

NO: **R018**

COUNCIL DATE: **FEBRUARY 2, 2015**

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## REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **January 29, 2015**

FROM: **General Manager, Engineering**

FILE: **6520-20(Hwy99)**

XC: **6520-20(GH2)**

SUBJECT: **Sanitary Sewer Servicing for the Highway 99 Corridor and Sunnyside Heights NCP Area**

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## RECOMMENDATION

The Engineering Department recommends that Council:

1. Receive this report as information;
2. Approve a Local Area Service initiative for the southern portion of the Sunnyside Heights NCP Area, Sunnyside Heights (south), as a means to finance a portion of the construction of the Fergus Pump Station and force main at an estimated cost of \$2.86 million,;
3. Authorize staff to initiate the Local Area Service as a Council initiative subject to the counter petitioning process as provided in the Community Charter; and
4. Instruct staff, subject to the counter petitioning process as provided in the Community Charter and issuance of the associated Certificate of Sufficiency by the City Clerk, to only bring forward the Local Area Service By-law to Council for consideration until such time as a developer or a group of developers have provided the necessary funding securities in support of the associated Development Cost Charge Front-Ending Agreement.

## BACKGROUND

At its Regular Land Use meeting on February 23, 2004, Council adopted the recommendations of Corporate Report No. L004;2004 that established the land use plan and policies, environmental management plan, urban design guidelines, and the engineering servicing and financing strategies that will act to guide development and provide amenities in the Highway 99 Corridor plan area.

The land use plan is divided into five sub-areas. Each of these sub-areas supports different types of land uses. The sub-areas are as follows:

- 28 Avenue Business Park/Light Industrial Area
- 24 Avenue Commercial Node
- 20 Avenue Business Park/Light Industrial Area
- 16 Avenue Commercial/Business Park Node
- 8 Avenue Gateway Commercial/Business Park Area

A map illustrating the land uses in the Highway 99 Corridor is attached as Appendix I.

At its Regular meeting on November 15, 2010, Council adopted the recommendations of Corporate Report No. R237;2010 that established the land use plan and policies to guide development and provide amenities in the Sunnyside Heights (Grandview Heights Area #2) Neighbourhood Concept Plan (NCP) area.

The land use plan features a mix of land uses, including a range of residential housing densities, commercial and plaza areas, neighbourhood parks, trail and pathways, a riparian area, and an elementary school. The map in Appendix I also illustrates the land uses in the Sunnyside Heights NCP area.

### **Sanitary Sewer Servicing**

In the servicing plan for the Highway 99 Corridor, sanitary servicing is driven by the topography of the site and is limited by existing conveyance capacities. The northern portion (lands predominately north of 22 Avenue) of the Highway 99 Corridor will be serviced by gravity sewer that drains north to an existing system. The southern portion of the Highway 99 Corridor will be serviced by a gravity sewer that drains to the south to the future Fergus Pump Station. The Fergus Pump Station will then pump flows north via a force main, collectively referred to as the "Works", to an existing system at 24 Avenue/160 Street. A map illustrating the southern portion of the Highway 99 Corridor area, the location of the Fergus Pump Station, and the proposed route of the associated forcemain is attached as Appendix II.

Interim sanitary sewer capacity is available to the southern portion of the Highway 99 Corridor until the Works are constructed. The interim capacity available utilizes excess capacity currently available at the Semiahmoo Pump Station. Development to date within the southern portion of the Highway 99 Corridor has utilized approximately half of the interim capacity available. The remaining interim capacity will be allocated upon issuance of building permits for developments in the Highway 99 Corridor until the Works are constructed. Once all interim capacity has been utilized no building permits for developments in the Highway 99 Corridor will be issued until the Works are under construction.

Sanitary servicing for the Sunnyside Heights is driven by the topography of the site and is limited by existing conveyance capacities. The northern portion of the NCP area, Sunnyside Heights (north), will be serviced by a gravity sewer that drains north to an existing system on 23A Avenue. The southern portion of the NCP area, Sunnyside Heights (south), will be serviced by a gravity sewer that drains to the south to the Fergus Pump Station. A map illustrating the northern and southern portion of the NCP area, the location of the Fergus Pump station, and the proposed route of the associated forcemain is attached as Appendix II.

No interim sanitary sewer capacity is available to developments in the southern portion of the Sunnyside Heights NCP area.

## Financing

The estimated cost of the Works is \$11.1M. As the Works service two areas, the cost of the Works area allocated based on estimated flow to the Fergus Pump Station from each servicing area. The breakdown of cost by servicing area is as follows:

Area	Cost
Sunnyside Heights NCP Area	\$6.52 million
Highway 99 Corridor	\$4.58 million
<b>TOTAL</b>	<b>\$11.10 million</b>

The Works are a development cost charge (DCC) eligible item. The estimated DCCs from each area available for the Works are as follows:

Area	DCC Revenues
Sunnyside Heights NCP Area	\$3.66 million
Highway 99 Corridor	\$4.58 million
<b>TOTAL</b>	<b>\$8.24 million</b>

With DCC revenues of \$8.24 million, there is a revenue shortfall of approximately \$2.86 million.

## DISCUSSION

When the servicing plans for each area were adopted, it was envisioned that one developer or a group of developers operating as a joint venture would come forward to initiate the construction of the Works and work with the City to establish both a Development Cost Charge Front-Ending Agreement (DCCFEA) and a Development Works Agreement (DWA) as means by which to reimburse the front-ending developer for some of the costs that the developer will incur in constructing the Works using sanitary sewer DCCs and a sanitary specified charge that will be collected by the City from development on land in Sunnyside Heights (south).

The above approach is a common approach that has been completed numerous times. A recent example of this approach occurred at its Regular meeting on July 29, 2014, where Council adopted the recommendations of Corporate Report No. R157;2014 which authorized the use of a DCCFEA to an upset limit of \$722,041.00 (including applicable taxes) and a DWA to an upset limit of \$2,292,559.00 (including applicable taxes) with Cressey (Grandview) Development LLP, the front-ending developer, for the construction of a community detention pond within the North Grandview Heights neighbourhood.

Currently, the City has collected approximately \$2.25 million in sanitary sewer DCCs, reducing the amount to be collected to \$5.99 million. With a DCCFEA of \$5.99 million and a DWA of \$2.86 million, one developer or a group of developers will be required to front end a total of \$8.85 million.

To date, no developer or a group of developers have completed the DCCFEA or DWA to fund the \$8.85 million required for the construction of the Works. One developer had initiated the process, but they have since sold their land interests in the area.

Recently staff met with approximately 20 developers with interests in the area in an effort to advise them of the funding requirements for the Works. From these meetings, a smaller group of 5 developers are proposing to front-end a portion of the funding, and are asking that the City front-end \$5.55 million which is equal to one half of the cost of the project. A copy of their request is attached as Appendix III.

The group of 5 developers own or have an option to purchase approximately 30 hectares (75 acres), which represents about 20% of the servicing area of the Fergus Pump Station.

Given that the City has collected approximately \$2.25 million in sanitary sewer DCCs, in order to fund the \$5.55 million share, the City would need to allocate an additional \$0.44 million in sanitary sewer DCCs and a value equal to the proposed DWA value of \$2.86 million.

## **FUNDING**

### **Funding Opportunities**

In order to fund the DCC shortfall of \$0.44 million, the City could allocate \$0.44 million of sanitary sewer DCC revenues received in 2015 from other parts of the City to the project.

There are a number of tools that can be used by the City to fund the additional revenue shortfall of approximately \$2.86 million in place of the originally proposed DWA. These tools include:

- Council initiated Local Area Service; and
- City initiated Area Latecomer Agreement.

With a Council initiated Local Area Service, the City would initiate a counter petition process to see if the benefiting area, Sunnyside Heights (south), would not be in support of a service tax to fund the Works, payable in annual installments. Without a sufficient petition against, each land owner would be required to pay a service tax upon completion of the Works. In order for a petition for a local area service to be certified as sufficient and valid:

- a) The petition must be signed by the owners of at least 50% of the parcels that would be subject to the local service tax; and
- b) The persons signing must be the owners of parcels that in total represent at least 50% of the assessed value of land and improvements that would be subject to the local service tax.

The use of a Local Area Service is also regulated by City Policy No. R-6 "Local Area Services". The policy allows the use of a Local Area Service where in the opinion of the General Manager, Engineering the Local Area Service would benefit the City's servicing strategy. The above approach is a common approach that has been used in the past. A recent example of this approach occurred at its Regular meeting on May 28, 2012, where Council adopted the recommendations of Corporate Report No. R101;2012 which authorized the use of a Local Area Service initiative as the means by which to finance the construction of a new sanitary sewer main system to replace the existing vacuum system in Bridgeview Phase 2.

With a City initiated Area Latecomer Agreement, the City would establish a lump sum charge on subsequent owners who benefit from the Works. The value of the charge is calculated by the cost of the Works divided by the total amount of gross developable benefiting area. This process is not subject to petition. Payment of this charge would be by developers at the time of rezone, subdivision, or application for connection. Unlike a Local Area Service, there is a 15-year term on the collection of Latecomer charges. Therefore, anyone in Sunnyside Heights (south) who has not developed in the 15-years from completion of the Works would not be subject to this charge. The above approach is not a common approach and the City used this tool to fund the construction of infrastructure at any time in the past 10-years.

### **Funding Recommendations**

Staff have reviewed the proposal from members of the development community, and given the number of developers with small holdings in the area, the portion of the servicing area that is owned or under contract by these developers, the history these developers in delivering their projects, the limited opportunities for larger developers, who may have greater means to fund construction of the Works, to acquire lands in the area, the time since the land use and servicing plans for the Highway 99 Corridor and Sunnyside Heights NCP area have been completed, the cost to construct the Works, and the opportunity to increase the supply of serviced employment lands, staff see the merit in participating in front-ending the construction of the Works once a developer or a group of developers have provided the necessary funding securities in support of the DCCFEA.

In order to fund the DCC shortfall of \$0.44 million, it is recommended that the City allocate \$0.44 million of sanitary sewer DCC revenues as they are received in 2015 from other parts of the City to the project and that the City be reimbursed for the advancement of these funds using the first \$0.44 million in sanitary sewer DCC revenues received from the benefiting area.

In order to fund the additional revenue shortfall of approximately \$2.86 million which was originally planned to front ended by a developer and recovered by a DWA, staff recommend use of a Council initiated Local Area Service as this process is subject to a petition and does not result in any costs falling to the greater population of the City in the event that some lands within the benefiting area, Sunnyside Heights (south), do not development within 15-years after completion of the Works. Whereas the use of a City initiated Area Latecomer Agreement would establish a charge with no consultation to gauge support for the lump sum charge, the portion of costs to service any lands that do not development within 15-years after the completing of the Works would fall to the greater population of the City and the use of an Latecomer Agreement use would establish a very difficult precedent to manage given that this tool has not been applied for this purpose.

With a benefiting area, Sunnyside Heights (south), of approximately 75 hectares (183 acres), the estimated Local Area Service tax, exclusive of interest, would be \$38,500 per hectare (\$15,500 per acre) payable in a lump sum or installments over a period of 15-years.

It is also recommended that subject to the counter petitioning process as provided in the Community Charter and the issuance of the associated Certificate of Sufficiency by the City Clerk, that staff only bring forward the Local Area Service By-law until such time as a developer or a group of developers have provided the necessary funding securities in support of the associated Development Cost Charge Front-Ending Agreement.

## **Other Considerations**

As indicated in the request from the developers, they are also requesting that any DCCFEA be an agreement with all 5 of the developers listed and that any DCCFEA agreement also specify how the DCCs collected by the City from are to be to be returned to each member of the group.

Traditionally, the City enters into a DCCFEA with one party in an effort to simplify the administration of the contract and ensure that there is no confusion of contractual responsibilities that may occur when many parties are included in any agreement. As such, when a project to be funded through a DCCFEA that involves number of developers, the City has requested that these developers establish a joint venture and that the joint venture completes the DCCFEA with the City.

Staff have reviewed the merits of this request, and believe that the requested changes to the traditional DCCFEA can be successfully incorporated into the DCCFEA for the Works that will brought forward to Council for their consideration.

## **Finance & Technology Review**

The Finance & Technology Department has reviewed this report and has no concerns.

## **CONCLUSION**

Based on the above discussion, the Engineering Department recommends that Council

- instruct staff to initiate a Local Area Service initiative for the southern portion of the Sunnyside Heights NCP Area, Sunnyside Heights (south), as a means finance a portion of the construction of the Fergus Pump Station and force main at an estimated cost of \$2.86 million, and that
- authorize staff to initiate the Local Area Service as a Council initiative subject to the counter petitioning process as provided in the Community Charter; and
- Instruct staff, subject to the counter petitioning process as provided in the Community Charter, to only bring forward the Local Area Service By-law to Council for consideration to support the construction of the Fergus Pump Station and force main until such time as a developer or a group of developers have provided the necessary funding securities in support of the associated Development Cost Charge Front-Ending Agreement.

Fraser Smith, P.Eng., MBA  
General Manager, Engineering

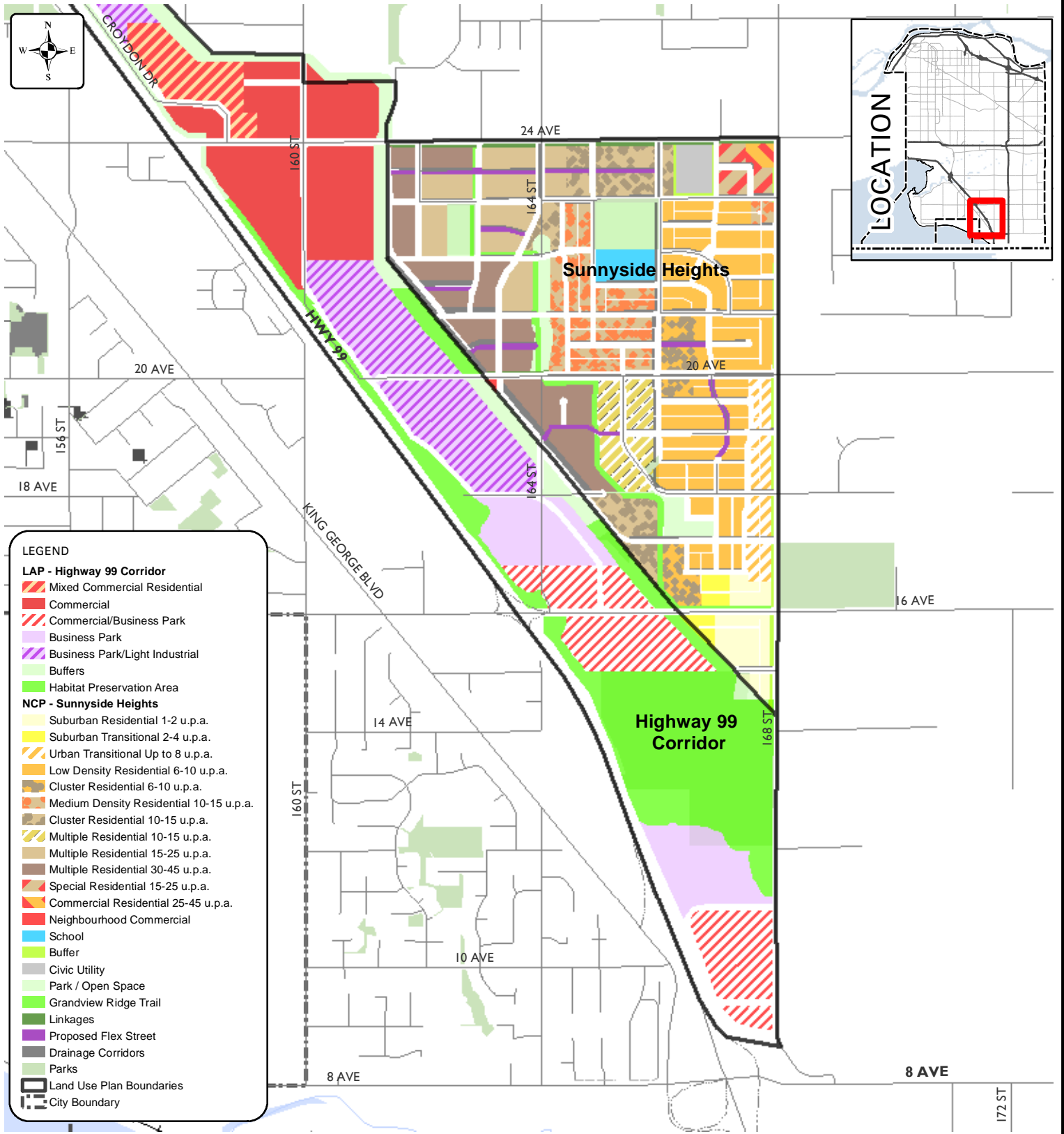
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Appendix I - Sunnyside Heights and Highway 99 Corridor Land Use Plan

Appendix II - Fergus Pump Station Servicing Area

Appendix III – Letter to Mayor & Council dated January 6, 2014, and titled “Developer Contribution to the Fergus Creek Pumpstation”

# APPENDIX I



- LEGEND**
- LAP - Highway 99 Corridor**
  - Mixed Commercial Residential
  - Commercial
  - Commercial/Business Park
  - Business Park
  - Business Park/Light Industrial
  - Buffers
  - Habitat Preservation Area
  - NCP - Sunnyside Heights**
  - Suburban Residential 1-2 u.p.a.
  - Suburban Transitional 2-4 u.p.a.
  - Urban Transitional Up to 8 u.p.a.
  - Low Density Residential 6-10 u.p.a.
  - Cluster Residential 6-10 u.p.a.
  - Medium Density Residential 10-15 u.p.a.
  - Cluster Residential 10-15 u.p.a.
  - Multiple Residential 10-15 u.p.a.
  - Multiple Residential 15-25 u.p.a.
  - Multiple Residential 30-45 u.p.a.
  - Special Residential 15-25 u.p.a.
  - Commercial Residential 25-45 u.p.a.
  - Neighbourhood Commercial
  - School
  - Buffer
  - Civic Utility
  - Park / Open Space
  - Grandview Ridge Trail
  - Linkages
  - Proposed Flex Street
  - Drainage Corridors
  - Parks
  - Land Use Plan Boundaries
  - City Boundary

Produced by GIS Section: 06-Jan-2015, EM9

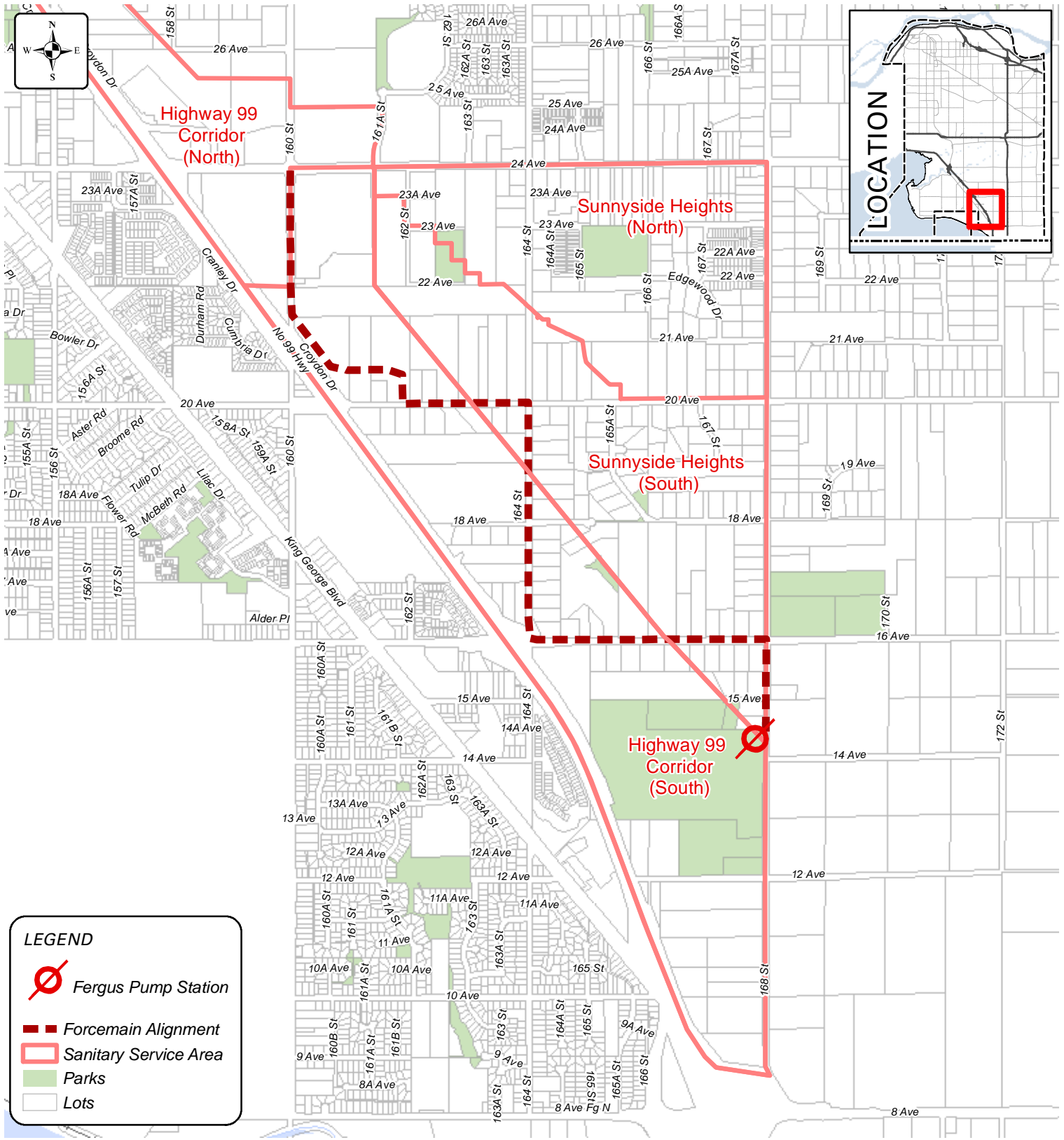


## Land Use Plan Highway 99 Corridor & Sunnyside Heights

**ENGINEERING  
DEPARTMENT**

The data provided is compiled from various sources and IS NOT warranted as to its accuracy or sufficiency by the City of Surrey.  
 This information is provided for information and convenience purposes only.  
 Lot sizes, Legal descriptions and encumbrances must be confirmed at the Land Title Office. Source: G:\MAPPING\GIS\Maps\CorporateReps\Utility\EM\_GrandviewSunnysideHeightsLandUse-AppendixI.mxd

# APPENDIX II



Produced by GIS Section: 07-Jan-2015, EM9



## Servicing Area Highway 99 Corridor & Sunnyside Heights

ENGINEERING  
DEPARTMENT



January 5, 2015

City of Surrey  
 13450 104 Avenue  
 Surrey, BC  
 V3T 1V8

City of Surrey Mayor and Council

**Re: Developer Contribution to the Fergus Creek Pumpstation**

We, the undersigned, seek to develop land in and around the Highway 99 Corridor area and the southern portion of Sunnyside Heights (Grandview Heights Area # 2). Collectively, we represent approximately 110 acres of land in the two plan areas. Moreover we recognize one critical condition of development is the construction and operation of the Fergus Creek Pumpstation by the City of Surrey at a total cost of \$11.1M (\$2.0M of which has already been collected through Surrey's Development Cost Charges).

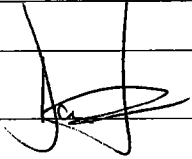
As property owners and developers with significant interests in the area, we are looking to cooperate with the City to fund the pumpstation and collectively pledge \$5.5M dollars, to be used to front-end part of the outstanding \$9.1M. Our contribution would form the DCC portion of the pumpstation cost, and would therefore be recoverable to the contributors via the City's existing DCC front-ender process.

The process of returning future DCC contributions through the front-ender agreement would be managed and coordinated by the City and the collected DCC funds distributed as follows:

- DCCs by a contributing member developer returned to said member; and
- DCCs from any non-member developer to be distributed proportionally to the initial contribution.

Developing the pumpstation would open up more than 1,000 acres for development in the Highway 99 Corridor and Sunnyside Heights (including commercial, office, and residential designated lands); as well as future development potential in Grandview Heights Area # 3. Development in this area of South Surrey would also support expanded municipal infrastructure and facilities, provide new park spaces in accordance with existing land use plans, and significantly increase tax revenue from improved and upgraded lands.

With this as consideration, we hope the City sees the value in providing financial support in the amount of \$3.5M to fund the remaining cost of the pumpstation. We are confident that with this additional support, we, the undersigned, will be in a position to fulfil our development potential in this area.

Signatory	Company
	PCI Projects Corp.
	Berezan (Juniper ) Enterprises Ltd.
	Canadian Horizons Land Purchase Corp.
	Elkay / Aspen
	Reid Runka

January 5, 2015

City of Surrey  
13450 104 Avenue  
Surrey, BC  
V3T 1V8

City of Surrey Mayor and Council

**Re: Developer Contribution to the Fergus Creek Pumpstation**

We, the undersigned, seek to develop land in and around the Highway 99 Corridor area and the southern portion of Sunnyside Heights (Grandview Heights Area # 2). Collectively, we represent approximately 110 acres of land in the two plan areas. Moreover we recognize one critical condition of development is the construction and operation of the Fergus Creek Pumpstation by the City of Surrey at a total cost of \$11.1M (\$2.0M of which has already been collected through Surrey's Development Cost Charges).

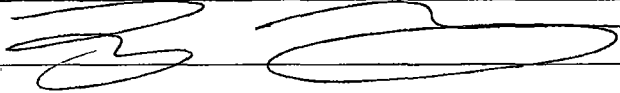
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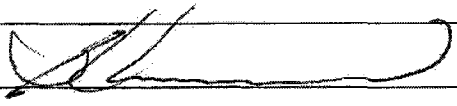
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<i>Wang Yonglan</i>	Mytopia Inc.
	[REDACTED]