

NO: R219

COUNCIL DATE: November 4, 2024

---

## REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **October 30, 2024**

FROM: **General Manager, Engineering**

FILE: **8321-0174-00-1**

XC: **7821-0174-00**

SUBJECT: **Drainage Infrastructure Front-Ending Agreements to Support Development in the Darts Hill Neighbourhood Concept Plan**

---

## RECOMMENDATION

The Engineering Department recommends that Council authorize the General Manager, Engineering to execute Drainage Development Cost Charge Front-Ending Agreement 8321-0174-00-1 to an upset limit of \$10,796,000 (including all applicable taxes) attached to this report as Appendix “I”.

## INTENT

The purpose of this report is to obtain approval for the City to enter into a Development Cost Charge Front-Ending Agreement (“DCCFEA”) with DLJ Development LTD. (the “Front-Ending Developer”), which enables the potential reimbursement of drainage infrastructure, being front-ended, from development on the benefiting lands, as illustrated in Appendix “II”.

## BACKGROUND

The Engineering Department’s 10-Year Servicing Plan (“10YSP”) establishes the City’s capital expenditure plan for the construction of engineering infrastructure to service existing neighbourhoods and to support new growth across the City, and the identified growth-related components in the 10YSP are used to determine the DCC rates for engineering infrastructure. At the March 6, 2023 Regular Council Meeting, Council approved the 10YSP (2023-2032), with updated DCC rates approved in 2024.

Staff in the Engineering Department have been working through the development servicing design process with the Front-Ending Developer in the Darts Hill Neighbourhood Concept Plan (“NCP”), who is proposing to construct a stormwater detention pond at 1788 168 Street (the “Pond”) and associated downstream drainage trunk, as shown on Appendix “III”.

These works are eligible for NCP area-specific DCC reimbursements by the City, for the catchment area upstream of the Pond, through the DCCFEA. The upset limit of \$10,796,000 is established in the 10YSP and is in keeping with City Policies H-55, attached to this report as Appendix “IV”.

## DISCUSSION

The Front-Ending Developer is proceeding with development on the adjacent lot within the NCP. The construction of the drainage infrastructure works is required to allow the development to proceed and will also benefit other upstream lands in the NCP. Since these works are necessary to proceed with development, the Front-Ending Developer has offered to front-end the cost of these works, provided the NCP area-specific DCCs collected from subsequent upstream developments within the benefiting areas.

Consistent with City Policies, the DCCFEA will remain in effect for 15 years after the completion date or conclude early if the upset recovery amount is achieved prior to the end of the term. The DCCFEA, as proposed, will not affect the reasonable implementation of other components of the City's NCP area-specific DCC program or the 10YSP.

### Legal Services Review

This report and related agreement have been reviewed by Legal Services.

## FUNDING

The Front-Ending Developer will post securities for the construction of the subject works through the normal Servicing Agreement process. The cost of construction of the works will be financed by the Front-Ending Developer. The DCCFEA will have a term of 15 years after the completion date, which is on or before December 1, 2025, regardless of the amount of the recoveries that the Front-Ending Developer has achieved at that time under each agreement.

## CONCLUSION

The Engineering Department recommends that Council authorize the execution of the DCCFEA, as discussed in this report.

Scott Neuman, P.Eng.  
General Manager, Engineering

JP/cc/bn

- Appendix "I" - Development Cost Charge Front-Ending Agreement 8321-0174-00-1
- Appendix "II" - Benefiting Area Map for Proposed Drainage Development Cost Charge Front-Ending Agreement 8318-0122-00-1
- Appendix "III" - City Policy H-55

## CITY OF SURREY

## DEVELOPMENT COST CHARGE FRONT-ENDING AGREEMENT

Project 8321-0174-00-1  
(Drainage)

**THIS AGREEMENT** dated for reference the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**BETWEEN:**

**CITY OF SURREY,**  
13450 – 104 Avenue,  
City of Surrey, B.C., V3T 1V8

(the “City”)

**OF THE FIRST PART****AND:**

**DLJ Development Ltd.**  
22091 Fraserwood Way, Unit 1205  
City of Richmond, B.C., V6W 08A

(the “Developer”)

**OF THE SECOND PART****WHEREAS:**

- A. The real property within the Darts Hill Neighbourhood Concept Plan is identified in column one entitled “Legal Description” in Schedule “A” and as illustrated in the “Benefiting Area Map” in Schedule “C”.
- B. The registered owners in fee simple of the Benefiting Area are identified in column two entitled “Registered Owners” in Schedule “A”.
- C. The Works (as hereinafter defined) are contained within the City's 10-Year Servicing Plan and the Developer has requested that the City advance the acquisition and construction of the Works.
- D. The Developer agrees to construct the Works with no contribution from the City.
- E. Council passed a resolution on \_\_\_\_\_ authorizing the parties to enter into this Development Cost Charge Front-Ending Agreement pursuant to the *Act*, for the provision of the Works.

**NOW THEREFORE** this Agreement witnesses that in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration paid by each of the parties to each other (the receipt and sufficiency of which each party hereby acknowledges) the parties hereby covenant and agree with each other as follows:

**1 DEFINITIONS**

The parties hereto agree that in this Agreement, including the recitals above, the following definitions will apply:

“*Act*” means the *Local Government Act*, R.S.B.C. 2015, c.1, as amended;

“Agreement” means this Agreement including all schedules attached hereto;

“as amended” means as may be amended or replaced from time to time;

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

“Capital Cost” means the costs incurred by the Developer to construct the Works and is estimated to be the sum of ten million seven hundred ninety-six thousand (\$10,796,000), Canadian Dollars, including applicable taxes, which may only be reduced in accordance with Section 2.3;

“City” means the City of Surrey;

“Completion Date” means on or before December 1, 2025;

“Council” means the Council of the City;

“Developer” means the person, corporation, partnership or party identified as such on the first page of this Agreement and includes its personal or other legal representatives;

“Development Cost Charge” means a charge imposed pursuant to the Development Cost Charge Bylaw;

“Development Cost Charge Bylaw” means Surrey Development Cost Charge Bylaw, 2024, No. 21174, as amended;

“General Manager Engineering” means the officer appointed by Council pursuant to Surrey Officers and Indemnification By-law, 2006, No. 15912, as amended, and includes an employee or an officer provided with the written authority to act on their behalf;

“Maximum Amount Owning” means the maximum amount that could be payable by the City to the Developer pursuant to this Agreement is the Capital Cost without any interest;

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

“Subdivision and Development Bylaw” means Surrey Subdivision and Development By-law, 1986, No. 8830, as amended;

“Substantial Performance” means the stage of completion when all of the Works, as certified by the Professional Engineer, is capable of completion or correction at a cost of not more than:

- (a) 3% of the first \$500,000 of the head contract price,
- (b) 2% of the next \$500,000 of the head contract price, and
- (c) 1% of the balance of the head contract price; and

the Works, or a substantial part of it, is ready for use or is being used for the purpose intended;

“Term” means the period of time this Agreement is in effect and shall start on the date this Agreement is executed by all parties and shall expire fifteen years after the Completion Date; and

“Works” means works and related appurtenances substantially as described in Schedule “B”.

## **2 WORKS**

- .1 The Developer is solely responsible for the design, engineering and construction of the Works and for retaining consultants and entering into any contracts required to construct the Works, subject to the direction of the City.
- .2 The Developer covenants and agrees to attain Substantial Performance of the Works on or before the Completion Date.

- .3 The Developer acknowledges and agrees that the City is only obligated to pay the Maximum Amount Owing to the Developer in accordance with Section 3.3 despite the final cost being in excess of the Capital Cost. The Developer covenants and agrees to provide the City with a certificate of Substantial Performance, an invoice detailing the actual cost and any other items required by the City, on the Developer's letterhead, certified by the Professional Engineer who designed the Works, in order for the City to determine the final cost. If the final cost is less than the Capital Cost, the City will issue a letter confirming the reduction in the value of the Capital Cost.

### **3 PAYMENT FOR WORKS**

- .1 The City is not responsible for financing any of the costs of the Works.
- .2 In consideration of the completion of the Works by the Developer, on or before the Completion Date, to the satisfaction of the General Manager Engineering, without incurring any cost to the City, the City agrees to collect Drainage Development Cost Charge from the Owners within the Benefiting Area for each subdivision or building permit in accordance with the Development Cost Charge Bylaw up to the Maximum Amount Owing within the Benefiting Area.
- .3 The City agrees to reimburse the Developer up to the Maximum Amount Owing the Development Cost Charge collected pursuant to this Agreement as follows:
  - (a) to the extent the Drainage component of the Development Cost Charge have been collected from any Owners;
  - (b) the City shall only be obligated to pay to the extent the City actually receives the Drainage Development Cost Charge component from Owners; and
  - (c) the City shall remit the amounts actually received twice each calendar year to the Developer and the City shall have no further obligation to the Developer to make any payment pursuant to this Agreement.
- .4 Subject to Section 3.3 the City shall pay the Developer at the address of the Developer as set forth in Section 7 or at such other address as the Developer shall provide by registered mail. If the said payments are returned to the City unclaimed by the Developer and if the City is unable to locate the Developer after all reasonable efforts, then the City shall hold all monies collected until the expiry of this Agreement. After the expiry of this Agreement, the City shall retain all such unclaimed funds forever for any use the City determines.
- .5 In the event of the assignment or transfer of the rights of the Developer voluntarily, or by operation of law, the General Manager, Finance shall pay any benefits accruing hereunder, after notice, to such successor of the Developer as the General Manager, Finance in their judgment deems entitled to such benefits; and in the event of conflicting demands being made upon the City for benefits accruing under this Agreement, then the City may at its option commence an action joining any party claiming rights under this Agreement, or other parties which the City believes to be necessary or proper, and the City shall be discharged from further liability upon paying the person or persons whom any court having jurisdiction of such action shall determine, and in such action the City shall be entitled to recover its reasonable legal fees and costs, which fees and costs shall constitute a lien upon all funds accrued or accruing pursuant to this Agreement.

### **4 TERM**

- .1 The parties agree to the Term of this Agreement and that time is of the essence.
- .2 The Developer agrees that if insufficient funds are paid by the Owners within the Term of this Agreement, that it is at the Developer's risk and at the expiry of the Term no further monies are payable to the Developer pursuant to this Agreement.

- .3 This Agreement shall terminate prior to the expiry of the Term in the event the Developer has been paid the Maximum Amount Owning.
- .4 The parties acknowledge and agree that the Term will not be extended in the event the Developer does not attain Substantial Performance of the Works on or before the Completion Date.

## **5 INDEMNITY**

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

## **6 CITY'S COSTS**

The Developer shall pay to the City, by cash or bank draft, prior to the City executing this Agreement, a fee equivalent to \$7,875.00 which includes GST. The City acknowledges the receipt of payment by Receipt No. 71974201 paid to the City on October 28, 2024 for the preparation, registration and administration of this Agreement.

## **7 NOTICES**

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

- (a) to the Developer:

DLJ Development Ltd.  
22091 Fraserwood Way, Unit 1205  
City of Richmond, B.C., V6W 08A

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

- (b) to the City:

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

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

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

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

**8      ASSIGNMENT**

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

**9      ENTIRE AGREEMENT**

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

**10     LAWS OF BRITISH COLUMBIA**

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

**11     SCHEDULES**

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

- (a) Schedule "A" - Benefiting Area and Owners
- (b) Schedule "B" - Description of Works
- (c) Schedule "C" - Benefiting Area Map

**12     CONFLICT**

Schedule "C" is a sketch of the Benefiting Area. In the event of any conflict or inconsistency between Schedules "A" and "C", Schedule "A" shall supersede Schedule "C".

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

**CITY OF SURREY**

by its authorized signatory

---

Jennifer Ficocelli  
City Clerk and Director of Legislative Services

---

Mayor Brenda Locke

**DLJ Development Ltd.**

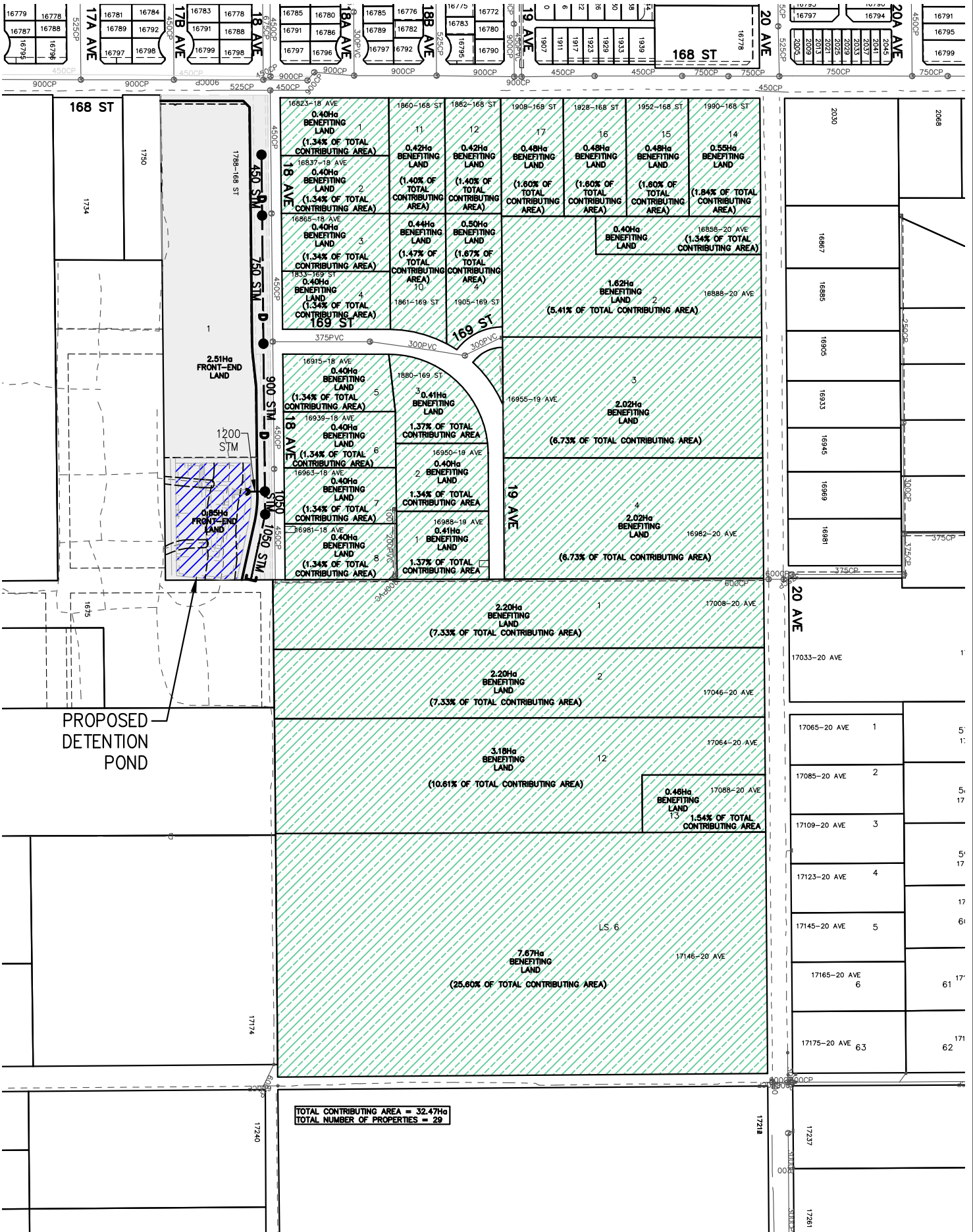
by its authorized signatory:

---

Name: Bhupinder Singh Johal  
Email: bjohal@mvg.ca  
Phone: 604-825-4651

# Schedule "A" DCCFEA BENEFITING AREA MAP

Appendix "II"



TOTAL CONTRIBUTING AREA = 32.47Ha  
TOTAL NUMBER OF PROPERTIES = 29

**LEGEND**

- Proposed Storm Sewer — D
- Proposed Sanitary Sewer — S
- Proposed Water Main — W
- Existing Storm Sewer — D
- Existing Sanitary Sewer — S
- Existing Water Main — W
- Benefiting Lands
- Front-End Lands
- Proposed Detention Pond

## CITY OF SURREY

Front-End Developer : DLJ DEVELOPMENT LTD.  
Engineering Consultant : HUB ENGINEERING INC.

SCALE : 1:4000 Land Development File No.  
7821-0174-00

As Built : - Latecomer Application No.  
8321-0174-00-1





# City of Surrey

## Policy

No. H-55

**Policy Title:** DEVELOPMENT COST CHARGE FRONT-ENDING AGREEMENT

**Approval Date:**

**History:**

**Department:** ENGINEERING

### Policy Statement

This Policy provide governance and direction for the implementation of a Development Cost Charge Front-Ending Agreement (“DCCFEA”), which approved by Council on an individual project basis, to support the construction of municipal infrastructure as identified in the City’s 10-Year Servicing Plan (“10YSP”) to support development.

1. Reason for Policy

DCCFEA, as permitted in Sections 565 and 566 of the *Local Government Act*, RSBC 2015, c 1, as amended (the “Act”), is a mechanism for the Front-Ending Developer to recover costs, from benefiting properties, incurred to construct municipal infrastructure in the 10YSP.

This Policy provide governance and criteria to ensure appropriate usage of DCCFEA, and establishes the terms and financial mechanisms in compliance with City Bylaw and Policies.

2. Usage and Criteria

2.1 DCCFEA is a financial mechanism to reimburse the Front-Ending Developer on 10YSP projects through collecting DCC payment from benefitting properties which develop in the catchment.

2.2 DCCFEA may be granted on infrastructure projects that are identified in the 10YSP, the estimated cost of the works greater than \$200,000, and there are insufficient funds in the DCC Reserve to fully fund the project(s).

2.3 DCC Reserve fund may not be allocated to a DCCFEA if the City’s ability to commit future DCC funds on a higher priority project in that asset category is significantly limited.

2.4 DCCFEA shall have a 15-year term for cost recovery. The term shall expire at the end of 15-years, or when all front-ending costs have been paid back, whichever occurs sooner. The 15-year term for DCCFEA is consistent with the Latecomer Agreement Policies.

2.5 The costs front-ended by the Front-Ending Developer shall be reimbursed up to the actual construction cost plus eligible engineering expenses, but cannot exceed the DCCFEA amount specified in the 10YSP. Interest costs incurred by the Front-Ending Developer are not an eligible expense and will not be reimbursed.

3. Process

3.1 Prior to initiating the DCCFEA process, the capital cost shall be based on the Fronting-Ending Developer's Engineer's signed and sealed estimate, as validated by the City. If quotations are received in advance of a DCCFEA being finalized, the maximum potential reimbursement amount to the Front-Ending Developer is to be set at lesser of the lowest quotation plus 10% contingency and 12% engineering design and construction fees, or the 10YSP project amount. Final costs shall be based on the actual cost at completion of construction as certified by the Front-Ending Developer's Engineer, as agreed by the General Manager

3.2 DCCFEA with an estimated value greater than \$200,000 will require three written submissions and a public tender process consistent with the City's Purchase and Expenditure Authorization Bylaw, No. 16535, as amended.

3.3 The City may manage the procurement (design and/or construction) related to complex or multi-discipline projects (pump stations, mechanical/electrical works, bridges, etc.) which have the potential for significant operational and maintenance cost; and any other projects as determined by the City

4. Detailed Procedures

4.1 The General Manager, Engineering is authorized to adopt a practice and/or procedure which implements this Policy in more detail.