

TOWN OF STONY PLAIN

Development Agreement

for

[DEVELOPMENT] [STAGE X – if applicable]

between

TOWN OF STONY PLAIN

and

[INSERT DEVELOPER]

MEMORANDUM OF AGREEMENT made this _____ day of _____, 20____

Subdivision/Development Permit Application: _____

Engineering Drawings: _____

Development Agreement: _____

Town of Stony Plain

4905 51 Avenue

Stony Plain, Alberta T7Z 1Y1

Phone: (780) 963-2151

Attention: Chief Administrative Officer

[INSERT DEVELOPER'S INFO]

Phone: (____) ____-____

Attention:

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[UPDATE TOC after making revisions]

This Agreement is effective as of the date noted on the attached cover page.

THE TOWN OF STONY PLAIN
("the Municipality")

OF THE FIRST PART

- and -

INSERT DEVELOPER
("the Developer")

OF THE SECOND PART

WHEREAS:

- A. The Developer is, or is entitled to become, the registered owner of part or all of those lands situated in the Municipality as described in Schedule "A" attached to this Agreement.
- B. The Developer proposes to subdivide or develop part or all of the lands as shown on the Development Area attached as Schedule "B" to this Agreement.
- C. The Municipality and the Developer are agreeable to the Developer completing or contributing to the Local Improvements required throughout and adjacent to the Development Area, in accordance with the provisions of this Agreement, with the Developer solely bearing the costs of the Local Improvements.
- D. The Municipality and the Developer have agreed to enter into this Agreement to ensure adequate and timely provision of required services within and adjacent to the Development Area.
- E. Upon satisfactory completion of the construction and installation of the Local Improvements and the issuance of the Construction Completion Certificates by the Municipality, the Local Improvements located upon or under Public Lands shall become the property of the Municipality.
- F. Notwithstanding the ownership of the Local Improvements, the Developer has agreed to maintain the Local Improvements, at its sole cost and expense, for the duration of the Warranty Period.
- G. The Municipality and the Developer have agreed that the said construction and installation of the Local Improvements and all matters and things incidental thereto and all other matters or things relating to the development of the Development Area, shall be subject to the terms, conditions and covenants contained within this Agreement.

NOW THEREFORE the Municipality and the Developer agrees as follows:

1. INTERPRETATION

- 1.1 "Act" shall mean the *Municipal Government Act* RSA 2000 Chapter M-26, as amended from time to time.
- 1.2 "CAO" or "Chief Administrative Officer" shall mean that individual employed by the Municipality as Chief Administrative Officer or the person acting as Chief Administrative Officer for the purposes of this Agreement.
- 1.3 "Construction Completion Certificate" shall mean a certificate issued by the Municipality, as contemplated in Section 10, certifying the completion of the Local Improvements, or a portion thereof, once the Local Improvements have been constructed and installed by the Developer to the satisfaction of the Municipality in accordance with this Agreement.

- 1.4 “Commencement of Construction” or “Commence Construction” shall mean the date upon which the Developer commences the actual grading of the Development Area for the purposes of developing the Development Area, or such other date as may be agreed upon in writing by the Municipality and the Developer; provided, that commencement of grading shall not include the placement of machinery or equipment within the Development Area nor any work preparatory to grading such as the removal of any buildings, materials or things whatsoever within or under the Development Area.
- 1.5 “Construction Debris” means any building materials, mud, concrete spillage, dust, dirt, garbage, excessive weeds or any other materials that are unsightly or cause an annoyance to property owners within or adjacent to the Development Area.
- 1.6 “Council” shall mean the duly elected Council of the Municipality.
- 1.7 “Design Standards” shall mean the procedures, standards, and specifications which are specified and set forth in the Municipal Development Standards, which have been adopted by the Municipality and such other engineering design and construction standards which may be established and revised from time to time by the Municipality’s engineer and namely that version in place when the Engineering Drawings were approved for the Development Area, provided that the Municipality and the Developer may only vary or change any of the procedures, standards or specifications set forth in the Design Standards in accordance with the Municipal Development Standards.
- 1.8 “Developer’s Consultant” shall mean the consulting professionals retained by the Developer and shall include, but not be limited to professional engineers, landscape architects, land use planners, and land surveyors.
- 1.9 “Development” shall mean that portion of the Lands to be subdivided in accordance with the subdivision approval or developed in accordance with the development permit approval obtained by the Developer as identified on the Development Area.
- 1.10 “Development Area” shall mean that portion of the Lands and any adjacent Public Lands as outlined in heavy black or bold, or otherwise delineated, on the map attached hereto as Schedule “B” to this Agreement.
- 1.11 “Development Charges” shall mean any costs due and owing by the Developer for any applicable off-site levies, oversizing costs, or contributions as set out in this Agreement.
- 1.12 “Development Permit” shall mean the permit issued by the Municipality that authorizes development upon the Lands as noted on the cover page to this Agreement.
- 1.13 “Engineering Drawings” shall mean detailed drawings, plans and specifications prepared by the Developer or the Developer’s Consultant covering the design, construction, location and installation of all Local Improvements, which drawings shall conform to the Design Standards, except for any relaxations or variations specifically approved by the Municipality. Further, and such drawings shall include a construction management plan, which shall delineate to the Municipality’s satisfaction, the procedures and actions for the overall implementation and coordination of activities for the construction and installation of Local Improvements.
- 1.14 “Essential Services” shall mean:
- (a) those Local Improvements described in Sections (a), (b), (c), (d), (e), (f), (g), (i) and (k) of Schedule “C” of this Agreement; and
 - (b) natural gas, electrical power, including street lights, and telecommunication services.
- 1.15 “Final Acceptance Certificate” shall mean a certificate indicating the expiration of the Warranty Period and the acceptance of the Local Improvements as contemplated in Section 10, issued by the Municipality for the Local Improvements, or a portion thereof.
- 1.16 “Hazardous Substance” shall mean any hazardous substance or material and includes, but is not limited to, radiation, petroleum products and byproducts, industrial wastes, contaminants, pollutants, dangerous substances, and toxic

substances, as defined in or pursuant to any law, ordinance, rule, regulation, by-law or code, whether federal, provincial or municipal.

- 1.17 "Lands" means those lands legally described in Schedule "A" to this Agreement.
- 1.18 "Landscaping" shall mean the approved landscaping plan which includes, but is not limited to, the modification or enhancement of a site by means of the:
- (a) growing or planting of any type of vegetation whatsoever;
 - (b) installation, construction or placement of inanimate materials such as brick, stone, concrete, tile and wood (excluding monolithic concrete and asphalt); and
 - (c) alteration of any grades or elevations of the surface of the site which is not done solely for purposes of drainage control.
- 1.19 "Local Improvements" shall mean and include, within and adjacent to the Development Area, those services and facilities identified in Schedule "C" to this Agreement.
- 1.20 "Municipality" shall mean the municipal corporation executing this Agreement as the development or subdivision authority, and the Municipality shall be represented by the Municipality's Chief Administrative Officer or as otherwise designated by the Municipality.
- 1.21 "Parties" shall mean the Municipality and the Developer.
- 1.22 "Plan of Subdivision" or "Plans of Subdivision" shall mean the subdivision or subdivisions which subdivide the Development Area into separate lots for further development.
- 1.23 "Prime Rate" shall mean the prime lending rate established from time to time by the Bank of Canada.
- 1.24 "Public Land" or "Public Lands" shall include all lands within and adjacent to the Development Area that are owned or administered by, or following the registration of the Plan or Plans of Subdivision for the Development Area are to be owned or administered by, the Municipality, including road rights of way, utility rights-of-way, or easements.
- 1.25 "Residential Sale Centre" shall mean a permanent or temporary building or structure for the display, marketing and selling of residential lands or buildings, which includes show homes, as approved pursuant to a development permit issued by the Municipality.
- 1.26 "Subdivision" shall mean the subdivision approval for the Lands as noted on the cover page of this Agreement.
- 1.27 "Tangible Capital Assets" shall mean non-financial assets that are managed by the Municipality and which have physical substance that are held for the production or supply of goods or services, for rental to others, for administrative purposes or for development, construction, maintenance or repair of other tangible capital assets, have useful economic lives extending beyond an accounting period, are used on a continuing basis, and are not for sale in the ordinary course of operations. Tangible Capital Assets include all Local Improvements that are transferred to the Municipality in accordance with this Agreement.
- 1.28 "Warranty Period" with respect to the Local Improvements, subject to this Agreement, shall mean a period of at least two (2) years for all Local Improvements.

2. PLAN OF SUBDIVISION

- 2.1 The Municipality agrees that, subject to the other requirements of this Agreement, the Developer may proceed with the development of the Development Area prior to registering a Plan of Subdivision for the Development Area, subject to Section 2.2(a) of this Agreement.

- 2.2 When a Plan of Subdivision is contemplated as part of the development of the Development Area:
- (a) the Developer covenants and agrees that it shall register in the Land Titles Office a Plan of Subdivision for the Development Area within twenty four (24) months of the date of this Agreement (subject to the Developer having obtained an extension from the Municipality to register the Plan of Subdivision) or longer should the Developer obtain a longer extension from the Municipality in writing in which case the Plan of Subdivision must be registered in the Land Titles Office prior to the agreed upon extended date;
 - (b) if the Developer does not register a Plan of Subdivision within the time prescribed in Subsection (a) above, the Municipality shall be entitled to terminate this Agreement;
 - (c) the termination of this Agreement in whole or in part as provided in Subsection (b) above shall be effective upon the Municipality serving written notice of termination on the Developer; and
 - (d) if the Municipality terminates this Agreement in whole or in part pursuant to the provisions of this Section 2.2, the Developer understands and agrees that any financial obligations of the Developer to the Municipality shall survive and the Municipality shall be entitled to enforce such financial obligations as if this Agreement remained in full force and effect.
- 2.3 The Developer covenants and agrees that it shall comply fully with all conditions of any subdivision approval that may be imposed by the subdivision authority (or if the subdivision authority's decision is appealed, the final decision upon appeal).
- 2.4 No Plan of Subdivision shall either be endorsed by the Municipality or permitted to be registered, unless and until the Municipality, in its sole discretion, has:
- (a) passed any new statutory plans or amendments to any existing statutory plans that the Municipality deems appropriate;
 - (b) passed amendments to the Municipality's Land Use Bylaw, including the appropriate districting for the Development Area, relating to the regulations applicable to the development within the Development Area that the Municipality deems appropriate. For the sake of clarity, it is expressly acknowledged and understood that nothing within this Agreement constitutes an express or implied promise the Municipality will or will not pass any amendment to the Municipality's Land Use Bylaw;
 - (c) received, from the Developer, all necessary approvals from all other orders of government respecting the proposed subdivision or development, the Local Improvements, or the Engineering Drawings, as may be required;
 - (d) received confirmation of, or otherwise confirmed, the satisfaction of all conditions contained within any applicable subdivision approval or development permit, including but not limited to the payment of all Development Charges as well as any and all fees required pursuant to the approval and inspection fees in accordance with the fees and charges established by bylaw or as otherwise required by this Agreement;
 - (e) received all items required to be delivered to the Municipality pursuant to the terms of this Agreement including, without restriction, those items outlined within the subdivision and development process and checklist contained within Schedule "H" attached to this Agreement as well as the insurance and security requirements pursuant to Section 23; and
 - (f) confirmed that registered ownership of the lands comprising the Development Area is satisfactory to the Municipality, including, without restriction, confirmation that the registered owner is the Developer.
- 2.5 In the event that a Plan of Subdivision for the Development Area has been registered by the Developer, and the Developer fails to proceed with the construction and installation of the Local Improvements for the Development Area within the time limits specified, the Developer shall, within thirty (30) days of receiving written notice from the Municipality to do so, apply for the cancellation of the registration of the said Plan of Subdivision. The Developer shall have obtained the

cancellation of the registration of the Plan of Subdivision within ninety (90) days of the Municipality providing written notice to the Developer as specified in this Section.

2.6 When a Plan of Subdivision is contemplated as part of the development of the Development Area, it is understood and agreed to by the Parties that the Developer shall not construct buildings or structures, or apply for any development or building permits to construct buildings or structures within the Development Area prior to the issuance of Construction Completion Certificates for the underground and surface Local Improvements and registration of a Plan of Subdivision for the Development Area, unless the applied for development or building permit relates to the construction of buildings or structures specified in the Engineering Drawings as approved by the Municipality, or is for a residential sales centre to be located in the Development Area provided that:

- (a) water service is operational (for fire protection) and all-weather roads are constructed (for emergency access) prior to issuance of any development or building permits; and
- (b) all Essential Services have been installed and rendered operative in any part of the Development Area before any buildings or structures are occupied, except as otherwise permitted in writing by the Municipality.

Notwithstanding the foregoing, this shall in no way oblige the Municipality to issue permits or approve occupancy earlier than provided in the regulations and bylaws of the Municipality nor is the Municipality obliged to approve the aforementioned applied for development or building permits. The caveat pursuant to Section 26.6 shall remain against any portion of the Development Area where a permit is issued for a residential sales centre until the residential sales centre is removed or approved by the Municipality for a change of use in accordance with any and all required approvals and permits for such removal or change of use.

3. DEVELOPMENT PERMIT

3.1 The Developer shall fully comply with the Development Permit including all conditions of the Development Permit as per its notice of decision (or if the development authority's decision is appealed, the final decision upon appeal).

3.2 Where a development permit is issued for a residential sales centre, the Developer acknowledges that construction of a residential sales centre will be at their sole cost, expense, and risk and agrees as follows:

- (a) no more than four (4) residential sales centres may be applied for and constructed within the Lands;
- (b) prior to the commencement of any excavation work for a residential sales centre, the Developer shall:
 - (i) have a qualified Alberta land surveyor survey and stake the existing or future lot on which a residential sales centre is to be located by installing stakes to mark the actual or proposed corners of the lot;
 - (ii) ensure that water service is operational (for fire protection) and all-weather roads are constructed (for emergency access) to where the residential sales centre is to be located;
 - (iii) erect and maintain a sign where the residential sales centre is to be located that displays the address of the building or site in accordance with the Land Use Bylaw; and
 - (iv) provide additional security to the Municipality for each residential sales centre in the amount of TWENTY THOUSAND (\$20,000.00) DOLLARS for each approved residential sales centre in accordance with Sections 23.6, 23.7, and 23.8 which security will be held until the residential sales centre is removed or approved by the Municipality for a change of use in accordance with the Land Use Bylaw and any and all required approvals and permits for such removal or change of use;
- (c) prior to occupying or opening a residential sales centre, the Developer shall ensure:
 - (i) all Essential Services have been installed and rendered operative to the residential sales centre; and

- (ii) a water meter is installed and that there is a utility account opened for the residential sales centre;
- (d) for the duration of the period when a residential sales centre is open, the Developer is responsible at its sole cost and expense for the maintenance of the access to the residential sales centre which includes, but is not limited to, the removal of snow and ice to the satisfaction of the Municipality; and
- (e) that a residential sales centre shall not be sold to a third party or occupied for residential purposes until the residential sales centre is approved by the Municipality for a change of use in accordance with the Land Use Bylaw.

4. ENGINEERING DRAWINGS

- 4.1 The Developer covenants and agrees that the Engineering Drawings for the construction and installation of the Local Improvements for the Development Area shall conform strictly to the Design Standards.
- 4.2 Subject to the terms of this Agreement, it is understood and agreed to by the Parties that the Developer must construct the Local Improvements in accordance with the Engineering Drawings as approved by the Municipality.
- 4.3 It is understood and agreed that the Municipality's approval of the Engineering Drawings for the Local Improvements shall be in principle only and, in the case of unforeseen conditions which may adversely affect development, or in the case where a Local Improvement to be built in accordance with the Engineering Drawings would not be suitable for the purposes intended, the detailed design specifications for any of the Local Improvements shall be subject to review and revision, from time to time, by the Municipality in accordance with the Design Standards and in accordance with accepted engineering and construction practices.

5. CONSTRUCTION AND INSTALLATION OF LOCAL IMPROVEMENTS

- 5.1 Except as otherwise specified in the approved construction timetable, the Developer shall Commence Construction and installation of the Local Improvements within twelve (12) months of the date of this Development Agreement and shall complete the construction and installation of the Local Improvements, at the Developer's sole cost and expense, within twenty-four (24) months of the date of this Development Agreement.
- 5.2 The Developer warrants to the Municipality that all of the Local Improvements shall be constructed and installed, at the Developer's sole cost and expense, in a good and workmanlike manner and in strict conformance with the Engineering Drawings and proper and accepted engineering and construction practices, in accordance with the terms of this Agreement, the Design Standards, and with the requirements of any laws applicable to the work.
- 5.3 The Developer agrees that if there has been no Commencement of Construction of the Local Improvements by the Developer within the time limits specified in Section 5.1 and the Parties have not agreed upon an extension, which extension must have been agreed to in writing by both Parties, the Municipality shall be entitled, at its sole option, to terminate this Agreement.
- 5.4 The Developer further agrees that:
 - (a) the termination of this Agreement in whole or in part shall be effective upon the Municipality serving written notice of termination on the Developer;
 - (b) in the event this Agreement is terminated in whole or in part, the Developer shall not be entitled to Commence Construction of the Local Improvements for the Development Area unless and until a further written agreement is entered into between the Developer and the Municipality; and
 - (c) such termination shall be without prejudice to any and all other obligations then due, outstanding and owed by the Developer to the Municipality in relation to the Lands or their development (including, without restriction, the

security provisions contained within this Agreement), which shall remain in full force and effect until satisfied in full.

- 5.5 In the event that it is necessary or reasonable, in the sole discretion of the Municipality, to construct, install or maintain any temporary or emergency access during the construction and installation of the Local Improvements, the Developer shall construct, install and maintain any such temporary or emergency accesses in accordance to the relevant specifications and in such locations, as determined by the Municipality, and the Developer shall grant to the Municipality an easement, in a form acceptable to the Municipality, across the required land for the period for which the access is required. Any such access shall be constructed to an all-weather standard.
- 5.6 The Developer covenants and agrees that, prior to the public having access to and within the Development Area, it will complete the installation of all traffic control signs, street lights, street identification signs, development identification signs and any temporary signage as required by the Municipality to the Municipality's satisfaction.
- 5.7 At all times during the construction and installation of the Local Improvements and during all work by the Developer or its agents related thereto:
- (a) The Municipality shall have free and immediate access to all records of or available to the Developer and the Developer's Consultant relating to the performance of the work, including but not limited to all design, inspection, material testing and records drawings.
 - (b) The Municipality may in its sole discretion:
 - (i) inspect any performance of the work that the Municipality may deem necessary and advisable to ensure the full and proper compliance by the Developer with the Developer's undertakings to the Municipality and to ensure the proper performance of the work;
 - (ii) reject any design, material or work which is not in accordance with the Design Standards, Engineering Drawings or any accepted engineering and construction practices;
 - (iii) order that any unsatisfactory work be re-executed at the Developer's sole cost;
 - (iv) order the re-execution of any unsatisfactory design and the replacement of any unsatisfactory material, at the Developer's sole cost;
 - (v) order the Developer, within a reasonable time, to obtain any additional labour, machinery or equipment, at the Developer's sole cost and expense, as the Municipality deems necessary to the proper performance of the work;
 - (vi) order that the performance of the work or part thereof be stopped until the said orders can be obeyed; and
 - (vii) order the testing of any materials to be incorporated in the work and the testing of any Local Improvements;

The Developer, at its sole cost and expense, shall comply with said orders and requirements of the Municipality. In the event the Developer takes issue with any such order or requirement the Developer shall request, in writing, that such issue be arbitrated in accordance with the provisions of Section 22 of this Agreement. The Developer understands and agrees that the affected work, except as otherwise agreed to by the Municipality in writing, shall stop until such arbitration has taken place. Notwithstanding the preceding sentences, the Developer understands and agrees that in no event shall the Developer be entitled to dispute nor arbitrate any decision made by the Municipality pursuant to Sections (b)(v), (b)(vi) or (b)(vii) above.

- 5.8 Notwithstanding anything expressed or implied in the preceding Section, the Municipality and the Developer agree that:

- (a) the Municipality shall have no obligation or duty to exercise any of the Municipality's powers of inspection nor any obligation or duty to discover or advise the Developer of any deficiencies in construction or workmanship during the course of the construction and installation of the Local Improvements, this however does not limit the Municipality from being able to advise the Developer of any such deficiencies;
 - (b) the Developer shall during the course of the construction and installation of the Local Improvements, provide and maintain adequate inspection services, supervised by a professional engineer who is a member in good standing of the Association of Professional Engineers and Geoscientists of Alberta; and
 - (c) nothing set forth in the preceding Section shall in any way be construed to relieve the Developer of any responsibilities set forth in this Agreement, and without restricting the generality of this Agreement, the Developer shall fulfill all responsibilities in respect to the design, construction, installation and maintenance of the Local Improvements as required by the terms of this Agreement.
- 5.9 The Developer covenants and agrees that during the construction and installation of the Local Improvements and during the Warranty Period for the Local Improvements, it is solely responsible to pay all contractors and other parties hired by the Developer to fulfill the Developer's obligations under this Agreement and the failure of the Developer to pay any such contractors or other parties shall constitute a breach of this Agreement by the Developer unless there is a bona fide dispute between the Developer and the contractor or other party. The Municipality has no obligation or responsibility to pay any monies owing to contractors or any other parties hired by the Developer.
- 5.10 The Developer covenants and agrees that it is solely responsible for dust and dirt control within or adjacent to the Development Area whether dust and dirt is resulting from work done by its contractors or itself and that it shall take effective measures to control dust and dirt in and around the Development Area, including, but not limited to on any soil stockpile site, so that dust and dirt originating from the Development Area shall not cause annoyance or become a nuisance to property owners and others within or adjacent to the Development Area.
- 5.11 In the event the Municipality deems there are dust or dirt problems, the Municipality shall attempt to notify the Developer or the Developer's Consultant of the problem in writing or by telephone in accordance with the notice provision of Section 26.4 of this Agreement. The Developer shall rectify the problem within seventy-two (72) hours of the notice by taking effective measures to control the dust or dirt problem. The seventy-two (72) hours' notice may be waived or shortened by the Municipality:
- (a) in an emergency (as determined by the Municipality);
 - (b) if the Municipality is not able to contact the Developer or its Consultant; or
 - (c) if the Developer, by its conduct or statements, leaves the Municipality with the impression that it will not perform the necessary work within the required time frame.
- 5.12 The Developer understands and agrees that the Municipality may take effective measures to control the dust and dirt problem after expiry of the notification period, or if the notice is waived or reduced. Any such measures undertaken pursuant to this Section shall be at the expense of the Developer and the Municipality shall notify the Developer within seventy-two (72) hours of the action taken by the Municipality.
- 5.13 Upon the completion of the construction and installation of the Local Improvements and prior to the issuance of Construction Completion Certificates for same, the Developer's Consultant shall submit to the Municipality a statement under their professional seal certifying that it has provided adequate periodic inspection services during the course of the work and that it is satisfied that the work has been completed in a good and workmanlike manner in accordance with the Engineering Drawings, Design Standards, and with any accepted engineering and construction practices.
- 5.14 In addition to whatever other testing requirements may be imposed upon the Developer by the Municipality, the Developer shall undertake camera video inspection of all storm and sanitary sewer lines and shall provide the video and corresponding report to the Municipality prior to the issuance of the Construction Completion Certificate of such lines. Further, the Developer covenants and agrees that prior to the issuance of the Final Acceptance Certificate for all storm and sanitary

sewer lines, the Developer shall undertake camera video inspection of all storm and sanitary sewer lines and shall provide the video and corresponding reports to the Municipality.

- 5.15 The Developer acknowledges that the street light standards currently installed in proximity to the Development are property of the Municipality or a private utility company and shall be protected during construction of the Local Improvements by such means as shall be practical, including removal and temporary storage of the street lights, where required, to ensure that no damage occurs. Any damage which occurs shall be repaired by the Developer at its sole cost and expense.
- 5.16 It is understood and agreed to by the Parties that during the course of constructing and installing the Local Improvements, the re-execution or replacement of unsatisfactory work which is of a minor nature, as determined by the Municipality in its sole discretion, that does not pose a health or safety danger, may be re-executed or replaced by the Developer at any time prior to the request by the Developer for a Construction Completion Certificate for the Local Improvements in question.
- 5.17 The Developer covenants and agrees that it is solely responsible for garbage control in and around the Development Area whether the garbage is resulting from work done by its contractors or itself and that it shall take effective measures to control garbage in and around the Development Area including, but without limiting the generality of the foregoing, any building and Landscaping so that garbage originating from the Development Area shall not cause annoyance or become a nuisance to property owners and others within or adjacent to the Development Area. The Developer shall at its own expense provide dumpsters or such other containers suitable for the collection and containment of garbage within the Development Area.
- 5.18 In the event the Municipality deems there are garbage control problems, the Municipality shall attempt to notify the Developer or the Developer's Consultant of the problem in writing or by telephone in accordance with the notice provision of Section 26.4 of this Agreement. The Developer shall rectify the problem within seventy-two (72) hours of the notice by taking effective measures to control the garbage problem. The seventy-two (72) hours' notice may be waived or shortened by the Municipality in its sole discretion:
- (a) in an emergency (as deemed by the Municipality);
 - (b) if the Municipality is not able to contact the Developer or its Consultant; or
 - (c) if the Developer, by its conduct or statements, leaves the Municipality with the impression that it will not perform the necessary work within the required time frame.
- 5.19 The Developer understands and agrees that the Municipality may take effective measures to control the garbage problem after expiry of the notification period, or if the notice is waived or reduced. Any such measures undertaken pursuant to this Section shall be at the expense of the Developer and the Municipality shall notify the Developer within seventy-two (72) hours of the action taken by the Municipality.

6. USE OF PUBLIC LANDS IN THE PERFORMANCE OF THE WORK

- 6.1 The Municipality hereby grants to the Developer the right, permission and power to use, break-up, dig, trench, or excavate in the public highways, streets, roads, lanes, boulevards, parks and similar Public Lands under the control of the Municipality, within or adjacent to the Development Area, and otherwise to do such work as may be necessary from time to time to construct, develop, erect, lay, operate, maintain, repair, extend, relay and remove any Local Improvements forming part of the work of the Developer, as may be necessary for the purpose of this Agreement provided that:
- (a) not less than twenty-one (21) days prior to the date that the Developer intends to enter upon any Public Lands (except in the case of emergency repair work) the Developer will submit to the Municipality detailed written proposals, for approval by the Municipality, for the work to be done within any such lands, as required pursuant to the Engineering Drawings which may include:
 - (i) a specific work schedule and the procedures proposed to be followed;
 - (ii) provisions to be implemented for temporary access and services;

- (iii) installation of temporary traffic control devices and personnel deployment to minimize traffic disruption;
 - (iv) form and schedule of notification and public relation strategy to be utilized, and
 - (v) in the event the Municipality deems it necessary, plans indicating the drainage and contouring and the proposed grades of the boulevards and other Public Lands that will be graded during construction;
- (b) no such work shall be commenced prior to the Developer obtaining the written consent of the Municipality to enter upon such Public Lands which consent shall not be unreasonably delayed or withheld;
 - (c) the work within Public Lands by the Developer and its agents, contractors and subcontractors shall be subject to the inspection rights of the Municipality as set forth in this Agreement and all directions and requirements of the Municipality shall be obeyed;
 - (d) the Developer shall do as little damage as possible in the performance of such work, and will cause as little obstruction to such Public Lands as possible;
 - (e) upon completion of such work the Developer will restore all such Public Lands to a condition and state of repair equivalent to that which prevailed prior to the performance of such work, including, where necessary, the re-planting or replacement of trees and shrubs, and shall maintain such restored portions of such Public Lands, including such replaced or re-planted trees and shrubs;
 - (f) the restoration of Public Lands shall be part of the Local Improvements to be constructed and installed by the Developer and the Developer shall be required to obtain Construction Completion Certificates and Final Acceptance Certificates for the restoration work which, pursuant to the terms of this Agreement, includes a two-year warranty period; and
 - (g) in the event of emergency repair work, the Developer shall notify the Municipality in writing as soon as possible, and in any event within and no later than Twenty-four (24) hours of such work being commenced.

7. INSTALLATION OF OTHER UTILITIES

- 7.1 The Developer shall, at its sole cost and expense and therefore at no cost to the Municipality whatsoever, arrange for and ensure the installation, to the Municipality's satisfaction, of electric power including street lights, natural gas and telecommunications to the Development Area and within the streets adjoining the lots to be created in the Development Area.
- 7.2 The said electric power including street lights, natural gas and telecommunications within the Development Area shall be installed within the roadways, utility lots or easement areas, in accordance with the Engineering Drawings, adjacent to the lots that are intended to be served by such services and shall be installed in a manner and in locations which will allow lot owners within the Development Area to hook up to such services upon paying the normal hook-up fees charged by utility providers.

8. CONTRACTS FOR INSTALLATION OF THE LOCAL IMPROVEMENTS

- 8.1 Notwithstanding anything contained in this Section, the Developer acknowledges, understands and agrees that the Developer shall be fully responsible to the Municipality for the performance of all the Developer's obligations as set forth in this Agreement. The Developer further acknowledges, understands and agrees that the Municipality shall not be obligated in any circumstances whatsoever to commence or prosecute any claim, demand, action or remedy whatsoever against any person with whom the Developer may contract for the performance of the Developer's obligations.

9. COMPLIANCE WITH ALL ENGINEERING DRAWINGS AND SPECIFICATIONS

- 9.1 The Developer shall, at all times during the construction and installation of the Local Improvements comply fully with all terms, conditions, provisions, covenants and details as may be set out in the Engineering Drawings, as approved by the Municipality, and such terms and conditions as may otherwise be required pursuant to this Agreement or as agreed upon in writing between the Municipality and the Developer.
- 9.2 The provisions of this Agreement shall be in addition to and not in substitution for any law, whether Federal, Provincial or Municipal, prescribing requirements relating to construction standards nor does this Agreement grant any development or subdivision or building permit or occupancy approvals. Prior to Commencing Construction and installation of the Local Improvements, the Developer shall provide proof that all applicable Federal and Provincial approvals have been obtained.

10. ACCEPTANCE OF LOCAL IMPROVEMENTS

Construction Completion Certificate

- 10.1 For purposes of this Section, the Municipality and the Developer agree that no Local Improvement shall be considered complete and a Construction Completion Certificate will not be issued unless and until:
- (a) the Local Improvement has been fully constructed and installed in accordance with the approved Engineering Drawings;
 - (b) the Local Improvement has been constructed and installed in accordance with the Design Standards and accepted engineering and constructed practices;
 - (c) all testing has been completed and the results approved by the Municipality;
 - (d) all easements, utility rights-of-way and restrictive covenants have been prepared and approved in a form acceptable to the Municipality;
 - (e) all Public Lands which have been disturbed or damaged have been fully restored by the Developer to the satisfaction of the Municipality;
 - (f) the Local Improvements are, in the sole discretion of the Municipality, suitable for the intended purpose;
 - (g) the Developer has provided the Municipality with any applicable operation plans, operation manuals or maintenance manuals, for any Local Improvements that have special operation or maintenance requirements; and
 - (h) the Developer has provided the Municipality with the actual costs and sufficient supporting documentation of all Local Improvements located on, in, or under Public Lands (including utility rights-of-way and easements) in order that the Municipality is able to meet its accounting and reporting requirements for the acquisition of Tangible Capital Assets. Sufficiency of the actual costs and supporting documentation and information shall be determined by the Municipality and its auditors.
- 10.2 When the Developer claims that the Local Improvements for the Development Area have been constructed and installed in accordance with the requirements of this Agreement, the Developer shall give notice in writing of such claimed completion to the Municipality and shall request an inspection of same.
- 10.3 Within thirty (30) days of the receipt of the written notice and request for inspection pursuant to Section 10.2, the Municipality shall undertake an inspection of the Local Improvements with the Developer and Developer's Consultant and the Municipality shall notify the Developer in writing of its acceptance, by the issuance of a Construction Completion Certificate, or rejection of the Local Improvements with a list of any identified deficiencies which list shall be prepared by the Developer and the Developer's Consultant during the inspection.

- 10.4 Notwithstanding the preceding Section, the Municipality may give notice to the Developer of the Municipality's inability to conduct an inspection within the said thirty (30) days due to adverse site or weather conditions, and in such an event the time limit for such an inspection shall be extended for an additional thirty (30) days following the end of such adverse site or weather conditions.
- 10.5 In the event that any inspection contemplated in Sections 10.3 or 10.4 reveals any deficiencies in relation to a particular Local Improvement, the Municipality may refuse to issue a Construction Completion Certificate for that Local Improvement and require the Developer to repair or replace the whole or any portion of any such Local Improvements. Upon completion of the repairs or replacement required to correct any such deficiencies, the Developer may request a further inspection and issuance of a Construction Completion Certificate.
- 10.6 In the event that any inspection contemplated in Sections 10.3, 10.4 or 10.5 reveals that there are no deficiencies in relation to the Local Improvements, the Municipality shall issue a Construction Completion Certificate for the Local Improvements.
- 10.7 The Warranty Period commences upon the issuance of the Construction Completion Certificate for the relevant Local Improvements.
- 10.8 Following the issuance of a Construction Completion Certificate for the Local Improvements, the Municipality agrees that it shall assume the normal operation and maintenance (excluding repairs or matters arising from inadequate or deficient design or construction) of the Local Improvements excluding Landscaping, fencing and facilities owned by private utility companies.
- 10.9 Upon the issuance of the Construction Completion Certificate by the Municipality for the Local Improvements, the Developer hereby acknowledges that all rights, title and interest in the Local Improvements (excluding facilities owned by private utility companies) located on or under Public Lands (including utility rights-of-way and easement areas) vests in the Municipality without any cost or expense to the Municipality and therefore the Local Improvements shall become the property of the Municipality.

Final Acceptance Certificate

- 10.10 The Developer shall give notice to the Municipality of the expiration of the Warranty Period and request a Final Acceptance Certificate and inspection in respect of the Local Improvements not more than sixty (60) days prior to the expiration of any Warranty Period.
- 10.11 Within thirty (30) days of the receipt of the written notice and request for inspection pursuant to Section 10.10, the Municipality shall undertake an inspection of the Local Improvements with the Developer and Developer's Consultant and the Municipality shall notify the Developer in writing of its acceptance, by the issuance of a Final Acceptance Certificate, or of its rejection of the Local Improvements with a list of any identified deficiencies which list shall be prepared by the Developer and the Developer's Consultant during the inspection.
- 10.12 In the event there are any deficiencies in relation to a particular Local Improvement the Municipality may refuse to issue the Final Acceptance Certificate for the Local Improvements and require the Developer to repair or replace the whole or any portion of any such Local Improvements. Upon completion of the repairs or replacement required to correct any such deficiencies, the Developer may request a further inspection and issuance of a Final Acceptance Certificate.
- 10.13 In the event that any inspection contemplated in Sections 10.11 and 10.12 reveals that there are no deficiencies in relation to the Local Improvements, the Municipality shall issue its Final Acceptance Certificate for the Local Improvements.
- 10.14 It is understood and agreed to by the Parties that the notices required under this Section shall be between the Municipality and the Developer and in no event shall either the Municipality or the Developer give such notices to or through any contractor or sub trade which may be engaged by the Developer in the construction of the Local Improvements.
- 10.15 Notwithstanding anything contained in this Agreement to the contrary, the Developer acknowledges and agrees that the Warranty Period for the Local Improvements shall not expire before the issuance of a Final Acceptance Certificate for the Local Improvements by the Municipality to the Developer. In the event that either party refers the Developer's right to a

Final Acceptance Certificate to arbitration, the arbitrator shall, in accordance with the terms of this Agreement, determine the date upon which any such Final Acceptance Certificate is to be effective.

- 10.16 Notwithstanding the issuance of a Final Acceptance Certificate for the Local Improvements, the Municipality and the Developer agree that for a period of five (5) years following the issuance of a Final Acceptance Certificate for the Local Improvements that the Developer shall be responsible for repairing or replacing a portion or all of a Local Improvement where there were any hidden or latent defects that were reasonably not detected by inspections or tests actually undertaken in any of the Local Improvements which are causally connected to the performance or non-performance of the obligations of the Developer under this Agreement and were not discovered prior to the issuance of the Final Acceptance Certificate. In the event of a dispute regarding this provision, and in addition to Section 22 on arbitration, the parties may agree to resolve any dispute under this provision by mutually hiring an independent engineering firm to determine causation of any hidden or latent defects in the Local Improvements.
- 10.17 It is understood and agreed to by the Parties that the Municipality will issue three (3) separate Construction Completion Certificates and three (3) separate Final Acceptance Certificates for the Local Improvements, namely for:
- (a) underground Local Improvements;
 - (b) surface Local Improvements; and
 - (c) Landscaping Local Improvements;
- as referred to in Schedule “C” of this Agreement.

Notwithstanding the foregoing, the Municipality may, in its sole and absolute discretion, issue additional Construction Completion Certificates and Final Acceptance Certificates for specific Local Improvements, but this shall in no way oblige the Municipality to issue Construction Completion Certificates and Final Acceptance Certificates earlier than provided in this Agreement and the Design Standards.

11. DRAINAGE AND GRADING STANDARDS

- 11.1 The Developer covenants and agrees that the preparation of the Engineering Drawings for the construction and installation of all storm water management systems both within private and public lands within the Development Area, all testing associated with storm water management systems (including a geotechnical report addressing testing for the height of water tables, soil alkalinity and soil compaction), all necessary approvals from Alberta Environment and Parks and any other affected approving authorities, as well as the maintenance of all storm water management systems during the Warranty Period shall be undertaken and conducted in accordance with accepted engineering and construction practices and in accordance with the Design Standards.
- 11.2 The Developer covenants and agrees that it will fully advise all proposed purchasers and optionees of any of the lots within the Development Area of the requirements of the Municipality relating to the management and disposal of storm water within lots in the Development Area, as outlined below.
- 11.3 The Municipality and the Developer agree that all of the storm water management standards and requirements of the Municipality pursuant to this Agreement constitute covenants running with the lands and are binding upon the Developer and any subsequent owners of any lots within the Development Area.
- 11.4 The Developer further covenants and agrees to ensure that all lots with fill areas in excess of one (1) meter shall be compacted to the Municipality’s satisfaction, and the Developer shall ensure that the Municipality is provided with certified test results to ensure compliance with this Section. Further, the Developer will provide to the Municipality a list of all such lots that have fill areas in excess of the said one (1) meter prior to the issuance of a Construction Completion Certificate.
- 11.5 The Developer further covenants and agrees that prior to the issuance of a Construction Completion Certificate for any of the Local Improvements to be constructed and installed within the Development Area, that it will undertake and complete to

the satisfaction of the Municipality any grading work as may be necessary to ensure that all lots within the Development Area have positive drainage and that there will be no ponding of water within any of the lots within the Area.

- 11.6 It is further agreed to by the Parties that all standards and requirements specified in this Agreement as well as any unfulfilled obligations due and owing to the Municipality by the Developer constitute covenants running with the land and binding upon any subsequent owners or leaseholders of all or any portion of the Development Area.
- 11.7 The following standards shall apply with respect to grading within the Development Area:
- (a) The finished elevations at all corners of the lot and the ground next to the building shall conform to an approved surface drainage plan. Any changes must be approved, in writing, by the Municipality.
 - (b) Builders will be required to supply a grading compliance certificate prepared by an Alberta Land Surveyor, showing compliance with finished grade requirements.
 - (c) Positive drainage must be established away from the building to the gutter or drainage channels as designed.
 - (d) Weeping tiles and other foundation drains shall meet Alberta Building Code requirements. Disposal of weeping tile and other foundation drainage shall be subject to Municipality approval. Disposal into the sanitary sewerage system is prohibited. In all cases, this will require the provision of a sump pump discharging into a storm sewer system designed to accommodate the anticipated weeping tile flow, or, where storm system connections are not available, into swales alongside and between lots, ultimately discharging into the gutter.
 - (e) Site improvements shall not alter or disrupt the drainage pattern as established in the surface drainage plan.
 - (f) Landscaping and structures such as solid fences, retaining walls and permanent or temporary buildings which may disrupt surface drainage are not permitted.
- 11.8 The standards specified in this Agreement will apply to construction within the Development Area and are to supplement the Alberta Building Code and the Municipality's Land Use Bylaw, as well as any other applicable bylaws and policies.

12. WARRANTY PERIOD

- 12.1 The Warranty Period in respect of any of the Local Improvements shall commence upon the issuance of the Construction Completion Certificate for any such Local Improvements.
- 12.2 Notwithstanding that ownership of the Local Improvements vests with the Municipality upon the issuance of the Construction Completion Certificate, the Developer shall maintain the Local Improvements at its sole cost and expense during the course of the Warranty Period, including but not limited to, mowing and maintenance of all Landscaping.
- 12.3 The Developer, at its sole cost and expense, shall repair or replace the whole or any portion of a Local Improvement during the Warranty Period where such repair or replacement is required, in the discretion of the Municipality, as a result of any cause other than the neglect by the Municipality, its employees, agents or contractors in the use and operation thereof. If the Municipality determines that any repairs or replacement of Local Improvements are required during the Warranty Period, the Developer shall, at the Developer's sole cost and expense, complete such repairs or replacements within thirty (30) days of receiving notice from the Municipality, or in the case where the Parties have agreed upon an extension, which extension must have been agreed to in writing by both Parties, the agreed upon extended date or time period.
- 12.4 The Developer acknowledges and agrees that prior to the issuance of a Final Acceptance Certificate for any Landscaping work the Municipality may require the Developer to replace any trees, shrubs or grass which may have died or failed to achieve proper growth as determined by the Municipality in its sole discretion. Further, the Municipality may require the Developer to replace or repair any other Landscaping works such as berming, rip-rap, noise attenuation fencing or screen fencing which is not in accordance with the Engineering Drawings as a result of any cause other than neglect by the Municipality, its employees, agents or contractors in the use and operation thereof.

- 12.5 The Developer covenants and agrees that it shall fully comply with the Design Standards and accepted engineering and construction practices in undertaking and completing the repair or replacement of any of the Local Improvements pursuant to the requirements of this Agreement.
- 12.6 The Developer agrees that in the event of any emergency arising during the Warranty Period, the Municipality, being the sole judge of what constitutes an emergency, shall have the right to undertake any repair or remedial work to the Local Improvements deemed necessary or appropriate by the Municipality. The Developer understands and agrees that all costs and expenses incurred by the Municipality in this regard shall be paid by the Developer to the Municipality.
- 12.7 In addition to the Developer's obligations under Section 12.2, the Municipality and the Developer agree that during the Warranty Period the Developer will perform the normal maintenance requirements respecting the cleaning and flushing of the sanitary sewers which includes but is not limited to the removal of all obstructions and debris immediately prior to the issuance of the Final Acceptance Certificate at its sole cost and expense.
- 12.8 Without limiting any of the foregoing, and in addition to the general maintenance of the Local Improvements as required pursuant to this Agreement, the Developer covenants and agrees that it shall also be responsible, at its sole cost and expense, for maintaining, replacing, or repairing any failure of or damage to the underground Local Improvements resulting from defective materials or improper installation or workmanship, settlement of ditches, grading, gravelling, repairs or replacement of road and lane surfaces, sidewalks, curbs, and gutters, catch basins and leads, road surfaces constructed by the Developer or its contractor, adjustment and repairs to water mains, main valves, water hydrants, hydrant valves, service lines and valves and valve operating mechanisms; repairs, replacements and adjustments to sewer mains, sewer services, manholes, manhole frames and covers. The Developer further covenants and agrees that during the Warranty Period it shall be responsible, at its sole cost and expense, for adjusting and maintaining all hydrants, valve boxes (for both hydrants and mains) manholes and catch basins and appurtenances thereto and any crack filling of roadways until the Municipality has issued the Final Acceptance Certificates for all aspects of Local Improvements.
- 12.9 The Developer covenants and agrees that in the event the Municipality is of the opinion that any repair or replacement required during the Warranty Period is of a major nature, the Municipality shall be entitled, in its discretion, to require an additional Warranty Period for the particular Local Improvement, or portion thereof, and such further Warranty Period shall commence upon the Municipality issuing a new Construction Completion Certificate for the repair or replacement work.

13. UTILITY EASEMENTS AND OTHER INSTRUMENTS

- 13.1 The Engineering Drawings, as approved by the Municipality, shall designate road allowances, public utility lots, easements or rights-of-way of widths adequate to the needs of the Municipality and utility companies, to accommodate the construction and installation of the Local Improvements and services, natural gas, power, and telecommunication service to and through the Development Area and for storm drainage systems and shall be in the locations required by the Municipality.
- 13.2 Where road allowances, public utility lots, easements and utility rights-of-way are required to construct and install the Local Improvements in accordance with the Engineering Drawings both within the Development Area and outside of the Development Area, as the case may be, the Developer agrees to acquire ownership of any and all necessary road allowances, public utility lots, easements and utility rights-of-way prior to the construction and installation of such specific Local Improvements.
- 13.3 The road allowances, public utility lots, easements and utility rights-of-way shall be granted and registered to the Municipality (without further compensation payable to the Developer), upon the earlier of:
- (a) submission for registration of a Plan of Subdivision for the Development Area and prior to the sale of any lots covered by a Plan of Subdivision; or
 - (b) as a condition of the Municipality's issuance of an applicable development permit, in the event that a Plan of Subdivision is not contemplated as part of the development of the Development Area.

- 13.4 Where subdivision is contemplated as part of the development of the Development Area, the Developer shall, upon the registration of the Plan of Subdivision and prior to the sale of any lots within the Development Area, provide to the Municipality proof of the registration of all road allowances, public utility lots, easements and utility rights-of-way required by the Municipality.
- 13.5 The Developer agrees that the road allowances, easements and utility rights-of-way shall be in a form acceptable to the Municipality and shall be a first charge (excepting utility rights-of-way and any other registrations held by the Municipality) and that the Developer shall obtain and register postponements of all liens, charges and encumbrances in favour of the easements.
- 13.6 Such road allowances, easements or utility rights-of-way shall provide that the Municipality has the right to either:
- (a) assign all or any parts of the rights thereby granted to operators of the respective utilities; or
 - (b) grant permits or licenses to install, repair and replace gas, power and telecommunication lines, and all drainage systems.
- 13.7 The Developer covenants that it shall register or cause to be registered against the Development Area or other lands controlled by the Developer, in a form acceptable to the Municipality, restrictive covenants and other instruments which are required by any subdivision approval for the Development Area or otherwise required under the terms of this Agreement.
- 13.8 The Developer hereby grants, conveys, transfers and sets over to and unto the Municipality, its employees, agents, contractors, successors, assigns and licensees:
- (a) the right, license, liberty, privilege and easement across, over, under, on and through all of the Lands, described within Schedule "A" of this Agreement, or acquired pursuant to Section 13.2, for the purposes of laying down, installing, constructing, operating, inspecting, maintaining, repairing, replacing, altering, removing and reconstructing from time to time sanitary sewer, storm sewer, drainage, water, gas, electrical, including street lights, and telecommunication lines, services or distribution systems, and temporary roadways, together with any and all appurtenances incidental or necessary in relation to the above, together with the right of ingress and egress over the Lands with vehicles, supplies and equipment for all purposes useful or convenient in connection with or incidental to the exercise and enjoyment of the rights and privileges granted within this Agreement; and
 - (b) the dedication of all roads shown within any subdivision approval for the Lands, as amended by this Agreement or the Engineering Drawings subsequently approved by the Municipality, which dedications may be registered at any time by the Municipality by road plan in accordance with Section 62 of the Act.

The grant of the right of way provided above is and shall be for as long as is necessary for the Municipality and is intended to be a covenant that runs with the Lands, until such time as the Plan of Subdivision and/or any applicable and required public utility lots, easements, road allowances and utility rights-of-way have been registered with Land Titles, and shall survive termination of this Agreement.

14. MUNICIPAL SERVICES

- 14.1 As lots are developed in parts of the Development Area, the Municipality will provide, if prepared to and subject to the terms of this Agreement, all municipal services which are normally supplied to all other similar parts of the Municipality and to the same standards and costs. However, the provision of these municipal services (and the level of services provided) shall be subject to such limitations that may be imposed by reason of the progress of the Developer's work, the availability of such services, the number of lots requiring services, and the configuration of the lots requiring services.
- 14.2 Without limiting the generality of this Section, it is expressly understood that the Municipality will not provide any services related to the maintenance or snow clearing of any private roads or driveways constructed in the Development Area.

- 14.3 The Developer shall, at all times after any premises within the Development Area are occupied and used, provide and ensure continuous roadway access to such occupied premises.
- 14.4 The Developer acknowledges and agrees that if any portion of the Development Area is subdivided by way of condominium plan rather than conventional subdivision plan, the Municipality is not obliged to provide its regular services within that portion of the Development Area. Without limiting the generality of this Section, the Municipality will not be obliged to provide services (including provision of public utilities, garbage removal or maintenance of internal access roads) to any portion of lands within the boundaries of the aforementioned condominium plan, except where required in accordance with the provisions of any relevant bylaws of the Municipality.

15. FENCING

- 15.1 The Developer shall, at its sole cost and expense, as part of the development of the Development Area, construct fences of the type referred to in this Agreement where required by the Municipality, including along public utility lots and walkways. The Engineering Drawings shall include a description of the location of fences, and the design and construction.
- 15.2 The Developer covenants and agrees that all fences to be constructed by the Developer pursuant to the Engineering Drawings shall be of uniform design and the design and construction thereof shall be subject to the approval of the Municipality in its sole and absolute discretion.
- 15.3 The Developer covenants and agrees that any uniform fencing as contemplated which is wholly located upon Public Lands and does not abut upon other properties, shall be maintained by the Developer during the Warranty Period as provided in this Agreement.
- 15.4 The Developer covenants and agrees that any uniform fencing which is intended to separate Public Lands from other lands shall be constructed wholly upon such other lands and shall not be constructed on the boundary line between the Public Lands and the other lands.
- 15.5 The Developer further covenants and agrees that any uniform fencing which is not wholly located upon Public Lands shall be maintained by the Developer until the expiration of the Warranty Period for such uniform fencing and thereafter shall be maintained by the owners of the properties upon which the uniform fencing is located. Further, in order to ensure the maintenance obligations of such owners, the Developer covenants and agrees that, prior to selling or transferring any such properties, it will register against such properties a restrictive covenant, in a form acceptable to the Municipality, that imposes such maintenance obligations upon the future owners of such properties.
- 15.6 The Developer covenants and agrees that in addition to the requirements of any permanent fencing within the Development Area, that, prior to the issuance of a Construction Completion Certificate for the Local Improvements, it will construct and maintain temporary fencing of a type and to a standard acceptable to the Municipality around all municipal and environmental reserve parcels within the Development Area at its sole cost and expense.

16. MAINTENANCE OF DEVELOPMENT AREA AND PUBLIC LANDS

- 16.1 Except where specifically limited within this Agreement, the Developer shall be responsible, at its sole cost and expense, to maintain the Development Area and all Public Lands within the Development Area in such condition as may be reasonably required by the Municipality, by mowing grass thereon and eliminating weeds, refuse, litter and undesirable vegetation.
- 16.2 Where the Developer has sold a lot (and transferred possession) within the Development Area, the Developer's obligations under Section 16.1, in respect only to such lot, shall cease.
- 16.3 The Developer covenants and agrees that it shall, at its sole cost and expense, be responsible for the cleanup and removal of all Construction Debris, foreign material, and dirt from all Public Lands, including roadways, within and adjacent to the Development Area.
- 16.4 The Developer further covenants and agrees that:

- (a) it shall be the responsibility of the Developer to monitor the condition of Public Lands and take immediate action as necessary to comply with the provisions of this Section; and
- (b) in the event that the Municipality considers that any cleanup or removal of Construction Debris, foreign material or dirt is required, the Developer shall, within seventy-two (72) hours of receiving notice from the Municipality, take all necessary action as determined by the Municipality, failing which, the Municipality may take action at the Developer's sole cost and expense.

16.5 The Municipality shall assume the normal maintenance of all other Public Lands which have been seeded to grass, such as parks, buffer strips, and the like, after satisfactory germination and establishment of grass sown by the Developer on such Public Lands and upon issuance of the Final Acceptance Certificate for Landscaping.

17. OVERSIZING AND SHARING OF SERVICING COSTS

17.1 The Developer recognizes and agrees that the Development within the Development Area will benefit from the oversizing or construction of Local Improvements which have been or will be constructed by parties other than the Developer in areas adjacent to the Development Area and other benefiting areas. Therefore, the Developer agrees that it shall pay its proportionate share of such other Local Improvements as determined in the discretion of the Municipality. Unless otherwise specifically provided within Schedule "E" attached to this Agreement, the Developer's proportionate share of existing or currently contemplated oversizing will be calculated and paid either:

- (a) prior to the submission for registration of a Plan of Subdivision for the Development Area and prior to the sale of any lots covered by a Plan of Subdivision; or
- (b) pursuant to a condition of the Development Permit.

Any deferral of payment of oversizing costs by the Developer beyond the above-noted deadlines shall be subject to specific agreement between the Municipality and the Developer as contained within Schedule "E" attached to this Agreement and such conditions or other requirements that maybe imposed (including, without restriction, the requirement for security for payment, and/or registration and reliance upon the charge contained within Section 20.2 of this Agreement). If a Plan of Subdivision is contemplated, and at the time of registration of the Plan of Subdivision the Municipality has not calculated or imposed oversizing costs, and subsequently the Municipality imposes such charges, nothing in this Agreement precludes the Municipality from collecting the Developer's proportionate share of oversizing costs at the development permit stage.

17.2 In the event that the Developer's proportionate share of existing or currently contemplated oversizing is capable of being determined as of the date of this Agreement, the Developer's proportionate share for such existing or currently contemplated oversizing shall be as shown within Schedule "E" attached to this Agreement. Otherwise, the method of calculating the Developer's proportionate share of such Local Improvements constructed by other parties shall be determined solely by the Municipality in accordance with good engineering and construction practices, in accordance with the provisions of any relevant bylaws of the Municipality, in accordance with any agreements the Municipality has entered into, or may enter into, with contractors, other developers or other persons in respect to the construction of such Local Improvements, and where deemed appropriate by the Municipality taking into account the expended useful life span of the oversized/shared Local Improvement.

17.3 Nothing in this Agreement shall preclude the Municipality from levying in a lawful manner any special frontage assessment or uniform unit rate assessment or special local benefit assessment for the construction, expansion or extension of Local Improvements, other than such Local Improvements or portions of such Local Improvements, which are covered by the provisions of this Section 17.

- 17.4 The Developer, in constructing the Local Improvements as contemplated in this Agreement, shall bear the costs of oversizing and extending Local Improvements designed and installed to accommodate future developments on land adjacent to the Development Area and other benefiting areas, and shall design, construct and install the Local Improvements so that such future developments can utilize or benefit from such oversizing or extensions. The Municipality's requirements for oversizing shall be evidenced within the additional provisions contained within Schedule "D" attached to this agreement, within the Design Standards, or otherwise required to be shown within the Developer's Engineering Drawings at the time of the review and approval.
- 17.5 The costs of the oversizing or extensions contemplated in Section 17.4 shall be shared costs and the Municipality and the Developer acknowledge that the Developer shall be entitled to recover such shared costs in accordance with this Agreement. The method of calculating the proportionate shares of such shared costs shall be determined solely by the Municipality in accordance with good engineering and construction practices, in accordance with the provisions of any relevant bylaws of the Municipality, in accordance with any agreements the Municipality has entered into, or may enter into, with contractors, other developers or other persons in respect to the construction of such Local Improvements, and where deemed appropriate by the Municipality taking into account the expended useful life span of the oversized/shared Local Improvements.
- 17.6 The Municipality shall not be responsible for payment of any portion of the shared costs, except as may be specifically provided elsewhere in this Agreement, or except in respect to lands owned or acquired by the Municipality, but the Municipality agrees to use reasonable efforts to give any assistance it legally can to the Developer in the recovery of shared costs by making it a term of any development agreement between the Municipality and owners of any future benefiting developments that such owners pay their proportionate share of such shared costs to the Developer and by requiring payment of the same by such owners as a condition of the use of the Local Improvements or as a condition of the approval of any subdivision or development applications.
- 17.7 The Developer shall in any event prior to issuance of the Construction Completion Certificates, provide the Municipality with the details of the costs of oversizing or extension of the Local Improvements that accommodate future development on land adjacent to the Development Area and in other benefiting areas for approval by the Municipality, and upon the Municipality approving the said details, the same shall govern for the purpose of determining the amount of shared costs to be paid by such benefiting owners pursuant to Section 17.6.
- 17.8 The Municipality agrees that in the event any land adjacent to the Development Area, and other benefiting areas which may benefit from the Local Improvements oversized or extended by the Developer, is intended to be developed and the Municipality is advised of any such development, the Municipality will endeavour to notify the Developer in writing of the intended development. The Developer agrees that upon notice of such intended development being sent by the Municipality, the Developer shall notify the Municipality in writing of any claims it has in writing under this Agreement for recovery of shared costs with detailed calculations setting out the amount claimed by the Developer. Until such notice has been delivered by the Developer to the Municipality, the Municipality shall not be required to request from the owners of adjacent lands the payment to the Developer of the shared costs attributable to the lands intended to be developed. Upon receipt of any such notice from the Developer to the Municipality, the Municipality will take the steps contemplated by this Agreement to assist in the recovery by the Developer of the applicable shared costs.
- 17.9 The Municipality agrees that in calculating any shared costs payable to the Developer, the Municipality shall include interest, calculated from the date of the Construction Completion Certificate for all of the Local Improvements, compounded annually, at the Prime Rate plus two (2%) percent provided that interest shall cease to accrue five (5) years from the date of the issuance of Construction Completion Certificates for all of the Local Improvements.
- 17.10 For purposes of calculating interest payable under Section 17.9, the Prime Rate established on the first business day of a particular month shall be utilized and shall be deemed to be the Prime Rate for that entire month.

17.11 Notwithstanding anything to the contrary within this Agreement, the Developer shall only be entitled to recover any payment of shared costs within ten (10) years from the date of this Agreement and the Developer shall make no demands against the Municipality or any other developer for payment thereafter. In addition and in that regard, the Parties acknowledge and agree that there exists the potential for significant passage of time between the development of the Development Area and the development of other properties, as well as the corresponding potential for change in development and servicing needs in the near and long term (including, without restriction, alternative servicing based upon proper planning and servicing principles resulting in some oversized Local Improvements becoming obsolete or requiring replacement or renewal prior to payment of all potential proportionate shares by other developers). For these and other reasons (including, without restriction, the simple lack of further and other development in general), there shall always exist the potential for adjacent or other lands never becoming benefited by some or all oversized Local Improvements. Consequently, and notwithstanding the foregoing and anything to the contrary contained within this Agreement, the Municipality cannot and will not guarantee eventual recovery of proportionate shares of oversizing costs.

18. LEVIES AND FEES

18.1 The Developer agrees that the Development Area will benefit from new or expanded off-site water, sanitary sewer, roadway storm drainage facilities, community recreation facilities, libraries, fire halls and police stations that will be utilized to provide municipal services to the Development Area. Accordingly, the Developer covenants and agrees to pay to the Municipality off-site levies if and when established by the Municipality. Unless otherwise specifically provided within Schedule "E" attached to this Agreement, off site levies (or other subdivision or Development Charges) payable by the Developer shall be calculated and paid either:

- (a) prior to the submission for registration of a Plan of Subdivision for the Development Area and prior to the sale of any lots covered by a Plan of Subdivision; or
- (b) pursuant to a condition of the Development Permit.

18.2 Any deferral of payment of off-site levies by the Developer beyond the above-noted deadlines shall be subject to specific agreement between the Municipality and the Developer and shall be contained within Schedule "E" attached to this Agreement and such conditions or other requirements that may be imposed (including, without restriction, the requirement for security for payment, and the registration and reliance upon the charge contained within Section 20.2 of this Agreement). If, at the time of registration of a Plan of Subdivision, the Municipality has not imposed offsite levies or other subdivision or Development Charges, and subsequently the Municipality imposes such levies or other charges, nothing in this Agreement precludes the Municipality from collecting off-site levies at the development permit stage.

18.3 The Developer covenants and agrees that the off-site levies currently established by the Municipality and payable by the Developer to the Municipality are the amounts specified in Schedule "E" of this Agreement. Unless otherwise required by the applicable bylaw, or otherwise already apportioned and applied within Schedule "E" to the lands contained within the Development Area, the Municipality shall distribute any off-site levies specified in Schedule "E" which are shown or levied on the basis of gross hectares in the manner the Municipality considers equitable amongst the parcels within the Development Area (excluding any lands to be owned by the Municipality) so that a specified amount shall be attributed to each parcel within the Development Area.

18.4 The Developer acknowledges and agrees that if, at the time of execution of this Agreement, the Municipality does not impose off-site levies (or other development or subdivision or Development Charges), the Municipality may in the future impose such levies or charges in accordance with a bylaw of general application which shall establish the various levies or charges applicable to similar developments within the Municipality.

18.5 The Developer acknowledges and agrees that the Municipality will incur costs and expenses in the checking of the Engineering Drawings for the Local Improvements, as well as costs and expenses for the testing and inspection of the Local Improvements, which costs and expenses are properly part of the costs of constructing and installing the Local Improvements and will be borne by the Developer. The Municipality and the Developer agree that, unless otherwise required by any applicable fees bylaw or any other bylaw of general application or unless otherwise stipulated within Schedule "E" which may include but is not limited to costs incurred by the Municipality in the event additional experts are required to be retained to assist the Municipality in performing its rights and duties pursuant to this Agreement, the Developer shall pay to the Municipality the approval and inspection fees in accordance with the fees and charges established by bylaw prior to the related approval being given or inspection being conducted.

19. INTEREST ON MONIES OWED TO MUNICIPALITY

19.1 Except as otherwise specifically provided in this Agreement, all sums or monies owed by the Developer to the Municipality shall bear interest calculated annually from the date upon which such sum or monies are due and payable and such interest shall be calculated at a rate per annum equal to the Prime Rate plus two (2%) percent and such interest rate shall be adjusted from time to time in accordance with any change to the Prime Rate.

19.2 The Developer acknowledges and understands that the Municipality is not obligated to invest any monies it may be holding as security for the purposes of this Agreement in an interest accruing account and that the Municipality, in its sole discretion, may deposit any and all monies held as security for the purposes of this Agreement in a zero interest account for so long as this Agreement is in force and effect.

19.3 For purposes of calculating interest under Section 19.1, the Prime Rate established on the first business day of a particular month shall be utilized and shall be deemed to be the Prime Rate for that entire month.

20. AMOUNTS PAYABLE UNDER THIS AGREEMENT

20.1 The Developer acknowledges and agrees that the Municipality and the Developer are properly and legally entitled to make provision in this Agreement, for the purposes specified in this Agreement, for the payment by the Developer to the Municipality of the various sums prescribed in this Agreement.

20.2 The Developer further acknowledges and agrees that:

- (a) the Agreement by the Developer to pay the said sums is an inducement offered by the Developer to the Municipality to enter into this Agreement;
- (b) the Municipality has agreed to enter into this Agreement on the representation and agreement by the Developer to pay to the Municipality the sums specified in this Agreement; and
- (c) the Municipality is fully entitled in law to recover from the Developer the sums specified in this Agreement;

20.3 The Developer hereby waives for itself and its successors and assigns any and all rights, defenses, actions, causes of action, claims, demands, suits and proceedings of any nature or kind whatsoever, which the Developer has, or hereafter may have, against the Municipality in respect to the Developer's refusal to pay the sums specified in this Agreement.

20.4 The Developer for itself and its successors and assigns hereby releases and forever discharges the Municipality from all actions, claims, demands, suits and proceedings of any nature or kind whatsoever which the Developer has, or may ever have, if any, against the Municipality in respect to any right or claim, if any, for the refund or repayment of any sums paid by the Developer to the Municipality pursuant to this Agreement.

20.5 The Municipality and the Developer agree that any amounts of money presently or hereafter owing by the Developer to the Municipality pursuant to the provisions of this Agreement, whether by way of a liquidated or unliquidated claim, and howsoever arising, shall be a charge and encumbrance against the Lands, and the Developer does hereby mortgage, charge and encumber the said lands as security for the payment or performance of the Developer's obligations within this

Agreement, and further, that the Municipality shall be entitled to recover any such monies owing, together with all costs on a solicitor and client basis, by enforcing the charge and encumbrance against the Lands.

- 20.6 The Developer acknowledges and agrees that the Municipality may offset any remaining portion of the any funds, including security, paid by the Developer to the Municipality under this Agreement to satisfying any other outstanding payments due and owing to the Municipality.
- 20.7 Should the Developer become defunct, dissolved, or otherwise ceases to exist, any monies paid or security provided to the Municipality under this Agreement vest in the Municipality and become the Municipality's sole property as if it always had been the Municipality's property. Furthermore, the Developer hereby agrees now that any monies paid or securities provided pursuant to this Agreement in the event the Developer becomes defunct, dissolved, or otherwise ceases to exist, then any other party the Developer may have a relationship or agreement with shall not be entitled to any portion of, or at all, the monies or securities the Developer paid or provided to the Municipality under this Agreement.

21. DEFAULT BY THE DEVELOPER

- 21.1 In the event the Municipality is of the view that the Developer is in default in the observance and performance of any of the terms, covenants or conditions of this Agreement, the Municipality may give the Developer thirty (30) days' notice in writing of such claimed default and requiring the Developer to rectify same within the said period of thirty (30) days.
- 21.2 If the Developer denies that it is in default as claimed in the notice provided pursuant to Section 21.1, the Developer shall, within fourteen (14) days of receipt of such notice, request a reference to arbitration pursuant to the provisions of Section 22 hereof. If the Arbitrator confirms the claimed default, the Developer shall, notwithstanding the provisions of Section 21.1, have a period of thirty (30) days from the receipt of the arbitration ruling within which to rectify such default.
- 21.3 The Developer agrees that in the event the Municipality has given the Developer written notice of default and the Developer does not, within fourteen (14) days of receipt of the written notice, dispute that it is in default, then the Developer shall conclusively be deemed to have acknowledged the default.
- 21.4 In the event that the Developer has failed to rectify such default within the period of thirty (30) days from the receipt of the notice of Default provided by the Municipality pursuant to Section 21.1 and no arbitration been requested by the Developer or from confirmation of the default by the Arbitrator pursuant to Section 21.2, the Municipality may, but shall not be obligated to, undertake any work it considers necessary in order to remedy such default and any costs or liability incurred by the Municipality in respect thereof shall be at the Developer's sole cost and expense. The Developer shall pay such costs to the Municipality within thirty (30) days of receiving demand for payment from the Municipality.
- 21.5 Notwithstanding anything to the contrary in this Agreement, in the event that the Municipality, in its discretion, considers it necessary to undertake any immediate work in connection with the construction, installation or repair of the Local Improvements in a situation which the Municipality considers to be an emergency, the Municipality shall immediately notify the Developer of such situation and shall be entitled to then cause such work to be done provided that upon completion of said emergency work, the Municipality shall give notice in writing to the Developer if the Municipality claims that such repair work was made necessary by reason of a default on the part of the Developer in the observance or performance of the terms, covenants and conditions of this Agreement, and if the Developer denies the claimed default, it shall, within fourteen (14) days, request a reference to arbitration pursuant to the provisions of Section 22 hereof.
- 21.6 The Developer agrees that the Municipality shall, for purposes of undertaking any emergency work or work to rectify a default, have free and uninterrupted access to all portions of the Development Area and any other areas under the control of the Developer and that the Municipality shall not be hindered nor restricted in any manner whatsoever in obtaining or exercising such right of access.
- 21.7 The decision of the Arbitrator in any reference respecting a claimed default on the part of the Developer shall be final and binding upon the Municipality and the Developer.
- 21.8 The Municipality and the Developer agree that any rights and remedies available to the Municipality whether specified in this Agreement or otherwise available at law, are cumulative and not alternative and the Municipality shall be entitled to

enforce any right or remedy in any manner the Municipality deems appropriate in its discretion without prejudicing or waiving any other right or remedy otherwise available to the Municipality.

22. ARBITRATION

- 22.1 Subject to any other provisions of this Agreement to the contrary, if any dispute or difference between the Parties shall arise under this Agreement, either party may give to the other notice of such dispute or difference and refer such dispute or difference to arbitration in accordance with the provisions of this Agreement.
- 22.2 Arbitration hereunder shall be by a reference to an independent person to be selected jointly by the Municipality and the Developer, and the decision of the independent person shall be final and binding. In the event that the Municipality and the Developer shall fail to agree on an arbitrator within seventy-two (72) hours of either party giving notice to the other of a dispute or difference pursuant to Section 22.1 hereof, then an application shall be made to a Justice of the Court of King's Bench of Alberta to select the arbitrator.
- 22.3 All charges, fees and expenses of the arbitrator shall be borne and paid by the Municipality or the Developer, or proportionately by both the Municipality and the Developer, depending upon their respective fault as found by the Arbitrator.
- 22.4 Nothing in this Agreement shall authorize arbitration of any matter or question which under this Agreement is expressly or by implication required or permitted to be decided by the Municipality, Council of the Municipality, or any relevant decision making authority or committee as may be required, or as to the grounds upon which, or the mode in which, any opinion may have been formed or discretion exercised by the Municipality, the Council of the Municipality, or any relevant decision making authority or committee. In any such instance the discretion, decision, opinion or determination of the Municipality, the Council of the Municipality, or any relevant decision making authority or committee as the case may be, shall be final and binding upon the Developer.

23. INSURANCE, INDEMNITY AND SECURITY

- 23.1 The Developer shall indemnify, defend and hold harmless the Municipality, and all of its respective officials, officers, employees and authorized representatives from and against any and all suits, actions, payments, legal or administrative proceedings, claims, demands, damages, liabilities, losses, interest, legal fees (including legal fees on a full solicitor and own client basis), costs and expenses sustained by the Municipality of every nature and description, whether arising before or after the completion of any activity, work, maintenance or construction as contemplated in this Agreement and in any manner directly or indirectly caused, occasioned or contributed to in whole or in part, by reason of any act, error, omission or fault whether active or passive of the Developer, its employees, contractors, sub-contractors, engineers, agents or anyone acting under the Developer's direction or control or on its behalf in connection with or incidental to the any activity, work, maintenance or construction contemplated in this Agreement.
- 23.2 Without limiting the generality of Section 23.1, the Developer agrees to assume all environmental liability relating to all development, including but not limited to any liability for clean-up of any Hazardous Substances in, on, under, along, across and around the Development Area which result from:
- (a) the work of the Developer, its employees, agents or contractors, in, on, under, along, across or around the Development Area; or
 - (b) any products or goods brought in, on, under, along, across or around the Development Area by the Developer, its employees, agents or contractors or by any other person with the express or implied consent of the Developer.
- 23.3 The Developer covenants and agrees that it will take out and maintain insurance in such form and such amounts as may be satisfactory to the Municipality, acting reasonably. Without limiting the generality of the forgoing, the insurance required by the Developer for the purposes of this Agreement will have at least the following coverage, and contain the following terms:
- (a) the Municipality shall be an additional insured in all public liability policies;

- (b) all policies shall provide that an event of default on the part of the Developer, its employees or agents, shall not be an event of default on the part of the Municipality;
- (c) copies of all policies of insurance shall be provided to the Municipality annually and immediately upon written request by the Municipality;
- (d) such policies shall contain a waiver of subrogation rights against the Municipality, a severability of interest's clause and a waiver of breach of warranty clause;
- (e) such policies of insurance shall contain an undertaking by the insurers to notify the Municipality in writing of any material change, cancellation or termination of any provision of any policy not less than Thirty (30) days prior to the material change, cancellation or termination thereof;
- (f) the insurance policies shall have the minimum limits of coverage of not less than FIVE MILLION (\$5,000,000.00) DOLLARS per occurrence for such period as the Developer has any rights or obligations hereunder with respect to the Development Area, and a comprehensive liability policy, including extended coverage and malicious damage endorsement, as per industry standard, insuring the full value of the work undertaken by the Developer pursuant to this Agreement. Unless otherwise noted, the insurance policies shall also have:
 - (i) Annual Aggregated Limit of not less than TEN MILLION (\$10,000,000.00) DOLLARS;
 - (ii) Comprehensive General Liability Insurance for public liability or public damage or bodily injury with insurable limits of not less than FIVE MILLION (\$5,000,000.00) DOLLARS for each occurrence or incident; and
 - (iii) Automobile Public Liability and Third Party Property Damage with insurance limits of no less than FIVE MILLION (\$5,000,000.00) DOLLARS for each occurrence or incident;

which all shall be carried for such period as the Developer has any rights or obligations hereunder with respect to the Development Area, and a comprehensive liability policy, including extended coverage and malicious damage endorsement, as per industry standard, insuring the full value of the work undertaken by the Developer pursuant to this Agreement, automobile public liability and third party damage coverage.

- 23.4 In order to ensure full compliance by the Developer with the terms, covenants and conditions of this Agreement, the Developer hereby covenants and agrees that it shall deliver and deposit with the Municipality security in the form prescribed in this Agreement and that the amount of the security required to be deposited with the Municipality prior to the Commencement of Construction shall be determined in accordance with the Municipality's Development Agreement Security Policy A-PI-053, as attached to this Agreement as Schedule "I".

For purposes of this Section, the estimated cost for the Local Improvements shall be determined as follows:

- (a) if known at the time that this Agreement is entered into, as set out in Schedule "F" of this Agreement;
- (b) if unknown at the time that this Agreement is entered into, but where actual tendered costs are available the tendered costs shall be used; or
- (c) where actual tendered costs are not available, cost estimates prepared by the Developer's Consultant under their professional seal which shall be submitted to the Municipality for approval together with all applicable background documentation, and if approved by the Municipality, such cost estimates shall be used.

- 23.5 The Developer understands and agrees that, during the term of this Agreement (including the Warranty Period for the Local Improvements prescribed by this Agreement), it will maintain in full force and effect all security and liability insurance required by this Agreement.

- 23.6 The security referred to above shall consist of an "Irrevocable Letter of Credit" issued by a "Chartered Bank" or the "Treasury Branch", a Development Bond issued by, in the Municipality's opinion, a reputable surety company, or such other security as may be approved by the solicitors for the Municipality, including a cash security deposit, in the amount of the security required from time to time as described above; provided that all security shall be in terms and form to be approved by the Municipality's solicitors. The Developer further covenants and agrees that upon a default on the part of the Developer under this Agreement, the Municipality may, at its option and without limiting any of its other remedies, draw on the security provided, accelerate and require payment in full of the security amount that would otherwise be required for a cash security deposit account, and such obligation shall be secured by the mortgage charge and/or encumbrance.
- 23.7 Any Irrevocable Letter of Credit provided as security by the Developer shall contain provisions for either:
- (a) a covenant by the issuer that if the issuer has not received a release from the Municipality sixty (60) days prior to the expiry date of the security, then the security shall automatically be renewed, upon the same terms and conditions, for a further period of one (1) year; or
 - (b) a right on the part of the Municipality to draw upon the full amount of the Irrevocable Letter of Credit, or any portion thereof, in the event that the Municipality has not received a replacement letter, or confirmation of an extension or renewal of the existing letter, at least sixty (60) days prior to the expiry of the security.
- 23.8 Any Development Bond provided as security by the Developer shall be in the form attached hereto as Schedule "J", which shall contain the following terms and provisions:
- (a) a statement that the Development Bond is issued in favour of the Municipality as the sole obligee (the Municipality) and in reference to this Agreement and all its obligations thereunder;
 - (b) an acknowledgement by the issuing surety company that:
 - (i) the Municipality shall be entitled to make a claim against the Development Bond in accordance with the provisions of this Agreement;
 - (ii) that such claim against the Development Bond shall be payable upon demand; and
 - (iii) the surety company undertakes to act promptly and in good faith of any review of a claim submitted by the Municipality;
 - (c) a statement that the Development Bond will permit partial claims and draws up to the total of the value of the Development Bond; and
 - (d) a condition that the Development Bond shall remain in effect until the obligations of this Agreement are completed and approved by the obligee (Municipality), and may only be terminated upon the proper notice of the obligee (Municipality).
- 23.9 When all Local Improvements described in this Agreement are completed and approved by the obligee (Municipality) and the Warranty Period for such Local Improvements under this Agreement has expired, the obligee (Municipality) shall return the Development Bond to the surety company for termination or advise the surety company in writing that the Development Bond is terminated.
- 23.10 The Developer acknowledges and agrees, in the event that the Development Bond is to expire before completion of the Developer's obligations under this Agreement and it is not replaced prior to the said expiration, the Municipality may, at its sole option, demand payment under such Development Bond and retain the funds as security for the performance of the Developer's obligations pursuant to this Agreement.
- 23.11 In regard to security provided under this Agreement, the following terms and conditions shall apply:

- (a) any cash security deposit, Irrevocable Letter of Credit, Development Bond or other security required or otherwise provided by the Developer to the Municipality pursuant to this Agreement is hereby assigned and pledged to the Municipality as security for the performance of the Developer's obligations as contemplated (such assignment and pledge to be perfected by possession and/or registration);
 - (b) the Developer acknowledges having received a copy of this Agreement, and the security terms contemplated within, and waives any right it may have to receive a copy of any Financing Statement or Financing Charge Statement in relation hereto; and
 - (c) notwithstanding any other provision of this Agreement and further, without prejudice to any other right or remedy of the Municipality, the obligation of the Municipality or its solicitor to release any security funds held by it under or in connection with this Agreement (including, without restriction, any cash security) is subject to the Municipality's right to deduct or set off any amount which may be due by the Developer to the Municipality or the amount of any claim by the Municipality against the Developer under this Agreement (including, without limitation, the amount of any liquidated damages). Without limitation, if the Developer is in breach or default of any provision of this Agreement and, after receiving notice thereof, the Developer does not promptly remedy such default or breach or commence and diligently prosecute the remedy of such breach or default, the Municipality may (but shall not be obligated to) take any measures it considers necessary to remedy such default or breach and any costs or liabilities incurred by the Municipality in respect thereof may be deducted from or set off against any amount(s) to be paid or released to the Developer under this Agreement. This provision shall survive the termination of this Agreement for any reason whatsoever.
- 23.12 Any security or insurance required to be deposited by the Developer may be required to be increased or decreased by the Municipality upon written notice to the Developer at any time during the term of this Agreement if it appears to the Municipality, in its sole discretion, that the security or insurance deposited is excessive or insufficient in relation to the costs of the Local Improvements or for protection of the Municipality for which security or insurance has been provided. Without limiting the generality of the foregoing, the Municipality may also require an increase in the amount of security required if the Developer has been issued a notice of default under Section 21.
- 23.13 In regards to any reduction of security provided under this Agreement, the amount of security to be provided by the Developer to the Municipality shall be reduced in accordance with the Municipality's Development Agreement Security Policy A-PI-053, as attached to this Agreement as Schedule "I". In any event, upon expiration of the Warranty Period and after issuance of the Final Acceptance Certificate of all the Local Improvements the Municipality shall release the security of the Developer upon request.
- 23.14 In the event that the Municipality is of the opinion that:
- (a) a default by the Developer has not been rectified by the Developer in accordance with the provisions of this Agreement;
 - (b) a default by the Developer has been rectified by the Municipality in accordance with the provisions of this Agreement and the Developer has failed to pay the costs and expenses of such rectification within thirty (30) days after receipt from the Municipality of an account therefore;
 - (c) emergency repair work has been done by the Municipality the Developer fails to pay the costs and expenses of such repair work within thirty (30) of a demand for payment;
 - (d) the Developer by any act or omission is in default of any term, condition or covenant of this Agreement;
 - (e) The Developer has become insolvent, there is a filing or presenting of a petition in bankruptcy against the Developer, there is an appointment of a receiver or a receiver manager of the Developer or any of its assets either privately or by court appointment, or there are any proceedings or proposal with respect to the Developer commenced under either the Companies Creditors Arrangement Act, the Bankruptcy and Insolvency Act or any successor legislation; or

- (f) the security to be provided by the Developer to the Municipality pursuant to this Agreement is due to expire within a period of sixty (60) days and the Developer has not deposited with the Municipality a renewal or replacement of such security in terms and form acceptable to the Municipality's solicitors;

then the Municipality, in its sole discretion may:

- (g) demand as Payee under any security provided by the Developer pursuant to this Agreement in such amounts as the Municipality deems appropriate in its sole discretion; or
 - (h) terminate this Agreement, which termination shall be effective the date notice is given to the Developer, provided that termination shall not release the Developer from any financial obligations under this Agreement, any liability arising out of or in connection with this Agreement, of its obligations to indemnify the Municipality, or from any damage claim available to the Municipality for breach of this Agreement; or
 - (i) revoke its endorsement of the Plan of Subdivision if the Plan of Subdivision has not been submitted for registration with Land Titles; or
 - (j) invoke any two or more of the above remedies, which shall be cumulative remedies and not exclusive.
- 23.15 In the event that the Municipality has negotiated, called upon, or otherwise received proceeds from, the security to be deposited by the Developer for any reason contemplated within this Agreement, then the Municipality shall be entitled to hold and apply any such funds as a security deposit in lieu of the original security.
- 23.16 In the event that the Municipality has negotiated or called upon the security to be deposited by the Developer with the Municipality, the Municipality may, at its option and discretion, use any funds thereby obtained in any manner the Municipality deems fit to discharge the obligations of the Developer pursuant to this Agreement.
- 23.17 The security requirement contained within this Agreement and provided by the Developer is without prejudice to the Developer's responsibility under this Agreement. Nothing shall prevent the Municipality from demanding payment or performance by the Developer in excess of the required security, and nor shall the Municipality be required to call upon or otherwise exhaust its remedies in respect of the required security prior to making such demand.
- 23.18 The Developer shall forfeit all remaining security provided to the Municipality under this Agreement after four (4) years from the date of the Agreement, if in the sole opinion of the Municipality, the Developer has not acted in a reasonable manner to complete the obligations of this Agreement, including without restriction any outstanding Local Improvements and/or deficiencies or where the Developer has become defunct, dissolved, or otherwise ceases to exist.

24. DELIVERY OF DOCUMENTS TO MUNICIPALITY

- 24.1 Immediately upon completion of construction and installation of the Local Improvements and prior to the issuance of a Construction Completion Certificate, the Developer shall, in addition to the requirements specified elsewhere in this Agreement, deliver to the Municipality all inspection and testing records, record drawings, and Tangible Capital Assets information for the Local Improvements which all shall be certified by the Developer's engineering consultant certifying compliance with the Design Standards, where applicable, for review and approval by the Municipality. For clarity, a Construction Completion Certificate will not be issued by the Municipality if the Developer fails to deliver all required testing records, record drawings, and Tangible Capital Assets information to the Municipality's satisfaction.
- 24.2 Prior to the issuance of the Final Acceptance Certificate, the Developer shall provide any camera work and certificates as required by the Municipality and the Municipality may, in its sole and absolute discretion, require the Developer to provide updated inspection and testing records, records drawings, and Tangible Capital Assets information to the Municipality's satisfaction. For clarity, a Final Acceptance Certificate will not be issued by the Municipality if the Developer fails to deliver all required updated testing records, record drawings, and Tangible Capital Assets information to the Municipality's satisfaction or prior to the expiration of the Warranty Period.

24.3 Any and all documents provided by the Developer to the Municipality pursuant to this Agreement, including the Plans and as-built drawings shall become property of the Municipality, including any proprietary, copyright or moral rights to the same, and the Municipality shall be entitled to utilize such documents in any manner that it sees fit.

25. COMPLIANCE WITH LAW

25.1 The Developer shall at all times comply with all legislation, regulations and municipal bylaws and resolutions relating to the development of the Development Area by the Developer.

25.2 This Agreement does not constitute approval of any subdivision application nor is it a development permit, building permit or any other permit that may be granted by the Municipality. The Developer understands and agrees that it shall obtain any and all additional approvals and permits which may be required by the Municipality or any governmental authority.

25.3 Where anything provided for with this Agreement cannot lawfully be done without the approval or permission of any authority, person or board, the rights or obligations to do it do not come into force until such approval or permission is obtained. Further, the Parties will do all things necessary by way of application or otherwise in an effort to obtain such approval or permission.

25.4 If any provision hereof is contrary to law, the same shall be severed and the remainder of this Agreement shall be of full force and effect.

26. GENERAL

26.1 The validity and interpretation of this Agreement and of each part hereof shall be governed by the laws of the Province of Alberta.

26.2 The Parties to this Agreement shall execute and deliver all further documents and assurances necessary to give effect to this Agreement and to discharge the respective obligations of the Parties.

26.3 A waiver by either party hereto of the strict performance by the other of any covenant or provision of this Agreement shall not, of itself, constitute a waiver of any subsequent breach of such covenant or provision or any other covenant or provision of this Agreement.

26.4 Whenever under the provisions of this Agreement any notice, demand or request is required to be given by either party to the other, such notice, demand or request may be given by delivery by hand to, or by registered mail sent to, the respective addresses of the Parties as set out on the cover page to this Agreement provided however that such addresses may be changed upon ten (10) days' notice. If a notice is mailed it is deemed to be received seven (7) days from the date of mailing. In the event notice is to be served at a time when there is an actual or anticipated interruption of mail service affecting the delivery of such mail, the notice shall not be mailed but shall be delivered by courier or by hand. If sent by email, the notice shall be deemed to have been received on the first business day following the day it was dispatched.

26.5 The Parties covenant and agree that in addition to the provisions contained in the text of this Agreement, the Parties are also bound by the additional provisions found in Schedules of this Agreement as if the provisions of those Schedules were contained in the text of this Agreement.

26.6 The Developer acknowledges and agrees that, upon the execution of this Agreement, the Municipality shall be at liberty, pursuant to the Act to file at the Land Titles Office for the North Alberta Land Registration District a caveat against the Lands described in Schedule "A" for purposes of protecting the Municipality's interests and rights pursuant to this Agreement.

26.7 This Agreement shall not be assignable by the Developer without the express written approval of the Municipality. Such approval shall be subject to Section 26.8 and may be withheld by the Municipality in its discretion. This Agreement shall enure to the benefit of, and shall remain binding upon (jointly and severally, where multiple parties comprise the Developer), the heirs, executors, administrators, attorney under a power of attorney, and other personal representatives of

all individual Parties and their respective estates, and shall enure to the benefit of, and shall remain binding upon, all successors and assigns (if and when assignment may be permitted in this Agreement) of all corporate Parties.

- 26.8 It is understood between the Municipality and the Developer that no assignment of this Agreement by the Developer shall be allowed by the Municipality unless and until:
- (a) the proposed assignee enters into a further agreement with the Municipality whereby such assignee undertakes to assume and perform all of the obligations and responsibilities of the Developer as set forth in this Agreement; and
 - (b) the proposed assignee has deposited with the Municipality all insurance and security as required by the terms of this Agreement.
- 26.9 Time shall in all respects be of the essence in this Agreement.
- 26.10 The Developer shall be responsible for, and within thirty (30) days of the presentation of an account, paying to the Municipality all costs incurred by the Municipality for any legal, engineering, or any other third party costs, including disbursements, associated with this Agreement which includes but is not limited to identifying and remedying any deficiencies or default by the Developer in the construction of the Local Improvements, performance of any of the Developer's obligations set out in this Agreement, or enforcement of this Agreement by the Municipality.
- 26.11 Providing that the Developer is not in default of any of the provisions of this Agreement or any conditions of the Subdivision or Development Permit approval:
- (a) the Municipality shall, at the request of the Developer, deliver to Alberta Environment and Parks any confirmations or undertakings reasonably required (and in respect of which the Municipality can attest) in order for the Developer to obtain any necessary permits and licenses from Alberta Environment and Parks; and
 - (b) the Municipality may apply for grant money for construction of the Local Improvements. However, it is expressly understood and agreed that:
 - (i) the Municipality has made no representations to the Developer whatsoever, regarding the availability of any grant monies or the qualification of the Local Improvements for any grant monies;
 - (ii) the Municipality shall not be liable to the Developer, nor shall the Developer's liability hereunder be affected if any grant monies are not received by the Municipality; and
 - (iii) although the Municipality will work with the Developer to obtain grants for the Local Improvements, the Municipality need not apply for such grants if they will negatively impact grants for other Municipally related projects.
- 26.12 In the event that either party is rendered unable wholly, or in part, by force majeure to carry out its obligations under this Agreement, other than its obligations to make payments of money due hereunder, such party shall give written notice to the other party stating full particulars of such force majeure. The obligation of the party giving such notice shall be suspended during the duration of the delay resulting from such force majeure, to a maximum of one hundred and eighty (180) days. The term "force majeure" shall mean acts of God, strikes, lockouts or other industrial disturbances of a general nature affecting an industry critical to the performance of the Work, acts of the King's enemies, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, arrests and restraints of rulers and people, civil disturbances, explosions, inability with reasonable diligence to obtain materials and any other cause not within the control of the party claiming a suspension, which, by the exercise of due diligence, such party shall not have been able to avoid or overcome; provided however, the term "force majeure" does not include a lack of financial resources or available funds or similar financial predicament or economic circumstances or any other event, the occurrence or existence of which is due to the financial inability of a party to pay any amount that a prudent and financially sound entity in similar circumstances would reasonably be expected to pay to avoid or discontinue such event.

26.13 The Developer and the Municipality shall, at all times during the term of this Agreement, act reasonably in carrying out its obligations or exercising discretion pursuant to the terms set out in this Agreement.

27. EXECUTION OF AGREEMENT

27.1 The Developer hereby acknowledges that it is executing this Agreement having been given the full opportunity to review the same and seek proper and independent legal advice and that the Developer is executing this Agreement freely and voluntarily and of its own accord without any duress or coercion whatsoever and that the Developer is fully aware of the terms, conditions and covenants contained within this Agreement and the legal effects of same. The Parties to this Agreement acknowledge and agree that this Agreement may be executed in counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall constitute the one and the same instrument.

INTENTIONALLY BLANK

SIGNATURE PAGE TO FOLLOW

2024 STANDARD TEMPLATE

IN WITNESS WHEREOF the Parties hereto have affixed their corporate seals, duly attested by the hands of their respective proper officers in that behalf, as of the day and year first above written.

TOWN OF STONY PLAIN

Per: _____
Chief Elected Official (c/s)

Per: _____
Chief Administrative Officer

[DEVELOPER (Corporation)]

Per: _____
[Title] (c/s)

Per: _____
[Title]

OR

[DEVELOPER (Corporation without corporate seal)]

Per: _____
[Title]

Per: _____
[Title]

Witness [Name]

OR

[DEVELOPER (Individual)]

Witness [Name]

[Name]

Witness [Name]

[Name]

AFFIDAVIT OF EXECUTION
[To Be Sworn by Witness if Developer is an Individual]

CANADA)	I, _____
)	
PROVINCE OF ALBERTA)	of the _____ of _____, in
)	
TO WIT:)	the Province of Alberta,
)	
)	MAKE OATH AND SAY THAT:

- I WAS PERSONALLY present and did see _____ named in the within (or annexed) Instrument, who is personally known to me to be the person named therein, duly sign and execute the same for the purposes named therein.
- THAT THE SAME was executed at _____, in the Province of Alberta, and that I am the subscribing witness thereto.
- THAT I KNOW the said _____ and he/she is, in my belief, of the full age of eighteen years.

SWORN BEFORE ME at the _____)
 _____ of _____, in)
 the Province of Alberta,)
 this ____ day of _____, 20____.)
 _____)
 A COMMISSIONER FOR OATHS IN AND FOR ALBERTA)

AFFIDAVIT VERIFYING CORPORATE SIGNING AUTHORITY
[To Be Sworn if Developer is a Corporation with no Corporate Seal]

CANADA)
)
 PROVINCE OF ALBERTA)
)
 TO WIT:)
)
)
)
)
)

I, _____
 of the _____ of _____, in
 the Province of Alberta,
 MAKE OATH AND SAY THAT:

1. That I am an officer, director or agent of _____ named in the within or annexed instrument.
2. That I am authorized by _____ to execute the instrument without affixing a corporate seal.

SWORN BEFORE ME at the)
)
 _____ of _____, in)
)
 the Province of Alberta,)
)
 this ____ day of _____, 20____.)
)
)
)
)
)
)
)
)
)

 A COMMISSIONER FOR OATHS IN AND FOR ALBERTA

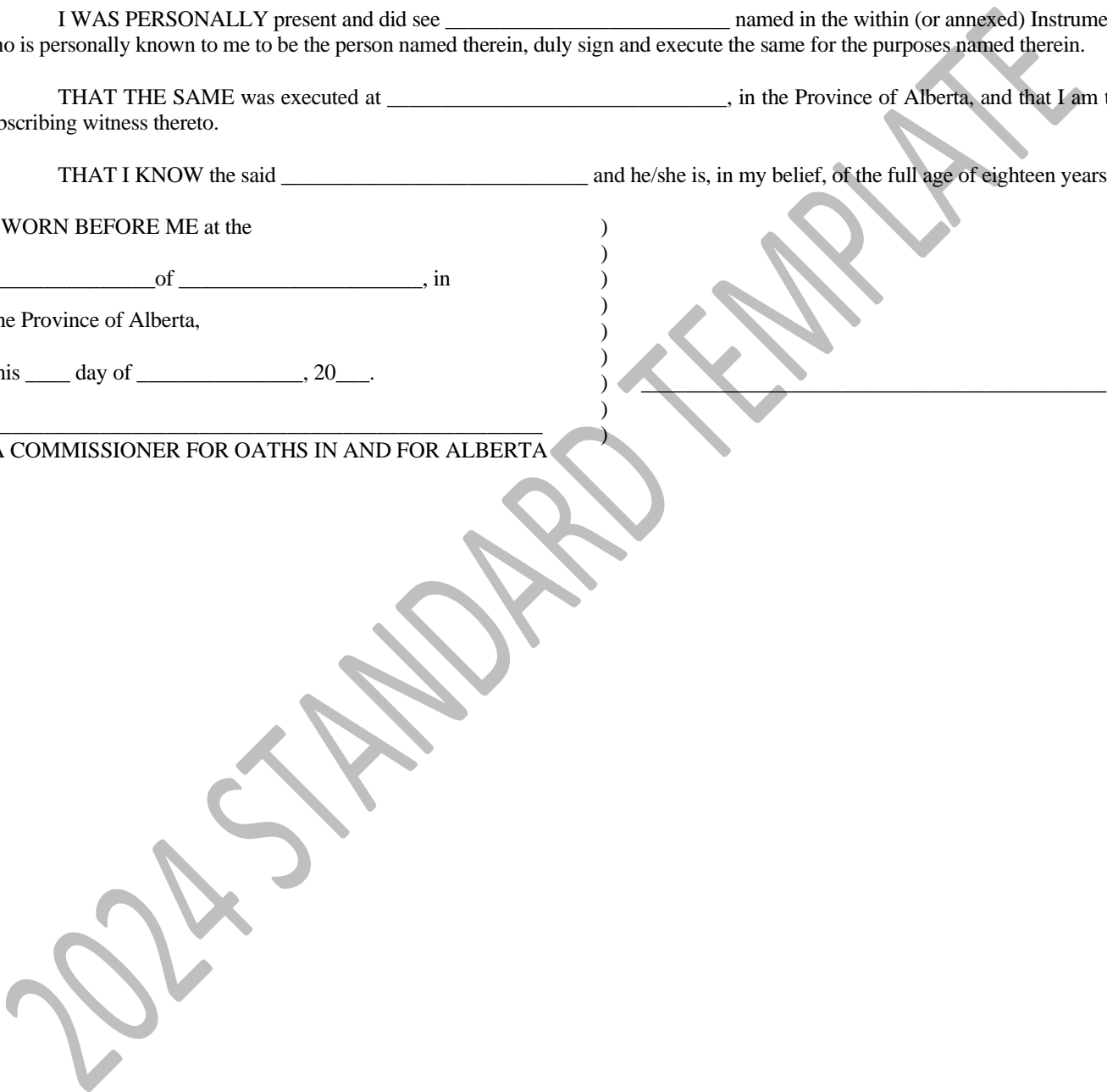
AFFIDAVIT OF EXECUTION

CANADA) I, _____

PROVINCE OF ALBERTA)
) of the _____ of _____, in
)
 TO WIT:)
) the Province of Alberta,
)
) MAKE OATH AND SAY THAT:
)

1. I WAS PERSONALLY present and did see _____ named in the within (or annexed) Instrument, who is personally known to me to be the person named therein, duly sign and execute the same for the purposes named therein.
2. THAT THE SAME was executed at _____, in the Province of Alberta, and that I am the subscribing witness thereto.
3. THAT I KNOW the said _____ and he/she is, in my belief, of the full age of eighteen years.

SWORN BEFORE ME at the)
)
 _____ of _____, in)
)
 the Province of Alberta,)
)
 this ____ day of _____, 20____.)
)
 _____)
)
 A COMMISSIONER FOR OATHS IN AND FOR ALBERTA)



SCHEDULE "A"
LEGAL DESCRIPTION OF LANDS

2024 STANDARD TEMPLATE

SCHEDULE "B"
THE DEVELOPMENT AREA

2024 STANDARD TEMPLATE

SCHEDULE "C"
LOCAL IMPROVEMENTS

Subject to confirmation from the Municipality with respect to either the current existence of any of the following satisfactory to the Municipality, or confirmation that the Municipality has assumed responsibility to initially construct and install them, Local Improvements shall mean and include the following to be constructed in and adjacent to the Development Area.

- (a) all sanitary sewer systems including holding tanks, service lines, manholes, mains and appurtenances;
- (b) all drainage systems, including storm sewers, storm sewer connections, provisions for weeping tile flow where a high water table or other subsurface conditions cause continuous flow in the weeping tile, storm retention ponds, catch basins, catch basin leads, manholes and associated works, all as and where required by the Municipality;
- (c) all water wells, pumps and lines, including all fittings, valves, and hydrants and looping as required by the Municipality, in order to safeguard and ensure the continuous and safe supply of water in the Development Area;
- (d) all concrete curb and gutter, subgrade, base gravel and base asphalt, sidewalks and sub-grade, base and asphaltic pavement; and all surface asphalt;
- (e) all lighting systems for streets, walkways, parking areas and Public Lands as and where required by the Municipality;
- (f) such electrical conduit as may be required by the Municipality for the installation of traffic control signals and traffic control devices;
- (g) all traffic signs, street signs, development identification signs, zoning signs, and directional signs, berming and noise attenuation devices all as and where required by the Municipality;
- (h) all walkway systems and Landscaping on both private property and Public Lands which are to be constructed and installed to the satisfaction of the Municipality, and in accordance with the Engineering Drawings for Landscaping to be submitted for the approval of the Municipality;
- (i) such construction or development of streets and lanes as may be required by the Municipality; including, but in no manner limited to, a second or temporary access for vehicular traffic from the Development Area;
- (j) the restoration of all Public Lands to the Municipality's satisfaction which are disturbed or damaged in the course of the Developer's work;
- (k) the relocation, to the Municipality's satisfaction, of all existing utilities and Local Improvements as required by the Municipality as a result of the installation and construction of other utilities and Local Improvements pursuant to this Agreement;
- (l) the establishment, or re-establishment, of any survey monuments or iron posts (including pins on individual lots) as and where and when required by the Municipality throughout and adjacent to the Development Area;
- (m) public information signs, of a size and location to be approved by the Municipality, and to contain such public information regarding the completion of services and the completion of the construction of other facilities as may be required by the Municipality in order to provide proper and complete and up to date information to proposed purchasers and residents within the Development Area;
- (n) such uniform fencing, (noise attenuation, or screen) either permanent or temporary, of a standard and of a design satisfactory to the Municipality, all of which is to be constructed and located to the satisfaction of the Municipality; and
- (o) all utilities including electricity including street lights, natural gas and telecommunications, such utilities to be provided in a location and a standard to be approved by the appropriate utility company and the Municipality.

SCHEDULE "D"
ADDITIONAL PROVISIONS

In addition to the terms, covenants and conditions contained within this Agreement, the Developer shall be responsible, at its sole cost, for the satisfaction of the following additional provisions:

1. Construction Timetable - Notwithstanding Section 5.1, the Developer shall, on or before the ___ day of _____, 20___, commence construction and installation of the Local Improvements within the Development Area and shall complete the construction and installation of the Local Improvements, at the Developer's own cost and expense, within the Development Area on or before the ___ day of _____, 20___.

2. **[DRAFT NOTE: Include any specific provisions or details pertaining to the development. The following provisions are meant to be examples of what may be included here.]**

General Purpose Utility Right of Way - Further to Section 13 of this Agreement, the Developer shall grant to the Municipality and register a utility right of way for all general purposes including water, sanitary sewer, storm water, natural gas, electricity, and telecommunication services and infrastructure on all lots within the Plan of Subdivision, concurrently with the registration of the Plan of Subdivision and prior to the sale of any lots covered by the Plan of Subdivision and in any event, prior to Commencement of Construction of the Local Improvements.

Restrictive Covenant – Further to Section 13.7 and Section 15.5 of this Agreement, the Developer shall prepare and register, at the Developer's sole cost and expense, restrictive covenants in a form acceptable to the Municipality, on the title to Lots XXXX of the proposed Plan of Subdivision (the servient tenement) within the Development Area to the benefit of the adjacent arterial roads and collector road (eg. XXXX) OR Municipal Reserve lot (the dominant tenements), which provides for and ensures appropriate fencing requirements in accordance with the Municipality's Design Standards and the approved Engineering Drawings. Such restrictive covenants shall be registered against title to the lots concurrently with registration of the Plan of Subdivision with the Land Titles Office.

Cost Contribution – The Developer acknowledges that the Municipality has undertaken the construction and installation of certain Local Improvements within the Development Area to be used as the mutual access to and from the Development Area, which includes but is not limited to _____, that the Developer would have otherwise been required to construct and install as part of the Local Improvements under this Agreement. Given this, the Developer agrees to pay to the Municipality its proportionate share of the construction and installation costs of such Local Improvements in the amount of _____ (\$_____) dollars and that such payment shall be paid to the Municipality upon execution of this Agreement.

Oversizing – Pursuant to Sections 17.4 to 17.11 of this Agreement, the Developer shall as part of the Local Improvements under this Agreement undertake the construction and installation of _____ [insert type of Local Improvement to be oversized] in order to accommodate the Development Area and future development on other lands neighbouring and adjacent to the Development Area, as set forth, or to be particularly defined and illustrated, within the Engineering Drawings that are submitted and approved by the Municipality. The Municipality agrees to endeavor to assist in the collection of contributions to the oversizing from benefiting adjacent developers in accordance with the terms and conditions of this Agreement, and in particular in accordance with Section 17.11, the endeavour to assist shall be for a period of 10 years from the date of the Development Agreement. The cost of the oversized _____ shall be apportioned on an area basis over the benefiting area, including the Development Area.

Pollution Liability Insurance – In addition to the insurance provisions contained within Section 23 of this Agreement, the Parties acknowledge and accept there is environmental sensitivity to the Development Area and/or the surrounding lands. As such, the Developer is required to obtain and maintain an active Pollution Liability insurance policy with limits of no less than \$5,000,000.00 per occurrence. Such insurance shall include all operations associated with Hazardous Substances removal, be written on an occurrence basis form and contain such terms as provided by in section 23.3(a) to (e).

SCHEDULE "E"
DEVELOPMENT CHARGES AND FEES

A. Developer Contributions and/or Off-site Levies

1. The Developer shall pay the following as servicing contributions and/or off-site levies, pursuant to the provisions of this Agreement and Sections 650 or 655 of the Municipal Government Act:

Off-Site Levies

Transportation Offsite Levy = \$___ per gross developable hectare x ___ hectares* = \$___.

Water Offsite Levy = \$___ per gross developable hectare x ___ hectares* = \$___.

Sanitary Offsite Levy = \$___ per gross developable hectare x ___ hectares* = \$___.

Recreation Offsite Levy = \$___ per gross developable hectare x ___ hectares* = \$___.

*area to be confirmed based on the plan of survey by an Alberta Land Surveyor

TOTAL OFFSITE LEVIES = _____

Developer Contributions

2. Payment – the Developer shall pay the amounts described in this Schedule as and when required within Sections 17 and 18 of this Agreement.

B. Approval & Inspection Fees

1. Fees and Calculation – the approval and inspection fees currently due and payable by the Developer pursuant to Section 18 of this Agreement are as follows:

[DRAFT NOTE: Insert Current Fees, Refer to General Fees Bylaw, or Leave Blank as Section 18 Will Apply]

2. Payment – the Developer shall pay the approval and inspection fees applicable to the lands contained within the Development Area as and when required within Section 18 of this Agreement.

[DRAFT NOTE: Insert Special Payment Terms or Leave Blank as any deferral of payments and/or contributions beyond the release of the Plan of Subdivision and/or commencement of construction should be secured, eg. by an Irrevocable Letter of Credit]

**SCHEDULE "F"
SECURITY**

1. For purposes of calculating the security required to be deposited by the Developer pursuant to Section 23, and subject to the provisions below, the cost estimates for the construction and installation of the Local Improvements are as follows:

[The amounts below are DRAFT amounts, for the purposes of discussion, the final amounts are to be inserted in accordance with the Municipality's most updated cost estimates at the date of entering this Agreement]

Underground Local Improvements

Water Distribution System	\$
Sanitary Sewer System	\$
Storm Sewer System (includes drainage)	\$ _____
Underground Subtotal	\$

Surface Local Improvements

Earthworks and Berming	\$
Sidewalk, Curb and Gutter	\$
Granular Base	\$
Asphalt	\$
Fencing	\$
Signage	\$ _____
Surface Subtotal	\$

Landscaping Local Improvements

Landscaping	\$
Maintenance (for warranty period)	\$
Landscaping Subtotal	\$

Shallow Utilities Local Improvements

Electrical (includes street lights)	\$
Natural Gas	\$
Telecommunications	\$ _____
Shallow Utilities Subtotal	\$

Total Value of Local Improvements **\$**

**Total Value of Security required
for Local Improvements** **\$**
(based on % for Developer Category)

Minimum Required Security* **\$**

*Development Agreement Security Policy A-PI-053
[Major/Minor] Development Agreement

2. The Parties hereby represent, warrant, covenant and agree that all of the costs for the construction and installation of the Local Improvements for the Development Area, as set out above, are estimates, and as such shall in no way limit or restrict the Developer's responsibility under this Agreement, nor in any way whatsoever establish or otherwise suggest a maximum amount of the Developer's obligations under this Agreement.

3. In the event that any of the actual or tendered costs for the construction and installation of the Local Improvements for the Development Area are higher or lower than as estimated above, the security to be provided by the Developer shall be adjusted in accordance with Section 23 so as to be based upon those actual or tendered costs.

SCHEDULE "G"
INAPPLICABLE PROVISIONS

The Parties agree that the following terms, covenants and conditions contained within this Agreement shall not apply:

1. **[DRAFT NOTE: insert number of inapplicable conditions (Sections)]**

SCHEDULE "H"
SUBDIVISION/DEVELOPMENT PROCESS & CHECKLIST

This checklist is intended to be general in nature and is not specifically tailored to reflect the terms of the Agreement. In the event of a discrepancy between this Schedule and the Agreement, the Agreement prevails.

Without restricting in any manner whatsoever the terms, covenants, conditions and requirements of this Agreement, the subdivision and/or development contemplated within this Agreement shall proceed in the following manner, and subject to the satisfaction of the following requirements:

A. Process 1 – Information

1. Inspection/Review Fees – prior to commencing any inspections or review of the Developer’s Engineering Drawings or other information, the Developer shall deliver to the Municipality the required inspection and/or review fees (**Reference Section 18 and Schedule "E"**).
2. Engineering Drawings – the Developer shall submit to the Municipality all Engineering Drawings requested or otherwise required by the Municipality to show the Local Improvements to be constructed and installed by the Developer, which shall be prepared in accordance with the terms of this Agreement (**Reference Sections 4, 11, and 15**).
3. Additional Information – the Developer shall assemble and submit to the Municipality such additional information or documentation as may be required by the Municipality to review and assess the Developer’s Engineering Drawings, or otherwise carry out the provisions of this Agreement including, without restriction, the Developer’s construction timetable.

B. Process 2 – Approvals

1. Alberta Infrastructure and Transportation – where applicable, must be received and confirmed in writing.
2. Alberta Environment and Park– where applicable, must be received and confirmed in writing.
3. Plan Approval – subject always to the receipt of the foregoing, the Municipality may approve final Engineering Drawings prepared and submitted by the Developer or the Developer’s Consultant.
4. Federal licenses, certifications or approvals – where applicable, must be received and confirmed in writing.

Subject to the balance of the provisions of this Agreement, upon approval of all applicable Engineering Drawings by the Municipality, the Developer may proceed with Plan of Subdivision endorsement and/or Commencement of Construction as contemplated within this Schedule and this Agreement.

C. Process 3 – Endorsement/Registration and Commencement of Construction

1. Checklist – prior to endorsement and registration of any Plan of Subdivision, or the Commencement of Construction of any Local Improvements or other improvements upon or within the Development Area by the Developer, the Developer shall provide and/or the Municipality shall confirm the following:
 - Statutory Plans/Amendments** - receipt/confirmation of passage of any statutory plans or amendments, if applicable (**Reference Section 2.4**);
 - LUB Amendments/Redistricting** - receipt/confirmation of amendments to Land Use Bylaw/redistricting, if applicable (**Reference Section 2.4**);
 - Provincial Approvals** - receipt/confirmation of approvals of:
 - o Alberta Infrastructure and Transportation;
 - o Alberta Environment and Parks; and
 - o any other Provincial Department, as applicable;
 - Conditions** – receipt/confirmation of satisfaction of all conditions contained within the applicable subdivision approval or development permit (**Reference Section 2.4**);

- Registered owner** – confirmation that the registered owner of the lands is the Developer (**Reference Section 2.4**);
- Other Utilities** - confirmation of commitments to install electrical power, including street lights, natural gas, and telecommunication services within and to the Development Area including, without restriction, confirmation of payment of costs of utility providers (**Reference Section 7**):
 - o Electrical Power including street lights;
 - o Natural Gas; and
 - o Telecommunications.
- Utility Easements/Instruments** - receipt/confirmation of all utility easements and other instruments (**Reference Section 13**), comprised of:
 - o Receipt of executed instruments; and
 - o Receipt of confirmation of registration of all registerable instruments at the Land Titles Office;
 - o Receipt of confirmation of registration requirement upon or within Plan of Subdivision endorsement, or written solicitor's undertaking to complete registration concurrent with Plan of Subdivision (in priority to any and all financial encumbrances whatsoever);
- Oversizing/Shared Costs** - payment of oversizing/shared costs contribution (**Reference Section 17 and Schedule "E"**);
- Oversized Local Improvements** - confirmation of oversizing to be constructed by Developer (**Reference Section 17 and Schedule "E"**);
- Off-Site Levies** - payment of Off-Site Levies (**Reference Section 18 and Schedule "E"**), or receipt of separate security for any deferred payment of Off-Site Levies;
- Inspection/Review/Approval Fees** - payment of all Inspection/Review/Approval Fees not collected prior to review and approval of Engineering Drawings (**Reference Section 18 and Schedule "E"**);
- Insurance** - receipt/confirmation of all required insurance coverage, additional insured notations, riders, and additional terms (**Reference Section 23**);
- Security** - receipt/confirmation of all required security (**Reference Section 23 and Schedule "F"**); and
- Caveat** - receipt of either:
 - o confirmation of registration of Caveat Re: Development Agreement at the Land Titles Office; or
 - o confirmation of registration requirement upon or within Plan of Subdivision endorsement, or written solicitor's undertaking to complete registration concurrent with Plan of Subdivision (in priority to any and all financial encumbrances whatsoever);

2. Public Land – prior to the Commencement of Construction of any Local Improvements or other improvements upon or within or upon any Public Lands by the Developer, the Developer shall provide and/or the Municipality shall confirm the items referenced within **Section 6**.

D. Process 4 – Inspections & Certificates

1. Pre-Completion Certificate Checklist – prior to acceptance by the Municipality of the Local Improvements and prior to issuance of Construction Completion Certificates, the Developer shall provide and/or the Municipality shall confirm the following:

- Consultant's statement** – receipt of Developer's Consultant statement under seal confirming: adequate periodic inspection services and completion of work in a good and workmanlike manner and in accordance with the Engineering Drawings, accepted engineering and construction practices, and the Design Standards (**Reference Section 5**);
- Satisfactory test results** – receipt of all required test results, including: camera video inspection of all storm and sanitary sewer lines (**Reference Section 5**);
- Legal Documents** - receipt/confirmation that all easements, utility rights-of-way and restrictive covenants have been prepared and approved in a form acceptable to the Municipality (**Reference Section 10.1**);
- Public Lands** – confirm that all Public Lands which have been disturbed or damaged have been fully restored by the Developer (**Reference Section 10.1**);
- Suitability** – confirm that the Local Improvement is suitable for the purpose intended (**Reference Section 10**);
- Manuals** - receipt/confirmation of any applicable operation plans, operation manuals or maintenance manuals, for the Local Improvements having special operation or maintenance requirements (**Reference Section 10**).

2. Construction Completion Certificate and Warranty Period – upon the issuance of a Construction Completion Certificate, the Municipality assumes normal operation and maintenance (excluding repairs or matters arising from inadequate or deficient design or construction) of the relevant Local Improvements excluding Landscaping, fencing and facilities owned by private utility companies (**Reference Section 10**) and the Warranty Period shall commence (**Reference Section 12**).
3. Developer Notice – receipt/confirmation of written notice from the Developer, not more than sixty (60) days prior to expiration of any Warranty Period, of expiration of the Warranty Period and request of Final Acceptance of Local Improvements. The Developer's notice shall be accompanied by a list of any deficiencies (**Reference Section 10**).
4. Municipality Notice or Final Acceptance Certificate - within Sixty (60) days of receipt of Developer Notice, Municipal notice to the Developer in writing of: deficiencies in relation to the Local Improvements, or inability to inspect (**Reference Section 10**). The Municipality will issue the Final Acceptance Certificate (**Reference Section 10 and 12**), if:
 - Inspection** - no deficiencies exist upon inspection (**Reference Section 10**);
 - Payment of Final Cleaning Costs** - the Developer has paid the Municipality's costs and expenses of the final cleaning and the removal of obstructions immediately prior to the issuance of the Final Acceptance Certificate (**Reference Section 12**); and
 - Notice of oversizing costs** - the Developer has provided the Municipality with the details of the costs of oversizing or extension of the Local Improvements that accommodate future development on land adjacent to the Development Area and in other benefiting areas for approval by the Municipality (**Reference Section 17**).

E. Process 6 – Cost Recoveries & Deferred Contributions

1. Levies Cost Recovery and Deferred Contribution - if levies have been deferred by agreement, then either upon One (1) year following the date of the execution of this Agreement or upon an alternate triggering of their payment pursuant to written agreement, the Municipality may demand and the Developer shall pay the levies, plus interest (**Reference Sections 18.1 and 19.1**); alternatively, these costs may be collected at the development permit stage (**Reference Section 18.1**).
2. Oversizing Cost Recovery and Deferred Contribution - if oversizing costs have been deferred by agreement until completion of the works or some other agreed upon event, then upon completion or the event occurring, the Municipality may demand and the Developer shall pay its proportionate share of the costs that the Developer agreed to pay on a deferred basis, plus interest (**Reference Sections 17.1 and 19.1**); alternatively, these costs may be collected at the development permit stage (**Reference Section 17.1**).
3. Endeavour to Assist - the Municipality shall make it a term of any Development Agreement between the Municipality and owners of any future benefiting developments that such owners pay their proportionate share of such shared costs to the Developer and shall require payment of the same by such owners as a condition of the use of the Local Improvements or as a condition of the approval of any development applications. Such endeavor to assist shall remain in place for 10 years from the date of the Development Agreement (**Reference Sections 17.6 and 17.11**).
4. Municipal Notice of Benefiting Development - in the event any land adjacent to the Development Area, and other benefiting areas which may benefit from the Local Improvements oversized or extended by the Developer, is intended to be developed and the Municipality is advised of any such development, the Municipality will endeavour to notify the Developer in writing of the intended development (**Reference Section 17.8**).
5. Developer Notice of Claim – upon receipt of notice of intended development being sent by the Municipality, the Developer shall notify the Municipality in writing of any claims it has in writing under this Agreement for recovery of shared costs with detailed calculations setting out the amount claimed by the Developer, plus interest (**Reference Sections 17.8 and 17.9**).

F. Process 7 – Final Release of Security

1. Checklist for Reduction of Security or Insurance - prior to reduction of the amount of security and/or insurance to be provided by the Developer to the Municipality, the Developer shall provide and/or the Municipality shall confirm the following:

- **Application** - receipt of application by the Developer (**Reference Section 23.13**);
- **Respecting Construction Completion for Local Improvements** - receipt/confirmation of a Construction Completion Certificate or Final Acceptance Certificate, provided that prior to the issuance of Final Acceptance Certificates for all of the Local Improvements, the security maintained by the Municipality shall not be less than the amounts set out in Section 23.13;
- **Deferred Cost Recovery** – security taken for deferred cost recovery (e.g. for oversizing, levies, or fees) shall not be released until all of those costs have been paid (plus interest) by the Developer in accordance with the agreement for deferral (**Reference Sections 17.1 and 18.1, and Schedules "E" and "F"**)
- **Charge Against Land** - the charge, mortgage, and encumbrance registered against the Developer's Lands will not be discharged until all of the Developer's obligations under this Agreement, including all deferred obligations or payments, have been completed (**Reference Section 20.2 and Schedule "F"**).

SCHEDULE "I"
DEVELOPMENT AGREEMENT SECURITY POLICY A-PI-053



A-PI-053

Development Agreement Security Policy

Authority: Town Manager

Effective Date: October 1, 2021

Signature: _____

Future Review Date: 2025

Responsibility: Planning and Infrastructure

References: *Municipal Government Act Part 17*

Replaces: No Prior Policy

- 1.0 Purpose:** This policy establishes a framework for the collection and release of Security related to Development Agreements when required from a Developer to ensure Local Improvements are constructed to Town Standards as part of a subdivision or development.
- 2.0 Scope:** This policy applies to all Development Agreements that require Security.
- 3.0 Definitions:**
- 3.1 "Construction Completion Certificate" or "CCC" means a certificate accepted by the Town confirming that the Local Improvements are complete and operational to the satisfaction of the Town, and that the Warranty Period for the work can commence;
- 3.2 "Development Agreement" means a legal contract between a Developer and the Town that defines the terms and conditions under which a subdivision or development must be carried out, including responsibility to construct Local Improvements and associated financial obligations;
- 3.3 "Developer" means the owner(s) of land being subdivided or developed, including the individuals, corporations, employees, or representatives associated with the owner(s);
- 3.4 "Developer Category" means the category that a Developer falls within based on the criteria as outlined in Schedule A that identifies the specific Security amounts owed by the Developer as outlined in Schedule B;
- 3.5 "Final Acceptance Certificate" (FAC) means a certificate accepted by the Town confirming completion of a Warranty Period;

Town of Stony Plain
Development Agreement Security Policy A-PI-053
Page 1 of 7

- 3.6 "Local Improvements" means any infrastructure, feature, or upgrade required to support a proposed subdivision or development, which is the responsibility of the Developer and includes, but is not limited to: deep utilities, shallow utilities, roadways, lanes, trails, sidewalks, street lighting, and landscaping, and is to be owned and operated by the Town;
- 3.7 "Major Breach" means any breach of a Development Agreement, development or subdivision requirement, or related development activity by a Developer as outlined in Schedule C;
- 3.8 "Minor Breach" means any breach of a Development Agreement, development or subdivision requirement, or related development activity by a Developer as outlined in Schedule C;
- 3.9 "Security" means a financial commitment provided to the Town by a Developer as part of a Development Agreement;
- 3.10 "Town" means the Town of Stony Plain;
- 3.11 "Town Standards" means the procedures, standards, and specifications in the Municipal Development Standards; and
- 3.12 "Warranty Period" means a minimum two-year period following issuance of a Construction Completion Certificate where the Developer is solely responsible for the maintenance of Local Improvements related to a subdivision or development and concludes upon issuance of a Final Acceptance Certificate.
- 4.0 Statement:** The Town utilizes a well-defined, incentivized, and consistent approach for the collection and release of Development Agreement Security to ensure the Town balances its financial risks associated with land development, while encouraging community growth and responsible development.
- 5.0 Standards:**
- 5.1 General Provisions
- 5.1.1 The Town will collect Security as part of a Development Agreement where a subdivision or development requires Local Improvements.
- 5.1.2 When a Development Agreement has been executed prior to the date of approval of this policy, the terms and conditions of the Development Agreement will prevail where a conflict exists between this policy and a Development Agreement.
- 5.2 Security Types and Requirements

- 5.2.1 The Town will only accept Security submitted in the form of one or more of the following:
 - 5.2.1.1 Certified cheque;
 - 5.2.1.2 Bank draft;
 - 5.2.1.3 Letter of credit, or
 - 5.2.1.4 Development Bond.
- 5.2.2 All monies will be held in a zero-interest account.
- 5.2.3 Security submitted as a letter of credit or as a development bond must be in a form and content acceptable to the Town and be unconditional, irrevocable, and payable upon demand.
- 5.2.4 The Town will not accept Security in the form of:
 - 5.2.4.1 An insurance bond, or
 - 5.2.4.2 Payment made by credit card.
- 5.2.5 The amount of Security required from a Developer for a Development Agreement is determined by the Developer Category they are placed in and the construction costs for the Local Improvements related to the Development Agreement.
- 5.2.6 The Town will not accept Security in the form of a Development Bond from a Category C or D Developer.
- 5.2.7 The amount of Security may be increased or reduced depending on:
 - 5.2.7.1 Circumstances of the subdivision or development;
 - 5.2.7.2 Completion of the Local Improvements;
 - 5.2.7.3 The Developer being placed within a different Developer Category;
 - 5.2.7.4 New or updated construction costs estimates or actual or tendered costs for the Local Improvements; and
 - 5.2.7.5 Revisions to the percentage of the construction costs as listed in Schedule B based on the Developer Category and the minimum amount of Security.
- 5.3 Determine Developer Category
 - 5.3.1 The Town places a Developer into a Developer Category based on past development performance within Stony Plain and other municipalities based on the criteria listed in Schedule A.
 - 5.3.2 A Developer using multiple legal company names to enter into more than one Development Agreement will be considered on a case-by-case basis as one Developer that falls within the same category at the discretion of the Town.

5.3.3 The Town will place a Developer into a different Developer Category at any time based on updated development performance in consideration of the criteria listed in Schedule A and the breach information in Schedule C.

5.4 Security Collection

5.4.1 Prior to commencing construction of the Local Improvements, a Developer must provide the required amount of Security to the Town as determined in Section 5.2.5.

5.4.2 Prior to a Developer requesting a subdivision be endorsed, a Developer may need to provide additional security in accordance with Schedule B.

5.5 Security Reduction and Release

5.5.1 Upon request from a Developer, the Town will reduce the amount of Security when:

- 5.5.1.1 The Developer receives executed Construction Completion Certificates for both the surface and underground Local Improvements;
- 5.5.1.2 The Developer receives executed Final Acceptance Certificates for both the surface and underground Local Improvements and a Construction Completion Certificate for the Landscaping Local Improvements; or
- 5.5.1.3 Where a Development Agreement allows for or only requires a single Construction Completion Certificate, when the Developer receives an executed Construction Completion Certificate for all relevant Local Improvements.

5.5.2 Upon request from a Developer and upon acceptance of the Final Acceptance Certificates, the Town will fully release the amount of the Security.

5.5.3 Prior to the issuance of all executed Final Acceptance Certificates, the minimum amount of Security must be in accordance with Schedule B.

5.6 Drawing on Securities

5.6.1 If a developer does not fulfill the obligations of their Development Agreement or does not act on requests from the Town to remedy maintenance or safety concerns related to the construction of Local Improvements, the Town may draw on and use the Security collected from the Developer to complete any outstanding obligations or maintenance, or address safety concerns related to the work covered by the Development Agreement to the satisfaction of the Town.

6.0 Policy Review: This policy shall be reviewed by Administration within four years of being implemented, with any changes being submitted to the Town Manager for approval.

Schedule A – Developer Category Criteria

Category	Determining Criteria
A	<ul style="list-style-type: none"> • Two or more Town Development Agreements completed or substantially completed* in the last 5 years; and • No Major Breaches or Minor Breaches in the past 2 years.
B	<ul style="list-style-type: none"> • One or more Town Development Agreements completed or substantially completed* in the last 5 years, or positive references from other Alberta municipalities for at least two Development Agreements completed or substantially completed* in the last 5 years; and • No Major Breaches and no more than two Minor Breaches in the past 2 years.
C	<ul style="list-style-type: none"> • No Town Development Agreements completed or substantially completed* in the last 5 years, or less than three other municipal Development Agreements completed or substantially completed* in the last 5 years; or • No Major Breaches and more than two Minor Breaches in the past 2 years.
D	<ul style="list-style-type: none"> • One or more resolved Major Breaches in the past 2 years; or • One or more unresolved Major Breaches.

*All Local Improvements have been issued an executed CCC

Schedule B – Security Amounts

Developer Category	Initial Security	Security Reduction		Security Increase
	Percentage of Construction Costs prior to Commencement of Construction	Holdback for Certified Local Improvements*	Holdback for Uncertified Local Improvements and Landscaping**	Percentage of Construction Costs prior to Subdivision Endorsement without underground and surface CCCs***
A	10%	5%	20%	25%
B	25%	10%	50%	75%
C	40%	20%	75%	100%
D	100%	50%	100%	125%

*Includes all non-landscaping Local Improvements that are covered by an issued executed Construction Completion Certificate, excluding any Local Improvements considered as outstanding deficiencies

**Includes all landscaping Local Improvements and any non-landscaping Local Improvements not covered by an issued executed Construction Completion Certificate or considered as outstanding deficiencies

***Only applies to Local Improvements not covered by an issued executed Construction Completion Certificate or considered as outstanding deficiencies

Minimum Security payments for all Developer Categories will not be less than:

- \$150,000 when related to a major Development Agreement;
- \$50,000 when related to a minor Development Agreement involving water, sanitary or both types of Local Improvements; and
- \$20,000 when related to a minor Development Agreement not involving either water, sanitary or both types of Local Improvements.

Schedule C – Past Performance Expectation Breaches

Major Breaches	Minor Breaches
The Town considers each instance of the following as a Major Breach:	The Town considers each instance of the following as a Minor Breach:
<ul style="list-style-type: none"> a) Commencing construction of Local Improvement prior to an executed Development Agreement; b) Failing to obtain any required non-municipal approvals, permits, or licenses; c) Failing to comply with the Town Standards, including appropriate Professional Engineer supervision during construction; d) Failing to provide and maintain Security or obtain and maintain insurance; e) Failing to complete all essential services prior to building construction; f) Failing to remedy any Minor Breach within the timeline set by the Town; and g) Failing to comply with a Town order. 	<ul style="list-style-type: none"> a) Commencing development or construction prior to obtaining the necessary municipal approvals or providing required Security or proof of insurance (including hauling operations); b) Failing to apply for a CCC or FAC within the required timelines; c) Failing to submit fees or make development charge payments, including off-site levies, within the required timelines; d) Failing to maintain erosion and sedimentation control measures, provide dust control, provide weed control, or provide control of construction debris; e) Failing to correct deficiencies or requiring concessions for acceptance of work; and f) Being issued an order by the Town.

SCHEDULE "J"
TOWN OF STONY PLAIN DEVELOPMENT BOND FORM

Development/Subdivision Bond

Bond No. _____ Bond Amount \$ _____

KNOW ALL PERSONS BY THESE PRESENTS THAT

(the "Principal")
AND

a corporation created and existing under the laws of Canada, and duly authorized to transact the business of suretyship in the Province of Alberta as Surety (the "Surety"), are held and firmly bound unto the Town of Stony Plain, a municipal corporation, as Obligee (the "Obligee"), in the amount of

_____ dollars

(\$ _____),

lawful money of Canada (hereinafter called "Bond Amount"), for payment of which sum, well and truly to be made, the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally by these presents.

WHEREAS, the Principal has or will be entering into a development agreement with the Obligee to develop their subdivision/development approval SA/DP _____ for _____ (IF APPLICABLE: INSERT SUBDIVISION NAME AND STAGE OR DEVELOPMENT NAME) including the submitted engineering drawings, hereinafter referred to as "the Development Agreement".

NOW, IT IS A CONDITION OF THIS BOND THAT, if the Principal, in the sole and absolute determination of the Obligee, promptly and faithfully performs all its obligations under the Development Agreement, then this Bond is null and void; but, otherwise this Bond shall remain in effect until all of the obligations under the Development Agreement are completed, in the sole and absolute determination of the Obligee, by the Principal, and the Obligee provides proper notice to the Surety that the Bond may therefore be terminated.

If the Obligee, in its sole and absolute discretion, determines that the Principal is in default of its obligations under the Development Agreement, the Surety and Principal agree that the Surety will make payments to the Obligee for amounts demanded by the Obligee, up to an aggregate of the Bond amount, within seven (7) business days after the Surety's receipt of a demand from the Obligee at the address noted herein by hand or courier and the form of a Payment Demand, the form of which is attached to this

Bond as Schedule "A".

The Surety and the Principal expressly waive any defence that the Principal is not in default of its obligations under the Agreement following the delivery of a Payment Demand to the Surety as defined in this Bond. The Payment Demand delivered to the Surety shall be accepted by the Surety and the Principal as conclusive evidence that the amount demanded within the Payment Demand is payable to the Obligee; and all payments shall be made free and clear without deduction, set-off, or withholding.

If the Surety, at any time, gives ninety (90) days' notice by registered letter to both the Principal and the Obligee of its intention to terminate this Bond, then this Bond and all accruing responsibility thereunder shall from and after the last day of such ninety (90) days aforesaid terminate only if the Principal has provided financial security to the Obligee in at least the same amount as this Bond in a form acceptable to the Obligee.

If the Principal does not provide such financial security to replace this Bond, then the Surety shall, at its sole discretion, either immediately pay the full Bond Amount to the Obligee within seven (7) business days, or confirm to the Obligee in writing that this Bond will remain in full force.

The Surety shall not be liable for a sum greater than the Bond Amount.

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SIGNATURE PAGE TO FOLLOW

This Bond shall be governed by and construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable thereto and shall be treated, in all respects, as a contract entered in the Province of Alberta without regard to conflict of laws principles. The Principal and Surety hereby irrevocably and unconditionally attorn to the jurisdiction of the courts of the Province of Alberta.

Any notice hereunder is to be given:

In the case of the Obligee, to:

Chief Administrative Officer
Town of Stony Plain
4905 51 Avenue
Stony Plain, AB T7Z 1Y1

in the case of the Principal, to:

(name and address)

in the case of the Surety, to:

(name and address)

IN WITNESS WHEREOF, this bond is duly signed, sealed and delivered this _____ day of _____, 20____.

The Principal:

Name of Person signing

Signature (Affix Seal)

The Surety:

Name of Person Signing

Signature (Affix Seal)

Schedule "A"
Payment Demand

Date: _____

Surety: _____

Address: _____

Attention: _____

Re: Development Agreement Bond No.: _____ (the "Bond")

Principal: _____ ("The Principal")

Obligee: _____ ("The Obligee")

Agreement: _____ ("The Development Agreement")

TO WHOM IT MAY CONCERN:

Pursuant to the above referenced Bond, The Town of Stony Plain hereby declares a default under the Development Agreement.

We hereby demand that the Surety honour its seven (7) day payment obligation as per the terms of the Bond and we hereby certify that we are entitled to draw on the Bond pursuant to the terms of the Development Agreement and demand payment of \$ _____ under the terms of the Bond.

Payment Instructions:

Yours truly,

THE TOWN OF STONY PLAIN

□