

SUBDIVISION SERVICING AGREEMENT

THIS AGREEMENT is dated for reference the 15th day of August, 2013.

BETWEEN:

0805019 B.C. LTD., a British Columbia corporation having an office at
3707 Dollarton Highway, North Vancouver, B.C., V7G 1A1

(the "Owner")

AND:

**THE CORPORATION OF THE DISTRICT OF NORTH
VANCOUVER**, a municipal corporation having its office at 355 West
Queens Road, North Vancouver, B.C., V7L 4K1

(the "District")

OF THE SECOND PART

- A. The Owner is the registered owner of those lands in the District of North Vancouver legally described as:
- (a) That part of Lot 1 Lying West of Line Drawn Parallel to the West Boundary thereof and which Line Bisects the North Boundary of said Lot;
 - (b) Lot 1, except that part Lying West of Line Drawn Parallel to the West Boundary thereof and which Line Bisects the North Boundary of said Lot;
 - (c) Lot 2,
all of Block "K", District Lot 230 Plan Group 1 NWD Plan 7990
- (the "Lands");
- B. North Vancouver Development Servicing Bylaw No. 7388, (the "Development Bylaw") requires the provision of various works and services upon the subdivision of the Lands and regulates the standards to which such works and services must be constructed and installed;
- C. The Owner has applied to subdivide the Lands and has under section 940 of the *Local Government Act*, R.S.B.C, 1996, c.323 requested the District to enter into this Agreement in order to enable the approving officer to approve the subdivision before the construction and installation of all works and services required by the Development Servicing Bylaw;
- D. In addition, and in connection with the rezoning for the proposed residential development of the Lands, the Owner has voluntarily offered to provide certain amenities and contributions to the

District and to construct and install certain works and services in accordance with this Agreement, all of which will mitigate the community impacts of the proposed development;

- E. The Owner has agreed to grant and transfer to the District all its right, title and interest in and to the works and services required to be constructed and installed by the Development Servicing Bylaw to the District and the District has agreed to accept such transfer of the works and services on the terms of this Agreement.

NOW THEREFORE in consideration of the District entering into this Agreement to allow the construction and installation of the works and services after the approval of the subdivision of the Lands, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged by the Owner, the Owner covenants and agrees with the District as follows:

ARTICLE 1

INTERPRETATION

1.1 Definitions. In this Agreement the following terms have the following meanings:

- (a) "Approving Officer" means the approving officer in and for the District or his or her designate;
- (b) "Certificate of Substantial Completion" means the certificate issued by the Developer's professional engineer upon the satisfactory completion of the Works, which said certificate must be accepted by the Municipal Engineer pursuant to Section 4.4;
- (c) "Completion" means completion of the Works as evidenced by acceptance of the Certificate of Substantial Compliance by the Engineer;
- (d) "Council" means the elected council of the District;
- (e) "Deposit" has the meaning given to it in section 2.1(c) herein;
- (f) "Development Covenant" means the section 219 covenant dated for reference August 15, 2013, between the Owner and the District to be registered in the Lower Mainland Land Title Office concurrently with registration of the Subdivision Plan, and required by the District as a condition of the rezoning to permit the proposed residential development of the Lands;
- (g) "Development Permit" means Development Permit No. 005.08 issued by the District on September 14, 2009;
- (h) "Engineer" means the individual appointed by the Council to act as the municipal engineer for the District for the purposes of the *Land Title Act*, R.S.B.C., 1996 c.250, or such other person as from time to time may be duly authorized to act in his stead by the Council or the Engineer

- (i) “Engineering Drawings” means the specifications and drawings, prepared by the Owner’s consulting engineer, showing on site and off site infrastructure requirements as referenced in Schedule “B” as will be modified under section 2.2 and as may be further amended from time to time pursuant to subsections 2.3(b) or 2.3(c) herein; and
- (j) “Environmental Law” means all federal, provincial, municipal or local laws, statutes or ordinances relating to environmental matters, including all rules, regulations, policies, guidelines, criteria or the like promulgated under or pursuant to any such laws;
- (k) “Hazardous Substances” means a contaminant, pollutant, dangerous good, waste, toxic substance, or hazardous substance as defined in or pursuant to any Environmental Law and coming into existence or migrating to or from the Park Parcel before the date a *Land Title Act* Form A transfer transferring the Park Parcel from the Owner to the District is accepted for registration at the Lower Mainland Land Title Office;
- (l) “Landscaping Drawings” means the specifications and drawings, prepared by the Owner’s consultants, as referenced in Schedule “C”, including without limitation the Park Works, as may be modified under section 2.2 and as may be further amended from time to time pursuant to subsections 2.3(b) or 2.3(c) herein;
- (m) “Park Parcel” means Parcel C Block K District Lot 230 Group 1 NWD Plan to be created by deposit of the Subdivision Plan and transferred to the District in fee simple pursuant to the Development Covenant;
- (n) “Park Works” means those portions of the Works pertaining to the Park Parcel and the Road Allowance and shall include all site preparation work and landscaping required by the Municipal Engineer for the safe public use of the Park Parcel and for the construction, installation and the safe public use of the pedestrian path located on the Park Parcel;
- (o) “Riparian Area Planting” means the planting specified in the Landscaping Drawings for the riparian area;
- (p) “Road Allowance” means the municipal road end immediately adjacent and to the west of the Land, as shown on the Subdivision Plan;
- (q) “Site” means the Lands except the portion thereof constituting the Park Parcel;
- (r) “Subdivision Plan” means the subdivision plan attached as Schedule “A” hereto;
- (s) “Subdivision Requirements” means the requirements imposed by the Approving Officer (by means of his authority under the *Land Title Act*), the Council (by means of any applicable Development Permit) and the District (by means of the Servicing Bylaw) and all other requirements imposed under and Bylaws of the District (as the same may be amended from time to time) that stipulate, affect, control or regulate the construction and installation of subdivision servicing requirements; and
- (t) “Works” means the Subdivision Requirements and all other works and services to be provided, performed and constructed by the Owner as required by all applicable

enactments, this Agreement, the Development Covenant and the Development Permit, and, without limitation, includes all of the works and services described in the Engineering Drawings, the landscaping described in the Landscaping Drawings, the Park Works, the Riparian Area Planting, installation of utilities and utility connections, and all testing, examinations, inspections, and certifications required by the Engineer in connection with said works and services.

- 1.2 Where officers or department heads of the District are referred to in this Agreement it shall mean the individual appointed by Council or the District Manager to fulfil such role or such other person as from time to time may be duly authorized to act in that person's stead.
- 1.3 Schedules. The following schedules are annexed to and form part of this Agreement:

Schedule "A" – Plan of Subdivision
Schedule "B" – Engineering Drawings
Schedule "C" – Landscaping Drawings
Schedule "D" – Construction Schedule
Schedule "E" – Sketch Plan of Riparian Area to be Maintained by Owner for 3 Years

ARTICLE 2

COVENANTS OF THE OWNER

- 2.1 The Owner covenants and agrees:
- (a) to install, construct and complete the Works;
 - (b) to pay to the District in advance upon execution of this Agreement a non-refundable administration and inspection fee in the amount of **\$23,804.49**;
 - (c) as security for the due and proper performance by the Developer of all of the covenants, agreements and obligations of the Developer in this Agreement, the Developer has deposited with the District either by cash or letter(s) of credit:
 - (i) the sum of **\$349,321.88** for all components of the Works, excluding the landscaping works in Schedule "C"; and
 - (ii) the sum of **\$380,699.81** for all landscaping components of the Works including the Works listed as landscaping works in Schedule "C";(collectively, the "Deposit");
 - (e) that the Deposit, less the amount required to be retained by the District pursuant to subsections 5.1(f) to (h), will only be returned to the Owner upon completion of the Works in strict conformance with this Agreement; and

(f) that no interest on the Deposit shall be paid to the Owner.

2.2 The Owner acknowledges and agrees that, as of the reference date of this Agreement, the plans and specifications referenced in Schedule B herein have not been accepted by the Engineer and the Owner covenants and agrees:

(a) not to commence the construction or installation of any of the Works:

(i) until the Engineer has accepted the detailed plans, specifications and drawings for the Works; and

(ii) without first advising the Engineer in writing at least five days before commencement; and

(b) after notifying the District and before commencing construction and installation of the Works to deliver a letter to all owners and occupiers of properties that are immediately adjacent to the Lands advising of the date that construction and installation of the Works will commence, describing in general terms the nature of the Works and providing the name and telephone number of the Owner's contact;

(c) to expeditiously make all changes reasonably required by the Engineer to the detailed plans, specifications and drawings referenced in Schedule "B"; and

(d) upon the Engineer's acceptance of the detailed plans, specifications and drawings for the Works every reference to the Engineering Drawings in this Agreement will be deemed to include said accepted detailed plans, specifications, and drawings.

2.3 In carrying out the Works, the Owner covenants and agrees:

(a) to construct, install and complete the Works as designed and to the specifications set out in the Engineering Drawings and the Landscaping Drawings and in accordance with the Subdivision Requirements and the Construction Schedule and to the District's standards for the Works and to the satisfaction of the Engineer;

(b) to obtain prior written approval of the Engineer for any changes to the Engineering Drawings and to obtain prior written approval of the Director for any changes to the Landscaping Drawings;

(c) to comply with any changes to the Engineering Drawings required by the Engineer as necessary to satisfy the Engineer that the Works will function and operate in a manner satisfactory to the Engineer, acting reasonably and to comply with any changes to the Landscaping Drawings required by the Engineer as necessary to satisfy the Engineer that the landscaping portions of the Works will function and operate in a manner satisfactory to the Director, acting reasonably;

(d) to pay when invoiced, all costs, fees and charges imposed by the District in relation to services it provides to the Owner of the Lands in relation to the Works including, without limitation, the cost of all necessary connections by the District of the Works to the

District's water distribution, storm drainage and sewerage systems as the case may be and the cost of performing other administrative services that the District commonly charges;

- (e) to pay when invoiced all inspections and testing costs actually incurred by the District when the Engineer requires inspection and testing in addition to or in substitution for the inspection and testing provided by the Owner in order to certify that the Works are constructed and installed in accordance with the Subdivision Requirements;
- (f) not to damage any municipal works, services or property or remove, alter or destroy any survey pins, or posts, and if in default to replace, repair and restore any damage of whatever nature to the reasonable satisfaction of the Engineer;
- (g) to comply with all statutes, laws, regulations and orders of any authority having jurisdiction and, without limiting the generality of the foregoing, all bylaws of the District;
- (h) to not deposit or permit the deposit of any material or debris upon any highways or District land except as may be approved in writing by the Engineer;
- (i) to retain at all times a professional engineer to provide competent survey, layout and on site supervision to ensure that the works strictly conform to Engineering Drawings and to record the details of any field design or construction changes to the Engineering Drawings and to record all of the geometric information for preparation of "as constructed" drawings. No underground works shall be covered or trenches backfilled without inspection and approval by the professional engineer and without adequate as-constructed information being obtained, including line and grade of buried works;
- (j) to advise the Engineer of the name and address of the professional engineer retained by the Owner and to ensure that such professional engineer maintains professional liability and errors and omissions insurance of not less than \$2,000,000.00 per occurrence during the term of his or her engagement. The Owner's engineer shall provide proof of such insurance before the Owner commences the construction and installation of the Works;
- (k) not to employ any person or contractor in the construction of the Works who, in the reasonable opinion of the Engineer or the Owner's professional engineer is unfit, incapable or unskilled, and at all times, in connection with the execution of the Works, to employ and keep on site a competent general work superintendent capable of speaking, reading and writing the English language. Any explanations, directions or requests given by the Engineer to the Owner's professional engineer shall be conclusively deemed to have been given to the Owner;
- (l) provide traffic signs, markers, barricades, and flag persons as required under applicable enactments, including District bylaws and the Province of British Columbia Traffic Control Manual for Works on Roadways, to permit the safe flow of local traffic through the construction area with as little disruption and nuisance to the public and adjacent landowners as is reasonably possible, or in the event the same are provided by the District, to pay the cost thereof; and

- (m) not to engage any contractor in respect of the Works unless the contractor holds a valid and subsisting business licence issued by the District.
- 2.4 Nothing in this Agreement shall exempt the Owner or the Lands from the ordinary jurisdiction of the Council, its bylaws and regulations, and without limitation the construction of the Works shall not confer directly or indirectly any exemption or right of set-off from development cost charges, connection charges, application fees, user fees or other rates, levies and charges payable under any bylaw of the District, except as statutorily required.
- 2.5 The Owner shall prosecute the work contemplated by this Agreement diligently and shall complete all of the Works, as evidenced by a Certificate of Substantial Completion issued by the Owner's professional engineer and accepted by the Engineer under section 4.4, by:

 - (a) no later than December 31, 2014 in respect of the Works, other than landscaping components of the Works;
 - (b) no later than December 31, 2014 in respect of the landscaping components of the Works, unless other completion dates are expressly set out in this Agreement or agreed to in writing by the Engineer.
- 2.6 The Owner acknowledges and agrees that the Owner relies exclusively on its own engineer and contractor and that the District does not, by its approvals, inspections or acceptance of the Works, warrant or represent that the Works are without fault or defect and that all approvals and inspection of the Works given or made by the District are for the sole benefit of the District and shall in no way relieve or excuse the Owner from constructing and installing the Works in strict compliance with the provisions of this Agreement.
- 2.7 Upon completion of the Works, the Owner covenants and agrees:

 - (a) to assign to the District all of its right, title and interest in and to the Municipal Works free and clear of all encumbrances;
 - (b) to grant or cause to be granted to the District in registrable form all statutory rights of way reasonably required by the Engineer for the operation, maintenance, repair and replacement of the Works on such terms as are satisfactory to the Engineer, acting reasonably;
 - (c) to execute and deliver or cause to be executed and delivered at the request of the District all such further transfers, instruments, agreements, documents and plans and to perform all such acts as may be necessary to give full effects to this Agreement; and
 - (d) to deliver to the District final as-constructed drawings of the Works which drawings shall be prepared by the Owner's professional engineer in accordance with good engineering practice and be in a form satisfactory to the Engineer.

- 2.8 In the event that Hazardous Substances are discovered on the Park Parcel during the construction, installation or maintenance of the Works, the Owner shall immediately notify the Engineer of that discovery and shall, at its sole cost and expense, take all steps necessary to remediate the Park Parcel to residential standards under the *Environmental Management Act*.

ARTICLE 3

THE DEPOSIT

- 3.1 Any letter(s) of credit provided by the Owner to the District as the Deposit shall be a clean and irrevocable letter of credit in favour of the District drawn on a Canadian chartered bank, trust company or credit union located in British Columbia and having an office or branch in West Vancouver, North Vancouver, Burnaby or Vancouver, and shall, unless the Engineer agrees to a shorter time period, be valid for a minimum of one year after the date of this Agreement (with provision for automatic renewals thereafter) and shall otherwise be in a form acceptable to the District of Finance of the District.
- 3.2 The Owner and the District agree as follows with respect to the Deposit:
- (a) the Owner will ensure that any letter of credit is replaced, and will provide evidence thereof satisfactory to the Engineer, not later than 21 days prior to an expiry date of the letter of credit;
 - (b) the District may draw upon any letter of credit at any time in the event of a default by the Owner of any of its obligations under this Agreement and may hold or use the proceeds in accordance with this Agreement; and
 - (c) any return of Deposit will be made to the Owner despite any change in ownership of the Land.
- 3.3 The Engineer may, in his discretion, acting reasonably, allow partial draw downs of the Deposit as the Works are completed, subject to the following provisos:
- (a) the amount drawn down shall be based on a progress report from the Owner's professional engineer;
 - (b) the portion of the Works for which the draw down is requested must be installed, tested, passed by the Owner and accepted by the Engineer prior to the Engineer allowing any draw down;
 - (c) no draw downs will be allowed unless and until the District has received a payment statutory declaration in relation to the completed portion of the Works in a form satisfactory to the Engineer;
 - (d) draw downs may not be made at intervals of less than 3 months and may not exceed 3 in any one calendar year;

- (e) a draw down in respect of a portion of the Works completed by the District may be made only upon payment of the invoice for that portion of the Works; and
 - (f) in no event shall the Deposit be drawn down to less than an amount that is equal to the sum of 40% of the initial Deposit.
- 3.5 The Deposit, or the portion remaining after the draw downs, if any, contemplated by section 3.4, less the amount required by Article 5 to be maintained, will be returned to the Owner if:
- (a) all of the Works are satisfactorily completed (except for the Deficiencies pursuant to section 4.3) as herein provided;
 - (b) the Owner pays all invoices of the District as herein required; and
 - (c) a Certificate of Substantial Completion for the Works has been accepted by the Municipal Engineer pursuant to Section 4.4.

ARTICLE 4

APPROVAL OF THE WORKS

- 4.1 The Municipality may, at any time and from time to time, enter onto the Lands to inspect the Works.
- 4.2 The Owner shall notify the District when the Works have been completed through issuance of a Certificate of Substantial Completion by the Owner's professional engineer. Within 30 days of receipt of notice from the Engineer that the Works or part thereof are defective, inoperative or not in accordance with the Engineering Drawings or the Landscaping Drawings, the Owner shall correct, modify or reconstruct the Works such that any defects are corrected and the Works are fully operative and functional in accordance with the Subdivision Requirements and in accordance with the Engineering Drawings and the Landscaping Drawings to the reasonable satisfaction of the Engineer.
- 4.3 The Engineer may, in his sole discretion and at his option, determine that certain portions of the Works, or certain defects in the Works, may best be remedied or built after Completion. In that event, these matters will be listed as deficiencies (the "Deficiencies") to be remedied or built by the Owner within the time period specified for such items by the Engineer.
- 4.4 The satisfactory completion of the Works pursuant to this Agreement (except for the Deficiencies pursuant to Section 4.3) shall be established only by confirmation by the Municipal Engineer in writing that he or she has received and accepted a satisfactory Certificate of Substantial Completion for the Works.
- 4.5 If the Owner fails to observe, perform or keep any of the provisions of this Agreement to be observed, performed or kept by the Owner, the District may at its sole discretion and without

prejudice to any other remedy rectify the default of the Owner, at the Owner's expense, and, without limiting the generality of the foregoing, may:

- (a) enter onto the Lands and do or cause to be done through its servants, contractors and others, all such things as may be required to fulfill the obligations of the Owner including without limitation, the completion of the Works; and
- (b) make any payments required to be made for and on behalf of the Owner,

and for such purposes may without notice or limitation deduct from the Deposit all costs, and expenses incurred, payments and expenditures made, and monies due and owing to the District, including an administrative fee payable to the Municipality in the amount of 20% of the costs incurred under subsections (a) and (b). The District may undertake the Works either by itself or by contractors engaged by it. For greater certainty, the District is under no obligation to complete any of the Works and may undertake any of the Works in whole or in part, in the District's discretion as to extent and timing of completion. Nothing in this section 4.5 limits the generality of section 3.2.

- 4.6 If the District incurs any costs and expenses or makes payments as provided in section 4.5 of this Agreement, or if the Owner is otherwise indebted to the District under this Agreement, and the Deposit is not sufficient to fully recompense the District, the Owner shall forthwith, upon notice from the District, pay to the District the amount of such deficiency together with interest thereon at 6% per annum calculated and compounded monthly from the date such cost or expense was incurred or payment or expenditure was made by the District. Such amounts required to be paid by the Owner shall constitute a debt due and owing to the District.

ARTICLE 5

MAINTENANCE AND DEFICIENCY DEPOSIT

- 5.1 The Owner covenants and agrees to:

- (a) maintain, and complete repairs of, all of the Works other than the Landscaping components of the Works for a period of one year from the Completion of all of the Works (the "Maintenance Period");
- (b) maintain the Landscaping components of the Works for a period of one year from the Completion of all of the said Landscaping, and replace any planting that should die or become diseased or damaged during said one year period;
- (c) maintain the Riparian Area Planting for a period of three years from the Completion of all of the said Riparian Area Planting, and replace any of the said planting that should die or become diseased or damaged during said three year period (the "Riparian Area Planting Period");

- (d) remedy any defects appearing within a period of one year from the date of Completion and pay for any damage to other works or properties resulting there from, save and except for defects caused by reasonable wear and tear, negligence of the District, its servants or agents, or acts of God occurring after the date of Completion;
- (e) complete all Deficiencies listed pursuant to section 4.3 to the satisfaction of the Engineer and within the time period specified by the Engineer or during such further period as the Engineer may allow;
- (f) keep deposited with the District for the Maintenance Period an amount equal to 15% of the portion of the Deposit set out in section 2.1(c)(i);
- (g) keep deposited with the District for the Riparian Area Planting Period an amount equal to 25% of the portion of the Deposit set out in section 2.1(c)(ii).
- (h) as security for its obligations under section 5.1(e), the Owner shall keep as a deposit for the Deficiencies with the District, for the period specified by the Engineer, a percentage of the initial Deposit, which said percentage shall be set by the Engineer in his sole discretion (the "Deficiency Deposit").

The Deposits under sections 5.1(f), (g), and (h) must be cash or letter(s) of credit, and any letters of credit must comply with Article 3 herein.

5.2 If the Owner fails to meet of any of its maintenance, replacement, repair, remediation or replanting obligations under subsections 5.1(a), (b), (c) or (d), or fails to attend to the Deficiencies or fails to remedy further defects as required by section 5.1(e), then the District may at its sole discretion and without prejudice to any other remedy, rectify the default of the Owner at the Owner's expense and without limiting the generality of the foregoing may:

- (a) enter onto the Lands and do or cause to be done through its servants contractors and others, all such things as may be required to fulfil the obligations of the Owner including without limitation, the maintenance of the Works, the remedying of any defects, and the completion of all deficiencies; and
- (b) make any payments required to be made for and on behalf of the Owner,

and for such purposes may without notice or limitation, deduct from the maintenance deposits referred to in subsections 5.1(f) and (g) or the Deficiency Deposit, as applicable, the costs, and expenses incurred, payments and expenses made, and monies due and owing to the District, including an administration fee payable to the District in an amount of 20% of the costs incurred under sub-sections (a) and (b). The District may undertake the Works either by itself or by contractors engaged by it. For greater certainty, the District is under no obligation to complete any of the Works and may undertake any of the Works in whole or in part, in the District's discretion as to extent and timing of completion. Nothing in this section 5.2 limits the generality of section 3.2.

- 5.3 The Engineer shall release the Deficiency Deposit upon completion of all Deficiencies, subject to the following requirements:
- (a) receipt of a report from the Owner's professional engineer certifying that the Deficiencies are complete; and
 - (b) the Deficiencies must be tested, passed and accepted by the District prior to the release of the Deficiency Deposit.

ARTICLE 6

RELEASE AND INDEMNITY

- 6.1 The Owner shall release, and will indemnify and save harmless the District, its elected officials, officers, employees, agents and others for whom the District is in law responsible from and against:
- (a) all costs and expenses (including legal costs on a solicitor and own client basis), damages, claims, demands, actions, suits and liability by whomever brought or made and however arising whether directly or indirectly, from the construction or installation of the Works and any injury or damage thereby caused to person or property (including death) except that arising from the exclusive negligence of the District;
 - (b) all costs and expenses (including legal costs on a solicitor and own client basis), damages, claims, demands, actions, suits and liability by whomever brought or made and however arising whether directly or indirectly, from a breach of this Agreement by the Owner;
 - (c) all costs and expenses (including legal costs on a solicitor and own client basis) incurred by the District arising directly or indirectly from any engineering operation, construction, repair, replacement or maintenance by the District to or on any real or personal property which is affected by the Works and which the District either owns or is by duty or custom obliged, directly or indirectly, to construct, repair, replace or maintain; and
 - (d) all costs and expenses (including legal costs on a solicitor and own client basis) incurred by reason of liens for non-payment of labour or material, workers' compensation assessments, employment insurance, or federal or provincial taxes in relation to Works and for unlawful encroachments by the Works arising from any cause including mistakes in surveying.

The indemnity contained in this Article 6.1 shall terminate upon the completion of the Maintenance Period or completion of all Deficiencies, whichever is later.

- 6.2 The Owner will further indemnify and save harmless the District, its elected and appointed officials, officers, employees, agents, contractors, licensees, invitees, agents and others for whom the District is in law responsible, from and against any and all losses, claims, costs, expenses, damages and liabilities, including all costs of defending or denying the same, and all costs of

investigation, monitoring, remedial response, removal, restoration or permit acquisition and including all professional advisors and consultants fees and disbursements in connection therewith which at any time may be paid or incurred by or claimed against the District, its elected and appointed officials, officers, employees, agents, contractors, licensees, invitees, agents and others for whom the District is in law responsible, arising, directly or indirectly, out of the presence, release or increase of any Hazardous Substance on the Park Parcel (or on any other land by way of migration, seepage or otherwise) or any reasonable action taken by the District with respect of the existence of or remediation for any such Hazardous Substance on the Park Parcel (or on any other land by way of migration, seepage or otherwise); or any reasonable action taken by the District in compliance with any notice of any governmental authority with respect to the existence of any such Hazardous Substance on the Park Parcel (or on any other land by way of migration, seepage or otherwise). This indemnity shall survive the expiration or earlier termination of this Agreement.

ARTICLE 7

INSURANCE

7.1 During the term of this Agreement the Owner shall, at its own expense, procure and maintain comprehensive general liability insurance in an amount equal to not less than \$5,000,000.00 pursuant to an insurance policy in a form and substance reasonably acceptable to the District and providing for coverage of the Owner and the District, in respect to any and all claims arising out of or connected with the following:

- (a) death of or injury to any person;
- (b) damage to or loss of use of property of any nature whatsoever of third persons; and
- (c) damage to or loss of buildings or improvements of any nature whatsoever related to, caused by or connected with the Works, or related to, caused by or connected with the carrying out of or the approval of the Works.

Every such policy of insurance shall provide that:

- (a) the District is named as an additional insured and shall contain a cross-liability or severability of interest clause so that the District and the Owner may be insured in the same manner and to the same extent as if individual policies had been issued to each; and
- (b) such policy cannot lapse, be cancelled or altered without less than 30 days' prior written notice to the Municipality.

7.2 The Owner shall provide to the District a certificate or certificates of the insurance procured pursuant to section 7.1 prior to commencing construction of the Works and shall provide to the District certified copies of such policies forthwith upon request by the Municipality.

ARTICLE 8

INSOLVENCY OF OWNER

- 8.1 Notwithstanding any other provision of this Agreement, the District shall be entitled to draw on the Deposit, the 10% Maintenance Deposit, and the Deficiency Deposit, to complete the Works or remedy any defects in the Works in the event that:
- (a) the Owner commits an act of bankruptcy, or makes a proposal or general assignment for the benefit of its creditors;
 - (b) an order is made or a resolution passed or petition filed for the liquidation or winding up of the Owner;
 - (c) a receiver or receiver-manager of the Owner of the Lands is appointed or any encumbrance-holder takes possession of the Lands or any part thereof; or
 - (d) the Owner defaults under the terms of the Agreement and fails or neglects to cure such default within 30 days notice of default from the District.

The Owner agrees that the Deposit, 15% Maintenance Deposit, and the Deficiency Deposit are not assets of the Owner and are not subject to any trust or other right or claim of the Owner, other than a contract claim expressly contemplated by this Agreement.

ARTICLE 9

COVENANTS OF THE DISTRICT

- 9.1 The District covenants and agrees that:
- (a) it will permit the Owner to perform the Works on the terms and conditions contained in this Agreement and to occupy and use District highways and District lands as necessary for the Works subject to terms and conditions in any case and from time to time as the Engineer may impose; and
 - (b) it will issue a Certificate of Final Acceptance upon the satisfactory completion by the Owner of all covenants and conditions in this Agreement, and without limiting the generality of the foregoing, including the maintenance of the Works constructed under this Agreement in complete repair during the Maintenance Period, provided that all Deficiencies have been remedied.

ARTICLE 10

GENERAL PROVISIONS

10.1 Workers' Compensation

- (a) The Developer is deemed the "prime contractor" for the purposes of all applicable occupational health and safety laws, including the *Workers' Compensation Act* (British Columbia), in relation to the removal, construction, installation and, where applicable, maintenance of the Works in accordance with this Agreement. The Developer will comply, and will ensure that all of its contractors and any subcontractors comply with all requirements in the *Workers' Compensation Act* (British Columbia) and any other occupational health and safety laws, applicable to the removal, construction, installation and, where applicable, maintenance of the Works in accordance with this Agreement.
- (b) The Developer is responsible for filing any documents necessary to comply with the *Workers' Compensation Act* (British Columbia). *Workers' Compensation Certification* will be maintained in good standing throughout the life of this Agreement. The District may at any time require the Developer to provide evidence of its compliance and compliance of any or all of its subcontractors with all requirements under the *Workers' Compensation Act* (British Columbia), or payment of assessments due under it to Worksafe BC - the *Workers' Compensation Board*, or both.
- (c) When required to do so by the District, the Developer will provide the District with evidence of its compliance and compliance of any or all of its contractors and any subcontractors under this and the preceding Section.

10.2 Wherever in this Agreement the approval of the Engineer or the Director is required or some act or thing is to be done to the satisfaction of the Engineer or the Director, as the case may be:

- (a) such provisions shall not be deemed to have been fulfilled or waived unless the approval or expression of satisfaction is in writing signed by the Engineer or the Director, as the case may be, and no prior approval or expression of satisfaction and no condoning, excusing or overlooking by the District or the Engineer on previous occasions when such approval or satisfaction was required shall be taken to operate as a waiver of the necessity for such approval or satisfaction wherever required by this Agreement; and
- (b) such approval or satisfaction shall be at the discretion of the Engineer acting reasonably in conformance with sound and accepted public Engineering practice.

10.3 Unless otherwise expressly provided in this Agreement, wherever the Owner is obliged or required to do or cause to be done any act matter or thing, such act, matter or thing shall be done by the Owner at its sole expense.

10.4 The Owner agrees under section 943 of the *Local Government Act* that all bylaws of the District adopted under Part 26 of the *Local Government Act* shall have effect in respect of the Lands and the subdivision of the Lands, provided that they are adopted before commencement of the

construction and installation of the Works. The Owner agrees that to the extent that such bylaws modify, alter or add to the requirements or standards for works and services of the type constituting the Works, the Owner shall comply with such modifications, alterations or additions in constructing, installing and carrying out the construction and installation of the Works. The Owner shall not, for the purpose of this section 10.3, have been deemed to commence construction and installation of the Works until five days after the notice required by section 2.2(a) of this Agreement.

- 10.5 All notice, directions and other communications required or permitted to be given by one party to another pursuant to this Agreement shall be in writing and delivered, faxed, or sent by registered mail postage prepaid and addressed as follows:

To the District:

The Corporation of the District of West Vancouver
355 West Queens Road
North Vancouver, BC V7N 4N5

Attention: Engineer
Fax: 604 925-5968

To the Owner:

0805019 B.C. Ltd.,
3707 Dollarton Highway
North Vancouver BC V7G 1A1

Attention: Nazir Ebrahim

or to such other address or facsimile number as may be specified by a party to the other in a notice given in the manner herein provided. Any such notice, direction or other communication will be deemed to have been received by the party to whom it was given:

- (a) on the day of delivery, if delivered;
- (b) on the day of transmittal thereof, if sent by facsimile; or
- (c) on the third business day following the mailing thereof, if mailed.

If normal mail service is interrupted by strike, slowdown, force majeure or other cause, then the party sending a notice, direction or communication will fax or deliver such notice, direction or communication in order to ensure its prompt receipt.

- 10.6 This Agreement shall not be assigned by the Owner without the prior written consent of the District which consent may be refused if the District is not wholly satisfied as to the financial, technical and managerial abilities of the proposed assignee to complete the terms hereof.

- 10.7 The Owner agrees with the District that the Owner will not be entitled to any latecomer payments under section 939 of the *Local Government Act*, as amended from time to time regarding any of the Works. Should the Owner's agreement under this section be unenforceable for any reason, the Owner hereby agrees pursuant to section 939(2) of the Local Government Act, that the latecomer period will be one day.
- 10.8 The District has made no representations, warranties, guarantees, promises, covenants or agreements to or with the Owner regarding the Works other than those in this Agreement and the Owner has made no representations, warranties, guarantees, promises, covenants or agreements to or with the District regarding the Works other than those in this Agreement .
- 10.9 Wherever the singular or masculine is used in this Agreement, the same shall be construed as meaning the plural or the feminine or the body corporate or politic where the context or the parties so require.
- 10.10 If any section or lesser portion of this Agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the invalidity of such section or portion shall not affect the validity of the remainder.
- 10.11 Time is of the essence to this Agreement.
- 10.12 This Agreement shall enure to the benefit of, and be binding upon the parties, their respective heirs, executors, administrators, successors and assigns.

Remainder of page intentionally left blank

10.13 This Agreement may be executed in any number of counterparts, all of which shall together be deemed to be and constitute one agreement. Execution of this Agreement may be made on copies transmitted by facsimile transmission and executed copies may be sent by facsimile transmission, and transmission of an executed copy shall be deemed to constitute communication of execution and acceptance of this Agreement.

IN WITNESS WHEREOF the parties hereto have set their hands as of the day and year first above written.

THE CORPORATION OF THE DISTRICT)
OF NORTH VANCOUVER by its authorized)
signatories:)

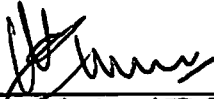


Mayor RICHARD WALTON)

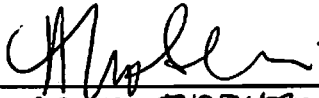


Clerk **Natasha Letchford**
Deputy Municipal Clerk
District of North Vancouver
Commissioner for taking affidavits in BC)

0805019 B.C. LTD.)
by its authorized signatories:)



Name: NAZIR EBRAHIM)



Name: ARZINA THOBHANI)

SCHEDULE "A"

Subdivision Plan

**BARE LAND STRATA PLAN OF LOT 'B',
BLOCK 'K', DISTRICT LOT 230, PLAN BCP**

SHEET 1 OF 4 SHEETS

DISTRICT OF NORTH VANCOUVER
BCGS 92G036

STRATA PLAN BCS

DEPOSITED AND REGISTERED IN THE LAND TITLE OFFICE
AT NEW WESTMINSTER, B.C.
DATE: _____

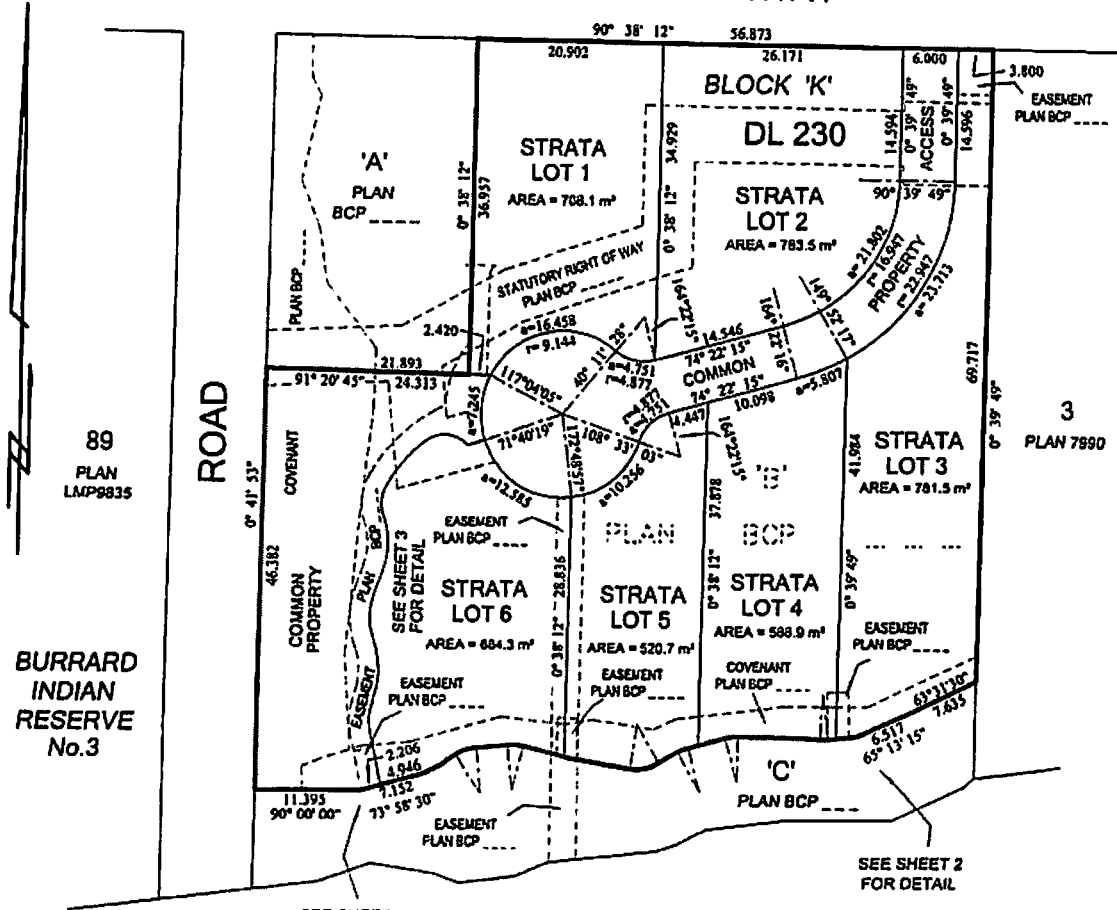


THE INTENDED PLOT SIZE OF THIS PLAN IS
280 mm IN WIDTH BY 432 mm IN HEIGHT (B SIZE)
WHEN PLOTTED AT A SCALE OF 1:500
ALL DISTANCES ARE IN METRES OR DECIMALS
THEREOF UNLESS OTHERWISE NOTED

REGISTRAR

CIVIC ADDRESS
DOLLARTON HIGHWAY
NORTH VANCOUVER, B.C.

DOLLARTON HIGHWAY



**BURRARD
INDIAN
RESERVE
No.3**

LEGEND

INTEGRATED SURVEY AREA No.16
DISTRICT OF NORTH VANCOUVER (NAD 83)(CSRS)
GRID BEARINGS ARE DERIVED FROM PLAN BCP
THIS PLAN SHOWS HORIZONTAL GROUND-LEVEL DISTANCES
EXCEPT WHERE OTHERWISE NOTED
TO COMPUTE GRID DISTANCES, MULTIPLY GROUND-LEVEL
DISTANCES BY COMBINED FACTOR 0.9995947

NQIE
THIS PLAN SHOWS ONE OR MORE WITNESS POSTS WHICH
ARE NOT SET ON THE TRUE CORNER(S)

I, A.K. WINTER, A BRITISH COLUMBIA LAND SURVEYOR,
CERTIFY THAT I WAS PRESENT AT AND PERSONALLY
SUPERINTENDED THE SURVEY REPRESENTED BY THIS PLAN,
AND THAT THE SURVEY AND PLAN ARE CORRECT. THE FIELD
SURVEY WAS COMPLETED ON THE ____ TH DAY OF ____ 2011.
THE PLAN WAS COMPLETED AND CHECKED, AND THE CHECKLIST
FILED UNDER #0000000, ON THE ____ TH DAY OF ____ 2011.

BURRARD INLET

LEGEND

- DENOTES STANDARD IRON POST PLACED
- DENOTES LEAD PLUG PLACED
- DENOTES STANDARD IRON POST FOUND
- DENOTES LEAD PLUG FOUND
- W DENOTES WITNESS
- m² DENOTES SQUARE METRES

APPROVED UNDER THE LAND TITLE ACT
THIS ____ DAY OF _____ 20__

APPROVING OFFICER
DISTRICT OF NORTH VANCOUVER

THIS PLAN LIES WITHIN THE
GREATER VANCOUVER REGIONAL DISTRICT

HOBBS, WINTER & MacDONALD
B.C. LAND SURVEYORS
113-828 HARBOURSIDE DRIVE,
NORTH VANCOUVER, B.C., V7P 3R9
TEL 604-986-1371 FAX 604-986-5204
EMAIL: admin@hwmsurveys.com

B.C.L.S.

S 519

FB. p. M 3028-23 NVD

SCHEDULE "B"

The Engineering Drawings

Description	Dated	Numbered	Prepared by:
Key Plan	April 9, 2013	DF8728	Creus Engineering Ltd.
Stormwater Management Plan	November 07, 2012	DF8729	Creus Engineering Ltd.
Signage	Feb 9, 2012	DF8731	Creus Engineering Ltd.
Roadworks – Road A	January 10, 2013	DF8732	Creus Engineering Ltd.
Waterworks	November 7, 2012	WF8234	Creus Engineering Ltd.
Sanitary Sewers	February 1, 2013	SF8036	Creus Engineering Ltd.
Sanitary Sewers Metro Vancouver Line	Jan 10, 2013	SF8037	Creus Engineering Ltd.
Storm Sewers	November 7, 2012	DF8733	Creus Engineering Ltd.
Cross Sections Road A	November 7, 2012	DF8734	Creus Engineering Ltd.
Cross Section Dollarton	April 19, 2013	DF8735	Creus Engineering Ltd.
Cross Section Dollarton	February 9, 2012	DF8786	Creus Engineering Ltd.
Cross Sections Trail	April 19, 2013	DF8737	Creus Engineering Ltd.
Cross Sections Trail	April 19, 2013	DF8738	Creus Engineering Ltd.
Cross Sections Trail	April 19, 2013	DF8739	Creus Engineering Ltd.
General Structural Notes	February 10, 2012	DF9380	David Nairne + Associates Ltd.
Bridge Plan, Elevation & Abutment Detail	February 10, 2012	DF9381	David Nairne + Associates Ltd.
Stair Details & Sections	February 10, 2012	DF9382	David Nairne + Associates Ltd.
Bridge Detail & Sections	February 10, 2012	DF9383	David Nairne + Associates Ltd.
Streetlighting Dollarton 3707-3739) Sheet 1 of 1	August 19, 2011	UF8173	DMD & Associates
Streetlighting Dollarton 3707-3739) Sheet 2 of 2	April 3, 2009	UF8258	DMD & Associates

SCHEDULE "C"

The Landscaping Drawings

Description	Dated	Numbered	Prepared by:
Landscape Plan – Layout	July 22, 2013	L1 of 5	Forma Design Inc.
Planting Plan	July 22, 2013	L2 of 5	Forma Design Inc.
Details	July 22, 2013	L3 of 5	Forma Design Inc.
Elevations/Sections	July 22, 2013	L4 of 5	Forma Design Inc.
Specifications	July 22, 2013	L5 of 5	Forma Design Inc.

SCHEDULE "D"

Construction Schedule

SCHEDULE "E"

Sketch Plan of Riparian Area to be Maintained by Owner for 3 Years