

# City of Cold Lake

## Development Agreement

Dated the \_\_\_\_ Day of \_\_\_\_\_, A.D. 20**XX**,

Between

**THE CITY OF COLD LAKE**

**-AND-**

**DEVELOPER'S NAME/CORPORATION**

Development Permit No. 21**XXXX**



City of *Cold Lake*

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## MEMORANDUM OF AGREEMENT

THIS AGREEMENT made in quadruplicate this \_\_\_\_ day of \_\_\_\_\_, A.D. 20XX.

BETWEEN:

**THE CITY OF COLD LAKE**, a municipal corporation,  
of 5513-48 Avenue, Cold Lake, in the Province of Alberta, T9M 1A1  
(Hereinafter referred to as “the City”)

PARTY OF THE FIRST PART

-AND-

XXXXXX

(Hereinafter referred to as “the Developer”)

OF THE SECOND PART PREAMBLE

**WHEREAS** the Developer is, or is entitled to become the registered owner of those certain lands within the City of Cold Lake legally described as **Lot XX, Block X, Plan XX** and shown outlined on the tentative plan attached hereto as Schedule “A” (the “Lands”) as encompassing **XXX** hectares of developing land;

**AND WHEREAS** the Developer has applied for a Development Permit of the Lands, and the Development Authority, issued a Development Permit File No. **21XXXX** in accordance with the aforesaid tentative plan, and subject to certain conditions and terms of approval that are attached hereto as Schedule “B” and include the entering into of this Agreement for **the servicing of the Lands**;

**AND WHEREAS** the Developer is required to submit detailed plans according to the Municipal Engineering Servicing Standards and Standard Construction Specifications, (the “Engineered Plans”), to the Director of Planning and Development of the City (the “City Development Officer”), for the construction of certain local improvements, and which Engineered Plans shall be approved by the Director of Public Works and Infrastructure Services of the City (the “City Engineer”) prior to commencement of any construction and shall be deemed to be part of this Agreement;

**AND WHEREAS** the Developer proposes to construct the “the Development Area” and the Developer further proposes to **first install and construct local improvements, utilities and other services**, as required by the Engineered Plans in and around the portion of the Development Area which forms **Lot XX, Block XX, Plan XX** encompassing **XXX** hectares of developing lands, which is outlined in Schedule “A”.

**NOW THEREFORE** in consideration of the premises and of the mutual terms, covenants and conditions herein contained, the parties hereto hereby covenant and agree as follows:

## **PART 1 – ADMINISTRATION**

### **1.1 General**

- a) Upon execution of this Agreement, the Developer shall pay the sum of twenty five hundred (\$2,500.00) dollars in accordance with the planning and development schedule of fees bylaw for the administration of the development agreement.
- b) No construction or development of any kind, including for servicing the development area, shall take place in or around the Lands without application having been made to the City, and obtaining written Notice to Proceed as attached hereto in Schedule “C”. This Agreement does not constitute a Development Permit or any other permit or agreement of the City.
- c) If the Developer begins work on the development prior to the issuance of a Notice to Proceed the City shall place a stop work order on the development and the Developer shall be charged a penalty of 10% of the estimated construction costs as determined under Section 3.3 of this Agreement.
- d) The Developer shall make application for Notice to Proceed for **Lot XX, Block XX, Plan XXXX** (Schedule ‘A’ – Development Area) within TWELVE MONTHS of the date on this agreement.
- e) The Developer shall, within a period of TWELVE MONTHS from the date issuance of the Notice to Proceed for **Lot XX, Block XX, Plan XXXX** (Schedule “A” – Development Area), construct and install the local improvements and utilities required by the Engineered Plans and this agreement, throughout the Lands at its own cost and expense, in a good and workmanlike manner, in strict conformance with the plans and proper and accepted engineering practices, and in accordance with this Agreement and any requirements of law applicable to the work.
- f) The Developer shall retain the services of a Professional Engineer, licensed to practice in the Province of Alberta (hereinafter referred to as the “Consulting Engineer”). This engineering consultant shall be responsible for all engineering and construction pertaining to the terms of this Agreement.
- g) The Consulting Engineer shall adhere to any guidelines and directives that may form part of the City of Cold Lake’s Municipal Engineering Servicing Standards and Standard Construction Specifications.

### **1.2 Plans of Development**

- a) The final plans of development, easement plans, utility right-of-way plans, utility right of way agreements and maintenance to access easement plans, road plans, general utility easement agreements, restrictive covenants and maintenance or access easement agreements, shall all require the approval of the City, and any other necessary governmental authority, followed by registration in the North Alberta Land Registration District at Edmonton,

Alberta, which must be obtained by the Developer prior to the Developer making application to the Development Officer for any Construction Completion Certificate.

- b) The Developer agrees during the course of this Agreement to provide such copies of prints, reductions, mylars, etc., of the items set out to the City as it reasonably requires.

### 1.3 **Agreed Plan Standards and Compliance with Codes**

- a) The Developer acknowledges that he/she and his/her Consulting Engineer(s) are familiar with the City's Municipal Engineering Servicing Standards and Standard Construction Specifications for the design, construction, and installation of the local improvements, and agrees that all plans, materials and workmanship installed or to be performed on behalf of the Developer under this Agreement shall conform to such standards and specifications as set out and contained in the latest copy of the City of Cold Lake Municipal Engineering Servicing Standards and Standard Construction Specifications and any alterations to or amendments of such standards and specifications which may be agreed upon in writing by the City Engineer and as attached hereto in Schedule "D". The Developer further agrees to perform all work in strict conformance with proper and accepted engineering practices, and in accordance with any requirements of law and codes applicable to the work.
- b) If the City Engineer does not approve the plans or specifications submitted by the Developer or the Consulting Engineer on the grounds that the plans do not conform to the agreed standards and to proper and accepted design and engineering standards, the Developer shall be entitled to refer any matter in dispute or any difference between the Developer and the City Engineer to the Committee of the Whole or the Council of the City, and the decision of the Committee of the Whole or of the Council shall be final and binding, and such dispute or difference shall not be subject to arbitration hereunder;

### 1.4 **Alberta Environmental Approvals**

- a) The Developer acknowledges that the proposed work may require a Permit or Permits from Alberta Environment and that the Developer or their Consulting Engineer will where required make application for and obtains such Permit(s) prior to the commencement of any construction. Copies of such Permit(s) are to be provided to the Development Officer by the Developer prior to the Developer making application to proceed as set out in Clause 1.1. (a). The Developer further agrees that he will not make application to the Development Officer for any Construction Completion Certificates until all conditions as set out in the Alberta Environment Permit(s) have been stated as being met by Alberta Environment and the City has been provided with the letter or a copy from Alberta Environment stating such.

### 1.5 **Construction Plans & Specifications**

- a) Plan Approvals – the Developer or their Consulting Engineer shall submit to the City Development Officer, in duplicate, complete Engineered Plans, together with all contract specifications, storm water management analysis and plans, geotechnical reporting, and,

landscaping and grading plans which shall provide and properly set out all information required for construction of the local improvements to be constructed and installed by the Developer in accordance with the Cold Lake Municipal Engineering Servicing Standards and Standard Construction Specifications, including any agreed to revisions or additions to the said standards contained in Schedule “D”, and shall receive approval of the City Engineer prior to the commencement of any construction. All plans submitted for approval shall be processed as expeditiously as possible and in any event, shall be returned approved or rejected within thirty (30) days; or, if not returned within this time period, shall be deemed to be rejected.

- b) Revised Plans – all plans required to be amended or revised by the Developer shall be resubmitted in duplicate for final approval of the City prior to commencement of construction. Upon final approval, the Developer agrees to provide the City Development Officer with two (2) sets of final plans and specifications and one (1) digital copy in AutoCAD format acceptable by the City.
- c) Changes in the Work – if during the progress of the work departures from the approved Engineered Plans or specifications, the Developer shall submit two (2) copies of the detailed engineered drawings or specifications showing the proposed changes and receive the written approval of the City prior to any work being commenced on the changes.

## 1.6 Inspections

- a) During the course of this Agreement and the performance of the work the City Engineer and City Development Officer shall have free and immediate access to all records of or available to the Developer and the Consulting Engineer 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. The City may:
  - i. exercise such supervision of the work as the City may deem necessary 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;
  - ii. reject any unsatisfactory design, material, or work;
  - iii. During the period of construction and the maintenance period, order that any unsatisfactory work that does not adhere to the Agreed Standards be rectified by the Developer at the Developer's cost. If the Developer shall fail to rectify this unsatisfactory work within thirty (30) days, the City shall be entitled to have the same rectified at the cost and expense of the Developer;
  - iv. order the re-execution of any unsatisfactory design and the replacement of any unsatisfactory material that does not adhere to the Agreed Standards at the Developer's cost and expense;
  - v. order the Developer, at the Developer's cost, to bring on the job and use such additional labour, machinery, and equipment as the City may reasonably deem necessary to ensure the proper performance of the work and enforce good construction practice;

- vi. order that the performance of the work or any part thereof be stopped until orders can be obeyed; and,
- vii. order the testing of any material to be incorporated in the work at the Developer's cost and expense.

### 1.7 **Inspection Requirements**

- a) Work shall only be performed on the project with inspections and supervision being completed to the satisfaction of the City by the Consulting Engineer. It is not incumbent upon the City to exercise its privilege of inspection nor is the City under any obligation to discover and advise the Developer of any items of non-compliance during the performance of the work. The Developer shall maintain and provide inspection services, which services shall be by or supervised by the Consulting Engineer to the extent necessary to certify the performance of the work as set out herein. The Developer shall be responsible to perform all tests and inspections so required. All connections must be inspected by Public Works or Infrastructure Services prior to backfill. The Developer shall provide 24 hours of notification to schedule the inspection by the Department of Public Works and Infrastructure. Be advised inspections are not conducted on weekends or statutory holidays.

### 1.8 **Off-Site Levies**

- ~~a) The Developer **Lot XX, Block X, Plan XX** agrees to pay the City, in accordance with the conditions of development imposed by the Development Authority, the most current Offsite Levy as charged by the City and, such Offsite Levy fees being set out in Schedule "E" attached hereto and forming part of this Agreement and in the manner set out therein.~~
- ~~b) The Developer agrees to pay the City, in accordance with the conditions of development imposed by the Development Authority the most current Storm Water Management Offsite Levy as charged by the City and, such Offsite Levy as are set out in Schedule "E" attached hereto and forming part of this Agreement and in the manner set out therein.~~

### 1.9 **Development Control and/or Architectural Co-ordination Grade Slips and Grading Plan**

- a) The Developer shall define the scope and intent of such control and co-ordination in a written submission to the City complete with plans and shall obtain the approval of the City of same as a condition precedent to consideration by the City of any application for building permit within the Development Area.

### 1.10 **Grade Slips and Grading Plan**

- a) The Developer shall provide a detailed grading plan showing existing and proposed grades, drainage patterns, the tie-in to grading on adjacent uses and existing site elevations.



- b) The Developer shall adhere to the City of Cold Lake Master Drainage Plan and or approved Grading Plans.

### 1.11 **As-Built Drawings**

- a) Immediately upon the completion of the construction and installation of the Local Improvements, the Developer or their Consulting Engineer shall deliver to the City Development Officer for approval two (2) complete sets of prints of all design and construction drawings setting out the improvements constructed pursuant to this Agreement and showing actual locations, descriptions and all “as-constructed” elevations referred to City datums. All plans and information required to the City to be amended or revised shall be corrected by the Developer and be re-submitted for final acceptance by the City. Upon final approval of “as-builts” the Developer or their Consulting Engineer shall deliver one (1) copy of such on mylar, and one (1) digital copy in AutoCAD Format acceptable by the City.

### 1.12 **Transfer of Local Improvements to the City**

- a) The Parties agree that upon the City so approving the Construction Completion Certificate for a local improvement, the respective improvement shall become the property of the City. This transfer of ownership does not relieve the Developer of their obligations respecting maintenance, or subsequently discovered omissions or discrepancies. The Developer covenants that they shall not make application of a Construction Completion Certificate respecting any improvement unless that improvement is free of all/liens and/or encumbrances.

### 1.13 **Relocation and/or Addition to Utilities**

- a) The Developer shall be responsible to construct and pay all costs arising from:
  - i. the relocation of any existing utilities or improvements necessitated by construction pursuant to this agreement;
  - ii. the relocation of any utilities constructed pursuant to this Agreement where such relocation is necessitated or arises from a conflict with any other utility construction, house or building or driveway constructed by or cause to be constructed by or reviewed for Development Control by the Developer; and,
  - iii. changes in utility service or improvements which are due to a change in use or density where the Developer has proposed or agreed to such changes in use or density.

### 1.14 **Use of Public Ways in the Performance of the Work**

- a) 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, ravines, parks and similar public places of the City, within or adjacent to the Lands, and otherwise to do such work therein and thereon as may be necessary to lay, operate, maintain, repair,

extend, relay and remove water and sewer mains or pipelines forming part of the work of the Developer, as may be necessary for the purposes of this Agreement, PROVIDED:

- i. that the performance of such work shall adhere strictly to the requirements of the City;
- ii. that the Developer shall do as little damage as possible in the performance of such work, and will cause as little obstruction to such public places as possible;
- iii. that upon completion of such work the Developer shall restore all such public places to a condition and state of repair equivalent to that which prevailed prior to the performance of such work, and shall maintain such restored portions of such public places for a period of one (1) year(s) after completion, ordinary wear and tear and third party damage excepted, and further that such restoration shall include the replacement and maintenance of trees, grass and shrubs as applicable; and,
- iv. that the Developer shall indemnify and save harmless the City from and against all losses, costs, claims, suits or demands of any nature which may arise by reason of the performance of the work by the Developer in any such public place.

#### 1.15 **Approval by the City**

- b) The approval of drawings and/or supporting documents given by the City or its representatives does not relieve the Developer of his responsibility to ensure that all work pursuant to this Agreement done or to be done by the Developer is in accordance with current practice and is technically acceptable, nor does it relieve him of the obligation to remedy subsequently discovered omissions and/or discrepancies.

## **PART 2 – LOCAL IMPROVEMENTS**

### 2.1 **Construction**

- a) The Developer shall, at no expense to the City, and to the accepted standard of the City except as otherwise provided:
  - i. construct all sidewalks, curbs and gutters within the Development Area, including all boundary sidewalks, curbs, and gutters, abutting, on, or adjacent to reserve parcels, school sites, ornamental parks and other lands dedicated to the City for public use;
  - ii. such construction or development of streets and lanes as may be required by the City; including, but not limited to, a second or temporary access for vehicular traffic from the Development Area and to adjacent developed and developing areas;
  - iii. install all storm water management facilities including storm sewers, catch basins and catch basins leads, complete with normal appurtenances thereto, whether or not in boundary lanes, roads, walkways and/or easements within the Development area that may in the opinion of the City be required to adequately drain the development and adjacent

areas, and including any inlet or outfall structures with necessary leads connected to the storm sewer system to and from the Development area as required by the City;

- iv. install all water mains, valves, hydrants, fittings, lateral lot services to 2.0 metres inside the property lines, and normal appurtenances thereto required to serve the Development and adjacent areas, whether the said water mains are in boundary lanes, roads, and or/easements;
- v. install all sanitary sewers, lateral lot services to 2.0 metres inside the property lines, lift stations, force mains complete with normal appurtenances thereto within or outside the Development area that may in the opinion of the City be required to serve the Development and adjacent areas, whether or not in boundary lanes, roads, walkways and/or easements;
- vi. grade, loam to a minimum 150 mm and maximum 300 mm depth (unless required by the City to be left in their natural condition), plant grass and trees, in conformity with City requirements in all community reserves, on all school sites, public utility lots, ornamental parks, buffers, tot lots, boulevards (areas between road curbs and property lines), and other City lands;
- vii. make arrangements, at no expense to the City, for the design and installation of underground electrical power system, street lighting system, natural gas distribution system, a telephone system, cable television system, and mail delivery within and to and from the Development Area;
- viii. construct and develop all public utility lots, storm water management retention or detention ponds, reserve parcels, ornamental parks and other lands dedicated to the City for public uses.
- ix. design and construct buffer strips for aesthetics and noise attenuation devices as required by the City.

## 2.2 **Foundation Drainage**

- a) The Developer acknowledges that weeping tile connections to the sanitary sewer system within the Lands are prohibited and provisions must be made for alternate adequate foundation drainage. Accordingly, the Developer shall identify areas of high water table, which may result in year round sub-surface discharge to foundation drains and provide in these areas for a storm sewer connection to the property line of each lot.

## 2.3 **Municipal Services**

- a) The Developer shall not activate the water supply boundary values to the new water supply system. The Developer shall provide at least 48 hours' notice, requesting the City Engineer to activate the water supply boundary values in order to charge the new water supply system. The City will activate the new system upon the request of the Developer after a Construction

Completion Certificate for the water system has been issued by the City. The Developer is fully responsible to ensure that the system has been disinfected, flushed, and tested prior to requesting a Construction Completion Certificate.

- b) If copper service line is used the developer shall install a thaw wire of not less than that required to hold high voltage current from the curb cock to the end of the service line stub out.

#### 2.4 Endeavour to Assist

- a) ~~When the Developer, in order to facilitate servicing of the **Lot XX, Block XX, Plan XX** lands, is required to install underground utilities and/or surface improvements that are to be constructed along or beyond the boundaries of the development lands it is agreed that the Developer shall bear the costs of the servicing.~~
- b) ~~When the adjacent development takes places, the developer may be entitled to recover a portion of the costs, from the owner of the adjacent lands, for the installation of underground utilities and/or surface improvements that are constructed long or beyond the boundaries of the **Lot XX, Block XX, Plan XX** land, at the prices agreed upon by the City and the Developer at the time of development.~~
- c) ~~The extent of sharing the costs by future development of the adjacent lands shall be based on the formula and predetermined costs outlined in Part 1 of Schedule "F" attached hereto and forming part of this Agreement and in the manner set out therein.~~
- d) ~~It is understood that the City efforts to endeavour to assist the Developer to recover these costs shall be limited to a term of **ten years** from the date of signing this Development agreement and shall be limited to cost recovery through implementation of future development agreements or development permits issued for development of those adjacent lands.~~

#### 2.5 Late-Comer Fees

- a) ~~When the Developer, in order to facilitate servicing of the **Lot XX, Block XX, Plan XX** lands, is required to connect to underground utilities and/or surface improvements that were constructed along or beyond the boundaries that are determined to be beneficial, of the development area lands it is agreed that the Developer shall bear a portion of the costs of the servicing.~~
- b) ~~The portion of the costs of servicing for the development area lands shall be based on the formula and predetermined costs outlined in Part 2 of Schedule "F" attached hereto and forming part of this Agreement and in the manner set out therein.~~

## 2.6 Access Maintenance to Occupied Premises

- a) The Developer shall at all times after any premises are occupied within the Development Area, provide and continuously maintain access to the premises occupied, for garbage removal and police and fire protection except snow removal. The City shall be saved harmless should damages occur during snow removal operations.

## 2.7 Dust and Refuse Control

- a) The Developer shall make its best efforts to control dust, dirt and refuse in the Development Area so that dust, dirt and refuse originating therein shall not become a nuisance to adjoining property owners and others in the vicinity of the Development Area. In the event that the Developer fails to comply with this requirement, the City shall be at liberty to take whatever measures the City deems necessary to abate any annoyance or nuisance caused to adjoining property owners and others in the vicinity of the Development Area caused by such dirt, dust and refuse and further shall be at liberty to charge the cost to the Developer. The City shall notify the Developer of the dust problems and if the City is not able to contact the Developer, or if the Developer shall fail to take its best efforts to control the dust from the Development Area after being notified, then the City shall take such steps as are necessary and notify the Developer in writing of the action taken by the City, to rectify the dirt, dust or refuse problem.

## 2.8 Proposed Development Notification Sign

- a) The Developer shall be responsible for keeping the public informed of all land use classifications, proposed building developments and other amenities in the development area and said information shall be shown in brochures and billboards and other advertising.. The Developer shall erect a billboard/development notification sign in accordance with the Cold Lake Land Use Bylaw, on the development area showing the above-mentioned proposed developments and shall maintain the said sign until the approval of the Development Completion Certificate.

## 2.9 Traffic Control

- a) The Developer, until the paved roads and walkways Construction Completion Certificate is issued, shall install and maintain all traffic control signs that may be required to control traffic on the streets within and along the boundaries of the Development Area. In addition, the Developer, until the Development Area has been accepted by the City, shall make arrangements satisfactory to the City, for the installation and maintenance of traffic control signs, as required, during the maintenance period.

## **PART 3 – GENERAL**

### **3.1 Utility Easements**

- a) The plans as approved by the City Engineer shall designate the rights-of-way adequate to the needs of the utility companies, for the supply of natural gas, power and telephone service to the Lands, and for the drainage system.
- b) Forthwith upon acceptance by the City Engineer of the plans required for development, and prior to the sale of any lot/portion of the Lands, the Developer shall grant to the City easements or rights-of-way for such purposes and shall register or cause to be registered such easements or grants of rights-of-ways with Alberta Land Titles.
- c) Such easements or rights-of-way shall provide that the City shall have the right either:
  - i. to assign all or part of the rights thereby granted to the operators of the respective utilities, or;
  - ii. to grant permits or licenses to install, repair and replace gas, power and telephone lines and the drainage system;
  - iii. All costs of preparing or obtaining easements or rights-of way shall be borne by the Developer; and,
  - iv. All rights-of-way required for local improvements shall be in the City's name.

### **3.2 Indemnity and Insurance**

- a) 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.
- b) The Developer shall carry comprehensive liability insurance of **\$2,000,000.00** so as to meet the reasonable requirements of the City PROVIDED that such liability insurance may be cancelled at the end of the maintenance period.

### **3.3 Securities**

- a) The Developer shall deliver to and deposit with the City separate securities as hereinafter prescribed to a value of **\$ XXX** for landscaping (100% of the value of required landscaping), and **\$XXX** (50% of the value of required local improvements) for all other construction, as detailed on Schedule "G".
- b) If Notice to Proceed is not issued for **Lot XX, Block XX, Plan XX** within SIX MONTHS of the date of this agreement, the developer will be required to submit new construction estimates to the City at the date of the Notice to Proceed is requested, to reflect the estimated

costs of the landscaping and local improvements at the that time. The securities required to be provided by the Developer shall be based upon the most recent estimates and outlined in Schedule G, as approved by the City, rather than the amounts stated in s. 3.3(a).

- c) Upon endorsement of the Construction Completion Certificate (Schedule “H”) for the development area, the Developer may make application to have the security amount reduced by an amount equal to the ratio of the work completed to the original cost of the work, expressed as a percentage. This percentage will not be reduced to less than 10% of the original estimate through the two (2) year maintenance period for underground Local Improvements and two (2) years for surface Local Improvements. ~~However, the Private Property Securities will be returned in full at the time of Construction Completion.~~
- d) The said security shall consist of a Cash or Irrevocable Letter of Credit, issued by a Chartered Bank, Credit Union, or the Treasury Branch, and PROVIDED that such securities shall be in terms and form to be approved by the City that shall contain the following terms and provisions:
  - i. a statement that the said irrevocable letter of credit is issued in favour of the City in consideration of the City entering into this Agreement with the named customer of the issuing bank;
  - ii. an acknowledgment by the issuing bank that it has full knowledge of the terms, covenants and conditions of this Agreement;
  - iii. an acknowledgment by the issuing bank that it has full knowledge that the issuing of the said Irrevocable Letter of Credit was and is a condition precedent to the execution of this Agreement by the City; and,
  - iv. an acknowledgment by the issuing bank that the City shall be entitled to draw on the said Irrevocable Letter of Credit in accordance with the provisions of this Agreement, and an undertaking by the issuing bank to promptly honour and pay draws made by the City.

#### 3.4 **Construction Completion Certificate Procedures**

- a) The Developer agrees to pay the sum of fifteen hundred (\$1,500.00 + GST) dollars in accordance with the planning and development schedule of fees bylaw for the inspection(s) for the Construction Completion Certificate.
- b) When the Developer claims the local improvements have been constructed and installed in accordance with the requirements of this Agreement, the Developer shall submit a request to the Development Officer for a Construction Completion Certificate with suitable plans attached duly signed by the Consultant’s Resident Engineer for the utilities or improvements completed as attached hereto in Schedule “H”. Upon the request of the developer, the City shall provide representation at a site inspection with the developer and the Developer’s Consulting Engineer. The Developer’s Consulting Engineer shall be responsible for noting any deficiencies and forward a copy to the City Engineer within 7 days of the site inspection. Acceptance of completed work will not be withheld by any reason of minor deficiencies which would normally be completed under maintenance clause of this Agreement. If any Acts of God, inclement weather or any other cause outside the control of the parties to this

Agreement should interfere with an inspection for acceptance, as requested above, the time limit will be extended as agreed by the Parties.

- c) Upon being satisfied with the claimed completion, the City shall give the Developer notice in writing of the City's acceptance of the local improvements, or any of them so completed, by way of endorsement of a Construction Completion Certificate and shall indicate thereon the date when the maintenance period is due to expire.
- d) If however defects and deficiencies are apparent to the City in the local improvement, the Construction Completion Certificate shall be returned to the Developer unsigned with a report of defects and deficiencies listed, and the Developer shall correct all defects and deficiencies and subsequently resubmit the Construction Completion Certificate.
- e) The City shall operate the local improvements, after the endorsement of the Construction Completion Certificate, in the same manner as other local improvements within the City pursuant to the Bylaws and regulations of the City currently in place.

### 3.5 **Maintenance and Final Acceptance**

- a) After the issuance of the Construction Completion Certificate, the Developer shall be responsible for any and all repairs to any local improvements which may, in the City's sole opinion, become necessary to maintain such local improvements in good condition and such repairs shall include the repair or replacement of the whole local improvement, or any portion thereof, where necessary as a result of any cause other than neglect by the City, its servants, agents or contractors, ordinary wear, and damage by third parties, in the use and operation thereof.
- b) Each local improvement shall be inspected after the expiry of the maintenance period and any damage or deficiencies shall be remedied by the Developer before the City finally accepts such local improvement by endorsing the Final Acceptance Certificate (Schedule "I").
- c) Prior to endorsement of a Final Acceptance Certificate, the Developer shall provide the City Development Officer with a video camera inspection report and tape acceptable in a format acceptable by the City of the sanitary and storm sewers constructed by the Developer. Such inspection shall be timed immediately prior to the acceptance for the Final Acceptance, and such video camera inspection shall be scheduled with and acknowledged in writing by the City Engineer.

### 3.6 **Maintenance Periods**

- a) The Developer shall maintain each of the various local improvements for the following minimum periods from the dates shown on the Construction Completion Certificates until the issuance of the Final Construction Certificates:
  - i. two (2) year for all underground Local Improvements; and,



- ii. two (2) years for all surface Local Improvements.

### 3.7 **Default by the Developer**

- a) In the event that the City claims that the Developer is in default in the observance and performance of the terms, covenants and conditions of this Agreement (other than the terms, covenants and conditions of Clause 3.6 hereof), the City shall give the Developer thirty (30) days' notice in writing of such claimed default and shall by such notice either require the Developer to rectify such default within (30) days of the receipt of such notice or notify the Developer that the City intends to rectify such default at the Developer's costs and expense.
  - i. If the Developer denies that it is in default as claimed in such notice, the Developer shall immediately request a reference to arbitration pursuant to the provisions of Clause 3.9 hereof.
  - ii. If the arbitrator confirms that the Developer is in default as claimed by the City, and if the City by its notice of claimed default has required the Developer to rectify same, the Developer shall have a period of thirty (30) days from the receipt of the decision of the arbitrator within which to rectify the default.
  - iii. If the arbitrator confirms that the Developer is in default as claimed by the City, and if the City by its notice of claimed default has elected to rectify the default at the Developer's costs and expense, the City shall proceed to rectify the default at the Developer's expense.
- b) Notwithstanding anything to the contrary herein, in the event that the City Engineer in his absolute discretion considers it necessary to undertake any immediate work for the repair of any of the said local improvements in a situation of emergency, the City Engineer shall be entitled to cause such work to be done at the Developer's cost and expense without notification to the Developer, PROVIDED that upon completion of said emergency repair work, the City shall give notice in writing to the Developer if the City claims that such repair was made necessary by reason of a default on the part of the Developer in the observance and performance of the terms, covenants and conditions of Clause 3.6 of this Agreement, and if the Developer denies the claimed default, it shall immediately request a reference to arbitration pursuant to the provisions of Clause 3.9 hereof.
- c) 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 and shall not be the subject of any action or proceeding in any Court.
- d) In the event that:
  - i. a confirmed default by the Developer has not been rectified by the Developer in accordance with the foregoing provisions, or;
  - ii. a confirmed default by the Developer has been rectified by the City in accordance with the foregoing provisions and the Developer fails to pay the cost and expense of such rectification within five (5) days after the receipt from the City of an account therefore, or;

- iii. emergency repair work has been done to local improvements by the City in accordance with the foregoing provisions and a default on the part of the Developer has been confirmed as rendering such repair work necessary, and if the Developer fails to pay the cost and expense of such repair work within five (5) days after the receipt from the City of an account, based on actual invoices for work done and administration costs therefore, then which for the purposes of this Agreement shall be 10 percent (%). The City may invoke the provisions of Clause 3.3 hereof and make demands as obligated under any Performance Bonds or as payee under any Irrevocable Letters of Credit provided by the Developer pursuant to the requirements of this Agreement;
- iv. the Developer shall not be deemed to be in default in the performance of its obligations hereunder if any failure in performance of said obligations is due to fires, adverse weather conditions, the Queen's enemies, provided that lack of finances shall in no event be deemed a cause beyond the Developer's control.

### 3.8 **Arbitration**

- a) All arbitration will be conducted and carried out under the Arbitration Act;
- b) All charges, fees and expenses of the arbitration shall be borne and paid by the City or the Developer, or proportionately by both of them, depending upon their respective fault as found by the arbitrator, PROVIDED;
  - i. that the foregoing provisions shall not 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, the City's Engineer, the Committee of the Whole or the Council of 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, the City's Engineer, the Committee of the Whole or the Council for the City;
  - ii. that neither party hereof shall be liable to any claim in respect of any such dispute or difference until the liability and the amount of liability in respect of same shall, if not admitted, have been referred to and determined by arbitration, the award under which shall be a condition precedent to liability of any such part or to any right of action against any such party in respect to the claim.

## **PART 4 – AGREEMENT ADMINISTRATION**

### 4.1 **Property Taxes**

- a) The Developer agrees to pay all outstanding property taxes, if any, for the Lands prior to endorsement of the plan of development.

#### 4.2 **Delivery of Documents to the City**

- a) Forthwith upon the completion of the construction and installation of the local improvements and the acceptance of same by the City, the Developer will deliver to the City Development Officer all inspection and testing results and original (linen) "as built" plans and AutoCAD R-14 diskettes prepared by the Developer's Engineer relating to the servicing of the Lands with the local improvements.

#### 4.3 **Compliance with Law**

- a) The Developer shall at all times comply with all legislation, regulations and municipal Bylaws and regulations relating to the development of the Lands by the Developer.
- b) This Agreement does not constitute approval of any development and is not a development permit or other permit granted by the City.
- c) Where anything provided for herein cannot lawfully be done without the approval or permission of any authority, person or board, the obligation to do it does not come into force until such approval or permission is obtained, PROVIDED the parties will do all things necessary by way of application to otherwise in an effort to obtain such approval or permission.
- d) If any provisions hereof are contrary to law, the same shall be severed and the remainder of this Agreement shall be of full force and effect.
- e) For the purposes of the *Occupational Health & Safety Act*, the Developer is the prime contractor for all work pursuant to this Agreement.

#### 4.4 **Law of Alberta Applicable**

- a) The validity and interpretation of this Agreement and of each clause and part thereof shall be governed by the laws of the Province of Alberta.

#### 4.5 **Further Assurances**

- a) Both parties 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.

#### 4.6 **Waiver**

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

#### 4.7 Developer's Covenant

- a) The Developer covenants, undertakes and agrees that the conditions, terms and provisions of the Agreement shall be deemed to be:
  - i. covenants running with the development;
  - ii. conditions authorizing the development of the lands; and shall be binding upon the Developer and its successors-in-title. Prior to and after the execution of Developer's agreement for the Development Area, the Developer shall extract the same covenants as are herein contained from any person to whom it may in any way convey such development area or any undivided interest, other than lots, so that the said covenants shall run with such development area, and the terms, conditions and provisions of this Agreement shall be enforceable by the City in the same manner and to the same extent as any other restrictive covenant filed by way of caveat pursuant to the provisions of the Act. No such conveyance of such development area or any undivided interest therein shall operate so as to release the Developer from its obligations and covenants herein. The City may file a caveat to protect its interest herein, provided, always, that the covenants shall cease and determine when all conditions contained herein have been satisfied.
- b) The City agrees to absolutely postpone such caveat or other instrument as might be filed to protect its interest if such postponement is requested by a mortgagee, such postponement to be in form stipulated by The Land Titles Act, Alberta, in favour of a mortgage or mortgages registered at the North Alberta Land Registration District for the purposes of financing the Local Improvements to be constructed by the Developer pursuant to this Agreement.
- c) Upon all conditions contained herein being satisfied respecting any portion of the Development Area, the City shall discharge any caveat or other instrument, upon demand, from such portion of the development lands.

#### 4.8 Transition

- a) Except where legislation is enacted by the Legislative Assembly of the Province of Alberta specifically negating this Agreement or any provision, this Agreement will continue in full force and effect in accordance with its terms until the development of the land has been completed.

#### 4.9 Notices

- a) Any notice to be given to the Developer hereunder shall be addressed to:

**DEVELOPER'S ADDRESS**



**SCHEDULE "A" - DEVELOPMENT AREA**  
(THE "LANDS") WITHIN THE DEVELOPMENT AREA

**Lot XX, Block XX, Plan XX & MUNICIPAL ADDRESS**

**(insert map here)**

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## SCHEDULE "B" – DEVELOPMENT PERMIT APPROVAL CONDITIONS

The Development Permit **21XXXX** is APPROVED on **XXX** by the City of Cold Lake Development Authority subject to the following conditions:

**INSERT CONDITIONS HERE**

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**SCHEDULE "C" - NOTICE TO PROCEED**

**Project:** \_\_\_\_\_ **Development File:** \_\_\_\_\_ **Date:** \_\_\_\_\_

<b>Notice to Proceed</b>
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<b>DEVELOPMENT ADDRESS:</b>	<b>XXXXXXXX</b>
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<b>LEGAL DESCRIPTION:</b>	<b>PLAN: XX</b>	<b>BLOCK: XX</b>	<b>LOT(S): XX</b>
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<b>DEVELOPER:</b>	<b>XXXXXXXX</b>
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The Department of Planning and Development is satisfied with the following conditions of the Development Agreement between the Developer / Land Owner and the City of Cold Lake:

- Engineering Design and Construction Drawings for all local improvements approved by the City Engineer and the Department of Public Works and Infrastructure Services;
- Delivery of Proof of \$2,000,000.00 comprehensive liability insurance.
- Delivery of required Security to the City of Cold Lake.

*The City of Cold Lake hereby provides notice to the Developer / Land Owner to proceed with the orderly servicing of the Developing Lands in accordance with the terms and conditions set forth within the Development Agreement and subject to the following conditions:*

**Failure to meet the specified conditions to proceed will result in the issuance of a Stop Work Order.**



## **SCHEDULE "D"- ALTERATIONS**

No alterations of the City of Cold Lake Municipal Engineering Servicing Standards and Standards Construction Specifications are granted.

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## SCHEDULE "E" - OFF-SITE LEVIES

### Part 1 - Defined Offsite Levy Rate & Calculation

1. ~~Inasmuch as the development of the Lands may make it necessary for the City to provide:~~
  - a) ~~new or expanded facilities for the storage, transmission, treatment or supplying of water,~~  
~~or;~~
  - b) ~~new or expanded facilities for the treatment, movement or disposal of sanitary sewage,~~  
~~or;~~
  - c) ~~new or expanded storm sewer drainage facilities, or;~~
  - d) ~~New or expanded roads required for or impacted by a development, or;~~
  - e) ~~any land required for or in conjunction with any facilities described above~~
  
2. ~~It is mutually agreed and understood that the amounts stated here within Schedule "E" are a charge against the individual lots in the Lands and come due and payable immediately upon the issuance of a development permit for each lot stated herein, or upon sale of each lot stated herein, or 2 years from the date of issue of a Certificate of Construction Completion whichever comes first.~~
  
3. ~~With respect to the payment of the off-site levies stated herein, the City has the right to register a caveat under the Land Titles Act in respect of this Agreement against the Certificate of Title for the Lands.~~
  
4. ~~The City will withdraw and discharge the caveat referred to herein upon performance of the obligations under this Development Agreement and receipt of payments referred to herein.~~
  
5. ~~As of the date of this Agreement, Off-Site Levies are required for the Development Area at a calculated rate of \$XXXXX per hectare for Lot XX, Block XX, Plan XXXXXX.~~

#### Defined Offsite Levy Rates

~~20XX Offsite Levy Rates~~

Description	Current Off-Site Levy
Water Distribution	<del>\$ XXXX/hectare</del>
Sanitary Sewer	<del>\$ XXXX/hectare</del>
Storm Sewer	<del>\$ XXXX/hectare</del>
Roadway Network	<del>\$ XXXX/hectare</del>
<b>Total</b>	<b><del>\$ XXXX/hectare</del></b>

#### Phase 1 - Development Offsite Levy Calculation

Site Area (ha)    ×    ~~\$XXXX~~    =    Required Off-Site Levies

~~X.XX~~            ×    ~~\$XXXX~~            =            ~~\$XXX,XXX.XX~~

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~~Amount of Off-Site Levies required under this Agreement = \$XXX,XXX.XX~~

**Part 2 – Defined Offsite Levy Rate for Stormwater Management & Calculation**

1. ~~In addition to the prescribed Off-Site Levy, a Storm Water Management Pond Off-site Levy of \$XXXXX per hectare is applied to all developing areas where no storm water management pond is to be built as that facility or responsibility has been deferred to adjacent lands.~~
2. ~~It is mutually agreed and understood that the amounts stated here within Schedule “E”, Part 2 are a charge against the entire development and come due and payable prior to issuance of a development permit for any portion of the developing lands.~~
3. ~~With respect to the payment of the off-site levies stated herein, the City has the right to register a caveat under the Land Titles Act in respect of this Agreement against the Certificate of Title for the Lands.~~
4. ~~The City will withdraw and discharge the caveat referred to herein upon receipt of payments referred to herein.~~
5. ~~Off Site Levies are required for Residential Development Areas at a calculated rate of \$XXXXX per hectare.~~

**Development Offsite Levy Rate for Storm Water Management Calculation**

Site Area (ha) × ~~\$XXXX~~ = Required Off-Site Levies

~~X.XX~~ × ~~\$XXXX~~ = ~~\$XX,XXX.XX~~

---

**Amount of Off-Site Levies Storm Water Management required under this Agreement =**  
~~\$XX,XXX.XX~~

## **SCHEDULE "F"**

### **Part 1: Endeavour to Assist**

### **Part 2: Late Comer Fees**

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## SCHEDULE "G" - SECURITY

Security to be provided in accordance with Clause 3.3 a) of this Agreement, if the Notice to Proceed is issued for **Lot XX, Block XX, Plan XX** within six (6) months of the date of this Agreement, is as follows:

Total for Lot Servicing (water, sanitary storm)	\$ XXX
50% of Value	\$ XXX
Landscaping (100% of Value)	\$ XXX
Amount of Securities Provided Under this Agreement	\$ XXX

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**SCHEDULE "H" - CERTIFICATE OF CONSTRUCTION COMPLETION**

**CITY OF COLD LAKE**

**CERTIFICATE OF CONSTRUCTION COMPLETION**

**PROJECT:** \_\_\_\_\_

**CONTRACTOR:** \_\_\_\_\_

**DEVELOPER:** \_\_\_\_\_

This is to certify that construction of the said development has been completed and inspected as of \_\_\_\_\_ and that the warranty period (two years for roads and utilities) for the correction of faulty materials and/or workmanship shall commence. The conditions of acceptance are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

~~Article II. Submission of As-Built Record Plans to the City within 30 days~~

**ACCEPTED BY:**

**CONSULTING ENGINEERING FIRM**

**Per:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**CONTRACTOR**

**Per:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**DEVELOPER**

**Per:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**CITY OF COLD LAKE**

**Per:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**SCHEDULE "I" - FINAL ACCEPTANCE CERTIFICATE**

**CITY OF COLD LAKE  
FINAL ACCEPTANCE CERTIFICATE**

**PROJECT:** \_\_\_\_\_

**CONTRACTOR:** \_\_\_\_\_

**DEVELOPER:** \_\_\_\_\_

**This is to certify that maintenance of the said development has been completed and accepted by the City of Cold Lake as of \_\_\_\_\_ . The conditions of acceptance are as follows:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ACCEPTED BY:**

**CONSULTING ENGINEERING FIRM**

**Per:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**CONTRACTOR**

**Per:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**DEVELOPER**

**Per:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**CITY OF COLD LAKE**

**Per:** \_\_\_\_\_ **Date:** \_\_\_\_\_