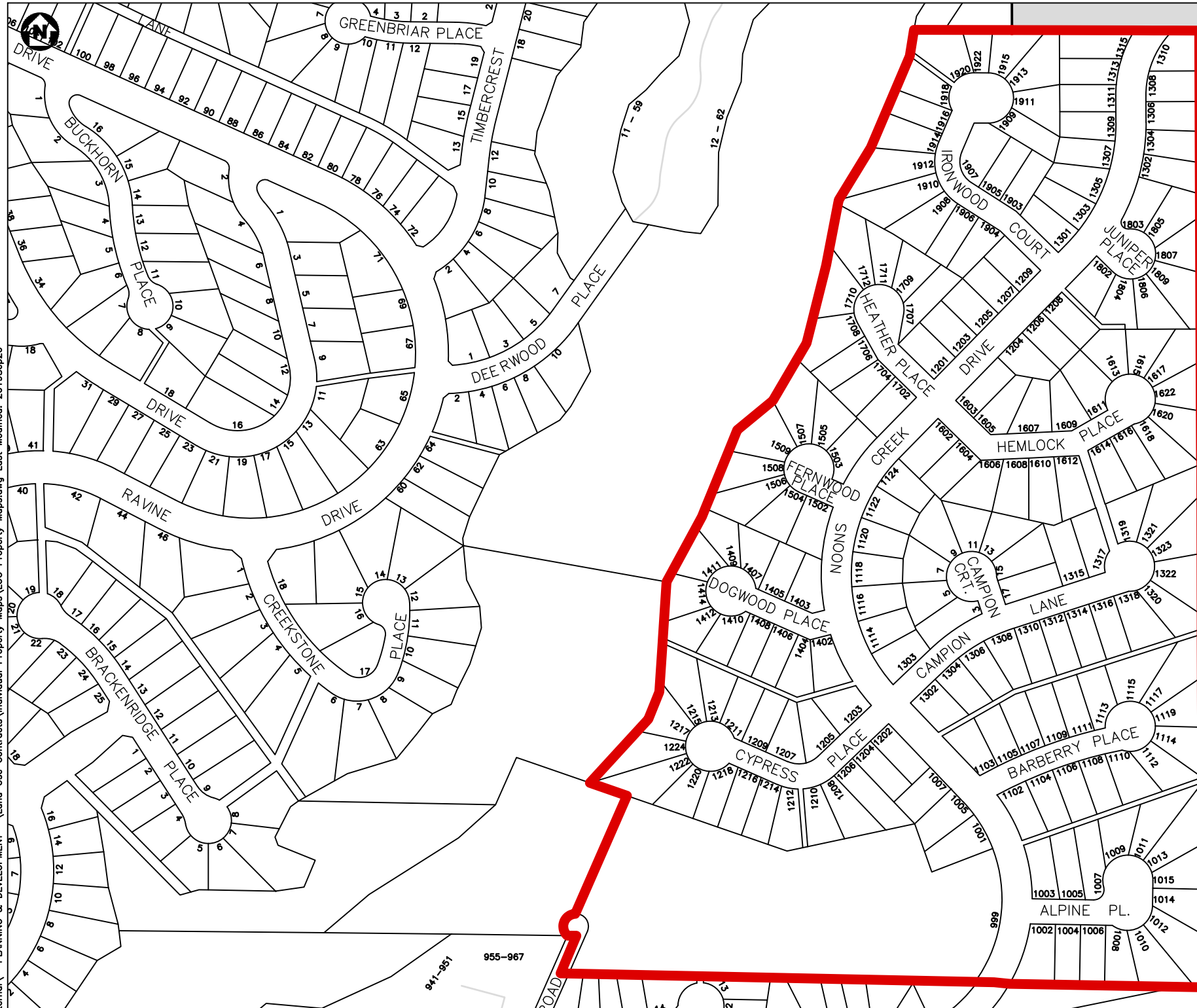




ADDRESSES:

1002-1015 Alpine Place
1102-1119 Barberry Place
3-17 Campion Court
1302-1323 Campion Lane
1202-1224 Cypress Place
1402-1414 Dogwood Place
1502-1509 Fernwood Place
1702-1712 Heather Place
1602-1622 Hemlock Place
1903-1922 Ironwood Court
1802-1809 Juniper Place
999-1209 Noons Creek Drive
1301-1315 Noons Creek Drive



City of Port Moody - Land Use Contract

Zoning: RS1

0m 60 120

 SUBJECT PROPERTIES

N114971

CITY OF PORT MOODY - LAND USE CONTRACT No. 7

THIS AGREEMENT made the 31 day of OCTOBER 1977.

BETWEEN:

CITY OF PORT MOODY, a Municipal corporation
under the "Municipal Act" having its municipal
offices at 2425 St. Johns Street, in the City
of Port Moody, in the Province of British Columbia
(hereinafter called the "City")

OF THE FIRST PART

AND:

COMMUNITY BUILDERS LTD., a body corporate,
carrying on business at 302 Oxford Drive,
in the City of Port Moody, in the Province
of British Columbia

(hereinafter called the "Owner")

OF THE SECOND PART

W H E R E A S:

A. Upon the application of an owner of land within
a development area, the City, pursuant to Section 702A of
the "Municipal Act", R.S.B.C. 1960, Chapter 255 and amendments
thereto (hereinafter called the "Act") may by By-law
notwithstanding any by-law of the City or Sections 712 or
713 of the Act, enter into a Land Use Contract containing
such terms and conditions for the use and development of the land
as may be agreed upon with a developer, and thereafter the use
and development of the land shall be in accordance with the Land
Use Contract;

B. The Act requires that the City Council consider the
criteria set out in Sections 702 (2) and 702A (1) in arriving
at the terms, conditions and considerations contained in a
Land Use Contract;

MEMO

Register

on ap.

REGISTRATION

at the time

location.

SUBSTITUTE FOR FORM "C"
CITY OF PORT MOODY

Date November 3 1977 Nature of Interest Land Use Contract
Declared Value \$ - Disposition of -
Please Merge - Applicant -
as Solicitor/Agent
Telephone No. 936-7211 (Address) 2425 St. Johns St.,
Port Moody, B.C.

114971

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C. The Owner has presented to the City a scheme of use and development of the lands described herein that would be in contravention of the by-laws of the City or Section 712 or 713 of the Act or both, and has requested that Council enter into this Land Use Contract (hereinafter called "this Contract") under the terms, conditions and for the consideration hereinafter set forth.

D. The Council, after having giving due regard to the consideration set forth in Section 702 (2) and 702A (1) of the Act, has agreed to the terms, conditions and consideration herein contained.

E. The Owner acknowledges that it is fully aware of the provisions and limitations of Section 702A of the Act and the City and the Owner mutually acknowledge and agree that the City cannot enter into this Contract until the Council has held a public hearing thereon, in the manner prescribed by law, has duly considered the representations made and the opinions expressed at such hearing, and unless two-thirds of all members of Council present vote in favour of the City entering into this Contract.

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

1. DEFINITIONS

- (a) The definitions of words and phrases contained in City Zoning By-law 1974, No. 1204 shall apply to words and phrases used herein.

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- (b) "Works" shall be construed as meaning all improvements to be constructed on the lands under the terms of this Contract including all roads, walkways, utilities and services.

2. OWNERSHIP AND CONSENT

The Owner is the registered owner of the following parcels of land in the City of Port Moody, in the Province of British Columbia:

Parcel "E" Explanatory Plan 6455, District Lot 470 Group One, New Westminster District

(hereinafter called the "land or lands")

The Owner has obtained the consent of all persons having a registered interest in the lands to the use and development set forth herein.

3. PROPOSED SUBDIVISION

The area proposed for subdivision is shown on a plan prepared by Murray & Associates, file No. 6080, a copy of which is attached hereto as Schedule I.

4. STAGING

It is understood and agreed that the development of the land will be carried out in up to a maximum of five stages. The provisions of this Contract shall apply to each stage except for the provisions of 7 (f) (i) (ii) and (iii) which shall be constructed during Stage 1 and except where a provision to the contrary appears herein.

5. SPECIFIED AREA

This land is contained within a Specified Area

designated and approved under an Agreement between the City and the Ministry of Housing and Municipal Affairs, of the Province of British Columbia, and the provisions of Section 215 of the Act.

6. OWNER'S COVENANTS

In consideration of the premises and of the City entering into this Contract with the Owner, the Owner covenants and agrees with the City to develop the proposed subdivision in accordance with the terms and conditions contained in this Contract and to be bound by, comply with and to fully perform each and every term, condition, provision, stipulation and covenant on its part to be performed in this Contract.

7. DEVELOPMENT OF LANDS

(a) PERMITTED USES OF LAND, BUILDINGS AND STRUCTURES

The lands shall be developed and used only as follows:

- (i) 178 (or less) lots for single-family residential use with such ancillary buildings and off-street parking as permitted under the provisions of City Zoning By-law 1974, No. 1204.
- (ii) Such residential buildings shall be sited in accordance with the provisions of this Contract provided that the matters not contained in this Contract shall be governed by the provisions of the R-1 Single-family Residential Zone contained in City Zoning By-law 1974, 1204.
- (iii) All buildings and structures on the land shall conform to the provisions of the National Building Code and to all pertinent fire prevention laws and regulations, the City Building and Plumbing By-law No. 1271 and reasonable access for

fire fighting purposes shall be provided to all buildings.

- (iv) All buildings and structures shall be constructed in accordance with the provisions of City Zoning By-law 1974, No. 1204 with respect to size and shape.

(b) MINIMUM AREA, SET-BACK AND DIMENSIONS OF LOTS

- (i) All lots shall have a minimum area of 557.418 square metres (6,000 square feet) and the maximum density shall be five lots per 0.4047 hectare (one acre).
- (ii) Rectangular shaped lots shall have a minimum width of 15.24 metres (50 feet).
- (iii) Irregular shaped lots shall:
- (a) have an average width of 15.24 metres (50 feet) over the first 30.48 metres (100 feet) of depth of the lot measured at right angles to the central axis of the lot,
 - (b) provide for minimum rear yard set back of 6.096 metres (20 feet),
 - (c) have a minimum frontage of 7.62 metres (25 feet).
- (iv) All lots located adjacent to the Noon's Creek Ravine shall:
- (a) adhere to the provisions of rectangular and irregular shaped lots contained in clauses 7(b)(ii) and 7(b)(iii) except that no principal or auxiliary buildings shall be sited closer than 3.048 metres (10 feet) from the top of the bank of the ravine. (The Westerly boundary of the lands as shown on Schedule I is the top bank line of the ravine).
 - (b) Have a minimum site building envelope of 185.806 square metres (2,000 square feet).

- (c) Be situate above the Noon's Creek Ravine top bank line.

(c) MUNICIPAL SERVICES AND UTILITIES

- (i) All utilities, including water, sanitary sewer, storm sewer, domestic gas, electrical and telephone, 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 City By-laws provided for such installations.
 - (ii) 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.
 - (iii) All roads and walkways shall be provided in accordance with and at locations shown on drawings and specifications to City standards to be submitted to and to be approved by the City Engineer prior to construction and to be constructed in accordance with the requirements contained in City By-laws. Provided, however, it is agreed that a grade of eleven per centum (11%) is acceptable for a 400 lineal foot (121.920 metre) portion of Noon's Creek Drive.
- (d) CLEARING
- (i) As many trees as practicable shall be retained in the development of the lands.
 - (ii) No earth, logs or other debris shall be dumped into the Noon's Creek Ravine nor shall there be any

disturbance of the ravine. The owner shall include the foregoing clause in the Prospectuses covering the subdivided lands.

(e) OWNER TO PROVIDE SURVEYS

The Owner shall provide the City with a legal survey plan at the time of subdivision into building lots of each stage which verifies lot areas and an additional plan which delineates the building envelopes on the irregular lots in accordance with the specifications contained in section 7(b)(iii) of this Contract.

(f) ENTRANCE ROADS AND WALKWAYS

- (i) The Owner shall re-grade and pave Maude Road to City standards to a width of 16 feet from Noon's Creek Drive to the southerly boundary of the lands dedicated as park as shown outlined green on Schedule I to provide for access for motor vehicles to the park.
- (ii) The Owner shall construct a turn-around of 7.62 metres radius (25 feet) at a point north of the southerly boundary of the park site to be determined by the City.
- (iii) The Owner shall arrange a property exchange with The H.A. Roberts Group Ltd. or successors in title to provide for the re-alignment of the access road to the subdivision being Noon's Creek Drive as shown on Schedule I hereto from its existing location. The City agrees to use its best efforts to expedite such property exchange.
- (iv) The Owner agrees to pay all costs to re-align Noon's Creek Drive pursuant to the provisions of 7(f)(iii) to meet the City's requirements and

to bring the road to sub-grade elevations including the costs of any service changes caused by the re-alignment and surveys.

- (v) The Owner shall construct and pave all walkways shown in Schedule I to the standard of the walkways in the Barber Street Subdivision, Port Moody, B.C.

(g) ARCHITECT APPROVAL

All building and site plans shall be approved by an architect nominated by the Owner prior to the submission of such plans for a Building Permit and such approval shall be endorsed upon such plan. The Owner agrees that the Prospectuses covering the subdivisions involving the lands will contain this clause.

(h) SIGNS

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

(i) INSPECTIONS

The City, through its agents or servants, may at all reasonable times, enter upon the lands and carry out all necessary inspections to ensure that the lands are used and developed in accordance with the terms and provisions of this Contract.

8. OWNER'S CONTRIBUTIONS

- (a) The Owner shall dedicate a parcel of the lands containing no less than .81 hectares (2 acres) as shown outlined Green on Schedule I for park purposes. This parcel shall be dedicated on

approval of the subdivision plan covering Stage I. The Owner further agrees that upon development of lands to the West of the lands proposed for park in Stage I additional acreage to make a total of 4 acres shall be dedicated for park.

- (b) The Owner shall pay the sum of TEN THOUSAND Dollars (\$10,000.00) to the City on the commencement by the City of Port Moody of the improvement of the lands dedicated for park in Stage I for the construction of a neighbourhood park or, upon the approval of the subdivision plan covering Stage II whichever event shall first occur. The said sum of TEN THOUSAND Dollars (\$10,000.00) shall be used for the improvement of the lands dedicated for park.
- (c) The Owner shall deed to the City a parcel of approximately 2.0235hectares (5 acres) shown outlined in Blue on Schedule I hereto to be used for school purposes. The City covenants and agrees to sell to the Owner a parcel of City owned land of equivalent value for One Dollar (\$1.00) in exchange for the aforesaid school site.

9. SECURITY FOR DUE PERFORMANCE

- (a) The Owner shall commence construction of the services required for Stage I within the period of three (3) months from the date of the execution of this Contract and shall complete the installation of the services of the final Stage within forty-eight (48) months from the date of execution of this Contract. Provided, however, that it is agreed that the Owner shall have the right to apply to the City for an extension of time

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- for completion of the installation of the services.
- (b) Prior to the execution of this Contract and hereafter with respect to Stage I and prior to the approval of each subdivision plan providing for each succeeding stage, the Owner shall deposit with the City a cash deposit or irrevocable Letter of Credit drawn on a Canadian Chartered Bank, or such other financial security that is acceptable to the City (herein called the "deposit"), in the amount equivalent to 10% of the construction cost of each consecutive stage. The amount shall be estimated by the Owner and approved by the City Engineer.
- (c) The period of deposit or expiry date of Letters of Credit or other financial security shall be for a minimum period of thirty (30) months from the date of execution of this Contract and after the completion of Stage I, thirty (30) months from the approval of the subdivision plans covering each successive stage. Provided, however, that the said deposit shall be retained by the City during the one year period provided in paragraph 9(e)(i) and the Owner will arrange for any extension required to keep the deposit posted pursuant to paragraph 9(b) in full effect.
- (d) The Owner agrees that if the works are not completed pursuant to the provisions of this Contract and within the time set out aforesaid, the City may complete the works for the Stage for which the security is held at the cost of the Owner and deduct from the deposit held by the City the costs of such completion, and the balance of the deposit shall be returned to the Owner, less any administration fees required. If there is

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insufficient money on deposit with the City, then the Owner shall pay such deficiency to the City immediately upon receipt of the City's bill for completion. It is understood that the City may do such work either by itself or by contractors employed by the City. If the works are completed as herein provided and the completion of such works is verified by a letter from the City Engineer to the City certifying completion pursuant to this Contract and further verified by site inspection, then the deposit shall be returned to the Owner.

(e) The Owner shall:

- (i) Remedy any defects appearing within a period of one (1) year from the date of completion of the said works and pay for any damage to other work or property resulting therefrom, save and except for defects caused by reasonable wear and tear, neglect of the City, its servants or agents, or acts of God,
- (ii) Leave on deposit with the City the deposit for a period of one (1) year from the completion of the said works to the satisfaction of the Engineer. Should the Owner fail to repair any defect or pay for any damage resulting therefrom, the City may deduct the costs of completing the said works, remedying the defects, or paying the damage, from the said deposit.

10. INDEMNITY

The Owner shall save harmless and effectively indemnify the City against:

- (a) All actions and proceedings, costs, damages, expenses, claims and demands whatsoever and by whomsoever brought by reason of the construction of any works pursuant to this Contract.
- (b) 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 of which the City, by duty or custom, is obliged, directly or indirectly, in any way or to any degree, to construct, repair or maintain.
- (c) All expenses and costs which may be incurred by reason of liens for non-payment of labour or materials, Workmen's Compensation Assessment, Unemployment Insurance, Federal or Provincial tax, check off and for encroachment owing to mistakes in survey.

11. ADDITIONAL FEES

In addition to the security deposits referred to in Section 9 the Owner further agrees and undertakes to pay:

- (a) All applicable permit fees,
- (b) All administration fees and legal fees in respect to the negotiation, preparation and registration of this Contract,
- (c) The costs of connecting all utilities to service the subdivision,
- (d) All arrears of taxes outstanding against the lands and all current taxes levied, or to be levied, on the lands on the basis and in accordance with the Assessment and Collector's Roll entry,
- (e) All Engineering Inspection fees related to the construction of roads, utilities, and other municipal services required for the subdivision. The fee to be four per centum (4%) of total cost of such construction as estimated by the Owner and approved by the City Engineer. Such fees to be paid upon the approval of the subdivision plan of each consecutive stage.

12. REZONING

The Owner agrees that in the event that the subdivision

services required to be provided pursuant to this Contract have not been substantially completed in their entirety within forty-eight (48) months after the date of execution of this Contract, and such further time as the City may grant, the City may call a public hearing pursuant to the requirements of the Act and subsequent to such public hearing, the City may declare this Contract to be null and void in respect to those portions of the lands not subdivided in accordance with Schedule I at the time of the hearing and enter into a Land Use Contract pertaining to the lands and impose upon the lands, by amendment of City Zoning By-law such regulations pursuant to Section 702(1) of the Act as the City may deem appropriate having due regard to the consideration set out in Section 702(2) of the Act. The Owner undertakes and agrees that if the City declares this Contract null and void pursuant to this Section, that it shall consent to the discharge of the Restrictive Covenant pertaining to the unsubdivided lands by virtue of the registration of this Contract pursuant to Section 702A(4) of the Act.

13. WORKS VESTED IN CITY

All works and services (save and except electrical distribution, gas and telephone) buildings, structures, pipes, fixtures, equipment, plant and things, and development and construction, placed or carried out upon property that is vested in the City or located upon highways presently dedicated or upon park, walkways or highways required by this Contract to be dedicated shall, upon acceptance thereof by the City

in writing, become the property of the City, free and clear of any and all claims by the Owner and any person claiming through the Owner, and the Owner shall and hereby agrees to save harmless the City from any and all such claims.

14. CONTRACT TO RUN WITH THE LAND

This Contract shall be considered as running with the land and shall be registered in the Land Registry Office, City of New Westminster, by the City pursuant to the provisions of Section 702A(4) of the Act.

15. COVENANTS OF THE CITY

- (a) The City agrees with the Owner to permit the Owner to perform all the work herein upon the terms and conditions herein contained.
- (b) The City agrees to develop the park referred to herein to meet City neighbourhood park standards not later than the completion of construction of Stage II.

16. NEW HOUSE WARRANTY

Except in the case of a purchaser building a house for his own occupation, housing contractors or sub-contractors constructing buildings on the lands shall provide a British Columbia new home warranty for each building constructed. The Owner shall include the foregoing clause in the Prospectuses covering the subdivided lands.

17. AMENDMENTS

It is agreed that this Contract may be amended for

minor alterations to plans and specifications by mutual written agreement of the Parties.

18. TRANSMISSION

This Contract shall enure to the benefit of and be binding upon the parties hereto, their successors and assigns. The Owner shall not assign, sell, transfer or convey its interest in this Contract or in any of the unsubdivided portion of the lands without the written consent of the City, such consent not to be unreasonably withheld.

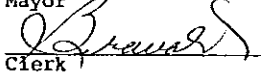
19. WARRANTIES

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 contained in this Contract.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals the day and year first above written.

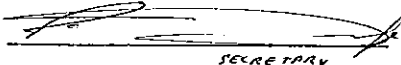
The Corporate Seal of
CITY OF PORT MOODY was hereunto
affixed in the presence of:



Mayor


Clerk

The Corporate Seal of
COMMUNITY BUILDERS LTD. was
hereunto affixed in the
presence of:



SECRETARY

114971

BRITISH COLUMBIA
Form 143 - ~~CA~~
(Rev. 7-68)

ACKNOWLEDGMENT OF OFFICER OF A CORPORATION

I HEREBY CERTIFY that, on the 31st day of October, 19 77,
at 2402 St. John's Street, in the City of Port Moody, in the Province of British Columbia,

evidence on oath of John Ingolf BROVOLDto me, appeared before me and acknowledged to me that he is the Municipal Clerk
of the City of Port Moodythe person who subscribed his name to the annexed instrument as Municipal Clerk
of the said Cityseal of the said Cityand affixed 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 Port Moody
in the Province of British Columbia, this 31st day of October, one thousand nine hundred
and Seventy-seven.

[Signature]
A Notary Public in and for the Province of British Columbia
A Commissioner for taking affidavits for British Columbia

BRITISH COLUMBIA
Form 143 - ~~CA~~
(Rev. 7-68)

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to the said
Instrument, that he was first duly authorized to subscribe his name as aforesaid, and affix the said seal to the said
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A Commissioner for taking affidavits for British Columbia