



City of Medicine Hat

Amendment to the Potable Water Supply Agreement with Cypress County

July 21, 2016

Alberta Utilities Commission

Decision 21758-D01-2016

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Proceeding 21758

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Alberta Utilities Commission

Fifth Avenue Place, Fourth Floor, 425 First Street S.W.

Calgary, Alberta

T2P 3L8

Telephone: 403-592-8845

Fax: 403-592-4406

Website: www.auc.ab.ca

City of Medicine Hat
Amendment to the Potable Water Supply Agreement
with Cypress County

Decision 21758-D01-2016
Proceeding 21758

1. On June 24, 2016, the City of Medicine Hat filed an application with the Alberta Utilities Commission for approval to enter into the Additional Lands Agreement, pursuant to Section 30(1) of the *Municipal Government Act*. The Additional Lands Agreement, attached as [Appendix 2](#), amends the existing potable water supply agreement between Medicine Hat and Cypress County dated August 4, 2005 (PWA) to include additional lands to be serviced with potable water. The PWA was originally approved by the Alberta Energy and Utilities Board, a predecessor of the Commission, in orders U2005-239¹ and U2005-240² and amended in decisions 2011-004,³ 2012-207⁴ and 2012-334.⁵ The PWA between Medicine Hat and Cypress County with extensions expires May 31, 2034.

2. The Commission issued notice of the application on the Commission's website on June 29, 2016, and advertised in the Medicine Hat News on July 2, 2016. Interested parties were to register their concerns by July 18, 2016. As no submissions were received, the Commission has processed this application without further notice.

3. The Additional Lands Agreement increases the area of the Desert Blume subdivision in Cypress County, to be serviced by potable water from the Desert Blume gate, by approximately 2.58 hectares. Medicine Hat indicated that it and Cypress County viewed this as a minor amendment and were satisfied that there is sufficient potable water capacity at the Desert Blume gate for development of the 2.58 hectares as well as the remaining undeveloped land in the Desert Blume subdivision.

4. Under Section 30(1) of the *Municipal Government Act*:

30(1) If a council proposes to make an agreement to supply water, steam or fuel to a public utility for a period that, with rights of renewal, could exceed 5 years, the agreement must be approved by the Alberta Utilities Commission before it is made.

¹ Order U2005-239: City of Medicine Hat, Water Supply Agreement with Cypress County, Application 1395800-1, July 18, 2005.

² Order U2005-240: City of Medicine Hat, Water Supply Agreement with Cypress County, Application 1395800-1, July 18, 2005.

³ Decision 2011-004: City of Medicine Hat, Water Supply Agreements with Cypress County, Application 1606499-1, January 11, 2011.

⁴ Decision 2012-207: The City of Medicine Hat, Potable Water Supply Agreement with Cypress County, Application 1608596-1, August 2, 2012.

⁵ Decision 2012-334: The City of Medicine Hat, Second Amendment to the Potable Water Supply Agreement with Cypress County, Application 1609100-1, December 12, 2012.

5. The Commission finds that the Additional Lands Agreement is necessary and proper for public convenience and properly conserves the public interest. Therefore, pursuant to Section 30(1) of the *Municipal Government Act*, the Commission approves the Additional Lands Agreement filed in Proceeding 21758, subject to the terms and conditions contained in the agreement.

Dated on July 21, 2016.

Alberta Utilities Commission

(original signed by)

Neil Jamieson
Commission Member

Appendix 1 – Proceeding participants

Name of organization (abbreviation) Company name of counsel or representative
City of Medicine Hat (Medicine Hat)

Alberta Utilities Commission
Commission panel N. Jamieson, Commission Member
Commission staff J. Graham (Commission counsel) C. Malayney

Appendix 2 – Additional Lands Agreement

[\(return to text\)](#)



Appendix 2 -
Additional Lands Agree
(consists of 23 pages)

This Memorandum of Agreement made this 17th day of May, 2016

BETWEEN:

CITY OF MEDICINE HAT,
a municipal corporation
in the Province of Alberta
("Medicine Hat")

- and -

CYPRESS COUNTY,
a municipal corporation
in the Province of Alberta
("Cypress")

-and-

DESERT BLUME DEVELOPMENTS LTD.,
a body corporate carrying on business
in Province of Alberta
("Desert Blume Developers")

-and-

THE MEADOWLANDS DEVELOPMENT CORPORATION
a body corporate carrying on business
in Province of Alberta
("Meadowlands")

**AGREEMENT FOR THE SUPPLY POTABLE WATER AND ACCEPTANCE OF
WASTEWATER IN RELATION TO THE DESERT BLUME GATES FOR
ADDITIONAL LANDS WITHIN CYPRESS COUNTY**

WHEREAS:

- A. Cypress and Desert Blume Developers requested that Medicine Hat supply Potable Water to and accept Wastewater from Cypress for the benefit of the Desert Blume Subdivision located within the municipal boundaries of Cypress, as shown in the drawing attached to this Agreement as Schedule "A".
- B. Medicine Hat agreed to supply and Cypress agreed to accept Potable Water from the Medicine Hat Potable Water System at the Desert Blume Potable Water Gate for delivery into the Cypress Potable Water System for the purposes of providing Potable Water to the Desert Blume Subdivision, subject to the terms and conditions set out in a Master Agreement between Medicine Hat, Cypress and Desert Blume Developers dated August 4, 2005 (the "Master Agreement"), the agreements attached as Schedules to the Master Agreement, and the Potable Water Agreement

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between Medicine Hat and Cypress dated August 4, 2005, as amended from time to time (the "Potable Water Agreement").

- C. Medicine Hat agreed to accept and Cypress agreed to deliver Wastewater from the Cypress Wastewater System at the Desert Blume Wastewater Gate for delivery into the Medicine Hat Wastewater System for the purposes of treating Wastewater from the Desert Blume Subdivision, subject to the terms and conditions set out in the Master Agreement, the agreements attached as Schedules to the Master Agreement, and the Wastewater Agreement between Medicine Hat and Cypress dated August 4, 2005 (the "Wastewater Agreement").
- D. Desert Blume Developers agreed to sell a portion of the Desert Blume Subdivision to Meadowlands, and Meadowlands agreed to purchase from Desert Blume Developers a portion of the Desert Blume Subdivision referenced as "Phase D South" (as shown in the two drawings attached as Schedule "B" of this Agreement), in order to subdivide, service, develop and sell as residential lots.
- E. Desert Blume Developers desired to assign and Meadowlands agreed to accept the assignment and comply with all terms, conditions, covenants, rights, obligations and liabilities of Desert Blume Developers under the Master Agreement and the agreements attached as Schedules to the Master Agreement in relation to Phase D South of the Desert Blume Subdivision, in accordance with the terms and conditions of a Memorandum of Agreement between Medicine Hat, Cypress, Desert Blume Developers and Meadowlands dated March 6, 2015, (the "Phase D South Assignment Agreement").
- F. Medicine Hat and Cypress agreed to consent to the assignment of Desert Blume Developers' obligation under the Master Agreement and the agreements attached as Schedules to the Master Agreement in relation to Phase D South of the Desert Blume Subdivision to Meadowlands, in accordance with the terms and conditions of the Phase D South Assignment Agreement.
- G. Meadowlands now desires to subdivide and purchase Additional Lands (as shown in the two drawings attached as Schedule "C" of this Agreement) that are currently outside the boundaries of the Desert Blume Subdivision in order to consolidate, service and develop those lands in conjunction with Phase D South.
- H. Meadowlands has requested that Medicine Hat and Cypress supply Potable Water to and accept Wastewater from the Additional Lands through the Desert Blume Gates that currently supply Potable Water to and accept Wastewater from the Desert Blume Subdivision.
- I. Medicine Hat and Cypress have agreed to supply Potable Water to and accept Wastewater from the Additional Lands through the Desert Blume Gates that currently supply Potable Water to and accept Wastewater from the Desert Blume Subdivision, subject to the terms and conditions of this Agreement.

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- J. Desert Blume Developers is a party to this Agreement for the purposes of acknowledging that the Additional Lands will be incorporated into the Desert Blume Subdivision lands and that Potable Water will be supplied to and Wastewater will be accepted from the Additional Lands through the Desert Blume Gates, and to acknowledge and agree that this Agreement shall not affect the obligations of Desert Blume Developers in relation to the other areas of the Desert Blume Subdivision (other than Phase D South and the Additional Lands) under the Master Agreement, Potable Water Agreement, Wastewater Agreement, Construction Agreement and Encumbrance Agreement.

NOW THEREFORE in consideration of the covenants and obligations contained in this Agreement, Medicine Hat, Cypress, Desert Blume Developers and Meadowlands agree as follows:

1. INTERPRETATION

1.1 Definitions

In this Agreement, including the recitals, this section and the Schedules, the words and phrases shall have the meanings set out in the Master Agreement and the agreements attached as Schedules to the Master Agreement, and the Potable Water Agreement and Wastewater Agreement, except as amended by this Agreement.

In addition to the foregoing definitions, the following words and phrases shall have the following meanings:

- (a) **"Additional Lands"** means a portion of lands legally described as:

Meridian 4 Range 6 Township 12
Section 2
Quarter North West
Excepting Thereout All Mines and Minerals
Area: 64.7 Hectares (160 acres) More or Less

located adjacent to the Desert Blume Subdivision and as shown outlined in the two drawings attached as Schedule "C" of this Agreement, comprised of 2.58 hectares, more or less.

- (b) **"Additional Lands Development Agreements"** means one or more subdivision servicing or development servicing agreements between Cypress and Meadowlands with respect to providing utility services and municipal improvements and infrastructure for the Additional Lands in accordance with the terms and conditions of the Master Agreement.
- (c) **"Construction Agreement"** means the Utility Construction Agreement for the Desert Blume Subdivision between Medicine Hat and Desert Blume Developers dated August 4, 2005 and which is also attached as Schedule "C" to the Master Agreement.

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(d) **"Desert Blume Subdivision"** means lands legally described as:

- (1) Meridian 4 Range 6 Township 12
Section 11
Quarter North West
Containing 64.7 Hectares (160 Acres) More or Less
Excepting Thereout:
- | Plan | Number | Hectares | (Acres) More or Less |
|-------------|---------|----------|----------------------|
| Subdivision | 0513299 | 35.03 | 86.56 |
| Subdivision | 0513790 | 12.04 | 29.56 |
| Subdivision | 0711630 | 8.87 | 21.92 |
- Excepting Thereout All Mines and Minerals
- (2) Meridian 4 Range 6 Township 12
Section 11
Quarter South West
Containing 64.7 Hectares (160 Acres) More or Less
Excepting Thereout:
- | Plan | Number | Hectares | Acres More or Less |
|------------------------------|---------|----------|--------------------|
| The Drainage Right
Of Way | 262JK | 2.81 | 6.95 |
| Subdivision | 0513299 | 41.617 | 102.84 |
| Subdivision | 1012616 | 4.117 | 10.17 |
- Excepting Thereout All Mines and Minerals

and as shown outlined in Schedule "A" of this Agreement.

- (e) **"Encumbrance Agreement"** means the Memorandum of Agreement for the Registration of Encumbrances for the Desert Blume Subdivision between Medicine Hat and Desert Blume Developers dated August 5, 2005 and which is also attached as Schedule "B" to the Master Agreement.
- (f) **"Phase D South"** means a portion of the Desert Blume Subdivision referenced as "Phase D South" in the two drawings attached as Schedule "B" and forming part of this Agreement.
- (g) **"Phase D South Assignment Agreement"** means a Memorandum of Agreement between Medicine Hat, Cypress, Desert Blume Developers and Meadowlands dated March 6, 2015.
- (h) **"Phase D South Development Agreements"** means one or more subdivision servicing or development servicing agreements between Cypress and Meadowlands with respect to providing utility services and municipal improvements and infrastructure for Phase D South of the Desert Blume Subdivision in accordance with the terms and conditions of the Master Agreement and the Phase D South Assignment Agreement.
- (i) **"Potable Water Agreement"** means the Memorandum of Agreement for Supply of Potable Water between Medicine Hat and Cypress dated August 4, 2005, as amended.

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- (j) **"South Boundary Road Maintenance Agreement"** means the South Boundary Road Maintenance Agreement between Medicine Hat and Desert Blume Developers attached as Schedule "E" to the Master Agreement.
- (k) **"South Boundary Road"** means South Boundary Road SW as shown in Schedules "A" and "D" of the Master Agreement, including present and future rights-of-way.
- (l) **"Wastewater Agreement"** means the Memorandum of Agreement for Acceptance of Wastewater between Medicine Hat and Cypress dated August 4, 2005.

1.2 Headings

The headings of the Sections of this Agreement and the attached Schedules are inserted for convenience and reference only and shall not affect the meaning, interpretation or construction of this Agreement.

1.3 Statutory References

Any reference in this Agreement to a statute shall include and shall be deemed to be a reference to such statute and to the regulations made pursuant thereto, and all amendments made thereto and in force from time to time, 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.

1.4 Invalidity of Provisions

If any of the provisions of this Agreement should be determined to be invalid, illegal or unenforceable in any respect, the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired.

2. CONDITIONS PRECEDENT

2.1 Notwithstanding any other provision contained herein, this Agreement among Medicine Hat, Cypress, Desert Blume Developers and Meadowlands is subject to the following conditions precedent:

- (a) approval of the general terms and conditions of this Agreement by both Medicine Hat and Cypress in accordance with the *Municipal Government Act* (Alberta);
- (b) approval of by the Alberta Utilities Commission of this Agreement and of the amendments to the Master Agreement, Potable Water Agreement and Wastewater Agreement in accordance with section 30 of the *Municipal Government Act* (Alberta);
- (c) Desert Blume Developers, Meadowlands and Cypress receiving all required planning, statutory and regulatory approvals, permits and licenses under all relevant legislation with respect to the subdivision, development and servicing of the Additional Lands;

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- (d) Meadowlands and Cypress entering into one or more Additional Lands Development Agreements in relation to the Additional Lands in accordance with the Master Agreement, which shall include, inter alia, the provisions set out in section 6.5 (excepting subsection 6.5(f) in relation to the Additional Lands) and section 7.3 (excepting subsection 7.3(f) in relation to the Additional Lands) of the Master Agreement and this Agreement; and
 - (e) Meadowlands purchasing and acquiring legal title to the Additional Lands following the subdivision of the Additional Lands from the original quarter section parcel.
- 2.2 The conditions precedent set out in section 2.1 are for the benefit of Medicine Hat and Cypress and must be completed to the satisfaction of Medicine Hat and Cypress in each party's sole and unfettered discretion, within twelve (12) months of the date of this Agreement, subject to any extension of this date by agreement in writing of the parties, otherwise this Agreement shall be null and void and of no force or effect.
- 2.3 Desert Blume Developers and Meadowlands acknowledge and agree that any costs incurred by Desert Blume Developers and Meadowlands prior to the satisfaction of the conditions precedent set out in sections 2.1 shall be at their sole risk and expense.
- 3. **APPLICATION OF THE MASTER AGREEMENT, POTABLE WATER AGREEMENT AND WASTEWATER AGREEMENT TO MEADOWLANDS AND THE ADDITIONAL LANDS**
- 3.1 Subject to section 3.6 and the satisfaction of the conditions precedent set out in section 2.1, Medicine Hat, Cypress, Desert Blume Developers and Meadowlands agree that:
 - (a) the Additional Lands shall be incorporated into the Desert Blume Subdivision lands;
 - (b) the Master Agreement is amended to incorporate the Additional Lands as part of the Desert Blume Subdivision lands; and
 - (c) all terms, conditions, covenants, rights, obligations and liabilities applicable to Desert Blume Developers under the Master Agreement shall apply to Meadowlands in relation to the servicing and development of the Additional Lands, except as amended by this Agreement.
- 3.2 Subject to section 3.6, the payment of the amounts set out in section 3.4 from Meadowlands to Medicine Hat, and the satisfaction of the conditions precedent set out in section 2.1, Medicine Hat and Cypress agree that:
 - (a) in addition to the Desert Blume Subdivision, the Additional Lands may receive Potable Water from the Desert Blume Potable Water Gate in accordance with the terms and conditions of the Potable Water Agreement, as they apply to the Desert Blume Subdivision;

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- (b) in addition to the Desert Blume Subdivision, the Desert Blume Wastewater Gate will accept Wastewater from the Additional Lands in accordance with the terms and conditions of the Wastewater Agreement, as they apply to the Desert Blume Subdivision; and
 - (c) the Potable Water Agreement and Wastewater Agreement are amended to include the Additional Lands as part of the Desert Blume Subdivision lands.
- 3.3 Subject to section 3.6 and the satisfaction of the conditions precedent set out in section 2.1, and in consideration of the supply of Potable Water and the acceptance of Wastewater in relation to the Additional Lands as set out in section 3.2, Meadowlands agrees that it shall observe, incur and perform all terms, conditions, covenants, rights, obligations and liabilities of Desert Blume Developers under the Master Agreement in relation to the Additional Lands, excepting that Meadowlands shall pay the amounts set out in section 3.4 of this Agreement in relation to the Additional Lands to Medicine Hat instead of paying an amount under the Encumbrance Agreement. (For clarity, subject to section 3.6, Meadowlands is assuming all rights, obligations and liabilities of Desert Blume Developers and shall comply with all terms, conditions and covenants under the Master Agreement in relation to the Additional Lands, except section 6.5(f) and section 7.3(f) of the Master Agreement shall not apply to the Additional Lands). Without limiting the generality of the foregoing, Meadowlands agrees and covenants as follows:
 - (a) Meadowlands agrees to pay the amounts set out in section 3.4 to Medicine Hat;
 - (b) Meadowlands is subject to and shall comply with the terms and conditions set out in Articles 7 (Obligations of Desert Blume Developers), 12 (Future Upgrading of South Boundary Road), 13 (Default), 14 (Release of Claims), 15 (Indemnity) and 16 (Insurance) of the Master Agreement in relation to the Additional Lands, except as amended by this Agreement; and
 - (c) To pay to Medicine Hat 29% of the obligations and liabilities of Desert Blume Developers under Schedule "E" of the Master Agreement.
- 3.4 Meadowlands agrees to pay to Medicine Hat an amount \$130,221.00 per hectare (comprised of \$84,582.00 per hectare for Potable Water and \$45,639.00 per hectare for Wastewater) in relation to the Additional Lands as an amount in lieu of offsite levies as a condition for the supply of Potable Water and the acceptance of Wastewater by Medicine Hat at the Desert Blume Gates in relation to the Additional Lands. Such amount shall be payable by Meadowlands to Medicine Hat upon the occurrence of any one or more of the following:
 - (a) the approval and registration of a subdivision or subdivisions affecting the Additional Lands or portion thereof after the initial subdivision to subdivide the Additional Lands from the original quarter section parcel of land:

- (b) an application or applications and approval of such application or applications for:
 - (i) a development permit or permits; or
 - (ii) a building permit or permits;for one or more developments to be located within the Additional Lands or portion thereof;
- (c) an application by the owner or tenant of the Additional Lands or any portion thereof or by any other authorized person for a connection to existing or future utilities (which utilities are constructed or caused to be constructed by Meadowlands or Cypress) within or adjacent to the Additional Lands; or
- (d) an application by the owner or tenant of the Additional Lands or any portion thereof or by any other authorized person for approval of a land use re-designation affecting all or part of the Additional Lands resulting in a land use designation permitting development with or without the requirement of a development permit.

3.5 Subject to section 3.6 and the satisfaction of the conditions precedent set out in section 2.1, in consideration of Meadowlands' covenants set out in sections 3.3 and 3.4 of this Agreement, Medicine Hat and Cypress agree that Potable Water may be supplied to the Additional Lands and Wastewater may be accepted from the Additional lands under the Master Agreement, Potable Water Agreement and Wastewater Agreement. Meadowlands acknowledges and agrees that Meadowlands shall be liable to Medicine Hat and Cypress for all covenants, obligations and liabilities and is subject to and shall comply with the terms and conditions under the Master Agreement, Potable Water Agreement and Wastewater Agreement in relation to the Additional Lands (except as amended by this Agreement), and Medicine Hat and Cypress may, at their discretion, exercise any rights or remedies they may have under the Master Agreement, the Potable Water Agreement and Wastewater Agreement in relation to the Additional Lands against Meadowlands.

3.6 Desert Blume Developers acknowledge and agree that it shall continue to be liable to Medicine Hat and Cypress for all covenants, obligations and liabilities and is subject to and shall comply with the terms and conditions under the Master Agreement and the agreements attached as Schedules to the Master Agreement in relation to the Desert Blume Subdivision (including, without limitation, paying Secured Sums payable under the Encumbrance Agreement), except in relation to Phase D South and the Additional Lands, and that Medicine Hat and Cypress may, at their discretion, exercise any rights or remedies they may have under the Master Agreement and the agreements attached as Schedules to the Master Agreement against in relation to Desert Blume Subdivision, against the Desert Blume Developers, except in relation to Phase D South and the Additional Lands. Without limiting the generality of the foregoing and for clarity, Medicine Hat, Cypress, Desert Blume Developers and Meadowlands acknowledge and agree that Meadowlands shall not be

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responsible (and Desert Blume shall remain responsible) for the following liabilities and obligations in relation to the Master Agreement and the agreements attached as Schedules to the Master Agreement:

- (a) Desert Blume Developers' Obligation to Commence Development under section 7.8 and article 8 of the Master Agreement;
- (b) Desert Blume Developers' Obligation to Complete Partial Development under section 7.8 and article 9 of the Master Agreement;
- (c) Desert Blume Developers' Obligation to Complete the Golf Course and Clubhouse under section 7.8 and article 10 of the Master Agreement;
- (d) Any liabilities or obligations arising from the Construction Agreement, and Meadowlands shall not be entitled to any reimbursement of costs from Medicine Hat in accordance with the Construction Agreement or in relation to section 5.3 of the Master Agreement; and
- (e) The payment to Medicine Hat of any Secured Sums payable under the Encumbrance Agreement in relation to all other portions of the Desert Blume Subdivision which are not included as part of Phase D South or the Additional Lands.

- 3.7 Subject to section 3.6 and the satisfaction of the conditions precedent set out in section 2.1, Desert Blume Developers agrees to indemnify and save harmless Meadowlands from and against all obligations and liabilities under the Master Agreement and the agreements attached as Schedules to the Master Agreement in relation to the Desert Blume Subdivision, excepting those obligations and liabilities in relation to Phase D South and the Additional Lands assumed by Meadowlands.
- 3.8 Subject to section 3.6 and the satisfaction of the conditions precedent set out in section 2.1, Meadowlands agrees to indemnify and save harmless Desert Blume Developers from and against all obligations and liabilities under the Master Agreement, Potable Water Agreement, Wastewater Agreement, the Phase D South Assignment Agreement and this Agreement in relation to Phase D South and the Additional Lands arising from Master Agreement, Potable Water Agreement, Wastewater Agreement and this Agreement.
- 3.9 Subject to section 3.6 and the satisfaction of the conditions precedent set out in section 2.1, Meadowlands covenants and agrees that it shall incur 29% of the obligations and liabilities of Desert Blume Developers under Schedule "E" of the Master Agreement. For clarity, Desert Blume Developers acknowledges and agrees that it shall continue to be liable to Medicine Hat for 71% of the obligations and liabilities of Desert Blume Developers under Schedule "E" of the Master Agreement.

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4. NOTICES

- 4.1 Any notices, correspondence or other documentation to be sent with respect to the subject matter of this Agreement shall be deemed to have been properly sent by delivering, mailing or forwarding by facsimile transmission such notice, correspondence or other documentation to the following addresses or facsimile numbers as the case may be:

To Cypress:

Cypress County
816 – 2nd Avenue
Dunmore, Alberta, T1B 0K3
Attention: Chief Administrative Officer
FAX: (403) 526-8958

To Medicine Hat:

City of Medicine Hat
580 - 1st Street SE
Medicine Hat, Alberta, T1A 8E6
Attention: Commissioner of Development & Infrastructure
FAX: (403) 502 –8041

To Desert Blume Developers:

Desert Blume Developments Ltd.
c/o 203, 200 Barclay Parade SW
Calgary, Alberta, T2P 4R5
Attention: Lorne W. Scott, Q.C.
FAX: (403) 265-4632

To Meadowlands:

Meadowlands Development Corporation
201 – 46 Carry Drive SE
Medicine Hat, Alberta, T1B 4E1
Attention: Curtis Presber
FAX: (403) 529-6267

Any notice, correspondence or other documentation mailed to a party as provided for herein shall be deemed to have been received five (5) days from the date of mailing, and if sent to a party by facsimile transmission as provided for herein shall be deemed to have been received on the same day that it is transmitted. Any party may at any time advise the other parties of a new address or facsimile number to which notices, correspondence or other documentation under this Agreement should be sent.

5. GENERAL

5.1 Assignment

The interests of Desert Blume Developers or Meadowlands in this Agreement must not be assigned, in whole or in part, without the prior express written consent of Medicine Hat and Cypress to such assignment first had and received, such consent which may be arbitrarily or unreasonably withheld by Medicine Hat or Cypress. In the event that Desert Blume Developers or Meadowlands purport to assign an interest hereunder without first having obtained such written consent, Medicine Hat or Cypress may, at each party's sole option, elect to terminate this Agreement, and in such case Medicine Hat or Cypress shall be deemed not to have breached its obligations under this Agreement in any manner whatsoever.

5.2 Exercise of Statutory Authority

Medicine Hat, Cypress, Desert Blume Developers and Meadowlands acknowledge and agree that the municipal councils for Medicine Hat and Cypress each have the sole and exclusive authority and discretion to pass, amend, rescind and establish bylaws and resolutions in accordance with the MGA and other statutes. Nothing contained within this Agreement shall be construed nor interpreted as fettering discretion of the municipal councils of Medicine Hat or Cypress or their respective commissions, committees, boards, officers, officials or employees in exercising their statutory authority and discretion under the MGA or any other statute, including, without limitation, any authority and discretion with respect to subdivision and development of any land.

5.3 Further Documents

The parties shall execute and deliver all further documents and assurances reasonably necessary to give effect to this Agreement and to discharge the respective obligations of the parties, including but not limited to the execution of the agreements attached as Schedules hereto.

5.4 Waiver

A waiver by any party of the strict performance by one or more of the other parties of any covenant, provision or term of this Agreement shall not of itself constitute a waiver of any subsequent breach of such covenant, provision or term, or of any other covenant, provision or term of this Agreement.

5.5 *Freedom of Information and Protection of Privacy Act (Alberta)*

This Agreement and any records or personal information in relation to this Agreement are subject to the *Freedom of Information and Protection of Privacy Act* (Alberta).

5.6 Jurisdiction

This Agreement, the Phase D South Assignment Agreement, the Master Agreement and the agreements attached as Schedules to the Master Agreement, the Potable Water Agreement and the Wastewater Agreement shall be construed and the relations between the parties determined in accordance

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with the laws of the Province of Alberta. The Courts of the Province of Alberta shall have exclusive jurisdiction with respect to all matters relating to or arising out of this Agreement, the Phase D South Assignment Agreement, the Master Agreement and the agreements attached as Schedules to the Master Agreement, the Potable Water Agreement and the Wastewater Agreement.

5.7 Counterparts

This Agreement may be executed and delivered by the parties by facsimile or electronic communication and in separate counterparts each of which when so executed and delivered shall constitute one and the same document. If a party delivers execution pages by facsimile or electronic communication to the other parties it shall send original execution pages to the other parties within 5 Business Days of such facsimile or electronic communication.

IN WITNESS WHEREOF the parties have caused their respective corporate seals to be affixed by their duly authorized officers effective the date set out on the first page of this Agreement.

CITY OF MEDICINE HAT

CYPRESS COUNTY

Mayor: Keith E. (Ted) Clugston

Reeve –

City Clerk: Angela Cruickshank

Municipal Manager –

**DESERT BLUME
DEVELOPMENTS LTD.**

**THE MEADOWLANDS DEVELOPMENT
CORPORATION**

Per: _____

Per: _____

Title: _____

Title: _____

Per: _____

Per: _____

Title: _____

Title: _____

[AFFIX CORPORATE SEAL]

[AFFIX CORPORATE SEAL]

APPROVED
[Signature]
Chief Administrative Officer
APPROVED
[Signature]
City Solicitor

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CITY OF MEDICINE HAT

Mayor: Keith E. (Ted) Clugston

City Clerk: Angela Cruickshank

**DESERT BLUME
DEVELOPMENTS LTD.**

Per: _____

Title: _____

Per: _____

Title: _____

[AFFIX CORPORATE SEAL]

CYPRESS COUNTY

Reeve -

Municipal Manager -

**THE MEADOWLANDS DEVELOPMENT
CORPORATION**

Per: _____

Title: _____

Per: _____

Title: _____

[AFFIX CORPORATE SEAL]

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with the laws of the Province of Alberta. The Courts of the Province of Alberta shall have exclusive jurisdiction with respect to all matters relating to or arising out of this Agreement, the Phase D South Assignment Agreement, the Master Agreement and the agreements attached as Schedules to the Master Agreement, the Potable Water Agreement and the Wastewater Agreement.

5.7 Counterparts

This Agreement may be executed and delivered by the parties by facsimile or electronic communication and in separate counterparts each of which when so executed and delivered shall constitute one and the same document. If a party delivers execution pages by facsimile or electronic communication to the other parties it shall send original execution pages to the other parties within 5 Business Days of such facsimile or electronic communication.

IN WITNESS WHEREOF the parties have caused their respective corporate seals to be affixed by their duly authorized officers effective the date set out on the first page of this Agreement.

CITY OF MEDICINE HAT

CYPRESS COUNTY

Mayor: Keith E. (Ted) Clugston


Reeve –

City Clerk: Angela Cruickshank

Municipal Manager –

DESERT BLUME DEVELOPMENTS LTD.

THE MEADOWLANDS DEVELOPMENT CORPORATION

Per: 
Title: Secretary / Director

Per: _____

Title: _____

Per: _____

Per: _____

Title: _____

Title: _____

[AFFIX CORPORATE SEAL]

[AFFIX CORPORATE SEAL]

*Agreement between City of Medicine Hat, Cypress County,
Desert Blume Developments Ltd. and the Meadowlands Development Corporation*

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with the laws of the Province of Alberta. The Courts of the Province of Alberta shall have exclusive jurisdiction with respect to all matters relating to or arising out of this Agreement, the Phase D South Assignment Agreement, the Master Agreement and the agreements attached as Schedules to the Master Agreement, the Potable Water Agreement and the Wastewater Agreement.

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DESERT BLUME DEVELOPMENTS LTD.

THE MEADOWLANDS DEVELOPMENT CORPORATION

Per: _____

Per: _____

Title: _____

Title: CURTIS PRESSER - CFO

Per: _____

Per: _____

Title: _____

Title: _____

[AFFIX CORPORATE SEAL]

[AFFIX CORPORATE SEAL]

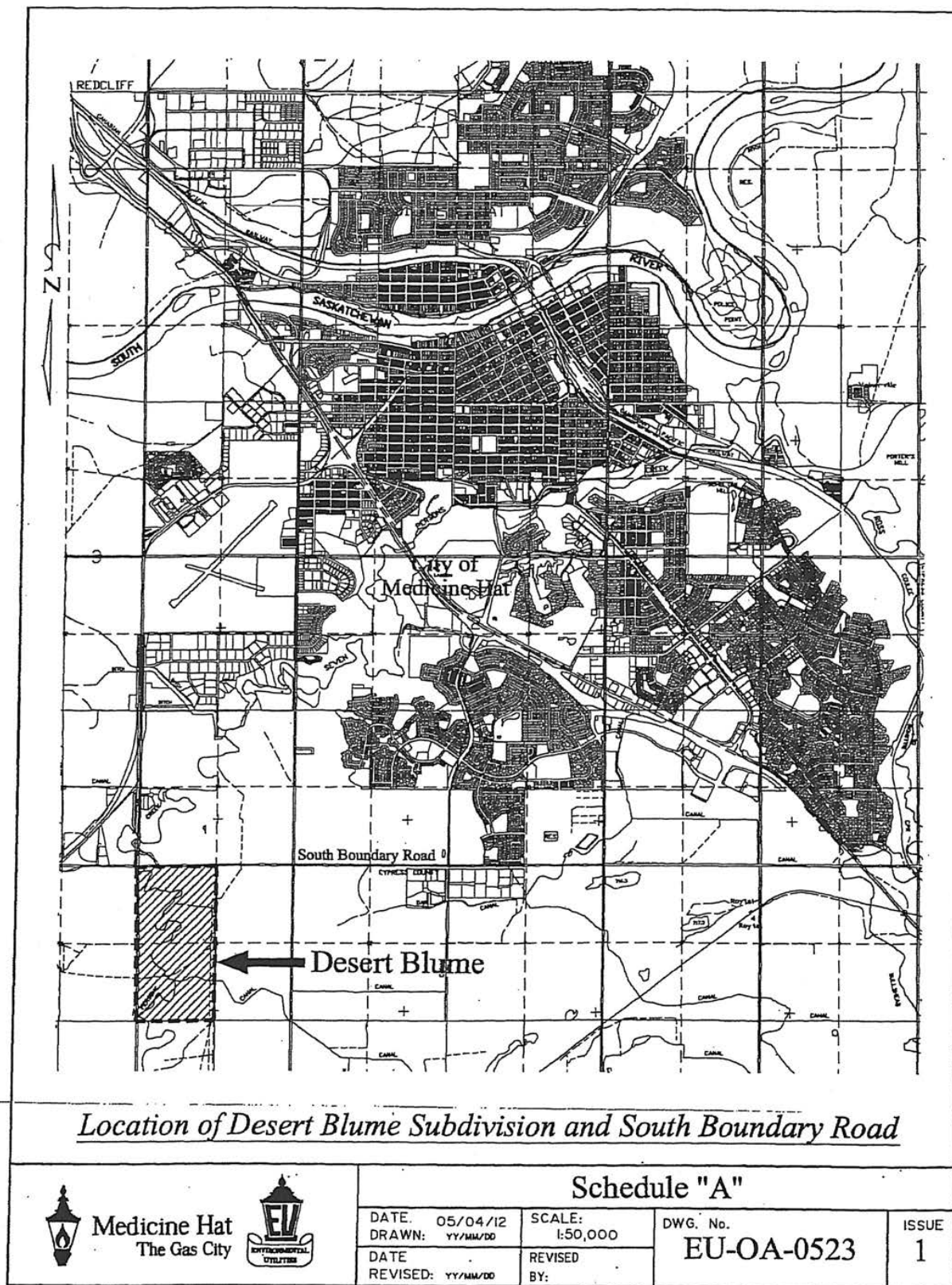


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SCHEDULE "A"

Drawing Outlining the Location of Desert Blume Lands

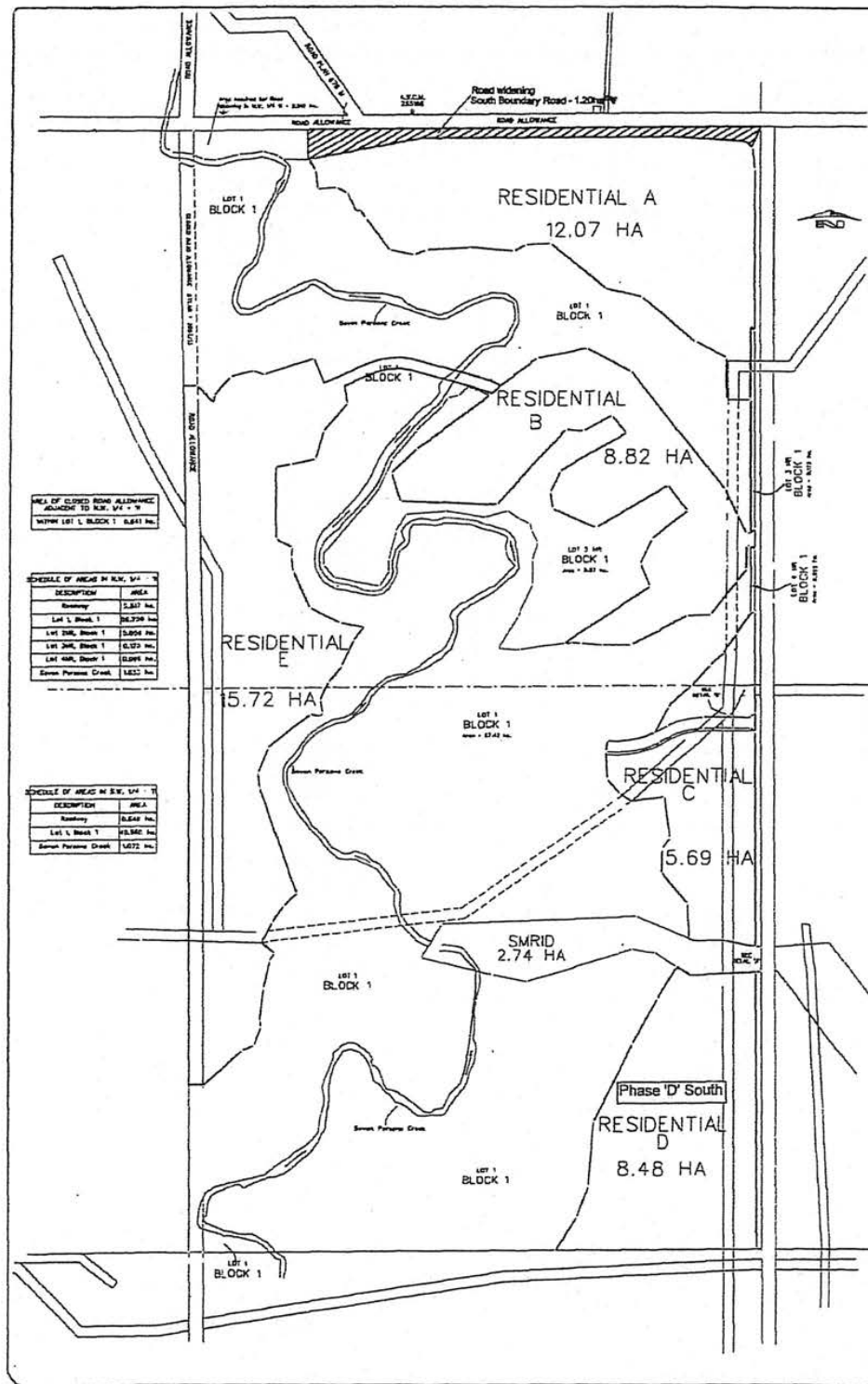


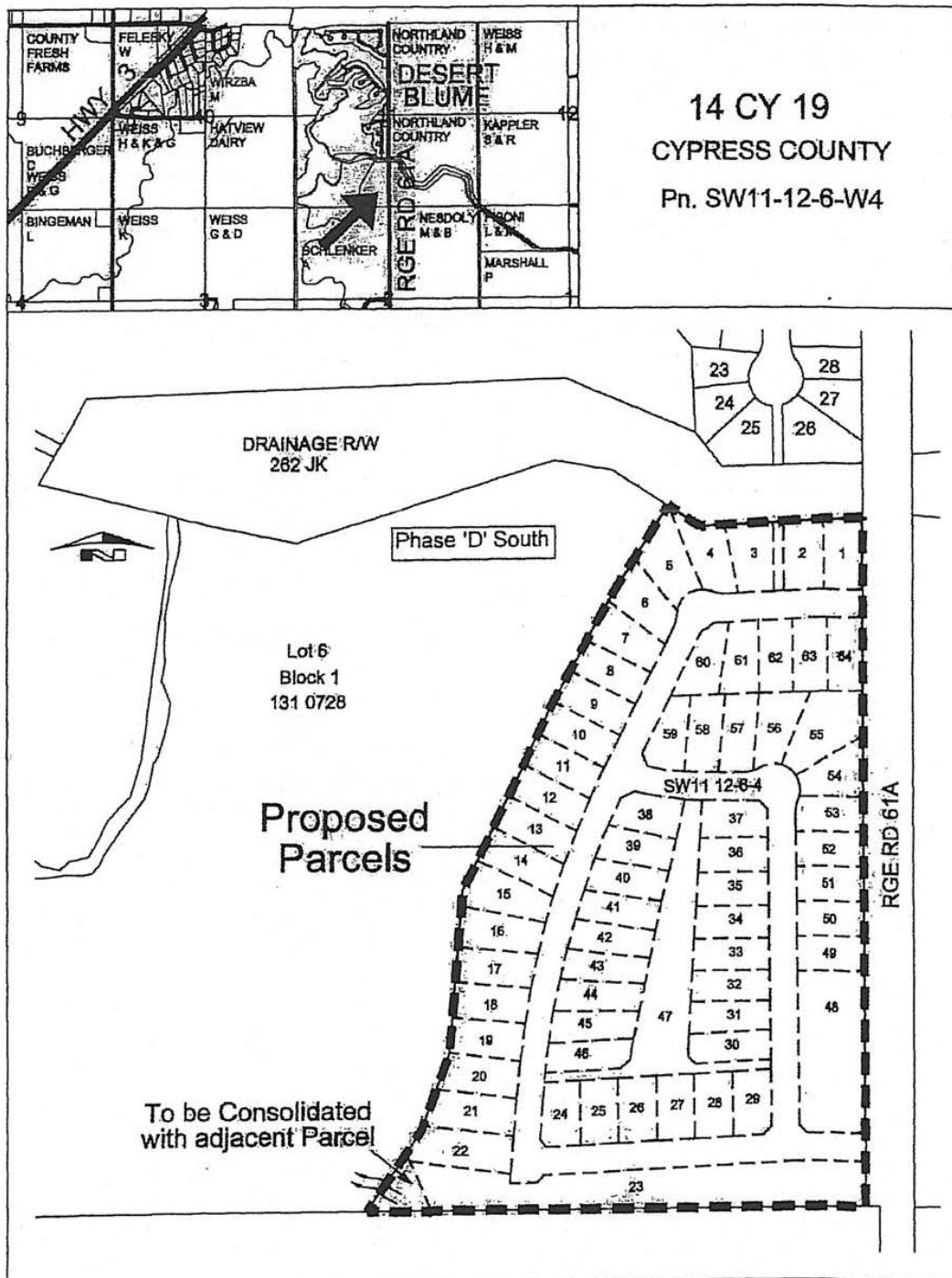
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SCHEDULE "B"

Two Drawings Outlining Phase D South of Desert Blume Subdivision





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SCHEDULE "C"

Two Drawings Outlining the Additional Lands

