

**LAND TITLE ACT
FORM C (Section 233) CHARGE
GENERAL INSTRUMENT - PART 1 Province of British Columbia**

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.



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

**Guy Patterson, Barrister & Solicitor
YOUNG ANDERSON
1616 - 808 Nelson Street
Vancouver**

BC V6Z 2H2

Phone: (604) 689-7400
File: 176-971
Covenant-Development Agreement

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):

PARK ROYAL SHOPPING CENTRE HOLDINGS LTD., INC. NO. C0596935

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

DISTRICT OF WEST VANCOUVER

750 17TH STREET
WEST VANCOUVER

V8V 3T3

BRITISH COLUMBIA
CANADA

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)

**MYRON N. BARR
Barrister and Solicitor
200-100 Park Royal
West Vancouver, B.C. V7T 1A2**

Execution Date

Y	M	D
18	06	13

Transferor(s) Signature(s)

**PARK ROYAL SHOPPING
CENTRE HOLDINGS LTD. by its
authorized signatory(ies):**

Name:

AMIN KAURI

Name:

(as to both signatures)

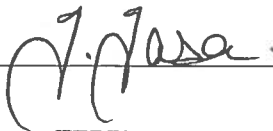
OFFICER CERTIFICATION:

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
FORM D

EXECUTIONS CONTINUED

Officer Signature(s)



TERRY TASA
Commissioner for taking affidavits
for British Columbia
750 17th Street
West Vancouver BC V7V 3T3
Expires: December 31, 2020



(as to both signatures)

Execution Date

Y	M	D
18	06	14

Transferor / Borrower / Party Signature(s)

DISTRICT OF WEST VANCOUVER by
its authorized signatory(ies):


Name: Michael Smith
Mayor
Name: MARK PANNETON
Corporate Officer

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
FORM E****SCHEDULE**PAGE 3 OF 43 PAGES

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

009-122-494 BLOCK F DISTRICT LOT 1040 PLAN 11252

STC? YES

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

011-062-525 LOT C (SEE 585835L) BLOCK 6 DISTRICT LOT 1040 PLAN 5848

STC? YES

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

**011-062-096 LOT B EXCEPT: PART ON HIGHWAY PLAN 30; BLOCK 6 DISTRICT LOT 1040
GROUP 1 NEW WESTMINSTER DISTRICT PLAN 5848**

STC? YES

TERMS OF INSTRUMENT – PART 2**SECTION 219 COVENANT – USE AND DEVELOPMENT OF LAND**

This Agreement dated for reference the 12th day of June, 2018.

BETWEEN:

DISTRICT OF WEST VANCOUVER

750 17th Street
West Vancouver, BC V8V 3T3

(the "District")

AND

PARK ROYAL SHOPPING CENTRE HOLDINGS LTD., Inc. No. C0596935

3rd Floor
100 Park Royal
West Vancouver, BC V7T 1A2

(the "Owner")

GIVEN THAT:

- A.** The Owner is the owner of land located in the District of West Vancouver and more particularly described as:

<i>Address:</i>	<i>PID:</i>	<i>Legal Description:</i>
<i>752 MARINE DRIVE</i>	<i>009-122-494</i>	<i>BLOCK F DISTRICT LOT 1040 PLAN 11252</i>
<i>756 MARINE DRIVE</i>	<i>011-062-525</i>	<i>LOT C (SEE 585835L) BLOCK 6 DISTRICT LOT 1040 PLAN 5848</i>
<i>764 MARINE DRIVE</i>	<i>011-062-096</i>	<i>LOT B EXCEPT: PART ON HIGHWAY PLAN 30; BLOCK 6 DISTRICT LOT 1040 GROUP 1 NEW WESTMINSTER DISTRICT PLAN 5848</i>

(collectively, the "Land");

- B.** The Owner wishes to construct on the Land, and on adjacent land outside the jurisdiction of the District, a development consisting of two mixed use, multi-storey buildings containing 203 residential dwelling units and approximately 30,000 square feet of

commercial space, along with public areas and underground parking (the "Proposed Development");

- C. To permit the portion of the Proposed Development to be located within the District, the Owner has applied for, and the District's Council is considering, an amendment to the District's Zoning Bylaw by way of -Zoning Bylaw No. 4662, 2010, Amendment Bylaw No. 4967, 2018 (the "Amendment Bylaw");
- D. The Owner has offered to provide amenities to the District in conjunction with the development of the Land, and has promised the District that no portion of the Proposed Development shall be constructed or occupied except in accordance with the plans submitted to the District in support of the Owner's zoning amendment application;
- E. The Owner has asked the District to consider adopting the Amendment Bylaw before all of the proposed conditions are satisfied, in exchange for the Owner's covenant not to develop or in some cases use the Land until all of the conditions have been satisfied;
- F. Section 219 of the *Land Title Act* of British Columbia permits the registration of a covenant of a negative or positive nature in favour of a municipality in respect of the use of land, the building on land, the subdivision of land, and the preservation of land or a specific amenity on land; and
- G. The Owner wishes to grant and the District wishes to accept these covenants over the Land restricting the use and subdivision of the Land in the manner herein provided;

THEREFORE, in consideration of the mutual promises exchanged in this Agreement, the parties agree as follows:

1. DEFINITIONS AND INTERPRETATIONS

1.1 In this Agreement:

"Child Care Facility", means the areas within the Proposed Development labelled "child care" on the drawing attached as **Schedule B**, comprising at least 3,800 square feet of indoor space, an outdoor area of at least 3,000 square feet, and access areas, all of which are to be transferred by the Owner to the District for use as a child care facility;

"Complete", "Completed" or "Completion" means:

- (a) in respect of the Child Care Facility, constructed to completion in accordance with one or more building permits issued by the District, and having received an occupancy permit from the District, and being finished and furnished in accordance with the *City of Richmond Child Care Design Guidelines, January 2016*, a copy of which is kept on file and available for reference at the offices of the District, or to other similar guidelines deemed appropriate by the District's Director of Planning and Development Services;

- (b) in respect of the Supportive Housing Units, constructed to completion in accordance with one or more building permits issued by the District, and having received an occupancy permit from the District, and being finished and furnished with good quality fixtures and furnishings to the satisfaction of the District's Director of Planning and Development Services;
- (c) in respect of the Public Plaza, constructed to completion in general compliance with the landscape plan attached as **Schedule C** and to the satisfaction of the District's Director of Planning and Development Services;
- (d) in respect of the Restroom, constructed to completion in accordance with one or more building permits issued by the District, and furnished with good quality fixtures and furnishings consistent with public restrooms within Park Royal mall to the satisfaction of the District's Director of Planning and Development Services; and
- (e) in respect of the Works and Services, constructed and installed to the satisfaction of the District's Director of Engineering.

"Daily Amount" means \$500.00 per day as of January 1, 2019 adjusted annually thereafter to the amount calculated by multiplying \$500.00 by the percentage change in the CPI since January 1, 2019, to January 1 of the year that a written notice is delivered to the Owner by the District pursuant to section 5.1 of this Agreement.

"Public Areas" means the areas labelled "walkway" and "galleria" on the Site Plan.

"Public Plaza" means the area of the Proposed Development located directly adjacent to the southern boundary of the Lands and labelled "Plaza" on the Site Plan, but, for clarity, does not include the Public Areas.

"Restroom" means the public restroom to be constructed on the ground floor of the "East Tower" within the Proposed Developed, in the location shown on the Site Plan.

"Site Plan" means the site plan in **Schedule A**.

"Supportive Housing Units" means the 11 dwelling units having a combined floor area of at least 7,200 square feet together with a common room, having a floor area of at least 440 square feet, for the use of residents of such 11 dwelling units, all to be constructed by the Owner on the second floor of the West Block within the Proposed Development, generally in accordance with the plans in **Schedule D**, and to be transferred to the District on completion.

"Works and Services" means all of the following:

- (a) a sewage collection and disposal system, designed by a professional engineer, to manage and convey all sewage from the Land to the Metro Vancouver wastewater system, together with written authorization from Metro Vancouver allowing the

Owner to deliver wastewater generated by the anticipated use and development on the Land to the Metro Vancouver wastewater system;

- (b) a drainage collection and disposal system to manage and convey stormwater on and from the Land, designed by a professional engineer in accordance with the Design Guidelines in the 2014 edition of the Master Municipal Construction Documents, to convey the 1:10 year rainfall event within the collection system using the District's Intensity-Duration-Frequency curve for Municipal Hall for design calculations;
- (c) a water distribution system for the Land, including the installation of a new watermain along Taylor Way from Keith Road to the southeast corner of the Land, that provides water pressure of at least 22 psi during maximum day demand (MDD) plus fire flow and at least 40 psi during peak hour (PHD), and a minimum fire flow requirement of 200 litres per second for 2.5 hours, where MDD is defined as 993 L/c/d and PHD is defined as 1475 L/c/d.

2. SCHEDULES

The following schedules are attached to and form part of this Agreement, and a reference in this Agreement to one or more schedules is a reference to one or more of the following schedules:

Schedule A – Site Plan (showing location of Public Areas, Public Plaza and Restroom)

Schedule B – Plans showing location and configuration of Child Care Facility

Schedule C – Landscape Plan showing location of the Public Plaza

Schedule D – Plan showing the location of the Supportive Housing Units

Schedule E – Landscape Plan showing treatment of public access areas

Schedule F – Statutory Right-of-Way and covenant for access to the Public Areas

Schedule G – Statutory Right of Way and Covenant for Restroom

3. APPLICATION

This Agreement applies to the Land, and to any parcel of land into which the Land may be subdivided, whether under the *Strata Property Act*, the *Land Title Act* or otherwise.

4. RESTRICTIONS ON USE, ALIENATION, DEVELOPMENT AND SUBDIVISION OF THE LAND

- 4.1** The Owner shall not start the construction of any building or structure on the Land until the Owner has granted to the District, in priority over any financial charges registered on the title to the Land, one or more statutory rights of way providing public access to the Public Areas, together with a covenant to maintain, in perpetuity, the surface treatments

and landscaping elements described in **Schedule E** (to the extent such surface treatments and landscaping elements are located on the Land), which rights of way and covenants shall be substantially in the form attached to this Agreement as **Schedule F**.

- 4.2** The Owner covenants with the District that the Owner will not sell or transfer, or agree to sell or transfer, any interest in any part of the Proposed Development, other than a full interest in the fee simple title to all of the Proposed Development, and to an agency, third party or individual that will assume the obligations set out in this Agreement, and other than by way of lease.
- 4.3** Section 4.2 shall not apply if the Owner has, before marketing any strata lot forming part of the Proposed Development, or subdividing the Land, filed a Form J: Rental Disclosure Statement for every strata lot forming part of the Proposed Development, with a term of at least 75 years, in accordance with section 139 of the *Strata Property Act*.
- 4.4** The Owner shall not subdivide the Land by the deposit of a strata plan that designates parking stalls as limited common property for the exclusive use of residential strata lots and, following any subdivision of the Land by the deposit of a strata plan, the Owner shall not offer to any prospective purchaser or tenant of a strata lot the right to purchase or occupy a unit unless the Owner gives the prospective purchaser or tenant the option to take the unit with (subject to availability) or without access to a parking stall.
- 4.5** Other than as may be required to construct the Proposed Development, the Owner shall not use or occupy, nor permit the use or occupancy of, any portion of the Land or any building or structure located on the Land until and unless the Owner has:
- (a) completed the Child Care Facility, and transferred to the District fee simple ownership of an air space parcel containing the Child Care Facility, together with an agreement reserving the use of three parking spaces located on the uppermost level of the underground parking area to be located on the Land for the exclusive use of the Child Care Facility;
 - (b) completed the Supportive Housing Units and transferred to the District fee simple ownership of an air space parcel containing the Supportive Housing Units, together with an agreement reserving the use of five underground parking spaces within the underground parking area to be located on the Land for the exclusive use of tenants of the Supportive Housing Units;
 - (c) completed the Restroom and granted to the District a statutory right of way for public access to the Restroom, and a covenant to maintain the restroom, both substantially in the form attached to this Agreement as **Schedule G**, and for certainty, the Owner shall be required to provide public access to the Restroom from 6:00 a.m. to 10:00 p.m., 7 days a week, and to maintain the Restroom in a tidy and sanitary condition; and

- (d) completed the Works and Services and provided the District with security of 10% of the estimated cost of the Works and Services, which the District may hold for 2 years and which the District may use during that period to perform maintenance or correct any deficiencies in the Works if the Owner fails to do so.

5. PUBLIC PLAZA

The Owner represents to the District that the Owner has secured the right to use and develop the Public Plaza, by way of a ground lease, until 2093, in return for the payment of an annual rent, and the Owner agrees, for so long as the term of such ground lease remains unexpired, to provide public access to the Public Plaza 24 hours a day and seven days a week, except to the extent the Owner is carrying out repairs, maintenance, or other work reasonably required, in which case the Owner shall give at least 72 hours' notice to the district of the Owner's intention to restrict public access to the Public Plaza or any portion thereof.

6. DISCHARGE

If the District's Council does not adopt the Amendment Bylaw by March 31, 2019, this Agreement shall terminate and, if the Owner delivers to the District a signed discharge of this Agreement, the District shall sign the discharge and return it to the Owner for filing in the Land Title Office.

7. INDEMNITY AND RELEASE

- 7.1** The Owner shall indemnify and keep indemnified the District from any and all claims, causes of action, suits, demands, fines, penalties, costs, deprivation, expenses or legal fees whatsoever, whether based in law or equity, whether known or unknown, which anyone has or may have against the District or which the District incurs as a result of any loss, damage or injury, excluding economic loss or consequential loss or deprivation, arising out of or connected with any breach by the Owner of this Agreement.
- 7.2** The Owner hereby releases, saves harmless and forever discharges the District of and from any claims, causes of action, suits, demands, fines, penalties, costs, deprivation, expenses or legal fees whatsoever which the Owner can or may have against the District, whether based in law or equity, whether known or unknown, for any loss, damage or injury, excluding economic or consequential loss or deprivation, that the Owner may sustain or suffer arising out of or connected with this Agreement, including the restrictions and requirements of this Agreement, the provision of the Child Care Facility and the Supportive Housing Units and the development of the Lands as contemplated under this Agreement, or any breach by the Owner of any covenant in this Agreement, save and except as a result of any breach by the District of this Agreement or the negligent acts or omissions on the part of the District or its personnel.
- 7.3** The indemnity and release provisions of sections 7.1 and 7.2 shall survive the expiry or termination of this Agreement.

8. NOTICE

Any notice permitted or required by this Agreement to be given to either party must be given to that party at the address set out above, or to any other address provided in writing.

9. POWERS PRESERVED

Nothing in this Agreement shall prejudice or affect the rights and powers of the District in the exercise of its powers, duties or functions under the *Community Charter* or the *Local Government Act* or any of its bylaws, all of which may be fully and effectively exercised in relation to the Land as if this Agreement had not been executed.

10. BINDING EFFECT

This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors, and permitted assignees.

11. WAIVER

The waiver by a party of any 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.

12. DEFAULT AND REMEDIES

12.1 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.

12.2 The Owner acknowledges the District might not have exercised its discretion to rezone the Land for the Proposed Development but for the Owner's promise, subject to the rights of the landlord under the ground lease referred to in section 5 of this Agreement, to construct the Public Plaza and guarantee public access to the Public Plaza until 2093, and the Owner agrees that without limiting the District's right to any other remedies available at law or in equity for a breach of this Agreement, if the Owner is in breach of its obligation to provide public access to the Public Plaza, the District may seek an injunction prohibiting the use of the Land for so long as the promised public access is not available and the Owner resist the granting of such an injunction on the basis that damages would be an adequate remedy for the breach.

12.3 Payment of Daily Amount – The Owner agrees that, in addition to any other remedies available to the District under this Agreement or at law or in equity, if the Land or any portion of the Land is used or occupied while the Owner is in breach of its obligation to provide public access to the Public Plaza under section 5 of this Agreement, and the Owner fails to rectify such breach within thirty (30) days of receipt of written notice from the District setting out the details of such breach, the Owner will pay the Daily Amount to the District for every day that the breach continues after receipt of the District's notice.

The Daily Amount is due and payable fourteen (14) business days following receipt by the Owner of an invoice from the District for the same.

12.4 No Penalty – The Owner agrees that in the case of the Land or any portion of the Land being occupied while access to the Public Plaza is not available to the extent required under section 5 of this Agreement, payment of the Daily Amount pursuant to section 12.3 represents a genuine pre-estimate of damages for the breach of this Agreement and the Owner agrees to waive any claim it might otherwise make that such payment is an unenforceable penalty.

13. SURVIVAL

All provisions of this Agreement, the full performance of which is not required prior to a termination of this Agreement, shall survive any such termination and be fully enforceable thereafter.

14. ENTIRE AGREEMENT

The whole agreement between the parties is set forth in this document and no representations, warranties or conditions, express or implied, have been made other than those expressed.

15. SEVERABILITY

Each article of this Agreement shall be severable. If any provision of this Agreement is held to be illegal or invalid by a Court of competent jurisdiction, the provision may be severed and the illegality or invalidity shall not affect the validity of the remainder of this Agreement.

16. COUNTERPARTS

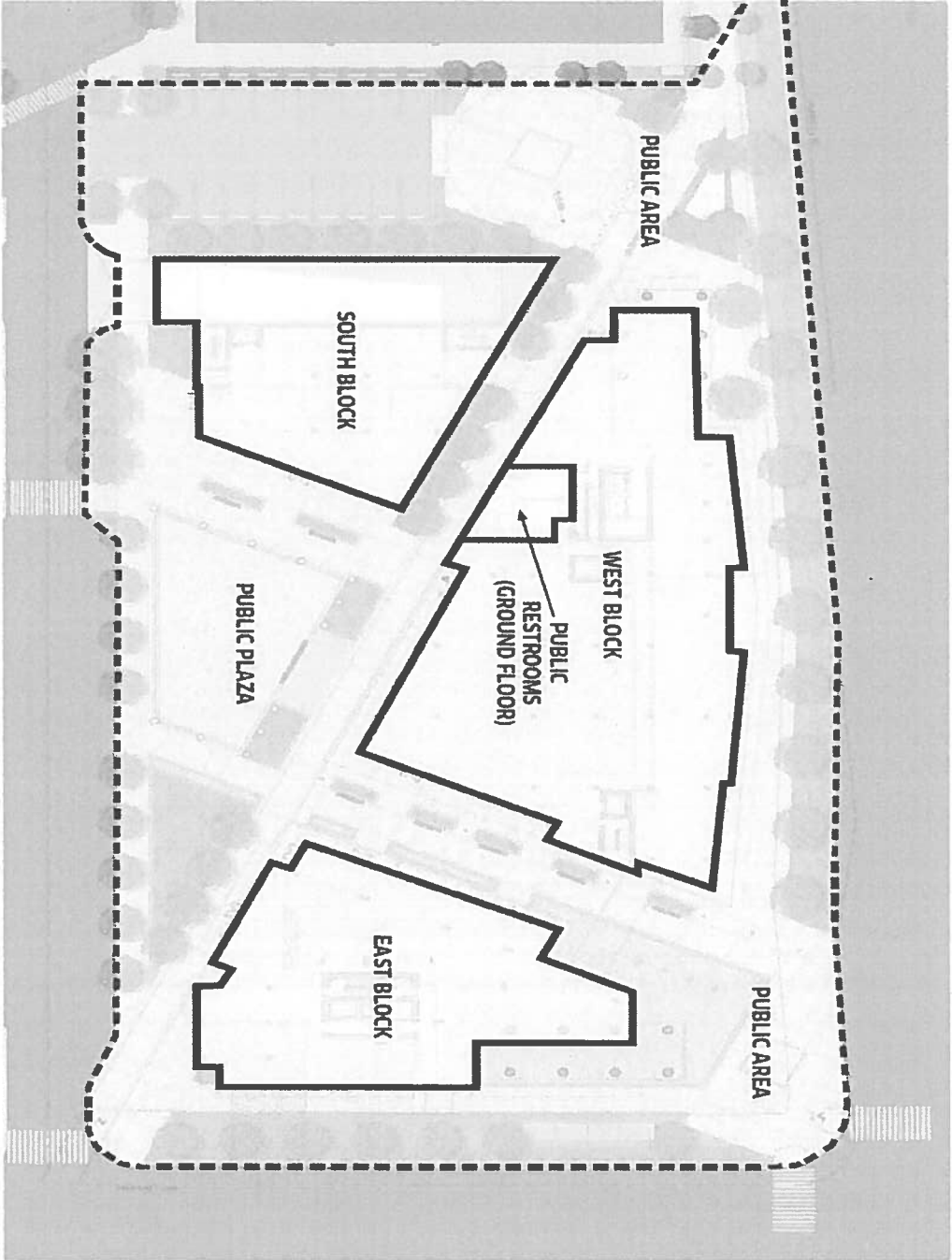
This Agreement may be executed in counterpart with the same effect as if both parties had signed the same document. Each counterpart shall be deemed to be an original. All counterparts shall be construed together and shall constitute one and the same Agreement.

IN WITNESS WHEREOF the parties have executed this Agreement in the General Instrument - Part I, which is attached to and forms part of this Agreement.

SCHEDULE A

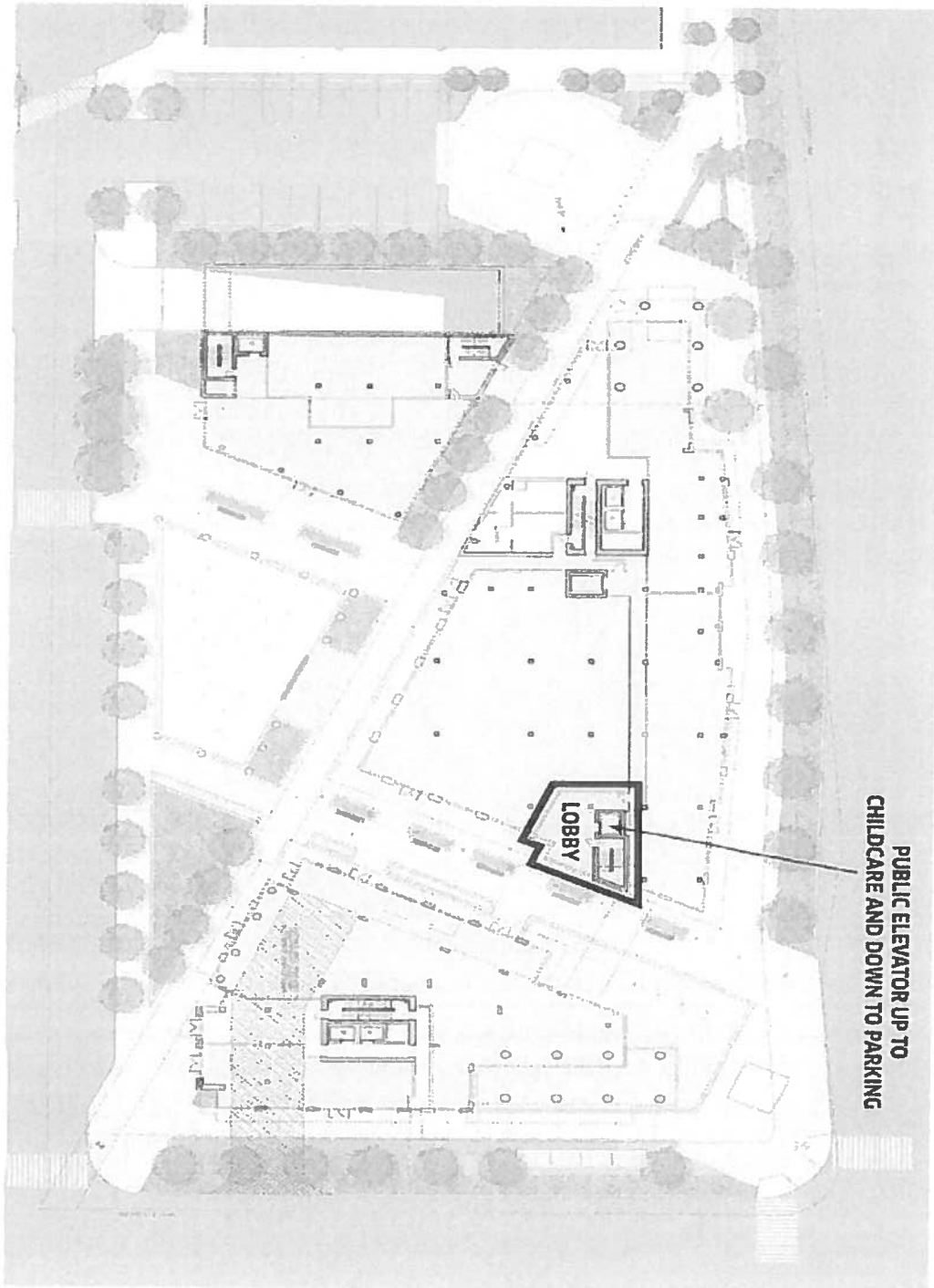
SCHEDULE A

PUBLIC REALM
LEVEL 1



SCHEDULE B (1 of 3)

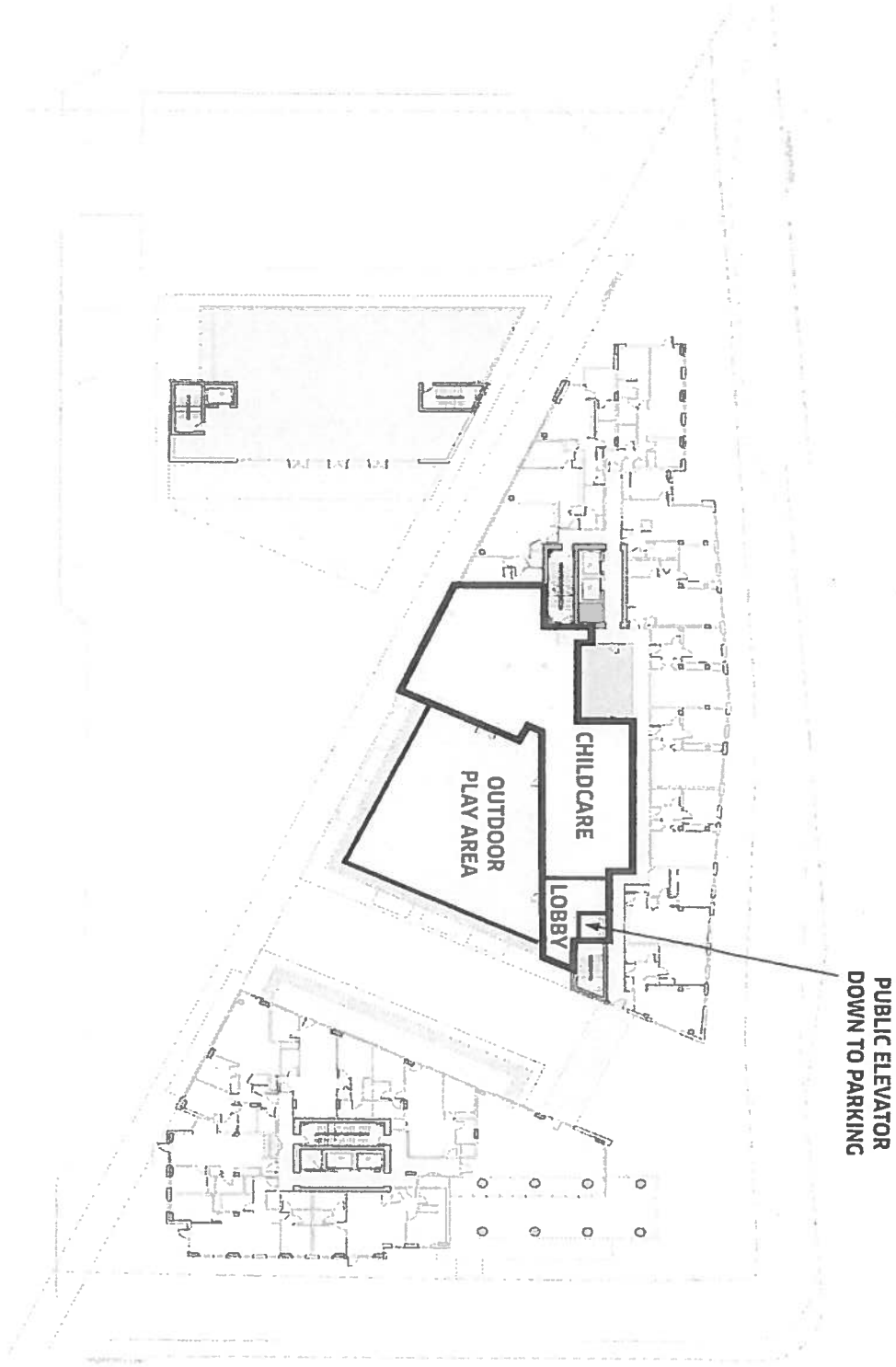

DAYCARE
LEVEL 1



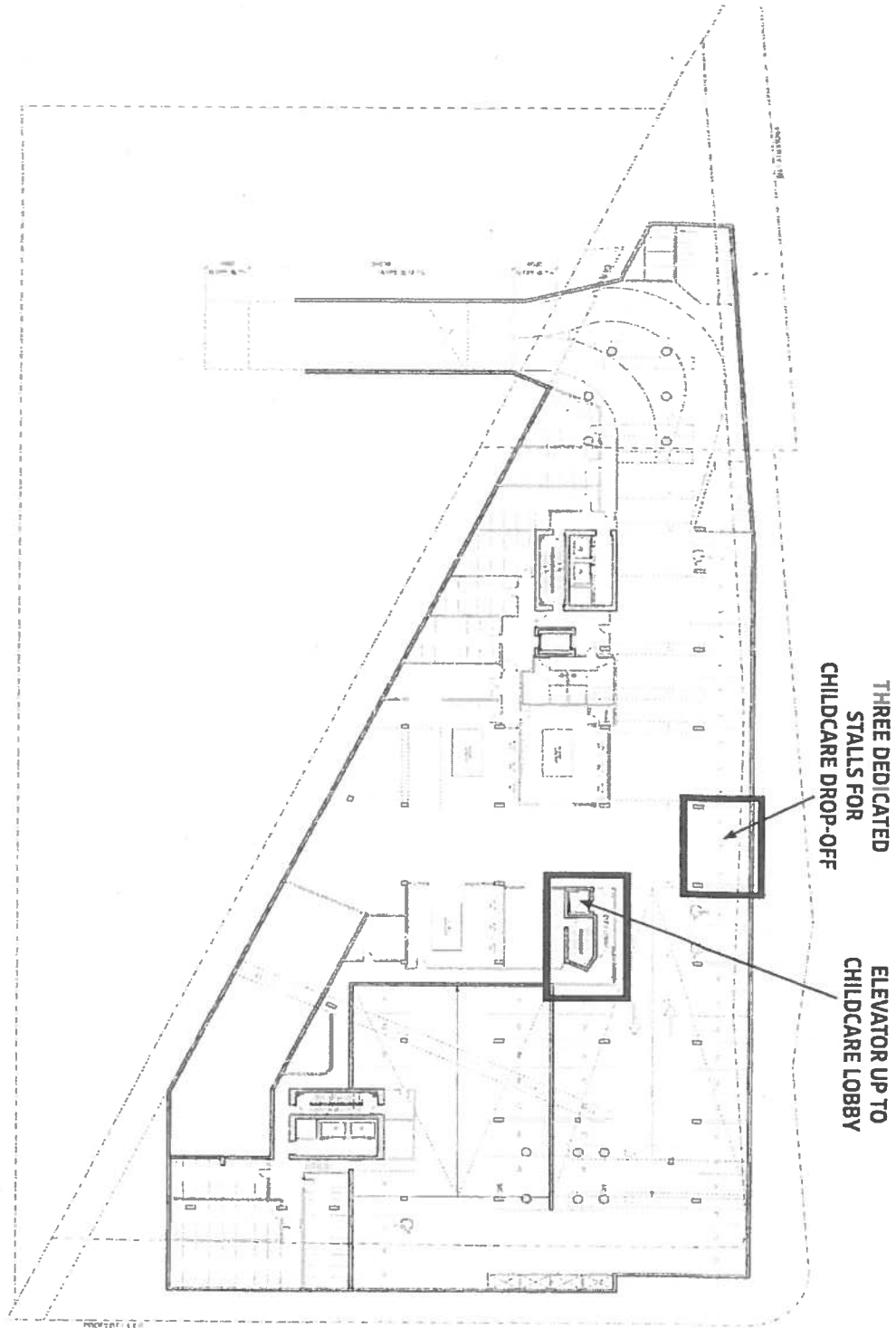
PUBLIC ELEVATOR UP TO
CHILDCARE AND DOWN TO PARKING

SCHEDULE B (2 of 3)


DAYCARE
LEVEL 2

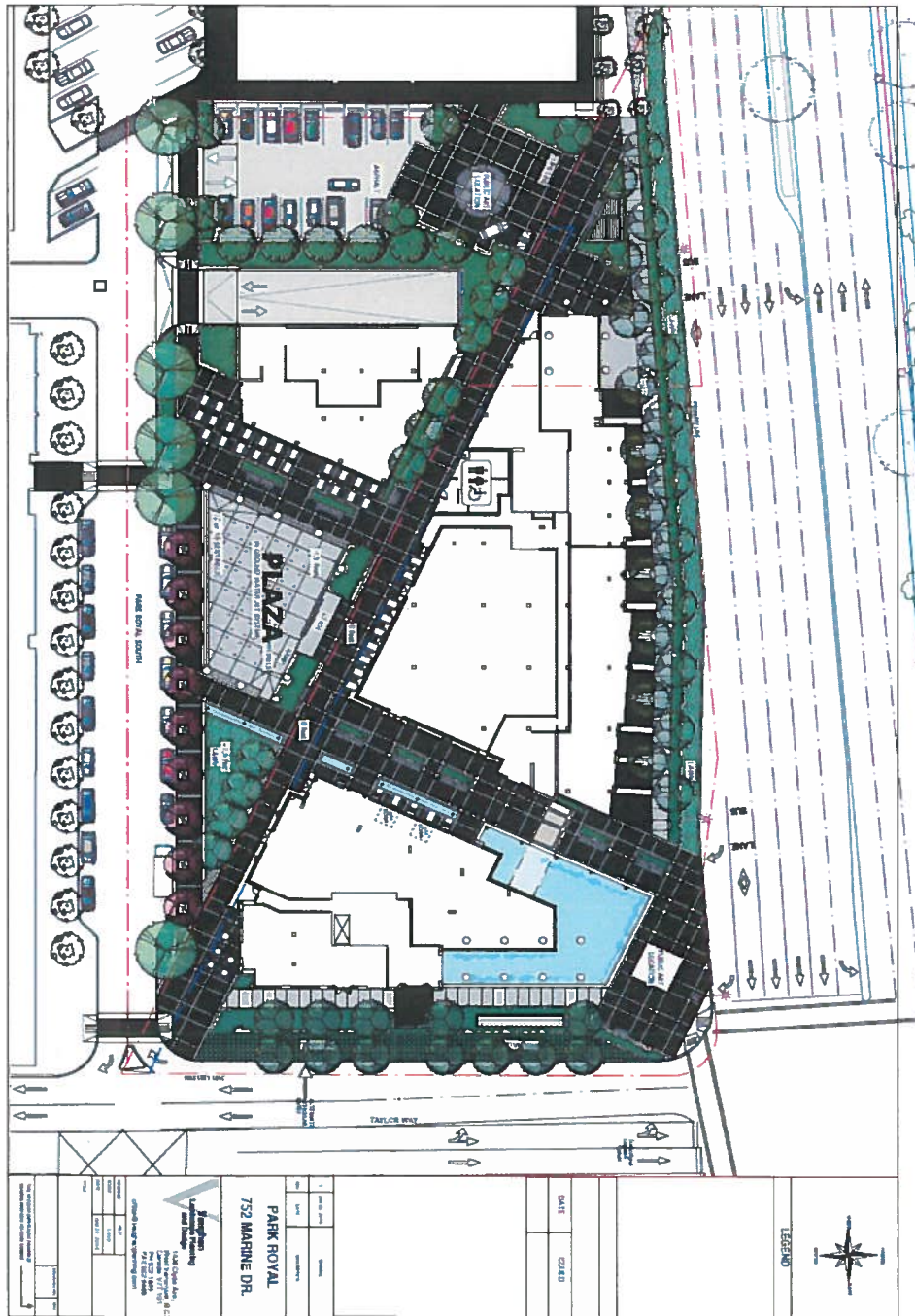


SCHEDULE B (3 of 3)



SCHEDULE C

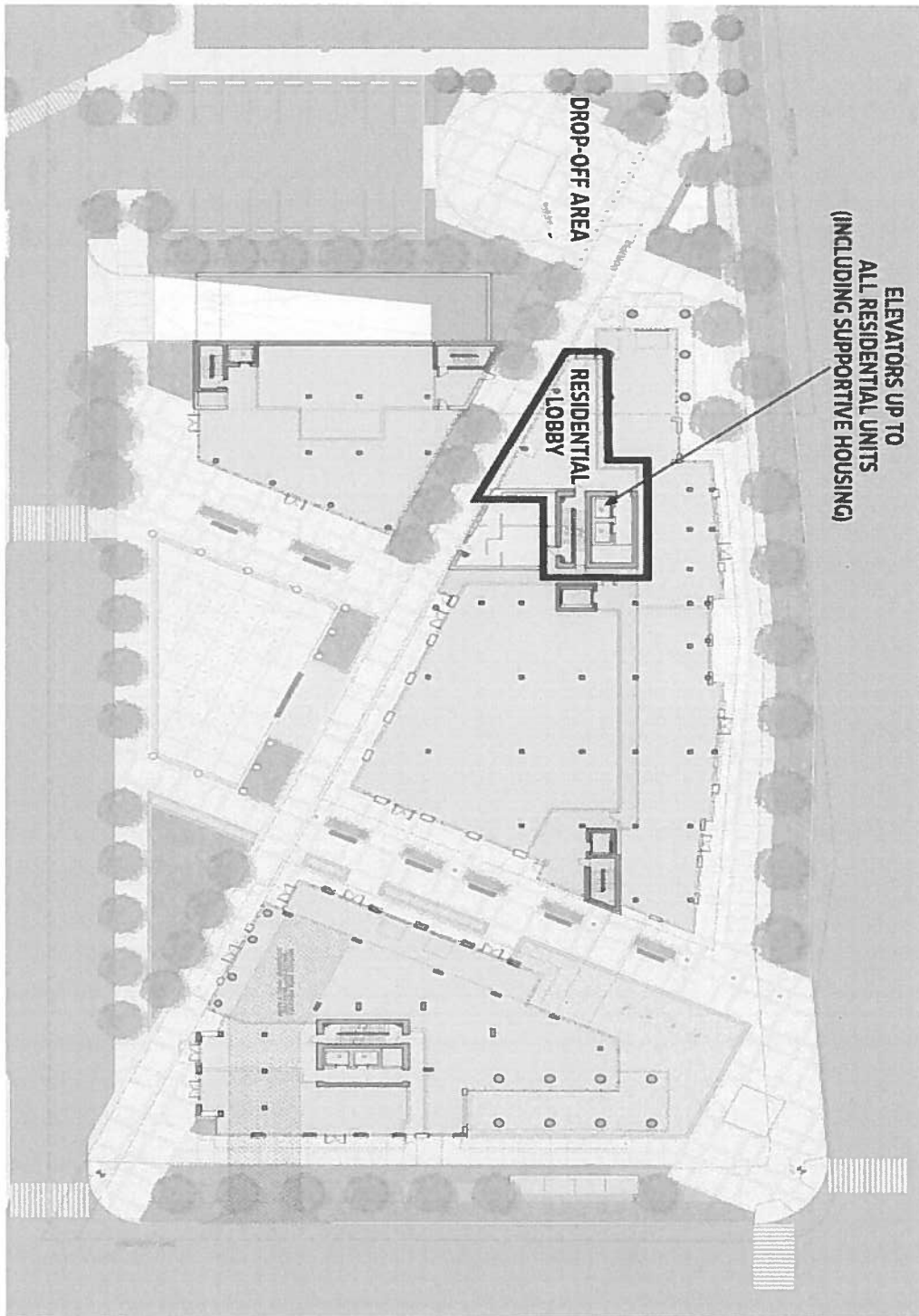
55 COLOURED SITE PLAN



PARK ROYAL | DEVELOPMENT PERMIT APPLICATION

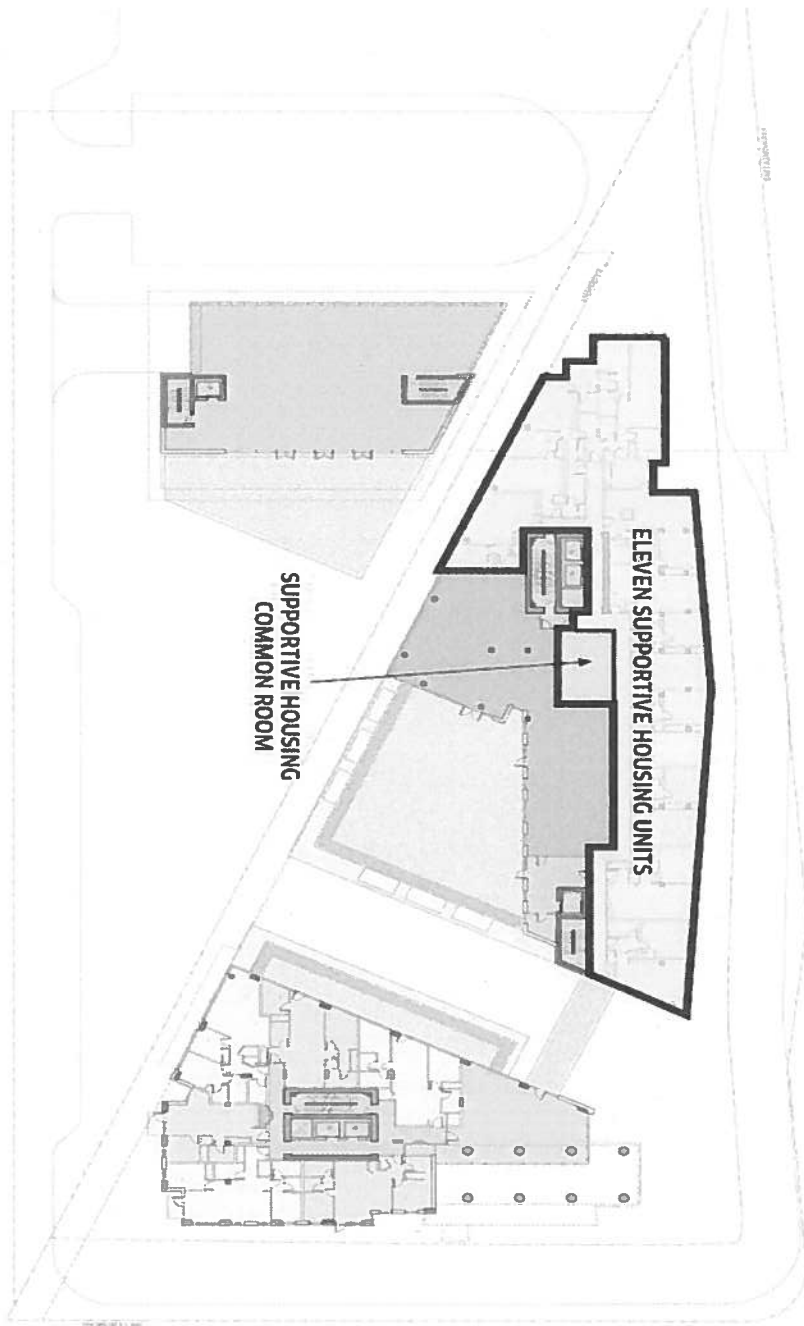
SCHEDULE D (1 of 3)


SUPPORTIVE HOUSING
LEVEL 1



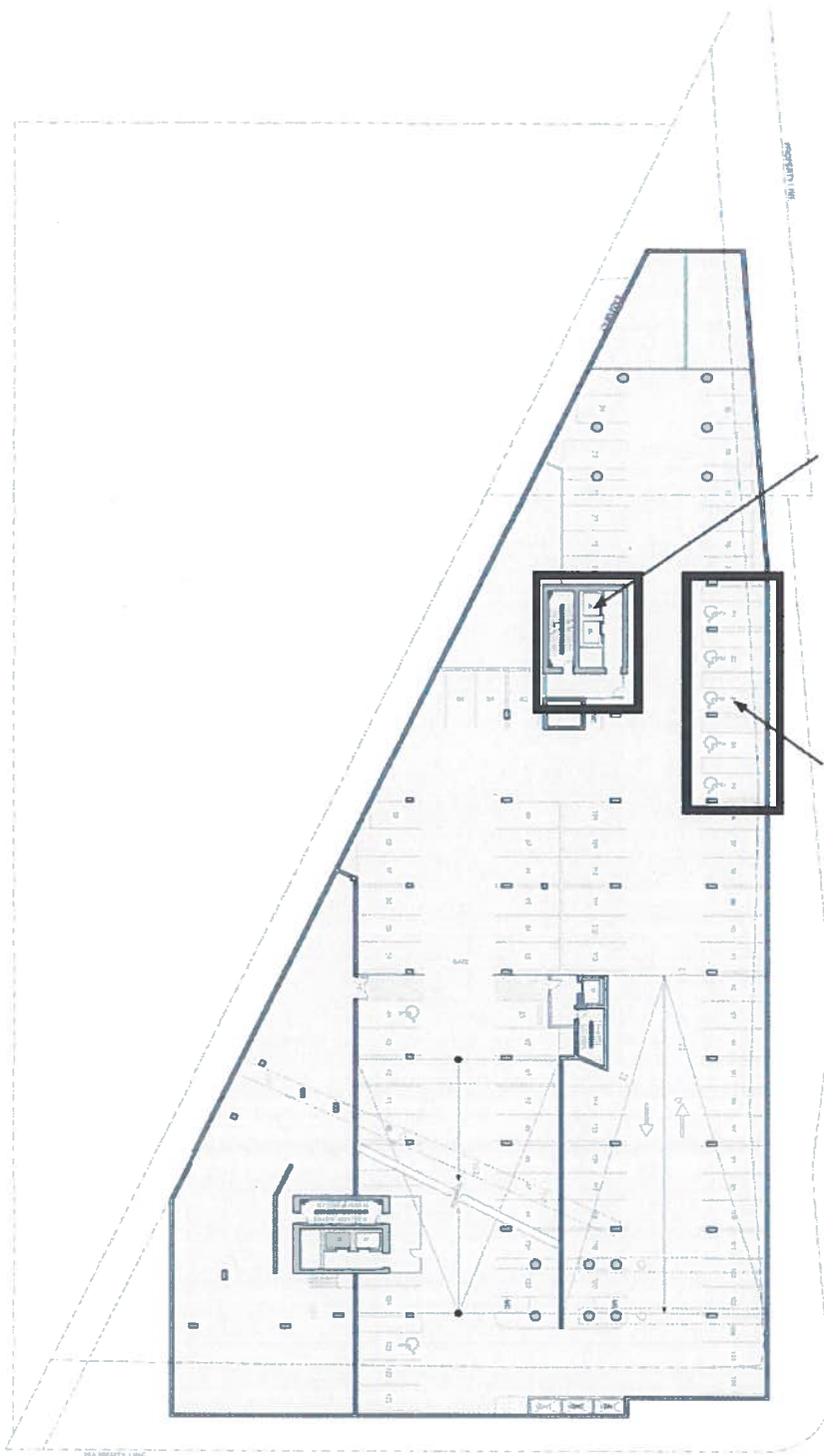
SCHEDULE D (2 of 3)


SUPPORTIVE HOUSING
LEVEL 2



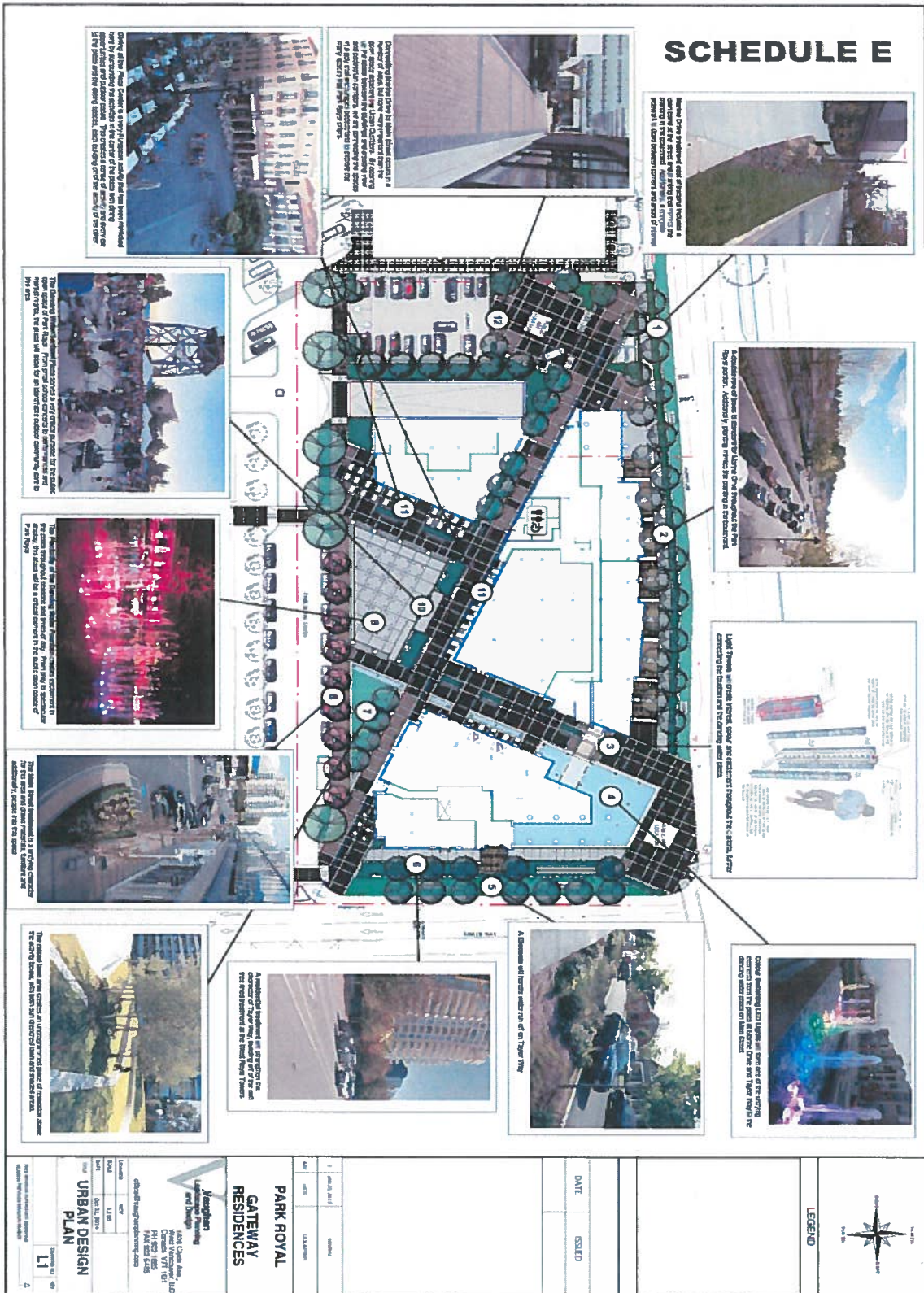
DATE: 01/17/2018 10:00 AM
DRAWN BY: RES/ENG/012 | DEVELOPMENT PERMIT APPLICATION

SCHEDULE D (3 of 3)




SUPPORTIVE HOUSING
LEVEL P2

GATEWAY RESIDENCES | DEVELOPMENT PERMIT APPLICATION



Schedule F

TERMS OF INSTRUMENT – PART 2

STATUTORY RIGHT OF WAY and SECTION 219 COVENANT

THIS AGREEMENT, dated for reference the ____ day of _____, 201__, is

BETWEEN:

PARK ROYAL SHOPPING CENTRE HOLDINGS LTD.

3rd Floor
100 Park Royal
West Vancouver, BC V7T 1A2

(the "Grantor")

AND:

DISTRICT OF WEST VANCOUVER

750 17th Street
West Vancouver, BC V8V 3T3

(the "District")

GIVEN THAT:

- A. The Grantor is the registered owner in fee simple of certain lands and premises in located in the District and more particularly described as:

Address:	PID:	Legal Description:
752 MARINE DRIVE	009-122-494	BLOCK F DISTRICT LOT 1040 PLAN 11252
756 MARINE DRIVE	011-062-525	LOT C (SEE 585835L) BLOCK 6 DISTRICT LOT 1040 PLAN 5848
764 MARINE DRIVE	011-062-096	LOT B EXCEPT: PART ON HIGHWAY PLAN 30; BLOCK 6 DISTRICT LOT 1040 GROUP 1 NEW WESTMINSTER DISTRICT PLAN 5848

(the "Land");

- B. The Grantor intends to construct a development on the Land, comprising a mix of residential and commercial uses in three different buildings together with certain public amenities and

landscaping improvements, including a public walkway and galleria (which together are referred to as the "Right of Way Area", as defined more particularly below) for public use;

- C. The Grantor has agreed to grant to the District a statutory right of way for the operation and use of the Right of Way Area as an area open to the public in perpetuity, and this statutory right of way is necessary for the operation and maintenance of the District's undertaking;
- D. The Grantor, as part of and in connection with the proposed development on the Land, has agreed to construct and install, within the Right of Way Area, surface treatments and landscaping features in accordance with Development Permit No. 12-085 issued to the Grantor by the District (the "Works"), which Works the District and the Grantor agree are required for public use and enjoyment of the Right of Way Area, and the Grantor has agreed to maintain the Works in perpetuity; and
- E. Section 219 of the *Land Title Act* authorizes the registration of a covenant, whether of a negative or positive nature, in respect of the use of land, in favour of a municipality, as a charge against the title to that land, which covenant is enforceable against the owner and its successors in title, even if the covenant is not annexed to land owned by a municipality;

THIS AGREEMENT is evidence that, pursuant to ss. 218 and 219 of the *Land Title Act*, and in consideration of ONE DOLLAR (\$1.00) paid by the District to the Grantor and other good and valuable consideration (the receipt and sufficiency of which the Grantor hereby acknowledges), the Grantor grants to and covenants with the District as follows:

- 1. **Statutory Right of Way** – The Grantor hereby grants, conveys and confirms to the District in perpetuity the full, free and uninterrupted right, liberty, easement and statutory right of way (the "Statutory Right of Way") on, over and across the areas of the Land marked "Public Area" on the plan attached to this Agreement as Schedule A (the "Right of Way Area") at all times hereafter for the following purposes:
 - (a) to permit all members of the public, at their will and pleasure, 24 hours a day, 7 days a week, to pass, be or remain on, along and across the surface of the Right of Way Area, or any portion thereof, to provide public pedestrian access to and from the streets, sidewalks and other public areas adjacent to the Land;
 - (b) to permit the District and the District's elected and appointed officials, officers, employees, and contractors ("District Personnel"), to enter on the Right of Way Area with works, vehicles, equipment, tools and materials for the purpose of inspecting the Right of Way Area, and removing such structures, improvements, fixtures, and other obstructions as may be required to ensure safe and effective use and enjoyment of the Right of Way Area; and
 - (c) to do all other things on the Right of Way Area as may be necessary, desirable or incidental to its ongoing use, operation, and enjoyment.

2. **Section 219 Covenant to Construct and Maintain** – Notwithstanding the grant to the District of the rights enumerated in section 1, the Grantor further covenants and agrees as follows:
 - (a) the Grantor shall, as required by and pursuant to Development Permit No. 12-085 issued by the District, at its own cost, complete the design, construction, and installation of the Works, in a good and workmanlike manner;
 - (b) the Grantor will, at its own cost and in perpetuity, keep clean, repair, and maintain the Works in good, safe and sufficient repair and condition, to the satisfaction of the District; and
 - (c) if the Grantor fails to keep, repair, and maintain the Works in good, safe and sufficient repair to the satisfaction of the District's Director of Planning, the District shall be entitled to do such work after giving 30 days' prior written notice to the Grantor (except in the case of an emergency, in which case no notice is required, and except if the Grantor has commenced such work within such 30 day period and is diligently prosecuting same to completion), in which case the Grantor shall pay the District's cost forthwith upon receipt of an invoice from the District for the work.

3. **Grantor's Obligations** – The Grantor must:
 - (a) not do or permit to be done anything in the Right of Way Area which in the opinion of the District, acting reasonably, may interfere with, injure or impair the operating efficiency of, or obstruct access to or the use of the Statutory Right of Way Area or the rights granted under this Agreement;
 - (b) permit the District to peaceably hold and enjoy the rights hereby granted;
 - (c) permit the District to do all other things in the Right of Way Area which in the opinion of the District are reasonably necessary for the safe use and preservation of the Right of Way Area for the purposes of the Works and the Statutory Right of Way;
 - (d) not deposit or place garbage, debris or other material in the Right of Way Area; and
 - (e) at its own expense, do or execute or cause to be done or executed all such further and other lawful acts, deeds, things, conveyances and assurances whatsoever for better assuring to the District the rights, liberties, and right of way hereby granted.

4. **District's Obligations** – The District must do all things hereby authorized to be done by it over, through, and upon the Right of Way Area in a good and workmanlike manner so as to cause no unnecessary damage or disturbance to the Grantor, the Land, or the Right of Way Area or to any improvements thereon.

5. **District's Rights – The District:**

- (a) is entitled to peaceably hold and enjoy the rights, liberties and Statutory Right of Way hereby granted without hindrance, molestation or interruption by the Grantor or any person, firm or corporation claiming by, through, under or in trust for the Grantor;
- (b) may remove anything placed on the Right of Way Area by the Grantor which may interfere with, injure or impair the operating efficiency of, or obstruct access to or the use of the Right of Way Area or the rights granted by the Statutory Right of Way, but must promptly restore the Right of Way Area to substantially its original condition, but for the Works, so far as is reasonably practical; and
- (c) on default by the Grantor of any of its obligations under this Agreement, may, but is not obliged to, rectify the default, provided that, except in the case of an emergency (in which case no notice is required), the District must first give 30 days' prior notice to the Grantor specifying the default and requiring it to be remedied and the Grantor must have failed to carry out such work within such 30 day period, or if the work requires longer than 30 days to carry out, the Grantor must have failed to commence carrying out the work and to diligently proceed with the work thereafter. The Grantor shall, forthwith upon receiving an invoice from the District, reimburse District for its reasonable, out of pocket expenses incurred in remedying such a default.

6. **Release –** The Grantor will not make any claims against the District or District Personnel and the Grantor hereby releases and discharges the District and District Personnel from and against all damages, losses, costs, actions, causes of action, claims, demands, judgements, builders liens, liabilities, expenses, indirect or consequential damages (including loss of profits and loss of use and damages arising out of delays) and injuries (including personal injury and death) (collectively, "Losses") which may, at any time, arise or accrue to the Grantor, in connection with this Agreement including, without limitation:

- (a) by reason of the District or District Personnel:
 - (i) reviewing, accepting or approving the design, specifications, materials and methods for construction of the Works;
 - (ii) inspecting the Works;
 - (iii) performing any work in accordance with the terms of this Agreement or requiring the Grantor to perform any work pursuant to this Agreement;
 - (iv) exercising any of its rights under the Statutory Right of Way granted to the District pursuant to this Agreement; or
 - (v) withholding any permits pursuant to this Agreement; or

- (b) that arise out of, or would not have been incurred but for:
 - (i) the design, construction or installation (including any defective materials or faulty workmanship) of the Works; or
 - (ii) this Agreement;

except to the extent such Losses are the result of the negligent acts or omissions on the part of the District or District Personnel. The release set out in this Section 6 will survive the expiration or earlier termination of this Agreement.

7. Indemnity –

- (a) The Grantor hereby covenants and agrees with the District to indemnify and save harmless and reimburse the District and District Personnel from and against all Losses (excluding economic or consequential loss) which may arise or accrue to the Grantor or to any person, firm or corporation against the District or District Personnel or which or to the District or District Personnel may pay, incur, sustain or be put to by reason of or which would not or could not have been sustained but for any of the following:
 - (i) the construction, installation, existence, maintenance, repair, replacement, removal, use or occupation of the Works or the Right of Way Area;
 - (ii) this Agreement, including the withholding of any permits by the District pursuant to this Agreement;
 - (iii) any personal injury, property damage or death occurring in or upon the Right of Way Area in whole or part from the exercise of the Statutory Right of Way in this Agreement by any party;
 - (iv) the release by the District of any or all of the District's rights under this Agreement or the loss of any rights purported to be granted hereby; or
 - (v) the District or District Personnel:
 - (A) reviewing, accepting or approving the design, specifications, materials and methods for construction of the Works;
 - (B) inspecting the Works;
 - (C) performing any work in accordance with the terms of this Agreement or requiring the Grantor to perform any work pursuant to this Agreement; or

- (D) exercising any of its rights under the Statutory Right of Way granted to the District pursuant to this Agreement; or
- (vi) any and all Losses (excluding economic or consequential loss) which may arise or accrue to any person, firm or corporation including a member of the public against the District or any District Personnel or which the District or any District Personnel may, incur, sustain or be put to, by reason of:
 - (A) any negligent act or omission or wilful misconduct of the Grantor or any of its contractors, subcontractors, employees, agents, licensees, invitees and permittees in connection with the exercise of the obligations or responsibilities of the Grantor under this Agreement; or
 - (B) any default in the due observance and performance of the obligations or responsibilities of the Grantor under this Agreement,

except to the extent such Losses are the result of the negligent acts or omissions on the part of the District or District Personnel. This indemnity is both a personal covenant of the Grantor and an integral part of this Section 219 Covenant and will survive the expiration or earlier termination of this Agreement.

8. **No Waiver** – No waiver of default by either party is effective unless expressed in writing by the party waiving default, and no condoning, overlooking or excusing by either party of a previous default of the other is to be taken to operate as a waiver of any subsequent default or continuing default, or to in any way defeat or affect the rights and remedies of the non-defaulting party.
9. **Discretion** – Wherever in this Agreement the approval of the District is required, some act or thing is to be done to the District’s satisfaction, the District is entitled to form an opinion, or the District is given a sole discretion:
 - (a) the relevant provision is not deemed to have been fulfilled or waived unless the approval, opinion or expression of satisfaction is in writing signed by the District’s Director of Planning or any other person duly authorized by the Council of the District of West Vancouver to perform the functions of the Director of Planning; and
 - (b) the approval, opinion or satisfaction is in the discretion of the Director of Planning acting reasonably in accordance with municipal engineering practice.
10. **No Effect on Powers** – This Agreement does not:
 - (a) affect or limit the discretion, rights, duties or powers of the District under the common law or any statute, bylaw, or other enactment;

- (b) affect or limit the common law or any statute, bylaw or other enactment applying to the Lands; or
 - (c) relieve the Grantor from complying with the common law or any statute, bylaw or other enactment.
11. **Notice** – Any notice to be given pursuant to this Agreement must be in writing and must be delivered personally. The addresses of the parties for the purpose of notice are the addresses hereinbefore set out. Notice may be left at the relevant address in the same manner as ordinary mail is left by Canada Post and is to be deemed to have been given when delivered. Any party may at any time give notice in writing to the other of any change of address and from and after the receipt of notice the address therein specified is to be deemed to be the address of such party for the giving of notice.
12. **Severance** – If any 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 invalid portion is to be severed and the decision that it is invalid does not affect the validity of the remainder of this Agreement, the parties hereby agreeing that they would have entered into the Agreement without the severed provision.
13. **Entire Agreement** – No amendment of this Agreement is valid or binding unless in writing and executed by the parties.
14. **Assumption by Strata Corporation** – If, as and when the Grantor subdivides the Lands or any building on the Land by a strata plan under the *Strata Property Act* (British Columbia) the Grantor will forthwith, and in any event before the first conveyance of any strata lot, cause the strata corporation then created (the “Strata Corporation”) to assume the Grantor’s obligations hereunder to the same extent as if the Strata Corporation had been an original party to this Agreement by executing and delivering to the District an assumption agreement in the form attached as Schedule C, whereupon the Grantor will be automatically released from all its obligations hereunder. If the Grantor fails to comply with this section 14, the Grantor will remain liable for the performance of the obligations hereunder notwithstanding the strata subdivision of the Land or any building on the Land and notwithstanding the transfer of any portion of the Land or any building on the Land, including any strata lot, to a third party.
15. **Joint and Several** - if there is more than one owner of the Land then those owners are jointly and severally responsible for performance of the obligations in this Agreement.
16. **Interest In Land and Enurement** – This Agreement runs with the Land and each and every part into which the Land may be subdivided or consolidated by any means (including subdivision plan, reference or explanatory plan, strata plan, bare land strata plan or lease), but no part of the fee of the Land passes to or is vested in the District under or by this Agreement and the Grantor may fully use the Right of Way Area and Land subject only to the common law and the rights, obligations and restrictions expressly set out in

this Agreement. This Agreement enures to the benefit of and is binding on the parties notwithstanding any rule of law or equity to the contrary.

As evidence of their agreement to be bound by the above terms, the parties each have executed and delivered this Agreement by executing Part 1 of the *Land Title Act* Form C and D to which this Agreement is attached and which forms part of this Agreement.

CONSENT AND PRIORITY AGREEMENT

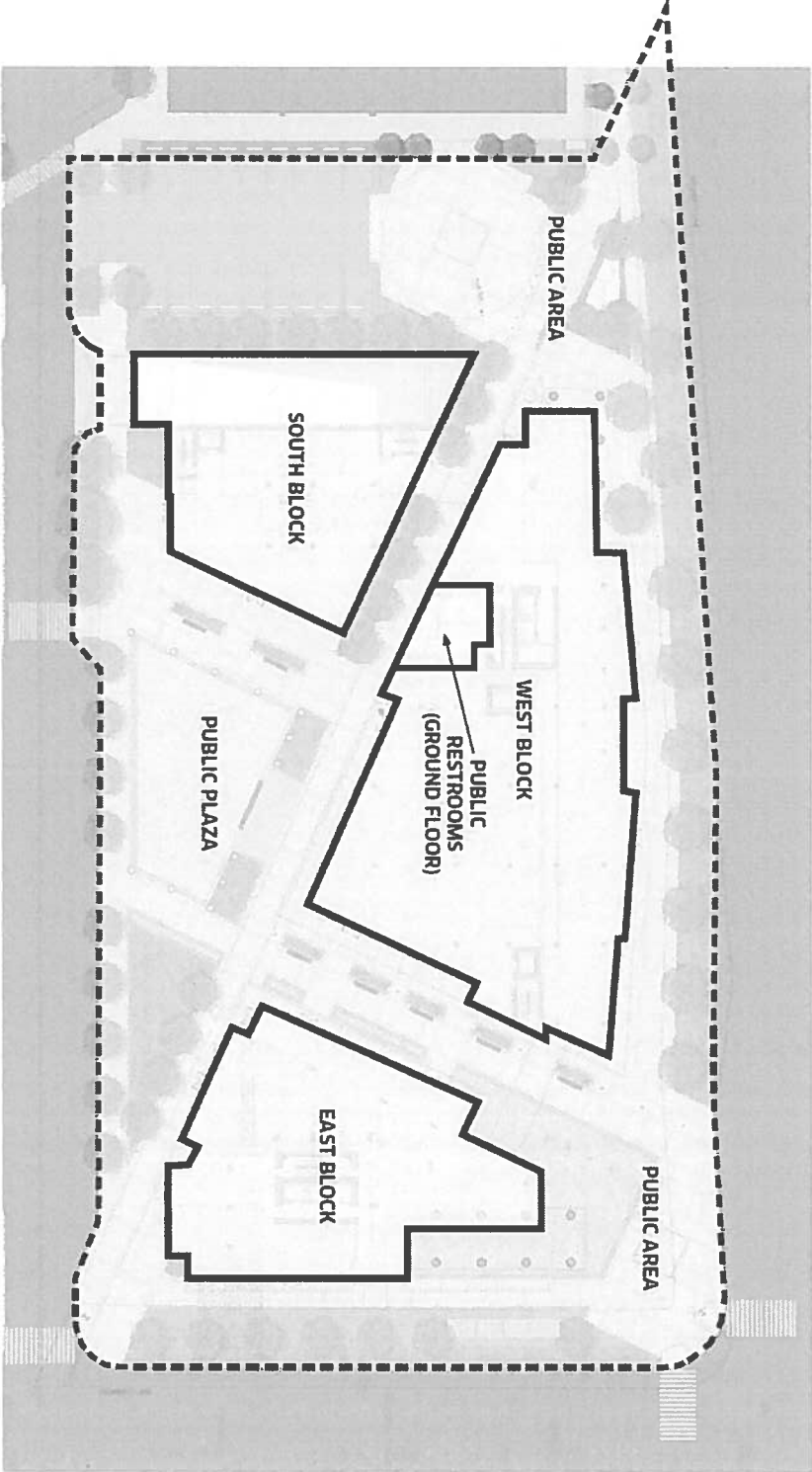
WHEREAS _____ (the "Chargeholder") is the holder of _____ (the "Charge") encumbering the lands (the "Lands") described in item 2 of the *Land Title Act* Form C attached hereto, which were registered in the Victoria Land Title Office under numbers _____ respectively.

THEREFORE THIS CONSENT AND PRIORITY AGREEMENT IS EVIDENCE THAT IN CONSIDERATION OF \$1.00 AND OTHER GOOD AND VALUABLE CONSIDERATION PAID BY THE TRANSFEREE TO THE CHARGEHOLDER:

1. The Chargeholder hereby consents to the granting and registration of the Section 219 Covenant and Statutory Right of Way attached hereto (the "Covenant and SRW") and the Chargeholder hereby agrees that the Covenant and SRW shall be binding upon its interest in and to the Lands.
2. The Chargeholder hereby grants to the transferee described in item 6 of the *Land Title Act* Form C attached hereto priority for the Covenant and SRW over the Chargeholder's right, title and interest in and to the Lands, and the Chargeholder does hereby postpone the Charge and all of its right, title and interest thereunder to the Covenant and SRW as if the Covenant and SRW had been executed, delivered and registered prior to the execution, delivery and registration of the Charge.

IN WITNESS WHEREOF, the Chargeholder has executed and delivered this Consent and Priority Agreement by executing the *Land Title Act* Form D above which is attached hereto and forms part of this Agreement.

SCHEDULE A Showing Right of Way Area



SCHEDULE "B"

ASSUMPTION AGREEMENT

THIS AGREEMENT is dated for reference _____

BETWEEN:

THE OWNERS, STRATA PLAN _____

(the "Strata Corporation")

AND:

DISTRICT OF WEST VANCOUVER

(the "District")

AND:

PARK ROYAL SHOPPING CENTRE HOLDINGS LTD.

(the "Owner")

WHEREAS:

- A. On the date that application was made to the New Westminster Land Title Office for deposit of Strata Plan ____, the Owner was the registered owner of the freehold estate in the land shown on such strata plan (the "Lands");
- B. The Owner has granted to the District a Statutory Right of Way and Section 219 Covenant for construction and maintenance of certain works, which agreement is registered in the New Westminster Land Title Office under numbers _____ and _____ (the "Charges"); and
- C. It is a condition of the Charges that the Strata Corporation enter into this Assumption Agreement in respect of the Charges,

NOW THEREFORE IN CONSIDERATION of the premises and the sum of \$10.00 paid by each of the Owner and the District to the Strata Corporation and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by the Strata Corporation), the Strata Corporation hereby covenants and agrees as follows:

- 1. The Strata Corporation covenants and agrees that the Strata Corporation will be bound by and will observe and perform all of the covenants, restrictions and agreements contained in the Charges, including without limitation the covenant to indemnify the District and the covenant to construct and maintain the Works (as defined in the Charges).

2. The Strata Corporation agrees that the District is entitled to obtain an order for specific performance or a prohibitory or mandatory injunction in respect of any breach by the Strata Corporation of the Charges. The Strata Corporation agrees that this section is reasonable given the public interest in the need for effective maintenance and protection of access from breaches of the Charges.
3. This Agreement will enure to the benefit of and will be binding upon the parties hereto and their heirs, executors, administrators, successor and assigns.
4. To evidence its agreement, the Strata Corporation has executed this Assumption Agreement as of the date set out above.

THE OWNERS, STRATA PLAN ____ by its)
authorized signatory:)
)
) C/S

Authorized Signatory)
)

Schedule G

TERMS OF INSTRUMENT – PART 2

STATUTORY RIGHT OF WAY and SECTION 219 COVENANT

THIS AGREEMENT, dated for reference the ___ day of _____, 201___, is

BETWEEN:

PARK ROYAL SHOPPING CENTRE HOLDINGS LTD.
3rd Floor
100 Park Royal
West Vancouver, BC V7T 1A2

(the "Grantor")

AND:

DISTRICT OF WEST VANCOUVER
750 17th Street
West Vancouver, BC V8V 3T3

(the "District")

GIVEN THAT:

F. The Grantor is the registered owner in fee simple of certain lands and premises located in the District and more particularly described as:

Address:	PID:	Legal Description:
<i>752 MARINE DRIVE</i>	<i>009-122-494</i>	<i>BLOCK F DISTRICT LOT 1040 PLAN 11252</i>
<i>756 MARINE DRIVE</i>	<i>011-062-525</i>	<i>LOT C (SEE 585835L) BLOCK 6 DISTRICT LOT 1040 PLAN 5848</i>
<i>764 MARINE DRIVE</i>	<i>011-062-096</i>	<i>LOT B EXCEPT: PART ON HIGHWAY PLAN 30; BLOCK 6 DISTRICT LOT 1040 GROUP 1 NEW WESTMINSTER DISTRICT PLAN 5848</i>

(the "Land");

G. The Grantor intends to construct a development on the Land, comprising a mix of residential and commercial uses, associated public areas, and a restroom for public use;

- H. The Grantor has agreed to grant to the District a statutory right of way for the operation and use of the restroom as an area open to the public in perpetuity, and this statutory right of way is necessary on the Land for the operation and maintenance of the District's undertaking;
- I. The Grantor, as part of and in connection with the proposed development on the Land, has agreed to construct and install the restroom on the Land, and maintain it in perpetuity;
- J. Section 219 of the *Land Title Act* authorizes the registration of a covenant, whether of a negative or positive nature, in respect of the use of land, in favour of a municipality, as a charge against the title to that land, which covenant is enforceable against the owner and its successors in title, even if the covenant is not annexed to land owned by a municipality;

THIS AGREEMENT is evidence that, pursuant to ss. 218 and 219 of the *Land Title Act*, and in consideration of ONE DOLLAR (\$1.00) paid by the District to the Grantor and other good and valuable consideration (the receipt and sufficiency of which the Grantor hereby acknowledges), the Grantor grants to and covenants with the District as follows:

- 5. **Statutory Right of Way** – The Grantor hereby grants, conveys and confirms to the District in perpetuity the full, free and uninterrupted right, liberty, easement and statutory right of way (the "Statutory Right of Way") on, over and across the areas of the Land shown outlined in heavy black and marked "Public Restrooms" on the plan attached to this Agreement as Schedule A (the "Right of Way Area") at all times hereafter for the following purposes:
 - (a) to permit all members of the public, at their will and pleasure, 24 hours a day, 7 days a week, to use the Right of Way Area and the Works (as defined below) as a restroom but not for any other purpose;
 - (b) to permit the District and the District's elected and appointed officials, officers, employees, and contractors ("District Personnel"), to enter and inspect the Right of Way Area and the Works and take steps necessary to ensure their safe use and enjoyment; and
 - (c) to do all other things on the Right of Way Area as may be necessary, desirable or incidental to its ongoing use, operation, and enjoyment.
- 6. **Section 219 Covenant to Construct and Maintain** – Notwithstanding the grant to the District of the rights enumerated in section 1, the Grantor further covenants and agrees as follows:
 - (a) the Grantor will, at its own cost and in perpetuity, keep clean, repair, and maintain the Right of Way Area including all fixtures installed therein (which are collectively referred to as the "Works" herein) in good, safe and sufficient repair and working condition, to the satisfaction of the District; and
 - (b) if the Grantor fails to keep, repair, and maintain the Works in good, safe and sufficient repair to the satisfaction of the District's Director of Planning, the

District shall be entitled to do such work after giving 30 days' prior written notice to the Grantor (except in the case of an emergency, in which case no notice is required, and except if the Grantor has commenced such work within such 30 day period and is diligently prosecuting the same to completion), in which case the Grantor shall pay the District's cost forthwith upon receipt of an invoice from the District for the work.

7. Grantor's Obligations – The Grantor must:

- (a) not do or permit to be done anything in the Right of Way Area which in the opinion of the District, acting reasonably, may interfere with, injure or impair the operating efficiency of, or obstruct access to or the use of the Right of Way Area or the rights granted under this Agreement;
- (b) permit the District to peaceably hold and enjoy the rights hereby granted;
- (c) permit the District to do all other things in the Right of Way Area which in the opinion of the District are reasonably necessary for the safe use and preservation of the Right of Way Area for the purposes of the Works and the Statutory Right of Way;
- (d) not deposit or place garbage, debris or other material in the Right of Way Area; and
- (e) at its own expense, do or execute or cause to be done or executed all such further and other lawful acts, deeds, things, conveyances and assurances whatsoever for better assuring to the District the rights, liberties, and the Statutory Right of Way hereby granted.

8. District's Obligations – The District must do all things hereby authorized to be done by it over, through, and upon the Right of Way Area in a good and workmanlike manner so as to cause no unnecessary damage or disturbance to the Grantor, the Land, or the Right of Way Area or to any improvements thereon.

9. District's Rights – The District:

- (a) is entitled to peaceably hold and enjoy the rights, liberties and Statutory Right of Way hereby granted without hindrance, molestation or interruption by the Grantor or any person, firm or corporation claiming by, through, under or in trust for the Grantor;
- (b) may remove anything placed on the Right of Way Area by the Grantor which may interfere with, injure or impair the operating efficiency of, or obstruct access to or the use of the Works or the rights granted by the Statutory Right of Way; and

(c) on default by the Grantor of any of its obligations under this Agreement, may, but is not obliged to, rectify the default, provided that, except in the case of an emergency (in which case no notice is required), the District must first give 30 days' prior notice to the Grantor specifying the default and requiring it to be remedied and the Grantor must have failed to carry out such work within such 30 day period, or if the work requires longer than 30 days to carry out, the Grantor must have failed to commence carrying out the work and to diligently proceed with the work thereafter. The Grantor shall, forthwith upon receiving an invoice from the District, reimburse District for its reasonable, out of pocket expenses incurred in remedying such a default.

10. **Release** – The Grantor will not make any claims against the District or District Personnel and the Grantor hereby releases and discharges the District and District Personnel from and against all damages, losses, costs, actions, causes of action, claims, demands, judgements, builders liens, liabilities, expenses, indirect or consequential damages (including loss of profits and loss of use and damages arising out of delays) and injuries (including personal injury and death) (collectively, "Losses") which may, at any time, arise or accrue to the Grantor, in connection with this Agreement including, without limitation:

- (a) by reason of the District or District Personnel:
 - (i) reviewing, accepting or approving the design, specifications, materials and methods for construction of the Works;
 - (ii) inspecting the Works;
 - (iii) performing any work in accordance with the terms of this Agreement or requiring the Grantor to perform any work pursuant to this Agreement;
 - (iv) exercising any of its rights under the Statutory Right of Way; or
 - (v) withholding any permits pursuant to this Agreement; or
- (b) that arise out of, or would not have been incurred but for:
 - (i) the design, construction or installation (including any defective materials or faulty workmanship) of the Works;
 - (ii) this Agreement;

except to the extent such Losses are the result of the negligent acts or omissions on the part of the District or District Personnel. The release set out in this Section 6 will survive the expiration or earlier termination of this Agreement.

11. **Indemnity** –

- (a) The Grantor hereby covenants and agrees with the District to indemnify and save harmless and reimburse the District and District Personnel from and against all Losses (excluding economic or consequential loss) which may arise or accrue to the Grantor or any person, firm or corporation against the District or District Personnel or which the District or District Personnel may pay, incur, sustain or be put to by reason of or which would not or could not have been sustained but for any of the following:
- (i) the construction, installation, existence, maintenance, repair, replacement, removal, use or occupation of the Works or the Right of Way Area;
 - (ii) this Agreement, including the withholding of any permits by the District pursuant to this Agreement;
 - (iii) any personal injury, property damage or death occurring in or upon the Right of Way Area in whole or part from the exercise of the Statutory Right of Way in this Agreement by any party; or
 - (iv) the release by the District of any or all of the District's rights under this Agreement or the loss of any rights purported to be granted hereby;
 - (v) the District or District Personnel:
 - (A) reviewing, accepting or approving the design, specifications, materials and methods for construction of the Works;
 - (B) inspecting the Works;
 - (C) performing any work in accordance with the terms of this Agreement or requiring the Grantor to perform any work pursuant to this Agreement; or
 - (D) exercising any of its rights under any the Statutory Right of Way; or
 - (vi) any and all Losses (excluding economic or consequential loss) which may arise or accrue to any person, firm or corporation including a member of the public against the District or any District Personnel or which the District or any District Personnel may, incur, sustain or be put to, by reason of:
 - (A) any negligent act or omission or wilful misconduct of the Grantor or any of its contractors, subcontractors, employees, agents, licensees, invitees and permittees in connection with the exercise of the obligations or responsibilities of the Grantor under this Agreement; or

- (B) any default in the due observance and performance of the obligations or responsibilities of the Grantor under this Agreement,

except to the extent such Losses are the result of the negligent acts or omissions on the part of the District or District Personnel. This indemnity is both a personal covenant of the Grantor and an integral part of this Section 219 Covenant and will survive the expiration or earlier termination of this Agreement.

12. **No Waiver** – No waiver of default by either party is effective unless expressed in writing by the party waiving default, and no condoning, overlooking or excusing by either party of a previous default of the other is to be taken to operate as a waiver of any subsequent default or continuing default, or to in any way defeat or affect the rights and remedies of the non-defaulting party.
13. **Discretion** – Wherever in this Agreement the approval of the District is required, some act or thing is to be done to the District’s satisfaction, the District is entitled to form an opinion, or the District is given a sole discretion:
- (a) the relevant provision is not deemed to have been fulfilled or waived unless the approval, opinion or expression of satisfaction is in writing signed by the District’s Director of Planning or any other person duly authorized by the Council of the District of West Vancouver to perform the functions of the Director of Planning; and
 - (b) the approval, opinion or satisfaction is in the discretion of the Director of Planning acting reasonably in accordance with municipal engineering practice.
14. **No Effect on Powers** – This Agreement does not:
- (a) affect or limit the discretion, rights, duties or powers of the District under the common law or any statute, bylaw, or other enactment;
 - (b) affect or limit the common law or any statute, bylaw or other enactment applying to the Lands; or
 - (c) relieve the Grantor from complying with the common law or any statute, bylaw or other enactment.
15. **Notice** – Any notice to be given pursuant to this Agreement must be in writing and must be delivered personally. The addresses of the parties for the purpose of notice are the addresses hereinbefore set out. Notice may be left at the relevant address in the same manner as ordinary mail is left by Canada Post and is to be deemed to have been given when delivered. Any party may at any time give notice in writing to the other of any change of address and from and after the receipt of notice the address therein specified is to be deemed to be the address of such party for the giving of notice.

16. **Severance** – If any 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 invalid portion is to be severed and the decision that it is invalid does not affect the validity of the remainder of this Agreement, the parties hereby agreeing that they would have entered into the Agreement without the severed provision.
17. **Entire Agreement** – No amendment of this Agreement is valid or binding unless in writing and executed by the parties.
18. **Assumption by Strata Corporation** – If, as and when the Grantor subdivides the Land or any building on the Land by a strata plan under the *Strata Property Act* (British Columbia), the Grantor will forthwith, and in any event before the first conveyance of any strata lot, cause the strata corporation then created (the “Strata Corporation”) to assume the Grantor’s obligations hereunder to the same extent as if the Strata Corporation had been an original party to this Agreement by executing and delivering to the District an assumption agreement in the form attached as Schedule C, whereupon the Grantor will be automatically released from all its obligations hereunder. If the Grantor fails to comply with this Section 14, the Grantor will remain liable for the performance of the obligations hereunder notwithstanding the strata subdivision of the Land or any building on the Land and notwithstanding the transfer of any portion of the Land or any building on the Land, including any strata lot, to a third party.
19. **Joint and Several** - if there is more than one owner of the Land then those owners are jointly and severally responsible for performance of the obligations in this Agreement.
20. **Interest In Land and Enurement** – This Agreement runs with the Land and each and every part into which the Land may be subdivided or consolidated by any means (including subdivision plan, reference or explanatory plan, strata plan, bare land strata plan or lease), but no part of the fee of the Land passes to or is vested in the District under or by this Agreement and the Grantor may fully use the Right of Way Area and Land subject only to the common law and the rights, obligations and restrictions expressly set out in this Agreement. This Agreement enures to the benefit of and is binding on the parties notwithstanding any rule of law or equity to the contrary.

As evidence of their agreement to be bound by the above terms, the parties each have executed and delivered this Agreement by executing Part 1 of the *Land Title Act* Form C and D to which this Agreement is attached and which forms part of this Agreement.

CONSENT AND PRIORITY AGREEMENT

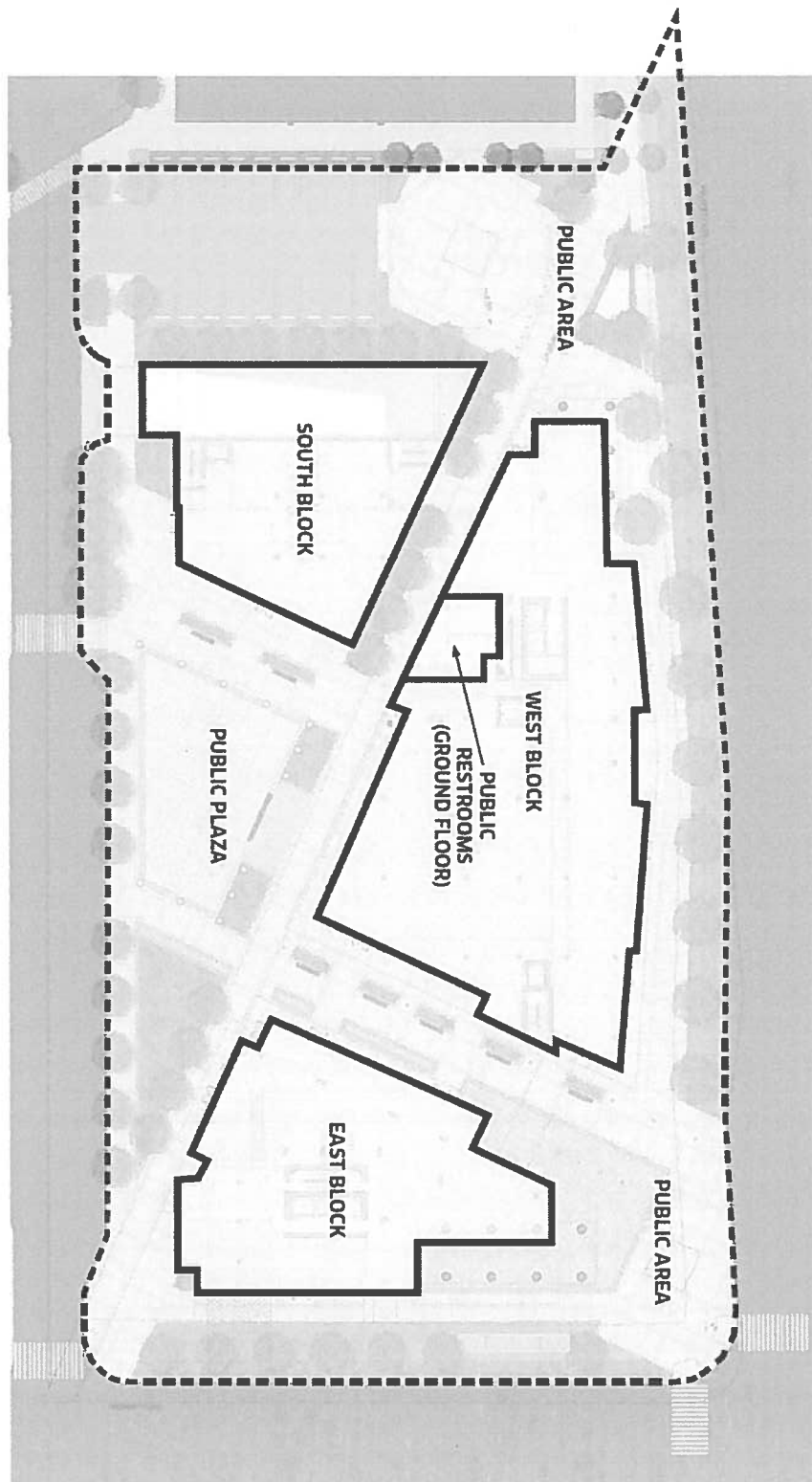
WHEREAS _____ (the "Chargeholder") is the holder of _____ (the "Charge") encumbering the lands (the "Lands") described in item 2 of the *Land Title Act Form C* attached hereto, which were registered in the Victoria Land Title Office under numbers _____ respectively.

THEREFORE THIS CONSENT AND PRIORITY AGREEMENT IS EVIDENCE THAT IN CONSIDERATION OF \$1.00 AND OTHER GOOD AND VALUABLE CONSIDERATION PAID BY THE TRANSFEREE TO THE CHARGEHOLDER:

21. The Chargeholder hereby consents to the granting and registration of the Section 219 Covenant and Statutory Right of Way attached hereto (the "Covenant and SRW") and the Chargeholder hereby agrees that the Covenant and SRW shall be binding upon its interest in and to the Lands.
22. The Chargeholder hereby grants to the transferee described in item 6 of the *Land Title Act Form C* attached hereto priority for the Covenant and SRW over the Chargeholder's right, title and interest in and to the Lands, and the Chargeholder does hereby postpone the Charge and all of its right, title and interest thereunder to the Covenant and SRW as if the Covenant and SRW had been executed, delivered and registered prior to the execution, delivery and registration of the Charge.

IN WITNESS WHEREOF, the Chargeholder has executed and delivered this Consent and Priority Agreement by executing the *Land Title Act Form D* above which is attached hereto and forms part of this Agreement.

SCHEDULE A Showing Right of Way Area



SCHEDULE B

ASSUMPTION AGREEMENT

THIS AGREEMENT is dated for reference _____

BETWEEN:

THE OWNERS, STRATA PLAN _____

(the "Strata Corporation")

AND:

DISTRICT OF WEST VANCOUVER

(the "District")

AND:

PARK ROYAL SHOPPING CENTRE HOLDINGS LTD.

(the "Owner")

WHEREAS:

- D. On the date that application was made to the New Westminster Land Title Office for deposit of Strata Plan ____, the Owner was the registered owner of the freehold estate in the land shown on such strata plan (the "Lands");
- E. The Owner has such granted to the District a Statutory Right of Way and Section 219 Covenant for construction and maintenance of certain works, which agreement is registered in the New Westminster Land Title Office under numbers _____ and _____ (the "Charges"); and
- F. It is a condition of the Charges that the Strata Corporation enter into this Assumption Agreement in respect of the Charges,

NOW THEREFORE IN CONSIDERATION of the premises and the sum of \$10.00 paid by each of the Owner and the District to the Strata Corporation and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by the Strata Corporation), the Strata Corporation hereby covenants and agrees as follows:

- 23. The Strata Corporation covenants and agrees that the Strata Corporation will be bound by and will observe and perform all of the covenants, restrictions and agreements contained in the Charges, including without limitation the covenant to indemnify the District and the covenant to construct and maintain the Works (as defined in the Charges).

- 24. The Strata Corporation agrees that the District is entitled to obtain an order for specific performance or a prohibitory or mandatory injunction in respect of any breach by the Strata Corporation of the Charges. The Strata Corporation agrees that this section is reasonable given the public interest in the need for effective maintenance and protection of access from breaches of the Charges.
- 25. This Agreement will enure to the benefit of and will be binding upon the parties hereto and their heirs, executors, administrators, successor and assigns.
- 26. To evidence its agreement, the Strata Corporation has executed this Assumption Agreement as of the date set out above.

THE OWNERS, STRATA PLAN ____ by its)	
authorized signatory:)	
)	
)	C/S
_____)	
Authorized Signatory)	
)	

END OF DOCUMENT