



ADMINISTRATION

MEMORANDUM

DATE: OCTOBER 30, 2009

TO: JIM MONTAIN DIRECTOR OF OPERATIONS

FROM: ERNEST JACK SURVEYOR OF TAXES

**RE: IR No. 10 WESTSIDE ROAD DEEP UTILITIES WATER AND SEWER PROJECT
LOCAL REVENUE LAW 09-LRL-02**

BACKGROUND

Please find attached the following documents; Administration Memo for Westside Road Deep Utilities Water and Sewer Project 09-LRL-02; Final Draft of IR No.10 Westside Road Deep Utilities Water and Sewer Project 09-LRL-02; Posted notice for IR No.10 Westside Road Deep Utilities Water and Sewer Project Local Revenue Law 09-LRL-02.

This Local Revenue Law empowers Westbank First Nation to construct the Westside Deep Utilities Water and Sewer Project in conjunction with the Westside Road Interchange Project to support future residential and commercial development.

A draft of this Bylaw was presented to the Advisory Council on October 30, 2009 for their perusal and input at the Advisory Council meeting. IR No.10 Westside Road Deep Utilities Water and Sewer Project 09-LRL-02 to receive first reading on November 2, 2009 and notice will be posted on November 6, 2009 as per section 63.2 of the Westbank First Nation Constitution, which requires the final draft law shall be posted at least 10 days before the Chief and Council meeting in a public area of the Westbank administration building.

RECOMMENDATION

That Westbank First Nation Chief and Council give first reading, to Westbank First Nation IR No. 10 Westside Road Deep Utilities Local Revenue Law 09-LRL-02.

**WESTBANK FIRST NATION
STAFF REPORT TO COUNCIL**

DATE: October 2, 2009

TO: DIRECTOR OF OPERATIONS c.c. Council Secretariat

FROM: Brian Conner

DEPARTMENT: Financial Services

Funding for Westside Road Deep Utilities

RECOMMENDATION: To fund the upcoming Westside Road Deep Utilities projects (Water and Sewer). It is recommended that WFN borrow internally \$2,315,000 from the taxation Contingency Fund. These funds would be repaid from IR 10 water and sewer Development Cost Charges and latecomer fees to be paid by the developers of anticipated future developments.

DRAFT RESOLUTION: Chief and Council hereby authorize the borrowing of up to \$2,315,000.00 (Two Million, three hundred fifteen thousand dollars) from the WFN Taxation Contingency fund to pay for the deep utilities which are to be constructed in conjunction with the building of the Westside Road Interchange project from 2009 to 2012. These funds will be repaid to the Contingency fund from future DCC's and latecomer fees on a per property basis, at the direction of the Planning Department

ISSUE: The deep utility lines are being installed under the new road construction (Westside Road Interchange) to support future residential and commercial development on IR 10. The cost of these should therefore be funded by future developments. There are 2 components to this proposed project. The first portion at a cost of \$1,725,000, are the deep utilities that will be under the roadways. These are required to be installed before the roadway is built to avoid the much higher cost of tearing up and replacing roads and highways at a later date. The second portion at \$590,000 is to run lines from Seena Road to the Abel Reservoir to support new development sites. This is not a mandatory expenditure at this time, but is recommended to save approximately 30% on its cost if it were a standalone project. A portion (amount to be determined) of this optional amount will be of benefit to the current Lakeridge development, and can be recovered from Taxation capital.

BACKGROUND: The contingency fund is at current balance of \$6.4 million and has no anticipated charges against it. There are no DCC's pertaining to IR 10 that have been collected as of this date, but major development is anticipated including up to \$1,250,000 utilities development fee that may be collected from the PDG development. Local Revenue bylaws will have to be drafted to use the contingency funds and to authorize the repayment of the contingency fund from future DCC's.

OPTIONS: WFN might consider borrowing from the DCC funds or borrow from the bank. Bank borrowing would require extra administration, and interest cost, as well as reduce the bands borrowing limit. DCC borrowing will reduce the DCC fund balance, temporarily, and this may limit the expenditure of DCC's if needed before repayment is made.

Approved by Manager: _____	Date: _____
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Approved for Inclusion on Council Agenda: _____	Date: _____
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October 02, 2009

File: 2215.0003.02 F

Westbank First Nation
 #301-515 Highway 97 South
 Kelowna, BC, V1Z 3J2

VIA EMAIL:

Attention: Jim Montain, Director of Operations

**RE: WFN Cost Allocation Budget Estimate for Stage C of the Executed Agreement
 Between the BC MoT and the WFN**

Now that the Phase 1, Network Roads and Utilities Tenders have been opened, it is appropriate to update the WFN Construction Cost Estimate for Stage C of the executed agreement between the BC Mot and the WFN.

The WFN portion of the Construction Cost Estimate for Stage C of the executed agreement are separated into two Schedules in the Tenders opened on September 29, 2009. Schedule A is the essential work required as the WFN's portion of the Phase 1 Network Roads and Utilities construction. Schedule B is the optional work which would be required in order to construct the water mains from Sneena Road to the Able Reservoir. The Schedule B Optional Work can be removed from the Contract as the discretion of the WFN. The following is a summary of the WFN estimated construction costs.

		Construction Estimate from Tender	Construction Contingency Allowance	Construction Engineering Allowance	Estimated WFN Construction Cost
Stage C	Schedule A – Essential Work from Tender	\$1,500,000	\$150,000	\$75,000	\$1,725,000
	Schedule B – Optional Work from Tender				
	Optional Work 1.0	\$249,046.52	\$25,000	20,000	\$294,000
	Optional Work 2.0	\$194,989.79	\$19,000	\$10,000	\$226,000
	Optional Work 3.0	\$59,672.59	\$6,000	\$4,000	\$70,000
Total WFN Stage C Estimated Construction Cost					\$2,315,000

Jim Montain, Director of Operations
File: 2215.0003.02 F
October 02, 2009
Page 2

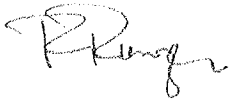
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Please note that the Estimated WFN Construction Cost is not final. The final amount will be based on the Total Contract Price after the BC General Contracting Inc. Contract is Totally Performed.

We trust this information will assist the WFN with the decision as to whether or not to construct the Optional Work under this Contract.

Yours truly,

URBAN SYSTEMS LTD.



For:

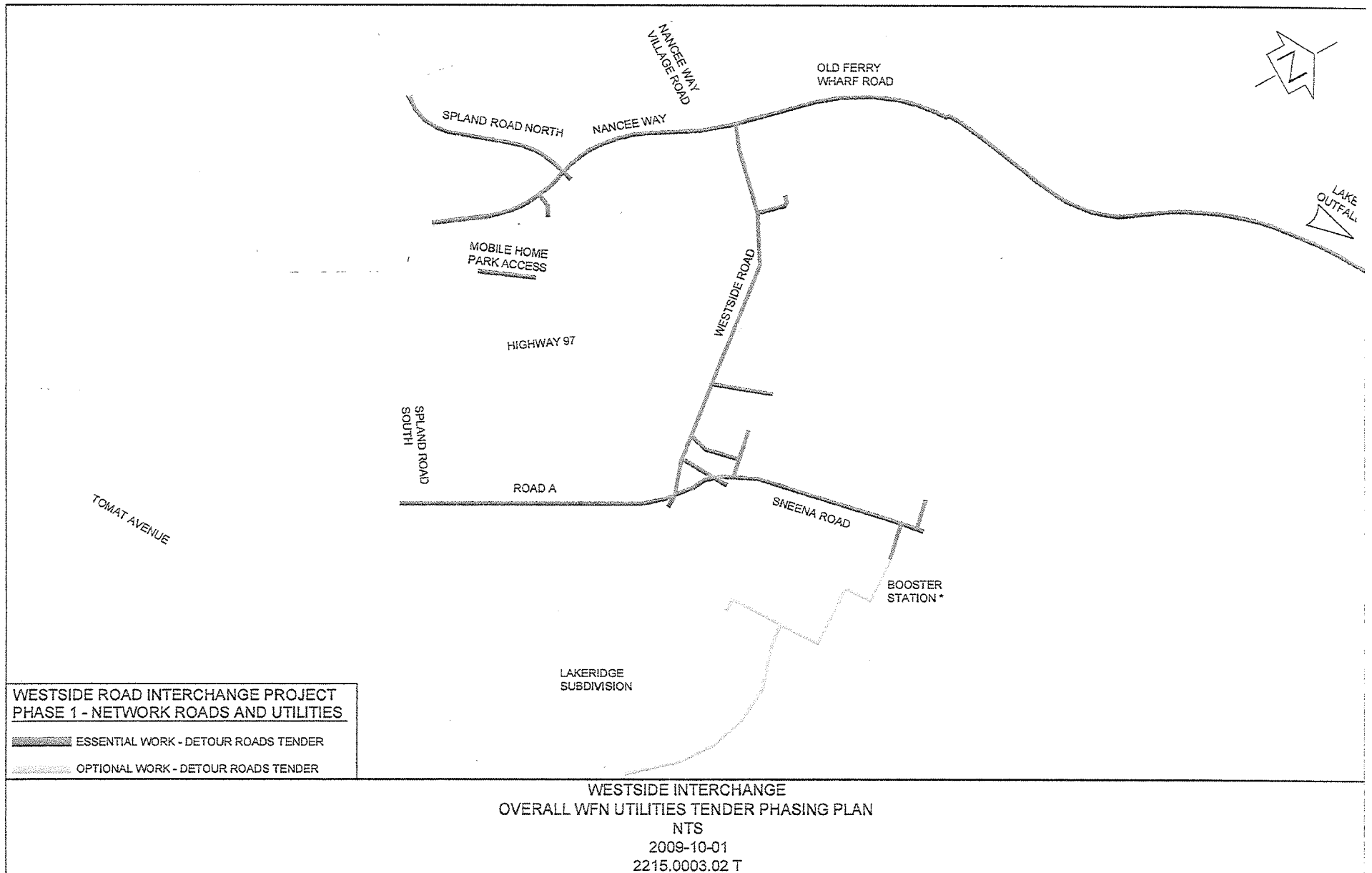
Dick Fletcher, P.Eng
Principal

/jm

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WESTBANK FIRST NATION
LOCAL REVENUE LAW 09-LRL-02

A Local Revenue Law providing for the expenditure of Development Cost Charges to fund the Westside Road Deep Utilities Water and Sewer Projects of the Tsinstikeptum Indian Reserve No. 10.

WHEREAS: Westbank First Nation has enacted the *Westbank First Nation Subdivision Development and Servicing Law 2005-15* (the “WFN Subdivision, Development and Servicing Law ”);

AND WHEREAS: pursuant to the WFN Subdivision Development and Servicing Law, Westbank First Nation may levy Development Cost Charges against a parcel of land to be developed, which Development Cost Charges are intended to pay the cost of off-site infrastructure services that are required to accommodate growth;

AND WHEREAS: Westbank First Nation has decided to construct water and sewer on Tsinstikeptum Indian Reserve No. 10, along Westside Road in conjunction with the IR No.10 Westside Road Interchange Project;

AND WHEREAS: Westbank First Nation has, by Westbank First Nation Local Revenue Law 09-LRL-02, provide that the cost of the IR No. 10 Westside Road Deep Utilities Water and Sewer Project, to a maximum of \$2,315,000.00 two million three hundred fifteen thousand dollars, will be funded from the Contingency Reserve Fund;

AND WHEREAS: The contingency reserve fund will be reimbursed from Development Cost Charges; Late Comer Fees to be collected on IR No.10 by the Westbank First Nation;

AND WHEREAS: Through this Local Revenue Law, Westbank First Nation wishes to authorize the expenditure of Development Cost Charges, and to clarify which Development Cost Charges shall be used to recover the Contingency Reserve Fund Expenditure; This recovery is to include any ‘offsite utility charges” levied against the proposed PDG development on IR No.10 or other properties designated by the planning department as contributories to this infrastructure cost.

AND WHEREAS: The Contingency fund balance (unaudited) is currently approximately \$6,736,237.00, and the anticipated expenditure is \$2,315,000.00 as per the schedule, which would leave a balance of \$4,421,237.00 not accounting for future annual contributions from taxation, and earned interest.

NOW THEREFORE the Council of Westbank First Nation hereby enacts the following Local Revenue Law:

1. The Westbank First Nation Council hereby authorizes the expenditure of the Project Funds for the Tsinstikeptum Indian reserve No. 10 Westside Road Deep Utilities Water and Sewer Project.
2. This Local Revenue Law comes into full force and effect upon enactment in accordance with section 63.3(a) of the Westbank First Nation Constitution;

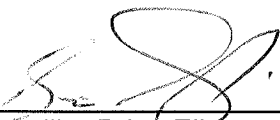
BE IT HEREBY RESOLVED AND AGREED that this Law, entitled "*Westbank First Nation Local Revenue Law 09-LRL-02*" is hereby:


Read a first time by the Council of Westbank First Nation at a duly convened meeting held on the 2nd day of November, 2009.

Exempt from a second reading pursuant to section 60.9 of the Westbank First Nation Constitution.

Read a third time, and enacted as a Westbank Law, by Council of the Westbank First Nation at a duly convened meeting held on the 16th day of November, 2009.


Chief Robert Louie


Councillor Brian Eli


Councillor Michael De Guevara


Councillor Loretta Swite


Councillor Larry Derrickson



WESTBANK FIRST NATION

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WESTBANK FIRST NATION Council Meeting

Date: Monday, November 16, 2009
Time: 8:30 AM
Location: Board Room, Lindley Building
#310-515 Hwy. 97 South

AT THIS MEETING, THE FINAL DRAFT OF THE LOCAL REVENUE LAW 09-LRL-02 WILL BE READ AND CONSIDERED FOR ENACTMENT.

SUMMARY OF THE LOCAL REVENUE LAW 09-LRL-02

Under *Westbank First Nation Expenditure Law 1995*; in accordance with section 12(1) (3) (m) of the Westbank First Nation Property Taxation Bylaw 95-TX-08, an annual contribution of ten percent (10%) of the annual gross taxes to an income contingency fund to be used as designated by Chief and Council from time to time for extraordinary expenditures authorized under section 12(3) (a) through (k) of this bylaw. (The “**Contingency Fund**”).

Under *Local Revenue Law 09-LRL-02*, WFN will be empowered to expend Contingency Funds up to \$2,315,000.00 to fund the deep utilities which are to be constructed in conjunction with the building of the Westside Road Interchange (the “**Westside Road Deep Utilities Water and Sewer Project**”). The purpose of the IR No. 10 Westside Road Deep Utilities Water and Sewer Project is to support future residential and commercial development.

First reading of the draft *Law 09-LRL-02* was given by Council November 02, 2009, third and final reading will be given on November 16, 2009. A Local Revenue Law is exempted from second reading by section 60.9 of the *WFN Constitution*.

A COPY OF THE FINAL DRAFT LAW CAN BE OBTAINED IN THE DEPARTMENT OF TAXATION AT WFN ADMINISTRATION OFFICE AT 515 HWY 97 SOUTH, WESTBANK, BC.