

**THIS AGREEMENT MADE EFFECTIVE THE 1<sup>st</sup> DAY OF JANUARY, 2016**

**BETWEEN:**

The **Village of Glenwood**, a municipality incorporated under the laws of the Province of Alberta (hereinafter called “Village”)

OF THE FIRST PART

- and -

The **Cardston County**, a municipality incorporated under the laws of the Province of Alberta (hereinafter called “County”)

OF THE SECOND PART

In consideration of the mutual terms and conditions set out in this Agreement for a:

**JOINT SERVICE AGREEMENT for WATER TREATMENT, DISTRIBUTION SYSTEM & ROAD MAINTENANCE**

**Village and County agree as follows:**

**WHEREAS:**

- A. The Municipal Government Act, Section 54 allows the municipalities to enter into Joint Servicing Agreements;
- B. The Village owns and operates a water treatment and distribution system in the Village of Glenwood;
- C. The County requires the services of the Village to treat the County’s water so that the County can supply potable water to its residents;
- D. The County and the Village have reached agreement with respect to the terms and conditions under which the Village will provide such water treatment services to the County;

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the promises, mutual terms, covenants and conditions contained within this Agreement, the Parties hereto agree as follows:

**1. DEFINITIONS**

Unless otherwise provided within this Agreement, all capitalized terms used within this Agreement and applicable Schedules shall have the respective means set forth within Schedule “A” attached to this Agreement.

**2. PREAMBLE AND SCHEDULES**

2.1. The Parties hereby confirm and ratify the matters contained and referred to in the Preamble to this Agreement and agree that the same and the various schedule(s) hereto are expressly incorporated into and form part of this Agreement:

Schedule “A”	-	Definitions
Schedule “B”	-	Water Services

2.2. This agreement shall not become effective nor be of any force or effect unless and until:

2.2.a. The County’s Council has passed a bylaw or resolution authorizing the County to enter into and execute this agreement; and

2.2.b. The Village’s Council has passed a bylaw or resolution authorizing the Village to enter into and execute this agreement.

**3. TERM AND TERMINATION**

3.1. The term of this agreement shall commence on 1<sup>st</sup> January, 2016 and continue in force for the period of Fifteen (15) years, subject to being renewed in accordance with section 3.2.

3.2. Unless otherwise agreed to by the Parties this Agreement shall automatically renew for an additional term of Five (5) years, commencing upon the expiration of the initial term or any future renewal term, as the case may be.

3.3. Notwithstanding the foregoing, the County or the Village may terminate this Agreement by providing notice in writing to the other not less than Five (5) years prior to the extermination of the initial Term or any renewal term, as the case may be.

**4. VARIOUS SERVICE PROVISIONS**

4.1. All specific requirements related to “Water Services” as outlined within Schedule “B” attached to this agreement shall state the obligations, responsibilities and rights of each party in the provision of these services.

- 4.2. All specific requirements related to “Road Services” as outlined within Schedule “C” attached to this agreement shall state the obligations, responsibilities and rights of each party in the provision of these services.

**5. HAZARDOUS SUBSTANCES**

- 5.1. Without limiting any of the foregoing, the Parties each hereby represent, covenant and warrant to and in favour of the other Party that in carrying out its obligations hereunder:
- 5.1.a. Each Party shall not allow any lands (including any lands owned by the respective Parties, or under the respective Parties care, control or management) to be utilized in any manner in contravention of any applicable laws intended to protect the environment, including without limitation, laws respecting the handling, disposal and emission of Hazardous Substances;
- 5.1.b. To the extent that any Hazardous Substance is, subject to the respective Parties’ consent as herein provided, utilized, placed, held, located or disposed of on, under or at any lands in accordance with the terms hereof, the Party responsible for the Hazardous Substance shall:
- 5.1.b.i. Comply with, or cause to be complied with, all applicable laws and regulations relating to the use, storage and disposal of the Hazardous Substance, as well as all terms or conditions required by any consent contemplated above; and
- 5.1.b.ii. At the request of the other Party, provide evidence of compliance with all applicable laws, regulations and other requirements, such evidence to include inspection reports and such tests as may be reasonably required, all at the expense of the Party responsible for the Hazardous Substance.

**6. PLANNING**

- 6.1. The County and the Village shall create and develop a process of planning and consultation. As a first step, the Village agrees to the establishment of a joint steering committee (the "Joint Steering Committee"). Initially, the Joint Steering Committee will be composed of a minimum of one representative appointed by the Village and one representative appointed by the County.
- 6.2. The rules and procedures of the Joint Steering Committee will be established from time to time by it. However:
- 6.2.a. The Joint Steering Committee will meet not less than once per year;
- 6.2.b. The mandate of the Joint Steering Committee is generally to enhance communication between the Village and the County, to analyze and improve the operation of this Agreement and to engage in a process of strategic planning

regarding such issues as the supply and delivery of Water, Water conservation, capital expenditures and rates and rate increases; and

- 6.2.c. As required but at least annually, the Joint Steering Committee shall determine the total volume of Water required by the County and act as a forum where either the County or the Village may discuss concerns about the purchase, supply and delivery of water;
- 6.2.d. In order to accomplish its mandate and perform its duties, the Joint Steering Committee may delegate tasks to sub-committees. The sub-committees may be composed of people who are not members of the Joint Steering Committee.

## **7. INDEMNITY AND INSURANCE**

- 7.1. The Parties shall each at all times, and without limitation, indemnify and save harmless the other Party, and their respective councillors, employees and representatives from and against all liabilities, losses, costs, damages, legal fees (on solicitor and his own client full indemnity basis), disbursements, fines, penalties, expenses, all manner of actions, causes of action, claims, demands and proceedings, all of whatever nature and kind which any of the Parties, or their respective councillors, employees or representatives may sustain, pay or incur or with any action or other proceedings or claims or demands made by third parties, with respect to any occurrence, event, incident or matter caused by, and/or arising as a direct result of:
  - 7.1.a. The misconduct, negligent action or negligent failure to act, as the case may be, of an indemnifying Party and/or any of those persons for whose actions that Party is responsible for at law (including, without limitation, any of its employees or subcontractors); or
  - 7.1.b. Any breach, violation or non-performance of any representation, warranty, obligation, covenant, condition or agreement in this Agreement set forth and contained on the part of the indemnifying Party to be fulfilled, kept, observed or performed, as the case may be; or
  - 7.1.c. Any damages to third parties caused by, resulting at any time from, arising out of or in consequence of the misconduct, negligent action or failure to act of the indemnifying Party and/or any of those persons for whose actions the indemnifying Party is responsible for at law (including, without limitation, any of its employees or subcontractors).

The provisions of this Section are in addition to and shall not prejudice any other rights of the Parties at law or in equity. This Section shall survive the termination or expiry of this Agreement for any reason whatsoever.

- 7.2. Throughout the Term, the Parties shall each obtain and maintain in force the following insurance, all satisfactory to the other Party, acting reasonably:

- 7.2.a. Comprehensive general liability insurance with inclusive limits of not less than Five Million (\$5,000,000.00) Dollars per occurrence, and
- 7.2.b. Any other form of insurance the Parties may agree, from time to time, is reasonable including the form, amount and the insurance risks against which a prudent party under similar circumstances would insure.
- 7.3. All insurable policies shall be taken out with insurers and shall be in a form acceptable to all Parties, acting reasonably. Certificates of insurance and summary reports relating to each insurance policy acceptable to each Party, acting reasonably, shall be delivered by each Party to the other Party as soon as practicable after the placing of such insurance on an annual basis. All policies shall contain an undertaking by the insurers to notify all Parties in writing of any material change, cancellation or termination of any provision of any policy not less than thirty (30) days prior to the material change, cancellation or termination thereof.
- 7.4. If one Party fails to maintain the currency of any policy contemplated by this Article 6, without prejudice to any of its other remedies, the other Party has the right, but not the obligation to obtain such insurance as contemplated in this Article 6 at the sole cost of the first Party and the cost of such insurance may be set off by the other Party paying for such insurance against any monies owing to the Party who fails to maintain the required insurance.

**8. FORCE MAJEURE**

- 8.1. No Party hereto shall be liable to the other for any failure of or delay in the performance of its obligations hereunder nor be deemed to be in breach of this Agreement, if such failure or delay has arisen from Force Majeure.
- 8.2. Where any Party is prevented from carrying out its respective obligations hereunder due to Force Majeure, such Party shall, as soon as possible, give notice of the occurrence of such Force Majeure to the other Party and of the obligations, the performance of which is thereby delayed or prevented and the Party giving the notice shall thereupon be excused from the performance of such obligation for the period of time directly attributable to such prevention or delay.

**9. PERFORMANCE**

- 9.1. Upon an Event of Default occurring as it relates to the performance of any obligation to be performed by a Party, the Party not in default may, but shall not be obligated to, either directly or indirectly by engaging a third party or otherwise, as the case may be, do all such things in order to rectify such Event of Default.
- 9.2. The Party in default as noted above shall, immediately upon written demand, pay an amount equal to all costs and expenses (direct and indirect) properly and reasonably incurred by the Party not in default arising from attending to rectification of the said Event

of Default to plus Interest on the same from the date said costs or expenses are incurred until they are paid.

- 9.3. Either Party may, in its sole discretion, without further course or action, set off and deduct any such amount(s) together with Interest, from any payment then or thereafter due by such Party to the other Party, provided that such action shall not be deemed a waiver of any action that a Party may pursue to collect any costs or expenses incurred herewith that exceed the amounts set off.
- 9.4. Any action taken by a Party hereunder shall not limit in any way its recourse to any rights or remedies available to it at law, equity or otherwise.

## **10. DISPUTE RESOLUTION**

- 10.1. Unless specifically described herein to the contrary, the following provisions shall apply to the resolution of conflicts between the Parties as they arise:
  - 10.1.a. The Parties agree to utilize all reasonable efforts to resolve any dispute, whether arising during the Term or at any time after its expiration promptly and in an amiable manner by direct negotiations between the Parties. Conflicts should be resolved by the individuals closest to the issues provided that such individuals have the actual authority to implement such resolution;
  - 10.1.b. The Parties shall continue to perform their respective obligations during the resolution of any dispute or disagreement, including during any period of mediation and arbitration, unless and until this Agreement is lawfully terminated or expires according to its terms;
  - 10.1.c. If a dispute cannot be resolved by the designated representatives within a time period that is reasonably satisfactory to the Party raising the issue under consideration, that Party may refer the dispute to the respective Chief Administrative Officers of each Party. These individuals, or their designates, shall meet as soon as is reasonably possible after the dispute is referred to them, giving due regard to the nature and the impact of the issue under consideration;
  - 10.1.d. If a dispute cannot be resolved by the Parties by mutual agreement within a time period that is reasonably satisfactory to the Party raising the issue under consideration, any Party may submit the dispute for mediation. Any Party may, on notice to the other Party, request that mediation take place and the Parties shall select a mediator whose qualifications are appropriate to the matter to be mediated. The mediator shall designate a place for a meeting of the mediator with representatives of the Parties. During the mediation process, no action will be taken by any Party to commence or continue arbitration proceedings under this Agreement. The cost of the mediator will be equally shared by the Parties. Any mediation which takes place will be strictly confidential. No proposal or concession made by either Party in the course of mediation may be used by either

Party in any subsequent proceedings. The mediator may not be called by either Party as a witness in any subsequent proceedings;

10.1.e. Should mediation fail to result in a resolution of the dispute between the Parties within fifteen (15) days after the Parties initially attempted to mediate the dispute, any Party may submit the dispute for arbitration as provided in Subsection (f) below. The determination arising out of the arbitration process shall be final and binding upon the Parties;

10.1.f. In the event that informal discussions or mediation as noted above is unsuccessful, the Parties shall determine the matter by arbitration in accordance with the following provisions:

10.1.f.i. The Party desiring to refer a dispute to arbitration shall notify the other Party in writing of the details of the nature and extent of the dispute. Within fifteen (15) days of receipt of notice (the "Initial Notice") the other Party shall, by written notice, advise the Party requesting the arbitration, of all matters stated in the Initial Notice, for which the other Party admits responsibility and proposes to take remedial action and the other party shall then take the remedial action. The terms of reference for arbitration shall be those areas of dispute referred to in the Initial Notice which remain in dispute;

10.1.f.ii. The Parties shall, within fifteen (15) days of the establishment of the terms of reference attempt to agree on the name of an arbitrator;

10.1.f.iii. In the absence of an agreement, a single arbitrator shall be appointed by the Alberta Arbitration and Mediation Society and the decision of that arbitrator shall be final and binding upon the parties;

10.1.f.iv. Within sixty (60) days of the establishment of the arbitrator, or a further period as may be agreed upon by the Parties, the arbitrator shall resolve all matters in dispute in accordance with the terms of reference for the arbitration;

10.1.f.v. The decision of the arbitrator shall be final and binding upon the parties, except for those matters which are subject to the jurisdiction of the Alberta Utilities Commission;

10.1.f.vi. The costs of the arbitrator shall be equally borne by each Party;

10.1.f.vii. Except as hereby modified, the provisions of the Arbitration Act shall apply to the arbitration procedure; and

10.1.f.viii. The arbitration shall be conducted in English and shall take place in Cardston, Alberta.

Notwithstanding the foregoing, nothing contained within this Agreement shall prevent the Parties from seeking any review of remedy available from the Alberta Utilities Commission, nor prevent the Alberta Utilities Commission from exercising its statutory discretion respecting any matters falling within its statutory or regulatory jurisdiction.

**11. GENERAL**

11.1. 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:

11.1.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 and addressed as specified in subsection (c) below; or

11.1.b. By telecopier or by any other like method by which a written message maybe sent, 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:

11.1.b.i. Upon transmission with answer back confirmation if received within the normal working hours of the business day; or

11.1.b.ii. At the commencement of the next ensuing business day following transmission with answer back confirmation thereof; or

11.1.b.iii. 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 THREE (3) days 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.

11.2. 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 THREE (3) days after the same has been mailed in a prepaid envelope by single registered mail to:

The County at:                   Cardston County  
  P.O. Box 580  
  1050 Main Street  
  Cardston, Alberta, T0K 2S0  
  Attention: Chief Administrative Officer



The Village at: Village of Glenwood  
PO Box 1084  
59 Main Avenue  
Glenwood AB, T0K 2R0  
Attention: Chief Administrative Officer

OR to such other address as each Party may from time to time direct in writing.

#### 11.3. Allocation Derived From

Water provided by the Village to the County under this agreement shall be considered to have been taken from that water allocation the County is holder of.

#### 11.4. Governing Law

This Agreement shall be construed and governed by the laws of the Province of Alberta and the laws of Canada applicable therein and the Parties hereto irrevocably attain to the exclusive jurisdiction of the Courts of the Province of Alberta.

#### 11.5. Time of Essence

Time shall be of the essence of this Agreement.

#### 11.6. Headings

The headings, captions, paragraph numbers, sub-paragraph numbers, article numbers and indices appearing in this Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit, construct or enlarge the scope or meaning of this Agreement or any provisions hereof.

#### 11.7. Relationship between Parties

Nothing contained herein shall be deemed or construed by the Parties hereto nor by any third party, as creating the relationship of employer and employee, principal and agent, partnership, or of a joint venture between the Parties, it being understood and agreed that none of the provisions contained herein nor any act of the Parties shall be deemed to create any relationship between the Parties other than an independent service agreement between the two Parties at arm's length.

#### 11.8. No Authority

Except as may from time to time be expressly stated in writing by the one Party, the other Party has no authority to assume or create any obligation whatsoever, expressed or implied, on behalf of or in the name of the other Party, nor to bind the other Party in any manner whatsoever.

#### 11.9. Agreement Entire Relationship

This Agreement constitutes the entire agreement between the Parties hereto insofar as the Services are concerned and the Parties acknowledge and agree that there are no covenants, representations, warranties, agreements or conditions expressed or implied, collateral or otherwise forming part of or in any way affecting or relating to the Services save as expressly set out in this Agreement.

#### 11.10. Further Assurances

Each of the Parties do hereby agree to do such things and execute such further documents, agreements and assurances as may be necessary or advisable from time to time in order to carry out the terms and conditions of this Agreement in accordance with their true intent.

#### 11.11. Amendments

This Agreement may not be altered or amended in any of its provisions, except where any such changes are reduced to writing and executed by the Parties.

#### 11.12. Waiver

No consent or waiver, express or implied, by either Party to or of any breach or default by the other Party in the performance by the other Party of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance of obligations hereunder by such Party hereunder. Failure on the part of either Party to complain of any act or failure to act of the other Party or to declare the other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such Party of its rights hereunder.

#### 11.13. Counterparts

This Agreement may be executed in several counterparts each of which when so executed shall be deemed to be an original, and such counterparts shall constitute the one and same instrument and notwithstanding their date of execution shall be deemed to bear date as of the date first above written.

#### 11.14. Statutory Reference

Any reference to a statute shall include and shall be deemed to be a reference to such statute and to the regulations made pursuant thereto and promulgated thereunder with all amendments made thereto and in force from time to time and any final judicial decisions interpreting the same, and to any statute or regulation that may be passed which has the effect of supplementing or superseding the statute so referred to or the regulations made pursuant thereto.

#### 11.15. Unenforceability

If any term, covenant or condition of this Agreement or the application thereof to any Party or circumstances shall be invalid or unenforceable to any extent, the remainder of this Agreement or application of such term, covenant or condition to a Party or circumstance other than those to which it is held invalid or unenforceable shall not be affected thereby and each remaining term, covenant or

condition of this Agreement shall be valid and shall be enforceable to the fullest extent permitted by law.

#### 11.16.Survival

The Parties acknowledge and agree that the provisions of this Agreement which, by their context, are meant to survive the termination or expiry of the Term shall survive the termination or expiry of the Term and shall not be merged therein or therewith.

#### 11.17.Remedies Generally

Mention in this Agreement of any particular remedy of a Party in respect of a default by the other Party does not preclude the first Party from any other remedy in respect thereof, whether available at law or in equity or by statute or expressly provided for in this Agreement. No remedy shall be exclusive or dependent upon any other remedy, but a Party may from time to time exercise any one or more of such remedies generally or in combination, such remedies being cumulative and not alternative.

#### 11.18.Payment of Monies

The Parties acknowledge and agree that any payment of monies required to be made hereunder shall be made in Canadian funds and that any tender of monies or documents hereunder may be made upon the solicitors acting for the Party upon whom the tender is desired and it shall be sufficient that a negotiable bank draft is tendered instead of cash.

#### 11.19.Singular, Plural and Gender

Wherever the singular, plural, masculine, feminine or neuter is used throughout this Agreement the same shall be construed as meaning the singular, plural, masculine, feminine, neuter, body politic or body corporate where the fact or context so requires and the provisions hereof.

#### 11.20.Binding Effect

This Agreement shall ensure to the benefit of and be binding upon the successors and permitted assigns of each of the Parties.

#### 11.21.Assignment

Neither Party shall assign its interest in this Agreement, or any part hereof, in any manner whatsoever without having first received written consent from the other Party.

#### 11.22.Requests for Consent

Each Party shall provide any decision with regard to a request for consent in a timely manner.

IN WITNESS WHEREOF the Parties have executed this Agreement on the day and year first written above.

CARDSTON COUNTY

VILLAGE OF GLENWOOD

Per: \_\_\_\_\_  
Reeve Fred C. Lacey

Per: \_\_\_\_\_  
Mayor Jordan Koch

Date: \_\_\_\_\_

Date: \_\_\_\_\_

DRAFT

## SCHEDULE "A"

### Definitions

The definitions listed in this section shall determine the meaning and intent of the clauses listed in this agreement.

- A1. **"Agreement"** means this Joint Service Agreement and the schedules attached hereto, together with such amendments, extensions and renewals as may be evidenced in writing and executed by the Parties from time to time;
- A2. **"Annual Quantity"** means the amount of 101, 110 Cubic Meters;
- A3. **"Application and Assessment Costs"** means all reasonable costs to be incurred by the Village in accordance with Good Industry Practice in assessing and processing an Application for Service as contemplated within this Agreement;
- A4. **"Application for Service"** means an application prepared by the County and submitted to the Village pursuant to the Provisions of Article 4 of this Agreement, respecting the proposal to provide Water services to a County Water User;
- A5. **"Best Efforts"** means in relation to the performance obligation, efforts that are sensible and practical and involve the exercise of reasoned and sound judgment, having regard to all of the relevant circumstances;
- A6. **"Connection Points"** means the points of delivery described in Service Addendum or otherwise evidenced between the Parties from time to time
- A7. **"Connection Costs"** means all reasonable costs to be incurred by the Village in accordance with Good Industry Practice in accommodating the connection and servicing of a County Water User including, without restriction, proportionate share of existing capital costs of the Village System, costs of additions or upgrades to the Village System, and the construction of any required new Water Meter Vault and associated metering equipment, as more particularly set forth within the applicable Service Addendum;
- A8. **"County Cost Structure"** means 75% of the rate listed within the current years Alberta Road building & Heavy Construction Associations rental rate guide book.
- A9. **"County System"** means the water transmission and distribution system constructed, owned and operated by or on behalf of the County from time to time which includes all real and personal property of every kind, nature and description including all pumps, pipelines, valves, appurtenances, pumping stations, metering facilities, filtration and treatment facilities owned by County, as detailed in the County's as-built plans or record drawings for the system;

- A10. **"County Water User"** means all portion of lands located within the County which are proposed to be serviced with Water services under an Application for Service, and subsequently accepted for service under a Service Addendum;
- A11. **"Emergency"** means a sudden and unexpected condition requiring immediate action including but not restricted to a water shortage, equipment or Village System failure or breakdown, and electrical outages;
- A12. **"Event of Default"** means when one Party to this Agreement neglects or fails to observe, perform or comply with any of its obligations or covenants pursuant to this Agreement, and:
- (a) Such neglect or failure is not cured within thirty (30) days after being required in writing to do so by the other Party; or
  - (b) If such neglect or failure is not capable of being cured within thirty (30) days as aforesaid but can be cured within a commercially reasonable period of time by a commercially reasonable effort by such Party, such Party has not commenced to cure such neglect or failure within the said thirty (30) day period and has not continued to effectively and diligently cure such neglect or failure within such commercially reasonable period of time.
- A13. **"Force Majeure"** means any act of God, major storms, civil disturbance or any similar major event or occurrence not within the control of a Party and which by the exercise of due diligence by such Party could not have been prevented, but lack of funds on the part of such Party shall be deemed not to be a Force Majeure;
- A14. **"Good Industry Practice"** means the standards, practices, methods and activities and actions generally accepted and utilized by and within the water management and treatment industry in Canada and the road construction and maintenance industry in Canada, generally consisting of standards and practices intended to achieve a cost-effective result consistent with licensing and regulatory considerations, environmental considerations, reliability, safety and expedition including, without restriction, such standards and practices that are from time to time prepared, endorsed, promoted or promulgated by:
- (a) The American Water Works Association or the Canadian Water and Wastewater Association, to the extent that those are consistent;
  - (b) The Association of Professional Engineers, Geologists and Geophysicists of Alberta (APEGGA); or
  - (c) Guidelines for Municipal Water Works, Wastewater and Storm Drainage Systems, published by Alberta Environment (AENV) in January 2006, as amended or replaced from time to time.
- A15. **"Hazardous Substances"** means any substance which is hazardous to persons or property and includes, without limiting the generality of the foregoing:
- (a) Any substance that, if added to any water, would degrade or alter or form part of a process of degradation or alteration of the quality of that water to the extent that it is detrimental to its use by man or by any animal, fish or plant;

- (b) Any solid, liquid, gas or odor or combination of any of them that, if emitted into the air, would create or contribute to the creation of a condition of the air that:
    - (i) Endangers the health, safety or welfare of persons or the health of animal life;
    - (ii) Interferes with normal enjoyment of life or property; or
    - (iii) Causes damage to plant life or to property;
  - (c) Substances declared to be hazardous or toxic under any law or regulation now or hereafter enacted or promulgated by any governmental authority having jurisdiction over the Parties;
  - (d) Any form of radioactive materials; and
  - (e) Explosives.
- A16. **"Interest"** means a total of eighteen (18%) percent per year and compounded yearly;
- A17. **"Maximum Daily Quantity"** means the amount 227 Cubic Meters per day;
- A18. **"Maximum Rate of Withdrawal"** means the rate of 0.015 Cubic Meters per second;
- A19. **"Maximum Rate of Delivery"** means the rate of 0.5 Gallons per minute per customer;
- A20. **"Operating Pressure"** means pressure sufficient to meet the needs of the connection main lines;
- A21. **"Party"** means either County or the Village, as the circumstances may provide or dictate, and **"Parties"** means both of them;
- A22. **"Road Maintenance"** means adhering to the provisions of "Schedule C" of this agreement.
- A23. **"Service Addendum"** means an agreement in writing executed by the Parties for the purposes of providing Water services to a County Water User including, without restriction, terms addressing those matters described within Article 4 of this Agreement;
- A24. **"Service Area"** means all that portion of the County serviced with Water provided to the County under this Agreement, as set forth within Service Addendum or otherwise evidenced between the Parties from time to time;
- A25. **"Service Commencement Date"** means:
  - (a) In respect of the commencement of the provision of Water to the Service Area as defined as of the date of this Agreement, 1<sup>st</sup> January, 2016; and
  - (b) In respect of the commencement of the provision of Water to each County Water User under an Application for Service, as of the date set forth within the applicable Service Addendum;
- A26. **"Term"** means the term of this Agreement as set forth within Section 3 of this Agreement;

A27. **"Village System"** means that certain water treatment system located on the Village's property and owned by the Village consisting of the following facilities:

- (a) Raw Water Wells;
- (b) Main Line Distribution from Wells to Water Treatment Plant;
- (c) Water Treatment Plant and Reservoir;
- (d) Main Line from Water Treatment Plant to distribution network within Village municipal boundaries;

And as more particularly described in the Village's as-built plans or record drawings for the system, together with:

- (i) Any and all Approvals, licenses, buildings, water systems, pipes, improvements, works and facilities, whether free standing or otherwise, or whether ancillary thereto or connected therewith; and
- (ii) Any and all additions, improvements and extensions to such services, improvements and works which may be constructed by the Owners from time to time.

A28. **"Water"** means potable water suitable for human consumption which has been treated and tested by Village to meet all Alberta Environment drinking water standards;

A29. **"Water License"** means a water license issued to the County pursuant to the provisions of the Water Act, and "Water Licenses" means all of them;

A30. **"Water Meter Vault"** means:

- (a) The first water meter vault to be constructed by County in order to provide Water services to the County under this Agreement, including chambers, appurtenances, controls, heating, venting, lighting and drainage systems, access roads, fencing and gates, land, easements and rights of way, all as further described in the applicable Service Addendum or otherwise evidenced from time to time within the as-built plans or record drawings of the County System or the Village System; or
- (b) In respect of each County Water User, the water meter vault to be constructed by Village or the County in order to provide Water services to the respective County Water User under this Agreement and the applicable Service Addendum, including chambers, appurtenances, controls, heating, venting, lighting and drainage systems, access roads, fencing and gates, land, easements and rights of way, all as further described in the applicable Service Addendum; and **"Water Meter Vaults"** means all of them.



## SCHEDULE "B"

### Water Treatment & Distribution System

#### B1. APPLICATION FOR SERVICE AND APPROVALS

B1.1 Throughout the Term of this Agreement, the County must inform the Village of a servicing of any existing or proposed County Water User upon provision of the following to the Village:

- (a) A plan of the County Water User, including any existing and/or proposed subdivision plan depicting the number, configuration and location of the proposed lots;
- (b) A description of the proposed County Water User including, without restriction:
  - i. The existing and proposed future land use classifications for the lands;
  - ii. The maximum number of lots, units or service locations contained within the County Water User; and
  - iii. The existing and projected full build-out Water demands for the County Water User;
- (c) For the purposes of the Service Addendum, the proposed amendments to the definitions of:
  - i. Service Area;
  - ii. Connection Points;
  - iii. Water Meter Vaults;
  - iv. Annual Quantity;
  - v. Maximum Daily Quantity;
  - vi. Maximum Rate of Withdrawal; and
  - vii. Maximum Rate of Delivery; required by the Application for Service and the proposed servicing of the County Water User;
- (d) Reasonable description of the timing of subdivision, development, sales, and build-out of the County Water User including, without restrictions, the Service Commencement Date for the County Water User;
- (e) If requested by the Village, a Servicing Assessment and Impact Report prepared by an approved Engineering Consultant , at the cost of the County; and
- (f) The Application and Assessment Costs, which cost may be payable by the Developer or County Water User of the proposed County Water User.

B1.2 Upon receipt of such an Application for Service, together with any additional information, opinion, advice and documentation reasonably required by the Village or

the Engineering Consultant, the Village shall review the servicing proposal contained within any Application for Service as soon as reasonably possible, and provide the County with:

- (a) An assessment of the Service capacity of the Village System, and any portions thereof relevant to the provision of Water to the proposed County Water User;
- (b) An assessment of the need for a new Water Meter Vault, as well as the nature and extent, if any, of upgrades required to be made to the Village System in order to accommodate the proposed servicing of the County Water User;
- (c) An assessment and/or estimate of the Connection Costs corresponding to the County Water User; and
- (d) An assessment of any additional conditions which may apply to the Village's ability and willingness to provide Water to the County Water User as contemplated within the Application for Service; all of which shall be undertaken and prepared in a manner consistent with Good Industry Practice.

B1.3 The Village may, in its discretion acting reasonably:

- (a) Accept any Application for Service by executing a Service Addendum to this Agreement together with the County, providing for the provision of Water to the County Water User; or
- (b) Request revision to the Application for Service including, without restriction, providing for the payment for the construction or installation of any and all additions to or upgrades of the Village System in order to accommodate the required services to be provided to the County Water User.
- (c) All new County Users after this agreement shall be supplied with water by a ½ imperial gallon per minute trickle system service connection.

B1.4 Upon delivery of acceptance of any Application for Service, the execution of the corresponding Service Addendum, and the payment of the Connection Costs:

- (a) The definitions of Service Area, Connection Points, Water Meter Vaults, Annual Quantity, Maximum Daily Quantity, Maximum Rate of Withdrawal and Maximum Rate of Delivery, shall be automatically amended as set forth within the Service Addendum;
- (b) The Village shall provide the Water services contemplated within this Agreement including, without restriction, the provisions of Water to the Service Subdivision, through the applicable Connection Points throughout the balance of the Term of this Agreement and any renewals thereof or extensions thereto;

- (c) The County shall accept and pay for all Water received through the applicable Connection Points for the purposes of providing the direct service provider relationship to all Customers located within the Service Area including the County Water User;

all effective as of the date of the Service Addendum, or effective as of the date or dates set forth within the respective Service Addendum.

- B1.5 The Parties shall be responsible for the acquisition or amendment of any and all necessary consents, approvals, licenses, permits, allocations or authorities relating to the execution and performance of the terms of this Agreement and each subsequent Service Addendum.

**B2. COUNTY AND VILLAGE GENERAL SERVICE OBLIGATIONS**

- B2.1 The County and the Village shall perform the water treatment services in accordance with and subject to the terms and conditions contained in this Agreement;
  - (a) Be bound by and observe all applicable federal, provincial and municipal legislation and related regulations, which, without limiting the generality of the foregoing, shall include the provisions of the Water Act, Reservoir Act, the Occupational Health and Safety Act and the Environmental Protection and Enhancement Act, all as amended from time to time, and the Village shall cause all of its employees and approved subcontractors to be so bound;
  - (b) Obtain and maintain at its sole expense all necessary permits, licenses, consents and approvals required by all authorities having jurisdiction incidental to the performance of the Village's obligations under this Agreement;
  - (c) They shall obtain all necessary permits and approvals from Alberta Environment, the respective Village Council, and any other relevant Provincial or Municipal department, body or agency to treat the County's water in the jurisdiction of the Village. The County will provide reasonable assistance and cooperation to the Village to this regard.
- B2.2 Pay all fees and all other costs incidental to the performance of their obligations under this Agreement.
- B2.3 Upon receipt of reasonable request from either municipality, provide evidence of coverage under the Workers' Compensation Act, such evidence to include coverage of the Village and any and all subcontractors; and all of which shall be undertaken in accordance with Good Industry Practice.

**B3. WATER SUPPLY AND SERVICE OBLIGATIONS**

- B3.1 During the Term and pursuant to the terms of this Agreement, the County shall make raw water available for delivery to the Village at the intake of the Village System at a rate not less than the Maximum Daily Quantity and the Maximum Rate of Delivery. For clarity, the County's shall ensure the County Water Licences are sufficient to accommodate the Village's right to draw raw water up to the maximum Daily Quantity and the Maximum Rate Delivery, through the works of the Village System. The County shall be responsible, at its own cost, for attending to all amendments to the County Water License.
- B3.2 During the Term and pursuant to the terms of this Agreement, the County shall be entitled to draw Water up to the Maximum Daily and Annual Quantities at the Maximum Rate of Withdrawal.
- B3.3 During the Term and pursuant to the terms of this Agreement, the Village shall:
- (a) Make Water available for delivery to the County at the Connection Points:
    - i. To an aggregate amount of Annual Quantity, at the Maximum Daily Quantity and the Maximum Rate of Withdrawal;
    - ii. At the Operating Pressure; and
    - iii. Meter the Water treated by the Village pursuant to this Agreement at the Connection points.
  - (b) Use its Best Efforts to ensure that no contamination, pollutants, foreign matter or like material enter the Village System;
  - (c) Be solely responsible for the maintenance and operation of the Village System;
  - (d) Ensure that chlorine residuals in the Water treated by the Village are in accordance with the requirement of Alberta Environment.
- B3.4 Both parties shall use their Best Efforts to reduce water losses within their respective systems and to repair any water line breaks or leakages as soon as reasonably possible.
- B3.5 The Village acknowledges and agrees that the County shall not be required to provide a minimum daily or annual quantity of raw water at the Connection Points to be treated by the Village.

**B4. CONSTRUCTION AND OWNERSHIP OF THE WATER METER VAULTS**

- B4.1 The County shall, at its sole cost and expense, construct and install the first Connection points contemplated within this Agreement, on or before 1<sup>st</sup> January 2017.

- B4.2 In respect of each additional and/or subsequent Connection Points contemplated within an Application for Service, the construction and installation of each such additional Water Meter Vault shall be governed by the terms of the Service Addendum.
- B4.3 All title and ownership to any Water Meter Vault constructed by the Village shall remain with the Village until the following:
- (a) The expiry of any and all maintenance or warranty periods between the Village and their contractors with respect to construction of the Water Meter Vault, and
  - (b) The fulfillment of any terms of any maintenance agreement between the Village and their contractors with respect to construction of the Water Meter Vault.
- B4.4 Upon fulfillment of the terms of Section B4.3, all title and ownership to the Water Meter Vault shall transfer to the County at no cost to County. The Village shall grant and/or transfer to the County any utility right of way or other instrument necessary to permit the continued operation and maintenance of any such transferred Water Meter Vault by the County.
- B4.5 From and after the transfer and taking title and ownership of any transferred Water Meter Vault, the County is solely responsible for the operation and maintenance of the Water Meter Vault including any relocation thereof.

**B5. METERING EQUIPMENT AND ACCURACY**

- B5.1 Unless otherwise agreed to in writing by the Parties including, without restriction, within any Service Addendum, the Parties agree that:
- (a) The Village owns:
    - i. All Water mains, metering facilities, associated piping and connections up to the intake of the Water Meter Vault that contains any Connection Point; and
    - ii. The Meter at the Connection Points.
  - (b) The County owns all Water mains, metering facilities, associated piping and connections from the Connection Points (excepting the Meter);
  - (c) The County shall at all times provide the Village with unrestricted access to the above-noted equipment and all other property of the Village located upon or within the Water Meter Vaults or on County property from time to time in order that the Village may perform all of its obligations under this agreement;
  - (d) The Village shall at all times provide the County with unrestricted access to the above-noted equipment and all other property of the County located on Village property from time to time in order that the County can perform all of its obligations under this Agreement.

- B5.2 Once per year, the Village will test its Meters for accuracy at its sole expense, and provide the County a copy of the test results that are conducted. In addition to the annual test performed by the Village, the County may require the Village to conduct a test on its Meter(s). If such test result indicates that the accuracy of the tested Meter exceeds the agreed variance contemplated within this Agreement, the Village shall pay the costs for such tests and shall, at its sole expense, repair the Meter in order that the Meter falls within the agreed variance. If such test results indicates that the accuracy of the tested Meter is within the agreed variance, the County shall pay the costs for such test. The County shall have the right to have a representative present to witness such verification.
- B5.3 If, upon any testing, the metering equipment is found to be outside the agreed upon variance, previous readings of such metering equipment shall be adjusted in accordance with Section B5.2, to record accurately.
- B5.4 If the metering equipment is out of service, out of repair or outside the agreed upon variance specified in Section B11 so that the volume being metered is not correctly indicated by the reading thereof, the volumes attributable to the period shall be estimated on the basis of the best available data using the first of whichever of the following methods is feasible:
- (a) By using the registration of any other metering equipment in the Village System if installed and accurately registering;
  - (b) By accounting for and adjusting by the calculated error if the percentage of error is ascertainable by calibration, test or mathematical calculations; or
  - (c) By estimating the volume based upon the most recent deliveries under similar conditions, taking into account any changes in volume that have occurred since the period when metering equipment was registering accurately.

**B6 RATES AND BILLINGS**

- B6.1 Rates utilized and charged from time to time by the Village for Water supplied under this Agreement (the "Rate") shall be established annually by the Village's council, and shall be based upon and calculated:
- (a) On a cost of service basis utilizing the principles set out in the American Water Works Association (AWWA) manuals of practice dealing with water rates and charges, as revised and updated from time to time; and
  - (b) In a manner consistent with Good Industry Practice.

Principles and practices to be applied to determine Water rates may change from time to time by way of negotiated agreement between the Parties or as a result of a decision or order of the Alberta Utilities Commission, or a successor tribunal or authority.

- B6.2 The County shall pay for Water treated by the Village at the Rate on the basis of volume metered at the Connection Points.
- B6.3 The County shall provide the Village with a monthly invoice showing the amount of Water treated by the Village, and the amount due and payable to Village.
- B6.4 The County shall assume responsibility and maintenance of all existing County Water Users on the Village system on the day the agreement is signed.
- B6.5 The County will forward to the Village a monetary portion equaling 25% of its municipal property tax revenue due for each property in the County which the Village provides water to.
- B6.6 The Village will set the annual fee for water per user each year and will charge the County a flat fee per user per month that shall be two (2) times the Village rate. The County will then add whatever charges they deem appropriate to manage the County infrastructure and administration.
- B6.7 The Village will set the annual fee for bulk water per cubic meter and will charge the County a rate that is 2 times the Village's per cubic meter rate. This figure will be calculated based on total cubic meters produced by plant the previous year and the current years water operating costs.

**B7 SUSPENSION OF SERVICE**

- B7.1 In the case of an Emergency, the Village may interrupt the treatment of the County's raw water and the delivery of Water in accordance with this Agreement for as long as is reasonable in view of the circumstances contributing to the Emergency. The Village shall determine when an Emergency exists using reasonable judgement, and shall take whatever steps are necessary to meet the Emergency, all in accordance with Good Industry Practice. The Village shall use Best Efforts to ensure that any service interruption is as short in duration as circumstances permit.
- B7.2 In the case of a Water Shortage, if the need arises to impose conservation restrictions on the water consumption within the distribution system, the Village and the County shall work together to ensure that each user within the distribution system receives an equal flow of water and that all users are treated equally and fairly, consisting with any operating constraints then in effect. The Village shall provide notice of the imposition of the conservation restriction to the County as soon as reasonably possible.

**B8 REPAIRS, MAINTENANCE AND REPLACEMENTS**

- B8.1 Without limiting the generality of anything contained herein, the Village, acting responsibly, may interrupt or curtail its water treatment service to the County for the

purpose of effecting any repairs, maintenance, replacement, upgrading or other work relating to the Village System, PROVIDED THAT:

- (a) The Village has given the County at least seven (7) days prior notice, or in the event of unforeseen circumstances, the Villages gives notice of such interruption or curtailment to the County as soon as is reasonably practicable;
- (b) The Village acts to restore services to the County as soon as is reasonably practicable in the circumstances; and
- (c) The Village will coordinate the repairs, maintenance, replacement, upgrading and other work referred to in the immediately preceding paragraph with the County so as to minimize, to the extent reasonable in the circumstances, inconvenience to the County arising from such interruption or curtailment.

B8.2 During periods of interruption or curtailment provided above, the Village may reduce the level, quality or quantity of service provided to the County under this agreement, provided that the Village shall treat all of its customers affected by the interruption or curtailment, including the County, fairly, equitably and without preference, consistent with any operating constraints then in effect. Each Party shall use Best Efforts to keep each other apprised of and up-to-date in respect of the relevant circumstances during each interruption or curtailment.

B8.3 The Village shall be responsible for the operating costs of maintaining the Village System. Any major capital upgrades or replacements will be discussed by the Village and the County for potential joint funding, such as replacing mainline from wells to water treatment plant.

**B9 CAPITAL PROJECTS**

B9.1 The Village will discuss with the County the possibility of joint funding for major capital upgrades to the plant that will benefit both municipalities.

B9.2 If upgrades are needed to the Village plant due to the expansion of the County water system and the plant is not able to supply the Village's engineered water treatment plant maximum capacity as recorded then those costs will be borne by the County to allow for the Village to maintain the plants total operational capacity for the Village.

**B10 METERING EQUIPMENT VARIANCE**

B10.1 Metering equipment will have a variance allowance of 5% before being considered to be out of order.



**B11 EQUIPMENT PROVISION**

B11.1 The County will transfer ownership to the Village one (1) motor grader that is less than ten (10) years old and is in good condition to the satisfaction of the Village before January 1, 2017.

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