

THIS AGREEMENT made this _____ day of _____, A.D. 2020.

BETWEEN:

TOWN OF FORT MACLEOD
a municipal corporation within the meaning of the
Municipal Government Act, R.S.A. 2000, Chapter M-26

(the "**Town**")

- and -

An individual having a mailing address of _____

(the "**Developer**")

OR

Being a corporation carrying on business within the Province of Alberta

(the "**Developer**")

ENDEAVOUR TO ASSIST AGREEMENT

WHEREAS the **Developer** obtained subdivision approval OR development permit from the **Town** on [DATE], being Subdivision Approval No. _____ OR Development Permit No. _____ with respect to the subdivision OR development of lands having the legal description of [Legal Description] (the "**Lands**");

AND WHEREAS in accordance with the conditions of Subdivision Approval OR the Development Permit, the **Developer** constructed certain municipal road, stormwater, sanitary sewer and water infrastructure (the "**Infrastructure**");

AND WHEREAS the **Infrastructure** constructed by the **Developer** may benefit other lands as determined by the **Town**;

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

1. The **Town** will assist the **Developer** in the recovery of proportional **Infrastructure** construction costs incurred by the **Developer** as detailed in the **Total Infrastructure Construction Costs** calculations which are attached hereto as **Schedule "A"** as follows:
 - a) Construction costs related to [Describe Infrastructure] to a **maximum** of \$_____;
 - b) Construction costs related to [Describe Infrastructure] to a **maximum** of \$_____;

Plus interest thereon at Royal Bank of Canada's prime rate plus 1.5% from _____, 20__.

(the "**Recoverable Infrastructure Costs**")

2. The parties specifically acknowledge and agree that to the extent that the **Town** in its sole and absolute discretion, adjusts the calculations set out in Paragraph 1 above and **Schedule "A"** to account for actual **Infrastructure** construction costs provided to the **Town** by the **Developer** to the **Town's** reasonable satisfaction, the **Town** shall provide the **Developer** with written confirmation of the changes.
3. The **Developer's** proportional cost recovery for the **Recoverable Infrastructure Costs** will be sought from the owners or developers of Benefiting lands as set out in the **Benefiting Area Map** which is attached hereto as **Schedule "B"** (the "**Benefiting Lands**") when the **Town** enters into development agreements with the owners or developers of the **Benefiting Lands**. Future cost recoveries shall be based on the **Cost Recovery Formula** outlined in **Schedule "C"** and adjusted for interest.
4. The **Town** will remit any sums received by it from the owners or developers of the **Benefiting Lands** as described in Paragraph 3 to the **Developer** within thirty (30) days of receipt of such funds by the **Town**.
5. Notwithstanding anything to the contrary contained within this **Endeavour to Assist Agreement**:
 - (a) This **Endeavour to Assist Agreement** will survive for a period of ten (10) years from the date of the execution of this Agreement by the **Town**; and
 - (b) This **Endeavour to Assist Agreement** is not a representation nor guarantee that any or all of the **Recoverable Infrastructure Costs** will be recovered by the **Town**. The **Developer** shall not have any claim against the **Town** for any and all losses, costs,

damages, actions, causes of action, suits, claims or demands resulting from anything done or omitted to be done by the **Town** in pursuance or purported pursuance of this Endeavour to Assist Agreement. The **Town** shall not be liable to or responsible to the **Developer** for any failure by the **Town**, however that may be caused or occur, to collect any or all of the **Recoverable Infrastructure Costs** from the owners or developers of the **Benefiting Lands**.

6. The **Developer** acknowledges and agrees that the **Town** does not guarantee the collection of any portion of such amounts contemplated in Paragraph 1 and Schedule "A" and the **Town** has no obligation to take legal action for their recovery.
7. The **Town's** decision shall be final and binding on all parties relative to **Recoverable Infrastructure Costs** and cost recovery under this Agreement.
8. Whether or not so stipulated herein, all notices, communication, requests and statements (the "Notice") required or permitted hereunder shall be in writing. Notice shall be served by one of the following means:
 - a) Personally, by delivering it to the party on whom it is to be served at the address set out herein, provided such delivery shall be during normal business hours. Personally delivered Notice shall be deemed received when actually delivered as aforesaid; or
 - b) By facsimile or by any other electronic method by which a written or recorded message may be sent and a copy may be made of the document from the electronic means of sending the notice, directed to the party on whom it is to be served at that address set out herein. Notice so served shall be deemed received on the earlier of:
 - i) upon transmission with answer back confirmation if received within the normal working hours of the business day; or
 - ii) at the commencement of the next ensuing business day following transmission with answer back confirmation thereof; or
 - c) By mailing via first class registered post, postage prepaid, to the party on whom it is served. Notice so served shall be deemed to be received seventy two (72) hours after the date it is postmarked. In the event of postal interruption, no notice sent by means of the postal system during or within seven (7) days prior to the commencement of such postal interruption or seven (7) days after the cessation of such postal interruption shall be deemed to have been received unless actually received.
9. Except as herein otherwise provided, Notice required to be given pursuant to this Agreement shall be deemed to have been received by the addressee on the date received

when served by hand or courier, or five (5) days after the same has been mailed in a prepaid envelope by single registered mail to:

The **Town** at: Town of Fort Macleod
Box 1420
Fort Macleod, AB
T0L 0Z0

Attention: _____

The **Developer** at:

Attention: _____

or to such other address as each party may from time to time direct in writing

10. The **Developer** specifically acknowledges and agrees that if development or subdivision of the **Lands** is pursued in the future, the **Town** may require the **Developer**, its successors or assigns to pay for or construct municipal improvements pursuant to Part 17 of the *Municipal Government Act*, R.S.A. 2000 Chapter M-26, as it may be amended from time to time, including but not limited to a requirement that the **Developer**, its successors or assigns to pay levies or charges, including off-site levies or contributions towards roads or other infrastructure including but not limited to water and wastewater infrastructure.
11. The **Developer** specifically acknowledges and agrees that this Agreement does not constitute approval of any subdivision and is not a development permit, building permit or other permit or approval granted by the **Town**. It is understood and agreed that the **Developer** shall obtain all approvals and permits which may be required by the **Town** or any other governmental authority for any future development of the **Lands**.
12. The laws of the Province of Alberta shall govern this Agreement.
13. This Agreement contains the entire agreement between the parties hereto and no understandings or agreements, verbal or otherwise, exist between the parties except as herein expressly set out.

14. Neither party shall assign this Agreement without the prior written consent of the other, which consent will not be unreasonably withheld.
15. This Agreement shall not become effective unless and until it is approved by **Town Council**.
16. If any term or condition of this Agreement or the application thereof to any person or circumstances shall to any extent be invalid and unenforceable the remainder of this Agreement or the application of such term, covenant or condition to any person or circumstances other than those to which it is invalid or unenforceable shall not be affected thereby and each term and condition of this Agreement shall be valid and shall be enforced to the extent permitted by law.
17. The **Developer** hereby acknowledges that it has been given the full opportunity to review this Agreement and to seek professional and legal advice prior to executing same. The **Developer** is executing this Agreement freely and voluntarily and of its own accord without any duress or coercion whatsoever. 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 executed this Agreement as of the day and year first above written by their duly authorized officers and representatives.

TOWN OF FORT MACLEOD

Per: _____
Name: _____
Title: _____

Per: _____
Name: _____
Title: _____

[CORPORATION NAME]

Per: _____
Name: _____
Title: _____

Per: _____
Name: _____
Title: _____

OR

Witness to the Signature of
[Individual's Name]

[INDIVIDUAL'S NAME]

Printed Name

Address

SCHEDULE "A"

TOTAL INFRASTRUCTURE CONSTRUCTION COSTS

A. [Description of Infrastructure]

Breakdown of Costs ie.	Earthworks	\$ _____
	Roadworks	\$ _____
	Shallow Utilities	\$ _____
	Curb/Gutter/Sidewalks	\$ _____
	Landscaping	\$ _____
	Engineering	\$ _____
	Land Acquisition	\$ _____
	Total Costs	\$ _____
	Total Recoverable Costs	\$ _____

B. [Description of Infrastructure]

Breakdown of Costs ie.	Earthworks	\$ _____
	Roadworks	\$ _____
	Shallow Utilities	\$ _____
	Curb/Gutter/Sidewalks	\$ _____
	Landscaping	\$ _____
	Engineering	\$ _____
	Land Acquisition	\$ _____
	Total Costs	\$ _____
	Total Recoverable Costs	\$ _____

TOTAL INFRASTRUCTURE COSTS \$ _____

TOTAL RECOVERABLE INFRASTRUCTURE COSTS \$ _____

SCHEDULE "B"
BENEFITING AREA MAP

SCHEDULE "C"**COST RECOVERY FORMULA**

The following cost recovery formula shall be applied for the purpose of calculating the proportional share of the Recoverable Infrastructure Costs for each development within the Benefiting Area:

- | | |
|---|-----------------------|
| a) Total Benefiting Area: | _____ha |
| b) Total Recoverable Infrastructure Costs | \$ _____ |
| c) Maximum financing costs | \$ _____ |
| d) Proportional share levy | \$__ /ha (\$__ /acre) |