



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

COUNCIL POLICY

TITLE: Works and Services for Developments	NO. PLAN – 27
<p><u>POLICY:</u></p> <p><u>Definition:</u> WORKS AND SERVICES means all public services, facilities and utilities which are required to be installed as a condition of subdivision or building permit approval and without limitation includes: highway; sidewalks; boulevards; boulevard crossings; street lighting; underground wiring; water distribution system; fire hydrant system; sewage collection system; drainage collection system; and drainage disposal system pursuant to Section 938 of the <i>Municipal Act</i></p> <ol style="list-style-type: none"> 1. Every owner of land in the Township of Esquimalt shall, prior to the issuance of a building permit, provide on the site being developed and on that portion of every highway immediately adjacent to the site being developed, up to the centre line of the highway, Works and Services in accordance with the standards prescribed in the Subdivision and Development Control Bylaw, including Schedule “E” of that bylaw. 2. The requirements under Section 1 of this Policy shall only be applicable insofar as they are directly attributable to the development and shall not include specific Works and Services that are included in the calculations used to determine the amount of a development cost charge, unless the owner agrees to provide the Works and Services, in which case the calculation of the development cost charge shall be reduced in accordance with Section 933(8) of the <i>Municipal Act</i>. 3. Notwithstanding Section 1 of this Policy, no Works and Services shall be required under this Policy for the following developments: <ol style="list-style-type: none"> a) Construction or alteration of a single family or duplex residence. This exemption does not apply for the replacement or the installation of new lateral connections for sanitary sewer or storm drain on projects over \$150,000. Also this exemption does not apply for new or replacement sidewalks for duplex projects over \$150,000. <i>[Amendment approved by Council resolution September 17, 2007]</i> b) Any development in which the total value of all phases for the purpose of issuing a building permit is less than \$300,000. This exemption shall not apply when the combined value of the proposed construction on the same parcel over the preceding two years exceeds \$300,000. This exemption does not apply for replacement or new lateral connections for sanitary sewer or storm drain on projects over \$150,000. <i>[Amendment approved by Council resolution September 17, 2007]</i> 	

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- c) Any development which is a reconstruction or replacement of an accidentally destroyed or damaged building with a building used for the same purpose which has a gross floor area of less than one hundred and ten percent of the original building's gross floor area.

- 4. When an owner provides Works and Services under this Policy, which include excess or extended services as defined in Section 990 of the Municipal Act, the TOWNSHIP shall pay the cost of providing that portion of the works constituting excess or extended services. The benefit to each of the parcels of land that will be served by the excess or extended service shall be ascertained by the TOWNSHIP, and the TOWNSHIP'S cost shall be recovered by a charge and imposed as a condition of the owner of each parcel connecting to or using the excess or extended service. The charge shall include interest at a rate prescribed by bylaw and charges shall be payable for ten years from the date of completion of the Works and Services.

- 5. An owner of land may enter an agreement with the TOWNSHIP to provide security for provision of Works and Services required under this Policy, in accordance with Section 940 of the *Municipal Act*, on the following terms:
 - a) The Works and Services shall be provided within nine months of the date of the issuance of a building permit, unless the owner and the Township agree that the Works and Services shall be provided within a lesser period.

 - b) The Mayor and Clerk are authorised to execute and affix the corporate seal to security agreements in the form of Schedule "A" to this policy in accordance with the foregoing terms and the provisions of Section 991 of the *Municipal Act*.

- 6. An agreement in the form of Schedule "A" shall be entered only when:
 - a) the secured services are to be located on a public highway or statutory right-of-way in favour of the TOWNSHIP which has already been provided, and

 - b) the owner has deposited cash, certified cheque or an arrive-cable letter of credit in the amount of 120% of the cost of providing the required Works and Services.

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SCHEDULE 'A'

THIS AGREEMENT made the _____ day of _____, 20____

BETWEEN:

TOWNSHIP OF ESQUIMALT
1229 Esquimalt Road
Victoria, British Columbia.

V9A 3P1

(the "TOWNSHIP")

OF THE FIRST PART

(the "Owner")

OF THE SECOND PART

WHEREAS:

A. The Owner is the registered owner of, and proposes to build upon, land located within the Township of Esquimalt and described as:

(insert legal description of the "Lands");

B. In order to develop the Lands in conformity with the proposed building plan attached as Schedule "A" to this agreement, the Owner is required to construct and install certain Works and Services as described in Schedule "B" (the "secured services") within or in the vicinity of the Lands;

C. This Owner has requested issuance of the building permit prior to construction and installation of the secured services and the TOWNSHIP has agreed to accept security for completion of the secured services in accordance with this agreement.

NOW THEREFORE pursuant to Section 940 of the *Municipal Act* and in consideration of the terms of this agreement and the sum of \$1.00 now paid by each party to the other, the TOWNSHIP and the Owner agree as follows:

1. The estimated cost of completing the secured services, including construction costs, engineering fees, administrative costs and contingency allowances, is \$-

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2. The Owner has paid or deposited an irrevocable letter of credit in the amount of \$_____ (the "Security") to the TOWNSHIP prior to execution of this agreement as security for the installation and construction of the secured services.
3. If the secured services have not been completed within nine months from the date of this agreement, the Security shall be forfeited to the TOWNSHIP for its use in accordance with the terms of this agreement.
4. If the secured services are not completed upon the expiry of nine months from the date of this agreement:
 - a) The TOWNSHIP shall retain the Security and shall use the Security only for completion of the secured services and related purposes. Without limitation, the TOWNSHIP may employ the Security towards the design and construction of the secured services and to trunk mains, pumping stations, reservoirs and other facilities necessary for development of the secured services.
 - b) The TOWNSHIP may invest the Security in its discretion and any interest on the Security shall be retained by the TOWNSHIP and applied towards completion of the secured services.
 - c) The TOWNSHIP shall have discretion as to the timing and method of the completion of the secured services.
 - d) The TOWNSHIP shall have no obligation to the Owner to complete the secured services within any definite period and under no circumstances shall the Security or interest on the security be repaid to the Owner.
 - e) For so long as the Owner owns the Lands, the Owner shall permit the TOWNSHIP to enter and make use of the Lands without payment or compensation, as may be necessary or convenient for the completion of the secured services by the TOWNSHIP.
5. The Owner shall be responsible for any costs incurred to complete the secured services that exceed the Security amount
6. The Owner shall not represent to any person that the TOWNSHIP is obligated to complete the secured services within any defined period.
7. If the secured services are completed within nine months of the date of this agreement, the Security shall be returned to the owner, without interest.

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8. If the secured services are partially completed upon the expiry of nine months from the date of this agreement, the TOWNSHIP may retain a portion of the Security equivalent to the proportion of the secured services not completed, as estimated by the Municipal Engineer, and the terms of this agreement apply to the retained portion.

EXECUTED on behalf of the TOWNSHIP and the Owner this day of _____, 200

THE CORPORATE SEAL of the TOWNSHIP OF ESQUIMALT was hereunto affixed in the presence of:

Mayor

c/s

Clerk

SIGNED, SEALED AND DELIVERED) in the presence of

c/s

WITNESS

ADDRESS

OCCUPATION

OWNER

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SCHEDULE 'A'

Proposed Building Plan

SCHEDULE 'B'

Secured Services

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