

SCHEDULE 7

LANDS

1. DEFINITIONS

In this Schedule, in addition to terms defined in Schedule 1 [Definitions and Interpretation] 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 against title to the Lands described in the land title searches attached as Appendix 7A [Description of Lands and Encumbrances] and any additional Charges against the Lands permitted under this Schedule;

“Environmental Assessment Report” has the meaning set out in Section 5(a) of this Schedule.

“Lands” means the real property interests described in Appendix 7A [Description of Lands and Encumbrances];

“Licence” has the meaning set out in Section 2.1(a) (Grant of Licence Over Site) of this Schedule; and

“Sensitive Use Area” means the eastern section of the Lands to the east of the 6’ high ‘top of bank & chain link fence’ as identified on the Site Survey contained in the Disclosed Date and outlined in yellow on the figure attached hereto as Appendix 7B [Sensitive Use Area] and .

2. AUTHORITY’S OBLIGATIONS AND REPRESENTATIONS

2.1 Grant of Licence Over Site

- (a) From the Effective Date until the Substantial Completion Date, the Authority hereby grants, and will continuously grant or cause to be granted, to Project Co a non-exclusive licence of use and access to, on and over the Site and the Facilities to the extent required by Project Co to allow Project Co to perform the Design and the Construction (the **“Licence”**).
- (b) In consideration for the licence granted in Section 2.1(a), Project Co will perform the obligations described in Section 4.1 (General Project Obligations) subject to and in accordance with this Agreement.
- (c) 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.

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 Facilities 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 Facilities is granted to Project Co;
- (c) Project Co's rights are subject to the Encumbrances; and
- (d) subject to Section 6.13 (The Authority's Access to the Site) 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 Facilities.

2.3 Property Taxes

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

2.4 Access to the Lands after Substantial Completion

After the Substantial Completion Date, the Authority will provide access to the Facilities and the Lands as reasonably required for the completion of the Construction, including the rectification of Deficiencies, and for the carrying out of work in relation to Defects and Construction Latent Defects, taking into account the Authority's use and occupancy of the Facilities and the Lands.

3. PROJECT CO'S OBLIGATIONS AND ACKNOWLEDGMENTS

3.1 "As Is Where Is"

Subject to the provisions of Section 4.1 (Responsibility) of this Schedule, Project Co accepts the Lands comprising the Site 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, and 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 therefrom. 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 this Agreement if such modification, addition, or removal results in a Change. Notwithstanding the

foregoing, Project Co's obligation to observe and perform limitations, restrictions, obligations, liabilities, and other terms and conditions set out in the Encumbrances is subject to:

- (a) Project Co being legally capable of performing such limitations, restrictions, obligations, liabilities, and other terms and conditions for and on behalf of the Authority; and
- (b) Project Co being relieved from such obligation to the extent that the limitations, restrictions, obligations, liabilities, and other terms and conditions set out in the Encumbrances are obligations for which the Authority is otherwise responsible under this Agreement.

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 Facilities; 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 Facilities or any asset, matter, or thing that may be required to be delivered or transferred to the Authority on or promptly after the Termination Date pursuant to Section 14.2 (Transfer to the Authority of Assets, Contracts, etc.),

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

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 Facilities 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 and the Construction, 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 or the Construction that are registered against or otherwise affect the Lands or the Facilities 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 lien or 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 Facilities or any other improvements to the Lands. As between Project Co and the Authority, title to and ownership of the Facilities and all other improvements to the Lands will at all times be vested in the Authority.

3.8 Access to the Lands after Substantial Completion

- (a) After Substantial Completion, Project Co will:
 - (1) coordinate with the Authority to ensure timely completion of the Construction, the rectification of Deficiencies, and the carrying out of work in relation to Defects and Construction Latent Defects;
 - (2) minimize disruption to the Authority's use and occupancy of the Facilities and provide a Work Plan for such work in accordance with Section 6.11 of Schedule 2 [Design and Construction Protocols];
 - (3) comply with all directions of the Authority with respect to timing, security and access for the rectification of Deficiencies and the carrying out of work in relation to Defects and Construction Latent Defects; and
 - (4) comply with all other requirements of the Authority as set out in Schedule 2 [Design and Construction Protocols] and Schedule 3 [Design and Construction Specifications].

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

- (c) any Hazardous Substances encountered by Project Co in, on, below, or adjacent to, the Lands during the Term that were described in, or were properly inferable, readily apparent or readily discoverable from, the Disclosed Data disclosed or made available to Project Co prior to the Financial Submission Date; and
- (d) any Hazardous Substances encountered by Project Co in the Hospital during the Term that were described in, or were properly inferable, readily apparent or readily discoverable from, the Disclosed Data disclosed or made available to Project Co prior to the Financial Submission Date.

Without limiting any other provision of this Agreement, including the Design and Construction Specifications, Project Co will be required to handle the Project Co Hazardous Substances described in Sections 4.1(a) to 4.1(d) in accordance with applicable Environmental Laws, including, for greater certainty, any applicable City by-laws.

For greater certainty, nothing in this Section 4.1 is intended to make Project Co responsible for Hazardous Substances in the Hospital to the extent that such substances are not uncovered or exposed during the Construction.

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.

5. SENSITIVE USE AREA

- (a) Project Co acknowledges that it has received a copy of the report entitled “Burnaby Hospital Environmental Assessment” prepared by Diamond Head Consulting Ltd. dated March 18, 2020 and Updated April 23, 2020 (the “**Environmental Assessment Report**”), which report documents, among other things, that the Sensitive Use Area is forested, and that the Sensitive Use Area contains sensitive environmental features, habitat and wildlife, which need to be protected during the term of this Agreement and remain unharmed.
- (b) Unless otherwise expressly required or permitted under this Agreement, including as authorized pursuant to a Work Plan, neither Project Co, nor any Project Co Person, shall enter Sensitive Use Area.
- (c) Project Co shall not do or omit to do, or cause, suffer, or permit to be done or omitted to be done by any Project Co Person, at the Site or any adjacent lands, including the Sensitive Use Area, anything that may cause damage or injury to, or interference with, the Sensitive Use Area and/or any sensitive environmental features, habitat or wildlife therein.

- (d) Project Co shall take all measures necessary in accordance with Environmental Laws, including, for greater certainty, any applicable City by-laws, and those measures described and recommended in the Environmental Assessment Report (including, for greater certainty, Section 4.0 General Environmental Construction Specifications, 4.1 Erosion and Sediment Control and Section 4.2 Environmental Monitoring), to protect the Sensitive Use Area and ensure that neither Project Co, nor any Project Co Person, causes damage or injury to, or interference with, the Sensitive Use Area and/or any sensitive environmental features, habitat or wildlife therein. Project Co will engage an independent environmental monitor as required by the Environmental Assessment Report.
- (e) Project Co shall not bring, install, keep, maintain or use in or on the Site, or cause, authorize or permit any Project Co Person to bring, install, keep, maintain or use, any substances, materials, equipment or apparatus, which may cause or in fact causes:
- (1) damage or injury to, or interference with, the Sensitive Use Area and/or any sensitive environmental features, habitat or wildlife therein;
 - (2) waste or debris to be present in the Sensitive Use Area;
 - (3) the generation, accumulation or migration of any Hazardous Substance in, or to, the Sensitive Use Area; or
 - (4) an adverse effect on the Sensitive Use Area and/or any sensitive environmental features, habitat or wildlife therein.

APPENDIX 7A

DESCRIPTION OF LANDS AND ENCUMBRANCES

Please see attached.

TITLE SEARCH PRINT

2021-06-28, 10:27:26

File Reference: 049691-00163

Requestor: Catherine Spaa

****CURRENT INFORMATION ONLY - NO CANCELLED INFORMATION SHOWN****

Land Title District NEW WESTMINSTER
Land Title Office NEW WESTMINSTER

Title Number BT163268
From Title Number BL255253

Application Received 2002-05-14

Application Entered 2002-05-24

Registered Owner in Fee Simple
Registered Owner/Mailing Address: FRASER HEALTH AUTHORITY
34194 MARSHALL ROAD
ABBOTSFORD, BC
V2S 5E2

Taxation Authority Burnaby, City of

Description of Land
Parcel Identifier: 002-634-724
Legal Description:
LOT 126 DISTRICT LOT 68 GROUP 1 NEW WESTMINSTER DISTRICT PLAN 52312

Legal Notations
RESTRICTION OF TRANSFER UNDER HOSPITAL ACT SEE FILING 58237

PERSONAL PROPERTY SECURITY ACT NOTICE, SEE DF BG337453
EXPIRES: SEPTEMBER 17, 1998

Charges, Liens and Interests
Nature: STATUTORY RIGHT OF WAY
Registration Number: 295811C
Registration Date and Time: 1961-01-03 16:19
Registered Owner: BRITISH COLUMBIA HYDRO AND POWER AUTHORITY
Remarks: INTER ALIA
PLAN 16545 AND NORTH WEST 30 FEET
BY 275.2 FEET WITH ANCILLARY RIGHTS
ASSIGNMENT OF 136034C AND 256311C
MODIFIED BY BT344758
MODIFIED BY BT344757

TITLE SEARCH PRINT

2021-06-28, 10:27:26

File Reference: 049691-00163

Requestor: Catherine Spaa

Nature: STATUTORY RIGHT OF WAY
 Registration Number: C615
 Registration Date and Time: 1967-01-06 12:24
 Registered Owner: DISTRICT OF BURNABY
 Remarks: INTER ALIA
 PLAN 29648 WITH ANCILLARY RIGHTS

Nature: STATUTORY RIGHT OF WAY
 Registration Number: BE131875
 Registration Date and Time: 1991-07-03 13:20
 Registered Owner: DISTRICT OF BURNABY
 Remarks: PLAN LMP891 ANCILLARY RIGHTS

Nature: STATUTORY RIGHT OF WAY
 Registration Number: BM340527
 Registration Date and Time: 1998-12-10 10:33
 Registered Owner: BC TEL

Nature: LEASE
 Registration Number: BN30627
 Registration Date and Time: 1999-02-08 10:58
 Registered Owner: CLEARNET PCS INC.
 INCORPORATION NO. A-44005
 Remarks: PLAN LMP40960
 HERETO IS ANNEXED RESTRICTIVE COVENANT BN30628
 OF LOT 126 PLAN 52312

Nature: RESTRICTIVE COVENANT
 Registration Number: BN30628
 Registration Date and Time: 1999-02-08 10:58
 Remarks: APPURTENANT TO LEASE BN30627

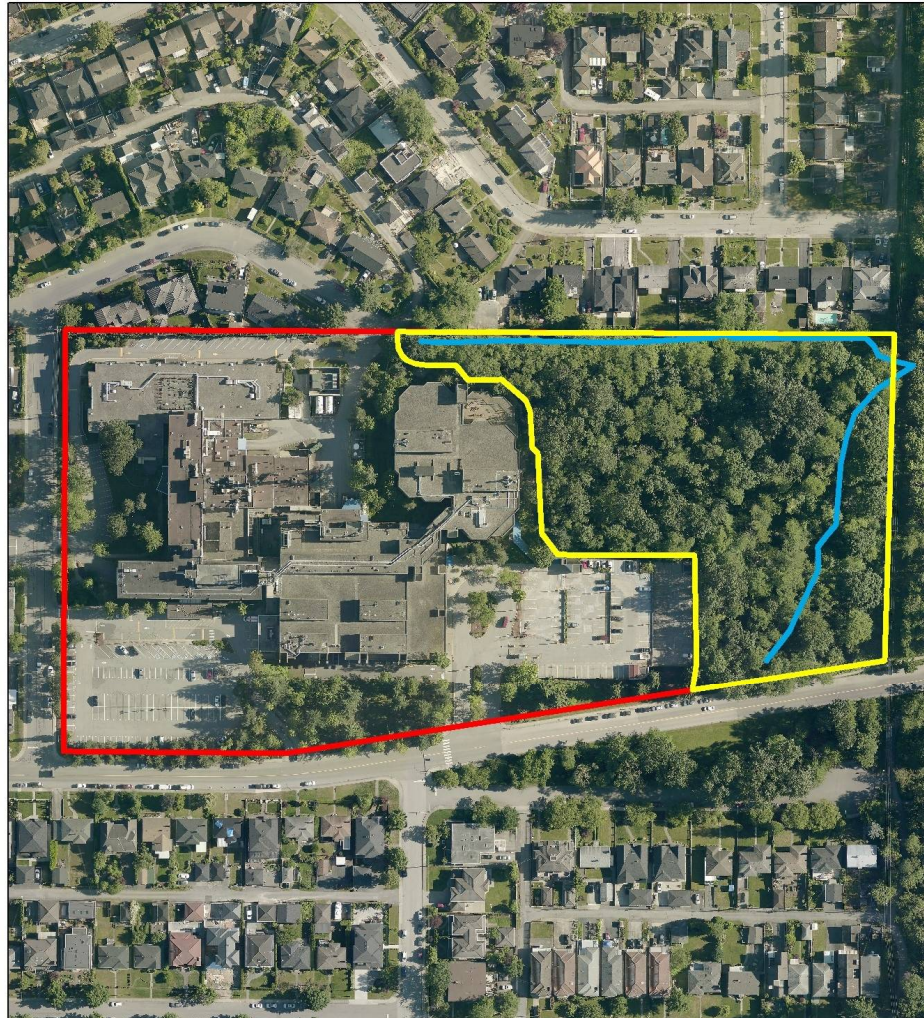
Duplicate Infeasible Title NONE OUTSTANDING

Transfers NONE




Pending Applications NONE

Appendix 7B

SENSITIVE USE AREA



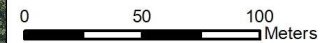
Legend

-  Sensitive Use Area
-  BH Campus
-  Watercourses



Map Produced: June 12, 2020
Aerial Photograph: 2017
Projection: NAD 1983 UTM Zone 10N

Locations are approximate
1:3,500



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