

**SCHEDULE 7**

**LANDS**

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**APPENDIX 7A**

## SCHEDULE 7

### LANDS

#### 1. DEFINITIONS

In this Schedule, in addition to terms defined in Schedule 1 of this Agreement:

**“Charge”** means any charge, mortgage, lien, pledge, judgment, execution, security interest, restriction, claim or encumbrance of any nature whatsoever, including any claims of the Workers’ Compensation Board, Canada Revenue Agency, Employment Standards Branch or other Governmental Authority;

**“Encumbrances”** means those Charges described in Appendix 7A and any additional Charges against the Lands permitted under this Schedule;

**“Lands”** means the real property interests described in Appendix 7A; and

**“Licence”** has the meaning set out in Section 2.1 of this Schedule.

#### 2. AUTHORITY’S OBLIGATIONS AND REPRESENTATIONS

##### 2.1 Grant of Licence Over Lands

- (a) From the Effective Date until the Transfer Date, the Authority hereby grants, and will continuously, until the Transfer Date, grant or cause to be granted to Project Co a non-exclusive licence of use and access to, on and over the Site and Facility to the extent required by Project Co to allow Project Co to perform the Design, the Construction and Services (the **“Licence”**);
- (b) Project Co may, for the same purposes described in Section 2.1(a), grant sub-licences to any Project Co Person, provided that any such grant will be subject to, and terminate upon, termination of the Licence; and
- (c) In consideration for the Licence, Project Co will provide the Works subject to and in accordance with this Agreement.

##### 2.2 Terms Affecting Licence Grant

Without limiting the other provisions of this Schedule and this Agreement, the following terms and conditions apply to the Licence:

- (a) no legal demise or other interest in land, and no interest in the Facility or any other improvements, is granted to Project Co or created by this Agreement;
- (b) the Licence is non-exclusive and no right to exclusive possession of the Lands or the Facility is granted to Project Co;
- (c) Project Co’s rights are subject to the Encumbrances; and

- (d) subject to section 6.10 of Schedule 2 [Design and Construction Protocols], the Authority will be entitled at any time and from time to time to grant to Authority Persons and any other persons, including contractors and the general public, access to the Lands and the Facility.

### **2.3 Property Taxes**

The Authority will be responsible for property taxes (if any) payable in respect of the Lands and the Facility, or the occupation thereof by the Authority, Project Co or any Project Contractor or Sub-Contractor.

## **3. PROJECT CO'S OBLIGATIONS AND ACKNOWLEDGMENTS**

### **3.1 "As Is Where Is"**

Subject to the provisions of Section 4.1 of this Schedule, Project Co accepts the Lands and the Licence on an "as is, where is" basis.

### **3.2 Encumbrances**

Project Co acknowledges that it has reviewed the Encumbrances in effect as of the Effective Date, Project Co will fully and punctually observe and perform (to the same extent as if Project Co were the owner of the Lands and bound by the Encumbrances), any limitations, restrictions, obligations, liabilities and other terms and conditions set out in the Encumbrances and Project Co assumes all risks arising there from. Project Co will fully and punctually observe and perform all of the terms and conditions of any interest included in the Lands and any Encumbrance. The Authority may without restriction modify, add or remove any Encumbrances, provided that the foregoing will not limit Project Co's entitlements under the Agreement if such modification, addition or removal results in a Change.

### **3.3 Project Co Not To Encumber**

Project Co will not, without the consent of the Authority:

- (a) grant or permit any Charge affecting or against the Lands or the Facility; or
- (b) do or omit to do, or cause, suffer or permit to be done or omitted to be done by any Project Co Person anything that would result in any Charge against or affecting the Lands, the Facility or any asset, matter or thing that may be required to be delivered or transferred to the Authority on the Transfer Date pursuant to Section 14.3,

and will at its own expense promptly discharge and remove or cause to be discharged and removed any such encumbrance.

The Authority will co-operate with Project Co and act reasonably in respect of requests made by any Governmental Authority to register charges against the Lands in furtherance of the Design and Construction.

### **3.4 No Restriction on Authority Use or Development**

Project Co acknowledges that the Authority may from time to time without restriction use, develop or re-develop, or permit the use, development or re-development of, the Lands, the Facility or any portion thereof (including by way of subdivision) for any purpose and by any Person. To the extent such use, development or re-development adversely interferes with the Licence or adversely interferes with Project Co's ability to carry out the Design, the Construction and the Services, the Authority will, to address such interference, initiate a Change.

### **3.5 No Registration**

Project Co will not register in any land title office this Agreement, the Licence or any instrument, claim or notice in respect of the Licence or any other rights of Project Co under this Agreement.

### **3.6 Builders Liens**

Project Co will, at its own cost and expense, cause any and all builders liens and other liens and claims of lien for labour, services or materials furnished or alleged to have been furnished with respect to the Design, the Construction or the Services that are registered against or otherwise affect the Lands or the Facility or any part thereof, to be paid, satisfied, released or vacated forthwith after the Authority has sent Project Co written notice of any such lien or claim. If there is a bona fide dispute of the validity or correctness of any such lien or claim, Project Co will be entitled to defend against the lien or claim in any proceedings if Project Co first:

- (a) pays into Court, or provides sufficient security for, the amount claimed and costs as the Court may direct, as may be required to obtain a Court Order for the discharge of such lien or claim from title to the Lands, and obtains such discharge and registers such discharge in the Land Title Office to cancel such lien; or
- (b) provides such other reasonable security in respect of such claim as the Authority may in writing, and in its discretion, approve.

### **3.7 Title to Improvements**

Project Co will not acquire any property interest in or title to the Facility or any other improvements to the Lands. As between Project Co and the Authority, title to and ownership of the Facility and all other improvements to the Lands will at all times be vested in the Authority.

## **4. HAZARDOUS SUBSTANCES**

### **4.1 Responsibility**

Notwithstanding any other provision of this Agreement or this Schedule, Project Co will not be responsible for any Hazardous Substances in, on, below or adjacent to the Lands or any cost, expense or claim arising therefrom, other than:

- (a) any Hazardous Substances brought onto, or adjacent to, the Lands by Project Co or any Project Co Person during the Term; and

- (b) those Hazardous Substances for which Project Co has agreed to accept responsibility in Schedule 3 [Design and Construction Specifications].

#### **4.2 Restrictions on Use**

Unless otherwise expressly required or permitted under this Agreement, Project Co will not install, use or store on the Lands or adjacent property any materials, equipment or apparatus, the installation, use or storage of which is likely to cause or in fact causes the generation, accumulation or migration of any Hazardous Substance in contravention of any applicable Laws. Without limiting the generality of the foregoing, Project Co will not use the Lands to dispose of, handle or treat any Hazardous Substances, in a manner that would cause the Lands, or any adjacent property, to become a contaminated site under applicable Laws.

**APPENDIX 7A**

Date: 08/07/11      TITLE SEARCH PRINT - VANCOUVER      Time: 11:38:37  
Requestor: (PB23495) BULL, HOUSSEY & TUPPER LLP (VANCOUVER)      Page: 001  
TITLE - ET47144

VICTORIA      LAND TITLE OFFICE      TITLE NO: ET47144  
FROM TITLE NO: EN59003

APPLICATION FOR REGISTRATION RECEIVED ON: 01 MAY, 2002  
ENTERED: 29 MAY, 2002

REGISTERED OWNER IN FEE SIMPLE:  
VANCOUVER ISLAND HEALTH AUTHORITY  
1952 BAY STREET,  
VICTORIA, BC  
V8R 1J8.

TAXATION AUTHORITY:  
CITY OF VICTORIA  
MUNICIPALITY OF SAANICH

DESCRIPTION OF LAND:  
PARCEL IDENTIFIER: 023-646-438  
LOT A SECTIONS 25 AND 76 VICTORIA DISTRICT PLAN VIP64472  
EXCEPT PART IN PLAN VIP69172

LEGAL NOTATIONS:

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 29 OF THE MUNICIPAL ACT, SEE EL35867

TO PART FORMERLY LOT A, PLAN 44138 FOR RESTRICTIONS ON DEALINGS, SEE HOSPITAL ACT, DF 88679, 88680, 88681, 88682, 88683, 88684, 88685, 88686, 88687, 86750

TO PART FORMERLY LOT 1, PLAN 7843 FOR RESTRICTIONS ON DEALINGS, SEE HOSPITAL ACT, DD EJ29365

TO PART FORMERLY LOT A, PLAN 44138 PPSA NOTICE DF EG123207, EXPIRES 17 09 1998, INTER ALIA

HERITAGE DESIGNATION NOTICE, MUNICIPAL ACT, SECTION 1031  
SEE EL68002

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE MUNICIPAL ACT, SEE EN20291

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE MUNICIPAL ACT, SEE EP5694

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE ES54230

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE FA48250

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE FB166523

CONTINUES ON PAGE 002

Date: 08/07/11 TITLE SEARCH PRINT - VANCOUVER Time: 11:38:38  
Requestor: (PB23495) BULL, HOUSSER & TUPPER LLP (VANCOUVER) Page: 002  
TITLE - ET47144

CHARGES, LIENS AND INTERESTS:

NATURE OF CHARGE  
CHARGE NUMBER DATE TIME

RIGHT OF WAY

8025D 1906-05-12 00:00

REGISTERED OWNER OF CHARGE:  
THE CORPORATION OF THE CITY OF VICTORIA  
8025D

REMARKS: 10 FEET STRIP AS SHOWN IN DD 1660 CB 17/25 OF PART  
FORMERLY LOT 1, PLAN 15668

RIGHT OF WAY

83075G 1935-05-16 14:44

REGISTERED OWNER OF CHARGE:  
THE CORPORATION OF THE CITY OF VICTORIA  
83075G

REMARKS: TWO 10 FEET STRIPS AS SHOWN OUTLINED IN RED AND  
GREEN ON PLAN DEPOSITED UNDER DD 83075G CB 34/241  
OF PART FORMERLY LOT 1, PLAN 15668

STATUTORY RIGHT OF WAY

N88484 1984-11-28 14:17

REGISTERED OWNER OF CHARGE:  
THE CORPORATION OF THE CITY OF VICTORIA

N88484

REMARKS: PART OF PART FORMERLY LOT 1, PLAN 15668 IN PLAN  
41912

STATUTORY RIGHT OF WAY

EB6622 1988-01-27 10:41

REGISTERED OWNER OF CHARGE:

THE CORPORATION OF THE CITY OF VICTORIA

EB6622

REMARKS: PART IN PLAN 46272

UNDERSURFACE AND OTHER EXC & RES

EJ29366 1995-03-20 14:43

REGISTERED OWNER OF CHARGE:

THE CROWN IN RIGHT OF BRITISH COLUMBIA

EJ29366

REMARKS: DD EJ29365, SECTION 47, LAND ACT

STATUTORY RIGHT OF WAY

EK136935 1996-12-02 14:20

REGISTERED OWNER OF CHARGE:

THE CORPORATION OF THE CITY OF VICTORIA

EK136935

REMARKS: PART IN PLAN VIP64473

STATUTORY RIGHT OF WAY

EL135720 1997-11-27 14:25

REGISTERED OWNER OF CHARGE:

THE CORPORATION OF THE CITY OF VICTORIA

CONTINUES ON PAGE 003

Date: 08/07/11 TITLE SEARCH PRINT - VANCOUVER Time: 11:38:38  
Requestor: (PB23495) BULL, HOUSSER & TUPPER LLP (VANCOUVER) Page: 003  
TITLE - ET47144

EL135720

REMARKS: PART.

STATUTORY RIGHT OF WAY

ES14463 2001-02-27 13:41

REGISTERED OWNER OF CHARGE:

THE CORPORATION OF THE CITY OF VICTORIA

ES14463

REMARKS: PART SHOWN ON PLAN VIP72000



STATUTORY RIGHT OF WAY

EV18737 2003-02-25 14:29

REGISTERED OWNER OF CHARGE:

THE CORPORATION OF THE DISTRICT OF SAANICH

EV18737

REMARKS: PART

STATUTORY RIGHT OF WAY

FB140832 2008-01-29 14:53

REGISTERED OWNER OF CHARGE:

THE CORPORATION OF THE CITY OF VICTORIA

FB140832

REMARKS: PART IN PLAN VIP84447

STATUTORY RIGHT OF WAY

FB140833 2008-01-29 14:53

REGISTERED OWNER OF CHARGE:

THE CORPORATION OF THE CITY OF VICTORIA

FB140833

COVENANT

FB140834 2008-01-29 14:53

REGISTERED OWNER OF CHARGE:

THE CORPORATION OF THE CITY OF VICTORIA

FB140834

COVENANT

FB150405 2008-02-29 14:44

REGISTERED OWNER OF CHARGE:

THE CORPORATION OF THE CITY OF VICTORIA

FB150405

"CAUTION - CHARGES MAY NOT APPEAR IN ORDER OF PRIORITY. SEE SECTION 28, L.T.A."

DUPLICATE INDEFEASIBLE TITLE: NONE OUTSTANDING

TRANSFERS: NONE

PENDING APPLICATIONS: NONE

CORRECTIONS: NONE