of Letters of Credit, that are made pursuant to this agreement. The indexed amount shall be calculated based upon the indexing formula in the Water DCB and the Wastewater DCB and the indexed amount shall be added to the credit each Owner is entitled to pursuant to Section 4.3.

4.6 No Interest - The Owners agree that the Town shall have no obligation to and shall not pay interest on the Owners' early payments under this Agreement.

SECTION 5 - ALLOCATION AND CREDIT ACCOUNTING

5.1 Interim Release - The Town collectively allocates the Interim Release of Wastewater Allocation and Water Allocation on the date of this agreement to the Trustee for distribution to the effected Owners in accordance with Schedule "C". The effected Owners may transfer their allocation in accordance with Sections 5.7(d) and (e).

5.2 1996 Release - The Town allocates to the Parties to the 1996 Agreement, as of the date of this agreement, the 1996 Release of the Water Allocation to pair with the 1996

Wastewater Allocation, in accordance with this agreement and the 1996 Agreement. The Parties to the 1996 Agreement may transfer their allocation in accordance with Sections 5.7(d) and (e).

5.3 Final Release - The Town will collectively allocate the Final Release of Wastewater Allocation and Water Allocation to the Trustee eighteen (18) months before the Substantial Completion of Plant "D", as determined by the Town's Engineer acting reasonably. The Trustee will distribute the Final Release among the Owners in accordance with Schedule "C", provided that the effected Owners may transfer their allocation in accordance with Sections 5.7(d) and (e).

5.4 Distribution of Allocation -The Owners accept as correct the distribution of Wastewater Allocation and Water Allocation pursuant to each of the 1996 Release, the Interim Release and the Final Release as shown on Schedule "C" and agree that the allocation granted shall be for residential development within the Urban Area only. The parties agree that Schedules "B-1", "B-2" and "C" may be adjusted to reflect actual contributions following execution of this Agreement by the Owners.

5.5 Development of Owners' Lands - The development of the Owners' Lands shall proceed by way of a plan or plans of subdivision under the PA, a condominium plan or plans under the CA or site plan or plans under the PA.

5.6 Entitlement to Obtain Site Plan Approval, Register Plan of Subdivision, Plan of Condominium and Obtain Building Permits - Final site plan approval, registration of a plan or plans of subdivision, registration plan or plans of condominium and issuance of a Building Permit for the Owners Lands for the equivalent number of units as is set out beside each Owner's name and under the column labelled "Units" on Schedule "C" shall not be refused by reason of a lack of water or wastewater capacity provided this section does not apply to Excess Wastewater Capacity and provided the Owner, prior to executing a subdivision, condominium agreement or site plan agreement with the Town, provides to the Town a certificate from the Trustee confirming that the Owner is not a Defaulting Owner and continues to have a Water Allocation and Wastewater Allocation for the number of Units to which the subdivision, condominium or site plan agreement applies. If the Owner's Lands are also subject to a holding by-law, upon the application of the Owner to the Town to lift the holding provision in the by-law, the Owner shall also provide to the Town a certificate from the Trustee confirming that the Owner is not a Defaulting Owner and continues to have a Water Allocation and Wastewater Allocation for the number of Units that would be permitted under the by-law upon the lifting of the holding provision. Once the Trustee has given the certificate in respect of the application to lift the holding provision, the Trustee shall not transfer any of the Water Allocation and Wastewater Allocation set out in the certificate.

5.7 Conditions to Granting of Allocation - The granting of all Wastewater Allocation and Water Allocation pursuant to this agreement is conditional upon,

(a) the receiving Owner is not a Defaulting Owner;

(b) the receiving Owner uses such capacity for residential purposes only within the Urban Area;

(c) the Water Allocation and Wastewater Allocation being utilized within the receiving Owner's Land unless, in the case of the Interim Release or the Final Release, the Trustee has advised the Town that private arrangements have been made for the transfer of the applicable allocation;

(d) where any Water Allocation and Wastewater Allocation is transferred from one Owner to another Owner, the Trustee will provide the Town with a written accounting that reflects the transfer in allocation, as well as the transfer of combined Wastewater DCB and Water DCB credits to be administered by the Town and the receiving Owner shall replace the outstanding Letter of Credit delivered to the Town by the transferring Owner;

(e) where any Water Allocation and Wastewater Allocation is transferred from an Owner to a non-participating landowner, the non-participating landowner shall become a party to this agreement and shall replace any outstanding Letter of Credit that the transferring Owner delivered to the Town; and

(f) the Water Allocation and Wastewater Allocation is applied within Community Plan Areas 1, 2, 3 4 or 5 that are designated in Schedule "C" to the Official Plan, provided that this shall not apply to the Parties to the 1996 Agreement. Where an Owner's land is located in more than one Community Planning Area, the Owner's Water Allocation and Wastewater Allocation may be used in any Community Planning Area, subject to compliance with Section 5.8.

5.8 Town's Consideration of Development Applications - All approvals sought by the Owners for the development of the Owners' Lands are subject to all necessary approvals, reviews and considerations by the Town. This agreement and, in particular, its allocation of servicing capacity shall not in any way whatsoever fetter, detract from or limit the right or ability of the Town to exercise any of its powers under the PA or any other legislation, including, but not limited to, its power to refuse to approve plans of subdivision, condominium plans or site plans or to impose conditions (except the early payments required pursuant to this agreement), including conditions requiring phasing of the development of the Owner's Lands.

5.9 Financial Reporting for Credit Balances by Town – Subject to Section 5.10, from the date of Substantial Completion of Innisfil 2 and Plant D until each Owners' combined Water DCB and Wastewater DCB credit is nil, the Town shall give annually to the Owner, within thirty (30) Business Days from the date the Treasurer presents her annual development charge reserve fund statement under the DCA, a written notice effective as of such date setting out for the Owner:

(a) the opening balance of the amounts, in dollars, of the combined early payment credits available towards each Owner's future obligation to contribute to the Water DCB and the Wastewater DCB components of the residential development charges owing to the Town;

(b) the combined credits used by each Owner for the Water DCB and the Wastewater DCB components of the residential development charges and the date credits were used; and

(c) each Owner's remaining credit towards future obligation to contribute to the Water DCB and the Wastewater DCB components of the residential development charges owing to the Town.

5.10 If Building Permits have not been issued for the Owner's Lands within the Urban Area in respect of which a Water Allocation and Wastewater Allocation has been made:

(a) the Interim Release on or before June 30, 2017; or

(b) in the Final Release and the 1996 Release has not been Built-out on or before June 30, 2022,

then the Town may give to the Owner and to the Trustee, a notice in writing of its intention to require the Trustee to revoke all or that part of the Water Allocation and Wastewater Allocation made to the Owner described in the notice and transfer it to the Town if within six (6) months of the giving of such notice or such longer time period as may be set out in the notice. If Building Permits have not been issued for the remainder of the Blocks or Lots on the Owner's Lands within the time set out in the notice, the Town may give notice in writing to the Trustee. Upon receipt of such notice the Trustee shall transfer to the Town the unused allocation of Water Allocation and Wastewater Allocation for the Owner's Lands and upon such transfer the Town may deal with such capacity in its sole and absolute discretion. The Town shall refund to the Trustee the amounts contributed under Section 3, as indexed, for the Water Allocation and Wastewater Allocation transferred back to the Town without interest within one (1) month of the Town re-allocating the remaining Water Allocation and Wastewater

Allocation to another person and receiving payment for the re-allocated Water Allocation and Wastewater Allocation in an amount at least equal to the amount paid under Section 3 for such Water Allocation and Wastewater Allocation. The Trustee shall distribute the refund on a proportionate basis among the Owners whose Water Allocation and Wastewater Allocation has been revoked;

5.11 If the Town does not give a notice under Section 5.10 at the earliest opportunity it is able to do under that section, the Town is not thereby estopped or prevented from giving such notices at a later date.

5.12 The Town may extend at anytime and from time to time the time periods set out in Section 5.10 above for any reason, and for such additional period, in the Town's sole and absolute discretion.

5.13 Despite anything contained herein to the contrary, the Trustee, from time to time and at anytime after October 1, 2010 may request in writing that the Town re-acquire Water Allocation and Wastewater Allocation allocated to the Trustee for an amount equal to the amount paid for such Water Allocation and Wastewater Allocation under Section 3. The Owner and Trustee acknowledge and agree that the Town is not under any obligation whatsoever to re-acquire any Water Allocation and Wastewater Allocation offered to it by the Trustee.

SECTION 6 - REPRESENTATION AND WARRANTIES

6.1 Owners' Representations and Warranties - Each Owner represents and warrants, as of the date of this agreement:

(a) where the Owner is a corporation, it is duly incorporated, organized and subsisting under the laws of the Province of Ontario;

(b) the Owner has all necessary capacity, power and authority to enter into and to carry out the provisions of this agreement;

(c) this agreement has been duly authorized by the Owner and constitutes a valid and binding obligation of the Owner, enforceable against the Owner in accordance with its terms;

(d) neither the execution and delivery of this agreement nor the fulfilment of or compliance with the terms and conditions hereof:

(i) conflicts with or will conflict with or result in a breach of any of the terms, conditions or provisions of or constitute a default under the constating documentation of the Owner; and

(ii) conflicts in a material respect with or will conflict in a material respect with or result in a material breach of any of the terms, conditions or provisions of or constitute a material default under any agreement, licence or other instrument to which the Owner is a party or by which it is bound;

(e) to its knowledge after due inquiry, there are no actions, suits or proceedings pending or threatened against the Owner which could reasonably be expected to materially adversely affect its ability to perform its obligations under this Agreement;

(f) is the sole registered, beneficial, or equitable owner of the Owner's Lands; and

(g) it has read, understood and obtained independent legal advice respecting section 27 and other relevant provisions of the DCA and the provisions of this agreement, and that the Owner understands that this agreement is intended to be an agreement referred to in section 27 of the DCA.

6.2 Town's Representations and Warranties - The Town represents and warrants, as of the date of this agreement that:

(a) it is a municipal corporation duly established and organized under the laws of the Province of Ontario;

(b) it has all necessary capacity, power and authority to enter into this agreement and, subject only to the qualifications expressly provided in this agreement, to carry out the provisions of this agreement. This agreement has been duly authorized by a by-law enacted by the Council of the Town;

(c) neither the execution and delivery of this agreement nor the fulfilment of or compliance with the terms and conditions hereof:

(i) conflicts with or will conflict with or result in a breach of any of the terms, conditions or provisions of or constitute a default under the constating documentation of the Town; and

(ii) conflicts in a material respect with or will conflict in a material respect with, or result in a material breach of any of the terms, conditions or provisions of or constitute material default under any material agreement, licence or other instrument to which the Town is a party or by which it is bound; and

(d) to its knowledge after due inquiry, there are no actions, suits or proceedings pending or threatened against the Town which could reasonably be anticipated to materially adversely affect its ability to perform its obligations under this agreement.

(e) it will use its reasonable best efforts to include within the contract for Innisfil 3 similar design, tender and cost control provisions as those that are contained in the Water Supply Agreement. Where the Town is entitled to provide input related to any design, tender and/or cost control approval pursuant to the Innisfil 3 agreement, unless an abbreviated period is available to the Town pursuant to the final form of agreement, the Town shall provide the Owners' designated representative with a minimum of fifteen (15) Business Days notice of the input date an opportunity to provide comments to the Town on behalf of the Owners.

6.3 Trustee's Representations and Warranties - The Trustee represents and warrants that he has read, understood and obtained independent legal advice concerning the provision of this agreement.

SECTION 7 - COMMENCEMENT, TERM, DEFAULTS AND TERMINATION

7.1 Commencement and Termination - This agreement shall commence on the date all of the parties execute this Agreement. The Town shall not execute this agreement unless and until the Required Amount has been received in full by the Town. Subject to the early termination provisions of this agreement, this agreement shall terminate when the credit balance for every Owner under Section 5.9 is nil and no payments are outstanding under Section 5.10.

7.2 Effective Date of Agreement - The Owners and the Town agree that this Agreement shall be of no force and effect until executed by the Town, the Owners and the Trustee. Once so executed, the effective date of this agreement shall be deemed conclusively to be the date shown on the first page of the agreement.

7.3 Notice of Default and Curing of Default - Where the Owner has failed to comply with an obligation of the Owner under this Agreement, the Town shall give the Owner with a copy to the Trustee a notice in writing specifying the nature of the default, the actions required to cure such default and the time for curing such default provided the time for curing the default shall not be less then ten (10) Business Days. If the Owner does not cure the default in the manner specified in the notice, then the Owner shall become a Defaulting Owner. Interest will be owing on accounts owing by a Defaulting Owner at the prime rate of interest charged by the Royal Bank of Canada to its best commercial customers in Toronto, plus 5%, calculated, compounded and payable monthly.

7.4 Notice by Town of Failure to Cure Default - If the Owner has not cured the default in the manner and within the time specified in Section 7.3, the Town shall give notice in writing to the Defaulting Owner, all other Owners and the Trustee that the Owner is a Defaulting Owner.

(a) Impact of Default and Remedies -A Defaulting Owner shall lose its entitlement to any Water Allocation and Wastewater Allocation remaining within the 1996 Release (excluding the 1996 Wastewater Allocation), the Interim Release and the Final Release which shall be restored only upon the curing of the default in accordance with the notice issued by the Town in accordance with Section 7.3.

(b) If a default occurs before a Defaulting Owner's plan or plans of subdivision are registered, condominium plan or plans are registered or site plan or site plans are finally approved, the Trustee may sell the Defaulting Owner's remaining Water Allocation and Wastewater Allocation by offering it first to the other Owners and if no Owner buys or only buys some of the remaining Water Allocation and Wastewater Allocation, the Trustee may sell such allocation to a non-participating landowner. Any sale of the Water Allocation and Wastewater Allocation by the Trustee shall be conditional upon the acquiring Owner or non-participating landowner entering into this agreement, replacing the Letter of Credit delivered to the Town and remitting to the Defaulting Owner any cash paid to the Town pursuant to this Agreement, less the costs incurred by the Trustee and the Town in enforcing this agreement as well as any interest which has accrued to the Defaulting Owner's account in accordance with this Section.

(c) If a default occurs after a Defaulting Owner has registered its plan or plans of subdivision, condominium plan or plans or site plan or plans, the Town will not lift any holding provision in a zoning by-law applicable to the plan, until the default has been cured.

(d) The Town is entitled to register this agreement on title to an Owner's Land where the Owner is a Defaulting Owner and each Owner's execution of this agreement constitutes its authorization to the Town to so register this agreement in the event of a default. The Town is entitled to seek any further remedy which may be available to it at law in order to recover the monetary amount claimed from a Defaulting Owner, in addition to its legal costs on a solicitor and his own client basis.

SECTION 8 - ENUREMENT, ASSIGNMENT

8.1 Successors and Assigns - It is hereby agreed by the parties hereto that this Agreement shall be enforceable by and against the parties, their administrators, heirs (where applicable), successors and permitted assigns.

8.2 Transfer of an Owner's Lands - No Owner, except the Parties to the 1996 Agreement, will assign its interest under this agreement or transfer title to or charge all or any part of its Owner's Lands unless the assignee or transferee or chargee of such lands agrees in writing to unconditionally assume and be bound by all of the rights and obligations of the Owner pursuant to this Agreement. This restriction does not apply to sales of individual Lots or Blocks to builders, the purchasers of individual Lots or Blocks following the construction of homes or the transfer of land to a public or governmental authority.

SECTION 9 - LIMITATIONS AND INDEMNITIES

9.1 Town's Inability to Complete Projects - The Town shall not be liable to the Owners in any way whatsoever, if, despite the Town's reasonable best efforts and acting in good faith, the Town is unable to achieve Substantial Completion of a Project.

9.2 Force Majeure - If the Town is delayed or hindered in or prevented from the performance of any act required to be performed by the Town under this Agreement by reason of acts of God, strikes, lockouts, unavailability of materials, curtailment of transportation facilities, failure of power, prohibitive governmental laws or regulations, riots, insurrections, war, terrorist activities, explosions, unavoidable casualty or the act or

failure to act of any other party (except those for whom in law the Town is responsible), adverse weather conditions preventing the performance of work, or other unspecified, unforeseen or uncontrollable events beyond the Town's control, then the time for performance of such act shall be extended for a period equivalent to the period of such delay.

9.3 Owners indemnify Town for breach by Owner - The Owners severally indemnify and save the Town and its employees, elected officials, officers, contractors, sub-contractors, servants and agents completely harmless from and against all costs, actions, suits and liabilities directly or indirectly arising from or in any way connected with a breach by any Owner of its obligations under this agreement (except where such breach has arisen as a result of the negligence of the Town or those for whom in law the Town is responsible).

9.4 Defence of agreement - If the legality, validity or enforceability of this agreement or the capacity and authority of the Town to enter into this agreement and carry out or enforce its provisions is called into question or challenged in any way whatsoever in any action, appeal, review or proceeding of any kind whatsoever before a Court of competent jurisdiction or any administrative tribunal by any person, the Town shall defend and support the legality, validity or enforceability of this agreement and the capacity and authority of the Town to enter into this agreement and carry out or enforce its provisions provided the Owners provide such reasonable assistance to the Town in such defence and support as the Town may reasonably require including, without limiting the generality of the foregoing, becoming a party at the Owners' sole cost and expense in any such action, appeal, review or proceeding and the Owners paying the Town's legal, consulting and other fees and expenses, costs (including costs awarded against the Town) in accordance with the proportionate shares set out on Schedule "C" and disbursements reasonably incurred by the Town in such defence and support.

9.5 Capacity of Town to enter agreement - The Owners agree that they will not question the capacity of the Town to enter into this agreement or question the legality of any portion hereof, nor question the legality of any obligation created hereunder and the Owner, its heirs (where applicable), successors and permitted assigns are and shall be estopped from contending otherwise in any proceeding before a Court of competent jurisdiction or any administrative tribunal.

9.6 Agreement Voluntary - If a Court of competent jurisdiction or an administrative tribunal determines that all or part of this agreement is illegal or beyond the authority of the Town, the Owners acknowledge and agrees that the Owners voluntarily entered into this Agreement, that, on the strength of this agreement the Town entered into contracts for the construction of Projects and incurred debt to fund part of the Capital Cost of the Projects, that the Owners Lands benefited from the Projects and that it would be unjust and inequitable for the Owners to demand or receive repayment of any monies paid or contributed under this agreement.

9.7 Release of Town - The Owners hereby release and forever discharge the Town and its employees, elected officials, officers, contractors, sub-contractors, servants and agents from all costs, actions, suits and liabilities of any kind whatsoever that the Owners or both have had, have or may in future have (except which have arisen as a result of the negligence or default of the Town or those for whom in law the Town is responsible) directly or indirectly arising from or in any way connected with this Agreement.

SECTION 10 - TOWN'S ADMINISTRATION FEE

10.1 Payment of administration fee - Upon the execution of this agreement by the Owners, the Owners shall pay to the Town FOUR THOUSAND, FIVE HUNDRED ($4,500.00) DOLLARS for each Owner or related group of Owners, by cash or certified cheque as an administration fee. There shall be no other administration fee payable by the Owners to the Town in connection with this agreement.

SECTION 11 - GENERAL PROVISIONS

11.1 Recitals - The parties agree that the recitals herein are true and accurate and form part of this Agreement.

11.2 Singular and plural - Words importing the singular include the plural and vice versa.

11.3 Gender - Words importing gender include all genders.

11.4 Captions and headings - The captions and headings contained herein are for reference only and in no way affect this agreement or its interpretation.

11.5 Covenants - Each agreement and obligation of each party hereto in this agreement, even though not expressed as a covenant, shall be considered for all purposes to be a covenant.

11.6 Applicable Law - This agreement shall be construed and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable thereto and shall be treated in all respects as an Ontario contract.

11.7 Currency - All references to currency in this agreement shall be references to Canadian dollars.

11.8 Entire Agreement - This agreement, the schedules referred to herein constitute the entire agreement between the parties hereto and supersede all prior agreements, representations, reports, recommendations, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, with respect to the subject matter of this agreement. None of the parties hereto shall be bound by or charged with any oral or written agreements, representations, reports, recommendations, warranties, statements, promises, information, arrangements or understandings not specifically set forth in this agreement or in the schedules, documents and instruments to be delivered on or before the execution of this agreement. The parties hereto further acknowledge and agree that, in entering into this agreement and any documents or agreements contemplated by it and in delivering the schedules, documents and instruments to be delivered on or before the execution of this agreement, they have not in any way relied, and will not in any way rely, on any oral or written agreements, representation, reports, recommendations, warranties, statements, promises, information, arrangements or understandings, express or implied, not specifically set forth in this agreement, in such schedules, documents or instruments under this agreement.

11.9 Modifications and amendments - No modifications or amendment to this agreement may be made unless agreed to by the parties in writing.

11.10 Further assurances - The parties covenant and agree that at all times and from time to time hereafter upon every reasonable written request to do so, they shall make, execute, deliver or cause to be made, done, executed and delivered, all such further acts, deeds, assurances and things as may be reasonably required to implement and carry out, the true intent and meaning of this agreement.

11.11 Severability - If any provision of this agreement is determined by a Court of competent jurisdiction or any administrative tribunal to be illegal or beyond the power, jurisdiction or capacity of any party bound hereby, such provision shall be severed from this agreement and the remainder of this agreement shall continue in full force and effect. In such case the parties agree to negotiate in good faith to amend this agreement in order to implement the intentions as set out in the severed portion and this agreement herein.

11.12 Time of the essence - Time shall be of the essence of this agreement.

11.13 Schedules - The following schedules are attached to and form part of this Agreement:

Schedule "A" -	List of Owners and Ownership Groups
Schedule "B-1" -	Legal description of the Owners' Lands
Schedule "B-2"-	Plan depicting location of Owners' Lands
Schedule "C" -	Distribution of Water Allocation and Wastewater Allocation, Required Amount and further payments among Owners

Schedule "D" - List of Projects

Schedule "E" - Owners' notice particulars

Schedule "F" - Letter of Credit Form

11.14 Counterparts – This agreement may be executed in any number of counterparts with the same effect as if all parties had signed the same document. All counterparts shall be construed together, and shall constitute one and the same agreement.

SECTION 12 - NOTICE

12.1 Particulars for notice - Any notice, demand, acceptance, request or other communication ("Notice") required to be given hereunder shall be given in writing and shall be given by personal delivery or by telecopier transmittal and addressed to:

(a) the Owners in accordance with Schedule "D",

or such change of address and other particulars as an Owner has by notice in writing given to the Town and Trustee;

(b) the Town as follows:

The Town of Bradford West Gwillimbury
Administration Centre
3541 Line II
P.O. Box 160
Bradford, ON L3Z 2A8

Attention: the Town Clerk
Fax No.: (905) 775-0153

and with copies to:

Aird & Berlis LLP
BCE Place, Suite 1800
181 Bay Street
Toronto, Ontario
M5J 2T9

Attention: Robert G. Doumani
Fax No.: 416-863-1515

or such change of address and other particulars as the Town has by notice in writing given to the Owner and Trustee; and

(c) the Trustee as follows:

Attention:
Fax No.:

or such change of address and other particulars as the Trustee has by notice in writing given to the Owner and Town.

12.2 Method of notice - Any notice shall be conclusively deemed to have been given to and received by the party to which it is addressed:

(a) if personally delivered, on the date of delivery; or

(b) if by telecopier transmittal, on the day transmission delivery is confirmed by the party delivering the notice,

provided that if delivery occurs after 5:00 p.m., Bradford West Gwillimbury time, on a Business Day or at any time which is not a Business Day, delivery shall be conclusively deemed to have been given on the next Business Day.

12.3 Change in name or address - The Owner, the Town and the Trustee shall promptly give Notice as hereinbefore provided of any change in name or address.

SECTION 13 - DEFINITIONS AND INTERPRETATION

13.1 In this agreement, the following terms and expressions shall have the following meanings:

"1996 Agreement" means the agreement entered into between the Town and named landowners pursuant to the Development Charges Act, R.S.O. 1990, c. D.9 for the early payment of the wastewater treatment component only of the Town's development charge by-law 92-057 in connection with an increase in the capacity of the WPCP.

"1996 Release" means Water Allocation of 1,200 Units paired with the remainder of the 1996 Wastewater Allocation.

"1996 Wastewater Allocation" means Wastewater Allocation of 1,200 Units which is the remainder of the wastewater allocation granted to the Parties to the 1996 Agreement by the Town pursuant to the 1996 Agreement.

"Approved Capital Costs" shall mean the Capital Cost of each of the Projects as approved in accordance with the Water Supply Agreement and this agreement.

"Building Permit" means a building permit under the BCA which is issued for each Lot or Block;

"BCA" means the Building Code Act, 1992, S. O. 1992, c. 23 as amended, revised or consolidated from time to time and any successor legislation.

"Business Day" means a day other than Saturday or Sunday or any day upon which the principal commercial banks in the Town of Bradford West Gwillimbury are not open for business during normal banking hours.

"Capital Costs" includes:

(i) reasonable fees for engineering design, survey work, soils investigation and reporting, environmental assessment and contract administration and supervision;

(ii) all construction costs, including labour, materials and equipment, paid to third party contractors by the Town in connection with or related the construction and installation of the Projects;

(iii) all reasonable costs of acquiring or expropriating land from third parties, including legal fees, disbursements, registration costs and compensation paid in respect of any expropriation of land in connection with this agreement;

(iv) the costs of the background study and the processing of development charge by-laws or amendments to the Water DCB or the Wastewater contemplated by this agreement and the cost of negotiating and preparing this agreement;

(v) all applicable taxes payable by the Town for which it is not entitled to a rebate;

(vi) all reasonable costs incurred by the Town in connection with any required approval from a governing authority including, but not limited to, the reasonable cost of complying with any conditions of approval; and

(vii) cost of servicing debt in respect of the Residential Portion of the Approved Capital Cost of the Projects

"Cash Portion of Required Amount" means the sum THIRTY FIVE MILLION, FIVE HUNDRED AND FIFTY-FOUR THOUSAND, FOUR HUNDRED AND THIRTY NINE ($35,554,439.00) DOLLARS which in percentage terms is 54.64% of the Required Amount;

"CLA" means Construction Lien Act, R.S.O. 1990, c. 30, as amended, revised or consolidated from time to time and any successor legislation.

"DCA" means the Development Charges Act, 1997, S.O. 1997, c. 27, as amended, revised or consolidated from time to time and any successor legislation.

"Defaulting Owner" means an Owner described in Section 7.3.

"Excess Early Payments" has the meaning set out at Section 1.1(r)

"Excess Wastewater Capacity" means approximately 3,000 Units of wastewater capacity.

"Final Release" means Water Allocation and Wastewater Allocation of 867.

"Government Approval" means any approval, permission, licence, permit or any other approval of any kind whatsoever required from the federal, provincial, regional or county government or any agency, commission or board thereof for the construction and operation of the Projects.

"Innisfil 2" means the expansion of the capacity of the Alcona water treatment plant operated by the Town of Innisfil from a maximum day rated capacity of eleven thousand, four hundred and twenty-seven (11,427) cubic meters per day to twenty-five thousand, three hundred and seventy seven (25,377) cubic meters per day pursuant to the Water Supply Agreement.

"Innisfil 3" means the next expansion of the Alcona Water Treatment Plant after Innisfil 2 pursuant to the Water Supply Agreement.

"Interim Release" means Water Allocation and Wastewater Allocation of 1,342 Units.

"Letter of Credit" means an unconditional and irrevocable, demand letter of credit in favour of the Town that provides for automatic renewals and partial draws issued by a Schedule 1 Canadian chartered bank in the form set out in Schedule "F" and acceptable to the Town's Treasurer acting reasonably.

"Lot or Block" means a parcel of land within an Owner's Land that is capable of being developed and conveyed lawfully.

"Official Plan" means the Official Plan of the Town adopted on February 15, 2000 and approved by the Ontario Municipal Board on September 26, 2001, and any approved secondary plans.

"Owners" has the meaning set out in the recitals to this agreement.

"Owner's Lands" has the meaning set out in the recitals to this agreement.

"PA" means the Planning Act, R.S.O. 1990 c. P.13, as amended, revised or consolidated from time to time and any successor legislation.

"Parties to the 1996 Agreement" means the persons denoted in Schedule "A" by an asterisk (*) after their names who entered into agreements with the Town under the Development Charges Act, R.S.O. 1990, c. D.9 for the early payment of the wastewater treatment component only of the Town's development charge By-law 92-057 in connection with an increase in the capacity of the WPCP by the construction of Plant "C" in return for an allocation of increased treatment capacity only where such person is a party to this agreement and such person is not in default of

any obligation under the 1996 Agreement and includes Mod-Aire Homes Limited, Charter Construction Limited, Honeycut Land Inc. (formerly Belview Homes), William Dykie and 297518 Ontario Limited.

"Plant 'D'" means the WPCP having a capacity expanded to seventeen thousand and four hundred (17,400) cubic metres per day.

"Plant D Contract" has the meaning set out at Section 2.2(a) of this agreement.

"Projects" are the projects described in Schedule "D" to this agreement.

"Required Amount" means the amount of SIXTY-FIVE MILLION, SEVENTY FOUR THOUSAND SIX HUNDRED AND EIGHTY ($65,074,680.00) DOLLARS;

"Residential Portion of the Approved Capital Costs" means that portion of the Capital Costs which is attributable to residential development pursuant to the Water DCB and the Wastewater DCB;

"Residential Portion of the Estimated Capital Costs" means the estimated Capital Costs of the Projects as of the date of this agreement and set out at Schedule "C".

"Secured Portion of Required Amount" means the sum of TWENTY NINE MILLION, FIVE HUNDRED AND TWENTY THOUSAND, TWO HUNDRED AND FORTY-ONE ($29,520,241.00) DOLLARS, which in percentage terms is 45.36% of the Required Amount.

"Substantial Completion" or **"Substantially Complete"** means a Project is ready for use or is being used for purposes intended as certified in writing by the Town's Engineer.

"Total Allocation" has the meaning set out at Section 1.1(c) of this agreement.

"Town Wastewater System" means the system owned and operated or to be owned and operated by the Town for the collection, transmission, treatment and disposal of wastewater.

"Town Water System" means the system owned and operated or to be owned and operated by the Town for the collection, production, treatment, storage, supply, transmission and distribution of water.

"Town's Engineer" means the employee or official of the Town holding the position of engineer or its equivalent, his deputy and their successors.

"Town's Pre-2006 Capital Costs Incurred" means THIRTY FIVE MILLION, FIVE HUNDRED AND FIFTY FOUR THOUSAND, FOUR HUNDRED AND THIRTY NINE ($35,554,439.00) DOLLARS of the Capital Costs incurred by the Town for the Projects and related works prior to August 31, 2006, as evidenced by a statutory declaration of the Treasurer.

"Treasurer" means the employee or official of the Town holding the position of the Director of Finance and Treasure, or its equivalent, her deputy and their successors.

"Trustee" means a person appointed by the Owners as trustee for the purposes of this Agreement where such person has accepted the appointment as trustee and shall initially be 1723794 Ontario Limited.

"Unit" means one single family housing unit, or other equivalent multiple units, as determined in accordance with the standards contained in the Water DCB and Wastewater DCB, as applicable.

"Urban Area" means the area depicted as the Bradford Urban Area on Schedule "A" of the Official Plan.

"Wastewater Allocation" means capacity from the Town's Wastewater System to service one Unit.

"Wastewater DC" means the sanitary sewer services and wastewater treatment plant services components of the residential development charges under the Wastewater DCB as the context requires and as indexed.

"Wastewater DC Credit" means a credit against the Wastewater DC under the Wastewater DCB.

"Wastewater DCB" means development charge By-law 2003-084 enacted by the Town on November 4, 2003 as amended from time to time and any successor development charge by-law.

"Water Allocation" means capacity from the Town's water system to service one Unit.

"Water DC" means the water supply system services and water distribution services components of residential development charges under the Water DCB as indexed.

"Water DC Credit" means a credit against the Water DC under the Water DCB.

"Water DCB" means development charge by-law 2004-062 enacted by the Town on August 10, 2004 as amended from time to time and any successor development charge by-law.

"Water Supply Agreement" means an agreement made June 30, 2004 between the Town of Innisfil and the Town for the supply and transmission of potable water from the Town of Innisfil to the Town, as amended or amended and restated from time to time.

"WPCP" means the Bradford Water Pollution Control Plant owned and operated by the Town and located at 225 Dissette Street in the Town.

The parties are signing this agreement on the date above first written.

) **THE TOWN OF BRADFORD WEST**
) **GWILLIMBURY**
)
) Per: _____
Name:
Title:

I/We have authority to bind the Corporation

)
)
) Per: _____
) Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the Corporation

)
)
) Per: _____
) Name:
Title:

I/We have authority to bind the Corporation

)
)
) Per: _____
) Name:
Title:

I/We have authority to bind the Corporation

SCHEDULE "D"

WATER AND WASTEWATER PROJECTS

SERVICE: WATER SUPPLY SYSTEM

Project No.	Description
WSS-1	12.7 km - 600 mm to 500 mm dia. water supply main within the Town of Innisfil (shared with the Town of Innisfil; 55% is BWG's share), and Alcona pump station and controls
WSS-2	2.5 km - 500 mm dia. water supply main along County Rd. 4, from County Rd. 3 to Delivery Point (full cost)
WSS-3	5.5 km - 500 mm dia. water supply main along County Rd. 4 and 11th Line, from Delivery Point to grade level reservoir
WSS-4	Grade level reservoir on 12th Line, Town of Bradford West Gwillimbury (includes E.A. at $20,000)
WSS-5	6.0 km - 600 mm dia. water supply main along Sideroad 10, from grade level reservoir
WSS-6	Conversion of existing disinfection process from chlorination to chloramination
WSS-7	Bradford West Gwillimbury contribution to Innisfil Water Treatment Plant Expansion - Phase 2
	Study, Consulting and Legal Costs (expanded up to and including 2004)
	2005/06 Study, Consulting and Legal Costs

SERVICE: WASTE WATER TREATMENT PLANT

Prj. No	Description
WPCP-ESR WPCP-D1 & D2	Environmental Study Report Construction of Phase 1 and Phase 2 of Plant D Provision for stress testing and plant optimization

SERVICE: WATER DISTRIBUTION

Project No.	Description
WDS-1	Modifications to Standpipe No. 1 - emergency supply and backup power supply
WDS-2	250 m - 300 mm diameter trunk connecting watermain on 8th Line, Lot 11, Con. 7/8 (from 10th Sideroad east to existing stub)
WDS-3	780 m - 400 mm diameter trunk connecting watermain on 10th Sideroad Lots 10/11, Con. 7/8 (from 8th Line south to existing 350 mm dia. w/m)
WDS-4	Modifications to Standpipe No. 2 - fire pump & backup power
WDS-5	Pressure zone boundary modifications
WDS-6	250 m - 300 mm dia. watermain replacement on Holland Street West, west of Barrie Street
WDS-7	450 m - 300 mm diameter trunk watermain on 6th Line west of Brownlea Drive
WDS-8	450 m - 300 mm diameter trunk watermain on 10th Sideroad south of Holland Street W.
WDS-9	280 m - 300 mm diameter watermain on 8th Line between Noble Drive and Professor Day Drive
WDS-10	2870 m - 300 mm diameter watermains in Community Area 3, Lots 11, 12 and 13, Concession 7
WDS-11	Valve chambers on connections to existing 300 mm dia. and larger w/m's
WDS-12	1830 m - 300 mm diameter trunk watermain on proposed collector roads - Community Area 4, Lots 11, 12 & 13, Con. 8
WDS-13	270 m - 300 mm diameter trunk watermain on Professor Day Dr. extension - from 8th Line to Community Area 4 collector road, Lot 14, Con. 8
WDS-14	1870 m - 350 mm diameter trunk watermain on Professor Day Dr. extension from Community Area 4 collector road to County Road 4, Lots 14 & 15, Conc 8
WDS-15	380 m - 300 mm diameter watermain on 6th Line between Simcoe and Parkview and 110 m - 200 mm diameter watermain on Parkview north from 6th Line
WDS-16	380 m - 300 mm diameter trunk watermain west of Artesian Industrial Pkwy. (Industrial-Industrial/Commercial lands), Lot 17, Con. 8
WDS-17	1800 m - 300 mm diameter trunk watermain between County Rd. 4 and Artesian Industrial Pkwy, (Industrial-Industrial/Commercial lands), Lots 16 & 17, Con. 8
WDS-18	400 m - 300 mm diameter trunk watermain on 9th Line west of Artesian Industrial Pkwy and 300 m - 300 mm dia. trunk watermain internal to industrial lands, Lot 17, Concession 8
WDS-19	Funding of existing credit obligation - 300 mm diameter watermain on 6th Line from Adams Street to Simcoe Road
	Class EA for water booster pumping station in Town of Innisfill

SERVICE: SANITARY SEWER

Prj. No	Description
SWB-San 1	Construct 190 m-675 mm dia and 930 m-750 mm dia trunk sanitary sewer from Barrie St. to Dissette St. including new syphon chamber
SWB-San 2	Construct 110 m-450 mm dia. sanitary diversion sewer on Barrie St. from Holland St. to John St.
SWB-San 3	Construct 190 m-900 mm dia sanitary sewer syphon from Dissette St. to WPCP division structure with new inlet chamber incl. Tunnel under railway
SWB-FM 1	1.45 km, twin forcemain construction (400 mm dia. And 600 mm dia.) from existing Holland St. W. PS to new trunk sewer
SWB-PS 1	Reconstruct first phase of Holland St. W Sanitary PS (Dykie PS)
SWB-San 4	Construct 1320 m-375 mm dia. san. trunk sewer in Con. 6-east of west tributary
WB-San 1	Construct 30 m-600 mm dia. And 690 m-525 mm dia. san. trunk sewer, south half Lot 13, Con. 7, north from Holland St. W.
SWB-San 5	Construct 1080 m-300 mm dia. san. trunk sewer in Con.6-northwest of west tributary
WB-San 2a	Construct 600 m-525 mm dia. san. trunk sewer, north half Lot 13, Con. 7
WB-San 2b	Construct 600 m-450 mm dia. san. trunk sewer, north half Lot 13, Con. 7
SWB-PS2	Construct complete Middletown San. PS
SWB-FM 2	Construct 720 m - 150 mm dia. san. forcemain from Middletown PS to gravity trunk sewer outlet in Lot 12
WB-PS	Complete Phase 2 of Holland Street West San. PS (Dykie PS)
8th-San 1	Construct 1150 m-375 mm dia. san. trunk sewer, Lots 11/12, Con. 8
8th-PS 1	Complete Phase 3 of Holland Street West san PS (Dykie PS)
WB-San 2c	Construct 600 m – 375 mm dia. Sanitary trunk sewer, north half Lot 13, Con. 7, east of tributary to intersection of Professor Day Dr./8thLine.
8th-San 2	Construct 700 m-375 mm dia. san. trunk sewer, Lot 14, Con. 8
8th-PS 2	Reconstruct Artesian san. PS
8th-San 3a	Construct 600 m-450 mm dia. San. trunk sewer from Artesian PS to the north side of the Highway 400-404 Link
8th-San 3b	Construct 1320 m-375 mm dia. san. trunk sewer from north side of Highway 400-404, including tunnel crossing, to County Road 4
GV-PS 1	Construct complete Green Valley san. PS to service growth.
GV-FM	Construct 1.5 km san. forcemain (equiv. 200 mm dia.) from Green Valley san. PS to new sanitary sewer at Holland St. & Barrie St.
GV-San 1	Construct 800 m-375 mm dia. san. sewer from Simcoe Rd. to GV-PS1 at 6th Line and Zima Parkway
9th-San 1	Construct 800 m-375 mm dia. san. trunk sewer north of Highway 400-404 Link from Artesian Industrial Pkwy. to lands on east side of County Rd. 4, Lots 16 & 17, Con. 8
9th- PS1	Upgrade Artesian san. PS
GV-San 2	Construct 160m-300 mm dia. san. trunk sewer from east side to west side of Simcoe Road, including tunnel crossing, in Lot 15/16, Con 5
	Allowance for municipal growth related studies (ie. Class EA wastewater system updates)
	Funding of DC Credit Obligation re: 167 m - 600 mm dia. san. Sewer diversion from Jay Street to WPCP driveway on Dissette Street
	Funding of DC Credit Obligation re: Highway 88 Trunk Sewer (Re: Minutes of Settlement (s.2))
	Funding of DC Credit Obligation re: Highway 88 Trunk Sewer (Re: Minutes of Settlement (s.3c))
	Less: December 31, 2002 Reserve Fund Balance

APPENDIX F
SAMPLE SERVICE EMPLACEMENT AGREEMENT

DEVELOPMENT CHARGE CREDIT AGREEMENT

THIS AGREEMENT made as of this 31st day of March, 1999.

BETWEEN:

THE REGIONAL MUNICIPALITY OF YORK

(The "Region")

OF THE FIRST PART;

- and -

OF THE SECOND PART.

WHEREAS the Owners propose to develop the lands described in Schedule "A", in the Town of Whitchurch-Stouffville, in The Regional Municipality of York;

AND WHEREAS, in order to develop the lands which fall within the boundary of The Town of Whitchurch-Stouffville Official Plan Amendment No. 101 (the "Benefitting Lands"), certain Sanitary Sewer Service Works (the "Works") as set out in Schedules "B" and "B-1", which will enable such Benefitting Lands to be developed, are required to be constructed or otherwise provided for;

AND WHEREAS each of the Owners wishes to have the Benefitting Lands developed in a timely manner;

AND WHEREAS such Works are not currently scheduled for construction by the Region;

AND WHEREAS the Owners have requested, and the Region has agreed to grant such request on the terms hereinafter set forth, that the Region advance the construction of Part B of the Works as shown on Schedules "B" and "B-1" and have agreed to facilitate such construction;

AND WHEREAS each of the Owners and Region agrees that the advancement of the construction of Part B of the Works will facilitate the timely development of the Benefitting Lands;

AND WHEREAS section 38 of the *Development Charges Act*, 1997, S.O. 1997, c.27 and section 4.1 of the Region's Development Charges By-law No. DC-3-98-77 authorize Regional 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 charge;

AND WHEREAS Regional Council, by Clause 2 of Report 12 of the Transportation and Works Committee, adopted on June 25, 1998, authorized the parties to enter into an agreement pursuant to section 38 of the *Development Charges Act*, 1997, providing for the provision of the Works by the Owners;

AND WHEREAS the Owners have agreed to contribute Security (as hereinafter defined) in order to facilitate the construction of Part B of the Works;

AND WHEREAS the Owners have agreed to make the above-noted contribution in exchange for the entitlement to develop the Owners' Lands (as hereinafter defined);

AND WHEREAS Region has agreed to reimburse the Owners for the Security provided by it under this Agreement on the terms hereinafter set forth;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of good and other valuable consideration and the sum of TWO DOLLARS ($2,00) of lawful money of Canada 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:

DEFINITIONS

1. In this Agreement and in the recitals above,

"Act" means the *Development Charges Act*, 1997 S.O. 1997, c.D.X, as revised, re-enacted or consolidated from time to time, and any successor statute;

"Benefiting Lands" means the lands to be benefited by the Sanitary Sewer Service Works, and more particularly described as those lands which fall within the boundary of The Town of Whitchurch-Stouffville Official Plan Amendment No. 101;

"Business Day" means a day other than a Saturday, Sunday or any day on which the principal commercial banks in the City of Toronto are not open for business during normal banking hours;

"By-law" means By-law N. DC-3-98-77 enacted by the Region under the Act as such By-law is amended or re-enacted from time to time;

"Capital Cost" means the cost of the design, engineering and construction of the Sanitary Sewer Service Works;

"Commissioner of Finance and Treasurer" means the Commissioner of Finance and Treasurer for the Region;

"Consulting Engineer" means a professional engineer duly licensed as a professional engineer under the laws of Ontario as retained by the Region to oversee the design and construction of the Works and the project management and administration of the contract(s) awarded pursuant to the Request for Proposals;

"Completion" means substantial performance as that term is defined in Section 2.4 of the *Construction Lien Act* (Ontario);

"Credit Balance" means the amount from time to time equal to an Owner's proportionate share of the aggregate Security provided under this Agreement plus such Owner's proportionate share of the Environmental Assessment Cost less any Development Charge Credits received by such Owner in accordance with Section 6 hereof and less any amounts paid to such Owner in accordance with Section 7 hereof;

"Development Charge Credit" means a credit given by the Region for services provided by the Owners in lieu of payment of development charges;

"Distribution Date" means the first day of April, August and December in each year following the Completion of Part B of the Works unless such days do not fall on a Business Day in which event a Distribution Date shall occur on the first Business Day following such non-Business Day;

"Distribution Date Statement" means a statement effective as at the applicable Distribution Date detailing the total amount of Development Charge Credits received by each Owner in accordance with Section 6 hereof, the total amount paid to each Owner in accordance with Section 7 hereof, the Credit Balance of each Owner and the amount currently being held in the Special Account;

"Environmental Assessment" means the environmental assessment report with respect to that portion of the Works extending north from Part B, the location of which is currently shown as Part A on Schedules "B" and "B-1" (the location of Part A being subject to change based on further negotiation by the parties in accordance with Section 3(ix) hereof) prepared by Marshall Macklin Monahan on March 19, 1998 and any changes resulting from the environmental assessment process;

"Environmental Assessment Cost" means the cost incurred by the Owners in connection with the Environmental Assessment as more particularly described in Section 3(vii) hereof;

"Final Plans of Subdivision" means the plans of subdivision with respect to the Benefitting Lands which have been registered on title to the Benefitting Lands;

"Letter of Credit" means an irrevocable, demand letter of credit issued by a Canadian chartered bank and in a form acceptable to the Commissioner of Finance and Treasurer;

"Markham Agreement" means the development charge credit agreement with respect to Part C and that part of Part B lying to the south of the Rouge River of the Works more particularly described as Part B1 on Schedule "B-1" between the Region and the Markham Owners;

"Markham Owners" means, collectively

"Non Participating Owners" means those owners who are not parties to this Agreement, but own Benefiting Lands;

"Notice" has the meaning ascribed thereto in Section 11 hereof;

"Owners' Construction Consultant" means the construction consultant or engineer appointed by the Owners to consult with the Consulting Engineer and the Region in connection with the construction of the Works;

"Owners' Lands" means the lands in The Regional Municipality of York, more particularly described in Schedule "A";

"Region" means The Regional Municipality of York or its authorized representative;

"Regional Development Charge" means a charge imposed pursuant to the By-law;

"Request for Proposals" means the request for proposals prepared by the Region for the design and construction (design/build) of the Works;

"Security" means a Letter of Credit, certified cheque or cash, or any combination thereof in a form satisfactory to the Regional Treasurer;

"Special Account" has the meaning ascribed thereto in Section 7(iii) hereof;

"Works" means the work undertaken on behalf of the Region for the delivery of Sanitary Sewer Services as more particularly described in Schedules "B" and "B-1".

DESCRIPTION OF LANDS

2. The parties acknowledge that the lands benefiting from the construction of Part B of the Works include the Owners' Lands and the Benefiting Lands (for greater certainty, the Owners' Lands are included within the boundary of the Benefitting Lands).

SANITARY SEWER SERVICE WORKS

3. (i) The Region shall be solely responsible for the design, engineering, construction, installation and maintenance of the Works, and for retaining consultants and entering into any contracts required in connection therewith. Following execution of this Agreement by the parties, the Region agrees to take all reasonable steps to proceed with and complete the Works set out in Schedules "B" and "B-1" in a timely manner.

(ii) In constructing the Works, the Region shall use its best efforts to adhere to the preliminary schedule set out in Schedule "D". In any event (other than unforseen circumstances beyond the Region's control), the Region agrees to use its best efforts to ensure that Part C of the Works as shown on Schedules "B" and "B-1" shall be completed no later than November 30, 2000 and Part B of the Works shall be completed no later than April 30, 2001. The Region covenants and agrees that, upon Completion of the Works, there shall be sufficient capacity in the Works to permit the development of the Owners' Lands. In addition, the Region covenants and agrees to support the Owners in the Owners' efforts to ensure that water services are allocated to the Owners' Lands in priority to the balance of the Benefitting Lands.

(iii) The Region covenants and agrees that it will secure all necessary deeds, easements, approvals, rights, interests, licences and any other agreements which are or may be required by the Region in order to give the Region the full right, power and authority to construct, install and maintain the Works.

(iv) The parties acknowledge that, as of the date of this Agreement, the estimated Capital Cost of the Works is FOUR MILLION, FIVE HUNDRED AND THIRTY THOUSAND DOLLARS ($4,530,000.00).

(v) The Owners agree to facilitate the construction of Part B of the Works shown and described on Schedules "B" and "B-1" through the provision of Security as set out in this Agreement.

(vi) The parties agree that the Owners shall fund One hundred percent (100%) of the Capital Cost of that portion of Part B shown and described on Schedule "B-1" as Part B2 (currently estimated to be $500,000.00) and Sixty-five percent (65%) of the Capital Cost of that portion of Part B shown on Schedule "B-1" as Part B1 (currently estimated to be $6,200,000.00).

(vii) The parties agree that the Owners shall contribute $58,375.25 towards the cost of the Environmental Assessment and, in this regard, the Region acknowledges receipt of such funds by way of cheques delivered to the Region by the Owners' solicitors on October 29, 1998.

(viii) The parties acknowledge that the aggregate Security provided to the Region by the Owners under the terms of this Agreement and the Environmental Assessment Cost shall be in lieu of payment of the sewage component of the Regional Development Charge applicable to the Owners' Lands otherwise payable in accordance with the By-law. In this regard, the Owners shall receive Development Charge Credits as set out in Section 6 of this Agreement. In addition, the Owners shall receive payments collected by the Region from Non Participating Owners in accordance with Section 7 of this Agreement.

(ix) In connection with the Completion of the Works, the parties acknowledge and agree that they may agree to enter into a separate agreement with respect to the construction of that portion of the Works extending north from Part B of the Works. Currently, this portion of the Works is described as Part A on Schedules "B" and "B-1". If the Owners decide to enter into the aforementioned separate agreement, the Region shall proceed to diligently negotiate the same with the Owners, with all parties acting in good faith. In

connection with the foregoing, the parties acknowledge that the precise location of Part A of the Works has yet to be determined. Accordingly, in connection with the negotiation of the aforementioned separate agreement, the parties shall negotiate in good faith the precise location of Part A of the Works. The parties agree that such separate agreement shall, in any event, require all owners of the Benefiting Lands to participate in the funding of that portion of the Works extending north from Part B, whether through Regional Development Charges or otherwise, notwithstanding that the Owners may fund some or all of the initial construction costs.

SEVERAL RESPONSIBILITY

4. The parties agree that, wherever this Agreement provides that the Owners are responsible for costs or payments or incur any liability (including any liability pursuant to the indemnity set out in Section 8 hereof), such costs, payments or liability shall be allocated amongst the Owners with each Owner being severally responsible (but not, for greater certainty, jointly, or jointly and severally responsible) for its proportionate share as set out in Schedule "F". For greater certainty, notwithstanding that two or more Owners may wish to pool the payments required under this agreement or that such Owners may have a common address for service, such Owners shall not be considered to be jointly or jointly and severally responsible with such other Owners for their respective obligations hereunder.

PROVISION OF SECURITY

5. (i) The Owners shall provide to the Region, Security in the aggregate amount of FOUR MILLION FIVE HUNDRED AND THIRTY THOUSAND DOLLARS ($4,530,000.00) on a severally responsible basis in accordance with Section 4 hereof. Each Owner shall post Security in an amount equal to its proportionate share of the total Security required in accordance with the proportions set out in Schedule "F".

(ii) Fifty percent (50%) of the Security shall be provided to the Region within five (5) Business Days following Notice (the "Request Notice") by the Region to the Owners that the Region intends to, forthwith, issue the Request for Proposals for Part B of the Works and the balance of the Security shall be provided within five (5) Business Days following Notice (the "Contract Notice") by the Region to the Owners that the Region intends to, forthwith, award the construction contract(s). In connection with the foregoing, the initial fifty percent (50%) of the Security may be provided to the Owners'

solicitors in escrow within five (5) Business Days following the Request Notice, pending receipt by the Owners of Notice from the Region that the Region is in receipt of the initial fifty percent (50%) of the Security (as defined in the Markham Agreement) from the Markham Owners, at which time the Owners' solicitors shall, forthwith, release such Security to the Region. Similarly, the final fifty percent (50%) of the Security may be provided to the Owners' solicitors in escrow within five (5) Business Days following the Contract Notice, pending receipt by the Owners of Notice from the Region that the Region is in receipt of the final fifty percent (50%) of the Security (as defined in the Markham Agreement) from the Markham Owners, at which time the Owners' solicitors shall, forthwith, release such Security to the Region. The Region agrees that the Request for Proposals and the contracts awarded in connection therewith shall be made in consultation with the Owners and, to the extent reasonably practicable, clearly and specifically break-down the costs and the description of the particular components of the Works on an item-by-item basis. The contract proposal awarded shall be a fixed price contract proposal. Regional Staff shall have a maximum of four (4) weeks following the receipt of the responses to the Request for Proposals to decide which fixed price contract proposal will be recommended to Regional Council for acceptance. Once this decision is made, Regional Staff shall hold a meeting forthwith to which all Owners will be invited. During this meeting, Regional Staff shall, *inter alia*, provide a written explanation for Regional Staff's decision. Provided that the total estimated cost set out in the recommended fixed price contract proposal exceeds $4,530,000.00, then, following this meeting, the Owners shall have a maximum of ten (10) Business Days to provide to the Region a notice (the "Rejection Notice') that the Owners reject the recommended fixed price contract proposal. If a Rejection Notice is not received by the Region within such ten (10) Business Day Period, the Owners will be deemed to have consented to the terms of the recommended fixed price contract proposal. For greater certainty, if the total estimated cost set out in the recommended fixed price contract proposal does not exceed $4,530,000.00, then the Owners will be deemed to have consented to the terms of the recommended fixed price contract proposal. If a Rejection Notice is received by the Region within such ten (10) Business Day Period, then the Regional Staff shall report the rejection by the Owners of the recommended fixed price contract proposal to Regional Council. In the event that the Region and the Owners cannot agree in writing upon the terms of an amended fixed price contract proposal or a written amendment to this Agreement within four (4) weeks(the "Contract Negotiation Period") following the Region's report to Regional Council, then this Agreement shall be at an end and of no further force or effect and the parties shall have no

liability to one another hereunder thereafter and the initial fifty percent (50%) of the Security shall be returned to the Owners within five (5) Business Days following the expiration of the Contract Negotiation Period less all reasonable costs incurred by the Region in connection with the tender process relating to the Request for Proposals.

(iii) Whenever the Region is entitled to draw upon Security on deposit with the Region to secure the obligations of the Owners, it shall draw upon each Owner's Security in proportion to each Owner's proportionate share as set out in Schedule "F". The Region shall draw upon the Security only after it has received from the contractor a progress requisition and related certificates which have each been approved by the Consulting Engineer. In addition, any change proposals submitted by the contractor to the Region including, without limitation, those change proposals which will result in an increase to the contract price, shall be approved by the Consulting Engineer following consultation with the Owners' Construction Consultant. The Region agrees to take all reasonable steps in order to avoid a request by the contractor for a change proposal. During the construction of Part B of the Works, the Owners' Construction Consultant and the Consulting Engineer shall have regular meetings during which times the Owners' Construction Consultant shall discuss with the Consulting Engineer any concerns the Owners' Construction Consultant may have with the construction of the Works including, without limitation, the administration of the awarded contracts. In addition, the Owners' Construction Consultant shall have access to and review all plans, drawings, agreements and any other documents including, without limitation, copies of all progress requisitions, progress certificates, change orders, engineer's certificates and architect's certificates, reasonably required by the Owners' Construction Consultant in reviewing the Works.

(iv) The parties acknowledge that the aggregate amount of the Security is equal to the percentages of the estimated Capital Cost of Part B of the Works set out in Section 3(vi) above. In the event that such Capital Cost is increased or decreased, the Region shall provide to the Owners, by Notice, a statement setting out the revised estimated Capital Cost, showing the actual costs to be incurred by the Region. In the event that the actual Capital Cost of Part B of the Works exceeds the estimated Capital Cost, the Owners shall provide to the Region additional Security, having an aggregate value equal to the percentages set out in Section 3(vi) above of the additional Capital Cost, in accordance with their proportionate shares set out in Schedule F". The Region covenants and agrees to pay for the entire portion of the Capital Cost of Part B of the Works for which the Owners are not responsible. In

addition, the Region covenants and agrees to use its best efforts in a diligent manner to ensure that Part C of the Works is completed in a timely manner and in accordance with the provisions of the Markham Agreement.

(v) The Owners shall provide any additional Security required pursuant to Section 5(iv) within fifteen (15) Business Days of receipt by the Owners of the Notice described in Section 5(iv) from the Region. In the event that any Owner does not provide additional Security as required by this section, the Region may, notwithstanding Section 6 of this Agreement, require payment by such Owner of such Owner's proportionate share of the Regional Development Charge in accordance with the By-law, and may, at its sole discretion, but only upon five (5) Business Days prior Notice to the Owners, take all necessary steps to avoid incurring further expense, including stoppage of Part B of the Works.

(vi) If, upon the Completion of Part B of the Works, to the satisfaction of the Region, the actual cost payable by the Owners is less than the estimated Capital Cost of Part B of the Works thereby resulting in the Security provided by the Owners to the Region not being fully expended, the Region shall release any unused monies or undrawn portions of the Letters of Credit to the provider of the Security within five (5) Business Days following the expiration of any relevant holdback periods pursuant to the *Construction Lien Act* (Ontario), as amended.

CREDITS

6. (i) Upon Completion of Part B of the Works, to the satisfaction of the Region, the Region shall provide to each Owner a Development Charge Credit in an amount which equals One Hundred percent (100%) of the Owner's proportionate share of the aggregate Security and the Owner's proportionate share of the Environmental Assessment Cost contributed by such Owner pursuant to this Agreement.

(ii) The Development Charge Credit shall be credited against the sewage component of the Regional Development Charge and shall be credited, at the time the charge is payable, in an amount equal to the then prevailing charge.

(iii) The Development Charge Credit shall only be available with respect to Regional Development Charges imposed upon development on the lands described in Schedule "A", and not to any lands owned by the Owners or any one of them which are not located within the Benefitting Lands.

(iv) The parties acknowledge that the entitlement to a Development Charge Credit shall accrue to a successor in title to an Owner, in the event that title to an Owner's lands is transferred prior to entitlement to all or part of a Development Charge Credit unless such successor is a builder or a final home purchaser and the Owner continues to own other lands set out in Schedule "A" in which case the entitlement to such Development Charge Credits and payments under Section 7 shall remain with the Owner.

BENEFITTING LANDS

7. (i) Following Completion of the construction of Part B of the Works, the Region agrees that an amount equal to the sewer component of the Regional Development Charge paid to the Region by Non Participating Owners and owners (the "North Markham Owners") of land in Markham lying to the north of Markham Official Plan Amendment No. 5 (the "North Markham Lands") shall be paid to the Owners in accordance with each Owner's proportionate share at the times described in Section 7(iii) below, provided that the total amount recovered by each Owner through such payments and Development Charge Credits shall not exceed the actual amount contributed by that Owner towards its proportionate share of the aggregate Security and Environmental Assessment Cost.

(ii) The Region agrees that it shall use its best efforts in a diligent manner to ensure that the Non Participating Owners and the North Markham Owners contribute to the cost of the construction of Part B of the Works and the Environmental Assessment Cost and that such contributions shall be sufficient to compensate the Owners with respect to the difference, if any, between the amount equal to the aggregate amount of Security and the Environmental Assessment Cost incurred pursuant to this Agreement and the amount equal to the aggregate amount of all Development Charge Credits received by the Owners pursuant to this Agreement. Without limiting the generality of the foregoing, the Region agrees to use its best efforts in a diligent manner to, at all times, have in place a by-law pursuant to the Act or amendments to such by-law as required, to provide for the granting of development charge credits and for the payment of development charges in respect of the Benefitting Lands and the North Markham Lands to recover the Capital Cost of Part B of the Works and the Environmental Assessment Cost. The parties acknowledge and agree that nothing in this Agreement shall fetter the Region's discretion in respect of the enactment of any by-law or the Region's ability to give due and proper consideration to the enactment of any by-law as required by law.

(iii) During such time as any Owner has a Credit Balance which remains unretired, the Region shall diligently collect the sewer component of the Regional Development Charge payable to the Region by Non Participating Owners, by the North Markham Owners and by those Owners who have had their Credit Balances fully retired but are continuing to develop portions of the Benefitting Lands for which the sewer component of the Regional Development Charge is payable and shall keep all such amounts received in a special account (the "Special Account"). The Region shall distribute to the Owners in accordance with each Owner's proportionate share the monies then being held by the Region in the Special Account on each Distribution Date.

INDEMNITY

8. The Owners agree to severally indemnify and defend, in accordance with their respective proportionate shares, the Region, its employees, elected officials, contractors and agents against all actions, causes of action, suits, claims and demands (collectively "Claims") whatsoever, which may arise either directly or indirectly by reason of the Region and the Owners entering into this Agreement by reason of the following:

(i) a breach by the Owners or any of them of their obligations under this Agreement; or

(ii) any dispute between the Region and any Owner arising with respect to the cost of services or application of credits pursuant to this Agreement.

The Region agrees that it shall give ten (10) days prior written notice of all potential Claims to all Owners during which time the Owners shall be given the opportunity to settle such potential Claims among themselves, failing which copies of all such Claims shall be delivered by the Region to all Owners. For greater certainty, the Owners shall not be liable for any gross negligence or misdeeds by the Region or its employees or for any default or breach by a contractor or subcontractor under an awarded contract.

REGION'S COSTS

9. (i) The Owners shall pay to the Region, by cash or certified cheque, a fee equivalent to one half of one per cent (.5%) of the actual Capital Cost of Part B of the Works, for the preparation, registration and administration of this Agreement.

(ii) The amount payable pursuant to s.9(i) shall be paid to the Region in the following instalments:

(a) twenty percent (20%) in five (5) annual instalments on each of the first five anniversary dates of the execution of this Agreement.

ADMINSTRATION OF AGREEMENT

10. (i) The Region shall provide to the Owners a statement, every six (6) months during the term of this Agreement, showing the status of construction of the Works together with such supporting materials as are reasonably required by the Owners.

(ii) Upon Completion of Part B of the Works, the Region shall provide to the Owners a Distribution Date Statement on each Distribution Date until the Credit Balance of each Owner is retired.

NOTICES

11. (i) Any notice, demand, acceptance, request or other communication ("Notice") required to be given hereunder shall be given in writing and shall be given by personal delivery or by telecopier transmittal and addressed to the Owners as follows:

with a copy to:

or such change of address as an Owner has by Notice delivered to the Region; and to the Region as follows:

The Regional Municipality of York
17250 Yonge Street
Box 147
Newmarket, ON L3Y 6Z1

Attention: Regional Clerk
Fax No. 1-(905) 836-0299

or such change of address as the Region has by Notice delivered to the Owners.

(ii) Any Notice shall be deemed to have been given to and received by the party to which it is addressed:

(a) if personally delivered, on the date of delivery; or

(b) if by telecopier transmittal, on the day transmission delivery is confirmed by the party delivering the Notice.

Provided that if delivery occurs after 5:00 p.m. on a Business Day or at any time which is not a Business Day, delivery shall be deemed to have been given on the next Business Day.

BINDING ON SUCCESSORS

12. (i) It is hereby agreed by and between the parties hereto that this Agreement shall be enforceable by and against the parties, their heirs, executors, administrators,

successors and assigns and that this Agreement and all the covenants by the Owners herein contained shall be registered on the Owner's Lands and shall run with such lands for the benefit of the Region and the land or interests in land owned or to be owned by the Region upon the registration of the Final Plans of Subdivision.

(ii) The Region agrees that, upon Completion of the construction of Part B of the Works and upon fulfilment of each Owner's obligations under this Agreement, the Region shall deliver to any owner of lands described in Schedule "A", within ten (10) Business Days of a request from such owner, an executed and registerable release from the terms of this Agreement. Notwithstanding the delivery by the Region of a release hereunder, the Region acknowledges and agrees that until each Owner's Credit Balance is retired and the Region has otherwise fulfilled all of its obligations under this Agreement, the Region shall not be released from its obligations hereunder.

(iii) No Owner shall assign or transfer its interest in this Agreement without the prior written consent of the Region, which consent shall not be unreasonably withheld.

(iv) No Owner shall transfer title to all or any part of the lands described in Schedule "A", unless the purchaser of such lands agrees to assume the obligations of that Owner pursuant to this Agreement provided that this Section 12(iv) shall be of no force or effect if the Region has heretofore granted a registerable release in accordance with Section 12(ii) above.

ENTIRE AGREEMENT

13. 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.

LAWS OF ONTARIO

14. This Agreement shall be interpreted under and is governed by the laws of the Province of Ontario.

SCHEDULES

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

Schedule "A" - Legal Description of the Lands

Schedule "B"	-	Description of Works
Schedule "B-1"	-	Sketch of the Ninth Line/16th Avenue Trunk Sewer
Schedule "C"	-	Intentionally Deleted
Schedule "D"	-	Construction Schedule
Schedule "E"	-	Intentionally Deleted
Schedule "F"	-	Owners' Proportionate Shares

MISCELLANEOUS

16. This Agreement is conditional upon the execution and delivery of the Markham Agreement. If the Markham Agreement is not fully executed and delivered within five (5) Business Days following the date hereof, this Agreement shall be null and void and any Security or other monies delivered by the Owners to the Region pursuant to this Agreement shall be immediately returned by the Region to the Owners and neither party shall have any further obligations to the other hereunder. This condition is for the sole benefit of the Owners and may be waived by the Owners by Notice within the time period set out herein failing which the Owners will be deemed not to have waived this condition.

17. If any provision of this Agreement is determined by a Court of competent jurisdiction to be illegal or beyond the power, jurisdiction or capacity of any party bound hereby, such provision shall be severed from this Agreement and the remainder of this Agreement shall continue in full force and effect and in such case the parties agree to negotiate in good faith to amend this Agreement in order to implement the intentions as set out herein. It is agreed and acknowledged by the parties that each is satisfied as to the jurisdiction of each party to enter in this Agreement. The parties agree that they shall not question the jurisdiction of any party to enter into this Agreement nor question the legality any portion hereof, nor question the legality of any obligation created hereunder and the parties, their successors and assigns are and shall be estopped from contending otherwise in any proceeding before a Court of competent jurisdiction or any administrative tribunal.

18. The parties agree to execute such further documents and cause the doing of such acts and cause the execution of such further documents as are with their power as any party may reasonably request to be done and or executed, in order to give full effect to the provisions of this Agreement.

19. Time shall be of the essence of this Agreement and each of its provisions.

20. Whenever the Region or any representative of the Region is required to take action pursuant to this Agreement, or is required to make a decision or render an opinion, or give confirmation or give authorization, permission or approval, then such action, decision, confirmation, authorization, permission or approval shall be made promptly in all respects and the Region and its representatives shall act reasonably, in good faith and without delay subject to the Region obtaining Council authority where necessary.

21. This Agreement may be executed in counterpart and when each party has executed in counterpart, each such counterpart shall be deemed to be an original and all such counterparts, when taken together, shall constitute one and the same document.

22. The Region agrees that the Owners may claim any rebate, refund, set-off or credit in respect of goods and services tax paid by the Region or by the Owners as part of the cost of Part B of the Works which the Owners may be legally entitled to claim pursuant to the *Excise Tax Act* (Canada) as amended and the Region shall co-operate in a diligent manner as requested by the Owners to do all things reasonably necessary to effect the entitlement of the Owners to claim such rebate, refund, set-off or credit.

23. The Region covenants and agrees that the Works shall be designed with sufficient capacity to service all of the Benefitting Lands.

24. If, within ten (10) years following the date of execution of this Agreement, any portion of Part B of the Works is used, and if 50% or more of the Benefiting Lands are not able to be developed within such ten (10) year period, then the Region covenants and agrees to retire the Credit Balance of each Owner with cash payments, during the ten (10) year period following the expiration of the aforementioned initial ten (10) year period.

IN WITNESS WHEREOF the parties hereto have hereunto affixed their seals properly attested, this 31st day of March, 1999.

THE REGIONAL MUNICIPALITY OF YORK

_____ _____
Chair

_____ _____
Clerk

Authorized by Clause 2 of
Report 12 of the Transportation
and Works Committee and adopted
by Regional Council at its
meeting held on the 25th day
of June, 1998.

APPROVED
SOLICITOR

SCHEDULE "B"

DESCRIPTION OF SANITARY SEWER SERVICES

Description of Ninth Line Works

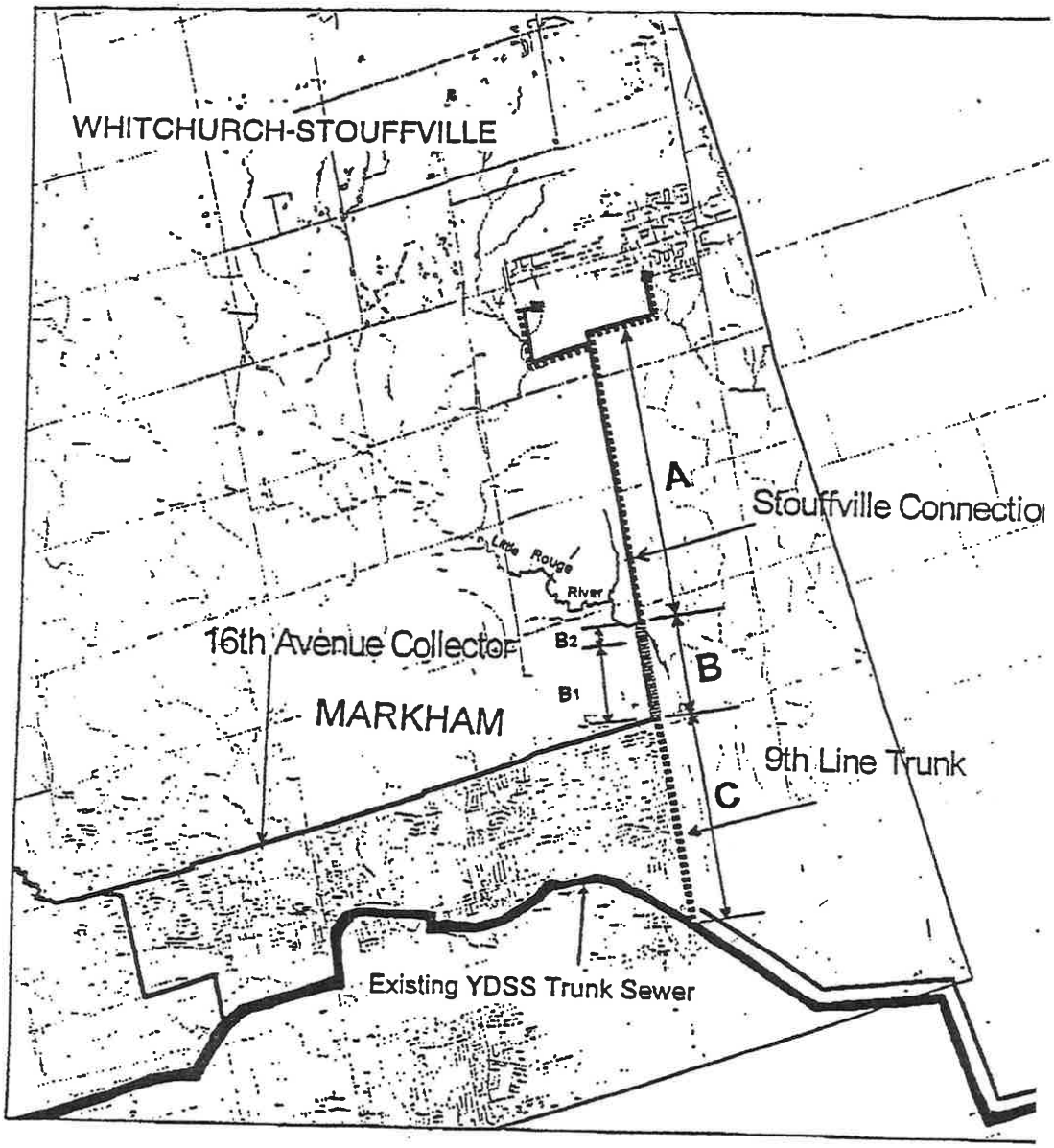
The proposed trunk sewer tunnels are divided into three parts. The first phase of the project, the Ninth Line Trunk Sewer, includes two of the three parts and will start at the existing YDSS trunk sewer at Box Grove to just north of the Little Rouge River, a distance of approximately 5,375 metres. The first part, shown as C on Schedule "B-1", will extend from Box Grove to 16th Avenue (approximately 3,750 metres) and the second part, shown as B on Schedule "B-1", will extend from 16th Avenue to about 270 metres south of Major Mackenzie Drive (approximately 1,625 metres). Part B is further divided into B-1, extending from 16th Avenue to approximately 300 metres south of Little Rouge River and B-2, extending from approximately 300 metres south of Little Rouge River to approximately 270 metres south of Major MacKenzie Drive.

Description of 16th Avenue Works

The third part of the tunnel will be the 16th Avenue trunk sewer from Ninth Line to Cairns Drive (between McCowan and Markham Roads), approximately 3,460 metres west of the Ninth Line.

SCHEDULE "B-1"

DESCRIPTION OF SANITARY SEWER SERVICES



SCHEDULE "D"

Ninth Line Trunk Sewer Project
Revised Milestone Dates

Milestone	Date
Issue RFP to Design Build Proponents	March 1999
Council Authorization for Contract Award	August 1999
Completion of 9th Line sewer from Box Grove to 16th Avenue	November 2000
Completion of 9th Line Sewer from 16th Avenue to Little Rouge River	April 2001
Completion of 16th Avenue from 9th Line to Stone Mason Drive	February 2002

SCHEDULE "F"

OWNER'S PROPORTIONATE SHARE

OWNERS	APPROXIMATE LAND ACREAGE	PERCENTAGE (%)	AMOUNT
	151.82	26.46	$1,198,638.00
	106.45	18.55	$840,315.00
	106.87	18.63	$843,939.00
	58.60	10.21	$462,513.00
	102.68	17.90	$810,870.00
	43.02	7.50	$339,750.00
	4.31	0.75	$33,975.00
TOTAL	**573.75**	**100.00**	**$4,530,000.00**

APPENDIX G
SAMPLE FRONT-ENDING AGREEMENT

FRONT-ENDING AGREEMENT executed this day of August, 2010.

BETWEEN:

(hereafter referred to as "OHL")

- and -

THE CORPORATION OF THE TOWN OF ORANGEVILLE
(hereafter referred to as the "Town")

RECITALS:

A. OHL is the owner of certain property legally described as Part of the East Half of Lot 3, Concession 2 WHS, Township of Orangeville, which is identified and depicted on Schedule "A" hereto as the lands for the Front-Ending Agreement (the "OHL Lands");

B. The OHL lands have been and are being developed for residential purposes, and in preparation for such development OHL will install trunk sanitary sewer upgrades, being Project SS1 in service area SS1, Schedule B to the Town's Area-Specific Development Charges By-law for Sanitary Sewer Services 81-2009, which was adopted under the authority of the DCA (the "DC By-law") as described in Schedule "B" hereto (the "Sewer Services");

C. The Sewer Services will benefit both the OHL Lands and other lands located to the north and west of the OHL Lands which are owned by persons who are not party to this Agreement which lands are hereafter called the "Trunk Sewer Benefiting Area", which is service area SS1, Schedule C to the Town's Area-Specific Development Charges By-law for Sanitary Sewer Services 81-2009, and is so depicted on Schedule "F";

D. The Sewer Services is an area-specific DC Charges project that was included in the Town of Orangeville Development Charges Background Study, dated August 2009, as completed by Hemson Consulting Ltd. (the "DC Background Study"), which identifies Project SS1 as necessary upgrades to service developments west of Blind Line, and the Town has collected Development Charges payments for these works pursuant to the DC By-law, up to and including the date of this Agreement.

E. Part III of the Development Charges Act, 1997, R.S.O. 1997, c. 27, as amended (the "DCA") permits the Town and OHL to enter into this Agreement;

In consideration of the matters agreed to herein and in consideration of two dollars ($2.00) paid by each Party to the other, the receipt and sufficiency of which is hereby acknowledged, OHL and the Town agree as follows:

1. DEFINITIONS

In this Agreement:

"Agreement" means this Agreement and all Schedules thereto and any documents incorporated herein by reference;

"Actual Total Costs" means the actual total costs of installing the Sewer Services as certified by the engineer and to the satisfaction of the Town for OHL upon completion of the said installation, as well as the reasonable costs of consultants and studies required to prepare the Agreement.

"Benefiting Landowners" are the owners from time-to-time of residential and commercial lands within the Trunk Sewer Benefiting Area, and "Benefiting Landowner" is any one such owner, and a current list of the Benefiting Landowners and the lands (including area) of the Trunk Sewer Benefiting Area they own is contained in Schedule "C" hereto;

"Cost Sharing Assumptions" are those assumptions and methods for allocating the cost of the Sewer Services which is set out in Schedule "D" hereto;

"Development Charge" means the sewage collection component of the charge for development, as imposed by the DC By-Law.;

"Front End Payment" means a front end payment under the DCA, as determined and adjusted from time-to-time in accordance with this Agreement.

"Net Developable Hectare" means a buildable hectare of land but shall not include public highways, private roads (other than driveways) which are designed for the circulation of traffic in the same manner as public highways, and lands defined as hazard lands;

"Parties" means OHL and the Town, and **"Party"** means one of the two Parties;

"Town's Costs" means the Town's reasonable costs in reviewing and administering this Agreement, including without limitation, the costs associated with the appeal of same as well as for studies, consultants and independent legal counsel relating thereto all as shown on Schedule "E";

"Trunk Sewer Benefiting Area" means the land within service area SS1, Schedule C to the Town's Area-Specific Development Charges By-law for Sanitary Sewer Services 81-2009, as depicted on Schedule "F";

and any word or phrase defined in the Recitals shall have the meaning ascribed to it therein.

2. LEGAL AUTHORITY

This Agreement is made under the authority of the DCA, and OHL acknowledges that the Town has lawful authority to proceed with and enter into this Agreement under the terms of the DCA in every and all respects. OHL represents that it has all requisite power and authority to enter into this Agreement and to bind the OHL Lands to the terms hereof and that this Agreement does not conflict with any other Agreement to which OHL is a party or by which it is bound.

3. SERVICES INSTALLED AND STUDY COMPLETED

The Parties agree that OHL will install, at its sole expense, the Sewer Services in accordance with the terms and conditions of the subdivision agreement to be entered into between OHL and the Town for the OHL Lands. OHL acknowledges that the Sewer Services are for upgrading the trunk sewer capacity and that the installation of the Sewer Services is an area-specific DC Charges project for which a Development Charge is payable pursuant to the DC By-law.

4. TOWN'S COSTS

The Town's Costs shall be reimbursed to the Town by OHL upon the later of the execution of this Agreement and any decision in an appeal or review becoming final, binding and no longer subject to review or appeal.

5. ALLOCATION OF COSTS

The Parties covenant and agree that the Actual Total Costs for the Sewer Services and the Town's Costs will be allocated on the basis of the Cost Sharing Assumptions and that the Cost Sharing Assumptions provide for a reasonable and fair method of allocating the Actual Total Costs for the Sewer Services and the Town's Costs within the Trunk Sewer Benefiting Area, respectively.

6. PAYMENTS BY BENEFITING LANDOWNERS

(a) At the time of execution of this Agreement, the estimated amounts to be paid by the Benefiting Landowner of each property within the Trunk Sewer Benefiting Area on account of the Actual Total Costs and the Town's Costs are set out in Schedule "E" and estimated in accordance with the Cost Sharing Assumptions. The amounts in Schedule "E" are subject to adjustment from time to time in accordance with this Agreement, until such time as the Actual Total Costs and the Town's Costs are finally determined, at which time Schedule "E" shall be amended to set out the Actual Total Costs and the Town's Costs, as well to reflect any increase in the Actual Total Costs following the application of the indexing factor provided for in the Town's DC By-Law as same may be amended or replaced.

(b) At the time of development by a Benefiting Landowner:

(i) if a Benefiting Landowner requires an approval to subdivide land under section 51 or 53 of the Planning Act, R.S.O. 1990, c. P.13, as amended, the Town shall require the Benefiting Landowner to pay its Front End Payment amount indicated in Schedule "E" (as adjusted from time to time in accordance with this Agreement, and in addition to any additional Development Charge payable by the Benefiting Landowner to the Town) immediately upon the said Benefiting Landowner entering into a subdivision or consent agreement with the Town; and

(ii) if a Benefiting Landowner does not require to subdivide land under section 51 or 53 of the Planning Act, the Town shall require the Benefiting Landowner to make its Front End Payment amount indicated in Schedule "E" (as adjusted from time to time in accordance with this Agreement and in addition to any Development Charge payable by the Benefiting Landowner to the Town) upon the issuance of the first building permit for a structure on the Benefiting Landowner's portion of the Trunk Sewer Benefiting Area.

(c) Subject to section 20, the Town shall pay to the OHL each Front End Payment which it receives, in accordance with the provisions of the DCA.

(d) Should the area of any parcel of land within the Trunk Sewer Benefiting Area be altered due to transfers of land, the affected Benefiting Landowners shall be required to pay an adjusted proportionate share of the Actual Total Costs derived from and based upon the application of the Cost Sharing Assumptions.

7. TERM OF BENEFITING LANDOWNERS' OBLIGATION TO MAKE FRONT END PAYMENTS

The obligation of a Benefiting Landowner to make a Front End Payment hereunder shall continue for a period of twenty years after the Effective Date set out in section 13 below.

8. ADJUSTMENT OF ACTUAL TOTAL COSTS

The Actual Total Costs shall be adjusted:

(a) to account for any changes in the costs of the Sewer Services as reflected in a Development Charge background study that is prepared for any successor to the DC By-law; and

(b) annually in accordance with the indexing factor contained in the Town's DC By-law as same may be amended or replaced.

9. STATUTORY REQUIREMENTS FOR THIS AGREEMENT

Subsection 45(1) of the DCA sets out certain mandatory provisions of front ending agreements. The following identifies where these mandatory provisions are found in this Agreement:

(a) with respect to s. 45(1)1 of the DCA, descriptions of the work done or to be done are set out in Schedule "B" and hereto, a description of the benefiting areas is provided in Schedule "F" hereto, and the Actual Total Costs of the work are set out in Schedule "E" hereto, as such may be revised in accordance with this Agreement.

(b) with respect to s. 45(1)2 of the DCA, the proportion of the cost of the Sewer Services to be borne by OHL and the Benefiting Owners is the Total Actual Cost of the Sewer Services which is presently estimated as ~~Four~~ Five Hundred and Thirty-Eight ~~Seventy-Six~~ Thousand ~~Four~~ Three Hundred ~~Forty~~ Fifty-Eight Dollars ($538,358.68~~476,440.99~~), and the proportion of the Total Actual Cost of the Sewer Services plus ~~applicable~~ Town Costs inclusive of the indexing referenced in section 8 to be borne by each of the Trunk Sewer Benefiting Landowners is set out in Schedule "E" hereto, as such may be revised in accordance with this Agreement.

(c) with respect to s. 45(1)3 of the DCA, the method for determining the part of the costs of the Sewer Services that will be reimbursed by the persons who, in the future, develop land within each of the Trunk Sewer Benefiting Area is set out in the Cost Sharing Assumptions at Schedule "D" hereto, as such may be revised in accordance with the Cost Sharing Assumptions.

(d) with respect to s. 45(1)4 of the DCA:

(i) the amount of the non-reimbursable share of the Actual Total Costs of the Sewer Services for OHL is the proportion that the Net Developable Hectares of the OHL Lands bears to the total Net Developable Hectares within the Trunk Sewer Benefiting Lands; and

(ii) the amount of the non-reimbursable share of the Actual Total Costs of the Sewer Services for each Benefiting Landowner is the proportion that the Net Developable Hectares of such Trunk Sewer Benefiting Landowner bears to the total Net Developable Hectares within the Trunk Sewer Benefiting Lands.

(e) with respect to s. 45(1)5 of the DCA, the way in which amounts collected from the Benefiting Landowners to reimburse the costs of the Sewer Services is set out in Schedule "E" hereto, and the timing of these reimbursement payments is set out at section 6 herein.

10. AGREEMENT TO REIMBURSE OHL FOR THE SERVICES

The Parties acknowledge that, immediately upon the registration of any Benefiting Landowner's plan of subdivision or other final development approval described in subsection 6(b), the Town will make a full payment to OHL in the amount of said Benefiting Landowner's proportionate share of the Actual Total Costs plus any applicable indexing received by the Town, and calculated as set out at subsection 9(d)(ii). The Parties further acknowledge that the Sewer Services are works to which a Development Charge would apply under an area specific DC By-Law.

11. EFFECTIVE DATE OF THIS AGREEMENT

The Parties agree that this Agreement was made and shall come into force on the day that the Town and OHL execute it.

12. EXECUTION IN COUNTERPART

This Agreement may be executed in counterpart and may be delivered by one Party to the other Party by confirmed facsimile transmission, and when each Party has executed in counterpart, each such counterpart shall be conclusively deemed to be an original and all such counterparts, when taken together, shall constitute one and the same document.

13. NO EFFECT ON PLANNING ACT DELIBERATIONS OR DECISIONS

OHL acknowledges that the Town is obliged to duly consider applications under the Planning Act regarding the development of the Trunk Sewer Benefiting Area on the merits of such applications, to hear and consider any objections, comments or concerns with respect thereto, and to make appropriate determinations in the Town Council's unfettered discretion on such applications in accordance with the provisions and procedures of the Planning Act, the Town's Official Plan and the County's Official Plan, and without regard to this Agreement. OHL further acknowledges and agrees that the Town is under no obligation by virtue of this Agreement, or otherwise, to grant any approvals whatsoever for any contemplated development or use of the Lands.

14. ESTOPPEL

OHL and the Town shall be and are hereby estopped from asserting in any proceeding at any time and in any forum that the Town does not or did not have lawful authority to enter into this Agreement, or that any of the terms of this Agreement are not within the jurisdiction or capacity of the Town to enter into. OHL acknowledges that it has voluntarily entered into this Agreement.

15. SPECIAL ACCOUNTS

As is required by section 54 of the DCA, the Town shall place all money received pursuant to this Agreement into a special account and, subject to this Agreement, such money shall be paid to OHL in accordance with the DCA and within sixty (60) days of receipt thereof by the Town.

16. TIME OF ESSENCE

Time shall be of the essence in this Agreement.

17. AMENDMENTS ONLY IN WRITING

No modification, variation, amendment or termination by mutual consent of this Agreement, and no waiver of the performance of any of the responsibilities of the Parties shall be effective unless such action is taken in writing by instrument or document executed by the Parties, excepting that the foregoing shall not apply where an express provision of this Agreement permits such modification, variation, amendment or termination pursuant to any other means, and in such instance the said provision shall apply. All representations and understandings of the Parties with respect to the Lands and the subject matter of this Agreement are contained in this Agreement, and there are no other representations or understandings between the Parties. This Agreement supersedes any and all prior agreements and understandings between the Parties with respect to the Lands and the subject matter of this Agreement.

18. NOTICES

(a) Except as otherwise specified herein, any notice hereunder shall be given in writing, by delivery in person, or by registered mail (return receipt requested), or by facsimile transmission, properly addressed to the Party to whom such notice is given, with postage or charges, if any, prepaid. A notice shall be deemed to have been given only when received by the Party to whom such notice is directed.

(b) Notice shall be given at the following addresses, unless and until a Party gives written notice of a new address to the other Party:

Town: The Corporation of the Town of Orangeville
87 Broadway
Orangeville, Ontario
Canada L9W 1K1
Attention: Jack Tupling, P. Eng, Director of Public Works
Fax: 519-941-5303

With copy to: Aird & Berlis LLP
Brookfield Place, 181 Bay Street
Suite 1800, Box 754
Toronto, Ontario
Canada M5J 2T9

Attention: Robert Doumani
Phone: 416-863-1500
Fax: 416-863-1515

19. SCHEDULES

Attached hereto and forming part of this Agreement are the following Schedules:

Schedule "A"	Description and Depiction of the OHL Lands
Schedule "B"	Description of the Sewer Services
Schedule "C"	List of Benefiting Landowners
Schedule "D"	Cost Sharing Assumptions
Schedule "E"	Benefiting Landowners' Share of Sewer Services Costs
Schedule "F"	Map of Benefiting Areas

It is acknowledged that Schedule "D" was prepared by OHL. Although the Town reviewed it with due care and attention, any errors in it, whether found by a Benefiting Landowner or any other person, shall be the sole responsibility of OHL, and OHL shall hold harmless and indemnify the Town against any claim whatsoever arising out of an error or alleged error in it.

20. SUCCESSORS AND ASSIGNS

This Agreement shall enure to the benefit of and shall be binding upon the Parties and their respective successors and assigns, subject only to any limitations explicit in this Agreement.

21. SEVERABILITY

Each of the covenants, provisions, articles, sections, subsections and other subdivisions of this Agreement is severable from every other covenant, provision, article, section, clause and subdivision, and the invalidity or unenforceability of any one or more covenants, provisions, articles, sections, clauses or subdivisions shall not affect the validity or enforceability of the remaining covenants, provisions, articles, sections, clauses and subdivisions.

22. DEFENCE OF AGREEMENT

If the legality, validity or enforceability of this Agreement or the capacity and authority of the Town to enter into this Agreement and carry out or enforce its provisions is called into question or challenged in any way whatsoever in any action, appeal, review or proceeding of any kind whatsoever before a Court of competent jurisdiction or any administrative tribunal by any person, the Town shall defend and support the legality, validity or enforceability of this Agreement and the capacity and authority of the Town to enter into this Agreement and carry out or enforce its provisions provided the Owner provides such reasonable assistance to the Town in such defence and support as the Town may reasonably require including, without limiting the generality of the foregoing, becoming a party at the Owner's sole cost and expense in any such action, appeal, review or proceeding and the Owner's paying the Town's legal, consulting and other fees and expenses, costs (including costs awarded against the Town) and disbursements reasonably incurred by the Town in such defence and support.

23. MISCELLANEOUS

(a) The Parties confirm the veracity of the foregoing recitals to this Agreement.

(b) The headings in this Agreement are for convenience of reference only.

(c) This Agreement is to be read with all appropriate changes between the singular and the plural, and vice versa.

24. FURTHER ASSURANCES

The Parties shall from time to time and at all times do such further acts and things, and execute all such further documents and instruments, as may be reasonably required to carry out and implement the true intent and meaning of this Agreement.

IN WITNESS WHEREOF the parties have affixed their seals duly attested to by their proper officers as at the day and year first above written:

[REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY]

THE CORPORATION OF THE TOWN OF ORANGEVILLE

Per: _____

Per: _____

Per: _____

Per: _____

I / We have authority to bind the Corporation

Schedule "A"

Description and Depiction of the OHL Lands

Schedule "B"

Description of the Sewer Services

Trunk sanitary sewer from Amelia Street, through the OHL Lands and along Hansen Boulevard to First Street.

Schedule "C"
List of Benefitting Landowners

Schedule "E"

Cost of Truck Sanitary Sewer

ORANGEVILLE HIGHLANDS – PHASE 1

AMELIa AND HANSEN SANITARY SEWER COST SUMMARY

7/23/10

Revised July 23, 2010

ITEM	DESCRIPTION	ESTIMATED AMOUNT
Phase 1		
1	AMELIA SANITARY SEWER	$ 22,443.83
2	SANITARY SEWER OVERSIZING – Victoria Large Way	$ 40,029.99
3.	SANITARY SEWER – Hansen Boulevard	$ 386,158.41
	Sub-total	$ 448,632.24
	20% Engineerign Fee and Adminsitration	$ 89,726.45
ESTIMATED TOTAL		**$ 538,358.68**
TOWN COSTS		$ 6,000.00
TOTAL		$ 544,358.68

Schedule "F"

Map of Benefitting Areas