

## Enhanced Cost Acknowledgement Agreement

THIS AGREEMENT made in duplicate this 24 day of June, 2022

BETWEEN:

THE CORPORATION OF THE COUNTY OF  
PRINCE EDWARD

(hereinafter called the "Municipality")

PARTY OF THE FIRST PART

– AND –

PEC COMMUNITY PARTNERS INC.

(hereinafter called the "Owner")

PARTY OF THE SECOND PART

**WHEREAS** the Owner proposes to undertake a variety of Planning & Development applications (herein referred to as "the Application(s)") in support of a highly ambitious and important mixed-use development;

**AND WHEREAS** it is understood by both parties that an Enhanced Level of Service by the Municipality is needed in order to respond effectively and with the appropriate expertise to provide a dedicated lane of engagement outside the normal planning and development queue;

**AND WHEREAS** the Municipality shall incur expenses for Enhanced Level of Service or activities that are not covered by the initial fee for the basic processing of the Application(s);

**AND WHEREAS** the Municipality has authorized the entering into of this Agreement by By-law 3903-2016 being a by-law to establish a tariff of fees for the Processing of Applications made in respect of planning matters pursuant to Section 69 of the *Planning Act*, as amended;

**NOW THEREFORE** in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties hereto, the parties hereto agree as follows:

### **GENERAL MATTERS**

1. That, where an Enhanced Cost Acknowledgment Agreement is in place for the Application(s), the standard Cost Acknowledgment Agreement attached to the planning application forms, shall not be utilized.
2.
  - (a) The statements contained in the Recitals, which are to be read as an integral part of this Agreement, are true and correct.

The lands affected by this Agreement are those lands depicted on Schedule "A". Should the Owner acquire (directly or indirectly) additional lands within the vicinity of the subject lands, consideration shall be given to expanding the Agreement to include such lands. Notwithstanding the foregoing, should the Owner acquire (directly or indirectly) additional lands which are contiguous to the lands depicted on Schedule "A", then the lands affected by and included under this Agreement shall be deemed to be expanded to include such contiguous lands.

- (b) This Agreement shall define the obligations and duties of the Owners and the Municipality with respect to the funding, review, processing and approval of the Application(s), the PEC Plan Approvals, and the Dedicated Municipal Staff.

3. In this Agreement and in the recitals above:

- (a) **"Agreement"** means this Agreement;
- (b) **"Dedicated Municipal Staff"** shall have the meaning ascribed thereto in Section 4(a) hereinbelow;
- (c) **"Development Plans"** means the proposed plan(s) for the development of the Owners' Lands, as contemplated in the Application(s);
- (d) **"Development Plan Approvals"** means the final approval by the Municipality of the Application(s) and the Development Plans (i.e. clearance/final planning and engineering approval for final registration);
- (e) **"PEC Steering Committee"** has the meaning ascribed thereto in Section 7 hereinbelow
- (f) **"Expenses"** shall include the costs related to the Dedicated Municipal Staff, and the Peer Review, as set out in Section 7(a) and Schedule "C";
- (g) **"Municipality"** means The Corporation of the County of Prince Edward;
- (h) **"Owners' Lands"** means the lands owned by the Owners, as shown on Schedule "A" attached hereto;
- (i) **"Peer Reviewer"** shall have the meaning ascribed thereto in Section 4(c) hereinbelow, and shall be engaged by the Municipality from a list of approved consultants as agreed to by the Municipality and the Owner; All fees associated with Peer Reviewer Services shall be paid for by the Owner through the Municipality's cost recovery process, which entails invoicing by the Municipality for actual cost of the Peer Review Services with no mark-up by the Municipality. This process is not included, nor covered in this Agreement.
- (j) **"Peer Review"** shall have the meaning ascribed thereto in Section 4(c) hereinbelow.

#### **REVIEW AND PROCESSING OF APPLICATION(S)**

4.

- (a) In consideration of the other provisions of this Agreement and upon the execution of said Agreement, the Municipality will dedicate and/or engage (as the case may

be) the following staff to expedite the processing and review of such Application(s) and/or Development Plans in an active, diligent and continuous manner:

- i. one (1) full-time planner;
- ii. one (1) full-time engineer;
- iii. one (1) part-time administrative clerk;

and as more particularly described on "Schedule "B" attached hereto;

(the foregoing being hereinafter collectively referred to as the "**Dedicated Municipal Staff**").

- (b) All of the foregoing Dedicated Municipal Staff shall be exclusively dedicated to the review, processing and expediting of the Application(s) and the Development Plans.
  - (c) In addition, the Municipality shall be entitled to engage third party consultants (including without limitation, planners and engineers) (the "**Peer Review Consultants**") in order to provide consulting and peer review services to and on behalf of the Municipality with respect to the Application(s) and the Development Plans (the "**Peer Review**").
  - (d) The Director of Development Services for the Municipality shall instruct the Dedicated Municipal Staff to:
    - i. Review on behalf of the Municipality the Application(s) and to undertake such studies, investigations, analysis, research as may be reasonably necessary to properly advise the Municipality, including, without limitation, the provision of written reports and opinions; and
    - ii. Provide representation/appearances at any and all meetings and/or proceedings relating to the Application(s); and
    - iii. Provide the Municipality and the Owner with enhanced level of service, in the areas of Planning and Engineering, by establishing a dedicated and focused lane of engagement, resulting in compressed response times, while respecting the Planning Act requirements for public notice and other civic engagement.
  - (e) The parties shall review and update the staffing requirements as set out in this Agreement on an annual basis and such updates shall be implemented, in accordance with the terms of this Agreement, and without the requirement for further Council approval.
5. The Parties acknowledge and agree that the Municipality and the Dedicated Municipal Staff and Peer Review Consultants shall make their best efforts to complete the review and Processing of the Application(s), and to issue the Development Plan Approvals, in an active, diligent, expeditious and continuous manner. The Owners covenant and agree to make any decisions, or provide any input required to complete the Application(s) and the Development Plan in an expeditious manner.

The Municipality acknowledges and agrees that the Application(s) and Development Plan(s) to be reviewed and processed by the Municipality, shall be sufficient, satisfactory, and complete so as to obtain consideration for final Planning and Development approval and

Registration of the subject lands. The Owner acknowledges and agrees that such Development Plans may require additional Municipal and Technical Agency approvals.

6. The Municipality and the Owners shall establish the "**Development Plan Steering Committee**" which shall be comprised of representatives of the Owners and their consultants, the Municipality, being the Dedicated Municipal Staff and other municipal staff as may be directed. The Development Plan Steering Committee shall meet monthly, or otherwise on an as-agreed basis, to provide updates on the progress of the Application(s) and the Development Plans, and to comment on the various Application(s) and the findings of the various Dedicated Municipal Staff and Peer Review Consultants therein. Notwithstanding the foregoing, all parties retain their rights under the Planning Act, R.S.O. 1990 c. P.13.

## **FUNDING OF EXPENSES**

7. The Owner hereby covenants and agrees to reimburse the Municipality within sixty (60) days of date of invoice from the Municipality for all Expenses whatsoever incurred by the Municipality relating to or arising out of the Application(s).
  - (a) In this Agreement, the word "**Expenses**" includes:
    - i. fees, costs, expenses, and disbursements incurred by or on behalf of the Municipality for services or activities related to or arising out of the Application(s) in excess of the basic services that are provided as part of the Planning Application fees. The basic services are expressed as a percentage of the Planning Application fees as described in the Memorandum of Understanding. Expenses generally include but are not limited to the portion of wages and benefits for the Enhanced Level of Service assigned as Developers Cost described in the Memorandum of Understanding, as well as any other fees, costs, expenses, and disbursements for items such as: additional public meetings, notices of public meetings, external agency fees, extensions or amendments to Application(s), plans or the conditions of approval, peer reviews, additional studies and/or evaluations, site inspections, meetings, and all attendances and preparation related to any and all appeal(s) to any tribunal and/or court, including without limitation all legal and consultant fees and disbursements.
  - (b) For purposes of this Agreement, the Owner acknowledges and agrees that the "Processing of Applications" includes, but is not limited to, any additional public meetings, notices of public meetings, extensions or amendments to Application(s), plans or the conditions of approval, peer reviews, additional studies and/or evaluations, site inspections, meetings, and all representation, attendances and preparation related to any and all appeal(s) to any tribunal and/or court.
  - (c) The parties acknowledge that the calculation for the Expenses related to the Dedicated Municipal Staff shall be in accordance with Schedule "C" attached hereto.
8. In the event the Owner fails to reimburse the Municipality within sixty (60) days of date of invoice, the Municipality's Director of Development Services may, in his or her sole and absolute discretion, direct municipal staff, planner, solicitor, engineer and any

other consultants to cease all work on or relating to the Application(s).

9. In the event that the Municipality's support and/or approval of any one of the Owner's Application(s) is appealed by a third party to the Ontario Land Tribunal, other tribunal and/or Court, the Owner shall be responsible for all expenses incurred by the Municipality with respect to such hearing and/or proceeding, including without limitation, legal, planning and engineering costs and disbursements.
10. Interest and municipal administrative fees shall be payable by the Owner to the Municipality on all sums of money payable by the Owner to the Municipality which are not paid in full within sixty (60) days of date of invoice, which interest and municipal administration fees shall be calculated from the date of such demand at the rate established from time to time by the Municipality for overdue accounts. Any and all Expenses that may remain unpaid to the Municipality constitute a debt of the Owner to the Municipality.

### **GENERAL PROVISIONS**

11. The failure of the Municipality to insist on strict performance of any of the terms, provisions, covenants or obligations herein shall not be deemed to be a waiver of any rights or remedies that the Municipality may have, and shall not be deemed to be a waiver of any subsequent breach or default of the terms, provisions, covenants and obligations herein contained.
12. The Owner shall not call into question, directly or indirectly, in any proceedings whatsoever in law or in equity or before any administrative tribunal, the right of the Municipality to enter into this Agreement and to enforce each and every term, covenant and condition herein contained, and this clause may be pleaded as an estoppel against the Owner in any such proceedings.
13. All disputes relating to this Agreement (including without limitation, any disputes regarding the Expenses) ("**Disputes**") shall have the option of being determined by mediation and arbitration under The Arbitration Act, 1991 S.O. 1991 (the "**Arbitration Act**").
14. This Agreement shall not be construed as acceptance or approval by the Municipality of the Application(s).
15. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors and assigns.
16. The Parties acknowledge and agree that this Agreement may be executed in duplicates or counterparts, each of which when executed and delivered shall be deemed to be an original, and such counterparts together shall constitute one and the same Agreement. For the purposes of this Agreement, the delivery of a facsimile or e-mail copy of the Agreement shall be deemed to be a valid execution and delivery of this Agreement.

**The balance of this page is intentionally left blank.**

**IN WITNESS WHEREOF** the parties hereto have hereunto affixed their corporate seals attested to by the hands of their proper officers authorized in that behalf.

**SIGNED, SEALED AND DELIVERED**  
In the presence of:

) **THE CORPORATION OF THE**  
) **COUNTY OF PRINCE EDWARD**  
)  
)  
)  
)

\_\_\_\_\_  
) PER: Peter Moyer  
) TITLE: Director, Development Services  
)  
)  
)

\_\_\_\_\_  
) PER: Marcia Wallace  
) TITLE: Chief Administrative Officer  
)  
)

) I/We have the authority to bind the County.

) **PEC COMMUNITY PARTNERS INC.**  
)  
)  
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\_\_\_\_\_  
) PER: Giuseppe Valela  
) TITLE: President  
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) PER:  
) TITLE:  
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) I/We have the authority to bind the Corporation.



## SCHEDULE "A"

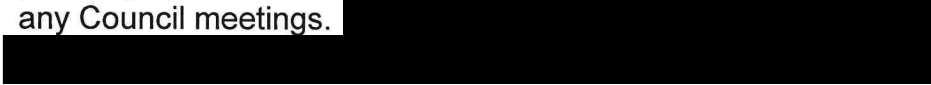
### PLAN OF LANDS



## **SCHEDULE “B”**

### **DESCRIPTION OF DEDICATED MUNICIPAL STAFF**

This Enhanced Cost Acknowledgement Agreement identifies three additional staff resources for 2022:

- Lead Planner - this staff member will be 100% dedicated to the Owner's development and will lead planning matters in consultation with other staff. The Planning Lead will attend all meetings, liaise with the Owner's planners, process all of the planning applications, write staff reports and represent the file at any Council meetings. 
- Lead Engineer - similar to the Lead Planner, this staff member will be 100% dedicated to the Owner's development and will take lead roles on coordinating information to and from the Owner's professionals and appropriate municipal staff. The Engineering Lead will work in tandem with the Planning Lead and maintain a strong connection with the Master Servicing Plan being undertaken and the current status of infrastructure capacities and allocations. It is estimated that this position will cost approximately \$150,000 per year including wages and benefits.
- Administrative support – this staff member will be 50% dedicated to the Owner's development for 2022 (0.5 Full Time Equivalent (FTE)), and will undertake full administration duties including coordinating schedules for meetings, establishing and maintaining internal tracking for all matters that arise throughout the course of the development to assist in ensuring there is consistent progression without loose ends. It is estimated that this position will cost approximately \$35,000 per year including wages and benefits (at the 0.5 FTE).

The parties shall review and update the staffing requirements as set out in this Agreement on an annual basis.



**SCHEDULE "C"**  
**PRINCIPLES/FORMULA FOR CALCULATION OF**  
**EXPENSES RELATED TO DEDICATED**  
**MUNICIPAL STAFF**

This Agreement is based on the following principles with respect to the funding of the Expenses:

- This Enhanced Cost Acknowledgement Agreement mirrors the intent and format of its standard counterpart, but it is proactive versus reactive and commits the Owner to cost sharing such that the Municipality can secure dedicated staff resources to the Owner's Applications and Owner's Lands. Development Application fees are still applied to staff, but instead of associating specific tasks to the fees, the fees are allocated to specific positions and are expressed as a percentage, such that each position is assigned that percentage of application fees and once the fees have been expended, the balance is cost shared in accordance with the table.
- The Primary Contact, currently identified as the Manager of Planning, is apportioned 10% of the application fees. The apportioned amount would be applied against this position's cost but since there is zero cost share with the Owner, the Municipality absorbs any costs for this position if the time spent exceeds the apportioned amount.
- The CAO and identified Directors are apportioned 10% of the application fees, in total, and similar to the Primary Contact, the County absorbs any costs for these positions for time spent in excess of the apportioned amount.
- The other positions in this Agreement are cost shared with the Owner as follows:
  - When an application is received, the Municipality will allocate the fees in accordance with the table and then track the time staff spend on the development. With each new application that is submitted, the apportioned amounts would be credited to the on-going account.
  - Periodically (i.e. on a quarterly basis), the Municipality will provide an invoice to the Owner with a break down by position, the apportioned amount of revenue received through the development application fees, and the time spent expressed as hours with the cost-recovery hourly unit rate applied.

The following is an example of the implementation of the foregoing for illustrative purposes; the type and number of applications, fee values and position costs may change.

Assumptions for this example:

- one Zoning By-law amendment application @ \$2,350.00
- one 100 lot, Subdivision application @ \$9000.00 plus \$75/lot = \$16,500.00

Applications are submitted with fees totalling \$18,850.00. These fees are then allocated to the personnel identified in the table at the apportioned percentage.

- Planning Manger @ 10% = [REDACTED]
- CAO and two Directors totaled @ 10% = [REDACTED]
- Lead Planner @ 25% = [REDACTED]
- Lead Engineer @ 25% = [REDACTED]
- Admin Support @ 20% = [REDACTED]
- Operations Tech @ 10% [REDACTED]

Based on the applications used in this example, these are the dollars that would be available to fund the identified staff resources. For 2022, only the highlighted staff resources are being cost shared with the Owner; therefore any additional time costs for the Planning Manager, CAO, Director of Development Services, Director of Water & Wastewater and the Operations Tech are being funded by the Municipality.

For the highlighted positions, time will be tracked for each individual. A break-even hourly rate will be applied to each hour to generate a dollar value. Given the estimated wages and benefits cost, above, the break-even hourly rate is calculated as follows, given a net number of hours per annum of 1700 (850 hours for the Admin due to 0.5 FTE). Therefore,

each of the Lead positions, all remaining hours would be billed out to the Owner. Similarly for the Admin Support, approximately 92 hours would be funded by the application fees and the remaining hours would be billed out to the Owner.

For this example, both Leads would be billed out at [REDACTED] each for the year and the Admin would be billed out at [REDACTED] for the year.

Based on the above, the more applications that are filed, the more fees are available to be applied to the resources, which would reduce the amount to be billed out to the Owner.