

BYLAW C-8008-2020

A Bylaw of Rocky View County, in the Province of Alberta, for the purpose of establishing Off-Site Levies for Regional Stormwater Infrastructure

WHEREAS in accordance with section 648 of the *Municipal Government Act*, a Council may by bylaw:

- (a) provide for the imposition and payment of a levy, to be known as an "Off-Site" Levy, in respect of land that is to be developed or subdivided; and
- (b) authorize agreements to be entered into in respect of the Levy.

AND WHEREAS the Rocky View County Council deems it desirable to establish Off-Site Levies for the purposes described in section 648 of the *Municipal Government Act*;

AND WHEREAS Rocky View County Council engaged the engineering firm of MPE Engineering Ltd. to prepare the following reports and plans:

- (a) CSMI Water Balance and Erosion Report, September 2015
- (b) Langdon Comprehensive Stormwater Review Report, February 2016
- (c) CSMI Stormwater Levy Update, January 2020

(Collectively the "Reports");

AND WHEREAS the Reports detail the Regional Stormwater Infrastructure which is required to be constructed or upgraded as a result of Subdivision and Development or which is impacted by Subdivision and Development, together with the fair and equitable calculation and allocation of Off-Site Levies related to the Regional Stormwater Infrastructure, in accordance with the purposes of the *Municipal Government Act*;

AND WHEREAS Rocky View County applied the principles and criteria specified in the *Off-Site Levies Regulation* in the development of the Off-Site Levies established in this Bylaw;

AND WHEREAS, based upon the information and principles set out in the reports, Rocky View County Council wishes to enact a bylaw to impose and provide for the payment of Off-Site Levies, to authorize agreements to be entered into in respect of payment of the Off-Site Levies, to set out the object of each levy, and to indicate how the amount of each levy was determined;

AND WHEREAS Rocky View County Council has created the Municipal Planning Commission pursuant to the Municipal Planning Commission Bylaw, to exercise the powers and discretions of the Subdivision Authority and the Development Authority, each as defined and contemplated within the *Municipal Government Act*;

NOW THEREFORE pursuant to the authority conferred upon it by the laws of the Province of Alberta, the Rocky View County Council, duly assembled, hereby enacts as follows:



SHORT TITLE

- 1 This Bylaw may be cited as the "Regional Stormwater Off-Site Levy Bylaw".

PURPOSE AND INTENT

- 2 The purpose and intent of this Bylaw is to:
 - (a) impose and provide for the payment of levies to be known as Off-Site Levies in respect of lands that are to be Subdivided or Developed and which will require new or upgraded Regional Stormwater Infrastructure or which will impact Regional Stormwater Infrastructure;
 - (b) authorize agreements to be entered into in respect of payment of the Off-Site Levies;
 - (c) set out the objects of each Off-Site Levy; and
 - (d) indicate how the amount of each Off-Site Levy was determined.

DEFINITIONS

- 3 The definitions contained in Schedule "C" of this Bylaw apply unless the context otherwise requires.

ADMINISTRATION AND ENFORCEMENT

- 4 Council hereby delegates to the CAO the duty and authority to enforce and administer this Bylaw.

ENACTMENT

- 5 Subject to sections 9 through 12 of this Bylaw, an Off-Site Levy as provided for in the Act is hereby imposed in respect of the Development Area of all Lands which are to be Developed or Subdivided within the County and which will require the construction or upgrade of Regional Stormwater Infrastructure or which will benefit from the Regional Stormwater Infrastructure at the rates and on the terms as specified in this Bylaw, with the exception of any lands where Off-Site Levies have been previously imposed and collected in full with respect to the same purpose as provided for in this Bylaw.
- 6 Notwithstanding any other provision in this Bylaw, the County may impose further or different Off-Site Levies, duly enacted by bylaw, on any portion of Lands which are the subject of a Development Permit or Subdivision approval and in respect of which the County has not collected Off-Site Levies imposed under this Bylaw or any previous Off-Site Levy bylaw authorized by the Act or a predecessor Act with respect to the same purpose as provided for in this Bylaw.
- 7 The County is hereby authorized to enter into agreements, including Development Agreements, with owners of the Lands referred to in section 5 for payment of the Off-Site Levy imposed on those Lands.

8 The following Schedules and Maps are hereby incorporated and form part of this Bylaw:

Schedule "A-1"/Map "A": CSMI Benefitting Area

Schedule "A-2"/Map "B": Langdon Regional Drainage Benefitting Area

EXEMPTIONS

- 9 Notwithstanding any other provision within this Bylaw, where it is a condition of a Development Permit or Subdivision approval for any Lands that the owner or developer of the subject Lands construct or upgrade any Stormwater infrastructure component included within the scope of the Regional Stormwater Infrastructure, the County and/or the Municipal Planning Commission in its stead shall not impose the portion of the Off-Site Levy relating to that particular Stormwater Regional Infrastructure component construction or upgrade as a condition of a Development Permit or Subdivision approval for those Lands.
- 10 Notwithstanding any other provision within this Bylaw, the Off-Site Levies shall not be imposed on Subdivisions as follows:
- (a) the Subdivision of a Farmstead;
 - (b) First Parcel Out; or
 - (c) Subdivision for the sole purpose of a Boundary Adjustment.
- 11 Notwithstanding any other provision within this Bylaw, the Off-Site Levies shall not be imposed on Development as follows:
- (a) Development Permits issued for Lands which are located within either a Residential or Agricultural District and the issuance of the Development Permit is:
 - (i) directly associated with the construction of a Dwelling, or
 - (ii) the Development Permit is temporary and subject to renewal.
- 12 The Off-Site Levies, in whole or in part, shall not be imposed on Lands where:
- (a) Council determines, in its sole and unfettered discretion; or
 - (b) subject always to:
 - (i) the creation and continued existence of the Municipal Planning Commission; and
 - (ii) receipt of report from, and/or consultation with, County Administration;
- the Municipal Planning Commission determines, in its sole and unfettered discretion;



that it is appropriate in the circumstances not to impose the Off-Site Levies, in whole or in part, on the Lands as a condition of Development Permit or Subdivision approval, resulting in a deferral of the imposition of the Off-Site Levy under this Bylaw to the next Development Permit or Subdivision approval affecting the Lands.

OBJECT OF THE OFF-SITE LEVIES

- 13 The object of the Off-Site Levy or Levies imposed and collected pursuant to this Bylaw are to pay for all or any part of the capital cost of any or all of the following:
- (a) new or expanded Stormwater Infrastructure comprising of the Regional Stormwater Infrastructure required for and/or benefitting Subdivision or Development; and
 - (b) land required for or in connection with the Regional Stormwater Infrastructure described within this section.

OFF-SITE LEVY PAYMENT

- 14 The Off-Site Levy imposed pursuant to this Bylaw shall be paid upon the earlier of the following dates:
- (a) the issuance of the Development Permit in respect of the Lands, if no Development Agreement is required as a condition of the Development Permit;
 - (b) prior to the endorsement of the plan of Subdivision for the Lands, if no Development Agreement is required as a condition of the approval of the Subdivision application;
 - (c) the date(s) required for payment of the Off-Site Levy as set forth within the Development Agreement entered into pursuant to the conditions of a Development Permit or Subdivision approval granted in respect of the Lands.
- 15 Where the owner of lands that is subject to the imposition of an Off-Site Levy or Levies under this Bylaw fails, neglects, or refuses to pay the Off-Site Levy imposed, to execute a required Development Agreement addressing payment of the Off-Site Levy imposed, or to provide sufficient security for the payment of the Off-Site Levy, the County may:
- (a) refuse to endorse a plan of Subdivision or issue a Development Permit until the land owner has paid the Off-Site Levy, has executed the required Development Agreement addressing payment of the Off-Site Levy, or has provided sufficient security for the payment of the Off-Site Levy in a form satisfactory to the CAO, as the case may be; or
 - (b) commence proceedings in Court for recovery of the Off-Site Levy as an amount due and payable to the County.



IMPOSITION OF THE OFF-SITE LEVIES

- 16 The Off-Site Levies shall be imposed as a condition of approval of Subdivision applications or Development Permit applications in accordance with this Bylaw where such approval occurs subsequent to the date that this Bylaw is passed.

Imposition of CSMI Base Levy Rate

- 17 All Lands located within the CSMI Benefitting Area, as shown on Map “A”, that are subject to the imposition of an Off-Site Levy in accordance with this Bylaw shall be subject to the imposition of the CSMI Base Levy Rate as follows: \$14,807 per gross hectare (\$5,992 per gross acre) of the Development Area of the Lands, as detailed in Schedule “A-1”, in addition to the applicable Off-Site Levy detailed in sections 18 and 19 and Schedule “A-2”.

Imposition of Off-Site Levies

- 18 In addition to the CSMI Base Levy Rate referenced in section 17, an Off-Site Levy shall be imposed as a condition of approval of Subdivision applications as follows:
- (a) Subdivision approval with respect to all Lands located in the areas indicated on Schedule “A-2” and corresponding Map “B” that will create Residential parcels less than 3.0 hectares (7.41 acres);
 - (b) Subdivision approval with respect to all Lands located in the areas indicated on Schedule “A-2” and corresponding Map “B” that will create Residential parcels equal or greater than 3.0 hectares (7.41 acres) where, in the opinion of the CAO, further Subdivision or Redevelopment is unlikely to occur due to technical limitations;
 - (c) Subdivision approval with respect to all Lands located in the areas indicated on Schedule “A-2” and corresponding Map “B” that will create Business or Institutional parcels of any size; and
 - (d) Any Lands outside of the areas indicated on Schedule “A-2” and corresponding Map “B” where the Development or Subdivision will directly benefit from the Regional Stormwater Infrastructure.
- 19 In addition to the CSMI Base Levy Rate referenced in section 17, an Off-Site Levy shall be imposed as a condition of approval of Development Permit applications as follows:
- (a) Development Permits for any Agricultural, Business, Residential or Institutional uses for all Lands located in the areas indicated on Schedule “A-2” and corresponding Map “B”; and
 - (b) Development Permits for any Agricultural, Business, Residential or Institutional uses for all Lands outside of the areas indicated on Schedules “A-2” and corresponding Map “B”, where the Development will directly benefit from the Regional Stormwater Infrastructure.



OFF-SITE LEVY FUND

- 20 The CAO shall establish and maintain an Off-Site Levy Fund which shall be administered in accordance with the Act.

DETERMINATION OF THE OFF-SITE LEVIES

- 21 The Off-Site Levies included in this Bylaw were determined in accordance with the information and calculations from the Reports. The Reports are hereby incorporated into this Bylaw by reference and shall be disclosed upon request in accordance with section 25 of this Bylaw.
- 22 The determination of the amount of each Off-Site Levy amount in respect of each of the separate Regional Stormwater Infrastructure components for which an Off-Site Levy has been imposed is as described in Schedules “A-1” to “A-2” and corresponding Maps “A” and “B”. The total amount of the Off-Site Levies imposed with respect to Lands which will require the construction or upgrade of Regional Stormwater Infrastructure or which will benefit from the Regional Stormwater Infrastructure is shown in Schedule “B”.
- 23 The Off-Site Levies reflected in this Bylaw will apply to all new Subdivision and Development with respect to Lands which will require the construction or upgrade of Regional Stormwater Infrastructure or which will benefit from the Regional Stormwater Infrastructure and which is approved subsequent to the date that this Bylaw is in force and effect.
- 24 For clarity, with respect to the cost of borrowing incurred by the County to fund the construction of the corresponding infrastructure contemplated within this Bylaw:
- (a) cost of borrowing which has accrued up to and including December 31, 2019, is included within the calculation of the Off-Site Levies within the attached Schedules; and
 - (b) cost of borrowing which accrues after December 31, 2019, will be calculated by the County and required as part of each Off Site Levy imposed and payable under this Bylaw

Any payment of an Off-Site Levy pursuant to this Bylaw that is not paid when due and owing shall be a debt owing to the County and shall be subject to interest as determined by the County's policies. This provision does not affect any other remedy available to the County for late or non-payment of an Off-Site Levy.

INFORMATION ON REQUEST

- 25 Upon receiving a request from a ratepayer or landowner, the County shall disclose full information regarding Off-Site Levy calculations, allocations, impositions, collections, costs, and payments.

ANNUAL REPORT TO COUNCIL

- 26 Not less than once per calendar year, the CAO shall provide a report to Council detailing all Off-Site Levies imposed under this Bylaw, collections and expenditures during the



previous calendar year, unpaid Off-Site Levy amounts as at the end of the previous calendar year, funds on hand to meet anticipated expenditures during the current calendar year, and updated estimates of the costs expected to be incurred in order to complete construction of the infrastructure in respect of which an Off-Site Levy has been imposed under this Bylaw.

DEVELOPER CONSTRUCTION OF REGIONAL STORMWATER INFRASTRUCTURE

- 27 Nothing in this Bylaw is intended to nor shall be interpreted as precluding Rocky View County's Development Authority or Subdivision Authority from requiring a developer to construct or pay for all or a portion of Regional Stormwater Infrastructure having oversize capacity as a condition of Development Permit or Subdivision approval in accordance with the Act.

SEVERABILITY

- 28 In the event that any provision of this Bylaw is declared invalid or void by any Court having competent jurisdiction, then such invalid or void provision shall be severed from the Bylaw and the remaining provisions of the Bylaw shall be maintained and deemed valid.

REPEAL AND EFFECTIVE DATE

- 29 Notwithstanding any provision within this Bylaw, all Subdivision and Development applications which were approved prior to third reading of this Bylaw shall be imposed the Levy amount prescribed within Bylaw C-7535-2015.
- 30 For clarity, Bylaw C-7535-2015 shall remain in full force and effect until the payment of any amounts imposed within Bylaw C-7535-2015, including as contemplated above, have been fully paid or satisfied, and thereupon the bylaw is automatically repealed.
- 31 This Bylaw comes into full force and effect on the date of third and final reading.



READ A FIRST TIME IN COUNCIL this 10 day of March, 2020

READ A SECOND TIME IN COUNCIL this 9th day of June, 2020

~~UNANIMOUS PERMISSION FOR THIRD READING 9th day of June, 2020~~

READ A THIRD TIME IN COUNCIL AND PASSED this 9th day of June, 2020


Reeve


CAO or Designate


Date Bylaw Signed

SCHEDULE “A-1” - CSMI Benefitting Area

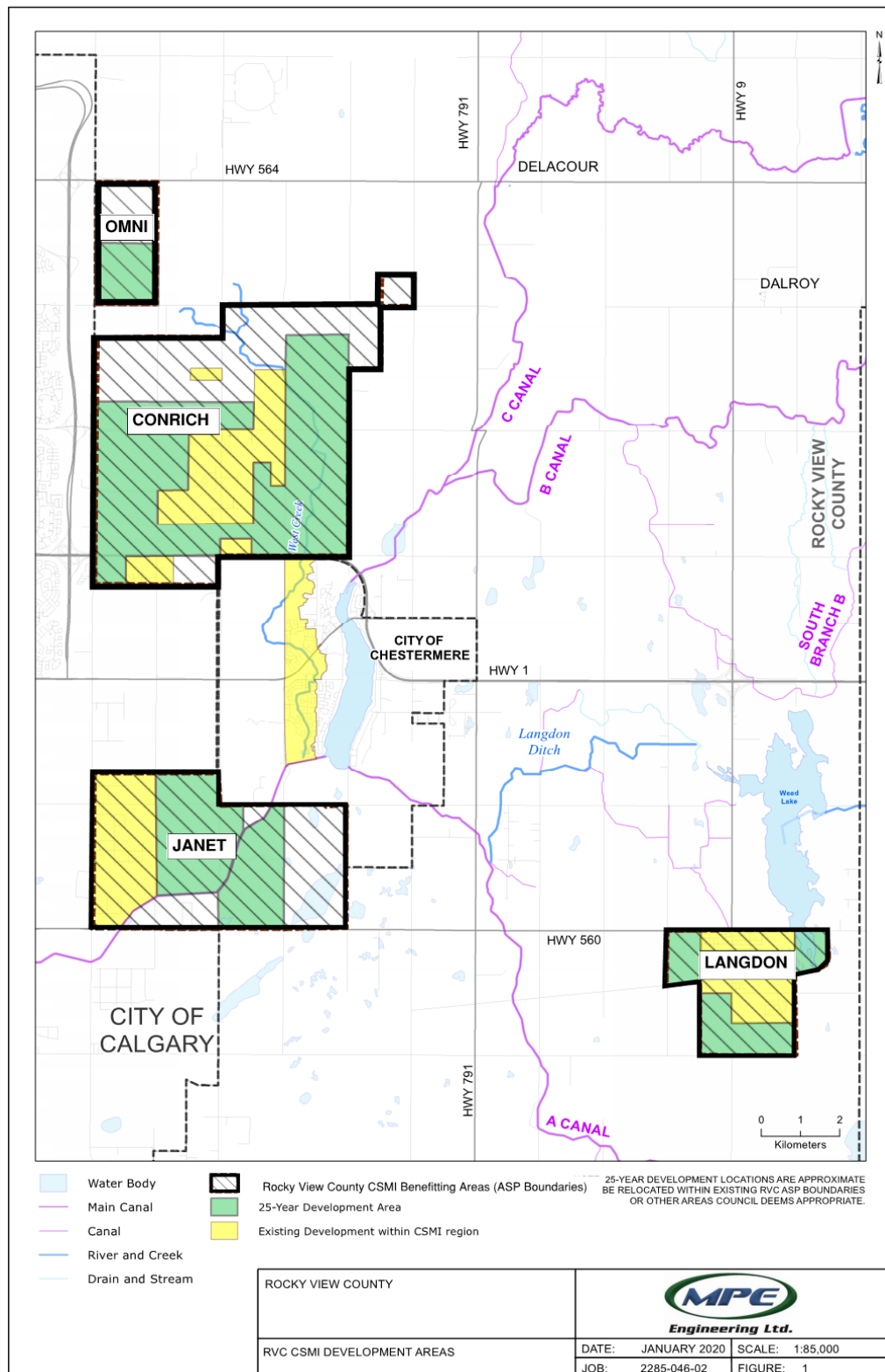
1. The rationale for and calculations of the CSMI Base Levy Rate applicable to the portion of the CSMI Benefitting Area located within Rocky View County’s boundaries, as shown on Map A, to pay for the cost of new or expanded Regional Stormwater Infrastructure required for benefitting Subdivision or Development are based upon the CSMI regional Stormwater Management Infrastructure capital costs detailed in the "Co-operative Stormwater Management Initiative - Water Balance and Stream Erosion Analysis Report" prepared by MPE Engineering Ltd., dated September, 2015 (the "CSMI Report") and the CSMI Stormwater Levy update dated January 15, 2020.

Rationale:

2. As a result of the anticipated increase of Stormwater run-off within the County boundaries due to newly created Residential, Agricultural, Business and Institutional development, the County requires the development of the CSMI Regional Stormwater Management Infrastructure to efficiently treat and transport Stormwater to the identified receiving water bodies.
3. As detailed in the CSMI Report, the total construction costs for the CSMI regional Stormwater Management Infrastructure is approximately \$57,151,403, inclusive of Infrastructure construction and land acquisition, if required.
4. The total area of lands located within the CSMI Benefitting Area, based upon a 25 year growth projection (as shown on Map “A”) is 3860 Ha.
5. The total area of benefitting Lands located within the County which are also located within the CSMI Benefitting Area are outlined on Map “A”.
6. **The total CSMI Base Levy Rate applicable to Subdivision and Development within the CSMI Benefitting Area within the County is as follows:**

$$\text{\$57,151,403} / 3860 \text{ Ha} = \text{\$14,807} / \text{Ha} \text{ or } \text{\$5,992} / \text{Acre}$$

SCHEDULE "A-1" - MAP "A" - CSMI BENEFITTING AREA MAP



SCHEDULE "A-2" - Langdon Regional Drainage Benefitting Area

1. The rationale and calculations of the applicable Off-Site Levy to be imposed within the Hamlet of Langdon, as identified on Map B, to pay for the cost of new or expanded Regional Stormwater Infrastructure required for and/or benefitting Subdivision or Development within the Langdon Regional Drainage Benefitting Area are based upon the "Langdon Comprehensive Stormwater Review Report" prepared by MPE Engineering Ltd. dated February 2016 (the "Langdon Stormwater Report").

Rationale:

2. The Off-Site Levy calculations are based on the figures and recommendations provided within the Langdon Stormwater Report.
3. With the increase of Stormwater run-off within the Hamlet of Langdon due to both existing and newly created Residential, Business and Institutional development, the County requires the development of Regional Stormwater Infrastructure as identified in the Langdon Stormwater Report and Map B to efficiently transport Stormwater to the identified receiving water bodies (the "Langdon Regional Stormwater Infrastructure").
4. The Langdon Regional Stormwater Infrastructure is comprised of the following infrastructure projects:
 - a) The Glenmore Redirection, and
 - b) The Municipal Ditch Upgrades (Piped Option)
5. As outlined in the Langdon Report, the estimated construction costs for the Langdon Regional Stormwater Infrastructure is \$7,800,000.00.
6. The Lands benefitting from the Langdon Regional Stormwater Infrastructure are indicated on Map B and consist of the entire Hamlet of Langdon boundary of 990 ha (2446 ac) as follows:
 - a) An estimated 417ha (1,030 acres) of existing developed Lands
 - b) An estimated 573ha (1,416 acres) of estimated developable Lands
 - c) Total benefitting area is 990 ha (2,446 ac)

The total Langdon Regional Stormwater Infrastructure Levy Rate applicable to Subdivision and Development within the Langdon Regional Drainage Benefitting Area within the County is as follows:

\$7,800,000 / 990Ha = \$7,879/ Ha or \$3,188/Acre

SCHEDULE "A-2" - MAP "B"

LANGDON REGIONAL DRAINAGE BENEFITTING AREA MAP



SCHEDULE "B"
OFF-SITE LEVY SUMMARY

| Off-Site Levy Schedule | Cost | Service Area Map |
|--|-------------------------------|------------------|
| Schedule A-1: CSMI Levy | \$14,807/ha (\$5,992/acre) | Map A |
| Schedule A-2: Langdon Regional Drainage Levy | \$7,879/ha (\$3,188/acre) | Map B |

SCHEDULE "C"

DEFINITIONS

- (a) **"Act"** means the *Municipal Government Act*, RSA 2000, c M-26 and all amendments thereto, together with the *Off-Site Levies Regulation*, AR 187/2017 passed thereunder;
- (b) **"Agriculture"** or **"Agricultural"** means any Development or Subdivision for an Agricultural or Agriculture use as the term is defined and contemplated under the *Land Use Bylaw*;
- (c) **"Benefitting Areas"** means those lands which are within the respective benefitting areas of the Regional Stormwater Infrastructure components, as described in Schedules "A-1" to "A-2";
- (d) **"Boundary Adjustment"** means the adjustment of lot boundaries of parcels of lands without the creation of additional lots;
- (e) **"Building"** has the same meaning as in the *Land Use Bylaw*;
- (f) **"Business"** means any Development or Subdivision for a business use as the term is defined and contemplated under the *Land Use Bylaw*, including both Commercial and Industrial uses;
- (g) **"Bylaw"** means this Bylaw together with all schedules;
- (h) **"CAO"** means the individual appointed by Council as the Chief Administrative Officer in accordance with the Act or his/her authorized designate;
- (i) **"Commercial"** means any Development or Subdivision for commercial use as contemplated under the Land Use Bylaw;
- (j) **"Council"** means the Rocky View County Council;
- (k) **"County"** means Rocky View County or the geographical area within its jurisdictional boundaries, as the context may require;
- (l) **"CSMI Base Levy Rate"** means the base Off-Site Levy rate reflecting the cost recovery associated with the CSMI Regional Stormwater Management Infrastructure, referenced in section 17 and calculated in accordance with Schedule "A-1";
- (m) **"CSMI"** means the CSMI Cooperative established pursuant to the *Cooperatives Act*, RSA 2000, c C-28.1, consisting of the County, the City of Calgary, Town of Strathmore, City of Chestermere, Wheatland County, and the Western Irrigation District, for the purpose of cooperatively managing Stormwater run-off generated within their respective jurisdictions via a Regional Stormwater Management System;
- (n) **"CSMI Benefitting Area"** means that area which will be benefit from the CSMI Regional Stormwater Management Infrastructure, as outlined in Schedule "A-1": Map A;



- (o) **"Development"** has the same meaning as provided in the Act;
- (p) **"Development Agreement"** means an agreement pursuant to sections 648, 650, 651, or 655 of the Act;
- (q) **"Development Area"** means the gross acreage of Lands which are the subject of the proposed development or subdivision including:
 - (i) all buildings and other structures;
 - (ii) all driveway access areas;
 - (iii) all storage and display areas directly associated with the development or subdivision;
 - (iv) all parking areas required for the development or subdivision;
 - (v) all areas utilized for the growing of crops which are the subject of the development permit;
 - (vi) all areas to be designated as reserve lands or subject to exclusions below, as a condition of the subdivision approval; and
 - (vii) any areas that will be dedicated for roads or utilities as a condition of subdivision approval.

Notwithstanding the above, a Development Area does not include the following:

- (i) with respect to Development Permits issued for a golf course within the use "Outdoor Participant Recreation Services", any portion of the lands which is outside the scope of "Development Area" outlined above (i.e. the fairways, hazards, rough and greens);
 - (ii) with respect to Subdivisions involving an existing dwelling, the subdivided parcel that contains the existing dwelling; or
 - (iii) any unenclosed areas to be utilized for the growing of crops which are the subject of the development permit.
 - (iv) All areas designated environmental reserve or subject to an environmental reserve easement, each as defined within the Act, as a condition of Subdivision approval.
- (r) **"Development Permit"** has the same meaning as in the *Land Use Bylaw*;
 - (s) **"Dwelling"** has the same meaning as in the *Land Use Bylaw*;
 - (t) **"Farmstead"** means a single parcel of land on which a habitable residence has been situated for a minimum of 10 years, which residence utilized in connection with the ranching or farming operation carried out on the land, and which is located on a previously un-subdivided quarter section. The Farmstead may include associated buildings and landscape improvements;

- (u) **"First Parcel Out"** has the same meaning as within the *Land Use Bylaw*;
- (v) **"Horticultural Development"** has the same meaning as in the *Land Use Bylaw*;
- (w) **"Industrial"** means any development or subdivision for an industrial use as contemplated in the *Land Use Bylaw*;
- (x) **"Institutional"** means any development or subdivision for an institutional use as contemplated in the *Land Use Bylaw*;
- (y) **"Land(s)"** means private titled parcels of land in accordance with the *Land Titles Act*, RSA 2000, c L-4;
- (z) **"Land Use Bylaw"** means the County's current *Land Use Bylaw*, as amended or replaced from time to time in accordance with the Act;
- (aa) **"Municipal Planning Commission Bylaw"** means Bylaw C-7967-2019 establishing the Municipal Planning Commission of the County, as amended or replaced from time to time;
- (bb) **"Municipal Planning Commission"** means the municipal planning commission of the County as established pursuant to the Municipal Planning Commission Bylaw;
- (cc) **"Off-Site Levy" or "Off-Site Levies"** means the Off-Site Levies imposed and created by this Bylaw, including but not limited to the CSMI Base Levy Rate, calculated in accordance with Schedules "A-1" to "A-2";
- (dd) **"Off-Site Levy Fund"** means a fund into which an Off-Site Levy, together with any interest earned from the investment of the Off-Site Levy, is deposited and kept in accordance with the Act;
- (ee) **"Regional Stormwater Infrastructure"** means that Stormwater Infrastructure identified in Schedules "A-1" to "A-2";
- (ff) **"Reports"** means the following reports and plans prepared by MPE Engineering Ltd.:
 - (i) CSMI Water Balance and Erosion Report, September, 2015,
 - (ii) Langdon Comprehensive Stormwater Review Report, February, 2016,
 - (iii) CSMI Stormwater Levy Update January, 2020;
- (gg) **"Reserve Land"** has the same meaning as in the Act;
- (hh) **"Residential"** means any development or subdivision for residential use as contemplated under the *Land Use Bylaw*; and
- (ii) **"Subdivision"** has the same meaning as provided for in the Act.