

This Agreement is made and entered into as of the ____ day of _____, 2024.

JOINT USE AND PLANNING AGREEMENT

BETWEEN:

CITY OF BEAUMONT
(the “City”)

-AND-

BLACK GOLD SCHOOL DIVISION
(the “Public School Division”)

-AND-

**THE FRANCOPHONE REGIONAL AUTHORITY OF GREATER NORTH
CENTRAL FRANCOPHONE EDUCATION REGION**
(the “Francophone School Division”)

-AND-

ST. THOMAS AQUINAS ROMAN CATHOLIC SEPARATE SCHOOL DIVISION
(the “Separate School Division”)

(Individually a “Party”, and collectively the “Parties”)

WHEREAS:

- A. The *Municipal Government Act* and *Education Act* require a municipality and any school board operating within the boundaries of the municipality to enter into and maintain a joint use and planning agreement;
- B. It is the responsibility of the City to plan, develop, construct, operate and maintain parks and recreational land and facilities within the boundaries of the City for recreational purposes and to organize and administer public recreational programs;
- C. It is the responsibility of each of the School Boards, to develop and deliver educational programs and provide the necessary facilities for such programs;
- D. The joint use of City facilities and School Board facilities is an important tool in providing educational, cultural, and recreational opportunities for residents in a manner that reduces or eliminates the need to duplicate facilities thereby making the most effective use of the limited economic resources of the City and the School Boards;

- E. The *Municipal Government Act* allows the City to obtain Reserve Land as lands within the City are subdivided to meet the open space and site needs of the City and the School Boards;
- F. The *Municipal Government Act* and the *Education Act* require that a joint use and planning agreement address matters relating to the acquisition, servicing, development, use, transfer and disposal of Reserve Land;
- G. The Parties previously entered into a School Site Allocation Agreement, for which this Agreement shall repeal and replace said agreement;
- H. The Parties wish to acknowledge and reaffirm their commitment to the principles of the shared use of facilities and future planning required of Reserve Land in the City by entering into this Agreement; and
- I. The Parties shall work together to create attractive and desirable communities by delivering educational, park, and recreational opportunities that provide a high quality of life for residents of all ages. Each Party brings an individual perspective to the table to build a collective strength and a better Beaumont, while realizing their unique yet aligned mandates. This agreement strives to provide the tools and guidance required to achieve complete communities. It also outlines the coordinated approach to the allocation, use, planning and development, maintenance, and ownership of Municipal Reserve, School Reserve, Municipal and School Reserve, open space and School Sites to address the evolving needs of citizens of Beaumont.

NOW THEREFORE IN CONSIDERATION of the mutual commitment to the joint use of facilities and planning Reserve Land, the sufficiency of which is hereby irrevocably acknowledged, the Parties agree to the following:

1. DEFINITIONS

- 1.1. “**Agreement**” means this Beaumont Joint Use and Planning Agreement;
- 1.2. “**Arbitration**” means a process whereby each of the Parties, with or without legal counsel, agrees to jointly engage and meet with an Arbitrator who will render a binding decision in respect of any Dispute;
- 1.3. “**Arbitrator**” means the person appointed to act as such to resolve any Dispute;
- 1.4. “**Area Structure Plan(s)**” means an area structure plan pursuant to the *Municipal Government Act* providing direction for land uses for a defined area within the City;
- 1.5. “**City**” means the City of Beaumont;
- 1.6. “**City Council**” means the elected governing body of the City of Beaumont;

- 1.7. “**Collaboration**” means the act of cooperating in good faith to jointly produce, develop or create something, including but not limited to a product or a decision;
- 1.8. “**Community Services Reserve**” means land designated as Community Services Reserve as the term is defined in the *Municipal Government Act*;
- 1.9. “**Consensus**” means the unanimous support of all Parties, or at least no opposition from any Party;
- 1.10. “**Developer(s)**” means a person, company, or entity that owns one or more parcels of land and undertakes a process to create documents for approval by City Council for building communities and neighbourhoods within the City;
- 1.11. “**Disclosed information**” means information shared by a Party for the purpose of fulfilling this Agreement;
- 1.12. “**Disposition of Property Regulation**” means the Disposition of Property Regulation, Alta Reg 86/2019;
- 1.13. “**Dispute(s)**” means any disagreement, controversy, or failure to reach Consensus between the Parties concerning any matter arising out of this Agreement;
- 1.14. “**Education Act**” means the *Education Act*, SA 2012, c E-0.3;
- 1.15. “**Hazardous Substances**” means any chemical, substance, material, or waste, including without limitation asbestos, PCBs and formaldehyde, that is defined, classified, listed, or designated as hazardous, toxic, or radioactive, or by other similar term, by any federal, provincial, or local environmental statute, regulation, rule, order, or ordinance presently in effect;
- 1.16. “**Joint Use Facilities**” or individually a “**Joint Use Facility**” means indoor spaces (e.g., gyms, classrooms, auditoriums, atriums, etc.) and outdoor spaces (e.g. including but are not limited to, playgrounds and sports fields) specified in the Facility Use Agreements;
- 1.17. “**Land Transfer Process**” means the steps and conveyancing undertaken by the owner of a particular School Site or area of land in order to effect a change in ownership with the Alberta Land Titles Office;
- 1.18. “**Lifecycle**” means the entire existence of Municipal Reserve and School Reserve land through planning, development, transfer, use (operation and maintenance), and disposal of the land including redevelopment at future dates for the same or other uses;
- 1.19. “**Long Term Planning**” means planning for further than fifteen (15) years into the future;
- 1.20. “**Mediation**” means a process whereby a representative of each Party, with or without legal counsel, agrees to jointly engage the services and meet with a Mediator to participate in a mediation, conciliation, or similar dispute resolution process;
- 1.21. “**Mediator**” means the person appointed to facilitate the resolution of a Dispute between Parties;

- 1.22. “**Medium Term Planning**” means planning for five (5) to fifteen (15) years;
- 1.23. “**Municipal Government Act**” means the *Municipal Government Act* being R.S.A. 2000, c M-26, any regulations thereunder, and any amendments or successor legislation thereto;
- 1.24. “**Municipal Reserve**” (MR) means the land designated as Municipal Reserve as that term is defined in the *Municipal Government Act*; “**Municipal and School Reserve**” means land designated as Municipal and School Reserve as defined in the *Municipal Government Act*;
- 1.25. “**Neighbourhood Structure Plans**” means a more detailed non-statutory sub-plan documentation contained within an Area Structure Plan;
- 1.26. “**Non-Reserve Lands**” means those lands that are owned by the Parties that are not Reserve Lands;
- 1.27. “**Reserve Account**” means the Municipal Land Reserve interest bearing account held by the City;
- 1.28. “**Reserve Land**” means Municipal Reserve, School Reserve, or Municipal and School Reserve as such terms are defined in the *Municipal Government Act*, any regulations thereunder, and any amendments or successor legislation thereto;
- 1.29. “**School Board(s)**” means Black Gold School Division, the Francophone Regional Authority of Greater North Central Francophone Education Region, and St. Thomas Aquinas Roman Catholic Separate School Division;
- 1.30. “**School Reserve**” (SR) means the land designated as school reserve as that term is defined in the *Municipal Government Act*;
- 1.31. “**School Site(s)**” means a parcel(s) of land where a school facility is located;
- 1.32. “**School Site Allocation Agreement**” means the previous agreement between the Parties entered into on February 12, 2015 that addressed the same or similar rights and obligations as set out in this Agreement for the period of 2015 – 2025;
- 1.33. “**Short Term Planning**” means planning for the next five (5) years; and
- 1.34. “**Surplus Reserve Land**” means land which is Reserve Land or City transferred land and which consists of a School Site and which is declared surplus by a School Board pursuant to section 11 of this Agreement.

2. PREAMBLE AND SCHEDULES

- 2.1 The preamble forms part of this Agreement.
- 2.2 The following Schedules form part of this Agreement:
 - (a) Schedule A: **Dispute Resolution Process**

- 2.3 Wherever the singular, plural, masculine, feminine or neutral is used throughout this Agreement the same shall be construed as meaning the singular, plural, masculine, feminine, neutral, body politic or body corporate where the fact or context so requires and the provisions hereof.
- 2.4 The division of this Agreement into articles and sections and the headings of any articles or sections are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

3. PURPOSE AND PRINCIPLES

- 3.1. The Purpose of this Agreement is for all the Parties to collaborate to create well-planned and well-utilized schools and facilities in Beaumont for the benefit of students and community members.
- 3.2. The Parties agree to strive for:
- 3.2.1. Effective data-driven, long-term planning for the Lifecycle of Reserve Land in Beaumont.
 - 3.2.2. Collaborative conversations for planning, land development, and site allocation.
 - 3.2.3. The same priorities, principles, and expectations guide all conversations about access and use of facilities between Parties.
- 3.3. The Parties agree that in entering into this Agreement, they are committing to the following guiding principles:
- 3.3.1. **Collaboration and accountability:** Parties are committed and dedicated to working together, recognizing the needs and limits of each Party. This includes practicing proactive communication, adopting a long-term view, looking for options where all Parties as well as the citizens of Beaumont and students in the School Boards all benefit. Each Party is responsible for identifying their respective needs for Reserve Land recognizing that Reserve Land is a limited resource and that the needs of the Parties must be balanced. Parties will have equal authority among them with respect to decision making outlined in this Agreement.
 - 3.3.2. **Community focused:** Parties make decisions that consider both immediate and projected future needs, the diversity of individuals they serve, social and environmental responsibilities, and equity for students and community.
 - 3.3.3. **Efficiency and planning:** All Parties are open to new and different methods to maximize benefits to the citizens of Beaumont and School Board students and to keep costs low for Parties and community. Parties are innovative, creative, and willing to be flexible where possible to find solutions to address changing needs.

3.3.4. **Respect:** Parties recognize each other's autonomy and integrity and expect that they will accurately and fairly represent their organizational interests, the interests of those they serve, and their desired future direction. Parties will show consideration and regard for each other, students, and communities.

3.3.5. **Transparency and openness:** All Parties will, upon reasonable request, make available to each other relevant and related information to ensure the principles of this Agreement are being observed and that the Goals and Vision can be achieved. This may include, but is not limited to, perspectives on options that may be available on a given decision and their roles and responsibilities representing a particular Party.

4. REPRESENTATION AND WARRANTY OF THE PARTIES

4.1. Each Party represents and warrants the following:

4.1.1. that the execution of this Agreement and performance of the Party's obligations under this Agreement have been duly authorized by all necessary City Council or School Board action, and does not and will not violate any provision of any applicable law, or any provision of the Party's constating documents; and

4.1.2. this Agreement has been properly executed by the Party. The Agreement is a valid and binding obligation of the Party.

5. GOVERNANCE

5.1. The Parties shall establish a joint planning committee as of the Effective Date of this Agreement.

5.2. Joint planning committee

5.2.1. The joint planning committee shall be comprised of:

A. The Chief Administrative Officer (CAO) and/or the director of planning or a delegate from the City of Beaumont, and

B. The Superintendent and/or the Secretary-Treasurer as defined in the *Education Act* or a delegate for each School Board.

5.2.2. Subject matter experts may be invited to attend and contribute to meetings by any of the Parties.

5.2.3. Quorum for a joint planning committee meeting shall be one (1) representative per Party.

5.2.4. The joint planning committee will meet minimally once each year. The meeting agenda will be minimally comprised of:

- A. Any annual decision or discussion requirements as outlined in this Agreement;
- B. A needs-based strategy for Short Term Planning for School Sites to meet school needs, minimally comprised of tasks, desires, principles, goals, or any other writing that outlines how Parties agree to best move forward, and
- C. Any disposal of Reserves of School Site dialogue and information that may be required each year.

5.2.5. Decision making will be by Consensus of all the Parties .

5.2.6. Secretarial support for the joint planning committee will be provided by the City. Meeting minutes and decision outcomes shall be documented and shared with all Parties.

5.2.7. All meeting minutes and outcomes shall be considered confidential as between the Parties, and shall not be publicly shared, communicated, reproduced or otherwise published, unless a Party is legally compelled to disclose any information in accordance with the Freedom of Information and Protection of Privacy Act, RSA 2000, c F-25.

5.2.8. The joint planning committee is responsible for reviewing and updating this Agreement in accordance with Section 14 therein.

5.3. **Annual decision or discussion requirements**

5.3.1. In accordance with the annual meeting schedule as outlined in Section 5.2, the Parties shall discuss planning, development, and use of School Sites; transfer of Reserve Land; future disposal of School Sites; servicing of School Sites and Joint Use Facilities on an annual basis.

5.3.2. These discussions shall include, but not be limited to:

- A. Sharing of up-to-date enrollment trends and up-to-date municipal population trends;
- B. School Board 10-year facility plans, and School Board 3-year capital plans;

- C. Sharing of population and demographic trends in the City and existing and developing neighbourhoods as well as a comparison of actual rates to projected growth trends;
- D. Discussion of current and projected needs of the City and the School Boards related to Reserve Land and the timeline for notice of future need for School Sites in existing and developing neighbourhoods;
- E. Advanced notice on potential disposals of existing School Sites;
- F. Analysis and projection related to the demographics in the neighbourhood(s) surrounding the site, and how they may evolve in 20 to 50 years;
- G. Review of Area Structure Plans and Neighbourhood Structure Plans and other planning documents and discussion regarding:
 - (i). Amenities, compatibilities, accessibility, and location of future School Sites;
 - (ii). Anticipated size of parcels and anticipated school needs and their alignment;
 - (iii). Distribution of development of neighbourhoods;
 - (iv). Development phasing and sequencing; and
 - (v). Whether sites and servicing plans meet the Government of Alberta Ministry of Education requirements for School Sites;
- H. Whether housing density or other factors have changed between Area Structure Plans and Neighbourhood Structure Plans that could impact school enrollments;
- I. Review of all planned School Sites and discussion of whether all sites are still potentially needed and appropriate, whether any School Board wishes to withdraw their interest in any sites, or whether sites are removed completely from school planning consideration and can be considered for other uses (e.g., recreational uses);
- J. Progress updates on school design and construction on allocated sites;
- K. Review of the Reserve Account as defined in more details herein;
- L. Assessment of existing and anticipated future indoor and outdoor facility needs for City citizens and students and current joint use challenges;
- M. Discussion of facility capacity and utilization across the City and current and projected recreation needs of the City and the School Boards.

(i). This does not include discussion or negotiation of joint use of facilities, as set out in Section 12; and

N. Discussion of any existing plans for redesignating Reserve Land.

6. PLANNING

- 6.1. Medium Term Planning and Long Term Planning for School Sites will take place on an annual basis in accordance with Section 5.
- 6.2. Summary reports from each annual discussion, the Government of Alberta Ministry of Education criteria for School Site readiness, and School Site size requirements shall be shared with any Developer at the Area Structure Plans and Neighbourhood Structure Plans inquiry stage.
- 6.3. All proposed School Sites shall be identified in consultation with the School Boards and shall be identified within Area Structure Plans adopted by the City but shall not be pre-allocated to any one School Board.
- 6.4. In the event there are competing claims among two (2) or three (3) School Boards for one (1) School Site within an Area Structure Plan, the respective School Boards must undertake the Dispute Resolution Process outlined in Schedule “A” of this Agreement.
- 6.5. School Sites shall not be allocated to a School Board until said School Board has approval of the funding for school building design or construction on the site in accordance with the Government of Alberta Ministry of Education guidance.
- 6.6. The City will share with the School Boards a document based on the Government of Alberta Ministry of Education criteria for School Site readiness that demonstrates how and if the criteria for a new school site are being met. The document may be prepared by the City or the Developers.
- 6.7. The City will solicit input from and involve the School Boards in the review of draft Area Structure Plans and Neighbourhood Structure Plans to support school development, adjacent playing field and park development, and student transportation in the advancement of the purposes and principles outlined in Section 3 of this Agreement. The City will coordinate communications to reduce redundancy and address any conflicting needs of the School Boards.
- 6.8. The City will inform the School Boards of any changes from the Area Structure Plans and Neighbourhood Structure Plans or non-statutory plans that may impact schools, school enrollment, or matters relating thereto.
- 6.9. Any Party can request a meeting of the Parties to discuss matters such as: (i) School Sites designated in the Area Structure Plans and Neighbourhood Structure Plans and how or if it/they align with certain expectations (such as enrollment), (ii) Alberta Education site requirements, and (iii) matters and considerations beyond the normal governance structures provided in Section 5.

- 6.10. The City will work with School Boards to clearly outline concerns with draft Area Structure Plans and Neighbourhood Structure Plans and anticipated needs for school and recreation facility development and raise these concerns with the respective Developers.
- 6.11. Where the City acquires lands that will form part of a Joint Use Facility site through dedication or use of the Reserve Account, the lands shall be designated Municipal Reserve in the name of the City.
- 6.12. If construction on an allocated site has not commenced within four (4) years of the date a site is allocated to the School Board, Parties will share updates on the school design and construction process and discuss next steps including the possibility of returning the site status to “unallocated” and releasing their claim to the site.

7. SERVICING SCHOOL SITES

- 7.1. The City will endeavor to ensure new neighbourhood development timing and servicing meets the preferred timelines outlined by Parties for developing new School Sites.
- 7.2. These timelines will be discussed and agreed upon in annual meetings as per the governance model provided in Section 5 herein.
- 7.3. The City will use current enrollment and growth projections and information gathered from meetings between the Parties to ensure to the best of its abilities sufficient fully serviced School Sites over the next 10-15 years. This includes working with Developers on setting development sequencing.
- 7.4. The Parties will collaboratively outline the types of essential services provided from the subdivision approval process up to the establishment of future School Sites. The City will ensure essential infrastructure and servicing are provided in order for the parcel to be functional including but not limited to City of Beaumont General Design Standards and Alberta Education criteria for school site readiness. The City will attempt to meet, within reason, the current and anticipated future needs of students, parents, and community members.
- 7.5. The City will be responsible for the costs of providing services up to the property line/boundary of the School Site.
- 7.6. The Parties will collaboratively identify and document anticipated future expectations of students, parents, and citizens for non-essential services relating to School Sites.

8. DEVELOPMENT AND USE OF SCHOOL SITES

- 8.1. The Parties will at least annually review Area Structure Plans and Neighbourhood Structure Plans for site readiness and meeting the Government of Alberta, School Board, and City needs and requirements. This will include:
 - 8.1.1. Consideration of allowing a shared site that respects the autonomy, mandate, and needs of the Parties;
 - 8.1.2. Dialogue on the joint use of grounds (recreation fields and facilities) and indoor facilities; and
 - 8.1.3. Review of expectations and timelines for development of playing fields/parks adjacent to School Sites / new schools.

9. TRANSFER OF RESERVES

- 9.1. Within six (6) months of construction commencing on a new school, the Land Transfer Process will be initiated.
- 9.2. Surveying property lines for the portion of the Municipal Reserve parcel to be dedicated as School Reserve shall take into consideration:
 - 9.2.1. The size/footprint of the school building,
 - 9.2.2. Parking lots and loading zones for the school, and
 - 9.2.3. Space for future temporary (e.g., modular) or permanent expansion.
- 9.3. Playing fields shall be surveyed to remain designated Municipal Reserve.
- 9.4. All costs, including but not limited to surveying, application fees, and land title endorsement fees, shall be sent to the project manager from the Party that holds the funding for the school construction project.

10. RESERVE ACCOUNT

- 10.1. The City will create and maintain a Reserve Account.
- 10.2. Monies into the account shall be at a minimum comprised of all monies paid to the City from the sale of Reserve Land and all monies paid to the City in lieu of Reserve Land dedication.
- 10.3. The account shall be used for the purposes provided for in the *Municipal Government Act*, any regulations thereunder, and any amendments or successor legislation; and may be used for servicing land purchased with funds from this account.

- 10.4. Prior to recommending to City Council the use of funds from the Reserve Account, the CAO shall consult with the joint planning committee and have regard to their input on the proposed purchase and development of Reserve Land.
- 10.5. The Parties recognize that the City retains sole discretion over the use of funds from the Reserve Account.
- 10.6. The City will submit to the joint planning committee at least once a year a report showing the opening balance, activities, and ending balance of the Reserve Account for the current and next fiscal year.

11. DISPOSAL OF SCHOOL SITES OR RESERVES

- 11.1. Meetings and discussions on Disposal of a School Site shall include considerations for the Medium Term Planning and Long Term Planning needs and considerations of existing school sites in existing or redeveloping neighbourhoods.
- 11.2. If Parties anticipate a situation where the City may be in the future interested in the land the selling Party and the City will work together and discuss the conditions of a disposition agreement.
- 11.3. **Reserve Lands with Improvements**: when a School Board has determined a School Site on Reserve Land is surplus to its needs and there are improvements on the land:
 - 11.3.1. The Parties shall collectively determine if any other School Board Party requires the land and building being deemed surplus.
 - 11.3.2. The School Board declaring the surplus will apply to the Minister of Education of Alberta indicating a Party's interest in the site if such an interest exists as per the *Disposition of Property Regulation*.
 - 11.3.3. The Minister of Education may by order declare the School Board's interest in the Reserve Land to be surplus to the School Board's needs and may direct that School Board to make the land and improvements available to another School Board, or approve the transfer or sale of the property.
 - 11.3.4. Upon ministerial declaration of surplus, and if the land and improvements are not being transferred to another School Board Party:
 - A. The School Board holding the subject property and the City shall collaboratively select an appraiser to assess the market value of the land and the improvements.
 - B. The City will have the right to purchase the land at a nominal value and the improvements at their appraised value, in accordance with the *Municipal Government Act*.

- 11.4. **Reserve Lands without Improvements:** When a School Board has determined a School Site on Reserve Land is surplus to its needs and there are no improvements on the land:
- 11.4.1. The Parties shall collectively determine if another School Board Party requires the land.
- 11.4.2. The School Board declaring the surplus will apply to the Minister of Education of Alberta indicating a School Board Party's interest in the site if such an interest exists as per the *Disposition of Property Regulation*.
- 11.4.3. Upon ministerial declaration of surplus, and if the land is not being transferred to another School Board, the land shall be sold back to the City at a nominal value.
- 11.5. **Non-Reserve Lands:** When a School Board has determined a School Site on Non-Reserve Land is surplus to its need, whether there are improvements on the land or not at the time of the declaration:
- 11.5.1. The Parties shall collectively determine if another School Board Party requires the land and improvements (if applicable).
- 11.5.2. The School Board declaring the surplus will apply to the Minister of Education of Alberta indicating a School Board Party's interest in the site if such an interest exists.
- 11.5.3. Upon ministerial declaration of surplus, and if the land is not being transferred to another School Board for educational purposes:
- A. The School Board shall provide the City notice of its intention to dispose of the lands and improvements, if applicable, and shall provide the City the first priority right to purchase the land and improvements for fair market value as determined by the respective School Board, acting reasonably.
- B. The City shall, within one hundred twenty (120) days of notice being provided by the School Board, provide a decision on the purchase the land and improvements.
- C. If the City chooses to not purchase the lands and improvements, the School Board can sell the land and improvements to a third party/parties, in its sole and absolute discretion.
- 11.6. Notwithstanding any other term or condition contained in this Agreement, should a School Board declare a Reserve Land surplus pursuant to this Section 11, then at such time the School Board shall warrant to the City, that to the best of its knowledge, the School Board, its employees, contractors or agents have not deposited, placed or brought onto the Surplus Reserve Land any Hazardous Substances, nor to the best of its knowledge, is the School Board aware of the existence of any Hazardous Substances in, on or under the Surplus Reserve Land. The School Board shall not be required to give such warranty to the City in cases of Surplus Reserve Land which is known by the School Board to have been contaminated with Hazardous Substance and in such cases, the School Board shall provide the City with the details of the contamination. The School Board will indemnify and save harmless the City for all losses, costs, damages, actions, causes of action, suits, claims and demands resulting from or caused by the

grossly negligent actions and or omissions of said School Board in relation to Hazardous Substances on Surplus Reserve Land.

- 11.7. Prior to transfer of any Surplus Reserve Land, the City shall, upon reasonable request, have the right to enter the Surplus Reserve Land for the purposes of carrying out environmental tests and studies. If after the City carries out such environmental tests and studies, it is disclosed to the City with certainty that the Surplus Reserve Land has been contaminated with Hazardous Substances by a School Board party, the corresponding School Board party shall at its sole cost, remediate the Surplus Reserve Land to standards set by the relevant governmental authority. Any required remediation is to be completed by the School Board prior to transferring the Surplus Reserve Land to the City.
- 11.8. The City shall have a discussion with the other Parties prior to the disposal of any School Sites about the possibility of designating school building footprint as defined in Section 672(5) of the *Municipal Government Act* to Community Services Reserve.

12. JOINT USE FACILITIES

- 12.1. In accordance with this Agreement and pursuant to Section 671(2) of the *Municipal Government Act*, the Parties and their representatives agree to work collaboratively on any planning, creation and future contracting requirements needed to facilitate the operations of, and responsibilities associated with Joint Use Facilities, with the intention of using said spaces for joint use purposes.
- 12.2. Each School Board shall negotiate individual Facility Use Agreements with the City. These negotiations shall include:
 - 12.2.1. Available indoor and outdoor facilities, grounds around facilities, and available equipment;
 - 12.2.2. Available dates and hours, rates, and booking processes;
 - 12.2.3. Permitted uses and users of all facilities and grounds;
 - 12.2.4. Minimum insurance requirements for Parties using facilities and grounds;
 - 12.2.5. What is considered property damage and cost responsibilities for any property damage;
 - 12.2.6. Expectations around providing rationale and notice for cancellations including minimum timelines for cancelling a booking and who is and is not allowed to take precedence over existing agreed upon bookings;
 - 12.2.7. Maintenance, repair and replacement responsibilities; and
 - 12.2.8. Timeline for review and renewal of the Facility Use Agreement.
- 12.3. Facility Use Agreements will also include a dispute resolution process. If they do not, the Dispute Resolution Process contained in Schedule "A" of this Agreement will be the process used to resolve any Joint Facility Use disputes relating to a Joint Use Facility.

13. DISPUTE RESOLUTION PROCESS

- 13.1. The Parties agree to follow the Dispute Resolution Process outlined in Schedule A for any Dispute arising out of this Agreement.

14. REVIEW AND AMENDMENT

- 14.1. This document will be reviewed at a minimum every 10 years by the joint planning committee. The review will be completed and a new agreement signed by all Parties within twelve (12) months of the review beginning.
- 14.2. If this Agreement or a Dispute related to this Agreement is subject to binding Arbitration, this document will be reviewed collaboratively by all Parties after the arbitrated Dispute is resolved.

15. TERMINATION

- 15.1. No Party to this Agreement shall unilaterally terminate this Agreement, and the terms and conditions contained therein shall remain in full force and effect during any periods of alteration or amendment to this Agreement, and subject always to the requirements of governing legislation or statutes.

16. NOTICE

- 16.1. Any notice or other communication that a Party wishes or is required to give to another Party under this Agreement may be delivered personally, by courier, mailed by registered mail, or emailed addressed to:

The City of Beaumont

5600 49 Street
Beaumont, AB T4X 1A1
Attention: Chief Administrative Officer
Email: administrator@beaumont.ab.ca

Black Gold School Division

3rd Floor, 1101-5th Street
Nisku, AB T9E 7N3
Attention: Associate Superintendent, Business & Finance
Email: Chelsey.volkman@blackgold.ca

St. Thomas Aquinas Roman Catholic Separate School Division

4906 50 Avenue
Leduc, AB T9E 6W9
Attention: Secretary-Treasurer
Email: nick.masviken@starcatholic.ab.ca

**The Francophone Regional Authority of Greater North Central
Francophone Education Region**
322 – 8627 rue Marie-Anne-Gaboury (91 St.)
Edmonton, AB T6C 3N1
Email: mlabonte@centrenord.ab.ca

or such other mailing or email address as any Party may from time to time notify the other Parties of in accordance with this section.

- 16.2. Any notice delivered or sent is deemed received as follows:
- 16.2.1. if delivered personally or by courier, it is deemed received by the other Parties at the time of delivery to that Party or any person who appears authorized to receive such documents at the address listed above herein;
 - 16.2.2. if sent by registered mail, it is deemed to be received five (5) days after mailing, subject to the intended recipient demonstrating that it was not, despite diligent efforts of the intended recipient, received within that time, in which case it is effectively delivered on the actual date of receipt; or
 - 16.2.3. if emailed, it is deemed to be received on the first (1st) Business Day following the date of transmission unless the sender receives an out of office notification, in which case the notice is deemed to have been received on the first Business Day following the identified return to work day. For purposes of this section, “Business Day” means Monday to Friday, includes of each week, excluding Days which are holidays in the Province of Alberta as set out in the Interpretation Act, RSA 2000, c I-8.

17. GENERAL

- 17.1. **No Fettering of Discretion**
- 17.1.1. Nothing contained in this Agreement will be interpreted or deemed or operate to fetter the discretion of the City, City Council, commissions, committees, boards, officers, officials or employees in relation to this Agreement or the principles, terms or conditions of this Agreement.
 - 17.1.2. Nothing contained in this Agreement will be interpreted or deemed or operate to fetter the discretion of the School Boards, its officers, officials or employees in relation to this Agreement or the principles, terms or conditions of this Agreement.
- 17.2. **Non-Assignment or Transfer:** No Party may assign, pledge, mortgage or otherwise encumber its interest under this Agreement without the prior written consent of the other Parties, which consent may be arbitrarily withheld. Any assignment, pledge or encumbrance contrary to the provisions of this Agreement is void.
- 17.3. **Entire Agreement:** This Agreement constitutes the entire agreement between the Parties relating to the subject matter of this Agreement, and cancels or supersedes any prior

agreements (including but not limited to the School Site Allocation Agreement), undertakings, declarations, commitments and representations, whether written or oral. The Parties agree that there are no covenants, representations, warranties, agreements or conditions expressed or implied, collateral or otherwise forming part of or in any way affecting or relating to this Agreement except as expressly set out in this Agreement.

17.4. **Non-Waiver:** The waiver of any covenant, condition or provision of this Agreement must be in writing. A waiver by a Party of the strict performance by another Party of any provision of this Agreement shall not, of itself, constitute a waiver of any subsequent breach of the provision or any provision of this Agreement.

17.5. **Non-Statutory Waiver**

17.5.1. In entering into this Agreement, the City is doing so in its capacity as a municipal corporation and not in its capacity as a regulatory, statutory or approving body under any law of the Province of Alberta. Nothing in this Agreement constitutes the granting by the City of any approval or permit as may be required under the *Municipal Government Act* and any other Act in force in the Province of Alberta. The City, as far as it can legally do so, is only bound to comply with and carry out the terms and conditions stated in this Agreement. Nothing in this Agreement restricts the City, City Council, its officers, servants or agents in the full exercise of any and all powers and duties vested in them in their respective capacities as a municipal government, as a municipal council and as the officers, servants and agents of a municipal government.

17.5.2. In entering into this Agreement, each School Board is doing so in its capacity as a school board and not in its capacity as a regulatory, statutory or approving body under any law of the Province of Alberta. Nothing in this Agreement constitutes the granting by the School Board of any approval or permit as may be required under the *Education Act* and any other Act in force in the Province of Alberta. Each School Board, as far as it can legally do so, is only bound to comply with and carry out the terms and conditions stated in this Agreement. Nothing in this Agreement restricts a School Board, its board of trustees, its officers, servants or agents in the full exercise of any and all powers and duties vested in them in their respective capacities as a school board and as the officers, servants and agents of a School Board.

17.6. **Severability:** If any of the terms and conditions contained in this Agreement are at any time during the Agreement held by any court of competent jurisdiction to be invalid or unenforceable, then the invalid or unenforceable terms and conditions shall be severed from the rest of the Agreement. Each remaining term, covenant or condition of this Agreement shall be valid and shall be enforceable to the fullest permitted by law.

17.7. **Time is of the Essence:** Time is of the essence of this Agreement.

17.8. **Governing Law:** This Agreement is governed by the laws of the Province of Alberta. The Parties hereby irrevocably attorn to the exclusive jurisdiction of the courts of Alberta.

17.9. **Enurement:** All of the provisions of this Agreement shall enure to the benefit of and are binding upon the City and the School Boards and their respective successors and permitted assigns.

17.10. **Counterparts:** This Agreement may be executed in any number of counterparts, all of which taken together will be deemed to constitute one and the same instrument. Delivery of an executed signature page to this Agreement by any Party by electronic transmission will be as effective as delivery of a manually executed original thereof by such Party. Despite the date of execution of the counterparts, each is deemed to bear the date set out above.

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

CITY OF BEAUMONT

Per:

Signature of Authorized Signing Officer

Per:

Signature of Authorized Signing Officer

BLACK GOLD SCHOOL DIVISION

Per:

Signature of Authorized Signing Officer

Per:

Signature of Authorized Signing Officer

**ST. THOMAS AQUINAS ROMAN
CATHOLIC SEPARATE SCHOOL DIVISION**

Per:

Signature of Authorized Signing Officer

Per:

Signature of Authorized Signing Officer

**THE FRANCOPHONE REGIONAL
AUTHORITY OF GREATER NORTH
CENTRAL FRANCOPHONE EDUCATION
REGION**

Per:

Signature of Authorized Signing Officer

Per:

Signature of Authorized Signing Officer

SCHEDULE "A" – DISPUTE RESOLUTION PROCESS

1. Principles of Dispute Resolution:

- a. The Parties agree to use their best efforts to resolve any Disputes arising between them as efficiently and cost effectively as possible.
- b. At all times leading up to and during the Dispute Resolution Process all Parties shall:
 - i. Hold themselves and each other accountable to demonstrating the principles in this Agreement and holding as a guide the goals, purpose, and objectives of this Agreement;
 - ii. Make bona fide efforts to resolve all Disputes amicably; and
 - iii. Participate in the Mediation and Arbitration processes in good faith and provide such assistance and disclose such information as may be reasonably requested by the other Parties.

2. Dispute Notice:

- a. After three bona fide attempts at discussing a topic or matter have been completed, and the Parties have been unable to reach a Consensus, a Dispute shall be deemed to have occurred and the Parties may engage in the Dispute Resolution Processes provided herein. The Party alleging the Dispute must give written notice of the matter under dispute to the other Parties. The notice shall contain sufficient detail to advise the other Parties about the dispute to enable them to respond.
- b. The Party alleging a Dispute must demonstrate that repeated bona fide attempts to achieve a Consensus on a particular matter or issue have been made.
- c. The Party alleging a Dispute must, within 30 days of providing notice of the Dispute, call and hold a meeting with the joint planning committee, who will then make an attempt to resolve the Dispute. If a reasonable effort to attend the meeting provided for in this section is not made by all Parties, the requirement to call and hold a meeting shall be deemed satisfied and the Party alleging the Dispute shall be at liberty to proceed with the other Dispute Resolution Steps provided herein.
- d. All Parties will be deemed to be an interested party and participate in all steps of the Dispute Resolution Process. In the event a Party is deemed by Consensus of the joint planning committee to be not be a relevant party to the Dispute, or deemed to be arm's length from any relevant discussions or outcomes of the Dispute, said party may, by written notice, opt out of participation in the Dispute Resolution Process.
- e. During a Dispute, the Parties must continue to perform their obligations under this Agreement.

3. Mediation:

- a. In the event that the Parties cannot come to a Consensus within sixty (60) days of the notice of a Dispute being provided, the Parties agree to participate in Mediation.
- b. The representatives must appoint a mutually acceptable Mediator to attempt to resolve the dispute by Mediation, within fourteen (14) days of the conclusion of the negotiation as described in Section 2(c).
- c. The Party giving such notice of Dispute shall include the names of three Mediators. The recipient Parties shall collectively select one name from the list and advise the other Party of their selection within ten (10) days of receipt of the list. If the Parties are unable to select a Mediator from the list of Mediators provided, a Party can apply to the Court of King's Bench to have a Mediator selected.
- d. The Party that initiated the Dispute Resolution Process, must provide the Mediator with an outline of the Dispute and any agreed statement of facts within fourteen (14) days of the Mediator's engagement. The Parties must give the Mediator access to all Disclosed Information, records, documents and information that the Mediator may reasonably request.
- e. The Mediator shall be responsible for the governance of the Mediation process. The Parties must meet with the Mediator at such reasonable times as may be required and must, through the intervention of the Mediator, negotiate in good faith to resolve their Dispute. Time shall remain of the essence in pursuing Mediation, and Mediation shall not, without further written agreement of the Parties, exceed ninety (90) days from the date the Mediator is engaged.
- f. All proceedings involving a Mediator are without prejudice, and, unless the Parties agree otherwise, the cost of the Mediator must be shared equally between the Parties actively involved in the Dispute.
- g. If a resolution is reached through Mediation, the Mediator shall provide a report documenting the nature and terms of the agreement and solutions that have been reached. The Mediator report will be provided to all Parties.
- h. If after ninety (90) calendar days from engagement of the Mediator, or longer as agreed in writing by the Parties, resolution has not been reached, the Mediator shall provide a report to all Parties detailing the nature of apparent impasse or Consensus.

4. Arbitration:

- a. In the event that Mediation does not successfully resolve the Dispute, within 14 days of receipt of the Mediator's written report the Parties agree to seek binding Arbitration in accordance with the Arbitration Act, RSA 2000, c A-43.
- b. The Party that initiated the Dispute Resolution Process shall provide the other Parties with written notice ("**Arbitration Notice**") specifying the subject matters

remaining in dispute and the details of the matters in Dispute that are to be Arbitrated. All Parties receiving the Arbitration Notice must respond to said notice.

- c. The Parties must, within fourteen (14) days of receipt of the Arbitration Notice, appoint a mutually acceptable Arbitrator to resolve the dispute by Arbitration. The Party giving such Arbitration Notice shall include the names of three Arbitrators. The recipient Parties shall collectively select one name from the short list and advise the other Party of their selection within ten (10) days of receipt of the list. If an Arbitrator is not selected from the list of Arbitrators provided, a Party can apply to the Court of King's Bench to have an Arbitrator selected.
 - d. The Arbitrator shall conduct the Arbitration in accordance with the commercial arbitration rules (the "**Rules**") established from time to time by the ADR Institute of Canada Inc., unless the Parties agree to modify the same.
 - e. The Arbitration Act, RSA 2000, c A-43 shall apply to all Arbitrations but if there is a conflict between the Rules and the provisions of the Arbitration Act, RSA 2000, c A-43, the Rules shall prevail.
 - f. Any Arbitration shall be conducted in the English language.
 - g. The Arbitrator shall proceed to hear and render a written decision concerning any Dispute within:
 - i. forty-five (45) days, if the subject matter of the Dispute is less than \$50,000.00; or
 - ii. one hundred and twenty (120) days, if the subject matter of the Dispute is greater than \$50,000.00.
 - h. The Arbitrator has the right to award solicitor-client costs against the unsuccessful Party and to award interest but does not have the right to award punitive, consequential or other exemplary damages.
 - i. The Arbitrator's decision is final and binding but is subject to appeal or review by any court of proper jurisdiction.
 - j. The cost of Arbitration must be shared equally between the Parties actively involved in the Dispute.
 - k. A written report of the Arbitrator's decision will be provided to all Parties.
 - l. Arbitration shall take place in the City of Edmonton, Alberta.
5. **Disclosed Information:** all Disclosed Information shall be treated as confidential and neither its delivery nor disclosure shall represent any waiver of privilege by a Party disclosing such Disclosed Information. Subject only to the rules of discovery, each Party agrees not to disclose the Disclosed Information to any other Person or for any other purpose. Such Disclosed Information cannot be used in any subsequent proceedings without the consent of the Party who has made the disclosure. The Parties agree that any representative, Mediator and, if applicable, Arbitrator shall not be subpoenaed or otherwise compelled as a witness in any proceedings for the purpose of testifying with respect to the nature or substance of any Dispute Resolution Process that may arise in relation to any

matter that is a subject of this Agreement. Nothing in this dispute resolution procedure shall require a Party to disclose information that is subject to confidentiality provisions with third parties.

The Parties agree that there is a real risk that substantial damage to a Party's commercial interests may result if Disclosed Information is obtained by third parties in the event a Dispute becomes the subject matter of litigation. The Parties agree not to contest or oppose, directly or indirectly, an application by a Party to the court, that the court's file relating to such litigation, including this Agreement and supporting financial information, be sealed upon commencement of the litigation.

6. **No Litigation**: No Party shall commence litigation concerning a Dispute until the negotiation, Mediation and Arbitration processes have concluded. The Parties agree that during the time any Dispute is subject to the Mediation and Arbitration processes, the limitation periods set forth in the Limitations Act, RSA 2000, c L-12 shall be stayed. The limitation periods shall be reinstated once the Mediation and Arbitration terminates or is deemed terminated so that each of the Parties shall have the respective rights and remedies that were available to them before the commencement of these processes. Any Party may commence litigation on any date, if necessary, to preserve its legal rights and remedies if the commencement of litigation after that date would otherwise be banned by any applicable limitation period or if the commencement of litigation is otherwise necessary to prevent irreparable harm to that Party