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OFF-SITE LEVIES

UDI ALBERTA & CHBA – ALBERTA RECOMMENDATIONS

1. OVERVIEW

We want to express our appreciation for the work of Municipal Affairs staff throughout the consultation process on the individual regulations. Understanding the very tight timelines and need for inclusive discussion amongst a variety of stakeholders, this was a challenging task to complete. Throughout the process we have sincerely appreciated the opportunity to voice our concerns and engage directly with other stakeholders in helping to craft legislation that will hopefully benefit both industry and municipalities. While we do not yet know the outcome of these consultations or the contents of the regulations, we have felt heard and look forward to future opportunities to discuss the draft regulations once released.

In terms of the newly proposed development levies under Bill 21, our industry always has concerns with additional costs being downloaded from municipalities onto new home buyers. Fees and levies are ultimately paid for by home buyers which impacts housing affordability across a municipality. While we have concerns with the impact these levies will have on housing affordability, the use of a proportional criteria for determining when and how much levy can be applied is a fair approach. This approach correctly recognizes that these new facilities benefit all residents, not just new home buyers.

The following document highlights some proposed principles and criteria, along with supporting rationale, we would recommend for inclusion in the *Principles and Criteria for Off-Site Levies Regulation*. Attached you will find some preliminary language to support the ideas put forward in the subsequent sections.

2. KEY PRINCIPLES & CRITERIA

2.1 Scope of Levies

The scope of levies is largely determined by the MGA with further articulation coming through the *Principles and Criteria for Off-Site Levies Regulation*. Under the existing MGA, levies can be charged by municipalities for new or expanded facilities / infrastructure for water, sanitary sewer, roads and stormwater. Under Bill 21 (the Modernized Municipal Government Act), municipalities are also enabled to charge offsite-levies for new or expanded:

- Community recreation facilities;
- Fire halls;
- Police stations; and
- Libraries.



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The major difference between the existing and proposed off-site levies is that the new levies will only be applicable when it is determined that the occupants of the land where the levy is being imposed will receive at least 30% of the benefit of the facility.

Further articulation is required within the regulation to ensure that levies collected are used in the appropriate manner and for the appropriate facilities. The following outlines key principles and criteria designed to meet the overall intent of the proposed levies:

(a) Core Purpose

The intent of the new levies is to collect funds for the construction of recreation facilities, police stations, fire halls and libraries that directly benefit the lands paying the levy. It is critical that the regulation clearly outline the core purpose of these facilities and stipulate funds are not to be used for amenities or other ancillary features not needed to achieve the use the facility is designed to support. For example; public art, training facilities, enhanced building design standards (i.e. LEED) or other non-essential enhancements are not necessary for these facilities to serve the intended purpose. If a municipality desires elements that go beyond the core purpose / function of these facilities, it should be funded by the general tax base; not new home buyers within a specific community.

(b) Definition of Community Recreation Facility

While this may be adequately addressed through other recommendations it would be beneficial for the regulation to outline the purpose and intent of community recreation facilities from the province's perspective. Our understanding is that the intent is for indoor structures designed to provide recreation facilities and not open space or parks. Some clarity in the regulation would help ensure that municipalities and industry are on the same page.

(c) Accessory Uses

Recreation facilities often incorporate restaurants, shops, private training facilities and other accessory uses that do not provide recreation services to the general public. While we understand it is desirable to have these uses within recreation facilities, their construction should not be funded by levies and thereby new home buyers. Municipalities generate commercial profits from these accessory uses and it would be inappropriate to expect new home buyers to fund the construction of these spaces. If space is constructed with the intent of generating profit, this should be funded by the general tax base. The only reasonable alternative would be for the municipality to share any profits with those who paid the levy which we understand is not necessarily a feasible solution.

(d) Facilities / Components with Regional Benefit

Through the consultation process on this regulation it was evident that facilities may in many scenarios feature components designed to be of regional benefit. This would include the following:

- Ice rinks within community recreation facilities are typically used by residents from across the city and often times neighboring municipalities;



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- Training, data management, regional / community-wide detention facilities or storage associated with fire halls or police stations; and
- Increased facility size due to shared use agreements with adjoining municipalities.

Based on the discussions at the stakeholder sessions it is our understanding that all the attendees recognized that facilities such as the above are focused more on providing municipal-wide or regional benefit versus a direct benefit to the local neighbourhood. While elements that can be attributed to being directly for local benefit are the focus of these levies, components of facilities designed to serve the entire municipality and/or region should be excluded from the levy and funded by the general tax base. This can be recognized in the regulation in one of two ways:

- i. Prior to establishing or collecting a levy for recreation facilities, municipalities must be required to prepare a conceptual design which separates features designed for direct community benefit and those designed to provide a regional benefit. The costs and formula for calculating the levy would need to exclude any regional elements; or
- ii. Establish baseline sizes or costs for standard fire halls, police stations, community recreation facilities and libraries at the provincial level.

(e) Establishment of Basins for Individual Facilities

While more detail is required specific to how to determine basins and benefitting areas (see section 2.4), a core principle surrounding the scope of the new levies must be that they are calculated based on defined basins. Without a defined basin, the calculation and determination of percent benefit will not be clear.

(f) Size and Design of the Building

In establishing the overall scope for facilities covered under the new offsite levies it is important that the regulation stipulate or require that municipalities identify the cost of base facilities. The levies are designed to fund facilities that are necessitated by and for the benefit of new communities. Through the regulation the province needs to ensure that the scale and design of these facilities is reasonable and cost-effective. While difficult to establish through regulation, providing a principle and criteria related to this will allow applicants to appeal these costs to the Municipal Government Board, Subdivision and Development Appeal Board and/or the Court of Queen's Bench. Providing the ability to appeal the scale and design of these buildings (if they go beyond what is required to serve the intent of the regulation) will encourage municipalities to work with applicants in establishing fair and reasonable levy amounts.

2.2 Cost / Benefit

A key component of the new levies being proposed under Bill 21 is that while municipalities can charge levies for police stations, fire halls, community recreation centres and libraries, the amount of the levy must be proportional to the amount of benefit the development receives. This is an important principle as it correlates the levy cost to the benefit received and recognizes that



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municipalities as a whole benefit from these facilities. The following outlines an overview of recommended principles and criteria to further articulate the intent of the new levies:

(a) Levy Amount to Equal Benefit

If the 30% benefit is achieved, levies can only be charged to a maximum of the commensurate percentage of benefit achieved by the development. For example, if it is determined that a development will receive 52% of the benefit, the maximum amount of the levy would be 52%. We understand this is the intent of the policy implemented in Bill 21 however it is somewhat unclear based on the existing language. It is critical that this be clarified either in the MGA or in this regulation.

(b) Achieving Benefit in a Timely Manner

A major challenge with collecting levies on lagging infrastructure is ensuring the residents who pay for it actually receive the benefit of the facility in a timely manner. If residents of a specific community are paying substantial levies to fund a community recreation facility, there needs to be the expectation that the municipality will actually build it in a timeframe that will allow them to benefit from it. Without this clear stipulation in the regulation there is the risk that money collected from these levies does not result in the actual construction of new facilities.

We understand that providing hard and fast timelines for municipalities on these items could prove challenging from a budgetary standpoint. In balancing the need to provide some flexibility to municipalities while ensuring facilities get built in a reasonable timeframe, we suggest the following requirement within the regulation:

Once 50% of development within a basin has been complete, municipalities have 2 years to begin construction and 4 years to complete construction of any facilities they have been collecting levies on.

In collecting levies for this infrastructure it is anticipated that municipalities will be required to prepare cost estimates and preliminary designs for the facilities. As part of this they should be able to determine how much of the money will be collected by levies and how much will need to be paid for by the general tax base. Given it will take a number of years to achieve 50% completion of most basins, it provides a number of years for municipalities to save the necessary tax revenue to fund the remaining portion of these facilities.

(c) Over Collection of Levies

There are a number of past and present instances where municipalities have substantially over collected levy funds relative to the cost of the infrastructure they actually built. This occurs due to a couple of reasons:

- Municipalities include substantial contingencies (well beyond contingencies considered standard industry practice) in their infrastructure cost estimates which drive up the levies considerably; or
- A municipality has failed to keep its levy bylaw, calculations and figures current resulting in inaccurate levy amounts.



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In either scenario the municipality simply keeps any additional funds and spend it as if it were general revenue. In many ways, the current system actually encourages municipalities to overcharge. While a number of our other recommendations may help address this, the regulation should include a criteria that municipalities must repay any additional (over collected) levy funds in a manner proportional to the collection of the funds.

2.3 Who Pays & When

Under the new levy structure, municipalities will be collecting levies for immediate infrastructure such as roads, water and sewer and lagging infrastructure such as community recreation facilities, police stations and fire halls. The immediate infrastructure is necessary, in most cases, for development to proceed while the lagging infrastructure is not needed with the same expediency. The following recommendations reflect the timing and need of these varying infrastructure in an effort to achieve greater transparency and reduce financing costs:

(a) Timing of Levy Payment

The timing of levy payment, and therefore who pays the levy, should be connected to the type of infrastructure / facilities being constructed. If infrastructure is needed at the time a new lot is serviced (arterial road, water mains, sanitary sewers, storm sewers), then the levy should be charged determined at time of development (i.e. subdivision approval) and paid out over time.

Facilities contemplated under new levies (lagging infrastructure) will be constructed at a later date and requiring payment at the time of building / development permit will help reduce overall cost burden on new home buyers. Levies paid at the subdivision stage are typically financed by the developer who must pay interest until they have sold lots for construction. Then a home builder typically finances this cost again once they buy lots for construction. Finally, a new home buyer finances the levy through their mortgage when they purchase the home. By charging levies at the development / building permit stage for the individual homes, you will be reducing the required financing and ultimately the impact of these levies on the cost of homes.

Charging levies closer to the end user has the added benefit of being more transparent. In practice, there would likely be a line item on any development / building permit fee highlighting the amount of the levy. A levy charged at the subdivision approval stage is rarely if ever seen by the home buyer given it is simply rolled into the overall cost of the building lot and eventual home. If home buyers are more cognizant of these costs being levied against their home, they will likely take a greater interest in seeing that the facilities are built in a timely manner.

(b) Preventing Double-Taxation

With the pay by proportion of benefit structure established by the province for the new levies, municipalities will in many cases be responsible for funding portions of these facilities. This will presumably be done through money collected by municipalities through property tax. Based on this scenario, a new home buyer would be paying for this



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infrastructure twice; once through a direct levy and a second time through their property taxes. Municipalities should be required to provide property tax credits or reductions to residents who have been levied when they intend to use property tax revenue for the construction of facilities. No one person or family should have to pay twice.

(c) Charging All Development Equally

Charging certain forms of development levies while exempting other forms of development has become an increasingly popular tool for municipalities to encourage their 'desired' form of development. If they want to encourage one form of development, they waive levies requiring the entirety of the tax base to fund infrastructure. If they would like to discourage a specific form of development, they increase fees and levies to make it less affordable. The purpose of the proposed levies is to ensure that new developments contribute to the funding of new police stations, fire halls, community recreation facilities and libraries that are needed to accommodate the new / growing population. If this is the case, municipalities should be required to charge this levy to all applicable developments, regardless of its built form or location.

2.4 Basin / Benefitting Area

Based on the reasonable 30% threshold established by the province through Bill 21, it will be critical for municipalities to establish defined basins for each of the new facility types and their associated levy. Without a clear and fair system of basins it will be impossible to accurately determine the degree of benefit an individual project receives. The following outlines our specific recommendations on basins:

(a) Establishing Clear Basins

Municipalities must establish a series of basins for the various facilities in order to establish where levies for lagging infrastructure will be administered. Without clearly defined basins it will be extremely difficult to compare specific projects against the required 30% benefit or determine the exact amount of a levy an individual applicant(s) should pay.

Due to the differing nature of the facilities, basins will vary and we would recommend the following criteria for determining them. While basins for recreation centres, libraries and potentially police stations can be determined through projected populations / densities in new development areas, fire halls require a different method. Most municipalities determine the location for new fire halls based on response times. This is a reasonable approach in determining where and when new fire halls are required and should be legislated at the provincial level. The regulation should clearly state that basins for fire halls be determined based on response times as identified in the *Alberta Building Code*. Allowing municipalities to determine their individual response times and thereby basins will risk municipalities manipulating this figure to ensure that the 30% threshold is met more often than not.

(b) Providing Clarity to Applicants

In identifying basins for these facilities it is anticipated that municipalities studies to determine their location, overall size and how the 30% benefit will be calculated. It is



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important that this information be included in the levy bylaw so that industry has an opportunity to understand the process from the onset and appeal the rationale behind the decision if the formula or overall method is flawed. This establishes a safeguard which will limit the ability for municipalities to manipulate basins in an effort to ensure they always achieve the 30% benefit.

2.5 Accountability & Transparency

Accountability and transparency are a central theme to the Modernized Municipal Government Act and something our associations have been strong advocates of. The following recommendations would, with the exception of (c), apply to all levies and are designed to provide additional clarity and accountability to the calculation and collection of levies:

(a) Open Disclosure of Formulas and Calculations

A challenge faced by industry with existing levies is that the formulas and calculations used to determine levy amounts are not disclosed by many municipalities. This lack of transparency makes it difficult for industry to understand or even provide input into the process that requires them to pay substantial amounts of money. In keeping with the overall theme of transparency contained within the Modernized Municipal Government Act, the regulation should require municipalities to disclose all calculations, data and formulas used to calculate all levy amounts. This policy should apply to both the existing and newly proposed levies.

(b) Keeping Information Current

While some municipalities update their levy bylaws on an annual basis, many do not and simply do a review every five years. This creates two key issues:

- Figures and data are not kept up-to-date which typically leads to levies either being over or under collected. When levies are under collected for a period of time, municipalities are then often forced to substantially increase levy amounts upon their next review which directly impacts the cost of housing; and
- It limits the ability for an applicant to challenge or appeal the levy bylaw if they believe the contents of the bylaw are either incorrect or inconsistent with the legislation.

While we understand that it would be a challenge for municipalities to undertake a comprehensive review every single year, municipalities should be updating their bylaw annually to reflect any changes to inflation and/or the Consumer Price Index. This is not an arduous task and is in the best interest of municipalities. It also allows applicants and residents to potentially appeal the bylaw should they notice issues through application on a specific project. This policy should apply to both the existing and newly proposed levies.

(c) Spending Funds Where They Were Collected

Under the existing levy structure there is no requirement for municipalities to transparently collect and spend levy funds for the purpose in which it was paid for. That means you could contribute substantial funds for a wastewater treatment plant in one portion of a municipality only for it to be spent on water and sewer infrastructure on the other side of a



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municipality. Given that levy funds are often placed directly into a municipality's general revenue there is no accountability as to where or how this money is spent. It is critical that municipalities actually spend the levy funds collected within the basin they were collected from. This will ensure that once the required threshold / trigger for the facility has been met that the appropriate funds are there to actually construct the facility.

(d) Levy Reporting

In an effort to enhance accountability and transparency municipalities should be subject to annual reporting on multiple aspects of levies:

- Total levies collected within a basin based on the facilities they were collected for;
- If any levy funds were spent, what they were spent on;
- Any grants collected to fund facilities within the basin;
- Any interest gained from levy funds; and
- Area or number of units the levy was collected on and what percentage of the basin remains.

These requirements will ensure that municipalities remain informed on the status of their levy funds and will prevent them from placing levies in their general revenue. This will also serve as an annual reminder of how close to the trigger, referenced in 2.2(b), a basin is. This should help ensure municipalities are budgeting appropriately to see the construction of the facilities in a timely manner. This policy should apply to both the existing and newly proposed levies.

2.6 Appeals

The appeal process for levies currently lacks fairness for applicants as it provides them with only two, less than desirable, options: pay a levy that may be unlawful or have your project delayed by upwards of three years by taking it to the Court of Queen's Bench. The following recommendations are aimed at providing an increasingly fair process for applicants:

(a) Appeal of Levy Bylaw

It was proposed by municipalities that there should be a very limited appeal period following the enactment of a levy bylaw. This is highly problematic given issues are often not noticed until the levy bylaw has been applied on a few projects which often fall outside of the appeal period. Further compounding the issue is that many municipalities use the same bylaw for five or more years providing no future opportunity to appeal the bylaw to the MGB. The only remedy available to applicants is to appeal the matter to the Court of Queen's Bench which can take upwards of three years. Because of the cost and construction time lost through this route, few bylaws are appealed which allows municipalities to continue charging levies that are not in accordance with the MGA. There are two alternatives that would help remedy this situation:

- Require an annual update / amendment to the levy bylaw, as outlined in 2.5(b), which would allow for an appeal on an annual basis if the levy bylaw is not in accordance with the MGA; or



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- Do not limit the timeframe for appealing the levy bylaw.

This should apply to both the existing and newly proposed levies.

(b) Appeal of Individual Projects

Under the existing legislation applicants are able to appeal levies on specific projects to the local Subdivision and Development Appeal Board (SDAB). The regulation needs to stipulate that municipalities must enable SDABs to rule on matters of levy amounts contained within Subdivision Agreements. Some municipalities have directed their SDAB to not consider these matters which leaves applicants with only one option for remedy; take the matter to the Court of Queen's Bench. As previously outlined this process takes upwards of three years and is extremely costly due to legal fees and delayed construction which is why many applicants simply pay the levy, even if it is not fair or accurate. An alternative to this is outlined in 2.6(c). This policy should apply to both the existing and newly proposed levies.

(c) Holding Money in Trust

A major barrier to achieving an effective appeal process for individual projects is the time delay and substantial costs incurred because of this by taking matters to the Court of Queen's Bench. Delaying construction for upwards of three years has considerable financial implications on a project and generally result in applicants simply paying the levy even if it is not lawful. We recommend that the regulation stipulate any levy funds which are subject to an appeal be held in trust and require that municipalities allow the project to proceed. This policy should apply to both the existing and newly proposed levies.

3. SUMMARY

We hope the above and attached will provide the province with the necessary background, context and rationale in support of our recommendations. As an industry we are always sensitive to the creation of new fees or levies which will directly impact housing affordability. Through the creation of a proportional criteria in Bill 21, the province has provided an effective tool correlate cost to benefit. Our recommendations are focused on this broad intent while encouraging more accountability and transparency for the municipalities who are collecting substantial amounts of money in the form of levies. Please do not hesitate to contact us should you have any questions or require additional information.

Principles and Criteria for Off-Site Levies Regulation

Recommendations from UDI Alberta and CHBA – Alberta

Blue Text – Existing Language in the Regulation

Red Text – Proposed Text

1. Scope of Levies

Principles:

- 1) In preparing any bylaw related to development levies, municipalities shall provide clear language as to what specific infrastructures or facilities that levies are used to pay for. The scope of infrastructure and facilities a levy can be charged for are outlined in Section 648 of the *Municipal Government Act*.
- 2) A service basin(s) must be established by a municipality to identify the catchment / benefitting area for which the levy applies.
- 3) A levy can only be charged for core facilities that are required to service the catchment area, and not to augment the type of service for an entire municipality where the municipality is already deficient in these core facilities. Any specifications which are beyond this scope are not to be included in the levy.

Criteria:

- 1) Prior to enforcing an off-site levy a municipality shall define the basin(s) applicable to the specific facility as further outlined in Criteria 4(1).
- 2) Levies shall only be used to pay for the capital costs of a facility outline is Section 648(2.1) of the *Municipal Government Act*. Additional functions or features that go beyond the core purpose of a facility under Section 648(2.1), such as the following, shall not be funded through levies:
 - a) park space or other outdoor amenities;
 - b) public art;
 - c) training facilities;
 - d) retail space;
 - e) enhanced building design standards (i.e. LEED);
 - f) purchase of land for recreation facilities (*unless recreation facilities is better defined*); and
 - g) other amenities or building enhancements that are unnecessary for providing that core facility to the lands for which the levy is being applied.

- 3) For the purposes of this regulation, the scope of a community recreation facility is considered an indoor structure designed for the purposes of providing recreation facilities to those within the basin for which a levy is collected. Components of the facility designed to serve the entire municipality or region shall not be included in any levy.
- 4) Costs associated with providing space within community recreation facilities for accessory uses such as restaurants, retail stores, private clinics or private training facilities shall not be included in a levy.
- 5) Any incremental costs associated with the items outlined in criteria 1(1) shall be the responsibility of the municipality.
- 6) Levies shall not be collected or used to fund new or expanded facilities designed to serve an entire municipality unless the 30% benefit threshold is met.

2. Cost / Benefit

Principles:

- 1) There is a shared responsibility between the municipality and developers for addressing and defining existing and future infrastructure requirements and all beneficiaries of development are to be given the opportunity to participate in the cost of providing and installing infrastructure in the municipality on an equitable basis related to the degree of benefit.
- 2) If Municipalities are collecting levies they are required to construct these facilities in a defined and predictable timeline.
- 3) The responsibility to pay levies and amount required is based on the direct proportion of benefit the party will receive and shall be determined after any available grants are considered and applied against the common construction costs.

Criteria:

- 1) In determining the levy costs, the municipality is to retain the flexibility to negotiate the levy in good faith and in a transparent manner that recognizes the unique or special circumstances of the municipality.
- 2) There is to be a direct correlation between the levy and the impacts of new development.
- 3) The amount of the levy to be assessed on a development must be directly proportional to the benefit accrued by the development.
- 4) No levy shall be charged where the benefit to the subject land / development is less than 30%.

- 5) Where the levies to be collected represent a portion of the total infrastructure facility cost, the municipality shall provide a statement identifying the other sources of funding, amounts and timing.
- 6) Following complete development of a maximum of 50% of the basin for which the levy is being collected, municipalities have 2 years to commence construction and 4 years to complete construction on facilities and/or infrastructure they are collecting levies for.
- 7) In the event that the levies are over collected or the facilities / infrastructure is not built, municipalities shall repay any additional funds in a manner proportional to the collection of the funds.

3. Who Pays and When

Principles:

- 1) The timing of levy payment, and therefore who pays the levy, is connected to the type of infrastructure / facilities being constructed.
- 2) The investment in infrastructure should be made transparent and predictable by way of a strategy that does not solely rely on a levy mechanism as a funding source.

Criteria:

- 1) If infrastructure is needed at the time a new lot is serviced (arterial road, water mains, sanitary sewers, storm sewers), then the levy shall be determined at time of subdivision approval and paid out over time.
- 2) If infrastructure is not a necessity for residential or business occupancy, but comes at some time later when more of the neighbourhood is established (library, recreation centre, police station or fire hall) then a levy shall be charged at the time of development or building permit.
- 3) No levy can be passed that would create a situation where one group of land owners would be subject to double payment for the same infrastructure through both a levy and taxation.
- 4) A municipality shall not exempt any development from application of a levy where that party would be considered as benefiting from leviable infrastructure. To be more specific where infrastructure is required because of matters like population increase such as demand for recreation facilities then any new residential unit created within a municipality shall be subject to said levy.

4. Basin (Denominator) / Benefitting Area

Principles:

- 1) Basins must be clearly identified prior to adoption of any Levy Bylaw to identify benefitting areas that serve as the basis for calculating the 30% benefit.
- 2) Municipalities must provide clear information as to how basins, benefitting areas and the 30% benefit will be calculated.

Criteria:

- 1) Prior to enacting a levy bylaw, a municipality must provide clear information including technical reports, data and any research used by the municipality to determine:
 - a) basins / benefitting areas;
 - b) the information used to determine how the development met the 30% benefit threshold; and
 - c) the information used to determine the exact percentage of benefit that is accrued by the development.
- 2) The benefitting area's denominator, may be based on area (per hectare), or per unit where a per area calculation is not practical.

5. Accountability / Calculation / Reporting / Transparency

Principles:

- 1) There is to be full and open disclosure of all levy costs, payments and use of any funds collected through levies on an annual basis.
- 2) The method of data and calculation for the levy is to be clear, transparent, consistent and current.

Criteria:

- 1) The information used to calculate the levy is to be kept current and updated on an annual basis to reflect changes based on inflation or consumer price index. The value of any future work should be estimated in current dollars and municipalities shall not estimate the future cost of a facility.
- 2) The calculation of the levy is to include, but is not limited to:
 - a) a description of the specific infrastructure facilities;
 - b) a description of the benefitting areas;

- c) a calculation of the remaining area to be developed within the basin;
 - d) adjustments for inflation on an annual basis;
 - e) supporting technical data and analysis, ~~and~~
 - f) costs to-date;
 - g) revenues to-date;
 - h) income earned on any positive cash balances
 - i) carrying costs on outstanding debt
 - j) ~~estimated costs and mechanisms to address cost increases over time.~~ Estimated cost to complete.
- 3) Calculation of the levy is to be determined in consultation with affected landowners and developers. This would include, but is not limited to:
- a) the unit costs of infrastructure based on current market;
 - b) confirmation of scope of infrastructure projects; and
 - c) agreement on standards of each infrastructure element.
- 4) The annual adjustment for inflation by a municipality referenced in criteria 5(1) shall be approved by council resolution or bylaw amendment and shall be subject to potential appeal at the MGB.
- 5) The levy calculation must be done through a clear, understandable formula that is made publicly available and explained by the municipality.
- 6) Levy calculations shall transparently include any available grants or alternative funding sources that could be applied against the common construction costs (not enhancements beyond the core facility) to help reduce the levy.
- 7) Levies shall be subject to annual reporting requirements which include detailed accounting on:
- a) a project-by-project (*infrastructure or facility*) basis, the total funds collected through levies;
 - b) what the levies were spent on;
 - c) area (or units) the levy was collected on;
 - d) expected area (or units) left in the basin;
 - e) any interest charged to the levy account; and
 - f) any interest gained by the levy account.
- 8) Any over collection of money under a levy shall be refunded to the parties that paid the levy in the same proportions as the levy was paid. For clarity “the party that paid” is deemed to flow with the land so that the refund for a parcel that changes ownership between payment and refund will be made to the owner at the time of the refund.

6. Appeal of a Levy

Principle:

- 1) Applicants shall have a variety of appeal mechanisms available.

Criteria:

- 1) A levy bylaw may be appealed to the Municipal Government Board within 2 months of its enactment or any subsequent amendment.
- 2) Local subdivision and appeal boards shall hear matters of appeal related to levy amounts on specific projects.
- 3) On appeals to the Court of Queen's Bench on a levy amount a municipality shall hold the levy amount in trust and allow the development to proceed if it was otherwise approved.