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|  | Standard Form Agreements  Development Permit & Subdivision  Applications  **Development Engineering** |

**Your application to The City of Calgary for either a Development Permit or Subdivision has been processed and various documents may be required as a condition of the development or subdivision.**

**When completing the attached Private Overland Drainage Easement and Restrictive Covenant (Flow of Stormwater onto Adjacent Lands - Mutual)**, **please follow the instructions below.**

* The agreement provided by The City of Calgary is locked and only the field areas indicated may be completed. Each field specifies the information required to be keyed into each space. You may tab from field to field.
* Once all the field areas have been filled in, save the document.

**NOTE: THIS PAGE IS FOR INFORMATION ONLY AND IS NOT PART OF THE AGREEMENT.**

* The order of assembly of the agreement should be:
  1. the agreement
  2. Affidavits after the signing page, if required; and
  3. last, the required Schedule(s).
* Print the number of copies of the agreement you require and have each copy signed by the Grantor and Grantee. **PLEASE DO NOT DOUBLE SIDE THE AGREEMENT, AFFIDAVIT(S) OR SCHEDULE(S) WHEN PRINTING.**
* Ensure that the corporate seal is affixed to each copy of the agreement.
* **If the Grantor or Grantee do not have a corporate seal**, complete the Affidavit of Corporate Signing Authority and the Affidavit of Execution. These affidavits are also available for completion in locked form. Both affidavits will be required, originally sworn and signed, for each copy of the agreement.

**NOTE:** As The City of Calgary is not a party to the agreement, we require the following to be completed:

Mail, courier or deliver one hardcopy of the agreement, with a **cover letter setting out the DP or SB number**, to the Development Technologist for review for proper form and content:

By Delivery or Courier: Development Engineering (#8032), The City of Calgary

Mail Room, Basement Floor, Municipal Building

800 Macleod Trail SE, Calgary

If by Mail: Development Engineering (#8032), The City of Calgary

P.O. Box 2100, Postal Station “M”, Calgary, Alberta T2P 2M5

**🞜** If the agreement is not acceptable, the document will be returned to you for correction.

**🞜** Once staff determines the document is acceptable, the Development Technologist will contact you.

**🞜** You must register the document at the Land Titles office. Once the document has been registered, provide a copy of the registered document along with a copy of the affected certificate of title to the Development Technologist for their review. Development Engineering staff will review the registered document and certificate of title and once they are satisfied, the City will consider the condition fulfilled.

This Agreement dated on the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

BETWEEN:

Click here to enter text., having corporate offices and carrying on business in the City of Calgary, in the Province of Alberta

(“Parcel A Owner”)

- and -

Click here to enter text., having corporate offices and carrying on business in the City of Calgary, in the Province of Alberta

(“Parcel B Owner”)

**PRIVATE OVERLAND DRAINAGE EASEMENT AND RESTRICTIVE COVENANT**

**(Flow of Stormwater onto Adjacent Lands - Mutual)**

**Recitals:**

**WHEREAS** the Parcel A Owner is the registered owner of Parcel A;

**AND WHEREAS** the Parcel B Owner is the registered owner of Parcel B;

**AND WHEREAS** the City of Calgary, a municipal corporation in the Province of Alberta (“City”), in approving the design for the overland drainage system for Parcel A has determined that during some storm events storm drainage may flow to and from Parcel A and Parcel B and requires the Owners to enter into this Agreement and register such agreement prior to the City releasing the Development Permit or Subdivision Approval;

**NOW, THEREFORE, THIS AGREEMENT WITNESSETH:**

1. In this Agreement the following terms and expressions have the following meanings:

(a) “Development Permit or Subdivision Approval” means the development permit or subdivision approval, including the development site servicing plan, as described in Schedule “C”;

(b) "Easement Area" means that portion or portions of Parcel A and Parcel B as described in Schedule "D";

(c) "Parcel A" means the lands described in Schedule “A”;

(d) "Parcel B" means the lands described in Schedule “B”;

(e) "Manager, Development Engineering" means the City official with the title Manager, Development Engineering appointed by the City from time to time, and any individual designated to carry out his/her duties in connection with this Agreement.

(f) "Owners" means collectively Parcel A registered Owner and Parcel B registered owner.

2. (a) The Owners grant each other the following rights, privileges and easement in, under, over, across and through the Easement Area:

(i) to direct the flow of overland storm drainage;

(ii) to construct, operate, inspect, maintain, repair and replace the surface elevations and grades as approved in the Development Permit or Subdivision Approval; and

(iii) for the Owners and their employees, contractors, servants and agents, to have ingress and egress and to pass and to repass over those portions of Parcel A and Parcel B which and only for so long as such portions are not occupied by a building or structure other than a fence, either on foot or by means of vehicles or necessary machines whatsoever, and to remain on any such portion of Parcel A and Parcel B, in order to exercise any of the rights herein granted provided always that such rights shall be exercised in a manner so as to cause as little damage as reasonably practicable to existing landscaping.

(b) This Agreement and any schedules attached hereto may be registered upon title to Parcel A and Parcel B.

3. The Owners covenants and agrees for themselves and their successors in title that, with respect to Parcel A and Parcel B, they will not:

(a) build, erect or maintain nor permit or suffer to be built, erected or maintained on the Easement Area any building or structure that would prevent, restrict or interfere with the exercise of any of the rights herein granted;

(b) cause, suffer, permit or maintain any deviation from, interference with, alteration to, removal of or damage to the surface elevations and grades as approved in the Development Permit or Subdivision Approval; and

(c) plant or maintain on the Easement Area any trees, shrubs or landscaping which would or could prevent, restrict or interfere with the exercise of any of the rights herein granted.

4. Any person entitled to carry out any of the aforesaid operations will do so in a good and workmanlike manner and will cause or do as little damage and inconvenience to the owners or occupiers of Parcel A and Parcel B as is reasonably possible, and any excavations or workings made or done in connection therewith shall, so far as is reasonably practicable, be restored to its former condition.

5. Each of the Owners shall, at their expense, maintain and repair in good operating condition the Easement Area.

6. Where more than one person enters into this Agreement, or succeeds to the interest of one of the Owners, all of the agreements, covenants, terms, provisions, and conditions contained herein shall be construed as being both joint and several with respect to each such person.

7. Where the context so requires, the singular number shall be read as if the plural were expressed and the masculine or neuter gender as if the masculine, feminine or neuter were expressed.

8. If any covenant or term of this Agreement or the application thereto to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, other than such term, shall be valid and in force to the extent permitted by law.

9. This Agreement enures to the benefit of and binds the parties and their respective heirs, executors, administrators, personal and legal representatives, successors and assigns.

10. (a) The recitals set forth above shall form part of this Agreement to the same extent as if repeated herein;

(b) Schedules "A", "B", “C” and “D” attached hereto shall form part of this Agreement.

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

12. Any notice, communication or request to be given to the Owners hereunder shall be in writing by registered mail, postage prepaid or by personal delivery to such person at the address for such person currently shown on the tax rolls of the City provided that if postal service is interrupted by strikes, slowdown or other cause the notice, communication or request shall be personally delivered to ensure prompt receipt.

13. References to any statute or statutory provision include a reference to that statute or statutory provision as from time-to-time amended, extended or re-enacted.

14. This Agreement shall not be discharged from title of Parcel A or Parcel B without the Manager, Development Engineering's written consent and no action shall lie against the City for damages for the breach of any one or more of the covenants or agreements contained herein. This covenant shall constitute an absolute defence for the City to any such action and may be pleaded as such.

**IN WITNESS WHEREOF** the parties have executed this Agreement under seal as evidenced by the signatures of their properly authorized officers in that behalf, as of the day and year first above written.

Click here to enter text.

Per: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Corporate Seal)

Per: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

|  |
| --- |
| **Affix Corporate Seal OR**  **use Affidavit of Corporate Signing Authority AND Affidavit of Execution** |

Click here to enter text.

Per: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Corporate Seal)

Per: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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| --- |
| **Affix Corporate Seal OR**  **use Affidavit of Corporate Signing Authority AND Affidavit of Execution** |

**SCHEDULE** “A”

Parcel A

Those portions of the land legally described as follows:

Click here to enter text.

**SCHEDULE** “B”

Parcel B

Those portions of the land legally described as follows:

Click here to enter text.

**SCHEDULE** “C”

Development Permit or Subdivision Approval

Those portions of the land legally described as follows:

DP20\_\_-\_\_\_\_

**OR**

SB20\_\_-\_\_\_\_

**Attach approved development site servicing plan**

**SCHEDULE** “D”

Easement Area

Those portions of the land legally described as follows:

Click here to enter text.