

1. Application

Document Fees: \$330.08

CARLY THOMSON, APPLICANT'S AGENT
1900-885 WEST GEORGIA STREET
VANCOUVER BC V6C 3H4
6048913688

File no. 52059-49 / Covenant and SRW - Public Park

2. Description of Land

PID/Plan Number	Legal Description
000-009-351	LOT 34, SUBURBAN LOT 45, ESQUIMALT DISTRICT, PLAN 2854
000-009-369	LOT 35, SUBURBAN LOT 45, ESQUIMALT DISTRICT, PLAN 2854
000-009-377	LOT 36, SUBURBAN LOT 45, ESQUIMALT DISTRICT, PLAN 2854
000-009-385	LOT 37, SUBURBAN LOT 45, ESQUIMALT DISTRICT, PLAN 2854
000-009-393	LOT 38, SUBURBAN LOT 45, ESQUIMALT DISTRICT, PLAN 2854
000-009-407	LOT 39, SUBURBAN LOTS 37,AND 45, ESQUIMALT DISTRICT, PLAN 2854
000-009-415	LOT 40, SUBURBAN LOTS 37,AND 45, ESQUIMALT DISTRICT, PLAN 2854
000-009-423	LOT 41, SUBURBAN LOTS 37, AND 45, ESQUIMALT DISTRICT, PLAN 2854
004-019-903	LOT 1, SUBURBAN LOT 45, ESQUIMALT DISTRICT, PLAN 16681
004-019-890	LOT 2, SUBURBAN LOT 45, ESQUIMALT DISTRICT, PLAN 16681
004-019-911	LOT 3, SUBURBAN LOT 45, ESQUIMALT DISTRICT, PLAN 16681

3. Nature of Interest

Type	Number	Additional Information
STATUTORY RIGHT OF WAY		Part 1, Pages 6 to 10
PRIORITY AGREEMENT		Granting the above Statutory Right of Way priority over Mortgages CA7231637, CA9921770 and CB1589863 and Assignments of Rents CA7231638 and CA9921771.
COVENANT		Section 219 Entire Instrument except Part 1
PRIORITY AGREEMENT		Granting the above Covenant priority over Mortgages CA7231637, CA9921770 and CB1589863 and Assignments of Rents CA7231638 and CA9921771.

4. Terms

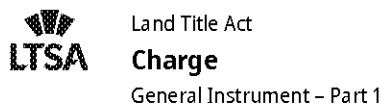
Part 2 of this instrument consists of:
(b) Express Charge Terms Annexed as Part 2

5. Transferor(s)

1340 SUSSEX STREET HOLDINGS (ESQUIMALT) LTD., NO.BC1178608

THE TORONTO-DOMINION BANK, AS TO PRIORITY

ROYAL BANK OF CANADA, AS TO PRIORITY



INTRACORP PROJECTS LTD., NO.A0065414, AS TO PRIORITY

6. Transferee(s)

THE TOWNSHIP OF ESQUIMALT
1229 ESQUIMALT ROAD
ESQUIMALT BC V9A 3P1


7. Additional or Modified Terms

8. Execution(s)

This instrument creates, assigns, modifies, enlarges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Witnessing Officer Signature	Execution Date	Transferor / Transferee / Party Signature(s)
<div><div></div><div>DANIEL S. REMICK Barrister & Solicitor 19th Flr. 885 W. Georgia St. Vancouver BC V6C 3H4</div></div>	<div><div>YYYY-MM-DD</div><div>2025-09-03</div></div>	<div>1340 SUSSEX STREET HOLDINGS (ESQUIMALT) LTD. By their Authorized Signatory</div> <div><div></div><div>Name: Adam Golden</div></div> <div><div></div><div>Name:</div></div>

Officer Certification
Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.



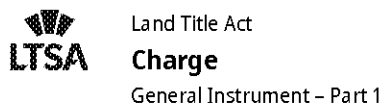
Land Title Act
Charge
General Instrument – Part 1

Witnessing Officer Signature	Execution Date	Transferor / Transferee / Party Signature(s)
<div><div></div><div>Jonah Ross Commissioner for Taking Affidavits for British Columbia Corporation of the Township of Esquimalt 1229 Esquimalt Rd. Esquimalt BC V9A 3P1</div></div> <div>As to both signatures Corporate Services Assistant Expiry: 2026-07-31</div>	<div><div>YYYY-MM-DD</div><div>2025-08-29</div></div>	<div>The Township of Esquimalt By their Authorized Signatory</div> <div><div></div><div>Name: Barbara Desjardins, Mayor</div></div> <div><div></div><div>Name: Debra Hopkins, Corporate Officer</div></div>

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Witnessing Officer Signature	Execution Date	Transferor / Transferee / Party Signature(s)
<div><div></div><div>NICK ALLEN Barrister & Solicitor FARRIS LLP 2500 - 700 West Georgia Street, P.O. Box 10026, Pacific Centre Vancouver BC V7Y 1B3</div></div>	<div><div>YYYY-MM-DD</div><div>2025-09-09</div></div>	<div>THE TORONTO-DOMINION BANK By their Authorized Signatory</div> <div><div></div><div>Name: Miriam Mildahl</div></div> <div><div></div><div>Name:</div></div>

Officer Certification
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Witnessing Officer Signature	Execution Date	Transferor / Transferee / Party Signature(s)
<div><div></div><div>BRIAN K. BEITZ Barrister & Solicitor 1212 - 1175 Douglas Street Victoria BC V8W 2E1 Tel: (250) 382-7222 Fax: (250) 382-5436 Email: bbeitz@jonesemery.com</div></div>	<div><div>YYYY-MM-DD</div><div>2025-09-04</div></div>	<div>ROYAL BANK OF CANADA By their Authorized Signatory <div><div></div><div>Name: Quinn Docherty</div></div> <div><div></div><div>Name: Sherman Lum, Senior Relationship Manager</div></div></div>

Officer Certification
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Witnessing Officer Signature	Execution Date	Transferor / Transferee / Party Signature(s)
<div><div></div><div>Edmond Weng Articling Student Terra Law Corporation Suite 2800 - 650 West Georgia St. Vancouver BC V6B 4N7 604-235-4954</div></div>	<div><div>YYYY-MM-DD</div><div>2025-09-03</div></div>	<div>INTRACORP PROJECTS LTD. By their Authorized Signatory <div><div></div><div>Name: EVAN ALLEGRETTO</div></div> <div><div></div><div>Name:</div></div></div>

Officer Certification
Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

Electronic Signature

Your electronic signature is a representation that you are a designate authorized to certify this document under section 168.4 of the *Land Title Act*, RSBC 1996 c.250, that you certify this document under section 168.41(4) of the act, and that an execution copy, or a true copy of that execution copy, is in your possession.

Daniel Solomon Remick 4PQ6CC	Digitally signed by Daniel Solomon Remick 4PQ6CC
	Date: 2025-09-10 10:47:35 -07:00

TERMS OF INSTRUMENT - PART 2
S.219 COVENANT/ S.218 SRW

RECITALS:

- A. The Transferor ("**Owner**") is the registered owner in fee-simple of those lands with a current civic address of 1340 Sussex Street and 1337 Saunders Street, more particularly described in Item #2 of Form C, in the Township of Esquimalt in the Province of British Columbia, namely:

PID: 000-009-351

LOT 34, SUBURBAN LOT 45, ESQUIMALT DISTRICT, PLAN 2854 ("**Lot 34**");

PID: 000-009-369

LOT 35, SUBURBAN LOT 45, ESQUIMALT DISTRICT, PLAN 2854 ("**Lot 35**");

PID: 000-009-377

LOT 36, SUBURBAN LOT 45, ESQUIMALT DISTRICT, PLAN 2854 ("**Lot 36**");

PID: 000-009-385

LOT 37, SUBURBAN LOT 45, ESQUIMALT DISTRICT, PLAN 2854 ("**Lot 37**");

PID: 000-009-393

LOT 38, SUBURBAN LOT 45, ESQUIMALT DISTRICT, PLAN 2854 ("**Lot 38**");

PID: 000-009-407

LOT 39, SUBURBAN LOTS 37 AND 45, ESQUIMALT DISTRICT, PLAN 2854 ("**Lot 39**");

PID: 000-009-415

LOT 40, SUBURBAN LOTS 37 AND 45, ESQUIMALT DISTRICT, PLAN 2854 ("**Lot 40**");

PID: 000-009-423

LOT 41, SUBURBAN LOTS 37 AND 45, ESQUIMALT DISTRICT, PLAN 2854 ("**Lot 41**");

PID: 004-019-903

LOT 1, SUBURBAN LOT 45, ESQUIMALT DISTRICT, PLAN 16681 ("**Lot 1**");

PID: 004-019-890

LOT 2, SUBURBAN LOT 45, ESQUIMALT DISTRICT, PLAN 16681 ("**Lot 2**"); and

PID: 004-019-911

LOT 3, SUBURBAN LOT 45, ESQUIMALT DISTRICT, PLAN 16681 ("**Lot 3**")

(Collectively, the "**Lands**").

- B. The Transferee is the Township of Esquimalt ("**Transferee**" or "**Township**").
- C. The Owner has submitted an application to the Township to rezone the Lands to Comprehensive Development District No. 167 (1333 Saunders Street) CD No. 167 further to ZONING BYLAW, 1992, NO. 2050, AMENDMENT BYLAW NO. 3158 (the "**Amendment Bylaw**") to authorize the development of one (1) maximum twenty-one (21) storey Commercial Mixed-Use purpose-built rental residential building on the Lands, including for public park use (the "**Development**"), but not dedicated on a plan as such given underground parking for the development, and acknowledging that the amenities and restrictions contained herein are in the public interest the Owner has offered and voluntarily provided this Section 218 SRW with Section 219 Covenant to the Township, and the Township has accepted it and required its registration as a condition of the Amendment Bylaw (the "**Agreement**").
- D. Section 218 of the *Land Title Act*, R.S.B.C 1996, c. 250 enables the Owner to grant in favour of the Township an easement without a dominant tenement to be known as a statutory right of way, and the Owner wishes to grant such a statutory right of way.
- E. This Statutory Right of Way is necessary for the operation and maintenance of the Township's undertaking.
- F. Section 219 of the *Land Title Act* gives authority for a covenant and indemnity, whether of a negative or positive nature, to be registered against the Lands and granted in favour of the Township with provisions:
- in respect of the use of land or the use of a building on or to be erected on land;
 - that land is to be built on in accordance with the covenant;
 - that land is not to be built on or subdivided except in accordance with the covenant;
 - that land is not to be used, built on or subdivided;
 - that parcels of land designated in the covenant and registered under one or more indefeasible titles are not to be sold or otherwise transferred separately; and
 - that land or a specified amenity in relation to it be protected, preserved, conserved, maintained, enhanced, restored or kept in its natural or existing state in accordance with the covenant and to the extent provided in the covenant.

NOW THEREFORE in consideration of the payment of the sum of \$10.00 by the Township to the Owner (receipt and sufficiency acknowledged), the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the parties covenant and agree as to the following, including under Section 219 of the *Land Title Act*:

PART 1 – S.218 STATUTORY RIGHT OF WAY ("SRW")

1. The Owner, for itself, its heirs, executors, administrators, successors and assigns, hereby

grants and conveys in perpetuity and at all times to the Township, its officials, employees, contractors, subcontractors, agents, licensees, invitees, permittees, police and other law enforcement, and the public generally, with or without invitation, blanket statutory right of way (the "**Statutory Right of Way**") for the full, free and uninterrupted right, licence, liberty, privilege, easement and right of way in common with the Owner for the purpose of public park use including pedestrian and other non-vehicular use and access (collectively, the "**Works**"), including all associated services, including but not limited to curbs, gutters, structures, improvements, furniture, walkways, hard and soft landscaping (including but not limited to lawns, trees, shrubs, bushes, flowers and other flora), paving, surfacing and retaining walls and such works required by the Township or necessary or convenient for lighting, drainage, irrigation and all other related utilities, furniture, equipment and elements to be installed or constructed on the Statutory Right of Way, and all other works of a similar nature or kind that may be required by the Township from time to time (collectively, the "**Related Works and Services**"), and in connection therewith:

- (a) to facilitate uninterrupted access of the Township and the public to and through the Statutory Right of Way, on foot, or in wheelchairs or strollers (or scooters for disabled persons but not in other private motorized vehicles);
- (b) to provide access to the Township and allow the Township to operate the Works and the Related Works and Services within the Statutory Right of Way, and to install, construct, repair, maintain, clean, clear, protect, replace the Works and the Related Works and Services;
- (c) to clear the Statutory Right of Way and keep it clear of anything which, in the opinion of the Township constitutes or may constitute an obstruction to the use of the Statutory Right of Way or to the Works;
- (d) to inspect the Statutory Right of Way for the purpose of ascertaining compliance with this Agreement;
- (e) to hold events, Special Events (defined below), regulate and otherwise operate the Public Space as a Township parkland;
- (f) to enforce Township bylaws, policies and operational procedures in relation to public use, noise, public disturbances and other nuisances, animal control, including the authority to ticket and remove, or either, persons, animals, vehicles and objects, with or without the assistance of animal control officials and police, including from other jurisdictions (For certainty, the Owner agrees that this Agreement grants their permission and invitation to police and other lawful enforcement to enter the lands and enforce local government, provincial and federal laws);

- (g) to do anything else on or over the Statutory Right of Way that the Township considers necessary or desirable in connection with the rights granted by this Agreement, including, without limitation, to disturb the surface of the Statutory Right of Way and excavate it and to bring vehicles, machinery, equipment, tools and supplies on to and through the Statutory Right of Way, and use them thereon.
- 2. No right granted to or reserved by the Township in this Agreement will require the Township to establish, clean, repair, or maintain the Works or the Statutory Right of Way unless the Township is expressly required in this Agreement to perform such establishment, cleaning, repairing or maintenance.
- 3. No part of the title in fee-simple to the soil shall pass to or be vested in the Township under or by virtue of these presents, and the Owner may fully use and enjoy all the Lands of the Owner, subject only to the rights and restrictions contained in this Agreement.
- 4. Notwithstanding the grant of the Statutory Right of Way by the Owner pursuant to Section 1 of this Agreement, any rights for the public generally to exercise the Statutory Right of Way and to use and access the Public Space (as defined in Section 6(a) below), the Works and the Related Works and Services pursuant to this Agreement will not commence until one day after the date that construction of the Public Space, the Works and the Related Works and Services on the Lands and any other required portions of the Development have been completed, and the parties agree:
 - (a) the Owner has jointly determined with the Township that the Public Space, the Works and the Related Works and Services are complete and safe for public use;
 - (b) The intended timeline for operation is to coincide with occupancy of the Development, and the Owner agrees the Township's Building Inspector may withhold occupancy permit until:
 - (i) the Works and Related Works and Services are completed, or
 - (ii) Township, in its sole discretion, agrees to accept security for the Owner's completion of outstanding Works and Related Works and Services, and a reasonable timeline for full operation, which shall not exceed 90 days or such later date or timeline determined by the Township's Building Inspector.
- 5. Township Special Events:
 - (a) "**Special Event**" means:
 - (i) an event undertaken for commercial purposes, such as a farmer's market;
 - (ii) An event requiring a Special Event Permit issued to a third party for use by 25 or more persons;

- (iii) Any event otherwise organized and operated by the Township that anticipates use by 50 or more persons.
- (b) The Township agrees that if it intends to issue a Special Event Permit for the Public Space, or use the Public Space for Special Events, then:
 - (i) the Township will provide the Owner with at least fifteen (15) days advance written notice of any such Special Event;
 - (ii) the Township will be responsible, at its own cost, for all required set-up for the Special Event, and for the removal, clean-up and disposal of any garbage or other waste from the Special Event, including arranging for any required supplementary or additional garbage and waste collection and disposal services during or following any Special Event, such that the Public Space will be left in a reasonably similar state of maintenance, repair and cleanliness that existed prior to any such Special Event; and
 - (iii) any Special Event must be consistent with the use and operation of the Public Space for public park use.

Conversion of Agreement to a Specific Statutory Right of Way

6. The Township and the Owner agree that the Works will be generally located over an area of approximately 1,718 sq.m (18,492 sq.ft.) portion of the Lands adjacent the Sussex Street frontage between Ontario Drive and Nelson Street:
 - (a) generally as shown on the Landscape Concept Plan prepared by LADR Landscape Architects and dated March 2024, a copy of which is attached as Schedule "A" to this Agreement (the "**Public Space**"), unless
 - (b) as otherwise shown in an approved development permit issued by the Township in respect of the Lands, the parties acknowledging that a Development Permit prevails over this Covenant in light of section 501(2) of the *Local Government Act*.

The Township agrees to generally limit the rights granted by this Agreement to the Public Space, and the parties further agree that any uncertainty regarding the Public Space is to be resolved in favour of the Township given this blanket charge.

7. Notwithstanding Section 6, the Township and the Owner covenant and agree that upon completion of the construction and development of the Works, the Related Works and Services and the Public Space by the Owner, the Owner shall, at its sole cost and expense, cause a British Columbia Land Surveyor to prepare an explanatory or reference plan of statutory right of way in registerable form defining the actual as built boundaries of the Works and the Public Space (the "**Specific Right of Way Area**"), and the Owner shall prepare and deliver to the Township for review and acceptance, and, if acceptable to the

Township, the Township shall execute and deliver it to the Owner so that the Owner can proceed with a modification of this Agreement or a replacement statutory right of way agreement which replaces this Agreement, in order to limit the Statutory Right of Way to the Specific Right of Way Area, but in all other respects containing the same terms and conditions of this Agreement. Concurrently with the registration of any replacement statutory right of way in the Land Title Office with respect to the Specific Right of Way Area, the Township shall execute and deliver a discharge of this blanket statutory right of way in registerable form, which discharge shall be prepared and registered by the Owner at its own cost and expense.

PART 2 – S.219 COVENANT

8. The Owner covenants and agrees that the Lands must not be subdivided (including under the *Strata Property Act*), built upon, used or continue to be used, unless the Owner has provided, at its sole cost and without expectation of compensation from the Township, and continues to provide the Public Space. The Township acknowledges that prior to construction and development of the Public Space, the Owner will be required to consolidate the eleven (11) parcels that comprise the Lands as one lot, it being understood and agreed by the Owner that this Agreement will remain registered against the consolidated lot and its covenants and obligations to provide the Public Space pursuant to this Agreement will continue to apply to the consolidated lot.
9. The Owner hereby covenants and agrees with the Township that the Owner, all at its sole cost and responsibility:
 - (a) will construct and install the Works and the Related Works and Services within the Statutory Right of Way to the satisfaction of the Township's Director of Parks and Recreation;
 - (b) will not, and will not permit any other person, to erect, place, install or maintain any building, structure, addition to a building or structure, concrete driveway or patio, pipe, wire or other conduit on, over or under any portion of the Statutory Right of Way, without the express written consent of the Township's Director of Parks and Recreation
 - (i) Limited Exception: the parties agree that this consent is not required for the below-grade parking beneath the Public Space, generally in accordance with the architectural plans prepared by Arcadis dated April 21, 2025 and labelled "Rezoning Resubmission", or as otherwise shown in an approved development permit issued by the Township in respect of the Lands, the parties acknowledging that a Development Permit prevails over this Covenant in light of section 501(2) of the *Local Government Act*;
 - (c) will not do or permit to be done any act or thing which will interfere with or injure

the Works or the Related Works and Services and in particular will not carry out any blasting on or adjacent to the Statutory Right of Way, without the express written consent of the Township's Director of Parks and Recreation, the parties acknowledging that consent shall not be unreasonably withheld;

- (d) will maintain, care for and clean, and repair and replace as necessary, the Public Space, Works, the Related Works and Services, and the surface of the Statutory Right of Way to at all times keep the Public Space, Works and the Related Works and Services in a good and safe state, including in accordance with the Maintenance Standards identified in Schedule "B";
 - (i) Limited Exception: the parties agree that this obligation does not extend to additional improvements the Township may construct or place in the Public Space, which the Township will maintain and accept responsibility for;
- (e) will trim or, if necessary, cut down any tree or other growth on the Lands which in the opinion of the Township Director of Parks and Recreation constitutes or may constitute a danger, hazard or obstruction to those using the Statutory Right of Way;
- (f) will allow the Township, its officials, employees, contractors, subcontractors, agents, licensees, invitees, permittees, police and other law enforcement and the public generally to enter upon the Statutory Right of Way as provided in Part 1 of this Agreement, and not to interfere with in any way or prevent any such person coming on to the respective area for the purposes permitted by this Agreement;
- (g) will from time to time and at all times at the reasonable request of the Township do and execute or cause to be made, done or executed any further and other lawful acts, deeds, things, devices, conveyances and assurances in law required to ensure the Township of its rights under this Agreement;
- (h) obtain and maintain the following insurance coverage while this Agreement remains in effect:
 - (i) comprehensive general liability insurance providing coverage for death, bodily harm and injury, property loss and damage, and all other losses arising out of or in connection with the operation, use and occupation of the Public Space in an amount of not less than \$5,000,000 per occurrence;
 - (ii) any other form or forms of insurance that the Owner may reasonably require from time to time in amounts and for such perils against which a prudent owner acting
 - (iii) reasonably would protect itself in similar circumstances; and

- (iv) such additional insurance as the Township may require from time to time,

and all policies of insurance required to be taken out by the Owner must:

1. name the Township as an additional insured;
 2. include that the Township is protected notwithstanding any act, neglect or misrepresentation by the Owner which might otherwise result in the avoidance of a claim and that such policies are not affected or invalidated by any act, omission or negligence of any third party which is not within the knowledge or control of the insureds;
 3. be issued by an insurance company entitled to carry on the business of insurance under the laws of British Columbia;
 4. be primary and non-contributing with respect to any policies carried by the Township and that any coverage carried by the Township is excess coverage;
 5. not be cancelled without the insurer providing the Township with 60 days written notice to the Director of Parks and Recreation stating when such cancellation is to be effective;
 6. not include a deductible greater than \$25,000.00 per occurrence;
 7. include a cross liability clause; and
 8. be on other terms acceptable to the Township, acting reasonably; and
- (i) will permit the Township to peaceably hold and enjoy the rights granted by this Agreement.
10. Further, the Owner must obtain all required insurance at its sole expense and must provide the Township with certificates of insurance confirming the placement and maintenance of all required insurance as reasonably requested by the Township. If the Owner fails to insure or provide proof of insurance as required, the Township may, immediately and without notice to the Owner, effect the insurance in the name of and at the expense of the Owner. For clarity, the Township has no obligation to effect such insurance.
11. The Owner further covenants and agrees that Township, and any of its officers or employees, may but is not obligated to:
- (a) inspect the Lands, including Public Space and Statutory Right of Way, for the purpose of ascertaining compliance with this Agreement; and

- (b) enforce Township bylaws, policies and operational procedures in relation to public use, noise, public disturbances and other nuisances, animal control, including the authority to ticket and remove, or either, persons, animals, vehicles and objects, with or without the assistance of animal control officials and police.
12. The Owner further covenants and agrees that police and other law enforcement officials, may but is not obligated to enforce local government, provincial or federal laws on the Public Space, and this Agreement shall be interpreted as an invitation and consent for such officials to enter the Public Space portion of the Lands, such that it may be treated as public land for these purposes.
13. The Owner and Township agree that the Owner may continue to implement reasonable protocols to ensure the safety, security and quiet enjoyment of the Public Space and the surrounding residents of the Lands, in accordance with:
- (a) The restrictions and requirement listed in, and consistent with, Township bylaws, policies and operational procedures;
 - (b) the following additional restrictions and requirements:
 - (i) normal operating hours of 7am to 10pm;
 - (ii) temporary closures of areas undergoing maintenance or repair, the parties acknowledging that non-emergency instances require thirty (30) days notice to, and agreement as the scope of the closure from, the Township's Director of Parks and Recreation, such consent not to be unreasonably withheld,and the Owner may post signage on or about the Public Space and the Works to advise the public of any such restrictions and requirements;
 - (c) Otherwise as agreed in writing between the Owner and the Township's Director of Parks and Recreation.

Indemnity and Release

14. The Owner covenants and agrees to indemnify and save harmless the Township and each of its elected and appointed officials, officers, and employees from any and all claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees (on a solicitor-client basis) whatsoever, in law or equity, which anyone has or may have against the Township or which the Township incurs as a result of any loss, damage, deprivation, enrichment or injury, including economic loss, arising out of or connected with the restrictions or requirements of this Agreement, the breach of any covenant in this Agreement, the granting of any approvals, or the use of the Lands contemplated under this Agreement.

15. The Owner releases and forever discharges the Township and each of its elected and appointed officials, officers, and employees of and from any claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees (on a solicitor-client basis) whatsoever, in law or equity, which the Owner and anyone, including third parties, can or may have against the Township for any loss, damage, deprivation, enrichment or injury, including economic loss, arising out of or connected with the restrictions or requirements of this Agreement, the breach of any covenant in this Agreement, the granting of any approvals, or the use of the Lands contemplated under this Agreement.
16. Without limiting the above release and indemnity, the Owner acknowledges that this Agreement may be interpreted to contain conditions, restrictions, requirements, benefits or gifts that may not be specifically identified or required by bylaw. The Owner hereby expresses its intention to be solely responsible for the costs resulting from satisfying the conditions of this Agreement, and to donate any contribution to the Township as a gift without any expectation of credit, payment or reward of any kind. The Owner further releases, waives and forever discharges the Township from and against any claims, actions, or causes of action, whether based in contract, tort or equity, for damages or losses, for the recovery of the contributions or costs incurred, including legal expenses, or for unjust enrichment, in connection with the provision of those contributions.
17. The releases and indemnities of this Agreement shall survive its termination.

Registration

18. The restrictions and requirements in this Agreement are covenants running with the Lands in favour of the Township and intended to be perpetual, and shall continue to bind all of the Lands when subdivided.
19. At the Owner's sole cost, the Owner must do everything necessary to secure priority of registration and interest for this Agreement over all encumbrances of a financial nature on the Lands.
20. The Owner agrees to execute all other documents and provide all other assurances necessary to give effect to the covenants contained in this Agreement.
21. The Owner agrees to pay the reasonable legal fees and land title office costs of the Township in connection with the preparation and registration of this Agreement.

General

22. The Owner covenants and agrees for itself, its heirs, executors, successors and assigns, that it will at all times perform and observe the requirements and restrictions set out in this Agreement.
23. It is mutually understood, acknowledged and agreed by the parties that the Township has

made no representations, covenants, warranties, guarantees, promises or agreements (oral or otherwise) with the Owner other than those contained in this Agreement.

24. Nothing contained or implied in this Agreement:
- (a) prejudices or affects the rights, powers or discretion of the Township in the exercise of its functions under any public or private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Lands as if the Agreement had not been executed and delivered by the Owner;
 - (b) imposes any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement or the breach of any provision in this Agreement; or
 - (c) imposes any public law duty, whether arising from the principles of procedural fairness or the rules of natural justice, on the Township with respect to its exercise of any right or remedy expressly provided in this Agreement or at law or in equity.
25. The parties agree that this Agreement shall not be modified or discharged except in accordance with the provisions of section 219(9) of the *Land Title Act*. Such modification or discharge may proceed without a public hearing, at the sole discretion of Township Council or their delegate.
26. The Owner covenants and agrees that the Township may withhold development permits, building permits and other approvals related to the use, building or subdivision of land as necessary to ensure compliance with the covenants in this Agreement, and that the issuance of a permit or approval does not act as a representation or warranty by the Township that the covenants of this Agreement have been satisfied.
27. The Owner covenants and agrees that:
- (a) if the Township advises of a breach of this Agreement, as determined in its reasonable discretion, the Owner must promptly remedy that breach at its sole cost;
 - (b) if the Owner has not remedied the breach to the reasonable satisfaction of the Township within thirty (30) days of notice or other longer time period specified by the Township, the Township may, but is under no obligation to, remove or rectify the breach at the expense of the Owner without further notice; and
 - (c) any costs to the Township of such removal or rectification is a debt due from the Owner to the Township together with interest at a rate of 1% per annum in excess of the Prime Lending Rate of the Royal Bank of Canada in effect from time to time, and:

- (i) the Owner shall pay such costs and interest to the Township forthwith upon demand; and
 - (ii) failing payment, the Township may add such costs to property taxes for the Lands.
- 28. If the Owner sells or otherwise transfers ownership of the Lands, or any portion thereof, the Owner will require the purchaser or transferee, as a condition of the sale or transfer, to enter into an assignment and assumption agreement with the Owner and the Township, in form and content satisfactory to the Township, whereby the purchaser or transferee will unconditionally assume all of the Owner's obligations under this Agreement.
- 29. No remedy under this Agreement is to be deemed exclusive but will, where possible, be cumulative with all other remedies at law or in equity. The Owner agrees that the Township is entitled to obtain an order for specific performance or a prohibitory or mandatory injunction in respect of any breach of this Agreement by the Owner.
- 30. The waiver by a party of any breach of this Agreement or failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar, and no waiver is effective unless it is written and signed by both parties.
- 31. If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 32. The Owner acknowledges having been directed to obtain independent legal advice prior to executing this Agreement, and the Owner agrees and acknowledges that it has read and fully understands all of the terms and conditions of this Agreement and its impact on the Lands.
- 33. Whenever the plural, singular, masculine or neuter is used herein, the same shall be construed as including the plural, singular, feminine, body corporate or politic unless the context requires otherwise.
- 34. Where there is a reference to an enactment of the Province of British Columbia in this Agreement, that reference shall include a reference to any subsequent enactment of the Province of British Columbia of like effect, and unless the context otherwise requires, all statutes referred to herein are enactments of the Province of British Columbia.
- 35. This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

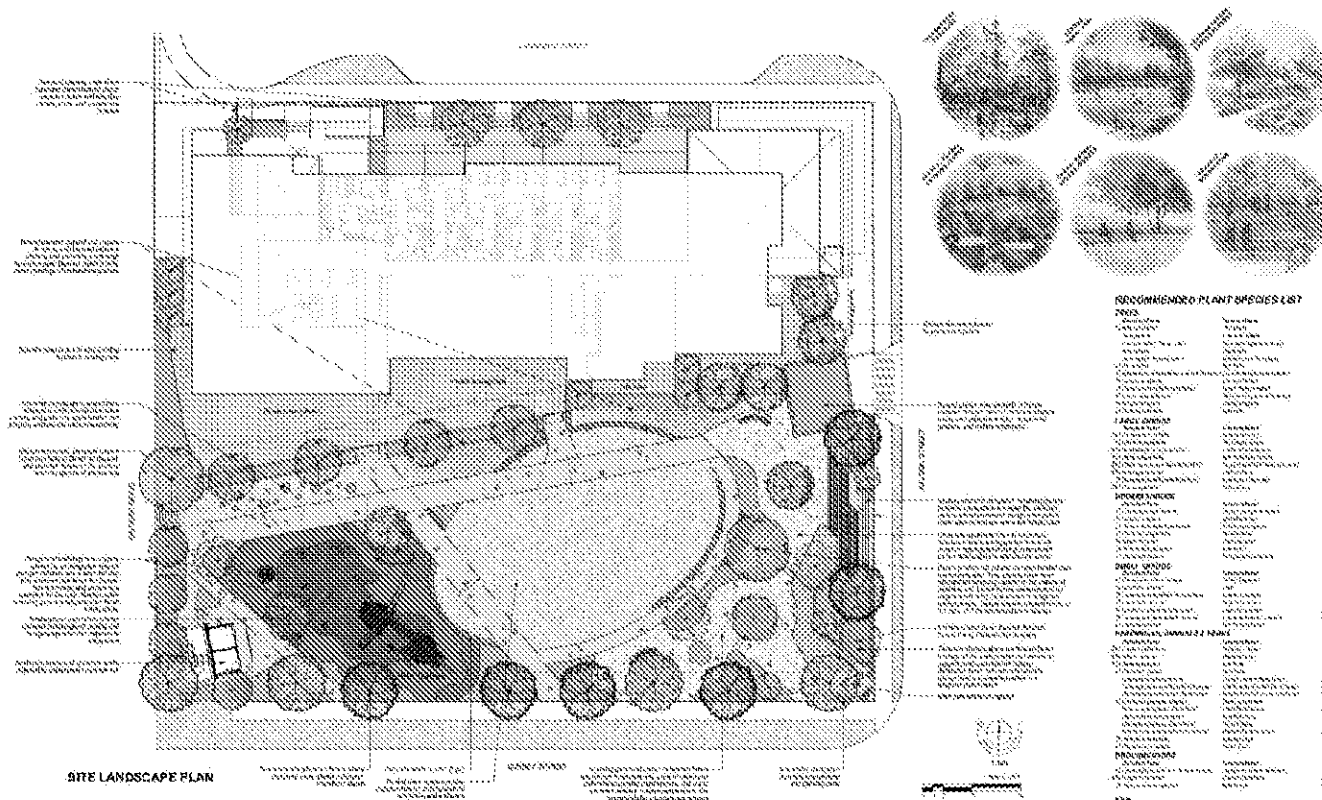
Priority Agreements

36. THE TORONTO-DOMINION BANK ("TD"), the registered holder of charges by way of MORTGAGE and ASSIGNMENT OF RENTS against Lot 34, Lot 35, Lot 36, Lot 37, Lot 38, Lot 39, Lot 40, Lot 41 registered under No. CA7231637 and CA7231638 (collectively, the "**TD Charges**"), agrees with the Township, in consideration of the sum of Ten Dollars (\$10.00) paid by the Township to TD (receipt and sufficiency acknowledged), that the Agreement shall be an encumbrance upon the Lands in priority to the TD Charges in the same manner and to the same effect as if the Agreement had been dated and registered prior to the TD Charges.
37. ROYAL BANK OF CANADA (the "**RBC**"), the registered holder of charges by way of MORTGAGE and ASSIGNMENT OF RENTS against Lot 1, Lot 2 and Lot 3 registered under No. CA9921770 and CA9921771 (collectively, the "**RBC Charges**"), agrees with the Township, in consideration of the sum of Ten Dollars (\$10.00) paid by the Township to RBC (receipt and sufficiency acknowledged), that the Agreement shall be an encumbrance upon the Lands in priority to the RBC Charges in the same manner and to the same effect as if the Agreement had been dated and registered prior to the RBC Charges.
38. INTRACORP PROJECTS LTD., Inc. No. A0065414 (the "**Intracorp**"), the registered holder of charges by way of MORTGAGE against the Lands registered under No. CB1589863 (the "**Intracorp Charge**"), agrees with the Township, in consideration of the sum of Ten Dollars (\$10.00) paid by the Township to Intracorp (receipt and sufficiency acknowledged), that the Agreement shall be an encumbrance upon the Lands in priority to the Intracorp Charge in the same manner and to the same effect as if the Agreement had been dated and registered prior to the Intracorp Charge.

The Owner and Township acknowledge that this Agreement has been duly executed and delivered by the parties executing the Form C attached to, and forming part of, this Agreement.

Schedule A

Landscape Concept Plan



1340 Sussex & 1337 Saunders | Landscape Concept Plan

Schedule B

Maintenance Standards for Owner

*(Subject to Revision by Township Director of Parks and Recreation
in accordance with Township policies and practices, as may be amended from time to time)*

1. Grounds
 - 1.1. Grounds are mowed and trimmed.
 - 1.2. Park is free of litter, debris, and hazards.
2. Plants
 - 2.1. Plants and lawns are healthy.
 - 2.2. Lawns are regularly mowed and trimmed.
 - 2.3. Plant beds are free of litter, debris, and weeds.
 - 2.4. Landscaping is to be maintained as per a maintenance plan approved by the Township
3. Irrigation
 - 3.1. Irrigation system is fully operational with complete uniform coverage.
 - 3.2. System is free of leaks.
 - 3.3. Heads are installed according to intended use.
 - 3.4. Heads are properly adjusted with rotations and arcs set to reduce water run off.
 - 3.5. Systems are set to run at specific times to minimized water evaporation and waste.
4. Walkways
 - 4.1. Walkways have a uniform surface and are level with the ground and free of trip hazards.
 - 4.2. Walkways are free of litter and debris.
 - 4.3. Walkways have unobstructed accessibility (free from low and protruding limbs, guide wires, etc.)
 - 4.4. Walkways are neatly edged.
 - 4.5. Walkways are clear of weeds and grass growth in cracks and expansion joints.
5. Benches
 - 5.1. Slats are smooth and structurally sound.
 - 5.2. Hardware is intact and structurally sound.
 - 5.3. Nails, bolts, or screws are flush with the surface.
 - 5.4. Seats and backing are smooth with no protrusions and have no exposed sharp edges or pointed corners.
6. Tables
 - 6.1. Tables are clean, free of rust, mildew, and graffiti.
 - 6.2. Table hardware is intact.
 - 6.3. Table frames are intact, and slats are properly secured.

6.4. Table seats and tops are smooth with no protrusions and have no exposed sharp edges or pointed corners.

7. Trash Receptacles

- 7.1. Receptacles are clean.
- 7.2. Wood receptacles are painted and free of damage or missing parts.
- 7.3. Hardware for wood receptacles is intact.
- 7.4. Concrete receptacles are intact and free of cracks or damage.
- 7.5. Area around trash receptacles is clean and free of trash and debris.

8. Washrooms

- 8.1. Washrooms are clean, sanitary, and properly stocked with paper products.
- 8.2. Lights and ventilation systems are operational.
- 8.3. Toilets, water faucets, stall doors, and hand air dryers are operational.
- 8.4. Washrooms are free of graffiti.
- 8.5. Restrooms have clean trash receptacles.
- 8.6. Restroom doors and locks are operational.

9. Drinking Fountains

- 9.1. Fountains are accessible and operational.

10. Play Structure

- 10.1. Play structure and surrounding play areas meet Canadian Playground Safety Institute standards.
- 10.2. Play equipment and hardware is intact.
- 10.3. Play equipment is free of graffiti.
- 10.4. Play equipment to be inspected by a qualified inspector annually.

11. Surfacing

- 11.1. Playground surface is clean, level, and free of litter and debris.
- 11.2. Playground surface meets Canadian Playground Safety Institute standards.
- 11.3. Playground surface is well drained.

12. Sport Court Surfacing

- 12.1. Surface is smooth, level, and well drained with no standing water.
- 12.2. Surface is free of large cracks, holes, and trip hazards.
- 12.3. Worn painted surfaces do not exceed 20% of total court surface.
- 12.4. Surface is free of litter, debris, gravel and graffiti.

13. Nets

- 13.1. Nets are free from tears and frays.
- 13.2. Nets are properly installed and secured to support poles.

13.3. Support poles have hardware intact, properly anchored, and installed.

14. Basketball Rims and Backboards

14.1. Rims and backboards are level with hardware intact.

14.2. Nylon nets are properly hung and are not torn or tattered.

14.3. Support poles are secure in the ground and straight.