

LAND TITLE ACT
FORM C

18 JUN 2003 11 58

BV225961

(Section 219.81)
Province of British Columbia

GENERAL INSTRUMENT – PART 1

(This area for Land Title Office Use)

Page 1 of 15 pages

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

City of Abbotsford
32315 South Fraser Way
Abbotsford, B.C. V2T 1W7
(604) 853-2281

Kimberley Bisgrove

signature of applicant, applicant's solicitor or agent

City File No.: R02-026

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:

(PID)
004-200-845

(LEGAL DESCRIPTION)
Lot 152 Except: Part Subdivided by Plan 76693; Section 16
Township 16 New Westminster District Plan 50761

3. NATURE OF INTEREST:
DESCRIPTION

DOCUMENT REFERENCE
(page and paragraph)

PERSON ENTITLED TO INTEREST

Section 219 Covenant

Entire Document

Transferee

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

- (a) Filed Standard Charge Terms
- (b) Express Charge Terms
- (c) Release

- D.F. No.
- Annexed as Part 2
- There is no Part 2 of this instrument

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. TRANSFEROR(S):

FRASER HEALTH AUTHORITY

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

CITY OF ABBOTSFORD, City Hall, 32315 South Fraser Way, Abbotsford, B.C., V2T 1W7

7. ADDITIONAL OR MODIFIED TERMS: N/A

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)

Execution Date

Party(ies) Signature(s)

SOLICITOR/NOTARY
PUBLIC/COMMISSIONER

(as to both signatures)

Print Name and Address:

WILLIAM FLITTON
A Commissioner for taking Affidavits
for British Columbia
32315 South Fraser Way
Abbotsford, B.C. V2T 1W7
Ph: 853-2281

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CITY OF ABBOTSFORD, by its
authorized signatories:

MARY A. S. REEVES, MAYOR
TOIREASA O'HOGAIN STRONG,
DIRECTOR OF ADMINISTRATION
AND CORPORATE PLANNING

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 that the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

Execution Date

Officer Signature(s)



SOLICITOR/NOTARY PUBLIC/COMMISSIONER
(as to both signatures)

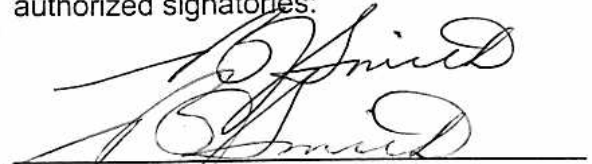
Print Name and Address:

Shelley A. Wrean
Barrister & Solicitor
#300, 10233 - 153rd Street
Surrey, BC V3R 0Z7
Tel: (604) 587-4672

Y	M	D
03	06	05

Transferor/Borrower/Party
Signature(s)

FRASER HEALTH AUTHORITY by its
authorized signatories:



Print Name: R.J. SMITH,
PRESIDENT & CEO

Print Name: _____

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

TERMS OF INSTRUMENT - PART 2

DATED the 13 day of June, 2003.

DEVELOPMENT AGREEMENT

(Section 219 Land Title Act)

BETWEEN:

FRASER HEALTH AUTHORITY

34194 Marshall Road
Abbotsford, B.C.
V2S 5E2

(the "Developer")

AND:

CITY OF ABBOTSFORD a municipal corporation under the Local Government Act of the Province of British Columbia, having its offices at 32315 South Fraser Way, in the City of Abbotsford, in the Province of British Columbia, V2T 1W7

(the "City")

WHEREAS:

A. The Developer is the owner of or has an equity of redemption in and proposes to develop certain lands and premises located within the City of Abbotsford, in the Province of British Columbia, and legally described as:

Parcel Identifier: 004-200-845

Lot 152 Except: Part Subdivided by Plan 76693; Section 16 Township 16
New Westminster District Plan 50761

(the "Lands")

B. The Developer has applied to rezone the Lands to P8.

C. The Developer has voluntarily agreed to install the Works defined herein which are necessary to serve the proposed development of the Lands;

D. The Developer desires to grant and the City agrees to accept this Covenant on the terms and conditions contained herein; and

E. Section 219 of the Land Title Act, R.S.B.C. 1996 c.250 provides, inter alia, that a covenant, whether of a negative or positive nature, in respect of the use of land or the use of a building on or to be erected on land, in favour of a City, may be registered as a charge against the title to that land.

NOW THEREFORE THIS AGREEMENT WITNESSETH that pursuant to Section 219 of the Land Title Act, and in consideration of the premises and the mutual covenants and agreements contained herein and the sum of One Dollar (\$1.00) now paid to the Developer by the City (the receipt and sufficiency whereof is hereby acknowledged), the parties hereto covenant and agree each with the other as follows:

1. THE DEVELOPER COVENANTS AND AGREES with the City:
 - (a) that the Lands shall not be built on except in accordance with this Covenant;
 - (b) that until such time as all of the terms and conditions contained in paragraphs 1 and 2 of this Covenant are complied with, as certified by a Certificate of Substantial Completion, any buildings or structures erected or placed on, or which are to be erected or placed on the Lands shall not be occupied for any use or purpose;
 - (c) to design, construct and install, to the satisfaction of the City's Director of Engineering (the "Director of Engineering"):
 - (i) Road Works
 - (A) Marshall Road from Gladwin Road to Primose Street including:
 - Road widening to provide for two east bound and two west bound traffic lanes and left turn bays in accordance with the comprehensive traffic study and as approved by the Director of Engineering. Existing west and eastbound traffic lane widths shall be maintained. In order to minimise disruption to existing infrastructure and landscaping, it is preferred that the north curb line of Marshall Road be maintained in its present location;
 - Painting of centreline, lane markings, cross walks, stop bars, directional arrows;
 - Supply and installation of traffic signs;
 - Barrier style concrete curb and gutter;

- A combined pedestrian and bicycle pathway shall be located within the nine (9) metre on-site set back area reserved for landscaping and the design of which shall make allowances for topographical constraints. The Director of Engineering shall approve combined pathway width and design alignment. The combined pathway shall be within a statutory right of way.
- Provision of a 1.5 metre wide tree planting/landscape strip between the back of curb and the pedestrian/bicycle pathway. Opportunities for landscaping within the median between the left turn bays are encouraged;
- Street trees;
- Ornamental street lighting;
- Associated road drainage;
- Necessary transition road works on the east side of Primrose Street and the west side of Gladwin Road.

(B) Gladwin Road frontage between the north and south property lines of the Lands including:

- road widening at the intersection with Marshall Road shall be to one half of a paved 12.0 metre wide standard continuing south as approved by the Director of Engineering to a driveway on Gladwin Road and then tapering to a 10.0 metre wide standard continuing south along the Gladwin Road frontage to an off-set cul-de-sac (offset to the east) at the terminus of Gladwin Road;
- barrier style concrete curb and gutter on the east side;
- 1.5 metre wide concrete sidewalk;
- street trees;
- ornamental street lighting; and
- minimum 300-mm diameter storm sewer complete with manholes, catch basins and connection to the existing storm sewer system on Marshall Road.

In the event that Gladwin Road between Marshall Road and Highway No. 1 is closed, the preceding road works and drainage on Gladwin Road shall be deleted as a requirement of this covenant.

It is understood and agreed that closing Gladwin Road may require a further rezoning application, which may impact the extent of improvement works and dedication required on Marshall Road, and potential utility relocations.

(C) Traffic Study & Traffic Signals

- The Developer shall be required to provide an acceptable comprehensive traffic study to identify the vehicular and pedestrian impacts of the proposed development. The terms of reference, scope of work and final report shall be approved by the Director of Engineering;
- Full traffic and/or pedestrian signals as determined in the accepted comprehensive traffic study.
- Other improvements as determined in the accepted comprehensive traffic study.

(ii) Sanitary Sewer Works

(A) Marshall Road including:

- 300-mm diameter gravity sanitary sewer main from the Lands to Horizon Street.

These works are eligible for a partial rebate or credit from the sanitary sewer portion of the Development Cost Charges paid by development on the Lands to a maximum of \$574,750 (reference Project # 18 in DCC Bylaw). The maximum credit is based on a project length of 1000 metres. Should the project length be less than 1000 metres, then the maximum credit will be reduced in proportion. This credit will be due upon completion of construction and acceptance by the Director of Engineering of the Works and upon payment of the Development Cost Charges related to the development of the Lands.

(iii) Power/Telecommunications Works

(A) Marshall Road including:

- Conversion of the overhead hydro/telecommunications plant on the south side of Marshall Road to an underground

installation along the full frontage of Marshall Road. The actual length of the conversion works may exceed the legal frontage along Marshall Road and is dependent upon the design constraints and requirements of the providers of hydro/telecommunications service (which may include BC Hydro, Telus and Shaw Cable);

- Any service connections for hydro and telecommunication purposes, including existing overhead crossings over Marshall Road, shall be installed underground.

(B) Gladwin Road including:

- Conversion of the overhead hydro/telecommunications plant on the east side of Gladwin Road to an underground installation along the full frontage of Gladwin Road. The actual length of the conversion works may exceed the legal frontage along Gladwin Road and is dependent upon the design constraints and requirements the providers of hydro/telecommunications service (which may include BC Hydro, Telus and Shaw Cable);
- Any service connections for hydro and telecommunication purposes, including existing overhead crossings of Gladwin Road, shall be installed underground.

(collectively called the "Works");

- (d) that the design, construction and installation of the Works shall be substantially completed prior to the occupancy of any building to be constructed or located on the Lands; and
- (e) that the Works shall be installed in accordance with the drawing attached hereto as Schedule "A" and with the specifications and standards for the design and construction of works and services in subdivisions, developments, and on municipal property of the City of Abbotsford contained in the City of Abbotsford Subdivision and Development Bylaw 1125-2002 and amendments thereto.

2. THE DEVELOPER FURTHER COVENANTS AND AGREES with the City:

- (a) to grant to the City all necessary road dedications, statutory rights-of-way and easements over the Lands reasonably required to accommodate the Works;
- (b) to construct and install fully completed Works to the City's standards to the satisfaction of the Director of Engineering and which, in the discretion of the Director of Engineering, may be varied because of conditions at the site so that the Works function and operate to the satisfaction of the Director of Engineering, and should the Works as constructed prove to be in any way defective or should they not operate to the satisfaction of the Director of Engineering, then the Developer shall, at the Developer's expense, modify or reconstruct the Works so that the Works shall be fully operative and function to the satisfaction of the Director of Engineering, such satisfaction to be indicated by a Certificate of Substantial Completion signed by the Director of Engineering;
- (c) to pay to the City, prior to the issuance of any building permit for the Lands, all engineering inspection and administrative costs incurred by the City in connection with the Works in accordance with the Subdivision and Development By-Law No. 1125-2002 ;
- (d) to pay to the City, the cost of all tie-ins of the Works to existing storm and sanitary sewer, water and other municipal systems, and the cost of installing all necessary street name and traffic control signs and energizing the street lights, upon invoice from the City for same;
- (e) N/A;
- (f) to complete the dedication, construction and installation of the Works within the time specified in paragraph 1(d) hereof and to assign, transfer and convey to the City all of the Developer's right, title and interest in the Works, and the Developer shall, from time to time and at all times so long as the Developer exercises any rights of ownership in the Lands, upon the request of the City, make, do and execute or cause or procure to be made, done and executed, all such further acts, deeds, rights-of-way, easements and assurances required by the City for the effectual carrying out of this Covenant;
- (g) as security for the due and proper completion of the dedication, construction and installation of the Works, to deposit with the City, prior to the issuance of a building permit on the Lands, in the form of cash or other alternate security in a form satisfactory to the City, the sum of estimated costs of construction of the Works as

accepted by the City, including G.S.T. (the "Security Deposit"). If the Works are not completed as required under paragraph 1(d) hereof, the City may review the estimated cost of completion of the Works and provide to the Developer at least 60 days prior to each anniversary of this Covenant until all of the Works have been completed, notice of the estimated cost of the completion of the Works and, upon receiving notice of the revised estimate the Developer shall deposit with the City a replacement security deposit (the "Replacement Security Deposit") in the amount of the revised estimate of the cost of completing the Works and, for the purposes of this Covenant, the Replacement Security Deposit shall become the Security Deposit. If the Replacement Security Deposit is not received by the City by 30 days prior to the anniversary of the date of this Covenant in any year, the City may draw upon the Security Deposit and hold the monies thereby obtained as security or complete the Works as provided hereinafter. Upon receipt of the Replacement Security Deposit, the City shall forthwith return the Security Deposit to the Developer;

- (h) that, despite paragraph 2(g), if the dedication, construction and installation of the Works are not duly and properly completed within the time specified in paragraph 1(d) hereof, the City may, but is not obligated to draw upon the Security Deposit and may complete the Works at the cost of the Developer and deduct from the Security Deposit or Replacement Security Deposit, the cost of such completion, and the balance of the Security Deposit shall be returned to the Developer, less any administration costs incurred by the City. If the Security Deposit is insufficient to cover the actual cost of completing the Works, then the Developer shall pay such deficiency to the City immediately upon receipt of the City's bill for same. It is understood that the City may do such work either by itself or by contractors employed by the City. Subject to paragraph 3(c), if the Works are completed by the Developer as herein provided, then the Security Deposit shall be returned to the Developer on receipt of the Director of Engineering's Certificate of Substantial Completion;
- (i) to submit to the City the final as-built drawings of the Works as constructed and as approved by the Director of Engineering within 30 days from the date of completion of the Works; and
- (j) to pay to the City, prior to the execution of this Covenant:
 - (i) all arrears of taxes outstanding against the Lands; and

- (ii) all current taxes levied or to be levied upon the Lands on the basis and in accordance with the assessment and collector's roll entries.

3. THE DEVELOPER FURTHER COVENANTS AND AGREES with the City:

- (a) to maintain the Works in complete repair for one (1) year after issuance of the Certificate of Substantial Completion (the "Warranty Period") and regardless of whether or not the Developer has transferred title to all or any part of the Lands to another party;
- (b) to remedy any defects appearing during the Warranty Period and pay for any damage to other works or property resulting therefrom, save and except for defects caused by reasonable wear and tear, negligence of the City, its servants or agents, or acts of God;
- (c) to deposit as security with the City, prior to the return of the Security Deposit, in the form of cash or security in a form satisfactory to the City, an amount equal to five percent (5%) of the "Security Deposit" including G.S.T. (the "Warranty Deposit"). Should the Developer fail to maintain the Works or remedy any defect or pay for any damages resulting therefrom, the City may draw upon the Warranty Deposit and may, but is not obligated to maintain the Works, remedy the defect or pay the damages at the cost of the Developer and may deduct the cost of maintaining the Works, remedying the defect or paying the damages from the Warranty Deposit and the balance of the Warranty Deposit, less any administrative costs incurred by the City shall be returned to the Developer on receipt of the Director of Engineering's Certificate of Acceptance. If the Warranty Deposit is insufficient to cover the actual costs incurred by the City, then the Developer shall pay such deficiency to the City immediately upon receipt of the City's bill for same. If the Works are maintained by the Developer as herein provided, then the Warranty Deposit shall be returned to the Developer on receipt of the Director of Engineering's Certificate of Acceptance;
- (d) that the work done and payment made pursuant to this Covenant are not payments or work to be applied in lieu of Development Cost Charges, and the Developer further covenants and agrees to pay to the City all applicable Development Cost Charges at the rate in effect in the City's Development Cost Charges Bylaw imposed upon subdivision or building permit application;
- (e) to protect all survey markers, pins, posts and similar things during the construction installation, maintenance and repair of the Works

and to employ, at the Developer's expense, a British Columbia Land Surveyor to replace any such markers, pins, posts or similar things which may be moved, damaged or destroyed during such construction, installation, maintenance or repair;

- (f) to save harmless and effectually indemnify the City from and against:
 - (i) any and all actions and proceedings, costs, damages, expenses, claims and demands whatsoever and by whosoever brought by reason of or in any way arising out of or related to the construction, installation, maintenance or repair of the Works, including, without limitation, any and all claims for injurious affection, whether such claims arise at law or under any statute, including, without limitation, the Expropriation Act, R.S.B.C. 1996, and any amendments, rules or regulations thereto, or otherwise whatsoever;
 - (ii) any and all expenses and costs which may be incurred by reason of or in any way arising out of or related to the construction, installation, maintenance or repair of the Works resulting in damage to any property owned in whole or in part by the City or which the City by duty or custom is obliged, directly or indirectly, in any way or to any degree, to construct, install, maintain or repair;
 - (iii) any and all expenses and costs which may be incurred by reason of liens for non-payment of labour materials, workers' compensation, unemployment insurance, Federal or Provincial tax, check-off or encroachments owing to mistakes in survey; and
 - (iv) any and all breaches of this Covenant;
- (g) to obtain and maintain until the date of issuance of the Certificate of Acceptance of the Works, at the Developer's expense, with such company or companies and on such forms as are acceptable to the City, in the name of the Developer, Comprehensive General Liability insurance coverage covering premises and operations liability, contingency liability with respect to the operations of the contractor and subcontractors, completed operations liability, contractual liability and automobile liability for owned, non-owned and hired units. The limits of liability shall be not less than \$5,000,000.00 for each occurrence for bodily injury and property damage. Each policy shall provide that it cannot be cancelled, lapsed or materially altered without at least 30 days notice in writing

to the City by registered mail, shall name the City as an additional insured and shall contain a cross-liability clause;

- (h) to deliver a copy of each such insurance policy to the City prior to the commencement of any construction, installation, maintenance or repair of the Works;
- (i) that if the Developer fails to obtain and/or maintain the said insurance or deliver the said policy or policies to the City, then the City may obtain and/or maintain such insurance at the expense of the Developer and the Developer hereby appoints the City as the Developer's lawful attorney to do all things necessary for that purpose; and
- (j) to do or cause to be done, at the expense of the Developer, all acts reasonably necessary to grant priority to this Covenant over all charges and encumbrances which may have been registered against the title to the Lands in the Lower Mainland Land Title Office save and except those specifically approved in writing by the City or in favour of the City.

4. The Developer hereby waives, relinquishes and abandons any right which the Developer now has or may at any time hereafter have for any contribution from the City or any other person toward the Developer's cost of installing the Works and agrees that none of the Works shall be construed to be "excess or extended services" as defined by Section 939 of the Local Government Act except for clause 1 (c) (ii)(A) sanitary sewer.

5. The Developer hereby releases and forever discharges and covenants not to sue the City and its servants, agents, successors and assigns from all manner of actions, causes of action, suits, debts, dues, accounts, bonds, covenants, contracts, claims and demands whatsoever against the City which the Developer ever had, now has or hereafter may have by reason of the installation of the Works by the Developer with no contribution toward the cost of the Works by the City or any other person and, without limiting the generality of the foregoing, by reason of the failure by the City to impose or collect any latecomer charges from the owners of any lands which may connect to or use the Works.

6. THE CITY COVENANTS AND AGREES with the Developer:

- (a) to permit the Developer to perform all of the Works upon the terms and conditions herein contained; and
- (b) that upon satisfactory completion by the Developer of all of the covenants and conditions in this Covenant, including the maintenance of the Works in complete repair for a period of one (1)

year, the City shall provide the Developer with a Certificate of Acceptance of the Works signed by the Director of Engineering and shall discharge this Covenant.

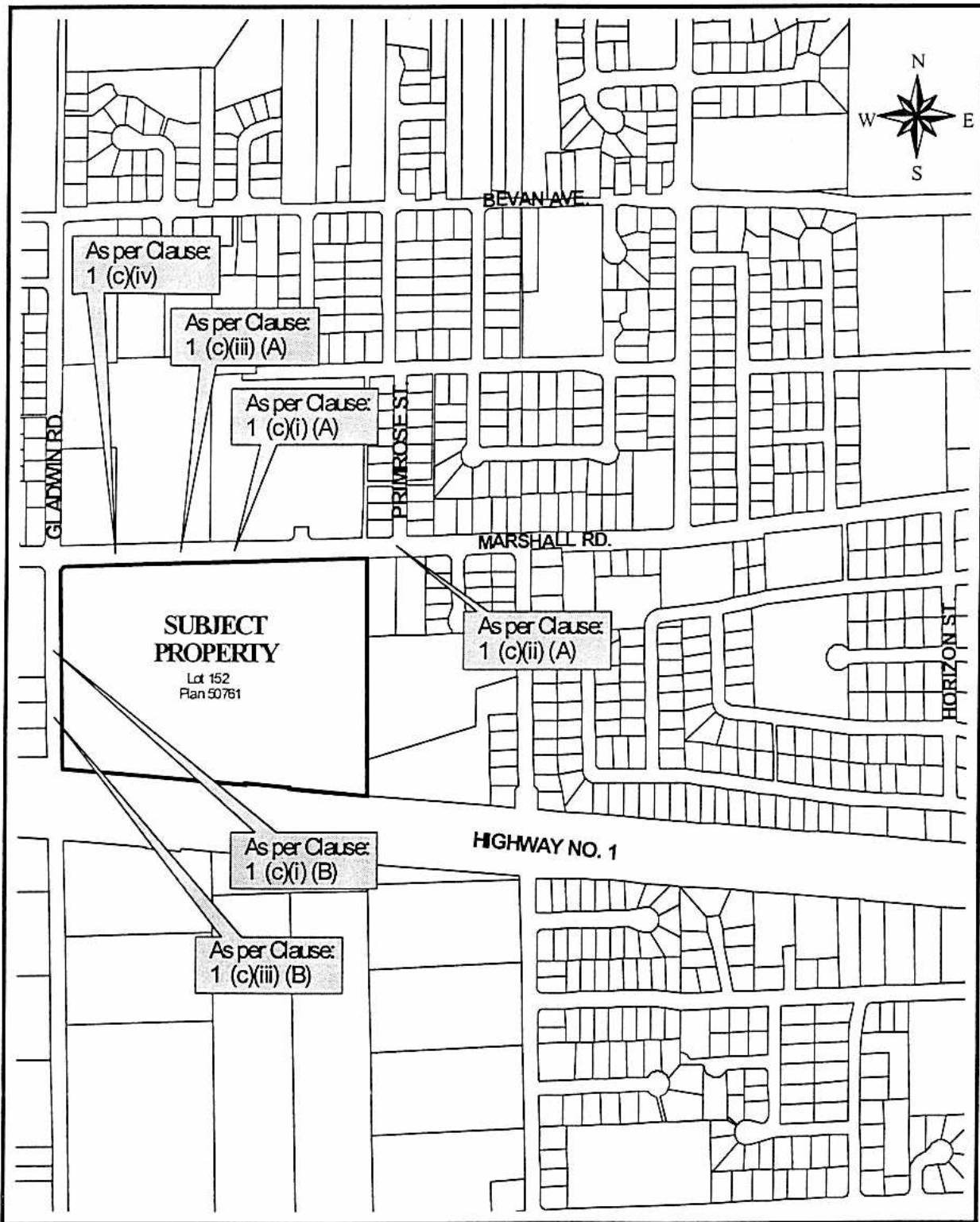
7. IT IS MUTUALLY UNDERSTOOD, agreed and declared by and between the parties hereto that:

- (a) the City has made no representations, covenants, warranties, guarantees, promises or agreements (oral or otherwise) with the Developer other than those contained in this Covenant;
- (b) nothing contained or implied herein shall prejudice or affect the rights and powers of the City in the exercise of its functions under any public and private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Lands as if this Covenant had not been executed and delivered by the Developer;
- (c) the Works shall be and remain at the sole risk of the Developer until such time as they are accepted by the City as evidenced by the Director of Engineering's Certificate of Acceptance, regardless of whether or not the developer has transferred title to all or any part of the Lands to another party;
- (d) at the Building Permit Stage, the Developer acknowledges that there are other municipal servicing requirements that have to be satisfied such as, but necessarily exclusive, to storm water detention, provision of municipal site services, water metering, and adequacy of fire hydrant locations in accordance with the Subdivision and Development By-Law 2002-1125 and the Building By-Law 993-2000 as may be amended and changed from time to time.
- (d) the covenants set forth herein shall charge the Lands pursuant to Section 219 of the Land Title Act and shall be covenants the burden of which shall run with the Lands. It is further expressly agreed that the benefit of all covenants made by the Developer herein shall accrue solely to the City and that this Covenant may be modified by agreement of the City with the Developer, or discharged by the City, pursuant to the provisions of Section 219(5) of the Land Title Act;
- (e) wherever the singular or masculine is used herein, the same shall be construed as meaning the plural, feminine or the body corporate or politic where the context or the parties so require and, where the

Developer consists of more than one person, the term "Developer" shall mean all such persons jointly and severally;

- (f) this Covenant shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrator, successors and assigns; and
- (g) the parties hereto shall do and cause to be done all things and execute and cause to be executed all documents which may be necessary to give proper effect to the intention of this Covenant.

IN WITNESS WHEREOF the parties hereby acknowledge that this agreement has been duly executed and delivered by executing the Forms C and D attached hereto.



REZONING WORKS & SERVICES
 for 32900 Marshall Road
 (Fraser Health Authority)

DATE: October 2, 2002

FILE NO.: R02-026

