



FRONT ENDING OR COST SHARING AGREEMENTS

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Front Ending or Cost Sharing Agreements

- ▶ A front ending or cost sharing agreement is an agreement between a municipality and any one or all owner(s) within an area whereby certain development costs such as roads, municipal services, infrastructure, even intersection work or other similar work (the “Work Costs”) will be shared by a developer(s) and the municipality.

When Are These Agreements Appropriate?

- ▶ These agreements are often used in areas where future development is anticipated and there will be an increased need for the works in the near future.
- ▶ The Front Ending or Cost Sharing Agreement is entered into with the intention that certain persons (who are not necessarily parties to the agreement) will in the future develop land within the area of the works and will reimburse the municipality for the Work Costs.

Future Contributions

- ▶ Present contributors to the Work Costs are parties to the Cost Sharing or Front Ending Agreement. Future contributors to the Work Costs are not normally parties to these agreements.

However, the municipality covers the incremental Work Costs to facilitate future development and assessment growth.



Why Enter Into These Agreements?

- ▶ Efficiencies (Work Costs will be less overall if the infrastructure is completed in one fell swoop)
- ▶ Provides nearby landowners with an easier path to develop their lands, thereby facilitating development and assessment growth
- ▶ Less Disruption due to construction



Forms Of These Agreements

- ▶ Developer Lead Agreements
- ▶ Municipal Lead Agreements



Developer Lead Agreements

- ▶ Developer awards contract, manages the project and either serves as the general contractor or manages the project
- ▶ Municipality writes the cheque for its share of the Work Costs
- ▶ Developer builds more works or services than they require for their specific development, thereby facilitating future development for nearby landowners

Risks of Developer Lead Agreements

- ▶ Developer default
- ▶ Possible liens on municipal property
- ▶ Lack of municipal control and oversight
- ▶ Project is not completed with the public interest in mind
- ▶ Future development in the affected area does not happen and municipality's share of the Work Costs does not result in assessment growth

Benefits Of Developer Lead Agreements

- ▶ Less staff time and effort by the municipality.
- ▶ As a general rule, we do not recommend developer controlled front ending agreements unless you are dealing with a developer who has a very long track record of success.



Municipal Lead Agreements

- ▶ Municipality is the lead on the project, manages the project and awards the contract
- ▶ Developer remits its share of the Work Costs, often up front or secured by an Letter of Credit



Benefits Of Municipal Lead Agreements

- ▶ Less chance of problems with the Project relating to financial problems
- ▶ Public interest is considered when completing the Project
- ▶ Little to no chance of liens on municipal property



Risks of Municipal Lead Agreements

- ▶ Developer defaults in payment of share (can be managed with a well-drafted Agreement)
- ▶ Future development does not happen and municipal payment of Work Costs does not result in assessment growth
- ▶ Municipality directly liable for all Work Costs of project

How Are Costs Allocated In Front Ending and Cost Sharing Agreements?

- ▶ Flows (actual or allocated) are sometimes used as the criteria for sewage infrastructure
- ▶ Developer responsible for the Work Costs required to service their development and municipality covers the incremental cost of oversizing or improving the infrastructure
- ▶ Work Cost allocations are a matter of negotiation

What Payment Arrangements Are Made for Front Ending and Cost Sharing Agreements?

- ▶ For Municipal Lead Agreements, the other parties normally pay their share of the Work Costs up front or provide security for payment in the form of a Letter of Credit.
- ▶ For Developer Lead Agreements, normally the municipality provides a covenant to remit its share of the payments.
- ▶ Normally, the Work Costs are allocated proportionately and cost overruns are shared accordingly

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QUESTIONS

