ATTACHMENT 2

City of Leduc Policy

Policy Title: Land Development

Policy No: 61.00:28

Revision No: 2

Supersedes: Policies: 61.00:19, 61.00:15 and 61:00.26

Authority: City Council	**Approval Date:**
Responsible Division: Infrastructure and Planning	**Effective Date:**
Relevant Legislation:	
Relevant Bylaw and Date(s):	
Relevant Council Resolution:	
Authority's Signature: This policy requires a number, revision/superseded information and an effective date before it can be brought forward for approval/signature.	

Policy Objective:

To provide policy direction for the formulation, administration and execution of Development Agreements between the City of Leduc and other interests.

The policy will establish:

- The process for negotiating and entering a Development Agreement;
- A system to determine security requirements under a Development Agreement;
- Fees for the inspection of local improvements constructed and landscaping installed during development; and
- The template for a Development Agreement.

Definitions:

CCC (Construction Completion Certificate): means a Certificate issued by the City certifying the completion of Municipal Improvements, or portion thereof, once the Municipal Improvements have been constructed and installed by the Developer to the satisfaction of the City and in accordance with a Development Agreement.

Category A: means a Developer who has entered into agreements with the City where all CCCs were issued without default, has not been involved in breaching any terms of the agreement or the City having to draw on the Letter of Credit.

Category B: means a Developer that has no previous agreements with the City or no references from another regional municipality with respect to their development experience in that community.

Category C: means a Developer who has been involved in significant default on previous agreements such as the City having to draw upon the Letter of Credit or frequently breaching the terms of the agreement.

FAC (Final Acceptance Certificate): means a Certificate issued by the City certifying acceptance by the City for the Municipal Improvements, or portion

thereof, upon the completion of any repairs for defects or deficiencies and the expiration of the maintenance period.

Development Agreement: means a written agreement between a Developer and the City. The Agreement defines the processes and responsibilities related to the construction and/or installation of Municipal Improvements within the City.

Letters of Reference: means a letter duly signed by the appropriate authority and on the letterhead of another municipality in the Edmonton Metropolitan Region attesting to the performance of a specific developer in that community. The acceptance of a Letter of Reference shall be at the sole discretion of the City of Leduc.

Municipal Improvements: means and includes within and adjacent to the development area those services and facilities identified in a Development Agreement.

Policy:

1. Attached and forming part of this Policy is the "**Template for Development Agreements**".
2. At the sole discretion of the City of Leduc, a Development Agreement may be required when a developer is proposing:
   - 2.1. A new stage of land development;
   - 2.2. New Municipal Improvements, as defined in the Template for Development Agreements, that are required by a development project that is within or adjacent to a development;
   - 2.3. To alter and/or upgrade existing Municipal Improvements; and/or
   - 2.4. A development that will trigger the City to require securities for the proposed development.
3. An office of primary interest shall be identified to coordinate the process of negotiating, entering and executing a required Development Agreement.
4. The office or primary interest will be the principal liaison between the developer and City Administration, and is responsible to:
   - 4.1. Negotiate new Development Agreements;
   - 4.2. Changes to existing Development Agreements; and
   - 4.3. Determine when Development Agreement conditions are met in part or for when the Agreement is complete in meeting and a developer has meet all their obligations.
5. The office of primary interest will:
   - 5.1. Coordinate the Development Agreement process;
   - 5.2. Coordinate the engagement of other members of Administration in this process;
   - 5.3. Document the compilation of Development Agreements and all schedules;

5.4. Ensure the Development Agreement, and any of the related encumbrances, are registered on all affected titles; and

5.5. Manage the implementation of the development by:

5.5.1. Creating a schedule outlining those parties responsible for the implementation of specific clauses of the Development Agreement;

5.5.2. Negotiating any proposed changes to the signed Development Agreement

5.5.3. Administration the process to address any arbitration or dispute of responsibilities in implementing a Development Agreement

6. Development Agreement Process (simplified).

6.1. Process is initiated by either a developer approaches the City with an expressed interest in developing a parcel or land, or when they have obtained a subdivision approval or development permit that includes a requirement for a Development Agreement.

6.2. The office of primary interest will review the proposed development and set initial requirements for a Development Agreement.

6.3. The office of primary interest will meet with the developer to outline City requirements for the development to proceed and provide the developer with a template of the Development Agreement.

6.4. If the developer does not agree with the initial Development Agreement requirements, the office of primary interest may solicit the input of other members of City Administration, and may refer the matter to the City Manager for direction if an impasse is reached.

6.5. Once the Development Agreement is signed by the developer, it will be forwarded by the office of primary interest to the City Manager for signing on behalf of the City.

6.6. The signed Development Agreement will be registered on title as well as any related caveats and other encumbrances needed to implement the Agreement.

6.7. The office of primary interest will be responsible to manage any dispute that may arise with respect to implementation of the Development Agreement and will refer, as necessary, to other members of City Administration for assistance and guidance as they deemed necessary.

7. Security from a developer is sought by the City in order to ensure compliance by the developer with the terms, covenants and conditions of a Development Agreement. This Policy establishes, in part, a methodology to determine the level of security required and the process for reducing that security as development proceeds.

7.1. Developers will be charged a fee in accordance with the City's Fees Bylaw to cover the cost of City inspections on water, sewer, storm sewer, roads, sidewalks, grading, landscaping and fencing during the construction of the development in accordance with the Development Agreement. The

development inspection fee will be payable prior to the City's execution of the Development Agreement.

7.2. Security shall be in the form determined by the City and in the amount determined by the relative value of the municipal improvements.

7.3. The City believes that the level of security required needs to be directly tied to relevant municipal experience with a developer as it has been noted that:

7.3.1. The City has had difficulty with certain developers and not others; and

7.3.2. Experience has shown that a first-time developer is more likely to default on their Development Agreement than a developer with an established history and relationship with the City.

7.4. Taking all these factors into consideration, a ranking system is established to secure the obligations of first-time developers without penalizing those developers with a reputable record of completed Development Agreements.

7.5. The Developer shall provide to the City a cost estimate of all Municipal Improvements to be constructed for the development in the format outlined in the Development Agreement.

7.6. Prior to commencement of construction, for the purpose if security, the Developer shall provide to the City an Irrevocable Letter of Credit, Bond or cash based on a percentage of the construction cost of all Municipal Improvements (as listed in the Development Agreement). The security amount will be determined based on the Category in which the Developer has been placed as follows:

Category A 10%
Category B 50%
Category C 100%

A minimum security of in the amount of $20,000 will be required for a Development Agreement regardless of the estimate provided.

7.7. At the office of primary interest's discretion, the categorization of each developer will be set and may be adjusted based on performance. Performance will be judged on past history of working in the City of Leduc and/or Letters of Reference.

7.8. Bonds will only be accepted if issued by a surety company that has a recognized "A" or "Excellent" equivalent rating by a well-respected rating company – the determination of which will be at the sole discretion of the office of primary interest.

7.9. The security shall be automatically renewable in a form satisfactory to the City, payable upon demand and drawn from a financial institution acceptable to the City.

7.10. Security will be retained by the City's Finance Department.

7.11. After the appropriate inspection by the City, the developer (or their consultant) may request that the security be reduced.

7.12. Reduction of security will be at the office of primary interest's discretion in consultation with the City's Finance Department.

7.13. Security may be reduced as follows:

Minimum $20,000	Holdback: • 100% for outstanding work and/or deficiencies. • 200% of cost of landscaping or $20,000 whichever is larger.
Category A	**Underground, Surface and Separate Walks**: Reduce to 5% of original construction cost upon issuance of CCC. Holdback 100% for outstanding work and/or deficiencies. **Landscaping**: Reduce to 5% of original construction cost upon issuance of CCC for public open spaces, arterial and collector roads, open space amenities, playground equipment and fencing. Holdback 200% of cost to complete all other landscaping requirements with no further reduction or release until all landscaping FACs have been issued.
Category B	**Underground, Surface and Separate Walks**: Reduce to 10% of original construction cost upon issuance of CCC. Holdback 100% for outstanding work and/or deficiencies. **Landscaping**: Reduce to 10% of original construction cost upon issuance of CCC for public open spaces, arterial and collector roads, open space amenities, playground equipment and fencing. Holdback 200% of cost to complete all other landscaping requirements with no further reduction or release until all landscaping FACs have been issued.
Category C	**Underground, Surface and Separate Walks:** Reduce to 25% of original construction cost upon issuance of CCC. Holdback 100% for outstanding work and/or deficiencies. **Landscaping**: Reduce to 25% of original construction cost upon issuance of CCC for public open spaces, arterial and collector roads, open space amenities, playground equipment and fencing. Holdback 200% of cost to complete all other landscaping requirements with no further reduction or release until all landscaping FACs have been issued.

8. Processes related to construction of Municipal Improvements on municipal property or rights-of-way.

    8.1. Upon a request in writing from the developer or the developer' consultant at completion of construction of the Municipal Improvements, the City will schedule an inspection for a CCC. The inspection will include deficient and uncompleted or remaining work unless the Developer or Developer's consultant requests ahead of time for them to be exempted and to be inspected separately.

    8.2. Within 45 days from the date of inspection the City will notify the developer or the developer's consultant of its acceptance, conditional acceptance or rejection of the Municipal Improvements.

    8.3. Once the CCC is issued, the date of the inspection is the date of the start of the maintenance period of two years as per the Development Agreement.

    8.4. If the inspection reveals a deficiency, the Developer will be required to reapply for an inspection after correcting the deficiency.

    8.5. After issuance of the CCC, the developer or developer's consultant may request from the City that the security be reduced in accordance with this Policy.

    8.6. When all works and deficiencies previously noted have been rectified and the maintenance period has expired, the developer or developer's consultant may request in writing an inspection for a FAC.

    8.7. If no deficiencies are noted, an FAC will be issued. At this time, when requested by the Developer or the Developer's consultant in writing, the City will release the balance of the Letter of Credit.

    8.8. If at this inspection remaining deficiencies or uncompleted work is detected, a new list of deficiencies will be issued by the City, but no further reduction in the Letter of Credit will be granted. Further inspection will be required to determine that the deficiencies are corrected and that an FAC may be issued.

9. Processes related to construction of Municipal Improvements on private property.

    9.1. In these situations, a CCC will not be issued as there is no maintenance period because the Municipal Improvements and common fencing stay under private ownership.

    9.2. The same procedure for requesting an inspection as noted above shall apply, however reference to CCC shall be FAC.

    9.3. If deficiencies are identified at this inspection, they must be corrected prior to issuance of a FAC.

    9.4. Once all FACs are issued, when requested by the developer or the developer's consultant in writing, the City will release the security.

Template for Development Agreements

BETWEEN:

THE CITY OF LEDUC

OF THE FIRST PART

- and -

OF THE SECOND PART

MEMORANDUM OF AGREEMENT

TABLE OF CONTENTS

MEMORANDUM OF AGREEMENT made effective this _____ day of _____, 202__.

BETWEEN:

THE CITY OF LEDUC
A municipal corporation incorporated
pursuant to the laws of the Province of Alberta
(hereinafter called the "City")

OF THE FIRST PART

- and -

_____
A body corporate duly authorized to
carry on business in the Province of Alberta
(hereinafter called the "Developer")

OF THE SECOND PART

WHEREAS the Developer is, or is entitled to become, the registered owner of part or all of those lands situated in the City as described in Schedule A (the "Lands") attached to this Agreement;

AND WHEREAS the Developer proposes to subdivide or develop all or a portion of the Lands (hereinafter referred to as the "Development Area") attached as Schedule B to this Agreement;

AND WHEREAS the Developer has applied for and received conditional approval of a subdivision application in the case of subdivision of the Lands and a development permit with conditions in the case of development of the Lands, which approval or permit, as the case may be, is attached hereto as Schedule C to this Agreement;

AND WHEREAS the City and the Developer are agreeable to the Developer completing or contributing to the Municipal Improvements required throughout and adjacent to the Development Area, in accordance with the provisions of this Agreement, with the Developer, solely, bearing the costs of the Municipal Improvements;

AND WHEREAS the City 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;

AND WHEREAS upon satisfactory completion of the construction and installation of the Municipal Improvements and the final acceptance of them by the City, the Municipal Improvements which are on or under Public Property shall become the property of the City;

AND WHEREAS the City and the Developer have agreed that the said construction and installation of the Municipal Improvements and all matters and things incidental thereto and all 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 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Developer agree as follows:

ARTICLE 1 DEFINITIONS

In this Agreement the following terms shall have the meanings assigned:

1.1 **"As-Built Drawings"** means those drawings or records showing the actual location, length, size, capacity, material, gradient and year of construction of the Municipal Improvements and Franchise Utilities constructed within the Development Area.

1.2 **"City"** means the City of Leduc, and the City shall be represented by the City's Chief Administrative Officer or as otherwise designated by the City.

1.3 **"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 City 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**.**

1.4 **"Common Fencing"** means fencing of a form and design approved by the City which is common to the Development Area and is to be constructed on the locations set out in Schedule F.

1.5 **"Construction Completion Certificate**", also referred to as "CCC", means a Certificate issued by the City, as contemplated in Article 9, certifying the completion of the Municipal Improvements, or portion thereof, once the Municipal Improvements have been constructed and installed by the Developer to the satisfaction of the City in accordance with this Agreement.

1.6 **"Construction Debris"** means any building materials, mud, concrete spillage, dust, dirt, garbage or any other materials that are unsightly or cause an annoyance to property owners within or adjacent to the Development Area.

1.7 **"Council"** means the duly elected Council of the City.

1.8 **"Design Standards"** shall mean the procedures, standards and specifications which are specified and set forth in the City's Minimum Engineering Standards and the City's Minimum Landscaping Design Standards which are established, revised and/or endorsed by reference by the City engineer or City Council from time to time, and in particular, the version of any document referenced in Schedule E to this Agreement that is current at the time of construction of any applicable component of the approved development.

1.9 **"Developer's Consultants"** means the accredited consulting professionals retained by the Developer and shall include, but not be limited, to professional engineers, architects, landscape architects, land use planners and land surveyors.

1.10 **"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.

1.11 **"Essential Services"** means:

(a) those Municipal Improvements described in clauses (a), (b), (c), (d), (e), (g) and (j) of Schedule D; and

(b) Franchise Utilities.

1.12 **"Final Acceptance Certificate"**, also referred to as "FAC", means a written acceptance, as contemplated in Article 9, issued by the City for the Municipal Improvements or a portion thereof, upon the completion of any repairs for defects or deficiencies and the expiration of the Maintenance Period.

1.13 **"Franchise Utilities"** means natural gas, electrical power, telephone, cable television and any other communication services authorized to occupy the City's easements or rights-of-way.

1.14 "**Lands"** means those lands legally described in Schedule A to this Agreement.

1.15 **"Landscaping"** includes the modification or enhancement of a site by the preservation of natural features and the enhancement of public property within the Development Area, including, but not limited to: grading, turf, trees, shrubs, fencing, walkways, multiways, storm water management facilities, driveways and other site features as designed by a registered Landscape Architect, and as approved by the City in the Plans.

1.16 **"Lot Grading Certificate"** means the written confirmation issued by the City stating that the finished grade of a developed lot conforms with site drainage plans approved by the City.

1.17 **"Maintenance Period"** means, except where otherwise provided within this Agreement, a period of two (2) years after the issuance of a CCC for a Municipal Improvement, including Landscaping, but, in any event, the Maintenance Period shall not expire before the issuance of a FAC for the Municipal Improvement or Landscaping in question.

1.18 **"Municipal Improvements"** means and includes, within and outside of the Development Area, those services and facilities identified in Schedule D to this Agreement.

1.19 "**Neighbourhood Design Report**" means a report that provides detail for servicing concepts including: site description, topography, and existing and proposed land uses. It also describes in detail the proposed sanitary sewer system, the water system, the proposed storm drainage system and the erosion and sedimentation control practices. This Report shall be provided by the Developer prior to commencement of the first stage of development of a new neighbourhood, however review and resubmission is required from the developer when design changes deviate substantially form the original submission.

1.20 **"Oversizing Costs"** means the incremental cost of construction incurred by the Developer that is directly attributable to increasing the capacity of a Municipal Improvement to benefit the future development of lands outside the Development Area together with a fifteen (15%) percent engineering cost.

1.21 **"Parties"** shall mean the City and the Developer, as described above.

1.22 **"Plan of Subdivision"** or **"Plans of Subdivision"** means the subdivision or subdivisions which subdivide the Development Area into separate lots for further development.

1.23 **"Plans"** means drawings and specifications prepared by the Developer's Consultant or on behalf of the Developer covering the design, construction location and installation of all Municipal Improvements, Franchise Utilities and Landscaping and shall include a construction management plan which shall delineate to the City's satisfaction, the procedures and actions for the overall implementation and coordination of activities for the construction and installation of Municipal Improvements.

1.24 **"Prime Rate"** means the prime lending rate established from time to time by the financial institution with whom the City conducts its banking business.

1.25 **"Public Property"** means all properties, easements and rights-of-way within and adjacent to the Development Area which are or are to be owned or administered by the City following the registration of a Plan of Subdivision for the Development Area.

1.26 **"Show Home"** means an uninhabited residential dwelling unit constructed for the purposes of displaying the housing product to be offered for sale within the Development Area.

1.27 "**Subdivision Drainage Plan"** means a grading plan, drawn to a scale of 1:1000, that sets out the grades and elevations of the entire Development Area. This Plan must, without limiting the generality of the foregoing, indicate:

a) The proposed finished lot corner elevations;

b) The proposed finished grades at the buildings;

c) The direction of flow of surface drainage on the lots; and

d) The original ground contours, proposed curb alignments and any required scales.

Proposed building elevations and sewer service invert elevations may also be shown.

ARTICLE 2 PLAN OF SUBDIVISION

2.1. The City 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 City;

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 Paragraph b), the City shall be entitled to terminate this Agreement;

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

e) If the City terminates this Agreement in whole or in part pursuant to the provisions of this Paragraph 2.2, it is understood and agreed that any financial obligations of the Developer to the City shall survive and the City 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 City's Subdivision Authority or the City's Subdivision and Development Appeal Board if the decision of the Subdivision Authority is appealed.

2.4. No Plan of Subdivision shall either be endorsed by the City or permitted to be registered, nor shall the Developer commence any work within or adjacent to the Development Area, unless and until the City in its discretion has:

a) rezoned the Development Area to a district that the City deems appropriate;

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

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

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

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

f) received the Neighbourhood Design Report;

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

h) confirmed that registered ownership of the lands comprising the Development Area is satisfactory to the City, including, without restriction, confirmation that the registered owner is the Developer; and

i) received all items required to be delivered to the City pursuant to the terms of this Agreement including, without restriction, those items outlined within the subdivision and development process and checklist contained within Schedule K attached to this Agreement.

2.5. In the event that the Plan of Subdivision for the Development Area has been registered by the Developer, and the Developer fails to proceed with the construction and installation of the Municipal Improvements for the Development Area within the time limits herein specified, the Developer shall, upon receiving written notice from the City to do so, immediately proceed to take all steps necessary to cancel the registration of the Plan of Subdivision and further, the Developer, in all events, shall have obtained the cancellation of the registration of the Plan of Subdivision within THREE (3) months of the City providing written notice to the Developer as herein provided.

2.6. The Developer covenants and agrees that in the event that the Plan of Subdivision for the Development Area is not registered within the time limits prescribed herein, or in the event that the Plan of Subdivision for the Development Area is cancelled as contemplated in this Article, or in the event that the Developer does not Commence Construction within the Development Area within the time limits prescribed herein, then the City shall be at liberty, in the City'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.

2.7. Notwithstanding anything to the contrary contained in this Agreement, the Developer hereby irrevocably appoints the City as its attorney in fact and law for the purposes of making all necessary or desirable (in the City's discretion or opinion) applications, executing all necessary or desirable documents, and taking all further necessary or desirable steps or actions in order to obtain the cancellation of the registration of the Plan of Subdivision in accordance with the preceding Article of this Agreement.

2.8. The power of attorney conferred upon the City by the Developer in Paragraph 2.7 may be exercised by the City:

a) In the event that the Developer has not applied for the cancellation of the registration of the Plan of Subdivision within one (1) month of the City providing written notice to the Developer pursuant to Paragraph 2.5; or

b) In the event that the Developer has not obtained the cancellation of the registration of the Plan of Subdivision within three (3) months of the City providing written notice to the Developer pursuant to Paragraph 2.5.

2.9. The City in its discretion may extend the time limits specified in Paragraph 2.8, but the City and the Developer agree that no act or omission on the part of the City, intentional or unintentional, shall constitute a waiver of the City's right to exercise the power of attorney conferred upon the City by the Developer pursuant to Paragraphs 2.7 and 2.8 of this Agreement.

ARTICLE 3 PLANS

3.1. The Developer shall submit Plans to the City for approval, including the Neighbourhood Design Report, not less than 45 days prior to commencing construction and installation of the Municipal Improvements, Franchise Utilities and Landscaping. The Plans shall give all necessary details of the Municipal Improvements and Franchise Utilities to be constructed by the Developer, including any necessary specifications to be attached thereto.

3.2. Unless otherwise authorized by the City in writing, the Developer shall not commence any construction within the Development Area until the City has approved the Plans and all necessary Federal, Provincial or Municipal approvals are in place.

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

3.4. The Plans for the construction and installation of the Municipal Improvements for the Development Area shall be designed by the Developer's Consultants, and shall conform strictly to the Design Standards.

3.5. In regards to Landscaping, the Developer covenants and agrees that the Plans for Landscaping for Public Properties shall comply with the Design Standards and shall include all Landscaping required by the City including, but not limited to 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 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 City's approval in conjunction with the balance of the Plans referred to in Paragraph 3.1 above.

3.6. If the City does not approve the Plans, or any other plan or report required to be submitted to the City by the Developer, the Developer shall be entitled to refer the matter to the appropriate City Administration with the authority for the issue in question for consideration. If the Developer is not satisfied with the results of Administration's consideration, the Developer may then refer the matter to the City Manager, and if again they are not satisfied with the results may take the matter to City's Council and the decision of the City's Council shall be final and binding and any such dispute or difference shall not be subject to arbitration.

3.7. The Developer covenants and agrees that the Plans shall include a construction timetable for the construction and installation of all the Municipal Improvements, Franchise Utilities

and Landscaping within and adjacent to the Development Area and the Developer shall, upon approval of the Plans by the City, comply with all time limits and complete all the Developer's work within the dates specified in the construction timetable. The Developer may amend the timetable from time to time with the approval of the City, such approval not to be unreasonably withheld.

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

3.9. It is understood and agreed that the City's approval of the Plans for the Municipal Improvements, Franchise Utilities and Landscaping 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, Franchise Utility or Landscaping 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, Franchise Utilities and Landscaping shall be subject to review and revision, from time to time, by the City in accordance with the Design Standards and in accordance with generally accepted engineering and construction practices.

3.10. The Developer agrees that in the event that any Plans are approved for the Development Agreement and the Design Standards are amended by the City prior to the commencement of construction of the Municipal Improvements, Franchise Utilities or Landscaping, then the Developer shall be required, prior to commencing construction, to review plans for consistency with the Design Standards.

3.11. The Developer acknowledges and agrees that the City's approval of the Plans is in no way intended to be a warranty, representation or guarantee by the City 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 Design Standards; or

d) Whether the Plans are in accordance with standard acceptable engineering practices.

ARTICLE 4 LOT GRADING AND SITE DRAINAGE CONSTRUCTION STANDARDS

4.1 The Developer covenants that the preparation of the Subdivision 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 Maintenance Period shall be undertaken and conducted in accordance with accepted engineering and construction practices and in accordance with the Design Standards

4.2 The Developer shall prepare a Subdivision Drainage Plan for the entire Development Area, to be approved by the City. The Developer shall obtain and provide to the City all necessary approvals, permits and licenses from Alberta Environment prior to proceeding with any construction within or adjacent to the Development Area.

4.3 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 City relating to the management and disposal of storm water within lots in the Development Area, as outlined below.

4.4 It is agreed between the City and the Developer that all of the storm water management standards and requirements of the City 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.

4.5 The Developer further covenants and agrees to ensure that all lots that have fill areas in excess of ONE (1) metre shall be compacted, and the Developer shall ensure that the City shall be provided with certified test results to ensure compliance with this Article and further, will provide to the City a plan of all such lots that have fill areas in excess of the said ONE (1) metre.

4.6 The Developer covenants and agrees that prior to the issuance of any 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 City such grading work as may be necessary to ensure that all lots within the Development Area have positive drainage and that there will not be any excessive ponding of water within any of the lots within the Development Area.

4.7 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 City 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.

4.8 The Developer shall provide a copy of the approved surface drainage plan for each lot to its proposed purchaser or others acquiring an ownership interest in that lot within the Development Area. The Developer further agrees to require, as a condition of the purchase of any lot within the Development Area, that the purchaser provide in trust to the Developer a refundable lot grading deposit of not less than $1,000.00. The Developer agrees that the lot grading deposit shall not be refunded to a purchaser until the Developer has received a copy of a Lot Grading Certificate for the applicable lot.

4.9 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 Subdivision Drainage Plan. Any changes must be approved, in writing, by the City;

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 City 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) 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 City 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;

f) Site improvements shall not alter or disrupt the drainage pattern as established in the Subdivision Drainage Plan; and

g) 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 City's Land Use Bylaw, and other applicable City policies.

ARTICLE 5 CONSTRUCTION AND INSTALLATION OF MUNICIPAL IMPROVEMENTS

5.1. Except as otherwise specified in the construction timetable approved under Paragraph 3.7, the Developer shall, at the Developer's own cost and expense:

a) Commence Construction and installation of the Municipal Improvements within TWELVE (12) months of endorsement of this Development Agreement;

b) Complete the construction and installation of the Municipal Improvements, including Landscaping except for boulevards on separate sidewalks, within TWENTY-FOUR (24) months of endorsement of this Development Agreement; and

c) Complete the construction and installation of Landscaping for boulevards on separate sidewalks within THIRTY-SIX (36) months of endorsement of the Development Agreement.

5.2. The Developer warrants to the City that all of the Municipal Improvements within the Development Area shall be constructed and installed at the Developer's own cost and expense, and in a good and workmanlike manner, in strict conformance with the approved Plans and generally accepted engineering and construction practices, in accordance with the terms of this Agreement, in accordance with the Design Standards and in accordance with the requirements of law applicable to the work.

5.3. The Developer covenants and agrees that it shall within Thirty (30) days of being directed by the City to do so, and in any event, prior to the public having access within the Development Area, complete the installation of all traffic control signs, street identification signs, development identification signs, directional signs, and any temporary signage.

5.4. If there has been no Commencement of Construction of the Municipal Improvements by the Developer within the time limits specified in Paragraph 5.1 then the City 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 City 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 City; 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 City in relation to the Lands or their development (including, without restriction, the security provisions contained within this Agreement), which shall remain in full force and effect until satisfied in full.

5.5. In the event that it is necessary or reasonable, in the opinion of the City, 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 access in accordance to specifications, and in such locations, as determined by the City, acting reasonably, and the Developer shall grant to the City an easement, in a form acceptable to the City, across the required land for the period for which the access is required. Any such access shall be constructed to an all-weather standard.

5.6. At all times during the construction and installation of the Municipal Improvements and during all work by the Developer or its agents related thereto, the City 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-Built records.

5.7. The City may at any time during the construction and installation of the Municipal Improvements and during performance of the work by the Developer or its agents related thereto:

a) Exercise such inspection of the performance of the work as the City may deem necessary and advisable to ensure to the City the full and proper compliance by the Developer with the Developer's undertakings to the City, and to ensure the proper performance of the work;

b) Reject any design, material or work which is not in accordance with the Design Standards or generally accepted engineering and construction practices;

c) Order that any unsatisfactory work be re-executed at the Developer's cost;

d) Order the re-execution of any unsatisfactory design and the replacement of any unsatisfactory material, at the Developer's cost;

e) Order the Developer, within a reasonable time to use such additional labour, machinery and equipment, at the Developer's sole cost, as the City deems reasonably necessary to ensure the proper performance of the work;

f) Order that the performance of the work or part thereof be stopped until the said orders are obeyed; and

g) 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 City, 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 Article 21 hereof; PROVIDED that in no event shall the Developer be entitled to dispute nor arbitrate any decision made by the

City pursuant to Paragraph e), f), or g) above; AND PROVIDED FURTHER that the affected work, except as otherwise agreed by the City in writing, shall stop until such arbitration has taken place.

5.8. Notwithstanding anything expressed or implied in the preceding Paragraphs in this Article, it is agreed between the Developer and the City:

a) That the City shall have no obligation or duty to exercise any of the City'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 Paragraphs in this Article 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, testing and maintenance of the Municipal Improvements as required by the terms of this Agreement.

5.9. The Developer shall take effective measures to reasonably control Construction Debris in and around the Development Area. In the event that the City considers that any cleanup or removal of Construction Debris is required, the Developer shall, within forty-eight (48) hours of receiving notice from the City, take all necessary action, as determined by the City, failing which the City may take such action and charge back all costs and expenses to the Developer. The Developer's obligations under this Paragraph shall continue until seventy-five (75%) percent of the homes in the Development Area have been completed to the stage where they are ready for occupancy, or the Final Acceptance Certificate for all Municipal Improvements has been granted, whichever date occurs latest.

5.10. Upon completion of the work by the Developer, and prior to the issuance of Construction Completion Certificates for the Municipal Improvements, the appropriate Developer's Consultant shall submit to the City a statement under their professional seal certifying that:

a) The Developer's Consultant has provided adequate periodic inspection services during the course of the work; and

b) The Developer's Consultant is satisfied that the work has been completed in a good and workmanlike manner in accordance with:

i) The Plans;

ii) Generally accepted engineering and construction practices; and

iii) The Design Standards.

5.11 The Developer acknowledges and agrees to immediately repair or replace any unsatisfactory work of a major nature, or such work which poses a danger to public health or safety, as determined by the City in its sole discretion. Work of a minor nature which does not pose a danger to public health or safety may be repaired or replaced by the Developer at any time prior to the Developer's request for the Construction Completion Certificate for the Municipal Improvements.

5.12 Notwithstanding anything to the contrary contained in this Agreement, 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 City that:

a) Water service for firefighting is operational, meaning that a fire hydrant is located within 150 metres of the lot boundary, or at a different distance subject to the Fire Chief's discretion, prior to the issuance of Building Permits or Development Permits for buildings on lots; and

b) All Essential Services have been installed, rendered operational, and inspected and approved by the City in any part of the Development Area where any buildings or facilities are to be occupied, except as otherwise permitted in writing by the City.

The City may, in its sole and absolute discretion, issue development and/or building permits, in respect to the development upon lots or parcels contained in the Development Area prior to the completion of the Essential Services upon receiving written assurances from the Developer that the Essential Services will be completed within SIXTY (60) days, but this shall in no way oblige the City to issue permits earlier than provided in the regulations and bylaws of the City. It is further agreed that the City may issue development permits for Show Homes at any time prior to the completion of the Essential Services provided that the Developer has entered into a Show Home Agreement with the City.

5.13 Notwithstanding anything to the contrary contained in this Agreement, the Developer covenants and agrees, that it shall be responsible to construct all Municipal Improvements adjacent and abutting to a stage of development, during construction of that stage, unless deferral is explicitly allowed for by the City Engineer. The City recognizes its obligations to assist developers in recovering costs from other benefiting parties, if applicable, in the future.

5.14 The Developer covenants and agrees that during the construction and installation of the Municipal Improvements, Franchise Utilities and Landscaping, and during the Maintenance Period for the same, 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 may 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, and as such the City may take any action it feels appropriate up to and including cancellation of this agreement.

ARTICLE 6 INSTALLATION OF FRANCHISE UTILITIES

6.1. The Developer shall, at no cost to the City whatsoever, arrange for and ensure the installation, to the City's satisfaction, of the Franchise Utilities to the Development Area and within the streets adjoining the lots to be created in the Development Area. The Developers shall indemnify and save harmless the City from and against all losses, costs, 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.

6.2. The Franchise Utilities within the Development Area shall be installed, in accordance with the Plans, within the roadways, utility lots or easement areas 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 connect to such services upon paying the normal connection fees charged by the utility company or franchise holder.

6.3 The Developer covenants and agrees that the utility right-of-ways granted to the City will be used by the Franchise Utilities providers and that there will be no exclusivity granted in said right-of-ways.

ARTICLE 7 CONTRACTS FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS

7.1. Notwithstanding anything to the contrary in this Article, the Developer acknowledges, understands and agrees that the Developer shall be fully responsible to the City for the performance by the Developer of all the Developer's obligations as set forth in this Agreement. The Developer acknowledges, understands and agrees that the City 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.

7.2. 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 that:

a) The third party shall:

i) Indemnify and save harmless the City 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 employees;

ii) Provide reasonable proof of financial responsibility;

iii) Comply with the provisions of the *Workers Compensation Act* for the Province of Alberta; and

iv) Allow the City access to the works for the purpose of inspection;

b) 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 works by the City;

c) The third party shall coordinate with the City work forces and others to facilitate the installation of Municipal Improvements and Franchise Utilities and shall protect such works from damage;

d) The third party will carry adequate public liability insurance of an amount and coverage satisfactory to the City to protect the third party and the City from any claims, actions or demands arising from the pursuance or purported pursuance of the works being performed by such third party; and

e) At the option of the City, the Developer will ensure that the third party shall carry a Labour and Materials Payment Bond in the amount of FIFTY (50%) percent of the contract price.

ARTICLE 8 COMPLIANCE WITH ALL PLANS AND SPECIFICATIONS

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

8.2. 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.

ARTICLE 9 ACCEPTANCE OF MUNICIPAL IMPROVEMENTS: TRANSFER OF MUNICIPAL IMPROVEMENTS TO THE CITY

9.1. For purposes of this Article, the City 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 Design Standards and accepted engineering and construction practices;

c) All testing has been completed and the results approved by the City;

d) All easements, utility rights-of-way and restrictive covenants have been registered in a form acceptable to the City;

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;

g) The Developer has provided the City with any applicable operation plans, operation manuals or maintenance manuals, for the Municipal Improvements having special operation or maintenance requirements; and

h) The Developer has provided the City with the actual costs and sufficient supporting documentation of all Municipal Improvements located on, in or under Public Properties (including utility rights-of-way and easements) in order that the City is able to meet its accounting and reporting requirements for the acquisition of tangible capital assets. Sufficiency of supporting documentation and costs information shall be determined by the City and its auditors.

9.2. When the Developer claims that the Municipal Improvements, or any of them, have been constructed and installed in accordance with the requirements of this Agreement, then the Developer shall give notice in writing of such claim of completion to the City.

9.3. Within FORTY-FIVE (45) days of such claim of completion, the City 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.

9.4. Notwithstanding Paragraphs 9.2 and 9.9, the City may give notice to the Developer of the City's inability to conduct an inspection within the said FORTY-FIVE (45) days due to adverse site or weather conditions or any other condition beyond its control, and in such event the time limit for such an inspection shall be extended until FORTY-FIVE (45) days following the elimination of such conditions. Without limiting the generality of the foregoing, it is specifically agreed that:

a) The City will be unable to conduct an inspection when the ground in the Development Area is covered by snow; and

b) The Developer assumes full responsibility to ensure the site is cleaned up after the inspections to the satisfaction of the City.

9.5. It is understood and agreed between the Developer and the City that the notices required under Article shall be given only between the City and the Developer or the Developer's Consultant and in no event shall either the City or the Developer or the Developer's Consultant give such notices through any contractor or sub-trade that may be engaged by the Developer in the construction of the Municipal Improvements.

9.6. In the event that any inspection contemplated in Paragraphs 9.3 or 9.4 reveals any deficiencies in relation to the particular Municipal Improvements or portion thereof, ordinary wear and tear excepted, the City may refuse to issue a Construction Completion Certificate for such Municipal Improvements, or portion thereof, and require the Developer to repair or replace the whole or any portion of any such Municipal Improvements. Upon completion of the repairs or replacement required to correct any such deficiencies, the Developer may request a further inspection and the issuance of a Construction Completion Certificate.

9.7. It is understood and agreed between the Developer and the City that the City shall be at liberty in its sole discretion to issue a written conditional Construction Completion Certificate for all or a portion of any particular Municipal Improvements and such Certificate shall be conditional upon the completion of minor deficiencies by the Developer within a time specified by the City. The commencement of the Maintenance Period in relation to any such deficiency, if rectified within THIRTY (30) days, shall be back-dated to the date of issuing the said conditional Construction Completion Certificate. The Maintenance 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 City in accordance with this Agreement.

9.8. Not more than SIXTY (60) days and not less than FORTY-FIVE (45) days prior to the expiration of the Maintenance Period for any Municipal Improvements, or portion thereof, the Developer shall give notice to the City of expiration of the Maintenance Period for the particular Municipal Improvements, or portion thereof, and the Developer shall request the issuance of a Final Acceptance Certificate in respect to the particular Municipal Improvements, or portion thereof. The Developer's notice shall be accompanied by a list of any deficiencies.

9.9. Within FORTY-FIVE (45) days of the receipt by the City of a request for a Final Acceptance Certificate, the City shall undertake an inspection of the Municipal Improvements, or portion thereof, and the City shall within the said FORTY-FIVE (45) days advise the Developer in writing of any deficiencies in relation to the particular Municipal Improvements, or portion thereof, ordinary wear and tear excepted, (i.e. any deficiencies referred to by the Developer and any additional deficiencies); provided, that the provisions of Paragraph 9.4 shall also apply to any request for the issuance of a Final Acceptance Certificate.

9.10. In the event that any inspection contemplated in Paragraph 9.9 reveals any deficiencies in relation to the particular Municipal Improvements, or portion thereof, ordinary wear and tear excepted, the City may refuse to issue the Final Acceptance Certificate of the Municipal Improvements, or portion thereof, and require the Developer to repair or replace the whole or any portion of any such Municipal Improvements. 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.

9.11. In the event that any inspection contemplated in Paragraph 9.9 reveals that there are no deficiencies in relation to the Municipal Improvements, or portion thereof, the City shall

issue in writing its Final Acceptance Certificate for the Municipal Improvements, or portion thereof.

9.12. It is understood between the City and the Developer that the City shall be at liberty to issue a conditional Final Acceptance Certificate for all or a portion of the Municipal Improvement and such acceptance shall be conditional upon the completion of minor deficiencies by the Developer within THIRTY (30) days.

9.13. Upon the issuance of a Final Acceptance Certificate by the City for the Municipal Improvements, or any portion of the Municipal Improvements as provided herein, the Developer hereby acknowledges that all right, title and interest in all Municipal Improvements located on or under Public Properties including easement areas and rights-of-way, but excluding Franchise Utilities, vests in the City without any cost or expense to the City, and the Municipal Improvements shall become the property of the City.

9.14. Notwithstanding anything to the contrary contained in this Agreement, the Developer acknowledges and agrees that the Maintenance Period for the Municipal Improvements shall not expire before the issuance of a Final Acceptance Certificate in respect to the Municipal Improvements by the City to the Developer. 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, or portion thereof, 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.

9.15. Following the issuance of a Construction Completion Certificate for the Municipal Improvements, the City 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 the Franchise Utility Companies. The Developer agrees to be responsible for the maintenance and repair of all Landscaping until the issuance of a Final Acceptance Certificate for the Landscaping.

9.16. The City and the Developer agree that, notwithstanding the issuance of a Final Acceptance Certificate for the Municipal Improvements, or any of them, the Developer shall be responsible to repair or replace the Municipal Improvements, or any of them, where there are 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. This obligation shall extend for a period of FIVE (5) years following the date of issuance of the Final Acceptance Certificate. In the event of a dispute regarding this provision, and in addition to Article 21 on arbitration, the parties may mutually agree to resolve any dispute under this provision by means of mutually hiring an independent engineering firm to determine causation of the hidden or latent defects in any Municipal Improvements installed and constructed pursuant to this Agreement.

9.17. It is understood and agreed that the City may in its discretion issue up to EIGHT (8) separate Construction Completion Certificates for the Municipal Improvements, namely:

a) Those underground Municipal Improvements referred to in Paragraphs (a), (b) and (c) of Schedule D of this Agreement;

b) Those surface Municipal Improvements referred to in Paragraphs (d), (e), (f), (g), (j), (k), (m), (n), and (o) of Schedule D of this Agreement;

c) Those separate sidewalk Municipal Improvements referred to in Paragraph (e) of Schedule D of this Agreement;

d) The Landscaping referred to in Paragraphs (h), (p) and (k) of Schedule D of this Agreement;

e) Those Landscaping for boulevards on separate sidewalks, referred to in Paragraph (i) of Schedule D of this Agreement;

f) The Landscaping of open space site amenities and playgrounds (including equipment), referred to in Paragraph (l) of Schedule D of this Agreement;

g) The Common Fencing on private lands referred to in Paragraph (q) of Schedule D of this Agreement; and

h) The Common Fencing on Public Property referred to in Paragraph (q) of Schedule D of this Agreement.

Likewise, the City may in its discretion issue up to EIGHT (8) Final Acceptance Certificates for those portions of the Municipal Improvements referred to above. Notwithstanding, the City will not issue a Final Acceptance Certificate for Common Fencing on private lands, referred to in Paragraph g) above or for any infrastructure that will remain privately owned by a condominium association or a home owner association.

ARTICLE 10 MAINTENANCE OF MUNICIPAL IMPROVEMENTS BY DEVELOPER

10.1. The Maintenance Period in respect to any of the Municipal Improvements shall commence with the City's written Construction Completion Certificate for any such Municipal Improvements in good condition and repair (ordinary wear and tear excepted). The Developer during the Maintenance Period shall, subject to Paragraph 9.15, repair or replace the whole or any portion of the Municipal Improvements where such repair or replacement is required, as determined by the City, acting reasonably, unless the repair or replacement is a result of the neglect by the City, its servants, agents or contractors in the use and operation thereof. If any repairs or replacement of Municipal Improvements are required during the Maintenance Period, as determined by the City, the Developer shall, at the Developer's sole cost and expense, within Thirty (30) days of receiving notice from the City (or longer if agreed to by the City and stated in writing) cause such repairs or replacement to be completed. Notwithstanding the above, there is no Maintenance Period for Common Fencing on private lands and it is acknowledged that maintenance of such Common Fencing on private lands shall be the responsibility of the landowner of the lot on which such Common Fencing has been constructed.

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

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

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

10.5. The City and the Developer agree that during the Maintenance Period that the City shall perform the normal maintenance requirements of the City respecting the cleaning and flushing of sanitary sewers; PROVIDED, that the City's costs and expenses of the final cleaning and the removal of obstructions, immediately prior to the issuance of the Final Acceptance Certificate, shall be paid by the Developer to the City before the Final Acceptance Certificate is issued.

10.6. 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 Maintenance 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 City has issued the Final Acceptance Certificate for all aspects of roadway improvements.

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

ARTICLE 11 USE OF PUBLIC PROPERTIES IN THE PERFORMANCE OF THE WORK

11.1. The City 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 Properties under the control of the City, 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 or Franchise Utilities forming part of the work of the Developer, as may be necessary for the purpose of this Agreement, provided that:

a) Not less than TEN (10) days prior to the date that the Developer intends to enter upon any Public Properties, except in the case of emergency repair work, the Developer shall provide to the City detailed written proposals, for approval by the City, 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) a 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 City to enter upon such Public Properties; and the City shall not unreasonably delay or withhold such written consent;

c) That the work within Public Property by the Developer and its agents, contractors or subcontractors shall be subject to the inspection rights of the City as set forth in this Agreement and all directions and requirements of the City shall be obeyed;

d) The Developer shall do as little damage as possible in the performance of such work, and will cause as little obstruction to such Public Properties as possible;

e) 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 ONE (1) year thereafter, ordinary wear and tear excepted;

f) That the restoration of Public Property by the Developer 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) the Developer shall indemnify and save harmless the City 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.

11.2 When the grades of Public Properties are altered by the Developer, the Developer shall provide to the City for approval as part of the Plans, FOUR (4) 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 to a depth of ONE HUNDRED (100) millimetres (in conformity with the 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 City's engineer. The Construction Completion Certificate for Landscaping shall not be issued by the City until such time as such work is completed to the satisfaction of the City's Engineer.

ARTICLE 12 UTILITY EASEMENTS

12.1. The Plans, as approved by the City, shall designate road allowances, public utility lots, easements or rights-of-way of widths adequate to the needs of the City and utility companies, for the construction and installation of Municipal Improvements and Franchise Utilities 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 City.

12.2. The road allowances, public utility lots, easements and utility rights-of-way shall be granted and registered to the City (without further compensation payable to the Developer), upon the earlier of:

a) Submission for registration of a Plan of Subdivision for the Development Area and prior to the sale of any lots covered by a Plan of Subdivision; or

b) As a condition of the City's issuance of an applicable development permit, in the event that a Plan of Subdivision is not contemplated as part of the development of the Development Area.

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 City proof of the registration of all road allowances, public utility lots, easements and utility rights-of-way required by the City.

12.4. The Developer agrees that the road allowances, easements and utility rights-of-way shall be in a form acceptable to the City and shall be a first charge against all properties within the Development Area, excepting other easements and utility rights-of-way, and further agrees to obtain and register postponements of all liens, charges and encumbrances in favor of the easements.

12.5. Such road allowances, easements or utility rights-of-way shall provide the City the right to assign all or any part of the rights granted to operators of the respective Franchise Utilities or to grant permits or licenses to install, repair and replace gas, power, telephone, cable, communication lines and drainage systems.

12.6. 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 City, 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.

12.7. The Developer hereby grants, conveys, transfers and sets over to and unto the City, its servants, agents, contractors, successors, assigns and licensees:

a) The right, license, liberty, privilege and easement across, over, under, on and through all of the Lands, described within Schedule A of this Agreement, for the purposes of laying down, installing, constructing, operating, inspecting, maintaining, repairing, replacing, altering, removing and reconstructing from time to time sanitary sewer, storm sewer, drainage, water, gas, electrical, telephone, telecommunications, and cable television lines, services or distribution systems, and temporary roadways, together with any and all appurtenances incidental or necessary in relation to the above, together with the right of ingress and egress over the Lands with vehicles, supplies and equipment for all purposes useful or convenient in connection with or incidental to the exercise and enjoyment of the rights and privileges granted within this Agreement; and

b) The dedication of all roads shown within the subdivision approval for the Lands, as amended by this Agreement or the Plans subsequently approved by the City, which dedications may be registered at any time by the City by road plan in accordance with Section 62 of the Municipal Government Act (Alberta).

The grant of the right of way provided above is and shall be for as long as is necessary for the City and is intended to be a covenant that runs with the Lands, until such time as the Plan of Subdivision and/or any applicable and required public utility lots, easements, road

allowances and utility rights-of-way have been registered with Land Titles, and shall survive termination of this Agreement.

ARTICLE 13 MUNICIPAL SERVICES

13.1. As lots are developed in parts of the Development Area, the City will provide thereto, as required and subject to the terms of this Agreement, all municipal services which are normally supplied to other similar parts of the City to the same standards and costs, 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. Prior to the issuance of the Final Acceptance Certificate for all surface Municipal Improvements in the Development Area, the Developer shall at all times after any premises are occupied and used within the Development Area, provide and ensure continuous access to such occupied premises from both the front street and, where applicable, the rear lane for garbage removal and police, fire and other emergency services.

13.3. The Developer, prior to issuance of the appropriate Construction Completion Certificate, covenants and agrees to be responsible for and pay all tolls, rates and fees applicable to street lighting or decorative lighting within the Development Area and to be responsible for and to pay for all street cleaning, snow removal and street sweeping within the Development Area upon the following terms and conditions:

a) the Developer shall within THIRTY (30) days of being invoiced by the City, pay to the City any costs incurred by the City for outside forces in connection with street lighting or decorative lighting, street cleaning, snow removal or street sweeping; and

b) where City work forces and equipment are used to provide any such services, the costs to be charged back to the Developer shall be calculated at the existing hourly rates for equipment and labour and the cost of employee benefits then utilized by the City plus an additional FIFTEEN (15%) per cent of all such costs to cover the administrative costs incurred by the City.

13.4. The Developer acknowledges and agrees that if any portion of the Development Area is subdivided by way of condominium plan, rather than Conventional Subdivision Plan, or a portion of the Development Area includes improvements constructed for the purpose of a Home Owner’s Association, the City is not obligated to provide its regular services within that portion of the Development Area. Without limiting the generality of the foregoing, the City will not be obligated to provide services (including provision of public utilities, garbage removal or maintenance or internal access roads) to any portion of lands that is within the boundaries of the Condominium plan.

ARTICLE 14 COMMON FENCING

14.1. The Developer shall, at its own expense, as part of the development of the Development Area, construct Common Fencing of the type hereinafter referred to where required by the City, 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 Common Fencing 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 City in its sole and absolute discretion.

14.3. Any Common 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 Maintenance Period as provided in this Agreement.

14.4. Any Common Fencing which is intended to separate Public Properties from other abutting lands shall be constructed not less than FIFTEEN (15) centimetres within the boundary of such other lands and shall not be constructed on the boundary line between the Public Properties and the other lands.

14.5. Any Common Fencing which is not wholly located upon Public Properties shall be maintained by the Developer until the expiration of the Maintenance Period for such Common Fencing and thereafter shall be maintained by the owners of the properties upon which the Common Fencing is located. In order to ensure the maintenance obligations of such owners, the Developer shall, prior to selling or transferring any such properties, register against the properties a restrictive covenant, in the form attached as Schedule F, which imposes such maintenance obligations upon the future owners of those 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 City around all municipal and environmental reserve parcels within the Development Area.

ARTICLE 15 MAINTENANCE OF BOULEVARDS AND OTHER PUBLIC AREAS

15.1. The Developer shall be responsible, at its sole expense, to maintain, in accordance with the approved landscape Plan and Design Standards, the Developer's lands and all Public Properties within the Development Area which have been seeded to grass. Without restricting the generality of the foregoing, the Developer shall be responsible for mowing grass 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 Paragraph 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 and dirt from all Public Properties, including roadways, within and adjacent to the Development Area, subject to the following conditions:

a) Prior to Commencement of Construction of the Municipal Improvements, the Developer shall provide a Construction Debris management plan for the Development Area to the City for approval, and the Developer shall be responsible for adhering to and for ensuring that all builders within the Development Area adhere to the approved Construction Debris management plan;

b) It shall be the responsibility of the Developer to monitor the condition of Public Properties and the Development Area in general and take immediate action as necessary to comply with the provisions of this Article;

c) In the event that the City considers that any cleanup or removal of Construction Debris, foreign material or dirt is required, the Developer shall, within FORTY-EIGHT (48) hours of receiving notice from the City, take all necessary action as determined by the City, failing which, the City may take action and charge back all costs and expenses to the Developer; and

d) In respect to a residential subdivision, the Developer's obligations under this Article shall cease and terminate in respect to the Development Area when housing construction has been completed on SEVENTY-FIVE (75%) percent of the lots within the Development Area.

15.4. The City shall assume the normal maintenance of all Public Properties after the expiration of the Maintenance Period and issuance of the Final Acceptance Certificate.

ARTICLE 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 City. Unless otherwise specifically provided within Schedule G attached to this Agreement, the Developer's proportionate share of existing or currently contemplated Oversizing Costs and costs for extending Municipal Improvements will be calculated and paid upon the earlier of:

a) Submission for registration of a Plan of Subdivision for the Development Area and prior to the sale of any lots covered by a Plan of Subdivision; or

b) As a condition of the City's issuance of an applicable development permit, in the event that a Plan of Subdivision is not contemplated as part of the development of the Development Area.

And in any event, prior to Commencement of Construction.

Any deferral of payment of Oversizing Costs and costs for extending Municipal Improvements by the Developer beyond the above-noted deadlines shall be subject to specific agreement between the City and the Developer as contained within Schedule G and Schedule J 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 Paragraph 19.2 of this Agreement). If a Plan of Subdivision is contemplated, and at the time of registration of the Plan of Subdivision the City has not calculated or imposed Oversizing Costs and costs for extending Municipal Improvements, and subsequently the City imposes such charges, nothing in this Agreement precludes the City from imposing the Developer's proportionate share of Oversizing Costs and costs for extending Municipal Improvements at the development permit stage.

16.2. In the event that the Developer's proportionate share of existing or currently contemplated Oversizing Costs is capable of being determined as of the date of this Agreement, the Developer's proportionate share for such existing or currently contemplated Oversizing Costs shall be as shown within Schedule G attached to this Agreement and costs for extending Municipal Improvements shall be shown within Schedule J 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 City in accordance with good engineering and construction practices, in accordance with the provisions of any relevant bylaws of the City, in accordance with any agreements which the City 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 City taking into account the expended useful life span of the oversized/shared Municipal Improvement.

16.3. Nothing in this Agreement shall preclude the City 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 Article 17.

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. In the event that the boundary of the Development Area is only adjacent to lands owned under the same ownership, the City may require right-of-ways to be registered across the Development Area or any adjacent lands under the same ownership (often the remnant land) to the boundary of an adjacent ownership, an existing right-of-way, or road with the intention of preventing stagnation of adjacent developments. The City's requirements for oversizing and extending Municipal Improvements shall be evidenced within the additional provisions contained within Schedule J attached to this agreement, within the Design Standards, or otherwise required to be shown within the Developer's Plans at the time of the City's review and approval.

16.5. Such Oversizing Costs and costs for extending Municipal Improvements contemplated in Paragraph 16.4 shall be shared costs and the City and the Developer acknowledge that the Developer shall be entitled to recover such shared Oversizing Costs and costs for extending Municipal Improvements in accordance with this Agreement. The method of calculating the proportionate shares of such shared Oversizing Costs and costs for extending Municipal Improvements shall be determined solely by the City in accordance with good engineering and construction practices, in accordance with the provisions of any relevant bylaws of the City, in accordance with any agreements which the City 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 City taking into account the expended useful life span of the oversized/shared Municipal Improvements.

16.6. The City shall not be responsible for payment of any portion of the shared Oversizing Costs and costs for extending Municipal Improvements, except as may be specifically provided elsewhere in this Agreement, or except in respect to lands owned or acquired by the City, but the City shall use reasonable efforts to give such assistance to the Developer as it can legally give in the recovery of shared Oversizing Costs and costs for extending Municipal Improvements by making it a term of any Development Agreement between the City and owners of any future benefiting developments that such owners pay their proportionate share of such shared Oversizing Costs and costs for extending Municipal Improvements 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 or subdivision 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 City 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 City, and upon the City approving the said details, the same shall govern for the purpose of determining the amount of shared Oversizing Costs and costs for

extending Municipal Improvements to be paid by such benefiting owners pursuant to Paragraph 16.6.

16.8. The City 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 City is advised of any such development, the City will communicate the information to the development community by posting the information on their website. The Developer agrees that upon reviewing the development information being published by the City, the Developer shall notify the City in writing of any claims it has in writing under this Agreement for recovery of shared Oversizing Costs and costs for extending Municipal Improvements with detailed calculations setting out the amount claimed by the Developer. Until such notice has been delivered by the Developer to the City, the City shall not be required to request from the owners of adjacent lands the payment to the Developer of the shared Oversizing Costs and costs for extending Municipal Improvements attributable to the lands intended to be developed. Upon receipt of any such notice from the Developer to the City, the City will take the steps contemplated by this Agreement to facilitate the recovery by the Developer of the applicable shared Oversizing Costs and costs for extending Municipal Improvements.

16.9. The City agrees that in calculating any shared Oversizing Costs payable to the Developer, the City 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, after which the recovery of the Oversizing Costs and costs for extending Municipal Improvements shall remain fixed.

16.10. For purposes of calculating interest payable under Paragraph 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 or the developer not tying anymore the infrastructure with its original catchment area). 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/shared Municipal Improvements. Consequently, and notwithstanding the foregoing and anything to the contrary contained within this Agreement, the City cannot and will not guarantee eventual recovery of proportionate shares of Oversizing Costs and costs for extending Municipal Improvements.

ARTICLE 17 LEVIES, FEES AND OTHER CHARGES

17.1. The Developer agrees that the Development Area will benefit from new or expanded off-site water, sanitary sewer, roadway and storm drainage facilities which will be utilized to provide municipal services to the Development Area. Accordingly, the Developer covenants and agrees to pay to the City any off-site levies if and when established by the City, pursuant to an off-site levy bylaw, unless otherwise specifically provided within

Schedule G attached to this Agreement, and such off-site levies (or other subdivision or development charges) are payable by the Developer to the City on the following terms:

a) FIFTY (50%) percent of the off-site levies calculated on the basis of the area of the Development Area to be paid by the Developer to the City upon the execution of this Development Agreement;

b) The remaining FIFTY (50%) percent of the off-site levies may be deferred by the Developer until:

   i) TWELVE (12) months from the date of execution of this Agreement; or

   ii) In the event of the Developer is in default of any obligation of this Agreement, as per and in accordance with Article 21 of the Agreement, or upon commencement of any proceedings to wind up the affairs of the Developer, declaration of bankruptcy by Developer, appointment of a receiver, or commencement of proceedings under *Company Creditors Arrangement Act,* payment of the deferred portion of the off-site levies is immediately and automatically due and payable to the City in accordance with and pursuant to the provisions of the *Municipal Government Act* and the City's Off-site Levy Bylaw;

   in either case, the respective levy shall become due and payable to the City.

c) In the event of a deferral of the off-site levies, the deferred payment of the off-site levies when they become due and payable shall be calculated at the then current levy rate per hectare, as such rates are revised from time to time by the City, for the whole Development Area;

17.2. The Developer acknowledges that the City will incur administrative costs and expenses with respect to preparing and administering this Agreement, reviewing the construction specifications and drawings, inspecting constructed Municipal Improvements, reviewing video camera testing and updating the City's digital As-Built Drawings. Inasmuch as these costs are properly part of the cost of constructing the Municipal Improvements and therefore should be borne by the Developer, the Developer agrees to pay upon execution of this Agreement an administration fee in accordance with the City's Fees Bylaw.

17.3. In addition to the sums specified in Paragraphs 17.2, the Developer acknowledges that the Developer shall pay a fee of Sixty dollars per hectare ($60/ha) for all new developments for HPN Survey Monuments. In addition, the Developer shall provide the City security in form of an irrevocable letter of credit for the amount of $15,000 for the potential destruction or damage to existing HPN Survey Monuments within or adjacent to the Development Area. Such security required under this Paragraph shall be returned to the Developer by the City upon issuance of the Final Acceptance Certificates for all Municipal Improvements to constructed and installed pursuant to this Development Agreement. The City shall be entitled to call upon and make demands as payee and beneficiary under the said security provided by the Developer for the HPN Survey Monuments in the event that, in the City's sole determination, there is destruction or damage to existing HPN Survey Monuments caused during the construction, installation and maintenance of the Municipal Improvements and or development of the Development Area.

ARTICLE 18 INTEREST ON MONIES OWED TO THE CITY

18.1. Except as otherwise specifically provided in this Agreement, all sums or monies owed by the Developer to the City shall bear interest compounded 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. For purposes of calculating interest under this Article, 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.

ARTICLE 19 AMOUNTS PAYABLE UNDER THIS AGREEMENT

19.1. The Developer acknowledges and agrees that the City 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 City 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 City to enter into this Agreement;

b) The Developer acknowledges that the City has agreed to enter into this Agreement on the representation and agreement by the Developer to pay to the City the sums specified in this Agreement;

c) The Developer agrees that the City 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 permitted assigns any and all rights, defences, 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 City 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 permitted assigns hereby releases and forever discharges the City 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 City in respect to any right or claim, if any, for the refund or repayment of any sums paid by the Developer to the City pursuant to this Agreement.

19.2. The City and the Developer agree that any amounts of money presently or hereafter owing by the Developer to the City 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 payment or performance of the Developer’s obligations within this Agreement, and further, that the City 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.

ARTICLE 20 DEFAULT BY THE DEVELOPER

20.1. In the event that the City claims that the Developer is in default in the observance or performance of any of the terms, covenants or conditions of this Agreement, the City 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 Article 22. If the Arbitrator confirms the claimed default, the Developer shall, notwithstanding the provisions of Paragraph 21.1, 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 City 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 City pursuant to Paragraph 20.1 and no arbitration been requested by the Developer or from confirmation of the default by the Arbitrator pursuant to Paragraph 21.2, the City may, but shall not be obligated to:

a) Provide additional time for the work to be completed; or

b) Undertake any work it considers necessary in order to remedy such default and any costs or liability incurred by the City in respect thereof shall be at the Developer's sole cost and expense. The Developer shall pay such costs to the City within Thirty (30) days of receiving demand for payment from the City.

20.5. Notwithstanding anything to the contrary herein, in the event that the City, in its sole 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 City considers to be an emergency, the City 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 City shall give notice in writing to the Developer if the City 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 Article 21 hereof.

20.6. The Developer agrees that the City shall, for purposes of undertaking any emergency work or to remedy a default, have free and uninterrupted access to all portions of the Development Area and any other areas under the control of the Developer and that the City 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 City and the Developer.

20.8. The City and the Developer agree that any rights and remedies available to the City whether specified in this Agreement or otherwise available at law, are cumulative and not alternative and the City shall be entitled to enforce any right or remedy in any manner the City deems appropriate, in its sole discretion, without prejudicing or waiving any other right or remedy otherwise available to the City.

ARTICLE 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

notice to the other of such dispute or difference and refer such dispute or difference to arbitration in accordance with the provisions of this Article.

21.2. Arbitration hereunder shall be by a reference to an independent person, to be selected jointly by the City and the Developer, and their decision shall be final and binding. In the event that the City and the Developer shall fail to agree on an arbitrator within FORTY-EIGHT (48) hours of either party giving notice to the other party of a dispute or difference pursuant to Paragraph 22.1, 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 City or the Developer, or proportionately by both the City 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 City or as to the grounds upon which, or the mode in which, any opinion may have been formed or discretion exercised by the City. In any such instance the discretion, decision, opinion or determination of the City shall be final and binding upon the Developer.

ARTICLE 22 INDEMNITY AND SECURITY

22.1. The Developer shall indemnify and save harmless the City 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 City 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 City;

c) None of the policies shall be cancelled unless Thirty (30) days prior written notice of cancellation is first given to the City;

d) Copies of all policies of insurance shall be provided to the City upon execution of this Agreement; and

e) The insurance policies shall have the minimum limits of coverage of not less than FIVE MILLION DOLLARS ($5,000,000.00) 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 City 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 City, 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 City:

a) The security shall be deposited by the Developer with the City upon execution of this Agreement and in any event prior to Commencement of Construction;

b) the security in respect of the Development Area, shall be in the amount required under City Policy, attached as Schedule H to this Agreement, based on the estimated value of the Municipal Improvements to be constructed, to secure the performance of the Developer's obligations pursuant to this Agreement;

c) For purposes of this Paragraph, 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 I 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 Maintenance 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"; or

b) A "Bond" or "Development Bond" issued by a licensed "Surety Company" that provides proof of a current "A-" (or better) credit rating as determined by AM Best or other known and credible credit rating firm; or

c) Such other security as may be approved by the solicitors for the City; or

d) A cash security deposit account (and it may be in combination with a) or b) but not both);

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 City's solicitors. And in the case of the use of a "Bond" or "Development Bond" Schedule L Development Bond Agreement will also be employed. 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 City 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 or Bond 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 City Sixty (60) days prior to the expiry date of the security, then the security shall

automatically be renewed, upon the same terms and conditions, for a further period of One (1) year; or

b) A right on the part of the City to draw upon the full amount of the security, or any portion thereof, in the event that the City 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. In regards to security provided under this Agreement, the following terms and conditions shall apply:

a) Any cash security deposit, Irrevocable Letter of Credit, Bond or other security required or otherwise provided by the Developer to the City pursuant to this Agreement is hereby assigned and pledged to the City as security for the performance of the Developer's obligations as contemplated herein (such assignment and pledge to be perfected by possession and/or registration);

b) The Developer acknowledges having received a copy of this Agreement, and the security terms contemplated herein, and waives any right it may have to receive a copy of any Financing Statement or Financing Charge Statement in relation hereto; and

c) Notwithstanding any other provision of this Agreement and further, without prejudice to any other right or remedy of the City, the obligation of the City or its solicitor to release any security deposit funds held by it under or in connection with this Agreement (including, without restriction, any cash deposit) is subject to the City's right to deduct or set off any amount which may be due by the Developer to the City or the amount of any claim by the City against the Developer under this Agreement (including, without limitation, the amount of any liquidated damages). Without limitation, if the Developer is in breach or default of any provision of this Agreement or of any provision of any contract with any project manager(s), subcontractor or supplier, and, after receiving notice thereof, the Developer does not promptly remedy such default or breach or commence and diligently prosecute the remedy of such breach or default, the City may (but shall not be obligated to) take any measures it considers reasonably necessary to remedy such default or breach and any costs or liabilities incurred by the City in respect thereof may be deducted from or set off against any amount(s) to be paid or released to the Developer under this Agreement. This provision shall survive the termination of this Agreement for any reason whatsoever.

22.8. Any security or insurance herein required to be deposited by the Developer may be required to be increased or decreased by the City upon written notice to the Developer at any time during the currency of this Agreement if it shall appear to the City in its discretion that the security or insurance deposited is excessive or insufficient in relation to the costs or protection to the City, for which security or insurance has been provided. Without limiting the generality of the foregoing, the City may require an increase in security if the Developer has failed to comply with the construction timetable approved under Paragraph 3.7, or if the Developer has been issued a notice of default under Article 21.

22.9. The amount of security to be provided by the Developer to the City may be reduced, in the sole and absolute discretion of the City, acting reasonably in accordance with the City Policy 61.00:28. In any event, upon expiration of the Maintenance Period and after issuance of the Final Acceptance Certificate of all the Municipal Improvements the City shall release the security of the Developer.

22.10. In the event that the City 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 City 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 City of an account therefore;

c) Emergency repair work has been done to Municipal Improvements by the City 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 City 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 City pursuant to this Agreement is due to expire within a period of Sixty (60) days and the Developer has not deposited with the City a renewal or replacement of such security in terms and form acceptable to the City's solicitors.

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

22.11. In the event that the City 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 City 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 City has negotiated, called upon the security to be deposited by the Developer with the City, the City may, at its option and discretion, use any funds thereby obtained in any manner the City deems fit to discharge the obligations of the Developer pursuant to this Agreement.

ARTICLE 23 DELIVERY OF DOCUMENTS TO THE CITY

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 Article, deliver to the City all other documentation and information relating to the development of the Development Area which the City 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 City a list of all documents and information required by the City.

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 Municipal Improvements by the City, and not later than SIX (6) months following issuance of the Construction Completion Certificate, the Developer shall deliver to the City all inspection and testing records and As-Built Drawings and records, as herein required (and as specified in the Design Standards), in a form and to standards specified by the City which may include paper form, reproducible nylon, videotape, mylar and digital computer records or design, or any other form required by the City. Such As-Built Drawings shall include

detailed information on the underground and surface Municipal Improvements constructed for the Development Area for the City's Asset Management Program, which includes, but is not limited to, such information as length of asphalt, length and size of pipes, fire hydrants, length of sidewalks and multi-way trails, etc.

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 receipt of the documents required herein, unless otherwise agreed to by the City and provided that the Final Acceptance Certificate shall not be issued prior to the expiration of the Maintenance Period.

ARTICLE 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 City, and it is understood and agreed that the Developer shall obtain all approvals and permits which may be required by the City 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 shall 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.

ARTICLE 25 SEVERABILITY

25.1. The parties agree that in the event of one or more of the provisions of this Agreement being subsequently declared invalid unenforceable or contrary to law by a court or other binding authority then the same shall be severed and the remainder of this Agreement shall be full force and effect.

ARTICLE 26 LAW OF ALBERTA APPLICABLE

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

ARTICLE 27 FURTHER ASSURANCES

27.1. 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.

ARTICLE 28 WAIVER

28.1. 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.

ARTICLE 29 NOTICES

29.1. Any notice, demand or request to be given pursuant to this Agreement shall be made in writing and sent by registered mail or by personal delivery to the address stated below.

To the City:

The City of Leduc

#1 Alexandra Park

Leduc, AB T9E 4C4

Attention: Director, Planning and Economic Development

To the Developer:

Attention: _____

Provided, however, that such address may be changed upon TEN (10) days notice. Further, if a notice is sent by registered mail, it is deemed to have been received at the expiry of SEVEN (7) business days following the date of mailing, or if by personal delivery, at the time the notice was delivered. In the event that a notice is to be served at a time when there is an actual or anticipated interpretation of mail service affecting the delivery of such mail, any notice permitted or required to be given shall be made by personal delivery.

ARTICLE 30 ADDITIONAL PROVISIONS

30.1. The Parties covenants and agrees that in addition to the provisions contained in the text of this Agreement, the Parties shall be bound by the additional provisions found in Schedule J of this Agreement to the same extent as if the provisions of Schedule J were contained in the text of this Agreement.

ARTICLE 31 CAVEATS

31.1. The Developer acknowledges and agrees that upon execution of this Agreement that the City shall be at liberty, pursuant to the *Municipal Government Act*, R.S.A. 2000, c. M-26 as amended, 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 City's interests and rights pursuant to this Agreement. Such caveat shall be discharged at the City's discretion but will occur no later than the issuance of all Final Acceptance Certificates required for the Development Area.

ARTICLE 32 NON-ASSIGNABILITY OF AGREEMENT

32.1. The Developer shall not assign this Agreement without the express written approval of the City. Such approval shall be subject to Paragraph 32.2 and may be withheld by the City in its sole discretion. This Agreement shall enure to the benefit of, and shall remain binding upon the Developer (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.

32.2. It is understood between the City and the Developer that any assignment of this Agreement to which the City consents shall not be permitted unless and until:

a) The proposed assignee enters into a further agreement with the City 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 City all insurance and security as required by the terms of this Agreement.

ARTICLE 33 TIME OF THE ESSENCE

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

ARTICLE 34 LEGAL AND ENGINEERING COSTS

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

ARTICLE 35 GRANTS

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

a) The City shall, at the request of the Developer, deliver to Alberta Environmental and Parks any confirmations or undertakings reasonably required (and in respect of which the City can attest) in order for the Developer to obtain any necessary permits and licenses from Alberta Environmental Protection; and

b) The City may apply for grant money for construction of the Municipal Improvements. However, it is expressly understood and agreed that:

i) the City 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 City 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 City; and

iii) although the City will work with the Developer to obtain grants for the Municipal Improvements, the City need not apply for such grants if they will negatively impact grants for other City related projects.

ARTICLE 36 FORCE MAJEURE

36.1. 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.

ARTICLE 37 INTERPRETATION

37.1. The headings in this Agreement are for convenience only and not intended to affect the interpretation of this Agreement.

37.2. Words imparting the singular number only shall include the plural and vice versa. A reference to any gender includes reference to all other genders. Words imparting persons shall include corporations.

ARTICLE 38 EXECUTION OF AGREEMENT

38.1. 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, effective on the day and year first above written.

CITY OF LEDUC

_____

_____

(corporate seal)

[DEVELOPER]

_____

_____

(corporate seal)

LIST OF SCHEDULES

SCHEDULE A

DESCRIPTION OF THE LANDS

Note: This will be the same description as detailed on the current land title certificate for the property or properties affected by the Development Agreement.

SCHEDULE B

DEVELOPMENT AREA

Note: This shall be an illustration that clearly outlines the area affected by this Development Agreement.

SCHEDULE C

SUBDIVISION APPROVAL/DEVELOPMENT PERMIT

Note: This Schedule will be formed by a copy of either the letter of Subdivision Approval that details the subdivision being created or the appropriate Development Permit being attached to and forming part of the Development Agreement through this Schedule.

SCHEDULE D
MUNICIPAL IMPROVEMENTS

Subject to confirmation from the City with respect to either the current existence of any of the following satisfactory to the City, or confirmation that the City 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, man holes, mains, lift stations and appurtenances;

(b) All drainage systems, including storm sewers, storm sewer connections, pumping stations, 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, man holes and associated works, all as and where required by the City;

(c) All water wells, pumps and lines, including all fittings, valves, and hydrants and looping as required by the City, in order to safeguard and ensure the continuous and safe supply of water in the Development Area;

(d) All concrete curbs and gutters, sidewalks and sub-grade, base gravel and base asphalt and all surface asphalt;

(e) All lighting systems for streets, walkways, parking areas and Public Properties as and where required by the City;

(f) Such electrical conduit as may be required by the City 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 City;

(h) Subject to subsection (i) below, all walkway systems and Landscaping on both private property and public property which are to be constructed and installed to the satisfaction of the City, and in accordance with the approved landscaping plans;

(i) All walkway systems and Landscaping on boulevards adjacent to separate sidewalks which are to be constructed and installed to the satisfaction of the City, and in accordance with the approved landscaping plans;

(j) Such construction or development of roads, including lanes, as may be required by the City; and shall include, but in no manner be limited to, a second or temporary access for construction, emergency and vehicular traffic from the Development Area;

(k) The restoration of all Public Properties to the City's satisfaction which are disturbed or damaged in the course of the Developer's work;

(l) All open space site amenities and playgrounds, including landscaping and playground equipment, on public lands which are to be constructed and installed to the satisfaction of the City, and in accordance with the approved landscaping plans;

(m) The relocation, to the City's satisfaction, of all existing utilities and Municipal Improvements as required by the City as a result of the installation and construction of the Franchise Utilities and Municipal Improvements pursuant to this Agreement;

(n) 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 City throughout and adjacent to the Development Area;

(o) Public information signs, of a size and location to be approved by the City, 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 City in order to provide proper and complete and up to date information to proposed purchasers and residents within the Development Area;

(p) Major entrance features shall be located either on an added dedication to the required road right-of-way or on private property. The required dedication shall be defined at the time the Plan of Subdivision for the development is submitted for approval. Any major entrance feature located on private property shall require the registration of an easement to provide for maintenance access to the feature. The easement shall be to the satisfaction of the City;

(q) Such Common Fencing, such as noise attenuation or screening, of either permanent or temporary, and of a standard and design satisfactory to the City, all of which is to be constructed and located to the satisfaction of the City; and

(r) All utilities including electricity, natural gas, cable television and telephone. Such utilities to be provided in a location and a standard to be approved by the appropriate utility company and the City.

SCHEDULE E

GENERAL DESIGN STANDARDS

E1 MINIMUM ENGINEERING DESIGN STANDARDS

https://www.leduc.ca/engineering/engineering-design-standards

E2 LANDSCAPING DESIGN STANDARDS

https://www.leduc.ca/landscaping-design-standards

E3 INTEGRATED PEST MANAGEMENT PLAN

https://www.leduc.ca/integrated-pest-management-plan-ipm

E4 COMMUNITY MAILBOXES STANDARDS

https://www.canadapost.ca/cpo/mc/assets/pdf/business/standardsmanual_en.pdf

Note: The most current versions of linked documents shall apply as the construction of any applicable component of the approved development proceeds.

SCHEDULE F

RESTRICTIVE COVENANT – COMMON FENCING

Note: Once registered with Land Titles, a copy of the executed restrictive covenant(s) will be attached to, and form part of this Development Agreement through this Schedule.

SCHEDULE G

OVERSIZING COSTS AND LEVIES

Note: Details of the oversizing costs and levies associated with a specific development shall be detailed in this Schedule. This may include both text and illustrations to show location and details needed to ensure detailed and measurable costs, levies and improvements are identified.

SCHEDULE H

LAND DEVELOPMENT POLICY

Note: A current copy of the City's Land Development Policy will be attached to, and form part of this Development Agreement through this Schedule.

https://www.leduc.ca/land-development-policy

SCHEDULE I

SECURITY

1. For purposes of calculating the security required to be deposited by the Developer pursuant to Article 22 of this Development Agreement, and subject to the provisions below, the cost estimates for the construction and installation of the Municipal Improvements are as follows:

Underground Improvements	
Water Distribution System	$
Storm Sewer System	$
Sanitary Sewer System	$
Engineering (15%) and Contingency (10%)	$
Underground Subtotal	$
Surface Improvements	
Earthworks and Grading	$
Mono Sidewalk, Curb and Gutter	$
Granular Base	$
Asphalt - CCC	$
Asphalt – Final Lift	$
Separate Sidewalk	$
Signage	$
Multiway – Structure and Asphalt	$
Engineering (15%) and Contingency (10%)	$
Above Ground Subtotal	$
Landscaping Improvements	
Turf and Trees for Public Open Spaces (including Municipal Reserve, PUL's, Walkways, Arterial Roads, Collector Roads Storm Retention Ponds)	$
Turf and Trees for Boulevards Adjacent to Separate Sidewalks	$
Site Amenities for Public Open Spaces and Playground Equipment	$
Noise Attenuation Fencing	$
Common Fencing – excluding Noise Attenuation	$
Landscaping 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 the Development Agreement, nor in any way whatsoever establish or otherwise suggest a maximum amount of the Developer's obligations under the Development Agreement.

3. Where estimates are not available as at the date of the Development Agreement, the Developer shall provide such estimates as contemplated within Article 22 of this Agreement, and the amount of the security shall be established by the City 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 Article 22 of the Development Agreement so as to be based upon those actual or tendered costs.

SCHEDULE J
ADDITIONAL PROVISIONS

Note: Italic items to be detailed through process of negotiating Development Agreement

1. Value of security as per Article 22.3

   In accordance with Article 22.3, the Developer shall provide security in the sum of (*value to be fully spelled out*) (*numerical value to be provided*), being the amount required for the Development Area.

2. Off-Site Levy

   For the purposes of this Agreement the amount of the off-site levy payable by the Developer upon execution of this Agreement for Development Area is *(numerical value to be provided)* (Offsite Levy Bylaw 734-2009 as amended: Development Area *(Stage number*), *(numerical value of levies per Hectare*) x *(area of Stage in Hectares))* to be applied as follows:

   Development Area = (*numerical value of total area in Hectares*) minus (*numerical value of Municipal Reserve in Hectares*) municipal reserve = (*numerical value of area subject to Off-Site Levies*) ha

Transportation	*numerical value of total Transportation Levy due for area ((numerical value of Transportation Levy per Hectare in current bylaw)* x *(area – both numbers shown)*)
Water Infrastructure	*numerical value of total Water Infrastructure Levy due for area ((numerical value of Water Infrastructure Levy per Hectare in current bylaw)* x *(area – both numbers shown)*)
Sanitary Infrastructure	*(numerical value of total Sanitary Infrastructure Levy due for area ((numerical value of Sanitary Infrastructure Levy per Hectare in current bylaw) x (area – both numbers shown*))

   In accordance with Article 17.1, the Developer may pay 50% of the total offsite levy for Stage (number to be added) in the amount of (*numerical value)* at the signing of this Agreement and the remaining 50% shall be deferred until the one-year anniversary of execution of this Agreement to be calculated at the then current levy rate per hectare.

3. Off-Site Improvements

   (Details of required Off-Site improvement to be provided as needed)

4. Cost Recovery

   (Details of any cost recovery provisions to be provided as needed)

Note: *Only one of the following Provisions related to Security for HPN Survey Monuments will be used, the other is to be deleted and the Schedule to be renumbered as appropriate.*

5. Security not required for HPN Survey Monuments

   Notwithstanding Article 17.4, the Developer shall not be required to provide the City security for the potential destruction or damage to existing HPN Survey Monuments as there are no HPN Survey Monuments within or adjacent to the Development Area.

6. Security required for HPN Survey Monuments

   For the purposes of this Agreement the amount payable for city-wide HPN Survey Monuments under Article 17.4 by the Developer upon execution of this Agreement shall be *(numerical value)* (calculated at $60.00 x *(numerical area of Stage in Hectares*)).

7. Lighting

   All street, walkway, trail and park lighting for the Development Area will be constructed by the Developer in accordance with the Design Standards and installed under the Fortis Alberta's investment rate, as described in the City's Franchise Agreement with Fortis Alberta. In the event that the Developer chooses to use decorative lighting poles and or fixtures, the Developer will use decorative poles or fixtures that are consistent with the poles and fixtures used by the electrical service provider consistent or in accordance with the Design Standards, the reviewed and approved Plans and to the satisfaction of the City. Any reimbursement of investment money in relation to the street lighting from Fortis Alberta shall be directed and paid to the City.

8. Fencing

   The Developer shall at its sole cost and expense construct fencing of a common design approved by the City of Leduc within the Development Area in the locations identified on Schedule C to Schedule F. Where adjacent to private lands, the fence shall be constructed a minimum of six (6) inches onto the private lands.

9. Temporary Road Turnarounds

   The Developer shall construct a temporary road turnaround at the end of every dead end roadway within the Development Area. The turnaround shall be constructed in a manner to support emergency vehicles and school buses as follows:

   a. Shall have a 12.0 m radius;
   b. Structure shall include:
      i. 150 mm of prepared subgrade
      ii. 200 mm of 20 mm crushed gravel; and
   c. Mini-barriers & WA-8 checkerboard sign shall be erected.

   The Developer acknowledges and agrees that should a temporary turnaround need to exists for a period exceeding FAC of all infrastructure in the Development Area, that said turnaround shall be paved to a permanent standard in accordance with the Schedule E.

10. Construction Access

a. To separate construction traffic from residential traffic as much as possible during construction in the Subdivision Area, the Developer shall construct at its sole expense a construction access into the Development Area at a location to be approved by the City's Director of Engineering in accordance with the following guidelines:

b. Construction access(es) is to be constructed and used separate from internal roadway improvements when required.

c. Prior to commencing any construction in the Development Area, the Developer shall submit a location plan for the construction access(es) to the City's Director of Engineering and Environment including written procedures detailing how construction traffic is to be directed away from paved and residential areas during construction.

d. Construction roadways shall be constructed to a gravel base to a standard satisfactory to the City's Director of Engineering and Environment and shall be constructed to serve as emergency access routes for fire services.

e. The Developer shall control and minimize dust and noise on and from the construction access(es) to reduce impact on neighboring properties.

f. The City reserves the right to apply dust control on the construction access(es) when required, acting reasonably and recover costs from the Developer.

g. The Developer shall erect signage to direct construction traffic away from local roadways and to the construction access(es). The City's Director of Engineering and Environment shall approve the location and wording of the signs.

h. After construction is completed, the Developer shall remove the construction access(es) at its sole expense unless otherwise agreed to by the City's Director of Engineering and Environment.

SCHEDULE K

SUBDIVISION/DEVELOPMENT PROCESS AND 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) Administrative Fees – upon executing the development agreement, the Developer shall deliver to the City the required administrative fees (**Reference Paragraph 17.2**).

2) Plans – the Developer shall submit to the City all Plans requested or otherwise required by the City 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 Articles 3, 4, 11 and 14**).

3) Additional Information – the Developer shall assemble and submit to the City such additional information or documentation as may be required by the City 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 Articles 3, 4, 6, 7, 8, 12 and 14**).

B) **Process 2 – Approvals**

1) Alberta Transportation – where applicable, must be received and confirmed in writing.

2) Alberta Environment and Parks– where applicable, must be received and confirmed in writing.

3) Plan Approval – subject always to the receipt of the foregoing, the City 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 City, 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**

Checklist – prior to endorsement and registration of any Plan of Subdivision, upon execution of this Agreement, 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 City shall confirm the following:

1) **Rezoning** - receipt/confirmation of rezoning, if applicable (**Reference Paragraph 2.4.a)**);

2) **LUB Amendments** - receipt/confirmation of amendments to Land Use Bylaw, if applicable (**Reference Paragraph 2.4.b)**);

3) **Statutory Plans/Amendments** - receipt/confirmation of passage of any statutory plans or amendments, if applicable (**Reference Paragraph 2.4.c)**); and/or

4) **Provincial Approvals** - receipt/confirmation of approvals of:

i) Alberta Transportation;

ii) Alberta Environment and Parks; and

iii) any other Provincial Department, as applicable.

(**Reference Paragraph 2.4.d)**)

5) **Conditions** – receipt/confirmation of satisfaction of all conditions contained within the applicable subdivision approval or development permit (**Reference Paragraph 2.4.g)**);

6) **Plan Approval** - receipt of final approved Plans (**Reference Paragraph 2.4.e)**);

7) **Registered owner –** confirmation that the registered owner of the Lands is the Developer (**Reference Paragraph 2.4.g)**);

8) **Construction Timetable** - receipt/confirmation of Developer's construction timetable, if applicable (**Reference Paragraph 3.7**);

9) **Franchise Utilities** - confirmation of commitments to install electrical power, natural gas, and communication services within and to the Development Area including, without restriction, confirmation of payment of costs of utility providers (**Reference Article 6**):

i) Electrical Power;

ii) Natural Gas; and

iii) Communication Services.

10) **Utility Easements/Instruments -** receipt/confirmation of all utility easements and other instruments (**Reference Article 12**), comprised of:

i) Receipt of executed instruments; and

ii) Receipt of either:

(1) confirmation of registration of all registerable instruments at the Land Titles Office; or

(2) 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;

11) **Oversizing/Shared Costs** - payment of oversizing/shared costs contribution (**Reference Article 16 and Schedule K**);

12) **Oversized Municipal Improvements -** confirmation of oversizing to be constructed by Developer (**Reference Article 16 and Schedule H**);

13) **Off-Site Levies -** payment of Off-Site Levies (**Reference Article 17 and Schedule H**), or receipt of separate security for any deferred payment of Off-Site Levies;

14) **Inspection/Review/Approval Fees -** payment of all Inspection/Review/Approval Fees not collected prior to review and approval of Plans (**Reference Article 17 and Schedule H**);

15) **HPN Survey Monuments** - payment of fees for survey monuments and receipt/confirmation of security (**Reference Paragraph 17.4**);

16) **Insurance** - receipt/confirmation of all required insurance coverage, additional insured notations, riders, and additional terms (**Reference Article 22**);

17) **Security -** receipt/confirmation of all required security (**Reference Article 22**);

18) **Caveat** - receipt of either:

i) Confirmation of registration at the Land Titles Office of Caveat with respect to Development Agreement; or

ii) Confirmation of registration requirement upon or within Plan of Subdivision endorsement, or written solicitor's undertaking to complete registration concurrent with Plan of Subdivision; and

In priority to any and all financial encumbrances whatsoever.

19) Public Property – prior to the Commencement of Construction of any Municipal Improvements or other improvements within or upon any Public Properties by the Developer, the Developer shall provide and/or the City shall confirm the items referenced within **Article 11**.

D) **Process 4 – Inspections & Certificates**

1) Pre-Occupancy Checklist - prior to occupancy of the Development Area, the Developer shall provide and/or the City shall confirm the following, at minimum:

i) **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 Paragraph 5.13);**

ii) **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 City (**Reference Paragraph 5.13);**

iii) **Satisfactory test results –** receipt/confirmation of all required test results, including: t.v. camera video inspection of all storm and sanitary sewer lines; and

iv) **Backfill** - inspect backfill prior to issuance of a Completion Construction Certificate or receive/confirm appropriate security if weather conditions preclude adequate consolidation and inspection prior to occupancy (**Reference Paragraph 4.9.e)**).

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 Paragraph 9.2)**.

3) City Notice **-** within Forty-Five (45) days of receipt of Developer Notice, Municipal notice to the Developer in writing of:

i) acceptance (by the issuance of a Construction Completion Certificate);

ii) rejection of the Municipal Improvements; or

iii) inability to inspect (**Reference Paragraphs 9.3 and 9.4)**.

4) Pre-Completion Certificate Checklist – prior to acceptance by the City of the Municipal Improvements and prior to issuance of Construction Completion Certificates, the Developer shall provide and/or the City shall confirm the following:

i) **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 all in accordance with the Plans, accepted engineering and construction practices, and the Design Standards (**Reference Paragraph 5.10**);

ii) **Satisfactory test results –** receipt of all required test results, including: t.v. camera video inspection of all storm and sanitary sewer lines installed and constructed by the Developer;

iii) **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 Paragraph 4.9.e)**);

iv) **Registration -** receipt/confirmation that all easements, utility rights-of-way and restrictive covenants have been registered in a form acceptable to the City (**Reference Paragraph 9.1.d)**);

v) **Public Properties** – confirm that all Public Properties which have been disturbed or damaged have been fully restored by the Developer (**Reference Paragraph 9.1.e)**);

vi) **Suitability –** confirm that the Municipal Improvement is suitable for the purpose intended (**Reference Paragraph 9.1.f)**); and

vii) **Manuals** - receipt/confirmation of any applicable operation plans, operation manuals or maintenance manuals, for the Municipal Improvements having special operation or maintenance requirements (**Reference Paragraph 9.1.g)**).

5) Construction Completion Certificate and Maintenance Period – upon the issuance of a Construction Completion Certificate, the City 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 Paragraph 9.15)** and the Maintenance Period shall commence (**Reference Paragraph 10.1).**

6) Developer Notice – receipt/confirmation of Developer written notice, not more than Sixty (60) days nor less than Forty-Five (45) days prior to expiration of any Maintenance Period, of expiration of the Maintenance Period and request of Final Acceptance of Municipal Improvements. The Developer's notice shall be accompanied by a list of any deficiencies **(Reference Paragraph 9.8).**

7) City Notice or Final Acceptance Certificate - within FORTY-FIVE (45) 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 Paragraphs 9.9 and 9.4**). The City will issue the Final Acceptance Certificate (**Reference Paragraphs 9.11 and 10.6)**, if:

i) **Inspection -** no deficiencies exist upon inspection (**Reference Paragraph 9.11);**

ii) **Payment of Final Clean Costs -** the Developer has paid the City's costs and expenses of the final cleaning and the removal of obstructions immediately prior to the issuance of the Final Acceptance Certificate (**Reference Paragraph 10.5)**; and

iii) **Notice of oversizing costs** - the Developer has provided the City 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 City (**Reference Paragraph 16.7)**.

E) **Process 5 – Cost Recoveries & Deferred Contributions**

1) Levies Cost Recovery and Deferred Contribution - if levies have been deferred by agreement, then payment of 50% of levies upon execution of Agreement and upon One (1) year following the date of the execution of this Agreement, the City may demand and

the Developer shall pay the remaining 50% of levies (**Reference Paragraphs 17.1)**; alternatively, these costs may be collected at the development permit stage (**Reference Paragraph 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 City 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 Paragraphs 16.1 and 18.1)**; alternatively, these costs may be collected at the development permit stage (**Reference Paragraph 16.1)**.

3) Endeavour to Assist - the City shall make it a term of any Development Agreement between the City 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 Paragraph 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 City is advised of any such development, the City will use best efforts to notify the Developer in writing of the intended development (**Reference Paragraph 16.8).**

5) Developer Notice of Claim – upon receipt of notice of intended development being sent by the City, the Developer shall notify the City 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 Paragraphs 16.8 and 16.9).**

F) **<u>Process 6 – Final Release of Security</u>**

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 City, the Developer shall provide and/or the City shall confirm the following:

1) **Respecting Construction Completion for Municipal Improvements -** receipt/confirmation of a Construction Completion Certificate or Final Acceptance Certificate, provided that prior to the issuance of Final Acceptance Certificates for all of the Municipal Improvements, the City shall retain and release security in accordance with City policy (**Reference Paragraph 22.9)**;

2) **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 Paragraphs 16.1, 17.1, and Schedule H);** and

3) **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 Paragraph 19.2).**

SCHEDULE L

Development Bond Agreement

Bond No.: _____

Bond Amount: _____

Know all persons by these presents that:

[**Insert developer name**] (the "**Principal**"), a corporation created and existing under the laws of the Province of Alberta;

and

[**Insert surety name**] (the "**Surety**"), a corporation duly authorized to conduct the business of suretyship in the Province of Alberta,

Are held and firmly bound unto The City of Leduc (the "**Obligee**"), a municipal corporation in the Province of Alberta, in the amount of _____ ($_____) (Canadian dollars) (the "**Bond Amount**"), to be paid to the Obligee, and the Principal and Surety bind themselves and their respective successors, heirs, executors, administrators and assigns jointly and severally, to pay the said sum under the terms of these presents.

WHEREAS the Principal has entered into or will be entering into a development agreement or multiple development agreements with the Obligee to develop land in accordance with [Choose one: development permit number / subdivision file number] _____ (the "**Agreement**");

AND WHEREAS it is a term of the Agreement that performance security be provided by the Principal to the Obligee;

NOW, THEREFORE, THE CONDITIONS OF THIS BOND ARE:

1. If the Principal, in the sole and absolute determination of the Obligee, promptly and faithfully performs all of its obligations under this Agreement, this Bond shall be null and void; but otherwise this Bond shall remain in force and effect to the terms thereof.

2. If the Obligee determines, in its sole and absolute discretion, that the Principal is in default of its obligations under the Agreement, the Surety and Principal agree that the Surety will make payments to the Obligee for amounts demanded by the Obligee, up to an aggregate of the Bond Amount, within seven (7) business days after the Surety's receipt of a demand from the Obligee at the address noted herein. Such notice shall be delivered by hand, by

courier, or by email and in the form of a Notice of Default, the form of which is attached to this Bond as Schedule “A”. If a Notice of Default is provided by hand or courier, it shall be deemed received upon delivery. If a Notice of Default is provided by email, it shall be deemed received the next business day after it is sent.

3. The Surety and the Principal hereby irrevocably waive any defence that the Principal is not in default of its obligations under the Agreement upon receipt of a Notice of Default. The Surety and the Principal shall accept the Notice of Default as conclusive evidence that the amount demanded within the Notice of Default is payable to the Obligee; and all payments shall be made free and clear without deduction, set-off, or withholding.

4. The Surety may give ninety (90) days’ notice by registered mail to both the Principal and Obligee of its intention to terminate this Bond, in which event this Bond shall terminate after the ninetieth day following that notice only if the Principal has provided financial security to the Obligee in at least the same amount as this Bond and the Obligee has confirmed in writing that such financial security is satisfactory to the Obligee. If the Principal does not provide such financial security to replace this Bond to the satisfaction of the Obligee, then the Surety shall, at its sole discretion, either immediately pay the full Bond Amount to the Obligee within seven (7) business days or confirm to the Obligee in writing that this Bond will remain in force and effect.

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

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

7. Any claim by the Obligee for payment by the Surety must be commenced before the expiration of one (1) year following the issuance of the last Final Acceptance Certificate required pursuant to the Agreement.

8. Any notice hereunder is to be given:

    a. To the Obligee at:

    The City of Leduc
    #1 Alexandra Park
    Leduc, AB T9E 4C4
    EMAIL ADDRESS: planning@leduc.ca
    ATTENTION: Director, Planning & Economic Development

    b. To the Principal at:

    ADDRESS 1

ADDRESS 2
EMAIL ADDRESS:
ATTENTION:

c. To the Surety at:

ADDRESS 1
ADDRESS 2
EMAIL ADDRESS:
ATTENTION:

IN WITNESS WHEREOF, this Bond has been signed and sealed this Bond this ___ day of _____, 20_____

[Insert Principal Name]

Per: _____(c/s)
Print Name:
Title:

[Insert Surety Name]

Per: _____(c/s)
Print Name:
Title:

SCHEDULE A
NOTICE OF DEFAULT

Date:	_____
Surety:	_____
Address:	ADDRESS 1
	ADDRESS 2
	ATTENTION:
	EMAIL:
Sent via:	Email / Personal Delivery / Courier

Dear Sir or Madam:

Re:	Development Agreement Bond Number: _____	(the "**Bond**")
	Principal: _____	(the "**Principal**")
	Obligee: _____	(the "**Obligee**")

Pursuant to the above referenced Bond, The City of Leduc hereby declares a default under the relevant development agreement referenced therein (the "**Agreement**").

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

Payment shall be provided as follows:

[Insert payment instructions]

Payment Instructions:

[Insert]

Yours truly,

THE CITY OF LEDUC