

City of Courtenay
BYLAW NO. 3119, 2023

A bylaw to impose latecomer charges in relation to

WHEREAS pursuant to Section 507 of the *Local Government Act*, RSBC 2005, c 1, as amended, the Municipality considers the cost of certain excess or extended services to be excessive and the owner(s) of a leasehold interest in certain lands that are proposed to be developed has agreed to complete the excess or extended services;

AND WHEREAS pursuant to Section 508 of the *Local Government Act*, the Board of the Municipality may, by bylaw, impose a latecomer charge as a condition of connecting to or using an excess or extended service;

NOW THEREFORE, the Council for the Municipality in open meeting assembled enacts as follows:

CITATION

1. This Bylaw may be cited as the **“The Municipality Excess or Extender Services Latecomer Fee Bylaw No.3119, 2023”**.

LATECOMER CHARGES

2. In this Bylaw:
 - (a) **“Benefitting Lands”** means those lands and premises shown in Schedule “A”;
 - (b) **“Excess Services Amount”** means the cost of constructing the Excess or Extended Services as set out in Schedule “B”;
 - (c) **“Excess or Extended Services”** means those civil works and services, including but not limited to extensions of the existing Mansfield Lift station capacity for sanitary services, which after completion will provide access or services to the Benefitting Lands;
 - (d) **“Latecomer”** means a user, lessee, licensee, or other person who conducts an activity on the Benefitting Lands with the direct or indirect

consent or permission of the Municipality, and who is required to or wishes to connect to or use the Excess or Extended Services

- (e) **“Latecomer Agreement”** means the Agreement entered into between the Municipality and the Developer, effective [DATE], a copy of which is attached hereto as Schedule “C”; and
 - (f) **“Latecomer Charges”** means the proportionate share of the Excess Services Amount, based on the size the Benefitting Lands, to be paid by a Latecomer as a condition of connecting to or using the Excess or Extended Services, which for convenience have been set out in the table attached as Schedule “D”, subject any adjustments in accordance with the Latecomer Agreement.
- 3. The Municipality hereby imposes Latecomer Charges on every Latecomer as a condition of any land in the Benefitting Area connecting to or using the Excess or Extended Services.
 - 4. The Latecomer Charges are due and payable on request by a person to connect or to use the Excess or Extended Services.
 - 5. Any Excess Services Amount that remains unpaid from the date of substantial completion as defined in the Latecomer Agreement will accrue interest annually pursuant to *“The Municipality Excess or Extended Services Latecomer Interest Rate Fee Bylaw No.2005, 2015”*.

EFFECTIVE DATE

This bylaw shall come into full force and effect and be binding on all persons as and from the date of adoption.

Read a FIRST, SECOND and THIRD TIME **this** **day of** , 2023.

Reconsidered and ADOPTED **this** **day of** , 2023.

Mayor

Corporate Officer

Schedule "A"
Benefitting Lands

Schedule "B"
Excess Services Amount



Mansfield Sanitary Lift Station Upgrade COSTS SUMMARY

DRAFT - TO BE FINALIZED UPON RECEIVING UPDATED MODELING AND INVOICING

Client: Newport Village Courtenay Developments Ltd.
 Project: Mansfield Lift Station Upgrades
 Project #: V17-0273/D - Latecomer Agreement

Date: 30-Oct-23
 By: GKB

SUMMARY OF ENGINEERING COSTS (no taxes)

Description	Wedler Engineering LLP	Watanabe Engineering Ltd.	Kerr Wood Leidal Associates Ltd	GMA Consulting Ltd.	TOTAL	%
Mansfield Lift Station Upgrades	\$ 41,864.25	\$ 14,595.00	\$ 9,485.91	\$ 102,610.00	\$ 168,555.16	25%
Total	\$ 41,864.25	\$ 14,595.00	\$ 9,485.91	\$ 102,610.00	\$ 168,555.16	25%

¹Wedler Engineering fees have been separated in accordance with actual construction percentages

SUMMARY OF CONSTRUCTION COSTS (no taxes)

Description	Duplex	GMA Consulting	TOTAL	%
Mansfield Lift Station Upgrades	\$ 120,000.00	\$ 335,926.32	\$ 455,926.32	67%
Total	\$ 120,000.00	\$ 335,926.32	\$ 455,926.32	67%

SUMMARY OF LEGAL AND FINANCING COSTS (no taxes)

Description	XXXXXXX - Contingency Allowance for Legal Fees	XXXXXXX - Contingency For Construction Financing	TOTAL	%
Mansfield Lift Station Upgrades	\$ 10,000.00	\$ 42,000.00	\$ 52,000.00	8%
Total	\$ 10,000.00	\$ 42,000.00	\$ 52,000.00	8%

SUMMARY OF INVOICED COST (no taxes)

Description	Total Cost
Mansfield Lift Station Upgrades	\$ 676,481.48

NOTE:

- ALL COSTS ARE PRELIMINARY - WEDLER ENGINEERING TO REVIEW AND CERTIFIED INVOICING PRIOR TO FINALIZING
- Interest at the rate of **5% per annum**(To be confirmed) will accrue from the date costs are incurred as per Latecomer Agreement administered by City of Courtenay.



Mansfield Sanitary Lift Station Upgrade Invoice Breakdown

Client:	Newport
Project:	Mansfield LS Latecomers Agreeemernt
Project #:	V17-0273/D

Date: 2023-10-30
By: GKB

Mansfield LS Invoicing Summary

Engineering Fees - Wedler Engineering LLP

Company	Invoice Number	Invoice Date	JE#	Disbursements	Amount (\$) w/o tax	Amount (\$) w/ tax	Stage of Work	Notes
Wedler Engineering LLP	65541	31-Mar-21		\$ -	\$ 1,820.00	\$ 1,911.00	Pre-design	Extra Work: . Review Mansfield sanitary lift station upgrade options
Wedler Engineering LLP	65961	10-Apr-21		\$ -	\$ 916.25	\$ 962.06	Pre-design	Extra Work: . Review Mansfield sanitary lift station upgrade options
Wedler Engineering LLP	66248	08-May-21		\$ -	\$ 747.50	\$ 784.88	Pre-design	Extra Work: . Review Mansfield sanitary lift station upgrade options
Wedler Engineering LLP	66359	05-Jun-21		\$ -	\$ 7,189.25	\$ 7,548.71	Preliminary Design	Extra Work: . Fees associated with design of Mansfield sanitary lift station upgrade
Wedler Engineering LLP	66622	03-Jul-21		\$ -	\$ 5,552.50	\$ 5,830.13	Detail Design	
Wedler Engineering LLP	66929	31-Jul-21		\$ -	\$ 1,930.00	\$ 2,026.50	Detail Design	
Wedler Engineering LLP	67171	28-Aug-21		\$ -	\$ 195.00	\$ 204.75	Tender Services	
Wedler Engineering LLP	67565	25-Sep-21		\$ -	\$ 845.00	\$ 887.25	Tender Services	
Wedler Engineering LLP	69034	12-Feb-22		\$ -	\$ 552.50	\$ 580.13	Tender Services	
Wedler Engineering LLP	69237	12-Mar-22		\$ -	\$ 552.50	\$ 580.13	Approvals/Permits	
Wedler Engineering LLP	69586	09-Apr-22		\$ -	\$ 515.00	\$ 540.75	Tender Services	
Wedler Engineering LLP	69890	07-May-22		\$ -	\$ 347.50	\$ 364.88	Construction Services	
Wedler Engineering LLP	70294	04-Jun-22		\$ -	\$ 422.50	\$ 443.63	Aprovals/Permits & Construction Services	
Wedler Engineering LLP	70575	02-Jul-22		\$ -	\$ 1,140.00	\$ 1,197.00	Latecomers	Extra work: Mansfield Sanitary LS Latecomers including discussions city staff and coordination on upstream catchment modeling by KWL.
Wedler Engineering LLP	70941	30-Jul-22		\$ -	\$ 560.00	\$ 588.00	Latecomers	Extra work: Mansfield Sanitary LS Latecomers including discussions city staff and coordination on upstream catchment modeling by KWL.
Wedler Engineering LLP	71697	30-Sep-22		\$ -	\$ 455.00	\$ 477.75	Construction Services	Extra work: Mansfield Sanitary LS Latecomers including discussions city staff and coordination on upstream catchment modeling by KWL.
Wedler Engineering LLP	71977	29-Oct-22		\$ -	\$ 130.00	\$ 136.50	Construction Services	
Wedler Engineering LLP	72289	26-Nov-22		\$ 74.00	\$ 3,725.00	\$ 3,988.95	Construction, Completion, and Latecomers services	Extra work: Mansfield Sanitary LS Latecomers including discussions city staff and coordination on upstream catchment modeling by KWL.
Wedler Engineering LLP	72718	24-Dec-22		\$ 11.00	\$ 3,082.50	\$ 3,248.18	Completion and Latecomer Services	Extra Work: Mansfied lift station upgrades latecomers/Assessing properties suitable for latecomers/Estimating cost breakdowns.
Wedler Engineering LLP	72857	21-Jan-23		\$ -	\$ 195.00	\$ 204.75	Latecomer Services	Extra work: Mansfield Sanitary LS Latecomers including discussions city staff and coordination on upstream catchment modeling by KWL.
Wedler Engineering LLP	73468	18-Mar-23		\$ -	\$ 3,583.75	\$ 3,762.94	Latecomer Services	
Wedler Engineering LLP	75072	05-Aug-23		\$ -	\$ 455.00	\$ 477.75	Latecomer Services	
Wedler Engineering LLP	75448	02-Sep-23		\$ -	\$ 2,292.50	\$ 114.63	Latecomer Services	Review construction invoicing and prepare cost breakdown spreadsheets
Wedler Engineering LLP	75751	30-Sep-23		\$ -	\$ 2,160.00	\$ 108.00	Latecomer Services	Update benefitting lands proportional breadkowns per updated KWL modeling
Wedler Engineering Contingency (Finalize Latecomers)	N/A	N/A		N/A	\$ 2,500.00	N/A	Completion Services - Latecomers	Estimated additional fees to faciliate completion of latecomers
				Total =	\$ 41,864.25			

Engineering Fees - Watanabe Engineering Ltd.

Company	Invoice Number	Invoice Date	JE#	Disbursements	Amount (\$) w/o tax	Amount (\$) w/ tax	Stage of Work	Notes
Watanabe Engineering Ltd.	B3M 2879-21	31-May-21	J2431	\$ -	\$ 800.00			Cheque No. 1048
Watanabe Engineering Ltd.	B3M 2879-21	31-May-21	J2433	\$ -	\$ 1,816.25			Cheque No. 1048
Watanabe Engineering Ltd.	B3M 2879-21	10-Aug-21	J2435	\$ -	\$ 1,089.75			Cheque No. 1073
Watanabe Engineering Ltd.	B3M 2879-21	14-Dec-21	J2437	\$ -	\$ 3,632.50			Cheque No. 1120
Watanabe Engineering Ltd.	B3M 2879-22	19-Sep-22	J1635	\$ -	\$ 1,379.50			Cheque No. 1268
Watanabe Engineering Ltd.	B3M 2879-23	01-Feb-23	J1522	\$ -	\$ 1,306.00			Cheque No. 1281
Watanabe Engineering Ltd.	B3M 2879-22	01-Feb-23	--	\$ -	\$ 4,571.00	\$ -	Design and Construction Supervision Services	Cheque No. 1281
				Total =	\$ 14,595.00			

Engineering Fees - Kerr Wood Leidal Associates Ltd c/o City of Courtenay

Company	Invoice Number	Invoice Date	JE#	Disbursements	Amount (\$) w/o tax	Amount (\$) w/ tax	Stage of Work	Notes
Kerr Wood Leidal Associates Ltd	B3MDev Serv	21-Jun-22	J1633	\$ -	\$ 9,485.91		Preliminary modeling of upstream sewer system	Cheque No. EFT 210622
				Total =	\$ 9,485.91			

Consultant Fees - GMA Consulting Ltd.								
<u>Company</u>	<u>Invoice Number</u>	<u>Invoice Date</u>	<u>JE#</u>	<u>Disbursements</u>	<u>Amount (\$) w/o tax</u>	<u>Amount (\$) w/ tax</u>	<u>Stage of Work</u>	<u>Notes</u>
GMA Consulting Ltd.								
GMA Consulting Ltd.	2021.09.29	30-Sep-21	J2426	\$ -	\$ 12,250.00	\$ 12,862.50		Cheque No. 1080
GMA Consulting Ltd.	2021.10.29	29-Oct-21	J2424	\$ -	\$ 5,250.00	\$ 5,512.50		Cheque No. 1090
GMA Consulting Ltd.	2021.11.29	29-Nov-21	J2422	\$ -	\$ 10,000.00	\$ 10,500.00		Cheque No. 1112
GMA Consulting Ltd.	2021.12.29	31-Dec-21	J2428	\$ -	\$ 5,000.00	\$ 5,250.00		Cheque No. 1122
GMA Consulting Ltd.	2022.01.31	31-Jan-22	J70	\$ -	\$ 12,400.00	\$ 13,020.00		Cheque No. 1124
GMA Consulting Ltd.	2022.02.28	28-Feb-22	J202	\$ -	\$ 11,900.00	\$ 12,495.00		Cheque No. 1132
GMA Consulting Ltd.	2022.03.31	30-Mar-22	J309	\$ -	\$ 12,100.00	\$ 12,705.00		Cheque No. 1141
GMA Consulting Ltd.	2022.04.30	30-Apr-22	J420	\$ -	\$ 2,500.00	\$ 2,625.00		Cheque No. 1155
GMA Consulting Ltd.	2022.05.30	30-May-22	J554	\$ -	\$ 10,500.00	\$ 11,025.00		Cheque No. 1168
GMA Consulting Ltd.	2022.06.30	30-Jun-22	J709	\$ -	\$ 6,960.00	\$ 7,308.00		Cheque No. 1182
GMA Consulting Ltd.	2023.02.28	28-Feb-23	J241	\$ -	\$ 13,750.00	\$ 14,437.50		Cheque No. 1275
Tender services, reviews, worksafe, pricing...				Total =	\$ 102,610.00			
Prime Contractor Construction Costs - Dulex Enterprises Inc.								
<u>Company</u>	<u>Invoice Number</u>	<u>Invoice Date</u>	<u>JE#</u>	<u>Disbursements</u>	<u>Amount (\$) w/o tax</u>	<u>Amount (\$) w/ tax</u>	<u>Stage of Work</u>	<u>Notes</u>
Dulex Enterprises Inc.	Jul-22	25-Jul-22	J720	\$ -	\$ 15,000.00	\$ 15,750.00		Cheque No. 1185
Dulex Enterprises Inc.	Aug-22	25-Aug-22	J865	\$ -	\$ 15,000.00	\$ 15,750.00		Cheque No. 1208
Dulex Enterprises Inc.	Sep-22	25-Sep-22	J1076	\$ -	\$ 15,000.00	\$ 15,750.00		Cheque No. 1219
Dulex Enterprises Inc.	Oct-22	25-Oct-22	J1204	\$ -	\$ 15,000.00	\$ 15,750.00		Cheque No. 1230
Dulex Enterprises Inc.	Nov-22	25-Nov-22	J1309	\$ -	\$ 15,000.00	\$ 15,750.00		Cheque No. 1244
Dulex Enterprises Inc.	Dec-22	25-Dec-22	J1310	\$ -	\$ 15,000.00	\$ 15,750.00		Cheque No. 1253
Dulex Enterprises Inc.	B2 Jan 2023	25-Jan-23	J168	\$ -	\$ 15,000.00	\$ 15,750.00		Cheque No. 1271
Dulex Enterprises Inc.	B2 Feb 2023	25-Feb-23	J169	\$ -	\$ 15,000.00	\$ 15,750.00		Cheque No. 1271
				Total =	\$ 120,000.00			
Subcontractor Fees - Ridgeline Mechanical Ltd.								
<u>Company</u>	<u>Invoice Number</u>	<u>Invoice Date</u>	<u>JE#</u>	<u>Disbursements</u>	<u>Amount (\$) w/o tax</u>	<u>Amount (\$) w/ tax</u>	<u>Stage of Work</u>	<u>Notes</u>
Ridgeline Mechanical Ltd.	B3M 3901526	01-Aug-22	J902	\$ -	\$ 5,493.24			Cheque No. 1212
Ridgeline Mechanical Ltd.	B3M 3901526	28-Nov-22	J1305	\$ -	\$ 324,400.47			Cheque No. 1248 & 1371
Ridgeline Mechanical Ltd.	B3M 3901527	31-Jan-23	J438	\$ -	\$ 6,032.61			Cheque No. 1289
Ridgeline Mechanical Ltd.	B3M 3901527	31-Jan-23	J100	\$ -	\$ -			Cheque No. 1336
				Total =	\$ 335,926.32			
Legal Fees - XXXXXXXXXXXX								
<u>Company</u>	<u>Invoice Number</u>	<u>Invoice Date</u>	<u>JE#</u>	<u>Disbursements</u>	<u>Amount (\$) w/o tax</u>	<u>Amount (\$) w/ tax</u>	<u>Stage of Work</u>	<u>Notes</u>
XXXXXXXX - Contingency Allowance for Legal Fees	Not Provided	Not Provided		Not Provided	\$ 10,000.00	Not Provided	Not Provided	Cost estimate provided by client. Invoices not received, reviewed or certified by Wedler Engineering LLP
				Total =	\$ 10,000.00			
Financing Fees - XXXXXXXXXXXX								
<u>Company</u>	<u>Invoice Number</u>	<u>Invoice Date</u>	<u>JE#</u>	<u>Disbursements</u>	<u>Amount (\$) w/o tax</u>	<u>Amount (\$) w/ tax</u>	<u>Stage of Work</u>	<u>Notes</u>
XXXXXXXX - Contingency For Construction Financing	Not Provided	Not Provided		Not Provided	\$ 42,000.00	Not Provided	Not Provided	Cost estimate provided by client. Invoices not received, reviewed or certified by Wedler Engineering LLP
				Total =	\$ 42,000.00			



Mansfield Sanitary Lift Station Upgrade - Contributing Sanitary Loading

Client: Newport Village Courtenay Developments Ltd.

Project: Mansfield LS Latecomers Agreement

Project #: V17-0273/D

Date: 2023-10-30

By: GKB

Sanitary Loading Estimates based on new Developments within Mansfield Lift Station Catchment	5-Year 24-Hr Total I&I Rate =	20800 L/ha/day
	(From KWL Technical Memo, 2980.018-300)	0.24 L/ha/s

Development Address	Latecomer Contributing Property (Yes/No)	Notes	Development Area (Ha)	I & I Rate (L/s/Ha)	Total Inflow and Infiltration (L/s)	Future Development Equivalent Population (Capita)	Base Sanitary Flows per KWL Modeling Report (L/c/day)	Adjustment/Peaking Factor based on KWL Combined PWWF of 28.46 L/s	Development Contributing PWWF (L/s)
Sandpiper LS									
Buckstone Phase 4 (SFD)	No - Flows pre-approved via Phased Development Agreement	Pre-Approved Development, Under Construction	3.275	0.24	0.79	55.2	167	1.738	0.97
3375 Harbourview (MFD)	No - Flows pre-approved via Phased Development Agreement	DP Application -Construction Pending	1.142	0.24	0.27	88.4	167	1.738	0.57
4070 Fraser Rd. (SFD)	Yes	New Subdision - Active Subdivision Application	1.18	0.24	0.28	29	167	1.738	0.38
4100 Fraser Rd. (SFD)	Yes	New Subdivision - Pre-Paid NVCD Latecomer costs	2.52	0.24	0.61	63	167	1.738	0.82
Christie Parkway (Lot A) (Industrial)	Yes	New Development - Active Subdivision Application	3.18	0.24	0.76	157.9	167	1.738	1.29
Christie Parkway (Lot E) (Industrial)	Yes	New Development - Active Subdivision Application	0.42	0.24	0.10	20.9	167	1.738	0.17
Christie Parkway (Lot D) (Industrial)	Yes	New Development - Active Subdivision Application	0.85	0.24	0.20	42.2	167	1.738	0.35
Beachwood Development	Yes	New Development - Estimate per Proposed Development Plan Provi	2.046	0.24	0.49	201.7	167	1.738	1.17
Marriott Development	Yes	New Development - Estimate per Proposed Development Plan Provi	0.51	0.24	0.12	50.3	167	1.738	0.29
Mansfield LS									
3070 Kilpatrick Ave - Multifamily	No - Pre-Approved Development	Construction Completed - 2019/2020	0.63	0.24	0.15	277	167	1.738	1.08
3080 Kilpatrick Ave - Multifamily	No - Pre-Approved Development	Construction Completed - 2019/2020							
3040 Kilpatrick Ave (MFD)	Yes	New Multi-family - undertaking Mansfield LS Upgrades	0.38	0.24	0.09	86	167	1.738	0.38
2900 Cliffe Ave - Residential Care Facility)	No – Pre-Approved Development	Construction Completed	1.455	0.24	0.35	310	167	1.738	1.39
2940 Cliffe Ave	Yes	Redevelopment Plans Unknown (City Specified Population)	0.297	0.00	0.00	67	167	1.738	0.23
3210 Cliffe Ave	Yes	Redevelopment - 59 Unit Multi-family	0.242	0.24	0.06	130	167	1.738	0.49
2800 Cliffe Ave (RV Sales)	Yes	Redevelopment plans unknown (City specified Population)	0.798	0.00	0.00	189	167	1.738	0.63

**Schedule “C”
Latecomer Agreement**

LATECOMER AGREEMENT

THIS AGREEMENT dated for reference the _____(date)

BETWEEN:

THE CORPORATION OF THE CITY OF COURTENAY

having its municipal offices at 830 Cliffe Avenue
Courtenay, BC V9N 2J7

(the "Municipality")

OF THE FIRST PART

AND:

NEWPORT VILLAGE COURTENAY DEVELOPMENTS LTD.

3070 Kilpatrick Ave
Courtenay, BC., V9N 8P1

(the "Owner")

OF THE SECOND PART

GIVEN THAT:

- A. The Owner has applied to the Municipality to provide works in City of Courtenay Road Right-of-Way east of Mansfield Drive in accordance with the Municipality's subdivision and development bylaw and in particular to provide sanitary sewer facilities that will serve the Benefiting Lands defined in this Agreement;
- B. A portion of the sanitary sewer facilities (herein defined as Excess or Extended Services) will also serve the Benefiting Lands herein defined;
- C. The Municipality considers that its costs to provide the Excess or Extended Services in whole or in part are excessive, and requires the Owner, as owner of the Lands, and the owners of the Benefiting Lands to pay the cost of the Excess or Extended Services;
- D. The Municipality is authorized to enter into this agreement under section 507 of the *Local Government Act*;
- E. The Council of the Municipality has by way of Bylaw No. 2005, set the rate of interest referred to under section 508(4) of the *Local Government Act* and in paragraph 4 of this Agreement;

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the mutual covenants and agreements made by each of the parties to the other as set out in this Agreement, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Municipality and the Owner covenant and agree as follows:

Interpretation

1. In this Agreement

- (a) “Benefiting Lands” means each of the lands shown in Bylaw 3119 Schedule A hereto which lands may be connected to the Excess or Extended Services after Completion of the Excess or Extended Services;
- (b) “Completion” means the date of the Substantial Completion on the Construction Completion Certificate signed by the Municipality’s Development Engineer certifying that the Excess or Extended Services have been completed to the standards and specifications set out in the bylaws of the Municipality, such that the Excess or Extended Services have been fully tested, are functional, and can be used for their intended purpose when the system becomes operational, all to the satisfaction of the Municipality’s Director of Engineering & Public Works, in the form attached hereto as Exhibit “A”.
- (c) “Excess or Extended Services” means that portion of the sanitary sewer main and related appurtenances installed by the Owner in the road Right-of-Way in Schedule B of Bylaw No. 3119, that serves the Benefiting Lands;
- (d) “Lands” means those certain lands owned by the Owner and legally described as REM LOT 1 SECTION 67 COMOX DISTRICT PLAN EPP79267
- (e) “Latecomer Charges” means charges imposed by the Municipality under section 508 of the *Local Government Act* in respect of the Benefiting Lands, in the amounts set out in respect of each parcel of the Benefiting Lands in the fifth column of Schedule “D” of Bylaw 3119 under the heading “Latecomer Charge”.

Charges for Latecomer Connections or Use

- 2. The Municipality must pay the Latecomer Charges to the Owner, in respect of the Excess or Extended Services only if and to the extent the charges are paid by the owners of Benefiting Lands and collected by the Municipality during the period commencing on Completion, up to and including 15 years subsequent to Completion.
- 3. If any payment under section 2 is returned to the Municipality unclaimed by the Owner, then the Municipality shall hold all monies collected until the expiry of this Agreement. After the expiry of this Agreement, all such unclaimed funds shall be retained by the Municipality with a claim being made thereto by the Owner or any of its successors.

Interest

4. There shall be included in the Latecomer Charges imposed on the owners of Benefiting Lands, interest calculated annually at a rate prescribed by Bylaw No. 2005, payable for the period commencing on Completion, up to the date that the connection is made, and if paid by the owners of Benefiting Lands and collected by the Municipality during the period referred to in paragraph 2, the interest shall be paid to the Owner.

Assignment or Transfer of Owner's Rights

5. In the event of the assignment or transfer of the rights of the Owner voluntarily, or by operation of law, the Municipality's Financial Officer may pay any benefits accruing under this Agreement, after notice, to such successor of the Owner as the Municipality's Financial Officer, in his judgment, deems entitled to such benefits. In the event of conflicting demands being made on the Municipality for benefits accruing under this Agreement, then the Municipality may at its option commence an action in interpleader joining any party claiming rights under this Agreement, or other parties which the Municipality believes to be necessary or proper, and the Municipality shall be discharged from further liability on paying the person or persons whom the court having jurisdiction over such interpleader action shall determine, and in such action the Municipality 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.

Indemnity

6. The Owner covenants not to sue the Municipality, its administrators, successors, assigns, directors, officers, agents, employees, servants, tenants, solicitors, consultants, and anyone else for whom the Municipality is in law liable, by reason of or arising out of or in any way connected with any error, omission, or conduct of the Municipality in relation to the Excess or Extended Services, including, without limiting the generality of the foregoing, a failure of the Municipality to pass a resolution, enact a bylaw, enter into an agreement, impose a charge, calculate a charge correctly, or collect a charge under Section 508 of the *Local Government Act*.

Termination

7. This Agreement shall expire and shall be of no further force and effect for any purpose on the earlier of:
 - (a) the payment of the Latecomer Charges by the Municipality to the Owner for all the Benefiting Lands under paragraph 2 of this Agreement; and
 - (b) 15 years subsequent to Completion.

and thereafter the Municipality shall be forever fully released and wholly discharged from any and all liability and obligations under this Agreement, or howsoever arising pertaining to the Excess or Extended Services, and whether arising before or after the expiry of this Agreement.

8. Paragraphs 5 to 17 shall survive the termination of this Agreement.

Owner Representation and Warranty

9. The Owner represents and warrants to the Municipality that the Owner has not received, claimed, demanded, or collected money or any other consideration from the owners of the Benefiting Lands for the provision, or expectation of the provision of the Excess or Extended Services, other than as contemplated and as provided for under this Agreement; and further represents and warrants that the Owner has not entered into any agreement with the owners of the Benefiting Lands for consideration in any way related to or connected directly or indirectly with the provision of the Excess or Extended Services.

Miscellaneous

10. Time is of the essence.
11. Any notice required by this Agreement will be sufficiently given if delivered by courier or registered mail to the parties at the addresses first above written.
12. This Agreement will ensure to the benefit of and be binding on the parties hereto and their respective successors and assigns.
13. The laws of the Province of British Columbia shall govern this Agreement.
14. This Agreement constitutes the entire agreement between the Municipality and the Owner with regard to the subject matter hereof and supersedes all prior agreements, understandings, negotiations, and discussions, whether oral or written of the Municipality with the Owner.
15. No amendment or waiver of any portion of this Agreement shall be valid unless in writing and executed by the parties to this Agreement. Waiver of any default by a party shall not be deemed to be a waiver of any subsequent default by that party.
16. A reference in this Agreement to the Municipality or the Owner includes their permitted assigns, heirs, successors, officers, employees and agents.
17. The Owner represents and warrants to the Municipality that:
 - (a) all necessary corporate actions and proceedings have been taken by the Owner to authorize its entry into and performance of this Agreement;
 - (b) upon execution and delivery on behalf of the Owner, this Agreement constitutes a valid and binding contractual obligation of the Owner;
 - (c) neither the execution and delivery, nor the performance, of this Agreement breaches any other agreement or obligation, or causes the Owner to be in default of any other agreement or obligation, respecting the Lands; and

- (d) the Owner has the corporate capacity and authority to enter into and perform this Agreement.

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

SIGNED by the authorized signatories of
THE CORPORATION OF THE CITY OF COURTENAY

Director of Development Services

Director of Finance

SIGNED by the authorized signatory of
NEWPORT VILLAGE COURTENAY DEVELOPMENTS LTD.

Exhibit "A" — Construction Completion Certificate

WORKS: Mansfield Drive Sanitary Lift Station Upgrades

OWNER: NEWPORT VILLAGE COURTENAY DEVELOPMENTS LTD.

CONTRACTOR: Dulex Enterprises Ltd.

This Construction Completion Certificate does not constitute a certification of any work not in accordance with the applicable requirements of the Subdivision Control Bylaw No. 1401 and Amendments thereto whether or not such deficiency or defect could have been observed or discovered during construction.

I, Greg Merchant P.Eng. of Wedler, certify to the best of my knowledge, information and belief that the works referred to above have been installed substantially in compliance with the design drawing which were accepted by the City of Courtenay and are complete as far as can be practically ascertained. I recommend these works for acceptance by the municipality. I have provided detailed "as-constructed" drawings of these works and have signed and affixed my professional seal to these drawings.

Dated this _____, 2023 in the City of Courtenay, B.C.

Greg Merchant, P. Eng. (seal)

Accepted on behalf of the City of Courtenay this _____, 2023.

Marianne Wade
Director of Development Services

The Maintenance Period Expires on November 30, 2023.

For the purpose of Latecomer Agreement, the works were Substantially Completed on the 30th day of November, 2022.

**Schedule “D”
Table of Latecomer Charges**



Mansfield Sanitary Lift Station Upgrade - Capacity Assessment

Client: Newport Village Courtenay Developments Ltd.
Project: Mansfield LS Latecomers Agreement
Project #: V17-0273/D

Date: 2023-10-30
By: GKB

Mansfield LS Upgrade Capacity Assessment

Modelled Mansfield LS Upgrade Values

Pre-Upgraded LS capacity = 17-20 L/s
Pre-Upgraded LS (High Head Condition) capacity = 18.5 L/s
Upgraded modelled capacity = 28.7-32.5 L/s
Upgraded LS modelled (High Head Conditions) Capacity = 28.7 L/s

Note: 28.7 L/s capacity selected for conservative capacity calculations

Reviewing Mansfield LS Upgrade Capacity

Pre-Existing Conditions

Existing Flow Condition (Estimated at 18.29 L/s) Contributing PWWF 18.29 L/s High Head Capacity per KWL Memo
New Developments Updated in KWL Modeling Not Subject to Latecomers 4.02

Pre-Existing Approved Flows Not Subject to Latecomers = 22.31 L/s

<u>New Developments Accounted for in KWL Modeling Subject to Latecomers</u>	Contributing PWWF	Area (Ha)	Future Equivalent Population (Capita)
4100 Fraser Road - Single Family	0.818 L/s	2.52	63
4070 Fraser Road - Single Family	0.382 L/s	1.18	29
3040 Kilpatrick Ave - Multifamily	0.380 L/s	0.38	86
Christie Parkway (Lot A)	1.294 L/s	3.18	157.93
Christie Parkway (Lot E)	0.171 L/s	0.42	20.86
Christie Parkway (Lot D)	0.346 L/s	0.85	42.21
Pre-Selected Developments Subject to Latecomers Flows =	3.39 L/s	8.53	399

<u>Additional New Developments Unaccounted For in KWL Modelling Selected for Latecomers</u>	Contributing PWWF	Area (Ha)	Future Equivalent Population (Capita)
Beachwood Development	1.17 L/s	2.046	201.7
Marriott Development	0.29 L/s	0.51	50.3
2940 Cliffe Ave (SFD)	0.23 L/s	0.297	67
3210 Cliffe Ave (Vacant Lot)	0.49 L/s	0.242	130
2800 Cliffe Ave (RV Sales)	0.63 L/s	0.798	189
Additional New Development Subject to Latecomers Flows =	2.82 L/s	1.85	638
*Available Excess Capacity =	3.00 L/s		

*As defined in the KWL Technical Memorandum, 2980.018-300, dated October 03, 2022

Total Estimated Flows @ Mansfield LS = 28.51 L/s
Available Capacity per KWL Model @ High Head Condition = 28.70 L/s
Percent Capacity at High Head Condition = 99%



Mansfield Sanitary Lift Station Upgrade - Proportional Cost Allocation

Client: Newport Village Courtenay Developments Ltd.
 Project: Mansfield LS Latecomers Agreement
 Project #: V17-0273/D

Date: 2023-10-30
 By: GKB

Mansfield LS Construction Costs = \$ 676,481.48 *Estimated Construction Costs

Contributing Properties

	<u>PWWF</u>	<u>Latecomers Contributing Percentage</u>		<u>Allocated LS Upgrade Cost</u>
4100 Fraser Road - Single Family	0.82 L/s	13%	\$	89,172.60
4070 Fraser Road - Single Family	0.38 L/s	6%	\$	41,572.37
3040 Kilpatrick Ave - Multifamily	0.38 L/s	6%	\$	41,423.05
Christie Parkway (Lot A)	1.29 L/s	21%	\$	140,983.58
Christie Parkway (Lot E)	0.17 L/s	3%	\$	18,620.47
Christie Parkway (Lot D)	0.35 L/s	6%	\$	37,752.90
Beachwood Development	1.17 L/s	19%	\$	127,523.52
Marriott Development	0.29 L/s	5%	\$	31,787.39
2940 Cliffe Ave (SFD)	0.23 L/s	4%	\$	24,529.06
3210 Cliffe Ave (Vacant Lot)	0.49 L/s	8%	\$	53,922.63
2800 Cliffe Ave (RV Sales)	0.63 L/s	10%	\$	69,193.91
Total =	6.21 L/s	100%	\$	676,481.48



Mansfield Sanitary Lift Station Upgrade - Latecomers Agreement

Benefiting Lands

Client: Newport Village Courtenay Developments Ltd.
 Project: MANSFIELD LIFT STATION UPGRADES - LATECOMERS AGREEMENT
 Project #: V17-0273/D

30-Oct-23
GKB
City of COURTENAY

<u>PARCEL</u>	<u>CIVIC ADDRESS</u>	<u>LEGAL DESCRIPTION</u>	<u>AREA (ha)</u>	<u>Latecomer Charge</u>	<u>PARCEL IDENTIFIER</u>
1	4100 Fraser Rd.	LTA, DISTRICT LOT 153, COMOX DISTRICT, PLAN EPP123804	2.52	\$89,172.60	Pre-paid, has since been subdivided
2	4070 Fraser Rd.	LOT 8, DISTRICT LOT 153, COMOX DISTRICT, PLAN VIP1887, EXCEPT PART IN PLAN 43279	1.18	\$41,572.37	003-019-276
3	Christie Parkway (Lot A)	LOT A - DISTRICT LOT 82, COMOX DISTRICT, PLAN VIP57837 & PLAN VIP66485	3.18	\$140,983.58	018-563-074
4	Christie Parkway (Lot E)	LOT E - DISTRICT LOT 82, COMOX DISTRICT, PLAN VIP57837	0.42	\$18,620.47	018-563-112
5	Christie Parkway (Lot D)	LOT D - DISTRICT LOT 82, COMOX DISTRICT, PLAN VIP57837	0.85	\$37,752.90	018-563-104
6	Beachwood Development	REM LOT D, DISTRICT LOT 82, COMOX DISTRICT, PLAN VIP2119	2.046	\$127,523.52	006-632-777
7	Marriott Development	PARCEL A (DD F76511) OF LOT E, DISTRICT LOT 82, COMOX DISTRICT, PLAN VIP2119	0.51	\$31,787.39	006-641-318
8	3040 Kilpatrick Ave	REM LOT 1, SECTION 67, COMOX DISTRICT, PLAN EPP79267	0.38	\$41,423.05	030-349-478
9	2940 Cliffe Ave	LOT 8, SECTION 67, COMOX DISTRICT, PLAN VIP55151	0.297	\$24,529.06	017-957-559
10	3210 Cliffe Ave	LOT 6, BLOCK 1, SECTION 67, COMOX DISTRICT, PLAN VIP9900	0.242	\$53,922.63	004-582-292
11	2800 Cliffe Ave	LOT 1, SECTION 67, COMOX DISTRICT, PLAN VIP55151	0.798	\$69,193.91	017-957-486