

**DISTRICT OF HOPE**

**SUBDIVISION AND DEVELOPMENT SERVICING**

**EXCESS OR EXTENDED SERVICES  
LATECOMER AGREEMENT**

**LATECOMER AGREEMENT**

**THIS AGREEMENT** made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_:

**BETWEEN:** The District of Hope, a District Municipality incorporated under the Municipal Act of the Province of British Columbia, and having its Municipal Offices at 325 Wallace Street, Hope, British Columbia (“*Municipality*”)

**AND:** \_\_\_\_\_ (“the *Developer*”)

**WHEREAS:**

A. The *Developer* is an *owner* of lands and premises within the *Municipality*, in the Province of British Columbia, more particularly known and described as follows (legal description):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (the "*Developer*'s lands").

B. The *Developer* desires to *subdivide* the Lands or *develop* upon the Lands.

C. The *Developer* proposes to construct and install *works and services* described as \_\_\_\_\_ (type of *extension*) and shown on Exhibit “A” of this Agreement (the “*Extension*”) which will be connected to the systems owned and operated by the *Municipality*.

D. The *Municipality* has required the *Developer* to install or provide *excess or extended services* to lands which are not a part of the *Developer*'s Lands but which can directly access or connect to the *extension* but have not been connected to the *extension*.

E. The *Municipality* and the *Developer* wish to enter into an agreement which will enable the *Developer* to recover the costs of providing the *excess or extended services*.

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the promises, covenants and agreements hereinafter set forth, the parties hereto covenant, agree, represent and promise as follows:

1. The determination of the *latecomer charge* and other like fees and charges shall be in accordance with the policy adopted by the *Municipality*, as amended from time to time, (the “Municipal Policy”) in effect at the time this Agreement is executed.
2. The details of the *Extension*, the *Developer’s Lands* and the *benefiting lands* are labeled and shown as Exhibit “A” which forms part of this Agreement.
3. The *benefiting lands*, other than the *Developer’s Lands* are listed by both legal description and civic address and attached hereto as Exhibit “B”.
4. Within the benefiting area described in Exhibit “B”, the total estimated number of potential *equivalent service connections* is \_\_\_\_\_ which is the sum of the estimated number of potential *equivalent service connections* within the *Developer’s Lands*, plus the number of potential *equivalent service connections* within the benefiting area external to the *Developer’s Lands*. The number of *equivalent service connections* shall be calculated in accordance with Schedule B of the *Latecomer Manual*.
5. The *latecomer charge* shall be calculated as follows:  
*Connection charge per equivalent service connection* equals the total cost of the *extension* divided by the total number of potential *equivalent service connections*, calculated in accordance with the number of *equivalent service connections* per hectare stipulated in Schedule B.
6. In consideration of the satisfactory completion of the *extension* work by the *Developer*, without incurring any cost to the *Municipality*, the *Municipality* agrees to collect from the *Latecomers* within the *benefiting lands* in Exhibit “B” (except those exempted in accordance with the *Municipal Policy*) who have not contributed to the cost of construction of the *works and services* but subsequently connect to the Works, a share of the cost of the *extension* based upon the cost per *equivalent service connection*, calculated at \$ \_\_\_\_\_ as per clause 5.
7. An interest rate of 5% per annum shall apply to the share of the cost from the date of the completion of the *extension* as determined by the *Municipal Policy* and shall be conclusive against the *benefiting lands*.
8. For the purposes of the above clauses, the cost of the *extension* and the actual *unit latecomer charge per equivalent service connection* shall be recorded as specified below:  
*Cost of the Extension:* \_\_\_\_\_  
*Total Number of Estimated Equivalent Service Connections:* \_\_\_\_\_  
*Unit Latecomer Charge:* \_\_\_\_\_

9. The *Municipality* shall collect the *latecomer charge* at the time the *Latecomer* applies for a connection to the *extension* for the duration of this Agreement.
10. The *Municipality* shall pay to the *Developer* the sums collected within the time as set out in the *Municipal Policy* at the address of the *Developer* set out in this Agreement or at such other address as the *Developer* shall provide by registered mail.
11. If the payment is returned to the *Municipality* unclaimed by the *Developer* and if the *Municipality* is unable to locate the *Developer* after making all reasonable efforts, then the *Municipality* shall hold all monies collected until the expiry of the Agreement.
12. After the expiry of the Agreement, the *Municipality* shall be able to retain all unclaimed monies.
13. In the event of the assignment or transfer of the rights of the *Developer* voluntarily, or by operation of law, the *Municipality* shall pay any accruing benefits to the successor of the *Developer* as the *Municipality*, in its judgment, deems entitled to such benefits.
14. In the event of conflicting demands being made upon the *Municipality* for benefits accruing under this Agreement, the *Municipality* may, at its option, commence an action joining any party claiming rights under this Agreement, or other parties which the *Municipality* believes to be necessary or proper.
15. In the event of conflicting demands, the *Municipality* shall be discharged from further liability upon paying the person or persons whom any court having jurisdiction of such interpleader action shall determine, and in such action, the *Municipality* shall be entitled to recover its reasonable legal fees and costs, which shall constitute a lien upon all funds accrued or accruing pursuant to this Agreement.
16. The *Municipality* shall be entitled to rely on the provisions of this Agreement with respect to the fairness of the payment herein provided, and upon the description of the *benefiting lands* set forth in Exhibits “A” and “B”.
17. This Agreement shall become operative and shall remain in full force and effect upon its being executed by the parties, and shall expire upon a date no later than ten (10) years after the date of the issuance of the *Certificate of Substantial Performance* or when the full cost of the *extension* plus interest has been collected, whichever is sooner.

18. The *Municipality* shall not be liable in the event the *latecomer charge* cannot be collected for any reason.
19. In the event that the *Developer* fails to complete the *extension* within twelve (12) months after the date of this Agreement, this Agreement shall lapse.
20. Prior to the expiry of the Agreement due to failure to complete the *extension*, the *Developer* may request to extend the period of the *Latecomer Agreement* on such terms and conditions that the *Municipality* may deem reasonable.
21. For the purpose of the above clause, the *extension* work completion date shall be recorded by the *Municipality* as hereinafter specified in Exhibit “C” to be appended to this Agreement upon satisfactory completion of the *extension*.
22. Unless otherwise defined in this Agreement, all terms defined in the *Municipality’s Latecomer Manual* and the *Subdivision and Development Servicing Bylaw* in effect at the time of this Agreement is executed shall apply to this Agreement.
23. The parties agree that the *Municipality* has made no representation, covenants, warranties, guarantees, promises or agreements (oral or otherwise) with the *Developer* other than those contained in this Agreement.
24. Nothing contained or implied herein shall prejudice or affect the rights and powers of the *Municipality* in the exercise of its authority and responsibilities under any public or private statute, bylaws, orders and regulations, all of which may be fully and effectively executed in relation to the lands as if this Agreement had not been executed and delivered to the *Developer*.
25. When the words “will” or “shall” are used in this Agreement, it will be construed as imperative (mandatory).
26. When the singular or the masculine is used in this Agreement, it will be construed as meaning the plural or the feminine or body corporate or politic where the context of the parties hereto so require.
27. This Agreement shall inure to the benefit of and be binding upon the parties, their respective heirs, executors, administrators, successors and assigns.

This Agreement shall not come into effect until after the issuance of the *Certificate of Substantial Performance* by the *Municipality*.

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement this day and year first above written.

For	Signed, Sealed and Delivered	)	
Corporate	The Corporate Seal of	)	
Body	_____	)	
	Was hereunto affixed in the presence	)	
	Of: _____	)	Seal
	Name: _____	)	
	Title: _____	)	
For	Signed, Sealed and Delivered	)	
Private	by the below named in the presence of	)	
Individual	(witness):	)	
	Signature: _____	)	_____
	Name: _____	)	Signature of Owner
	Developer	)	
	Address: _____	)	
For the	Signed, Sealed and Delivered	)	
District of	The Corporate Seal of the District	)	
Hope	of Hope was hereunto affixed in	)	
	the presence of	)	
	Mayor: _____	)	Seal
	Clerk: _____	)	

**Exhibit C  
Latecomer Agreement**

**THIS AGREEMENT** made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_:

**BETWEEN:** The District of Hope, a District Municipality incorporated under the Municipal Act of the Province of British Columbia, and having its Municipal Offices at 325 Wallace Street, Hope, British Columbia (“*Municipality*”)

**AND:** \_\_\_\_\_ (“*the Developer*”)

FURTHER to the above *Latecomer Agreement* executed on \_\_\_\_\_, this is to certify that the *extension* work completion date has been certified by the *Municipality* as \_\_\_\_\_.

This Appendix amends and forms part of the above Agreement.

Certified by \_\_\_\_\_

Date:

Signature