

N 23262

LAND USE CONTRACT NO. 1st day of MARCH, 1977.BETWEEN:

THE CORPORATION OF THE CITY OF PORT MOODY,
A Municipal Corporation having its Municipal
Offices at 2425 St. John's Street in the City
of Port Moody, in the Province of British
Columbia

(hereinafter called the "City")

OF THE FIRST PART

AND:

A. and N. CONSTRUCTION LTD., a corporate body
carrying on business at 2000 Orland Drive, in
the Municipality of Coquitlam

(hereinafter called the "Owner")

OF THE SECOND PART

WHEREAS upon the application of an owner of land within a development area,
the Council of a Municipality, pursuant to Section 702A of the Municipal
Act, may by by-law notwithstanding any by-law of the Municipality, or
Sections 712 or 713 of the Municipal Act, enter into a land use contract
containing such terms and conditions for the use and development of land
as may be agreed upon with a developer, and thereafter the use and development
of land shall be in accordance with the land use contract;

AND WHEREAS the Municipal Act requires that the Municipal Council consider
the criteria set out in Sections 702 (2) and 702 (1) in arriving at the
terms, conditions and considerations contained in a land use contract;

AND WHEREAS the Developer has presented to the Municipality a scheme of
use and development of the within described lands and premises that would
be in contravention of a by-law of the Municipality or Sections 712 or 713
of the Municipal Act, or both, and has requested that the Council of the
Municipality enter into this contract under the terms, conditions, and for
the consideration hereinafter set forth;

AND WHEREAS by By-law No. 1227 of the said City, dated the 7th day of April
1976, the area of lands described as:

Parcel "C", Blocks 1 and 2, District Lot 190
and 235, Group One (Explanatory Plan 11302),
Plans 8256 and 8073, N. W. D.
7.651 Acres

was designated as a Development Area, within the meaning of Sections 702
and 702A of the Municipal Act, and pursuant to the provisions of the said
Act.

AND WHEREAS by By-law No. 1227 of the said City dated the 7th day of April
1976, the City was authorized to enter into this Land Use Contract with
the Owner for the use and development of the said Development Area, in
accordance with the terms and conditions hereinafter contained, and pursuant
to the provisions of the Municipal Act;

AND WHEREAS notice of a Public Hearing, to be held by the Council of the
City of Port Moody in the Display Room of the Town Centre Cultural Building,
300 loco Road, Port Moody, B. C. on Tuesday, August 10th, 1976, at the hour
of 7:30 p.m., was published in the issues of the "Columbian" Newspaper,
dated Tuesday, August 3rd, 1976 and Wednesday, August 4th, 1976;

AND WHEREAS the said Public Hearing was duly held at the time and place
above-mentioned;

SUBSTITUTE FOR FORM
THE CITY OF PORT MOODY
Date MAR 7 1977 (Date of Instrument) AND USE CONTRACT
Declared Value \$ 1.00 (Caption of Instrument)
Please Refer to _____ Applicant
at _____
Telephone No. 936-7241 (Address) CITY OF PORT MOODY

New Westminster
L.R.O. (8 C.F.)
Amount Paid \$

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NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and conditions of covenants hereinafter set forth, the City and the Owner covenant and agree as follows:

1. The Owner is the registered owner of an estate in fee simple of all and singular that certain parcel of land and premise situate, lying and being in the City of Port Moody, in the Province of British Columbia, more particularly known and described as:

Parcel "C" (Explanatory Plan 11302) of Lots 1 and 2, Plan 8256 and of Lot 2, Plan 8073, of District Lots 190 and 235, Group One, New Westminster District, as shown on Subdivision Plan prepared by V.E.H. Crockford, B.C.L.S., dated December 13, 1976, marked "Plan No. MS-02" attached hereto, as part of Schedule "A".

2. The Developer has obtained the consent of all persons having a registered interest in the lands to the use and development set forth herein.
3. The following maps, plans and schedules, marked as Schedule "A" are attached to form part of this Contract:

(A)	<u>Drawing No.</u>	<u>Description</u>
	MS - 02	Subdivision Plan & Park Dedication Plan
	S - 01	Site Plan
	L - 1	Landscape Plan
	L - 2	Landscape Retaining Details
	M - 01	Floor Plans Unit Type "A"
	M - 02	Floor Plans Unit Type "B"
	M - 03	Elevations - Unit Types "A" & "B"
	M - 04	Sectional Elevations

(B)	<u>Schedules</u>
	SE - 01 Exterior Finishes

4. The following terms and conditions shall apply to the said Development Area:

(a) Registration of Title

The building and lands shall be registered under a Strata Plan, in conformance with the "Strata Titles Act", being Chapter 14 of the Revised Statutes of British Columbia.

(b) Permitted Uses of Land, Building and Structures

The following uses and no others shall be permitted:

Seven principal buildings, as shown on Drawing No. S-01 for residential use, with accessory off-street parking uses; and recreation use, as shown on Drawings Nos. M-01 to M-04 inclusive, L-1 and L-2.

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4. (c) Size, Shape and Siting of Buildings and Structures

The building to be constructed on the said land shall conform to:

Drawing Nos. 3-01 - L-1, L-2 & M-01 to M-04 inclusive.

with respect to the size, shape and siting of buildings and structures.

- (d) Notwithstanding the plans attached hereto, all buildings and structures on the lands shall conform to the provisions of the National Building Code and to all pertinent Fire Prevention Laws and Regulations, and reasonable access for fire fighting purposes shall be provided to all buildings.

(e) Off-Street Parking

Shall be located in conformity with site plan, Drawing No. S - 01:

50 - covered parking spaces
50 - uncovered parking spaces

and shall be constructed in accordance with the provisions of the City of Port Moody Zoning By-law, 1974, No. 1204, with respect to their size, shape and finish.

(f) Aesthetic Quality of Buildings and Structures

Exterior finishes shall be as shown and described on Drawing Nos. M - 03 and as detailed in Schedule SE - 01.

(g) Development and Landscaping of Site

Landscaping and grading details shall be constructed in conformity with Drawing No. L-1&L-2 and shall be carried out and completed in accordance with the standard and requirements of the Parks & Recreation Director, and maintained in perpetuity in a manner satisfactory to the Parks & Recreation Director.

Existing stands of coniferous and deciduous trees, as outlined on Plan No. L - 1 shall be maintained at the existing density.

The Owner shall further convey to the City an area of land consisting of 1.26 acres M/L as shown on Drawing No. MS - 02 for use as Public Park purposes.

The Public Park area shall be suitably identified with a sign of quality to conform with Provincial Park standards and shall have constructed upon such park area as shown on Plan M - 08 a public walkway which shall conform to the standards of the Parks & Recreation Commission but shall not exceed 14 feet in width.

Should the Owner fail to keep and maintain the said landscaping to the satisfaction of the Parks and Recreation Director, the City may at its discretion, order its workmen and/or others to enter and effect such maintenance at the expense of the persons so defaulting, and may further order that the charges for so doing, if unpaid by December 31st of the year of default, shall be added to, and form part of the taxes payable in respect of these lands or real property taxes as taxes in arrears.

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4. (h) Development and Landscaping of Playground Areas and Recreation Facility

Construction of the children's play areas shall be constructed in conformity with Drawing Nos. L-1.

(i) Inspections

The City may at all reasonable times enter upon the lands and carry out all necessary inspections to ensure that the land is used and developed in accordance with the terms and provisions of this agreement.

(j) Maintenance of Buildings and Structures

General maintenance of all buildings and structures shall be carried out under a regular programme to assure a continuing pleasing aesthetic appearance, and to provide for the safety of residents in a manner satisfactory to the Building Inspector.

Should the Owner fail to maintain the said buildings and structures to the satisfaction of the Building Inspector, the City may, at its discretion, order its workmen and/or others to enter and effect such maintenance at the expense of the persons so defaulting and may further order that the charges for so doing, if unpaid by December 31st of the year of default, shall be added to and form part of the taxes payable in respect of these lands or real property taxes, as taxes in arrears.

(k) Municipal Services, Works and Utilities

All Utilities, including Water, Sanitary Sewer, Storm Sewer and Domestic Gas, shall be placed underground and shall be provided in accordance with, at locations shown on Drawings submitted to and approved by the City Engineer prior to construction, and constructed in accordance with the requirements contained in By-laws provided for such installations.

Telephone and Electrical services shall be provided in such a manner as to connect to existing services, as provided by B. C. Hydro and B. C. Telephone, and constructed in accordance with the regulations provided for such installations.

(l) Signs

Signs shall only be permitted in accordance with Section 402 (2)(d) of the City of Port Moody Zoning By-law, 1974, No. 1204.

(m) Construction Vehicles Traffic Control

The Owner shall provide adequate supervision over all commercial vehicles, and construction equipment entering upon or leaving the construction site, to provide for the safety of pedestrians and/or others during working hours.

(n) Amendments

This Land Use Contract may be amended for minor alterations to plans and specifications by written agreement of the City Building Inspector.

5. Covenants of Owner for Security for Due Performance

- (a) The Owner covenants and agrees that he will commence construction in conformity with the terms and conditions of this Land Use Contract within the period of three months from the date of its execution, and shall complete all such works undertaken within a period of twenty - four months from commencement of construction.

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5. Covenants of Owner for Security for Due Performance

- (b) As security for the due and proper performance of this Contract, and the covenants and agreements herein contained, the Owner has deposited with the City, prior to the execution of this document, a cash deposit or irrevocable letter of credit drawn by a Canadian Chartered Bank, or such other financial security, that is mutually acceptable to the City and the Owner, in the total amount of ten per centum of all building costs.
- (c) The period of deposit or expiry date of letters of credit or other financial security shall be for a minimum period of 30 months from the execution date of this document or upon receipt of Completion Certificates.
- (d) The Owner further covenants and agrees that he shall not, during construction, nor after completion, remove or deliberately injure any trees that are shown as existing or placed on Drawing No. M - 08 nor shall be altered any finished gradients, as shown on Drawing Nos. M - 01 and M - 08, without prior written consent of the City Building Inspector.
- (e) The Owner further covenants and agrees to ensure that 30 units of this Development, when constructed, will qualify for the Municipal Incentive Programme Grants.
- (f) The Owner further covenants and agrees with the City that it will reimburse the City for all legal fees and costs incurred by the City in drawing up and executing this Contract.
- (g) This Contract shall inure to the benefit of and be binding upon the Owner, his successors and assignees, and upon the City, its successors and assignees. This contract shall not be assigned to any third party, prior to its completion, without prior written consent of the City. Such approval shall not unreasonably be withheld.
- (h) The Developer covenants to save harmless and effectually indemnify the City against:
 - (i) All actions and proceedings costs, damages, expenses, claims and demands whatsoever and by whomsoever brought by reason of the construction of the said works.
 - (ii) All expenses and costs which may be incurred by reason of the execution of the said works, resulting in damage to any property owned in whole or in part by the City, by duty or custom is obliged, directly or indirectly, in any way or to any degree, to construct, repair or maintain.
 - (iii) All expenses and costs which may be incurred by reason of liens for non-payment of labour or materials, Workers' Compensation assessments, Unemployment Insurance, Federal or Provincial Tax, check-off and for encroachments owing to mistakes in survey.

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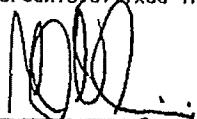
6. Covenants of the City

The City hereby covenants and agrees with the Owner to permit the Owner to perform all the said work upon the terms and conditions herein contained.

7. In the interpretation of this Land Use Contract, all definitions of words and phrases contained in the City of Port Moody Zoning By-law 1974, No. 1204, shall apply to this Contract and to the attachments hereof.
8. It is understood and agreed that the City has made no representations, covenants, warranties, guarantees, promises or agreements (verbal or otherwise), with the Owner other than those in this Contract.
9. WE, A. and N. Construction Ltd., the Owner of the lands described above, do hereby agree and consent to all of the terms and conditions herein expressed and set forth.


IN WITNESS HEREOF this Land Use Contract has been executed under signature of NORMAN ALBERT PATTERSON Mayor, JOHN INGOLF BROVOLD, Municipal Clerk, and under seal of the Corporation of the City of Port Moody, at Port Moody, British Columbia, the 15th day of MARCH, 1977.

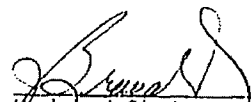
10. The Corporate Seal of the Corporation
of A. and N. Construction Ltd. was
hereunto affixed in the presence of:


Owner President Title

Owner _____ Title _____

The Corporate Seal of the Corporation
of the City of Port Moody was here-
unto affixed in the presence of:


Mayor


Municipal Clerk

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ACKNOWLEDGMENT OF OFFICER OF A CORPORATION

I HEREBY CERTIFY that, on the 4th day of March, 1977,
at the City of Port Moody, in the Province of British
Columbia, John Ingolf BROVOLD, Municipal Clerk

personally known to me, appeared before me and acknowledged to me
that he is the Municipal Clerk of the City of Port Moody
and that he is the person who subscribed his name to the annexed
instrument as Municipal Clerk of the City of Port Moody
and affixed the seal of the said City
to the said instrument, that he was first duly authorized to
subscribe his name as aforesaid, and affix the said Seal to the said
instrument, and that such Corporation is legally entitled to hold
and dispose of land in the Province of British Columbia.

IN TESTIMONY whereof I have hereunto
set my Hand and Seal of Office, at
the City of Port Moody in the PAN
Province of British Columbia, this
4th day of March, 1977.


A Notary Public in and for the Province
of British Columbia. PR

A Commissioner for taking Affidavits in
and for the Province of British Columbia.

Acknowledgment of Officer of a Corporation

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I HEREBY CERTIFY that, on the

at

NEW WESTMINSTER

day of

MARCH

1977

In the Province of British Columbia,

Oath of

HEINZ NIETSCHEMANN

(whose identity has been proved by the evidence on

appeared before me and acknowledged to me that he is the

A. & N. CONSTRUCTION

who subscribed his name to the annexed instrument as

COMPANY

President

who is personally known to me,

and that he is the person

of the said

and affixed the seal of the

to the said instrument, that he was first duly authorized to subscribe his name as aforesaid, and affix the said seal to the said instrument, and that such corporation is legally entitled to hold and dispose of land in the Province of British Columbia.

IN TESTIMONY whereof I have hereunto set my Hand and Seal of Office,

at New Westminster In the Province of

British Columbia, this day of MARCH

one thousand nine hundred and seventy 7

A Notary Public in and for the Province of British Columbia
A Commissioner for taking Affidavits for British Columbia.