



## Administration of Servicing Agreements and Development Levy Agreements

<b>Policy Title:</b>	<b>Applies to:</b>		
Administration of Servicing Agreements and Development Levy Agreements	City of Regina City Planning and Development		
<b>Adopted by:</b>	<b>Dates:</b>	<b>Total # of Pages</b>	
City Council	<b>Effective:</b>	30-Apr-2018	10
	<b>Last Review:</b>	14-Dec-2015	
<b>Policy #:</b> 2018-2-CPD	<b>Next Review:</b>	As required	
<b>Authority:</b>			
Adopted by resolution of City Council as per <i>The Planning and Development Act, 2007</i>			

### 1.0 Purpose

To provide for the orderly administration of Servicing Agreements for approved subdivisions and Development Levy Agreements for approved non-subdivided development by the adoption of standards and policies addressing security for performance of developers' covenants, the remittance of Servicing Agreement Fees or Development Levies in instalments, and Endeavour to Assist provisions.

### 2.0 Scope

This policy generally applies to both Servicing Agreements and Development Levy Agreements. It is noted in circumstances where statements apply to one type of agreement and not the other.

### 3.0 Definitions

**Council:** Means the council of the City of Regina, acting for the purposes of *The Planning and Development Act, 2007* as a municipality or an approving authority.

**Developer:** Means an applicant for subdivision approval who is required to enter into a Servicing Agreement pursuant to section 172 of *The Planning and Development Act, 2007*; or an applicant for a development permit or building permit who is required to enter into a Development Levy Agreement pursuant to the City's *Development Levy Bylaw, 2011* as may be amended from time to time and section 171 of *The Planning and Development Act, 2007*.

**Development Area:** Refers to the area shown for construction or development in schedules to a Development Levy Agreement.

**Development Levy Agreement:** Refers to the form of Development Levy Agreement, including Standard Conditions, adopted by the Council from time to time, and referred to in Administrative Reports respecting development applications as the City's "Standard Development Levy Agreement"; all subject to such changes as circumstances of development applications require and as may be approved or directed by Council.

**Endeavour to Assist Agreement:** Means the portion of the Servicing Agreement or Development Levy Agreement that addresses the methods by which the Initial Developer can recoup a proportion of the costs relating to Excess or Extended Services from developers of Future Benefitting Lands.

**Endeavour to Assist Payments:** Means the portion of the costs relating to Excess or Extended Services that are attributable to the Future Benefitting Lands, which are to be paid and satisfied to the Initial Developer through an Endeavour to Assist Agreement.

**Engineering Submission:** Means, for the purpose of this policy the following:

- A detailed engineering drawing set as per the requirements outlined in the Development Standards Manual;
- All electronic models and modeling results, analysis and calculations required for the design of water distribution, sanitary collection, and storm water systems in an acceptable format outlined in the Development Standards Manual or otherwise deemed acceptable to the City;
- Traffic Impact Analysis, Noise Studies or other requirements as outlined in the Concept Plan, Secondary Plan, Development Standards Manual; and
- Other requirements that may be deemed by the City to be relevant to subdivision.

**Excess or Extended Services:** Means the portion of Infrastructure Work that provides servicing and directly benefits Future Benefitting Lands other than the lands developed by the Initial Developer.

**Future Benefitting Lands:** Means lands to be developed in the future that would directly benefit from Excess or Extended Services constructed by the Initial Developer.

**Future Developer:** Means the developer who will develop the Future Benefitting Lands.

**Infrastructure Work:** Has the meaning ascribed in the Servicing Agreement and Development Levy Agreement and is generally intended to refer to work or services related to streets, roads, grading and utilities to be provided, constructed or installed by a developer of an approved subdivision, excluding Landscaping Work.

**Initial Developer:** Means the developer who constructs the Excess or Extended Services that benefit other Future Benefitting Lands as part of the Infrastructure Work.

**Interest Rate:** is City of Regina's indicative pricing rate plus 2 % at the effective date of the Endeavour to Assist Agreement.

**Landscape Drawing Submission:** Means for the purpose of this policy the following:

- A detailed landscape drawing set submitted as per the requirements outlined in the Development Standards Manual; including:
- Dimensioned recreational facilities or elements within park space.

**Landscaping Work:** Has the meaning ascribed in the Servicing Agreement and Development Levy Agreement and is generally intended to refer to work or services related to the establishment of parks and landscaping and/or irrigation of public lands such as municipal reserve, environmental reserve, buffer strips, floodway fringe areas to be provided, constructed or installed by a developer of an approved subdivision, excluding Infrastructure Work.

**Phase(s) or Phased Development:** Refers to the registration and development of a portion only of an approved subdivision.

**Sanitary Trunk:** Means, for the purposes of this policy, is defined as a large main generally servicing an area of 65 ha or more and 300mm or larger in diameter. Flows to it are contributed by sanitary sewer mains. Direct connections from service connections are not permitted.

**Servicing Agreement:** Refers to the form of Servicing Agreement, including Standard Conditions, adopted by the Council from time to time, and referred to in Administrative Reports respecting subdivision or development applications as the City's "Standard Servicing Agreement"; all subject to such changes as circumstances of subdivision or development applications require and as may be approved or directed by Council.

**Servicing Agreement Fees / Development Levies:** Refers to the charges or levies adopted by Council from time to time pursuant to Part VIII of *The Planning and Development Act, 2007*.

**Subdivision:** Means an overall subdivision as will have been shown in a concept plan submitted by the Developer for approval by the Council and refers to the entire area as would be locally known as that named subdivision irrespective of approval of partial plans of subdivision or phased development thereof.

**Trunk Watermain (or trunkmain):** Means, for the purposes of this policy, a pipe over 450 mm nominal diameter which delivers potable water within the distribution system network. Service connections to trunkmains are not permitted.

#### 4.0 Policy

The Executive Director of City Planning and Development is authorized to prepare Servicing Agreements and Development Levy Agreements and arrange for the execution of same by the City Clerk, and thereafter administer Servicing Agreements and Development Levy Agreements, in accordance with the policies and procedures set forth in this Policy.

## **Part A – Financial Assurances for Completion of Work**

Upon entering into Servicing Agreements, the Executive Director of City Planning and Development shall obtain securities in an approved form in the amount of 50% of the total estimated cost of the aggregate of Infrastructure Work and Landscaping Work.

The security may be varied upon the completion of Infrastructure Work and the issuance of a Completion Certificate to such effect, to an amount equaling:

- 10% of the total estimated cost of Infrastructure Work; plus 50% of the total estimated cost of all remaining Parks and Landscaping Work;
- provided that the amount of the security varied in accordance with this clause shall not exceed the original amount of security provided at the time of entering into the servicing agreement, nor shall the security be reduced to an amount less than the aggregate of 10% of the total cost of infrastructure work and 10% of the total cost of parks and landscaping work.

Upon completion of Landscaping Work and the issuance of a Completion Certificate to such effect, the security may be further reduced to;

- 10% of the total estimated cost of Infrastructure Work; plus 10% of the total estimated cost of Park and Landscaping Work.

Upon receipt of the Final Acceptance Certificate of the Infrastructure Work, the security may be further reduced to:

- 10% of the total estimated cost of Park and Landscaping Work;
- provided that a Completion Certificate for the Landscaping work has been issued. If a Completion Certificate for the Landscaping work has not been issued, the security shall remain at the aggregate of 10% of the total estimated cost of the Infrastructure Work plus the initial 50% of the estimated cost of all Parks and Landscaping Work. This security shall be maintained until a Completion Certificate for the Landscaping Work has been issued.

Upon receipt of the Final Acceptance Certificate of the Landscaping Work, the security may be released in its entirety provided that a Final Acceptance Certificate of the Infrastructure Work has been issued.

The provisions of this Part A apply to all Servicing Agreements unless the Council provides different terms in its resolution approving the relevant subdivision application or development.

## **Part B – Payment of Servicing Agreement Fees**

Servicing Agreements shall provide as follows in this Part B with regard to the payment of Servicing Agreement Fees in instalments.

Instalment payments on Servicing Agreement Fees will be accepted in Servicing Agreements having a Development Area of 2 or more hectares.

Instalments payments on Servicing Agreement Fees will be accepted in Servicing Agreements having a Development Area of less than 2 hectare to a limit of two Servicing Agreements per year per subdivision.

Instalments payments on Servicing Agreement Fees will be accepted in Servicing Agreements pertaining exclusively to a park having a Development Area of less than 2 hectares, to a limit of one Servicing Agreement per year per subdivision. This provision is in addition to the two Servicing Agreements per year described in the immediately preceding clause.

Notwithstanding the preceding clauses in this Part B, no instalment payments shall be allowed in any Servicing Agreement having a Development area of 0.75 hectares or less.

Instalment payments shall be as follows:

- (a) For Assessments in relation to Infrastructure:
  - 30% upon execution of the Servicing Agreement;
  - 40% upon the earlier of the issuance of a Certificate of Completion for Infrastructure Work or 9 months from the date of the Servicing Agreement;
  - 30% upon the earlier of the issuance of Final Acceptance Certificate for the Infrastructure Work or 18 months form the date of the Servicing Agreement.
  
- (b) For Assessment in relation to Parks and Recreation Facilities:
  - 50% upon the earlier of the issuance of a Certificate of Completion for Landscaping Work or 12 months from the date of the Servicing Agreement;
  - 50% upon the earlier of the issuance of Final Acceptance Certificate for the Landscaping Work or 24 months from the date of the Servicing Agreement.

Payment of the unremitted portion(s) of Servicing Agreement Fees shall at all times be secured by Letters of Credit in an approved form. The Letters of Credit may be reduced or surrendered, as the case may be, upon remittance by the Developer of an instalment on or payment of the balance of the Servicing Agreement Fees.

### **Part C – Payment of Development Levies**

Development Levy Agreements shall provide as follows in this Part C with regard to the payment of Development Levies in instalments.

Instalment payments on Development Levies will be accepted in Development Levy Agreements having a Development Area of 2 or more hectares.

Notwithstanding the preceding clauses in this Part C, no instalment payments shall be allowed in any Development Levy Agreement having a Development area of 0.75 hectares or less.

Instalment payments shall be as follows:

- a. For Assessments in relation to Infrastructure:
  - i. 30% upon execution of the Development Levy Agreement;
  - ii. 40% upon 9 months from the date of the Development Levy Agreement;
  - iii. 30% upon 18 months from the date of the Development Levy Agreement.
  
- b. For Assessment in relation to Parks and Recreation Facilities:
  - i. 50% upon 12 months from the date of the Development Levy Agreement;
  - ii. 50% upon 24 months from the date of the Development Levy Agreement.

Payment of the unremitted portion(s) of Development Levies shall at all times be secured by Letters of Credit in an approved form. The Letters of Credit may be reduced or surrendered, as the case may be, upon remittance by the Developer of an instalment on or payment of the balance of the Development Levies.

#### **Part D – Endeavour to Assist**

Where the City of Regina has required an Initial Developer to provide Excess or Extended Services, the Initial Developer may apply to the City to enter into an Endeavour to Assist Agreement. The City will review all applications relating to Endeavour to Assist in accordance with its policies and the standards for development then in effect and will work with the Initial Developer to detail any arrangements, if any, in an Endeavour to Assist Agreement. The City reserves the right and sole discretion to determine the format of and what will qualify for an Endeavour to Assist Agreement.

Under the Endeavor to Assist Agreement, the City will agree to require the Future Developer to repay the Endeavour to Assist Payments directly to the Initial Developer or to the City as a condition of providing development approvals or entering into a Servicing Agreement relating to the first phase of development for the area relating to the Future Benefitting Lands.

For further certainty, all amounts payable relating to Endeavour to Assist Payments shall be payable by the Future Developer as part of the first Servicing Agreement related to the subdivision containing the Future Benefitting Lands.

Where the City receives payment from the Future Developer relating to Endeavour to Assist Payments, the City will pay all applicable sums to the Initial Developer within 30 days of receiving such payment.

The cost of the Excess or Extended Services relating to Endeavour to Assist Payments shall be based on the actual unit costs that are detailed in the cost estimate included in the Initial Developer's Servicing Agreement. Only the following items shall be eligible to be included within Endeavour to Assist Payments:

- land or rights-of-way acquisition costs;
- construction costs;
- design and inspection costs for the works.

The following infrastructure types may be eligible for Endeavour to Assist:

- sanitary pump (or lift) stations
- sanitary trunks;
- trunk watermains;
- traffic signals;
- intersections;
- grade-separations; and
- any roadway where more than 50% of the roadway needs to be constructed.

No costs for Excess or Extended Services that have been paid by the City shall be eligible to be included within Endeavour to Assist Payments.

The allocation of costs relating to Excess or Extended Service amongst the Initial Developer and the Future Developer will be determined by the Executive Director of City Planning and Development or their delegate. For sanitary pump or lift stations the costs for the common components shall be allocated over a proportional land area basis that includes both the Initial Developer's lands and Future Benefitting Lands.

The Endeavour to Assist Payments shall be escalated at a rate of interest equal to the Interest Rate by inflation, with such interest payable from the date of the Endeavour to Assist Agreement until the date of payment by the Future Developer.

The term of the Endeavour to Assist Agreement shall be for 20 years; however, it will expire once all Endeavour to Assist Payments have been received. The

Endeavour to Assist Agreement may be renewed by the mutual agreement of the City and the Initial Developer prior to its expiry, as initiated by the Initial Developer. No payment shall be made to the Initial Developer or required of the Future Developer after the Endeavour to Assist Agreement has expired, and the City shall have no obligation or liability relating to the collection or payment of Endeavour to Assist Payments following the termination of the Endeavour to Assist Agreement. The Initial Developer shall acknowledge that the City is not responsible for the payment of any Endeavour to Assist Payments to the Initial Developer in the event that Future Benefitting Lands do not develop within the term of the Endeavour to Assist Agreement.

Upon execution of an Endeavour to Assist Agreement an interest shall be registered on the title in favour of the City as against the Future Benefitting Lands specifying that the development of those lands is subject to the payment of an Endeavour to Assist Payment by the Future Developer.

All developers are cautioned that the standards and levels of service required by the City of Regina change from time to time. As a result, the City does not and cannot guarantee that the services provided under the Endeavour to Assist Agreement will meet the standards required at the time of subdivision approval, development permit or building permit issuance for the Future Benefitting Lands.

If the capacity of infrastructure originally intended for the Future Benefitting Lands is no longer available due to development that has occurred, then the City shall not endeavor to collect funds from the Future Developers to contribute to the Initial Developer's costs for that infrastructure.

The City may require additional Infrastructure Works when the Future Benefitting Lands develop and the Future Developer will be responsible for all such costs relating to the Future Benefitting Lands as may be applicable at that time.

## **Part E – Application Requirements**

Prior to the issuance of a Servicing Agreement or a Development Levy Agreement, the following submissions must be made to the satisfaction of the City prior to December 31:

- Secondary Plan or Concept Plan approval if deemed required in accordance with Policies 14.23 and 14.27 of *Design Regina, The Official Community Plan Bylaw 2013-48*;
- Zoning approval;
- Application for subdivision;
- Receipt by the City of an Engineering Submission;
- Receipt by the City of a Landscape Drawing Submission;
- Formal written request to enter into a servicing or development levy agreement.



Any amendments to the above submission requirements may be considered and approved at the discretion of the Manager of Development Engineering.

Upon confirmation that the above submissions have been received to the City's satisfaction, the City will assign a Servicing or Development Levy Agreement number to the application.

The development proponent will have six months from the date the Servicing or Development Levy Agreement number is assigned to enter into the Servicing or Development Levy Agreement with the City of Regina.

In the event that the development proponent fails to enter into a Servicing or Development Levy Agreement within six months from the date the Servicing or Development Levy Agreement number is assigned, the Servicing or Development Levy Agreement will be deemed invalid and the Servicing Agreement Fee or Development Levy Rate and Policy in effect at the date the Servicing or Development Levy Agreement number was assigned will no longer be in effect.

## **5.0 Roles & Responsibilities**

The Executive Director of City Planning and Development, when reviewing subdivision applications, shall attempt to identify aspects of the subdivision application which may require any departure from approved Servicing Agreement forms and policies. The intent of this requirement is to provide the council and its commissions, boards and committees with sufficient information to identify and adopt specific resolutions authorizing the departure from practices and procedures identified in this document.

Development Levy Agreements must be council approved as described in subsection 169(8) of *The Planning & Development Act, 2007*.

All Servicing Agreements and Development Levy Agreements shall be executed by the City Clerk, and one original executed copy thereof shall be maintained in the Office of the City Clerk. The City Clerk shall not execute any Servicing Agreement or Development Levy Agreement unless an original executed copy thereof has been approved as to form and content by the City Solicitor.

All Financial Securities taken under the terms of Servicing Agreements shall be deposited in the vault maintained by the Director of Finance.

The Executive Director of City Planning and Development shall, when retrieving original securities for reduction or return to the Developer or the issuing institution, provide the Director of Finance with a statement which identifies the payments received or the certificates issued by the Executive Director of City Planning and Development which condition the release or the reduction of security, and which further identifies the accounts to which any payment shall be credited under the requirements of *The Planning and Development Act, 2007*.

## 6.0 Revision History

Date	Description of Change	(Re)-Approval Required (y/n)
16-Dec-1996	Initial Release (Report CR96-311).	Yes
24-Mar-1997	Revised by Resolution of City Council (Report CR97-81)	Yes
29-Sep-2010	Revised by Resolution of City Council (Report CR10-105)	Yes
14-Dec-2015	Revised by Resolution of City Council to add Parts D and E (Report CM15-14)	Yes
30-Apr-2018	Clarified application of Endeavour to Assist policy to sanitary pump or lift stations	Yes