

PART 2 – TERMS OF INSTRUMENT**SECTION 219 OF THE LAND TITLE ACT
(Development Agreement)**

THIS AGREEMENT dated for reference the ____ day of _____, 2023 (the “Reference Date”).

BETWEEN:

ANDREW PELLER LIMITED (Incorporation No. A71264), a corporation having an address at 697 South Service Road, Grimsby, Ontario, L3M 4E8

(the “**Grantor**”)

AND:

CITY OF PORT MOODY, a municipal corporation pursuant to the *Local Government Act* having its offices at 100 Newport Drive, Port Moody, British Columbia V3H 5C3

(the “**City**”)

WHEREAS:

- A. The Grantor is the registered owner of those lands and premises in the City of Port Moody, in the Province of British Columbia, and more particularly known and described in item 2 of the Form E attached hereto and as described in Schedule A hereto (the “**Lands**”);
- B. The Grantor wishes to grant, and the City accepts, the Section 219 Covenant contained in this Agreement over the Lands;
- C. It is proposed that the Lands and the Vintner Closed Road be rezoned to a Comprehensive Development Zone (the “**Rezoning**”) pursuant to *City of Port Moody Zoning Bylaw, 2018, No. 2937, Amendment Bylaw No. 20, 2019, No. 3203 (Westport Village) (CD 77)* (the “**Rezoning Bylaw**”) and redesignated as Mixed Use – Westport Village pursuant to *City of Port Moody Official Community Plan Bylaw, 2014, No. 2955, Amendment Bylaw No. 21, 2019, No. 3204 (Westport Village) (CD 77)* (the “**OCP Amendment**”) to permit a mixed-use development thereon in accordance with the Rezoning Bylaw and the OCP Amendment, to be known as “Westport Village” (the “**Development**”);
- D. Section 219 of the *Land Title Act* provides, *inter alia*, that a covenant, whether of a negative or positive nature, may be registered as a charge against the title to the land, in favour of the City or the Crown, and that the covenant is enforceable against the Grantor and the successors in title of the Grantor; and
- E. A covenant registrable under Section 219 of the *Land Title Act* may include provisions in respect of the use of land, the use of a building on or to be erected on land; that land is to be built on in accordance with the covenant, is not to be built on except in accordance

with that covenant or is not to be built on; that land is not to be subdivided unless in accordance with the covenant or is not to be subdivided.

NOW THEREFORE THIS AGREEMENT WITNESSES THAT pursuant to Section 219 of the *Land Title Act*, and in consideration of the premises, the mutual covenants and agreements contained herein and other good and valuable consideration and the sum of One Dollar (\$1.00) now paid by the City to the Grantor (the receipt and sufficiency whereof is hereby acknowledged), the parties hereto covenant and agree that:

ARTICLE 1 DEFINITIONS

1.1 Definitions

Terms defined in this Section 1.1 for all purposes of this Agreement, unless specifically provided in this Agreement, have the meanings hereinafter specified. The terms herein defined are:

- (a) **"219 Covenant"** means a covenant granted pursuant to Section 219 of the *Land Title Act*;
- (b) **"Agreement"** or **"this Agreement"** means the attached Part 1, General Instrument and these Part 2 Terms of Instrument and includes all recitals and schedules to this agreement and all instruments comprising this agreement;
- (c) **"Arts Centre"** has the meaning given in Section 2.3(l);
- (d) **"Arts Centre Building"** has the meaning given in Section 2.3(l);
- (e) **"Building"** means any improvement or structure to be constructed on the Lands pursuant to a Building Permit;
- (f) **"Building Permit"** means a building permit authorizing construction on the Lands, or any portion(s) thereof issued pursuant to the City's applicable bylaw;
- (g) **"Bunt TIA Report"** means the report prepared by Bunt & Associates dated February, 2022, as updated and revised May 2022 and from time to time thereafter;
- (h) **"Business Day"** means a day which is not a Saturday, Sunday or statutory holiday (as defined in the *Employment Standards Act* (British Columbia)) in British Columbia;
- (i) **"CACs"** means the Community Amenity Contribution payable in accordance with the City's Community Amenity Contribution Program Corporate Policy;
- (j) **"Chines ISMP"** means the Integrated Stormwater Management Plan for the Chines watershed, prepared by Associated Engineering and dated May 2016, as revised or replaced from time to time;

- (k) "**City**" and "**City of Port Moody**", being the Transferee described in item 6 of the *Land Title Act* Form C General Instrument constituting Part 1 of this Agreement, means the City of Port Moody and is called the "City" when referring to the corporate entity and "City of Port Moody" when referring to the geographic location;
- (l) "**City Personnel**" means the City's elected officials, officers, employees, agents, contractors, licensees, permittees, nominees and delegates, including its Approving Officer;
- (m) "**Closed Road Plan**" means Plan EPP118323 which is attached as Schedule B hereto;
- (n) "**CPI**" means the Consumer Price Index for Vancouver, British Columbia, all items (not seasonally adjusted), as published by Statistics Canada from time to time, provided that if such index is no longer published, the closest remaining Consumer Price Index for consumer prices that includes the Vancouver area will be used instead;
- (o) "**Development**" has the meaning given in Recital C;
- (p) "**Development Permit**" means a development permit authorizing development on the Lands, or any portion(s) thereof issued pursuant to the City's applicable bylaw;
- (q) "**General Manager of Community Development**" means the City's General Manager of Development, and includes the City's Acting General Manager of Development, the City's Manager of Development Planning, and any other person duly authorized by the General Manager of Development or the City Council to perform the functions of the General Manager of Development or the Manager of Development Planning from time to time;
- (r) "**General Manager of Engineering**" means the City's General Manager of Engineering and Operations, and includes the City's Acting General Manager of Engineering and Operations, the City's Manager of Infrastructure Engineering Services, and any other person duly authorized by the General Manager of Engineering and Operations or the City Council to perform the functions of the General Manager of Engineering and Operations or the Manager of Infrastructure Engineering Services from time to time;
- (s) "**Governmental Authority**" means any government, regulatory authority, government department, agency, commission, board, tribunal or court having jurisdiction on behalf of any province, municipality, regional district or other subdivision thereof;
- (t) "**Housing Agreement**" means an agreement pursuant to section 483 of the Local Government Act, which shall be registered in the Land Title Office as a 219 Covenant;
- (u) "**Lands**" has the meaning given in Recital A;
- (v) "**Land Title Act**" means the *Land Title Act* (British Columbia);

- (w) **"Land Title Office"** means the New Westminster Land Title Office;
- (x) **"Market Rental Housing"** means housing that meets the definition of "Market Rental" in the Zoning Bylaw;
- (y) **"OCP"** means *City of Port Moody Official Community Plan Bylaw, 2014, No. 2955*, as amended from time to time;
- (z) **"Occupancy Permit"** means an occupancy permit authorizing occupancy of the Lands, or any portion(s) thereof issued pursuant to the City's applicable bylaw;
- (aa) **"Permit"** means a Development Permit, Building Permit or Occupancy Permit, as the case may be;
- (bb) **"Phase"** is a major building phase of the Lands and is as identified in the Phasing Plan;
- (cc) **"Phase 1"** means that portion of the Lands identified as Phase 1 on the Phasing Plan;
- (dd) **"Phase 1 DP"** means the Development Permit issued for Phase 1 in accordance with the applicable City bylaws;
- (ee) **"Phase 1 TDMs"** means the TDM Measures identified as Phase 1 TDM on Schedule E;
- (ff) **"Phase 2"** means that portion of the Lands identified as Phase 2 on the Phasing Plan;
- (gg) **"Phase 2 DP"** means the Development Permit issued for Phase 2 in accordance with the applicable City bylaws;
- (hh) **"Phase 2 TDMs"** means the TDM Measures identified as Phase 2 TDM on Schedule E, as updated pursuant to section 2.5(c) if applicable;
- (ii) **"Phasing Plan"** means the plan attached as Schedule C hereto;
- (jj) **"Platform Garbage Container"** has the meaning given in Section 2.3(l)(vii);
- (kk) **"Platform Maintenance Period"** has the meaning given in Section 2.3(l)(vii)A;
- (ll) **"Plaza Areas"** has the meaning given in Section 2.3(j);
- (mm) **"Public Trail"** means a pedestrian trail which is a minimum of 2.0 metre (6.6 feet) in width to be constructed on the Lands, east of South Schoolhouse Creek and outside of the Riparian Protection and Enhancement Area associated with the South Schoolhouse Creek in the approximate location shown on the plan attached hereto as Schedule D, which trail will be open to the public;
- (nn) **"Purchaser"** has the meaning given in Section 2.9;

- (oo) **"Qualified Professional"** means a consultant or professional with experience in the applicable field or discipline who is in good standing with the applicable governing body;
- (pp) **"Riparian Protection and Enhancement Area"** has the meaning given in Section 2.3(i)(i);
- (qq) **"Riparian Setback Area"** is as shown as the area labelled "Lot 2" on Plan EPP118324, a reduced copy of which is attached hereto as Schedule F;
- (rr) **"Seniors Housing"** has the meaning given in Section 2.5(a);
- (ss) **"Seniors Housing Agreement"** has the meaning given in Section 2.5(a);
- (tt) **"Servicing Agreement"** has the meaning given in Section 2.3(d);
- (uu) **"Servicing Bylaw"** has the meaning given in Section 2.3(d);
- (vv) **"Servicing Report"** means a report acceptable to the General Manager of Engineering outlining whether the existing municipal water, sewage and drainage systems can adequately service the permitted uses of the Development;
- (ww) **"Servicing Works"** means any works constructed or installed by the Grantor under a Servicing Agreement;
- (xx) **"Statutory Right of Way"** means a statutory right of way granted pursuant to section 218 of the *Land Title Act* in favour of the City and registered against title to the Lands, or portions thereof, as contemplated in this Agreement, for the purposes of permitting the City and the public to make use of the Lands or portions thereof for access and socialization purposes, as the case may be, and permitting the City to maintain the right of way area at the expense of the owner of the right of way area if that owner fails to do so;
- (yy) **"Strata Corporation"** means a strata corporation created under the *Strata Property Act*;
- (zz) **"Strata Lot"** means a strata lot in the Strata Plan;
- (aaa) **"Strata Plan"** means a strata plan pursuant to the *Strata Property Act*;
- (bbb) **"Strata Property Act"** means the *Strata Property Act* (British Columbia);
- (ccc) **"Subdivision Plan"** means a survey plan effecting any subdivision or consolidation of the Lands or part or parts thereof;
- (ddd) **"TDM Measures"** means the Transportation Demand Management Measures or measures to be implemented by the Grantor as described in Schedule E hereto, which measures are intended to, *inter alia*, reduce the demand for parking generated by the Development, as described in the Bunt TIA Report;
- (eee) **"TransLink"** means South Coast British Columbia Transportation Authority;

- (fff) **“Transportation Upgrades”** means the works, improvements and upgrades performed or to be performed by the Grantor as described in sections 2.3(d)(iii) and (iv);
- (ggg) **“Viewing Platform”** has the meaning given in Section 2.3(l)(vii);
- (hhh) **“Viewing Platform Entrance”** has the meaning given in Section 2.3(l)(vii)D;
- (iii) **“Vintner Closed Road”** means that portion of Vintner Street substantially as shown on the Closed Road Plan; and
- (jjj) **“Zoning Bylaw”** means the City’s *Zoning Bylaw, 2018*, No. 2937, as amended from time to time.

1.2 Schedules

The following Schedule is attached hereto and forms part of this Agreement:

<u>Schedule</u>	<u>Description</u>
Schedule A	Legal Descriptions
Schedule B	Plan EPP118323 (Closed Road Plan)
Schedule C	Phasing Plan
Schedule D	Trail Plan
Schedule E	TDM Measures
Schedule F	Plan EPP118324 (Initial Subdivision Plan)
Schedule G	Westport Village Public Art

1.3 Headings

The division of this Agreement into Articles and the insertion of headings are for the convenience of reference only and will not affect the construction or interpretation of this Agreement. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles are to Articles of this Agreement.

1.4 Number, Gender and Bodies Corporate

Words importing the singular number only will include the plural and vice versa, words importing the masculine gender will include the feminine and neuter genders and vice versa and words importing persons will include individuals, partnerships, associations, trusts, unincorporated organizations and corporations, and vice versa.

1.5 Governing Law

This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein.

1.6 Use of "including"

The word "including", when following any general statement, term or matter, will not be construed to limit such general statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, but will be construed to refer to all other items or matters that could reasonably fall within the scope of such general statement, term or matter, whether or not non-limiting language (such as "without limitation", "but not limited to" or words of similar import) is used with reference thereto.

1.7 Statutes

In this Agreement:

- (a) any reference to any statute or bylaw includes any subsequent amendment, re-enactment, or replacement of that statute or bylaw;
- (b) reference to any enactment or bylaw includes any regulations, orders or directives made under the authority of that enactment or bylaw; and
- (c) unless otherwise provided, any reference to a statute is to the statute of the Province of British Columbia with that title.

1.8 CPI

For the purpose of calculating the amount of any adjustment for CPI as required under this Agreement, the calculation of such adjustment will be based on the change in the annual CPI from the Reference Date to the date of payment of the amount to be adjusted, with the base period being January 1, 2023, unless otherwise expressly set out in this Agreement.

ARTICLE 2 COVENANTS

2.1 No Subdivision

The Grantor covenants and agrees with the City, pursuant to section 219 of the *Land Title Act*, that the Grantor shall not subdivide or consolidate the Lands or portions thereof to create any Phase, and the City and its Approving Officer shall not, despite any statutes or bylaws, but without limiting the application of such statutes or bylaws, be obliged to approve such subdivision or consolidation relating to the applicable Phase, unless the following conditions for such subdivision or consolidation have been satisfied (except where specifically excluded below):

- (a) Vintner Closed Road - the City having enacted a bylaw closing the Vintner Closed Road to traffic and removing its dedication as highway, title to the Vintner Closed Road having been issued by the Land Title Office and the Grantor having purchased the Vintner Closed Road from the City.

- (b) Subdivision - the Lands will be consolidated with the Vintner Closed Road and subdivided approximately as shown on Plan EPP118324, which is attached as Schedule F hereto.

It is the intent of the parties that the Form A Transfer of the Vintner Closed Road will be filed in the Land Title office concurrently with Plan EPP118324, which is attached as Schedule F hereto, on undertakings of the Grantor's solicitors acceptable to the Grantor's solicitors and the City's solicitors.

2.2 No Build – Entire Development

The Grantor covenants and agrees with the City, pursuant to section 219 of the *Land Title Act*, that the Grantor shall not construct or erect any building or structure on the Lands, and the City shall not, despite any statute or bylaw, be obliged to issue any Building Permit in respect of the Lands unless the following conditions have been satisfied:

- (a) Strata Servicing Report - the Grantor will have prepared or caused to be prepared one or more Servicing Reports; and
- (b) Strata Bylaws - the Grantor will have executed and delivered to the City a 219 Covenant binding any residential Building in the Development which is or will be subdivided under the *Strata Property Act* and to provide that any future strata council of any residential Strata Corporation may not enact bylaws or regulations to prohibit an owner from renting his or her Strata Lot to tenants for long term occupancy (exceeding thirty (30) days).

Nothing herein shall prevent the Grantor from submitting one or more applications to the City for a Development Permit and the City may, but shall not be obligated to, accept and process such application.

2.3 No Build - Phase 1

The Grantor covenants and agrees with the City, pursuant to section 219 of the *Land Title Act*, that the Grantor shall not construct or erect any building or structure on the Lands, and the City shall not, despite any statute or bylaw, be obliged to issue any Building Permit in respect of Phase 1, unless the following conditions have been satisfied:

- (a) Market Rental - the Grantor will have executed and delivered to the City, and the parties will have registered in the Land Title Office, a Housing Agreement (the "**Market Rental Housing Agreement**"), containing such terms as are agreed to by the General Manager of Community Development and the Grantor with respect to Market Rental Housing in Phase 1, the total area of which is or will be as provided in the Phase 1 DP, and Market Rental Housing in Phase 2, the total area of which is or will be as provided in the Phase 2 DP. The other details of the Market Rental Housing will be determined to the satisfaction of the General Manager of Community Development and as agreed to by the Grantor as part of the final Market Rental Housing Agreement to be prepared by the Grantor. The Market Rental Housing will be for a term equal to the greater of sixty (60) years or the life of the building containing the Market Rental Housing;

- (b) Artist Housing - the Grantor will have executed and delivered to the City, and the parties will have registered in the Land Title Office, a Housing Agreement (the “**Artist Housing Agreement**”) containing such terms as are agreed to by the General Manager of Community Development and the Grantor with respect to occupancy of a minimum of six artist studios in the Development to be leased to and occupied by eligible artists at a discount from the fair market value rent (the “**Artist Housing**”). The Artist Housing shall contain the total area therefor as provided in the Phase 1 DP. The other details of the Artist Housing and the qualifications with respect to the eligible artists will be determined to the satisfaction of the General Manager of Community Development and as agreed to by the Grantor as part of the final Artist Housing Agreement to be prepared by the Grantor. The Artist Housing will be for a term equal to the greater of sixty (60) years or the life of the building containing the Artist Housing;
- (c) Public Art:
- (i) Public Art Plan - the Grantor will have caused to be delivered to the City, a Public Art Plan acceptable to the General Manager of Community Development describing in sufficient detail the public art to be installed in or upon the Development, the site location, selection process, public art opportunities, public art budget, project and art timelines. The budget for such public art will be no less than \$500,000, as adjusted for CPI. The Public Art Plan shall be consistent with Schedule G; and
 - (ii) Public Art Covenant - the Grantor will have executed and delivered to the City a 219 Covenant, in a form acceptable to the General Manager of Community Development, whereby the Grantor agrees to install such public art as is required in the Public Art Plan acceptable to the General Manager of Community Development;
- (d) Servicing Agreement - the Grantor and the City will have entered into one or more servicing agreement(s) in the form of a 219 Covenant acceptable to the General Manager of Engineering (each a “**Servicing Agreement**”) with respect to the works and services required as a condition of the City’s *Subdivision and Development Servicing Bylaw*, No. 2831 (the “**Servicing Bylaw**”), the Servicing Report and the following works and services necessary to support Phase 1, including, without duplication:
- (i) any services recommended in the Servicing Report for Phase 1;
 - (ii) realignment of the Metro Vancouver sanitary sewer and municipal sanitary sewer crossing South Schoolhouse Creek to Clarke Street via Barnet Highway;
 - (iii) redesign of the Clarke Street/Barnet Highway westbound right-turn movement to reduce turning speeds and improve safety;
 - (iv) Master Transportation Plan upgrades along Clarke Street fronting the Development, including the construction or contribution towards an at-grade bike storage facility in the form of racks adjacent to the Development accessible to the residents or visitors of the Development, as well as

members of the public, all as more particularly described in Bunt TIA Report;

- (v) Construction of any relocated utilities referred to in section 2.3(f); and
 - (vi) implementation of a storm water management plan compliant with the Chines ISMP and future updates to stormwater best management practices, as applicable to Phase 1;
- (e) Regional Context Statement - the City having adopted the OCP Amendment and received approval from Metro Vancouver for the amendment to the Regional Context Statement (Appendix 1 to the OCP) contained therein;
- (f) Utilities - the Grantor will have confirmed to the General Manager of Engineering that arrangements have been made for or the relocation of all utilities on the Lands (including the Vintner Closed Road) at the Grantor's cost or as negotiated between the Grantor and the applicable agencies, including the Greater Vancouver Sewer & Drainage District, Fortis BC and any others. No relocation costs will be borne by the City. Any agreements between the Grantor and subject agencies will require the concurrence of the General Manager of Engineering;
- (g) Clarke Street Modelling - the Grantor has completed traffic and pedestrian modelling (in addition to the improvements identified in the Bunt TIA Report) to confirm whether further widening of Clarke Street to four lanes is necessary. If such requirement is necessary, such road widening may be accommodated within the existing road network through the implementation of rush hour regulation parking;
- (h) TDM Measures - the Grantor and the City will have entered into a 219 Covenant whereby the Grantor agrees to implement the Phase 1 TDMs and the Phase 2 TDMs, to the satisfaction of the General Manager of Community Development at the Grantor's cost;
- (i) Riparian Protection - the Grantor will have granted the City a 219 Covenant, in a form acceptable to the General Manager of Community Development whereby the Grantor agrees to undertake the following environmental restoration and enhancement work as part of the Development:
- (i) Riparian Setback Area - the Riparian Setback Area will be planted with native species at a density and timeframe in accordance with best management practices at the applicable time, to the satisfaction of the General Manager of Community Development, with annual monitoring and reporting for a period of five (5) years following the initial planting (the "**Riparian Protection and Enhancement Area**");
 - (ii) Public Trail - construction of the Public Trail by the Grantor at the Grantor's costs, in accordance with plans and specifications to be agreed to by the Grantor and the General Manager of Community Development. Upon the completion of the Public Trail:

- A. the Grantor will maintain same in perpetuity at the Grantor's costs to the satisfaction of the General Manager of Community Development, acting reasonably; and
 - B. the Grantor will grant a Statutory Right of Way and 219 Covenant in favour of the City, in a form acceptable to the General Manager of Community Development, to facilitate public access to the Public Trail and permit the City to maintain the Public Trail at the expense of the owner of the right of way area or such other entity if that owner or entity fails to do so in default of its obligations under said Statutory Right of Way and 219 Covenant; and
- (iii) Plans – the Grantor will have caused the following plans to be prepared by the applicable Qualified Professionals, subject to acceptance by the General Manager of Community Development, and will undertake any work required pursuant to such plans:
- A. Construction Environmental Management Plan;
 - B. Invasive Plant Management Plan;
 - C. Groundwater Management Plan; and
 - D. Environmental Impact Assessment;
- (j) Plaza Areas - the Grantor will have granted a 219 Covenant and a Statutory Right of Way in favour of the City, in a form and covering the areas acceptable to the General Manager of Community Development, whereby the Grantor agrees to install and maintain certain plazas, currently intended to consist of the "Peller Plaza", the "Kitching Plaza", the "Clarke Street Plaza" and the "Central Commons" (collectively, the "**Plaza Areas**") providing public access for the life of the buildings adjacent to the Plaza Areas, with such obligation to maintain to be assumed by any Strata Corporation(s) whose common property includes the Plaza Areas or part thereof;
- (k) Noise - the Grantor will have granted a 219 Covenant in favour of the City or any Governmental Authority, in a form acceptable to the General Manager of Community Development or such Governmental Authority, with respect to the disclosure to prospective buyers and occupants of the Lands of noise, vibration, odour, airborne particulate matter and other phenomena resulting from the Lands' proximity to industrial operations and the CPR line, including a release and save harmless;
- (l) Arts Centre - the Grantor will have granted a 219 Covenant in favour of the City, in a form acceptable to the General Manager of Community Development, whereby the Grantor agrees to provide an arts centre (the "**Arts Centre**") in one of the buildings in the Development (the "**Arts Centre Building**") which will be in the area as provided in the Phase 1 DP which will include the following components:

- (i) the first floor will provide Retail (as defined in the Zoning Bylaw) in the form of commercial retail units in the total area therefor as provided in the Phase 1 DP;
- (ii) the second floor will provide 'flex space' in the total area therefor as provided in the Phase 1 DP that can be partitioned to accommodate the following uses: assembly of persons for religious, charitable, philanthropic, cultural, recreational and instructional purposes, including performance arts such as theatre, with the intent that any activity related to or associated with such uses are permissible. The City agrees that the Grantor is not obligated to carry out any or all of such uses;
- (iii) the third floor will provide Office (as defined in the Zoning Bylaw) in the total area therefor as provided in the Phase 1 DP; and
- (iv) the fourth floor will provide Child Care (as defined in the Zoning Bylaw) in the total area therefor as provided in the Phase 1 DP with both indoor and outdoor facilities.

The above uses shall be provided for the greater of sixty (60) years or the life of the Arts Centre Building. Nothing in the said 219 Covenant will prevent the Grantor from:

- (v) subdividing the Arts Centre Building or portions thereof (other than the Arts Centre) by way of a Strata Plan or a Subdivision Plan; and/or
- (vi) entering into business arrangements with respect to the operation or management of the Arts Centre, leasing or selling the Arts Centre to any public, private or non-profit entities and on terms at the Grantor's sole discretion,

subject to approval by the City and provided that the uses of the Arts Centre Building will remain as described in Sections 2.3(l)(i) to (iv) above; and

- (vii) Viewing Platform - the Grantor will have entered into with the City a Servicing Agreement whereby the Grantor agrees to construct a viewing platform (the "**Viewing Platform**"), on the east side of South Schoolhouse Creek, with the precise location, design, features and specifications (including a bear proof garbage container to be installed at the entrance to the Viewing Platform (the "**Platform Garbage Container**") to be determined to the satisfaction of the General Manager of Community Development and as agreed to by the Grantor as part of the said Servicing Agreement. Upon the completion of the Viewing Platform:
 - A. the Grantor will maintain and monitor the Viewing Platform for a period of two (2) years (the "**Platform Maintenance Period**") at the Grantor's costs to the satisfaction of the General Manager of Community Development, acting reasonably;
 - B. at the expiry of the Platform Maintenance Period, the Grantor will deliver the as-built drawings therefor to the City;

- C. at the City's discretion, the Grantor will, at no cost to the City, dedicate the area where the Viewing Platform is located in favour of the City or if title to such area is issued, transfer same to the City; and
 - D. the Grantor will grant a Statutory Right of Way and 219 Covenant in favour of the City, in a form acceptable to the General Manager of Community Development, to facilitate public access to the entrance of the Viewing Platform (the "**Viewing Platform Entrance**") and use of the Platform Garbage Container and to require the Grantor to empty and maintain the Platform Garbage Container from time to time to the same standard as similar garbage containers in outdoor public spaces in the City, with such obligation to maintain, and any release and indemnity associated therewith, to be assumed by any Strata Corporation(s) whose common property includes the Viewing Platform Entrance or part thereof; and
- (m) CACs. - the Grantor will have paid or cause to be paid to the City, CACs in the amount of \$896,434, as adjusted for CPI.

2.4 Cost Sharing

It is anticipated that in the event the Riparian Protection and Enhancement Area, the Plaza Areas, the Viewing Platform Entrance, the Platform Garbage Container or any of them are controlled or managed by one or more owners and/or users, including Strata Corporation(s) (but not the City), the costs for maintenance, insurance and replacement thereof will be shared by some or all of the owners and/or users of the Development on a fair and equitable basis.

2.5 No Build - Phase 2

The Grantor covenants and agrees with the City, pursuant to section 219 of the *Land Title Act*, that the Grantor shall not construct or erect any building or structure on the Lands, and the City shall not, despite any statute or bylaw, be obliged to issue any Building Permit in respect of Phase 2 unless the following conditions have been satisfied:

- (a) the Grantor will have executed and delivered to the City, and the parties will have registered in the Land Title Office, a housing agreement (the "**Seniors Housing Agreement**") in a form agreed to by the City and the Grantor with respect to occupancy of seniors rental housing (the "**Seniors Housing**") in the total area therefor as provided in the Phase 2 DP. The Seniors Housing will comprise housing typologies and tenures that primarily pertain to individuals aged 55+, at all stages of health, and may include typologies ranging from independent living, assisted living to care facility to be occupied by eligible seniors on a rental basis. The other details of the Seniors Housing will be determined to the satisfaction of the General Manager of Community Development and as agreed to by the Grantor as part of the final Seniors Housing Agreement to be prepared by the Grantor. The Seniors Housing will be for greater of sixty (60) years or the life of the building containing the Seniors Housing;

- (b) the Grantor will have entered into one or more Servicing Agreements with respect to the works required as a condition of the Servicing Bylaw, the Servicing Report and the following works and services necessary to support Phase 2, without duplication:
- (i) reconstruction of Douglas Street and Short Street (full width including both boulevards) to support the extension of the Trans Canada Trail and pedestrian connectivity between Clarke Street and the Barnet Highway pathway;
 - (ii) eastbound left-turn lane on Clarke Street at Douglas Street; southbound, southbound right-turn lane on Douglas Street at St. Johns Street; and reconfiguration of lanes to add left-turn capacity at St. Johns Street and Barnet Highway;
 - (iii) design and construction of a traffic signal at the Douglas Street and St. Johns Street intersection; and
 - (iv) implementation of a storm water management plan compliant with the Chines ISMP and future updates to stormwater best management practices, as applicable to Phase 2;
- (c) with respect to the TDM Measures, the Grantor will have engaged Bunt & Associates or another firm of qualified transportation engineers upon or after the completion of Phase 1 to monitor the Phase 1 TDMs in order to review their efficacy and success against the intended goals described in the Bunt TIA Report. Such transportation engineers will then revise and update the Phase 2 TDMs as they deem appropriate or reasonable in their professional opinion, with such updated Phase 2 TDMs to be approved by the City;
- (d) the Grantor will have provided a cash in lieu contribution in the amount of \$1,120,000 payable as follows:
- (i) upon issuance of the Building Permit for Phase 1, the amount of \$416,864; and
 - (ii) upon issuance of the Building Permit for Phase 2, the amount of \$703,136,
- in lieu of the Grantor providing and operating a shuttle bus service, with each such amount to be adjusted for CPI, to be offset by the actual amount of the applicable Transportation Upgrades; and
- (e) CACs. - the Grantor will have paid or cause to be paid to the City, CACs in the amount of \$6.00 per 0.09 m² (1.0 ft²) of the floor area being developed for residential use as indicated on the Building Permit to be issued by the City, as adjusted for CPI.

2.6 Exceptions

Notwithstanding Sections 2.2, 2.3 and 2.5, the Grantor may submit one or more applications to the City for Building Permit and the City may, but shall not be obligated to, accept and process such application. In addition, the Grantor may carry on site preparation, clearing and excavation of the Lands, subject to all applicable statutes and bylaws.

2.7 No Use

The Lands and the Development shall not be used for any use that is not authorized by the Zoning Bylaw upon the adoption thereof. For certainty, upon adoption of the Rezoning Bylaw, the Grantor agrees to abandon and waive any and all legal non-conforming use rights it may have in relation to the Lands.

2.8 Refusal of Approvals

The City may refuse, but shall in no case be obligated to refuse, to issue a BP, final inspection, Occupancy Permit or Development Permit for any Building or structure on the Lands if any of the restrictions or conditions contained herein in relation therewith have not been complied with. In addition, the City's Approving Officer may refuse, but shall in no case be obligated to refuse, to approve any subdivision of all or part of the Lands if any of the restrictions or conditions contained herein have not been complied with.

2.9 Sale of Lands

The Grantor agrees that it will not sell, transfer or otherwise dispose of any fee simple or leasehold interest in the whole or any part of the Lands to any person, trust, corporation, partnership or other entity (the "**Purchaser**") other than the transfer of an interest:

- (a) to a purchaser of a strata lot, other than a bare land strata lot; or
- (b) by way of mortgage, where the mortgagee has first granted the Section 219 Covenant contained herein priority, in form and substance satisfactory to the City, over its mortgage), prior to the discharges described in Article 3,

unless the Grantor and the Purchaser enter into an assumption agreement with the City whereby the Purchaser:

- (c) acknowledges that the Purchaser is aware of the terms of this Agreement; and
- (d) assumes and agrees to observe and perform the terms of this Agreement,

with the form of such assumption agreement to be acceptable to the General Manager of Community Development, acting reasonably.

ARTICLE 3 DISCHARGE

3.1 Discharge of Covenants

The City must execute and deliver to the Grantor a discharge, in registrable form of this Agreement from title to the Lands at the request and expense of the Grantor:

- (a) if the OCP Amendment and the Rezoning Bylaw are not adopted by the City on or before December 31, 2023; or
- (b) if the Rezoning Bylaw is appealed after its adoption, and after the exhaustion of all appeals, the Rezoning Bylaw is quashed in its entirety.

3.2 Discharge of No Subdivision Covenant

In the event that Section 3.1 does not apply, the City must execute and deliver to the Grantor a discharge, in registrable form, of Section 2.1 of this Agreement from title to the Lands at the request and expense of the Grantor, if the Grantor has satisfactorily completed all of the conditions set out in Section 2.1.

3.3 Discharge of No Build Entire Development Covenant

In the event that Section 3.1 does not apply, the City must execute and deliver to the Grantor a discharge, in registrable form, of Section 2.2 of this Agreement from title to the Lands at the request and expense of the Grantor, if the Grantor has satisfactorily completed all of the conditions set out in Section 2.2.

3.4 Discharge of No Build Covenant – Phase 1

In the event that Section 3.1 does not apply, the City must execute and deliver to the Grantor a discharge, in registrable form, of Section 2.3 of this Agreement from title to the Lands at the request and expense of the Grantor, if the Grantor has satisfactorily completed all of the conditions set out in Section 2.3.

3.5 Discharge of No Build Covenant – Phase 2

In the event that Section 3.1 does not apply, the City must execute and deliver to the Grantor a discharge, in registrable form, of Section 2.5 of this Agreement from title to the Lands at the request and expense of the Grantor, if the Grantor has satisfactorily completed all of the conditions set out in Section 2.5.

ARTICLE 4 RELEASE & INDEMNITY

4.1 Release

The Grantor hereby releases and forever discharges the City and the City Personnel from and against all manner of claims, actions, causes of actions, suits and demands whatsoever at law or at equity the Grantor may at any time have by reason of or in connection with or arising directly or indirectly from this Agreement including, but not limited to, those which may derive from any act or omission carried out by or not carried out by the City or any of the City Personnel in the exercise or purported exercise of any of the rights or in compliance or attempted compliance with any obligations granted or imposed by this Agreement, or arising from the restrictions imposed on the use or development of the Lands by this Agreement or its registration in the appropriate Land Title Office.

4.2 Indemnity

The Grantor shall at all times indemnify, defend and save harmless the City and the City Personnel from and against all claims, demands, actions, suits, losses, costs, fines, penalties, charges, damages and expenses including legal fees and litigation expenses whatsoever which the City or the City Personnel may incur, suffer or be put to arising out of or in connection with any breach of any covenant or agreement on the part of the Grantor contained in this Agreement, from the granting or existence of this Agreement, from the performance or non-performance of this Agreement by the Grantor or from any act or omission carried out by or not carried out by the City or any of the City Personnel in the exercise or purported exercise of any of the rights or in compliance or attempted compliance with any obligations granted or imposed by this Agreement, or arising from the restrictions imposed on the use or development of the Lands by this Agreement or its registration in the appropriate Land Title Office.

ARTICLE 5 GENERAL

5.1 Notices

Any notice or other communication required or contemplated to be given or made by any provision of this Agreement shall be given or made in writing and either delivered personally (and if delivered on a Business Day shall be deemed to be received when delivered), or mailed by prepaid registered mail in any Canada Post Office (and if so shall be deemed to be delivered on the fourth Business Day following such mailing, except that, in the event of interruption of mail service notice shall be deemed to be delivered only when actually received by the party to whom it is addressed) or e-mailed (and if so shall be deemed to be received when e-mailed if prior to 5:00 pm on a Business Day and the following Business Day if e-mailed after 5:00 pm on a Business Day), so long as the notice is addressed as follows:

To the Grantor at:

Andrew Peller Limited
697 South Service Road
Grimsby, Ontario
L3M 4E8

Attention: John Peller
Email address: john.peller@andrewpeller.com

With a courtesy copy to:

Terra Law Corporation
2800 – 650 West Georgia Street
Vancouver, British Columbia
V6B 4N7

Attention: Elizabeth Yip
Email address: eyip@terralawcorp.ca

To the City at:

City of Port Moody
100 Newport Drive
Port Moody, British Columbia
V3H 5C3

Attention: •
Email address: •

With a courtesy copy to:

Lidstone & Co.
1300 – 128 Pender Street
Vancouver, British Columbia
V6B 1R8

Attention: Don Lidstone
Email address: lidstone@lidstone.ca

or to such other address of which a party from time to time notifies in writing the other party. Failure to deliver a courtesy copy of any notice shall not invalidate the delivery of such notice to the City or the Grantor.

5.2 Runs with the Lands

The covenants contained in this Agreement will run with and bind the Lands until discharged in accordance with this Agreement.

5.3 No Liability

The parties agree that neither the Grantor, nor any successor in title to the Lands, or portions thereof, will be liable for breaches of or non-observance or non-performance of covenants contained in this Agreement occurring after the date that the Grantor or their successors in title, as the case may be, ceases to be the registered or beneficial owner of the Lands; provided, however, the Grantor or their successors in title, as the case may be, shall remain liable after ceasing to be the registered or beneficial owner of the Lands for all breaches of and non-observance and non-performance of covenants in this Agreement if the breach, non-observance or non-performance occurred prior to the date the Grantor or any successors in title, as the case may be, ceased to be the registered or beneficial owner of the Lands.

5.4 No Compensation

The Grantor acknowledges and agrees that no compensation is payable, and the Grantor is not entitled to and will not claim any compensation from the City, for any decrease in the market value of the Lands or for any obligations on the part of the Grantor and its successors in title which at any time may result directly or indirectly from the operation of this Agreement.

5.5 Assignment of Rights

The City, upon prior written notice to the Grantor, may assign or license all or any part of this Agreement or any or all of the City's rights under this Agreement to any governmental agency or

to any corporation or entity charged with the responsibility for providing such public facilities, services or utilities.

5.6 Severability

If any article, section, subsection, sentence, clause or phrase in this Agreement is for any reason held to be invalid by the decision of a Court of competent jurisdiction, the remainder of this Agreement will continue in full force and effect and, in such case, the parties hereto will agree upon an amendment to be made to the section, subsection, sentence, clause or phrase previously found to be invalid and will do or cause to be done all acts reasonably necessary in order to amend this Agreement so as to reflect its original spirit and intent.

5.7 Priority

The Grantor agrees to cause the registrable interests in land granted pursuant to this Agreement to be registered as first registered charges against the Lands, save only for any reservations, liens, charges or encumbrances:

- (a) contained in any grant from Her Majesty the Queen in Right of the Province of British Columbia respecting the Lands;
- (b) registered against title to the Lands at the instance of the City, whether in favour of the City or otherwise; and
- (c) which the City has determined may rank in priority to the registrable interests in land granted pursuant to this Agreement.

5.8 No Fettering and No Derogation

Nothing contained or implied in this Agreement shall:

- (a) fetter in any way the discretion of the City or the Council of the City;
- (b) derogate from the obligations of the Grantor under any other agreement with the City;
- (c) prejudice or affect the City's rights, powers, duties or obligation in the exercise of its functions pursuant to the Community Charter or the Local Government Act, as amended or replaced from time to time;
- (d) fetter or otherwise affect the City's discretion, and the rights, powers, duties and obligations of the City under all public and private statutes, by-laws, orders and regulations, which may be, if the City so elects, as fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Grantor and the City;
- (e) constitute or be construed as any permit or approval required by any bylaw or any public or private statute, order or regulation, including but not limited to any permit or approval to carry out any works within any road or any lands owned or occupied by the City;

- (f) cancel or modify the terms of any other covenant, right-of-way, permit, interest, charge, legal notation or agreement entered into between the parties or registered against the Lands or any portion thereof.

5.9 Equitable Relief

The Grantor covenants and agrees that in addition to any remedies which are available under this Agreement or at law, the City will be entitled to all equitable remedies, including, without limitation, specific performance, injunction and declaratory relief, or any combination thereof, to enforce its rights under this Agreement. The Grantor acknowledges that specific performance, injunctive relief (mandatory or otherwise) or other equitable relief may be the only adequate remedy for a default by the Grantor under this Agreement. The Grantor acknowledges and agrees that no failure or delay on the part of the City to exercise any right under this Agreement will operate as a waiver by the City of such right.

5.10 No Waiver and Remedies

The Grantor and the City acknowledge and agree that no failure on the part of either party hereto to exercise and no delay in exercising any right under this Agreement will operate as a waiver thereof nor will any single or partial exercise by either party of any right under this Agreement preclude any other or future exercise thereof or the exercise of any other right. The remedies provided in this Agreement will be cumulative and not exclusive of any other remedies provided by law and all remedies stipulated for either party in this Agreement will be deemed to be in addition to and not, except as expressly stated in this Agreement, restrictive of the remedies of either party hereto at law or in equity.

5.11 Measurements

All measurements of areas in this Agreement are referenced in the architectural plans with respect to the Development prepared by Chris Dikeakos Architects Inc. dated February 22, 2022 and are approximate.

5.12 No Representations

The City has made no representations, covenants, warranties, guarantees, promises or agreements (oral or otherwise) with the Grantor in connection with the subject matter hereof, except as expressly provided in this Agreement.

5.13 Plans and Schedules

Where reduced copies of any plan or sketch are attached as a schedule to this Agreement, reference may be made to the full size or original copy of such plan or sketch.

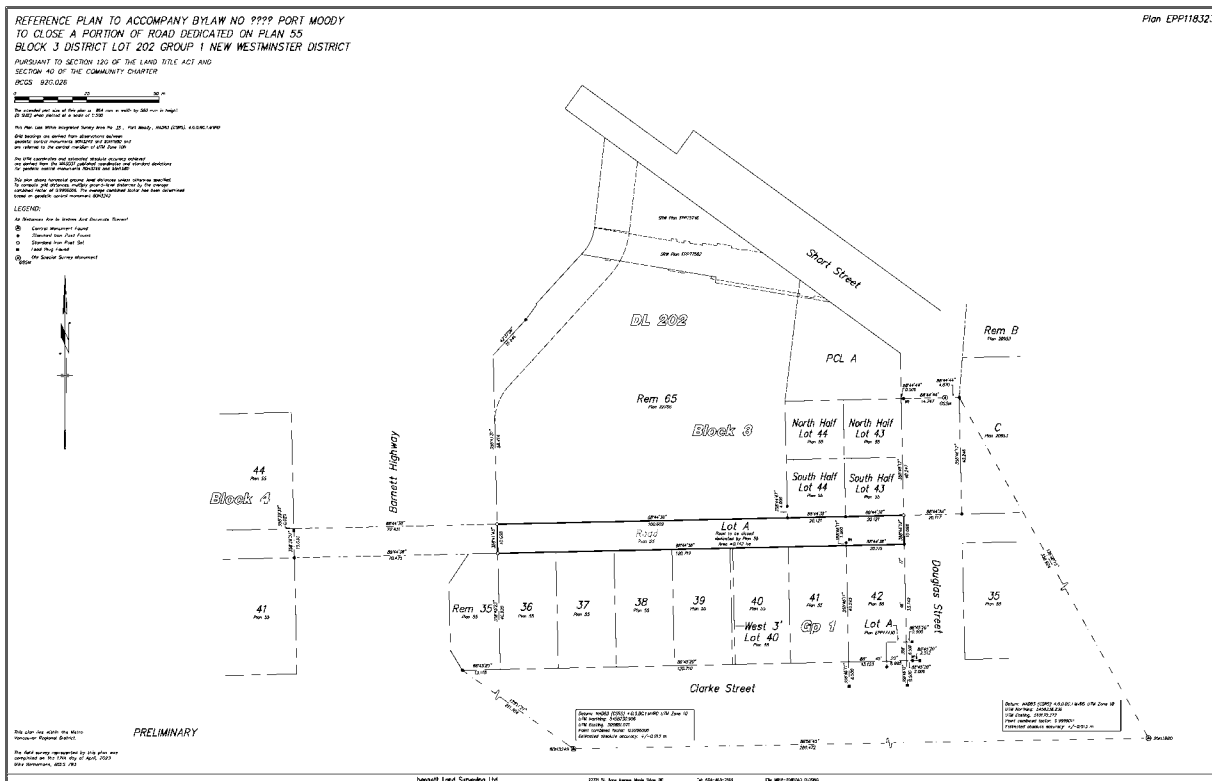
IN WITNESS WHEREOF the parties hereto have executed this Agreement in the General Instrument - Part I, which is attached to and forms part of this Agreement as of the day, month and year first above written.

**SCHEDULE A
LEGAL DESCRIPTIONS**

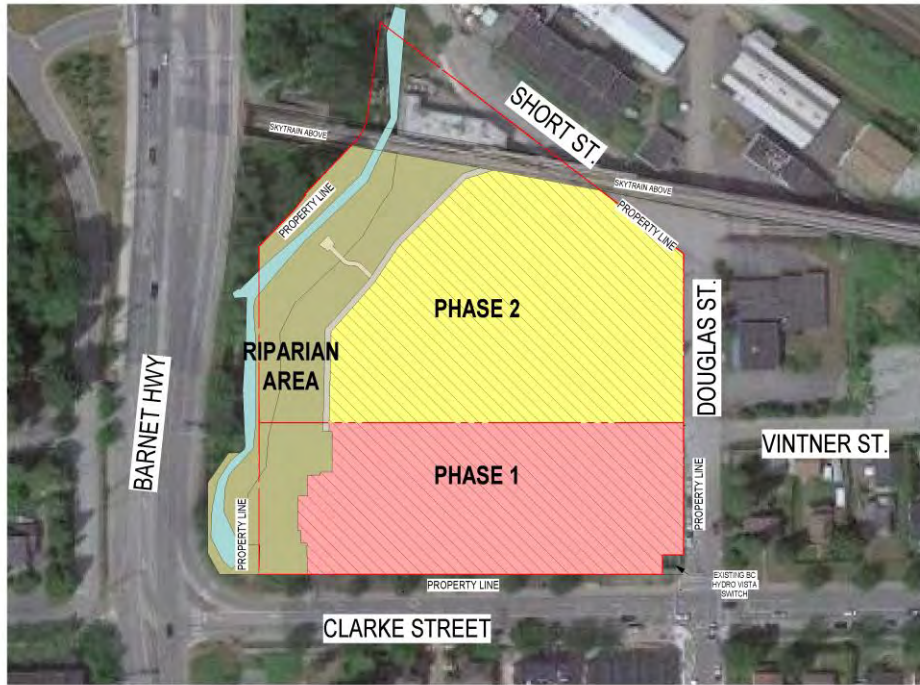
1. Parcel Identifier: 011-459-123
Lot 36 Block 3 District Lot 202 Group 1 New Westminster District Plan 55
2. Parcel Identifier: 011-459-140
Lot 37 Block 3 District Lot 202 Group 1 New Westminster District Plan 55
3. Parcel Identifier: 011-459-174
Lot 38 Block 3 District Lot 202 Group 1 New Westminster District Plan 55
4. Parcel Identifier: 011-459-191
Lot 39 Block 3 District Lot 202 Group 1 New Westminster District Plan 55
5. Parcel Identifier: 011-459-255
Lot 40 Except: West 3 Feet, Block 3 District Lot 202 Group 1 New Westminster District Plan 55
6. Parcel Identifier: 011-459-239
West 3 Feet Lot 40 Block 3 District Lot 202 Group 1 New Westminster District Plan 55
7. Parcel Identifier: 011-459-271
Lot 41 Block 3 District Lot 202 Group 1 New Westminster District Plan 55
8. Parcel Identifier: 011-459-280
Lot 42 Block 3 District Lot 202 Group 1 New Westminster District Plan 55 Except Plan Epp17730
9. Parcel Identifier: 011-459-298
North Half Lot 43 Block 3 District Lot 202 Group 1 New Westminster District Plan 55
10. Parcel Identifier: 011-459-310
South Half Lot 43 Block 3 District Lot 202 Group 1 New Westminster District Plan 55
11. Parcel Identifier: 011-459-301
North Half Lot 44 Block 3 District Lot 202 Group 1 New Westminster District Plan 55
12. Parcel Identifier: 011-459-328
South Half Lot 44 Block 3 District Lot 202 Group 1 New Westminster District Plan 55
13. Parcel Identifier: 009-249-761
Lot 65 Except: Part Dedicated Road on Plan LMP18410, District Lot 202 Group 1 New Westminster District Plan 22766
14. Parcel Identifier: 011-463-724
Parcel "A" (Reference Plan 37530) District Lot 202 Group 1 New Westminster District Plan 55

15. Parcel Identifier: 006-878-423
Lot 90 District Lot 202 Group 1 New Westminster District Plan 43428 Except Part
Dedicated Road on Plan LMP18410
16. Parcel Identifier: 006-881-751
Lot 91 District Lot 202 Group 1 New Westminster District Plan 43464

SCHEDULE B PLAN EPP118323 (CLOSED ROAD PLAN)



SCHEDULE C PHASING PLAN



WESTPORT VILLAGE
2120 to 2136 Clarke Street,
Port Moody, BC

PHASING PLAN
1" = 80'-0"

RE-ISSUED FOR REZONING/DP 2
2023-06-26



A022

SCHEDULE D TRAIL PLAN

* Public Trail is as shown in deep green



SCHEDULE E TDM MEASURES

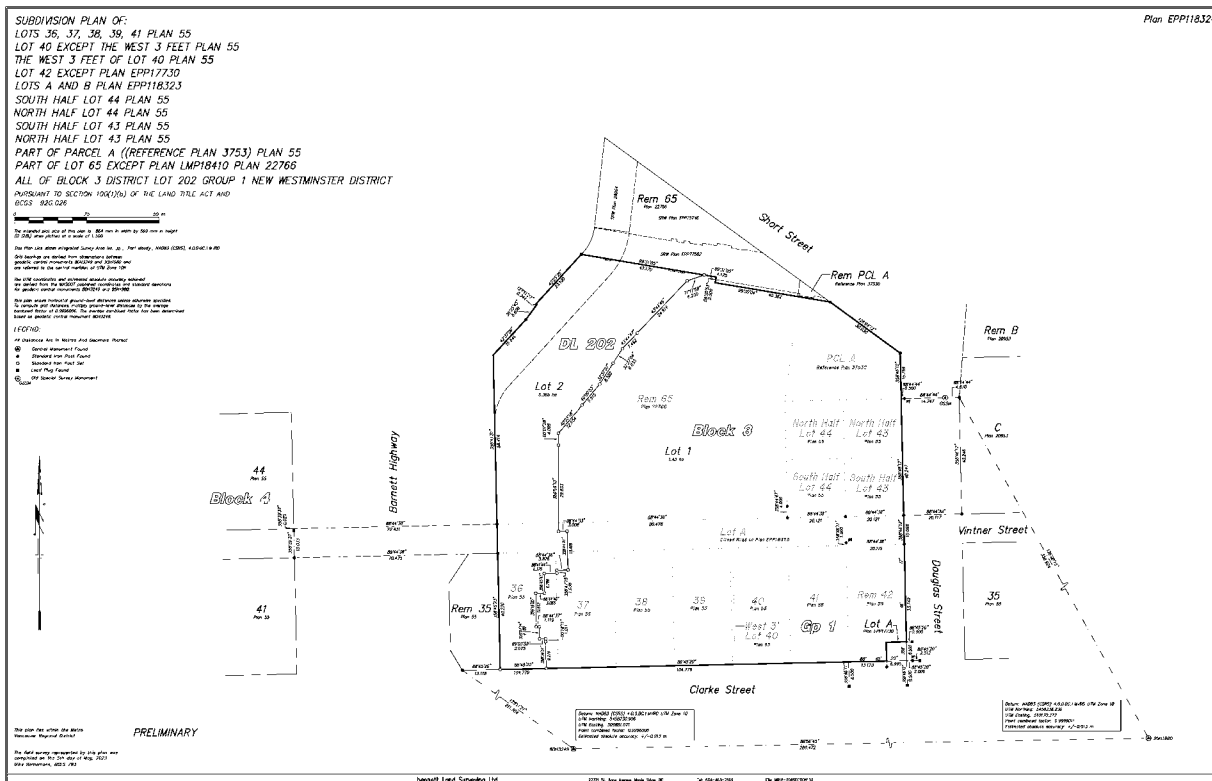
Phase 1 TDM

- Provide three (3) car-share vehicles (electric) plus three (3) designated car-share parking spaces;
- Provide a Transit Pass Program offering a one-year, 50% subsidy of the cost of a monthly transit pass (two-zone) for all residential dwelling units in Phase 1;
- Provide for 10 bike-share electric bicycles with secured storage available to the market strata, rental and artisan village residents;
- Provide end-of-trip change rooms, lockers and showers for the community building and commercial uses employees;
- Provide a bicycle maintenance room with bike stand and repair tools;
- Unbundled parking – residential uses (parking costed separately from purchase price or monthly rent, whichever applies);
- Paid parking for non-residential uses;
- Provide for Designated Carpool Parking;

Phase 2 TDM

- Provide at least one (1) additional car-share vehicle (electric) plus one (1) designated car-share parking space;
- Provide a Transit Pass Program offering a one-year, 50% subsidy of the cost of a monthly transit pass (two-zone) for all residential dwelling units in Phase 2;
- Provide for additional bike-share electric bicycles with secured storage available to Phase 2 residents;
- Provide end-of-trip change rooms, lockers and showers for the Phase 2 non-residential uses;
- Provide a bicycle maintenance room with bike stand and repair tools;
- Unbundled parking – residential uses (parking costed separately from condo purchase price or monthly rent, whichever applies);
- Paid parking for non-residential uses; and
- Provide for Designated Carpool Parking.

SCHEDULE F PLAN EPP118324 (SUBDIVISION PLAN)



SCHEDULE G WESTPORT VILLAGE PUBLIC ART

PORT MOODY
CITY OF THE ARTS

100 Newport Drive, Port Moody, B.C., V3H 5C3, Canada
Tel 604.469.4500 Fax 604.469.4550
www.portmoody.ca

Private Developer Public Art Guidelines

Introduction

Public art makes Port Moody beautiful, aesthetically pleasing, and interesting. It builds our community by enhancing our quality of life, contributing to economic development and helping us celebrate our rich history. It brings art to life for our citizens in many everyday settings. Public art shows our commitment to artists and to providing our citizens with access to art from British Columbia, Canada, and around the world.

The purpose of the Private Developer Public Art Guidelines is to assist private developers in making valuable contributions to public art in the City of Port Moody.

Questions regarding these guidelines may be directed to Devin Jain, Manager of Cultural Services, 604-469-4689 or djain@portmoody.ca.

Background – Public Art Policy

Port Moody City Council approved its current [Public Art Policy](#) in 2014.

The goals of the Public Art Policy are to:

- incorporate and integrate permanent public art installations into the planning, design, and execution of civic and private development projects;
- include temporary installations of artwork where possible;
- ensure compatibility with the City's Official Community Plan and development aspirations;
- contribute to the quality of life in Port Moody and act as a stimulus for the City's economic development and cultural tourism;
- ensure that the public art collection represents a diverse variety of artistic mediums and cultural expression while incorporating excellence, quality, and innovation;
- ensure that the competition and selection process is informed, fair and open;
- encourage community members to participate in the public art process; and
- make art accessible to the public through everyday projects.

The Policy encourages private developers to contribute to the City's Artwork Reserve (funds held for the purchase of public art), or to install public artwork on the property being developed.

Document: 414994

Private Developer Public Art Guidelines

In cases where a developer chooses to install public artwork on the property being developed, the following points should be considered:

1. Developments that would benefit from public art include multi-family residential and non-residential buildings.
2. Locations for public art should be chosen such that they allow for visibility and accessibility by the general public.
3. The suggested value of a developer's artwork is a minimum of .5% of the estimated total project construction costs, excluding the value of the land on which the project is to be constructed, the value of offsite servicing for the development, and the development project's soft costs such as administration, professional and legal fees, furnishings, development cost charges, and permit fees.
4. Developers are encouraged to seek input from the City of Port Moody Arts and Culture Committee with respect to the type of artwork being proposed.
5. The developer should include language in the strata agreement that outlines the responsibility and requirement of the strata to maintain the public art piece as they would any other amenity in the complex.

Public Art Siting

Locations designated for the installation (current or future) of public art projects should meet the following criteria:

- high visibility and safety for pedestrians and/or motorists;
- proximity to high pedestrian activity (e.g. active retail areas), transit stops (especially those serving high ridership routes), places of public gathering, public open spaces, and recognized pedestrian routes;
- when possible, locations should present opportunities to expand on existing or future public artworks as part of an existing or proposed multi-artwork concept; and
- when possible, locations should be places of special heritage or community significance.

Given these criteria, indoor areas are usually deemed unsuitable; however, if sited indoors, the artwork must offer the general public a free and uninhibited experience during normal business hours.

The designation of public art siting locations(s) should be indicated on the appropriate document(s), e.g. public art plan, development permit, building permit drawings.

Public Art Plan and Design

The developer or their designate (public art consultant) will meet with City staff to review the Public Art Policy goals and the steps and stages of the public art process, and discuss preparation of a Public Art Plan as applicable to the development project.

The Public Art Plan consists of three steps:

1. The developer or designate prepares a preliminary Public Art Plan proposal, i.e. a two-to-three page proposal identifying estimated budget, public art opportunities, timeline for artist participation, and terms of reference for site and artist selection.
2. The developer or designate prepares a detailed Public Art Plan describing the selected public art site(s) and concept; artist(s); budget allocations; project schedule, construction, installation, and documentation; public participation proposed; progress reports; anticipated needs for property dedication or encroachment; and proposed maintenance plan.
3. The City of Port Moody's Cultural Services staff will review the Public Art Plan for:
 - a. proposed method of artist participation;
 - b. terms of reference for artist;
 - c. site selection process;
 - d. budget allocations within the project; and
 - e. public consultation or participation process (i.e. selection committee, jury or commission)

The detailed Public Art Plan is reviewed by the City of Port Moody and approved prior to issuance of the Development Permit Application, or initiation of the public art project.

Maintenance

Artwork created on private property must remain accessible to the public at no cost and be maintained in good repair by the owner(s) of the development. In the event the artwork is damaged beyond repair, or becomes ineffective for reasons other than the owner's failure to maintain it, or in the event the work becomes an unreasonable burden to maintain, application to allow its removal or relocation may be made in a manner consistent with decommissioning procedures established by the City of Port Moody.

Public Art Documentation

A project is deemed completed when a Final Report is submitted to, and accepted by, City staff. The following documentation must be filed with the City at the completion of the public art project:

- biographical details about the artist(s);
- an artist statement and specifications about the artwork;
- six good-quality, high-resolution, detailed images showing the artwork in context and close-up;
- other related materials as needed to reveal the artwork and/or artist intentions (e.g. film, video clips, print/digital materials, etc.); and
- a copy of the artist's maintenance plan.

Key Terms

Private developers may find the following key terms useful as they develop their Public Art Plan:

Artwork:

Artist-made creations or collaborations in any medium, for example; sculpture, ceramic, glass, film, video, fabric, painting, environment, landscape, photography, etc.

Artist:

As the creator, the artist is a catalyst and manager of a creative process resulting in a finished product. This product is in response to physical and/or social, historical, and conceptual issues.

Those involved in the development project team (e.g. architect, landscape architect, and engineer) are not permitted to apply to be the artist as defined above.

For the purposes of the Private Developer Public Art Guidelines, the definition of "artist" adheres to the Canada Council for the Arts definition of a professional artist, visual and fine craft artist, or practitioner of architecture.

Art Consultant:

An art consultant is an advisor to the developer on art siting, selection, and artist-related issues. Consultants should have a broad knowledge of current art-making practices and of artists able to work in public and development contexts. The City of Port Moody encourages developers to work with an art consultant for their public art plan.

Public Art:

Public art is defined as artwork in the public realm, which is accessible physically or visually to the public and possesses aesthetic qualities.

Artwork Reserve:

The City fund which reserves financial contributions from public and private sources for Public Art Program purposes.

Public Realm:

The public realm includes the places and spaces (e.g. building facades, parks, public open spaces, streets) that provide physical or visual access to the general public.