



**PRECEDENT SERVICING AGREEMENT**

**AGREEMENT NUMBER: SA"AGREEMENT NUMBER"**

**CITY CLERKS FILE NUMBER: \_\_\_\_\_**

**"PROJECT NAME"**

**SERVICING AGREEMENT  
TABLE OF CONTENTS**

---

**LIST OF ARTICLES**

<b>CONDITIONS PRECEDENT</b>	<b>1</b>
<b>ASSESSMENTS AND OVEREXPENDITURES</b>	<b>2</b>
<b>SECURITY</b>	<b>14</b>
<b>INSURANCE</b>	<b>18</b>
<b>CONSTRUCTION, OPERATION, AND WARRANTY OF MUNICIPAL IMPROVEMENTS</b>	<b>19</b>
<b>CCC AND FAC PROCESS</b>	<b>28</b>
<b>SALES TAXES</b>	<b>35</b>
<b>ARBITRATION</b>	<b>36</b>
<b>NOTICE</b>	<b>38</b>
<b>GENERAL</b>	<b>38</b>

**LIST OF SCHEDULES**

<b>SCHEDULE "A"</b>	<b>LAND TITLE CERTIFICATES</b>
<b>SCHEDULE "B"</b>	<b>THE DEVELOPMENT LANDS</b>
<b>SCHEDULE "C"</b>	<b>SUMMARY OF ASSESSMENTS</b>
<b>SCHEDULE "D"</b>	<b>MUNICIPAL IMPROVEMENTS</b>
<b>SCHEDULE "E"</b>	<b>SPECIAL PROVISIONS</b>
<b>SCHEDULE "F"</b>	<b>DEFINITIONS</b>
<b>SCHEDULE "G"</b>	<b>CCC AND FAC REQUIREMENTS</b>

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2025.  
BETWEEN:

**THE CITY OF EDMONTON**  
a Municipal Corporation  
(referred to as the "City" throughout this Agreement)

OF THE FIRST PART,

and

**"DEVELOPER NAME"**  
(referred to as the "Owners" throughout this Agreement)

OF THE SECOND PART,

**BACKGROUND**

- (A) The Owners are, or are entitled to become, the registered owners of the Development Lands, as legally described on Certificates of Title No.'s **"Insert Title Numbers"**, attached as Schedule "A".
- (B) The Owners have applied to subdivide the Development Lands, and the Subdivision Authority approved the subdivision on **"Approval Date"**, File No. **"LDA File No."**, as shown on Schedule "B", and subject to certain conditions including entering into this Agreement.
- (C) The Owners have submitted Engineering Drawings to the General Supervisor, Development Servicing Agreements, for the construction of the Municipal Improvements listed in Schedule "D", which Engineering Drawings shall be approved by the Engineer and form part of this Agreement.
- (D) The Owners wish to proceed with the servicing of the Development Lands by constructing the Municipal Improvements in accordance with the terms and conditions in this Agreement, including any special provisions outlined in Schedule "E" and definitions listed in Schedule "F".

In consideration of the terms of this Agreement, the Parties agree as follows:

**ARTICLE 1 CONDITIONS PRECEDENT**

1.1 This Agreement is conditional on the following being completed by no later than **"Conditions Precedent Date"**:

- (a) the Owners have paid to the City the Inspection and Review Fee in the amount of **\$ "Inspection Fee to the Nearest Dollar"** plus GST of **\$ "GST Amount on Inspection Fee"**, broken down as follows:

---

Subdivision and Development Coordination	\$ "Amount" plus \$ "Amount" GST
EPCOR (Drainage)	\$ "Amount" plus \$ "Amount" GST
EPCOR (Water)	\$ "Amount" plus \$ "Amount" GST

- (b) the Owners have paid the Drainage Assessments to the City in the amount of \$ **"Drainage Assessment Amount"** plus GST of \$ **"GST on Drainage Assessment"**;
- (c) the Owners have paid the Arterial Roadway Assessments to the City in the amount of \$ **"ARA Amount"** plus GST of \$ **"GST on ARA Amount"**;
- (d) the Owners have paid the Arterial Roadway Assessment Administration Fee to the City in the amount of \$ **2,295.00** plus GST of \$ **114.75**;
- (e) the Owners have paid the Boundary Assessment Fee to the City in the amount of \$ **1,170.00** plus GST of \$ **58.50**; **add if applicable, if removed make sure to fix reference in Article 3.1**
- (f) the Owners have provided Security to the City in the amount of \$ **"Security Amount"**, and in accordance with Article 3; **and**
- (g) the Owners have provided evidence of insurance to the City in accordance with Article 4; **and**
- (h) the Owners have paid the Fire Hall Off-Site Levy to the City in the amount of \$ **"Fire Hall Off-Site Levy Amount"** plus GST of \$ **"GST on Fire Hall Off-Site Levy Amount"**. **add if applicable, if removed make sure to fix reference in Article 2.4**

1.2 If the above conditions have not been met by the date specified above, this Agreement is void and of no force and effect. Further, the Parties agree that the above conditions must be completed prior to endorsement of the plan of subdivision for the Development Lands, as provided for in Section 657(3) of the *Municipal Government Act* RSA 2000, Chapter M-26, as amended.

## **ARTICLE 2 ASSESSMENTS AND OVEREXPENDITURES**

### **OVEREXPENDITURE RECOVERY AMOUNTS**

2.1 For the purposes of this Agreement, the Parties agree that the Sewer Overexpenditure Recovery Amounts are:

- (a) \$ **"Storm OE Amount"** for storm trunk sewers, storm water management facilities, lift stations, interconnecting pipes, and outfalls;

- (b) \$ **“Sanitary OE Amount”** for sanitary trunk sewers and lift stations;
- (c) \$ **“Storm OE Amount”** for oversizing of storm lateral sewers;
- (d) \$ **“Sanitary OE Amount”** for oversizing of sanitary lateral sewers;

and that the Arterial Roadway Overexpenditure Recovery Amount is:

- (e) \$ **“Arterial OE Amount”** for Arterial Roadways.

## 2.2 Adjustment of Overexpenditure Recovery Amounts

The Parties agree that the Overexpenditure Recovery Amounts are based on estimated Construction Costs. If any of the Overexpenditure Recovery Amounts are a result of the Owners constructing Cost Shareable Infrastructure, then the Owners shall submit actual Construction Costs for the Cost Shareable Infrastructure after construction is complete as required by Articles 2.11(a)(iv), 2.13(a)(ii), and 2.14, excluding GST, and the applicable Overexpenditure Recovery Amounts shall be adjusted to reflect those actual Construction Costs. Interest shall be paid on the Overexpenditure Recovery Amounts as outlined in Article 2.20.

## 2.3 Overpayment of Overexpenditure Recovery Amounts

Once the Overexpenditure Recovery Amounts have been adjusted in accordance with Article 2.2, if any of the Overexpenditure Recovery Amounts become less than what has already been paid to the Owners at the time of the adjustment (the “Previous Rebate Payments”), then the Owners shall repay to the City the difference between the Previous Rebate Payments and the applicable adjusted Overexpenditure Recovery Amount (the “Underexpenditure”) within thirty (30) days of receiving notification from the City. If the Owners fail to pay the Underexpenditure within thirty (30) days, the City may draw on the Security in accordance with Article 3 for this purpose.

## DISBURSEMENT OF THE ASSESSMENTS PAID BY THE OWNERS

2.4 The Owners agree that the Assessments described in Articles 1.1(b), 1.1(c), and 1.1 (h) are being paid voluntarily, not subject to protest and not tendered as a result of any compulsion or duress. The Owners acknowledge that the City will be disbursing the Assessments to:

- (a) Previous Developers, which may include the City, who have constructed or paid for Cost Shareable Infrastructure which will service the Development Lands; or
- (b) a trust account in which the funds will remain until subsequent developers, which may include the City, have constructed or paid for Cost Shareable Infrastructure which will service the Development Lands; or
- (c) both 2.4(a) and 2.4(b) above, at the discretion of the City and in accordance with this Agreement.

2.5 The Parties acknowledge that Schedule "C" provides a breakdown of the Assessments paid by the Owners, and details of the entities to whom the funds will be disbursed. The Owners agree to not seek to recover any of the Assessments from the City, except in accordance with Articles 2.10, 2.11, 2.12, and 2.13.

**RECALCULATION OF THE ASSESSMENTS AND OVEREXPENDITURES**

2.6 The Parties acknowledge that:

- (a) the Assessments paid by the Owners as outlined in Articles 1.1(b) and 1.1(c); and
- (b) the Overexpenditure Recovery Amounts payable to the Owners as outlined in Article 2.1

have been calculated on the basis of certain assumptions with respect to:

- (c) the order in which developments will proceed within the applicable Drainage Basins and arterial Catchment Area for the Development Lands; and
- (d) the Assessable Areas of the developments being proposed within the Drainage Basins and arterial Catchment Area for the Development Lands.

If, within sixty (60) days from the date of this Agreement, these assumptions are found to be incorrect (development in the applicable Drainage Basin or arterial Catchment Area does not proceed in the order that was anticipated at the time the calculations were made, or, the developments that proceed do not have the Assessable Areas that were anticipated), or if some other error was made that is not consistent with the City's standard practice of calculating Assessments and Overexpenditure Recovery Amounts, then the City has the right to recalculate the Assessments and the Overexpenditure Recovery Amounts in accordance with the actual development order, the actual Assessable Areas, and the City's standard practice for performing these calculations. The City shall notify the Owners in writing, of any change to the Assessments and Overexpenditure Recovery Amounts as a result of the recalculations within sixty (60) days from the date of this Agreement. If the recalculations are not done and the Owners are not notified within sixty (60) days, then the Assessments and the Overexpenditure Recovery Amounts as identified in Articles 1.1(b), 1.1(c), and 2.1 shall be final. The Owners agree that the City may recalculate the Assessments and Overexpenditure Recovery Amounts as many times as necessary within the sixty (60) days to reflect the actual development order and Assessable Areas of developments within the Drainage Basins and arterial Catchment Area.

2.7 If the recalculated Assessments resulting from Article 2.6 are less than what the Owners had previously paid, then the City shall return the difference to the Owners (the "Over Payment"). If the recalculated Assessments resulting from Article 2.6 are greater than what the Owners had previously paid, then the Owners shall pay the City the difference within thirty (30) days of notification by the City (the "Deficiency Amount").

2.8 Despite the terms of Article 10.4, upon repayment by the City to the Owners of the Over Payment, or upon receipt by the City of the Deficiency Amount from the Owners, whichever is applicable

as required in Article 2.7, the Parties agree that Articles 1.1(b), 1.1(c) and 2.1 shall be considered amended to reflect the recalculated amounts.

2.9 If the Owners fail to pay the Deficiency Amount as required in Article 2.7, the City may:

- (a) offset the Deficiency Amount, or portion of the Deficiency Amount that remains outstanding, against any Overexpenditure Recovery Amounts payable to the Owners as outlined in Article 2.1; and
- (b) draw upon the Security in accordance with Article 3 for the purpose of paying the Deficiency Amount.

#### RECOVERY OF THE OWNERS' OVEREXPENDITURES

2.10 Collection from Future Developers

(a) The City acknowledges that the Owners are required to construct or pay for Cost Shareable Infrastructure that will benefit other lands to an extent equal to the Overexpenditure Recovery Amounts. When other lands that benefit from the Cost Shareable Infrastructure is subdivided or developed, the City shall require Future Developers to pay:

- (i) amounts calculated in accordance with Article 2.16 for Cost Shareable Drainage Infrastructure (the "PAC Payment"); and
- (ii) amounts calculated in accordance with Article 2.18 for Cost Shareable Arterial Roadway Infrastructure (the "ARA Payment")

as conditions of approval of the Future Developers' subdivisions or development permits.

(b) When calculating the amounts to be paid by Future Developers, the City shall include interest as outlined in Article 2.20 and applicable Sales Taxes.

(c) The Owners' proportionate share of any PAC or ARA Payments shall be calculated in accordance with Article 2.17 for the PAC Payment, and in accordance with Article 2.19 for the ARA Payment. The aggregate amount of any PAC and ARA Payments to the Owners shall not exceed the Sewer Overexpenditure Recovery Amount and the Arterial Roadway Overexpenditure Recovery Amount, respectively.

(d) The City agrees to pay the Owners their proportionate share of any PAC and ARA Payments within sixty (60) days of execution by the City of the Future Developers' agreement, provided that the Owners are not in default of this Agreement. If the City does not pay these amounts to the Owners within sixty (60) days as required by this Article, then the City agrees to also pay interest to the Owners on their proportionate share at the rate noted in Article 10.2, which interest will begin to accrue on the sixty-first (61st) day.

(e) Nothing in this Article 2 obligates the City to pay any amounts to the Owners which the City is prevented by law from collecting from Future Developers. Further, if a court orders the City to refund amounts which had been previously collected from the Future Developers and paid to the Owners, then:

- (i) the Owners shall indemnify the City in respect of those amounts, and shall repay to the City any amounts that the City is obligated to refund to Future Developers; and
- (ii) the Owners' applicable Overexpenditure Recovery Amounts shall be increased by the amount that the Owners have repaid to the City.

2.11 Release of PAC Funds in Trust

(a) Despite the terms of Article 2.10, if:

- (i) all or a portion of the Owners' Sewer Overexpenditure Recovery Amounts are a result of the Owners constructing Cost Shareable Drainage Infrastructure; and
- (ii) the City is holding funds in a trust account that were collected from past developers as their share of the Cost Shareable Drainage Infrastructure in the Drainage Basin (the "PAC Trust Amount"),

then the City shall withhold the PAC Trust Amount until:

- (iii) a CCC has been issued for the Cost Shareable Drainage Infrastructure constructed by the Owners;
- (iv) the Owners have submitted actual Construction Costs for the Cost Shareable Drainage Infrastructure to the satisfaction of the Engineer; and
- (v) the Owners have requested release of the PAC Trust Amount in writing.

(b) The City agrees to pay to the Owners the PAC Trust Amount within sixty (60) days of fulfillment of Articles 2.11(a)(iii), 2.11(a)(iv), and 2.11(a)(v). If the City does not pay the PAC Trust Amount to the Owners within the sixty (60) days, then the City shall pay interest to the Owners on the PAC Trust Amount at the rate noted in Article 10.2, which interest will begin to accrue on the sixty-first (61st) day.

2.12 Release of ARA Funds in Trust

Despite the terms of Article 2.10, if:

- (a) all or a portion of the Owners' Arterial Roadway Overexpenditure Recovery Amount is a result of the Owners constructing Cost Shareable Arterial Roadway Infrastructure; and



- (b) the City is holding funds in a trust account, which funds were collected from past developers as their share towards the Cost Shareable Arterial Roadway Infrastructure in the Catchment Area (the “ARA Trust Amount”),

then the City agrees to allocate the ARA Trust Amount to the Owners, up to an amount no greater than the Arterial Roadway Overexpenditure Recovery Amount, and hold the funds in accordance with Article 2.13.

2.13 Release of ARA Funds in Holding

- (a) Despite the terms of Article 2.10, if all or a portion of the Owners’ Arterial Roadway Overexpenditure Recovery Amount is a result of the Owners constructing Cost Shareable Arterial Roadway Infrastructure, the City will hold the Owners’ proportionate share of any ARA Payments or ARA Trust Amounts (the “ARA Holding Amount”) until:

- (i) Substantial Completion of the Arterial Roadway constructed by the Owners;
- (ii) the Owners have submitted actual Construction Costs for the Arterial Roadway, and any estimated costs to complete the Arterial Roadway, to the satisfaction of the Engineer; and
- (iii) the Owners have requested the release of the ARA Holding Amount in writing.

- (b) The City agrees to pay to the Owners the ARA Holding Amount within sixty (60) days of fulfilment of Articles 2.13(a)(i), 2.13(a)(ii), and 2.13(a)(iii). If the City does not pay the ARA Holding Amount to the Owners within the sixty (60) days, then the City shall pay interest to the Owners on the ARA Holding Amount at the rate noted in Article 10.2, which interest will begin to accrue on the sixty-first (61st) day.

2.14 Submission of ARA Construction Costs

The Owners shall submit actual Construction Costs for the Arterial Roadway to the City at the following milestones if applicable:

- (a) Completion of the underground components of the Arterial Roadway;
- (b) Substantial Completion of the Arterial Roadway; and
- (c) Final completion of all remaining work for the Arterial Roadway.

2.15 Withholding Recoveries

Despite the terms of Articles 2.10, 2.11, and 2.13, if the Owners are in default of any of the terms of this Agreement, then the City, at its sole discretion, may withhold the Owners’ proportionate share of any PAC and ARA Payments, PAC Trust Amounts, and ARA Holding Amounts until any defaults have been rectified. If this occurs, interest that would normally apply on funds being held by the City beyond sixty

(60) days as required in Articles 2.10, 2.11, and 2.13, will not begin to accrue until any defaults are rectified.

**DRAINAGE ASSESSMENTS FROM FUTURE DEVELOPERS**

**2.16 Calculation of Drainage Assessments Payable by Future Developers**

The Drainage Assessments to be collected by the City from each Future Developer shall be calculated as outlined in this Article. The calculations shall be made individually for each specific Drainage Basin in which the Owners are carrying a Sewer Overexpenditure Recovery Amount.

(a) The City shall calculate the following amounts for each of the Future Developers' projects, which will then be used to determine the Drainage Assessments payable by each Future Developer as outlined in Article 2.16(b):

- (i) The "PAC Amount" = Assessable Area x PAC Rate
- (ii) The "PAC Construction Costs" = The Future Developer's Construction Cost for Cost Shareable Drainage Infrastructure.
- (iii) The "PAC Overexpenditure Contributions" = For each agreement between the City and a Previous Developer with a PAC Overexpenditure, the following calculation will be made:

$$\left( \begin{array}{c} \text{Contribution From} \\ \text{Future Developer} \end{array} \right) = \frac{\text{Assessable Area}}{\text{Assessable Area} + \text{Previous Area}} \left( \begin{array}{c} \text{Remaining PAC Overexpenditure} \\ \text{From Previous Agreement} \end{array} \right)$$

When the remaining PAC Overexpenditure for a previous agreement is less than or equal to \$10,000.00, the value of this calculation for that previous agreement will be equal to the remaining PAC Overexpenditure being carried by that previous agreement.

- (iv) The "Lateral Sewer Oversizing Amount" = The Future Developer's proportional share, calculated on an area basis, of the incremental Construction Cost of oversizing lateral sewers by Previous Developers for the benefit of the Future Developer's lands. Oversizing includes increased size and depth requirements.

(b) The Drainage Assessments payable by each Future Developer will be determined as follows:

- (i) If the Future Developer is not incurring PAC Construction Costs [when the result of Article 2.16(a)(ii) is zero], then the Future Developer shall pay the greater of:
  - A. the PAC Amount as outlined in Article 2.16(a)(i); or

- B. the sum of the PAC Overexpenditure Contributions for each agreement between the City and Previous Developers, as outlined in Article 2.16(a)(iii).
- (ii) If the Future Developer is incurring PAC Construction Costs [when the result of Article 2.16(a)(ii) is greater than zero], the Future Developer shall pay:
  - A. the amount, if any, by which the PAC Amount exceeds the PAC Construction Costs; and
  - B. the sum of the PAC Overexpenditure Contributions for each agreement between the City and Previous Developers, as outlined in Article 2.16(a)(iii).
- (iii) In addition to any amounts payable under Articles 2.16(b)(i) or 2.16(b)(ii), each Future Developer shall also pay the Lateral Sewer Oversizing Amount, if applicable.
- (c) Interest shall be computed as outlined in Article 2.20.

**2.17 Disbursement of Drainage Assessments Collected from Future Developers**

When the City collects PAC funds as required by Article 2.10, the funds shall be disbursed to all Previous Developers who are carrying PAC Overexpenditures within each applicable Drainage Basin. The funds shall be distributed in the following manner:

- (a) PAC Rebate I:
  - (i) If the funds were collected from a Future Developer who is not incurring PAC Construction Costs, and the Future Developer paid the PAC Amount [the funds were paid in accordance with Article 2.16(b)(i)A], then the funds shall be distributed proportionately to Previous Developers based on the values of PAC Overexpenditures being carried by each Previous Developers' agreement.
  - (ii) If the funds were collected from a Future Developer who is not incurring PAC Construction Costs, and the Future Developer paid the sum of the PAC Overexpenditure Contributions for each agreement between the City and Previous Developers [the funds were paid in accordance with Article 2.16(b)(i)B], then the funds shall be distributed to Previous Developers as outlined in Article 2.16(a)(iii).
- (b) PAC Rebate II:

If the funds were collected from a Future Developer who is incurring PAC Construction

Costs [the funds were paid in accordance with 2.16(b)(ii)], then:

- (i) for the amount by which the PAC Amount exceeds the PAC Construction Cost [which is equal to the result of Article 2.16(b)(ii)A], the funds shall be disbursed proportionately to Previous Developers based on the Overexpenditures being carried by the Previous Developers' agreements; and
- (ii) for the amount the Future Developer paid in accordance with Article 2.16(b)(ii)B, the funds shall be disbursed to Previous Developers in accordance with Article 2.16(a)(iii).

(c) PAC Rebate III:

If any Lateral Sewer Oversizing Amounts were collected from Future Developers in accordance with Article 2.16(a)(iv), then those funds shall be distributed proportionately to those Previous Developers who paid for the construction of the oversized lateral sewers.

#### ARTERIAL ROADWAY ASSESSMENTS FROM FUTURE DEVELOPERS

##### 2.18 Calculation of Arterial Roadway Assessments payable by Future Developers

The Arterial Roadway Assessments to be collected by the City from each Future Developer shall be calculated as outlined in this Article.

(a) The City shall calculate the following amounts for each of the Future Developers' projects, which will then be used to determine the Arterial Roadway Assessments payable by each Future Developer as outlined in Article 2.18(b):

- (i) The "ARA Amount" = Assessable Area x ARA Rate
- (ii) The "ARA Construction Costs" = The Future Developer's Construction Cost for Cost Shareable Arterial Roadway Infrastructure.
- (iii) The "ARA Overexpenditure Contributions" = For each agreement between the City and a Previous Developer with an ARA Overexpenditure, the following calculation will be made:

$$\left( \begin{array}{c} \text{Contribution From} \\ \text{Future Developer} \end{array} \right) = \frac{\text{Assessable Area}}{\text{Assessable Area} + \text{Previous Area}} \left( \begin{array}{c} \text{Remaining ARA Overexpenditure} \\ \text{From Previous Agreement} \end{array} \right)$$

When the remaining ARA Overexpenditure of a previous agreement is less than or equal to \$25,000.00, the value of this calculation for that previous agreement will be equal to the remaining ARA Overexpenditure being carried by that previous agreement.

(b) The Arterial Roadway Assessments payable by each Future Developer will be determined as follows:

- (i) If the Future Developer is not incurring ARA Construction Costs [when the result of Article 2.18(a)(ii) is zero], the Future Developer shall pay the greater of:
  - A. the ARA Amount as outlined in Article 2.18(a)(i); or
  - B. the sum of the ARA Overexpenditure Contributions for each agreement between the City and Previous Developers, as outlined in Article 2.18(a)(iii).

- (ii) If the Future Developer is incurring ARA Construction Costs [when the result of Article 2.18(a)(ii) is greater than zero], the Future Developer shall pay the amount, if any, by which the greater of:
  - A. the ARA Amount as outlined in Article 2.18(a)(i); or
  - B. the sum of the ARA Overexpenditure Contributions for each agreement between the City and Previous Developers, as outlined in Article 2.18(a)(iii)

exceeds the ARA Construction Costs.

(c) Interest will be computed as outlined in Article 2.20.

**2.19 Disbursement of Arterial Roadway Assessments Collected from Future Developers**

When the City collects ARA funds as required by Article 2.10, the funds shall be distributed to all Previous Developers within the Catchment Area who are then carrying an ARA Overexpenditure. The funds shall be distributed in the following manner:

(a) ARA Rebate I:

- (i) If the funds were collected from a Future Developer who is not incurring ARA Construction Costs, and the Future Developer paid the ARA Amount [the funds were paid in accordance with Article 2.18(a)(i)], then the funds shall be distributed proportionately to Previous Developers based on the values of ARA Overexpenditures being carried by each Previous Developer's agreement.
- (ii) If the funds were collected from a Future Developer who is not incurring ARA Construction Costs, and the Future Developer paid the sum of the ARA Overexpenditure Contributions for each agreement between the City and Previous Developers [the funds were paid in accordance with Article 2.18(b)(i)B], then the funds shall be distributed to Previous Developers as outlined in Article

2.18(a)(iii).

(b) ARA Rebate II:

If the funds were collected from a Future Developer who is incurring ARA Construction Costs [the funds were paid in accordance with Article 2.18(b)(ii)], then the funds shall be distributed proportionately to Previous Developers proportion based on the values of ARA Overexpenditures being carried by each Previous Developer's agreement.

(c) The Parties agree that the City has the right to apply any exceptions contemplated in City Policy C507 - Arterial Roads for Development, to the terms of Articles 2.18 and 2.19.

## 2.20 INTEREST ON OVEREXPENDITURES

(a) Interest Rate

The Prescribed Rate shall be determined by the General Supervisor, Development Servicing Agreements, and shall be the lesser of:

- (i) an annual rate equal to the prime rate charged by the Main Branch of the Toronto Dominion Bank in Edmonton ("TD Bank") on January 1st of the year for which interest is to be calculated, plus one percent (1%); or
- (ii) an annual rate of interest equal to the percentage change in the Edmonton Non Residential Construction Price Index, published by Statistics Canada, from the third quarter of the previous year to the third quarter of the year for which interest is to be calculated.

The "prime rate" means the reference rate determined by the TD Bank as its reference rate for demand commercial loans made in Canada, in Canadian dollars, and published by the TD Bank as its prime rate. If Statistics Canada does not calculate or publish the Edmonton Non Residential Construction Price Index, then the Edmonton Consumer Price Index published by Statistics Canada will be used in lieu of the Edmonton Non Residential Construction Price Index when determining the Prescribed Rate.

Despite any other provisions in this Agreement, if the change in the applicable price index for any applicable time period is negative, then the Prescribed Rate for that period will be zero (0%).

(b) Interest Accrual Period for Constructing Owners

If any of the Overexpenditure Recovery Amounts are a result of the Owners constructing Cost Shareable Infrastructure, then interest at the Prescribed Rate will accrue annually on the applicable unpaid Overexpenditure Recovery Amounts:

- (i) based on the value of the applicable unpaid Overexpenditure Recovery Amount

on December 31<sup>st</sup> each year;

- (ii) in the case of Sewers Overexpenditure Recovery Amounts, starting on January 1<sup>st</sup> of the year after a CCC has been issued for the applicable Cost Shareable Drainage Infrastructure;
- (iii) in the case of an Arterial Roadway Overexpenditure Recovery Amount, starting on January 1<sup>st</sup> of the year after Substantial Completion of the Arterial Roadway constructed by the Owners; and
- (iv) ending on December 31<sup>st</sup> of the year before the applicable Overexpenditure Recovery Amount is fully paid to the Owners.

(c) Interest Accrual Period for Non-Constructing Owners

If any of the Overexpenditure Recovery Amounts are not a result of the Owners constructing Cost Shareable Infrastructure, then interest at the Prescribed Rate will accrue annually on the applicable unpaid Overexpenditure Recovery Amounts:

- (i) based on the value of the applicable unpaid Overexpenditure Recovery Amount on December 31<sup>st</sup> each year;
- (ii) starting on January 1<sup>st</sup> of the year after the date of this Agreement; and
- (iii) ending on December 31<sup>st</sup> of the year before the applicable Overexpenditure Recovery Amount is fully paid to the Owners.

(d) Despite the terms of Articles 2.20(b) and 2.20(c), the City shall only be responsible for interest payments to the extent that the City has actually collected interest from Future Developers. Nothing in this Article 2.20 obligates the City to pay the Owners any amounts which the City is prevented by law from recovering from Future Developers.

2.21 Fire Hall Levy - Delete if Developer is Category "B", "C" or "D"

(a) The Owners agree to pay the Fire Hall Levy to the City in the amount of \$ **"Fire Hall Levy Amount"** plus GST of \$ **"GST on Fire Hall Levy Amount"**. The Owners are permitted to provide the Fire Hall Levy in two (2) equal payments of \$ **"50% Fire Hall Levy"** plus GST \$ **"GST on 50% Fire Hall Levy Amount"**, with the first payment due within one (1) year from the date of execution of this Agreement (the "First Fire Hall Levy Payment"), and the second payment due within two (2) years from the date of execution of this Agreement (the "Second Fire Hall Levy Payment").

(b) Despite any other terms in this Agreement, the Security shall not be reduced until the First Fire Hall Levy Payment is received by the City, and the Security shall not be released until the Second Fire Hall Levy Payment is received by the City.

(c) In the event that the Fire Hall Levy Payment is not received by the deadlines set out in Article 2.21(a), then the Owners shall pay interest to the City on the Fire Hall Levy amount at the rate noted in Article 10.2, which interest will begin to accrue on the sixty-first (61st) day.

(d) Despite the terms of Articles 2.10, 2.11, and 2.13, if the Owners fail to pay the Fire Hall Levy by the deadlines in Article 2.21(a), then the City, at its sole discretion, may:

- (i) garnish the Owners' proportionate share of any PAC and ARA Payments, PAC Trust Amounts, and ARA Holding Amounts; and
- (ii) shall be entitled to draw on the Security

in order to secure payment for the Fire Hall Levy.

### **ARTICLE 3 SECURITY**

3.1 To ensure compliance with this Agreement, the Owners shall provide irrevocable and unconditional Security to the satisfaction of the City, in the amount set out in Article 1.1(f). The Security must be kept in good standing until it is released in accordance with Article 3.9.

#### **3.2 Letter of Credit**

If the Owners provide the Security in the form of a letter of credit, then the letter of credit, and any amendments or renewals to the letter of credit (the "Letter of Credit"), shall:

- (a) be issued by a Canadian financial institution, a local bank, local credit union, or local treasury branch, and be in its original form with the original authorized signatures;
- (b) be stated in Canadian dollars (numeric and text);
- (c) be unconditional, irrevocable, and payable at sight;
- (d) be for an initial term of at least one (1) year;
- (e) include an automatic renewal clause where the expiry date is extended for a further one (1) year term, without amendment, unless sixty (60) days notice is given by the bank in writing, and delivered by registered mail to the beneficiary's address;
- (f) expire on a weekday which is not a statutory holiday;
- (g) provide that partial draws are permitted;
- (h) make reference to the development name and agreement number assigned to this Agreement, as stated on the front page of this Agreement;



- (i) state the beneficiary's name and address as follows:

The City of Edmonton  
Urban Planning and Economy  
2<sup>nd</sup> Floor, 10111 – 104 Avenue NW  
Edmonton, AB T5J 0J4  
Attention: Angie Neal-Anshelm

- (j) be delivered to the above noted beneficiary as many times as is necessary until the Letter of Credit is released in accordance with Article 3.9; and

- (k) state that it is to be available as security for any and all obligations whatsoever of the Owners under this Agreement.

### 3.3 Cash Security

If the Owners provide the Security in the form of cash (the "Cash Security"), the City shall hold the Cash Security in an interest bearing account, with interest accruing at the City of Edmonton Short Term Investment Weighted Average Rate less one and one half percent (1.5%). If the City of Edmonton Short Term Investment Weighted Average Rate less one and one half percent (1.5%) is a negative sum for any period of time, then no interest will accrue on the Cash Security for that period.

### 3.4 Development Bond

If the Owners provide the Security in the form of a development bond, then the development bond, and any amendments or renewals to the development bond (the "Development Bond"), shall be in a form and content acceptable to the City including, but not limited to the following:

- (a) be issued by a City of Edmonton approved surety, and be in its original form with the original authorized signatures;
- (b) be stated in Canadian dollars (numeric and text);
- (c) be unconditional, irrevocable, and payable on demand;
- (d) be for a term equal to, or greater than, the obligations under this Agreement, whichever has the longer duration;
- (e) make reference to the development name and agreement number assigned to this Agreement, as stated on the front page of this Agreement;
- (f) state the beneficiary's name and address as follows:

The City of Edmonton  
Urban Planning and Economy  
2<sup>nd</sup> Floor, 10111 – 104 Avenue NW

Edmonton, AB T5J 0J4  
Attention: Angie Neal-Anshelm

(g) state that it is to be available as security for any and all obligations whatsoever of the Owners under this Agreement.

3.5 Reasons to Draw on Security

The City, at its sole discretion, may draw on the Security if:

- (a) the Security is provided by way of Letter of Credit, and the Letter of Credit is not renewed to the satisfaction of the City in accordance with Article 3.2;
- (b) in the opinion of the City, the Owners or their employees, contractors or agents create an unsafe condition or damage existing infrastructure, in which case the City may use the Security to do any work required to protect life and property from injury or destruction;
- (c) the Owners fail to pay Sales Taxes, or fail to indemnify and save the City harmless from and against Sales Taxes as required by Article 7;
- (d) the Owners fail to correct any deficiencies to the Municipal Improvements within the timelines outlined in Article 5.7; or
- (e) the Owners default on any of their obligations under this Agreement, in which case the City may use the Security to rectify any default.

3.6 Use of the Security

If the City draws on the Security, the proceeds may be used to pay:

- (a) the reasonable costs incurred by the City when drawing on the Security including, but not limited to, transportation and actual out of pocket expenses;
- (b) all costs incurred by the City in completing any work required to maintain, repair, remove, restore, or rectify any deficiencies in the work undertaken by the Owners, including, but not limited to:
  - (i) administrative costs incurred when arranging to complete the work;
  - (ii) consulting and contracting fees required to retain outside consultants and contractors;
  - (iii) costs related to labour, materials, testing, and inspection; and
  - (iv) administrative and engineering costs required to obtain CCCs and FACs for the Municipal Improvements, including supporting documentation, testing,

maintenance and deficiency repairs;

(c) all costs incurred by the City in rectifying any default by the Owners under this Agreement;

and

(d) Sales Taxes.

If the City draws on the Security, the City agrees to provide an accounting to the Owners indicating how the proceeds of the Security were used within sixty (60) days of rectifying any default. The City shall pay the Owners any surplus funds not required to rectify any defaults within sixty (60) days after completion of the requirements listed in Article 3.9. No interest will be paid on any surplus funds.

### 3.7 Insufficient Security

If the proceeds of the Security are not sufficient to cover the items listed in Article 3.6, the Owners agree to pay any shortfall to the City within thirty (30) days of being invoiced. Despite any other terms in this Agreement, if the Owners fail to pay the shortfall within thirty (30) days, the City may offset any shortfall against any Overexpenditure Recovery Amounts that would have otherwise been payable to the Owners as outlined in Article 2, or any other funds that would otherwise be payable to the Owners by the City under this Agreement.

### 3.8 Release from Obligations

If the City draws on the Security to rectify any default by the Owners under this Agreement, then once the default has been rectified and the Owners have paid any shortfall to the City if required by Article 3.7, the Owners shall be relieved of any obligation to rectify the default to the extent that the City already has done.

### 3.9 Release of Security

The City shall release the Security back to the Owners within thirty (30) days, and any interest if applicable as required by Article 3.3, upon:

(a) issuance of all CCCs and FACs for the Municipal Improvements and Altered Municipal Improvements;

(b) payment of any Underexpenditure by the Owners, if required by Article 2.3; and

(c) receipt by the City of a request in writing from the Owners.

### 3.10 Alternative Remedy

Notwithstanding other provisions found in this Article 3, the City and the Owners agree that when Security is provided by way of a Development Bond, the City may agree, through consultation with the surety

provider to alternative remedies for breaches of this Agreement. Without limiting the foregoing, such alternative remedies may include completion of outstanding obligations under this Agreement by the surety provider or its contractor or consultant as the case may be.

#### **ARTICLE 4 INSURANCE**

##### **4.1 Insurance Coverages**

The Owners shall maintain at their own expense, the following minimum insurance coverages in forms satisfactory to the City:

(a) until all CCCs have been issued for the Municipal Improvements, a Commercial General Liability Insurance policy providing coverage of at least five million dollars (\$5,000,000.00) inclusive, per occurrence, for bodily injury, death, and damage to property. This insurance shall include:

- (i) City of Edmonton, EPCOR, and EPCOR D&T as Additional Insured;
- (ii) independent contractors;
- (iii) products and completed operations;
- (iv) broad form loss of use;
- (v) blanket contractual liability, including this Agreement;
- (vi) shoring, excavating, work below ground surface, and grading, if applicable;
- (vii) non-owned automobiles;
- (viii) attached machinery;
- (ix) Employers and Contingent Employers Liability;
- (x) cross liability and severability of interests clause; and
- (xi) broad form property damage;

(b) once all CCCs have been issued, and prior to all FACs being issued for the Municipal Improvements, a Commercial General Liability Insurance policy providing coverage of at least two million dollars (\$2,000,000) inclusive, per occurrence, for bodily injury, death and damage to property. This insurance shall include the same requirements indicated in Article 4.1(a)(i) through (xi);

(c) if there are ongoing temporary improvements, after the remainder of FACs have been issued, the Owners may be required to maintain the minimum insurance for temporary

improvements, as determined by the Engineer. The minimum insurance shall:

- (i) be determined in consideration of the type of temporary improvements that are required;
  - (ii) not exceed the requirements set out in Article 4.1(a); and
  - (iii) be maintained until the temporary improvements are removed in accordance with the Agreement.
- (d) any other insurance in amounts that a prudent Owner acting reasonably would deem appropriate given the scope of work, with associated risks, to be carried out under the Agreement;
- (e) during the term of any construction done in connection with or in any way related to the Agreement (and until work is completed and accepted by the City), the Owner shall ensure that any contractor hired by it maintains commercial general liability insurance policy for bodily injury and property damage in and amount not less than Five Million Dollars inclusive limit for any one occurrence, including products and completed operations coverage, contractual liability coverage, and a cross liability clause naming the City as Additional Insured;
- (f) the Owners hereby waive any right of recourse it may have or obtain against the City, its employees or agents, with regard to loss or damage to any of its property located on, in, or about the Development Lands; and
- (g) no delivery to, or review or approval by, the City of any insurance certificate, insurance policy or other documentation evidencing insurance cover shall limit or relieve the Owners of its obligations under this Agreement.

The Parties agree that the policy limits listed above do not define or limit the Owners' liability to indemnify the City in the event of bodily injury, property damage or other loss, nor does the City make any representations as to the adequacy of the limits or scope of coverage in the event of a claim.

#### 4.2 Renewal of Insurance Coverage.

As evidence of ongoing insurance coverage pursuant to Article 4.1, prior to the term of the insurance coverage ending, the Owners agree to provide to the City evidence that the insurance coverage has been renewed prior to the term of the current insurance coverage expiring.

#### 4.3 Additional Insurance

Within thirty (30) days of request by the City, the Owners shall provide additional insurance if it is determined necessary by the Director, Risk Management. If requested by the Owners, the City shall provide an explanation to the Owners regarding the need for additional insurance.

#### 4.4 Insurance During Maintenance

Notwithstanding Article 4.1, the City may, in its sole discretion, allow a reduction in insurance coverage prior to the issuance of all FACs where all obligations have been fulfilled by the Owners except those obligations associated with Warranty Periods or those obligations associated with ongoing maintenance of a temporary improvement.

## **ARTICLE 5 CONSTRUCTION, OPERATION, AND WARRANTY OF MUNICIPAL IMPROVEMENTS**

5.1 For the purposes of Article 5, the roles and responsibilities of the City may be fulfilled by representatives from an applicable City department, EPCOR, or EPCOR D&T, as appropriate in each situation. In addition, the roles and responsibilities of the Owners under Article 5 may be fulfilled by their employees, consultants, contractors or agents, as appropriate.

### 5.2 Pre-Construction

(a) Prior to the start of construction of any Municipal Improvements, the Owners shall:

- (i) obtain an OSCAM Permit, if necessary;
- (ii) obtain Public Tree Permit(s), if necessary;
- (iii) arrange for an on-site, or virtual, pre-construction meeting to take place with all relevant City departments, EPCOR, and EPCOR D&T (the “Pre-Construction Meeting”);
- (iv) ensure that utility Crossing Agreements are executed to permit the Municipal Improvements to be constructed across, or be located on, the utility right-of-way if a Municipal Improvement is, or will be crossing a utility right-of-way or located on a utility right-of-way; and
- (v) obtain a Parkland Access Permit, if necessary.

(b) At least three (3) business days prior to the Pre-Construction Meeting, the Owners, or their consultant, shall:

- (i) provide written notice to all relevant City departments, EPCOR, and EPCOR D&T, of their intention to start construction; and
- (ii) provide copies of the approved Engineering Drawings (digital and hard copies) to, and to the satisfaction of, all relevant City departments, EPCOR, and EPCOR D&T.

### 5.3 Deadlines for Construction and CCC Applications

The Owners shall complete the construction of, and apply for a CCC for, each of the Municipal

Improvements within two (2) years from the date of this Agreement, except for the:

- (a) Electrical Distribution System;
- (b) Paved Roads, Sidewalks, Curb and Gutter;
- (c) Street Lighting System;
- (d) Separate Sidewalks;
- (e) Landscaping; and
- (f) Fencing;

which shall be constructed and have CCCs applied for within three (3) years from the date of this Agreement.

5.4 Ongoing Obligations During Construction

Throughout the construction process, the Owners or their consultant are required to, among other things:

- (a) have a representative on site, as required, during installation of infrastructure to manage the construction, monitor contractors, and ensure that the work is being done in accordance with this Agreement;
- (b) collect and record as-built information for the Municipal Improvements;
- (c) arrange for erosion and sedimentation control measures as required;
- (d) for any deviations from the approved Engineering Drawings, as deemed necessary by the City and in accordance with Volume 1 of the Standards, prior to construction of affected infrastructure, one of the formats listed below should be chosen, as determined by the Engineer:
  - (i) Redlines, or
  - (ii) In-Field Design Changes Form;
- (e) communicate any deviations from the approved Engineering Drawings to the appropriate City inspectors;
- (f) notify the City prior to the construction of significant items such as, but not limited to, hot taps, joint restraints, thrust blocks, trails through natural tree stands, playgrounds, root barriers, boulevard trenching;
- (g) ensure that copies of the approved Engineering Drawings and any Redlines, either digital or printed, are on site at all times during the construction of the Municipal Improvements;

- (h) provide copies of approved Redlines to the City during Business Hours prior to constructing affected infrastructure, as required by the City; and
- (i) have on site copies of utility Crossing Agreements that permit the Municipal Improvements to be constructed across, or be located on, the utility right-of-way if a Municipal Improvement is crossing a utility right-of-way or located on a utility right-of-way.

**5.5 Role of the City During Construction**

The role of the City during the construction process is for audit purposes, and includes, among other things:

- (a) ongoing site visits and monitoring in order to verify that the work is in accordance with the Standards and the Engineering Drawings;
- (b) monitoring and enforcing erosion and sedimentation control measures; and
- (c) the City agrees to provide notice, using reasonable efforts, to the Owners or the representative as it becomes aware of deficient work that may result in the final product not being accepted by the City.

**5.6 Warranty Periods**

- (a) The provisions of this Article 5.6, Article 5.7, and Article 5.8 do not apply to any Municipal Improvements for which Schedule “D” indicates that an FAC will not be issued, as those Municipal Improvements do not require a Warranty Period.
- (b) The Warranty Period for a Municipal Improvement shall:
  - (i) begin on the date on which the Municipal Improvement passes CCC inspection, provided that a complete CCC application is submitted to the satisfaction of the City within the Inspection Expiry Period as outlined in Article 6.5; and
  - (ii) end on the date that the FAC is issued.
- (c) Despite the provisions of Articles 5.6(a) and 5.6(b), a Warranty Period may commence or end at an earlier date, at the sole discretion of the City, and if notice of the decision is issued in writing. The minimum Warranty Period length for each Municipal Improvement is specified in Schedule “D”.

**5.7 Responsibilities Before and During the Warranty Period**

During the Warranty Period for a Municipal Improvement, and during the time period before a Warranty Period begins, the Owners are responsible for:



- (a) the routine operation of the Municipal Improvement, with the exception of the following:
  - (i) the City will be responsible for snow clearing and seasonal sweeping of all roads once they are open to traffic;
  - (ii) EPCOR will conduct routine operation of permanent drainage infrastructure, excluding flushing of sewers, once the drainage system is in service;
  - (iii) EPCOR will conduct routine operation of permanent water infrastructure following Commissioning of the system; and
  - (iv) EPCOR D&T will conduct routine operation of the Electrical Distribution System following energization of the system.

and;

(b) the maintenance of the Municipal Improvement, which includes repairing all damage and deficiencies that affect safety, operation, functionality, or design, as determined by the City, including any damage that may be caused by third parties, unless the damage or deficiency has been caused by the installation of Telecommunications Infrastructure as outlined in Article 6.15 or damage that may be caused by the installation of infrastructure completed through a Municipal Improvements Agreement (MIA) further to a Development Permit. The Owners shall repair any damage or deficiency within thirty (30) days of written notification from the City, with the exception of hydrants which must be repaired within twenty-one (21) days for fire protection. If the Owners fail to correct any deficiencies within the timelines above, the City may draw on the Security in accordance with Article 3, and use the funds to do any work necessary to correct the deficiencies; and

(c) any costs for repairs that require the depressurization of a water main. The repairs must be completed by EPCOR. The Owners will be invoiced for costs related to labour, materials, testing, inspection, and administration related to the repairs. The Owners agree to pay EPCOR within thirty (30) days of being invoiced for the repairs. If the Owners fail to pay the invoice within the timelines above, the City may draw on the Security to pay the amount owed to EPCOR.

#### 5.8 Responsibilities After the Warranty Period (after FAC)

Once an FAC for a particular Municipal Improvement is issued, or is deemed to have been issued:

- (a) the Warranty Period ends for the Municipal Improvement;
- (b) the City assumes full responsibility for the routine operation of the Municipal Improvement, if this responsibility has not already transferred to the City as outlined in Article 5.7(a);
- (c) the City assumes full responsibility for the ongoing maintenance of the Municipal

Improvement;

- (d) the Owners are relieved of all obligations related to construction, maintenance, and operation of the Municipal Improvement under this Agreement;
- (e) the Owners are responsible for the costs to excavate and restore the road for any mainstops found to be closed, but the Owners responsibility ends once all the Security has been released; and
- (f) despite any other terms within this Agreement, where a Municipal Improvement requires repair during its Warranty Period, the City reserves the right to extend the maintenance period of the Municipal Improvement, for up to two (2) years. The Owners shall:
  - (i) complete the repair within thirty (30) days of written notification from the City;
  - (ii) only be required to repair the portion of the Municipal Improvement that failed, provided that the portion of the Municipal Improvement that failed was repaired during the Warranty Period;
  - (iii) complete the repair to the satisfaction of the City;
  - (iv) provide Security specifically for the repair, upon which the remainder of Security may be released according to Article 3.9; and
  - (v) notwithstanding Article 5.8(f), the Owners will not be required to complete any repairs for failures to Municipal Improvements that contain landscaping.

#### 5.9 Transfer of Ownership of Municipal Improvements

Unless stated otherwise in Schedule “D”, ownership of the Municipal Improvements transfers from the Owners to the City as follows:

- (a) unless otherwise agreed to by the Owners and EPCOR under a separate agreement, water infrastructure becomes owned by EPCOR upon Commissioning of the system;
- (b) electrical distribution infrastructure becomes owned by EPCOR D&T upon energization of the system;
- (c) street lighting infrastructure and landscaping becomes owned by the City upon issuance of the FAC for the applicable Municipal Improvement; and
- (d) ownership of all other infrastructure transfers from the Owners to the City or EPCOR, as applicable, upon issuance of the CCC for the applicable Municipal Improvement.

#### 5.10 Construction Methods

The Owners or their consultants, contractors, or agents are entitled to construct and warranty the Municipal Improvements using any methods or processes available to them, but they must act in accordance with this Agreement, the Engineering Drawings, and the edition of the Standards in effect at the time the Engineering Drawings are approved by the City. The City shall not impose specific construction methods or processes on the Owners unless, in the opinion of the City, there is a risk to health and safety, or existing infrastructure or City-owned assets.

5.11 Property Rights

The Owners represent that they have, or will have, all property rights necessary to construct, warranty, and operate the Municipal Improvements including, where necessary, easements, utility rights-of-way, and restrictive covenants on lands of which they are not the registered owners. The Owners are solely responsible for this requirement, and the City shall have no obligations related to obtaining these property rights.

5.12 Private Utilities

- (a) The Owners are solely responsible for the coordination of the installation of all Private Utilities, including, but not limited to, cable television, telecommunications, and gas. The Owners are also responsible for all costs of installation, design and fees, and they agree to indemnify the City from any and all costs, penalties, claims or actions resulting from the design or installation of any Private Utilities.
- (b) The City authorizes the installation of the Private Utilities under this Agreement if done so within two (2) years of execution of this Agreement, or longer at the discretion of the Engineer. Otherwise a ULA will be required.

5.13 Traffic Control Devices

The Owners agree to pay the City any amounts, plus applicable GST, equal to the City's cost for the installation of any traffic control devices required for the development within thirty (30) days after the City makes a written request to do so. Traffic control devices include, but are not limited to, traffic signs, and pavement markings. If these amounts are not paid to the City within thirty (30) days, the City may draw on the Security in accordance with Article 3 for this purpose.

5.14 Pre-Existing Infrastructure

- (a) During any work undertaken under this Agreement, the Owners shall minimize damage to, and interference with, all pre-existing infrastructure or areas that may be affected, whether on the Development Lands or any adjacent lands. Upon completion of the work, the Owners shall restore all damaged infrastructure or areas to the condition, as nearly as possible, in which they existed prior to the commencement of the work, reasonable wear and tear excepted. For the purposes of this Article, the term infrastructure shall include, but is not be limited to, existing landscaped areas, ravine areas even if in a natural state, and any Municipal Improvements for

which an FAC has already been issued.

(b) The Owners shall, at their sole expense, remove, relocate, or abandon any pre-existing municipal improvements if requested to do so by the City where it is required to do so in order to complete the construction of Municipal Improvements. The removals, relocations, and abandonments shall be performed by the Owners to the satisfaction of the City, and in accordance with this Agreement, the Engineering Drawings, and the Standards.

(c) If the Owners fail to meet the obligations of this Article within thirty (30) days, or longer at the discretion of the Engineer, of receipt of written notification, the City may do all the work necessary to the pre-existing infrastructure, and may draw on the Security in accordance with Article 3 for this purpose.

5.15 Service to Existing Areas

At all times during construction, the Owners shall maintain existing services, or provide alternative means of providing services, to buildings or areas necessarily disrupted by the Owners in carrying out the construction. This includes, but is not limited to, maintaining water, sewer, power, alternative power feeds (loops), and physical access to buildings or areas for general use, for the collection of refuse and recyclables, and for police and fire protection.

5.16 Unlit Roads and Sidewalks

If a CCC has been issued for the Paved Roads, Sidewalks, Curb and Gutter or the Separate Sidewalks, the Owners shall take all reasonable steps to ensure that the roads and sidewalks are not open for use by the public until the Street Lighting System is operational and energized to the satisfaction of the City. Reasonable steps will include, but not be limited to, the posting of clear signage at the entrance to unlit roads and sidewalks indicating that the roads and sidewalks are open for construction traffic only, and are not open for public use. For the purposes of this Article, being open for use by the public does not include use by:

- (a) the Owners and their invitees;
- (b) the City and its employees or agents;
- (c) anyone engaged in the construction of municipal infrastructure as required by this Agreement or any other agreement with the City; or
- (d) the owners of land abutting the unlit roads or sidewalks and their invitees.

5.17 Pipeline Rights-of-Way

(a) The Owners are responsible for ensuring that all surface disturbances in the vicinity of any pipeline rights-of-way are undertaken in accordance with the Pipeline Act RSA 2000, Chapter P-15, as amended, the requirements of the Energy Resources Conservation Board and the City's Interim Guidelines for Pipeline Corridors. Any and all cost incurred in ensuring that the

requirements of the Act, Board, or Guidelines are met shall be borne solely by the Owners.

(b) The Owners shall, at their sole cost, demarcate the alignment of all pipelines prior to any surface disturbance being undertaken within or near pipeline rights-of-way.

5.18 Encroaching Improvements

If the Owners intend to construct any improvements other than those described in Schedule "D" on a public highway, road allowance, or parkland (the "Encroaching Improvements"), they shall obtain the applicable written approval from the City prior to commencing construction of the Encroaching Improvements. If the Encroaching Improvements are constructed in whole or in part by the Owners without obtaining the City's approval, the City may, in its sole discretion, draw on the Security in accordance with Article 3 for the purpose of removing the Encroaching Improvements.

5.19 Rights of Entry

(a) The Owners grant the City a right to enter the Development Lands for the purpose of carrying out its duties and obligations in accordance with this Agreement.

(b) The City grants the Owners right of entry to the applicable lands owned by the City for the construction or installation of Municipal Improvements, and any other obligations the Owners are required to satisfy under this Agreement, for as long as this Agreement is in effect. This right-of-entry does not relieve the Owners of its obligation to obtain an OSCAM Permit when required.

(c) In the event that the necessary easements, utility rights-of-way, restrictive covenants and encroachments required by the City for the Municipal Improvements have not been registered at the Land Titles Office, and operation of the Municipal Improvements are transferred to the City as set out in Article 5.7, the Owners grant the City permission to enter the Development Lands, and any other lands the Municipal Improvements have been constructed upon, for the purposes of operating the Municipal Improvements in accordance with Article 5.7.

5.20 Remediation of Municipal Improvements

(a) In the event the Owners remove, alter or damage a Municipal Improvement that has been constructed and received an FAC (the "Altered Municipal Improvement") under this Agreement, the Owners are obligated to notify the City and reconstruct the Altered Municipal Improvement to the City's satisfaction.

(b) When the Owners notify the City of the removal, alteration or damage to the Altered Municipal Improvement, the City will determine whether the Owners will be required to obtain a CCC and FAC for the Altered Municipal Improvement.

(c) If an FAC is required for the Altered Municipal Improvement, as outlined in Article 5.20(b), then:

- (i) the Warranty Period shall be determined by the City, but is not to exceed two (2) years, and shall be in length equal to or lesser than Warranty Periods for comparable Municipal Improvements;
- (ii) despite the terms of Articles 3.1, 3.2, and 3.9, if the Owners have completed all their obligations under this Agreement, excluding an FAC for the Altered Municipal Improvement, the City will allow the Security to be reduced down to an amount equal to the cost to repair the Altered Municipal Improvement plus fifteen percent (15%) for engineering, testing and administration (the "Altered Municipal Improvement Holdback Amount"), with the Altered Municipal Improvement Holdback Amount being a minimum amount of \$10,000.00, and the Altered Municipal Improvement Holdback Amount will be at the discretion of the Engineer, but shall not exceed the amount calculated in accordance with this Article 5.20(c)(ii); and
- (iii) in the event that there are other Holdback Amounts listed in this Agreement, the City will allow the Security to be reduced to the sum of the applicable Holdback Amounts and the Altered Municipal Improvement Holdback Amount.

**5.21 Development Permits**

(a) Despite the terms of Article 5.9, in the event a development permit has been issued for a development within, or in close proximity to, the Development Lands, where:

- (i) the development permit requires the removal of a portion of a Municipal Improvement; and
- (ii) the Municipal Improvement has not transferred to the City as outlined in Article 5.9;

the Owners agree to allow the City, or its designate, to remove a portion of the Municipal Improvement in order to fulfill the obligations of the development permit.

(b) Where the City, or its designate, has removed a portion of the Municipal Improvement in accordance with this Article, the Owners shall not be required to submit Redlines to the Engineer to reflect the removal of the portion of the Municipal Improvement, and the Warranty Period for that portion of the Municipal Improvement shall be terminated.

(c) Despite the terms of Article 5.21(b), the Owners agree to document the removal or missing portion of the Municipal Improvement on the as-built drawings.

**ARTICLE 6 CCC AND FAC PROCESS**

6.1 For the purposes of Article 6, the roles and responsibilities of the City may be fulfilled by representatives from an applicable City department, EPCOR, or EPCOR D&T, as appropriate in each

situation. In addition, the roles and responsibilities of the Owners under Article 6 may be fulfilled by their employees, consultants, contractors or agents, as appropriate.

### CCC PROCESS

#### 6.2 Owners CCC Pre-Inspection

Upon completion of construction of a Municipal Improvement, and prior to requesting a CCC inspection from the City, the Owners shall perform a pre-inspection, and prepare a pre-inspection report, to ensure that the site is ready for inspection and the Municipal Improvement is constructed in accordance with this Agreement.

#### 6.3 CCC Inspection Process

- (a) The Parties agree that the purpose of the CCC inspection is to ensure that a Municipal Improvement has been constructed in accordance with the Standards and the Engineering Drawings, and is operational, functional, and safe.
- (b) Upon completion of an acceptable CCC pre-inspection for a Municipal Improvement as outlined in Article 6.2, the Owners shall contact the City in writing, either electronically or printed, to request a CCC inspection. The request must state that the pre-inspection has been completed and the site is ready for inspection, and must also include the items listed in Schedule "G" that are required in conjunction with a request for inspection.
- (c) Within thirty (30) days after receiving a complete written request for a CCC inspection, the City shall make an on-site inspection of the Municipal Improvement, weather and ground conditions permitting, and shall provide a CCC Deficiency List to the Owners within two (2) weeks after the inspection, unless otherwise mutually agreed upon in writing (either electronically or printed). The Owners and their contractors, employees, consultants, and agents have the right to attend the inspection. The City shall notify the consultant at least three (3) days prior to the inspection, unless otherwise mutually agreed upon in writing.
- (d) If the City is satisfied that no deficiencies exist that will affect the operation and functionality of the Municipal Improvement, and that no deficiencies exist that will create an unsafe condition, then the CCC inspection shall be approved and the Owners shall then apply for the issuance of the CCC as outlined in Article 6.5. The final determination of whether a deficiency affects operation, functionality, or safety is at the sole discretion of the City. Refer to the Inspector's Manuals for more information on deficiencies that could affect operation, functionality, or safety.

#### 6.4 CCC Repair and Reinspection Process

- (a) If the City finds deficiencies during a CCC inspection that affect operation, functionality, or safety, then the Owners shall:

- (i) repair the deficiencies as outlined in Article 5.7; and
- (ii) within six (6) months of receiving the CCC Deficiency List, perform another pre-inspection as outlined in Article 6.2, and contact the City in writing to request a reinspection as outlined in Article 6.3.

(b) The City may, in its sole discretion, accept that some deficiencies are minor, and therefore do not need to be repaired until prior to FAC inspection. Within thirty (30) days after receipt of a written request for a reinspection, the City shall perform a reinspection, weather and ground conditions permitting, and shall provide a revised CCC Deficiency List to the Owners within two (2) weeks after the reinspection, unless otherwise mutually agreed upon in writing. With the exception of any Municipal Improvements that contain landscaping, the revised CCC Deficiency List cannot include new deficiencies if the request for reinspection is received within six (6) months of the date of the previous CCC Deficiency List. The Owners and their contractors, employees, consultants, and agents have the right to attend the reinspection. The City shall notify the consultant at least three (3) days prior to the reinspection, unless otherwise mutually agreed upon in writing. This process shall continue until all noted deficiencies have been rectified and the CCC inspection is approved by the City, at which point the Owners shall then apply for the issuance of the CCC as outlined in Article 6.5.

**6.5 CCC Application and Issuance**

- (a) After approval of a CCC inspection or reinspection for a Municipal Improvement, and within the Inspection Expiry Period as outlined in Article 6.11, and prior to the deadlines in Article 5.3, the Owners shall submit a CCC application to the Engineer. The application shall include:
- (i) a copy of the approved inspection report;
  - (ii) all applicable tests results and supporting documents including as-built drawings in accordance with Schedule “G”;
  - (iii) certification from a Professional Engineer or Landscape Architect that the Municipal Improvement has been constructed in accordance with this Agreement; and
  - (iv) any other requirements that may be applicable to the Municipal Improvement, including, but not limited to, those requirements outlined in the Standards, on the Engineering Drawings, and in Schedule “G”.
- (b) Despite of any other terms in this Agreement, a CCC will not be issued, nor be deemed to have been issued:
- (i) if the Inspection Expiry Period for a Municipal Improvement has elapsed as outlined in Article 6.11, unless otherwise extended by the Engineer;



- (ii) for a Municipal Improvement until a complete CCC application has been submitted as outlined in Article 6.5(a), and has been reviewed and accepted by the City; or
  - (iii) for any Municipal Improvement until all easements, utility rights-of-way, restrictive covenants and encroachments required by the City with respect to the Municipal Improvement have been registered at the Land Titles Office. The Owners shall register these documents for the benefit of the City, in form and content satisfactory to the City's Legal Services Branch or EPCOR's Land Administration Department.
- (c) If test data within the CCC application requires repairs to the Municipal Improvement as per the Standards, and as outlined in the Inspector's Manuals, then the Owners shall follow the repair and reinspection process as outlined in Article 6.4.
- (d) When the City is satisfied that the requirements of this Article have been met for a Municipal Improvement, the City shall issue the CCC effective the date of the approved CCC inspection or reinspection, as applicable.

#### FAC PROCESS

##### 6.6 Early FAC Application

Despite any other terms in this Agreement, the City, in its sole discretion, may accept written application for an FAC prior to the expiry of the Warranty Period for any Municipal Improvement if the Warranty Period is eligible to expire in the months of November to March, inclusive.

##### 6.7 Owners FAC Pre-Inspection

Once a Municipal Improvement becomes eligible for FAC, subject to Article 6.6, and prior to requesting an FAC inspection from the City, the Owners shall perform a pre-inspection, and prepare a pre-inspection report, to ensure that the site is ready for inspection, the Municipal Improvement has been maintained in accordance with this Agreement, and that there are no deficiencies in the Municipal Improvement.

##### 6.8 FAC Inspection Process

- (a) An FAC inspection process must be completed for each Municipal Improvement unless Schedule "D" states that no FAC will be issued for the Municipal Improvement.
- (b) The Parties agree that the purpose of the FAC inspection is to ensure that the Municipal Improvement:
  - (i) is still operational, functional, and safe based on a detailed inspection;
  - (ii) has been constructed and maintained in accordance with this Agreement, the

Engineering Drawings, and the Standards; and

(iii) does not contain any deficiencies, with the exception of normal wear and tear.

(c) Within thirty (30) days, or prior to, a Municipal Improvement becoming eligible for FAC, subject to Article 6.6, and after completion of an acceptable FAC pre-inspection as outlined in Article 6.7, the Owners shall contact the City in writing (either electronically or printed) to request an FAC inspection. The written request shall state that the pre-inspection has been completed and the site is ready for inspection, and must also include the items listed in Schedule "G" that are required in conjunction with a request for inspection.

(d) Within thirty (30) days after receiving a complete written request for an FAC inspection, the City shall make an on-site inspection, weather and ground conditions permitting, of the Municipal Improvement, and shall provide an FAC Deficiency List to the Owners within two (2) weeks after the inspection, unless otherwise mutually agreed upon in writing. The Owners and their contractors, employees, consultants, and agents have the right to attend the inspection. The City shall notify the consultant at least three (3) days prior to the inspection, unless otherwise mutually agreed upon in writing.

(e) If the City is satisfied upon carrying out the inspection and no deficiencies are identified, then the FAC inspection shall be approved and the Owners shall then apply for issuance of the FAC as outlined in Article 6.10.

6.9 FAC Repair and Re-Inspection Process

(a) If the City finds deficiencies during an FAC inspection, then the Owners shall:

(i) repair the deficiencies as outlined in Article 5.7; and

(ii) within six (6) months of receiving the FAC Deficiency List, perform another pre-inspection as outlined in Article 6.7, and contact the City in writing to request a reinspection as outlined in Article 6.8.

(b) Within thirty (30) days after receipt of a written request for a reinspection, the City shall perform a reinspection, weather and ground conditions permitting, and shall provide to the Owners a revised FAC Deficiency List within two (2) weeks after the reinspection, unless otherwise mutually agreed upon in writing. With the exception of any Municipal Improvements that contain landscaping, the revised FAC Deficiency List cannot include new deficiencies if the request for reinspection is received within sixty (60) days of the date of the previous FAC Deficiency List. The Owners and their contractors, employees, consultants, and agents have the right to attend the reinspection. The City shall notify the consultant at least three (3) days prior to the reinspection, unless otherwise mutually agreed upon in writing.

(c) The process outlined in this Article 6.9 shall continue as often as is necessary until all deficiencies have been rectified and the FAC inspection has been approved by the City, at which

point the Owners shall then apply for the issuance of the FAC as outlined in Article 6.10.

6.10 FAC Application and Issuance

(a) After approval of an FAC inspection or re-inspection for a Municipal Improvement, and within the Inspection Expiry Period as outlined in Article 6.11, the Owners shall submit an FAC application to the Engineer. The application shall include:

- (i) a copy of the approved inspection report;
- (ii) all applicable tests results and supporting documents including final as-built drawings;
- (iii) certification from a Professional Engineer or Landscape Architect that the Municipal Improvement has been constructed and maintained in accordance with this Agreement, with the exception of normal wear and tear; and
- (iv) any other requirements that may be applicable to the Municipal Improvement, including, but not limited to, those requirements outlined in the Standards, on the Engineering Drawings, and in Schedule "G".

(b) Despite any other terms in this Agreement, an FAC will not be issued, nor be deemed to have been issued:

- (i) if the Inspection Expiry Period for a Municipal Improvement has elapsed as outlined in Article 6.11, unless otherwise extended by the Engineer; or
- (ii) for a Municipal Improvement until a complete FAC application has been submitted as outlined in Article 6.10(a), and has been reviewed and accepted by the City.

(c) If test data within the FAC application requires repairs to the Municipal Improvement as per the Standards, and as outlined in the Inspector's Manuals, then the Owners shall follow the repair and reinspection process as outlined in Article 6.9.

(d) When the City is satisfied that the requirements of this Article have been met for a Municipal Improvement, the City shall issue the FAC.

PROVISIONS APPLICABLE TO BOTH CCC AND FAC

6.11 Inspection Expiry Period

(a) Despite any other terms in this Agreement to the contrary, if the Owners have not submitted a complete and accurate CCC or FAC application to the satisfaction of the City within eight (8) months of a successful inspection or re-inspection, or within one (1) month for any

Municipal Improvements that contains landscaping (the "Inspection Expiry Period"), then:

- (i) the previous inspection or re-inspection will be deemed expired, unless extended by the Engineer;
  - (ii) the Owners will be required to contact the City in writing to obtain a new inspection approval; and
  - (iii) the Warranty Period will not start until a new inspection is approved by the City.
- (b) An inspection can be extended by the Engineer, for up to six (6) months, if:
- (i) the Owners have submitted for an improvement that requires an Operation and Maintenance (O&M) Manual;
  - (ii) the improvement involves a PAC cost submission; or
  - (iii) determined by the Engineer, in its sole discretion.

6.12 Conditions Preventing Inspection

Despite any other terms in this Agreement to the contrary:

- (a) if, in the sole opinion of the City, weather or ground conditions are so adverse as to prevent the completion of an on-site inspection of a Municipal Improvement, the City shall, within thirty (30) days after receipt of a request for an inspection, notify the Owners in writing that an inspection cannot presently take place, and shall, when weather and ground conditions allow, arrange for a new inspection date within thirty (30) days; or
- (b) if the City requires operational crews to complete an on-site inspection of a Municipal Improvement, and in the event of an emergency, operational crews are not available to complete the on-site inspection of a Municipal Improvement, the City shall, within thirty (30) days after receipt of a request for an inspection, notify the Owners in writing that an inspection cannot presently take place, and shall, when operational crews are available, arrange for a new inspection date within thirty (30) days.

6.13 Deemed Inspection Approval

- (a) If, within thirty (30) days of receiving a written request, the City does not:
  - (i) complete an inspection, weather and ground conditions permitting, and operational crews are available;
  - (ii) notify the Owners in writing that an inspection cannot presently take place; nor

(iii) provide a CCC or FAC Deficiency List within two (2) weeks after an inspection, then the Owners may escalate the issue by contacting the General Supervisor, Development Servicing Agreements in writing.

(b) If, within fourteen (14) days of contacting the General Supervisor, Development Servicing Agreements, the City does not:

- (i) complete an inspection, weather and ground conditions permitting, and operational crews are available;
- (ii) notify the Owners in writing that an inspection cannot presently take place; nor
- (iii) provide a CCC or FAC Deficiency list, as the case may be,

then the inspection shall be deemed approved, and the Owners may then proceed with submitting the CCC or FAC application as outlined in Articles 6.5 or 6.10, respectively, and the CCC or FAC application shall then contain the Owners' pre-inspection report in lieu of an approved inspection report.

6.14 Deemed CCC/FAC Issuance

(a) If the Owners submit a complete CCC or FAC application in accordance with Articles 6.5 or 6.10, respectively, and within the Inspection Expiry Period, then the City shall review the application and provide a decision within sixty (60) days of receipt of the complete application, unless the CCC or FAC application is submitted between April 1 and October 31, then the City shall have ninety (90) days to provide a decision.

(b) If the City does not provide a decision on a completed CCC or FAC application within the timelines outlined in Article 6.14(a), then the Owners may escalate the issue by contacting the General Supervisor, Development Servicing Agreements in writing.

(c) Despite the terms of Articles 6.5(b)(ii) and 6.10(b)(ii), if within fourteen (14) days of contacting the General Supervisor, Development Servicing Agreements, the City still has not provided a decision, then the CCC or FAC shall be deemed approved.

6.15 Deficiencies Outside the Owners' Control

Where a Municipal Improvement has been constructed and has been inspected by the City, but the Municipal Improvement:

(a) is not operational due to deficiencies in a portion of the existing system that was not constructed by the Owners;

(b) has sustained damage or is deficient solely resulting from the installation of Telecommunications Infrastructure installed or being installed by a party other than the Owners,

as determined by the Engineer; or

- (c) has been affected as a result of the City undertaking work on the Municipal Improvement;
- (d) has been damaged by construction pursuant to a MIA pursuant to Article 5.7 (b);

then the City shall approve the inspection unless other deficiencies also exist for the Municipal Improvement.

6.16 Consultant-Prepared CCC/FAC Deficiency List

Despite the terms of Articles 6.3, 6.4, 6.8, 6.9, and 6.13, the Parties may agree that the Owners or their consultant will prepare the CCC or FAC Deficiency List for an inspection. In such cases, the CCC or FAC Deficiency List shall be submitted to the City within fourteen (14) days, and the City shall verify the acceptability of the CCC or FAC Deficiency List within fourteen (14) days after submission.

6.17 If the Owners have not completed construction of the Municipal Improvements, have not repaired deficiencies, or have not applied for the CCCs or FACs within the time periods set out in this Agreement, the City may draw on the Security in accordance with Article 3 for these purposes.

6.18 In the event the Owners, their employees, or agents cause damages to new or existing infrastructure while rectifying deficiencies identified on a CCC or FAC Deficiency List, the Owners shall repair any and all damage.

## **ARTICLE 7 SALES TAXES**

7.1 Despite any other provisions in this Agreement, the Owners agree that payment of all Sales Taxes arising out of this Agreement, whether charged to the City or some third party, will be the responsibility of the Owners. The Owners hereby agree to indemnify the City from and against Sales Taxes. Further, the Owners agree that, upon written demand by the City, they shall pay to the City the net cost of any Sales Taxes that may be charged to, or paid by, the City.

7.2 In addition to amounts payable as required by Article 7.1, the Owners agree that if the City is charged, levied or assessed Sales Taxes with respect to the City's acceptance of the previously installed Cost Shareable Infrastructure from which the Development Lands will benefit, the Owners shall pay to the City the Owners' proportionate share of any Sales Taxes within thirty (30) days of receiving written demand. The Owners proportionate share will be calculated by the City in the same manner that was used to calculate the amounts payable by the Owners in Articles 1.1(b) and 1.1(c). The Parties agree that the City's calculation of the proportionate share payable by the Owners shall be final and binding on the Owners.

7.3 In addition to any other remedies available under this Agreement, or at law, if the Owners do not pay the amounts as required in Articles 7.1 or 7.2, then those amounts will be considered to be funds owing and collectible in a similar manner to any other debt owing by the Owners to the City.

## **ARTICLE 8    ARBITRATION**

### 8.1    Matters Subject to Arbitration

If a dispute arises between the Parties in relation to Articles 6.3, 6.4, 6.8, and 6.9, then the dispute may be settled by arbitration in accordance with the following terms and conditions. It is agreed that only the matters described in Articles 6.3, 6.4, 6.8, and 6.9 may be arbitrated.

### 8.2    Terms of Arbitration

- (a)    The party wanting to refer the dispute for arbitration (the "Disputing Party"), shall notify the other party (the "Other Party") in writing of the nature and extent of the dispute.
- (b)    Within fifteen (15) days of receipt of the notice required in Article 8.2(a), the Other Party shall advise the Disputing Party in writing of all matters referred to in the initial notice, except those for which the Other Party admits responsibility and proposes to take corrective action. The Other Party shall then take corrective action within a period of time agreed to between the Parties.
- (c)    The terms of reference for arbitration will be those matters referred to in the initial notice which remain in dispute.
- (d)    Immediately following identification of the terms of reference, the Parties shall meet and attempt to appoint a sole arbitrator. If the Parties refuse to meet, or having met, are unable to agree on a single arbitrator, then within fifteen (15) days of written demand from either party, each party shall appoint one (1) arbitrator in writing, and the two (2) arbitrators shall, within five (5) days of their appointment, appoint a third member to be known as the Chairman of the Arbitration Committee.
- (e)    If either party fails to appoint an arbitrator, then the opposite party may apply to a Justice of the Court of Queen's Bench of Alberta to have an arbitrator appointed.
- (f)    If the two (2) arbitrators fail to appoint a Chairman, then both Parties, or either of them, may apply to a Justice of the Court of Queen's Bench of Alberta to have the Chairman appointed.
- (g)    Within fifteen (15) days of the appointment of a sole arbitrator or the Arbitration Committee, as the case may be, or within a further time period if agreed upon by both Parties, the sole arbitrator or the Arbitration Committee, as the case may be, shall resolve all matters in accordance with the terms of reference.
- (h)    The sole arbitrator or the Arbitration Committee, as the case may be, may obtain the assistance, advice, or opinions of engineers, surveyors, appraisers, or other experts as they may deem fit, and may act upon the assistance, advice, or opinions of any such individuals.
- (i)    Each of the arbitrators may provide a separate written decision with full reasons. The

decision of the majority of the Arbitration Committee will be the decision of the Arbitration Committee, but if no majority exists, then the decision of the Chairman will be considered to be the decision of the Arbitration Committee.

(j) The decision of the sole arbitrator or the Arbitration Committee, as the case may be, will be final and binding upon the Parties.

(k) Despite any provisions of the *Arbitration Act* RSA 2000, Chapter A-43, as amended, the costs of the arbitration will be determined by the sole arbitrator or the Arbitration Committee, as the case may be, and be borne by the party against which the award is made, or as otherwise determined by the sole arbitrator or the Arbitration Committee, as the case may be.

### 8.3 Matters Not Under Arbitration

Despite a matter becoming the subject of arbitration, the Parties agree:

(a) that no arbitration procedure will delay the diligent operation of the terms of this Agreement; and

(b) to, where reasonably possible, proceed with all other matters under this Agreement as if the matter being arbitrated had been settled.

### 8.4 Time Extensions Due To Arbitration

The time taken for any arbitration that further delays a party in the performance of any thing or act will be added to the time of performance, unless the sole arbitrator or the Arbitration Committee, as the case may be, find that the delay in performance was not beyond the reasonable control of the party required to perform.

## **ARTICLE 9 NOTICE**

9.1 The word "notice" in this Article 9 includes any notices, requests, demands, applications, information, statements, or other communication required or permitted to be given by either party to the other.

9.2 Each party shall sufficiently give any notice under this Agreement in writing as follows:

(a) In case of notice to the City, sent by prepaid registered mail or personally delivered in an envelope addressed to:

General Supervisor, Development Servicing Agreements  
Urban Planning and Economy  
2<sup>nd</sup> Floor, 10111 – 104 Avenue NW  
Edmonton, AB T5J 0J4

(b) In case of notice to the Owners, sent by prepaid registered mail or personally delivered in



an envelope addressed to:

"Developer Name"  
"Developer Address"  
"Developer Address"

or, if the City determines it to be more appropriate, to:

"Consultant Name"  
"Consultant Address"  
"Consultant Address"

or

(c) To any other address as any party may specify from time to time in writing to the other party.

9.3 Notice, if posted in Alberta not during a postal disruption, shall be considered to have been given on the fifth (5<sup>th</sup>) business day following the date on which the notice is mailed. Notice during a postal disruption must be personally delivered. Any notice delivered in person shall be considered to have been given on the date of actual delivery.

## **ARTICLE 10 GENERAL**

### 10.1 *Indemnification*

The Owners agree to indemnify and save harmless the City, its servants, agents, contractors, and employees, from and against any and all claims, losses, demands, payments, actions, suits, judgements, damages and expenses of every nature and kind brought or claimed against the City, its servants and agents, by any party whatsoever, which may arise directly, indirectly or incidentally, in tort and in contract, or either, out of the performance or non performance by the Owners of their obligations under this Agreement, except any claims which are caused by the wilful misconduct or negligence of the City, its officers or employees. The Owners are also responsible, and agree to indemnify the City, for any costs and expenses incurred as a result of any claim under this Article 10.1, including solicitor-client costs.

### 10.2 *Interest On Other Amounts*

Unless specified otherwise in this Agreement or otherwise agreed to by the Parties, any and all amounts owing by one party to the other:

- (a) are due thirty (30) days after the invoicing of either party by the other; and
- (b) will accrue interest at eighteen percent (18%) per year starting on the thirty-first (31<sup>st</sup>) day after the invoicing, and ending on the date of payment.

10.3 Assignment of this Agreement

This Agreement cannot be assigned unless:

- (a) the City provides consent for the assignment, and the assignment is executed between the Parties and the assignee in writing; and
- (b) the assignee has provided replacement insurance and Security as required under this Agreement, to the satisfaction of the City.

10.4 Amendments to this Agreement

This Agreement cannot be modified or amended except by an instrument in writing signed by the Parties.

10.5 Joint and Several Liability

If this Agreement is executed by more than one (1) party as the Owners, the liabilities related to all covenants, conditions, obligations and liabilities contained in this Agreement are joint and several against all executing Owners.

10.6 Other Acts and Regulations

- (a) This Agreement does not nullify, replace, circumvent, extend or modify any existing statutes, bylaws, permit conditions, or other regulations which govern development or construction within the City of Edmonton.
- (b) Furthermore, the Owners *shall* ensure that the provisions of the following Acts and their Regulations are being followed by all contractors, subcontractors, employees, consultants, and agents:
  - (i) *Occupational Health and Safety Act* RSA 2000, Chapter O-2, as amended and its Regulations;
  - (ii) *Environmental Protection and Enhancement Act* RSA 2000, Chapter E-12, as amended and its Regulations;
  - (iii) *Fisheries Act* RSC 1985, Chapter F-14, as amended and its Regulations;
  - (iv) *Navigable Waters Protection Act* RSC 1985, Chapter N-22, as amended and its Regulations;
  - (v) *Water Act* RSA 2000, Chapter W-3, as amended and its Regulations; and
  - (vi) any other applicable Acts.

10.7 Additional Obligations

The City does not represent or warrant that the obligations of the Owners under this Agreement are the only obligations related to access or servicing of the Development Lands. The City reserves the right to attach any other lawful conditions relating to servicing or access to the Development Lands as a condition of any future approval relating to the Development Lands, including, but not limited to, the right to impose an off-site levy under s. 648 of the *Municipal Government Act*, RSA 2000, Chapter M-26, as amended.

10.8 Registration on Title

The City is entitled to register a caveat under the *Land Titles Act*, RSA 2000, Chapter L-4, as amended, in respect of this Agreement against the Certificates of Title for the Development Lands. The caveat may be registered for purposes of providing notice of the responsibilities of the Parties under this Agreement. If requested by the Owners in writing, the City agrees to postpone this caveat in favour of financing related to the Development Lands. Upon compliance by the Owners with all terms of this Agreement, and upon receipt by the City of a written request, the City shall prepare the discharge of the caveat.

10.9 Other General Provisions

- (a) Whenever the singular, gender-neutral, or masculine is used in this Agreement, it will be construed as meaning the plural, feminine, or body corporate, where the context so requires.
- (b) The Parties covenant and agree to perform tasks, to issue instructions, and to execute further documents, agreements and assurances as may be necessary from time to time in order to carry out the terms of this Agreement in accordance with their true intent.
- (c) Whenever any thing or matter is to be done to the approval of, satisfactory to, acceptable to or is subject to similar determination to or by the City or its employees or officers, the City shall act reasonably and in a timely manner.
- (d) If any of the Parties condones, forgives, waives, accepts, allows, or disregards any non-observance or non-performance by any other party of any provisions of this Agreement, such shall not operate as a waiver or acceptance in respect of any provision or any subsequent non-observance or non-performance by any party of any of the provisions of this Agreement.
- (e) If one or more articles of this Agreement are declared invalid or unenforceable by a court, the article or articles will be severable from the remainder of this Agreement, and the other provisions in this Agreement remain in full force and effect.
- (f) This Agreement shall inure to the benefit of and be binding upon the Parties, their heirs, successors and approved assigns.
- (g) The Parties agree that this written instrument contains all terms agreed to between the Parties with regard to the matters in this Agreement, and that no other understandings or agreements exist between the Parties, verbal or otherwise. The Parties further agree that the background section and all schedules form an integral part of this Agreement.

(h) The validity and interpretation of this Agreement, and of each article and part within this Agreement, will be governed by the laws of the Province of Alberta.

The Parties execute this Agreement by the hands of their authorized officers as of the date first written above.

**THE CITY OF EDMONTON**  
(As represented by the General Supervisor,  
Development Servicing Agreements)

\_\_\_\_\_  
GENERAL SUPERVISOR

Approved:

Legally reviewed  
and approved to form \_\_\_\_\_  
Legal Services

As to contents \_\_\_\_\_  
Urban Planning and Economy,  
Development Servicing Agreements

**“DEVELOPER NAME”**

PER: \_\_\_\_\_

PER: \_\_\_\_\_  
[sign and affix corporate seal over signature(s)]

**SCHEDULE "A"**  
**LAND TITLE CERTIFICATES**

---

**SCHEDULE "B"**  
**THE DEVELOPMENT LANDS**

---

**SCHEDULE "C"**  
**SUMMARY OF ASSESSMENTS**

---

**SCHEDULE “D”  
THE MUNICIPAL IMPROVEMENTS**

The Owners shall construct and maintain the following Municipal Improvements in accordance with this Agreement:

<b>Municipal Improvement</b>	<b>Warranty Period</b>	<b>Inspecting and Reviewing Group</b>
1. The water distribution system including water mains, hydrants, valves, service connections, and any other related components (the “Water Distribution System”).	One (1) Year	EPCOR
2. The storm sewers and sanitary sewers, including sewers, manholes, catch basins, service connections, and any other related components (the “Storm and Sanitary Sewers”).	One (1) Year	EPCOR
3. The paved roads, sidewalks, curbs and gutters, catchbasin frames and covers, sewer manhole frames and covers, street identification signs, emergency access walkways and other related components (the “Paved Roads, Sidewalks, Curb and Gutter”).	Two (2) Years	Subdivision and Development Coordination – Transportation
4. The electrical distribution servicing facilities including primary cable, the transformers, all secondary conductors, power bases and pedestals, switching or service cubicles, service connections, and other related components (the “Electrical Distribution System”).	One (1) Year	EPCOR D&T
5. The street lighting system including all secondary conductors, luminaires, controllers, bases, poles, trench backfill and other related components (the “Street Lighting System”).	Two (2) Years	Subdivision and Development Coordination – Transportation
6. The concrete walkways (the “Walkways”).	Two (2) Years	Subdivision and Development Coordination – Transportation
7. The asphalt shared use path (the “Shared Use Path”).	Two (2) Years	Subdivision and Development Coordination – Transportation
8. The separate sidewalks (the “Separate Sidewalks”).	Two (2) Years	Subdivision and Development Coordination – Transportation



Municipal Improvement	Warranty Period	Inspecting and Reviewing Group
9. The boulevard landscaping within local road rights-of-way, which will include activities such as grading, installation of sod or seed, and planting of trees (the "Local Boulevard Landscaping").	One (1) Year	Subdivision and Development Coordination – Parks
10. The landscaping of boulevards, walkways, public utility lots, municipal reserve parcels, berms and road islands, excluding the Local Boulevard Landscaping, which will include grading, installation of sod or seed, and planting of trees and shrubs (the "Landscaping").	One (1) Year Or Two (2) Years [if the trees are 75-90mm caliper]	Subdivision and Development Coordination – Parks
11. The landscape amenities which will include installation of benches, picnic tables, waste receptacles, and other related components including concrete pads (the "Landscape Amenities").	One (1) Year	Subdivision and Development Coordination – Parks
12. The wood screen fence and chain link fencing (the "Fencing"). The Fencing must be constructed so that it is located inside the property lines of the individual lots created upon registration of the plan of subdivision for the Development Lands.	An FAC will not be issued for this improvement. The Fencing will be owned and maintained by the owners of the lots created upon subdivision of the Development Lands.	Subdivision and Development Coordination – Parks
13. The noise attenuation fencing and berms (the "Noise Attenuation Fencing"). The Noise Attenuation Fencing must be constructed so that it is located inside the property lines of the individual lots created upon registration of the plan of subdivision for the Development Lands.	An FAC will not be issued for this improvement. The Noise Attenuation Fencing will be maintained by the owners of the lots created upon subdivision of the Development Lands.	Subdivision and Development Coordination – Transportation
14. The concrete drainage swales (the "Concrete Drainage Swales").	One (1) Year	EPCOR
15. The grass drainage swales (the "Grass Drainage Swales").	One (1) Year	EPCOR
16. The permanent storm water management facility, including flow and real time control mechanisms, and all related components (the "Storm Water Management Facility").	Two (2) Years	EPCOR
17. The landscaping within the Storm Water Management Facility (the "SWMF Landscaping").	One (1) Year	Subdivision and Development Coordination – Parks
18. The interim storm water management facility and all related components (the "Interim Storm Water Management Facility").	Two (2) Years unless EPCOR decides otherwise through review of Engineering Drawings	EPCOR
19. The temporary storm water management facility and all related components (the "Temporary Storm Water Management Facility").	Two (2) Years, unless EPCOR decides otherwise through review of Engineering Drawing	EPCOR

Municipal Improvement	Warranty Period	Inspecting and Reviewing Group
20. The temporary drainage swale (the "Temporary Drainage Swale").	Two (2) Years, unless EPCOR decides otherwise through review of Engineering Drawings	EPCOR
21. The sanitary lift station, forcemain, and all related components (the "Sanitary Lift Station").	One (1) Year	EPCOR
22. The landscaping of the Sanitary Lift Station site (the "Sanitary Lift Station Landscaping").	One (1) Year	Subdivision and Development Coordination – Parks
23. The paved alleys (the "Alleys").	Two (2) Years	Subdivision and Development Coordination – Transportation
24. The temporary paved turnaround (the "Temporary Paved Turnaround"). The Temporary Paved Turnaround must have a gravel surface prior to the issuance of a CCC for the Paved Roads, Sidewalks, Curb and Gutter, and must be fully paved prior to the issuance of an FAC for the Paved Roads, Sidewalks, Curb and Gutter, or earlier at the sole discretion of Subdivision and Development Coordination.	An FAC will not be issued for this improvement. The Owners shall own and maintain the Temporary Paved Turnaround until an FAC has been issued for Paved Roads, Sidewalks, Curb and Gutter, or until a CCC has been issued for the permanent paved roads on adjacent lands that will eliminate the need for the Temporary Paved Turnaround, whichever occurs first.	Subdivision and Development Coordination – Transportation
25. The temporary gravel turnaround (the "Temporary Gravel Turnaround"). The Temporary Gravel Turnaround must be constructed prior to the issuance of a CCC for the Paved Roads, Sidewalks, Curb and Gutter, or earlier at the sole discretion of Subdivision and Development Coordination.	An FAC will not be issued for this improvement. The Owners shall own and maintain the Temporary Gravel Turnaround until a CCC has been issued for the permanent paved roads on adjacent lands that will eliminate the need for the Temporary Gravel Turnaround.	Subdivision and Development Coordination – Transportation
26. The temporary emergency access (the "Temporary Emergency Access"). The Temporary Emergency Access must be constructed prior to the issuance of a CCC for the Paved Roads, Sidewalks, Curb and Gutter, or earlier at the sole discretion of Subdivision and Development Coordination.	An FAC will not be issued for this improvement. The Owners shall own and maintain the Temporary Emergency Access until a CCC has been issued for the permanent paved roads that will eliminate the need for the Temporary Emergency Access.	Subdivision and Development Coordination – Transportation
27. The temporary drainage maintenance access for accessing the "Insert Improvement" (the "Temporary Drainage Maintenance Access"). The Temporary Drainage Maintenance Access must be constructed prior to issuance of a CCC for the "Insert Improvement", or earlier at the discretion of EPCOR.	An FAC will not be issued for this improvement. The Owners shall own and maintain the Temporary Drainage Maintenance Access until a CCC has been issued for the permanent paved roads that will eliminate the need for the Temporary Drainage Maintenance Access.	EPCOR

Municipal Improvement	Warranty Period	Inspecting and Reviewing Group
28. The temporary/interim "Insert Improvement" (the "Temporary/Interim Insert Improvement").	An FAC will not be issued for this improvement. The Owners shall own and maintain the Temporary/Interim "Insert Improvement" until a CCC has been issued for the permanent "Insert Permanent Improvement" that will eliminate the need for the Temporary/Interim "Insert Improvement".	"Insert Department"
29. The municipal reserve site (the "MR Site"). The MR site must be undisturbed, free of debris, and in a condition suitable for its intended use.	An FAC will not be issued for this improvement. The MR Site must be maintained by the Owners until a CCC has been issued, at which point maintenance is transferred to the City.	Subdivision and Development Coordination – Parks
30. The environmental reserve site (the "ER Site"). The ER site must be undisturbed, free of debris, and in a condition suitable for its intended use.	An FAC will not be issued for this improvement. The ER Site must be maintained by the Owners until a CCC has been issued, at which point ownership and maintenance is transferred to the City.	Subdivision and Development Coordination – Parks
31. The culverts and ditch re-grading (the "Culverts and Ditch Re-grading").	One (1) Year	EPCOR
32. The entrance feature (the "Entrance Feature"). The Entrance Feature must be constructed so that it is located inside the property lines of the individual lots created upon registration of the plan of subdivision for the Development Lands.	An FAC will not be issued for this improvement. The Entrance Feature will be owned and maintained by the owners of the lots created upon subdivision of the Development Lands.	Subdivision and Development Coordination – Transportation
33. The entrance feature landscaping (the "Entrance Feature - Landscaping"). The Entrance Feature - Landscaping must be constructed so that it is located inside the property lines of the individual lots created upon registration of the plan of subdivision for the Development Lands.	An FAC will not be issued for this improvement. The Entrance Feature – Landscaping will be owned and maintained by the owners of the lots created upon subdivision of the Development Lands.	Subdivision and Development Coordination – Parks
34. The (LID Items) drainage system, which will include the (LID items) and other related components (the "Bioswale").	Two (2) Years	EPCOR
35. The (LID Items) landscaping, which will include grading, installation of sod or bioswale seed, and planting of trees and shrubs (the "Bioswale Landscaping").	Two (2) Years	Subdivision and Development Coordination – Parks
36. The Private Encroaching Improvement, which will include a temporary turnaround, and temporary swale on private lots XX, Block XX (the "Private Encroaching Improvement").	An FAC will not be issued for this improvement. The Private Encroaching Improvement will be owned and maintained by the Owners, until removed and CCC issued.	Subdivision and Development Coordination - Transportation

<b>Municipal Improvement</b>	<b>Warranty Period</b>	<b>Inspecting and Reviewing Group</b>
37. Any other improvements which may be shown on the Engineering Drawings.	Two (2) Years, or less as determined by the Engineer.	To be decided as required by the Engineer

-- END OF SCHEDULE "D" --

**ARTICLE 1 ADDITIONAL PROVISIONS**

- 1.1 All references to articles within this Schedule “E” are references to Articles in the main body of the Agreement unless otherwise noted. Where there is an inconsistency between the provisions in the main body of this Agreement and the provisions of Schedule “E”, the provisions of Schedule “E” will govern.
- 1.2 For the purposes of this Agreement, Article(s) “Articles” do not apply.
- 1.3 For the purposes of this Agreement the following Article(s) are added as follows:
  - (a) ARTICLE “Article” in substitution for ARTICLE “Article” previously deleted:
  - (b) ARTICLE 3.11: Security Holdbacks

Despite the terms of Articles 3.1, 3.2, and 3.9, the City may retain portions of the Security as holdbacks for obligations related to the items outlined in the table below (the “Holdback Items”). Each Holdback Item has a corresponding holdback amount (the “Holdback Amount”) and an event that must occur before that Holdback Amount will be released (the “Holdback Release Event”). If the Owners have completed all of their obligations under this Agreement, excluding obligations related to the Holdback Items listed below, the City will allow the Security to be reduced to the sum of the applicable Holdback Amounts listed below. The City is entitled to draw on the Holdback Amounts at any time for the purpose of doing any work required to construct, maintain, operate, abandon, remove or pay for the items listed below:

<b>Holdback Item</b>	<b>Holdback Amount</b>	<b>Holdback Release Event</b>
Landscaping	\$ “10% (A), 100% (B) or 200% (C)”	Issuance of an FAC for the Landscaping
Temporary Drainage Swale	\$ “Swale Security”	Issuance of a CCC for the permanent drainage system that will eliminate the need for the Temporary Drainage Swale
Interim Storm Water Management Facility	\$ “Interim SWMF Security”	Issuance of a CCC for the next stage of the permanent storm water management facility
Temporary Storm Water Management Facility	\$ “Temporary SWMF Security”	Issuance of a CCC for the permanent drainage system which will eliminate the need for the Temporary Storm Water Management Facility

**SPECIAL PROVISIONS**

Temporary Emergency Access	\$ <b>“Access Security”</b>	Issuance of a CCC for the permanent paved roads which eliminate the need for the Temporary Emergency Access.
Temporary Gravel Turnaround	\$ <b>10,000.00</b>	Issuance of a CCC for the permanent paved roads which eliminate the need for the Temporary Gravel Turnaround.
Traffic Signals	\$ <b>“30,000.00 (A), \$300,000.00 otherwise”</b>	Payment by the Owners to the City for the Traffic Signals as outlined in Article ?? of Schedule “E”
Temporary <b>“Insert Improvement”</b>	\$ <b>“Security Amount”</b>	Issuance of a CCC for the permanent <b>“Permanent Improvement”</b> which will eliminate the need for the Temporary/Interim <b>“Insert Improvement”</b>
Private Encroaching Improvement	\$ <b>“Security Amount”</b>	Issuance of a CCC for the removal of the Private Encroaching Improvement

(c) ARTICLE 3.12: Security Reduction

Despite the terms of Articles 3.1, 3.2, and 3.9, upon issuance of CCCs for all the Municipal Improvements listed below, and upon written request from the Owners, the Security may be reduced from \$ **“Original Security Amount (Category A only)”** to \$ **“50% of Security”**;

- (a) Paved Roads, Sidewalks, Curb and Gutter;
- (b) Water Distribution System;
- (c) Storm and Sanitary Sewers; and
- (d) **Any other major improvements at the sole discretion of the Engineer.**

(d) ARTICLE 3.12: Security Reduction at CCC

Despite the terms of Articles 3.1, 3.2, and 3.9, upon issuance of all CCCs for the Municipal Improvements listed in Schedule “D”, with the exception of Landscaping, and upon written request from the Owners, the Security may be reduced from \$ **“Original Security Amount (Category B & C only)”** to \$ **“Reduced Amount”**.

(e) ARTICLE 5.22: Service Connections for Future Lots

The City acknowledges that the Owners shall be installing service connections for “storm, sanitary, water and power” services, (the “Service Connections”) for those lands identified on Schedule “B” as “Future Lots” and that such Service Connections are shown on the Engineering Drawings. The Owners acknowledge that the installation of the Service Connections is being done at the Owners’ risk and further that nothing in this Agreement obligates the Subdivision Authority for the City to approve or the administration of the City to support the subdivision of the Future Lots in the configuration shown on the Engineering Drawings. Any costs required to modify, relocate or remove the Service Connections in order to provide service connections to any lots which may ultimately be created as a result of the subdivision of the Future Lots shall be paid solely by the Owners.

- (f) ARTICLE 6.19: Despite the terms of Articles 6.5, 6.10, 6.14, and 6.15, an FAC for Paved Roads, Sidewalks, Curb and Gutter will not be issued, nor be deemed to have been issued, until the Owners have constructed, and a CCC has been issued for the Temporary Paved Turnaround.
- (g) ARTICLE 6.20: Despite the terms of Articles 6.5, 6.10, 6.14, and 6.15, a CCC for Paved Roads, Sidewalks, Curb and Gutter will not be issued, nor be deemed to have been issued, until the Owners have constructed the Temporary Paved Turnaround to at least a gravel surface, to the satisfaction of the Engineer.
- (h) ARTICLE 6.21: Despite the terms of Articles 6.5, 6.10, 6.14, and 6.15, a CCC for Paved Roads, Sidewalks, Curb and Gutter will not be issued, nor be deemed to have been issued, until the Owners have constructed, and a CCC has been issued for the Temporary Emergency Access and Temporary Gravel Turnaround.
- (i) ARTICLE 6.22: Despite the terms of Articles 6.5, 6.10, 6.14, and 6.15, a CCC for the Storm and Sanitary Sewers will not be issued, nor be deemed to have been issued, until the downstream drainage systems required for servicing the Development Lands are constructed and are operational in accordance with the Standards and to the satisfaction of the Engineer.
- (j) ARTICLE 6.23: Despite the terms of Articles 6.5, 6.10, 6.14, and 6.15, a CCC for the Storm and Sanitary Sewers will not be issued, nor be deemed to have been issued, until the Owners have constructed and a CCC has been issued for the Temporary “Temporary Drainage Improvement”.
- (k) ARTICLE 6.24: Despite the terms of Articles 6.5, 6.10, 6.14, and 6.15, a CCC for the Storm and Sanitary Sewers will not be issued, nor be deemed to have been issued, until the Storm Water Management Facility has been constructed and is operational in accordance with the Standards and to the satisfaction of the Engineer.
- (l) ARTICLE 6.25: Despite the terms of Articles 6.5, 6.10, 6.14, and 6.15, an FAC for the Paved Roads, Sidewalks, Curb and Gutter will not be issued, nor be deemed to have been issued, until a CCC has been issued for both the Water Distribution System and the

Storm and Sanitary Sewers unless the Engineer is satisfied that the improvements are sufficiently constructed, in which case the FAC can be issued.

- (m) ARTICLE 6.26: Despite the terms of Articles 6.5, 6.10, 6.14, and 6.15, an FAC for the Bioswale Landscaping will not be issued, nor be deemed to have been issued, until an FAC has been issued for the Bioswale adjacent.

1.4 For the purposes of this Agreement, the following Article(s) are amended as follows:

- (i) ARTICLE 5.3 by adding the following:

- (g) "Enter additional items that have 3 years for construction";

- (h) "Enter additional items that have 3 years for construction";

- (i) "Enter additional items that have 3 years for construction";

- (j) "Enter additional items that have 3 years for construction";

- (ii) ARTICLE "Article No.":

adding " " after "...", " in the " line.

## **ARTICLE 2 BOUNDARY IMPROVEMENTS – OWNERS AGREEMENT**

2.1 The Parties acknowledge that the Owners are to install certain Municipal Improvements under this Agreement, including "Insert Boundary Improvements" (the "Boundary Improvements"), which:

- (a) may be in excess of what is required solely for the Development Lands;
- (b) may benefit other lands (the "Benefiting Lands"); and
- (c) are not eligible for cost recovery as Cost Shareable Infrastructure under the City's Permanent Area Contribution or Arterial Roadway Assessment cost sharing systems.

2.2 The Owners agree:

- (a) that the City has no obligation, statutory or otherwise, to collect any funds on behalf of the Owners from the owners of the Benefiting Lands, or their successors, in respect to the benefit that the Benefiting Lands might receive from the Boundary Improvements;
- (b) to defend and provide counsel at their expense for the City, its agents, and employees against any action, cause of action, demand, suit, or claim made against the City by the owners



of the Benefiting Lands or their successors, arising from any failure, non-performance or delay by the Owners in constructing the Boundary Improvements; and

(c) to indemnify the City, its agents, and employees against any losses, liabilities, claims or expenses arising from any failure, non-performance or delay on the part of the Owners in constructing the Boundary Improvements.

### **ARTICLE 3 BOUNDARY IMPROVEMENTS**

#### **3.1 Collection From Benefiting Owners**

(a) The Parties acknowledge that the Owners are to install certain Municipal Improvements under this Agreement, including “Insert Boundary Improvements” (the “Boundary Improvements”), which:

- (i) may be in excess of what is required solely for the Development Lands;
- (ii) may benefit the lands shown cross-hatched on Schedule “H” (the “Benefiting Lands”); and
- (iii) will be constructed directly adjacent to the Benefiting Lands;

but are not eligible for cost recovery as Cost Shareable Infrastructure under the City’s Arterial Roadway Assessment or Permanent Area Contribution cost sharing systems.

(b) If a development permit or subdivision approval is issued by the City for the Benefiting Lands within fifteen (15) years from the date of this Agreement, and if that development or subdivision benefits from the use of the Boundary Improvements, then the City shall require the owners of the Benefiting Lands (the “Benefiting Owners”) to pay an amount in respect of the Boundary Improvements (the “Boundary Assessment”) as a condition of the development permit or subdivision approval. The Boundary Assessment will be collected by the City, and subsequently paid to the Owners, in accordance with Articles 3.3 and 3.4 in this Schedule “E”.

(c) Despite any other provisions in this Article 3, the City shall not be liable to pay to the Owners any amounts which the City is prevented by law, or otherwise, from recovering from the Benefiting Owners.

(d) Despite the amount of time it may take for the Owners to recover the Boundary Assessment, no interest will accrue on these amounts.

(e) Upon completion of construction of the Boundary Improvements, the Owners shall submit a breakdown of the actual construction costs to the City for acceptance by the Engineer.

(f) The Owners agree to pay a Boundary Improvement Fee as specified in Article 1.1(e).

3.2 City's Discretion

Despite the terms of Article 3.1 in this Schedule "E", the City has the sole discretion to not collect the Boundary Assessment from the Benefiting Owners if, in the City's opinion, the development permit or subdivision approval for the Benefiting Lands will not result in an increase in development on the Benefiting Lands. These situations may include, but are not limited to, development permits for the sake of renovations or changes in use, or block shell subdivisions or lot line adjustments.

3.3 Collection Before Construction and Cost Acceptance

(a) If the City collects the Boundary Assessment prior to the completion of construction of the Boundary Improvements and acceptance of actual construction cost by the Engineer, then the Boundary Assessment will be \$ "**Boundary Improvement Amount**", plus GST of \$ "**GST**". This amount is based on the estimated cost of construction of the Boundary Improvements, plus fifteen percent (15%) for engineering, testing, and administration, and plus ten percent (10%) for contingency.

(b) Upon completion of construction and acceptance of actual construction costs by the Engineer, the Boundary Assessment shall be adjusted to reflect the actual construction cost plus fifteen percent (15%) for engineering, testing, and administration, but only up to the amount of the estimated Boundary Assessment previously collected as outlined in subsection (a) of this Article.

(c) The City shall pay the Boundary Assessment, or such funds that the City actually collects, to the Owners after completion of construction of the Boundary Improvements, and within sixty (60) days after acceptance of actual construction cost by the Engineer.

3.4 Collection After Construction and Cost Acceptance

If the City collects the Boundary Assessment after the completion of construction of the Boundary Improvements and acceptance of actual construction cost by the Engineer, then:

(a) the Boundary Assessment shall be adjusted to reflect the actual construction cost plus fifteen percent (15%) for engineering, testing, and administration, as approved by the Engineer; and

(b) The City shall pay the Boundary Assessment, or such funds that the City actually collects, to the Owners within sixty (60) days of execution by the City of the Benefiting Owners' agreement under which the Boundary Assessment is collected.

**ARTICLE 4** TRAFFIC SIGNALS (NON-ARA able)

4.1 The Owners acknowledge that they are required to pay the full cost of the traffic signals at the intersection of "**Intersection Location**" (the "Traffic Signal Assessment"), which costs have been estimated to be \$ **300,000.00**. The installation of the traffic signals will be coordinated by the

Traffic Operations Section and the traffic signals will be constructed by the City's electrical contractor. The Owners acknowledge that timing of the installation of the traffic signals shall be at the sole discretion of the Traffic Operations Section. Once the Traffic Operations Section has determined the timing of the traffic signal installation, they will invoice the Owners either the estimated amount of **\$ 300,000.00** or a new updated estimated amount, and the Owners agree to pay such amount within thirty (30) days of being invoiced.

- 4.2 If the traffic signals have been installed within five (5) years of the date of execution of this Agreement, and if the as-constructed costs are known or can be readily determined, then the Traffic Signal Assessment will be adjusted to the as-constructed costs of the traffic signals. If the as-constructed costs are higher than the amount already paid by the Owners for the traffic signals, then the Owners shall pay the difference within thirty (30) days of being invoiced. If the as-constructed costs are lower than the amount already paid by the Owners, then the City will refund the difference to the Owners.
- 4.3 If the traffic signals have not been installed within five (5) years of the date of execution of this Agreement, a new estimate of the costs of the traffic signals will be undertaken at that time, and the Traffic Signal Assessment payable by the Owners will be adjusted to the new estimated amount. The Owners agree to pay the Traffic Signal Assessment to the City within thirty (30) days of being invoiced.
- 4.4 If the Traffic Signal Assessment has not been paid within thirty (30) days of being invoiced by the City, the City shall be entitled to draw on the Security, to pay the Traffic Signal Assessment and the provisions of Article 3 shall apply.

**ARTICLE 5 NO PARKING SIGNAGE**

- 5.1 The Owners shall pay the City for the installation of "no parking" signage along the "Location of signage" as required under "LDA File No."
- 5.2 The Owners agree to advise their purchasers of "Lot #, Block #" (the "Restricted Parking Lots") of the parking restriction indicated in Article 5.1 in this Schedule "E" prior to title transfer of the said lots.
- 5.3 The Owners agree to contractually require their purchasers of the Restricted Parking Lots to advise those purchasers' buyers of these lots of the parking restriction indicated in Article 5.1 in this Schedule "E" in those purchasers' marketing materials involving these lots.
- 5.4 The Owners agree to carry forward the obligations stated in Article 5.2 and 5.3 in this Schedule "E" until such time that the "no parking" signage has been installed by the City.

**ARTICLE 6 "DEFERRED DRAWINGS" IMPROVEMENTS**

- 6.1 The Owners and the City acknowledge that the detailed engineering drawings for the "Deferred Drawing Improvements" (the "Deferred Drawings" Engineering Drawings") have not been "submitted or approved" by the Engineer by the date of signing this Agreement.
- 6.2 The Owners and the City agree that the Owners shall have obtained the approval of the Engineer for the "Deferred Drawings" Engineering Drawings by no later than "Date" or such later date as approved by the Engineer in writing. Failure to have obtained such approval by this date is a fundamental breach of this Agreement and will allow the City to draw upon the Security for the purposes of completing and approving the "Deferred Drawings" Engineering Drawings. In the event that the City draws on the Security, the provisions of Article 3.6 shall apply.
- 6.3 Upon approval by the "Deferred Drawings" Engineering Drawings, in accordance with Article 6.2 of the Schedule "E", and upon receipt by the City of a written request from the Owners, the City will accept a reduction of the Security from \$ "Original Security Amount" to \$ "Reduction Amount".
- 6.4 The Owners agree to make any changes to the Agreement that may be necessary after the "Deferred Drawings" Engineering Drawings are fully approved.

Note: If using these articles please revise background paragraph (C) accordingly.

#### **ARTICLE 7 LAND OWNED BY OTHER OWNERS**

- 7.1 The Owners represent that they have the consent of the owners of those lands described on Certificates of Title No.'s "Insert Title Numbers" (the "Other Lands") to apply to subdivide these lands and that the owners of the Other Lands are contractually bound not to revoke that consent.
- 7.2 The Owners will take all reasonable steps to effect the subdivision of the Other Lands including, if necessary, taking legal action to enforce the obligation to consent to the subdivision application.

#### **ARTICLE 8 ENHANCED IMPROVEMENTS**

- 8.1 The Owners acknowledge that the following municipal improvements, which shall be installed or constructed pursuant to this Agreement, exceed the base level standards for development as established by the City:

- "Insert Enhanced Improvements"

(collectively the "Enhanced Improvements").

The Owners further acknowledge that the cost to the City to maintain the Enhanced Improvements will exceed the costs the City would have incurred had the Owners installed municipal improvements that met the base level standards for development. As additional consideration for being allowed to install the Enhanced Improvements on the Said Lands, which will be transferred to the ownership of the City as a public utility lot (the "City Land"), the Owners shall maintain the Enhanced Improvements in accordance with a Maintenance Agreement, in a form and content acceptable to the City's Legal Services Branch,

Corporate Services Department. The Maintenance Agreement shall be generally in accordance with the following principles:

- (a) the Owners shall be responsible both financially and physically for the ongoing maintenance, repair and replacement of the Enhanced Improvements;
- (b) maintenance levels shall be as prescribed by the City;
- (c) the Owners shall be required to maintain an appropriate level of liability insurance to indemnify the City from lawsuits or claims that might be brought against the City because of the Enhanced Improvements;
- (d) the Owners shall post cash security that shall be available to the City to cover City costs in undertaking any required maintenance of the Enhanced Improvements;
- (e) the City shall have the right to remove any or all of the Enhanced Improvements if the Owners fail to properly maintain them. The security posted by Owners shall also be available to cover City costs for removal and replacement;
- (f) the security posted by Owners shall be no less than 100% of the estimated costs of removing the Enhanced Improvements and replacing those improvements with City standard improvements; and
- (g) the Owners shall have the option, with the City's consent, to assign its maintenance responsibilities.

8.2 Notwithstanding Articles 6.5, 6.10, 6.14, and 6.15, CCCs shall not be issued for any of the Enhanced Improvements until the Maintenance Agreement is signed. In the event that the Maintenance Agreement is not signed within six (6) months of the date of this Agreement, and the Owners have constructed or installed any of the Enhanced Improvements on the City Land, the City may remove the Enhanced Improvements from the City Land and draw on the Security to cover all costs incurred by the City in removing the Enhanced Improvements.

**ARTICLE 9 ENCROACHING IMPROVEMENT ON PRIVATE LOTS**

9.1 The Owners agree and acknowledge that they shall not convey, sell or transfer, nor apply for a Development Permit, for proposed Lot \_\_\_\_, Block \_\_\_\_ until such time that the Temporary \_\_\_\_\_ is no longer required, as determined by the City, and has been removed. Failure to comply with this provision will be considered as a major breach of this Agreement and may affect the categorization of the Owners for the purposes of determining the security requirements for future development projects.

**NOTE: Add Municipal Improvement 36 for removal of Private Encroaching Improvement, and an estimated holdback amount for this temporary improvement, when using this Article.**

**ARTICLE 10 ELECTRONIC EXECUTION**

10.1 This Agreement may be executed by the Parties in one or more counterparts, and may be delivered by facsimile or electronic transmission. The Parties agree that each counterpart shall be deemed to be an original and all counterparts shall constitute one and the same Agreement.

**ARTICLE 11 LANDSCAPING TOPSOIL PENALTIES**

11.1 In the event that the topsoil installation required under this Agreement is deficient, the Owners acknowledge that the City, in its sole discretion, may agree to collect penalties for deficient topsoil installation in exchange for an expedited FAC.

**-- END OF SCHEDULE "E" --**

In this Agreement, the following terms will have the meanings set out below:

(a) **ARA Rate** (\$ per hectare) is calculated annually as follows:

$$Rate = \frac{\begin{array}{l} \text{Land Dedication Credit remaining} \\ + \text{Construction Cost to construct remaining Arterial Roads} \\ + \text{Overexpenditures remaining from the previous year} \\ + \text{Interest added to remaining Overexpenditures} \\ - \text{Trust amounts being held} \end{array}}{\begin{array}{l} \text{Aggregate Assessable Area of the remaining lands} \\ \text{to be developed within the Catchment Area} \end{array}}$$

(b) **Agreement** means this document as agreed to between the City and the Owners, including background and schedules.

(c) **Arterial Roadway** means those roadways identified as being major transportation routes between areas of the City that are required to provide access for the lands in the Catchment Area, and more specifically those identified in accordance with Bylaw 14380 as amended.

(d) **Arterial Roadway Assessment(s) or ARA** means the charge per hectare of Assessable Area which will be used towards Cost Shareable Arterial Roadway Infrastructure from which the Development Lands will benefit, plus the Owners' proportionate share of Overexpenditures incurred by Previous Developers, as determined by the City. Arterial Roadway Assessments may also, as applicable, refer to the program administered by the City for the cost sharing of Cost Shareable Arterial Roadway Infrastructure between developers.

(e) **Arterial Roadway Assessment Administration Fee** means a charge per Agreement which will be used for the administration of the Arterial Roadway Assessments.

(f) **Arterial Roadway Overexpenditure Recovery Amount** means:

- (i) in cases where the Owners are not constructing Cost Shareable Arterial Roadway Infrastructure, the Arterial Roadway Assessments paid pursuant to Article 1.1(c), minus the ARA Amount as defined in Article 2.18(a)(i);
- (ii) in cases where the Owners are constructing Cost Shareable Arterial Roadway Infrastructure, the Arterial Roadway Assessments paid pursuant to Article 1.1(c), plus the Owners Construction Costs for the Arterial Roadway, minus the ARA Amount as defined in Article 2.18(a)(i); and

- (iii) in all cases, the amount which the Owners are entitled to recover from Future Developers through the ARA program administered by the City.
- (g) **Assessable Area** means the area of a subdivision or development, excluding the areas of:
  - (i) municipal, school, and environmental reserves;
  - (ii) public utility lots for the purposes of storm water management facilities, storm and sanitary pump stations and sewers, water reservoirs and booster stations, and other similar infrastructure at the sole discretion of the engineer;
  - (iii) arterial road right-of-way, as identified in Bylaw 15101;
  - (iv) transit centres including park n' ride facilities and centres for passenger exchange/transfer;
  - (v) provincial highways;
  - (vi) Highway Penetrators, as defined in City Policy and Procedure C507, beyond that required for six lanes for arterial roads; and
  - (vii) titled pipeline or overhead power transmission line rights-of-way and any land which, at the sole discretion of the Engineer, is sufficiently encumbered by pipeline or overhead power transmission line rights-of-way that no reasonable development may take place.
- (h) **Assessments** collectively means both the Arterial Roadway Assessments and the Drainage Assessments.
- (i) **Boundary Assessment Fee** means a charge per Agreement which will be used for the administration of a Boundary Assessment.
- (j) **Business Hours** means the time from 8:00 AM to 5:00 PM, Mountain Standard Time.
- (k) **Catchment Area** means a defined area of land that will benefit from an Arterial Roadway, and more specifically those areas defined as an ARA Catchment in Bylaw 14380, as amended.
- (l) **CCC Deficiency List** means a written list, or revisions as applicable, of all deficiencies in the construction, installation, repair, restoration, or maintenance, reasonable wear and tear excepted, found during a CCC inspection for a Municipal Improvement.
- (m) **City**, for the purposes of this Agreement, means the City of Edmonton, a Municipal Corporation, and includes all City Departments, EPCOR , or EPCOR D&T where applicable.
- (n) **Commissioning** means the opening of boundary valves of a water related Municipal Improvement and allowing the Municipal Improvement to become interconnected with the public water distribution and transmission system.



(o) **Construction Completion Certificate or CCC** means a document, acceptable to the Engineer, certifying that the Municipal Improvement has been constructed in accordance with the approved Engineering Drawings and the terms of the Agreement.

(p) **Construction Cost or CC** means the amount paid by a developer to his or her contractor for the construction of municipal infrastructure for that developer's project, plus fifteen percent (15%) to cover engineering, surveying and administration expenses, but exclusive of Sales Taxes. The final determination of what is eligible as a Construction Cost will be at the sole discretion of the Engineer, and will not include additional costs due to items such as design errors or contractor errors in the field.

(q) **Cost Shareable Arterial Roadway Infrastructure** means improvements within the Arterial Roadway right-of-way that, in the opinion of the Engineer, are necessary for the proper functioning of the Arterial Roadway. In order for the above items to qualify as Cost Shareable Arterial Roadway Infrastructure, the items must form part of an Arterial Roadway as outlined in Bylaw 14380 as amended, and must be located within the road right-of-way for the Arterial Roadway. Further explanation on whether an improvement is eligible as Cost Shareable Arterial Roadway Infrastructure may be found in City Policy and Procedure C507 as amended. The final determination of whether certain infrastructure is Cost Shareable Arterial Roadway Infrastructure is at the sole discretion of the City.

(r) **Cost Shareable Drainage Infrastructure** means drainage infrastructure including, but not limited to:

- (i) storm trunk sewers, being storm sewers having an internal diameter of 1200 mm or more;
- (ii) oversized storm sewer laterals, being oversized storm sewers having an internal diameter of less than 1200 mm;
- (iii) sanitary trunk sewers, being sanitary sewers having an internal diameter of 375 mm or more;
- (iv) oversized sanitary sewer laterals, being oversized sanitary sewers having an internal diameter of less than 375 mm;
- (v) stormwater management facilities and interconnecting pipes;
- (vi) outfalls; and
- (vii) storm and sanitary lift stations.

The final determination of whether certain infrastructure is Cost Shareable Drainage Infrastructure is at the sole discretion of the City.

(s) **Cost Shareable Infrastructure** collectively means both Cost Shareable Arterial Roadway Infrastructure and Cost Shareable Drainage Infrastructure, as applicable.

(t) **Crossing Agreement** means the agreement between the developer and a utility company that

permits the developer to construct or install the Municipal Improvements above or within the vicinity of that company's utility or within the utility right-of-way.

(u) **Development Lands** means those lands within the City of Edmonton which the Owners intend to develop or subdivide in relation to this Agreement, and which are shown on Schedule "B".

(v) **Director, Risk Management** means the City employee appointed to the position of Director, Risk Management, Financial and Corporate Services of the City, or the individual authorized to act in his or her place for the purpose of administering this Agreement.

(w) **Drainage Assessments** means the charge per hectare of Assessable Area which will be used towards Cost Shareable Drainage Infrastructure from which the Development Lands will benefit, plus the Owners' proportionate share of Overexpenditures incurred by Previous Developers, as determined by the City.

(x) **Drainage Basin** means a defined area of land that will benefit from specific Cost Shareable Drainage Infrastructure, as determined by the City.

(y) **Engineer** means the City employee within Urban Planning and Economy that is authorized to approve the Engineering Drawings and administer the terms of this Agreement on behalf of the City.

(z) **Engineering Drawings** means the drawings containing the technical details associated with the design, construction, and installation of the Municipal Improvements, including any applicable Redlines. The Engineering Drawings form part of this Agreement.

(aa) **EPCOR**, means EPCOR Water Services Inc., a Corporation, and includes all EPCOR departments responsible for the Water Distribution System, Storm and Sanitary Sewers, and all related appurtenances within the City of Edmonton.

(bb) **EPCOR D&T**, means EPCOR Distribution and Transmission Inc., a Corporation, who is responsible for the Electrical Distribution System within the City of Edmonton.

(cc) **FAC Deficiency List** means a written list, or revisions as applicable, of all deficiencies in the construction, installation, repair, restoration, or maintenance, reasonable wear and tear excepted, found during an FAC inspection for a Municipal Improvement.

(dd) **Final Acceptance Certificate or FAC** means a document, acceptable to the Engineer, certifying that the Municipal Improvement has been constructed and maintained in accordance with the approved Engineering Drawings and the terms of the Agreement, and that requests that the developer's obligation to maintain the Municipal Improvement be transferred to the City.

(ee) **Fire Hall** means those facilities that are used for storage of fire fighting equipment, that provide emergency response to fires and other emergencies within a catchment area, and more specifically those identified in accordance with Bylaw 19340.

(ff) **Fire Hall Levy** means the charge per hectare of Assessable Area, as determined by the City,

which will be used toward the construction cost of Fire Halls from which the Development Lands will benefit.

(gg) **Future Developers** means any subsequent developers of land located in the same Drainage Basin or Catchment Area as the Development Lands, and in the opinion of the City is benefited by the Cost Shareable Infrastructure that the Owners are required to construct or pay for under this Agreement.

(hh) **General Supervisor, Development Servicing Agreements** means the City employee appointed to the position of General Supervisor, Development Servicing Agreements, Urban Planning and Economy of the City, or the individual authorized to act in his or her place for the purpose of administering this Agreement.

(ii) **GST** means the Goods and Services Tax as assessed, charged and levied by the Government of Canada. The City's GST registrant's number is R119326270.

(jj) **In-Field Design Changes Form** means the form provided by the City of Edmonton, used to record changes that occur during (or just prior to) construction.

(kk) **Inspection and Review Fee** means the charge per hectare of Assessable Area of the Development Lands which will be used toward the cost of the inspection, and the review of Engineering Drawings and other relevant documents related to the construction, installation, and maintenance of the Municipal Improvements.

(ll) **Inspector's Manuals** means reference documents that outline the inspection process for each applicable City department (Transportation Inspector Guidelines, Landscape Inspector Guidelines), EPCOR, and EPCOR D&T,

(mm) **Municipal Improvements** means the infrastructure required to be constructed or installed in accordance with the approved Engineering Drawings and this Agreement, and are listed in Schedule “D”.

(nn) **OSCAM Permit** means an on-street construction and maintenance permit that is required for all work on City road-right-of-ways, under any one of the following conditions:

- (i) all work that involves excavation of roadways, sidewalks, or boulevards;
- (ii) all work on freeways, river crossings, in the downtown core, or Whyte Avenue area;
- (iii) non-excavation work that interferes with traffic flows on major roadways during the hours of 6-9am and/or 3:30-6:30pm, excluding weekends and holidays;
- (iv) non-excavation work locations with a duration of more than 4 hours at any one location;
- (v) multiple non-excavation work locations, each less than 4 hours in duration, but closer than 250m apart are considered to be one location and require an OSCAM permit; and

(vi) temporary crossing of a sidewalk and/or boulevard for the purpose of accessing private lands from a public roadway.

(oo) **Overexpenditure** means the amounts, as calculated by the City, which a developer is entitled to recover from Future Developers through the PAC or ARA programs administered by the City.

(pp) **Overexpenditure Recovery Amounts** collectively means both the Sewer Overexpenditure Recovery Amounts and the Arterial Roadway Overexpenditure Recovery Amount, as applicable.

(qq) **Parkland Access Permit** is a permit that is required to use parkland for activities that are otherwise regulated, restricted, or prohibited in accordance with the City of Edmonton Parkland Bylaw, Bylaw 2202. Activities that require a Parkland Access Permit include but are not limited to:

- Temporary work spaces;
- Construction laydown areas;
- Exploratory work, such as surveys and geotechnical investigations; and
- Access through parkland for workers, materials, or equipment.

(rr) **Parties** collectively means both the City and the Owners.

(ss) **PAC Rate** (\$ per hectare) will be calculated annually as follows:

$$Rate = \left( \frac{\text{Total cost of Cost Sharable Drainage Infrastructure to be constructed or paid including interest}}{\text{Aggregate assessable area of the Drainage Basin remaining to be developed}} \right)$$

(tt) **Permanent Area Contribution or PAC** means the program administered by the City for the cost sharing of Cost Shareable Drainage Infrastructure between developers.

(uu) **Prescribed Rate** means the interest rate that is applied to unpaid Overexpenditure Recovery Amounts, and is further defined in Article 2.20.

(vv) **Previous Area** means the Assessable Area of a Previous Developer's subdivision or development.

(ww) **Previous Developer(s)** means a developer who has constructed, or paid for the construction of, Cost Shareable Infrastructure which benefits the Development Lands or the Future Developer's lands.

(xx) **Private Utilities** means those utilities required for servicing of land that will not ultimately be owned by the City, EPCOR, or EPCOR D&T.

(yy) **Public Tree Permit** is a permit that is required for all work within 5 metres of the trunk of any boulevard and open space tree, or within 10 metres of any boundary of a natural tree stand in accordance

with The City of Edmonton Public Tree Bylaw, Bylaw 18825.

(zz) **Redline(s)** means changes to the Engineering Drawings that occur after the original approval of the Engineering Drawings. These changes must follow the City's standard process for Redlines, and must be approved by the Engineer.

(aaa) **Sales Taxes** means all taxes and assessments in the nature of sales taxes, goods and services taxes or value added taxes which may be charged, levied or assessed by any Provincial or Federal government, and are further defined in Article 7.

(bbb) **Security** means an irrevocable letter of credit, Development Bond or cash in lieu of a letter of credit, provided by the Owners that will be used to secure their obligations in this Agreement.

(ccc) **Sewer Overexpenditure Recovery Amount(s)** means:

- (i) in cases where the Owners are not constructing Cost Shareable Drainage Infrastructure, the Drainage Assessments paid in the servicing agreement minus the PAC Amount [as defined in Article 2.16];
- (i) in cases where the Owners are constructing Cost Shareable Drainage Infrastructure, the Drainage Assessments paid in the servicing agreement, plus the Owners Construction Costs for the Cost Shareable Drainage Infrastructure, minus the PAC Amount [as defined in Article 2.16]; and
- (ii) in all cases, the amount which the Owners are entitled to recover under this Agreement from Future Developers through the PAC program administered by the City.

A Sewers Overexpenditure Recovery Amount will be calculated individually for each specific Drainage Basin in which the Owners are required to construct, or pay for, Cost Shareable Drainage Infrastructure in excess of what is required solely for the Development Lands.

(ddd) **Standards** means the City of Edmonton's Design and Construction Standards which contain specifications and standards by which infrastructure is designed and constructed as a condition of subdivision or development of land within the City.

(eee) **Subdivision Authority** means those employees of the City that are authorized to approve subdivision applications.

(fff) **Substantial Completion** refers to an Arterial Roadway or Cost Shareable Arterial Roadway Infrastructure being in a condition when it has been constructed, is operational, is lighted, and is open to traffic to the satisfaction of the Engineer.

(ggg) **Telecommunications Infrastructure** means Private Utilities owned by a company regulated by the Canadian Radio-television and Telecommunications Commission.

(hhh) **Utility Line Assignment or ULA** means the authorization of external agencies for installing

private utilities, by way of a permit, within public road right of way.

(iii) **Warranty Period** means the period of time between issuance of the CCC and issuance of the FAC for a Municipal Improvement, and is further defined in Article 5.6.

**-- END OF SCHEDULE "F" --**

## **CCC and FAC REQUIREMENTS**

This list is not exhaustive, and additional items may be required on a case-by-case basis at the sole discretion of the City.

**The following items are required in conjunction with the request for inspection:**

All Departments

- A readable plan highlighting the improvement (11X17), plan must be approved drawing, approved Redline or as-built depending on inspection
- Pre-inspection report prepared and signed by the consultant
- Completion of work

EPCOR (Drainage)

- Paving complete for CCC inspection of sewers

EPCOR (Water)

- Combined Water Pressure and Leakage Test results
- Chlorine Residual Test results
- Bacteriological Test results to be complete prior to field inspection
- Taste and Odour Test Results to be complete prior to, or in conjunction with, field inspection
- Paving completed or all weather access provided to all water infrastructure to the satisfaction of EPCOR and Fire Rescue Services

Subdivision and Development Coordination – Transportation

- Surface improvement clean and free of debris
- Roads and gutters water flushed immediately prior to inspection, if required
- Deficient areas marked with spray paint and cross referenced to numbers used on deficiency list and index map
- Refer to the Development Inspections Transportation Inspector Guideline for detailed requirements for each Municipal Improvement
- CCC/FAC Transportation Inspection Request Form

Subdivision and Development Coordination – Parks

- Approved drawings reflecting the current state/design of the site, to be used during the inspection
- CCC/FAC Landscape Inspection Request form
- Refer to the Development Inspections Landscape Inspector Guidelines for detailed requirements for each Municipal Improvement

**The following items are required in conjunction with the application for Construction Completion Certificate (unless otherwise specified in the corresponding Inspector's Manuals):**

EPCOR (Drainage)

- Site inspection
- CCTV recordings and logs
- Leakage Tests
- Geotechnical Compliance (Bedding test results)
- Water test (if applicable for swales)
- EPCOR Operations approval where applicable (visual inspection of large diameter sewers to follow the Standards, lift/pump stations, control manholes manual/telemetry)
- Erosion and Sedimentation Control report including weekly records confirming implementation of the ESC plan, or email confirmation of acceptance from EPCOR
- Conditions of Engineering Drawing approval have been met
- Conditions of Subdivision Approval have been met
- Conditions of provincial and federal authorities have been met and any licenses, easements or approvals for public infrastructure to be located on lands of other jurisdictions are transferred to the name of the EPCOR Water Services Inc. This includes, but is not limited to, the requirements and approvals required under the Environmental Protection and Enhancement Act, the Water Act, the Public Lands Act, the Department of National Defense Edmonton Garrison Regulations
- Operational downstream sanitary and storm systems. This does not require that the downstream system has a CCC issued, unless stated otherwise in this Agreement
- Copies of registered easement and restrictive covenant documents, franchise agreement exceptions and copies of crossing agreements
- First submission as-built drawings submitted
- Draft Operation and Maintenance (O&M) Manuals for SWMF and pump stations have been submitted and accepted (including commissioning reports and user-friendly drawing). When completion of a finalized manual prior to CCC is not feasible, then to facilitate the timely transfer of operational responsibility, EPCOR may accept an interim form of the O&M manual at CCC provided sufficient detail is provided, including first submission as-builts.
- Sets of approved Engineering Drawings have been submitted (as per approval letter)
- Asset Cost Form submitted and approved
- Rough Grading Verification letter submitted

EPCOR (Water)

- As-built quantities and Costs Report
- Request for Hydrant Flow Test
- Utility right-of-way documents and Crossing Permits
- Digital Service Details
- First submission as-built drawings

EPCOR D&T

- A letter from the Developer requesting the lot rebate and feeder rebate (pdf)
- Construction cost letter (pdf)



- Test reports (pdf)
- As-built drawings (pdf)

Subdivision and Development Coordination – Transportation

- Test results – refer to the Development Inspections Transportation Inspector Guideline for detailed testing documentation requirements for each Municipal Improvement
- Defect assessment for concrete and asphalt density calculated and accepted with submission
- Asset Cost Form
- Request for Street ID submitted to Operations
- Street lighting installed (but not energized) and shallow utility backfill compliance prior to the CCC application but not required for the CCC inspection.
- Confirmation of energization email
- CCC warranty start date shall not precede the street light energization email
- Confirmation that street lighting Construction Folder Documentation (as per section 2.4.7.5 in the City's Road and Walkway Lighting Design Manual) is approved by Operations, Signals and Street Lighting prior to Street Lighting CCC

Subdivision and Development Coordination – Parks

- Maintenance schedule
- Herbicide/pesticide application logs if applicable
- Final as-built drawings to be submitted on, or before, January 15 of the following year, after an approved CCC inspection has occurred, matching most recent approved Redline if applicable, in pdf and AutoCAD

**The following items are required in conjunction with the application for Final Acceptance Certificate:**

EPCOR (Drainage)

- Site inspection
- CCTV recordings and logs
- Mandrel Tests (if applicable)
- Erosion and Sedimentation Control report including weekly records confirming implementation of the ESC plan, or email confirmation of acceptance from EPCOR
- ESC recommendations
- Final O&M Manuals (if O&M Manuals not approved at CCC)
- Final as-built drawings submitted and approved
- Service Reports submitted and approved
- All required Redlines submitted and approved
- Any omissions at CCC stage, or any CCC conditions have been completed

EPCOR (Water)

- Water Service Reports
- As-built drawings (for review and comments)
- Final as-built drawings
- Water Main Grade Sheets

- Water Facility Reports

**EPCOR D&T**

- Land titles registered utility right-of-way document
- Land titles registered utility right-of-way plan
- Final as-builts submitted

**Subdivision and Development Coordination – Transportation**

- Final as-built drawings submitted (with final surface improvement)
- FAC test package – Refer to the Transportation Inspector Guidelines for detailed testing documentation requirements for each Municipal Improvement
- Defect assessment from CCC and additional FAC repair once issued and billing advice sent
- Request to Operations to paint lane markings if applicable
- For a roads FAC, written confirmation from EPCOR showing that they are satisfied that the final paving has not impacted the water system
- For Street Lighting, Asset Cost Form to be included

**Subdivision and Development Coordination – Parks**

- Asset Cost Form
- Maintenance log
- Herbicide/pesticide application logs if applicable

**-- END OF SCHEDULE "G" --**