

CITY OF BEAUMONT

Single-Stage Development Agreement

Developer Category “B”

Project Name.

THE CITY OF BEAUMONT

AND

Developers Name.

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

THE CITY OF BEAUMONT

a municipal corporation, (hereinafter referred to as "the Municipality")

OF THE FIRST PART

- and -

DEVELOPERS NAME.

a body corporate duly authorized to carry on business in the Province of Alberta,
(hereinafter referred to as "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 part or all of the lands (hereinafter referred to as "the Development Area") as shown on the Plan attached as Schedule "B" to this Agreement.
- C. The Municipality and the Developer are agreeable to the Developer completing or contributing to the Municipal Improvements required within and without the Development Area, in accordance with the provisions of this Agreement, with the Developer, solely, bearing the costs of the Municipal 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 Municipal Improvements and the acceptance of them by the Municipality, the Municipal Improvements which are on or under Public Property shall become the property of the Municipality.
- F. The Municipality and the Developer have agreed that the said construction and installation of the Municipal 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 hereinafter set forth:

NOW THEREFORE, in consideration of the premises and of the mutual terms, conditions and covenants to be observed and performed by each of the Parties hereto, the Municipality agrees with the Developer and the Developer agrees with the Municipality as follows:

1. INTERPRETATION

1.1 "Construction Completion Certificate" shall mean a Certificate issued by the Municipality, as contemplated in Section 10, certifying the completion of the Municipal Improvements, or a portion thereof, once the Municipal Improvements have been constructed and installed by the Developer to the satisfaction of the Municipality in accordance with this Agreement.

1.2 "Commencement of Construction" or "Commence Construction" shall mean the date upon which the Developer commences the actual grading of the Development Area for purposes of servicing 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.

1.3 "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.

1.4 "Development Area" shall mean that portion of the lands legally described in Schedule "A" and which are outlined in heavy black or bold, or otherwise delineated, on the map attached hereto as Schedule "B" to this Agreement.

1.5 "Essential Services" shall mean:

(a) those Municipal Improvements described in Sections (a), (b), (c), (d), (f), (g), (i), (k) and (n) of Schedule "C" of this Agreement; and

(b) natural gas, electrical power and telephone services.

1.6 "Final Acceptance Certificate" shall mean a written acceptance, as contemplated in Section 10, issued by the Municipality for the Municipal Improvements, or a portion thereof, upon the completion of any repairs for defects or deficiencies and the expiration of the Guarantee Period.

1.7 "General Design Standards" shall mean the procedures, standards and specifications which are specified and set forth in the Municipality's engineering General Design Standards which are established and revised from time to time by the Municipality's Director of Planning and Development or their designate, or as revised by the Municipality's Council from time to time, namely that version in place at the time of Commencement of Construction for the Development Area, provided that the Municipality and the Developer may, by written agreement only, vary or change any of the procedures, standards or specifications set forth in the General Design Standards.

1.8 "Guarantee Period" with respect to the Municipal Improvements, subject to Sections 10, 11, 19 and 20 of this Agreement, shall mean: a period of Two (2) years for all Municipal Improvements, including Landscaping;

1.9 "Lands" means those lands legally described in Schedule "A" to this Agreement;

1.10 "Landscaping" includes the modification or enhancement of a site:

(a) by means of the growing or planting of any type of vegetation whatsoever;

(b) by means of the installation, construction or placement of inanimate materials such as brick, stone, concrete, tile and wood (excluding monolithic concrete and asphalt); and

(c) by means of the alteration of any grades or elevations of the surface of the site which is not done solely for purposes of drainage control.

1.11 "Municipal Improvements" shall mean and include, within and without the Development Area, those services and facilities identified in Schedule "C" to this Agreement.

1.12 "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.

1.13 "Parties" shall mean the Municipality and the Developer, as described above.

1.14 "Plan of Subdivision" or "Plans of Subdivision" shall mean the subdivision or subdivisions which subdivide the Development Area into separate lots for further development.

1.15 "Plans" shall mean plans and specifications prepared by the Developer's Consultant covering the design, construction, location and installation of all Municipal Improvements, and 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 the Municipal Improvements.

1.16 "Prime Rate" shall mean the prime lending rate established from time to time at the nearest Alberta Treasury Branch or branch of ATB Financial, in relation to the Development Area.

1.17 "Public Property" or "Public Properties" shall include all properties within and adjacent to the Development Area to be owned or administered by the Municipality, including roadways, reserve lands, public utility lots, utility rights-of-way or easements, following the registration of the Plan or Plans of Subdivision for the Development Area.

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.

2.2 Except where a Plan of Subdivision is not contemplated as part of the development of the Development Area:

(a) if the Developer has not obtained subdivision approval for the Development Area by the time of the execution of this Agreement, the Developer shall at its sole cost and expense cause a Plan of Subdivision for the Development Area to be prepared and approved by all necessary approving authorities and in accordance with the law in that respect, and provided that it is a strict requirement of this Agreement, that any Plan of Subdivision must first have received approval in writing of the Municipality;

(b) the Developer covenants and agrees that it shall register in the Land Titles Office for the North Alberta Land Registration District a Plan of Subdivision for the Development Area within Twelve (12) months of the date of this Agreement (unless otherwise agreed to in writing);

(c) if the Developer does not register a Plan of Subdivision within the time prescribed in Section (b), the Municipality shall be entitled to terminate this Agreement;

(d) the termination of this Agreement in whole or in part as provided in Section (c) shall be effective upon the Municipality serving written notice of termination on the Developer; and

(e) if the Municipality terminates this Agreement in whole or in part pursuant to the provisions of this Section, it is understood and agreed 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 which 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, nor shall the Developer commence any work within or adjacent to the Development Area, unless and until the Municipality in its discretion has:

(a) redistrict the Development Area to a district that the Municipality deems appropriate;

(b) passed amendments to the Municipality's Land Use Bylaw relating to the regulations applicable to the development within the Development Area that the Municipality deems appropriate;

(c) passed any new statutory plans or amendments to any existing statutory plans that the Municipality deems appropriate;

(d) has received all necessary approvals from all other orders of government respecting the proposed subdivision or development, the Municipal Improvements, or the Plans;

(e) approved of all Plans respecting the construction and installation of all Municipal Improvements;

(f) received confirmation of, or otherwise confirmed, the satisfaction of all conditions contained within the applicable subdivision approval or development permit;

(g) 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; and

(h) 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.

2.5 The Developer covenants and agrees that in the event that a Plan of Subdivision for the Development Area is not registered within the time limits prescribed herein, or in the event that the Developer does not commence the development of the Development Area within the time limits prescribed herein, THEN the Municipality shall be at liberty, in the Municipality's sole discretion, to re-district the lands within the Development Area back to the land use district in place prior to the Development Area being districted for development purposes.

3. PLANS

3.1 Prior to commencing construction and installation of the Municipal Improvements within or adjacent to the Development Area, the Developer shall submit Plans to the Municipality for approval. The Plans shall give all necessary details of the Municipal Improvements to be constructed by the Developer, including any necessary specifications to be attached thereto.

3.2 The Municipality agrees that it shall not unduly delay in granting its approval, or in rejecting Plans which have been submitted by the Developer to the Municipality.

3.3 The Plans for the construction and installation of the Municipal Improvements for the Development Area shall conform strictly to the General Design Standards.

3.4 If the Municipality does not approve whatever Plans may be required to be submitted to the Municipality by the Developer, the Developer shall be entitled to refer any matter in dispute to the Municipality's Council and the decision of the Municipality's Council shall be final and binding and any such dispute or difference shall not be subject to arbitration.

3.5 The Developer covenants and agrees that the Plans shall include a construction timetable for the construction and installation of all of the Municipal Improvements within and adjacent to the Development Area and the Developer shall, upon approval of the Plans by the Municipality, comply with all time limits and complete all of the Developer's work within the dates specified in the construction timetable.

3.6 The Developer covenants and agrees that the Plans for Landscaping for Public Properties shall comply with the General Design Standards and shall include all Landscaping required by the Municipality including, but not so as to limit the generality of the foregoing, Landscaping of all roadways, utility rights-of-ways and public walkways, construction of berms, construction of uniform fencing, installation of recreational equipment and facilities and the Landscaping of other Public Properties. The Developer agrees that it shall submit the Plans for Landscaping on Public Properties, to be completed by a qualified landscape architect, for the Municipality's approval in conjunction with the balance of the Plans referred to in Section 3.1 above.

3.7 Subject to the terms of this Agreement, it is understood and agreed between the Municipality and the Developer that the Developer shall be entitled to construct the Municipal Improvements in accordance with the Plans once such Plans have been approved by the Municipality.

3.8 It is understood and agreed that the Municipality's approval of the Plans for the Municipal Improvements shall be in principle only and, in the case of unforeseen conditions which may adversely affect development, or in the case where a Municipal Improvement to be built in accordance with the Plans would not be suitable for the purposes intended, the detailed design specifications for any of the Municipal Improvements shall be subject to review and revision, from time to time, by the Municipality in accordance with the General Design Standards and in accordance with accepted engineering and construction practices.

3.9 The Developer shall not Commence Construction or commence installation of the Municipal Improvements, or any portion, until such time as the Municipality has issued written approval of the Plans.

3.10 The Developer acknowledges and agrees that the Municipality's approval of the Plans is in no way intended to be a warranty, representation or guarantee by the Municipality or its engineer respecting the content of the Plans, including, without restricting the generality of the foregoing:

- (a) whether the Plans are suitable for the intended purpose;
- (b) whether the Plans comply with any required federal, provincial or municipal legislation or regulation;
- (c) whether the Plans comply with the General Design Standards; and
- (d) whether the Plans are in accordance with standard acceptable engineering practices.

4. DRAINAGE STANDARDS

4.1 The Developer covenants that the preparation of the drainage Plans, the construction and installation of all storm water management systems both within private lands and public property, all testing associated with storm water management systems (including testing for the height of water tables, soil alkalinity and soil compaction), all necessary approvals from Alberta Environment and other affected approving authorities, and the maintenance of all storm water management systems during the Guarantee Period shall be undertaken and conducted in accordance with accepted engineering and construction practices and in accordance with the General Design Standards and the Municipality's Surface Drainage Bylaw.

4.2 The Developer covenants that all proposed purchasers and optionees of any of the lots within the Development Area shall be fully advised of the requirements of the Municipality relating to the management and disposal of storm water within lots in the Development Area, as outlined below.

4.3 It is agreed between the Municipality and the Developer that all of the storm water management standards and requirements of the Municipality pursuant to this Agreement shall be and hereby constitute covenants running with the lands and are binding upon the Developer and any subsequent owners of any lots within the Development Area.

4.4 The Developer further covenants and agrees to ensure that all lots that have fill areas in excess of One (1) meter shall be compacted, and the Developer shall ensure that the Municipality shall be provided with certified test results to ensure compliance with this Section and further, will provide to the Municipality a plan of all such lots that have fill areas in excess of the said One (1) meter.

4.5 The Developer covenants and agrees that prior to the Construction Completion Certificate for any of the Municipal Improvements to be constructed and installed within the Development Area, that the Developer shall undertake and complete to the satisfaction of the Municipality such grading work as may be necessary to ensure that all lots within the Development Area have positive drainage and that there will be no unacceptable ponding of water within any of the lots within the Area.

4.6 It is further agreed and hereby declared by the Parties that all herein specified standards, requirements and 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.

4.7 The following standards shall apply with respect to grading within the Development Area and the Developer covenants and agrees that any sale or transfer agreement for any or all lots within the Development Area entered into by the Developer shall include the following provisions related to the drainage standards:

- (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) Home builders will be required to supply a grading compliance certificate prepared by an Alberta Land Surveyor, showing compliance with finished grade requirements, prior to occupancy.
- (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) A third pipe system shall be constructed for each lot within the Development Area to accept water from the weeping tile sump pumps and to convey water to the nearest storm water sewer.
- (f) Native material may be used for backfill of trench and building excavations respecting the Municipal Improvements. In accordance with good construction practice, all trench and foundation backfill must be adequately consolidated at the time of construction by moisture conditionings and/or mechanical compaction to ensure that when subsequent natural settlement is complete, that final grades will be acceptable with no adverse impact to adjacent structures. The Municipality will inspect backfill prior to issuance of a Construction Completion Certificate or the Certificate may be issued after provision of appropriate security if weather conditions preclude adequate consolidation and inspection prior to occupancy.
- (g) Site improvements shall not alter or disrupt the drainage pattern as established in the surface drainage plan.
- (h) Landscaping and structures such as solid fences, retaining walls and permanent or temporary buildings which may disrupt surface drainage shall not be permitted.

The standards specified herein will apply to construction within the building sites and are to supplement the Alberta Building Code and the Municipality's Land Use Bylaw, Surface Drainage Bylaw and any applicable policies.

5. CONSTRUCTION AND INSTALLATION OF MUNICIPAL IMPROVEMENTS

5.1 Except as otherwise specified in the construction timetable approved under Section 3.5, the Developer shall Commence Construction and commence installation of the Municipal Improvements within Twelve (12) months of endorsement of this Development Agreement and shall complete the construction and installation of the Municipal Improvements, at the Developer's own cost and expense, within Twenty Four (24) months of endorsement of this Development Agreement.

5.2 The Developer warrants to the Municipality that all of the Municipal Improvements shall be constructed and installed in a good and workmanlike manner, in strict conformance with the Plans and proper and accepted engineering and construction practices, in accordance with the terms of this Agreement, in accordance with the General Design Standards and in accordance with the requirements of law applicable to the work.

5.3 If there has been no Commencement of Construction of the Municipal Improvements by the Developer within the time limits specified in Section 5.1 then the Municipality shall be entitled at its sole option to terminate this Agreement, and further, the Developer agrees:

- (a) that 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) that in the event that this Agreement is terminated in whole or in part, then the Developer shall not be entitled to Commence Construction of the Municipal Improvements for the Development Area unless and until a further written agreement is entered into between the Developer and the Municipality; and
- (c) that 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.

5.4 In the event that it is necessary or reasonable, in the opinion of the Municipality, to construct or install any temporary or emergency access during the construction and installation of the Municipal Improvements, the Developer shall construct and install any such temporary or emergency accesses in accordance to specifications, and in such locations, as determined by the Municipality acting reasonably 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.

5.5 The Developer covenants and agrees that it shall, prior to the public having access within the Development Area, complete the installation of all traffic control signs, street identification signs, development identification signs, park signs and any temporary signage required by the Municipality. In regards to street identification signs, the Developer shall consult with the Municipality regarding the selection of appropriate names/numbers for the Development Area. In regards to the naming of any street names and/or public parks, the Developer may suggest a name for the street and/or public park for the Municipality's approval in accordance with

the Municipality's Council Naming Policy. The Developer shall provide and install cedar-sandblasted signs for all public parks in the Development Area, in a form acceptable to the Municipality.

5.6 At all times during the construction and installation of the Municipal 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 without limiting the generality of the foregoing, all design, inspection, material testing and "as constructed" records.

(b) The Municipality may:

(i) exercise such inspection of the performance of the work as the Municipality may deem necessary and advisable to ensure to the Municipality 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 General Design Standards or accepted engineering and construction practices;

(iii) order that any unsatisfactory work be re-executed at the Developer's cost;

(iv) order the re-execution of any unsatisfactory design and the replacement of any unsatisfactory material, at the Developer's cost;

(v) order the Developer within a reasonable time to bring on the job and use additional labour, machinery and equipment, at the Developer's cost, as the Municipality deems reasonably 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 Municipal Improvements;

and the Developer at its own cost and expense shall comply with the said orders and requirements of the Municipality unless the Developer takes issue with any such order or requirement, in which case the Developer shall request, in writing, that such issue be arbitrated in accordance with the provisions of Section 21 hereof; PROVIDED, 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); AND PROVIDED FURTHER, that the affected work, except as otherwise agreed by the Municipality in writing, shall stop until such arbitration has taken place.

5.7 Notwithstanding anything expressed or implied in the preceding Section, it is agreed between the Municipality and the Developer:

(a) that 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 Municipal Improvements;

(b) that the Developer shall during the course of the construction and installation of the Municipal Improvements provide and maintain adequate inspection services, supervised by a professional engineer; and

(c) that nothing set forth in the preceding Section shall in any way be construed so as to relieve the Developer of any responsibilities as set forth in this Agreement, and without restricting the generality of the foregoing, the Developer shall fulfill all responsibilities in respect to the design, construction, installation and maintenance of the Municipal Improvements as required by the terms of this Agreement.

5.8 The Developer covenants and agrees that during the construction and installation of the Municipal Improvements, and during the Guarantee Period for the Municipal Improvements, that the Developer shall pay all contractors and other parties hired by

the Developer to fulfill the Developer's obligations under this Agreement and that 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.

5.9 The Developer shall take effective measures to reasonably control dust, dirt, excessive weeds and unwanted vegetation in and around the Development Area, including, and without limiting the generality of the foregoing, on any loam stockpile site so that dust and dirt originating therein shall not be conveyed therefrom by any means whatsoever or cause annoyance or become a nuisance to property owners and others within or adjacent to the Development Area. The Developer is solely responsible for ensuring dust, dirt and weed control within the Development Area; the Developer is also responsible for ensuring that work done by the Developer or its contractors in and around the Development Area does not result in dust or dirt becoming an annoyance or nuisance. Any such stockpile of soil shall be situated and constructed in a manner that is acceptable in terms of aesthetics, drainage, safety, and weed control, as determined by the Municipality in its sole discretion, acting reasonably.

In the event, however, that the Municipality deems that there are dust, dirt, weed or unwanted vegetation problems the Municipality shall attempt to notify the Developer or the Developer's Consultant of the problem by telephone. The Developer shall rectify the problem within Forty-Eight (48) hours of the notice by taking effective measures to control the dust or dirt problem. The Forty-Eight (48) hours notice may be waived or shortened by the Municipality:

- (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 frames.

The Municipality may take effective measures to control the dust, dirt, weed and unwanted vegetation problem after expiry of the notification period, or if the notice is waived; such measures shall be at the expense of the Developer and the Municipality shall within Forty-Eight (48) hours notify the Developer of the action taken by the Municipality.

5.10 Upon the completion of the work by the Developer, and prior to the issuance of Construction Completion Certificates for the Municipal Improvements, the Developer's Consultant shall submit to the Municipality a statement under his professional seal certifying that the Developer's Consultant has provided adequate periodic inspection services during the course of the work and that the Developer's Consultant is satisfied that the work has been completed in a good and workmanlike manner in accordance with the Plans; in accordance with accepted engineering and construction practices; and in accordance with the General Design Standards.

5.11 In addition to whatever other testing requirements may be imposed upon the Developer by the Municipality, the Developer shall undertake C.C.T.V. camera video inspection of all storm and sanitary sewer lines and shall provide the video and corresponding report prior to the issuance of the Construction Completion Certificate of such lines by the Municipality.

5.12 It is understood and agreed between the Municipality and the Developer that during the course of constructing the Municipal Improvements, the re-execution or replacement of unsatisfactory work which is of a minor nature (as determined by the Municipality in its discretion) and which does not pose a health or safety danger, may be re-executed or replaced by the Developer, in its discretion, at any time prior to the request by the Developer for a Construction Completion Certificate for the Municipal Improvements in question.

5.13 Notwithstanding anything hereinbefore contained to the contrary, the Developer covenants and agrees (such covenant being of the essence of this Agreement) that it shall plan and complete the development of the Development Area so as to guarantee and ensure to the Municipality that:

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

Notwithstanding the foregoing the Municipality may, in its sole and absolute discretion, permit the issuance of development and/or building permits, or building occupancy, in respect to the development upon lots or parcels contained in the Development Area prior to completion of the underground water and sewer improvements in any part of the Development Area (subject always to emergency vehicle access and other interim safety concerns), but 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.

5.14 The Developer shall take effective measures to reasonably control garbage and construction debris in and around the Development Area, including, and without limiting the generality of the foregoing, any building and Landscaping so that garbage originating therein 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. Further, the Developer shall inform all contractors and builders of the Municipality's development permit requirements to provide dumpsters, bins or other containers suitable for the collection of garbage or construction debris during the construction on any lot within the Development Area. In the event that the Municipality considers that any clean up of garbage or construction debris is required, the Developer shall, within forty-eight (48) hours of receiving notice from the Municipality, take all necessary action, as determined by the Municipality, failing which the Municipality may take such action and charge back all costs and expenses to the Developer.

5.15 The Developer shall provide a temporary free-standing sign within the Development Area containing a map showing the proposed layout of the entire area including notations regarding the location of municipal reserve, public utility lots, tot lots, paved pathways, pond areas, subdivision phasing, and so on in order that residents will have a clear indication of the plans for Development Area and the area surrounding. Such signage will be subject to the approval of the Municipality and must be erected within 3 months of the Commencement of Construction of roads and underground Municipal Improvements.

5.16 The Developer shall provide Landscaping within the Development Area as per the General Design Standards and the Municipality's Land Use Bylaw.

5.17 The Developer shall ensure that consideration be given to controlling noise, dust and traffic on the site in addition to establishing reasonable hours of operation to limit negative effects on the adjacent residences. In that regard, City of Beaumont Bylaw #642-05 states that the Developer or its contractors may operate equipment as follows: Monday to Friday 7:00 a.m. to 11:00 p.m., Saturday 8:00 a.m. to 10:00 p.m. and Sunday and Statutory Holidays 9:00 a.m. to 10:00 p.m.

5.18 The Developer shall advise all its contractors not to use any unpaved public roadways in Leduc County during construction and development of the Development Area unless the Developer enters into a road use agreement with Leduc County; proof of which shall be provided to the Municipality upon request.

5.19 The Developer shall consult with Canada Post regarding the location of community mailboxes within the Development Area.

6. USE OF PUBLIC PROPERTIES 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 Places under the control of the Municipality, within or adjacent to the Development Area, and otherwise to do such work therein and thereon as may be necessary from time to time to construct, develop, erect, lay, operate, maintain, repair, extend, relay and remove any Municipal Improvements forming part of the work of the Developer, as may be necessary for the purpose of this Agreement, PROVIDED:

(a) that not less than Fourteen (14) days prior to the date that the Developer intends to enter upon any Public Property (except in the case of emergency repair work) the Developer shall provide to the Municipality detailed written proposals, for approval by the Municipality, for the work to be done within any such property, including:

- (i) a specific work schedule and procedures proposed to be followed;
- (ii) detailed engineering drawings of all connections to existing municipal services;
- (iii) provisions to be implemented for temporary access and services;

- (iv) installation of temporary traffic control devices and personnel deployment to minimize traffic disruption; and
- (v) form and schedule of notification and public relation strategy to be utilized;

(b) no such work shall be commenced prior to the Developer obtaining the written consent of the Municipality to enter upon such Public Properties; and the Municipality shall not unreasonably delay or withhold such written consent;

(c) that the work within Public Properties 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) that the Developer shall do as little damage as possible in the performance of such work, and will cause as little obstruction to such Public Properties as possible;

(e) that upon completion of such work the Developer shall restore all such Public Properties 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 Properties, including such replaced or re-planted trees and shrubs, for a period of Two (2) years thereafter, ordinary wear and tear excepted;

(f) that the restoration of Public Properties shall be part of the Municipal 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; and

(g) that the Developer shall indemnify and save harmless the Municipality from and against all losses, costs, claims, suits or demands of any nature (including all legal costs and disbursements on a solicitor and client basis) which may arise by reason of the performance of work by the Developer.

6.2 The Developer shall provide to the Municipality for approval as part of the Plan, three (3) sets of plans indicating the drainage and contouring, and the proposed grades of the boulevards and other Public Properties that will be graded during construction. The Developer shall at its sole expense grade and loam in accordance with the General Design Standards for those areas of the boulevards and other Public Properties which are not left in their natural state, and thereafter shall seed to grass boulevards and Public Properties to the satisfaction of the Municipality's Director of Planning and Development or their designate. The Construction Completion Certificate for Landscaping shall not be issued by the Municipality until such time as such work is completed to the satisfaction of the Municipality's Director of Planning and Development or their designate.

7. INSTALLATION OF OTHER UTILITIES

7.1 The Developer shall, at no cost to the Municipality whatsoever, arrange for and ensure the installation, to the Municipality's satisfaction, of electric power and natural gas to the Development Area and within the streets adjoining the lots to be created in the Development Area. The Developer shall indemnify and save harmless the Municipality from and against all losses, costs, claims, suits or demands of any nature (including all legal costs and disbursements on a solicitor and client basis) which may arise by reason of the performance or non-performance of such installation of such services.

7.2 The said electric power and natural gas within the Development Area shall be installed within the roadways, utility lots or easement areas, in accordance with the Plans, 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 permit lot owners within the Development Area to hook up to such services upon paying the normal hook-up fees charged by the Utility Company or franchise holder.

7.3 The Developer shall be responsible for making arrangements for the provision of telephone, internet and cable services to lots within the Development Area upon any such lot being occupied and the Developer shall be solely responsible for all costs and expenses relating to the installation of such telephone services excepting the normal hook-up costs charged to the customer.

8. CONTRACTS FOR INSTALLATION OF THE MUNICIPAL 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 by the Developer of all the Developer's obligations as set forth in this Agreement; AND FURTHER the Developer 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.

8.2 The Developer covenants and agrees that any contract entered into between the Developer and a Third Party in respect to the performance of all or any of the Developer's obligations as set out in this Agreement to construct and maintain the Municipal Improvements, or any of them, shall provide:

(a) that the Third Party shall indemnify and save harmless the Municipality and the Developer from and with respect to any damages, claims or demands whatsoever (including all legal costs and disbursements on a solicitor and client basis) arising out of the performance of any work undertaken by the Third Party or arising in any way from the negligence of the Third Party's servants, agents or employees;

(b) that the Third Party shall provide reasonable proof of financial responsibility;

(c) that the Third Party shall comply with the provisions of the Workers Compensation Act for the Province of Alberta;

(d) that the Third Party will allow the Municipality access to the work for the purpose of inspection;

(e) that the works to be performed by the Third Party shall not be deemed to be duly and adequately completed under the contract except upon the issuance of a Construction Completion Certificate for the same by the Municipality;

(f) the Third Party shall coordinate with the Municipality work forces and others to facilitate the installation of utilities and shall protect such utilities from damage;

(g) that the Third Party will carry adequate public liability insurance of an amount and coverage satisfactory to the Municipality to protect the Third Party and the Municipality from any claims, actions or demands arising from the pursuance or purported pursuance of the work being performed by such Third Party; and

(h) that, at the option of the Municipality, the Developer will ensure that the Third Party shall carry a Labour and Materials Payment Bond in the amount of Fifty percent (50%) of the contract price.

9. COMPLIANCE WITH ALL PLANS AND SPECIFICATIONS

9.1 The Developer shall, at all times during the construction and installation of the Municipal Improvements comply fully with all terms, conditions, provisions, covenants and details as may be set out in the Plans, as approved by the Municipality, and such terms and conditions as may otherwise be required pursuant to this Agreement or be agreed upon in writing between the Municipality and the Developer.

9.2 The provisions of this Agreement shall be additional to and not in substitution for any law, whether Federal, Provincial or Municipal, prescribing requirements relating to construction standards and the granting of development, building and occupancy permits.

10. ACCEPTANCE OF MUNICIPAL IMPROVEMENTS

10.1 For purposes of this Section, the Municipality and the Developer agree that no Municipal Improvement shall be considered complete unless and until:

- (a) the Municipal Improvement has been fully constructed and installed in accordance with the approved Plans;
- (b) the Municipal Improvement has been constructed and installed in accordance with the General 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 registered in a form acceptable to the Municipality;
- (e) all Public Properties which have been disturbed or damaged have been fully restored by the Developer;
- (f) the Municipal Improvement is suitable for the purpose intended; and
- (g) the Developer has provided the Municipality with any applicable operation plans, operation manuals or maintenance manuals, for the Municipal Improvements having special operation or maintenance requirements.

10.2 When the Developer claims that the Municipal Improvements for the Development Area have been constructed and installed in accordance with the requirements of this Agreement, then the Developer shall give notice in writing of such claimed completion to the Municipality.

10.3 Within Sixty (60) days of receipt of such claim of completion, the Municipality will notify the Developer in writing of its acceptance (by the issuance of a Construction Completion Certificate) or rejection of the Municipal Improvements so completed.

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 Sixty (60) days due to adverse site or weather conditions, and in such an event the time limit for such an inspection shall be extended until Sixty (60) days following the elimination of such adverse site or weather conditions.

10.5 It is understood and agreed between the Developer and the Municipality that the notices required under Sections 10.2 and 10.3 shall be given only between the Municipality and the Developer and in no event shall either the Municipality or the Developer give such notices through any contractor or sub-trade which may be engaged by the Developer in the construction of the Municipal Improvements.

10.6 In the event that any inspection contemplated in Section 10.3 or 10.4 reveals any deficiencies (ordinary wear and tear excepted) in relation to a particular Municipal Improvement, the Municipality may refuse to issue a Construction Completion Certificate for the Municipal Improvement and require the Developer to repair or replace the whole or any portion of any such Municipal Improvements; PROVIDED, that 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.

10.7 It is understood and agreed between the Developer and the Municipality that the Municipality shall be at liberty in its sole discretion to issue a written conditional Construction Completion Certificate for the Municipal Improvements and such Certificate shall be conditional upon the completion of minor deficiencies by the Developer within a time specified by the Municipality; PROVIDED, that the commencement of the Guarantee Period in relation to any such deficiency, if rectified within Thirty (30) days (or such other time frame stipulated on the Construction Completion Certificate), shall be back-dated to the date of the said conditional Construction Completion Certificate; AND PROVIDED FURTHER, that the Guarantee Period in relation to any such deficiency, if not rectified within the said Thirty (30) days (or such other time frame stipulated on the Construction Completion Certificate), shall not commence until such time as such deficiency has been rectified by the Developer and received acceptance of the Municipality in accordance with this Agreement.

10.8 Not more than Ninety (90) days nor less than Sixty (60) days prior to the expiration of any Guarantee Period for the Municipal Improvements or any portion the Developer shall give notice to the Municipality of expiration of the Guarantee Period for the Municipal Improvements and the Developer shall request a Final Acceptance Certificate in respect to the Municipal Improvements. The Developer's notice shall be accompanied by a list of any deficiencies.

10.9 Within Sixty (60) days of the receipt by the Municipality of a request for a Final Acceptance Certificate, the Municipality shall undertake an inspection of the Municipal Improvements and the Municipality shall within the said Sixty (60) days advise the Developer in writing of any deficiencies (ordinary wear and tear excepted) in relation to the Municipal Improvements (i.e. any

deficiencies referred to by the Developer and any additional deficiencies); PROVIDED, that the provisions of Section 10.4 shall also apply to any request for the issuance of a Final Acceptance Certificate.

10.10 In the event that there are any deficiencies (ordinary wear and tear excepted) in relation to a particular Municipal Improvement the Municipality may refuse to issue the Final Acceptance Certificate of the Municipal Improvements and require the Developer to repair or replace the whole or any portion of any such Municipal Improvements; PROVIDED, that upon completion of the repairs or replacement required to correct any such deficiencies, the Developer may request that a further inspection and issuance of a Final Acceptance Certificate.

10.11 In the event that any inspection contemplated in Sections 10.9 or 10.10 reveals that there are no deficiencies in relation to the Municipal Improvements, the Municipality shall issue in writing its Final Acceptance Certificate for the Municipal Improvements.

10.12 Upon the issuance of a Construction Completion Certificate by the Municipality for the Municipal Improvements, the Developer hereby acknowledges that all right, title and interest in the Municipal Improvements (excluding facilities owned by private utility companies) located on or under Public Properties (including utility rights-of-way and easement areas) vests in the Municipality without any cost or expense to the Municipality therefore, and the Municipal Improvements shall become the property of the Municipality.

10.13 Notwithstanding anything contained in this Agreement to the contrary, the Developer acknowledges and agrees that the Guarantee Period for the Municipal Improvements shall not expire before the issuance of a Final Acceptance Certificate for the Municipal Improvements by the Municipality to the Developer; PROVIDED, that in the event that either party refers to arbitration the Developer's right to the issuance of a Final Acceptance Certificate for the Municipal Improvement, 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.

10.14 Following the issuance of a Construction Completion Certificate for the Municipal 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 Municipal Improvements excluding Landscaping, fencing and facilities owned by private utility companies.

10.15 The Municipality and the Developer agree, notwithstanding the issuance of a Final Acceptance Certificate for the Municipal Improvements, that the Developer shall be responsible, for a period of Five (5) years following the issuance of a Final Acceptance Certificate for the Municipal Improvements, to repair or replace any of the Municipal Improvements where there were any hidden or latent defects (which were reasonably not detected by inspections or tests actually undertaken) in any of the Municipal 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 the Section 21 on arbitration, the parties may mutually agree to resolve any dispute under this provision by means of a mutually hiring an independent engineering firm to determine causation of hidden or latent defects in any Municipal Improvements installed and constructed pursuant to this Agreement.

10.16 It is understood and agreed that the Municipality may in its discretion issue up to two (2) separate Construction Completion Certificates for the Municipal Improvements, namely:

- (a) those underground Municipal Improvements referred to in Sections (a), (b) and (c) of Schedule "C" of this Agreement; and
- (b) those surface Municipal Improvements referred to in Sections (d), (e), (f), (g), (i), (j), (k), (l), (m) and (o) of Schedule "C" of this Agreement and those Landscaping and fencing Municipal Improvements referred to in Sections (h) and (n) of Schedule "C" of this Agreement.

Likewise, the Municipality may in its discretion issue up to two (2) Final Acceptance Certificates for those portions of the Municipal Improvements referred to above.

11. MAINTENANCE OF MUNICIPAL IMPROVEMENTS BY DEVELOPER

11.1 The Guarantee Period in respect to any of the Municipal Improvements shall commence with the Municipality's written Construction Completion Certificate for any such Municipal Improvements in good condition and repair (ordinary wear and tear

excepted), and the Developer shall subject to Section 10.15 repair or replace the whole or any portion thereof during such Guarantee Period where such repair or replacement is required, as determined by the Municipality, as a result of any cause other than the neglect by the Municipality, its servants, agents or contractors in the use and operation thereof.

11.2 The Developer acknowledges and agrees that prior to the issuance of a Final Acceptance Certificate for any Landscaping work, or portion thereof, the Municipality shall be entitled to 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 discretion; AND FURTHER, the Municipality shall be entitled to require the replacement or repair of any other Landscaping works such as berming, rip-rap, noise attenuation fencing or screen fencing which is not in accordance with the Plans as a result of any cause other than neglect by the Municipality, its servants, agents or contractors in the use and operation thereof.

11.3 The Developer covenants that it shall fully comply with the General Design Standards and accepted engineering and construction practices, in undertaking and completing the repair or replacement of any of the Municipal Improvements pursuant to the requirements of this Section.

11.4 The Developer agrees that in the event of any emergency arising during the Guarantee Period, the Municipality being the sole judge of what constitutes an emergency, then the Municipality shall have the right in its discretion to undertake any repair or remedial work to the Municipal Improvements deemed necessary or appropriate by the Municipality and all costs and expenses incurred by the Municipality in that regard shall be paid by the Developer to the Municipality upon demand.

11.5 The Municipality and the Developer agree that during the Guarantee Period that the Municipality shall perform the normal maintenance requirements of the Municipality for all Municipal Improvements.

11.6 Without limiting any of the foregoing, maintenance for which the Developer shall be responsible shall include, but not be limited to, failure of or damage to the underground Municipal 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, but shall not include ordinary wear and tear. The Developer covenants that during the Guarantee Period that the Developer shall be responsible, at the Developer's own 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 Construction Completion Certificate for all aspects of roadway improvements.

11.7 The Developer covenants and agrees that in the event that the Municipality is of the opinion that any repair or replacement required during the Guarantee Period is of a major nature, the Municipality shall be entitled, in its discretion, to require a further full Guarantee Period for the particular Municipal Improvement, or portion thereof, and such further Guarantee Period shall commence upon the Municipality issuing a Construction Completion Certificate for the repair or replacement work.

12. UTILITY EASEMENTS AND OTHER INSTRUMENTS

12.1 The Plans, 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, for the construction and installation of Municipal Improvements and services, natural gas, power, and telephone service to and through the Development Area, and for storm drainage systems, and shall be of a width and in such locations as required by the Municipality.

12.2 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 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 and in any event prior to Commencement of Construction.

12.3 Where subdivision is contemplated as part of the development of the Development Area, the Developer shall within One (1) month of 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.

12.4 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 other easements and utility rights-of-way) and that the Developer shall obtain and register postponements of all liens, charges and encumbrances in favour of the easements.

12.5 Such road allowances, easements or utility rights-of-way shall provide that the Municipality shall have the right either:

- (a) to assign all or any parts of the rights thereby granted to operators of the respective utilities; or
- (b) to grant permits or licenses to install, repair and replace gas, power and telephone lines, and all drainage systems.

12.6 All public utility lots shall have a 1.5 metre registered easement on adjacent properties for maintenance purposes. Further, the Developer shall construct 1.8 metre pathways in all public utility lots where pedestrian/maintenance vehicle access is required to ponds, parks or other walkways.

12.7 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. MUNICIPAL SERVICES

13.1 As lots are developed in parts of the Development Area, the Municipality will provide thereto, as required, 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.

13.2 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.

13.3 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 the foregoing, the Municipality will not be obliged to provide services (including provision of public utilities, solid waste management or maintenance of internal access roads) to any portion of lands that is within the boundaries of the Condominium Plan.

14. FENCING

14.1 The Developer shall, at its own expense, as part of the development of the Development Area, construct fences of the type hereinafter referred to where required by the Municipality, including public utility lots and walkways. The Plans shall include a description of the location of fences, and the design and construction.

14.2 All fences to be constructed by the Developer pursuant to the requirements hereof 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.

14.3 Any uniform fencing as contemplated herein which is wholly located upon Public Properties and does not abut upon other properties, shall be maintained by the Developer during the Guarantee Period as provided in this Agreement.

14.4 Any uniform fencing which is intended to separate Public Properties from other lands shall be constructed in accordance with the General Design Standards and prior to construction of any lot within the Development Area.

14.5 Any uniform fencing which is not wholly located upon Public Properties shall be maintained by the Developer until the expiration of the Guarantee Period for such uniform fencing and thereafter shall be maintained by the owners of the properties upon which the uniform fencing is located, and further, in order to ensure the maintenance obligations of such owners, the Developer

shall, prior to selling or transferring any such properties, register against such properties a restrictive covenant, in a form acceptable to the Municipality, which shall impose such maintenance obligations upon the future owners of such properties.

14.6 The Developer covenants that in addition to the requirements of any permanent fencing within the Development Area, that the Developer shall prior to the issuance of a Construction Completion Certificate for the above ground Municipal Improvements, at the Developer's own cost and expense, 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.

15. MAINTENANCE OF BOULEVARDS AND OTHER PUBLIC AREAS

15.1 The Developer shall be responsible, at the Developer's expense, save as hereinafter specifically limited, to maintain the Developer's lands and all Public Properties 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.

15.2 Where the Developer has sold a lot (and transferred possession) within the Development Area, the Developer's obligations under Section 15.1, in respect only to such lot, shall cease.

15.3 The Developer covenants and agrees that it shall, at the Developer's own cost and expense, be responsible for the cleanup and removal of all construction debris, foreign material, dirt, excessive weeds and undesirable vegetation from all Public Properties, including roadways, within and adjacent to the Development Area, subject to the following conditions:

(a) it shall be the responsibility of the Developer to monitor the condition of Public Properties and take immediate action as necessary to comply with the provisions of this Section;

(b) in the event that the Municipality considers that any cleanup or removal of construction debris, foreign material, dirt, excessive weeds or undesirable vegetation is required, the Developer shall, within Forty-eight (48) hours of receiving notice from the Municipality, take all necessary action as determined by the Municipality, failing which, the Municipality may take action and charge back all costs and expenses to the Developer.

15.4 The Municipality shall assume the normal maintenance of all other Public Properties 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 Properties, and upon issuance of the Final Acceptance Certificate.

16. OVERSIZING AND SHARING OF SERVICING COSTS

16.1 The Developer recognizes and agrees that the Development within the Development Area will benefit from the oversizing or construction of Municipal 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, and therefore, the Developer agrees that it shall bear and pay its proportionate share of such other Municipal 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 be calculated and paid upon submission for endorsement of a Plan of Subdivision for the Development Area and in any event prior to Commencement of Construction.

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 therein (including, without restriction, the requirement for security for payment, and/or registration and reliance upon the charge contained within Section 19.2 of this Agreement). At the time of registration of the Plan of Subdivision if 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.

16.2 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 Municipal 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 which the Municipality has entered into, or may enter into, with contractors, other developers or other persons in respect to the construction of such Municipal Improvements, and where deemed appropriate by the Municipality taking into account the expended useful life span of the oversized/shared Municipal Improvement.

16.3 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 Municipal Improvements, other than such Municipal Improvements or portions of such Municipal Improvements, which are covered by the provisions of this Section 16.

16.4 The Developer, in constructing the Municipal Improvements as contemplated herein, shall bear the costs of oversizing and extending Municipal 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 Municipal 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 General Design Standards, or otherwise required to be shown within the Developer's Plans at the time of the Municipality's review and approval.

16.5 The costs of the oversizing or extensions contemplated in Section 16.4 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 which the Municipality has entered into, or may enter into, with contractors, other developers or other persons in respect to the construction of such Municipal Improvements, and where deemed appropriate by the Municipality taking into account the expended useful life span of the oversized/shared Municipal Improvements.

16.6 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 shall use reasonable efforts to give such assistance to the Developer as it can legally give 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 Municipal Improvements or as a condition of the approval of any development applications.

16.7 The Developer shall, so soon as reasonably possible and in any event prior to issuance of the Final Acceptance Certificates, provide the Municipality with the details of the costs of oversizing or extension of the Municipal 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 16.6.

16.8 The Municipality agrees that in the event any land adjacent to the Development Area, and other benefiting areas which may benefit from the Municipal 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 facilitate the recovery by the Developer of the applicable shared costs.

16.9 The Municipality agrees that in calculating any shared costs payable to the Developer, the Municipality shall include interest, calculated from the date of Construction Completion of all of the Municipal 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 Municipal Improvements.

16.10 For purposes of calculating interest payable under Section 16.9, 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.

16.11 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, some oversized Municipal Improvements becoming obsolete or require 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 Municipal Improvements. Consequently, and notwithstanding the foregoing and anything to the contrary contained within this Agreement, the Municipality can not and will not guarantee eventual recovery of proportionate shares of oversizing costs.

17. LEVIES AND FEES

17.1 The Developer agrees that the Development Area will benefit from new or expanded off-site water, sanitary sewer, and arterial roadway that will be utilized to provide municipal services to the Development Area, and 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 upon submission for endorsement of a Plan of Subdivision for the Development Area.

17.2 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.

17.3 The Developer acknowledges that in the event that at the time of execution of this Agreement the Municipality does not impose off site levies (or other 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.

17.4 The Developer acknowledges that the Municipality will incur costs and expenses in the checking of the Plans for the Municipal Improvements, as well as costs and expenses for the testing and inspection of the Municipal Improvements, which costs and expenses are properly part of the costs of constructing and installing the Municipal Improvements and should properly 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", upon the execution of this Agreement Developer shall pay to the Municipality approval and inspection fees as per the fees established from time to time by the Municipality. Such fees may be applied on a flat rate basis or for each hectare within the gross area of the Development Area, or applied on the rate and/or basis required by any applicable fee bylaw or other applicable bylaw of general application, as set forth in Schedule "E", and failing those as may be established from time to time by the Municipality.

17.5 The Developer acknowledges that the amount of the approval and inspection fees payable, whether specified in Schedule "E", are subject to adjustment by the Municipality, and the Developer and the Municipality further covenant and agree that the following provisions shall apply:

(a) that in the event that at the time of the payment of the approval and inspection fees for the Development Area the Municipality has not as yet established the approval and inspection fees for the applicable calendar year, the Developer shall pay to the Municipality an amount equal to the approval and inspection fees calculated on the basis of the then current rate as required within this Agreement;

(b) within Thirty (30) days of the new approval and inspection fees being established by the Municipality for the applicable calendar year, the amount of the payment shall be adjusted upwards or downwards and the difference shall be paid by the Developer to the Municipality, or paid by the Municipality to the Developer, as the case may be; and

(c) that the amount of the approval and inspection fees shall only be adjusted so that the new approval and inspection fees are of general application within the Municipality.

18. INTEREST ON MONIES OWED TO MUNICIPALITY

18.1 Except as otherwise specifically provided in this Agreement, all sums or monies owed by the Developer to the Municipality shall bear interest calculated semi-annually and calculated 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.

18.2 In the event that the Municipality, pursuant to this Agreement, is holding any monies, for the purposes of security, belonging to the Developer, the Municipality shall invest such monies and upon the Municipality returning such monies, the Developer shall be entitled to both the principal amount and interest thereon at the Prime Rate less Two (2%) percent (less any amounts lawfully owing from the Developer to the Municipality).

18.3 For purposes of calculating interest under Sections 18.1 and 18.2, 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.

19. AMOUNTS PAYABLE UNDER THIS AGREEMENT

19.1 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 herein, for the payment by the Developer to the Municipality of the various sums prescribed in this Agreement, AND FURTHER:

(a) the Developer acknowledges and agrees that 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 Developer acknowledges that 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;

(c) the Developer agrees that the Municipality is fully entitled in law to recover from the Developer the sums specified in this Agreement;

(d) 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; and

(e) 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 hereinafter 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.

19.2 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 described in Schedule "A" of this Agreement, 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 described in Schedule "A" of this Agreement.

20. DEFAULT BY THE DEVELOPER

20.1 In the event that the Municipality claims 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.

20.2 If the Developer denies that it is in default as claimed in such notice, the Developer shall within Ten (10) days of receipt of such notice request a reference to arbitration pursuant to the provisions of Section 21 hereof. If the Arbitrator confirms the claimed default, the Developer shall, notwithstanding the provisions of Section 20.1, have a period of Thirty (30) days from the receipt of the arbitration ruling within which to rectify such default.

20.3 The Developer agrees that in the event that the Municipality has given the Developer written notice of default and the Developer does not, within Ten (10) 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.

20.4 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 20.1 and no arbitration been requested by the Developer or from confirmation of the default by the Arbitrator pursuant to Section 20.2, 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.

20.5 Notwithstanding anything to the contrary herein, 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 Municipal 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 Ten (10) days request a reference to arbitration pursuant to the provisions of Section 21 hereof.

20.6 The Developer agrees that the Municipality shall, for purposes of undertaking any work under this Section, 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.

20.7 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.

20.8 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.

21. ARBITRATION

21.1 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.

21.2 Arbitration hereunder shall be by a reference to an independent person to be selected jointly by the Municipality and the Developer, and his decision shall be final and binding. In the event that the Municipality and the Developer shall fail to agree on an arbitrator within Forty-eight (48) hours of either party giving to the other party notice of a dispute or difference pursuant to Section 21.1 hereof, then an application shall be made to a Justice of the Court of Queen's Bench of Alberta to select the arbitrator.

21.3 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.

21.4 Nothing in this Agreement shall authorize any reference to arbitration as to any matter or question which under this Agreement is expressly or by implication required or permitted to be decided by the Municipality, the General Management Committee or the Council of the Municipality 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 General Management Committee or the Council of the Municipality. In any such instance the discretion, decision, opinion or determination of the Municipality, the General Management Committee or the Council of the Municipality, as the case may be, shall be final and binding upon the Developer.

22. INDEMNITY AND SECURITY

22.1 The Developer shall indemnify and save harmless the Municipality from any and all losses, costs, damages, actions, causes of action, suits, claims and demands resulting from anything done or omitted to be done by the Developer in pursuance or purported pursuance of this Agreement.

22.2 The Developer covenants and agrees that it shall carry comprehensive liability insurance and that the following provisions shall apply to such insurance:

- (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 servants or agents, shall not be an event of default on the part of the Municipality;
- (c) none of the policies shall be cancelled unless Thirty (30) days prior written notice of cancellation is first given to the Municipality;
- (d) copies of all policies of insurance shall immediately be provided to the Municipality upon execution of this Agreement; and
- (e) the insurance policies shall have the following 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

22.3 In order to ensure to the Municipality 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 hereinafter prescribed and that the following provisions shall apply to determining the amount of the security and the time or times at which the security shall be deposited with the Municipality:

- (a) upon execution of this Agreement, the Developer shall deposit with the Municipality security in the amount of Twenty-five (25%) percent of the estimated costs of constructing and installing all the Municipal Improvements, including Landscaping, required for the Development Area and such other amounts as are required elsewhere under the provisions of this Agreement;
- (b) subject to Section 22.8, the Developer shall deposit with the Municipality further security in the amount of:
 - (i) seventy-five (75%) percent (totaling One Hundred (100%) percent) of the estimated costs of constructing and installing final asphalt lift, if final asphalt lift has not yet been granted Final Acceptance Certificate, required for the Development Area, at the time the Developer submits to the Municipality for endorsement the Plan of Subdivision in respect of the Development Area; and

- (ii) seventy-five (75%) percent (totaling One Hundred (100%) percent) of the estimated costs of constructing and installing Landscaping, if Landscaping has not yet been granted Final Acceptance Certificate, required for the Development Area, at the time the Developer submits to the Municipality for endorsement the Plan of Subdivision in respect of the Development Area; and
- (c) for purposes of this Section, the estimated cost for the Municipal Improvements shall be determined as follows:
 - (i) if known at the time that this Agreement is made, as set out in Schedule “F” of this Agreement;
 - (ii) if unknown at the time that this Agreement is made, where actual tendered costs are available the tendered costs shall be used;
 - (iii) where actual tendered costs are not available, the Developer's Consultant shall prepare cost estimates 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; and
 - (iv) where actual tendered costs are not available, and the Developer and the Developer's Consultant has not provided estimates for the Municipality to approve, the Municipality may establish estimated costs in its sole discretion for the purposes of establishing the required security.

22.4 It is understood and agreed by the Developer that the Developer shall, during the currency of this Agreement (including the Guarantee Period for the Municipal Improvements prescribed by this Agreement), maintain in full force and effect all security and liability insurance prescribed herein.

22.5 The security referred to above shall consist of:

- (a) an “Irrevocable Letter of Credit” issued by a “Chartered Bank” or the “Treasury Branch”, approved by the Municipality; or
- (b) a cash security deposit account; or
- (c) a development bond;

or combination thereof, 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. Provided further that the Developer covenants and agrees that upon the occurrence of 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, 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.

22.6 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 Thirty (30) 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.

22.7 Any performance bond provided as security by the Developer shall be in a form consistent with the Guidelines for Establishing Security for Development Agreements

22.8 Any security or insurance herein 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 currency of this Agreement if it shall appear to the Municipality in its discretion that the security or insurance deposited is excessive or insufficient in relation to the costs or protection

to the Municipality, for which security or insurance has been provided. Without limiting the generality of the foregoing the Municipality may require an increase in security if the Developer has failed to comply with the construction timetable approved under Section 3.5, or if the Developer has been issued a notice of default under Section 20.

22.9 The amount of security and insurance to be provided by the Developer to the Municipality may, in the sole and absolute discretion of the Municipality, be reduced on application by the Developer upon the Developer having received a Construction Completion Certificate or Final Acceptance Certificate for the Municipal Improvements, or any of them, so completed; PROVIDED THAT, after the issuance of any Construction Completion Certificates and prior to the issuance of Final Acceptance Certificates for all of the Municipal Improvements, the security maintained by the Municipality shall not be less than:

(a) Ten (10%) percent of the estimated costs of the Municipal Improvements which were the subject of the Construction Completion Certificate or \$30,000, whichever is greater; plus

(b) One Hundred (100%) percent of the estimated costs of constructing and installing all Landscaping and final asphalt lift, regardless if such Municipal Improvements have been issued a Construction Completion Certificate.

22.10 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 to Municipal Improvements by the Municipality in accordance with the provisions of this Agreement and the Developer fails to pay the costs and expenses of such repair work within Thirty (30) days after receipt from the Municipality of an account therefore;

(d) the Developer by any act or omission is in default of any term, condition or covenant of this Agreement; or

(e) 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;

the Municipality may invoke the provisions of this Section, and make demands as payee and beneficiary under the security provided by the Developer to the Municipality pursuant to the requirements of this Agreement.

22.11 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.

22.12 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. DELIVERY OF DOCUMENTS TO MUNICIPALITY

23.1 Prior to the issuance of a Construction Completion Certificate for the above ground Municipal Improvements, the Developer shall, in addition to the requirements specified elsewhere in this Section, deliver to the Municipality all other documentation and information relating to the development of the Development Area which the Municipality considers, in its discretion, necessary or desirable for the delivery of municipal services to the Development Area and the Developer agrees that not less than Thirty (30) days prior to its application for a Construction Completion Certificate for the above ground Municipal Improvements that the Developer shall request from the Municipality a list of all documents and information (including but not limited to accepted tenders for all engineering work including for roads, Landscaping and underground Municipal Improvements) required by the Municipality.

23.2 Forthwith upon the completion of the construction and installation of the Municipal Improvements and the issuance of a Construction Completion Certificate for the same by the Municipality, the Developer shall, within Six (6) months following issuance of the Construction Completion Certificate, deliver to the Municipality all inspection and testing records and record drawings or "as built" Plans and records, as specified in the General Design Standards.

23.3 Notwithstanding any other provision of this Agreement, the Final Acceptance Certificate shall not be issued until Eighteen (18) months have elapsed subsequent to the date of the submission of the records and the as built drawings; AND PROVIDED, that the Final Acceptance Certificate shall not be issued prior to the expiration of the Guarantee Period.

24. COMPLIANCE WITH LAW

24.1 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.

24.2 This Agreement does not constitute approval of any subdivision and is not a development permit, building permit or other permit granted by the Municipality, and it is understood and agreed that the Developer shall obtain all approvals and permits which may be required by the Municipality or any governmental authority.

24.3 Where anything provided for herein 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; PROVIDED, that the Parties will do all things necessary by way of application or otherwise in an effort to obtain such approval or permission.

24.4 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.

25. GENERAL

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

25.2 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.

25.3 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.

25.4 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 being:

THE CITY OF BEAUMONT
5600 – 49 Street
Beaumont, AB T4X 1A1

Phone: (780) 929-8782
Fax: (780) 929-8729

Attention: Acting Director, Planning & Development

AND

Developers Name.
Address.
City, Prov, PCode.

Phone: Phone Number.

Attention: Attention.

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; AND PROVIDED, FURTHER, that if in the event that 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.

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

25.6 The Developer acknowledges and agrees that the Municipality shall be at liberty, pursuant to the Municipal Government Act (Alberta), upon the execution of this Agreement, to file at the Land Titles Office for the North Alberta Land Registration District a caveat against the Development Area and against the undeveloped portion of the lands described in Schedule "A" for purposes of protecting the Municipality's interests and rights pursuant to this Agreement.

25.7 This Agreement shall not be assignable by the Developer without the express written approval of the Municipality. Such approval shall be subject to Section 25.8 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 comprising 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 permitted herein) of all corporate Parties.

25.8 It is understood between the Municipality and the Developer that no assignment of this Agreement by the Developer shall be permitted 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.

25.9 Time shall in all respects be of the essence in this Agreement.

25.10 The Developer shall be responsible for, and within Thirty (30) days of the presentation of an account, paying to the Municipality all legal and engineering costs, fees, expenses and disbursements incurred by the Municipality through its solicitors and engineers for all services rendered in connection with the preparation, fulfillment, execution and enforcement of this Agreement.

25.11 Providing that the Developer is not in default of any of the provisions of this Agreement or any condition of subdivision approval:

(a) the Municipality shall, at the request of the Developer, deliver to Alberta Environmental Protection 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 Environmental Protection; and

(b) the Municipality may apply for grant money for construction of the Municipal 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 Municipal 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 Municipal Improvements, the Municipality need not apply for such grants if they will negatively impact grants for other Municipally related projects.

25.12 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 Queen'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. EXECUTION OF AGREEMENT

26.1 The Developer hereby acknowledges that it is hereby 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 herein and the legal effects thereof.

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.

THE CITY OF BEAUMONT

Per: _____ c/s
Mayor

Per: _____
Chief Administrative Officer

DEVELOPER .

Per: _____ c/s

Per: _____

Reviewed as to form and content	Initial	Date
Acting Director, Planning & Development		
Acting Manager, Current Planning		
Senior Current Planner		
Engineering		

SCHEDULE "A" - LEGAL DESCRIPTION OF LANDS

Unprotect document and insert legal description of land being subdivided or developed.

[Insert legal description of land being subdivided or developed]

SCHEDULE "B" - THE DEVELOPMENT AREA

Unprotect document and insert copy of approved revised Subdivision Plan.

[Insert Copy of approved revised Subdivision Plan]

SCHEDULE "C" - MUNICIPAL 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, Municipal 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, pumping stations 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, pumping stations, storm water quality control structures and any other associated works, all as and where required by the Municipality;
- (c) all water 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 Properties 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; and
- (h) all walkway systems and Landscaping on Public Property which are to be constructed and installed to the satisfaction of the Municipality, and in accordance with the Plans for Landscaping to be submitted for the approval of the Municipality; and
- (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 Properties 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 Municipal Improvements as required by the Municipality as a result of the installation and construction of other utilities and Municipal 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, natural gas, cable television, telephone and internet. Such utilities to be provided in a location and a standard to be approved by the appropriate utility company and the Municipality.
- (p) all tree clearing, stripping and grading required to develop in and adjacent to the Development Area.

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 conditions:

Unprotect document and insert any conditions listed in the subdivision approval.

[Insert any conditions listed in the subdivision approval, any unique or specific conditions to this development, etc.]

SCHEDULE "E" - OVERSIZE COSTS, LEVIES AND FEES

A. Developer Contributions

1. The Developer shall pay the following as servicing contributions, pursuant to the provisions of this Agreement and Sections 650 or 655 of the MGA:

Contribution to playground apparatus for Lot # MR, Block #:	\$ Amount.
South Sanitary Sewer: \$600.00 per residential lot x ____ lots:	\$ Amount.
<u>Highway _____ and Range Road _____ Oversizing:</u>	\$ Amount.

TOTAL DEVELOPER CONTRIBUTIONS PHASE __ = \$ Amount.

2. Payment – the Developer shall pay the amounts described in this Schedule as and when required within Section 16 of this Agreement.

[DRAFT NOTE: If an alternative time for payment is preferred, insert special payment terms here. 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]

B. Offsite Levies

1. The Developer shall pay the following as Off-site Levies, pursuant to Bylaw No. 945-19, as amended, the provisions of this Agreement and Sections 650 or 655 of the MGA:

Transportation Off-Site Levy – Add in Basin with use here	\$ _____/ha X ____ ha = \$ Amount.
Water Off-Site Levy – Add in Basin with use here	\$ _____/ha X ____ ha = \$ Amount.
Sanitary Off-Site Levy – Add in Basin with use here	\$ _____/ha X ____ ha = \$ Amount.

TOTAL OFF-SITE LEVIES = \$Amount.

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

C. Approval & Inspection Fees

1. Fees and Calculation – the approval and inspection fees currently due and payable by the Developer pursuant to Section 17 of this Agreement are as follows:

\$5,150.00 – paid on _____

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 17 of this Agreement.

[DRAFT NOTE: Insert Special Payment Terms or Leave Blank 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 22, and subject to the provisions below, the cost estimates for the construction and installation of the Municipal 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]

<u>Underground Improvements</u>	
Water Distribution System	\$
Drainage Systems (including Storm Sewer System)	\$
Sanitary Sewer System	\$
Storm Sewer System	\$
Engineering and Contingency	\$
Engineering and Contingency	\$
Underground Subtotal	\$
 <u>Surface Improvements</u>	
Earthworks and Berming	\$
Sidewalk, Curb and Gutter	\$
Granular Base	\$
Asphalt	\$
Fencing and Landscaping	\$
Signage	\$
Engineering and Contingency	\$
Engineering and Contingency	\$
Above Ground Subtotal	\$
 Shallow Bury	
Utilities Subtotal	\$
 Total Value of all Municipal Improvements & Services	
	\$
 Total Value of Security required for Municipal Improvements	
	\$
 Total Value of Other Security Required	
	\$
 Total Value of Security Required	
	\$

2. The Parties hereby represent, warrant, covenant and agree that all of the costs for the construction and installation of the Municipal 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. Where estimates are not available as at the date of this Agreement, the Developer shall provide such estimates as contemplated within Section 22, and the amount of the security shall be established by the Municipality at that time.
4. In the event that any of the actual or tendered costs for the construction and installation of the Municipal 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 22 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: subject to negotiation, insert number and full text of inapplicable conditions];*
Unprotect document and insert number and full test of inapplicable conditions.

SCHEDULE "H" - SUBDIVISION/DEVELOPMENT PROCESS & CHECKLIST

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 Plans or other information, the Developer shall deliver to the Municipality the required inspection and/or review fees (**Reference Sections 17.4 and 17.5, and Schedule “E”**).
2. Plans – the Developer shall submit to the Municipality all Plans requested or otherwise required by the Municipality to show the Municipal Improvements to be constructed and installed by the Developer, which shall be prepared in accordance with the terms of this Agreement (**Reference Sections 3, 4 and 14**).
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 Plans, or otherwise carry out the provisions of this Agreement including, without restriction, the Developer’s construction timetable (**Reference Sections 3, 4, 7, 8, 9, 12 and 14**).

B. Process 2 – Approvals

1. Alberta Infrastructure and Transportation – where applicable, must be received and confirmed in writing.
2. Alberta Environment – 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 Plans 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 Plans 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 Municipal 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:

- Rezoning** - receipt/confirmation of rezoning, if applicable (**Reference Section 2.4(a)**);
- LUB Amendments** - receipt/confirmation of amendments to Land Use Bylaw, if applicable (**Reference Section 2.4(b)**);
- Statutory Plans/Amendments** - receipt/confirmation of passage of any statutory plans or amendments, if applicable (**Reference Section 2.4(c)**);
- Provincial Approvals** - receipt/confirmation of approvals of:
 - Alberta Infrastructure and Transportation;
 - Alberta Environment; and
 - any other Provincial Department, as applicable;(**Reference Section 2.4(d)**);
- Conditions** – receipt/confirmation of satisfaction of all conditions contained within the applicable subdivision approval or development permit (**Reference Section 2.4(f)**);
- Plan Approval** - receipt of final approved Plans (**Reference Section 2.4(e)**);
- Registered owner** – confirmation that the registered owner of the lands is the Developer (**Reference Section 2.4(g)**);

- Construction Timetable** - receipt/confirmation of Developer’s construction timetable, if applicable (**Reference Section 3.5**);
- Other Utilities** - confirmation of commitments to install electrical power, natural gas, and telephone services within and to the Development Area including, without restriction, confirmation of payment of costs of utility providers (**Reference Section 7**):
 - Electrical Power;
 - Natural Gas; and
 - Telephone.
- Utility Easements/Instruments** - receipt/confirmation of all utility easements and other instruments (**Reference Section 12**), comprised of:
 - Receipt of executed instruments; and
 - Receipt of either:
 - (a) confirmation of registration of all registerable instruments at the Land Titles Office; or
 - (b) 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 16 and Schedule “E”**);
- Oversized Municipal Improvements** - confirmation of oversizing to be constructed by Developer (**Reference Section 16 and Schedule “E”**);
- Off-Site Levies** - payment of Off-Site Levies (**Reference Section 17 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 Plans (**Reference Section 17 and Schedule “E”**);
- Insurance** - receipt/confirmation of all required insurance coverage, additional insured notations, riders, and additional terms (**Reference Section 22**);
- Security** - receipt/confirmation of all required security (**Reference Section 22 and Schedule “F”**); and
- Caveat** - receipt of either:
 - (a) confirmation of registration of Caveat Re: Development Agreement at the Land Titles Office; or
 - (b) 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 Property – prior to the Commencement of Construction of any Municipal Improvements or other improvements upon or within or upon any Public Properties 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-Occupancy Checklist - prior to occupancy of the Development Area, the Developer shall provide and/or the Municipality shall confirm the following, at minimum:

- Operational water** – confirm that water service is operational (for fire protection) prior to issuance of building permits or development permits for buildings on lots (**Reference Section 5.13**);
- Essential Services** – confirm that all Essential Services have been installed and rendered operative in any part of the Development Area, except as otherwise permitted in writing by the Municipality (**Reference Section 5.13**);
- Satisfactory test results** – receipt/confirmation of all required test results, including: t.v. camera video inspection of all storm and sanitary sewer lines (**Reference Section 5.11**);
- Backfill** - inspect backfill prior to issuance of an Initial Acceptance Certificate or receive/confirm appropriate security if weather conditions preclude adequate consolidation and inspection prior to occupancy (**Reference Section 4.7**).

2. Developer Notice – receipt/confirmation of Developer written claim that the Municipal Improvements for the Development Area have been constructed and installed in accordance with the requirements of this Agreement (**Reference Section 10.2**).

3. Municipality Notice - within Sixty (60) days of receipt of Developer Notice, Municipal notice to the Developer in writing of: acceptance (by the issuance of a Construction Completion Certificate), rejection of the Municipal Improvements, or inability to inspect (**Reference Section 10.3 and 10.4**).

4. Pre-Completion Certificate Checklist – prior to acceptance by the Municipality of the Municipal 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 Plans, accepted engineering and construction practices, and the General Design Standards (**Reference Section 5.10**);
- Satisfactory test results** – receipt of all required test results, including: t.v. camera video inspection of all storm and sanitary sewer lines (**Reference Section 5.11**);
- Backfill** - inspect backfill prior to issuance of an Initial Acceptance Certificate or receive/confirm appropriate security if weather conditions preclude adequate consolidation and inspection prior to occupancy. (**Reference Section 4.7**);
- Registration** - receipt/confirmation that all easements, utility rights-of-way and restrictive covenants have been registered in a form acceptable to the Municipality (**Reference Section 10.1**);
- Public Properties** – confirm that all Public Properties which have been disturbed or damaged have been fully restored by the Developer (**Reference Section 10.1**);
- Suitability** – confirm that the Municipal Improvement is suitable for the purpose intended (**Reference Section 10.1**);
- Manuals** - receipt/confirmation of any applicable operation plans, operation manuals or maintenance manuals, for the Municipal Improvements having special operation or maintenance requirements (**Reference Section 10.1**).

5. Construction Completion Certificate and Guarantee 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 Municipal Improvements excluding Landscaping, fencing and facilities owned by private utility companies (**Reference Section 10.15**) and the Guarantee Period shall commence (**Reference Section 11.1**).

6. Developer Notice – receipt/confirmation of Developer written notice, not more than Ninety (90) days nor less than Sixty (60) days prior to expiration of any Guarantee Period, of expiration of the Guarantee Period and request of Final Acceptance of Municipal Improvements. The Developer's notice shall be accompanied by a list of any deficiencies (**Reference Section 10.8**).

7. Municipality Notice or Final Acceptance Certificate - within Sixty (60) days of receipt of Developer Notice, Municipal notice to the Developer in writing of: deficiencies (ordinary wear and tear excepted) in relation to the Municipal Improvements, or inability to inspect (**Reference Section 10.9 and 10.4**). The Municipality will issue the Final Acceptance Certificate (**Reference Section 10.11 and 11.5**), if:

- Inspection** - no deficiencies exist upon inspection (**Reference Section 10.11**);
- Payment of Final Clean 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 11.5**); and
- Notice of oversizing costs** - the Developer has provided the Municipality with the details of the costs of oversizing or extension of the Municipal Improvements that accommodate future development on land adjacent to the Development Area and in other benefiting areas for approval by the Municipality (**Reference Section 16.7**).

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 Section 17.1 and 18.1**); alternatively, these costs may be collected at the development permit stage (**Reference Section 17.1**).

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 Section 16.1 and 18.1**); alternatively, these costs may be collected at the development permit stage (**Reference Section 16.1**).

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 Municipal Improvements or as a condition of the approval of any development applications (**Reference Section 16.6**).

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 Municipal 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 16.8**).

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 Section 16.8 and 16.9**).

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 22.8**);
- Respecting Construction Completion for Municipal Improvements** – upon receipt/confirmation of a Final Acceptance Certificate, the Municipality shall return the full security as pursuant to Section 22.8;
- 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 16.1, 17.1, 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 19.2 and Schedule “F”**).