



Corporate Report

NO: C007

COUNCIL DATE: April 30, 2007

COUNCIL-IN-COMMITTEE

TO: Mayor & Council DATE: April 25, 2007
FROM: City Solicitor FILE: 0112-03
SUBJECT: Surrey City Development Corporation - Shareholder Agreement and Partnering Agreement

RECOMMENDATION

It is recommended that Council:

1. Receive this report as information;
2. Approve the Shareholder Agreement between the City of Surrey (the "City") and Surrey City Development Corporation ("SCDC"), as documented in Appendix "A" to this report; and
3. Approve the Partnering Agreement between the City and SCDC, as documented in Appendix "B" to this report.

INTENT

The purpose of this report is to obtain Council approval of an agreement between the City, as the sole shareholder of SCDC, and SCDC respecting the rights, responsibilities and involvement of the City in the business and affairs of SCDC (the "Shareholder Agreement") and approval of an agreement between the City and SCDC outlining the forms of assistance the City may be providing SCDC (the "Partnering Agreement").

BACKGROUND

Council at its meeting of October 16, 2006 authorized staff to incorporate a development corporation for the City and at the same meeting approved the Articles of Incorporation (the "Articles") for the development corporation as the basis for an application to the Inspector of Municipalities under the *Community Charter*, S.B.C. 2003, c. 26 (the "Charter"). The Inspector of Municipalities has now issued a formal approval letter and SCDC has now been incorporated by Legal Services with the City as sole shareholder.

The next step is for Council to approve a Shareholder Agreement that will allow Council to exercise a reasonable degree of oversight in respect to the business and management of SCDC.

Council also needs to approve a Partnering Agreement under s. 21 of the *Charter* that will allow the City to provide SCDC with assistance to its business activities.

DISCUSSION

Shareholder Agreement

The Shareholder Agreement provides for the composition of the Board as follows:

- the Mayor of the City or his/her designate;
- a City Councillor;
- City Manager,
- President of SCDC; and
- Five (5) independent members.

If a nominee to the Board fails to vote and act as a director to carry out the terms of the Shareholder Agreement, Council may remove and replace the Board member. Council, unless it delegates in writing a particular business transaction to SCDC, has approval over the following:

- any change to SCDC's Articles or by-laws or corporate governance;
- election, re-election and removal of directors;
- annual budget;
- annual business plan;
- debt limits, capitalization and loans by or to SCDC;
- any single acquisition or disposition of assets or contract with a value over \$5,000,000 unless referenced in the Council approved annual budget or business plan; and
- corporate reorganizations.

The Board is to provide Council with quarterly and annual financial reports. Dividend payments are to be proposed to the City on a timely basis.

Examples of other shareholder agreements are attached as Appendix "C" (Calgary) and Appendix "D" (private corporation).

The SCDC has been incorporated with the Mayor and City Manager as its first directors. The City is the sole shareholder of SCDC. The business plan has been approved by Council.

Partnering Agreement

The Partnering Agreement authorizes the City to provide "assistance" to a business under s. 21 of the *Charter*. Assistance is broadly defined in the *Charter* as "assistance within the meaning of section 25 (1)". Section 25(1) states:

- (1) Unless expressly authorized by or under this or another Act, a council must not provide a grant, benefit, advantage or other form of assistance to a business, including
 - (a) any form of assistance referred to in section 24 (1) [*publication of intention to provide certain kinds of assistance*], or
 - (b) an exemption from a tax or fee.

The forms of assistance referred to in Section 24(1) are as follows:

24. (1) A council must give notice in accordance with section 94 [public notice] of its intention to provide any of the following forms of assistance to a person or organization:

- (a) disposing of land or improvements, or any interest or right in or with respect to them, for less than market value;
- (b) lending money;
- (c) guaranteeing repayment of borrowing or providing security for borrowing; and
- (d) assistance under a partnering agreement.

This agreement describes the type of assistance the City may provide SCDC including loans, property and City staff time and secondments. In return SCDC provides the City with a full range of property development and investment services.

An example of a partnering agreement from the City of Chilliwack is attached as Appendix "E".

CONCLUSION

The Shareholder Agreement will ensure appropriate Council oversight and governance of the new Development Corporation. The Partnering Agreement will allow the City to provide financial assistance to the business activities of the Development Corporation. On this basis, it is recommended that Council:

- Approve the Shareholder Agreement, as documented in Appendix "A" to this report; and
- Approve the Partnering Agreement, as documented in Appendix "B" to this report.

CRAIG MacFARLANE
City Solicitor

CM:mlg

c.c. General Manager, Finance and Technology

Attachs.

Appendix "A" - SCDC Shareholder's Agreement

Appendix "B" - SCDC Partnering Agreement

Appendix "C" - Calgary Shareholder's Agreement

Appendix "D" - Private Sector Shareholder's Agreement

Appendix "E" - City of Chilliwack Partnering Agreement

APPENDIX "A"

**SHAREHOLDER AGREEMENT
of the Shareholder, THE CITY OF SURREY,
with respect to the business and affairs of the
SURREY CITY DEVELOPMENT CORPORATION**

THIS AGREEMENT is dated for reference the _____ day of _____, 2007.

BETWEEN:

CITY OF SURREY, a municipal corporation with its offices at
14245 – 56 Avenue, Surrey, British Columbia V3X 3A2

("Surrey")

OF THE FIRST PART

AND:

SURREY CITY DEVELOPMENT CORPORATION,
a company incorporated under the laws of British Columbia, with its
registered office at 14245 – 56 Avenue, Surrey, British Columbia V3X 3A2

(the "Corporation")

OF THE SECOND PART

WHEREAS:

- A. The authorized capital of the Corporation consists of 100 common shares without par value which are issued and outstanding as fully paid and non-assessable to Surrey.
- B. The Corporation, in accordance with its objects, will carry on the business of assisting, promoting, co-ordinating and investing in commercial, industrial, institutional, civic and residential development in the City of Surrey.
- C. Surrey and the Corporation wish to enter into this Agreement in order to record their respective rights and obligations.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the premises and of the mutual covenants set forth in this Agreement, each of the parties to this Agreement agrees with the other as follows:

1. **Definitions**

1.1 In this Agreement the following words and phrases, unless there is something in the content inconsistent therewith, will have the following meanings:

- (a) "Act" means the *Business Corporations Act*, S.B.C. 2002, c. 57, as amended;
- (b) "Agreement" means this document, including any addendum, appendix, attachment or schedule, as amended;
- (c) "Annual Budget" means the annual budget for the fiscal year of the Corporation;
- (d) "Articles" means the articles of the Corporation filed at the office of the Registrar of Companies for the Province of British Columbia as may be amended from time to time;
- (e) "Auditors" means the auditors of the Corporation from time to time;
- (f) "Board" means the board of directors of the Corporation;
- (g) "Business Plan" means the business plan of the Corporation approved from time to time;
- (h) "By-laws" means the by-laws of the Corporation, as may be amended from time to time;
- (i) "Shareholder" means Surrey; and
- (j) "Shares" means at the relevant time the common shares in the capital of the Corporation issued and outstanding.

2. **Interpretation**

2.1 This Agreement will in all respects be governed by and be construed in accordance with the laws of the Province of British Columbia, and the parties to this Agreement submit and attorn to the jurisdiction of the courts of the Province of British Columbia.

2.2 If a provision contained in this Agreement is invalid, illegal or unenforceable in any respect in any jurisdiction, the validity, legality and enforceability of such provision is not in any way affected or impaired in any other jurisdiction and the validity, legality and enforceability of the remaining provisions contained in this Agreement will not in any way be affected or impaired.

2.3 Wherever the singular is used in this Agreement it is deemed to include the plural or the body politic or corporate where the context or the parties so require.

2.4 The headings of the sections of this Agreement are inserted for convenience only and do not affect the construction of this Agreement.

2.5 A reference in this Agreement to a numbered or lettered section, paragraph or clause refers to the section, paragraph or clause bearing that number or letter in this Agreement unless otherwise stated.

2.6 All accounting terms not defined in this Agreement have those meanings generally ascribed to them in accordance with generally accepted accounting principles applied consistently.

2.7 In the event of any conflict between this Agreement and the Articles, the Shareholder will vote its Shares to amend the Articles so that the Articles will conform with this Agreement.

3. **Conduct of the Affairs of the Corporation and Restrictions on Board Authority**

3.1 The Shareholder will vote its Shares so that the Board is comprised of nine (9) directors, as follows:

- (a) the Mayor of Surrey or his/her designate;
- (b) a Surrey City Councillor;
- (c) Surrey City Manager;
- (d) President of the Corporation; and
- (e) Five (5) independent members.

3.2 If a nominee to the Board fails to vote and act as a director to carry out the provisions of this Agreement, the Shareholder may exercise its right as the shareholder of the Corporation and in accordance with the Articles to remove such nominee from the Board and to elect in his or her place an individual who will use his or her best efforts to carry out the provisions of this Agreement.

3.3 The conduct of the business of the Corporation is governed in accordance with the Articles except as otherwise provided in this Agreement.

3.4 The quorum required for the transaction of business at a meeting of the Board is a majority of the directors.

3.5 The officers will hold office at the pleasure of the Board pursuant to the *Act* and the Articles.

3.6 This Agreement reserves to the Shareholder the following business and affairs of the Corporation which will only be undertaken with the prior written consent of the Shareholder, namely the exclusive authority to:

- (a) amend the Articles and to make, amend and repeal the By-laws;
- (b) elect, re-elect and remove directors, fill vacancies on the Board and to fix the remuneration of the directors, in their capacity as such;
- (c) appointment of the officers of the Corporation;

- (d) annually approve the Business Plan;
- (e) annually approve the Annual Budget;
- (f) approve corporate governance guidelines;
- (g) approve the sale, lease, transfer, mortgage, pledge or other disposition of the undertaking of the Corporation;
- (h) approval of the financial limits on the debt of the Corporation;
- (i) approve any increase or reduction in the capital of the Corporation;
- (j) approve the issuance or the entering into of any agreement to issue any shares of any class or any securities convertible into any shares of any class or grant any option in connection therewith;
- (k) approve the consolidation, merger or amalgamation of the Corporation with any other company, association, partnership or legal entity;
- (l) approve any single proposed acquisition or disposition relating to assets, capital expenditure, leases of any other contractual obligation over \$5,000,000 unless the transaction is referenced in the Business Plan or the Annual Budget;
- (m) approve any loans by the Corporation;
- (n) approve any transaction out of the ordinary course of the business of the Corporation;
- (o) approve any change in the authorized signing officers in respect of legal documents, or any bank or other financial institution;
- (p) approve any agreement by the Corporation which restricts, or purports to restrict, or which permits any other party to accelerate or demand the payment of any indebtedness of the Corporation;
- (q) incorporate any subsidiary of the Corporation; and
- (r) establish or acquire any business venture or materially alter, suspend or terminate any existing line of business except in accordance with the Business Plan or Annual Budget.

Nothing in this paragraph 3.6 will be construed so as to fetter the discretion of the directors of the Corporation or require the directors to act in a particular manner with respect to any of the foregoing matters.

3.7 The Board shall provide to the Shareholder in a timely manner:

- (a) quarterly and annual financial reports; and

(b) any proposal respecting dividends to the Shareholder.

3.8 The Board has the authority to develop and recommend to the Shareholder decisions on any of the matters referred to in paragraph 3.6 and negotiate or establish compensation and benefits for the officers and employees of the Corporation, and approve measures to safeguard the assets of the Corporation.

3.9 Where, in the opinion of the Shareholder, it is desirable or necessary to exercise its authority on a matter without the benefit of a recommendation from the Board, such a recommendation is not required before the Shareholder can exercise its authority under paragraph 3.6.

3.10 The Shareholder may delegate to the Board in writing any of the authority specified in paragraph 3.6 generally or for a specific purpose or period of time or until revoked.

4. **Financing and Shareholder's Contributions**

4.1 The Shareholder is not obliged to enter into any agreement of guarantee with respect to the indebtedness of the Corporation or to pledge its credit on behalf of the Corporation.

4.2 The Corporation may make a written request to the Shareholder for a loan if approved by the Board. The Shareholder may advance the money requested from it within 30 days of receipt of the written request for the loan.

5. **Restrictions on Transfer**

5.1 The Shareholder may not sell, transfer or otherwise dispose of, or offer to sell, transfer or otherwise dispose of, any of its Shares.

6. **General Provisions**

6.1 This Agreement terminates:

(a) if the Corporation:

- (i) has a receiving order made against it;
- (ii) goes into bankruptcy either voluntarily or involuntarily; or
- (iii) makes a proposal to its creditors; or

(b) if the Shareholder and the Corporation consent in writing to the termination.

6.2 The Shareholder and the Corporation will execute such further assurances and other documents and instruments and do such further and other things as may be necessary to implement and carry out the intent of this Agreement.

6.3 The provisions of this Agreement constitute the entire agreement between the Shareholder and the Corporation and supersedes all previous expectations, understandings, communications, representations and agreements whether verbal or written between the Shareholder and the Corporation with respect to the subject matter of this Agreement.

6.4 Any notice required to be given under this Agreement by any party is deemed to have been given if faxed to, or delivered at, the addresses of the parties as follows:

If to the Corporation:

Surrey City Development Corporation
14245 – 56 Avenue
Surrey, BC V3X 3A2
Fax No. (604) _____
Attention: _____

If to Surrey:

City of Surrey
14245 – 56 Avenue
Surrey, BC V3X 3A2
Fax No. (604) _____
Attention: _____

or at such other address as the other parties to this Agreement may from time to time direct in writing, and any such notice is deemed to have been received, if faxed, 48 hours after the time of faxing and, if delivered, upon the date of delivery. If normal fax service is interrupted by any cause, the party sending the notice will utilize such other service as is not interrupted or will deliver the notice.

6.5 Time is of the essence of this Agreement.

6.6 This Agreement enures to the benefit of and is binding upon the Shareholder and the Corporation and their respective successors and permitted assigns.

6.7 This Agreement is dated as of _____, 2007 for convenience of reference only and, notwithstanding the actual date of execution and delivery of this Agreement, it will commence to have effect on _____, 2007.

IN WITNESS WHEREOF the parties to this Agreement have executed this Agreement.

SURREY CITY DEVELOPMENT CORPORATION

by its authorized signatories:

CITY OF SURREY by its authorized signatories:

APPENDIX "B"

PARTNERING AGREEMENT

THIS AGREEMENT dated for reference _____, 2007.
BETWEEN:

CITY OF SURREY, a municipal corporation under the laws of British Columbia and having its offices at 14245 – 56 Avenue, Surrey, British Columbia V3X 3A2

("City")

AND:

SURREY CITY DEVELOPMENT CORPORATION, a corporation incorporated under the laws of British Columbia and having its registered office at 14245 – 56 Avenue, Surrey, British Columbia V3X 3A2

("SCDC")

WHEREAS:

- A. The City is the legal and beneficial owner of all of the shares of SCDC;
- B. The *Community Charter* authorizes the City to enter into a partnering agreement with a person pursuant to which the person agrees to undertake or provide services, including an activity, work or facility on behalf of the City;
- C. The City wishes to contract with SCDC to provide on behalf of the City real estate development services, activities and work for the benefit of the City, its residents and businesses and SCDC wishes to provide such services, activities and work on behalf of the City.

NOW THEREFORE in consideration of \$1.00 paid by the City to SCDC, and other good and valuable consideration, the receipt and sufficiency of which SCDC acknowledges, the parties agree as follows:

1. In this Partnering Agreement,
 - (a) "**Assistance**" has the same meaning as in the *Community Charter*, S.B.C. 2003, c. 26;
 - (b) "**Contamination**" means any explosives, radio active materials, asbestos materials, urea formaldehyde, underground and above ground tanks, pollutants,

contaminants, deleterious substances, dangerous goods or substances, hazardous, corrosive or toxic substance, or waste of any kind or any other substance the storage, manufacture, disposal, handling, treatment, generation, use, transport, remediation or release into the environment of which is prohibited, controlled, or regulated under Environmental Laws;

- (c) **"Environmental Laws"** means any and all statutes, laws, regulations, orders, bylaws, permit, and other lawful requirements of any federal, provincial, municipal or other governmental authority having over the Lands now or hereafter in force relating to the environment, health, occupation health and safety, product liability or transportation of dangerous goods, including all applicable guidelines and standards with respect to the foregoing as adopted by any of those governmental authorities from time to time and the principals of common law and equity;
 - (d) **"Lands"** means any land, or interest in land, improvements or structures which the City and SCDC hold under a Trust Agreement from time to time;
 - (e) **"Trust Agreement"** means the agreement between the City and SCDC whereby the City holds title, or will hold title, to the Lands as bare trustee for SCDC substantially in the form attached to this Agreement as Schedule "A".
2. This Partnering Agreement is effective on May 1, 2007 and shall continue in effect unless sooner terminated as provided herein, until April 30, 2012. This Partnering Agreement may be terminated on thirty (30) days notice by the City.
3. SCDC agrees to undertake or provide the following services, activities and work on behalf of the City:
- (a) invest in, develop, market, acquire, dispose or lease commercial, industrial, institutional, civic and residential Lands;
 - (b) enhance business opportunities and activities within the City of Surrey with a commitment to sustainability;
 - (c) assume full responsibility for construction and installation of all servicing for the development of the Lands, including without limitation construction and installation of:

- (i) all roads, waterworks, sewage works and drainage works and other municipal infrastructure as directed by the City and to City standards,
 - (ii) all works for carrying and distribution of gas, electricity, telephone and other telecommunications signals, either by private or public utilities, and
 - (iii) other public amenities as directed by the City;
 - (d) undertake the stewardship of the Lands as a prudent owner would do; and
 - (e) SCDC will comply with all City directives with respect to any matter set out in this section 3.
4. To facilitate the provision of the services in section 3 and to enable SCDC to market, finance, develop and sell or lease the Lands, the City and SCDC agree that fee simple title to the Lands shall be registered in the name of the City and held in trust on behalf of SCDC in accordance with the Trust Agreement.
5. The City may, as and when it considers it appropriate to do so, and subject to all applicable statutory restrictions, provide any type of Assistance whatsoever to SCDC in connection with any activity of SCDC under this Partnering Agreement or otherwise in connection with the development, investment, acquisition, sale or lease of the Lands and the management and operation of SCDC, including, without limitation, any one or more of the following:
- (a) disposing of land or improvements, or any interest or right in or with respect to them, for less than market value;
 - (b) guarantee of debts or other obligations assumed or incurred by SCDC;
 - (c) loans of money to SCDC;
 - (d) grants or other benefits to SCDC;
 - (e) provision or secondment of City employees or employee time to SCDC; and
 - (f) provision of office space, supplies and equipment to SCDC.
6. Nothing herein restricts the ability of the City to invest in SCDC through the acquisition of further share capital in SCDC, and for greater certainty, such share acquisition is not to be considered Assistance.

7. SCDC covenants and agrees that it will, at all times during the currency of this Partnering Agreement:
- (a) perform promptly and safely all of its obligations under this Partnering Agreement and perform promptly and safely all of its obligations under every other agreement between SCDC and any other party in respect of the Lands the breach of which will materially adversely affect SCDC's ability to carry out the terms of this Partnering Agreement;
 - (b) be just and faithful in the performance of its obligations under this Partnering Agreement and in its dealings with the City under this Partnering Agreement and other agreements entered into between the SCDC and the City or any other person in respect of the Lands. Without limiting the generality of the foregoing, SCDC shall make full, frank and immediate disclosure to the City of all matters coming to the attention of SCDC or any of its officers, directors employees, agents, servants or consultants in relation to the services under this Partnering Agreement;
 - (c) diligently promote, market and develop the Lands;
 - (d) perform its obligations itself or through such reputable and competent agents or independent contractors as it may engage from time to time;
 - (e) perform its obligations under this Partnering Agreement and exercise all of its rights in respect of the Lands in a lawful and orderly manner in full compliance with all applicable federal, provincial, municipal and other laws, bylaws (including bylaws of the City of Surrey), regulations and statutes;
 - (f) perform its obligations under this Partnering Agreement and exercise all of its rights in respect of the Lands so that no act or thing whatsoever may be done, permitted or omitted to be done upon the Lands which may be or may become a nuisance, damage, or unlawful disturbance to the City, or to the owners or occupiers of any neighbouring properties;
 - (g) not do or suffer or permit to be done any act, activity or thing which may render void or voidable, or which may conflict with the requirements of any policy or policies of insurance in respect of the Lands of which SCDC is aware;
 - (h) not release, compromise, assign or transfer any claim, right or benefit of the City;

- (i) not dispose of any interest in the Lands or enter into any agreement for the disposition of any interest in the Lands except on terms and conditions that do not prejudice the City in meeting its obligations or increase the City's liability exposure under an agreement of purchase and sale for lands or under any mortgages or other security granted in respect of the Lands.
8. SCDC will at all times during the currency of this Agreement comply with and abide by all Environmental Laws. Without limiting the generality of the foregoing, SCDC will comply with the following provisions:
 - (a) SCDC will not permit the storage, treatment or disposal of hazardous substances on the Lands or in any improvement on the Lands;
 - (b) SCDC will assume any and all duties, obligations or liabilities of the City, as registered owner of the Lands in trust for SCDC, under any relevant law in respect of any Contamination placed, deposited or coming into existence on, or migrating on to the Lands after the acquisition of Lands by SCDC, including but not limited to any costs, expenses or liabilities for any remedial action for any such contamination;
 - (c) SCDC must provide the City with immediate notice of any condition on the Lands or any improvement on the Lands of which it becomes aware that may result in any fines, penalties, orders, proceedings, investigations, litigation or enforcement proceedings, made or threatened by any third parties or governmental agencies; and
 - (d) SCDC must provide the City with immediate notice in writing, upon SCDC becoming aware of any Contamination of or on the Lands or of or on any improvement on the Lands.
9. The City will not be liable or responsible in any way for any loss or injury that may be sustained by SCDC or any loss or injury sustained by any employee, agent or independent contractor of SCDC or any other person who may be upon the Lands, or for any loss of or damage or injury to property belonging to or in the possession of SCDC or any employee, agent or independent contractor of SCDC or any other person.
10. SCDC will indemnify and save harmless the City, its elected and appointed officials, officers, employees, servants, agents and those for whom they are in law responsible, from and against any and all liabilities, damages losses, costs, expenses, (including lawyer's fees and litigation expenses) actions, causes of actions, claims, suits and judgments which the City may incur or suffer or be put to by reason of or in connection with or arising from:

- (a) any breach of any obligation set forth in this Partnering Agreement to be observed or performed by SCDC;
- (b) any act, omission, or negligence of SCDC, its members, officers, directors, employees, agents, contractors, subcontractors, subtenants, licensees, invitees or others for whom it is responsible;
- (c) any damage to property occasioned by SCDC's use and occupation of the lands or any injury to person or persons, including death, resulting at any time from SCDC's use and occupation of the Lands; or
- (d) any and all liability for loss, injury or damage caused by any of the perils against which SCDC shall have insured or pursuant to the terms of this Partnering Agreement is obligated to insure the Lands, or any part or parts thereof.

Should the City be made a party to any litigation commenced by or against SCDC, then SCDC will protect, indemnify and hold the City harmless and will promptly pay all costs, expenses and legal fees (on a solicitor and own client basis) incurred or paid by the City in connection with such litigation upon demand. SCDC will also promptly pay upon demand all costs, expenses and legal fees (on a solicitor and own client basis) that may be incurred or paid by the City in enforcing the terms, covenants and conditions in this Partnering Agreement.

- 11. SCDC's obligations under Section 10 will survive any expiration or termination of this Partnering Agreement.
- 12. SCDC will insure all improvements on the Lands and the contents of them, including any services, based upon full insurable values, with "all risks" coverage on a replacement cost basis, flood and earthquake endorsements, and a maximum deductible in such amount as is agreed upon in writing by SCDC and the City from time to time.
- 13. Without limiting SCDC's obligations and liabilities under this Partnering Agreement, SCDC will obtain, at its own expense, and keep in force a policy of comprehensive/commercial general liability insurance providing coverage against claims for personal injury, death, or property damage or loss upon, in, or about the Lands, and arising out of or connected with the activities of SCDC and those for whom it is in law responsible and the activities of subtenants on the Lands, or the use and occupancy of the Lands or any part thereof by SCDC or by those for whom it is in law responsible or by any approved subtenants, containing the following terms and conditions:

- (a) providing for the minimum combined single limit of not less than \$10,000,000 or such other amount as the City may reasonably require for each occurrence or accident;
 - (b) providing coverage for damage because of bodily injury (including death at any time resulting therefrom) sustained by any person or persons or because of injury to or destruction of property caused by any occurrence or accident arising out of any activities in connection with the Lands or its operation; and
 - (c) the policy will name the City as an additional named insured with a cross liability clause and, if required, extend to cover the employees of the insureds. The policy will contain a clause providing that the inclusion of more than one insured will not in any way affect the rights of any insured as respects to any claim, demand, suit or judgment made against any other insured.
14. All insurance required by this Partnering Agreement will be placed with reputable insurers upon terms and in amounts, as to deductibles and otherwise, satisfactory to the City acting reasonably from time to time. The cost of premiums and deductibles for each and every such policy will be paid by SCDC. SCDC will obtain from the insurers under such policies, undertakings to notify the City in writing at least thirty (30) days prior to any cancellation or amendment thereof. SCDC will provide the City with copies of all policies, or certificates of such insurance policies in lieu thereof as described herein and each renewal and replacement thereof and each endorsement thereto. SCDC will deliver to the City notice of the continuation of such policies not less than ten (10) days prior to their respective expiry dates.
15. The City and SCDC disclaim any intention to create a partnership or joint ventureship or to constitute either of them the agent of the other and nothing contained in this Agreement shall be construed to constitute the City or SCDC a partner, joint venturer, agent or legal representative of or with the other. Neither the City nor SCDC shall have, or represent that it has the authority or power to act for or to undertake or create any obligations or responsibilities, express or implied, on behalf of, or in the name of the other.

As evidence of their agreement to be bound by the terms of this Partnering Agreement, the parties have executed this Partnering Agreement as follows:

Date: _____, 2007

CITY OF SURREY)
by its authorized signatories:)
)
)
_____)
Dianne Watts)
Mayor)
)
)
_____)
Margaret Jones)
City Clerk)

Date: _____, 2007

SURREY CITY DEVELOPMENT)
CORPORATION)
by its authorized signatories:)
)
_____)
Dianne Watts)
Director)
)
_____)
Murray Dinwoodie)
Director)

SCHEDULE "A"

DECLARATION OF TRUST

THIS INDENTURE dated the _____ day of _____, 200__.

BETWEEN:

CITY OF SURREY, a municipal corporation under the laws of British Columbia and having its offices at 14245 – 56 Avenue, Surrey, British Columbia V3X 3A2

(the "Trustee")

AND:

SURREY CITY DEVELOPMENT CORPORATION, a corporation incorporated under the laws of British Columbia and having its registered office at 14245 – 56 Avenue, Surrey, British Columbia V3X 3A2

(the "Beneficiary")

WHEREAS:

- A. The Trustee has assumed the obligations of purchaser under an agreement (the "Agreement of Purchase and Sale") with _____ dated for reference the _____ day of _____, 200__ to acquire fee simple title to lands situated in the City of Surrey, in the Province of British Columbia described as the "Property" in the Agreement of Purchase and Sale (collectively, the "Lands").
- B. The Trustee has agreed to hold all right and interest in and to the Lands in trust as bare trustee and agent for the Beneficiary on the terms and conditions contained herein and in accordance with the terms of a partnering agreement made between the Beneficiary and the Trustee dated for reference the _____ day of _____, 200__ (the "Partnering Agreement").

NOW THEREFORE in consideration of \$1.00 now paid by the Beneficiary to the Trustee and in consideration of the premises and of the covenants herein contained it is mutually covenanted, agreed and acknowledged between the parties hereto as follows:

1. As of and from completion of the transfer of the Lands from _____ to the Trustee, the Trustee does and shall stand seized of the Lands and any and all improvements, tangible personal property and other assets relating to the Lands as bare trustee for the sole use, benefits and advantage of the Beneficiary.
2. The Trustee as agent for and on behalf of the Beneficiary shall have the full power and authority to assign, develop, subdivide, manage, transfer, lease, mortgage, charge or otherwise deal with, to the extent permitted under the laws of the Province of British Columbia or Canada, the Lands, or any portion thereof at any time in such manner as the Beneficiary may from time to time direct in writing. In furtherance of such authority, the Trustee shall have the right and power, whether or not under seal, to execute and deliver assignments, modifications, transfers, leases, mortgages, charges and other deeds or documents without delivering proof to any person (including any party to such

assignment, modification, transfer, release, sublease, mortgage, charge or other deed or document and including governmental officials such as the Registrar of the appropriate Land Title Office) of its authority to do so. The parties acknowledge and understand that the aforementioned power and authority is subject always to all statutory conditions and prerequisites that may be applicable to the exercise of such power and authority by the Trustee, including all applicable conditions and prerequisites contained in or flowing from the *Community Charter*.

3. Any person dealing with the Trustee shall not be required to determine or enquire into the authority or power of the Trustee and is entitled to fully and completely rely upon the authority and power of the Trustee to legally bind the Beneficiary with respect to the powers herein set forth.
4. The Trustee shall accept such amendments to its powers as the Beneficiary may determine from time to time.
5. In any claim, demand or action against the Trustee for any losses, damages or costs arising out of or in connection with the Lands or the exercise or the failure to exercise any right, power or authority conferred on the Trustee by this Agreement, the amount of any recovery, settlement, compromise, judgment or agreement on such claim, demand or action shall be strictly limited to the value of the assets held by the Trustee. The Trustee shall not be required to pay monies or transfer any other assets of the Trustee in satisfaction of any such claim, demand or action and shall have no claim against the Beneficiaries other than against its beneficial interest in the assets described herein.
6. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

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

Date: _____, 200__

CITY OF SURREY)
by its authorized signatories:)
)
)
_____)
Dianne Watts)
Mayor)
)
_____)
Margaret Jones)
City Clerk)

Date: _____, 200__

SURREY CITY DEVELOPMENT)
CORPORATION by its authorized)
signatories:)
)

Dianne Watts
Director

)
)
)
)
)
)
)

Murray Dinwoodie
Director

APPENDIX "C"

UNANIMOUS SHAREHOLDER AGREEMENT of the Shareholder, THE CITY OF CALGARY, with respect to the business and affairs of the CALGARY MUNICIPAL LAND CORPORATION

THE CITY OF CALGARY, being the owner of all the issued shares of CALGARY MUNICIPAL LAND CORPORATION, declares this Agreement to be a Unanimous Shareholder Agreement pursuant to the Business Corporations Act, R.S.A. 2000, Chapter B-9, as amended.

1.1 Definitions:

In this Agreement:

- (1) "Act" means the Business Corporations Act, R.S.A. 2000, Chapter B-9, as amended;
- (2) "Agreement" means this document, including any addendum, appendix, attachment or schedule, as amended;
- (3) "Articles" means the articles of incorporation of the Corporation as amended or restated;
- (4) "Board" means the board of directors of the Corporation;
- (5) "By-laws" means the by-laws of the Corporation, as amended or restated;
- (6) "Corporation" means Calgary Municipal Land Corporation, constituted pursuant to the Act;
- (7) "Shareholder" means The City of Calgary, a municipal corporation in the Province of Alberta.

1.2 Grammatical:

Unless defined in paragraph 1.1 or the context does not permit:

- (1) If defined in the Act, words or expressions in this Agreement have the same meaning;
- (2) Words are not restrictive as to gender, singular or plural form;
- (3) Words referring to a person include a body corporate.

1.3 Legislation:

Unless specifically contradicted in this Agreement, reference to any legislation includes regulations and amendments to or substitutions for either.

1.4 Headings:

The headings to any provision of this Agreement are for convenient reference only and are not to affect the meaning of the provision.

1.5 Interpretation:

- (1) This Agreement is to be interpreted as always speaking and applying to circumstances as they arise.
- (2) To ensure consistency, each of the following is to be interpreted as subject to those items above it on the following list:
 - (a) the Act;
 - (b) the Articles;
 - (c) the Agreement;
 - (d) the By-laws.

2.1 Restrictions on Board Authority:

- (1) The Board has the authority to manage the business and affairs of the Corporation except to the extent that the Act or this Agreement provides that the Shareholder must exercise or approve the exercise of such authority.
- (2) This Agreement reserves to the Shareholder the following business and affairs of the Corporation, namely the exclusive authority to:
 - (a) amend the Articles and to make, amend and repeal the By-laws;
 - (b) elect, re-elect and remove directors, fill vacancies on the Board and to fix the remuneration of the directors, in their capacity as such;
 - (c) appoint and remove the auditor of the Corporation;
 - (d) approve any proposed acquisition or disposition relating to assets or any other contractual obligation over \$10 million unless the transaction is referenced in a business plan and current budget approved under paragraphs 2.1(2)(f) and (g);
 - (e) approve financial limits on debt of the Corporation;
 - (f) annually establish goals and objectives and approve strategic and business plans for the Corporation;

- (g) annually approve operating and capital budgets for the Corporation.
 - (h) establish or acquire any business venture or materially alter, suspend or terminate any existing line of business except in accordance with goals, objectives, strategic and business plans, operating and capital budgets approved or established under paragraphs 2.1(2)(f) and (g).
- (3) Without restricting the application of paragraph 2.1(1), the Board has authority to:
- (a) develop and recommend to the Shareholder decisions on any of the matters specified in paragraph 2.1(2);
 - (b) negotiate or establish compensation and benefits for officers and employees; and
 - (c) approve measures to safeguard the assets of the Corporation.
- (4) The Board shall provide to the Shareholder in a timely manner:
- (a) quarterly and annual financial reports;
 - (b) any proposal respecting dividends to the Shareholder.
- (5) Unless the Shareholder agrees, the Board shall not approve, and the Corporation shall not enter into any arrangements to:
- (a) issue or enter into any agreement to issue any shares of any class or any securities convertible into any shares of any class or grant any option or other right to purchase any such shares or securities convertible into any shares; or
 - (b) incorporate any subsidiary of the Corporation.
- (6) Where, in the opinion of the Shareholder, it is desirable or necessary to exercise its authority on a matter without the benefit of a recommendation from the Board, such a recommendation is not required before the Shareholder can exercise its authority under paragraph 2.1(2).

- (7) The Shareholder may delegate to the Board any of the authority specified in paragraph 2.1(2) generally or for a specific purpose or period of time or until revoked.

This Agreement becomes effective the ____ day of _____, 2007.

DECLARED at the City of Calgary, in the Province of Alberta, this ____ day of _____, 2007.

THE CITY OF CALGARY

Per: _____
City Manager

Per: _____
City Clerk

APPENDIX "D"

PRIVATE SECTOR SHAREHOLDER AGREEMENT

MODEL AGREEMENT NO. 2

SHAREHOLDERS' AGREEMENT

THIS AGREEMENT is dated as of _____, 199__.

AMONG:

ABC INVESTMENTS LTD., a company incorporated under the laws of British
Columbia with an office at _____, British
Columbia,

("ABC")

OF THE FIRST PART

AND:

XYZ INVESTMENTS LTD., a company incorporated under the laws of British
Columbia with an office at _____, British Columbia,

("XYZ")

OF THE SECOND PART

AND:

A2Z ENTERPRISES CORPORATION, a company incorporated under the laws
of British Columbia with an office at _____, British Columbia,

(the "Company")

OF THE THIRD PART

WHEREAS:

The authorized capital of the Company consists of _____ Common shares
without par value of which the following are issued and outstanding as fully paid and non-
assessable:

<u>Name</u>	<u>Common Shares</u>
ABC	_____
XYZ _____;	

The Company will carry on the business of _____; and

ABC, XYZ and the Company wish to enter into this Agreement in order to record their respective rights and obligations.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the premises and of the mutual covenants set forth in this Agreement, each of the parties to this Agreement agrees with the others as follows:

2. **Definitions**

(a) In this Agreement, the following words and phrases, unless there is something in the context inconsistent therewith, will have the following meanings:

(i)"Act" means the British Columbia Company Act, R.S.B.C. 1979, c. 59, as amended;

(ii)"Articles" means the articles of the Company filed at the office of the Registrar of Companies for the Province of British Columbia as may be amended from time to time;

(iii)"Bank" means the banker of the Company from time to time;

(iv)"Board" means the board of directors of the Company;

(v)"Compulsory Offer" has the meaning set out in Paragraph 6.1;

(vi)"Control" means with respect to a Shareholder:

the right to exercise a majority of the votes which may be put at a general meeting of that Shareholder; and

the right to elect directly or indirectly a majority of the directors of a Shareholder or other persons who have the right to manage or supervise the management of the affairs and business of a Shareholder;

- (vii) "Instigator" has the meaning set out in Paragraph 6.1;
- (viii) "Investment" means all the right, title and interest of a Shareholder in and to any of the Shares, any Loan and accrued interest thereon (if any) and any other right or claim a Shareholder may have against the Company as a Shareholder and the Shareholder's interest in and to this Agreement;
- (ix) "Loan" means at the relevant time any amounts advanced and outstanding by a Shareholder to the Company;
- (x) "Recipient" has the meaning set out in Paragraph 6.1;
- (xi) "Shareholders" means ABC and XYZ or their respective successors or permitted assigns and "Shareholder" means either of them; and
- (xii) "Shares" means at the relevant time the Common shares in the capital of the Company issued and outstanding.

3. **Interpretation**

- (a) This Agreement will in all respects be governed by and be construed in accordance with the laws of the Province of British Columbia, and the parties to this Agreement submit and attorn to the jurisdiction of the courts of the Province of British Columbia.
- (b) If a provision contained in this Agreement is invalid, illegal or unenforceable in any respect in any jurisdiction, the validity, legality and enforceability of such provision is not in any way affected or impaired in any other jurisdiction and the validity, legality and enforceability of the remaining provisions contained in this Agreement will not in any way be affected or impaired.
- (c) Wherever the singular is used in this Agreement it is deemed to include the plural or the body politic or corporate where the context or the parties so require.
- (d) The headings of the sections of this Agreement are inserted for convenience only and do not affect the construction of this Agreement.
- (e) A reference in this Agreement to a numbered or lettered section, paragraph or clause refers to the section, paragraph or clause bearing that number or letter in this Agreement, unless otherwise stated.
- (f) All accounting terms not defined in this Agreement have those meanings generally ascribed to them in accordance with generally accepted accounting principles, applied consistently.
- (g) In the event of any conflict between this Agreement and the Articles, the Shareholders will vote their Shares to amend the Articles so that the Articles will conform with this Agreement.

4. **Conduct of the Affairs of the Company**

- (a) The Shareholders will vote their Shares so that the Board is comprised of two directors and so that one nominee of each of the Shareholders is a director of the Company, subject to Paragraph 3.2. If a position on the Board is open for any reason, the Shareholder whose nominee formerly occupied such position is entitled to nominate a new director to fill the vacancy.

(b) If a nominee to the Board of one of the Shareholders fails to vote and act as a director to carry out the provisions of this Agreement, the Shareholders will exercise their right as shareholders of the Company and in accordance with the Articles to remove such nominee from the Board and to elect in his or its place an individual who will use his or its best efforts to carry out the provisions of this Agreement.

(c) The conduct of the business of the Company is governed in accordance with the Articles, except as otherwise provided in this Agreement.

(d) The quorum required for the transaction of business at a meeting of the Board is a majority of the directors or their alternates.

(e) The officers of the Company initially are as follows:

President - _____

Secretary and Treasurer - _____.

The officers will hold office at the pleasure of the Board pursuant to the Act and the Articles.

5. **Financing and Shareholders' Contributions**

(a) The Company acknowledges that the financial contribution of the Shareholders to the Company will be kept at as low a level as possible. Initially the subscribed capital is:

	<u>Common Shares</u>
ABC	\$_____

XYZ	\$_____.
-----	----------

and initial non-interest bearing loans are:

ABC	\$_____
-----	---------

XYZ	\$_____.
-----	----------

(b) Funds required from time to time by the Company will be obtained, to the greatest extent possible, by borrowing from a chartered bank or other institutional lender.

(c) No Shareholder is obliged to enter into any agreement of guarantee with respect to the indebtedness of the Company or to pledge its credit on behalf of the Company, except with

the unanimous written agreement of the Shareholders, and the sole financial obligation of a Shareholder is as set forth in Paragraphs 4.1 and 4.4. Any guarantees will be borne by the Shareholders pro rata in proportion to the shareholdings of the Shares (at the time of demand for payment by the bank or lending institution) and if any of the Shareholders discharges any liabilities of the Company either directly or pursuant to a guarantee given under this Paragraph 4.3, the Shareholder discharging the liabilities has the right to be reimbursed by the Shareholder not so contributing so that in the end, each of the Shareholders will have contributed in proportion to its pro rata shareholdings of the Shares.

(d) If the Company is unable to obtain funds as provided in Paragraph 4.2 and if approved by the Board, the Company may make a written request to all Shareholders for a loan. The Company's request for a loan will be made to each Shareholder pro rata in proportion to its shareholdings of Shares. A Shareholder will advance the money requested from it within 30 days of receipt of the written request for the loan. Unless specified in the Company's request the Loans will not bear interest. No Shareholder will, so long as it remains a Shareholder, demand repayment of its Loan. If the Company repays the Loans, in whole or in part, it will do so pro rata in proportion to each Shareholder's contribution by way of Loan.

(e) The Shareholders will subordinate and postpone all Loans to permanent financing or other borrowing by the Company to the extent required by the Board.

6. **Restrictions on Transfer**

(a) No Shareholder may sell, transfer or otherwise dispose of, or offer to sell, transfer or otherwise dispose of, any of its Shares unless that Shareholder complies with Article 25.3 of the Articles, except where expressly permitted in this Agreement.

(b) No Shareholder may mortgage, pledge, charge, hypothecate or otherwise encumber its Shares or any part of its Shares without the prior written consent of the other Shareholder, except where expressly permitted in this Agreement, which consent may be arbitrarily withheld without giving any reason.

(c) Upon execution of this Agreement, the Shareholders will surrender to the Company and the Company will legibly stamp or endorse upon each certificate representing the Shares a statement as follows:

The shares represented by this certificate are transferable only in compliance with Article 25.3 of the Articles and pursuant to the terms of an agreement among ABC Investments Ltd., XYZ Investments Ltd. and A2Z Enterprises Corporation dated as of _____, 199__.

(d) The Control of each of the Shareholders will not change without the prior written consent of the other Shareholder.

7. **Compulsory Buy-Out**

(a) A Shareholder (the "Instigator") wishing to offer all, but not less than all, of its Investment to the other Shareholder (the "Recipient") pursuant to this Section 6, will deliver a notice in writing (the "Compulsory Offer") to the Recipient:

(i) stating that the Instigator has determined to avail itself of the provisions of this Section 6; and

(ii) containing offers on the part of the Instigator:

to sell to the Recipient the Instigator's Investment stipulating:

the number of Shares owned by it and the price per Share of the proposed transfer;

that the Recipient must also purchase the Instigator's Loan; and

the terms and conditions of sale; and

to buy from the Recipient the Recipient's Investment stipulating that:

the price per Share will be the price set by the Instigator pursuant to subclause 6.1(b)(i)(A);

the Instigator will purchase the Recipient's Loan; and

the sale of the Recipient's Investment is to be made on the same terms and conditions as set out in clause (i).

(b) The Recipient is entitled, at its option, within 60 days from the date of the receipt of the Compulsory Offer and by notice in writing to the Instigator, either:

(i) to buy the Instigator's Investment; or

(ii) to sell to the Instigator the Recipient's Investment;

at the price and upon the terms and conditions of purchase and sale contained in the Compulsory Offer.

(c) If the Recipient elects to buy the Instigator's Investment, the Recipient will advise the Instigator in writing of its election within the 60 days provided in Paragraph 6.2 and, upon the giving of such notice by the Recipient, a binding contract of purchase and sale between the Recipient and the Instigator is deemed to form, containing the terms and conditions stipulated in the Compulsory Offer.

(d) If the Recipient elects to sell its Investment to the Instigator, the Recipient will advise the Instigator in writing of its election within the 60 days provided in Paragraph 6.2 and, upon the giving of such notice by the Recipient, a binding contract of purchase and sale between the Recipient and the Instigator is deemed to form, containing the terms and conditions stipulated in the Compulsory Offer.

(e) If the Recipient does not notify the Instigator in writing of its election within the 60 days provided in Paragraph 6.2, the Recipient is deemed to have accepted the offer to sell to the Instigator the Recipient's Investment at the price stipulated and upon the terms and conditions of purchase and sale specified in the Compulsory Offer and a binding contract of purchase and sale for the Recipient's Investment between the Instigator and the Recipient is formed. The Instigator expressly waives any requirement to receive communication from the Recipient confirming the Recipient's acceptance of the Compulsory Offer and the deemed acceptance provided by this Paragraph 6.5 is a complete estoppel to any action taken or defence raised by any person which in any way contests the validity, formation or existence of the contract of purchase and sale stipulated by this Paragraph 6.5.

(f) Upon a contract coming into existence with respect to the sale of an Investment as provided in this Section 6, the Instigator and the Recipient will complete the purchase and sale at a closing which will occur on the 30th day following the date of the acceptance, or deemed acceptance, under this Section 6, or, if that day is a non-juridical day, then on the next ensuing juridical day (or such other date as the Instigator and the Recipient may agree in writing), at which time the Instigator and the Recipient will execute and deliver such certified cheques, promissory notes, share certificates, instruments, conveyances, assignments, escrow agreements and releases as may be reasonably required to effect and complete the sale.

8. **General Provisions**

(a) This Agreement terminates:

(i) if the Company:

has a receiving order made against it;

goes into bankruptcy either voluntarily or involuntarily; or

makes a proposal to its creditors; or

(ii) if the Shareholders and the Company consent in writing to the termination.

(b) A Shareholder who has disposed of all of its Investment in compliance with the provisions of this Agreement is entitled to the benefit of and is bound by only the rights and obligations which arose pursuant to this Agreement prior to such disposition.

(c) The Shareholders and the Company will execute such further assurances and other documents and instruments and do such further and other things as may be necessary to implement and carry out the intent of this Agreement.

(d) The provisions of this Agreement constitute the entire agreement between the Shareholders, and among the Shareholders and the Company, and supersedes all previous expectations, understandings, communications, representations and agreements whether verbal or written between the Shareholders, and among the Shareholders and the Company, with respect to the subject matter of this Agreement.

(e) Any notice required to be given under this Agreement by any party is deemed to have been given if telexed or telecopied to, or delivered at, the addresses of the other parties as follows:

If to ABC:

[ADDRESS]

Telex No.

Telecopier No. _

with a copy to:

[ABC'S SOLICITORS]

Telex No. _

Telecopier No. _

If to XYZ:

[ADDRESS]

Telex No. _

Telecopier No. _

with a copy to:

[XYZ'S SOLICITORS]

Telex No. _

Telecopier No. _

If to the Company:

[ADDRESS]

Telex No. _

Telecopier No. _

with a copy to:

[COMPANY'S SOLICITORS]

Telex No. _

Telecopier No. _

or at such other address as the other parties to this Agreement may from time to time direct in writing, and any such notice is deemed to have been received, if telexed or telecopied, 48 hours after the time of telexing or telecopying and, if delivered, upon the date of delivery. If normal telex service or telecopy service is interrupted by any cause, the party sending the notice will utilize such other service as is not interrupted or will deliver the notice.

(f) Time is of the essence of this Agreement.

(g) This Agreement enures to the benefit of and is binding upon the Shareholders and the Company and their respective successors and permitted assigns.

(h) This Agreement is dated as of _____, 199_ for convenience of reference only and, notwithstanding the actual date of execution and delivery of this Agreement, it will commence to have effect on _____, 199_.

IN WITNESS WHEREOF the parties to this Agreement have executed this Agreement.

THE COMMON SEAL of ABC)
INVESTMENTS LTD. was hereunto)
affixed on the __ day of)
_____, 199_ in the)
presence of:)
)
)
_____)
Authorized Signatory)
)
)
_____)
Authorized Signatory)

C/S

THE COMMON SEAL of XYZ)
INVESTMENTS LTD. was hereunto)
affixed on the __ day of)
_____, 199_ in the)
presence of:)
)
)
_____)
Authorized Signatory)
)
)
_____)
Authorized Signatory)

C/S

APPENDIX "E"

PARTNERING AGREEMENT

THIS AGREEMENT dated for reference September 30, 2005 is
BETWEEN:

CITY OF CHILLIWACK, a municipal corporation under the laws of British Columbia and having an address of 8550 Young Road South, Chilliwack, B.C., V2P 8A4

("City")

AND:

CHILLIWACK ECONOMIC PARTNERS CORPORATION, a corporation incorporated under the laws of British Columbia and having an address of 201, 46093 Yale Road, Chilliwack, B.C., V2P 3L8

("CEPCO")

WHEREAS:

- A. The City is the legal and beneficial owner of all of the shares of CEPCO;
- B. The *Community Charter* authorizes the City to enter into a partnering agreement with a person pursuant to which the person agrees to undertake or provide an activity, work or facility on behalf of the City;
- C. The City and CEPCO wish to enter this partnering agreement for the development and revitalization of the Lands (defined below),

NOW THEREFORE in consideration of \$1.00 paid by the City to CEPCO, and other good and valuable consideration, the receipt and sufficiency of which CEPCO acknowledges, the parties agree as follows:

1. In this Agreement,
 - (a) **"Agreement of Purchase and Sale"** means the agreement between CEPCO and CLC dated for reference the 9th day of July, 2004;
 - (b) **"Assignment Agreement"** means the agreement between the City and CEPCO, in the form attached as Schedule "A" hereto, whereby the City will assume CEPCO's obligations under the Agreement of Purchase and Sale, and will acquire title to the Lands as bare trustee nominee for CEPCO;
 - (c) **"Assistance"** has the same meaning as in the *Community Charter*, S.B.C. 2004, c. 26;
 - (d) **"City Lease"** has the meaning ascribed to it in the Agreement between the City and CEPCO dated for reference the 18th day of June, 2004;

- (e) **“CLC”** means Canada Lands Company CLC Limited;
- (f) **“CLC Covenants and Easement”** means the Development Restrictive Covenant, the Education Restrictive Covenant and the Legacy Trail Easement granted by the City, as bare trustee for CEPCO, to CLC, as more particularly set out in the Agreement of Purchase and Sale;
- (g) **“Contamination”** means any explosives, radio active materials, asbestos materials, urea formaldehyde, underground and above ground tanks, pollutants, contaminants, deleterious substances, dangerous goods or substances, hazardous, corrosive or toxic substance, or waste of any kind or any other substance the storage, manufacture, disposal, handling, treatment, generation, use, transport, remediation or release into the environment of which is prohibited, controlled, or regulated under Environmental Laws.
- (h) **“Environmental Laws”** means any and all statutes, laws, regulations, orders, bylaws, permit, and other lawful requirements of any federal, provincial, municipal or other governmental authority having over the Lands now or hereafter in force relating to the environment, health, occupation health and safety, product liability or transportation of dangerous goods, including all applicable guidelines and standards with respect to the foregoing as adopted by any of those governmental authorities from time to time and the principals of common law and equity.
- (i) **“Lands”** means the “Property” as defined in the Agreement of Purchase and Sale, but excluding the Leased Area;
- (j) **“Leased Area”** has the meaning ascribed to it in the City Lease;
- (k) **“Permitted Encumbrances”** has the meaning ascribed to it in the Agreement of Purchase and Sale;
- (l) **“Trust Agreement”** means the agreement between the City and CEPCO whereby the City holds title, or will hold title, to the Lands as bare trustee for CEPCO in the form attached to this Agreement as Schedule “B”.

2. CEPCO agrees to undertake or provide the following services on behalf of the City:

- (a) CEPCO will develop and implement a master plan for the educational development of the Lands.
- (b) CEPCO will assume full responsibility for construction and installation of all servicing for the educational development of the Lands, including without limitation construction and installation of:
 - (i) all roads, waterworks, sewage works and drainage works and other municipal infrastructure as directed by the City and to City standards;
 - (ii) all works for carrying and distribution of gas, electricity, telephone and other telecommunications signals, either by private or public utilities; and
 - (iii) other public amenities as directed by the City.
- (c) CEPCO will assume full responsibility for all of the City’s obligations and covenants, both positive and negative, contained in the Permitted Encumbrances.

- (d) CEPCO will perform promptly and safely all of the obligations assumed by the City in the Assignment Agreement.
 - (e) CEPCO will undertake the stewardship of the Lands as a prudent owner would do.
 - (f) Without limiting the generality of subsection 2(e), CEPCO will assume responsibility for site safety with respect to the Lands.
 - (g) CEPCO will comply with all City directives with respect to any matter set out in this section 2.
3. To facilitate the provision of the services in section 2 and to enable CEPCO to market, finance, develop and sell or lease the Lands, the City and CEPCO agree that fee simple title to the Lands and the Leased Area shall be registered in the name of the City and held in trust on behalf of CEPCO in accordance with the Trust Agreement.
4. The City may, as and when it considers it appropriate to do so, and subject to all applicable statutory restrictions, provide any type of Assistance whatsoever to CEPCO in connection with any activity of CEPCO under this Agreement or otherwise in connection with the marketing and development of the Lands, including, without limitation, any one or more of the following:
- (a) guarantee of debts or other obligations assumed or incurred by CEPCO;
 - (b) loans of money to CEPCO;
 - (c) grants or other benefits to CEPCO;
 - (d) permissive tax exemptions in accordance with section 225 of the *Community Charter*.
5. Nothing herein restricts the ability of the City to invest in CEPCO through the acquisition of further share capital in CEPCO, and for greater certainty, such share acquisition is not to be considered Assistance.
6. Nothing in this Partnering Agreement prejudices or effects in any way the rights of the City in respect of the Leased Area as set out in the City Lease.
7. CEPCO covenants and agrees that it will, at all times during the currency of this Agreement:
- (a) perform promptly and safely all of its obligations under this Partnering Agreement and perform promptly and safely all of its obligations under every other agreement between CEPCO and any other party in respect of the Lands the breach of which will materially adversely affect CEPCO's ability to carry out the terms of this Partnering Agreement;
 - (b) be just and faithful in the performance of its obligations under this Partnering Agreement and in its dealings with the City under this Partnering Agreement and other agreements entered into between the CEPCO and the City or any other person in respect of the Lands. Without limiting the generality of the foregoing,

CEPCO shall make full, frank and immediate disclosure to the City of all matters coming to the attention of CEPCO or any of its officers, directors employees, agents, servants or consultants in relation to the services under this Partnering Agreement;

- (c) diligently promote, market and develop the Lands;
 - (d) fully implement and comply at all times with the CLC Covenants and Easement;
 - (e) perform its obligations itself or through such reputable and competent agents or independent contractors as it may engage from time to time;
 - (f) perform its obligations under this Agreement and exercise all of its rights in respect of the Lands in a lawful and orderly manner in full compliance with all applicable federal, provincial, municipal and other laws, bylaws (including bylaws of the City of Chilliwack), regulations and statutes and the CLC Covenants;
 - (g) perform its obligations under this Agreement and exercise all of its rights in respect of the Lands so that no act or thing whatsoever may be done, permitted or omitted to be done upon the Lands which may be or may become a nuisance, damage, or unlawful disturbance to the City, or to the owners or occupiers of any neighbouring properties;
 - (h) not do or suffer or permit to be done any act, activity or thing which may render void or voidable, or which may conflict with the requirements of any policy or policies of insurance in respect of the Lands of which CEPCO is aware;
 - (i) not release, compromise, assign or transfer any claim, right or benefit of the City;
 - (j) not dispose of any interest in the Lands or enter into any agreement for the disposition of any interest in the Lands except on terms and conditions that do not prejudice the City in meeting its obligations under the Agreement of Purchase and Sale or under the Permitted Encumbrances and do not increase the City's liability exposure under the Agreement of Purchase and Sale or under the Permitted Encumbrances.
8. CEPCO will at all times during the currency of this Agreement comply with and abide by all Environmental Laws. Without limiting the generality of the foregoing, CEPCO will comply with the following provisions:
- (a) CEPCO will not permit the storage, treatment or disposal of Hazardous Substances on the Lands or in any improvement on the Lands.
 - (b) CEPCO will assume any and all duties, obligations or liabilities of the City, as registered owner of the Lands in trust for CEPCO, under any relevant law in respect of any Contamination placed, deposited or coming into existence on, or migrating on to the Lands after the closing date under the Agreement of Purchase and Sale, including but not limited to any costs, expenses or liabilities for any remedial action for any such contamination.

- (c) CEPCO must provide the City with immediate notice of any condition on the Lands or any improvement on the Lands of which it becomes aware that may result in any fines, penalties, orders, proceedings, investigations, litigation or enforcement proceedings, made or threatened by any third parties or governmental agencies;
 - (d) CEPCO must provide the City with immediate notice in writing, upon CEPCO becoming aware of any contamination of or on the Lands or of or on any improvement on the Lands.
- 9. The City will not be liable or responsible in any way for any loss or injury that may be sustained by CEPCO or any loss or injury sustained by any employee, agent or independent contractor of CEPCO or any other person who may be upon the Lands, or for any loss of or damage or injury to property belonging to or in the possession of CEPCO or any employee, agent or independent contractor of CEPCO or any other person.
- 10. CEPCO will indemnify and save harmless the City, its officials, officers, employees, servants, agents and those for whom they are in law responsible, from and against any and all liabilities, damages losses, costs, expenses, (including lawyer's fees and litigation expenses) actions, causes of actions, claims, suits and judgments which the City may incur or suffer or be put to by reason of or in connection with or arising from:
 - (a) any breach of any obligation set forth in this Agreement to be observed or performed by CEPCO;
 - (b) any act, omission, or negligence of CEPCO, its members, officers, directors, employees, agents, contractors, subcontractors, subtenants, licensees, invitees or others for whom it is responsible;
 - (c) any damage to property occasioned by CEPCO's use and occupation of the lands or any injury to person or persons, including death, resulting at any time from CEPCO's use and occupation of the Lands; or
 - (d) any and all liability for loss, injury or damage caused by any of the perils against which CEPCO shall have insured or pursuant to the terms of this Agreement is obligated to insure the Lands, or any part or parts thereof.

Should the City be made a party to any litigation commenced by or against CEPCO, then CEPCO will protect, indemnify and hold the City harmless and will promptly pay all costs, expenses and legal fees (on a solicitor and own client basis) incurred or paid by the City in connection with such litigation upon demand. CEPCO will also promptly pay upon demand all costs, expenses and legal fees (on a solicitor and own client basis) that may be incurred or paid by the City in enforcing the terms, covenants and conditions in this Partnering Agreement.

- 11. CEPCO's obligations under Section 10 will survive any expiration or termination of this Partnering Agreement.
- 12. CEPCO will insure all improvements on the Lands and the contents of them, including any services, based upon full insurable values, with "all risks" coverage on a replacement cost basis, flood and earthquake endorsements, and a maximum deductible in such amount as is agreed upon in writing by CEPCO and the City from time to time.

13. Without limiting CEPCO's obligations and liabilities under this Agreement, CEPCO will obtain, at its own expense, and keep in force a policy of comprehensive/commercial general liability insurance providing coverage against claims for personal injury, death, or property damage or loss upon, in, or about the Lands, and arising out of or connected with the activities of CEPCO and those for whom it is in law responsible and the activities of subtenants on the Lands, or the use and occupancy of the Lands or any part thereof by CEPCO or by those for whom it is in law responsible or by any approved subtenants, containing the following terms and conditions:
 - (a) providing for the minimum combined single limit of not less than \$5,000,000 or such other amount as the City may reasonably require for each occurrence or accident;
 - (b) providing coverage for damage because of bodily injury (including death at any time resulting therefrom) sustained by any person or persons or because of injury to or destruction of property caused by any occurrence or accident arising out of any activities in connection with the Canada Education Park or its operation;
 - (c) the policy will name the City as an additional named insured with a cross liability clause and, if required, extend to cover the employees of the insureds. The policy will contain a clause providing that the inclusion of more than one insured will not in any way affect the rights of any insured as respects to any claim, demand, suit or judgment made against any other insured;
14. All insurance required by this Agreement will be placed with reputable insurers upon terms and in amounts, as to deductibles and otherwise, satisfactory to the City acting reasonably from time to time. The cost of premiums and deductibles for each and every such policy will be paid by CEPCO. CEPCO will obtain from the insurers under such policies, undertakings to notify the City in writing at least thirty (30) days prior to any cancellation or amendment thereof. CEPCO will provide the City with copies of all policies, or certificates of such insurance policies in lieu thereof as described herein and each renewal and replacement thereof and each endorsement thereto. CEPCO will deliver to the City notice of the continuation of such policies not less than ten (10) days prior to their respective expiry dates.
15. The City and CEPCO disclaim any intention to create a partnership or joint ventureship or to constitute either of them the agent of the other and nothing contained in this Agreement shall be construed to constitute the City or CEPCO a partner, joint venturer, agent or legal representative of or with the other. Neither the City nor CEPCO shall have, or represent that it has the authority or power to act for or to undertake or create any obligations or responsibilities, express or implied, on behalf of, or in the name of the other.
16. The term of this Agreement shall commence on date of completion of the conveyance of the Lands from CLC to the City in trust for CEPCO and shall continue until terminated by the parties in writing.

As evidence of their agreement to be bound by the terms of this Agreement, the parties have executed this Agreement as follows:

Date: _____, 2005

CITY OF CHILLIWACK by its)
authorized signatories:)

_____)
Acting Mayor: Pat Clark)

_____)
Clerk: Robert Carnegie)

Date: _____, 2005

CHILLIWACK ECONOMIC)
PARTNERS CORPORATION by its)
authorized signatories:)

_____)
Name:)

_____)
Name:)