

BYLAW NO. 6/94

A BYLAW OF THE TOWN OF LUMSDEN TO AUTHORIZE THE EXECUTION OF CERTAIN AGREEMENTS BETWEEN THE TOWN OF LUMSDEN AND BEAR HOLDINGS LTD AND THE FEDERAL BUSINESS DEVELOPMENT BANK

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The Council of the Town of Lumsden, in the Province of Saskatchewan, enacts as follows: -

1. The Mayor and Town Administrator are hereby authorized to execute under the seal of the Town an agreement, in writing, between the Town of Lumsden and Bear Holdings Ltd. dated the 15th day of August, 1994, which agreement is marked Exhibit "A", attached hereto and forms part of this Bylaw.
2. The Mayor and Town Administrator are hereby authorized to execute under the seal of the Town a Pari Passu Agreement with RECEIVE, in writing, between the Town of Lumsden and Federal Business Development Bank, marked as Exhibit B, attached hereto and forms part of this Bylaw.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Town Administrator

CERTIFIED A TRUE COPY OF  
BYLAW NO. 6/94 passed by  
resolution of Council on  
the 15th day of August, 1994.

  
\_\_\_\_\_  
Town Administrator

EXHIBIT "A" TO  
BYLAW No. 6/94

THIS AGREEMENT MADE IN DUPLICATE THIS 15 DAY OF AUGUST, A.D. 1994.

**BETWEEN:**

**THE TOWN OF LUMSDEN**, a municipal corporation, operating pursuant to the Urban Municipality Act, 1984

(hereinafter called "the town")

OF THE FIRST PART

- AND -

**BEAR HOLDINGS LTD.**, a body corporate, duly incorporated under the Laws of the Province of Saskatchewan

(hereinafter called "the Developer")

OF THE SECOND PART

**WHEREAS** the Developer is the registered owner or has control of all that land as shown on a copy of a proposed subdivision plan and marked Plan "A" (which is attached hereto and forms part of this Agreement) and as outlined in red thereon (which lands are hereinafter called "the Subdivision Lands");

**AND WHEREAS** the Developer desires to construct and pay the total cost of certain services designated on Plan "A", subject to the covenants and conditions hereinafter set forth;

**AND WHEREAS** the Town has been induced to enter into this agreement based on oral representation of the developer;

**NOW THEREFORE THIS AGREEMENT WITNESSETH AS FOLLOWS:**

1. In this Agreement:

1.1 "Town" means the Corporation of the Town of Lumsden or a representative duly authorized by the Town.

1.2 "Developer" means the person or corporation responsible for carrying out the terms of this Agreement where so stated and shall include an association or partnership and wherever the singular is used herein it shall be construed as including the plural.

1.3 The term "work" or "to construct" by the Developer includes all labour, materials and services required, as shown or described in the contract documents, supplied and installed or erected complete as the place or places of building or site designated by description or plan.

1.4 "Contract Documents" shall include this Agreement and specifications and engineering drawings approved by the Town.

1.5 "Maintenance" (without limiting the generality of the term) for which the Developer shall be responsible shall include failure of or damage to underground utilities resulting from defective materials or improper installation; settlement of ditches, grading, gravelling, pavement, repairs and/or replacement of roads and land surfaces, initial landscaping; adjustment and repairs to water mains, main valves, water hydrants, hydrant valves, service lines and valves and valve operating mechanisms including the casings enclosing these mechanisms, repairs, replacements and adjustments to sewer mains, sewer services, manholes, manhole frame and covers, or any municipal improvements whatsoever, but shall not include ordinary wear and tear (meaning normal upkeep) of Town winter maintenance operations.

1.6 "Maintenance period" shall be that period commencing from the date of issuance by the Town of a Construction Completion Certificate until the issuance by the Town of a Final Acceptance Certificate, such period to be one year in duration.

1.7 "Street" shall mean any portion of a plan of subdivision which vests in Her Majesty in the right of and to the use of Her Province of Saskatchewan and shall include any

street named as an avenue, circle, crescent, bay, road, drive, place, boulevard, lane, gate or way or by a similar term.

2.1 The laws of the Province of Saskatchewan shall govern all the terms of this Agreement.

3.1 The contract documents are complementary and what is called for by one shall be as binding as if called for by all. The intention of the documents is to include all labour and materials, equipment, superintendence and transportation reasonably necessary for the proper execution of the work.

3.2 Description of materials for the work in words which so applied have well known technical or trade meanings shall be meant to refer to recognized standards. Should specifications conflict with drawings of plans or should there be a discrepancy between the drawings, the Developer or his Engineer shall notify the Town in writing, immediately upon becoming aware of such discrepancy and the Town will rule as to whether the specifications of drawings shall govern or as to which drawing shall govern.

3.3 The specifications and drawings for all of the work required to be done pursuant to this Agreement shall be prepared and approved by a Professional Engineer registered to in the Province of Saskatchewan retained by the developer for that purpose.

4.1 THE TOWN AGREES AS FOLLOWS:

Permission is hereby given by the Town to the Developer to construct the following services in accordance with plans and specifications approved by the Town and in accordance with the provisions of this Agreement, namely,

- Water mains (trunk and distribution mains, including all fittings, valves,

hydrants)

- Water service connections to the property line
- Sanitary sewer mains (trunk and collector mains and connection to the existing main)
- Storm drainage system
- Municipal Reserves and Buffer Strips to be returned to natural state
- Lot driveway culverts as required
- Road grading, gravel and pavement as specified in Clauses 5.3 and 5.5 of this Agreement
- Street and traffic signs
- Street lighting
- Underground gas, electrical, telephone and cable TV services
- Tree Planting and other Landscaping

5.1 THE DEVELOPER AGREES AS FOLLOWS:

To construct and pay the total cost of construction of all the services required to be provided to the subdivision in accordance with this Agreement, all in accordance with plans and specifications approved by the Town and in accordance with the provisions of this Agreement including, but not necessarily limited to the following:

- Water mains (trunk and distribution mains, including all fittings, valves, hydrants)
- Water service connections to the property line
- Sanitary sewer mains (trunk and collector mains and connection to existing

main)

- Sanitary service connections to the property line
- Storm drainage system
- Municipal Reserves and Buffer Strips to be returned to natural state
- Lot driveway culverts as required
- Road grading, gravel and pavement as specified in Clauses 5.3 and 5.5 of this Agreement
- Street lighting
- Tree planting and other Landscaping
- Natural gas, telephone, electrical, power and cable TV utilities which shall be underground with only pole standard for street lighting being visible
- Where any cutting or filling is done those areas under the control of the Developer shall be developed to prevent erosion in accordance with the recommendations of the geo-technical report (Exhibit B), and as more particularly shown on Plan "A" attached hereto

5.2 The Developer shall include with the sale of each lot a copy of the geo-technical report, a copy of which is attached hereto and marked as Exhibit "B" and forming part of this Agreement. The Developer shall also notify all purchasers lots which are zoned R1s within the subdivision that all foundation and plans for development on the said lots must be certified by a professional engineer or architect that they are designed in accordance with the said geo-technical report and that they are suitable to the particular lot. The Town shall be entitled to

register a caveat against each lot as provided in Clause 13 hereof as notice to the purchasers of this requirement.

5.3 To do the following with respect to providing properly maintained gravel roadway access to the new subdivision development, being Lake Street from 7th Avenue to 8th Avenue and 7th Avenue from Lake Street to Pleasant Street, under the supervision of and to the satisfaction of the Town until the issuance of the final acceptance certificate.

- (a) Grade, gravel and dust proof the roads in areas of occupied dwelling units in conformance with approved grades and typical cross-sections with assurance that drainage to culverts is adequate at all times.

Gravelling shall be a continuous operation consisting of an initial depth of three inches of road gravel and subsequent re-gravelling as may be required by the Town.

The method of dust proofing the road surfaces shall be as required and approved by the Town

- (b) To provide approved back-fill material and road gravel for the purpose of repairing sewer and water and utility trench settlements immediately upon occurrence and restoring the surface satisfactorily.
- (c) Pump water from wherever necessary including roads, lanes, easements, municipal reserves and other related areas, including basements on land owned by the Developer.

5.4 The town is hereby granted permission to carry out the work set out in Clause 5.3 hereof at the total cost of the Developer if not proceeded with within forty-eight (48) hours

following notice in writing from the Town. In the case of emergency work, the Town shall have the right to perform the work immediately and charge the Developer with the cost thereof.

5.5 Within one year of the completion of services, the street pavement on Cottonwood Place and Elm Bay will be completed to an equal or better standard as in other residential areas of town. Or if 90% of the subdivision is not developed by that time, then Council may, in its sole discretion, enter into a separate agreement for future street pavement which provides for the provision of a Bond or Letter of Credit to cover the cost of installation of the pavement, before issuing the Construction Completion Certificate.

5.6 To design to a standard used by the Town the aforesaid municipal services and to have all installations inspected by the Consulting Engineer engaged by the Developer. All design drawings and specifications shall be stamped and approved by the Consulting Engineer before commencing any construction of the aforesaid municipal services.

5.7 To pay the Town for all direct costs associated with this development that the Town incurs such as engineering fees, legal fees and advertising costs. Invoices of these costs to be provided by the Town. The Developer to pay an initial deposit in advance of signing this Agreement in the amount of \$2,500.00 the receipt of which is hereby acknowledged. When the funds have been depleted an additional \$2,500.00 will be paid and continue in the same manner until the expiration of the one year maintenance period. At the issuance of the Construction Completion Certificate a \$2,500.00 deposit is required. Any surplus funds will be returned to the Developer.

5.8 To pay the Town the sum of \$18,090.00 being based on \$30.00 per front foot for























