TOWN OF
TABER

A - 4900 50 ST TABER, ALBERTA, CANADA T1G 1T1
TELEPHONE: (403) 223-5500 FAX: (403) 223-5530

AGENDA

REGULAR MEETING OF THE SUBDIVISION AUTHORITY OF THE TOWN OF TABER, TO BE HELD IN THE COUNCIL CHAMBERS, ADMINISTRATION BUILDING, ON MONDAY, SEPTEMBER 12, 2016 AT 5:00 PM, IMMEDIATELY FOLLOWING THE PUBLIC HEARING AT 5:00 PM.

		MOTION
ITEM No. 1.	**CALL TO ORDER**	
ITEM No. 2.	**ADOPTION OF AGENDA**	**X**
ITEM No. 3.	**SUBDIVISION APPLICATION(S)**	
ITEM No. 3.A.	**NAPA SUBDIVISION TT 16-0-006**	**X**
ITEM No. 3.B.	**PRAIRIE LAKES PHASE 2 SUBDIVISION TT 16-0-007**	**X**
ITEM No. 4.	**CLOSE OF MEETING**	**X**

Subdivision Authority Request for Decision

Meeting Date: September 12, 2016

Subject: NAPA Subdivision TT 16-0-006

Recommendation:	That Subdivision Authority approves the NAPA Subdivision TT 16-0-006, Lots 15-19, Block 3, Plan 5638L at 5219 47 Avenue with the following conditions: 1. That approval shall apply lots 15-19, Block 3, Plan 5638L, 2. Pursuant to Section 654(1)(d) if the Municipal Government Act, all outstanding property taxes, if any, shall be paid to the Town of Taber prior to endorsement. 3. The subdivision shall be registered in a manner satisfactory to the Land Titles Office, 4. Easements or rights of way shall be registered against the land for the provision of gas, power and electrical utilities, all municipal services, and waste management facilities, plus any other service considerations as required. The developer is responsible for making suitable arrangements with the relevant utility companies and/or town for the provision of services prior to the final endorsement of the plan. 5. In the event servicing will be constructed, a detailed servicing plan shall be submitted and approved by the Director of Public Works prior to construction. These plans shall include items such as drainage requirements, access, grading, sewer and water servicing, proposed service connection, 6. In the event servicing will be constructed, the applicant will enter into a servicing agreement with the Town of Taber prior to installing the water and sanitary sewer connections, and 7. In the event the applicant does not meet the municipal servicing requirements prior to seeking endorsement, the applicant shall enter into a development agreement with the Town, to be registered on the title by caveat and post security to be determined by the Director of Planning and Economic Development.

Background:	The Napa Lots were 4 narrow lots beside each other. In order to build the addition NAPA is proposing a new division of the lots to be made.
Legislation / Authority:	Section 2.2.1 of the Town of Taber Land Use Bylaw 6-2016.
Strategic Plan Alignment:	Create conditions for business success and economic development.
Financial Implication:	The applicant has already paid the appropriate charges for a subdivision as well as a demolition, development and building permitting costs.
Service Level / Staff Resource Implication:	Staff time is required to advertise and circulate the subdivision application.
Justification:	The approval of the NAPA subdivision would be beneficial for the growth of business in Taber.
Alternative(s):	1. The Subdivision Authority approves the NAPA subdivision TT 16-0-006 with amendments to the conditions. 2. The Subdivision Authority does not approve the NAPA Subdivision TT 16-0-006 with reasons.

Attachment(s):	Application for Subdivision Existing Lot Lines - ORRSC Map Plan of Subdivision Internal Comments External Comments

APPROVALS:	
Originated By:	Emily Hembrough

Chief Administrative Officer (CAO) or Designate:	

SUBDIVISION AND DEVELOPMENT FORMS REGULATION - FORM 1

APPLICATION FOR SUBDIVISION

FOR OFFICIAL USE ONLY		
DATE of receipt of completed Form 1:	FEES submitted:	FILE No.

THIS FORM IS TO BE COMPLETED IN FULL WHEREVER APPLICABLE BY THE REGISTERED OWNER OF THE LAND THE SUBJECT OF THE APPLICATION OR BY AN AUTHORIZED PERSON ACTING ON HIS BEHALF.

1. Name of registered owner of land to be subdivided
   1031172 ALBERTA LTD.
   Name in block capitals
   Address and phone No.
   5219 – 47 AVENUE, TABER T1G 1R5

2. Name of agent (person authorized to act on behalf of registered owner, if any DAVID J. AMANTEA
   Name in block capitals
   Address and Phone No.
   Box 655, Lethbridge, Alberta T1J 3Z4 329-4688

3. LEGAL DESCRIPTION AND AREA OF LAND TO BE SUBDIVIDED
   Part of the NW¼ section 32 township 9 range 16 west of 4th meridian
   Being all parts of lots 15-19 block 3 Reg. Plan No. 5638 L
   C.O.T.No. 161 119 113, 111 194 802, 151 030 014+1, 151 030 014
   Area of the above parcel of land to be subdivided 0.144 Hectares
   Municipal address (if applicable) 5219 – 47 Avenue, Taber

4. LOCATION OF LAND TO BE SUBDIVIDED
   a. The land is situated in the municipality of
   b. Is the land situated immediately adjacent to the municipal boundary? Yes No X
      If "yes", the adjoining municipality is
   c. Is the land situated within 0.8 kilometres of the right-of-way of a Highway? Yes X No
      If "yes", the Highway is No. 3
   d. Does the proposed parcel contain or is it bounded by a river, stream, lake or other body or by a drainage ditch or canal? Yes No X
      If "yes", state its name
   e. Is the proposed parcel within 1.5 kilometres of a sour gas facility? Yes No X

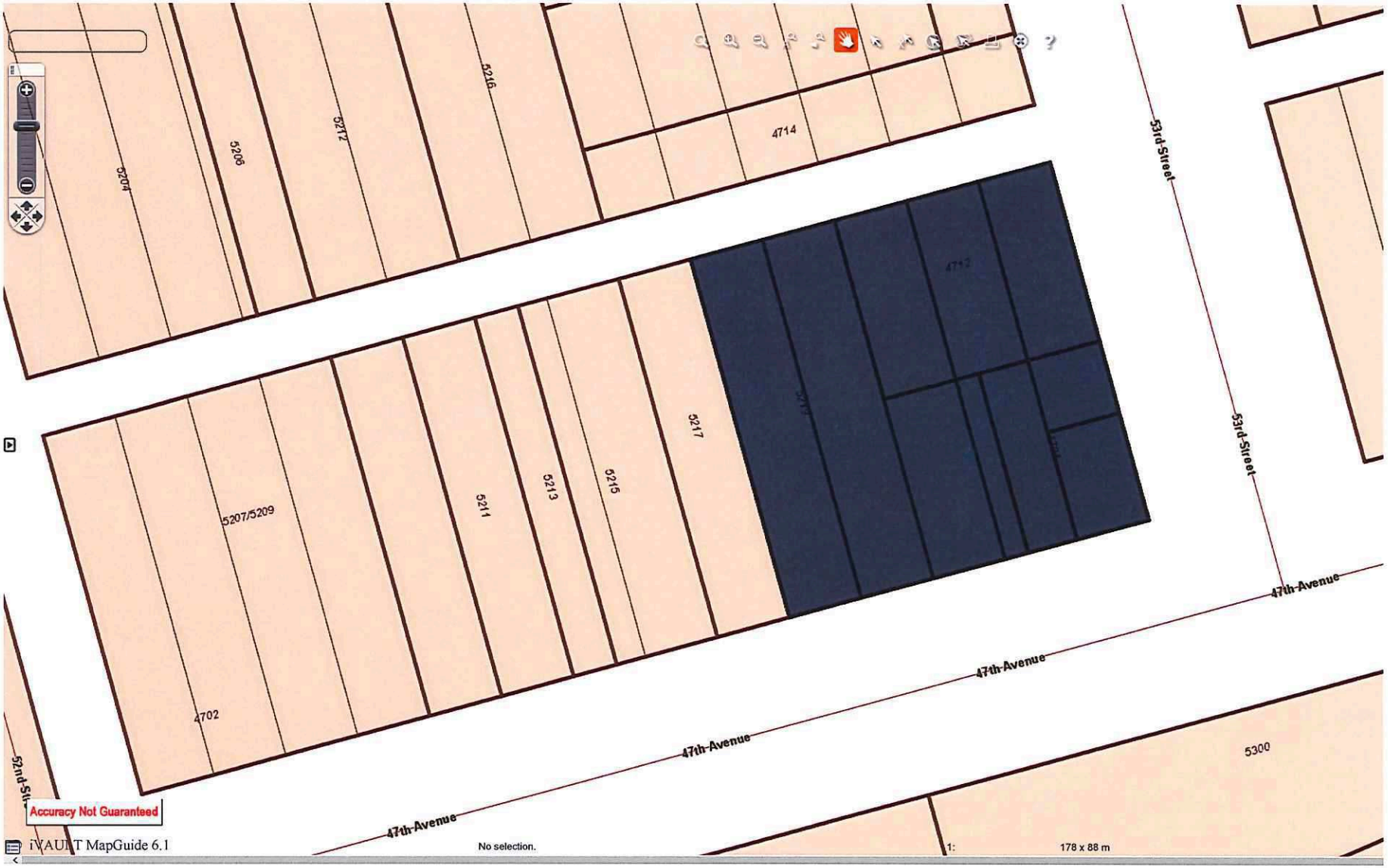
5. EXISTING AND PROPOSED USE OF LAND TO BE SUBDIVIDED
   Describe:
   a. Existing use of the land COMMERCIAL PROPERTY
   b. Proposed use of the land NO CHANGE – PROPERTY LINE ADJUSTMENT
   c. The designated use of the land as classified under a land use bylaw -

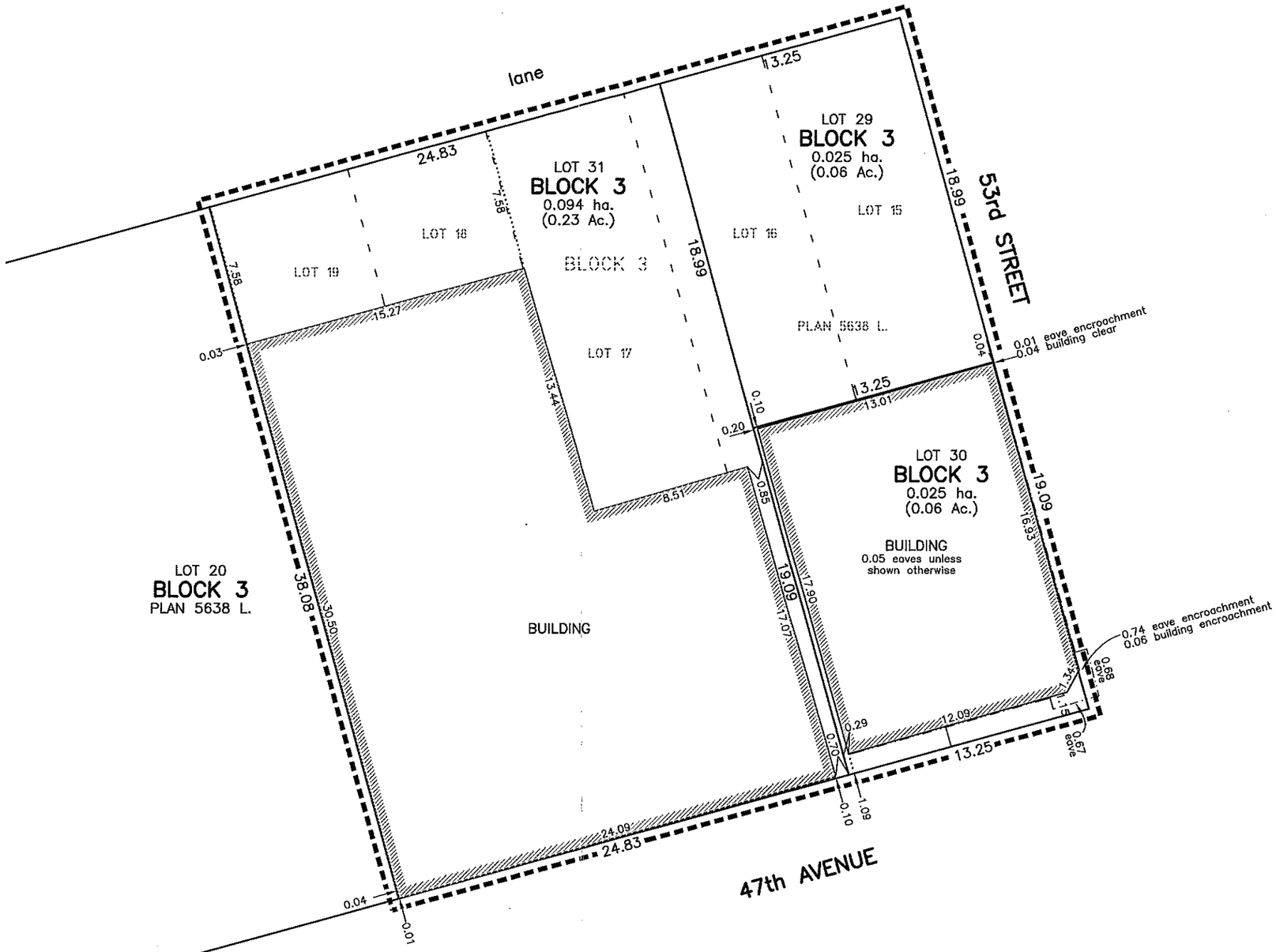
6. PHYSICAL CHARACTERISTICS OF LAND TO BE SUBDIVIDED (where appropriate)
   a. Describe the nature of the topography of the land: FLAT
   b. Describe the nature of the vegetation and water on the land: GRASS
   c. Describe the kind of soil on the land: UNKNOWN

7. EXISTING BUILDINGS ON THE LAND PROPOSED TO BE SUBDIVIDED
   Describe any buildings and any structures on the land and whether they are to be demolished or removed or moved
   SEE SKETCH

8. WATER AND SEWER SERVICES
   If the proposed subdivision is to be served to other than a water distribution system and a wastewater collection system, describe the manner of providing water and sewage disposal _ TOWN

9. REGISTERED OWNER OR PERSON ACTING ON HIS BEHALF
   I, DAVID J. AMANTEA hereby certify that ☐ I am the registered owner, or


5216
5212
5208
5204
4714
53rd Street
53rd Street
5217
5215
5213
5211
5207/5209
4702
47th Avenue
47th Avenue
47th Avenue
5300
52nd St
Accuracy Not Guaranteed
iVAULT MapGuide 6.1
No selection.
1:
178 x 88 m



NO.	REVISION	DATE	BY

Improvements shown were surveyed between May 11th & June 23rd, 2016

NOTE : Portion to be approved is outlined thus - - - - - - - - - - - - - - -
and contains approximately 0.144 ha.
Distances are in metres and decimal parts thereof.

Distances and areas are approximate and are subject to change upon final survey.

1031172 ALBERTA LTD.

TENTATIVE PLAN SHOWING SUBDIVISION
of all of
LOTS 15 TO 19 INCLUSIVE; BLOCK 3; PLAN 5638 L.
within
N.W.1/4 SEC. 32; TWP. 9; RGE. 16; W.4 M.
TOWN OF TABER

brown okamura & associates ltd.
Professional Surveyors
514 Stafford Drive, Lethbridge, Alberta

APPROVED

D. J. Amantea, A.L.S.

DRAWN CJB	DATE JUNE 29/16
CHECKED DJA	JOB 16-13254
SCALE 1:250	DRAWING 16-13254T

Town of Taber
Planning & Development
Internal Referrals

July 19, 2016

File: TT16-0-006

INTERNAL REFERRAL
FOR PROPOSED SUBDIVISION

Agent: Brown Okamura & Associates Ltd.

Subject: **SUBDIVISION APPLICATION**
WITHIN NW ¼ 32-9-16 W 4th M
LOTS 15-19 INCLUSIVE, BLOCK 3, PLAN 5638L
Taber, AB.

Proposed Subdivision: Brown Okamura & Associates Ltd. proposes as follows: an application intended to subdivide the above noted property into 3 commercial lots.

Preliminary Stage: ☐ Application Submitted: ☒

- ☒ Greg Birch, CAO
- ☒ Devon Wannop, DF
- ☒ Aline Holmen, DR
- ☒ Superior Safety Codes
- ☒ Gary Scherer/Ramin Lahiji, Public Works
- ☒ Chris Zuidhof, Epcor
- ☒ Steve Munshaw, Fire Chief
- ☒ Graham Abela, Chief of Police

Your Comments:

NO OBJECTION TO THE SUBDIVISION PROPOSAL.

TWO COMMENTS:

1) IF A NEW LOT 29 IS BEING CREATED, IT SHOULD BE SERVICED WITH WATER AND SEWER LINES AT TIME OF SUBDIVISION

2) HOW WILL THIS AFFECT DOWNTOWN PARKING? THIS IS A DEVELOPMENT PERMIT ISSUE BUT IT WOULD SEEM THAT NORMAL PARKING SPACE REQUIREMENTS MAY BE HARDER TO MEET POST-SUBDIVISION. PERHAPS A REVIEW OF OFF-SITE PARKING LEVY MAY BE IN ORDER. GREG BIRCH.

Please return comments to Planning Department by August 3, 2016

cc: Tax & Utility Clerk

Town of Taber
Planning & Development
Internal Referrals

July 19, 2016

File: TT16-0-006

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- ☒ Superior Safety Codes
- ☒ Gary Scherer/Ramin Lahiji, Public Works
- ☒ Chris Zuidhof, Epcor
- ☒ Steve Munshaw, Fire Chief
- ☒ Graham Abela, Chief of Police

Your Comments:

- Need to ensure that property taxes + utility accounts are adjusted appropriately based on the items that are going the new subdivided land.

Please return comments to Planning Department by August 3, 2016
cc: Tax & Utility Clerk

Town of Taber
Planning & Development
Internal Referrals

July 19, 2016

File: TT16-0-006

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FOR PROPOSED SUBDIVISION

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- ☒ Aline Holmen, DR
- ☒ Superior Safety Codes
- ☒ Gary Scherer/Ramin Lahiji, Public Works
- ☒ Chris Zuidhof, Epcor
- ☒ Steve Munshaw, Fire Chief
- ☒ Graham Abela, Chief of Police

Your Comments:

- HIRF REQ APPLY
- WATERFLOW REQ MAY APPLY.
- ABC 2014 APPLY.

Please return comments to Planning Department by August 3, 2016
cc: Tax & Utility Clerk

Town of Taber
Planning & Development
Internal Referrals

July 19, 2016

File: TT16-0-006

INTERNAL REFERRAL
FOR PROPOSED SUBDIVISION

Agent: Brown Okamura & Associates Ltd.

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☒	Greg Birch, CAO	☒	Gary Scherer/Ramin Lahiji, Public Works
☒	Devon Wannop, DF	☒	Chris Zuidhof, Epcor
☒	Aline Holmen, DR	☒	Steve Munshaw, Fire Chief
☒	Superior Safety Codes	☒	Graham Abela, Chief of Police

Your Comments:

Please insure each lot has its own utility contract.

RAMIN

Will parking for lot 30 be provided on lot 29? GL.

Please return comments to Planning Department by August 3, 2016

cc: Tax & Utility Clerk

Town of Taber
Planning & Development
Internal Referrals

July 19, 2016

File: TT16-0-006

INTERNAL REFERRAL
FOR PROPOSED SUBDIVISION

Agent: Brown Okamura & Associates Ltd.

Subject: **SUBDIVISION APPLICATION**
WITHIN NW ¼ 32-9-16 W 4th M
LOTS 15-19 INCLUSIVE, BLOCK 3, PLAN 5638L
Taber, AB.

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- ☒ Greg Birch, CAO
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- ☒ Aline Holmen, DR
- ☒ Superior Safety Codes
- ☒ Gary Scherer/Ramin Lahiji, Public Works
- ☒ Chris Zuidhof, Epcor
- ☒ Steve Munshaw, Fire Chief
- ☒ Graham Abela, Chief of Police

Your Comments:

No Concerns with the Re Zoning

July 27/2016

Please return comments to Planning Department by August 3, 2016
cc: Tax & Utility Clerk

Town of Taber
Planning & Development
Internal Referrals

July 19, 2016

File: TT16-0-006

INTERNAL REFERRAL
FOR PROPOSED SUBDIVISION

Agent: Brown Okamura & Associates Ltd.

Subject: **SUBDIVISION APPLICATION**
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- ☒ Superior Safety Codes
- ☒ Gary Scherer/Ramin Lahiji, Public Works
- ☒ Chris Zuidhof, Epcor
- ☒ Steve Munshaw, Fire Chief
- ☒ Graham Abela, Chief of Police

Your Comments:

Police have no concerns.

16/07/19

Please return comments to Planning Department by August 3, 2016
cc: Tax & Utility Clerk

ATCO Gas

DATE: July 29, 2016

Town of Taber
Attention: Katie Tyo, Development Officer
Fax: (403) 223-5530

RE: Your File: TT16-0-006
Legal Description: Within NW ¼ 32-9-16 W4M
Lots 15-19 Inclusive, Block 3, Plan 5638L
Taber, AB.

In reference to the above noted subdivision application, please be advised of the following:

_X_ ATCO Gas has no objections to the proposed subdivision.

____ ATCO Gas has no objections to the proposed subdivision as our existing gas lines are covered by easement.

____ ATCO Gas requires an easement to cover our unprotected gas line as shown hi-lighted on the attached plan. Please contact our Land department in Lethbridge at (403) 380-5417 to arrange to have our documents signed.

___ ATCO Gas requires a Utility Right of Way as shown hi-lighted on the attached plan. The Utility Right of Way should be **3.5** meters in width if they are solely for the use of ATCO Gas and **3.5** meters in width if the easement is to be shared with other utilities. All easements are to be registered as a general Utility Right of Way granted to the **Town** of **Taber** and are to be registered concurrently with the legal plan of subdivision. No structures or portions there of may be erected within the Right of Way without prior written consent from the company.

____ ATCO Gas requires that the existing Utility Right of Way as shown hi-lighted on the attached plan should be maintained to provide future service. Trusting the above condition is met we have not further objections.

____ The developer must determine the exact location of the existing service line(s). This can be done by contacting Alberta 1st Call at **1-800-242-3447** to arrange for an in-field location. If any part of the service line is not located wholly within the parcel it will serve as a result of the proposed subdivision, the service line will have to be relocated at the developer's expense. Alternatively an easement of a size and specification satisfactory to ATCO Gas may be registered to protect the portion of service line not wholly located within the lot or parcel it serves. Please contact our Land department at (403) 380-5417 with any inquiries concerning obtaining an easement.

____ Please be aware of our existing gas main(s) located within the proposed subdivision. Should the existing gas main(s) need to be relocated, any and all costs associated with the relocation will be borne by the developer. Please contact our Engineering department in our Lethbridge office at (403) 380-5475 to discuss relocation options.

____ Our conditions have been met and we have no further objections to the application.

Sincerely,

W Saruwatari

Wendy Saruwatari
ATCO Gas Engineering Department

410 Stafford Drive North, Lethbridge, Alberta, Canada T1H 2A9
Tel: 403-380-5400 Fax: 403-380-5428
www.atcogas.com

TELUS
the future is friendly®

TELUS Communications Inc.
Right of Way Department
FLR 1, 2912 Memorial Dr
Calgary, AB T2A 6R1

Toll Free 1-866-774-7002 ext 1
E-mail circulations@telus.com

August 08, 2016

TELUS FILE: C2016-1064S
YOUR FILE: TT16-0-006

Town of Taber

Email: grace.noble@taber.ca

RE: TELUS COMMUNICATIONS INC ('TELUS')
SUBDIVISION REPLY
LEGAL LAND: NW 32-9-16 W4M – LOTS 15-19, BLK 3, PLAN 5638L

We understand that application has been made for a subdivision over the abovementioned land.

Please accept this letter advising TELUS Communications Inc. has **no objections** to the current land owner proceeding with this application.

It is the land owner's responsibility to ensure they contact Alberta One-Call to ensure no facilities will be disrupted. If at any time TELUS facilities are disrupted, it will be at the sole cost of the land owner.

If you have any questions or concerns, please contact the undersigned.

Yours truly,

Jody DeSutter
Property/Land Administrator
Rights of Way Alberta
Real Estate Department

TABER IRRIGATION DISTRICT
Responsible Water Management

4420 - 44th Street, Taber, Alberta T1G 2J6
p 403-223-2148 | f 403-223-2924

tid@taberirrigationdistrict.ca
www.taberirrigationdistrict.ca

August 04, 2016

Grace Noble,
Assistant Development Officer
Town of Taber
A – 4900 50 St.
TABER, Alberta
T1G 1T1

Re: Subdivision Application within NW ¼ 32-09-16-W4M
Lots 15-19 Inclusive, Block 3, Plan 5638L
Taber, AB
Your File: TT16-0-006

Dear Grace;

The Taber Irrigation District (TID) has reviewed the above-referenced application and tentative subdivision plan Dwg. No. 16-13254T. TID has no objection to the proposed subdivision.

Sincerely,

Christopher W. Gallagher, P. Eng.
District Manager

cc: K. Ross, T. Wikkerink

Alberta Health Services
4326 50 Avenue Taber, AB T1G 1N9
Phone Number: 403-223-7230 Fax Number: 403-223-8733

LAND USE INSPECTION REPORT

Mail To:
A - 4900 50 Street
Taber, AB T1G 1T1

Attention: Town of Taber

Our File Number: 541-0005069-40
Inspection Date: August 8, 2016
Report Date: August 8, 2016

Facility Inspected:
Town of Taber
Facility Contact: Town of Taber
Site Phone: 403-223-5500 Site Fax: 403-223-5530

Site Address: A - 4900 50 Street
Taber, AB T1G 1T1

Facility Category:	Land Use, Development
Inspection Type:	Demand Inspection: Subdivision
Action(s) Taken:	No Objection
Delivery Method:	Email

TT16-0-006; NW 32-9-16 W4M Lots 15-19 inclusice, Block 3, Plan 5638L; Town of Taber

Attn: Grace Noble

After a review of the information provided and an on site visit, this office has no objections to the proposed subdivision provided that all regulations, standards and bylaws are met.

Should you have any questions regarding this report, please do not hesitate to contact me at 403-223-7230.

Theron White
Executive Officer

Subdivision Authority Request for Decision

Meeting Date: September 12, 2016

Subject: Prairie Lakes Phase 2 Subdivision TT 16-0-007

Recommendation:	That the Municipal Planning Commission recommends the Subdivision Authority approves subdivision application TT 16-0-007, Portion of Lot 2, Block 100, Plan 1012068 with the following conditions: 1. That this approval shall apply to a residential subdivision plan for the south portion of Lot 2, Block 100, Plan 1012068, 2. That pursuant to Section 654(1)(d) of the Municipal Government Act, all outstanding property taxes shall be paid to the Town of Taber, 3. Easements or rights of way shall be registered against the land for the provision of storm, drainage, gas, power and other utilities as required, 4. That, pursuant to Section 655(1)(b) of the Municipal Government Act, the Developer shall enter into a Development Agreement with the Town of Taber, with careful attention being paid to the applicant installing or paying for municipal services, road improvements, and the installation of public utilities that are necessary to service the subdivision. This will be registered on all forthcoming titles, 5. The Developer will be obligated to post security, in the amount and form approved by Procedure PLN-2 Appendix B, Section 14.3(b)(ii) at 30% of all estimated construction costs, 6. The Developer shall be required to pay any outstanding offsite levies owing required by the Town of Taber Off-Site Levy Bylaw and as per PLN-2 Appendix B, Schedule E (see attached) and in consideration of the attainable housing strategy, 7. That detailed servicing plans be submitted and approved by the Director of Public Works prior to signing a Development Agreement and prior to endorsement. These plans shall include items such as drainage requirements, grading, sewer and water servicing, proposed service connections to each lot, detailed road design, landscaping, street lights and signage, 8. That lot numbering be submitted and approved by the Director of Planning and Economic Development, 9. That the subdivision plan be registered in a manner satisfactory to the Land Titles Office, 10. The Developer shall be responsible for keeping the development area

	in a neat and tidy fashion, particularly, as it pertains to blowing debris and weeds during development of the subdivision through to the Final Acceptance Certificate (FAC) stage. This issue shall be addressed in the Development Agreement, 11. All multifamily lots are to be granted a front yard setback waiver from 6 meters to 3 meters to allow for rear parking accessed via the lane, 12. Architectural controls regarding parking located in the rear of the lot be registered on titles for all lots with land access.
Background:	Administration has received a reapplication of a subdivision that was previously approved by the subdivision authority. The owner is hoping to receive a relaxation on the offsite levy fees. Administration had received advice on offsite levy infrastructure in relation to medium density developments and this was brought to Council. Council has directed administration to amend the development and subdivision procedure PLN-2 to allow for relaxation in offsite levy fees in relation to attainable housing. The owner wishes to reapply for the subdivision under this new strategy found in PLN-2 Appendix B, Schedule E (See attached).
Legislation / Authority:	Bylaw A-356, Sec. 4 and Sec. 13(b)(c)
Strategic Plan Alignment:	Strategic Family/Community Goal #1: Build a community that is affordable and attractive.
Financial Implication:	The applicant has already paid the subdivision fees.
Service Level / Staff Resource Implication:	Administration's time was required to process the subdivision application, advertise and circulate to neighbours.
Justification:	The subdivision would allow for more affordable housing that is still attractive for the community.
Alternative(s):	1. That Subdivision Authority approve application TT 16-0-007, portion of Lot 2, Block 100, Plan 1012068 with amendments to the conditions. 2. That Subdivision Authority does not approve application TT 16-0-007, Portions of Lot 2, Block 100, Plan 1012068 with reasons.

Attachment(s):	Application for Subdivision Plan of Subdivision Offsite Levy Infrastructure Information June 17, 2015 Council Meeting RES.359/2016 Motion PLN -2 Development & Subdivision Agreement Policy PLN -2 Development & Subdivision Agreement Procedure Development Agreement Municipal Policy Appendix A Development Agreement - Subdivision w Policy Appendix B

APPROVALS:	
Originated By:	Emily Hembrough
Chief Administrative Officer (CAO) or Designate:	

SUBDIVISION AND DEVELOPMENT FORMS REGULATION - FORM 1

APPLICATION FOR SUBDIVISION

FOR OFFICIAL USE ONLY		
DATE of receipt of completed Form 1:	FEES submitted:	FILE No.

THIS FORM IS TO BE COMPLETED IN FULL WHEREVER APPLICABLE BY THE REGISTERED OWNER OF THE LAND THE SUBJECT OF THE APPLICATION OR BY AN AUTHORIZED PERSON ACTING ON HIS BEHALF.

1. Name of registered owner of land to be subdivided — Address and phone No.

SOUTH ALTA TRADING CO. LTD. — 4801 – 46 AVENUE TABER T1G 2A4 403-915-8023

Name in block capitals

2. Name of agent (person authorized to act on behalf of registered owner, if any DAVID J. AMANTEA — Address and Phone No.

Box 655, Lethbridge, Alberta T1J 3Z4 329-4688

Name in block capitals

3. LEGAL DESCRIPTION AND AREA OF LAND TO BE SUBDIVIDED

Part of the NW¼ section 6 township 10 range 16 west of 4th meridian

Being part of lot 2 block 100 Reg. Plan No. 1012068 C.O.T.No. 141 180 093

Area of the above parcel of land to be subdivided 3.836 Hectares 1.41 HA.

Municipal address (if applicable) 43rd STREET

4. LOCATION OF LAND TO BE SUBDIVIDED

a. The land is situated in the municipality of

b. Is the land situated immediately adjacent to the municipal boundary? Yes No X

If "yes", the adjoining municipality is

c. Is the land situated within 0.8 kilometres of the right-of-way of a Highway? Yes No X

If "yes", the Highway is No.

d. Does the proposed parcel contain or is it bounded by a river, stream, lake or other body or by a drainage ditch or canal? Yes No X

If "yes", state its name

e. Is the proposed parcel within 1.5 kilometres of a sour gas facility? Yes No X

5. EXISTING AND PROPOSED USE OF LAND TO BE SUBDIVIDED

Describe:

a. Existing use of the land VACANT LAND

b. Proposed use of the land RESIDENTAIL SUBDIVISION

c. The designated use of the land as classified under a land use bylaw -

6. PHYSICAL CHARACTERISTICS OF LAND TO BE SUBDIVIDED (where appropriate)

a. Describe the nature of the topography of the land: FLAT

b. Describe the nature of the vegetation and water on the land: GRASS

c. Describe the kind of soil on the land: MIXED

7. EXISTING BUILDINGS ON THE LAND PROPOSED TO BE SUBDIVIDED

Describe any buildings and any structures on the land and whether they are to be demolished or removed or moved

NONE

8. WATER AND SEWER SERVICES

If the proposed subdivision is to be served to other than a water distribution system and a wastewater collection system, describe the manner of providing water and sewage disposal TOWN

9. REGISTERED OWNER OR PERSON ACTING ON HIS BEHALF

I, DAVID J. AMANTEA hereby certify that

☐ I am the registered owner, or

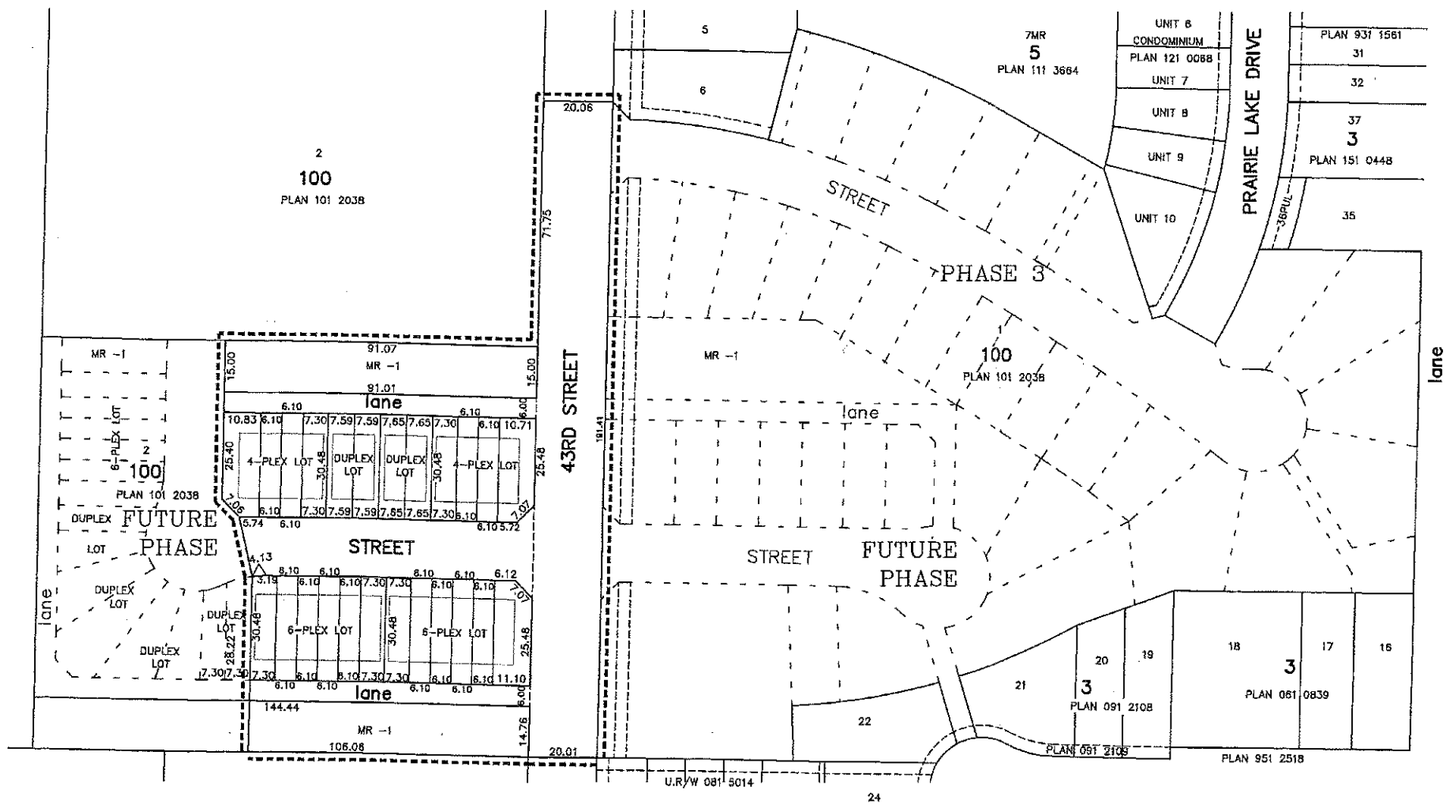
☑ I am the agent authorized to act on behalf of the registered owner and that the information given on this form is full and complete and is, to the best of my knowledge, a true statement of the facts relating to this application for subdivision.

Address: Box 655, Lethbridge, Alberta, T1J 3Z4

Phone No. 403 329-4688

(Signed) D a D Date December 11, 2015

BOA FILE NUMBER 15-12837



PRAIRIE LAKE ESTATES
PHASE 2

brown okamura & associates ltd.
Survey Engineering Consultants
514 Stafford Drive, Lethbridge, Alberta

SOUTH ALTA TRADING CO. LTD.

TENTATIVE PLAN SHOWING SUBDIVISION
of part of
LOT 2, BLOCK 100, PLAN 101 2068
within
N.W.1/4 SEC. 6; TWP. 10; RGE. 16; W.4 M.
Town of Taber

APPROVED	DRAWN MJ	DATE NOV 11/15
	CHECKED DJA	JOB 15-12837
	DESIGN	SHEET
	TRACED	DRAWING 15-12837T-PHASE2
	SCALE 1:1000	ISSUE

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Our File No.: 71396-0124/LIR

June 22, 2016

Sent by email: cory.armfelt@taber.ca

Town of Taber
4900A – 50 Street
Taber, AB T1G 1T1

Attention: Cory Armfelt
Director of Planning and Economic Development

Dear Sir,

Re: Offsite Levy Infrastructure – Medium Density Developments

The Town of Taber (the "Municipality") is considering ways in which the Municipality can encourage the subdivision and servicing of land within the Municipality in support of "attainable" housing. The objective is to reduce the cost of land development in order that Developers/builders will be able to develop and sell medium density residential dwellings at an "attainable" unit cost while still achieving an acceptable return on their investment.

The Municipality has asked our office to consider if and how the Municipality can achieve this objective through the waiver or forgiveness of off-site levies. It is thought that if the burden of off-site levies can be reduced, it will be possible for Developers/builders to develop and sell medium density residential dwellings at an "attainable" unit cost while still achieving an acceptable return on their investment.

This opinion has been prepared to assist Council in its deliberations. We recommend that Council consider this opinion *in camera* in accordance with s. 24(1)(a) and s. 27(1) of the *Freedom of Information and Protection of Privacy Act*, RSA 2000, c F-25.

In preparing this opinion we have considered the following issues:

1. Is it possible to waive or forgive off-site levies?
2. What are the consequences for the Municipality if it waives or forgives off-site levies?
3. How can a waiver or forgiveness program be structured so as to achieve the Municipality's objectives?

A. EXECUTIVE SUMMARY

It is possible to implement a policy or program that would allow for the deferral or forgiveness of off-site levies with the object of encouraging landowners/land developers ("Developers") and builders to develop and sell medium density residential dwellings at an "attainable" unit cost while still achieving an acceptable return on their investment. Council can adopt a policy setting out the parameters when off-site levies can be forgiven and either directly approves the Development Agreements that include a forgiveness of off-site levies or Council can delegate that authority to the Chief Administrative Officer, which authority would be exercised based on the policy approved by Council. Approving a policy or program that would allow for off-site levies to be forgiven will require that the Municipality include, within its budget, amounts that can be paid to the off-site levy fund in place of the off-site levies that were not collected. It is recommended that the money be transferred to the special off-site levy fund in order that interest on the money will accumulate to the benefit of the off-site levy fund.

Whatever method of implementation the Municipality chooses, it is our opinion that such a policy or program will be difficult to administer and there is no certainty that "attainable housing" will result. Because there is no way for the Municipality to influence both Developers and builders with the same program, the Municipality will have to elect whether the benefit of the forgiven off-site levies flows to the Developer or builder. If the benefit flows to the Developer, there is at least the possibility that land will be available for purchase by builders or individuals at prices that could support development of "attainable housing". Even if the off-site levies for Developers are forgiven with the expectation that land prices will be reduced, the ultimate goal of "attainable" housing may not be achieved because control of the per unit sale cost rests with the builder and to some extent with the buyer of the unit. The Municipality cannot control the market place and there is no certainty that land prices will be reduced to reflect the fact that the Developer did not have to pay the off-site levies. Further, that reduced pricing may not translate to "attainable housing" units. A first sale may occur at an "attainable" price point but there is no way to ensure that the prices at the time of resale can be controlled (so there is the possibility of "attainable" housing being flipped for profit). The forgiveness of off-site levies will not create or sustain "attainable housing" over time though it may encourage a Developer to develop land for medium density residential use and can create the possibility for there to be less expensive units available in the market place.

B. ANALYSIS

This opinion focusses on the specific questions set out above. This opinion does <u>not</u> include a review of Off-Site Levy Bylaw No. 19-2015, as amended (the "Bylaw").

1 Is it possible to waive or forgive off-site levies?

<u>Conclusion</u>: Yes. Council can establish a program or adopt a policy setting out the parameters as to when off-site levies can be forgiven and Council can either directly approve Development Agreements that include a forgiveness of off-site levies or delegate the authority to the Chief Administrative Officer to approve Development Agreements that include the forgiveness of off-site levies based on the policy approved by Council.

Discussion

a) New West Partnership Trade Agreement

In coming to our conclusion that it is possible for a Municipality to forgive off-site levies we considered the New West Partnership Trade Agreement ("NWPTA") to determine if the action of forgiving off-site levies would be considered a "business subsidy" and thus be contrary to the NWPTA.

The NWPTA defines a business subsidy in the following way:

> ***business subsidy*** *means a financial contribution by a Party, namely:*
>
> *(a) cash grants, loans, debt guarantees or an equity injection, made on preferential terms;*
>
> *(b) a reduction in taxation and other forms of revenue generation, including royalties and mark- ups, or government levies otherwise payable, but does not include a reduction resulting from a provision of general application of a tax law, royalties, or other forms of a Party's revenue generation; or*
>
> *(c) any form of income or price support that results directly or indirectly in a draw on the public purse*
>
> *that confers a benefit on a specific non-government entity, whether organized as one legal entity or as a group of legal entities, but does not include generally available infrastructure, assistance to provide generally available infrastructure, or subsidies defined as non-actionable under Article 8 of the World Trade Organization Agreement on Subsidies and Countervailing Measures.*
>
> *A business subsidy does not include a financial contribution made available to entities within a particular industry or group of industries where the measure pursuant to which the financial contribution is made available establishes objective criteria or conditions governing eligibility that are not structured, in law or in fact, so as to make the financial contribution uniquely available to one single entity, whether that entity is structured as one legal entity or a group of legal entities;*

It is our opinion that although a program or policy that allows for the waiver of off-site levies could be a business incentive pursuant to subparagraph (b) of the definition, so long as the opportunity to apply for and be qualified for the waiver of off-sites levies is available to the general population of land Developers operating within the Municipality, and not intended to provide a benefit to a single entity, the program or policy would not be contrary to the NWTPA.

b) Municipal Government Act

Our conclusion takes into account the provisions of the *Municipal Government Act*, RSA 2000, c. M-26 ("MGA"). The MGA is silent on the issue of whether off-site levies can be forgiven. Section 648(4.1) provides:

> *(4.1) Nothing in subsection (4) prohibits the collection of an off-site levy by instalments or otherwise over time.*

It is our opinion that provided that a municipality's off-site levy bylaw expressly allows for the forgiveness of off-site levies, the municipality can implement a program or policy that sets parameters for the forgiveness of off-site levies. So long as a provision exists in the off-site levy bylaw that provides that off-site levies might be forgiven, which provision serves as disclosure to the industry that the forgiveness or waiver of off-site levies is possible, and so long as there is full and open disclosure of when off-site levies are forgiven, the municipality would not be operating contrary to the MGA or the *Principles and Criteria for Off-Site Levies Regulation*, Alta. Reg. 48/2004.

c) Bylaw 19-2015, the Off-Site Levy Bylaw

We considered the provisions of the Bylaw in order to determine if the Bylaw would allow a program or policy to waive off-site levies to be implemented without amendments to the Bylaw.

The foundation for a program or policy that allows off-site levies to be forgiven is part of the Bylaw. The Bylaw provides as follows:

> 11.1 *Nothing in this Bylaw precludes the Municipality from:*
>
> ...
>
> *c) reducing or forgiving payment of the levies required pursuant to this Bylaw, or otherwise providing for credits for other Off-Site or Oversize infrastructure constructed by a Developer in calculating and/or collecting levies that become payable pursuant to this Bylaw*

The power to defer Off-Site Levies has been delegated to the Chief Administrative Officer in s 9.2 of the Bylaw.

> *9.2 Council delegates the authority to enforce and administer this Bylaw, including but not limited to, the authority to enter into Development Agreements on behalf of the Municipality and to defer collection of Off-Site Levies imposed pursuant to this Bylaw, to the Chief Administrative Officer;*

The power to forgive off-site levies has not been delegated to the Chief Administrative Officer. If off-site levies are to be forgiven either Council must approve the forgiveness or additional authority must be delegated to the Chief Administrative Officer to forgive off-site levies. If

additional authority is to be delegated to the Chief Administrative Officer, we recommend that the Bylaw be amended appropriately. The power of the Chief Administrative Officer to forgive off-site levies could be subject to a "Forgiveness Policy" approved by Council that would set the parameters for when the Chief Administrative Officer could exercise the authority to forgive off-site levies.

2 *What are the consequences for the municipality if it waives or forgives off-site levies?*

Conclusion: Approving a policy or program that would allow for off-site levies to be forgiven will require that the Municipality include, within its budget, amounts that can be paid to the off-site levy fund in place of the off-site levies that were not collected. The money should be transferred from the Municipality's general revenue accounts to the special off-site levy fund in order that interest on the money will accumulate to the benefit of the off-site levy fund. The portion of the off-site levy that is not cancelled or forgiven, cannot be allocated into the off-site levy rates and collected from other benefiting lands that are subject to the Bylaw.

Discussion

Before approving a program or policy that defers or waives the payment of off-site levies, it is important to consider the financial impact such a program or policy will have on the Municipality.

When a Municipality chooses not to collect off-site levies that would be collectable under the operation of its off-site levy bylaw, the Municipality must contribute the amount not collected to the off-site levy fund. The amount that was not collected from "Developer A" cannot be considered an unpaid amount that is to be divided amongst other Developers. It would be contrary to the principle that each Developer is to pay their "fair share" if "Developer B", "Developer C" and Developer "D" had to pay more because the Municipality forgave all or a portion of the off-site levies "Developer A" would have been otherwise obliged to pay.

The amount that the Municipality is to contribute to the off-site levy fund is therefore to be drawn from general municipal revenues. The burden of "Developer A's" off-site levies is shared across the municipality-at-large.

The Municipality must actually contribute the off-site levy amount to the off-site levy in order to ensure that the off-site levy fund contains the money that is due to the fund and in order to ensure that interest accumulates to the credit of the off-site levy fund at the rate that the fund would have grown had "Developer A" paid the off-site levies as would have been required by the Bylaw. In this way the off-site levy fund will operate in accordance with s 648(5)(a) of the MGA.

> *(5) An off-site levy collected under this section, and any interest earned from the investment of the levy,*
>
> *(a) must be accounted for separately from other levies collected under this section, ...*

3 *How can a waiver or forgiveness program be structured so as to achieve the Municipality's objectives?*

Conclusion: There are a number of options for structuring a policy or program for the forgiveness of off-site levies. The various options have advantages and disadvantages. Regardless of the approach adopted by the Municipality, the fundamental difficulty with a program or policy establishing parameters for the forgiveness of off-site levies is that the program or policy needs to give the benefit to the Developer if the objective is to encourage the subdivision and servicing of land that can be developed for medium density residential dwellings at an "attainable" unit cost, but that the Developer rarely controls the construction and sale of the "final product" being the house, duplex or fourplex. Even if the off-site levies for Developers are forgiven with the expectation that land prices will be reduced, the ultimate goal of "attainable" housing may not be achieved because control of the per unit sale cost rests with the builder and to some extent with the buyer of the unit.

The Municipality has no direct relationship with builders so the Municipality cannot control the price set by the builders. Unit pricing will reflect market realities. It will be impossible for the Municipality to control the sale price placed on units.

Discussion

a) Establishing an "Attainable Housing" Price Point

The first and perhaps most critical feature of any program or policy that provides for the forgiveness of off-site levies in "exchange" for the provision of "attainable housing" will be to define what is meant by "attainable housing". While the easiest way may be to set a "price point", it must be remembered that the housing market is "open" and anyone can purchase a unit. Units may be priced at or below the "attainable housing" price point and may be bought up by purchasers who would have been able to afford housing at a higher price. Those most in need of "attainable" housing may not reap the benefits of the program.

Unless the Municipality is prepared to actively participate in the housing market, there is no way for the Municipality to be assured that those most in need of "attainable housing" will be able to even have the option of purchasing property at or below the "attainable housing" price point. Once a property is sold the first time, market forces will drive the pricing of the units accordingly. There will be no way to sustain an "attainable" price point.

The Municipality will need to continually monitor what is the "attainable housing" price point as market forces will directly impact on the price the willing seller is prepared to accept. For example, if an initial price point is set of $250,000 but housing prices increase, the price point will likely need to be adjusted as there will be little to no incentive for the builder to sell his product at less than the market price.

b) To Whom Does the Benefit Flow

The development process starts with the Developer. Land must be districted, subdivided and serviced before residential construction can proceed. In order to encourage the Developer to

develop land for medium density housing, when single family housing will provide a larger profit, the incentive must flow to the Developer. As the off-site levy is generally collected from the Developer, it is practical for the forgiveness of the off-site levy to benefit the Developer. The difficult with the benefit flowing to the Developer is that it is the builder that will ultimately control the price of the housing product. The Municipality has no contractual relationship with the builder at this subdivision stage. While the Land Use Bylaw may be used as a tool to limit the size of a development by prescribing the maximum size for a house at the development permit stage, a prescription as to size does not dictate price. We note that it may be possible to use the Land Use Bylaw in this way but we have not undertaken a review of the Municipality's Land Use Bylaw to assess whether these tools exist in that bylaw. To best control the price established by the builder, the Municipality would have to provide the benefit to the builder. Providing the benefit to the builder, however, does not provide an incentive to the Developer to create medium density residential lots.

Determining who is to receive the benefit is somewhat of a catch-22. If the benefit flows to the Developer, there is a greater chance that land will be subdivided and serviced for medium density residential development, but if the benefit flows to the Developer the Municipality has no control or opportunity to control the unit price for the ultimate product. Yet if the benefit flows to the builder, which would provide a greater opportunity for the municipality to control the ultimate product price, there is little to no incentive for the Developer to subdivide and service land for medium density residential development if that land could be developed for single family homes and yield greater profit for the Developer.

As "attainable housing" cannot occur unless land for that sort of development is available, we recommend that the Municipality's program or policy should provide the benefit of the forgiveness of the off-site levies to the Developer and focus first on the goal of creating medium density residential development and second on the goal of "attainable housing."

We considered 3 options for structuring the program or policy.

(i) Option 1: Collect Off-Site Levies and Reimburse After Product Delivery

This option is most favorable for the Municipality in terms of ensuring that the Municipality only forgives off-site levies if the subdivision and servicing of land leads to "attainable housing". The Developer would pay off-site levies in the normal course. The Development Agreement pursuant to which the off-site levies were paid would include a provision that would allow the Developer to apply for a reimbursement of off-site levies once the Developer could establish that "attainable housing" was built on the land. If "attainable housing" is not the result of development activity, the Developer would not be reimbursed for the off-site levies. In this way, the Municipality can be assured that off-site levies will only be forgiven in those instances where "attainable housing" is built. The Development Agreement would need to be amended to define (at a minimum):

- at what point the Developer would be able to make an application for the reimbursement;
- how the reimbursement would be calculated and paid; and
- if there was an "end date" after which the Developer could no longer apply for reimbursement.

This Option puts the onus for ensuring that "attainable housing" is provided on the Developer. The Developer would only be entitled to reimbursement if certain conditions are met. It would be up to the Developer to make sure that their builders build "attainable housing". The Developer becomes the policeman for the program or policy. If the Developer does not "control" his builders, then the Developer will not be eligible to apply for a reimbursement. It is the obligation to police the builders and the risk that not all of the off-site levies paid will be reimbursed that makes this option less attractive for the Developer.

Another variable in the process is the home buyer. If the home buyer requests that the builder "enhance" the unit that the home buyer has purchased, that might result in the "attainable housing" target price being exceeded. The home buyer should certainly be given the opportunity to finish his unit in the manner that he wants but that freedom could impact on the Developer being rendered ineligible for the reimbursement of a portion of the levies. To try and address this "wrinkle" the policy or program may want to define how the "attainable housing" price point is to be determined. Is the "attainable housing" price point the price that is actually paid by the first purchaser for the unit or some other calculated price?

There are many questions that would have to be considered with this option. For example, what happens if the Developer sells land that was intended for medium density housing but the purchaser develops the land for some other use? Is the Developer penalized or able to seek reimbursement? Should the selling price for the lot be considered in determining if the Developer has subdivided and serviced land that could be used for medium density development? Should a trigger for reimbursement be issuance of a development permit?

(ii) Option 2: Delay payment of Off-Site Levies until after Final Acceptance Certificates are issued (or later) and Require the Developer to Pay Off-Site Levies for those Lots not Developed with Attainable Housing.

This Option gives the Developer immediate relief from the obligation to pay off-site levies. There is no guarantee that the Municipality will see "attainable housing" as the end product. If the Developer does not control his builders and if the end product pricing exceeds the "attainable housing" price point, the Municipality would have to collect the unpaid off-site levies.

If the Developer pays the amounts owing then the cost of the delay in payment would be the lost interest that would have accrued to the levy fund if the levies were paid earlier. The risk for the Municipality is that, when it comes time to pay the off-site levies, the Developer defaults on the payment. The Municipality would have to sue to recover the amount owing as there is no special cost recovery mechanism for unpaid off-site levies.

The Development Agreement would have to be amended to address the deferral of the payment of the off-site levies and define when the off-site levies would be payable and how the outstanding amount would be determined (i.e. at what rate). The Development Agreement could also stipulate the damages that would be due to the Municipality if the Developer defaults on the payment, which would eliminate the need to "prove" the damages. However, litigation to obtain judgment against the Developer would be lengthy and expensive. This would not be an insured loss so the Municipality would have to pay all its legal costs. Even if the Municipality is

successful in the litigation and obtains judgment, the Municipality would then have to collect on the judgment. If the Developer has no assets, the Municipality would have no way to recover on the judgment.

All of the issues identified in Option 1 would need to be addressed if the Municipality pursues the alternative of Option 2. For example, how will the amount the Developer has to pay be determined if there is some "attainable housing" product and some housing product that is priced over the "attainable housing" price point? When will the determination be made as to how much the Developer has to pay? Would that determination be made at the point of issuance of the Final Acceptance Certificates? What happens if lot sales are slow and the Developer is willing to sell the land for a price that would allow for the development of "attainable housing" but no one is buying? What happens if a land speculator comes in, buys up all the lots and then just sits on the lots with the expectation of developing the lots at some later date either for another use or for units with a higher price, thereby increasing the profit to the builder?

(iii) Option 3: Delay payment of Off-Site Levies until after Final Acceptance Certificates are issued (or later) and Require the Developer to Pay Off-Site Levies for those Lots not Developed with Attainable Housing But Hold the Security Provided Under the Development Agreement until the Off-Site Levies are Paid.

Like Option 2 this option gives the Developer immediate relief from the obligation to pay off-site levies. Unlike Option 2, this option anticipates that the security provided by the Developer under the terms of the Development Agreement would be held as security for not only the construction obligations under the Development Agreement but also stand as security for the payment of the off-site levies. Further, the amount of security required under the Development Agreement could also be increased in order to include the amount of potentially unpaid off-site levies.

In this Option, the risk for the Municipality is reduced because the Development Agreement security can be relied upon to cover the unpaid off-site levies if, when it comes time to pay the off-site levies, the Developer defaults on the payment. The level of the Municipality's exposure would be directly related to the difference between the posted security and the amount outstanding as off-site levies. In the event that the Developer is in default of other aspects of the Development Agreement, the potential risk to the Municipality increases because the available security will be decreased if the security has been drawn upon because of other defaults (unless the security amount includes the estimated cost of construction plus the estimated off-site levy payment). The advantage of using the Development Agreement security to also cover the unpaid off-site levies is that the Developer is not required to provide additional security to cover the off-site levies. The Development Agreement would have to be amended to address the fact that the Development Agreement security could be drawn upon to cover the unpaid off-site levies as well as to include all the amendments related to the deferral of the payment of the off-site levies (as with Option 2).

C. CONCLUSION

It is possible to implement a policy or program that would allow for the deferral or forgiveness of off-site levies with the object of encouraging Developers and builders to develop and sell

medium density residential dwellings at an "attainable" unit cost while still achieving an acceptable return on their investment. Whatever method of implementation the Municipality chooses, unfortunately, such a policy or program will be difficult to administer and there is no certainty that "attainable housing" will result. Because there is no way for the Municipality to influence both Developers and builders with the same program, the Municipality will have to elect whether the benefit of the forgiven off-site levies flows to the Developer or builder. If the benefit flows to the Developer, there is at least the possibility that land will be available for purchase by builders or individuals at prices that could support development of "attainable housing". However, the Municipality cannot control the market place and there is no certainty that even if land prices are reduced to reflect the fact that the Developer did not have to pay the off-site levies, that reduced pricing may not translate to "attainable housing" units. Even if the first sale is at an "attainable" price point, there is no way that the prices of resale can be controlled. The forgiveness of off-site levies will not create or sustain "attainable housing" over time.

We trust that this opinion will be of assistance to Council as consideration of the issue of forgiving off-site levies as a stimulus for the subdivision and servicing of medium density land goes forward. If we can be of further assistance, either by considering in greater detail the issues that will have to be addressed with the Options, drafting the policy or program guidelines or revising the standard Development Agreements used by the Municipality, please contact the writer or our senior associate, Charlotte St. Dennis. Charlotte can reached at 780-497-4829.

Yours truly,

BROWNLEE LLP
PER:

LORNE I. RANDA
CASD/

RES.359/2016 MOVED by Councillor Popadynetz that Council directs Administration to amend the Development and Subdivision Policy PLN-2 and Development and Subdivision Procedure PLN-2 to reflect the desired approach to facilitate attainable housing, which was Option 2 recommended by the Town's lawyers, that being "Delay payment of Off-Site Levies until after Final Acceptance Certificates are issued (or later) and require the developer to pay Off-Site Levies for those Lots not developed with attainable housing".

CARRIED UNANIMOUSLY

Development and Subdivision Agreement

Policy No.: PLN-2	**Council Resolution No.:** 280/13
Department: Planning and Economic Development	**Authority:** Council
Effective Date: August 19, 2013	**Revision Date:**
Review Date: August 2016	**Repealed Date:**
Supersedes: None	
Related Procedure No.: PLN-2	
Related Procedure Name: Development and Subdivision Agreement	

Purpose

To ensure consistency and comprehensiveness when signing development and subdivision agreements with developers.

Policy Statement

1) Administration will ensure that Procedure PLN-2 is followed when entering into development and/or subdivision agreements with developers or applicants.

2) Any change in the contents or regulation as outlined by Procedure PLN-2 will require approval and amendment by Town of Taber Council.

Additional References

N/A

R. Bryant
MAYOR

Sept. 5/2013
DATE

CHIEF ADMINISTRATIVE OFFICER

August 30/2013
DATE

Development and Subdivision Agreement

Procedure No.: PLN-2	**Council Resolution No.:** N/A
Department: Planning and Economic Development	**Authority:** Director of Planning and Economic Development
Effective Date: August 19, 2013	**Revision Date:**
Review Date: August 2016	**Repealed Date:**
Supersedes: None	
Related Policy No.: PLN-2	
Related Policy Name: Development and Subdivision Agreement	

Purpose

To adopt the procedure as outlined by the attached documents as the standard for all development and subdivision agreements for the Town of Taber.

Operating Guidelines

1) All development and subdivision agreements will utilize the two stage development and/or subdivision agreement procedure as outlined and referenced by *Appendix A to Procedure PLN-2.* Administration does not have the authority to waive any of the regulations within Appendix A without approval from Town of Taber Council.

2) If an approval is given by the development authority (or a designate) for a Subdivision, the attached *Appendix B to Procedure PLN-2* will apply as the base document for the Subdivision Agreement. Administration has the authority to amend the base document to meet the specific requirements of the subdivision.

3) If an approval is given by the development authority (or a designate) for a Development Permit, the attached *Appendix C to Procedure PLN-2* will apply as the base document for the Development Agreement. Administration has the authority to amend the base document to meet the specific requirements of the development permit.

CHIEF ADMINISTRATIVE OFFICER

AUGUST 30/2013
DATE

TOWN OF TABER
APPENDIX A TO PROCEDURE # PLN-2

MUNICIPAL IMPROVEMENTS
CONSTRUCTION, MAINTENANCE AND ACCEPTANCE
POLICY AND PROCEDURES

TABLE OF CONTENTS

1. INTRODUCTION

1.1 Pursuant to Sections 650, 651 and 655 of the *Municipal Government Act,* the Town of Taber (the "Town") may require a Developer to install and construct certain Municipal Improvements and services as a condition of a development permit or subdivision approval. In some circumstances, a Developer may agree to undertake the installation and construction of Municipal Improvements in advance of a development permit or subdivision application process. The obligations of a Developer regarding such installation and construction shall be addressed in the form a Development Agreement between the Town and the Developer.

1.2 Such Municipal Improvements may include, but are not limited to, water system services, sanitary sewer system services, storm water drainage, roads and sidewalks. Upon completion of the Municipal Improvements, the Town shall undertake inspection and acceptance of the Municipal Improvements; after which, the Town becomes the owner of the Municipal Improvements and becomes responsible for the maintenance and repair thereafter of the Municipal Improvements.

1.3 This Policy and Procedures set out the Town's processes and obligations regarding the installation, construction, maintenance and acceptance of the Municipal Improvements to be undertaken by a Developer.

2. PREPARATION AND APPROVAL OF SUBDIVISION PLANS

2.1 The Town agrees that, subject to the other requirements of this Policy and Procedures and the Development Agreement, the Developer may proceed with the development of a Subdivision Area/Development prior to registering a Plan of Subdivision for the Subdivision Area/Development Area.

2.2. In respect of any Subdivision, and the Development Agreement related thereto, the Developer shall:

a) at its sole cost and expense cause a Plan of Subdivision for the Subdivision Area to be prepared and approved by all necessary approving authorities and in accordance with the law in that respect, and provided that it is a strict requirement of this Policy and Procedures and the Development Agreement, that any Plan of Subdivision must first have received approval in writing of the Town;

b) the Developer shall at its sole cost and expense register in the Land Titles Office for the South Alberta Land Registration District a Plan of Subdivision for the Development Area within Twelve (12) months of the date of the Development Agreement (unless otherwise agreed to in writing);

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

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

e) if the Town terminates the Development Agreement in whole or in part, it is understood and agreed that any financial obligations of the Developer to the Town shall survive and the Town shall be entitled to enforce such financial obligations as if the Development Agreement remained in full force and effect.

2.3 The Developer shall comply fully with all conditions of any subdivision approval which may be imposed by the subdivision authority (or if the subdivision authority's decision is appealed, the final decision upon appeal).

2.4 No Plan of Subdivision shall either be endorsed by the Town or permitted to be registered in respect of a Subdivision Area, nor shall the Developer Commence Construction of any Municipal Improvements, nor shall the Developer Commence Construction of any Development upon or within any Development Area in respect of a Development, unless and until the Town in its discretion has:

a) rezoned the Subdivision Area/Development Area to a district that the Town deems appropriate;

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

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

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

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

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

g) confirmed that registered ownership of the lands comprising the Subdivision Area is satisfactory to the Town, including, without restriction, confirmation that the registered owner is the Developer; and

h) received all items required to be delivered to the Town pursuant to the terms of the Development Agreement.

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

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

2.7 Notwithstanding anything to the contrary contained in this Policy and Procedures and the Development Agreement, the Town shall be and is irrevocably appointed as its attorney in fact and in law for the purposes of making all necessary or desirable (in the Town's discretion or opinion) applications, executing all necessary or advisable (in the Town's discretion or opinion) documents, and taking all further necessary or

advisable (in the Town's discretion or opinion) steps or actions in order to obtain the cancellation of the registration of the said Plan of Subdivision in accordance with the preceding Section of this Policy and Procedures.

2.8 The power of attorney conferred upon the Town by the Developer in Section 2.7 of this Policy and Procedures may be exercised by the Town in the event that the Developer has not applied for the cancellation of the registration of the Plan of Subdivision within One (1) month of the Town providing written notice to the Developer pursuant to Section 2.6 of this Policy and Procedures, or may be exercised in the event that the Developer has not obtained the cancellation of the registration of the Plan of Subdivision within Three (3) months of the Town providing written notice to the Developer pursuant to Section 2.6 of this Policy and Procedures.

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

3. PREPARATION AND APPROVAL OF PLANS

3.1 As soon as is reasonably practicable after execution of the Development Agreement, and in any event prior to Commencing Construction and installation of the Municipal Improvements within or adjacent to the Subdivision Area/Development Area, the Developer shall:

a) instruct the Developer's Consultant to prepare the Plans for the Municipal Improvements in accordance with the Design Standards; and

b) submit the Plans to the Town Representative for review and, at the Town's sole discretion, approval.

The Plans shall give all necessary details of the Municipal Improvements to be constructed by the Developer, including any necessary specifications to be attached thereto.

3.2 The Town agrees that it shall not unduly delay in granting its approval, or in rejecting, the Plans which have been submitted by the Developer to the Town Representative. Once approved, the Plans shall be deemed to be incorporated within the Development Agreement by reference, as if they had been attached to the Development Agreement as a schedule. In the event that the Plans are rejected for any reason whatsoever, the Town Representative shall provide the Developer's Consultant with a written explanation of the reasons for rejection, whereupon the Developer's Consultant must revise and correct the plans and return them to the Town Representative pursuant to clause 3.1 which shall apply *mutatis mutandis*. If the Town Representative does not approve the Plans required to be submitted by the Developer to the Town Representative, the Developer shall be entitled to refer any matter in dispute to the Town Council, and the decision of Town Council shall be final and binding and any such dispute or difference shall not be subject to arbitration under the Development Agreement.

3.3 The Plans for the construction and installation of the Municipal Improvements for the Subdivision Area/Development Area shall be designed by a qualified Professional Engineer, and shall conform strictly to the Design Standards.

3.4 The Developer covenants and agrees that the Plans for Landscaping for Public Properties shall comply with the Design Standards and shall include all Landscaping required by the Town including, but not so as to limit the generality of the foregoing, Landscaping of all roadways, utility rights-of-ways and public walkways, construction of berms, construction of uniform fencing, installation of recreation equipment and facilities and Landscaping on other Public Properties. The Developer agrees that it shall submit Plans for Landscaping on Public Properties, to be designed by a qualified Landscape Architect, for the Town's approval in conjunction with the balance of the Plans referred to in Section 3.1 of this Policy and Procedures.

3.5 The Developer covenants and agrees that the Plans shall include a construction timetable for the construction and installation of all of the Municipal Improvements within and adjacent to the Subdivision Area/Development Area and the Developer shall, upon approval of the construction timetable by the Town Representative and subject always to Force Majeure relief under this Policy and Procedures or the Development Agreement, comply with all time limits and complete all phases of the Developer's work within the dates specified in the construction timetable. The Developer may reasonably amend the timetable from time to time with the approval of the Town.

3.5 Subject to the terms of this Policy and Procedures, or the Development Agreement, it is understood and agreed between the Town and the Developer that the Developer shall be entitled to construct the Municipal Improvements in accordance with the Plans once such Plans have been approved by the Town Representative.

3.6 It is understood and agreed that the Town Representative's approval of the Plans for the Municipal Improvements as contemplated above may be subject to the occurrence of unforeseen conditions, and in the case of unforeseen conditions which may adversely affect development the detailed design specifications for any of the Municipal Improvements shall be subject to review and revision, from time to time, by the Town Representative to account for such circumstances in accordance with the Design Standards and in accordance with accepted engineering and construction practices.

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

3.8 It is understood and agreed that the Town Representative's approval of the Plans is in no way intended to be a warranty, representation or guarantee by the Town or its engineer respecting the content of the Plans, including, without restricting the generality of the foregoing:

a) whether the Plans are suitable for the intended purpose;

b) whether the Plans comply with any required federal, provincial or municipal legislation or regulation;

c) whether the Plans comply with the Design Standards; and

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

4. DRAINAGE STANDARDS

4.1 The Developer shall prepare and undertake drainage Plans, the construction and installation of all storm water management systems both within private lands and Public Property as Municipal Improvements, all testing associated with storm water management systems (including testing for the height of water tables, soil alkalinity and soil compaction), all necessary approvals from Alberta Environment and other affected approving authorities, and the maintenance of all storm water management systems during the Guarantee

Period shall be undertaken and conducted in accordance with accepted engineering and construction practices and in accordance with the Design Standards.

4.2 The Developer shall ensure that all proposed purchasers and optionees of any of the lots within a Subdivision Area/ Development Area shall be fully advised of the requirements of the Town relating to the management and disposal of storm water within lots in the Subdivision Area/ Development Area, as outlined below in this Policy and Procedures.

4.3 All of the storm water management standards and requirements of the Town pursuant to this Policy and Procedures and any Development Agreement shall be and hereby constitute covenants running with the lands and are binding upon the Developer and any subsequent owners of any lots within the Subdivision Area/ Development Area.

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

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

4.6 All specified standards, requirements and any unfulfilled obligations due and owing to the Town by the Developer regarding the drainage standards provided by this Policy and Procedures shall constitute covenants running with the land and binding upon any subsequent owners or leaseholders of all or any portion of the Subdivision Area/Development Area.

4.7 The following standards shall apply with respect to grading within the Subdivision Area/Development Area:

a) The finished elevations at all corners of the lot and the ground next to the building shall conform to an approved surface drainage plan. Any changes must be approved, in writing, by the Town;

b) Home builders will be required to supply a grading compliance certificate prepared by an Alberta Land Surveyor, showing compliance with finished grade requirements, prior to occupancy;

c) Positive drainage must be established away from the building to the gutter or drainage channels as designed;

d) Weeping tiles and other foundation drains shall meet Alberta Building Code requirements. Disposal of weeping tile and other foundation drainage shall be subject to Town's approval. Disposal into the sanitary sewerage system is prohibited. In all cases, this will require the provision of a sump pump discharging into a storm sewer system designed to accommodate the anticipated weeping tile flow, or, where storm system connections are not available, into swales alongside and between lots, ultimately discharging into the gutter;

e) Native material may be used for backfill of trench and building excavations respecting the Municipal Improvements. In accordance with good construction practice, all trench and

foundation backfill must be adequately consolidated at the time of construction by moisture conditionings and/or mechanical compaction to ensure that when subsequent natural settlement is complete, that final grades will be acceptable with no adverse impact to adjacent structures. The Town will inspect backfill prior to issuance of a Construction Completion Certificate or the Certificate may be issued after provision of appropriate security if weather conditions preclude adequate consolidation and inspection prior to occupancy;

f) Site improvements shall not alter or disrupt the drainage pattern as established in the surface drainage plan; and

g) Landscaping and structures such as solid fences, retaining walls and permanent or temporary buildings which may disrupt surface drainage shall not be permitted.

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

5. RIGHTS OF WAY AND UTILITY LOTS

5.1 As soon as is reasonably practicable after execution of the Development Agreement, and in any event prior to Commencing Construction and installation of the Municipal Improvements within or adjacent to the Subdivision Area/ Development Area and the registration of a Plan of Subdivision respecting a Subdivision Area, where applicable, the Developer shall:

a) execute and deliver to the Town one or more utility right of way agreement(s) for the Municipal Improvements, as well as any and all connections to and from the Municipal Improvements, to be contained within the Developer's Lands as per the Town approved Plans in form and content reasonably satisfactory to the Town; and

b) grant and dedicate to the Town, such portions of the Developer's Lands as is required for the construction and permanent operation of the Municipal Improvements upon the Developer's Lands, a public utility Lot, or otherwise;

as may be required for the construction, installation and operation of the Municipal Improvements. Without restricting in any manner the obligations of the Developer under the balance of the provisions of this Section the Developer shall, concurrently with delivery of the above-noted Utility Rights-of-Way, deliver or cause to be delivered all registrable postponements (duly executed by the holders of other registrations upon the Developer's Lands) as may be necessary so as to ensure that upon registration the Utility Rights-of-Way shall be in first position upon the titles.

5.2 To the extent that a registered subdivision plan, descriptive plan, or right of way plan is required in order to carry out the dedications contemplated above, or in order to define the right of way area within the Utility Rights-of-Way, the Developer shall attend to the preparation of any and all registrable subdivision plans, descriptive plans or right of way plans by a qualified Alberta Land Surveyor. Provided always that any such plans, and the dedication areas or right of way areas provided for therein, shall be:

a) subject to the review, revision, and approval of the Town, acting reasonably, so as to ensure that the dedications, and Utility Rights-of-Way and the respective right of way plan, together will adequately provide for the right and privileges required by the Town for the ownership, operation, maintenance, repair and replacement of the applicable existing utilities and/or the applicable Municipal Improvements by the Town; and

b) otherwise in compliance with the balance of the provisions of this Section 5 of the Policy and Procedures.

5.3 All costs incurred in the preparation of any required subdivision, descriptive or right of way plans pursuant to the foregoing paragraph shall be the responsibility of the Developer.

5.4 The Plans, as approved by the Town Representative, shall designate dedication areas and Utility Rights-of-Way of dimensions adequate for the construction and installation of the Municipal Improvements. The Developer shall ensure that all Utility Rights-of-Way in the Subdivision Area/Development Area shall be located at the front of each lot in the Subdivision Area/Development Area or other area as approved by the Town Representative. In the case of perimeter fencing, the Developer shall ensure that any such easement in the Subdivision Area/Development Area shall be located 0.15 metres (6 inches) or a distance determined by the Town Representative, offset into the Developer's Land adjacent to the road right-of-way, public utility lots and Public Properties.

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

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

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

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

5.6 The Developer agrees that all Utility Rights-of-Way granted pursuant to this Policy and Procedures, or the Development Agreement, shall be a first charge (excepting other easements and utility rights-of-way) and that the Developer shall obtain and register postponements of all liens, charges and encumbrances in favour of the easements.

6. CONSTRUCTION AND INSTALLATION OF MUNICIPAL IMPROVEMENTS

6.1 Except as otherwise specified in the application Development Agreement, or the construction timetable approved under the Development Agreement, the Developer shall Commence Construction and installation of the Municipal Improvements required under a Development Agreement within Twelve (12) months of execution of the Development Agreement and shall complete the construction and installation of the Municipal Improvements, at the Developer's own cost and expense, within Twelve (12) months of Commencement of Construction.

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

6.3 In the event that the Developer has not Commenced Construction of the Municipal Improvements within the time limits specified in Section 6.1, then the Town shall be entitled to terminate the Development Agreement, and further, the Developer agrees:

a) that the termination of the Development Agreement shall be effective upon the Town serving written notice of termination on the Developer;

b) that in the event that the Development Agreement is terminated, any provisions in the Development Agreement relating to the cancellation of any Plan of Subdivision shall apply to the Subdivision Area;

c) that in the event that the Development Agreement is terminated, then the Developer shall not be entitled to Commence Construction of the Municipal Improvements for the Subdivision Area/Development Area unless and until a further written agreement is entered into between the Developer and the Town.

6.4 In the event that it is necessary or reasonable, in the opinion of the Town, to construct or install any temporary or emergency access during the construction and installation of the Municipal Improvements, the Developer shall construct and install any such temporary or emergency accesses in accordance to specifications, and in such locations, as determined by the Town acting reasonably and the Developer shall grant to the Town an easement, in a form acceptable to the Town, across the required land for the period for which the access is required. Further, during the course of development, the Developer shall be required to construct and maintain temporary graveled turn-arounds with wood bollards at all dead-end roadways.

6.5 The Developer covenants and agrees that it shall, prior to the public having access to the Subdivision Area/Development Area, complete the installation of all traffic control signs, street identification signs, development identification signs and any temporary signage required by the Town.

6.6 At all times during the construction and installation of the Municipal Improvements and during all work by the Developer or its agents related thereto:

a) the Town shall have free and immediate access to all records of or available to the Developer and the Developer's Consultant relating to the performance of the Work, including, but without limiting the generality of the foregoing, all design, inspection, material testing and "as constructed" records.

b) the Town may:

(i) exercise such inspection of the performance of the Work as the Town may deem necessary and advisable to ensure to the Town the full and proper compliance by the Developer with the Developer's undertakings to the Town, and to ensure the proper performance of the Work;

(ii) reject any design, material or Work which is not in accordance with the Design Standards or accepted engineering and construction practices;

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

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

(v) order the Developer within a reasonable time to bring on the job and use additional labour, machinery and equipment, at the Developer's cost, as the Town deems reasonably necessary to the proper performance of the Work;

(vi) order that the performance of the Work or part thereof be stopped until the said orders can be obeyed;

(vii) order the testing of any materials to be incorporated in the work and the testing of any Municipal Improvements;

and the Developer at its own cost and expense shall comply with the said orders and requirements of the Town unless the Developer takes issue with any such order or requirement, in which case the Developer shall request, in writing, that such issue be referred to the Dispute Resolution Procedure; PROVIDED that in no event shall the Developer be entitled to dispute nor arbitrate any decision made by the Town pursuant to sections (b)(v), (b)(vi) or (b)(vii); AND PROVIDED FURTHER, that the affected work, excepted as otherwise agreed by the Town in writing, shall stop until such dispute resolution has taken place.

6.7 Notwithstanding anything expressed or implied in the preceding paragraph:

a) the Town shall have no obligation or duty to exercise any of the Town's powers of inspection nor any obligation or duty to discover or advise the Developer of any deficiencies in construction or workmanship during the course of the construction and installation of the Municipal Improvements;

b) the Developer shall during the course of the construction and installation of the Municipal Improvements provide and maintain adequate inspection services, supervised by a professional engineer, at the Developer’s sole cost and expense; and

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

6.8 During the construction and installation of the Municipal Improvements, and during the Guarantee Period for the Municipal Improvements, the Developer shall pay all contractors and other parties hired by the Developer to fulfill the Developer's obligations under the Development Agreement and this Policy and Procedures. The failure of the Developer to pay any such contractors or other parties shall constitute a breach of the Development Agreement by the Developer unless there is a bona fide dispute between the Developer and the contractor or other party.

6.9 The Developer shall take effective measures to reasonably control dust, dirt, building construction litter, weeds and undesirable vegetation in the Subdivision Area/Development Area, including, and without limiting the generality of the foregoing, on any loam stockpile site so that dust and dirt originating therein shall not be conveyed therefrom by any means whatsoever or cause annoyance or become a nuisance to property owners and others within or adjacent to the Subdivision Area/Development Area. The Developer is solely responsible for ensuring dust and dirt control within the Subdivision Area/Development Area; the Developer is also responsible for ensuring that Work done by the Developer or its contractors in and around the Subdivision Area/Development Area does not result in dust or dirt becoming an annoyance or nuisance. In the event, however, that the Town Representative deems that there is dust or dirt problems, the Town shall attempt to notify the Developer of the problem by telephoning the Developer, or the Developer's Consultant. The Developer shall rectify the problem within Seventy-Two (72) hours of the notice by taking effective measures to control the dust or dirt problem. The Seventy-Two (72) hours notice may be waived or shortened by the Town:

a) in an emergency (as deemed by the Town);

b) if the Town is not able to contact the Developer or the Developer’s Consultant;

c) if the Developer by its conduct or statement leaves the Town with the impression that it will not perform the necessary work within the required time frames.

The Town may take such steps as are necessary to eliminate the dust or dirt problem after expiry of the notification period or if the notice is waived; all measures shall be at the expense of the Developer and the Town shall within Seventy-Two (72) hours notify the Developer in writing of the action taken by the Town.

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

6.11 During the course of constructing the Municipal Improvements, the re-execution or replacement of unsatisfactory Work which is of a minor nature (as determined by the Town in its discretion) and which does not pose a health or safety danger, may be re-executed or replaced by the Developer, in its discretion, at any

time prior to the request by the Developer for a Construction Completion Certificate for the Municipal Improvements in question.

6.12 Notwithstanding anything hereinbefore contained or contained in the Development Agreement to the contrary, the Developer shall (such covenant being fundamental to the Development Agreement) plan and stage the development of the Subdivision Area/Development Area so as to guarantee and ensure to the Town that:

a) water service is operational (for fire protection) prior to issuance of building permits or development permits for buildings on lots; and

b) all Essential Services shall have been installed and rendered operative in any part of the Subdivision Area/Development Area before any buildings or facilities are occupied in any such part of the Subdivision Area/Development Area, except as otherwise permitted in writing by the Town.

Notwithstanding the foregoing, the Town may, in its sole and absolute discretion, permit the issuance of development and/or building permits, or building occupancy, in respect to the development upon lots or parcels contained in the Subdivision Area/Development Area prior to completion of the underground water and sewer improvements in any part of the Subdivision Area/Development Area (subject always to emergency vehicle access and other interim safety concerns), but this shall in no way oblige the Town to issue permits or approve occupancy earlier than provided in the regulations and bylaws of the Town.

6.13 The Developer shall take effective measures to reasonably control garbage in and around the Subdivision Area/Development Area, including, and without limiting the generality of the foregoing, any buildings and Landscaping so that garbage originating therein shall not cause annoyance or become a nuisance to property owners and others within or adjacent to the Subdivision Area/Development Area. The Developer shall at its own expense provide dumpsters or such other containers suitable for the collection and containment of garbage within the Subdivision/Development Area.

7. INSTALLATION OF OTHER UTILITIES

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

7.2 The said electric power and natural gas within a Subdivision Area/ Development Area shall be installed within the roadways, utility lots or easement areas, in accordance with the Plans, adjacent to the lots that are intended to be served by such services and shall be installed in a manner and in locations which will permit lot owners within the Subdivision Area/ Development Area to hook up to such services upon paying the normal hook-up fees charged by the Utility Company or franchise holder.

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

8. USE OF PUBLIC PROPERTIES IN THE PERFORMANCE OF WORK

8.1 The Town shall, acting reasonably and upon application by the Developer, grant to the Developer under written agreement or consent the right, permission and power to use, break-up, dig, trench, or excavate in the public streets, roads and boulevards, under the control of the Town, within or adjacent to the Subdivision Area/Development Area, and otherwise to do such work therein and thereon as may be necessary from time to time to construct, develop, erect, lay, operate, maintain, repair, extend, relay and remove any Municipal Improvements forming part of the Work of the Developer, as may be necessary for the purpose of this Policy and Procedures, and the Development Agreement, PROVIDED:

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

   (i) a specific work schedule and procedures proposed to be followed;

   (ii) detailed engineering drawings of all connections to existing municipal services;

   (iii) provisions to be implemented for temporary access and services;

   (iv) installation of temporary traffic control devices and personnel deployment to minimize traffic disruption; and

   (v) form and schedule of notification and public relation strategy to be utilized;

b) That the performance of such Work shall be done under the supervision of the Town Representative whose requirements shall be strictly followed;

c) That no such Work shall be commenced prior to the Developer obtaining the written consent of the Town to enter upon such Public Properties; and the Town shall not unreasonably delay or withhold such written consent;

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

e) That upon completion of such Work the Developer shall restore all such Public Properties to a condition and state of repair equivalent to that which prevailed prior to the performance of such Work, including, where necessary, the re-planting or replacement of trees and shrubs, and shall maintain such restored portions of such Public Properties, including such replaced or re-planted trees and shrubs, for a period of Two (2) years thereafter, ordinary wear and tear excepted;

f) That the restoration of Public Properties shall be part of the Municipal Improvements to be constructed and installed by the Developer and the Developer shall be required to obtain Construction Completion Certificates and Final Acceptance Certificates for the restoration work;

g) That the Developer shall indemnify and save harmless the Town from and against all losses, costs, claims, suits or demands of any nature (including all legal costs and disbursements on a

solicitor and client basis) which may arise by reason of the performance of work by the Developer; and

h) That the Developer shall, at all times during the construction and installation of the Municipal Improvements, provide safe and acceptable access to residents adjacent to the Subdivision Area/Development Area.

9. CONTRACTS FOR INSTALLATION OF THE MUNICIPAL IMPROVEMENTS

9.1 Notwithstanding anything contained in this Section, the Developer shall be fully responsible to the Town for the performance by the Developer of all the Developer's obligations as set forth in the Development Agreement or this Policy and Procedures; AND FURTHER the Town shall not be obligated in any circumstances whatsoever to commence or prosecute any claim, demand, action or remedy whatsoever against any person with whom the Developer may contract for the performance of the Developer's obligations.

9.2 Any contract entered into between the Developer and a third party in respect to the performance of all or any of the Developer's obligations as set out in the Development Agreement or this Policy and Procedures to construct and maintain the Municipal Improvements, or any of them, shall provide:

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

b) That the third party shall provide reasonable proof of financial responsibility;

c) That the third party shall comply with the provisions of the *Workers Compensation Act* and the *Occupational Health and Safety Act* for the Province of Alberta;

d) That the third party will allow the Town access to the Work for the purpose of inspection;

e) That the works to be performed by the third party shall not be deemed to be duly and adequately completed under the contract except upon the issuance of a Construction Completion Certificate for the same by the Town;

f) That the third party shall coordinate with the Town work forces and others to facilitate the installation of utilities and shall protect such utilities from damage;

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

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

10. COMPLIANCE WITH ALL PLANS AND SPECIFICATIONS

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

10.2 The provisions of the Development Agreement and this Policy and Procedures shall be additional to and not in substitution for any law, whether Federal, Provincial or Municipal, prescribing requirements relating to construction standards and the granting of permits under the terms of the Land Use Bylaw of the Town and the *Safety Codes Act* and Regulations thereunder.

11. ACCEPTANCE OF MUNICIPAL IMPROVEMENTS AND TRANSFER OF MUNICIPAL IMPROVEMENTS TO TOWN

11.1 For purposes of this Section and the Development Agreement, no Municipal Improvement shall be considered complete unless and until:

a) the Municipal Improvement has been fully constructed and installed in accordance with the approved Plans;

b) the Municipal Improvement has been constructed and installed in accordance with the Design Standards and accepted engineering and constructed practices;

c) all testing has been completed and the results approved by the Town;

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

e) all Public Properties which have been disturbed or damaged have been fully restored by the Developer;

f) the Municipal Improvement is suitable for the purpose intended;

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

h) the Developer has provided the Town with the actual costs and sufficient supporting documents of all Municipal Improvements in order that the Town is able to meet its accounting and reporting requirements for the acquisition of Tangible Capital Assets. Sufficiency of supporting documentation and cost information shall be determined by the Town and its auditors.

11.2 When the Developer claims that the Municipal Improvements of the Subdivision Area/Development Area have been constructed and installed in accordance with the requirements of this Policy and Procedures, and the Development Agreement, then the Developer shall give notice in writing of such claimed completion

to the Town Representative and request that the Town provide a Construction Completion Certificate which acknowledges the completion of the Work to the Town's satisfaction.

11.3 Within Sixty (60) days of receipt of such claim of completion, the Town shall undertake an inspection of the constructed Municipal Improvements and will notify the Developer in writing of its acceptance (by the issuance of a Construction Completion Certificate) or rejection of the Municipal Improvements so completed.

11.4 Notwithstanding the preceding Section, the Town may give notice to the Developer of the Town's inability to conduct an inspection within the said Sixty (60) days due to adverse site or weather conditions, and in such an event the time limit for such an inspection shall be extended until Sixty (60) days following the elimination of such adverse site or weather conditions.

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

11.6 In the event that any inspection contemplated in Section 11.3 or 11.4 reveals any deficiencies (ordinary wear and tear excepted) in relation to a particular Municipal Improvement, the Town may refuse to issue a Construction Completion Certificate for the Municipal Improvement and require the Developer to repair or replace the whole or any portion of any such Municipal Improvements; PROVIDED, that upon completion of the repairs or replacement required to correct any such deficiencies, the Developer may request a further inspection and issuance of a Construction Completion Certificate.

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

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

11.9 Within Sixty(60) days of the receipt by the Town of a request for a Final Acceptance Certificate, the Town shall undertake an inspection of the Municipal Improvements and the Town shall within the said Sixty (60) days advise the Developer in writing of any deficiencies (ordinary wear and tear excepted) in relation to the Municipal Improvements (i.e. any deficiencies referred to by the Developer and any additional deficiencies); PROVIDED, that the provisions of Section 11.4 shall also apply to any request for the issuance of a Final Acceptance Certificate.

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

11.11 In the event that any inspection contemplated in Section 11.9 reveals that there are no deficiencies in relation to the Municipal Improvements, the Town shall issue in writing its Final Acceptance Certificate for the Municipal Improvements.

11.12 It is understood between the Town and the Developer that the Town shall be at liberty to issue a conditional Final Acceptance Certificate for the Municipal Improvements and such acceptance shall be conditional upon the completion of minor deficiencies by the Developer within Thirty (30) days.

11.13 In the event that the Developer has proposed Attainable Housing, the Off-Site Levy may be waived until the issuance of the Final Acceptance Certificate(or later) unless otherwise specified in writing by Council. The Off-Site Levy will be calculated based on the number of units deemed to be attainable. Eligibility will be extended to Developers of neighborhoods where Attainable Housing areas are proposed as part of an overall community master plan. The value of the discount given to the Developer will be transferred from the Town's general municipal reserve funds to the Off-Site Levy fund in place of the Developer's contribution in accordance with S. 648(5)(a) of the MGA. Council will make the final decision regarding the total amount of Off-site Levy to be paid based off of a recommendation from Administration.

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

11.15 Notwithstanding anything contained in this Policy and Procedures, or the Development Agreement to the contrary, the Developer acknowledges and agrees that the Guarantee Period for the Municipal Improvements shall not expire before the issuance of a Final Acceptance Certificate for the Municipal Improvements by the Town to the Developer; PROVIDED, that in the event that either party refers to arbitration the Developer's right to the issuance of a Final Acceptance Certificate for the Municipal Improvement, the arbitrator shall, in accordance with the terms of this Agreement, determine the date upon which any such Final Acceptance Certificate is to be effective.

11.16 Following the issuance of a Construction Completion Certificate for the Municipal Improvements, the Town agrees that it shall assume the normal operation and maintenance (excluding repairs or matters arising from inadequate or deficient design or construction) of the Municipal Improvements excluding Landscaping, fencing and facilities owned by private utility companies.

11.17 The Town and the Developer agree, notwithstanding the issuance of a Final Acceptance Certificate for the Municipal Improvements, that the Developer shall be responsible, for a period of Five (5) years following the issuance of a Final Acceptance Certificate for the Municipal Improvements, to repair or replace any of the Municipal Improvements where there were any hidden or latent defects (which were reasonably not detected by inspections or tests actually undertaken) in any of the Municipal Improvements, which are causally connected to the performance or non-performance of the obligations of the Developer under this Policy and Procedures, and the Development Agreement and were not discovered prior to the issuance of the

Final Acceptance Certificate. In the event of a dispute regarding this provision, and in addition to the Dispute Resolution Procedures, the parties may mutually agree to resolve any dispute under this provision by means of a mutually hiring an independent engineering firm to determine causation of hidden or latent defects in any Municipal Improvements installed and constructed pursuant to this Policy and Procedures, and the Development Agreement.

11.18 It is understood and agreed that the Town may in its discretion issue up to Three (3) separate Construction Completion Certificates for the Municipal Improvements, namely:

a) those underground Municipal Improvements;

b) those surface Municipal Improvements; and

c) those Landscaping and fencing.

Likewise, the Town may in its discretion issue up to Three (3) Final Acceptance Certificates for those portions of the Municipal Improvements referred to above.

12. MAINTENANCE OF MUNICIPAL IMPROVEMENTS BY DEVELOPER

12.1 The Guarantee Period in respect to any of the Municipal Improvements shall commence with the Town's written Construction Completion Certificate for any such Municipal Improvements in good condition and repair (ordinary wear and tear excepted), and the Developer shall, subject to Section11.15 of this Policy and Procedures, maintain each of the Municipal Improvements in good condition and repair, reasonable wear and tear excepted, during the Guarantee Period, which, without limiting the generality of the foregoing, shall include maintenance work and repairs specified by the Design Standards and replacing to original condition any and all damage caused due to subsistence and settling or any cause, and shall include repair or replacement of the whole or any portion thereof where such repair or replacement is required, as determined by the Town, as a result of any cause other than the neglect by the Town, its servants, agents or contractors in the use and operation thereof.

12.2 Prior to the issuance of a Final Acceptance Certificate for any Landscaping work, the Town shall be entitled to require the Developer to replace any trees, shrubs or grass which may have died or failed to achieve proper growth, as determined by the Town in its discretion; AND FURTHER, the Town shall be entitled to require the replacement or repair of any other Landscaping works such as berming, rip-rap, or fencing which is not in accordance with the Plans as a result of any cause other than neglect by the Town, its servants, agents or contractors in the use and operation thereof.

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

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

12.5 The Town and the Developer agree that during the Guarantee Period that the Town shall perform the normal maintenance requirements of the Town respecting the cleaning and flushing of sanitary sewers;

PROVIDED, that the Town's costs and expenses of the final cleaning and the removal of obstructions, immediately prior to the issuance of the Final Acceptance Certificate, shall be paid by the Developer to the Town before the Final Acceptance Certificate is issued.

12.6 Without limiting any of the foregoing, maintenance for which the Developer shall be responsible shall include, but shall not be limited to, failure of or damage to the underground Municipal Improvements resulting from defective materials or improper installation or workmanship, settlement of ditches, grading, gravelling, repairs or replacement of road and lane surfaces, sidewalks, curbs, and gutters, catch basins and leads, road surfaces constructed by the Developer or its contractor, adjustment and repairs to water mains, main valves, water hydrants, hydrant valves, service lines and valves and valve operating mechanisms; repairs, replacements and adjustments to sewer mains, sewer services, manholes, manhole frames and covers, but shall not include ordinary wear and tear. The Developer covenants that during the Guarantee Period that the Developer shall be responsible, at the Developer's own cost and expense, for adjusting and maintaining all hydrants, valve boxes (for both hydrants and mains) manholes and catch basins and appurtenances thereto and any crack filling of roadways until the Town has issued the Construction Completion Certificate for all aspects of roadway improvements.

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

12.8 Notwithstanding anything contained within this Policy and Procedures, nor any rule of law, any improvements constructed on-site and not on Public Property or within utility right of ways or easements (and which title and ownership interest is not transferred to the Town as provided in Section 11.13) shall at all times remain the property of the Developer, subsequent owners of all or any portions of the Subdivision Area/Development Area, or the third party utility and/or other service providers, as the case may be. The Town shall not be responsible for any repair or replacement of the whole or any portion of such improvements, which responsibility shall at all times fall upon the owners of the respective improvements.

13. DEVELOPER CONTRIBUTIONS, REIMBURSEMENT COSTS AND OFF-SITE LEVIES

13.1 The calculation of Developer Contributions and Reimbursement Costs payable by the Developer shall be determined by the Town in its sole discretion, acting reasonably, and subject always to and in accordance with good engineering and construction practices, the provisions of any relevant bylaws of the Town, any agreements which the Town has entered into or may enter into with contractors, other developers or other persons in respect to the Work and costs applicable the Developer Contributions or Reimbursement Costs, and where deemed appropriate by the Town taking into account the expended useful life span of the applicable improvements or services.

13.2 The calculation of Off-Site Levies payable by the Developer shall be conducted in accordance with the provisions of the applicable off-site levy bylaw, as amended or replaced from time to time.

13.3 Unless otherwise specifically provided within a Development Agreement or other binding

agreement with the Town, all Developer Contributions, Reimbursement Costs, and Off-Site Levies payable by the Developer shall be calculated and paid upon the earlier of:

a) in the case of a subdivision, the submission for endorsement of a Plan of Subdivision for the Subdivision Area; and

b) in the case of a Development, Commencement of Construction upon or within the Development Area.

c) in the case that the Developer has submitted a Plan of Subdivision or a Development Permit that proposes Attainable Housing, payment of the Off-Site Levy will be differed to the issuance of the Final Acceptance Certificate (or later), as deemed acceptable by Council.

13.4 Any deferral of payment of Developer Contributions, Reimbursement Costs, and Off-Site Levies by the Developer beyond the above-noted deadlines shall be subject to specific agreement between the Town and the Developer evidenced in writing, and such conditions or other requirements that may be imposed therein (including, without restriction, the requirement for security for payment, and/or registration and reliance upon any charge against the Lands and/or the Subdivision Area/Development Area). Subject to the provisions of any binding agreement with the Town, all unpaid Developer Contributions, Reimbursement Costs, and Off-Site Levies shall in any event be paid by the Developer to the Town on the date of One (1) year following the date of the respective Development Agreement or other agreement evidencing the postponement.

13.5 The Developer covenants and agrees that:

a) Developer Contributions, Reimbursement Costs, and Off-Site Levies are and shall be subject to adjustment including, without restriction, due to changes to the design or specifications of the related works, the need or requirement for new works, changes to costs (estimates or actual), and interest expense;

b) at any time prior to payment of the Developer Contributions, Reimbursement Costs, and Off-Site Levies applicable to the Lands and the Subdivision Area/Development Area, the amount may be increased or decreased in the discretion of the Town, acting reasonably, or otherwise contemplated within this Policy and Procedures or, if applicable, the respective bylaw;

c) unless otherwise agreed to in writing by the Town, the calculation of the Developer Contributions, Reimbursement Costs, and Off-Site Levies actually payable by the Developer in respect of the Lands and the Subdivision Area/Development Area shall be conducted as of the date of payment, and based upon the then current cost calculations, contribution/levy rates, and other variables established from time to time including, without restriction, under any applicable off-site levy bylaw;

d) the Town may impose Developer Contributions, Reimbursement Costs, and Off-Site Levies at any time after the execution of any Development Agreement, in which event:

    (i) if imposed prior to endorsement or release of a Plan of Subdivision in the case of a Subdivision, or prior to the Commencement of Construction in the case of a Development, the applicable Developer Contributions, Reimbursement Costs, and/or Off-Site Levies shall be payable by the Developer prior to endorsement of the Plan of Subdivision or

permission to Commence Construction, as the case may be; and

(ii) if imposed after endorsement or release of a Plan of Subdivision in the case of a Subdivision, or after the Commencement of Construction in the case of a Development, the applicable Developer Contributions, Reimbursement Costs, and/or Off-Site Levies may be imposed by the Town in its discretion as conditions of subsequent subdivision approvals or development permits affecting the Lands and the Subdivision Area/Development Area;

e) if at the time of registration of a Plan of Subdivision in the case of a Subdivision, or the Commencement of Construction in the case of a Development, the Town has not imposed Developer Contributions, Reimbursement Costs, and/or Off-Site Levies, nothing shall prevent the Town from imposing and collecting such amounts upon subsequent Subdivisions or Developments.

14. OVERSIZING – SHARED COSTS

14.1 The calculation of Shared Costs, and the respective proportionate shares of such Shared Costs recoverable by a Developer through the imposition of Reimbursement Costs by the Town, shall be determined by the Town in its sole discretion, acting reasonably, and subject always to and in accordance with good engineering and construction practices, the provisions of any relevant bylaws of the Town, any agreements which the Town has entered into or may enter into with contractors, other developers or other persons in respect to the Work and costs applicable the Shared Costs, and where deemed appropriate by the Town taking into account the expended useful life span of the applicable improvements or services.

14.2 The Town shall not be responsible for payment of any portion of the Shared Costs, except as may be specifically provided in a binding agreement with the Town, or except in respect to lands owned or acquired by the Town, but the Town shall use reasonable efforts to give such assistance to the Developer as it can legally give in the recovery of Shared Costs by making it a term of any Development Agreement between the Town and owners of any future benefiting developments that such owners pay their proportionate share of such Shared Costs to the Developer and by requiring payment of the same by such owners as a condition of the use of the Municipal Improvements or as a condition of the approval of any development applications.

14.3 The Developer shall, so soon as reasonably possible and in any event prior to issuance of the Final Acceptance Certificates, provide the Town with the details of the costs of oversizing or extension of the Municipal Improvements that accommodate future development on land adjacent to the Subdivision Area and in other benefiting areas for approval by the Town, and upon the Town approving the said details, the same shall govern for the purpose of determining the amount of Shared Costs to be paid by such benefiting owners pursuant to this Policy and Procedures. The details provided by the Developer shall include a statement of the total Shared Costs incurred by the Developer, certified by the Developer's Consultant. In the event that the Town requires further analysis, the Town may require the Developer to provide an audited statement.

14.4 In the event any land adjacent to the Subdivision Area/Development Area, and other benefiting areas which may benefit from the Municipal Improvements oversized or extended by the Developer, is intended to be developed and the Town is advised of any such development, the Town will endeavour to notify the Developer in writing of the intended development. Upon notice of such intended development being sent by the Town, the Developer shall notify the Town in writing of any claims it has in writing under its Development Agreement(s) for recovery of Shared Costs with detailed calculations setting out the amount claimed by the Developer. Until such notice has been delivered by the Developer to the Town, the

Town shall not be required to request from the owners of adjacent lands the payment to the Developer of the Shared Costs attributable to the lands intended to be developed. Upon receipt of any such notice from the Developer to the Town, the Town will take the steps contemplated by this Policy and Procedures to facilitate the recovery by the Developer of the applicable Shared Costs.

14.5 In calculating any Shared Costs payable to the Developer, the Town shall include interest, calculated from the date of construction completion of all of the Municipal Improvements required under the applicable Development Agreement, compounded annually, at the Prime Rate plus Two (2%) percent; PROVIDED, that interest shall cease to accrue Five (5) years from the date of the issuance of Construction Completion Certificates for all of the Municipal Improvements required under the applicable Development Agreement.

14.6 For purposes of calculating interest forming part of Shared Costs, the Prime Rate established on the first business day of a particular month shall be utilized and shall be deemed to be the Prime Rate for that entire month.

14.7 The Developer shall only be entitled to recover any payment of Shared Costs within Fifteen (15) years from the date of the Development Agreement and the Developer shall not be entitled to make any demands against the Town or any other developer for payment thereafter. In addition and in that regard, it is acknowledged that due to the potential for significant passage of time between the development of the Subdivision Area/Development Area and the development of other properties, the corresponding potential for change in development and servicing needs in the near and long term (including, without restriction, alternative servicing options, and some oversized Municipal Improvements becoming obsolete or require replacement or renewal prior to payment of all potential proportionate shares by other developers), as well as other reasons (including, without restriction, the simple lack of further and other development in general), there shall always exist the potential for adjacent or other lands never becoming benefited by some or all oversized Municipal Improvements. Consequently, the Town cannot and will not guarantee eventual recovery of Shared Costs.

15. DELIVERY OF DOCUMENTS TO THE TOWN

15.1 Prior to the issuance of a Construction Completion Certificate for the above ground Municipal Improvements, the Developer shall, in addition to the requirements specified elsewhere in this Section, deliver to the Town all other documentation and information relating to the development of the Subdivision Area/ Development Area which the Town Representative considers, in its discretion, necessary or desirable for the delivery of municipal services to the Subdivision Area/ Development Area and the Developer agrees that not less than Thirty (30) days prior to its application for a Construction Completion Certificate for the above ground Municipal Improvements that the Developer shall request from the Town a list of all documents and information required by the Town.

15.2 Forthwith upon the completion of the construction and installation of the Municipal Improvements and the issuance of a Construction Completion Certificate for the same by the Town, the Developer shall, within Six(6) months following issuance of the Construction Completion Certificate, deliver to the Town all inspection and testing records and "as built" Plans and records, as herein required (and as specified in the Design Standards), in a form and to standards specified by the Town which may include paper form, reproducible nylon, video tapes, computer records or design, or any other form required by the Town. The Final Acceptance Certificate shall not be issued until Eighteen (18) months have elapsed subsequent to the date of the submission of the records and the as built drawings; AND PROVIDED, that the Final Acceptance Certificate shall not be issued prior to the expiration of the Guarantee Period.

16. MUNICIPAL SERVICES

16.1 Upon the issuance of a Construction Completion Certificate by the Town, the Town shall provide to all or a portion of the Subdivision Area/Development Area all municipal services which are normally supplied to all other parts of the Town subject to such limitations that may be imposed by reason of the progress of the Developer's Work, existing infrastructures and services as stipulated the Development Agreement.

16.2 The Developer shall at all times after any premises are occupied within the Subdivision Area/Development Area, and prior to the final acceptance by the Town of Municipal Improvements by issuance of a Final Acceptance Certificate as herein provided for, provide and continuously maintain public access to such occupied premises for all municipal services.

16.3 If any portion of the Subdivision Area/Development Area is subdivided by way of condominium plan rather than conventional subdivision plan, the Town is not obligated to provide its regular services within that portion of the Subdivision Area/Development Area. Without limiting the generality of the foregoing, the Town will not be obligated to provide services (including provision of public utilities, garbage removal or maintenance of internal access road) to any portion of lands that is within the boundaries of the condominium plan.

17. FENCING

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

17.2 All fences to be constructed by the Developer pursuant to the requirements hereof shall be of uniform design and the design and construction thereof shall be subject to the approval of the Town in its sole and absolute discretion.

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

17.4 Any uniform fencing which is intended to separate Public Properties from other lands shall be constructed wholly upon such other lands and shall not be constructed on the boundary line between the Public Properties and the other lands.

17.5 Any uniform fencing which is not wholly located upon Public Properties shall be maintained by the Developer until the expiration of the Guarantee Period for such uniform fencing and thereafter shall be maintained by the owners of the properties upon which the uniform fencing is located, and further, in order to ensure the maintenance obligations of such owners, the Developer shall, prior to selling or transferring any such properties, register against such properties a restrictive covenant, in a form acceptable to the Town, which shall impose such maintenance obligations upon the future owners of such properties.

17.6 In addition to the requirements of any permanent fencing within the Subdivision Area/Development Area, the Developer shall prior to the issuance of a Construction Completion Certificate for the above ground Municipal Improvements, at the Developer's own cost and expense, construct and maintain temporary fencing of a type and to a standard acceptable to the Town around all municipal and environmental reserve parcels within the Subdivision Area/Development Area.

18. MINIMUM BUILDING STANDARDS [OPTIONAL]

18.1 Development permits for any building in the Subdivision Area/Development Area may at the sole discretion of the Town be issued by the Town when the Town Representative has verified the substantial completion of all Essential Services and reasonable access to the lot for which the development permit is being sought; PROVIDED THAT the Developer shall include in all agreements relating to the sale of lots a notice advising purchasers that the Town reserves the right not to allow occupancy of a building constructed on any lot until such time as a Construction Completion Certificate for the Essential Services has been issued and the Town is hereby granted the right not to allow such occupancy.

18.2 All developments shall comply fully with all Town resolutions, bylaws and amendments thereto as of the date of the Development Agreement.

18.3 The provisions of this clause shall be in addition to and not in substitution for any lawful requirements, whether federal, provincial or municipal, relating to building standards and the granting of development and building permits.

18.4 Upon the sale of any lot or lots by the Developer to building contractors, residential developers or other persons, the Developer shall notify and inform such purchaser or contractor that, prior to construction, permits must be obtained from municipal and provincial authorities and, in particular, in the case of municipal authorities, that it is necessary first to obtain a development permit and second to obtain a building permit to carry out construction work of any kind. Further, the purchasers or contractors are to be advised that all service contractors are to be advised that all service connections to buildings to be constructed are to be underground.

19. MAINTENANCE OF BOULEVARDS AND OTHER PUBLIC AREAS

19.1 The Developer shall be responsible, at the Developer's expense, save as hereinafter specifically limited, to maintain the Developer's Lands and all Public Properties within the Subdivision Area/Development Area in such an acceptable standard and condition as may be reasonably required by the Town giving consideration to the stage of the development within the Subdivision Area/Development Area, by mowing grass thereon, and eliminating weeds, refuse, litter and undesirable vegetation.

19.2 Where the Developer has sold a lot (and transferred possession) within the Subdivision Area/Development Area, the Developer's obligations under Section 19.1, in respect only to such lot, shall cease.

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

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

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

c) in respect to a residential Subdivision, the Developer's obligations under this Section shall cease and determine in respect to the Subdivision Area when housing construction has been completed on Ninety-Five (95%) percent of the lots within the Subdivision Area.

19.4 The Town shall assume the normal maintenance of all other Public Properties which have been seeded to grass, such as parks, buffer strips, and the like, after satisfactory germination and establishment of grass sown by the Developer on such Public Properties, and upon issuance of the Construction Completion Certificate.

20. SECURITY

20.1 In order to ensure to the Town full compliance by the Developer with the terms, covenants and conditions of this Policy and Procedures and the subject Development Agreement, the Developer shall be required to deliver and deposit with the Town, security in the form hereinafter prescribed and that the following provisions shall apply to determining the amount of the security and the time or times at which the security shall be deposited with the Town:

a) the security shall be deposited by the Developer with the Town in the case of a Development upon execution of the Development Agreement and in the case of a Subdivision prior to the Town's consent to and release of the Plan of Subdivision for the Subdivision Area for registration at the Land Titles Office, and in any event prior to Commencement of Construction of the Municipal Improvements for the Subdivision Area/Development Area;

b) the security in respect of the Subdivision Area, shall be in one of the following forms:

(i) an irrevocable letter of credit payable to the Town with a face amount equivalent to an amount equaling ONE HUNDRED (100%) percent of the estimated cost of constructing and installing the Municipal Improvements, including Landscaping (the "Letter of Credit"), and such other amounts as are required elsewhere under the provisions of this Agreement; or

(ii) for developers who have a proven track record within the Town of Taber where previous developments have no lingering deficiency issues and quality construction has occurred, an irrevocable letter of credit payable to the Town with a face amount equivalent to an amount equaling THIRTY (30%) percent of the estimated cost of constructing and installing the Municipal Improvements, including Landscaping (the "Letter of Credit"), and such other amounts as are required elsewhere under the provisions of this Agreement;

c) the estimated cost for the Municipal Improvements shall be determined as follows:

(i) if known at the time that the Development Agreement is made, the Cost Estimate will be

included as a Schedule to the Development Agreement;

(ii) if unknown at the time that the Development Agreement is made, where actual tendered costs are available the tendered costs shall be used;

(iii) where actual tendered costs are not available, the Developer's Consultant shall prepare cost estimates which shall be submitted to the Town for approval together with all applicable background documentation, and if approved by the Town, such cost estimates shall be used; and

(iv) where actual tendered costs are not available, and the Developer and the Developer's Consultant has not provided estimates for the Town to approve, the Town may establish estimated costs in its sole discretion for the purposes of establishing the required security.

20.2 All security and liability insurance shall be maintained by the Developer in full force and effect during the currency of the Development Agreement (including the Guarantee Period for the Municipal Improvements).

20.3 The Letter of Credit shall comply with the following requirements of the Town:

a) the form and content of the Letter of Credit shall be acceptable to the Town or its solicitors;

b) the Letter of Credit shall be issued by a Schedule 1 or 2 Chartered Bank, the Alberta Treasury Branch, or such other financial institution as may be approved by the solicitors for the Town;

c) the Letter of Credit shall contain terms that provide for either:

(i) a covenant by the issuer that if the issuer has not received a release from the Town at least Sixty (60) days prior to the expiry date of the Letter of Credit, then the Letter of Credit shall automatically be renewed, upon the same terms and conditions, for a further period of ONE (1) year; or

(ii) a right on the part of the Town to draw upon the full amount of the Letter of Credit, or any portion thereof, in the event that the Town has not received a replacement letter, or confirmation of an extension or renewal of the existing letter, at least SIXTY (60) days prior to the expiry of the Letter of Credit.

20.4 Further, in regards to the required Letter of Credit, the following terms and conditions shall apply:

a) any cash security deposit, Letter of Credit, or other security required or otherwise provided by the Developer to the Town pursuant to the Development Agreement shall be assigned and pledged to the Town as security for the performance of the Developer’s obligations under the Development Agreement (such assignment and pledge to be perfected by possession and/or registration);

b) the Developer shall acknowledge having received a copy of the Development Agreement, and the security terms contemplated therein, and waive any right it may have to receive a copy of any Financing Statement or Financing Charge Statement in relation hereto; and

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

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

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

a) FIFTEEN (15%) percent of the estimated costs of the Municipal Improvements which were the subject of the Construction Completion Certificate;

b) either ONE HUNDRED (100%) or THIRTY (30%) percent of the estimated costs of constructing and installing all of the Municipal Improvements yet to be completed, being all those portions of the Municipal Improvements for which no Construction Completion Certificate has been issued (as per Section 20.1); and

c) TWENTY FIVE THOUSAND ($25,000.00) dollars.

20.7 Nothing in this Policy and Procedures or the applicable Development Agreement shall prevent the Town from demanding payment or performance by the Developer in excess of the required Letter of Credit, and without having to call upon or otherwise exhaust its remedies in respect of the required security prior to making such demand.

20.8 In the event that the Town has negotiated, called upon, or otherwise received proceeds from, the

Letter of Credit to be deposited by the Developer for any reason contemplated within the Development Agreement, then the Town shall be entitled to hold and apply any such funds as a security deposit in lieu of the original security

21. FORCE MAJEURE

21.1 In the event that either party is rendered unable wholly, or in part, by force majeure to carry out its obligations under the Development Agreement or this Policy and Procedures, other than its obligations to make payments of money due hereunder, such party shall give written notice to the other party stating full particulars of such force majeure. The obligation of the party giving such notice shall be suspended during the duration of the delay resulting from such force majeure, to a maximum of One Hundred and Eighty (180) days. The term "force majeure" shall mean acts of God, strikes, lockouts or other industrial disturbances of a general nature affecting an industry critical to the performance of the Work, acts of the Queen's enemies, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, arrests and restraints of rulers and people, civil disturbances, explosions, inability with reasonable diligence to obtain materials and any other cause not within the control of the party claiming a suspension, which, by the exercise of due diligence, such party shall not have been able to avoid or overcome; provided however, the term "force majeure" does not include a lack of financial resources or available funds or similar financial predicament or economic circumstances or any other event, the occurrence or existence of which is due to the financial inability of a party to pay any amount that a prudent and financially sound entity in similar circumstances would reasonably be expected to pay to avoid or discontinue such event.

22. DISPUTE RESOLUTION PROCEDURE

22.1 **Definitions** - For the purposes of this Dispute Resolution Procedure, the following words and phrases have the following meanings:

a) "**Arbitrator**" means the person appointed to act as such to resolve any Dispute;

b) "**Arbitration**" means a process whereby each of the Parties, with or without legal counsel, agrees to jointly engage and meet with an Arbitrator who will render a binding decision in respect of any Disputes;

c) "**Disclosed Information**" means the information disclosed by a Party for the purpose of negotiation, Mediation or Arbitration;

d) "**Dispute**" means any disagreement or controversy between the Parties concerning any matter arising out of a Development Agreement;

e) "**Mediation**" means a process whereby a Representative of each Party, with or without legal counsel, agrees to jointly engage the services and meet with a Mediator to participate in a mediation, conciliation or similar dispute resolution process;

f) "**Mediator**" means the person appointed to facilitate the resolution of a Dispute between the Parties;

g) "**Party**" means a party to the Development Agreement to which this Dispute Resolution Procedure is attached, and "**Parties**" means more than one of them; and

h) "**Representative**" means an individual who has no direct operational responsibility for the matters comprising the Dispute who holds a senior position with a Party and who has full authority to settle a Dispute.

22.2 **Dispute Process** - In the event of any Dispute, the Parties agree that prior to commencing litigation, they shall undertake a process to promote the resolution of a Dispute in the following order:

a) first, by negotiation;

b) second, by way of Mediation;

c) third, by Arbitration, if mutually agreed to in writing at the time of the Dispute, by the Parties.

Negotiation, Mediation or Arbitration shall refer to, take into account, and apply the intentions and principles stated by the Parties within Agreement to which this Schedule is attached.

22.3 **Negotiation** - A Party shall give written notice ("Dispute Notice") to the other Party of a Dispute and outline in reasonable detail the relevant information concerning the Dispute. Within Seven (7) days following receipt of the Dispute Notice, the Parties shall each appoint a Representative, who shall meet and attempt to resolve the Dispute through discussion and negotiation. If the Dispute is not resolved within Thirty (30) days of receipt of the Dispute Notice, the negotiation shall be deemed to have failed.

22.4 **Mediation** - If the Representatives cannot resolve the Dispute within such Thirty (30) day period, then the Dispute shall be referred to Mediation. Any one of the Parties shall provide the other Party with written notice ("Mediation Notice") specifying the subject matters remaining in Dispute, and the details of the matters in Dispute that are to be mediated. If the Mediation is not completed within Sixty (60) days from the date of receipt of the Dispute Notice, the Dispute shall be deemed to have terminated and failed to be resolved by Mediation.

22.5 **Arbitration**

a) If the Mediation fails to resolve the Dispute and if both Parties so agree in writing, at the time of the dispute, the Dispute shall be submitted to binding Arbitration. One of the Parties may provide the other Party with written notice ("Arbitration Notice") specifying the subject matters remaining in Dispute and the details of the matters in Dispute that are to be arbitrated. If the other Party agrees to proceed to Arbitration, such Dispute shall proceed to Arbitration. A failure to respond to the Arbitration Notice shall be deemed to constitute a refusal to proceed with Arbitration;

b) The Arbitrator shall conduct the Arbitration in accordance with the commercial arbitration rules (the "Rules") established from time to time by the ADR Institute of Canada Inc., unless the Parties agree to modify the same pursuant to any arbitration agreement. The Arbitration Act (Alberta) shall apply to all Arbitrations but if there is a conflict between the Rules and the provisions of the Act, the Rules shall prevail. Notwithstanding the foregoing, any such Arbitration shall be conducted in the English language;

c) The Arbitrator shall proceed to hear and render a written decision concerning any Dispute within:

(i) Forty-Five (45) days, if the subject matter of the Dispute is less than $50,000.00; or

(ii) One Hundred And Twenty (120) days, if the subject matter of the Dispute is greater than $50,000.00.

d) The Arbitrator has the right to award solicitor-client costs against the unsuccessful Party and to award interest but does not have the right to award punitive, consequential or other exemplary damages.

e) The Arbitrator's decision is final and binding but is subject to appeal or review by any court of proper jurisdiction only with respect to an allegation of fraud.

22.6 **Participation** - The Parties and their Representatives will participate in good faith in the negotiation, Mediation and, if applicable, Arbitration processes and provide such assistance and Disclosed Information as may be reasonably necessary and notwithstanding that litigation may have commenced as contemplated in this Section.

22.7 **Location** – Unless otherwise agreed upon by the Parties, the place for Mediation and Arbitration shall be the Town of Taber, Alberta.

22.8 **Selection of Mediator and Arbitrator** - If the Parties are unable to agree upon the appointment of a single Mediator or Arbitrator within Ten (10) days after receipt of the Mediation Notice or Arbitration Notice, either of the Parties may request that a single Mediator or Arbitrator, as the case may be, of suitable training, experience and independence, and who in respect of the subject matter of the Dispute has a reasonable practical understanding, be appointed by the executive director or other individual fulfilling that role for the ADR Institute of Canada, Inc. The executive director shall be requested to make this determination within Five (5) days of receipt of the request.

22.9 **Costs -** Subject to Section 22.5(d) in the case of an Arbitration, the Parties shall bear their respective costs incurred in connection with the negotiation, Mediation and, if applicable, Arbitration except that the Parties shall equally share the fees and expenses of the Mediator and Arbitrator and the cost of the facilities required for Mediation and Arbitration.

22.10 **Disclosed Information** - All Disclosed Information shall be treated as confidential and neither its delivery nor disclosure shall represent any waiver of privilege by a Party disclosing such Disclosed Information. Subject only to the rules of discovery, each Party agrees not to disclose the Disclosed Information to any other Person or for any other purpose. Such Disclosed Information cannot be used in any subsequent proceedings without the consent of the Party who has made the disclosure. The Parties agree that any Representative, Mediator and, if applicable, Arbitrator shall not be subpoenaed or otherwise compelled as a witness in any proceedings for the purpose of testifying with respect to the nature or substance of any dispute resolution process that may arise in relation to any matter that is a subject of the applicable Development Agreement. Nothing in this Dispute Resolution Procedure shall require a Party to disclose information that is subject to confidentiality provisions with third parties.

22.11 **Litigation and Limitations Act** - No Party shall commence litigation concerning the Dispute until the negotiation and Mediation processes have concluded. The Parties agree that during the time any Dispute is subject to the negotiation and Mediation processes, the limitation periods set forth in the *Limitations Act* (Alberta) shall be stayed. The limitation periods shall be reinstated once the Mediation terminates or is deemed terminated so that each of the Parties shall have the respective rights and remedies that were

available to them before the commencement of these processes. Any Party may commence litigation on any date, if necessary, to preserve its legal rights and remedies if the commencement of litigation after that date would otherwise be banned by any applicable limitation period or if the commencement of litigation is otherwise necessary to prevent irreparable harm to that Party.

22.12 **Limitation on Dispute Resolution Process -** The Dispute Resolution Procedure shall not apply to any matter or question which under this Policy and Procedures or Development Agreement that is expressly or by implication required or permitted to be decided by the Town, the Committee of Whole or the Council of the Town or as to the grounds upon which, or the mode in which, any opinion may have been formed or discretion exercised by the Town, the Committee of Whole or the Council of the Town. In any such instance the discretion, decision, opinion or determination of the Town, the Committee of Whole or the Council of the Town, as the case may be, shall be final and binding upon the Developer.

MUNICIPAL IMPROVEMENTS POLICY AND PROCEDURES DEFINITIONS

"Attainable Housing" shall mean homes that are on the market to sell for or have sold for a price that allows for only 15-20% of the Taber's Average Total Household Income, as determined by Statistics Canada, to be spent on mortgage payments with a minimum down payment of 5% of the price of the house.

As of the 2011 census, the 2010 Average Total Household Income for Taber is $76,272.00/annually or $6,356/monthly.

Taber's Average Monthly Household Income	
Percentage (%)	**Dollar Amount ($)**
15	953.40
20	1271.20

Attainable House Price	$240,000
5% Down Payment	$12,000
Mortgage Amount	$228,000
Monthly Payment (variable, depending upon current interest rates)	$1,266.99/monthly Based a 5 year closed interest rate of 4.54%

"Approved Engineering Drawings" means those Plans depicting Municipal Improvements which have been approved by the Town's Representative pursuant to the provisions of the Development Agreement.

"Construction Completion Certificate" shall mean the Certificate issued by the Town, as contemplated in Section 11 of this Policy and Procedures, certifying the completion of the Municipal Improvements, or a portion thereof, once the Municipal Improvements have been constructed and installed by the Developer to the satisfaction of the Town in accordance with this Policy and Procedures and the Development Agreement.

"Commencement of Construction" or "Commence Construction" shall mean:

a) in respect of the construction of a Development, the date upon which the Developer commences the actual grading of the Development Area for purposes of constructing a Development; and

b) in respect of the construction of Municipal improvements, the date upon which the Developer commences actual grading, excavation, or installation of or within the Subdivision Area/Development Area for the purposes of construction or installing Municipal Improvements;

or such other date as may be agreed upon in writing by the Town and the Developer; provided, that commencement of construction and/or grading shall not include the placement of machinery or equipment within the Subdivision Area/Development Area nor any work preparatory to construction and/or grading such as design, demolition or removal of any buildings or improvements, or placement of materials or or other goods within or upon the Subdivision Area/Development Area.

"Design Standards" shall mean the procedures, standards and specifications which are specified and set forth in the Town's design standards which are established and revised from time to time by the Town's

engineer, or as revised by the Town's Council from time to time, namely that version in place at the time of Commencement of Construction for the Subdivision Area/Development Area, provided that the Town and the Developer may, by written agreement only, vary or change any of the procedures, standards or specifications set forth in the Design Standards.

"Developer" shall mean that certain developer of a Subdivision or Development pursuant to a subdivision approval or development permit, respectively, issued by the Town, and who has entered into a Development Agreement with the Town as contemplated under Sections 655 and 650 of the *Municipal Government Act*.

"Developer Contributions" shall mean those contributions to the Work and cost of designing, constructing and installing improvements and/or services required in order to access or service a Subdivision or Development, imposed by the Town in lieu of obligations to perform the Work associated therewith, as contemplated under Sections 650, 651 and 655 of the *Municipal Government Act*.

"Developer's Consultant" shall mean the consulting professional(s) retained by the Developer at the Developer's expense and appointed by the Developer as its representative upon written notice to the Town. The Developer's Consultant shall include, but not be limited to, professional engineers, landscape architects, land use planners and land surveyors.

"Development" shall mean that certain development (as defined within the *Municipal Government Act*) proposed to be constructed upon or within the Lands and the Development Area by the Developer, pursuant to a development permit issued by the Town, and which is the subject matter of a Development Agreement entered into between the Town and the Developer.

"Development Agreement" shall mean that certain Development Agreement entered into between the Town and the Developer respecting a Subdivision or a Development, as contemplated under Sections 655 and 650 of the *Municipal Government Act*, as amended from time to time.

"Development Area" shall mean that portion of the Lands upon or within which the Developer proposes to construct the Development.

"Dispute Resolution Procedure" shall mean that certain dispute resolution procedure contained within Section 22 of this Policy and Procedures.

"Essential Services" shall mean:

a) those Municipal Improvements described by Schedule to the Development Agreement, and

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

c) the internal subdivision road, sewage collection system and potable water system.

"Final Acceptance Certificate" shall mean a written acceptance, as contemplated in Section 11 of this Policy and Procedures, issued by the Town for the Municipal Improvements, or a portion thereof, upon the completion of any repairs for defects or deficiencies and the expiration of the Guarantee Period.

"Guarantee Period" with respect to the Municipal Improvements, subject to Sections 11, 12 and 22 of this Policy and Procedures and any default and dispute resolution provisions of the Development Agreement, shall mean a period of Two (2) years for all Municipal Improvements, including Landscaping.

"Lands" shall mean those lands owned by the Developer and subject to the Developer's proposed Subdivision or Development, which lands are legally described within Schedule "A" attached to the Development Agreement.

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

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

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

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

"Municipal Improvements" shall mean and include, within and without the Subdivision Area/Development Area, those services and facilities identified by Schedule to the Development Agreement.

"Off-Site Levies" shall mean those levies imposed by the Town pursuant to bylaw, as contemplated under Section 648 of the *Municipal Government Act*.

"Plans" shall mean the plans and specifications prepared by the Developer's Consultant covering the design, construction and installation of all Municipal Improvements identified by Schedule to the Development Agreement.

"Prime Rate" shall mean the prime-lending rate established from time to time by the nearest Alberta Treasury Branch or ATB Financial, in relation to the Subdivision Area/Development Area.

"Public Property" or **"Public Properties"** shall include all properties within and adjacent to the Subdivision Area/Development Area to be owned or administered by the Town, including utility rights-of-way granted to the Town.

"Reimbursement Costs" shall mean the oversizing or partial costs, as approved by the Town, incurred by a third party, in designing, constructing and installing the Municipal Improvements that also serve future benefiting developments and development areas owned by other developers.

"Shared Costs" shall mean the oversizing costs, as approved by the Town, incurred by the Developer in designing, constructing and installing the Municipal Improvements to also serve future developments.

"Subdivision" shall mean that certain subdivision (as defined within the *Municipal Government Act*) proposed to be created upon or within the Lands and the Subdivision Area by the Developer, pursuant to a subdivision approval issued by the Town, and which is the subject matter of a Development Agreement entered into between the Town and the Developer.

"Subdivision Area" shall mean that portion of the Lands upon or within which the Developer proposes to create the Subdivision.

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

"Town" shall mean the municipal corporation of the TOWN OF TABER, and the Town shall be represented by the Chief Administrative Officer, unless otherwise designated in writing by the Town.

"Town Representative" shall mean the Town's Chief Administrative Officer, Manager of Planning and Public Works and/or the Director of Engineering Services and/or such other duly qualified person as the Town may from time to time designate in writing.

"Utility Rights-of-Way" shall mean the utility right of way agreements described within Section 5 of this Policy and Procedures.

"Work" shall mean any and all design, construction, excavation, fabrication, engineering, survey, testing, maintenance or other service whatsoever required to be performed by or on behalf of the Developer in order to construct and install the Municipal Improvements in accordance with the terms, covenants and conditions contained within the Development Agreement and this Policy and Procedures.

DEVELOPMENT AGREEMENT

Appendix B to Procedure PLN-2

[INSERT NAME] SUBDIVISION
TABER, ALBERTA

SUBDIVISION APPROVAL NO._____

TOWN OF TABER

AND

_____

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

BETWEEN:

TOWN OF TABER
a municipal corporation,
(the "Town")

- and -

_____
a corporation incorporated, or otherwise authorized to
carry on business, in the Province of Alberta
(the "Developer")

DEVELOPMENT AGREEMENT

WHEREAS:

A. The Developer is, or is entitled to become, the registered owner of part or all of those lands situated in the Town as described in **Schedule "A"** attached to this Agreement.

B. The Developer intends to subdivide part or all of the Lands (hereinafter referred to as the "**Subdivision Area**") as shown on the plan attached as **Schedule "B"** to this Agreement;

C. The Developer has applied for subdivision of part or all of the Subdivision Area, and the Town's subdivision approving authority, on _____ ___, 20__ , approved said subdivision (File Number: _____) subject to certain conditions including the entering into of this Agreement, for the provision of improvements and servicing of part or all of the Subdivision Area;

D. The Town and the Developer are agreeable to the Developer completing or contributing to the Municipal Improvements required to properly access and service the Subdivision Area, in accordance with the provisions of this Agreement, with the Developer, solely, bearing the costs of the Municipal Improvements;

E. The Town and the Developer have agreed to enter into this Agreement to ensure adequate and timely provision of required access and services to the Subdivision Area;

F. Upon satisfactory completion of the construction and installation of the Municipal Improvements and the Final Acceptance of them by the Town, the Municipal Improvements which are on or under Public Property shall become the property of the Town;

G. The Town and the Developer acknowledge and agree that the terms and conditions of the Town's Municipal Improvements Construction, Maintenance and Acceptance Policy and Procedures, as amended from time to time (the "**Municipal Improvements Policy**") shall apply to this Agreement and are incorporated as terms and conditions of this Agreement;

H. The Town and the Developer have agreed that the said construction and installation of the Municipal Improvements and all matters and things incidental thereto and all other matters and things relating to the development of the Subdivision Area, shall be subject to the terms, conditions and covenants hereinafter set forth.

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

1. Interpretation

1.1 Save and except for as specifically defined within the above preamble to the Agreement, or otherwise specifically defined within this Agreement, all capitalized terms used within this Agreement shall have the same meaning as applied to that capitalized term within the Municipal Improvements Policy.

2. Pre-Conditions

2.1 As soon as is reasonably practicable after execution of this Agreement, and in any event prior to the Town releasing or otherwise permitting the registration of any Plan of Subdivision, or the Developer commencing construction and installation of any of the Municipal Improvements, the Developer shall:

Plans - instruct the Developer's Consultant to prepare the Plans for the Municipal Improvements in accordance with the Design Standards;

Plan Approval - submit the Plans to the Town Representative for review and acceptance by the Town;

Rights of Way - execute, grant and register such utility right of way or easement documentation as may be required for the construction, installation, operation, repair and replacement of the Municipal Improvements (including, without restriction, the preparation and registration of such right of way or easement plan required by the Town or the Land Titles Office to properly depict the right of way or easement areas);

Insurance and Security - grant or otherwise deliver to the Town the evidence of insurance coverage, and the security for performance of the Developer's obligations under this Agreement, in the form and content required within this Agreement;

Permits and Approvals - obtain any and all permits required in relation to the construction and installation of the Municipal Improvements (including, without restriction, any development permit from the Town, highway development permit or consent from Alberta Transportation, and any permit, license or consent form Alberta Environment), when and if applicable and/or required by the respective authority;

Licenses/Rights of Entry - obtain any required license, right of way, or right of entry necessary to allow the Developer or its contractors access to any lands (including without restriction, any roads), when and if applicable and/or required by the respective owner or other authority; and

Compliance with Policies - otherwise comply with the terms and conditions of the Municipal Improvements Policy;

in each case in accordance with, and subject to, the terms and conditions contemplated within the Municipal Improvements Policy and incorporated within this Agreement.

2.2 Review and approval of Plans, as well as preparation, approval, and release for registration of all Plans of Subdivision shall be governed by the provisions of the Municipal Improvements Policy and the procedures set forth within that policy.

2.3 Without in anyway restricting any of the foregoing, the Town shall not be obligated to consent to any Plan of Subdivision, or to permit the Commencement of Construction or any development activities upon the Lands, unless and until the Town is satisfied with the performance and satisfaction of the foregoing preconditions.

2.4 Without in any way amending or otherwise affecting the conditions of the Subdivision Approval respecting the Subdivision Area, in the event that the foregoing preconditions have not be satisfied within TWELVE (12) months of the Effective Date of this Agreement the Town may at its option, without any obligation to do so, terminate this Agreement upon the delivery of notice in writing to the Developer.

3. Utility Easements

3.1 The Developer shall ensure that all utility easements in the Subdivision Area shall be located at the front of each lot or other areas approved by the Town Representative.

3.2 Concurrently with registration of any Plan of Subdivision and prior to the sale of any lots in the Subdivision Area, the Developer shall grant to the Town easements or grants of rights-of-way for such purposes as may be required by the Town in form and content satisfactory to the Town and shall register, or cause to be registered, such easements or grants of rights-of-way concurrently with the registration of any plan of subdivision at no cost to the Town.

3.3 Such easements or grants of rights-of-way shall provide that the Town shall have the right either:

(a) to assign all or part of the rights thereby granted to the operators of the respective utilities; or

to grant permits or licenses to install, repair and replace gas, power, cable television lines, telephone lines, community mail boxes, sewer and water systems, and other services within the designated easement or right of way area.

4. Municipal Improvements

4.1 The Developer shall commence and complete the Work required in respect of the Municipal Improvements in accordance with:

(a) the deadlines contemplated within **Schedule "D"** attached to this Agreement;

(b) the Approved Engineering Drawings, and the Design Standards; and

(c) the provisions of this Agreement and the Municipal Improvements Policy.

5. Developer Contributions

5.1 The Developer agrees that in lieu of the requirement to construct or install improvements and services necessary to access or service the Lands or the Subdivision Area, the Town may require that the Developer pay its proportionate share of the costs of designing, constructing and installing such improvements or services as a Developer's Contribution. The Developer covenants and agrees to pay to the Town all Developer Contributions applicable to the Lands and the Subdivision Area if and when established by the Town.

5.2 The Developer Contributions currently calculated and established by the Town, and payable by the Developer to the Town, are the amounts specified in **Schedule "E"** of this Agreement.

6. Off-Site Levies

6.1 The Developer agrees that the Subdivision Area may benefit from new or expanded off-site water, sanitary sewer, roadway and storm drainage facilities that will be utilized to provide municipal services to the Subdivision Area, and accordingly, the Developer covenants and agrees to pay to the Town all Off-Site Levies applicable to the Lands and the Subdivision Area if and when established by the Town.

6.2 The Off-Site Levies currently established by the Town and payable by the Developer to the Town are the amounts specified in **Schedule "E"** of this Agreement.

7. Oversizing and Reimbursement Costs

7.1 The Developer recognizes and agrees that the Development within the Subdivision Area may benefit from the oversizing or construction of Municipal Improvements which have been or will be constructed by parties other than the Developer, and therefore the Developer agrees that it shall bear and pay its proportionate share of Reimbursement Costs as determined in the discretion of the Town and in accordance with the provisions of the Municipal Improvements Policy.

7.2 In the event that the Developer's Reimbursement Costs is capable of being determined as of the date of this Agreement, the Reimbursement Costs for such existing or currently contemplated oversizing shall be as shown within **Schedule "E"** attached to this Agreement. Otherwise, the method of calculating the Reimbursement Costs, namely the Developer's proportionate share of such Municipal Improvements constructed by other parties, shall be determined solely by the Town in accordance with the Municipal Improvements Policy.

8. Oversizing and Shared Costs

8.1 The Developer, in constructing the Municipal Improvements as contemplated herein, shall bear the costs of oversizing and extending Municipal Improvements designed and installed to accommodate future developments on land adjacent to the Subdivision Area and other benefiting areas, and shall design, construct and install the Municipal Improvements so that such future developments can utilize or benefit from such oversizing or extensions. The Town's requirements for oversizing shall be evidenced within the additional provisions contained within **Schedule "D"** attached to this Agreement, within the Design Standards, or otherwise required to be shown within the Developer's Plans at the time of the Town's review and approval.

8.2 The costs of the oversizing or extensions contemplated in Section 8.1 shall be Shared Costs, and the Town and the Developer acknowledge that the Developer shall be entitled to recover portions of such Shared Costs through the imposition of reimbursement costs upon other developers in accordance with the provisions and procedures set forth within the Municipal Improvements Policy. The method of calculating the proportionate shares of such Shared Costs, as well as the process, procedure and timing for collection thereof, shall be conducted in accordance with the provisions of the Municipal Improvements Policy.

8.3 The Town shall not be responsible for payment of any portion of the Shared Costs, except as may be specifically provided elsewhere in this Agreement, or except in respect to lands owned or acquired by the Town, but the Town shall use reasonable efforts to give such assistance to the Developer as it can legally give in the recovery of Shared Costs by making it a term of any Development Agreement between the Town and owners of any future benefiting developments that such owners pay their proportionate share of such Shared Costs to the Developer and by requiring payment of the same by such owners as a condition of the use of the Municipal Improvements or as a condition of the approval of any development applications.

8.4 Notwithstanding anything to the contrary within this Agreement, the Developer shall only be entitled to recover any payment of shared costs within Fifteen (15) years from the date of this Agreement and the Developer shall make no demands against the Town or any other developer for payment thereafter. In addition and in that regard, the Parties acknowledge and agree that there exists the potential for significant passage of time between the development of the Subdivision Area and the development of other properties, as well as the corresponding potential for change in development and servicing needs in the near and long term (including, without restriction, alternative servicing based upon proper planning and servicing principles, some oversized Municipal Improvements becoming obsolete or require replacement or renewal prior to payment of all potential proportionate shares by other developers). For these and other reasons (including, without restriction, the simple lack of further and other development in general), there shall always exist the potential for adjacent or other lands never becoming benefited by some or all oversized Municipal Improvements. Consequently, and notwithstanding the foregoing and anything to the contrary contained within this Agreement, the Municipality cannot and will not guarantee eventual recovery of Shared Costs.

9. Payment of Contributions, Reimbursement Costs and Off-Site Levies

9.1 Unless otherwise specifically provided within **Schedule "E"** attached to this Agreement, all Developer Contributions, Reimbursement Costs, and Off-Site Levies payable by the Developer shall be calculated and paid upon the earlier of:

(a) submission for endorsement of a Plan of Subdivision for the Subdivision Area;

(b) commencement of Construction upon or within the Subdivision Area; and

(c) if Attainable Housing has been proposed by the Developer the Off-Site Levies will be calculated and payable upon the issuance of the Final Acceptance Certificate (or later) based off the definition and calculation defined in Appendix A.

9.2 Any deferral of payment of Developer Contributions, Reimbursement Costs, and Off-Site Levies by the Developer beyond the above-noted deadlines shall be subject to specific agreement between the Town and the Developer as contained within **Schedule "E"** attached to this Agreement, and such conditions or other requirements that may be imposed therein (including, without restriction, the requirement for security for payment, and/or registration and reliance upon any charge against the Lands and/or the Subdivision Area contained within this Agreement). Subject to the provisions of **Schedule "E"**, in the event that payment of any Developer Contributions, Reimbursement Costs, or Off-Site Levies have been specifically agreed to be postponed, all unpaid Developer Contributions, Reimbursement Costs, and Off-Site Levies shall in any event be paid by the Developer to the Town on the date ONE (1) year following the date of the execution of this Agreement.

9.3 The Developer covenants and agrees that:

(a) notwithstanding the foregoing, nor the amounts that may be specified in **Schedule "E"** of this Agreement, Developer Contributions, Reimbursement Costs, and Off-Site Levies are and shall be subject to adjustment including, without restriction, due to changes to the design or specifications of the related works, the need or requirement for new works, changes to costs (estimates or actual), and interest expense;

(b) at any time prior to payment of the Developer Contributions, Reimbursement Costs, and Off-Site Levies applicable to the Lands and the Subdivision Area, the amount may be increased or decreased in the discretion of the Town, acting reasonably, or otherwise contemplated within the Municipal Improvements Policy or, if applicable, the respective bylaw;

(c) unless otherwise agreed to in writing by the Town, the calculation of the Developer Contributions, Reimbursement Costs, and Off-Site Levies actually payable by the Developer in respect of the Lands and the Subdivision Area shall be conducted as of the date of payment, and based upon the then current cost calculations, contribution/levy rates, and other variables established from time to time including, without restriction, under any applicable off-site levy bylaw;

(d) the Town may impose Developer Contributions, Reimbursement Costs, and Off-Site Levies at any time after the execution of this Agreement, in which event:

(i) if imposed prior to endorsement or release of a Plan of Subdivision contemplated under this Agreement, the applicable Developer Contributions, Reimbursement Costs, and/or Off-Site Levies shall be payable by the Developer prior to endorsement of the Plan of Subdivision by the Town and release for registration; and

(ii) if imposed after endorsement or release of a Plan of Subdivision contemplated under this Agreement, the applicable Developer Contributions, Reimbursement Costs, and/or Off-Site Levies may be imposed by the Town in its discretion as conditions of development permits issued in respect of the parcels contained within that Plan of Subdivision.

(e) if at the time of registration of a Plan of Subdivision the Town has not imposed Developer Contributions, Reimbursement Costs, and/or Off-Site Levies, nothing in this Agreement precludes the Town from imposing and collecting such amounts at the development permit stage.

9.4 Nothing in this Agreement shall preclude the Town from levying in a lawful manner any special frontage assessment or uniform unit rate assessment or special local benefit assessment for the construction, expansion or extension of Municipal Improvements, other than such Municipal Improvements or portions of such Municipal Improvements, which are covered by the Developer Contributions, Reimbursement Costs, and/or Off-Site Levies paid by the Developer as contemplated within this Agreement.

10. Fees and Costs

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

10.2 The Developer acknowledges that the amount of the approval and inspection fees payable, whether or not specified in **Schedule "E"**, are subject to adjustment by the Town, and the Developer and the Town further covenant and agree that the following provisions shall apply:

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

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

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

10.3 The Developer shall be responsible and pay to the Town the contracted legal costs incurred by the Town for the preparation, fulfillment, execution and enforcement of this Agreement and subsequent Addenda.

10.4 The Developer shall be responsible for and shall pay to the Town all engineering costs, fees, expenses and disbursements incurred by the Town for all engineering services rendered in connection with the fulfillment, execution and enforcement of this Agreement.

10.5 The Town will forward to the Developer all invoices respecting legal and engineering expenses mentioned in Article 10, and the Developer shall forthwith pay the amount stipulated by such invoices within THIRTY (30) days of the Town sending such invoices to the Developer.

11. Interest on Monies Owed to the Town

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

(a) If payment of the Off-Site levies is deferred until the issuance of the Final Acceptance Certificate than no interest shall be borne for the sum of the Off-Site Levies until the date upon which the sum or monies are due and payable (or later) based on an Attainable Housing Proposal.

11.2 In the event that the Town, pursuant to this Agreement, is holding any monies, for the purposes of security, belonging to the Developer, the Town shall invest such monies and upon the Town returning such monies, the Developer

shall be entitled to both the principal amount and interest thereon at the Prime Rate less TWO (2%) percent (less any amounts lawfully owing from the Developer to the Town).

11.3 For purposes of calculating interest under Sections 11.1 and 11.2, the Prime Rate established on the first business day of a particular month shall be utilized and shall be deemed to be the Prime Rate for that entire month.

12. Amounts Payable Under This Agreement

12.1 The Developer acknowledges and agrees that the Town and the Developer are properly and legally entitled to make provision in this Agreement, for the purposes specified herein, for the payment by the Developer to the Town, or otherwise paid in respect of the Municipal Improvements, of the various sums prescribed in this Agreement, AND FURTHER that the Developer acknowledges and agrees that the Agreement by the Developer to pay the said sums is an inducement offered by the Developer to the Town to enter into this Agreement.

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

12.3 The Town and the Developer agree that any amounts of money presently or hereafter owing by the Developer to the Town pursuant to the provisions of this Agreement, whether by way of liquidated or unliquidated claim, and howsoever arising, shall be a charge and encumbrance against the Lands described in Schedule "A" of this Agreement, the Developer does hereby mortgage, charge and encumber the said lands as security for the payment or performance of the Developer's obligations within this Agreement, and further, that the Town shall be entitled to recover any such monies owing, together with all costs on a solicitor and client basis, by enforcing the charge and encumbrance against the lands described in Schedule "A" of this Agreement.

13. Default by the Developer

13.1 In the event that the Town claims that the Developer is in default in the observance and performance of the terms, covenant and conditions of the Agreement or the terms and conditions contained within the Municipal Improvements Policy and incorporated within this Agreement, the Town:

(a) in the case of a default that is not a default of a payment obligation, the Town may give notice in writing to the Developer of such default requiring the Developer to rectify the same, whereupon the Developer shall have a period of **THIRTY (30) days** from the receipt of such notice within which to rectify such default;

(b) upon expiration of the above-noted rectification period, may give notice in writing to the Developer of the Town's intentions to rectify such default at the Developer's costs and expense, whereupon the Developer shall have a period **FIVE (5) days** from the receipt of such notice to rectify such default; and

(c) in the case of a default of a payment obligation, the Town may give notice in writing to the Developer of such default, whereupon the Developer shall have a period **FIVE (5) days** from the receipt of such notice to rectify such notice within which to rectify such default.

13.2 Upon the occurrence of a default on the part of the Developer, the Town shall be entitled to any and all rights and remedies available at law or in equity including, without restriction:

(a) the unfettered right to terminate this Agreement, in which event the Town shall be entitled at its option to take ownership and/or control of all or any portion of the Work without any further compensation to the Developer whatsoever and without prejudice to any claims, rights of action or remedies available to the Town;

(b) perform or otherwise rectify the Developer's obligations in default, in which event the Developer shall be responsible for payment in full of all costs and expenses incurred by the Town and shall immediately pay to the Town sufficient funds to cover all the Town's costs and expenses upon demand;

(c) invoke, cash, call upon, collect, enforce, and otherwise make demands as payee under the provisions of any and all security provided by the Developer as security for obligations contained within this Agreement including, without restriction, make demand for payment in full of any and all amounts secured by any mortgage, charge or encumbrance security, and draw upon any irrevocable letter of credit or bond security; or

(d) expend, utilize, apply, and set off against any and all funds received or held by the Town as security for the Developer's obligations, for the purposes of satisfying any of the Developer's obligations under this Agreement.

13.3 Notwithstanding anything to the contrary herein, in the event that the Town Representative in his absolute discretion acting reasonable, considers it necessary to undertake any immediate Work for the completion or repair of any of the said Municipal Improvements in a situation where the Town Representative considers it to be an emergency, the Town Representative shall be entitled to cause such Work to be done to normal Town standards at the Developer's cost and expense without notification to the Developer; PROVIDED that, upon completion of the said emergency repair Work, the Town Representative shall give notice in writing to the Developer, stating the reasons for the actions and a detailed claim.

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

14. Indemnity and Security

14.1 The Developer shall be liable to the Town and shall indemnify and save harmless the Town, its council, administration, employees, agents and contractors from and against any and all losses, costs (including, without restriction, all legal costs on a solicitor and his own client full indemnity basis), damages, actions, causes of action, suits, claims and demands, whatsoever that may arise, directly or indirectly, from any act or omission of the Developer, its employees, agents, contractors or those for whose actions the Developer is responsible for in law, in pursuance of this Agreement, including, without restriction, any default by the Developer in the due and punctual performance of any of its representations, warranties, covenants and agreements contained within this Agreement. A waiver of rights of subrogation against the Town for liability and property insurers shall be provided to the Town. Such indemnity shall survive completion or termination of this Agreement.

14.2 The Developer shall carry comprehensive liability insurance with policy limits of not less than FIVE MILLION ($5,000,000.00) dollars per occurrence for such period as the Developer has any rights or obligations hereunder with respect to the Subdivision Area, and an all risk builders' policy, including extended coverage and malicious damage endorsement, as per industry standard, insuring the full value of the Work, and naming the Town as an additional insured party. The Developer shall provide a certified copy of liability insurance policy to the Town FIFTEEN (15) DAYS prior to the Commencement of Constructions and shall ensure that the policy provides for the Town to receive THIRTY (30) DAYS written notice of material change or cancellation from the insurer. The limit of liability on the insurance policy shall not be construed as to be the limit that the Developer may be held liable for. The Policy shall be in a form and with an insurer acceptable to the Town.

14.3 In order to ensure to the Town full compliance by the Developer with the terms, covenants and conditions of this Agreement, the Developer hereby covenants and agrees that it shall deliver and deposit with the Town, security in the form hereinafter prescribed in accordance with the Municipal Improvements Policy and that the following provisions shall apply to determining the amount of the security and the time or times at which the security shall be deposited with the Town:

(a) the security shall be deposited by the Developer with the Town prior to the Town's consent to and release of a Plan of Subdivision for the Subdivision Area for registration at the Land Titles Office, and in any event prior to Commencement of Construction;

(b) the security in respect of the Subdivision Area, shall be in one of the following forms:

(i) an irrevocable letter of credit payable to the Town with a face amount equivalent to an amount equaling ONE HUNDRED (100%) percent of the estimated cost of constructing and installing the Municipal Improvements, including Landscaping (the "Letter of Credit"), and such other amounts as are required elsewhere under the provisions of this Agreement; or

(ii) for developers who have a proven track record within the Town of Taber where previous developments have no lingering deficiency issues and quality construction has occurred, an irrevocable letter of credit payable to the Town with a face amount equivalent to an amount equaling THIRTY (30%) percent of the estimated cost of constructing and installing the Municipal Improvements, including Landscaping (the "Letter of Credit"), and such other amounts as are required elsewhere under the provisions of this Agreement;

(c) for purposes of this Section, the estimated cost for the Municipal Improvements shall be determined as follows:

(i) if known at the time that this Agreement is made, as set out in **Schedule "F"** of this Agreement;

(ii) if unknown at the time that this Agreement is made, where actual tendered costs are available the tendered costs shall be used;

(iii) where actual tendered costs are not available, the Developer's Consultant shall prepare cost estimates which shall be submitted to the Town for approval together with all applicable background documentation, and if approved by the Town, such cost estimates shall be used; and

(iv) where actual tendered costs are not available, and the Developer and the Developer's Consultant has not provided estimates for the Town to approve, the Town may establish estimated costs in its sole discretion for the purposes of establishing the required security.

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

14.5 In accordance with the Municipal Improvement Policy, the Letter of Credit shall comply with the following requirements of the Town:

(a) the form and content of the Letter of Credit shall be acceptable to the Town or its solicitors, and otherwise comply with the Municipal Improvements Policy;

(b) the Letter of Credit shall be issued by a Schedule 1 or 2 Chartered Bank, the Alberta Treasury Branch, or such other financial institution as may be approved by the solicitors for the Town;

(c) the Letter of Credit shall contain terms that provide for either:

(i) a covenant by the issuer that if the issuer has not received a release from the Town at least SIXTY (60) days prior to the expiry date of the Letter of Credit, then the Letter of Credit shall automatically be renewed, upon the same terms and conditions, for a further period of ONE (1) year; or

(ii) a right on the part of the Town to draw upon the full amount of the Letter of Credit, or any portion thereof, in the event that the Town has not received a replacement letter, or confirmation of an extension or renewal of the existing letter, at least SIXTY (60) days prior to the expiry of the Letter of Credit.

14.6 In regards to security providing under this Agreement, the following terms and conditions shall apply:

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

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

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

14.7 Any security or insurance herein required to be deposited by the Developer may be required to be increased or decreased by the Town upon written notice to the Developer at any time during the currency of this Agreement if it shall appear to the Town in its discretion that the security or insurance deposited is excessive or insufficient in relation to the costs or protection to the Town, for which security or insurance has been provided. Without limiting the generality of the foregoing, the Town may require an increase in security if the Developer has failed to comply with the construction timetable approved in accordance with the Municipal Improvements Policy, or if the Developer has been issued a notice of default under Section 13.

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

(a) FIFTEEN (15%) percent of the estimated costs of the Municipal Improvements which were the subject of the Construction Completion Certificate;

(b) either ONE HUNDRED (100%) or THIRTY (30%) percent of the estimated costs of constructing and installing all of the Municipal Improvements yet to be completed, being all those portions of the Municipal Improvements for which no Construction Completion Certificate has been issued (as per Section 14.3); and

(c) TWENTY FIVE THOUSAND ($25,000.00) dollars.

14.9 The security requirement contained within this Agreement, and provided by the Developer, is without prejudice to the Developer's responsibility under this Agreement. Nothing shall prevent the Town from demanding payment or performance by the Developer in excess of the required security, and without having to call upon or otherwise exhaust its remedies in respect of the required security prior to making such demand.

14.10 In the event that the Town has negotiated, called upon, or otherwise received proceeds from, the security to be deposited by the Developer for any reason contemplated within this Agreement, then the Town shall be entitled to hold and apply any such funds as a security deposit in lieu of the original security.

15. Incorporation of Policies

15.1 The parties acknowledge and agree that the terms and conditions of the Municipal Improvements Policy, as amended from time to time by the Town in its sole discretion (copy of which are hereby acknowledged to have been received and reviewed by the Developer) shall be deemed to be incorporated within this Agreement by reference, as if they had been attached to and included in this Agreement. Without restricting the foregoing, the following provisions governing the construction, inspection, and acceptance of the Municipal Improvements contained within the Municipal Improvements Policy shall apply to the Developer's construction and installation of the Municipal Improvements:

(a) preparation and approval of Subdivision Plans, if applicable;

(b) preparation, presentation, revision, and acceptance of Plans respecting the Municipal Improvements;

(c) drainage standards;

(d) grant and registration of utility rights of way and easements;

(e) construction and installation of the Municipal Improvements;

(f) construction and installation of other utilities;

(g) use of Public Properties in the performance of the Work;

(h) contracts for installation of the Municipal Improvements;

(i) compliance with Plans and Specifications;

(j) acceptance of Municipal Improvements and transfer of the Municipal Improvements to the Town;

(k) maintenance of Municipal Improvements by Developer during Guarantee Period;

(l) calculation and payment of Developer Contributions, Reimbursement Costs and Off-Site Levies;

(m) calculation and payment of Shared Costs for oversizing;

(n) delivery of final as-build drawings and other documents to the Town;

(o) construction and installation of fencing requirements;

(p) minimum building standards;

(q) maintenance of boulevards and other public areas; and

(r) security for Municipal Improvements and obligations of the Development Agreement.

16. Dispute Resolution

16.1 Subject to any other provisions of this Agreement to the contrary, if any dispute or difference between the parties shall arise under this Agreement, either party may give to the other notice of such dispute or difference and request that the matter be referred to the Dispute Resolution Procedure. Upon agreement to proceed with resolution of the dispute by way of the Dispute Resolution Procedure, the parties shall thereafter follow the procedure provided within the Municipal Improvements Bylaw.

16.2 The parties agree that such disputes, when referred to the Dispute Resolution Procedure, will benefit from preliminary steps of negotiation and mediation prior to arbitration. Accordingly, the parties agree to utilize all reasonable efforts to resolve any such dispute promptly and in an amiable manner by direct negotiations or, failing that, mediation between the parties as contemplated within the Dispute Resolution Procedure.

16.3 The parties shall continue to perform their respective obligations during the resolution of any dispute or disagreement, including during any period of negotiation, Mediation or Arbitration under the Dispute Resolution Procedure, unless and until this Agreement is lawfully terminated or expires according to its terms.

17. Compliance with Law

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

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

17.3 Where anything provided for herein cannot lawfully be done without the approval or permission of any authority, person or board, the rights or obligations to do it do not come into force until such approval or permission is obtained; PROVIDED, that the parties will do all things necessary by way of application or otherwise in an effort to obtain such approval or permission.

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

18. General

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

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

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

18.4 Whenever under the provisions of this Agreement any notice, demand or request is required to be given by either party to the other, such notice, demand or request may be given by delivery by hand to, or by registered mail sent to, the respective addresses of the parties being:

(a) **Town of Taber**
4900A - 50 Street
Taber, AB T1G 1T1

Phone: 403-223-5500
Fax: 403-223-5530

Attention: Chief Administrative Officer

and

(b) _____
_____
_____

Phone: (___) ___-____
Fax: (___) ___-____

Attention: _____

PROVIDED, HOWEVER, that such addresses may be changed upon TEN (10) days notice; if a notice is mailed it is deemed to be received SEVEN (7) days from the date of mailing; AND PROVIDED, FURTHER, that if in the event that notice is to be served at a time when there is an actual or anticipated interruption of mail service affecting the delivery of such mail, the notice shall not be mailed but shall be delivered by courier or by hand.

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

18.6 It is understood by the parties hereto that the lands contained in the Subdivision Area are unserviced lands and the Town makes no representations as to the suitability of the development. The Town shall have no responsibilities of whatsoever nature relating to the development of the said lands or any of the costs associated with the development except as provided for herein.

18.7 Subject always to the approval of the Town, any further development of lands within the Subdivision Area shall be subject to the terms and conditions of this Agreement, and any further obligations of the Developer, including but not limited to any staging of the subdivision or development of the Subdivision Area, shall require an addendum to this Agreement.

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

18.9 This Agreement shall not be assignable by the Developer without the express written approval of the Town, which consent shall be subject to the terms of this Agreement and may be withheld by the Town in its discretion. This Agreement shall enure to the benefit of, and shall remain binding upon (jointly and severally, where multiple parties comprising the Developer), the heirs, executors, administrators, attorney under a power of attorney, and other personal representatives of all individual parties and their respective estates, and shall enure to the benefit of, and shall remain binding upon, all successors and assigns (if and when assignment permitted herein) of all corporate parties.

18.10 It is understood between the Town and the Developer that no assignment of this Agreement by the Developer shall be permitted by the Town unless and until:

(a) the proposed assignee enters into a further agreement with the Town whereby such assignee undertakes to assume and perform all of the obligations and responsibilities of the Developer as set forth in this Agreement; and

(b) the proposed assignee has deposited with the Town all insurance and security as required by the terms of this Agreement.

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

18.12 The Developer agrees to promptly provide to the Town, upon request from the Town, financial and other information related to or concerning the installation of Municipal Improvements and other development activities on any of the lands comprising the Subdivision Area so that the Town can calculate oversizing costs which may be recoverable, apply for grants, satisfy tangible capital asset requirements, monitor the development and assess the progress of the Developer and make any other assessment it requires.

18.13 The Developer acknowledges and agrees that the Town and the Developer are properly and legally entitled to make provision in this Agreement, for the purposes specified herein, for the payment by the Developer to the Town of the various sums prescribed in this Agreement, AND FURTHER:

(a) the Developer acknowledges and agrees that the Agreement by the Developer to pay the said sums is an inducement offered by the Developer to the Town to enter into this Agreement;

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

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

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

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

19. Execution of Agreement

19.1 The Developer hereby acknowledges that it is hereby executing this Agreement having been given the full opportunity to review the same and seek proper and independent legal advice and that the Developer is executing this Agreement freely and voluntarily and of its own accord without any duress or coercion whatsoever and that the Developer is fully aware of the terms, conditions and covenants contained herein and the legal effects thereof.

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

TOWN OF TABER

Per: _____

Per: _____

_____

Per: _____

Per: _____

SCHEDULE "A" - LEGAL DESCRIPTION OF LANDS

[Insert Legal Description]

SCHEDULE "B" - THE SUBDIVISION AREA

[Insert diagram/site plan]

SCHEDULE "C" - MUNICIPAL IMPROVEMENTS

Subject to confirmation from the Town with respect to either the current existence of any of the following satisfactory to the Town, or confirmation that the Town has assumed responsibility to undertake, construct and/or install any of them, Municipal Improvements shall mean and include the following:

A. Designs, Studies, Reports and Statutory Plans

As part of the completion of access or services to the Subdivision Area, or other benefiting areas pursuant to oversizing, the Developer's obligations to design, construct and install Municipal Improvements shall include the completion of the following:

[DRAFT NOTE: Include as applicable]

1. **Traffic Impact Assessment/Study** - The Developer shall be responsible for conducting a traffic study as may be required to the Town's satisfaction, and possible revisions to the Town's Transportation Master Plan, as may be required, to ensure vehicular access to, from and within the Subdivision Area is planned in a safe and efficient manner;

2. **Slope and/or Soil Stability Study** – The Developer shall be responsible for conducting a slope and/or soil stability study, and possible remediation plan, respecting the Lands and the Subdivision Area evidencing to the Town's satisfaction that the Lands are or will be, upon completion of remediation work, suitable for the proposed subdivision, development and use, and as may be required to ensure servicing and access to, from and within the Subdivision Area, and to comply with conditions of the Subdivision Approval;

3. **ASP, Outline Plan and/or Amendment to Existing ASP** - The Developer shall be responsible for the preparation of an Area Structure Plan or outline plan, and possible revisions to the Town's existing Area Structure Plan, respecting the Lands and the Subdivision Area as may be required to the Town's satisfaction to ensure servicing and access to, from and within the Subdivision Area and compliance with conditions of the Subdivision Approval;

4. **Environmental Site Assessment and/or Remediation Plan** - The Developer shall be responsible for the preparation of an Environmental Site Assessment, and possible remediation plan, respecting the Lands and the Subdivision Area evidencing to the Town's satisfaction that the Lands are or will be, upon completion of remediation work, suitable for the proposed subdivision, development and use, as may be required to ensure compliance with conditions of the Subdivision Approval;

5. _____;

B. Servicing, Utilities, Roads and Other Improvements

Municipal Improvements shall include the completion of the following:

1. all sanitary sewer systems including holding tanks, service lines, manholes, mains and appurtenances;

2. all drainage systems, including storm sewers, storm sewer connections, provisions for weeping tile flow where a high water table or other subsurface conditions cause continuous flow in the weeping tile, storm retention ponds, catch basins, catch basin leads, manholes and associated works, all as and where required by the Town;

3. all water wells, pumps and lines, including all fittings, valves, and hydrants and looping as required by the Town, in order to safeguard and ensure the continuous and safe supply of water in the Subdivision Area;

4. all concrete curb and gutter, subgrade, base gravel and base asphalt, sidewalks and sub-grade, base and asphaltic pavement; and all surface asphalt;

5. all lighting systems for streets, walkways, parking areas and Public Properties as and where required by the Town;

6. such electrical conduit as may be required by the Town for the installation of traffic control signals and traffic control devices;

7. all traffic signs, street signs, development identification signs, zoning signs, and directional signs, berming and noise attenuation devices all as and where required by the Town; and

8. all walkway systems and Landscaping on both private property and Public Property which are to be constructed and installed to the satisfaction of the Town, and in accordance with the Plans for Landscaping to be submitted for the approval of the Town; and

9. such construction or development of streets and lanes as may be required by the Town; including, but in no manner limited to, a second or temporary access for vehicular traffic from the Subdivision Area;

10. the restoration of all Public Properties to the Town's satisfaction which are disturbed or damaged in the course of the Developer's work;

11. the relocation, to the Town's satisfaction, of all existing utilities and Municipal Improvements as required by the Town as a result of the installation and construction of other utilities and Municipal Improvements pursuant to this Agreement;

12. the establishment, or re-establishment, of any survey monuments or iron posts (including pins on individual lots) as and where and when required by the Town throughout and adjacent to the Subdivision Area;

13. public information signs, of a size and location to be approved by the Town, and to contain such public information regarding the completion of services and the completion of the construction of other facilities as may be required by the Town in order to provide proper and complete and up to date information to proposed purchasers and residents within the Subdivision Area;

14. such uniform fencing, (noise attenuation, or screen) either permanent or temporary, of a standard and of a design satisfactory to the Town, all of which is to be constructed and located to the satisfaction of the Town; and

15. all utilities including electricity, natural gas, cable television and telephone. Such utilities to be provided in a location and a standard to be approved by the appropriate utility company and the Town.

SCHEDULE "D" - COMMENCEMENT, COMPLETION, AND ADDITIONAL PROVISIONS

A. Commencement

Unless otherwise agreed to or extended by the Town pursuant to an agreement in writing amending this Agreement, and subject to any revised construction timetable accepted by the Town at the time of the approval of the Developer's Plans, the Developer shall:

1. Submit Plans –

2. Submit Plan of Subdivision –

3. Commence Construction of the Municipal Improvements – commence construction and installation of the Municipal Improvements as follows:

Underground Improvements -

Surface Improvements -

Shallow Buried Utilities -

Landscaping -

Other -

4. _____

B. Completion

Unless otherwise agreed to or extended by the Town pursuant to an agreement in writing amending this Agreement, and subject to any revised construction timetable accepted by the Town at the time of the approval of the Developer's Plans, the Developer shall:

1. Complete Construction of the Municipal Improvements – complete construction and installation of the Municipal Improvements as follows:

(a) Underground Improvements -

Surface Improvements -

Shallow Buried Utilities -

Landscaping -

Other -

2. _____

C. Additional Provisions

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

1. _____

2. _____

[DRAFT NOTE: Insert any conditions listed in the subdivision approval or development permit, any unique or specific conditions/requirements to this development, etc.]

OPTIONAL PROVISIONS:

Restrictive Covenant for Fencing – Further to Section 17.5 of the Municipal Improvements Policy, the Developer shall prepare and register, at the Developer' s sole cost and expense, restrictive covenants in a form acceptable to the Town, on the title to Lots __ of Block ___ of the proposed Plan of Subdivision (the servient tenement) within the Subdivision Area to the benefit of [OPTIONS Lots __ of Block ___ of the proposed Plan of Subdivision OR the adjacent proposed Walkway and Collector Road OR the adjacent proposed Municipal Reserve] (the dominant tenements), which provides for and ensures appropriate fencing requirements in accordance with the Town' s Design Standards and the approved Plans. Such restrictive covenants shall be registered against title to the lots concurrently with registration of the Plan of Subdivision with the Land Titles Office.

Oversized Municipal Improvements – Further to Section 8 of the Agreement and Section 14 of the Municipal Improvements Policy, the Developer shall construct and install oversized [OPTIONS: (described type of oversized Municipal Improvements) water mains and sanitary sewer mains to a size of ____ millimetres in diameter) to accommodate the Subdivision Area and future development on other lands neighbouring and adjacent to the Subdivision Area, as set forth, or to be particularly defined and illustrated, within the Plans that are submitted and approved by the Town. The Town agrees to endeavor to assist in the collection of Shared Costs for the oversizing from benefiting adjacent developers in accordance with the terms and conditions of this Agreement. The cost of the oversized Municipal Improvements shall be apportioned on an area basis over the benefiting area, including the Subdivision Area.

SCHEDULE "E" - CONTRIBUTIONS, REIMBURSEMENT COSTS, LEVIES AND FEES

A. Contributions, Reimbursement Costs and/or Off-site Levies

1. **Developer Contributions -** The Developer shall pay the following as servicing contributions, pursuant to the provisions of Sections 5 and 9 of this Agreement and Section 651 and 655 of the MGA:

   [DRAFT NOTE: $** per residential lot x ** lots = $ INSERT TOTAL AMOUNT or $ ** per hectare x ** hectare area = $ INSERT TOTAL AMOUNT]

2. **Off-Site Levies** - The Developer shall pay the following off-Off-site Levies, pursuant to the provisions of Sections 6 and 9 of this Agreement and Section 648 and 655 of the MGA:

   [DRAFT NOTE: $** per residential lot x ** lots = $ INSERT TOTAL AMOUNT or $ ** per hectare x ** hectare area = $ INSERT TOTAL AMOUNT] and
   With Proposed Attainable Housing: ***[DRAFT NOTE: $ INTERST TOTAL AMOUNT – ($ ** per hectare x ** hectare area of Attainable Housing) = $ INSERT ATTAINABLE HOUSING TOTAL AMOUNT]***

   Council review of Off-Site Levy fee, if Attainable Housing is Proposed: [MONTH] [DAY] 20[YR].

3. **Oversizing Reimbursements** – The Developer shall pay the following as oversizing reimbursement, pursuant to the provisions of Sections 7 and 9 of this Agreement and Sections 651 and 655 of the MGA:

   [DRAFT NOTE: $** per residential lot x ** lots = $ INSERT TOTAL AMOUNT or $ ** per hectare x ** hectare area = $ INSERT TOTAL AMOUNT]

4. **Payment** – the Developer shall pay the amounts described in this Schedule as and when required within the above-noted Sections of this Agreement.

   [DRAFT NOTE: If an alternative time for payment is preferred, insert special payment terms here. Any deferral of payments and/or contributions beyond the release of the Plan of Subdivision and/or commencement of construction should be secured, eg. by an Irrevocable Letter of Credit]

B. Approval & Inspection Fees

1. **Fees and Calculation** – the approval and inspection fees currently due and payable by the Developer pursuant to Section 10 of this Agreement are as follows:

   [DRAFT NOTE: Insert Current Fees, Refer to General Fees Bylaw, or Leave Blank as Section 10 Will Apply]

2. **Payment** – the Developer shall pay the approval and inspection fees applicable to the lands contained within the Subdivision Area as and when required within Section 10 of this Agreement.

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

SCHEDULE "F" - SECURITY

1. For purposes of calculating the security required to be deposited by the Developer pursuant to Section 14, and subject to the provisions below, the cost estimates for the construction and installation of the Municipal Improvements are as follows:

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

(a)	**Underground Improvements**		
	i.	Water Distribution System	$
	ii.	Drainage Systems (including	
	iii.	Storm Sewer System)	$
	iv.	Sanitary Sewer System	$
	v.	Storm Sewer System	$
	vi.	Engineering and Contingency	$
		Underground Subtotal	$
(b)	**Surface Improvements**		
	i.	Earthworks and Berming	$
	ii.	Sidewalk, Curb and Gutter	$
	iii.	Granular Base	$
	iv.	Asphalt	$
	v.	Fencing and Landscaping	$
	vi.	Signage	$
	vii.	Engineering and Contingency	$
		Above Ground Subtotal	$
(c)	**Landscaping**		
	i.	_____	$
	ii.	_____	$
		Landscaping Subtotal	$
(d)	**Shallow Bury Utilities**		
	iii.	Natural Gas	$
	iv.	Telephone	$
	v.	Cable Television	$
	vi.	Broadband/Internet	$
		Shallow Utilities Subtotal	$
(e)	**Total Value of Other Security Required**		
	i.	Deferred Off-Site Levies	$
	ii.	Deferred Contributions	$
	iii.	_____	$
	iv.	Other	$
		Other Security Subtotal	$
		Total Value of Security Required	**$**_____

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

3. Where estimates are not available as at the date of this Agreement, the Developer shall provide such estimates as contemplated within Section 14, and the amount of the security shall be established by the Town at that time.

4. In the event that any of the actual or tendered costs for the construction and installation of the Municipal Improvements for the Subdivision Area are higher or lower than as estimated above, the security to be provided by the Developer shall be adjusted in accordance with Section 14 so as to be based upon those actual or tendered costs.