

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.

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

Joshua Steeper  
Barrister & Solicitor  
200 - 7169 West Saanich Road  
Brentwood Bay BC V8M 1P7

File No. 2019003  
Phone No. 250.544.1002

Deduct LTSA Fees? Yes ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:  
[PID] [LEGAL DESCRIPTION]

**SEE SCHEDULE**

STC? YES

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

**Covenant**

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) ☐ Filed Standard Charge Terms D.F. No.

(b) ☒ Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

**BYRON FRANCIS ROTGANS  
KAREN ELIZABETH ROTGANS**

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

**THE CORPORATION OF THE TOWNSHIP OF ESQUIMALT**

1229 ESQUIMALT ROAD  
ESQUIMALT

BRITISH COLUMBIA  
CANADA

V9A 3P1

7. ADDITIONAL OR MODIFIED TERMS:

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges 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.

Officer Signature(s)

Joshua Steeper  
Barrister & Solicitor

200 - 7169 West Saanich Road  
Brentwood Bay, BC, V8M 1P7  
250.544.1002

(as to both signatures)

Execution Date

Y	M	D
20	05	25

Transferor(s) Signature(s)

BYRON FRANCIS ROTGANS

KAREN ELIZABETH ROTGANS

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.

**Execution Date**

Transferor / Borrower / Party Signature(s)

Execution Date		
Y	M	D
20		

The Corporation of the Township of  
Esquimalt  
by its authorized signatory(ies):

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.

**Execution Date**

Transferor / Borrower / Party Signature(s)

---

**Y**

---

**M**

**D**

20

Approving Officer for  
The Corporation of the Township of  
Esquimalt

## Bill Brown

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  
FORM E****SCHEDULE**PAGE 4 OF 8 PAGES

---

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:  
[PID] [LEGAL DESCRIPTION]

**NO PID NMBR LOT 1, SECTION 11, ESQUIMALT DISTRICT, PLAN EPP93840**

STC? YES ☐

[Related Plan Number]

**EPP93840**

- 
2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:  
[PID] [LEGAL DESCRIPTION]

**NO PID NMBR LOT 2, SECTION 11, ESQUIMALT DISTRICT, PLAN EPP93840**

STC? YES

[Related Plan Number]

**EPP93840**

- 
2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:  
[PID] [LEGAL DESCRIPTION]

STC? YES ☐

TERMS OF INSTRUMENT - PART 2  
S.219 COVENANT

---

**RECITALS:**

- A. The Transferor ("**Owner**") is the registered owner in fee-simple of property with a civic address of 1198 Munro Street, in the Township of Esquimalt in the Province of British Columbia, namely:

PID: 005-455-031

Lot 1, Section 11 Esquimalt District, Plan 44436

the "**Parent Parcel**", which is being subdivided into the following two lots concurrently with the registration of this Covenant:

Lot 1, Section 11 Esquimalt District, Plan EPP93840 ("**Lot 1**"), and

Lot 2, Section 11 Esquimalt District, Plan EPP93840 ("**Lot 2**"),

the "**Lands**", more particularly described in Item #2 of Form C.

- B. The Transferee is the Township of Esquimalt ("**Transferee**" or "**Township**").
- C. The Owner has submitted an application to the Township's Subdivision Approving Officer to subdivide the Parent Parcel to create Lot 1 and Lot 2, but as the Comprehensive Development District No. 114 (1198 Munro Street) Zone specific to the Parent Parcel only permits a density of two (2) dwelling units, and the existing residence on Lot 1 presently contains two (2) dwelling units, and the Owner has agreed, that Lots 1 and 2 are to be linked in accordance with the terms of this Covenant until such time as development can be permitted on Lot 2.
- D. 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 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.

**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*:

**No Separate Transfer – Lot 1 and Lot 2**

1. The Owner covenants and agrees that Lot 1 and Lot 2 are linked in accordance with Section 219(2)(d) of the *Land Title Act*, and must not be sold or otherwise transferred separately.
2. The parties agree that this Covenant shall be discharged from the Lands upon either:

- (a) the decommissioning of the secondary suite located within the single family dwelling on Lot 1, or
- (b) the amendment of Township zoning to permit a third (or more) dwelling unit within the comprehensive development zone that the Lands are located within,

all at the Owner's sole responsibility and expense.

### **Indemnity and Release**

- 3. The Owner covenants and agrees to indemnify and save harmless the Township 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, or the use of the Lands contemplated under this Agreement.
- 4. The Owner releases and forever discharges the Township 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 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, or the use of the Lands contemplated under this Agreement.
- 5. The releases and indemnities of this Agreement shall survive its termination.

### **Registration**

- 6. The restrictions and requirements in this Agreement are covenants running with the Lands in favour of the Township and intended to be perpetual, unless discharged in accordance with the terms of this Agreement, and shall continue to bind all of the Lands when subdivided.
- 7. 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.
- 8. The Owner agrees to execute all other documents and provide all other assurances necessary to give effect to the covenants contained in this Agreement.
- 9. The Owner, as a personal covenant between the parties, 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, as well as its subsequent discharge.

### **General**

- 10. 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.

11. 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.
12. 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.
13. 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, unless such approval is issued to fulfill the requirements of section 2 of this Agreement.
14. 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.
15. 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.
16. 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.
17. The Owner acknowledges having received legal advice prior to executing this Agreement, and the Owner agrees that it fully and completely understands this Agreement and its impact on the Lands.
18. Any notice required or permitted to be given in connection with this Agreement will be in writing and delivered personally or sent by prepaid express mail to the applicable addresses set out above. If notice is delivered personally, it will be considered given when delivered. If notice is mailed, it will be considered given five days after mailing

by deposit at a Canada Post mailing point or office. A party may only change their address for delivery under this section by notice to the other party in accordance with this section.

19. This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

The Owner and Township acknowledge that this Agreement has been duly executed and delivered by the parties executing Forms C and D attached.